

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
VAIL DIVIDE**

**RECITALS**

WHEREAS, this Declaration of Covenants, Conditions and Restrictions (this "**Declaration**") is made as of \_\_\_\_\_, 2017 (the "**Effective Date**"), by Biodec, LLC, a California limited liability company whose address is 901 S. MoPac Expressway, Barton Oaks Plaza 1, Suite 160, Austin, Texas 78746, (hereinafter, "**Declarant**"), and which is the owner of certain real property located in Travis County, Texas, and more described in Exhibit "A" attached hereto and incorporated herein (the "**Property**"); and

WHEREAS, Declarant proposes to develop and subdivide the Property for commercial purposes in a subdivision to be known as Vail Divide; and

WHEREAS, Declarant desires to hold and from time to time convey the Property, or any portion thereof, subject to certain protective covenants, conditions, restrictions, liens, and charges hereinafter set forth; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development, and sale of the Property for the benefit of the present and future owners of the Property;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared: (i) that all of the Property shall be held, sold, conveyed, and occupied subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof; and

(ii) that each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions, and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

**ARTICLE I**

**DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

1.1. Architectural Committee. "**Architectural Committee**" shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements upon the Property.

1.2. Architectural Committee Rules. "**Architectural Committee Rules**" shall mean the rules and regulations adopted by the Architectural Committee, as the same are amended from time to time.

1.3. Articles. "**Articles**" shall mean the Articles of Incorporation of Vail Divide Property Owners Association, Inc., which shall be filed in the office of the Secretary of State of the State of Texas, as the same are from time to time amended.

1.4. Assessment. "**Assessment**" or "**Assessments**" shall mean such sum levied by the Association in the manner and against the Property under the terms and provisions of this Declaration.

1.5. Association. "**Association**" shall mean and refer to Vail Divide Property Owners Association, Inc., a Texas nonprofit corporation created or to be created pursuant to the Articles, its successors and assigns.

1.6. Association Rules. "**Association Rules**" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.

1.7. Board. "**Board**" shall mean the Board of Directors of the Association.

1.8. Bylaws. "**Bylaws**" shall mean the Bylaws of the Association to be adopted by the Board, as the same are from time to time amended.

1.9. Common Improvements. "**Common Improvements**" shall mean the Common Landscaping, the Common Landscape Area, the Driveway Improvements, the Irrigation System, the Irrigation System Easement, the Parking Areas, the Parking Lot Lighting, the Sidewalk, the Sidewalk and Pedestrian Easement, the Storm Sewer System, the Storm Sewer System Easement, the Water Quality Facilities and Detention Pond, and the Water Quality Facilities and Detention Pond Easement.

1.10. Declarant. "**Declarant**" shall mean Biodec, LLC, a California limited liability company, its duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of Biodec, LLC as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder. The exercise of any rights or privileges of Declarant and the performance of any obligations or duties on the part of the Declarant shall be vested solely in Biodec, LLC. All decisions and actions of the Declarant shall be made and taken as set forth herein.

1.11. Driveway Improvements. "**Driveway Improvements**" shall mean all drive aisles intended to be used for vehicular ingress and egress to and from the Property which are located on the Property from time to time, excluding any Parking Areas but including the Common Driveway. Improvement.

1.12. Improvement. "**Improvement**" or "**Improvements**" shall mean every structure and all appurtenances thereto of every type and kind located on the Property, including, but not limited to, buildings, outbuildings, storage sheds, patios, garages, storage buildings, fences, trash

enclosures, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.13. Lot. "**Lot**" or "**Lots**" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on the Plat of the Property, together with all Improvements located thereon, including any Common Improvements.

1.14. Member. "**Member**" or "**Members**" shall mean any person(s), entity or entities holding membership rights in the Association.

1.15. Mortgage. "**Mortgage**" or "**Mortgages**" shall mean any mortgage(s) or deed(s) of trust covering all or any portion of the Property given to secure the payment of a debt.

1.16. Mortgagee. "**Mortgagee**" or "**Mortgagees**" shall mean the holder or holders of any Mortgage or Mortgages.

1.17. Owner. "**Owner**" or "**Owners**" shall mean and refer to a Person(s), entity or entities, including Declarant, holding a fee simple interest in all or any portion of the Property, but shall not include a Mortgagee.

1.18. Parking Areas. "**Parking Areas**" shall mean all vehicular parking lots shown on the site plan for the Property or located on the Property from time to time, excluding any Driveway Improvements.

1.19. Parking Lot Lighting. "**Parking Lot Lighting**" shall mean all lighting for the benefit of the Driveway Improvements and the Parking Areas of the Property from time to time.

1.20. Permittees. "**Permittees**" shall mean the tenant(s) or legal occupant(s) of a Lot, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Lot, and/or (ii) such tenant(s) or legal occupant(s).

1.21. Person. "**Person**" or "**Persons**" shall mean any individual(s), entity or entities having the legal right to hold title to real property.

1.22. Plans and Specifications. "**Plans and Specifications**" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, signage, lighting, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, all other documentation or information relevant to such Improvement.

1.23. Plat. "**Plat**" shall mean a final subdivision plat of the Property.

1.24. Sidewalk. "**Sidewalk**" shall mean the sidewalk located in the "Sidewalk & Pedestrian Easement (Dot Hatch)" as such Sidewalk & Pedestrian Easement (Dot Hatch) is

shown on the map/plat of the Property recorded as Document No. \_\_\_\_\_ of the Official Public Records of Travis County, Texas (the “**Sidewalk and Pedestrian Easement**”).

1.25. Storm Sewer System. “**Storm Sewer System**” shall mean the storm sewer system, including storm sewer lines, storm inlets, and all other items essential to the operation of such storm sewer system, located in the “Storm Sewer Easement (Dot Hatch)” as such Storm Sewer Easement (Dot Hatch) is shown on the map/plat of the Property recorded as Document No. \_\_\_\_\_ of the Official Public Records of Travis County, Texas (the “**Storm Sewer Easement**”).

1.26. Subdivision. “**Subdivision**” shall mean the proposed Vail Divide Subdivision and shall refer to the property within the area described in Exhibit "A" which has been or will be subdivided into a Plats of record in the Plat Records of Travis County, Texas.

1.27. Vail Divide Restrictions. “**Vail Divide Restrictions**” shall mean, collectively, (i) this Declaration, as the same may be amended from time to time, (ii) the Architectural Committee Rules, (iii) the Association Rules, and (iv) the Articles and Bylaws from time to time in effect, as the same may be amended from time to time.

1.28. Water Quality Facilities and Detention Pond. “**Water Quality Facilities and Detention Pond**” shall mean water quality facilities and a detention pond, including two ponds, concrete walls, submersible water pumps, underground lines, conduits, pipes and other storm water drainage apparatus, any required screening or fencing, an irrigation field with associated irrigation heads and lines, associated landscaping, and all other items essential to the operation of such water quality facilities and detention pond, located in the “Water Quality Facilities & Detention Pond Easement (Brick Hatch)” as such Water Quality Facilities & Detention Pond Easement (Brick Hatch) is shown on the map/plat of the Restricted Property recorded as Document No. \_\_\_\_\_ of the Official Public Records of Travis County, Texas (the “**Water Quality Facilities and Detention Pond Easement**”).

## ARTICLE II

### DEVELOPMENT OF AND ADDITION TO THE PROPERTY

2.1. Development by Declarant. Declarant may develop some or all of the Property.

## ARTICLE III

### RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

3.1. Setbacks. No Improvement, except for fences, shall be located on any Lot nearer to the front, rear, side or street side or corner lot property line, than (i) allowed under any applicable ordinances (zoning or otherwise) of the City of Bee Cave, Texas or (ii) as shown on any Plat.

3.2. Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Committee.

3.3. Hazardous Activities. No portion of the Property shall be used for any use or operation that involves, as the predominant purpose or result of such use or operation, the storage, transportation, processing, manufacture, or disposal of any toxic, explosive, radioactive or other material hazardous to human health or the environment, including, without limitation, “Hazardous Substances” as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. Section 9601 et seq.).

3.4. Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon.

3.5. Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

3.6. Sexually Oriented Use. No portion of the Property shall be used for any establishment which features topless, bottomless or totally nude performers, waitresses or waiters or other personnel, or which provides recorded, on-premises entertainment featuring nude or partially nude persons performing or simulating sexual acts, or which, as the predominant purpose or result of its operation, shows, sells, rents or otherwise distributes or offers “X-rated” or obscene movies, video tapes or pornographic or sexually-oriented materials or paraphernalia, or which operates as a sexually-oriented massage studio or sexually-oriented modeling studio.

3.7. Noise. No exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on any of the Property such that it becomes or will become clearly audible at the property line of an adjoining property Owner. No noise shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

3.8. Animals. No animal may be stabled or boarded for hire or remuneration on the Property, and no stock yard, kennels or breeding operation will be allowed.

3.9. Funeral Parlor. No portion of the Property shall be used for a funeral parlor.

3.10. Head Shop. No portion of the Property shall be used for a “head” shop or similar establishment offering controlled substance paraphernalia.

3.11. Tattoo Parlor. No portion of the Property shall be used for a tattoo parlor, or similar operation or establishment.

3.12. Rubbish and Debris. No portion of the Property shall be used for any dumping of garbage or refuse (other than in appropriate trash dumpsters or similar receptacles). No rubbish

or debris of any kind shall be placed or permitted to accumulate upon the Property, and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage, and trash shall be kept at all times in covered containers, and such containers shall be kept within enclosed structures or appropriately screened from view.

