



AGENDA

Regular Meeting

City Council 4000 Galleria Parkway

Tuesday, April 9, 2024

6:00 PM, City Hall

4000 Galleria Parkway

Bee Cave, Texas 78738-3104

THE CITY OF BEE CAVE COUNCIL MEETINGS ARE AVAILABLE TO ALL PERSONS REGARDLESS OF DISABILITY. IF YOU REQUIRE SPECIAL ASSISTANCE, PLEASE CONTACT KAYLYNN HOLLOWAY AT (512) 767-6641 AT LEAST 48 HOURS IN ADVANCE OF THE MEETING. THANK YOU.

1. Call meeting to order
2. Roll Call
3. Pledge of Allegiance
4. Recognition and Moment of Silence
5. City Council will discuss and may act on the ratification of the appointment, swearing in and oath of office of the City Manager, Julie Oakley.
6. Citizen Comments

This is an opportunity for citizens to address the City Council concerning an issue of community interest that is not on the agenda. Comments on the agenda items must be made when the agenda item comes before the Council. Any deliberation of the issue is limited to a proposal to place it on the agenda for a later meeting. Citizens will have up to 3 minutes to make comments.

7. Staff Comments

Each department of the city may present a monthly report to the City Council on informational items only which do not require action. Each department may provide a monthly report regarding department operations and any noteworthy events for council.

- a. City secretary report
- b. Communications report
- c. Financial report
- d. Human Resources report
- e. Library report
- f. Parks and Facilities report
- g. Planning and Development report
- h. Police Department report
- i. City Manager's office report

8. Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public view.

- A. Consider approval of the minutes of the Regular Session conducted on March 26, 2024.
9. Discuss and consider action on a Hotel Occupancy Tax Fund application by Lake Travis Youth Association.
 10. Discuss and consider action on Ordinance No. 531 adding provisions for uniform collection of residential and commercial waste; providing for a penalty for a violation as a Class C Misdemeanor and a fine in an amount not to exceed \$2000.00; providing that this ordinance shall be cumulative; repealing all ordinances to the extent they are in conflict; providing for severability; and providing an effective date.
 11. Discuss and consider action on Ordinance No. 532 granting an exclusive franchise for the collection of residential solid waste and recycling; providing that this ordinance shall be cumulative; repealing all ordinances to the extent they are in conflict; providing severability; and providing an effective date.
 12. Discuss and consider action on the Capital Improvements Plan Project PR.TL.02: Vail Divide Drive Right Turn Lane
 13. Discuss and consider action on a comprehensive policy regarding the standards and use of the City's social media platforms.
 14. Discuss and consider possible action on an appeal from a decision of the City Manager regarding a Chapter 245 determination of vesting rights for Lot 1, Block A of Summit 56 subdivision, a 6.950 acre tract located on the north side of SH-71 at 15506 W State Highway 71, Bee Cave, Texas.

15. Close Regular Meeting
16. Open Executive Session
 - A. Discuss and consider possible action on an appeal from a decision of the City Manager regarding a Chapter 245 determination of vesting rights for Lot 1, Block A of Summit 56 subdivision, a 6.950 acre tract located on the north side of SH-71 at 15506 W State Highway 71, Bee Cave, Texas
17. Close Executive Session
18. Open Regular Meeting
19. Consider action, if any, on Executive Session
20. Adjournment

The Council may go into closed session at any time when permitted by Chapters 418 or 551, Texas Government Code, or Section 321.3022 of the Texas Tax Code. Before going into closed session a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, and the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code, or Section 321.3022 of the Texas Tax Code authorizing the closed session.



City Council Meeting
4/9/2024
Agenda Item Transmittal

Agenda Item: 5.

Agenda Title: City Council will discuss and may act on the ratification of the appointment, swearing in and oath of office of the City Manager, Julie Oakley.

Council Action: Consideration & Approval

Department: City Secretary

Staff Contact: Thomas Hatfield-Interim City Secretary

1. INTRODUCTION/PURPOSE

Council can make a motion to “ratify the appointment and authorize the swearing in of Julie Oakley as the new City Manager.”

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

Description	Type
📎 Statement of Appointed Officer	Backup Material
📎 Oath of Office	Backup Material

Form 2201 - Statement of Officer (General Information)

The attached form is designed to meet minimal constitutional filing requirements pursuant to the relevant provisions. *This form and the information provided are not substitutes for the advice and services of an attorney.*

Execution and Delivery Instructions

A Statement of Officer required to be filed with the Office of the Secretary of State is considered filed once it has been received by this office.

Mail: P.O. Box 12887, Austin, Texas 78711-2887.

Overnight mail or hand deliveries: James Earl Rudder Officer Building, 1019 Brazos, Austin, Texas 78701.

Fax: (512) 463-5569.

Email: Scanned copies of the executed Statement may be sent to register@sos.texas.gov

NOTE: The Statement of Officer form, commonly referred to as the “Anti-Bribery Statement,” must be executed and filed with the Office of the Secretary of State before taking the Oath of Office (Form 2204).

Commentary

Article XVI, section 1 of the Texas Constitution requires all elected or appointed state and local officers to take the official oath of office found in section 1(a) and to subscribe to the anti-bribery statement found in section 1(b) before entering upon the duties of their offices.

Elected and appointed state-level officers required to file the anti-bribery statement with the Office of the Secretary of State include members of the Legislature, the Secretary of State, and all other officers whose jurisdiction is coextensive with the boundaries of the state or who immediately belong to one of the three branches of state government. Questions about whether a particular officer is a state-level officer may be resolved by consulting relevant statutes, constitutional provisions, judicial decisions, and attorney general opinions. For more information, see Op. Tex. Att’y Gen. No. JC-0575 (2002) (determining the meaning of “state officer” as it is used in Article XVI).

Effective September 1, 2017, Senate Bill 1329, which was enacted by the 85th Legislature, Regular Session, amended chapter 602 of the Government Code to require the following judicial officers and judicial appointees to file their oath and statement of officer with the secretary of state:

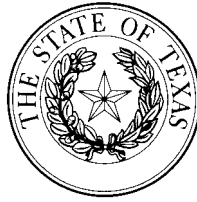
Officers appointed by the supreme court, the court of criminal appeals, or the State Bar of Texas; and
Associate judges appointed under Subchapter B or C, Chapter 201, Family Code.

Local officers must retain the signed anti-bribery statement with the official records of the office. *As a general rule, city and county officials do not file their oath of office with the Secretary of State— these officials file at the local level. The Legislature amended the Texas Constitution, Article 16, Section 1, in November 2001 to no longer require local level elected officials to file with our office.* **The Office of the Secretary of State does NOT file Statements or Oaths from the following persons:** Assistant District Attorneys; City Officials, including City Clerks, City Council Members, Municipal Judges, Justices of the Peace, and Police/Peace Officers; Zoning/Planning Commission Members; County Officials, including County Clerks, County Commissioners, County Judges, County Tax Assessors, and District Clerks; and Officials of Regional Entities, such as, Appraisal Review Districts, Emergency Service Districts, and School Districts (ISD’s).

Questions about this form should be directed to the Government Filings Section at (512) 463-6334 or register@sos.texas.gov

Revised 05/2020

Form #2201 Rev. 05/2020
Submit to:
SECRETARY OF STATE
Government Filings
Section P O Box 12887
Austin, TX 78711-2887
512-463-6334
512-463-5569 - Fax
Filing Fee: None



STATEMENT OF OFFICER

Statement

I, Julie Oakley, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

Title of Position to Which Elected/Appointed: City of Bee Cave City Manager

Execution

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated therein are true.

Date: _____

Signature of Officer

Form 2204 - Oath of Office (General Information)

The attached form is designed to meet minimal constitutional filing requirements pursuant to the relevant provisions. *This form and the information provided are not substitutes for the advice and services of an attorney.*

Execution and Delivery Instructions

An Oath of Office that is required to be filed with the Office of the Secretary of State is considered filed once it has been received by this office. The Oath of Office may be administered to you by a person authorized under the provisions of Chapter 602 of the Texas Government Code. Authorized persons commonly used to administer oaths include notaries public and judges.

Mail: P.O. Box 12887, Austin, Texas 78711-2887.

Overnight mail or hand deliveries: James Earl Rudder Officer Building, 1019 Brazos, Austin, Texas 78701.

Fax: (512) 463-5569. If faxed, the original Oath should also be mailed to the appropriate address above.

Email: Scanned copies of the executed Oath may be sent to register@sos.texas.gov. If sent by email, the original Oath should also be mailed to the appropriate address above.

NOTE: *Do not have the Oath of Office administered to you before executing and filing the Statement of Officer (Form 2201 – commonly referred to as the “Anti-Bribery Statement”) with the Office of the Secretary of State.*

Commentary

Pursuant to art. XVI, Section 1 of the Texas Constitution, the Oath of Office *may not* be taken until a Statement of Officer (see Form 2201) has been subscribed to and, as required, filed with the Office of the Secretary of State. Additionally, gubernatorial appointees who are appointed during a legislative session *may not* execute their Oath until after confirmation by the Senate. Tex. Const. art. IV, Section 12.

Officers Required to File Oath of Office with the Secretary of State:

Gubernatorial appointees

District attorneys

Appellate and district court judges

Officers appointed by the supreme court, the court of criminal appeals, or the State Bar of Texas

Associate judges appointed under subchapter B or C, chapter 201 of the Texas Family Code

Directors of districts operating pursuant to chapter 36 or 49 of the Texas Water Code file a duplicate original of their Oath of Office within 10 days of its execution. Texas Water Code, Sections 36.055(d) and 49.055(d)

Officers Not Required to File Oath of Office with the Secretary of State:

Members of the Legislature elected to a *regular* term of office will have their Oath of Office administered in chambers on the opening day of the session and recorded in the appropriate Journal. Members elected to an *unexpired* term of office should file their Oath of Office with either the Chief Clerk of the House or the Secretary of the Senate, as appropriate.

All other persons should file their Oaths locally. Please check with the county clerk, city secretary or board/commission secretary for the proper filing location.

As a general rule, city and county officials do not file their oath of office with the Secretary of State—these officials file at the local level. The Legislature amended the Texas Constitution, Article 16, Section 1, in November 2001 to no longer require local level elected officials to file with our office.

The Office of the Secretary of State does NOT file Statements or Oaths from the following persons: Assistant District Attorneys; City Officials, including City Clerks, City Council Members, Municipal Judges, Justices of the Peace, and Police/Peace Officers; Zoning/Planning Commission Members; County Officials, including County Clerks, County Commissioners, County Judges (*except County Court of Law Judges who file with the Elections Division*), County Tax Assessors, and District Clerks; and Officials of Regional Entities, such as, Appraisal Review Districts, Emergency Service Districts, and School Districts (ISD's). Questions about whether a particular officer is a state-level officer may be resolved by consulting relevant statutes, constitutional provisions, judicial decisions, and attorney general opinions.

All state or county officers, other than the governor, lieutenant governor, and members of the legislature, who qualify for office, are commissioned by the governor. Tex. Gov't Code, Section 601.005. The Secretary of State performs ministerial duties to administer the commissions issued by the governor, including confirming that officers are qualified prior to being commissioned. Submission of this oath of office to the Office of the Secretary of State confirms an officer's qualification so that the commission may be issued.

Questions about this form should be directed to the Government Filings Section at (512) 463-6334 or register@sos.texas.gov.

Revised 9/2017

Submit to:
SECRETARY OF STATE
Government Filings Section
P O Box 12887
Austin, TX 78711-2887
512-463-6334
FAX 512-463-5569
Filing Fee: None



OATH OF OFFICE

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS,
I, Julie Oakley, do solemnly swear (or affirm), that I will faithfully
execute the duties of the office of City of Bee Cave City Manager of
the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws
of the United States and of this State, so help me God.

Signature of Officer

Certification of Person Authorized to Administer Oath

State of _____

County of _____

Sworn to and subscribed before me on this _____ day of _____, 20____.

(Affix Notary Seal,
only if oath
administered by a
notary.)

Signature of Notary Public or
Signature of Other Person Authorized to Administer An
Oath

Printed or Typed Name



City Council Meeting
4/9/2024
Agenda Item Transmittal

Agenda Item: 8.A.

Agenda Title: Consider approval of the minutes of the Regular Session conducted on March 26, 2024.

Council Action: Approve or Deny

Department: City Secretary

Staff Contact: Thomas Hatfield-Interim City Secretary

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

Description	Type
 Minutes 3/26/2023	Backup Material

MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL
CITY OF BEE CAVE
March 26, 2024

STATE OF TEXAS §
COUNTY OF TRAVIS §

Present:

Kara King, Mayor
Kevin Hight, Council Member
Courtney Hohl, Council Member
Andrew Rebber, Council Member
Andrea Willott, Council Member

Absent:

Andrew Clark, Mayor Pro Tem

City Staff:

Travis Askey, Interim City Manager
Lindsey Oskoui, Interim City Manager
Ryan Henry, Attorney
Thomas Hatfield, Interim City Secretary
Jane Kernen, Parks and Facilities Admin Manager
Anna Jensen, Admin Coordinator
Jenny Hoff, Communications Director
Dori Kelley, Business Development Manager
Brittany Graham, Communications Manager
Barbara Hathaway, Library Director
Gretchen Hardin, Assistant Library Director
Kevin Sawtelle, City Engineer
Amanda Padilla, Senior Planner
Sean Lapano, City Planner
Rebecca Regueira, Deputy City Secretary
Chelsea Maldonado, Consultant from Turner & Townsend-Heery
Brian Jorgensen, Consultant from Turner & Townsend-Heery

Call to Order and Announce a Quorum is Present

With a quorum present, the regular meeting of the Bee Cave City Council was called to order by Mayor King at 6:00p.m. on Tuesday, March 26, 2024.

Recognition and moment of silence

Citizen Comments.

Kathrine (Kate) Burford submitted written comments for the meeting via email that have been attached to the meeting's agenda packet online.

Staff Comments.

Gretchen Hardin, Assistant Library Director, provided an update to the council about the third annual Books and Bees festival being held on Saturday, April 6th.

Consent Agenda.

- A. Consider approval of the minutes of the Regular Session conducted on February 27, 2024.
- B. Consider approval of an update to the Library's policies and strategic plan.
- C. Consider approval of a proclamation for the International Dark Sky Week in April.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hight, to approve consent agenda items A-C.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott

Voting Nay: None

Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Public hearing, discussion, and possible action on Ordinance No. 530 to amend the development standards in Ordinance 00-11-14C Section 2B related to outside speakers in drive-through restaurants. The property affected by the amendments being considered is located generally at 3600 Ranch Road 620 S.

Sean Lapano, City Planner, provided an explanation of what would be changed should the ordinance be passed. Along with, provided City Staff's recommendation to approve the ordinance with no conditions and the Planning and Zoning Commission's recommendation to approve the ordinance with the condition that all signage shall comply with article 4 of the UDC.

Public Hearing opened 6:10p.m.

Stephen Dremer, the applicant seeking the new ordinance spoke on the reasons the change should be made. He focuses on two problems with the current sign code. First their monument sign must be a set distance from the driveway it is not possible for them to comply. Second

Chick-Fil-A's sign is over the size allowed in current city code. He requests that the City Council approve City Staff's recommendation to approve the ordinance with no proposed conditions.

Mayor King asked staff why the Planning and Zoning Commission recommended approval with the condition that all signage comply with article 4.

Lindsey Oskoui, Interim City Manager, explained the Commissioner's concerns about signboards and drive through regulations in the current code vs the development agreement Chick-Fil-A is subject to.

Public Hearing Closed 6:18p.m.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hight to approve the ordinance without the Planning and Zoning Commission's recommended condition that all signage shall comply with article 4 of the UDC.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott

Voting Nay: None

Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on a WTCPUA 1080 Waterline Easement.

Kevin Sawtelle, City Engineer, explains to council the content of the easement. The ETCPUA is requesting an easement for the southeast corner of Ranch Road 620 S and Bee Cave Parkway (The Crescent Tract), a temporary construction easement, and a 20 foot waterline easement on the Skaggs Tract along the whole section that is adjacent to Bee Cave parkway. Staff is still working with city attorneys to finalize language but currently the easements are exclusive and the city is working with the applicant to make the easements not exclusive to allow us to install certain improvements within this easement. Staff recommends approval with the condition that the City and the Applicant can come to an agreement of terms on the final easement between the City and applicant.

MOTION: A motion was made by Council Member Hohl, seconded by Council Member Hight, to approve with recommendations made by staff.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott

Voting Nay: None

Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on the approval of a Service Agreement with IRE Crown Rinks for Bee Cave on Ice 2024-2025.

Jane Kernen, Parks and Facilities Admin Manager, City staff has negotiated a one year contract with IRE Crown Rinks as per Resolution 2023-04 but the city manager can only approve contracts up to a certain amount. This contract extends beyond that and the contract requests execution and the first payment to be made soon. Staff has negotiated for after the council meeting to sign the contract rather than waiting for the new city manager to start.

Council member Willott asked Staff about the difference in price for this year's contract and the one council approved last year.

Travis Askey, Interim City Manager, explained that Resolution 2023-04 allows for the use of the Hotel Occupancy Tax funds and that amount was already budgeted for.

Council member Hight asked Staff about the total amount of the contract being \$279,000 and the amount requested being \$316,000.

Staff explained that the difference is because the total amount of \$316,000 is spread across multiple fiscal years and the remainder will be budgeted for in the next fiscal year.

MOTION: A motion was made by Council Member Hight, seconded by Council Member Hohl, to approve.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott

Voting Nay: None

Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on a contract with OJB for Landscape Architecture Design services for Bee Cave Central Park and authorize the Mayor to execute.

Chelsea Maldonado & Brian Jorgensen, Consultants from Turner & Townsend-Heery, presented the landscape architecture firm OJB as their recommendation for the Central Park project. The agreement proposes a 12 week process, it is primarily a short conceptual agreement, meant to provide both parties with a better understanding of what the project will require in terms of OJB's total cost and the amount of time a master design will take.

Lindsey Oskoui, Interim City Manager, explains that the city needs renderings and designs to show to execute the fundraising portion of the project as well as let City Staff set realistic goals for what can be taken on both in the initial capital investment as well as in operation and maintenance.

MOTION: A motion was made by Council Member Hight, seconded by Council Member Rebber, to authorize the mayor to execute the contract with staff recommended .

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott

Voting Nay: None

Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discussion on a conceptual rendering of potential City wayfinding signage.

Jenny Hoff, Communications Director, presented initial renderings of wayfinding signage for the city seeking council input.

No action taken.

Discuss and consider action on a resolution No. 2024-08 and a disaster declaration for the upcoming solar eclipse on April 8th, 2024.

Mayor Kara King presented this item.

MOTION: A motion was made by Council Member Willott, seconded by Council Member Rebber to approve Resolution No. 2024-09.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott

Voting Nay: None

Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Executive Session:

The City Council closed Open Session at 7:07p.m. to convene in Executive Session.

At this point in the meeting, Mayor King publicly announced that a closed, executive session would be held and identified the section of the Open Meeting Law under which the meeting

would be held. Mayor also announced that Item A will be removed from the Executive Session Agenda.

Executive session in accordance with the Texas Government Code, Section 551-074 – Personnel Matters-to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee; and Section 551.071 - Consultation with Attorney regarding pending or contemplated litigation or a settlement offer, or on any matters in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law. A quorum of the City Council will be present for the executive session.

- A. Deliberation regarding the potential acquisition of real property for public purposes.
- B. Personnel – City Manager

The City Council closed the Executive Session at 7:42p.m. and reconvened in Regular Session.

In Open Session:

Adjournment:

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hight, to adjourn.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott

Voting Nay: None

Absent: Mayor Pro Tem Clark

The motion carried 5-0.

The City Council meeting adjourned at 7:43 p.m.

PASSED AND APPROVED THIS ____ DAY OF _____, 2024.

Kara King, Mayor

ATTEST:

Thomas Hatfield, Interim City Secretary



City Council Meeting
4/9/2024
Agenda Item Transmittal

Agenda Item: 9.

Agenda Title: Discuss and consider action on a Hotel Occupancy Tax Fund application by Lake Travis Youth Association.

Council Action: Discuss and Consider Action

Department: Administration

Staff Contact: Administration

1. INTRODUCTION/PURPOSE

The purpose of this agenda item is to discuss and consider action on an application requesting Hotel Occupancy Tax Funds from the Lake Travis Youth Association (LYTA).

2. DESCRIPTION/JUSTIFICATION

a) Background

LYTA is again hosting the Austin Lacrosse Invitational tournament June 8th-9th 2024. They hosted the event last year and received Hotel Occupancy Tax funds approved by the Council April 11th, 2023.

b) Issues and Analysis

LYTA's application is attached; their Executive Director Mr. Scott Cronk will attend the Council meeting to answer questions. This year's total amount requested is \$17,000. They asked for and were approved by Council for \$20K last year for the event.

3. FINANCIAL/BUDGET

Amount Requested	\$17,000	Fund/Account No.	Hotel Occupancy Tax Fund 04
Cert. Obligation		GO Funds	
Other source		Grant title	
Addtl tracking info			

4. TIMELINE CONSIDERATIONS

The event is scheduled for June 8th & 9th.

5. RECOMMENDATION

Approve as submitted.

ATTACHMENTS:

Description	Type
☐ LTYA Lacrosse Toumey Hot TaxApplication	Cover Memo
☐ ALI Presentation (applicant submission)	Presentation



Application for Use of Hotel Occupancy Tax

Organization Information

Organization Name: LYTA

Contact Name: Scott Cronk

Date: 3/9/2024

MM/DD/YYYY

Address: 2101 Lakeway Blvd. Suite 115

Street
Lakeway
City

Texas
State

78734
Zip Code

Phone: 512-689-0958

Email: scott@tylas.net

Is your organization: ☒ Non-profit ☐ Private/For-Profit Tax ID# 74-1992172

Purpose of Organization:

Deliver youth sports to the community

Statutory Test: Part One

Does your Event/Expenditure pass the statutory test, defined specifically as directly enhancing and promoting tourism in Bee Cave AND directly promoting the overnight accommodation industry in Bee Cave by increasing overnight stays? ☒ Yes ☐ No

Statutory Test : Part Two

Does your Event/Expenditure pass the statutory test defined specifically as limiting the use of Hotel Occupancy Tax funds to one or more of the following categories? ☒ Yes ☐ No

1. Funding the establishment, improvement, or maintenance of a convention or visitor information center;
2. Paying the administrative costs for facilitating convention registration;
3. Paying for advertising, solicitations, and promotion that attract tourists and convention delegates to the city or its vicinity;
4. Expenditures that promote the arts;
5. Funding historical restoration or preservation programs;
6. Certain sporting event related expenses;
7. Certain tourist shuttles;
8. Signage directing tourists to attractions frequently visited by hotel guests.

If the answer to one of the two statutory tests is NO, you are NOT eligible for Hotel Occupancy Tax (HOT) funds.

Funding Request

Total Amount Requested: \$ 17,000.00

Does the proposed event plan to become self-supporting in the future? ☒ Yes ☐ No

Total advertising/promotion budget: \$ 28,500.00

- a) What is your organization's direct contribution to the above? \$ \$9500
- b) What other sources of funding are being applied for or have been received for the advertising/promotion of your organization?
Lakeway HOT Tax
- c) How will the funds be used?
Advertising, Promotion, Field rental fees for the county park and LTISD, security, onsite staff and meals
- d) Please indicate all promotion efforts your organization is coordinating and the amount financially committed to each media outlet:

Paid Advertising	\$ _____
Radio	\$ _____
Newspaper	\$ _____
Press Releases to Media	\$ _____
Television	\$ _____
Direct Mailing	\$ _____
Distribution of Brochures	\$ <u>5,500</u>
Other (describe)	\$ <u>\$17,000</u>

Along with the application, submit the following as attachments (**required**):

1. Itemized list of relevant expenditures;
2. Marketing plan including target audience and detailed media list;
3. Board of Directors and/or Event Committee with contact information;
4. Event planning timeline;
5. Schedule of all activities.

Event and/or Expenditure Description

Name of event/expenditure: Austin Lacrosse Invitational

Website address: www.austinelacrosseinvitational.com

Date(s): 6/8/2024 - 6/9/2024

Will there be an admission charge? ☐ Yes ☒ No

List any additional charges (i.e. parking, entry fees for contests, etc...)

Activity:	<u>Team Entry Fee</u>	Cost:	<u>\$ \$1100- \$1800</u>
Activity:	<u></u>	Cost:	<u>\$</u>
Activity:	<u></u>	Cost:	<u>\$</u>

Primary location: Bee Creek Sports Complex, BCMS, LTMS, LTHS

What is specifically being marketed or promoted (i.e. facility, event, etc...)

Boys lacrosse tournament

Purpose and goal of your organization and who benefits from your success:

Deliver youth sports. The community benefits through local tourism and our LTYA and local LT teams do not have to travel to play.

Impact

Number of people attending this event/expenditure from previous year:

Local: 300 Out of Town: 900

Number of people expected to attend this event/expenditure this year:

Local: 300 Out of Town: 900

Approximate number of people attending stay overnight in Bee Cave: 150

Do you reserve a room block for this event/expenditure? ☒ Yes ☐ No

List hotels you negotiated a special rate if this reimbursement request is being used for an event.
DO NOT LIST RATES.

Sonesta

Please return completed application with attachments and signature to:

City of Bee Cave
4000 Galleria Parkway
Bee Cave, TX 78738
Attn: City Manager re: HOT Application

For additional questions, please contact the Bee Cave City Manager (512) 767-6600.

With my signature below, I understand the Hotel Occupancy Tax (HOT) Application, Process, Reimbursement, and all associated Rules Governing the Application established by the City of Bee Cave. I intend to use this funding for the event as described herein to promote the efforts of the City of Bee Cave in enhancing and promoting tourism and the convention and hotel industry by attracting visitors from outside Bee Cave.

I have read the Hotel Occupancy Tax (HOT) Application guidelines including the Rules Governing the Application and the Reimbursement Process.

I understand that if awarded, my request for Hotel Occupancy Tax (HOT) funding by the City of Bee Cave, any deviation from the approved event or the Rules Governing the Application may result in a partial or total withdrawal of the Local Hotel Occupancy Tax (HOT) funding.

Lake Travis Youth Association
Organization Name


Applicant Signature

3/15/2024
Date

LTYA - Austin Lacrosse Invitational
Major Expense Items

County Park Field Rentals	\$6,000	
LTISD Field Rentals	\$4,000	
On Site Trainers	\$5,400	
Onsite Staff	\$4,500	
Tournament Director	\$5,000	
Referees/Officials	\$16,000	
Onsite Staff & Officials food/Beverage	\$1,500	
Security/Safety/AED's/First Aid	\$8,550	
3rd Party Sales / Marketing / Advertising	\$22,500	Labor, Website, Tourney Machine, Social Media, Brochure, Sales
Year 2 Costs	\$6,000	Tables, Tents, Chairs, Flags, Goals, Score Boards
Balls	\$3,600	
LTYA Fees (credit card/insurance/overhead/admin)	\$15,000	
Total	\$98,050	

LTYA - Austin Lacrosse Invitational 2023 Timeline

JUNE-DECEMBER 2023

Establish Budget
LTYA Board Approval
Create Brochure
Secure Room Blocks
Secure Field Space
Create Registration
Secure Officials/Staff

JANUARY 2024-APRIL 2024

Start event promotions/sales
Secure on-site vendors
Secure Staff and Volunteers
Order Supplies
Advise local restaurants of event dates

MAY

Remind local restaurants of event dates
Finalize Teams Attending

June

Finalize Schedules
Remind local restaurants of event dates
Deliver the Tournament
Daily Social Media During Tournament

LTYA Board of Directors

Duncan Clowe	President	512-589-4058
Melanie Lockhart	Treasurer	512-738-3828
Jenn Buck	Secretary	512-914-4485
Jamal Alsafar	At-Large	512-431-3839
Ryan Hahn	At-Large	512-960-6275
Brian Bulte	At-Large	512-229-5574
Wes Jones	Soccer	512-775-6997
Josh Sanders	Baseball	512-541-0119
Rebecca Marks	Softball	512-750-1229
Hunter Northcutt	Basketball	512-292-9056
Meredith Piccirillo	Volleyball	401-374-3250
Ashley Lewis	Girls Lacrosse	214-668-3115
Kevin Putegnat	Boys Lacrosse	956-459-8880
Spike McBride	Football	512-587-3991

Austin Invitational Lacrosse Tournament Event Committee

Scott Cronk	scott@tylas.net	512-689-0958
Maureen Doane	maureen.doane@ltya.org	617-605-5752
Dom Finn	LTYA Lacrosse	203-570-3445
Chris Delfausse		512-608-5891
Vance Foradory	LTYA	512-694-4563

Austin Lacrosse Invitational Marketing, Advertising and Sales Plan

The primary objective of the marketing, advertising and sales plan is to recruit teams to register to participate in the tournament.

Activities Include the Following:

1. Dedicated Website Created: www.austinelacrosseinvitational.com
2. Brochure created.
3. Mailchimp email campaign. Acquired over 100 club contacts and entered into the email list.
 - a. Sending regular emails
4. Social Media: Instagram is the focus; IG is austinelacrosseinvitational
 - a. Added Twitter for sending out scores and promotional notices
 - b. Added Facebook for advertising
5. Direct Sales; LTYA and retained tournament staff.
 - a. In consultation with NXT, a national lacrosse tournament provider, they confirmed that direct sales is likely the most effective means to launch this tournament.
6. Press Release to local media and Lacrosse publications

ALI



AUSTIN LACROSSE INVITATIONAL 2024



TOURNAMENT DATES



June 8-9

Location



**Bee Creek
Sports Complex**



REGISTER NOW

<https://austinlacrosseinvitational.com/home>

Austin Lacrosse Invitational

Presented by LTYA with help from REEF Lacrosse/Iron Horse Lacrosse

June 8th-9th, 2024 Boys Youth Lacrosse Tournament Grades 2 through High School

Goal: Make this an annual destination tournament for out of town and out of state teams

Goal: Deliver a great tournament close to home at first class facilities so our local teams can save the cost of travel

Goal: Deliver on our commitment to support the local economy through hosting tournaments at the Bee Creek Sports Complex and LTISD stadiums

Austin Lacrosse Invitational

2023 in Review....

49 total teams

9 from out of state

26 from outside of Austin

2000 estimated total attendees

125 room nights at the Sonesta

Austin Lacrosse Invitational

2023 in Review....

Sonesta.....

Hi Scott – I think it was a great success – the hotel was busy with the players and their families – and I think they really enjoyed the pool as well! And yes we were sold out of double rooms.

I am glad that you emailed me as I wanted to see who was the best person for me to connect with for future events at Field of Dreams..... Is it you or is it a variety of individuals?

Feedback....

I'm a Dad, of 2 D1 athletes, and been going to lacrosse and all sorts of sport tournaments for 15 years from coast to coast and this was by far the best I've ever been to.

Loved the area, the shopping, the restaurants. Everything was great.

Austin Lacrosse Invitational

Bee Creek Sports Complex



Austin Lacrosse Invitational

Website: austinlacrosseinvitational.com

Brochure:



ALI AUSTIN LACROSSE INVITATIONAL **2024**

Lakeway TEXAS City of BEE CAVE

TOURNAMENT DATES
June 8-9

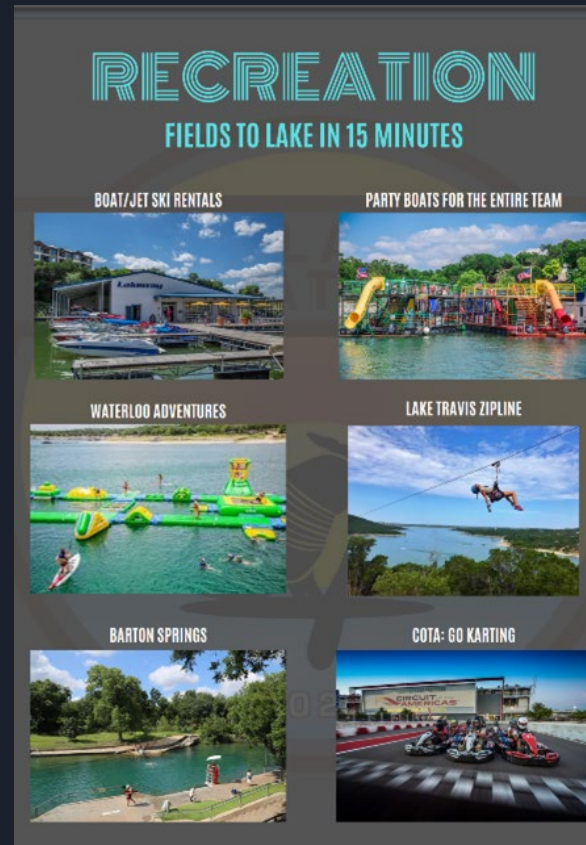
AUSTIN LACROSSE INVITATIONAL

Location
Bee Creek Sports Complex

REGISTER NOW

<https://austinlacrosseinvitational.com/home>

The brochure features a central circular logo with a lacrosse stick and ball, set against a sunset background. It includes logos for Lakeway Texas and the City of Bee Cave. The text is arranged in a clean, modern layout with a color palette of teal, yellow, and orange.



RECREATION
FIELDS TO LAKE IN 15 MINUTES

BOAT/JET SKI RENTALS PARTY BOATS FOR THE ENTIRE TEAM

WATERLOO ADVENTURES LAKE TRAVIS ZIPLINE

BARTON SPRINGS COTA: GO KARTING

This section highlights various recreational activities available near the venue. It includes images of boat rentals, party boats, water adventures, ziplining, and go-karting. The text is presented in a bold, sans-serif font, with images arranged in a grid-like fashion.



FACILITIES

BEE CREEK SPORTS COMPLEX
4440 BEE CREEK RD
SPICEWOOD, TX 78669
*NEW TURF FACILITY

2033, 2032, 2030,
2029, 2028, 2027

This section provides information about the facilities at the Bee Creek Sports Complex. It includes an aerial photograph of the complex, showing multiple lacrosse fields and surrounding amenities. The text is clear and concise, providing the address and a list of years associated with the facility.

