

Driftwood 552, LLC

Driftwood Golf Club Development, Inc.

Brown Tract

DEVELOPMENT AGREEMENT

Between the

City of Dripping Springs

&

Driftwood 552, LLC

&

Driftwood Golf Club Development, Inc.

DEVELOPMENT AGREEMENT

This Driftwood Development Agreement (“Agreement”) is between the City of Dripping Springs, (“the City”), Driftwood Golf Club Development, Inc. and Driftwood 552, LLC. Driftwood Golf Club Development, Inc. and Driftwood 552, LLC are collectively referred to herein as “Owner”. In this Agreement the City and Owner are sometimes individually referred to as a “Party” and collectively referred to as the “Parties”.

RECITALS

WHEREAS, Owner owns approximately 522.636 acres of land (“the Property”) located wholly within the extraterritorial jurisdiction (“ETJ”) of the City and in Hays County, Texas (hereinafter sometimes “the County”), which is more fully described in *Exhibit A* attached hereto; and

WHEREAS, Owner intends to develop the Property as a master-planned, mixed-use community that will provide for residential, commercial, and recreational uses, together with Open Space; and

WHEREAS, the development will include uses that will attract and serve tourists and visitors to the area; 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 that any variances granted herein are consistent with the intent of the Comprehensive Plan; and

WHEREAS, the City has determined that development agreements with developers of master-planned communities such as the “Project” (as defined herein) 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 Owner are striving to achieve balance between the pressure 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 Owner measure of predictability in terms of applicable municipal regulations and development fees; and

WHEREAS, this Agreement grants the City the public benefits related to the application of certain municipal regulations in the ETJ, including building codes, land use regulations including

lighting and landscaping regulations, and exterior design standards for non-residential structures, as specified within this Agreement; and

WHEREAS, Owner 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 Property; 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, this Agreement runs with the land, and thus shall be filed in and among the land records of Hays County, and is binding upon subsequent purchasers of the Property, or any portions thereof; and

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

NOW THEREFORE, FOR GOOD & VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, including the agreements set forth below, the City and Owner agrees as follows:

ARTICLE 1. DEFINITIONS

1.1 General.

Words and phrases used in this Agreement shall have the meanings set forth in this section. Terms that are not defined below, but are defined in the City’s Code of Ordinances, shall be given the meanings set forth in the Code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and *vice versa*); and words in the masculine gender shall include the feminine gender (and *vice versa*). The word “shall” is always mandatory, while the word “may” is merely directory.

Headings and captions are for reference purposes only.

1.2 Specific.

Agreement: This Development Agreement between the City of Dripping Springs, Texas and Owner, including all Exhibits, which are incorporated herein for all intents and purposes.

Applicable Fees: The fees and charges to be paid by Owner to the City with respect to the development of the Property.

Applicable Rules: The City Rules that, as modified by the Project Approvals and variances granted concurrent with this Agreement, if any, exist on the Effective Date of this Agreement and will be applicable to the development of the Property for the term of this Agreement. This term does not include regulations mandated by state law, or that are necessary to prevent imminent harm safety to property, which may be modified and made applicable to the Project even after the Effective Date.

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

Building Code: Collectively, the most recent versions of the City's Building Code.

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

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

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

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

City Rules: The entirety of the City's ordinances, regulations and official policies, except as modified by this Agreement.

Conceptual Land Use Plan: The Conceptual Land Use Plan of the Project attached as *Exhibit B*, as it may be amended from time to time in accordance with this Agreement.

County: Hays County, Texas.

Driftwood Conservation District: The municipal utility district created pursuant to the authority of Section 59, Article XVI of the Texas Constitution, with enabling legislation codified at Chapter 7982, Texas Special District Local Laws Code.

Dwelling Unit: Real property improved with a house, apartment, condominium, duplex, or similar improvements that provides basic living accommodations including sleeping space, bathroom and cooking facilities.

Effective Date: The date upon which this Agreement is executed by all parties.

Golf Course: The private golf course and related amenities as shown on the Conceptual Land Use Plan.

Hays Trinity Groundwater Conservation District ("HTGCD"): The groundwater conservation district created pursuant to the authority of Section 59, Article XVI of the Texas Constitution, with enabling legislation as codified at Chapter 8843, Texas Special District Local Laws Code.

Impervious Cover: Buildings, parking areas, roads, and other impermeable man-made improvements covering the natural land surface that prevent infiltration. For purposes of compliance with this Agreement, the term expressly excludes storage tanks for rainwater collections systems, the structure covering specifically the rainwater collection tanks, and other exceptions as may be specified in this Agreement.

Impervious Cover Percentage: The percentage calculated by dividing the total acres of impervious cover on the Property by the total number of acres included in the Property. Whether or not outdoor decks are included in the calculation of impervious cover shall be determined by the City Engineer during the Site Plan review process based on the deck design and materials. Whether decomposed granite trails, parking areas or other low traffic use areas covered with decomposed granite shall be considered impervious cover shall be determined by the City Engineer during the Site Plan review process.

LCRA: The Lower Colorado River Authority, or its successor agencies.

LEED Program: The Leadership in Energy and Environmental Design (LEED) program.

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.

Open Space: A tract of real property not occupied by any structure or impervious surfaces except as otherwise provided for in this Agreement and legally restricted from future development. Open Space uses may include active or passive recreation, agricultural uses and may include landscaping. Property within the confines of individual residential lots shall not qualify as Open Space under this Agreement. Portions of the Project proposed as Open Space are generally displayed in *Exhibit B*.

Owner: Driftwood 552, LLC, a Texas limited liability company, Driftwood Golf Club Development, Inc., a Delaware corporation and any successors and assigns.

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.

Project: The Property, as it will be developed under this Agreement pursuant to the Conceptual Land Use Plan, attached as *Exhibit B*, subject to Owner's ability to change the Conceptual Land Use Plan as set out elsewhere in this Agreement, including, without limitations, Section 3.6 below.

Project Approvals: The approvals, waivers, variances and exceptions to the Applicable Rules approved by the City with respect to the development of the Property.

Property: Approximately 522.636 acres of land, in Hays County, Texas, more fully described on the attached *Exhibit A*.

Reclaimed Water: Water consisting in whole or in part of treated wastewater effluent provided pursuant to 30 TAC §210 and/or other authority, as provided for in the Reclaimed Water Agreement between the City of Dripping Springs, Texas and Maile's Development Company dated November 15, 2016, and assigned to Driftwood Austin, LLC on February 20, 2018.

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., golf, playground activities, swimming, tennis and track). Passive Recreation involves activities that are relatively inactive or less energetic (e.g., board games, picnicking, and walking).

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

TxDOT: Texas Department of Transportation, or its successors.

Texas Parks & Wildlife Department: An agency of the State of Texas, or its successors agency.

US Army Corps of Engineers: An agency of the United States, or its successor agency.

US Fish and Wildlife Service ("USFW"): An agency of the United States, or its successor agency.

West Travis County Public Utility Agency ("WTCPUA"): The West Travis County Public Utility Agency is a publicly owned water and wastewater utility serving western Travis County and northern Hays County. The WTCPUA was created in December 2011 for the purpose of acquiring, owning and operating the LCRA's West Travis County Water and Wastewater System.

210 Beneficial Reuse: An economic use of wastewater in accordance with the purposes, applicable requirements, and quality criteria of Chapter 210, Title 30 of the Texas Administrative Code (The TCEQ Regulations), and which takes the place of potable and/or raw water that could otherwise

be needed from another source. The use of reclaimed water in a quantity either less than or the economically optimal amount may be considered a beneficial use as long as it does not constitute a nuisance.

ARTICLE 2. PUBLIC BENEFITS, INFRASTRUCTURE & AMENITIES

- 2.1 **Orderly Growth:** The City desires the development within its ETJ occur in an orderly manner in order to protect 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, and the development of a balanced community that includes residential, commercial, 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 Land Use regulations including Lighting, Building, Signs and Landscaping.
- 2.2 **Provision of Housing:** The development of the Property under this Agreement is intended to provide high quality housing 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.
- 2.3 **Water & Wastewater Infrastructure:**
 - 2.3.1 **Centralized water service** for the residential portion of the Project and for potable use in the commercial portions of the Project is to be provided on a retail basis by the City through its wholesale water agreement with WTCPUA.
 - (a) Groundwater may be used for irrigation of Open Space areas (including the Golf Course prior to the availability of Reclaimed Water per subsection (b) below), and for makeup water for water quality wet ponds.
 - (b) Reclaimed Water from the City shall, upon availability, be used for any purpose authorized by the Reclaimed Water Agreement between the City of Dripping Springs, Texas and Maile's Development Company, dated November 15, 2016 and assigned to Driftwood Austin, LLC, on February 20, 2018, and all related subsequent agreements between the City and Owner. Prior to the availability of Reclaimed Water from the City, Owner may use potable water and/or groundwater approved by the HTGCD for Golf Course construction and irrigation purposes. Additionally, Reclaimed Water may be used to irrigate other Open Space areas and landscaped areas and as makeup water for water quality wet ponds on an as needed basis if authorized by the Reclaimed Water Agreement or other related subsequent agreements between the City and Owner and if authorized by the TCEQ.

- (c) Water for non-potable commercial uses in addition to the Golf Course may be from either the city of Dripping Springs or from groundwater as authorized by the HTGCD.
- 2.3.2 Centralized wastewater service for residential development with the Property will be provided by the City. Select commercial uses may require use of a centralized wastewater collection and treatment system. Such wastewater systems will comply with all applicable governmental regulations.
- 2.4 Recreation & Tourism: The development of the Project, as contemplated by this Agreement, will promote and enhance recreation and tourism for the City with the Golf Course and with additional commercial development.
- 2.5 Open Space: The Project will include approximately 228 acres of Open Space, including greenbelts, irrigation, the Golf Course, and agricultural/landscaped areas, meeting the requirements of the City's Parkland Dedication Ordinance, when applicable, excepting the entirety of the Golf Course as private land to which the Parkland Dedication Ordinance will not apply, and as depicted in the Conceptual Land Use Plan attached hereto as *Exhibit B*. Parkland Dedication Ordinance compliance for the commercial and residential portions of the Project will occur in connection with preliminary subdivision plans for such development.
- 2.5.1 Operation & Maintenance: The operation and maintenance of the Golf Course will be the responsibility of the Owner or its assignee. Operation of the remainder of the Open Space areas will be the responsibility of the Owner or its assignee or the Association.
- 2.5.2 Public Access: The primary use and enjoyment of the Open Space, including the Golf Course, will be limited to the future residents of the Project and members/guests of the Golf Course.
- 2.5.3 Amenities: In keeping with the intent of preserving the natural environment to the maximum extent feasible the amenities provided in the Open Space areas other than the Golf Course will largely be limited to hike and bike trails and other passive uses.
- 2.6 Fees: 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 his Agreement and the development of the Property under this Agreement. Owner agrees to pay to City certain development fees (as herein defined) as follows:
- 2.6.1 Administrative & Professional Fee: Except as provided herein, Owner agrees to pay the Development Agreement fees in accordance with the City's Ordinance currently in effect.
- 2.6.3 Platting Fee: In order to cover the City's administrative and professional costs related to plat review and approval under this Agreement. Owner agrees to pay the City platting fees in accordance with the City's ordinances presently in effect.

