

**RESOLUTION NO. 2024-229R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A SALES CONTRACT WITH HAYS COUNTY FOR THE CITY'S PURCHASE OF THE FIVE MILE DAM PARK PROPERTY IN THE VICINITY OF OLD STAGECOACH ROAD AND FIVE MILE PARK ROAD, AT NO COST TO THE CITY, EXCEPT FOR HALF OF THE CLOSING EXPENSES; AUTHORIZING THE CITY MANAGER, OR HER DESIGNEE, TO EXECUTE SAID CONTRACT AND ALL CLOSING DOCUMENTS RELATED TO SUCH PURCHASE ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.**


**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**PART 1.** A Sales Contract with Hays County (the "Contract") for the purchase of approximately the Five Mile Dam Park property for fee simple title for no monetary price, plus paying half the closing costs, is hereby approved.


**PART 2.** The City Manager, or her designee, is hereby authorized to execute the Contract and all closing documents related to the purchase of the land under the Contract on behalf of the City.

**PART 3.** This resolution shall become effective immediately from and after its passage.

**ADOPTED** on November 19, 2024.

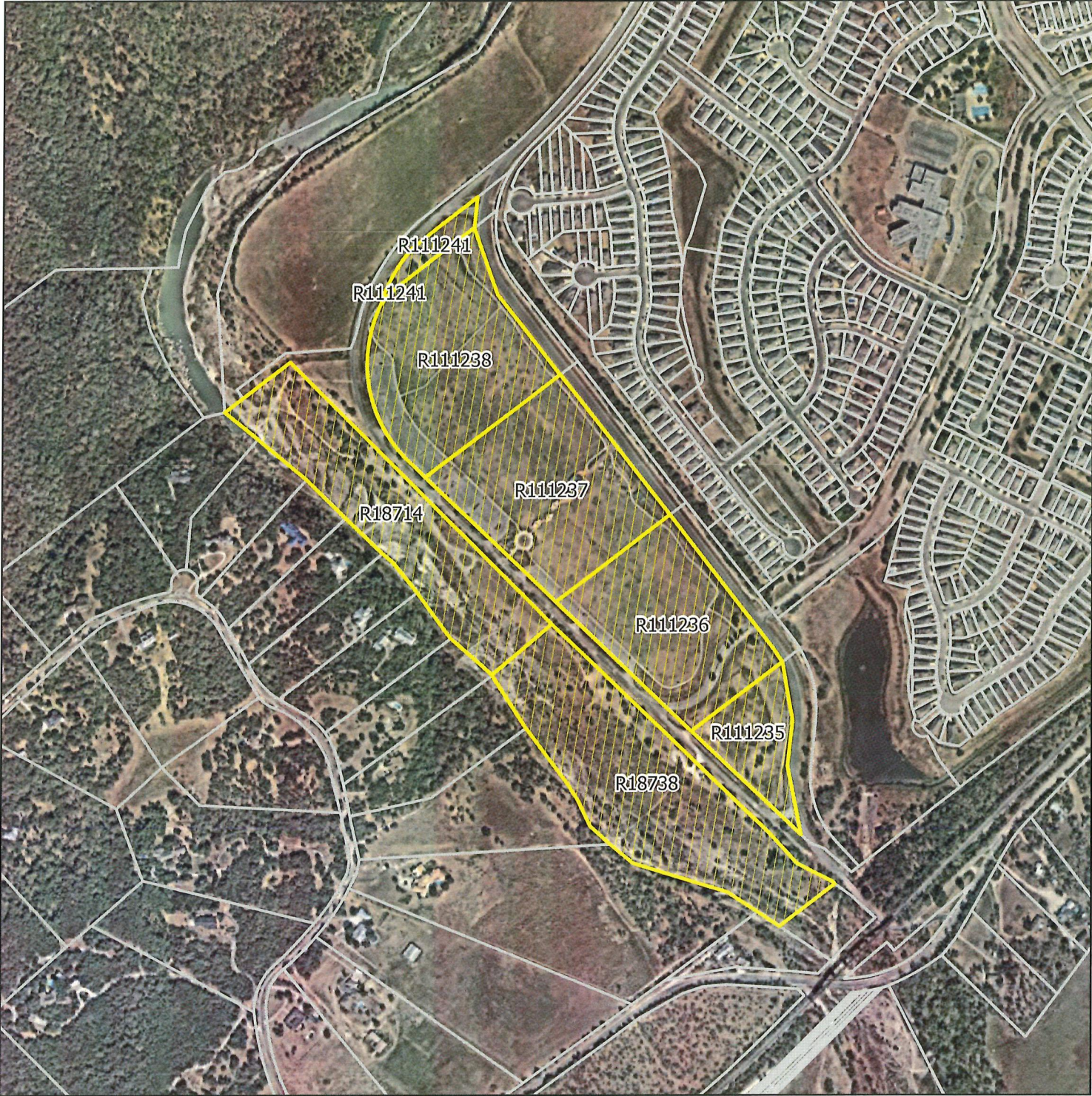
  
Jane Hughson  
Mayor

Attest:

  
Elizabeth Trevino  
City Clerk



# Five Mile Dam Parks Acquisition



 Subject Property  
 Parcels

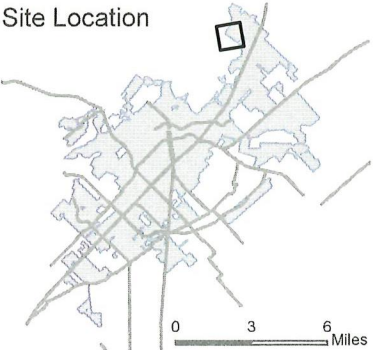


Date: 11/19/2024

**SAN MARCOS**  
Engineering and Capital Improvements

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Site Location





## **Real Estate Sales Contract**

This contract to buy and sell real property and the improvements thereon is between Seller and Buyer as identified below and is effective on the date ("Effective Date") of the last of the signatures by Seller and Buyer as parties to this contract.

Seller: Hays County, Texas

Address: 712 South Stagecoach Trail, San Marcos, Hays County, Texas 78666-6073

Phone: 512-393-2290

E-mail: tucker.furlow@hayscountytexas.gov

Seller's Attorney:

Tucker Furlow

Hays County Assistant Criminal District Attorney – Civil Division

Buyer: City of San Marcos, Texas

Address: 630 East Hopkins Street, San Marcos, Hays County, Texas 78666

Phone: 512-393-8379

E-mail: cory.lime@sanmarcostexas.gov

Buyer's Attorney: Sam Aguirre, City Attorney/Julian Grant, Assistant City Attorney

Property: The land commonly known as Five Mile Dam Park and more fully described in Exhibit A ("Land"), together with improvements to the Land ("Improvements"), and the personal property ("Personal Property") also described in Exhibit A.

Title Company: \_\_\_\_\_ Independence Title

Address: 1911 Corporate Drive, Suite 102, San Marcos TX 78666

Phone: 512-392-1271

E-mail: teamstitch@independencetitle.com

Underwriter:

Purchase Price: \$1 and public policy considerations

Earnest Money: None

Surveyor: Byrn & Associates, Inc.

County for Performance: Hays County, Texas

**A. Deadlines and Other Dates**

All deadlines in this contract expire at 5:00 P.M. local time where the Property is located. If a deadline falls on a Saturday, Sunday, or national holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or national holiday. A national holiday is a holiday designated by the federal government. Time is of the essence. The parties agree that they may jointly amend these deadlines by administrative action, without governing board approval.

1. Effective Date: November 19, 2024
2. Delivery of Title Commitment: 30 days after the Effective Date
3. Delivery of Survey: 90 days after the Effective Date
4. Delivery of legible copies of instruments referenced in the Title Commitment and Survey 120 days after the Effective Date
5. Delivery of Title Objections: 120 days after delivery of the Title Commitment, Survey, and legible copies of the instruments referenced in them
6. Delivery of Seller's records as specified in Exhibit C: 60 days after the Effective Date
7. End of Inspection Period: No later than 120 days after the Effective Date.
8. Closing Date: No later than 150 days after the end of the Inspection Period.

**B. Closing Documents**

1. At closing, Seller will deliver the following items:
  - General Warranty Deed
  - Bill of Sale
  - Evidence of Seller's authority to close this transaction
  - Notices, statements, and certificates as specified in Exhibit D
2. At closing, Buyer will deliver the following items:



Balance of Purchase Price

Evidence of Buyer's authority to close this transaction

The documents listed in this section B are collectively known as the "Closing Documents."

**C. Exhibits**

The following are attached to and are a part of this contract:

Exhibit A—Description of the Land, Improvements, and Personal Property

Exhibit B—Representations; Environmental Matters

Exhibit C—Seller's Records

Exhibit D—Notices, Statements, and Certificates

**D. Purchase and Sale of Property**

Seller agrees to sell and convey the Property to Buyer, and Buyer agrees to buy and pay Seller for the Property. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract.

**F. Title and Survey**

1. *Review of Title.* The following statutory notice is provided to Buyer on behalf of the real estate licensees, if any, involved in this transaction: Buyer is advised that it should either have the abstract covering the Property examined by an attorney of Buyer's own selection or be furnished with or obtain a policy of title insurance.

