



Travis County Commissioners Court Agenda Request

Meeting Date: January 24, 2012

Prepared By: Joe Arriaga Phone #: 854-7562

Division Director/Manager: Anna Bowlin, Director of Development Services

Department Head/Title: Steven M. Manilla, P.E., County Executive-TNR

Sponsoring Court Member: Commissioner Davis, Precinct One

AGENDA LANGUAGE:

Consider and take appropriate action on the following requests:

- A) A Plat for recording: The Villages of Hidden Lake, Phase 6B-1(Long Form Plat - 13 Lots - 3.009 acres - Hidden Lake Crossing); and
- B) Construction Agreement for Villages of Hidden Lake, Phase 6B-1, Final Plat in Precinct One.

BACKGROUND/SUMMARY OF REQUEST:

On March 22, 2011, the developer entered into an alternative fiscal agreement with Travis County, which held the plat in abeyance until the remaining fiscal has been posted. The developer has now posted the remaining fiscal (\$243,206.00) with Travis County and has requested approval of the plat.

This final plat consists of 13 total lots: 12 Single-Family lots and 1 landscape lot. The developer has paid parkland fees to the City of Pflugerville. In addition, a total of 509 linear feet of private streets are being proposed to be constructed. Water and wastewater will be provided by the City of Pflugerville.

STAFF RECOMMENDATIONS:

As this final plat meet all subdivision standards and has been approved by the City of Pflugerville; TNR staff recommends approval of the plat and the construction agreement.

ISSUES AND OPPORTUNITIES:

Staff did not receive any inquiries from anyone regarding this final plat.

FISCAL IMPACT AND SOURCE OF FUNDING:

N/A

EXHIBITS/ATTACHMENTS:

Location Map

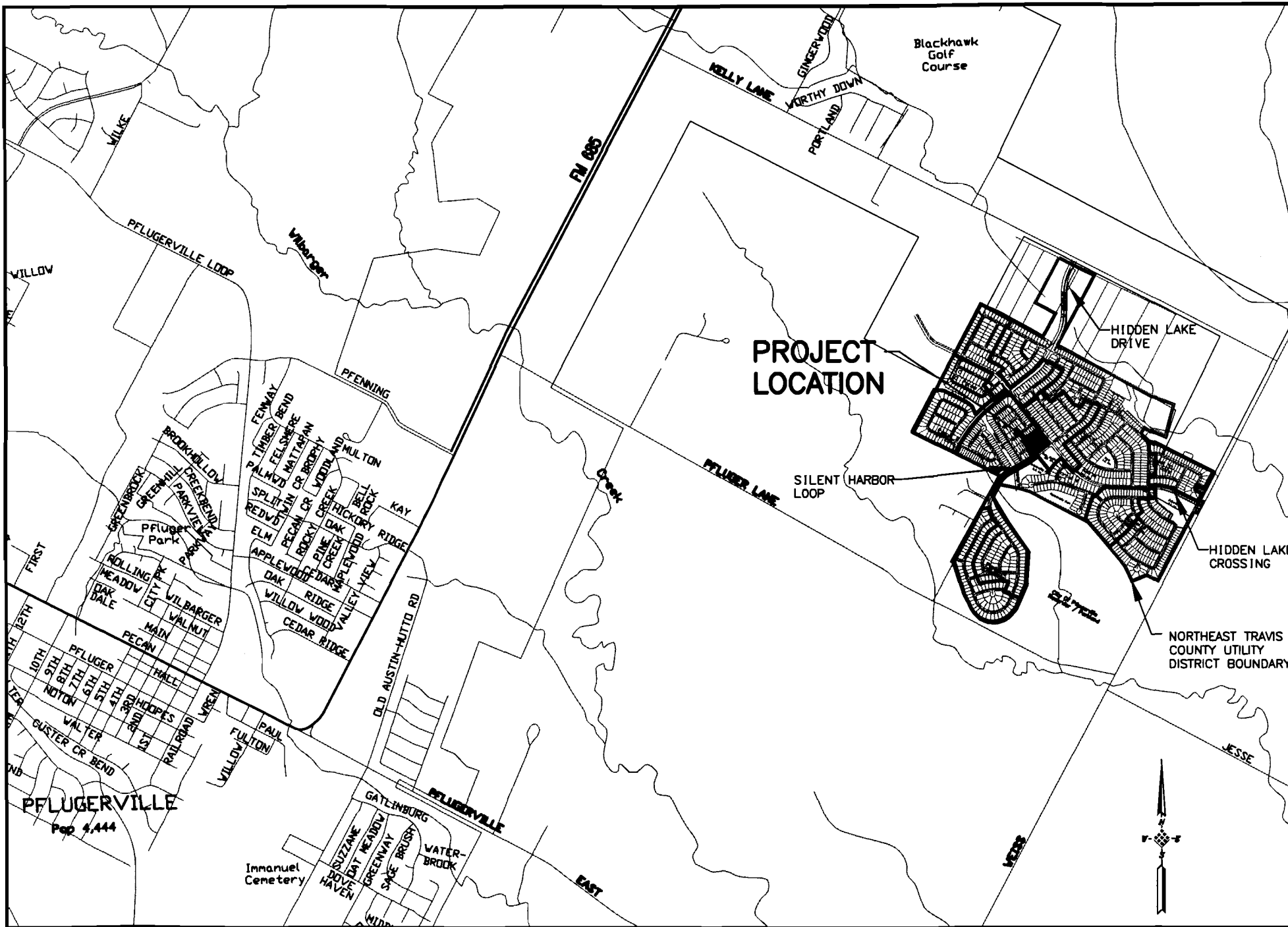
Final Plat
Precinct Map
Construction Agreements (2)

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429

CC:

AB:AB:ja
1101 - Development Svs-



Blackhawk
Golf
Course

PROJECT
LOCATION

HIDDEN LAKE
DRIVE

HIDDEN LAKE
CROSSING

NORTHEAST TRAVIS
COUNTY UTILITY
DISTRICT BOUNDARY

PFLUGERVILLE

Pop 4,444

Immanuel
Cemetery

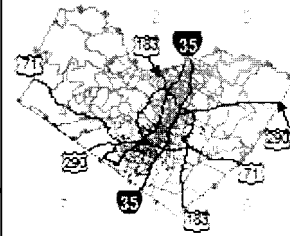


Travis County

Use" new window

See All

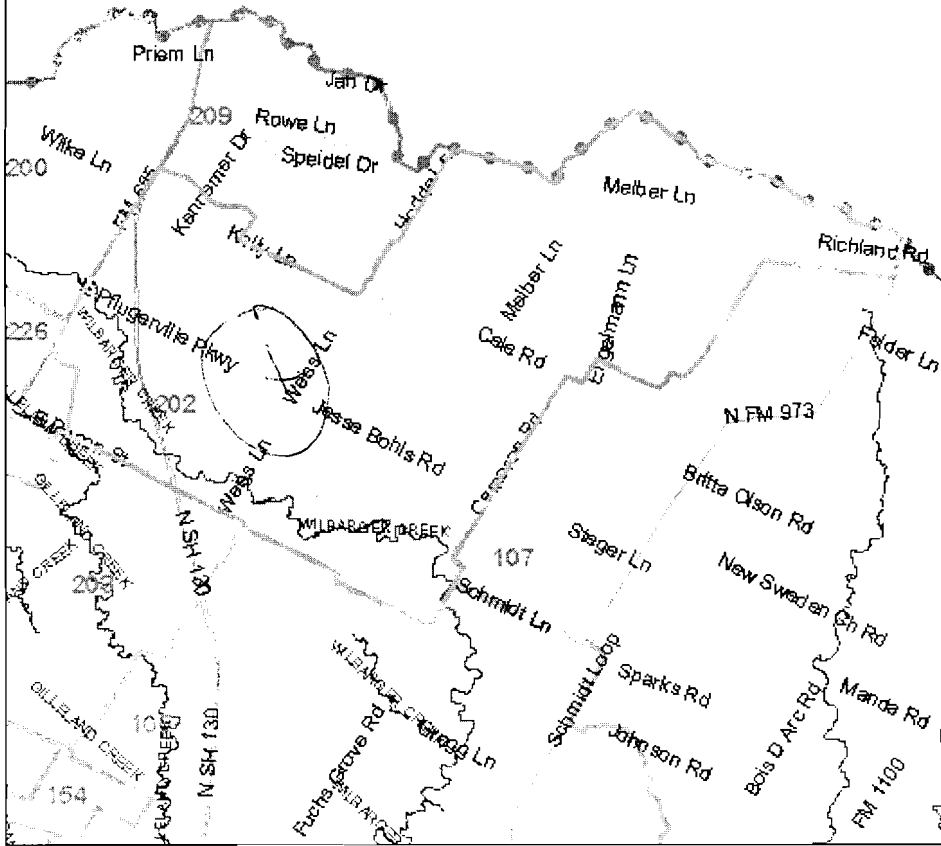
Click to left to "See All"
The colored square below is the area shown in the MAIN map.
Click Grid 1 to 9 below to zoom to that Grid in the MAIN map.



Please click your browser's "BACK" button to return to the GRID maps.

LEGEND

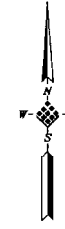
- Travis County
- Voting Precinct
- Road Class
- Highway
- Major
- other
- Grid Level
- 0 (Full view)
- 1 (Less detail)
- 2 (Less detail)
- 3 (Less detail)
- 4 (Less detail)



This map was created by the Travis County Voter Registration Department as a "working map" and is not warranted for any other use. No warranty is made regarding its accuracy and completeness. It is our goal to maintain and provide accurate maps and data, however omissions and errors may occur. Thank you for your consideration.

Precinct 1

THE VILLAGES OF HIDDEN LAKE, PHASE 6B-1 3.009 ACRES IN GEORGE M. MARTIN SURVEY NO. 9 ABSTRACT NO. 529 TRAVIS COUNTY, TEXAS



100' 0' 100'
SCALE
1"=100'

LEGEND

.....	SIDEWALK
—————	LOT LINES
—————	BOUNDARY
—————	RIGHT OF WAY
—————	PROPOSED CENTERLINE
—————	ADJACENT PROPERTY
—————	EXISTING EASEMENT
—————	PROPOSED EASEMENT
⊙	INDICATES BLOCK DESIGNATION
○	FOUND 1/2" IRON ROD W/ B&P CAP
●	IRON ROD SET W/ CAP MARKED "PATE ENG"
■	CONCRETE MONUMENT SET
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS WILLIAMSON COUNTY TEXAS
P.O.B.	POINT OF BEGINNING
P.U.E.	PUBLIC UTILITY EASEMENT

CURVE	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	89.5839°	25.00	38.28	N69.5839°E	38.33
C2	9.5822°	1170.00	19.88	N89.2334°E	19.88
C3	3.4157°	375.00	24.21	N53.4534°E	24.21
C4	60.2000°	25.00	38.27	N60.2000°E	38.36
C5	90.0000°	15.00	23.56	N83.0524°W	23.21
C6	3.4157°	425.00	27.44	N53.4534°E	27.43
C7	48.1123°	25.00	21.03	N27.4834°E	20.41
C8	278.2248°	50.00	241.19	S39.0524°W	48.87
C9	48.1123°	25.00	21.03	S79.0017°W	20.41
C10	90.0000°	15.00	23.56	S08.5436°W	23.21
C11	90.0000°	25.00	38.27	S83.0524°E	38.36
C12	48.1123°	50.00	42.04	S27.4834°W	40.89
C13	88.0810°	80.00	57.73	S64.5811°W	54.58
C14	43.1832°	50.00	38.22	N40.0117°W	37.32
C15	88.0810°	50.00	28.44	N18.5708°E	36.00
C16	90.0524°	50.00	45.71	N75.0317°E	42.33
C17	28.3330°	25.00	12.80	N23.1848°E	12.75
C18	80.2439°	25.00	26.39	N21.4218°E	25.18
C19	3.4157°	400.00	29.82	N53.4534°E	29.82

STREET NAME:	LINEAR FOOTAGE:	R.O.W. WIDTH
JENNIE MARIE DRIVE	334.47'	50'
RIPPLE POND WAY	175.00'	50'
TOTAL:	509.47'	

TOTAL AREA OF SITE 3.009 ACRES
TOTAL AREA OF STREETS 0.89 ACRES
TOTAL AREA OF BLOCKS 2.32 ACRES
TOTAL NUMBER OF BLOCKS 2
TOTAL NUMBER OF RESIDENTIAL LOTS 12
TOTAL NUMBER OF EASEMENT/LANDSCAPE LOTS 1
TOTAL NUMBER OF PARKLAND LOTS 0

OWNERS: BUFFINGTON LAND MANAGEMENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, GENERAL PARTNER
CONTACT: CHRIS FIELDS
ADDRESS: 3600 CAPITAL OF TEXAS HWY BUILDING B, SUITE 170 AUSTIN, TEXAS 78746
PHONE NUMBER: (512) 732-2825

ENGINEER: PATE ENGINEERS, INC.
CONTACT: TERRI CRAUFORD, P.E.
ADDRESS: 7801 CAPITAL OF TEXAS HWY. SUITE 350 AUSTIN, TEXAS 78731
PHONE NUMBER: (512) 340-0600
FAX NUMBER: (512) 340-0604