Austin Lacrosse Invitational

Email Marketing & Direct Sales



AUSTIN LACROSSE INVITATIONAL

Get special discount for entering 3+ teams

June 8th-9th

REGISTER NOW

www.austinlacrosseinvitational.com

2024







ALI  **AUSTIN LACROSSE INVITATIONAL 2024**

AUSTIN LACROSSE INVITATIONAL

TOURNAMENT DATES

June 8-9

Location

Bee Creek Sports Complex

REGISTER NOW

<https://austinlacrosseinvitational.com/home>





 **AUSTIN LACROSSE INVITATIONAL**





REGISTER NOW

www.austinlacrosseinvitational.com



Special Discount For Entering 3+ Teams

Austin Lacrosse Invitational

ALI Status

Capacity is 72 teams with 12-18 players per team; 30-45 total people per team

When we reach capacity , we will have 3000 +/- people in town for this event

We have approximately 50 teams that told us they are coming - 2000 attendees +/-

We expect 2024 to be a lot like 2023

Austin Lacrosse Invitational

Questions?



City Council Meeting
4/9/2024
Agenda Item Transmittal

Agenda Item: 10.

Agenda Title: Discuss and consider action on Ordinance No. 531 adding provisions for uniform collection of residential and commercial waste; providing for a penalty for a violation as a Class C Misdemeanor and a fine in an amount not to exceed \$2000.00; providing that this ordinance shall be cumulative; repealing all ordinances to the extent they are in conflict; providing for severability; and providing an effective date.

Council Action: Discuss and Consider Action

Department: Assistant City Manager

Staff Contact: Lindsey Oskoui, Assistant City Manager

1. INTRODUCTION/PURPOSE

Delete in its entirety Code Section 20.02.001 and replace with new language pertaining to uniformity of solid waste services within the city limits.

2. DESCRIPTION/JUSTIFICATION

a) Background

During the fiscal year 2022-2023 budget process, Council requested staff prepare an Request For Proposal (RFP) for solid waste services within the city. To date, trash/recycling services in the city are either negotiated by an Home Owners Association (HOA) or Property Owners Association (POA) or with individual homeowners where an HOA or POA does not exist.

During the discussion, Council expressed a preference for uniformity in residential solid waste services (excluding multi-family) and pricing throughout the city. Subsequently, staff published an RFP for residential solid waste services on July 28, 2023.

On December 12, 2023, Council authorized negotiation of a contract with Texas Disposal Systems (TDS). Council selected Option 2, which, among other services, includes weekly solid waste services including recycling; 12 bulky pick-ups per year, and unlimited bagged yard waste for a quarterly rate of approximately \$77 plus taxes and franchise fees.

b) Issues and Analysis

This ordinance has been drafted in accordance with city council feedback and is consistent with the corresponding contract with the selected service provider. In addition, in consideration for the right to use city streets and other public rights of way in its conduct of its business, any Commercial Hauler shall pay to the city a franchise fee not less than 5% of gross revenue derived from customers within the city limits.

It maintains existing requirements regarding hours of operation for services provided to commercial establishments: 7am-10pm Monday-Friday and 9am-10pm Saturday and Sunday. It establishes hours of operation for residential units: 7am-7pm Monday-Friday.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

The ordinance is proposed to be effective 7/1/2024 to reflect phased implementation of service. Current Texas Disposal Services (TDS) customers will be transitioned by TDS to a City-associated account by 5/1/2024 with no additional action by the resident. Residences that currently have solid waste providers other than TDS will have until 7/1/2024 to cancel their current service and establish solid waste services with TDS. This July 1st date creates a "grace period" to account for the typical billing cycle of most providers, which is quarterly and pre-payment for services.

5. RECOMMENDATION

Approve Ordinance 531.

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Draft Ordinance 531	Ordinance
<input type="checkbox"/> Draft Ord. 531 Updated Clean	Ordinance
<input type="checkbox"/> Draft Ord. 531 Updated Redline	Ordinance

**ORDINANCE NO.
531**

AN ORDINANCE OF THE CITY OF BEE CAVE, TEXAS, AMENDING THE CITY OF BEE CAVE, TEXAS CODE OF ORDINANCES TITLE I GENERAL ORDINANCE, ARTICLE 20.02 SOLID WASTE, ADDING PROVISIONS FOR UNIFORM COLLECTION OF RESIDENTIAL AND COMMERCIAL SOLID WASTE; PROVIDING FOR A PENALTY FOR A VIOLATION AS A CLASS C MISDEMEANOR AND A FINE IN AN AMOUNT NOT TO EXCEED \$2000.00; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council finds the City of Bee Cave is a Texas Home-Rule Municipality and that the City has the exclusive control over and under the public highways, streets, and alleys within the City, as established by Texas Transportation Code, Section 311.001;

WHEREAS, the City Council finds that providing for the uniform solid waste collection practices will protect the health and safety of residents of the City of Bee Cave and allow for the efficient operation of the governmental function of solid waste collection and disposal; and

WHEREAS, the City Council finds that it has the authority to establish uniform standards for solid waste collection under Texas law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendment to Municipal Code of Ordinances. The City of Bee Cave, Texas Code of Ordinances, Title I ("*General Ordinances*"), Article 20.02 ("*Solid Waste*"), is hereby amended by deleting section 20.02.001 and adding the following divisions and sections:

Division 1: Generally

§ 20.02.101. Definitions.

For purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Bags. Paper sacks designed to store yard waste with sufficient wall strength to maintain physical integrity when lifted by the top.

Bulky waste. Stoves, refrigerators (free of CFCs), water tanks, washing machines, furniture and other residential waste materials other than construction debris, dead animals, hazardous waste or stable matter. No individual bulky waste item shall exceed one hundred (100) pounds in weight.

Bundle. Tree, shrub and brush trimmings or newspaper and magazines securely tied together, forming an easily handled package not exceeding four (4) feet in length, three (3) inches in diameter, or thirty-five (35) pounds in weight. Limbs within the bundle must be no more than four (4) inches in diameter.

Cart. A portable, watertight container for residential refuse with a capacity of greater than 20

gallons but less than or equal to 95 gallons constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tightfitting lid capable of preventing entrance into the container by vectors. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed 100 pounds.

Commercial and industrial unit. Any premises, location or entity, public or private, requiring frequent refuse collection within the corporate limits of the city and not a residential unit.

Commercial bin. A metal receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units or multifamily complexes.

Commercial hauler. A person in the business of collecting and transporting solid waste.

Construction debris. Waste resulting from construction or demolition activities or that is directly or indirectly the byproduct of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products. Construction debris does not include hazardous waste, residential refuse, or bulky waste.

Dead animals. Animals or portions thereof equal to or less than ten pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Garbage. Any and all dead animals, except those slaughtered for human consumption, and every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers, and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of "bulky waste," "construction debris," "dead animals," "hazardous waste," "rubbish," or "stable matter."

Hazardous waste. Materials, in any amount, which are defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law. For purposes of this article, the term "hazardous waste" shall also include motor oil, gasoline, paint and paint cans.

Person. Any individual, partnership, company, corporation, association, firm, cooperative, resident, or any other entity public or private.

Premises. Any apartment, business, industrial or institutional building or residence where persons work or reside, where animal or vegetable food is prepared or served, or solid waste accumulates or occurs.

Producer. An occupant of a commercial and industrial unit, institution, construction site, or residential unit who generates refuse.

Recyclable material.

- (1) Corrugated cardboard, boxboard containers, food boxes (such as dry food boxes and frozen food containers), soda and beverage boxes and carriers, shoe boxes, newspapers (including slick paper inserts), magazines, catalogs, telephone books., wrapping paper, sticky notes, paperback books, paper bags, Kraft paper, chipboard, junk mail, junk mail inserts, residential mixed paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper (including continuous-formed, perforated white bond or green bar paper), book paper, cotton fiber content paper, duplicator paper, form bond, paper envelopes, facsimile paper, manila folders;
- (2) Plastic containers: #1-#7 (excluding plastic bags and expanded polystyrene), such as bottles, cups, jugs, bowls, plastic eating utensils, other rigid plastics such as buckets,

baskets, carriers, crates, toys (free of metal), laundry baskets, lawn furniture, pots and trays, dish drainers, trash cans, metal beverage containers, food cans, durable baking tins, metal and bi-metal containers with or without paper labels, rings and caps or lids;

- (3) Glass (including bottles and jars with paper labels, rings and caps or lids), excludes window glass, Pyrex, porcelain, china, ceramics and light bulbs;
- (4) Other recyclable items of a similar nature.

Recycling cart. A container designed for the curbside collection of recyclable materials constructed of heavy-duty plastic, with attached lid and wheels.

Residential customer. A producer who generates residential refuse at a residential unit within the corporate limits of the city.

Residential refuse. All garbage and rubbish generated by a producer by a Residential customer.

Residential unit. A dwelling occupied by a person or group of persons comprising not more than four families. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A townhouse, fourplex, duplex or condominium dwelling, whether single- or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit. Those residential units served by a commercial bin shall not be included in this definition.

Rubbish. All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any other waste materials not included in the definition of “bulky waste,” “construction debris,” “dead animals,” “garbage,” “hazardous waste,” or “stable matter.”

Solid waste. Any garbage, refuse, rubbish, bulky waste, yard waste, construction debris, dead animals, hazardous waste or stable matter or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, automobile, or agricultural operations.

Stable matter. All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from keeping of animals, poultry or livestock.

Yard waste. All grass clippings and tree, shrub, or brush trimmings.

§ 20.02.102. Interpretation.

When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The use of any gender shall be applicable to all genders wherever the sense requires. The words “shall” and “will” are mandatory and the word “may” is permissive. The use of captions or headings for the various sections of this article is for convenience only.

§ 20.02.103. Penalty.

Any person found to be in violation of any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed two thousand dollars

(\$2,000.00). Each day of such violation shall constitute a separate offense. Such penalty shall be cumulative and not exclusive of any other rights or remedies the city may have.

§ 20.02.104. Enforcement.

Police and code enforcement personnel of the city are authorized to enforce all non-administrative sections of this article.

§ 20.02.105. Unlawful conduct.

It shall be unlawful for any person in possession or control of any premises located within the city, or any commercial hauler, to cause, allow or permit any person to:

- (1) Pour liquid over solid waste or into any refuse cart.
- (2) Deposit any dangerous or hazardous substance into any refuse cart not approved for that purpose.
- (3) Remove the cover from any refuse cart, except when depositing or removing the contents, or in any manner interfere with the cart or the contents thereof.
- (4) Place a dead animal weighing more than ten (10) pounds into any refuse cart.
- (5) Throw or scatter solid waste onto any premises, vacant lot, public street, alley, or sidewalk.
- (6) Engage in outdoor burning, dumping, accumulating, or burying of any waste, garbage, leaves, paper, lumber, shavings, or domestic, commercial or construction combustible waste materials of any kind, except as may be specifically authorized by the city for emergency training exercises.
- (7) Dispose of any solid waste into a trash cart belonging to or under the control of another person, or place any solid waste material on the premises or at the curbside of another person, or remove or carry away any solid waste from premises other than one's own without having first obtained a license from the city.
- (8) Deposit household solid waste in any public commercial bin, such as in a public park or municipal building, or other receptacle located on a sidewalk, or at any other location maintained for disposal of litter by pedestrians.

Division 2: Residential Collection

§ 20.02.201. Duties of residential customers.

- (a) Each residential customer within the corporate limits of the city shall:
 - (1) Use cart provided by city approved Commercial Hauler to accommodate and securely keep all residential refuse that may accumulate upon such premises. Items too large to fit into carts, such as appliances, furniture and mattresses, shall be stored securely in a screened area of the premises, and placed at curbside only on the day scheduled for such removal.
 - (2) Bundle tree trimmings or limbs in lengths not exceeding four feet. Such trimmings or limbs shall not exceed four inches in diameter, and such bundle shall not exceed four feet in height and width. Place grass clippings in secure paper bags not to

exceed 35 pounds.

- (3) Maintain and keep carts in a screened location and in such a manner on the premises so as not to constitute a public nuisance, give an undesirable appearance or be visible from the street.
 - (4) Place trash and recycling carts and bundles at the edge of such premises adjacent to the street as early as 6:00 p.m. the evening before the scheduled service day but not later than 8:00 a.m. on the day of collection, and return same to their respective locations, which shall be screened from visibility from a public roadway, after pick-up on the same day of collection.
 - (5) Eliminate water and liquids to the extent practicable from all residential refuse prior to storing in carts.
 - (6) Maintain all carts in a condition free of defects that likely could hamper collection or injure the person collecting the contents thereof or the public generally.
 - (7) Promptly clean up any solid waste which becomes scattered by whatever means upon such premises.
- (b) Within 90 days of annexation into the city limits, a residential customer shall terminate its existing contract for Solid Waste services with its current Commercial Hauler and contract such services with the city's approved Commercial Hauler.

§ 20.02.202. Residential collection service and limitations.

- (a) Each residential customer is entitled to place at curbside on the once-weekly scheduled pick-up day residential refuse in carts, bags, and bundles with the following limitations:
- (1) Either one or two standard trash carts, plus unlimited yard waste collection in paper yard waste bags or bundled and tied into four foot lengths, not to exceed 35 pounds per bundle. Limbs within the bundle must be no more than four (4) inches in diameter.
 - (2) Either one or two standard recycling carts.
 - (3) No cart placed for collection by a residential customer shall exceed 100 pounds.
- (b) In addition, each residential customer under this section is entitled to bulky waste pick-up no more than twelve (12) times per year by calling the telephone number prescribed on the bill to request such service.

Division 3: Commercial Haulers

§ 20.02.301. Franchise Agreement Required.

- (a) It shall be an offense for any Commercial Hauler to operate residential collection services within the city limits without a current franchise agreement with the City of Bee Cave.
- (b) It shall be an offense for any Commercial Hauler to charge rates in excess of those established in a currently effective franchise agreement with the City of Bee Cave.
- (c) It shall be an offense for any Commercial Hauler to provide residential collection services in a manner not consistent with the routes and schedules set forth in the collection plan approved by the City Manager in accordance with a currently effective franchise agreement with the City of Bee Cave.

- (d) In consideration of the right to use City streets and other public rights of way in the conduct of its business, any Commercial Hauler shall pay to the City a franchise fee not less than 5% of gross revenue derived from customers within the City limits.

§ 20.02.302. Franchise Agreement Supersedes prior collection agreements.

Upon execution of a franchise agreement with the City of Bee Cave, any commercial hauler shall make commercially reasonable efforts to terminate any existing solid waste collection agreements within the City of Bee Cave. To the extent permitted by state law, any such existing solid waste collection agreement is superseded by the execution of a franchise agreement with the City of Bee Cave.

§ 20.02.303 Days and times of collection.

- (a) Restrictions for commercial establishments. Any Commercial Hauler operating within the corporate limits of the city shall only collect garbage and recyclable material from commercial and industrial units between the hours of 7:00 a.m. and 10:00 p.m. Monday through Friday, and between the hours of 9:00 a.m. and 10:00 p.m. Saturday and Sunday, regardless of the method of collection.
- (b) Restrictions for residential units. Any Commercial Hauler operating within the corporate limits of the city shall only collect garbage and recyclable material from residential units between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday, regardless of the method of collection.

Section 3. Violation. A violation of these provisions of the Code of Ordinances shall be a misdemeanor and shall, upon conviction, be fined an amount in accordance with the City's Code of Ordinances, as amended herein.

Section 4. Cumulative. This Ordinance shall be cumulative of all other ordinances of the City of Bee Cave, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Bee Cave except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed. This Ordinance shall not be construed to require or allow any act which is prohibited by state law.

Section 5. Severability. If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Bee Cave in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

Section 6. Effective Date. This ordinance shall be in full force and effect upon and after July 1, 2024 and publication in accordance with Section 10.02 of the City Charter.

Section 7. Proper Notice and Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of

the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

APPROVED AND ADOPTED this _____ day of _____ 2024.

CITY OF BEE CAVE, TEXAS

By:

Kara King, Mayor

ATTEST:

Thomas Hatfield, Interim City Secretary

APPROVED AS TO FORM:

Ryan S. Henry, City Attorney
Law Offices of Ryan Henry, PLLC.

**ORDINANCE NO.
531**

AN ORDINANCE OF THE CITY OF BEE CAVE, TEXAS, AMENDING THE CITY OF BEE CAVE, TEXAS CODE OF ORDINANCES TITLE I GENERAL ORDINANCE, ARTICLE 20.02 SOLID WASTE, ADDING PROVISIONS FOR UNIFORM COLLECTION OF RESIDENTIAL AND COMMERCIAL SOLID WASTE; PROVIDING FOR A PENALTY FOR A VIOLATION AS A CLASS C MISDEMEANOR AND A FINE IN AN AMOUNT NOT TO EXCEED \$2000.00; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council finds the City of Bee Cave (hereinafter called “the City”) is a Texas Home-Rule Municipality and that the City has the exclusive control over and under the public highways, streets, and alleys within the City, as established by Texas Transportation Code, Section 311.001;

WHEREAS, the City Council finds that providing for the uniform solid waste collection practices will protect the health and safety of residents of the City and allow for the efficient operation of the governmental function of solid waste collection and disposal; and

WHEREAS, the City Council finds that it has the authority to establish uniform standards for solid waste collection under Texas law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendment to Municipal Code of Ordinances. The City of Bee Cave, Texas Code of Ordinances, Title I (“*General Ordinances*”), Article 20.02 (“*Solid Waste*”), is hereby amended by deleting section 20.02.001 and adding the following divisions and sections:

Division 1: Generally

§ 20.02.101. Definitions.

For purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Bags. Plastic or Paper sacks designed to store Garbage, Refuse, Rubbish, and/or Yard Waste with sufficient wall strength to maintain physical integrity when lifted by the top.

Bulky waste. Stoves, refrigerators (free of CFCs), water tanks, washing machines, furniture and other residential waste materials other than construction debris, dead animals, hazardous waste or stable matter. No individual bulky waste item shall exceed one hundred (100) pounds in weight.

Bundle. Tree, shrub and brush trimmings or newspaper and magazines securely tied together, forming an easily handled package not exceeding four (4) feet in length, three (3) inches in diameter, or thirty-five (35) pounds in weight. Limbs within the bundle must be no more than four (4) inches in diameter.

Cart. A portable, watertight container for residential refuse with a capacity of greater than 20

gallons but less than or equal to 95 gallons constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tightfitting lid capable of preventing entrance into the container by vectors. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed 100 pounds.

Commercial and industrial unit. Any premises, location or entity, public or private, requiring frequent refuse collection within the corporate limits of the city and not a residential unit.

Commercial bin. A metal receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units or multifamily complexes.

Commercial hauler. A person in the business of collecting and transporting solid waste.

Construction debris. Waste resulting from construction or demolition activities or that is directly or indirectly the byproduct of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products. Construction debris does not include hazardous waste, residential refuse, or bulky waste.

Dead animals. Animals or portions thereof equal to or less than ten pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Garbage. Any and all dead animals, except those slaughtered for human consumption, and every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers, and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of "bulky waste," "construction debris," "dead animals," "hazardous waste," "rubbish," or "stable matter."

Hazardous waste. Materials, in any amount, which are defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law. For purposes of this article, the term "hazardous waste" shall also include motor oil, gasoline, paint and paint cans.

Person. Any individual, partnership, company, corporation, association, firm, cooperative, resident, or any other entity public or private.

Premises. Any apartment, business, industrial or institutional building or residence where persons work or reside, where animal or vegetable food is prepared or served, or solid waste accumulates or occurs.

Producer. An occupant of a commercial and industrial unit, institution, construction site, or residential unit who generates refuse.

Recyclable material.

- (1) Corrugated cardboard, boxboard containers, food boxes (such as dry food boxes and frozen food containers), soda and beverage boxes and carriers, shoe boxes, newspapers (including slick paper inserts), magazines, catalogs, telephone books., wrapping paper, sticky notes, paperback books, paper bags, Kraft paper, chipboard, junk mail, junk mail inserts, residential mixed paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper (including continuous-formed, perforated white bond or green bar paper), book paper, cotton fiber content paper, duplicator paper, form bond, paper envelopes, facsimile paper, manila folders;
- (2) Plastic containers: #1–#7 (excluding plastic bags and expanded polystyrene), such as bottles, cups, jugs, bowls, plastic eating utensils, other rigid plastics such as buckets,

baskets, carriers, crates, toys (free of metal), laundry baskets, lawn furniture, pots and trays, dish drainers, trash cans, metal beverage containers, food cans, durable baking tins, metal and bi-metal containers with or without paper labels, rings and caps or lids;

- (3) Glass (including bottles and jars with paper labels, rings and caps or lids), excludes window glass, Pyrex, porcelain, china, ceramics, and light bulbs;
- (4) Other recyclable items of a similar nature.

Recycling cart. A container designed for the curbside collection of recyclable materials constructed of heavy-duty plastic, with attached lid and wheels.

Residential customer. A producer who generates residential refuse at a residential unit within the corporate limits of the city.

Residential refuse. All garbage and rubbish generated by a producer by a Residential customer.

Residential unit. A dwelling occupied by a person or group of persons comprising not more than four families. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A townhouse, fourplex, duplex or condominium dwelling, whether single- or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit. Those residential units served by a commercial bin shall not be included in this definition.

Rubbish. All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any other waste materials not included in the definition of “bulky waste,” “construction debris,” “dead animals,” “garbage,” “hazardous waste,” or “stable matter.”

Solid waste. Any garbage, refuse, rubbish, bulky waste, yard waste, construction debris, dead animals, hazardous waste or stable matter or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, automobile, or agricultural operations.

Stable matter. All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from keeping of animals, poultry or livestock.

Yard waste. All grass clippings and tree, shrub, or brush trimmings.

§ 20.02.102. Interpretation.

When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The use of any gender shall be applicable to all genders wherever the sense requires. The words “shall” and “will” are mandatory and the word “may” is permissive. The use of captions or headings for the various sections of this article is for convenience only.

§ 20.02.103. Penalty.

Any person found to be in violation of any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed two thousand dollars

(\$2,000.00). Each day of such violation shall constitute a separate offense. Such penalty shall be cumulative and not exclusive of any other rights or remedies the city may have.

§ 20.02.104. Enforcement.

Police and code enforcement personnel of the city are authorized to enforce all non-administrative sections of this article.

§ 20.02.105. Unlawful conduct.

It shall be unlawful for any person in possession or control of any premises located within the city, or any commercial hauler, to cause, allow or permit any person to:

- (1) Pour liquid over solid waste or into any refuse cart.
- (2) Deposit any dangerous or hazardous substance into any refuse cart not approved for that purpose.
- (3) Remove the cover from any refuse cart, except when depositing or removing the contents, or in any manner interfering with the cart or the contents thereof.
- (4) Place a dead animal weighing more than ten (10) pounds into any refuse cart.
- (5) Throw or scatter solid waste onto any premises, vacant lot, public street, alley, or sidewalk.
- (6) Engage in outdoor burning, dumping, accumulating, or burying of any waste, garbage, leaves, paper, lumber, shavings, or domestic, commercial or construction combustible waste materials of any kind, except as may be specifically authorized by the city for emergency training exercises.
- (7) Dispose of any solid waste into a trash cart belonging to or under the control of another person, or place any solid waste material on the premises or at the curbside of another person, or remove or carry away any solid waste from premises other than one's own without having first obtained a permission from the city.
- (8) Deposit household solid waste in any public commercial bin, such as in a public park or municipal building, or other receptacle located on a sidewalk, or at any other location maintained for disposal of litter by pedestrians.

Division 2: Residential Collection

§ 20.02.201. Duties of residential customers.

- (a) Each residential customer within the corporate limits of the city shall:
 - (1) Use cart provided by the city approved Commercial Hauler to accommodate and securely keep all residential refuse that may accumulate upon such premises. Items too large to fit into carts, such as appliances, furniture and mattresses, shall be stored securely in a screened area of the premises and placed at curbside only on the day scheduled for such removal.
 - (2) Bundle tree trimmings or limbs in lengths not exceeding four feet. Such trimmings or limbs shall not exceed four inches in diameter, and such bundle shall not exceed four feet in height and width. Place grass clippings in secure paper bags not to

exceed 35 pounds.

- (3) Maintain and keep carts in a screened location and in such a manner on the premises so as not to constitute a public nuisance, give an undesirable appearance, or be visible from the street.
 - (4) Place trash and recycling carts and bundles at the edge of such premises adjacent to the street as early as 6:00 p.m. the evening before the scheduled service day but not later than 8:00 a.m. on the day of collection, and return same to their respective locations, which shall be screened from visibility from a public roadway, after pick-up on the same day of collection.
 - (5) Eliminate water and liquids to the extent practicable from all residential refuse prior to storing in carts.
 - (6) Maintain all carts in a condition free of defects that likely could hamper collection or injure the person collecting the contents thereof or the public generally.
 - (7) Promptly clean up any solid waste which becomes scattered by whatever means upon such premises.
- (b) Within 90 days of annexation into the city limits, a residential customer shall terminate its existing contract for Solid Waste services with its current Commercial Hauler and contract such services with the city's approved Commercial Hauler.

§ 20.02.202. Residential collection service and limitations.

- (a) Each residential customer is entitled to place at curbside on the once-weekly scheduled pick-up day residential refuse in carts, bags, and bundles with the following limitations:
- (1) Either one or two standard trash Carts;
 - (2) Either one or two standard recycling Carts;
 - (3) No Cart placed for collection by a residential customer shall exceed 100 pounds; and
 - (4) Up to three (3) total of the following, in any combination: a 30-gallon plastic Bag containing Garbage, Refuse, and/or Rubbish placed outside the Cart; a paper Bag of Yard Waste placed outside the Cart; la bundle of Yard Waste tied into four (4) foot lengths, not to exceed 35 pounds per bundle, placed outside the Cart. Limbs within the bundle must be no more than four (4) inches in diameter.
- (b) Pursuant to the pick-up schedule established by the Commercial Hauler, once every other week, each residential customer is entitled to place at curbside an unlimited amount of Yard Waste in paper Bags.
- (c) In addition, each residential customer under this section is entitled to Bulky Waste pick-up no more than twelve (12) times per year by calling the telephone number prescribed on the bill to request such service.

Division 3: Commercial Haulers

§ 20.02.301. Franchise Agreement Required.

- (a) It shall be an offense for any Commercial Hauler to operate residential collection services within the city limits without a current franchise agreement with the City.

- (b) It shall be an offense for any Commercial Hauler to charge rates in excess of those established in a currently effective franchise agreement with the City.
- (c) It shall be an offense for any Commercial Hauler to provide residential collection services in a manner not consistent with the routes and schedules set forth in the collection plan approved by the City Manager in accordance with a currently effective franchise agreement with the City.
- (d) In consideration of the right to use City streets and other public rights of way in the conduct of its business, any Commercial Hauler shall pay to the City a franchise fee not less than 5% of gross revenue derived from customers within the City limits.

§ 20.02.302. Franchise Agreement Supersedes prior collection agreements.

Upon execution of a franchise agreement with the City, any commercial hauler shall make commercially reasonable efforts to terminate any existing solid waste collection agreements within the City. To the extent permitted by state law, any such existing solid waste collection agreement is superseded by the execution of a franchise agreement with the City.

§ 20.02.303 Days and times of collection.

- (a) Restrictions for commercial establishments. Any Commercial Hauler operating within the corporate limits of the city shall only collect garbage and recyclable material from commercial and industrial units between the hours of 7:00 a.m. and 10:00 p.m. Monday through Friday, and between the hours of 9:00 a.m. and 10:00 p.m. Saturday and Sunday, regardless of the method of collection.
- (b) Restrictions for residential units. Any Commercial Hauler operating within the corporate limits of the city shall only collect garbage and recyclable material from residential units between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday, regardless of the method of collection.

Section 3. Violation. A violation of these provisions of the Code of Ordinances shall be a misdemeanor and shall, upon conviction, be fined an amount in accordance with the City's Code of Ordinances, as amended herein.

Section 4. Cumulative. This Ordinance shall be cumulative of all other ordinances of the City, and this Ordinance shall not operate to repeal or affect any other ordinances of the City except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed. This Ordinance shall not be construed to require or allow any act which is prohibited by state law.

Section 5. Severability. If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

Section 6. Effective Date. This ordinance shall be in full force and effect upon and after July 1,

2024, and publication in accordance with Section 10.02 of the City Charter.

Section 7. Proper Notice and Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

APPROVED AND ADOPTED this _____ day of _____ 2024.

CITY OF BEE CAVE, TEXAS

By:

Kara King, Mayor

ATTEST:

Thomas Hatfield, Interim City Secretary

APPROVED AS TO FORM:

Ryan S. Henry, City Attorney
Law Offices of Ryan Henry, PLLC.

**ORDINANCE NO.
531**

AN ORDINANCE OF THE CITY OF BEE CAVE, TEXAS, AMENDING THE CITY OF BEE CAVE, TEXAS CODE OF ORDINANCES TITLE I GENERAL ORDINANCE, ARTICLE 20.02 SOLID WASTE, ADDING PROVISIONS FOR UNIFORM COLLECTION OF RESIDENTIAL AND COMMERCIAL SOLID WASTE; PROVIDING FOR A PENALTY FOR A VIOLATION AS A CLASS C MISDEMEANOR AND A FINE IN AN AMOUNT NOT TO EXCEED \$2000.00; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council finds the City of Bee Cave (hereinafter called "the City") is a Texas Home-Rule Municipality and that the City has the exclusive control over and under the public highways, streets, and alleys within the City, as established by Texas Transportation Code, Section 311.001;

WHEREAS, the City Council finds that providing for the uniform solid waste collection practices will protect the health and safety of residents of the City and allow for the efficient operation of the governmental function of solid waste collection and disposal; and

WHEREAS, the City Council finds that it has the authority to establish uniform standards for solid waste collection under Texas law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendment to Municipal Code of Ordinances. The City of Bee Cave, Texas Code of Ordinances, Title I ("*General Ordinances*"), Article 20.02 ("*Solid Waste*"), is hereby amended by deleting section 20.02.001 and adding the following divisions and sections:

Division 1: Generally

§ 20.02.101. Definitions.

For purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Bags. ~~Paper-s~~Plastic or Paper sacks designed to store ~~yard-Garbage, Refuse, Rubbish, and/or Yard waste-Waste~~ with sufficient wall strength to maintain physical integrity when lifted by the top.

Bulky waste. Stoves, refrigerators (free of CFCs), water tanks, washing machines, furniture and other residential waste materials other than construction debris, dead animals, hazardous waste or stable matter. No individual bulky waste item shall exceed one hundred (100) pounds in weight.

Bundle. Tree, shrub and brush trimmings or newspaper and magazines securely tied together, forming an easily handled package not exceeding four (4) feet in length, three (3) inches in diameter, or thirty-five (35) pounds in weight. Limbs within the bundle must be no more than four (4) inches in diameter.

Cart. A portable, watertight container for residential refuse with a capacity of greater than 20

gallons but less than or equal to 95 gallons constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tightfitting lid capable of preventing entrance into the container by vectors. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed 100 pounds.

Commercial and industrial unit. Any premises, location or entity, public or private, requiring frequent refuse collection within the corporate limits of the city and not a residential unit.

Commercial bin. A metal receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units or multifamily complexes.

Commercial hauler. A person in the business of collecting and transporting solid waste.

Construction debris. Waste resulting from construction or demolition activities or that is directly or indirectly the byproduct of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products. Construction debris does not include hazardous waste, residential refuse, or bulky waste.

Dead animals. Animals or portions thereof equal to or less than ten pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

Garbage. Any and all dead animals, except those slaughtered for human consumption, and every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers, and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of "bulky waste," "construction debris," "dead animals," "hazardous waste," "rubbish," or "stable matter."

Hazardous waste. Materials, in any amount, which are defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law. For purposes of this article, the term "hazardous waste" shall also include motor oil, gasoline, paint and paint cans.

Person. Any individual, partnership, company, corporation, association, firm, cooperative, resident, or any other entity public or private.

Premises. Any apartment, business, industrial or institutional building or residence where persons work or reside, where animal or vegetable food is prepared or served, or solid waste accumulates or occurs.

Producer. An occupant of a commercial and industrial unit, institution, construction site, or residential unit who generates refuse.

Recyclable material.

- (1) Corrugated cardboard, boxboard containers, food boxes (such as dry food boxes and frozen food containers), soda and beverage boxes and carriers, shoe boxes, newspapers (including slick paper inserts), magazines, catalogs, telephone books, wrapping paper, sticky notes, paperback books, paper bags, Kraft paper, chipboard, junk mail, junk mail inserts, residential mixed paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper (including continuous-formed, perforated white bond or green bar paper), book paper, cotton fiber content paper, duplicator paper, form bond, paper envelopes, facsimile paper, manila folders;
- (2) Plastic containers: #1-#7 (excluding plastic bags and expanded polystyrene), such as bottles, cups, jugs, bowls, plastic eating utensils, other rigid plastics such as buckets,

baskets, carriers, crates, toys (free of metal), laundry baskets, lawn furniture, pots and trays, dish drainers, trash cans, metal beverage containers, food cans, durable baking tins, metal and bi-metal containers with or without paper labels, rings and caps or lids;

- (3) Glass (including bottles and jars with paper labels, rings and caps or lids), excludes window glass, Pyrex, porcelain, china, ceramics, and light bulbs;
- (4) Other recyclable items of a similar nature.

Recycling cart. A container designed for the curbside collection of recyclable materials constructed of heavy-duty plastic, with attached lid and wheels.

Residential customer. A producer who generates residential refuse at a residential unit within the corporate limits of the city.

Residential refuse. All garbage and rubbish generated by a producer by a Residential customer.

Residential unit. A dwelling occupied by a person or group of persons comprising not more than four families. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A townhouse, fourplex, duplex or condominium dwelling, whether single- or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit. Those residential units served by a commercial bin shall not be included in this definition.

Rubbish. All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any other waste materials not included in the definition of "bulky waste," "construction debris," "dead animals," "garbage," "hazardous waste," or "stable matter."

Solid waste. Any garbage, refuse, rubbish, bulky waste, yard waste, construction debris, dead animals, hazardous waste or stable matter or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, automobile, or agricultural operations.

Stable matter. All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from keeping of animals, poultry or livestock.

Yard waste. All grass clippings and tree, shrub, or brush trimmings.

§ 20.02.102. Interpretation.

When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The use of any gender shall be applicable to all genders wherever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. The use of captions or headings for the various sections of this article is for convenience only.

§ 20.02.103. Penalty.

Any person found to be in violation of any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed two thousand dollars

(\$2,000.00). Each day of such violation shall constitute a separate offense. Such penalty shall be cumulative and not exclusive of any other rights or remedies the city may have.

§ 20.02.104. Enforcement.

Police and code enforcement personnel of the city are authorized to enforce all non-administrative sections of this article.

§ 20.02.105. Unlawful conduct.