2. *Title Commitment; Title Policy.* "Title Commitment" means a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for Underwriter, or directly by Underwriter, stating the condition of title to the Land. The "effective date" stated in the Title Commitment must be after the Effective Date of this contract. "Title Policy" means an Owner Policy of Title Insurance issued by Title Company, as agent for Underwriter, or directly by Underwriter, in conformity with the last Title Commitment delivered to and approved by Buyer. The parties will share the costs of title insurance and any appraisals necessary for insurance.

3. *Survey.* "Survey" means an on-the-ground, staked plat of survey and metes-and-bounds description of the Land, prepared by Surveyor or another surveyor satisfactory to Title Company, dated after the Effective Date, and certified to Seller, Buyer, and Title Company to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors for the Survey Category. The parties will share the cost of surveys.

4. *Delivery of Title Commitment, Survey, and Legible Copies.* Seller must deliver the Title Commitment to Buyer and Buyer's attorney by the deadline stated in paragraph A.2.; the Survey by the deadline stated in paragraph A.3.; and legible copies of the instruments referenced in the Title Commitment, and Survey by the deadline stated in paragraph A.4.

5. *Title Objections.* Buyer has until the deadline stated in paragraph A.5. ("Title Objection Deadline") to review the Survey, Title Commitment, and legible copies of the title instruments referenced in them and notify Seller of Buyer's objections to any of them ("Title Objections"). Buyer will be deemed to have approved all matters reflected by the Survey and Title Commitment to which Buyer has made no Title Objection by the Title Objection Deadline. The matters that Buyer either approves or is deemed to have approved are "Permitted Exceptions." If Buyer notifies Seller of any Title Objections, Seller has five days from receipt of Buyer's notice to notify Buyer whether Seller agrees to cure the Title Objections before closing ("Cure Notice"). If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the Title Objections before closing, Buyer may, within five days after the deadline for the giving of Seller's Cure Notice, notify Seller that either this contract is terminated or Buyer will proceed to close, subject to Seller's obligations to remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Title Objections that Seller has agreed to cure in the Cure Notice. At or before closing, Seller must remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this contract, and cure the Title Objections that Seller has agreed to cure.

#### **G. Inspection Period**

1. *Review of Seller's Records.* Seller will deliver to Buyer copies of Seller's records specified in Exhibit C, or otherwise make those records available for Buyer's review, by the deadline stated in paragraph A.6.

2. *Entry onto the Property.* Buyer may enter the Property before closing to inspect it at Buyer's cost, subject to the following:

- a. Buyer must deliver evidence to Seller that Buyer has liability insurance for its proposed inspection activities, with coverages and in amounts that are substantially the same as those maintained by Seller or with such lesser coverages and in such lesser amounts as are reasonably satisfactory to Seller.
- b. Buyer may not interfere in any material manner with existing operations or occupants of the Property.
- c. Buyer must notify Seller in advance of Buyer's plans to conduct tests so that Seller may be present during the tests.
- d. If the Property is physically altered because of Buyer's inspections, Buyer must return the Property to its preinspection condition promptly after the alteration occurs.



- e. Buyer must deliver to Seller copies of all inspection reports that Buyer prepares or receives from third-party consultants or contractors within three days after their preparation or receipt.
- f. Buyer must abide by any other reasonable entry rules imposed by Seller.

3. *Environmental Assessment.* Buyer has the right to conduct environmental assessments of the Property. Seller will provide or will designate a person with knowledge of the use and condition of the Property to provide, information requested by Buyer or Buyer's agent or representative regarding the use and condition of the Property during the period of Seller's ownership of the Property. Seller will cooperate with Buyer in obtaining and providing to Buyer or its agent or representative information regarding the Property. The parties will share the cost of environmental assessments.

4. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason by notifying Seller before the end of the Inspection Period. If Buyer does not notify Seller of Buyer's termination of the contract before the end of the Inspection Period, Buyer waives the right to terminate this contract pursuant to this provision.

5. *Buyer's Indemnity and Release of Seller*

- a. *Indemnity.* Buyer will release Seller from any loss, attorney's fees, expenses, or claims arising out of Buyer's investigation of the Property, except those arising out of the acts or omissions of Seller and those for repair or remediation of existing conditions discovered by Buyer's inspection. The obligations of Buyer under this provision will survive termination of this contract and closing.
- b. *Release.* Buyer releases Seller and those persons acting on Seller's behalf from all claims and causes of action (including claims for attorney's fees and court and other costs) resulting from Buyer's investigation of the Property.

6. *Recording of PEC agreements.* The parties agree that the agreements Seller has with Pedernales Electric Cooperative (PEC) dated December 16, 2008 and January 29, 2009 regarding easements will be recorded in the Hays County Real Property Records before closing.

## **H. Representations**

The parties' representations stated in Exhibit B are true and correct as of the Effective Date and must be true and correct on the Closing Date. Seller will promptly notify Buyer if Seller becomes aware that any of the representations are not true and correct.

