



**RESTRICTIVE COVENANT REGARDING UNIFIED DEVELOPMENT
AND MAINTENANCE OF DRAINAGE FACILITIES AND
PROHIBITING THE USE OF
COAL TAR BASED SEALANTS FOR ASPHALT PAVING**

This Restrictive Covenant regarding unified development and maintenance of drainage facilities for Brodie Ranch, (the "Restrictive Covenant"), is executed this 9th of November, 2005, by Harris HW Ranch Development LP, Robert Brent Harris and Darrow Dean Harris, and Continental Homes of Texas LP, ("Developer") and is as follows:

RECITALS

- A.** Harris HW Ranch Development LP (Harris HW) is the owner of land, more particularly described as Lots 1, 3 and 5 of the Harris Ranch Subdivision according to the plat recorded as Document No. 200500284 of the Official Records of Travis County, Texas ("Tract One"); Robert Brent Harris and Darrow Dean Harris (Harris) are the Owners of land, more particularly described as Lot 2 of the Harris Ranch Subdivision according to the plat recorded as Document No. 200500284 of the Official Records of Travis County, Texas ("Tract Two"); and Continental Homes of Texas LP (Continental) are the Owners of land, more particularly described as Lot 4 of the Harris Ranch Subdivision according to the plat recorded as Document No. 200500284 of the Official Records of Travis County, Texas and Lot 20, Block A, Section 12 of the Cherry Creek Subdivision according to the plat recorded as Volume 91, Page 20, of the Official Records of Travis County, Texas ("Tract Three"). Tract One, Tract Two, and Tract Three are herein referenced collectively as the "Property".
- B.** Definitions:

Owners. The term "Owner" means, individually, and the term "Owners" means, collectively, Developer and all future owners of the fee interest or any portion of the Property (whether such fee interest is obtained through a purchase from Developer or through a purchase at a foreclosure sale or trustee's sale or through a deed in lieu of foreclosure) and their successors and assigns.

Facilities. The term "Facilities" means those drainage facilities that convey and receive stormwater runoff from the Property and that are described on **EXHIBIT A**, attached hereto and incorporated by reference.

- C. An Association for Lots 1, 2, and 5 has been duly formed under the laws of the State of Texas and in accordance with that certain Declaration filed of record in Document No. _____ of the Official Public Records of Travis County, Texas.
- D. Developer has agreed to impose upon the Property these covenants and conditions for the benefit of the Property in accordance with the terms hereof.

NOW, THEREFORE, it is hereby declared that the Property be subject to the following covenants, conditions and restrictions which shall run with the Property and shall be binding upon all parties having right, title, or interest in or to such portion of the Property or any part, their heirs, successors, and assigns and shall inure to the benefit of each Owner. Each contract, deed or conveyance of any kind conveying all or a portion of such Property shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract, deed or conveyance.

SPECIFIC AGREEMENTS AND RESTRICTIONS:

1. Recitals Incorporated. The above Recitals and all terms defined therein are incorporated into this Restrictive Covenant for all purposes.
2. Maintenance. The Association for Lots 1, 2, and 5 shall maintain the Facilities in accordance with the requirements of the City and in a good and functioning condition. The portion of the Property on which the Facilities are located may not be used for any purpose inconsistent with or detrimental to the proper operation of the Facilities. The Association may levy assessments against each Owner of Lots 1, 2, or 5 to discharge the maintenance obligation set forth herein. The Owners of Lots 3 and 4 shall maintain the Facilities on Lot 3 and 4, respectively, in accordance with the requirements of the City and in a good and functioning condition. The portion of the Property on which the Facilities are located may not be used for any purpose inconsistent with or detrimental to the proper operation of the Facilities. Each Owner shall be jointly and severally liable for the maintenance of the Facilities in the event the parties fail to discharge the responsibilities set out above.
3. Easement to the Association. Harris HW and Harris (“Declarant”) hereby grants and conveys and by these presents does GRANT AND CONVEY unto the Association, whose address is 2201 No. Lamar Blvd. Suite 220, Austin, Texas 78705, a non-exclusive easement for the inspection, monitoring, operation, maintenance, replacement, upgrade and repair, as applicable, of the Facilities, upon and across portions of the Property as more particularly described in **EXHIBIT A** attached hereto and incorporated by reference (the “Easement Tract”).

TO HAVE AND TO HOLD the same perpetually to the Association and its successors and assigns, together with the privilege at any and all times to enter the Easement Tracts for the purpose of operating, inspecting, monitoring, maintaining, replacing, upgrading and repairing, as applicable, the Facilities. This easement is made and accepted subject to all easements, covenants, restrictions, liens, and other encumbrances of record in Travis County, Texas affecting the Easement Tract.

4. Easement to the Owners. Declarant hereby grants and conveys and by these presents does GRANT AND CONVEY unto the Owners, a non-exclusive easement for the inspection, monitoring, operation, maintenance, replacement, upgrade and repair, as applicable, of the Facilities in, upon and the Easement Tract.

TO HAVE AND TO HOLD the same perpetually to the Owners and its successors and assigns, together with the privilege at any and all times to enter the Easement Tracts for the purpose of operating, inspecting, monitoring, maintaining, replacing, upgrading and repairing, as applicable, the Facilities. This easement is made and accepted subject to all easements, covenants, restrictions, liens, and other encumbrances of record in Travis County, Texas affecting the Easement Tract.

5. Easement to the City of Austin. Declarant hereby grants and conveys and by these presents does GRANT AND CONVEY unto the City of Austin, whose address is Post Office Box 1088, Austin, Texas 78767-1088, Attn: Watershed Protection and Development Review Department, a non-exclusive easement for the inspection, monitoring, operation, maintenance, replacement, upgrade and repair, as applicable, of the Facilities in, upon and across the Easement Tract.

