



Annexation and Development Agreement  
**PLANNED DEVELOPMENT DISTRICT NO. 5:**  
**HERITAGE SUBDIVISION**

Between the  
City of Dripping Springs, Texas  
&  
SLF IV – DRIPPING SPRINGS JV, L.P.  
and BOBWHITE INVESTMENTS, LP

Approved by the City Council on:  
October 17, 2017

**THE STATE OF TEXAS**

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**COUNTY OF HAYS**

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**THIS ANNEXATION AND DEVELOPMENT AGREEMENT** (this “Agreement”) is entered into pursuant to City of Dripping Springs Zoning Ordinance Volume 2, Article 15, Chapter 23, between the **CITY OF DRIPPING SPRINGS, TEXAS**, (“City”) and **SLF IV – DRIPPING SPRINGS JV, L.P. (“SLF”) and BOBWHITE INVESTMENTS, LP**, pertaining to the “Property” defined below. In this Agreement the City and Owner are sometimes individually referred to as a “Party” and collectively referred to as the “Parties”.

**WHEREAS**, the Owner is the owner of certain real property consisting of approximately 189 acres in Hays County, Texas, commonly known as the “Heritage Subdivision” and as more particularly identified and described in **Exhibit A** attached hereto; and

**WHEREAS**, the Owner submitted a Voluntary Petition for annexation on January 7, 2016, and Owner requested postponement of the public hearing, thereafter all requisite public notices have been given and public hearings have been held; and

**WHEREAS**, the Owner and City have negotiated this Annexation and Development Agreement pursuant to Section 212.172 of the Texas Local Government Code, and the Property has been annexed into the City limits by Ordinance No. 1803.91 on this same date; and

**WHEREAS**, the Owner has petitioned the City to create a public improvement district, which will cover the Property and will provide utility, roadway, drainage, parks, and related infrastructure to support the Property in a financially feasible manner in accordance with Texas Local Government Code Chapter 372 and any applicable state law

**WHEREAS**, the City has approved Resolution No. 2017-67, approving the Heritage PID Financing Agreement (“PID Finance Agreement”), which sets forth the terms and conditions for financing certain infrastructure; and

**WHEREAS**, the Owner of the Property intends that the Property will be subdivided by Owner, its affiliates, or their successors and assigns for development as a master-planned community that will include a mix of land uses together with parkland, utility, and roadway improvements; and

**WHEREAS**, the City Council has approved the Wastewater Service and Impact Fee Agreement and the Offsite Road and Trail Agreement on the same date as this Agreement, (together, the Additional Heritage Agreements); and

**WHEREAS**, the Owner has submitted an application to the City to rezone the Property to a Planned Development District; and

**WHEREAS**, the Planning and Zoning Commission recommended approval of the Planned Development District on September 26, 2017; and

**WHEREAS**, the City Council has reviewed the proposed Planned Development District and determined that it promotes the health, safety, and general welfare of the citizens of Dripping Springs and complies with the intent of the PDD-5 Zoning Ordinance No.1220.124, approved on this same date; and

**WHEREAS**, PDD-5, this Agreement, and the Additional Heritage Agreements set forth the agreements and the development standards that will be applicable to the Property, as well as other terms and conditions which will control development of the Property; and

**WHEREAS**, in reliance of the representations of Owner regarding the development of the Project, the City desires to enter into this Annexation and Development Agreement.

**NOW, THEREFORE, BY THIS AGREEMENT WITNESSETH** that, in consideration of the covenants and conditions set forth herein, the City and the Owner agree as follows:

## **ARTICLE I. RECITALS**

The recitals set forth above are true and correct and are incorporated herein and made a part hereof as findings for all purposes.

## **ARTICLE II. DEFINITIONS**

- 2.1. Agreement:** This contract between the City of Dripping Springs, Texas and Owner.
- 2.2. Applicable Rules:** Shall have the meaning ascribed in Section 7.2 hereof.
- 2.3. City:** The City of Dripping Springs, an incorporated Type A, General-Law municipality located in Hays County, Texas.
- 2.4. City Administrator:** The chief administrative officer of the City of Dripping Springs, Texas. The term also includes the Deputy City Administrator and the City Administrator's designee.
- 2.5. City Council:** The governing body of the City of Dripping Springs, Texas.
- 2.6. City Engineer:** The person or firm designated by the City Council as the engineer for the City of Dripping Springs, Texas.
- 2.7. Conceptual Plan:** The PD District Master Plan of the Project attached as **Exhibit B** to PDD-5 as it may be amended from time to time in accordance with PDD-5.
- 2.8. County:** Hays County, Texas.
- 2.9. District or PID:** The Heritage Public Improvement District, a public improvement district authorized pursuant to Chapter 372 of the Texas Local Government Code created on the Land on or about even with the date herewith.
- 2.9 Effective Date:** The date upon which this Agreement is approved by the City.
- 2.10. Escrow Agreement.** The agreement between SLF, the City and Corridor Title Company executed on the same date as this Agreement that provides for the Petition to Dissolve the District to be held in escrow.

- 2.11. **Land (or Property):** Approximately 189 acres of land, in Hays County, Texas, more fully described on the attached **Exhibit A**.
- 2.12. **Master Plan:** The master plan of the City, originally presented in 1984, as may be amended, modified, or supplemented by the City in conjunction with the Comprehensive Plan.
- 2.13. **Offsite Road and Trail Agreement:** Agreement between the City of Dripping Springs and the Owner for offsite road and trail improvements described in Article IV of this Agreement.
- 2.14. **Owner:** SLF IV-Dripping Springs JV, L.P., a Texas limited partnership, and BobWhite Investments, LP, a Texas limited partnership, and their successors and assigns as subsequent owners of any portion of the Property. BobWhite Investments, LP is not a party to and has no construction or funding obligations under the Offsite Road and Trail Agreement or the Wastewater Service and Impact Fee Agreement.
- 2.15. **P&Z:** The Planning and Zoning Commission, a volunteer citizen advisory board of the City of Dripping Springs that has been granted specific land use and development regulatory authority pursuant to City ordinances and state statutes.
- 2.16. **Project:** The Land, as it is intended to be developed by Owner, its affiliates, or their successors and assigns as a master-planned community that will include a mix of land uses together with parkland, utility, and roadway improvements.
- 2.17. **PDD-5:** The Planned Development District ordinance adopted in conjunction with this Agreement that determines zoning and other requirements of the Land and Project, incorporated, herein, for all purposes.
- 2.18. **Term:** This term has the meaning as set forth in Section 9.1 of this Agreement.
- 2.19. **Water and Wastewater Infrastructure:** Collectively, the water and wastewater infrastructure described in the Water Service Agreement and the Wastewater Service and Impact Fee Agreement.
- 2.20. **Wastewater Service and Impact Fee Agreement:** The Wastewater Service and Impact Fee Agreement between City of Dripping Springs and Owner executed on the same date as this Agreement.

### ARTICLE III. GENERAL PROVISIONS

- 3.1 **Definitions.** Capitalized terms used herein and not otherwise defined above shall have the meaning ascribed to them in PDD-5.
- 3.2 **Minor Changes.** Minor changes may be made to this Agreement by Owner and the City's Administrator without action of the City Council or Planning & Zoning Commission. Any dispute between the Owner and Administrator regarding whether or not a change is a "minor change" shall be referred to the Planning & Zoning Commission for recommendation and the City Council for approval. The City Council's action on any such dispute will be final and binding on the parties.
- 3.3 **Amendments.** Amendments or changes to this Agreement, the PDD-5, or PD Master Plan

shall not be considered a waiver of rights that have accrued under Chapter 245 of the Texas Local Government Code as long as (i) the Project remains the same “project,” and (ii) Owner is making progress toward the completion of the Project, each in accordance with the provisions of Chapter 245 of the Texas Local Government Code.

- 3.4 Project Phasing.** The Project may be developed in phases. The calculation of overall impervious cover, parkland requirements, and number of Dwelling Units shall be provided to the City with each phase. Each plat filed with the City shall contain a chart indicating the amount of impervious cover, Dwelling Units, and parkland required for the entire Property, the amount associated with prior platted areas, and the amount associated with the area subject to such plat.
- 3.5 Annexation and Development.** The City and the Owner hereby acknowledge that this Agreement meets the requirements of Section 212.172 of the Texas Local Government Code and the annexation of the Property is valid pursuant to Ordinance No. 1803.91.