## **I. Condition of the Property until Closing; Cooperation; No Recording of Contract**

1. *Maintenance and Operation.* Until October 1, 2025, Seller will (a) maintain the status quo of the property as it existed on the Effective Date, except for reasonable wear and tear and casualty damage; (b) use the Property in the same manner as it was used on the Effective Date; [and] (c) comply with all contracts, laws, and governmental regulations affecting the Property and (d) not transfer or dispose of any of the Personal Property, except to sell inventory, replace equipment, and use supplies in the normal course of operating the Property. Until the end of the Inspection Period, Seller will not enter into, amend, or terminate any contract that affects the Property other than in the ordinary course of operating the Property and will promptly give notice to Buyer of each new, amended, or terminated contract, including a copy of the contract, in sufficient time so that Buyer may consider the new information before the end of the Inspection Period. If Seller's notice is given within three days before the end of the Inspection Period, the Inspection Period will be extended for three days. After the end of the Inspection Period, Seller may not enter into, amend, or terminate any contract that affects the Property without first obtaining Buyer's written consent. The parties may enter into a Memorandum of Understanding if necessary to allow such maintenance.

2. *Patrol.* Until October 1, 2025, Seller will provide status quo patrolling of the Property for enforcement of City, County, and State Statutes. The parties may enter into a Memorandum of Understanding if necessary to allow such patrols and enforcement.

3. *Use of Property.* Buyer is required to use Property in the same current recreational park and open space manner in perpetuity. If Buyer ever ceases to maintain any portion of the entire Property as a public park the Property will automatically revert to the ownership of the Seller. Buyer agrees to provide and impose the same access, privileges, rights, and any and all fees for use of the Property to all Hays County, Texas, residents. Buyer is required to always retain the same identifying names for the Parks that are encompassed by this Contract (i.e. Five Mile Dam Park, Dudley Connaly Johnson Park, and Randall Wade Vetter Park).

4. *Casualty Damage.* Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is damaged by casualty before closing. Buyer may terminate this contract if the casualty damage that occurs before closing would materially affect Buyer's intended use of the Property, by giving notice to Seller within fifteen days after receipt of Seller's notice of the casualty (or before closing if Seller's notice of the casualty is received less than fifteen days before closing).

5. *Condemnation.* Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Buyer may terminate this contract if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller within fifteen days after receipt of Seller's notice to Buyer (or before closing if Seller's notice is received less than fifteen days before closing). The condemnation will be deemed to materially affect Buyer's intended use if the land may not be used as a public park area. If Buyer does not terminate this contract, (a) Buyer and Seller will each have the right to appear and defend their respective interests in the Property in the condemnation proceedings, (b) any award in condemnation will be assigned to Buyer, and (c) if the taking occurs before closing, the description of the Property will be revised to delete the portion taken



6. *Claims; Hearings.* Seller will notify Buyer promptly after Seller receives notice of any claim or administrative hearing that is threatened, filed, or initiated before closing that involves or directly affects the Property.

7. *Cooperation, especially in annexation.* Seller will cooperate with Buyer (a) before and after closing, to transfer the applications, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after closing and (b) before closing, with any reasonable evaluation, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer. Seller specifically agrees to cooperate and support the annexation of the Property in Buyer's corporate limits throughout Buyer's annexation processes.

8. *No Recording.* Buyer may not file this contract or any memorandum or notice of this contract in the real property records of any county. If, however, Buyer records this contract or a memorandum or notice, Seller may terminate this contract and record a notice of termination.

9. *Dam Repair.* Seller will make simple repairs as recommended within the new dam inspection report currently underway. For extensive repairs identified in the new report, Seller will work with Buyer to discuss options at that time..

10. *Managed Access.* Buyer is evaluating managed access infrastructure for riverfront parks along the San Marcos River. If within five (5) years of the executed date of this contract the Buyer installs managed access infrastructure for the Property, the Seller will contribute \$50,000 toward the managed access infrastructure in exchange for free access to all Hays County, Texas residents.

## **J. Termination**

*Duties after Termination.* If this contract is terminated, Buyer will promptly return to Seller all of Seller's records in Buyer's possession or control. After return of the documents and copies, neither party will have further duties or obligations to the other under this contract, except for those obligations that cannot be or were not performed before termination of this contract or that expressly survive termination of this contract.

## **K. Closing**

1. *Closing.* This transaction will close at Title Company's offices at the Closing Date. At closing, the following will occur:

- a. *Closing Documents; Title Company Documents.* The parties will execute and deliver the Closing Documents and any documents required by Title Company.
- b. *Disbursement of Funds; Recording; Copies.* Title Company will be instructed to record the deed and the other Closing Documents directed to be recorded, and distribute documents and copies in accordance with the

parties' written instructions.

