

**AGREEMENT CONCERNING CREATION AND OPERATION OF
HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4
AND LANDS WITHIN THE DISTRICT**

THIS AGREEMENT ("Agreement") made and entered into by and between the City of Dripping Springs, Texas, (the "City"), a general law city situated in Hays County, Texas, acting herein by and through its undersigned duly authorized Mayor, as authorized by specific action of its City Council; Hays County Municipal Utility District No. 4, a municipal utility district created on the 3rd day of July, 2003 by order of the Texas Natural Resource Conservation Commission or successor agency and operating pursuant to Chapter 54 of the Texas Water Code; and 194 Bush, Ltd., a Texas limited partnership, its successors and assigns the ("Partnership").

RECITALS

WHEREAS, the Partnership is the holder of legal title to all of the land comprising the District, which consists of approximately 194 acres situated wholly in Hays County, Texas, and within the extraterritorial jurisdiction of the City, which land is more particularly described in Exhibit "A" (the "Property"); and

WHEREAS, the Property is included within the boundaries of the Hays County Municipal Utility District No. 4 (the "District") created on the 3rd day of July, 2003 by order of the Texas Natural Resource Conservation Commission or successor agency ("TNRCC"); and

WHEREAS, pursuant to Section 42.042 of the Texas Local Government Code, as amended, and Section 54.016, Texas Water Code, as amended, the City has consented, subject to certain terms and conditions of this Agreement, to the creation of the District by Resolution adopted on July 23rd, 2002, in an open and duly posted public meeting of the City (the "Resolution"); and

WHEREAS the City and the Partnership wish to enter into certain agreements regarding the proposed development within the District (the "Project"), in order to provide for orderly development of the Project, which may include mixed-use development, including but not limited to, single-family residential homes, commercial and light industrial development and schools; and

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH BELOW, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND ADEQUACY OF WHICH IS HEREBY ACKNOWLEDGED BY THE PARTIES, THE PARTIES CONTRACT, COVENANT AND AGREE AS FOLLOWS:

ARTICLE I

AGREEMENTS REGARDING DISTRICT CREATION

Section 1. The Partnership and the District will construct all facilities and infrastructure to serve the land within the District in accordance with plans and specifications that have been approved by the City, pursuant to City ordinance, as amended from time to time including those pertaining to utility design, construction and installation requirements. The City shall have the right to inspect, at reasonable times, all facilities being constructed by the Partnership or the District. The City agrees to review all plans and specifications provided by the Partnership or the District in a timely manner and pursuant to the procedures set forth in City ordinances and guidelines; not to unreasonably withhold its approval of such plans and specifications; and to conduct its inspections of ongoing construction in a manner that minimizes interference with such construction.

Section 2. Pursuant to Section 54.016, the parties agree that the purposes for which the District's bonds, or other lawful obligations to be issued by the District, may be issued are limited to the purposes of purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances, and associated professional and licensing or permitting fees, necessary:

(a) To provide a water supply for municipal uses, domestic uses and commercial purposes; and

(b) To collect, transport, process, dispose of and control all domestic, commercial, industrial or communal wastes, whether fluid, solid or composite state; and

(c) To gather, conduct, divert and control local storm water or other local harmful excesses of water in the District, related water quality facilities, and/or the payment of organization expenses, operation expenses during construction and interest during construction; and

(d) To provide parks and other recreational facilities as may be consistent with City ordinances and authorized pursuant to Chapters 49 and 54 of the Texas Water Code; and

(e) To provide any other facilities, amenities and/or improvements that benefit the Property within the District, that are consistent with City ordinances, and that qualify for developer reimbursement pursuant to rules promulgated by TNRCC.

