

Attachment 3

Restated
The Headwaters at Barton Creek
Development Agreement

between

City of Dripping Springs

and

Oryx Development, LLC

and

WFC Headwaters Owner VII, L.P.

and

Rathgeber Investment Company, LTD.

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DEVELOPMENT AGREEMENT

STATE OF TEXAS

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COUNTY OF HAYS

This Restated Development Agreement (“Agreement”) is between the City of Dripping Springs, (the “City”), and Oryx Development, LLC, successors-in-interest to the Townes Family Trust (“Commercial Owner”), and WFC Headwaters Owner VII, L.P. (“WFC”), successor-in-interest to Headwaters Development Co. and Rathgeber Investment Company, Ltd. (“Rathgeber”), successor-in-interest to Headwaters Development Co. WFC and Rathgeber may be collectively referred to herein as the “Residential Owner.” The Commercial Owner and the Residential Owner may be collectively referred to herein as the “Owners”. In this Agreement, the City and Owners are sometimes individually referred to as a “Party” and collectively referred to as the “Parties”.

RECITALS:

WHEREAS, Owners own the balance of the undeveloped balance of land included in the approximately 1,509.68 acres of land (the “Land”) located within the city limits of the City and the extraterritorial jurisdiction (ETJ) of the City and in Hays County, Texas (the “County”), which is more fully described on the attached *Exhibit A*; and

WHEREAS, the City, Headwaters Development Co., and The Townes Family Trust entered into that certain The Headwaters at Barton Creek Development Agreement (the “**Agreement**”) on or about April 13, 2005, recorded at Volume 2675, Page 675, Official Public Records of Hays County, Texas; and

WHEREAS, the Agreement was amended by the First Amendment to The Headwaters at Barton Creek Development Agreement on or about June 10, 2008 (“**First Amendment**”); and

WHEREAS, the Agreement was further amended by the Second Amendment to The Headwaters at Barton Creek Development Agreement on or about August 12, 2014 (“**Second Amendment**”); and

WHEREAS, the Agreement was further amended by the Third Amendment to The Headwaters at Barton Creek Development Agreement on or about February 10, 2015 (“**Third Amendment**”); and

WHEREAS, the Parties desire to replace and supersede the Agreement as amended with this Restated Headwaters at Barton Creek Development Agreement; and

WHEREAS, Owners intend to develop or are in the process of developing the Land as a master-planned, mixed-use community that will include commercial and residential uses, together with open space and environmental preservation areas to benefit the residents and property owners of the community, as well as other residents of the City, the City's ETJ, and the County; and

WHEREAS, the development may also include facilities that will attract and serve tourists and visitors to the area. In this Agreement, the Land, as it will be developed, is sometimes referred to as the "Project;" and

WHEREAS, the City is located in a rapidly growing area of the County and new construction and land development will impact the future character of the City; and

WHEREAS, the City has adopted a Comprehensive Plan to guide the City in planning for future growth and development and the City Council finds that this Development Agreement is consistent with the Comprehensive Plan; and

WHEREAS, the City has determined that development agreements with developers of master-planned communities such as the Project will benefit the City by establishing land use controls; providing for the construction of appropriate and necessary utility, roadway and drainage infrastructure; encouraging economic development; protecting the environment; preserving native habitat and endangered species; and promoting the welfare of the citizens of the City and its ETJ; and

WHEREAS, the City and Owners are striving to achieve balance between the pressures of urbanization and the shared desires to protect the public safety, and conserve the hill country scenery and native habitat; and

WHEREAS, this Agreement grants the Owners a measure of predictability in terms of applicable municipal regulations and development fees; and

WHEREAS, this Agreement grants the City the public benefits related to conservation (i.e., "cluster") developments, and the application of certain municipal regulations in the ETJ, including building codes, zoning, lighting, landscaping regulations and exterior design standards for non-residential structures; and

WHEREAS, Owners and the City wish to enter into this Agreement to provide an alternative to the City's typical regulatory process for development; encourage innovative and comprehensive master-planning of the Land; provide a level of certainty of regulatory requirements throughout the term of this Agreement; and provide assurances of a high-quality development that will benefit the present and future residents of the City, the City's ETJ and the County; and

WHEREAS, the City is statutorily authorized to enter into such agreements with owners of property located in the City's ETJ pursuant to Texas Local Government Code Section 212.172; and

WHEREAS, the City has conducted numerous public hearings and received broad public input regarding the proposal contained within this Agreement; and

THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, including the agreements set forth below, the City and Owners agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1 **Agreement:** This contract between the City of Dripping Springs, Texas and Owners, including all Exhibits, which are incorporated herein for all intents and purposes.
- 1.2 **Applicable Fees:** The fees and charges to be paid by Owners to the City with respect to the development of the Land.
- 1.3 **Applicable Rules:** The City Rules that, as modified by the Project Approvals and variances, exist at the Effective Date of this Agreement and will be applicable to the development of the Land. This term does not include Zoning (except as provided in 3.2.4), Building Codes, Landscaping, Lighting, Sign, or Exterior Design standards, as those regulations may apply or hereafter be applied to *non-residential* properties. This term does not include regulations mandated by state law, or that are necessary to prevent imminent harm to human safety or property.
- 1.4 **Association:** A community group that is organized with respect to the Land 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 Property Owners Association or Home Owners Association.
- 1.5 **City:** The City of Dripping Springs, an incorporated Type A, general-law municipality located in Hays County, Texas.
- 1.6 **City Administrator:** The chief administrative officer of the City of Dripping Springs, Texas. The term also includes the Deputy City Administrator.
- 1.7 **City Council:** The governing body of the City of Dripping Springs, Texas.
- 1.8 **City Engineer:** The person or firm designated by the City Council as the engineer for the City of Dripping Springs, Texas.
- 1.9 **City Rules:** The entirety of the City's ordinances, regulations and official policies, except as modified by this Agreement.
- 1.10 **Commercial Owner:** The Townes Family Trust, or subsequent owners of the tract designated as commercial on *Exhibit B*.

- 1.11 **Conceptual Plan:** The conceptual plan of the Project attached as *Exhibit B*, as it may be amended from time to time in accordance with this Agreement.
- 1.12 **County:** Hays County, Texas.
- 1.13 **District(s):** Any conservation and reclamation districts authorized pursuant to Texas Constitution Article III, Section 52, or Article XVI, Section 59, by way of example, Municipal Utility Districts or Water Control and Improvement Districts, etc., that may in the future be created and include the Land or portions thereof, and any subsequent district that may be created by division of such district or districts.
- 1.14 **Effective Date:** April 14, 2005.
- 1.15 **Impervious Cover Percentage:** The percentage calculated by dividing the total acres of impervious cover on the Land (but excluding from such total any impervious cover developed on the School Tract) by the total number of acres included in the Land. Whether or not outdoor decks are included in the calculation of impervious cover shall be determined by the City Engineer based on the deck design and materials. In the calculation of impervious cover, the following shall be characterized as *pervious* for all purposes: open space, greenbelt, mitigation land, park, irrigation field, flood plain, water quality and/or drainage facility and/or area, detention facility, swale, irrigation area, playground, athletic fields, granite or pea gravel trail.
- 1.15 **Land:** Approximately 1509.68 acres of land, in Hays County, Texas, more fully described on the attached *Exhibit A*.
- 1.16 **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.
- 1.17 **Mitigation Land:** A tract of real property designated by Owners to alleviate or lessen any adverse impacts of the Project. Mitigation land shall be preserved in perpetuity through conservation easements and/or deed restrictions.
- 1.18 **Open Space:** A tract or tracts of real property not occupied by any structures or impervious surfaces. A tract or tracts of real property designated by a public or private entity as accessible by the public for active or passive recreation shall qualify as Open Space. Property included within the confines of individual residential lots shall *not* qualify as Open Space under this Agreement.
- 1.19 **Owners:** Townes Family Trust, Headwaters Development Co., and any subsequent owner. The term is cumulative of the terms Commercial Owner and Residential Owner.

- 1.20 **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.
- 1.21 **Project:** The Land, as it will be developed under this Agreement pursuant to the Concept Plan, attached as *Exhibit B*. The City may consider and approve modified Concept Plans that become necessary for Owners to obtain governmental permits, licenses and other approvals. The Project may include multiple phases for platting purposes. The Owners may change lot lines and interior streets upon receipt of written administrative approval from the City Engineer.
- 1.22 **Project Approvals:** The approvals, variances, waivers and exceptions to the Applicable Rules approved by the City with respect to the development of the Land, as set forth on the attached *Exhibit C*.
- 1.23 **Recreation:** Leisure time activities. Active Recreation involves active or energetic activities that are often performed with others, involves the use of equipment, and takes place at prescribed places, sites or fields (e.g., playground activities, swimming, tennis, and track). Passive Recreation involves activities that are relatively inactive or less energetic (e.g., board games, picnicking, and walking).
- 1.24 **Residential Owner:** Headwaters Development Co., or subsequent owners of the tract designated as residential on *Exhibit B*.
- 1.25 **School Tract:** The 64.52 acre tract of land described in *Exhibit A-1*.
- 1.26 **TCEQ:** Texas Commission on Environmental Quality, or its successor agencies.
- 1.27 **TxDOT:** Texas Department of Transportation, or its successor agencies.

ARTICLE 2. PUBLIC BENEFITS, INFRASTRUCTURE AND AMENITIES

- 2.1 **Orderly Growth:** The City desires that development within its ETJ occur in an orderly manner in order to protect the health, safety and welfare of the City's present and future citizens; preserve the environment; enhance property values; and provide for expansion of the City's tax base. This Agreement will benefit the City by facilitating the development of a master-planned community within an appropriate area of the City's ETJ, which will allow for thoughtful and high-quality planning, the development of necessary roadways and utility facilities, the provision of required fire protection services, and the development of a balanced community that includes commercial, residential, civic and recreational uses. Through this Agreement, the City is furthering its land planning objectives by imposing in the ETJ components of the City's rules for

Zoning, Lighting, Building, Exterior Design (for Commercial tracts), Signs and Landscaping.

- 2.2 Economic Development:** The development of the Project as a master-planned, mixed-use community will benefit the City by providing new employers and an expanded job market for the residents of the City and its ETJ; furthering the development of an expanded commercial tax base; and increasing the services that will be available to residents of the City and its ETJ.
- 2.3 Provision of Housing:** The development of the Land under this Agreement is intended to provide a range of housing prices for the City's present and future citizens and, as contemplated by the City's Comprehensive Plan, to allow the development of housing that will minimize negative environmental impacts and promote the aesthetic enhancement of the City and its ETJ. Further, the development of housing in accordance with this Agreement will promote safe and attractive housing conditions and a self-sustaining community.
- 2.4 Water and Wastewater Infrastructure:**
- 2.4.1.Cooperation:** The City, in its Comprehensive Plan, has recognized the need for additional water supplies and centralized wastewater service for the health and safety of the current and future residents of the City and its ETJ and to serve future growth. In recognition of these City goals, Owners will cooperate with the City and County in their efforts to obtain a permanent surface water supply and centralized wastewater collection and disposal service for the project.
- 2.4.2.Design:** Water and Wastewater infrastructure shall be designed and constructed in accordance with all applicable rules and regulations, including but not limited to those of the TCEQ. Water and Wastewater infrastructure shall be designed and constructed in a manner that will allow expansion and connection to the City's Water and Wastewater infrastructure, when operable. Any portions of the Open Space suitable for wastewater drip irrigation and not needed by the Owners for the Project or expansion of the Project will be available to the City for the City's wastewater use, subject to TCEQ rules and permits. This Agreement is not a basis for any obligation of Owners for the future costs of expansion of the irrigation site or wastewater plant, nor are Owners required to furnish additional land in addition to the Open Space for such expansion.
- 2.4.3.Adoption by District:** Owner shall cause this Agreement regarding water and wastewater expansion to be adopted by the District(s).
- 2.4.4.Wholesale & Retail Utility Service:** The Parties acknowledge that the City has applied with the TCEQ for a Certificate of Convenience and Necessity (CCN) granting the City the exclusive right to provide water services to the area that includes the Project. Owner and City agree that City shall be the retail water provider for the District(s). The City will contract with the Districts to be created by

Owners' petition to permit the Districts to be the retail water service contract operator for the City, pursuant to an Interlocal agreement between the City and the Districts through which the Districts agree to undertake all obligations, including construction of infrastructure, connection to the users, billing and collection of water revenues, operation and maintenance, and accounting for payment of wholesale water rates, necessary to facilitate the City's retail water service to the Project, and subject to the City's agreement(s) with its wholesale water provider. Districts may build the system(s) to be reimbursed with bond proceeds. Any future expansion of the system beyond the Project shall not be at Owners' expense. Owner agrees that the City shall have the right to provide wastewater utility services to the Project in the event the Districts do not provide such wastewater services or cease to provide such wastewater services at any time in the future.

2.5 Recreation & Tourism: The City has, in its Comprehensive Plan, established goals of increasing the availability of park and recreational facilities to serve the residents of the area, and enhancing the attractiveness of the City as a tourist destination. The development of the Project, as contemplated by this Agreement, will further these City goals in the following ways:

2.5.1 Open Space: The Project will include approximately 1,000 acres of community parkland, playgrounds, and open space, including greenbelts, irrigation, mitigation and conservation easements, which at the discretion of Owners will be dedicated to Districts, for operation and maintenance as open space areas. This approximately 1000 acres of Open Space may be developed in one or more tracts and may include a separate tract of approximately three hundred (300) acres to be separately dedicated for public use as community parkland, playground and open space. The Conceptual Plan attached as *Exhibit B* describes the open space usage.

2.5.2 Operation and Maintenance: The operation and maintenance of the dedicated open space shall be funded by a District, or other non-city sources approved by the City, until such time as the City annexes the District.

2.5.3 Public Access: Owners agree that the area designated on the Concept Plan, *Exhibit B*, as-Open Space shall be open to the public. Open Space shall include hike and bike trails. The Owners and the City may at a later date agree to designate certain portions of Open Space as closed to the public for environmental or safety purposes.

2.5.4 Master Parks & Open Space Plan; Parkland Dedication Owners agree to comply with the City's Parkland Dedication Ordinance. Owners agree to prepare a Master Parks & Open Space Plan ("Master Open Space Plan"), subject to the City's approval, governing all parkland and open space within the Project. Owners shall submit to the City a Master Open Space Plan within one (1) year of the Effective Date of the Second Amendment. Under this Agreement, it is not sufficient to meet parkland requirements on an individual plat basis; instead, all parkland requirements shall be tracked collectively through a matrix within the

Master Open Space Plan. Elements of the Master Open Space Plan shall include a schedule and budget for proposed improvements and location of parkland. The Master Open Space Plan shall delineate the extent of public use of the Open Space and address any limitations on public access. Owners agree to provide public access to Barton Creek and Little Barton Creek, as will be specified in the Master Open Space Plan, which may contain reasonable restrictions on use, such as posted hours, and limitations on camping and swimming. Owners shall provide a minimum of three (3) pedestrian access points to Parcel A as shown on the Conceptual Plan attached as *Exhibit B*. The pedestrian access points to Parcel A shall generally be located at “T” intersections and/or the location of the wastewater treatment plant. As part of the Master Parks & Open Space Plan opportunities for potential pedestrian connections to adjoining properties shall be identified.