TO HAVE AND TO HOLD the same perpetually to the City of Austin and its successors and assigns, together with the privilege at any and all times to enter the Easement Tracts for the purpose of operating, inspecting, monitoring, maintaining, replacing, upgrading and repairing, as applicable, the Facilities. This easement is made and accepted subject to all easements, covenants, restrictions, liens, and other encumbrances of record in Travis County, Texas affecting the Easement Tract.

6. Unified Development. For purposes of site plan review, modification, or approval by the City of Austin, the Property shall be constructed as a unified development/single site. Any proposed modifications to Tract One, Tract Two, or Tract Three or any portion of any Tract shall be construed as a modification to a single site, requiring review of Tract One, Tract Two, and Tract Three in accordance with the provisions of the Land Development Code of the City of Austin. This section applies to, but is not limited to, the extent of impervious coverage.
7. Prohibition of the use of coal tar based sealants for asphalt paving. For the purposes of site plan review, modification, or approval by the City of Austin, the use of coal tar based sealants for the construction or repair of asphaltic concrete paving is strictly prohibited.

8. Joint Access. Joint access must be provided between Tract One, Tract Two, and Tract Three on Site Plan No. SP-05-1340C over an area more particularly described in **EXHIBIT B**, attached and incorporated by reference. The joint access must allow pedestrian and/or vehicular traffic to move freely to the adjacent public right-of-way or between Tract One, Tract Two and Tract Three. Any change of any aspect of Tract One, Tract Two, or Tract Three may not interfere with this joint access. Each Owner shall be responsible and liable for maintaining the Owner's property contained within the access area described in such a manner as to provide the required joint access.
9. Impervious Cover. Impervious Cover, as that term is defined in the City Code, is allocated in the below amounts for Lots 1, 2, 3, 4, 5, and 20 as described in Site Plan SP-05-1340C and is as follows:

Lot 1	222,000 square feet
Lot 2	53,563 square feet
Lot 3	191,000 square feet
Lot 4	358,620 square feet
Lot 5	-0-
Lot 20, Block A	-0-

10. Breach Shall Not Permit Termination. Notwithstanding anything to the contrary contained herein, no breach of this Restrictive Covenant shall entitle the Owners to cancel, rescind or otherwise terminate this Restrictive Covenant, but such limitations shall not affect in any manner any other rights or remedies which the Owners may have hereunder by reason of any breach of this Restrictive Covenant.

Notwithstanding any other provision herein or any remedies available to the City, if an Owner violates any provision of this Restrictive Covenant (such owner, the "Defaulting Owner"), then any Owner not in default hereunder (any such Owner, a "Complying Owner") may (i) take any action available at law or in equity to enforce compliance by the Defaulting Owner with this Restrictive Covenant, (ii) maintain an action for damages against the Defaulting Owner for any damages or losses suffered or incurred by the Complying Owner as a result of the Defaulting Owner's violation or breach of this Restrictive Covenant, and/or (iii) exercise any and all other remedies available to the Complying Owner under this Restrictive Covenant and/or applicable law.

11. Excusable Delays. Whenever performance is required of the Owners, the Owners shall use all due diligence to perform and take all reasonable and necessary measures in good faith to perform within a reasonable time; provided, however, that if completion of performance is delayed at any time by reasons of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, unavailability of labor or material, damage to work in progress by reason of fire or other casualty, or any other cause beyond the reasonable control of the Owner (financial inability, imprudent management or negligence excepted), then the time for performance as herein specified will be extended by the amount of delay actually so caused.

12. Conveyance. This Restrictive Covenant does not convey interest in real property to the public or any governmental body.
13. General Provisions.
 - A. Inurement. This Restrictive Covenant and the restrictions created hereby shall inure to the benefit of and be binding upon the Owners, and their successors and assigns. If the Developer conveys all or any portion of the Property, the Developer shall thereupon be released and discharged from any and all further obligations, if any, under this Restrictive Covenant that it had in connection with the property conveyed by it from and after the date of recording of such conveyance, but no such sale shall release the Developer from any liabilities, if any, actual or contingent, existing as of the time of such conveyance.
 - B. Duration. Unless terminated in accordance with Paragraph 13(K) below, this Declaration shall remain in effect in perpetuity.
 - C. Non-Merger. This Restrictive Covenant shall not be subject to the doctrine of merger, even though the underlying fee ownership of the Property, or any parts thereof, is vested in one party or entity.
 - D. Severability. The provisions of this Restrictive Covenant shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof shall not affect the validity or enforceability of any other provision.
 - E. Entire Agreement. This Restrictive Covenant and the exhibits attached hereto contain all the representations and the entire agreement between the parties to this Restrictive Covenant with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are superseded in total by this Restrictive Covenant and the exhibits attached hereto. The provisions of this Restrictive Covenant shall be construed as a whole according to their common meaning and not strictly for or against any Owner.
 - F. Captions. The captions preceding the text of each section and subsection hereof are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Restrictive Covenant.
 - G. Governing Law; Place of Performance. This Restrictive Covenant and all rights and obligations created hereby shall be governed by the laws of the State of Texas. This Restrictive Covenant is performable only in the county in Texas where the Property is located.

- H. Notices. Any Notice to the Owners or the City shall be in writing and given by delivering the same to such party in person, by expedited, private carrier services (such as Federal Express) or by sending the same by registered or certified mail, return receipt requested, with postage prepaid to the intended recipient's last known mailing address. All notices under this Restrictive Covenant shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.
- I. Negation of Partnership. None of the terms or provisions of this Restrictive Covenant shall be deemed to create a partnership between or among the Developer, any Owner, or the City of Austin in their respective businesses or otherwise; nor shall it cause them to be considered joint ventures or members of any joint enterprise.
- J. Enforcement. If any person, persons, corporation, or entity of any other character shall violate or attempt to violate this Restrictive Covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such covenant and to prevent said person or entity from violating or attempting to violate such covenant. The failure at any time to enforce this Restrictive Covenant by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.
- K. Modification and Amendment. This Restrictive Covenant may only be modified, amended or terminated upon the filing of such modification, amendment or termination in the Official Records of Travis County, Texas, executed, acknowledged and approved by (a) the Director of the Watershed Protection and Development Review Department of the City of Austin; and (b) all of the Owners of the Property at the time of the modification, amendment, or termination.

