

**DEVELOPMENT AGREEMENT
FOR
MISSION OAKS CONDOMINIUMS**

between

Hays County, Texas, a political subdivision of the State of Texas

and

Mission Oaks Group Robles Ranch Dripping Springs, LLC,
a Delaware limited liability company

**DEVELOPMENT AGREEMENT
FOR
MISSION OAKS CONDOMINIUMS**

This Development Agreement for Mission Oaks Condominiums (this “**Agreement**”) is entered into as of the ____ day of _____, 20____ (the “**Effective Date**”) by and between Hays County, Texas, a political subdivision of the State of Texas (the “**County**”), and Mission Oaks Group Robles Ranch Dripping Springs, LLC, a Delaware limited liability company (“**Declarant**”). The County and Declarant are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

A. Declarant intends to record a condominium declaration, as permitted by Chapter 82 of the Texas Property Code (the “**Declaration**”) on the property located in Hays County, Texas, as more particularly described on Attachment 1 attached hereto (the “**Property**”). The Declaration will establish the Mission Oaks Condominiums (the “**Regime**”).

B. The Declaration requires creation of a Texas nonprofit corporation as the home owners’ association formed to administer the Regime (the “**Association**”).

C. Declarant and the County wish to enter into this Agreement to provide an alternative to the County’s typical regulatory process for development in order to promote state and local development and to stimulate economic activity in the County.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the County and Declarant hereby agree as follows:

1. Regime Defined. The Regime is anticipated to consist of common elements (“**Common Elements**”) and approximately twenty-eight (28) individual condominium units (individually, a “**Unit**”, and collectively, the “**Units**”), generally in the configuration shown on Attachment 2 (the “**Site Plan**”).

2. Number of Units. The maximum number of Units permitted in the Regime is thirty-five (35). Accordingly, Declarant is permitted to create seven (7) additional Units within the Regime by reconfiguring the Units and/or Common Elements; provided, however, each Unit in the Regime must be at least one (1) acre in size. In the event Declarant elects to create additional Units within the Regime, this Agreement shall be amended or supplemented in accordance with Section 7 to include an updated Site Plan, showing the reconfigured Units and Common Elements. The updated Site Plan shall be delivered to County (Development Services) pursuant to Section 7, below.

3. Development Standards. Streets, driveways, sidewalks, drainage, erosion controls, water and wastewater lines and facilities, and all other infrastructure within the

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Property to be constructed by Declarant will be constructed substantially in accordance with applicable law, including without limitation, the Hays County Development Regulations. Without limiting the generality of the foregoing sentence, the Declarant hereby agrees as follows:

- i. Public Roadways and Drainage. Drainage improvements and any public roadways shall substantially comply with the Hays County's Specifications for Roadway Design, Paving, and Drainage Improvements, and may, without obligation, include design elements that exceed such requirements. No portion of the Property is located within a designated 100 year flood plain as delineated on the Flood Insurance Rate Map Panel No. 48209C 0128F, with an effective date of September 5, 2005, as prepared by the Federal Emergency Management Agency.
- ii. Private Driveways. The Regime is anticipated to include private drives (whether one or more, the "**Private Drive**") providing access to and from the Units and/or Common Elements and a public right-of-way. Any Private Drive will be maintained by the Unit owner(s) and/or the Association and in no event will any Private Drive be dedicated to or maintained by the County. Declarant agrees that it will need to obtain a driveway permit for any access from the development onto a County roadway. Declarant also agrees that Hays County has no authority to grant driveway permits onto roadways maintained by the State of Texas, which is the responsibility of the Texas Department of Transportation (TXDOT).
- iii. Water Service. Water service to the Property will be provided by the West Travis County Public Utility Agency and its successors. Letters from this entity indicating that they will serve Mission Oaks Condominiums shall include service of the maximum number of Units allowable under this Agreement.
- iv. Wastewater Service. Each Unit will be served by a private on-site sewage facility serving the Unit exclusively (each, a "**Wastewater System**"). The capacity of each Wastewater System shall not exceed 5,000 gallons per day and shall be constructed in accordance with applicable law, including the TCEQ and Hays County, Texas rules and regulations and Texas Administrative Code, Title 30, Chapter 285, and each Wastewater System will be maintained by the Unit owner(s) and/or the Association in accordance with applicable law.
- v. Impervious Cover. Declarant may develop the Regime with an impervious cover percentage that does not exceed 20% over the entire Regime. Declarant shall have the right to apportion impervious cover limits on a Unit-by-Unit or use-by-use basis. Declarant may apportion such limits as it deems desirable so long as the overall limitation herein specified is not exceeded.

