

## **Development Agreement**

THIS DEVELOPMENT AGREEMENT ("Agreement") is effective as of the \_\_\_\_ day of \_\_\_\_\_, 2017, by the following parties, Oak Run Property Owners' Association, Inc. ("The Association"), a Texas non-profit corporation and the City of New Braunfels, Texas ("City"), a home rule municipal corporation.

### **Recitals**

- A. The Association has petitioned the City of New Braunfels to abandon a portion of the Timber Hollow Drive right of way as described in Exhibit "A" which is attached hereto and made a part thereof. The real property described on Exhibit "A" is herein referred to as the "Property".
- B. The parties have agreed to enter into this Agreement in order to provide for the public purpose and establishment of certain conditions regarding the development of the Property for providing sidewalk connectivity within the Oak Run Subdivision.
- C. This agreement has been approved by the City of New Braunfels City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**NOW THEREFORE**, in consideration of the foregoing and the mutual agreements below, the parties agree as follows:

### **Agreement**

- 1. Oak Run Homeowners Association shall commence and be solely responsible for all phases of the development, construction and subsequent maintenance of a sidewalk connection between Timber Hollow Drive and Echoing Oak Drive in the Oak Run Subdivision. No other structures are allowed to be placed on the Property other than the sidewalk without the written modification of this Agreement.

2. The Association shall indemnify, defend, and save forever harmless, the City of New Braunfels from any and all claims for damages of any kind or nature which may hereafter be made against the City of New Braunfels on account of any personal injuries or wrongful death, or property damage occurring on the Property or resulting from the development, construction and maintenance of the sidewalk connection and related development. This indemnification shall be deemed to include all officers, agents, and employees of the City of New Braunfels.
3. The Association shall also protect the City from any claims arising from all activities on the Property, during the term of this Agreement, by having sufficient insurance in the agreed upon amount naming the City as an additional insured on all insurance policies. This provision also applies to all bonds, and the City shall be named as an additional Obligee along with The Association. Failure to maintain said insurance and bond coverage during the term of this Agreement, shall constitute a material breach of this Agreement. The City has the right on three (3) days notice to be presented proof of all such insurance and bond coverage.
4. The Association shall comply with all construction and development standards and obey all federal, state and city laws during the development, construction, and operation of the sidewalk
5. The sidewalk is the only allowed project to be built and operated on the Property and shall be under the direct control and operation of The Association at all relevant times.
6. Upon the condition that the sidewalk has been completed by The Association and approved by the City of New Braunfels, only then the City shall deed the Property to The Association in consideration for providing sidewalk connectivity within the Oak Run Subdivision. This deed shall restrict the ownership of this property to just The Association, and the use to only open space which shall allow and include a "perpetual access easement" for sidewalks and driveways to only, Block 5, Lot 1, Oak Run Subdivision Unit 4 and Block 3, Lot 23, Oak Run Subdivision Unit 1, Extension 1. Since this property will be considered a non-conforming lot, The Association shall cause this property to be platted with the adjoining property owned by The Association identified as Block 3, Lot 84, Oak

Run Subdivision Unit 20A. The Association shall have 180 days from the date of the property transfer to file the plat. Should the plat not be filed within 180 days, the transferred property shall revert back to the City. Further, The Association agrees to maintain the sidewalk at all times herein, including after the transfer of property.

7. In the event, the sidewalk is not constructed within five (5) years from the effective date of this agreement, this agreement shall terminate.
8. Severability. If any term or provision of this Agreement, or the application to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
9. Governing Law. This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Texas.
10. Notice. Any such notices to be made to respective parties are to be made at the addresses set forth below:

Oak Run Property Owners' Association, Inc.  
2611 North Main  
San Antonio, TX 78212  
Attn. Harry Bowers

City of New Braunfels, Texas  
550 Landa Street  
New Braunfels, Texas 78130  
Attn: City Manager

11. Run with the Land. The covenants, conditions and restrictions set forth in paragraph Six (6) of the Agreement shall be appurtenant to and shall run with the land and shall be binding upon and/ inure to the benefit of, as the case may be, the parties hereto.

