

COPY

**PUD AGREEMENT
AND RESTRICTIVE COVENANT**

WHEREAS, Rollingwood Land Partners, Ltd., a Texas limited partnership (the "RLP"), is the owner of approximately 18.6 acres of land located within the City of Rollingwood (the "City"), in Travis County, Texas, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference (the "Land")

**ORIGINAL
FILED FOR RECORD**

WHEREAS, RLP has requested the City's approval and creation of a planned unit development for the Land in accordance with applicable ordinances of the City; and

WHEREAS, the City is willing to approve a planned unit development for the Land, subject to RLP's entering into this Agreement, which will constitute a covenant running with the Land, and will be binding upon RLP and its successors and assigns;

NOW, THEREFORE, for and in consideration of (i) the specific consideration to be paid to the City as provided in Section 1, and (ii) other good and valuable consideration to each of the parties, the receipt and sufficiency of which are hereby acknowledged, RLP and the City hereby agree as follows, which agreement will be deemed and considered as a covenant running with the Land for the benefit of the City, and which will be binding upon RLP, its successors and assigns, and all future owners or occupants of all or any portion of the Land. When used herein, the "Owner" will be deemed to include RLP, its successors and assigns, and all future owners or occupants of all or any portion of the Land.

Section 1 Consideration

As consideration for this Agreement and the creation of the planned unit development for the Land, which the Owner acknowledges will allow the development of the Land in a more flexible and creative manner than would be otherwise possible under City ordinances, the Owner agrees to (a) dedicate to the City the land designated as "Proposed Lift Station" and "Buffer/Conservation Area" on the Development Plan attached hereto as Exhibit "B" (the "Development Plan"), all upon terms and provisions as provided herein, and (b) pay to the City an amount to be determined and paid as set forth on the attached Exhibit "C", which fee will compensate the City for committing domestic water and wastewater utility service to the Land and extending a wastewater collection line to the perimeter boundary of the Land, at the point indicated on the Development Plan. Owner acknowledges and agrees that the City would not approve the Agreement, the planned unit development, or the development contemplated on the Development Plan, as described in Section 2, but for this consideration to be dedicated and paid by the Owner. The consideration described in this Section is in addition to any other City fees payable under applicable City ordinances, including, but not limited to, building permit fees, site plan review fees, and inspection fees, and reimbursement of legal and engineering fees.

Section 2 Development Plan; Site Plans; Subdivision

(a) The Land will be developed in accordance with the Development Plan. If there is any conflict between the requirements of this Agreement and the Development Plan, the most restrictive provision will control. Any changes or amendments of the Development Plan must be approved by

Dana
01-25-2009
DANA TRAVIS COUNTY CLERK
TRAVIS COUNTY CLERK
04:28 PM
\$57.00
RECORDED

**FILED AND RECEIVED
OFFICIAL PUBLIC RECORDS**

the City Council in accordance with the City's ordinances. Without limiting the foregoing, the following shall not be considered changes or amendments of the Development Plan: (i) building locations may be moved from the locations shown on the Development Plan within the building envelope locations or configurations shown on the Development Plan and (ii) since the Development Plan reflects the location of "Towne Centre Public R.O.W." and "Office #1" and "Parking Structure/Lot #1" in both a primary location and, as captioned on the Development Plan, in an "Alternative Ingress/Egress Location", such "Towne Centre Public R.O.W.", "Office #1" and "Parking Structure/Lot #1" may be located in either location, as determined by the City Council on or before final plat approval of the Land. Provided, however, (1) the foregoing terms are subject to the terms of Section 3(b) below, and (2), subject to the terms of Section 3(b) below, if the City Council fails to take any action prior to or concurrently with final plat approval of the Land, the "Towne Centre Public R.O.W.", "Office #1" and "Parking Structure/Lot #1" shall be located as shown in the primary location on the Development Plan.

(b) Except as constructed by the lift station owner, in no event shall any building location, building envelope or structure encroach into the land designated as "Proposed Lift Station" on the Development Plan and the terms of this sentence shall control over any conflicting portion of this Agreement, including, without limitation, the terms of subpart (a)(i) above.

(c) Prior to final plat approval of the Land as contemplated above, the Owner agrees to continue working in good faith with the City and the owner(s) of the tract of land to the south of Bee Cave Road which would utilize any signalization of the intersection of Bee Cave Road, "Towne Centre Public R.O.W." and a driveway or street providing access to such tract to the south of Bee Cave Road in an effort to promote the location of "Towne Centre Public R.O.W." in its primary location, together with signalization of such intersection.

(d) Channeling of Eanes Creek (Dry Creek) shall only be done with the approval of the City Council, FEMA and any other governmental or public agency having jurisdiction with respect to such matters, such approval by the City Council not to be unreasonably withheld. All buildings constructed on fill in areas currently in the flood plain must meet applicable safety standards of any governmental or public agency having jurisdiction with respect to such matter.

(e) The Owner must submit a site plan, in compliance with the applicable version of the Code of Ordinances of the City (the "City Code"), that is consistent with the Development Plan and obtain City approval of that site plan prior to commencement of construction of any proposed improvements on the Land.

(f) So long as a subdivided lot out of the Land ("Lot") is under common ownership and control, no further subdivision of the Lot will be required for the construction of multiple buildings or structures, as contemplated by the Development Plan, on the Lot. A resubdivision will be required if any building or structure on a Lot is proposed to be sold to a separate owner.

(g) The Land may be developed in phases, as determined by the Owner, but consistent with the terms of Section 3(b) below. The Owner may comply with the terms of Section 2(e) above by submission of multiple site plans reflecting the development of the Land in phases.

Section 3 Development Intensity

(a) Impervious coverage on the Land will be limited to 55%, with credit for the portions of the Land dedicated pursuant to the terms of this Agreement, in accordance with Chapter 11, Subchapter 1 of the City Code. Development intensities may not exceed the limitations set forth in the Development Plan; provided, however, the square footages shown on the Development Plan for each office building and parking structure are approximate and such intensities may be shifted among office buildings and parking structures as long as (i) all office buildings and parking structures must be located within the building envelope locations shown on the Development Plan, (ii) all office buildings and parking structures must comply with the height limitations reflected on the Development Plan and (iii) the aggregate office building square footage may not exceed 305,000 except as allowed in this subsection. If the Owner enters into a written agreement (the "Church Agreement") with the owner of that certain 8.594 acre tract of land located immediately to the southeast of the Land (the "Church Property") allowing use of a portion of the Church Property for location of all or a portion of a parking structure that would be designed to serve "Office 4", as shown on the Development Plan and the improvements situated on the Church Property during designated times (weekdays after 5:30 p.m. and Sundays from 8:00 a.m. to midnight), the maximum square footage described in (iii) above may be increased to 325,000. A balance sheet must be maintained and updated by the Owner as improvements are constructed and to show the amount of impervious coverage existing on the Land, the amount of impervious coverage added to the Land under each site plan submitted to the City and the total amount of impervious coverage remaining to be developed on the Land under this Agreement. This balance sheet will be provided to the City with each site plan submitted under Section 2(e) above.

