

**CAUSE NO. 1-25-1000**

**DMDS LAND COMPANY LLC and  
D.R. HORTON-TEXAS, LTD.,**

*Plaintiffs,*

v.

**ROCKWALL COUNTY,**

*Defendant.*

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**IN THE DISTRICT COURT OF**

**ROCKWALL COUNTY, TEXAS**

**382ND JUDICIAL DISTRICT**

**PLAINTIFFS' RESPONSE TO DEFENDANT'S AMENDED PLEA TO THE  
JURISDICTION AND REPLY TO DEFENDANT'S RESPONSE TO PLAINTIFFS'  
AMENDED MOTION FOR PARTIAL SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs DMDS LAND COMPANY LLC ("DMDS") and D.R. HORTON TEXAS, LTD. ("Horton") (collectively, "Plaintiffs") file this Response to Defendant's Amended Plea to the Jurisdiction and Reply to Defendant's Response to Plaintiffs' Motion for Partial Summary Judgment ("Plea"), and respectfully show the Court the following:

**I.  
INTRODUCTION**

The County's Plea to the Jurisdiction and Response to Plaintiffs' Motion for Partial Summary Judgment ("Plea") was filed on January 30, 2026. This case concerns an infrastructure proportionality appeal under § 232.110. Tex. Loc. Gov't Code which was triggered by Horton's plat applications to Rockwall County ("County"). Horton intends to build and sell affordable housing to homebuyers in a county in sore need of this product. The County opposes this affordable housing development. Counties have express statutory authority to require developers to file plats as a condition of subdivision and development, and these developers are often required to dedicate easements and construct

physical infrastructure such as roads, water lines and sewer lines. These governmental requirements are known as exactions.

In order to be valid, exactions must first be authorized by statute. Rockwall County argues that it legally enacted 16 exactions in § 5.10 of its subdivision regulations. But only "county infrastructure improvements" can be defined as valid exactions under § 232.110, Tex. Loc. Gov't Code. Of the 16 listed exactions, 15 are not county infrastructure improvements as a matter of law. The exactions with respect to roads may qualify. As a result, the Court should deny the Plea on Plaintiffs' causes of action and declare by summary judgment the 15 offensive exactions in § 5.10 null and void.

The court should also rule in favor of Plaintiffs on their § 232.110 proportionality appeal. The County charged Plaintiffs to pay for the salaries for sheriff employees and to widen a perimeter state road. There is no statutory authority to require Plaintiffs to pay for Sheriff salaries. According to the state platting statute, counties may impose construction or right-of-way dedication obligations related to county roads. In this case, however, the road that the County wants Horton to improve is a State of Texas, not county, road. Therefore, the County illegally required Plaintiffs to pay to widen a road that is not a county infrastructure improvement. In addition, sheriff salaries are not county infrastructure improvements as a matter of law. As a result the Court should deny the Plea and grant summary judgment in Plaintiffs' favor on their § 232.110 appeal.

## **II. PLEA RESPONSE EVIDENCE**

Plaintiffs incorporate by reference the following evidence in support of their Response:

- A. Affidavit of Arthur Anderson attached in Exhibit A.

- B. Affidavit of Blake Arnold attached in Exhibit B.
- C. Affidavit of Jeff Miles attached in Exhibit C.

Additionally, per Rule 58 of the Texas Rules of Civil Procedure, the County adopts by reference its petition in this case, which is on file with the Court, and incorporates that filing into the Response for all purposes.

### **III. STATEMENT OF FACTS**

DMDS owns approximately 1,900 acres ("Property") in the unincorporated area of the County. Horton entered into a contract with DMDS to purchase the Property for a residential subdivision development (the "Development"). (Ex. B, p. 1). According to the facts continued in Blake Arnold's affidavit attached as Exhibit B, Plaintiffs' reasonable investment-backed expectations were to obtain entitlements for the development in accordance with legally valid County subdivision regulations in effect at that time. (Ex. B, p. 1). By denying numerous legally valid plat applications the County has taken steps to prevent Horton from developing its subdivision in accordance with state law, including requiring compliance with certain legally suspect exactions contained in § 5.10 of the County's subdivision regulations. (Ex. A-1).

Horton's proposed development of the Property—called River Rock Trails—is to be multi-phased: the Phase 1A plat consists of 41.284 acres and 199 residential lots ("Phase 1A") and the Phase 1B plat consists of 44.105 acres and 219 residential lots ("Phase 1B") for a total of 418 houses. (Ex. B, p. 2). In addition, there is a plat application for a wastewater treatment plant (20.501 acres) ("Treatment Plant") and a one-lot plat for all 1,761.700 acres of the remainder property ("Remainder Property"). (Ex. B, p. 2). On multiple occasions, the County denied all of these plats. (Ex. B, p. 2).

Pursuant to what it perceived to be its legislative authority under § 232.110, the County passed amended subdivision regulations ("§ 5.10"), requiring Horton to pay for a portion of the costs of sixteen (16) exactions, including schools, roads, ambulance, fire, police, water, sewer, broadband, electric, natural gas, open spaces, drainage, animal control, dispatch/911/GIS services, trash, and radio communications generated by the development. (Ex. A-1). This regulation was enacted after the Phase 1A and Phase 1B plat applications had been submitted to the County.

Horton filed a § 232.110 appeal to the County ("Appeal") pursuant to § 232.110(a), Tex. Loc. Gov't Code. The County's Environmental Health Coordinator then sent a letter summarizing apportionment of the sixteen (16) exactions on December 13, 2024. (Ex. A-6). The 16 exactions were applied to the approximate 418 lots in the Phases 1A and 1B plats. In addition, the County's outside consultants prepared two related memos dated December 13, 2024 entitled "Roadway Proportionality Assessment and Determination for Roadway Apportionment Costs" (collectively, "County Responses"). (Ex. A-6). Notably, the only portion of the County Responses that was prepared by a professional engineer concerned roads. (Ex. A-7). The engineer opined that Horton should pay \$338,867 to improve an adjacent state road. The remaining exaction items were not supported by a report prepared by a professional engineer. (Ex. A-7).

The County processed the preliminary plat applications and the proportionality Appeal together. Several meetings were held among representatives of the Plaintiffs and Defendant to address the engineering issues with the Development and the apportionment issues. (Ex. B, p. 2). Horton responded to the County staff's proportionality determination on the exaction items by letter ("Offer Letter") dated March 4, 2025. (Ex. B-1). In hopes

of peaceably settling the dispute, Horton's response included a settlement offer to pay \$338,867.75 in road costs and \$529,424 to hire two additional sheriff deputies. (Ex. B-1). If the County did not accept the Plaintiffs' offer, then the County would schedule the Appeal for hearing in accordance with § 232.110(b). The County decided to schedule the Appeal for an April 24, 2005 special County Commissioners Court meeting. (Ex. B, p. 2).

At its March 25, 2025 meeting, the County Commissioners court voted for the fourth time to deny Plaintiffs' plats for the Development even though they complied with the County's subdivision regulations. (Ex. B, p. 2). The plat applications must be approved in order for Horton to develop its Property. Because the County continued to deny legally compliant plat applications it became apparent to Horton that the County would not allow Plaintiffs to develop their Property even if the apportionment dispute could be worked out. (Ex. B, p. 2).

At the proportionality appeals hearing, Horton objected to all sixteen (16) exactions. (Ex. A-11, p. 9). Early in the meeting Plaintiffs' counsel expressly withdrew the Offer Letter on sharing the road and sheriff costs on the record. (Ex. A-11, p. 12). He pointed out that none of the City's 16 exactions in this case constituted eligible county infrastructure improvements. (Ex. A, p. 14).

In addition to presenting legal argument, Plaintiffs testified on road construction proportionality on the record. Plaintiffs' professional engineer witness, Jeff Miles, rebutted the road exaction cost. (Ex. C, p. 2). He testified that the two existing lanes of FM 548 had sufficient capacity to handle the additional vehicular traffic from Phases 1A and 1B and that no additional road improvements were triggered by Phases 1A and 1B.

(Ex. A-11, pp. 19-20). The County did not rebut Miles' testimony in any way. (Ex. A-11).

Counsel for the County then presented argument (but no testimony) to the County Commissioners Court that all of the sixteen (16) exaction items listed in § 5.10.1 are valid County public infrastructure improvements. (Ex. A-11). Moreover, the County's counsel submitted a brief to the County Commissioner's Court attempting to support the County's position that all sixteen items constituted county infrastructure improvements that the County could legally regulate. (Ex. A-12).

On May 13, 2025, the County issued its order ("Order") on Horton's proportionality appeal. (Ex. A-13). In the Order, the County withdrew its proportionality requirements with respect to fourteen (14) of the sixteen (16) exaction items in § 5.10. regulations. (Ex. A-1). The County further stated in the Order that it would accept Horton's "offer" to pay certain road and sheriff costs despite the fact that Horton's counsel unequivocally withdrew both offers at the start of the appeals hearing. (Ex. A-11, p. 2 and A-13).

Importantly, the Order states that the County reserves the right to apply § 5.10 to subsequent development permit applications by Plaintiffs: "The County expressly reserves its right to exercise its authority and discretion in future matters, including subsequent phases of the River Rock Trails MUD." (Ex. A-13, p. 3). The County reserved its right to impose § 5.10 to future plat applications for the development of the Property.

#### **IV. LEGAL STANDARD**

The purpose of a plea to the jurisdiction is to dismiss a cause of action without regard to whether the claim has merit. *Bland Indep. Sch. Dist. v. Blue*, 34 S.W.3d 547,

554 (Tex. 2000). It is a dilatory plea that challenges the court's power to adjudicate the subject matter of the controversy. *Harris County v. Sykes*, 136 S.W.3d 635, 638 (Tex. 2004); *Bland*, 34 S.W.3d at 554; *Tex. Dep't of Transp. v. Arzate*, 159 S.W.3d 188, 190 (Tex. App.—El Paso 2004, no pet.). Whether a party has alleged facts that affirmatively demonstrate a trial court's subject matter jurisdiction and whether undisputed evidence of jurisdictional facts establishes a trial court's jurisdiction are questions of law. *Tex. Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 226 (Tex. 2004); *Tex. Natural Res. Conserv. Comm'n v. IT Davy*, 74 S.W.3d 849, 855 (Tex. 2002).

When a plea to the jurisdiction challenges the pleadings, the court must determine if the plaintiff has alleged facts that affirmatively demonstrate the court's jurisdiction to hear the case. *Ryder Integrated Logistics, Inc. v. Fayette County*, 453 S.W.3d 922, 927 (Tex. 2015) (quoting *Miranda*, 133 S.W.3d at 226). Pleadings are to be liberally construed in favor of the plaintiff and look to the plaintiff's intent. *Id.* (quoting *Miranda*, 133 S.W.3d at 226).

Review of a plea challenging the existence of jurisdictional facts mirrors that of a matter-of-law summary judgment motion. *Mission Consol. Indep. Sch. Dist. v. Garcia*, 372 S.W.3d 629, 635 (Tex. 2012); *City of Houston v. Guthrie*, 332 S.W.3d 578, 587 (Tex. App.—Houston [1st Dist.] 2009, pet. denied) ("[T]his standard generally mirrors that of a summary judgment under Texas Rule of Civil Procedure 166a(c). . . . By requiring the [political subdivision] to meet the summary judgment standard of proof . . . , we protect the plaintiffs from having to put on their case simply to establish jurisdiction."); *see also* Tex. R. Civ. P. 166a(c). A court may consider evidence as necessary to resolve a dispute over the jurisdictional facts, even if the evidence "implicates both the subject matter jurisdiction

of the court and the merits of the case." *Miranda*, 133 S.W.3d at 226. Courts must take as true all evidence favorable to the nonmovant and indulge every reasonable inference and resolve any doubts in the nonmovant's favor. *Id.* at 227; *see also Heckman v. Williamson Cnty.*, 369 S.W.3d 137, 150 (Tex. 2012). If the evidence raises a fact issue regarding jurisdiction, the plea cannot be granted and a fact finder must resolve the issue. *Id.* at 227-28.

## V. ARGUMENTS AND AUTHORITIES

Plaintiffs' causes of action in their First Amended Petition include (1) all of the exactions listed in § 5.10 (except for roads) violate §§ 232.003 and 232.110 and are null and void on their face; (2) the Order violates § 232.110 of the Texas Local Government Code because none of the listed items constitute county infrastructure improvements and the County did not prove up proportionality; and (3) the Exactions constitute a regulatory taking.

### A. Immunity is waived on Plaintiffs' claims

Because 15 of the 16 listed exactions are not authorized under state law they should be declared null and void under Chapter 37 of the Uniform Declaratory Judgment Act. Counties are allowed to impose only those exactions expressly authorized by the Texas Legislature. The only infrastructure obligations the County is allowed to impose during the platting process are street dedications and construction and stormwater drainage improvements. § 232.003, Tex. Loc. Gov't Code. In any proceeding involving the validity of an ordinance or order the County must be made a party and immunity is waived. *Porter v. Montgomery County*, 2018 Tex. App. LEXIS 1335 \*8 (Tex. App.—Beaumont, Feb. 16, 2017, no pet.). Immunity is waived under the UDJA as to void

regulations. *City of East Dallas v. East Vill. Assoc.*, 480 S.W.3d 37 (Tex. App.—Dallas 2015, pet. denied)

Section 232.110(c) expressly authorizes a developer to appeal county apportionment determinations to the district court. *See* Tex. Loc. Gov't Code § 232.110(c). A developer who prevails in an appeal is entitled to recover its attorneys' fees and costs. *Id.* Governmental immunity is therefore waived with respect to Plaintiffs' § 232.110 appeal of the Order.

**B. Horton's declaratory judgment claims regarding the facial challenge to § 232.110 are ripe for adjudication**

The Dallas Court of Appeals has taken a liberal position on establishing standing in land use disputes. *City of McLendon-Chisholm v. City of Heath*, 2024 Tex. App LEXIS 8052 (Tex. App.—Dallas, Nov. 19, 2024, no pet.). Heath claimed damages from a potential development located outside of its corporate boundaries. The Court of Appeals held that because Heath argued that it would be injured by increased traffic and decreased property values that it had standing. *Id.* \*9.

Jurisdictional challenges based on ripeness and mootness are two sides of the same coin. (Plea, pp. 6-15). Horton has requests for declaratory relief under the Uniform Declaratory Judgments Act ("UDJA") found in Chapter 37 of the Texas Civil Practice and Remedies Code. Plaintiffs have standing under § 232.110, Tex. Loc. Gov't Code and the Uniform Declaratory Judgment Act to claim that 15 of the 16 listed exactions in § 5.10 (exclusive of county roads) are unauthorized and therefore are null and void as a matter of law. These causes of action are ripe and are not moot because (a) the County applied all 16 exactions to Horton during the apportionment process; (b) the 16 listed exactions have not been deleted from the County regulations; (c) the County devotes 15 pages of its

Response to argue that all 16 exactions are legally valid; and (d) the County has expressly stated in its order that it reserved the right to apply all 16 exactions during the platting process to Horton's future phases.

The County Commissioners Court order (Ex. A-13) contains the following language:

This Order is limited to the specific facts and circumstances of the April 24, 2025, apportionment appeal hearing, and shall not be deemed binding precedent or authority for any future proceedings or determinations.

The County expressly reserves its right to exercise its authority and discretion in future matters, including subsequent phases of the River Rock Trails MUD, as permitted by the Rockwall County Subdivision and Land Development Regulations and other applicable laws.

Reservation of Rights: The County reserves the right to impose additional conditions or apportionment requirements for future phases of the River Rock Trails MUD, consistent with Texas Local Government Code Chapter 232 and the Rockwall County Subdivision and Land Development Regulations.

The County argues that Horton cites to no case law in support. (Plea, p. 9). But Horton easily meets the requirements for standing, ripeness and mootness according to reported opinions with similar facts. A relatively recent case involving the validity of a county regulation is *Davis v. Hays County*, 2020 Tex. App. LEXIS 8738 (Tex. App.—Austin, Nov. 6, 2020, no pet.). Davis received a Notice of Violation of County Regulations ("Regulation") for speeding in a school zone according to photographic evidence. She filed suit against the County and ATSI (the private company who contracted with the County) that the Regulation and contract were void. The County subsequently rescinded the Regulation and terminated the contract.

Davis claimed that the Regulation was void on its face and that the County lacked authority to adopt general regulations like this one. The court of appeals held that the issue was ripe because it was "based on the County's past conduct and constitutes a real controversy among the parties about the parameters of the County's authority." *Id.* \*9. The claim was determined to be ripe even though the County had rescinded the Regulation.

The court of appeals also held that the matter was not moot in accordance with the Supreme Court opinion in *Matthews on Behalf of M. M. v. Kountze Indep. Sch. Dist.*, 484 S.W.3d 416, 418 (Tex. 2016). Mootness focuses on whether a live controversy exists. There is an applicable exception for when a defendant voluntarily ceases the challenged conduct but the conduct might reasonably be expected to recur, and the defendant has not admitted that the conduct was unlawful. *See id.* at 417, 420. "A defendant's cessation of challenged conduct does not, in itself, deprive a court of the power to hear or determine claims for prospective relief." *Id.* at 418. If it were otherwise, a defendant could control the jurisdiction of courts with "protestations of repentance and reform, while remaining free to return to their old ways" and defeat the public interest in having the legality of the challenged conduct settled. *Id.*

Both the United States Supreme Court and the Texas Supreme Court have recognized that if a defendant can meet the "heavy" burden of persuading a court that the challenged conduct "could not reasonably be expected to recur," then dismissal on the basis of mootness is appropriate *Id.* (quoting *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 189, 120 S. Ct. 693, 145 L.Ed.2d 610 (2000)). However, when the defendant has not admitted that the conduct was unlawful, such

"stance is a significant factor in the mootness analysis, and one which prevents its mootness argument from carrying much weight." *Id.* at 419.

A similar holding was made in *City of Rusk v. 260 Off Park, Inc.*, 2023 Tex. App. LEXIS 6986 (Tex. App.—Tyler, Aug. 31, 2023, no pet.). This case involved the legal validity of a new zoning ordinance. Similar to Rockwall County the City of Rusk argued that the case was not ripe because it never attempted to enforce the ordinance. But the court of appeals held that the mere enactment of the ordinance without notice made the case ripe for adjudication. *Id.* \* 12.

The County has revised its pleadings to mistakenly argue that its position on mootness is supported by the Texas Supreme Court's decision in *Tex. Dep't of Family and Protective Serv's v. Grassroots Leadership, Inc.*, 717 S.W.3d 854 (Tex. 2025). It spends several pages in its Plea on this case which has no applicability to the case at bar. The case stems from a challenge to a rule issued by the Texas Department of Family and Protective Services that authorized state licenses for residential facilities used to detain immigrant mothers and their children. Plaintiff mothers and their children were released from the facilities before the case reached the court of appeals, rendering their claims moot.

*Grassroots* cited legal authority allowing re-detention of the plaintiffs generally but did not cite evidence "that these same former detainees are reasonably likely to be detained at Dilley or Karnes again." Therefore, the court could not "conclude that there [was] more than a mere theoretical possibility that they will be detained in one of these two centers—or any center—again." *Id.* at 854.

According to the court, there is no presumption in favor of mootness. "[M]ootness is difficult to establish. The party asserting it must prove that intervening events make it 'impossible for a court to grant any effectual relief whatever to the prevailing party.'" *In re Dallas Cnty.*, 697 S.W.3d 142, 151 (Tex. 2024) (quoting *Abbott v. Mexican Am. Legis. Caucus*, 647 S.W.3d 681, 689 (Tex. 2022)).

*Grassroots* was cited in *George v. Barbers Hill Indep. Sch. Dist.*, 2026 Tex. App. LEXIS 479 (Tex. App.—Houston [1st Dist.], Jan. 22, 2026, no pet.). Darryl George, a Black high school student, wore his hair in braids that violated Barbers Hill ISD's male hair length policy. The Texas CROWN Act (Section 25.902 of the Education Code) prohibits discrimination against protected hairstyles associated with race. The school district filed a declaratory judgment action seeking confirmation that its policy did not violate the Texas CROWN Act. During the appeal, Darryl transferred to another district and graduated from high school in May 2025. Darryl, who was no longer subject to disciplinary action for failing to comply with the policy, thus lacked a legally cognizable interest in obtaining declaratory relief regarding the legality of the policy or injunctive relief prohibiting the district from enforcing the policy against him.

The case at bar, on the other hand, involves land subject to the County's land use regulatory authority and not a temporary impact of a regulation on an individual. So far, the County has applied § 5.10 to Phases 1A and 1B which constitute a small percentage of the total 1,900-acre project. (Ex. C, p. 4). As shown on the project's concept plan, there are a large number of future subdivision plats that will be processed where the County has threatened to impose the § 5.10 proportionality process. (Ex. C-8).

Finally, the County argues that declaring 15 of the 16 exactions null and void would not have any practical effect on this controversy. (Plea, pp. 15-16). The County argues that four of the exactions are addressed by pre-existing County regulations. But that leaves 14 exactions that are unaffected according to the County's argument that should be disposed of by summary judgment. In addition, County exactions must comply with the procedural and substantive requirements of § 232.110 and none of the regulations cited by the County meet the standard.

The County cites to the following provisions in Defendant's Exhibit 1: (Plea, p. 16).

§ 1.5.1.K: Ensures that new development participants in the dedication and construction of infrastructure necessitated by the development (no proportionality requirement).

§ 1.5.4.A.3: Requirement to plat subdivided land (no proportionality requirement).

§ 4.1.1: Applicant must provide will serve letters from utility providers and comply with minimum street and drainage design standards (no proportionality requirement).

§ 5.2.2.D: Dedication requirements for new subdivisions (no proportionality requirement).

The first referenced opinion in the Plea simply states that the trial court's entry of a final judgment moots a mandamus petition. *ERCOT, Inc. v. Panda Power Generation Fund, LLC*, 619 S.W. 3d 628 (Tex. 2021). The second opinion cited by the County, actually ruled that the controversy was not moot. *In Re H&R Block Fin. Advisor, Inc.*, 262 S.W.3d 896, 900 (Tex. App.—Houston [14th Dist.] 2008, orig. proc.). The other appellate opinion cited by the County supports Plaintiffs' position. *City of Farmer Branch v. Ramos*, 235 S.W.3d 462, 469 (Tex. App.—Dallas, no pet.). Ramos sued the city for

violations of the Texas Open Meetings Act when enacting an ordinance. The City argued that it repealed the ordinance and therefore the matter was moot. But the court of appeals sided with Ramos and held that Ramos' request for a declaration that the city violated the statute meant that the issue was not moot. *Id.* at 470.

This case is ripe and not moot in accordance with the relevant case law. The County acted on Horton's § 232.110 appeal. It reserved the right to apply the 16 listed exactions to numerous future phases within the 1,900-acre development. The County vigorously defended the legality of all 16 exactions in its Response. Thus, both the declaratory judgment involving the validity of § 5.10 and the ruling on the Appeal itself are ripe for adjudication.

**C. Plaintiffs pled a valid inverse condemnation claim**

The County argues lack of standing on the inverse condemnation claim but admits that DMDS Land Company LLC, as the Plaintiff who owns the land at issue, can allege an actual injury sufficient to establish a taking. (Plea, p. 17). Therefore, Defendant's plea on this cause of action must be denied.

*Selinger v. City of McKinney* is instructive on the issue of whether Horton has standing on the inverse condemnation cause of action. Selinger was a potential purchaser of a tract of land in McKinney, Texas, and intended to develop that land into a subdivision. *Selinger v. City of McKinney*, No. 05-19-00545-CV, 2020 WL 3566722, at \*1 (Tex. App.–Dallas, July 1, 2020, pet. denied). He prepared and submitted the necessary plans and plat to the City. Selinger's plat complied with all of the City's standards except the requirement to pay an exaction and connect to the City's water and sewer. *Id.* at 2. Because Selinger refused to pay the approximately \$482,000 fee, the City

denied Selinger's plat application. *Id.* Selinger filed an inverse condemnation claim against the City, and the City filed a plea to the jurisdiction asserting, in part, that Selinger did not have standing to sue. *Id.* The Court found that based on Selinger's allegation that the City unlawfully denied his plat application after he incurred expenses to prepare and submit it, he adequately demonstrated a concrete and particularized injury sufficient to give him standing. *Id.* at 6. Horton has incurred expenses and time and effort on the various plat applications and to process the proportionality appeal. (Ex. B, p. 3). As such, Horton has standing to bring an exaction-based takings claim against the County as a prospective purchaser of the property.

**D. The County does not have immunity on exactions regulatory takings actions**

The County also argues that it has immunity because Plaintiffs have not pled "public use" or lack of consent. (Plea, pp. 18-19). But an illegal exaction based on a lack of rough proportionality is a regulatory taking under both Texas and U.S. case law. The U.S. Supreme Court ruled on the issue of apportionment and proportionality in *Dallas v. City of Tigar*d, 512 U.S. 374 (1994), holding that permit conditions, dedications, and exactions must be "roughly proportionate" to the needs of the development. An individualized determination is needed to determine whether an unconstitutional taking has occurred. *Id.* at 393. Governmental entities must bear the burden of proof of rough proportionality through individualized inquiries into each development project. When the government imposes permit requirements exceeding rough proportionality, immunity from damage is waived according to *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 13 S.W.3d 620 (Tex. 2004).

Some nine years after the *Stafford Estates* decision, the United States Supreme Court ruled that the *Nollan-Dolan* doctrine covers off-site, non-dedicatory exactions, including requirements to pay money. See *Koontz v. St. Johns River Water Management District*, 570 U.S. 595 (2013). The *Koontz* opinion also ruled that a taking can arise from either denying or granting a regulatory approval with conditions attached.

**E. Horton has a valid UDJA Claim**

The County argues that the UDJA cannot be raised as a cause of action simply as a vehicle to obtain attorneys' fees. (Response, pp. 19-21). The County's argument ignores the fact that Plaintiffs are entitled to recover their attorneys' fees if they prevail on their proportionality appeal under § 232.110(e), Tex. Loc. Govt. Code. Section 232.110(e) explicitly provides for the recovery of attorneys' fees in proportionality appeals, thus undermining the County's assertion that the UDJA is being improperly used as a vehicle for such recovery.

Beyond the proportionality appeal, Horton has pled an independent cause of action under § 37.004, Tex. Civ. Prac. & Rem. Code, requesting the Court to declare 15 of the 16 exactions in § 5.10 are null and void because they do not comply with state law. This claim is distinct from the § 232.110 proportionality appeal. Consequently, Horton's § 37.004 claim independently authorizes the Court to award attorneys' fees as "just and equitable" under § 37.009 of the Texas Civil Practice and Remedies Code.

Furthermore, Horton has a justiciable UDJA claim, contrary to the County's arguments. (Response, pp. 19-21). The County incorrectly argues that the waiver of governmental immunity provided by § 37.006(b) of the Texas Civil Practice and Remedies Code is limited to municipalities and does not apply to counties. However, this

interpretation is both overly narrow and contrary to well-established precedent. While the County focuses on specific provisions of § 37.006, numerous Texas courts have conclusively held that governmental immunity is waived for UDJA actions brought against counties.

Recent case law supports this proposition. For example, in *Skill Zone USA, LLC v. Van Zandt Cnty.*, the Tyler Court of Appeals confirmed that counties are not immune from UDJA claims, citing *Porter v. Montgomery Cnty.* as authority. *See Skill Zone USA, LLC v. Van Zandt Cnty.*, No. 12-23-00231-CV, 2024 Tex. App. LEXIS 2260, 2024 WL 1340690, at \*3 (Tex. App.—Tyler Mar. 28, 2024, no pet.) (mem. op.) (citing *Porter v. Montgomery Cnty.*, No. 09-15-00459-CV, 2017 Tex. App. LEXIS 1355, 2017 WL 629487, at \*3 (Tex. App.—Beaumont Feb. 16, 2017, no pet.) (mem. op.)). Similarly, the Austin Court of Appeals in *Davis v. Hays County* held that governmental immunity is waived under § 37.004 of the UDJA. *See Davis v. Hays Cty.*, 2020 Tex. App. LEXIS 8738 (Tex. App.—Austin Nov. 6, 2020, no pet.).

These cases establish that counties lack immunity from UDJA claims. Accordingly, immunity in this case is waived under both § 37.004 and § 37.006 of the Texas Civil Practice and Remedies Code.

#### **F. Counties have limited regulatory authority on platting**

The County mistakenly argues that it has broad regulatory authority on platting. (Plea, pp. 23-28). Proportionality is solely addressed by the Legislature only in § 232.110 contained in the state platting statute: Chapter 232, Tex. Loc. Gov't Code. There is no other Texas statute that directly addresses proportionality.

The County relies on opinions involving home rule cities to argue that Chapter 212 provides broad platting authority and city ordinances (not county regulations) are presumed to be valid. Those opinions are not based on Chapter 232. In fact, regulatory authority vested in Texas counties and county officials on plat matters is limited. *City of San Antonio v. City of Boerne*, 111 S.W.3d 22, 28 (Tex. 2003) ("Though they are creatures of the Texas Constitution, counties and commissioners courts are subject to the Legislature's regulation. . . . [A] commissioners court may exercise only those powers expressly given by either the Texas Constitution or the Legislature."); *Guynes v. Galveston County*, 861 S.W.2d 861, 863 (Tex. 1993) (citing Tex. Const., art. V, § 18, "[A]lthough a commissioners court may exercise broad discretion in conducting county business, the legal basis for any action taken must be grounded ultimately in the constitution or statutes.").

In its Response, the County argues that Plaintiffs have not provided case law support for their position that county land use authority is limited. (Plea, p. 26). In fact, counties can regulate land development only if expressly authorized by state statute. *Integrity Group, Inc. v. Medina County Comm'rs Court*, No. 04-03-00413-CV, 2004 Tex. App. LEXIS 9186, 2004 WL 2346620, at \*1 (Tex. App.—San Antonio Oct. 20, 2004, pet. denied) (mem. op.). The Texas Supreme Court established this standard in *Town of Lakewood Vill. v. Bizios*, 493 S.W.3d 527 (Tex. 2016). General law towns and counties lack home rule powers and can only exercise those powers expressly provided by the Texas Legislature. The Court ruled that the platting statute did not authorize Lakewood Village to require the homebuilder to obtain a building permit for vertical construction. *Id.* at 534.

Texas case law has consistently held that the general regulatory authority granted to counties in Section 232.101, Tex. Loc. Gov't Code, does not give counties the wholesale authority to regulate anything and everything within the county. Section 232.101, Tex. Loc. Gov't Code, provides: "the commissioners court may adopt rules governing plats and subdivisions of land within the unincorporated area of the county to promote the health, safety, morals, or general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county." Tex. Loc. Gov't Code § 232.101.

A plat application is evaluated in accordance with the valid requirements of the County's Subdivision Rules and Regulations ("Regulations"). (Ex. A-16). Section 232.003 of the Texas Local Government Code provides the comprehensive list of what the County can include in these Regulations. They include the dedication and construction of road and drainage improvements needed to accommodate the impact from a developed subdivision. The Regulations require a developer to dedicate in accordance with County standards and construct roads. (Ex. A-16, p. 61, 85). A developer must construct a county road "and dedicate enough right-of-way to comply with the county road types in Table 5.2-1." (Ex. A-16, p. 56).

In a typical situation, the plat applicant receives comments from a city or county on a proposed plat. An example can be found in *City of Dallas v. 6101 Mockingbird, LLC*, 2019 Tex. App. LEXIS 6270\* (Tex. App.—Dallas, July 23, 2011, no pet.). In that case, the city told the plat applicant that a right-of-way dedication would be required as a condition of plat approval. The developer then submitted a § 212.904 appeal arguing that the dedication would serve only the general public and not the development itself.

A typical residential subdivision developer like Horton is required to obtain plat approval by the appropriate governmental entity as established by statute. Here, the plat application must be submitted for county commissioners court approval in accordance with § 232.002, Tex. Loc. Gov't Code. According to Texas case law, however, a county's authority "to grant or deny plat applications must be based on a specific statute or rule. Counties do not have inherent authority to regulate subdivisions or proportionality items in the absence of a specific statute or rule. *Stolte v. City of Guadalupe*, 2004 Tex. App. LEXIS 10236 (Tex. App.—San Antonio Nov. 17, 2004, no pet.).

**G. Proportionality appeals are governed by constitutional regulatory takings principles**

Because municipalities were slow to follow the Supreme Court's mandate in *Stafford Estates*, the Texas Legislature enacted § 212.904, Tex. Loc. Gov't Code, in 2005. The statute required cities who imposed city infrastructure improvement requirements on a developer to ensure that those exactions were roughly proportionate to the impacts of the development. The city's exaction must be supported by a professional engineer's report. § 212.904(a), Tex. Loc. Gov't Code. If the developer disputes the report then it can file an appeal which must be heard by the city council. The city council's decision can be appealed to the district court or county court of law. § 212.904(b).

A reported opinion interpreting § 212.904 is *MiraMar Dev. Corp. v. City of Coppell*, 421 S.W.3d 74 (Tex. App.—Dallas 2013, no pet.). This case involved the imposition of eighteen city exactions on a proposed 29 lot residential development in the city. The exactions included in the city's subdivision ordinance and were applied during the platting process. These included exactions involving rolled curbs, extra drainage outlets, offsite sidewalks, additional storm drain construction, extra sewer manholes,

waterline concrete caps, retaining walls, floodplain excavation, park fees, water and sewer impact fees, water testing, land conveyance, and roadway cleanup. All of these are considered to be municipal infrastructure improvements. The developer filed a § 212.904 appeal regarding those exactions. The court of appeals upheld some of the city council's apportionment determinations, reversed others and awarded attorneys' fees to the developer. *Id.* at 106.

In 2019, the Legislature applied the § 212.904 substantive and procedural requirements on proportionality to counties when it enacted § 232.110, Tex. Loc. Gov't Code. (Ex. A-17). The analysis states that the proportionality process for cities should apply to counties. It describes "infrastructure" as "roads and transportation improvements, water and wastewater improvements, and storm water and drainage improvements." This definition reflects the common sense plain reading of the term rather than the convoluted argument by the County. (Plea, pp. 32-34). Both statutes are essentially the same. There is a subsection in § 232.110 stating that it does not "diminish the authority or modify the procedures" in Chapter 395, which is the Texas Impact Fee Act. Additionally, the County lacks statutory authority to impose an impact fee different from the fees permitted under 232.110. Chapter 395 of the Texas Local Government Code permits only certain counties to impose impact fees, and the County is not one of those listed counties. *See* Tex. Loc. Gov't Code § 395.079. In addition, the statute does not "increase or expand the authority of a county to regulate plats or subdivisions."

Section § 232.110 permits a county to regulate the financial contributions required from developers for county infrastructure improvements as a condition for approving property development projects. It expressly places two limits on the County's ability to

regulate: (1) the developer's financial contribution must be limited to the costs of county infrastructure improvements that are "roughly proportionate" to the proposed development; and (2) the determination of the developer's financial contribution must be made by a licensed professional engineer. As such, the Legislature clearly intended to eliminate a county's attempt to use Section 232.110 to expand or increase its regulatory authority beyond the bounds placed by long-standing legal precedent, as outlined above.

**H. The Court should declare that 15 of the 16 exactions in § 5.10 are not eligible County Infrastructure Improvements Under § 232.110, Tex. Loc. Gov't Code**

The County argues that most of the 16 apportionment items in § 5.10 are not exactions because they do not require Plaintiffs to pay the County or dedicate land to the County. (Plea, p. 28). The County admits that § 232.110 apportionment does not logically apply to proof of water service, proof of electrical service, proof of animal control service, proof of trash service, etc. Assuming the county is correct on the issue, then it should repeal those listed items from the regulation. The County's plea to the jurisdiction should be denied.

It is important to note that § 5.10 is not a city ordinance and therefore is not presumed valid. (Plea, p. 28) Dedication or construction of roads is the only authorized § 5.10 infrastructure exaction under § 232.110, Tex. Local Gov't Code. The other 15 exactions listed in § 5.10 are not authorized under § 232.110. As a result, the court should declare the 15 listed exactions for § 5.10 to be invalid, null and void regardless of the County's arguments to the contrary. (Plea, pp. 27-34).

Section 232.110, Tex. Loc. Gov't Code, does not provide a statutory definition of "county infrastructure improvements." Accordingly, this court is tasked with reviewing the statute's text for legislative intent, considering the entire statutory framework and

construing the legislature's chosen words and phrases in context. *Aleman v. Tex. Med. Bd.*, 573 S.W.3d 796, 802 (Tex. 2019); *see* Tex. Gov't Code Ann. § 311.011 (stating that words and phrases "shall be read in context and construed according to the rules of grammar and common usage" and that if they "have acquired a technical or particular meaning, whether by legislative definition or otherwise, [they] shall be construed accordingly"). In ascertaining an undefined term's commonly understood meaning, a court may consult dictionaries, treatises, and commentaries, as well as the term's prior construction in other contexts, its use and definitions in other statutes, and its use in the rules of evidence and procedures. *Jaster v. Comet II Constr., Inc.*, 438 S.W.3d 556, 563 (Tex. 2014). Even if a term has multiple meanings, courts recognize the meaning that is consistent with the entire statutory scheme. *See Greater Hous. P'ship v. Paxton*, 468 S.W.3d 51, 58 (Tex. 2015).

Based on the broader statutory framework within Chapter 232, "county infrastructure improvements" encompass the types of infrastructure that counties are authorized to regulate in subdivision development, including roads and streets, drainage and stormwater facilities, and related public improvements necessary to serve new development within the County. This is consistent with legislative intent for § 232.110 which relates to "transportation improvements, water and wastewater improvements, and drainage improvements." (Ex. A-17).

The statutory framework of Chapter 232 of the Texas Local Government Code reveals several categories of infrastructure that fall within county regulatory authority and would therefore constitute "county infrastructure improvements" under section 232.110. First, road and street infrastructure represents a primary category, as multiple sections

under Chapter 232 address county authority over roadway dedications and specifications. *See* Tex. Loc. Gov't Code §§ 232.003(1)-(4). Second, drainage and stormwater management facilities constitute another significant category. *See* Tex. Loc. Gov't Code §§ 232.003(5) & (8). Section 232.003(5) demonstrates legislative recognition that drainage infrastructure falls within the scope of county infrastructure authority subject to cost apportionment under section 232.110. Third, water and sewer infrastructure also falls within this scope, as evidenced by subdivision platting requirements that mandate descriptions of "water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision." Tex. Loc. Gov't Code § 232.023. However, the authority to regulate water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities is narrowed to counties near international borders, which does not include this County. *See* Tex. Loc. Gov't Code § 232.021 et seq. (Subchapter B. Subdivision Platting Requirements in County Near International Border). The County acknowledges that it does not own or control water and sewer lines and is not a water or sewer provider. (Ex. A-14).

"County infrastructure improvements" under § 232.110 would encompass similar long-term public facilities and infrastructure improvements owned and operated by the County—not by a unrelated political subdivision or agency. Logically, if the County does not own or operate the infrastructure improvement, the County cannot impose a fee for the infrastructure improvement under § 232.110. Such a fee would violate Chapter 395, Tex. Loc. Gov't Code. This definition is also supported by the statute's requirement that the exaction be supported by a professional engineer retained by the County. *See* Tex. Loc.

Gov't Code § 232.110(a). Professional engineer Jeff Miles points out that the professional engineer designation can only be obtained after at least eight years of education and employment under a professional engineer. (Ex. C, p. 3). Engineers do not provide reports for exactions such as animal control or broadband which by their very nature cannot be supported by a professional engineer's report and therefore cannot be statutorily authorized. In fact, the County's engineering consultants refused the County judge's request to prepare an engineering report for exactions other than roads. (Ex. C-5).

Furthermore, Section 232.110 does not diminish the authority or modify the procedures in Chapter 395 which is the Texas Impact Fee Act. There are procedural and substantive requirements for imposing an impact fee which were not complied with by the County. Therefore, any and all proportionality fees would be null and void.

During discovery, the County admitted that it does not own or control infrastructure or provide the related services for 15 of the 16 items. (Ex A-14). Therefore, the Court should declare those 15 exactions null and void as a matter of law. Each exaction is addressed as follows:

*1. Schools*

Schools do not qualify as "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 40). The statute neither references nor includes schools within its scope, nor does any other provision of the Texas Local Government Code indicate that the Legislature intended schools to be treated as infrastructure. Moreover, the County lacks both ownership and operational authority over public schools within its jurisdiction. The County expressly admitted in its responses to Plaintiffs' Requests for Admission that it does not own any public school facilities or improvements.

(RFA 3). Furthermore, the County's determination of Horton's fees relating to schools was not conducted or approved by a licensed professional engineer, as required for infrastructure improvement assessments under Section 232.110.

In light of these undisputed facts, schools do not constitute county infrastructure improvements, as defined by § 232.110 of the Texas Local Government Code. Consequently, the Court should declare that the County imposition of fees related to schools exceeds the County's statutory authority and is therefore unauthorized, null and void as a matter of law. The County's prior decision to waive the collection of school-related fees from Horton further underscores its recognition that such fees lack legal foundation and would not withstand judicial scrutiny.

## **2. *Roads***

Roads generally qualify as "county infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 41). Therefore, this exaction in § 5.10 is not null and void as a matter of law. However, the County's exaction as to the Development required Plaintiffs to pay to improve an adjacent state, not county, road. Therefore, Plaintiffs prevail on the appeal itself as a matter of law. This issue is addressed below.

## **3. *ESC/EMT (Ambulance)***

Environmental services and emergency medical services ("ESC/EMT") do not qualify as "county infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 41). Neither the text of Chapter 232 nor any other provision of the Texas Local Government Code defines or contemplates these services as infrastructure improvements. The Texas Legislature has never included environmental or

emergency medical services within the meaning of "infrastructure" for purposes of county regulation or fee assessment.

Moreover, it is undisputed that the City does not own, operate, or maintain ESC/EMT services; in fact, the County has expressly admitted to it in its responses to Plaintiffs' Requests for Admission. (RFA 11). In addition, the County's determination of Horton's fees relating to ESC/EMT was not conducted or approved by a licensed professional engineer, as required for infrastructure improvement assessments under Section 232.110.

Accordingly, ESC/EMT (Ambulance) services cannot be considered county infrastructure improvements under § 232.110 of the Texas Local Government Code as a matter of law. Therefore, the Court should declare that any fees or requirements in § 5.10 based on the classification of ESC/EMT as infrastructure are unauthorized, null and void. Again, the County's prior decision to waive the collection of ESC/EMT-related fees from Horton further evidences its recognition that such fees lack legal foundation and would not withstand judicial scrutiny.

#### **4. Fire**

Firefighting facilities and related infrastructure do not fall within the definition of "infrastructure" under Chapter 232 of the Texas Local Government Code. (Plea, p. 42). Neither Chapter 232 nor any other provision of the Texas Local Government Code contemplates or includes fire services infrastructure within the scope of county-authorized infrastructure improvements. Moreover, the County has expressly admitted that it does not own, operate, or maintain any firefighting facilities or related infrastructure within its jurisdiction (RFA 14). In addition, the County's determination of Horton's fees relating to

fire infrastructure was not conducted or approved by a licensed professional engineer, as required for infrastructure improvement assessments under Section 232.110.

For these reasons, firefighting facilities and associated infrastructure cannot, as a matter of law, be classified as county infrastructure improvements under § 232.110 of the Texas Local Government Code. Accordingly, the Court should declare the portion of § 5.10 purporting to authorize or require such improvements is unauthorized, null and void. Again, the County's prior decision to waive the collection of fire-related fees from Horton further evidences its acknowledgement that such fees lack legal foundation and would not withstand judicial scrutiny.

#### **5. *Police***

Police services do not constitute "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 10). The plain language of Chapter 232, as well as other chapters of the Texas Local Government Code, does not identify or include police services within the scope of infrastructure improvements that a county may regulate. The Legislature's omission of police services from the statutory text demonstrates its intent to exclude such services from the definition of "infrastructure."

Furthermore, it is undisputed that the County does not own, operate, or maintain police services. The County expressly admits in its responses to Plaintiffs' Requests for Admission that it does not own or operate police facilities or services (RFA 11). The County also concedes that no professional engineer's report was prepared or provided regarding police services, as required for qualifying infrastructure improvements under Section 232.110. (RFA 81).

The County's December 13, 2024 apportionment letter required Plaintiffs to pay \$529,424 on the front end for salaries, overtime, administrative, radio, weapons, vehicles for two additional deputies. (Ex. A-3). None of the listed items constitute infrastructure.

The arguments advanced by the County in the County Appeal Brief fail to overcome these statutory and factual limitations and are therefore unpersuasive. (Ex. A-12, pp. 20-23). Accordingly, as a matter of law, police services cannot qualify as county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

#### **6. *Water***

In some instances, water can classify as county infrastructure improvements; however, this is not one of those instances. *See* Tex. Loc. Gov't Code § 232.021 et seq. (narrowing the authority to regulate water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities to counties near international borders). Further, the County admits that (1) the County will not own or maintain the infrastructure that will provide water services to the River Rock Trails development, (2) the County is not a retail or wholesale water provider, and (3) the County does not own or maintain water infrastructure to serve developments in the County. (RFAs 17-19). Therefore, the County cannot assert that water constitutes as a *county* infrastructure improvement. Indeed, this purported infrastructure improvement is not the County's to claim.

The County also concedes that no professional engineer's report was prepared or provided regarding water services, as required for qualifying infrastructure improvements under Section 232.110. Accordingly, as a matter of law, water services cannot qualify as

county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

**7. Sewer**

Again, sewer can classify as county infrastructure improvements under Chapter 232 of the Texas Local Government Code; however, not in this case. *See* Tex. Loc. Gov't Code § 232.021 et seq. (narrowing the authority to regulate water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities to counties near international borders). Further, the County admits with respect to sewer that (1) the County will not own or maintain the infrastructure that will provide sewer services to the River Rock Trails development, (2) the County is not a retail or wholesale sewer provider, and (3) the County does not own or maintain sewer infrastructure to serve developments in the County. (RFAs 20-22). Therefore, the County cannot assert that sewer qualifies as a *county* infrastructure improvement. This purported infrastructure improvement is not the County's to claim.

The County also concedes that no professional engineer's report was prepared or provided regarding sewer services, as required for qualifying infrastructure improvements under Section 232.110. Accordingly, as a matter of law, water services cannot qualify as county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

**8. Broadband**

Broadband does not constitute "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 42). The plain language of Chapter 232, as well as other chapters of the Texas Local Government Code, does not identify or include

broadband within the scope of infrastructure improvements that a county may regulate. The Legislature's omission of broadband services from the statutory text demonstrates its intent to exclude such services from the definition of "infrastructure."

Furthermore, it is undisputed that the County is not a broadband provider, will not own or maintain broadband infrastructure to serve the River Rock Trails development, and does not own or maintain broadband infrastructure in the County. (RFAs 23-25). In addition, no professional engineer's report was prepared or provided regarding broadband infrastructure, as required for qualifying infrastructure improvements under Section 232.110. Accordingly, as a matter of law, broadband cannot qualify as county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

#### **9. *Electric***

Electric does not constitute "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 43). The plain language of Chapter 232, as well as other chapters of the Texas Local Government Code, does not identify or include electric within the scope of infrastructure improvements that a county may regulate. The Legislature's omission of electric services from the statutory text demonstrates its intent to exclude such services from the definition of "infrastructure."

Furthermore, it is undisputed that the County is not an electric provider, will not own or maintain electric infrastructure to serve the River Rock Trails development, and does not own or maintain electric infrastructure in the County. (RFAs 26-28). In addition, no professional engineer's report was prepared or provided regarding electric infrastructure, as required for qualifying infrastructure improvements under

Section 232.110. Accordingly, as a matter of law, electric cannot qualify as county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

#### ***10. Natural Gas***

Natural gas does not constitute "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 44). The plain language of Chapter 232, as well as other chapters of the Texas Local Government Code, does not identify or include natural gas within the scope of infrastructure improvements that a county may regulate. The Legislature's omission of electric services from the statutory text demonstrates its intent to exclude such services from the definition of "infrastructure."

Furthermore, it is undisputed that the County is not a natural gas provider, will not own or maintain natural gas infrastructure to serve the River Rock Trails development, and does not own or maintain natural gas infrastructure in the County. (RFAs 29-31). In addition, no professional engineer's report was prepared or provided regarding natural gas infrastructure, as required for qualifying infrastructure improvements under Section 232.110. Accordingly, as a matter of law, natural gas cannot qualify as county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

#### ***11. Open Spaces***

The management of open spaces does not qualify as "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 45). The statute neither references nor includes open space management within its scope, nor does any other provision of the Texas Local Government Code indicate that the Legislature

intended open space management to be treated as infrastructure. Moreover, the County does not own or maintain open space on private property in the County, nor does it own or maintain parks in the County. (RFA 34-35). Furthermore, the County's determination of Horton's fees relating to open spaces were not conducted or approved by a licensed professional engineer, as required for infrastructure improvement assessments under Section 232.110.

In light of these undisputed facts, the management of open spaces does not constitute county infrastructure improvements, as defined by § 232.110 of the Texas Local Government Code. Consequently, the Court should declare that the County imposition of fees related to open spaces exceeds the County's statutory authority and is therefore unauthorized, null and void as a matter of law

## ***12. Drainage***

Although drainage can qualify as "county infrastructure improvements" under Chapter 232 of the Texas Local Government Code, the County is prohibited from regulating the drainage in this instance because the roads and associated drainage with the River Rock Trails development will not be owned or maintained by the County. (Plea, p. 46). Consequently, the County cannot assert that the drainage within the development constitutes as a county infrastructure improvement. Simply put, the alleged infrastructure improvement is not the County's to claim. In addition, no professional engineer's report was prepared or provided regarding drainage infrastructure, as required for qualifying infrastructure improvements under Section 232.110.

Accordingly, the Court should declare drainage does not qualify as county infrastructure improvements under Section 232.110, and that any associated fees and requirements imposed under § 5.10 are unauthorized, null, and void.

**13. *Animal Control***

Animal control does not constitute "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 46). The plain language of Chapter 232, as well as other chapters of the Texas Local Government Code, does not identify or include animal control within the scope of infrastructure improvements that a county may regulate. The Legislature's omission of animal control from the statutory text demonstrates its intent to exclude such services from the definition of "infrastructure."

Furthermore, it is undisputed that the County does not own or maintain animal control infrastructure or facilities. (RFA 39). In addition, no professional engineer's report was prepared or provided regarding animal control infrastructure, as required for qualifying infrastructure improvements under Section 232.110. Accordingly, as a matter of law, animal control cannot qualify as county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

**14. *Dispatch/911/GIS Services***

Dispatch/911/GIS Services do not constitute "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. The plain language of Chapter 232, as well as other chapters of the Texas Local Government Code, does not identify or include Dispatch/911/GIS Services within the scope of infrastructure improvements that a county

may regulate. The Legislature's omission of Dispatch/911/GIS Services from the statutory text demonstrates its intent to exclude such services from the definition of "infrastructure."

Furthermore, it is undisputed that the County does not own, operate, or maintain Dispatch/911/GIS Services. Additionally, no professional engineer's report was prepared or provided regarding Dispatch/911/GIS Services, as required for qualifying infrastructure improvements under Section 232.110.

Accordingly, as a matter of law, Dispatch/911/GIS Services cannot qualify as county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

#### **15. *Trash***

Trash/refuse collection or disposal services do not constitute "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. (Plea, p. 46). The plain language of Chapter 232, as well as other chapters of the Texas Local Government Code, does not identify or include Trash/refuse collection or disposal services within the scope of infrastructure improvements that a county may regulate. The Legislature's omission of Trash/refuse collection or disposal services from the statutory text demonstrates its intent to exclude such services from the definition of "infrastructure."

Furthermore, it is undisputed that the County does not own or maintain trash/refuse collection and disposal infrastructure nor will the County provide trash/refuse collection or disposal services to the River Rock Trails development. (RFAs 42-43). In addition, no professional engineer's report was prepared or provided regarding trash/refuse collection and disposal infrastructure, as required for qualifying infrastructure improvements under Section 232.110. Accordingly, as a matter of law, trash/refuse collection and disposal

services cannot qualify as county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

**16. *Radio Communications***

Radio communications do not constitute "infrastructure improvements" under Chapter 232 of the Texas Local Government Code. The plain language of Chapter 232, as well as other chapters of the Texas Local Government Code, does not identify or include radio communications within the scope of infrastructure improvements that a county may regulate. The Legislature's omission of radio communication services from the statutory text demonstrates its intent to exclude such services from the definition of "infrastructure."

Additionally, no professional engineer's report was prepared or provided regarding radio communications services, as required for qualifying infrastructure improvements under Section 232.110.

Accordingly, as a matter of law, radio communications services cannot qualify as county infrastructure improvements under § 232.110 of the Texas Local Government Code, and thus this portion of § 5.10 is unauthorized, null and void.

The Court should declare that none of the exactions in § 5.10 (except roads) constitute legally authorized county infrastructure improvements and are therefore null and void. Therefore, these 15 exactions cannot be applied to the Development as a matter of law.

**I. The Court should declare that Plaintiffs prevail on their § 232.110 proportionality appeal as a matter of law**

Plaintiffs appealed the Order to this court in accordance with § 232.110(c), Tex. Loc. Gov't Code. This court makes the final determination with respect to the legality of the Order.

The Order acknowledges that twelve of the listed exactions cannot legally be applied to the Development. (Ex. A-13, p. 3). In addition, the County stated that it could not require school fees for Phases 1A and 1B after initially attempting to charge Horton \$75,000 for each student in its development.

With respect to the police apportionment the County states that it will accept Hortons "offer" to pay police apportionment fees totaling \$529,424.00. (Ex. A-13, p. 4). As discussed above these fees were based on salaries for two new deputies. (Ex. A-6). The County did not produce a professional engineer's report to support this amount. In addition, deputy salaries do not constitute county infrastructure improvements as described hereinabove. (Ex. C, pp. 2-4).

The Order also states that the County "accepts D.R. Horton's offer, as stated in its Response letter, to pay road apportionment fees totaling \$338,867.75. (Ex. A-13, p. 4). But the County is prohibited from regulating the roads in this instance because the road at issue is not a County road. The County will neither construct, own, nor maintain the adjacent roads. Moreover, the road analyzed in the County's Professional Engineer's report (FM 548) (Ex. A-9) is neither owned nor maintained by the County (RFAs 5-9). The road is controlled by the Texas Department of Transportation. (Ex. A-14). As a matter of law, FM 548 is not a "county infrastructure improvement" envisioned by

§ 232.110(a), Tex. Loc. Gov't Code. Consequently, the County cannot assert that the road in question constitutes a county infrastructure improvements.

As previously stated, there was no pending "offer" by the Plaintiffs to pay police or road fees at the Appeal hearing. Section 232.110 does not authorize settlement offers that do not meet the requirements of § 232.110 and *Stafford Estates*. If Horton's proposal with the County was intended to resolve both the pending plat and proportionality dispute because the County refused to approve the plat application, the "offer" was undisputedly withdrawn prior to the County putting on its case at the Appeal hearing. (Ex. B, p. 3).

Out of an abundance of caution, Plaintiffs' counsel expressly withdrew the offers in its case in chief: "The County did not accept those offers, and the County has rejected our plats. So those offers are no longer on the table." (Ex. A-12, p. 12). At no point in the hearing did the County controvert this statement or indicate that it believed these remained a pending settlement offer. (Ex. A-12).

