



## ITEM 13

# Travis County Commissioners Court Agenda Request

**Meeting Date:** November 13, 2012

**Prepared By:** Michael Hettenhausen **Phone #:** 854-7563

**Division Director/Manager:** Anna Bowlin, Division Director, Development Services and Long Range Planning

AB

**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: Lakeside at Blackhawk Section 3 Final Plat (Long Form Final Plat - 54 total lots - 27.6 acres - Winding Shore Lane - City of Pflugerville ETJ); and
- B) A Travis County Subdivision Construction Agreement between Travis County and Rowe Lane Development, Ltd in Precinct One.

### **BACKGROUND/SUMMARY OF REQUEST:**

A) This final plat consists of 54 total lots (51 single family residential lots, one lift station lot, and two open space lots) on 27.6 acres. There are 2,841 linear feet of public streets proposed with this final plat. Water service will be provided by Manville Water Supply Corporation and wastewater service will be provided by the City of Pflugerville. Parkland fees in lieu of dedication have been paid to the City of Pflugerville through a development agreement.

The applicant is currently utilizing the county's alternative fiscal agreement and the plat is being held in abeyance until the remaining fiscal has been posted. Fiscal surety in the amount of \$165,000.00 has been posted with Travis County which addresses the fiscal requirements.

B) The applicant, Rowe Lane Development, Ltd. wishes to enter into a standard subdivision construction agreement with Travis County.

### **STAFF RECOMMENDATIONS:**

As the Commissioners Court approved the utilization of the county's alternative fiscal agreement on June 25, 2012, and the final plat was approved by the City of Pflugerville on November 5, 2012, staff recommends approval of the final plat and the subdivision construction agreement.

### **ISSUES AND OPPORTUNITIES:**

Staff has not been contacted by anyone via e-mail, telephone, or letter on this development, and staff has not registered any interested parties nor received any other inquiries for this project.

**FISCAL IMPACT AND SOURCE OF FUNDING:**

N/A

**EXHIBITS/ATTACHMENTS:**

- Location map
- Precinct map
- Proposed final plat
- Subdivision Construction Agreements