Prior to Master Open Space Plan approval, concurrent with platting of each phase of the Project, Owners will designate specific parcels as parkland for the lots being platted at that time in compliance with the Parkland Dedication Ordinance. Following Master Open Space Plan approval, each plat submission will comply with the approved Master Open Space Plan. Owners and the City acknowledge that the Master Open Space Plan was submitted by the Owners in accordance with the provisions of this Section 2.5.4 and approved by the City on November 18, 2016”

2.6 Fees and Revenues: In consideration of the City’s covenants and concessions contained within this Agreement, and in order to assure that the City does not incur uncompensated expenses in connection with this Agreement and the development of the Land under this Agreement, Owners agree to pay to City certain development fees (as herein defined) in lieu of certain other fees and expenses payable to the City as follows:

2.6.1 Administrative & Professional Fee: Owners agree that any administrative & Professional fees be based on the current fee structure of the city and invoices from any and all consultants performing work for the city. Owners have established a deposit of the Administrative & Professional Fee of sixty thousand dollars (\$60,000.00) with the City, which is intended to cover all City legal fees and engineering fees, administrative expenses associated with this Agreement. The Residential Owner shall deposit thirty thousand dollars (\$30,000.00) of this Fee and the Commercial Owners shall deposit thirty thousand dollars (\$30,000.00) of this Fee. The final sum shall be reduced by the amount of progress payments provided to the City by Owners at the time of execution of this Agreement. Excess funds in escrow will be credited toward Platting Fees owed by Owners to City.

2.6.2 Facilities Expansion Fee: In addition to all other fees herein described, as consideration for this Agreement, Owners agree to pay the City a Facilities Expansion Fee to provide for expansion of public facilities of up to one million

dollars (\$1,000,000.00). The Facilities Expansion Fee will be calculated at the rate of five percent (5%) of each bond reimbursement received by Owners for costs advanced by Owners for the construction of water, wastewater, and drainage utility facilities within the Project and will be paid by the Owners to the City out of the Owners' reimbursement for such expansion that the Owners receive from the proceeds of the issuance of bonds by any District created for the Project. Each installment of the Facilities Expansion Fee will be payable solely out of the sums reimbursed to Owner by the Districts from the District's bond proceeds, and will be paid by Owners to the City within ten (10) days of Owners' receipt of the reimbursement upon which the fee is calculated.

- 2.6.25 Additional Facilities Expansion Fee:** For all bond reimbursements received by any Owner for costs advanced by Owners for the construction of road facilities, water, wastewater and drainage utility facilities, and other eligible costs and expenses related to the Project in excess of Forty Million Dollars (\$40,000,000), but not exceeding One Hundred Nineteen Million Two Hundred Forty Five Thousand Dollars (\$119,245,000), five percent (5%) of each bond reimbursement shall be paid by the Owners to the City out of the Owners reimbursement as an Additional Facilities Expansion Fee. Each installment of this Additional Facilities Expansion Fee shall be payable solely out of the sums reimbursed to the Owners to the District from the District's bond proceeds, and will be paid by Owners to the City within ten (10) days of Owners' receipt of the reimbursement upon which the fee is calculated.
- 2.6.3 Fees:** All fees under this Agreement shall be imposed in accordance to the City fee schedule applicable at the time of application for the specific authorization sought.
- 2.6.4 Subdivision Variances:** Fees shall be imposed in accordance to the City fee schedule applicable at the time of application for the specific authorization sought.
- 2.7 Environmental Protection:** Owners will implement compliance with the following natural resource laws and regulations, to the extent applicable:
- 2.7.1 Aquifer Protection:** The Land lies within the contributing zone to the Edwards Aquifer. Accordingly, Owners will comply with all applicable TCEQ regulations, including but not limited to Edwards Aquifer Rules, 30 TAC 213, as may be amended. Owners shall also take reasonable measures to protect the Trinity Aquifer, including at a minimum adherence to the above-cited Edwards Aquifer Rules.
- 2.7.2 Land Application Restrictions:** If treated sewage effluent is disposed of through irrigation of appropriate open areas within the Project, Owners will obtain and comply with the required TCEQ permit, which shall contain effluent treatment requirements and limitations at least as stringent as those in any TCEQ permit issued to the City for sewage effluent disposal through irrigation. The City reserves the right to comment on any permit application submitted by the Owners.

- 2.7.3 Waterway Protection:** Owner shall obtain and comply with any authorizations from the US Army Corps of Engineers that may be required for road and utility crossings of creeks and construction of water quality protection infrastructure, including but not limited to Clean Water Act Section 404 Permitting. Ownership and responsibility for such infrastructure shall be transferred to the District(s) subject to oversight provided by an Association.
- 2.7.4 Stormwater Controls:** Owners will prepare and implement a stormwater pollution prevention plan in compliance with the TCEQ's Texas Pollution Discharge Elimination System stormwater general permit for construction related stormwater discharges.
- 2.7.5 Endangered Species:** Owners will seek to ensure that the Project will not adversely affect listed endangered species or their critical habitat in accordance with the federal Endangered Species Act. Owners must provide City with current letters regarding the Project's compliance with the US Fish & Wildlife Service (USFWS) and Lower Colorado River Authority (LCRA) Memorandum of Understanding (MOU), as it exists on the Effective Date of this Agreement, or subsequent agreements that supersede the MOU.
- 2.7.6 Voluntary Measures:** Owners will implement numerous voluntary environmental protection measures for the benefit of the Project, including:
- (a) Mitigation Land:** Through District funding, Owners may dedicate to the public or place mitigation easements upon mitigation land in appropriate amounts to further the mitigation, preservation and re-population of endangered species and other environmental purposes. All mitigation land must be located on-site, adjoining the Project, or in the region. All mitigation land is subject to City Council approval in the form of a variance. In order to grant a variance authorizing the use of mitigation land, the City Council must make an affirmative finding in writing that use of the proposed site as mitigation land will be beneficial to the City and/or the Project. An affirmative vote of at least three of five (3 of 5) members of the City Council following a public hearing is required to approve a variance.
 - (b) Owner Education:** Owners will implement an education program to further the protection of the environmental resources in the Project. The program shall include, but shall not be limited to, the dissemination of pamphlets and newsletters to educate residents and property owners within the Project about the natural resources of the area and methods of environmental resource protection. Specifically, the educational program will address watershed protection; water conservation; native landscaping; species preservation; rain water harvesting; the dangers of using pesticides, fertilizers, and herbicides in the Barton Creek watershed; the promotion of organic fertilizers and herbicides; and the proper disposal of wastes.

(c) **Buffering:** In order to protect water quality, Owners will provide buffering of sensitive drainage areas within the Project. All buffer zones (including but not limited to those mandated by the USFWS shall be identified on *Exhibit D*. Buffer zones shall be left undisturbed along tributaries, except as authorized by TCEQ and/or USFWS. All buffer zones shall be vegetated. Owners agree to re-establish native prairie grasses in the buffers to the extent reasonably possible.

(d) **Landscaping:** Owners agree that the use of native species of plant materials will be utilized throughout the Project. Turf grasses on any lot within the Project shall be limited to Zoysia, Buffalo or Bermuda grasses. Other grasses may be approved by the City Administrator for lots utilizing drip irrigation systems. In no instance shall St. Augustine grass comprise more than ten percent (10%) of any lot.

2.7.7 **Wells:** Owner agrees that no water wells will be drilled or used to provide potable water to the Project. Owner agrees that all restrictive covenants for the Project shall reinforce this prohibition. Existing wells shall be capped. Notwithstanding the foregoing, existing wells may only continue to be utilized for wet pond make-up water except during times of drought, as determined by the Hays Trinity Groundwater Conservation District.

2.7.8 **Water Conservation Plan:** Owners shall comply with the City's plan, which has been approved by the Lower Colorado River Authority (LCRA) and is attached to this Agreement as *Exhibit E*, and is incorporated herein for all purposes. City further agrees that the LCRA water plan approved by the LCRA in connection with the provision of water service to the District may be used in place of the City's plan attached to this agreement as *Exhibit E*.

2.7.9 **Conservation Easements:** All conservation easements proposed under this Agreement or hereafter designated by the Owners shall be submitted to the City for review and approval prior to becoming effective or being recorded in the real property records. Areas designated in the Conceptual Plan as Open Space or Parkland shall be protected by Conservation Easements or other such enforceable instruments. Approximately 1,000 acres of public open space, which is required by Section 2.5.1 of this Agreement to be set aside, shall be protected by such instruments and preserved in perpetuity by them.

2.7.10 **Public Access:** Owners shall grant the public an easement to approximately 1,000 acres of Open Space, including trails and approximately 1,500 feet of frontage on Barton Creek. The scope of public access and parkland shall be addressed in the Master Open Space Plan. The Owners and the City may at a later date agree to designate certain portions of Open Space as closed to the public for environmental or safety purposes.

- 2.8 Deed Restrictions:** Owners agree that all restrictive covenants for the Project shall reinforce the provisions of this section and be applied to all builders and subsequent buyers.
- 2.9 Water Quality Plan:** Owners agree to implement and comply with the Water Quality Plan included in this Agreement as *Exhibit F*.
- 2.10 Hilltop Preservation:** The Owners shall not construct any buildings within the one (1) acre area surrounding each of the hilltops (“Hilltop Preservation Areas”) as depicted by GPS coordinates on the Conceptual Plan and the Owners agree that the Hilltop Preservation Areas shall be further specified and defined on the preliminary plat and final plat filed for the Project which shall be filed with the City at a later date. Further, the Owners shall limit disturbance of the Hilltop Preservation Areas to minor clearing of underbrush and removal of dead or diseased trees, branches, or vegetation, for the purpose of fire protection and public safety. Within 300 feet of the outer boundary of any Hilltop Preservation Area (such area being referred to herein as the “Building Height Limitation Zone”), buildings shall not exceed a height that is forty (40) feet above the topographical elevation at the boundary of the Hilltop Preservation Areas. For example, if the topographical elevation at the boundary of a Hilltop Preservation Area is 1,500 feet above sea level, a building located at the boundary of the Hilltop Preservation Area may not exceed 1,540 feet above sea level, regardless of the overall height of the building and a building located 250 feet away from the boundary of the Hilltop Preservation Area may not exceed 1,540 feet above sea level, regardless of the overall height of the building. Building height in these Building Height Limitation Zones shall be calculated according to the definition of “height of building” as set forth in Section 28.05.004 of the City of Dripping Springs Code of Ordinances (“**Code of Ordinances**”), which defines “height of building” as “the vertical distance measured from the average elevation of the existing grade of the building to the highest point of a flat or multi-level roof or, for gable or hip roofs, to the mean height between the eaves and the ridge. Chimneys, spires, towers, mechanical penthouses, tanks, and similar projections not intended for human occupancy shall be excluded.” For informational purposes, the forty (40) foot height limitation within the Hilltop Preservation Area, as set forth in this Section 2.10, is derived from the Austin Green Grow Guide which lists the median height of a typical live oak tree ranges from thirty (30) to fifty (50) feet.”

ARTICLE 3. PROPERTY DEVELOPMENT

- 3.1 Governing Regulations:** For purposes of any vesting analysis, the Parties agree that the Effective Date shall be construed as the date upon which Owners filed the first application with the City for development of the Project, in accordance with Texas Local Government Code Chapter 245, as may be amended. The Applicable Rules shall govern the Project, unless otherwise expressly provided in this Agreement. For the term of this Agreement, the development and use of the Land will be controlled by the terms of this Agreement, the Project Approvals and the Applicable Rules. If there is any conflict

between the Applicable Rules and the terms of this Agreement, the terms of this Agreement will control.

3.2 Project Approvals and Entitlements:

3.2.1 Project Approvals & Variances: The Project Approvals set forth in *Exhibit C* (the “Project Approvals”) and the variances in *Exhibits C-1 and C-2* have been approved by all required City boards and commissions and the City Council and are granted by the City with respect to the development of the Land. This Agreement shall serve as guidance for the review and approval of any additional variances or other municipal authorizations not specifically included in this Agreement.

3.2.2 Conceptual Plan: The City confirms that the Conceptual Plan attached as *Exhibit B* complies with the City’s Master Plan and Comprehensive Plan, and that the Conceptual Plan has been approved by all requisite City departments, boards and commissions and by the City Council. The City approves the land uses, densities, reservations of land for public purposes, exceptions, utility and roadway alignments and sizing and other matters shown on the Conceptual Plan. The City’s execution of this Agreement shall be deemed to be the approval of the Conceptual Plan, *Exhibit B* on which the Preliminary Plats for development of the Land will be based.

3.2.3 Density of Development: With respect to the density of the Project, Owners will have the right to develop the Land at a density not to exceed 1,000 single-family residential units within the residential areas noted on the Concept Plan, and up to 5 residential lots on the southeastern portion of the Property across from existing Sunset Canyon homes, plus the right to develop approximately 175 acres of commercial, multifamily, office or other uses. For purposes of this Agreement, each duplex constructed in the Project shall constitute two living unit equivalents (LUEs).

3.2.4 Land Use:

- (a) For purposes of this Agreement the following shall be allowed within areas noted as residential areas: single family residences and related structures; duplex residential units; schools, parks, sports and playground facilities; community centers; churches; fire/police/medical protection facilities; water and wastewater facilities; amenities centers; drainage, detention and water quality facilities; and roads, trails and other access facilities. All uses not identified in the preceding sentence as residential uses shall be deemed commercial uses for the purposes of this Agreement. Commercial Owner shall be entitled to the uses allowed in the Planned Development District #6 Zoning District, as it may be amended. Commercial uses must conform to the City’s Master Plan and the Interim Comprehensive Plan. Conditional Use Permits shall be required for City approval of townhomes and multifamily

projects on the Commercial tract(s). Any use that would be allowed in a residential use area, will be allowed in nonresidential use areas, except for single family residence and duplexes.

- (b) School Tract Land Uses: Land uses for the school tract shall be government facilities, government buildings, fire stations, day care, library, or school(s) and related school facilities and uses.
- (c) School Tract Development Standards: The School Tract, identified on the concept plan, shall be developed under the development standards found in Chapter 30 Zoning, Sec. 3.14 Government/Utility/Institutional (GUI), of the City's Code of Ordinances. No variances found in *Exhibits C-1* and *C-2* shall be applicable to this tract unless specifically noted. Roadways in this area may be constructed with the variances to road construction standards listed in *Exhibits C-1* and *C-2*.

- 3.2.5 Impervious Cover:** Owners may develop the Project with an Impervious Cover Percentage that does not exceed fifteen percent (15%) over the entire Project. Notwithstanding the forgoing and as noted in Section 1.15, the impervious cover developed on the School Tract shall not be included in determining the Impervious Cover Percentage for the Land. Owners shall have the right to apportion impervious cover limits on a lot by lot or use by use basis, not to exceed fifty percent (50%) on each residential lot in the Residential portion of the Project. With regard to the Commercial portion of the Project, as permitted by the City, Owners shall have the right to impervious cover limits not to exceed fifty percent (50%) of the entire Commercial portion. Owners may apportion such limits as it deems desirable so long as the overall limitation herein specified is not exceeded. Owners may count in density and impervious cover calculations land designated as greenbelt, open space, mitigation land or similar areas.