Until an offer is accepted, a party retains the power to revoke the offer. *See Embree, Inc. v. Sw. Bell Media, Inc.*, 772 S.W.2d 209, 210 (Tex. App.—Dallas 1989, no pet.). It is undisputed that Horton's offer was revoked no later than the opening portion of the April 24, 2025 hearing. The County has not introduced controverting summary judgment evidence to this fact.

The County argues that Horton should be estopped from revoking the offer because it had incurred the effort and expense of analyzing the proposal." (Plea, p. 47). There is no summary judgment evidence to support the proposition that the County was detrimentally impacted by Plaintiffs' revocation. Therefore, there is no disputed fact issue and the County's defense fails as a matter of law.

In addition, the County cites to only one reported opinion in this section of the Plea and that opinion actually supports the Plaintiffs' position. *Nagle v. Nagle*, 633 S.W.2d 796, 800 (Tex. 1982). In that case, the husband orally communicated to his wife that he would convey by deed his interest in their house. He later revoked his offer. The Supreme Court ruled that promissory estoppel did not apply and ruled in favor of the husband.

The County also argues that the road fee exaction was supported by an engineering report meeting the requirements of § 232.110, Tex. Loc. Gov't Code. But Plaintiffs' argument is that the road in question is a State of Texas road and not a county infrastructure improvement. The County admitted to the following in its responses to Plaintiffs' Requests for Admission (MPSJ, Ex. 14):

- The County does not own or maintain FM 548 adjacent to the Property;
- FM 548 is owned and maintained by the State;
- The State, not the County, will decide whether FM 548 will be improved or widened.

Even though it is clear the perimeter road does not constitute County infrastructure implementation, out of an abundance of caution Plaintiff will also address the proportionality requirement in § 232.110(a), Tex. Loc. Gov't Code. As part of their plat applications submitted to the County, Plaintiffs included a traffic impact analysis ("TIA") dated May 28, 2029. (Ex. C, p. 1). The TIA was prepared by Scott Isreal, a professional engineer with Traffic Impact Group, Inc. It states that FM 548 is a two-lane state road. (Ex. C-2).

According to the professional engineer, the capacity for FM 548 is 875 vehicles per hour. (Ex. C-2). This capacity can accommodate all of the vehicular traffic from Phases 1A and 1B of the River Rock development. (Ex. C-2). Beyond the first two

phases FM 548 (because it is a state road) would need TxDOT funds for any widening project. (Ex. A-14).

Professional engineer Jeff Miles was the only live witness who presented testimony at the Appeal hearing. (Ex. C, p. 1). He has been involved with the development and engineering issues for over 1,000 subdivisions. (Ex. A-13, p. 17). Mr. Miles testified that he was unaware of a county ever requiring a roadway impact fee. (Ex. A-13, p. 18). The existing two lanes would be sufficient to handle the capacity from Phases 1A and 1B and no new lanes would be added. (Ex. A-13, p. 19). County's counsel, Daniel Ray, did not refute or controvert this testimony during cross-examination. (Ex. A-13, p. 20). The court should rule that Plaintiff prevails on its § 232.110 appeal as a matter of law.

## **VI. CONCLUSION AND PRAYER**

Because none of the sixteen (16) items in § 5.10 constitute "county infrastructure improvements" under § 232.110, Tex. Loc. Gov't Code, as a matter of law, the County's imposition of the exaction items are unauthorized, null and void. In addition, Plaintiff's Appeal should be granted as a matter of law. The County's Plea should therefore be denied and Plaintiffs' Motion for Partial Summary Judgment should be granted. If the court rules there is a jurisdictional defect, Plaintiffs ask the court permission to amend their petition to cure the defect.

Plaintiffs' causes of action not addressed herein and the award for their reasonable and necessary attorneys' fees should be determined at trial. Plaintiffs further request that this Court award such further relief, at law or in equity, to which they may be entitled.

Respectfully submitted,

**WINSTEAD PC**

By: /s/ Arthur J. Anderson

Arthur J. Anderson  
State Bar No. 01165957  
[aanderson@winstead.com](mailto:aanderson@winstead.com)  
Matthew K. Joeckel  
State Bar No. 24110052  
[mjoeckel@winstead.com](mailto:mjoeckel@winstead.com)  
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500 Winstead Building  
2728 N. Harwood Street  
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(214) 745-5745 – Phone  
(214) 745-5390 – Fax

**ATTORNEYS FOR PLAINTIFFS  
DMDS LAND COMPANY LLC and  
D.R. HORTON-TEXAS, LTD.**

**CERTIFICATE OF SERVICE**

I hereby certify that on March 4, 2026, in accordance with the Texas Rules of Civil Procedure, I delivered a true and correct copy of the foregoing document to all counsel of record via the Court's electronic filing system.

/s/ Arthur J. Anderson  
Arthur J. Anderson

CAUSE NO. 1-25-1000

DMDS LAND COMPANY LLC and  
D.R. HORTON - TEXAS, LTD.,

*Plaintiffs,*

v.

ROCKWALL COUNTY,

*Defendant.*

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IN THE DISTRICT COURT

382<sup>nd</sup> JUDICIAL DISTRICT

OF ROCKWALL COUNTY, TEXAS

AFFIDAVIT OF ARTHUR ANDERSON

BEFORE ME, the undersigned authority, on this day personally appeared Arthur Anderson, after being by me duly sworn, on his oath stated as follows:

My name is Arthur Anderson. I represent the Plaintiffs in this matter. I acquired personal knowledge of the facts and matters set forth herein. I am over 18 years old and am fully competent to testify regarding the matters stated herein. All of the statements contained herein are within my personal knowledge, are true and correct. The following documents were provided by the County of Rockwall ("County"):

1. Attached as Exhibit A-1 is a true and correct copy of Section 5.10 of the Rockwall County and Subdivision Regulations.
2. Attached as Exhibit A-2 is a true and correct copy of the February 16, 2024 appeals letter by Horton to the County regarding Wildwood Phase 2.
3. Attached as Exhibit A-3 is a true and correct copy of the March 15, 2024 Wildwood Phase 2 Apportionment Costs letter from County Judge Frank New.
4. Attached as Exhibit A-4 is a true and correct copy of the April 4, 2024 response by Horton's counsel to Judge New's March 15, 2024 letter.

**EXHIBIT  
A**

5. Attached as Exhibit A-5 is a true and correct copy of Horton's November 14, 2024 letter to the County.

6. Attached as Exhibit A-6 is a true and correct copy of Freese and Nichols' December 13, 2024 letter to JBI Partners.

7. Attached as Exhibit A-7 is a true and correct copy of the December 13, 2024 Freese and Nichols' letter to Judge Frank New.

8. Attached as Exhibit A-8 is a true and correct copy of Horton's March 4, 2025 letter offer to the County ("Offer").

9. Attached as Exhibit A-9 is a true and correct copy of the River Oak Trails, Phase 1A preliminary plat application denied by the Rockwall County Commissioner Court at its March 25, 2025 meeting.

10. Attached as Exhibit A-10 is a true and correct copy of the River Oak Trails, Phase 1B preliminary plat application denied by the Rockwall County Commission Court at its March 25, 2025 meeting.

11. Attached as Exhibit A-11 is a true and correct copy of the Reporters Record of the April 24, 2025 Rockwall County Commissions Count meeting.

12. Attached as Exhibit A-12 is a true and correct copy of the Brief to Rockwall County Commissioners Court introduced at the April 24, 2025 Apportionment Appeals Hearing.

13. Attached as Exhibit A-13 is a true and correct copy of the May 12, 2015 order of the Rockwall Commissioners Court Regarding Apportionment Determination for Phases 1A and 1B of the River Rock Trials Municipal Utility District.

14. Attached as Exhibit A-14 is a true and correct copy of Defendants' Objections and Responses to Plaintiffs' Requests for Admissions.

15. Attached as Exhibit A-15 is a true and correct copy of Defendants' Objections and Responses to Plaintiffs' First Set of Interrogatories.

16. Attached as Exhibit 16 is a true and correct copy of the February 13, 2024 Rockwall County Subdivision and Land Development Regulations as shown on the County's website.

17. Attached as Exhibit A-17 is a true and correct copy of the Senate Research Center Bill Analysis for SB 1510 which passed the Legislative in 2019 and was signed by the Governor.

Further Affiant sayeth not.

*Arthur Anderson*

ARTHUR ANDERSON

SUBSCRIBED AND SWORN TO BEFORE ME on this the 22<sup>nd</sup> day of December, 2025, to certify which witness may hand and seal.

*Lisa R. Hardin*  
\_\_\_\_\_  
Notary Public, State of Texas

[S E A L]



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**Sec. 5.10. Apportionment of County Infrastructure Costs**

The following section is adopted into the [County Subdivision Regulations](#) pursuant to the authority of [TLGC Section 232.110](#).

**Sec. 5.10.1. Developer's Portion of the Costs of County Infrastructure Improvements**

- A. The [County](#) requires, including under an agreement under Chapter [242](#), as a condition of approval for a property development project that the developer bear a portion of the costs of [County Infrastructure](#) Improvements by the making of dedications, the payment of fees, or the payment of construction costs.

For the purposes of determining the developer's portion of the costs of [County](#) infrastructure Improvements as established by under this [Sec. 5.10](#), [County](#) Infrastructure improvements shall include:

1. Schools;
2. Roads;
3. ESC/EMT (Ambulance) ;
4. Fire;
5. Police;
6. Water;
7. Sewer;
8. Broadband;
9. Electric;
10. Natural Gas;
11. Open Space;
12. Drainage;
13. Animal Control;
14. Dispatch/911/GIS Services;
15. Trash/Refuse; and
16. Radio Communications.

- B. The developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter [1001](#), Occupations Code, and is retained by the [County](#).
- C. The [County](#)'s determination shall be completed within thirty days following the submission of the developer's application for determination under this subsection.

**Sec. 5.10.2. Developer Dispute and Appeal to Commissioner Court**

- A. A developer who disputes the determination made under Subsection [Sec. 5.10.1](#) may appeal to the [Commissioners Court](#).
- B. At the appeal, the developer may present evidence and testimony under procedures adopted by the [Commissioners Court](#).



February 16, 2024

Rockwall County  
Attn: Ron Merritt  
Rockwall Historic Courthouse  
101 East Rusk Street, Ste 202  
Rockwall, TX 75087

RE: Wildwood Phase 2

At the February 13, 2024 Rockwall County Commissioners Court Meeting the Commissioners voted 4-1 to decline approval of the engineering plans for the above referenced phase of our Wildwood project. DR Horton – Texas, Ltd (“Horton”) respectfully requests the County’s determination of Apportionment of County Infrastructure Costs relating to Wildwood, Phase 2, in accordance with Sec 232.110 of the Texas Local Government Code. We understand we are entitled to a response within 30 days of our request.

Please contact the undersigned if you have any questions relating to this request. We are anxious to begin development of the Wildwood Phase 2 project.

Sincerely,

A handwritten signature in black ink, appearing to read "D L Booth", is written over a light blue horizontal line.

David L. Booth  
D.R. Horton – Texas, Ltd.  
[dbooth@drhorton.com](mailto:dbooth@drhorton.com)  
Cell: 972-877-4956

EXHIBIT  
A-2

Anderson, Art

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From: Frank New <fnw@rockwallcountytexas.com>  
 Sent: Friday, March 15, 2024 3:20 PM  
 To: David L Booth; Rick L Horton  
 Cc: Victor Carrillo  
 Subject: Wildwood phase 2  
 Attachments: RKC\_Wildwood Phase 2 Apportionment Costs List\_Rev01.docx

[External]

Mr. Horton, Mr. Booth,

After reviewing our records, I disagree with your assertion that both Phases 1 and 2 of the Wildwood project were platted and accepted by Commissioners Court in 2020/21, or for that matter, any time prior to now. In September of 2021, Commissioners Court approved Phase 1 (211 LOTS) of the Wildwood Subdivision Final Plat after D.R. Horton paid Phase 1 lot fees of \$42,200 (\$200 per lot). That Wildwood Phase 1 Final Plat was filed of record on June 14, 2023. In late July 2023, the county received a check from D.R. Horton for \$198,790 for Poetry Road Improvements. It was not until late December of 2023 that the county received payment of Phase 2 lot fees of \$34,400 (\$200 per 172 lots).

In February/March of 2023, Commissioners Court formally adopted Section 232.110 of the TX Local Government Code in its entirety, bringing it into our subdivision regulations. On February 13, 2024, Commissioners Court approved the list of 16 Infrastructure Items under Section 232.110 of the TX Local Government Code. That same day, Commissioners Court denied plans for Wildwood Phase 2 (172 LOTS) pending receipt of a Hydrologic Impact Analysis (detailed technical flood study) and responses on the newly added Infrastructure apportionment allotment determinations.

Please see the attached Freese & Nichols apportionment determinations to-date for your review. I continue to maintain that we need a full Hydrologic Impact Analysis to demonstrate/ensure that the development will not flood the downstream neighbors and potentially create an unsafe and unhealthy situation. We need to know the potential impact of the WWTP discharge to downstream neighbors.

Respectfully,

*Frank New*  
 Rockwall County Judge  
 Rockwall County Historic Courthouse  
 101 East Rusk, Ste 202 | Rockwall, Texas 75087  
 Phone: 972.204.6000



**Appropriation of County Infrastructure Costs: Roadway Infrastructure (Source: Freres and Nichols, Inc.)**

**FNI Approach**

- FNI's approach to calculating the proportional impact of the proposed development on Poetry Road is as follows:
1. Assess the current state of Poetry Road right-of-way (ROW) and pavement standard against the Rockwall County Thoroughfare Plan designation as a Collector Street (Rural Section).
  2. Determine the cost to repair one mile of Poetry Road to Rockwall County Thoroughfare Plan standards by adding the following:
    - a. The average cost of ROW using Rockwall County Appraisal District (RCAD) data for comparable properties along Poetry Road; and
    - b. The average cost of roadway expansion design, construction, and materials using comparable projects in DFW and surrounding communities.
  3. Use the per-mile cost to determine the proportional costs to Poetry Road along the project's approximately 660-foot frontage within Rockwall County.

**FNI Findings**

Using the approach listed above, FNI has determined the following costs associated with improving half of Poetry Road to Rockwall County Thoroughfare Plan standards:

Contribution to Right-of-Way Acquisition				
Dedication Width	Length (w/in Rockwall County)	Area (ft <sup>2</sup> )	Price (\$) per SF*	Value of Contribution
5 feet	660.67'	3,303.35	\$1.46	\$4,822.87

\* Price (\$) per SF based on RCAD average of land values in the area.

Contribution to Right-of-Way Improvements	
Cost per Linear Mile of Full Section (includes construction, engineering, and ROW acquisition)	\$3,781,500.00
Cost per Linear Foot of Full Section (includes construction, engineering, and ROW acquisition)	\$716.19
Cost per Linear Foot of Half Section (includes construction, engineering, and ROW acquisition)	\$358.10
Total Cost per Linear Foot of Half Section x Length of Frontage (660.67')	\$236,582.49

**FNI Recommendations**

Based on the findings listed above, FNI recommends the following:

1. The applicant improves half of Poetry Road along the 660.67-foot frontage within Rockwall County to meet the minimum standards depicted in the Rockwall County Thoroughfare Plan; or
2. The applicant pays a fee in lieu of improvement equal to \$236,582.49.

Additionally, it is recommended that coordination between Rockwall County, the developer, and Hunt County be made for the approximately 180 feet of frontage along Poetry Road within Hunt County.

Apportionment of County Infrastructure Costs: School Infrastructure (Source: Rockwall County and RCISD)

Rockwall County and RCISD Findings

Using the approach above, Rockwall County has determined the following school infrastructure costs associated with the Wildwood Phase 2 development:

Number of Households:	172 homes
Assumed Student per Household:	0.5 students/household
Total Number of Students (Households x Assumed Students per Household)	86 students
Assigned Cost (\$) per Student:	\$75,591.00/student
Total RCISD Contribution: (Assigned Cost per Student x Total Number of Students)	\$6,500,826.00

Apportionment of County Infrastructure Costs: Police Infrastructure (Source: Rockwall County)

Rockwall County Findings

Related personal equipment (can be addressed elsewhere in the budget):

Weapons, Taser, uniforms and equipment for deputy in 1 <sup>st</sup> year	\$6,000.00
Portable Radio:	\$5,000.00
Total:	\$11,000.00

Patrol Unit and Budget Support:

Vehicle and related equipment (Emergency lighting, radar, graphics, cage, etc)	\$77,000.00
Mobile Radio	\$6,500.00
Watch guard in car and body camera system	\$7,500.00
1 MDT (in car computer)	\$9,150.00
Air card for MDT (in car computer)/Cell Phone	\$960.00
Net-motion license	\$200.00
Vehicle maintenance and fuel for 1 vehicle	\$8,000.00
Emergency vehicle insurance for 1 vehicle for 1 year	\$1,000.00
Total:	\$104,350.00

Grand Total for Police Infrastructure: \$115,350.00

Apportionment of County Infrastructure Costs: Open Space Infrastructure (Source: Rockwall County)

Rockwall County Findings

1. In 2015 the Rockwall County Commissioners Court adopted the Rockwall County Open Space Master Plan (the "Plan").
2. Section 1.10 of the Subdivision Regulations provides in part that "To the greatest extent possible, all plats and development plans should be designed in a way to promote the stated objectives of the PLAN and allow for its future implementation." Section 1.10 sets forth the primary objectives of the Plan, to
  - a. Preserve quality stormwater corridors, including creeks, channels, floodplains, tributaries and easements;
  - b. Identify and preserve potential locations for a major open space and/or public amenity that could be developed in the future; and

- c. Protect and establish corridors essential for countywide open space connectivity for non-motorized mobility such walking and biking trails.
- 3. By failing to deliver an Open Space Plan with respect to the subject property, the owner/developer has not provided any evidence that it has designed the subdivision plat in a manner that promotes the stated objectives of the Plan and allows for its future implementation, all as required by Section 1.10 of the Subdivision Regulations. For example, but without limitation:
  - a. Does the proposed subdivision of the subject property preserve any stormwater corridors on the property, or off the property which are affected by the runoff from the property?
  - b. Are there parks or other open space amenities on the property as proposed to be divided? Will any such amenities be available for use by the public, and is there funding provided for construction and maintenance of any such amenities in the future?
  - c. Are there trails on the property and is there funding provided for construction and maintenance of any such trails in the future? Does the subdivision of the property provide for corridors to connect the property to other trails planned within the County?

2726 N. Harwood Street  
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ARTHUR J. ANDERSON, ESQ.  
Direct dial: 214.745.5745  
[anderson@winstead.com](mailto:anderson@winstead.com)

April 4, 2024

*Via Email*  
[vcarrilo@rockwallcountytexas.com](mailto:vcarrilo@rockwallcountytexas.com)

Victor Carrillo, Esq.  
General Counsel, Rockwall County  
101 East Rusk, Ste. 202  
Rockwall, TX 75087

Re: Wildwood Phase 2 ("Property")

Dear Mr. Carrillo:

Our firm represents D.R. Horton Company ("Horton") with respect to the entitlement issues it is currently having with the County regarding the Property. It is our understanding that County officials, including the County Judge, oppose Horton's plans to develop the Property with residential housing in accordance with Horton's legal rights.

On March 15, Judge New forwarded the correspondence and engineering report ("Report") attached as Exhibit A pursuant to § 232.110(a), Tex. Loc. Gov't. Code. Horton disputes the legal statements in Exhibit A and the County's legal authority to issue the Report. Without waiving its legal rights and remedies, Horton appeals the Report to the County Commissioners Court in accordance with § 232.110(b).

According to Texas law, a county has limited authority under Chapter 232 to require, approve or deny a plat or construction plan. *Integrity Group, Inc. v. Medina County Commissioners Court*, 2004 Tex. App. LEXIS 9186 (Tex. App.—San Antonio 2004, pet. den.) (mem. op.) (released for publication) (lot size an inappropriate consideration for county plat approvals). Once a plat meets the county's requirements, then the county must approve the plat as a ministerial duty. *Stolle v. County of Guadalupe*, 2004 Tex. App. LEXIS 10236 (Tex. App.—San Antonio 2004, no pet.) (unreleased for publication), (Court held that a county does not have the inherent authority to reject a plat based on general "public health and safety" concerns). Similar analysis was persuasive to the court in *Dos Republicas Coal Partnership v. Salcedo*, 477 S.W.3d 828 (Tex. App.—Corpus Christi 2015), where the court held that if a discretionary administrative approval (here, a floodplain development permit) is withheld for even one legally irrelevant factor, then the decision is arbitrary and capricious. The lesson to take from the case law is that it is important for the County to stay within its regulatory lane.

4885-3933-1762v.6 27080-11 6/16/2025

WINSTEAD #C | ATTORNEYS

Victor Carillo, Esq.  
April 4, 2024  
Page 2

Chronology is important. On February 15, 2019, a preliminary plat ("Preliminary Plat") was approved by the County for 80.04 acres owned by Horton. It is our understanding that the July 2011 Subdivision and Land Development Rules and Regulations were in effect at that time ("2011 Rules"). Section 4.02.10 of the 2011 Rules stated that approval of the preliminary plat authorized the developer to proceed with the preparation of a final plat. This approval would be in effect for one year. Infrastructure construction could not commence until the approval of a final plat.

Regardless of the County's provision establishing an approval time frame of one year for preliminary plats, the 2011 Rules must comply with Chapter 245, Tex. Loc. Gov't Code. The prior one year period for preliminary plats was invalid. It should have read two years pursuant to § 245.005(b), Tex. Loc. Gov't Code.

On September 28, 2021, the Wildwood Phase I final plat for Horton's 44.952 acres was approved by the Rockwall County Commissioners Court. Phase I is adjacent to Poetry Road. The Court did not approve infrastructure construction plans for Phase 1. Instead, those plans were approved by staff. Even though the County is not legally authorized to impose a roadway impact fee, Horton voluntarily agreed to contribute about \$200,000.00 to improve Poetry Road at the County's request as shown in Exhibit B. The approval of the Phase I final plat vested the Preliminary Plat.

A hydrologic analysis and drainage study for both Phase 1 and 2 were provided and approved by the County with the Preliminary Plat and Phase 1 plans. Required detention ponds, for both Phase 1 and Phase 2, were approved and constructed with the development of Phase 1. Drainage facilities built in Phase 1 accommodated drainage for Phase 2.

After the preliminary plat was approved, the County passed new subdivision regulations ("2021 Rules"). They revised the platting process to require that construction plans be approved prior to submittal of a final plat. Section 3.2.7 changed the language regarding the timeframe for the preliminary plat to "a period of two (2) years following the date of approval, during which period the Applicant shall submit and receive approval for Construction Plans and a Final Plat for the land area shown on the preliminary plat."

The prior ordinance did not require that a final plat be approved for the entirety of the tract in order to vest the validity of the preliminary plat. Horton submitted construction plans for Phase II in May 2023 and the County accepted and processed those plans with the mutual understanding that the portion of the preliminary plat where Phase II was located was still in effect. On December 15, 2023, the County's engineer issued the letter attached as Exhibit C expressly stating that the "application is technically compliant with the County's Subdivision Regulations and other applicable state and federal regulations."

In his March 15 e-mail Judge New states as follows: "Commissioners Court denied plans for Wildwood Phase 2 (172 Lots) pending receipt of a Hydrologic Impact Analysis (detailed technical flood study) and responses on the newly added infrastructure apportionment allotment determination." These conditions are invalid under Texas law for the following reasons:

1. The County does not have legal authority to vote on Horton's construction plans. In addition, approval of these plans is administrative and ministerial.

WINSTEAD PC | ATTORNEYS

Victor Carillo, Esq.  
April 4, 2024  
Page 3

2. Horton's preliminary plat remains in full force and effect under Chapter 245.
3. The County Commissioners do not have the authority to order Horton to produce a full hydrologic impact analysis.
4. The County cannot require Horton to comply with the infrastructure items it passed on February 13, 2024 because (a) this violates § 245.002, Tex. Loc. Gov't. Code, and (b) the County lacks statutory authority to impose those exactions.

As a result the County has a ministerial duty to approve and release Horton's plans for construction. A more detailed response is as follows:

1. Chapter 245 of the Texas Local Government Code vests Horton's development project with the 2011 Rules in effect at the time of preliminary plat approval. Horton is allowed to pick and choose among the provisions in the 2021 Rules that it will follow in accordance with § 245.002(d), Tex. Loc. Gov't Code.

With respect to the processing of infrastructure construction plans, Horton elects to comply with the following provisions of the 2021 Rules:

Sec. 2.3.2. Review and Action for Construction Plans

A. Application Processing

1. An application for construction plans will be processed in accordance with Sec. 2.2 Application Processing and will follow the application process reflected in Figure 2.3-1: Construction Plan Review Process.
2. The application process for Construction Plans is similar to the process for subdivision applications except that it is approved administratively by the Development Coordinator.
  - a. The Development Coordinator may delegate the approval of construction plans to the Commissioners Court Engineering Representative.

According to Figure 2.3-1 of the 2021 Rules, the Development Coordinator is the final decision-maker with respect to construction plans. Therefore, the County's vote on February 13, 2024 to disapprove the Construction Plans is null and void and of no force and effect. Horton does not agree to comply with any provision of the 2021 Rules that provides an alternative decision making process as to construction plans.

2. Pursuant to Chapter 245, Horton's development rights in the approved preliminary plat are vested. Section 245.005(b) states that a regulatory agency like the County can place a two-year expiration date on a preliminary plat but only "if no progress has been made towards completion of the project."

WINSTEAD PC | ATTORNEYS

Victor Carillo, Esq.  
April 4, 2024  
Page 4

In this case, Horton's project is development of the entire 80.04 acres covered by the preliminary plat. Section 245.005(c) defines actions that constitute progress toward completion. Horton complies with at least two of these:

§ 245.005(c)(1): Horton submitted a final plat for Phase 1 and therefore met this criteria.

§ 245.005(c)(3): Attached as Exhibit D is a summary of the infrastructure costs spent to serve the project, which total over \$16 million. The most recent RCAD appraised market value of the land covered by the preliminary plat is about \$1.6 million. Because the total infrastructure costs are significantly more than 5% of the appraised value, this criteria is also met.

As a result there is no dispute that the preliminary plat remains in full force and effect for Horton's project because the County's two year expiration period does not apply in accordance with § 245.005(b).

3. Because the County Commissioners Court lacks the necessary authority its request that Horton provide a full hydrologic analysis is invalid. The County engineer has the requisite authority and he determined that Horton's plans met the County's floodplain and drainage criteria. That's the end of the matter. The hydraulic analysis produced by our consultant prior to the commissioners court meeting met the regulations and satisfied all of the county engineer concerns. Therefore, denying the plans on this basis was arbitrary and capricious.

Furthermore, the 2011 Rules do not require that this type of analysis be provided. Nor do the 2021 Rules or Chapter 232 of the Texas Local Government Code.

It appears that the County may be attempting to regulate discharges from the Poetry Village Wastewater Treatment Facility, SIL Code 4952. The Texas Commission on Environmental Quality ("TCEQ") issued its permit to discharge from this facility on February 26, 2019. Rockwall County has no authority to regulate this facility as the TCEQ has sole regulatory authority and preempted the field in § 26.023 of the Texas Water Code.

4. Also, the County did not have authority to enact the proportionality list and then apply it to the next agenda item which was the vote on Horton construction plans. This provision was enacted after Horton filed its Phase II permit application and therefore cannot be used to deny the Phase II construction plans under Chapter 245 which is the state vested rights statute.

A significant provision in the statute states that § 232.110 does not expand the powers given to counties under other statutes. Without waiving Horton's legal rights and remedies, our § 232.110 comments on the proposed exactions in the Report are as follows.

1. Chapter 232 authorizes counties to regulate the dedication and construction of roads but does not expressly authorize counties to impose a roadway impact fee. Even though there is no precise prohibition on roadway impact fees, there is no implied authority allowing the fees to be imposed in this case. In addition, the fees are not proportional because (a) Phase 2 does not abut Poetry Road, and (b) the issue of proportionality was resolved as part of the Phase I

WINSTEAD PC | ATTORNEYS

Victor Carillo, Esq.  
April 4, 2024  
Page 5

approval process with the letter agreement between Horton and the County whereby Horton agreed to contribute funds to improve the road.

2. The County lacks statutory authority to impose a fee related to school infrastructure. Chapter 395 of the Texas Local Government Code allows only certain counties to impose impact fees and Rockwall County is not on that list. Further, Horton's property will be subjected to both school district and county property taxes. Finally, the Report does not provide sufficient data to prove up the amount of the exaction. Therefore, the County's exaction would not meet the legal proportionality test.

3. The police infrastructure exaction suffers from the same defects as the school infrastructure exaction. There is no statutory authority for imposing this type of impact fee. In addition, the Report does not prove up proportionality.

4. It also does not appear that the County provided a legitimate proportionality analysis on the open space/park issue. The consultant simply makes some statements about compliance with the county's adopted plan. The Rockwall County Open Space Master Plan (the "Plan") is dated December 28, 2015. The Plan, the Property is not affected by recommendations made in the Plan. If it were, those recommendations should have been made at the time of Preliminary Plat approval. Again, the statute does not provide the county with the authority to impose this exaction.

Please be advised that our client continues to be damaged by the County's dilatory tactics. Horton's construction plans should have been released on December 15, 2023, and Horton's legal right to recover damages from the County accrued on that date. Courts have become more diligent in awarding damages and attorneys fees in plat denial cases. Attached is a copy of the trial court's Final Judgment (Exhibit E) in a recent Dallas County lawsuit. Also attached as Exhibit F is the opinion and judgment in a similar Texas federal lawsuit which was issued on Monday. Horton will likely suffer significantly greater damages than our clients did in those cases. Immunity is waived and attorneys fees may be awarded in accordance with § 245.006, § 232.110(e) and 42 U.S.C § 1988.

Without waiving its legal rights and remedies Horton will be submitting to the County its revised hydraulic analysis on shortly. Demand is hereby made that Horton's construction plans be approved and released no later than April 18, 2024. If you have any questions concerning this matter, do not hesitate to contact me.

Very truly yours,

/s/ Arthur J. Anderson  
Arthur J. Anderson

AJA/mt

WINSTEAD PC | ATTORNEYS



4306 Miller Road  
Rowlett, Texas 75088

November 14, 2024

Rockwall County  
915 Whitmore Drive  
Rockwall, TX 75087

Re: River Rock Preliminary Plat Applications

DR Horton ("Horton") is the applicant for this project. Rockwall County has informed us that a number of exactions ("Exactions") will be imposed on the development. Please accept this letter as Horton's request for a rough proportionality determination of these exactions pursuant to Section 232.110, Tex. Loc. Govt. Code. The county has 30 days to provide a report ("Determination") by a professional engineer proving up each exaction under Section 232.110(a). After having had a chance to review the engineering report Horton will decide whether to appeal the Determination in accordance with Section 232.110(b).

Sincerely,

DR Horton - Texas, Ltd.

A handwritten signature in blue ink, appearing to read 'D. Booth', is written over the typed name.

David L. Booth  
Land Department Manager

EXHIBIT  
A-5



**Environmental Health Coordinator**

**Ron Merritt**

915 Whitmore Drive • Suite D • Rockwall, Texas 75087

Telephone: 972-204-7600 • Fax: 972-204-7609

December 13, 2024

JBI Partners  
2121 Midway Rd  
Carrollton, Tx 75006

RE: Apportionment Cost for River Rock Trails – Phase 1A and Phase 1B

Chapter 232 of the Texas Local Government Code (TLGC) grants the County regulatory authority over subdivisions within unincorporated areas. TLGC Section 232.110, Apportionment of County Infrastructure Costs, states:

**Sec. 232.110. APPORTIONMENT OF COUNTY INFRASTRUCTURE COSTS.**

- (a) If, under any authority expressly authorized by this chapter, a county requires, including under an agreement under Chapter 242, as a condition of approval for a property development project that the developer bear a portion of the costs of county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the county. The county's determination shall be completed within thirty days following the submission of the developer's application for determination under this subsection.*
- (b) A developer who disputes the determination made under Subsection (a) may appeal to the commissioners court of the county. At the appeal, the developer may present evidence and testimony under procedures adopted by the commissioners court. After hearing any testimony and reviewing the evidence, the commissioners court shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.*
- (c) A developer may appeal the determination of the commissioners court to a county or district court of the county in which the development project is located within 30 days of the final determination by the commissioners court.*
- (d) A county may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.*
- (e) A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.*

DEF 00050

**EXHIBIT**  
**A-6**

Pursuant to TLGC Section 232.110, FNI understands that the County has elected to assess costs proportional to the impact on County infrastructure.

Furthermore, Rockwall County Subdivision and Land Development Regulations (RCSLDR) Section 5.10 identifies the following sixteen (16) improvements considered to be "county infrastructure." The applicability or resolution of each apportionment fee per Rockwall County is specified below:

- |                               |   |
|-------------------------------|---|
| 1. Schools                    | Apportionment determined by Rockwall County (see below) |
| 2. Roads                      | Apportionment determined by FNI (see below)             |
| 3. ESC/EMT (Ambulance)        | Proof of service requested by Rockwall County           |
| 4. Fire                       | Proof of service requested by Rockwall County           |
| 5. Police                     | Apportionment determined by Rockwall County (see below) |
| 6. Water                      | Resolved through project design                         |
| 7. Sewer                      | Resolved through project design                         |
| 8. Broadband                  | Proof of service requested by Rockwall County           |
| 9. Electric                   | Resolved through project design                         |
| 10. Natural Gas               | Proof of service requested by Rockwall County           |
| 11. Open Space                | Resolved through project design                         |
| 12. Drainage                  | Resolved through project design                         |
| 13. Animal Control            | Proof of service requested by Rockwall County           |
| 14. Dispatch/911/GIS Services | N/a   |
| 15. Trash/Refuse              | Proof of service requested by Rockwall County           |
| 16. Radio Communications      | N/a   |

Thank you,

Ron Merritt  
 Environmental Health Coordinator  
 Rockwall County

For schools: Number of homes calculating 1/2 student per home, multiplied by \$75,591 per student						
Phase 1 A						
Homes	.5 student per home	\$75,591 per student				
199	99.5	\$ 7,521,304.50				
Phase 1 B						
Homes	.5 student per home	\$75,591 per student				
219	109.5	\$ 8,277,214.50				
Total Amount		\$ 15,798,519.00				

On the front end we recommend a minimum of two deputies to provide coverage at both ends of the week. Initially, the primary objective will be to deter construction theft as equipment and material are brought onto location. We anticipate deputies being assigned to a district that encompasses the River Rock Development. Deputies will not be assigned solely to River Rock. The added deputies will allow more frequent patrol and be in place once homes are completed begin to be occupied.

The formula used to calculate the number of deputies for future growth is based on 2.42 officers per 1000 population.

1A- 199 homes      1st deputy at \$264,712 for first year. (see below for cost breakdown)

1B-219 homes      2nd deputy at \$264,712 first year.

(We want two deputies on the front end. This will cover both 1A and 1B)

Subsequent years for the first two deputies are projected to be billed at \$150,287 per deputy.

418 homes total in 1A and 1B

1061 residents based on 2.54 people per home.

1A- 505 residents

1B- 556 residents

Data Resources:

Household size- 2.54 persons <https://www.census.gov/data/tables.html>

US national average is 2.42 officers per 1000 population

[305747 Analysis of Police Department Staffing McCabe.pdf](#)

[List of countries and dependencies by number of police officers - Wikipedia](#)

River Rock MUDs 1 & 2

**Projected Development Growth**

Year Date # Homes

1 Jan-25 300  
 2 Jan-26 400  
 3 Jan-27 500  
 4 Jan-28 600  
 5 Jan-29 600  
 6 Jan-30 600  
 7 Jan-31 600  
 8 Jan-32 600  
 9 Jan-33 600  
 10 Jan-34 600  
 11 Jan-35 600  
 Total Project 6,000

Project Cost of New Deputy and related cost

River Rock MUD

Law Enforcement Contract Deputy FY26 **One Deputy to Four Deputies**

**Deputy at 2,080 hours a year or 80 hours a pay period**

	1 <sup>ST</sup> Year	2 <sup>nd</sup> Year
• Salary (mid-range salary with load)	119,085	122,657 (3% increase)
• Overtime at 4% of salary 1st (94,412)	3,777	3,777
• Indirect personnel, administrative and clerical cost (11%)	13,100	13,493
• Emergency vehicle insurance for 1 vehicle for 1 year	1,000	1,000

**ROCKWALL COUNTY ATTACHEMENT#3**

• Vehicle maintenance and fuel for 1 vehicle	8,000	8,000
• Weapons, Taser, uniforms and equipment for deputy in 1 <sup>st</sup> year	6,000	0
• Portable Radio	5,000	0
• Mobile Radio	6,500	0
• Watch guard in car and body camera system	7,500	0
• In service training for deputy for 1 year	400	400
• 1 MDT(in car computer)	3,190	0
• Air card for MDT (in car computer)/Cell Phone	960	960
• Net-motion license	200	0
• Vehicle and related equipment	90,000	0

TOTAL ESTIMATED COST FOR ONE DEPUTY: 264,712 150,287

TOTAL ESTIMATED COST FOR TWO DEPUTIES: 529,424 300,574

TOTAL ESTIMATED COST FOR THREE DEPUTIES: 794,136 450,861

**ROCKWALL COUNTY ATTACHEMENT#4**

TOTAL ESTIMATED COST FOR FOUR DEPUTIES:

1,058,848

601,148

DEF 000505

December 13, 2024

Judge Frank New  
101 East Rusk, Ste 202  
Rockwall, Texas 75087  
(972) 204-6000

Re: River Rock Trails Phases 1A & 1B Preliminary Plat, Determination for Roadway Apportionment Costs

Judge New,

By request, Freese and Nichols, Inc. (FNI) has prepared an estimate of the proportional cost of the River Rock Trails Phases 1A & 1B Preliminary Plats on FM 548, an abutting state thoroughfare. This memo outlines the methodology and findings of the roadway apportionment exercise.

**Regulatory Authority**

Chapter 232 of the Texas Local Government Code (TLGC) grants the County regulatory authority over subdivisions within unincorporated areas. TLGC Section 232.110, Apportionment of County Infrastructure Costs, states:

***Sec. 232.110. APPORTIONMENT OF COUNTY INFRASTRUCTURE COSTS.***

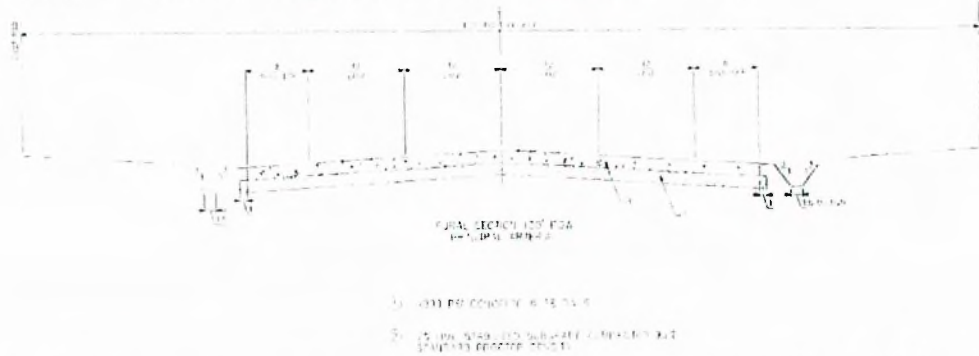
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- (b) A developer who disputes the determination made under Subsection (a) may appeal to the commissioners court of the county. At the appeal, the developer may present evidence and testimony under procedures adopted by the commissioners court. After hearing any testimony and reviewing the evidence, the commissioners court shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.*
- (c) A developer may appeal the determination of the commissioners court to a county or district court of the county in which the development project is located within 30 days of the final determination by the commissioners court.*
- (d) A county may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.*
- (e) A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.*
- (f) This section does not diminish the authority or modify the procedures specified by Chapter 395.*
- (g) This section does not increase or expand, and shall not be interpreted to increase or expand, the authority of a county to regulate plats or subdivisions under this chapter.*

Pursuant to TLGC Section 232.110 and Rockwall County Subdivision and Land Development Regulations (RCSLDR) Section 5.10, FNI understands that the County has elected to assess costs proportional to the impact on County infrastructure, including abutting roadways.

**Technical Approach**

The approach to calculating the proportional impact of the proposed development on FM 548 is as follows:

1. Assess the current state of FM 548 right-of-way (ROW) and pavement standard against the Rockwall County Thoroughfare Plan designation as a Principal Arterial (Rural Section).



2. Determine the cost to construct one mile of FM 548 to Rockwall County Thoroughfare Plan standards by adding the following:
  - a. The average cost of ROW using Rockwall County Appraisal District (RCAD) data for comparable properties along FM 548; and
  - b. The average cost of roadway expansion design, construction, and materials using comparable projects in DFW and surrounding communities.
3. Use the per-mile cost to determine the proportional costs to FM 548 along the project's approximately 2,411.48-foot combined frontage (Phase 1A frontage: 1,124.01 feet; Phase 1B frontage: 1,287.47 feet).
4. Adjust the total for the anticipated 20% contribution the County could make toward cost sharing the right-of-way and roadway improvements.

**Proportionality Assessment**

The evaluation of the appropriateness of exactions by the County was evaluated as part of the proposed development application. The impact and road deductions by the proposed River Rock Trails development reveal site demand to outweigh the capacity provided by road contributions and therefore the exaction to be roughly proportional to the impact on the roadway system. A separate memorandum (included as "Exhibit A\_RR RP Memo\_12-13-2024") contains details of the proportionality assessment.

**Findings**

Using the approach listed above, FNI has determined the following costs associated with improving half of FM 548 to Rockwall County Thoroughfare Plan standards:

Contribution to Right-of-Way Acquisition				
Dedication Width	Length (w/In Rockwall County)	Area (ft <sup>2</sup> )	Price (\$) per SF*	Value of Contribution
N/a (provided in full via plat)	2,411.48'	N/a (provided in full via plat)	\$1.46	N/a (provided in full via plat)

\* Price (\$) per SF based on RCAD average of land values in the area.

Contribution to Right-of-Way Improvements	
Cost per Linear Mile of Full Section (Includes construction, engineering, and ROW acquisition)	\$7,419,600.00
Cost per Linear Foot of Full Section (Includes construction, engineering, and ROW acquisition)	\$1,405.23
Cost per Linear Foot of Half Section (Includes construction, engineering, and ROW acquisition)	\$702.61
Total Cost per Linear Foot of Half Section x Length of Frontage (2,411.48')	\$1,694,338.73
Total Cost Adjusted for 20% contribution to State-Owned Right-of-Way	\$338,867.75*

\* Adjusted contribution rate based on typical "80/20" adjustment for cost sharing.

**FNI Recommendations**

Based on the findings listed above, FNI recommends the following:

1. Through coordination with the right-of-way owner, the applicant improves half of FM 548 along the 2,411.48-foot frontage within Rockwall County to meet the minimum standards depicted in the Rockwall County Thoroughfare Plan, or as determined by the owner; or
2. The applicant pays a fee in lieu of improvement equal to \$338,867.75.

If you have any questions regarding the comments, please contact FNI at [connor.roberts@freese.com](mailto:connor.roberts@freese.com).

Sincerely,

Connor Roberts  
FNI Assistant Project Manager

# TECHNICAL MEMORANDUM

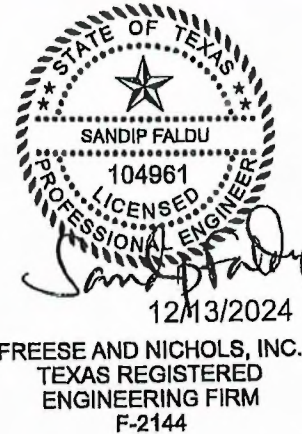


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**TO:** Connor Roberts  
**FROM:** Sandip Faldu, P.E., Edmund Haas, AICP  
**SUBJECT:** Roadway Proportionality Assessment of River Rock Trails Phases 1A and 1B  
**DATE:** December 13, 2024  
**PROJECT:** Rockwall County Professional On-Call (RKC23266)



## PURPOSE

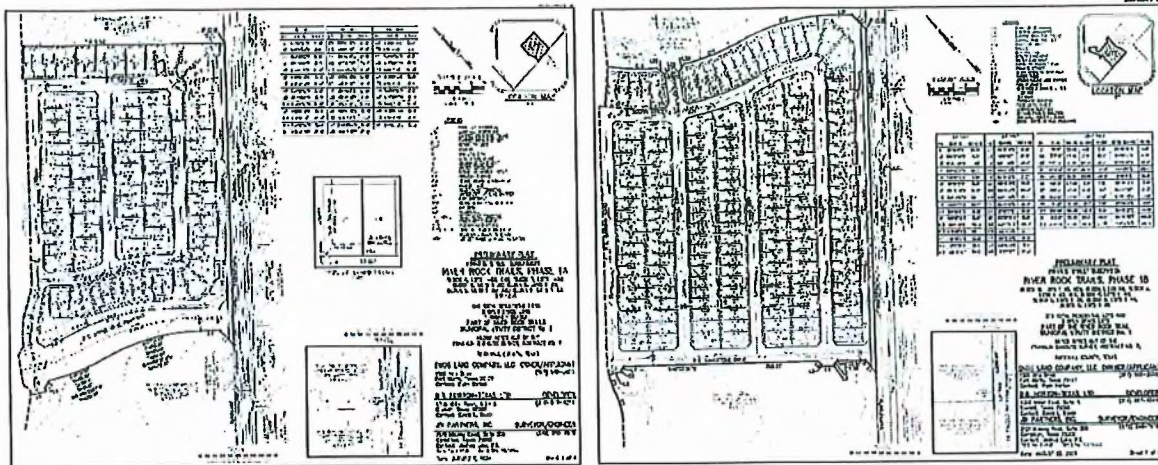
The purpose of this assessment is to determine the proportionality of developer exactions of the River Rock Residential Development Phases 1A and 1B on FM 548 in Rockwall County, Texas. This proportionality assessment is being conducted to determine the appropriateness of the proposed dedications proposed by the Applicant.

Texas Local Government Code 232.110 states that if “the developer bear a portion of the costs of county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer’s portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the county.” Texas Local Government Code 232.110 does not provide specificity regarding determining costs that are “roughly proportionate;” however, Texas Local Government Code 212.904 mandates “rough proportionality” within municipalities to ensure that agency exactions are proportional to the traffic impacts of development proposals on roadway facilities from which service is provided. For purposes of this assessment, proportionality will be based on system-wide impacts of proposed development on the roadway system. A methodology for the measurement and calculation of rough proportionality is described below and an analysis of the impacts of the proposed development on the roadway system is also presented. This assessment is also rooted in methodological approach akin to impact fees which provide a more exact measure of impact.

## BACKGROUND

The proposed site consists of two phases of single-family residential development with 199 and 219 units, respectively. The proposed development contains 2,411 linear feet of frontage on FM 548. FM 548 is currently a two-lane asphalt roadway with open swale drainage. Per the County subdivision regulations, the applicant is required to dedicate two-lanes of roadway along the property frontage.

DEF 000509



The methodological approach for this assessment consists of a supply/demand analysis where a comparison of capacity provided by proposed development contributions is measured against demand placed on the thoroughfare system by such development. Development demands are determined using a service unit equivalent which quantifies site impact for defined land uses. In this simple evaluation, if site generated demands of the development are greater than capacity provided, then the development contribution is proportional and justified. If demands are less than contributed capacity, then county participation should be considered for excess costs being contributed.

## SYSTEM-WIDE TRAFFIC IMPLICATIONS OF NEW DEVELOPMENT

Traffic generation of new development can have far reaching implications on a county roadway system. Depending on type and size of the development, added site traffic can affect upstream/downstream intersections, points of access on upstream/downstream linkages (mid-block access, driveways, local streets), and the carrying capacity of area roadways. Traffic impacts are simply not confined to the site and its adjacent roadway improvement but rather on a larger area of the roadway network. For example, a trip from home to work could not accurately be quantified as one-trip on a segment of road adjacent to a proposed development, but rather several miles over a combination of streets and roadways.

The approach used for this assessment is akin to roadway impact fee programs where impact of development is quantified in terms of system impact. Both capacity and demand (as well as future growth) are expressed in terms of vehicle-miles, based on the impact placed on the system. If costs were to be considered, then the pending costs of impact would be measured against the cost to provide service (road improvements).

## ELEMENTS FOR PROPORTIONALITY ANALYSIS

In order to conduct a proportionality assessment, several elements are necessary which include, the definition of an appropriate service unit of measure, the identification of roadway capacity for various type roadway facilities, and a service unit generation per unit (dwelling unit, square footage of office or commercial, etc.) of specific land uses.



**Service Units**

To determine the transportation impact for a particular development, a service unit accurately measuring the impact that the development will have on the transportation system serving the development must be identified. This impact is a combination of the number of new trips generated by the development, the particular peaking characteristics of the land-use(s) within the development, and the length of each new trip on the transportation system. The correct service unit must also reflect the supply, which is provided by the roadway system, and the demand placed on the system during the time in which peak, or design, conditions are present.

The vehicle-mile, during the PM peak hour, establishes the ability to relate the intensity of land development (demand) to the capacity of the roadway system. The PM peak hour is used because the greatest demand for roadway capacity occurs during this period, roadways are sized to meet this demand, and roadway capacity is more accurately defined on an hourly basis.

Using the vehicle-mile, capacity of roadway improvements is determined by multiplying the length of the facility by its carrying capacity. For example, given a four-lane divided roadway project with a 600 vehicle per hour per lane capacity and a length of two miles, the number of service units provided is:

$$600 \text{ vehicles per hour per lane} \times 4 \text{ lanes} \times 2 \text{ miles} = 4,800 \text{ vehicle-miles}$$

Similarly, vehicle-miles of demand are determined by multiplying the trip generation of a specific development by an average trip length associated with such use. For example, a development generating 100 vehicle trips with an average trip length of four miles would generate:

$$100 \text{ vehicle-trips} \times 4 \text{ miles/trip} = 400 \text{ vehicle-miles}$$

**Service Units of Supply**

Roadway hourly (PM peak hour) volume capacities were based on data provided by the North Central Council of Governments (NCTCOG), for various functional classes of roads with a minimum acceptable traffic operational condition for level-of-service (LOS) "D" in a suburban/rural area with narrow lanes, reduced number of curb-cuts, and roadway shoulders. Lane capacities (hourly vehicles per lane per mile) for road types are shown in **Table 1**. These values represent link capacities at a system-level which consider typical intersection spacing, driveway spacing, and traffic control.

**Table 1: Roadway Lane Capacities (Affected Site Roadways)**

Roadway Facility Functional Classification	Designation	Hourly Vehicle Capacity per Lane Mile (VPH)
Principal Arterial (Undivided)	UA	925

**Service Units of Demand**

The vehicle-miles generated by a new development are a function of the trip generation and average trip length



characteristics of that development. The following describes the process used to develop the vehicle-equivalency table, which relates land use types and sizes to the resulting vehicle-miles of demand created by that development.

**Trip Generation**

Trip generation information for the PM peak hour was based on data published in *Trip Generation*, 11th Edition, by the Institute of Transportation Engineers (ITE). *Trip Generation* is a reference publication that contains travel characteristics of over 100 land uses and is based on empirical data gathered from over 3,200 studies across the nation that were reported to the Institute by public agencies, developers, and consulting firms. Transportation engineers throughout the nation apply data contained in this publication for use in studies. Trip generation rates for the development site land uses are listed in **Table 2**. Trip rates for residential development are typically associated with the home-based trip types and as such, these trip rates would not have any associated trip reductions (traffic already on the roadway network as part of another trip).

**Table 2: Trip Rate Generation**

ITE Land Use	ITE Code*	Development Units	PM Peak Trip Generation Rate*	Pass-By Trips	Diverted Trips	Trip Rate w/ Deductions
Single-Family Residential	210	Dwelling Units (DU)	0.94	0%	0%	0.94

\*From ITE Trip Generation Manual, 11th Edition. Trip generation rate is expressed in trips per hour per development unit.

**Trip Length**

Trip length for residential land use types is also based on data provided by NCTCOG for home-based work type trip lengths that are model generated for the region. Trip lengths for home-based work trips are 11.16 miles for suburban communities in the metroplex. When accounting for origin-destination, one-half of the trip during the peak hour is considered and a length of 5.58 miles was identified.

**Service Unit Equivalency**

The result of combining the trip generation rate (**Table 2**) and trip length information is a product which establishes the service unit equivalency (SUE) rate for various land uses. These service unit rates are based on an appropriate development unit for the land uses in the River Rock Trails Development. This equivalency table is shown in **Table 3**.

**Table 3: Service Unit Equivalency**

Land Use	Development Unit	Trip Rate w/ Deductions (trips/DU)	Avg. Trip Length (miles)	Service Unit Equivalency (SUE)
Single-Family Residential	Dwelling Units (DU)	0.94	5.58	5.25



## Proposed Development and Developer Contributions

The proposed development program of the River Rock Trails development total 418 dwelling units and is detailed in Table 4:

**Table 4: Development Land Use**

Land Use	ITE Land Use	ITE Code	Development Size	Development Units
Single-Family Residential – Phase 1A	Single-Family Residential	210	199	Dwelling Units
Single-Family Residential – Phase 1B	Single-Family Residential	210	219	Dwelling Units

Development dedications of the site consist of two-lanes of road along the frontage of the development and totals 2,411 linear feet.

## PROPORTIONALITY CALCULATION

The determination of rough proportionality involves a three-step process; 1) calculating vehicle-miles of demand placed on the roadway network by the proposed development, 2) calculating vehicle-miles of roadway capacity provided by proposed development, and, 3) a comparison of service units supplied relative to the traffic demand to determine the proportionality, or appropriateness of the development exaction. If traffic demands are greater than roadway capacity being supplied, then the developer exaction is proportional and justified. If the roadway capacity provided were greater than travel demands, then county participation would be considered for any remaining excess capacity provided.

**Step 1:** Calculate vehicle-miles of demand generated by proposed development using the equivalency table. Determine land uses, size of development, and appropriate equivalency factor using Table 3 and 4.

$$\text{No. of Development Units} \times \text{Generation per development unit} = \text{Development's Vehicle-mile}$$

**Step 2:** Calculate vehicle-miles of capacity provided by proposed development. Determine roadway functional class per the County Thoroughfare Plan, length of improvements (in miles) and number of lanes.

$$\text{Length of Improvement (in miles)} \times \text{No. of Lanes} \times \text{Hourly Capacity per lane (Table 1)} = \text{Development's Vehicle-miles Supplied}$$

**Step 3:** Compare vehicle-miles supply with demand:  
 If  $VM_{\text{Demand}} > VM_{\text{Supply}}$ ; then exaction is proportional and justified.  
 If  $VM_{\text{Supply}} > VM_{\text{Demand}}$ ; then County participation to be considered.



**Projected Demands**

The result of multiplying the size of proposed development by its service unit generation (Table 3), is the projected vehicle-miles of demand (VM<sub>d</sub>) of the site.

**Table 5: Vehicle-Miles of Demand**

Development Area	ITE Code*	Development Units	Development Size	SUE	Vehicle-Miles of Demand
<b>River Rock Trails</b>					
Single-Family Residential	210	Dwelling Units	418	5.25	2,192.49
					<b>2,192.49 VM<sub>d</sub></b>

**Capacity Provided by Development Dedications**

This calculation determines the peak hour capacity provided by the developer contribution which includes two lanes of roadway segment along the site parcel frontage.