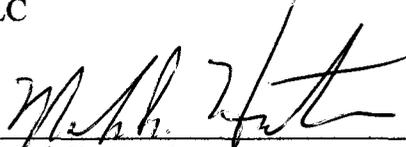
Executed to be effective this _____ day of _____, 2005.

DEVELOPER:

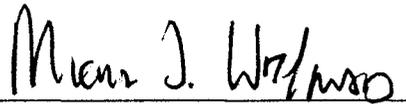
Lot 1, 3, and 5

Harris HW Ranch Development, LP

By: Harris HW Ranch Development Gr,
LLC

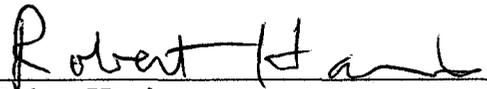


Mark R. Hutcheson
Managing Member

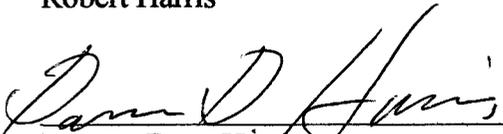


Michael J. Weynand
Managing Member

Lot 2



Robert Harris

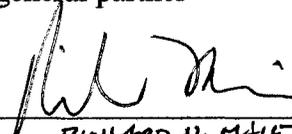


Darrow Dean Harris

Lot 4 and 20

Continental Homes of Texas LP,
A Texas limited partnership

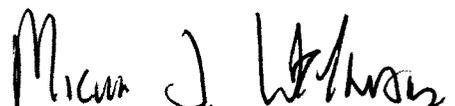
By: CHTEX of Texas, Inc.,
A Delaware Corporation,
its general partner



RICHARD W. MILLER V.P.

85.

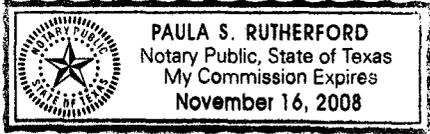
ASSOCIATION

By: 

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 1st day of November, 2005, by Mark R. Hutcheson, Managing Member of Harris HW Ranch Development Gp, LLC for Harris HW Ranch Development, LP, on behalf of said corporation, on behalf of and in his official capacity.

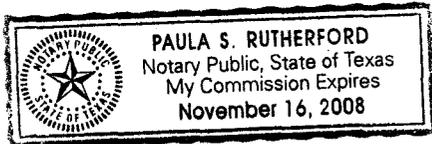


Paula S. Rutherford
Notary Public Signature

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

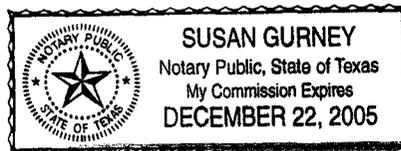
This instrument was acknowledged before me on the 1st day of November, 2005, by Michael J. Weynand, Managing Member of Harris HW Ranch Development Gp, LLC for Harris HW Ranch Development, LP, on behalf of said corporation, on behalf of and in his official capacity.



Paula S. Rutherford
Notary Public Signature

STATE OF TEXAS §

COUNTY OF TRAVIS §

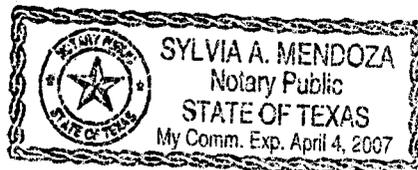


pg This instrument was sworn to, subscribed and acknowledge before me on this the 1st day of NOVEMBER 2005, by Robert Harris.

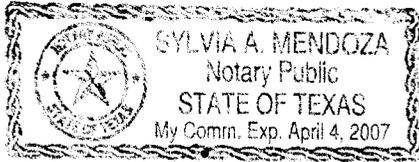
Susan Gurney
Notary Public - State of Texas

STATE OF TEXAS §

COUNTY OF ~~TRAVIS~~ FAYETTE §



1st This instrument was sworn to, subscribed and acknowledge before me on this the 1st day of NOVEMBER, 2005, by Darrow Dean Harris.

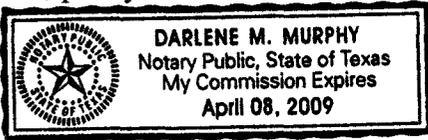


Sylvia A. Mendoza
Notary Public - State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 9th day of November, 2005, by Richard N. Muller, vice president of CHTEX of Texas, Inc., a Delaware Corporation, general partner of Continental Homes of Texas, LP, a Texas limited partnership, on behalf of said corporation, on behalf of and in his official capacity.

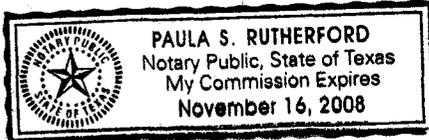


Darlene M. Murphy
Notary Public Signature

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 10th day of November, 2005, by (name), (office held) of the name of Association on behalf of said Association Michael Waymond, President



Paula S. Rutherford
Notary Public Signature

ACCEPTED: CITY OF AUSTIN

By: [Signature]
Name: Sue Welch
Title: Case Manager

APPROVED AS TO FORM:

By: [Signature]

AFTER RECORDING, RETURN TO:

City of Austin

Watershed Protection and Development Review Department

P.O. Box 1088

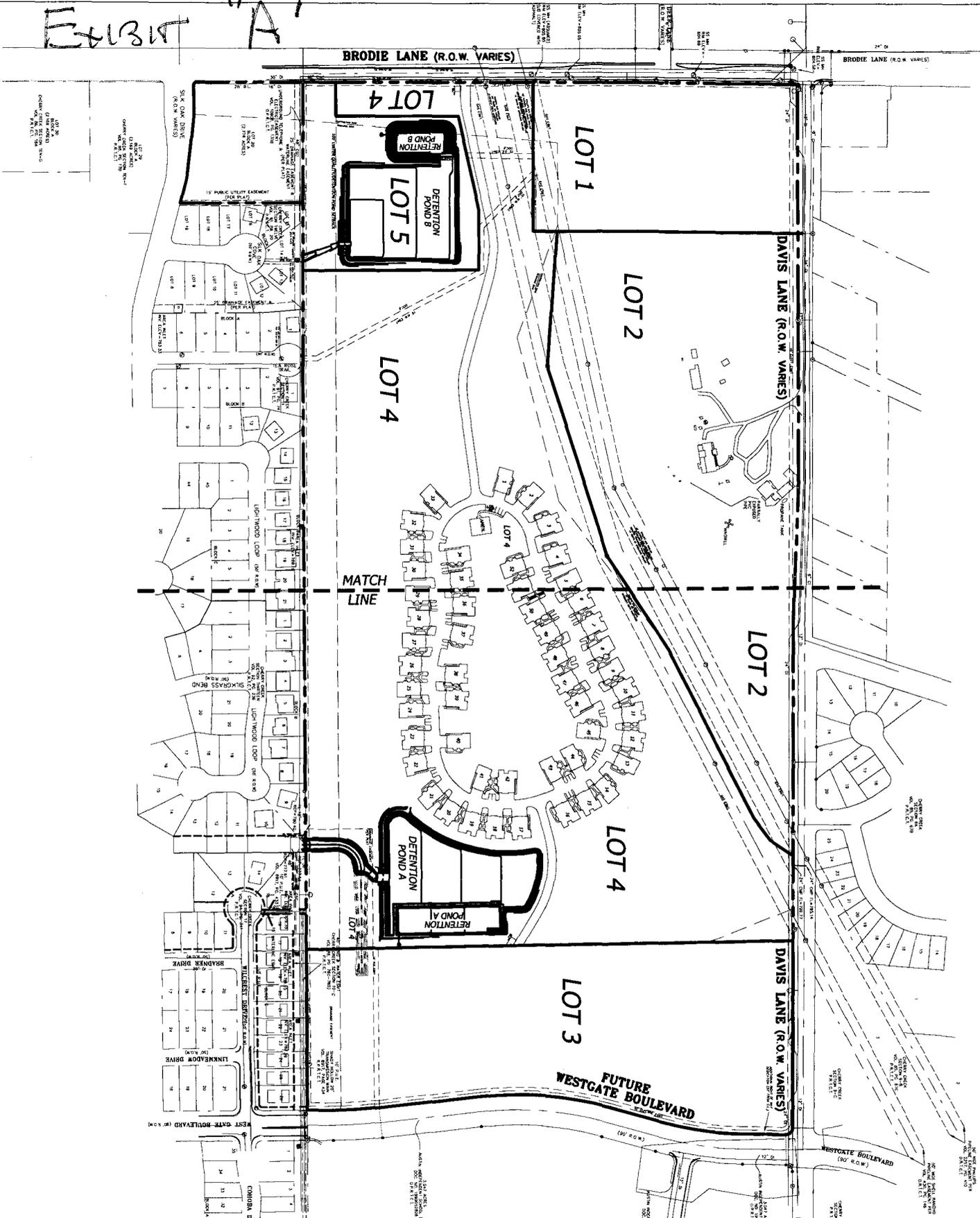
Austin, Texas 78767

Project Name: Brodie Ranch

Attn: Sue Welch

Case No. SR-05-1340C

EXHIBIT "A"



