

This SECOND AMENDED AND RESTATED DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of the ____ day of September, 2018⁴ (the "Effective Date"), by and between the **CITY OF SAN MARCOS, TEXAS**, a Texas municipal corporation (the "City"), Hays County, Texas (the "County"), and **LAZY OAKS RANCH, LP**, a Texas Limited Partnership ~~dba La Cima San Marcos~~ ("LOR") ~~or the "Owner"~~, LCSM Ph. 1-1, LLC, a Texas limited liability company as partial assignee of LOR ("LCSM Ph.1-1"), LCSM Ph. 1-2, LLC, a Texas limited liability company as partial assignee of LOR ("LCSM Ph.1-2").- La Cima Commercial, LP a Texas partnership as a partial assignee of LOR ("La Cima Commercial"), and LCSM West, LP, a Texas limited partnership ("LCSM West" -and, together with LOR, LCSM Ph.1-1, LCSM Ph. 1-2, and La Cima Commercial, the "Owner")-. The City and Owner are sometimes hereinafter referred to individually as "Party", and collectively as the "Parties". The Parties agree as follows:

PURPOSES AND CONSIDERATIONS

WHEREAS, the City and ~~LOR~~Owner entered into that certain Amended and Restated Development Agreement dated September 16, 2014~~February 5, 2013~~, approved by Resolution 20143-1314~~8~~R and recorded under Document Number 20143-1403206243005585 in the Official Public Records of Hays County, Texas (the "Existing Development Agreement"), related to that certain 2,029.0231,396.90 acre, more or less, parcel of land ("the "Existing Property") located in the Extraterritorial Jurisdiction ("ETJ") of the City, Hays County, Texas, and more particularly described in **Exhibit "A"** attached hereto and incorporated herein for all purposes;

WHEREAS, Owner has acquired an adjoining 1.15 acre, more or less, parcel of land located in the ETJ of the City, Hays County, Texas, and more particularly described in Exhibit "B-1" attached and incorporated herein for all purposes and an adjoining 2.303 acre, more or less, parcel of land located in the ETJ of the City, Hays County, Texas, and more particularly described in Exhibit "B-2" attached and incorporated herein for all purposes (collectively, the "La Cima Outparcels");

WHEREAS, Owner has acquired an adjoining 390.52 acre, more or less, -634.59 acre, more or less, parcel of land ~~(the "Additional Property")~~ located in the ETJ of the City, Hays County, Texas, and more particularly described in **Exhibit "CB"** attached and incorporated herein for all purposes (the "Wootan Tract" and, together with the La Cima Outparcels, the "Additional Property");;

~~WHEREAS, Owner has acquired an adjoining 23.823 acre, more or less, parcel of land located in the ETJ of the City, Hays County, Texas, and more particularly described in Exhibit "C" (the "Received Exchange Property") in exchange for the transfer of a 23.823 acre parcel and a 2.467 acre parcel out of the Existing Property as more particularly described in Exhibit "D" (the "Transferred Exchange Property") the Existing Property and the Additional Property are depicted on Exhibit "D" attached hereto and incorporated herein for all purposes;~~

WHEREAS, Owner desires to develop the Existing Property ~~(save and except for the Transferred Exchange Property), the Received Exchange Property,~~ and the Additional Property (collectively, the "Property") totaling 2,422.996-2,029.023 acres of land as a single family residential, limited nonresidential and conservation, preservation and open space development generally to foster a walkable and bikeable community in accordance with the **Conceptual Land Use Plan**, as more particularly described in **Exhibit "E"** attached hereto and incorporated herein for all purposes and under the name La Cima San Marcos (the "Project");

WHEREAS, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use or timber land under Chapter 23, Texas Tax Code;

WHEREAS, the City is authorized by Section 43.035 of the Texas Local Government Code to offer to

make a development agreement with the owner of land appraised for such purposes pursuant to Section 212.172 of the Texas Local Government Code to defer the annexation of the property until the land owner files a subdivision plat or other development application for any portion of the property;

WHEREAS, by entering into this Agreement, Owner has accepted the City's offer to enter into a development agreement pursuant to both Section 43.035 and Section 212.172 of the Texas Local Government Code with the mutual understanding that this Agreement shall constitute a permit for the purposes of Chapter 245 of the Texas Local Government Code;

WHEREAS, an area adjacent or contiguous to an area that is subject of development agreement entered into under Section 43.035 and Section 212.172 of the Texas Local Government Code is considered to be adjacent or contiguous to the municipality; and

WHEREAS, the City is authorized to amend the Existing Development Agreement and to make and enter into this Agreement with Owner in accordance with Subchapter G, Chapter 212, Local Government Code and Chapters 1 and 2 of the City's Land Development Code ("LDC"), to accomplish the following purposes:

- A. Extend the City's planning authority in accordance with the Conceptual Land Use Plan and the development regulations contained herein under which certain uses and development of the Property is authorized; and
- B. Authorize enforcement by the City of municipal land use and development regulations as applicable; and
- C. Authorize enforcement by the City of land use and development regulations other than those that apply within the City's boundaries, as may be agreed to by the Parties and included in this Agreement; and
- D. Specify the uses and development of the Property before and after annexation; and
- E. Provide for infrastructure including, but not limited to, stormwater drainage and water, wastewater and other utility systems; and
- F. Include such other lawful terms and considerations the Parties consider appropriate.

NOW THEREFORE, the City and Owner in consideration of the premises, the mutual covenants and agreements of the Parties hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, hereby amend and restate the Existing Development Agreement and agree as follows:

SECTION 1: GENERAL TERMS AND CONDITIONS

1.01 Conceptual Land Use Plan

The City hereby approves the general use and development of the Property in accordance with the Conceptual Land Use Plan, which is incorporated herein as **Exhibit "E"**. **Exhibit "F"** separately shows the proposed Open Space that is part of the Conceptual Land Use Plan. The Conceptual Land Use Plan shall constitute the land use plan under Section 1.4.2.4(g) of the LDC. The Conceptual Land Use Plan may be amended from time to time in accordance with the processes and procedures outlined in Section 1.4.2.6(c) of the City's LDC. Development applications for the Property shall be consistent with the Conceptual Land Use Plan. ~~The Transferred Exchange Property is hereby released from, and no longer subject to the terms and conditions of, this Agreement and/or the Existing Development Agreement.~~

1.02 Annexation

Upon approval of this Agreement, Owner agrees to the full purpose annexation of the Property at

the time the corporate limits of the City becomes adjacent to the Property. Provided, however, that the City hereby agrees to phase the annexation of the Property as follows: At the time the City's corporate limits become adjacent to the Property, the City may initiate the full purpose annexation of all or any portion of the Property on which a final subdivision plat has been recorded. Upon annexation of all or any portions of the Property, the applicant shall initiate a zoning change for said annexed portions to establish a zoning district(s) that is (are) consistent with the terms and conditions of this Agreement. The City hereby guarantees the continuing ETJ status of the remainder of the Property not subject to a final recorded plat until such time that a final plat is recorded for all or any portion of such remainder of the Property. The Parties hereby agree that all applicable regulations and planning authority of the City's LDC may be enforced on the Property. The limitations on the City's annexation authority shall apply only during the term of this Agreement.

1.03 Governing Development Regulations

- A. Development of the Property shall be governed by the following:
 - 1. The Conceptual Land Use Plan and this Agreement; and
 - 2. The applicable provisions of the City's LDC and Ordinances;
 - 3. The applicable provisions of the Development Regulations of Hays County; and
 - 4. Construction plans and final plats for all or any portion of the Property that are approved from time to time by the City (collectively, the "Approved Plats").
 - 5. The Parties acknowledge that prior to or concurrent with the submittal of the first plat application for development on the Property or any portion thereof, a Traffic Impact Analysis (the "TIA") will be required. At the time of submittal of the TIA, the traffic impacts shall be evaluated based on the full build-out development of the entire project (as defined in Section 1.04, below) and not on the individual plat.
 - 6. Applicable provisions of the Texas Local Government Code, and other state and federal laws ("Other Laws").
 - 7. In the event of a conflict between the City's and/or County's development regulations and the Owner's rights under this Agreement, this Agreement shall control.
- B. The Conceptual Land Use Plan, this Agreement, the LDC, the Approved Plats, the Required Studies and Other Laws shall hereinafter be referred to collectively as the "Governing Regulations."
- C. Plat Approval: Owner and the City agree that the approved land uses in each final plat of portions of the Property shall be consistent with the Conceptual Land Use Plan, as may be amended from time to time.
- D. Enforcement: The Parties agree that the City and County shall be entitled to enforce all applicable municipal land use and development regulations for the Property and the Governing Regulations.
- E. No Contractual Enlargement of Exemption from City Standards: Notwithstanding any other provision in this Agreement, including references to such things as the "Governing Regulations" or the "Time of Submittal", this Agreement shall in no manner be construed to create any exemption from applicable ordinances or laws, entitlement or vesting of rights beyond what is expressly provided in Chapter 245. Owner specifically acknowledges that development of the Property shall be subject to the City's ordinances, regulations, and policies regarding water and sewer utility connections, including those that address development over the Edwards Aquifer Recharge Zone, as amended from time to time.
- F. The Governing Regulations shall be applicable to control the development of the Property. Unless otherwise specifically authorized by the City, the Property may not be developed to a lesser standard than that required by the Governing Regulations.
- G. Third Party Inspection Services: Unless an alternative is mutually agreed upon by the Parties, any plan review and building inspections conducted during the permitting process and through receipt of certificate of occupancy shall be conducted by a qualified, third-party plan review and inspection service, mutually agreed upon by the Parties, and results shall be provided in the City's permitting system.