**Table 6: Vehicle-Miles of Capacity Provided by Development**

Improvement No.	Roadway	Length (mi)	No. of Lanes	Type	Lane Capacity	Veh-Mi Capacity Supply Total
1	FM 548	0.46	2	UA	925	851
						<b>851</b>

**Supply/Demand Comparison**

The projected demand for the site is greater than the roadway supply being provided, and therefore the exaction by the County is proportional and justified.

$$2,192 \text{ VM}_d > 851 \text{ VM}_s$$

**CONCLUSION**

The analysis undertaken ensures fairness in the proportionality assessment of exactions by Rockwall County. The impact and road deductions by the proposed River Rock Trails development reveal site demand to outweigh capacity provided by road contributions and therefore the exaction to be proportional to the impact on the roadway system.

**End of Memorandum.**



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December 13, 2024

Judge Frank New  
101 East Rusk, Ste 202  
Rockwall, Texas 75087  
(972) 204-6000

Re: River Rock Trails Phases 1A & 1B Preliminary Plat, Determination for Roadway Apportionment Costs

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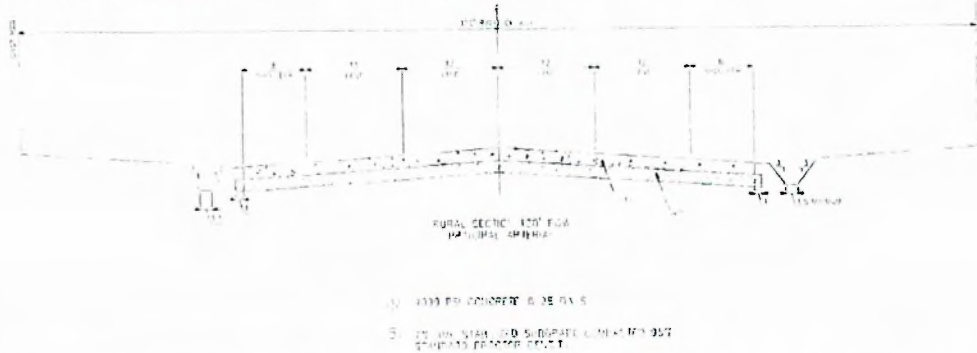
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- (e) A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.*
- (f) This section does not diminish the authority or modify the procedures specified by Chapter 395.*
- (g) This section does not increase or expand, and shall not be interpreted to increase or expand, the authority of a county to regulate plats or subdivisions under this chapter.*

Pursuant to TLGC Section 232.110 and Rockwall County Subdivision and Land Development Regulations (RCSLDR) Section 5.10, FNI understands that the County has elected to assess costs proportional to the impact on County infrastructure, including abutting roadways.

**Technical Approach**

The approach to calculating the proportional impact of the proposed development on FM 548 is as follows:

1. Assess the current state of FM 548 right-of-way (ROW) and pavement standard against the Rockwall County Thoroughfare Plan designation as a Principal Arterial (Rural Section).



2. Determine the cost to construct one mile of FM 548 to Rockwall County Thoroughfare Plan standards by adding the following:
  - a. The average cost of ROW using Rockwall County Appraisal District (RCAD) data for comparable properties along FM 548; and
  - b. The average cost of roadway expansion design, construction, and materials using comparable projects in DFW and surrounding communities.
3. Use the per-mile cost to determine the proportional costs to FM 548 along the project's approximately 2,411.48-foot combined frontage (Phase 1A frontage: 1,124.01 feet; Phase 1B frontage: 1,287.47 feet).
4. Adjust the total for the anticipated 20% contribution the County could make toward cost sharing the right-of-way and roadway improvements.

**Proportionality Assessment**

The evaluation of the appropriateness of exactions by the County was evaluated as part of the proposed development application. The impact and road deductions by the proposed River Rock Trails development reveal site demand to outweigh the capacity provided by road contributions and therefore the exaction to be roughly proportional to the impact on the roadway system. A separate memorandum (included as "Exhibit A\_RR RP Memo\_12-13-2024") contains details of the proportionality assessment.

**Findings**

Using the approach listed above, FNI has determined the following costs associated with improving half of FM 548 to Rockwall County Thoroughfare Plan standards:

Contribution to Right-of-Way Acquisition				
Dedication Width	Length (w/in Rockwall County)	Area (ft <sup>2</sup> )	Price (\$) per SF*	Value of Contribution
N/a (provided in full via plat)	2,411.48'	N/a (provided in full via plat)	\$1.46	N/a (provided in full via plat)

\* Price (\$) per SF based on RCAD average of land values in the area.

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Cost per Linear Mile of Full Section (includes construction, engineering, and ROW acquisition)	\$7,419,600.00
Cost per Linear Foot of Full Section (includes construction, engineering, and ROW acquisition)	\$1,405.23
Cost per Linear Foot of Half Section (includes construction, engineering, and ROW acquisition)	\$702.61
Total Cost per Linear Foot of Half Section x Length of Frontage (2,411.48')	\$1,694,338.73
Total Cost Adjusted for 20% contribution to State-Owned Right-of-Way	\$338,867.75*

\* Adjusted contribution rate based on typical "80/20" adjustment for cost sharing.

**FNI Recommendations**

Based on the findings listed above, FNI recommends the following:

1. Through coordination with the right-of-way owner, the applicant improves half of FM 548 along the 2,411.48-foot frontage within Rockwall County to meet the minimum standards depicted in the Rockwall County Thoroughfare Plan, or as determined by the owner; or
2. The applicant pays a fee in lieu of improvement equal to \$338,867.75.

If you have any questions regarding the comments, please contact FNI at [connor.roberts@freese.com](mailto:connor.roberts@freese.com).

Sincerely,

Connor Roberts  
FNI Assistant Project Manager



### Service Units

To determine the transportation impact for a particular development, a service unit accurately measuring the impact that the development will have on the transportation system serving the development must be identified. This impact is a combination of the number of new trips generated by the development, the particular peaking characteristics of the land-use(s) within the development, and the length of each new trip on the transportation system. The correct service unit must also reflect the supply, which is provided by the roadway system, and the demand placed on the system during the time in which peak, or design, conditions are present.

The vehicle-mile, during the PM peak hour, establishes the ability to relate the intensity of land development (demand) to the capacity of the roadway system. The PM peak hour is used because the greatest demand for roadway capacity occurs during this period, roadways are sized to meet this demand, and roadway capacity is more accurately defined on an hourly basis.

Using the vehicle-mile, capacity of roadway improvements is determined by multiplying the length of the facility by its carrying capacity. For example, given a four-lane divided roadway project with a 600 vehicle per hour per lane capacity and a length of two miles, the number of service units provided is:

$$600 \text{ vehicles per hour per lane} \times 4 \text{ lanes} \times 2 \text{ miles} = 4,800 \text{ vehicle-miles}$$

Similarly, vehicle-miles of demand are determined by multiplying the trip generation of a specific development by an average trip length associated with such use. For example, a development generating 100 vehicle trips with an average trip length of four miles would generate:

$$100 \text{ vehicle-trips} \times 4 \text{ miles/trip} = 400 \text{ vehicle-miles}$$

### Service Units of Supply

Roadway hourly (PM peak hour) volume capacities were based on data provided by the North Central Council of Governments (NCTCOG), for various functional classes of roads with a minimum acceptable traffic operational condition for level-of-service (LOS) "D" in a suburban/rural area with narrow lanes, reduced number of curb-cuts, and roadway shoulders. Lane capacities (hourly vehicles per lane per mile) for road types are shown in **Table 1**. These values represent link capacities at a system-level which consider typical intersection spacing, driveway spacing, and traffic control.

**Table 1: Roadway Lane Capacities (Affected Site Roadways)**

Roadway Facility Functional Classification	Designation	Hourly Vehicle Capacity per Lane Mile (VPH)
Principal Arterial (Undivided)	UA	925

### Service Units of Demand

The vehicle-miles generated by a new development are a function of the trip generation and average trip length



characteristics of that development. The following describes the process used to develop the vehicle-equivalency table, which relates land use types and sizes to the resulting vehicle-miles of demand created by that development.

Trip Generation

Trip generation information for the PM peak hour was based on data published in *Trip Generation*, 11th Edition, by the Institute of Transportation Engineers (ITE). *Trip Generation* is a reference publication that contains travel characteristics of over 100 land uses and is based on empirical data gathered from over 3,200 studies across the nation that were reported to the Institute by public agencies, developers, and consulting firms. Transportation engineers throughout the nation apply data contained in this publication for use in studies. Trip generation rates for the development site land uses are listed in Table 2. Trip rates for residential development are typically associated with the home-based trip types and as such, these trip rates would not have any associated trip reductions (traffic already on the roadway network as part of another trip).

**Table 2: Trip Rate Generation**

ITE Land Use	ITE Code*	Development Units	PM Peak Trip Generation Rate*	Pass-By Trips	Diverted Trips	Trip Rate w/ Deductions
Single-Family Residential	210	Dwelling Units (DU)	0.94	0%	0%	0.94

\*From ITE Trip Generation Manual, 11th Edition. Trip generation rate is expressed in trips per hour per development unit.

Trip Length

Trip length for residential land use types is also based on data provided by NCTCOG for home-based work type trip lengths that are model generated for the region. Trip lengths for home-based work trips are 11.16 miles for suburban communities in the metroplex. When accounting for origin-destination, one-half of the trip during the peak hour is considered and a length of 5.58 miles was identified.

Service Unit Equivalency

The result of combining the trip generation rate (Table 2) and trip length information is a product which establishes the service unit equivalency (SUE) rate for various land uses. These service unit rates are based on an appropriate development unit for the land uses in the River Rock Trails Development. This equivalency table is shown in Table 3.

**Table 3: Service Unit Equivalency**

Land Use	Development Unit	Trip Rate w/ Deductions (trips/DU)	Avg. Trip Length (miles)	Service Unit Equivalency (SUE)
Single-Family Residential	Dwelling Units (DU)	0.94	5.58	5.25



## Proposed Development and Developer Contributions

The proposed development program of the River Rock Trails development total 418 dwelling units and is detailed in Table 4:

**Table 4: Development Land Use**

Land Use	ITE Land Use	ITE Code	Development Size	Development Units
Single-Family Residential – Phase 1A	Single-Family Residential	210	199	Dwelling Units
Single-Family Residential – Phase 1B	Single-Family Residential	210	219	Dwelling Units

Development dedications of the site consist of two-lanes of road along the frontage of the development and totals 2,411 linear feet.

## PROPORTIONALITY CALCULATION

The determination of rough proportionality involves a three-step process; 1) calculating vehicle-miles of demand placed on the roadway network by the proposed development, 2) calculating vehicle-miles of roadway capacity provided by proposed development, and, 3) a comparison of service units supplied relative to the traffic demand to determine the proportionality, or appropriateness of the development exaction. If traffic demands are greater than roadway capacity being supplied, then the developer exaction is proportional and justified. If the roadway capacity provided were greater than travel demands, then county participation would be considered for any remaining excess capacity provided.

**Step 1:** Calculate vehicle-miles of demand generated by proposed development using the equivalency table. Determine land uses, size of development, and appropriate equivalency factor using Table 3 and 4.

$$\text{No. of Development Units} \times \text{Generation per development unit} = \text{Development's Vehicle-mile}$$

**Step 2:** Calculate vehicle-miles of capacity provided by proposed development. Determine roadway functional class per the County Thoroughfare Plan, length of improvements (in miles) and number of lanes.

$$\text{Length of Improvement (in miles)} \times \text{No. of Lanes} \times \text{Hourly Capacity per lane (Table 1)} = \text{Development's Vehicle-miles Supplied}$$

**Step 3:** Compare vehicle-miles supply with demand:  
 If  $VM_{\text{Demand}} > VM_{\text{Supply}}$ ; then exaction is proportional and justified.  
 If  $VM_{\text{Supply}} > VM_{\text{Demand}}$ ; then County participation to be considered.



**Projected Demands**

The result of multiplying the size of proposed development by its service unit generation (Table 3), is the projected vehicle-miles of demand (VM<sub>d</sub>) of the site.

**Table 5: Vehicle-Miles of Demand**

Development Area	ITE Code*	Development Units	Development Size	SUE	Vehicle-Miles of Demand
<b>River Rock Trails</b>					
Single-Family Residential	210	Dwelling Units	418	5.25	2,192.49
					<b>2,192.49 VM<sub>d</sub></b>

**Capacity Provided by Development Dedications**

This calculation determines the peak hour capacity provided by the developer contribution which includes two lanes of roadway segment along the site parcel frontage.

**Table 6: Vehicle-Miles of Capacity Provided by Development**

Improvement No.	Roadway	Length (mi)	No. of Lanes	Type	Lane Capacity	Veh-Mi Capacity Supply Total
1	FM 548	0.46	2	UA	925	851
						<b>851</b>

**Supply/Demand Comparison**

The projected demand for the site is greater than the roadway supply being provided, and therefore the exaction by the County is proportional and justified.

$$2,192 \text{ VM}_d > 851 \text{ VM}_s$$

**CONCLUSION**

The analysis undertaken ensures fairness in the proportionality assessment of exactions by Rockwall County. The impact and road deductions by the proposed River Rock Trails development reveal site demand to outweigh capacity provided by road contributions and therefore the exaction to be proportional to the impact on the roadway system.

**End of Memorandum.**

# TECHNICAL MEMORANDUM



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**TO:** Connor Roberts  
**FROM:** Sandip Faldu, P.E., Edmund Haas, AICP  
**SUBJECT:** Roadway Proportionality Assessment of River Rock Trails Phases 1A and 1B  
**DATE:** December 13, 2024  
**PROJECT:** Rockwall County Professional On-Call (RKC23266)



FREESE AND NICHOLS, INC.  
TEXAS REGISTERED  
ENGINEERING FIRM  
F-2144

## PURPOSE

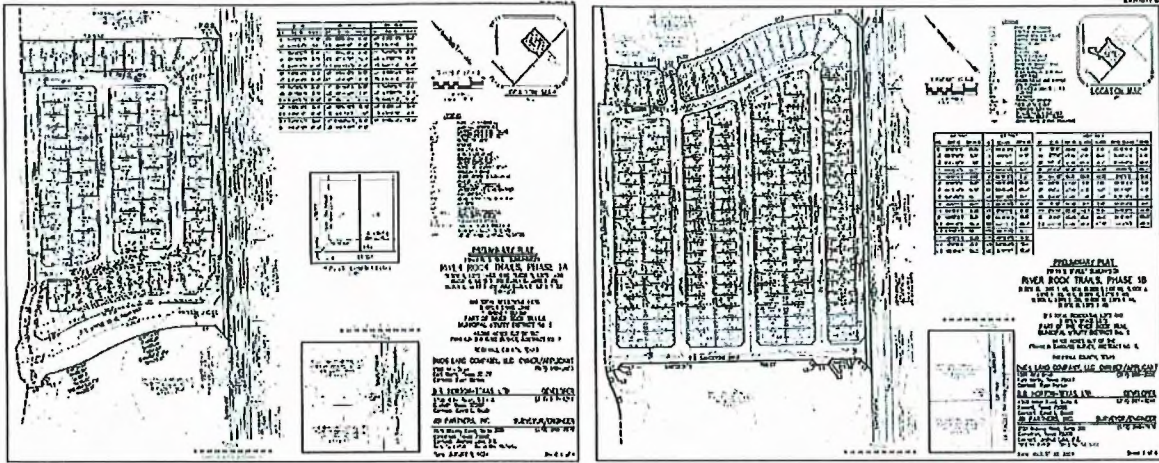
The purpose of this assessment is to determine the proportionality of developer exactions of the River Rock Residential Development Phases 1A and 1B on FM 548 in Rockwall County, Texas. This proportionality assessment is being conducted to determine the appropriateness of the proposed dedications proposed by the Applicant.

Texas Local Government Code 232.110 states that if "the developer bear a portion of the costs of county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the county." Texas Local Government Code 232.110 does not provide specificity regarding determining costs that are "roughly proportionate;" however, Texas Local Government Code 212.904 mandates "rough proportionality" within municipalities to ensure that agency exactions are proportional to the traffic impacts of development proposals on roadway facilities from which service is provided. For purposes of this assessment, proportionality will be based on system-wide impacts of proposed development on the roadway system. A methodology for the measurement and calculation of rough proportionality is described below and an analysis of the impacts of the proposed development on the roadway system is also presented. This assessment is also rooted in methodological approach akin to impact fees which provide a more exact measure of impact.

## BACKGROUND

The proposed site consists of two phases of single-family residential development with 199 and 219 units, respectively. The proposed development contains 2,411 linear feet of frontage on FM 548. FM 548 is currently a two-lane asphalt roadway with open swale drainage. Per the County subdivision regulations, the applicant is required to dedicate two-lanes of roadway along the property frontage.

DEF 000518



The methodological approach for this assessment consists of a supply/demand analysis where a comparison of capacity provided by proposed development contributions is measured against demand placed on the thoroughfare system by such development. Development demands are determined using a service unit equivalent which quantifies site impact for defined land uses. In this simple evaluation, if site generated demands of the development are greater than capacity provided, then the development contribution is proportional and justified. If demands are less than contributed capacity, then county participation should be considered for excess costs being contributed.

## SYSTEM-WIDE TRAFFIC IMPLICATIONS OF NEW DEVELOPMENT

Traffic generation of new development can have far reaching implications on a county roadway system. Depending on type and size of the development, added site traffic can affect upstream/downstream intersections, points of access on upstream/downstream linkages (mid-block access, driveways, local streets), and the carrying capacity of area roadways. Traffic impacts are simply not confined to the site and its adjacent roadway improvement but rather on a larger area of the roadway network. For example, a trip from home to work could not accurately be quantified as one-trip on a segment of road adjacent to a proposed development, but rather several miles over a combination of streets and roadways.

The approach used for this assessment is akin to roadway impact fee programs where impact of development is quantified in terms of system impact. Both capacity and demand (as well as future growth) are expressed in terms of vehicle-miles, based on the impact placed on the system. If costs were to be considered, then the pending costs of impact would be measured against the cost to provide service (road improvements).

## ELEMENTS FOR PROPORTIONALITY ANALYSIS

In order to conduct a proportionality assessment, several elements are necessary which include, the definition of an appropriate service unit of measure, the identification of roadway capacity for various type roadway facilities, and a service unit generation per unit (dwelling unit, square footage of office or commercial, etc.) of specific land uses.



March 4, 2025

Rockwall County Judge Frank New and Commissioners  
101 E. Rusk Street  
Rockwall, Texas 75087

Re: Apportionment Cost for River Rock Trails – Phase 1A and Phase 1B (418 total lots)

Judge New and Commissioners,

Reference is made to the December 13, 2024 letter to JBI Partners, Inc. from Ron Merritt, Rockwall County's Environmental Health Coordinator subject line "Apportionment Cost for River Rock Trails – Phase 1A and Phase 1B". This letter is attached hereto. For clarification, JBI Partners, Inc. (JBI) is the developer's engineer for this project. D.R. Horton – Texas, Ltd. (DRH) is the developer of this project. DRH will provide the response.

Rockwall County's letter outlined sixteen (16) items as "County Infrastructure" and a corresponding demand. The following is DRH's response to the County's letter:

1. Schools: County states \$15,798,519 is due for the 418 homes (\$37,796 per home) which make up Phases 1A and 1B. DRH rejects the County's claim Schools are County Infrastructure under State statute TLGC Section 232.110, Apportionment of County Infrastructure Costs. The County does not provide School services. Further, DRH is not agreeable to pay these fees. As we stated in the January 21, 2025 work session, DRH will work with the school districts regarding reserving needed school sites within the larger development at the appropriate time and will oversize infrastructure where needed to serve the school sites.
2. Roads: County is requesting \$338,867.75 for contribution along the portion of the Phase 1A and 1B plats that adjoins TxDOT's FM 548 Right-of-Way (2,411.48 linear feet total for both plats). DRH rejects the County's claim State owned roads are County Infrastructure under State statute TLGC Section 232.110. The County does not own FM 548. Further, the County does not have statutory authority to impose an Impact fee. However, as we stated in the work session, DRH is willing to pay the fee, prorated based on each plat's frontage. DRH will pay \$157,948.95 with Phase 1A and \$180,918.80 with Phase 1B, each payment being made within ten (10) days after Commissioners Court approval of the final plat for the respective phase.
3. ESC/EMT (Ambulance): County is requesting proof of service. DRH is proving herewith an executed Fire Protection and Emergency Medical Services Agreement between the River Rock Trails MUDs and the City of McLendon-Chisholm. Further, DRH rejects the County's claim ESC/EMT (Ambulance) services is County Infrastructure under State statute TLGC Section 232.110. The County does not provide ESC/EMT (Ambulance) services.
4. Fire: County is requesting proof of service. DRH is proving herewith an executed Fire Protection and Emergency Medical Services Agreement between the River Rock Trails MUDs and the City of McLendon-Chisholm. Further, DRH rejects the County's claim Fire services are County

DEF 000524 **EXHIBIT**  
**A-8**

Infrastructure under State statute TLGC Section 232.110. The County does not provide fire services.

5. Police: County is recommending that DRH pay for two (2) deputies during construction and prior to resident occupation of homes. The County states the deputies will not solely be assigned to River Rock. DRH is agreeable to providing first year costs of adding two (2) deputies totaling  $\$264,712 \times 2 = \$529,424$ . DRH will pay \$264,712 within ten (10) days after Commissioners Court approval of the final plat for each phase (\$264,712 for Phase 1A and \$264,712 for Phase 1B). After the first year, DRH's position is taxpayer revenues will pay for the ongoing costs of the deputies just like any other tax paying resident of the County.
6. Water: County states resolved through project design. D.R. Horton agrees with this item being resolved through project design. Further, DRH rejects the County's claim Water is County Infrastructure under State statute TLGC Section 232.110. The County does not provide water services.
7. Sewer: County states resolved through project design. DRH agrees with this item being resolved through project design. Further, DRH rejects the County's claim Sewer is County Infrastructure under State statute TLGC Section 232.110. The County does not provide sewer service.
8. Broadband: County requests proof of service. DRH is providing herewith a letter from AT&T confirming they can provide service. Further, DRH rejects the County's claim Broadband is County Infrastructure under State statute TLGC Section 232.110. The County does not provide broadband services.
9. Electric: County requests proof of service. DRH is providing herewith a letter from Farmers Electric confirming they can provide service. Further, DRH rejects the County's claim Electric is County Infrastructure under State statute TLGC Section 232.110. The County does not provide electric services.
10. Natural Gas: County requests proof of service. DRH is not planning to provide gas service in this community at this time - all appliances and HVAC equipment will be electric. Further, DRH rejects the County's claim Gas is County Infrastructure under State statute TLGC Section 232.110. County does not provide gas services.
11. Open Space: County states resolved through project design. DRH is agreeable to resolve through project design. DRH will be working with the Open Space Alliance committee for conceptual designs as stated in the Alliance's August 9, 2024 Analysis, which was approved by Commissioners Court on October 8, 2024. It should be noted the recommendations in the Analysis have been satisfied as it relates to Phases 1A and 1B preliminary plats.
12. Drainage: County states resolved through project design. DRH agrees this items be resolved through project design. An overall drainage study for the River Rock project has been submitted by JBI and approved by the County's consultant. Detail drainage infrastructure will be shown on Phase 1A and 1B construction plans, which is customary for development projects like River Rock.

13. Animal Control: County requests proof of service. DRH is providing herewith a letter from All American Dogs confirming they can provide service. Further, DRH rejects the County's claim Animal Control is County Infrastructure under State statute TLGC Section 232.110. The County does not provide animal control services.

14. Dispatch/911/GIS Services: County notes this is N/A. DRH agrees.

15. Trash/Refuse: County requests proof of service. DRH is providing herewith a letter from Live Oak Environmental confirming they can provide service. Further, DRH rejects the County's claim Trash/Refuse is County Infrastructure under State statute TLGC Section 232.110. The County does not provide Trash/Refuse service.

16. Radio Communications: County notes this is N/A. DRH agrees.

During our previously referenced work session, it was discussed the County wants to resolve the Apportionment Items prior to the next consideration of the preliminary plats for Phase 1A and 1B. DRH rejects Apportionment as a condition of platting. State statute TLGC Section 232.110(g) states "This section does not increase or expand, and shall not be interpreted to increase or expand, the authority of a county to regulate plats or subdivisions under this chapter." Section 5.10.6 (B) of the County's Subdivision and Land Development Regulations mirrors this language. DRH requests the preliminary plats be considered independently of the Apportionment. We believe the County's Planning and Engineering Consultant, Freese and Nichols, Inc., also agrees Apportionment is not a preliminary plat specific requirement, as they state in the preliminary plat comments Apportionment should be satisfied prior to approval of a Final Plat, which occurs as the last step after infrastructure development.

The timing for processing a proportionality appeal is set forth in Section 232.220(a)(b). If the County disagrees with our responses and intends to pursue one or more of the 16 items, then DRH requests the commissioners court hear our appeal at the earliest possible commissioners court meeting.

Please let us know if you have any questions regarding the above.

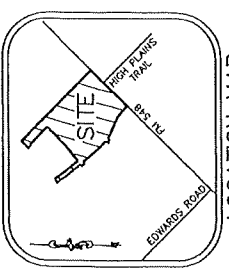
Sincerely,

D.R. Horton - Texas, Ltd.

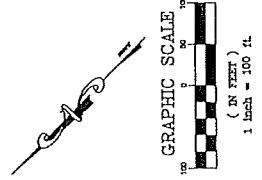


Blake Arnold, Land Manager

cc. Mr. Conor Roberts, Freese and Nichols, Inc.  
Ms. Charisa Hauser, Rockwall County



LOCATION MAP  
NTS



- LEGEND**
- POB POINT OF BEGINNING
  - (CM) CONTROL MONUMENT
  - CIRF CAPPED IRON ROD FOUND
  - CIRS CURB
  - ROW RIGHT-OF-WAY
  - BL BUILDING LINE
  - UE UTILITY EASEMENT
  - DE DRAINAGE EASEMENT
  - WE WATER EASEMENT
  - F.M. FARM-TO-MARKET ROAD
  - S.S. STATE STREET
  - SP SIGHT TRIANGLE EASEMENT
  - PP POWER POLE
  - TP TELEPHONE PEDESTAL
  - UGLM UNDERGROUND LINE MARKER
  - FH FIRE HYDRANT
  - RCP REINFORCED CONCRETE PIPE
  - HW HEADWALL
  - TELE-PEDE TELEPHONE PEDESTAL
  - FIBER OPTIC CABLE
  - OC OVERHEAD ELECTRIC
  - OCB OVERHEAD CABLE
  - OCF OVERHEAD CABLE
  - OCB OVERHEAD CABLE
  - OCF OVERHEAD CABLE
  - O.P.R.C.T. O.P.R.C.T.
  - STREET NAME CHANGE INDICATOR

**PRELIMINARY PLAT**

**PRIVATE STREET SUBDIVISION**

**RIVER ROCK TRAILS, PHASE 1A**

BLOCK A, LOTS 1-63, 64X; BLOCK B, LOTS 1-28;  
 BLOCK C, LOTS 1-29; BLOCK D, LOTS 1-28;  
 BLOCK E, LOTS 1-28; AND BLOCK F, LOTS 1-23,  
 24X-25X

199 TOTAL RESIDENTIAL LOTS  
 2 OPEN SPACE LOTS  
 1 AMENITY CENTER

**PART OF RIVER ROCK TRAILS  
 MUNICIPAL UTILITY DISTRICT NO. 1**

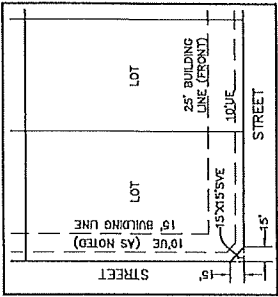
41.288 ACRES OUT OF THE  
 FRANKLIN BANGUSS SURVEY, ABSTRACT NO. 7;

ROCKWALL COUNTY, TEXAS  
**D.R. HORTON-TEXAS, LTD. OWNER/DEVELOPER**  
 4306 Miller Road, Suite A  
 Rowlett, Texas 75088  
 Contact: David L. Booth  
 (214) 607-4244

**JBI PARTNERS, INC. SURVEYOR/ENGINEER**  
 2121 Midway Road, Suite 300  
 Carrollton, Texas 75006  
 Contact: Joshua Luke, P.E.  
 TPBE No. F-438 TPBLS No. 10076000  
 (972) 245-7676

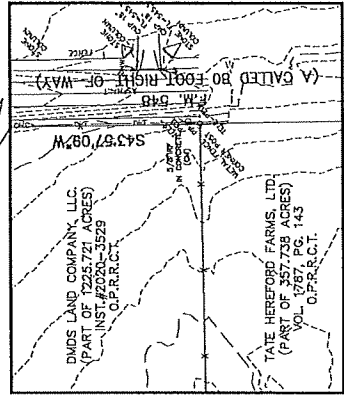
Date: MAY 29, 2024

NO.	BEARING	LENGTH	LINE TABLE	NO.	BEARING	LENGTH	LINE TABLE	
L1	N00°57'27"W	77.80'	L15	S39°35'00"E	15.00'	L29	S45°33'58"E	15.00'
L2	N46°52'04"W	78.41'	L16	S84°58'00"E	35.36'	L30	N89°23'58"E	21.21'
L3	S80°22'03"W	36.03'	L17	N50°05'00"E	34.46'	L31	N00°36'02"W	21.21'
L4	S80°08'25"W	15.00'	L18	N82°14'29"E	20.14'	L32	N45°39'02"W	15.00'
L5	N83°31'35"W	60.00'	L19	N45°36'02"W	15.00'	L33	N44°23'58"E	50.00'
L6	N26°08'25"E	15.88'	L20	N44°23'58"E	50.00'	L34	S45°36'02"E	15.00'
L7	N87°08'01"W	38.42'	L21	S45°36'02"E	19.89'	L35	N89°23'58"E	21.21'
L8	N84°50'00"W	35.36'	L22	S87°45'31"E	22.24'	L36	N00°36'02"W	21.21'
L9	S50°05'00"W	15.00'	L23	N84°50'00"E	5.97'	L37	N45°36'02"W	15.00'
L10	N28°35'00"W	60.00'	L24	N45°36'02"E	100.12'	L38	N44°23'58"E	50.00'
L11	N80°05'00"E	15.00'	L25	N80°05'00"E	105.68'	L39	S45°36'02"E	15.00'
L12	N85°05'00"E	35.36'	L26	N07°28'21"E	20.45'	L40	N89°23'58"E	21.21'
L13	N28°35'00"W	15.00'	L27	N45°36'02"W	15.00'	L41	N44°23'58"E	103.85'
L14	N80°05'00"E	65.00'	L28	N44°23'58"E	50.00'			

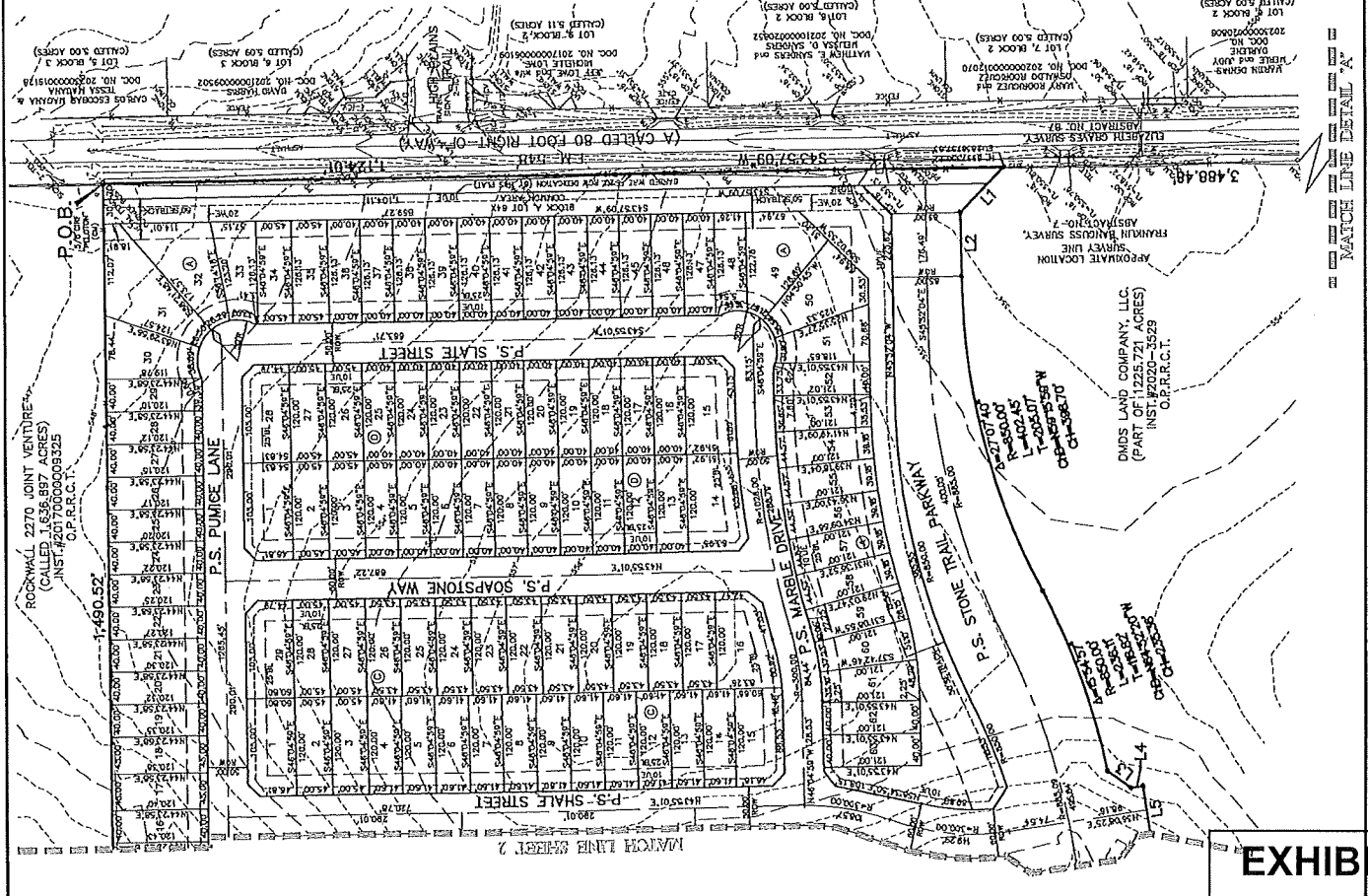


TYPICAL LOT EASEMENT DETAIL  
(NTS)

MATCH LINE DETAIL "A"

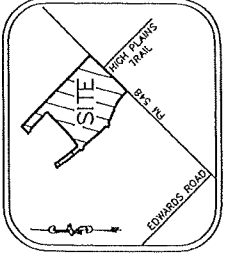


MATCH LINE DETAIL "A"

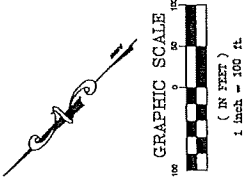


**EXHIBIT  
A-9**

ATTACHMENT 02



LOCATION MAP  
NTS



GRAPHIC SCALE  
( IN FEET )  
1 inch = 100 ft.

- LEGEND**
- POB POINT OF BEGINNING
  - CONTR CONTROL
  - CAPPED IRON ROD FOUND
  - CHRS CAPPED IRON ROD SET
  - RIGHT-OF-WAY
  - RADIUS
  - BUILDING LINE
  - UE UTILITY EASEMENT
  - DRILLAGE EASEMENT
  - VE WATER EASEMENT
  - F.M. FARM-TO-MARKET ROAD
  - P.S. PRIVATE STREET
  - SIGHT VISIBILITY EASEMENT
  - PP POWER POLE EASEMENT
  - UCUM UNDERGROUND UTILITY MARKER
  - FN FIRE HYDRANT
  - RCF REINFORCED CONCRETE PIPE
  - HEADWALL
  - MB MAILBOX
  - HW HEADWATER
  - TELE-PEDELE-PEDE
  - PEER OPTIC CABLE
  - OE OVERHEAD ELECTRIC
  - COE CROWN OF EARTH
  - O.P.R.A.C.T. OFFICIAL PUBLIC RECORDS
  - ROCKWALL COUNTY, TEXAS
  - STREET NAME CHANGE INDICATOR

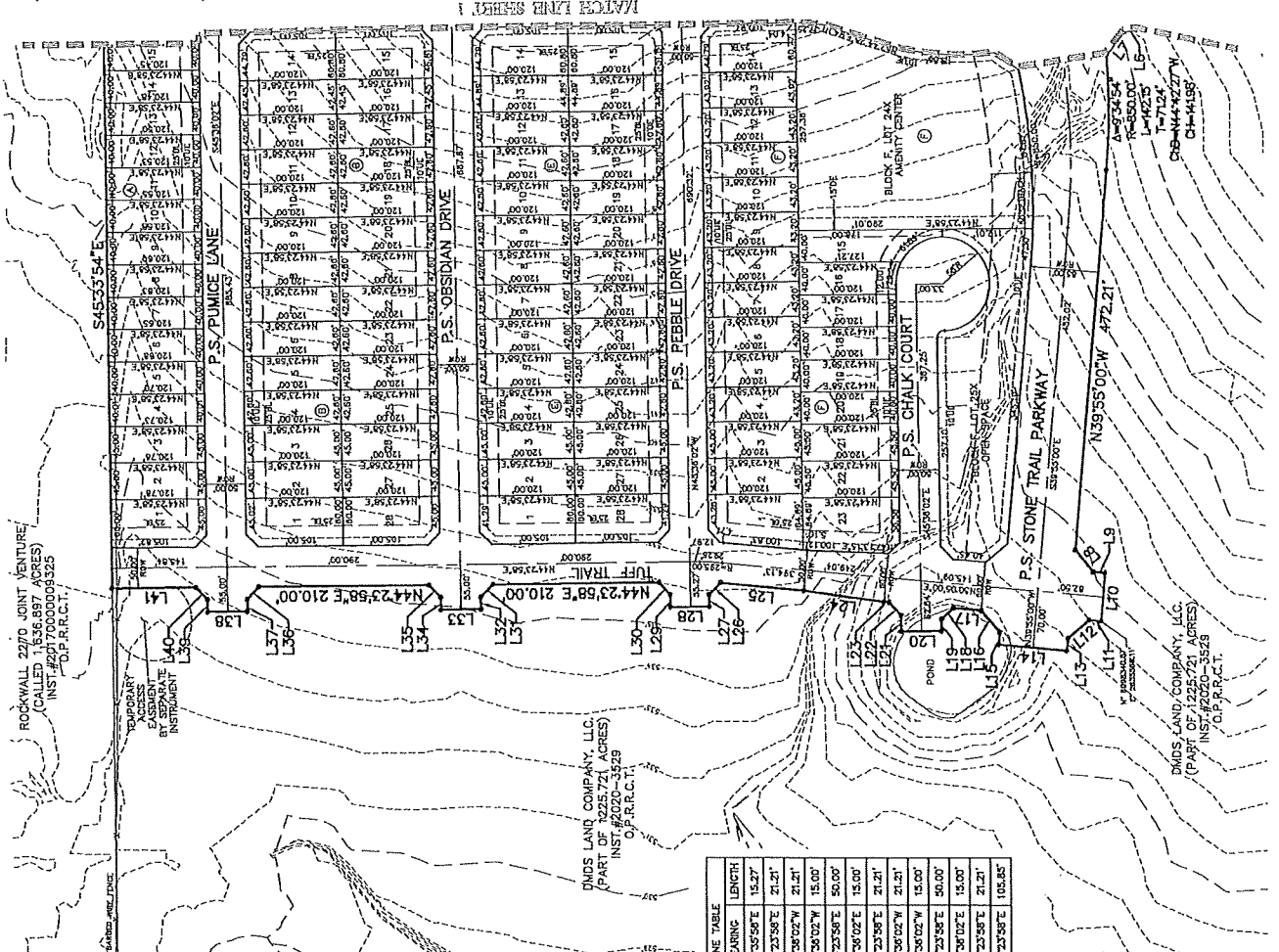
**PRELIMINARY PLAT**  
PRIVATE STREET SUBDIVISION  
**RIVER ROCK TRAILS, PHASE 1A**  
BLOCK A, LOTS 1-63, 64X; BLOCK B, LOTS 1-28;  
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41.288 ACRES OUT OF THE  
FRANKLIN BANGUSS SURVEY, ABSTRACT NO. 7;  
ROCKWALL COUNTY, TEXAS

**D.R. HORTON-TEXAS, LTD. OWNER/DEVELOPER**  
4306 Miller Road, Suite A  
Rowlett, Texas 75088  
Contact: David L. Booth

**JBI PARTNERS, INC. SURVEYOR/ENGINEER**  
2121 Midway Road, Suite 300  
Carrollton, Texas 75006  
Contact: Joshua Luke, P.E.  
TBPE No. F-438 TBPLS No. 10076000  
(972) 248-7675

Date: MAY 29, 2024

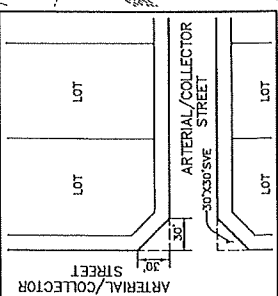


ROCKWALL 2270 JOINT FEATURE  
(CONT. 16.36 ACRES)  
INST. #2017000009325  
O.P.R.A.C.T.

TEMPORARY  
EASEMENT  
INSTRUMENT

DMS LAND COMPANY, LLC  
(PART OF 21.28 ACRES)  
INST. #2020000000000  
O.P.R.A.C.T.

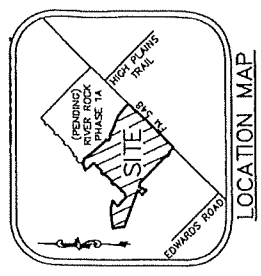
DMS LAND COMPANY, LLC  
(PART OF 1225.721 ACRES)  
INST. #2020000000000  
O.P.R.A.C.T.



30'X30' SVE EASEMENT DETAIL  
(NTS)

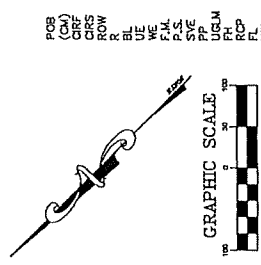
LINE NO.	BEARING	LENGTH	LINE NO.	BEARING	LENGTH
L1	N05°57'27"W	71.90	L29	S45°33'59"E	15.27
L2	N45°52'04"W	78.41	L30	N89°23'38"E	21.21
L3	S80°02'03"W	36.03	L31	N00°39'02"W	15.00
L4	S28°08'25"W	15.00	L32	N45°36'02"W	15.00
L5	N53°51'13"W	60.00	L33	N44°23'58"E	50.00
L6	N50°08'25"E	15.00	L34	S45°36'02"E	15.00
L7	N07°06'01"W	36.42	L35	N89°23'38"E	21.21
L8	N44°33'00"W	15.00	L36	N00°39'02"W	15.00
L9	N05°57'27"W	71.90	L37	N45°36'02"W	15.00
L10	N30°35'00"W	60.00	L38	N44°23'58"E	50.00
L11	N50°08'25"E	15.00	L39	S45°36'02"E	15.00
L12	N50°08'25"E	15.00	L40	N89°23'38"E	21.21
L13	N35°55'00"W	15.00	L41	N44°23'58"E	105.85
L14	N30°35'00"E	60.00	L42	N44°23'58"E	50.00



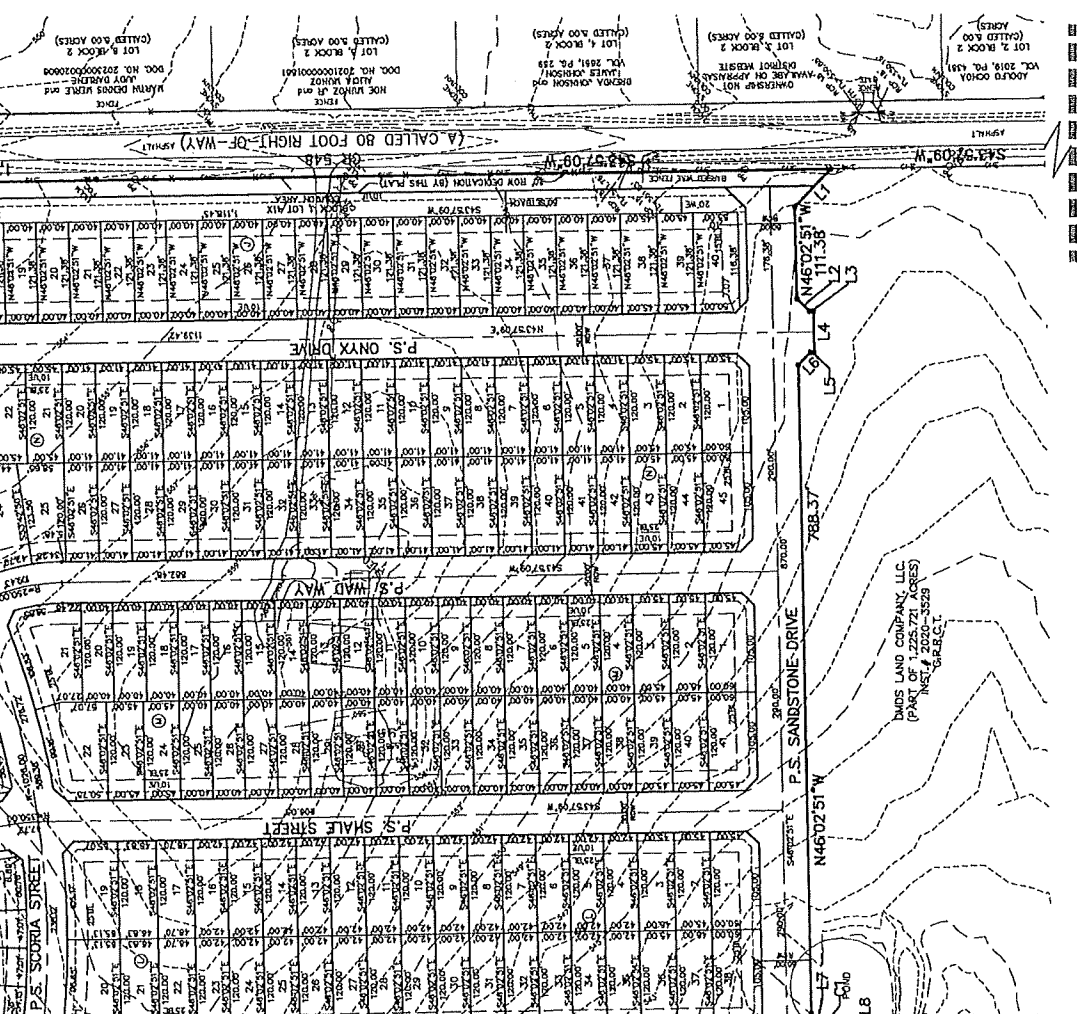
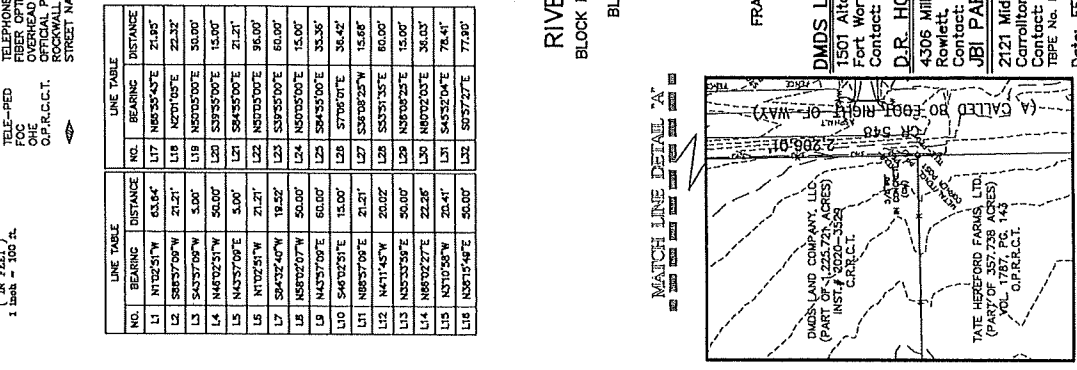


**LEGEND**

- POB POINT OF BEGINNING
- (CA) CONTROL MONUMENT
- CRF CAPED IRON ROD FOUND
- CRS CROSS
- R/W RIGHT-OF-WAY
- BL BURIED
- UE UTILITY EASEMENT
- W/L WATER LINE
- P/L PRIVATE STREET
- P.S. PRIVATE STREET
- PP POWER POLE
- SYE SIGHT VISIBILITY EASEMENT
- FCM FURNACE ROOM
- FCM FIRE HYDRANT
- FCM REINFORCED CONCRETE PIPE
- FL FLOW LINE
- HW-FED TELEPHONE PEDESTAL
- FOC FIBER OPTIC CABLE
- OPR OFFICIAL PUBLIC RECORDS
- OP.R.C.C.T. OFFICIAL PUBLIC RECORDS
- STREET NAME CHANGE INDICATOR



LINE TABLE		CURVE TABLE							
NO.	BEARING	DISTANCE	NO.	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD
L1	N102°51'W	63.64	L17	N85°35'45"E	21.85	C1	N15°41'	226.00	4.95
L2	S85°37'09"W	21.21	L18	N20°05'07"E	22.32	C2	N37°48'	275.00	2.46
L3	S43°37'09"W	5.00	L19	N20°05'07"E	30.00	C3	N87°39'	323.00	33.88
L4	N45°23'17"W	50.00	L20	S37°55'00"E	15.00	C4	N27°45'	646.00	102.25
L5	N43°57'09"E	5.00	L21	S84°55'00"E	21.21	C5	N47°41'02"	50.00	102.64
L6	N102°51'W	21.21	L22	N57°03'00"E	96.00	C6	N72°33'	617.00	144.68
L7	S84°32'40"W	18.52	L23	S37°55'00"E	60.00	C7	N55°06'	667.00	22.33
L8	N85°02'07"W	50.00	L24	N05°05'00"E	15.00	C8	N36°44'	899.00	15.00
L9	N43°37'09"E	60.00	L25	S84°55'00"E	33.36	C9	N11°35'	924.00	19.97
L10	S43°37'09"E	15.00	L26	S78°01'01"E	36.42	C10	N7°54'34"	850.00	9.98
L11	N85°37'09"E	21.21	L27	S38°08'25"W	15.86	C11	N58°57'	850.00	142.15
L12	N41°45'17"W	20.02	L28	S33°31'35"E	80.00	C12	N58°57'	850.00	238.11
L13	N25°32'58"E	50.00	L29	N05°05'00"E	15.00			492.45	205.07
L14	N85°37'09"E	22.26	L30	N89°02'03"E	36.03				
L15	N07°05'58"W	20.41	L31	S43°52'04"E	76.41				
L16	N25°15'49"E	50.00	L32	S07°57'27"E	77.80				



**PRELIMINARY PLAT**  
**PRIVATE STREET SUBDIVISION**  
**RIVER ROCK TRAILS, PHASE 1B**  
 BLOCK H, LOTS 1-15, 16X; BLOCK I, LOT 1X; BLOCK J,  
 LOTS 1-40, 41X; BLOCK K, LOTS 1-40;  
 BLOCK L, LOTS 1-38; BLOCK M, LOTS 1-41;  
 BLOCK N, LOTS 1-45

219 TOTAL RESIDENTIAL LOTS AND  
 3 OPEN SPACE LOTS  
 PART OF THE RIVER ROCK TRAIL  
 MUNICIPAL UTILITY DISTRICT NO. 1  
 44.105 ACRES OUT OF THE  
 FRANKLIN BANGUSS SURVEY, ABSTRACT NO. 7;  
 ROCKWALL COUNTY, TEXAS

DWDS LAND COMPANY, LLC OMNIVER/APPLICANT  
 1501 Alta Drive  
 Fort Worth, Texas 76107  
 Contact: Ryan Horton  
 (617) 888-2050

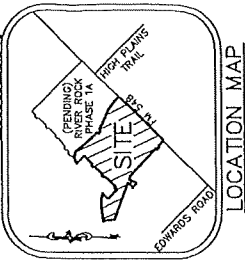
D.R. HORTON-TEXAS, LTD. DEVELOPER  
 4306 Miller Road, Suite A  
 Rowlett, Texas 75088  
 Contact: David L. Booth  
 (214) 607-4244

JBI PARTNERS, INC. SURVEYOR/ENGINEER  
 2121 Midway Road, Suite 300  
 Carrollton, Texas 75006  
 Contact: Joshua Luke, P.E.  
 TBPE No. F-438 TBPLS No. 10076000  
 (972) 248-7676

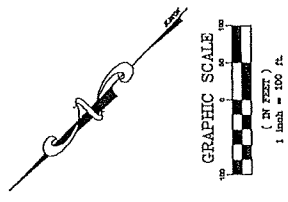
Date: FEBRUARY 24, 2025

**EXHIBIT**  
**A-10**

**EXHIBIT F**



**LOCATION MAP**



- LEGEND**
- PCB POINT OF BEGINNING
  - (CM) CONTROL MONUMENT
  - CRF CAPPED IRON ROD FOUND
  - CRS CURVED IRON ROD SET
  - R RADIUS
  - BL BUILDING LINE
  - UE UTILITY EASEMENT
  - F.M. FARM TO MARKET ROAD
  - P.S. PRIVATE STREET
  - S.V.E. SIGHT VISIBILITY EASEMENT
  - PP UNDERGROUND POWER PIPE
  - PLM UNDERGROUND LINE MARKER
  - PH FIRE HYDRANT
  - RCPP REINFORCED CONCRETE PIPE
  - FL FLOW LINE
  - TL TELEPHONE
  - PE PEDESTAL
  - FOC FIBER OPTIC CABLE
  - OE OVERHEAD ELECTRIC
  - OP OFFICIAL PUBLIC RECORDS
  - OT OFFICIAL PUBLIC RECORDS
  - STREET NAME CHANGE INDICATOR

**PRELIMINARY PLAT**  
**PRIVATE STREET SUBDIVISION**  
**RIVER ROCK TRAILS, PHASE 1B**  
 BLOCK H, LOTS 1-15, 16X; BLOCK I, LOT 1X; BLOCK J,  
 LOTS 1-40, 41X; BLOCK K, LOTS 1-40;  
 BLOCK L, LOTS 1-38; BLOCK M, LOTS 1-41;  
 BLOCK N, LOTS 1-45