(b) The Owner shall have the right to construct "Parking Structure/Lot #1", "Parking Structure/Lot #2", "Office #1", "Office #2" and "Office #3", as shown on the Development Plan, and open such buildings for business, together with associated parking lots and structures, without the location of a traffic signal at the intersection of Bee Cave Road and "Towne Centre Public R.O.W." However, the Owner may not commence the construction of "Office #4" or "Parking Structure #3", as shown on the Development Plan, until TXDOT approves a traffic signal at the intersection of Bee Cave Road and "Towne Centre Public R.O.W." which allows left-hand turning movements into and out of Towne Center Public R.O.W.; provided, however, in connection with the foregoing, if necessary for TXDOT to approve a traffic signal at such intersection, (i) the Owner may locate "Towne Centre Public R.O.W.", "Office #1" and "Parking Structure/Lot #1" in either the primary location or the alternative location, as shown on the Development Plan, without further amendment of the Development Plan, and the Owner may, consistent with the foregoing, file any final plat or replat reflecting the location of "Towne Centre Public R.O.W.", "Office #1" and "Parking Structure/Lot #1" in either the primary location or the alternative location, as shown on the Development Plan, and (ii) the Owner shall not be required to support signalization of such intersection in a manner which allows signalized access to any land located to the south or west of Bee Cave Road at such intersection.

(c) The Owner shall grant to the owners of the Church Property and, subject to the terms of Section 3(c)(iv) below, its successors and assigns (the "Church Owner"), a private access easement in recordable form (the "Private Easement") across the Land on the following terms:

(i) Until such time as the Owner and the Church Owner shall enter into the Church Agreement and "Office #4" and "Parking Structure #3" are constructed in accordance with the terms described in Section 3(a) above or the Church Owner obtains access to the northeastern portion of the Church Property via other means, the Private Easement shall cover the "Private Access Easement," as shown on the Development Plan;

(ii) When the Owner and the Church Owner enter into the Church Agreement and "Office #4" and "Parking Structure #3" are constructed in accordance with the terms described in Section 3(a) above, the Private Easement shall be modified or granted, as appropriate, to cover only a portion of the Land between the driveway on the southeast side of Eanes Creek (Dry Creek) serving "Office #4" and "Parking Structure #3" and a point on the northwestern boundary of the Church Property. The modification or granting of the Private Easement following construction of "Office #4" and "Parking Structure #3" will allow the owner of the Church Property to have access to the northeastern portion of the Church Property via a driveway on the southeast side of Eanes Creek (Dry Creek), which will not cross the Greenbelt Buffer/Conservation Area, to be constructed by the owner of the Church Property that connects the northeastern portion of the Church Property to the driveway on the Land that provides access to "Office #4" and "Parking Structure #3";

(iii) Vehicular access to the Private Easement, in either location specified by subsections (i) and (ii) above, may be restricted via gates or similar obstructions as long as the Church Owner is given keys, access cards or similar equipment which allows use of the Private Easement by the Church Owner, its agents, guests and visitors;

(iv) The Private Easement shall be in effect until the Church Property ceases being used primarily for church or religious purposes including, without limitation, the operation of a church school, if permitted by the City;

(v) The Private Easement shall be granted concurrently with the filing of the final plat for the Land and such Private Easement shall run with the Land, subject to the terms of this Section 3(c). Without limiting the generality of the foregoing, the dedication of the "Greenbelt Buffer/Conservation Area" shall be subject to the Private Easement.

Section 4 Drainage and Utilities

(a) Stormwater drainage and water quality facilities for all improvements on the Land must be provided by the Owner in accordance with applicable requirements of the City, common law and the Texas Department of Transportation ("TXDOT"). Prior to each site plan approval, the Owner must provide a detailed drainage plan for all drainage facilities contemplated for the improvements depicted on such site plan. The Owner agrees to work with the City, TXDOT and the owners of the Property to the southwest of Bee Cave Road to provide a regional stormwater run-off

facility (detention and/or filtration), subject to approval by the City Council; provided, however, the Owner only be required to contribute money to such facility in an equivalent ratio to its proportionate use of such facility as compared to the overall use of such facility.

(b) The Owner acknowledges that centralized wastewater service is not currently available to the Land, but that the City has entered into contracts with the City of Austin and with the Lower Colorado River Authority (the "Wastewater Contracts") regarding such service. The City agrees that the facilities necessary to extend centralized wastewater service to the Land will be included in the first phase of wastewater utility improvements to be constructed to provide centralized wastewater service under the Wastewater Contracts, and that centralized wastewater service will be extended to the Land by the City in accordance with the terms of the Wastewater Contracts and this Agreement. The Owner agrees to detain wastewater flows during specified periods, as determined by the City, as a condition to the provision of centralized wastewater service to the Land. The design, construction and operation of system and facilities for detaining wastewater flows (i) will be subject to written certification by the City's engineer and the Owner's engineer with respect to the matters set forth in subsection (ii) below prior to issuance of the first site plan for development on the Land, (ii) must demonstrate to the satisfaction of the City's engineer, consistent with generally accepted engineering principles and the demands of the City as described below, that the system and facilities are sufficient so as not to materially impact centralized wastewater service to areas in the City that are residentially zoned as of the date hereof or existing or previously approved commercial businesses in the City and undeveloped areas in the City presently zoned for commercial use, and (iii) will be subject to periodic inspection by the City for compliance with this Agreement, and the Owner shall be required to make such changes as are required by the City's engineer if the City's engineer determines such system and facilities are not in compliance with this Agreement. Subject to this agreement by the Owner to detain wastewater flows, completion of all necessary wastewater facilities, the terms of the Wastewater Contracts, and the City's applicable utility policies, including confirmation by the City's engineer of adequate capacity to the Land pursuant to the foregoing, the City agrees to extend centralized wastewater service to the Land for the development shown on the Development Plan. Additionally, the Owner agrees to dedicate an easement in recordable form to the City across the Land in the location shown on the Development Plan in order for the City to provide wastewater service to the Church Property.

(c) The Owner acknowledges that water utility service is not currently available to the Land and that the Owner and any others participating in the extension of such water utility service will be responsible for constructing any facilities necessary to extend water utility service to the Land. Subject to the completion of these facilities and the City's applicable utility policies, including confirmation by the City's engineer of adequate fire flow, the City agrees to provide water service to the Land for the development shown on the Development Plan. These facilities will connect to the City's existing water utility system in such location as shall be specified by the City. Additionally, the Owner agrees to dedicate an easement in recordable form to the City across the Land in the location specified on the Development Plan in order for the City to provide water service to the Church Property. Without limiting the foregoing, the City agrees that its utility policies shall include provisions for contribution of funds by parties who do not participate in the extension and construction of water utility service facilities to the Land, but who subsequently utilize such facilities

within 10 years from the date of initial extension and construction of such water utility service facilities, with prorata reimbursement of such contributed funds to the parties who initially paid for such extension and construction.

(d) To the extent practicable, all newly installed dry utilities located within the boundaries of the Land will be located underground.

Section 5 Construction Materials; Fire Protection

(a) 100% of the exterior wall surface of all buildings constructed on the Land, including parking structures, must be constructed of glass and of masonry construction consisting of earth-colored brick, native limestone, other native stone veneer or architectural pre-cast concrete (the "Masonry Requirement"); provided, however, that earth-colored Portland cement plaster and concrete masonry units will be allowed, in the aggregate, to satisfy up to 30% of the Masonry Requirement as measured on a building-by-building basis. Concrete-type siding (such as Hardi-Plank) and similar siding products and exterior insulating foam systems (and other synthetic stucco materials) are not considered masonry for purposes of this Section. Roof, soffit, normal door and window openings, normal entry ways and porches, and ornamental features are excluded from the requirements of this Section 5(a).