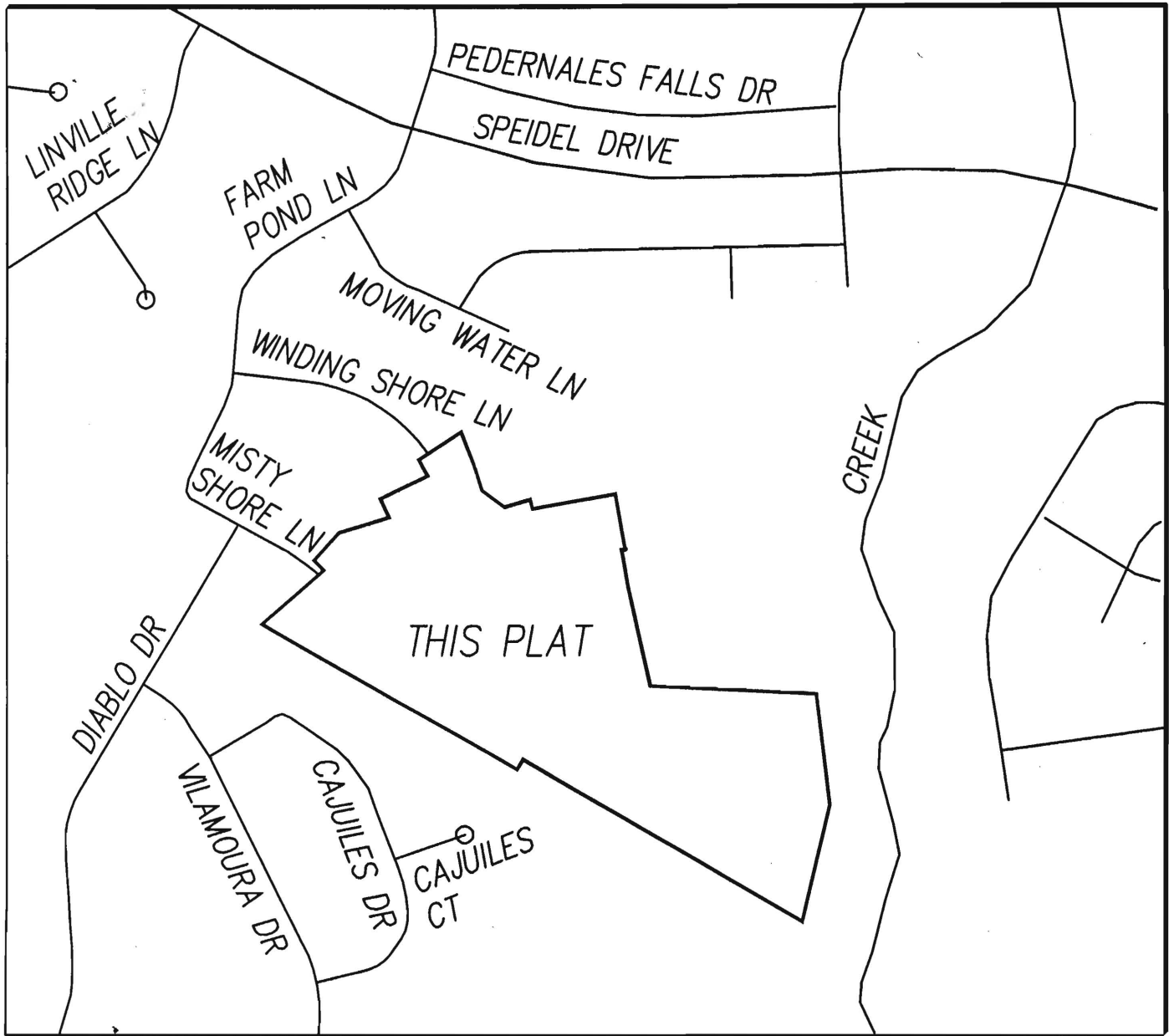
**REQUIRED AUTHORIZATIONS:**

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

**CC:**


**SM:AB:mh**

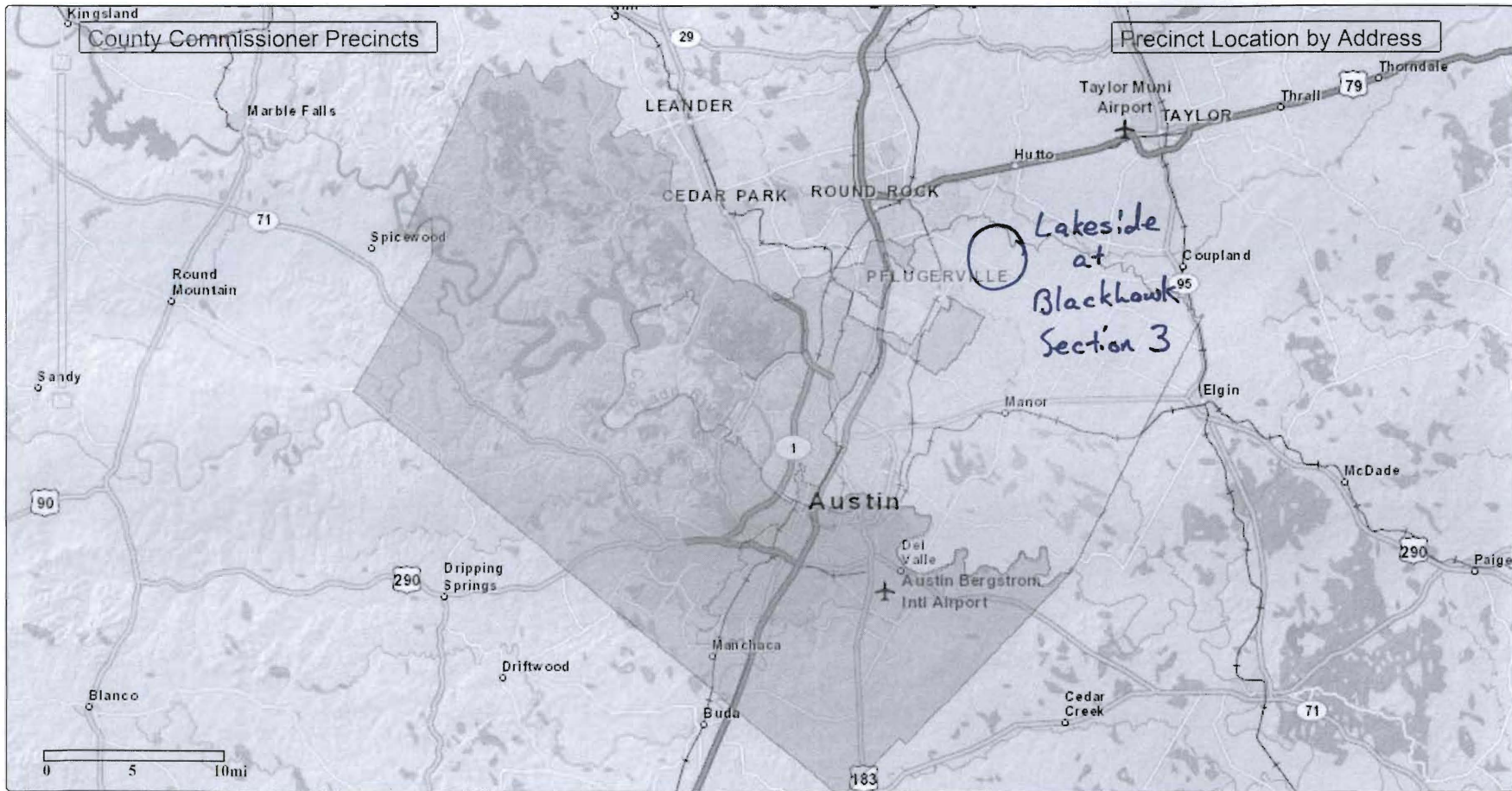
**1101 - Development Svs- Lakeside at Blackhawk Section 3 Final Plat**