1.04 Permitted Uses, Project Density and Dimensional and Development Standards

Owner envisions the development of the Property as a predominantly single family residential development with limited nonresidential development, open space, conservation and preservation areas in accordance with the Conceptual Land Use Plan. The existing topography and natural areas on the Property provide for opportunities to develop the Property as a conservation development where pods of smaller lot sizes may be clustered to provide for preservation of existing natural features and open space. The Property may be developed as a conservation development, a conventional development or a combination thereof. In order to achieve the maximum development flexibility possible within the Project, this Agreement establishes a variety of uses and lot types and sizes that may be developed on the Property.

A. Permitted Uses: The following uses shall be permitted on the Property in accordance with the City's zoning districts as defined on the Effective Date:

1. Residential: All permitted uses identified in the SF-R, Single Family Rural Residential District, SF-11, Single Family District, SF-6, Single Family District, SF-4.5, Single Family District, TH, Townhouse Residential District and the PH-ZL, Patio Home Zero Lot Line Residential District.

2. Nonresidential: All permitted uses identified in the NC, Neighborhood Commercial District shall be permitted within the ~~328.54 acre~~, 3 unit per acre portion of the Property depicted on the Conceptual Land Use Plan. All permitted uses identified in the CC, Community Commercial District shall be permitted within the Additional—Property depicted as Community Commercial on the Conceptual Land Use Plan up to a maximum of 200 acres. Nonresidential uses, if developed, are intended to be located at appropriate locations, such as along thoroughfare corridors or at the intersections of major thoroughfares, within the development.

~~2-3.~~ Multi-Family: All permitted uses identified in the MF-24, Multiple-Family Residential District shall be permitted within any portion of the Property depicted as Community Commercial on the Conceptual Land Use Plan (but excluding the La Cima Outparcels) up to a maximum of 30 acres; provided, however, that Purpose Built Student Housing (as established by City Ordinance NO. 2016-24) shall be prohibited.

~~3-4.~~ School Site. The Parties acknowledge that the Project is located within the San Marcos Consolidated Independent School District (the "District"). Owner shall dedicate up to a 12 acre site for a future elementary school to the District at the time of platting of such school site with a maximum impervious cover allocation equal to the greater of 55% of such site or 6.6 acres. The actual terms, size, timing, and location of the school site will be determined by Owner and the District.

~~4-5.~~ Fire/Police/EMS Station; Transit Stops. Owner has transferred to the City shall dedicate up to a 3.505 acre site, located no more than one-third mile driving distance from the intersection of Old Ranch Road 12 and Wonder World Drive, for a future fire station and/or police or EMS station, ~~to the City at the time of platting of any portion of the Property or by October 1, 2016, whichever is sooner.~~ Such site shall have a maximum impervious cover allocation equal to ~~the greater of 60% of such site or 2.1 acres. The actual terms, size, and location of the fire and/or police station site will be determined by Owner and the City.~~ Transit stop locations will be determined by Owner and City at the time of platting of such locations.

~~5-6.~~ Conditional uses authorized in the above residential and nonresidential base districts shall only be permitted if approved by the City in accordance with the procedures and requirements of the City's LDC. Any proposed use, other than a Corporate Campus or other office use, within a nonresidential area with a single tenant greater than 80,000 square feet in size shall require a Conditional Use Permit in accordance with the City's Land Development Code subject to a recommendations by the Planning and Zoning Commission and final approval by City Council.

~~6-7.~~ Notwithstanding anything in this Agreement or in the City's LDC or ordinances to the contrary, no extraction of or exploration for surface or sub-surface mineral resources or natural resources may be conducted on the Property, including but not limited to quarries, borrow pits, sand or gravel operations, oil or gas exploration or extraction activities, and mining operations. This prohibition shall not be interpreted to prohibit excavation of soil in

connection with the development of the Property consistent with this Agreement.

B. Project Density: The Project shall be restricted to a maximum of 2,~~800~~~~400~~ dwelling units for an overall project density of 1.~~16~~~~18~~ units per acre (“UPA”). Project density shall be further restricted as follows:

1. approximately ~~706.59~~~~378.08~~ acres of the ~~Additional~~ Property located east of Purgatory Creek as illustrated on the Conceptual Land Use Plan shall be restricted to a maximum of 3 units per acre and all lot types provided for in Section 1.04.C of this Agreement are permitted, provided, however, that any portion of the maximum 200 acres of nonresidential as permitted in Section 1.04.A.2. of this Agreement not developed for nonresidential may also be developed for residential uses in accordance with these density and lot type restrictions;
2. the approximately ~~712.75~~~~328.51~~ acres ~~of the Property residential area~~ located westeast of Purgatory Creek ~~and adjacent to the San Marcos Academy property that is part of the Property as illustrated on the Conceptual Land Use Plan~~ shall be restricted to a maximum of 23 units per acre and all lot types provided for in Section 1.04.C of this Agreement are permitted; and
- ~~3. the approximately 249.84 acre residential area located west of Purgatory Creek and being the southern portion of the residential permitted west of Purgatory Creek that is part of the Existing Property as illustrated on the Conceptual Land Use Plan shall be restricted to a maximum of 2 units per acre and the Single Family Residential Estate and Single Family Residential Rural Lots provided for in Sections 1.04.C.1 and 1.04.C.2 of this Agreement;~~
- ~~4. the approximately 72.39 acre residential area located west of Purgatory Creek and being the northern portion of the residential permitted west of Purgatory that is part of the Existing Property as illustrated on the Conceptual Land Use Plan shall be restricted to a maximum of 1 unit per acre and the Single Family Residential Estate Lots as provided for in Section 1.04.C.1 of this Agreement;~~
- ~~5. if the first series of PID bonds have not been issued all of the 259.2 acres designated as the “Additional Conservation Open Space or Proposed Habitat (RHCP) Preserve” area on Exhibit “F” shall cease to be so designated in the Conceptual Land Use Plan and may be developed as residential restricted to a maximum of 1 unit per acre and the Single Family Residential Estate Lots as provided for in Section 1.04.C.1 of this Agreement; and~~
- ~~6.3.~~ Project density may be distributed evenly or may be clustered utilizing a conservation or clustered development plan provided that the maximum density for each of the designated areas above does not exceed the applicable the maximum density for such designated area and subject to the applicable use, lot type and size restrictions for such designated area, all as described herein and depicted on the Conceptual Land Use Plan.

C. Dimensional and Development Standards: The Property shall be developed in compliance with the following lot sizes, dimensions and development regulations:

1. Single Family Residential Estate Lots
 - Lot Area, Minimum: 43,560 sq. ft
 - Lot Width, Minimum: 150 feet
 - Lot Depth, Minimum: 200 feet
 - Lot Frontage, Minimum: 100 feet
 - Front Yard Setback, Minimum: 20 feet
 - Side Yard Setback, Interior, Minimum: 10 feet
 - Side Yard Setback, Corner, Minimum: 20 feet
 - Rear Yard Setback, Minimum: 20 feet
 - Building Height, Maximum: 2.5 stories
 - Impervious Cover, Maximum: 40%
2. Single-Family Residential Rural Lots
 - Lot Area, Minimum: 11,000 sq. ft.
 - Lot Width, Minimum: 80 feet
 - Lot Depth, Minimum: 100 feet

Lot Frontage, Minimum: 60 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 10 feet
Side Yard Setback, Corner, Minimum: 10 feet
Rear Yard Setback, Minimum: 10 feet
Building Height, Maximum: 2.5 stories
Impervious Cover, Maximum: 50%

3. Single Family Residential Manor Lots

Lot Area, Minimum: 6,000 sq. ft.
Lot Width, Minimum: 50 feet
Lot Depth, Minimum: 100 feet
Lot Frontage, Minimum: 35 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 5 feet
Side Yard Setback, Corner, Minimum: 10 feet
Rear Yard Setback, Minimum: 10 feet
Building Height, Maximum: 2 stories
Impervious Cover, Maximum: 60%

4. Single Family Residential Cottage Lots

Lot Area, Minimum: 4,500 sq. ft.
Lot Width, Minimum: 40 feet
Lot Depth, Minimum: 100 feet
Lot Frontage, Minimum: 35 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 5 feet
Side Yard Setback, Corner, Minimum: 10 feet
Rear Yard Setback, Minimum: 10 feet
Building Height, Maximum: 2 stories
Impervious Cover, Maximum: 60%

5. Garden/Patio Home/Zero Lot Line Homes

Lot Area, Minimum: 2,700 sq. ft.
Lot Width, Minimum: 28 feet
Lot Depth, Minimum: 90 feet
Lot Frontage, Minimum: 25 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 0/5 feet*
Side Yard Setback, Corner, Minimum: 10 feet*
Rear Yard Setback, Minimum: 5 feet
Garage Side Yard Setback Opposite House: 0 feet
Garage Setback from Front of House: 10 feet
Building Height, Maximum: 2 stories
Impervious Cover, Maximum: 75%

* Refer to Section 9 below for additional clarification regarding side yard setback. The primary structure/dwelling may be constructed with a 0 side yard on one side, and a side yard of not less than 5 feet on the other side. A detached accessory structure such as a garage or storage building may have a 0 side yard on the 5 foot side provided, however, the structure is located behind the rear façade of the primary building on the lot. On the 0 side, the structure may be set back a maximum of 1 foot. A 5 foot wide maintenance, drainage, and roof overhang easement extending the full depth of the lot shall be designated along the side property line which abuts the zero side yard on an adjacent lot, and shall be indicated on the Final Plat. In all cases, there shall be at least a 10 foot side yard on corner lots where adjacent to a street right-of-way or alley.