SURVEYOR: PATE SURVEYORS
CONTACT: DAVID ELZY R.P.L.S.
ADDRESS: 7801 CAPITAL OF TEXAS HWY. SUITE 350 AUSTIN, TEXAS 78731
PHONE NUMBER: (512) 340-0600
FAX NUMBER: (512) 340-0604

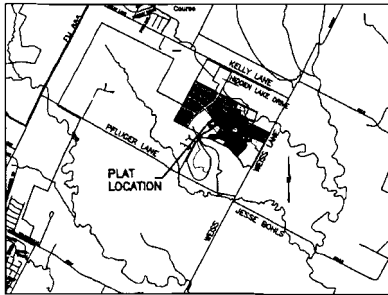
PATE PROJECT NO.
110400110
SHEET

1 of 2

PATE ENGINEERS
P.L.L.C.
7801 N. Capital of Texas Hwy., Suite 350 Austin, Tx. 78731
Phone: 512-340-0600

PROJECT: THE VILLAGES OF HIDDEN LAKE PHASE 6B-1

SHEET: FINAL PLAT



VICINITY MAP
N.T.S.

PFLUGERVILLE EAST L.L.C.
CALL 234.054 ACRE REMAINT
PORTION OF 293.104 ACRES
DOCUMENT NO. 2002118297
O.P.R.T.C.T.

LANDSCAPE AND SIDEWALK EASEMENT
DOCUMENT NO. 2004498381
200408422
O.P.R.T.C.T.

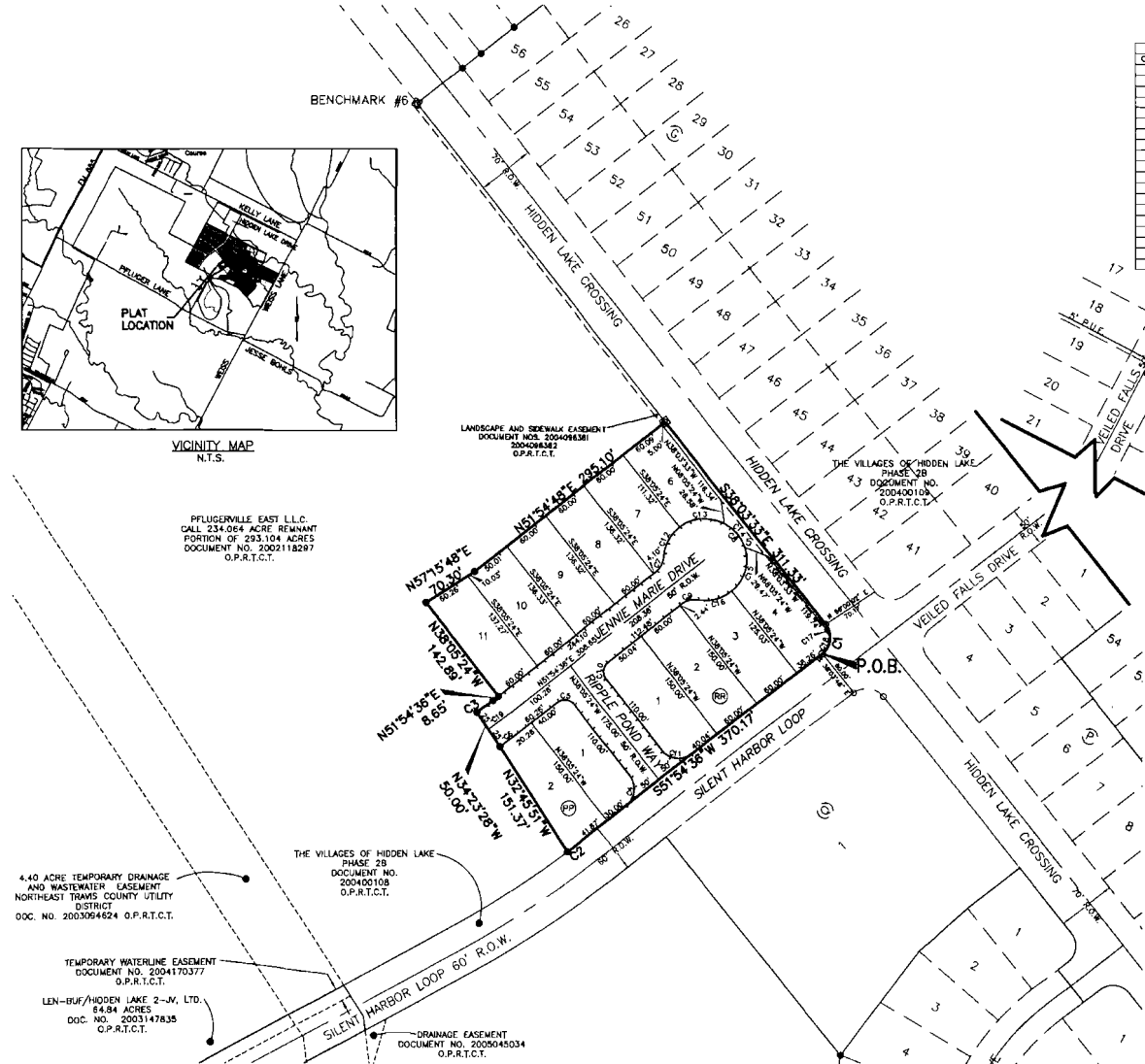
4.40 ACRE TEMPORARY DRAINAGE
AND WASTEWATER EASEMENT
NORTHEAST TRAVIS COUNTY UTILITY
DISTRICT
DOC. NO. 2003094624 O.P.R.T.C.T.

TEMPORARY WATERLINE EASEMENT
DOCUMENT NO. 2004170377
O.P.R.T.C.T.

LEN-BUFF/HIDDEN LAKE 2-M, LTD.
64.84 ACRES
DOC. NO. 2003147838
O.P.R.T.C.T.

THE VILLAGES OF HIDDEN LAKE
PHASE 28
DOCUMENT NO. 200400108
O.P.R.T.C.T.

DRAINAGE EASEMENT
DOCUMENT NO. 2005045034
O.P.R.T.C.T.



§ EXHIBIT 82.401 (E) SUBDIVISION CONSTRUCTION AGREEMENT

STATE OF TEXAS COUNTY OF TRAVIS

This Agreement is made and entered into by and between Buffington Land, Ltd., (the "Subdivider") and Travis County, Texas, (the "County"), hereinafter collectively referred to as the "Parties".