#### **ARTICLE IV. OFFSITE ROAD AND TRAIL AGREEMENT**

- 4.1 Offsite Road.** Construction of the offsite section of the Roger Hanks roadway extension from the west property line of the Property to match up with the portion of the Roger Hanks roadway extension being constructed by the Dripping Springs Independent School District (“DSISD”), that will provide a continuous roadway from the Property to US 290 or deposit of funds with the City is addressed in the Offsite Road and Trail Agreement, as the same may be amended from time to time.
- 4.2 Offsite Trail.** Construction of the offsite trail extension from the Property to Mercer Street in a location mutually agreed upon with the City or deposit of funds with the City is addressed in the Offsite Road and Trail Agreement, as the same may be amended from time to time.
- 4.3 Impact Fees.** Due to Owner’s funding participation in the Offsite Road pursuant to the Offsite Road and Trail Agreement, Owner and the Property shall not be subject to a future roadway facility impact fees that may be assessed as allowed by Chapter 395 of the Texas Local Government Code.

#### **ARTICLE V. WATER, WASTEWATER, WELLS; WATER CONSERVATION PLAN**

- 5.1 Water.** The Nonstandard Water Service Agreement between the Dripping Springs Water Supply Corporation and Owner dated July 16, 2016, addresses water service for the Project.
- 5.2 Wastewater.** Wastewater shall be provided in accordance with the Wastewater Service and Impact Fee Agreement between the City and Owner, executed on the same date as this Agreement.
- 5.3 Water Reuse Ordinance.** Due to Owner’s funding participation in the effluent transmission line pursuant to the Wastewater Service and Impact Fee Agreement, Owner and the Property shall not be subject to the reuse fees or charges otherwise applicable to

developments, including any fees or charges for contribution for reuse infrastructure construction under the City's Water Reuse Ordinance.

## **ARTICLE VI. DEVELOPMENT STANDARDS**

- 6.1 Architecture.** All architecture shall comply with PDD-5 and the Applicable Rules.
- 6.2 Design Review and Enforcement.** A Master Homeowners Association shall be created and maintained for the Project, as provided in PDD-5.

## **ARTICLE VII. APPLICABLE RULES & REGULATIONS**

- 71 Intent.** This Agreement and the PDD-5 authorize certain Property uses and development on the Property, provide for the uniform review and approval of plats and development plans for the Property; and provide exceptions or variances to certain ordinances. It is the intent of the City and Owner that these development rights that have accrued pursuant to Chapter 245 of the Texas Local Government Code include the character of land uses and the development of the Property in accordance with the standards and criteria set forth in this Agreement, the Applicable Rules, and PDD-5, as modified in accordance with the exceptions set forth in this Agreement and PDD-5.
- 72 Applicable Rules.** Each application for a City Permit including a Site Plan that may be filed with the City for the Project shall comply with and shall be reviewed, processed, and approved only in accordance with the terms of the ordinances that were enacted on or before the Effective Date of this Agreement, except as modified by this Agreement or PDD-5, subject to the exceptions set forth below. The provisions of this Section shall not apply to the following types of City ordinances, rules, and regulations:
- (a) Uniform building, fire, electrical, plumbing, or mechanical codes of the type typically found in the City Code, and amendments to the Code;
  - (b) Ordinances and regulations for utility connections (other than with regard to utility capacity commitments described in any wastewater service agreement for the Project);
  - (c) Ordinances and regulations to prevent the imminent destruction of property or injury to persons;
  - (d) Fees imposed in conjunction with development permits (this provision does not apply to impact fees, unless impact fees are updated or amended and are required to be assessed to the Property as required by Chapter 395 of the Texas Local Government Code);
  - (e) Regulations to prevent imminent destruction of property or injury to persons from flooding that are effective only within a flood plain established by a federal flood control program and enacted to prevent the flooding of buildings intended for public occupancy;
  - (f) Construction standards for public works located on public lands or easements. City Construction Standards (as defined in the Offsite Road and Trail Agreement) on the

effective date of the Offsite Road and Trail Agreement shall apply to the construction of the Offsite Road and Offsite Trail; and

- (g) Regulations to prevent the imminent destruction of property or injury to persons if the regulations do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project.

Permit applications subject to (a), through (g) above shall be evaluated according to ordinances in effect at the time of application for the individual permit. However, Owner and City may agree that the applicable submission for a permit or approval be evaluated in accordance with the requirements of a subsequent City ordinance, regulation, or rule.

### **7.3. Owner's Right to Continue Development.**

**7.3.1** In consideration of Owner's agreements hereunder, the City agrees that it will not, during the term of this Agreement, impose or attempt to impose:

- (a) any moratorium on building or development within the Property; or
- (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting preliminary plats, final plats, site plans, building permits, certificates of occupancy, or other necessary approvals within the Property.

**7.3.2** The preceding subsection does not apply to any temporary moratoriums uniformly imposed throughout the City due to an emergency constituting an imminent threat to public health or safety, provided that such moratorium will continue only during the duration of the emergency.

**7.4. Approvals.** The City agrees that preliminary plats, final subdivision plats, and construction documents submitted in accordance with this Agreement will be reviewed and processed in accordance with the Code in effect on the Effective Date hereof as modified by this Agreement, the PDD-5, and the Additional Heritage Agreements (as may be applicable.)

**7.4.1** Construction plans consistent with the Code as modified by this Agreement and the PDD-5 can be approved prior to approval of a final plat.

**7.4.2** The approval of the preliminary plat of all or a portion of the Property shall expire twelve (12) months after the City's approval unless:

- (a) A corresponding final plat on the Property (or a portion of the Property) approved on the preliminary plat is filed; or
- (b) An extension is granted by the City.

**7.4.3** Variations from the Code that are part of PDD-5 are detailed in **Attachment A and Exhibits A-I** of PDD-5, and constitute the approval of development standards and the approval of variances or exceptions from conflicting provisions of the Code.

**75 Conceptual Plan.** The City confirms that the Conceptual Plan in **Exhibit B to PDD-5**

complies with the City's Master Plan, Comprehensive Plan, and the Sustainable Places Project and that the Conceptual Plan and all land uses and density have been approved and recommended by all requisite City departments, boards, and commissions through review of PDD-5.

- 76 **Fiscal Security for Improvements and Plat Approval.** Prior to approval of any final plat for recordation, public improvements serving the subdivision shall be either constructed and approved for acceptance by the City or security shall be posted to secure the completion of the public improvements in accordance with Texas Government Code Chapter 2253, Public Work Performance and Payment Bonds.. Owner or Owner's contractor shall furnish a two (2) year maintenance bond upon acceptance of the public improvements. All bonds required or permitted anywhere in this agreement must be from issuers and in forms reasonably acceptable to the City.
- 77 **Payment of Costs.** Except as otherwise provided herein, Owner shall pay 100% of the cost incurred by such Owner for all public and private improvements constructed by such Owner (including 100% of all cost overruns of public and private improvements) and shall not seek reimbursement from the City unless authorized in the PID Finance Agreement, the Additional Heritage Agreements or any other agreement between Owner and the City.

#### ARTICLE VIII. ADDITIONAL MATTERS

- 81 **Amenity Center.** Owner shall apply for a Building Permit for the construction of an Amenity Center during the second phase of the Project. Construction of the Amenity Center shall be complete within twelve (12) months of the approval of the Building Permit by the City.
- 82 **Lighting and Signage.** All illumination for street lighting, signage, security, exterior, landscaping, and decorative facilities for the Project shall comply with Article 24.06 of the City's Code of Ordinances ("**Outdoor Lighting Ordinance**"), as may be amended, from time to time. To the extent any portion of the Agreement conflicts or is inconsistent with the Outdoor Lighting Ordinance, the Outdoor Lighting Ordinance shall control. The Owner, homeowners, end users and/or a Property Owner Association will be required to operate and maintain the lighting within the Project according to the Applicable Rules. Owner agrees that the CCR's for the Project shall reinforce this provision and be applied to all construction and builders.
- 83 **Fire Services.** Owner understands that the City does not currently provide fire protection services. Fire protection services are provided by the Hays County Emergency Services District No. 6.
- 84 **Tree Protection:** It is hereby acknowledged that the Project is protected by the tree protections provided in Article 28.06, Landscaping and Tree Preservation, of Chapter 28, Subdivisions and Site Development of the City of Dripping Springs City Code, in effect on the date of execution hereof, and as provided for in Exhibit G, PD Code Modifications Chart, to PDD 5.

**85 Annexation/Zoning:**

**851 Timing for Annexation:** Once this Agreement is approved and signed by all parties, Owner hereby agrees that this Agreement is a valid and legally sufficient request to extend the city limits of the City (i.e., incorporated municipal boundary) to cover the Land. If required (and at the City's request), any and all issues regarding Owner's liability for ad valorem taxes following annexation by the City may be addressed by separate agreement.