3.13. Maintenance. Each Owner shall keep all shrubs, trees, grass, and plantings of every kind on such Owner's Lot (excluding on any Common Landscape Area platted as a part of such Owner's Lot, since by definition any Common Landscape Area is not a part of such Owner's Lot) cultivated, pruned, and free of trash and other unsightly material. All Improvements upon any Lot, excluding Common Improvements, shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner of such Lot. Declarant, the Association, and the Architectural Committee shall have the right at any reasonable time to enter upon any Lot to replace, maintain, and cultivate shrubs, trees, grass, or other plantings required to be maintained by the Owner of the Lot, as deemed necessary; to paint, repair, or otherwise maintain any Improvements in need thereof required to be maintained by the Owner of the Lot; and to charge the cost thereof to the Owner of the Lot as provided in Section 5.5(E) hereof.

3.14. Antennae. To the extent permitted by law, no exterior radio or television antenna or aerial or satellite dish receiver, or other devices designed to receive telecommunication signals, including but not limited to radio, television or microwave signals which are intended for cable television, network television reception or entertainment purposes shall be erected or maintained, without the prior written approval of the Architectural Committee. Any antenna which is approved by the Architectural Committee and which will cover more than fifteen (15) square feet of the surface area of a Lot, shall be screened from view from public or private thoroughfares and adjacent properties.

3.15. Signs. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Improvement upon such Lot so as to be visible from public view without the prior written approval of the Architectural Committee.

3.16. Tanks. The Architectural Committee shall have the right to approve the location of any tank used or proposed in connection with a structure, including tanks for storage of fuel, water, oil, or LPG. No elevated tanks of any kind shall be erected, placed or permitted on any Lot without prior Architectural Committee approval and proper screening. All tanks shall be screened so as not to be visible from any other portion of the Property.

3.17. Temporary Structures. No tent, shack, or other temporary building, improvement, or structure shall be placed upon the Property without the prior written approval of the Architectural Committee; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders, and foremen during actual construction may be maintained with the prior approval of Declarant or the Architectural Committee, approval to include the nature, size, duration, and location of such structure.

3.18. Unsightly Articles; Vehicles. No article deemed to be unsightly by the Architectural Committee shall be permitted to remain on any Lot so as to be visible from

adjoining property or from public or private thoroughfares. Parking shall not be permitted on any public or private thoroughfares within the Subdivision. Service areas and storage areas shall be appropriately screened from view from public or private thoroughfares and adjacent properties; and no lumber, metals, bulk materials, or scrape shall be kept, stored, or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view from public or private thoroughfares and adjacent properties.

3.19. Mobile Homes, Labor Camps, Junkyards. No mobile home or trailer court (except for temporary construction trailers during construction or renovations of Improvements), labor camp, or junkyard shall be located on any portion of the Property.

3.20. Doors and Windows. No reflective film or similar treatment shall be placed on any windows or glass doors. No signs, numerals or other writing shall be written on or placed in the doors, windows or exterior walls of any structure, either temporarily or permanently, without the prior written approval of the Architectural Committee.

3.21. Air Conditioning Units. Air conditioning units shall be screened from visibility from public or private thoroughfares and adjacent properties. No window or wall type air conditioner shall be permitted to be used, placed or maintained on or in any structure on any part of the Property.

3.22. Energy Conservation or Generation Equipment. No photovoltaic electricity generation panels, solar energy collector panels, or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural Committee. No windmills, wind generators or other apparatus for generating power from wind shall be erected or installed on any Lot.

3.23. Nuisances. No light pollution, noxious odor, excessive emissions of smoke, steam or vapor, or other nuisance shall be permitted to exist or operate upon any of the Lots so as to be offensive or detrimental to any other of the Lots or to its occupants (other than security devices used exclusively for security purposes).

3.24. Compliance with the Restrictions. Each Owner shall comply strictly with the provisions of the Vail Divide Restrictions as the same may be amended from time to time, and with any applicable City of Bee Cave ordinance or permit governing the Property or the development of the Property. Failure to comply with any of the Vail Divide Restrictions or with any applicable City of Bee Cave ordinance or permit governing the Property or the development of the Property shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner.

3.25. No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this article or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms, or provisions. Any Owner acquiring a Lot in reliance on one or

more of such restrictive covenants, terms, or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

## ARTICLE IV

### USE AND CONSTRUCTION RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

4.1. General. The Property shall be improved and used solely for professional, business and commercial use, inclusive of such other Improvements as are necessary or customarily incident to commercial use.

4.2. Approval for Improvements. No Improvement shall be constructed upon any of the Property, without the prior written approval of the Plans and Specifications for the Improvement by the Architectural Committee. In expansion of, and not in limitation of, the preceding sentence, no Improvement shall be placed or installed upon any of the Property so as to be visible from adjoining property or from public or private thoroughfares without the prior written approval of the location and the Plans and Specifications by the Architectural Committee.

4.3. Common Landscape Area. In expansion, and not in limitation, of Section 4.2, no land within any Common Landscape Area shall be improved, used or occupied, except in such manner as shall have been approved in writing by Declarant, in its sole and absolute discretion. Such required approval shall extend to the nature and type of use and Improvement. Declarant may, by written instrument, delegate its right to grant such approval to the Board. Access to any Common Landscape Area may be conditioned or restricted, or made available to non-Owners, all on such terms and conditions as Declarant may determine, in its sole discretion. When no Class B Memberships exist, the Board shall have the right to grant such required approval and to determine such terms and conditions, as the Board deems proper in its sole discretion, even if such right has not been delegated to it by Declarant.

4.4. Water Quality Facilities and Detention Pond Easement. In expansion, and not in limitation, of Section 4.2, no land within the Water Quality Facilities and Detention Pond Easement shall be improved or used, except in such manner as shall have been approved in writing by Declarant, in its sole and absolute discretion. Such required approval shall extend to the nature and type of use and Improvement. Declarant may, by written instrument, delegate its right to grant such approval to the Board. When no Class B Memberships exist, the Board shall have the right to grant such required approval as the Board deems proper in its sole discretion, even if such right has not been delegated to it by Declarant.

4.5. Common Improvements. Common Improvements shall not be altered, changed, damaged or destroyed by any Lot Owner or other person except with the prior written approval of Declarant, the Architectural Committee, or the Board, as applicable. Any person who alters, damages or destroys any Common Improvement, except as expressly allowed in the preceding sentence, shall be responsible for the cost of replacing or repairing such Common Improvement.



4.6. Obstruction of Views. The positioning of all Improvements upon Lots within the Property is hereby expressly made subject to Architectural Committee review. The Architectural Committee may, but shall not be required to: (i) prevent or allow the construction of a proposed Improvement based upon the effect it will have upon the view from any particular Lot, or (ii) consider the effect the Improvement will have on the Property as a whole; it being expressly understood that neither the Architectural Committee nor the members thereof shall be liable to any Owner in monetary damages or otherwise due to the construction of any Improvement within the Property or the creating thereby of an obstruction to the view from such Owner's Lot or Lots.

4.7. Construction in Place. All structures constructed on the Property shall be built in place on the Lot and the use of prefabricated materials shall be allowed only with the prior written approval of the Architectural Committee.

4.8. Alteration or Removal of Improvements. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvement, shall be performed only with the prior written approval of the Architectural Committee.

4.9. Driveway. The Architectural Committee shall have the right to impose limitations on driveway design, including materials, aprons, location, and point of contact with dedicated roads, streets, or private driveways in the Subdivision. Driveways shall be constructed so that they have a sufficient rise in elevation to allow for the surface water drainage along the curb line of the street to continue without interruption or change in direction of flow.

4.10. Garbage Containers. The Architectural Committee shall have the right to require each Owner to specify a specific location for trash service and to require each Owner to construct a permanent facility at an approved location for the placement of garbage containers for collection purposes. All garbage containers shall remain properly screened from sight at all times.

4.11. Underground Utility Lines. Save and except for any overhead utility lines constructed in accordance with any approved plat of the Property, no utility lines, including but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television, or other type of line or wire shall be erected, placed, or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under, or on buildings or other Improvements as approved in writing by the Architectural Committee; provided, however, that no provision hereof shall be deemed to forbid the erection of overhead utility lines by Declarant, or temporary power or telephone structures incident to the construction of Improvements which have been previously approved in writing by the Architectural Committee. The installation method, including, but not limited to, location, type of installation equipment, trenching method, and other aspects of installation, for both temporary and permanent utilities, shall be subject to review and approval by the Architectural Committee.

4.12. Drainage. There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and approved by the Architectural Committee.

4.13. Construction Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event that construction upon any Lot does not conform to usual practices in the area as determined by the Architectural Committee in its sole good faith judgment, the Architectural Committee shall have the authority to seek an injunction to stop such construction. In addition, if during the course of construction upon any Lot there is excessive accumulation of debris of any kind which would render the Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Property, then the Architectural Committee may contract for or cause such debris to be removed, and the Owner of the Lot shall be liable for all expenses incurred in connection therewith.

## ARTICLE V

### VAIL DIVIDE PROPERTY OWNERS ASSOCIATION, INC.

5.1. Organization. The Declarant shall, at such time as Declarant deems appropriate, cause the formation and incorporation of the Association as a nonprofit corporation under the laws of the State of Texas. The Association shall be created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.2. Membership. Every Person who is a record Owner of a fee or undivided fee interest in any Lot which is subject, by covenants of record, to assessment by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from any ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for Membership. Any Mortgagee or lienholder who acquires title to any Lot which is a part of the Property through judicial or nonjudicial foreclosure shall be a Member of the Association. Every Member shall have the right at all reasonable times during business hours to inspect the books and records of the Association.