WHEREAS, the Subdivider owns the tract of real property described in Exhibit "A", which is attached hereto and made a part hereof, (the "Property"); and

WHEREAS, the Subdivider desires to subdivide the Property, pursuant to the proposed final plat of "Villages of Hidden Lake" (the "Subdivision"); and

WHEREAS, the County desires to set forth the Subdivider's responsibility for the construction of the Subdivision's roads and drainage facilities (the "Improvements"); and

WHEREAS, the Subdivider desires to set forth the County's responsibility to accept the constructed Improvements for maintenance;

NOW, THEREFORE, the Parties agree as follows:

I. Subdivider's Obligations

A. Improvements. The Subdivider shall construct the Improvements required to comply with the County's Standards for the Construction of Streets and Drainage in Subdivisions (the "Standards"). The Improvements will conform to the construction plans, permits, and specifications approved by the County prior to commencement of construction.

B. Security. To secure the Subdivider's obligations, the Subdivider will provide a financial guarantee of performance in the amount of the estimated cost of constructing the Improvements (the "Security"), which has been determined by a professional engineer and approved by the County's Transportation and Natural Resources Department ("TNR"). The Security must be in a form approved for use in the Standards or otherwise approved by the County Attorney's Office.

C. Alternative Fiscal. Notwithstanding any other provisions of this Agreement, the Subdivider may request the Commissioners Court to hold the administratively approved plat in abeyance until all streets, alleys, sidewalks, and drainage improvements in the Subdivision. The Subdivider must post fiscal security to secure restoration of disturbed areas should construction not be completed. Upon satisfactory completion, the submitted plat shall be forwarded to the Commissioners Court for approval and recording, provided adequate fiscal security has been posted to secure the one year Construction Performance Period described below.

D. Completion. The Improvements must be constructed no later than three (3) years after the effective date of this Agreement. This period may be extended by the delivery to the County at least forty five (45) days prior to the expiration of the Security of an extension of the Security in a form approved by the County. Upon completion of the Improvements, the Subdivider will

provide the County with a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

E. Warranty. The Subdivider warrants the public Improvements will be free from defects for a period of one (1) year from the date the County accepts the construction of the public Improvements (the "Performance Period"). The Subdivider shall correct and repair any defects in materials or workmanship, including design inadequacies and damage to or deterioration of the public Improvements, that occur before and during this Performance Period due to any cause. As a condition of the County's acceptance of dedication of any of the public Improvements, the Subdivider must post fiscal security in the form of cash, a performance bond, or other approved form and in the amount of ten percent (10%) of the cost of constructing the public Improvements, to secure the warranty established by this Agreement. It is expressly acknowledged that the public Improvements must meet County Standards at the end of the one year Construction Performance Period in order for the County to release the construction performance fiscal security.

F. Increase in Security. If the County determines the cost of constructing the Improvements exceeds the posted Security, within thirty (30) days after notice and demand, the Subdivider shall provide additional Security in an amount equal to the additional estimated cost.

G. Reduction in Security. During the construction of the Improvements, the Security may be reduced in accordance with the percentage of completion of the construction. The Executive Manager of TNR will execute Statements of Partial Reductions in the Amount of Security, when provided with the following documentation:

- 1) a professional engineer's certification of quantities of work completed;
- 2) a contractor's invoice for work completed; and
- 3) a TNR inspection report, indicating the completion of the portion of the work represented by the contractor's invoice.

After the approval and acceptance of the construction of the Improvements, the Security for the public Improvements may be reduced by ninety percent (90%) of the cost of the approved construction and held for the one-year Performance Period. After the approval of the construction of the private Improvements, the Security posted for the private Improvements will be fully released. In addition, the County agrees to release or reduce, as appropriate, the Security provided by the Subdivider, if the County accepts a substitute Security for all or any portion of the Improvements.

H. Covenant, Restriction, and Condition. In the event that the Improvements are not constructed to County Standards and the required Security has expired, the Subdivider shall not sell, transfer, or convey any of the lots in the Subdivision until sufficient Security has been posted with the County for the completion of the construction.

II. County's Obligations

A. Inspection and Approval. The County will inspect the Improvements during and at the completion of construction. If the Improvements are completed in accordance with the Standards, the County will approve the Improvements and accept the public Improvements.

B. Notice of Defect. The County will notify the Subdivider, if an inspection reveals that any portion of the Improvements is not constructed in accordance with the Standards or is otherwise defective. However, the County is not responsible for the construction of the Improvements, the quality of the material, or the construction methods utilized. In addition, the County is not responsible for making continuous on-site inspections of the construction work and the County has no privity with or responsibility for the construction contractor or any subcontractors. The Subdivider will have thirty (30) days from such notice to cure the defect. It is an event of default under this Agreement, if the defect is not cured prior to the expiration of the time to cure.

C. Performance Period Security Release. Upon the expiration of the one-year Performance Period with no damages or defects which the Executive Manager notifies the Subdivider must be corrected, the Executive Manager will release the Performance Period Security.

D. Conditions to Draw on Security. The County may draw upon any Security posted under this Agreement upon the occurrence of one or more of the following events:

- a. The failure of the Subdivider to construct the Improvements to the applicable County Standards;
- b. The Subdivider's failure to renew or replace the Security at least forty-five (45) days prior to its expiration;
- c. The acquisition of the Property or a portion of the Property by the issuer of the Security or other creditor through foreclosure or an assignment or conveyance in lieu of foreclosure;
- d. The arrangement by the Commissioners Court for the completion of one or more of the Improvements; or
- e. The determination by the Commissioners Court that the completion of one or more of the public Improvements is in the public Interest.

E. Notice of Intent to Draw. The County shall provide ten (10) days written notice of the occurrence of such an event to the Subdivider with a copy provided to any fiscal surety, lender, or escrow agent. The notice will include a statement that the County intends to provide for the performance of some or all of Subdivider's obligations hereunder for the construction of the Improvements, if the failure is not cured. The County shall be entitled to draw the amount it considers necessary to perform the Subdivider's obligations under this Agreement up to the total amount allocated for the Improvements. In lieu of a drawing based on an event described in subparagraphs (b) or (c), above, the County may accept a substitute Security.

F. Use of Proceeds.

1) The County must utilize the proceeds of any posted security solely for the purpose of completing the Improvements to the County's Standards or to correct defects in or failures of the Improvements.

2) The County may in its sole discretion complete some or all of the unfinished Improvements at the time of default, regardless of the extent to which development has taken place in the Subdivision or whether development ever commenced, without incurring any

obligation to complete any of the unfinished Improvements. If the County uses the proceeds to complete, repair, or reconstruct the Improvements, it will do so as a public trustee of the development process in order to protect purchasers and taxpayers from the adverse consequences of a subdivider default or to protect the public interest by completing the Improvements.

3) The County is not a private subdivision developer and its draft on the Security and utilization of the proceeds to complete, repair, or reconstruct the Improvements is not an acceptance of the dedication of the Improvements. The acceptance of the Improvements is specifically contingent upon the delivery to the County of Improvements, which have been constructed to County Standards or the express order of acceptance by the County's Commissioners Court.

