

CLEARWATER RANCH PUBLIC IMPROVEMENT DISTRICT #2
APPROVAL OF MANAGEMENT AGREEMENT

This Agreement (the "Agreement") is entered into between Williamson County, Texas (the "County") and Lookout Development Group, L.P., a Texas limited partnership and Lookout Partners, L.P. (collectively the "Petitioner" and/or "Developer") to be effective _____, 2015 (the "Effective Date").

RECITALS

WHEREAS, on February 16, 2013, the Petitioner submitted to the County a petition (the "Petition") requesting the creation of the Clearwater Ranch Public Improvement District #2 (the "District") pursuant to the authority of Chapter 372 of the Texas Local Government Code (the "Act"); and

WHEREAS, on April 9, 2013, the Commissioners Court of the County (the "Commissioners Court") held a public hearing on the advisability of creating the District and, upon closing of such public hearing, the County Council adopted an Order, a copy of which is attached hereto as Exhibit "A" (the "Order") authorizing the creation of the District pursuant to the Act; and

WHEREAS, the Petition and the Order contemplate that the Developer will advance funds (the "Developer Advances") for the creation and administration of the District and for the design, acquisition, and construction of certain "District Improvements", which improvements are more particularly described in the Petition and Order; and

WHEREAS, the Order acknowledges that the District Improvements will confer a special benefit on property within the District; and

WHEREAS, the Order authorized the levying and collection of special assessments upon property within the District together with reasonable attorney's fees and cost of collection, if incurred, to reimburse the Developer for the Developer Advances (the "Reimbursement Amount") by that certain Order of the Court of Williamson County, Texas Levying Assessments for the Cost of Certain Improvements to be Provided in the Clearwater Ranch Public Improvement District #2, Fixing Charges and Liens against the Property in the District and Against the Owners Thereof; Providing for the Collection of the Assessment, and providing an Effective Date dated June 11, 2013, which is attached hereto as Exhibit "B" (the Assessment Order"); and

WHEREAS, the Assessment Order sets forth levying special assessments against property within the District together with reasonable attorney's fees and cost of collection, if any, (the "Assessment") in an amount that will repay the Reimbursement Amount to the Developer; and

WHEREAS, the Order determined that the District should be managed privately and the County shall have no obligation to manage the District or collect assessments on behalf of the District and that all management and collection responsibilities shall be assumed by the Petitioner; and

WHEREAS, Petitioner and the County desire to enter into this Agreement to reflect the terms for management of the District by Petitioner; and

NOW THEREFORE, in consideration of the mutual promises of the parties contained in this Agreement, and for other consideration the receipt and adequacy of which are acknowledged, the County and Petitioner agree as follows:

I. County Approved Terms of the Management Agreement

The County approves the following terms of a Management Agreement:

1. Engagement of Manager. The Petitioner is authorized to enter into a Management Agreement (the "Management Agreement") with a private or public party (the "Manager") to manage the District, subject to the terms as set forth below in this Agreement. Petitioner shall have the sole discretion to select, terminate and replace the Manager and amend the terms of the Management Agreement.

2. Services by Manager. Manager will perform or provide or cause to be performed or provided all services necessary for the District to be administered, for the District Improvements to be designed, acquired, and constructed, and for the Developer to be repaid the Reimbursement Amount, all in accordance with the Act, the Order, the Assessment Order and the terms and conditions of this Agreement. Such services by Manager will include, but not be limited to, the following:

- a. prepare each year an assessment roll that identifies all property within the District that is subject to assessment; and
- b. prepare each year a five-year plan of service and budget that are consistent with the Assessment Order and that specifically identify additional revenue, if any, that is needed to pay for the ongoing administration of the District and for the provision of any other District services that confer a special benefit on property within the District; and
- c. prepare each year assessment notices that are necessary to levy and collect each year assessments upon property within the District in an amount that is sufficient to fund the obligations of the District pursuant to the Assessment Order and sufficient to fund any other District services (including ongoing administration costs of the District) that have been approved by the Commissioners Court as conferring a special benefit upon property within the District; and
- d. mail the assessment notices each year that are necessary to levy and collect each year's assessments upon property within the District in an amount that is sufficient to fund the obligations of the District pursuant to the Assessment Order and sufficient to fund any other District services (including ongoing administration costs of the District) that are approved by the Commissioners Court as conferring a special benefit upon property within the District; and
- e. establish a special account that is for the sole benefit of the District (the "District Account"), that does not commingle any other funds of the County, and that gives Manager the authority to manage the District Account, including, but not limited to, the authority to make payments from the District Account in accordance with the terms and conditions of this Agreement; and

