

**ORDINANCE NO. 2011-68**

**AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN THE CITY OF SAN MARCOS IN CONNECTION WITH THE PASO ROBLES DEVELOPMENT AT HUNTER AND CENTERPOINT ROADS AS A REINVESTMENT ZONE FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; CREATING A BOARD OF DIRECTORS FOR SUCH ZONE; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT; AND PROVIDING A SEVERABILITY CLAUSE.**

\* \* \* \* \*

**WHEREAS**, the City Council of the City of San Marcos, Texas (the "City") on May 17, 2011 received a petition from Carma Paso Robles LLC (the "Developer"), the sole land owner of the proposed Paso Robles development, requesting designation of approximately 1,338 acres and a tax increment reinvestment zone; and

**WHEREAS**, the City Council of the City has determined that based upon the petition of ~~the Developer~~ the designation of a reinvestment zone by the City, as authorized by the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, Vernon's Texas Codes Annotated (the "Act") within the area of the City as described in Exhibit "A" attached hereto, is in the best interest of the City in accordance with Article VIII, Section 1-g of the Texas Constitution as the area is predominantly open, and underdeveloped and, substantially impairs the sound growth of the City; and

**WHEREAS**, the City has prepared a preliminary reinvestment zone project and financing plan, a true and correct copy of which is on file with the City Clerk, which plan provides that a portion of City ad valorem taxes constituting its tax increment, within the "City of San Marcos, Texas Tax Increment Reinvestment Zone No. 4" (the "Zone No. 4") within the area set forth in Exhibit "A", are to be deposited into the hereinafter created tax increment fund, and that taxes of other taxing units may be utilized in the financing of the proposed Zone No. 4; and

**WHEREAS**, a notice of the November 15, 2011 public hearing on the designation of the proposed Zone No. 4 was published on November 1, 2011, in the *San Marcos Daily Record*, a newspaper of general circulation in the City; and

**WHEREAS**, at the public hearing on November 15, 2011, interested persons were allowed to speak for or against the designation of the proposed Zone No. 4, its boundaries, or the concept of tax increment financing and owners of property in the proposed Zone No. 4 were given a reasonable opportunity to protest the inclusion of their property in the proposed Zone No. 4; and

**WHEREAS**, evidence was received and presented at the public hearing in favor of the designation of the proposed Zone No. 4 and its boundaries under the provisions of Chapter 311, Texas Tax Code; and

**WHEREAS**, the Developer is the sole owner of the real property within Zone No. 4 and, therefore, no owner of real property in the proposed Zone No. 4 protested the inclusion of their property in the proposed Zone No. 4; and

**WHEREAS**, one historic structure within the boundaries of proposed Zone No. 4 is currently inhabited, otherwise no property within the proposed Zone No. 4 is currently used for residential purposes, as that term is defined in Section 311.006(d) of the Texas Tax Code; and

**WHEREAS**, the City has provided all information, given all notices and done all other things required by Chapter 311, Texas Tax Code, or other law as a condition to the designation of the proposed Zone No. 4; and

**WHEREAS**, the total appraised value of taxable real property in the proposed Zone No. 4 does not exceed 50 percent (50%) of the total appraised value of taxable real property in the City.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**Section 1. Findings.** a) The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.

b) The City Council further finds and declares that the proposed improvements in Zone No. 4 will significantly enhance the value of all the taxable real property in the proposed Zone No. 4 and will be of general benefit to the City.

c) The City Council further finds and declares that the proposed Zone No. 4 meets the criteria and requirements of Section 311.005(a)(4) of the Texas Tax Code because the sole landowner of the property set forth in Exhibit "A" submitted a petition to the City Council on May 17, 2011 requesting the area be designated as a reinvestment zone.

d) The City Council, pursuant to the requirements of Chapter 311, Texas Tax Code, further finds and declares:

- (1) The proposed Zone No. 4 is a contiguous geographic area located wholly within the corporate limits of the City of San Marcos;
- (2) The total appraised value of taxable real property in the proposed Zone No. 4, does not exceed 50 percent (50%) of the total appraised value of taxable real property in the City and in the industrial districts created by the City;

- (3) The proposed Zone No. 4 does not contain more than 50 percent (50%) of the total appraised value of real property taxable by Hays County;
- (4) The development or redevelopment of the property in the proposed Zone No. 4 will not occur solely through private investment in the reasonably foreseeable future;
- (5) Less than 30 percent (30%) of the property in the proposed Zone No. 4 is used for residential purposes within the meaning of Section 311.006(d), Texas Tax Code; and
- (6) The improvements proposed to be implemented in the proposed reinvestment Zone No. 4 will significantly enhance the value of all taxable real property in the proposed reinvestment Zone No. 4 and will be of general benefit to the City and the County.

**Section 2. Designation of Zone No. 4.** The City, acting under the provisions of Chapter 311, Texas Tax Code, including Section 311.005(a)(4), does hereby designate as a reinvestment zone, and create and designate a reinvestment zone over, the area described in Exhibit "A" and depicted in the map attached hereto as Exhibit "B" to promote the development of the area. The reinvestment zone shall hereafter be named for identification as Tax Increment Reinvestment Zone No. Four, City of San Marcos, Texas.