**852 Land Uses:** Upon the annexation of the Land located within the Project, the City has initiated the zoning process for such Land. The property within the Project will be zoned PDD-5, consistent with the land uses set forth in PDD-5 and its exhibits.

**86 Public Improvement District:** With approval of this Agreement and per the Owner's request, the City will create the District, pursuant to Local Government Code, Chapter 372. The boundaries of the District will correlate with the boundaries of the Property. The City expects to use its legislative discretion to issue special revenue bonds (in one or more series, some of which may occur at the same time) secured by special assessments levied on the Property in the District to reimburse certain public improvements in the District. Such public improvements will be more particularly described in the Service and Assessment Plan. The PID Finance Agreement shall provide the method of reimbursement for the public improvements and shall control over any inconsistent provision in this Agreement.

**87 Dissolution.** Pursuant to the PID Finance Agreement, SLF has executed a Petition to Dissolve the District and has placed such Petition to Dissolve the District in escrow pursuant to the Escrow Agreement on the terms set forth in the PID Finance Agreement. The Escrow Agreement provides that in the event that the City does not levy special assessments within seven (7) years from the effective date of the PID Finance Agreement (having made reasonable efforts to do so in accordance with the requirements of the PID Finance Agreement), then the City may provide notice and Escrow Agent shall release the Petition to Dissolve the District to the City thirty (30) days after receipt of such notice. In the event the City has not made reasonable efforts (in accordance with the requirements of the PID Finance Agreement) to levy special assessments within seven (7) years from the effective date of the PID Finance Agreement, Escrow Agent shall continue to hold the Petition to Dissolve the District in escrow until such time as SLF and City have mutually agreed that the Petition to Dissolve the District shall be released.

## **ARTICLE IX. TERM AND AMENDMENT**

**9.1 Term.** The term of this Agreement will commence on the Effective Date (as defined in Section 2.10) and continue for forty-five (45) years, unless terminated on an earlier date by written agreement of the City and Owner.

**9.2 Amendment by Agreement.** This Agreement may be amended as to all or part of the Property at any time by the mutual written consent of (1) the City and (2) the Owner(s) at the time of such amendment of only the portion of the Property affected by the amendment.

An amendment to this Agreement which requires City Council approval may only be approved by an affirmative vote of at least three (3) of the five (5) members of the City Council.

### **9.3 Binding Effect.**

**9.3.1** Except as otherwise expressly provided herein, this Agreement shall run with the land, and shall be binding upon and inure to the benefit of the City and Owner and each subsequent owner of all or any portion of the Property.

**9.3.2** If there are multiple owners of the Property, then the rights and obligations of each owner will be several, not joint, and one (1) Owner will not be liable for the nonperformance of another Owner. In the case of nonperformance by one Owner, the City may pursue all remedies against that nonperforming Owner as a result of that nonperformance unless and to the limited extent that such nonperformance pertains to a City requirement that also is necessary for the performing Owner's portion of the Property, which performing Owner may also pursue remedies against the nonperforming Owner.

**9.3.3** Upon sale, transfer, or conveyance of all or portions of the Property by the Owner thereof (the owner of each portion of the Property called "Owner" of such portion in this subsection), the duties and obligations of the Owner, as it relates to the transferred Property, shall be assumed by the new Owner and the transferring Owner shall have no further liability under this Agreement or the PDD-5 Zoning Ordinance relating to such transferred Property.

### **9.4 Cooperation.**

**9.4.1** The City and Owner shall cooperate with each other as reasonable and necessary to carry out the intent of this Agreement, including but not limited to the execution of such further documents as may be reasonably required.

**9.4.2** The City agrees to cooperate with Owner at Owner's expense in connection with any waivers, permits, or approvals Owner may need or desire from Hays County, the TCEQ, the Texas Department of Transportation, FEMA, or any other regulatory authority in order to develop the Project in accordance herewith.

**9.4.3** In the event of any non-party lawsuit or other claim relating to the validity of this Agreement or any actions taken by the Parties hereunder, Owner and the City agree to cooperate in the defense of such suit or claim to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement. The City's participation in the defense of such a lawsuit is expressly conditioned on budgetary appropriations for such action by the City Council, to the extent such budgetary appropriations are required by the Texas Constitution. SLF shall defend, hold harmless and indemnify the City for any litigation expenses; including court costs and attorney's fees, related to defense of this Agreement, unless and until the Parties agree that no further efforts are reasonably required to resolve such suit or claim. In the event Owner conveys the entirety of the Property, the purchaser of the entirety of Property that assumes the rights and obligations of Owner pursuant to Section 10.9 of this Agreement shall indemnify the City pursuant to this Section

9.4.3., and SLF shall be relieved of its indemnification obligations pursuant to this Section 9.4.3. In the event Owner conveys less than the entirety of the Property, SLF shall indemnify the City pursuant to this Section 9.4.3. The filing of any non-party lawsuit relating to this Agreement or the development of the Project will not delay, stop, or otherwise affect the development of the Project or the City's processing or issuance of any approvals for the Project, unless otherwise required by a court of competent jurisdiction. **This subsection provides for cooperation in the defense against claims of non-parties including purported third-party beneficiaries of this Agreement, but there are no legitimate third-party beneficiaries except as stated in Section 10.5.**

## **ARTICLE X. MISCELLANEOUS PROVISIONS**

- 10.1 Necessary Documents & Actions.** Each party agrees to execute and deliver all such other and further instruments and undertake such actions as are or may become necessary to effectuate the purposes and intent of this Agreement.
- 10.2 Severability.** In case one or more provisions contained herein are deemed invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and in such event, this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein, unless the remainder of this agreement would be impossible or impractical to perform without the invalid or unenforceable provision.
- 10.3 Applicable Law.** This Agreement shall be construed under and in accordance with the laws of The State of Texas.
- 10.4 Venue.** All obligations of the parties created hereunder are performable in Hays County, Texas, and venue for any action arising hereunder shall be in Hays County.
- 10.5 No Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than the parties hereto (and their respective successors and assigns, and, to the extent expressly provided in Section 10.11 below, past, present and future officials, officers, employees, representatives, and other agents of the City), any rights, benefits, or remedies under or by reason of this Agreement.
- 10.6 Reservation of Rights.** To the extent not inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws, but in any event, subject to any City governmental immunity under applicable law, each party shall have the ability to enforce this Agreement in accordance with its terms.
- 10.7 Exactions Roughly Proportionate.** Owner hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution and Chapter 395 of the Texas Local Government Code, arising out of this Agreement. Both Owner and the City further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of this Agreement and PDD-

5 and from any obligation to perform a takings impact assessment under the Texas Private Real Property Rights Act, Texas Government Code Chapter 2007 as the same may apply to this Agreement, the Land, and the Project. Owner further acknowledges that the benefits of platting and master planning have been accepted with full knowledge of potential claims and causes of action which may be raised now and in the future, and Owner acknowledges the receipt of good and valuable consideration for the release and waiver of such claims. Notwithstanding the foregoing, Owner does not waive any of its rights or claims with respect to any future requests or exactions from the City not covered or determined by this Agreement, the Offsite Road and Trail Agreement, or PDD-5.

**10.8 Termination.** This Agreement, except for the Defense, Indemnity and Insurance provisions may be terminated by express written Agreement executed by City and Owner. In the event this Agreement is terminated by mutual Agreement of the Parties, the Parties shall promptly execute and file of record in the Official Public Records of HAYS COUNTY, Texas, a document confirming the termination of this Agreement, and such other documents as may be appropriate to reflect the basis upon which such termination occurs.

**10.9 Assignment.** In the event that Owner intends to convey any portion of or the entirety of the Property to another person or entity, this Agreement and the rights and obligations of Owner hereunder may be assigned by Owner to the proposed assignee, without the consent of the City, provided that the assignee assumes all of the assigned obligations of Owner hereunder and the assignee has provided Owner with a writing, certified by an officer with the authority to bind the assignee, stating that such assignee (i) does not owe delinquent taxes or fees to the City, (ii) is not in material default (beyond any applicable notice and cure period) under any development agreement with City, and (iii) has the experience, expertise and the financial capacity and ability to perform the duties or obligations so assigned under this Agreement. In the event the proposed assignee is a home builder that is publicly traded and listed on the New York Stock Exchange and is a member of either the National Association of Home Builders or Texas Association of Home Builders, then the officer of such proposed assignee shall provide this information in the certification described in this paragraph in lieu of the requirements of item (iii), above. Owner shall provide the City sixty (60) days' prior written notice of any such assignment, and Owner shall provide the City with a copy of the writing described in this Section 10.9. If the City has objections to such assignment pursuant to subsections (i) to (iii), above, the City shall provide written notice of such objections to the Owner within ten (10) days of receiving the assignment notice from Owner. Owner will not be released from its obligations under this Agreement if the City objects to such assignment as described above and such objections are not resolved by and between Owner and the City, provided, however the City shall not unreasonably withhold Owner's release from its obligations under this Agreement.