It shall be unlawful for any person in possession or control of any premises located within the city, or any commercial hauler, to cause, allow or permit any person to:

- (1) Pour liquid over solid waste or into any refuse cart.
- (2) Deposit any dangerous or hazardous substance into any refuse cart not approved for that purpose.
- (3) Remove the cover from any refuse cart, except when depositing or removing the contents, or in any manner interfering with the cart or the contents thereof.
- (4) Place a dead animal weighing more than ten (10) pounds into any refuse cart.
- (5) Throw or scatter solid waste onto any premises, vacant lot, public street, alley, or sidewalk.
- (6) Engage in outdoor burning, dumping, accumulating, or burying of any waste, garbage, leaves, paper, lumber, shavings, or domestic, commercial or construction combustible waste materials of any kind, except as may be specifically authorized by the city for emergency training exercises.
- (7) Dispose of any solid waste into a trash cart belonging to or under the control of another person, or place any solid waste material on the premises or at the curbside of another person, or remove or carry away any solid waste from premises other than one's own without having first obtained a [license](#) [permission](#) from the city.
- (8) Deposit household solid waste in any public commercial bin, such as in a public park or municipal building, or other receptacle located on a sidewalk, or at any other location maintained for disposal of litter by pedestrians.

Commented [JO1]: Are we issuing licenses? Maybe this should instead say permission?

Division 2: Residential Collection

§ 20.02.201. Duties of residential customers.

- (a) Each residential customer within the corporate limits of the city shall:
 - (1) Use cart provided by [the](#) city approved Commercial Hauler to accommodate and securely keep all residential refuse that may accumulate upon such premises. Items too large to fit into carts, such as appliances, furniture and mattresses, shall be stored securely in a screened area of the premises; and placed at curbside only on the day scheduled for such removal.
 - (2) Bundle tree trimmings or limbs in lengths not exceeding four feet. Such trimmings or limbs shall not exceed four inches in diameter, and such bundle shall not exceed four feet in height and width. Place grass clippings in secure paper bags not to

exceed 35 pounds.

- (3) Maintain and keep carts in a screened location and in such a manner on the premises so as not to constitute a public nuisance, give an undesirable appearance, or be visible from the street.
 - (4) Place trash and recycling carts and bundles at the edge of such premises adjacent to the street as early as 6:00 p.m. the evening before the scheduled service day but not later than 8:00 a.m. on the day of collection, and return same to their respective locations, which shall be screened from visibility from a public roadway, after pick-up on the same day of collection.
 - (5) Eliminate water and liquids to the extent practicable from all residential refuse prior to storing in carts.
 - (6) Maintain all carts in a condition free of defects that likely could hamper collection or injure the person collecting the contents thereof or the public generally.
 - (7) Promptly clean up any solid waste which becomes scattered by whatever means upon such premises.
- (b) Within 90 days of annexation into the city limits, a residential customer shall terminate its existing contract for Solid Waste services with its current Commercial Hauler and contract such services with the city's approved Commercial Hauler.

§ 20.02.202. Residential collection service and limitations.

- (a) Each residential customer is entitled to place at curbside on the once-weekly scheduled pick-up day residential refuse in carts, bags, and bundles with the following limitations:
- (1) Either one or two standard trash ~~eartsCarts;~~ plus unlimited yard waste collection in paper yard waste bags or bundled and tied into four foot lengths, not to exceed 35 pounds per bundle. Limbs within the bundle must be no more than four (4) inches in diameter.
 - (2) Either one or two standard recycling ~~eartsCarts;~~
 - (3) ~~_____~~
 - (3) ~~No eart-Cart~~ placed for collection by a residential customer shall exceed 100 pounds; ~~and-~~
 - (4) Up to three (3) total of the following, in any combination: a 30-gallon plastic Bag containing Garbage, Refuse, and/or Rubbish placed outside the Cart; a paper Bag of Yard Waste placed outside the Cart; a bundle of Yard Waste tied into four (4) foot lengths, not to exceed 35 pounds per bundle, placed outside the Cart. Limbs within the bundle must be no more than four (4) inches in diameter.
- (b) Pursuant to the pick-up schedule established by the Commercial Hauler, once every other week, each residential customer is entitled to place at curbside an unlimited amount of Yard Waste in paper Bags.
- (c) In addition, each residential customer under this section is entitled to ~~bulky-Bulky waste~~ Waste pick-up no more than twelve (12) times per year by calling the telephone number prescribed on the bill to request such service.

Commented [J02]: I am assuming these three bags could be yard waste in paper bags too? It is just unlimited every other week. Do you agree?

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Commented [J03]: I am assuming these three bags could be yard waste in paper bags too? It is just unlimited every other week. Do you agree?

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Commented [J04]: Do we need to define this term?

Commented [LA05R4]: Deleted "Yard Waste"

Division 3: Commercial Haulers

§ 20.02.301. Franchise Agreement Required.

- (a) It shall be an offense for any Commercial Hauler to operate residential collection services within the city limits without a current franchise agreement with the City.
- (b) It shall be an offense for any Commercial Hauler to charge rates in excess of those established in a currently effective franchise agreement with the City.
- (c) It shall be an offense for any Commercial Hauler to provide residential collection services in a manner not consistent with the routes and schedules set forth in the collection plan approved by the City Manager in accordance with a currently effective franchise agreement with the City.
- (d) In consideration of the right to use City streets and other public rights of way in the conduct of its business, any Commercial Hauler shall pay to the City a franchise fee not less than 5% of gross revenue derived from customers within the City limits.

§ 20.02.302. Franchise Agreement Supersedes prior collection agreements.

Upon execution of a franchise agreement with the City, any commercial hauler shall make commercially reasonable efforts to terminate any existing solid waste collection agreements within the City. To the extent permitted by state law, any such existing solid waste collection agreement is superseded by the execution of a franchise agreement with the City.

§ 20.02.303 Days and times of collection.

- (a) Restrictions for commercial establishments. Any Commercial Hauler operating within the corporate limits of the city shall only collect garbage and recyclable material from commercial and industrial units between the hours of 7:00 a.m. and 10:00 p.m. Monday through Friday, and between the hours of 9:00 a.m. and 10:00 p.m. Saturday and Sunday, regardless of the method of collection.
- (b) Restrictions for residential units. Any Commercial Hauler operating within the corporate limits of the city shall only collect garbage and recyclable material from residential units between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday, regardless of the method of collection.

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Commented [J06]: Should the italics and underlines of this paragraph be the same as (a)?

Section 3. Violation. A violation of these provisions of the Code of Ordinances shall be a misdemeanor and shall, upon conviction, be fined an amount in accordance with the City's Code of Ordinances, as amended herein.

Section 4. Cumulative. This Ordinance shall be cumulative of all other ordinances of the City, and this Ordinance shall not operate to repeal or affect any other ordinances of the City except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed. This Ordinance shall not be construed to require or allow any act which is prohibited by state law.

Section 5. Severability. If any provision, section, sentence, clauses or phrase of this Ordinance

or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

Section 6. Effective Date. This ordinance shall be in full force and effect upon and after July 1, 2024, and publication in accordance with Section 10.02 of the City Charter.

Section 7. Proper Notice and Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

APPROVED AND ADOPTED this _____ day of _____ 2024.

CITY OF BEE CAVE, TEXAS

By:

Kara King, Mayor

ATTEST:

Thomas Hatfield, Interim City Secretary

APPROVED AS TO FORM:

Ryan S. Henry, City Attorney
Law Offices of Ryan Henry, PLLC.



City Council Meeting
4/9/2024
Agenda Item Transmittal

Agenda Item: 11.

Agenda Title: Discuss and consider action on Ordinance No. 532 granting an exclusive franchise for the collection of residential solid waste and recycling; providing that this ordinance shall be cumulative; repealing all ordinances to the extent they are in conflict; providing severability; and providing an effective date.

Council Action: Discuss and Consider Action

Department: Assistant City Manager

Staff Contact: Lindsey Oskoui, Assistant City Manager

1. INTRODUCTION/PURPOSE

Consider establishment of a Franchise Agreement with Texas Disposal Systems (TDS) for provision of residential waste services. Residential is defined as structures containing four or fewer units.

2. DESCRIPTION/JUSTIFICATION

a) Background

During the fiscal year 2022-2023 budget process, Council requested staff prepare an Request For Proposal (RFP) for solid waste services within the city. To date, trash/recycling services in the city are either negotiated by an Home Owners Association (HOA) or Property Owners Association (POA) or with individual homeowners where an HOA or POA does not exist.

During the discussion, Council expressed a preference for uniformity in residential solid waste services (excluding multi-family) and pricing throughout the city. Subsequently, staff published an RFP for residential solid waste services on July 28, 2023.

On December 12, 2023, Council authorized negotiation of a contract with Texas Disposal Systems (TDS). Council selected Option 2, which, among other services, includes weekly solid waste services including recycling; 12 bulky pick-ups per year, and unlimited bagged yard waste for a quarterly rate of approximately \$77 plus taxes and franchise fees.

b) Issues and Analysis

This Ordinance has the effect of granting an exclusive contract with Texas Disposal Systems for residential

solid waste, including recycling services, for an initial term of five years.

A draft contract is attached as Exhibit A to this ordinance. While the draft contract is substantially complete, some language is still being clarified among the parties. As such, the recommended motion extends the authority to the Mayor to approve changes to the attached Exhibit.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Approve Ordinance Number 532, granting an exclusive franchise for the collection of residential solid waste and recycling to Texas Disposal Systems, contingent upon the Mayor and TDS reaching agreement on the city services provided by TDS and the prices for Disaster Services to be paid by the City, and such agreement being approved by the City Attorney and filed with the City Secretary prior to May 1, 2024.

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Ordinance No. 532	Ordinance

ORDINANCE NO.
532

AN ORDINANCE OF THE CITY OF BEE CAVE, TEXAS, GRANTING AN EXCLUSIVE FRANCHISE FOR THE COLLECTION OF RESIDENTIAL SOLID WASTE AND RECYCLING; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council finds the City of Bee Cave is a Texas Home-Rule Municipality and that the City has the exclusive control over and under the public highways, streets, and alleys within the City, as established by Texas Transportation Code, Section 311.001;

WHEREAS, the City Council finds that the City Council has the power to confer upon any person, firm, corporation or other legal entity the franchise or right to use the public property of the City for the purpose of furnishing to the public any general public service or benefit, subject to State Law, as established in Section 12.01 of the City Charter;

WHEREAS, the City Council finds that the City Council of the City of Bee Cave has the exclusive authority to grant to a person a franchise to use public streets within the City of Bee Cave, as established by Texas Transportation Code Section 311.071; and

WHEREAS, the City Council finds that granting an exclusive franchise for the collection of residential solid waste and recycling serves to protect the health and safety of residents of the City of Bee Cave and allows for the efficient operation of the governmental function of solid waste collection and disposal;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Grant of Franchise. The City hereby grants to Texas Disposal Systems, Inc. an exclusive franchise to use the public streets, alleys, and thoroughfares within the territorial jurisdiction of the City to collect and dispose of residential solid waste and refuse and to provide recycling services; such franchise shall be for an initial term of five years, and shall be automatically extended for additional terms of five years thereafter, unless the City or Texas Disposal Systems, Inc. terminates the "Contract for Municipal Solid Waste Collection and Disposal Services" in accordance with the terms of that agreement, in which case the franchise granted hereby shall terminate simultaneously with the termination of that agreement.

Section 3. Execution of Agreement. The Mayor is hereby authorized to execute a "Contract for Municipal Solid Waste Collection and Disposal Services" with Texas Disposal Systems, Inc., substantially in the form attached hereto as Exhibit "A," with changes in form as may be approved by the City Attorney.

Section 4. Cumulative. This Ordinance shall be cumulative of all other ordinances of the City of Bee Cave, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Bee Cave except insofar as the provisions thereof might be inconsistent or in conflict with the provisions

of this ordinance, in which event such conflicting provisions, if any, are hereby repealed. This Ordinance shall not be construed to require or allow any act which is prohibited by state law.

Section 5. Severability. If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Bee Cave in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

Section 6. Effective Date. This ordinance shall be in full force and effect upon and after its date of adoption in accordance with Section 10.02 of the City Charter.

Section 7. Proper Notice and Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

APPROVED AND ADOPTED this _____ day of _____ 2024.

CITY OF BEE CAVE, TEXAS

By:

Kara King, Mayor

ATTEST:

Thomas Hatfield, Interim City Secretary

APPROVED AS TO FORM:

Ryan S. Henry, City Attorney
Law Offices of Ryan Henry, PLLC.



City Council Meeting
4/9/2024
Agenda Item Transmittal

Agenda Item: 12.

Agenda Title: Discuss and consider action on the Capital Improvements Plan
Project PR.TL.02: Vail Divide Drive Right Turn Lane

Council Action: Discuss and Consider Action

Department: Assistant City Manager

Staff Contact: Lindsey Oskoui, Assistant City Manager

1. INTRODUCTION/PURPOSE

Consider removal of project PR.TL.02, Vail Divide Right Turn Lane from Capital Improvements Plan.

2. DESCRIPTION/JUSTIFICATION

a) Background

On October 26, 2021, City Council adopted its current Capital Improvements Plan, ***FY 21-22 to FY 25-26 Capital Improvements Plan***. The Plan includes project, PR.TL.02, a southbound, right turn lane on Vail Divide Drive--see attached project sheet.

b) Issues and Analysis

On February 27 2024, Council approved a Vail Divide Drive and Falconhead Traffic Impact Analysis, which concluded that the right-turn lane did not result in significant improvement to the level of service. Accordingly, Council directed staff to prepare an agenda item to remove this project from the CIP.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

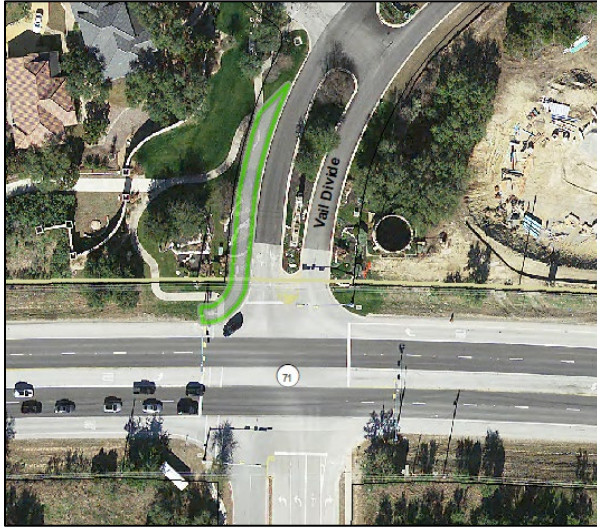
5. RECOMMENDATION

Remove project PR.TL.02, Vail Divide Right Turn Lane from the CIP.

ATTACHMENTS:

Description	Type
<div data-bbox="164 485 183 510">□</div> CoBC CIP Supplement _ Individual Project Description Excerpt _ PR.TL.02 Vail Divide Right Turn Lane	Backup Material

Project Name: Vail Divide Drive Right Turn Lane	Category: Public Roads	Project ID: PR.TL.02
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Department Responsible for Project:
Planning & Development

Estimated Total Project Cost:

Construction Cost	\$100,000
Engineering/Survey/Environmental	\$15,000
ROW Acquisition	\$0
TOTAL	\$115,000

Funding Source(s):

General Roadway Fund = \$15,000

Unknown = \$100,000

Project Description:

Construct a southbound right turn lane on Vail Divide to turn onto westbound SH 71 which includes modifying the existing Falconhead West landscaping and relocating the traffic signal pole. This project will require coordination and approval from TxDOT.

Project Status:

Design estimated to begin Fiscal Year 26/27 with Construction estimated to begin Fiscal Year 27/28.

Project Annual Cost Summary:

FY:	Phase Description:	Projected Expenditures:	Comments:
21/22			
22/23			
23/24			
24/25			
25/26			

Maintenance and Operations:

This right turn lane will be maintained by the City of Bee Cave with regular maintenance at 5-7 year intervals consisting of crack sealing and mill and overlay approximately every 12-15 years.

Comprehensive Plan Reference(s):

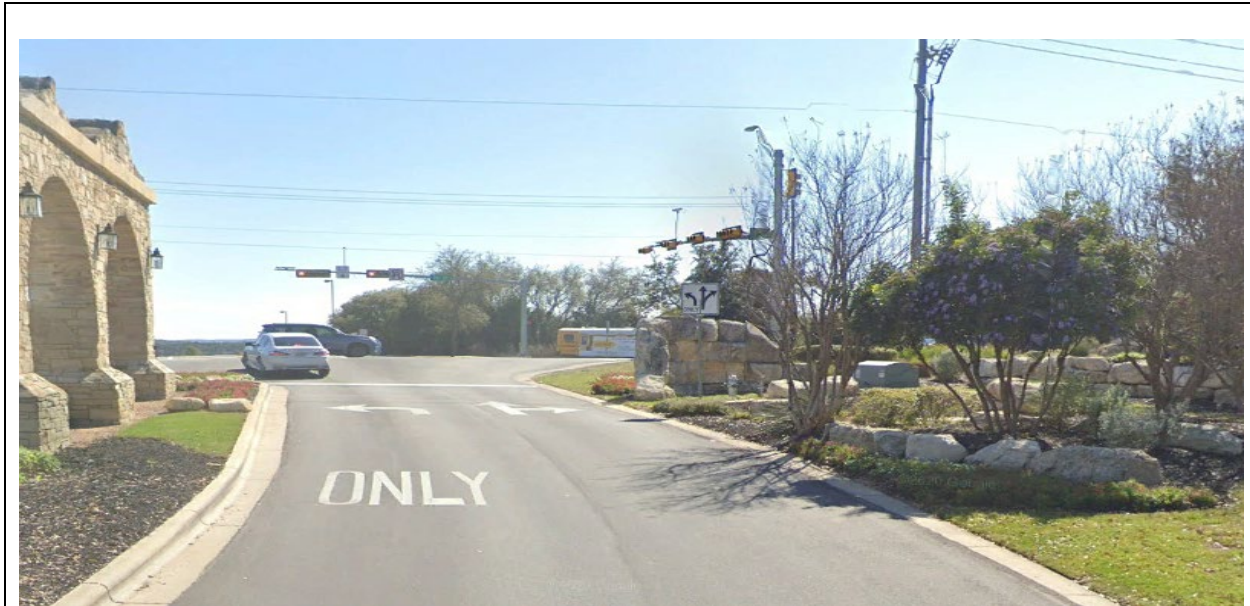
Mobility Goals & Strategies

Goal M 1:

To address congestion and Level of Service on Bee Cave arterials, the City should consider both short- and long-term improvements through coordination with TxDOT. Short term improvements may include signal timing optimization, access management improvements, and intersection modifications. Long-Term improvements may include major roadway widenings, major intersection improvements (e.g. turn lanes), or the addition of medians.

2.4 Prioritize strategic investments to increase the capacity and efficiency of the existing roadway system. Investments to move vehicles more efficiently might include intersection improvements or improved signal timing.

Additional Project Pictures:





City Council Meeting
4/9/2024
Agenda Item Transmittal

Agenda Item: 13.

Agenda Title: Discuss and consider action on a comprehensive policy regarding the standards and use of the City's social media platforms.

Council Action: Discuss

Department: City Secretary

Staff Contact: Julie Oakley

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

Description

 Social Media Policy Presentation

Type

Backup Material



BEE CAVE
TEXAS

Simply Elevated



Why Adopt a Social Media Policy?

Social Media is a Primary Information Source

A Municipal Social Media Policy has become standard practice, as social media sites have become the primary source of City information for a growing number of residents and visitors. City Social Media Sites are used for:

- Emergency/safety information
- Event marketing
- City Council updates
- General Bee Cave news



Changing Laws/Court Decisions Governing Social Media

In recent years, the Supreme Court has made decisions governing local government social media sites and the First Amendment. While social media is not considered as “new” as it was a few years ago, there are still many gray areas that are being worked out in the courts. A social media policy should be adopted that has the flexibility to change as needed to meet changing legislation and court decisions.



Social Media Policy Protects Guides Elected Officials & City Staff

- Guide elected officials what they can/cannot post on personal pages.
- Guide staff on what standards they can set that also protect First Amendment rights of residents and commenters.
- Can help avoid personal liability issues.
- Sets guidelines for departments' social media pages.
- Has a clear set of rules even when there is change of staff.



What a Social Media Policy Includes

Comprehensive Social Media Policy

- Guidelines for staff
- Guidelines for elected officials, board members, appointed officials
- Rules for posts (no profanity, personally identifying info, etc.)
- Social media archive provider information
- Usage of outside photos/videos and who to credit
- Reviewed by legal team prior to adoption





Feedback & Questions



City Council Meeting
4/9/2024
Agenda Item Transmittal

Agenda Item: 14.

Agenda Title: Discuss and consider possible action on an appeal from a decision of the City Manager regarding a Chapter 245 determination of vesting rights for Lot 1, Block A of Summit 56 subdivision, a 6.950 acre tract located on the north side of SH-71 at 15506 W State Highway 71, Bee Cave, Texas.

Council Action: Discuss and consider possible action

Department: Planning and Development

Staff Contact: Lindsey Oskoui, Assistant City Manager

1. INTRODUCTION/PURPOSE

Pursuant to code section 1.5.1F.4, hear appeal of a final determination of denial of vested rights by the City Manager for a 6.950 acre parcel located immediately north of Highway 71 at 15506 W State Highway 71, Bee Cave, Texas.

2. DESCRIPTION/JUSTIFICATION

a) Background

The Unified Development Code section 1.5.1 provides for a procedure for a land owner to seek a determination of vested rights, commonly referred to as a "Chapter 245 determination."

b) Issues and Analysis

The subject property is an approximately 6.950 acre tract of land located at 15506 W State Highway 71, Bee Cave, Texas also known as Lot 1, Block A of the Summit 56 subdivision.

On February 14, 2024, the appellant submitted a Vested Rights Petition application also known as a "Chapter 245 vested rights determination" for a property referred to as "Summit 56." (See attachments for application)

Based on review of the documentation, via a letter emailed and dated March 26, 2024, Co-Interim City Manager Lindsey Oskoui made the determination that the application for vested rights under Chapter 245 was denied. (See City Manager Final Determination attachment)

However, the City Attorney's office stated that the applicant may take advantage of the consent decrees process which existed in the prior codes, at least to the point of appealing the denial of acknowledgement of a

vested right to the City Council. According to code provision 30.01.007(d)(8) and (9), the application is eligible to appeal a final determination of the City Manager to the City Council within ten (10) calendar days of the decision. The City may enter into a consent agreement with the applicant that is intended to resolve a good-faith dispute concerning development rights and applicable regulations in order to avoid the cost and uncertainty of litigation to both parties.

Pursuant to Code provision 30.01.007(f)(8), the landowner, via a letter dated and emailed April 1, submitted an appeal of the determination of the City Manager to the City Council. (See Letter of Appeal attachment).

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Applicants Vested Rights Petition	Backup Material
<input type="checkbox"/> Vested Rights City Manager Determination	Backup Material
<input type="checkbox"/> Applicants Vested Rights Appeal of City Manager Determination	Backup Material

February 14, 2024

Lindsey Oskoui
Acting Director of Planning & Development
City of Bee Cave, Texas
4000 Galleria Parkway
Bee Cave, Texas 78738

RE: Vested Rights Petition for Lot 1, Block in the Summit 56 Subdivision

Ms. Oskoui:

I am writing on behalf of Summit Austin 56, Ltd. ("Owner"), owner of Lot 1, Block A of Summit 56 subdivision, recorded as Document No. 201000095 in the Property Records of Travis County, Texas (the "Property"). For the reasons that follow, it is our strong position that the proposed commercial use that includes a convenience store ("Project") on the Property is subject to certain vested rights based on the intended use being established and the plat approved prior to annexation of the Property. We respectfully request recognition of such vested rights in accordance with Section 43.002 of the Texas Local Government Code ("Section 43.002") and Chapter 245 of the Texas Local Government Code ("Chapter 245").

1. Applicable Permit History

As property located in the extraterritorial jurisdiction ("ETJ") of the City of Bee Cave ("City"), an application for the Summit 56 subdivision plat ("Final Plat") was submitted on or about January 14, 2009. The Final Plat was approved by both the City and Travis County Commissioner's Court on July 27, 2010. A copy of the Final Plat is enclosed as *Attachment #1*. Applications for a consolidated site plan and the non-point source permit were submitted to and accepted by the City on or about May 10, 2013. See *Attachment #2*. The City Council considered annexation of the Property on first reading on August 13, 2013, and officially approved annexation on September 10, 2013 with Ordinance No. 13-160. The Property was designated with Neighborhood Service (NS) zoning by Ordinance No. 13-173.

The Owner continued to pursue approval of the consolidated site plan after annexation for several years. However, in an effort to settle a disagreement between the City and Owner over application of certain vested rights, Owner was encouraged to seek a Planned Development District (PDD) zoning designation. The application for the PDD was filed on or about December 20, 2019. See *Attachment #3*. Recently, the City and Owner reached another stalemate in the PDD process and as such, Owner is reasserting its vested rights claim with this application.

Since 2013, the tracts in the Summit 56 subdivision have been under continuous development with various applications filed with the City for required licenses, certificates, permits, and approvals. Lots 2-4 and 7 of the Summit 56 subdivision are fully developed with a variety of commercial uses.

2. Application of 245

Chapter 245 generally provides that a development “project” will be governed by the rules and regulations (including expiration dates) in effect on the date on which the first application for a “permit” is filed for the project. *Tex. Loc. Gov’t Code §245.002*. The definition of permit includes, but is not limited to, preliminary plans and subdivision plats. *Id.* Essentially, once an application for the first “permit” is filed for a “project”, the rules and regulations are effectively “frozen”, and the city is prohibited from enforcing subsequent regulations (with certain exceptions). *Harper Park Two v. City of Austin*, 359 S.W. 3d 247, 248 (Tex. App.—Austin 2011, writ denied). Vested rights provided by Chapter 245 apply as long as the project has not become dormant. *Id.* at 248-49; *Tex. Loc. Gov’t Code §245.005*.

The Final Plat clearly qualifies as a permit under Chapter 245 and, therefore, the application for the Final Plat effectively froze the development regulations applicable to those that were in effect in the ETJ in 2009. The application of Chapter 245 was further solidified by the approval of the Final Plat which acted as furtherance of the Project. The Final Plat also indicates the intended use of the Property as commercial. Accordingly, similar to *Harper Park Two*, the Project should be considered vested as a commercial development, with no limitation on the type of retail and/or commercial, and subject only to the ETJ development regulations in effect in 2009.

In addition, the Project has satisfied the requirement of “progress toward completion” under Chapter 245 to avoid becoming “dormant”. *Tex. Loc. Gov’t Code Section §245.005*. The Project is also part of a long-standing commercial development, and the recorded Final Plat conclusively prevents dormancy under Section 245.005(c)(1). There have also been utility connections, fiscal surety, construction costs and certainly a “good faith attempt” to make progress towards completion of the Project as evidenced by the multiple applications filed over the years and the consistent communication with the City in seeking approvals. In fact, all items constituting “progress towards completion” under Section 245.005(c) have been satisfied. As such, the City may not apply new expiration dates or new regulations under Section 245.005.

3. Application of Section 43.002

In addition to Chapter 245, Section 43.002 provides additional statutory vested rights to the Project. Specifically, Section 43.002(a)(2) provides that a “municipality may not, after annexing an area, prohibit a person from ...beginning to use land in the area in a manner that was planned for the land before the 90th day before the effective date of annexation” if a completed development application was timely filed with the City. Timely filed requires that the application is submitted before annexation proceedings are instituted which is determined by the first reading of the annexation before the City Council. That is, Section 43.002(a)(2) merely requires that a development application is timely “filed” before first reading, not that the approval of such application occur prior to the 90th day before the effective date of annexation.

While the Property was located in the City’s ETJ and not subject to the City’s zoning regulations, the first application for the planned for use was timely filed on January 14, 2009, significantly more than 90 days before the effective date of the annexation. The notes on the final plat indicate that the lots are restricted to commercial. An application for a consolidated site plan, which identified the anticipated uses as convenience store and fast-food restaurants, was submitted to and accepted by the City on or about May 10, 2013, unmistakably providing the City with full knowledge of the developer’s intended use. See

Attachment #2. As a result, the City is prohibited by Section 43.002 from denying the planned for convenience store on the Property as intended prior to annexation.

4. Conclusion

Based on the submittal and approval of the Final Plat, the Project is protected by Chapter 245 from application of later adopted or applicable ordinances by the plain and unambiguous text of Chapter 245. The Project is further protected by Section 43.002 as to the commercial use of a convenience store on the Property and the consolidated site plan provided with the City with fair notice. Only those rules and regulations in effect in 2009 apply to the Project and the City's review of applications. Therefore, on behalf of the Owner, I am requesting that the City issue confirmation of vested rights to develop the Property with a convenience store and in accordance with the ETJ regulations applicable in 2009.

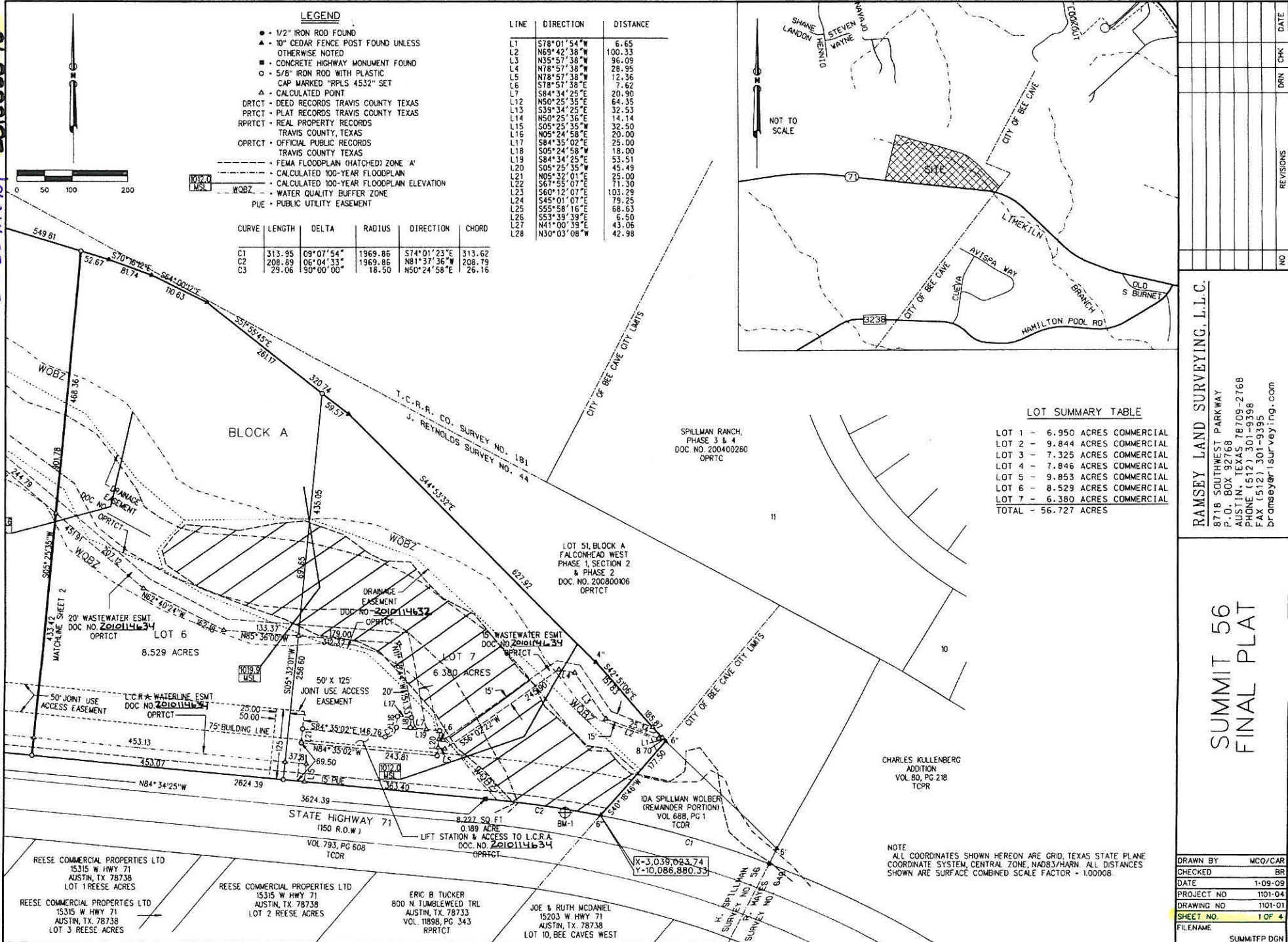
Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Laci Ehlers", with a stylized, cursive script.