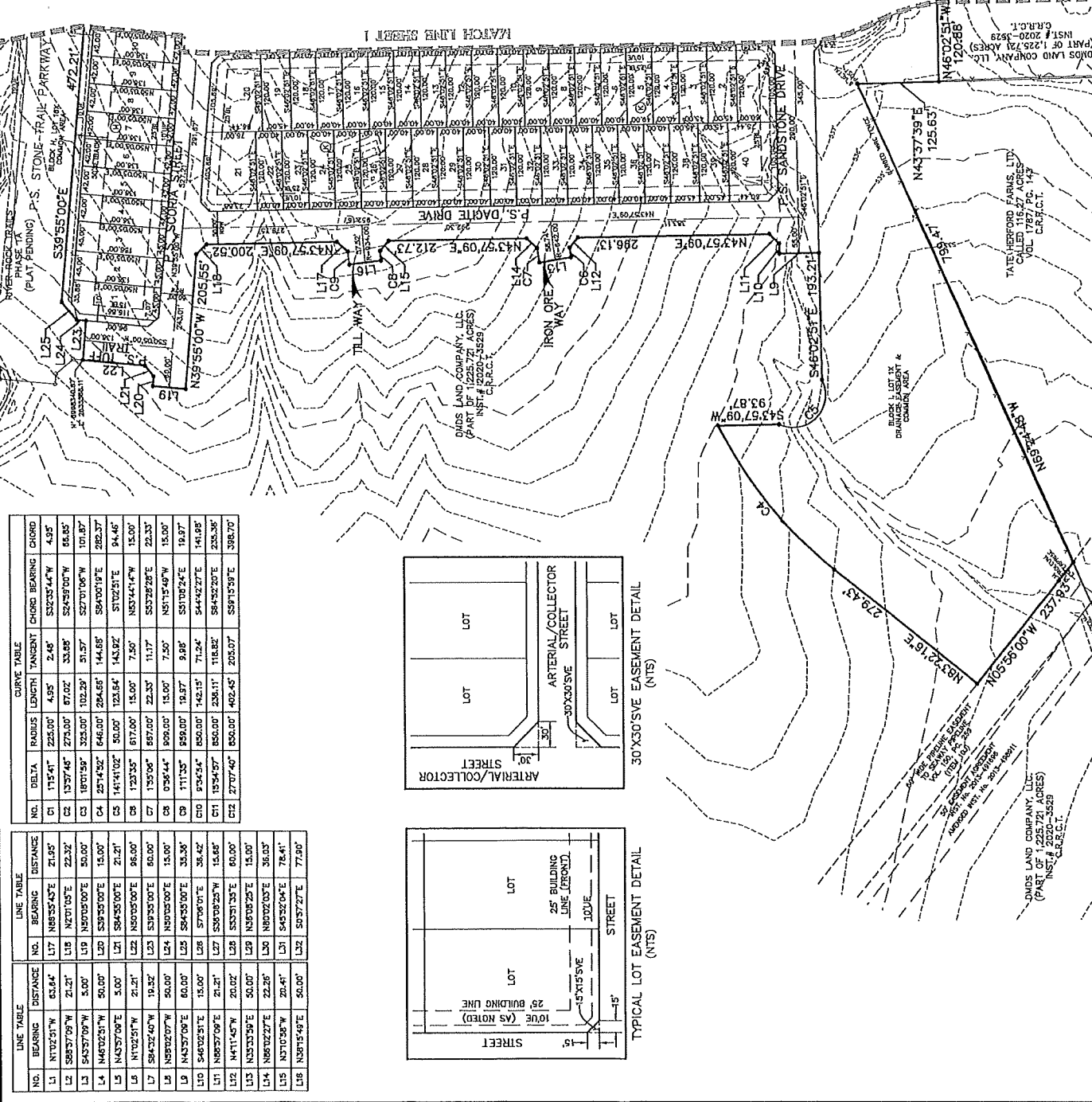
219 TOTAL RESIDENTIAL LOTS AND  
 3 OPEN SPACE LOTS  
**PART OF THE RIVER ROCK TRAIL**  
**MUNICIPAL UTILITY DISTRICT No. 1**  
 44.105 ACRES OUT OF THE  
 FRANKLIN BANGUSS SURVEY, ABSTRACT NO. 7;  
 ROCKWALL COUNTY, TEXAS

**DMDS LAND COMPANY, LLC OWNER/APPLICANT**  
 1501 Alta Drive  
 Fort Worth, Texas 76107  
 Contact: Ryan Horton

**D.R. HORTON-TEXAS, LTD. DEVELOPER**  
 4306 Miller Road, Suite A  
 Rowlett, Texas 75088  
 Contact: David L. Booth

**JB PARTNERS, INC. SURVEYOR/ENGINEER**  
 2121 Midway Road, Suite 300  
 Carrollton, Texas 75006  
 Contact: Joshua Luke, P.E.  
 TAPE No. F-438 TBLPS No. 10076000

Date: FEBRUARY 24, 2025



**CURVE TABLE**

NO.	DELTA	RADIUS	LENGTH	TANGENT	CHORD	BEARING	CHORD
C1	175°41'	225.00'	4.95'	2.48'	S32°35'44"W	4.95'	4.95'
C2	132°37'46"	273.00'	67.02'	33.88'	S24°59'00"W	56.85'	56.85'
C3	180°15'58"	325.00'	102.29'	51.57'	S27°01'06"W	101.87'	101.87'
C4	25°14'32"	646.00'	284.68'	144.68'	S91°00'19"E	282.37'	282.37'
C5	141°41'02"	50.00'	123.64'	143.92'	S102°51'E	94.46'	94.46'
C6	123°35'	67.00'	15.00'	7.50'	N33°44'4"W	15.00'	15.00'
C7	135°06'	697.00'	22.33'	11.17'	S53°28'20"E	22.33'	22.33'
C8	111°35'	858.00'	19.87'	9.88'	S31°08'24"E	19.87'	19.87'
C9	93°54'	850.00'	140.15'	71.24'	S44°22'27"E	141.85'	141.85'
C10	93°54'	850.00'	236.11'	118.82'	S84°32'20"E	235.36'	235.36'
C11	139°43'57"	850.00'	402.45'	203.07'	S59°15'59"E	398.70'	398.70'
C12	27°07'40"	850.00'	402.45'	203.07'	S59°15'59"E	398.70'	398.70'

**LINE TABLE**

NO.	BEARING	DISTANCE
L1	N102°31'W	63.64'
L2	S85°37'09"W	21.21'
L3	S45°37'09"W	5.00'
L4	N46°02'31"W	50.00'
L5	N43°57'09"E	5.00'
L6	N102°31'W	21.21'
L7	S84°32'40"W	19.32'
L8	N59°02'07"W	50.00'
L9	S45°37'09"E	60.00'
L10	S48°35'09"E	60.00'
L11	N85°07'09"E	21.21'
L12	N41°45'W	20.02'
L13	N33°33'59"E	50.00'
L14	N85°02'27"E	22.28'
L15	N21°03'56"W	20.41'
L16	N38°15'49"E	50.00'

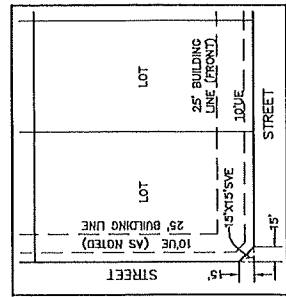
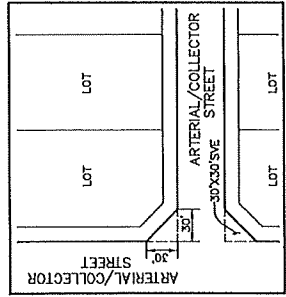


EXHIBIT F

LOT AREA TABLE			LOT AREA TABLE			LOT AREA TABLE			LOT AREA TABLE			LOT AREA TABLE			LOT AREA TABLE		
BLOCK-LOT	SQUARE FEET	ACRES	BLOCK-LOT	SQUARE FEET	ACRES	BLOCK-LOT	SQUARE FEET	ACRES	BLOCK-LOT	SQUARE FEET	ACRES	BLOCK-LOT	SQUARE FEET	ACRES	BLOCK-LOT	SQUARE FEET	ACRES
H-1	6,687	0.154	K-13	4,800	0.110	L-6	5,040	0.115	M-5	4,800	0.110	N-4	5,400	0.124	N-24	4,920	0.113
H-2	5,120	0.146	K-14	4,800	0.110	L-9	5,040	0.115	M-6	4,800	0.110	N-5	5,400	0.124	N-25	4,920	0.113
H-3	5,120	0.146	K-15	4,800	0.110	L-10	5,040	0.115	M-7	4,800	0.110	N-6	5,400	0.124	N-26	4,920	0.113
H-4	5,712	0.131	K-16	4,800	0.110	L-11	5,040	0.115	M-8	4,800	0.110	N-7	5,400	0.124	N-27	4,920	0.113
H-5	5,712	0.131	K-17	4,800	0.110	L-12	5,040	0.115	M-9	4,800	0.110	N-8	5,400	0.124	N-28	4,920	0.113
H-6	5,712	0.131	K-18	4,800	0.110	L-13	5,040	0.115	M-10	4,800	0.110	N-9	5,400	0.124	N-29	4,920	0.113
H-7	5,712	0.131	K-19	5,400	0.124	L-14	5,040	0.115	M-11	4,800	0.110	N-10	5,400	0.124	N-30	4,920	0.113
H-8	5,712	0.131	K-20	9,457	0.216	L-15	5,040	0.115	M-12	4,800	0.110	N-11	5,400	0.124	N-31	4,920	0.113
H-9	5,712	0.131	K-21	9,457	0.216	L-16	5,040	0.115	M-13	4,800	0.110	N-12	5,400	0.124	N-32	4,920	0.113
H-10	5,712	0.131	K-22	4,800	0.110	L-17	5,040	0.115	M-14	4,800	0.110	N-13	5,400	0.124	N-33	4,920	0.113
H-11	5,712	0.131	K-23	4,800	0.110	L-18	5,040	0.115	M-15	4,800	0.110	N-14	5,400	0.124	N-34	4,920	0.113
H-12	5,851	0.134	K-24	4,800	0.110	L-19	5,040	0.115	M-16	4,800	0.110	N-15	5,400	0.124	N-35	4,920	0.113
H-13	5,851	0.134	K-25	4,800	0.110	L-20	5,040	0.115	M-17	4,800	0.110	N-16	5,400	0.124	N-36	4,920	0.113
H-14	5,629	0.137	K-26	4,800	0.110	L-21	5,040	0.115	M-18	4,800	0.110	N-17	5,400	0.124	N-37	4,920	0.113
H-15	7,756	0.178	K-27	4,800	0.110	L-22	5,040	0.115	M-19	4,800	0.110	N-18	5,400	0.124	N-38	4,920	0.113
H-16	12,095	0.278	K-28	4,800	0.110	L-23	5,040	0.115	M-20	4,800	0.110	N-19	5,400	0.124	N-39	4,920	0.113
J-1	7,293	0.170	K-29	4,800	0.110	L-24	5,040	0.115	M-21	9,225	0.212	N-20	4,920	0.113	N-40	5,400	0.124
J-2	5,845	0.130	K-30	4,800	0.110	L-25	5,040	0.115	M-22	5,400	0.124	N-21	5,400	0.124	N-41	5,400	0.124
J-3	5,845	0.130	K-31	4,800	0.110	L-26	5,040	0.115	M-23	5,400	0.124	N-22	5,400	0.124	N-42	4,920	0.113
J-4	5,845	0.130	K-32	4,800	0.110	L-27	5,040	0.115	M-24	5,400	0.124	N-23	5,400	0.124	N-43	5,400	0.124
J-5	5,845	0.130	K-33	4,800	0.110	L-28	5,040	0.115	M-25	4,800	0.110	N-24	5,400	0.124	N-44	5,400	0.124
J-6	5,845	0.130	K-34	4,800	0.110	L-29	5,040	0.115	M-26	4,800	0.110	N-25	5,400	0.124	N-45	7,085	0.163
J-7	5,845	0.130	K-35	4,800	0.110	L-30	5,040	0.115	M-27	4,800	0.110	N-26	5,400	0.124			
J-8	5,797	0.132	K-36	4,800	0.110	L-31	5,040	0.115	M-28	4,800	0.110	N-27	4,920	0.113			
J-9	6,587	0.151	K-37	4,800	0.110	L-32	5,040	0.115	M-29	4,800	0.110	N-28	4,920	0.113			
J-10	6,587	0.151	K-38	5,400	0.124	L-33	5,040	0.115	M-30	4,800	0.110	N-29	5,400	0.124			
J-11	5,797	0.132	K-39	5,400	0.124	L-34	5,040	0.115	M-31	4,800	0.110	N-30	5,400	0.124			
J-12	5,845	0.130	K-40	8,941	0.205	L-35	5,040	0.115	M-32	4,800	0.110	N-31	5,400	0.124			
J-13	5,845	0.130	K-41	7,087	0.163	L-36	5,040	0.115	M-33	4,800	0.110	N-32	4,920	0.113			
J-14	8,921	0.198	K-42	4,800	0.110	L-37	5,040	0.115	M-34	4,800	0.110	N-33	4,920	0.113			
J-15	11,058	0.254	K-43	4,800	0.110	L-38	7,087	0.163	M-35	4,800	0.110	N-34	4,920	0.113			
J-16	5,094	0.115	K-44	5,040	0.116	L-39	5,040	0.115	M-36	4,800	0.110	N-35	4,920	0.113			
J-17	5,098	0.117	K-45	5,040	0.116	L-40	5,040	0.116	M-37	4,800	0.110	N-36	4,920	0.113			
J-18	4,855	0.111	K-46	5,040	0.116	L-41	5,040	0.116	M-38	4,800	0.110	N-37	4,920	0.113			
J-19	4,855	0.111	K-47	5,040	0.116	L-42	5,040	0.116	M-39	4,800	0.110	N-38	4,920	0.113			
J-20	4,855	0.111	K-48	5,040	0.116	L-43	5,040	0.116	M-40	5,400	0.124	N-39	4,920	0.113			

- NOTES:
- BASES OF BEARINGS, THE PERS OF BEARING IS BASED ON THE COORDINATE SYSTEM (NORTH CENTRAL ZONE 4202 STATE PLANE COORDINATES, NAD83). DISTANCES SHOWN HEREON ARE SURFACE DISTANCE VALUES WITH A SCALE FACTOR OF GRID TO SURFACE OF 1.0001416.
  - ALL CORNERS SET ARE 1/2 INCH IRON RODS WITH PLASTIC CAP STAMPED "JBI". UNLESS OTHERWISE NOTED.
  - WATER SUPPLY SOURCE - WATER SUPPLY WILL BE PROVIDED BY THE CURRENT CON HOLDER, BLACKLAND WSC. ALL WATER SUPPLY SHALL BE PROVIDED IN ACCORDANCE WITH TCEQ REQUIREMENTS.
  - WASTEWATER TREATMENT SOURCE - WASTEWATER TREATMENT WILL BE PROVIDED BY RIVER ROCK TRAILS MUNICIPAL UTILITY DISTRICT NO. 1. IN WHICH THIS PROPERTY LIES. ALL WASTEWATER TREATMENTS SHALL BE PROVIDED IN ACCORDANCE WITH TCEQ REQUIREMENTS.
  - FLOOD STATEMENT: ACCORDING TO COMMUNITY PANEL NO. 48397C01301, DATED SEPTEMBER 25, 2008 OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, NATIONAL FLOOD INSURANCE MAP, THIS PROPERTY IS WITHIN UNSHADDED ZONE X. AREAS DETERMINED TO BE OUTSIDE THE 100-YEAR FLOOD PROTECTION CHANNEL (CHOPAN, CROOK, AND GARDNER CREEKS). THERE WILL BE NO FLOODING OR FLOOD DAMAGE ON RARE OCCASIONS, GREATER FLOODS CAN AND WILL OCCUR AND FLOOD HEIGHTS WILL BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THIS STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.
  - BLOCKING THE FLOW OF WATER, CONSTRUCTING IMPROVEMENTS IN DRAINAGE EASEMENTS, AREAS OF NATURAL STREAM FLOW OR AREAS WITH SPECIFIC DRAINAGE DESIGN AND FILING OR OBSTRUCTION OF THE FLOODWAY IS PROHIBITED.
  - ROCKWALL COUNTY WILL NOT BE RESPONSIBLE FOR ANY PROPERTY DAMAGE, PROPERTY LOSS, PERSONAL INJURY OR LOSS OF LIFE OR PROPERTY OCCASIONED BY FLOODING OR FLOODING CONDITIONS.
  - ALL UTILITIES WITHIN ANY RIGHT-OF-WAY SHALL MEET MINIMUM COUNTY STANDARDS AND REQUIRE COUNTY RIGHT-OF-WAY PERMIT APPROVAL.
  - NO ROAD, STREET, OR PUBLIC IMPROVEMENT DEDICATED BY THIS PLAT SHALL BE MAINTAINED BY ROCKWALL COUNTY IN THE ABSENCE OF AN EXPRESS ORDER OF THE COMMISSIONERS COURT. EVIDENCE OF RECORD IN THE MINUTES OF THE COMMISSIONERS COURT OF ROCKWALL COUNTY, SPECIFICALLY IDENTIFYING ANY SUCH ROAD, STREET, OR PUBLIC IMPROVEMENT AND SPECIFICALLY ACCEPTING SUCH FOR COUNTY MAINTENANCE.
  - ALL CUL-DE-SACS, LOCAL STREETS, AND COLLECTOR STREETS SHALL BE MAINTAINED BY RIVER ROCK TRAILS MUNICIPAL UTILITY DISTRICT NO. 1.
  - EASEMENTS, ANY PUBLIC UTILITY, INCLUDING THE COUNTY, SHALL HAVE THE RIGHT TO REMOVE AND KEEP CLEAR ALL OR PART OF ANY BUILDING, FENCES, TREES, OVERGROWN SHRUBS OR IMPROVEMENTS THAT IN ANY WAY ENDANGER OR INTERFERE WITH THE CONSTRUCTION, MAINTENANCE, OR EFFICIENCY OF ITS RESPECTIVE SYSTEMS ON ANY OF THE EASEMENT OR RIGHT-OF-WAY SHOWN ON THE PLAT (OR FILED BY SEPARATE INSTRUMENT THAT IS ASSOCIATED WITH SAID PROPERTY), AND ANY PUBLIC UTILITY, INCLUDING THE COUNTY, SHALL HAVE THE RIGHT AT ALL TIMES AN INGRESS AND EGRESS TO AND FROM SAID EASEMENTS FOR THE PURPOSES OF CONSTRUCTION, RECONSTRUCTION, INSPECTION, PATROLLING, MAINTAINING AND ADJUDICATING SUCH EASEMENTS OR RIGHT-OF-WAY. THE TIME OF PRODUCING THE PERMISSION OF ANYONE PROPERTY OWNERS SHALL MAINTAIN EASEMENTS. THE COUNTY CAN REMOVE TREES OR ANY OTHER IMPROVEMENTS AND DOES NOT HAVE THE RESPONSIBILITY TO REPLACE THEM.
  - ROCKWALL COUNTY SHALL NOT BE RESPONSIBLE FOR MAINTENANCE OF PRIVATE STREETS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS AND OPEN SPACES, AND THE OWNER SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF PRIVATE STREETS, DRIVES, EMERGENCY ACCESS EASEMENTS, RECREATION AREAS AND OPEN SPACES. THE OWNER SHALL BE RESPONSIBLE FOR ALL CLAIMS, DAMAGES, AND LOSSES ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE OBLIGATION OF SAID OWNERS SET FORTH IN THIS PARAGRAPH.
  - THE EXISTING CURBS OR DRAINAGE CHANNELS TRAVELING ALONG OR ACROSS THE SUBDIVIDED TRACTS WILL REMAIN AS OPEN CHANNELS AND WILL BE MAINTAINED BY THE INDIVIDUAL OWNERS OF THE LOT OR LOTS THAT ARE TRAVELLED BY OR ADJACENT TO THE DRAINAGE CHANNELS ALONG OR ACROSS SAID LOTS.
  - SIGHT VISIBILITY RESTRICTION: NO STRUCTURE, OBJECT, OR PLANT OF ANY TYPE MAY OBSTRUCT VISION FROM A HEIGHT OF TWENTY-FOUR (24) INCHES TO A HEIGHT OF TEN (10) FEET ABOVE THE TOP OF THE CURB OR EDGE OF PAVEMENT, INCLUDING, BUT NOT LIMITED TO BUILDINGS, FENCES, WALKS, SIGNS, TREES, SHRUBS, CURBS, TRUCKS, ETC., WITHIN THE SIGHT VISIBILITY EASEMENT.

**PRELIMINARY PLAT**  
**PRIVATE STREET SUBDIVISION**  
**RIVER ROCK TRAILS, PHASE 1B**  
 BLOCK H, LOTS 1-15, 16X; BLOCK I, LOT 1X; BLOCK J,  
 LOTS 1-40, 41X; BLOCK K, LOTS 1-40;  
 BLOCK L, LOTS 1-38; BLOCK M, LOTS 1-41;  
 BLOCK N, LOTS 1-45

219 TOTAL RESIDENTIAL LOTS AND  
 3 OPEN SPACE LOTS  
**PART OF THE RIVER ROCK TRAIL  
 MUNICIPAL UTILITY DISTRICT NO. 1**  
 44-105 ACRES OUT OF THE  
 FRANKLIN BANGUSS SURVEY, ABSTRACT NO. 7;  
 ROCKWALL COUNTY, TEXAS

**DMDS LAND COMPANY, LLC OWNWER/APPLICANT**  
 1501 Aita Drive  
 Fort Worth, Texas 76107  
 Contact: Ryan Horton

**D.R. HORTON-TEXAS, LTD. DEVELOPER**  
 4306 Miller Road, Suite A  
 Rowlett, Texas 75088  
 Contact: Joshua Luke, P.E.  
 David L. Beach

**JBI PARTNERS, INC. SURVEYOR/ENGINEER**  
 2121 Midway Road, Suite 300  
 Carrollton, Texas 75006  
 Contact: Joshua Luke, P.E.  
 TBP# No. F-439 TBP# No. 10076000  
 Date: FEBRUARY 24, 2025



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R E P O R T E R ' S R E C O R D

VOLUME 1 OF 1

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HEARING BEFORE ROCKWALL COUNTY COMMISSIONERS COURT

APRIL 24, 2025

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Reported by machine shorthand.

DEF0016 EXHIBIT  
A-11

## 1 P R O C E E D I N G S

2 JUDGE NEW: All right. Good afternoon,  
3 everyone. Welcome to Commissioner's Court. I'm going  
4 to call the Board of Special Meeting. It's April 24,  
5 2025, at 1:00 p.m., and we are going to move right into  
6 our agenda items.

7 And Item No. 1 is the public forum. This  
8 is the public's opportunity to address the County about  
9 any County matters. A couple people have signed up.  
10 No. 1 Mr. Bryan McNeal.

11 JUDGE NEW: As you know, Mr. McNeal, keep  
12 your comments to about three minutes and speak right  
13 into the microphone there.

14 MR. MCNEAL: Good afternoon, Judge,  
15 Commissioners. Thank y'all for hosting this today. I  
16 just -- I didn't come with anything prepared as I  
17 normally do. I just wanted to actually speak from the  
18 heart this time. The City of McLendon-Chisholm is  
19 growing. It's probably one of the most open areas in  
20 Rockwall County that has the opportunity for development  
21 to come. And contrary to popular belief, I'm actually  
22 not opposed to development. I'm just pro-smart  
23 development, and this is just not smart development.  
24 This overruns the infrastructure. It impacts the ETJ.  
25 It impacts the City. And when you start doing that, as

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1 we have learned with our county size, if it hurts one  
2 city, it's probably going to hurt all the cities.

3           While I do respect the American dream for  
4 people to make a living and make money, I also respect  
5 the opportunity to sit down and work out things and talk  
6 about things. I can tell you this many times  
7 (indicating) DR Horton has reached out to me, none,  
8 zero, not one, not one opportunity to say, hey, here's  
9 what we would like to do, could we meet in the middle?  
10 It's great that they want to help build a water area for  
11 Blackland. I respect that too, but that doesn't help  
12 the county. That helps Blackland and their development.

13           Of course, they need to do that, because  
14 if they don't have that, then they don't have water. So  
15 for them to offer that as a thing that they are  
16 offering, that's a necessity that you have to provide at  
17 this point. What they are not providing is relief of  
18 traffic, relief of the overrunning of our schools, the  
19 relief of overrunning of shopping centers, just the  
20 small things. I don't know what the wait time is every  
21 day as an office, but I can assure you, you probably  
22 could add another hour or two to it. Because if it's  
23 6,000 plus homes in my head, an average of three cars, I  
24 can do the math real quick. That's another 18,000 cars,  
25 and we're just not there. We're not ready for it. Come

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1 to the table. That's all they got to do. They can come  
2 to talk to you. They can come to talk to me. I bet we  
3 can find a collaborative way to work together.

4 Thank you.

5 JUDGE NEW: Thank you, Bryan McNeal.

6 Next person signed up, peter Han  
7 (pronouncing) -- you'll have to help me out with your  
8 last name.

9 MR. HANCOLM: Hancolm.

10 THE COURT: Hancolm.

11 MR. HANCOLM: Good afternoon,  
12 Commissioners. I appreciate the opportunity to speak.  
13 Thank you. Nothing prepared. But, again, as a resident  
14 that will be directly affected by this development, I  
15 and my wife oppose it, and probably a good many of my  
16 neighbors have informed me -- expressed opposition to  
17 it. I live in High Point Ranch, which, as I understand  
18 it, is directly across the street from me from this  
19 proposed development. So they will be in from my front  
20 yard, but the opposition is based on the misstatement.  
21 The infrastructure isn't ready for it. We have a septic  
22 system. As of now, our water is questionable during the  
23 summer. I know we will get a hookup to the central or  
24 the Texas water supply system north, whatever it is,  
25 later in the year.

1                   But the other infrastructure problem will  
2 be 548. That road just isn't ready for that amount of  
3 traffic, and we're going into construction on 205. I  
4 mean, that's going to be horrendous just for the traffic  
5 infrastructure out there. I would hope that the  
6 developers would be -- had to have second thoughts about  
7 selling somebody a home into that sort of environment.  
8 I mean, if you are a true developer, you want to sell a  
9 home where people can actually live and feel  
10 comfortable. I mean, I don't know whether any of the  
11 6,000 people who are moving into those homes would feel  
12 comfortable coming into an undeveloped infrastructure  
13 like this. So I hope if the development goes go ahead  
14 that it will be postponed until the infrastructure  
15 situation is worked out. All I have to say. Thank  
16 you.

17                   JUDGE NEW: Thank you, Mr. Hancolem.  
18                   Is there anybody else that would like to  
19 address the Court? All right. Seeing no one, we'll  
20 move on to Agenda Item 2, appeal hearing regarding  
21 apportionment costs for River Rock Trails and DR Horton  
22 appeal, dated March 4, 2025.

23                   I'd like to kind of go over the rules.  
24 This is the first ever in the state of Texas appeal  
25 hearing of apportionment costs. So once again, Rockwall

1 County is breaking new ground. So the conduct of the  
2 hearing shall proceed as follows: The Applicant's  
3 representatives shall present the Applicant's position  
4 by presenting testimony, evidence, and argument in  
5 support of that position. The Commissioner Court  
6 engineering representative or his or her designee shall  
7 present the Commissioner's Court engineering  
8 representative's position by presenting testimony,  
9 evidence, and argument in support of that position. And  
10 the Applicant's representatives shall rebut the points  
11 made by Commissioner's Court engineering representative  
12 by presenting testimony, evidence, and argument in  
13 rebuttal to the position of the Commissioner's Court  
14 engineering representative.

15                   During this rebuttal, the Applicant's  
16 representative cannot present new testimony, evidence,  
17 or argument that does not rebut the position of the  
18 Commissioner's Court engineering representative.

19                   Now, there are time limitations. Each  
20 time shall have up to 15 minutes to present its case if  
21 there is only one item being appealed, and there is more  
22 than one item being appealed, and an additional ten  
23 minutes for each additional item being appealed up to a  
24 maximum of 45 minutes to present its case. The  
25 applicants shall have 5 minutes to present its rebuttal

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1 if there is only one item being appealed and an  
2 additional 2 minutes for each additional item being  
3 appealed up to a maximum of 15 minutes. So each side  
4 will roughly have 45 minutes, and then the Applicant  
5 will have 15 minutes for a rebuttal.

6 So is the Applicant ready?

7 MR. ANDERSON: We are. Thank you.

8 JUDGE NEW: Please proceed, sir.

9 MR. ANDERSON: Thank you. Mayor my name  
10 is Art Anderson, I represent the --

11 JUDGE NEW: We got -- push the button,  
12 and it should turn red.

13 MR. ANDERSON: Sorry about that.

14 JUDGE NEW: There you go. And standard  
15 rules. Mr. Anderson, tell us who you are.

16 MR. ANDERSON: Sure.

17 Art Anderson. I'm with the Winstead Law  
18 Firm in Dallas, 2728 North Harwood, representing the  
19 Applicant and the developer. I did have a question --  
20 and most of these -- it's actually happened in  
21 apportionment hearings before, so this is one of the  
22 first but not the first in Texas. The -- most of the  
23 time the rules allow cross-examination of the opposing  
24 party's witnesses, and so I initially just wanted to  
25 request if the County will allow cross-examination of

1 its witnesses in this case or not.

2 JUDGE NEW: Yes. Certainly will.

3 MR. ANDERSON: Okay. I'm not certain  
4 there will be, because I don't know what's going to be  
5 said but just wanted to be sure --

6 Do each of you have a copy of the  
7 exhibits? And they are basically things that everybody  
8 has already seen, but I'd like time to go through those  
9 to start out with. I think the other thing is important  
10 to point out in a case like this because it's really not  
11 set forth in the statute, but the burden of proof under  
12 the case law is on the County. So you'll -- typically  
13 is the plaintiff is the one who has the burden of proof.  
14 If it's a consti-- if it's proven to be an exaction,  
15 which I think that it is here, the burden of proof as to  
16 whether or not there's this nexus and proportionality  
17 goes to the County. So not sure whether it makes a  
18 difference or not, but just want to make sure everybody  
19 knew that. So our exhibits are relatively  
20 straightforward.

21 The -- first one is the statute itself.  
22 And so I think a critical piece here is if you look  
23 under 232.110A that the only time there could be an  
24 apportionment under the statute is if it deals with  
25 county infrastructure improvements. So virtually all of

1 the items on the County's list in its regulations, other  
2 than roads, and I'm not saying the roads are properly  
3 calculated here, but as a type of exaction, none of them  
4 meet that standard, right, because school building is  
5 not counting infrastructure. Broadband is not counting  
6 infrastructure. So that was the intent when the  
7 legislature passed this. It's modeled on Section  
8 212.904 of the local government code, but it deals with  
9 infrastructure which we know what that is, right?  
10 That's roads, drainage -- you know, things like that,  
11 water lines, sewer lines.

12                   The second piece of it is, it has to be  
13 roughly proportionate as approved by a professional  
14 engineer. So the only item that's in the County's list  
15 that has a report or a study or a prove up is the road  
16 item. That's 1 out of 16 items. So clearly the  
17 legislature would say this has to be an infrastructure  
18 improvement, concrete pipes, however you want to define  
19 it. So the only witness we're going to call is going to  
20 be a P.E. dealing with the road issues, because I think  
21 it's pretty clear that none of the other 15 are County  
22 infrastructure. And so the County is not authorized to  
23 impose an exaction for those items.

24                   The other item I'd like to show, I think  
25 y'all are aware, under E that if there's an appeal, the

1 developer prevails and is entitled to attorneys' fees  
2 and costs. And under G -- well, let's go back. So F  
3 says that the section does not diminish or modify the  
4 procedures by Chapter 395, that involves impact fees.  
5 So a lot of these exactions that are being considered  
6 here would be considered to be impact fees that are not  
7 authorized by statute, and that's what Chapter 395 of  
8 the local government code is.

9                   And then G, it says, "This section does  
10 not increase or expand and shall not be interpreted to  
11 increase or expand the authority of a county to regulate  
12 plats or subdivisions under this chapter."

13                   So where that plays in, as y'all know,  
14 the county commissioners met about two weeks ago.  
15 Denied four preliminary plats that have been submitted.  
16 A list of reasons were provided by your counsel, and one  
17 of them involved not paying the proportionality fees,  
18 and we don't know what those are anyway. But what that  
19 means is is that the County cannot make that a  
20 requirement of a plat approval. It's separate and  
21 apart.

22                   And so if you look at Exhibit 2, that --  
23 y'all aren't familiar with this, but y'all passed it.  
24 But this is the County subdivision regs. Under Section  
25 5.10.1A, that lists the 16 items. So we do have time

1 limits, but I think we can dispose of most of these  
2 relatively quickly.

3                   And then just -- the next part is Exhibit  
4 3 was the appeals request. Four is the County's  
5 response. And then the last one is a response that we  
6 made March 4, 2025, to those items. I think it's  
7 important to point out -- I think one of the speakers  
8 said, you know, whether DR Horton has attempted to  
9 cooperate or work with the local jurisdictions, I think  
10 there's zero doubt that they have spent significant time  
11 and effort to do that. They've met with the County  
12 folks. They've met with the folks from different  
13 cities, the utility providers. They've spent a  
14 significant amount of money, a significant amount of  
15 time and effort to try to address the County concerns.

16                   So I want to point out that in Exhibit 5,  
17 which addresses each of the items, there was an offer  
18 that was made to make a contribution without waiving our  
19 legal rights to object to it, to FM 548, which is the  
20 report by your professional engineer that was prepared  
21 in accordance with the statute. And there was also an  
22 offer at that time with regards to police, which is  
23 Exhibit 5, the second page. So the road was an offer to  
24 contribute, the 338,867 that the County had requested.  
25 And then for the sheriff piece, it was an initial offer

1 of 529,424. The County did not accept those offers, and  
2 the County has rejected our plats. So those offers are  
3 no longer on the table.

4                   So going through the subdivision regs --  
5 I mean, yeah, the items that are there, all of them -- I  
6 won't repeat for each one, but the only one that can  
7 potentially relate to what the statute allows is roads.  
8 None of the rest of them are County infrastructure,  
9 okay. They are not owned by the County. Almost all of  
10 them have separate political subdivisions such as  
11 schools; right? So the County had a report that said,  
12 we'd like for you to pay about \$35,000 per lot per house  
13 to the schools. Well, there's so many problems with  
14 that it's unbelievable in terms of how schools are  
15 funded by our legislature, how they are bonded. There's  
16 no individual assessment of that. Nobody has determined  
17 the actual impact. I got two different school  
18 districts. Should it be for one and not for the other?  
19 There's no substantiation, or I believe there's no  
20 professional engineering report on that issue which is  
21 required by the statute. You know, counties and school  
22 districts are separate subdivisions under our  
23 constitution. They have separate powers. If the school  
24 district wants to impose a development fee, they can --  
25 I guess they can attempt to do that. But, again, that's

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1 something for the schools, not for the county. The  
2 schools have a board of trustees. Counties have county  
3 commissioner's court.

4           Again, there's no individual assessment  
5 which is required. It's not just taking a bunch of data  
6 from somewhere. You have to do an individual  
7 assessment, and it's irrelevant really, because there's  
8 no professional engineering report, but clearly for  
9 legal reasons that's invalid.

10           With regards to -- No. 2 is roads, again,  
11 this is a state road. It's not a county road. The  
12 county doesn't own it. I mean, the county doesn't own  
13 it. It's -- it's simply not county infrastructure. And  
14 our witness will address the issue of proportionality.  
15 But if you look at the TIA that was submitted to the  
16 counties as part of this development, there is  
17 sufficient capacity in the FM 48 [sic], which I think is  
18 the road, today to handle the additional trips from the  
19 development.

20           Now, it should be noted that the  
21 dedication of the right of way for the road is  
22 considered to be an exaction legally. We're not  
23 objecting to doing that, making that dedication. So  
24 that's a value of approximately 50,000 to \$100,000 for  
25 that right of way dedication. But, again we're, not

1 disputing that.

2                   Police, again, not -- it's not  
3 infrastructure. We don't hire deputies and stuff like  
4 that. And y'all know this, these costs are not paid by  
5 the developer on the front end. They are paid by taxes.  
6 And as growth happens, property tax revenues go up, and  
7 that's typically for most of these things that these  
8 things are paid for. There's a lot of active growth  
9 throughout the state, and governmental entities handle  
10 it, and they handle it by -- the schools handle it, and  
11 the sheriff or city, whoever is doing that also handles  
12 it. But it's not infrastructure, not prepared by  
13 professional engineers, and therefore it cannot be  
14 authorized. There's also no statute that authorizes  
15 this type of thing.

16                   Dispatch, 911, and radio communications,  
17 it's my understanding the County withdrew those two  
18 items as exactions that they were requesting. I think  
19 that's what the report said. Water, sewer, electric,  
20 open space, drainage; again, none of these involve  
21 county infrastructure and are not legally valid.  
22 There's also no prepared professional engineering report  
23 justifying any of those exactions. We agree with the  
24 county engineer that these will be addressed at the time  
25 of final plat construction plans. It's kind of

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1 important to remember right now we're at the preliminary  
2 plat. So, basically, it's to show more conceptually  
3 what's going to be out there. And as you prepare  
4 construction plans do the engineering, you basically  
5 delve deeper into those types of issues, and that's  
6 where those things are determined. And I think that's  
7 what your county engineer indicated was the appropriate  
8 way to approach that, and we agree with that.

9                   Ambulance, fire, broadband, natural gas,  
10 aerial control, trash; again, none of those involve  
11 county infrastructure, not legally valid. We provided  
12 proof of service on those items.

13                   That's basically the legal arguments. Is  
14 it appropriate now to call Mr. Jet Miles, or do you have  
15 any objections?

16                   JUDGE NEW: Does anybody have any  
17 questions? And, again, I didn't say it at the start,  
18 but any questions won't be taken from your time --

19                   MR. ANDERSON: Count against time?

20                   JUDGE NEW: Yep. Call --

21                   MR. LIECHTY: I have questions, but can  
22 we wait until the end?

23                   JUDGE NEW: Certainly can.

24                   MR. LIECHTY: Okay.

25                   MR. ANDERSON: And just curious, how much

1 time do we have left?

2 JUDGE NEW: You have used 12 minutes and  
3 54 seconds, so you --

4 MR. ANDERSON: We're going to be really  
5 short.

6 JUDGE NEW: You're going to be fine.

7 MR. ANDERSON: We're going to be focused  
8 here.

9 EXAMINATION

10 BY MR. ANDERSON:

11 Q. Can you please give your name for the  
12 record?

13 A. Jeff Miles.

14 Q. And what do you do for a living?

15 A. I'm an engineering consultant.

16 Q. And who do you work for?

17 A. I work for myself, Miles Consulting, LLC.

18 Q. Are you licensed by the state?

19 A. Yes, I'm licensed.

20 Q. And are you considered to be a professional  
21 engineer?

22 A. Yes, I'm a professional engineer licensed by  
23 the state of Texas.

24 Q. Okay. So you would meet the criteria under  
25 the statute --

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1 MR. ANDERSON: Thank you.

2 Can you hear me okay? Separate? No  
3 feedback; right? Can you hear us okay?

4 JUDGE NEW: You're good.

5 MR. ANDERSON:

6 Q. (BY MR. ANDERSON) Okay. You are licensed by  
7 the Texas -- you're a professional engineer?

8 A. I am.

9 Q. Okay. So you would qualify to provide  
10 testimony and evidence with regards to county  
11 infrastructure issues under the statute?

12 A. Yes, sir.

13 Q. And do you have engineering focus?

14 A. Yes. Civil engineering for land-only  
15 projects.

16 Q. And over your career, how many subdivision  
17 plats have you been involved with?

18 A. Probably over a thousand in a 35-year  
19 career.

20 Q. So we're going to focus on the road piece, as  
21 you heard me basically present at the beginning. Roads  
22 theoretically can be considered county infrastructure;  
23 correct?

24 A. Correct.

25 Q. And for this case, was a traffic impact

1 analysis prepared for the development?

2 A. It was.

3 Q. Was it submitted to the County?

4 A. Not sure the County ever asked for it, quite  
5 frankly, so I don't recall.

6 Q. But you got it?

7 A. We got one in May of 2024, we did one.

8 Q. What's the name of the perimeter road to the  
9 first two phases?

10 A. It's Farm to Market Road 548.

11 Q. And does perimeter road means it's adjacent?

12 A. It's adjacent.

13 Q. Does the County have subdivision regs that  
14 basically address the platting and construction of  
15 perimeter roads for a developer?

16 A. They do.

17 Q. Okay. And FM 548, is that a county road or a  
18 state road?

19 A. State of Texas road.

20 Q. In your opinion, can the County require fees  
21 from a developer to improve a state road?

22 A. No.

23 Q. Have you ever seen this situation before?

24 A. No.

25 Q. How many lanes are in the existing road?

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1 A. Two lanes.

2 Q. All right. So let's focus real quick on the  
3 right of way. How much right of way is shown as being  
4 dedicated by the plats?

5 A. 1.1 acres.

6 Q. Okay. Now, according to the TIA, what is the  
7 capacity of the existing roadway?

8 A. It's 875 vehicles per hour per lane.

9 Q. Okay. That means that 875 vehicles could  
10 travel on each lane and still be safe and constitute --

11 A. Correct, within an hour's time frame, yes.

12 Q. So according to the TIA, what's the peak hour  
13 number of vehicular trips generated by 418 house?

14 A. 115 trips going westbound in the morning  
15 towards State Highway 205, and then 127 trips vehicles  
16 per hour going eastbound from 205 back towards the  
17 neighborhood in the evening.

18 Q. And from a traffic impact methodology, the  
19 peak hour is typically when you have the most cars  
20 coming out of the development?

21 A. Correct.

22 Q. Okay. And so in your opinion, is there  
23 sufficient capacity in the existing two lanes of roads  
24 to handle the trips from this developer?

25 A. Yes. We're -- like I said, we -- the capacity

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1 is 875 vehicles per hour per lane in each direction, and  
2 we are roughly 13 to 14 percent of that total.

3 Q. And would the construction of additional lanes  
4 be required for this development?

5 A. No.

6 MR. ANDERSON: We pass the witness.

7 EXAMINATION

8 BY MR. RAY:

9 Q. Can -- can you tell the Court how many houses  
10 are planned for the full build-out of the development?

11 A. It's unknown at this time, but we've projected  
12 over 6,000.

13 Q. Okay. And so the first two phases of this  
14 Phase 1A and 1B are just over 400 houses; correct?

15 A. Correct.

16 Q. So the eventual build-out will be 15 times  
17 that amount?

18 A. Correct.

19 Q. Okay. And is that road able to handle the  
20 traffic -- the expected traffic from 15 times the amount  
21 of houses that are in 1A and 1B?

22 A. No, it is not.

23 Q. Okay.

24 MR. RAY: Pass the witness.

25 EXAMINATION

1 BY MR. ANDERSON:

2 Q. Sure. So the -- you've seen the engineering  
3 report by the County's witness; correct?

4 A. Correct.

5 Q. And it's only focussed on the proportionality  
6 of the impact on 548 from the 418 houses for the first  
7 two phases --

8 JUDGE NEW: Mr. Anderson, you could scoot  
9 that microphone just a little bit closer. Also projects  
10 in the courtroom.

11 MR. ANDERSON: I apologize.

12 Q. (BY MR. ANDERSON) So Mr. Ray was talking  
13 about development of the entire property; correct?

14 A. Correct.

15 Q. The proportionality appeal that we're  
16 addressing here or the County addressed in their report  
17 focuses just on the 418 houses and their impact on the  
18 roadway system; is that correct?

19 A. That's correct.

20 Q. Okay. And so at some point, it's like, you  
21 get enough development, there would be road improvements  
22 that will result as part of that; is that fair?

23 A. That's correct.

24 MR. ANDERSON: No further questions.

25 MR. RAY: I have one follow-up, Judge.

## EXAMINATION

1  
2 BY MR. RAY:

3 Q. Are you here today to provide testimony on any  
4 of the other 15 items in the County's apportionment  
5 letter other than the road section?

6 MR. ANDERSON: No.

7 MR. RAY: Okay.

8 MR. ANDERSON: The only thing he's  
9 qualified to testify under the statute is on roads, and  
10 that would apply to the County as well.

11 MR. RAY: No further questions.

12 JUDGE NEW: All right. Mr. Anderson,  
13 it's still in court. You've got plenty of time left.

14 MR. ANDERSON: No. I told you I'd be  
15 efficient, and hopefully I have been. And, I mean, I  
16 think we all know this, but this is really a legal  
17 issue. It's really not a proportionality issue. The  
18 roads can be one exception. But it's clear, the other  
19 15 items are county infrastructure, which is what this  
20 statute addresses. None of them have any support by a  
21 professional engineer. I think that's the clear legal  
22 piece of this and, you know. If we have additional  
23 questions and need to address things, we will. But I  
24 think that that's where we are.

25 JUDGE NEW: All right. Does anybody have

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1 any questions?

2 MR. LIECHTY: I said I've got at least  
3 one. My name is Lorne Liechty.

4 In Paragraph 1 of your response letter  
5 that you sent back, it says that DRH will work with the  
6 school districts including reserving -- regarding  
7 reserving these school sites within the larger  
8 development at the appropriate time and will oversize  
9 infrastructure where needed to serve the school sites.

10 Has the applicant reached any agreement  
11 with the school districts regarding its contribution for  
12 schools, its oversizing of infrastructure or other  
13 things, other items?

14 MR. ANDERSON: Not as far as I know.

15 MR. MILES: The streets haven't been  
16 identified.

17 MR. ANDERSON: Yeah. It's too early in  
18 the process. For a development like this, that would  
19 come a little bit later in the process when the school  
20 district will say, we might have a site here. Here's  
21 what -- how it will be like to build, do we want an  
22 elementary school, do we want a high school. You know,  
23 it's a coordinated effort. It benefits the development,  
24 right, to have schools nearby. And if it fits the  
25 school district, then the developer works with them.

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1 And that's what this developer does all over the  
2 state.

3 MR. LIECHTY: All right. Well, I  
4 appreciate the response, but I'm not going to argue  
5 those points with you, but the answer is, I take it, is  
6 no, there's been no agreements with the schools?

7 MR. ANDERSON: With the explanation I  
8 give.

9 MR. LIECHTY: Yeah.

10 MR. ANDERSON: Nobody would have an  
11 agreement with the schools at this point in the  
12 development.

13 MR. LIECHTY: Okay. Well, I don't know  
14 if that's true or not --

15 MR. ANDERSON: If you have some  
16 examples.

17 MR. LIECHTY: -- when you say nobody  
18 would --

19 MR. ANDERSON: If you have some examples,  
20 I'd love to see --

21 MR. LIECHTY: -- I've seen a lot of plats  
22 where they show --

23 MR. ANDERSON: If you have some examples,  
24 I'd love to see them.

25 MR. LIECHTY: I've seen a lot of plats

1 where they show school sites.

2 MR. ANDERSON: Sure. Broadly, when  
3 you're in a position where it makes sense that the  
4 school district -- the school district is the one that  
5 usually approaches the developer first and says we'd  
6 like to have a school in this particular location, and  
7 here's what we love to have. And that's where they kind  
8 of work together, and they work it out. It's just  
9 not --

10 MR. LIECHTY: All right. Have you had  
11 those discussions? Has the school district approached  
12 you?

13 MR. ANDERSON: They haven't, as far as I  
14 know.

15 MR. LIECHTY: Okay. All right.

16 MR. ANDERSON: Again, the school  
17 districts will work that out, the political subdivision.  
18 They know how to locate and plan for growth. That's  
19 what they do.

20 MR. LIECHTY: Okay. Another question. I  
21 think this -- these two plats show 418 homes, if I  
22 remember right --

23 MR. ANDERSON: I think that's --

24 MR. LIECHTY: -- plats? Phase 1A and  
25 Phase 1B.

1 MR. ANDERSON: That should be right,  
2 sure.

3 MR. LIECHTY: And then as Mr. Miles  
4 identified, they are planning to build about over 6,000  
5 total. Not -- don't have a certain number but in this  
6 entire property.

7 Can you give us a projected build-out  
8 time on that? Like, how long will it take, based on  
9 your projection, which I would imagine you have. You  
10 are a big company. Because it affects a lot of this  
11 infrastructure. So if you have any projections about  
12 the time over which these first 418 will be built out  
13 and the remaining 5800 or whatever will be built?

14 MR. ANDERSON: Well, the real challenge  
15 to answer that question is we need to get plats  
16 approved, and the plats were denied, so --

17 MR. LIECHTY: You can answer from  
18 whenever they would be approved, assuming they would be.  
19 I'm just asking trying to get a feel for how long it's  
20 going to take to build this out.

21 MR. ANDERSON: If you can predict when  
22 that is for me.

23 MR. LIECHTY: Okay. So you are not going  
24 to answer that question?

25 MR. ANDERSON: I did. How can I give you

1 a date when the County is not approving plats.

2 MR. LIECHTY: I asked --

3 MR. ANDERSON: We can't know until that  
4 happens.

5 MR. LIECHTY: -- for how long it takes to  
6 build this out over time. Sure. I'm sure of nothing.  
7 I've never looked at DR Horton's projects. But I would  
8 imagine a company like that projects how long it would  
9 take to sell out these homes.

10 MR. ANDERSON: Do you have a range?

11 MR. BOOTH: Ten TO fifteen a month.

12 MR. ANDERSON: To do the 6,000.

13 MR. BOOTH: That could be 20 to 30 a  
14 month. I mean, it could be -- it's going to be 15-year  
15 project, 20-year.

16 MR. ANDERSON: Fifteen to twenty maybe.

17 MR. LIECHTY: Years?

18 MR. ANDERSON: Correct.

19 MR. LIECHTY: Okay. Thank you.

20 JUDGE NEW: Anybody else have any  
21 questions?

22 MR. LIECHTY: Just one more. Anybody  
23 else can, but I'm not --

24 JUDGE NEW: Okay. Go ahead.

25 I have stopped your time, just so you're

1 aware.

2 MR. ANDERSON: I think we're all good, at  
3 least on the time part.

4 JUDGE NEW: Yes, sir.

5 MR. ANDERSON: I think we are all good.

6 MR. LIECHTY: So the list of the -- there  
7 are a list of the 16 items in the County health  
8 letter -- or from the health coordinator. It looks like  
9 most of those were not asking for money. It looks like  
10 water, sewer, broad band, electric, ESC and EMI, fire,  
11 natural gas, drainage, animal control, trash and refuse,  
12 dispatch, 911 GIS service and radio communications. At  
13 least at this point, we're not asking for an  
14 apportionment, and I think the key language -- or at  
15 least significant language in the statute is that the  
16 developer bear a portion of the costs of County  
17 infrastructure improvements by the making of  
18 dedications, the payment of fees or the payment of  
19 construction costs. And I think those items, there was  
20 nothing -- if I read the letter right, there was nothing  
21 in there requiring the payment of fees, the payment of  
22 construction costs, or the developer's portion of costs.  
23 They dealt with things like, for example; ESC and EMT,  
24 we wanted proof of service; fire, we wanted a proof of  
25 service; water and sewer, it said resolve through

1 project design. Do you agree with me on that --

2 MR. ANDERSON: Yeah, I agree --

3 MR. LIECHTY: -- we're not asking for  
4 money on those things?

5 MR. ANDERSON: Yeah, I agree with you. I  
6 don't think the County should have any of those items in  
7 the ordinance anyway. But the other ones, most of it  
8 they address will serve letter or anything else. But  
9 they're really not appropriate for an apportionality  
10 appeal. I don't know why the County included them.

11 MR. LIECHTY: Okay. But my point is they  
12 are not asking for money at this time.

13 MR. ANDERSON: As far as I can tell.

14 MR. LIECHTY: And I think that's what the  
15 statute deals with.

16 MR. ANDERSON: Yeah. So apportionality  
17 appeal concerns that sort of thing. That's why they're  
18 really not appropriate to even be in the ordinance.

19 MR. LIECHTY: Okay. Well, I had another  
20 question, but I think you already answered it,  
21 Mr. Anderson. So right now, that's it from me.

22 JUDGE NEW: Does anybody else have any  
23 questions?

24 MR. ANDERSON: We rest.

25 JUDGE NEW: All right.

1 Mr. Ray.

2 MR. RAY: All right. I have handed out  
3 to the Court a two -- thank you. I've handed out to the  
4 Court two sets of documents. One is a brief that is  
5 about 44 pages of content that goes into all of the  
6 different elements in the County's initial letter and  
7 then the response letter from DR Horton that we're  
8 calling it the appeal letter. The second document is a  
9 list of -- or is a printout of all the exhibits that are  
10 cited. There's 17 exhibits cited in the County's brief.  
11 Fifteen of those are in that packet. The other two were  
12 extremely long, and so we will provide those in  
13 electronic format rather than in hard format. If you  
14 take a step back and boil this down, what we're really  
15 talking about, I think it's been very clear from  
16 Mr. Anderson that the real underlying issue is an issue  
17 of legal authority. And most of the brief goes into  
18 detail on legal authority related to each of the items  
19 that were in the County's initial letter. It would take  
20 a long time to go over each of those elements in -- they  
21 are explained in 44 pages. But I'm going to go over a  
22 couple highlight high points so that they are clear on  
23 the record for anybody who wants to come watch this  
24 later on.

25 First of all, some real very brief

1 background about why we're here. The -- initially  
2 DR Horton approached the County and started the platting  
3 process for the River Rock Trails MUD. In November of  
4 last year, DR Horton asked for -- formally asked for  
5 apportionality determination from the County. About a  
6 month later, December 13th, the County sent over its  
7 letter, which is in both of the sets of paperwork that  
8 you have in front of you, the exhibits from DR Horton  
9 and from the County. And as part of the County's  
10 response, there were 16 infrastructure improvements  
11 listed specifically. And I know that you've all seen  
12 the letter. We've discussed this in open court. The  
13 letter response from DR Horton addressed each one of  
14 those, and each one of the responses were different one  
15 from another. But the most often repeated item came  
16 down to a lack of authority, the alleged lack of  
17 authority based on DR Horton's reading of the reading of  
18 the main statute.

19                   What this comes down to is a difference  
20 of interpretation of a couple of words in the statute,  
21 specifically County infrastructure. Mr. Anderson's  
22 correct that most counties do not -- or have not  
23 historically read that the same way that the County's  
24 interpreted it, and our brief goes into detail about why  
25 the County's position is what it is and why we think

1 that infrastructure in the County does include those  
2 items, and we do have a relatively pure legal  
3 disagreement here about what it means when you say  
4 County infrastructure. Their understanding, as  
5 Mr. Anderson made very clear, is that that means  
6 infrastructure is owned by the county. The county  
7 leadership in the -- at least in the department that  
8 initially sent out that apportionment letter disagrees  
9 with that position, and we believe the county employees  
10 who are sent that letter and who have been dealing with  
11 this development for a while now believe that that means  
12 infrastructure that is in the county geographically.  
13 And the brief goes into detail by citing different  
14 sections of different codes, not just local government  
15 code but other codes as well, that go -- that have other  
16 definitions and descriptions and also goes into detail  
17 on case law that has interpreted some of those items.

18                   And I think for a -- it's probably the  
19 right time to tell you that, in the past, there really  
20 haven't been any cases from courts of appeals in Texas  
21 that have interpreted those two exact words. But the  
22 section of the Texas local government code that allows  
23 counties to exact apportionment costs is relatively new.  
24 It's only a few years old. But if you look back at the  
25 legislative history, and some of this is cited in our

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1 brief, but when the legislature passed that a few years  
2 ago, they did that to mirror image another statute that  
3 had been on the books for much longer. It's almost  
4 exactly word for word the same statute. And what that  
5 statute did was allow cities to exact fees, not impact  
6 fees, but apportionment fees that are similar. And so  
7 for about 15 years -- 14 years, cities could apportion  
8 costs from development, but counties could not.

9           And when the legislature put the law into  
10 place that was cited earlier by Mr. Anderson, which is a  
11 local government code 232.110, it did not specifically  
12 define that term about what counts as county  
13 infrastructure. It didn't narrow the scope, and so  
14 we're in a position where, because it's not defined in  
15 the law specifically, it's not defined -- or it's not  
16 interpreted by a court of appeal, and there is no AG  
17 opinion that addresses the meaning of that term.  
18 There's -- there's a legitimate difference in  
19 interpretation here.