12. Representations and Warranties. The Association and City represent that each respective signatory has the full and complete authority to enter into this Agreement and that the joinder of no other person is required in order to cause this Agreement to be fully binding upon their respective properties.
13. Integration and Modification. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. The revisions hereof may be abrogated, modified, rescinded or amended in whole or in part only by written instrument executed by the parties hereto, approved by the City Council, and recorded in the Official Records of Comal County, Texas.
14. Counterparts. This Agreement may be executed in one or more counterparts, each of which together shall constitute one and the same original Agreement.

**IN WITNESS WHEREOF**, Oak Run Property Owners' Association, Inc. and City have executed this Agreement to be effective as of the date set forth above.

Oak Run Property Owners'  
Association, Inc

City of New Braunfels

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Harry Bowers, President

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Robert Camareno, City Manager

**STATE OF TEXAS           §**  
**COUNTY OF COMAL       §**

SUBSCRIBED and SWORN to BEFORE ME, a Notary Public, on this \_\_\_\_\_ day of \_\_\_\_\_, 2017 personally appeared Robert Norhn, in his capacity as the President of Oak Run Property Owners' Association, Inc., a Texas non-profit corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he was duly authorized to execute and has executed the same for the purposes and consideration therein expressed.

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**Notary Public, State of Texas**

**STATE OF TEXAS           §**  
**COUNTY OF COMAL       §**

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this \_\_\_\_\_ day of \_\_\_\_\_, 2017 personally appeared Robert Camareno, in his capacity as City Manager for the City of New Braunfels, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he was duly authorized to execute and has executed the same for the purposes and consideration therein expressed.

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**Notary Public, State of Texas**

NOTES:

CORRESPONDING FIELD NOTES PREPARED.

BASIS OF BEARING IS TEXAS STATE  
PLANE COORDINATE SYSTEM OF 1983,  
SOUTH CENTRAL ZONE.

① = 1/2" REBAR FOUND

② = 1/2" REBAR SET WITH YELLOW  
PLASTIC CAP STAMPED "MCMLS 3682".



SCALE:  
1" = 40'

LEGEND

EM = ELEC. METER  
WM = WATER METER  
AC = AIR CONDITIONER  
CO = CLEAN OUT  
M&PR = MAP & PLAT RECORDS  
Ⓢ = SEWER MAN HOLE

LOT 1  
BLK...5  
OAK RUN SUBD., UNIT 4  
10/246 M&PR

$\Delta=15^{\circ}01'38''$   
 $R=680.00'$   
 $A=178.35'$   
 $CB=N49^{\circ}05'32''E$   
 $CD=177.84'$

0.235 AC.  
TIMBER HOLLOW  
(60.0' R.O.W.)  
8/4 M&PR

$\Delta=15^{\circ}01'52''$   
 $R=620.00'$   
 $A=162.65'$   
 $CB=S49^{\circ}05'39''W$   
 $CD=162.19'$

LOT 23  
BLK...3  
OAKRUN SUBD., UNIT 1  
8/4-5 M&PR

$\Delta=8^{\circ}31'53''$   
 $R=620.00'$   
 $A=92.32'$   
 $CB=N37^{\circ}18'46''E$   
 $CD=92.23'$

LOT 101

LOT 85

LOT 84  
BLK...3  
OAK RUN SUBD., UNIT 20A  
DOC. 201006043550

LOT 83



STATE OF TEXAS :  
COUNTY OF COMAL:

I, FRED L. McMICHAEL, DO HEREBY CERTIFY THAT  
THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY  
MADE ON THE GROUND AND UNDER MY SUPERVISION.

*Fred L. McMichael*  
FRED L. McMICHAEL R.P.L.S. NO. 3682

SURVEYED: SEPTEMBER 4, 2017  
PROJECT NO.: 17225

mcmichaellandsurveying.com

MCMICHAEL LAND SURVEYING  
907 DIVINE WAY, NEW BRAUNFELS, TX 78130  
EMAIL mcmichaellandsurveying@juno.com  
(830) 832-6259 FIRM NO. 10193990

SURVEY OF 0.235 ACES OUT OF TIMBER  
RIDGE, A STREET PLATTED AS PART OF  
OAKRUN SUBDIVISION, UNIT 1, CITY OF  
NEW BRAUNFELS, COMAL COUNTY, TEXAS,  
PLAT RECORDED IN VOLUME 8, PAGES  
4-5, MAP AND PLAT RECORDS, COMAL  
COUNTY, TEXAS.