Laci Ehlers

Document # 201000095



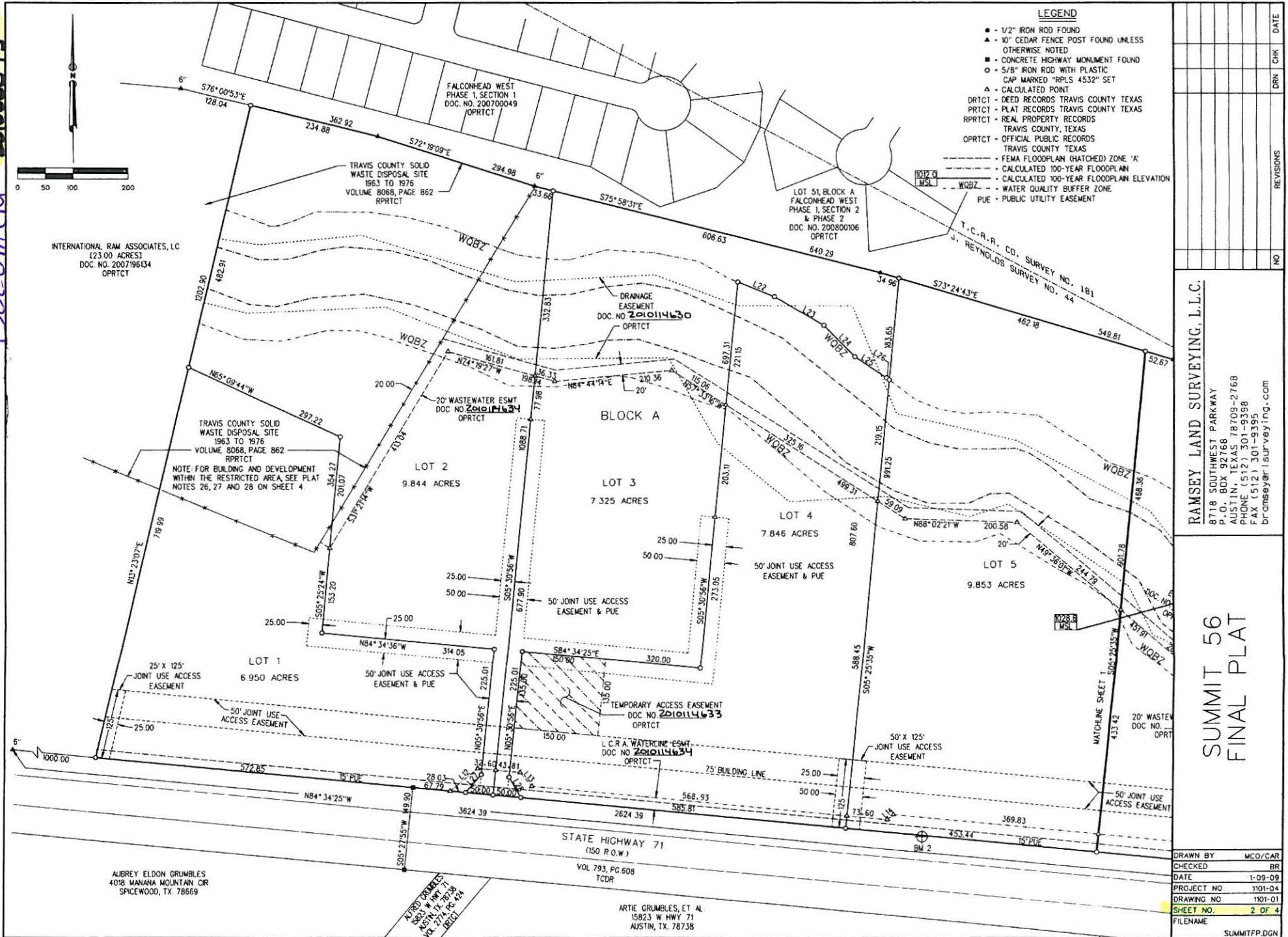
RAMSEY LAND SURVEYING, L.L.C.

8718 SOUTHWEST PARKWAY
P.O. BOX 92768
AUSTIN, TEXAS 78709-2768
PHONE (512) 301-9396
FAX (512) 301-9395
bramsey@ramsurveying.com

SUMMIT 56
FINAL PLAT

DRAWN BY	MCO/CAR
CHECKED	BR
DATE	1-09-09
PROJECT NO	1101-04
DRAWING NO	1101-01
SHEET NO	1 OF 4
FILENAME	SUMMITFP.DGN

Document 201000095



STATE OF TEXAS * KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS *

THAT SUMMIT AUSTIN 56, LTD., A TEXAS LIMITED PARTNERSHIP ACTING BY AND THROUGH KURT ADKINS, VICE PRESIDENT, BEING OWNER OF THAT CERTAIN 56.727 ACRES OF LAND SITUATED IN THE JOSEPH REYNOLDS SURVEY NO. 44, TRAVIS COUNTY, TEXAS BEING A PORTION OF THAT CERTAIN 79.727 ACRES OF LAND, CONVEYED TO SUMMIT AUSTIN 56, LTD., BY DEED RECORDED IN DOCUMENT NO. 2007176103 OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY DO HEREBY SUBDIVIDE SAID 56.727 ACRES OF LAND IN ACCORDANCE WITH THIS PLAT AND CHAPTERS 212 AND 232 OF THE TEXAS LOCAL GOVERNMENT CODE, TO BE KNOWN AS "SUMMIT 56", AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF ALL STREETS AND EASEMENTS SHOWN HEREON, SUBJECT TO ANY EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED

IN WITNESS WHEREOF, SUMMIT AUSTIN 56, LTD., HAVE CAUSED THESE PRESENTS TO BE EXECUTED BY THEIR VICE PRESIDENT, KURT ADKINS, THIS THE 27th DAY OF May, 2010, A.D.

BY: SUMMIT AUSTIN 56, LTD., A TEXAS LIMITED PARTNERSHIP

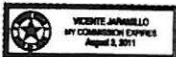
KURT ADKINS, VICE PRESIDENT
3800 SOUTHWEST FREEWAY, SUITE 302
HOUSTON, TX 77027

STATE OF TEXAS *
COUNTY OF TRAVIS *

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED KURT ADKINS, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO IN THE FOREGOING INSTRUMENT OF WRITING, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 27th DAY OF May, 2010, A.D.

NOTARY PUBLIC FOR THE STATE OF TEXAS



ENGINEER'S CERTIFICATION

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER, LICENSED IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THE PROPER ENGINEERING CONSIDERATIONS HAVE BEEN GIVEN TO THIS PLAT AND IT MEETS THE REQUIREMENTS OF THE SUBDIVISION ORDINANCE OF THE CITY OF BEE CAVE, TEXAS

JOHN A. CLARK
REGISTERED PROFESSIONAL ENGINEER NO. 81398
LJA ENGINEERING & SURVEYING, INC.
5316 HIGHWAY 290 WEST
SUITE 150
AUSTIN, TEXAS 78735
PHONE (512) 439-4700



BENCHMARKS

NO 1101-01 ELEVATION 1007.56 - COTTON GN SPINDLE SET IN POWER POLE, +/- 5' WEST OF SOUTHEAST CORNER OF 56.727 ACRE TRACT +/- 6' SOUTH OF NORTH R.O.W. STATE HIGHWAY 71.

NO 1101-02 ELEVATION 1064.60 - COTTON GN SPINDLE SET IN POWER POLE +/- 1500' EAST OF SOUTHWEST CORNER OF 56.727 ACRE TRACT +/- 3' SOUTH OF NORTH R.O.W. STATE HIGHWAY 71.

FLOODPLAIN CERTIFICATION

THE 100-YEAR FLOODPLAIN IS CONTAINED WITHIN THE DRAINAGE EASEMENTS SHOWN HEREON. A PORTION OF THIS TRACT IS WITHIN THE DESIGNATED FLOOD HAZARD AREA AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE ADMINISTRATION RATE MAP (FIRM) # 48453C0405 H FOR TRAVIS COUNTY, TEXAS AND INCORPORATED AREAS, DATED SEPTEMBER 26, 2008.

JOHN A. CLARK
REGISTERED PROFESSIONAL ENGINEER NO. 81398
LJA ENGINEERING & SURVEYING, INC.
5316 HIGHWAY 290 WEST
SUITE 150
AUSTIN, TEXAS 78735
PHONE (512) 439-4700

SURVEYOR'S CERTIFICATION

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE ON THE GROUND, UNDER MY SUPERVISION, AND FURTHER CERTIFY THAT IT COMPLIES WITH THE CITY OF BEE CAVE CODE OF ORDINANCES.

WILLIAM H. RAMSEY
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4532
RAMSEY LAND SURVEYING, L.L.C.
8718 SOUTHWEST PARKWAY
P.O. BOX 92768
AUSTIN, TEXAS 78709-2768
PHONE (512) 301-9398
FAX (512) 301-9395



CITY OF BEE CAVE APPROVAL

FINAL PLAT

APPROVED BY THE CITY OF BEE CAVE
FOR FILING AT THE OFFICE OF THE COUNTY
CLERK OF TRAVIS COUNTY, TEXAS

APPROVED BY PLANNING AND ZONING
COMMISSION CITY OF BEE CAVE, TEXAS

Jerry Ward
SIGNATURE OF CHAIRPERSON
DATE 05/27/2010

APPROVED BY GOVERNING BODY
CITY OF BEE CAVE, TEXAS

Jack McCool
MAYOR, CITY OF BEE CAVE
PRO TEM
ATTEST: [Signature]
CITY SECRETARY
DATE 7/27/2010

I, THE UNDERSIGNED, MAYOR OF THE CITY OF BEE CAVE, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY, AND IS HEREBY AUTHORIZED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF BEE CAVE FOR RECORDING IN THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS

Jack McCool
MAYOR, CITY OF BEE CAVE
PRO TEM
ATTEST: [Signature]
CITY SECRETARY
DATE 7/27/2010

THIS PROPERTY IS LOCATED IN THE EXTRATERRITORIAL
JURISDICTION OF THE CITY OF BEE CAVE, TRAVIS
COUNTY, TEXAS

Jack McCool
MAYOR, CITY OF BEE CAVE
PRO TEM
ATTEST: [Signature]
CITY SECRETARY
DATE 7/27/2010

COMMISSIONERS' COURT RESOLUTION

IN APPROVING THIS PLAT, THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS, ASSUMES NO OBLIGATION TO BUILD THE STREETS, ROADS AND OTHER PUBLIC THOROUGHFARES SHOWN ON THIS PLAT OR ANY BRIDGES OR CULVERTS IN CONNECTION THEREWITH. THE BUILDING OF ALL STREETS, ROADS AND OTHER PUBLIC THOROUGHFARES SHOWN ON THIS PLAT AND ALL BRIDGES AND CULVERTS NECESSARY TO BE CONSTRUCTED OR PLACED IN STREETS, ROADS OR OTHER PUBLIC THOROUGHFARES OR IN CONNECTION THEREWITH, IS THE RESPONSIBILITY OF THE OWNER AND/OR DEVELOPER OF THE TRACT OF LAND COVERED BY THIS PLAT IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS PRESCRIBED BY THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS

THE OWNER(S) OF THE SUBDIVISION SHALL CONSTRUCT THE SUBDIVISION'S STREETS AND DRAINAGE IMPROVEMENTS (THE "IMPROVEMENTS") TO COUNTY STANDARDS IN ORDER FOR THE COUNTY TO ACCEPT THE PUBLIC IMPROVEMENTS FOR MAINTENANCE OR TO RELEASE FISCAL SECURITY POSTED TO SECURE PRIVATE IMPROVEMENTS. TO SECURE THIS OBLIGATION, THE OWNER(S) MUST POST FISCAL SECURITY WITH THE COUNTY IN THE AMOUNT OF THE ESTIMATED COST OF IMPROVEMENTS. THE OWNER(S) OBLIGATION TO CONSTRUCT THE IMPROVEMENTS TO COUNTY STANDARDS AND TO POST THE FISCAL SECURITY TO SECURE SUCH CONSTRUCTION IS A CONTINUING OBLIGATION BINDING ON THE OWNERS AND THEIR SUCCESSORS AND ASSIGNS UNTIL THE PUBLIC IMPROVEMENTS HAVE BEEN ACCEPTED FOR MAINTENANCE BY THE COUNTY, OR THE PRIVATE IMPROVEMENTS HAVE BEEN CONSTRUCTED AND ARE PERFORMING TO COUNTY STANDARDS.

THE AUTHORIZATION OF THIS PLAT BY THE COMMISSIONERS COURT FOR FILING OR THE SUBSEQUENT ACCEPTANCE FOR MAINTENANCE BY TRAVIS COUNTY, TEXAS, OF ROADS AND STREETS IN THE SUBDIVISION DOES NOT OBLIGATE THE COUNTY TO INSTALL STREET NAME SIGNS OR ERECT TRAFFIC CONTROL SIGNS, SUCH AS SPEED LIMIT, STOP SIGNS AND YIELD SIGNS, WHICH IS CONSIDERED TO BE A PART OF THE DEVELOPERS' CONSTRUCTION. NOTWITHSTANDING THE FOREGOING TO THE CONTRARY, IT IS THE OWNERS INTENTION THAT ALL OF THE ROADS AND STREETS IN THIS SUBDIVISION REMAIN PRIVATE

STATE OF TEXAS
COUNTY OF TRAVIS

I, DANA DEBEAUVOR, CLERK OF TRAVIS COUNTY, TEXAS DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE 9th DAY OF AUGUST, 2010, A.D. AT 3:23 O'CLOCK P.M. AND DULY RECORDED ON THE 9th DAY OF AUGUST, 2010, A.D. AT 3:23 O'CLOCK P.M. IN DOCUMENT NO. 201000096 OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY AND STATE.

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK, THIS 9th DAY OF AUGUST, 2010, A.D.

DANA DEBEAUVOR, COUNTY CLERK,
TRAVIS COUNTY, TEXAS

D. Bartholomew
DEPUTY
STATE OF TEXAS: D. BARTHOLOMEW
COUNTY OF TRAVIS:

I, DANA DEBEAUVOR, CLERK OF THE COUNTY COURT OF TRAVIS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON THE 27th DAY OF July, 2010, A.D., THE COMMISSIONERS' COURT OF TRAVIS COUNTY, TEXAS, PASSED AN ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT, AND THAT SAID ORDER WAS DULY ENTERED IN THE MINUTES OF SAID COURT.

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY COURT OF SAID COUNTY, THE 9th DAY OF August, 2010, A.D.

DANA DEBEAUVOR, COUNTY CLERK, TRAVIS COUNTY, TEXAS

Robert Rasmussen
DEPUTY



NO	REVISIONS	DRN	CHK	DATE

RAMSEY LAND SURVEYING, L.L.C.
8718 SOUTHWEST PARKWAY
P.O. BOX 92768
AUSTIN, TEXAS 78709-2768
PHONE (512) 301-9398
FAX (512) 301-9395
bramsey@surveying.com

SUMMIT 56
FINAL PLAT

DRAWN BY: MCO/CAR
CHECKED: BR
DATE: 1-09-09
PROJECT NO: 1101-01
DRAWING NO: 1101-01
SHEET NO: 3 OF 4
FILENAME: SUMMITFP.DGN

201000095
Document #

GENERAL NOTES:

1. ALL DRAINAGE EASEMENTS/STORM SEWER EASEMENTS ON PRIVATE PROPERTY SHALL BE MAINTAINED BY THE OWNER OR HIS/HER ASSIGNS.
2. PROPERTY OWNER AND/OR HIS/HER ASSIGNS SHALL PROVIDE FOR ACCESS TO DRAINAGE EASEMENTS/STORM SEWER EASEMENTS AS MAY BE NECESSARY AND SHALL NOT PROHIBIT ACCESS BY TRAVIS COUNTY AND THE CITY OF BEE CAVE FOR INSPECTION OR MAINTENANCE OF S/D EASEMENTS.
3. DEVELOPMENT OF THE PROPERTY SHALL NOT BE STARTED UNTIL A NON-POINT SOURCE POLLUTION CONTROL PLAN (ORDINANCE NO. 90.1) HAS BEEN APPROVED BY THE CITY OF BEE CAVE. THE MAINTENANCE OF THE NPS CONTROLS IS THE RESPONSIBILITY OF THE OWNER(S) OR HIS OR HER ASSIGNS.
4. THIS PROPERTY HAS ACCESS TO AND FROM A DEDICATED PUBLIC ROADWAY.
5. TRAVIS COUNTY DEVELOPMENT PERMIT REQUIRED PRIOR TO ANY SITE DEVELOPMENT.
6. NO OBJECTS, INCLUDING BUT NOT LIMITED TO, BUILDINGS, FENCES OR LANDSCAPING SHALL BE ALLOWED IN DRAINAGE EASEMENTS/STORM SEWER EASEMENTS EXCEPT AS APPROVED BY TRAVIS COUNTY, AND THE CITY OF BEE CAVE.
7. NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC WATER SYSTEM AND A PUBLIC WASTEWATER SYSTEM APPROVED AND PERMITTED BY THE STATE OF TEXAS.
8. ALL LANDSCAPE IMPROVEMENTS, COMMON TO THE SUBDIVISION, WILL BE MAINTAINED BY THE PROPERTY OWNERS ASSOCIATION OR ITS ASSIGNS.
9. DEVELOPMENT OF EACH LOT IN THIS SUBDIVISION SHALL REQUIRE SUBMITTAL OF AN NPS PLAN TO THE CITY OF BEE CAVE, AS REQUIRED BY THE CITY OF BEE CAVE NON-POINT SOURCE POLLUTION CONTROL ORDINANCE 90.1. EACH LOT WILL BE SUBJECT TO AN NPS MAINTENANCE PLAN WHICH SHALL BE RECORDED IN THE TRAVIS COUNTY DEED RECORDS.
10. AUSTIN ENERGY HAS THE RIGHT TO PRUNE AND/OR REMOVE TREES, SHRUBBERY AND OTHER OBSTRUCTIONS TO THE EXTENT NECESSARY TO KEEP THE EASEMENTS CLEAR. AUSTIN ENERGY WILL PERFORM ALL TREE WORK IN COMPLIANCE WITH CHAPTER 25-B, SUBCHAPTER B OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE.
11. THE OWNER/DEVELOPER OF THIS SUBDIVISION/LOT SHALL PROVIDE AUSTIN ENERGY WITH ANY EASEMENT AND/OR ACCESS REQUIRED, IN ADDITION TO THOSE INDICATED, EXCLUSIVELY FOR THE INSTALLATION AND ONGOING MAINTENANCE OF OVERHEAD AND UNDERGROUND FACILITIES AND NO OTHER PURPOSE. THESE EASEMENTS AND/OR ACCESS ARE REQUIRED TO PROVIDE ELECTRIC SERVICE TO THE BUILDING AND WILL NOT BE LOCATED SO AS TO CAUSE THE SITE TO BE OUT OF COMPLIANCE WITH CHAPTER 25-B OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE.
12. THE OWNER OF THE PROPERTY SHALL BE RESPONSIBLE FOR THE INSTALLATION OF TEMPORARY EROSION CONTROL, VEGETATION AND TREE PROTECTION. IN ADDITION, THE OWNER SHALL BE RESPONSIBLE FOR ANY TREE PRUNING AND TREE REMOVAL THAT IS WITHIN TEN FEET OF THE CENTER LINE OF OVERHEAD ELECTRICAL FACILITIES DESIGNED TO PROVIDE ELECTRIC SERVICE TO THIS PROJECT. AUSTIN ENERGY WORK SHALL ALSO BE INCLUDED WITHIN THE LIMITS OF CONSTRUCTION FOR THIS PROJECT.
13. THE OWNER OF THE PROPERTY IS RESPONSIBLE FOR MAINTAINING CLEARANCES REQUIRED BY NATIONAL ELECTRIC SAFETY CODE, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) REGULATIONS, CITY OF AUSTIN RULES AND REGULATIONS AND TEXAS STATE LAWS PERTAINING TO CLEARANCES WHEN WORKING IN CLOSE PROXIMITY TO OVERHEAD POWER LINES AND EQUIPMENT. AUSTIN ENERGY WILL NOT RENDER ELECTRIC SERVICE UNLESS REQUIRED CLEARANCES ARE MAINTAINED. ALL COSTS INCURRED BECAUSE OF FAILURE TO COMPLY WITH THE REQUIRED CLEARANCES WILL BE CHARGED TO THE OWNER. CONTACT DAVID SLOAN, MANAGER OF DESIGN ENGINEERING AT 505-7715 FOR QUESTIONS REGARDING REQUIRED CLEARANCES.
14. THIS PROPERTY IS SUBJECT TO COVENANTS AND RESTRICTIONS AS RECORDED IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS IN DOCUMENT NO. 2010114331.
15. WATER AND WASTEWATER SERVICE WILL BE PROVIDED BY THE LOWER COLORADO RIVER AUTHORITY.
16. ELECTRIC SERVICE WILL BE PROVIDED BY AUSTIN ENERGY.
17. TELEPHONE SERVICE WILL BE PROVIDED BY AT & T.
18. THE WATER SYSTEM FOR THIS SUBDIVISION SHALL BE DESIGNED TO SUPPLY THE FIRE FLOWS AS REQUIRED BY ORDINANCE 2000-1, ENACTED BY TRAVIS COUNTY EMERGENCY SERVICES DISTRICT NO. 6. PLANS SHALL BE REVIEWED AND APPROVED BY TRAVIS COUNTY EMERGENCY SERVICES DISTRICT NO. 6 FOR CONSTRUCTION OF SUBDIVISION IMPROVEMENTS AND SITE DEVELOPMENT ON ALL LOTS, EXCEPTING SINGLE FAMILY.
19. CITY OF BEE CAVE ASSUMES NO RESPONSIBILITY FOR CONSTRUCTION, MAINTENANCE, ETC. OF STREETS, ROADS, THOROUGHFARES, OR DRAINAGE IMPROVEMENTS.
20. IT IS PROHIBITED TO SELL A PORTION OF THE PROPERTY BY METES AND BOUNDS DESCRIPTION.
21. ALL LOTS ARE RESTRICTED TO COMMERCIAL (NON-RESIDENTIAL) USE. PLAT VACATION AND REPLATING WILL BE REQUIRED SHOULD THE STATED LAND USE CHANGE TO RESIDENTIAL AND PARKLAND FEES IN LIEU OF PARKLAND DEDICATION SHALL BE PAID AT THAT TIME.
22. FINISHED FLOOR ELEVATIONS ON LOTS 6 AND 7 SHALL BE ONE FOOT ABOVE THE HIGHEST ADJACENT FEMA FLOODPLAIN ELEVATION SHOWN HEREON.
23. AN INTEGRATED PEST MANAGEMENT PLAN SHALL BE PROVIDED AT SITE AND NPS PLAN STAGE TO THE CITY OF BEE CAVE.

24. SUBJECT TO ANY INCREASE PERMITTED IN NOTE 25, THE TOTAL AMOUNT OF IMPERVIOUS COVER ALLOWABLE FOR THE 7 LOTS WITHIN THIS SUMMIT 56 SUBDIVISION IS 16,441 ACRES OF IMPERVIOUS COVER, BEING 40% OF THE SITE AREA CALCULATED IN ACCORDANCE WITH SECTIONS 20.04.043(C) AND 20.04.044 OF THE BEE CAVE CITY CODE. THE AMOUNT OF IMPERVIOUS COVER FOR EACH LOT WITHIN THIS SUMMIT 56 SUBDIVISION MAY EXCEED 40% OF THE SITE AREA OF SUCH LOT, AS LONG AS THE TOTAL IMPERVIOUS COVER ON ALL 7 LOTS DOES NOT EXCEED 16,441 ACRES. IN THE EVENT THAT ANY LOT PROPOSES TO HAVE MORE THAN 40% IMPERVIOUS COVER (THE "ENHANCED LOT"), THEN PRIOR TO ANY DEVELOPMENT ON SUCH LOT IN EXCESS OF 40% IMPERVIOUS COVER, THE OWNER OF THE ENHANCED LOT SHALL CAUSE THE IMPERVIOUS COVER ALLOWABLE ON ONE OR MORE OTHER LOTS IN THIS SUMMIT 56 SUBDIVISION (THE "RESTRICTED LOT(S)") TO BE REDUCED BY AN AMOUNT IN ACRES OR SQUARE FEET EQUAL TO THE AMOUNT IN ACRES OR SQUARE FEET THAT THE ENHANCED LOT EXCEEDS 40% SITE AREA. THE OWNER OF THE ENHANCED LOT SHALL CAUSE THE REDUCTION IN ALLOWABLE IMPERVIOUS COVER ON THE RESTRICTED LOT(S) BY CAUSING A RESTRICTIVE COVENANT TO BE PREPARED, REVIEWED BY THE CITY FOR APPROVAL, AND, IF APPROVED BY THE CITY, RECORDED IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS. THE RESTRICTIVE COVENANT SHALL:

- (a) STATE THE AMOUNT OF IMPERVIOUS COVER IN EXCESS OF 40% SITE AREA THAT HAS BEEN ALLOCATED TO THE ENHANCED LOT PURSUANT TO THIS SUBDIVISION PLAT;
- (b) STATE THE AMOUNT OF IMPERVIOUS COVER ALLOWABLE ON ANY RESTRICTED LOT(S) THAT HAS BEEN REDUCED AND ALLOCATED TO THE ENHANCED LOT;
- (c) PROVIDE THAT THE REDUCTION IN IMPERVIOUS COVER ON THE RESTRICTED LOT(S) SHALL BE A RESTRICTION AND COVENANT RUNNING WITH THE LAND COMPRISING THE RESTRICTED LOT(S), BINDING ON SUBSEQUENT OWNERS AND OCCUPANTS OF THE RESTRICTED LOT(S); AND
- (d) PROVIDE THAT THE RESTRICTIVE COVENANT CANNOT BE TERMINATED OR AMENDED WITHOUT THE EXPRESS CONSENT OF THE (a) THE OWNERS OF THE ENHANCED LOT, (b) THE OWNERS OF THE RESTRICTED LOT(S), AND (c) THE CITY OF BEE CAVE.

25. IF RAINWATER HARVESTING IS PROVIDED, THE TOTAL AMOUNT OF IMPERVIOUS COVER ALLOWABLE FOR THE 7 LOTS WITHIN THIS SUMMIT 56 SUBDIVISION MAY BE INCREASED OVER THE AMOUNT STATED IN NOTE 24 TO 18,497 ACRES OF IMPERVIOUS COVER, BEING 45% OF THE SITE AREA CALCULATED IN ACCORDANCE WITH SECTIONS 20.04.043(C) AND 20.04.044 OF THE BEE CAVE CITY CODE. IN ADDITION, IF RAINWATER HARVESTING IS PROVIDED, THE AMOUNT OF IMPERVIOUS COVER FOR EACH LOT WITHIN THIS SUMMIT 56 SUBDIVISION MAY EXCEED 45% OF THE SITE AREA OF SUCH LOT, AS LONG AS THE TOTAL IMPERVIOUS COVER ON ALL 7 LOTS DOES NOT EXCEED 18,497 ACRES, AND PROVIDED THAT THE REQUIREMENTS OF NOTE 24 WITH RESPECT TO THE ENHANCED LOT, RESTRICTED LOT(S) AND RESTRICTIVE COVENANT SHALL ALSO APPLY IN THE SAME MANNER IN SUCH CIRCUMSTANCE.

26. THIS PROPERTY CONTAINS A CLOSED LANDFILL/MUNICIPAL SOLID WASTE DISPOSAL SITE (STATE MUNICIPAL SOLID WASTE PERMIT #886) PORTIONS OF WHICH ARE SITUATED ON LOTS 1 AND 2. THE BOUNDARIES OF THIS MUNICIPAL SOLID WASTE DISPOSAL SITE ARE SHOWN ON THE PLAT AND LOCATED IN VOLUME 806B, PAGE 862 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS.

27. DEVELOPMENT WITHIN THE BOUNDARIES OF THIS CLOSED MUNICIPAL SOLID WASTE DISPOSAL SITE MUST COMPLY WITH 30 TAC 330, SUBCHAPTER 1: USE OF LAND OVER CLOSED MUNICIPAL SOLID WASTE LANDFILLS. FUTURE USES ARE RESTRICTED TO THAT WHICH WILL NOT CAUSE FURTHER ADVERSE EFFECTS TO GROUND WATER, SURFACE WATER, OR HUMAN HEALTH. A PERMIT MUST BE APPROVED BY THE APPROPRIATE STATE AGENCY FOR ANY PROPOSAL OF AN ENCLOSED STRUCTURE TO BE BUILT OVER THE BURIED SOLID WASTE MATERIAL.

28. A DEVELOPMENT PERMIT FROM TRAVIS COUNTY IS ALSO REQUIRED FOR ANY DEVELOPMENT WITHIN THIS CLOSED MUNICIPAL SOLID WASTE DISPOSAL SITE AND ADJACENT LOTS WHICH COULD AFFECT THIS AREA. TRAVIS COUNTY DEVELOPMENT PERMIT APPROVAL MUST IN PART INCLUDE DESIGN CONSIDERATIONS FOR MITIGATION AND/OR REMEDIATION OF NEW DRAINAGE DISCHARGES FROM SUCH DEVELOPMENT WHICH COULD NEGATIVELY AFFECT THE AREA OF BURIED SOLID WASTE MATERIAL. IN THE EVENT THE ACTUAL BOUNDARIES OF THE BURIED SOLID WASTE MATERIAL ARE DISCOVERED TO EXTEND BEYOND THE KNOWN MUNICIPAL SOLID WASTE LANDFILL BOUNDARIES SHOWN ON THE PLAT, BUILDING RESTRICTIONS WILL APPLY TO THESE ADDITIONAL AREAS OF BURIED SOLID WASTE MATERIAL ALSO.

29. CONSTRUCTION ON THIS SITE MUST COMPLY WITH THE CITY OF BEE CAVE NPS ORDINANCE CURRENT AT TIME OF PLAT APPROVAL.

30. THE STATE LEGISLATURE HAS LIMITED THE AUTHORITY OF COUNTY GOVERNMENTS TO REGULATE LAND USE IN THE UNINCORPORATED AREAS. AT THE TIME THIS PLAT WAS APPROVED, SECTION 232.101(b) OF THE LOCAL GOVERNMENT CODE PROHIBITS TEXAS COUNTIES, UNLESS OTHERWISE AUTHORIZED BY STATE LAW, FROM REGULATING THE USE OF ANY BUILDING OR PROPERTY FOR BUSINESS, INDUSTRIAL, RESIDENTIAL, OR OTHER PURPOSES: THE BUILDING, HEIGHT, OR NUMBER OF BUILDINGS CONSTRUCTED ON A PARTICULAR TRACT OF LAND; THE SIZE OF THE BUILDING THAT CAN BE CONSTRUCTED ON A PARTICULAR TRACT OF LAND, INCLUDING WITHOUT LIMITATION AND RESTRICTION ON THE RATIO OF BUILDING FLOOR SPACE TO THE LAND SQUARE FOOTAGE; AND THE NUMBER OF RESIDENTIAL UNITS THAT CAN BE BUILT PER ACRE OF LAND, UNLESS CONTAINED IN RESTRICTIVE COVENANTS APPLICABLE TO THIS SUBDIVISION. TRAVIS COUNTY MAY NOT, AT THE TIME THIS PLAT WAS APPROVED, RESTRICT OR PROHIBIT ADVERSE LAND USES ON OR IN THE VICINITY OF LOTS IN THIS SUBDIVISION.

31. THIS SUBDIVISION IS SUBJECT TO THE CITY OF BEE CAVE LIGHTING ORDINANCE SEC. 32.05.012.

32. DEVELOPMENT OF LOTS 2 OR 3 SHALL REQUIRE CONSTRUCTION OF A TEMPORARY OR PERMANENT SECONDARY ACCESS TO HIGHWAY 71 APPROVED BY THE CITY OF BEE CAVE BETWEEN LOTS 4 AND 5 AS SHOWN ON THE PLAT. DEVELOPMENT OF LOTS 1, 4, 5, 6 AND 7 SHALL REQUIRE CONSTRUCTION OF A DRIVING AISLE FOR PERMANENT ACCESS APPROVED BY THE CITY OF BEE CAVE ACROSS THE FRONTAGE OF THE LOT WITHIN THE JOINT USE ACCESS EASEMENT AS SHOWN ON THE PLAT.

33. THE STORMWATER POND LOCATED ON LOTS 3 AND 4 WILL BE MAINTAINED BY THE PROPERTY OWNERS ASSOCIATION OR ITS ASSIGNS.

FIELD NOTES

A. DESCRIPTION OF 56,727 ACRES OF LAND SITUATED IN THE J. REYNOLDS SURVEY NO. 44, TRAVIS COUNTY, TEXAS BEING A PORTION OF THAT CERTAIN 79,727 ACRES OF LAND CONVEYED TO SUMMIT 56, LTD. BY DEED RECORDED IN DOCUMENT NO. 2007176103 OF THE OFFICIAL PUBLIC RECORDS OF S/D COUNTY, S/D 56,727 ACRES AS SHOWN HEREON, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH ROD WITH PLASTIC CAP SET ON THE NORTH MARGIN OF OLD AUSTIN-MARBLE FALLS ROAD, ALSO KNOWN AS BEE CAVE AND BURNETT ROAD DESCRIBED IN BOOK 3, PAGES 460-481 OF THE TRAVIS COUNTY COMMISSIONERS COURT RECORDS FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED 56,727 ACRES AND THE NORTHWEST CORNER OF THAT CERTAIN 23,000 ACRES OF LAND CONVEYED TO INTERNATIONAL RAIN ASSOCIATES, L.C. BY DEED RECORDED IN DOCUMENT NO. 2007196134 OF THE OFFICIAL PUBLIC RECORDS OF S/D COUNTY:

THENCE ALONG NORTH LINES OF S/D 79,727 ACRES AS FOUND FENCED AND USED UPON THE GROUND BEING THE S/D NORTH MARGIN OF OLD AUSTIN-MARBLE FALLS ROAD AND THE SOUTHERLY LINES OF THAT CERTAIN 377.46 ACRES OF LAND CONVEYED TO FALCONHEAD WEST, L.P. BY DEED RECORDED IN DOCUMENT NO. 2006025415 OF THE S/D OFFICIAL PUBLIC RECORDS THE FOLLOWING NINE (9) COURSES:

1. S76°00'53"E, 234.88 FEET TO A 10 INCH CEDAR FENCE POST FOUND;
2. S72°19'09"E, 294.98 FEET TO A 6 INCH CEDAR FENCE POST FOUND;
3. S75°58'31"E, 640.29 FEET TO A 10 INCH CEDAR FENCE POST FOUND;
4. S73°24'43"E, 549.81 FEET TO A 10 INCH CEDAR FENCE POST FOUND;
5. S70°16'12"E, 81.74 FEET TO A 10 INCH CEDAR FENCE POST FOUND;
6. S64°00'12"E, 110.63 FEET TO A 10 INCH CEDAR FENCE POST FOUND;
7. S51°55'45"E, 320.74 FEET TO A 10 INCH CEDAR FENCE POST FOUND;
8. S44°53'32"E, 627.92 FEET TO A 4 INCH CEDAR FENCE POST FOUND, AND
9. S42°51'06"E, 185.87 FEET TO A 6 INCH CEDAR FENCE POST FOUND FOR THE MOST EASTERLY CORNER OF S/D 79,727 ACRES AND THE MOST NORTHERLY CORNER OF A REMAINDER PORTION OF THAT CERTAIN 90 ACRES OF LAND CONVEYED TO DA SPILLMAN WOLBER BY DEED RECORDED IN VOLUME 688, PAGE 1 OF THE DEED RECORDS OF S/D COUNTY.