(b) The percentage of glass used on the exterior of any building on the Land may not exceed 60%.

(c) The use of reflective glass on the exterior surface of any building on the Land is prohibited.

(d) All buildings and parking structures constructed on the Land shall comply with the version Uniform Fire Code in effect at the time a building permit is issued. Without limiting the foregoing, (i) all buildings and parking structures shall contain sprinkler systems, (ii) the City's fire inspector shall have the right to review and approve all construction plans for buildings and parking structures to determine compliance with this Section 5(d), and during and following construction thereof, such fire inspector shall have the right to inspect all such buildings and parking structures for design compliance, (iii) access to each building and parking structure must allow adequate turning areas for fire engines and (iv) all site plans shall reflect adequate fire hydrants for the development reflected thereon, as determined by the City's fire inspector.

Section 6 Minimum Setbacks

No building or structures shall be constructed outside the building envelopes set forth on the Development Plan. No other setback requirements shall be applicable to the Development Plan.

Section 7 Compatibility Standards

(a) Trash Disposal, Storage and Mechanical Equipment. All trash disposal areas, storage

areas and mechanical equipment within the Land must be screened from view from any residential zoning district and any public street by (i) wood fencing (with the smooth side of the fencing facing the residential zoning district or public right-of-way), or brick, limestone, or other native stone walls for ground-level facilities, and (ii) an enclosure constructed of the same exterior materials or stucco or painted standing seam metal as the building for any mechanical equipment located on the roof; provided, however, such enclosure shall provide for reasonable ventilation for safe and efficient use of such equipment.

(b) Roof Design. The roofs of "Office #1" and "Office #2" shown on the Development Plan must be of pitched-type construction (hip or gable-type roofs with a minimum pitch of 3:12). The roofs of "Office #3" and "Office #4" may be of flat roof-type construction, pitched-type construction or utilize architectural elements that give the appearance of pitched-roof type construction, as determined by the Owner; roofs of all office buildings will utilize materials compatible and complementary to the masonry. Any pitched areas may be metal with non-reflective finishes or non-metallic clay or concrete tile. Composition or wood shakes and shingles may not be utilized on any office building. Exposed metal roof decks, which reflect light in a glaring manner, such as galvanized steel sheets, are specifically prohibited. The roofs of all office buildings will be designed and maintained to provide reasonable aesthetic appeal and provide screening of roof equipment and accessories from all view from residential areas of the City and/or Bee Cave Road, as approved by the City Council, such approval not to be unreasonably withheld.

(c) Lighting. Lighting fixtures installed on the Land to illuminate parking lots, buildings, or other structures, whether attached to such structures or pole-mounted, must not exceed a height of 24 feet. All exterior lighting must be shielded and down-turned to direct light away from nearby dwellings and to concentrate the light within the Land. Exterior light bulbs may not exceed 400 watts. Additionally, the Owner shall shield parking garage lights and automobile lights from "Parking Garage #2" from shining into adjacent residential areas of the City; provided, however, in connection with the design of "Parking Garage #2", the Owner may construct a parapet wall that exceeds the height limitations set forth on the Development Plan to the extent necessary to shield such automobile lights.

Section 8 Landscaping Requirements

(a) Each site plan submitted for the Land must be accompanied by a landscaping plan for each building phase which complies with this Section and which is administratively approved by the City Council. All landscaping plans must be prepared by a professional landscape architect licensed by the State of Texas, and must include all landscaped areas shown on the Development Plan. If there is any conflict between the landscaped areas shown on the Development Plan and the landscaped areas required by this Section or City ordinance requirements, the landscaped areas shown on the Development Plan will control. Each landscape plan must include a tree survey of the site to be developed showing all trees, other than cedar trees (*ashe juniper*) or hackberry trees (*celtis occidentalis*), with a caliper of eight inches or more (measured in accordance with the Standards, defined below) and must show dimensions, types and location of proposed plant materials, width and

composition of landscape buffers, and plans for automatic landscape irrigation. A certificate of occupancy for the improvements constructed on a site will not be issued until the landscaping and automatic irrigation system shown on the approved landscape plan have been completed, or the owner has deposited with the City fiscal security in an amount determined by the City's Building Official as required to ensure completion of the landscaping and irrigation system shown on the landscape plan.

(b) Landscaping for each lot must include one tree for each 5,000 square feet of area, or fraction thereof, of the Lot (a "Required Tree"). Each Required Tree must be of a minimum caliper of three inches, as measured in accordance with the Texas Association of Nurserymen, Grades and Standards (the "Standards") at the time it is planted and must be maintained in a healthy condition. Existing trees, other than cedar trees (*ashe juniper*) or hackberry trees (*celtis occidentalis*), having a minimum caliper of four inches, measured in accordance with the Standards, may be counted as up to 70% of the Required Trees, provided that the ground under these existing trees' drip lines remains undisturbed during development, construction, repair, maintenance and operation of the Lot. No species of tree that does not normally grow to a minimum height of 15 feet and have an average mature crown of 15 feet in diameter will qualify as a Required Tree under this subparagraph. All landscaped areas (other than natural, undisturbed areas) must be irrigated with an automatic irrigation systems. Notwithstanding the foregoing, the calculation of the number of Required Trees described above may, at the Owner's option, be performed using an aggregate or cumulative method taking into account all of the Lots within the Land, and the "Greenbelt Buffer/Conservation Area", "30' Code Greenbelt Easement" and "70' Additional Greenbelt" areas shown on the Development Plan.

(c) There shall be no landscaping requirements within Parking Structure #2 and Parking Structure #3 or surface parking areas shown on the Development Plan.

(d) All landscaped areas must be irrigated and maintained in a healthy, neat and orderly appearance at all times and must be kept free from debris, rubbish and dead plant materials by the Owner. All dead plant material must be promptly replaced by the Owner. This maintenance obligation will extend to and include all landscaping within the right-of-way between the paved roadway of Bee Cave Road and the property line of the Land, including any retaining wall.

(e) (i) Subject to the terms of the following subsections, a Protected Tree is any tree on the site with a 19-inch or greater caliper, other than cedar trees (*ashe juniper*) or hackberry trees (*celtis occidentalis*), measured in accordance with the Standards. During any construction on the Land within 20 feet of a Protected Tree, protective fencing must be installed at a diameter of 10 feet or one-half of the drip-line diameter, whichever is less. This fencing must be Nalle fluorescent plastic protective fencing or better.

(ii) A Protected Tree may not be removed from any site, whether during construction or otherwise, unless the Protected Tree is in conflict with the Development Plan, or the removal is approved by the City Council as part of an alternative landscaping plan described in

subsection (a) above.

(iii) Any Protected Tree removed from a site or killed as a result of construction activities must be replaced with a tree or trees whose aggregate caliper, measured in accordance with the Standards, is at least as great as that of the Protected Tree that was removed. Each replacement tree must meet or exceed the standards of a Required Tree. This requirement is in addition to the requirements for Required Trees, specified above.

(f) Any excavation, grading or site clearance of a site by the Owner that involves the removal of vegetation from the public right-of-way is prohibited without prior written approval of the City Building Official. Trees located in the public right-of-way with a four-inch or greater caliper, measured in accordance with the Standards, that are damaged, destroyed or removed by the Owner must be replaced with a Required Tree. No Protected Tree located in the public right-of-way may be removed, damaged or destroyed by the Owner without prior City Council approval. The terms of this Section 8(f) shall not be deemed to apply to any portion of the vacated portion of Dellana Road, which is to be vacated as contemplated by Section 16 hereof.