- f. deposit all assessments (including penalties and interest) that are collected by the District into the District Account; and
- g. cause the Developer to maintain and submit reports confirming the status of the design, acquisition, and construction of the District Improvements; and
- h. maintain or cause to be maintained a full and accurate accounting of Developer Advances and the Reimbursement Amount; and
- i. maintain or cause to be maintained a full and accurate accounting of all costs, expenses and fees with a final annual accounting report; and
- j. maintain a full and accurate accounting of all special assessments collected by the District with a final annual accounting report; and
- k. based on delinquent property assessment reports prepared by Manager, prepare and file liens for such delinquent assessments and take such further action as Manager deems reasonable and prudent to collect such delinquent assessments.

3. Obligations of the County. As set forth in the Order, the County shall have no obligation to manage the District or collect Assessments on behalf of the District. All management and collection responsibilities shall be the responsibility of the Manager. Upon written request by the County, the Manager shall provide such reports as set forth in Article I within sixty (60) days of such request. Notwithstanding anything to the contrary stated in this Agreement, the County, its Commissioners, employees, agents, attorneys or other representatives shall have absolutely no liability for the failure to perform any action under this Agreement.

4. Amendments. This Agreement may not be modified or amended in any respect unless the same is done in writing and is signed by both the County (upon approval of the Commissioners Court) and the Petitioners.

5. Term. This Agreement shall be for a term ending January 1, 2044 unless the District is dissolved at such earlier date if Petitioner or their assigns are reimbursed in full for all Reimbursement Amounts and will begin on the Effective Date set forth above.

II. Default

No party shall be in default for its failure to perform under this Agreement until notice of the alleged failure to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such party has had a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than 30 days after written notice of the alleged failure has been given). In addition, no party shall be in default under this Agreement if within the applicable cure period the party to whom notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. Any notice of any alleged failure to perform under this Agreement shall be in writing and shall be deemed given on the earlier to occur of (a) five business days after deposited in the U.S. Mail, Certified Mail, Return Receipt Requested, (b) when delivered by commercial delivery service (e.g., FedEx or UPS) as evidenced by a signed receipt from such delivery service, or (c) when actually received by the party to whom the notice

is sent, including receipt by FAX or E-mail. For purposes of this Agreement, notices shall be sent as follows:

<u>If to the County:</u> Williamson County County Judge 710 S. Main Street, Suite 101 Georgetown, TX 78626 Phone: (512) 943-1550 Fax: (512) 943-1662 ctyjudge@wilco.org	<u>With a copy to:</u>
<u>If to Petitioner/Developer:</u> 1001 Crystal Falls Pkwy. Leander, Texas 78641 Phone: (512) 260-2066 Attn: James D. Plasek	<u>With a copy to:</u> 2370 Rice Blvd., Ste 200 Houston, Texas 77005-2644 Phone: (713) 524-5263 Attn: William R. Hinckley

III. Remedies

In the event of a default by either the County or Petitioner under this Agreement, the County or the Developer shall have available all remedies at law or in equity, including, but not limited to, specific performance and mandamus relief. In the event Petitioner shall be in default under this Agreement, in addition to all other remedies, the County shall have the right to terminate this Agreement. Should such a termination occur, however, the County agrees pursuant to the Order to enter into another agreement with another manager, the terms and conditions of which agreement shall be substantially the same as this Agreement. In no event shall a termination of this Agreement relieve or adversely affect the rights of the Developer to be paid the Reimbursement Amount from such assessments.

IV. Assignment

This Agreement shall be binding upon the parties hereto and their permitted successors and assigns. District shall have the right to assign this Agreement or any of its duties, rights, or obligations under this Agreement to any person or entity with the written consent of the County, which consent shall not be unreasonably withheld or delayed. The County may not assign any of its duties, rights, or obligations under this Agreement without the prior written consent of District, which consent shall not be unreasonably withheld or delayed.

V. Entire Agreement

This Agreement supersedes any and all other prior or contemporaneous agreements or understandings, whether oral or in writing, between the parties hereto with respect to the subject

matter of this Agreement and none of such prior or contemporaneous agreements or understandings shall be valid or binding upon the parties hereto.