THENCE, DEPARTING THE NORTH LINE OF S/D 79,727 ACRES, THE NORTH MARGIN OF OLD AUSTIN-MARBLE FALLS ROAD AND THE SOUTHERLY LINE OF S/D 377.46 ACRES, ALONG THE EAST LINE OF S/D 79,727 ACRES AS FOUND FENCED AND USED UPON THE GROUND AND THE WEST LINE OF S/D REMAINDER PORTION S40°18'46"W, AT 175.51 FEET PASS A 6 INCH CEDAR FENCE POST, CONTINUING FOR A TOTAL DISTANCE OF 177.50 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP MARKED "RPLS 4532" SET ON THE SOUTH LINE OF S/D 79,727 ACRES AND THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF STATE HIGHWAY NO. 71 (150 FOOT R.O.W.) CONVEYED TO THE STATE OF TEXAS BY DEED RECORDED IN VOLUME 793, PAGE 608 OF THE S/D DEED RECORDS:

THENCE, DEPARTING THE EAST LINE OF S/D 79,727 ACRES AND THE WEST LINE OF S/D REMAINDER PORTION, ALONG THE SOUTH LINE OF S/D 79,727 ACRES AND S/D NORTH R.O.W. LINE, AS GENERALLY FENCED, THE FOLLOWING TWO (2) COURSES:

1. A DISTANCE OF 208.89 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS IS 1969.85 FEET, CENTRAL ANGLE IS 06°04'33" AND WHOSE CHORD BEARS N81°37'56"W, 208.79 FEET TO A CONCRETE HIGHWAY MONUMENT FOUND, AND
2. N84°34'25"W, AT 2051.54 FEET PASS A CONCRETE HIGHWAY MONUMENT FOUND, CONTINUING FOR A TOTAL DISTANCE OF 2624.39 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP MARKED "RPLS 4532" SET FOR THE SOUTHWEST CORNER HEREOF.

THENCE, DEPARTING S/D SOUTH LINE AND S/D NORTH R.O.W. LINE, CROSSING S/D 79,727 ACRES ALONG THE WEST LINE OF S/D 23,000 ACRES N13°23'07"E, 1202.90 FEET TO THE POINT OF BEGINNING CONTAINING 56,727 ACRES OF LAND MORE OR LESS.

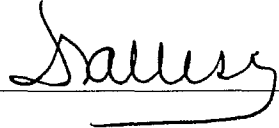
RAMSEY LAND SURVEYING, L.L.C.
8718 SOUTHWEST PARKWAY
P.O. BOX 32786
AUSTIN, TEXAS 78709-2786
PHONE (512) 301-9358
FAX (512) 301-9335
bramsey@ramsurveying.com

SUMMIT 56
FINAL PLAT

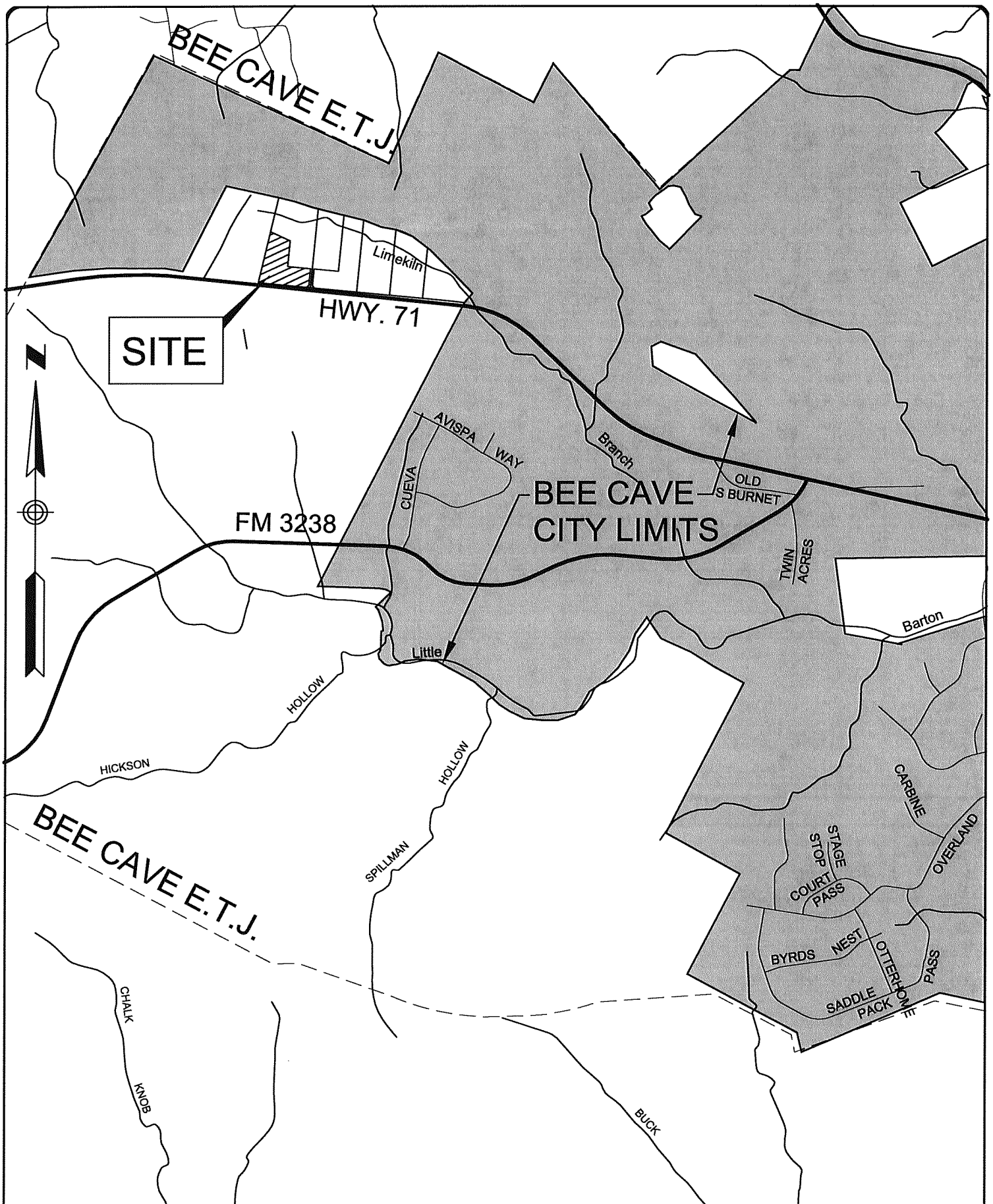
DRAWN BY	MCO/CAR
CHECKED	BR
DATE	1-09-09
PROJECT NO	1101-04
DRAWING NO	1101-01
SHEET NO	4 OF 4
FILENAME	SUMMIT56.DGN



BASIC INFORMATION FOR DEVELOPMENT

1. Circle what is proposed. Site/NPS Pre/Plats Concept Plan
 2. Complete address or location of project 15506 W STATE HWY 71 #E BEE CAVE, TX 78738
 3. Legal address LOT 1 BLOCK A SUMMIT 56 RECORDED IN DOCUMENT # 201000095.
 4. Size of Property 6.950 ACRES
 5. Ownership Information
Name of Owner Mr. Antonio Ballesca (Contact Person)
Name of Business SUMMIT AUSTIN 56 LTD.
Address of Owner 3800 Southwest Fwy Ste. 302 Houston State TX Zip 77027
Phone number (713) 350-2731 Email ABallesca@summitoftexas.com
 6. Architect/Engineer Information
Name of Company LJA ENGINEERING, INC.
Contact Person Mr. Danny Miller, P.E.
Address of Company 5316 Highway 290 W. Suite 150 Austin State TX Zip 78735
Phone Number (512) 439-4700 Email dmiller@ljaengineering.com
 7. Contractor Information
General Contractor Business Name _____
Address _____ State _____ Zip _____
Contact _____ Phone _____ Email _____
- Applicant Signature  Printed Name Mr. Antonio Ballesca
- Company SUMMIT AUSTIN 56 LTD. Date Submitted 05/10/13
- Project # _____ (Assigned by City)

****This form does not exempt the applicant from providing a Summary Letter with submittal***



LJA Engineering, Inc.

5316 Highway 290 West
Suite 150
Austin, Texas 78735



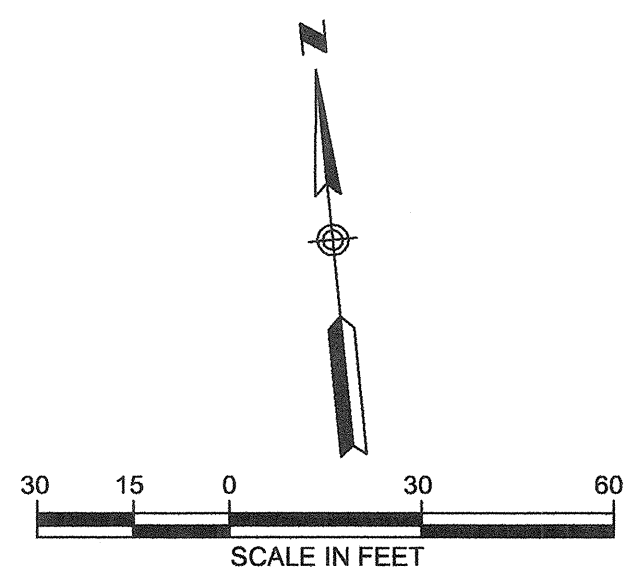
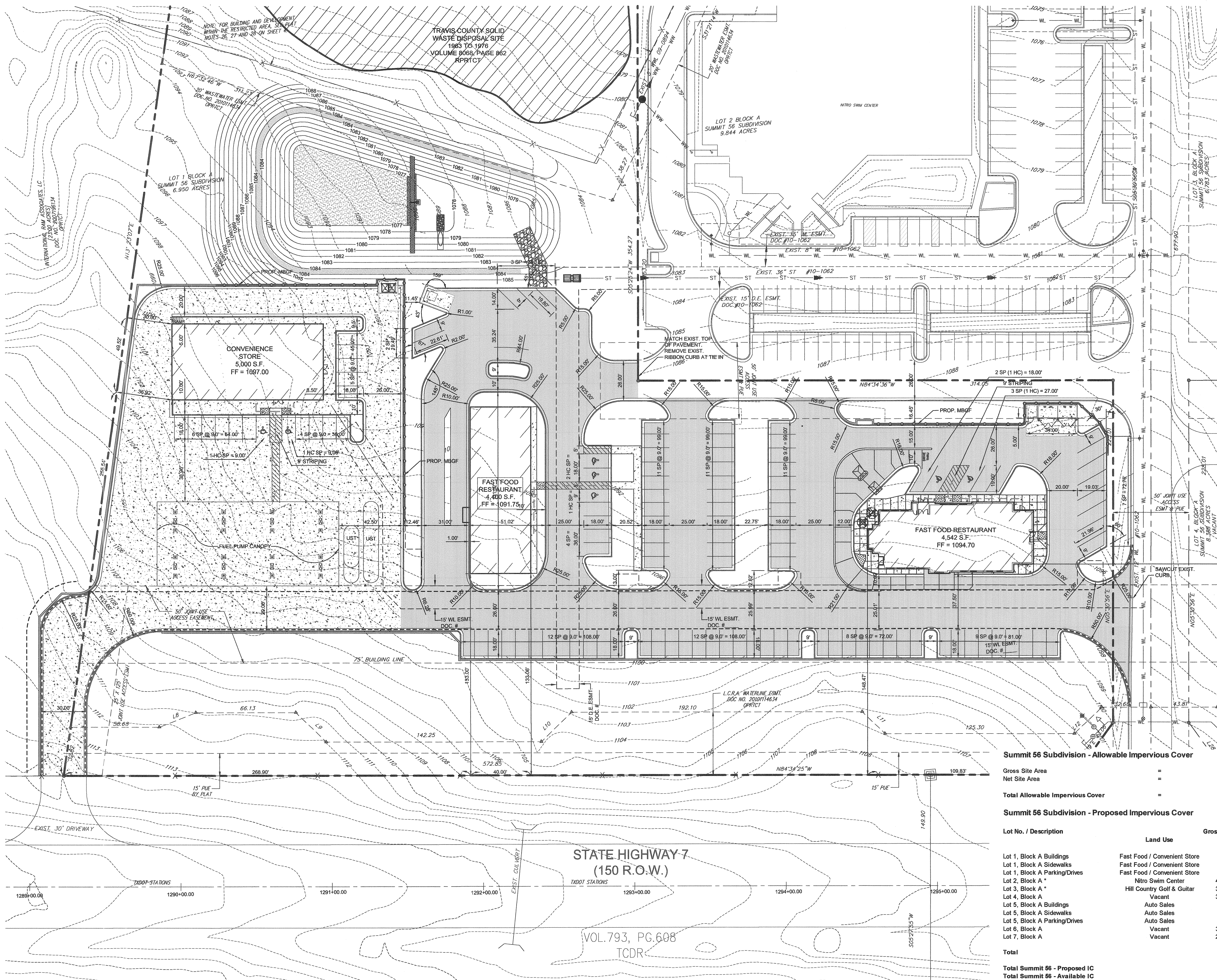
Phone 512.439.4700
Fax 512.439.4716
FRN - F-1386

SUMMIT 56 - LOT 1
LOCATION MAP

EXHIBIT 1

1 OF 1

D:\MS99_Summit 56 Lot 1 & 2\Lot 1\Submittal Plans\MS99-Lot 1-FP-SP.dwg
User: dml
Last Modified: Jul 16, 13 - 18:14
Plot Date/Time: Jul 16, 13 - 18:14



LEGEND		
PROPOSED	EXISTING	
		CONCRETE SIDEWALK
		DECOMPOSED GRANITE WALKWAY
		PROPERTY BOUNDARY
		FIRE LANE
		ACCESSIBLE ROUTE
		SIDEWALK RAMP
		HANDICAPPED PARKING SPACE & SIDEWALK RAMP
		CROSSWALK
		ST STORM SEWER LINE
		WW WASTEWATER LINE
		WL WATER LINE
		WATER VALVE
		FIRE HYDRANT
		WASTEWATER MANHOLE
		STORMSEWER MANHOLE

- NOTES:
1. ALL DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
 2. ALL RADII ARE 3' UNLESS OTHERWISE NOTED.
 3. ALL SIDEWALKS ADJACENT TO BACK OF CURB SHALL BE 5' WIDE. ALL OTHER SIDEWALKS SHALL BE 4' WIDE UNLESS OTHERWISE NOTED.
 4. ALL PAVEMENT SHALL BE ASPHALT OR CONCRETE WITH CURB AND GUTTER.
 5. BEARING BASIS IS TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS CENTRAL ZONE, NAD 83.

LEGEND	
	BUILDING
	CONCRETE
	ASPHALT

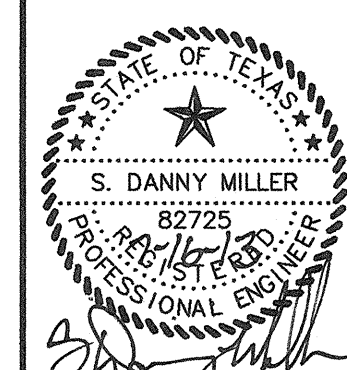
Summit 56 Subdivision - Allowable Impervious Cover			
Gross Site Area	=	56.727 Ac.	
Net Site Area	=	41.420 Ac.	
Total Allowable Impervious Cover	=	16.568 Ac.	721.695 SF

Summit 56 Subdivision - Proposed Impervious Cover					
Lot No. / Description	Land Use	Gross Site Area (sf)	Gross Site Area (Acres)	Total Proposed IC (sf)	Total Proposed IC (Acres)
Lot 1, Block A Buildings	Fast Food / Convenient Store		6.950	13,942	0.320
Lot 1, Block A Sidewalks	Fast Food / Convenient Store			4,912	0.113
Lot 1, Block A Parking/Drives	Fast Food / Convenient Store			113,141	2.597
Lot 2, Block A *	Nitro Swim Center	428,805	9.844	124,884	2.867
Lot 3, Block A *	Hill Country Golf & Gutter	319,077	7.325	101,087	2.321
Lot 4, Block A	Vacant	341,772	7.846	0	0.000
Lot 5, Block A Buildings	Auto Sales		9.853	29,005	0.666
Lot 5, Block A Sidewalks	Auto Sales			4,183	0.096
Lot 5, Block A Parking/Drives	Auto Sales	0		133,983	3.076
Lot 6, Block A	Vacant	371,523	8.529	0	0.000
Lot 7, Block A	Vacant	277,913	6.380	0	0.000
Total			56.727	528,137	12.06
Total Summit 56 - Proposed IC			56.727	528,137	12.06
Total Summit 56 - Available IC				198,558	4.51

* The impervious cover reported for Lots 2 and 3, Block A are per the approved site development plans.

SUMMIT 56 - LOT 1
SITE PLAN IMPROVEMENTS
SITE PLAN

REVISIONS	
NO.	DESCRIPTION
DATE	BY
7/16/2013	MRC
DESIGNED BY	MRC
CHECKED BY	---
DRAWING NAME: LOT 1-FP	



LJA Engineering, Inc.
Phone 512.438.4710
Suite 130
Austin, Texas 78735
FRN-F-1586

JOB NUMBER: A159-401

SHEET NO. **10**

OF 22 SHEETS

SUMMIT AUSTIN 56, LTD.

1145

City of Bee Cave

Check Number: 1145

Check Date: May 9, 2013

Check Amount: \$6,400.00

Discount Taken Amount Paid

Item to be Paid - Description

Site-NPS Site / NPS Permit Lot-1

6,400.00

1145

SUMMIT AUSTIN 56, LTD.
3800 SOUTHWEST FREEWAY, STE. 302
HOUSTON, TX 77027

INTERNATIONAL BANK OF COMMERCE
HOUSTON, TEXAS
35-86-1130

DATE

May 9, 2013


AMOUNT

***\$6,400.00

Six Thousand Four Hundred and 00/100 Dollars

PAY

TO THE City of Bee Cave
ORDER OF 400 Galleria Parkway
Bee Cave, TX 78738



⑈001145⑈ ⑆113000861⑆1110285337⑈

VILLAGE OF BEE CAVE

Municipal Court
13333A Highway 71 West
BEE CAVE, TEXAS 78738
(512) 263-2151 (512) 263-5576 Fax

CASH RECEIPT

Date 5-10-2013 001953

Received From Summit 56 LOT 1

Address 15506 Hwy 71 West

Six-thousand-four-hundred dollars Dollars \$ 6,400

For Site/NPS fees

ACCOUNT		HOW PAID	
AMT OF ACCOUNT	<u>1,400 Site Plac</u>	<input checked="" type="checkbox"/> CASH	
AMT. PAID	<u>5,000 NPS</u>	<input type="checkbox"/> CHECK	
BALANCE DUE		<input type="checkbox"/> MONEY ORDER	
		<input type="checkbox"/> CREDIT CARD	

City of Bee Cave
By [Signature]

5316 Highway 290 West
Suite 150
Austin, Texas 78735
TBPE No F-1386

Phone 512.439.4700
Fax 512.439.4716
www.ljaengineering.com

December 20, 2019

Mr. Clint Garza, City Manager
City of Bee Cave
4000 Galleria Pkwy
Bee Cave, TX 78738

Subject: Summit 56, Lot 1, Proposed Planned Development District

Dear Clint:

Attached for City review is the Re-Zoning Application for Summit 56, Lot 1. The subject property is currently zoned NS – Neighborhood Services and is platted as Lot 1, Summit 56 Subdivision, document number 201000095 of the O.P.R.T.C.T. The Summit 56 Final Plat was approved on July 27th, 2010 and recorded on August 9th, 2010. Due to the Lot 1 site plan that was previously submitted, prior to full annexation into the City, the development of Lot 1 is currently afforded certain grandfathering rights in accordance with Chapter 245 of the Local Government Code, based on the rules and regulations in effect on that date. Additionally, per Note 14 of the recorded Final Plat, the development is subject to the Covenants and Restrictions recorded in Document No. 2010114631, O.P.R.T.C.T. to which the City is not a party. This application is hereby being submitted to request a rezoning of Summit 56, Lot 1 from NS to a Planned Development District (PD) as defined by City of Bee Cave Code Section 32.03.015 with the base zoning district to remain NS.

We offer the following general statements as required by the Re-Zoning application checklist. However, these statements are not inclusive of all standards being set forth by attached Exhibit 'C'.

1. **Ordinance Compliance:** Except for the following exceptions, the proposed project will comply with the City of Bee Cave's rules and regulations in effect on July 27, 2010 and with the current NS zoning regulations per Section 32.03.009 of the City's Code of Ordinances.
 - Current Landscape Ordinance with requested exemption from Section 32.05.002(2) of the City Code and the 60% tree preservation requirement in 32.05.002(e)(3). The development agrees to plant to re-establish a minimum of 30% of the total existing tree inches whether by fee or by planting. Any existing trees in excess of 4" that are saved, and/or new trees planted anywhere on the site shall be allowed to count towards the 30% requirement. The development agrees to not remove any Protected Tree, Specimen Tree, or Specimen Tree Stand from within the buffer area that would be required under Section 32.05.002(f)(2) of the Code. Additionally, it is requested that no fees assessed per City of Bee Cave Appendix (4)(A), (4)(B), or (4)(C) shall be required provided the 30% planting requirement has been satisfied.

- A maximum of one (1) Convenience Store with fueling pumps and associated covered canopy shall be allowed; not limiting the development or quantity of other allowed uses listed in this section. A maximum of two (2) fast food restaurants providing window service access, with a maximum of two (2) in-vehicle service drive through lanes per restaurant including ordering speakers for each drive-thru lane. A second drive through lane will be allowed per each fast food restaurant but is not a requirement. The fast food restaurants and their associated vehicle drive through lanes shall not limit the development or quantity of other allowed uses listed in this section. A maximum of one (1) self-service automatic car wash with detached self-service vacuum bays will be allowed; not limiting the development or quantity of other allowed uses listed in this section.
- The convenient store, fueling pumps, and the fast food restaurants shall be allowed to operate 24 hours a day / 7 days per week.
- The convenience store shall be allowed to sell beer and wine in compliance with TABC hours and regulations.
- The 75' buffer area along SH 71, and all provided landscaped areas on site, shall be allowed to count towards the overall 20% open space requirement for the PDD without additional public accommodations being required. The development will agree to provide a public trail easement through the 75' buffer zone as is typically requested by the City.
- An accessible route will not be required by the City in order to connect all proposed buildings on the site. Accessible parking spaces shall be provided for each building individually with an accessible route provided from the accessible parking spaces to a minimum of one public building entrance. A sidewalk that provides an interconnected building route for pedestrian use will be provided on site, but it cannot be feasibly designed to meet accessibility standards due to the existing grades on the property.
- The 75' buffer zone adjacent to State Highway 71 can be used for purposes of water quality irrigation in addition to that which is currently allowed in the buffer zone per City Code.
- The NS base zoning district setbacks shall apply, however no 25' interior side yard setbacks shall be required along the eastern or western boundary lines.

2. **Comprehensive Plan:** The City's Comprehensive Plan, *Figure 3-1 Future Land Use Map*, identifies the subject tract as being located within a Suburban Corridor. The proposed project will consist of a "Convenient Store with Canopy-Covered Fueling Pumps", "Self-Serve Car Wash with detached Self-Serve Vacuum Bays", and a "Fast Food Restaurant with Vehicle Drive Through Lane". Although these uses would be considered conditionally allowed uses in the NS Base District, these uses are not incompatible with the NS district. The drive through lane for the fast food restaurant is not allowed per current zoning code but it was being allowed as part of the previously submitted site plan prior to annexation. Therefore, the drive through lane associated with the proposed fast food restaurant is being requested as a standard deviation as part of this application.

- 3. *Environment:*** There are no critical environmental features identified on the subject tract per the recent Phase 1 Environmental Assessment performed and issued in April 2016 by Horizon Environmental for Lots 1, 4, 5, 6, and 7 of the overall Summit 56 Subdivision. Please see attached. No development is permitted or proposed within the abandoned Travis County solid waste area, which occupies the northern portion of Lot 1.

No portion of Lot 1 is located within the Water Quality Buffer Zone (WQBZ) nor within the Special Flood Hazard Area (100 Year Floodplain), according to FEMA Flood Insurance Rate Map No. 48453C 0405H, Effective Date September 26, 2008. However, no portion of the proposed site development can be located within the defined Water Quality Buffer Zone, nor within the 100-Year Floodplain, or the abandoned solid waste area.

A recent Tree Survey is provided in the Concept Plan documents along with the proposed tree protection plan.

- 4. *Compatibility:*** Summit 56, Lot 1 is not located adjacent to any residentially zoned areas or uses. The property is adjacent to Summit 56, Lot 2 (Zoned NS) along its northern and eastern boundaries. The western boundary of Lot 1 is shared with the adjacent Episcopal Church Tract, which is also zoned NS. The southern boundary of the subject tract is located adjacent to Highway 71 and the required 75' landscape buffer. The properties adjacent to the south side of Highway 71 consist of commercial developments that are within the ETJ of the City of Bee Cave.
- 5. *Circulation:*** Two points of access to Lot 1 from State Highway 71 will ultimately be provided. The first point of access will be via a proposed onsite drive connection to the existing Nitro Swim Center Drive which already accesses SH 71 W. The second point of access will be via a proposed shared driveway (to provide joint access with the Episcopal Church) at the southwest corner of the subject property that will also access SH 71 W. As part of platting the property, 50' joint access easements were dedicated for purpose of the providing access between the lots and for future anticipated dry utility installations.

Traffic Impact Analysis requirements shall be per the recently updated TIA (see attached TIA dated 10/7/2019) which modified the previously approved TIA (see attached TIA dated 6/14/2016) performed by Alliance Transportation Group. The updated TIA includes the addition of a proposed car wash and the removal of one fast food restaurant from Lot 1, which results in a decrease in the number of overall vehicle trips. The TIA dated 6/14/2016 recommends the installation of a 375' right turn-lane for future Driveway #1, which is to be a joint access (shared) driveway located at the southwest corner of Lot 1. This requirement will be upheld. Driveway #1 shall provide shared access for both Lot 1, per the joint access recorded per Plat, and per a joint access easement to be dedicated on the adjacent Episcopal Church tract. The proposed joint access driveway will require a TxDOT permit.

A sidewalk that provides an interconnected building route for pedestrian use will be provided on site, but it cannot be feasibly designed to meet accessibility standards due to the existing grades on the property.

An easement will be dedicated for a public trail within the 75' buffer zone.

6. **Street Safety and Design:** There will be no public streets on the property. All existing drive aisles located on the property and all future drive aisles to be located on the property are to be privately owned and maintained. Along proposed fire lanes, which are indicated on the concept plan, the slope in the direction of travel may not exceed 15% per Fire Code without an approved variance. The proposed fire lane and all two-way travel lanes must be a minimum of 25' wide. The fire lane must be designed to ensure 25' minimum horizontal turning radii with a minimum 15' of vertical clearance.
7. **Parking:** All parking facilities will meet current City and ESD No 6 requirements. Loading spaces are not required for these buildings as they are all less than 10,000 SF.
8. **Future Thoroughfare Plan:** Per *Figure 3-1 Thoroughfare Plan* from the City's Comprehensive Plan, there are no existing or proposed thoroughfares that would be impacted by this project.
9. **Landscaping and Screening:** This project will comply with the City's current landscape and screening requirements with the exception of the 60% tree protection requirement.
10. **Lighting:** A lighting plan has not been completed at this time. The project intends to comply with the City's current lighting ordinance.
11. **Open Space:** The 75' buffer area will be preserved to the maximum extent possible, used only to accommodate water quality irrigation, other required permanent irrigation, and underground utilities. As mentioned previously, it is requested that the 75' buffer space and all provided landscaping areas on Lot 1 be allowed to count toward towards the 20% open space requirement for the PDD with no other public accommodations being required except for the trail easement to be dedicated as part of the Site NPS plan approval.
12. **Utilities:** Public water and wastewater improvements were installed with the Summit 56 Subdivision Construction Plans for the purpose of serving all seven (7) lots in the subdivision. Since that time, the Nitro Swim Center project extended a 12" water main northward within the Nitro Drive in order to serve the swim center building.

Water service will be taken via a proposed connection to the existing 12" water line in the Nitro Drive. The existing 12" water line is located within a 50' J.A.E./P.U.E. dedicated with the Summit 56 Final Plat. The proposed water main to serve the Lot 1 site will be extended into the site from the Nitro Drive as needed in order to serve the proposed buildings to be constructed on Lot 1.

Wastewater service will be obtained by connecting to the existing 8" stub out located near the southwest corner of Lot 2, which was constructed as part of the Summit 56 Subdivision Construction Plans. The stub out was constructed for purposes of serving Lot 1 and is located within a dedicated public wastewater easement. A proposed 8-inch wastewater line will be extended into the main portion of Lot 1 as necessary in order to serve the proposed future buildings to be constructed on Lot 1.

Coordination with the dry utility providers (AT&T, One Gas, & Austin Energy) has occurred on several occasions to ensure that electric, cable, and gas service can be provided to the site. The availability of dry utilities to serve the property has been confirmed, although AT&T no longer issues service commitment letters. The prescribed routings/extensions of dry utilities for the purpose of serving Lot 1 will be determined as part of designing the overall Lot 1 Site Development Plans.

We appreciate your review of this request. If you should have any questions, please do not hesitate to contact me at 512-439-4700.

Sincerely,



Reese Hurley, P.E.
Project Manager
LJA Engineering, Inc.

SUMMIT 56 - LOT 1 PDD CONCEPTUAL SITE PLAN

SUMMIT 56 - LOT 1 PDD
SITE CONCEPTUAL PLANS
A159-0402A



SUBMITTED FOR APPROVAL BY:
LJA ENGINEERING, INC.

Resa M. Hurley
RESA M. HURLEY, P.E. #198211
LICENSED PROFESSIONAL ENGINEER

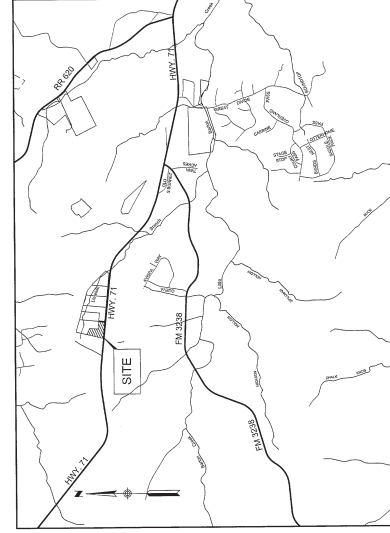
-12-20-2019
CITY OF BEE CAVE SUBMITTAL DATE

REVIEWED BY:

DATE

CITY ADMINISTRATOR

DATE



LOCATION MAP
(N.T.S.)

ADDRESS:
15006 W. GLENVIEW, HWY 71
BEE CAVE, TX 78738

LEGAL DESCRIPTION:
LOT 1, BEE CAVE ACQUISITION, DIVISION, E. 850 AC.
BEE CAVE, TEXAS
DOC. # 201008098, OPTCO TX

SOURCE BENCHMARK INFORMATION:
THE ELEVATIONS SHOWN ON THIS PROJECT ARE
BASED ON BENCHMARK FROM THE SUMMIT 56 FINAL PLAT
AND THE ELEVATION OF THE BENCHMARK IS 1054.63.
POWER POLE WITH AN ELEVATION OF 1054.63.

CONTRACTOR: SUMMIT 56 ACQUISITION, DIVISION, E. 850 AC.
BEE CAVE, TEXAS
CONTACT: JACOB BALLEGAARD
PHONE: 512.439.4772
FAX: 512.439.4772

ENGINEER: LJA ENGINEERING
1500 W. GLENVIEW, BLDG. 100, SUITE 100
BEE CAVE, TEXAS 78738
CONTACT: RESA M. HURLEY, P.E.
PHONE: 512.439.4772
FAX: 512.439.4772

- NOTES:
- ALL RESPONSIBILITY FOR THE ADEQUACY OF THESE PLANS REMAINS WITH THE ENGINEER WHO PREPARED THEM. IN APPROVING THESE PLANS, THE CITY OF BEE CAVE AND TRAVIS COUNTY MUST RELY UPON THE ADEQUACY OF THE WORK OF THE DESIGN ENGINEER.
 - THIS PROJECT IS LOCATED IN THE LITTLE BARTON CREEK WATERSHED. THIS PROJECT IS WITHIN THE EDWARDS AQUIFER CONTRIBUTING ZONE.
 - THIS PROJECT IS LOCATED IN THE CITY OF BEE CAVE AND TRAVIS COUNTY, TEXAS.
 - AN INPS PERMIT IS REQUIRED PRIOR TO CONSTRUCTION OF THE SITE.
 - ON-SITE WATER QUALITY AND 2-YEAR DETENTION IS REQUIRED TO BE PROVIDED FOR THIS PROJECT IN THE GENERAL LOCATION SHOWN HEREIN. FINAL LOCATION TO BE SHOWN ON FUTURE SITE DEVELOPMENT PLANS.