Section 3. The District shall, within five (5) days of submittal, provide any bond package that it submits to the TNRCC (or successor agency) to the City for review, comments, and recommendations. The District further agrees to incorporate the City's recommendations into the District's final bond sales packages, so long as the recommendations, in the sole reasonable judgment of the District, do not render the bonds and notes unmarketable or considers such recommendations to not be materially detrimental to the District. The City's recommendations may be based upon, but will not be limited to, the following considerations: (1) overlapping tax rates, (2) the number of homes occupied, (3) taxpayer concentrations and

debt to assessed value ratios within the District, (4) TNRCC rules regarding obtaining a market study, and (5) overall compliance with TNRCC rules. Further, to the extent the following conditions are in compliance with TNRCC's (or successor agency) rules, and so long as the Board of Directors of the District approves conditions (a)-(e) below, for any individual bond issuance the parties agree that the District Bonds:

- (a) Will have a maximum maturity of 25 years;
- (b) Will not have interest rates that exceed 2% above the weekly tax exempt Bond Buyer Index for 25 year revenue bonds;
- (c) Will not be issued if the District's debt to certified taxable assessed valuation as determined by the records of the Hays County Appraisal District will exceed 25 percent upon issuance;
- (d) Will have amortization that results in level debt service payments over the life of the issue, except for an initial period, of up to 5 years of interest only payments; and
- (e) So long as it does not increase the District's interest rate on the proposed bonds, will contain the City's recommended call redemption features.

Section 4. The parties acknowledge that the Partnership may obtain Certificates of Convenience and Necessity ("CCN") from the TNRCC to provide water and/or sewer services throughout the boundaries of the District and will abandon or transfer those CCN(s) to the District upon its creation and subsequent TNRCC approval of any transfer. Should persons or entities other than the Partnership or the District apply for a water or a sewer CCN for areas within the District then, except for CCNs sought to provide the utility service contemplated in Section 10 below, the Partnership and the District shall oppose those CCN applications.

Section 5. One of the purposes of this Agreement is to authorize the District and the City, pursuant to the provisions of Section 54.016 of the Texas Water Code that allow a district and a city to contract regarding annexation, to enter into a binding contract regarding the terms and conditions of annexation of areas within the District by the City. The parties acknowledge that the City may annex area within the District in the future. Accordingly, the Parties agree as follows:

- (a) If the City annexes the entire area in the District, then the City will succeed to all the powers, duties, assets and obligations of the District, including but not limited to any rights and obligations under valid and duly-authorized contracts entered into by the District prior to the first notice of annexation (e.g., developer reimbursement agreement) and any bond obligations. The District will not enter into any developer reimbursement agreements or agreements for new projects or extraordinary expenses, except as necessary for continued operation and maintenance of existing District facilities, after publication of the first notice of proposed annexation. The District further agrees that any agreements with the District in violation of this requirement shall be void.

(b) Alternatively, the City may exercise any options available under Chapter 43 of the Texas Local Government Code, or similar annexation laws of the State of Texas, that are in effect with regard to the provision of water and/or sewer service to areas within Municipal Utility Districts that are annexed by cities.

Section 6. Unless it obtains prior approval of the City Council of the City, the District shall not: (1) construct or install water or wastewater lines or facilities to serve areas outside the District; (2) sell or deliver water or wastewater service to areas outside the District; or (3) annex any additional land to the District. Any land for which annexation to the District or out-of-district service is hereafter requested and approved shall be subject to the terms of this Agreement.

Section 7. After annexation, the City may set rates for water and/or sewer services for property that was within the District at the time of annexation which may include a surcharge in addition to the rates charged to other ratepayers of the City for the purpose of wholly or partially compensating the City for the assumption of the District's obligations; provided that the City does not annex the area within the District until at least 90% of the Project facilities have been installed for which District bonds are authorized pursuant to this Agreement. Additionally, any such additional surcharges above the rates for other properties within the City shall be calculated as an additional amount up to but not exceeding 100% of the water and/or sewer rates of the City. Such additional surcharges shall be calculated solely to recover those District debts and other obligations assumed by the City upon annexation which are not covered by any increase in the City's ad valorem tax revenue arising out of the annexation. The surcharge may continue for thirty (30) years after the initial District debt is issued or until the bonded indebtedness of the District has been retired, whichever occurs last, but in no case for a longer period of time than is necessary to wholly compensate the City for its assumption of the obligations of the District. The District shall comply with all of the requirements of Section 54.016(h), or such similar laws as may be in effect, regarding filing with the county clerk a duly affirmed and acknowledged statement which includes certain notice information to purchasers of property regarding the City's right to collect this surcharge.