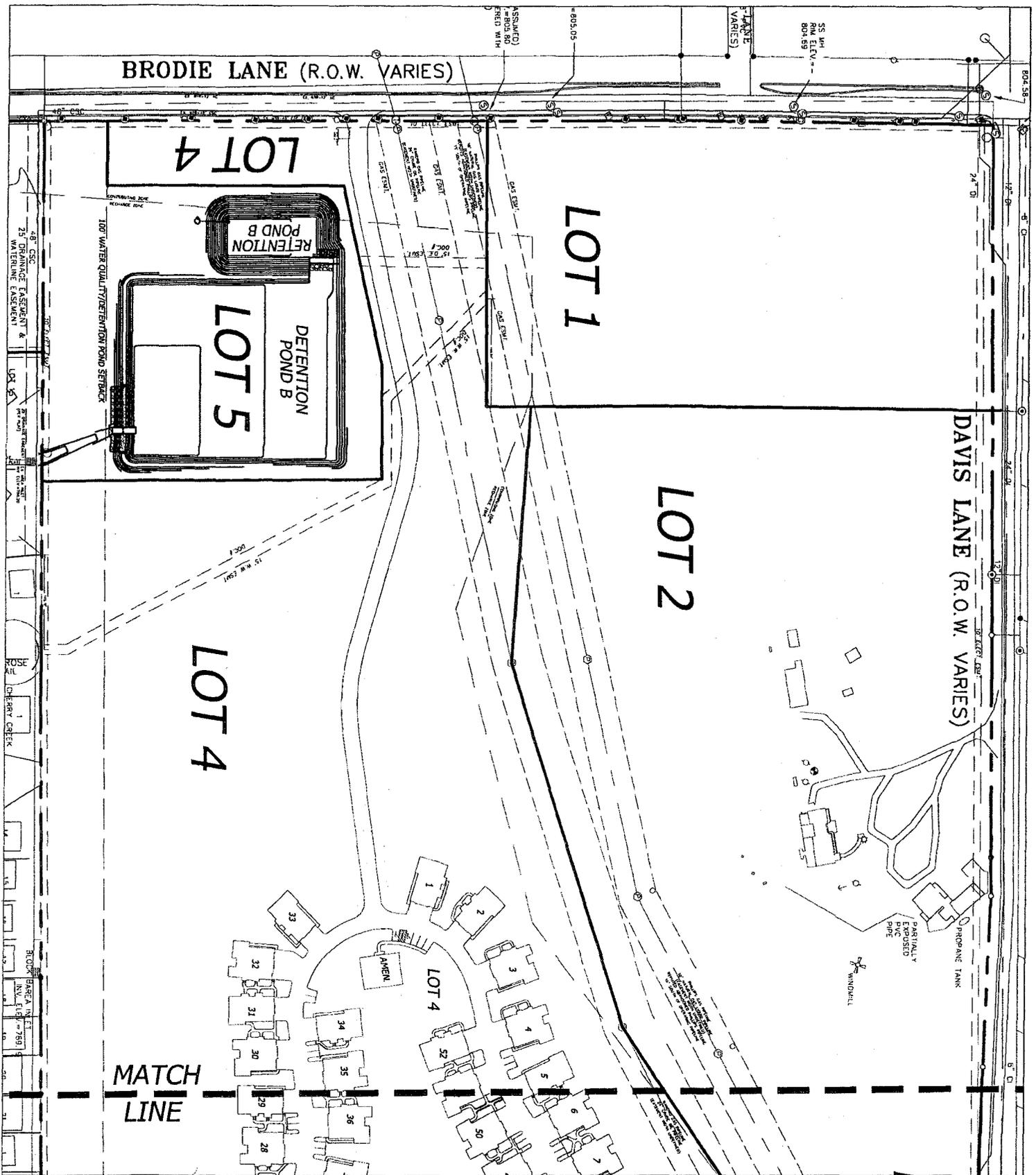
**BRODIE RANCH
AUSTIN, TEXAS**

HANRAHAN • PRITCHARD ENGINEERING, INC.
 CONSULTING ENGINEERS
 8333 Cross Park Drive
 AUSTIN, TEXAS 78754
 OFFICE: 512.459.4734 FAX: 512.459.4752
 info@hp-eng.com

HPE

EXHIBIT "A"

File: Projects/ BRODIE RANCH	Snapshot: exhibits	SHEET 03 of 03
Job No.	Scale (Hor.): 1"=400'	
Scale (Vert.):	Scale (Vert.):	
Date:	Checked By: Drawn By:	



**BRODIE RANCH
AUSTIN, TEXAS**

HANRAHAN • PRITCHARD ENGINEERING, INC.

CONSULTING ENGINEERS

8333 Cross Park Drive

AUSTIN, TEXAS 78754

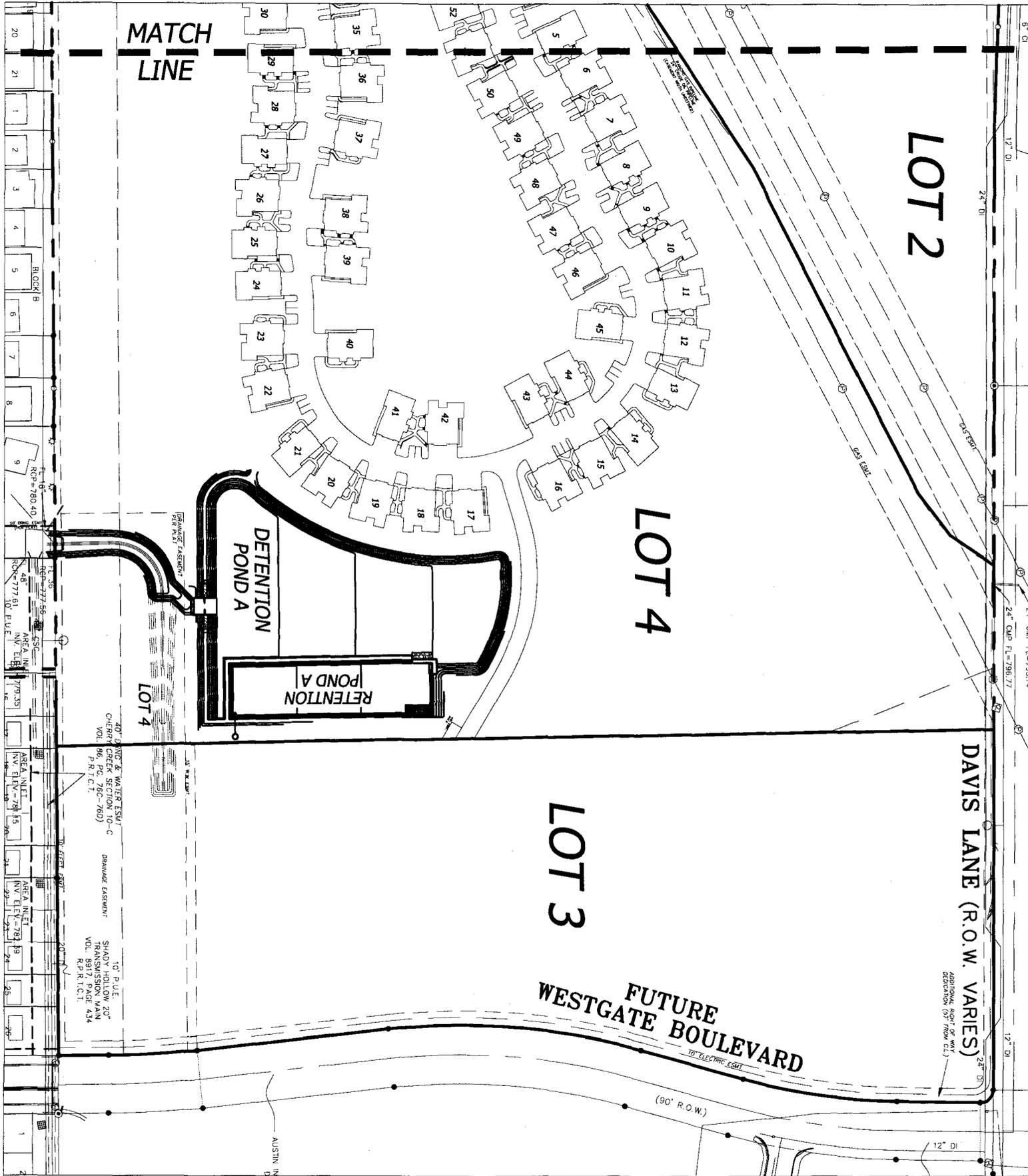
OFFICE: 512.459.4734 FAX: 512.459.4752

Info@hp-eng.com

HPE

Exhibit "A"

