

ARROYO VERDE SUBDIVISION DEVELOPMENT AGREEMENT

This Development Agreement (the "Agreement") is made and entered into by and among the CITY OF NEW BRAUNFELS, TEXAS, a Texas municipal corporation (the "City"), and ARROYO VERDE GOODWIN, LP, a Texas limited partnership ("Developer"), and the New Braunfels Parks Foundation, a Texas non-profit corporation ("Foundation") effective as of _____ day of _____, 2021 ("Effective Date").

WHEREAS, on December 6, 2016, the New Braunfels Planning Commission approved a "master plan" for the proposed development of the Arroyo Verde Subdivision. Subsequently, the master plan was amended and such minor amendment was approved by the City by letter dated January 29, 2019. Such amended Master Plan is more particularly described on the attached Exhibit "A" (the "Subdivision");

WHEREAS, Unit 1, Unit 2, Amended Unit 3 and Unit 4 of the Subdivision were platted and such approved plats were recorded with the Comal County Clerk in the official public records for Plats and Maps. The Unit 4 plat which contains the below described public park and trail;

WHEREAS, the 2006 Park Land Ordinance, as amended (the "Ordinance") sets fees \$100 for fee-in-lieu of land and \$500 park development fees per dwelling unit and to be paid at time of final plat requirements;

WHEREAS, the Developer may choose to pay fees, dedicate public park land, or request credit for private park land development;

WHEREAS, the Ordinance requires no less than two (2) acres of private park land for dedication, four (4) park elements to be constructed and the costs of construction of the four (4) park elements be equal to or greater than park development fees owed to be eligible for private park land credit pursuant to the Ordinance;

WHEREAS, the Developer has requested the City to accept a combination of public park land dedication and private park land development with improvements to fulfill the private park land credit requirements and development credit to satisfy the Ordinance. The private park improvements shall include 0.806 acres of private park land, a pool, a lawn area, picnic area, quiet areas and pavilion as described in Exhibit "B" attached hereto and herein referenced as the "Park Exhibit." The public park shall consist of 15.03 acres (Lot 901) as described in Exhibit "C" attached hereto and herein referenced as the "HBT Exhibit";

WHEREAS, the Developer shall install a hike and bike trail at the time Arroyo Verde Unit 4 public infrastructure is constructed and such trail shall be constructed as required by City Code of Ordinances, Section 118-50-Off-street bikeways and trails (the "HBT Ordinance");

WHEREAS, the City has requested the Developer to construct the Hike and Bike Trail to the west of Alligator Creek as depicted on Exhibit C, "HBT Exhibit" and such request was approved by the Director of Parks and Recreation and Planning Commission on October 7, 2020;

WHEREAS, the Developer has requested the City to contribute to offset a portion of the Hike and Bike Trail construction costs. The Developer has further requested that the 15.03-acre public park land dedication to the Foundation to be recognized as an additional park element for private park land credit; and

WHEREAS, the City desires to approve a combination of private park land including its private park improvements and public park land dedication for full satisfaction of all park land dedication and park development fee requirements under the Park Land Dedication and Park Land Fee Ordinance required for the Arroyo Verde subdivision, as set forth in Exhibit A, Subdivision.

NOW, THEREFORE, the City, the Developer, and the Foundation agree as follows:

1. The Developer shall construct a private park described above and as set forth in Exhibit B, "Park Exhibit", and a public 10-foot-wide Hike and Bike Trail, and dedicate by deed a 15.03 acre park land (identified in Unit 4, Lot 901) to the New Braunfels Parks Foundation as described in Exhibit C, "HBT Exhibit".
2. The City will recognize the 15.03 acre (Unit 4, Lot 901) public park land dedication to the New Braunfels Parks Foundation as described in Exhibit C, HBT Exhibit, and the private park land and its improvements as described in Exhibit B, "Park Exhibit", as meeting and fulfilling the Ordinance requirements for the Subdivision after dedication of the public park land and construction of the private park improvements.
3. Upon completion and approval of the private park improvements, the City will reimburse the Developer the Park Fees previously paid in connection with the development of the Subdivision in the amount of \$49,800; no further park fees will be due or payable for any other unplatted areas or future "Units" located within the Subdivision, including but not limited to, Unit 4 as the private park and public park land dedication fulfills and meets all Ordinance requirements for the Subdivision.
4. Upon completion, approval and acceptance of the public Hike and Bike Trail Improvements by the Parks Director and the dedication of the public park land (Lot 901), the City will reimburse the Developer for a portion of the costs of the Hike and Bike Trail Improvements incurred by the Developer, in the amount of \$30,000. This is in addition to