**LOCATION MAP**

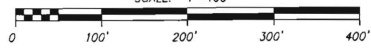
SCALE: 1" = 800'

# Travis County Commissioner Precincts

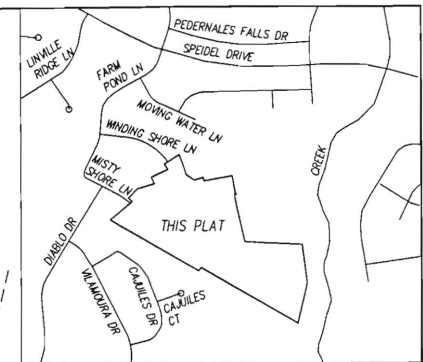


FINAL PLAT OF  
**LAKESIDE AT BLACKHAWK SECTION 3**

SCALE: 1"=100'



LINE	LENGTH	BEARING
L1	6.95'	S80°07'14"W
L2	66.20'	N58°42'12"E
L3	24.25'	N80°07'14"E
L4	62.77'	N30°32'04"E
L5	63.22'	N30°32'04"E
L6	54.00'	N30°32'04"E
L7	8.77'	N30°32'04"E



LOCATION MAP  
SCALE: 1" = 800'

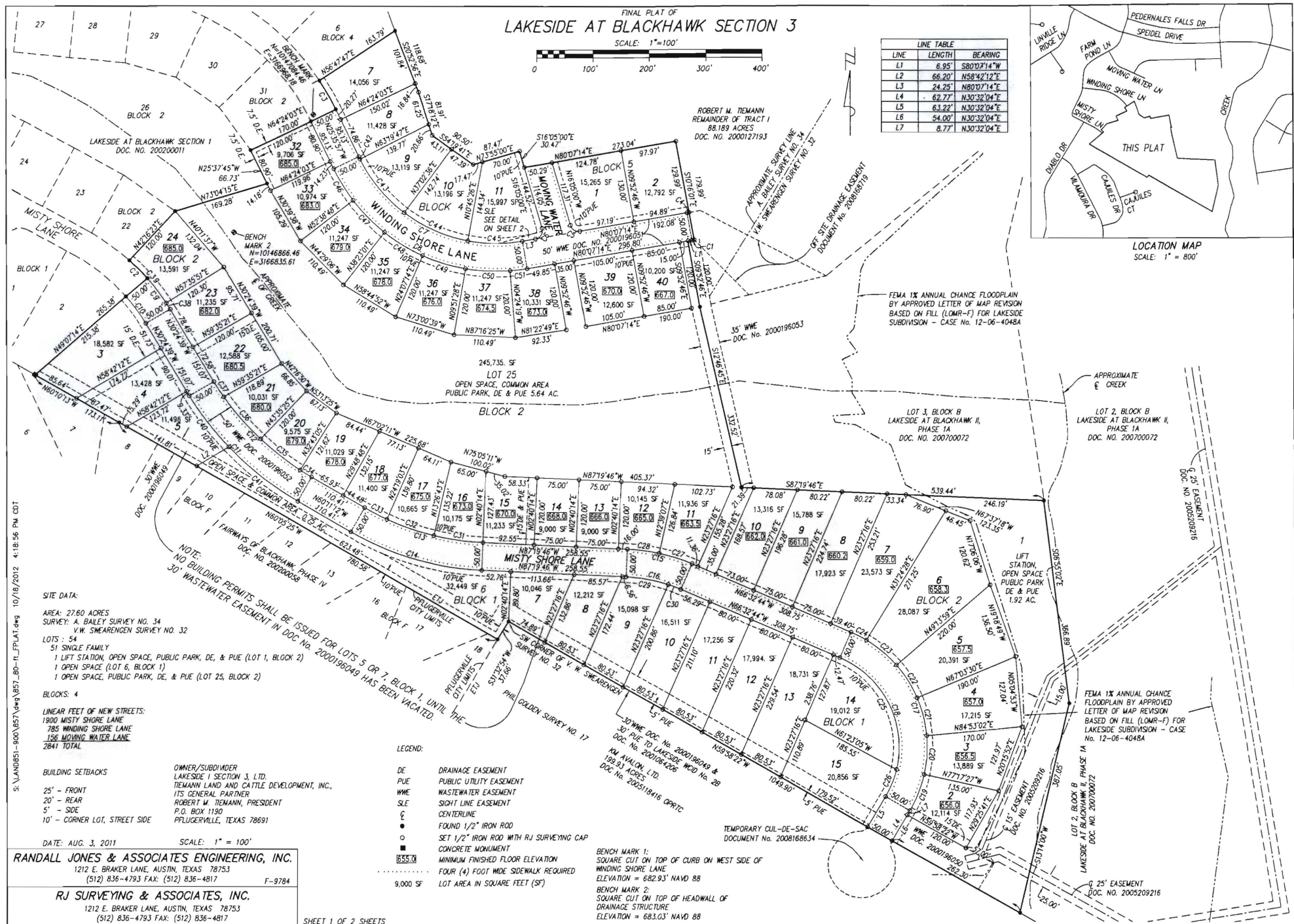
ROBERT M. TIEMANN  
REMAINDER OF TRACT 1  
88.189 ACRES  
DOC. NO. 2000127193