A portion of the Property is within the extraterritorial jurisdiction of the City of Austin, Texas (the “City”), and the City may hereinafter be the reviewing authority for certain applications pertaining to development of the Property. The County hereby acknowledges and agrees that for any improvements or other matters for which the City is the reviewing authority: (a) the County will accept the City’s approval of any such improvements or matters; and (b) the County will not require Declarant to submit any additional applications to the County. For a permit or application pertaining to the development of the Property, the County’s approval of the permit or application shall not be conditioned on the City’s approval of such permit or application.

4. **Maintenance of Improvements.** The Property includes or is anticipated to include one or more water quality facilities, sedimentation, drainage and detention facilities, or ponds which serve all or a portion of the Property and are or will be inspected, maintained and administered by the Association. The Parties agree that the facilities maintained by the Association will not be dedicated to or maintained by the County. All other improvements within the Regime shall be maintained by the Unit owner(s) and/or the Association, unless or until such maintenance obligations are otherwise accepted by a governmental or quasi-governmental agency.

5. **Permits and Approvals.** The County acknowledges and agrees the Units may be conveyed by Declarant as unimproved Units, i.e., without any residential improvements constructed thereon. The County agrees it will not withhold 911 addressing, development permits, driveway permits, Wastewater System approval, or any other permit or approval necessary for construction or occupancy of improvements within the Property, including any Unit or Common Elements, so long as Declarant is in compliance with this Agreement and the applicant complies with all other regulatory items applicable to the Property or for obtaining the necessary permit or approval. In furtherance of the foregoing provision, the County acknowledges and agrees Lot 8 of Silver Spur Ranchettes, Section Two (as more particularly described on Attachment 1) (“Lot 8”), is a legally platted lot and to the extent necessary or required to give effect to this Agreement, the County grants Declarant an exemption from any requirement to prepare, obtain County approval for, and file in the Official Public Records of Hays County, Texas, a subdivision plat for Lot 8 showing the configuration of the Units. Declarant shall re-plat or subdivide Lot 5 of Bear Creek Oaks, Section III (as more particularly described on Attachment 1) (“Lot 5”) in accordance with the County’s subdivision requirements, and obtain County approval for the subdivision plat for Lot 5, prior to imposing the Declaration on Lot 5.

6. **Term.** This Agreement shall be binding upon the Parties, their successors and assigns commencing on the Effective Date and continuing until twenty (20) years thereafter, unless earlier terminated in accordance with this Agreement.

7. **Supplement or Amendment and Approval Process.** This Agreement may only be modified, amended or terminated by a written agreement executed by the County and Declarant.

- i. Role of County's Staff. Any items requiring the County's consent hereunder shall be submitted for approval to the Director of Development Services for Hays County, Texas (the "**Director**"). Signed authorization from the Director shall be binding on the County.
- ii. Supplement or Amendment. In the event Declarant elects to create additional Units, Declarant shall provide the updated supplement, which will include the modified Site Plan, to the Director for approval, which approval will not be unreasonably withheld, conditioned, or delayed so long as Declarant and the Site Plan are in compliance with this Agreement and applicable law.
- iii. Timing of Approval. The Director will review all submittals for development of the Property within fifteen (15) days of Declarant's submittal. Within the fifteen (15) day review period, the Director will either approve the submittal in writing, or, if not approved, provide written comments to Declarant specifying in detail the changes required to obtain the Director's approval. In the event the Director does not approve the submittal, the Director will have seven (7) days after receipt of a revised submittal addressing the Director's requested changes to either approve the revised submittal in writing, or, if not approved, specify in writing with particularity, the requested changes Declarant did not adequately address. The seven (7) day review period will apply to any re-submittal revised to incorporate the Director's requested changes. The Director's failure to approve or disapprove submissions within the stated timeframes as provided herein shall be deemed to constitute the Director's approval of such submissions.