- c. *Delivery of Originals.* Seller will deliver to Buyer the originals of Seller's Records.
- d. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing.

2. *Transaction Costs*

*Seller's Costs.* Seller will pay half of the basic charge for the Title Policy; the costs to prepare the deed; half of the costs to obtain, deliver, and record releases of any liens required to be released in connection with the sale; half of the costs to record documents to cure Title Objections agreed or required to be cured by Seller and to resolve matters shown in Schedule C of the Title Commitment; half of the costs to obtain the Survey, Environmental assessments, and Appraisals; half of the costs to deliver copies of the instruments described in paragraph A.5. and Seller's records; any other costs expressly required to be paid by Seller in this contract; and Seller's attorney's fees and expenses.

3. *Issuance of Title Policy.* Seller will cause Title Company to issue the Title Policy to Buyer as soon as practicable after closing.

**L. Default and Remedies**

1. *Seller's Default; Remedies before Closing.* If Seller fails to perform any of its obligations under this contract or if any of Seller's representations is not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer may elect either of the following as its sole and exclusive remedy before closing:

- a. *Termination* Buyer may terminate this contract by giving notice to Seller on or before the Closing Date and Closing.
- b. *Specific Performance.* Unless Seller's Default relates to the untruth or incorrectness of Seller's representations for reasons not reasonably within Seller's control, Buyer may enforce specific performance of Seller's obligations under this contract, but any such action must be initiated, if at all, within ninety days after the breach or alleged breach of this contract. If title to the Property is awarded to Buyer, the conveyance will be subject to the matters stated in the Title Commitment.

2. *Seller's Default; Remedies after Closing.* If Seller's representations are not true and correct at closing for reasons reasonably within Seller's control and Buyer does not become aware of the untruth or incorrectness until after closing, Buyer will have all the rights and



remedies available at law or in equity. If Seller fails to perform any of its obligations under this contract that survive closing, Buyer will have all rights and remedies available at law or in equity unless otherwise provided by the Closing Documents.

3. *Buyer's Default; Remedies before Closing.* If Buyer fails to perform any of its obligations under this contract ("Buyer's Default"), Seller may terminate this contract by giving notice to Buyer on or before closing.

4. *Buyer's Default; Remedies after Closing.* If Buyer fails to perform any of its obligations under this contract that survive closing, Seller will have all rights and remedies available at law or in equity unless otherwise provided by the Closing Documents.

5. *Attorney's Fees.* If either party retains an attorney to enforce this contract, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

## **M. Miscellaneous Provisions**

1. *Notices.* Any notice required by or permitted under this contract must be in writing. Any notice required by this contract 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 contract. 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, provided that (a) any notice received on a Saturday, Sunday, or national holiday will be deemed to have been received on the next day that is not a Saturday, Sunday, or national holiday and (b) any notice received after 5:00 P.M. local time at the place of delivery on a day that is not a Saturday, Sunday, or national holiday will be deemed to have been received on the next day that is not a Saturday, Sunday, or national holiday. Any address for notice may be changed by not less than ten days' prior written notice delivered as provided herein. Copies of each notice must be given by one of these methods to the attorney of the party to whom notice is given.

2. *Entire Agreement.* This contract, its exhibits, and any Closing Documents delivered at closing are the entire agreement of the parties concerning the sale of the Property by Seller to Buyer. There are no representations, warranties, agreements, or promises pertaining to the Property or the sale of the Property by Seller to Buyer, and Buyer is not relying on any statements or representations of any agent of Seller, that are not in those documents.

3. *Amendment.* This contract may be amended only by an instrument in writing signed by the parties.

4. *Prohibition of Assignment.* Buyer may not assign this contract or any of Buyer's rights under it without Seller's prior written consent, and any attempted assignment is void. The consent by Seller to any assignment by Buyer will not release Buyer of its obligations under this contract, and Buyer and the assignee will be jointly and severally liable for the performance of

those obligations after any such assignment. This contract binds, benefits, and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

4. *Assignment.* Buyer may assign this contract and Buyer's rights under it only to an entity in which Buyer possesses, directly or indirectly, the power to direct or cause the direction of its management and policies, whether through the ownership of voting securities or otherwise, and any other assignment is void. No such assignment releases Buyer of its obligations under this contract, and Buyer and the assignee will be jointly and severally liable for the performance of such obligations after any such assignment.

5. *Survival.* The provisions of this contract that expressly survive termination or closing and other obligations of this contract that cannot be performed before termination of this contract or before closing survive termination of this contract or closing, and the legal doctrine of merger does not apply to these matters. If there is any conflict between the Closing Documents and this contract, the Closing Documents control.

6. *Choice of Law; Venue.* This contract is to be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Hays County.