- 2.6.4 Site Development Permit Fees: Owner agrees to pay Site Development Fees calculated based upon the City Engineer's site development estimate.
 - 2.6.5 Construction Inspection Fees: City may approve a direct contract between the City's building inspection contractor and the Owner. In the event of such a contract, the City shall not charge a construction inspection fee to Owner.
 - 2.6.6 Miscellaneous Fees: Any fees not specifically addressed under this Agreement shall be imposed in accordance to the City fee schedule applicable at the time of application for the specific authorization sought. Examples of miscellaneous fees not addressed under this Agreement include, but are not limited to, fees related to authorizations for signs, re-plat amendments, or zoning changes. The Project will only be subject to fees not specifically addressed in this Agreement if the fees were being assessed uniformly in the City and its ETJ on the Effective Date of this Agreement. This section does not apply to fees mandated by changes in state or federal law. The Parties may negotiate a fee for any amendment of this Agreement.
- 2.7 Environmental Protection: Owner shall comply with the following natural resource laws and regulations, to the extent applicable.
- 2.7.1 Aquifer Protection: The Project lies within the Baron Springs Segment of the contributing zone to the Edwards Aquifer. As a condition for receiving LCRA/WTCPUA water the Project will comply with water quality measures designed to assure protection of that segment of the Edwards Aquifer consistent with the provisions of the Memorandum of Understanding between the LCRA and the U.S. Fish and Wildlife Services. Moreover, Owner will comply with all applicable TCEQ regulations, including but not limited to Edwards Aquifer Rules, 30 TAC 213, as may be amended, to the extent applicable to the Property. Owner shall also take reasonable measures to protect the Trinity Aquifer, to the extent applicable to the Property, including a maximum adherence to the above-cited Edwards Aquifer Rules.
 - 2.7.2 Land Application Restrictions: In the event a centralized wastewater collection and treatment system is constructed, Owner agrees that any TCEQ permit application will be based on irrigation of the effluent and will not propose a discharge of effluent to waters of the state. Irrigation may be above ground, subsurface, or a combination of the two, as allowed by TCEQ. The City shall be provided with a copy of any such TCEQ application concurrent with submittal to TCEQ. Beneficial wastewater reuse will be pursued with opportunities including, but not limited to, irrigation of the agricultural/landscaped areas and Golf Course, or reuse as makeup water in the Project's water quality wet ponds.
 - 2.7.3 Waterway Protection: If applicable, 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, construction of water quality protection infrastructure, and other Project development, including but not limited to Clean Water Act Section 404.

- 2.7.4 Stormwater Controls: Owner will prepare and implement a stormwater pollution prevention plan in compliance with the TCEQ's Texas Pollution Discharge Elimination System stormwater general permit and applicable regulatory requirements for construction activities.
- 2.7.5 Water Quality Protection Ordinance: Owner agrees to implement and comply with the City's Water Quality Protection Ordinance in place of the Effective Date except as modified by this Agreement in *Exhibit C* and elsewhere.
- 2.7.6 Voluntary Measures: The Conceptual Land Use Plan attached as *Exhibit B* provides for numerous voluntary environmental protection measures for the benefit of this Project and provided for a substantial amount of Open Space.
- (a) Owner Education: Owner 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 are and methods of environmental resource protection.
- (b) Design Guidelines for Single-Family Detached Residential: Each lot shall have a specifically designed area within which housing construction, clearing, and landscaping will be allowed, subject to the review and approval of the Owner or the architectural control committee of the Homeowner Association. The balance of the lot is to remain in a natural state; through removal of cedar and/or enhancement of native vegetation may be permitted on a case-by-case basis, as well as disturbance as necessary for utility installation and/or maintenance, provided the area is restored to its natural state. Single-Family Residential guidelines will specify use of native and/or adapted species of plant materials and prohibit use of St. Augustine grass.
- (c) Public Education: Owner agrees to collaborate with the City, the HTGCD, the WTCPUA, the US Fish & Wildlife Service and local school districts to explore the opportunities for public education regarding preservation of the environment using the Project as an example.
- 2.7.7 Wells: Owner agrees that the use of groundwater will be limited to irrigation of agricultural/landscaped areas, wet pond makeup water, irrigation of the Golf Course, and non-potable commercial uses. Permits for use of groundwater will be obtained from the HTGCD as required. New groundwater wells shall be prohibited on single-family residential lots. Wells existing on the Property may continue to be used for existing uses, activities and improvements per Section 3.2.4(e) below.

2.7.8 Wet Pond Makeup Water: The potential sources for wet pond makeup water shall include rainwater, reclaimed water, groundwater and such other sources as may be approved by the Driftwood Conservation District or the TCEQ, as applicable.

2.8 Deed Restrictions: Owner agrees that all restrictive covenants for the Project shall reference the provisions of this Agreement and be made applicable to all builders and subsequent buyers. Copies of the restrictive covenants will be provided to the City for review and comment.

ARTICLE 3. PROPERTY DEVELOPMENT

3.1 Governing Regulations: For purposes of any grandfathering analysis, the Parties agree that the relevant date is the Effective Date, for purposes of compliance with Texas Local Government Code Chapter 245, as may be amended. For purposes of this Agreement, the Effective Date is the date of execution by all Parties, unless otherwise specified within this Agreement. The Applicable Rules shall govern the Project, unless otherwise expressly provided in this Agreement.

3.2 Project Approvals & Entitlements:

3.2.1 Project Approvals: The Project Approvals, including the Project Variances set forth in the variances Chart in *Exhibit C*, attached hereto and incorporated herein, 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 Property. This Agreement shall serve as guidance for the review and approval of any additional waivers, variances, exceptions or other municipal authorizations not specifically included in this Agreement.

3.2.2 Conceptual Land Use Plan: The City confirms that the Conceptual Land Use Plan attached as *Exhibit B* complies with the City's Master Plan and Comprehensive Plan, and that the Conceptual Land Use Plan, and all land uses and densities, have been approved by all requisite City departments, boards and commissions and by the City Council. The City approves the land uses, densities, and reservations of land for public purposes, exceptions, utility and roadway alignments and sizing and other matters shown on the Conceptual Land Use Plan. The City's execution of this Agreement shall be deemed to be the approval of the Conceptual Land Use Plan upon which the Preliminary Plats for development of the Property will be based. Developer confirms that any parkland dedication that has already been approved or that will be approved in the future will adhere to City's Parkland Dedication Ordinance upon preliminary platting.

3.2.3 Density of Development: With respect to the density of the Project, Owner will have the right to develop the Property at a density set forth on *Exhibit B* not to exceed 150 residential lots.

3.2.4 Land Uses:

(a) For purposes of this Agreement the following shall be allowed within all areas: single-family residences and related accessory uses and structures; Open Space; hike and bike

trails; agricultural/landscaping uses, including but not limited to vineyards; roadways; and drainage, detention and water quality facilities.

- (b) Commercial uses shall be limited to the areas designated as such on the Conceptual Land Use Plan. Allowable commercial uses shall include resort, lodge, spa, restaurant, food processing, entertainment, dinner theater, convenience store, small grocery, gas sales, helipad, offices, salon, bakery, clothing, art galleries, antique sales, artisan studios, winery, microbrewery and distillery, on-site sale and consumption of alcoholic beverages, liquor store, garden center, nursery, compost production and any other use included in the City's General Retail (GR) zoning category. Development of Commercial uses shall be subject to site development regulations applicable to the City's General Retail (GR) zoning district.
- (c) Multi-family, condominium or townhouse uses will be limited to the areas designated on the Conceptual Land Use Plan.
- (d) The Golf Course and related facilities shall be limited to the areas designated as such on the Conceptual Land Use Plan.
- (e) Continuation of Existing Uses, Activities & Improvements: Lawful land uses, activities and improvements that currently exist on the Property shall be allowed to continue operating in the same manner and location, including upon annexation of all or any portion of the Property into the City, regardless of any City Rules or Applicable Rules to the contrary. Current uses, activities, and improvements that are expressly permitted to continue include, without limitation:
 - (1) the care and maintenance of cattle/livestock, including all related structures and improvements and the use of existing water wells on the Property for the maintenance of cattle;
 - (2) the existing house/residence on the Property; and
 - (3) use of existing water wells on the Property for irrigation of vegetation/landscaping on the Property.

3.2.5 Impervious Cover:

- (a) Impervious Cover Limits: Owner agrees to limit the impervious cover to a maximum of fifteen percent (15%) of the Property. Owner shall have the right to apportion impervious cover on a lot by lot basis. Owner may apportion such impervious cover as it deems desirable so long as the overall impervious cover limitation is not exceeded. Impervious cover from existing improvements on the Property shall be included within the fifteen percent (15%) limit. Owner may count in density and impervious cover calculations land designated as greenbelt, Open Space, agricultural uses, floodplains, Golf Course, or similar areas. Construction of buildings on slopes will be in accordance with the present ordinances of the City except as amended by this Agreement.

(b) Impervious Cover Tracking: Each plat filed with the City shall contain a chart indicating the amount of impervious cover for the entire Property, 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 Property 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. 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.

3.3 Further Approvals: Upon the Effective Date of this Agreement, Owner may develop the Property 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 Owner will not be unreasonably withheld or delayed. The City will review any plans, plat or other filing by Owner 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 Owner 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 Owner's 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, Owner believes that an impasse has been reached with the City staff on any development issue affecting the Project or if Owner wishes to appeal any decision of the City staff regarding the Project, then Owner 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 (3/5) members of the City Council.

3.6 Conceptual Land Use 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 Land Use Plan may become necessary due to changes in market conditions or other factors.

3.6.2 In order to provide flexibility with respect to certain details of the development of the Project Owner may seek changes in land uses, the location and configuration of land uses, roadways, and other Project infrastructure shown on the Conceptual Land Use Plan, including changes within the residential, commercial, or Open Space areas shown on the Conceptual Land Use Plan, according the requirements and procedures set forth below.

- (a) **Minor Changes.** Minor Changes may be made to the Conceptual Land Use Plan by Owner submitting an application and with City Administrator's approval without consent or action of the City Council or Planning & Zoning Commission, as allowed by law. "Minor Change" shall include any changes that do not meet the definition of "Major Change", for example, but not limited to, minor adjustments to the street and drive alignments, minor changes to the location or configuration of land uses, that does not increase density, and minor changes to any matters depicted on the attached Exhibits that are intended to be substantially accurate, but approximate. The Owner may make minor changes to the Conceptual Land Use Plan upon receipt of written approval from the City Administrator or City Engineer. The City Administrator may submit any change, minor or major, for review by the Planning and Zoning Commission and City Council.
- (b) **Major Changes.** Major Changes shall only be those that: (i) increase the overall number of Dwelling Units specified in *Exhibit B* in any parcel (ii) changes the land use(s) permitted on a given development parcel to a land use(s) that is not permitted by Section 3.2.4 (Land Uses) or (iii) increases the maximum impervious cover permitted for the Project, as specified in Section 3.2.5. Major Changes to the Conceptual Land Use Plan shall require an Amendment to this Development Agreement with recommendation by the Planning and Zoning Commission and final approval by the City Council. Any Major Changes may trigger additional requests or requirements, to be determined at the time, from the City.
- (c) **Minor Variations in Plats or Site Plans/Site Development Permits.** Minor variations in a preliminary, final, or amended plat or in a site plan/site development permit from the Conceptual Land Use Plan that are approved by the City Administrator as Minor shall not require an amendment to the Conceptual Land Use Plan.

Notwithstanding anything herein to the contrary, proposed amendments to the text of this Agreement may trigger additional requests or requirements, to be determined at the time, from the City.

- (d) **Disputes.** In the event the of disagreement over whether a proposed change is a Minor Change or a Major Change, the City Administrator or City Engineer shall refer the question to the Planning and Zoning Commission for recommendation and to the City Council for final approval.

- 3.7 **Term of Approvals:** The Conceptual Land Use 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. Except as otherwise provided above, or

elsewhere in this Agreement, in no instance shall any permits or approvals be extended beyond the term of this Agreement or any extension thereof.

3.9 Initial Brush Removal: Owner 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, Golf Course components, and drainage areas with regard to preservation of environmental features. Prior to plat approval, Owner 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 of Preliminary Plat. Owner shall ensure that as much area as possible is left undisturbed for as long as reasonably possible. Provided, however, Owner may relocate/transplant trees on the Property at any time.