5.3. Notice to Association of Membership. Within thirty (30) days after becoming a Member, within thirty (30) days after the Member has notice of a change in any information required by this Article, or on request by the Association from time to time, a Member shall provide the Association with the following information: (i) a copy of the recorded deed by which the Member

became an Owner; (ii) the Member's address and telephone number; and (iii) any mortgagee's name, address and loan number.

5.4. Voting Rights. The Association shall have two (2) classes of voting Memberships:

(A) Class A Members. Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds such interest in any Lot, all such Persons shall be Members. The vote for such Lot shall be exercised as they, among themselves, determine as provided by the Bylaws, but in no event shall more than one (1) vote be cast with respect to any Lot.

(B) Class B Members. The Class B Member(s) shall be the Declarant, and its successors and assigns, and shall be entitled to three (3) votes for each Lot owned by it, provided that the Class B Membership shall cease and be converted to Class A Membership on the happening of any of the following events, whichever occurs earlier:

1. The complete development of the Property; or
2. Thirty (30) years from the filing date hereof in the Official Public Records of Travis County, Texas.

5.5. Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two (2) preceding sentences, the Association and the Board, acting on behalf of the Association, shall have the power and authority at all times as follows:

(A) Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact such Association Rules and Bylaws, as it deems proper, covering any and all aspects of its functions. The content of the Association Rules and Bylaws may be established by the Board, provided the same are not in conflict with this Declaration.

(B) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association functions.

(C) Records. To keep books and records of the Association's affairs, and to make all such books and records available for inspection by any Owner upon request and at reasonable times and intervals.

(D) Assessments. To levy Assessments as provided in Article VII, in order to raise the total amount for which the levy in question is being made.

(E) Right of Entry and Enforcement. To enter at any time in an emergency or in the case of a non-emergency, after written notice, by certified mail return receipt requested, without being liable to any Owner, upon any Lot and into any Improvement thereon, for the purpose of enforcing the Vail Divide Restrictions or any applicable City of Bee Cave ordinance or permit governing the Property or the development of the Property, or for the purpose of maintaining or repairing any area, Improvement, or other facility to conform to the Vail Divide Restrictions or any applicable City of Bee Cave ordinance or permit governing the Property or the development of the Property. The expense incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered upon and the Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VII for regular and special assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Vail Divide Restrictions or any applicable City of Bee Cave ordinance or permit governing the property or the development of the Property. The Association is also authorized to settle claims, enforce liens, and take all such action as it may deem necessary or expedient to enforce the Vail Divide Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors, or assigns.

(F) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

(G) Conveyances. To grant and convey to any Person the real property and/or other interest therein, including fee title, leasehold estates, easements, rights-of-way or mortgages, out of, in, on, over or under any Association property for the purpose of constructing, erecting, operating or maintaining the following:

1. Parks, parkways or other recreational facilities or structures;
2. Roads, streets, walks, driveways, trails and paths;
3. Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
4. Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
5. Any similar public, quasi-public or private improvements or facilities;

provided, however, that the Association shall not convey fee simple title in and to, or mortgage all or any portion of, any Common Improvement without complying fully with the requirements of Section 8.17 below.

(I) Manager. To retain and pay for the services of a person or firm (the "**Manager**") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The Members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.

(J) Association Property Services. To pay for water, sewer, garbage removal, landscaping, gardening, electricity, and all other utilities and services for all Association properties and Common Improvements; and to pay all costs to maintain, repair, upgrade, reconfigure, replace, and operate all Association properties, Common Improvements, and as appropriate other areas of the Property.

(K) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, or the Articles or Bylaws of the Association.

(L) Construction on Association Property. To construct new Improvements or additions to Association properties or Common Improvements, subject to the approval of the Architectural Committee, the Declarant, or the Board, as applicable, as provided in this Declaration.

(M) Contracts. To enter into contracts with Declarant and other persons on such terms and provisions as the Board shall determine, to maintain, repair, upgrade, reconfigure, replace, and operate Association properties, Common Improvements, or other areas of the Property, or to provide any service or perform any function on behalf of Declarant or any person.

(N) Property Ownership. To acquire, own and dispose of all manner of real and personal property, whether by grant, lease, gift or otherwise.

(O) Maintenance. To maintain, repair, upgrade, reconfigure, replace, and operate all Association properties, Common Improvements, and as appropriate other areas of the Property. In addition, the Association shall have the power and authority at all times to landscape and maintain easements, access easements, rights-of-way, median strips, sidewalks, paths, trails, and other areas of the Property, all as appropriate.

5.6. Duties of the Association. Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:

(A) To maintain, repair, upgrade, reconfigure, replace, and operate all Common Improvements, to the extent such Common Improvements are not maintained by any governmental or quasi-governmental entity or utility provider.

(B) To construct, maintain, repair, upgrade, reconfigure, replace, and operate landscape Improvements and irrigation systems within public rights-of-way to the extent

required pursuant to agreement(s) with Travis County or the City of Bee Cave, Texas or other governmental or quasi-governmental entity.

(C) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the Members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

(D) Upon the approval of two-thirds (2/3) of the Owners (excluding Declarant) and full compliance with the provisions of Section 8.17 below, to execute mortgages, both construction and permanent, for construction of facilities, including improvements on property owned by or leased to the Association.

(E) To take out and maintain current a policy of liability insurance coverage to cover accidental bodily injury and/or death caused by the use and enjoyment of the Common Improvements. Such insurance shall be in an amount as the Board shall deem appropriate.

(F) To cause compliance with applicable City of Bee Cave, Texas ordinances, permits, requirements, and agreements associated with the Property or the development of the Property.

5.7. Indemnification. The Association shall indemnify any person who was, is or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorney's fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, and (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

## ARTICLE VI

### ARCHITECTURAL COMMITTEE

All of the Property shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

6.1. Approval of Plans and Specifications. No Improvement shall be commenced, erected, constructed, installed, placed or maintained upon any Lot, nor shall any exterior addition to, change thereto or alteration thereof be made until the Plans and Specifications therefor shall have been submitted to and approved in writing by the Architectural Committee in accordance herewith.

6.2. Membership of Architectural Committee. The Architectural Committee shall consist of not more than three (3) voting members ("**Voting Members**"), and such additional nonvoting members serving in an advisory capacity ("**Advisory Members**") as the Voting Members deem appropriate. The initial Voting Members of the Architectural Committee shall be appointed by Declarant, as provided in Section 6.6.

6.3. Action by Architectural Committee. Items presented to the Architectural Committee shall be decided by a majority vote of the Voting Members.

6.4. Advisory Members. The Voting Members may from time to time designate Advisory Members.

6.5. Term. Each Voting Member of the Architectural Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. In the event of death or resignation of any Voting Member, the remaining Voting Member or Voting Members shall have full authority to act until a replacement Voting Member or Voting Members have been designated.

6.6. Declarant's Rights of Appointment. Declarant, its successors or assigns shall have the right to appoint and remove all members of the Architectural Committee. Declarant may delegate this right to the Board by written instrument. Thereafter, the Board shall have the right to appoint and remove all members of the Architectural Committee. When no Class B Memberships exist, the Board shall have the right to appoint and remove all members of the Architectural Committee, even if such right has not been delegated to it by Declarant.

6.7. Adoption of Rules. The Architectural Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including, but not limited to, a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable.

6.8. Architectural Committee Decisions. Any decision of the Architectural Committee pursuant to this Article VI shall be final and binding so long as it is made in good faith.

6.9. Review of Proposed Construction. Whenever in this Declaration, the approval of the Architectural Committee is required, it shall consider all of the Plans and Specifications for

the Improvement or proposal in question, and all other facts which, in its sole discretion, it considers relevant, and may require an Owner to provide such other information as it deems relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications in writing. The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Committee. The Architectural Committee may review Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Architectural Committee of any information or documents deemed necessary by the Architectural Committee, it may postpone review of any Plans and Specifications submitted for approval. No Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes, and materials and similar features as to be incompatible with development within the Property and the surrounding area. The Architectural Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth in the preceding sentence and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof, from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

6.10. Actions of the Architectural Committee. The Architectural Committee may, by resolution, unanimously adopted in writing, designate one (1) or two (2) of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In the absence of such designation, the vote of the majority of all of the members of the Architectural Committee taken without a meeting shall constitute an act of the Architectural Committee.

6.11. Plan Review. Upon receipt by the Architectural Committee of all of the information required by this Article VI, it shall have thirty (30) days in which to review such information. The proposed Improvements will be approved if, in the opinion of the Architectural Committee, in its sole and absolute discretion, (i) the Improvements will be of an architectural style and material that are compatible with the other structures in the Property and the surrounding area; (ii) the Improvements will not violate any restrictive covenant or encroach upon any easement or building setback line; and (iii) the Improvements will not result in the reduction in property value, use or enjoyment of any of the Property. In the event that the Architectural Committee fails to issue its written response within thirty (30) days of its receipt of the last of the information required to complete the Owner's submission, the Architectural Committee's approval shall be deemed to have been granted without further action; provided however, the Architectural Committee's failure to issue a written response within such thirty (30) day period shall never be deemed to constitute a variance from compliance with any of the provisions of this Declaration.