(g) For purposes of this Section 8, any trees on the "Greenbelt Buffer/Conservation Area" may be counted for purposes of the tree replacement calculation described in this Section 8 and, at the Owner's option, any required replacement trees may be planted on any portion of the Land, including without limitation, the "Greenbelt Buffer/Conservation Area", the "30' Code Greenbelt" and the "70' Additional Greenbelt" shown on the Development Plan.

Section 9 Parking

(a) Off-street parking must be provided in the ratio of not less than one parking space for each 250 square feet of gross floor area in each building that is used for Administrative, Professional and Business Office Uses or Business Uses, as defined in Section 10, or the limited uses for "Office #1" listed in Section 10(b) and Section 11.

(b) Required parking spaces must either be located on the same Lot as the building for which the parking spaces are required, on another Lot, or on property contiguous to the Land. Parking spaces that are located on property other than the Lot on which the building to which the parking pertains is located must be provided under a valid, binding, written commitment that such property may be used to fulfill the parking requirement in a form reasonably acceptable to the City. This commitment must be enforceable by the City, be recorded in the Real Property Records of Travis County, Texas and run with the land on which the parking is provided.

(c) If there is any conflict between the parking required, based upon the actual sizes and uses of the buildings on the Land by this Section, and the parking shown on the Development Plan, the parking required by this Section will control.

Section 10 Permitted and Prohibited Uses

(a) No area, building or structure within the Land may be used, constructed or altered, except as follows:

(i) Administrative, professional and business offices and services, including, without limitation, accounting, architecture, attorney, computer services (including research, design and light assembly), engineer, physician, broker, consultant, insurance agent, property management, investment, personnel, travel, secretarial, telephone answering, photocopy and reproduction, real estate agent, or similar administrative, professional business offices, and accessory structures and uses customarily incidental to these administrative, professional or business offices including, without limitation, parking structures or Limited Food Services (as defined below);

(ii) Such additional uses for "Office #1", as shown on the Development Plan, as are specified in subsection (b) below;

(iii) Special uses authorized by a valid special use permit approved by the City;
and

(iv) Other uses approved by the City Council.

As used herein, the term "Limited Food Services" shall mean the following: food services which (1) are situated in office buildings, (2) do not advertise to the general market and which are for the occupants of the office buildings developed on the Land, (3) do not require the use of a ventilation hood, grill, deep fryer or oven (other than a warming oven), (4) do not emit odors outside the office building in which it is situated and (5) do not sell prepared foods after 3:30 p.m. each day.

(b) In addition to the uses described in subsection (a) above, the following uses shall be permitted in "Office #1", as shown on the Development Plan: banks or savings and loan associations (and associated drive thru).

(c) All uses not specifically permitted under Section 10(a) or 10(b) are prohibited, including, but not limited to, the following:

(i) Dwelling uses;

(ii) Temporary buildings;

(iii) Activities involving the conduct of major automobile repairs, body repair or painting, welding, storage of dismantled or non-operational vehicles, sale of used automobile parts, or the sale of new or used motor vehicles;

(iv) The use of parking lots or other outdoor areas for the display, sale or storage of merchandise, motor vehicles, equipment, containers or waste material;

(v) The wholesale processing of food;

- (vi) Activities that create a nuisance;
- (vii) Veterinarian services and kennel services;
- (viii) The repair, sale, resale, manufacture, refurbishment or storage of boats, trailers, mobile homes or recreational or sport vehicles;
- (ix) Laundries or dry cleaning plants;
- (x) Music studios;
- (xi) Monument sales or funeral homes and related services;
- (xii) Warehouses or the rental of storage space for personal or commercial property;
- (xiii) Pawn shops;
- (xiv) Junkyards;
- (xv) Painting sales or service, except to the extent incidental to an otherwise permissible use;
- (xvi) Assisted living, retirement, nursing home or convalescent services or facilities;
- (xvii) Tire retread facilities;
- (xviii) Sexually-oriented businesses, including, but not limited to, modeling studios and dating or escort services businesses;
- (xix) Retail bakeries;
- (xx) Barber shops or beauty shops (except with respect to "Office #1", if permitted under Section 11);
- (xxi) Craft or hobby shops;
- (xxii) Department, sporting goods, novelty, variety or toy stores;
- (xxiii) Drug stores;
- (xxiv) Laundry pickup and dry cleaning pickup stations (except with respect to "Office #1", if permitted under Section 11);

- 11);
- (xxv) Florist shops (except with respect to "Office #1", if permitted under Section 11);
 - (xxvi) Grocery or food speciality stores;
 - (xxvii) Package liquor stores;
 - (xxviii) Antique stores (except with respect to "Office #1", if permitted under Section 11);
 - (xxix) Hardware stores;
 - (xxx) Household or office furniture, furnishings or appliance stores (except with respect to "Office #1", if permitted under Section 11);
 - (xxxi) Jewelry or optical goods stores (except with respect to "Office #1", if permitted under Section 11);
 - (xxxii) Shoe repair shops;
 - (xxxiii) Wearing apparel shops (except with respect to "Office #1", if permitted under Section 11);
 - (xxxiv) Restaurants; and
 - (xxxv) The display, sale or advertisement of any product that adversely affects the health, safety or general welfare of the residents of the City.

Section 11 Special Uses

Subject to the City Council's approval of a special use permit, the following special uses may be permitted.

- (a) Facilities for assembly of and/or testing of electronics or components;
- (b) Child day care facilities;
- (c) Research laboratories;
- (d) Camera or photography supply store (for "Office #1" only);
- (e) Barber or beauty shops (for "Office #1" only);

- (f) Laundry pickup and dry cleaning pickup stations (but no laundry or dry cleaning plant facilities) (for "Office #1" only);
- (g) Florist shops (for "Office #1" only);
- (h) Antique stores (for "Office #1" only);
- (i) Household or office furniture/furnishings or appliance stores (for "Office #1" only);
- (j) Jewelry or optical goods stores (for "Office #1" only); and
- (k) Wearing apparel shops (for "Office #1" only).

Section 12 Height

The height of each building or parking structure (excluding surface parking areas) shall be as reflected on the Development Plan, and, except with respect to "Office #4" and "Parking Structure #3", will be measured from the natural existing grade at the reference point shown on the Development Plan for each building or parking structure to the top of the perimeter parapet wall for each such building or parking structure. With respect to "Office #4" and "Parking Structure #3", the height of such building and structure shall be measured from two feet above the 100 year improved flood plain at the reference point shown on the Development Plan.

Section 13 Streets and Driveways

(a) The areas designated as "Towne Centre Public R.O.W." (in either the primary or alternative location shown on the Development Plan, as contemplated by Section 2(a) above) and "Dellana Road Public R.O.W." shown on the Development Plan shall be retained by the City as public right-of-way; provided, however, neither such areas shall contain the existing low water crossing or any future bridge or other structure constructed to cross Eanes Creek (Dry Creek).