20           We believe that the County's  
21 interpretation is -- is not just offensive but what the  
22 legislature intended. There -- if you -- if you read  
23 the statute to mean only infrastructure that's owned by  
24 the county, that's very narrow. I mean, we all know  
25 that the county's own infrastructure is going to come

1 down to buildings and roads that are owned by county,  
2 which is usually not nearly as extensive, even as all  
3 the cities within the county. But if under that  
4 interpretation, there would be no government that would  
5 have the ability to exact apportionment costs from  
6 developments, and that's -- we don't believe that that's  
7 what the law was intended to say. We understand  
8 obviously that there's a difference of opinion here on  
9 that, but we believe that the -- that the brief goes  
10 over that in relatively deep detail, and we cite other  
11 case law from Texas, case law from the U.S. Supreme  
12 Court, regarding the extent of the municipal power and  
13 other parts of the Texas codes that are relevant. I'm  
14 not going to go into a whole lot of detail there, other  
15 than to say, yeah, we definitely disagree about the  
16 meaning of those two words.

17           I will go into a little bit more detail  
18 about some of the specific items that Mr. Anderson  
19 brought up. Number one is the school apportionment  
20 fees. The County believes, and I think it's clear  
21 through the County's actions today, that the County --  
22 the County infrastructure does include the school  
23 district, in part, because local government code Section  
24 232.110 does not merely define county infrastructure.  
25 And the schools that we're talking about here are within

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1 the geographic bounds of the county.

2           One thing that I do take some exception  
3 to in Mr. Anderson's telling of where those numbers came  
4 from, those were not made up by the County. In the  
5 initial letter that came from the development office,  
6 there was a stated amount of 15 -- almost 16 million  
7 dollars for the first two phases of the project. That  
8 was based on an exhibit that's in your packet, Exhibit  
9 3A. That's from the school district. It's an older --  
10 it's an email that relates to the calculation of student  
11 yield -- expected student yield from houses in Royce  
12 City ISD. And the expected student yield, at least in  
13 that email, was .5 students per house. It's -- and the  
14 county has an obligation to be reasonable.

15           I think one student for every two houses  
16 is an extremely reasonable number. Some school  
17 districts have calculated that number for bonding  
18 purposes over the past few years -- for the past ten  
19 years have come up with much higher numbers, but it's  
20 very reasonable to take a middle-of-the-road number  
21 of .5 students per house in more of a bedroom community,  
22 like the eastern half of Rockwall County. The number,  
23 which was 75,591 per student, did come directly from the  
24 superintendent of the Royce City ISD, the former  
25 superintendent, the one -- there is a different person

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1 in that office now, but that is email is in your packet.

2           In the interest of time, I'm just going  
3 to hit the high points of a couple of these other items.  
4 We did discuss road infrastructure. There's obviously  
5 been some agreement to participate in the road structure  
6 -- or the payment for the roads that are adjacent to the  
7 development. The county on that section and several  
8 other sections, there was references in the appeal  
9 letter to lack of county authority to do it in the order  
10 in which it is being done. In the -- Section 2 of the  
11 brief, which is one of the longer sections of the brief,  
12 we break down why the County's proposed order is, number  
13 one, different from DR Horton's proposed order and why  
14 the County's proposed order of payment versus the timing  
15 of platting, either approval or filing, while we believe  
16 the County's letter and stance on that, it complies with  
17 state law and why that's reasonable.

18           I want to talk about two other specific  
19 issues. Obviously, there's been a lot of letters  
20 attached that are either will-serve letters or can-serve  
21 letters. But the two big issues I would like to talk  
22 about quickly are the issue with the fire and the EMS  
23 contract. There's obviously a disagreement about  
24 whether there is a valid contract in place between  
25 DR Horton and McLendon-Chisholm. And then I want to

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1 talk about a water contract in whether or not the water  
2 contracts that, at least that we've seen so far from  
3 Blackland and from North Texas, amount to a will-serve  
4 letter, and I want to go through why we believe that  
5 they do not rise to the level of an appropriate  
6 will-serve letter.

7                   The first fire and EMS, this is in  
8 Section 3 of the brief. We believe that the -- this  
9 section of this area equates to a series deficiency in  
10 the submissions. Emergency services are literally  
11 life-saving infrastructure. The county does not own the  
12 fire department, but the county does pay --  
13 contractually pay money to paid-for fire and EMS  
14 services. Their disagreement, apparently, based on  
15 comments that were made in court, I believe by  
16 DR Horton's witness here a couple of sessions ago, about  
17 whether or not there is a valid contract with  
18 McLendon-Chisholm.

19                   We have included in the agreement Exhibit  
20 9 and 10, and those are exhibits related to the initial  
21 contract, that was signed by McLendon-Chisholm, and then  
22 a secondary exhibit that shows that that -- that at  
23 least the city council that's there now believes that  
24 they have walked that contract back. There is -- there  
25 have been statements made in court that DR Horton

1 believes that that was ineffective, but there hasn't  
2 been any reasoning presented to show why they think that  
3 that contract is still in place. Section 3 of the brief  
4 goes into deep detail about why the County has a legal  
5 authority to ask for that service or a brief that that  
6 service is going to be there.

7           As it stands right now, everything that  
8 has been presented to the County comes, along the lines  
9 of emergency services, is that there was a contract and  
10 at least one party to the contract believes that that  
11 contract is no longer valid. And I will point out just  
12 to get a little into the weeds on this one specific  
13 section, the McLendon-Chisholm agreement has conditions  
14 precedent in the contract that are required for the  
15 contract to become effective and to be valid and  
16 enforceable. One of those is that there must be TCQ  
17 approval of a joint fire plan which hasn't occurred yet.  
18 The other one is that the MUD -- well, the other issue  
19 is that the MUD was -- or the agreement with the MUD was  
20 repealed before those conditions became effective.

21           We believe that the City's actions  
22 repeal -- slammed the door on the effectiveness of that.  
23 I understand that there may be litigation between  
24 DR Horton and the City of McLendon-Chisholm. But as it  
25 stands right now, the County doesn't have any effective

1 will-serve letter or any sort of evidence of a  
2 contractual relationship with any other fire or EMS  
3 group.

4           Before I talk about water, let me talk  
5 about law enforcement funding very quickly. There was a  
6 Section 4 of the brief goes into law enforcement  
7 services. The County's apportionment is based on the  
8 number of people who are likely to live in that  
9 subdivision. The Section 4 of the brief goes over the  
10 math about why we believe that two law enforcement  
11 officers is not enough to handle the number of houses  
12 that are going to be built out there and that future tax  
13 income in subsequent years is not enough to pay for the  
14 actual burden.

15           It takes a while to bring new officers  
16 on. It takes about a year and a half in the beginning  
17 to the end from the time that there's a need identified  
18 to when people are actually full on deputies, and that  
19 is part of the length of the hiring process. But from  
20 the beginning to the end of that process, that's one  
21 period of time. The time that it takes for the County  
22 to actually add those people to be paid for in the next  
23 upcoming budget is another whole extended period of  
24 time.

25           And so based on the number of houses that

1 we're expecting in this development, at least a full  
2 build-out for 6,000 houses, having two deputies up-front  
3 is still going to create a massive lag issue with the  
4 ability to bring on officers and the ability to tax  
5 these new properties to pay for those people.

6           Another lag issue in addition to the time  
7 required to put out a job notice and hire people and the  
8 other timing issues we talked about with taxing and  
9 adding things to the upcoming year's budget is the fact  
10 that these houses don't get taxed right away. They are  
11 not going to be taxed until after they are done with  
12 construction, at least not the taxes that would be  
13 necessary to pay for additional deputies at the  
14 sheriff's office.

15           So you have three different time-lag  
16 issues that is a major point of disagreement on when  
17 that payment should come and how much it should be. We  
18 go into a great level of detail in Section 4 about why  
19 the County's position is different from DR Horton's.

20           I'm going to go ahead and skip to the  
21 last issue, and I'm going to talk about at least here  
22 which is the water supply, and that's Section 5 of the  
23 brief. There are several exhibits that go along with  
24 that. Exhibit 14, 15, and 16, but what really comes  
25 down to boil all of them down, the County does have

1 authority to ensure that new developments are going to  
2 have water. There's a disagreement here obviously about  
3 whether or not that's appropriate for the apportionment  
4 process or if it comes with the platting process  
5 preliminary or final plat or engineering leading up to  
6 the final plat. Section 6 of the brief goes into detail  
7 about why we believe it's appropriately part of the  
8 apportionment process. The County is not asking for  
9 money like with many of the other utility items. What  
10 we are asking for is a will-serve letter. And those  
11 three letters that are 14, 15, and 16 in your packet do  
12 not add up to a will-serve letter. They add up to a  
13 can-serve letter, but that can-serve is dependent on a  
14 bunch of other things happening, some of which we just  
15 don't have any evidence to show will necessarily happen.

16                   Obviously, Blackland does want to do  
17 this. There's no question about that. The question is  
18 whether or not they can show that they have contractual  
19 rights with North Texas and in turn whether or not north  
20 Texas has the subscription rights to that water from the  
21 Sabine River Authority. And the things that have been  
22 provided to the County so far do not show that. In  
23 fact, they show about as close to the opposite as you  
24 can get. They do show that Blackland obviously has  
25 enough water -- subscribed to enough water to support

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1 the people that are there now. And apparently, the idea  
2 here is that DR Horton will pay for all the costs to get  
3 them up to speed -- up to the level where they have a  
4 new take point -- or a new pipe that comes off of North  
5 Texas's water supply which comes from Tawakoni and from  
6 Sabine River Authority. But what the documents do not  
7 show is that there is a contract that makes that 100  
8 percent reliable.

9                   And if the County approves -- if the  
10 Court approves of the opposition here position and  
11 allows this development to become final and move  
12 forward, there is, at least currently in the paperwork  
13 that the County has, no guarantee that there's going to  
14 be enough water for that development. There's a  
15 guarantee that they'll be able to provide the water that  
16 they are currently subscribed to. But that is nowhere  
17 near 6500 houses' worth of additional water, much less  
18 other development that comes in in the nonresidential  
19 portions that may be built out there.

20                   And I know that water is the main issue  
21 that every development is talking about, every county in  
22 this whole state is dealing with is the lack of water.  
23 I've dealt with that every single day for about two  
24 years for other clients I've got, including negotiations  
25 with the Sabine River Authority. And the documents that

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1 I've seen here are in Section 5 of the water supply --  
2 or of the brief, we go into a lot of detail about why a  
3 can-serve letter in this position is not the same as a  
4 will-serve, and what the County has asked for is a  
5 binding commitment. And the documents that are in front  
6 of you just don't add up to a binding commitment because  
7 there's no formal contract that ensures that this  
8 development will be served either from North Texas to  
9 Blackland or from Sabine River Authority to North Texas.

10                   That's not to say they can't get it. I  
11 hope that they can get it, and time will tell. But  
12 right now, everybody wants more water. Everybody needs  
13 more water. The counties around you and to some extent  
14 in this county, there's groups and neighborhoods run up  
15 against the limits of their subscription amounts. I'm  
16 sure you've all heard news about construction  
17 moratoriums based specifically on the lack of water.  
18 Some of those are in this general service water area,  
19 the water that comes from this watershed. And this  
20 watershed is part of Rockwall County's, and one  
21 watershed or it's in a different watershed, everybody  
22 has oversubscription and undersupply. The -- that  
23 section of the brief goes line by line through all the  
24 documents that are included in that section, 14, 15, and  
25 16 and explains why the County believes that there is

1 not enough here to rise to the level of will-serve. And  
2 because of that, we believe that the County has an  
3 obligation to not move forward with the final approval,  
4 whether that's approval in the form of an order in  
5 response to this hearing or eventually approval related  
6 to the final plat. And that's one of our areas of  
7 disagreement is whether or not this is appropriate for  
8 today's hearing or eventually for a private -- or for a  
9 final plat.

10                   We believe that legally Rockwall County's  
11 on solid ground even though it is not a path that many  
12 other counties have taken since this law came to pass  
13 six years ago based on the other statutes that we've  
14 provided and explained in the letter and the other case  
15 law, and we would ask the county to -- the  
16 Commissioner's Court to enter an order after considering  
17 all the documents and testimony and evidence that have  
18 been presented today upholding the previous position  
19 that the County has taken on the apportionment issue in  
20 particular. And just to remind the Court, that is a  
21 completely separate issue from the issues surrounding  
22 the disapproval of the preliminary plat and the ongoing  
23 negotiations related to platting.

24                   This apportionment and the exactment  
25 arguments are statutorily separate, and there is bleed

1 over. Obviously, that is the main point of disagreement  
2 is when those issues should come up. But we would urge  
3 the Commissioner's Court to read through the brief and  
4 the exhibits that we provided, most of which are the  
5 same exhibits that were provided by DR Horton's counsel  
6 and to enter an order upholding the County's previous  
7 position in denying DR Horton's appeals on 14 of the 16  
8 points.

9 JUDGE NEW: Does anybody have any  
10 questions for Mr. Ray?

11 Okay. Hearing none, Mr. Anderson you've  
12 got 15 minutes to rebut.

13 MR. ANDERSON: Thank you.

14 You know, it's interesting. I've been to  
15 several hearings here where the County has complained,  
16 and probably rightfully so, about not having as many  
17 powers, for example, as some rural cities have with  
18 regards to protecting the police power and how the  
19 legislature has suppressed those over time. And that is  
20 probably a legitimate concern. I think it's important  
21 to keep in mind that that is a fact. The Constitution  
22 and the State's statutes have greatly limited the powers  
23 of counties in general law towns to act without having  
24 express authority, and I'm not saying it's a good thing.  
25 I'm just saying it is what it is.

1                   And the brief, which I just got, so I had  
2 to skim through it. It wasn't provided to me ahead of  
3 time, 40 pages, again, goes way beyond what the statute  
4 of the Constitution allow the County to do. And I  
5 appreciate it. It's well-crafted. I usually don't  
6 spend that much time writing a brief like that. But the  
7 real crux of the issue, I think, is to just read  
8 232.11A. And I'll be honest with you, I really don't  
9 like it when lawyers say I've done all these cases and I  
10 know how it's going to end up and all that, but  
11 unfortunately, I'm going to say it.

12                   So I've had, you know, four cases before  
13 the Texas Supreme Court dealing with governmental  
14 powers. I probably have 20 court of appeals cases on  
15 infrastructure. So I have a pretty good idea the courts  
16 know what infrastructure means, okay, and probably  
17 another 35 or 40 court of appeals cases. And this one's  
18 really simple. It's county infrastructure.  
19 Infrastructure means pipelines or water lines in streets  
20 and drainage, all those sorts of things that happen with  
21 the development, okay.

22                   County infrastructure is simple, and I  
23 appreciate the strained attempt to try to make it  
24 something that it's not, and I appreciate where he wants  
25 to go. He shows a lot of creativity. My experience is

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1 when you go before a Court, they usually just look at  
2 what the word's common meaning is. The County is you.  
3 Infrastructure is streets, culverts, water lines,  
4 sewers, okay. That -- if you look at your traditional  
5 subdivision regs, that's what y'all deal with. That's  
6 what y'all regulate. The reason it's County  
7 infrastructure; it's not city infrastructure, right.  
8 Cities within the corporate limits can own and have  
9 dedicated all those types of improvements. That's --  
10 that's the distinction there.

11                   But the real critical piece here, I  
12 think, is if you look at the statute, it involves a  
13 condition of approval for a property development project  
14 that the developer bear a portion of the cost of county  
15 infrastructure improvements by the making of dedications  
16 the payment of fees or the payment of construction  
17 costs. The developer's proportion of the cost may not  
18 exceed the amount required for infrastructure  
19 improvements that are roughly proportionate to the  
20 proposed development as approved by a professional  
21 engineer who holds a license issued under Chapter 1001  
22 occupations code and is retained by the county.

23                   And so the rebuttal basically is, and I  
24 kind of skimmed this brief because I didn't have it  
25 ahead of time, the County doesn't dispute that. In

1 order to have a valid apportionality appeals proposal  
2 like in this case, it's got to be prepared by a  
3 professional engineer. That kind of relates back to the  
4 infrastructure, right. If you are going to have a civil  
5 engineer that typically does construction drawings for  
6 streets and utility lines and stuff like that, you have  
7 a civil engineer do it. The legislature said, yes, you  
8 have to have an engineer to do those things.

9 I looked through the brief. I don't  
10 think their -- the County's disputed that. There are no  
11 professional engineering reports here except for the one  
12 on streets. And, again, that one's not an  
13 individualized assessment. It's got to be  
14 individualized. The -- their report basically says we  
15 looked at subdivision ordinance. It -- or regulations.  
16 It requires typically on a perimeter street that the  
17 developer dedicate and pay to construct two lanes.

18 So the way that this usually happens for  
19 an apportionality appeal, it's not intended to be the  
20 sword that the County uses to extract things. It was  
21 intended to be a shield by the developer. So let's take  
22 streets. The engineer says you need for your  
23 development to dedicate two lanes, so you build two  
24 streets, okay. That's just because that's what the  
25 subdivision regulations say. It's not an individual

DEF001700

1 assessment for this particular developer. And the  
2 number of trips that these generated is general  
3 applicability of a subdivision reg. The way it  
4 typically happens, the developer then comes up and says,  
5 whoa, you know, let's pretend it's one house. My one  
6 house -- we've had this before. My one house doesn't  
7 generate the need for me to dedicate 50 feet of right of  
8 way and build an extra road -- extra lane. That's how  
9 this process typically works.

10                   So the County has kind of flipped that  
11 and is trying to use it, again, like I say, more than a  
12 sword but a shield, but you still got to comply with the  
13 statute. And just have -- I mean, there's just no  
14 professional engineer reports here, and that's the whole  
15 reason this statute is set the way up it is, is  
16 infrastructure improvements is part of a development  
17 that basically a professional engineer, and I will  
18 admit, they had a professional engineer do their street  
19 report. We disagreed for the reasons we talked about,  
20 but -- and Jeff Miles obviously is an engineer. But the  
21 other 15, I mean, there's just no question. There just  
22 isn't. Y'all can't oppose those. I don't even see why  
23 there's a question there.

24                   So that -- I really should keep it to  
25 that, but just a couple of comments that were made.

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1 But, again, to be honest with you, I don't know about  
2 this fire contract with the City. My understanding of  
3 the contract law is pretty basic, because that's not  
4 what I do. But typically one party can't just terminate  
5 a contract. You know, I mean, if you work with someone,  
6 you both want to terminate, you terminate. One party  
7 just can't terminate because they want to. That's not  
8 how it works here in Texas.

9                   The -- you know, I have other stuff  
10 written down, but I think that's kind of the main thing.  
11 I mean, it just -- there may be other issues here, but I  
12 think it is correct. He says, we don't have to pay the  
13 fee. Well, that's kind of my point. You know, that's  
14 what the statute is for. If you have to construct,  
15 dedicate, or pay a fee, and if it's -- you know, make  
16 sure you get electricity to the site or, you know, make  
17 sure you have animal control or whatever, those are not  
18 apportionality appeal items, okay.

19                   And, frankly, every development has to go  
20 through those and make sure they work or they can't  
21 develop. Okay. So if there's no water, it won't  
22 happen. The retail provider under state of Austin set  
23 the risks. Nothing personal against counsel there, but  
24 that's not really their call. It's the retail water  
25 provider has the CCN. And if he says I can serve it, I

DEF001702

1 can serve it. The discussion beyond the partials that  
2 we're talking about here is irrelevant and should be  
3 disregarded. I know it's important -- I'm not saying  
4 it's not important for the County, so please don't, you  
5 know, make it look like like I'm not saying that  
6 long-term there are things to be worked out. I'm just  
7 saying legally from where we are today and what the  
8 statute requires and what the appeal is before you, then  
9 I don't think that the County has proven up -- the  
10 County over here has proven up its burden to show that  
11 it legally can require those 16 items. I don't know  
12 what else to say, because it's so crystal clear. And  
13 there's lots of case law on what infrastructure is.  
14 That's not a real difficult term for people to figure  
15 out. So if anybody has questions, but I'm not going to  
16 go -- you know, 44-page brief, I'm not going to go  
17 respond to every item that's in here.

18 JUDGE NEW: Does anybody have any  
19 questions for Mr. Anderson? Nope? No questions?

20 MR. ANDERSON: Thank you.

21 JUDGE NEW: You still have a few minutes?

22 MR. ANDERSON: If I had something good to  
23 say, well then I would, but I don't want to waste  
24 people's time.

25 JUDGE NEW: Okay. So that being said at

1 2:16, we are adjourned.

2 (Proceedings concluded 2:16 p.m.)

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1 THE STATE OF TEXAS )

2 COUNTY OF ROCKWALL )

3 I, Cinnamon Krauss, Certified Shorthand Reporter in  
4 and for the State of Texas, hereby certify that the  
5 foregoing contains a true and correct transcription of  
6 the proceedings taken by me in the above-entitled cause.

7 I further certify that the total cost for the  
8 preparation of this Reporter's record is \$\_\_\_\_\_.

9 Witness my Official hand this 6th day of June, 2025.

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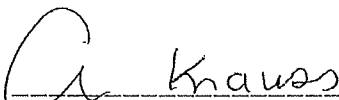
  
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DEF001706

**DR Horton Apportionment Appeal Hearing Regarding River Rock  
Trails**

**Brief to Rockwall County Commissioners Court**

April 24, 2025

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## **INTRODUCTION**

In this legal brief, Rockwall County asserts its authority under Texas law to impose conditions on the development of the proposed River Rock Trails Municipal Utility District (MUD), ensuring that all necessary infrastructure and services are adequately provided through the apportionment process. The County contends that the developer, DR Horton, has failed to meet these conditions, as evidenced by insufficient documentation and commitments for critical services such as schools, roads, police, water, sewer, broadband, electrical service, animal control, trash/refuse, natural gas, open spaces, and drainage. Each section of this brief addresses a specific aspect of the development, demonstrating why the County's requirements are essential for public health, safety, and welfare, and why the developer's submissions fall short of the necessary standards. By requiring detailed plans and binding commitments for these services and costs, Rockwall County fulfills its statutory duty to regulate subdivisions in unincorporated areas, ensuring compliance with state law and protecting the interests of its residents.

## **BACKGROUND**

As part of the process of creating the proposed River Rock Trails MUD, DR Horton has engaged with the Commissioners Court of Rockwall County. Rockwall County informed DR Horton that a number of exactions would be imposed. On November 14<sup>th</sup>, 2024, DR Horton submitted a letter to Rockwall County, requesting a proportionality determination of the exactions pursuant to Texas Local Government Code Section 232.110 (See Exhibit 01).

In response to DR Horton's request for determination, Rockwall County sent an email on December 13<sup>th</sup>, 2024 (See Exhibit 02) containing a letter (Exhibit 03) from the former (and now retired) county Environmental Health Coordinator Ron Merritt based on input from the County's external engineering firm, Freese & Nichols. This response letter referenced Rockwall County's Subdivision and Land Development Regulations (Rockwall County Subdivision and Land Development Regulations, located at [www.rockwallcountytexas.com/DocumentCenter/View/11603/RKC\\_Subdivision-and-Land-Development-Regulations-Amended-20241126](http://www.rockwallcountytexas.com/DocumentCenter/View/11603/RKC_Subdivision-and-Land-Development-Regulations-Amended-20241126), which are incorporated herein by reference) laid out 16 improvements of county infrastructure that DR Horton would be required to meet prior to project approval, and which would entail certain apportionment fees.

DR Horton sent a follow-up letter to Rockwall County on March 4<sup>th</sup>, 2025 (See Exhibit 04). This follow-up letter disputed the classification of county infrastructure as such. It further included a number of "can-serve" letters, claiming to provide support for its argument that it had met its burden of proof to show that it had binding commitments for Animal Control (Exhibit 05), Trash and Refuse (Exhibit 06), Electric Service (Exhibit 07), Broadband Internet Service (Exhibit 08), EMS and Fire Service (Exhibit 09), and Water (Exhibits 14 through 17).

DR Horton's March 4 letter meets the qualifications under the Local Government Code to be considered an appeal of the County's apportionment requirement, and the County set an appeal

hearing for April 24, 2025 to consider evidence and testimony from DR Horton on the matter. The Rockwall County Commissioners Court, acting in its quasi-judicial capacity, is holding the appeal hearing under the rules of procedure approved by the Commissioners Court on March 25<sup>th</sup>, 2025. As required by the rules of procedure, the County Engineering Representative or his or her designee(s) shall present the County's position. Currently, the engineering Firm of Freese & Nichols is working as the County Engineering Representative. Freese & Nichols has appointed the law firm of Scott, Ray, Pemberton, & Goll, PLLC, Rockwall County's General Counsel, as its designee to present the County's position during the hearing.

**SECTION I: DR HORTON IS REQUIRED TO PAY  
APPORTIONMENT FEES FOR SCHOOLS THAT ARE  
LOCATED WITHIN THE COUNTY**

**THE UNDEFINED TERM "COUNTY INFRASTRUCTURE" IN TEXAS LOCAL  
GOVERNMENT CODE SECTION 232.110 PERMITS A BROAD INTERPRETATION  
INCLUDES SCHOOL FACILITIES**

Texas Local Government Code Section 232.110 governs the apportionment of costs for "county infrastructure improvements" required as a condition of development approval in unincorporated areas. Critically, the statute does not provide an explicit definition of "county infrastructure," creating interpretive flexibility which supports the inclusion of school facilities within its scope. This ambiguity supports the County's position that schools, as essential public facilities located within its geographic boundaries and impacted by new housing developments, constitute "county infrastructure" for purposes of imposing proportionate apportionment costs on developers.

In statutory construction, Texas courts aim to effectuate legislative intent by giving undefined terms their ordinary meaning, informed by context and purpose. See *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011). The ordinary meaning of "infrastructure" encompasses the foundational facilities and systems necessary for a community's operation, including public schools that educate residents and support population growth. Schools are physical assets within the County's boundaries, and their capacity is directly affected by new developments, such as the proposed housing project, which will increase student enrollment. This nexus aligns with Section 232.110's requirement that costs be "roughly proportionate" to the development's impact.

Furthermore, the absence of a restrictive definition in Section 232.110 contrasts with other statutes, such as Chapter 395, which explicitly limits impact fees to specific facilities (e.g., water, wastewater, roadways). The legislature's decision not to similarly constrain "county

infrastructure” in Section 232.110 suggests an intent to grant Texas counties broader discretion in identifying infrastructure needs. The County may therefore reasonably interpret “county infrastructure” to include schools, particularly when new developments necessitate expanded educational facilities to serve the community.

While independent school districts (ISDs) manage school operations, the County retains a regulatory interest in ensuring that all public facilities within its boundaries, including schools, meet the needs of new residents. This interpretation is consistent with the County’s authority under Chapter 232 to regulate subdivisions for public welfare. By working with a professional engineer to assess the development’s impact on school capacity and calculate proportionate costs, the County complies with Section 232.110’s procedural and proportionality requirements, thereby justifying the inclusion of school-related costs as “county infrastructure improvements.”

In conclusion, the undefined term “county infrastructure” in Section 232.110 provides the County with the flexibility to include school facilities as infrastructure impacted by new development. This interpretation is supported by the ordinary meaning of infrastructure, the statute’s context, and the County’s regulatory role in managing development impacts, subject to the proportionality safeguards mandated by law.

#### **THE DIRECT NEXUS BETWEEN DEVELOPMENT IMPACT AND SCHOOL CAPACITY JUSTIFIES CLASSIFYING SCHOOLS AS COUNTY INFRASTRUCTURE**

The County submits that schools constitute “county infrastructure” under Texas Local Government Code Section 232.110, as new housing developments directly increase demand for school facilities, establishing a clear and constitutionally required nexus between the development’s impact and the need for school-related apportionment costs. Section 232.110(b) mandates that costs imposed on developers be “roughly proportionate” to the development’s impact, a requirement rooted in constitutional principles that ensure fairness and accountability. The United States Supreme Court in *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987), considered development conditions and their essential nexus to the government’s regulatory purpose, while *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994), further required “rough proportionality” between exactions and the development’s impact.

The proposed housing development will significantly increase the County’s population, generating new students who require additional classrooms, facilities, or school expansions. A licensed professional engineer, as required by Section 232.110(b), can rigorously assess this impact by analyzing data such as the number of residential units, projected household sizes, and student generation rates. For instance, a development of 500 homes may yield approximately 200

additional students, necessitating infrastructure investments to maintain educational quality. These costs are directly attributable to the development, satisfying the nexus and proportionality standards of *Nollan, Dolan, and Flower Mound*. The County's authority to impose such costs is further supported by the undefined nature of "county infrastructure" in Section 232.110, which permits a flexible interpretation encompassing facilities impacted by development. In *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011), the Texas Supreme Court instructed that undefined statutory terms be given their ordinary meaning, informed by context and legislative purpose. The ordinary meaning of "infrastructure" includes public facilities like schools, which are essential to community function and directly affected by population growth.

While independent school districts (ISDs) manage school facilities, the County's authority under Chapter 232 to regulate subdivisions in unincorporated areas encompasses addressing comprehensive community impacts, including those on educational infrastructure. The absence of an explicit exclusion of schools from "county infrastructure" in Section 232.110, unlike the specific limitations in Chapter 395 for impact fees, suggests legislative intent to afford counties discretion in identifying infrastructure needs. By imposing school-related costs that are proportionate to the development's impact, the County aligns with the statutory framework and constitutional safeguards, ensuring that developers bear the costs of their projects' educational burdens. This approach not only complies with Section 232.110 but also advances the County's responsibility to foster sustainable growth, as recognized in *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), where the Texas Supreme Court upheld local government actions promoting public welfare within statutory bounds.

#### **THE COUNTY'S STATUTORY AUTHORITY TO PROMOTE PUBLIC WELFARE AUTHORIZES INCLUDING SCHOOLS AS COUNTY INFRASTRUCTURE**

The County asserts that its broad authority to promote public welfare under Texas Local Government Code Chapter 232 provides a compelling basis for classifying schools as "county infrastructure" under Section 232.110, enabling the imposition of apportionment costs for school improvements necessitated by new housing developments. Chapter 232 empowers counties to regulate subdivisions in unincorporated areas to protect public health, safety, and welfare, a mandate that encompasses ensuring that critical community facilities, such as schools, can accommodate population growth driven by development. The Texas Supreme Court in *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), affirmed that local governments may exercise regulatory authority to advance public welfare, provided such actions are consistent with their statutory powers. Similarly, in *FM Properties Operating Co. v. City of Austin*, 22 S.W.3d 868, 874 (Tex. 2000), the Court upheld land use regulations as a valid exercise of police power when tied to public welfare objectives, a principle applicable to the County's efforts to address educational infrastructure needs.

The term “county infrastructure” in Section 232.110 is undefined, granting the County flexibility to interpret it in a manner that aligns with its public welfare mandate. As in *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011), undefined statutory terms are construed according to their ordinary meaning and statutory context. Schools, as foundational public facilities, are essential to the County’s ability to sustain vibrant, well-functioning communities, particularly in the face of development-driven population increases. A housing development that strains school capacity—by necessitating new classrooms, facilities, or staff—undermines the County’s public welfare goals, justifying the imposition of apportionment costs to mitigate these impacts. The County’s authority to regulate subdivisions under Chapter 232 is not limited to traditional infrastructure like roads or utilities but extends to ensuring that all community resources meet the needs of new residents.

Although ISDs have primary responsibility for school facilities, the County’s role in regulating development impacts complements ISD efforts, creating a collaborative framework to address growth. Proportionality requirements, generally upheld in *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994), and applied in *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639–40 (Tex. 2004), limits exactions to those justified by development impacts, providing a constitutional safeguard. By interpreting “county infrastructure” to include schools, the County exercises its Chapter 232 authority to promote public welfare, ensuring that educational facilities keep pace with development while adhering to statutory and constitutional standards. This interpretation is both reasonable and necessary to fulfill the County’s duty to manage the broader impacts of growth on its communities.

#### **THE GEOGRAPHIC PRESENCE OF SCHOOLS WITHIN THE COUNTY SUPPORTS THEIR CLASSIFICATION AS COUNTY INFRASTRUCTURE**

The physical location of schools within a county’s geographic boundaries provides a robust basis for classifying them as “county infrastructure” under Texas Local Government Code Section 232.110, justifying the imposition of apportionment costs for school improvements caused by new housing developments. Schools are tangible facilities that serve County residents, including those in new developments, and their capacity is directly strained by development-driven population growth. The County’s authority to regulate subdivisions in unincorporated areas under Chapter 232 encompasses a county’s right to ensure that all public facilities within its jurisdiction, including schools, meet the needs of new residents. In *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60 (1978), the United States Supreme Court recognized that counties may regulate activities within their geographic boundaries they relate to public welfare, including health and safety, supporting the County’s interest in addressing infrastructure impacts, including those affecting schools.

The undefined term “county infrastructure” in Section 232.110 permits the County to interpret it to include facilities physically located within its jurisdiction, particularly those impacted by development. The Texas Supreme Court in *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011), directed that undefined statutory terms be construed based on their ordinary meaning and legislative intent. Schools, as integral components of the County’s community infrastructure, are essential to supporting residents and maintaining quality of life. A large new housing development automatically necessitates additional classrooms or school expansions to accommodate incoming students, an impact that occurs within the County’s geographic scope and falls squarely within its regulatory purview. By addressing these needs, the County ensures that its infrastructure, broadly defined, can sustain growth, consistent with its Chapter 232 responsibilities.

Section 232.110’s proportionality requirement, mandating that costs be “roughly proportionate” to the development’s impact, further supports this geographic argument. This standard, grounded in *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994), ensures that school-related costs are directly tied to the development’s impact, such as increased student enrollment. The Texas Supreme Court applied these principles in *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639–40 (Tex. 2004), upholding infrastructure conditions that mitigate development impacts. While ISDs manage school operations, the County’s authority to regulate subdivision impacts allows it to address the broader infrastructural needs of its jurisdiction, including schools located within its boundaries. By classifying schools as county infrastructure based on their geographic presence and development-related impacts, the County advances a legitimate governmental interest in sustainable growth, consistent with its statutory powers and constitutional obligations.

#### **SCHOOLS’ CONTRIBUTION TO CHILDREN’S HEALTH AND SAFETY JUSTIFIES THEIR INCLUSION AS COUNTY INFRASTRUCTURE SUBJECT TO APPORTIONMENT FEES**

The County further asserts that schools are a proper subject for apportionment fees under Texas Local Government Code Section 232.110, as they are critical to ensuring the health and safety of children, a core component of the County’s police power to promote public welfare. Schools provide safe environments for education, protect children from external risks, and support community stability, directly contributing to public health and safety. The undefined term “county infrastructure” in Section 232.110 supports the County’s interpretation that the scope of the section includes facilities essential to these goals, such as schools impacted by new housing developments. The United States Supreme Court in *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 71 (1978), recognized the extensive police powers of municipalities to regulate various aspects of public welfare, including health and safety, noting that such powers permit regulation or prohibition of activities deemed harmful to public morals or safety. This principle extends to Texas counties,

which, under Chapter 232, are authorized to regulate subdivisions in unincorporated areas to protect public health, safety, and welfare. A housing development that increases student enrollment without corresponding school capacity compromises children's access to safe and adequate educational facilities, justifying the County's imposition of apportionment costs to mitigate these impacts. While independent school districts manage school operations, the County's authority to address development-related impacts on public welfare complements these efforts, and Section 232.110's proportionality requirement ensures that costs remain tied to the development's effect, consistent with constitutional standards. By classifying schools as county infrastructure, the County exercises its police power to safeguard children's health and safety, aligning with its statutory mandate and the principles articulated in *Holt Civic Club*.

The school apportionment fee for Phase 1A and 1B of the River Rock Trails MUD was calculated to be \$15,798,519. That number is the product of the total number of homes in those phases (418), multiplied by a student yield factor of .5 school-aged students per single-family home, and multiplied by a factor of \$75,591 per student for school construction and services. Both of those numbers were previously calculated by the Royse City ISD Superintendent and provided to the County (See Exhibits 02, 03 and 03.A).

## **SECTION II: ROADS: DR HORTON IS REQUIRED TO PAY APPORTIONMENT FEES PRIOR TO FINAL PROJECT APPROVAL.**

### **STATUTORY AUTHORITY TO CONDITION PLAT APPROVAL ON FEE PAYMENT**

The County possesses unequivocal statutory authority under Texas Local Government Code Chapter 232 to regulate subdivisions in unincorporated areas, including the authority to condition final plat approval on the prior payment of apportionment fees mandated by Section 232.110. This section explicitly authorizes the County to require developers to bear a portion of the costs for county infrastructure improvements, such as roads or drainage systems, as a condition of approval for a property development project. The language of Section 232.110(a) is clear: these costs are imposed "as a condition of approval," implying that compliance with financial obligations must precede the Commissioners Court's approval of the final plat. To permit payment after approval, as proposed by DR Horton, would contravene the statutory framework by allowing development to proceed without ensuring that infrastructure funding is secured, thereby undermining the County's regulatory authority.

Texas courts have consistently upheld the authority of local governments to impose reasonable conditions on development approvals to advance legitimate regulatory objectives.

Texas Local Government Code section 212.904, the statute which Section 232.110 is modeled on, provides that when a municipality requires a developer to bear part of the cost of improvements to the municipality's infrastructure as a condition for approval of a development project, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer retained by the municipality (*Mira Mar Development Corp. v. City of Coppell, Texas*, 421 S.W.3d 74 (2013)). In *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, the Texas Supreme Court held that municipalities could impose conditions on development approvals, such as requiring developers to improve adjacent roads, provided these conditions are reasonable and serve legitimate regulatory objectives. The court emphasized that such conditions must have a reasonable connection to the development's impact and must not constitute an unconstitutional taking (*Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620 (2004)). Similarly, in *City of College Station v. Turtle Rock Corp.*, the Texas Supreme Court upheld the validity of municipal ordinances requiring parkland dedication or money in lieu thereof as a condition to subdivision approval. The court stated that such regulations must be substantially related to the health, safety, or general welfare of the people and must be reasonable, not arbitrary (*City of College Station v. Turtle Rock Corp.*, 680 S.W.2d 802 (1984)).

These precedents establish that counties, like municipalities, may set financial conditions, such as the payment of apportionment fees, as prerequisites for subdivision approval, provided they are within the scope of statutory authority.

The developer's proposal to defer payment until 10 days after plat approval inverts the logical sequence of the approval process, effectively transforming a condition precedent into a post-approval obligation. Such an approach risks diluting the County's ability to enforce compliance, as plat approval is the primary mechanism for ensuring that all regulatory requirements are met. By requiring payment before approval, the County adheres to the statutory intent of Section 232.110 and protects its ability to manage infrastructure development effectively. This position is further supported by the broader regulatory framework of Chapter 232, which empowers the Commissioners Court to adopt subdivision standards that safeguard public welfare, as recognized in *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998) (upholding local regulations that promote public welfare within statutory bounds). Thus, the County's requirement for upfront payment is a lawful and necessary exercise of its statutory authority.

## PROPORTIONALITY AND FINANCIAL ASSURANCE REQUIREMENTS

Section 232.110(a) mandates that apportionment costs be "roughly proportionate" to the development's impact, as determined by a licensed professional engineer, ensuring that developers bear a fair share of infrastructure costs. This proportionality requirement, however, is not merely

a substantive standard but also necessitates financial assurance that these costs will be paid. Requiring payment of apportionment fees before final approval provides this assurance, guaranteeing that funds are available to implement critical infrastructure improvements, such as roads or drainage systems, that mitigate the development's impact. The County submits that upfront payment is essential to fulfill the statutory and constitutional objectives of Section 232.110, protecting both the County and its residents from financial uncertainty.

The proportionality requirement is grounded in constitutional principles articulated by the United States Supreme Court in *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987), which requires an "essential nexus" between development conditions and the government's regulatory purpose, and *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994), which mandates "rough proportionality" between exactions and development impacts. These principles were adopted in Texas law through statutes like Section 232.110 and affirmed in *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639–40 (Tex. 2004), where the Texas Supreme Court upheld municipal infrastructure conditions that were proportionate to a development's impact. The County's requirement for upfront payment aligns with these standards by ensuring that the developer's financial contribution is secured at the time of approval, preventing delays or defaults that could disrupt infrastructure implementation.

Deferring payment until after plat approval, as proposed by the developer introduces significant financial risks. If the developer fails to pay or becomes insolvent post-approval, the County may be forced to fund infrastructure improvements itself, burdening taxpayers and undermining the proportionality principle. Upfront payment mitigates this risk by providing immediate financial assurance, enabling the County to contract for improvements and coordinate with the MUD's infrastructure plans. This approach is particularly critical for phased developments, where each phase's infrastructure must be funded sequentially to avoid cumulative impacts. By requiring payment before final approval, the County ensures that the developer's obligations are met in a manner that is both proportionate and financially secure, consistent with the legal standards set forth in *Nollan*, *Dolan*, and *Flower Mound*.

## PROCEDURAL INTEGRITY OF THE APPROVAL PROCESS

The plat approval process under Texas Local Government Code Chapter 232 is a structured regulatory framework designed to ensure that subdivisions comply with all legal and infrastructural requirements before development is authorized. Final plat approval by the Commissioners Court serves as the County's certification that all conditions, including financial obligations for infrastructure, have been satisfied. Allowing the developer to pay apportionment fees after final plat approval, as proposed, would fundamentally undermine this process by permitting development to proceed without guaranteed funding for necessary infrastructure. The

County submits that requiring payment before approval is essential to maintain the procedural integrity of the approval process and uphold its regulatory authority.

In administrative law, it is a well-established principle that agencies may require all conditions to be met before granting approvals, ensuring that regulatory decisions are based on full compliance. This principle is reflected in Texas law governing subdivision regulations. In *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), the Texas Supreme Court upheld local government regulations that impose conditions on development approvals to advance public welfare, emphasizing the importance of procedural compliance. Similarly, in *FM Properties Operating Co. v. City of Austin*, 22 S.W.3d 868, 874 (Tex. 2000), the Court recognized that local governments may establish procedural requirements to ensure orderly development. Requiring payment of apportionment fees before final approval is a reasonable procedural condition that ensures the County can fulfill its regulatory responsibilities without compromising the approval process.

DR Horton's proposal to pay fees 10 days after plat approval disrupts this procedural sequence, creating a risk that plats could be approved without confirmed funding. Such an approach could lead to incomplete or delayed infrastructure improvements, particularly in a phased MUD development where each phase's infrastructure must be coordinated with county-managed systems. By requiring upfront payment, the County ensures that financial obligations are met before development is authorized, preserving the integrity of the plat approval process and protecting the public interest. This requirement is not only consistent with the statutory framework of Chapter 232 but also supported by judicial recognition of local governments' authority to enforce procedural standards, as seen in *Quick* and *FM Properties*.

#### **PUBLIC INTEREST AND PREVENTION OF FINANCIAL RISK**

The County's requirement that developers pay apportionment fees before final plat approval is a critical measure to protect the public interest by minimizing financial risks to the County and its residents. If fees are deferred until after final plat approval, as the developer proposes, there is a substantial risk that the developer may fail to pay or become insolvent, leaving the County responsible for funding infrastructure improvements. This could result in increased taxes, diverted resources from other public needs, or incomplete infrastructure that compromises public safety. The County submits that upfront payment is essential to safeguard taxpayers and ensure that infrastructure costs are borne by the developer, as intended by Section 232.110.

The County's authority to regulate subdivisions is firmly rooted in its duty to protect public health, safety, and welfare, a principle recognized by both federal and Texas courts. In *Holt Civic*

*Club v. City of Tuscaloosa*, 439 U.S. 60, 71 (1978), the United States Supreme Court affirmed the extensive police powers of local governments to regulate for public welfare, including measures to ensure health and safety. Similarly, in *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), the Texas Supreme Court upheld local regulations that promote public welfare within statutory limits, emphasizing the importance of protecting community resources. Requiring upfront payment of apportionment fees is a direct application of this authority, as it prevents financial burdens from shifting to the public and ensures that infrastructure improvements are funded promptly.

In the context of a MUD development, the public interest is particularly acute, as county-managed infrastructure, such as arterial roads or regional drainage systems, serves both the development and the broader community. Delaying payment until after final approval introduces uncertainty that could delay critical improvements, potentially leading to unsafe conditions or increased costs for the County. By requiring payment before approval, the County mitigates these risks, ensuring that funds are available to address infrastructure needs as development progresses. This approach aligns with the principles of fiscal responsibility and public accountability, as recognized in *Holt Civic Club* and *Quick*, and reinforces the County's commitment to protecting its residents from the financial consequences of development.

#### **PRACTICAL NECESSITY FOR INFRASTRUCTURE IMPLEMENTATION**

From a practical perspective, requiring payment of apportionment fees before final plat approval is indispensable to ensure that infrastructure improvements are implemented in a timely and effective manner. Infrastructure projects, such as road construction, drainage systems, or utility extensions, require significant lead time for planning, design, and construction. Securing funds at the time of project approval enables the County to initiate these projects promptly, ensuring that they are completed before or concurrently with the development's occupancy. The County submits that upfront payment is not only a statutory requirement but also a practical necessity to avoid delays that could compromise public safety or disrupt development progress.

The importance of timely infrastructure implementation is well-recognized in Texas law. In *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639–40 (Tex. 2004), the Texas Supreme Court emphasized that infrastructure conditions must mitigate development impacts in a timely manner, upholding a municipality's authority to impose such conditions. Delaying fee payment until after plat approval, as proposed by the developer, could disrupt construction schedules, as the County may be unable to contract for improvements until funds are received. For example, a county road serving the MUD's first phase must be completed before residents move in to ensure safe access, a process that requires immediate funding.

This practical necessity is particularly critical for phased MUD developments, where infrastructure needs escalate with each phase. Each phase's plat approval triggers specific infrastructure requirements, and upfront payment ensures that funds are available to address these needs sequentially. By contrast, the developer's proposal to pay fees 10 days after approval introduces unnecessary delays, potentially stalling projects and increasing costs. Requiring payment before final approval streamlines implementation, benefits the developer by avoiding construction delays, and protects the public by ensuring that infrastructure is in place when needed. This approach is supported by the principles articulated in *Flower Mound* and reflects the County's commitment to effective infrastructure management.

### **SECTION III: THE DEVELOPER'S FAILURE TO MEET FIRE AND EMS SERVICE REQUIREMENTS**

#### **TERMINATION OF THE INTERLOCAL AGREEMENT BY THE CITY OF MCLENDON CHISHOLM INVALIDATES DR HORTON'S SERVICE COMMITMENT**

DR Horton has failed to satisfy its obligation towards Rockwall County to provide a valid and enforceable commitment for fire and Emergency Medical Services ("EMS") as required for final approval of the proposed River Rock Trails project under Texas Local Government Code Section 232.110.

In response to the County's December 2024 letter, DR Horton submitted an agreement dated March 2024 between itself and the local municipality of McLendon Chisholm (Exhibit 09), which purported to secure fire and EMS services for the MUD. However, on July 9, 2024, the municipality's governing body passed a motion to repeal this agreement (Exhibit 10), effectively terminating its legal effect. This termination renders the agreement between McLendon Chisholm and DR Horton null and void, stripping DR Horton of any commitment by a governmental or private entity that DR Horton may have had to provide these critical services to the citizens of the proposed MUD.

Further, under Texas Government Code Chapter 791, interlocal agreements, such as the one at issue, are governed by their terms, which typically include provisions for termination by one or both parties. The municipality's formal motion and action to repeal constitutes a clear exercise of its contractual authority to terminate, absent any evidence that the agreement required mutual consent or additional procedural steps.

In addition, the now-voided agreement between McLendon Chisholm and DR Horton had never actually taken effect, as the agreement stated in its “Section 3. Effective Date” that:

*“(a) The Parties recognize that before this Agreement becomes effective, the Districts [i.e. both of the proposed MUDs] must develop a joint fire plan, including a plan for emergency medical services, in accordance with Section 49.351, Texas Water Code, and the rules of the TCEQ [...], submit the Plan to the TCEQ for its approval, obtain TCEQ approval, and the Districts must each call an election and obtain voter approval of the Plan and this Agreement. [...]*

*“(b) This Agreement will take effect on the first day of the month following the adoption of an order by each District canvassing the results of the election to approve the Plan and this Agreement.”*

These requirements clearly could not have been met, as the proposed MUDs have not yet received platting approval, and therefore the purported agreement never even took effect. Further, as the McLendon Chisholm City Council passed a motion to repeal the agreement, there is an absence of a valid agreement.

This absence of a valid agreement means that the developer’s submission does not constitute a “will-serve” letter or equivalent documentation demonstrating a binding commitment for fire and EMS services. The County’s requirement for such a letter is a reasonable condition of project approval, ensuring that essential services are secured before development proceeds. By failing to provide a current and enforceable commitment, the developer has not met this condition, justifying the County’s refusal to approve the project until compliance is achieved. In summary, failure to provide a valid commitment for fire and EMS services is a failure on behalf of DR Horton to meet all requirements of apportionment.

### **THE DEVELOPER’S LACK OF A CURRENT COMMITMENT VIOLATES COUNTY REQUIREMENTS**

The County’s authority to regulate subdivisions in unincorporated areas under Texas Local Government Code Chapter 232 encompasses the imposition of conditions to ensure that developments meet public safety and infrastructure needs. The developer’s failure to provide a current commitment for fire and EMS services violates these requirements, as the terminated March 2024 agreement no longer satisfies the County’s mandate for a valid “will-serve” letter. This deficiency precludes project approval, as the County cannot permit a development that lacks essential emergency services.

The Texas Supreme Court has consistently upheld local governments’ authority to impose reasonable conditions on development approvals to protect public welfare. In *Quick v. City of*

*Austin*, 7 S.W.3d 109, 118 (Tex. 1998), the Court affirmed that local regulations advancing public health and safety are within the scope of statutory authority. Similarly, in *FM Properties Operating Co. v. City of Austin*, 22 S.W.3d 868, 874 (Tex. 2000), the Court recognized that local governments may establish procedural requirements to ensure orderly development. The County's requirement for a "will-serve" letter is a procedural safeguard that ensures fire and EMS services are secured before residents occupy the MUD, aligning with these judicial precedents.

The developer's reliance on the now-terminated agreement is insufficient, as a "will-serve" letter must reflect a current and enforceable commitment. McLendon Chisholm's repeal motion, enacted on July 9, 2024, nullifies the agreement's validity, leaving DR Horton without a service provider. The County can substantiate this termination by presenting evidence such as municipal meeting minutes or official notices, which demonstrate the agreement's repeal. Until the developer secures a new agreement or alternative arrangements with another provider, it cannot meet the County's requirements, and final approval must be withheld to protect public safety.

In addition, on November 12<sup>th</sup>, 2024, Rockwall County updated its Subdivision and Land Development Regulations to require certain infrastructure improvements to be included by a property developer. Two weeks later, Rockwall County further clarified the Subdivision and Land Development Regulations and the associated Development Application Handbook (both of which are incorporated herein by reference).

These November 2024 updates require a developer to bear a portion of the costs of County Infrastructure improvements by making the dedications, the payment of fees, or the payment of construction costs for items such as ESC/EMT (Ambulance) and Fire Services.

The developer's lack of a legal commitment for ESC/EMT (Ambulance) and Fire Services clearly further County Requirements as listed in both the Subdivision and Land Development Regulations and the associated Development Application Handbook.

#### **PUBLIC SAFETY IMPERATIVES JUSTIFY WITHHOLDING PROJECT APPROVAL**

The absence of a valid commitment for fire and EMS services poses a significant risk to the safety and welfare of future MUD residents, compelling the County to withhold final approval until the developer complies with its service requirements. Texas law vests counties with the responsibility to regulate subdivisions to prevent developments that endanger public health and safety. The County's insistence on a current "will-serve" letter for fire and EMS services is a direct

exercise of this responsibility, ensuring that emergency services are available to protect lives and property.

The United States Supreme Court has recognized the broad police powers of local governments to regulate for public safety. In *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 71 (1978), the Court affirmed that municipalities (and by extension, counties) may enact measures to safeguard public welfare, including health and safety. Approving a MUD without guaranteed fire and EMS services would contravene these principles, exposing residents to unacceptable risks.

The developer's failure to provide a valid commitment, following the municipality's termination of the March 2024 agreement, undermines the County's ability to ensure safe development. Approving development projects without such a commitment would be irresponsible, as it would permit a development lacking critical emergency services. By requiring DR Horton to secure a new agreement or alternative provider, the County is upholding its duty to protect public safety, consistent with its statutory and constitutional obligations.

#### **ROCKWALL COUNTY'S AUTHORITY TO ENFORCE COMPLIANCE BEFORE FINAL APPROVAL**

A county's authority under Texas Local Government Code Chapter 232 to condition final project approval on compliance with service requirements is well-established and also applies to Rockwall County. DR Horton's non-compliance, due to the terminated fire and EMS service agreement, justifies Rockwall County's refusal to approve the project until a valid commitment is provided. This position is supported by the County's subdivision regulations and its broader mandate to regulate development in unincorporated areas.

In *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639–40 (Tex. 2004), the Texas Supreme Court upheld a municipality's authority to impose infrastructure conditions that mitigate development impacts, emphasizing the need for timely compliance. Similarly, Rockwall County's requirement for a "will-serve" letter ensures that fire and EMS services are secured before development proceeds, preventing future burdens on public resources. The DR Horton's proposal to rely on a terminated agreement fails to meet this standard, as it does not provide a current or enforceable commitment.

Texas Government Code Section 791.006 addresses liability in interlocal contracts for fire services, and indicates that such agreements are critical to public safety. Additionally, in Section 791.006(a-1) the statute provides for the possibility that a county may enter into a contract to

furnish or obtain fire or emergency services (and then deals with the apportionment of liability). The termination of the March 2024 agreement disrupts this framework, leaving the DR Horton without a service provider. If DR Horton wishes to continue to pursue the a MUD development in the county, Rockwall County demands that DR Horton submit a new “will-serve” letter or equivalent documentation from another provider, such as a fire district or private EMS service, to satisfy its requirements. Until such compliance is achieved, Rockwall County is within its rights to withhold project approval, ensuring that the River Rock Trails development meets all necessary service standards.

## **SECTION IV: UPFRONT PAYMENT AND ADEQUATE POLICE FUNDING IS REQUIRED FOR MUD DEVELOPMENT**

### **STATUTORY AUTHORITY PERMITS ROCKWALL COUNTY TO REQUIRE UPFRONT PAYMENT FOR POLICE SERVICES**

Rockwall County requiring DR Horton to pay \$529,424 as an apportionment cost for police services prior to project approval is a lawful and essential exercise of its authority under Texas Local Government Code Chapter 232. Section 232.110(a), which explicitly authorizes counties to impose financial obligations as a condition of development approval, ensuring that developers contribute to infrastructure and service costs proportionate to their project’s impact. While the statute does not specify the precise timing of payments, the County’s requirement for upfront payment aligns with the statutory intent to secure funding before development proceeds, thereby safeguarding public safety and financial stability. This practice is standard in subdivision regulation, as it ensures that developers demonstrate financial capability to meet their obligations before the Commissioners Court grants final approvals.

Texas courts have consistently upheld local governments’ authority to impose conditions on development approvals to advance public welfare. In *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639–40 (Tex. 2004), the Texas Supreme Court affirmed that municipalities may require infrastructure contributions that mitigate a development’s impact, provided they are proportionate and serve a legitimate governmental interest. Similarly, in *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), the Court recognized that local governments may establish reasonable conditions to protect public health and safety. Requiring payment for police services before project approval is a reasonable condition that ensures the Developer can fund critical public safety measures, preventing the County from inheriting unfunded liabilities.

