

PLANNED DEVELOPMENT DISTRICT No. 14:
Village Grove

Planned Development District Ordinance

Approved by the Planning & Zoning Commission on:

_____, 2022

Approved by the City Council on:

_____, 2022

THIS PLANNED DEVELOPMENT DISTRICT ORDINANCE (“Ordinance”) is enacted pursuant to City of Dripping Springs Code of Ordinances, Article 30.3.

WHEREAS, the Owner is the owner of certain real property consisting of approximately 112 acres located within the City Limits of the City of Dripping Springs (“City”), in Hays County, Texas, commonly known as “Village Grove” and as more particularly identified and described in *Exhibit “A”* (the “Property”) to *Attachment “A”*; and

WHEREAS, the Property will be subdivided and developed by Owner, its affiliates or their successors and assigns, for construction and use in general accordance with the PD Master Plan shown as *Exhibit “B”* to *Attachment “A”*; and

WHEREAS, the Owner, its affiliates or their successors and assigns intends to develop a master-planned community that will include a mix of land uses, together with parkland and roadway connections described herein;

WHEREAS, The City has approved the applications for annexation of the Property into the City as well as the Agreement Concerning Creation and Operation of Dripping Springs Municipal Utility District No. 1 (the “MUD Consent”);

WHEREAS, the Owner has submitted an application to the City to rezone the Property to Planned Development District (“PDD”), designating it “PDD – 14”; and

WHEREAS, after public notice, the Planning and Zoning Commission conducted a public hearing and recommended approval on _____, 2022; and

WHEREAS, pursuant to the City’s Planned Development Districts Ordinance, Article 30.03 of the City’s Code of Ordinances (the “PD Ordinance”), the Owner has submitted a PD Master Plan that conceptually describes the Project, which is attached to this Ordinance as *Exhibit “B”* to *Attachment “A”*; and

WHEREAS, this Ordinance, PD Master Plan, and the Code of Ordinances shall be read in harmony, will be applicable to the Property, and will guide development of the Property; and

WHEREAS, the City Council has approved the annexation of the Property, this proposed Ordinance, the PD Master Plan, and the Annexation and Development Agreement for Village Grove and has determined that it promotes the health, safety, and general welfare of the citizens of Dripping Springs; complies with the intent of the City of Dripping Springs Comprehensive Plan; and is necessary in light of changes in the neighborhood; and

WHEREAS, the City Council finds that this proposed Ordinance ensures the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community by meeting one or more of the following purposes under Code §30.03.004: provides for a superior design of lots or buildings; provides for

increased recreation and/or open space opportunities for public use; provides amenities or features that would be of special benefit to the property users or community; protects or preserves natural amenities and environmental assets such as trees, creeks, ponds, floodplains, slopes, hills, views, and wildlife habitats; protects or preserves existing historical buildings, structures, features or places; provides an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services; and meets or exceeds the present standards of this article;

WHEREAS, the City Council is authorized to adopt this Ordinance in accordance with Texas Local Government Code Chapters 51 and 211; and

WHEREAS, the Ordinance has been subject to public notices and public hearings and has been reviewed and approved by the City's Planning and Zoning Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Dripping Springs:

1. FINDINGS OF FACT

The City Council finds that the facts and matters in the foregoing recitals are true and correct; and, are hereby incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

- A. Zoning District Created.** PDD – 14 is hereby established consistent with *Attachment "A,"* which is attached hereto and incorporated into this Ordinance for all intents and purposes. Code of Ordinances Chapter 30, Exhibit A [Zoning Ordinance], § 3.1 [Zoning Districts] is hereby amended to add the zoning district identified as PDD – 14.
- B. Zoning Map Amended.** The official zoning map of the City is hereby amended to demarcate the boundaries of PDD – 14 consistent with the boundaries of the Property delineated in the Property Legal Description, *Exhibit "A"* to *Attachment "A"*.
- C. PD Master Plan Approved.** The PD Master Plan attached as *Exhibit "B"* to *Attachment "A"* is hereby approved. The PD Master Plan, together with *Attachment "A"*, constitutes the zoning regulations for the Project. All construction, land use and development of the Property must substantially conform to the terms and conditions set forth in the PD Master Plan, this Ordinance, *Attachment "A"* and the exhibits. The PD Master Plan is intended to serve as a guide to illustrate the general vision and design concepts. The PD Master Plan is to serve as the conceptual basis for the site plan(s) subsequently submitted to the City seeking site development permit approval. This approval shall not be interpreted as approval of a variance, utility sources, or other site plan or plat requirements without specific reference in the ordinance or variance chart, or in future approvals.