3.10 Building Code:

3.10.1 Owner agrees that all single-family residential buildings shall be constructed in accordance with all applicable building or construction codes that have been adopted by the City. In addition, Owner shall require all builders of residential structures to meet minimum LEED program requirements, as administered through the City of Dripping Springs or its agents or such other similar program requirements as may be mutually agreed to by Owner and the City. Applicable fees for all residential building permits or building inspections required by the City or the City's designee under this section shall be paid by builders. Residential building permit and building inspection fees are not included among the fees specifically listed in this Agreement. City will provide inspections timely and during any period prior to annexation.

3.10.2 Commercial buildings shall be required to obtain building permits. In addition, Owner shall require all builders of non-residential structures to meet minimum LEED program requirements, as administered through the City of Dripping Springs or its agents or such other similar program requirements as may be mutually agreed to by Owner and the City.

3.10.3 Building Code waivers or exceptions may be sought by Owner to achieve superior aesthetic design goals provided the waiver or exception does not result in a threat to the safety of persons or property. Any request for a waiver or exception must be presented to the Board of Adjustment upon receipt of guidance from the City Attorney and Building Official.

3.10.4 The City agrees that building permit review and issuance shall be accomplished within seven (7) working days for residential building permits and within twenty-eight (28) working days for commercial building permits commencing from the date the building permit application is designated administratively complete. A Certificate of Occupancy shall not be issued if the Property is not in compliance with this Agreement or applicable City regulations. The City Building Official may issue a temporary Certificate of Occupancy pending approval of a permanent Certificate of Occupancy in his reasonable discretion.

3.11 Fiscal Security for Improvements:

- 3.11.1 Owner shall be required to comply with all applicable Hays County, Texas fiscal surety or alternative fiscal requirements prior to final plat approval for all road and drainage improvements in accordance with the Hays County Subdivision and Development Regulations.
- 3.11.2 Owner shall be required to comply with all applicable fiscal surety or alternative fiscal requirements of the City prior to final plat approval for all subdivision-related domestic water service improvements and structural water quality control devices/infrastructure
- 3.12 Access: Access: The roadway cuts shown on *Exhibit B* are approved by the City as of the Effective Date. Approval of such roadway cuts is contingent on documentation from TxDOT that they are in agreement with the location of the roadway and driveway cuts. Owner and City agree that traffic safety is crucial. All roadway and driveway cuts onto RR 967 not shown on *Exhibit B* shall be subject to the approval of the City.
- 3.13 Utility Access Facility Under RR 1826: The proposed Utility Access Facility under RR 1826, as shown on the Conceptual Land Use Plan, is hereby approved by the City, subject to TxDOT review and approval, if required.

ARTICLE 4. ADDITIONAL MATTERS

- 4.1 Lighting: The Project shall comply with all applicable provisions of the City's Lighting Ordinance in effect at the time of site development.
- 4.2 Signage: The Project shall comply with all applicable provisions of the City's Signage Ordinance, except as otherwise provided in a subsequently approved Master Sign Plan Ordinance for the Project or a subsequently approved variance or waiver to the City's Signage Ordinance.
- 4.3 Fire Protection: Fire protection will be provided by the Hays County Emergency Services District No. 6 (North Hays County Fire and Rescue) ("ESD No. 6") and this Project will comply with the fire protection standards as mandated by ESD No. 6, until such time as the Project is annexed into the City. Notwithstanding anything herein or in *Exhibit C-1* to the contrary, Project roadway design shall comply with the roadway width dimensions required by Section 503.2.1 of International Fire Code, as adopted by ESD No. 6.
- 4.4 Annexation:
 - 4.4.1 Annexation:
 - (a) Owner hereby agrees that this Agreement, once approved and signed by all parties, is a valid and legally sufficient request to extend the city limits of the City (i.e., incorporated municipal boundary) to cover the Property, and no additional petitions or requests from the Owner are necessary, except as provided below. A petition for annexation is included as *Exhibit E*, which shall be valid for the duration of this Agreement and shall be binding on Owner's successors and assigns and subsequent purchasers. Owner agrees that if the Property, or any portion thereof, is sold prior to

the expiration of twenty (20) years from the Effective Date, Owner shall, as part of the closing documents, execute and cause to be recorded restrictive covenants or other documents memorializing the provisions of this Agreement. Owner further agrees that if the Property, or any portion thereof, is sold for commercial purposes prior to the expiration of twenty (20) years from the Effective Date, Owner shall, as part of the earnest money contract, cause to be executed by the subsequent purchaser(s) a petition for annexation in the form as the one provided in *Exhibit F*, which shall be valid for the remainder of the twenty (20) years from the Effective Date and filed with the City. Owner agrees to provide the City a written Notice of Sale of Commercial Property together with a petition for annexation in the form as the one attached hereto as *Exhibit F*, if obtained from the subsequent purchaser within fifteen (15) business days after completion of such sale.

The City agrees it will not annex any portion of the Property for a period of twenty (20) years after the Effective Date, unless: (1) otherwise agreed by both parties; or (2) an executed annexation petition from a subsequent purchaser of a commercial portion of the Property is not provided to the City; In the event an executed annexation petition from a subsequent purchaser of a commercial portion of the Property is not provided, Owner shall provide written notice to City that an annexation petition has not been executed by a subsequent purchaser sixty (60) days prior to the closing date, as defined in the earnest money contract, along with a metes and bounds description of the portion of the property being sold. At such time, City shall have the right to only annex the commercial portion of the Property for which no executed annexation petition has been obtained.

Further, in the event of future annexation of the commercial portions of the Property as authorized in this subsection, City acknowledges that Section 43.056 (g) of the Texas Local Government Code requires that if the area to be annexed has a level of services for operating and maintaining infrastructure superior to the level of services provided within the City's corporate boundaries before annexation, the City's annexation service plan must provide for the operation and maintenance of infrastructure of the annexed area at a level of services that is equal to or superior to that level of service existing before annexation. City further acknowledges that any such future annexation shall comply with all applicable governmental requirements, including but not limited to requirements relating to annexation of land included within the Driftwood Conservation District.

4.4.2 Zoning: Contemporaneously with the annexation of Property within the Project, the Owner of the annexed property shall submit an application for zoning that is consistent with this Agreement.

ARTICLE 5. AUTHORITY

5.1 Term:

5.1.1 Initial Term: The term of this Agreement will commence on the Effective Date and continue for twenty (20) years thereafter ("Initial Term"), unless sooner terminated under

this Agreement. This Agreement may be extended for a longer duration not to exceed an additional ten (10) years upon mutual agreement of the Parties. In the event such an extension is agreed to all provisions of this Agreement shall remain in full force and effect throughout the extension.

- 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 Property at any time by mutual written consent of the City and Owner or may be terminated or amended only as to a portion of the Property by the mutual written consent of the City and the Owner of only the portion of the Property affected by the amendment or termination.
- 5.2 Authority: This Agreement is entered under the statutory authority of Section 212.172 of the Texas Local Government Code. The Parties intend that this Agreement guarantee the continuation of the extraterritorial status of portions of the Property as provided in this Agreement; authorize certain land uses and development on the Property; provide for the uniform review and approval of plats and development plans for the Property; 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 Property to the City.
- 5.3 Applicable Rules: As of the Effective Date, Owner has 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, Owner have authority to develop the Property 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 Owner's 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 oilier 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 Property if such moratorium, restriction or other limitation conflicts with this Agreement or would have the effect of increasing Owner's obligations or decreasing Owner's 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. Any such temporary moratorium shall automatically extend the term of this Agreement for an equivalent period of time.

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 Owner each agrees 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 Owner in connection with any waivers or approvals Owner may desire or require to obtain from the County in connection with the development of the Property.

5.7 THE OWNER, INCLUDING ITS RESPECTIVE SUCCESSORS AND ASSIGNS, HEREBY COVENANT AND AGREE TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, AND ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES, AND AGENTS (IN THIS SECTION THE "CITY") AGAINST AND FROM, AND WILL PAY TO THE CITY, THE AMOUNT OF ALL ACTIONS, DAMAGES, CLAIMS, LOSSES, OR EXPENSE OF ANY TYPE, WHETHER OR NOT INVOLVING A THIRD-PARTY CLAIM (COLLECTIVELY, "DAMAGES"), ARISING DIRECTLY OR INDIRECTLY FROM (i) THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE OWNER; OR (ii) ANY THIRD PARTY CLAIMS RELATING TO ANY PUBLIC IMPROVEMENT ACQUIRED UNDER THIS AGREEMENT, INCLUDING ANY CLAIM RELATING TO THE CONCURRENT OR SOLE NEGLIGENCE OF THE CITY. THE OWNER WILL DEFEND THE CITY AGAINST ALL SUCH CLAIMS AND THE CITY WILL REASONABLY COOPERATE AND ASSIST IN PROVIDING SUCH DEFENSE. THE CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY THE OWNER IN FULFILLING ITS OBLIGATIONS HEREUNDER. THE CITY RESERVES THE RIGHT, BUT IS NOT REQUIRED, TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE AT ITS OWN EXPENSE. THE OWNER SHALL RETAIN CITYAPPROVED DEFENSE COUNSEL WITHIN 10 BUSINESS DAYS OF WRITTEN NOTICE THAT THE CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION AND IF THE OWNER DOES NOT DO SO, THE CITY MAY RETAIN ITS OWN DEFENSE COUNSEL AND THE OWNER WILL BE LIABLE FOR ALL REASONABLE SUCH COSTS. THIS SECTION SURVIVES THE TERMINATION OF THIS AGREEMENT INDEFINITELY, SUBJECT TO APPROPRIATE STATUTES OF LIMITATIONS, AS THEY MAY BE TOLLED OR EXTENDED BY AGREEMENT OR OPERATION OF THE LAW. THE OWNER, INCLUDING ITS RESPECTIVE SUCCESSORS

AND ASSIGNS, FURTHER COVENANTS AND AGREES TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY, THE CITY AGAINST ANY AND ALL CLAIMS BY ANY PERSON CLAIMING AN OWNERSHIP INTEREST IN THE PROPERTY WHO HAS NOT SIGNED THIS AGREEMENT IF SUCH CLAIMS RELATE IN ANY MANNER OR ARISE IN CONNECTION WITH: (1) THE CITY'S RELIANCE UPON THE OWNER'S REPRESENTATIONS IN THIS AGREEMENT; (2) THIS AGREEMENT OR OWNERSHIP OF THE PROPERTY; OR (3) THE CITY'S APPROVAL OF ANY TYPE OF DEVELOPMENT APPLICATION OR SUBMISSION WITH RESPECT TO THE PROPERTY.

ARTICLE 6. GENERAL PROVISIONS

6.1 Assignment & Binding Effect:

6.1.1 This Agreement and the rights and obligations of Owner hereunder, may be assigned by Owner to (i) an affiliate of Owner or (ii) subsequent homebuilder of all or a portion of the undeveloped property within the Project provided that the assignee assumes all of the obligations hereunder.

For assignments other than a homebuilder or an affiliate as provided in subparagraph (a) above, Owner may, in its sole and absolute discretion, assign, this Agreement with respect to all or part of the Project from time to time to any party that (i) does not owe delinquent taxes or fees to the City, (ii) is not in material default (beyond any applicable notice and cure period) under any development agreement with City and (iii) has the experience, expertise and the financial capacity and ability to perform the duties or obligations so assigned under this Agreement. Owner shall provide the City sixty (60) days prior written notice of any Assignment to Agreement, other than an Assignment to an affiliate or a homebuilder, and within ten (10) days of receipt of assignment notice from Owner, City shall present Owner with any objections to such proposed Assignment. Owner will not be released from its obligations under this Agreement if the City objects to such assignment as described above and such objections are not resolved by and between Owner and the City; provided, however the City shall not unreasonably withhold Owner's release from its obligations under this Agreement.