The Developer’s proposal to defer payment until 10 days after plat approval undermines the regulatory framework by allowing development to proceed without guaranteed funding. This

approach risks non-payment or insolvency, leaving the County to cover police costs and compromising its ability to enforce compliance. The Commissioners Court's role in the approval process, as outlined in Section 232.002, is to verify that all conditions are met, including financial obligations. Permitting post-approval payment would invert this process, weakening the County's leverage and exposing residents to potential service gaps. The County's insistence on upfront payment is thus both legally grounded and necessary to fulfill its statutory duties.

## **INSUFFICIENCY OF TWO POLICE DEPUTIES FOR A HIGH-DENSITY MUD**

The Developer's commitment to fund only two police deputies for the proposed high-density MUD is inadequate to meet the public safety demands of such a development. National policing benchmarks, as reported by the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS), indicate an average of 1.09 officers per 1,000 population across U.S. municipalities (Jeremy M. Wilson & Clifford A. Grammich, *Debunking Myths of Police Staffing Benchmarks*, Community Policing Dispatch, Aug. 2024, [https://cops.usdoj.gov/html/dispatch/08-2024/staffing\\_myths.html](https://cops.usdoj.gov/html/dispatch/08-2024/staffing_myths.html)). For a high-density MUD, which may house thousands of residents in a compact area, this ratio likely underestimates the need due to increased crime rates, traffic congestion, and other public safety challenges. Assuming an extremely conservative estimate of 10,000 residents, standard ratios suggest a need for at least 11 officers, far exceeding the Developer's proposed allocation of two deputies.

High-density developments present unique policing challenges that necessitate a robust law enforcement presence. These include managing dense pedestrian and vehicular traffic, addressing property crimes, and ensuring rapid response times in crowded environments. The COPS Office report highlights that staffing levels must account for population density, crime rates, and community needs, all of which are amplified in high-density settings. The County can further draw on studies, such as Richard J. Johnson, *What Impact Will High Density Buildings Have on the Ability of Small and Mid-Sized California Police Departments to Provide Service in Urban Communities?*, CAL. COMM'N ON PEACE OFFICER STANDARDS & TRAINING (Dec. 1987), <https://www.ojp.gov/pdffiles1/Digitization/112098NCJRS.pdf>, which underscore the need for proactive policing strategies in dense urban areas. Two deputies cannot adequately address these demands, risking under-policing that could jeopardize resident safety and strain existing county resources.

Moreover, the phased nature of MUD developments means that policing needs will escalate as occupancy increases. The Developer's proposal fails to account for this growth, assuming that two deputies will suffice for the entire project. The County has a duty to ensure that public safety measures keep pace with development, and approving a project with insufficient police funding would contravene this responsibility. By requiring a more substantial commitment—potentially

funding additional deputies or a longer-term plan—the County can ensure that the MUD is adequately policed from its inception, consistent with its statutory mandate to protect public welfare.

### **INADEQUACY OF RELYING ON FUTURE TAX REVENUE FOR ONGOING POLICE FUNDING**

The Developer's assertion that tax revenue from MUD residents will cover ongoing police costs after the first year is speculative and fails to account for the financial realities of new developments. Property taxes, the primary funding source for local services, are typically assessed on completed and occupied properties, creating a significant lag between the start of construction and the generation of substantial revenue. For a phased MUD, this lag is exacerbated, as different phases may be completed over several years, delaying full tax collections.

Additionally, the costs of police services for a high-density MUD are likely to increase as the population grows and public safety demands evolve. The Developer's plan assumes that first-year tax revenue will suffice, ignoring the potential for rising costs due to inflation, increased crime, or expanded service needs. The County cannot rely on uncertain future revenue to fund essential services, particularly when the Developer's initial funding is limited to one year. In *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60 (1978), the U.S. Supreme Court recognized local governments' broad police powers to regulate for public welfare, including measures to ensure fiscal stability. Requiring the Developer to fund police services beyond the first year aligns with this authority, preventing an undue burden on county taxpayers.

The County's position is further supported by the principle that developments must be self-sustaining. Section 232.110 requires developers to bear costs proportionate to their project's impact, which includes ongoing service costs. By limiting funding to one year, the Developer shifts the financial responsibility to future residents, who may not generate sufficient taxes immediately. Rockwall County must therefore require DR Horton to provide a more comprehensive funding plan to ensure that police services are adequately supported throughout the MUD's development, protecting both residents and the broader community.

### **IMPACT OF HIRING DELAYS ON POLICE STAFFING**

The Developer's proposal is further deficient due to significant delays in hiring and deploying additional police officers, which could leave the MUD under-policed during its critical early phases. Recruiting, training, and certifying new officers is a time-intensive process, often taking six months to a year or more due to background checks, training academies, and certification

requirements. The FBI's Law Enforcement Bulletin notes that law enforcement agencies face ongoing recruitment challenges, requiring long-term strategies to build staffing pipelines (Timothy Karch, Playing the Long Game: Law Enforcement Recruitment, FBI L. Enforcement Bull. (Aug. 2024), <https://leb.fbi.gov/articles/featured-articles/playing-the-long-game-law-enforcement-recruitment>). For a high-density MUD, where public safety needs are immediate, these delays pose a significant risk.

The County cannot afford to wait for tax revenue to materialize and for new officers to be hired before ensuring adequate policing. High-density developments require a sustained police presence from the outset to address construction-related issues, early occupancy, and growing public safety demands. The Developer's plan, which proposes to fund only two deputies for one year, does not account for these realities, leaving a gap in service provision that could compromise resident safety.

To address this issue, Rockwall County must require DR Horton to commit to funding police services for a period that accounts for hiring delays and the MUD's phased growth. This could include funding additional deputies or establishing a reserve fund to cover staffing costs until tax revenue stabilizes. By imposing these conditions before project approval, the County ensures that public safety is not compromised, fulfilling its statutory and constitutional obligations to protect its residents.

## **SECTION V: THE DEVELOPER'S FAILURE TO PROVIDE SUFFICIENT PROOF OF WATER SUPPLY FOR THE PROPOSED MUD**

DR Horton has failed to satisfy its obligation to provide a valid "will-serve" letter demonstrating a secure and sufficient water supply for the proposed high-density Municipal Utility District (MUD), as required under Texas Local Government Code Section 232.110, as well as under applicable state and County regulations. DR Horton's submission—a letter from Blackland Water Supply Corporation (Exhibit 14) stating it "can" serve water, accompanied by an email (Exhibit 15) and agreement from the North Texas Municipal Water District ("NTMWD") (Exhibit 16)—is deficient for multiple reasons: it lacks a binding commitment, the proposed MUD is outside Blackland's certificated service area, regional water supply constraints preclude additional allocations, and no formal contract guarantees service. The following sections below articulate why the DR Horton's submission is inadequate and why Rockwall County must withhold project approval until a valid water supply commitment is provided.

## ABSENCE OF A BINDING COMMITMENT IN THE DEVELOPER'S SUBMISSION

A “will-serve” letter is a critical document in Texas land development, representing a formal commitment from a water supplier to provide service to a specific project. As defined by legal standards, a “will-serve” letter is “a letter issued by a utilities provider such as a water district, committing to provide water service to a new customer” (see e.g. <https://www.lawinsider.com/dictionary/will-serve-letter>). A will-serve letter typically includes conditions that must be met before the services can be provided. These conditions may involve obtaining necessary permits, completing inspections, and fulfilling any additional requirements set forth by the municipality or utility provider. In *Green Valley Special Utility District v. City of Schertz, Texas*, 969 F.3d 460 (2020), the court emphasized that the issue should not be whether there are actually facilities in place, but whether the requested service can be provided within a reasonable time. This commitment is essential to ensure that developments, particularly high-density MUDs, have a reliable water supply to meet resident needs.

DR Horton’s submission, however, consists solely of a letter from Blackland Water Supply Corporation stating that it “can” serve the required water volume, backed by documentation from NTMWD that appears to show the opposite. This statement of capability falls short of the requisite commitment to serve, rendering the submission non-compliant with the County’s requirements.

The distinction between “can” and “will” is not merely semantic but fundamental to the regulatory process. A “will-serve” letter must bind the supplier to provide service, often subject to conditions such as regulatory approvals or infrastructure readiness. The Blackland email lacks any such binding language, offering no assurance that water will actually be able to be delivered to the MUD. Furthermore, the supporting email from NTMWD, which states that it supplies water to member cities and customers within their certificated service areas, does not address the proposed MUD. The MUD is not a member city under the agreement between Blackland and NTMWD, nor does it appear to be within Blackland’s existing certificated retail service area. Consequently, NTMWD’s email does not substantiate Blackland’s claim of capability, let alone establish a legal commitment to serve.

The absence of a binding commitment undermines Rockwall County’s ability to ensure a secure water supply for the MUD’s future residents. High-density developments, such as the proposed MUD, require substantial water volumes, and any uncertainty in supply could lead to severe public health and safety risks. The Texas Supreme Court has upheld local governments’ authority to impose conditions on development approvals to protect public welfare, as seen in

*Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), which affirmed that such conditions must advance legitimate regulatory objectives. By requiring a formal “will-serve” letter that is substantiated by the appropriate documentation and contracts from a water supplier, the County exercises its statutory duty to safeguard residents, and DR Horton’s failure to provide one as part of the apportionment process justifies withholding project approval.

## **SERVICE AREA LIMITATIONS PRECLUDE BLACKLAND’S AUTHORITY TO SERVE**

DR Horton’s submission is further deficient because the proposed MUD appears to lie at least partially outside Blackland Water Supply Corporation’s existing certificated retail service area. The agreement explicitly states that NTMWD agrees to sell water to Blackland for “Blackland’s own use and distribution to all customers served by Blackland’s water distribution system [i.e., as of the date of the agreement] or within Blackland’s existing certificated retail service area.” Since the proposed MUD appears to be at least partially outside of that this area, Blackland lacks the contractual authority to provide water to the development under the current agreement. This limitation is a critical barrier to Blackland’s ability to serve the MUD, rendering the DR Horton’s reliance on Blackland’s letter invalid.

Moreover, the Blackland-NTMWD agreement imposes a significant procedural requirement: Blackland must enter into a new potable water supply contract with NTMWD before initiating, renewing, or amending any agreement to provide wholesale or retail potable water outside its existing service area. DR Horton has provided no evidence of such a new contract, nor has it indicated that negotiations for one are underway or completed. This absence of a new contract appears to indicate that Blackland is contractually limited from committing to serve the proposed MUD, further undermining the DR Horton’s apportionment appeal submission.

The County’s requirement for a valid “will-serve” letter is grounded in its authority to ensure that water suppliers have the legal and contractual capacity to serve new developments. The Texas Water Code, Chapter 54, empowers MUDs to provide water services. While the statute does not formally require them to secure reliable sources through formal agreements, securing a reliable water source is practically necessary for a MUD to fulfill its functions. Blackland’s lack of authority to serve the MUD area violates this principle, and approving the project without a proper commitment would expose Rockwall County to legal and practical risks. The Texas Supreme Court’s decision in *FM Properties Operating Co. v. City of Austin*, 22 S.W.3d 868, 874 (Tex. 2000), supports the County’s position, affirming that local governments may impose procedural requirements to ensure orderly development. DR Horton must provide a “will-serve” letter from a supplier with the requisite authority, and until such documentation is submitted, project approval must be withheld.

## REGIONAL WATER SUPPLY CONSTRAINTS UNDERMINE FEASIBILITY

DR Horton's claim that Blackland can serve the proposed MUD is further compromised by well-documented water supply constraints in North Texas. The region's major reservoirs are already subscribed to their maximum capacity, leaving little to no additional water available for new developments without significant infrastructure investments or new water rights acquisitions. The North Texas Municipal Water District (NTMWD), a primary water supplier in the region, has publicly stated that it has not negotiated new agreements for additional water supplies, indicating that it is operating at or near full capacity. In February, NTMWD stated:

*"Contrary to recent news reports, the North Texas Municipal Water District has not negotiated any new agreements for additional water supplies for our service area. A recent contract update with the Sabine River Authority serves as a continuation of a previous agreement, and does not provide any new water for our region. While we're not currently in active negotiations with the Northeast Texas Municipal Water District regarding a water purchase from Lake O' the Pines, we continue to believe a future agreement for the sale of water could make sense for North Texas and Northeast Texas."*

Planners Recommend Lake O' the Pines as New Water Supply for NTMWD, N. TEX. MUN. WATER DIST. (Feb. 28, 2025), <https://www.ntmwd.com/CivicAlerts.aspx?AID=112>. This statement aligns with regional reports highlighting water scarcity, such as a WFAA article noting that communities like McLendon-Chisholm have imposed water restrictions due to low supply levels (Matt Howerton, *A North Texas City Is Running Low on Day-to-Day Water Supply; Residents Not Following Outdoor Water Ban, Supplier Says*, WFAA (Aug. 2, 2023), <https://www.wfaa.com/article/news/local/north-texas-city-running-low-day-to-day-water-supply-residents-not-following-outdoor-water-ban-supplier-says/287-3988bd9e-e2b6-4bbf-88c4-c94606819b64>).

The Blackland-NTMWD agreement further exacerbates this issue by explicitly limiting the volume of water NTMWD is obligated to provide to Blackland. A high-density MUD, with its substantial water demands, will exceed these contractual limits, requiring additional water that NTMWD cannot supply under current conditions. DR Horton has provided no evidence of plans to secure new water sources, such as through infrastructure expansions or water rights purchases, which are necessary to support a development of this scale. The Texas Water Code emphasizes the importance of securing adequate water supplies for MUDs, and the Texas Commission on Environmental Quality (TCEQ) requires public water systems to demonstrate sufficient capacity (see e.g. [https://www.tceq.texas.gov/drinkingwater/pdw\\_rules.html](https://www.tceq.texas.gov/drinkingwater/pdw_rules.html) and Texas Admin. Code Title 30 Chapter 290).

Approving a development without a guaranteed water supply would be contrary to the County's duty to protect public health and safety, as affirmed in *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60 (1978), wherein the U.S. Supreme Court recognized local governments' broad police powers to regulate for public welfare. The regional water supply constraints, combined with the lack of a specific commitment for the MUD, make it highly improbable that DR Horton's plan is feasible. Rockwall County must therefore require concrete evidence of available water before proceeding with further approvals.

### **ABSENCE OF A CONTRACTUAL AGREEMENT FOR WATER SUPPLY**

DR Horton's submission is critically deficient due to the absence of any contractual agreement guaranteeing water supply for the proposed MUD. Texas law and TCEQ regulations mandate that no person may begin construction of a public drinking water supply system until the TCEQ determines that the system is financially stable and technically sound, and can supply adequate quantities of safe drinking water. (<https://www.tceq.texas.gov/drinkingwater/planrev.html>). DR Horton's reliance on a letter from Blackland and an inapplicable NTMWD agreement fails to meet this standard, as neither document establishes a binding obligation to provide water to the MUD. Further, DR Horton has not clearly documented that it has obtained all necessary approvals from TCEQ by proving that the proposed water system is financially stable and technically sound.

The Blackland-NTMWD agreement, to which DR Horton cites as evidence, is limited to Blackland's existing service area and customers as of the agreement's date. It does not contemplate service to new areas like the proposed MUD, and its requirement for a new potable water supply contract for expanded service has not been fulfilled. Without such a contract, Blackland cannot legally or practically commit to serving the MUD, and DR Horton's submission lacks the necessary legal foundation. The Texas Supreme Court's ruling in *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639-40 (Tex. 2004) supports the County's position, affirming that local governments may impose conditions to mitigate development impacts, including ensuring adequate infrastructure.

The lack of a contractual agreement poses significant risks to the MUD's future residents, who could face water shortages or increased costs if supply is not secured. The County's requirement for a valid "will-serve" letter or contract is a reasonable safeguard to prevent such outcomes, aligning with constitutional principles of proportionality articulated in *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994). Until DR Horton provides a formal agreement from a supplier with the capacity and authority to serve, Rockwall County must withhold project approval to protect public interests.

## **ADDITIONAL GROUNDS SUPPORTING THE COUNTY'S POSITION**

Beyond the deficiencies outlined above, several additional arguments bolster Rockwall County's position:

- **Public Safety and Welfare:** The County has a statutory obligation under Texas Local Government Code Chapter 232 to protect public health, safety, and welfare. Approving a development project without a guaranteed water supply would jeopardize residents' access to essential services, contravening this duty.
  
- **High-Density Development Demands:** A high-density MUD will have significantly higher water demands than a standard development, requiring robust supply assurances. The developer's submission does not account for this increased demand, nor does it demonstrate that Blackland or NTMWD can meet it. The County must ensure that water supply plans are tailored to the development's scale.
  
- **Financial Risks to Taxpayers:** If the MUD is approved without a secure water supply, future residents or the County may face significant costs to address shortages, such as purchasing additional water rights or building new infrastructure. Requiring a valid commitment now prevents these burdens, consistent with the proportionality principles in *Nollan* and *Dolan*.

These additional grounds reinforce Rockwall County's position that the developer's submission is inadequate and that project approval must be withheld until a proper water supply commitment is provided.

## **SECTION VI: DR HORTON HAS FAILED TO MEET SEWER SERVICE REQUIREMENTS, ESPECIALLY CONSIDERING SEWER SYSTEMS ARE COUNTY INFRASTRUCTURE**

DR Horton has failed to satisfy its obligation to provide adequate documentation demonstrating that sewer services will be provided for the proposed high-density Municipal Utility District (MUD), as required by Rockwall County's Subdivision and Land Development Regulations and the intent of the County Commissioners Court. DR Horton's reliance on the statement, "Sewer: Resolved through project design," made by the engineering firm acting on

behalf of the County is insufficient to provide the binding commitments and operational assurances mandated by county regulations and state law that DR Horton should have provided.

Furthermore, sewer systems are properly classified as “county infrastructure” under Texas Local Government Code Section 232.110, as they are essential physical improvements managed or regulated by counties, physically located within county boundaries, and critical for public health and safety. The following sections articulate Rockwall County’s position and are supported by statutory authority, judicial precedent, and practical considerations. They demonstrate that the DR Horton’s submission is inadequate and that sewer systems are county infrastructure.

### **INSUFFICIENCY OF RELIANCE UPON THE ENGINEERING FIRM’S STATEMENT UNDER COUNTY APPORTIONMENT REGULATIONS**

Rockwall County’s Subdivision and Land Development Regulations require developers to submit detailed documentation for sewer services, including identification of the service provider, capacity studies, construction plans, operational commitments, and necessary permits from regulatory bodies such as the Texas Commission on Environmental Quality (TCEQ). These requirements ensure that sewer infrastructure for new developments, particularly high-density MUDs, is reliable, sustainable, and compliant with state standards. DR Horton’s reliance on the Engineer’s statement, “Sewer: Resolved through project design,” fails to meet these standards as applied to the apportionment process specifically, as it provides no specific information about how sewer services will be provided, who will operate the system, or whether the system has sufficient capacity to serve the proposed MUD.

For a high-density development, sewer systems must handle substantial wastewater volumes, requiring robust infrastructure and operational plans. The future-design position does not address critical elements such as:

- The identity of the sewer service provider or whether the MUD will operate its own treatment facility;
- Capacity studies demonstrating that the system can accommodate the development’s wastewater demands;
- Construction plans for new infrastructure or connections to existing systems;
- Operational and maintenance plans to ensure long-term reliability;
- Evidence of TCEQ permits or other regulatory approvals.

Without these details, Rockwall County cannot fulfill its regulatory obligation to ensure that sewer services are adequately planned and implemented. The County's intent is to secure concrete assurances that all essential services are in place before approving a plat after the apportionment process, and the DR Horton's submission falls short of this standard.

### **SEWER SYSTEMS AS COUNTY INFRASTRUCTURE DUE TO COUNTY MANAGEMENT AND REGULATION**

Sewer systems are properly classified as "county infrastructure" under Texas Local Government Code Section 232.110 because they are essential physical improvements often managed or regulated by counties, particularly in unincorporated areas. In Texas, counties may directly operate sewer systems or oversee their provision through county-created entities, such as MUDs, which are authorized under Texas Water Code Chapter 54 to provide water and sewer services. These systems are integral to the county's regulatory functions, ensuring that developments meet public health and safety standards as required by Chapter 232.

The TCEQ has jurisdiction over water and sewer systems, including those operated by counties, as outlined in Texas Water Code Section 7.001. Counties enforce TCEQ standards within their jurisdictions, particularly in unincorporated areas, by requiring developers to demonstrate compliance with sewer service regulations. This regulatory role underscores sewer systems' status as county infrastructure, as they are directly tied to the county's responsibility to manage development impacts. For example, Texas Local Government Code Section 562.017 explicitly allows counties with populations of 3.3 million or more to regulate water and sewer utility systems, demonstrating that sewer systems fall within county authority. While Rockwall County does not yet have a population of greater than 3.3 million, its authority to regulate sewer systems through the apportionment process is implicit in the other statutes cited above.

Furthermore, the Texas Supreme Court has recognized local governments' authority to regulate infrastructure to protect public welfare. In *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), the Court upheld local regulations that advance public health and safety, including infrastructure requirements. As sewer systems constitute county infrastructure, Rockwall County can require developers to contribute to their costs under Section 232.110, ensuring that new developments do not overburden existing systems or compromise public health.

### **SEWER SYSTEMS' PHYSICAL LOCATION WITHIN THE COUNTY SUPPORTS THEIR CLASSIFICATION AS COUNTY INFRASTRUCTURE**

Sewer systems are physically located within the county's geographic boundaries, serving county residents and directly impacting land and resources within the county. This physical presence makes them a core component of "county infrastructure" under Section 232.110. Their location within the county ties them to the county's regulatory jurisdiction, as the county must ensure that these systems meet state and local standards to support development.

The high-density nature of the proposed MUD amplifies the importance of sewer systems, as they must handle significant wastewater volumes to prevent environmental and health hazards. The County's authority to regulate subdivisions, as outlined in Texas Local Government Code Section 232.003, includes ensuring that infrastructure like sewer systems is adequate to support new developments. The Texas Supreme Court's decision in *FM Properties Operating Co. v. City of Austin*, 22 S.W.3d 868, 874 (Tex. 2000), supports local governments' authority to impose procedural requirements for infrastructure, reinforcing the County's position that sewer systems are county infrastructure due to their physical and functional integration within the county.

By requiring a detailed sewer service plan, including a "will-serve" letter or contract, the County ensures that the DR Horton will mitigate the MUD's wastewater impacts, protecting county residents and resources. The evidence presented by the developer does not provide this assurance, necessitating further documentation before project approval.

## **PUBLIC HEALTH AND SAFETY IMPERATIVES OF SEWER SYSTEMS AS COUNTY INFRASTRUCTURE**

Sewer systems are indispensable for public health and safety, a core responsibility of counties under Texas law. Inadequate sewer infrastructure can lead to wastewater overflows, water contamination, and disease outbreaks, posing significant risks to county residents. The Texas Legislature has recognized this by granting counties authority to regulate sewer services in subdivisions, ensuring compliance with state standards (see Texas Local Government Code Section 232.003). Classifying sewer systems as county infrastructure under Section 232.110 allows the County to enforce these standards and require developers to fund necessary improvements.

The U.S. Supreme Court has affirmed local governments' broad police powers to regulate for public welfare, including health and safety measures, in *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 71 (1978). This principle applies to counties, which must ensure that sewer systems are sufficient to support public health. The Texas Supreme Court's ruling in *Texas Commission on Environmental Quality v. Maverick County*, 635 S.W.3d 684 (Tex. 2022), highlights the state's

interest in regulating wastewater systems to protect public interests, supporting the County's authority to treat sewer systems as county infrastructure.

DR Horton's submission, relying on the engineering firm's statement regarding platting rather than apportionment, does not address these public health concerns, as it lacks evidence of capacity, operational plans, or regulatory compliance. Approving a project in the apportionment process without a verified sewer service plan would contravene Rockwall County's duty to protect residents, justifying the withholding of project approval until a comprehensive plan is provided.

### **PRACTICAL NECESSITY AND CASE LAW SUPPORT FOR SEWER SYSTEMS AS COUNTY INFRASTRUCTURE**

Excluding sewer systems from "county infrastructure" would undermine the County's ability to regulate subdivisions effectively and ensure sustainable development. High-density MUDs generate significant wastewater, necessitating robust sewer infrastructure. If sewer systems are not considered county infrastructure, the County would lack the authority to require developers to contribute to their construction or improvement, potentially leaving residents without adequate services. The practical necessity of including sewer systems as county infrastructure is evident in their role in supporting development and protecting public health.

Case law further supports this classification. The Case of *Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639–40 (Tex. 2004), upheld local governments' authority to impose infrastructure conditions that mitigate development impacts, including sewer systems.

The County's Subdivision and Land Development Regulations require developers to provide documentation (such as a "will-serve" letter, capacity studies, and operational plans for sewer services, etc.) reflecting standard practice in Texas. The developer's statements and evidence do not meet these requirements, necessitating further documentation to ensure compliance with state and county standards.

### **SECTION VII: CLASSIFICATION OF BROADBAND, ELECTRICAL SERVICE, ANIMAL CONTROL, AND TRASH/REFUSE SERVICE AS COUNTY INFRASTRUCTURE**

Broadband internet service, electrical service, animal control service, and trash/refuse service are properly classified as “county infrastructure” under Texas Local Government Code Section 232.110, enabling the imposition of conditions on the developer to provide binding commitments for these services prior to project approval for the proposed high-density MUD. DR Horton’s submission of non-binding “can serve” letters for broadband service (Exhibit 08), electrical service (Exhibit 07), animal control service (Exhibit 05) and trash/refuse service (Exhibit 06) fails to meet Rockwall County’s Subdivision and Land Development Regulations, which require enforceable assurances to ensure public health, safety, and welfare. The following sections articulate the County’s position, supported by statutory authority, judicial precedent, and practical considerations, demonstrating that these services are integral to county infrastructure and that DR Horton’s submission is inadequate.

### **THE STATUTORY FRAMEWORK FAVORS A BROAD INTERPRETATION OF COUNTY INFRASTRUCTURE**

Texas Local Government Code Section 232.110 authorizes counties to require developers to contribute to the costs of “county infrastructure improvements” as a condition of development approval, with costs being “roughly proportionate” to the project’s impact, as determined by a licensed professional engineer. Although the statute does not explicitly define “county infrastructure,” its context within Chapter 232, which governs county regulation of subdivisions, suggests a broad interpretation encompassing physical and service-based infrastructure essential for public health, safety, and welfare. The Texas Supreme Court has upheld local governments’ authority to impose conditions on development approvals to mitigate impacts, provided they are proportionate and serve a legitimate governmental interest *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639–40 (Tex. 2004). This authority extends to services like broadband, electrical service, animal control, and trash/refuse, which are critical for modern subdivisions, particularly high-density MUDs.

The absence of a restrictive definition in Section 232.110 allows counties to interpret “county infrastructure” to include services that support community functionality and resident well-being. The Texas Supreme Court has instructed that undefined statutory terms be given their ordinary meaning, informed by context and legislative purpose (*TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011)). Infrastructure, in its ordinary sense, includes systems and services necessary for a community’s operation, such as utilities and public safety services. The County’s Subdivision and Land Development Regulations, adopted under Section 232.003, further support this interpretation by requiring developers to ensure adequate infrastructure, including utilities and services, before project approval. These regulations reflect the County’s statutory duty to regulate subdivisions in unincorporated areas, ensuring compliance with state standards and protecting public interests.

The developer's contention that these services are not county infrastructure ignores their essential role in supporting development and the County's regulatory authority over them. By classifying broadband, electrical service, animal control, and trash/refuse as county infrastructure, the County ensures that the MUD is equipped to meet resident needs, preventing service gaps that could harm public health or safety. The developer's non-binding "can serve" letters fail to provide the enforceable commitments required, justifying the County's refusal to approve final plats until adequate documentation is submitted as part of the apportionment process.

## **BROADBAND AS COUNTY INFRASTRUCTURE**

Broadband is increasingly recognized as critical infrastructure in Texas, essential for economic development, education, public safety, and quality of life. The Texas Broadband Development Office (BDO), established under House Bill 5 during the 87th Legislative Session, underscores the state's commitment to expanding broadband access as a core component of infrastructure (TEX. COMPTROLLER OF PUB. ACCOUNTS, TEXAS BROADBAND PLAN (2022), <https://comptroller.texas.gov/programs/broadband/about/what/plan.php>). The Texas Comptroller's article states that while high-speed internet may once have been a luxury, it is now a necessity. Counties play a pivotal role in broadband planning and deployment, as evidenced by initiatives like Harris County's partnership with US Ignite to develop a countywide broadband plan (Clara Easterday, *US Ignite to Lead Broadband Planning Effort in Harris County, Texas*, BROADBAND BREAKFAST (Apr. 9, 2025), <https://broadbandbreakfast.com/us-ignite-to-lead-broadband-planning-effort-in-harris-county-texas/>). These efforts demonstrate that broadband is not merely a private utility but a public infrastructure necessity, akin to roads or water systems. As the Harris County initiative demonstrates, it is a necessity for economic development, and is therefore County Infrastructure.

For a high-density MUD, broadband is indispensable for supporting remote work, online education, telemedicine, and emergency communications. The County's requirement for a binding "will-serve" letter ensures that the MUD has reliable broadband access, aligning with the state's broader infrastructure goals. The developer's submission of a non-binding "can serve" letter fails to meet this standard, as it lacks a contractual commitment to provide service, leaving the MUD's connectivity uncertain. The Texas Supreme Court's ruling in *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), supports the County's authority to impose conditions that advance public welfare, including ensuring modern infrastructure like broadband. By classifying broadband as county infrastructure, the County can require the developer to secure a firm commitment, protecting future residents and fulfilling its regulatory obligations.

The physical presence of broadband infrastructure, such as fiber optic cables and network facilities, within the county further supports its classification as county infrastructure. These

facilities are constructed and maintained on county land, subject to county permitting and oversight, tying them directly to the county's regulatory jurisdiction. The County's authority to regulate subdivisions under Section 232.003 includes ensuring that such infrastructure meets community needs, reinforcing broadband's status as county infrastructure.

## **ELECTRICAL SERVICE AS COUNTY INFRASTRUCTURE**

Electrical service is a cornerstone of Texas's critical infrastructure, managed by the Electric Reliability Council of Texas (ERCOT) and regulated under the Texas Utilities Code. ERCOT oversees the state's power grid, ensuring reliable electricity for over 27 million Texans (Electric Reliability Council of Texas, About ERCOT, ERCOT, <https://www.ercot.com/about> (last visited Apr. 23, 2025)). Counties have a vested interest in electrical infrastructure, as it directly impacts public safety, economic development, and quality of life. The Texas Legislature has recognized electricity as essential infrastructure, demonstrating this by allocating significant resources to grid modernization and reliability (Investing in Texas' Electric Infrastructure, TEX. COMPTROLLER OF PUB. ACCOUNTS, FISCAL NOTES (Sept. 2024), <https://comptroller.texas.gov/economy/fiscal-notes/industry/2024/energy-infra/>).

In the context of a high-density MUD, electrical service must be robust to meet the demands of residential and commercial development. The County's regulations require developers to demonstrate adequate electrical capacity through binding commitments, such as "will-serve" letters from utilities. The developer's non-binding "can serve" letter fails to provide this assurance, risking service disruptions that could endanger residents. The U.S. Supreme Court's recognition of local governments' police powers to regulate for public welfare, including safety measures, in *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 71 (1978), supports the County's authority to classify electrical service as county infrastructure and impose conditions to ensure its provision.

Electrical infrastructure, including power lines and substations, is physically located within the county, subject to county oversight for permitting and safety compliance. This physical integration, combined with the County's regulatory role, firmly establishes electrical service as county infrastructure under Section 232.110, necessitating a binding commitment from the developer.

## **ANIMAL CONTROL AS COUNTY INFRASTRUCTURE**

Animal control is a fundamental public safety service that counties are statutorily obligated to provide in unincorporated areas. The Texas Health and Safety Code, Chapter 821, governs animal control, authorizing counties to adopt ordinances regulating animal welfare, stray animals,

and public safety (see also TEX. ASS'N OF COUNTIES, ANIMAL CONTROL HANDBOOK (Sept. 2023), <https://countyorgprodblob2023.blob.core.usgovcloudapi.net/cms/tac/media/default/member-services/legal/legal-publications/animal-control.pdf>). Counties enforce these laws to prevent nuisances, protect residents from animal-related hazards, and ensure humane treatment of animals. Animal control services are integral to county infrastructure because they directly impact public health and safety, particularly in densely populated areas like the proposed MUD.

For a high-density MUD, effective animal control is critical to manage stray animals, enforce leash laws, respond to bites or attacks, and prevent zoonotic diseases. The County's requirement for a binding commitment, such as a "will-serve" letter or operational plan, ensures that the MUD has adequate animal control services. The developer's non-binding "can serve" letter fails to meet this standard, leaving a critical gap in the MUD's infrastructure. The Texas Supreme Court's decision in *FM Properties Operating Co. v. City of Austin*, 22 S.W.3d 868, 874 (Tex. 2000), affirms local governments' authority to impose procedural requirements for infrastructure, supporting the County's position that animal control is county infrastructure.

Animal control services are provided within the county's geographic boundaries, often through county-operated shelters or contracts with local agencies, incorporating them directly into the county's infrastructure framework. The County's regulatory oversight and operational responsibilities further reinforce animal control's status as county infrastructure, necessitating a firm commitment from the developer.

## **TRASH/REFUSE SERVICE AS COUNTY INFRASTRUCTURE**

Trash and refuse service is a cornerstone of sanitation and environmental quality, regulated under the Texas Health and Safety Code, Chapter 361 (Solid Waste Disposal Act). Counties are responsible for managing solid waste in unincorporated areas, ensuring that waste is collected, transported, and disposed of in compliance with state standards (see generally TEX. COMM'N ON ENV'T QUALITY, MUNICIPAL SOLID WASTE IN TEXAS: A YEAR IN REVIEW, 2023 DATA SUMMARY AND ANALYSIS (Sept. 2024), [https://www.tceq.texas.gov/downloads/permitting/waste-permits/publications/municipal-solid-waste-in-texas\\_-a-year-in-review-2023-data-summary-and-analysis.pdf](https://www.tceq.texas.gov/downloads/permitting/waste-permits/publications/municipal-solid-waste-in-texas_-a-year-in-review-2023-data-summary-and-analysis.pdf)). Trash and refuse services are essential for public health, preventing disease outbreaks, controlling pests, and maintaining clean environments, making them a critical component of county infrastructure.

For a high-density MUD, reliable trash and refuse service is vital to prevent overflows, odors, and health hazards associated with accumulated waste. The County's regulations require

developers to demonstrate adequate waste management plans, including collection schedules, disposal facilities, and provider commitments. The developer's non-binding "can serve" letter fails to provide these assurances, risking unsanitary conditions and environmental violations. The Texas Supreme Court's ruling in *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), supports the County's authority to impose conditions that advance public health, including waste management requirements.

Trash and refuse infrastructure, such as collection routes and disposal facilities, operates within the county's boundaries, subject to county oversight for permitting and compliance. This physical and regulatory integration establishes trash/refuse service as county infrastructure under Section 232.110, requiring the developer to provide a binding commitment to ensure service provision.

### **PHYSICAL LOCATION AND REGULATORY OVERSIGHT AS COMMON THREADS**

A unifying factor across broadband, electrical service, animal control, and trash/refuse service is their physical presence within the county and the County's regulatory oversight. Broadband cables, electrical lines, animal control facilities, and waste collection routes are constructed and operated on county land, subject to county permitting, zoning, and safety regulations. This physical integration ties these services to the county's infrastructure framework, as they directly impact county resources and residents.

The County's regulatory role further supports their classification as county infrastructure. Counties enforce state and local standards for these services, ensuring compliance with safety, health, and environmental regulations. For example, the TCEQ delegates authority to counties to regulate solid waste and utilities in unincorporated areas (Texas Health and Safety Code Chapter 361), while animal control is governed by county ordinances (Texas Health and Safety Code Chapter 821). The Texas Supreme Court's decision in *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011), emphasizes that statutory terms should be interpreted in context, supporting the County's broad interpretation of "county infrastructure" to include these regulated services.

### **PUBLIC HEALTH AND SAFETY IMPERATIVES**

The classification of these services as county infrastructure is driven by their critical role in public health and safety. Broadband supports emergency communications and access to essential services, electrical service ensures reliable power for homes and businesses, animal control prevents health hazards from stray animals, and trash/refuse service maintains sanitary

conditions. The U.S. Supreme Court's recognition of local governments' police powers to regulate for public welfare in *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 71 (1978), underscores the County's authority to impose conditions for these services.

For a high-density MUD, the absence of binding commitments for these services could lead to significant risks, including connectivity failures, power outages, animal-related incidents, and waste accumulation. The developer's non-binding "can serve" letters do not mitigate these risks, as they lack enforceable assurances. The County's requirement for "will-serve" letters or equivalent documentation is a reasonable safeguard, ensuring that the MUD is equipped to support its residents without burdening county resources.

### **PRACTICAL NECESSITY AND PROPORTIONALITY**

Excluding these services from "county infrastructure" would undermine the County's ability to regulate subdivisions effectively and ensure sustainable development. High-density MUDs require robust infrastructure to support their populations, and broadband, electrical service, animal control, and trash/refuse are essential components. Without binding commitments, the County risks approving a development that cannot meet resident needs, leading to service gaps and potential liabilities.

The proportionality requirement under Section 232.110, rooted in constitutional principles articulated in *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994), ensures that conditions imposed on developers are tied to the project's impact. The developer's proposed MUD will significantly increase demands for these services, justifying the County's requirement for binding commitments. The non-binding "can serve" letters fail to demonstrate that these demands will be met, necessitating further documentation before project approval.

### **SECTION VIII: NATURAL GAS SUPPLY AS COUNTY INFRASTRUCTURE**

Rockwall County respectfully submits that natural gas supply is properly classified as "county infrastructure" under Texas Local Government Code Section 232.110, notwithstanding the DR Horton's assertion that all appliances in the proposed Municipal Utility District (MUD) will be electrical. This classification is essential to ensure the MUD's long-term sustainability,

protect public health and safety, and fulfill the County's statutory duty to regulate subdivision development in unincorporated areas. The Developer's contention that natural gas is not county infrastructure ignores its critical role in supporting community functionality, its physical integration within the county, and the County's regulatory oversight, all of which align with statutory and judicial interpretations of infrastructure.

### **STATUTORY AUTHORITY AND BROAD INTERPRETATION REQUIRE NATURAL GAS TO BE CLASSIFIED AS COUNTY INFRASTRUCTURE**

Section 232.110 authorizes counties to require developers to contribute to the costs of "county infrastructure improvements" as a condition of development approval, provided such costs are "roughly proportionate" to the project's impact, as determined by a licensed professional engineer. Although the statute does not explicitly define "county infrastructure," its context within Chapter 232, which governs county regulation of subdivisions, supports a broad interpretation encompassing utilities and services essential for public health, safety, and welfare. The Texas Supreme Court has held that undefined statutory terms must be construed according to their ordinary meaning and legislative purpose (*TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011)). In its ordinary sense, infrastructure includes utilities such as natural gas, which is a standard component of Texas subdivisions, providing energy for heating, cooking, and industrial use.

The County's Subdivision and Land Development Regulations, adopted pursuant to Section 232.003, further reflect this interpretation by requiring developers to ensure adequate utilities to support community needs. Natural gas, as a primary energy source in Texas, is integral to this framework, as evidenced by the state's significant natural gas production and distribution network (TEX. COMPTROLLER OF PUB. ACCOUNTS, Natural Gas Overview, <https://comptroller.texas.gov/economy/economic-data/energy/2023/nat-gas.php> (last visited Apr. 23, 2025)). The Developer's plan to use only electrical appliances does not negate the need for natural gas infrastructure, as the County must consider the broader community's long-term needs and potential future demand.

### **NATURAL GAS, AS COUNTY INFRASTRUCTURE, HAS AN ESSENTIAL ROLE IN SUBDIVISION DEVELOPMENT**

Natural gas plays a pivotal role in supporting subdivision development, even if not immediately utilized by the Developer. Its inclusion as county infrastructure is justified by several factors:

- Future Flexibility: Residents may opt to use natural gas for heating, cooking, or other purposes in the future, enhancing the MUD's adaptability. Ensuring natural gas infrastructure now prevents costly retrofitting later, aligning with sustainable development principles.
- Property Value Enhancement: Properties with access to natural gas typically command higher resale values and are more attractive to buyers, supporting economic development and market stability.
- Energy Diversification: Access to multiple energy sources, including natural gas, bolsters energy security and reliability, particularly during electrical outages or peak demand periods. This is especially critical for a high-density MUD, where energy demands are significant.
- Economic and Social Benefits: Natural gas infrastructure supports affordable energy access, contributing to social equity and economic growth, as noted in state energy reports (Texas Oil & Gas Association, Natural Gas Facts, TXOGA, <https://www.txoga.org/policy-issues/natural-gas-facts/> (last visited Apr. 23, 2025)).

The Texas Supreme Court's ruling in *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), affirms local governments' authority to impose conditions that advance public welfare, including infrastructure requirements. By requiring natural gas infrastructure, Rockwall County ensures that the MUD is equipped to meet diverse energy needs, fulfilling its regulatory responsibilities.

## **PHYSICAL PRESENCE OF NATURAL GAS INFRASTRUCTURE AND REGULATORY OVERSIGHT THEREOF**

Natural gas infrastructure, including pipelines, distribution lines, and metering stations, is physically located within the county's geographic boundaries, subject to county permitting, zoning, and safety regulations. This physical integration ties natural gas directly to the county's infrastructure framework, as it impacts land and resources within the county. The County's regulatory oversight, including enforcement of local standards for utility provision, further supports its classification as county infrastructure. While the Railroad Commission of Texas oversees natural gas operations, counties retain authority to regulate land use and development impacts, including utility infrastructure (Texas Oil & Gas Association, Essential Infrastructure, TXOGA, <https://www.txoga.org/our-industry/infrastructure/> (last visited Apr. 23, 2025)).

The physical and regulatory nexus between natural gas infrastructure and the county aligns with the Texas Supreme Court's emphasis on contextual statutory interpretation (*TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011)). Since natural gas is classified as county infrastructure, the County's regulatory scheme ensures that MUD' development is

supported by robust utility systems, consistent with the County's statutory mandate under Section 232.003.

### **CONSISTENCY WITH PRECEDENT AND ANALOGOUS UTILITIES**

The classification of natural gas as county infrastructure is consistent with the treatment of other utilities under Texas law. Water, sewer, and electrical services are universally recognized as "infrastructure" due to their essential roles in supporting development. Natural gas, as a comparable utility, serves similar functions by providing energy for residential and commercial use. The Texas Supreme Court's decision in *Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620, 639–40 (Tex. 2004), upholds local governments' authority to impose infrastructure conditions that mitigate development impacts, supporting the inclusion of natural gas within this framework.

The Developer's reliance on an all-electric appliance plan does not diminish natural gas's status as county infrastructure, as other utilities, such as sewer systems, are required regardless of immediate use to ensure long-term community benefits. The County's regulation of natural gas infrastructure is a reasonable extension of this precedent.

### **PROPORTIONALITY AND PRACTICAL NECESSITY**

County regulation of natural gas infrastructure ensures that developments are self-sustaining and do not burden existing county resources. This condition aligns with constitutional standards articulated in *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994), which mandate that development conditions be tied to legitimate governmental interests and roughly proportional to the project's impact. Natural gas infrastructure mitigates potential future impacts, such as increased demand for electrical services or energy shortages, by providing an alternative energy source.

From a practical perspective, excluding natural gas from "county infrastructure" would undermine the County's ability to regulate subdivisions effectively and ensure sustainable development. High-density MUDs require robust infrastructure to support their populations, and natural gas is a standard component in Texas, as evidenced by its widespread use in residential and commercial settings (TEX. COMPTROLLER OF PUB. ACCOUNTS, Natural Gas Overview, <https://comptroller.texas.gov/economy/economic-data/energy/2023/nat-gas.php> (last visited Apr. 23, 2025)).

## **NATURAL GAS IS INDISPUTABLY COUNTY INFRASTRUCTURE**

In conclusion, natural gas supply is indisputably county infrastructure under Texas Local Government Code Section 232.110, as its regulation is essential for public health, safety, and sustainable development. Its physical presence within the county, regulatory oversight, and alignment with other utilities reinforce this classification. The developer's plan to use only electrical appliances does not negate the need for natural gas infrastructure regulation.

## **SECTION IX: REQUIREMENT FOR DETAILED OPEN SPACES AND DRAINAGE PLANS PRIOR TO PROJECT APPROVAL**

### **OPEN SPACES AND COLLABORATION WITH THE OPEN SPACES ALLIANCE**

Rockwall County asserts that DR Horton must submit a comprehensive plan for open spaces, including formalized agreements with the Open Spaces Alliance, prior to final project approval. Pursuant to Texas Local Government Code Section 232.001, subdivision plats are required to delineate areas intended for public use, such as parks, squares, or other open spaces, to ensure community access to recreational and natural areas. These spaces are vital for enhancing residents' quality of life, preserving environmental resources, and fostering sustainable development. The developer's reliance on the County Engineering Representative's statement that open spaces will be "resolved through project design" is inadequate at this point in the process, as it fails to provide the specific documentation mandated by the County's Subdivision and Land Development Regulations, such as detailed site plans, dedications, or management agreements.

The intent of the County Commissioners Court is to secure concrete commitments for open spaces before binding platting decisions are made in order to avoid subsequent amendments, which could disrupt development and incur significant costs. Collaboration with the Open Spaces Alliance, if stipulated, necessitates formalized agreements to ensure the long-term maintenance and accessibility of these areas. The Texas Supreme Court has upheld local governments' authority to impose conditions that advance public welfare, as seen in *Quick v. City of Austin*, 7 S.W.3d 109, 118 (Tex. 1998), which supports the County's requirement for pre-platting resolution. Therefore, the Developer must provide a detailed open space plan, including any necessary agreements, to comply with statutory and regulatory standards before the project is approved.

### **DRAINAGE**

Rockwall County further maintains that DR Horton must submit a comprehensive drainage plan, supported by engineering studies and designs, prior to project approval to mitigate flooding

risks and ensure public safety. The developer's reliance on the Engineering Representative's statement that drainage will be "resolved through project design" does not satisfy the County's apportionment-related regulatory requirements, which demand specific documentation to verify compliance with state and local standards.

Finalizing drainage plans before project approval is essential to integrate adequate stormwater systems into the MUD's layout, preventing hazards that could affect residents and adjacent properties. The high-density nature of the MUD amplifies these concerns, necessitating robust drainage infrastructure. The U.S. Supreme Court's recognition of local governments' police powers to regulate for public safety, as articulated in *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 71 (1978), reinforces the County's authority to impose such conditions. Accordingly, the Developer must provide a detailed drainage plan for review and approval before project approval to ensure the MUD's infrastructure meets the County's standards and safeguards the community.

## **SECTION X: CONCLUSION**

Rockwall County has comprehensively demonstrated that DR Horton has failed to satisfy the requisite apportionment conditions through its response letter and its attachments. Across all critical infrastructure and service areas—schools, roads, police services, water supply, sewer systems, broadband, electrical service, animal control, trash/refuse, natural gas, open spaces, and drainage—the developer's submissions are deficient, lacking the binding commitments and detailed plans mandated by the County's Subdivision and Land Development Regulations and applicable state law.

The County's requirements are firmly grounded in its statutory obligation to safeguard public health, safety, and welfare, as authorized by Texas Local Government Code Chapter 232 and as further supported by other state statutes, such as Texas Water Code Chapter 54 and Texas Health and Safety Code Chapters 361 and 821. Each infrastructure component addressed in this brief is essential to the River Rock Trails MUD's sustainable development and the well-being of its future residents. The developer's reliance on vague statements and non-binding "can serve" letters fails to provide the necessary assurances that these services will be adequately implemented, posing significant risks to the community.

The classification of these services as "county infrastructure" under Section 232.110 is justified by their physical presence within the county, the County's general regulatory oversight of those services, and their indispensable role in supporting community functionality. Judicial precedents highlight the complexity of infrastructure provision in Texas, emphasizing the need for clear, enforceable commitments to mitigate development impacts. Cases like *Town of Flower*

*Mound v. Stafford Estates* affirm the County's authority to impose proportionate conditions to ensure public welfare (*Town of Flower Mound v. Stafford Estates Ltd. Partnership*, 135 S.W.3d 620 (Tex. 2004)).

The practical necessity of these requirements is underscored by the high-density nature of the proposed River Rock Trails, which demands robust infrastructure to prevent service shortages, safety hazards, and financial burdens on taxpayers. These districts are designed to finance infrastructure through bonds and taxes, necessitating upfront commitments to ensure viability. By withholding approval until DR Horton complies with these standards, the County ensures that the development will be a safe and sustainable addition to the community.

Rockwall County respectfully requests that the Commissioners Court uphold its decision to deny project approval until DR Horton fully complies with all conditions outlined in the County's regulations and this brief. This action is essential to fulfill the County's obligation to protect the public interest and ensure the long-term viability of the proposed development.



**ORDER OF THE ROCKWALL COUNTY COMMISSIONERS COURT REGARDING APPORTIONMENT DETERMINATION FOR PHASES 1A AND 1B OF THE RIVER ROCK TRAILS MUNICIPAL UTILITY DISTRICT**

**WHEREAS**, the Rockwall County Commissioners Court is vested with authority under Texas Local Government Code Chapter 232 to regulate subdivisions in unincorporated areas of the County and impose conditions for infrastructure improvements, including apportionment of costs under Section 232.110;

**Whereas**, D.R. Horton – Texas, Ltd. (“DR Horton”) desires to build the River Rock Trails subdivision within the geographic boundaries of Rockwall County;

**Whereas**, under Texas Local Government Code Section 232.110(a) a developer may be required to bear proportionate costs of county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs;

**Whereas**, the costs, dedication, and payments which the developer is required to bear are to be roughly proportionate to the entire proposed development;

**Whereas**, Section 5.10.1 of Rockwall County’s Subdivision and Land Development Regulations contains a list of 16 county infrastructure improvements which are to be included for purposes of determining the developer’s portion of County infrastructure improvements;

**Whereas**, DR Horton submitted a request for a rough proportionality determination under Texas Local Government Code Section 232.110 on November 14, 2024, for Phases 1A and 1B of the proposed development;

**Whereas**, Rockwall County staff issued a response letter on December 13<sup>th</sup>, 2024 (the “County Apportionment Letter”), to DR Horton, referring to the list of 16 county infrastructure improvements from the County’s Subdivision and Land Development Regulations for which DR Horton could be required to make dedications, payment of fees, or the payment of construction costs;

**Whereas**, DR Horton submitted a response letter to Rockwall County on March 4<sup>th</sup>, 2025 (the “Response Letter”), which included a commitment to pay proportionate contribution costs of \$338,867.75 for the construction of road infrastructure and \$529,424 for the administration of county Sheriff’s office infrastructure, and further stated that its



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ROCKWALL COUNTY, TEXAS:  
JENNIFER FOGG  
ROCKWALL COUNTY CLERK

**EXHIBIT  
A-13**

request for a proportionality appeal was conditioned upon the County disagreeing with the responses set forth in the Response Letter;

**Whereas**, DR Horton provided a copy of an agreement between the developer and the City of McLendon-Chisholm pertaining to the provision of fire services and county ESC/EMT infrastructure services;

**Whereas**, DR Horton attached to its Response Letter certain letters from entities stating that they are able to provide county infrastructure services for broadband internet infrastructure, animal control infrastructure, trash & refuse infrastructure, water, and electric service infrastructure on and subject to the terms and conditions of such letters;

**Whereas**, DR Horton stated in its Response Letter that it would resolve the sewer, drainage and open space, and water infrastructure issues with respect to Phases 1A and 1B through project design;

**Whereas**, DR Horton stated in its Response Letter that it refused to pay the fees for school infrastructure improvements which were requested in the County Apportionment Letter;

**Whereas**, DR Horton stated in its Response Letter that it would not provide natural gas infrastructure to the River Rock Trails subdivision; and

**Whereas**, the Rockwall County Commissioners Court held an appeal hearing on April 24<sup>th</sup>, 2025, in which evidence, testimony, and argument from DR Horton and evidence and argument from County staff was presented and reviewed;

**NOW THEREFORE BE IT ORDERED BY THE ROCKWALL COUNTY COMMISSIONERS COURT:**

**Scope and Purpose:**

This Order constitutes the Commissioners Court's determination regarding the apportionment hearing held on April 24, 2025, in response to DR Horton's March 4, 2025, request for an apportionment determination for Phases 1A and 1B of the River Rock Trails Municipal Utility District (MUD), and is based solely upon the facts in existence on April 24, 2025, with respect to Phases 1A and 1B. This Order does not constitute plat approval but is limited to the Commissioners Court's ruling on the apportionment appeal, and all conditions previously required by the Commissioners Court for the plats previously submitted to the County for Phases 1A and 1B must be satisfied prior to the Commissioners Court granting such approval.



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ROCKWALL COUNTY, TEXAS:  
JENNIFER FOGG  
ROCKWALL COUNTY CLERK

**Non-Precedential Nature:**

This Order is limited to the specific facts and circumstances of the April 24, 2025, apportionment appeal hearing, and shall not be deemed binding precedent or authority for any future proceedings or determinations.

The County expressly reserves its right to exercise its authority and discretion in future matters, including subsequent phases of the River Rock Trails MUD, as permitted by the Rockwall County Subdivision and Land Development Regulations and other applicable laws.

**Infrastructure Not Subject to Apportionment:**

For the purposes of this Order, the Commissioners Court notes that the County has not required, and currently is not requiring, DR Horton to bear apportionment of costs for the following County Infrastructure Improvements through dedications, payment of fees, or construction costs with respect to Phases 1A and 1B: ESC/EMT (Ambulance) services, fire services, water, sewer services, broadband services, electric services, natural gas services, open space, drainage, animal control, trash/refuse services, and radio communications.

Notwithstanding the foregoing, DR Horton shall remain subject to all applicable requirements of the Rockwall County Subdivision and Land Development Regulations and state law related to these services, including submission of binding commitments or plans, as determined by the Commissioners Court and the County Engineer.

**Acceptance of Road Apportionment Fees**

The Commissioners Court accepts DR Horton's offer, as stated in its Response Letter, to pay road apportionment fees totaling \$338,867.75, apportioned as \$157,948.95 for Phase 1A and \$180,918.80 for Phase 1B.

The Commissioners Court agrees with DR Horton that payment for each such phase shall be required to be made within ten (10) days following Commissioners Court approval of the final plat for the respective phase.

The Commissioners Court finds, based on the assessment of a licensed professional engineer retained by it, that these fees are roughly proportionate to the development's impact on county road infrastructure, as required by Texas Local Government Code Section 232.110(b).

**School Infrastructure Conditions:**

The Commissioners Court will not require that the developer DR Horton pay the portion of the costs of the county infrastructure improvements for schools set forth in the County Apportionment Letter with respect to Phases 1A and 1B of the River Rock Trails subdivision.



**Acceptance of Police Apportionment Fees:**

The Commissioners Court accepts DR Horton's offer, as stated in its Response Letter, to pay police apportionment fees totaling \$529,424, apportioned as \$264,712 for Phase 1A and \$264,712 for Phase 1B.

The Commissioner's Court agrees with DR Horton that Payment for each phase shall be required to be made within ten (10) days following Commissioners Court approval of the final plat for the respective phase.