- D. Administrative Approval of Minor Modifications.** In order to provide flexibility with respect to certain details of the development of the Project, the City Administrator is authorized to approve minor modifications. Minor modifications do not require consent or action of the Planning & Zoning Commission or City Council. Examples of minor modifications include slight adjustments to the internal street and drive alignments in accordance in Section 2.7.2 Roadway Alignments; building envelopes; number of buildings; orientation of buildings; and adjustments that do not result in overall increases to traffic, density, or impervious cover. Changes that affect the lotting plan shall not be minor unless the change does not affect the maximum number of lots or the maximum number of lots of certain widths. Adjustments of lot locations shall not be minor unless the relocated lots are adjacent to previous locations. The City Administrator may approve minor modifications in writing following consultation with the Development Review Committee. Any appeal of the City Administrator's determination regarding whether or not a change is a minor modification may be appealed by any aggrieved party to the Board of Adjustment.
- E. Code of Ordinances.** The Code of Ordinances shall be applicable to the Project, except as specifically provided for by this Ordinance, *Attachment "A"*, or the PD Master Plan.
- F. Resolution of Conflicts.** The documents governing the PDD should be read in harmony to the extent possible. If a conflict arises between the charts included in the exhibits and the illustrations contained in the exhibits, the charts shall control. If a conflict arises between the terms of this Ordinance and the exhibits, the terms of this Ordinance shall control.
- G. Attachments and Exhibits Listed.** The following attachment and exhibits thereto are incorporated into this Ordinance in their entirety, as though set forth fully in the text of this Ordinance:

Attachment "A" – Planned Development District No. 14 and Zoning Map

Exhibit A	Property Legal Description and Survey
Exhibit B	PD Master/Concept Plan
Exhibit C	Parks, Trails and Open Space Plan
Exhibit D	Lotting Plan
Exhibit E	PD Code Modifications Chart
Exhibit F	PD Street Standards
Exhibit G	Water Quality Buffer Zones
Exhibit H	PD Phasing Plan
Exhibit I	PD Uses Chart

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. PENALTY

Any person, firm, association or persons, company, corporations or their agents or employees violating or failing to comply with any of the provisions of this Ordinance may be subject to a fine pursuant to Section 54.001 of the Texas Local Government Code, upon conviction of not more than Two Thousand Dollars (\$2,000.00). The foregoing fine may be cumulative of other remedies provided by State law, and the power on injunction as provided by Texas Local Government Code 54.012 and as may be amended, may be exercised in enforcing this Ordinance whether or not there has been a complaint filed.

6. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapters 52 and 211 of the Texas Local Government Code.

8. EFFECTIVE DATE

This Ordinance shall be effective immediately upon approval by the City Council and publication as required by law.

PASSED & APPROVED this, the _____ day of _____, 2022 by a vote of ____ (*ayes*) to ____ (*nays*) to ____ (*abstentions*) of the City Council of Dripping Springs.

CITY OF DRIPPING SPRINGS:

by: _____
Bill Foulds, Jr., Mayor

ATTEST:

Andrea Cunningham, City Secretary

City of Dripping Springs

CODE OF ORDINANCES

ARTICLE 30.03: PLANNED DEVELOPMENT DISTRICTS

PLANNED DEVELOPMENT DISTRICT NO. 14:

ARTICLE I. GENERAL PROVISIONS

- 1.1. **Popular Name.** This Chapter shall be commonly cited as the “PDD – 14 Ordinance”, also referred to as “this Ordinance” herein.
- 1.2. **Scope.** This Ordinance applies to the Property.
- 1.3. **PD Master Plan.** The PD Master Plan has been approved by the City and shall guide permitting, development and use of the Property.
- 1.4. **Definitions.** Words and terms used herein shall have their usual meaning except as they may be specifically defined herein, or, if capitalized and not defined herein, as defined in the Code (hereinafter defined):

Applicable Rules: The City’s rules, ordinances, and regulations in effect as of _____, 2022, as amended by: (i) any amendments authorized by Chapter 245, Texas Local Government Code; (ii) any approvals, variances, waivers, and exceptions to such rules that are approved by the City with respect to the development of the Property, as set forth on *Exhibit E*”, and (iii) any additional restrictions or regulations agreed to by the Developer in writing.