4) The Subdivider has no claim or rights under this Agreement to funds drawn under the Security or any accrued interest earned on the funds to the extent the same are used by the County hereunder.

5) All funds obtained by the County pursuant to one or more draws under the Security shall be maintained by the County in an interest bearing account or accounts until such funds, together with accrued interest thereon (the "Escrowed Funds"), are disbursed by the County.

6) The County shall disperse all or portions of the Escrowed Funds as Improvements are completed by the County, or in accordance with the terms of a written construction contract between the County and a third party for the construction of the Improvements.

7) Escrowed Funds not used or held by the County for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with any interest accrued thereon, shall be paid by the County to the Issuer of the Security or, if the Security was originally in the form of cash, to the Subdivider, no later than sixty (60) days following the County's acceptance of the Improvement or its decision not to complete the Improvements using Escrowed Funds, whichever date is earlier.

G. Releases. The Executive Manager will, subject to the performance of the Subdivider of its obligations under this agreement and the Travis County Standards for Construction of Streets & Drainage in Subdivisions, execute such releases of this Agreement as are necessary and reasonable upon the request of the Subdivider or a purchaser of a portion of the Property.

III. MISCELLANEOUS

A. Covenants, Restrictions, and Conditions. These Covenants, Restrictions, and Conditions will operate as covenants running with the land and will be binding upon the Subdivider and the Subdivider's legal representatives, successors and assigns.

B. Measure of Damages. The measure of damages for breach of this Agreement by the Subdivider is the actual cost of completing the Improvements in conformance with the County's Standards, including without limitation its associated administrative expenses.

C. Remedies. The remedies available to the County and the Subdivider under this Agreement and the laws of Texas are cumulative in nature.

D. Third Party Rights. No non-party shall have any right of action under this Agreement, nor shall any such non-party, including without limitation a trustee in bankruptcy, have any interest in or claim to funds drawn on the posted Security and held in escrow by the County in accordance with this Agreement.

E. Indemnification. The Subdivider shall indemnify and hold the County harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees, for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the County, if the County is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements.

F. No Waiver. The waiver of any provision of this Agreement will not constitute a waiver of any other provision, nor will it constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement. The County's failure to enforce any provision will not constitute a waiver or estoppel of the right to do so.

G. Attorney's Fees. The prevailing party in any litigation hereunder is entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs.

H. Successors and Assigns. This Agreement is binding on the Subdivider and the heirs, successors, and assigns of the Subdivider and on any person acquiring an ownership interest in the Property through the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the written approval of the County; provided the County's approval shall not be unreasonably withheld if the Subdivider's assignee expressly assumes all obligations of the Subdivider under this Agreement. An assignment shall not be construed as releasing the Subdivider from Subdivider's obligations under this Agreement and Subdivider's obligations hereunder shall continue notwithstanding any assignment approved pursuant to this Paragraph unless and until the County executes and delivers to the Subdivider a written release. The County agrees to release the Subdivider, if the Subdivider's assignee expressly assumes the Subdivider's obligations under this Agreement and has posted the Security required by this Agreement. The County in its sole discretion may assign some or all of its rights under this Agreement and any such assignment shall be effective upon notice to the Subdivider.

I. Expiration. This Agreement will terminate upon the vacation of the Subdivision by the Subdivider or the completion of the Subdivider's obligations under this Agreement, whichever occurs first.

J. Notice. Any notice under this Agreement must be in writing and will be effective when personally delivered or three (3) days after deposit in the U.S. Mail, postage prepaid, certified with return receipt requested, and addressed as follows:

Subdivider: Buffington Land, Ltd.
3600 N. Capital of Texas Hwy, Bldg. B, Suite 170
Austin, TX 78746

County: Transportation & Natural Resources Department
P.O. Box 1748 Austin, Texas 78767
Attn: Executive Manager

Copy to: Travis County Attorney's Office
P.O. Box 1748
Austin, Texas 78767

The parties may change their respective addresses for notice to any other location in the United States in accordance with the provisions of this Paragraph.

K. Severability. If any provision of this Agreement is held by a court to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability shall not affect the validity of any other provision and the rights of the parties will be construed as if such provision was never part of this Agreement.

L. Jurisdiction and Venue. This Agreement concerns real property located in Travis County, Texas, and shall be governed and construed under Texas law. Venue for any action arising under this Agreement shall be exclusively in Travis County, Texas.

M. Captions Immaterial. The captions or headings of the paragraphs of this Agreement are for convenience only and shall not be considered in construing this Agreement.

N. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. Any oral representations or modifications concerning this Agreement shall be of no force or effect, except a subsequent written modification executed by both parties. NO OFFICIAL, EMPLOYEE, OR AGENT OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND, MODIFY, OR OTHERWISE CHANGE THIS AGREEMENT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COMMISSIONERS COURT.

This Agreement is executed as of the dates set forth below and is effective upon approval by the County of the final plat for the Subdivision or upon approval of Alternative Fiscal in accordance with County regulations.

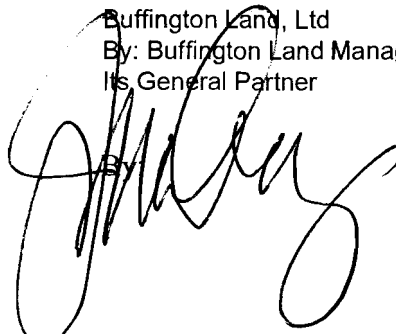
TRAVIS COUNTY, TEXAS

County Judge

Date:

SUBDIVIDER:

Buffington Land, Ltd
By: Buffington Land Management, LLC
Its General Partner

By: 

Name: James Dorney
Title: President
Authorized Representative
Date:

ACKNOWLEDGEMENT

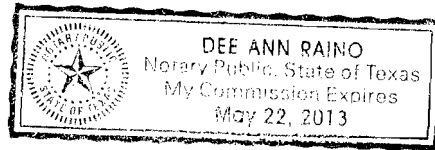
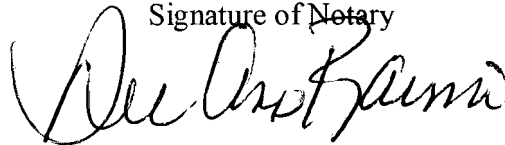
STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 12th day of December, 2011, by
James Dorney, in the capacity stated herein.