APPROXIMATE SURVEY LINE  
A BAILEY SURVEY NO. 34  
V.W. SWEARENGEN SURVEY NO. 32

FEMA 1% ANNUAL CHANCE FLOODPLAIN  
BY APPROVED LETTER OF MAP REVISION  
BASED ON FILL (LOWR-F) FOR LAKESIDE  
SUBDIVISION - CASE NO. 12-06-4048A

APPROXIMATE  
CREEK

FEMA 1% ANNUAL CHANCE  
FLOODPLAIN BY APPROVED  
LETTER OF MAP REVISION  
BASED ON FILL (LOWR-F) FOR LAKESIDE  
SUBDIVISION - CASE NO. 12-06-4048A



**SITE DATA:**  
AREA: 27.60 ACRES  
SURVEY: A. BAILEY SURVEY NO. 34  
V.W. SWEARENGEN SURVEY NO. 32

**LOTS:** 54  
51 SINGLE FAMILY  
1 LIFT STATION, OPEN SPACE, PUBLIC PARK, DE, & PUE (LOT 1, BLOCK 2)  
1 OPEN SPACE (LOT 6, BLOCK 1)  
1 OPEN SPACE, PUBLIC PARK, DE, & PUE (LOT 25, BLOCK 2)

**BLOCKS:** 4  
LINEAR FEET OF NEW STREETS:  
1800 MISTY SHORE LANE  
785 WINDING SHORE LANE  
156 MOVING WATER LANE  
2841 TOTAL

**BUILDING SETBACKS**  
25' - FRONT  
20' - REAR  
5' - SIDE  
10' - CORNER LOT, STREET SIDE

**OWNER/SUBDIVIDER**  
LAKESIDE I SECTION 3, LTD.  
TIEMANN LAND AND CATTLE DEVELOPMENT, INC.  
ITS GENERAL PARTNER  
ROBERT M. TIEMANN, PRESIDENT  
P.O. BOX 1190  
Pflugerville, Texas 78691

**DATE:** AUG. 3, 2011  
**SCALE:** 1" = 100'

**RANDALL JONES & ASSOCIATES ENGINEERING, INC.**  
1212 E. BRAKER LANE, AUSTIN, TEXAS 78753  
(512) 836-4793 FAX: (512) 836-4817 F-9784