Section 8. The Partnership and the District agree not to contest the City's annexation of the area within the District; provided, however, that the City shall not undertake to annex, or otherwise impose any ad valorem or other taxes or assessments upon the Property until at least 90% of the Project facilities have been installed for which District bonds are authorized pursuant to this Agreement.

Section 9. The City will express support for, but need not become a party to proceedings related to, the creation and funding of the District and the governmental approvals necessary for construction and operation of facilities to serve the area within the District, including, but not limited to, a CCN.

Section 10. The Partnership or the District recognize that the City may seek a CCN to become the retail water and/or wastewater provider for the area included in the District, and the Partnership and the District agree to support such CCN applications, assuming the Partnership or District has not previously filed a CCN application(s). Alternatively, the Partnership may undertake to construct the utilities or other facilities to serve the area in the District and may negotiate and enter into developer reimbursement agreements with the District, provided that the

District will give the City the opportunity to review and provide comments to the District on such developer reimbursement agreements. Unless the City has (i) executed a final agreement between the City and a qualified third-party provider of water and/or wastewater utility services and said final agreement stipulates that the City is to be the provider of such service(s) within the area included, or to be included, within the boundaries of the District, and (ii) the City has filed an application for a water and/or sewer CCN for the areas within the District, the Partnership and the District also may negotiate and enter into an agreement or agreements with one or more qualified third party providers of water and/or wastewater utility services, including the Lower Colorado River Authority ("LCRA"), for the purpose(s) of obtaining wholesale or retail water and/or wastewater services for the area to be included in the District (the "Utility Agreements"). The Partnership and the District shall require such provider (i) to construct all facilities and infrastructure to serve the land within the District in accordance with plans and specifications that have been approved by the City; and (ii) to grant the City the right to inspect, at reasonable times, all facilities being constructed by such provider. The City agrees to review all plans and specifications submitted by the provider in a timely manner and pursuant to the procedures set forth in City ordinances and guidelines, applicable to the Partnership and District, not to unreasonably withhold its approval of such plans and specifications, and to conduct its inspections of ongoing construction in a manner that minimizes interference with such construction. The Partnership and the District further agree to give the City notice of any Utility Agreement(s) it negotiates with third party retail providers and, in good faith, to seek agreement with the provider that the provider's CCNs for such service within the District will be transferred to the City upon annexation pursuant to terms and conditions negotiated between the City and the provider.

ARTICLE II

PROJECT LAND USE AND DEVELOPMENT

Section 1. The City agrees that, during the term of this Agreement, it will not impose or attempt to impose: (a) any moratorium on building or development within the Project, or (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting preliminary plans, final plats, site plans, building permits, certificates of occupancy or other necessary approvals, within the Project. No City imposed moratorium, growth restriction, or other limitation affecting the rate, timing or sequencing of development or construction of all or any part of the Project will apply to the Project if such moratorium, restriction or other limitation conflicts with this Agreement or would have the effect of increasing the Partnership's obligations or decreasing the Partnership'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 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.

Section 2. The Partnership further agrees:

(a) to provide a minimum of thirty-five (35) acres of the Property as "Open Space," to be used for green belts, parks, water quality buffer zones, drainage and water quality facilities, multiple use trails, all uses as approved pursuant to any agreement the

Partnership may enter into with the U.S. Fish and Wildlife Service, it being understood that such areas may be crossed with or contain utility easements and lines, roadway crossings, and other infrastructure required to provide service to the areas within the District; and

(b) to adopt, and cause to be recorded with the Clerk of Hays County, a set of covenants and restrictions for the Property, which provide for, inter alia, the establishment of a Homeowners' Association, to include an "Architectural Design Criteria and Control Committee" (the "HOA").

(c) Entrances and egress to and from the property will, as reasonably possible, be aligned with or off set a minimum of 300 feet from opposite roadways and will comply with Hays County and Dripping Springs off-set and alignment regulations. Furthermore, the Partnership agrees to limit public roadway access to the property to two locations however, the ultimate locations of public roadway access points may vary depending on adjacent and / or across the highway development plans and improvements that may be made by TxDOT, the Partnership, or others to U.S. Hwy 290 West.