(b) Any streets, roads or driveways within the Land shown on the Development Plan, other than the "Towne Centre Public R.O.W." and the "Dellana Road Public R.O.W.", may be developed as private streets, roads or driveways, without the requirement of dedication to the City, and without being subject to the City's requirements and regulations for public streets, except as reasonably required for: access for police and emergency services vehicles; utility service vehicles to the "Proposed Lift Station" shown on the Development Plan; and the "Private Access Easement Users" as defined in Section 19 below. Consistent with the foregoing, the Owner agrees, by restrictive covenant acceptable to the City, to operate and maintain all such private streets, roads and driveways at its sole cost.

(c) The City approves the curb cuts shown on the Development Plan, subject to approval thereof by TXDOT and the terms of Section 2(a) and Section 3(b) above.

(d) The City approves the location of a full access traffic signal at the intersection of Bee Cave Road and "Towne Centre Public R.O.W." (in either the primary location or alternative location shown on the Development Plan, as contemplated by Section 2(a) and 3(b) above), subject to approval thereof by TXDOT. The costs of such traffic signal shall be shared between the Owner and the owner(s) of the property to the southwest of Bee Cave Road who may utilize such signal in a proportion as agreed upon by the Owner and such other owner(s), or if such parties cannot agree, as determined by the City Council.

Section 14 Dedication of Right of Way for Bee Cave Road

The Owner shall dedicate, at no cost to the City, the portion of the Land shown on the Development Plan for the "Proposed New Right of Way Line" for Bee Cave Road (the "Bee Cave Road Land") concurrently with final plat approval of the Land. Additionally, the Owner, at no cost to the City or TXDOT, shall provide a temporary construction easement as reasonably necessary for the expansion of Bee Cave Road upon the City's request. The Owner acknowledges receipt of the Informational Notice relating to the Bee Cave Road Land, confirms the Owner's awareness of applicable federal and state laws relative to the acquisition of right-of-way for highway projects, and waives its right to receive fair market compensation for the Bee Cave Road Land and to receive compensation for damages to the remainder of the Land, if any.

Section 15 Tax Increment Financing

The Owner agrees to support and agrees to a reasonable pro rata tax increment financing mechanism, as defined in Chapter 311 of the Texas Tax Code, or a similar mechanism, if proposed by the City for commercial areas within the City along Bee Cave Road.

Section 16 Vacation of Dellana Road

As consideration for the dedications by the Owner of portions of the Land as contemplated herein, the City confirms and acknowledges its agreement to vacate all of Dellana Road except for any portion contained in the area shown as "Dellana Road R.O.W." as shown on the Development Plan. Such vacation shall occur contemporaneously with the approval by the City Council of the final plat for the Land.

Section 17 Dedication of Greenbelt Buffer/Conservation Area

Concurrently with the approval by the City Council of the final plat for the Land, the Owner shall dedicate in fee simple to the City the area designated as "Greenbelt Buffer/Conservation Area" on the Development Plan, subject to the following terms and conditions:

(a) Such dedication area may only be used for the following purposes: (i) greenbelt and conservation purposes, (ii) at the option of the City and at the City's expense; for the extension, operation and maintenance of underground public utility lines; (iii) as a drainage easement for surface water run-off from the remainder of the Land in accordance with civil engineering plans

approved by the City's engineer; and (iv) any other use desired by the City consistent with the foregoing uses or public use of a park.

(b) At the Owner's option, the Owner may landscape portions of the "Greenbelt Buffer/Conservation Area," subject to the administrative approval of the City Council of such landscape plan; provided, further, that all tree planting locations in the "Greenbelt Buffer/Conservation Area" must be within 40 feet of another existing or newly planted tree unless such proposed tree planting locations are clearly shown on the approved landscape plan or such locations are approved by the Mayor of the City or other designated City Official;

(c) The Owner shall maintain any areas of the "Greenbelt Buffer/Conservation Area"; provided, however, such maintenance obligation (i) shall be restricted to trash collection and periodic mowing as long as such "Greenbelt Buffer/Conservation Area" is utilized for greenbelt and conservation purposes, (ii) shall cover any areas landscaped by the Owner pursuant to subsection (a) above and (iii) shall not cover any areas utilized by the City for the extension, operation and maintenance of wastewater lines or for purposes other than greenbelt and conservation purposes;

(d) No light poles or similar high intensity outdoor lighting may be placed on such dedicated area; provided, however, low intensity security lighting at levels no higher than 20 feet shall be allowed;

(e) The Owner shall retain an easement for the underground location of wastewater storage facilities and related equipment as contemplated in Section 4(b) above in an area no larger than 625 square feet; provided, however, such wastewater storage facilities and related equipment shall not be located within 100 feet of any residential property line;

(f) The dedication shall be subject to the Private Easement along the northwest side of Eanes Creek, as contemplated in Section 3(c) above and as shown on the Development Plan; and

(g) Such other terms and conditions as shall be mutually agreed upon by the Owner and the City.

Section 18 Dedication of Proposed Lift Station Site and Related Easements

Concurrently with the approval by the City Council of the final plat for the Land, the Owner shall dedicate to the City the area designated as "Proposed Lift Station" on the Development Plan or an equivalent area designated by the City's engineer prior to such dedication, subject to the Owner's reasonable approval with regard to ensuring no material interference with the Development Plan. Additionally, concurrently with such dedication, the Owner shall convey to the City easements in recordable form for purposes of the construction, operation and maintenance of wastewater lines to the lift station and from the lift station to City of Austin facilities as contemplated by the Wastewater Contracts. Such easements shall be twenty (20) feet in width (with a temporary construction easement ten (10) feet on either side of such easement) and shall be in locations specified by the City's engineer, subject to the Owner's reasonable approval with regard to ensuring

no material interference with the Development Plan. Without limiting the foregoing, the access easement to the "Proposed Lift Station" shown on the Development Plan may be modified if necessary to provide increased turning radius for vehicles servicing the "Proposed Lift Station".

Section 19 Private Access Easement

(a) At all times prior to the destruction by the Owner of the paved areas presently within Dellana Road, the Owner agrees to (i) maintain such paved areas in at least as good a condition as they presently exist and (ii) allow access to such paved areas only to the following parties: the City (for access by police, emergency service vehicles and utility service vehicles, but not for public access), the Church Owner and the owners of the residential lots which abut the northeastern boundary of the "Greenbelt Buffer/Conservation Area" (collectively, the "Private Access Easement Users").

(b) At all times after commencement of the destruction of the paved areas presently within Dellana Road, the Owner agrees to (i) construct a private driveway on the "Private Access Easement" shown on the Development Plan, such private driveway not to be subject to the City's requirements and regulations for public streets, but to be constructed in a manner reasonably required for the purposes set forth in this Section 19; (ii) maintain such private driveway in a manner which allows use of such private driveway for the purposes set forth in this Section 19 and (iii) allow access to such private driveway by the Private Access Easement Users.

(c) Access to the paved areas presently within Dellana Road pursuant to subsection (a) above and the private driveway constructed on the "Private Access Easement" pursuant to subsection (b) above may be restricted by the Owner via gates or similar obstructions as long as the Private Access Easement Users are given keys, access cards or similar equipment which allows use of such paved areas or private driveway, as applicable, by the Private Access Easement Users only.

Section 20 Applicable Sections of Chapter 11, Subchapter G, Article VI

The provisions of the following sections of Chapter 11, Subchapter G, Article VI of the Code of Ordinances of the City existing as of the date hereof shall be applicable to any development on the Land subject to this Agreement:

Section 3;
Section 4;
Section 8(b) and (c);
Section 9(b);
Section 10;
Section 11; and
Section 12.