Notwithstanding the provisions of the preceding sentence, the following shall apply to the development of the Residential Tract. To the maximum extent practical, construction within the Residential Tract shall be limited to those areas with pre-development natural grades of less than fifteen percent (15%). The Residential Tract has bands of existing slopes that exceed fifteen percent (15%). Development of the Residential Tract will necessitate some construction in these areas in order to develop the Project. Construction may occur on slopes that exceed 15% within the Residential Tract if the following criteria and design standards are met:

- i) Designs shall be based on commonly accepted Geotechnical, Structural, Drainage and Water Quality Engineering practices, including local design criteria.
- ii) Designs and aesthetic treatments shall be consistent throughout the Project. Aesthetic treatments of exposed graded slopes, retaining walls and foundations shall be designed and graded in accordance with generally accepted

engineering practices. To the extent reasonably practical, Owners will require builders to shield exposed retaining walls and foundations with vegetation and/or fencing or other methods. The methods will be included by the Owners in the Deed Restrictions / CCRs.”

3.2.6 Phasing of Development: The calculation of impervious cover, parkland requirements, lot averaging and similar requirements shall be determined and calculated on a whole project basis. Each plat filed with the City shall contain a chart indicating the amount of impervious cover, LUE use, and parkland required for the entire Land, 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. Any portion of the Property may be replatted to change the use or designation of that previously platted portion so long as the entire platted portion of the Property meets the requirements of this Agreement, including impervious cover, parkland requirements, lot averaging and similar requirements herein. So long as this Agreement remains in effect, such replatting shall be deemed controlled by this Agreement as if the same were an original platting of such replatted portions. The impervious cover developed on the School Tract shall not be included when determining the Impervious Cover Percentage for the Land.

3.2.7 Flag Lots: Flag lots are permitted, but shall comply with the following standards:

- (a) The Fire Department Chief shall review and either disapprove or approve the preliminary plat for each flag lot based on the following criteria (b) through (l)
- (b) No flag driveway shall be longer than four hundred (400) feet;
- (c) Flag driveways shall be at least twenty (20) feet in width;
- (d) Flag driveways shall have a vertical clearance at least thirteen (13) feet and six (6) inches;
- (e) No flag driveway shall exceed a slope of ten (10) percent;
- (f) Flag driveways must be constructed of an all-weather surface;
- (g) Flag driveway turnarounds must be in accordance with the Dead-End Fire Apparatus Access Road Turnaround requirements of the International Fire Code;
- (h) No more than five (5) consecutive, single flag lot lots are permitted;
- (i) The total number of flag lots shall not exceed forty (40);
- (j) The front yard setback for each flag lot shall be measured from the flag portion of the lot rather than the pole portion of the lot;
- (k) The area occupied by the entire pole portion of the lot shall not be counted toward the required minimum lot area; and
- (l) A fire hydrant shall be installed within twenty-five (25) feet of the intersection of the flag driveway and roadway.

An access, maintenance and landscape easement shall be identified on the final plat and the neighborhood covenants and restrictions for the Subdivision shall provide for common use and maintenance of this common area by all flag lots and shall restrict vehicle shared access to the single common drive. Such use restrictions and shared

maintenance obligations shall be set forth in future neighborhood covenants and restrictions.”

A conceptual flag lot plan is attached hereto as *Exhibit G* as the Flag Lot Plan Detail Sheet included in the Conceptual Plan, which depicts a flag lot layout that could be typical for the Project. The Flag Lot Detail Sheet is included in the Conceptual Plan for illustrative purposes only and does not substitute or override the criteria for which flag lots will be based as set forth in items (a) through (k) above.

3.2.8 Agreement to Negotiate with School District for Purchase of Land: WFC and the City have identified a tract of land (the “**School Tract**”) for potential sale to the Dripping Springs Independent School District (“**School District**”) based on the terms and conditions set forth in this Section 3.2.8. The School Tract is located within the Residential Tract and is depicted on the School Tract Detail Sheet included in the Conceptual Plan. During the School Tract Term (as defined below), WFC agrees to negotiate with the School District in good faith for the sale of the School Tract to the School District and to enter a contract with the School District for such sale (the “**Contract**”) if such negotiations are successful. WFC’s duties as set forth in this Section 3.2.8 shall apply only during the School Tract Term and only if the School District presents a written contract complete with all terms and conditions. WFC shall have no duty itself to offer to sell the School Tract to the School District at any time. If WFC and School District have not agreed on terms and entered into a fully executed and binding Contract prior to the expiration of the School Tract Term, then the provisions of this Section 3.2.8 shall become null and void and WFC shall have no further obligation to negotiate or contract for the sale of the School District Tract to the School District. The “**School Tract Term**” shall commence on the August 12, 2014 and shall expire upon the earlier of: (i) August 12, 2019, or (ii) either the date on which the 501st building permit is issued for homes to be constructed within the Residential Tract or, if a building permit is not required to commence construction of a home within the Residential Tract, then the issuance of the 501st water or sewer tap or other similar permit or approval is issued that would typically be associated with the commencement of a home within the Project. WFC agrees it will not plat or develop the School Tract during the School Tract Term. WFC’s duty to negotiate in good faith shall be determined by WFC in its reasonable discretion. For illustrative purposes only, an example of a good faith negotiation in accordance with this Section may be that WFC and the School District agree that the purchase price of the School Tract shall be determined by calculating the fair market value of the School Tract, assuming a “paper lot valuation,” which term shall be used herein to mean the price that a willing buyer is willing to pay a willing seller for the purchase of the thirty-seven (37) finished and buildable lots on the School Tract (“**Lost Lots**”), complete with fully developed streets, utilities, and infrastructure, and approval of all necessary permits for the Lost Lots, less the costs of the development of such streets, utilities, and infrastructure that would be constructed within the School Tract boundaries. The School Tract Detail Sheet shows the projected number of lots to be developed on the School Tract is attached

hereto as *Exhibit H* and incorporated herein for the purpose of determining a “paper lot valuation” of the School Tract. If a Contract is entered, it shall include conveyance by WFC to the School District: (a) the fee simple interest in and to the School Tract; (b) the right to receive thirty-seven (37) living unit equivalents (“LUE”) for water and wastewater for use on the School Tract; and (c) rights to the equivalent impervious cover that the Lost Lots would have been entitled to if the School Tract had been platted as thirty-seven (37) lots consistently with the School Tract Detail Sheet. If the School District requires additional LUEs or impervious cover for the School Tract, it will be required to obtain such additional LUEs and impervious cover from sources other than WFC and the Residential Tract. The agreements in this Section 3.2.8 in no way create any binding agreement between WFC and any third parties, including the School District. This Section is only an agreement between WFC and the City and no other party has rights or obligations as a result of this Section 3.2.8.

- 3.3 Further Approvals:** Upon the Effective Date of this Agreement, Owners may develop the Land consistent with the Project Approvals and this Agreement. Any future approvals granted in writing by the City for such development, as well as any written amendments to the Project Approvals, will become a part of the Project Approvals.
- 3.4 Standard for Review:** The City’s review and approval of any submissions by Owners will not be unreasonably withheld or delayed. The City will review any plans, plat or other filing by Owners in accordance with the applicable City’s ordinances, state law and this Agreement. If any submittal is not approved, the City will provide written comments to Owners specifying in detail all of the changes that will be required for the approval of the submittal.
- 3.5 Approvals & Appeals:** The City acknowledges that timely City reviews are necessary for the effective implementation of Owners’ development program. Therefore, the City agrees that it will comply with all statutory and internal City time frames for development reviews. The City further agrees that if, at any time, Owners believe that an impasse has been reached with the City staff on any development issue affecting the Project or if Owners wish to appeal any decision of the City staff regarding the Project; then Owners may immediately appeal in writing to the City Council requesting a resolution of the impasse at the next scheduled City Council meeting, subject to compliance with all timetables required by the open meeting laws. Appeals and approvals of variances may be approved by an affirmative vote of at least three of the five members of the City Council.
- 3.6 Concept Plan Amendments:**
- 3.6.1** Due to the fact that the Project comprises a significant land area and its development will occur in phases over a number of years, modifications to the Conceptual Plan may become necessary due to changes in market conditions or other factors. In order to provide flexibility with respect to certain details of the development of the Project, Owners may seek changes in the location and

configuration of the residential use lots shown on the Conceptual Plan, including changes within the proposed residential, mitigation or open space areas shown on the Conceptual Plan. Such changes will only require an administrative amendment to the Conceptual Plan so long as the Impervious Cover requirements herein are met and there are no changes to the density of the project.

- 3.6.2** The City Engineer shall be responsible for consideration and approval of such administrative amendments to the Concept Plan. The City Engineer may defer such approval to the City Council at the City Engineer's discretion. Further, minor changes as defined by the City Engineer, that are proposed for the Conceptual Plan that do not result in an increase in the overall density of development of the Land or increase the Impervious Cover Percentage of the Project, and which otherwise comply with the Applicable Rules and this Agreement may be approved by the City Council. Similarly, minor variations of a preliminary plat or final plat from the Conceptual Plan that are approved by the City Engineer that do not increase the overall density of development of the Land or increase the overall Impervious Cover limit of fifteen percent (15%), and which otherwise comply with the Applicable Rules, and this Agreement will not require an amendment to the Conceptual Plan.
- 3.7** **Term of Approvals:** The Conceptual Plan, the Project Approvals, and any preliminary plat or final plat approved pursuant to this Agreement will be effective for the term of this Agreement unless otherwise agreed by the Parties.
- 3.8** **Extension of Permits & Approvals:** Any permit or approval under this Agreement or granted by the City pursuant to, or in accordance with, this Agreement shall be extended for any period during which performance by any Owner is prevented or delayed by action of a court or administrative agency, or an Owner is delayed due to failure to receive a governmental permit despite demonstrable diligent efforts to obtain said permit. In no instance shall any permits or approvals be extended beyond the twenty year duration of this Agreement.
- 3.9** **Initial Brush Removal:** Owners may mechanically remove brush without material soil surface disruption prior to receiving approval of plats in order to determine the location of roads, lots, utilities and drainage areas with regard to preservation of environmental features. Owners agree to utilize rubber-tired equipment for brush removal. Prior to plat approval, Owners may neither remove any tree (other than cedar trees) with a trunk having a diameter greater than four (4) inches measured four (4) feet above the base (ground elevation) of the tree, nor materially alter the existing drainage patterns prior to receiving City approval for Construction Plans. Owners shall ensure that as much area as possible is left undisturbed for as long as reasonably possible.
- 3.10** **Building Code:** Owners agree that all habitable buildings shall be constructed in accordance with all building or construction codes that have been adopted by the City. Fees for all building permits or building inspections by the City or the City's designee

under this section shall be paid by builders. Building permit and building inspection fees are not included among the fees specifically listed in this Agreement.

- 3.11 Energy Conservation Standards:** Owners agree that all single family residential units shall conform to the Two Star Green Builder Program, or a successor equivalent standard.
- 3.12 Fiscal Security for Improvements:** The Owner shall not be required to provide fiscal security prior to any final plan approval provided that the Owners agree to construct improvements in a manner approved by the City Engineer. The City Engineer may require the Owners to post a bond at the time of final plat approval to assure that improvements are constructed as proposed if the City Engineer determines that there is some question regarding construction of the improvements. The City Engineer may also require construction and maintenance bonds for improvements.
- 3.13 Highway Access:** The roadway cuts shown on *Exhibit B* are approved by the City as of the Effective Date. Owner and City agree that traffic safety is crucial. All roadway and driveway cuts onto Highway 290 not shown on *Exhibit B* shall be subject to the approval of the City. Owner agrees to construct and fund acceleration lanes, deceleration lanes, and traffic control devices required by the Texas Department of Transportation (TxDOT).
- 3.14 Connectivity:**
- 3.14.1 Sunset Canyon.** Owner shall dedicate to the City with a right-of-way easement for projected future egress and ingress to the Project from the Sunset Canyon subdivision at Oak Meadow Drive as indicated on the Concept Plan, Exhibit B Owners shall provide fiscal security (in the form of the deposit of funds in escrow or a construction bond) sufficient to fund pavement of this East projection into Sunset Canyon. Owner shall construct a stub-out connecting street to Sunset Canyon unless a Traffic Impact Analysis (“TIA”) prepared by Owner and submitted to the City at the time Owner applies for preliminary plat approval for that section supports a determination by the City Administrator that the stub-out connecting street would create excessive traffic safety risks. In determining whether the stub-out connecting street would create excessive traffic safety risks, the City Administrator shall evaluate the TIA in consultation with the City Engineer, ESD #6, and Hays County Commissioner (Pct. 4), Hays County Fire marshal, and Hays County Sheriff. If the City Administrator determines that the stub-out connecting street would create excessive traffic safety risks, Owner shall construct an access point that is for emergency use only.
- 3.14.2 Cynosure Ranch.** The Conceptual Plan shows a conceptual connection from the Primary Project Roadway to the ROW Easement as described in Section 3.14.3 (the “Cynosure Connector”). The Owners shall be required to construct the Cynosure Connector, at the Owners’ cost and expense, after requested to do so by the City. The City’s request of Owners to construct the Cynosure Connector shall be conditioned on the prior construction of the roadway (the “290 Arterial”) to be

built within ROW Easement and extension of the 290 Arterial to US 290 by the City or others. The City may move the location of the ROW Easement and the 290 Arterial to the north, south, or west, so long as it does not further encroach on the Project. If the City moves the location of the ROW Easement and the 290 Arterial, Owners shall only be required to construct the Cynosure Connector to the Project's property line, and no farther. Only if Owners have not constructed the Cynosure Connector by the date on which either the 951st building permit is issued for homes to be constructed within the Residential Tract or, if a building permit is not required to commence construction of a home within the Residential Tract, then the issuance of the 951st water or sewer tap or other similar permit or approval is issued that would typically be associated with the commencement of a home within the Project, Owners shall be required to bond or post fiscal with the City for the Cynosure Connector.

3.14.3 Right of Way Reservation: The area shown on the western boundary of the Residential Tract as "ROW Easement" is intended to allow the construction of a future roadway (the "Future Roadway") as generally depicted in the City's 2014 Transportation Plan. At the time that a preliminary plat or final plat is submitted to the City which includes the area covered by the ROW Easement, then it shall be reserved as future right of way constituting one-half of the right of way necessary to construct the Future Roadway. At the time when right-of-way is needed for construction of the Roadway, the Owners of the property encumbered by the ROW Easement shall dedicate the area of land covered by the ROW Easement in fee simple to the City or the appropriate governmental entity for Ten Dollars (\$10.00) and no other compensation or consideration being paid to the Owners in return for such right-of-way. In order to secure such obligation to convey the right-of-way, the Owners shall, at the request of the City, execute and deliver a street deed conveying title to the ROW Easement to be held by the City in trust and not to be recorded until such time as the Future Roadway is to be built. The Owners shall have no obligation to build or pay any costs associated with the Future Roadway or to post any fiscal security for the Future Roadway."

3.14.4 Transportation: The vehicular and non-vehicular transportation network shall be designed to connect to neighboring existing and future developments. The street network shall be designed in accordance with the City's Transportation Plan. Private or gated streets are restricted to the areas shown on the Conceptual Plan.

3.15 Certain Fences. Eight foot (8') fences shall be constructed by Owners along the Sunset Canyon boundary of the Project upon receipt by the Owner of a written request from the Sunset Canyon Land Owners Association. Gates shall be installed at adjacent landowners' cost upon request of such adjacent landowners.