Any assignment pursuant to this Section 10.9 must be in writing, specifically describe the Property being conveyed, set forth the assigned rights and obligations, and be executed by the proposed assignee. A copy of the assignment document must be delivered to the City. Upon assignment pursuant to this Section 10.9 (and absent objection by City as provided for in this Section 10.9), Owner shall be released of any further obligations under this

Agreement.

This Section 10.9 does not apply to any conveyance of any portion of the Property to any end-buyer of a fully developed and improved lot, or to a governmental entity, utility company or property owners association.

**10.10 Insurance.** An Owner that constructs public infrastructure for the Project or its Contractor(s) shall acquire and maintain, during the period of time when such public infrastructure is under construction by such Owner (with full coverage in force for matters occurring prior to City's acceptance of such public infrastructure, until expiration of two (2) years after the latter to occur of full and final completion of such public infrastructure and acceptance thereof by the City): (a) workers compensation insurance in the amount required by law and (b) commercial general liability insurance including personal injury liability, premises operations liability, and contractual liability (e.g. deletion of exclusions for liability assumed under any indemnification provisions of this Agreement), with limits of liability for bodily injury, death and property damage of not less than \$1,000,000.00 per occurrence and general aggregate coverage for bodily injury, death and property damage of not less than \$2,000,000.00 (per project); provided, however, if the applicable construction contract is for a sum greater than \$3,000,000.00, then either (at such Owner's election) the general aggregate coverage for bodily injury, death and property damage shall be no less than \$5,000,000.00 (on a per project basis), or an additional \$3,000,000.00 of umbrella or excess liability insurance shall be acquired and maintained. Such insurance shall cover claims for bodily injury, death and property damage which might arise out of the construction contracts for public infrastructure, whether by Owner, a contractor, subcontractor, material man, or otherwise. Commercial general liability insurance coverage in the amount of \$1,000,000.00 must be on a "per occurrence" basis. All such insurance shall be issued by a carrier which is rated "A-1" or better by A.M. Best's Key Rating Guide and licensed to do the business of insurance in the State of Texas. The commercial general liability insurance shall name the City including its current and future officers, councilmembers, employees, representatives, and other agents as an additional insureds and contain a waiver of subrogation endorsement in favor each additional insured. Upon the later to occur of Owner's execution of a construction contract for public infrastructure or five (5) days prior to commencement of construction under a construction contract for public infrastructure, such Owner shall provide to the City certified copies of all declarations, contracts and policies of insurance, including all riders, exclusions, and all other attachments to each, evidencing such insurance coverage, along with the endorsement naming the City as an additional insured. As to insurance required for current and for future Owners, even where Owner or the insurer has the right to cancel, fail to renew, or modify insurance coverage, each such policy shall provide that, at least thirty (30) days' prior to the cancellation (including for non-payment of premiums), non-renewal or modification of the same, the City and Owner or Owner's contractor shall receive written notice of such cancellation, non-renewal or modification; furthermore, if Owner receives ten (10) days' written notice for non-payment of premiums pursuant to Section 551.053 of the Texas Insurance Code, or if Owner is provided such notice by Owner's contractor, then Owner shall provide such notice to the City within five (5) business days. The commercial general liability insurance discussed in this Section 10.10 will not have exclusions or reduced limits for risks assumed pursuant to this Agreement. If insurance coverage that

names a city as an “additional named insured” is commercially available to contractors which would bid for a construction project within the Heritage Subdivision at commercially reasonable rates, then the City shall be named as an “additional named insured” to the insurance policy for such construction project.

**10.11 DEFENSE, INDEMNIFICATION and HOLD HARMLESS.** AN OWNER THAT CONSTRUCTS PUBLIC INFRASTRUCTURE FOR THE PROJECT (IN THE EVENT OF AN ASSIGNMENT PURSUANT TO SECTION 10.9 ABOVE “OWNER” FOR PURPOSES OF THIS SECTION 10.11 SHALL MEAN SUCH ASSIGNEE) HEREBY COVENANTS AND AGREES, TO THE EXTENT PERMITTED BY CHAPTER 151 OF THE TEXAS INSURANCE CODE, AND NO FURTHER, TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, AND ITS PAST, PRESENT, AND FUTURE OFFICIALS, OFFICERS, REPRESENTATIVES, EMPLOYEES, AND OTHER AGENTS (IN THIS SECTION, COLLECTIVELY THE “CITY”) AGAINST AND FROM (AND WILL PAY TO THE CITY OR THE CLAIMANT, AS APPLICABLE, THE AMOUNT OF SUCH DAMAGES TO THE EXTENT THAT PAYMENT OBLIGATIONS UNDER THIS INDEMNITY ARISE) ALL ACTIONS, DAMAGES, CLAIMS, LOSSES, OR EXPENSE OF ANY TYPE (COLLECTIVELY, “DAMAGES”), ARISING FROM (i) THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY SUCH OWNER OR (ii) ANY THIRD PARTY CLAIMS RELATING TO ANY PUBLIC IMPROVEMENT ACQUIRED UNDER THIS AGREEMENT, INCLUDING ANY CLAIM RELATING TO THE CONCURRENT OR SOLE NEGLIGENCE OF THE CITY OR RESULTING FROM ANY INJURY TO ANY PERSON OR DAMAGE TO PROPERTY RESULTING FROM THE ACTS OR OMISSIONS OF SUCH OWNER, ITS CONTRACTOR OR SUBCONTRACTORS, IN SUCH OWNER’S CONSTRUCTION OF PUBLIC INFRASTRUCTURE FOR THE PROJECT. THE OWNER CONSTRUCTING SUCH PUBLIC INFRASTRUCTURE WILL DEFEND THE CITY AGAINST ALL SUCH CLAIMS AND THE CITY WILL REASONABLY COOPERATE AND ASSIST IN PROVIDING SUCH DEFENSE. THE CITY SHALL HAVE THE RIGHT TO REASONABLY APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY THE OWNER IN FULFILLING ITS OBLIGATIONS HEREUNDER SUBJECT TO THE TERMS AND CONDITIONS OF ANY INSURANCE POLICY APPLICABLE TO SUCH CLAIM AND THE INSURER’S RIGHT TO RETAIN COUNSEL ON BEHALF OF ANY INSURED OR ADDITIONAL INSURED. THE CITY RESERVES THE RIGHT, BUT IS NOT REQUIRED, TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE AT ITS OWN EXPENSE. SUCH OWNER SHALL RETAIN DEFENSE COUNSEL WITHIN 10 BUSINESS DAYS OF WRITTEN NOTICE THAT THE CITY IS INVOKING ITS RIGHTS TO DEFENSE AND INDEMNIFICATION, AND IF SUCH OWNER DOES NOT DO SO, THE CITY MAY RETAIN ITS OWN DEFENSE COUNSEL IF REASONABLY NECESSARY AND SUCH OWNER WILL BE LIABLE FOR ALL REASONABLE COSTS AND EXPENSES OF SUCH COUNSEL INCURRED UNTIL SUCH OWNER HAS RETAINED DEFENSE COUNSEL. THIS SECTION SURVIVES THE TERMINATION OF THIS AGREEMENT INDEFINITELY WITH RESPECT TO MATTERS OCCURRING PRIOR TO CITY’S ACCEPTANCE OF SUCH PUBLIC INFRASTRUCTURE, SUBJECT TO APPROPRIATE STATUTES OF LIMITATIONS,

AS THEY MAY BE TOLLED OR EXTENDED BY AGREEMENT OR OPERATION OF LAW. THE OWNER FURTHER COVENANTS AND AGREES TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY THE CITY AGAINST ANY AND ALL CLAIMS BY ANY PERSON CLAIMING AN OWNERSHIP INTEREST IN THE PROPERTY ON THE EFFECTIVE DATE WHO HAS NOT SIGNED THIS AGREEMENT IF SUCH CLAIMS RELATE IN ANY MANNER OR ARISE IN CONNECTION WITH: (1) THE CITY'S RELIANCE UPON THE OWNER'S REPRESENTATIONS IN THIS AGREEMENT; OR (2) THIS AGREEMENT OR OWNERSHIP OF THE PROPERTY; OR (3) THE CITY'S APPROVAL OF ANY TYPE OF DEVELOPMENT APPLICATION OR SUBMISSION WITH RESPECT TO THE PROPERTY. OWNER WILL NOT SETTLE ANY CLAIM IF SUCH SETTLEMENT PROVIDES FOR INJUNCTIVE OR DECLATORY RELIEF AGAINST THE CITY WITHOUT THE WRITTEN CONSENT OF THE CITY, WHICH SHALL NOT BE UNREASONABLY WITHHELD. THE CITY SHALL NOT HAVE APPROVAL RIGHTS OVER MONETARY SETTLEMENTS, UNLESS AFFIRMATIVE ACTION IS REQUIRED BY THE CITY IN CONNECTION WITH SUCH SETTLEMENT. HOWEVER, LIMITS ON FUTURE GOVERNMENT ACTION AND PRECEDENTIAL CONSIDERATIONS RELATED TO OR POTENTIALLY ARISING FROM ANY PROPOSED SETTLEMENT ARE AMONG REASONS ON WHICH THE CITY MAY BASE REFUSAL TO CONSENT TO ANY PROPOSED SETTLEMENT.