Any assignment 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 Owner assigns its rights and obligations hereunder as to a portion of the Project, then Owner shall not be liable for any nonperformance of the assignee. In the case of nonperformance by one developer, the City may pursue all available remedies against that nonperforming developer. However, in no event shall pursuit of such remedies impede the development activities of any performing developer.

- 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.
- 6.1.4 Owner agrees that all restrictive covenants for the Project shall reinforce this Agreement. Owner further agrees to memorialize the terms of this Agreement through inclusion in the plat notes. The Agreement shall be recorded in the Hays County land records to place subsequent purchasers on notice.
- 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 Owner to encumber all or any portion of the Property 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 Owner 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 Property.
- 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 Owner under this Agreement within ten (10) days of the date such notice is given to Owner.
- 6.5.3 In the event of default by Owner under this Agreement, a Lender may, but will not be obligated to, cure any default during any cure period extended to Owner, either under this Agreement or under the notice of default.

- 6.5.4 Any Lender who comes into possession of any portion of the Property by foreclosure 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 Owner 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 Owner 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 thirty (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 Development Coordinator 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.
- 6.8 Remedies for Default: If either Party defaults under this Agreement and fails to cure the default within the applicable 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 default by the City, Owner 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 Property, 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 of Dripping Springs
 Attn: City Administrator
 PO Box 384
 Dripping Springs, TX 78620

OWNER:
Original
 Driftwood 522, LLC
 Attn: Don Bosse
 11100 FM 967
 Buda, TX 78610

Copy
 Bojorquez Law Firm, PC
 Attn: Alan J. Bojorquez
 12325 Hymeadow Drive, Suite 2-100
 Austin, TX 78750

Original
 Discovery Golf Club Development, Inc.
 Attn: Don Bosse
 PO Box 171
 Driftwood, TX 78619

Copy
 Lackey & Smith, PLLC
 Attn: Lance T. Lackey
 3321 Bee Caves Road, Suite 204
 Austin, TX 78746

- 6.18 Exhibits: The exhibits to this Agreement shall be incorporated herein for all intents and purposes. The exhibits are listed as follows:

- Exhibit A Property Description
- Exhibit B Conceptual Land Use Plan
- Exhibit C Variances Chart
- Exhibit C1 Street Design Standards
- Exhibit D Driftwood Commercial Landscape Design Criteria
- Exhibit E Annexation Petition
- Exhibit F Annexation Petition for Commercial Properties

THE UNDERSIGNED PARTIES HEREBY EXECUTE THIS AGREEMENT TO BE EFFECTIVE ON JANUARY 8, 2019.

CITY OF DRIPPING SPRINGS:



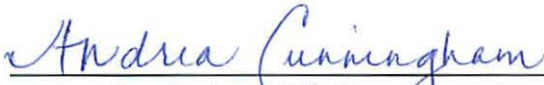
Todd Purcell, Mayor

DRIFTWOOD 552, LLC:

Signature

Printed Name and Title

ATTEST:



Andrea Cunningham, City Secretary

ATTEST:



DISCOVERY GOLF CLUB DEVELOPMENT, INC.:

Signature

Printed Name and Title

ATTEST:

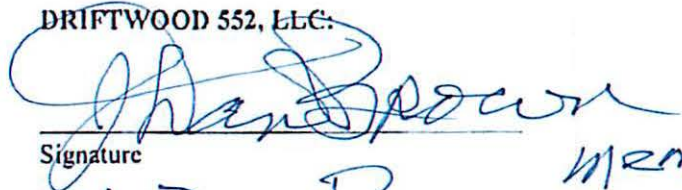
THE UNDERSIGNED PARTIES HEREBY EXECUTE THIS AGREEMENT TO BE EFFECTIVE ON JANUARY 8, 2019.

CITY OF DRIPPING SPRINGS:



Todd Purcell, Mayor

DRIFTWOOD 552, LLC:



Signature

MEMBER



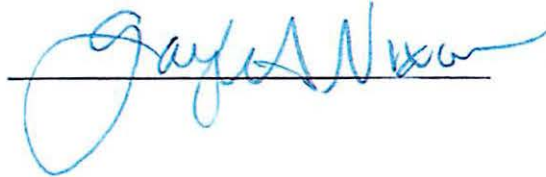
Printed Name and Title

ATTEST:

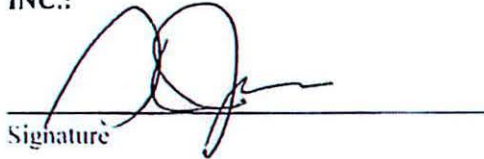


Andrea Cunningham, City Secretary

ATTEST:



DRIFTWOOD GOLF CLUB DEVELOPMENT, INC.:



Signature

Schuyler Jayner - Director
Printed Name and Title



ATTEST:

**EXHIBIT A
PROPERTY
DESCRIPTION**

0.1793 Acres
Page 1 of 2

Freelove Woody Survey No. 23, Abst. No. 20
14519.10
July 16, 2014

STATE OF TEXAS §
 §
COUNTY OF HAYS §

FIELDNOTE DESCRIPTION of a 0.1793 acre tract out of the Freelove Woody Survey No. 23, Abstract No. 20, Hays County, Texas, being a portion of that certain tract, described as First Tract, conveyed to Michael Giles Rutherford (First Tract) by deed recorded in Volume 197, Page 45 of the Deed Records of Hays County, Texas; the said 0.1793 acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a cotton gin spindle found on the easterly line of that 522.25 acre tract conveyed to Michael Giles Rutherford by deed recorded in Volume 3799, Page 263 of the Official Public Records of Hays County, Texas, same being the southwest corner of that 177.762 acre tract, described as Exhibit A-1, as conveyed to LSM Ranch, Ltd. by deed recorded in Volume 1628, Page 206 of the said Deed Records and the proposed southwest corner of Rim Rock, Phase One, Section Five, subdivision;

THENCE, N87°51'36"E, leaving the easterly line of the said 522.25 acre tract, across the said First Tract, with the southerly line of the said 177.762 acre tract and proposed Rim Rock, Phase One, Section Five subdivision, for a distance of 99.82 feet to a calculated point for the northeast corner of the herein described tract, same being the most northerly northwest corner of Lot 34, Block 'A', Rutherford West, Section 2, a subdivision recorded in Book 14, Pages 49 through 53 of the Plat Records of Hays County, Texas, from which a ½" iron rod found, with plastic cap marked "Capital Surveying Company, Inc., bears N00°32'40"W, 0.13 feet;

THENCE, leaving the southerly line of the said 177.762 acre tract and proposed Rim Rock, Phase One, Section Five, subdivision, across the said First Tract, with the westerly and northerly lines of said Lot 34, Block 'A', for the following two (2) courses:

- 1) S00°32'40"E, 81.34 feet to a ½" iron rod, with plastic cap marked "Capital Surveying Company, Inc., found;
- 2) N88°52'48"W, 99.21 feet to a ½" iron rod, with plastic cap marked "Capital Surveying Company, Inc., found for the most westerly northwest corner of aforesaid Lot 34, Block 'A', same being on the easterly line of the aforesaid 522.25 acre tract and the southwest corner of the herein described tract;

THENCE, N01°00'52"W, leaving the northerly line of said Lot 34, Block 'A', and continuing across the said First Tract, with the easterly line of the aforesaid 522.25 acre tract, at a distance of 58.07 feet pass a 5/8" iron rod, with aluminum cap marked "Kent McMillan, Surveyor, RPLS 4341", found and continuing for a total distance of 75.68 feet to the PLACE OF BEGINNING, CONTAINING within these metes and bounds 0.1793 acres of land area.

The Bearing Basis for this description is the Texas State Plane Coordinate System, South Central Zone, NAD 83 Datum, derived from GPS Survey occupations.

That I, Gregory A. Way, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 16th day of July, 2014.




GREGORY A. WAY
Registered Professional Land Surveyor
No. 4567 - State of Texas

TITLE CURATORSHIP NOTE - TRACT 2

This survey was prepared using the information contained in exhibits "B" of the 20th amendment prepared by Stewart Title Guaranty Company, File No. 01747-23264, dated June 30, 2014, and shown the information contained therein, with the following exceptions or corrections:

- B. Easement granted to Pedernales Electric Company, Inc. as set out in Volume 157, Page 47 of the Deed Records of Hays County, Texas and on survey dated September 25, 2008 by Karl Head Meadham, PWS 4341. (Tract 1) [Does not effect]
- C. Easement granted to Pedernales Electric Company, Inc. as set out in Volume 157, Page 46 of the Deed Records of Hays County, Texas and on survey dated September 25, 2008 by Karl Head Meadham, PWS 4341. (Tract 1) [Does not effect]
- E. Easement granted to the USA as set out in Volume 234, Page 216 of the Deed Records of Hays County, Texas and on survey dated September 25, 2008 by Karl Head Meadham, PWS 4341. (Tract 1) [Does not effect]
- F. Easement granted to United Producers Pipe Line Company as set out in Volume 87, Page 9 of the Deed Records of Hays County, Texas. (Tract 1) [Does not effect]
- G. Easement granted to the State of Texas as set out in Volume 163, Page 52 of the Deed Records of Hays County, Texas and on survey dated September 25, 2008 by Karl Head Meadham, PWS 4341. (Tract 1) [Does not effect]
- H. Interests as conveyed in Instrument Deeds recorded in Volume 187, Page 45 of the Deed Records of Hays County, Texas and on survey dated September 25, 2008 by Karl Head Meadham, PWS 4341. (Tract 1) [Does not effect]
- I. Easement granted to the State of Texas as set out in Volume 163, Page 52 of the Deed Records of Hays County, Texas and on survey dated September 25, 2008 by Karl Head Meadham, PWS 4341. (Tract 1) [Does not effect]
- M. The policy to be issued regarding does not guarantee against the rights of parties of this survey in proportion of the subject property that are not shown. PWS 4341. (Tract 1) [Does not effect]
- N. The policy to be issued regarding does not guarantee that the property being surveyed is the subject property as shown on the survey dated September 25, 2008 by Karl Head Meadham, PWS 4341. (Tract 1) [Does not effect]
- O. Outlined details and locations are shown throughout the subject property as shown on survey dated September 25, 2008 by Karl Head Meadham, PWS 4341. (Tract 1) [Does not effect]

DEEDED A.S.
MICHAEL GREGG RUTHERFORD
VOL. 819, P. 283
O.P.F.I.C.

GREGORY A. HAY, a Registered Professional Land Surveyor, do hereby certify to John D. Bryan, Trustee and Stewart Title Guaranty Company, that the above map or plat is true and correct to the best of my knowledge and that the property herein shown is the subject property as shown on the survey dated September 25, 2008 by Karl Head Meadham, PWS 4341. (Tract 1) [Does not effect]



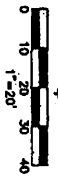
WITNESSES MY HAND AND SEAL at Austin, Travis County, Texas this the 16th day of July, 2014.