Section 3. Due to the size of the Property and the likely duration of its development being several years, the City and the Partnership mutually agree that there is a need to plan ahead for adequate public facilities including, but not limited to, water and wastewater and other public utility facilities, water quality and storm water detention facilities, open space and roadways (the Project Infrastructure"). The City and the Partnership mutually agree that it is a benefit to the Parties for the Project infrastructure to be properly and adequately planned and designed in a manner and capacity to properly serve the Project and to ensure the City that, if and when it may annex the Property, those facilities are adequate and of the best quality possible. It is also beneficial to the Parties that the Project be planned and developed in a manner that is sensitive to the environment, protects water quality, and successfully meets the needs and demands of the growing community. In order to accomplish the above, it is necessary for there to be stable and predictable rules and regulations applicable to the Project. Except as otherwise provided in this Agreement (for example, Article I, Sections 1 and 10), the City rules, regulations and official policies applicable to the development of the Project during the term of this Agreement will be those City ordinances, regulations, and official policies (collectively, "Current Rules") in force and as interpreted by the City by policy or practice on July 23rd, 2002 (the "Vesting Date"). The Partnership also agrees to abide by the current City Outdoor Lighting Ordinance #1260.00, which ordinance does not currently apply to the Property. The Parties agree that Current Rules along with certain variances thereto, will help ensure the successful long term planning and development of the Property. As agreed between the Partnership and the City, the variances from the Current Rules granted to the Partnership on the Property for the Project (the "Variances") are attached hereto, and incorporated herein in their entirety by reference, as Exhibit "B". It is understood that the Current Rules along with the Variances (collectively the "Applicable Rules") will apply to the Property until the earlier to occur of (i) the effective date of the City's annexation of the Property or (ii) the termination of this Agreement.

Section 4. To assure the City of the timely and proper installation of utility and roadway infrastructure within the Project, the Partnership may provide a subdivision construction agreement that contractually obligates the Partnership to complete the construction of such infrastructure prior to selling final platted property (or portions thereof) in lieu of any other fiscal

security requirements, required pursuant to the Applicable Rules. So long as the Partnership provides fiscal security for the utility and roadway infrastructure serving all or portions of the final platted areas of the Property and otherwise as provided in the Applicable Rules, the Partnership may sell all or portions of the lots located within a final platted area prior to completion of the utility and roadway infrastructure for that final platted area.

Section 5. The City grants the Partnership (i) an exemption from Ordinance No. 52B, the City's Site Development Ordinance, for all single-family lots within the Project, and (ii) without limiting the generality of the foregoing, a waiver of the requirement of Section 8.D. of Ordinance No. 52B that a buffer area equal to 20% of the lot be provided downhill of impervious coverage where water quality and detention is provided either through on-site or regional water quality and detention facilities.

Section 6. The City agrees that the dedication of Open Space areas to the HOA or the District, or placing upon such areas a recorded deed restriction or Open Space easement in accordance with the provisions of Section 2. (a) herein, will satisfy the requirement of Section 15.J. of Ordinance No. 1230.1 and Sections 2-4 of Ordinance 1230.3.

Section 7. In the event of any third party lawsuit or other claim relating to the validity of this Agreement and/or any actions taken by the City and the Partnership hereunder, the City and the Partnership agree as follows:

(a) the Partnership and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement; and

(b) the filing of any third party lawsuit relating to this Agreement or the development of the Project will not delay, stop or otherwise affect the development of either the Project or the Property, or the City's processing or issuance of any approvals for the Project and the Property, unless otherwise required by a lawful order of a court of competent jurisdiction.

Section 8. In recognition that the agreements in this Article II regarding land use and development may result in increased costs or other administrative burdens on the City, and as additional consideration therefore, without which the City would not have entered into Article II of this Agreement, the Partnership agrees to pay the City up to \$55,000.00, payable as follows:

(a) \$5,000.00 to be delivered within 5 business days of the date the Agreement is executed by the City, said \$5,000.00 is to be treated by the City as a prepaid credit in favor of the Partnership to cover any application, filing, inspection and other miscellaneous fees charged by the City in connection with the Partnership's development of the Property ; and

(b) up to \$50,000, lawfully reimbursed to the Partnership out of proceeds from the issuance of bonds by the District described in this Agreement. This amount will be calculated at the rate of 5% of each bond reimbursement received by the Partnership for costs advanced by the Partnership for the construction of water, wastewater and drainage utility facilities within the Project. Each installment of the sum (i) will be

payable solely out of the proceeds of the District's bonds, (ii) will be contingent upon the creation of the District and the sale and funding of the District's bonds, (iii) will be paid by the Partnership to the City within 5 days after the Partnership's receipt of the bond reimbursement upon which the sum is calculated and (iv) will equal five percent (5%) of the amount of bond reimbursement actually received by the Partnership.