At no time shall the City have any control over or charge of the Owner's design, construction, or installation of any of the public infrastructure, nor the means, methods, techniques, sequences, or procedures utilized for said design, construction, or installation. This Agreement does not create a joint enterprise or venture between the City and Owner.

- 10.12 Default.** If either Party defaults in its obligations under this Agreement, the other Party must, prior to exercising a remedy available to that Party arising out of the default, give written notice to the defaulting Party specifying the nature of the alleged default and the manner in which it can be satisfactorily cured, and extend to the defaulting Party at least thirty (30) days from receipt of the notice to cure the default. If the nature of the default is such that it cannot reasonably be cured within the thirty (30) day period, the commencement of the cure within the thirty (30) day period and the diligent prosecution of the cure to completion will be deemed a cure within the cure period.
- 10.13 Waiver.** Any failure by one of the Parties to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver of such provision or of any other provision of this Agreement, and such Party shall have the right at any time(s) thereafter to insist upon strict performance of any and all of the provisions of this Agreement.
- 10.14 Attorney's Fees and Court Costs.** In the event that any matter relating to this Agreement results in the institution of legal proceedings by any Party to this Agreement, each Party in such proceeding shall be responsible for the expenses incurred by it in connection with such proceedings, including, without limitation, court costs and attorneys' fees.

- 10.15 Entire Agreement:** This Agreement contains the entire agreement of the Parties, and there are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this Agreement other than as set forth in PDD-5, the Additional Heritage Agreements, and the PID Finance Agreement.
- 10.16 Exhibits, Headings, and Construction & Counterparts:** All exhibits attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter and the singular may include the plural, and vice-versa. Each of the Parties has been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not be employed in interpreting this Agreement or its exhibits. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the Parties.
- 10.17 Authority for Execution:** The City certifies, represents, and warrants that the execution of this Agreement has been duly authorized and that this Agreement has been approved in conformity with City ordinances and other applicable legal requirements. Owner certifies, represents, and warrants that the execution of this Agreement is duly authorized in conformity with its organizational documents.
- 10.18 Duplicate Originals.** This Agreement may be executed in duplicate original, each of equal dignity.
- 10.19 Notices.** Until changed by written notice thereof, any notice required under this Agreement may be given to the respective parties by certified mail, postage prepaid, or by hand delivery to the address of the other party shown below:

**Owner:**

SLF IV – Dripping Springs JV, L.P.  
c/o Stratford Land  
5949 Sherry Lane, Suite 800  
Dallas, Texas 75225  
Attn: Asset Manager

BobWhite Investments, LP  
28511 Ranch Road 12  
Dripping Springs, Texas 78620  
Attn: Sarah Henline

and

BobWhite Investments, LP  
301 Country Ln  
Dripping Springs, TX 78620  
Attn: Missy Atwood

**City Of Dripping Springs:**

City of Dripping Springs  
PO Box 384  
Dripping Springs, Texas 78620  
Attn: City Administrator

Bojorquez Law Firm, LP  
12325 Hymeadow Dr, Ste 2-100  
Austin, Texas 78750  
Attn: Alan J. Bojorquez

**10.20 Effective Date.** This Agreement is entered into to be effective as of the 17th day of October , 2017.

*[Signature and acknowledgement pages follow.]*

THE UNDERSIGNED PARTIES HEREBY EXECUTE THIS AGREEMENT:

CITY OF DRIPPING SPRINGS,  
a Type A General-Law Municipality

By: Todd Purcell  
Todd Purcell  
Mayor



ATTEST:  
By: Andrea Cunningham  
Andrea Cunningham  
City Secretary

SLF IV – Dripping Springs JV, L.P.,  
a Texas limited partnership

By: SLF IV Property GP, LLC,  
a Texas limited liability company,  
its General Partner

By: Stratford Land Fund IV, L.P.,  
a Delaware limited partnership,  
its Co-Managing Member

By: Stratford Fund IV GP, LLC,  
a Texas limited liability company,  
its General Partner

By: Mark Westerburg  
Name: Mark Westerburg  
Title: Vice President

STATE OF TEXAS §

§

COUNTY OF DALLAS §

THIS INSTRUMENT was acknowledged before me on this 10th day of NOVEMBER, 2017, by MARK WESTERBURG, VICE PRESIDENT of Stratford Fund IV GP, LLC, a Texas limited liability company, General Partner of Stratford Land Fund IV, L.P., a Delaware limited partnership, Co-Managing Member of SLF IV Property GP, LLC, a Texas limited liability

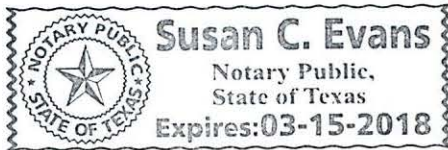
Vice President  
Mark Westphal



company, General Partner of SLF IV – Dripping Springs JV, L.P.,  
a Texas limited partnership, on behalf of said partnership.

(SEAL)

  
\_\_\_\_\_  
Notary Public, State of Texas



**BobWhite Investments, LP,**  
a Texas limited partnership

By: BobWhite GP, LLC,  
a Texas limited liability company  
its General Partner

By: Sarah D. Henline  
Name: Sarah D. Henline  
Title: General Manager

STATE OF TEXAS )

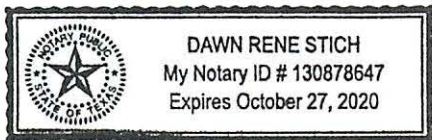
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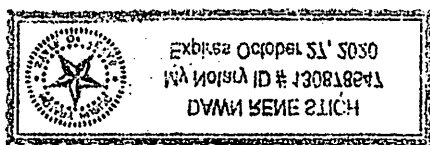
COUNTY OF Hays )

THIS INSTRUMENT was acknowledged before me on this 10<sup>th</sup> day of Nov, 2017, by Sara Henline, Gen. Manager of BobWhite GP, LLC, a Texas limited liability company and the General Partner of BobWhite Investments, LP, a Texas limited partnership, on behalf of said partnership.

(SEAL)

Dawn Stich  
Notary Public, State of Texas





**EXHIBIT A**  
**"Property"**

**TRACT 1:**

A DESCRIPTION OF 34.247 ACRES IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A 34.29 ACRE TRACT CONVEYED TO JOHN MARCUS BAIRD BY DEED DATED JANUARY 13, 1993 AND RECORDED IN VOLUME 971, PAGE 116 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 34.247 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2" rebar found for the southeast corner of the said 34.29 acre tract, being also the northeast corner of a 10.11 acre tract described in Volume 3444, Page 347 of the Official Public Records of Hays County, Texas, and being in the west line of Tract 1 of the P.L. Turner Subdivision, a subdivision of Record in Volume 133, Page 444 of the Deed Records of Hays County, Texas;

**THENCE** with the south line of the 34.29 acre tract, being also the north line of the 10.11 acre tract, the following four (4) courses and distances:

1. South 81°14'08" West, a distance of 397.32 feet to a 1/2" rebar with Chaparral cap set;
2. South 84°24'01" West, a distance of 7.97 feet to a 1/2" rebar found;
3. South 85°19'17" West, a distance of 78.51 feet to a fence post found;
4. South 37°56'47" West, a distance of 97.35 feet to a 1/2" rebar found for the northwest corner of the 10.11 acre tract, being also the northeast corner of Lot 3 of Burrows Subdivision, a subdivision of record in Book 15, Page 69 of the Plat Records of Hays County, Texas;