**Water Infrastructure Conditions:**

The Commissioners Court has not required the payment of apportionment fees under Texas Local Government Code Section 232.110 with respect to the provision of water services for Phases 1A and 1B and is not requiring that the developer DR Horton bear a portion of such costs of these county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs to the County.

**Fire and EMS/EMT Infrastructure Conditions:**

The Commissioners Court has not required the payment of apportionment fees under Texas Local Government Code Section 232.110 with respect to the provision of Fire and EMS/EMT Infrastructure for Phases 1A and 1B and is not requiring that the developer DR Horton bear a portion of such costs of these county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs to the County.

**Reservation of Rights:**

The County reserves the right to impose additional conditions or apportionment requirements for future phases of the River Rock Trails MUD, consistent with Texas Local Government Code Chapter 232 and the Rockwall County Subdivision and Land Development Regulations.

**Effective Date and Notification:**

This Order shall take effect immediately upon its adoption by the Commissioners Court on May 13<sup>th</sup>, 2025.

The County Clerk is directed to provide a certified copy of this Order to DR Horton and any other parties of record within one (1) business days of adoption.

ADOPTED by the Commissioners Court of Rockwall County, Texas, on this 13th day of May 2025, by a vote of 5-0.



TRUE AND CORRECT COPY OF  
ORIGINAL RECORD FILED IN  
ROCKWALL COUNTY, TEXAS:  
JENNIFER FOGG  
ROCKWALL COUNTY CLERK

SIGNED:



Frank New  
County Judge  
Rockwall County, Texas

ATTEST:



Jennifer Fogg  
County Clerk  
Rockwall County, Texas



I, Jennifer Fogg, Rockwall County Clerk, do hereby certify that the foregoing, consisting of 5 pages, is a true and correct copy of the original record now on file and/or recorded in the Commissioner Court records. (A portion of a personal identifying number may have been redacted as allowed by law)

May 13, 2025 Date

Rockwall County Clerk  
Rockwall County, Texas

  
Deputy

DMDS Land Company LLC, et al.,

Plaintiff;

v.

Rockwall County,

Defendant.

IN THE DISTRICT COURT

382ND JUDICIAL DISTRICT

ROCKWALL COUNTY, TEXAS

DEFENDANT ROCKWALL COUNTY’S OBJECTIONS AND RESPONSES TO  
PLAINTIFFS’ REQUESTS FOR ADMISSION

TO: Plaintiffs, DMDS Land Company LLC and D.R. Horton-Texas, LTD., by and through the attorneys of record Arthur J. Anderson and Matthew K. Joeckel, Winstead PC, 2728 N. Harwood Street, Dallas, Texas 75201

Pursuant to Rule 198 of the Texas Rules of Civil Procedure, Defendant, Rockwall County (“County”), serves these Objections and Responses to Plaintiffs’ Requests for Admission.

Respectfully submitted,

By: /s/ Christopher A. Klement

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ATTORNEYS FOR DEFENDANT  
ROCKWALL COUNTY, TEXAS

and

**EXHIBIT**  
**A-14**

## CERTIFICATE OF SERVICE

I certify that on October 15, 2025, a true and correct copy of this document was delivered to counsel of record by electronic service in accordance with the Texas Rules of Civil Procedure.

By: /s/ Christopher A. Klement  
CHRISTOPHER A. KLEMENT

## OBJECTIONS AND RESPONSES TO PLAINTIFF'S REQUESTS FOR ADMISSION

**Request for Admission No. 1.** Admit that a true and correct copy of §5.10 of the County subdivision regulations is attached as Exhibit 1.

**Response:** Admit.

**Request for Admission No. 2.** Admit that the term "schools" in § 5.10.1 are not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 3.** Admit that the County does not own public school facilities or improvements in the County.

**Response:** Admit.

**Request for Admission No. 4.** Admit that roads owned or maintained by the State of Texas are not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 5.** Admit that the County does not own or maintain FM 548 adjacent to the Property.

**Response:** Admit.

**Request for Admission No. 6.** Admit that FM 548 is owned by the State.

**Response:** Admit.

**Request for Admission No. 7.** Admit that FM 548 is not owned by the County.

**Response:** Admit.

**Request for Admission No. 8.** Admit that FM 548 is maintained by the State.

**Response:** Admit.

**Request for Admission No. 9.** Admit that FM 548 is not maintained by the County.

**Response:** Admit.

**Request for Admission No. 10.** Admit that the term “ESC/EMT (Ambulance)” as used in § 5.10.1 is not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 11.** Admit that the County does not own or maintain ESC/EMT (Ambulance) facilities or infrastructure.

**Response:** Admit.

**Request for Admission No. 12.** Admit that the term "fire" in § 5.10.1 is not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 13.** Admit that the County does not own or maintain firefighting facilities or infrastructure related to the Development.

**Response:** Admit.

**Request for Admission No. 14.** Admit that the County does not currently own or maintain firefighting facilities or infrastructure in the County.

**Response:** Admit.

**Request for Admission No. 15.** Admit that the term "police" in § 5.10.1 are not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 16.** Admit that sheriff or police employees are not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 17.** Admit that the County is not a retail or wholesale water provider.

**Response:** Admit.

Request for Admission No. 18. Admit that the County will not own or maintain the infrastructure that will provide water services to the Development.

Response: Admit.

Request for Admission No. 19. Admit that the County does not own or maintain water infrastructure to serve developments in the County.

Response: Admit.

Request for Admission No. 20. Admit that the County is not a retail or wholesale sewer provider.

Response: Admit.

Request for Admission No. 21. Admit that the County will not own or maintain infrastructure that will provide sanitary sewer services to the Development.

Response: Admit.

Request for Admission No. 22. Admit that the County does not own or maintain sewer infrastructure to serve developments in the County.

Response: Admit.

Request for Admission No. 23. Admit that the County is not a broadband provider.

Response: Admit.

Request for Admission No. 24. Admit that the County will not own or maintain broadband infrastructure to serve the Development.

Response: Admit.

Request for Admission No. 25. Admit that the County does not own or maintain broadband infrastructure in the County.

Response: Admit.

Request for Admission No. 26. Admit that the County is not a retail or wholesale electric provider.

Response: Admit.

Request for Admission No. 27. Admit that the County will not own or maintain electric infrastructure that will serve the Development.

Response: Admit.

Request for Admission No. 28. Admit that the County does not own or maintain electric infrastructure in the County.

Response: Admit.

Request for Admission No. 29. Admit that the County is not a retail or wholesale natural gas provider.

Response: Admit.

Request for Admission No. 30. Admit that the County will not own or maintain natural gas infrastructure that will serve the Development.

Response: Admit.

Request for Admission No. 31. Admit that the County does not own or maintain natural gas infrastructure in the County.

Response: Admit.

Request for Admission No. 32. Admit that the term "open space" in § 5.10.1 is not a County infrastructure improvement as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

Request for Admission No. 33. Admit that the County will not own or maintain open space related to the Development.

Response: Deny.

Request for Admission No. 34. Admit that the County does not own or maintain open space on private property in the County.

Response: Admit.

Request for Admission No. 35. Admit that the County does not own or maintain parks in the County.

Response: Admit.

**Request for Admission No. 36.** Admit that drainage improvements unrelated to County roads is not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 37.** Admit that the County will not own or maintain drainage improvements within the Development.

**Response:** Admit.

**Request for Admission No. 38.** Admit that the term "animal control" in § 5.10.1 is not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 39.** Admit that the County does not own or maintain animal control infrastructure or facilities.

**Response:** Admit.

**Request for Admission No. 40.** Admit that the term "dispatch/911/GIS Services" in § 5.10.1 is not County infrastructure improvements.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 41.** Admit that the term "trash/refuse" in § 5.10.1 are not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 42.** Admit that the County does not own or maintain trash/refuse collection and disposal infrastructure.

**Response:** Admit.

**Request for Admission No. 43.** Admit that the County will not provide trash/refuse collection or disposal services to the Development.

**Response:** Admit.

**Request for Admission No. 44.** Admit that the term "radio communications" in § 5.10.1 are not County infrastructure improvements as used in § 232.110.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 45.** Admit that the County does not own or maintain radio communications infrastructure.

**Response:** Deny.

**Request for Admission No. 46.** Admit that the County will not provide radio communication services to the Development.

**Response:** Deny.

**Request for Admission No. 47.** Admit that § 3.2 of the County's subdivision regulations addresses preliminary plats.

**Response:** Admit.

**Request for Admission No. 48.** Admit that a true and correct copy of portions of the Initial Application are attached as Exhibit 2.

**Response:** Admit.

**Request for Admission No. 49.** Admit that the Initial Application included the following preliminary plans required by § 3.2.3 of the County's subdivision regulations for a preliminary plat:

1. Preliminary Water and Wastewater Plans (refer to Sec. 5.9.5); and
2. Preliminary Drainage Plan (refer to Sec. 5.7.9).

**Response:** Defendant County admits that the Initial Application included the described preliminary plans.

**Request for Admission No. 50.** Admit that the Initial Application was determined to be administratively complete by the County.

**Response:** Admit.

**Request for Admission No. 51.** Admit that the County's engineering consultant prepared numerous comment letters for the Phase IA and Phase IB plats.

**Response:** Admit.

**Request for Admission No. 52.** Admit that the Initial Application was submitted prior to enactment of § 5.10.

**Response:** Admit.

**Request for Admission No. 53.** Admit that the County did not require Plaintiff to submit new preliminary plat applications for Phases 1A or 1B after the Initial Application due to material changes to those plats.

**Response:** Deny.

**Request for Admission No. 54.** Admit that the Horton is the developer of the Wildwood subdivision in the County.

**Response:** Admit.

**Request for Admission No. 55.** Admit that Wildwood Phase 2 infrastructure construction plans ("Phase 2 Plans") were approved by the County's engineer in December 2023.

**Response:** Deny.

**Request for Admission No. 56.** Admit that as of December 2023 the County staff and/or engineer had sole legal authority to approve infrastructure construction plans for the Development.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 57.** Admit that as of December 2023 the County commissioners court had no legal authority to approve or disapprove the Phase 2 plans.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 58.** Admit that the County informed Horton in December 2023 that the Phase 2 Plans would have to be approved on a subsequent meeting agenda.

**Response:** Admit.

**Request for Admission No. 59.** Admit that as of December 2023 the County had not considered adopting regulations that would implement § 232.110.

**Objection:** Defendant County objects to this request because it is vague, ambiguous, and lacks specificity in that the request's wording is such that it is uncertain what information or material the request seeks. The term "considered" is vague, ambiguous, and lacks specificity such that Defendant County must speculate at whether Plaintiffs mean that the County Commissioners

had not formally considered adopting such regulations at a duly noticed meeting or whether any County official, employee, agent, or representative had considered the County adopting such regulations.

**Request for Admission No. 60.** Admit that attached as Exhibit 3 is a true and correct copy of the February 2, 2024 Commissioners Court minutes.

**Response:** Admit.

**Request for Admission No. 61.** Admit that attached as Exhibit 4 is a true and correct copy of the February 13, 2024 Commissioners Court regular meeting minutes.

**Response:** Admit.

**Request for Admission No. 62.** Admit that at the February 13, 2024 meeting, the County Commissioners adopted § 5.10 immediately prior to denying the Wildwood Phase 2 plans.

**Response:** Defendant County admits that it adopted § 5.10 at the February 13, 2024 meeting of the Commissioners Court. Defendant County further admits that it denied the Wildwood Phase 2 plans later in the same meeting.

**Request for Admission No. 63.** Admit that the statement on page 17 of the County Answer that the timing of the enactment of § 5.10 was coincidental and "not an attempt to retroactively target or frustrate Plaintiffs' development" is incorrect.

**Response:** Deny.

**Request for Admission No. 64.** Admit that attached as Exhibit 5 is a true and correct copy of the February 16, 2024 appeals letter by Horton to the County regarding Wildwood Phase 2.

**Response:** Admit.

**Request for Admission No. 65.** Admit that attached as Exhibit 6 is a true and correct copy of the March 15, 2024 Wildwood Phase 2 Apportionment Costs by Judge Frank New.

**Response:** Admit.

**Request for Admission No. 66.** Admit that attached as Exhibit 7 is a true and correct copy of the April 4, 2024 response by Horton's counsel to Judge New's March 15, 2024 letter.

**Response:** Admit.

**Request for Admission No. 67.** Admit that Plaintiff's April 4, 2024 response states that the County lacks statutory authority under § 232.110 to require a developer to pay for a state road, schools or police infrastructure costs.

**Response:** Defendant County admits that Plaintiff's April 4, 2024 response makes such a statement but expressly denies that such a statement is correct.

**Request for Admission No. 68.** Admit that other than § 232.110 (as alleged by the County) there are no Texas statutes which authorize a county to force a developer to pay a fee for road, school or police infrastructure improvement costs.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 69.** Admit that a true and correct copy of the remainder preliminary plat ("Remainder Plat") disapproved by the County on June 3, 2025 is attached as Exhibit 8.

**Response:** Admit.

**Request for Admission No. 70.** Admit that the Remainder Plat contains approximately 1,782 acres ("Remainder Property").

**Response:** Admit.

**Request for Admission No. 71.** Admit that the County did not apply § 5.10 to the Remainder Property.

**Response:** Admit.

**Request for Admission No. 72.** Admit that the County will require additional plats to be approved for residential subdivision developments in the County.

**Response:** Defendant County requires plat approval for residential subdivision development in the County.

**Request for Admission No. 73.** Admit that the County will not apply the exactions in § 5.10.1 to future plats for the Remainder Property.

**Response:** The information that Defendant County knows or can easily obtain is insufficient to enable Defendant County to admit or deny the truth of this request.

**Request for Admission No. 74.** Admit that a true and correct copy of the wastewater treatment preliminary plat ("WWTP Plat") disapproved by the Court is attached as Exhibit 9.

**Response:** Admit.

**Request for Admission No. 75.** Admit that the County will not apply any of the exactions in § 5.10.1 to the WWTP Plat.

**Response:** The information that Defendant County knows or can easily obtain is insufficient to enable Defendant County to admit or deny the truth of this request.

**Request for Admission No. 76.** Admit that the County subdivision regulations in effect prior to the enactment of § 5.10.1 did not require subdividers of land to provide an exaction for roads that was necessarily roughly proportional to the nature and extent of the impacts on roads created by the proposed development as stated on page 4 of the Answer.

**Response:** Deny.

**Request for Admission No. 77.** Admit that DMDS holds legal status to the Property.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 78.** Admit that DMDS has standing to assert a takings claim under either the Texas or U.S. Constitutions.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 79.** Admit that Horton submitted its proportionality appeal in accordance with § 232.110 to the County on or about November 14, 2024.

**Response:** Defendant County admits Plaintiff Horton requested a proportionality determination.

**Request for Admission No. 80.** Admit that a true and correct copy of the Merritt Response with Attachment 1 is attached as Exhibit 10.

**Response:** Admit.

**Request for Admission No. 81.** Admit that a professional engineers report was not provided in Exhibit 10 for schools or police.

**Response:** Admit.

**Request for Admission No. 82.** Admit that a true and correct copy of the FNI Memo is attached as Exhibit 11.

**Response:** Admit.

**Request for Admission No. 83.** Admit that the FNI Memo did not analyze the current road capacity and vehicle usage solely of FM 548 next to the Property.

**Response:** Admit.

**Request for Admission No. 84.** Admit that the FNI Memo utilized roads other than county roads in calculating proportionality.

**Response:** Admit.

**Request for Admission No. 85.** Admit that there is sufficient current available capacity in FM 548 adjacent to the Property to accommodate the vehicular traffic that will be generated by Phases 1A and 1B.

**Response:** Deny.

**Request for Admission No. 86.** Admit that a true and correct copy of the FNI Cost Estimate is attached as Exhibit 12.

**Response:** Admit.

**Request for Admission No. 87.** Admit that the State of Texas is the right-of-way owner of FM 548.

**Response:** Admit.

**Request for Admission No. 88.** Admit that currently there are no approved plans to improve or widen FM 548 adjacent to the Property.

**Response:** After reasonable inquiry, the information that Defendant County knows or can easily obtain is insufficient to enable Defendant County to admit or deny the truth of this request.

**Request for Admission No. 89.** Admit that the State of Texas, not the County, will decide whether FM 548 will be improved or widened.

**Response:** Admit.

**Request for Admission No. 90.** Admit that the County has no statutory authority to impose a roadway impact fee on developer.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 91.** Admit that the County has no statutory authority to impose a fee on developers to pay sheriff department employee salaries.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 92.** Admit that the State, not the County, will determine the pavement and right-of-way standards for FM 548 improvements.

**Response:** Admit.

**Request for Admission No. 93.** Admit that right-of-way must be dedicated by Plaintiffs at no cost for FM 548.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 94.** Admit that the County does not intend to pay Plaintiffs for the market value of the right-of-way referenced in Request No. 93.

**Response:** Admit.

**Request for Admission No. 95.** Admit that the right-of-way referenced in Request No. 93 will be dedicated to the State.

**Response:** Admit.

**Request for Admission No. 96.** Admit that every category of exaction under § 232.110 requires a professional engineering report.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 97.** Admit that every category of exaction under § 232.110 requires a professional engineer's seal.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 98.** Admit that the \$338,867.75 fee in lieu of improvement stated on page 3 of Exhibit 12 is a roadway impact fee.

**Response:** Deny.

**Request for Admission No. 99.** Admit that the individual employees of the Sherriff's department are not infrastructure.

**Response:** Defendant County denies that "police" are not County infrastructure in accordance with §5.10.1.A of Subdivision and Land Development Regulations.

**Request for Admission No. 100.** Admit that a true and correct copy of Horton's March 4, 2025 offer ("Offer") to fund \$338,867.75 in road infrastructure costs and \$529,424 for law enforcement services is attached as Exhibit 13. ("Offer Letter").

**Response:** Admit.

**Request for Admission No. 101.** Admit that the County did not accept the March 4, 2025 Offer prior to the April 24, 2025 hearing.

**Response:** Admit.

**Request for Admission No. 102.** Admit that the County disapproved the Phases 1A and 1B plat applications prior to the April 24, 2025 hearing.

**Response:** Admit.

**Request for Admission No. 103.** Admit that Horton's counsel orally withdrew the Offer at the April 24, 2025 hearing.

**Response:** Deny.

**Request for Admission No. 104.** Admit that the County did not orally dispute or controvert Horton's withdrawal of the Offer at the April 24, 2025 hearing.

**Response:** Defendant County denies that Horton withdrew the Offer at the April 24, 2025 hearing and, as such, further denies that it did not orally dispute or controvert any alleged withdrawal at the hearing.

**Request for Admission No. 105.** Admit that Horton did not invite further negotiation or leverage after the Offer was withdrawn as alleged in the Answer.

**Response:** Defendant County denies that Horton withdrew the Offer at the April 24, 2025 hearing. Defendant County admits that Horton did not engage in further negotiations after the April 24, 2025 hearing.

**Request for Admission No. 106.** Admit that as of April 24, 2025 Horton did not consent to the imposition of the costs of \$338,867.75 for the construction of road infrastructure and \$529,424.00 for Sheriff's office administration.

**Response:** Deny.

Request for Admission No. 107. Admit that Exhibit 14 is a true and correct copy of the Brief.

Response: Admit.

Request for Admission No. 108. Admit that the Brief was presented to the County Commissioners at the April 25, 2025 hearing.

Response: Admit.

Request for Admission No. 109. Admit that the County presented evidence and testimony at the hearing contending that each of the exactions listed in § 5.10.1 constituted County public infrastructure pursuant to § 232.110.

Response: Admit.

Request for Admission No. 110. Admit that Jeff Miles is a professional engineer.

Response: Defendant County admits that Jeff Miles has represented that he is a professional engineer.

Request for Admission No. 111. Admit Jeff Miles presented oral testimony at the hearing that FM 548 adjacent to the Property does not need to be widened or improved to handle the additional vehicular traffic from Phases 1A and 1B.

Response: Admit.

Request for Admission No. 112. Admit that the County did not introduce evidence or testimony by a professional engineer directly contradicting Mr. Miles' testimony at the hearing.

Response: Deny.

Request for Admission No. 113. Admit that as of April 24, 2025, the County had denied or disapproved the Phase 1A preliminary plat at least three times.

Response: Admit.

Request for Admission No. 114. Admit that as of April 24, 2025 the County had denied or disapproved the Phase 1B preliminary plat at least three times.

Response: Admit.

Request for Admission No. 115. Admit that Horton did not offer evidence or testimony on County Sheriff infrastructure costs at the April 24, 2025 hearing.

Response: Admit.

**Request for Admission No. 116.** Admit that Section 232.110 does not prevent or limit Horton's Offer withdrawal as stated on page 19 of the County Answer.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 117.** Admit that the County did not suffer any injury by Horton's withdrawal of the Offer as stated to the contrary on page 21 of the County Answer.

**Response:** Deny.

**Request for Admission No. 118.** Admit that the County Commissioners Court denied or disapproved the Phase 1A plat on or about May 23, 2023, June 6, 2023, June 25, 2024, September 10, 2024, March 28, 2025, and June 3, 2025.

**Response:** Admit.

**Request for Admission No. 119.** Admit that the County Commissioners Court denied or disapproved the Phase 1B plat on or about July 9, 2024, September 10, 2024, March 25, 2025, and June 3, 2025.

**Response:** Admit.

**Request for Admission No. 120.** Admit that a true and correct copy of the Order is attached as Exhibit 15.

**Response:** Admit.

**Request for Admission No. 121.** Admit that a true and correct copy of the Phase 1A preliminary plat disapproved at the June 23, 2025 Commissioners Court meeting is attached as Exhibit 16.

**Response:** Admit.

**Request for Admission No. 122.** Admit that a true and correct copy of the Phase 1B preliminary plat disapproved at the June 23, 2025 Commissioners Court meeting is attached as Exhibit 17.

**Response:** Admit.

**Request for Admission No. 123.** Admit that the versions of the Phase 1A and Phase 1B plat applications disapproved at the June 3, 2024 Commissioners Court hearing were not materially different than those included in the Initial Application.

**Response:** Deny.

**Request for Admission No. 124.** Admit that the plats for Phases 1A and 1B disapproved by the County Commissioners Court on June 3, 2025 were substantially similar to those in the Initial Application.

**Response:** Deny.

**Request for Admission No. 125.** Admit that a true and correct copy of the concept plan presented to the County prior to the enactment of § 5.10 is attached as Exhibit 18.

**Response:** Admit.

**Request for Admission No. 126.** Admit that a true and correct copy of the concept plan presented to the County prior to the enactment of § 5.10 is attached as Exhibit 19.

**Response:** Admit.

**Request for Admission No. 127.** Admit that a final plat cannot be submitted for either Phase 1A or Phase 1B until a preliminary plat is approved by the County.

**Response:** Admit.

**Request for Admission No. 128.** Admit that the County will require one or more new plat applications to be approved as a condition of a residential subdivision being developed on the Remainder Property.

**Response:** Admit.

**Request for Admission No. 129.** Admit that if § 5.10 is determined to be null and void by the court then the County will be required to enact new regulations to require the construction of new roads in contravention of the County's statement on page 4 of the Answer.

**Objection:** Defendant County objects to this request because it asks Defendant County to admit a pure question of law.

**Request for Admission No. 130.** Admit that § 5.10 has not been repealed or amended since its enactment by the County.

**Response:** Admit.

Cause No. 1-25-1000

DMDS Land Company LLC, et al.,

Plaintiff;

v.

Rockwall County,

Defendant.

IN THE DISTRICT COURT

382ND JUDICIAL DISTRICT

ROCKWALL COUNTY, TEXAS

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DEFENDANT ROCKWALL COUNTY'S OBJECTIONS AND RESPONSES TO  
PLAINTIFFS' FIRST SET OF INTERROGATORIES

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TO: Plaintiffs, DMDS Land Company LLC and D.R. Horton-Texas, LTD., by and through the attorneys of record Arthur J. Anderson and Matthew K. Joeckel, WINSTEAD PC, 2728 N. Harwood Street, Dallas, Texas 75201

Pursuant to Rule 197 of the Texas Rules of Civil Procedure, Defendant, Rockwall County, Texas ("County"), serves these Objections and Responses to Plaintiffs' First Set of Interrogatories.

Respectfully submitted,

By: /s/ Christopher A. Klement

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ATTORNEYS FOR DEFENDANT  
ROCKWALL COUNTY, TEXAS

and

**EXHIBIT**  
**A-15**

CERTIFICATE OF SERVICE

I certify that on October 15, 2025, a true and correct copy of this document was delivered to counsel of record by electronic service in accordance with the Texas Rules of Civil Procedure.

By: /s/ Christopher A. Klement  
CHRISTOPHER A. KLEMENT

## OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

**Interrogatory No. 1:** Identify each person either participating in the preparation of the answers to these interrogatories or supplying information used in such preparation.

**Response:** Erika Bridges, Rockwall County Engineer; Charisa Hauser, Rockwall County's Environmental Health Coordinator; Daniel Ray, Attorney; Arnold Luschin, Attorney; Christopher D. Bowers, Attorney; and Christopher A. Klement, attorney; each may be contacted through Christopher D. Bowers, THE SUSTER LAW GROUP, PLLC, 1316 Village Creek Drive, Suite 500, Plano, Texas 75093.

**Interrogatory No. 2:** Identify County staff and elected and appointed officials with knowledge of the County's attempts to impose exactions on the Property.

**Objection:** The County objects to this Interrogatory on the ground that it requires the adoption of an assumption in that the interrogatory assumes the County's development requirements constitute exactions, which is improper. In responding to this Interrogatory, the County will identify persons with knowledge of the County's development requirements for Plaintiff's proposed subdivision.

**Response:** Frank New, Rockwall County Judge; Bobby Gallana, Rockwall County Commissioner; Dana Macalik, Rockwall County Commissioner; Lorne Liechty, Rockwall County Commissioner; John Stacy, Rockwall County Commissioner; Erika Bridges, Rockwall County Engineer; Charisa Hauser, Rockwall County's Environmental Health Coordinator; each may be contacted through Christopher D. Bowers, THE SUSTER LAW GROUP, PLLC, 1316 Village Creek Drive, Suite 500, Plano, Texas 75093.

**Interrogatory No. 3:** State in detail the reasons that the County disputes in its Answer that Plaintiffs withdrew their offer to pay road and sheriff salary costs at the April 24, 2025 hearing.

**Response:** Plaintiff Horton's letter dated March 4, 2025 ("Offer Letter"), gave the County the opportunity to accept its offer for a fixed period of time and, therefore, could not withdraw its offer prior to the expiration of that time, which was through the apportionment hearing. The statements of Plaintiffs' counsel during the hearing was not a formal withdrawal of the written offer, which the County had not rejected, but was instead argumentation during a hearing.

**Interrogatory No. 4:** State in detail the reasons for the County's contention the exaction items listed in § 5.10 constitute county infrastructure improvements.

**Objection:** The County objects to this Interrogatory on the ground that it requires the adoption of an assumption in that the interrogatory assumes the County's development requirements constitute exactions, which is improper. The County further objects to this Interrogatory to the extent it seeks information or material that is not relevant and it is not reasonably calculated to lead to the discovery of any admissible evidence. *Tex. R. Civ. P. 192.3(a)*; *see also Tex. R. Civ. P. 192 cmt. 1 & Tex. R. Evid. 501*; *In re Nat'l Lloyds Ins.*, 449 S.W.3d 486, 488–90 (Tex. 2014); *In re CSX Corp.*, 124 S.W.3d 149, 152 (Tex. 2003). This Interrogatory cannot lead to admissible

evidence because the County did not apply 14 of the 16 items listed in § 5.10 to Horton's plat applications. In other words, the Commissioners Court's Order dated May 13, 2025 ("County's Order") did not require Horton to pay any costs for 14 of the 16 items listed in the 2024 Amendment. Horton admits this in Paragraph 14 of the Petition. Therefore, the County has not imposed a regulatory burden on Horton regarding these 14 items. Since the County's Order did not apply these 14 items to Horton's applications, there is no live controversy to adjudicate for those 14 items. In responding to this Interrogatory, the County will provide reasons the items listed in § 5.10 and applied to Horton's plat applications constitute county infrastructure improvements.

**Response:** The items listed in § 5.10.1.A constitute county infrastructure because of their physical presence within the county, the County's general regulatory oversight of those facilities and services, and each item's indispensable role in supporting community functionality. In response to this Interrogatory, please see the County's Brief to Rockwall County Commissioners Court regarding the DR Horton Apportionment Appeal Hearing Regarding River Rock Trails dated April 24, 2025, and produced as DEF 000639 – 000684.

**Interrogatory No. 5:** State in detail the reasons supporting the County contention in the Order that the costs of \$338,867.75 for the construction of a state road and \$529,424 for Sheriff department employee salaries constitute County public infrastructure under §232.110.

**Response:** The costs of \$338,867.75 for the construction of a state road and \$529,424 for Sheriff department employee salaries constitute County public infrastructure under §232.110 because of their physical presence within the county, the County's general regulatory oversight of those facilities and services, and each item's indispensable role in supporting community functionality. In response to this Interrogatory, please see the County's Brief to Rockwall County Commissioners Court regarding the DR Horton Apportionment Appeal Hearing Regarding River Rock Trails dated April 24, 2025, and produced as DEF 000649 – 000654 and DEF 000658 – 000661..

**Interrogatory No. 6:** State in detail the reasons supporting your contention that the existing two (2) lanes of FM 548 adjacent to the Property lack sufficient capacity to accommodate the future vehicular traffic from Phases 1A and B.

**Response:** The vehicle-miles of demand for the new dwelling units is 2,192.49 and the vehicle-miles capacity supply of FM 548 segment along the site parcel frontage is only 851.

**Interrogatory No. 7:** State the reasons in detail supporting the County's contention on Page 17 of the Answer that the Phase 1A and Phase 1B preliminary plats disapproved on June 3, 2025 are materially different from those included in the Initial Application.

**Response:** The preliminary plats disapproved on June 3, 2025, contained a combination of fewer lots and new elements, including without limitation the designation of private streets, sight visibility easements, reinforced concrete pipes, and fiber optic cables.

**Interrogatory No. 8:** State the reasons in detail supporting the County's contention in its Answer that Horton legally could not withdraw its \$338,867.75 and \$529,424 offer at the April 24, 2025 Commissioners Court meeting.

**Response:** Plaintiff Horton's letter dated March 4, 2025 ("Offer Letter"), gave the County the opportunity to accept its offer for a fixed period of time and, therefore, could not withdraw its offer prior to the expiration of that time, which was through the apportionment hearing.

**Interrogatory No. 9:** State the reasons in detail supporting the County's contention that the County substantially, reasonably, and detrimentally relied on Horton's offer as stated on page 21 of the Answer.

**Response:** The County relied on the offer made by Plaintiff Horton's Offer Letter when analyzing apportionment prior to the April 24, 2025 apportionment hearing, including incurring legal fees and expenses to review Plaintiff Horton's position. In addition, the County relied on the same offer when preparing the County's budget, specifically for items Plaintiff Horton agreed to provide that were as a result of the Phase A and Phase 1B developments.

**Interrogatory No. 10:** State the reasons in detail supporting the County's contention that §232.110 exactions do not require a supporting professional engineer report.

**Objection:** The County objects to this Interrogatory on the ground that it requires the adoption of an assumption in that the interrogatory assumes the County's development requirements constitute exactions, which is improper. The County further objects to this Interrogatory to the extent it seeks information or material that is not relevant and it is not reasonably calculated to lead to the discovery of any admissible evidence. *Tex. R. Civ. P. 192.3(a); see also Tex. R. Civ. P. 192 cmt. 1 & Tex. R. Evid. 501; In re Nat'l Lloyds Ins.*, 449 S.W.3d 486, 488-90 (Tex. 2014); *In re CSX Corp.*, 124 S.W.3d 149, 152 (Tex. 2003). This Interrogatory cannot lead to admissible evidence because the County did not apply 14 of the 16 items listed in § 5.10 to Horton's plat applications. In other words, the Commissioners Court's Order dated May 13, 2025 ("County's Order") did not require Horton to pay any costs for 14 of the 16 items listed in the 2024 Amendment. Horton admits this in Paragraph 14 of the Petition. Therefore, the County has not imposed a regulatory burden on Horton regarding these 14 items. Since the County's Order did not apply these 14 items to Horton's applications, there is no live controversy to adjudicate for those 14 items. In responding to this Interrogatory, the County will provide reasons whether the items listed in § 5.10 and applied to Horton's plat applications require a supporting professional engineer report.

**Response:** Not all requirements authorized by Chapter 232 of the Texas Local Government Code involve a subject matter which may be properly analyzed by a professional engineer. Section 232.110 requires a supporting professional engineer report only for appropriate subject matter, for example, in this case, road infrastructure costs.

**Interrogatory No. 11:** Identify by name, address and telephone number those persons associated with a governmental entity, utility company or service provider contacted by the County regarding the application of the exclusions listed in § 5.10.1 to the development of the Property.

**Objection:** The County objects to this Interrogatory to the extent it seeks information or material that is not relevant and it is not reasonably calculated to lead to the discovery of any admissible evidence. Tex. R. Civ. P. 192.3(a); *see also* Tex. R. Civ. P. 192 cmt. 1 & Tex. R. Evid. 501; *In re Nat'l Lloyds Ins.*, 449 S.W.3d. 486, 488–90 (Tex. 2014); *In re CSX Corp.*, 124 S.W.3d 149, 152 (Tex. 2003). This Interrogatory cannot lead to admissible evidence because the County did not apply 14 of the 16 items listed in § 5.10 to Horton's plat applications. In other words, the Commissioners Court's Order dated May 13, 2025 ("County's Order") did not require Horton to pay any costs for 14 of the 16 items listed in the 2024 Amendment. Horton admits this in Paragraph 14 of the Petition. Therefore, the County has not imposed a regulatory burden on Horton regarding these 14 items. Since the County's Order did not apply these 14 items to Horton's applications, there is no live controversy to adjudicate for those 14 items. In responding to this Interrogatory, the County will provide the identify of persons contacted by the County regarding application of the items listed in § 5.10.1 that were applied to Horton's plat applications.

**Response:** None.

**Interrogatory No. 12:** List all of the developments in the County that have been required to comply with § 5.10.

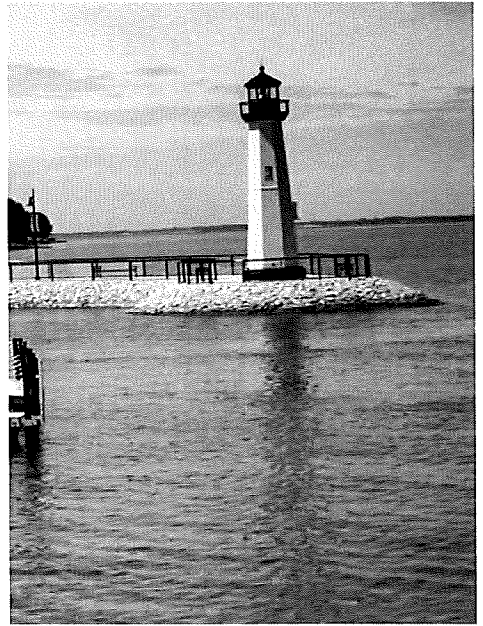
**Response:** Providence Academy.

**Interrogatory No. 13:** If you deny any of the Requests for Admissions, state in detail the reasons for your answer.

**Response:**

- a. No. 33: The Open Space Plan included a donation of open space property to the County.
- b. No. 45: The County operates an emergency broadcast system.
- c. No. 46: The County operates an emergency broadcast system.
- d. No. 53: See the Response to Interrogatory No. 7.
- e. No. 55: The infrastructure construction plans were approved by the Development Coordinator.
- f. No. 63: The County enacted § 5.10 to support the public health, safety, and general welfare and not in response to any particular development project.
- g. No. 76: Prior version of the County's subdivision regulations required developers of subdivisions to contribute to the costs of road infrastructure improvements caused by their projects.

- h. No. 85: The vehicle-miles of demand caused by Phase 1A and Phase 1B exceed the available vehicle-miles supply.
- i. No. 98: The \$338,867.75 fee is an apportionment costs under Texas Local Government Code § 232.110, which is distinct from a traffic impact fee assessed under Chapter 395 of the Texas Local Government Code.
- j. No. 103: Plaintiff's Horton's Offer could not be withdrawn at the April 24, 2024 hearing, and counsel for Plaintiffs was merely making an argument.
- k. No. 106: Plaintiff Horton's letter dated March 4, 2025 ("Offer Letter"), gave the County the opportunity to accept its offer for a fixed period of time and, therefore, could not withdraw its offer prior to the expiration of that time, which was through the apportionment hearing.
- l. No. 112: The County presented evidence from a professional engineer employed by Freese and Nichols.
- m. No. 117: The County suffered has or will suffer injuries arising from financial losses and cost shifting related to the roadway improvements, public safety costs, budget and fiscal harms, impact on infrastructure timelines, staff and infrastructure planning uncertainties, legal and litigation costs, increased maintenance and accelerated wear on existing roads, reduced service level for EMS services, and the need to raise taxes and reallocate funds to make up for the unpaid proportionate share of the applicable county infrastructure improvements.
- n. No. 123: See the Response to Interrogatory No. 7.
- o. No. 124: See the Response to Interrogatory No. 7.



# Rockwall County Subdivision and Land Development Regulations

Adopted by the Commissioners Court: March 23, 2021

Amended by the Commissioners Court: February 14, 2023

Amended by the Commissioners Court: February 13, 2024



EXHIBIT  
A-16

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## Section 4. SUBDIVISION CONSTRUCTION PROCEDURES

### Sec. 4.1. Required Infrastructure

#### Sec. 4.1.1. Minimum Standards

- A. These [Subdivision Regulations](#) establish minimum requirements for utilities, roadways, stormwater management and other facilities to protect the public health, safety, and welfare of Rockwall County. It is the intent of these [Subdivision Regulations](#) that no development occurs until these minimum levels of service are met. Therefore, each subdivision in the [County](#) shall be required to dedicate, construct or upgrade required facilities to a capacity that meets these minimum levels.
- B. Per [TLGC Section 232.032](#), a subdivider must provide these minimum services with the subdivision:
  - 1. Furnish a certified letter or a ["Will Serve" Letter](#) from a water utility provider stating that water is available to the subdivision sufficient in quality and quantity to meet minimum state standards required by [Section 16.343, Water Code](#), and will be made available to the point of delivery to all lots in the subdivision;
  - 2. Furnish a certified letter or a ["Will Serve" Letter](#) from a wastewater utility provider stating that such utility provider has adequate sewage treatment facilities with capacity to serve the proposed subdivision, or install an on-site sewage facility system that meets minimum state standards to fulfill the wastewater requirements for the subdivision and show that lots in the subdivision can be adequately and legally served by septic systems;
    - a. Refer to [Sec. 7.7](#) to review the County [On-Site Sewage Facility Rules and Regulations](#) and the procedures to apply for an [On-Site Sewage Facility \(OSSF\) Permit](#).
  - 3. Comply with the street design standards adopted by the [County](#) in [Sec. 5.2](#); and
  - 4. Furnish adequate drainage meeting standard engineering practices and [Drainage Standards](#) in [Sec. 5.7](#).
- C. Per [TLGC Section 232.030](#), the [County](#) may also require the subdivider to comply with standards for flood management, which may exceed the minimum standards set forth by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

#### Sec. 4.1.2. Responsibility for Construction

- A. Except as otherwise expressly stated, developers are responsible for the construction and installation of infrastructure and public improvements required by these [Subdivision Regulations](#).
- B. All improvements must be designed and installed to provide for an interconnected system of infrastructure and to create continuity of improvements that will facilitate land development on adjacent properties.
- C. If a [Developer](#) files a [Final Plat](#) for only a portion of a development for which a [Preliminary Plat](#) was approved, the infrastructure and improvements required to be constructed,

installed, and maintained are those improvements that the [Commissioners Court Engineering Representative](#) reasonably deems reasonable to serve the lots shown on the [Final Plat](#), and to ensure emergency access and fire safety.

**Sec. 4.1.3. Responsibility for Maintenance**

- A. Unless otherwise expressly stated, the [Developer](#) is responsible for maintenance of all required infrastructure and improvements, including rights-of-way, to the standards of these regulations until the [County](#), another unit of government, a property owners association, or other legal entity assumes actual responsibility for maintenance of the infrastructure and [Public Improvements](#).
- B. All [Local Streets](#), [Collector Streets](#), and [Cul-de-Sacs](#) will be designated as [Private Streets](#) and will either be maintained by the property owner, a [Homeowners' or Property Owners' Association](#), or a utility district.
- C. [Minor Arterials](#) or [Principal Arterials](#) will be accepted for maintenance by the County through an [Order of the Commissioners Court for Final Acceptance](#) as described in [Sec. 4.8.2](#).

**Sec. 4.1.4. Subdivision Proportionality**

Standards relating to the dedication or construction requirements shall be roughly proportional to the nature and extent of the impacts created by the proposed development on the [County's](#) roadways or drainage facilities or a public utility provider's water or wastewater facilities. Refer to [Sec. 6.2 Subdivision Proportionality Appeal](#) to review the procedures regarding a [Proportionality Assessment](#).

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## Section 5. SUBDIVISION DESIGN STANDARDS

### Sec. 5.1. Adequate Public Facilities

#### Sec. 5.1.1. Services Required

Land proposed for development in the [County](#) and in the extraterritorial jurisdiction (ETJ) of a City must be served adequately by essential public facilities and services (refer to [Sec. 4.1 Required Infrastructure](#)), including water, wastewater, drainage, and roadway facilities.

#### Sec. 5.1.2. Timing of Construction

Adequate public facilities will be provided with the construction of a subdivision in accordance with [Section 4 Subdivision Construction Procedures](#). Refer to [Figure 2.4-2](#) to view a graphic overview of the platting and construction process.

### Sec. 5.2. Street Design Standards

#### Sec. 5.2.1. Minimum Right-of-Way Dedication

- A. The property owner shall ensure that the Subdivision is served by adequate roads and shall be responsible for the costs of [Right-of-Way](#) and road improvements in compliance with the [County's](#) street types provided in [Table 5.2-1: County Street Types](#) following policies and standards of the [Rockwall County Thoroughfare Plan](#).
- B. Additional right-of-way may be required for existing roads and intersections to accommodate utilities, sidewalks, traffic control devices and sight distances (refer to [Sec. 5.2.2.D Right-of-Way Dedication for Existing and Perimeter Streets](#)).
- C. A subdivider shall refer to the [Rockwall County Thoroughfare Plan](#) shown in [Map 5.2-1](#) to determine the type of County street(s) to construct with a new subdivision.
  1. Where roads are not shown within the [Rockwall County Thoroughfare Plan](#), roads shall be arranged to provide continuity of existing road in the surrounding areas; and
  2. The [Developer](#) shall provide a [Local Street](#) to serve a residential land use or a [Collector Street](#) to serve a nonresidential land use (refer to [Sec. 5.2.2.A](#) for street type descriptions or [Table 5.2-1](#) for County street types).

---

**Sec. 5.2.2. Street Design Criteria**

**A. County Street Types**

All streets will comply with minimum right-of-way in accordance with the adopted County street types in [Table 5.2-1: County Street Types](#).

**1. Principal Arterial**

- a. The primary function of a [Principal Arterial](#) is to provide continuous and high-volume traffic movement between major traffic centers and freeways. This thoroughfare is typically spaced at 1-mile intervals. Since principal arterials carry high volumes of traffic, it is essential to have direct and continuous alignment with highways and freeways.
- b. Existing and proposed [Principal Arterial](#) are designated in the [Rockwall County Thoroughfare Plan](#) as provided in [Map 5.2-1](#). A subdivision that is adjoining undeveloped land or an existing street designated as a principal arterial in the thoroughfare plan will need to dedicate public [Right-of-Way](#) for the expansion or construction of such roadway.

**2. Minor Arterial**

- a. The primary function of a [Minor Arterial](#) is to collect and distribute traffic from [Collector Streets](#) to [Principal Arterials](#). These thoroughfares are typically spaced at ½ mile intervals unless terrain or barriers create a major deviation.
- b. Existing and proposed [Minor Arterial](#) are designated in the [Rockwall County Thoroughfare Plan](#) as provided in [Map 5.2-1](#). A subdivision that is adjoining undeveloped land or an existing street designated as a [Minor Arterial](#) in the thoroughfare plan will need to dedicate public [Right-of-Way](#) for the expansion or construction of such roadway.

**3. Collector Street**

- a. The primary function of a [Collector Street](#) is to collect and distribute traffic from a [Local Street](#) to a [Principal Arterial](#). More specifically, [Collector Streets](#) distribute traffic from neighborhoods to commercial areas, parks and schools.
- b. Existing and proposed collectors are designated in the [Rockwall County Thoroughfare Plan](#) as provided in [Map 5.2-1](#). A subdivision that is adjoining undeveloped land or an existing street designated as a collector in the thoroughfare plan will need to dedicate public [Right-of-Way](#) for the expansion or construction of such roadway.

**4. Local Street**

The primary purpose of a [Local Street](#) is to serve as internal street for residential subdivisions. Local street differs from a [Collector Street](#) in that it is limited to serving residential uses and discourages through traffic. Nonresidential uses, such as commercial uses, should use a collector street for primary access. Local streets are not designated in the [Rockwall County Thoroughfare Plan](#).

TABLE 5.2-1: COUNTY STREET TYPES

















THOROUGHFARE TYPE	ROW [1]	PAVING [2]	LANES	SHOULDER WIDTH	PARKWAY [3]
Principal Arterial					
4-Lane Urban (with curb and gutter)	120'	48'	4 @ 12' ea.	-	72'
4-Lane Rural (with shoulder)	120'	64'	4 @ 12' ea.	2 @ 8' ea.	56'
Minor Arterial					
2-Lane Urban (with curb and gutter)	80'	24'	2 @ 12' ea.	-	56'
2-Lane Rural (with shoulder)	80'	40'	2 @ 12' ea.	2 @ 8' ea.	40'
Collector (Private)					
2-Lane Urban Private (with curb and gutter)	60'	24'	2 @ 12' ea.	-	36'
2-Lane Rural Private (with shoulder)	60'	32'	2 @ 12' ea.	2 @ 4' ea.	28'
Local (Private)					
2-Lane Urban Private (with curb and gutter)	50'	24'	2 @ 12' ea.	-	26'
2-Lane Rural Private (with shoulder)	50'	27'	2 @ 12' ea.	2 @ 1.5' ea.	23'

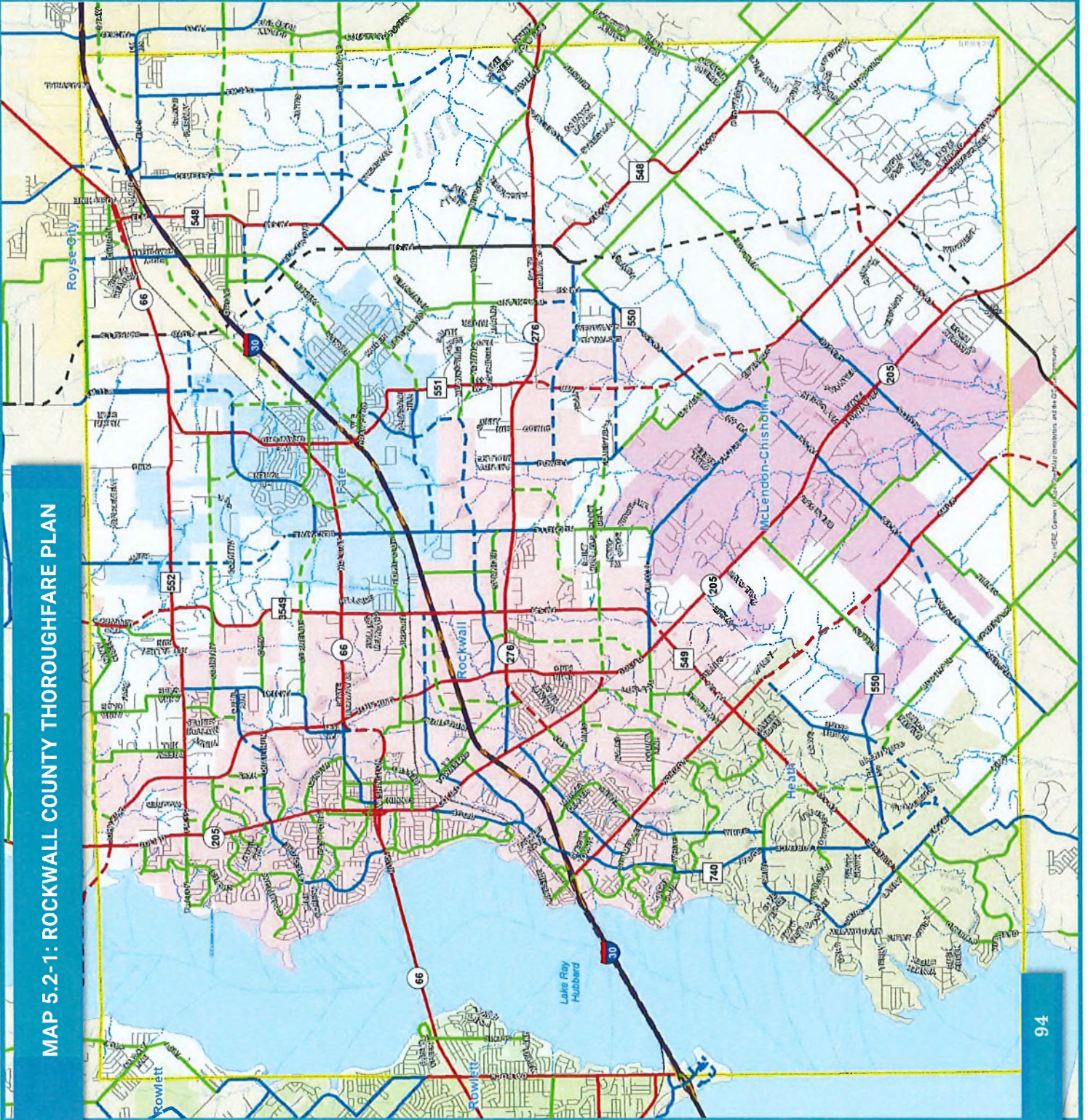
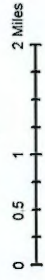
Requirements and Notes:

1. The total right-of-way width is composed of the paving width and the parkway width. The ultimate right-of-way width reserves land for the County to expand the roadway system in the future with more lanes, center turn lanes or medians.
2. An urban roadway constitutes a roadway with curb and gutter. The paving width is face of curb to face of curb. A rural roadway constitutes a roadway with no curb and instead plans extra room for a shoulder.
3. The parkway is reserved for sidewalks, drainage bar ditches and reserved land area for future roadway expansions.
4. The parkway length noted in the table is taking into consideration both sides of the street.
5. All Local Streets, Collector Streets, and Cul-de-Sacs will be designated as Private Streets and will either be maintained by the property owner, Homeowners' or Property Owners' Association, or special district.
6. For new subdivisions with lots less than 1.5 acres, the Urban Collector Street or Urban Local Street standard shall be used for all thoroughfare design. For new subdivisions with lots 1.5 acres or larger, either the Urban or Rural Collector Street or Local Street standards shall be used for all thoroughfare design.

# 2018 Rockwall County Thoroughfare Network

## Functional Classifications

-  Freeway or Toll Road (4-8 Lanes, 300'-500' ROW - Includes frontage roads and ramps)
-  Freeway or Toll Road (proposed)
-  Principal Arterial (2-6 Lanes, 100'-120' ROW)
-  Principal Arterial (proposed)
-  Minor Arterial (2-4 Lanes, 65'-100' ROW)
-  Minor Arterial (proposed)
-  Collector (2-3 Lanes, 60'-80' ROW)
-  Collector (proposed)
-  Ramps
-  Ramps (proposed)
-  Frontage Road
-  Frontage Road (proposed)
-  Railroad
-  Rockwall County
-  Streams
-  Waterbodies



MAP 5.2-1: ROCKWALL COUNTY THOROUGHFARE PLAN

**B. General Street Configuration**

1. A **Minor Arterial** and **Principal Arterial** may intersect with another **Collector Street**, **Minor Arterial**, and **Principal Arterial**. A **Local Street** cannot in any circumstance intersect with a **Minor Arterial** or **Principal Arterial**.
2. The intersection of an arterial and a collector street shall not vary from a ninety (90) degree angle of intersection by more than five (5) degrees and in no circumstance shall the curve have less than a twenty-five (25) foot radius.
3. Driveway cuts to residential uses shall not be allowed on **Minor Arterial** or **Principal Arterial**.
4. All roads shall either be connected at both ends to a dedicated road, or be provided a cul-de-sac in conformance with **Sec. 5.2.2.G Cul-de-Sacs**.
5. No decorative squares, trees, islands, ornamental entrances or any other obstruction to traffic shall be constructed or preserved within the **Right-of-Way** and within public property maintained by the **County**.
6. The reservation of strips of land in private ownership (e.g., reserve strip) at the end of proposed or existing roads and intended solely or primarily for the purpose of controlling access to property not included in the **Subdivision** shall be prohibited (refer to **Figure 5.4-1: Example of a Reserve Strip**).

**C. General Street Maintenance**

1. All **Local Streets**, **Collector Streets**, and **Cul-de-Sacs** will be designated as **Private Streets** and will either be maintained by the property owner, a **Homeowners' or Property Owners' Association**, or a utility district.
2. **Minor Arterials** or **Principal Arterials** will be accepted for maintenance by the County through an **Order of the Commissioners Court for Final Acceptance** as described in **Sec. 4.8.2**.

**D. Right-of-Way Dedication for Existing and Perimeter Streets**

A **Subdivider** laying out and constructing new roads or whose subdivision includes any portion of or is adjacent to an existing road shall dedicate enough **Right-of-Way** to comply with the **County Street Types** in **Table 5.2-1**.

**1. New Roads**

The **Developer** will dedicate the entire **Right-of-Way** width for a new street constructed with the subdivision.

**2. Existing Roads**

**a. Subdivision Along One Side of an Existing Street**

The **Developer** will dedicate half of the ultimate right-of-way width, as measured from the centerline of the existing roadway or as stated otherwise in **Sec. 5.2.2.E**, if the subdivision is abutting an existing street along one side.

**b. Subdivision Along Both Sides of an Existing Street**

The **Developer** will dedicate full right-of-way width if the developer is developing both sides of the street.

**3. Substandard Roads**

The **County** may require the **Developer** to dedicate additional right-of-way for substandard roads to improve the safety, design, topography, and traffic conditions of a roadway.

**E. Dimension of Right-of-Way Dedication**

Existing roads may exist by reasons of plat, metes and bounds description or by prescription. The amount of right-of-way that will be dedicated by the **Developer** will be determined as follows:

1. Adjacent to a Platted Subdivision
  - a. The **Right-of-Way** dedication shall be based upon the distance from the platted Subdivision boundary.
  - b. Reasonable geometric adjustments will be made to accommodate safety, design, topography, and traffic management considerations.
2. Along a Right-of-Way Described by Metes and Bounds
  - a. The **Right-of-Way** dedication shall be based upon the geometric centerline of the right-of-way as described in the metes and bounds.
  - b. Reasonable geometric adjustments will be made to accommodate safety, design, topography, and traffic management considerations.
  - c. The **Developer** will dedicate their portion of the **Right-of-Way** with the subdivision plat.
3. Along a Prescriptive Right-of-Way
  - a. The **Right-of-Way** dedication shall be based upon the apparent centerline of the existing pavement or of the travel way, if unpaved.
  - b. Reasonable geometric adjustments will be made to accommodate safety, design, topography, and traffic management considerations.
  - c. The **Developer** will dimension the prescriptive right-of-way on the **Preliminary Plat** and **Final Plat**.
  - d. The **Developer** will dedicate their portion of the **Right-of-Way** with the subdivision plat.