**RJ SURVEYING & ASSOCIATES, INC.**  
1212 E. BRAKER LANE, AUSTIN, TEXAS 78753  
(512) 836-4793 FAX: (512) 836-4817

**LEGEND:**

- DE DRAINAGE EASEMENT
- PUE PUBLIC UTILITY EASEMENT
- WME WASTEWATER EASEMENT
- SLE SIGHT LINE EASEMENT
- C CENTERLINE
- FOUND 1/2" IRON ROD
- SET 1/2" IRON ROD WITH RJ SURVEYING CAP
- CONCRETE MONUMENT
- 555.0 MINIMUM FINISHED FLOOR ELEVATION
- FOUR (4) FOOT WIDE SIDEWALK REQUIRED
- 9,000 SF LOT AREA IN SQUARE FEET (SF)

30" WME DOC. NO. 2000186649 &  
30" PUE TO LAKESIDE WCD NO. 28  
DOC. NO. 2001042205

30" WME DOC. NO. 2000118416 OPTIC

30" WME DOC. NO. 2000186634

TEMPORARY CUL-DE-SAC  
DOCUMENT NO. 2008168634

BENCH MARK 1:  
SQUARE CUT ON TOP OF CURB ON WEST SIDE OF  
WINDING SHORE LANE  
ELEVATION = 682.93' NAVD 88

BENCH MARK 2:  
SQUARE CUT ON TOP OF HEADWALL OF  
DRAINAGE STRUCTURE  
ELEVATION = 683.03' NAVD 88

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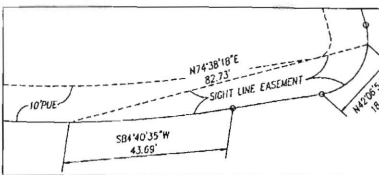
Table with 6 columns: CURVE, LENGTH, RADIUS, DELTA, CHORD BRNG, CHORD, TAN. It lists curve data for a road layout.

STATE OF TEXAS COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS

That I, J. Kenneth Heigand, do hereby certify that I prepared this plat from an actual and accurate on-the-ground survey of the land and that all corner monuments shown thereon were properly placed under my personal supervision in accordance with the subdivision code of the city of Pflugerville, Texas, and that all known easements within the boundary of the plat are shown hereon.

J. Kenneth Heigand, Registered Professional Land Surveyor No. 5741 State of Texas



DETAIL OF SIGHT LINE EASEMENT - SCALE: 1" = 20'

LAKESIDE AT BLACKHAWK SECTION 3

NOTES:

- 1. NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNLESS CONNECTED TO AN APPROVED SEWER SYSTEM... 2. ALL STREETS... 3. A TRAVIS COUNTY DEVELOPMENT PERMIT IS REQUIRED... 4. NO DRIVEWAY SHALL BE CONSTRUCTED CLOSER THAN 50 FEET TO THE EDGE OF PAVEMENT... 5. FOUR FOOT (4') SIDEWALKS SHALL BE CONSTRUCTED... 6. LOT 6, BLOCK 1... 7. LOT 1, BLOCK 2 AND LOT 25, BLOCK 2... 8. ALL IS 15 FOOT WIDE DRAINAGE EASEMENTS... 9. THE PROPERTY OWNER... 10. ALL DRAINAGE EASEMENTS... 11. THE OWNER/SUBDIVIDER... 12. ALL DRAINAGE EASEMENTS... 13. THE OWNER/SUBDIVIDER... 14. THIS SUBDIVISION IS LOCATED WITHIN THE BOUNDARIES OF THE WCMD NO. 28... 15. THIS PROPERTY IS SUBJECT TO THE DEVELOPMENT AGREEMENT... 16. WASTEWATER IMPACT FEE RATE... 17. WATER SERVICE... 18. WASTEWATER SERVICE... 19. WITHIN A SIGHT LINE EASEMENT... 20. LOT 11, BLOCK 4... 21. STREETLIGHTS SHALL BE INSTALLED... 22. ALL NEW TELEPHONE AND CABLE TELEVISION... 23. WHERE EXISTING OVERHEAD ELECTRICAL SERVICE EXISTS... 24. ALL ELECTRICAL, CABLE TELEVISION... 25. A TEN FOOT PUBLIC UTILITY EASEMENT... 26. THIS SUBDIVISION IS SUBJECT TO THAT CERTAIN COMPREHENSIVE DEVELOPMENT AGREEMENT...