**THENCE** with the south line of the 34.29 acre tract, being also the north line of Burrows Subdivision, the following four (4) courses and distances:

1. South 82°29'22" West, a distance of 88.75 feet to a nail found;
2. South 79°25'37" West, a distance of 76.64 feet to a nail found in a live oak for the northwest corner of Lot 3, being also the northeast corner of Lot 2;
3. South 81°55'21" West, a distance of 126.68 feet to a 1/2" rebar with a 3984 cap found for the northwest corner of Lot 2, being also the northeast corner of Lot 1;

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4. South 81°56'23" West, a distance of 126.62 feet to a 1/2" rebar found for the northwest corner of Lot 1, being also the northeast corner of a 2.107 acre tract described in Volume 2840, Page 300 of the Official Public Records of Hays County, Texas;

**THENCE** continuing with the south line of the 34.29 acre tract, being also the north line of the 2.107 acre tract, the following two (2) courses and distances:

1. South 82°31'24" West, a distance of 142.51 feet to a nail found in a live oak;
2. South 81°27'49" West, a distance of 160.55 feet to a 1/2" rebar found for the northwest corner of the 2.107 acre tract, being also the northeast corner of Lot 1 of Sportsplex Subdivision No. 1, a subdivision of record in Book 7, Page 157 of the Plat Records of Hays County, Texas;

**THENCE** continuing with the south line of the 34.29 acre tract, being also the north line of Lot 1, the following two (2) courses and distances:

1. South 78°46'14" West, a distance of 283.22 feet to a 5/8" rebar found;
2. South 87°33'15" West, a distance of 75.24 feet to a 1/2" rebar found for the northwest corner of Lot 1, being in the east line of Sportsplex Drive, described in Volume 784, Page 217 of the Deed Records of Hays County, Texas;

**THENCE** with the east line of Sportsplex Drive, crossing the 34.29 acre tract the following two (2) courses and distances:

1. With a curve to the left, having a radius of 309.60 feet, a delta angle of 14°55'01", an arc length of 80.60 feet, and a chord which bears North 67°03'32" West, a distance of 80.38 feet to a calculated point;
2. North 74°27'23" West, a distance of 19.74 feet to a calculated point in the center of a road, being in the west line of the 34.29 acre tract;

**THENCE** with the west line of the 34.29 acre tract, 25' from and parallel to the east line of a 20.518 acre tract described in Volume 784, Page 210 of the Deed Records of Hays County, Texas, the following six (6) courses and distances:

1. North 15°32'13" East, a distance of 7.31 feet to a calculated point;
2. North 14°52'44" East, a distance of 170.09 feet to a calculated point;
3. North 42°12'50" East, a distance of 247.76 feet to a calculated point;
4. North 34°57'13" East, a distance of 299.47 feet to a calculated point;
5. North 35°47'18" East, a distance of 429.51 feet to a calculated point;



6. North 43°12'18" East, a distance of 469.74 feet to a 1/2" rebar with Chaparral cap set for the northwest corner of the 34.29 acre tract, from which a 1/2" rebar with Zamorra Warrick Associates cap found for the northeast corner of the 20.518 acre tract, bears South 89°12'58" West, a distance of 34.79 feet;

**THENCE** North 89°12'58" East, with the north line of the 34.29 acre tract, a distance of 764.65 feet to a 1/2" rebar found for the northeast corner of the 34.29 acre tract, being also in the west line of said Tract 1;

**THENCE** with the east line of the 34.29 acre tract, being also the west line of Tract 1, the following two (2) courses and distances:

1. South 01°00'24" West, a distance of 791.82 feet to a nail in a fence post found;
2. South 01°57'23" West, a distance of 240.27 feet to the **POINT OF BEGINNING**, containing 34.247 acres of land, more or less.

#### **TRACT 2:**

A DESCRIPTION OF 50.206 ACRES IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A TRACT CALLED THE EAST PART OF 152.47 ACRES CONVEYED TO JOHN MARCUS BAIRD BY GENERAL WARRANTY DEED DATED MAY 9, 1978 AND RECORDED IN VOLUME 310, PAGE 718 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, SAME BEING A PORTION OF A 152.47 ACRE TRACT CONVEYED TO EDNA EARL BAIRD BY DEED DATED FEBRUARY 19, 1937 AND RECORDED IN VOLUME 154, PAGE 59 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 50.206 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at an axle found for the northeast corner of the said 152.47 acre tract, being an angle point in the south line of Tract 76 A-1, Replat of the Remainder of Tract 76A, Springlake and Subdivision of Reed Acreage, a subdivision of record in Book 9, Page 47 of the Plat Records of Hays County, Texas;

**THENCE** South 00°16'33" West, with the east line of the 152.47 acre tract, being a south line of said Tract 76 A-1, a distance of 70.71 feet to a fence post found for an angle point in the south line of Tract 76 A-1, for the northwest corner of a tract of land described in Volume 130, Page 231 of the Deed Records of Hays County, Texas;

**THENCE** South 02°57'28" West, with the east line of the 152.47 acre tract, and with the west line of a 2 acre tract described in Volume 130, Page 231, and Volume 1658, Page 147 of the Official Public Records of Hays County, Texas, a distance of 174.43 feet to fence post found for the southwest corner of the 2 acre tract, being also the northwest corner of Tract 1 of the P.L. Turner Subdivision, a subdivision of Record in Volume 133, Page 444 of the Deed Records of Hays County, Texas;

**THENCE** with the east line of the 152.47 acre tract, being the west line of Tract 1, with the fence, the following five (5) courses and distances:

1. South 02°48'03" West, a distance of 431.51 feet to a calculated point;
2. South 02°54'13" West, a distance of 484.14 feet to a calculated point;
3. South 02°03'04" West, a distance of 259.80 feet to a calculated point;
4. South 01°35'37" West, a distance of 300.57 feet to a calculated point;
5. South 01°07'29" West, a distance of 353.19 feet to a 1/2" rebar found for the northwest corner of a 34.29 acre tract described in Volume 971, Page 116 of the Deed Records of Hays County, Texas;

**THENCE** South 89°12'58" West, with the north line of the 34.29 acre tract, over and across the 152.47 acre tract, a distance of 764.65 feet to a 1/2" rebar with Chaparral cap set for the northwest corner of the 34.29 acre tract, being in the division line of the 152.47 acre tract described in Volume 310, Page 718 and Volume 310, Page 721 of the Deed Records of Hays County, Texas;

**THENCE** South 89°12'58" West, continuing across the 152.47 acre tract, with the said division line, a distance of 34.79 feet to a 1/2" rebar with Zamorra Warrick Associates cap found for the northwest corner of a 20.518 acre tract described in Volume 784, Page 210 of the Deed Records of Hays County, Texas;

**THENCE** South 89°12'49" West, with the north line of the 20.518 acre tract, with the said division line, a distance of 196.26 feet to a fence post found for the southeast corner of a 45.53 acre tract described in Volume 2953, Page 181 of the Official Public Records of Hays County, Texas;

**THENCE** with the east line of the 45.53 acre tract, with the said division line, crossing the 152.57 acre tract, the following four (4) courses and distances:

1. North 01°23'38" West, a distance of 440.21 feet to a 1/2" rebar with Carson Bush cap found;
2. North 00°57'16" West, a distance of 525.11 feet to a nail found at the base of a 13" and 14" live oak;
3. North 09°31'45" West, a distance of 154.92 feet to a 1/2" rebar with Chaparral cap set;
4. North 01°24'08" West, a distance of 484.34 feet to a 1/2" rebar found for the northeast corner of the 45.53 acre tract, being also the southeast corner of Lot 18 of Hidden Springs



## **Exhibit A - ProPerty**

Planned Development District No.5 Heritage Subdivision

📍 Dripping Springs, TX

📅 18 April 2016

Ranch Section II, a subdivision of record in Book 14, Page 69 of the Plat Records of Hays County, Texas;

**THENCE** with the east line of Hidden Springs Ranch Section II, continuing with the said division line, crossing the 152.57 acre tract, the following five (5) courses and distances:

1. North 01°22'12" West, a distance of 155.30 feet to a nail found in concrete;
2. North 15°23'51" East, a distance of 18.43 feet to a 1/2" rebar found;
3. North 03°04'23" West, a distance of 27.45 feet to a 1/2" rebar with 4404 cap found for the northeast corner of Lot 18, being also the southeast corner of Lot 17;
4. North 02°18'43" West, a distance of 190.70 feet to a 1/2" rebar with 4542 cap found for the northeast corner of Lot 17, being also the southeast corner of Lot 14;
5. North 01°02'42" West, a distance of 50.06 feet to an axle found for an angle point in the north line of the 152.47 acre tract, being also the southwest corner of Tract 76 A-1;

**THENCE** North 87°50'05" East, with the north line of the 152.47 acre tract, being also the south line of Tract 76 A-1, a distance of 1141.82 feet to the **POINT OF BEGINNING**, containing 50.206 acres of land, more or less.