8. Assignment. This Agreement, and the rights and obligations of Declarant hereunder, may be assigned in writing by Declarant in whole or in part. A copy of the assignment document must be delivered to the County. Upon any such assignment, Declarant will be released of any further obligations under this Agreement as to any obligations assigned to and assumed by the assignee.

9. Default. If either Party defaults in its obligations under this Agreement, the non-defaulting Party must, prior to exercising a remedy available to the non-defaulting Party under this Agreement, give written notice to the defaulting Party, specifying the nature of the alleged default and the manner in which it can be satisfactorily cured, and extend to the defaulting Party at least thirty (30) days from receipt of the notice to cure the default. If the nature of the default is such that it cannot reasonably be cured within the thirty (30) day period, the commencement of the cure within the thirty (30) day period and the diligent prosecution of the cure to completion will be deemed a cure within the cure period.

10. Remedies. If either Party defaults under this Agreement and fails to cure the default within the applicable cure period, the non-defaulting Party will have all rights and remedies available under this Agreement and applicable law. 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.

11. Certificate of Compliance. Within fourteen (14) days of written request given by Declarant to the County requesting a statement of compliance with this Agreement, the County will execute and deliver to Declarant a statement certifying that: (i) 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; (ii) there are no current uncured defaults under this Agreement, or specifying the date and nature of each default; and (iii) any other information that may be reasonably requested by Declarant. The County acknowledges and agrees that the Director shall have the authority to issue a certificate of compliance on behalf of the County in accordance with this Section 11.

12. Notice. All notices, demands or other communications of any type given by a Party to the other Party pursuant to this Agreement shall be in writing and delivered to the person to whom the notice is directed, either in person, by overnight delivery service, facsimile or email with confirmed receipt, or by mail as a registered or certified item, return receipt requested. Notices delivered by mail shall be deemed given upon the date when deposited in a post office or other depository under the care or custody of the United States Postal Service, enclosed in an envelope with proper postage affixed, and notices delivered by other means shall be effective when received by the Party to whom the same is addressed, and such notices shall be addressed as follows:

To the County:

Director of Development Services - Hays County, Texas
Attn: Caitlyn Strickland (or successor)
2171 Yarrington Road
Kyle, Texas 78640
Email: cstrickland@co.hays.tx.us

With copy to:

Office of General Counsel – Hays County, Texas
Attn: Mark Kennedy (or successor)
111 E. San Antonio St. Ste. 202
San Marcos, Texas 78666
Email: mark.kennedy@co.hays.tx.us

To Declarant:

Mission Oaks Group Robles Ranch Dripping Springs LLC
Attn: John Pena
101 South Main Street

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Pomona, CA 91766
Email: jp@jpgroupla.com

With copy to:

Robert D. Burton, Esq.
401 Congress Ave., Suite 2100
Austin, Texas 78704
Email: rburton@winstead.com

Each Party shall be entitled to change its address for notices from time to time by delivering to the other Party notice thereof in the manner herein provided for the delivery of notices.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. In the event of partial invalidity, the balance of the Agreement shall remain in full force and effect. This Agreement is performable in Hays County, Texas.

14. Time of the Essence. It is expressly agreed by the Parties that time is of the essence with respect to this Agreement and any aspect thereof.

15. Attorneys' Fees. In the event either Party commences litigation against the other to enforce its rights hereunder, the substantially prevailing Party in such litigation shall be awarded its reasonable attorneys' fees and expenses incidental to such litigation, including the cost of in-house counsel and any appeals.