** To help achieve the flexibility envisioned and the goals for the development of the Project, the exceptions to the Lot Width to Depth ratio provided in Section 6.7.2.1(j) of the City's LDC shall include and be applicable to Garden/Patio Home/Zero Lot Line lots.

6. Townhouse Residential Lots

Lot Area, Minimum: 2,500 sq. ft.
Lot Width, Minimum: 25 feet
Lot Depth, Minimum: 90 feet
Lot Frontage, Minimum: 25 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 0 feet attached walls / 5 feet end walls
Side Yard Setback, Corner, Minimum: 10 feet
Rear Yard Setback, Minimum: 10 feet
Building Height, Maximum: 2 stories
Impervious Cover, Maximum: 75%

7. Mult-Family Residential M-24 Areas.

Lot Area, Minimum: 12,000 square feet
Units/Acre (Maximum/Gross Acre): 24.0
Lot Width, Minimum: 60
Lot Depth, Minimum: 100
Lot Frontage, Minimum: 60
Front Yard Setback, Minimum: 10
Side Yard Setback, Interior, Minimum: 10
Side Yard Setback, Corner, Minimum: 15
Rear Yard Setback, Minimum: 10
Building Height, Maximum: 4 stories
Impervious Cover, Maximum: 75%

~~7-8.~~ Nonresidential

Lot Area, Minimum: 6,000 sq. ft.
Lot Width, Minimum: 50 feet
Lot Depth, Minimum: 100 feet
Lot Frontage, Minimum: 50 feet
Front Yard Setback, Minimum: 10 feet
Side Yard Setback, Interior, Minimum: 5 feet
Side Yard Setback, Corner, Minimum: 10 feet
Rear Yard Setback, Minimum: 5 feet
Building Height, Maximum: N/A
Impervious Cover, Maximum: 80%

~~8. Lot Width to Depth Ratio~~

~~To help achieve the flexibility envisioned and the goals for the development of the Project, the exceptions to the Lot Width to Depth ratio provided in Section 6.7.2.1(j) of the City's LDC shall include and be applicable to Garden/Patio Home/Zero Lot Line lots.~~

~~9. Additional Setback Standards for Zero Lot Line Buildings~~

~~The primary structure/dwelling may be constructed with a 0 side yard on one side, and a side yard of not less than 5 feet on the other side. A detached accessory structure such as a garage or storage building may have a 0 side yard on the 5 foot side provided, however, the structure is located behind the rear façade of the primary building on the lot. On the 0 side, the structure may be set back a maximum of 1 foot. A 5 foot wide maintenance,~~

~~drainage, and roof overhang easement extending the full depth of the lot shall be designated along the side property line which abuts the zero side yard on an adjacent lot, and shall be indicated on the Final Plat. In all cases, there shall be at least a 10-foot side yard on corner lots where adjacent to a street right-of-way or alley.~~

10.9. Cluster/Conservation Development

To encourage cluster development within the Project, the following limitations on the location of the above residential lot types shall be applicable:

Slope Limitations	
Slope Gradient	Lot Types Permitted
0% to 15%	Single Family Residential Estate Lots Single Family Residential Rural Lots Single Family Residential Manor Lots Single Family Residential Cottage Lots Garden/Patio Home/Zero Lot Line Homes Townhouse Residential Lots
15% to 25%	Single Family Residential Rural Lots Single Family Residential Manor Lots Single Family Residential Cottage Lots Garden/Patio Home/Zero Lot Line Homes
Over 25%	Single Family Residential Estate Lots Single Family Residential Rural Lots Open Space and Conservation Areas

D. **Phasing:** A phasing plan shall be submitted with a Subdivision Concept Plat to ensure orderly development of the Project. Any portion of the Property developed as MF-24, Multiple-Family Residential District in accordance with Section 1.04.A.3 above shall be developed in a minimum of two phases with the first phase to be no more than 15 acres and any subsequent phases shall be deferred until after such first phase is complete and at least 75% occupied and at least 200 single-family homes have been completed and occupied.

E. **Architectural Design Standards**

Architecture and the built environment are important elements to the development of the Project. Due to the importance of these elements, all architectural styles should produce a cohesive visual framework while maintaining architectural variety. All architecture should reflect high quality and craftsmanship, both in design and construction. The use of unusual shapes, colors, and other characteristics that cause disharmony should be avoided. A Texas Hill Country style should be reflected through the use of natural materials and textures.

Achieving a high quality of architectural design for all buildings within the Development is considered a principal goal of these design standards. A variety of lot and dwelling types within the neighborhood should be encouraged. Careful design of a neighborhood can mix different housing types and price ranges. Reflecting the vision of the Project, these development standards call for exterior materials that express the natural environment and range of natural materials found in Central Texas.

The Owner shall record deed restrictions regulating the development of the Property which deed restrictions shall incorporate the standards and requirements of this section E. The deed restrictions shall be enforceable by a homeowner's association created by the Owner and shall be subject to the provisions of Section 1.09.

1. **Project Residential Architectural Design Standards**

a. A minimum of 100% of each residence on a Single Family Residential Estate lot in

accordance with Section 1.04.C.1, excluding doors, windows, fascia, trim, handrails, guardrails, decks, columns, etc., shall be masonry consisting of brick, stone, stucco or a combination thereof.

- b. A minimum of 80% of each residence on the lots identified in Section 1.04.C.2 – 1.04.C.6, excluding doors, windows, fascia, trim, handrails, guardrails, decks, columns, etc., shall be masonry consisting of brick, stone, stucco or a combination thereof.
 - c. The number of primary exterior materials shall be limited to three (3) excluding architectural accent features, roof materials, and windows or doors.
 - d. Exterior facades shall have a variety of earth tone colors including, but not limited to, reds, browns, light tans, natural and warm whites (stark whites shall be prohibited), buffs, beiges, creams and regionally quarried stone colors.
 - e. All facades of a building shall be of consistent design and treatment unless the building facade is not visible from public view.
 - f. The use of window awnings, overhangs and shutters is encouraged. Materials and colors shall be the same or complimentary to the exterior of the building.
 - g. All single family detached dwellings are encouraged to have front porches or porticos.
 - h. Detached garages are permitted and encouraged.
 - i. Detached garages with second level dwelling units are permitted provided, however, that second level dwelling units and the primary structure shall be on a single service meter and the occupancy restrictions of the City's LDC prohibiting occupancy by more than more than two unrelated persons will apply.
 - j. Corner dwelling units shall present a façade that is consistent in design and architecture to both streets.
 - k. Corner dwelling units are encouraged to have wrap around porches.
 - l. Corner lots shall have landscaping that is consistent in design and treatment on both street frontages.
 - m. Pool and HVAC equipment on corner lots shall be located on the interior side or rear property line.
 - n. Trash and waste containers shall be located in an area that is screened from public view.
 - o. These standards shall apply equally to additions and/or alterations to existing structures as well as to new structures. All accessory structures shall be constructed in such a manner so as to be compatible in look, style and materials as the primary structures on the project site.
 - p. Alternative design standards for all structures may be utilized upon review and approval by the Director of Development Services at the time of site planning. Any decision of the Director of Development Services may be appealed to the Planning and Zoning Commission.
2. Project Nonresidential Architectural Design Standards
- a. All facades shall use one or more of four native limestone colors: Lueders, Cordova Cream, Sandstone, and Shell Stone, or a similar matching manufactured stone. Comparable materials in color, finish, durability, and quality may be substituted for the referenced materials upon review and approval by the Director of Development Services, appealable to the Planning and Zoning Commission.
 - b. Architectural façades that clearly define a base, middle and cap are required. These materials should be responsive to climate, adjacent context, site orientation and building usage.
 - c. All buildings within the Project shall be designed with a high level of detail, with careful attention to the combination of and interface between materials. Materials chosen shall be appropriate for the theme and scale of the building, compatible with its location within the development, and expressive of the community's desired character and image. Details and materials shall be consistent on all sides of buildings.
 - d. A minimum of 80% of each building, excluding doors and windows, shall be masonry consisting of brick, stone, stucco, split face concrete units, or faux stone or brick.
 - e. Front facades shall be oriented towards the street right-of-way as appropriate.
 - f. Building entrances shall be recessed from the front façade or located under a shade

- device such as an awning or portico.
- g. Off-street parking areas shall be shielded from view from the right-of-way through the use of landscape plantings, landscape berms or a combination thereof.
- h. These standards shall apply equally to additions and/or alterations to existing structures as well as to new structures. All accessory structures shall be constructed in such a manner so as to be compatible in look, style and materials as the primary structures on the project site.
- g. Alternative design standards for all structures may be utilized upon review and approval by the Director of Development Services at the time of site planning. Any decision of the Director of Development Services may be appealed to the Planning and Zoning Commission.