VI. Severability

If any provision of this Agreement shall be determined by a court to be invalid or unenforceable for any reason, such invalid or unenforceable provision shall be deleted from this Agreement, and the remaining provisions of this Agreement shall be interpreted and enforced to give effect to the intent of this Agreement as if such invalid or unenforceable provision had never been contained herein.

VII. Books and Records

The Developer shall maintain complete and accurate records with respect to its obligations under this Agreement. All such records shall be maintained in the usual, regular and ordinary manner consistent with good accounting practices and shall be clearly identified and readily accessible. The Developer shall provide the County free access to such books and records, at all proper times, in order that it may examine and audit the same and make copies thereof. Developer shall further allow the County to make inspections of all work data, documents, proceedings and activities related to this Agreement.

VIII. Texas Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Williamson County, Texas. Venue shall lie exclusively in Williamson County, Texas.

EXECUTED this ____ day of _____, 2015, to be effective as of _____, 2015.

WILLIAMSON COUNTY, TEXAS

By: 

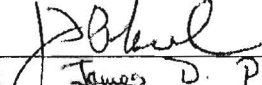
Name: Dan A. Gattis

Title: County Judge

PETITIONER/DEVELOPER

LOOKOUT DEVELOPMENT GROUP, L.P.
a Texas limited partnership

By: LOOKOUT GROUP, INC.,
a Texas corporation,
its general partner

By: 
Name: James D. Plasek
Title: Vice President

LOOKOUT PARTNERS, L.P.
a Texas limited partnership

By: MORNINGSIDE LAND & CATTLE
CO., LLC
a Texas limited liability company,
its general partner

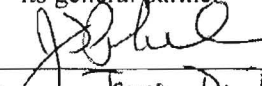
By: 
Name: James D. Plasek
Title: Vice President

Exhibit A

ORDER NO. _____

AN ORDER OF WILLIAMSON COUNTY, TEXAS, AUTHORIZING AND CREATING A PUBLIC IMPROVEMENT DISTRICT, IN ACCORDANCE WITH CHAPTER 372 OF THE TEXAS LOCAL GOVERNMENT CODE; MAKING FINDINGS AS TO THE ADVISABILITY, NATURE, ESTIMATED COSTS AND METHOD OF ASSESSMENT WITHIN SAID DISTRICT; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, Williamson County (the "County") is authorized under Chapter 372 of the Texas Local Government Code (the "Act") to create a public improvement district within its boundary; and

WHEREAS, on February 26, 2013, the Lookout Development Group, L.P. (the "Petitioners") submitted and filed with County a Petition (the "Petition"), attached hereto as Exhibit "A", requesting the establishment of a public improvement district to include the Property (hereinafter defined) owned by the Petitioners and to be known as the Clearwater Ranch Public Improvement District #2 (the "District");

WHEREAS, the Commissioners Court (the "Commissioners Court") has investigated and determined that the facts contained in the Petition are true and correct;

WHEREAS, the District is proposed to include approximately 600 acres owned by Petitioners, which are described by metes and bounds in Exhibit B, attached hereto and made a part hereof (the "Property"); and

WHEREAS, after providing all notices required by the Act, the Commissioners Court on April 9, 2013, conducted a public hearing on the advisability of the improvements and services; and

WHEREAS, the Commissioners Court adjourned and closed such public hearing;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF WILLIAMSON COUNTY, TEXAS:

Section 1. That pursuant to the requirements of the Act, the Commissioners Court, after considering the Petition for the proposed District and the evidence and testimony presented at the public hearing on April 9, 2013, hereby finds and declares:

(a) Advisability of the services and Improvements proposed for the District.

It is advisable to create the District to provide the services and improvements described in the Petition and the Order. The District Improvements (hereinafter defined) will promote the interests of the County and will confer a special benefit on the Property.

(b) Nature of the Services and Improvements.

The purposes of the District are to create and administer the District and to design, acquire, and construct public and private improvement that are authorized by Chapter 372 Texas Local Government Code and that are necessary for full development of the Property, which improvements will include, but not be limited to the following: (1) public roadways and related appurtenances including, but not limited to, street lighting and storm water control improvements; (2) drainage improvements and pollution mitigation; (3) common area parklands, recreational facilities, waterways, walkways, signage and landscaping; and (4) other infrastructure (all of the foregoing collectively referred to as the "District Improvements"), all as are more particularly set forth in Exhibit C, attached hereto and made a part hereof.

(c) Estimated Cost of the Services and Improvements.