3.16 Deed Restrictions: Owners agree that all restrictive covenants for the Project shall reinforce the provisions of this section and applied to all builders and subsequent buyers, and shall be appropriately drafted and filed to effectuate this intent and Agreement.

ARTICLE 4. FINANCING DISTRICT

- 4.1 Consent to Creation of District:** In accordance with Texas Local Government Code, Section 42.042, the City has considered the creation of conservation and reclamation districts, authorized pursuant to Texas Constitution Article III, Section 52, or Article XVI, Section 59 covering all or portions of the Land (the "Districts"). The City confirms its support for creation of the Districts pursuant to Section 42.042, Local Government Code at the time of approval of this Agreement. The City's actual consent, if given, shall be evidenced by separate documents. The City agrees that any District may annex or exclude land owned by Owners that is located within the boundaries of the Project and the City's ETJ and may be divided in accordance with Chapters 49, 51, 53, and/or 54, Texas Water Code, or other Water Code provisions that may be applicable, in furtherance of Owners' development goals pursuant to this Agreement. Provided, however, that the Parties recognize that the property lies within the City's "Potential Service Area" in the "Wholesale Water Supply Agreement Between LCRA and the City of Dripping Springs," dated March 11, 2003.
- 4.2 Lighting:** Residential Owners, or an electric utility designated by Residential Owners, will construct all outdoor illumination for street lighting, signage, security, exterior, landscaping, and decorative facilities for the Project in accordance with all current City Rules, and the City's Lighting Ordinance, as may be amended, for both residential and non-residential properties. Residential Owners agree that all restrictive covenants for the Project shall reinforce this provision and be applied to all construction and builders. Additionally, all outdoor illumination constructed for future Dripping Springs Independent School District ("D.S.I.S.D.") facilities, including the School Tract referenced in Section 3.2.5(a)(b), associated with the Project and this Agreement, including sports field lighting, shall be in conformance with all current City Rules and the City's Lighting Ordinance, as may be amended. D.S.I.S.D. agrees that all restrictive covenants for the Project shall reinforce this provision and be applied to all construction and builders utilized and/or employed by D.S.I.S.D.
- 4.3 Fire Protection:** Each District, to the extent allowed by law, shall pursue all required approvals for, and, upon approval, will implement and finance a fire protection plan to provide fire protection services within the Project's boundaries in accordance with and subject to Section 49.351, Texas Water Code, and applicable regulations of the TCEQ, and Applicable Rules. Owners shall submit to City plans for emergency access points (e.g., crash gates) during the platting phase of development.
- 4.4 Annexation:**
- 4.4.1 Timing for Annexation.** The City agrees that it will not annex any residential land until: (a) water, wastewater and drainage facilities have been completed to serve at least ninety percent (90%) of the developable acreage within the District;

and (b) Owners have been reimbursed by the District for the water, wastewater, drainage or other facilities serving the District in accordance with the rules of the TCEQ. Owners grant consent for the City to annex any tracts of the Land that will be used for Commercial purposes (including but not limited to those tracts specifically designated a Commercial classification) after the Effective Date and *prior to* the formation of any District including the Commercial land, provided that consent is conditioned upon Owners and the City agreeing on the tax rebate agreement provided in 30 TAC Section 293.11(d)(8). Upon satisfaction of these conditions to annexation as to the District, the City may, but will not be required to, annex that District. Upon annexation of all tracts within the District, the District shall be abolished, and all assets, duties, obligations and liabilities of the District shall be transferred to, and assumed by, the City.

- 4.4.2 Subdivision of Property:** The City agrees that the submission of a request for annexation will not be required in connection with the subdivision of any property located within the District. Provided, however, that the City's agreement not to annex the residential phase of the Project shall not exceed twenty (20) years from the effective date of this Agreement. Owners agree that all restrictive covenants for the Project shall reinforce the provisions of this subsection and be applied to all builders and subsequent buyers.
- 4.4.3 Property Tax Rebate/Credit.** The City may annex all or any portion of any District. Any annexation of all or any portion of any District by the City at any time prior to the payment or retirement of any indebtedness owed by a District shall only be accomplished by compliance with this Agreement, and after agreement with the Districts, for a rebate or credit of any *ad valorem* taxes assessed to pay for water, wastewater, drainage or other services elsewhere in the City yet already provided to the Project by the District. The purpose of this section is to assure that residents of the District are not taxed by more than one taxing authority in order to pay for services provided by only one taxing authority.
- 4.4.4 Land Uses.** Contemporaneously with the annexation of land located within a District, the City will zone property within that District consistently with the land uses shown on the Conceptual Plan, and will zone all developed property consistently with the land uses in existence or proposed on the date of the annexation.
- 4.4.5 Dedication.** Owners agree to dedicate, donate, and otherwise transfer to the City ownership in fee simple of a tract comprising no less than one acre, as designated on the Concept Plan (See *Exhibit B*). The tract shall be part of the tracts herein designated as Commercial. The City's tract shall be used by the City solely for public purposes, such as open space, parkland, municipal offices, storage, fire protection, or other municipal operations.
- 4.5 Infrastructure Construction & Inspections:** Each District will be responsible for construction, operation and maintenance of all water, wastewater and drainage

infrastructure within its boundaries except as provided in section 2.4.4 of this Agreement. Each District will have the right to review and approve all plans and specifications for such infrastructure, and to inspect all such infrastructure during construction and prior to acceptance for operation and maintenance. A copy of each set of approved plans and specifications and a copy of all inspection certificates will be filed with the City for review and approval. All water, wastewater and drainage infrastructure within the Land shall be subject to City inspections and compliance with City Rules as they may be amended from time to time and TCEQ rules (TCEQ rules will control in the event of conflict). All water, wastewater, and drainage infrastructure within the Land shall be designed and built in accordance with the rules, regulations and specifications of the TCEQ, which rules, regulations and specifications are adopted as the governing rules, regulations and specifications for the water utility infrastructure constructed to serve the Project. Fees for all inspections by the City or the City's designee under this section shall be paid by Districts and are not included in the Fees provided for in section 2.6 of this Agreement.

- 4.6 Consent to Wastewater Discharge Facilities:** The City understands that the District(s) formed pursuant to Section 4.1 above, will apply to the TCEQ, or its successor agency, for a permit to treat and dispose wastewater generated by the development that is subject to this Agreement. The City reserves its right to comment on Owner's submission of such an application and order by the TCEQ.

ARTICLE 5. AUTHORITY

5.1 Term:

- 5.1.1 Term.** The term of this Agreement will commence on the Effective Date of the Amended and Restated Development Agreement and continue for fifteen (15) years thereafter ("Term"), unless sooner terminated under this Agreement. This Agreement may be extended for a longer duration not to exceed an additional five (5) years upon mutual agreement of the Parties.
- 5.1.2 Expiration.** After the Initial Term and any extension, this Agreement will be of no further force and effect, except that termination will not affect any right or obligation arising from Project Approvals previously granted.
- 5.1.3 Termination or Amendment.** This Agreement may be terminated or amended as to all of the Land at any time by mutual written consent of the City and Owners or may be terminated or amended only as to a portion of the Land by the mutual written consent of the City and the Owners of only the portion of the Land affected by the amendment or termination.

- 5.2 Authority:** This Agreement is entered under the statutory authority of Chapter 212, Subchapter G, *Local Government Code*. The Parties intend that this Agreement guarantee the continuation of the extraterritorial status of portions of the Land as provided in this

Agreement; authorize certain land uses and development on the Land; provide for the uniform review and approval of plats and development plans for the Land; provide exceptions to certain ordinances; and provide other terms and consideration, including the continuation of land uses and zoning upon annexation of any portion of the Land to the City.

- 5.3 Applicable Rules:** As of the Effective Date, Owners have initiated the subdivision and development permit process for the Project. The City agrees that, in accordance with Chapter 245, *Local Government Code*, the City will consider the approval of any further approvals necessary for the Project based solely on the Applicable Rules, as modified by the Project Approvals and this Agreement. Further, the City agrees that, upon the Effective Date, Owners have vested authority to develop the Land in accordance with the Applicable Rules, as modified by any exceptions contained in the Project Approvals and this Agreement.
- 5.4 Right to Continue Development:** In consideration of Owners' agreements hereunder, the City agrees that, during the term of this Agreement, it will not impose or attempt to impose: (a) any moratorium on building or development within the Project, or (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting preliminary plans, final plats, site plans, building permits, certificates of occupancy or other necessary approvals, within the Project. No City-imposed moratorium, growth restriction, or other limitation affecting the rate, timing or sequencing of development or construction of all or any part of the Project will apply to the Land if such moratorium, restriction or other limitation conflicts with this Agreement or would have the effect of increasing Owners' obligations or decreasing Owners' rights and benefits under this Agreement. This Agreement on the part of the City will not apply to temporary moratoriums uniformly imposed throughout the City and ETJ due to an emergency constituting an imminent threat to the public health or safety, provided that the temporary moratorium continues only during the duration of the emergency.
- 5.5 Equivalent Substitute Obligation:** If either Party is unable to meet an obligation under this Agreement due to a court order invalidating all or a portion of this Agreement, preemptive state or federal law, an imminent and bona fide threat to public safety that prevents performance or requires different performance, subsequent conditions that would legally excuse performance under this Agreement, or, the Parties agree to cooperate to revise this Agreement to provide for an equivalent substitute right or obligation as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid and enforceable, or other additional or modified rights or obligations that will most nearly preserve each Party's overall contractual benefit under this Agreement.
- 5.6 Cooperation:**
- 5.6.1** The City and Owners each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder.

- 5.6.2** The City agrees to cooperate with Owners in connection with any waivers or approvals Owners may desire or require to obtain from the County in connection with the development of the Land and a deferral of the County's plat and plan approval powers to the City for all plats and public infrastructure within the Project, other than roadway infrastructure that will be dedicated to the County for operation and maintenance after construction. Roads shall be subject to County review, inspection and approval prior to dedication to the County.
- 5.6.3** The City acknowledges that the District(s) may in the future seek State or federal grant matching funds to finance certain park, recreational and environmental facilities within the Project. The City agrees to cooperate with and support these efforts to obtain grant funding that do not interfere with or conflict with the City's efforts to secure similar funding, including entering into joint use agreements with the District, in furtherance of the City's goal of making additional park, environmental and recreational facilities available to the area. Provided, however, the City will have no financial obligation associated with this activity.
- 5.7 Litigation:** In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken by the Parties hereunder, Owners and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts 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. The Owners agree to defend and indemnify the City for any litigation expenses, including court costs and attorneys fees, related to defense of this Agreement. The filing of any third 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.

ARTICLE 6. GENERAL PROVISIONS

6.1 Assignment & Binding Effect:

- 6.1.1** This Agreement, and the rights and obligations of Owners hereunder, may be assigned by Owners to a subsequent purchaser of all or a portion of the undeveloped property within the Project provided that the assignee assumes all of the obligations hereunder. Any assignment must be in writing, specifically describe the property in question, 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 and recorded in the real property records as may be required by applicable law. Upon any such assignment, the assignor will be released of any further obligations under this Agreement as to the property sold and obligations assigned.

- 6.1.2** If Owners assign its rights and obligations hereunder as to a portion of the Project, then the rights and obligations of any assignee and Owners will be non-severable, and Owners will be liable for the nonperformance of the assignee and vice-versa. In the case of nonperformance by one developer, the City may pursue all remedies against that nonperforming developer, even if such remedies will impede development activities of any performing developer as a result of that nonperformance.
- 6.1.3** The provisions of this Agreement will be binding upon, and inure to the benefit of the Parties, and their respective successors and assigns. This Agreement will not, however, be binding upon, or create any encumbrance to title as to, any ultimate consumer who purchases a fully developed and improved lot within the Project.
- 6.2 Severability:** If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible.
- 6.3 Governing Law, Jurisdiction & Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, as it applies to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The parties acknowledge that this Agreement is performable in Hays County, Texas and hereby submit to the jurisdiction of the courts of that County, and hereby agree that any such Court shall be a proper forum for the determination of any dispute arising hereunder.
- 6.4 No Third Party Beneficiary:** This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided.
- 6.5 Mortgagee Protection:** This Agreement will not affect the right of Owners to encumber all or any portion of the Land by mortgage, deed of trust or other instrument to secure financing for the Project. The City understands that a lender providing financing for the Project ("Lender") may require interpretations of or modifications to this Agreement and agrees to cooperate with Owners and its Lenders' representatives in connection with any requests for interpretations or modifications. The City agrees not to unreasonably withhold or delay its approval of any requested interpretation or modification if the interpretation or modification is consistent with the intent and purposes of this Agreement. The City agrees as follows:
- 6.5.1** Neither entering into this Agreement, nor any breach of this Agreement, will affect any lien upon all or any portion of the Land.
- 6.5.2** The City will, upon written request of a Lender given in compliance with Section 6.17, consider providing the Lender with a copy of any written notice of default

given to Owners under this Agreement within ten (10) days of the date such notice is given to Owners.

- 6.5.3** In the event of default by Owners under this Agreement, a Lender may, but will not be obligated to, cure any default during any cure period extended to Owners, either under this Agreement or under the notice of default.
- 6.5.4** Any Lender who comes into possession of any portion of the Land by foreclosure or deed in lieu of foreclosure will take such property subject to the terms of this Agreement. No Lender will be liable for any defaults or monetary obligations of Owners arising prior to the Lender's acquisition of title, but a Lender will not be entitled to obtain any permits or approvals with respect to that property until all delinquent fees and other obligations of Owners under this Agreement that relate to the property in question have been paid or performed.
- 6.6** **Certificate of Compliance:** Within thirty (30) days of written request by either Party given accordance with Section 6.17, the other Party will execute and deliver to the requesting Party a statement certifying that: (a) this Agreement is unmodified and in full force and effect or, if there have been modifications, that this Agreement is in full force and effect as modified and stating the date and nature of each modification; (b) there are no current uncured defaults under this Agreement, or specifying the date and nature of each default; and (c) any other information that may be reasonably requested. A Party's failure to deliver a requested certification within this 30-day period will conclusively be deemed to constitute a confirmation that this Agreement is in full force without modification, and that there are no uncured defaults on the part of the requesting Party. The City Administrator or City Engineer will be authorized to execute any requested certificate on behalf of the City.
- 6.7** **Default:** If either Party defaults in its obligations under this Agreement, the other Party must, prior to exercising a remedy available to that Party due to 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. The City may issue Stop Work Orders for violations arising under this Agreement or the regulations applied herein. Notwithstanding the forgoing, a default of this Agreement by a single Owner does not constitute a default by the other Owners which are then in compliance with the Agreement. Further, such default of this Agreement by a single Owner does not give rise to any actionable remedy against the non-defaulting Owners which are in compliance with the Agreement.
- 6.8** **Remedies for Default:** If either Party defaults under this Agreement and fails to cure the default within the applicable cure period, the non-defaulting Party will have all rights and remedies available under this Agreement or applicable law, including the right to

institute legal action to cure any default, to enjoin any threatened or attempted violation of this Agreement or to enforce the defaulting Party's obligations under this Agreement by specific performance or writ of mandamus, or to terminate this Agreement. In the event of a default by the City, Owners will be entitled to seek a writ of mandamus, in addition to seeking any other available remedies. All remedies available to a Party will be cumulative and the pursuit of one remedy will not constitute an election of remedies or a waiver of the right to pursue any other available remedy.