**SURVEY OF 0.1769 ACRES (TRACT 2)
OUT OF THE
GREGORIO ESPARZA FILE NO. D-72,
ABSTRACT No. 109,
HAYS COUNTY, TEXAS**

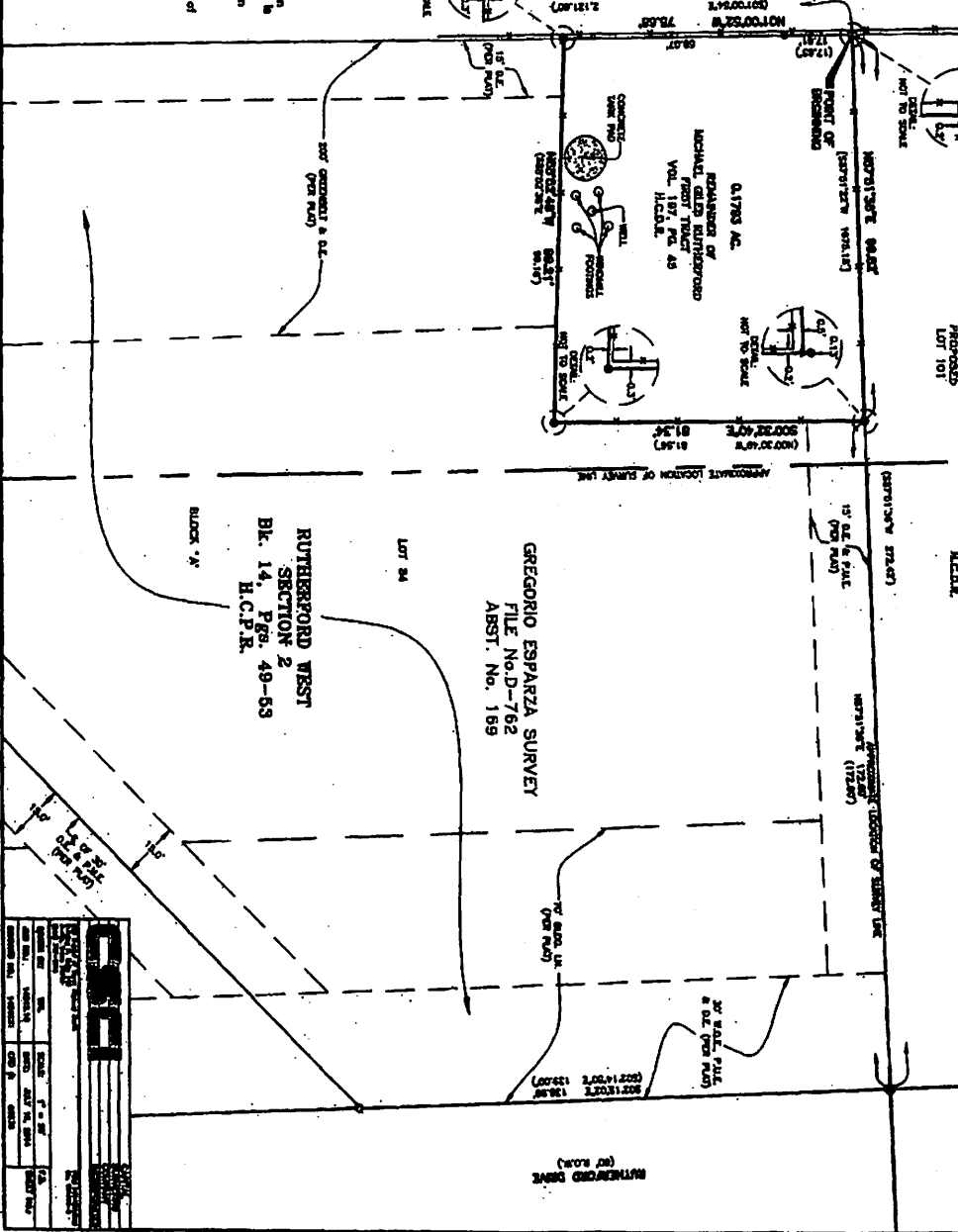
**FRELOVE WOODY
SURVEY No. 23
ABST. No. 20**

**SEABORN J. WHITLEY
SURVEY No. 22
ABST. No. 18**

**REDAKERS OF
17778 A.S.
LAW OFFICES, LTD.
VOL. 187, P. 45
H.C.A.E.**



- 1. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.
- 2. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.
- 3. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.
- 4. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.
- 5. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.
- 6. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.
- 7. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.
- 8. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.
- 9. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.
- 10. RECORD INFORMATION - V. 177, P. 45 H.C.A.E.



TRACT	ACRES	ABSTRACT	FILE NO.
TRACT 1	0.1769	109	D-72
TRACT 2	0.1769	109	D-72
TRACT 3	0.1769	109	D-72
TRACT 4	0.1769	109	D-72
TRACT 5	0.1769	109	D-72
TRACT 6	0.1769	109	D-72
TRACT 7	0.1769	109	D-72
TRACT 8	0.1769	109	D-72
TRACT 9	0.1769	109	D-72
TRACT 10	0.1769	109	D-72

STATE OF TEXAS §
 §
COUNTY OF HAYS §

FIELDNOTE DESCRIPTION of a 128.166 acre tract out of the Freelove Woody Survey No. 23, Hays County, Texas, being a portion of that 700.03 acre tract conveyed to John Richard Rutherford by deed recorded in Volume 1214, Page 548 of the Deed Records of Hays County, Texas; the said 128.166 acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a fence corner post found for the most southerly southeast corner of the said 700.03 acre tract, being the northeast corner of that 26.25 acre tract conveyed to Denton Ragland, Jr., Patrice Ragland and Marilyn Ragland by deed recorded in Volume 282, Page 373 of the said Deed Records and an ell corner of that certain tract, described as first tract, conveyed to Michael Giles Rutherford recorded in Volume 197, Page 45 of the said Deed Records, from which a fence corner post found in the common line between the said 26.25 acre tract and that certain Michael Giles Rutherford tract bears S00°42'40"E, 446.87 feet;

THENCE, N88°53'01"W, leaving the said Michael Giles Rutherford tract, with the southerly line of the said 700.03 acre tract, at 21.54 feet pass a 5/8" iron rod found, stamped "Kent McMillan, Land Surveyor, RPLS 4341", 0.56 feet to the left, at 719.81 feet pass the approximate northwest corner of the said 26.25 acre tract, being the approximate northeast corner of the remainder of that 53.50 acre tract conveyed to Minnie Rogers by deed recorded in Volume 210, Page 210 of the said Deed Records, for a total distance of 2711.59 feet to a 5/8" iron pipe found on a curve to the left in the northerly right of way line of State Highway FM 967;

THENCE, with the common line between the said 700.03 acre tract and the northerly right-of-way line of State Highway FM 967, with the said curve to the left having a central angle of 09°18'06", a radius of 1949.86 feet, a chord distance of 316.20 feet (chord bears N84°31'41"W), for an arc distance of 316.55 feet to a 5/8" iron rod found with aluminum cap stamped "Kent McMillan, Land Surveyor, RPLS 4341" for the point of tangency and southwest corner of the herein described tract, said point being 40.00 feet right of State Highway FM 967 centerline station 587+49.3, from which a 5/8" iron rod found with aluminum cap stamped "Kent McMillan, Land Surveyor, RPLS 4341" in the common line between said 700.03 acre tract and the northerly right-of-way line of State Highway FM 967, being 40.00 feet right of State Highway FM 967 centerline station 599+95.5, bears N89°12'09"W, 1247.30 feet;

THENCE, leaving the said northerly right-of-way line of State Highway FM 967, across the said 700.03 acre tract, for the following twenty-three (23) courses:

- 1) N26°35'43"E, 75.57 feet to a 1/4" iron rod set with plastic cap;
- 2) N60°22'29"E, 114.26 feet to a 1/4" iron rod set with plastic cap;
- 3) N29°56'27"E, 113.65 feet to a 1/4" iron rod set with plastic cap;
- 4) N45°13'37"E, 150.25 feet to a 1/4" iron rod set with plastic cap;
- 5) N63°12'48"E, 153.98 feet to a 1/4" iron rod set with plastic cap;
- 6) N01°16'37"W, 177.11 feet to a 1/4" iron rod set with plastic cap;
- 7) N18°36'23"E, 192.00 feet to a 1/4" iron rod set with plastic cap;
- 8) N17°32'26"E, 215.74 feet to a 1/4" iron rod set with plastic cap;
- 9) N08°30'37"W, 228.34 feet to a 1/4" iron rod set with plastic cap;
- 10) N12°51'33"E, 225.06 feet to a 1/4" iron rod set with plastic cap;

- 11) N30°34'17"E, 272.18 feet to a 1/4" iron rod set with plastic cap;
- 12) N17°49'54"E, 197.44 feet to a 1/4" iron rod set with plastic cap;
- 13) N27°03'16"E, 206.14 feet to a 1/4" iron rod set with plastic cap;
- 14) N01°02'08"E, 168.03 feet to a 1/4" iron rod set with plastic cap;
- 15) N33°11'56"E, 124.67 feet to a 1/4" iron rod set with plastic cap;
- 16) N65°03'19"E, 84.41 feet to a 1/4" iron rod set with plastic cap;
- 17) S78°37'03"E, 375.19 feet to a 1/4" iron rod set with plastic cap;
- 18) N71°57'45"E, 177.28 feet to a 1/4" iron rod set with plastic cap;
- 19) S82°55'15"E, 267.33 feet to a 1/4" iron rod set with plastic cap;
- 20) S78°02'17"E, 468.31 feet to a 1/4" iron rod set with plastic cap;
- 21) S71°01'01"E, 274.19 feet to a 1/4" iron rod set with plastic cap;
- 22) S81°56'14"E, 349.24 feet to a 1/4" iron rod set with plastic cap;
- 23) S83°13'49"E, 111.37 feet to a 5/8" iron rod found with aluminum cap stamped "Kent McMillan, Land Surveyor, RPLS 4341" on an easterly line of the said 700.03 acre tract, being a westerly line created from the remainder of that certain Michael Giles Rutherford tract, from which a metal gate post found for an ell corner of the said 700.03 acre tract bears N01°00'52"W, 17.61 feet;

THENCE, S01°00'52"E, across the said Michael Giles Rutherford tract, with an easterly line of the said 700.03 acre tract, at a distance of 1885.44 feet pass a 5/8" iron rod found, stamped "Kent McMillan, Land Surveyor, RPLS 4341", in a rock mound 4.39 feet to the left, at 2084.56 feet pass a 5/8" iron rod found, stamped "Kent McMillan, Land Surveyor, RPLS 4341", 0.07 feet to the left, for a total distance of 2104.37 feet to the PLACE OF BEGINNING, CONTAINING within these metes and bounds 128.166 acres of land area.

That I, Gregory A. Way, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 17th day of June, 1999.



Gregory A. Way
 GREGORY A. WAY
 Registered Professional Land Surveyor
 No. 4567 - State of Texas

STATE OF TEXAS §
 §
COUNTY OF HAYS §

FIELDNOTE DESCRIPTION of a 394.112 acre tract out of the Freelove Woody Survey No. 23, Hays County, Texas, being a portion of that 700.03 acre tract conveyed to John Richard Rutherford by deed recorded in Volume 1214, Page 548 of the Deed Records of Hays County, Texas; the said 394.112 acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a calculated point for the most westerly corner of the said 700.03 acre tract, being on the southerly line of that 100 acre tract conveyed to Mass Scott Roberts by deed recorded in Volume 301, Page 865 of the said Deed Records, and a point in the northerly right-of-way line of State Highway FM 967 (80.00' right-of-way), from which a TxDOT concrete highway monument found bears N41°10'07"W, 85.92 feet;

THENCE, leaving the northerly right-of-way line of State Highway FM 967, with the common line between the said 700.03 acre tract and the said 100 acre tract, for the following two (2) courses:

- 1) N88°43'28"E, at 0.25 feet pass a 1/2" iron rod found, for a total distance of 2005.48 feet to a 60d nail found in a fence corner post for the southeast corner of the said 100 acre tract;
- 2) N00°59'15"W, 515.50 feet to a 5/8" iron rod found stamped "Kent McMillan, Land Surveyor, RPLS 4341", for a northwest corner of the said 700.03 acre tract, being on a westerly line of the remainder of that 535.13 acre tract conveyed to Michael Giles Rutherford, Jr., John Richard Rutherford and Sally Anne Rutherford by deed recorded in Volume 1214, Page 531 of the said Deed Records, from which a 1/2" iron rod found for the northeast corner of the said 100 acre tract bears N00°59'15"W, 523.55 feet;