**Section 3. Board of Directors.** That there is hereby created a Board of Directors for Zone No. 4, which shall consist of nine (9) members. The City Council shall appoint directors to Positions One through Six; provided, however, that Hays County shall be entitled to appoint a director to Position Seven if Hays County approves the payment of all or part of the tax increment attributable to Hays County. Failure of Hays County to appoint a director by April 1, 2012, shall be deemed a waiver of Hays County's right to appoint a director, and the City Council shall be entitled to nominate and appoint a director to such position. Positions Eight and Nine shall consist of the member of the State House of Representatives and State Senate (or their designees), respectively, in whose district Zone No. 4 is located.

The directors appointed to Positions One, Three, Five and Six shall be appointed for two year terms, beginning on January 1, 2012, while the directors appointed to Positions Two, Four, Seven, Eight and Nine shall be appointed to one year terms beginning on the effective date of Zone No. 4. All subsequent appointments shall be appointed for two-year terms. The member of the Board of Directors appointed to Position One is hereby designated to serve as chair for the period beginning January 1, 2012 and ending December 31, 2014. Thereafter the City Council shall annually nominate and appoint a member to serve as chair for a term of one year beginning January 1 of the following year. The City Council authorizes the Board of Directors to elect from its members a vice chair and such other officers as the Board of Directors determines.

The Board of Directors of Zone No. 4 shall comply with Chapter 551, Texas Government Code (the Open Meetings Act) and Chapter 552, Texas Government Code (regarding public records and information). The Board of Directors shall make recommendations to the City Council concerning the administration of Zone No. 4. The Board of Directors shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for Zone No. 4 as described in Section 311.011, Texas Tax Code, and shall submit such plans to the City Council for its approval. The City, pursuant to Section 311.010(a) of the Texas Tax Code hereby authorizes the Board of Directors to exercise all of the City's powers necessary to administer, manage or operate Zone No. 4 and to prepare the project plan and reinvestment zone financing plan, including the submission of an annual report on the status of Zone No. 4. Notwithstanding the foregoing, the Board of Directors shall not be authorized to issue tax increment bonds or notes, impose taxes or fees, exercise the power of eminent domain or give final approval to the project plan and reinvestment zone financing plan. The Board of Directors of Zone No. 4 may not exercise any power granted to the City by Section 311.008 of the Texas Tax Code without additional and prior authorization from the City.

**Section 4. Duration of Zone No. 4.** Zone No. 4 shall take effect immediately upon the passage and approval of this Ordinance, and termination of the operation of Zone No. 4 shall occur on December 31, 2041, or at an earlier time designated by subsequent ordinance of the City Council in the event the City determines in its sole discretion that Zone No. 4 should be terminated due to insufficient private investment or other good cause, or at such time, subsequent to the time that all project costs, tax increment bonds, notes and other obligations of Zone No. 4, and the interest thereon, have been paid in full.

**Section 5. Tax Increment Base.** The Tax Increment Base of the City or any other taxing unit participating in Zone No. 4 is the total appraised value of all real property taxable by the City or other taxing unit participating in Zone No. 4 and located in Zone No. 4, determined as of January 1, 2011, the year in which Zone No. 4 was designated as a reinvestment zone (the "Tax Increment Base") which is \$1,969,490.

**Section 6. Tax Increment Fund.** There is hereby created and established a Tax Increment Fund for Zone No. 4 which may be divided into subaccounts as authorized by subsequent resolutions or ordinances. All Tax Increments, as defined below, shall be deposited in the Tax Increment Fund. Any expenditure to be made from the Tax Increment Fund in excess of \$10,000, or any contract related thereto, must be approved by the City Council prior to such expenditure being made or contract being executed. The Tax Increment Fund and any subaccount shall be maintained at the depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. The annual Tax Increment shall equal forty percent (40%) of the property taxes levied and collected by the City within Zone No. 4 and ten percent (10%) of the property taxes levied and collected by the County in Zone No. 4 (as set forth in the Interlocal Agreement to participate between the City and the County dated \_\_\_\_\_, 2011) for that year on the captured appraised value, as defined by the Act, of real property located in Zone No. 4 that is taxable by the City or County, less any amounts that are to be allocated from the Tax Increment pursuant to the Act. All revenues from the sale of any tax increment bonds, notes or other obligations hereafter issued for the benefit of Zone No. 4 by the

City, if any; revenues from the sale of property acquired as part of the project plan and reinvestment zone financing plan, if any; and other revenues to be used in Zone No. 4 shall be deposited into the Tax Increment Fund. Prior to the termination of Zone No. 4, money shall be disbursed from the Tax Increment Fund only to pay project costs, as defined by the Texas Tax Code, for Zone No. 4, to satisfy the claims of holders of tax increments bonds or notes issued for Zone No. 4, or to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010(b) of the Texas Tax Code.

**Section 7. Economic Development.** The City Council hereby finds that the designation of Zone No. 4 and the expenditure of moneys on deposit in the Tax Increment Fund are necessary or convenient to the designation of Zone No. 4 or to the implementation of the project plan for Zone No. 4, including payments pursuant to the Reimbursement Agreement between the City and the Developer and as such, constitutes a program to promote local economic development and to stimulate business and commercial activity in the City.

