



ACCESS EASEMENT FOR EMERGENCY ACCESS

THIS ACCESS EASEMENT FOR EMERGENCY ACCESS (this “Easement”) is entered into by and between **Kona Coast Venture, Ltd., a Texas limited partnership (“Grantor”)**, its successors and assigns, and **Comal County, Texas, a public entity, and all emergency, fire, police and related personnel or agencies serving Comal County (collectively “Grantee”)**, and is effective as of the 23rd day of May, 2019. Grantor and Grantee are sometimes collectively referred to herein as a “Party” or as the “Parties”

ARTICLE I: RECITALS

1.1. Grantor is the owner of certain real property in Comal County, Texas described in **Exhibit A** attached hereto and incorporated by reference herein that Grantor intends to develop for single family residential and related purposes (the “Grantor Tract”).

1.2. Grantor has agreed to provide Grantee with a non-exclusive access easement across a portion of the Grantor Tract on the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and the mutual covenants set forth herein and other good and valuable consideration, the receipt of sufficiency of which is hereby acknowledged and confessed, the Parties hereby agree to the following:

ARTICLE II: ACCESS EASEMENT

2.1. **Grant of Easement and Purpose.** Grantor hereby grants and conveys to Grantee a twenty foot (20 foot), non-exclusive right-of-way easement (the “Access Easement”) for emergency vehicular and pedestrian access in, over, and across the portion of the Grantor Tract more particularly described on **Exhibit B** attached hereto and incorporated herein (the “Easement Area”), on the terms and conditions stated herein, to have and to hold the Access Easement to Grantee, and its respective successors and assigns, subject to all items that are of record in the Comal County Real Property Records affecting or encumbering the Easement Area including easements, rights of way, all validly existing restrictions, reservations, covenants, limitations, conditions, oil and gas leases, and mineral interests outstanding, and all other conveyances that affect the Access Easement to the extent they are valid and subsisting. The Easement Area may be used for the purpose of ingress and egress to (and from) the River Run right-of-way and to (and from) the Property by Grantee, its employees, agents and representatives. Nothing herein shall create rights in the public to use the Easement Area. The Easement Area is further depicted on Lot 903 shown on the proposed plat for Oxbow on the Guadalupe Subdivision to be recorded in the Comal County Official Public Records.

2.2. **Character of Easement.** This perpetual, non-exclusive Easement is appurtenant to and runs with the land, whether or not the Easement is referenced or described in any conveyance of all or

such portion of the Grantor Tract.

2.3. Reservation of Rights by Grantor. Grantor hereby reserves for itself, and future owners of the Grantor Tract, and their successors and assigns, the non-exclusive right to the continual use and enjoyment of the surface of the Easement Area for all purposes that are not inconsistent with the Access Easement, the right to use all or part of the Easement Area in conjunction with Grantee, and the right to convey to others the right to use all or part of the Easement Area in conjunction with Grantee.

2.4. Compliance with Laws. In using the Easement, Grantee shall comply with all applicable laws, codes, and governmental regulations.

ARTICLE III: MODIFICATION AND CANCELLATION

3.1 Other than as expressly set forth elsewhere in this Easement, this Easement may be modified or terminated only by a written agreement signed by Grantor and Comal County, or their respective successors and assigns.

ARTICLE IV: GENERAL PROVISIONS

4.1 Obligation to Construct, Maintain or Repair. Grantor or the owners association for the subdivision for the Property is required to construct, maintain or repair any improvements necessary for Grantee to utilize the Access Easement for the purposes stated herein. Grantor may install gates or other improvements across the Easement Area provided that Grantee's use of the Easement for the purposes set forth herein is not impeded and provided that Grantee is provided with the combination, key, or access device to any locked gate.

4.2 No Other Rights. It is the intention of the Grantor that no easements, rights, or interests in real property or restrictions be created by this Easement except for the express easements and other provisions set forth herein. Except as otherwise set forth herein, Grantees shall have no right to construct any improvement on the Easement Area without the prior written consent of Grantor.

4.3 No Other Use. Grantee shall use the Easement Area only for the purposes permitted herein.

4.4 Attorney's Fees. If any Party retains an attorney to enforce this Easement, the Party prevailing in litigation or other alternative dispute resolution is entitled to recover reasonable attorney's fee, court and other costs.

4.5 Choice of Law. This Easement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction.

4.6 Waiver of Default. It is not a waiver of or consent to default if a Party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Easement does not preclude pursuit of other remedies in this Easement or provided by law or in equity.

4.7 Further Assurances. Grantor agrees to execute and deliver any additional documents and instruments and to perform any additional acts reasonably necessary or appropriate to perform the terms, provisions, and conditions of this Easement and all transactions contemplated by this Easement.