Section 9. The Partnership shall establish an initial deposit of \$2,500 with the City, which is intended to cover all City legal and engineering fees and administrative expenses associated with this Agreement. If the fees and expenses incurred by the City exceed the amount of the initial deposit, the Partnership will pay the additional fees and expenses upon the City's request. If the fees and expenses incurred by the City are less than the amount of the initial deposit, the City will refund the balance to the Partnership upon the Partnership's request.

ARTICLE III

OTHER PROVISIONS

Section 1. In the event of any third party lawsuit or other claim relating to the validity of this Agreement and/or any actions taken by the Parties hereunder, the parties agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement.

Section 2. All of the terms of this Agreement shall be binding upon, shall inure to the benefit of, and shall be severally enforceable by and against each party to this Agreement, individually, and such party's respective personal representatives, successors, trustees, receivers, and assigns. Notice of assignment by a Party of any rights or obligations under this Agreement shall be furnished to the other Party no less than 20 business days prior to the Assignment.

Section 3. If either Party believes that the other Party has failed to comply with the requirements of this Agreement, the non-failing Party shall provide the other Party with written notice of such alleged failure to comply, and failing Party shall have sixty (60) days thereafter to correct such non-compliance. If the Party fails to correct such non-compliance within such time, the non-failing Party shall have available all remedies allowed by law and/or this Agreement.

Section 4. 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.

Section 5. This Agreement may not be amended or modified other than by a written agreement executed by the parties, nor may any provision be waived except by a writing signed by the party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given.

Section 6. Each Party represents and warrants to the other that it has full authority to execute this Agreement and implement its terms and conditions.

Section 7. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement, or the application thereof to any person or entity or under any circumstances, is invalid or unenforceable to any extent under applicable law, and the extent of such invalidity or unenforceability does not cause substantial deviation from the underlying intent of the parties as expressed in this Agreement, then such provision shall be deemed severed from this Agreement with respect to such person, entity or circumstance, without invalidating the remainder of this Agreement or the application of such provision to other persons, entities or circumstances, and a new provision shall be deemed substituted in lieu of the provision so severed which new provision shall, to the extent possible, accomplish the intent of the parties as evidenced by the provision so severed.

Section 8. In addition to all the rights and remedies provided by the laws of the state, in the event the District violates the terms and provisions of this Agreement, the City shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling or requiring the District and its officials to observe and comply with the terms and provisions prescribed in this Agreement.

Section 9. The parties acknowledge that each party and, if it so chooses, its counsel, have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or Exhibit(s) hereto.

Section 10. This Agreement shall be effective from the date of execution hereof by the City and the Partnership, and shall continue in effect for a period of 15 years from the date of the execution hereof by the District or until such time as all District Bonds shall have been repaid, whichever is later; provided, however, if the creation of the District has not been confirmed at an election conducted on or before the first Saturday of May in the year 2005, then this Agreement may, at the option of the Partnership or the City, be terminated by written notice.

IN WITNESS HEREOF, each of the parties has caused this Agreement to be executed by its undersigned duly authorized representative, in multiple counterparts, each of which shall be deemed an original, as of the date indicated below, it being understood that all parties need not sign the same counterparts and all of such counterparts shall together constitute one and the same instrument.

CITY OF DRIPPING SPRINGS

By: _____

Todd Purcell, Mayor
City of Dripping Springs, Texas

Executed on July 25th, 2002

ATTEST:

Ginger Faught, City Secretary
City of Dripping Springs, Texas

STATE OF TEXAS §
 §
COUNTY OF HAYS §

BEFORE ME, the undersigned authority, on this day personally appeared Todd Purcell, Mayor of the City of Dripping Springs, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said City of Dripping Springs.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 25th day of July, 2002.