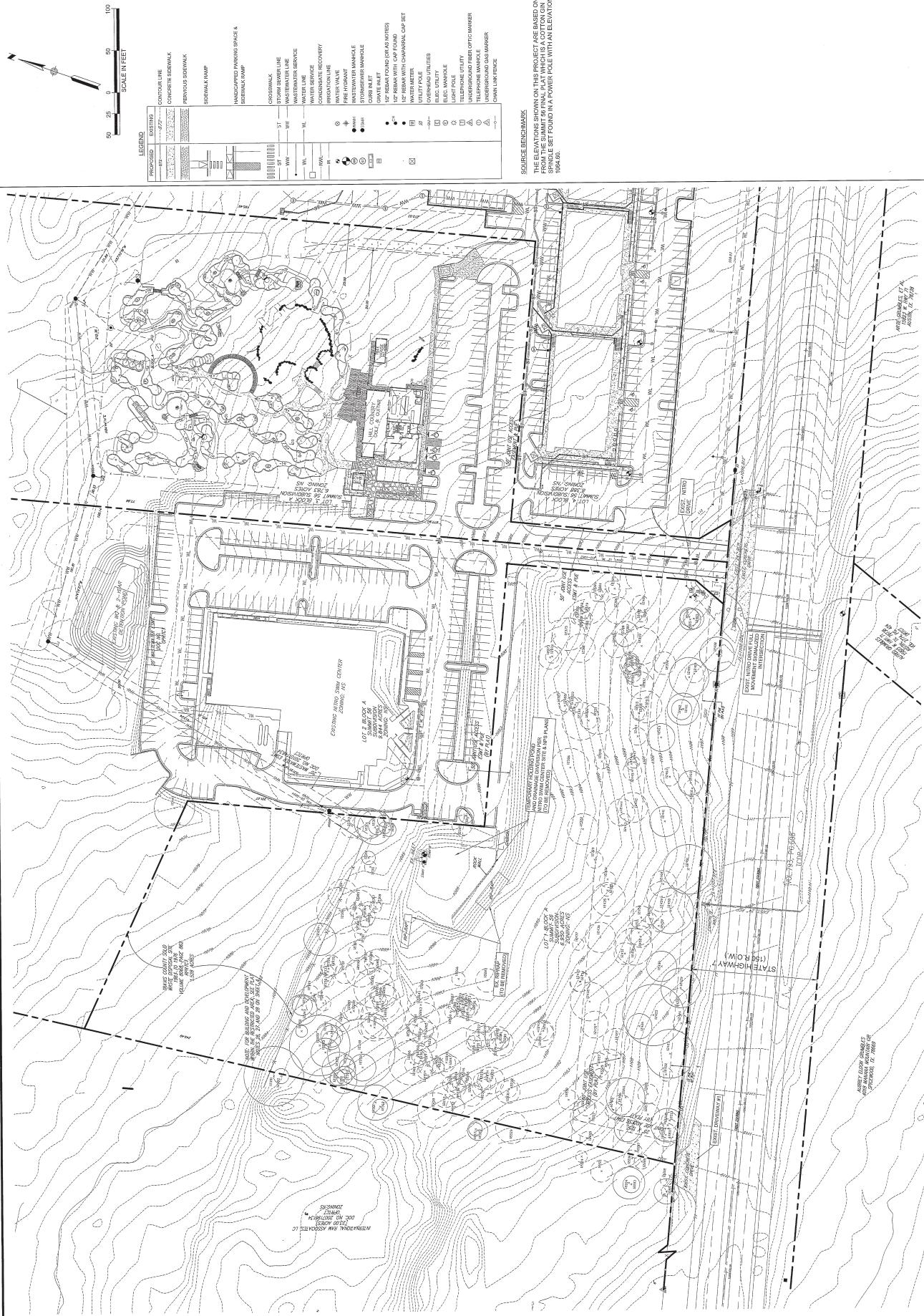
REVISIONS / CORRECTIONS				
Number	Description	Revised By (Initials)	Revised Date	Checked By (Initials)

Sheet Number	Sheet Description	Sheet Title
01	COVER SHEET	COVER SHEET
02	EXISTING CONDITIONS	EXISTING CONDITIONS
03	OVERALL SITE PLAN	OVERALL SITE PLAN
04	SLOPE MAP	SLOPE MAP
05	SITE PLAN	SITE PLAN
06	EC01	EROSION CONTROL & TREE PROTECTION PLAN
07	EC02	EROSION CONTROL & TREE PROTECTION PLAN
08	LP01	TREE LIST
09	LP02	LANDSCAPE PLAN
10	LP03	LANDSCAPE PLAN
11	EL01	RENDERINGS

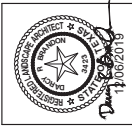
LOCATION OF EXISTING UTILITIES ARE APPROXIMATE. THE EXACT LOCATION OF ALL UTILITIES SHALL BE DETERMINED BY THE CONTRACTOR. BEGINNING WORK AND SHALL BE FULLY RESPONSIBLE FOR THE LOCATION OF ALL UTILITIES. CALL BEFORE YOU DIG.

811
Know what's below.
Call before you dig.

LJA Engineering, Inc.
7500 Riata Boulevard
Building II, Suite 100
Austin, Texas 78735
Phone 512.439.4770
Fax 512.439.4716
FRN - F-1386







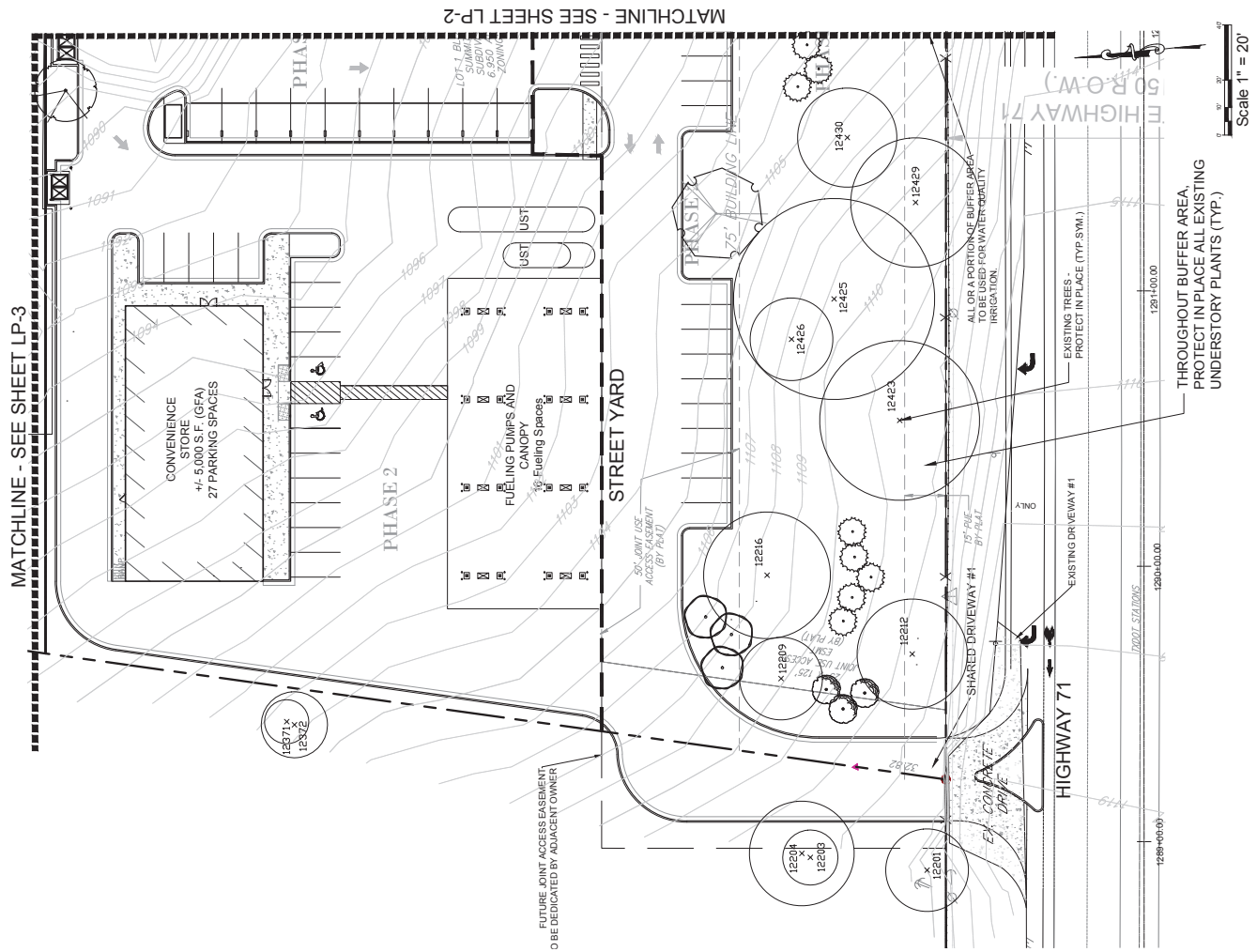
BPI Realty Services, Inc.
3800 Southwest Fwy, Suite 304
Houston, TX 77027

Project Name
Summit 56 - Lot 1
West Hwy 71
Bee Cave, TX 78738

PRELIMINARY
PLANTING
PLAN

Date	Comment

Project Number
Date
Drawn By
Checked By
LP01
SHEET
08 OF 11



MATCHLINE - SEE SHEET LP-3

MATCHLINE - SEE SHEET LP-2

THROUGHOUT BUFFER AREA
PROTECT IN PLACE ALL EXISTING
UNDERSTORY PLANTS (TYP.)

Scale 1" = 20'

LANDSCAPE CALCULATIONS	
EXISTING TREE SUMMARY	PROPOSED NEW PLANTINGS SUMMARY
TOTAL EXISTING CALIPER INCHES = 3,232.0"	TOTAL CALIPER INCHES PROPOSED WITHIN 75' BUFFER = 70"
TOTAL EXISTING CALIPER INCHES = 72%	TOTAL CALIPER INCHES PROPOSED WITHIN 75' BUFFER = 11.1%
EXIST. CALIPER INCHES PRESERVED = 560.0' / 28%	TOTAL PROPOSED CALIPER INCHES = 188"
EXIST. CALIPER INCHES PRESERVED = 560.0' / 28%	EXIST. CALIPER INCHES SAVED = 89"
	PROPOSED CALIPER INCHES = 188"
	TOTAL CALIPER INCHES PROPOSED = 1,191" / 33.75%
BUFFER - HIGHWAY 71	67% LF
TREES REQUIRED, 2" CAL:	4 TREES (7 TREES PER 100 LF)
TREES REQUIRED, 3" CAL:	20 TREES (3 TREES PER 100 LF)
TREES REQUIRED, 4" CAL:	14 TREES (2 TREES PER 100 LF)
TREES PROVIDED:	0 TREES
CALIPER INCHES REQUIRED:	210"
CALIPER INCHES PRESERVED IN BUFFER = 21"	
CALIPER INCHES REMOVED IN BUFFER = 21"	
TOTAL CALIPER INCHES REMOVED IN BUFFER = 134"	
STREET YARD	46,815 SF
AREA TO BE SHADDED:	23,408 SF (50% OF STREET YARD)
TREES REQUIRED FIRST 1,000 SF:	10 TREES (1 TREES PER 100 LF)
TREES REQUIRED NEXT 1,000 SF:	10 TREES (1 TREES PER 100 LF)
TREES REQUIRED NEXT 1,000 SF:	10 TREES (1 TREES PER 100 LF)
TOTAL TREES PROVIDED:	15 TREES
VEHICULAR USE AREA (VUA)	114,637 SF
AREA TO BE SHADDED:	28,667 SF (25% OF VUA)
TREES REQUIRED:	20 TREES x 1,260 SF x 7% =
TOTAL TREES PROVIDED:	24 TREES
	24 TREES

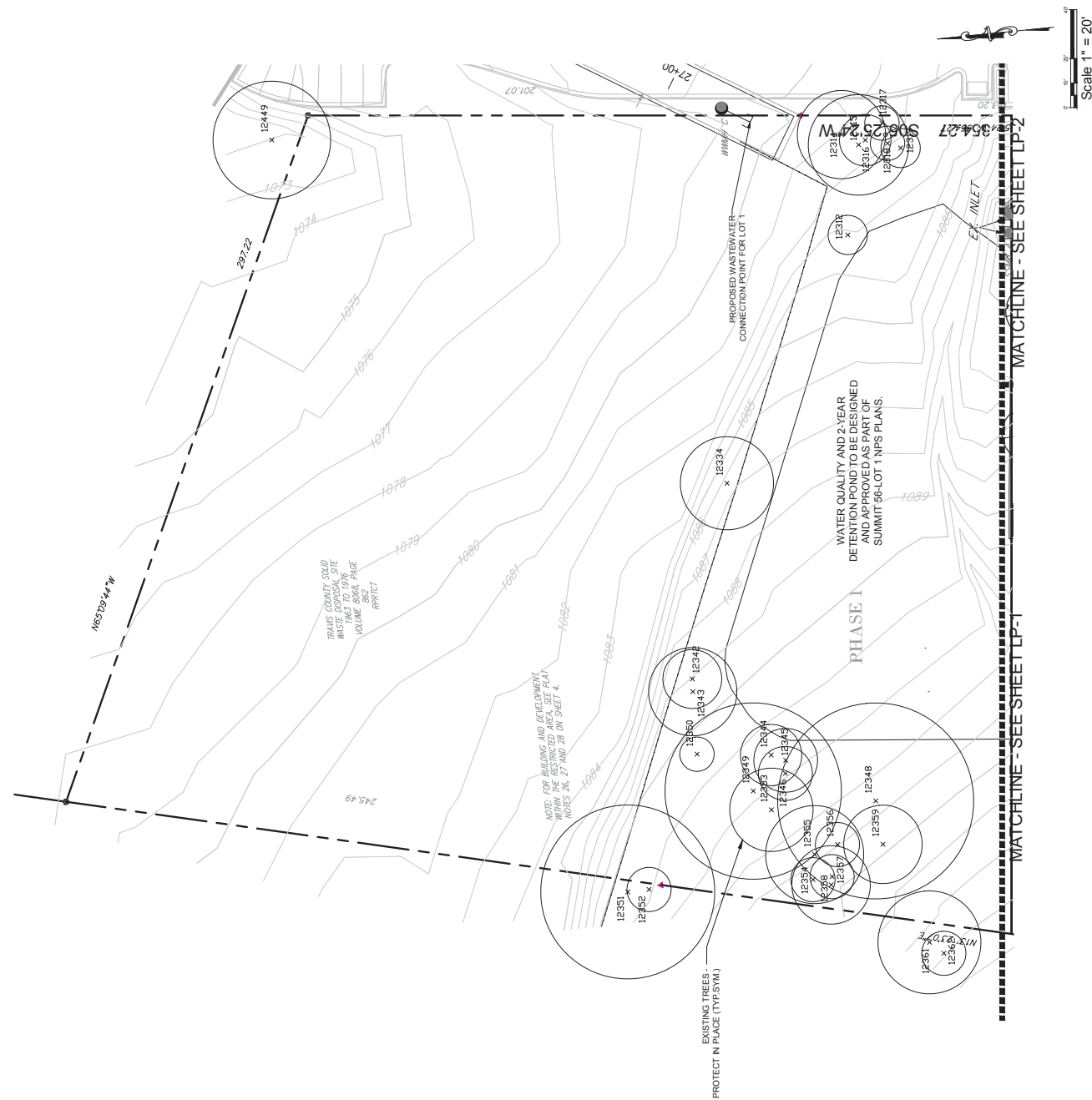
PLANT LEGEND

BOTANICAL NAME (ABBV)	COMMON NAME	SIZE	SPACING	QTY	REMARKS
BUFFER TREES					
LEX VOMITORIA (LVO)	YALPON HOLLY	45/50" BOX	PER PLAN	24	3.5 CANES 2" CAL 16'8" H x 3.4" W STANDARD TRUNK 2" CAL 16'8" x 3.4"
SOPHORA SECUNDIFLORA (SOSE)	TEXAS MOUNTAIN LAUREL	45/50" BOX	PER PLAN	11	
PARKING LOT TREES					
LEX VOMITORIA (LVO)	YALPON HOLLY	45/50" BOX	PER PLAN	17	3.5 CANES 2" CAL 16'8" H x 3.4" W
LAGERSTROEMIA INDICA (LANI)	CHINESE MYRTLE	45/50" BOX	PER PLAN	4	3.5 CANES
PRETACA CHENSIS (PCHI)	CHINESE PISTACHE	10" HIGH MIN.	PER PLAN	5	2" CAL 10' H x 3.4" W, MALE ONLY
QUERCUS MULLENBERGII (QUMU)	CHINQUAPIN OAK	14" HIGH MIN.	PER PLAN	8	4" CAL 14' H x 15' H
STREET YARD TREES					
LAGERSTROEMIA INDICA (LANI)	CHINESE MYRTLE	45/50" BOX	PER PLAN	4	3.5 CANES 2" CAL 16'8" H x 3.4" W
PRETACA CHENSIS (PCHI)	CHINESE PISTACHE	10" HIGH MIN.	PER PLAN	5	2" CAL 10' H x 3.4" W, MALE ONLY
QUERCUS MULLENBERGII (QUMU)	CHINQUAPIN OAK	14" HIGH MIN.	PER PLAN	8	4" CAL 14' H x 15' H



MATCHLINE - SEE SHEET LP-1

AFTER ALL PLANTING IS COMPLETE, CONTRACTOR SHALL INSTALL 3" THICK LAYER OF 1-1/2" SHREDDED WOOD MULCH IN ALL PLANTING AREAS (EXCEPT FOR TURF AND SEEDED AREAS). CONTRACTOR SHALL SUBMIT SAMPLES OF ALL MULCHES TO LANDSCAPE ARCHITECT AND OWNER FOR APPROVAL PRIOR TO CONSTRUCTION. ABSOLUTELY NO EXPOSED GROUND SHALL BE LEFT SHOWING ANYWHERE ON THE PROJECT AFTER MULCH HAS BEEN INSTALLED.





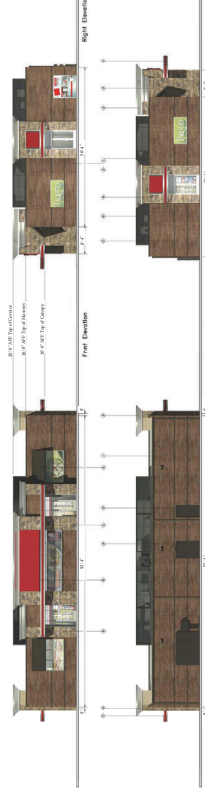
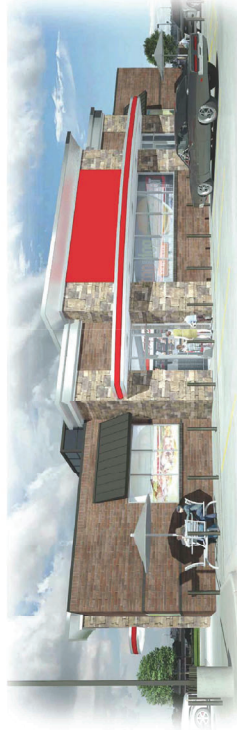
RESTAURANT
SCALE: 1/8" = 1'-0"

2



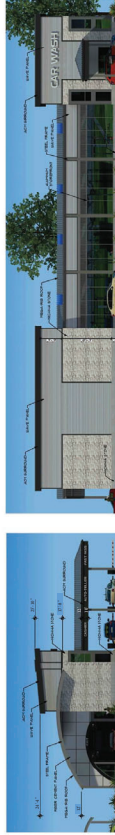
FUEL CANOPY
SCALE: 1/8" = 1'-0"

2



CONVENIENCE STORE
SCALE: 1/8" = 1'-0"

1



CARWASH
SCALE: 1/8" = 1'-0"

3



Heights Venture
ARCHITECTURE + DESIGN
111 South Loop West, Suite 300
Houston, Texas 77028
713.489.1700
713.489.7292

SUMMIT 56 LOT 1

15506 W. STATE HIGHWAY 71
BEE CAVE, TX 78738

Project Number	00000
Project Name	Summit 56 Lot 1
Project Date	11/1/2019
Project Type	SR
Project Status	PRELIMINARY

RENDERINGS

ELO1
SHEET
11 OF 11

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DEVELOPMENT STANDARDS

The following development standards shall be applicable within this Planned Development District (the "District"). To the extent that any of the following standards conflict with City Ordinances as of January 1, 2019, the following shall control. Except as modified herein, all development activity undertaken on the Property (the "Project") shall comply with all other current City Ordinances and requirements. Capitalized terms contained herein shall be defined as indicated in these Planned Development Standards, as reflected on the Concept Plan, or as defined in the City of Bee Cave Code of Ordinances, depending upon context. The Neighborhood Services zoning district is the base zoning district upon which this Planned Development District is based.

1. General Project Design Requirements and Open Space

- (a) The Project shall be designed and constructed to include only those uses listed in Section 9 herein, as well as, open spaces, pedestrian paths and sidewalks, and storm water quality and detention features, as depicted on the Concept Plan. Project will be required to meet Section 32.03.015(b)(2) of the Code of Ordinances at Site / NPS Plan submittal
- (b) If twenty percent (20%) Open Space as required by Section 32.03.015(b)(2) cannot be provided, a fee in lieu in the amount of \$1,000 per acre, prorated to the amount of deficient acreage may be accepted, with the following conditions:
 - i. The abandoned Travis County Solid Waste Disposal Area located within the northern portion of the District shall not be considered as part of the gross site area for purposes of calculating open space requirements nor will it be counted as open space. Open Space requirements shall be calculated based on the developable area of the property. The area of the property not located within the fenced in boundary is equal to 5.42 acres. Therefore, the open space requirement shall be equal to $20\% \times 5.42 \text{ acres} = 1.085 \text{ acres}$.
 - ii. All non-paved areas on Lot 1 that are within the 75' buffer area shall be allowed to count towards meeting the 20% open space requirement.
 - iii. All proposed landscaped areas on the project shall be allowed to count towards the 20% open space requirement.

2. Setbacks

- (a) The NS base zoning district setbacks shall apply, however no 25' interior side yard setbacks shall be required along the eastern or western boundary lines.

3. Exterior Building Materials

In addition to the guidelines and materials permitted in Section 32.05.005 of the City Code of Ordinances, building facades are permitted to be faced with synthetic stone or brick of like quality and appearance as natural stone or brick, and/or commercial grade stucco. Colored or natural finish metal accent panels shall be allowed but may constitute no more than thirty-three

percent (33%) of any single façade. Colored or natural finish metal roof copings, cornices, awnings, or canopies are allowed and are not included in the % finish calculations. Curved roofs shall be considered and treated as pitched roofs per Sec. 32.05.005. Rear building facades not facing the public R.O.W. or other buildings within the development as well as fuel canopies shall be exempt from the Variation and horizontal, vertical, or facade Articulation requirements. Glass windows on facades not facing the public R.O.W. shall be allowed to be continuous. The fuel canopy shall not be considered an outparcel, liner, or other building. Painted wood or synthetic material with like quality and appearance as painted wood may be permitted on buildings in the City Council's discretion in conjunction with approval of each Site Plan.

4. Retaining Walls and Screening Walls

- (a) Retaining Walls shall not be required to comply with Section 32.05.003(d)(1) or (d)(3) of the City Code of Ordinances, so long as retaining walls are designed by a licensed structural engineer.
- (b) Retaining Walls are not required for excavations that are made in rock, so long as the stability of the rock has been adequately evaluated by a licensed structural or geotechnical engineer.

5. Concept Plan and Site Plan Depictions of Buildings; Exterior Building Design Standards

- (a) Front, side, and rear architectural elevations depicting the massing, variation, articulation, offsets/insets, aesthetic detailing and other design elements as required by Section 32.05.005 of the City Code of Ordinances shall be submitted for approval in conjunction with approval of the Site Plan for the phase of development in which such building or other improvement is to be constructed.
- (b) In conjunction with approval of the Site Plan, the City Council has authority to approve a building design which deviates from the requirements of this Ordinance, in accordance with Section 32.05.005(b)(2) of the City Code of Ordinances.
- (c) Buildings depicted on the Concept Plan are understood to be conceptual in size and dimensions and may have a range of square footage or maximum square footage as allowed per the NS District. Final building areas shall be submitted for approval in conjunction with approval of the Site Plan for the phase of development in which such building or other improvement is to be constructed. "Minor Deviations", as described in Section 14, will be allowed.
- (d) Building elevation renderings included in the site conceptual plan shall be allowed the flexibility to change, as part of the site development plan application, so long as submitted renderings comply with Sections 3 and 5 included herein. In the case of a discrepancy between current zoning code and this PDD ordinance, this PDD ordinance shall govern.
- (e) A lighting plan, meeting the standards of Section 32.05.012(h) of the City Code of Ordinances shall be provided with the Site Plan application for each phase of development.

Any proposed Project-wide lighting shall be included in the Site Plan application for Phase 1.

6. Parking Areas

- (a) Each Building/Use and Project Phase shall include off street parking spaces in the amount required by Section 32.05.001 of the City's Code of Ordinances prior to issuance of a Certificate of Occupancy for any building with the corresponding Phase with the following exceptions:
 - i. In the event a previously constructed Project Phase has parking in excess of what is required to serve that Phase, the excess may be counted towards the required parking for a subsequent Project Phase, provided that all required parking for any building/use are provided and located in accordance with the standards of Section 32.05.001(h) of the City's Code of Ordinances.
 - ii. In the event the Project is subdivided, and separate Buildings and parking areas are constructed, required parking may be located on a separate parking area from the building/use served provided such parking is located within Lot 1 or located within an easement area that the Project has the right to use.

7. Location and Design of Water Quality and Detention Ponds

- (a) The project water quality and detention pond may be located in the general area depicted on the Concept Plan, or other area permitted by the City within the District, provided the pond shall not be allowed within the 75 ft. landscape buffer adjacent to SH 71
- (b) Any fencing around water quality or detention ponds required for safety must be decorative wrought iron or other material as approved by City Council at Site Plan.

8. Impervious Cover and Non-Point Source Pollution Control Standards for Water Quality Controls

- (a) Impervious cover within the District is allowed up to a maximum of 40% of the District area. Impervious cover within the District is allowed up to a maximum of 45% of the District area if rainwater harvesting is provided.
- (b) A 10 ft. wide trail, constructed within the site that is part of or will connect to the City's public trail network shall not count towards the impervious cover limit but must be accounted for in water quality calculations. Any easements dedicated to the City for purposes of a pedestrian trail shall be allowed to count as open space.

9. Permitted Uses in the District in Addition to NS - Neighborhood Service District Permitted Uses

- (a) The following uses are permitted by right as Additional Uses (the singular may include the plural):
- Any use allowed within the NS Base District
 - A maximum of one (1) Convenience Store with fueling pumps and associated covered canopy shall be allowed; not limiting the development or quantity of other allowed uses listed in this section.
 - A maximum of two (2) fast food restaurants with a maximum of two (2) in vehicle service drive through lanes per restaurant providing window service access with exterior speakers for placing orders for each drive-thru lane. The fast food restaurants and their associated vehicle drive through lanes shall not limit the development or quantity of other allowed uses listed in this section.
 - A maximum of one (1) self-service automatic car wash with detached self-service vacuum bays will be allowed; not limiting the development or quantity of other allowed uses listed in this section.
- (b) The convenience store with fueling pumps and the fast food restaurants shall be allowed to operate 24 hours a day / 7 days per week. The convenience store shall be allowed to sell beer and wine in compliance with TABC hours and regulations.
- (c) Vehicle drive-through ordering lanes for fast food restaurants shall have a minimum of 5 stacking spaces per service window. The drive through stacking lanes depicted on the Conceptual Site Plan is approved.

10. Landscaping

- (a) Landscaping shall meet current City of Bee Cave requirements, except as set forth below.
- (b) A tree survey completed within the preceding two years must be provided with each Site Plan/NPS application for the Project. The tree survey provided with this PDD Concept Plan shall be deemed adequate for subsequent Site Plan / NPS application for any Phase One of the Project, provided a Site Plan / NPS application is submitted to the City within two years of the approval date of this Ordinance.
- (c) The development shall retain and/or replace the required number of tree inches, either by planting or paid fees, in order to establish 30% of the caliper inches of all existing trees over four inches (4") after site development in lieu of the 60% required by Code Section 32.05.002(e)(3). The required planting shall be provided such that as each phase of development is constructed the overall 30% requirement shall be continuously met. Any trees planted, regardless of the location on the property, shall be allowed to count towards meeting the 30% requirement. No landscape review or tree fees required per City of Bee Cave Appendix (4)(A), (4)(B), or (4)(C) shall be applied provided the 30% planting requirement has been met.
- (d) The development shall not be required to meet Section 32.05.002(2), except that the development agrees to not remove any Protected Tree, Specimen Tree, or Specimen Tree

Stand from within the buffer area that would be required under Section 32.05.002(f)(2) of the Code.

- (e) A landscaping plan consistent with the requirements of Section 32.05.002 of the City's Code of Ordinances, except as modified herein, shall be provided with all site plan applications for the Project. To the extent there is any conflict between an approved Landscape Plan for the Project and any other City landscape ordinance, the requirements of the approved Landscape Plan shall control.

11. Off Street Loading and Service Areas

- (a) Loading areas shall not be required for buildings less than 10,000 SF.
- (b) Dumpsters shall be located as shown on the concept plan or can be located elsewhere so long as the location and provided screening complies with current City code.

12. Site Access and Roadway Improvements

- (a) The Project shall be allowed one (1) additional access point to SH 71 and will also have driveway access to the existing Nitro Drive. The additional access point shall be at the location generally depicted in the Concept Plan pursuant to approval of a TxDOT driveway permit. This driveway shall be a shared (joint access) driveway with the adjacent western tract and shall have a minimum width of 30 feet.
- (b) Development of the new driveway shall include construction of a right turn lane into the Project along Hwy 71 per the approved TIA. The right turn lane shall be completed prior to issuance of the first Certificate of Occupancy ("CO") for any building in the District. Final design of the improvements on Hwy 71 shall be subject to TxDOT approval.
- (c) Any changes required to the location and configuration of the proposed driveway connection to SH 71, which may further require changes in building and parking layout required herein, that are due to TxDOT requirements, shall be considered "Minor Modifications" and may be approved with the corresponding Site Plan.

13. Pedestrian Circulation

- (a) Sidewalks are not required adjacent to private drive aisles in the project.
- (b) Sidewalks and pedestrian walkways shall be located as generally depicted in the Concept Plan.
- (c) The Project shall include a minimum of one (1) pedestrian route connecting all of the buildings within the District, however, the provided pedestrian route will not be required to be ADA compliant due to the existing site topography. Each building shall provide an accessible route from its respective provided accessible parking to a minimum of one (1) main public entrance.

- (d) Where pedestrian guard rails are required by Building Code, guardrails shall be wrought iron or other material as approved by City Council at the time of Site Plan.
- (e) Prior to issuance of the Site Development Permit associated with the Project, Owner shall record a 20 ft. easement for a 10' wide trail within the SH-71 landscape buffer. Accessible routes from the trail to any of the building entrances shall not be required. The 20 ft. trail easement shall allow the construction of crossing utilities and irrigation sprinkler heads and will be allowed to count towards meeting the 20% open space requirement for the PDD.

14. Monument Signs

The Project shall be permitted to have three (3) individual monument signs to be located in the areas shown on the Conceptual Site Plan. Each sign shall be allowed to have a maximum sign surface area of thirty-six (36) square feet, with a horizontal dimension not to exceed twelve (12) feet and a maximum height of eight (8) feet. Each sign shall only contain the name of the business, respective business address, and the nature of the activity with the exception of the Convenience Store sign that will be permitted to advertise gas pricing.

15. Other Requirements

- (a) Site areas within Phases 1, 2, 3 and 4 may be cleared and rough graded, only to the extent necessary to construct Phase 1 infrastructure, i.e. stormwater ponds, storm sewer improvements, access drives, water and wastewater utilities, including placement of excavated material resulting from Phase 1 work. All placed material shall be fully compacted, not stock piled, and upon completion of Phase 1, shall be revegetated if construction of the respective Phase 2, 3 or 4 has not commenced.
- (b) "Minor Modifications" of the Concept Plan and/or Site Plan for the Project may be approved administratively by the City Manager provided such modifications would not otherwise result in a violation of the City's Code of Ordinances as modified by these Planned Development Standards. "Minor Modifications" shall be as defined in Section 32.02.006, except as modified herein:
 - i. Adjustments of no more than twenty-five feet (25') to the location or configuration of roadways, sidewalks, utilities, parking areas, buildings or permissible building areas, landscape features, (including plants and trees,) ponds and any other improvements depicted on the Concept Plan and/or Site Plan are to be considered "Minor Modifications". Adjustments up to 100 feet may be acceptable and approved administratively, at the City's discretion, if the adjustments are for the purpose of protecting existing trees or other natural features that may not be identified at this time.
- (c) Construction Traffic Control Plans shall be submitted and approved in conjunction with each Site Plan for the Project.

- i. Hours of construction with the Project are limited to 7:00 am – 7:00 pm Monday-Friday and 8:00 am – 7:00 pm Saturday – Sunday.
 - ii. Reasonable efforts shall be required to limit truck traffic impacts from construction to the extent feasible to avoid traffic stopping on Hwy 71. A note has been provided on the Concept Plan indicating that the right turn lane along SH 71 must be constructed before construction access for purposes of site development will be permitted at Driveway #1.
- (d) For purposes of determining compliance with City ordinances, the entire District shall be treated as a single lot, regardless of the number of lots platted within the District and regardless of dedication of property within the District to any governmental entity.



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NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED WITH VENDOR'S LIEN

Date: SEPTEMBER 17, 2007

Grantor: DONNA L. GRUMBLES; RICHARD GRUMBLES;
AUBREY ELDON GRUMBLES; and ROBERT GRUMBLES
not joined herein by their spouses, as this property constitutes no part of their
business or residential homestead

Grantor's Mailing Address:

DONNA L. GRUMBLES
RICHARD GRUMBLES
AUBREY ELDON GRUMBLES
ROBERT GRUMBLES
15318 HAMILTON ROAD
AUSTIN, TEXAS 78738- TRAVIS COUNTY

Grantee: SUMMIT AUSTIN 56, LTD, a Texas limited partnership

Grantee's Mailing Address:

SUMMIT AUSTIN 56, LTD
3800 SOUTHWEST FREEWAY, SUITE 302
HOUSTON, TX 77027 - HARRIS COUNTY

Consideration: A note of even date executed by Grantee and payable to the order of INTERNATIONAL BANK OF COMMERCE, in the principal amount of SEVEN MILLION FOUR HUNDRED TWENTY-SEVEN THOUSAND THREE HUNDRED SEVENTY-THREE AND NO/100 DOLLARS (\$7,427,373.00). The note is secured by a first and superior vendor's lien and superior title retained in this deed and by a first-lien deed of trust of even date from Grantee to JAY ROGERS, trustee.

Property (including any improvements):

79.727 ACRES OF LAND SITUATED IN THE J. REYNOLDS SURVEY NO. 44, TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN 79.1 ACRES OF LAND CONVEYED TO WILLIAM MATTHEWS GRUMBLES BY DEED RECORDED IN VOLUME 1972, PAGE 484, OF THE DEED RECORDS OF SAID COUNTY, SAID 79.727 ACRES AS SHOWN ON RAMSEY LAND SURVEYING, L.L.C. DRAWING NO. 963.02; BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Reservations from Conveyance: Those of record.

Exceptions to Conveyance and Warranty: Liens described as part of the Consideration and any other liens described in this deed as being either assumed or subject to which title is taken; validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

The vendor's lien against and superior title to the Property are retained until each note described is fully paid according to its terms, at which time this deed will become absolute.

INTERNATIONAL BANK OF COMMERCE at Grantee's request, has paid in cash to Grantor that portion of the purchase price of the Property that is evidenced by the note. The first and superior vendor's lien against and superior title to the Property are retained for the benefit of INTERNATIONAL BANK OF COMMERCE and the lien is transferred to INTERNATIONAL BANK OF COMMERCE, without recourse against Grantor.

When the context requires, singular nouns and pronouns include the plural.