City: The City of Dripping Springs, an incorporated Type A, general-law municipality located in Hays County, Texas.

City Administrator or Administrator: The chief administrative officer of the City of Dripping Springs, Texas. The term also includes the Deputy City Administrator and City Administrator’s designee.

City Architect: The licensed professional Architect, or firm of licensed professional consulting Architects, that have been specifically employed by the City to assist in

architectural and exterior design-related matters. This term shall also apply if the City retains a person to perform the functions of City Architect as an official City employee.

City Council: The governing body of the City of Dripping Springs, Texas.

City Engineer: The person or firm designated by the City Council as the engineer for the City of Dripping Springs, Texas.

Code, City's Code of Ordinances or City of Dripping Springs Code of Ordinances: The entirety of the City's ordinances, regulations and official policies in effect as of _____, 2022 except as modified by the Project Approvals and variances granted under the Development Agreement and this Ordinance. The Sign Ordinance shall be the version at the time the Master Sign Plan is submitted to the City. This term does not include Zoning or Building Codes, Sign Ordinance, the Water Quality Protection Ordinance or regulations mandated by state law, or that are necessary to prevent imminent harm to human safety or property, which may be modified and made applicable to the Project even after the Effective Date.

Exterior Design and Architectural Standards Ordinance: Article 24.03, Exterior Design and Architectural Standards, of Chapter 24, Subdivisions and Site Development of the City of Dripping Springs Code of Ordinances.

Dripping Springs Technical Criteria: The criteria adopted in Article 28.07 of the City of Dripping Springs Code of Ordinances that includes technical criteria standard specifications and adopted in Ordinance 2019-39 and as modified.

Effective Date: The Effective Date of this Ordinance shall be the date of approval by the City Council and publication as required by law.

Homeowners Association: A community group that is organized with respect to the Property in which individual owners of lots share common interests and responsibilities for costs and upkeep of common space or facilities. The group may take the form of a Home Owners Association or Property Owners Association.

Impervious Cover: Buildings, parking areas, roads, and other impermeable man-made improvements covering the natural land surface that prevent infiltration as determined by City Engineer. For purposes of compliance with this document, the term expressly excludes storage tanks for rainwater collection systems.

Impervious Cover Percentage: The percentage calculated by dividing the total acres of impervious cover on the Property by the total number of acres included in the Property.

Landscaping Ordinance: Article 28.06, Landscaping and Tree Preservation, of Chapter 28, Subdivisions and Site Development of the City of Dripping Springs Code of Ordinances.

MUD Consent: Agreement Concerning Creation and Operation of dripping Springs

Municipal utility District No. 1.

Offsite Road Agreement: The Offsite Road Agreement between the City and Owner.

Outdoor Lighting Ordinance: Article 24.06, Outdoor Lighting, of Chapter 24 of the City of Dripping Springs Code of Ordinances.

Owner: Dripping Springs Partners, LLC., a Texas limited liability company, and 740 Sports Park, LLC, a Texas limited liability company, and their respective successors and assigns as subsequent owners of any portion of the Property.

Project: A land use and development endeavor proposed to be performed on the Property, as provided by this Ordinance and generally depicted on the PD Master Plan on ***Exhibit B***.

Project Approvals: The approvals, waivers and exceptions to the Applicable Rules approved by the City with respect to the development of the Property, as set forth on ***Exhibit E***.

Property: The land as more particularly described in ***Exhibit “A”***.

RR 12 Roadway Improvements: The road improvements to the intersection of Ranch Road 12 and Wild Ridge Blvd. as described in the Offsite Road Agreement.

TCEQ: The Texas Commission on Environmental Quality, or its successor agency.