After Recording Return to:
Executive Manager,
Transportation and Natural Resources
P.O. Box 1748
Austin, Texas 78701

Signature of Notary



§ EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

**METES AND BOUNDS DESCRIPTION
OF 3.009 ACRES OF LAND
GEORGE M. MARTIN SURVEY NO. 9, ABSTRACT NO. 529,
TRAVIS COUNTY, TEXAS**

All that certain 3.009 acres of land out of the 64.84 acre tract described in the deed from Pflugerville East, LLC to Len-Buf/Hidden Lake 2 - JV, Ltd. recorded under Document No. 2003147835, Official Public Records of Travis County, Texas, and out of the called 234.064 acre remnant portion of 293.104 acres described in the deed from Karolyn P. Graf, et al, to Pflugerville East, LLC recorded under Document No. 2002118297, Official Public Records of Travis County, Texas, in the George M. Martin Survey No. 9, Abstract No. 529, Travis County, Texas, and more particularly described by metes and bounds as follows: (All bearings based on the Texas State Plane Coordinate System, Central Zone)

BEGINNING at a 1/2" iron rod with cap marked "Pate" found for the south end of the west cut back curve at the intersection of Hidden Lake Crossing (70' wide right-of-way and Silent Harbor Loop (60' wide right-of-way), the most southerly east corner of the herein described tract;

THENCE South 51° 54' 36" West - 370.17', along the westerly right-of-way line of said Silent Harbor Loop, to a 5/8" iron rod with Pate Cap set for the Point of Curvature of a curve to the right having a radius of 1170.00' and a central angle of 00° 58' 22";

THENCE along said curve to the right in a southwesterly direction, continuing along said westerly right-of-way line, an arc distance of 19.86' to a 5/8" iron rod with Pate Cap set for the end of curve;

THENCE North 32° 45' 51" West - 151.37', departing said westerly right-of-way line to a 5/8" iron rod with Pate Cap set for an angle corner of the herein described tract;

THENCE North 34° 23' 28" West - 50.00', to a point on a curve to the left, having a radius of 375.00', a central angle of 03° 41' 57", and a chord bearing and distance North 53° 45' 34" East - 24.21'

THENCE along said curve to the left in a northeasterly direction, 24.21' to a 5/8" iron rod with Pate Cap set for the end of curve;

THENCE North 51° 54' 36" East - 8.65' to a 5/8" iron rod with Pate Cap set for an angle corner of the herein described tract;

THENCE North 38° 05' 24" West - 142.89' to a 5/8" iron rod with Pate Cap set for the west corner of the herein described tract;

THENCE North 57° 15' 48" East - 70.30' to a 5/8" iron rod with Pate Cap set for an angle corner of the herein described tract;

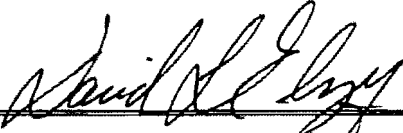
THENCE North 51° 54' 48" East - 295.10' to a 1/2" iron rod with Pate Cap found in the southerly right-of-way line of the aforesaid Hidden Lake Crossing for the north corner of the herein described tract;

THENCE South 38° 03' 33" East - 311.33' along said southerly right-of-way line, to a 1/2" iron rod with Pate Cap found for the north end of the aforesaid cut back curve and Point of Curvature of a curve to the right having a radius of 25.00', and a central angle of 89° 58' 09";

THENCE along said curve to the right, in a southwesterly direction, an arc distance of 39.26' to the **POINT OF BEGINNING** of the herein described tract and containing 3.009 acres of land.

Prepared by:
PATE SURVEYORS
a division of
Pate Engineers, Inc.
Job No. 1104-002-11-550
November, 2003





Certification Date
November, 2003

THIS LEGAL DESCRIPTION IS ISSUED AS "PART TWO", IN CONJUNCTION WITH THE FINAL PLAT PREPARED BY PATE ENGINEERS, INC.

§ EXHIBIT 82.401 (E) SUBDIVISION CONSTRUCTION AGREEMENT

STATE OF TEXAS COUNTY OF TRAVIS

This Agreement is made and entered into by and between Buffington Land, Ltd., (the "Subdivider") and Travis County, Texas, (the "County"), hereinafter collectively referred to as the "Parties".

WHEREAS, the Subdivider owns the tract of real property described in Exhibit "A", which is attached hereto and made a part hereof, (the "Property"); and

WHEREAS, the Subdivider desires to subdivide the Property, pursuant to the proposed final plat of " Villages of Hidden Lake " (the "Subdivision"); and

WHEREAS, the County desires to set forth the Subdivider's responsibility for the construction of the Subdivision's roads and drainage facilities (the "Improvements"); and

WHEREAS, the Subdivider desires to set forth the County's responsibility to accept the constructed Improvements for maintenance;

NOW, THEREFORE, the Parties agree as follows:

I. Subdivider's Obligations

A. Improvements. The Subdivider shall construct the Improvements required to comply with the County's Standards for the Construction of Streets and Drainage in Subdivisions (the "Standards"). The Improvements will conform to the construction plans, permits, and specifications approved by the County prior to commencement of construction.

B. Security. To secure the Subdivider's obligations, the Subdivider will provide a financial guarantee of performance in the amount of the estimated cost of constructing the Improvements (the "Security"), which has been determined by a professional engineer and approved by the County's Transportation and Natural Resources Department ("TNR"). The Security must be in a form approved for use in the Standards or otherwise approved by the County Attorney's Office.

C. Alternative Fiscal. Notwithstanding any other provisions of this Agreement, the Subdivider may request the Commissioners Court to hold the administratively approved plat in abeyance until all streets, alleys, sidewalks, and drainage improvements in the Subdivision. The Subdivider must post fiscal security to secure restoration of disturbed areas should construction not be completed. Upon satisfactory completion, the submitted plat shall be forwarded to the Commissioners Court for approval and recording, provided adequate fiscal security has been posted to secure the one year Construction Performance Period described below.

D. Completion. The Improvements must be constructed no later than three (3) years after the effective date of this Agreement. This period may be extended by the delivery to the County at least forty five (45) days prior to the expiration of the Security of an extension of the Security in a form approved by the County. Upon completion of the Improvements, the Subdivider will

provide the County with a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

E. Warranty. The Subdivider warrants the public Improvements will be free from defects for a period of one (1) year from the date the County accepts the construction of the public Improvements (the "Performance Period"). The Subdivider shall correct and repair any defects in materials or workmanship, including design inadequacies and damage to or deterioration of the public Improvements, that occur before and during this Performance Period due to any cause. As a condition of the County's acceptance of dedication of any of the public Improvements, the Subdivider must post fiscal security in the form of cash, a performance bond, or other approved form and in the amount of ten percent (10%) of the cost of constructing the public Improvements, to secure the warranty established by this Agreement. It is expressly acknowledged that the public Improvements must meet County Standards at the end of the one year Construction Performance Period in order for the County to release the construction performance fiscal security.

F. Increase in Security. If the County determines the cost of constructing the Improvements exceeds the posted Security, within thirty (30) days after notice and demand, the Subdivider shall provide additional Security in an amount equal to the additional estimated cost.