6.12. Variance. The Architectural Committee may grant variances from compliance with any of the provisions of this Declaration when, in the opinion of the Architectural Committee, in its sole and absolute discretion, such variance will not impair or detract from the high quality development of the Property, and such variance is justified due to unusual or aesthetic considerations or unusual circumstances. All variances must be evidenced by a written instrument, in recordable form, and must be signed by at least two (2) of the Voting Members. The granting of such variance shall not operate to waive or amend any of the terms and provisions of this Declaration applicable to the Lots for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance shall not be considered to establish a precedent or future waiver, modification or amendment of the terms and provisions of this Declaration.

6.13. No Waiver of Future Approvals. The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different Person.

6.14. Work in Progress. The Architectural Committee, at its option, may inspect all work in progress to insure compliance with approved Plans and Specifications.

6.15. Address. Plans and Specifications shall be submitted to the Association at such address as may be designated by the Association, its successors and assigns, from time to time.

6.16. Fees. The Architectural Committee shall have the right to require a reasonable submission fee for each set of Plans and Specifications submitted for its review.

6.17. Certificate of Compliance. Upon completion of any Improvement approved by the Architectural Committee and upon written request by the Owner of the Lot, the Architectural Committee shall issue a Certificate of Compliance in a form suitable for recordation. The certificate shall identify the Lot and the Improvement, the use or uses to be conducted thereon, and the Plans and Specifications on file with the Architectural Committee pursuant to which the Improvement was made and shall specify that the Improvement complies with the approved Plans and Specifications. The certificate shall not be construed to certify the acceptability, sufficiency, or approval by the Architectural Committee of the actual construction of the Improvement or the workmanship or materials thereof. The Owner is hereby notified that the certificate in no way warrants, except as set forth above, the sufficiency, acceptability, or approval by the Architectural Committee of the construction, workmanship or materials of the Improvements. Preparation and recordation of such a certificate shall be at the expense of the Owner of the Lot.

## ARTICLE VII

### FUNDS AND ASSESSMENTS

#### 7.1. Assessments.

(A) The Association may from time to time levy Assessments against each Lot whether or not improved. The level of Assessments shall be equal and uniform between all Lots, except that no Assessments hereunder shall be levied against Declarant or any Lot owned by Declarant.

(B) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.

(C) Each unpaid Assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Lot against which the Assessment fell due, and shall become a lien against each such Lot and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article VII.

7.2. Maintenance Fund. The Board shall establish a maintenance fund into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

7.3. Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Vail Divide Restrictions, including, but not limited to, the cost of all maintenance, the cost of enforcing the Vail Divide Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time and from time to time levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

7.4. Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest

rate, then at the rate of two percent (2%) per month), together with all costs and expenses of collection, including reasonable attorney's fees.

7.5. Exemptions. Notwithstanding any provision herein to the contrary, all Association property, if any, shall be exempt from the payment of any Assessments, whether regular, special or initial.

7.6. Assessment Lien and Foreclosure. All sums assessed in the manner provided in this article but unpaid shall, together with interest as provided in Section 7.4 and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot as allowed by applicable law. The aforesaid Assessment lien shall be superior to all other liens and charges against such Lot, except only for:

(A) All liens for taxes or special assessments levied by the applicable city, county or state government, or any political subdivision or special district thereof; and

(B) All liens secured by amounts due or to become due under any first mortgage vendor's lien, or first mortgage deed of trust, filed for record securing, in either instance, sums borrowed for purchase or improvement of the Lot.

7.7 Subordination. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of the Association. To evidence the aforesaid Assessment lien, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such Assessment lien and a description of the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Travis County, Texas. Such Assessment lien shall attach with the priority set forth above from the date that such unpaid indebtedness becomes delinquent, and may be enforced by either the Association instituting suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the Assessment lien as allowed by applicable law. In any foreclosure proceeding, the Owner shall be required to pay the costs, expenses and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on such Lot at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to such Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due. Mortgagees are not required to collect Assessments.

## ARTICLE VIII

### PROPERTY RIGHTS AND EASEMENTS

8.1. Reserved Easements. All dedications, limitations, restrictions, and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights, made prior to the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein and shall be construed as being adopted in each and every contract, deed, or conveyance

executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other Person, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, gas, water, electricity, cable television, telephone and drainage) in favor of any Person along any front, rear, or side boundary line of any Lot, which said easements shall have a maximum width of twenty five feet (25').

8.2. Easement for Construction of Common Driveway. Declarant reserves for itself and its employees, agents, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, invitees, successors and assigns, the non-exclusive right and easement to enter upon, across, over, and under those portions of the Property more fully described as "Common Driveway" on Exhibit "B" attached hereto and incorporated herein (the "**Common Driveway**") for the purpose of constructing the Common Driveway. Not in limitation of, but in expansion of, the preceding sentence, Declarant and its employees, agents, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, successors and assigns, shall have an access easement over and across any of the Lots abutting or containing any portion of the Common Driveway, to the extent reasonably necessary to exercise their rights and responsibilities under this section. Declarant's and Declarant's employees', agents', contractors', successors' and assigns' rights and easements under this section shall automatically terminate at such time as no Class B Memberships exist, or at such earlier time as Declarant, in its sole discretion, may decide and transfer such rights by a written instrument.

8.3. Easement for Installation of Common Landscaping. Declarant reserves for itself and its employees, agents, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, successors and assigns, the non-exclusive right and easement, to enter upon, across, over, and under those portions of the Property more fully described as "Common Landscape Area" on Exhibit "C" attached hereto and incorporated herein (the "**Common Landscape Area**") for the purpose of installing landscaping (the "**Common Landscaping**") in the Common Landscape Area. Not in limitation of, but in expansion of, the preceding sentence, Declarant and its employees, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, successors and assigns, shall have an access easement over and across any of the Lots abutting or containing any portion of the Common Landscaping Area, to the extent reasonably necessary to exercise their rights and responsibilities under this section. Declarant's and Declarant's employees', agents', contractors', successors' and assigns' rights and easements under this section shall automatically terminate at such time as no Class B Memberships exist, or at such earlier time as Declarant, in its sole discretion, may decide and transfer such rights by a written instrument.

8.4. Easement for Installation and Use of Irrigation System. Declarant reserves for itself, the Association, and their respective employees, agents, contractors, successors and assigns, for the benefit and use of Declarant, the Association, and their respective employees, agents, contractors, invitees, successors and assigns, the non-exclusive right and easement to enter upon, across, over, and under the Property (the "**Irrigation System Easement**") for the purpose of constructing, installing, replacing, reconfiguring, operating, and using an irrigation

system to irrigate vegetative Improvements on the Property including without limitation trees, bushes, shrubs, and flowers, which irrigation system shall include irrigation heads, underground lines and pipes, underground conduit, other irrigation system apparatus, and all other items essential to the operation of such irrigation system (the “**Irrigation System**”). Declarant's and Declarant's employees', agents', contractors', successors' and assigns' rights and easements under this section shall automatically terminate at such time as no Class B Memberships exist, or at such earlier time as Declarant, in its sole discretion, may decide and transfer such rights by a written instrument.

8.5. Easement for Construction of Sidewalk. Declarant reserves for itself and its employees, agents, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, successors and assigns, the non-exclusive right and easement to enter upon, across, over, and under those portions of the Property located within the Sidewalk and Pedestrian Easement for the purpose of constructing the Sidewalk. Not in limitation of, but in expansion of, the preceding sentence, Declarant and its employees, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, successors and assigns, shall have an access easement over and across any of the Lots abutting or containing any portion of the Sidewalk and Pedestrian Easement, to the extent reasonably necessary to exercise their rights and responsibilities under this section. Declarant's and Declarant's employees', agents', contractors', successors' and assigns' rights and easements under this section shall automatically terminate at such time as no Class B Memberships exist, or at such earlier time as Declarant, in its sole discretion, may decide and transfer such rights by a written instrument.

8.6. Easement for Construction of Storm Sewer System. Declarant reserves for itself and its employees, agents, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, successors and assigns, the non-exclusive right and easement to enter upon, across, over, and under those portions of the Property located within the Storm Sewer Easement for the purpose of constructing the Storm Sewer System. Not in limitation of, but in expansion of, the preceding sentence, Declarant and its employees, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, successors and assigns, shall have an access easement over and across any of the Lots abutting or containing any portion of the Storm Sewer System Easement, to the extent reasonably necessary to exercise their rights and responsibilities under this section. Declarant's and Declarant's employees', agents', contractors', successors' and assigns' rights and easements under this section shall automatically terminate at such time as no Class B Memberships exist, or at such earlier time as Declarant, in its sole discretion, may decide and transfer such rights by a written instrument.

8.7. Easement for Construction of Water Quality Facilities and Detention Pond. Declarant reserves for itself and its employees, agents, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, successors and assigns, the non-exclusive right and easement to enter upon, across, over, and under those portions of the Property located within the Water Quality Facilities and Detention Pond Easement for the purpose of constructing the Water Quality Facilities and Detention Pond. Not in limitation of, but in expansion of, the preceding sentence, Declarant and its employees, contractors, successors and assigns, for the benefit and use of Declarant and its employees, agents, contractors, successors

and assigns, shall have an access easement over and across any of the Lots abutting or containing any portion of the Water Quality Facilities and Detention Pond Easement, to the extent reasonably necessary to exercise their rights and responsibilities under this section. Declarant's and Declarant's employees', agents', contractors', successors' and assigns' rights and easements under this section shall automatically terminate at such time as no Class B Memberships exist, or at such earlier time as Declarant, in its sole discretion, may decide and transfer such rights by a written instrument.