Donna L. Grumbles
DONNA L. GRUMBLES

Richard Grumbles
RICHARD GRUMBLES

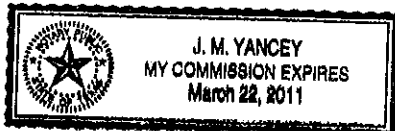
Aubrey Eldon Grumbles
AUBREY ELDON GRUMBLES

Robert Grumbles
ROBERT GRUMBLES

STATE OF TEXAS)

COUNTY OF Travis)

This instrument was acknowledged before me on Sept. 20, 2007, by
DONNA L. GRUMBLES.

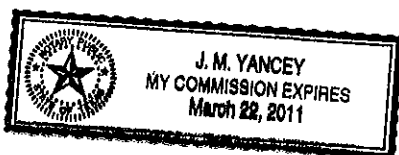


J. M. Yancey
Notary Public, State of Texas

STATE OF TEXAS)

COUNTY OF Travis)

This instrument was acknowledged before me on Sept. 20, 2007, by
RICHARD GRUMBLES.

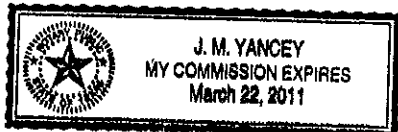


J. M. Yancey
Notary Public, State of Texas

STATE OF TEXAS)

COUNTY OF Travis)

This instrument was acknowledged before me on Sept. 20, 2007, by
AUBREY ELTON GRUMBLES.

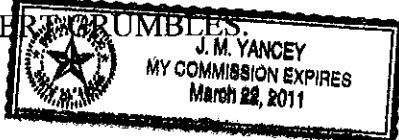


J. M. Yancey
Notary Public, State of Texas

STATE OF TEXAS)

COUNTY OF Travis)

This instrument was acknowledged before me on Sept. 20, 2007, by
ROBERT GRUMBLES.



J. M. Yancey
Notary Public, State of Texas

PREPARED IN THE OFFICE OF:
TERRY L. BELT PC
ATTORNEY AT LAW
4407 BEE CAVE ROAD, SUITE 611
AUSTIN, TX 78746

AFTER RECORDING RETURN TO:

SUMMIT AUSTIN 56, LTD
3800 SOUTHWEST FREEWAY, SUITE 302
HOUSTON, TX 77027

EXHIBIT "A"

FIELD NOTES

A DESCRIPTION OF 79.727 ACRES OF LAND SITUATED IN THE J. REYNOLDS SURVEY NO. 44, TRAVIS COUNTY, TEXAS BEING ALL OF THAT CERTAIN 79.1 ACRES OF LAND COVEYED TO WILLIAM MATTHEWS GRUMBLES BY DEED RECORDED IN VOLUME 1972, PAGE 484 OF THE DEED RECORDS OF SAID COUNTY, SAID 79.727 ACRES AS SHOWN ON RAMSEY LAND SURVEYING, L.L.C. DRAWING NO. 963.02, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 6 inch cedar fence post found on the north margin of old Austin-Marble Falls Road, also known as Bee Cave and Burnet Road described in Book 3, Pages 460-481 of the Travis County Commissioners Court Records for the northwest corner of said 79.1 acres and an interior ell corner on a southerly line of that certain 377.46 acres of land conveyed to Falconhead West, L.P. by deed recorded in Document No. 2006025415 of the Official Public Records of said county;

THENCE along north lines of said 79.1 acres as found fenced and used upon the ground being the said north margin of old Austin-Marble Falls Road and the southerly lines of said 377.46 acres the following eleven (11) courses:

1. S82°49'49"E, 114.47 feet to a 6 inch cedar fence post found,
2. S84°52'18"E, 414.10 feet to a 6 inch cedar fence post found,
3. S76°00'53"E, 362.92 feet to a 10 inch cedar fence post found,
4. S72°19'09"E, 294.98 feet to a 6 inch cedar fence post found,
5. S75°58'31"E, 640.29 feet to a 10 inch cedar fence post found,
6. S73°24'43"E, 549.81 feet to a 10 inch cedar fence post found,
7. S70°16'12"E, 81.74 feet to a 10 inch cedar fence post found,
8. S64°00'12"E, 110.63 feet to a 10 inch cedar fence post found,
9. S51°55'45"E, 320.74 feet to a 10 inch cedar fence post found,

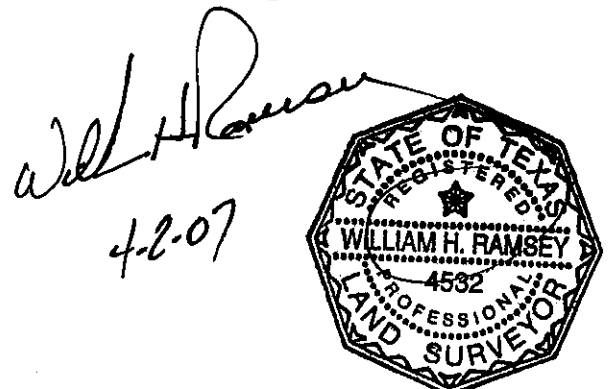
10. S44°53'32"E, 627.92 feet to a 4 inch cedar fence post found, and
11. S42°51'06"E, 185.87 feet to a 6 inch cedar fence post found for the most easterly corner of said 79.1 acres and the most northerly corner of a remainder portion of that certain 90 acres of land conveyed to Ida Spillman Wolber by deed recorded in Volume 688, Page 1 of the said Deed Records;

THENCE, departing the north line of said 79.1 acres, the north margin of old Austin-Marble Falls Road and the southerly line of said 377.46 acres, along the east line of said 79.1 acres as found fenced and used upon the ground and the west line of said remainder portion S40°18'46"W, at 175.51 feet pass a 6 inch cedar fence post, continuing for a total distance of 177.50 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" set on the south line of said 79.1 acres and the north right-of-way (R.O.W.) line of State Highway No. 71 (150 foot R.O.W.) conveyed to the State of Texas by deed recorded in Volume 793, Page 608 of the said Deed Records;

THENCE, departing the east line of said 79.1 acres and the west line of said remainder portion, along the south line of said 79.1 acres and said north R.O.W. line, as generally fenced, the following two (2) courses:

1. a distance of 208.89 feet along the arc of a curve to the left whose radius is 1969.86 feet, central angle is 06°04'33" and whose chord bears N81°37'36"W, 208.79 feet to a concrete highway monument found, and
2. N84°34'25"W, at 2051.54 feet pass a concrete highway monument found, continuing for a total distance of 3624.39 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" set for the southwest corner of said 79.1 acres and an exterior ell corner on the southerly line of said 377.46 acres;

THENCE, departing said south line and said north R.O.W. line, along the west line of said 79.1 acres and the southerly line of said 377.46 acres N28°18'36"E, at 0.31 feet pass a 6 inch cedar fence post found, continuing along said west line and said southerly line as found fenced and used upon the ground a total of 1315.19 feet to the POINT OF BEGINNING containing 79.727 acres of land more or less.





**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
56.727 ACRES**

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS – 56.727 ACRES (this "Declaration"), made as of the date hereinafter set forth by SUMMIT AUSTIN 56, LTD., a Texas limited partnership (together with its successors and assigns hereinafter referred to as "Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of the property described on Exhibit "A" attached hereto (the "Summit Property"); and

WHEREAS, Declarant intends by this Declaration to impose restrictions under a general plan for improvements for the benefit of all present and future owners of each Tract (as hereinafter defined) within the Summit Property and desires to provide a flexible and reasonable procedure for the overall development of the Summit Property and to establish a method for the administration, maintenance, preservation, use, and enjoyment of the Summit Property;

NOW, THEREFORE, Declarant hereby declares that the Summit Property is hereby subjected to the provisions of this Declaration and that the Summit Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with said Summit Property and shall be binding upon all parties having any right, title or interest in said Summit Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

SECTION 1. "Assessments" shall mean and refer to the General Assessments (hereinafter defined), the Special Assessments (hereinafter defined), the Specific Assessments (hereinafter defined), and any other amounts or sums due by an Owner to the Association pursuant to the provisions of this Declaration or a Supplemental Declaration.

SECTION 2. "Association" shall mean and refer to the non-profit, non-stock, membership corporation having the name "Summit Property Owners Association, Inc." or such other name as Declarant determines, incorporated by Declarant under the laws of the State of Texas for the purposing of administering this Declaration, its successors and assigns.

SECTION 3. "Association Expenses" shall mean and include the actual and estimated expenses of operating the Association, including any reserves, as may be found to be necessary and appropriate by the Board of Directors of the Association pursuant to this Declaration and the Supplemental Declarations.

SECTION 4. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions – 56.727 Acres as it may hereafter be amended in accordance with the provisions hereof.

SECTION 5. "Design Guidelines" shall mean and refer to any written general guidelines, standards, and requirements for the construction of improvements on Tracts within the Summit Property, as amended from time to time, which may be adopted by Declarant or the Association's Board of Directors pursuant to this Declaration and which must be complied with by an Owner of a Tract which is subject to this Declaration.

SECTION 6. "Developer" shall mean and refer to any Person or entity undertaking the construction of improvements on a Tract within the Summit Property for the purpose of selling same.

SECTION 7. "Member" shall refer to every Person or entity which holds a membership in the Association, as provided herein.

SECTION 8. "Occupant" shall mean any person occupying all or any portion of the improvements on a Tract within the Summit Property for any period of time, regardless of whether such person is a tenant of the Owner of such property.

SECTION 9. "Owner" shall mean and refer to the record owner, whether one or more Persons or entities, of the fee simple title to any Tract within the Summit Property, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest.

SECTION 10. "Person" shall mean any natural person, corporation, joint venture, partnership, association, trust or other legal entity.

SECTION 11. "Street" shall refer to any public or private street, drive, boulevard, road, alley, lane, avenue, or thoroughfare within or adjacent to the Summit Property.

SECTION 12. "Subdivision" shall mean and refer to any platted subdivision of land within the Summit Property.

SECTION 13. "Subdivision Plat" shall mean and refer to the recorded map, plat or replat of a Subdivision.

SECTION 14. "Summit Property" shall mean and refer to the real property described in the preambles to this Declaration.

SECTION 15. "Supplemental Declaration" shall refer to a separate declaration of covenants, conditions and restrictions which is imposed on a Tract or Tracts within the Summit Property and which may be enforced by the Association.

SECTION 16. "Tract" shall mean and refer to any portion of the Summit Property, whether developed or undeveloped, upon which improvements have been constructed or it is intended that improvements be constructed.

ARTICLE II

ARCHITECTURAL STANDARDS AND RESTRICTIONS

SECTION 1. PURPOSE. In order to establish and preserve a harmonious and aesthetically pleasing design for the Summit Property, the Tracts shall be subject to the restrictions set forth in this Article II. Every grantee of any interest in a Tract by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article.

SECTION 2. GENERAL.

No structure or improvement shall be placed, erected, installed, or posted on any portion of a Tract and no improvements or other work shall take place on a Tract until approval of the improvements has been obtained in the manner specified in this Article.

SECTION 3. ARCHITECTURAL APPROVAL. To preserve the architectural and aesthetic appearance of the Summit Property, no construction of improvements, or modifications, additions, or alterations to existing improvements, shall be commenced or maintained by any Owner with respect to any of the Tracts in the Summit Property, including, without limitation, the construction or installation of sidewalks, driveways, parking areas, decks, patios, courtyards, walls, fences, exterior lights, garages, accessory buildings or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing by Declarant, for as long as Declarant is the owner of any portion of the Summit Property, and thereafter by the Association's Board of Directors (as applicable, the "Reviewer"), as to the compliance of such plans and specifications with any Design Guidelines, including the harmony of external design, location, and appearance in relation to surrounding structures and

topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the Reviewer, and the other copy shall be returned to the Owner marked "approved," "approved with conditions as noted," or "disapproved." Notwithstanding the foregoing, no permission or approval shall be required to paint in accordance with an originally-approved color scheme, or to rebuild in accordance with originally-approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel or modify the interior of his improvements, or to paint the interior of the improvements on his property any color desired. The Reviewer shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable; however, the Reviewer's approval shall not be unreasonably withheld and shall be granted or disapproved with the reasons for disapproval specified within thirty (30) days after submission. Failure of the Reviewer to grant approval or disapproval within the 30-day period specified shall be deemed to be an approval.

Upon approval of plans and specifications by the Reviewer, no further approval under this Article II shall be required with respect thereto, unless construction has not substantially commenced within twelve (12) months of the approval of such plans and specifications (e.g. clearing and grading, pouring of footings, etc.) or unless such plans and specifications are materially altered or changed. Disapproval of plans and specifications by the Reviewer may be based upon any ground which is consistent with the objects and purposes of this Declaration as determined by the Reviewer from time to time, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

SECTION 4. ARCHITECTURAL REVIEW.

The Reviewer shall have exclusive jurisdiction over all original construction on the Tracts. The Reviewer may (i) adopt Design Guidelines, (ii) adopt certain restrictions or requirements as to building style, building heights, building materials, building setbacks, sight lines, parking, fencing, lighting, and signage, and (iii) establish application and review procedures for plans and specifications. The Reviewer shall make any Design Guidelines available to Owners and Developers who seek to engage in development of or construction upon a Tract and who shall conduct their operations strictly in accordance therewith. Until the date on which it has sold all of the Summit Property, the Declarant shall have the right to exercise the powers of the Reviewer specified herein. There shall be no surrender of this right prior to that time, except by a written instrument executed by the Declarant and recorded in the real property records of Travis County, Texas. The Reviewer is authorized, but not obligated, to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist it in performing its functions set forth herein.

SECTION 5. APPROVAL NOT A GUARANTEE OR VARIANCE. The review and approval of plans pursuant to this Article is made on the basis of aesthetic considerations only and no approval of plans and specifications and no publication of

any Design Guidelines shall be construed as representing or implying that such plans, specifications, or guidelines will, if followed, result in properly designed improvements. Such approvals and design guidelines shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be built in a good and workmanlike manner. Neither the Declarant, the Association, nor any of their respective officers, partners, directors or members, shall be responsible or liable in damages or otherwise to any Person who submits plans for approval by reason of mistake of judgment, negligence or nonfeasance arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications. The purpose of such reviews primarily seeks to conform the aesthetic appearances of development within the Summit Property.

In addition, the approval of plans pursuant to this Article shall not be deemed to be a variance from the specific restrictions of this Declaration. All variances must be issued in accordance with the provisions of Section 8 of this Article.

SECTION 6. RIGHT TO INSPECT. The Reviewer and the Reviewer's representatives shall have the right, but not the obligation, during reasonable hours to enter upon and inspect any Tract with respect to which construction is underway to determine whether or not the plans and specifications therefor have been approved and are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In the event the Reviewer shall determine that such plans and specifications have not been approved or are not being complied with, the Reviewer shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications; provided however, prior to commencing any action the Reviewer shall give the applicable Owner written notice and fifteen (15) days in which to correct the defects.

SECTION 7. NO WAIVER OF FUTURE APPROVALS. The approval by the Reviewer of any plans and specifications for any work done or proposed, or in connection with any other matter requiring its approval and consent, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

SECTION 8. VARIANCES. The Reviewer may grant variances from compliance with certain restrictions of this Declaration, a Supplemental Declaration, or from their respective guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, or (b) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing, shall not be considered a hardship warranting a variance.

ARTICLE III

USE RESTRICTIONS

SECTION 1. PERMITTED USES. Each and every portion of the Summit Property may generally be used for any residential or commercial purpose, unless prohibited by the provisions of Section 2 of this Article III. The following uses are specifically permitted:

- Single-family residential uses
- Multi-family (apartment, townhome or condominium) residential uses
- Campus Office uses
- Research Facilities
- Warehouse / Distribution Facilities
- Restaurants
- Retail and Commercial uses
- Churches
- Hospital and Medical Facilities

As used herein, the term "residential uses" shall be construed to prohibit the use of any portion of the Summit Property for mobile homes.

SECTION 2. PROHIBITED USES. Each and every portion of the Summit Property is hereby restricted to prohibit the following uses:

- Refining of petroleum or its by-products
- Smelting of iron, tin, zinc, or other ores
- Drilling for and/or removal of oil, gas, or other hydrocarbons (except on designated drill sites, if any)
- Dumping, disposal, incineration, or reduction of garbage, sewage, dead animals, or refuse, or the construction or operation of water or sewage treatment plants or electrical substations (excluding such plants as may be operated by public utility companies or governmental authorities)
- Recycling Facilities
- Manufacturing Facilities
- Cocktail Lounges (unless within an approved restaurant use)
- Outdoor Entertainment (unless associated with an approved restaurant use)
- Outdoor Animal Kennels and Stables
- Vehicle Storage Yards
- Commercial Off-Street Parking
- Recreational Equipment Sales and Storage
- Mobile or Manufactured Homes Sales
- Mobile or Manufactured Home Residential Uses
- Carnivals or Fairs
- Drug Paraphernalia Sales
- Pawn Shops

- Scrap and Salvage Yards
- Food Processing Facilities
- Sexually Oriented Businesses
- Any other use not specified in Section 1 of this Article III

As used herein, the term "sexually oriented businesses" shall be used to describe collectively any establishment that offers or sells as its principal product or service a product or service that is intended to provide sexual gratification to its users, including, but not limited to the following businesses: sexually oriented cabaret or theater; sexually oriented entertainment (including topless, bottomless, or nude performances or personnel); sexually oriented (pornographic) motion picture theater; sexually oriented (pornographic) motion picture arcade; sexually oriented encounter center; sexually oriented media store; sexually oriented escort bureau; bathhouse; massage parlor; sex shop; sexually oriented modeling studio; or any other such business establishment whose primary purpose is to offer sexually oriented or obscene entertainment or materials.

SECTION 3. ANIMALS AND LIVESTOCK. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on the Summit Property. No pets shall be kept, bred or maintained for any commercial purpose. Animal control authorities shall be permitted to enter the Summit Property to patrol and remove animals.

SECTION 4. NUISANCES. No loud, noxious or offensive trade or activity shall be carried on upon any Tract nor shall anything be done thereon which may be or become an annoyance or nuisance to residents, customers, employees or other occupants of the Summit Property. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of his or her Tract. No Tract within the Summit Property shall be used, in whole or in part, for the storage of any thing that will cause such Tract to be unclean or untidy or obnoxious to the eye; nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety or comfort of the occupants of the surrounding Tracts.

SECTION 5. PARKING/STORAGE OF VEHICLES. Adequate automobile parking spaces, including, without limitation, spaces for resident, employee, customer and visitor parking shall be provided on each Tract and all such parking areas shall be internally drained and permanently surfaced with concrete or asphalt. Minimum parking requirements for particular land uses may be established by the Reviewer. Trucks, motor homes, recreational vehicles, boats, trailers, motorcycles, minibikes, scooters, go-carts, campers, buses, and vans shall be stored within a garage or otherwise screened from public view from all Streets. No Owner of any Tract or any tenant, employee, visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways, parking lots or Streets other than work of a temporary nature.

SECTION 6. PERMITTED HOURS FOR CONSTRUCTION ACTIVITY. Except in an emergency or when other unusual circumstances exist, as determined by Summit, outside construction work or noisy interior construction work shall be permitted on the Tracts in the Summit Property only between the hours of 7:00 A.M. and 8:30 P.M. on each day other than Sunday and between the hours of 9:00 A.M. and 7:00 P.M. on Sundays.

SECTION 7. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Tract, nor shall any Tract be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight fitting sanitary covers or lids and placed in an area adequately screened by planting or fencing. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of each Tract shall remove such prohibited matter from his Tract at regular intervals at his expense. Vacant Tracts shall not be used as dumping grounds for rubbish, trash, rubble, or soil, except that Summit may designate fill areas into which materials specified by Summit may be placed.

SECTION 8. BUILDING MATERIALS. Unless otherwise approved by the Reviewer, no Tract shall be used for the storage of any building materials whatsoever, except that building materials used in the construction of improvements erected upon any Tract may be placed upon such Tract at the time construction is commenced. Under no circumstances shall building materials be placed or stored on the Streets.

SECTION 9. MINERAL PRODUCTION. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Tract, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Tract. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Tract.

ARTICLE IV

ARCHITECTURAL RESTRICTIONS

SECTION 1. TYPE OF IMPROVEMENTS. All structures shall be of new construction and no structure shall be moved from another location onto any Tract. All improvements thereon including, but not limited to, fences, landscaping, driveways, parking lots and sidewalks must be kept in good repair in order to preserve their attractiveness.

SECTION 2. LOCATION OF IMPROVEMENTS ON TRACT. The location of improvements on a Tract will be approved by the Reviewer with its approval of the site

plan and the final working plans and specifications. No building shall be located on any tract nearer to a Street than the minimum building setback lines shown on the Subdivision Plat and no building shall be located on any utility easement. The Reviewer shall have the right to establish other setbacks as it deems necessary.

SECTION 3. TEMPORARY BUILDINGS. Unless otherwise approved by the Reviewer, temporary buildings or structures shall not be permitted on any Tract. Notwithstanding the foregoing, the Reviewer may permit temporary toilet facilities, sales and construction offices and storage areas to be used by Owners in connection with the construction and/or marketing of their improvements.

SECTION 4. WALLS AND FENCES. All fences or walls must be approved in writing by the Reviewer. Specific guidelines for all fencing materials and styles will be established by the Reviewer. The erection of chain link fences on any Tract is prohibited.

SECTION 5. LANDSCAPING. The Owner of each Tract shall landscape the areas of his Tract which are visible from the Street or adjacent property. Grass and weeds shall be kept mowed to prevent unsightly appearance, and all curbs, roadways, drives and walkways shall be kept edged.

SECTION 6. SIGNS. No signs, billboards, posters, or advertising devices of any kind, permanent or temporary, shall be permitted on any Tract without the prior written approval of the Reviewer. No signs may be painted on buildings or other structures unless otherwise approved by the Reviewer. No mobile or portable signs and no sign with flashing lights of any type shall be permitted.

SECTION 7. EXTERIOR ANTENNAE AND SATELLITE DISHES. No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Tract or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by the regulations promulgated under the Telecommunications Act of 1996, as amended from time to time. To the extent that receipt of an acceptable signal would not be impaired, an antenna permissible pursuant to the above may only be installed in a location not visible from a Street or neighboring Tract. Antennae shall be installed in compliance with all state and local laws and regulations.

SECTION 8. LIGHTING. No light fixture or other light source shall be installed on any Tract in such a way that it interferes with the peaceful use and enjoyment of other Owners, their tenants, customers, clients and visitors.

Each Tract within the Summit Property is subject to the City of Bee Cave Lighting Ordinance Sec. 32.05.012. Any proposed variance to such ordinance must be approved by the City and by the Falconhead West Home Owners Association.

SECTION 9. WEAPONS AND FIREWORKS. The use of fireworks, firearms and other weapons within the Summit Property is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and small firearms of all types. Nothing contained in this Declaration shall be construed to require Summit to take action to enforce this Section.

SECTION 10. DRAINAGE. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant of a Tract may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers or storm drains.

SECTION 11. TRAFFIC SIGHT AREAS. All improvements located at Street intersections shall be landscaped so as to permit safe sight across the Street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where this would create a traffic or sight problem.

SECTION 12. ROOFTOP ELEMENTS. Mechanical equipment, communication dishes, and antennas must not be visible from a Street or from adjoining Tracts. Parapets must be tall enough to screen rooftop equipment from public view.

SECTION 13. DECORATIONS. No decorative appurtenances such as sculptures, birdbaths and birdhouses, flagpoles, fountains or other decorative embellishments shall be placed on a Tract unless such items have been approved in writing by the Reviewer.

SECTION 14. OWNER'S MAINTENANCE. Each Owner of a Tract shall at all times be obligated to maintain his property and all improvements thereupon, so as to keep same in a clean, attractive and safe condition. An Owner's maintenance obligation shall include, but not be limited to: the maintenance of all visible exterior surfaces of all buildings and other improvements, including driveways and parking areas; the prompt removal of all paper, debris, and refuse; the removal and replacement of dead and diseased trees and plantings; the repair, replacement, cleaning and re-lamping of all signs and lighting fixtures; the mowing, watering, fertilizing, weeding, replanting and replacing of all landscaping; and, during construction, the cleaning of dirt, construction debris and other construction-related refuse from Streets and storm drains and inlets.

SECTION 15. MAINTENANCE OF DRAINAGE FACILITIES. Maintenance and repairs of the master drainage facilities to serve the Summit Property shall be the joint responsibility of the Owners of each Tract. The definition of "master drainage facilities" shall be the main open drainage channel which traverses the length of the Summit Property and the associated in-line detention facility. Each Owner shall be responsible for mowing, trash pickup, and general upkeep of the portion of the master drainage facilities located on its own Tract. However, any major re-grading or repairs required to the detention facility serving the Summit Property shall be the responsibility of the Association. Each Owner shall be solely responsible for the maintenance of any other

drainage lines, drainage ditches or swales, or any water quality features located on its Tract.

ARTICLE V

THE ASSOCIATION

SECTION 1. ORGANIZATION. The Association has been or will hereafter be organized and formed as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure and management of the Assessments, the enforcement of the restrictions contained in this Declaration and in Supplemental Declarations, and architectural control over construction of improvements on the Tracts after the Declarant no longer owns any portion of the Summit Property.

SECTION 2. MEMBERSHIP. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Tract. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Tract owned. In the event the Owner of a Tract is more than one (1) Person, votes and rights of use and enjoyment shall be as hereinafter provided. The membership rights of a Tract owned by a corporation, partnership or other entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association, subject to the provisions of this Declaration and the Association's By-Laws.

SECTION 3. VOTING. The Association shall have two classes of membership, Class "A" and Class "B", as follows:

- (a) **CLASS A.** Class "A" Members shall be all Owners with the exception of the Class "B" Member. A Class "A" Member shall be entitled to the number of votes equal to the quotient obtained by dividing the gross area in square feet of his Tract by 10,000 and rounding such result to the nearest whole number. In any situation where a Member is entitled personally to exercise the vote for a Tract and more than one Person holds the interest in a Tract required for membership in the Association, the vote for such Tract shall be exercised as those Persons among themselves determine and advise the Secretary of the Association in writing. In the absence of such advice, the vote for such Tract shall be suspended in the event more than one Person seeks to exercise it.
- (b) **CLASS B.** The Class "B" Member shall be the Declarant which shall have five (5) votes for each 10,000 square feet of gross area of land contained within the Tracts it owns in the Summit Property, rounded to the nearest whole number in the event the calculation of the number of votes the Declarant is entitled to is not a whole number. The Class "B" Member shall have the exclusive right to appoint and remove the members of the Board of Directors (the

"Board") until it no longer owns any portion of the Summit Property. The Class "B" Membership shall cease on (i) the date the Declarant no longer owns any portion of the Summit Property or (ii) on such earlier date that the Declarant, in its sole and absolute discretion, so determines and records an instrument to such effect in the real property records of Travis County, Texas. In the event the Class "B" Membership ceases pursuant to clause (ii), the Declarant shall thereafter be a Class "A" Member with respect to the Tract or Tracts it owns.

- (c) Special Rights of Declarant. Prior to the date on which the Class "B" Membership terminates, the Declarant shall have the power to appoint and remove the members of the Board of Directors as well as the right to disapprove any action, policy or program of the Association, the Board or any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant or interfere with the development, construction or marketing of any portion of the Summit Property.

ARTICLE VI

COVENANT FOR ASSESSMENTS

SECTION 1. PURPOSE OF ASSESSMENTS. The Assessments provided for in this Declaration shall be used by the Association to maintain and keep in good repair the common area, if any, and for the common benefit of the Owners and Occupants of the Tracts in the Summit Property. The judgment of the Board of Directors as to the activities undertaken by the Association and the expenditure of Assessments shall be final and conclusive.

SECTION 2. TYPES OF ASSESSMENTS. Each Owner by acceptance of a deed to any Tract in the Summit Property, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association the following: General Assessments, Special Assessments, and Specific Assessments, to be established and collected as hereinafter provided.

(a) General Assessments. At least sixty (60) days before the beginning of each calendar or fiscal year, the Board shall prepare a budget of the estimated Association Expenses for the coming year, including contributions to be made to any reserve fund(s) created by the Board. The budget shall reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments levied against the Tracts, and the amount to be generated through the levy of General Assessments, Special Assessments and Specific Assessments against the Tracts, as authorized by this Section 2. If the Board fails for any reason to determine the budget for any year, then, until such time as a budget is adopted by the Board, the budget in

effect for the immediately preceding year, increased by five percent (5%), shall be the budget for the current year, until a new budget is determined.

The Association is hereby authorized to levy annual General Assessments against all Tracts in the Summit Property based on the number of acres or number of square feet of land within each Tract. General Assessments on all Tracts shall be fixed at a uniform per acre or per square foot rate and all Tracts shall commence to bear their Assessments simultaneously on a date determined by the Board after the filing of this Declaration. In determining the per acre or per square foot General Assessment rate, the Board may consider any assessment income expected to be generated from any additional Tracts reasonably anticipated to become subject to assessment during the year.

The initial General Assessment established by the Board shall not exceed the sum of \$100.00 per acre of land. Thereafter, the General Assessment shall be levied at the sole discretion of the Board in an amount which is not in excess of ten percent (10%) over the amount of the per acre or per square foot General Assessment for the previous year. The General Assessment may only be increased by more than ten percent (10%) over the amount of the previous year's General Assessment if such increase is approved by majority vote of the Members of the Association (exercised by Members present in person or by proxy at a meeting of the Members called for this purpose).

The Board shall use reasonable efforts to send notice of the amount of the General Assessment to be levied against the Tracts to the respective Owners at least thirty (30) days prior to the date the General Assessment is due and payable, but the failure to send such notice shall not invalidate the Assessment.

The Board may establish one or more reserve funds in such amounts as it determines to be necessary.

(b) Special Assessments. In addition to other authorized Assessments, the Board may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted; provided, however, any Special Assessment must be approved by a majority vote of both classes of the Members of the Association who are present in person or by proxy at a meeting of the Members called for such purpose. Any such Special Assessment shall be levied against all Tracts in accordance with the formula for determining the General Assessments against the Tracts pursuant to paragraph (a) above. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

(c) Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Tract to cover costs incurred in bringing a Tract into compliance with this Declaration, a Supplemental Declaration, or the Design Guidelines, or costs incurred as a consequence of the conduct of the Owner or

Occupants of the Tract, their agents, contractors, employees, licensees, invitees, or guests.

SECTION 3. AUTHORITY TO ASSESS OWNERS; TIME OF PAYMENT. The Association is hereby authorized to levy Assessments as provided for in this Article VI. The obligation to pay Assessments shall commence as to each Tract in the Properties on the first day of the month following the month in which the Board first determines a budget and levies Assessments pursuant to this Article. The first annual General Assessment levied shall be adjusted according to the number of months remaining in the calendar or fiscal year at the time the General Assessment commence on the Tracts. Assessments shall be paid in such manner and on such date or dates as the Board may establish. The Board may require advance payment of Assessments at closing of the transfer to title to a Tract and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, Assessments may be paid in two or more installments. Unless the Board otherwise determines, General Assessments shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any Assessments or other charges levied on his Tract, the Board, after a minimum of thirty (30) days written notice to the Owner and an opportunity for the Owner to cure the delinquency, may require the outstanding balance on all Assessments to be paid in full immediately.

SECTION 4. CREATION OF LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. All Assessments, together with interest at the rate of eighteen percent (18%) per annum or such other rate of interest as may be set from time to time by the Board of Directors not in excess of the maximum lawful rate, commencing on the date which is thirty (30) days after the due date, costs (specifically including, but not limited to, any flat charges or percentage fees charged by any collection agencies used by the Association in collecting delinquent Assessments), and reasonable attorney's fees and court costs actually incurred, shall be a charge on each Tract in the Summit Property and shall be secured by a continuing lien in favor of the Association upon the Tract against which each Assessment is made.

Each such Assessment, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Tract at the time the Assessment fell due. Each such Owner shall be personally liable for his or her portion of each Assessment coming due while he or she is the Owner of the Tract, and each Assessment thereafter coming due unless and until such Owner notifies the Association of the sale or conveyance of the Tract against which the Assessment is made as hereinafter provided in this Section.

In order to extinguish any Person's personal liability with regard to Assessments coming due following the sale or conveyance of the Tract owned by such Person, such Person shall be obligated to notify the Association of such Person's sale or conveyance of the Tract against which Assessments may be levied. In that regard, each Person who at any time owned any Tract in the Properties against which Assessments may be levied shall no longer be liable or responsible for payment of Assessments coming due

after the date upon which such Person furnishes to the Association a copy of the executed instrument of conveyance by which fee simple title to the Tract previously owned by such Person was conveyed or transferred to another Person, and the mailing address of the Person to whom such Tract was conveyed or transferred. Upon receipt of such information, the Association shall cause the name and address of the new Owner to be substituted for that of the prior Owner on the records of the Association, and the prior Owner shall no longer be liable or responsible for Assessments subsequently coming due. Each Person owning a Tract against which Assessments may be made shall have the obligation to notify the Association of any change in its address, and notice of any such change shall become effective five (5) days after written notice thereof has been provided to the Association. With regard to mailing notices of Assessments payable by any Person to the Association, the Association shall be deemed to have satisfied any obligation that it might have to provide written notices or bills if the same are mailed or delivered to the Owner at the address of such Owner as reflected on the records of the Association, and no such Owner or other Person liable for the payment of any Assessment shall escape such liability or be entitled to any deferral or abatement of interest or any late charges or collection costs with regard to delinquent Assessments on the basis of such Person's failure to receive notice thereof if the Association did mail or deliver such notice to the most recent address of the Person according to the records of the Association.

SECTION 5. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien securing the Assessments provided for herein shall be subordinate to (i) liens of ad valorem taxes and (ii) the lien of any deed or trust or mortgage encumbering the applicable Tract which has been recorded in the real property records of Travis County, Texas. Sale or transfer of any property subject to this Declaration shall not affect the lien hereby created. However, the sale or transfer of any property pursuant to foreclosure of a deed or trust or mortgage or any conveyance in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such foreclosure or conveyance in lieu thereof. No foreclosure or conveyance in lieu thereof shall relieve such property from liability for any Assessments thereafter becoming due or from the lien thereof.

SECTION 6. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any Assessments which are not paid in full by the date specified by the Board shall be delinquent. Any delinquent Assessment shall commence to bear interest on the date which is thirty (30) days after the due date at the rate specified hereinabove. If the Assessment is not paid when due, the lien herein retained and created against the affected property shall secure the Assessment due, interest thereon from the date which is thirty (30) days after the due date, all costs of collection, court costs, reasonable attorney's fees actually incurred, and any other amount provided or permitted by law. In the event that the Assessment remains unpaid after ninety (90) days, the Association may, as the Board shall determine, institute suit for collection against the Owner personally obligated to pay the Assessment or foreclose the lien created and reserved hereby against the Tract of such Owner.