**Section 8. Severability.** If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person to set circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

**Section 9. Open Meetings.** It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding its meeting, as required by the Open Meetings Law, Texas Government Code, Ch. 551, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

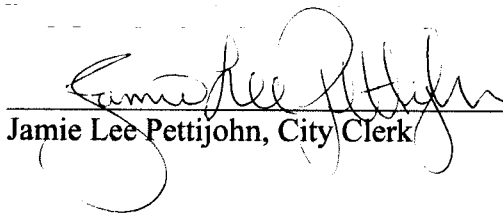
**READ, CONSIDERED, PASSED AND APPROVED ON FIRST READING** by the City Council of San Marcos at a regular meeting on the 15th day of November, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

**READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING** by the City Council of San Marcos at a regular meeting on the 6th day of December, 2011, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

**APPROVED** this 6th day of December, 2011.

  
Daniel Guerrero, Mayor

**ATTEST:**

  
Jamie Lee Pettijohn, City Clerk

## **EXHIBIT A**



**Professional Land Surveying, Inc.  
Surveying and Mapping**

Office: 512-443-1724  
Fax: 512-389-0943

3500 McCall Lane  
Austin, Texas 78744

**1,338.584 ACRES  
HAYS COUNTY, TEXAS**

**A DESCRIPTION OF 1,338.584 ACRES:**

PART 1: 1,278.290 ACRES OUT OF THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 471, THE EDWARD BURLESON SURVEY NO. 18, ABSTRACT NO. 63, THE NATHANIEL HUBBARD SURVEY NO. 35, ABSTRACT NO. 230, AND THE ISAAC LOWE SURVEY, ABSTRACT NO. 287, ALL IN HAYS COUNTY, TEXAS, BEING ALL OF A 160.033 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO CARMA PASO ROBLES, LLC, DATED JANUARY 4, 2007 AND RECORDED IN VOLUME 3087, PAGE 318 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, ALL OF A 5.00 ACRE TRACT CONVEYED TO AUSTIN DISTRICT BOARD OF MISSIONS, INC., SOUTHWEST TEXAS ANNUAL CONFERENCE, THE UNITED METHODIST CHURCH BY DEED OF GIFT, DATED APRIL 20, 1995 AND RECORDED IN VOLUME 1145, PAGE 581 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND BEING DESCRIBED IN A DEED OF RECORD IN VOLUME 1197, PAGE 12 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, THE REMAINDER OF A 5.35 ACRE TRACT DESCRIBED IN A DEED TO BILLY JOE NICHOLAS AND MELLIE LOWMAN NICHOLAS, DATED DECEMBER 31, 1968 AND RECORDED IN VOLUME 227, PAGE 578 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, A PORTION OF A 1 ACRE TRACT DESCRIBED IN A DEED TO HAYS COUNTY, DATED SEPTEMBER 12, 1895 AND RECORDED IN VOLUME 33, PAGE 117 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, A PORTION OF A 160 ACRE TRACT DESCRIBED IN A DEED TO GRADY H. REED AND MARGIE REED, DATED JULY 24, 1962 AND RECORDED IN VOLUME 192, PAGE 368 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, ALL OF A 70.00 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO WALTER KENNETH BARNES AND WIFE, CAROLYN T. BARNES, LAURIE BARNES AND BRUCE CLINTON BARNES, DATED APRIL 15, 1999 AND RECORDED IN DOCUMENT NO. 9908734 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, A PORTION OF A 425.38 ACRE TRACT CONVEYED TO THE BARNES RANCH FAMILY LIMITED PARTNERSHIP BY WARRANTY DEED, DATED MAY 2, 2003 AND RECORDED IN VOLUME 2211, PAGE 789 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND DESCRIBED IN A DEED OF RECORD IN VOLUME 194, PAGE 320 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, ALL OF A 272.027 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO CARMA PASO ROBLES LLC, DATED APRIL 9, 2007 AND RECORDED IN VOLUME 3144, PAGE 658 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND ALL OF A 464.870 ACRE TRACT, SAVE AND EXCEPT A 9.123 ACRE TRACT, BOTH DESCRIBED IN A SPECIAL WARRANTY DEED TO CARMA PASO ROBLES LLC,



DATED MARCH 5, 2007 AND RECORDED IN VOLUME 3122, PAGE 356 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, SAVE AND EXCEPT 5.036 ACRES, BEING A PORTION OF THE SAID 70.00 ACRE TRACT AND A PORTION OF THE SAID 425.38 ACRE TRACT;

PART 2: 60.294 ACRES OUT OF THE EDWARD BURLESON SURVEY NO. 18, ABSTRACT NO. 63, IN HAYS COUNTY, TEXAS, BEING ALL OF A 4.894 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO CARMA PASO ROBLES LLC, DATED MARCH 5, 2007 AND RECORDED IN VOLUME 3122, PAGE 377 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND ALL OF A 55.400 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO CARMA PASO ROBLES LLC, DATED MARCH 5, 2007 AND RECORDED IN VOLUME 3122, PAGE 369 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID PARTS 1 AND 2 TOTALING 1,338.584 ACRES AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**PART 1, GROSS ACREAGE: 1,292.449 ACRES**