8.8. Easement for Maintenance of Common Improvements. Declarant reserves for the Association, and its employees, agents, contractors, successors and assigns, for the benefit and use of the Association, and its employees, agents, contractors, successors and assigns, the non-exclusive right and easement, to enter upon, across, over, and under the Common Improvements for the purpose of maintaining, repairing, upgrading, reconfiguring, replacing, and operating the Common Improvements. Not in limitation of, but in expansion of, the preceding sentence, the Association, and its employees, agents, contractors, successors and assigns, for the benefit and use of the Association, and its employees, agents, contractors, successors and assigns, shall have an access easement over and across any of the Lots abutting or containing any portion of the Common Improvements, to the extent reasonably necessary to exercise their rights and responsibilities under this section.

8.9. Easement for Use of Driveway Improvements. Declarant reserves for the Owners and their respective Permittees, for the benefit and use of the Owners and their respective Permittees, the non-exclusive right and easement to use the Driveway Improvements for the purpose of ingress to, and egress from, Vail Divide Boulevard, State Highway 71, and any portion of the Property to any other portion of the Property.

8.10. Easement for Use of Parking Areas. Declarant reserves for the Owners and their respective Permittees, for the benefit and use of the Owners and their respective Permittees, the non-exclusive right and easement to use the Parking Areas to park automobiles and light trucks. Each Owner (a "**Benefitted Owner**") hereby agrees that if any problem develops concerning the Parking Areas on a Lot (a "**Lot Being Used**") because of parking on the Lot Being Used by a Benefitted Owner or its Permittees, including without limitation overparking on a Lot Being Used by a Benefitted Owner or its Permittees, the Benefitted Owner and the Owner of the Lot Being Used shall meet, confer, and use commercially reasonable efforts to resolve such problem.

8.11. Easement for Use of Sidewalk. Declarant reserves for the Owners and their respective Permittees, for the benefit and use of the Owners and their respective Permittees, the non-exclusive right and easement to use the Sidewalk and the Sidewalk and Pedestrian Easement as a pedestrian walkway (which may include jogging, biking and hiking to the extent permitted by the City of Bee Cave, Texas).

8.12. Easement for Use of Storm Sewer System. Declarant reserves for the Owners, and their respective Permittees, for the benefit and use of the Owners and their respective Permittees, the non-exclusive right and easement to use the Storm Sewer Easement and the Storm Sewer System for the purpose of conveying storm water to the Water Quality Facilities and Detention Pond.

8.13. Easement for Use of Water Quality Facilities and Detention Pond. Declarant reserves for the Owners and their respective Permittees, for the benefit and use of the Owners and their respective Permittees, the non-exclusive right and easement to use the Water Quality Facilities and Detention Pond Easement and the Water Quality Facilities and Detention Pond for the purpose of depositing, treating, and re-irrigating storm water from the Lots in the Water Quality Facilities and Detention Pond.

8.14. Owner's Vegetative Improvements. Each Owner shall keep all vegetative Improvements of every kind on such Owner's Lot (excluding any Common Landscape Area platted as a part of such Owner's Lot or any vegetative Improvements on such Owner's Lot which are maintained by the Association) cultivated, pruned, and free of trash and other unsightly material. All other Improvements upon any Lot (excluding any Improvements which are maintained by the Association) shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner of such Lot. Declarant, the Association, and the Architectural Committee shall have the right (i) at any reasonable time to enter upon any Lot to replace, maintain, and cultivate vegetative improvements as deemed necessary or to paint, repair, or otherwise maintain any other Improvements in need thereof, and (i) to charge the cost thereof to the Owner of the Lot as provided in Section 5.5(E) hereof.

8.15. Lateral Support Easement. In the event that Declarant shall erect or cause to be erected a retaining wall for lateral support upon any Lot, or any shared retaining wall upon any two or more adjacent Lots, maintenance of such retaining wall shall be the responsibility of the Owner of such Lot or the Owners of such Lots jointly, and all damage shall be repaired within thirty (30) days of written notification by the Association. Each Owner shall maintain that portion of any retaining wall on its respective Lot in accordance with the requirements of any applicable governmental entity (if any) and in a good and functioning condition and repair at such Owner's sole cost. Declarant hereby reserves for the benefit of each Owner of a Lot on which Declarant has constructed a retaining wall, a non-exclusive easement in, upon, over and across any adjacent Lot on which a portion of such retaining wall exists for the use, operation, replacement, upgrading, inspection, maintenance and repair of such retaining wall. In the event any such Owner, or their agents and employees in exercising the easement rights granted by this paragraph, disturbs or otherwise damages any portion of another Owner's Lot, or Improvements thereon, such Owner shall within a reasonable time period restore the Lot and/or repair such Improvements, including without limitation landscaping, grasses, curbs, asphalt, retaining wall, and concrete paving, to their prior condition. Such Owners and their successors and assigns, are hereby further granted an easement upon, over and across the Lots subject to the retaining wall, at any and all reasonable times, to reasonably enter such Lots, or any part thereof, for the purpose of operating, inspecting, monitoring, maintaining and repairing such retaining wall.

8.16. Common Driveway, Common Landscape Area, Sidewalk and Pedestrian Easement, and Water Quality Facilities and Detention Pond Easement. Each Owner covenants not to disturb or displace any Improvements within the Common Driveway, Common Landscape Area, Sidewalk and Pedestrian Easement, or Water Quality Facilities and Detention Pond Easement. There shall be no construction or installation of Improvements, temporary or permanent, by any person except Declarant or the Association in or on the Common Driveway, Common Landscape Area, Sidewalk and Pedestrian Easement, or Water Quality Facilities and Detention Pond Easement. There shall be no parking of any vehicles, trash container storage,

materials or construction accessories storage, clearing in any manner without written approval from the Architectural Control Committee, altering drainage, or gathering native rock or harvesting native and indigenous plants, in or on the Common Driveway, Common Landscape Area, Sidewalk and Pedestrian Easement, or Water Quality Facilities and Detention Pond Easement.

8.17. Owner's Easements of Use of Common Improvements. Each Owner shall have an easement of use in and to the Common Improvements, but only as expressly set out above, which shall be appurtenant to and shall pass with title to such Owner's Lot, subject to the following provisions:

(A) The right of the Association to dedicate or transfer all or any part of the Common Improvements to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless it complies with applicable law and:

(1) an instrument of agreement to such dedication or transfer, signed by at least two-thirds (2/3) of each class of Members entitled to vote, is recorded; and

(2) written notice of the proposed action under this provision is sent to every Owner and Mortgagee not less than thirty (30) days and not more than sixty (60) days in advance of such action. If ingress or egress to any Lot is through any part of a Common Improvement, any conveyance or encumbrance of such Common Improvement shall be subject to a Lot Owner's ingress and egress easement.

(B) The right of the Association to borrow money for the purpose of improving the Common Improvements and, in furtherance thereof, to mortgage the Common Improvements, all in accordance with the Articles and Bylaws. No such mortgage shall be effective unless: (1) an instrument of agreement to such mortgage, signed by at least two-thirds (2/3) of each class of Members entitled to vote, is recorded; and (2) written notice of the proposed action under this provision is sent to every Owner and Mortgagee not less than thirty (30) days and not more than sixty (60) days in advance of such action.

(C) The right of the Association to make reasonable rules and regulations regarding the use of the Common Improvements and any facilities thereon.

(D) The right of the Association to contract for services with third parties on such terms as the Association may determine.

## ARTICLE IX

### MISCELLANEOUS

9.1. Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2047, unless amended as herein provided. After December 31, 2047, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or



extinguished by a written instrument executed by those Members entitled to cast not less than two-thirds (2/3) of the votes of the Association.

9.2. Nonliability of Board and Architectural Committee Members. Neither the Architectural Committee nor any member thereof, nor the Board nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Committee or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Committee or its member, or the Board or its member, as the case may be. Neither the Architectural Committee, nor the members thereof, shall be liable to any Owner due to the construction of any Improvement within the Property.

9.3. Amendment.

(A) By Declarant. This Declaration may be amended by the Declarant so long as Declarant owns or controls any of the land described in Exhibit "A". No amendment by Declarant shall be effective until there has been recorded in the Official Public Records of Travis County, Texas an instrument executed and acknowledged by Declarant and setting forth the amendment. Notwithstanding the foregoing, Declarant may amend this Declaration at any time to correct typographical and grammatical errors.

(B) By Owners. In addition to the method in Section 9.3(A), this Declaration may be amended by the recording in the Official Public Records of Travis County of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved in writing or at a meeting duly called for such purpose) of those Members entitled to cast not less than two-thirds (2/3) of the votes of the Association.

(C) Limitation on Amendment. Notwithstanding anything to the contrary in this Declaration, any amendment of this Declaration which would alter (i) the maintenance provisions related to, the operation of, or the parties allowed to use, the Common Driveway, the Sidewalk, the Sidewalk and Pedestrian Easement, the Storm Sewer System, the Storm Sewer System Easement, the Water Quality Facilities and Detention Pond, or the Water Quality Facilities and Detention Pond Easement, or (ii) a compliance obligation associated with any applicable City of Bee Cave ordinance or permit governing development of the Property, will require the written consent of the City of Bee Cave, Texas.