3. Project Multi-Family Architectural Design Standards. Any portion of the Property developed as MF-24, Multiple-Family Residential District in accordance with Section 1.04.A.3 above shall be developed in accordance with the permitted uses and development standards for the MF-24, Multi-Family Residential District (including the multifamily residential design standards set forth in Ordinance 2014-35). Upon submittal of deed restrictions required in Section 1.09 below, the Owner shall meet or exceed the Building Design Section of such multifamily residential design standards. Any deviations from such multifamily residential design standards shall require approval of the City Council.

F. Additional Landscape Standards

In addition to the requirements of the City's LDC, the following landscape standards shall be applicable to the development of the Project:

1. The use of drought tolerant, native landscape materials, xeriscaping, active or passive rainwater collection, or a combination thereof, is strongly encouraged for all portions of the Project.
2. Where feasible, native vegetation shall be preserved and remain undisturbed and shall be maintained consistent with any installed landscaping.
3. Where possible, trees that are intended for removal should be relocated utilizing accepted transplanting or relocation practices. Any trees that are relocated may be counted towards any required tree preservation credits.
4. A minimum of 25% of the total lot area of a NC, Neighborhood Commercial lot and 10% of the total lot area of a CC, Community Commercial lot shall be dedicated to landscaping. The Corporate Campus shall have a minimum of 15% of the total lot area dedicated to landscaping. All landscape areas on nonresidential lots shall be provided with an irrigation system designed by a Texas Licensed Irrigator consisting of one of, or a combination of, an automatic underground spray or drip irrigation system or a hose attachment. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
5. Where a solid ground cover or lawn is proposed for the front yard of a residential lot, the use of an automatic spray or drip irrigation system is strongly encouraged. At a minimum, a hose attachment shall be required within 100 feet of all front yard landscaping to ensure proper hand watering/irrigation.
6. A minimum 100 foot wide tree preservation/open space landscape buffer setback shall be provided adjacent to the existing Fox Ridge single family residential subdivision along the northwest property line and along the portion of Purgatory Creek that borders the existing Settlement subdivision. The Conceptual Land Use Plan illustrates the location of this tree preservation/open space landscape buffer and provides GIS coordinates at various points along the buffer for reference. This tree preservation/open space landscape buffer is intended to serve as a buffer from the adjacent lots in the Fox Ridge and Settlement Subdivisions. The tree preservation/open space landscape buffer setback will be privately owned and maintained by the Property Owner. Unless otherwise approved through a Site Development Permit, there shall be no clearing, grading or public access within the tree preservation/open space landscape buffer setback area except as may be necessary to allow for the construction of a fence along a property line. The tree preservation/open space landscape buffer setback area shall be maintained free of all, trash, rubbish, debris or other similar nuisances and fire hazards in accordance with this agreement and the

requirements of the City of San Marcos Code of Ordinances.

7. The boundary between the Residential ~~24~~ U/A area and southeastern most portion of the "Conservation or Open Space or Proposed Habitat (RHCP) Preserve" as illustrated on the Conceptual Land Use Plan and generally located between the existing Fox Ridge/Settlement subdivisions and the Residential ~~24~~ U/A area within the Project, south of Purgatory Creek, has been delineated with GIS coordinates as provided on the Conceptual Land Use Plan.

1.05 Public Infrastructure Improvements

- A. The City hereby agrees to allow the extension, improvements of, and connections to City water and wastewater facilities to provide service to the Project up to a maximum of 4,000 service units equivalent. Owner anticipates that the Project will require 4,000 service units of water and wastewater from the City. At the time of execution of this Agreement, City anticipates that it will have sufficient water and wastewater capacity to serve the Project. City further acknowledges that its approval of any subdivision plat of property within the Project shall constitute a representation by the City that it has sufficient water and wastewater capacity available to serve the platted lots at the time of plat approval.
- B. All water and wastewater infrastructure required to serve the Project shall be designed and built to the City's construction standards and in conformance with all rules, regulations and ordinances related to the construction and extension of water and wastewater utilities in effect at the time of submittal of construction plans and shall be subject to review and inspection by the City prior to acceptance.
- C. The property owner/developer shall be responsible for the payment of all costs associated with the extension and improvements of infrastructure required to properly serve the development of the Property, which costs may be financed through the PID described in Section 1.05.B below. Prior to the acquisition of any off-site easements or rights-of-way the proposed utility alignments shall be approved by the City. The Owner is responsible for the acquisition of all necessary easements to serve the proposed development. In the event the Owner is unable to acquire an easement through reasonable commercial efforts the Owner may request the assistance of the City. Within 30 days of the receipt of a written request from the Owner, the City will commence an effort, exercising all powers available to the City as a Home Rule municipality, to acquire the necessary easements. The City will direct the work of an acquisition team, acceptable to the City and the Owner, contracted and paid by the Owner, in order to acquire the necessary easements.
- D. Notwithstanding the foregoing, nothing herein shall be construed to prohibit the parties and/or adjacent developments or subdivisions from mutually agreeing to cost participate or oversize reimbursement on specifically defined infrastructure in accordance with applicable City and State requirements for such participation or reimbursement.
- E. To ensure a high quality, attractive development, where feasible, all utility infrastructure, including but not limited to water, wastewater and electrical infrastructure, for the Project shall be placed underground. All utility appurtenances that are required to be above ground may be placed above ground as necessary to serve the development of the Property. All extensions shall be made in a public utility easement or public right-of-way (ROW).
- F. The Owner hereby requests and supports the City expanding its water and wastewater Certificate of Convenience and Necessity areas as necessary to serve the development of the Project.
- ~~G. The City hereby acknowledges that the County authorized the creation of a Public Improvement District ("PID") on the Existing Property (the "Existing PID") on September 23, 2014, pursuant to a County Resolution adopted pursuant to Chapter 372 of the Local Government Code (the "Existing PID Resolution"). the Owner has submitted a petition to Hays County (the "County") requesting the creation of a Public Improvement District ("PID") on the Property. The City hereby agrees to not oppose the creation of the PID on the Property nor any subsequent issues of PID bonds.~~
- ~~G.~~
- H. The City hereby recognizes and acknowledges that oversizing of infrastructure improvements may be necessary to accommodate future growth and development of adjacent properties. In

the event that oversizing is determined to be appropriate, the City shall enter into an agreement with the Owner in accordance with Section 7.1.3.1 of the Land Development Code.

- I. The City and the County are willing to consider Chapter 380 and Chapter 381 economic development incentive agreements for the commercial portions of the Project. The terms, conditions, and amount of any incentive agreements shall be determined by separate agreement of the City, County, Owner, and/or applicable third parties.

J. Street Standards. All streets and roads within the Property shall be designed and constructed in conformance with the design guidelines and cross sections adopted by the City of San Marcos in accordance with Context Sensitive Street Design Standards. Alternative street design standards and cross sections for all streets may be utilized upon review and approval by the City and County Directors of Development Services at the time of detailed engineering and platting. Any decision of the City and County Directors of Development Services may be appealed to the Planning and Zoning Commission and the County Commissioners Court.

J.

1.06 Impervious Cover

The maximum allowable impervious cover for the Property ("Permitted Maximum Allowable Property Impervious Cover") shall be 20% of the ~~2,422.9962,029.02~~ acres of the gross area of the Property (which gross area expressly includes the 700.2 acres of gross area of the ~~Conservation Open Space or Proposed~~ Habitat (RHCP) Preserve and the ~~91.5~~ 400 acres of additional Purgatory Creek Open Space shown on the Conceptual Land Use Plan attached hereto as **Exhibit "E"**, regardless of whether Owner conveys a perpetual conservation or other easement or fee simple title to any portion of such areas to the City, the County, or any other governmental entity or conservation organization). The total Permitted Maximum Allowable Property Impervious Cover may be distributed throughout the Property or may be clustered as necessary provided that the total impervious cover on the ~~2,422.9962,029.02~~ acres of the gross area of the Property does not exceed the Permitted Maximum Allowable Property Impervious Cover. If any portion of the Property is used for the right-of-way for Centerpoint Road, then the gross area of such portion of the Property and any impervious cover placed on such portion of the Property shall be excluded from all impervious cover calculations with respect to the remainder of the Property.

Clustering Incentives in accordance with Section 5.2.8 of the City's LDC may be utilized within the Property subject to the City's approval of a Qualified Watershed Protection Plan Phase 1 and shall be subject to review and approval of all applicable City of San Marcos permits including Watershed Protection Plans, Site Preparation Permits and Environmental and Geologic Assessments and shall be subject to all City of San Marcos and TCEQ regulations for buffering and protection of sensitive features, if any such features are identified on the Property.