4.8 Legal Construction. If any provision in this Easement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this Easement will be construed as if the unenforceable provision had never been a part of the Easement. Whenever the context requires, the singular will include the plural, the neuter will include the masculine or feminine gender, and vice versa. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of intent of this document or in any way affect the terms and provisions thereof. This Easement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

4.9 Notices. Any notice required or permitted under this Easement must be in writing. Any notice required by this Easement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Easement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission or other commercially reasonable means and will be effective when actually received or in the case of facsimile transmission, upon the sender's receipt of electronic confirmation of delivery. Any address for notice may be changed by written notice to the other party.

4.10 Rights of Successors. The benefits and obligations of the Easement created hereunder shall constitute benefits and servitudes running with the land.

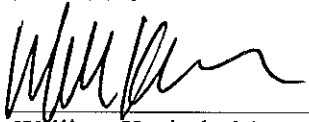
[Signature on following page]

Executed on the dates shown below to be effective on the date first set forth above.

GRANTOR:

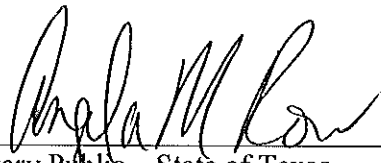
KONA COAST VENTURE, LTD.,
a Texas limited partnership

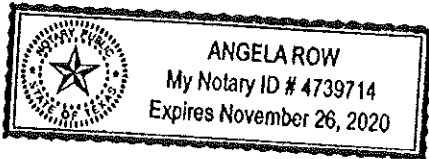
By: Kona Coast, LLC,
a Texas limited liability company,
its General Partner

By: 
William Koriath, Manager

THE STATE OF TEXAS §
 §
COUNTY OF Comal §

This instrument was acknowledged before me this 9th day of May,
2019, by William Koriath, as Manager of Kona Coast, LLC, a Texas limited liability company,
the General Partner of Kona Coast Venture, Ltd., a Texas limited partnership, on behalf of said
entities.


Notary Public – State of Texas



AFTER RECORDING RETURN TO:
McLean & Howard, LLP
901 S. Mopac Expy, Bldg 2, Suite 225
Austin, Texas 78746
Attention: William P. McLean

Exhibit A

Legal Description of the Grantor Tract

Tract 1: 77.391 acres, more or less, situated in the C. A. Smith Survey No. 321, Comal County, Texas, said tract being more particularly described in that certain *Special Warranty Deed with Vendor's Lien* from Ed Nell River Ranch Partnership, a Texas general partnership to Kona Coast Venture, Ltd., a Texas limited partnership, dated August 31, 2017 and recorded as Document No. 201706040749 in the Official Public Records of Comal County, Texas

Tract 2: 2.833 acres, more or less, situated in the C.A. Smith Survey No. 321, Comal County, Texas, said tract being more particularly described in that certain General Warranty Deed with Vendor's Lien from Francine Corbett-Voltz, formerly known as Francine Karen Corbett, Linda Corbett and Sean Michael Corbett to Kona Coast Venture, Ltd., a Texas limited partnership, dated September 21, 2017 and recorded as Document No. 201706043512 in the Official Public Records of Comal County, Texas

Exhibit B

The legal description and location of the Easement Area is as follows:



METES AND BOUNDS DESCRIPTION
FOR A
0.169 OF AN ACRE
"20' WIDE EMERGENCY ACCESS EASEMENT"

BEING a 0.169 acre tract of land situated in the A. Smith Survey No. 21, Abstract No. 522, in Comal County, Texas, and being out of a called 77.391 acre tract of land, as conveyed to Kona Coast Venture Limited Partnership, and recorded in Document No. 201706040749, of the Official Public Records of Comal County, Texas, and said 0.169 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a ½" iron pin found at the intersection of the Northwesterly Right-of-Way (R.O.W.) line of River Run (a 60' wide R.O.W.) and the Northeasterly terminal line of said River Run, being the most Easterly corner of Lot 4, Block 2, River Valley Estates, Unit 1, as recorded in Volume 9, Page 84, of the Map and Plat Records of Comal County, Texas, and being in the Southwesterly line of said 77.391 acre tract of land;

THENCE departing the Northwesterly R.O.W. line of said River Run, with the Northeasterly terminal line of said River Run, and with the Southwesterly line of said 77.391 acre tract of land, S 28° 10' 34" E, a distance of 11.95 feet to a point in the Northeasterly terminal line of said River Run, being in the Southwesterly line of said 77.391 acre tract of land, being the most Westerly South corner of this herein described tract of land and the POINT OF BEGINNING;