- 6.9 Reservation of Rights:** To the extent not inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws.
- 6.10 Attorney's Fees:** The prevailing Party in any dispute under this Agreement will be entitled to recover from the non-prevailing Party its reasonable attorney's fees, expenses and court costs in connection with any original action, any appeals, and any post-judgment proceedings to collect or enforce a judgment.
- 6.11 Waiver:** Any failure by a Party to insist upon strict performance by the other Party of any provision of this Agreement will not, regardless of the length of time during which that failure continues, be deemed a waiver of that Party's right insist upon strict compliance with all terms of this Agreement. In order to be effective as to a Party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.
- 6.12 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. This Agreement may be amended only by written agreement signed by the Parties. An amendment to this Agreement may only be approved by an affirmative vote of at least three of the five (3 of 5) members of the City Council.
- 6.13 Exhibits, Headings, 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.

- 6.14 Time:** Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.
- 6.15 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. Owners certify, represent, and warrant that the execution of this Agreement is duly authorized in conformity with their authority.
- 6.16 Property Rights:** Owners expressly and unconditionally waive and release the City from any obligation to perform a takings impact assessment under the Texas Private Real Property Rights Act, Texas Government Code Chapter 2007, as it may apply to this Agreement, the Land, and the Project.
- 6.17 Notices:** Any notices or approvals under this Agreement must be in writing may be sent by hand delivery, facsimile (with confirmation of delivery) or certified mail, return receipt requested, to the Parties at the following addresses or as such addresses may be changed from time to time by written notice to the other Parties:

CITY:

Original: City Administrator
 City of Dripping Springs
 P. O. Box 384
 Dripping Springs, Texas 78620
 Fax: (512) 858-5646

Copy to: City Attorney
 City of Dripping Springs
 P. O. Box 384
 Dripping Springs, Texas 78620
 Fax: (512) 858-5646

OWNERS:

Original: Edward R. Rathgeber
 2711 Hill View Green Lane
 Austin, TX 78703

Copy to: McGinnis, Lochridge & Kilgore, LLP
 Attention: William H. Bingham
 919 Congress Avenue, Suite 1300
 Austin, Texas 78701

Copy to: WFC Headwaters Owner VII, L.P.

Attention: Jesse Baker and Casey Tischer
c/o: FCM TX, LLC
500 Boylston St, Suite 2010
Boston, MA 02116

Copy to: William P. McLean
McLean & Howard, L.L.P.
901 S. Mopac
Building 2, Suite 225
Austin, Tx. 78746

Copy to: Oryx Development, LLC
Attention: Blake A. Rue
3404 Kerbey Lane
Austin, TX 78703

Either City or Owners may change its mailing address at any time by giving written notice of such change to the other in the manner provided herein at least ten days prior to the date such change is effected. All notices under this Agreement will be deemed given on the earlier of the date personal delivery is affected or on the delivery date or attempted delivery date shown on the return receipt or facsimile confirmation.

6.18 Exhibits: The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

- Exhibit A - Metes and Bounds Description of the Land
- Exhibit A-1- Metes and Bounds Description of the School Tract
- Exhibit B - Conceptual Plan
- Exhibit C - Project Approvals, including Variances and Exceptions
- Exhibit D - Buffer Zones
- Exhibit E - Water Conservation Plan for City of Drippings Springs
- Exhibit F - Water Quality Plan
- Exhibit G- Parks & Open Space Master Plan

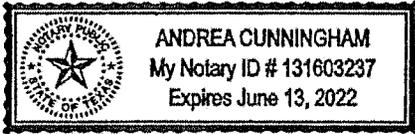
CITY OF DRIPPING SPRINGS:

by: *Todd Purcell*
Todd Purcell, Mayor

date: 2/18/2020

STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on this 18 day of February, 2020, by Todd Purcell, as Mayor of the City of Dripping Springs, Texas, a Texas municipality, on behalf of said city.



Andrea Cunningham
Notary Public, State of Texas

HEADWATERS

WFC Headwaters Owner VII, L.P.,
a Delaware limited partnership

By: WFC Headwaters GP VII, L.L.C.,
a Delaware limited liability company,
its General Partner

By: WFC Headwaters Holdings JV VII, L.L.C.,
a Delaware limited liability company,
its Sole Member

By: FCA Austin, LLC,
a Delaware limited liability company,
its Administrative Member

By: [Signature]
Name: **JESSE R. BAKER**
Title: Authorized Signatory

STATE OF MASSACHUSETTS §
§
COUNTY OF Suffolk §

This instrument was acknowledged before me on March 9, 2020, by Jesse R. Baker, Authorized Signatory of FCA Austin, LLC, a Delaware limited liability company, Administrative Member of WFC Headwaters Holdings JV VII, L.L.C., a Delaware limited liability company, Sole Member of WFC Headwaters GP VII, L.L.C., a Delaware limited liability company, general partner of WFC Headwaters Owner VII, L.P., a Delaware limited partnership, on behalf of said entities.



[Signature]
Sadie Fielding
Notary Public, State of Massachusetts
My commission expires: 6/12/26

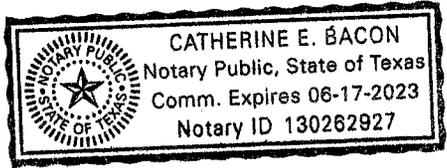
OWNERS, Oryx Development, LLC
a Texas limited liability company

by: *Blake A. Rue*
Blake A. Rue, Managing Member

date: 5/29/2020

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 29th day of May, 2020, by Blake A. Rue, as Managing Member of Oryx Development, LLC., a Texas limited liability company, on behalf of said entity.



Catherine E. Bacon
Notary Public, State of Texas

Exhibit A

Metes and Bounds Description of the Land

1539.46 acres of land, more or less, located in Hays County, Texas, being more fully described by metes and bounds as follows:

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**FIELD NOTES DESCRIPTION FOR 1539.46 ACRES OF
THE HAZY HILLS RANCH IN HAYS COUNTY,
TEXAS**

Being all of a certain tract or parcel of land containing 1539.46 acres, more or less, comprising approximate acreage out of various Original Patent Surveys in Hays County, Texas, as follows:

Survey No.	Survey	Abstract No.	Acres
130	William Walker	475	221.44
137	Herman Benson	40	92.76
473	F. A. Jolly	555	79.39
	J. W. Powell	560	85.47
47	John Pitts	768	123.15
154	Levi Lewis	639	163.54
1717	J. E. Gilbert	811	11.92
	W. R. Wood	567	161.22
136	Edward Brown	44	189.28
	Heinrich Brashe	58	156.81
60	Marcus Raper	383	36.79
37	Marcus Raper	394	217.69

that same land conveyed as 1539.45 acres from Susan Townes Parker Gosford to Paul Pressler Family Generation Skipping Trust, et al, by a General Warranty Deed executed the 7th day of November, 2001, and recorded in Volume 1911 at Page 481 of the Official Public Records of Hays County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a 60'd nail set in a found rock mound at or near the southwest corner of said survey no. 154, a southwest corner of said 1539.45 acres, a reentrant corner of 138.59 acres conveyed from Ethel M. Brydson Berkley, et al, to Ethel M. Brydson Berkley by a Partition Deed executed the 26th day of August, 1963, and recorded in Volume 198 at Page 151 of the Deed Records of Hays County, Texas;

THENCE, along or near a fence and the northeast line of said 138.59 acres, the southwest line of said 1539.45 acres, N29°44'25"W, at approximately 1389 ft. passing approximately 5 ft. S60°W from the occupied east corner between said 138.59 acres and 291 1/4 acres conveyed from Fred J. Morris, et ux, to Cynosure Corporation by a Warranty Deed executed the 6th day of February, 1973, and recorded in Volume 258 at Page 123 of the Deed Records of Hays County, Texas; then continuing along or near a fence and the northeast line of said 291 1/4 acres, with the southwest line of said 1539.45 acres, at approximately 1699 ft. passing approximately 6 ft. S60°W. from a fence angle post, at approximately 1712 ft. crossing fence, diverging from fence, at approximately 1857 ft. passing approximately 66 ft. N60°E. from a fence angle post, at approximately 1892 ft. passing approximately 12 ft. N60°E. from a fence angle post, at approximately 1979 ft. crossing fence, at approximately 2453 ft. passing approximately 66 ft. S60°W. from a fence angle post, at approximately 2670 ft. converging with fence, then continuing along or near a fence for a total distance of 4495.82 ft. to a 60'd nail found at a fence corner post for a northwesterly corner of said 1539.45 acres; N87°21'02"E., 4.39 ft. to a 60'd nail set in a found rock mound for a reentrant corner of said 1539.45 acres; N29°39'40"W., 2168.41 ft. to a 1/2" iron stake found at a fence corner for a reentrant corner of said 1539.45 acres, the northeast corner of said 291 1/4 acres; and S60°36'50"W., 1551.06 ft. to a 1/2" iron pipe found for the north common corner between said 291 1/4 acres and 206.2 acres conveyed from Jaye Wright, Trustee, to John Luke Hill, Jr., by a Warranty Deed executed the 3rd day of July, 1990, and recorded in Volume 852 at Page 247 of the Official Public Records of Hays County, Texas,

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THENCE, along or near a fence (along and possibly overlapping ± 0.03 acre of said 206.2 acres), with the south line of said 1539.45 acres, N89°16'39"W., 614.05 ft. to a ½" iron pipe found at a fence corner for the most westerly corner of said 1539.45 acres, a southeast corner of 1051.23 acres conveyed from John L. Hill, Jr., et ux, to Melinda Hill Ferrin, et al, by a Warranty Deed executed the 31st day of December, 1999, and recorded in Volume 1619 at Page 471 of the Official Public Records of Hays County, Texas;

THENCE, along or near a fence, with the common line between said 1539.45 and 1051.23 acre tracts, N30°04'19"E., at approximately 493 ft. passing 10 ft. S60°E. from a fence angle post, then continuing not along a fence for a total distance of 932.29 ft. to a ½" iron stake found in the bed of a creek; N65°02'34"E., along the creek bed, 345.19 ft. to a ½" iron stake set in an X found marked on rock; N85°37'07"E., 231.56 ft. to a found ½" iron stake; S82°33'09"E., 101.97 ft. to a set ½" iron stake; N73°02'04"E., 55.50 ft. to a set ½" iron stake; N29°57'45"E., at approximately 63 ft. crossing a fence, at approximately 68 ft. passing approximately 9 ft. N60°W. from a fence angle post, at approximately 135 ft. passing approximately 3 ft. N60°W. from a fence angle post, then continuing along or near a fence for a total distance of 681.05 ft. to a ½" iron stake found in a rock mound; and N29°21'37"E., 4426.39 ft. to a ½" iron stake found at a fence corner for the east corner of said 1051.23 acres, the west terminus of a Boundary Line Agreement between E. E. Townes Trust No. 2, et al, and Vincent Taylor, et ux, executed the 26th day of October, 1984, and recorded in Volume 485 at Page 183 of the Real Property Records of Hays County, Texas;

THENCE, along or near a fence, with the line of said Boundary Line Agreement, N29°14'52"E., 397.82 ft. to a ½" iron stake found for the most northwest corner of said 1539.45 acres; S78°20'35"E., crossing a newer fence, along the remains of an older fence, 519.97 ft. to a ½" iron stake found at a fence post; N85°40'23"E., 688.69 ft. to a found ½" iron stake; N50°04'03"E., 76.94 ft. to a 20" diameter Hackberry Tree; N78°43'49"E., 65.26 ft. to an unmarked point in the remains of a Hackberry Stump; N69°57'08"E., 68.57 ft. to a found ½" iron stake; S68°39'38"E., at approximately 73 ft. crossing fence, then continuing for a total distance of 106.96 ft. to a set ½" iron stake; N82°30'24"E., 22.08 ft. to a fence post; N89°26'51"E., 37.80 ft. to a 23" diameter Cedar Tree; S85°16'32"E., 41.46 ft. to an unmarked point in the remains of a Hackberry Stump; S76°37'27"E., 186.40 ft. to a fence post; S71°26'15"E., at approximately 39 ft. crossing fence, then continuing for a total distance of 248.11 ft. to a 13" diameter Live Oak Tree; S64°07'22"E., diverging south of fence, 72.96 ft. to a fence post; S59°14'45"E., 102.03 ft. to a 13" diameter Live Oak Tree; S53°42'02"E., 156.98 ft. to a fence post; S50°25'14"E., 110.56 ft. to a 23" diameter Live Oak Tree; S77°15'16"E., 133.89 ft. to a fence post; S32°00'36"E., 41.96 ft. to a set ½" iron stake; S23°52'10"E., 46.47 ft. to a fence post; S44°24'33"E., 274.22 ft. to a 12" diameter Live Oak Tree; S47°10'37"E., 129.23 ft. to a fence post; S63°03'46"E., 142.40 ft. to a fence post; S66°33'28"E., 707.42 ft. to a 60^d nail found in the top of a fence corner post for a northwest corner of said 1539.45 acres; and S30°37'25"W., 446.87 ft. to a ½" iron stake found for the east terminus of said Boundary Line Agreement, in the northwest line of 324.554 acres conveyed from Eloise Willingham Koonce, et vir, to William B. Mitchell, et ux, by a Cash Warranty Deed executed the 3rd day of March, 1999, and recorded in Volume 1514 at Page 326 of the Official Public Records of Hays County, Texas;

THENCE, along or near a fence, with the common line between said 1539.45 and 324.554 acre tracts, S29°54'31"W., 591.54 ft. to a found cotton spindle; S28°33'45"W., 572.42 ft. to a fence corner post for a reentrant corner of said 1539.45 acres, the southwest corner of said 324.554 acres; and S60°28'49"E., 789.52 ft. to a ½" iron stake found for a northwest corner of Sunset Canyon, Section V, a subdivision of Hays County according to the plat of record in Volume 3 at Page 284 of the Plat Records of Hays County, Texas, and as amended in Volume 4 at Page 234 of the Plat Records of Hays County, Texas;

Thence, along or near a fence, with the common line between said 1539.45 acres and said Sunset Canyon, Section V, S28°59'44"W., 3733.15 ft. to a ½" iron stake found for a west corner of said Sunset Canyon, Section V, a reentrant corner of said 1539.45 acres; S64°49'56"E., diverging northeast of fence, 448.87 ft. to a ½" iron stake found at a chain link fence; S57°31'21"E., along a chain link fence, at 132 ft. passing a fence corner, then continuing not along a fence, at approximately 282 ft. passing a fence corner, then continuing along or near a fence for a total distance of 580.25 ft. to a found ½" iron stake; S60°43'12"E., 920.97 ft. to a found ½" iron stake; S81°21'53"E., 2491.11 ft. to a ½" iron stake found for a reentrant corner of said 1539.45 acres, a southeast corner of said Sunset Canyon, Section V;

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N28°52'08"W., 517.26 ft. to a ½" iron stake found for a southerly northwest corner of said 1539.45 acres, a reentrant corner of said Sunset Canyon, Section V; N63°15'26"E., 798.41 ft. to a ½" iron stake found for a north corner of said 1539.45 acres, a reentrant corner of Said Sunset Canyon, Section V; S26°44'32"E., 561.86 ft. to a ½" iron stake found for a reentrant corner of said 1539.45 acres, a south corner of said Sunset Canyon, Section V; N59°29'50"E., at approximately 730 ft. passing a fence angle, then continuing not along a fence for a total distance of 764.92 ft. to a ½" iron stake found for a north corner of said 1539.45 acres, a reentrant corner of said Sunset Canyon, Section V; S26°23'27"E., at approximately 59 ft. passing a fence angle post, then continuing along or near a fence for a total distance of 264.07 ft. to a found ½" iron stake; S17°21'54"E., 2302.42 ft. to a found ½" iron stake; S00°59'30"E., 1910.33 ft. to a ½" iron stake found for a reentrant corner of said 1539.45 acres, a southwest corner of said Sunset Canyon, Section V; N88°57'47"E., 630.08 ft. to a ½" iron stake found for the most southerly northeast corner of said 1539.45 acres, a reentrant corner of said Sunset Canyon, Section V; and S04°04'06"E., 925.24 ft. to a ½" iron stake found for the southeast corner of said 1539.45 acres, the most southerly southwest corner of said Sunset Canyon, Section V, in the north right-of-way line of U. S. Highway No. 290;

THENCE, along or near a fence, with the common line between said 1539.45 acres and said U. S. Highway No. 290, all points being concrete highway right-of-way markers unless stated otherwise: S69°21'22"W., 358.83 ft.; S82°04'12"W., 996.05 ft.; S79°07'35"W., 229.38 ft.; S87°43'31"W., 2023.60 ft. to the beginning of a 01°00'51" curve to the right; 152.93 ft. along the arc of said curve subtended by a 01°33'03" central angle and 5649.58 ft. radius (long chord = S88°15'36"W., 152.93 ft.) to its end; N85°09'24"W., 974.20 ft.; and N80°47'34"W., 1714.46 ft. to a ½" iron stake set for the most southerly southwest corner of said 1539.45 acres, the southeast corner of said 138.59 acres;

THENCE, along or near a fence, with the common line between said 1539.45 and 138.59 acre tracts, N00°50'17"W., 1299.94 ft. to a fence corner post for a reentrant corner of said 1539.45 acres, a northeast corner of said 138.59 acres; and S89°03'21"W., 952.49 ft. to the PLACE OF BEGINNING.