THENCE, N89°02'23"E, leaving the easterly line of the said 100 acre tract, across the said 535.13 acre tract, with the northerly line of the said 700.03 acre tract, 5479.22 feet to a 1/4" iron rod set with plastic cap for the northeast corner of the herein described tract, being in the westerly line of the remainder of that 652.60 acre tract also conveyed to Michael Giles Rutherford, Jr., John Richard Rutherford and Sally Anne Rutherford by deed recorded in Volume 1214, Page 531 of the said Deed Records;

THENCE, leaving the said remainder of the 535.13 acre tract and the 652.60 acre tract, across the said 700.03 acre tract for the following three (3) courses:

- 1) S00°15'40"E, 514.97 feet to a 1/4" iron rod set with plastic cap;
- 2) S89°02'23"W, 15.17 feet to a fence corner post found;
- 3) S00°27'04"E, 1260.14 feet to a metal fence corner post found for an ell corner in the southerly line of the said 700.03 acre tract, being on the remainder of that certain tract, described as First Tract, conveyed to Michael Giles Rutherford by deed recorded in Volume 197, Page 45 of the said Deed Records, from which a 5/8" iron rod found with aluminum cap stamped "Kent McMillan, Land Surveyor, RPLS 4341" bears N87°51'36"E, 1675.22 feet;

THENCE, S01°00'52"E, across the said Michael Giles Rutherford First Tract, with an easterly line of the said 700.03 acre tract, 17.61 feet to a 5/8" iron rod found with aluminum cap stamped "Kent McMillan, Land Surveyor, RPLS 4341" for the most easterly, southeast corner of the herein described tract, from which a fence corner post found for the most southerly, southeast corner of the aforesaid 700.03 acre tract, being an ell corner of the said Michael Giles Rutherford tract and the northeast corner of that certain 26.25 acre tract conveyed to Denton E. Ragland, Patrice Ragland and Marilyn Ragland by deed recorded in Volume 282, Page 373 of the said Deed Records bears S01°00'52"E, 2121.99 feet;

THENCE, leaving the remainder of the said Michael Giles Rutherford tract, across the said 700.03 acre tract, for the following twenty-three (23) courses:

- 1) N83°13'49"W, 111.37 feet to a ½" iron rod set with plastic cap;
- 2) N81°56'14"W, 349.24 feet to a ½" iron rod set with plastic cap;
- 3) N71°01'01"W, 274.19 feet to a ½" iron rod set with plastic cap;
- 4) N78°02'17"W, 468.31 feet to a ½" iron rod set with plastic cap;
- 5) N82°55'15"W, 267.33 feet to a ½" iron rod set with plastic cap;
- 6) S71°57'45"W, 177.28 feet to a ½" iron rod set with plastic cap;
- 7) N78°37'03"W, 375.19 feet to a ½" iron rod set with plastic cap;
- 8) S65°03'19"W, 84.41 feet to a ½" iron rod set with plastic cap;
- 9) S33°11'56"W, 124.67 feet to a ½" iron rod set with plastic cap;
- 10) S01°02'08"W, 168.03 feet to a ½" iron rod set with plastic cap;
- 11) S27°03'16"W, 206.14 feet to a ½" iron rod set with plastic cap;
- 12) S17°49'54"W, 197.44 feet to a ½" iron rod set with plastic cap;
- 13) S30°34'17"W, 272.18 feet to a ½" iron rod set with plastic cap;
- 14) S12°51'33"W, 225.06 feet to a ½" iron rod set with plastic cap;
- 15) S08°30'37"E, 228.34 feet to a ½" iron rod set with plastic cap;
- 16) S17°32'26"W, 215.74 feet to a ½" iron rod set with plastic cap;
- 17) S18°36'23"W, 192.00 feet to a ½" iron rod set with plastic cap;
- 18) S01°16'37"E, 177.11 feet to a ½" iron rod set with plastic cap;
- 19) S63°12'48"W, 153.98 feet to a ½" iron rod set with plastic cap;
- 20) S45°13'37"W, 150.25 feet to a ½" iron rod set with plastic cap;
- 21) S29°56'27"W, 113.65 feet to a ½" iron rod set with plastic cap;
- 22) S60°22'29"W, 114.26 feet to a ½" iron rod set with plastic cap;
- 23) S26°35'43"W, 75.57 feet to a 5/8" iron rod found with aluminum cap, stamped "Kent McMillan, Land Surveyor, RPLS 4341", on the southerly line of the said 700.03 acre tract, being on the northerly right-of-way line of the aforesaid State Highway FM 967, and being 40.00 feet right of State Highway centerline station 587+49.3;

THENCE, with the common line between the said 700.03 acre tract and the said northerly right-of-way line of State Highway FM 967, for the following two (2) courses:

- 1) N89°12'09"W, at 750.58 feet pass a TxDOT concrete highway monument found, for a total distance of 1247.30 feet to a calculated point for the point of curvature of a non-tangent curve to the right, from which a TxDOT concrete highway monument found bears S01°07'48"W, 0.38 feet, said calculated point being 40.00 feet right of State Highway centerline station 599+95.5;

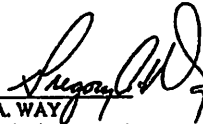
2) With the said curve to the right having a central angle of $48^{\circ}00'30''$, a radius of 1105.92 feet, a chord distance of 899.79 feet (chord bears $N65^{\circ}10'23''W$), for an arc distance of 926.66 feet to a calculated point for the point of tangency, from which a TxDOT concrete highway monument found bears $N81^{\circ}52'12''E$, 1.37 feet, said calculated point being 40.00 feet right of State Highway centerline station 609+55.5;

THENCE, $N41^{\circ}10'07''W$, continuing with the common line between the said 700.03 acre tract and the northerly right-of-way line of State Highway FM 967, at 1393.60 feet pass a TxDOT concrete highway monument found 0.28 feet to the left, at 2244.39 feet pass a TxDOT concrete highway monument found, for a total distance of 3675.62 feet to the PLACE OF BEGINNING, CONTAINING within these metes and bounds 394.112 acres of land area.

That I, Gregory A. Way, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 19th day of July, 1999.




GREGORY A. WAY
Registered Professional Land Surveyor
No. 4567 - State of Texas

DATE	1954
BY	J. W. WOOD
FOR	THE CITY OF DRIPPING SPRINGS
PROJECT	DEVELOPMENT AGREEMENT
SCALE	1" = 400'
NO. OF SHEETS	1 OF 1

- LEGEND
- BOUNDARY LINE
 - EASEMENT
 - RIGHT OF WAY
 - FENCE
 - ROAD
 - RAILROAD
 - POWER LINE
 - TELEPHONE LINE
 - WATER MAIN
 - SEWER MAIN
 - GAS MAIN
 - CEMENT CONCRETE DRIVE
 - ASPHALT DRIVE
 - GRAVEL DRIVE
 - DIRT DRIVE
 - DRIVE
 - LOT
 - TRACT
 - BLOCK
 - SUBDIVISION
 - PLAT
 - SECTION
 - TOWNSHIP
 - RANGE
 - COUNTY
 - STATE

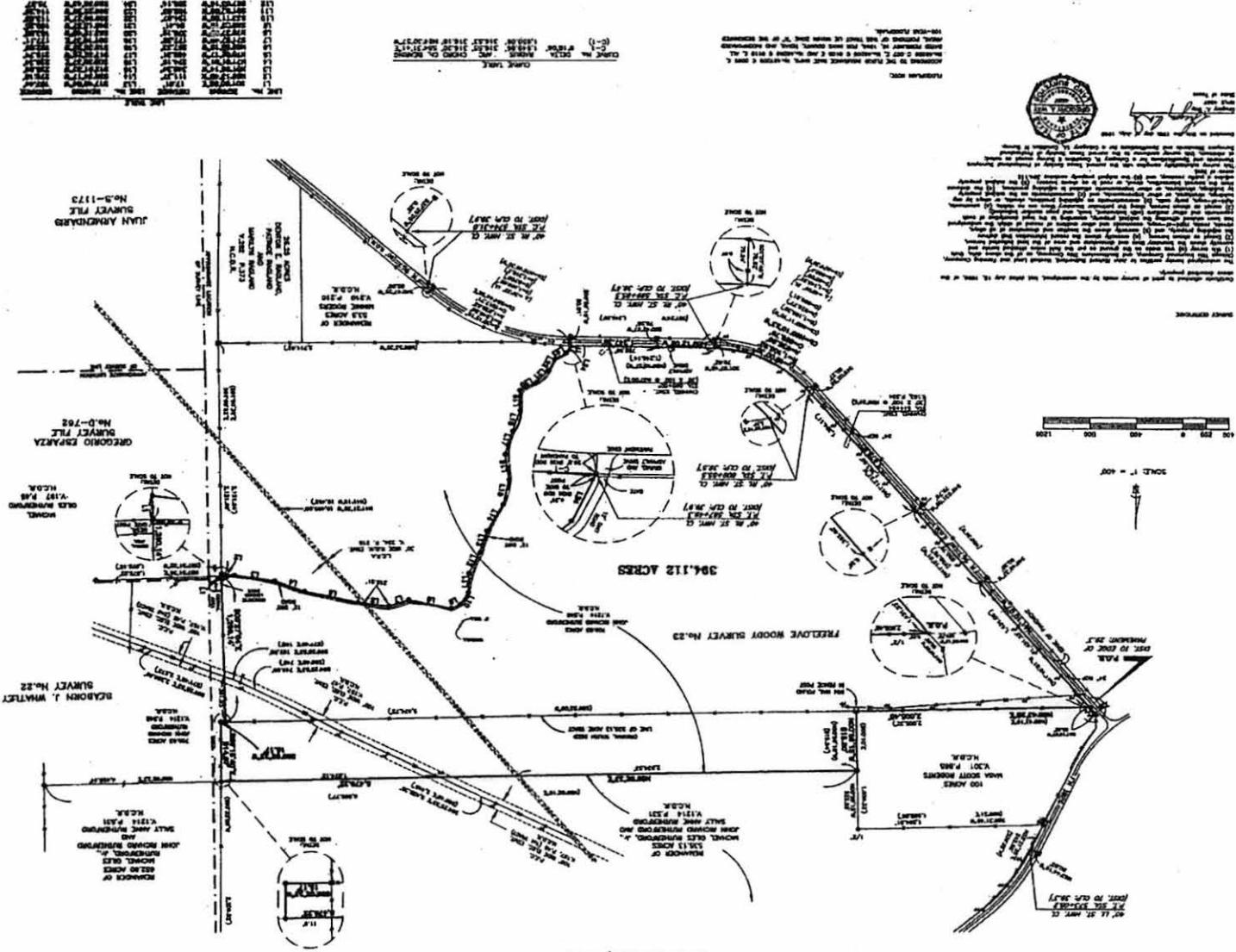
- NOTES
- 1) THE EXHIBIT SHOWN ON THIS SURVEY IS A COPY OF THE ORIGINAL SURVEY MAP AS FILED IN THE PUBLIC RECORDS OF HAYS COUNTY, TEXAS.
 - 2) CORRECTIONS SHOWN WITH AN APOSTROPHE (') ARE AS SHOWN ON EXHIBIT MAP.
 - 3) PERMITS, EASEMENTS, RIGHTS, AND INTERESTS, NOT SHOWN ON THIS SURVEY, ARE LOCATED ON SEPARATE EXHIBITS.

THIS SURVEY IS A COPY OF THE ORIGINAL SURVEY MAP AS FILED IN THE PUBLIC RECORDS OF HAYS COUNTY, TEXAS. THE ORIGINAL SURVEY MAP WAS FILED ON MAY 15, 1954, UNDER RECORD NO. 23, PLAT NO. 112, VOLUME 394. THIS SURVEY IS A COPY OF THE ORIGINAL SURVEY MAP AS FILED IN THE PUBLIC RECORDS OF HAYS COUNTY, TEXAS. THE ORIGINAL SURVEY MAP WAS FILED ON MAY 15, 1954, UNDER RECORD NO. 23, PLAT NO. 112, VOLUME 394.