the \$49,800 park fee reimbursement. The estimated total cost of trail construction with sidewalk connection is \$82,000.00.

5. All Developer reimbursements and payments made under this Agreement will require proof of payment (i.e., copies of checks and related invoices) and an affidavit from the Developer for each reimbursement for the benefit of the City that indicate the amount spent on the Developer Installed Improvements, i.e., private park improvements and the public hike and bike trail. The Developer shall provide proof of payment that exceeds \$68,000 for the private park improvements to receive the reimbursement of \$49,800 for park fees that were previously paid and that exceeds \$82,000.00 for the Hike and Bike Trail improvements to receive the reimbursement of \$30,000 for the Hike and Bike Trail.
6. Ownership and Maintenance of Lot 901 in Unit 4. The New Braunfels Park Foundation will own, and the City of New Braunfels shall maintain the 15.03 acres (Lot 901). Operations and Maintenance for the public park land and the Hike and Bike Trail Improvements will conform to the City's best standards and practices as set forth in the City manuals and the Park Maintenance Plan.
7. Construction Design & Review. The trail alignment has been approved by the City Parks Department and construction plans have been approved by the Engineering Department prior to construction.
8. Construction Inspections. The Developer Installed Hike and Bike Trail Improvements shall be inspected by the City while construction is in progress.
9. Park Land Dedication. Once the Developer installs the Hike and Bike Trail Improvements and the Parks Director has approved such improvements, within 45 days from approval, the Developer will deed the 15.03-acre (Lot 901) public park land to the New Braunfels Parks Foundation, by Special Warranty Deed, in a form reasonably acceptable to the Developer and the New Braunfels Parks Foundation and convey the Developer Installed Hike and Bike Trail Improvements, AS IS, WHERE IS, AND WITH ALL FAULTS, by bill of sale with such conveyances to the New Braunfels Parks Foundation to be free and clear of any liens on such conveyed property. Within 60 days after the approval of the Hike and Bike Trail improvements by the Parks Director, the Developer will provide and obtain a two-year warranty bond for materials and workmanship for benefit of the City and the Foundation. The warranty bond for the 10 foot wide Hike and Bike Trail may be part of the two-year warranty bond for the benefit of the City for the Arroyo Verde Unit 4 Improvements.
10. Default. It will be an "Event of Default" if either party fails to comply with any term, provision, or covenant of this Agreement. A defaulting party shall have 30 days after

receiving written notice of an Event of Default from the non-defaulting party to cure the default, or such longer period as may be reasonably necessary if such default is not subject to cure within 30 days and continues to diligently pursue such cure (such period of 30 days or longer as may be applicable, the "Cure Period"). If the defaulting entity does not cure the default within the applicable Cure Period, and if the non-defaulting entity has not waived the default in writing, then after expiration of the applicable Cure Period, the non-defaulting entity may, in its sole discretion, and without prejudice to any other right or remedy allowed under this Agreement, terminate this Agreement by written notice to the defaulting party or seek any other relief available at law or in equity, all of which are cumulative and are in addition to any other right or remedy given under this Agreement which may now or subsequently exist in law or in equity by statute or otherwise, and the exercise of any one remedy does not preclude the exercise of another. Notwithstanding any provision herein to the contrary, if notice of default or there is a dispute as to whether the default has been cured, then the parties shall make a good faith effort to resolve the dispute before the Agreement is declared terminated or in default.