I hereby certify that this field notes description and accompanying plat are accurate representations of the property contained therein as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or Corners; that all property corners are as stated. (Bearing basis = True north based on GPS observations)

Dates surveyed: March 2 thru March 17, 2004
Dated this 23rd day of March, 2004



Mike A. Grogan
Registered Professional Land Surveyor No. 5296



Exhibit A-1

Metes and Bounds Description of the School Tract

64.52 Acres

Page 1 of 3

Edward W. Brown Survey Number 136
 W. R. Wood Survey Abstract Number 567
 John F. Gilbert Survey Number 1717
 Levi Lewis Survey Number 154
 Hays County, Texas

DESCRIPTION OF A 64.52 ACRE TRACT, PREPARED BY DELTA SURVEY GROUP, INC. IN SEPTEMBER 2019, LOCATED IN THE EDWARD W. BROWN SURVEY NUMBER 136, ABSTRACT NUMBER 44, THE W. R. WOOD SURVEY ABSTRACT NUMBER 567, THE JOHN F. GILBERT SURVEY NUMBER 1717, ABSTRACT NUMBER 811, AND THE LEVI LEWIS SURVEY NUMBER 154, ABSTRACT NUMBER 639, IN HAYS COUNTY, TEXAS, AND BEING A PORTION OF A REMAINDER OF A CALLED 1035.74 ACRE TRACT CONVEYED TO WFC HEADWATERS, DESCRIBED IN DOCUMENT NUMBER 2014-14000136, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, SAID 64.52 ACRE TRACT, AS SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a $\frac{1}{2}$ inch iron rod with "4542" cap found in the west line of a 300.00 acre tract described in Volume 3434, Page 321, Official Public Records, Hays County, Texas, for the southeast corner of a 29.78 acre tract described in Volume 2639, Page 400, Official Public Records, Hays County, Texas, same being the northeast corner of a 291.33 acre tract described in Volume 258, Page 123, Deed Records, Hays County, Texas, for the **POINT OF COMMENCEMENT**:

THENCE with the west line of said 300.00 acre tract, same being the east line of said 291.33 acre tract, S30°08'08"E, a distance of 1756.75 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set for the southwest corner of said 300.00 acre tract, same being a west corner of said WFC Headwaters remainder tract, for the **POINT OF BEGINNING**:

THENCE with the south line of said 300.00 acre tract, same being a north line of said WFC Headwaters remainder tract, N59°51'45"E, a distance of 1329.23 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set:

THENCE leaving the south line of said 300.00 acre tract, and crossing said WFC Headwaters remainder tract, the following twenty-five (25) courses and distances:

1. S62°05'07"E, a distance of 74.51 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
2. S73°59'56"E, a distance of 160.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
3. S28°33'50"E, a distance of 140.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
4. S01°08'36"E, a distance of 110.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
5. S42°41'44"E, a distance of 90.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
6. S19°45'06"E, a distance of 190.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
7. S38°34'18"E, a distance of 80.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
8. S01°54'25"E, a distance of 160.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
9. S06°58'47"E, a distance of 245.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
10. S21°17'58"E, a distance of 115.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
11. S04°01'24"W, a distance of 75.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,
12. S19°41'28"W, a distance of 160.00 feet to a $\frac{1}{2}$ inch iron rod with "Delta Survey" cap set,

64.52 Acres

Page 2 of 3

Edward W. Brown Survey Number 136
 W. R. Wood Survey Abstract Number 567
 John F. Gilbert Survey Number 1717
 Levi Lewis Survey Number 154
 Hays County, Texas

13. S01°59'28"W, a distance of 200.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
14. S19°40'04"E, a distance of 170.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
15. S41°51'33"E, a distance of 200.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
16. S00°17'38"W, a distance of 90.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
17. S12°18'52"W, a distance of 100.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
18. S47°35'06"W, a distance of 150.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
19. S16°32'55"E, a distance of 85.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
20. S77°33'14"E, a distance of 40.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
21. S31°08'57"E, a distance of 129.55 feet to a ½ inch iron rod with "Delta Survey" cap set.
22. S01°51'04"E, a distance of 148.91 feet to a ½ inch iron rod with "Delta Survey" cap set.
23. N86°55'41"W, a distance of 276.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
24. S38°37'28"W, a distance of 450.00 feet to a ½ inch iron rod with "Delta Survey" cap set.
and
25. N30°08'07"W, a distance of 2100.00 feet to a 60d nail found in rock mound in the west line of said WFC Headwaters remainder tract, same being the east line of said 291.33 acre tract, from which a 60d nail found in said common line bears S85°37'47"W, a distance of 4.32 feet.

THENCE with the west line of said WFC Headwaters remainder tract, same being the east line of said 291.33 acre tract, N30°08'08"W, a distance of 411.60 feet to the POINT OF BEGINNING and containing 64.52 acres of land, more or less.

BEARING BASIS: Texas State Plane Coordinate System, South Central Zone, NAD83/CORS

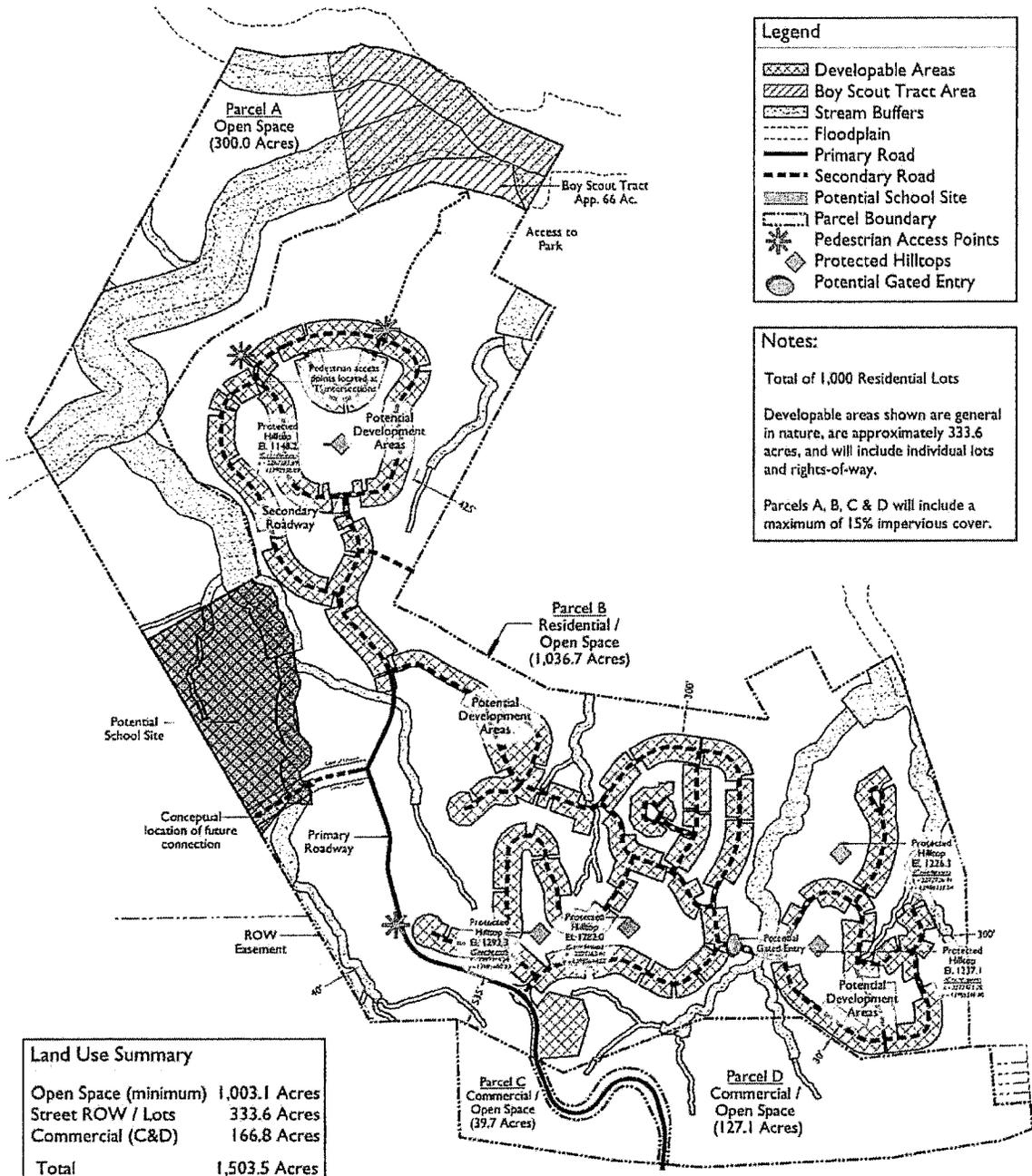
Date: 10-04-19


 John E. Brautigam
 Registered Professional Land Surveyor
 No. 5057, State of Texas



Delta Survey Group, Inc.
 8213 Brodie Lane, Suite 102
 Austin, Texas 78745
 TBPLS Firm No. 10004700

Exhibit B Conceptual Plan



Legend

- Developable Areas
- Boy Scout Tract Area
- Stream Buffers
- Floodplain
- Primary Road
- Secondary Road
- Potential School Site
- Parcel Boundary
- Pedestrian Access Points
- Protected Hilltops
- Potential Gated Entry

Notes:

Total of 1,000 Residential Lots

Developable areas shown are general in nature, are approximately 333.6 acres, and will include individual lots and rights-of-way.

Parcels A, B, C & D will include a maximum of 15% impervious cover.

Land Use Summary

Open Space (minimum)	1,003.1 Acres
Street ROW / Lots	333.6 Acres
Commercial (C&D)	166.8 Acres
Total	1,503.5 Acres

Ownership Summary

Parcel A	Rathgeber
Parcel B	WFC Headwaters Owner VII, L.P.
Parcel C & D	Oryx Development, L.L.C.

Exhibit C

Project Approvals, including Variances and Exceptions

1. The variances from the Applicable Rules attached as Exhibit C-1; and
2. The vehicular transportation standards attached as Exhibit C-2.
3. The City agrees that Owners may request City approval to use non-standard signage and lighting within the Project. The City may agree to allow the use of the non-standard lighting and signage provided that Owners, the District, or a homeowner's association created by Owners assumes the responsibility for any incremental costs associated with the maintenance, replacement or repair of the signage or lighting.
4. The City agrees that dedication of park and open space areas to the District will satisfy the requirement of Section 15.J. of Ordinance No. 1230.1, so long as the land dedicated is restricted to park, mitigation, open space or irrigation uses, as applicable.

Exhibit C-1

1. Ordinance No. 1230.5 Section 9 and Section 15 (Preliminary and Final Plats)

- a) The Preliminary Plat may be drawn at a scale of 1"= 200' on 30" x 42" drawing instead of scale of 1"=100' on 18"x 24" drawing.
- b) Construction security requirements may be satisfied through the execution of a subdivision construction agreement between the City and Owner.

2. Ordinance No. 1230.5 Section 12 (Critical Water Quality Zone)3. Ordinance No. 1230.5 Section 15 (Standards and Specifications)

- a) The proposed roadway standards listed on Exhibit C2 may be permitted.
- b) J. 1. a. For subdivisions which are in the City Limits utilizing an organized wastewater disposal system and community water supply, the minimum lot size shall be 5000 square feet.
- c) J. 1. b. For subdivisions in the ETJ which are utilizing an organized wastewater disposal system and community water supply, the minimum lot size shall be 5000 square feet.
- d) J. 4. Lots on a standard street shall have a minimum street frontage of fifty (50) feet and lots on a cul-de-sac shall have a minimum street frontage of thirty (30) feet.
- e) J. 6. Minimum residential front building setback lines shall be twenty (20) feet. Corner lots shall have a minimum twenty (20) foot setback on one street and ten (10) foot setback on the other street.
- f) J. 6. Minimum commercial building setback lines shall be thirty (30) feet from any residential use.
- g) J. 7. Minimum rear yard depths shall be five (20) feet.
- h) J. 8. Minimum side yard depths shall be five (5) feet.
- i) B. 2. Relation to Adjoining Street System is waived.
- j) B. 3. Projection of streets is waived.
- k) B. 8. Cul-de-Sacs shall not exceed three thousand (3,000) feet in length
- l) B. 9. b. Residential blocks shall not exceed three thousand (3,000) feet in length
- m) B. 12. a. Street Design Standards.

Exhibit C-2

1. Country Lanes shall have a design speed of twenty (20) mile per hour. The minimum centerline radius shall be one hundred (100) feet.
2. Local Streets shall have a design speed of twenty (20) miles per hour and a right of width of fifty (50) feet. The minimum centerline radius shall be one hundred fifty (150) feet.
3. Minor Collectors shall have a design speed of thirty (30) miles per hour. The minimum centerline radius shall be three hundred (300) feet.
4. Major Collectors shall have a design speed of thirty (30) miles per hour. The minimum centerline radius shall be three hundred (300) feet, with a minimum tangent length of one hundred fifty (150) feet.
5. Minor Arterials shall have a design speed of thirty (30) miles per hour. The total minimum pavement width shall be thirty six (36) feet. The minimum centerline radius shall be three hundred (300) feet, with a minimum tangent length of one hundred fifty (150) feet.
6. Shared Access Driveways are permitted to minimize curbcuts along collector roadways.
7. The minimum radius for edge of pavement at intersections for all streets shall be a minimum of fifteen (15) feet.

n) C.5.d. All channels shall have side slopes no steeper than 3:1

4. Ordinance No. 52B Section 8 D. (Building Sites)

- a) For building sites which utilize on-site or regional detention and water quality controls, there shall be no required downstream buffer.