The terms of this Agreement shall control over other Sections of Chapter 11, Subchapter G, Article VI.

Section 21 Miscellaneous

(a) If any person or entity violates or attempts to violate this Agreement and covenant, the City, or its successors and assigns, may prosecute proceedings at law or in equity against the person or entity violating or attempting to violate this Agreement and covenant and may prevent said person or entity from violating or attempting to violate this Agreement or covenant.

(b) If any part or provision of this Agreement and covenant is declared invalid, by judgment or court order, that invalidity will not affect any of the other provisions of this Agreement, and the remaining portions of this Agreement will remain in full force and effect; provided, however, that if the consideration described in Section 1 is ever declared invalid, illegal or unenforceable and is not contributed, in whole or in part, by the Owner as and when due, this Agreement will terminate and be of no force or effect due to a failure of consideration.

(c) Any failure of the City, its successors and assigns, to enforce this Agreement and the covenants contained herein, whether the violations are known or not, will not constitute a waiver or estoppel of the City's right to do so.

(d) This Agreement contains the entire agreement between the Owner and the City regarding the subject matter hereof, and supercedes any prior written or oral understanding between the Owner and the City regarding the matters set forth herein. This Agreement may be modified or terminated only by joint action of both (i) the City Council of the City, and (ii) the owners of the Lot out of the Land affected by the modification or termination.

(e) This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument.

(f) The following exhibits are attached to this Agreement and incorporated herein by reference:

Exhibit "A" Description of Land;
Exhibit "B" Development Plan; and
Exhibit "C" Calculation and Terms of Payment of Fees.

EXECUTED this 25 day of January, ²⁰⁰¹2000.

ROLLINGWOOD LAND PARTNERS, LTD.

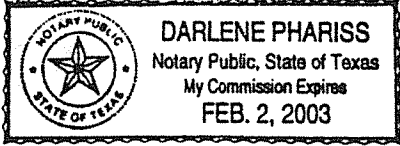
By: Rollingwood 99, Ltd., its General Partner

By: EGP Management, L.L.C., its General Partner

By: [Signature]
A. Bryce Miller, Executive Vice President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me the 25th January, 2001 day of ~~November~~, 2000, by A. Bryce Miller, as Executive Vice President of EGP Management, L.L.C., a Texas limited liability company, general partner of Rollingwood 99, Ltd., a Texas limited partnership, general partner of Rollingwood Land Partners, Ltd., a Texas limited partnership, on behalf of said limited partnership.



[Signature]
Notary Public for the State of Texas

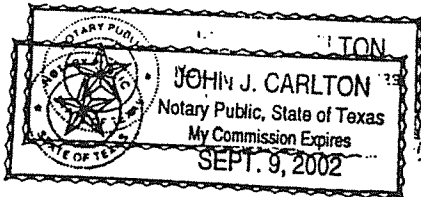
EXECUTED this 25th day of January, ²⁰⁰¹2000.

THE CITY OF ROLLINGWOOD, TEXAS

By: [Signature]
Thom Farrell, Mayor

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me the 25th day of January, ²⁰⁰¹2000, by Thom Farrell, Mayor of The City of Rollingwood, Texas, a general law city, on behalf of the city.



[Signature]
Notary Public for the State of Texas

18.684 ACRES
PHASE ONE
ROLLINGWOOD TOWNE CENTRE

FN NO. 00-209 (CLS)
SEPTEMBER 1, 2000
BPI JOB NO. 1000-06.20

DESCRIPTION

OF AN 18.684 ACRE TRACT OR PARCEL OF LAND SITUATED IN THE CITY OF ROLLINGWOOD, TRAVIS COUNTY, TEXAS, BEING THAT CERTAIN 6.610 ACRE TRACT OF LAND CONVEYED TO ROLLINGWOOD LAND PARTNERS, LTD. BY DEED OF RECORD IN DOCUMENT NO. 1999099631 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; LOTS 10A, 11A AND A PORTION OF LOT 9A WESTPARK SQUARE PROFESSIONAL CENTER PHASE TWO, A SUBDIVISION OF RECORD IN BOOK 74, PAGE 51 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, ALSO BEING LOTS 1, 4 AND 5, ROLLINGWOOD ENGINEERING CENTER, A SUBDIVISION OF RECORD IN BOOK 86, PAGE 116A OF SAID PLAT RECORDS AND ALSO BEING LOTS 2A AND 3A, RESUBDIVISION OF LOT 2 AND LOT 3 ROLLINGWOOD ENGINEERING CENTER, A SUBDIVISION OF RECORD IN BOOK 88, PAGE 17 OF SAID PLAT RECORDS; THOSE CERTAIN TRACTS OF LAND KNOWN AS "TRACTS 1-7" (INCLUSIVE) CONVEYED TO ROLLINGWOOD LAND PARTNERS, LTD. BY DEED OF RECORD IN DOCUMENT NO. 2000104490 OF SAID OFFICIAL PUBLIC RECORDS; AND THAT CERTAIN 0.935 ACRE PORTION OF THE DELLANA ROAD RIGHT OF WAY ADJOINING SAID LOTS 1, 2A, 3A, 4 AND 5 VACATED BY INSTRUMENT OF RECORD ON DOCUMENT NO. _____ OF SAID OFFICIAL PUBLIC RECORDS; SAID 18.684 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found in the easterly right-of-way line of Bee Caves Road (F.M. Highway No. 2244) (100' R.O.W.), being the southwesterly corner of said Lot 11A, same being the northwesterly corner of Lot 12A of said Westpark Square Professional Center Phase Two for an angle point in the irregular westerly line hereof;

THENCE, N01°50'59"W, along the easterly line of Bee Caves Road, being the westerly line of said Lot 10A and said Lot 11A, same being the irregular westerly line hereof, a distance of 318.58 feet to a 1/2 inch iron rod found being the northwesterly corner of said Lot 10A, being the southwesterly corner of said Lot 9A for the northwesterly corner hereof;

THENCE, N88°08'36"E, leaving the easterly line of Bee Caves Road, along the northerly line hereof, being the northerly line of said Lot 10A, same being the southerly line of said Lot 9A, a distance of 280.40 feet to a 1/2 inch iron rod found for an angle point;

THENCE, N27°27'20"E, leaving the common line of said Lot 9A and said Lot 10A, over and across said Lot 9A, continuing along the northerly line hereof, a distance of 59.13 feet to a 1/2 inch iron rod found in the irregular easterly line of said Lot 9A, being the common southerly corner of Lot 4A and Lot 5A, Timberline Ridge, a subdivision of record in Book 63, Page 42 of said Plat Records, for an angle point hereof;

THENCE, continuing along the northerly line hereof, being in part the southerly line of said Timberline Ridge; the southerly line of the Resubdivision of Lots 7-A and 8-A Timberline Ridge, a subdivision of record in Book 85, Page 49C of said Plat Records; the southerly line of that certain tract of land conveyed to Joaquim A. Delima by deed of record in Volume 6096, Page 1699 of the Deed Records of Travis County, Texas and in part the southerly line of Rollingwood Park Estates, a subdivision of record in Book 76, Page 91 of said Plat Records, same being in part the northerly line of said Rollingwood Engineering Center and also being in part the northerly line of said Resubdivision of Lot 2 and Lot 3 Rollingwood Engineering Center, the following ten (10) courses and distances:

- 1) S66°03'36"E, a distance of 118.48 feet to a 1/2 inch iron rod found at the most southerly corner of said Lot 5-A, being the northwesterly corner of said Lot 5, Rollingwood Engineering Center, same being the common easterly corner of said Lots 9A and 10A and also being the most westerly corner of said Joaquim A. Delima tract for an angle point hereof;
- 2) N57°40'06"E, a distance of 199.06 feet to a 1/2 inch iron rod found being an angle point in the northerly line of said Lot 5, being a common corner of Lot 6-A of said Timberline Ridge and Lot 7-A of said Resubdivision of Lots 7-A and 8-A Timberline Ridge, same being the most northeasterly corner of said Joaquim A. Delima tract for an angle point hereof;
- 3) S78°15'23"E, a distance of 69.80 feet to a point on the side of a rock wall being in the northerly line of said Lot 5, same being a point in the southerly line of Lot 8-A of said Resubdivision of Lots 7-A and 8-A Timberline Ridge for an angle point hereof;
- 4) S52°38'53"E, a distance of 169.46 feet to a 1/2 inch iron rod found at the southeasterly corner of Lot 9-A of said Resubdivision of Lots 7-A and 8-A Timberline Ridge, same being the southwesterly corner of Lot 9 of said Rollingwood Park Estates for an angle point hereof;
- 5) S52°48'01"E, a distance of 70.43 feet to a 60d nail found at the most southerly corner of said Lot 9, being the common northerly corner of said Lot 5 and Lots 2A and 3A of said Resubdivision of Lot 2 and Lot 3 Rollingwood Engineering Center for an angle point hereof;
- 6) N57°43'49"E, a distance of 28.74 feet to a 1/2 inch iron rod found at an angle point in the southerly line of said Lot 9, being an angle point in the northerly line of said Lot 2A for an angle point hereof;

- 7) N78°46'49"E, a distance of 106.55 feet to a punch hole found at an angle point in the southerly line of Lot 8 of said Rollingwood Park Estates, being an angle point in the northerly line of said Lot 2A for an angle point hereof;
- 8) S85°59'32"E, a distance of 81.05 feet to a 1/2 inch iron rod found at the common northerly corner of said Lot 2A and Lot 1 of said Rollingwood Engineering Center, being an angle point in the southerly line of said Lot 8 for an angle point hereof;
- 9) S82°05'53"E, a distance of 117.67 feet to a 1/2 inch iron rod found at an angle point in the northerly line of said Lot 1, being an angle point in the southerly line of Lot 7 of said Rollingwood Park Estates for an angle point hereof;
- 10) S74°10'57"E, a distance of 76.62 feet to a 1/2 inch iron rod found at the northeasterly corner of said Lot 1, being the most southerly corner of said Lot 7, same being an angle point in the westerly line of Lot 3 of said Rollingwood Park Estates for the most northeasterly corner hereof;

THENCE, along the easterly line of said Lot 1, being in part the westerly line of said Lot 3, same being the easterly line hereof, the following two (2) courses and distances:

- 1) S26°06'22"W, a distance of 60.27 feet to a 1/2 inch iron rod found for an angle point;
- 2) S29°13'25"W, a distance of 87.02 feet to a 1/2 inch iron rod found in the northerly right-of-way line of Dellana Road (Old Bee Caves Road) (40' R.O.W.), being the southeasterly corner of said Lot 1, same being the southwesterly corner of said Lot 3 for an angle point corner hereof and the most northeasterly corner of said vacated portion of Dellana Road;

THENCE, S08°54'09"E, along the easterly line of said vacated portion of Dellana Road, a distance of 40.49 feet to a 1/2 inch iron rod found in the southerly right-of-way line of Dellana Road (Old Bee Caves Road) (40' R.O.W.) for an angle point, being in the northerly line of said 6.610 acre Rollingwood Land Partners, Ltd. tract;

THENCE, S80°20'01"E, along the southerly right-of-way line of Dellana Road, a distance of 130.65 feet to a cotton spindle found for an angle point, being the most northeasterly corner of said 6.610 acre Rollingwood Land Partners, Ltd. tract;

THENCE, along the easterly line of said 6.610 acre Rollingwood Land Partners, Ltd. tract, being the westerly line of that certain tract of land conveyed to Park Hills Baptist Church by deed of record in Volume 11652, Page 75 of said Real Property Records, the following (8) eight courses and distances:

- 1) S43°57'52"W, a distance of 111.57 feet to a 1/2 inch iron rod found for an angle point;
- 2) S51°06'14"W, a distance of 87.40 feet to a 1/2 inch iron rod found for an angle point;
- 3) S72°37'07"W, a distance of 95.61 feet to a 1/2 inch iron rod found for an angle point;
- 4) S47°48'07"W, a distance of 171.06 feet to a 1/2 inch iron rod found for an angle point;
- 5) S04°36'37"E, a distance of 176.35 feet to a 1/2 inch iron rod found for an angle point;
- 6) S15°38'59"E, a distance of 85.72 feet to a 1/2 inch iron rod found for an angle point;
- 7) S10°24'04"W, a distance of 101.44 feet to a 1/2 inch iron rod found for an angle point;
- 8) S21°25'57"W, a distance of 98.31 feet to a 1/2 inch iron rod found in the northerly right-of-way line of F.M. Hwy. No. 2244 (Bee Caves Road) (R.O.W. varies) and the southeasterly corner hereof;

THENCE, along the northerly line of F.M. Hwy. No. 2244, being in part the southerly line of said 6.610 acre Rollingwood Land Partners tract, same being the southerly line hereof, the following two (2) courses and distances:

- 1) N78°53'21"W, a distance of 505.22 feet to a concrete highway monument found at the point of curvature of a non-tangent curve to the right;
- 2) Along said non-tangent curve to the right having a radius of 522.96 feet, a central angle of 45°06'15", an arc distance of 411.68 feet and a chord which bears N56°19'24"W, a distance of 401.13 feet to a 1/2 inch iron rod found at the intersection of the easterly line of Dellana Road being the most southwesterly corner of said 6.610 acre Rollingwood Land Partners tract;

THENCE, leaving the northerly line of Bee Caves Road, along the southerly line of Dellana Road, being the northerly line of said 6.610 acre Rollingwood Land Partners tract, and also over and across the Dellana Road Right-of-way, the following three (3) courses and distances:

- 1) S79°17'13"E, a distance of 191.13 feet to a 1/2 inch iron rod found for an angle point;

- 2) N02°35'56"E, a distance of 24.69 feet to a 1/2 inch iron rod set being the most northwesterly corner of said vacated portion of Dellana Road;
- 3) N82°58'46"E, a distance of 101.13 feet to a 1/2 inch iron rod set for an angle point;

THENCE, N08°40'17"W, leaving the southerly line of Dellana Road, along the westerly end of said vacated portion of Dellana Road, a distance of 15.74 feet to a 1/2 inch iron rod found being the southwest corner of said Lot 5 for an angle point in the irregular westerly line hereof;


THENCE, leaving the northerly line of Dellana Road, along the westerly line of said Lot 5, being the easterly line of Lot 13A and Lot 12A of said Westpark Square Professional Center, same being the irregular westerly line hereof, the following three (3) courses and distances:

- 1) N01°48'36"W, a distance of 202.58 feet to a 1/2 inch iron rod found for an angle point hereof;
- 2) N09°54'45"W, a distance of 95.00 feet to a 1 inch iron pipe found for an angle point hereof;
- 3) N04°07'03"W, a distance of 26.70 feet to a 1/2 inch iron rod found at the northeasterly corner of said Lot 12A, being the southeasterly corner of said Lot 11A, same being an angle point in the westerly line of said Lot 5 for an angle point hereof;

THENCE, S88°08'36"W, leaving the westerly line of said Lot 5, along the northerly line of said Lot 12A, being the southerly line of said Lot 11A, same being a portion of the irregular westerly line hereof, a distance of 351.34 feet to the **POINT OF BEGINNING**, containing an area of 18.684 acres (813,884 sq. ft.) of land, more or less, within theses metes and bounds.