G. Reduction in Security. During the construction of the Improvements, the Security may be reduced in accordance with the percentage of completion of the construction. The Executive Manager of TNR will execute Statements of Partial Reductions in the Amount of Security, when provided with the following documentation:

- 1) a professional engineer's certification of quantities of work completed;
- 2) a contractor's invoice for work completed; and
- 3) a TNR inspection report, indicating the completion of the portion of the work represented by the contractor's invoice.

After the approval and acceptance of the construction of the Improvements, the Security for the public Improvements may be reduced by ninety percent (90%) of the cost of the approved construction and held for the one-year Performance Period. After the approval of the construction of the private Improvements, the Security posted for the private Improvements will be fully released. In addition, the County agrees to release or reduce, as appropriate, the Security provided by the Subdivider, if the County accepts a substitute Security for all or any portion of the Improvements.

H. Covenant, Restriction, and Condition. In the event that the Improvements are not constructed to County Standards and the required Security has expired, the Subdivider shall not sell, transfer, or convey any of the lots in the Subdivision until sufficient Security has been posted with the County for the completion of the construction.

II. County's Obligations

A. Inspection and Approval. The County will inspect the Improvements during and at the completion of construction. If the Improvements are completed in accordance with the Standards, the County will approve the Improvements and accept the public Improvements.

B. Notice of Defect. The County will notify the Subdivider, if an inspection reveals that any portion of the Improvements is not constructed in accordance with the Standards or is otherwise defective. However, the County is not responsible for the construction of the Improvements, the quality of the material, or the construction methods utilized. In addition, the County is not responsible for making continuous on-site inspections of the construction work and the County has no privity with or responsibility for the construction contractor or any subcontractors. The Subdivider will have thirty (30) days from such notice to cure the defect. It is an event of default under this Agreement, if the defect is not cured prior to the expiration of the time to cure.

C. Performance Period Security Release. Upon the expiration of the one-year Performance Period with no damages or defects which the Executive Manager notifies the Subdivider must be corrected, the Executive Manager will release the Performance Period Security.

D. Conditions to Draw on Security. The County may draw upon any Security posted under this Agreement upon the occurrence of one or more of the following events:

- a. The failure of the Subdivider to construct the Improvements to the applicable County Standards;
- b. The Subdivider's failure to renew or replace the Security at least forty-five (45) days prior to its expiration;
- c. The acquisition of the Property or a portion of the Property by the issuer of the Security or other creditor through foreclosure or an assignment or conveyance in lieu of foreclosure;
- d. The arrangement by the Commissioners Court for the completion of one or more of the Improvements; or
- e. The determination by the Commissioners Court that the completion of one or more of the public Improvements is in the public Interest.

E. Notice of Intent to Draw. The County shall provide ten (10) days written notice of the occurrence of such an event to the Subdivider with a copy provided to any fiscal surety, lender, or escrow agent. The notice will include a statement that the County intends to provide for the performance of some or all of Subdivider's obligations hereunder for the construction of the Improvements, if the failure is not cured. The County shall be entitled to draw the amount it considers necessary to perform the Subdivider's obligations under this Agreement up to the total amount allocated for the Improvements. In lieu of a drawing based on an event described in subparagraphs (b) or (c), above, the County may accept a substitute Security.

F. Use of Proceeds.

1) The County must utilize the proceeds of any posted security solely for the purpose of completing the Improvements to the County's Standards or to correct defects in or failures of the Improvements.

2) The County may in its sole discretion complete some or all of the unfinished Improvements at the time of default, regardless of the extent to which development has taken place in the Subdivision or whether development ever commenced, without incurring any

obligation to complete any of the unfinished Improvements. If the County uses the proceeds to complete, repair, or reconstruct the Improvements, it will do so as a public trustee of the development process in order to protect purchasers and taxpayers from the adverse consequences of a subdivider default or to protect the public interest by completing the Improvements.

3) The County is not a private subdivision developer and its draft on the Security and utilization of the proceeds to complete, repair, or reconstruct the Improvements is not an acceptance of the dedication of the Improvements. The acceptance of the Improvements is specifically contingent upon the delivery to the County of Improvements, which have been constructed to County Standards or the express order of acceptance by the County's Commissioners Court.

4) The Subdivider has no claim or rights under this Agreement to funds drawn under the Security or any accrued interest earned on the funds to the extent the same are used by the County hereunder.

5) All funds obtained by the County pursuant to one or more draws under the Security shall be maintained by the County in an interest bearing account or accounts until such funds, together with accrued interest thereon (the "Escrowed Funds"), are disbursed by the County.

6) The County shall disperse all or portions of the Escrowed Funds as Improvements are completed by the County, or in accordance with the terms of a written construction contract between the County and a third party for the construction of the Improvements.

7) Escrowed Funds not used or held by the County for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with any interest accrued thereon, shall be paid by the County to the Issuer of the Security or, if the Security was originally in the form of cash, to the Subdivider, no later than sixty (60) days following the County's acceptance of the Improvement or its decision not to complete the Improvements using Escrowed Funds, whichever date is earlier.

G. Releases. The Executive Manager will, subject to the performance of the Subdivider of its obligations under this agreement and the Travis County Standards for Construction of Streets & Drainage in Subdivisions, execute such releases of this Agreement as are necessary and reasonable upon the request of the Subdivider or a purchaser of a portion of the Property.

III. MISCELLANEOUS

A. Covenants, Restrictions, and Conditions. These Covenants, Restrictions, and Conditions will operate as covenants running with the land and will be binding upon the Subdivider and the Subdivider's legal representatives, successors and assigns.

B. Measure of Damages. The measure of damages for breach of this Agreement by the Subdivider is the actual cost of completing the Improvements in conformance with the County's Standards, including without limitation its associated administrative expenses.

C. Remedies. The remedies available to the County and the Subdivider under this Agreement and the laws of Texas are cumulative in nature.

D. Third Party Rights. No non-party shall have any right of action under this Agreement, nor shall any such non-party, including without limitation a trustee in bankruptcy, have any interest in or claim to funds drawn on the posted Security and held in escrow by the County in accordance with this Agreement.

E. Indemnification. The Subdivider shall indemnify and hold the County harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees, for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the County, if the County is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements.

F. No Waiver. The waiver of any provision of this Agreement will not constitute a waiver of any other provision, nor will it constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement. The County's failure to enforce any provision will not constitute a waiver or estoppel of the right to do so.

G. Attorney's Fees. The prevailing party in any litigation hereunder is entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs.