**F. Adequate Road Access**

1. Vehicular Paved Access to Subdivisions

All lots created by a subdivision must have access to a vehicular paved access, which is defined by these **Subdivision Regulations** as a public or private street constructed to the County's specification in **Street Construction Specifications** (refer to **Sec. 5.2.3**) and of appropriate design, traffic capacity, and service level rating to accommodate the present and anticipated traffic volumes to be generated from the subdivision.

2. Secondary Ingress and Egress

- a. Subdivision containing more than thirty (30) one-family or two-family dwelling units shall have a platted and constructed secondary ingress and egress to a public street.

- b. A multi-phase development shall ensure that each phase has a platted and constructed secondary entrance when more than thirty (30) residential units are proposed. This information shall be documented in the phasing plan as required in [Sec. 4.2.5.F Phasing Plan](#).

**G. Cul-de-Sacs**

1. A cul-de-sac street shall be platted and constructed with a turnaround area with a paved radius of forty (40) feet and a right-of-way diameter of at least one hundred (100) feet.
2. A cul-de-sac shall have a maximum length of six hundred (600) feet measured along the centerline.
3. All [Cul-de-Sacs](#) will be designated as a [Private Street](#) on a plat, and will be maintained by either the property owner, [Homeowners' or Property Owners' Association](#) or special district.

**H. Dead-End Streets**

1. Dead-end streets are prohibited unless the street design meets the above cul-de-sac ([Sec. 5.2.2.G](#)) requirements or unless the street is intended to be extended in the future and the dead-end design is only temporary in nature.
2. If a temporary dead-end street is permitted, turnaround pavement meeting the dimensions listed for cul-de-sacs in [Sec. 5.2.2.G \(Cul-de-Sacs\)](#) and a temporary turnaround easement meeting the dimensions listed for the right-of-way in section [Sec. 5.2.2.G](#) shall be provided on the Plat.
  - a. If the temporary dead-end street (as approved and shown on the [Final Plat](#)) is extended in the future, the portions of the temporary turnaround easement shall revert to the lot(s) abutting the temporary turnaround easement.

**I. Internal Roadway Connectivity**

1. Stub-Outs

[Local Streets](#) shall be extended or stubbed out to the tract boundary to provide future connection with adjoining unplatted land. In instances where the street stubs out would traverse an adjacent 100-year floodplain, the spacing of the street crossing shall not exceed one-half mile.

2. Street Extensions

[Subdivisions](#) shall connect to existing stub-out on adjoining tracts or as approved on a [Preliminary Plat](#) or [Final Plat](#) for an adjoining tract.

**Sec. 5.2.3. Street Construction Specifications**

**A. Applicability**

1. The construction specifications in this section are required for new public and private streets created by the subdivision, including interior subdivision streets and [Perimeter Streets](#) that may also be classified as a County road.
2. Construction of road and drainage facilities in the subdivision shall conform to the latest edition of "Standard Specifications for Public Works Construction," published by NCTCOG.
3. These standards do not apply to state highways. State roads and highways will comply with TxDOT Standard Specification for Construction of Highways, Streets and Bridges. The [Developer](#) is responsible for coordinating construction and permitting with TxDOT for state highway construction.
4. Property owners that request the [County](#) to accept maintenance of a [Private Street](#), as described in [Sec. 4.9.1 Acceptance of Private or Public Road](#), must comply with the provisions of this section.

**B. Construction Specifications for Local and Collector Streets**

1. Minimum Right-of-Way  
[Local Streets](#) and [Collector Streets](#) will provide the minimum right-of-way shown in [Table 5.2-1](#).
2. Minimum Paving Width  
The minimum paving width will vary between an urban street versus a rural street as shown in [Table 5.2-1](#).
3. Subgrade  
The subgrade shall be lime stabilized with hydrated lime in the amount of seven (7) percent to a depth of six (6) inches throughout the pavement width plus two (2) feet behind the back of curb or shoulder. The [Commissioners Court Engineering Representative](#) will consider other types of and percentages of lime based on a geotechnical laboratory's tests, evaluations and recommendations described in an engineering report provided and paid for by the [Developer](#).
4. Surface  
The surface course shall be constructed of reinforced Portland cement concrete with a minimum compressive strength of 4,000 psi and a minimum pavement thickness of six (6) inches per Rockwall County specifications.
5. Minimum Grades  
[Local Streets](#) and [Collector Streets](#) shall have a minimum six (6) inch crown.

## BILL ANALYSIS

Senate Research Center

S.B. 1510  
By: Schwertner  
Intergovernmental Relations  
6/3/2019  
Enrolled

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Infrastructure development is the most expensive part of the land development process. Developers spend millions of dollars on roads and transportation improvements, water and wastewater improvements, and storm water and drainage improvements. It is sound public policy to require a developer to build or pay for infrastructure required by a particular development. However, local governments have often demanded that a developer build or pay for expensive public infrastructure improvements that go well beyond the infrastructure needs of a particular development.

In 2004, the Supreme Court of Texas upheld prior United States Supreme Court decisions which require "rough proportionality." In *Flower Mound v. Stafford Estates*, the Supreme Court of Texas held that conditioning government approval of a development of property on payment for infrastructure improvements is a taking unless (1) the improvement is necessary to advance a legitimate government interest and (2) is roughly proportional to the projected impact of the proposed development.

Following that decision, in 2005, the legislature enacted Section 212.904, Local Government Code, which provides that a municipality cannot require a developer to bear a disproportionate share of municipal infrastructure costs. Unfortunately, Section 212.904 does not extend to counties or public utilities. S.B. 1510 extends the sound and fair public policy expressed in Section 212.904 to all counties and electric cooperatives in the state of Texas.

#### Committee Substitute

- The committee substitute removes electric cooperatives from the bill.
- The bill as substituted only applies to counties.
- This legislation ensures the rough proportionality rule applies to both cities and counties.

#### Key Provisions of C.S.S.B. 1510

- The bill as substituted copies Section 212.904, Local Government Code, and places the same language in a new section, Section 232.110, Local Government Code.
- The new Section 232.110, Local Government Code, requires a county to abide by the rough proportionality rule, continually established by the Supreme Court of Texas, the United States Supreme Court, and the state legislature. (Original Author's/Sponsor's Statement of Intent)

S.B. 1510 amends current law relating to the apportionment of infrastructure costs in regard to certain property development projects.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

## SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 212.904(a), Local Government Code, as follows:

(a) Prohibits a developer's portion of the costs from exceeding a certain amount if the municipality requires, including under an agreement under Chapter 242 (Authority of Municipality and County to Regulate Subdivisions in and Outside Municipality's Extraterritorial Jurisdiction), as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements, rather than prohibiting a developer's portion of the costs from exceeding a certain amount if the municipality requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements. Requires the municipality's determination to be completed within thirty days following the submission of the developer's application for determination under this subsection.

SECTION 2. Amends Subchapter E, Chapter 232, Local Government Code, by adding Section 232.110, as follows:

Sec. 232.110. APPORTIONMENT OF COUNTY INFRASTRUCTURE COSTS. (a) Prohibits a developer's portion of the costs, if, under any authority expressly authorized by this chapter (County Regulation of Subdivisions), a county requires, including under an agreement under Chapter 242, as a condition of approval for a property development project that the developer bear a portion of the costs of county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, from exceeding the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001 (Engineers), Occupations Code, and is retained by the county. Requires the county's determination to be completed within thirty days following the submission of the developer's application for determination under this subsection.

(b) Authorizes a developer who disputes the determination made under Subsection (a) to appeal to the commissioners court of the county. Authorizes the developer, at the appeal, to present evidence and testimony under procedures adopted by the commissioners court. Requires the commissioners court, after hearing any testimony and reviewing the evidence, to make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

(c) Authorizes a developer to appeal the determination of the commissioners court to a county or district court of the county in which the development project is located within 30 days of the final determination by the commissioners court.

(d) Prohibits a county from requiring a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

(e) Provides that a developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.

(f) Provides that this section does not diminish the authority or modify the procedures specified by Chapter 395 (Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments).

(g) Provides that this does not increase or expand, and is prohibited from being interpreted to increase or expand, the authority of a county to regulate plats or subdivisions under this chapter.

SECTION 4. Provides that this Act applies to the approval of a development project that is not finally adjudicated before the effective date of this Act.

SECTION 5. Effective date: upon passage or September 1, 2019.

CAUSE NO. 1-25-1000

DMDS LAND COMPANY LLC and  
D.R. HORTON - TEXAS, LTD.,

*Plaintiffs,*

v.

ROCKWALL COUNTY,

*Defendant.*

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IN THE DISTRICT COURT

382nd JUDICIAL DISTRICT

OF ROCKWALL COUNTY, TEXAS

**AFFIDAVIT OF BLAKE ARNOLD**

BEFORE ME, the undersigned authority, on this day personally appeared Blake Arnold, after being by me duly sworn, on his oath stated as follows:

My name is Blake Arnold. I am the Land Manager and authorized representative of D.R. Horton – Texas, Ltd. ("Horton"). Horton is an affiliate of D.R. Horton, Inc. ("Horton Parent"). I have participated in the permitting of over 30 development projects in the State of Texas. During the relevant time period, I represented Horton with respect to the River Rock Trails Project ("Project") located on approximately 1,900 acres ("Property") in Rockwall County ("County"). I acquired personal knowledge of the facts and matters set forth herein. I am over 18 years old and am fully competent to testify regarding the matters stated herein. All of the statements contained herein are within my personal knowledge, are true and correct.

1. Horton put the Property under contract to purchase with the intent to develop a single-family residential development ("Development") to provide affordable housing to Texas residents. Horton Parent is the largest single-family homebuilder in the United States. Prior to Horton Parent entering into a contract to purchase land for development, extensive due diligence is always conducted. Project budgets and proformas are prepared based, in part, on expenses related to existing entitlements and applicable local regulations. Horton Parent develops hundreds

of subdivisions around the state. Our experience has been that no Texas county has adopted an apportionment policy like § 5.10 of the Rockwall subdivision regulations. In addition, every Horton subdivision plat application that complied with valid subdivision regulations has been approved by the applicable local government and entity. Horton's reasonable investment-backed expectations were to obtain entitlements and incur costs for the Project in accordance with legally valid County subdivision regulations in effect at that time.

2. The first two phases of the Project are commonly referred to as Phase 1A and Phase 1B. A total of approximately 418 lots are included in these phases. Horton retained JBI Partners, Inc. for engineering services, Winstead PC for legal services and Jeff Miles for consulting and engineering services.

3. Over a time period of several months, Horton made at least five preliminary plat applications ("Plat Applications") for the first two phases. In addition to the submitted Plat Applications, Horton submitted plat applications for a wastewater treatment plant (20 acres) and a remainder plat for 1,761 acres. The County denied numerous plat applications in 2023 and 2024, but Horton was optimistic that the County would approve those plat applications in 2025. Horton cannot start development of its Property until its subdivision plats are approved. The plat applications complied with all of the legally valid County subdivision regulations, but the Rockwall County Commissioners Court kept denying them anyway.

4. On December 13, 2024, Horton received from the County a letter summarizing the apportionment costs ("Apportionment") for the Development that would be required of Horton. In early 2025, Horton and its consultants had numerous conversations with the County to discuss potential approval of the Plat Applications and to negotiate mutually agreeable Apportionment resolutions. Horton's plat applications and the § 232.110 proportionality appeal ("Appeal") were considered together.

5. Attached as Exhibit B-1 is a true and correct copy of my March 4, 2025 letter ("Offer") attempting to reach an all-inclusive resolution as to both the Plat Applications and the Appeal. The last paragraph states that if the County did not wish to accept Horton's Offer and wanted to pursue its Apportionment demands, then it should schedule the Appeal at the earliest possible meeting. The County did not accept the Offer and scheduled the Appeal for hearing. In fact, the County never responded to my March 4, 2025 letter. In addition, at its March 25, 2025 meeting, the County Commissioners denied Horton's Plat Applications for the fifth time, despite the fact they met all valid subdivision regulations. Because Horton cannot start development of the Property without approved Plat Applications, Horton and I realized that the County would not allow development of the Property and it would be futile to negotiate with the County any further on the Appeal.

6. As a result, at my behest Horton's counsel formerly withdrew the monetary offers in my March 4, 2025 letter at the April 24, 2025 Commissioners Court meeting. Nobody at the County objected to Horton's withdrawal at the hearing. Horton opposes the application of all 16 of the County's exactions as set forth in §5.10.1 of the County's Subdivision and Land Development Regulations.

7. I am also a custodian of records for Horton and am familiar with the manner in which their records are created and maintained by virtue of my duties and responsibilities. Exhibit B-1 is a business record of Horton. Horton kept this record in the regular course of business, and it was in Horton's regular course of business for an employee or representative of Horton, with knowledge of the act, event, condition, opinion, or diagnosis recorded, to make the records or to transmit information thereof to be included in such records, and the records were made at or near the time or reasonably soon thereafter. The records attached to this affidavit are the originals or exact duplicates of the originals.

Further Affiant sayeth not.

*Blake Arnold*

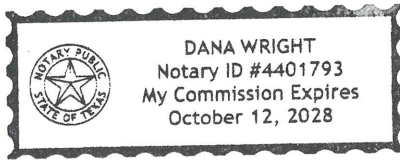
BLAKE ARNOLD

SUBSCRIBED AND SWORN TO BEFORE ME on this the 12 day of February, 2026, to certify which witness may hand and seal.

*Dana Wright*

Notary Public, State of Texas

[S E A L]





March 4, 2025

Rockwall County Judge Frank New and Commissioners  
101 E. Rusk Street  
Rockwall, Texas 75087

Re: Apportionment Cost for River Rock Trails – Phase 1A and Phase 1B (418 total lots)

Judge New and Commissioners,

Reference is made to the December 13, 2024 letter to JBI Partners, Inc. from Ron Merritt, Rockwall County's Environmental Health Coordinator subject line "Apportionment Cost for River Rock Trails – Phase 1A and Phase 1B". This letter is attached hereto. For clarification, JBI Partners, Inc. (JBI) is the developer's engineer for this project. D.R. Horton – Texas, Ltd. (DRH) is the developer of this project. DRH will provide the response.

Rockwall County's letter outlined sixteen (16) items as "County Infrastructure" and a corresponding demand. The following is DRH's response to the County's letter:

1. Schools: County states \$15,798,519 is due for the 418 homes (\$37,796 per home) which make up Phases 1A and 1B. DRH rejects the County's claim Schools are County Infrastructure under State statute TLGC Section 232.110, Apportionment of County Infrastructure Costs. The County does not provide School services. Further, DRH is not agreeable to pay these fees. As we stated in the January 21, 2025 work session, DRH will work with the school districts regarding reserving needed school sites within the larger development at the appropriate time and will oversize infrastructure where needed to serve the school sites.
2. Roads: County is requesting \$338,867.75 for contribution along the portion of the Phase 1A and 1B plats that adjoins TxDOT's FM 548 Right-of-Way (2,411.48 linear feet total for both plats). DRH rejects the County's claim State owned roads are County Infrastructure under State statute TLGC Section 232.110. The County does not own FM 548. Further, the County does not have statutory authority to impose an impact fee. However, as we stated in the work session, DRH is willing to pay the fee, prorated based on each plat's frontage. DRH will pay \$157,948.95 with Phase 1A and \$180,918.80 with Phase 1B, each payment being made within ten (10) days after Commissioners Court approval of the final plat for the respective phase.
3. ESC/EMT (Ambulance): County is requesting proof of service. DRH is proving herewith an executed Fire Protection and Emergency Medical Services Agreement between the River Rock Trails MUDs and the City of McLendon-Chisholm. Further, DRH rejects the County's claim ESC/EMT (Ambulance) services is County Infrastructure under State statute TLGC Section 232.110. The County does not provide ESC/EMT (Ambulance) services.
4. Fire: County is requesting proof of service. DRH is proving herewith an executed Fire Protection and Emergency Medical Services Agreement between the River Rock Trails MUDs and the City of McLendon-Chisholm. Further, DRH rejects the County's claim Fire services are County

EXHIBIT  
B-1

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Infrastructure under State statute TLGC Section 232.110. The County does not provide fire services.

5. Police: County is recommending that DRH pay for two (2) deputies during construction and prior to resident occupation of homes. The County states the deputies will not solely be assigned to River Rock. DRH is agreeable to providing first year costs of adding two (2) deputies totaling  $\$264,712 \times 2 = \$529,424$ . DRH will pay  $\$264,712$  within ten (10) days after Commissioners Court approval of the final plat for each phase ( $\$264,712$  for Phase 1A and  $\$264,712$  for Phase 1B). After the first year, DRH's position is taxpayer revenues will pay for the ongoing costs of the deputies just like any other tax paying resident of the County.
6. Water: County states resolved through project design. D.R. Horton agrees with this item being resolved through project design. Further, DRH rejects the County's claim Water is County Infrastructure under State statute TLGC Section 232.110. The County does not provide water services.
7. Sewer: County states resolved through project design. DRH agrees with this item being resolved through project design. Further, DRH rejects the County's claim Sewer is County Infrastructure under State statute TLGC Section 232.110. The County does not provide sewer service.
8. Broadband: County requests proof of service. DRH is providing herewith a letter from AT&T confirming they can provide service. Further, DRH rejects the County's claim Broadband is County Infrastructure under State statute TLGC Section 232.110. The County does not provide broadband services.
9. Electric: County requests proof of service. DRH is providing herewith a letter from Farmers Electric confirming they can provide service. Further, DRH rejects the County's claim Electric is County Infrastructure under State statute TLGC Section 232.110. The County does not provide electric services.
10. Natural Gas: County requests proof of service. DRH is not planning to provide gas service in this community at this time - all appliances and HVAC equipment will be electric. Further, DRH rejects the County's claim Gas is County Infrastructure under State statute TLGC Section 232.110. County does not provide gas services.
11. Open Space: County states resolved through project design. DRH is agreeable to resolve through project design. DRH will be working with the Open Space Alliance committee for conceptual designs as stated in the Alliance's August 9, 2024 Analysis, which was approved by Commissioners Court on October 8, 2024. It should be noted the recommendations in the Analysis have been satisfied as it relates to Phases 1A and 1B preliminary plats.
12. Drainage: County states resolved through project design. DRH agrees this items be resolved through project design. An overall drainage study for the River Rock project has been submitted by JBI and approved by the County's consultant. Detail drainage infrastructure will be shown on Phase 1A and 1B construction plans, which is customary for development projects like River Rock.

13. Animal Control: County requests proof of service. DRH is providing herewith a letter from All American Dogs confirming they can provide service. Further, DRH rejects the County's claim Animal Control is County Infrastructure under State statute TLGC Section 232.110. The County does not provide animal control services.
14. Dispatch/911/GIS Services: County notes this is N/A. DRH agrees.
15. Trash/Refuse: County requests proof of service. DRH is providing herewith a letter from Live Oak Environmental confirming they can provide service. Further, DRH rejects the County's claim Trash/Refuse is County Infrastructure under State statute TLGC Section 232.110. The County does not provide Trash/Refuse service.
16. Radio Communications: County notes this is N/A. DRH agrees.

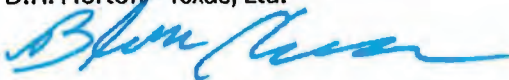
During our previously referenced work session, it was discussed the County wants to resolve the Apportionment Items prior to the next consideration of the preliminary plats for Phase 1A and 1B. DRH rejects Apportionment as a condition of platting. State statute TLGC Section 232.110(g) states "This section does not increase or expand, and shall not be interpreted to increase or expand, the authority of a county to regulate plats or subdivisions under this chapter." Section 5.10.6 (B) of the County's Subdivision and Land Development Regulations mirrors this language. DRH requests the preliminary plats be considered independently of the Apportionment. We believe the County's Planning and Engineering Consultant, Freese and Nichols, Inc., also agrees Apportionment is not a preliminary plat specific requirement, as they state in the preliminary plat comments Apportionment should be satisfied prior to approval of a Final Plat, which occurs as the last step after infrastructure development.

The timing for processing a proportionality appeal is set forth in Section 232.220(a)(b). If the County disagrees with our responses and intends to pursue one or more of the 16 items, then DRH requests the commissioners court hear our appeal at the earliest possible commissioners court meeting.

Please let us know if you have any questions regarding the above.

Sincerely,

D.R. Horton – Texas, Ltd.



Blake Arnold, Land Manager

cc. Mr. Conor Roberts, Freese and Nichols, Inc.  
Ms. Charisa Hauser, Rockwall County

CAUSE NO. 1-25-1000

DMDS LAND COMPANY LLC and  
D.R. HORTON - TEXAS, LTD.,

*Plaintiffs,*

v.

ROCKWALL COUNTY,

*Defendant.*

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IN THE DISTRICT COURT

382nd JUDICIAL DISTRICT

OF ROCKWALL COUNTY, TEXAS

**AFFIDAVIT OF JEFFREY P. MILES**

BEFORE ME, the undersigned authority, on this day personally appeared Jeffrey P. Miles, after being by me duly sworn, on his oath stated as follows:

My name is Jeffrey P. Miles. I am a professional engineer with Miles Consulting LLC licensed by the State of Texas. My license number is 80253. A true and correct copy of my resume is attached as Exhibit C-1. During the relevant time period, I consulted with D.R. Horton – Texas, Ltd. ("Horton") and performed engineering work for Plaintiffs with respect to the River Rock Trails Project ("Project") located on approximately 1900 acres ("Property") in Rockwall County ("County"). I assisted with processing various plat applications for the Project including Phase 1A, Phase 1B, the Wastewater Treatment Plant and the Remainder Tract. I acquired personal knowledge of the facts and matters set forth herein. I am over 18 years old and am fully competent to testify regarding the matters stated herein. All of the statements contained herein are within my personal knowledge and are true and correct.

1. I have assisted with the processing and approval of over 1000 plat applications before counties and cities in the State of Texas. I am unaware of any county enacting an apportionment policy like § 5.10 of the Rockwall County subdivision regulations ("§ 5.10"). The

County enacted § 5.10 after plat applications had been submitted for the Project. Except for the Project, every subdivision plat application I have processed that complied with valid subdivision regulations has been approved by the applicable local governmental entity.

2. Numerous subdivision plat applications for the Project were submitted and denied by the Rockwall County Commissioners Court. After each denial, the plat applications were revised to address the County's comments on alleged noncompliance with the County's subdivision regulations. At the March 25, 2025 County Commissioners Court meeting, all four plat applications were denied despite the fact they fully complied with the County's subdivision regulations. The denial on March 25, 2025 was the fifth time the Phase 1A plat was denied by the County.

3. I testified on behalf of the Plaintiffs at the April 24, 2025 Rockwall County Commissioners Court Project apportionment hearing. As a professional engineer, I was qualified to give this testimony in accordance with § 232.110, Tex. Loc. Gov't Code. My testimony in the Reporter Records for this meeting on pages 16-20 attached as Exhibit C-2 is true and correct.

4. As part of the plat application process, Horton was required by the County to submit a traffic impact analysis ("TIA") for the entire River Rock Trails Project. Traffic Impact Group, LLC ("TIG") and its professional engineer was retained to prepare the TIA. True and correct portions of the TIA submitted to the County are attached as Exhibit C-3. I agree with the opinion of TIG that no improvements to FM 548 would be necessitated by development of the land subject to the Phase 1A and Phase 1B plat applications.

5. I am familiar with the legal requirements in § 232.110(a), Tex. Loc. Gov't. Code, that a county's apportionment requirement must be "approved by a professional engineer who

holds a license issued under Chapter 1001, Occupations Code." The rigorous criteria for becoming a licensed Professional Engineer in Texas are as follows:

- A college degree in engineering or sciences with approved by Texas Board of Professional Engineers and Land Surveyors (TBPELS) and consisting of a minimum of eight hours of math beyond trigonometry and twenty hours of engineering science.
- Pass the Fundamentals of Engineering exam and Texas Ethics of Engineering exam.
- Gain four years of qualified work experience under the supervision of a licensed Professional Engineer and as approved by TBPELS.
- Pass the Practice of Engineering exam after the four years of qualified experience

6. I am familiar with § 5.10.1 and was personally involved in the proportionality appeal of the Phase 1A and Phase 1B plat applications ("Appeal"). The 16 "infrastructure improvements" ("Exactions") listed in § 5.10.1 are as follows:

- Schools;
- Roads;
- ESC/EMT (Ambulance);
- Fire;
- Police;
- Water;
- Sewer;
- Broadband;
- Electric;
- Natural Gas;
- Open Space;
- Drainage;
- Animal Control;
- Dispatch/911/GIS Services;
- Trash/Refuse; and
- Radio Communications.

7. Attached as Exhibit C-4 is a true and correct copy of the County's December 13, 2024 apportionment letter. It is signed by Ron Merritt who is not a professional engineer. The only Exaction imposed by the County on the Project that was prepared by a professional engineer

retained by the County was the Freese & Nichols December 13, 2024 report on the proportional costs for FM 548 which abuts the Property. Attached as Exhibit C-5 is a true and correct copy of an email from Connor Roberts of Freese & Nichols to County Judge Frank New. It states that the engineers at that firm would issue a report only on the road issue. I disagree with Freese & Nichols' opinions on cost-sharing and the County's determination that FM 548, an abutting state thoroughfare, constitutes a county infrastructure improvement as used in § 232.110. But I acknowledge that the Freese & Nichols report meets the requirements in § 232.110(a). The remaining 15 Exactions in § 5.10.1 were not supported by a professional engineer's report. I have extensive experience with impact fee matters. The Freese & Nichols' road apportionment estimates do not comply with the procedural and substantive requirements of Chapter 395, Tex. Loc. Gov't Code.

8. The only Exactions in § 5.10.1 that could potentially be considered county infrastructure improvements as that term is utilized by professional engineers that could be supported by a professional engineer's report are roads, water, sewer and drainage. The remaining 12 Exactions cannot. I am unaware of any Texas county that is a wholesale or retail water or sewer provider so these two Exactions would not be subject to a county determination under § 232.110 of a developer's cost-sharing obligation for these improvements. Drainage improvements associated with the construction of county-owned roads could theoretically be considered county infrastructure improvements subject to cost-sharing. Drainage improvements not associated with county-owned roads, such as major drainage channels or detention facilities, were not addressed in the Freese and Nichols report.

9. Attached as Exhibit C-6 is a true and correct copy of an exhibit showing the lot and street layout for Phases 1A and 1B of the Project. The acreage for these two phases is a relatively small amount of the 1,900 acres constituting the entire development Project.

10. One of the plats denied by the County is attached as Exhibit C-7. It contains 1,520 acres and is referred to as the Remainder Plat.

11. Attached as Exhibit C-8 is a true and correct copy of the concept plan for the entire 1,900 acres. It shows numerous future subdivision phases that the County has told me will be subjected to § 5.10 proportionality.

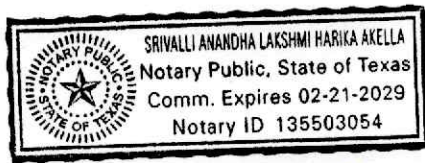
Further Affiant sayeth not.

  
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JEFFREY P. MILES

SUBSCRIBED AND SWORN TO BEFORE ME on this the 2<sup>nd</sup> day of March, 2026, to certify which witness may hand and seal.

[S E A L]

  
\_\_\_\_\_  
Notary Public, State of Texas



3/2/2026.

## Jeffrey P. Miles, PE

PO Box 271499, Flower Mound, TX 75027  
214-402-0010; jmiles@milesdevcon.com

### EDUCATION

Bachelor of Science, Civil Engineering, Texas Tech University (May 1990)

### LICENSURE

Professional Engineer in the State of Texas, License Number 80253 (February 1995 to Present)

### PROFESSIONAL CAREER

Miles Consulting, LLC (January 2016 to Present). Consultant for planning, engineering and construction matters for single family residential real-estate development projects.

JBI Partners, Inc. (June 1990 through December 2015). Held various positions including Project Engineer, Project Manager, Vice President, President and CEO.

### EXPERIENCE

Mr. Miles has over 35 years of experience representing developers and property owners on various types of single-family residential development projects ranging from small infill tracts to multi-thousand acre master planned communities. Mr. Miles has provided engineering oversight, infrastructure design, project management and entitlement consulting services for over 500 land development projects in more than 40 municipalities and counties throughout the North Texas area and other metropolitan areas in Texas, Oklahoma and Louisiana.

### SPECIALTIES

Mr. Miles has an in-depth understanding of the many factors affecting a land development project. His expertise lies in infrastructure engineering feasibility, land use planning, site planning, cost analysis, government entitlements and cost analysis for land development projects. Mr. Miles also has an extensive background in civil engineering design and permitting private and public infrastructure associated with single-family land development projects, including grading and drainage engineering, water and sewer system engineering and roadway design. Mr. Miles is well versed in Public Improvement Districts, Municipal Utility Districts, Fresh Water Supply Districts, and other similar type districts, including the requirements to create those districts and the engineering and construction of district infrastructure. Mr. Miles is an expert in analyzing water and wastewater service alternatives and securing contracts for water and wastewater capacity.

### REPRESENTATIVE CURRENT PROJECTS

Magnolia, Waverly, Riverfield and Wildflower developments near Josephine, Texas for D.R. Horton-Texas, Ltd. Approximately 6,000 single-family homes built, or planned to be built, on approximately 2,500 acres. These developments are within the Magnolia Point, Riverfield and Wildflower Municipal Utility Districts of Collin and Hunt Counties. Performed entitlement and engineering consulting services including: securing water and wastewater capacity agreements; coordinating ETJ development agreement with the city of Josephine; review of the street and lot planning, platting, and related engineering; management of extensive offsite water improvements to provide new sources to the area; and management of wastewater treatment plant improvements to serve the developments.

Trailstone, Caddo Downs and Stonehaven developments in Caddo Mills, Texas for D.R. Horton-Texas, Ltd. Approximately 1,800 single family homes built, or planned to be built, on approximately 700 acres. These developments are within the Caddo Mills Municipal Management District within the city of Caddo Mills. Performed entitlement and engineering consulting services including: securing water and wastewater capacity agreements; coordinating ETJ development agreement with the city of Caddo Mills; and review of street and lot planning, platting and related engineering.

Winchester and Crossmill developments in Princeton and Lowry Crossing, Texas for D.R. Horton-Texas, Ltd. Approximately 3,000 single-family homes built, or planned to be built, on approximately 900 acres. Portions of these developments are within the Winchester Public Improvement District in the City of Princeton and within Collin County Municipal Utility District Number 4. Performed entitlement and engineering services including: securing water and wastewater capacity; coordinating ETJ development agreements with the city of Princeton and Lowry Crossing; and review of street and lot planning, platting and related engineering.

EXHIBIT

C-1

1 time do we have left?

2 JUDGE NEW: You have used 12 minutes and  
3 54 seconds, so you --

4 MR. ANDERSON: We're going to be really  
5 short.

6 JUDGE NEW: You're going to be fine.

7 MR. ANDERSON: We're going to be focused  
8 here.

9 EXAMINATION

10 BY MR. ANDERSON:

11 Q. Can you please give your name for the  
12 record?

13 A. Jeff Miles.

14 Q. And what do you do for a living?

15 A. I'm an engineering consultant.

16 Q. And who do you work for?

17 A. I work for myself, Miles Consulting, LLC.

18 Q. Are you licensed by the state?

19 A. Yes, I'm licensed.

20 Q. And are you considered to be a professional  
21 engineer?

22 A. Yes, I'm a professional engineer licensed by  
23 the state of Texas.

24 Q. Okay. So you would meet the criteria under  
25 the statute --

EXHIBIT

C-2

DEFOC

1 MR. ANDERSON: Thank you.

2 Can you hear me okay? Separate? No  
3 feedback; right? Can you hear us okay?

4 JUDGE NEW: You're good.

5 MR. ANDERSON:

6 Q. (BY MR. ANDERSON) Okay. You are licensed by  
7 the Texas -- you're a professional engineer?

8 A. I am.

9 Q. Okay. So you would qualify to provide  
10 testimony and evidence with regards to county  
11 infrastructure issues under the statute?

12 A. Yes, sir.

13 Q. And do you have engineering focus?

14 A. Yes. Civil engineering for land-only  
15 projects.

16 Q. And over your career, how many subdivision  
17 plats have you been involved with?

18 A. Probably over a thousand in a 35-year  
19 career.

20 Q. So we're going to focus on the road piece, as  
21 you heard me basically present at the beginning. Roads  
22 theoretically can be considered county infrastructure;  
23 correct?

24 A. Correct.

25 Q. And for this case, was a traffic impact

1 analysis prepared for the development?

2 A. It was.

3 Q. Was it submitted to the County?

4 A. Not sure the County ever asked for it, quite  
5 frankly, so I don't recall.

6 Q. But you got it?

7 A. We got one in May of 2024, we did one.

8 Q. What's the name of the perimeter road to the  
9 first two phases?

10 A. It's Farm to Market Road 548.

11 Q. And does perimeter road means it's adjacent?

12 A. It's adjacent.

13 Q. Does the County have subdivision regs that  
14 basically address the platting and construction of  
15 perimeter roads for a developer?

16 A. They do.

17 Q. Okay. And FM 548, is that a county road or a  
18 state road?

19 A. State of Texas road.

20 Q. In your opinion, can the County require fees  
21 from a developer to improve a state road?

22 A. No.

23 Q. Have you ever seen this situation before?

24 A. No.

25 Q. How many lanes are in the existing road?

DEF001670

1 A. Two lanes.

2 Q. All right. So let's focus real quick on the  
3 right of way. How much right of way is shown as being  
4 dedicated by the plats?

5 A. 1.1 acres.

6 Q. Okay. Now, according to the TIA, what is the  
7 capacity of the existing roadway?

8 A. It's 875 vehicles per hour per lane.

9 Q. Okay. That means that 875 vehicles could  
10 travel on each lane and still be safe and constitute --

11 A. Correct, within an hour's time frame, yes.

12 Q. So according to the TIA, what's the peak hour  
13 number of vehicular trips generated by 418 house?

14 A. 115 trips going westbound in the morning  
15 towards State Highway 205, and then 127 trips vehicles  
16 per hour going eastbound from 205 back towards the  
17 neighborhood in the evening.

18 Q. And from a traffic impact methodology, the  
19 peak hour is typically when you have the most cars  
20 coming out of the development?

21 A. Correct.

22 Q. Okay. And so in your opinion, is there  
23 sufficient capacity in the existing two lanes of roads  
24 to handle the trips from this developer?

25 A. Yes. We're -- like I said, we -- the capacity

1 is 875 vehicles per hour per lane in each direction, and  
2 we are roughly 13 to 14 percent of that total.

3 Q. And would the construction of additional lanes  
4 be required for this development?

5 A. No.

6 MR. ANDERSON: We pass the witness.

7 EXAMINATION

8 BY MR. RAY:

9 Q. Can -- can you tell the Court how many houses  
10 are planned for the full build-out of the development?

11 A. It's unknown at this time, but we've projected  
12 over 6,000.

13 Q. Okay. And so the first two phases of this  
14 Phase 1A and 1B are just over 400 houses; correct?

15 A. Correct.

16 Q. So the eventual build-out will be 15 times  
17 that amount?

18 A. Correct.

19 Q. Okay. And is that road able to handle the  
20 traffic -- the expected traffic from 15 times the amount  
21 of houses that are in 1A and 1B?

22 A. No, it is not.

23 Q. Okay.

24 MR. RAY: Pass the witness.

25 EXAMINATION



# Traffic Impact Analysis

## *RiverRock Trails*

Rockwall County, Texas

28 May 2024



**TRAFFIC IMPACT**

GROUP, LLC

972.358.6383

Texas Firm #16210

EXHIBIT

**C-3**

## Executive Summary

### Project Description

RiverRock Trails is a proposed residential development in Rockwall County, Texas. The development is proposed to consist of 6,298 single-family homes in 25 phases. The site is located between FM 550 and FM 548 east of SH 205.

The development will build an extension of Wallace Road that will intersect Edwards Road, and will construct Stone Trail Parkway as a north-south arterial from FM 548. An unnamed Future Collector will be constructed as part of development and intersect FM 550.

The Outer Loop is not funded but its alignment is shown within the development with interchanges at FM 550, Stone Trail Parkway, and FM 548.

For this analysis, Wallace Road, FM 548, and FM 550 are considered east-west roadways, and Stone Trail Parkway and Edwards Road are considered north-south roadways. The Future Collector is considered north-south at its intersection with FM 550, and then considered to run east-west from its intersection with Stone Trail Parkway.

### Trip Generation

The proposed development is expected to generate 1,102 entering trips and 3,307 exiting trips in the AM peak hour, and 3,730 entering and 2,190 exiting trips in the PM peak hour.

### Updates

Since Phases 5 through 25 of the site plan is highly conceptual at this stage, it is recommended to monitor traffic volumes and update the TIA as the development progresses.

### Traffic Impacts

#### Roadway Segments

##### FM 548

FM 548 is a two-lane undivided roadway classified as a Principal Arterial. Analysis shows that the roadway would see volumes that exceed its capacity between during Phase 5 of development. It is recommended that TxDOT program funds to widen FM 548.

##### Stone Trail Parkway

Stone Trail Parkway will be a future four-lane divided collector. Analysis shows that the roadway will function as a four-lane roadway during the Full Build scenario.

#### Wallace Road

Wallace Road is an existing unpaved road that will be improved as part of development. Analysis shows that the roadway will need to be a four-lane divided roadway.

#### Future Collector

The Future Collector is an unnamed road that will be constructed as part of development. Analysis shows that the roadway will need to be a four-lane divided roadway.

#### FM 550

FM 550 is a two-lane undivided roadway classified as a Principal Arterial. Analysis shows that the roadway is projected to continue to function acceptably as a two-lane roadway under the Full Build scenario.

#### Edwards Road

Edwards Road is a local two-lane undivided roadway that is shown as a future Collector in the County's *Thoroughfare Plan*. Analysis shows that the roadway would need to be improved to a four-lane divided roadway. It is recommended that Rockwall County program funds to widen Edwards Road as part of its Plan.

### Intersection Analysis

#### FM 548 & Stone Trail Parkway, Access 1B, and 2

It is recommended to construct eastbound left-turn lanes at project accesses to FM 548. It is also recommended to monitor traffic volumes at FM 548 & Stone Trail Parkway and implement signalized control when volumes meet warrants (estimated between Phases 2 and 4).

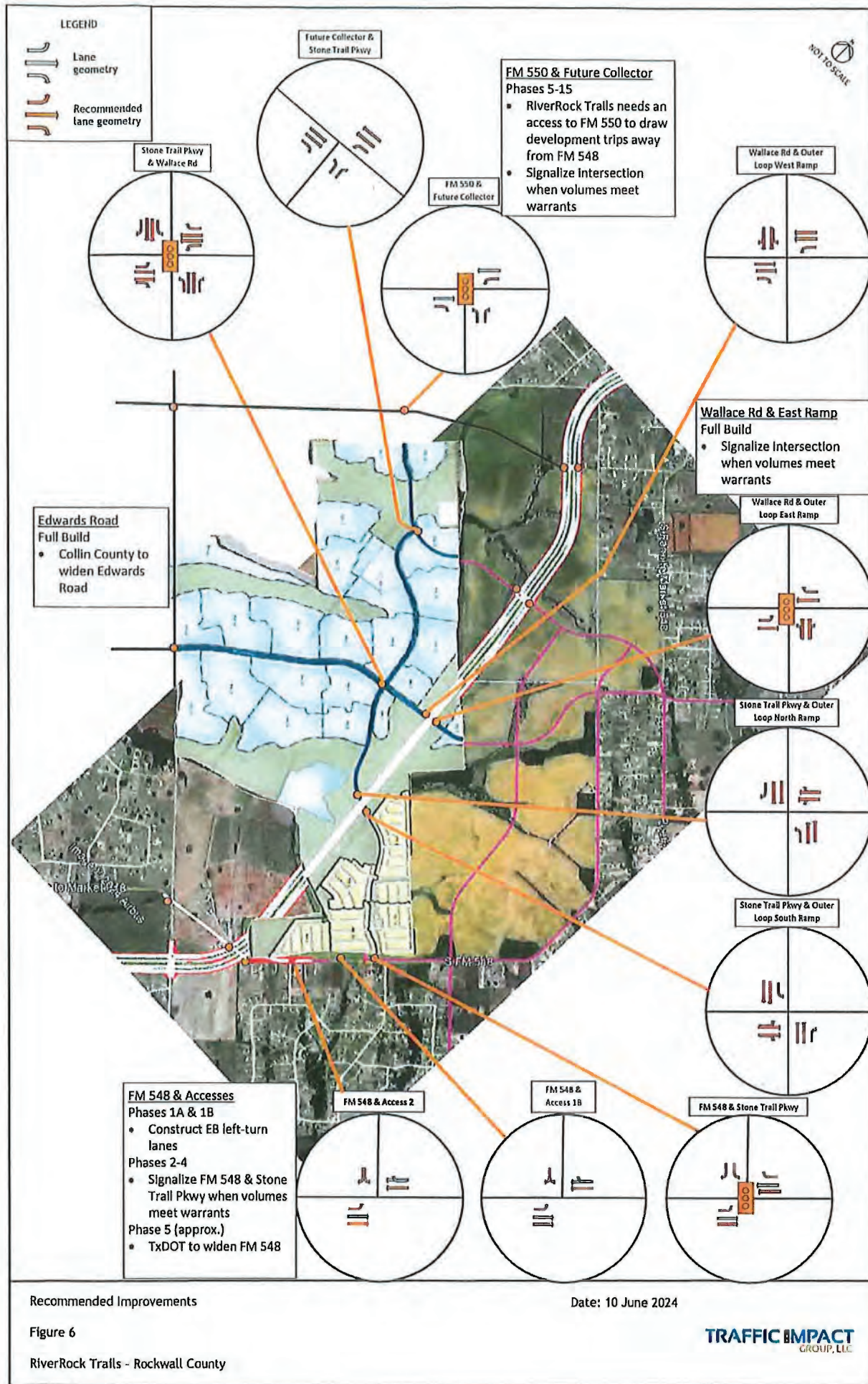
#### FM 550 & Future Collector

Analysis showed that the connection to FM 550 is needed to draw development trips away from FM 548. The Future Collector is recommended to be a four-lane roadway. It is also recommended to construct an eastbound right-turn lane and westbound left-turn lane as part of development. Lastly, monitor traffic volumes and implement signalized control when volumes meet warrants (estimated to be needed before Phase 15).

#### Wallace Road & Outer Loop East Ramp

Analysis shows that the northbound exit ramp may see LOS F in the PM peak hour. It is recommended to monitor volumes and implement signalized control when volumes meet warrants (estimated to be needed before Full Build).

Figure 6 shows Recommended Improvements.



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Environmental Health Coordinator

Ron Merritt

915 Whitmore Drive • Suite D • Rockwall, Texas 75087

Telephone: 972-204-7600 • Fax: 972-204-7609

December 13, 2024

JBI Partners  
2121 Midway Rd  
Carrollton, Tx 75006

RE: Apportionment Cost for River Rock Trails – Phase 1A and Phase 1B

Chapter 232 of the Texas Local Government Code (TLGC) grants the County regulatory authority over subdivisions within unincorporated areas. TLGC Section 232.110, Apportionment of County Infrastructure Costs, states:

*Sec. 232.110. APPORTIONMENT OF COUNTY INFRASTRUCTURE COSTS.*

- (a) If, under any authority expressly authorized by this chapter, a county requires, including under an agreement under Chapter 242, as a condition of approval for a property development project that the developer bear a portion of the costs of county infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the county. The county's determination shall be completed within thirty days following the submission of the developer's application for determination under this subsection.*
- (b) A developer who disputes the determination made under Subsection (a) may appeal to the commissioners court of the county. At the appeal, the developer may present evidence and testimony under procedures adopted by the commissioners court. After hearing any testimony and reviewing the evidence, the commissioners court shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.*
- (c) A developer may appeal the determination of the commissioners court to a county or district court of the county in which the development project is located within 30 days of the final determination by the commissioners court.*
- (d) A county may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.*
- (e) A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees.*



Pursuant to TLGC Section 232.110, FNI understands that the County has elected to assess costs proportional to the impact on County infrastructure.

Furthermore, Rockwall County Subdivision and Land Development Regulations (RCLDR) Section 5.10 identifies the following sixteen (16) improvements considered to be "county infrastructure." The applicability or resolution of each apportionment fee per Rockwall County is specified below:

- |                               |   |
|-------------------------------|---|
| 1. Schools                    | Apportionment determined by Rockwall County (see below) |
| 2. Roads                      | Apportionment determined by FNI (see below)             |
| 3. ESC/EMT (Ambulance)        | Proof of service requested by Rockwall County           |
| 4. Fire                       | Proof of service requested by Rockwall County           |
| 5. Police                     | Apportionment determined by Rockwall County (see below) |
| 6. Water                      | Resolved through project design                         |
| 7. Sewer                      | Resolved through project design                         |
| 8. Broadband                  | Proof of service requested by Rockwall County           |
| 9. Electric                   | Resolved through project design                         |
| 10. Natural Gas               | Proof of service requested by Rockwall County           |
| 11. Open Space                | Resolved through project design                         |
| 12. Drainage                  | Resolved through project design                         |
| 13. Animal Control            | Proof of service requested by Rockwall County           |
| 14. Dispatch/911/GIS Services | N/a   |
| 15. Trash/Refuse              | Proof of service requested by Rockwall County           |
| 16. Radio Communications      | N/a   |

Thank you,

Ron Merritt  
 Environmental Health Coordinator  
 Rockwall County

For schools: Number of homes calculating 1/2 student per home, multiplied by \$75,591 per student						
Phase 1 A						
Homes	.5 student per home	\$75,591 per student				
199	99.5	\$ 7,521,304.50				
Phase 1 B						
Homes	.5 student per home	\$75,591 per student				
219	109.5	\$ 8,277,214.50				
	Total Amount	\$ 15,798,519.00				

**ROCKWALL COUNTY ATTACHEMENT#C**

On the front end we recommend a minimum of two deputies to provide coverage at both ends of the week. Initially, the primary objective will be to deter construction theft as equipment and material are brought onto location. We anticipate deputies being assigned to a district that encompasses the River Rock Development. Deputies will not be assigned solely to River Rock. The added deputies will allow more frequent patrol and be in place once homes are completed begin to be occupied.

The formula used to calculate the number of deputies for future growth is based on 2.42 officers per 1000 population.

1A- 199 homes      1st deputy at \$264,712 for first year. (see below for cost breakdown)

1B-219 homes      2nd deputy at \$264,712 first year.

(We want two deputies on the front end. This will cover both 1A and 1B)

Subsequent years for the first two deputies are projected to be billed at \$150,287 per deputy.

418 homes total in 1A and 1B

1061 residents based on 2.54 people per home.

1A- 505 residents

1B- 556 residents

Data Resources:

Household size- 2.54 persons <https://www.census.gov/data/tables.html>

US national average is 2.42 officers per 1000 population

[305747 Analysis of Police Department Staffing\\_McCabe.pdf](#)

[List of countries and dependencies by number of police officers - Wikipedia](#)

River Rock MUDs 1 & 2

**ROCKWALL COUNTY ATTACHEMENT#0**

**Projected Development Growth**

**Year Date # Homes**

1 Jan-25 300  
 2 Jan-26 400  
 3 Jan-27 500  
 4 Jan-28 600  
 5 Jan-29 600  
 6 Jan-30 600  
 7 Jan-31 600  
 8 Jan-32 600  
 9 Jan-33 600  
 10 Jan-34 600  
 11 Jan-35 600  
 Total Project 6,000

**Project Cost of New Deputy and related cost**

**River Rock MUD**

**Law Enforcement Contract Deputy FY26 One Deputy to Four Deputies**

**Deputy at 2,080 hours a year or 80 hours a pay period**

	1 <sup>st</sup> Year	2 <sup>nd</sup> Year
• Salary (mid-range salary with load)	119,085	122,657 (3% increase)
• Overtime at 4% of salary 1st (94,412)	3,777	3,777
• Indirect personnel, administrative and clerical cost (11%)	13,100	13,493
• Emergency vehicle insurance for 1 vehicle for 1 year	1,000	1,000

**ROCKWALL COUNTY ATTACHEMENT#6**

• Vehicle maintenance and fuel for 1 vehicle	8,000	8,000
• Weapons, Taser, uniforms and equipment for deputy in 1 <sup>st</sup> year	6,000	0
• Portable Radio	5,000	0
• Mobile Radio	6,500	0
• Watch guard in car and body camera system	7,500	0
• In service training for deputy for 1 year	400	400
• 1 MDT(in car computer)	3,190	0
• Air card for MDT (in car computer)/Cell Phone	960	960
• Net-motion license	200	0
• Vehicle and related equipment	90,000	0

TOTAL ESTIMATED COST FOR ONE DEPUTY: 264,712 150,287

TOTAL ESTIMATED COST FOR TWO DEPUTIES: 529,424 300,574

TOTAL ESTIMATED COST FOR THREE DEPUTIES: 794,136 450,861

**ROCKWALL COUNTY\_ATTACHMENT#C**

TOTAL ESTIMATED COST FOR FOUR DEPUTIES:

1,058,848

601,148

DEF 000505

**From:** "Frank New" <fnew@rockwallcountytexas.com>

**To:** "Connor Roberts" <Connor.Roberts@freese.com>

**Subject:** Re: RKC | River Rock Apportionment

**Date:** Fri, 13 Dec 2024 21:54:41 -0000

**Importance:** Normal

---

I don't believe this development requires a radio assessment.

Frank New

Sent from my iPhone

On Dec 13, 2024, at 2:09 PM, Connor Roberts <Connor.Roberts@freese.com> wrote:

Judge,

We'll continue working on the memos outlining the fees and calculations. Is the County looking to asses any fee for radio communications? I believe that's the only calculation we're missing.

Get [Outlook for iOS](#)

---

**From:** Frank New <fnew@rockwallcountytexas.com>

**Sent:** Friday, December 13, 2024 1:31:24 PM

**To:** Connor Roberts <Connor.Roberts@freese.com>

**Subject:** Re: RKC | River Rock Apportionment

This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. Please report all suspicious messages using the Report Message button in Outlook.

Connor

I agree with the duties assigned. I would like your help in compiling the list and calculations. Chief McKnight has sent the amount he calculated and the school is a simple homes x 75591 calculation. I am out of the office today but available by phone for a conversation if needed.

Thanks

Frank New

Sent from my iPhone

On Dec 13, 2024, at 12:30 PM, Connor Roberts <Connor.Roberts@freese.com> wrote:



Good afternoon, Judge,

I wanted to consolidate our emails for ease of reference. Below are what we believe to be the status of each apportionment calculation for River Rock Trails Phases 1A and 1B. Comments highlighted in red are still pending at this time:

1. Schools... County to provide calculation
2. Roads... FNI to provide calculation
3. ESC/EMT (Ambulance)... County to request proof of service
4. Fire... County to request proof of service
5. Police... County to provide calculation
6. Water... Provided through design (service letter)
7. Sewer... Provided through design (service letter)
8. Broadband... County to request proof of service
9. Electric... Provided through design (service letter)
10. Natural Gas... County to request proof of service
11. Open Space... Provided through design
12. Drainage... Provided through design
13. Animal Control... County to request proof of service
14. Dispatch/911/GIS Services... County to provide calculation
15. Trash/Refuse... County to request proof of service
16. Radio Communications... County to provide calculation

Once we receive those calculations, we'll fold them into a memo addressed to you consolidating the number provided/generated. Our thought is that the content would be recycled on County letterhead for distribution to the applicant.

Our engineering cohorts are only comfortable signing and sealing our roadway memorandum attachment, however, as they'd be responsible for defending the approach and number if called into question. We hope to have the memo completed quickly for your review.

Best regards,  
Connor Roberts

**Freese and Nichols, Inc.**  
Urban Planning + Design Group  
12770 Merit Drive, Suite 900  
Dallas, TX 75251  
(214) 217-2254  
[www.freese.com](http://www.freese.com)

<image001.jpg>

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DEF028013

Our engineering cohorts are only comfortable signing and sealing our roadway memorandum attachment, however, as they'd be responsible for defending the approach and number if called into question. We hope to have the memo completed quickly for your review.

Best regards,  
Connor Roberts

**Freese and Nichols, Inc.**  
Urban Planning + Design Group  
**12770 Merit Drive, Suite 900**  
**Dallas, TX 75251**  
(214) 217-2254  
[www.freese.com](http://www.freese.com)

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PHASE	LOT COUNTY (SPT X DST)	RESIDENTIAL ACREAGE
PHASE 1A	337	2,480 AC
PHASE 1B	340	2,420 AC
PHASE 2	337	2,345 AC
PHASE 3	364	2,416 AC
PHASE 4	385	2,480 AC
PHASE 5	340	2,318 AC
PHASE 6	344	2,365 AC
PHASE 7	350	2,536 AC
PHASE 8	382	2,426 AC
PHASE 9	337	2,429 AC
PHASE 10	206	2,425 AC
PHASE 11	331	2,403 AC
PHASE 12	381	2,383 AC
PHASE 13	221	2,429 AC
PHASE 14	333	2,445 AC
PHASE 15	371	2,511 AC
PHASE 16	308	2,269 AC
PHASE 17	165	2,400 AC
PHASE 18	236	2,578 AC
PHASE 19	238	2,569 AC
PHASE 20	226	2,547 AC
PHASE 21	332	2,583 AC
PHASE 22	205	2,533 AC
PHASE 23	236	2,417 AC
PHASE 24	225	2,381 AC
PHASE 25	229	2,423 AC
TOTAL	4,484 LOTS	11,294.2 AC NET RESIDENTIAL ACREAGE



THIS PLAN AND ANY NOT REPECT THE EXACT LOCATION OF THE PLAN AND ALL IMPROVEMENTS NOTED ARE SUBJECT TO CHANGE.

DATE: 11/20/2022  
BY: K. HOGAN

# RIVER ROCK TRAILS

CONCEPT PLAN **JBI**  
ROCKWALL COUNTY, TEXAS PARTNERS

DEF031754

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This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Michelle Thornton on behalf of Art Anderson

Bar No. 1165957

mthornton@winstead.com

Envelope ID: 112002468

Filing Code Description: Answer/Response

Filing Description: Plaintiffs Response to Defendants Amended Plea to the Jurisdiction

Status as of 3/4/2026 3:07 PM CST

Associated Case Party: DMDS Land Company LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Arthur J.Anderson		aanderson@winstead.com	3/4/2026 2:53:09 PM	SENT
Matt Joeckel		mjoeckel@winstead.com	3/4/2026 2:53:09 PM	SENT
John Yoon		jhyoon@winstead.com	3/4/2026 2:53:09 PM	SENT

Associated Case Party: Rockwall County

Name	BarNumber	Email	TimestampSubmitted	Status
Christopher AKlement		chris@oknlegal.com	3/4/2026 2:53:09 PM	SENT
Darrell G-MNoga		darrell@oknlegal.com	3/4/2026 2:53:09 PM	SENT
Colson Rand		colson@oknlegal.com	3/4/2026 2:53:09 PM	SENT
Christopher Bowers		office@susterlaw.com	3/4/2026 2:53:09 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Daniel Ray		daniel@scottraylaw.com	3/4/2026 2:53:09 PM	SENT
Arnold Luschin		arnold@scottraylaw.com	3/4/2026 2:53:09 PM	SENT