7. *Waiver of Default.* Default is not waived if the nondefaulting party fails to declare a default immediately or delays taking any action with respect to the default.

8. *No Third-Party Beneficiaries.* There are no third-party beneficiaries of this contract.

9. *Severability.* If a provision in this contract is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this contract, and this contract is to be construed as if the unenforceable provision is not a part of the contract.

10. *Ambiguities Not to Be Construed against Party Who Drafted Contract.* The rule of construction that ambiguities in a document are construed against the party who drafted it does not apply in interpreting this contract.

11. *No Special Relationship.* The parties' relationship is an ordinary commercial relationship, and the parties do not intend to create the relationship of principal and agent, partners, joint venturers, or any other special relationship.

12. *Counterparts.* If this contract is executed in multiple counterparts, all counterparts taken together constitute this contract. Copies of signatures to this contract are effective as original signatures.

13. *Binding Effect.* This contract binds, benefits, and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

Title Company acknowledges receipt of a copy of this contract executed by both Buyer



and Seller.

County of Hays

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

City of San Marcos

  
Stephanie Reyes, City Manager

12/2/2024  
Date

Independence Title Company

\_\_\_\_\_  
Dawn Stitch, Escrow Officer

Date: \_\_\_\_\_

**Exhibit A**  
**Description of the Land [and Personal Property]**

All personal property associated with the Land and Improvements.

The following described property:

Being all that property described in those deeds recorded in Volume 258, Page 817, Volume 1872, Page 395, Volume 2396, Page 630, Volume 2396, Page 634, Volume 2396, Page 639, Volume 2396, Page 647, Volume 2397, Page 349 Volume 2397, Page 357 Volume 2397, Page 363, and Volume 2397, Page 370, the parties agreeing to amend this description if title research requires such action.

**Exhibit B**  
**Representations; Environmental Matters**

**A. Seller's Representations to Buyer**

Seller represents to Buyer that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

1. *Authority.* Seller is a political subdivision of the State of Texas, validly existing, and in good standing under the laws of the state of Texas with authority to perform its obligations under this contract. This contract is binding on Seller. This contract is, and all documents required by this contract to be executed and delivered to Buyer at closing will be, duly authorized, executed, and delivered by Seller.
2. *Litigation.* Seller has not received written notice and has no actual knowledge of any litigation pending or threatened against Seller that might affect the Property or Seller's ability to perform its obligations under this contract
3. *Violation of Laws.* Seller has not received written notice of violation of any law, ordinance, regulation, or requirements affecting the Property or Seller's use of the Property.
4. *Licenses, Permits, and Approvals.* Seller has not received written notice that any license, permit, or approval necessary to use the Property in the manner in which it is currently being used has expired or will not be renewed on expiration or that any material condition will be imposed to use or renew the same.
5. *Condemnation; Zoning; Land Use; Hazardous Materials.* Seller has not received written notice of any condemnation, zoning, or land-use proceedings affecting the Property or any written inquiries or notices by any governmental authority or third party with respect to condemnation or the presence of hazardous materials affecting the Property.
6. *No Other Obligation to Sell the Property or Restriction against Sale.* Except for granting a security interest in the Property, Seller has not obligated itself to sell all or any portion of the Property to any person other than Buyer. Seller's performance of this contract will not cause a breach of any other agreement or obligation to which Seller is a party or to which it is bound.
7. *No Liens.* On the Closing Date, the Property will be free and clear of all mechanic's and materialman's liens and other liens and encumbrances of any nature not arising by, through, or under Buyer except the Permitted Exceptions or liens to which Buyer has given its consent in writing, and no work or materials will have been furnished to the Property by Seller that might give rise to mechanic's, materialman's, or other liens against the Property other than work or materials to which Buyer has given its consent in writing.
8. *No Other Representation.* Except as stated above or in the notices, statements, and certificates set forth in Exhibit D, Seller makes no representation with respect to the Property.

9. *No Warranty.* Seller has made no warranty in connection with this contract.

**B. "As Is, Where Is"**

THIS CONTRACT IS AN ARM'S-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE PRICE WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION AND REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT THOSE IN THIS CONTRACT AND THE CLOSING DOCUMENTS.

BUYER IS NOT RELYING ON ANY REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES OTHER THAN THOSE EXPRESSLY CONTAINED IN THIS CONTRACT AND THE CLOSING DOCUMENTS. BUYER IS NOT RELYING ON ANY INFORMATION REGARDING THE PROPERTY PROVIDED BY ANY PERSON, OTHER THAN BUYER'S OWN INSPECTION AND THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS CONTRACT AND THE CLOSING DOCUMENTS.

The provisions of this section B regarding the Property will not be included in the deed.