Notary Public, State of Texas



**HAYS COUNTY MUNICIPAL UTILITY
DISTRICT NO. 4**

By: 
(Print Name): Emily Jane Monroe

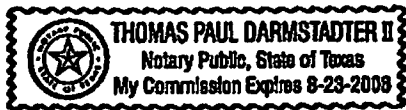
Title: President

Executed on March 4, 2004

STATE OF TEXAS §
 §
COUNTY OF HAYS §

BEFORE ME, the undersigned authority, on this day personally appeared Emily Jane Monroe, President of the Hays County Municipal Utility District No. 4, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of the said Hays County Municipal Utility District No. 4.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 4th day of March, 2004.




Notary Public, State of Texas

By: **194 BUSH, LTD.**

DH Real Estate Investment Company dba DH
Investment Company, a Texas Corporation,
General Partner

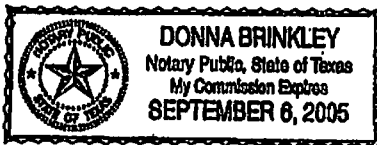
By: *Michael L. Schoenfeld*
Michael L. Schoenfeld, Vice President

Executed on July 25th, 2002

STATE OF TEXAS §
 §
COUNTY OF HAYS §

BEFORE ME, the undersigned authority, on this day personally appeared Michael L. Schoenfeld, Vice President of DH Real Estate Investment Company dba DH Investment Company, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 25th day of July, 2002.



Donna Brinkley
Notary Public, State of Texas

EXHIBIT "A"

"HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4"

Metes & Bounds Description

for

780 acres of land, more or less, in Hays County, Texas

FIELD NOTE DESCRIPTION OF 193.926 ACRES OF LAND OUT OF THE WILLIAM S. HOLTON SURVEY NO. 57 ABSTRACT 245 IN HAYS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN (186.61 ACRE) TRACT CONVEYED TO THE C.F. BUSH FAMILY LIMITED PARTNERSHIP BY DEEDS RECORDED IN VOLUME 1266 PAGE 867 AND VOLUME 1354 PAGE 255 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS BUT EXCLUDING THOSE TRACTS PREVIOUSLY CONVEYED TO THE STATE OF TEXAS FOR RIGHT-OF-WAY AS RECORDED IN VOLUME 170 PAGE 318 AND VOLUME 170 PAGE 322 OF THE HAYS COUNTY DEED RECORDS, AND BEING ALL OF THAT (10.00 ACRE) TRACT CONVEYED TO THE C. F. BUSH FAMILY LIMITED PARTNERSHIP BY DEED RECORDED IN VOLUME 1354 PAGE 255 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½ inch iron pipe found in the southwest line of Lot 13, Oak Run West, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 3 Page 77 of the Plat Records of Hays County, Texas, at the most easterly corner of that certain (200 Acre) tract conveyed from Carl A. Bible et ux. to Claude F. Bush, Jr. and Mary Pauline Bush by deed recorded in Volume 180 Page 422 of the Hays County Deed Records, and being at the Northeast corner of that certain (186.61 Acre) tract conveyed to the C.F. Bush, Jr. Family Limited Partnership by deeds recorded in Volume 1266 Page 867 and Volume 1354 Page 255 of the Hays County Official Public Records, and being the Northwest corner of that certain (20.54 Acres) tract conveyed to William R. Schneider by deed recorded in Volume 443 Page 840 of the Hays County Real Property Records, and being the Northeast corner and PLACE OF BEGINNING of the herein described tract:

THENCE with the east line of said Bush (200 Acre) tract, S 08 deg. 07' 52" E 2225.11 ft. to a 1/2 inch iron pipe found at the intersection of the east line of said Bush (200 Acre) tract and the north right-of-way line of U.S. Highway 290, and being in the north line of that certain (4.09 Acre) tract conveyed to the State of Texas by deed recorded in Volume 170 Page 318 of the Hays County Deed Records, and being the Southwest corner of that certain tract conveyed to David T. Rush by deed recorded in Volume 354 Page 796 of the Hays County Deed Records, and being the Southeast corner of this tract;