THENCE departing the Northeasterly terminal line of said River Run, same being the Southwesterly line of said 77.391 acre tract of land, and across and through said 77.391 acre tract of land, the following courses:

N 61° 49' 26" E, a distance of 50.00 feet to a point at the beginning of a curve to the left, and being a Southeasterly interior corner;

With said curve to the left, having an arc length of 39.27 feet, a radius of 25.00 feet, a delta angle of 90° 00' 00", a tangent length of 25.00 feet, and a chord bearing and distance of N 16° 49' 26" E, 35.36 feet to a point for a Southeasterly interior corner;

N 28° 10' 34" W, a distance of 291.05 feet to a point for the most Northwesterly corner, and being at the beginning of a curve to the left;

With said curve to the left, having an arc length of 46.30 feet, a radius of 60.00 feet, a delta angle of 44° 12' 46", a tangent length of 24.37 feet, and a chord bearing and distance of S 54° 27' 49" E, 45.16 feet to a point for a Northwesterly corner;

S 28° 10' 34" E, a distance of 250.56 feet to a point for the most Easterly Southeast corner, and being at the beginning of a curve to the right;

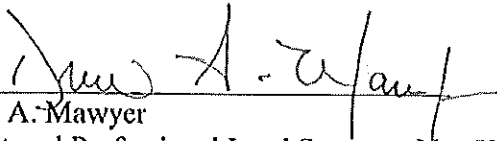
With said curve to the right, having an arc length of 70.69 feet, a radius of 45.00 feet, a delta angle of 90° 00' 00", a tangent length of 45.00 feet, and a chord bearing and distance of S 16° 49' 26" W, 63.64 feet to a point for a Southeasterly corner;

THENCE continuing across and through said 77.391 acre tract of land, S 61° 49' 26" W, a distance of 50.00 feet to a point in the Northeasterly terminal line of aforementioned River Run, being in the Southwesterly line of said 77.391 acre tract of land, and being the most Southerly corner of this herein described tract of land;

THENCE with the Northeasterly terminal line of said River Run, and with the Southwesterly line of said 77.391 acre tract of land, N 28° 10' 34" W, a distance of 20.00 feet to the POINT OF BEGINNING, and containing 0.169 acres of land, more or less.

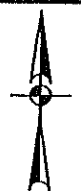
Bearings based on the Texas State Plane Coordinate System, Texas South Central Zone (4204), North American Datum 1983.

Exhibit prepared this the 22nd day of February, 2019.



Drew A. Mawyer
Registered Professional Land Surveyor No. 5348
TBPLS Firm Registration #10191500
5151 W. SH 46, NEW BRAUNFELS, TX 78132
BRD277- ACCESS ESMT- 022219