**BEGINNING** at a 3/4" iron pipe found at an angle point in the southeast line of the said 160.033 acre tract, same being the south corner of a 5.35 acre tract described in a deed of record in Volume 227, Page 578 of the Deed Records of Hays County, Texas, also being in the northwest right-of-way line of F.M. 2439 (Hunter Road, right-of-way width varies);

**THENCE** with the southeast line of the 160.033 acre tract, same being the northwest right-of-way line of F.M. 2439, the following three (3) courses and distances:

1. South 59°53'31" West, a distance of 422.48 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found;
2. With a curve to the left, having a radius of 1950.08 feet, a delta angle of 13°29'07", an arc length of 458.97 feet, and a chord which bears South 53°08'58" West, a distance of 457.91 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found;
3. South 46°24'24" West, a distance of 183.31 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found at the east corner of a 5.224 acre tract described in a deed of record in Volume 251, Page 959 of the Deed Records of Hays County, Texas;

**THENCE** continuing with the southeast line of the 160.033 acre tract, same being the north line of the said 5.224 acre tract, the following two (2) courses and distances:

1. North 53°35'40" West, a distance of 283.89 feet to a 1/2" iron pipe found;

2. South 51°36'26" West, a distance of 703.19 feet to a 1/2" iron pipe found at the south corner of the 160.033 acre tract, same being the west corner of the 5.224 acre tract, also being in the northeast line of a 51.23 acre tract described in Volume 276, Page 322 of the Deed Records of Hays County, Texas;

**THENCE** North 45°27'10" West, with the southwest line of the 160.033 acre tract, same being the northeast line of the said 51.23 acre tract, a distance of 1138.32 feet to a 1/2" rebar found at the west corner of the 160.033 acre tract, same being the south corner of the said 464.870 acre tract;

**THENCE** North 45°30'14" West, with the southwest line of the 464.870 acre tract, same being the northeast line of the said 51.23 acre tract, the northeast line of a 82.17 acre tract described in a deed of record in Volume 1350, Page 446 of the Official Public Records of Hays County, Texas, and the northeast line of a 15 acre tract described in a deed of record in Volume 190, Page 161 of the Deed Records of Hays County, Texas, a distance of 3565.19 feet to a found corner fence post of an 8' tall game fence at the north corner of the said 82.17 acre tract, same being an interior corner of the 464.870 acre tract;

**THENCE** South 43°31'39" West, with the southeast line of the 464.870 acre tract, same being a northwest line of the 82.17 acre tract, a distance of 1186.42 feet to a found corner fence post of an 8' tall game fence at a south corner of the 464.870 acre tract, same being an angle point in the northwest line of the 82.17 acre tract, also being an angle point in the northeast line of an 80.17 acre tract described in a deed of record in Volume 1350, Page 446 of the Official Public Records of Hays County, Texas;

**THENCE** North 46°27'44" West, with the southwest line of the 464.870 acre tract, same being the northeast line of the said 80.17 acre tract and the northeast line of a 34.56 acre tract described in a deed of record in Volume 1925, Page 672 of the Official Public Records of Hays County, Texas, a distance of 2474.33 feet to a 1/2" rebar with plastic "PBS&J" cap found at the north corner of the 34.56 acre tract, same being the southeast line of Lot 2, Sleepy Hollow Subdivision, also being the west corner of the 464.870 acre tract;

**THENCE** with the northwest line of the 464.870 acre tract, same being the southeast line of Lots 2 through 28, inclusive, of Sleepy Hollow Subdivision, the following twenty-seven (27) courses and distances:

1. North 42°16'33" East, a distance of 28.53 feet to a 1/2" rebar found at the common corner of said Lots 2 and 3;
2. North 44°24'02" East, a distance of 145.42 feet to a 1/2" rebar found at the common corner of said Lots 3 and 4;
3. North 44°11'17" East, a distance of 145.74 feet to a 1/2" rebar found at the common corner of said Lots 4 and 5;

4. North 44°03'14" East, a distance of 145.72 feet to a 1/2" rebar found at the common corner of said Lots 5 and 6;
5. North 44°25'01" East, a distance of 146.17 feet to a 1/2" rebar with plastic "PBS&J" cap found at the common corner of said Lots 6 and 7;
6. North 43°58'24" East, a distance of 145.32 feet to a 1/2" rebar found at the common corner of said Lots 7 and 8;
7. North 44°06'17" East, a distance of 145.46 feet to a 1/2" rebar found at the common corner of said Lots 8 and 9;
8. North 43°56'55" East, a distance of 145.44 feet to a 1/2" rebar found at the common corner of said Lots 9 and 10;
9. North 44°05'56" East, a distance of 145.91 feet to a 1/2" rebar found at the common corner of said Lots 10 and 11;
10. North 44°29'25" East, a distance of 145.12 feet to a 1/2" rebar found at the common corner of said Lots 11 and 12;
11. North 43°40'19" East, a distance of 145.38 feet to a 1/2" rebar found at the common corner of said Lots 12 and 13;
12. North 44°20'28" East, a distance of 145.03 feet to a 1/2" rebar found at the common corner of said Lots 13 and 14;
13. North 44°13'03" East, a distance of 145.49 feet to a 1/2" rebar found at the common corner of said Lots 14 and 15;
14. North 43°53'38" East, a distance of 145.05 feet to a 1/2" rebar found at the common corner of said Lots 15 and 16;
15. North 44°14'07" East, a distance of 145.21 feet to a 1/2" rebar found at the common corner of said Lots 16 and 17;
16. North 44°24'20" East, a distance of 145.52 feet to a 1/2" rebar found at the common corner of said Lots 17 and 18;
17. North 44°06'52" East, a distance of 145.20 feet to a 1/2" rebar found at the common corner of said Lots 18 and 19;
18. North 43°58'52" East, a distance of 145.24 feet to a 1/2" rebar found at the common corner of said Lots 19 and 20;