11. City Code of Ordinances/Enforcement. This Agreement is made subject to the existing provision of the Charter of New Braunfels, its rules and regulations, procedures, and ordinances, and all applicable laws of the State of Texas and the United States. The parties agree that this Agreement will be performable in New Braunfels, Texas, and that if legal action is necessary to enforce this Agreement, exclusive venues shall lie in Comal County, Texas.
12. Notice. Any notice, communication, request, demand, reply or advice (severally and collectively referred to as "Notice") in this Agreement required or permitted to be given, made or accepted must be in writing. Notice may, unless otherwise specifically provided herein, be given or served (a) by depositing the same in a receptacle regularly maintained and serviced by the United States Postal Service, postage pre-paid, registered or certified, and addressed to the party to be notified, with return receipt requested, (b) by delivering the same to such party, or an agent of the party, in person or by commercial courier or (c) by regular mail, facsimile transmission, email or other commercially reasonable means addressed to the party to be notified. Notice sent by registered or certified mail in the manner hereinabove described shall be effective on the date of deposit as evidenced by the mail receipt stamped by the post office. Notice given in any other manner shall be effective only if and when received by the party to be notified. The City, Foundation and Developers' respective legal council may give any notice on its client's behalf. For the purposes of Notice, the addresses of the parties shall, until changed as provided below, be as follows:

City: Parks and Recreation Department
City of New Braunfels
110 Golf Course Road
New Braunfels, Texas 78130

City Engineer
City of New Braunfels
550 Landa Street
New Braunfels, Texas 78130

City Attorney
City of New Braunfels
550 Landa Street
New Braunfels, Texas 78130

Developer: Arroyo Goodwin, LP

La Crema GP, LLC, General Partner
Attn: Mike Lancaster
P.O. Box 171004
San Antonio, Texas 78217

Foundation: New Braunfels Parks Foundation

Attn: New Braunfels Parks Foundation President
c/o City Parks Director
P.O. Box. 312634,
New Braunfels, Texas 78131

Signed and agreed this the ____ day of _____, 2021.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Robert Camareno, City Manager

STATE OF TEXAS

COUNTY OF COMAL

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas on this day personally appeared Robert Camareno, the City Manager of the City of New Braunfels, Texas known to me to be the person whose name is subscribed to the foregoing contract and acknowledged that he has the authority and consent to bind the City of New Braunfels, Texas to this Agreement that he executed the same for purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2021.

Notary Public, State of Texas

DEVELOPER:

ARROYO GOODWIN, L.P..
a Texas Limited Partnership
BY: La CREMA GP, LLC
A Texas Limited Liability Company,
General Partner

By: _____
Michael Lancaster,
Authorized Manager

STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas on this day personally appeared Michael Lancaster, the authorized Manager of LaCrema GP, LLC, a Texas limited liability company, the General Partner of Arroyo Goodwin, LP, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing contract and acknowledged that he executed the same for purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2021

Notary Public, State of Texas

FOUNDATION:

NEW BRAUNFELS PARKS
FOUNDATION

By: _____
_____, President

STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas on this day personally appeared _____, President of New Braunfels Parks Foundation, known to me to be the person whose name is subscribed to the foregoing contract and acknowledged that he has the authority and consent to bind New Braunfels Parks Foundation to this Agreement that he executed the same for purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 2021

Notary Public, State of Texas

Exhibit B "Park"