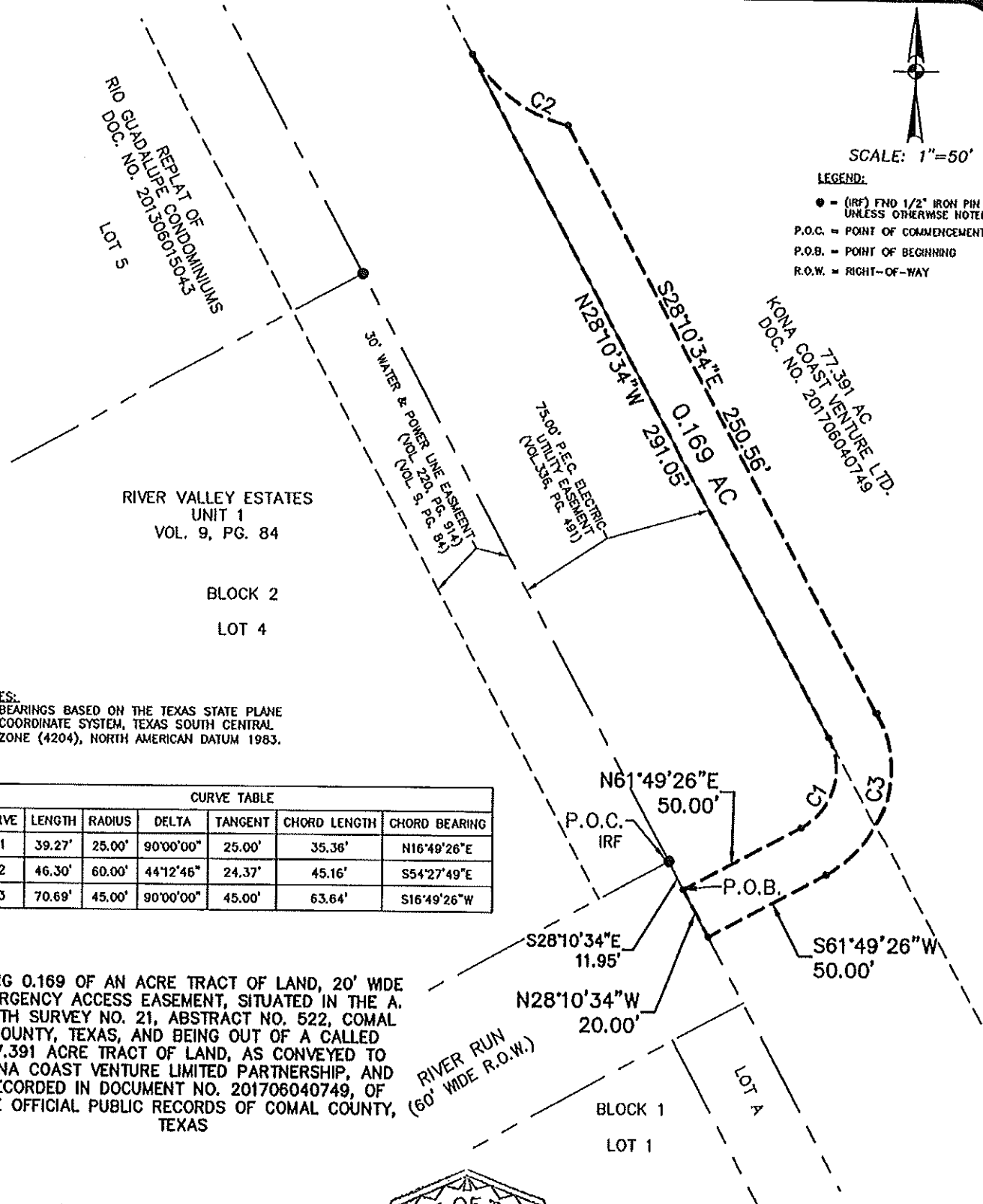




SCALE: 1"=50'

LEGEND:

- = (IRF) FND 1/2" IRON PIN UNLESS OTHERWISE NOTED
- P.O.C. = POINT OF COMMENCEMENT
- P.O.B. = POINT OF BEGINNING
- R.O.W. = RIGHT-OF-WAY



NOTES:

1. BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS SOUTH CENTRAL ZONE (4204), NORTH AMERICAN DATUM 1983.

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD LENGTH	CHORD BEARING
C1	39.27'	25.00'	90°00'00"	25.00'	35.36'	N16°49'26"E
C2	46.30'	60.00'	44°12'46"	24.37'	45.16'	S54°27'49"E
C3	70.69'	45.00'	90°00'00"	45.00'	63.64'	S16°49'26"W

BEING 0.169 OF AN ACRE TRACT OF LAND, 20' WIDE EMERGENCY ACCESS EASEMENT, SITUATED IN THE A. SMITH SURVEY NO. 21, ABSTRACT NO. 522, COMAL COUNTY, TEXAS, AND BEING OUT OF A CALLED 77.391 ACRE TRACT OF LAND, AS CONVEYED TO KONA COAST VENTURE LIMITED PARTNERSHIP, AND RECORDED IN DOCUMENT NO. 201706040749, OF THE OFFICIAL PUBLIC RECORDS OF COMAL COUNTY, TEXAS

D. MAWYER
 LAND SURVEYING
 5151 W. SH 46
 NEW BRAUNFELS, TX 78132
 ph: 830.730.4449
 drewm@dom-ls.com
 TTXU #10191300



STATE OF TEXAS
 COUNTY OF COMAL

THIS 22 DAY OF FEBRUARY 2019

Drew A. Mawyer
 DREW A. MAWYER
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5348

DATE: FEBRUARY 2019 JOB BRD27Z

CONSENT OF MORTGAGEE

The undersigned, being the sole owner and holder of the lien created by a Deed of Trust recorded as Document No. 201906040749 in the Official Public Records of Comal County, Texas (the "Lien"), securing a note of even date therewith, executes this Access Easement for Emergency Access solely for the purposes of (i) evidencing its consent to this Access Easement for Emergency Access, and (ii) subordinating the Lien to this Access Easement for Emergency Access.

Moody National Bank

By: [Signature]
Name: Jeffery M. Hutchins
Title: Executive Vice President

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me this 9 day of May, 2019, by Jeffery M. Hutchins as EVO of Moody National Bank, on behalf of said bank.



Michelle Farrow
Notary Public – State of Texas

Filed and Recorded
Official Public Records
Bobbie Koepf, County Clerk
Comal County, Texas
05/23/2019 10:32:38 AM
CASHFOUR 9 Page(s)
201906017558
Bobbie Koepf