19. North 44°39'50" East, a distance of 144.71 feet to a 1/2" rebar found at the common corner of said Lots 20 and 21;
20. North 44°38'33" East, a distance of 145.24 feet to a 1/2" rebar found at the common corner of said Lots 21 and 22;
21. North 44°16'09" East, a distance of 144.98 feet to a 1/2" rebar found at the common corner of said Lots 22 and 23;
22. North 43°41'15" East, a distance of 144.88 feet to a 1/2" rebar found at the common corner of said Lots 23 and 24;
23. North 44°15'04" East, a distance of 144.87 feet to a 1/2" rebar found at the common corner of said Lots 24 and 25;
24. North 44°00'02" East, a distance of 144.96 feet to a 1/2" rebar found at the common corner of said Lots 25 and 26;
25. North 44°23'04" East, a distance of 194.95 feet to a 1/2" rebar found at the common corner of said Lots 26 and 27;
26. North 44°04'48" East, a distance of 203.95 feet to a 1/2" rebar found at the common corner of said Lots 27 and 28;
27. North 44°36'40" East, a distance of 108.93 feet to a 1/2" rebar found at a north corner of the said 464.870 acre tract, same being the east corner of Lot 28, also being in the southwest line of a 111.9 acre tract (first 111.9 acre tract) described in a deed of record in Volume 145, Page 624 of the Deed Records of Hays County, Texas;

**THENCE** South 46°01'33" East, with the northeast line of the 464.870 acre tract, same being the southwest line of the said 111.9 acre tract and the southwest line a 111.9 acre tract (second 111.9 acre tract) described in a deed of record in Volume 149, Page 491 of the Deed Records of Hays County, Texas, a distance of 1609.75 feet to a 1/2" rebar found at an interior corner of the 464.870 acre tract, same being the south corner of the said second 111.9 acre tract;

**THENCE** North 17°08'49" East, with the northwest line of the 464.870 acre tract, same being the southeast line of the second 111.9 acre tract, a distance of 967.38 feet to a calculated point for a north corner of the 464.870 acre tract, same being the west corner of the said 70.00 acre tract;

**THENCE** North 17°08'49" East, continuing with the southeast line of the second 111.9 acre tract, same being the northwest line of the 70.00 acre tract, a distance of 842.90 feet to a calculated point for the north corner of the 70.00 acre tract, same being the west corner of the said 425.38 acre tract;

**THENCE** North 17°08'49" East, continuing with the southeast line of the second 111.9 acre tract, same being the northwest line of the 425.38 acre tract, a distance of 1054.36 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found at the north corner of the 425.38 acre tract, same being the west corner of the said 272.027 acre tract;

**THENCE** continuing with the southeast line of the second 111.9 acre tract, same being the northwest line of the 272.027 acre tract, the following four (4) courses and distances:

1. North 17°08'49" East, a distance of 402.23 feet to a fence post found;
2. North 45°41'06" West, a distance of 495.49 feet to a fence post found;
3. North 17°13'03" East, a distance of 1206.69 feet to a fence post found;
4. North 45°41'38" West, a distance of 439.64 feet to a 1/2" rebar with plastic "BYRN" cap found at the northwest corner of the 272.027 acre tract, same being the southwest corner of an 11.36 acre tract described in a deed of record in Volume 1856, Page 746 of the Official Public Records of Hays County, Texas;

**THENCE** North 51°25'56" East, with the north line of the 272.027 acre tract, same being the south line of the said 11.36 acre tract and the south line of a 7.78 acre tract described in a deed of record in Volume 1227, Page 592 of the Official Public Records of Hays County, Texas, a distance of 655.14 feet to a 1/2" rebar with plastic "BYRN" cap found at the southeast corner of the said 7.78 acre tract, same being the southwest corner of a 10.82 acre tract described in a deed of record in Volume 2201, Page 515 of the Official Public Records of Hays County, Texas;

**THENCE** South 88°07'26" East, continuing with the north line of the 272.027 acre tract, same being the south line of the said 10.82 acre tract and the south line of a 7.40 acre tract described in a deed of record in Volume 1253, Page 378 of the Official Public Records of Hays County, Texas, a distance of 804.50 feet to a 1/2" rebar with plastic "BYRN" cap found at the south corner of the 7.40 acre tract, same being in the northwest line of Lot 10, Block 3, McCarty Ranch, Phase One, a subdivision of record in Volume 7, Page 233 of the plat records of Hays County, Texas, also being at the northeast corner of the 272.027 acre tract;

**THENCE** with the northeast line of the 272.027 acre tract, same being the northwest and southwest lines of McCarty Ranch, Phase One, the following three (3) courses and distances:

1. South 39°48'33" West, a distance of 518.49 feet to a 1/2" rebar with plastic "BYRN" cap found;
2. South 45°52'43" East, a distance of 3715.29 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found;