#### **TRACT 3:**

A DESCRIPTION OF 94.695 ACRES (APPROX. 4,124,910 SQ. FT.) IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A 119.7 ACRE TRACT CONVEYED TO NELSON M. DAVIDSON AND DORIS BREED DAVIDSON BY DEED DATED JUNE 23, 1952 AND RECORDED IN VOLUME 154, PAGE 290 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND BEING A PORTION OF TRACT 1, P.L. TURNER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 133, PAGE 444 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 94.695 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2" rebar with 3984 cap found in the west line of Old Fredericksburg Road (right-of-way width varies), for the northeast corner of the Doris Breed Davidson Subdivision, a subdivision of record in Book 10, Page 395 of the Plat Records of Hays County, Texas;

**THENCE** North 01°30'02" West, with the west line of Old Fredericksburg Road, across Tract 1, a distance of 425.26 feet to a 1/2" rebar with Chaparral cap set for the **POINT OF BEGINNING**;

**THENCE** over and across Tract 1, the following four (4) courses and distances:

1. South 89°48'55" West, a distance of 259.27 feet to a 1/2" rebar with Chaparral cap set;

2. With a curve to the left, having a radius of 970.00 feet, a delta angle of 06°06'33", an arc length of 103.43 feet, and a chord which bears South 86°45'39" West, a distance of 103.38 feet to a 1/2" rebar with Chaparral cap set
3. South 38°42'22" West, a distance of 192.59 feet to a 1/2" rebar with Chaparral cap set;
4. South 00°43'30" West, a distance of 587.78 feet to a 1/2" rebar with Chaparral cap set in the north line of a 9.008 acre tract described in Volume 2102, Page 453 of the Official Public Records of Hays County, Texas, from which a 1/2" rebar with 3984 cap found in the north line of the 9.008 acre tract, for the southwest corner of the Doris Breed Davidson Subdivision, bears North 87°06'31" East, a distance of 205.48 feet;

**THENCE** South 87°06'31" West, with the north line of the 9.008 acre tract, continuing across Tract 1, a distance of 304.58 feet to a 1/2" rebar found for the northwest corner of the 9.008 acre tract;

**THENCE** South 07°58'13" West, with the west line of the 9.008 acre tract, continuing across Tract 1, a distance of 1318.37 feet to a nail in concrete found for the southwest corner of the 9.008 acre tract, being also in the north line of a 6.38 acre tract described in Volume 1489, Page 391 of the Official Public Records of Hays County, Texas, for an angle point in the east line of Tract 1;

**THENCE** South 13°58'09" West, with the east line of Tract 1, being also the west line of the 6.38 acre tract, a distance of 743.78 feet to a 1/2" rebar with 3984 cap found for the southeast corner of Tract 1, being also the southwest corner of the 6.38 acre tract, and being in the north line of a 3.91 acre tract described in Volume 269, Page 226 of the Deed Records of Hays County, Texas;

**THENCE** South 88°04'18" West, with the south line of Tract 1, being also the north line of the 3.91 acre tract, a distance of 101.94 feet to a nail found in a 6" post for the northwest corner of the 3.91 acre tract, being also the apparent northeast corner of a 6 acre tract described in Volume 110, Page 563 of the Deed Records of Hays County, Texas;

**THENCE** North 89°32'58" West, with the south line of Tract 1, being also the apparent north line of the 6 acre tract, a distance of 152.30 feet to a fence post found for the apparent northwest corner of the 6 acre tract, and being a northeast corner of the 76.73 acre tract described in Volume 124, Page 515 of the Deed Records of Hays County, Texas;

**THENCE** South 89°52'25" West, with the south line of Tract 1, being also the north line of the 76.73 acre tract, distance of 311.97 feet to a fence post found for the southwest corner of Tract 1, being an angle point in the east line of the 76.73 acre tract;

**THENCE** North 01°40'35" East, with the west line of Tract 1, being also the east line of the 76.73 acre tract, a distance of 550.52 feet to a 1/2" rebar found for the northeast corner of the



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76.73 acre tract, being also the southeast corner of a 10.11 acre tract described in Volume 3444, Page 347 of the Official Public Records of Hays County, Texas;

**THENCE** North 01°55'45" East, with the west line of Tract 1, being also the east line of the 10.11 acre tract, a distance of 660.61 feet to a 1/2" rebar found for the northeast corner of the 10.11 acre tract, being also the southeast corner of a 34.29 acre tract described in Volume 971, Page 116 of the Deed Records of Hays County, Texas;

**THENCE** with the west line of Tract 1, being also the east line of the 34.29 acre tract, the following two (2) courses and distances:

1. North 01°57'23" East, a distance of 240.27 feet to a nail in fence post found;
2. North 01°00'24" East, a distance of 791.82 feet to a 1/2" rebar found for the northeast corner of the 34.29 acre tract, being in the east line of a 152.47 acre tract described in Volume 310, Page 718 of the Deed Records of Hays County, Texas;

**THENCE** with the west line of Tract 1, being the east line of the 152.47 acre tract, with the fence, the following five (5) courses and distances:

1. North 01°07'29" East, a distance of 353.19 feet to a calculated point;
2. North 01°35'37" East, a distance of 300.57 feet to a calculated point;
3. North 02°03'04" East, a distance of 259.80 feet to a calculated point;
4. North 02°54'13" East, a distance of 484.14 feet to a calculated point;
5. North 02°48'03" East, a distance of 431.51 feet to a fence post found for the northwest corner of Tract 1, being the southwest corner of a 2 acre tract described in Volume 130, Page 231 of the Deed Records of Hays County, Texas;

**THENCE** North 86°52'58" East, with the north line of Tract 1, being also the south line of the 2 acre tract, a distance of 1245.48 feet to a fence post found for the northwest corner of a 7.749 acre tract described in Volume 374, Page 743 of the Deed Records of Hays County, Texas;

**THENCE** South 02°29'58" East, with the west line of the 7.749 acre tract, over and across Tract 1, a distance of 390.22 feet to a 1/2" iron pipe found for the southwest corner of the 7.749 acre tract, being also the northwest corner of a 1.50 acre tract described in Volume 207, Page 49 of the Deed Records of Hays County, Texas;

**THENCE** South 02°17'26" East, with the west line of the 1.50 acre tract, continuing across Tract 1, a distance of 208.99 feet to a 1/2" iron pipe found for the southwest corner of the 1.50 acre tract;

**THENCE** North 85°08'49" East, with the south line of the 1.50 acre tract, continuing across Tract 1, a distance of 104.25 feet to a 3/4" rebar found for an angle point in the east line of Tract 1, being also the northwest corner of a 1.00 acre tract described in Volume 1924, Page 385 of the Deed Records of Hays County, Texas, and being the northwest corner of the Turner Tract as shown on the plat of said P.L. Turner Subdivision;

**THENCE** South 02°05'28" East, with the east line of Tract 1, being also the west line of the 1.00 acre tract, the Turner Tract, a 1.00 acre tract described in Volume 275, Page 499 of the Deed Records of Hays County, Texas, and the west line of Tract 4 of said P.L. Turner Subdivision, a distance of 86.45 feet to a 1/2" rebar with Chaparral cap set, from which a fence corner at a 13" live oak for the southwest corner of the 1.00 acre tract, being also the southwest corner of Tract 4, and being in the north line of a 0.938 acre tract described in Volume 391, Page 223 of the Deed Records of Hays County, Texas, bears South 02°05'28" East, a distance of 329.42 feet;

**THENCE** over and across Tract 1, the following eight (8) courses and distances:

1. South 87°52'26" West, a distance of 119.99 feet to a 1/2" rebar with Chaparral cap set;
2. South 02°07'34" East, a distance of 330.24 feet to a 1/2" rebar with Chaparral cap set;
3. South 87°52'26" West, a distance of 25.11 feet to a 1/2" rebar with Chaparral cap set;
4. South 02°07'34" East, a distance of 254.30 feet to a 1/2" rebar with Chaparral cap set;
5. With a curve to the left, having a radius of 25.00 feet, a delta angle of 91°03'12", an arc length of 39.73 feet, and a chord which bears South 47°39'11" East, a distance of 35.68 feet to a 1/2" rebar with Chaparral cap set;
6. With a curve to the right, having a radius of 1030.00 feet, a delta angle of 02°59'42", an arc length of 53.84 feet, and a chord which bears North 88°19'04" East, a distance of 53.84 feet to a 1/2" rebar with Chaparral cap set;
7. North 89°48'55" East, a distance of 40.73 feet to a 1/2" rebar with Chaparral cap set;
8. North 89°48'55" East, a distance of 217.16 feet to a 1/2" rebar with Chaparral cap set in the west right-of-way line of Old Fredericksburg Road, from which a 1/2" rebar found in the west right-of-way line of Old Fredericksburg Road, for the southeast corner of a 0.938 acre tract described in Volume 391, Page 223 of the Deed Records of Hays County, Texas, bears North 01°30'02" West, a distance of 108.46 feet;

**THENCE** South 01°30'02" East, with the west right-of-way line of Old Fredericksburg Road, crossing Tract 1, a distance of 60.02 feet to the **POINT OF BEGINNING**, containing 94.695 acres of land, more or less.