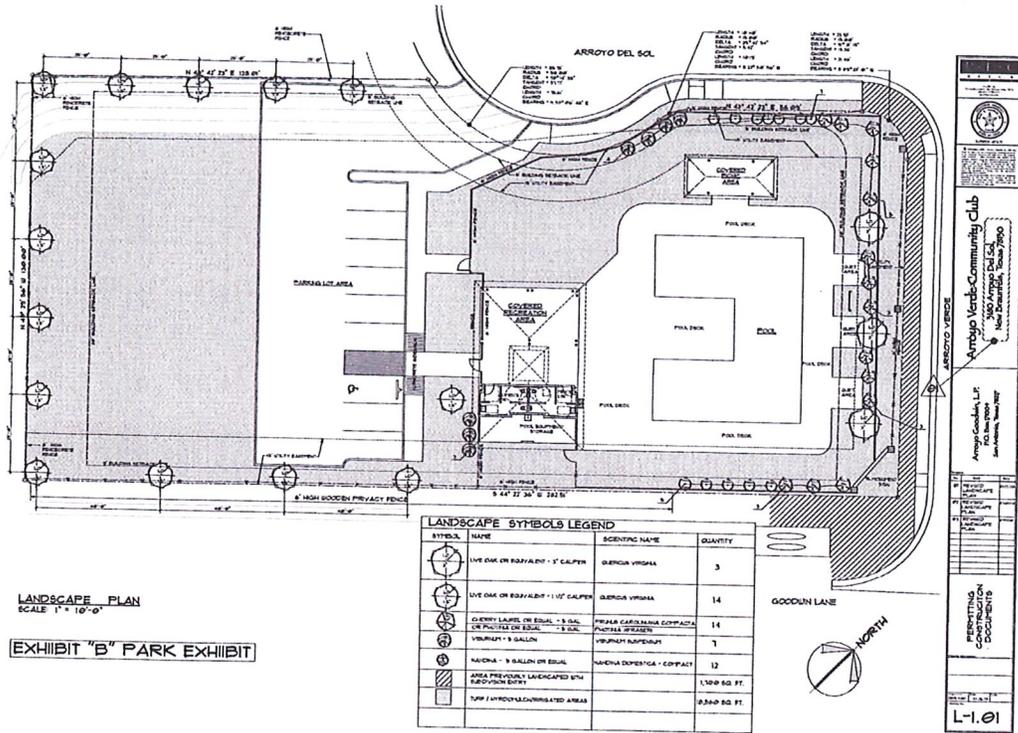
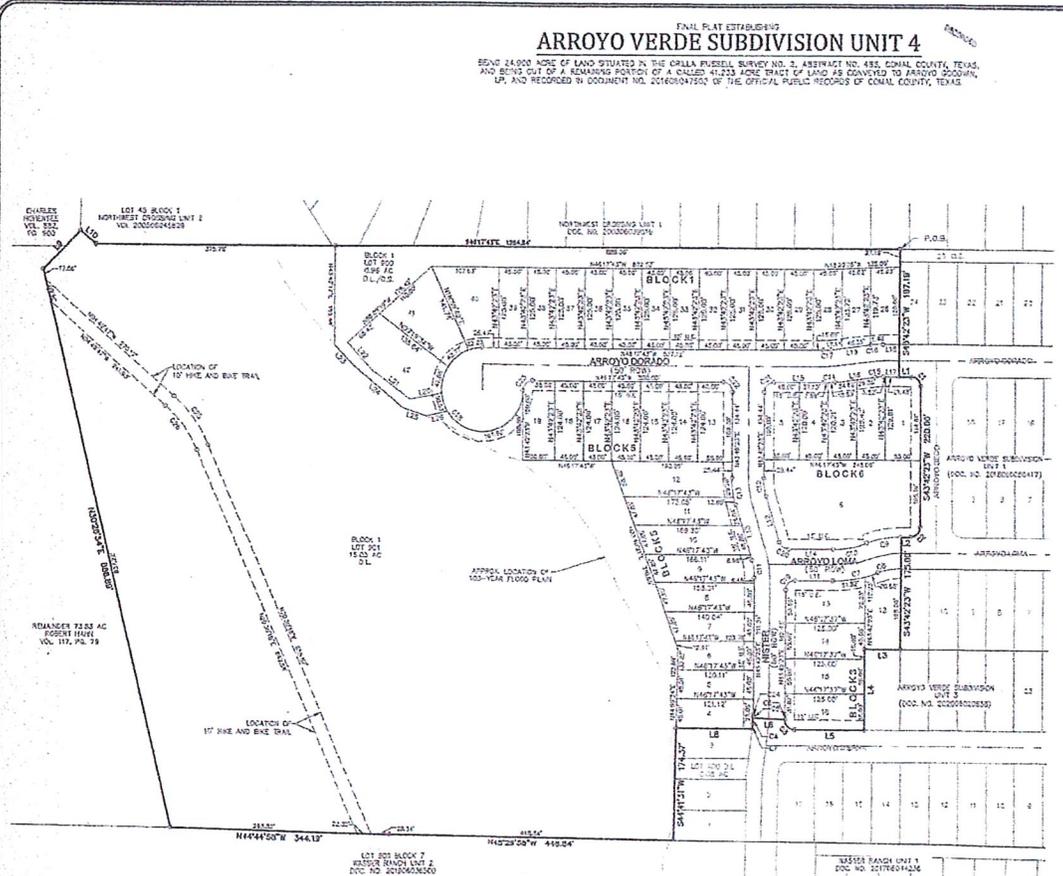
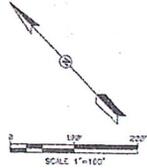