TIA: Traffic Impact Analysis, as specified in Chapter 28, Article 28.02: Exhibit A-Subdivision Ordinance, Section 11.11 of the Dripping Springs Code of Ordinances.

TxDOT: The Texas Department of Transportation or its successor agency.

Water Quality Protection Ordinance: Article 22.05 of Chapter 22, General Regulations of the Code.

ARTICLE II. DEVELOPMENT STANDARDS

- 2.1. General Regulations.** Except as otherwise provided in this Ordinance and the PD Master Plan, the Property shall be governed by the site regulations and development standards contained in the Code of Ordinances.
- 2.2. Phasing.** The Property may be developed in phases. The Project is intended to be developed in phases as shown on ***Exhibit “H”***. Owner may change the phasing of development from time to time in response to market conditions or other factors. Phases may be developed concurrently. Construction Plans shall be submitted to the City for approval with each phase. Each plat filed with the City shall contain parkland required for that phase and parkland for the entire Land shall be submitted by separate exhibit with each plat application including the amount associated with prior platted areas and the amount

associated with the area subject to such plat. The chart shall also show the average lot size computation for the Land as a whole and resulting from the plat and prior platted areas. In addition, an impervious cover and LUE tracking chart shall be submitted as an exhibit with each plat filed indicating the amount of impervious cover proposed for the entire Land, the amount associated with prior platted areas and the amount associated with the area subject to such plat.

2.3. Permitted Uses.

2.3.1. Base Zoning: The base zoning district for the (i) townhome portion of the Property shall be SF-5, (ii) the single family lots portion of the Property shall be SF-3; (iii) commercial and civic center portion of the Property shall be Local Retail (LR).

2.3.2. Allowed Uses: Those uses listed in the PD Uses Chart attached as *Exhibit "I"* are hereby permitted by right within the Project.

2.4. Design Specifications:

2.4.1 Impervious Cover. The Property may be developed with an Impervious Cover Percentage that does not exceed 60% over the entire Project. Owner may apportion such limits as it deems desirable so long as the overall limitation herein specified is not exceeded.

2.4.2 Maximum Residential Density: The overall density of the residential portion of the Project will be a maximum of 4.7 dwelling units per acre, composed of up to 351 single family townhome units and 180 single family detached lots.

2.4.3 Minimum Lot Area: The residential single family detached lots shall have a minimum area of five thousand (5,000) square feet each with a width at street frontage of 50 feet. The townhouse units will be condominiums that are single-family dwellings and shall have a minimum length of two dwelling units, and shall not exceed 200 feet in length or the width of five attached units, whichever is less. Townhouse condominium will be subject to the City's SF 5 zoning classification except as shown on *Exhibit E*. The commercial and GUI lot area shall comply with Local Retail zoning district.

2.4.4 Building Height.

a. Single family detached residential units shall not exceed a height of 2½ stories or 40 feet, whichever is less, measured from the average elevation of the existing grade of the unit to the highest point of a flat or multi-level roof or as defined in Section 28.05.004 of the 2017 City of Dripping Springs Code of Ordinances. Townhouse units shall not exceed a height of 3 stories or 50 feet, whichever is less, measured from the average elevation of the finished grade of the unit to the highest point of a flat or multi-level roof or as defined in Section 28.05.004 of the 2017 City of Dripping Springs Code of Ordinances.

b. Building within the LR District shall not exceed a height of 3 stories or 50 feet, whichever is less, measured from the average elevation of the finished grade of the building to the highest point of a flat or multi-level roof or as defined in Section 28.05.004 of the 2017 City of Dripping Springs Code of Ordinances. Notwithstanding the building may have a height of up to 55ft with approval of the City Administrator.