1.07 Environmental, Water Quality & Detention Standards

The development of the Property shall comply with Chapter 5 of the Land Development Code as amended on March 4, 2014 and the City of San Marcos Storm Water Technical Manual. No portion of the Project shall contain concrete storm water detention boxes. Development of the Property will adhere to a standard for removal of a minimum of 85% of the increase in Total Suspended Solids (TSS) after full development of the Property over the baseline existing conditions before development of the Property. The 85% TSS removal may be accomplished utilizing traditional best management practices (BMP's), approved low-impact development (LID) practices, or a combination thereof. All BMP's shall be designed and maintained by the Owner to achieve the performance standard of 85% TSS removal. BMP's for treatment and detention of stormwater proposed for development of this Property may include, but shall not be limited to traditional BMP's such as detention ponds, grass-lined swales, rain gardens, bioswales, biofiltration ponds and native drought-tolerant plants for landscaping or non-traditional, innovative BMP's. The technical design of traditional BMP's shall be in accordance with the City of San Marcos Storm Water Technical Manual. The use of innovative or non-traditional BMP's shall be approved by the City and used within the Property when accompanied by supporting documentation (i.e. product research / testing or acceptance from other jurisdictions) illustrating the effectiveness of the BMP's in achieving treatment standards identified herein. The technical design of innovative or non-traditional BMP's

shall be in accordance with supplied supporting documentation. Approved vegetative buffers and filters shall not include invasive species.

Low Impact Development (LID) techniques allow for greater development potential with less environmental impacts through the use of smarter designs and advanced technologies that achieve a better balance between conservation, growth, ecosystem protection, public health, and quality of life. Where feasible and practical to achieve maximum water quality standards, the development within the Property may incorporate various LID techniques, in one form or another, that work in conjunction with traditional BMP's to achieve 85% TSS removal.

Development of the Property may incorporate pervious paving materials such as pervious pavers, pervious concrete (grasscrete or ecocrete) or other pervious paving materials where appropriate. For pervious paving materials used, technical documentation demonstrating the pervious nature of the specific system or systems as installed shall be provided and approved by the City. In the event that City approved pervious paving materials are utilized, the development of the Property shall receive credit towards the Permitted Maximum Allowable Impervious Cover.

During the construction process, stabilization and protection measures shall be utilized to limit site disturbance to the construction perimeter (the limits of construction). The type and adequacy of the erosion and sedimentation controls shall be subject to approval of the Director of Development Services prior to installation. All erosion and sedimentation controls shall be monitored and maintained at all times during the construction process. A combination of various approved erosion and sedimentation control measures will be implemented where appropriate.

Discharge of sediment from the construction site shall be minimized and controlled as per applicable City, State and Federal requirements. It shall be the responsibility of the Owner and its contractors to clean up any discharge of sedimentation from the Property. No construction shall begin until all required City Plans are approved and a stormwater pollution prevention plan (SWPPP) is produced by the Owner and approved by the City. An erosion and sedimentation control program shall include construction sequencing and sedimentation/erosion control measures to be implemented during construction. The type and adequacy of the erosion and sedimentation controls shall be subject to City approval prior to installation. All erosion and sedimentation controls shall be monitored and maintained at all times during the construction process, and shall be inspected on an appropriate frequency, as specified in the SWPPP, and results shall be available for inspection by the City at all times.

A full Water Pollution Abatement Plan (WPAP) including a geologic assessment and geotechnical report, prepared by a licensed third-party engineer and/or professional geologist selected by the Owner and approved by the City of San Marcos Director of Engineering and Capital Improvements, shall be provided by the Owner and approved by the City, prior to the approval of any final plat on the Property or any portion thereof. The WPAP documents shall include construction sequencing and detailed means and methods for drainage and sedimentation/erosion control measures to be implemented during construction. The type and adequacy of the erosion and sedimentation controls shall be subject to City approval prior to installation. All erosion and sedimentation controls shall be monitored and maintained at all times during the construction process, and shall be inspected on an appropriate frequency (as specified in the approved WPAP) by a qualified, third-party engineering inspector, and results shall be provided to the City following each inspection.

A maintenance agreement for the permanent BMPs on the Property written according to Sections 5.1.1.7 and 5.1.1.8 of the LDC shall be submitted. The maintenance agreement shall include provisions for testing and monitoring BMPs to make sure required volumes and other characteristics are still intact as originally designed. An easement for inspection and monitoring purposes in favor of an in a form acceptable to the City must be provided by the property owner.

1.08 Parkland and Open Space Dedication

A. In the event the Property is fully built out (i.e., the maximum ~~2,800,400~~ units under Section

1.04B is achieved across the entire property), the maximum total required parkland dedication shall be ~~35.64324~~ acres. The development of the Property will meet or exceed all applicable parkland dedication requirements of the City. Except as may otherwise be permitted by the City, dedication of all or any portion of the required parkland shall occur in conjunction with the final plat on all or any portion of the Property.

- B. All parkland, open space, sidewalks and trails, and designated amenities that are not owned and maintained by the Homeowners Association shall be open and available to the public, subject to any applicable rules and regulations of the U.S. Fish and Wildlife Service and the RHCP. Access to the parkland and open space shall be provided at the time of subdivision platting.
- C. In addition to the required public parkland dedication amount indicated above, a variety of private active and passive recreational facilities ranging from small neighborhood pocket parks to larger improved common areas or parks are envisioned. These facilities shall be connected through a pedestrian network consisting of sidewalks and/or trails. The Project's network of trails will be approximately 10-14 miles and provide connectivity to the Purgatory Creek Natural Area with a small parking area at such time and in such location as determined by Owner and City.
 - 1. The minimum width for a sidewalk shall be six feet (6').
 - 2. Sidewalks shall be constructed of concrete or asphalt.
 - 3. Sidewalks may be located adjacent to the street right-of-way and incorporated into an appropriate street cross-section.
 - 4. The minimum width for a trail shall be eight feet (8').
 - 5. Trails may be constructed of concrete, asphalt, crushed granite, or other material common in trail construction.
 - 6. Trails may be located adjacent to the street right-of-way and be incorporated as part of an alternative street cross-section upon the approval by the Director of Development Services or may be constructed in open space areas or improved common areas.
 - 7. The location of sidewalks and trails shall be determined at the time of preliminary platting and development of infrastructure construction plans and shall be included as part of a Subdivision Improvement Agreement.

1.09 Deed Restrictions and Creation of Homeowner's Association

The Owner shall create a homeowner's association responsible for, among other things, enforcement of deed restrictions required under this Agreement. The homeowner's association shall be created and deed restrictions recorded before commencement of any development on all or any portion of the Property. The deed restrictions shall be submitted to the City for review to determine consistency with this Agreement before recording. The homeowner's association shall be duly authorized, under applicable laws, to enforce the deed restrictions against all owners and developers of land within the Property. Any deed restrictions, and amendments thereto, regulating development of the Property shall be recorded in the Official Public Records of Hays County, Texas. Any deed restrictions regulating development of the Property, and any amendments thereto, shall be subject to this Agreement. Such deed restrictions shall further include a statement that they are subject to this Agreement and that, in the event of a conflict between the deed restrictions and this Agreement, this Agreement shall govern.

1.10 Hays County Regional Habitat Conservation Plan & Endangered Species Act

Prior to any development activity as defined in the City's LDC, the Owner shall comply with the Endangered Species Act, specifically related to the golden-cheeked warbler or black-capped vireo, by either obtaining approvals from the U.S. Fish and Wildlife Service or through voluntary participation in the Hays County Regional Habitat Conservation Plan ("RHCP").

SECTION 2: MISCELLANEOUS PROVISIONS

2.01 Term

- A. This Agreement shall commence and bind the Parties on the Effective Date and continue until

all of the Property has been annexed for full purposes by the City (the "Term"), unless sooner terminated as provided in Section 2.01.C below. If, however, no progress toward completion of the Project, as defined under Section 245.005 of the Texas Local Government Code, is made within five (5) years of the date of this Agreement, this Agreement shall expire and Owner hereby agrees that any development of the Property shall comply with the ordinances in effect at the time the first plat application for any portion of the property is filed. This written Agreement may be extended for additional terms as allowed by law upon mutual written agreement of the parties.

- B. After the expiration or termination of this Agreement, this Agreement will be of no further force and effect.
- C. This Agreement may be terminated or amended as to all or any portion of the Property at any time by mutual written agreement between the City and OwnerLOR.

2.02 Authority

This Agreement is entered into, in part, under the statutory authority of Section 212.172 of the Texas Local Government Code and the applicable provisions of the Texas Constitution and the laws of the State of Texas. By virtue of this Agreement, OwnerLOR agrees to authorize the full purpose annexation of the Property by the City subject to applicable provisions of Chapter 43 of the Texas Local Government Code and in accordance with the terms and conditions set forth in this Agreement.

2.03 Equivalent Substitute Obligation

If any Party is unable to meet an obligation under this Agreement due to a court order invalidating all or a portion of this Agreement, preemptive state or federal law, an imminent and bona fide threat to public safety that prevents performance or requires different performance, changed circumstances or subsequent conditions that would legally excuse performance under this Agreement, or any other reason beyond the Party's reasonable and practical control, the Parties will cooperate to revise this Agreement to provide for an equivalent substitute right or obligation as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid and enforceable, or other additional or modified rights or obligations that will most nearly preserve each Party's overall contractual benefit under this Agreement.

2.04 Cooperation

The Parties agree to execute and deliver all such other and further documents or instruments and undertake such other and further actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

2.05 Litigation

In the event of any third-party lawsuit or other claim relating to the validity of this Agreement or any action taken by the Parties hereunder, OwnerLOR and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement, but only to the extent each party determines, in its sole discretion, that its interests are aligned or not in conflict with the other party's interests. The filing of any third-party lawsuit relating to this Agreement or the development of the Property will not delay, stop, or otherwise affect the development of the Property or the City's processing or issuance of any approvals for the development of the Property, unless otherwise required by a court of competent jurisdiction. The City agrees not to stipulate or agree to the issuance of any court order that would impede or delay the City's processing or issuance of approvals for the development of the Property.