EXHIBIT "C"
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#12020640857

FINAL PLAT ESTABLISHING
ARROYO VERDE SUBDIVISION UNIT 4

BEING 24,000 ACRES OF LAND SITUATED IN THE CHILLA RUSSELL SURVEY NO. 2, ASSHART NO. 388, DONALD COUNTY, TEXAS, AND BEING OUT OF A REMAINING PORTION OF A CALLED 41,233 ACRES TRACT OF LAND AS CONVEYED TO ARROYO VERDE, LP, AND RECORDED IN DOCUMENT NO. 20160047507 OF THE OFFICIAL PUBLIC RECORDS OF DONALD COUNTY, TEXAS.



LINE	LENGTH	BEARING
C1	23.87	N30°00'00"W
C2	23.87	N30°00'00"W
C3	23.87	N30°00'00"W
C4	23.87	N30°00'00"W
C5	23.87	N30°00'00"W
C6	23.87	N30°00'00"W
C7	23.87	N30°00'00"W
C8	23.87	N30°00'00"W
C9	23.87	N30°00'00"W
C10	23.87	N30°00'00"W
C11	23.87	N30°00'00"W
C12	23.87	N30°00'00"W
C13	23.87	N30°00'00"W
C14	23.87	N30°00'00"W
C15	23.87	N30°00'00"W
C16	23.87	N30°00'00"W
C17	23.87	N30°00'00"W
C18	23.87	N30°00'00"W
C19	23.87	N30°00'00"W
C20	23.87	N30°00'00"W
C21	23.87	N30°00'00"W
C22	23.87	N30°00'00"W
C23	23.87	N30°00'00"W
C24	23.87	N30°00'00"W
C25	23.87	N30°00'00"W
C26	23.87	N30°00'00"W

LINE	LENGTH	BEARING
L1	10.00	S45°00'00"W
L2	10.00	S45°00'00"W
L3	10.00	S45°00'00"W
L4	10.00	S45°00'00"W
L5	10.00	S45°00'00"W
L6	10.00	S45°00'00"W
L7	10.00	S45°00'00"W
L8	10.00	S45°00'00"W
L9	10.00	S45°00'00"W
L10	10.00	S45°00'00"W
L11	10.00	S45°00'00"W
L12	10.00	S45°00'00"W
L13	10.00	S45°00'00"W
L14	10.00	S45°00'00"W
L15	10.00	S45°00'00"W
L16	10.00	S45°00'00"W
L17	10.00	S45°00'00"W
L18	10.00	S45°00'00"W
L19	10.00	S45°00'00"W
L20	10.00	S45°00'00"W
L21	10.00	S45°00'00"W
L22	10.00	S45°00'00"W
L23	10.00	S45°00'00"W
L24	10.00	S45°00'00"W
L25	10.00	S45°00'00"W
L26	10.00	S45°00'00"W

MOELLER & ASSOCIATES
Engineering Solutions
2021 SH 46W, Ste. 105
New Braunfels, TX 78132
P.O. (850) 388-7127
www.moeller.com TBP FIRM F-13251

PREPARED: June 29, 2021

DATE OF THIS PLAT: 06-29-21
BY: [Signature]
TITLE: [Signature]