3. South  $42^{\circ}58'06''$  East, a distance of 676.96 feet to a fence post found at the south corner of McCarty Ranch, Phase One, same being the west corner of a 40.00 acre tract described in a deed of record in Volume 1960, Page 545 of the Official Public Records of Hays County, Texas;

**THENCE** continuing with the northeast line of the 272.027 acre tract, same being the southwest line of the said 40.00 acre tract, the following two (2) courses and distances:

1. South  $46^{\circ}10'19''$  East, a distance of 485.00 feet to a 9" cedar tree found;
2. South  $45^{\circ}58'29''$  East, a distance of 680.33 feet to a 17" cedar tree found;

**THENCE** continuing with the northeast line of the 272.027 acre tract, same being the southwest line of the 40.00 acre tract and the southwest line of a 117.47 acre tract described in a deed of record in Volume 1685, Page 549 of the Official Public Records of Hays County, Texas, the following two (2) courses and distances:

1. South  $47^{\circ}09'51''$  East, a distance of 586.34 feet to a 15" cedar tree found at an angle point in the common line of the 272.027 acre tract and the 117.47 acre tract;
2. South  $45^{\circ}15'40''$  East, a distance of 130.55 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found at an interior corner of the 272.027 acre tract, same being in the southwest line of the said 117.47 acre tract;

**THENCE** North  $45^{\circ}13'32''$  East, continuing with the northeast line of the 272.027 acre tract and crossing the 117.47 acre tract, a distance of 1273.67 feet to a 1/2" rebar found at an angle point in the north line of the 272.027 acre tract, same being in the southwest right-of-way line of McCarty Lane (right-of-way width varies), as shown on a plat of record in Volume 12, Page 397 of the Plat Records of Hays County, Texas;

**THENCE** continuing with the northeast line of the 272.027 acre tract, same being the southwest right-of-way line of McCarty Lane, the following two (2) courses and distances:

1. South  $46^{\circ}57'23''$  East, a distance of 0.37 feet to a calculated point for a point of curvature;
2. With a curve to the left, having a radius of 2550.00 feet, a delta angle of  $1^{\circ}54'05''$ , an arc length of 84.62 feet, and a chord which bears South  $47^{\circ}57'46''$  East, a distance of 84.61 feet to a 1/2" rebar found at an angle point in the north line of the 272.027 acre tract;

**THENCE** South  $45^{\circ}13'08''$  West, continuing with the northeast line of the 272.027 acre tract and crossing the 117.47 acre tract, a distance of 1277.67 feet to a 1/2" rebar with

plastic "Chaparral Boundary" cap found at an angle point in the northeast line of the 272.027 acre tract, same being in the southwest line of the 117.47 acre tract;

**THENCE** continuing with the northeast line of the 272.027 acre tract, same being the southwest line of the 117.47 acre tract, the following two (2) courses and distances:

1. South 45°15'40" East, a distance of 240.99 feet to a fence post found;
2. South 43°46'45" East, a distance of 418.48 feet to a fence post found at an east corner of the 272.027 acre tract, same being the north corner of a tract of land described in deed to Herold Abel, et ux., of record in Volume 542, Page 593 of the Deed Records of Hays County, Texas;

**THENCE** South 44°30'03" West, with the southeast line of the 272.027 acre tract, same being the northwest line of the said Abel tract, a distance of 1590.38 feet to a twin 6" and 5" cedar tree found at the south corner of the 272.027 acre tract, same being the west corner of the Abel tract, also being in the northeast line of a 425.38 acre tract described in a deed of record in Volume 194, Page 320 of the Deed Records of Hays County, Texas, conveyed in a deed of record in Volume 2211, Page 789 of the Official Public Records of Hays County, Texas;

**THENCE** South 45°37'47" East, with the southwest line of the said Abel tract, same being the northeast line of the 425.38 acre tract, a distance of 1265.80 feet to a 1/2" rebar with cap set in the northwest right-of-way line of F.M. 2439;

**THENCE** crossing the 425.38 acre tract, with the northwest right-of-way line of F.M. 2439, the following five (5) courses and distances:

1. South 47°51'14" West, a distance of 149.23 feet to a TxDOT Type II disk found;
2. South 42°43'35" West, a distance of 401.81 feet to a TxDOT Type II disk found;
3. South 48°06'50" East, a distance of 3.50 feet to a 1/2" rebar with cap set;
4. South 41°52'45" West, a distance of 389.25 feet to a 1/2" rebar with cap set for a point of curvature;
5. With a curve to the left, having a radius of 2929.79 feet, a delta angle of 7°29'35", an arc length of 383.15 feet, and a chord which bears South 38°09'58" West, a distance of 382.88 feet to a 1/2" rebar with aluminum "TxDOT" cap found in the southwest line of the said 425.38 acre tract, also being in the northeast line of the said 160 acre;

**THENCE** continuing with the northwest right-of-way line of F.M. 2439, crossing the 160 acre tract, the following four (4) courses and distances:

1. With a curve to the left, having a radius of 2929.79 feet, a delta angle of  $01^{\circ}40'21''$ , an arc length of 85.52 feet, and a chord which bears South  $33^{\circ}35'26''$  West, a distance of 85.52 feet to a TxDOT Type II disk found;
2. South  $39^{\circ}45'01''$  West, a distance of 551.11 feet to a calculated point;
3. South  $36^{\circ}51'59''$  West, a distance of 703.47 feet to a TxDOT Type II disk found;
4. South  $47^{\circ}04'26''$  West, a distance of 315.41 feet to a 1/2" rebar with aluminum "TxDOT" cap found in the northeast line of the said 1 acre tract;

**THENCE** continuing with the northwest right-of-way line of F.M. 2439, crossing the 1 acre tract, the following two (2) courses and distances:

1. South  $47^{\circ}05'19''$  West, a distance of 165.17 feet to a calculated point;
2. South  $48^{\circ}02'07''$  West, a distance of 43.80 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found in the southwest line of the 1 acre tract, at an east corner of the 160.033 acre tract;

**THENCE** South  $48^{\circ}02'07''$  West, continuing with the northwest right-of-way line of F.M. 2439, same being the southeast line of the 160.033 acre tract, a distance of 89.38 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found at an angle point in the southeast line of the 160.033 acre tract, same being the east corner of the 5.35 acre tract;

**THENCE** continuing with the northwest right-of-way line of F.M. 2439, same being the southeast line of the 5.35 acre tract, the following four (4) courses and distances:

1. South  $48^{\circ}02'07''$  West, a distance of 169.34 feet to a TxDOT Type II disk found;
2. With a curve to the right, having a radius of 2160.65 feet, a delta angle of  $10^{\circ}09'27''$ , an arc length of 383.04 feet, and a chord which bears South  $48^{\circ}29'42''$  West, a distance of 382.54 feet to a TxDOT Type II disk found;
3. With a curve to the right, having a radius of 1870.08 feet, a delta angle of  $01^{\circ}01'56''$ , an arc length of 33.69 feet, and a chord which bears South  $59^{\circ}31'17''$  West, a distance of 33.69 feet to a concrete highway monument found;
4. South  $59^{\circ}53'31''$  West, a distance of 112.98 feet to the **POINT OF BEGINNING**, containing 1,292.449 acres of land, more or less.

#### **9.123 ACRE SAVE & EXCEPT PARCEL**

**BEGINNING** at a 1/2" rebar with plastic "RPLS 1847" cap found in the interior of the 464.870 acre tract, being the southeast corner of the said 9.123 acre tract, from which a



found corner fence post of an 8' game fence at an interior corner in the southwest line of the 464.870 acre tract, same being the north corner of the 82.17 acre, bears South 33°35'28" East, a distance of 74.52 feet, also from which a found corner fence post of an 8' game fence at a south corner of the 464.870 acre tract, same being an angle point in the northwest line of the 82.17 acre tract, also being an angle point in the northeast line of the 80.17 acre tract, bears South 33°35'28" East, a distance of 74.52 feet, and South 43°31'39" West, a distance of 1186.42 feet;

**THENCE** crossing the interior of the 464.870 acre tract, the following eight (8) courses and distances:

1. South 70°44'34" West, a distance of 418.79 feet to a 1/2" rebar with plastic "RPLS 1847" cap found;
2. North 25°59'19" West, a distance of 220.18 feet to a 1/2" rebar with plastic "RPLS 1847" cap found;
3. North 08°41'57" West, a distance of 375.09 feet to a 1/2" rebar with plastic "RPLS 1847" cap found;
4. North 53°35'29" East, a distance of 211.87 feet to a 1/2" rebar with plastic "RPLS 1847" cap found;
5. North 75°38'16" East, a distance of 443.47 feet to a 1/2" rebar with plastic "RPLS 1847" cap found;
6. South 29°55'42" East, a distance of 268.08 feet to a 1/2" rebar with plastic "RPLS 1847" cap found;
7. South 23°04'57" West, a distance of 377.19 feet to a 1/2" rebar found;
8. South 23°16'20" West, a distance of 94.71 feet to the **POINT OF BEGINNING**, containing 9.123 acres of land, more or less.

#### **5.036 ACRE SAVE & EXCEPT PARCEL**

**COMMENCING** at a 1/2" rebar with cap set at the east corner of the said 70.00 acre tract, same being in the southwest line of the said portion of 425.38 acres, also being the north corner of a 160 acre tract described in a deed of record in Volume 192, Page 368 of the Deed Records of Hays County, Texas, from which a 1/2" rebar with aluminum cap found bears South 46°41'01" East, a distance of 3014.54 feet, and a nail with shiner in a fence post found bears North 46°41'01" West, a distance of 3890.59 feet;

**THENCE** North 83°36'04" West, crossing the 70.00 acre tract, a distance of 820.34 feet to a 1/2" rebar with cap set for the south corner of the herein described tract, and the **POINT OF BEGINNING** hereof, from which a 1/2" rebar with plastic "Chaparral

Boundary" cap found in the southwest line of the 70.00 acre tract, same being at the north corner of a 160.033 acre tract described in a deed of record in Volume 3087, Page 318 of the Deed Records of Hays County, Texas, also being at the east corner of a 464.870 acre tract described in a deed of record in Volume 3122, Page 356 of the Deed Records of Hays County, Texas, bears South 3°10'59" West, a distance of 412.73 feet;