**C. Environmental Matters**

AFTER CLOSING, BUYER RELEASES SELLER FROM LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY (1) UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE; OR (2) ARISING AS THE RESULT OF THEORIES OF PRODUCTS LIABILITY AND STRICT LIABILITY, OR UNDER NEW LAWS OR CHANGES TO EXISTING LAWS ENACTED AFTER THE EFFECTIVE DATE THAT WOULD OTHERWISE IMPOSE ON SELLERS IN THIS TYPE OF TRANSACTION NEW LIABILITIES FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY. **[Include if applicable: THIS RELEASE APPLIES EVEN WHEN THE ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY RESULT FROM SELLER'S OWN NEGLIGENCE OR THE NEGLIGENCE OF SELLER'S REPRESENTATIVE.]**

The provisions of this section C regarding the Property will not be included in the deed.

**D. Buyer's Representations to Seller**

Buyer represents to Seller that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

1. *Authority.* Buyer is a political subdivision duly organized, validly existing, and in good standing under the laws of the state of Texas with authority to perform its obligations under this contract. This contract is binding on Buyer. This contract is, and all documents required by this contract to be executed and delivered to Seller at closing will be, duly authorized, executed, and delivered by Buyer.



## **Exhibit C**

### **Seller's Records**

To the extent that Seller has possession or control of the following items pertaining to the Property, Seller will deliver or make the items or copies of them available to Buyer by the deadline stated in paragraph A.7.:

#### **Governmental**

- governmental licenses, certificates, permits, and approvals
- tax statements for the current year and the last 5 years
- notices of appraised value for the current year and the last 5 years
- records of any tax exemption, special use, or other valuation or exemption applicable to the Property
- records of regulatory proceedings or violations (for example, condemnation, environmental)

#### **Land**

- soil reports
- environmental reports and other information regarding the environmental condition of the Property
- water rights
- engineering reports
- prior surveys
- site plans

#### **Facilities**

- as-built plans, specifications, and mechanical drawings for improvements
- warranty agreements
- management, employment, labor, service, equipment, supply, and maintenance agreements

insurance policies

ADA and other building inspection reports

engineering reports

environmental reports

operating and maintenance plans (for example, asbestos maintenance plans)

life-safety plans

other:

### **Financial**

annual operating statements for the most recent 5 years of operation

monthly operating statements since the close of the last fiscal year

balance sheet as of November 1, 2024

books and records for the Property

utility bills for the most recent 6 months of operation

### **Leases**

Leases

commission and leasing agent agreements

rent roll setting forth for each Lease:

tenant's name

square footage leased

date of expiration of current and renewal terms

renewal options

basic rent and formula for any additional rents

amount of additional rent paid during the last 6 months

prepaid rent

delinquent rent  
security deposit  
current tenant or landlord defaults  
options to purchase any portion of the Property  
rights of first refusal to lease other space  
rights to rent concessions, tenant improvements, or other allowances  
unpaid or contingent brokerage commissions (including commission on renewals)  
estoppel letters and/or subordination agreements

**Licenses, Agreements, and Encumbrances**

all licenses, agreements, and encumbrances (including all amendments and exhibits)  
affecting title to or use of the Property that have not been recorded in the real  
property records of the county or counties in which the Property is located

## **Exhibit D**

### **Notices, Statements, and Certificates**

The notices, statements, and certificates (arranged by their application to particular transactions) that are listed below are included in the sales contract and attached for delivery to Buyer, and Buyer acknowledges receipt of the notices, statements, and certificates by executing this contract:

#### **A. Consumer Notices**

*Notice of Cancellation.* Notice concerning the purchaser's three-day right of rescission under a contract to purchase real property if (1) the seller or the seller's agent solicits the sale at a place other than the seller's place of business; (2) the purchaser submits the purchase contract to the seller or the seller's agent at a place other than the seller's place of business; and (3) the consideration payable under the purchase contract exceeds \$100; unless either (1) the purchaser is represented by a licensed attorney; (2) the transaction is negotiated by a licensed real estate broker; or (3) the transaction is negotiated at a place other than the purchaser's residence by the person who owns the property, as described in chapter 601 of the Texas Business and Commerce Code.

#### **B. Residential Transaction Notices**

1. *Seller's Disclosure of Property Condition.* Seller's disclosure of the condition of residential property, described in section 5.008 of the Texas Property Code.

2. *Notice of Membership in Property Owners Association.* Notice concerning the sale of single-family residential property that is subject to membership in a property owners association, described in section 5.012 of the Texas Property Code.