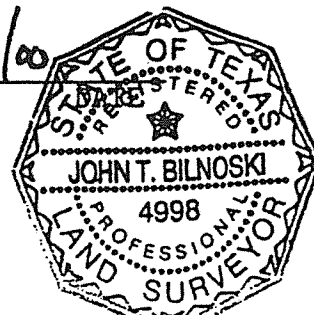
I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A SUBDIVISION PLAT WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746



JOHN T. BILNOSKI
NO. 4998
STATE OF TEXAS

9/1/00





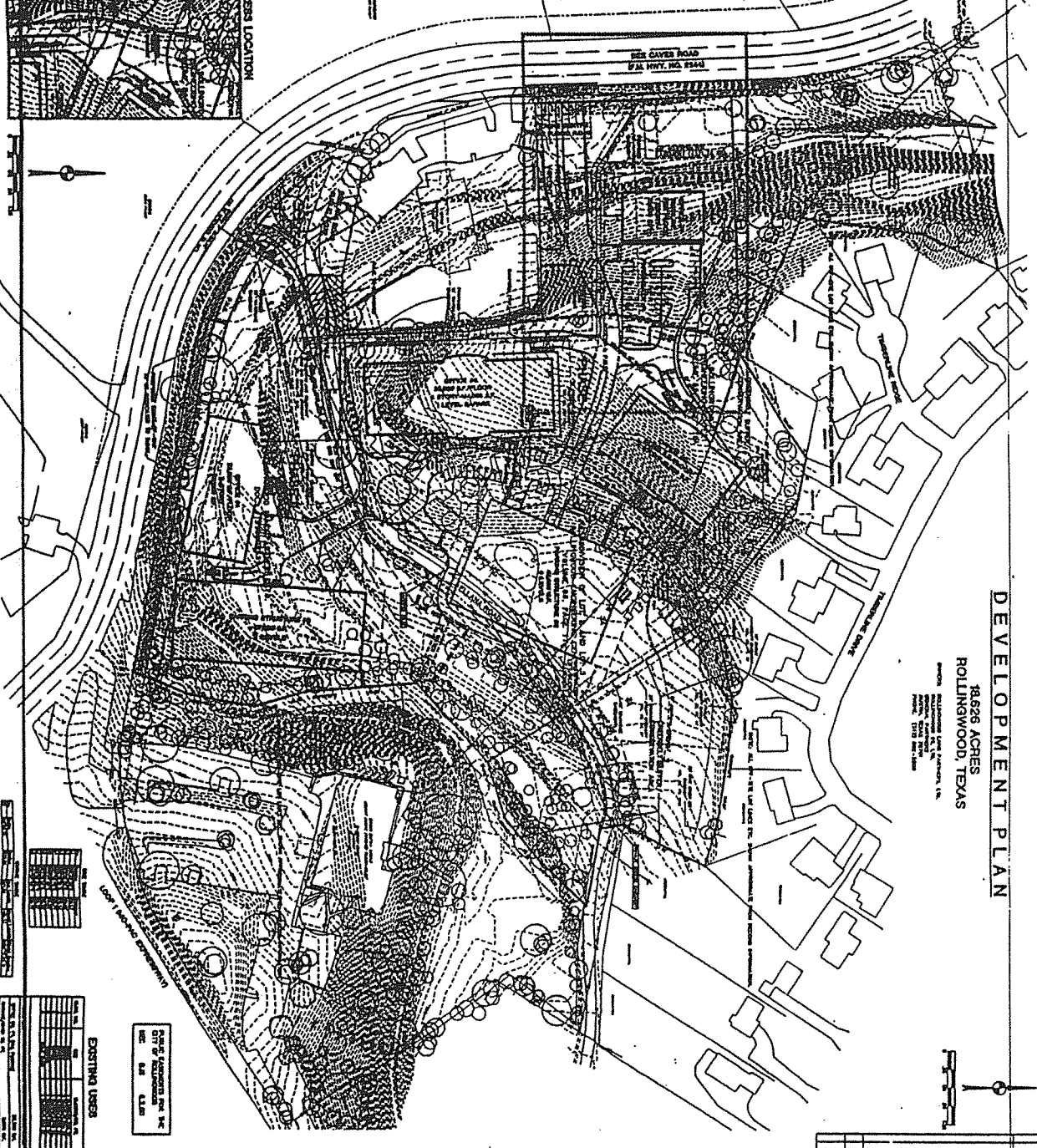
NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY PLAN	11/29/06	...
2
3
4
5
6
7
8
9
10

NOTES:

1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
6. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

LEGAL DESCRIPTION:

...



NO.	DESCRIPTION	DATE	BY
1
2
3
4
5
6
7
8
9
10

EXISTING USES

NO.	DESCRIPTION	DATE	BY
1
2
3
4
5
6
7
8
9
10

POINT OF BEGINNING

ROLLINGWOOD TOWNE CENTRE
 ENDEAVOR REAL ESTATE GROUP

PLANNED UNIT DEVELOPMENT
 ROLLINGWOOD TOWNE CENTRE

Bury+Partners
 Consulting Engineers and Architects

EXHIBIT "C"

The fee payable by the Owner will be composed of:

1. an amount equal to (a) all wastewater capital recovery fees required to be paid to the City of Austin under the "Agreement for Wholesale Wastewater Service Between the City of Rollingwood, Texas and the City of Austin, Texas" dated January 27, 1999 (the "Wastewater Contract") for wastewater service to the Land and (b) all water capital recovery fees required to be paid to the City of Austin under the "1999 Agreement for Wholesale Water Service Between the City of Austin and by the City of Rollingwood" approved by the Austin City Council on December 9, 1999 and by the City of Rollingwood on December 15, 1999 (the "Water Contract") for water service to the Land. This fee will be payable in increments, upon connection of each unit of new development within the Land to the Rollingwood water and wastewater systems, in accordance with the Water Contract and the Wastewater Contract. Plus,

2. \$558,000, which will bear interest at the rate of 8% per annum and be payable in equal monthly installments based on a 30 year amortization, commencing on the date of initiation of utility service to any portion of the Land and terminating when the entire unpaid balance of this amount, principal and accrued interest, is paid in full; provided, however, the first such installment payment shall be increased by an amount equal to \$8,000.00 and the schedule of amortized payments shall be based upon a total balance of \$550,000.00. These monthly installments will be billed to the Owner as a contract surcharge on each utility bill from the City for utility services to the Land. If multiple utility service accounts are established for the Land, the contract surcharge will be prorated based upon the number of wastewater living unit equivalents established for each account by the City.

AFTER RECORDING RETURN TO:

Armbrust Brown & Davis, LLP
Attn: Cindy Arias
100 Congress Avenue Suite 1300
Austin TX 78701-4042