2.4.5 Residential (including Townhouse) Setbacks. Residential building setbacks shall be as follows:

a. **Minimum Front Yard:** Residential building setbacks shall be ten (10) feet from the street right of way.

b. **Minimum Side Yard:** Residential building setbacks shall be five (5) feet; provided, however corner lots will be set back a minimum of ten (10) feet from the street right of way.

c. **Minimum Rear Yard:** Residential building setbacks shall be ten (10) ten feet.

d. **Minimum Setback for Accessory Building:** For residential uses five (5) feet; no accessory buildings or structures are permitted in any residential front yard.

e. **Maximum Height of Fence:** Six (6) feet; provided, however, that the Property may have an eight (8) foot maximum height of fence where separating residential lots from adjacent arterial or collector roads. All fences shall provide a finished face to abutting streets and these fences shall not conflict with sight triangles at street intersections or obstruct views from adjacent driveways. No fence shall extend into the front Street Yard, nor shall there be artificial mounding of soil to increase the fence height.

f. **Buffer areas and Setbacks:** The buffer along such shared boundary shall meet the requirements in City Ordinance Section 28.06.052 – Landscape Buffers.

2.4.6 Commercial Setbacks: Commercial building setbacks shall be as approved by the City Administrator at the time of Site Development Permit.

2.4.7 Cut & Fill. Improvements requiring a site development permit will be held to no more than 16 feet of cut or fill; however, fill placed under foundations with sides perpendicular to the ground need not comply with this requirement. No cut shall be greater than 16 feet, except for structural excavation for building foundations, which must be approved by City Engineer. To be allowable, the City Engineer must first review and approve the structural stability, the aesthetics, and the erosion prevention techniques to be utilized for all cuts and fills exceeding six feet (6') of depth. Cut and fill requirements shall not apply to either right-of-way or residential development; further, cut and fill requirements may exceed the maximum amounts to construct offsite roadways and detention ponds associated with the offsite

roadways.

2.4.8 Parking.

a. Residential Parking: Development of the Property shall include parking at a minimum of two garage spaces per residence and townhouse. There shall be parking along only one side of each internal local street and such side will be the side where there are no fire hydrants; sufficient “no parking” signs will be placed on the curbs in addition to red paint signifying the “Not Parking” Fire Lane. If fire hydrants are on both sides of the street, then parking shall be allowed on only one side and sufficient “no parking” signs and painted curb shall extend past either side of the hydrant.

b. Commercial Area Parking: Parking shall be provided for the commercial area; the number of parking spaces within the Commercial Area shall be determined in accordance with the City ordinances and the proposed use of the commercial spaces. The total number of parking stalls for the commercial area may be determined by a shared use parking study provided by Owner and accepted by City.

2.4.9 Exterior Design and Architectural Standards: Design of all buildings shall meet the requirements of the City Exterior Design and Architectural Standards Ordinance Sec. 24.03 of the City Code of Ordinances, except as specifically provided in the subsections below. Design review and approval process shall be as defined in Sec. 24.03.012.

(a) **Single Family Detached Residences.** All residences shall consist of 100% Masonry on all elevations. Native Stone, Brick Masonry, Stucco, and Cementitious Siding shall be deemed appropriate materials to satisfy the Masonry requirement. A variety of masonry material is encouraged in the design of each residence.

(i) **Elevation Articulation and Enhancement Features.** The front elevation of all homes shall contain wall plane articulation. No elevation shall be single wall plane across the entire width of the front elevation of the building. Each front elevation shall contain a minimum of two of the following elements, to be identified on the architectural plans submitted for building permit:

1. A minimum of two wall planes on the front elevation, offset a minimum of 18 inches;
2. Covered front porches or patio with a minimum size of 60 square feet;
3. A side-entry or swing-in garage entry (for garage doors that do not face the front street);
4. A garage door recessed from the primary front facade a minimum of four feet (for garage doors that face the street);
5. Enhanced garage door materials (wood, ornamental metal, decorative door, window inserts and hardware, painted or stained to match house);

6. Shed roof or trellis (at least 18" deep) above garage door for additional architectural detail;
 7. A combination of at least two roof types (e.g. hip and gable) or two different roof planes of varying height and/or direction;
 8. Two or more masonry finishes to compliment the architectural style of the home; and
 9. The addition of one or more dormers on the front elevation to compliment the architectural style of the home.
- (ii) **Floor Plan Variety.** Floorplans will be available in single and two-story housing plans. A minimum of six (6) floorplans will be available, offering a variation of front elevations so that there is no discernable repetition in any street scape. Articulation on the front face should be used to ensure a nonrepetitive streetscene. Where building pads are interrupted by a street or open space lot of at least 50 feet in width, a plan may repeat. A plan can be repeated every third building pad (Example: Plan A 1, Plan B 1, Plan A 1, Plan B 2), although elevations shall be different on the two houses.
- (iii) **Roof Forms and Treatments.** On buildings with pitched roofs, the minimum main roof pitch is 5:12. Lower roof pitches are acceptable on porch elements, awnings or architectural feature elements. Pitched roofs shall be clad in 30-year minimum composition shingles or low reflectivity coated metal roofing materials.