File: Projects/ BRODIE RANCH	Snapshot: exhibits	SHEET 01 of 03
Job No.	Scale (Hor.): 1"=200'	
Scale (Vert.):	Checked By:	
Date:	Drawn By:	



MATCH LINE

LOT 2

LOT 4

LOT 3

DAVIS LANE (R.O.W. VARIES)

FUTURE WESTGATE BOULEVARD

DETENTION POND A
RETENTION POND A

TO: SHADY HOLLOW 20' CHERRY CREEK SECTION 10-C VOL. 96, P.C. 78C-76D) P.R.I.C.T.
TO: P.U.E. SHADY HOLLOW 20' CHERRY CREEK SECTION 10-C VOL. 96, P.C. 78C-76D) P.R.I.C.T.

BRODIE RANCH
AUSTIN, TEXAS

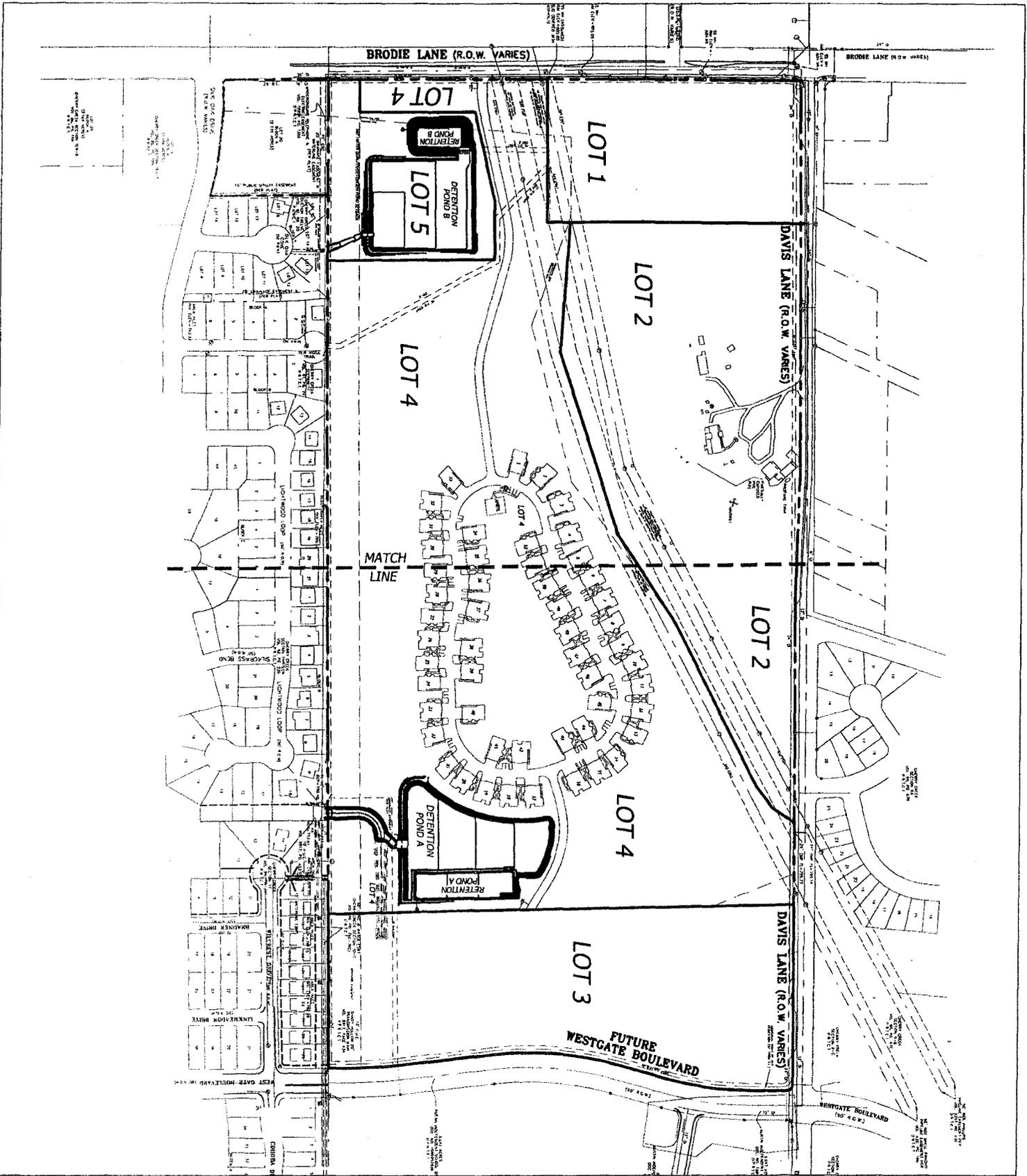
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OFFICE: 512.459.4734 FAX: 512.459.4752
info@hp-eng.com

HPE

Exhibit "A"

File: Projects/ BRODIE RANCH	Snapshot: exhibits
Job No.	Scale (Vert.):
Scale (Hor.): 1"=200'	Scale (Hor.):
Date:	Checked By:
	Drawn By:

SHEET
02 of 03



BRODIE RANCH
AUSTIN, TEXAS

HANRAHAN • PRITCHARD ENGINEERING, INC.