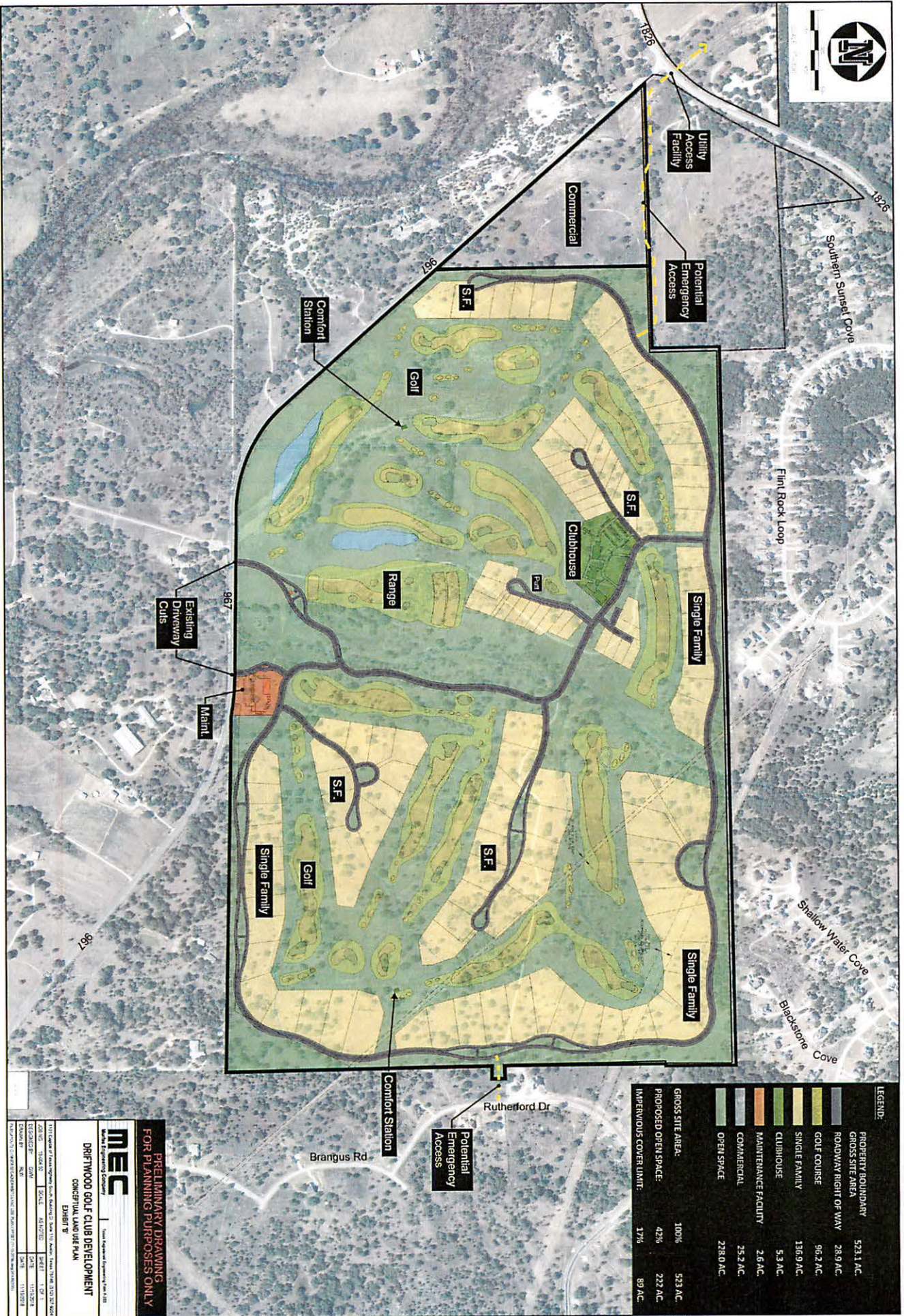
THIS SURVEY IS A COPY OF THE ORIGINAL SURVEY MAP AS FILED IN THE PUBLIC RECORDS OF HAYS COUNTY, TEXAS. THE ORIGINAL SURVEY MAP WAS FILED ON MAY 15, 1954, UNDER RECORD NO. 23, PLAT NO. 112, VOLUME 394.



SURVEY OF 394.112 ACRES OUT OF THE FREDLOVE WOODY SURVEY No. 23, HAYS COUNTY, TEXAS



THIS SURVEY IS A COPY OF THE ORIGINAL SURVEY MAP AS FILED IN THE PUBLIC RECORDS OF HAYS COUNTY, TEXAS. THE ORIGINAL SURVEY MAP WAS FILED ON MAY 15, 1954, UNDER RECORD NO. 23, PLAT NO. 112, VOLUME 394.



LEGEND:

PROPERTY BOUNDARY	523.1 AC
GROSS SITE AREA	523.1 AC
ROADWAY RIGHT OF WAY	28.9 AC
GOLF COURSE	96.2 AC
SINGLE FAMILY	136.9 AC
CLUBHOUSE	5.3 AC
MAINTENANCE FACILITY	2.6 AC
COMMERCIAL	25.2 AC
OPEN SPACE	228.0 AC
GROSS SITE AREA:	523 AC
PROPOSED OPEN SPACE:	42%
IMPERVIOUS COVER UNITS:	17%
	222 AC
	89 AC

MEC
MEC Engineering Company

PRELIMINARY DRAWING
FOR PLANNING PURPOSES ONLY

DRIFTWOOD GOLF CLUB DEVELOPMENT
CONCEPTUAL LAND USE PLAN

EXHIBIT B

PROJECT NO.	2011-001	DATE	11/15/2011
CLIENT	DRIFTWOOD GOLF CLUB	SCALE	AS SHOWN
DESIGNER	MEC	SHEET	1 OF 1
DATE	11/15/2011	DATE	11/15/2011

Ordinance Section	Description	Current Ordinance Requirement	Requested Variance
Water Quality Protection			
22.05.017 (d)	Allowable Development in Water Quality Buffer Zone	Specifies the development activity allowed within a Water Quality Buffer Zone, including critical utility, roadway, and transportation crossings, hike and bike trails, water quality monitoring devices, public and private parks and open space, typical private drives to allow access to property not otherwise accessible, and construction and use of bmps for water quality and stormwater control.	<p>Variance to allow for approximately 16 acres of encroachment within the Water Quality Buffer Zone. The encroachments include: (1) portions of the Golf Course; (2) portions of golf cart paths; (3) non-vertical portions of a limited number of residential lots; (4) portions of the Project entry road; (5) utility line encroachment (excluding wastewater); (6) portions of the maintenance facility parking lot; and (7) a nursery for growing sod.</p> <p>Justification: To mitigate for the necessary encroachments, there will be approximately 163 acres of native open space set aside throughout the Property outside of the Buffer Zone. Water quality measures will be implemented to offset the encroachments. These measures will consist of one or a combination of vegetative filter strips, porous friction course pavement and sheet flow. No vertical structures (houses or outbuildings) will be allowed within the Buffer Zone. Residential lot encroachment may include landscaping. The proposed encroachments are consistent with development otherwise permitted within the Buffer Zone and are consistent with variances granted for other developments in the area.</p>

Ordinance Section	Description	Current Ordinance Requirement	Requested Variance
28.04.018	Cuts and Fills	Maximum cuts and fills limited to 6 feet.	<p>Variance: Section 28.04.018 Cuts and Fills: Cut and fill not to exceed fifteen feet (15') may be approved by the City Engineer for pond construction and grading.</p> <p>Justification: Variance is necessary for pond construction and grading. Cuts and fills not to exceed fifteen feet (15') require review and approval by City Engineer. Any cut and fill in excess of 15' requires Council approval. Similar cut and fill variances have been approved by City for other developments in the area. Cut and Fill for Project roadways, lots and Open Space shall comply with Code requirements.</p>

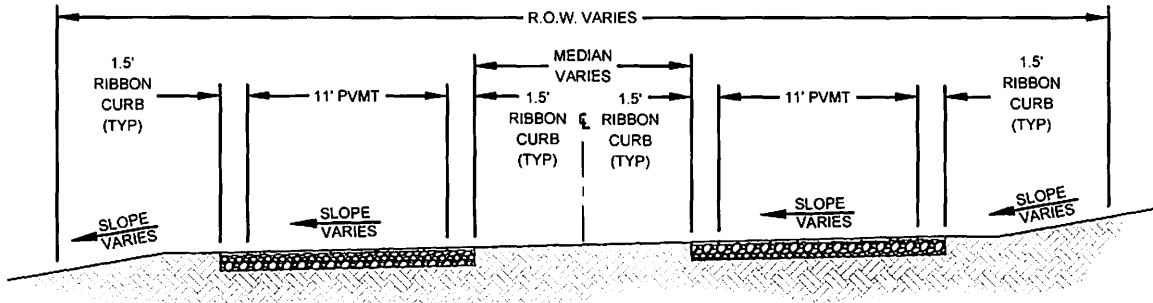
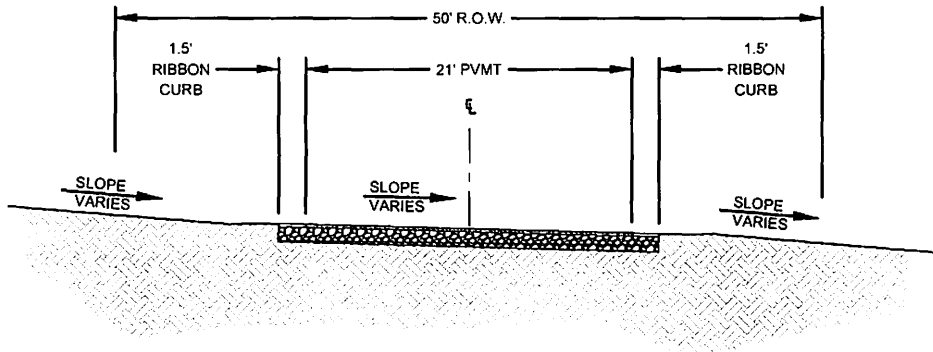
Ordinance Section	Description	Current Ordinance Requirement	Requested Variance
Subdivision Ordinance			
Section 11 Street Geometric Design Standards	Street Geometric Design Standards	Section 11 requires streets to be constructed per design standards set out in City's TCSS Manual.	<p>Variance to allow Project streets to be constructed per design standards set out in Exhibit C-1 (Street Design Standards).</p> <p>Justification: The alternative standards will: (1) allow for the construction and maintenance of private streets that are appropriate for this low density Project; (2) allow street geometrics that promote lower roadway speeds thus increasing safety; and (3) require less impervious cover. Notwithstanding the variance, Project roadway widths shall conform to the dimensions required by ESD No. 6.</p>
Section 14.6 Minimum Lot Sizes in ETJ	Minimum Lot Size	Section 14.6 establishes a minimum 0.75 acre lot size in the Contributing Zone portion of the City's ETJ for lots to be served by public sewer and public water.	<p>Variance to allow a minimum lot size of 0.33 acres for residential lots in the Project.</p> <p>Justification: The Project will include a small number of lots which will be 0.33 acres in size. However, the average residential lot size, including open space, will exceed 1.5 acres. The maximum number of residential lots shall not exceed 150. Overall impervious cover for the entire Project will not exceed 15%.</p>