(b) Townhome Residences:

All multi-unit-freestanding townhome residence buildings shall consist of 100% Masonry on all elevations. Native Stone, Brick Masonry, Stucco, and Cementitious Siding shall be deemed appropriate materials to satisfy the Masonry requirement. A variety of masonry materials is encouraged in the design of each building.

- (i) **Townhome Elevations & Enhancements.** Street and Greenbelt elevations of all Multi-unit townhome buildings shall comply with the design standards for Elevation Articulation and Enhancement, and Roof Forms & Treatments as defined for Single Family Detached Homes and provided in the subsection above.
- (ii) **Townhome Building Variety.** Multi-unit townhome buildings shall consist of no more than five (5) attached dwelling units. Planning with buildings of a variety of unit mixes is encouraged. Multi-unit townhome buildings consisting of five (5) dwelling units shall not adjoin one another.

(c) Commercial and Civic Buildings:

- (i) Design of all buildings for commercial or civic uses shall meet the requirements of the City Exterior Design and Architectural Standards Ordinance Sec. 24.03 of the City Code of Ordinances.

- (ii) Alternative Design Standards for any building type may be developed in order to create unique or enhanced design standards with equivalent or increased aesthetic effect. The considerations and findings for approval and the approval and appeal process for an Alternative Design Standard shall be as provided in Sec. 24.03.007. Such Alternative Design Standards shall incorporate the building material preferences and incentives as defined in Sec. 24.03.053(c)

2.4.10 Parkland: The Project is required to have 22.22 acres of Parkland. The Project will include approximately 30.91 net acres that will be dedicated for Parkland, the area being shown more fully shown on ***Exhibit “C”*** attached hereto and incorporated herein for all purposes (the “Parkland”). This dedication of the Parkland shall fulfill all parkland dedication requirements of the Project to the City, including, but not limited to the requirements of the Parkland Dedication Ordinance under the City’s Code of Ordinances and any applicable requirements within the Subdivision Ordinance. Owner has prepared a Master Parks and Open Space Plan which has been approved by City. The Park Development Fees in Section 28.03.010 of the Applicable Rules shall be paid at time of Final Platting.

2.5. Parks, Trails and Open Space. Parkland and open space and associated improvements shall be in accordance the standards shown on ***Exhibit “C”*** attached hereto. A Master Parks and Trails Plan shall be submitted to the City for approval prior to approval of the first preliminary plat for the Project. The Master Parks and Trails Plan shall address all issues regarding public dedication, public access, and maintenance including finalizing the location of parks, amenities, trails, and trail connections to adjacent properties. The Park Development Fee shall be paid upon approval of the final plat of the Property.

2.6. Access.

2.6.1 Traffic Impact Analysis. Owner has provided to the City, and the City has approved the Traffic Impact Analysis.

2.6.2 Roadway Alignments: The roadway alignments shown on the PD Master Plan are approved by the City. All roadways and driveways not shown on the PD Master Plan shall be subject to the approval of the City Administrator, which approval shall not be unreasonably withheld.

2.6.3 12 Roadway Improvements Construction Reimbursement: Owner shall construct the RR 12 Roadway Improvements and the City shall reimburse Owner for such construction, all as described in the Offsite Road Agreement. A portion of the money used to reimburse Owner shall be all of the reuse fees collected by the City from the Project

2.7. Street Standards. The standards for the various street widths and related landscaping and walkways are depicted on ***Exhibit “F”***.

2.8. Utilities. All proposed utilities within the Property will be located underground (other than above-ground appurtenances to such underground utilities and the utility provider's three phase electric lines providing service to the entire Project). All other issues related to utilities shall be finalized by separate agreement.