CONSULTING ENGINEERS

8333 Cross Park Drive

AUSTIN, TEXAS 78754

OFFICE: 512.459.4734 FAX: 512.459.4752

Info@hp-eng.com

HPE

Exhibit "B"

File: Projects/ BRODIE RANCH

Job No.

Snapshot: exhibits

Scale (Hor.):

1"=400'

Scale (Vert.):

Date:

Checked By:

Drawn By:

SHEET

03 of 03

COMPLETE THIS FORM FOR EACH LIENHOLDER

Lienhold Consent to Grant of Restrictive Covenants

STATE OF TEXAS
COUNTY OF TRAVIS

Recitals:

Harris HW Ranch Development, L.P. is the Owner (called "Owner, whether one or more) of the following property:

That tract of land situated in Travis County, Texas described in the attached and incorporated **EXHIBIT "A"** ("Property).

Glen V. Dorflinger ("Lienholder") * holds a lien against the Property under the following described documents:

Deed of Trust** dated February 1, 2005, from Harris HW Development, L.P. to William C. Davidson, Trustee, securing the payment of one promissory note of even date in the original principal amount of \$250,000.00, payable to **Lienholder***, of record in Document Number 2005018453 of the Official Public Records of Travis County, Texas.

***If multiple Lienholders call each Lienholder-Bank Name. **If multiple liens only need one lineholder but multiple Deed of Trust recitals. Instructional only delete from final doc.**

Owner has granted to the City of Austin ("City") a Restrictive Covenant against and running with the Property.

Agreement

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

1. Glen V. Dorflinger consents to the grant of Restrictive Covenants against and running with the Property to the City of Austin which is executed contemporaneously herewith.
2. Lienholder subordinates all of its liens on this Property to the rights and interests of the city, its successors and assigns, and any foreclosure of its liens will not extinguish City's rights and interests in the Restrictive Covenants or the Property.
3. **Lienholder** affirms that the undersigned has the authority to bind the

Lienholder, and that all corporate acts necessary to bind the Lienholder have been taken.

Executed on OCTOBER 26, 2005.

By: Glen V. Dorflinger
Name: Glen V. Dorflinger
Title: LIENHOLDER

ACKNOWLEDGMENT

STATE OF Texas
COUNTY OF Harris

Before me Tami E. Humphreys (Notary name), Notary Public on this day personally appeared Glen V. Dorflinger (signer's name) of Lienholder (title) Glen V. Dorflinger, known to me personally to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of this office this 26 day of October, 2005.

Tami E. Humphreys

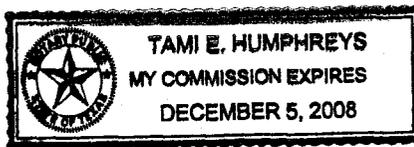


Exhibit A

Lots 1 and 5 of the Harris Ranch Subdivision according to the plat recorded as Document No. 200500284 of the Official Records of Travis County, Texas.

Affidavit that there is No Lien Against the Referenced Property

**STATE OF TEXAS
COUNTY OF TRAVIS**

§
§

BEFORE ME, the undersigned notary public, on this day personally appeared Robert Harris who being known to me duly sworn, stated as follows:

1. "My name is Robert Harris. I, as an individual, am authorized to make this affidavit. I am above the age of eighteen years, have never been convicted of a felony or a crime of moral turpitude, am of sound mind and am fully qualified to make this Affidavit. I have personal knowledge of the facts contained herein as an officer of the corporation who holds title to the property and I have recently reviewed the corporation's records of ownership of this property.
2. There is no lien held by any person, including any bank or similar corporate person, against the property described as Lot 2 of Harris Ranch Subdivision.

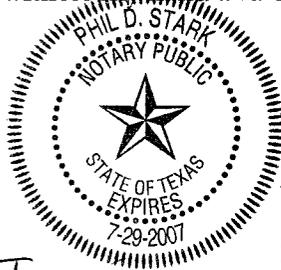
"Further Affiant sayeth not."

By: 
Name: Robert Harris
Title: Individual

State of Texas §
County of Travis §

SUBSCRIBED AND SWORN TO BEFORE ME on this 3rd day of November, 2005

to certify which witness my hand and official seal.



Phil D. Stark, Notary Public

State of Texas §
County of Travis §

On November 3, 2005, before me, Phil D. Stark [name of notary],
Notary Public, personally appeared Robert Harris, Individual, personally known to me to be the person
whose name is subscribed to the within instrument and acknowledged to me that he executed the same in
his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of
which the person acted, executed the instrument.

WITNESS my hand and official seal



Phil D. Stark
[5] Phil D. Stark, Notary

Public

Affidavit that there is No Lien Against the Referenced Property

STATE OF TEXAS
COUNTY OF TRAVIS

§
§

BEFORE ME, the undersigned notary public, on this day personally appeared Michael J. Weyland, Managing Member, Harris HW Ranch Development Gr., LLC for Harris HW Ranch Development, LP. , who being known to me duly sworn, stated as follows:

1. "My name is Michael J. Weyland. I am the Managing Member of Harris HW Ranch Development Gr., LLC for Harris HW Ranch Development, L.P., and am authorized by to make this affidavit. I am above the age of eighteen years, have never been convicted of a felony or a crime of moral turpitude, am of sound mind and am fully qualified to make this Affidavit. I have personal knowledge of the facts contained herein as an officer of the corporation who holds title to the property and I have recently reviewed the corporation's records of ownership of this property.

2. My name is Mark R. Hutcheson. I am the Managing Member of Harris HW Ranch Development Gr., LLC for Harris HW Ranch Development, L.P., and am authorized by to make this affidavit. I am above the age of eighteen years, have never been convicted of a felony or a crime of moral turpitude, am of sound mind and am fully qualified to make this Affidavit. I have personal knowledge of the facts contained herein as an officer of the corporation who holds title to the property and I have recently reviewed the corporation's records of ownership of this property.