2.06 Default

Notwithstanding anything herein to the contrary, no Party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from the other Party. Upon the passage of thirty (30) business days without cure of the default, such Party shall be deemed to have defaulted for all purposes of this Agreement. In the event of a non-cured default, the non-defaulting Party shall have all the rights and remedies

available under applicable law, including the right to institute legal action to cure any default, to enjoin any threatened or attempted violation of this Agreement, or to enforce the defaulting Party's obligations under this Agreement by specific performance. Nothing herein shall prevent the Parties from extending the above specified time frames for default and/or cure by mutual written agreement.

2.07 Governmental Powers; Waiver of Immunity

It is understood that by execution of this Agreement the City does not waive or surrender any of its governmental powers, immunities or rights.

2.08 Governing Law and Venue

The City and Owner agree that this Agreement has been made under the laws of the State of Texas in effect on this date, and that any interpretation of this Agreement at a future date shall be made under the laws of the State of Texas. The City and the Owner further agree that all actions to be performed under this Agreement are performable in Hays County, Texas.

2.09 Attorney's Fees

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be entitled to recover reasonable attorney's fees from the other Party. The amount of fees recoverable under this paragraph may be set by the court in the trial of the underlying action or may be enforced in a separate action brought for that purpose, and any fees recovered shall be in addition to any other relief that may be awarded.

2.10 Entire Agreement

This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between the Parties and supersedes any prior or contemporaneous written or oral understandings or representations of the Parties with respect to this Agreement, including superseding the Existing Development ~~Agreement and that certain offer made by the City to Owner to enter into a separate development agreement for the Additional Property made pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code passed by the City in Resolution No. 2014-120R on September 2, 2014.~~

2.11 Exhibits/Amendment

All exhibits attached to this Agreement are incorporated by reference and expressly made part of this Agreement as if copied verbatim. This Agreement may be amended only by mutual agreement of the Parties and in accordance with the applicable procedures outlined in Section 1.4.2.6(c) the City's LDC.

2.12 Severability

If any section, subsection, sentence, clause, phrase, paragraph, part or provision of this Agreement be declared by a court of competent jurisdiction to be invalid, illegal, unconstitutional or unenforceable in any respect, such unenforceability, unconstitutionality, illegality or invalidity shall not affect any of the remaining sections, subsections, sentences, clauses, phrases, paragraphs, parts or provisions of this Agreement as a whole, or in any part, since the same would have been enacted by the City Council without the incorporation in this Agreement of any such invalid, illegal, unconstitutional or unenforceable section, subsection, sentence, clause, phrase, paragraph, part or provision.

2.13 Interpretation

Wherever required by the context, the singular shall include the plural, and the plural shall include the singular.

2.14 Notice

Any notice, request or other communication required or permitted by this Agreement shall be in writing and may be affected by overnight courier or hand delivery, or by sending said notice by

registered or certified mail, postage prepaid, return receipt requested, and addressed to the Parties as set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed to:

City Manager
City of San Marcos
630 E. Hopkins Street
San Marcos, Texas 78666

Any notice mailed to the County shall be addressed to:

Director of Development Services
Hays County
2171 Yarrington Road
San Marcos, TX 78666

Any notice mailed to LOR, LCSM Ph. 1-1, LCSM Ph.1-2, ~~or~~ La Cima Commercial or LCSM West shall be addressed to:

~~Lazy Oaks Ranch, LP~~
c/o Dubois, Bryant & Campbell, LLP
Attn: Mr. ~~Bryan W. Lee~~ ~~William C. (Bill) Bryant~~, Manager
~~303 Colorado~~ ~~700 Lavaca Street~~, Suite ~~21300~~
Austin, Texas 78701

2.15 Force Majeure

Owner and the City agree that the obligations of each party shall be subject to force majeure events such as natural calamity, fire or strike.

2.16 Assignment

As of the Effective Date, ~~OwnerLOR~~ owns the Property. ~~Owner LOR~~ may assign its rights and obligations under this Agreement to any third party (ies) only after providing written notice of assignment to the City. The terms of this Agreement shall be covenants running with the land and binding on successors and assigns.

2.17 Signatures

The City represents that this Agreement has been approved and duly adopted by the City Council of the City in accordance with all applicable public meeting and public notice requirements including, but not limited to, notices required by the Texas Open Meetings Act, and that the individual executing this Agreement on behalf of the City has been authorized to do so. ~~OwnerLOR~~ represents and warrants that this Agreement has been approved by appropriate action of ~~OwnerLOR~~ and that the individual executing this Agreement on behalf of ~~OwnerLOR~~ has been authorized to do so.

2.18 Successors and Assigns and Recordation

The terms of this Agreement shall be covenants running with the land and binding on successors and assigns. Pursuant to the requirements of Section 212.172(f), Local Government Code, this Agreement shall be recorded in the official public records of Hays County, Texas. The terms of this Agreement shall be binding upon: (a) the Parties; (b) the Parties' successors and assigns; (c) the Property; and (d) future owners of all or any portion of the Property. Notwithstanding the foregoing, however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the Property except for land use and development regulations within this Agreement that apply to specific lots, including architectural, environmental and water quality, landscaping and setback and dimensional

standards, and impervious cover limits, together with applicable rights of enforcement in this Agreement as to such land use and development regulations.

2.19 Counterpart Originals

This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

[Signature Page Follows]

EXECUTED to be effective as of the Effective Date first stated above.

CITY OF SAN MARCOS, TEXAS

By: _____
Name:
Title: ~~Mr. Jared Miller, City Manager~~

HAYS COUNTY, TEXAS

By: _____
Name:
Title:

LAZY OAKS RANCH, LP, a Texas Limited Partnership

By: Lazy Oaks GP, LLC, its general partner

By: _____
~~Bryan W. Lee~~ ~~William C. Bryant,~~
Its: Manager

LCSM PH. 1-1, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM PH. 1-2, LLC, a Texas Limited Liability Company

By: _____
Name: Bryan W. Lee
Title: Manager

LA CIMA COMMERCIAL, LP, a Texas Limited Partnership

By: La Commercial GP, LLC, its general partner

By: _____
Name: Bryan W. Lee
Title: Manager

LCSM WEST, LP, a Texas Limited Partnership

By: LCSM West GP, LLC, its general partner

By: _____

Name: Bryan W. Lee

Title: Manager

Acknowledgements

STATE OF TEXAS §

_____ §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on September, 201874, by Bryan W. Lee~~William C. Bryant~~, Manager, of Lazy Oaks GP, LLC, general partner of Lazy Oaks Ranch, L.P., a Texas Limited Partnership, in such capacity, on behalf of said entities.

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 20187, by Bryan W. Lee, Manager, of LCSM Ph. 1-1, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 20187, by Bryan W. Lee, Manager, of LCSM Ph. 1-2, LLC, a Texas Limited Liability Company, in such capacity, on behalf of said entities.

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 20187, by Bryan W. Lee, Manager, of La Cima Commercial GP, LLC, general partner of La Cima Commercial, LP, a Texas Limited Partnership, in such capacity, on behalf of said entities.

Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2018, by Bryan W. Lee, Manager, of LCSM West GP, LLC, general partner of LCSM West, LP, a Texas Limited Partnership, in such capacity, on behalf of said entities.

Notary Public, State of Texas

STATE OF TEXAS §

§

COUNTY OF HAYS §

This instrument was acknowledged before me on _____ September __, 201874, by _____ Jared Miller, City Manager of the City of San Marcos, in such capacity, on behalf of said entity.

Notary Public, State of Texas

STATE OF TEXAS §

§

COUNTY OF HAYS §

This instrument was acknowledged before me on _____ September __, 201874, by _____, _____ of Hays County, in such capacity, on behalf of said entity.

Notary Public, State of Texas

Exhibit "A"

Freeman Ranch/Lazy Oaks Ranch
William Smithson Survey, A-419
John Williams Survey, A-490
John Maximilian, Jr. Survey No. 15, A-299
Lydia Glasgow Survey No. 14, A-188
Hays County, Texas

Job No. 5956-01-002
FN1574R2(dz)
Page 1 of 6

TRACT DESCRIPTIONS

TRACT "A": 649.592 ACRES, SAVE AND EXCEPT 5.000 ACRES, 5.000 ACRES AND 5.000 ACRES (634.592 ACRES TOTAL)

649.592 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, THE LYDIA GLASGOW SURVEY NO. 14, ABSTRACT NO. 188, AND THE JOHN MAXIMILIAN, JR. SURVEY NO. 15, ABSTRACT NO. 299, ALL OF HAYS COUNTY, TEXAS; SAID 649.592 ACRES DESCRIBED IN THE CORRECTION SPECIAL WARRANTY DEED WITH VENDOR'S LIEN FROM FROST BANK (FORMERLY KNOWN AS THE FROST NATIONAL BANK), TRUSTEE OF THE FREEMAN EDUCATIONAL FOUNDATION CREATED UNDER THE WILL OF JOSEPH FREEMAN, DECEASED, TO LAZY OAKS RANCH, LP, OF RECORD IN VOLUME 4877, PAGE 632, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAVE AND EXCEPT THREE (3) TRACTS OF LAND CONTAINING 5.000 ACRES EACH (SEE PAGES 2-5 FOR METES AND BOUNDS DESCRIPTIONS OF SAID SAVE AND EXCEPT TRACTS).