9.4. Notice. All notices required or permitted to be given hereunder, or given in regard to this Declaration by one party hereto to another party hereto, shall be in writing and the same shall be deemed to have been served, given and received (i) if hand delivered, when delivered in person to the address set forth hereinafter for the party hereto to whom notice is being given, or (ii) if mailed, upon the expiration of three (3) business days after having been placed in the United States mail, postage prepaid, by certified mail, return receipt requested, addressed to the party hereto to whom notice is being given at the address set forth hereinafter for such party. Any party hereto may change its address for notices by notice theretofore given in accordance with this section. The mailing address of the Declarant as of the Effective Date of this Declaration is set forth on the signature page hereto.

9.5. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

9.6. Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor Declarant's successors or assigns nor any of Declarant's or Declarant's successor's or assign's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant or Declarant's successors or assigns to excavate and grade, to construct any and/or to alter drainage patterns and facilities, to construct or install any and all other types of Improvements, including without limitation sales and leasing offices and similar facilities, and to post signs incidental to construction, sales, and leasing anywhere within the Property. No Lot owned by Declarant shall be subject to any Assessments.

9.7. Mergers and Consolidations. The Association may participate in mergers and consolidations with other nonprofit operations organized for the same purposes, provided that any such merger, consolidation or annexation shall have the consent (in writing or at a meeting duly called for such purpose) of those Members entitled to cast not less than two-thirds (2/3) of the votes of the Association.

9.8. Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration to any other Person and may permit the participation, in whole or in part, by any other Person in any of its privileges, exemptions, rights, and duties hereunder.

9.9. Attorney's Fees. In the event any party hereto should bring suit against any other party hereto in respect of any matters provided for herein, the prevailing party hereto shall be entitled to recover from the other party hereto reasonable attorneys' fees and costs of court in connection with such suit. As used herein, a "prevailing party hereto" shall include, without limitation, a party hereto who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the action.

9.10. Enforcement and Nonwaiver.

(A) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce all of the provisions of the Vail Divide Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.

(B) Nonwaiver. The failure to enforce any provision of the Vail Divide Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.

(C) Liens. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

9.11. Construction.

(A) Restrictions Severable. The provisions of the Vail Divide Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

(B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

(C) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, sections or articles here.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Declarant has executed this Declaration on this the  
day of \_\_\_\_\_, 2017.

**DECLARANT:**

**BIODEC, LLC,**  
a California limited liability company

By: Biodec Manager, L.P.,  
a California limited partnership  
Manager

By: The Kelly Capital Group, Inc.,  
a California corporation  
General Partner

By: \_\_\_\_\_  
Kenneth R. Satterlee  
President

Address: 901 S. MoPac Expressway  
Barton Oaks, Building 1, Ste. 160  
Austin, Texas 78746

**THE STATE OF TEXAS** §  
§  
**COUNTY OF TRAVIS** §

This instrument was acknowledged before me on \_\_\_\_\_, 2017 by  
Kenneth R. Satterlee, in his capacity as President of and on behalf of The Kelly Capital Group,  
Inc., a California corporation, said corporation acting in its capacity as General Partner of and on  
behalf of Biodec Manager, L.P., a California limited partnership, said limited partnership acting  
in its capacity as Manager of and on behalf of Biodec, LLC, a California limited liability  
company.

\_\_\_\_\_  
Notary Public – State of Texas  
My commission expires: \_\_\_\_\_

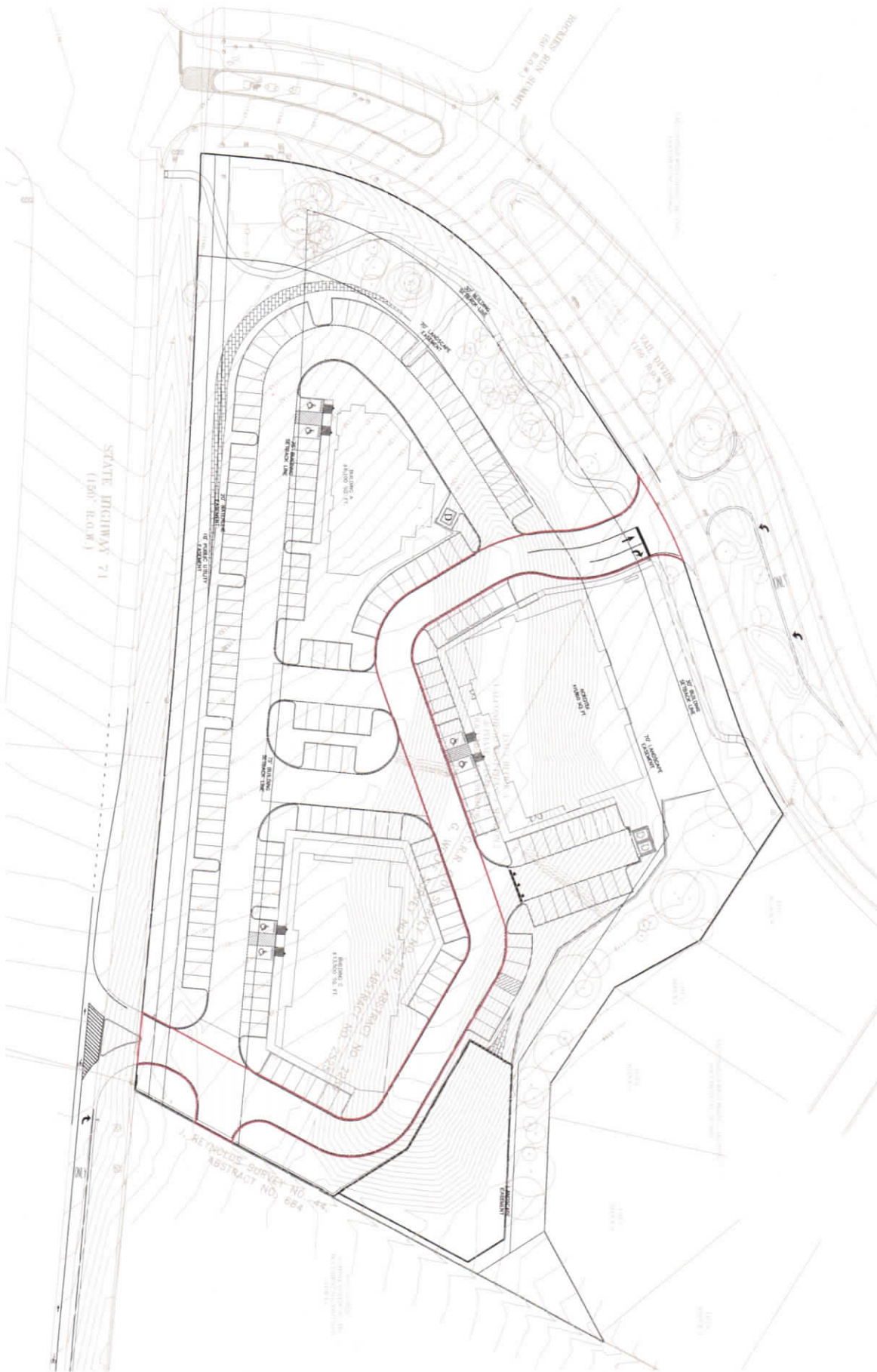
**EXHIBIT "A"**

**PROPERTY DESCRIPTION**

Lots 1A ("**Lot 1A**"), 1B ("**Lot 1B**"), and 1C ("**Lot 1C**"), Block A, FINAL PLAT OF LOT 1A, 1B, AND 1C, BLOCK A OF FALCONHEAD WEST, PHASE 1, SECTION 2 & PHASE 2, a Subdivision in the City of Bee Cave, Travis County, Texas, according to the map/plat thereof recorded as Document No. \_\_\_\_\_ of the Official Public Records of Travis County, Texas.

**EXHIBIT "B"**

**COMMON DRIVEWAY**



**EXHIBIT "A"**

**DESCRIPTION OF A TRACT OF LAND CONTAINING 0.507 ACRES (22,091 SQUARE FEET) AND BEING A PORTION OF LOT 1, BLOCK A, FALCONHEAD WEST PHASE 1, SECTION 2 & PHASE 2, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED AS DOCUMENT NO. 200800106 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.); SAID 0.507 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a ½-inch iron rod with "Capital" cap found at the southwesterly end of a 250.00 foot radius curve concave southeasterly on the common line of said Lot 1 and of the southeasterly right-of-way line of Vail Divide (100' wide right-of-way), for the **POINT OF BEGINNING** hereof;

**THENCE**, northeasterly along the common line of said Lot 1 and of the southeasterly right-of-way line of Vail Divide and along the arc of said 250.00 foot radius curve a distance of 59.95 feet through a central angle of 13°44'18", and a chord bearing N63°07'41"E and distance of 59.80 feet to a calculated point, said point being the beginning of a 25.10 foot radius curve concave easterly;

**THENCE**, over and across said Lot 1 the following thirteen (13) courses and distances:

1. Southerly along the arc of said 25.10 foot radius curve a distance of 24.35 feet through a central angle of 55°34'55", and a chord bearing S06°34'04"W and distance of 23.40 feet to a calculated point;
2. S23°49'21"E, a distance of 19.89 feet to a calculated point at the beginning of a 83.00 foot radius curve concave westerly;
3. Southerly along the arc of said 83.00 foot radius curve a distance of 56.43 feet through a central angle of 38°57'14", and a chord bearing S04°20'44"E and distance of 55.35 feet to a calculated point at the beginning of a 34.50 foot radius curve concave easterly;
4. Southerly along the arc of said 34.50 foot radius curve a distance of 21.30 feet through a central angle of 35°22'43", and a chord bearing S02°33'39"E and distance of 20.97 feet to a calculated point at the beginning of a 92.50 foot radius curve concave northeasterly;
5. Southeasterly along the arc of said 92.50 foot radius curve a distance of 16.61 feet through a central angle of 10°17'29", and a chord bearing S25°23'35"E and distance of 16.59 feet to a calculated point;
6. S30°32'19"E, a distance of 49.60 feet to a calculated point at the beginning of a 25.00 foot radius curve concave northerly;