The Petitioners estimate that the total cost to design, acquire, and construct all of the District Improvements will not exceed Five Million Five Hundred Thousand and 00/100 Dollars (\$5,500,000.00) The estimated total amount recovered from all assessments within the District will not exceed Five Million Five Hundred Thousand and 00/100 Dollars (\$5,500,000.00).

(d) Boundaries.

The land described in the Petition and in the recitals above will all be benefited by the proposed District Improvements. The boundaries of the District shall be as described in Exhibit B, attached hereto and made a part hereof for all purposes. The District will include approximately 600 acres which is located within the boundary of the County.

(e) Proposed Method of Assessment.

The proposed method of assessment is based upon a fixed amount for each lot in the District. The proposed assessments are as follows:

	<u>Annual Payment</u>	<u>Total Assessment</u>
Class A	\$50.00 per lot	\$12,000.00
Class B	\$600.00 per lot	\$12,000.00

All assessments shall cease when paid in full or upon expiration of the District. The District shall expire on December 31 of the thirty-first year after the Assessment Order is approved by the Commissioner's Court. Pursuant to Section 372.0055 and Section 372.017, annual assessments are defined and deferred as follows:

Class A – Petitioner-owned lots beginning the first tax year after recordation of a final plat.

Class B – Lots transferred or otherwise conveyed by Petitioner to any third party. Class B assessments shall begin the first tax year after a lot or lots are transferred or conveyed to a third party by Petitioner.

A resubdivision of any lot or lots shall require the Petitioner to return to Commissioners Court to seek any re-assessments.

Any assessment may be pre-paid at any time based on the full amount of the Total Assessment less previous annual payments.

(f) Apportionment of Cost Between District and County as a Whole.

All costs of the District Improvements shall be borne entirely by the land within the boundaries of the District and no apportionment between the County and the District is necessary. No public easements, landscape easements or public rights-of-way will be liable for assessment.

(g) The authority to collect assessments within the PID shall expire on January 1, 2044. The District shall be dissolved by the County on January 1, 2044 or earlier if Petitioners or their assigns are reimbursed in full for all District Improvements.

(h) The findings set forth in the recitals of this Order are hereby found to be true and correct and are adopted and made part of this Order.

Section 2. That the District is hereby authorized and created as a Public Improvement District under the Act in accordance with the finding as to the advisability of the service and improvements contained in this Order and as to the

conclusion that the services and improvements confer a special benefit upon the Property. The District shall be subject to all of the terms, conditions, limitations and reservations contained in the findings of Section 1 of this Order and this authorization does not authorize the Petitioners to take any action that would obligate the County in any way or cause the County to incur any risk or cost.

Section 3. That notice of the authorization for the establishment of the District shall be given by publishing notice of this Order once in the Austin American Statesman the official newspaper of the County and a newspaper of general circulation in Williamson County, Texas. This Order shall be effective upon the publication of such notice, and such authorization shall take effect and the District shall be established.

Section 4. The County is hereby authorized to take all action necessary to prepare a preliminary assessment roll, publish any necessary notices and take all other action necessary to effectuate the purposes of this Order.

Section 5. That, in order to promote efficient management of the District, the County hereby determines that the District should be managed privately and the County shall have no obligation to manage the District or collect assessments on behalf of the District. All management and collection responsibilities shall be assumed by the Petitioners.

Section 6. If any article, paragraph, clause or provision of this Order shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Order as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

Section 7. The creation of the District by the County creates no obligation, either financial, legal or otherwise, on behalf of the County, its officers, employees, agents, attorneys or consultants. The law firm of Sheets & Crossfield, P.C., as attorneys for the County, also have no legal or financial obligations to Petitioners or the District.

PASSED AND APPROVED on this 9th day of April, 2013.