**THENCE** continuing across the 70.00 acre tract and the portion of 425.38 acres, the following five (5) courses and distances:

1. North 29°13'22" West, a distance of 472.71 feet to a 1/2" rebar with cap set;
2. North 82°34'58" East, at a distance of 453.25 feet passing the northeast line of the 70.00 acre tract, same being the southwest line of the portion of 425.38 acres, and continuing for a total distance of 485.81 feet to a 1/2" rebar with cap set;
3. South 63°31'14" East, a distance of 293.44 feet to a 1/2" rebar with cap set;
4. South 9°27'27" East, a distance of 120.44 feet to a 1/2" rebar with cap set;

South 67°04'18" West, at a distance of 40.80 feet passing the northeast line of the 70.00 acre tract, same being the southwest line of the portion of 425.38 acres, and continuing for a total distance of 579.16 feet to the **POINT OF BEGINNING**, containing 5.036 acres of land, more or less.

Subtracting the Save & Except acreage of 9.123 acres and 5.036 acres from the Gross acreage of 1,292.449 acres leaves a Net acreage of 1,278.290 acres.

**PART 2, 60.294 ACRES:**

**BEGINNING** at a TxDOT Type II disk found at a point of curvature in the southeast right-of-way line of F.M. 2439 (Hunter Road, right-of-way width varies), same being a point of curvature in the northwest line of the said 55.400 acre tract;

**THENCE** with the southeast right-of-way line of F.M. 2439, same being the northwest line of the 55.400 acre tract, the following two (2) courses and distances:

1. North 47°04'30" East, a distance of 287.89 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found;
2. South 89°23'13" East, a distance of 31.54 feet to a 1/2" rebar with plastic "PBS&J" cap found in the southwest right-of-way line of Centerpoint Road (County Road No. 234, right-of-way width varies);

**THENCE** with the southwest right-of-way line of Centerpoint Road, same being the northeast line of the 55.400 acre tract, the following two (2) courses and distances:

1. South 45°44'53" East, a distance of 777.45 feet to a 1/2" rebar with plastic "PBS&J" cap found;
2. South 45°30'51" East, a distance of 48.65 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found at the east corner of the 55.400 acre tract, same being in the northwest right-of-way line of the Union Pacific Railroad (212' right-of-way width), described in Volume 2056, Page 535 of the Official Public Records of Hays County, Texas;

**THENCE** South 46°38'59" West, with the northwest right-of-way line of the Union Pacific Railroad, same being the southeast line of the 55.400 acre tract, a distance of 2607.65 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found at the south corner of the 55.400 acre tract, same being in the northeast line of a 17.86 acre tract described in a deed of record in Volume 276, Page 322 of the Deed Records of Hays County, Texas;

**THENCE** North 45°27'58" West, with the southwest line of the 55.400 acre tract, same being the northeast line of the said 17.86 acre tract, a distance of 1095.36 feet to a 1/2" rebar with aluminum "TxDOT" cap found at the north corner of the 17.86 acre tract, same being the west corner of the 55.400 acre tract, also being in the curving southeast right-of-way line of F.M. 2439;

**THENCE** with the southeast right-of-way line of F.M. 2439, same being the northwest line of the 55.400 acre tract, the following four (4) courses and distances:

1. With a curve to the right, having a radius of 5689.65 feet, a delta angle of 00°40'04", an arc length of 66.31 feet, and a chord which bears North 46°04'22" East, a distance of 66.31 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found;
2. North 46°24'24" East, a distance of 846.88 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found;
3. With a curve to the right, having a radius of 1870.08 feet, a delta angle of 13°29'07", an arc length of 440.14 feet, and a chord which bears North 53°08'57" East, a distance of 439.13 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found;
4. North 59°53'31" East, a distance of 79.74 feet to a 1" iron pipe found at a north corner of the 55.400 acre tract, same being the west corner of the said 4.894 acre tract;

**THENCE** continuing with the southeast right-of-way line of F.M. 2439, same being the northwest line of the 4.894 acre tract, the following three (3) courses and distances:

1. North 59°53'31" East, a distance of 455.72 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found;
2. With a curve to the left, having a radius of 1950.08 feet, a delta angle of 01°02'45", an arc length of 35.60 feet, and a chord which bears North 59°30'17" East, a distance of 35.60 feet to a TxDOT Type II disk found;
3. With a curve to the left, having a radius of 3677.11 feet, a delta angle of 02°53'50", an arc length of 185.94 feet, and a chord which bears North 58°12'47" East, a distance of 185.92 feet to a 1/2" rebar with plastic "Chaparral Boundary" cap found at the north corner of the 4.894 acre tract, same being a west corner of the 55.400 acre tract;

**THENCE** continuing with the southeast right-of-way line of F.M. 2439, same being the northwest line of the 55.400 acre tract, with a curve to the left, having a radius of 3677.11 feet, a delta angle of 03°23'46", an arc length of 217.96 feet, and a chord which bears North 55°03'59" East, a distance of 217.93 feet to the **POINT OF BEGINNING**, containing 60.294 acres of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Attachments: Drawing 500-003-WAT-EXH. Caps placed on set rebars are plastic, stamped "Chaparral Boundary".



James Redmon  
Registered Professional Land Surveyor  
State of Texas No. 5848

8-26-08



**EXHIBIT B**