Ordinance Section	Description	Current Ordinance Requirement	Requested Variance
Section 11.9 Private Streets	Private Streets	Public streets are required unless the private street requirements of Section 11.9 are met	<p>Variance to allow private streets within the Project.</p> <p>Justification: Project will construct private streets that will be privately maintained. This allows for greater street design flexibility and lessens maintenance burden on County and future City taxpayers.</p>
Section 11.21 Maximum Block Length	Maximum Block Length	Section 11.21 requires a maximum residential block length of 2,000 feet for suburban and rural subdivisions.	<p>Variance to allow maximum block lengths within the Project to exceed 2,000 feet. Maximum block lengths of approximately 10,400, 11,800 and 6,800 are anticipated for Project perimeter blocks.</p> <p>Justification: The variance will: (1) allow preservation of more open space; (2) result in less impervious cover; and (3) reduce Project traffic congestion</p>
Section 11.22 Maximum Cul de Sac Length	Maximum Cul de Sac Length	Section 11.22 requires a maximum cul de sac length of 2,000 feet.	<p>Variance to allow maximum cul de sac lengths within the Project to exceed 2,000 feet. Maximum cul de sac length of approximately 3,330 feet is anticipated.</p> <p>Justification: The variance will: (1) allow preservation of more open space; (2) result in less impervious cover; and (3) reduce Project traffic congestion</p>

Driftwood 522, LLC
Driftwood Golf Club Development, Inc.
Brown Tract
EXHIBIT C-1
Street Design Standards
January 4, 2019

Code Section	Code Requirements	Proposed Requirement	
<p>Hays County Development Regulations Chapter 721 - Roadway Standards</p> <p>The road standards for the City of Dripping Springs, TX will be governed by Table 721.02 Design Requirements Based on Roadway Classification</p> <p>The width of Traveled way is 21' pavement plus the 1.5' ribbon curb which totals 24' of driveable surface for emergency vehicles</p>	Country Lane		
	Design Speed	25 mph	20 mph
	Minimum ROW Width	50'	40'
	Width of Traveled Way	18'	21' Pavement 1.5' Ribbon Curb (Both Sides of Pavement)
	Minimum Centerline Radius	200'	80'
	Minimum Tangent Length Between Reverse Curves	50'	0'
	Minimum Radius for Edge of Pavement at Intersections	25'	10'
	Minimum Cul-de-sac Inside Pavement Radius	48'	25'
	Minimum Cul-de-sac ROW Radius	70'	50'
	Local Street		
	Design Speed	25 mph	20 mph
	Minimum ROW Width	60'	50'
	Width of Traveled Way	20'	Undivided - 21' Pavement & 1.5' Ribbon Curb (Both Sides of Pavement) Divided - 2 @ 11' Pavement & 1.5' Ribbon Curb (Both Sides of Pavement)
	Minimum Centerline Radius	300'	100'
	Minimum Tangent Length Between Reverse Curves	100'	0'
	Minimum Radius for Edge of Pavement at Intersections	25'	10'
	Minimum Cul-de-sac Inside Pavement Radius	48'	25
	Minor Collector		
	Design Speed	35 mph	30 mph
	Minimum ROW Width	60'	50'
	Width of Traveled Way	22'	Undivided - 21' Pavement & 1.5' Ribbon Curb (Both Sides of Pavement) Divided - 2 @ 11' Pavement & 1.5' Ribbon Curb (Both Sides of Pavement)
	Minimum Centerline Radius	375'	200'
	Minimum Tangent Length Between Reverse Curves	150'	50'
Minimum Radius for Edge of Pavement at Intersections	25'	15'	

SHEET 1 of 2



MEC
 Murfee Engineering Company Texas Registered Engineering Firm F-363
 1101 Capital of Texas Highway South Building D, Suite 110, Austin, Texas 78746, (512) 327-9204
 City of Dripping Springs

DRIFTWOOD GOLF CLUB
 EXHIBIT C-1
 TYPICAL STREET SECTIONS

JOB NO.: 18.004.56	SCALE: NTS	SHEET: 2 OF 2
DESIGNED BY: JB		
DRAWN BY: JRW		DATE: 1/4/2019
FILE(LAYOUT: Q:\18\00456\AD\180456_TYPICAL STREET SECTIONS.dwg)		

Exhibit D

DRIFTWOOD COMMERCIAL LANDSCAPE DESIGN CRITERIA

The information in this Exhibit is intended to define the technical design criteria needed to achieve the landscape policy goals for all commercial uses located within the Driftwood project.

The Plant Guide for this Exhibit (the "Guide") is Native and Adapted Landscape Plants by the Texas Coop Extension at Texas A&M University and the City of Austin which is available free at many garden centers; and is featured on the site growgreen.org.

The following uses do not have to comply with the Landscape Design Criteria:

- Single family residential dwellings, though St. Augustine grass is not permitted on residential lots.

A. Landscape Area

At least 20 percent of street-side yard must be landscaped. Grass areas not using native or drought tolerant lawn grasses in the Guide are not credited as landscaped area except in shaded areas that receive less than six hours of sunlight per day. St. Augustine grass shall not be permitted.

B. Determining Street-side Yard

The exact configuration of a street yard (or yards) on a site will depend on how a number of factors interrelate on that site. Among these factors are:

- Type and location of building walls.
- Number of streets that border the site.
- Number, size, and orientation of buildings on the site.

The street yard area is calculated by finding the total lot square footage which lies between the street right of way line and the front wall of a building or buildings on a site. This street yard boundary extends from the outward most corners of the front wall; parallel to the street until it intersects with the side property lines.

C. Drip Line Credit

In order to encourage the preservation and continued growth of smaller trees, the following credit toward landscape area is possible. Each square foot of landscape area which is permeable and within the area encompassed by the drip line of a tree at least two (2) inches in trunk diameter measured at 4-1/2 feet above the ground, shall count as one and one-quarter (1.25) square feet of the requirement for landscape area. In no case can the actual landscape area in the street yard of a lot be less than 1/3 of the required 20 percent.

D. Buffering.

Buffering is a site specific requirement that should be evaluated based on viewer distance and angle of view from the areas or site features requiring buffering. Buffer design should also consider traffic movement and safety and the amount of view obstruction needed and the type and mixture of design elements used in the buffer. To be considered effective, a combination of buffering elements should be used to provide a partial view obstruction of those items to be buffered (pavement, parked cars, etc.). Landscape buffers should be planted in a permeable landscape area at least eight (8) feet wide, measured from inside of curb or pavement to the property line.

E. Plant Selection

At least 90% of the areas shall be planted with species from the Guide. Up to 10% of the plants may be of a non-preferred variety as long as they are grouped together in a suitable area and can be irrigated separately.

F. Turf Selection and Limitations.

Areas that receive more than six (6) hours of sunlight per day shall be planted with turf species from the Guide. St. Augustine is not permitted.

G. Soil Conditioning and Mulching

The following soil conditioning and mulching requirements apply where there is less than six inches of native soil:

A minimum of 2 inches of organic mulch shall be added in non-turf areas to the soil surface after planting.

Non-porous material such as sheet plastic shall not be placed under the mulch.

A minimum of 4 inches of permeable soil, native or imported, shall be required for turf and landscaped areas. The organic matter content of such soils shall be not less than 5% by dry weight.

H. Tree Planting Areas

Tree planting areas are to be provided with a minimum of 12 inches of friable native loam soil (max. 40% clay, minimum 5% organic matter). Planting in relatively undisturbed existing native soils is encouraged. Soil to a minimum depth of 12 inches is required within the entire landscape median or peninsula. All other planting areas must have a minimum soil depth of 12 inches within a radius of six feet from the tree trunk.

Trees are not to be planted in un-amended caliche, solid rock, or in soils whose texture has been compacted by construction equipment. Areas of compaction which have been subsequently amended with 12 inches of friable native soil are suitable for planting.

I. Irrigation of Landscape Areas

The Owner shall be responsible for the irrigation of all required landscape areas and plant materials, utilizing one or a combination of the following methods:

- An automatic or manual underground irrigation system (conventional spray, bubblers, drip, emitters, drip tubing, porous pipe and the like with turf zones separated from planting zones unless otherwise approved; or
- A hose attachment must be located within 100 feet of all required landscape areas and plant materials where there is no road or parking pavement between the hose attachment and landscape area and the site plan area is no longer than 0.5 acre; or
- Landscape areas planted with native grasses and wildflowers may use a temporary and above ground irrigation system to provide irrigation for the first two (2) growing seasons.

The irrigation methods used shall:

- Provide a moisture level in an amount and frequency adequate to sustain growth of plant materials on a permanent basis;
- Be in place and operational at the time of the site completion inspection; and
- Be maintained and kept operational at all times to provide for efficient water distribution.

Landscape working plans shall indicate, by a detail, a drawing or by specification, in a note on the site plan, the nature and location of irrigation which will be used, specific enough to show that adequate irrigation will be provided to all required landscape areas and plant materials and that there is no disturbance to the critical root zones of existing trees.

No irrigation shall be required for undisturbed natural areas or undisturbed existing trees. Automatic irrigation systems shall be designed and installed by a Texas licensed irrigator.

J. Landscape Plan

The landscape plan shall be submitted with the site plan and shall have the seal and certification of a landscape architect, architect, professional engineer or full time building designer for projects over one-half acre in size, and the seal and certificate of a landscape architect or architect for all projects over one acre in size, that the plan meets these criteria.

K. Alternative Plan Proposals

An applicant or owner can submit an alternative design which proves to be as good as or better than strict compliance with the basic landscape criteria. Alternative proposals should be clearly identified on the landscape plans and the site plan application should include a letter outlining the alternative proposal. Review of the alternative proposal will be in conjunction with the site plan review.

L. Automated Irrigation System

The installation of an automatic conventional spray type irrigation system is allowed, however, the installation of an automatic water saving drip irrigation system for landscaped areas is strongly encouraged.

M. Preservation of Existing Vegetation:

Consideration will be given to outstanding designs that preserve natural vegetation beyond what is required by these criteria. This is a difficult concept to quantify and will be considered based on the merits of the proposal and the site constraints.

N. Integrated Pest Management Plan (IPM)

An IPM will be submitted along with the landscape plan and will be reviewed at the site plan stage of the project.

O. Rainwater collection and beneficial reuse.

Rainwater harvesting and reuse for site irrigation will be required on at least 50% of the roof area of each building, or on 50% of the total roof area in a site plan. Rain water tanks and cisterns will not be considered to be impervious cover and they shall be allowed to be installed above ground and to be located at roof/gutter downspouts or in another convenient location to facilitate the goal of rainwater collection and beneficial reuse.

P. Integrated Low Impact Development (LID) Stormwater Management Practices

Integrating LID practices for the purpose of addressing both pollutant removal for stormwater and protection of predevelopment hydrological functions, will be given consideration in alternative landscape design criteria. Functional LID landscape designs will be assessed for effectiveness and positive landscape points will be determined accordingly.

EXHIBIT "E"

STATE OF TEXAS)
)
COUNTY OF HAYS)

PETITION FOR VOLUNTARY ANNEXATION

To the Mayor and City Council of the City of Dripping Springs:

The undersigned owner(s) of the tract of land described below (the "tract") hereby petition the City of Dripping Springs to extend the present incorporated municipal boundaries (i.e., City limits) so as to include in, and annex as a part of, the City of Dripping Springs, the property described on *Exhibit "A"*, which is attached and incorporated herein for all purposes.

We certify and swear that the tract is:

1. one-half mile or less in width; and
2. adjacent (i.e., contiguous) to the municipal boundary; and
3. the location upon which fewer than three registered voters reside, or is vacant or without residents.

We certify and swear that this petition is signed and acknowledged by each and every person and corporation owning said tract or having an interest in any part thereof.

Name

Date

Name

Date

This instrument was acknowledged before me by _____
_____ on this the ___ day of _____, 2018.

Notary Public, State of Texas
My commission expires: _____

EXHIBIT "F"

STATE OF TEXAS)
)
COUNTY OF HAYS)

PETITION FOR VOLUNTARY ANNEXATION

To the Mayor and City Council of the City of Dripping Springs:

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We certify and swear that this petition is signed and acknowledged by each and every person and corporation owning said tract or having an interest in any part thereof.

Name

Date

Name

Date

This instrument was acknowledged before me by _____
_____ on this the ___ day of _____, 2018.

Notary Public, State of Texas
My commission expires: _____