2.9. 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. 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. A Master Sign Plan shall be submitted for City approval prior to the placement of any signs that are not in compliance with either (i) the City's Sign Ordinance or (ii) the variances described in the PD Modifications Chart attached hereto as *Exhibit "E"*.

2.10. Water Quality Buffer Zones. The Water Quality Buffer Zones are depicted on *Exhibit "G"*.

2.11. Water Quality: Owner agrees to implement and comply with the City's Water Quality Protection Ordinance in place on the Effective Date except as modified by this Ordinance or by specific variance.

2.12. Tree Replacement Plan.

2.12.1. Subject to 2.12.1.2, the Tree Replacement Plan shall be in accordance to the City of Dripping Springs Code of Ordinances – Chapter 28, Article 28.06 Landscaping and Tree Preservation.

2.12.2 The cash-in-lieu fee requirements are determined to be \$539,400. There will be 89.9 acres of Disturbed Trees (89.9 acres times \$6,000 equals \$539,400). Owner shall receive credit against the cash-in-lieu fees equal to the following:

- 180 lots with two 2.5-inch caliper size trees at \$830.00 per tree for a total lot credit of \$134,460, plus
- 81 townhome buildings with two 2.5-inch caliper size trees at \$830.00 per tree for a total lot credit of \$134,460, plus
- 237 2.5-inch caliper size trees to be located in the boulevards and commercial center at 830.00 per tree for a total of \$196,710.

The combined total credit will be \$629,970. The total cost of tree replacements in the Tree Replacement Plan exceeds the minimum the total cost per acre of disturbance in the Tree Removal Plan.

2.12.3 (a) Landscaping for the Project should be installed at an appropriate time of year, to maximize the survivability of the material being planted. If the infrastructure construction activities are completed, save for the installation of trees, shrubs, ornamental ground covers, perennials, and annuals, from March 1 thru September 1, the City Administrator, or designee, at the option of Owner, may accept a fiscal deposit of the amount equal to the cost of purchasing and installing these materials in lieu of the installation of trees and other landscaping required for the issuance of a certificate of occupancy or certificate of completion, as appropriate; or, the City Administrator may accept an escrow equal to the cost of purchasing and installing the trees and other required landscaping. The City shall only accept the fiscal deposit or escrow if an erosion control plan consistent with section 28.04.016 of the Code has been reviewed and accepted by the City Administrator. Failure to maintain and adhere to an approved erosion control plan during the period March 1 – Sept. 1 shall be deemed a violation and the fines and penalties under section 28.06.009 of the Code shall apply.

- (b) Upon the request that the City accept a fiscal deposit in lieu shall provide the City Administrator with written documentation from an entity that sells trees and landscaping the cost of purchasing and installing the trees and other landscaping required by the Code.
- (c) If no cost for the installation of trees and landscaping required by the Code is provided to the City, the City shall require a fiscal deposit equal to 66% of the cost of the trees and landscaping to be delivered to the City as the installation cost in addition to the cost to purchase the trees and landscaping.
- (d) Any fiscal deposits for trees and landscaping paid to the City pursuant to this section shall be held in escrow. The escrow may be drawn upon by the City to implement tree and landscaping requirements for the depositing property owner, or the funds shall be released by the City to the depositing property owner or his/her/its designee to implement tree and landscaping requirements within 30 days of drawing upon the escrow. Failure to implement the tree and landscaping requirements within 30 days of release of the fiscal deposit to the depositing property owner shall be deemed a violation and the fines and penalties under section 28.06.009 of the Code shall apply.
- (e) Whenever necessary to enforce any provision of this section or implement tree and landscaping requirements on the depositing property owner's property, City staff, or the City's contractor, may enter upon depositing property owner's property at any reasonable time to inspect or perform any duty imposed by this section until such time the complete landscape package has been installed and accepted by the City. If entry is refused, the City shall have recourse to every remedy provided by law and equity to gain entry.
- (f) The City is the custodian of any cash funds or bonds on deposit in the property owner's escrow account. The City has a fiduciary duty to the depositing property owner and may dispose of the escrowed funds only in accordance with this section.