Justification for the requested variances and responses to Section. 7. A. 1 through 5 of Ordinance No. 1230.5:

1. That there are special circumstances or conditions affecting the land involved, such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of this land;

The proposed land use plan for the Project provides for the clustering of residential and commercial development on 475 acres and the provision of approximately 1000 acres of open space. This unique combination of private and public spaces cannot be achieved through the strict application of the City's ordinances. The requested variances will allow the clustering of affordable homes utilizing organized wastewater and central water service, with appropriately sized roadways and effective storm water controls.

2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

Yes. The requested variances are necessary to achieve the goals described in Item 1.

3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and

The requested variances will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area. The proposed infrastructure (i.e. roadways, drainage and utility facilities) for the Project will be designed and constructed in compliance with all applicable standards to protect the public.

4. That the granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this Ordinance. Such findings of the Council together with the specific facts upon which such findings are based shall be incorporated into the official Minutes of the Council meeting at which such variance is granted.

The granting of the variances will not prevent the orderly development of other land in the area. The property is bounded on the south by Highway 290, on the east by the Sunset Canyon subdivision, and on the north and west by tributaries to Barton Creek. These natural and manmade features define and restrict the scope of future infrastructure in the City's planning area. No major roadways or utilities are anticipated to be installed through the property due to these features.

5. Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice is done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

As described above, the proposed Project conforms to the general purpose and intent of the City's Ordinances to protect the public health, safety and welfare.

Exhibit C-2

Street Design and Construction Standards

Code Section	Requirement	Current Standard	Proposed Standard
1230.1 15.B.12.a	Roadway Design Standards	Hays County Stds.	
Functional Classification			
One Way Alley	ADT	-	-
	Design Speed	-	10 mph
	Number of Lanes	-	1
	ROW Width	-	20'
	Width of Traveled Way	-	12'
Two Way Alley	ADT	-	-
	Design Speed	-	10 mph
	Number of Lanes	-	2
	ROW Width	-	20'
	Width of Traveled Way	-	15'
Country Lane	ADT	<100	<100
	Design Speed	25 mph	20 mph
	Number of Lanes	2	2
	ROW Width	50'	50'
	Width of Traveled Way	18'	18'
	Minimum Centerline Radius	200'	100'
	Minimum Tangent Length	50'	50'
Divided Local Street	ADT	-	101-1000
	Design Speed	-	20 mph
	Number of Lanes	-	2
	ROW Width	-	Varies (80-200')
	Width of Traveled Way	-	2@16'
	Minimum Centerline Radius	-	150'
Local Street	ADT	101-1000	101-1000
	Design Speed	25 mph	20 mph
	Number of Lanes	2	2
	ROW Width	60'	50'
	Width of Traveled Way	20'	26'
	Minimum Centerline Radius	300'	150'
	Minimum Tangent Length	100'	100'
Minor Collector	ADT	1001-2500	1001-2500
	Design Speed	35 mph	30 mph
	Number of Lanes	2	2
	ROW Width	60'	60'
	Width of Traveled Way	22'	22'
	Minimum Centerline Radius	375'	300'
	Minimum Tangent Length	150'	150'
Major Collector	ADT	2501-5000	2501-5000
	Design Speed	45 mph	30 mph
	Number of Lanes	2	2
	ROW Width	70'	70'
	Width of Traveled Way	24'	24'
	Minimum Centerline Radius	675'	300'
	Minimum Tangent Length	300'	150'
Minor Arterial	ADT	5001-15000	5001-15000
	Design Speed	55 mph	30 mph
	Number of Lanes	4	4
	ROW Width	100'	100'
	Width of Traveled Way	48'	36'
	Minimum Centerline Radius	975'	300'

	Minimum Tangent Length	500'	150'
Common Driveways	Provides access to lots along collector roadways		Permitted to minimize curb cuts along collector roadway
Traffic Calming Measures	Chicane / Throttle / Neckdown	-	Permitted to allow staggering of roadways around tree clusters and on-street parking
	Gateway	-	Permitted to allow narrowing of roadways at intersections and medians
	Roundabout	-	Permitted for one-way counter-clockwise direction
Sidewalks	Along Roadways	-	Trails permitted

Comparison of Variances to Current Standards

Code Section	Requirement	Current Standard	Proposed Standard
1230.5 9.C.	Preliminary plan format	1" = 100' on 18"x24" drawing	1" = 200' on 30"x42" drawing
1230.5 9.E.	Preliminary plan processing	No duration for completeness check	14 days for completeness check comments
1230.5 14.B.	Security for subdivision construction	Security required	Subdivision construction agreement between the City and developer
1230.5 15.B. 8.	Cul-de-sacs	2000 feet maximum length	3000 feet maximum length
1230.5 15.B. 9.	Block Length	2000 feet maximum length	3000 feet maximum length
1230.5 15.C.5.b.	Drainage Criteria	Rate of runoff after construction shall be less than or equal to the site's runoff prior to construction.	This provision shall not apply to drainage basins wholly within the development with impervious cover less than 20 percent that drain to Barton Creek or its tributaries internally to the property.
1230.5 15.C.5.d.	Channel Design	4:1 side slopes	3:1 side slopes
1230.5 15.J.1.a.	Lot Requirements	Minimum lot size of .5 acre	Minimum lot size of 5000 sf
1230.5 15.J.1.b.	Lot Requirements	Minimum lot size of 1 acre	Minimum lot size of 5000 sf
1230.5 15.J.4.	Frontage	Std. street : min. 100' Cul-de-sac : min. 60'	Std. street : min. 50' Cul-de-sac : min. 30'
1230.5 15.J.6.	Setback Lines	Residential Front: min. 30' Corner Lots: 30' & 20' Commercial	Residential Front: min. 20' Corner Lots: 20' & 10' Commercial

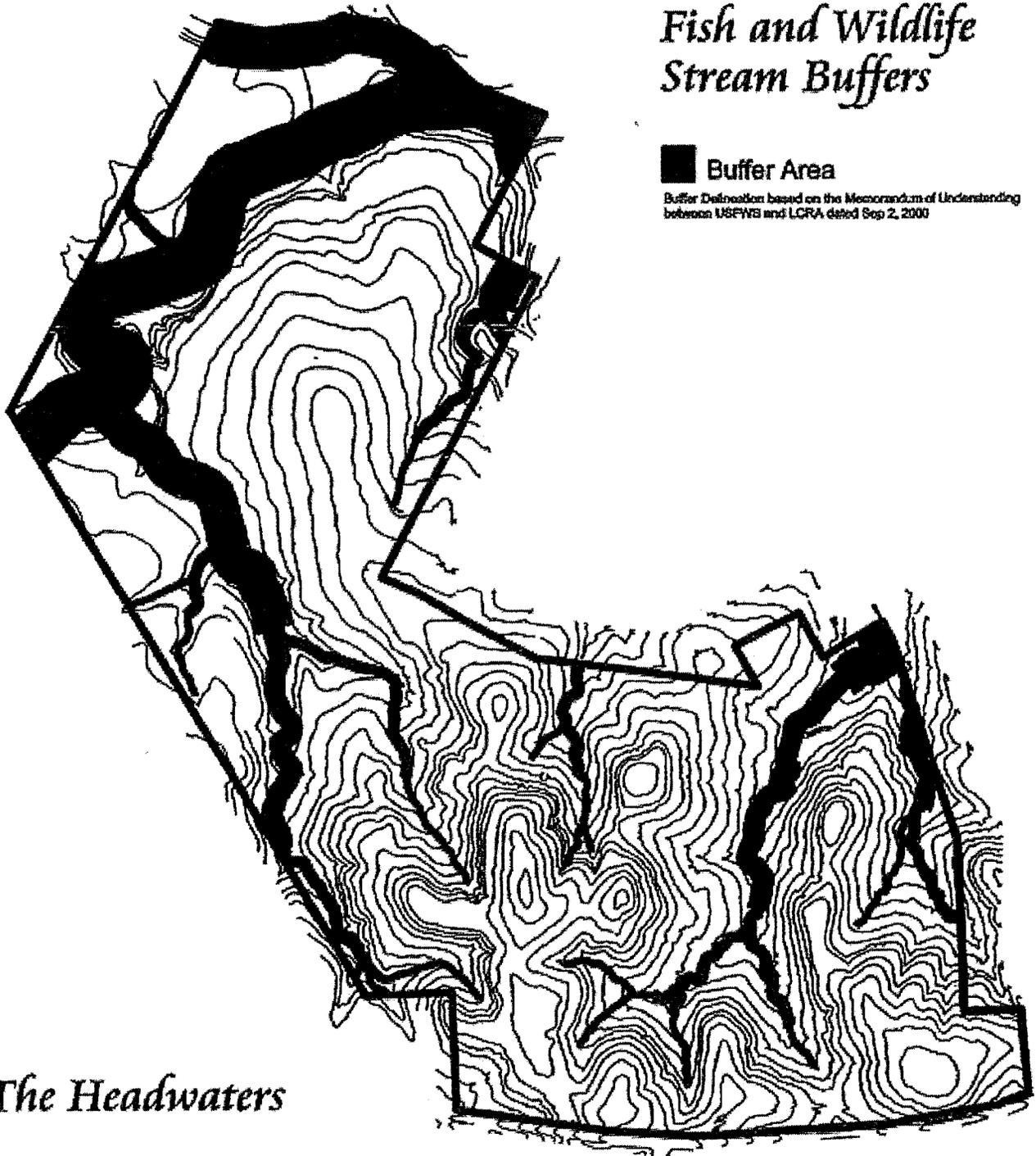
		Front: min. 30' Corner Lots: 30' & 20'	30' from any residential use
1230.5 15.J.7.	Rear Yards	Min. 30'	Min. 20'
1230.5 15.J.8.	Side Yards	Min. 10'	Min. 5'

Exhibit D
Buffer Zones

*Fish and Wildlife
Stream Buffers*

■ Buffer Area

Buffer Distinction based on the Memorandum of Understanding
between USFWS and LCRA dated Sep 2, 2000



The Headwaters

Exhibit E

Water Conservation Plan for City of Dripping Springs

Water Conservation Plan

For

City of Dripping Springs

Hays County, Texas

Prepared for:

City of Dripping Springs
P.O. Box 384
Dripping Springs, Texas 78620

Prepared by:

CMA Engineering, Inc.
14101 West Highway 290
Building 600
Austin, Texas 78737
(512) 894-3230

February 2004

1.0 Introduction

The City of Dripping Springs (City) developed this Water Conservation Plan (Plan) for its wastewater service area in an attempt assist in managing public water resources. The City recognizes that it is not the water provider within its proposed wastewater service area (see Appendix A), and therefore does not have the authority to completely manage public water resources within that area. Benefits of water conservation include: extending available water supplies; reducing the risk of shortage during periods of extreme drought; reducing water and wastewater utility operating costs; improving the reliability and quality of water and wastewater utility service; reducing customer costs for water and wastewater service; reducing wastewater flows; improving the performance of wastewater treatment systems; and enhancing water quality and the environment.

1.1 Scope

This Plan applies to all wastewater customers of the City. The water supply source of the City's wastewater customers may be either surface and/or ground water.

1.2 Declaration of Policy, Purpose and Intent

This Plan is designed to assist the water providers in conserving the available water supply and protect the integrity of water supply facilities; and to reduce wastewater utility operating costs; improving the reliability and quality of wastewater utility service; reducing customer costs for wastewater service; reducing wastewater flows, and improving the performance of wastewater treatment systems. The City hereby adopts the following Water Conservation Plan for its retail and wholesale wastewater customers.

2.0 Authorization and Implementation

The City Administrator is hereby authorized and directed to implement the applicable provisions of this Plan.

Further, the City Administrator, or his/her designee, will act as Administrator of the Water Conservation Program. He/she will oversee the execution and implementation of the program and will be responsible for keeping adequate records of program implication.

This Plan was presented to City Council in February 2004. A certified copy of the minutes approving this plan is included in Appendix B.

3.0 Application

The provisions of this Plan shall apply to all persons, customers, and property being served by the City's wastewater system. The terms "person" and "customer" as used in

the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

4.0 Definitions

For the purposes of this Plan, the following definitions shall apply:

Conservation: those practices, techniques and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

City Administrator: Person or entity authorized by the City of Dripping Springs City Council to act on behalf of the City.

Retail Wastewater Customer: an individual or entity that is provided wastewater service directly the City.

Potable Water: water supplied from the LCRA's West Travis County Water System, the Dripping Springs WSC potable water supply well, or private individual water wells.

Wholesale Wastewater Customer: an individual or entity that for compensation supplies wastewater to another. The term does not include an individual or entity that provides wastewater service to itself or its employees or tenants as an incident of that service or tenancy.

5.0 Water Conservation Plan

The City will promote water conservation by informing City residents and wastewater customers about ways to save water inside their homes, commercial establishments and other buildings, in landscaping and lawn uses, and in recreational uses. Information may be distributed to customers as described below:

- 1) All new members will receive a water conservation information packet upon applying for wastewater service.
- 2) Distribution of water conservation brochures notifying customers of changes made to the plan
- 3) Newspaper articles or inserts on water conservation
- 4) Work with area schools and/or civic organizations to promote water conservation activities such as water conservation week.
- 5) School education programs
- 6) Notifying customers of other entities that have implemented water conservation programs in the area such as the Dripping Springs WSC and the LCRA

Other conservation strategies include promoting the recycling and reuse of reclaimed wastewater from the City's wastewater system.

6.0 Plan Review and Updates

This Plan was developed to provide community and wastewater customers with essential water conservation information and services. In the future, supplemental appendices may be added as determined by the City Council. In addition, the Plan will be reviewed at a minimum of every five (5) years and updated based on other developments in District's water service area.

Exhibit F

Water Quality Plan

Runoff from this development shall be managed through water quality controls and onsite pollution prevention and assimilation techniques so that no increases as measured by the performance standards set out herein, occur in the respective average annual loadings of total suspended solids, total phosphorus, pesticides, and herbicides from the site.

PERFORMANCE STANDARDS

All development shall achieve the following performance standards:

(a) Total Suspended Solids, Total Phosphorous.

(1) Total Suspended Solids. For development on slopes between zero percent (0%) and ten percent (10%), seventy percent (70%) of the annual pollutant load increase in the stormwater runoff for total suspended solids shall be removed. For development on slopes greater than ten percent (10%) but less than twenty percent (20%), eighty percent (80%) of the annual pollutant load increase in the stormwater runoff of total suspended solids shall be removed. For development on slopes greater than twenty percent (20%), ninety percent (90%) of the annual pollutant load increase in the stormwater runoff of total suspended solids shall be removed.

(2) Total Phosphorous. For development on slopes between zero percent (0%) and ten percent (10%), seventy percent (70%) of the annual pollutant load increase in the stormwater runoff for total phosphorous shall be removed. For development on slopes greater than ten percent (10%) but less than twenty percent (20%), seventy-five percent (75%) of the annual pollutant load increase in the stormwater runoff for total phosphorous shall be removed. For development on slopes greater than twenty percent (20%), eighty-five percent (85%) of the annual pollutant load increase in the stormwater runoff of total phosphorous shall be removed.