FINAL PLAT OF

LAKESIDE AT BLACKHAWK SECTION 3

STATE OF TEXAS COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS THAT LAKESIDE I, SECTION 3, LTD., BEING THE OWNER OF ... ACRES OF LAND OUT OF THE A. BAILEY SURVEY, NO. 34 AND THE V.W. SWEARENGEN SURVEY NO. 32, IN TRAVIS COUNTY, TEXAS, SAME BEING COVERED BY DEED OF RECORD IN DOCUMENT NUMBER ... OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, DOES HEREBY SUBMIT 27.60 ACRES OF LAND IN ACCORDANCE WITH THIS PLAT AND CHAPTERS 212 AND 232 OF THE TEXAS LOCAL GOVERNMENT CODE, TO BE KNOWN AS LAKESIDE AT BLACKHAWK SECTION 3 AND DOES HEREBY DEDICATE TO THE PUBLIC THE USE OF ALL STREETS, ALLEYS, PARKS AND EASEMENTS SHOWN HEREON, SUBJECT TO ANY EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED.

WITNESS MY HAND, THIS 17th DAY OF AUGUST, 2012, A. D.

LAKESIDE I, SECTION 3, LTD.

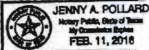
BY: TEJAMANN LAND AND CATTLE DEVELOPMENT, INC., ITS GENERAL PARTNER

Signature of Robert M. Tejamm, President of Tejamm Land and Cattle Development, Inc.

ACKNOWLEDGMENT STATE OF TEXAS COUNTY OF TRAVIS

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON AUGUST 29th 2012 BY ROBERT M. TEJAMANN, PRESIDENT OF TEJAMANN LAND AND CATTLE DEVELOPMENT, INC., A TEXAS CORPORATION, GENERAL PARTNER OF LAKESIDE I, SECTION 3, LTD., A TEXAS LIMITED PARTNERSHIP, ON BEHALF OF SAID CORPORATION AND PARTNERSHIP.

Jenny A. Pollard, Notary Public - State of Texas



STATE OF TEXAS COUNTY OF

THAT INTERNATIONAL BANK OF COMMERCE, THE LIEN HOLDER OF THAT CERTAIN ... ACRE TRACT OF LAND RECORDED IN DOCUMENT NO. ... OF THE OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS, DOES HEREBY CONSENT TO THE SUBDIVISION OF THAT CERTAIN 27.60 ACRE TRACT OF LAND SITUATED A. BAILEY SURVEY, NO. 34 AND THE V.W. SWEARENGEN SURVEY NO. 32 IN TRAVIS COUNTY, TEXAS, AND DOES FURTHER HEREBY CONSENT, APPROVE AND CONSENT TO THE DEDICATION TO THE PUBLIC FOREVER USE OF THE STREETS, ALLEYS, EASEMENTS AND ALL OTHER LANDS INTENDED FOR PUBLIC DEDICATION AS SHOWN HEREON.

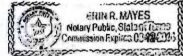
INTERNATIONAL BANK OF COMMERCE

Nicholas Furhman, First Vice President

ACKNOWLEDGMENT STATE OF TEXAS COUNTY OF TRAVIS

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON August 29th 2012, BY NICHOLAS FURHMAN, FIRST VICE PRESIDENT OF INTERNATIONAL BANK OF COMMERCE, A TEXAS BANKING ASSOCIATION, ON BEHALF OF SAID BANK.

Signature of Nicholas Furhman, First Vice President of International Bank of Commerce.



APPROVED THIS DAY OF AUGUST, 2012, BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF PFLUGERVILLE, TEXAS, ON BEHALF OF THE CITY.

THOMAS AINER, CHAIR

THIS PLAT REFLECTS THE APPROVAL GRANTED BY THE PLANNING AND ZONING COMMISSION ON THE DATE INDICATED ABOVE.

TREY FLETCHER, PLANNING DIRECTOR

ATTEST:

KAREN THOMPSON, CITY SECRETARY

THIS SUBDIVISION PLAT IS LOCATED WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF PFLUGERVILLE, THIS DAY OF AUGUST 2012.

TREY FLETCHER, PLANNING DIRECTOR

THE FULLY DEVELOPED 100 YEAR FLOOD PLAN IS CONTAINED WITHIN THE DRAINAGE EASEMENT(S) SHOWN HEREON.

A PORTION OF THIS PLAT IS WITHIN THE DESIGNATED FLOOD HAZARD AREA AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) PANEL NO. 48453C0200AH, EFFECTIVE DATE SEPTEMBER 28, 2008, FOR TRAVIS COUNTY, TEXAS.

I, J. Kenneth Heigand, P.E., AN AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF ENGINEERING, AND HEREBY CERTIFY THAT THIS PLAT IS FEASIBLE FROM AN ENGINEERING STANDPOINT, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signature of J. Kenneth Heigand, Registered Professional Engineer No. 805779, State of Texas.