16. Execution. To facilitate execution, this instrument may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of all Parties be contained in any one counterpart hereof. Additionally, the Parties hereby covenant and agree that, for purposes of facilitating the execution and recordation of this instrument, the signature and acknowledgement pages taken from separate individually executed counterparts of this instrument may be combined and/or collated to form multiple fully executed counterparts. All executed counterparts of this instrument shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same instrument.

17. Development Fees. The Parties agree that the Declarant will pay a fee of four hundred dollars (\$400.00) for each Unit created by the Declaration and one hundred dollars (\$100.00) as a one-time application fee, which payment will be made to the County when the Declaration is filed.

DECLARANT:

**MISSION OAKS GROUP ROBLES RANCH DRIPPING
SPRINGS, LLC**, a Delaware limited liability company

By: _____

Printed Name: _____

Title: _____

THE COUNTY:

HAYS COUNTY, TEXAS,
a political subdivision of the State of Texas

By: _____

Printed Name: _____

Title: _____

ATTACHMENT 1
PROPERTY

Lot 8, Silver Spur Ranchettes, Section Two, a subdivision in Hays and Travis Counties, Texas, according to the plat recorded in Volume 191, Page 196, Official Public Records of Hays County, Texas, and in Volume 15, Page 29, Official Public Records of Travis County, Texas; and

Approximately 5.06 acres of land out of the Richard Hailey Survey, Abstract No. 224, in Hays County, Texas, also known as Lot 5, Bear Creek Oaks, Section III, an unrecorded subdivision in Hays County, Texas, being the same property more particularly described as Tract I in the Warranty Deed recorded in Vol. 1120, Page 715, Official Public Records of Hays County, Texas, and by metes and bounds as follows:

~~Beginning at an iron pin found at the most Southerly Southeast corner of Lot 8 of Silver Spur Ranchettes, a subdivision in Travis and Hays Counties, Texas, as recorded in Plat Book 15, Page 29 of the Travis County Plat Records and in Book 191, Page 196 of the Hays County Deed Records, said point being also the Northeast corner of the above described Harvey tract of land, for the Northeast corner and place of beginning hereof;~~

~~THENCE South 00 degrees 24 minutes 07 seconds West 700.72 feet to an iron pin found in the centerline of a 50 foot road easement described as Road "A" in Volume 328, Page 358 and amended in Volume 331, Page 587 of the Hays County Deed~~

~~Records for the Southeast corner hereof;~~

~~THENCE with the centerline of said 50 foot road easement, the following four (4) calls:~~

~~With a curve to the right, whose central angle is 5 degrees 17 minutes 40 seconds, radius is 1245.87 feet, and whose long chord bears North 81 degrees 43 minutes 50 seconds West 115.09 feet to an iron pin found at a point of non-tangency;~~

~~North 79 degrees 03 minutes 37 seconds West 92.72 feet to an iron pin found at a non-tangent point of curve to the right;~~

~~With said curve to the right, whose central angle is 7 degrees 14 minutes 42 seconds, radius is 790.02 feet, and whose long chord bears North 75 degrees 28 minutes 13 seconds West 99.83 feet to an iron pin found at a point of non-tangency;~~

~~North 71 degrees 50 minutes 31 seconds West 41.31 feet to an iron pin found for the Southwest corner hereof;~~