THENCE with the north right-of-way line of U.S. Highway 290, the following six courses:

- 1) S 70 deg. 52' 57" W 58.87 ft. to a concrete monument found at a point of curvature;
- 2) a curve to the left, having a radius of 5829.65 ft., an arc length of 408.49 ft., and a chord bearing of S 62 deg. 59' 57" W 408.41 ft. to a concrete monument found at a point of tangency;

3) S 60 deg. 58' 12" W at 1388.86 ft. passing a 14" wood fence corner post in the common line of said Bush (200 Acre) tract and that certain (300 Acre) tract conveyed from Ernest T. Leonard to Claude F. Bush, Jr. and Mary Pauline Bush by deed recorded in Volume 175 Page 619 of the Hays County Deed Records, and continuing on the same course 489.74 ft. more, for a total distance of 1878.59 ft., to a concrete monument found;

4) S 49 deg. 31' 22" W 203.73 ft. to a concrete monument found;

5) S 60 deg. 57' 04" W 339.85 ft. to a 1/2 inch iron rod set with plastic cap marked "Carson and Bush Professional Surveyors" in the south line of said Bush (300 Acre) tract, and being a point in the north line of that "old road" conveyed to the State Highway Department of Texas by right-of-way deed recorded in Volume 107 Page 576 of the Deed Records of Hays County, Texas;

6) S 68 deg. 37' 00" W 224.56 ft. to a 1/2 inch iron rod set with plastic cap marked "Carson and Bush Professional Surveyors" in the east line of that certain (249.949 Acre) tract conveyed to 4-J Land Company, Inc. by deed recorded in Volume 324 Page 387 of the Hays County Deed Records, and being the Southwest corner of this tract;

THENCE crossing the interior of said Bush (300 Acre) tract with the common line of said 4-J Land Company (249.949 Acre) and said C.F. Bush, Jr. Family Limited Partnership (186.61 Acre) tract, the following four courses:

- 1) N 22 deg. 07' 34" W at 269.78 ft. passing a 5/8" iron rod found at the Southeast corner of Lot 99, Heritage Oaks Section 2-A, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 2 Page 115 of the Hays County Plat Records, and continuing on the same course at 150.4 ft. passing the record most southerly corner of that certain (10.00 Acre) tract conveyed to the C.F. Bush, Jr. Family Limited Partnership by deed recorded in Volume 1354 Page 255 of the Hays County Official Public Records, and continuing on the same course at 189.70 ft. passing a 5/8" iron rod found at the Northeast corner of said Lot 99, and continuing on the same course 293.70 ft. more, for a total distance on this bearing of 903.58 ft., to a 5/8" iron rod found;
- 2) N 22 deg. 03' 40" W at 293.70 ft. passing the record most westerly corner of said C.F. Bush, Jr. Family Limited Partnership (10.00 Acre) tract, and continuing on the same course 452.11 ft., more for a total distance of 700.03 ft., to a 60 D nail found in the top of a fence corner post in the south line of Lot 104 of said Heritage Oaks Section 2-A;
- 3) N 60 deg. 38' 24" E 1054.57 ft. to a 60 D nail found in top of a fence corner post at the most easterly southeast corner of Lot 109 of said Heritage Oaks Section 2-A;
- 4) N 11 deg. 16' 37" E 3008.40 ft. to a 1/2 inch iron rod found in the northeast line of said Bush (200 Acre) tract, being a point in the southwest line of Lot 24 of said Oak Run West, and being at the most northerly corner of said C.F. Bush Family Limited Partnership (186.61 Acre) tract, and being the most easterly corner of said 4-J Land Company tract, and being the most easterly corner of Lot 124 of said Heritage Oaks Section 2-A, and being the most northerly corner of this tract;

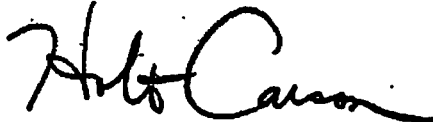
THENCE with the northeast line of said Bush (200 Acre) tract, the following three courses:

- 1) S 46 deg. 58' 20" E at 229.64 ft. passing a 1/2 inch iron rod found at the most southerly corner of Lot 23 of said Oak Run West, and continuing on the same course 30.05 ft. more, for a total distance on this bearing of 259.69 ft., to a 60 D nail found at the base of a fence corner post;
- 2) S 50 deg. 34' 08" E at 147.83 ft. passing a 1/2 inch iron rod found at the most southerly corner of Lot 22 of said Oak Run West and continuing on the same course 108.10 ft. more, for a total distance of 255.93 ft., to a 1/2 inch iron rod found;

3) S 50 deg. 40' 00" E at 461.95 ft. passing a ½ inch iron rod found at the most southerly corner of Lot 19 of said Oak Run West, and continuing on the same course at 540.89 ft. passing a ½ inch iron rod found at the most southerly corner of Lot 16 of said Oak Run West, and continuing on the same course 441.13 ft more, for a total distance on this bearing of 1443.97 ft., to the Place of Beginning, containing 193.926 Acres of land.

SURVEYED: January 19, 2001

BY:



Holt Carson

Registered Professional Land Surveyor No. 5166

see accompanying map no. B596002a

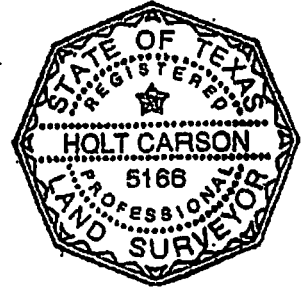


EXHIBIT "B"

**BUSH RANCH
Variances**

Criteria (with reference to current Dripping Springs Subdivision Ordinance, if applicable)

Existing City Standards

Standards Approved for the Project

9.F.2.3 & 11.D.2 Approval-Preliminary Plat

6 Months

Life of Agreement

15.J.4. Street Frontage, minimum (at building line) of platted lot

General:100 feet
Cul-de-sac lot: 60 feet

General: 50 feet
Cul-de-sac lot: 30 feet
Flag lot: 20 feet

**15.J.6,7,8 Setbacks, Minimums
Single Family Residential**

30' front; 10' side, 30' rear

20' front; 20' rear; , 10' side with minimum 5' of separation on each side yard for conventional lots and a minimum of 10' separation between zero lot line structures.

Criteria (with reference to current Dripping Springs Subdivision Ordinance, if applicable)	Existing City Standards	Standards Approved for the Project
Lot Density and Sizes:		
Central Water/Central Sewer		
Average Platted Lot Density	.75 acre per lot	No Change
Minimum Platted Lot Size	.5 acre	5,000 square feet
Central Water/Septic Tank		
Average Platted Lot Density	1 acre per lot	No Change
Minimum Lot Size	.75 acre	½ acre
Minimum Lot Sizes in Buffer Zones	3 acres	Minimum of 1 acre and any such lot must contain at least ½ acre of land outside of the buffer zone. No Impervious Cover allowed in Buffer.

Approved by P+Z
6/25/02

BUSH RANCH
Variances

Criteria (with reference to current Dripping Springs Subdivision Ordinance, if applicable)	Existing City Standards	Standards Approved for the Project
<u>9.F.2.3 & 11.D.2 Approval Preliminary Plat</u>	6 Months	Life of Agreement
<u>15.J.4. Street Frontage, minimum (at building line) of platted lot</u>	General: 100 feet Cul-de-sac lot: 60 feet	General: 50 feet Cul-de-sac lot: 30 feet Flag lot: 20 feet
<u>15.J.6,7,8 Setbacks, Minimums</u> Single Family Residential	30' front; 10' side, 30' rear	20' front; 10' cumulative side, 20' rear
Lot Density and Sizes:		
Central Water/Central Sewer		
Average Platted Lot Density	.75 acre per lot (Current Ordinance – However, Bush was final plated when ordinance requirement was .5 acre average)	.5 acre per lot
Minimum Platted Lot Size	.5 acre	5,000 square feet
Central Water/Septic Tank		
Average Platted Lot Density	1 acre per lot	No Change
Minimum Lot Size	.75 acre	½ acre
Minimum Lot Sizes in Buffer Zones	3 acres	Minimum of 1 acre and any such lot must contain at least ½ acre of land outside of the buffer zone. No Impervious Cover allowed in Buffer.