COMMISSIONERS COURT

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 SUCH 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 PLANS AND SPECIFICATIONS PRESCRIBED BY THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS.

THE OWNER OF THE SUBDIVISION SHALL CONSTRUCT THE SUBDIVISION'S STREET 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 THE 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 UPON 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 OR STREETS IN THE SUBDIVISION DOES NOT OBLIGATE THE COUNTY TO INSTALL STREET NAME SIGNS OR ERRECT TRAFFIC CONTROL SIGNS, SUCH AS SPEED LIMIT, STOP SIGNS, AND YIELD SIGNS, WHICH IS CONSIDERED TO BE A PART OF THE DEVELOPER'S OBLIGATION.

THE STATE OF TEXAS COUNTY OF TRAVIS

I, DANA DEBEAUVOR, CLERK OF THE COUNTY COURT, OF TRAVIS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON THE DAY OF AUGUST, 2012, 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 THE SAID COURT.

WITNESS MY HAND AND SEAL OF THE OFFICE OF THE COUNTY CLERK, OF SAID COUNTY, THE DAY OF AUGUST, 2012, A.D.

DANA DEBEAUVOR, COUNTY CLERK TRAVIS COUNTY, TEXAS

DEPUTY

I, DANA DEBEAUVOR, CLERK OF TRAVIS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING, AND ITS CERTIFICATE OF AUTHENTICATION, WAS FILED FOR RECORD IN MY OFFICE ON THE DAY OF AUGUST, 2012, A.D. AT O'CLOCK M AND DULY RECORDED ON THE DAY OF AUGUST, 2012, A.D. AT O'CLOCK M, OF SAID COUNTY AND STATE IN DOCUMENT NUMBER OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY.

WITNESS MY HAND AND SEAL OF THE OFFICE OF THE COUNTY CLERK, THE DAY OF AUGUST, 2012, A.D.

DANA DEBEAUVOR, COUNTY CLERK TRAVIS COUNTY, TEXAS

DEPUTY

DATE: AUG. 3, 2011

RANDALL JONES & ASSOCIATES ENGINEERING, INC. 1212 E. BRAKER LANE, AUSTIN, TEXAS 78753 (512) 836-4793 FAX: (512) 836-4817 F-5784

RJ SURVEYING & ASSOCIATES, INC. 1212 E. BRAKER LANE, AUSTIN, TEXAS 78753 (512) 836-4793 FAX: (512) 836-4817

EXHIBIT 82.401 (E) SUBDIVISION CONSTRUCTION AGREEMENT

STATE OF TEXAS  
COUNTY OF TRAVIS

This Agreement is made and entered into by and between Rowe Lane Development, 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 "Lakeside at Blackhawk Section 3" (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: Rowe Lane Development, Ltd. \_\_\_\_\_  
4421 Rowe Ln.  
Pflugerville, TX 78660

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

SUBDIVIDER:

Rowe Lane Development, Ltd.

\_\_\_\_\_  
County Judge

By: 

Name: Robert Tiemann

Title: \_\_\_\_\_

Authorized Representative

Date: \_\_\_\_\_

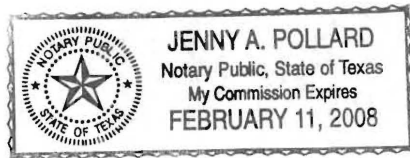
Date: 1/23/08

ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 23rd day of January, 2008, by  
Robert Tiemann, in the capacity stated herein.



*Jenny A. Pollard*  
\_\_\_\_\_  
Signature of Notary

After Recording Return to:

Executive Manager, Transportation and Natural Resources  
P.O. Box 1748  
Austin, Texas 78767

Lakeside at Blackhawk Section 3 – 27.60 Acres

A PARCEL OF LAND IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THE A. BAILEY SURVEY No. 34 AND A PORTION OF THE V.W. SWEARENGEN SURVEY No. 32 AND BEING A PORTION OF THAT 88.189 ACRES TRACT OF LAND CONVEYED TO ROBERT M. TIEMANN BY DEED RECORDED IN DOCUMENT No. 2000127193 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF THAT 95.256 ACRES TRACT OF LAND CONVEYED TO SAID ROBERT M. TIEMANN BY DEED RECORDED IN VOLUME 12625, PAGE 570 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN at 1/2" iron rod found for the southeast corner of Lakeside At Blackhawk Section 1, a subdivision according to the plat of record in Document No. 200200011 of the Official Public Records of Travis County, Texas, same being in the south line of said 95.256 acres tract and the north line of Fairways of Blackhawk, Phase IV, a subdivision according to the plat of record in Document No. 200200058 of the Official Public Records of Travis County, Texas;