7. Southeasterly and easterly along the arc of said 25.00 foot radius curve a distance of 34.30 feet through a central angle of  $78^{\circ}36'14''$ , and a chord bearing  $S69^{\circ}50'26''E$  and distance of 31.67 feet to a calculated point;
8.  $N70^{\circ}51'27''E$ , a distance of 184.58 feet to a calculated point at the beginning of a 50.50 foot radius curve concave southerly;
9. Easterly along the arc of said 50.50 foot radius curve a distance of 43.54 feet through a central angle of  $49^{\circ}23'45''$ , and a chord bearing  $S84^{\circ}26'40''E$  and distance of 42.40 feet to a calculated point;
10.  $S59^{\circ}44'47''E$ , a distance of 114.13 feet to a calculated point at the beginning of a 50.50 foot radius curve concave westerly;
11. Southeasterly and southerly along the arc of last said 50.50 foot radius curve a distance of 77.64 feet through a central angle of  $88^{\circ}05'30''$ , and a chord bearing  $S15^{\circ}42'03''E$  and distance of 70.22 feet to a calculated point;
12.  $S28^{\circ}20'42''W$ , a distance of 34.45 feet to a calculated point at the beginning of a 19.50 foot radius curve concave northeasterly;
13. Southerly and southeasterly along the arc of said 19.50 foot radius curve a distance of 35.69 feet through a central angle of  $104^{\circ}51'26''$ , and a chord bearing  $S24^{\circ}05'01''E$  and distance of 30.91 feet to a calculated point on the common line of said Lot 1 and of the 22.997 acre tract conveyed to Bee Caves-71A LLC per deed recorded as Document No. 2012184238, O.P.R.T.C.T.;

**THENCE**, along the common line of said Lot 1 and of said 22.997 acre tract,  $S28^{\circ}20'42''W$ , a distance of 28.49 feet to a calculated point;

**THENCE**, over and across said Lot 1 the following four (4) courses and distances:

1.  $N84^{\circ}47'00''W$ , a distance of 10.46 feet to a calculated point at the beginning of a 24.50 foot radius curve concave southeasterly;
2. Westerly and southwesterly along the arc of said 24.50 foot radius curve a distance of 28.59 feet through a central angle of  $66^{\circ}52'18''$ , and a chord bearing  $S61^{\circ}46'51''W$  and distance of 27.00 feet to a calculated point;
3.  $S28^{\circ}20'42''W$ , a distance of 6.29 feet to a calculated point at the beginning of a 34.50 foot radius curve concave easterly;
4. Southerly along the arc of last said 34.50 foot radius curve a distance of 23.59 feet through a central angle of  $39^{\circ}10'46''$ , and a chord bearing  $S08^{\circ}45'19''W$  and distance of 23.13 feet to a calculated point on the northerly right-of-way line of State Highway 71 (150' wide right-of-way);

**THENCE**, along the common line of said Lot 1 and of the northerly right-of-way line of State Highway 71, N84°34'42"W, a distance of 36.65 feet to a calculated point;

**THENCE**, over and across said Lot 1 the following eleven (11) courses and distances:

1. N28°20'42"E, a distance of 150.80 feet to a calculated point at the beginning of a 24.50 foot radius curve concave westerly;
2. Northerly and northwesterly along the arc of last said 24.50 foot radius curve a distance of 37.67 feet through a central angle of 88°05'30", and a chord bearing N15°42'03"W and distance of 34.07 feet to a calculated point;
3. N59°44'07"W, a distance of 114.13 feet to a calculated point at the beginning of a 24.50 foot radius curve concave southerly;
4. Westerly along the arc of last said 24.50 foot radius curve a distance of 21.12 feet through a central angle of 49°23'45", and a chord bearing N84°26'40"W and distance of 20.47 feet to a calculated point;
5. S70°51'27"W, a distance of 184.58 feet to a calculated point at the beginning of a 51.00 foot radius curve concave northerly;
6. Westerly and northwesterly along the arc of said 51.00 foot radius curve a distance of 69.97 feet through a central angle of 78°36'14", and a chord bearing N69°50'26"W and distance of 64.61 feet to a calculated point;
7. N30°32'19"W, a distance of 49.58 feet to a calculated point at the beginning of a 118.50 foot radius curve concave northeasterly;
8. Northwesterly along the arc of said 118.50 foot radius curve a distance of 62.87 feet through a central angle of 30°23'50", and a chord bearing N15°20'58"W and distance of 62.13 feet to a calculated point at the beginning of a 74.50 foot radius curve concave westerly;
9. Northerly along the arc of said 74.50 foot radius curve a distance of 30.78 feet through a central angle of 23°40'18", and a chord bearing N11°59'12"W and distance of 30.56 feet to a calculated point;
10. N23°49'21"W, a distance of 10.25 feet to a calculated point at the beginning of a 25.00 foot radius curve concave southwesterly;
11. Northwesterly along the arc of last said 25.00 foot radius curve a distance of 35.38 feet through a central angle of 81°04'08", and a chord bearing N63°12'20"W and distance of 32.51 feet to a calculated point on the southeasterly right-of-way line of Vail Divide (100' wide right-of-way);

**THENCE**, along the common line of said Lot 1 and of the southeasterly right-of-way line of Vail Divide, N56°17'10"E, a distance of 8.88 feet to the **POINT OF BEGINNING**, and containing 0.507 acres of land, more or less.



Sydney Smith Xinos, R.P.L.S.

Texas Registration No. 5361

Doucet & Associates Inc.,

7401 B Hwy. 71 West, Suite 160

Austin, Texas 78735

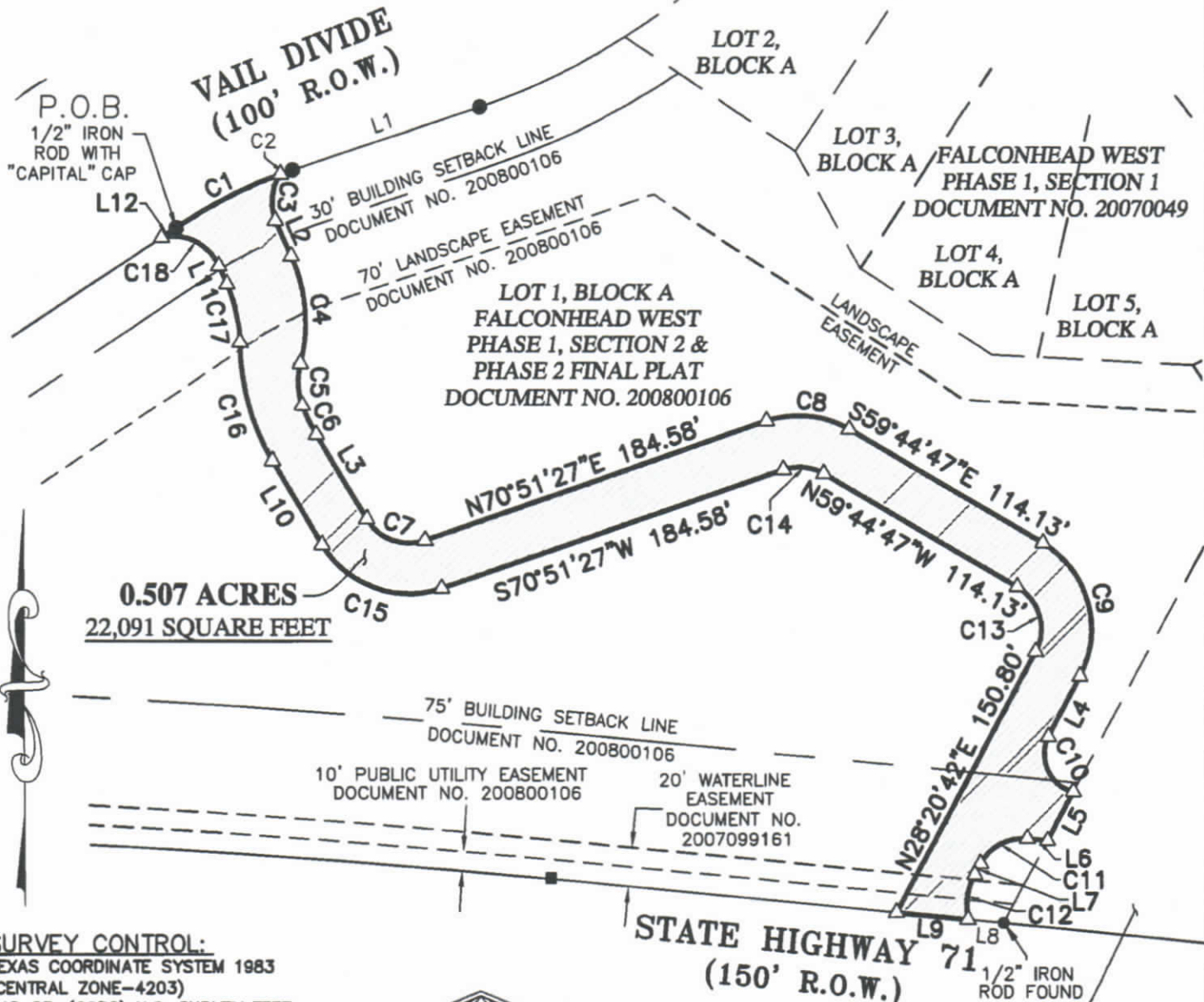
Firm Registration No. 10105800

11/27/17

Date







**SURVEY CONTROL:**  
 TEXAS COORDINATE SYSTEM 1983  
 (CENTRAL ZONE-4203)  
 NAD 83. (CORS) U.S. SURVEY FEET  
 GEIOD MODEL G03U03  
 COMBINED SCALE FACTOR  
 0.999952060313  
 PROJECT CONTROL POINTS WERE  
 ESTABLISHED USING THE LEICA SYSTEM  
 COOP NETWORK.