TRACT "B": 1388.17 ACRES, SAVE AND EXCEPT 23.823 ACRES (1364.347 ACRES TOTAL)

1388.17 ACRES OF LAND SITUATED IN THE WILLIAM SMITHSON SURVEY, ABSTRACT NO. 419 AND THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, BOTH OF HAYS COUNTY, TEXAS; SAID 1388.17 ACRES DESCRIBED AS "TRACT ONE" IN THE SPECIAL WARRANTY DEED WITH VENDOR'S LIEN FROM BAT PARTNERS, LTD. TO LAZY OAKS RANCH, L.P., OF RECORD IN VOLUME 3772, PAGE 231, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

SAVE AND EXCEPT

23.823 ACRES OF LAND SITUATED IN THE WILLIAM SMITHSON SURVEY, ABSTRACT NO. 419, HAYS COUNTY, TEXAS; SAID 23.823 ACRES DESCRIBED IN GENERAL WARRANTY DEED FROM LAZY OAKS RANCH, LP, TO SAN MARCOS BAPTIST ACADEMY FOUNDATION, INC., OF RECORD IN VOLUME 5038, PAGE 689, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

TRACT "C": 8.73 ACRES, SAVE AND EXCEPT 2.467 ACRES (6.263 ACRES TOTAL)

8.73 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490 AND THE JOHN MAXIMILIAN, JR. SURVEY NO. 15, ABSTRACT NO. 299, BOTH OF HAYS COUNTY, TEXAS; SAID 8.73 ACRES DESCRIBED AS "TRACT TWO" IN THE SPECIAL WARRANTY DEED WITH VENDOR'S LIEN FROM BAT PARTNERS, LTD. TO LAZY OAKS RANCH, L.P., OF RECORD IN VOLUME 3772, PAGE 231, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

SAVE AND EXCEPT

2.467 ACRES OF LAND SITUATED IN THE JOHN MAXIMILIAN, JR. SURVEY NO. 15, ABSTRACT NO. 299 AND THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, HAYS COUNTY, TEXAS; SAID 2.467 ACRES DESCRIBED IN GENERAL WARRANTY DEED FROM LAZY OAKS RANCH, LP, TO SAN MARCOS BAPTIST ACADEMY FOUNDATION, INC., OF RECORD IN VOLUME 5038, PAGE 689, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

TRACT "D": 23.823 ACRES

23.823 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, THE PATRICK McGREAL SURVEY, ASBSTRAT NO. 308 AND THE WILLIAM SMITHSON SURVEY, ABSTRACT NO. 419, ALL OF HAYS COUNTY, TEXAS; SAID 23.823 ACRES DESCRIBED IN GENERAL WARRANTY DEED FROM SAN MARCOS BAPTIST ACADEMY FOUNDATION, INC. TO LAZY OAKS RANCH, L.P., OF RECORD IN VOLUME 5038, PAGE 698, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

SAVE AND EXCEPT "TRACT 1": 5.000 ACRES

DESCRIPTION OF 5.000 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 5.000 ACRES AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a leaning 1/2-inch iron rod found at the south corner of a called 4.337 acre tract designated as "Tract One" and described in the Warranty Deed to the City of San Marcos of record in Volume 1080, Page 874, Official Public Records of Hays County, Texas, same being a re-entrant corner in the northwest line of the said 659.9 acre remainder tract, for an angle point in the northeast line and the **POINT OF BEGINNING** of the tract described herein;

THENCE through the interior of the said 659.9 acre remainder tract and with the east, southeast, southwest, and northwest lines of the tract described herein, the following four (4) courses and distances:

1. S 06°45'16" E, a distance of 189.51 feet to a calculated point for the east corner of the tract described herein,
2. S 42°59'13" W, a distance of 595.64 feet to a calculated point for the south corner of the tract described herein,
3. N 45°07'08" W, a distance of 316.85 feet to a calculated point in the east line of an electric transmission/distribution line easement of variable width described in the deed to the

Lower Colorado River Authority (LCRA), of record in Volume 242, Page 699, Deed Records of Hays County, Texas, for the west corner of the tract described herein, and

4. N 42°48'10" E, with the east line of the said LCRA easement, a distance of 708.83 feet to a calculated point in the northwest line of the said 659.9 acre remainder tract and the southwest line of the said 4.337 acre tract, being the northeast corner of the said LCRA easement, for the north corner of the tract described herein, from which a 1/2-inch iron rod found in the southeast line of that certain called 8.73 acre tract, designated as "Tract Two" and described in the Special Warranty Deed to Lazy Oaks Ranch, LP, of record in Volume 3772, Page 231, Official Public Records of Hays County, Texas, same being a north corner of the said 659.9 acre remainder tract and the north corner of the said LCRA easement, same being the west corner of the said 4.337 acre tract, bears N 46°37'22" W, a distance of 125.70 feet;

THENCE S 46°37'22" E, with the northeast line of the said 659.9 acre remainder tract, the southwest line of the said 4.337 acre tract, and the northeast line of the tract described herein, a distance of 174.33 feet to the **POINT OF BEGINNING** and containing 5.000 acres of land, more or less.

SAVE AND EXCEPT "TRACT 2": 5.000 ACRES

DESCRIPTION OF 5.000 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 5.000 ACRES AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 6-inch cedar fence corner post found at an angle point in the southeast line of the said 659.9 acre remainder tract, same being an angle point in the southwest line of the remainder of that called 114 acre tract described as "Tract 1" in the Executor's Deed to Marla D. Sams and Marvin C. Wills, Jr., Co-Trustees of the Marvin C. Wills Family Trust, of record in Volume 3394, Page 424, Official Public Records of Hays County, Texas, for the most northerly corner of that called 311.74 acre tract described in the Warranty Deed to Claud Kern Wildenthal, of record in Volume 1385, Page 398, Official Public Records of Hays County, Texas, and from which an 8" dead cedar tree found at the most westerly corner of the said 114 acre remainder tract, being an angle point in the southeast line of the said 659.9 acre remainder tract, bears N 29°29'12" W, a distance of 59.58 feet;

THENCE with a portion of the southeast line of the said 659.9 acre remainder tract, also with the northwest line of the said 311.74 acre tract, the following four (4) courses and distances:

1. S 43°09'44" W, a distance of 155.92 feet to a 6-inch cedar fence post found for an angle point,

2. S 44°10'39" W, a distance of 216.46 feet to a 1/2-inch iron rod with plastic cap stamped "BCG" set for an angle point,
3. S 45°16'39" W, a distance of 951.78 feet to a 1/2-inch iron rod with plastic cap stamped "BCG" set for an angle point, and
4. S 45°32'23" W, a distance of 510.96 feet to a calculated point at the southwest corner of an electric transmission/distribution line easement of variable width described in the deed to the Lower Colorado River Authority (LCRA), of record in Volume 242, Page 699, Deed Records of Hays County, Texas, for the southeast corner and the **POINT OF BEGINNING** of the tract described herein;

THENCE S 45°32'23" W, continuing with a portion of the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, also with the southeast line of the tract described herein, a distance of 325.12 feet to a calculated point for the south corner of the tract described herein, from which a 6-inch cedar fence post found at an angle point in the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, bears S 45°32'23" W, a distance of 6348.00 feet;

THENCE leaving the northwest line of the said 311.74 acre tract and through the interior of the said 659.9 acre remainder tract, with the southwest, northwest and east lines of the tract described herein, the following three (3) courses and distances:

1. N 44°27'37" W, a distance of 400.00 feet to a calculated point for the west corner of the tract described herein,
2. N 45°32'23" E, a distance of 763.89 feet to a calculated point in the west line of the said LCRA easement, for the north corner of the tract described herein, and
3. S 03°11'10" W, with the west line of the said LCRA easement and the east line of the tract described herein, a distance of 593.73 feet to the **POINT OF BEGINNING** and containing 5.000 acres of land, more or less.