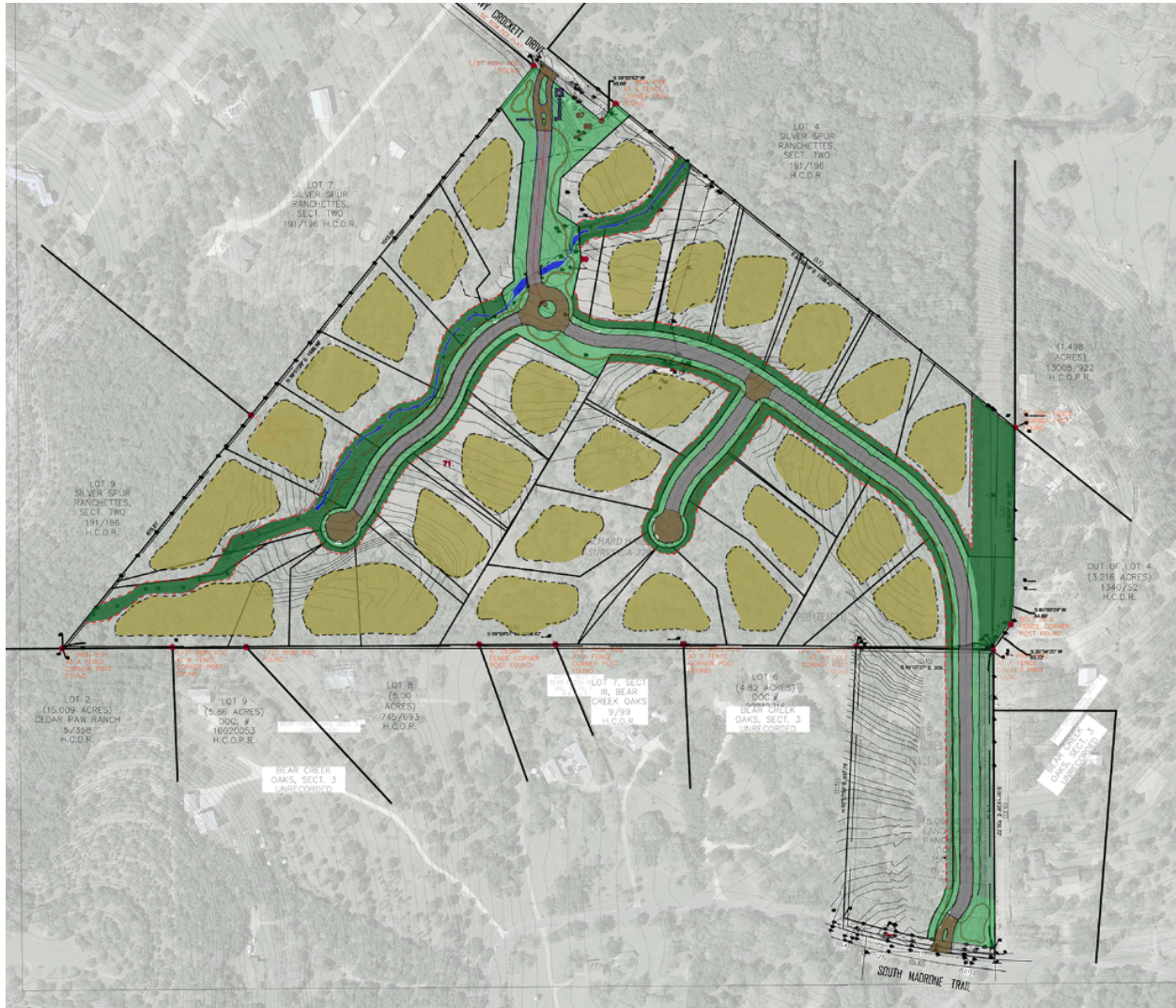
~~THENCE North 03 degrees 15 minutes 32 seconds East 25.88 feet pass an iron pin found and continuing with the same course for total distance of 637.78 feet to in iron pin found approximately 4.4 feet North of the South line of Lot 8 of the above described Silver Spur Ranchettes Section 2, for the Northwest corner hereof, from which point the most Westerly Northwest corner of the above described Pittenger 161.50 acre tract of land is called to bear North 88 degrees 57 minutes 29 seconds West 651.22 feet and North 89 degrees 45 minutes 24 seconds West 891.35 feet;~~

~~THENCE South 86 degrees 29 minutes 54 seconds East 309.58 feet to the place of beginning and containing 5.06 acre of land, more or less.~~

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ATTACHMENT 2

SITE PLAN



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