TABLE 1
PERFORMANCE STANDARDS FOR POLLUTANT REMOVAL LEVELS

SLOPE	TOTAL SUSPENDED SOLIDS	TOTAL PHOSPHOROUS
0-10%	70%	70%
10 - 20% SLOPE	80%	75%
>20% SLOPE)	90%	85%

(b) Streambank Erosion. Streambank erosion shall be controlled by designing the drainage system so that the amount of erosion and siltation occurring in the receiving streams is not increased. Specifically, the magnitude and frequency of the pre-development one year design storm shall remain the same. The one year design storm shall be that storm as defined in the LCRA Technical Manual. Receiving streams with a watershed of less than 160 acres are not subject to the above requirement, but a streambank erosion control plan must be reviewed and approved by the City.

(c) **Erosion and Sedimentation Control.** Erosion and sedimentation shall be controlled throughout the development process in accordance with the LCRA Technical Manual.

(d) **Alternative Performance Standards.** Development that meets all of the following criteria need not comply with subsections (a) and (b) of this Section:

(1) Minimum lot size of one acre; and

(2) Street and drainage network is designed without curbs or gutters, or some other suitable design, so that runoff is treated using over-land flow methods to a vegetated buffer. The vegetated buffer must meet the slope and vegetative area cover criteria described in the LCRA Technical Manual.

(e) **Sub-basin Averaging.** It is the intent of the Ordinance to have a project, as a whole, meet these performance standards. Each phase of a project shall also meet the performance standard when such performance standard is averaged with phases previously built or under construction. As such, averaging of performance standards between sub-basins is allowed under the following conditions:

(1) Performance standards shall be met or exceeded where drainage impacts an adjacent land owner or environmentally sensitive area.

(2) No off-site sub-basin discharge shall fall below the performance standard by more than ten percent (10%).

(f) **Monitoring and Reporting.** The City may require water quality performance monitoring of certain BMPs. Water quality monitoring shall last a period of at least 3 years. The cost of monitoring shall be borne by the developer. During the monitoring period, the applicant shall submit annual reports showing the results of the monitoring efforts. The pollutant parameters to be monitored shall be determined by the City.

(g) **Ground cover.** Areas disturbed during construction activities shall be restored to a coverage level consistent with a stable undisturbed condition.

(h) **Point discharges.** New point discharges of runoff into critical water quality zones or water quality buffer zones shall be dissipated to sheet flow conditions throughout the zone.

(i) **Herbicides and Pesticides.** The use of fertilizers and pesticides shall be prohibited within critical water quality zones or water quality buffer zones.

(j) **Integrated Pest Management (IPM).** An IPM must be submitted with each development plan.

(k) Public Awareness/Education. The developer must prepare and submit an education and public awareness plan which shall include implementation responsibility.

(l) Fiscal Surety. Developers and/or its assigns must post fiscal surety for ongoing (post-acceptance) operation and maintenance of water quality controls and best management practices.

(m) Buffer Zones. Buffer zones (i.e., undisturbed natural areas) should be established for the stream drainage system and for sensitive environmental features within the Edwards Aquifer watersheds.

A. Buffer zones should remain free of construction, development, or other alterations. Water quality ponds may be constructed within buffer zones only when no other practical alternative exists. The number of roadways crossing through the buffer zones should be minimized and constructed only when necessary. Other alterations within buffer zones could include utility crossings, but only when necessary, fences, low impact parks, and open space. Low impact park development within the buffer zone should be limited to trails, picnic facilities, and similar construction that does not significantly alter the existing vegetation. Parking lots and roads significantly alter existing vegetation and are not considered low impact. Neither golf course development nor wastewater effluent irrigation should take place in the buffer zone. Stormwater from development should be dispersed into overland flow patterns before reaching the buffer zones. The buffer zones should not be used in the pollution management calculations because the purpose of these areas is to "buffer" the system from the effects of the development. The development should achieve non-degradation before entering buffers of major streams.

B. Each stream should have an undisturbed native vegetation buffer zone on each side of the stream that includes the 100 year floodplain or as follows, whichever is greater:

Streams draining 640 acres (one square mile) or greater should have a minimum buffer of 300 feet from the centerline on each side of the stream.

Streams draining less than 640 acres but 320 or more acres should have a minimum buffer of 200 feet from the centerline on each side of the stream.

Streams draining less than 320 acres but 128 or more acres should have a minimum buffer of 100 feet from the centerline on each side of the stream.

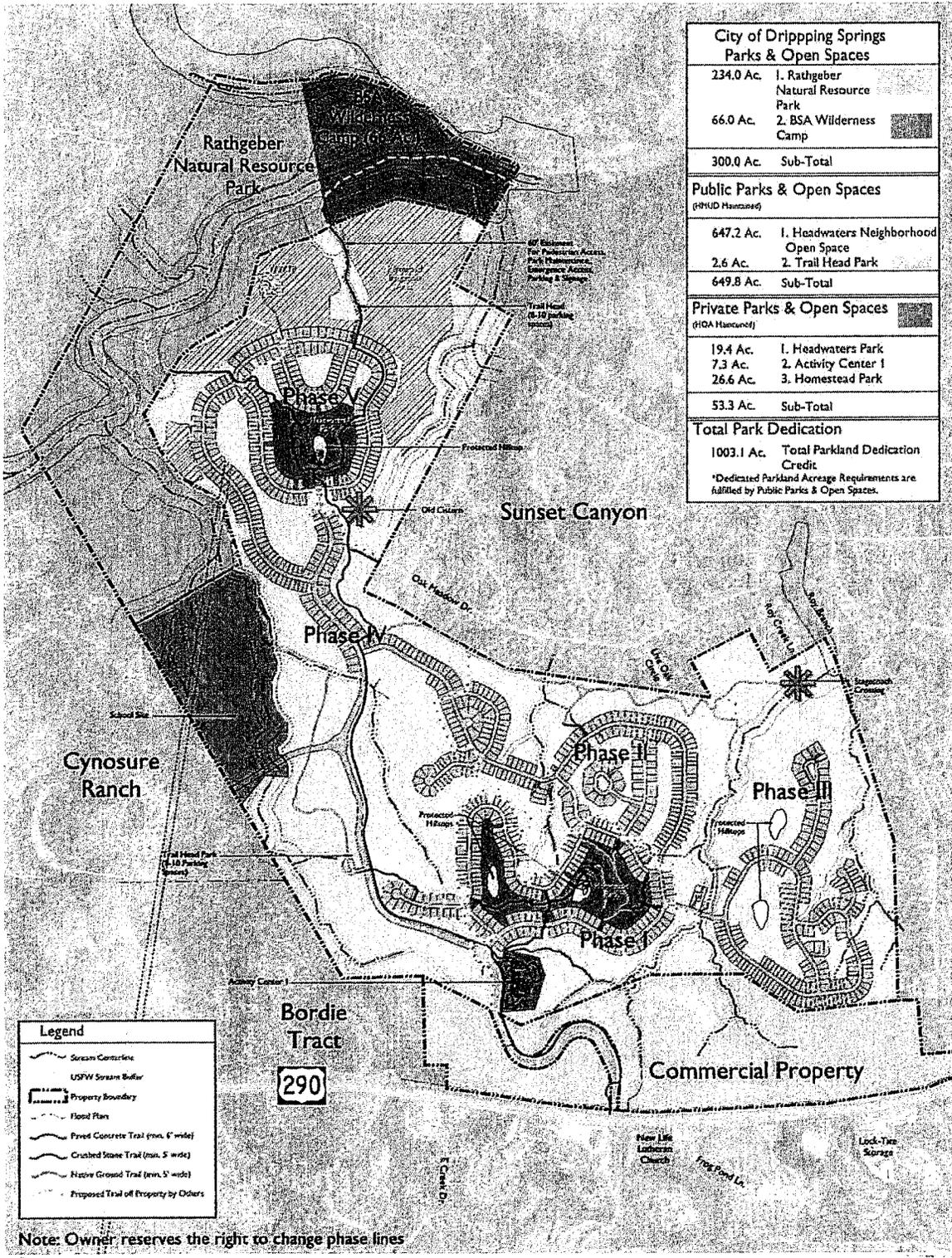
Streams or swales draining less than 128 acres but 40 or more acres should have a minimum buffer of 50 feet from the centerline on each side of the drainage.

Streams or swales draining less than 40 acres but 5 or more acres should have a minimum buffer of 25 feet from the centerline on each side of the drainage.

C. Sensitive environmental features should have a minimum buffer zone of 150 feet around the feature (radius) provided there is adequate vegetative cover and the soils in the buffer zone are not eroding and are stable. This distance would provide the vegetative cover and surface area for pollutant removal from runoff before it enters the feature. If the drainage to a feature is greater than 150 feet in length, then the minimum buffer should be expanded to a minimum of 300 feet for the area draining into the feature. Sensitive environmental features include: caves, sinkholes, faults with solution-enlarged openings, fracture zones with solution-enlarged openings, springs, seeps, or any wetland area that holds water or supports mesic vegetation for sustained periods. Sensitive features as defined by the "Instructions to Geologists for Geologic Assessments on the Edwards Aquifer Recharge/Transition Zones", Texas Commission on Environmental Quality (TCEQ) document 0585 (Rev. 5/1/02) should have these buffers established.

(n) **Maintenance Plans.** Plans for inspection and maintenance of the measures are necessary in order to ensure their proper functioning. Documentation should be provided that ensures sufficient annual funding to properly inspect and maintain the measures.

Exhibit G
Parks and Open Space Master Plan



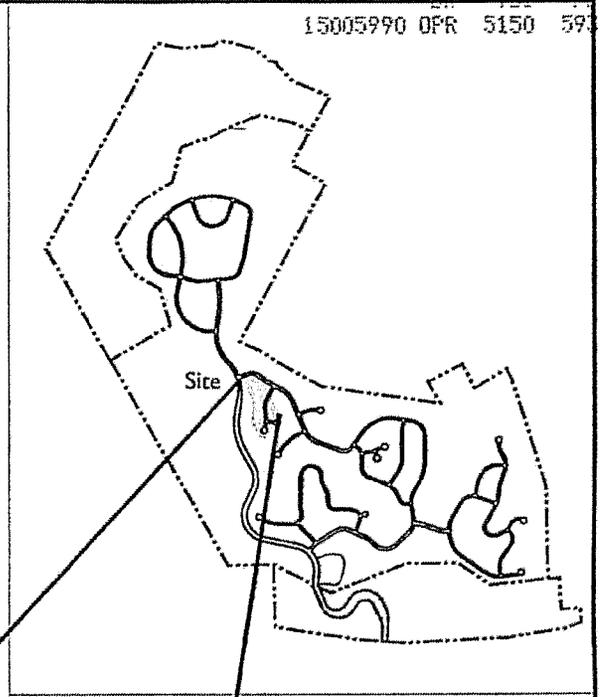
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EXHIBIT G

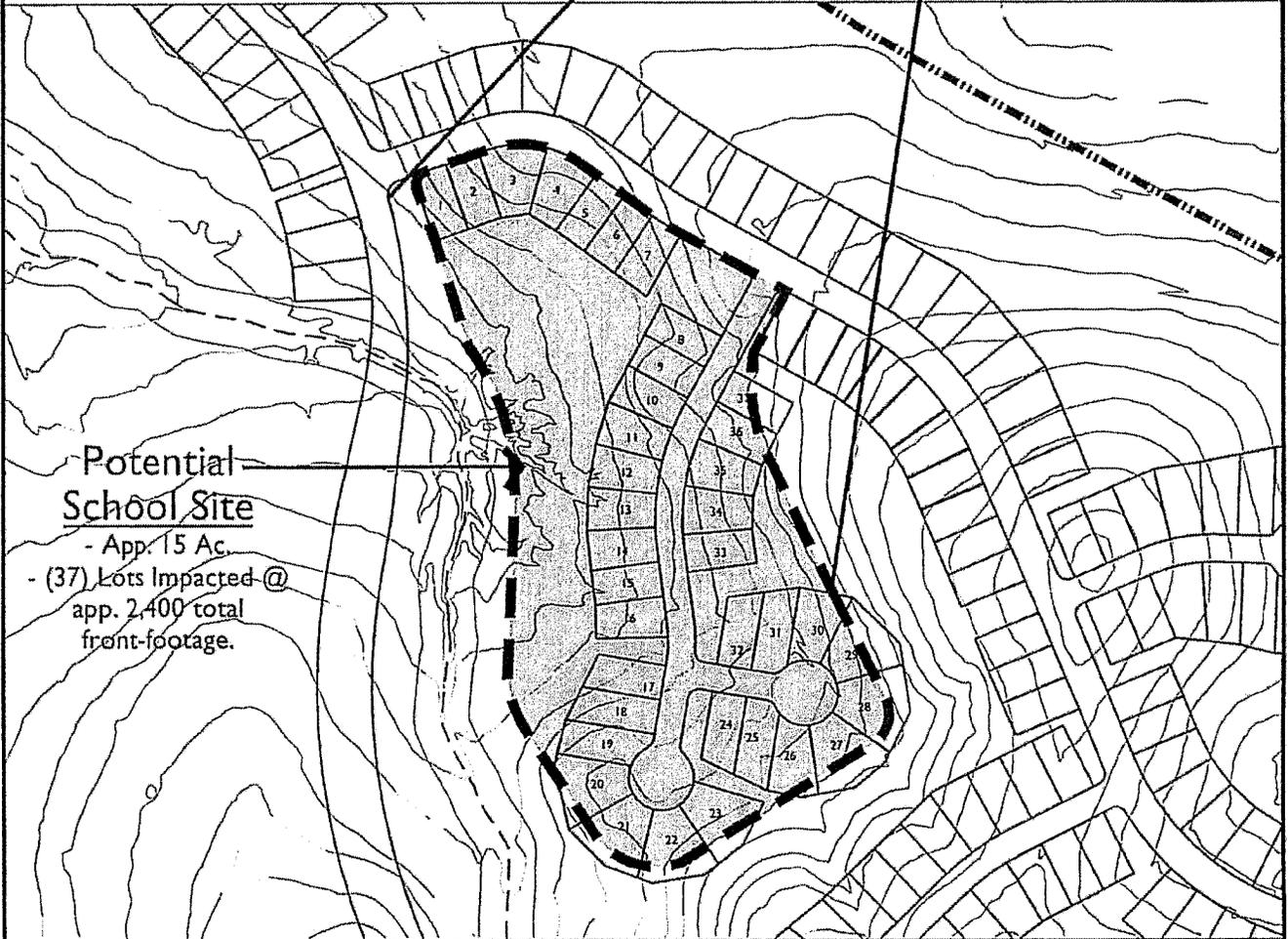
School Tract Detail Sheet

Conceptual Plan - School Tract Detail Sheet

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Key Map



Potential School Site

- App. 15 Ac.
- (37) Lots Impacted @
app. 2,400 total
front-footage.

**THE STATE OF TEXAS
COUNTY OF HAYS**

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

20021129 AGREEMENT
06/01/2020 04:31:58 PM Total Fees: \$282.75

Elaine H. Cárdenas, MBA, PhD, County Clerk
Hays County, Texas