THENCE with the east line of said Lakeside at Blackhawk Section 1 plat the following eight (8) courses:

1. N.49°07'14"E. a distance of 265.38 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set on a non-tangent curve to the left,
2. northwesterly along the arc of said curve, a distance of 44.82 feet (said curve having a radius of 375.00 feet, a central angle of 06°50'51" and a chord bearing N.44°18'12"W., 44.79 feet) to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set,
3. N.42°16'23"E. a distance of 120.00 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set,
4. N.73°04'15"E. a distance of 169.28 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set,
5. N.25°37'45"W. a distance of 66.73 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set,
6. N.64°24'03"E. a distance of 170.00 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set on a non-tangent curve to the left,
7. northwesterly along the arc of said curve, a distance of 59.73 feet (said curve having a radius of 450.00 feet, a central angle of 07°36'16" and a chord bearing N.29°24'05"W., 59.68 feet) to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set, and
8. N.56°47'47"E. a distance of 163.79 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set;

THENCE crossing said 88.189 acres tract the following ten (10) courses:

1. S.20°52'56"E. a distance of 118.68 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" set,
2. S.17°18'12"E. a distance of 81.91 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" set,
3. S.54°19'41"E. a distance of 90.50 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" set,
4. N.73°55'00"E. a distance of 87.47 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" set,
5. S.16°05'00"E. a distance of 30.47 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" set,
6. N.80°07'14"E. a distance of 273.04 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" set,
7. S.10°16'01"E. a distance of 179.99 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" set on a non-tangent curve to the right,
8. westerly along the arc of said curve, a distance of 4.29 feet (said curve having a radius

Lakeside at Blackhawk Section 3 – 27.60 Acres

- of 634.63 feet, a central angle of  $00^{\circ}23'15''$  and a chord bearing  $S.79^{\circ}55'37''W.$ , 4.29 feet) to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" set,
9.  $S.80^{\circ}07'14''W.$  a distance of 6.95 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" set,
  10.  $S.09^{\circ}52'46''E.$  a distance of 120.00 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set for the northwest corner of Lot 3, Block B, Lakeside at Blackhawk II, Phase 1A, a subdivision according to the plat of record in Document No. 200700072 of the Official Public Records of Travis County, Texas;

THENCE with the south and west lines of said Lot 3, Block B the following two (2) courses:

1.  $S.12^{\circ}46'45''E.$  a distance of 332.52 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set, and
2.  $S.87^{\circ}19'46''E.$  a distance of 539.44 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set for the southeast corner of said Lot 3, Block B, same being in the west line of Lot 2, Block B, said Lakeside at Blackhawk II, Phase 1A;

THENCE with said west line of Lot 2, Block B the following two (2) courses:

1.  $S.06^{\circ}55'02''E.$  a distance of 366.89 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set, and
2.  $S.13^{\circ}14'00''W.$  a distance of 387.05 feet to a 1/2" iron rod with plastic cap stamped "RJ SURVEYING" previously set in the south line of said 88.189 acres tract for the southwest corner of said Lot 2, Block B;

THENCE  $N.59^{\circ}58'22''W.$ , with said south line of said 88.189 acres tract a distance of 1049.90 feet to a 1/2" iron rod found for an angle point in said south line of the 88.189 acres tract;

THENCE  $S.31^{\circ}32'54''W.$ , with said south line of the 88.189 acres tract a distance of 37.66 feet to a 1/2" iron rod found for the northeast corner of said Fairways of Blackhawk, Phase IV;

THENCE  $N.60^{\circ}05'25''W.$ , with said south line of the 88.189 acres tract and the north line of said Fairways of Blackhawk, Phase IV, a distance of 780.58 feet to a 1/2" iron rod found for the southwest corner of said 88.189 acres tract, same being the southeast corner of said 95.256 acres tract;

THENCE  $N.60^{\circ}10'13''W.$ , with said south line of the 95.256 acres tract and the north line of said Fairways of Blackhawk, Phase IV, a distance of 173.11 feet to said POINT OF BEGINNING.

Containing 27.60 acres, more or less.

*John K. Weigand Jan. 15, 2008*

J. Kenneth Weigand  
Registered Professional Land Surveyor No. 5741  
State of Texas

RJ Surveying, Inc.  
1212 East Braker Lane  
Austin, Texas 78753