3. There is no lien held by any person, including any bank or similar corporate person, against the property described as Lot 3 of the Harris Ranch Subdivision according to the plat recorded as Document No. 200500284 of the Official Records of Travis County, Texas."

"Further Affiant sayeth not."

Harris HW Ranch Development, LP

By: Harris HW Ranch Development Gr, LLC

Michael J. Weyland

Michael J. Weyland
Managing Member

Mark R. Hutcheson

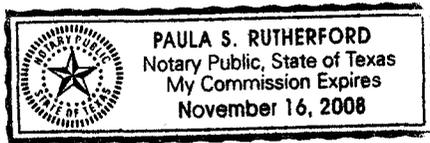
Mark R. Hutcheson
Managing Member

State of Texas
County of Travis

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§

On November 8, 2005, before me, Paula S. Rutherford Notary Public, personally appeared Michael J. Weyland, Managing Member, Harris HW Ranch Development Gr., LLC for Harris HW Ranch Development, LP., personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal



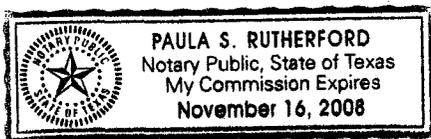
Paula S. Rutherford
Notary Public

State of Texas
County of Travis

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On November 8, 2005, before me, Paula S. Rutherford Notary Public, personally appeared Mark R. Hutcheson, Managing Member, Harris HW Ranch Development Gr., LLC for Harris HW Ranch Development, LP., personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal



Paula S. Rutherford

Affidavit that there is No Lien Against the Referenced Property

STATE OF TEXAS
COUNTY OF TRAVIS

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BEFORE ME, the undersigned notary public, on this day personally appeared Richard N. Maier, Vice President of Continental Homes of Texas, L.P., who being known to me duly sworn, stated as follows:

1. "My name is Richard N. Maier. I am a Vice President of Continental Homes of Texas, L.P and am authorized by Continental Homes of Texas, L.P. to make this affidavit. I am above the age of eighteen years, have never been convicted of a felony or a crime of moral turpitude, am of sound mind and am fully qualified to make this Affidavit. I have personal knowledge of the facts contained herein as an officer of the corporation who holds title to the property and I have recently reviewed the corporation's records of ownership of this property.

2. There is no lien held by any person, including any bank or similar corporate person, against the property described as Lot 4 of the Harris Ranch Subdivision according to the plat recorded as Document No. 200500284 of the Official Records of Travis County, Texas.

"Further Affiant sayeth not."

Continental Homes of Texas, L.P.
(a Texas limited partnership)

By: CHTEX of Texas, Inc.
(a Delaware corporation)
Its General Partner

85



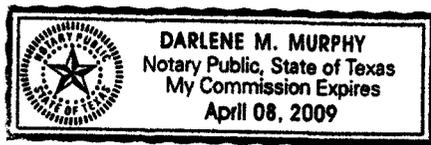
Richard N. Maier
Vice President

State of Texas
County of Travis

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§

On November 8, 2005, before me, Darlene M. Murphy, Notary Public, personally appeared Richard N. Maier, Vice President of Continental Homes of Texas, L.P., personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal



Darlene M. Murphy
Notary Public

Affidavit that there is No Lien Against the Referenced Property

**STATE OF TEXAS
COUNTY OF TRAVIS**

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BEFORE ME, the undersigned notary public, on this day personally appeared Richard N. Maier, Vice President of Continental Homes of Texas, L.P., who being known to me duly sworn, stated as follows:

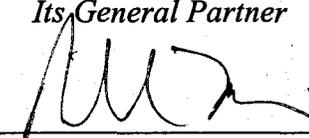
1. "My name is Richard N. Maier. I am a Vice President of Continental Homes of Texas, L.P. and am authorized by Continental Homes of Texas, L.P. to make this affidavit. I am above the age of eighteen years, have never been convicted of a felony or a crime of moral turpitude, am of sound mind and am fully qualified to make this Affidavit. I have personal knowledge of the facts contained herein as an officer of the corporation who holds title to the property and I have recently reviewed the corporation's records of ownership of this property.

2. There is no lien held by any person, including any bank or similar corporate person, against Lot Twenty (20), Block "A", Cherry Creek Section Twelve, a subdivision situated in Travis County, Texas, according to the map or plat thereof recorded in Volume 91, Page 20, Plat Records of Travis County, Texas.

"Further Affiant sayeth not."

Continental Homes of Texas, L.P.
(a Texas limited partnership)

By: CHTEX of Texas, Inc.
(a Delaware corporation)
Its General Partner

By: 
Name: Richard N. Maier
Title: Vice President

State of Texas
County of Travis

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SUBSCRIBED AND SWORN TO BEFORE ME on this 3rd day of November,
2005 to certify which witness my hand and official seal.

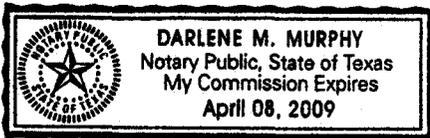
Darlene M. Murphy
Darlene M. Murphy, Notary Public

State of Texas
County of Travis

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On November 1, 2005, before me, *Darlene M. Murphy* [name of notary],
Notary Public, personally appeared Richard N. Maier, Vice President of Continental Homes of
Texas, L.P., personally known to me to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in his authorized capacity, and that
by his signature on the instrument the person or the entity upon behalf of which the person acted,
executed the instrument.

WITNESS my hand and official seal



Darlene M. Murphy
Darlene M. Murphy, Notary Public

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2005 Nov 10 02:11 PM 2005210943

SIFUENTEZY \$112.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

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