The Association's lien is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien shall be or is required. By acquiring a Tract, an Owner grants to the Association a power of sale in connection with the Association's lien. By written resolution, the Board of Directors of the Association may appoint, from time to time, an officer, agent, trustee, or attorney of the Association to exercise the power of sale on behalf of the Association. The Association shall exercise its power of sale pursuant to the Texas Property Code, and any applicable revision(s), amendment(s), or modifications thereof in effect at the time of the exercise of such power of sale. The Association has the right to foreclose its lien judicially or by nonjudicial foreclosure pursuant to the power of sale created hereby. Costs of foreclosure may be added to the amount owed by the Owner to the Association. An Owner may not petition a court to set aside a sale solely because the purchase price at the foreclosure sale was insufficient to fully satisfy the Owner's debt. The Association may bid for and purchase the Tract at the foreclosure sale utilizing funds of the Association. The Association may own, lease, encumber, exchange, sell, or convey a Tract. The purchaser at any such foreclosure sale shall be entitled to sue for possession of the Tract by an action of forcible detainer without the necessity of giving any notice to the former Owner or Owners of the Tract sold at foreclosure. The Owner shall have no right of redemption after or resulting from a foreclosure of the Association's lien unless otherwise provided by law. Nothing herein shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien. At any time before a nonjudicial foreclosure sale, an Owner of a Tract may avoid foreclosure by paying all amounts due the Association. Foreclosure of a tax lien attaching against a Tract shall not discharge the Association's lien for amounts becoming due to the Association after the date of foreclosure of the tax lien.

No Owner may waive or otherwise exempt himself from liability for the Assessments provided for herein by non-use of common area or abandonment of the Tract owned by such Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or a Supplemental Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner of a Tract.

All payments shall be applied first to costs and attorney's fees, then to interest, and then to delinquent Assessments.

SECTION 7. ASSESSMENT OBLIGATION OF DECLARANT; SUBSIDY AGREEMENTS. Subject to the further provisions hereof, Declarant, on behalf of itself and its successors and assigns to whom its rights as Declarant are expressly assigned, covenants and agrees to pay Assessments as provided herein for the Tracts that it

owns. However, as long as the Class "B" membership exists in the Association, the Declarant may annually elect either to pay Assessments on the Tracts it owns as herein provided or to pay the Association the difference between the amount of Assessments collected or to be collected on all other Tracts subject to assessment and the amount of the expenditures as indicated in the budget that will be incurred to operate the Association during the fiscal year. The Board is specifically authorized to enter into subsidy agreements with the Declarant pursuant to which the Declarant agrees to pay such difference in lieu of Assessments on its property. The payment by Declarant of such a subsidy in any year in lieu of Assessments shall under no circumstances obligate the Declarant to pay a subsidy in a future year or years. In addition to the foregoing, the Declarant may prepay Assessments on the property it owns or loan needed funds to the Association. In the event of a loan, the loan shall be payable by the Association to the Declarant from future Assessments collected by the Association or, at the Declarant's option, offset against future Assessments owed to the Association by the Declarant.

ARTICLE VI

ENFORCEMENT

SECTION 1. ENFORCEMENT. Each Owner and Occupant shall comply strictly with the covenants, conditions, and restrictions set forth in this Declaration, as may be amended from time to time, the Supplemental Declarations, and the rules and regulations adopted by the Board. The Board may impose fines or other sanctions, which shall be collected as provided herein for the collection of Assessments. Failure to comply with this Declaration or the rules and regulations shall be grounds for an action to recover sums due for damages, injunctive relief, or any other remedy available at law or in equity, maintainable by the Board, on behalf of the Association, or by any Owner of a portion of the Summit Property. Failure of the Board or any other Person to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall also have the right to enforce, by any proceeding at law or in equity, any other restrictions, conditions, covenants and liens imposed upon any portion of the Summit Property which by the terms of the instrument creating same grant the Association the power to enforce same, and failure of the Association to enforce such provisions shall in no event be deemed a waiver of the right to do so thereafter.

In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Tract to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the Board's rules and regulations, or the Design Guidelines. Except in the case of emergency and law enforcement situations, and as otherwise specified herein, the Association shall give the violating Owner fifteen (15) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a

Specific Assessment and shall be collected as provided herein for the collection of Assessments.

ARTICLE VIII

GENERAL PROVISIONS

SECTION 1. TERM. Unless sooner terminated or amended in accordance with the further provisions hereof, the provisions of this Declaration shall run with and bind the land and shall be and remain in effect for a period of ten (10) years after the date that this Declaration is recorded, after which time they shall be automatically extended for successive periods of five (5) years, unless an instrument in writing, signed by the Owners of not less than a majority of the acreage subject to the provisions hereof agreeing to terminate this Declaration has been recorded within the year immediately preceding the beginning of a five (5) year renewal period, in which case this Declaration shall terminate at the end of its original term or the applicable extension period. Every purchaser or grantee of any interest in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration may be extended and renewed as provided in this Section.

SECTION 2. SEVERABILITY. Invalidation of any one of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

SECTION 3. GENDER AND GRAMMAR. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

SECTION 4. TITLES. The titles of this Declaration of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 5. RIGHT OF ENTRY. The Association shall have the right, but not the obligation, to enter into any Tract for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with this Declaration, which right may be exercised by The Association's officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance or their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

SECTION 6. AMENDMENT. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute,

rule, or regulation or judicial determination which shall be in conflict therewith; or (b) for any other purpose, provided that the amendment has no material adverse effect upon any right of any Owner or that the Owner or Owners so affected have consented thereto.

No amendment may remove, revoke, or modify any right or privilege of Summit without the written consent of Declarant. Any amendment to this Declaration must be recorded in the real property records of Travis County, Texas.

IN WITNESS WHEREOF, this Declaration is executed this 8th day of July, 2010.

SUMMIT AUSTIN 56, LTD.,
a Texas Limited Partnership

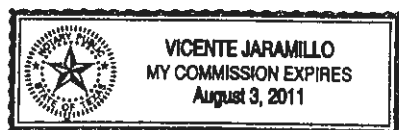
BY: MEMORIAL PARK ESTATES, LLC
a Texas Limited Liability Company,
General Partner

BY: [Signature]
NAME: ANTONIO BALLESCA
TITLE: PRESIDENT

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Antonio Balleca, President of Memorial Park Estates, LLC, General Partner of SUMMIT AUSTIN 56, LTD., a Texas Limited Partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated.

GIVEN under my hand and seal of office this 8 day of July, 2010.



[Signature]
Notary Public in and for the State of Texas

Vicente Jaramillo
Name printed or typed
My commission expires:

EXHIBIT "A"

FIELD NOTES

A DESCRIPTION OF 56.727 ACRES OF LAND SITUATED IN THE J. REYNOLDS SURVEY NO. 44, TRAVIS COUNTY, TEXAS BEING A PORTION OF THAT CERTAIN 79.727 ACRES OF LAND CONVEYED TO SUMMIT AUSTIN 56, LTD. BY DEED RECORDED IN DOCUMENT NO. 2007176103 OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY, SAID 56.727 ACRES AS SHOWN HEREON, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH ROD WITH PLASTIC CAP SET ON THE NORTH MARGIN OF OLD AUSTIN-MARBLE FALLS ROAD, ALSO KNOWN AS BEE CAVE AND BURNET ROAD DESCRIBED IN BOOK 3, PAGES 460-481 OF THE TRAVIS COUNTY COMMISSIONERS COURT RECORDS FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED 56.727 ACRES AND THE NORTHEAST CORNER OF THAT CERTAIN 23.000 ACRES OF LAND CONVEYED TO INTERNATIONAL RAM ASSOCIATES, LC BY DEED RECORDED IN DOCUMENT NO. 2007196134 OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY:

THENCE ALONG NORTH LINES OF SAID 79.727 ACRES AS FOUND FENCED AND USED UPON THE GROUND BEING THE SAID NORTH MARGIN OF OLD AUSTIN-MARBLE FALLS ROAD AND THE SOUTHERLY LINES OF THAT CERTAIN 377.46 ACRES OF LAND CONVEYED TO FALCONHEAD WEST, L.P. BY DEED RECORDED IN DOCUMENT NO. 2006025415 OF THE SAID OFFICIAL PUBLIC RECORDS THE FOLLOWING NINE (9) COURSES:

1. S76°00'53"E, 234.88 FEET TO A 10 INCH CEDAR FENCE POST FOUND,
2. S72°19'09"E, 294.98 FEET TO A 6 INCH CEDAR FENCE POST FOUND,
3. S75°58'31"E, 640.29 FEET TO A 10 INCH CEDAR FENCE POST FOUND,
4. S73°24'43"E, 549.81 FEET TO A 10 INCH CEDAR FENCE POST FOUND,
5. S70°16'12"E, 81.74 FEET TO A 10 INCH CEDAR FENCE POST FOUND,
6. S64°00'12"E, 110.63 FEET TO A 10 INCH CEDAR FENCE POST FOUND,
7. S51°55'45"E, 320.74 FEET TO A 10 INCH CEDAR FENCE POST FOUND,
8. S44°53'32"E, 627.92 FEET TO A 4 INCH CEDAR FENCE POST FOUND, AND
9. S42°51'06"E, 185.87 FEET TO A 6 INCH CEDAR FENCE POST FOUND FOR THE MOST EASTERLY CORNER OF SAID 79.727 ACRES AND THE MOST NORTHERLY CORNER OF A REMAINDER PORTION OF THAT CERTAIN 90 ACRES OF LAND CONVEYED TO IDA SPILLMAN WOLBER BY DEED RECORDED IN VOLUME 688, PAGE 1 OF THE DEED RECORDS OF SAID COUNTY:

THENCE, DEPARTING THE NORTH LINE OF SAID 79.727 ACRES, THE NORTH MARGIN OF OLD AUSTIN-MARBLE FALLS ROAD AND THE SOUTHERLY LINE OF SAID 377.46 ACRES, ALONG THE EAST LINE OF SAID 79.727 ACRES AS FOUND FENCED AND USED UPON THE GROUND AND THE WEST LINE OF SAID REMAINDER PORTION S40°18'46"W, AT 175.51 FEET PASS A 6 INCH CEDAR FENCE POST, CONTINUING FOR A TOTAL DISTANCE OF 177.50 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP MARKED "RPLS 4532" SET ON THE SOUTH LINE OF SAID 79.727 ACRES AND THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF STATE HIGHWAY NO. 71 (150 FOOT R.O.W.) CONVEYED TO THE STATE OF TEXAS BY DEED RECORDED IN VOLUME 793, PAGE 608 OF THE SAID DEED RECORDS:

THENCE, DEPARTING THE EAST LINE OF SAID 79.727 ACRES AND THE WEST LINE OF SAID REMAINDER PORTION, ALONG THE SOUTH LINE OF SAID 79.727 ACRES AND SAID NORTH R.O.W. LINE, AS GENERALLY FENCED, THE FOLLOWING TWO (2) COURSES:

1. A DISTANCE OF 208.89 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS IS 1969.86 FEET, CENTRAL ANGLE IS 06°04'33" AND WHOSE CHORD BEARS N81°37'36"W, 208.79 FEET TO A CONCRETE HIGHWAY MONUMENT FOUND, AND
2. N84°34'25"W, AT 2051.54 FEET PASS A CONCRETE HIGHWAY MONUMENT FOUND, CONTINUING FOR A TOTAL DISTANCE OF 2624.39 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP MARKED "RPLS 4532" SET FOR THE SOUTHWEST CORNER HEREOF:

THENCE, DEPARTING SAID SOUTH LINE AND SAID NORTH R.O.W. LINE, CROSSING SAID 79.727 ACRES ALONG THE WEST LINE OF SAID 23.000 ACRES N13°23'07"E, 1202.90 FEET TO THE POINT OF BEGINNING CONTAINING 56.727 ACRES OF LAND MORE OR LESS.

Return: Travis Co TNR
Attn: Michael Hettenhausen
P.O. Box 1748
Austin, TX 78767

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

Aug 09, 2010 03:23 PM

2010114631

BARTHOLOMEWD: \$96.00

Dana DeBeauvoir, County Clerk
Travis County TEXAS

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

**FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
56.727 ACRES**

STATE OF TEXAS

§

§

KNOW ALL BY THESE PRESENTS:

COUNTY OF TRAVIS

§

This First Amendment to Declaration of Covenants, Conditions and Restrictions – 56.727 Acres (this “*First Amendment*”) is made and entered into effective as of the 23rd day of October, 2012, by and between Summit Austin 56, Ltd., a Texas limited partnership (“*Declarant*”), and the additional undersigned parties (collectively, the “*Parcel Owners*”) (Declarant and the Parcel Owners are sometimes collectively referred to herein as the “*Parties*”).

RECITALS

WHEREAS, on August 9, 2010, Declarant filed that certain Declaration of Covenants, Conditions, and Restrictions – 56.727 Acres (the “*Declaration*”) in Document No. 2010114631 of the Official Public Records of Travis County, Texas, which related to certain property therein described (the “*Property*”);

WHEREAS, the Property is shown on that certain Plat recorded in Document No. 201000095 in the Official Public Records of Travis County, Texas;

WHEREAS, pursuant to Article VIII, Section 6 of the Declaration, the Declaration may be modified, amended, or terminated only by joint action of the Owners affected by such amendment;

WHEREAS, the Parties represent all the Owners of the Property and therefore are the proper parties to approve an amendment to the Declaration; and

WHEREAS, the Parties desire to amend the Declaration to remove one of the prohibited uses from the burden of the Declaration for a portion of the Property.

NOW THEREFORE, for and in consideration of the mutual agreements set forth herein, the mutual agreements set forth in the Declaration, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Recitals Incorporated. The truth and accuracy of the foregoing Recitals are hereby affirmed and incorporated into the agreements contained in this First Amendment.

2. Prohibited Uses. Article III, Section 2 of the Declaration is hereby amended to add the following at the end of such Section:

“Notwithstanding the foregoing, Outdoor Entertainment (including, without limitation, miniature golf courses, splash pads, and outdoor stage), whether or not associated with an approved restaurant use, shall be permitted on the following portion of the Property (“Lot 3”): Lot 3, Block A, SUMMIT 56, a subdivision in Travis County, Texas, according to the map or plat recorded in Document Number 201000095, Official Public Records of Travis County, Texas. For purposes of this Declaration, the term “splash pad” shall be defined as an area for water play that has no standing water and “zero-depth” with no piping or artifacts above two inches high, and not to exceed 500 sq. ft. Furthermore, at no point at the bounding property line of Lot 3 shall the sound pressure level generated from the use of the outdoor stage (if any) exceed the decibel limits for the applicable time period, as such time periods and decibel limits are specified in Section 32.05.008 [Noise Standards] of the City of Bee Cave’s Zoning Ordinance which are in effect as of the date of this First Amendment. The foregoing does not, and is not intended to, subject Lot 3 or the owner thereof to any other City of Bee Cave ordinances to which it is not already subject to, nor to any changes, amendments, or additions to the City of Bee Cave’s Noise Standards. For purposes hereof, “Bounding Property Line” shall mean the common line between Lot 3 and the adjacent lots or property.”

3. Entire Agreement. This First Amendment, together with the Declaration, sets forth the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings, whether written or oral.

4. Defined Terms. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Declaration.

5. Recordation. A fully executed original of this First Amendment shall be recorded in the Official Public Records of Travis County, Texas.

6. Counterparts. This First Amendment may be executed in two or more counterparts, each of which will be deemed an original, and all of which together will constitute one in the same agreement.

7. Headings. Headings are included for convenience only and are not to be used in the interpretation of this Second Amendment.

8. Governing Law. This First Amendment will be governed by and construed in accordance with the laws of the State of Texas.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to be effective as of the date first above written.

DECLARANT:

SUMMIT AUSTIN 56, LTD.
(a Texas limited partnership)

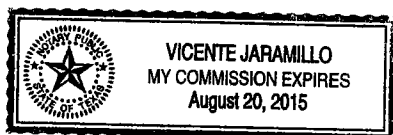
By: MEMORIAL PARK ESTATES GP, LLC
Its General Partner

By: *Antonio Balleca*
Antonio Balleca, President

(Owner of Lot 1 and Lots 4-7, Block A)

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me this 19 day of October, 2012, by Antonio Balleca, President of Memorial Park Estates GP, LLC, a Texas limited liability company, the general partner of Summit Austin 56, Ltd., a Texas limited partnership, on behalf of said limited liability company and limited partnership.



Vicente Jaramillo
Notary Public in and for the State of Texas

PARCEL OWNER:

NITRO SWIMMING BEE CAVE, LLC
(a Texas limited liability company)

By: Michael A. Koleber
Name: MICHAEL A. KOLEBER
Title: OWNER

(Owner of Lot 2, Block A)

STATE OF TEXAS §
 §
COUNTY OF Travis §

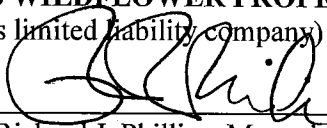
This instrument was acknowledged before me this 19th day of October, 2012,
by Michael A. Koleber, Owner of Nitro Swimming Bee Cave LLC, a Texas
limited liability company, on behalf of said company.



[Signature]
Notary Public in and for the State of Texas

PARCEL OWNER:


TEXAS WILDFLOWER PROPERTIES, LLC
(a Texas limited liability company)

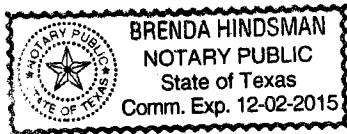
By: 
Richard J. Phillips, Managing Member

(Owner of Lot 3, Block A)

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me this 23 day of October, 2012,
by Richard J. Phillips, Managing Member of Texas Wildflower Properties, LLC, a Texas limited
liability company, on behalf of said company.


Notary Public in and for the State of Texas



**LIENHOLDER CONSENT TO FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(THE "AMENDED DECLARATION")**

STATE OF TEXAS §

COUNTY OF TRAVIS §

Recitals:

Summit Austin 56, Ltd., a Texas limited partnership is the Owner (called "Owner", whether one or more) of the following property:

Lots 1, 4, 5, 6, and 7, Block A, SUMMIT 56, a subdivision in Travis County, Texas, according to the map or plat recorded in Document Number 201000095, Official Public Records of Travis County, Texas. ("Summit Property").

International Bank of Commerce ("Lienholder") holds a lien against the Summit Property under the following described documents:

Vendor's Lien retained in that certain Deed dated September 17, 2007, recorded under Document No. 2007176103 of the Official Public Records of Travis County, Texas, securing the payment of one promissory note of even date in the principal amount of \$7,427,373.00 payable to Lienholder ("Note"); Deed of Trust dated September 17, 2007, executed by Summit Austin 56, Ltd. to Jay Rogers, Trustee, recorded under Document No. 2007176104 of the Official Public Records of Travis County, Texas, as corrected and re-recorded under Document No. 2009069468, and as modified and/or extended by Document No. 2009199045, which Deed of Trust is additional secured by that Assignment of Contracts recorded under Document No. 2007176105, all in the Official Public Records of Travis County, Texas.

On or about the date hereof, Owner has recorded a First Amendment (the "Amended Declaration") to that certain Declaration of Covenants, Conditions and Restrictions dated August 9, 2010 and recorded as Document No. 2010114631 in the Official Public Records of Travis County, Texas, which Amended Declaration is recorded against and runs with the Summit Property.

Agreement

In consideration of \$10, and other good and valuable consideration, the receipt of which is acknowledged, the Lienholder agrees as follows:

1. Lienholder consents to the recording of the Amended Declaration against and running with the Summit Property, which is executed contemporaneously herewith.

2. Lienholder subordinates all of its liens on this Summit Property to the rights and interests of the parties to such Amended Declaration and their respective successors and assigns, and any foreclosure of its liens will not extinguish the rights and interests in the Summit Property or as set forth in the Restrictive Covenant.

3. Lienholder affirms that the undersigned has the authority to bind the Lienholder, and that all corporate acts necessary to bind the Lienholder have been taken.

Executed on OCTOBER 19, 2012.

INTERNATIONAL BANK OF COMMERCE, a

By: *Mario Fazio*

Name: Mario Fazio

Title: Assistant Vice President

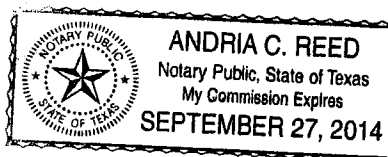
ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me Andria C. Reed (Notary name), Notary Public, on this day personally appeared Mario Fazio, Asst. Vice President of International Bank of Commerce, a _____, known to me personally to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for and on behalf of the company for the purposes and consideration therein expressed.

Given under my hand and seal of office this 19th day of October, 2012.

Andria C. Reed
Notary Public, State of Texas



**LIENHOLDER CONSENT TO FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(THE "AMENDED DECLARATION")**

STATE OF TEXAS §

COUNTY OF TRAVIS §

Recitals:

Texas Wildflower Properties, LLC, a Texas limited liability company is the Owner (called "Owner", whether one or more) of the following property:

Lot 3, Block A, SUMMIT 56, a subdivision in Travis County, Texas, according to the map or plat recorded in Document Number 201000095, Official Public Records of Travis County, Texas. ("TW Property").

Green Bank, N.A. ("Lienholder") holds a lien against the TW Property under the following described documents:

Vendor's Lien retained in that certain Deed dated October 23, 2012, recorded on or about the date hereof in the Official Public Records of Travis County, Texas, securing the payment of one promissory note of even date in the principal amount of \$626,000.00 payable to Lienholder ("Note"); Deed of Trust dated October 23, 2012, executed by Texas Wildflower Properties, LLC to Geoffrey D. Greenwade, Trustee, recorded under Document No. _____ of the Official Public Records of Travis County, Texas, as modified and/or extended by Document No. _____, which Deed of Trust is additionally secured by that Absolute Assignment of Leases, Rents and Rights recorded under Document No. _____, all in the Official Public Records of Travis County, Texas.

On or about the date hereof, Owner has recorded a First Amendment (the "Amended Declaration") to that certain Declaration of Covenants, Conditions and Restrictions dated August 9, 2010 and recorded as Document No. 2010114631 in the Official Public Records of Travis County, Texas, which Amended Declaration is recorded against and runs with the TW Property.

Agreement

In consideration of \$10, and other good and valuable consideration, the receipt of which is acknowledged, the Lienholder agrees as follows:

1. Lienholder consents to the recording of the Amended Declaration against and running with the TW Property, which is executed contemporaneously herewith.

2. Lienholder acknowledges the rights and interests of the parties to such Amended Declaration and their respective successors and assigns, and any foreclosure of its liens will not extinguish the rights and interests in the TW Property or as set forth in the Amended Declaration.

3. Lienholder affirms that the undersigned has the authority to bind the Lienholder, and that all corporate acts necessary to bind the Lienholder have been taken.

Executed on October 26, 2012.

GREEN BANK, N.A., a national banking association

By: 

Name: John Weddige

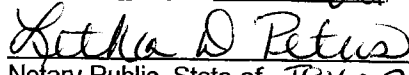
Title: VP

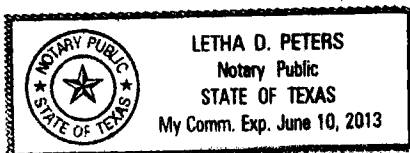
ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF TRAVIS§

Before me Letha Peters (Notary name), Notary Public, on this day personally appeared John Weddige, VP of Green Bank, N.A., a national banking association, known to me personally to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for and on behalf of the company for the purposes and consideration therein expressed.

Given under my hand and seal of office this 26 day of October, 2012


Notary Public, State of Texas



**LIENHOLDER CONSENT TO FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(THE "AMENDED DECLARATION")**

STATE OF TEXAS §

COUNTY OF TRAVIS §

Recitals:

NITRO SWIMMING BEE CAVE, LLC a Texas limited liability company is the Owner (called "Owner", whether one or more) of the following property:

Lot 2, Block A, SUMMIT 56, a subdivision in Travis County, Texas, according to the map or plat recorded in Document Number 201000095, Official Public Records of Travis County, Texas. ("Nitro Property").

R. Bank ("Lienholder") holds a lien against the Nitro Property under the following described documents:

Vendor's Lien retained in that certain Deed dated August 24, 2010, recorded under Document No. 2010126172 of the Official Public Records of Travis County, Texas, securing the payment of one promissory note of even date in the principal amount of \$2,921,193.00 payable to Lienholder ("Note"); Deed of Trust dated August 24, 2010, executed by Nitro Swimming Bee Cave, LLC to Malvin Green, Trustee, recorded under Document No. 2010126173 of the Official Public Records of Travis County, Texas, as modified and/or extended by Document No. 2011137993, which Deed of Trust is additionally secured by that Absolute Assignment of Leases, Rents and Rights recorded under Document No. 2010126174, all in the Official Public Records of Travis County, Texas.

Vendor's Lien retained in that certain Deed dated August 24, 2010, recorded under Document No. 2010126172 of the Official Public Records of Travis County, Texas, securing the payment of one promissory note of even date in the principal amount of \$2,044,834.00 payable to Lienholder ("Note"); Deed of Trust dated August 24, 2010, executed by Nitro Swimming Bee Cave, LLC to Malvin Green, Trustee, recorded under Document No. 2010126177 of the Official Public Records of Travis County, Texas, as modified and/or extended by Document Nos. 2011137992 and 2012045279, which Deed of Trust is additionally secured by that Absolute Assignment of Leases, Rents and Rights recorded under Document No. 2010126178, all in the Official Public Records of Travis County, Texas.

Financing Statement filed August 30, 2010, recorded under Document No. 2010126181 of the Official Public Records of Travis County, Texas, naming Owner as Debtor for the benefit of Lienholder, as Secured Party, creating a security interest in fixtures located on the Nitro Property.

Third Party Lender Agreement recorded under Document No.
2012061951 of the Official Public Records of Travis County,
Texas.

On or about the date hereof, Owner has recorded a First Amendment (the "Amended Declaration") to that certain Declaration of Covenants, Conditions and Restrictions dated August 9, 2010 and recorded as Document No. 2010114631 in the Official Public Records of Travis County, Texas, which Amended Declaration is recorded against and runs with the Nitro Property.

Agreement

In consideration of \$10, and other good and valuable consideration, the receipt of which is acknowledged, the Lienholder agrees as follows:

1. Lienholder consents to the recording of the Amended Declaration against and running with the Nitro Property, which is executed contemporaneously herewith.

2. Lienholder subordinates all of its liens on this Nitro Property to the rights and interests of the parties to such Amended Declaration and their respective successors and assigns, and any foreclosure of its liens will not extinguish the rights and interests in the Nitro Property or as set forth in the Amended Declaration.

3. Lienholder affirms that the undersigned has the authority to bind the Lienholder, and that all corporate acts necessary to bind the Lienholder have been taken.

Executed on October 22, 2012.

R. Bank,
a Texas Corporation
By: Chris Bubela
Name: Chris Bubela
Title: CLQ/EVP

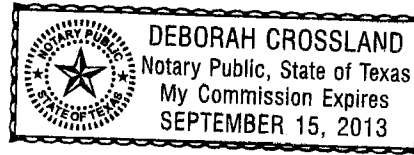
ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF TRAVIS§

Before me Deborah Crossland (Notary name), Notary Public, on this day personally appeared Chris Bubela CLQ/EVP of R Bank, a Texas Corporation, known to me personally to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for and on behalf of the company for the purposes and consideration therein expressed.

Given under my hand and seal of office this 22 day of October, 2012.

Deborah Crossland
Notary Public, State of Texas



**LIENHOLDER CONSENT TO FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(THE "AMENDED DECLARATION")**

STATE OF TEXAS §

COUNTY OF TRAVIS §

Recitals:

NITRO SWIMMING BEE CAVE, LLC a Texas limited liability company is the Owner (called "Owner", whether one or more) of the following property:

Lot 2, Block A, SUMMIT 56, a subdivision in Travis County, Texas, according to the map or plat recorded in Document Number 201000095, Official Public Records of Travis County, Texas. ("Nitro Property").

Small Business Administration ("Lienholder") holds a lien against the Nitro Property under the following described documents:

Deed of Trust dated March 27, 2012, executed by Nitro Swimming Bee Cave, LLC to Aaron Milligan, Trustee, recorded under Document No. 2012061949 of the Official Public Records of Travis County, Texas, securing the payment of one promissory note of even date in the principal amount of \$2,093,000.00 payable to Capital Certified Development Corporation, as assigned to Small Business Administration by instrument recorded under Document No. 2012061950 in the Official Public Records of Travis County, Texas.

Third Party Lender Agreement recorded under Document No. 2012061951 of the Official Public Records of Travis County, Texas.

On or about the date hereof, Owner has recorded a First Amendment (the "Amended Declaration") to that certain Declaration of Covenants, Conditions and Restrictions dated August 9, 2010 and recorded as Document No. 2010114631 in the Official Public Records of Travis County, Texas, which Amended Declaration is recorded against and runs with the Nitro Property.

Agreement

In consideration of \$10, and other good and valuable consideration, the receipt of which is acknowledged, the Lienholder agrees as follows:

1. Lienholder consents to the recording of the Amended Declaration against and running with the Nitro Property, which is executed contemporaneously herewith.
2. Lienholder subordinates all of its liens on this Nitro Property to the rights and interests of the parties to such Amended Declaration and their respective

successors and assigns, and any foreclosure of its liens will not extinguish the rights and interests in the Nitro Property or as set forth in the Amended Declaration.

3. Lienholder affirms that the undersigned has the authority to bind the Lienholder, and that all corporate acts necessary to bind the Lienholder have been taken.

Executed on NOV. 8, 2012.

Small Business Administration,

a [Signature]

By: [Signature]

Name: IZORA HARRIS

Title: SUPV. LOAN OFFICER

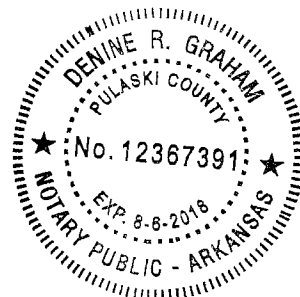
ACKNOWLEDGMENT

~~STATE OF TEXAS~~
COUNTY OF ~~TRAVIS~~
ARIZONA
PULASKI

Before me DENINE R. GRAHAM (Notary name), Notary Public, on this day personally appeared IZORA HARRIS, SLO of Small Business Administration, a SUPERVISORY LOAN OFFICER, known to me personally to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same for and on behalf of the company for the purposes and consideration therein expressed.

Given under my hand and seal of office this 8th day of NOVEMBER, 2012.

[Signature]
Notary Public, State of ARIZONA



11-GF# 201102627 BKH
RETURN TO: HERITAGE TITLE
401 CONGRESS SUITE 1500
AUSTIN, TEXAS 78701

FIRST AMENDMENT TO DECLARATION
OF COVENANTS, CONDITIONS AND
RESTRICTIONS

LIENHOLDER CONSENT



FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

[Signature]
DANA DEBEVERA, COUNTY CLERK
TRAVIS COUNTY, TEXAS

November 29 2012 02:39 PM

FEE: \$ 68.00 2012201733



BEE CAVE TEXAS

March 26, 2024

Laci Ehlers
McLean & Howard, LLP
4301 Bull Creek Rd, Suite 150
Austin, Texas 78731

Sent via e-mail: lehlers@mcleanhowardlaw.com

RE: Summit 56 Denial Letter in reference to Summit 56, Lot 1

Dear Ms. Ehlers

This correspondence is in relation to your most recent vested rights application and development project dated February 14, 2024, in connection with property listed above. This property and the different project attempts have been documented for several years. After careful review of your application, City staff must deny your request for acknowledgment of a vested right for the project listed.

We have considered your argument regarding vested rights applicable to the property and/or project listed. However, the current proposed project does not meet the required current or even former City Codes, and includes elements which are exempted from vesting entirely. The project does not meet current codes for conditions which including but not limited to, current distance requirements for gas stations under § 3.4.8.B9(i), as well as the number of uses proposed for the property and the location of the development project not meeting requirements for traffic management. The different project attempts in the past have City staff comments listing the various reasons for denial at each point in the past.

City staff must deny your request and cannot approve the current project. However, the City Attorney's office has stated that you may be able to take advantage of the consent decree process which existed in the prior codes, at least to the point of appealing this denial of acknowledgment of a vested right to the City Council. According to Code provision 30.01.007(d)(8) and (9), you are eligible to appeal a final determination of the City Manager to the City Council within 10 calendar days of my decision. The City may enter into a consent agreement with the applicant that is intended to resolve a good-faith dispute concerning development rights and applicable regulations in order to avoid the cost and uncertainty of litigation to both parties.

Should you have any questions or concerns please contact the City Attorney's office.

Lindsey A. Oskoui

*Assistant City Manager
Interim Director of Planning & Development
Co-Interim City Manager*

April 1, 2024

Lindsey Oskoui
Interim City Manager
Acting Director of Planning & Development
City of Bee Cave, Texas
4000 Galleria Parkway
Bee Cave, Texas 78738

RE: Notice of Appeal of the Denial Determination of the Vested Rights Petition for Lot 1,
Block A in the Summit 56 Subdivision

Ms. Oskoui:

Pursuant to Section 30.01.007(d)(8) and (9) of the applicable City of Bee Cave Code of Ordinances ("Code"), Summit Austin 56, Ltd. ("Appellant") hereby appeals the final determination of the City Manager denying Appellant's valid vested rights claim outlined in the application dated February 14, 2024. We respectfully contend that denial of the asserted vested rights for the proposed project is a clear violation of Chapter 245 and Section 43.002 of the Texas Local Government Code.

This appeal has been filed timely and in accordance with the provisions of the Code. The Appellant requests review and consideration by the City Council of the arguments made in our February 14, 2024 letter and supporting information, which are incorporated herein by reference. We request that, upon such consideration, the City Council reverse your determination and approve Appellant's vested rights request. Although it is our strong position that the proposed commercial use that includes a convenience store is subject to certain vested rights, in an effort to resolve this dispute without involving litigation, Appellant is amenable to possible negotiation of a consent agreement.

I look forward to hearing back from you regarding this notice of appeal and appreciate your continued attention to this matter.

Sincerely,



Laci Ehlers



BEE CAVE
TEXAS

City Council Meeting
4/9/2024
Agenda Item Transmittal