**VERTICAL DATUM:**  
 THE VERTICAL DATUM FOR DOUCET  
 AND ASSOC. CONTROL POINT #1 WAS  
 ESTABLISHED USING LEICA DATA  
 SYSTEM COOP NETWORK. NAVD'88  
 VERTICAL DATUM.



**STATE HIGHWAY 71**  
 (150' R.O.W.)

22.997 ACRES  
 BEE CAVES-71A LLC  
 DOCUMENT NO. 2012184238  
 O.P.R.T.C.T.



**ROADWAY  
 EASEMENT**  
 CITY OF BEE CAVE,  
 TRAVIS COUNTY, TEXAS

**DA DOUCET  
 & ASSOCIATES**  
 Civil Engineering - Planning - Surveying/Mapping  
 7401 B. Highway 71 W, Suite 160  
 Austin, Texas 78735, Phone: (512)-583-2600  
 www.doucetandassociates.com  
 Survey Firm Registration Number: 10105800

P:\1193-002\survey\DA\_drawings\1193-002 ROADWAY EASEMENT.dwg

Date:	01-27-2017
Scale:	1"=80'
Drawn by:	DRK
Reviewer:	SSX
Project:	1193-002
Sheet:	1 of 2
Field Book:	420
Party Chief:	MORA
Survey Date:	05-20-2014

EASEMENT LINE TABLE		
NO.	BEARING	DISTANCE
L1	N71°31'21"E	100.09'
L2	S23°49'21"E	19.89'
L3	S30°32'19"E	49.60'
L4	S28°20'42"W	34.45'
L5	S28°20'42"W	28.49'
L6	N84°47'00"W	10.46'
L7	S28°20'42"W	6.29'
L8	S84°34'42"E	18.18'
L9	N84°34'42"W	36.65'
L10	N30°32'19"W	49.58'
L11	N23°49'21"W	10.25'
L12	N56°17'10"E	8.88'

LEGEND	
	EASEMENT LINE
	EXISTING PROPERTY LINES
	EXISTING EASEMENTS
	CALCULATED POINT
	1/2" IRON ROD WITH "G&R" CAP FOUND (UNLESS NOTED)
DOC. NO.	DOCUMENT NUMBER
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
VOL.	VOLUME
PG.	PAGE
R.O.W.	RIGHT-OF-WAY
P.R.T.C.T.	PLAT RECORDS, TRAVIS COUNTY, TEXAS
R.P.R.T.C.T.	REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS
D.R.T.C.T.	DEED RECORDS, TRAVIS COUNTY, TEXAS

CURVE TABLE					
NO.	LENGTH	RADIUS	DELTA	BEARING	CHORD
C1	59.95'	250.00'	13°44'18"	N63°07'41"E	59.80'
C2	6.41'	250.00'	01°28'06"	N70°43'54"E	6.41'
C3	24.35'	25.10'	55°34'55"	S06°34'04"W	23.40'
C4	56.43'	83.00'	38°57'14"	S04°20'44"E	55.35'
C5	21.30'	34.50'	35°22'43"	S02°33'29"E	20.97'
C6	16.61'	92.50'	10°17'29"	S25°23'35"E	16.59'
C7	34.30'	25.00'	78°36'14"	S69°50'26"E	31.67'
C8	43.54'	50.50'	49°23'45"	S84°26'40"E	42.40'
C9	77.64'	50.50'	88°05'30"	S15°42'03"E	70.22'
C10	35.69'	19.50'	104°51'26"	S24°05'01"E	30.91'
C11	28.59'	24.50'	66°52'18"	S61°46'51"W	27.00'
C12	23.59'	34.50'	39°10'46"	S08°45'19"W	23.13'
C13	37.67'	24.50'	88°05'30"	N15°42'03"W	34.07'
C14	21.12'	24.50'	49°23'45"	N84°26'40"W	20.47'
C15	69.97'	51.00'	78°36'14"	N69°50'26"W	64.61'
C16	62.87'	118.50'	30°23'50"	N15°20'58"W	62.13'
C17	30.78'	74.50'	23°40'18"	N11°59'12"W	30.56'
C18	35.38'	25.00'	81°04'08"	N63°12'20"W	32.51'

ROADWAY  
EASEMENT  
CITY OF BEE CAVE,  
TRAVIS COUNTY, TEXAS

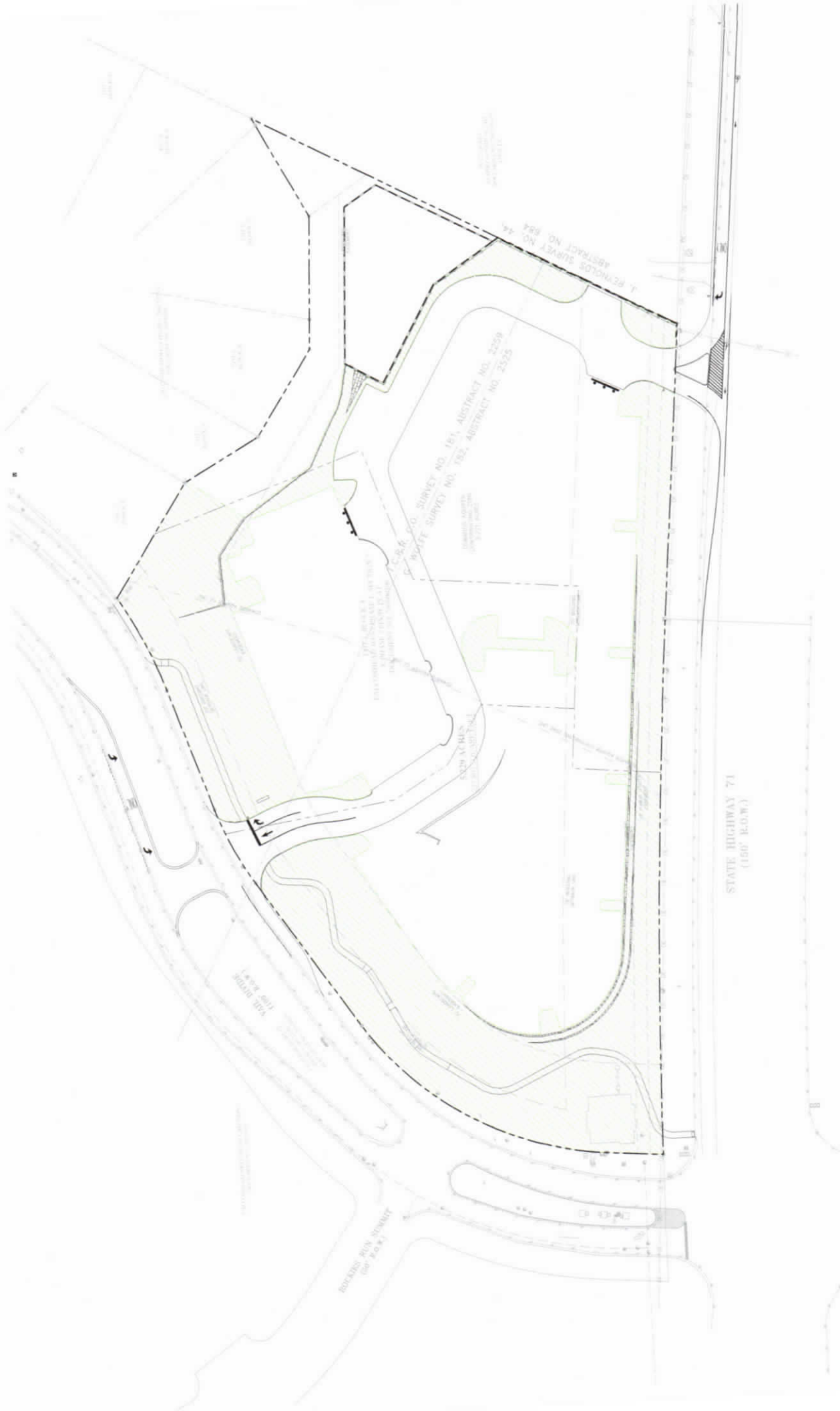
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Survey Firm Registration Number: 10105800  
P: \\1193-002\survey\DA\_drawings\1193-002 ROADWAY EASEMENT.dwg

Date: 01-27-2017  
Scale: 1"=80'  
Drawn by: DRK  
Reviewer: SSX  
Project: 1193-002  
Sheet: 2 of 2  
Field Book: 420  
Party Chief: MORA  
Survey Date: 05-20-2014

**EXHIBIT "C"**

**COMMON LANDSCAPE AREA**





**AFTER RECORDING RETURN TO:**

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