ATTEST:

THE COMMISSIONERS COURT
OF WILLIAMSON COUNTY,
TEXAS


Nancy Rister, County Clerk


Dan A. Gattis, County Judge

Exhibit B

STATE OF TEXAS

§
§
§

COUNTY OF WILLIAMSON

PETITION FOR ESTABLISHMENT OF CLEARWATER RANCH
PUBLIC IMPROVEMENT DISTRICT NO. 2

TO THE COMMISSIONER'S COURT OF WILLIAMSON COUNTY, TEXAS:

The undersigned landowners (the "Petitioners"), pursuant to the Public Improvement District Assessment Act, Chapter 372.001 et seq., Local Government Code, V.A.T.S. (the "Act"), respectfully petition the Williamson County Commissioner's Court for the establishment of the Clearwater Ranch Public Improvement District No. 2 (the "District"). This Petition is submitted and filed upon the express condition that prior to the approval and adoption by the governing body of the County of an Order creating and authorizing the District, the Petitioners and the County shall have agreed upon the form and content of all orders and other documents and agreements necessary to create the District and levy special assessments upon the property that will pay for the creation and administration of the District and for the design, acquisition, and construction of the District Improvements (hereinafter defined) including, but not limited to, the form and content of: (1) the Order creating the District; (2) an agreement for private sector management of the District; (3) an Order determining the total cost of the District Improvements, establishing the method of assessment, and apportioning all costs of the District Improvements to the District; (4) the proposed assessment roll for the District; and (5) the Order levying special assessments against the Property.

In support of said Petition, Petitioners would show the Court the following:

1. General nature of proposed improvements.

District Improvements:

The creation of this District will provide for public infrastructure improvements classified into the following categories: public roadways and related appurtenances, drainage improvements and common area walkways; and other improvement expenses as is detailed and more fully shown on Exhibit "A" (hereinafter "District Improvements").

2. Estimated cost of District Improvements.

The estimated cost of the District Improvements is \$5,500,000 and is set forth in Exhibit "A" attached hereto.

3. Proposed boundaries of District and Initial Estimated appraised value of the District Property.

The District is proposed to include approximately 600 acres located in Williamson County, Texas. The boundaries of the District are described in Exhibit "B," attached hereto and incorporated herein. The initial appraise value of the District is \$2,151,185.

4. Proposed method of Assessment.

The proposed method of assessment is based upon a fixed amount for each lot in the District. The proposed assessments are as follows:

	<u>Annual Payment</u>	<u>Total Assessment</u>
Class A	\$50.00 per lot	\$12,000.00
Class B	\$600.00 per lot	\$12,000.00

All assessments shall cease when paid in full or upon expiration of the District. The District shall expire on December 31 of the thirty-first year after the Assessment Order is approved by the Commissioner's Court. Pursuant to Section 372.0055 and Section 372.017, annual assessments are defined and deferred as follows:

Class A – Petitioner-owned (or his successors or assigns) lots beginning the first tax year after recordation of a final plat.

Class B – Lots conveyed by Petitioner or his successors or assigns to any third party. Class B assessments shall begin the first tax year after a lot or lots are conveyed to a third party by Petitioner.

5. Apportionment of Costs Between the District and the County.

All costs of the District Improvement shall be borne by the land within the boundaries of the District. All District Assessments collected shall be placed into a special fund, which shall be used to pay Petitioner or its assigns for any costs incurred for the construction of the District Improvement, or to repay any debts incurred for the construction of the District Improvement. The County shall not be liable for District Improvement costs or any other costs or obligations related to the District. The County and/or the District will not issue debt to fund or reimburse Developer or any other party for funds expended for the District Improvements. Developer reimbursements shall be solely from assessments received by the District.

6. Management of District.

The District shall be privately managed by the Petitioner or its assigns pursuant to the terms of the Management Agreement to be approved by County at a later date.

7. Legal Sufficiency and Concurrence in the Establishment of the District.

This Petition is legally sufficient under the Act to establish the District because it has been signed (1) by the record owners of taxable real property representing 100% of the appraised value of taxable real property liable for assessment under this Petition, as determined by the current roll of the Williamson County Appraisal District (the "Appraisal District"); (2) by the record owners of taxable real property who constitute 100% of all record owners of property that is liable for assessment under this Petition, as determined by the current roll of the Appraisal District; and (3) by the record owners of real property liable for assessment under this Petition who own taxable property that constitutes 100% of the area of all taxable real property that is liable for assessment under this Petition, as determined by the current roll of the Appraisal District. All the undersigned Petitioners request and/or concur with the establishment of the District.

8. Establishment of an Advisory Body.

The Petitioners propose that the District be established without the creation of an Advisory Body.

SIGNED this the 28th day of February, 2013.

Respectfully submitted,

A handwritten signature in black ink, appearing to be a stylized 'C' followed by a long horizontal stroke.

Lookout Development Group, L.P.
Whose General Partner is Lookout Group, Inc.
And Lookout Partners, L.P. whose General Partner
is Morningside Land & Cattle Co., LLC