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**TRACT 4:**

A DESCRIPTION OF 8.119 ACRES (APPROX. 353,664 SQ. FT.) IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A 9.008 ACRE TRACT CONVEYED TO MICKEY DAVIDSON KROLL, NELSON M. DAVIDSON, JR., AND WIFE, BARBARA WATKINS DAVIDSON BY WARRANTY DEED WITH VENDOR'S LIEN DATED NOVEMBER 7, 2002 AND RECORDED IN VOLUME 2102, PAGE 453 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND BEING A PORTION OF TRACT 1, P.L. TURNER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 133, PAGE 444 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 8.119 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2" rebar, being an angle point in the east line of the said 9.008 acre tract, being also the northeast corner of Tract 3 of the said P.L. Turner Subdivision, and being also the southwest corner of a 0.754 acre tract described in Volume 4258, Page 404 of the Official Public Records of Hays County, Texas, and being also the northwest corner of a 1 acre tract described in Volume 144, Page 563 of the Deed Records of Hays County, Texas, from which a 3/4" iron pipe found for the southeast corner of the 0.754 acre tract, being in the north line of the 1 acre tract, and being in the west line of Old Fredericksburg Road (right-of-way width varies), bears North 87°52'37" East, a distance of 216.79 feet;

**THENCE** South 87°35'26" West, with the common line of the 9.008 acre tract and Tract 3, a distance of 236.90 feet to a 1/2" rebar found for an angle point in the east line of the 9.008 acre tract, being also the northwest corner of Tract 3, for the **POINT OF BEGINNING**;

**THENCE** with the common line of the 9.008 acre tract and Tract 3, the following two (2) courses and distances:

1. South 15°43'23" West, a distance of 521.70 feet to a 1/2" rebar found at the northwest corner of a 3.59 acre tract out of Tract 3, described in Volume 4073, Page 818 of the Official Public Records of Hays County, Texas;
2. South 15°32'41" West, with the west line of the 3.59 acre tract, a distance of 499.23 feet to a 2" iron pipe found for an angle point in the east line of the 9.008 acre tract, being also the southwest corner of the 3.59 acre tract, being also the southwest corner of Tract 3, and being in the north line of a 2.07 acre tract described in Volume 178, Page 571 of the Deed Records of Hays County, Texas;

**THENCE** with the common line of the 9.008 acre tract and the 2.07 acre tract, the following two (2) courses and distances:

1. North 89°33'06" West, a distance of 183.84 feet to a 1/2" rebar found for an angle point in the east line of the 9.008 acre tract, for the northwest corner of the 2.07 acre tract;

2. South 09°15'30" West, a distance of 216.46 feet to a nail found in an 18" live oak for the southwest corner of the 2.07 acre tract, being also the southeast corner of the 9.008 acre tract, and being in the north line of a 6.39 acre tract described in Volume 1489, Page 391 of the Official Public Records of Hays County, Texas;

**THENCE** North 89°25'09" West, with the south line of the 9.008 acre tract, being also the north line of the 6.38 acre tract, a distance of 53.15 feet to a nail in concrete found for the southwest corner of the 9.008 acre tract;

**THENCE** North 07°58'13" East, with the west line of the 9.008 acre tract, crossing said Tract 1, a distance of 1318.37 feet to a 1/2" rebar found for the northwest corner of the 9.008 acre tract;

**THENCE** North 87°06'31" East, with the north line of the 9.008 acre tract, crossing said Tract 1, a distance of 304.58 feet to a 1/2" rebar with Chaparral cap set, from which a 1/2" rebar with 3984 cap found for the southwest corner of the Doris Breed Subdivision, a subdivision of record in Book 10, Page 395 of the Plat Records of Hays County, Texas, bears North 87°06'31" East, a distance of 205.48 feet;

**THENCE** over and across the 9.008 acre tract, the following two (2) courses and distances:

1. South 00°43'30" West, a distance of 129.06 feet to a 1/2" rebar with Chaparral cap set;
2. North 87°20'25" East, a distance of 61.68 feet to the **POINT OF BEGINNING**, containing 8.119 acres of land, more or less.

**TRACT 5:**

A DESCRIPTION OF 1.676 ACRES (APPROX. 73,006 SQ. FT.) IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A 119.7 ACRE TRACT CONVEYED TO NELSON M. DAVIDSON AND DORIS BREED DAVIDSON BY DEED DATED JUNE 23, 1952 AND RECORDED IN VOLUME 154, PAGE 290 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND BEING A PORTION OF TRACT 1, P.L. TURNER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 133, PAGE 444 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 1.676 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2" rebar found in the west right-of-way line of Old Fredericksburg Road, for the southeast corner of a 0.938 acre tract described in Volume 391, Page 223 of the Deed Records of Hays County, Texas;

**THENCE** South 86°32'57" West, with the south line of the said 0.938 acre tract, a distance of 218.28 feet to a 1/2" rebar found at the southwest corner of the 0.938 acre tract for the **POINT OF BEGINNING**;

**THENCE** crossing Tract 1, the following eight (8) courses and distances:



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1. South 02°07'34" East, a distance of 96.05 feet to a 1/2" rebar with Chaparral cap set;
2. South 89°48'55" West, a distance of 40.73 feet to a 1/2" rebar with Chaparral cap set;
3. With a curve to the left, having a radius of 1030.00 feet, a delta angle of 02°59'42", an arc length of 53.84 feet, and a chord which bears South 88°19'04" West, a distance of 53.84 feet to a 1/2" rebar with Chaparral cap set;
4. With a curve to the right, having a radius of 25.00 feet, a delta angle of 91°03'12", an arc length of 39.73 feet, and a chord which bears North 47°39'11" West, a distance of 35.68 feet to a 1/2" rebar with Chaparral cap set;
5. North 02°07'34" West, a distance of 254.30 feet to a 1/2" rebar with Chaparral cap set;
6. North 87°52'26" East, a distance of 25.11 feet to a 1/2" rebar with Chaparral cap set;
7. North 02°07'34" West, a distance of 330.24 feet to a 1/2" rebar with Chaparral cap set;
8. North 87°52'26" East, a distance of 119.99 feet to a 1/2" rebar with Chaparral cap set in the east line of Tract 1, being also the west line of a 1.00 acre tract described in Volume 1924, Page 385 of the Deed Records of Hays County, Texas, and being the northwest corner of the Turner Tract as shown on the plat of said P.L. Turner Subdivision, from which a 3/4" rebar found for an angle point in the east line of Tract 1, being also the northwest corner of a 1.00 acre tract, bears North 02°05'28" West, a distance of 86.45 feet;

**THENCE** South 02°05'28" East, with the east line of Tract 1, being also the west line of the 1.00 acre tract, the Turner Tract, a 1.00 acre tract described in Volume 275, Page 499 of the Deed Records of Hays County, Texas, and the west line of Tract 4 of said P.L. Turner Subdivision, a distance of 329.42 feet to a fence corner at a 13" live oak for the southwest corner of the 1.00 acre tract, being also the southwest corner of Tract 4, and being in the north line of a 0.938 acre tract described in Volume 391, Page 223 of the Deed Records of Hays County, Texas;

**THENCE** South 85°58'06" West, with the north line of the 0.938 acre tract, crossing Tract 1, a distance of 24.91 feet to a 1/2" rebar found for the northwest corner of the 0.938 acre tract;

**THENCE** South 02°07'34" East, with the west line of the 0.938 acre tract, continuing across Tract 1, a distance of 185.05 feet to the **POINT OF BEGINNING**, containing 1.676 acres of land, more or less.