H. Successors and Assigns. This Agreement is binding on the Subdivider and the heirs, successors, and assigns of the Subdivider and on any person acquiring an ownership interest in the Property through the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the written approval of the County; provided the County's approval shall not be unreasonably withheld if the Subdivider's assignee expressly assumes all obligations of the Subdivider under this Agreement. An assignment shall not be construed as releasing the Subdivider from Subdivider's obligations under this Agreement and Subdivider's obligations hereunder shall continue notwithstanding any assignment approved pursuant to this Paragraph unless and until the County executes and delivers to the Subdivider a written release. The County agrees to release the Subdivider, if the Subdivider's assignee expressly assumes the Subdivider's obligations under this Agreement and has posted the Security required by this Agreement. The County in its sole discretion may assign some or all of its rights under this Agreement and any such assignment shall be effective upon notice to the Subdivider.

I. Expiration. This Agreement will terminate upon the vacation of the Subdivision by the Subdivider or the completion of the Subdivider's obligations under this Agreement, whichever occurs first.

J. Notice. Any notice under this Agreement must be in writing and will be effective when personally delivered or three (3) days after deposit in the U.S. Mail, postage prepaid, certified with return receipt requested, and addressed as follows:

Subdivider: Buffington Land, Ltd.
3600 N. Capital of Texas Hwy, Bldg. B, Suite 170
Austin, TX 78746

County: Transportation & Natural Resources Department
P.O. Box 1748 Austin, Texas 78767
Attn: Executive Manager

Copy to: Travis County Attorney's Office
P.O. Box 1748
Austin, Texas 78767

The parties may change their respective addresses for notice to any other location in the United States in accordance with the provisions of this Paragraph.

K. Severability. If any provision of this Agreement is held by a court to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability shall not affect the validity of any other provision and the rights of the parties will be construed as if such provision was never part of this Agreement.

L. Jurisdiction and Venue. This Agreement concerns real property located in Travis County, Texas, and shall be governed and construed under Texas law. Venue for any action arising under this Agreement shall be exclusively in Travis County, Texas.

M. Captions Immaterial. The captions or headings of the paragraphs of this Agreement are for convenience only and shall not be considered in construing this Agreement.

N. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. Any oral representations or modifications concerning this Agreement shall be of no force or effect, except a subsequent written modification executed by both parties. **NO OFFICIAL, EMPLOYEE, OR AGENT OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND, MODIFY, OR OTHERWISE CHANGE THIS AGREEMENT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COMMISSIONERS COURT.**

This Agreement is executed as of the dates set forth below and is effective upon approval by the County of the final plat for the Subdivision or upon approval of Alternative Fiscal in accordance with County regulations.

TRAVIS COUNTY, TEXAS

County Judge

Date:

SUBDIVIDER:

Buffington Land, Ltd

By: Buffington Land Management, LLC
Its General Partner

By: 

Name: James Dorney
Title: President
Authorized Representative
Date:

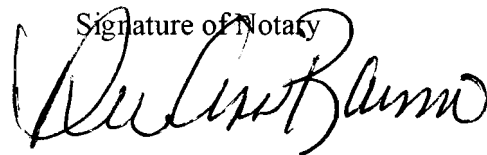
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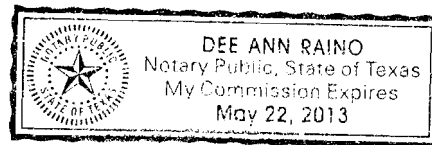
STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 12th day of December, 2011, by James Dorney, in the capacity stated herein.

After Recording Return to:
Executive Manager,
Transportation and Natural Resources
P.O. Box 1748
Austin, Texas 78701

Signature of Notary




§ EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

**METES AND BOUNDS DESCRIPTION
OF 3.009 ACRES OF LAND
GEORGE M. MARTIN SURVEY NO. 9, ABSTRACT NO. 529,
TRAVIS COUNTY, TEXAS**

All that certain 3.009 acres of land out of the 64.84 acre tract described in the deed from Pflugerville East, LLC to Len-Buf/Hidden Lake 2 - JV, Ltd. recorded under Document No. 2003147835, Official Public Records of Travis County, Texas, and out of the called 234.064 acre remnant portion of 293.104 acres described in the deed from Karolyn P. Graf, et al, to Pflugerville East, LLC recorded under Document No. 2002118297, Official Public Records of Travis County, Texas, in the George M. Martin Survey No. 9, Abstract No. 529, Travis County, Texas, and more particularly described by metes and bounds as follows: (All bearings based on the Texas State Plane Coordinate System, Central Zone)

BEGINNING at a 1/2" iron rod with cap marked "Pate" found for the south end of the west cut back curve at the intersection of Hidden Lake Crossing (70' wide right-of-way and Silent Harbor Loop (60' wide right-of-way), the most southerly east corner of the herein described tract;

THENCE South 51° 54' 36" West - 370.17', along the westerly right-of-way line of said Silent Harbor Loop, to a 5/8" iron rod with Pate Cap set for the Point of Curvature of a curve to the right having a radius of 1170.00' and a central angle of 00° 58' 22";

THENCE along said curve to the right in a southwesterly direction, continuing along said westerly right-of-way line, an arc distance of 19.86' to a 5/8" iron rod with Pate Cap set for the end of curve;

THENCE North 32° 45' 51" West - 151.37', departing said westerly right-of-way line to a 5/8" iron rod with Pate Cap set for an angle corner of the herein described tract;

THENCE North 34° 23' 28" West - 50.00', to a point on a curve to the left, having a radius of 375.00', a central angle of 03° 41' 57", and a chord bearing and distance North 53° 45' 34" East - 24.21'

THENCE along said curve to the left in a northeasterly direction, 24.21' to a 5/8" iron rod with Pate Cap set for the end of curve;

THENCE North 51° 54' 36" East - 8.65' to a 5/8" iron rod with Pate Cap set for an angle corner of the herein described tract;

THENCE North 38° 05' 24" West - 142.89' to a 5/8" iron rod with Pate Cap set for the west corner of the herein described tract;

THENCE North 57° 15' 48" East - 70.30' to a 5/8" iron rod with Pate Cap set for an angle corner of the herein described tract;

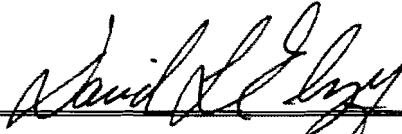
THENCE North 51° 54' 48" East - 295.10' to a 1/2" iron rod with Pate Cap found in the southerly right-of-way line of the aforesaid Hidden Lake Crossing for the north corner of the herein described tract;

THENCE South 38° 03' 33" East - 311.33' along said southerly right-of-way line, to a 1/2" iron rod with Pate Cap found for the north end of the aforesaid cut back curve and Point of Curvature of a curve to the right having a radius of 25.00', and a central angle of 89° 58' 09";

THENCE along said curve to the right, in a southwesterly direction, an arc distance of 39.26' to the **POINT OF BEGINNING** of the herein described tract and containing 3.009 acres of land.

Prepared by:
PATE SURVEYORS
a division of
Pate Engineers, Inc.
Job No. 1104-002-11-550
November, 2003





Certification Date
November, 2003

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