3. *Seller's Disclosure of Location of Conditions under Surface of Unimproved Real Property.* Seller's disclosure of the location of pipelines under the surface of unimproved property to be used for residential purposes, described in section 5.013 of the Texas Property Code. A seller of unimproved property to be used for residential purposes shall provide the purchaser written notice disclosing the location of any transportation pipeline to the best of the seller's belief and knowledge as of the date the notice is completed and signed by the seller. If the information required to be disclosed is not known by the seller, the seller shall indicate that fact in the notice. A seller is not required to give this notice if (a) the seller is obligated under the terms of the contract to furnish a title insurance commitment to the buyer before closing and (b) the buyer is entitled to terminate the contract if the buyer's objections to title as permitted by the contract are not cured by the seller before closing.

4. *Notice of Obligation to Pay Public Improvement District Assessment.* Seller's disclosure that a single-family residential property is located within a public improvement district, described in section 5.014 of the Texas Property Code.



5. *Residential Contracts for Deed.* Notice regarding the sale of property used or to be used as the purchaser's residence if the contract does not provide for delivery of a deed from the seller to the purchaser within 180 days after the final execution of the contract.

6. *Notice Regarding Insulation to Buyer of New Home.* Notice concerning insulation to be installed in a new home, described in section 460.16 of title 16 of the Code of Federal Regulations.

7. *Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards.* Lead-based paint warning statement, described in section 745.100 *et seq.* of title 40 of the Code of Federal Regulations.

8. *Asbestos Disclosure Notice.* Notice concerning asbestos, described in sections 1910.1001 and 1926.1101 of title 29 of the Code of Federal Regulations.

9. *Notice Regarding Sale Subject to a Recorded Lien.* Notice to the purchaser and each lienholder required under Texas Property Code section 5.016 that property being sold will be conveyed subject to a lien.

#### **C. Condominium Transaction Notices**

1. *Acknowledgment of Receipt of Condominium Documents.* Condominium declaration, bylaws, and association rules, described in section 82.156 of the Texas Property Code.

2. *Condominium Resale Certificate.* Resale certificate from the condominium owners association or waiver of resale certificate, described in section 82.157 of the Texas Property Code.

#### **U. All Real Property Transaction Notices**

1. *Storage Tanks Disclosure Provider.* Notice concerning underground storage tanks, described in section 334.9 of title 30 of the Texas Administrative Code.

2. *Notice to Purchaser Regarding Restrictive Covenants.* Notice of deed restrictions, described in section 212.155 of the Texas Local Government Code.

3. *Notice to Purchaser Regarding Coastal Area Property.* Notice regarding real property located adjacent to tidally influenced, submerged lands of Texas, described in section 33.135 of the Texas Natural Resources Code.

4. *Notice to Purchaser of Property Seaward of Gulf Intracoastal Waterway.* Notice concerning public easements to the public beach, described in section 61.025 of the Texas Natural Resources Code.

5. *Notice Regarding Possible Liability for Additional Taxes.* Notice of additional tax liability for vacant land that has been subject to a special tax appraisal method, described in section 5.010 of the Texas Property Code.

6. *Notice Regarding Possible Annexation.* Notice concerning the sale of property located outside the limits of a municipality that may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality, described in section 5.011 of the Texas Property Code.

7. *Notice for Unimproved Property in a Certificated Service Area of a Utility Service Provider.* Notice for property in a certificated service area of a utility service provider, described in section 13.257 of the Texas Water Code.

8. *Utility District Notice.* Notice concerning the bonded indebtedness of, or rates to be charged by, a utility or other special district, described in section 49.452 of the Texas Water Code, with the form of notice to be used being dependent on whether the property (a) is located in whole or in part within the extraterritorial jurisdiction of one or more home-rule municipalities but is not located within the corporate boundaries of a municipality, (b) is located in whole or in part within the corporate boundaries of a municipality, or (c) is not located in whole or in part within the corporate boundaries of a municipality or the extraterritorial jurisdiction of one or more home-rule municipalities.

9. *Notice to Purchaser of Property Located in Certain Annexed Water Districts.* Notice required by section 54.016(h)(4)(A) of the Texas Water Code when property being sold is in a water or sanitary sewer district that entered a contract with a city with a population of 1.18 million or less under which the city is permitted to set rates in the district after annexation that are different from rates charged other residents of the city.

10. *Notice to Purchaser that Property Is Located within the Area of the Alignment of a Transportation Project.* Notice required under Texas Local Government Code section 232.0033 that all or part of the subdivision in which the property being sold is located is within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to a future transportation corridor identified in a contract between the Texas Department of Transportation and a county under Texas Transportation Code section 201.619.

11. *Certificates of Mold Remediation.* Notice pursuant to section 1958.154 of the Texas Occupations Code, titled "Certificate of Mold Remediation; Duty of Property Owner," requiring a property owner who sells property that has been issued a certificate of mold remediation pursuant to this section to deliver copies to the purchaser of each certificate of mold remediation issued for the property within the preceding five years.