SAVE AND EXCEPT "TRACT 3": 5.000 ACRES

DESCRIPTION OF 5.000 ACRES OF LAND SITUATED IN THE JOHN WILLIAMS SURVEY, ABSTRACT NO. 490, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 5.000 ACRES AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 3-1/2 inch metal fence corner post found near the top of a bluff and the approximate location of the north bank of Purgatory Creek, being the most southerly corner of the

said 659.9 acre remainder tract and the most westerly corner of that certain called 311.74 acre tract described in the Warranty Deed to Claud Kern Wildenthal, of record in Volume 1385, Page 398, Official Public Records of Hays County, Texas, same being an angle point in the northerly line of that certain called 521.55 acre tract described in the Special Warranty Deed to Dixie C. Lenz, Rita K. Steitle, and Medora C. Pratt, in equal undivided shares, of record in Volume 4517, Page 277, Official Public Records of Hays County, Texas;

THENCE with a portion of the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, the following three (3) courses and distances:

1. N 45°43'43" E, a distance of 606.75 feet to a 1/2-inch iron rod with plastic cap stamped "BCG" set for an angle point,
2. N 44°57'33" E, a distance of 408.78 feet to a 6-inch cedar fence corner post found at an angle point, and
3. N 45°32'23" E, a distance of 1466.74 feet to a calculated point for the south corner and the **POINT OF BEGINNING** of the tract described herein;

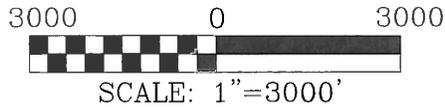
THENCE leaving the northwest line of the said 311.74 acre tract and through the interior of the said 659.9 acre remainder tract, with the southwest, northwest and east lines of the tract described herein, the following three (3) courses and distances:

1. N 44°27'37" W, a distance of 400.00 feet to a calculated point for the west corner of the tract described herein,
2. N 45°32'23" E, a distance of 678.61 feet to a calculated point in the west line of a 15 foot wide electric distribution line easement described in the deed to Pedernales Electric Cooperative, Inc., of record in Volume 401, Page 813, Deed Records of Hays County, Texas, for the north corner of the tract described herein, and
3. S 10°37'01" E, with the west line of the said Pedernales easement, a distance of 481.60 feet to a calculated point in the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, for the southeast corner of the tract described herein, from which a 1/2-inch iron rod with plastic cap stamped "BCG" set for an angle point in the southeast line of the said 659.9 acre remainder tract and an angle point in the northwest line of the said 311.74 acre tract, bears N 45°32'23" E, a distance of 5306.95 feet;

THENCE S 45°32'23" W, with a portion of the southeast line of the said 659.9 acre remainder tract and the northwest line of the said 311.74 acre tract, also with the southeast line of the tract described herein, a distance of 410.39 feet to the **POINT OF BEGINNING** and containing 5.000 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.

BOWMAN WORD FILE: FN1574R2(dz)



HAYS COUNTY, TEXAS

(A)

FROST BANK (FORMERLY KNOWN AS THE FROST NATIONAL BANK), TRUSTEE OF THE FREEMAN EDUCATIONAL FOUNDATION CREATED UNDER THE WILL OF JOSEPH FREEMAN, DECEASED TO LAZY OAKS RANCH, LP 649.592 ACRES VOL. 4877, PG. 632 OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TX (SHOWN AS SOLID HATCH)

(B)

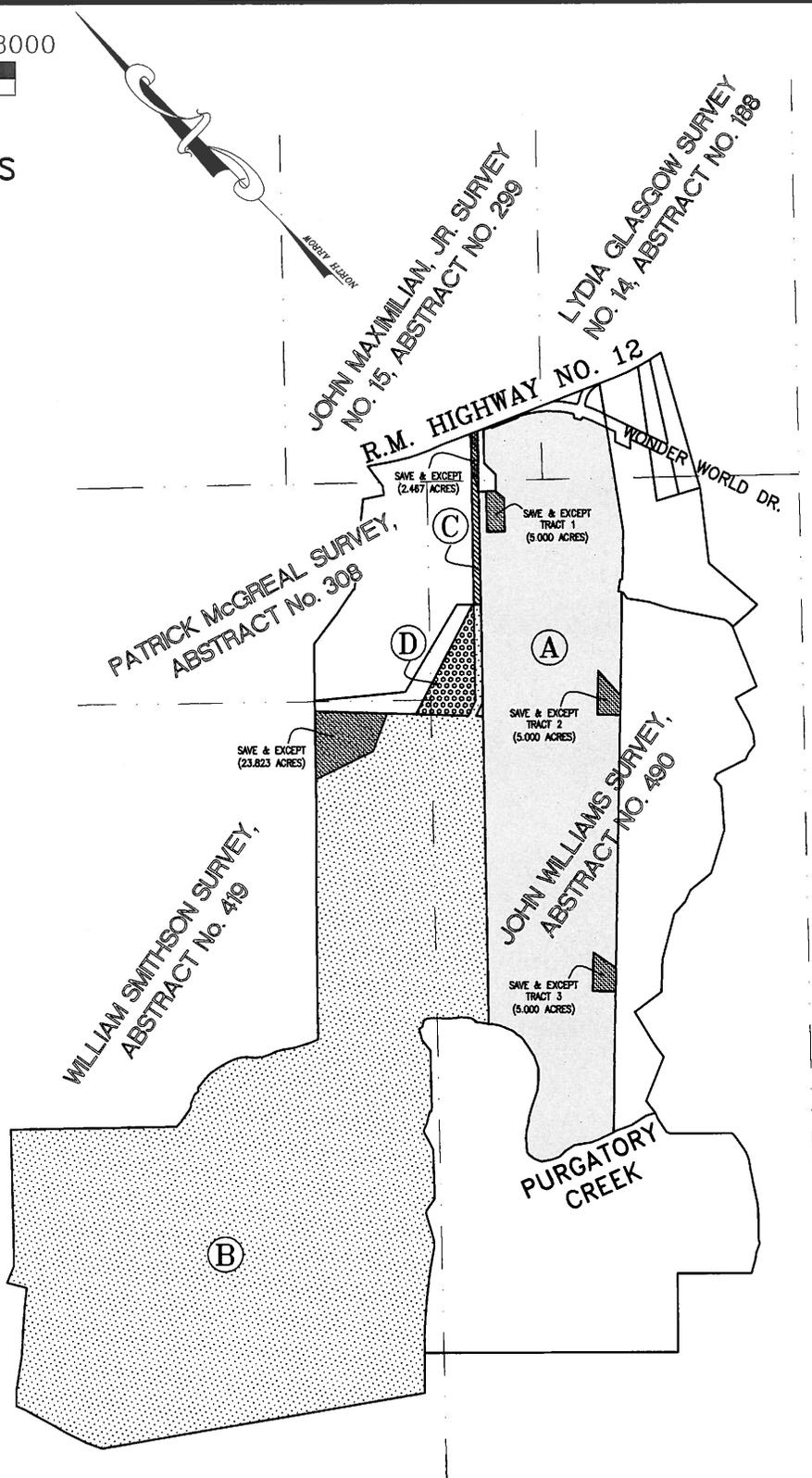
BAT PARTNERS, LTD. TO LAZY OAKS RANCH, L.P. TRACT ONE: 1388.17 ACRES VOL. 3772, PG. 231 NOVEMBER 13, 2009 OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TX (SHOWN AS DOT HATCH)

(C)

BAT PARTNERS, LTD. TO LAZY OAKS RANCH, L.P. TRACT TWO: 8.73 ACRES VOL. 3772, PG. 231 NOVEMBER 13, 2009 OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TX (SHOWN AS SLANT HATCH)

(D)

SAN MARCOS BAPTIST ACADEMY FOUNDATION, INC. TO LAZY OAKS RANCH, L.P. 23.823 ACRES VOL. 5038, PG. 698 OCTOBER 06, 2014 OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TX (SHOWN AS HEX HATCH)



Bowman Consulting Group, Ltd.
3101 Bee Cave Road, Suite 100, Austin, Texas 78746
Phone: (512) 327-1180 Fax: (512) 327-4062
www.bowmanconsulting.com © Bowman Consulting Group, Ltd.

EXHIBIT TO ACCOMPANY
TRACT DESCRIPTIONS
IN FN1574R2

TBPE Firm No. F-2986 | TBPLS Firm No. 101206-00

FIELD NOTES DESCRIPTION - TRACT 2 1.150 ACRES

DESCRIPTION OF 1.150 ACRES OF LAND SITUATED IN THE LYDIA GLASGOW SURVEY NO. 14, ABSTRACT NO. 188, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 1.150 ACRES AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod found in the interior of R.M. Highway No. 12 (R.O.W. varies), being the common north corner of that called 4.337 acre tract described as "Tract One" in the Warranty Deed to the City of San Marcos, of record in Volume 1080, Page 874, Official Public Records of Hays County, Texas, and that called 0.464 acre tract described as "Parcel 65" in Exhibit "C" in the Special Warranty Deed to the County of Hays, of record in Volume 4264, Page 511, Official Public Records of Hays County, Texas, being the northwest corner of that called 0.14 acre tract described as "Easement Tract IV" in the Easement Agreement between The Frost National Bank, Trustee of the Joseph Freeman Testamentary Trust, and the City of San Marcos, of record in Volume 1239, Page 104, Official Public Records of Hays County, Texas;

THENCE S 66°45'57" E, through the interior of said R.M. Highway No. 12, with the north line of said 0.464 acre tract and said 0.14 acre easement tract, also with a portion of the north lines of said 6.4500 acre tract and that called 0.611 acre tract described as "Easement Tract III" in said Easement Agreement of record in Volume 1239, Page 104, passing at a distance of 451.60 feet a TXDOT type II monument found for the common north corner of said 0.464 acre tract and that called 6.4500 acre tract of land described in the Special Warranty Deed to the City of San Marcos, of record in Volume 3100, Page 712, Official Public Records of Hays County, Texas, continuing for a total distance of 1336.77 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found at the intersection of the south right-of-way line of said R.M. Highway No. 12 with the east right-of-way line of said Wonder World Drive, for the **POINT OF BEGINNING**, being an angle point in the northerly line of said 659.9 acre remainder tract and also an angle point in the northerly line of said 6.4500 acre tract, for the northwest corner of the tract described herein;

THENCE S 66°45'57" E, continuing with the north line of said 0.611 acre easement tract and also with the south right-of-way line of said R.M. Highway No. 12 and a portion of the north line of said 659.9 acre remainder tract, with the north line of the tract described herein, a distance of 544.90 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found at the intersection of the south right-of-way line of said R.M. Highway No. 12 with the north right-of-way line of Old Ranch Road 12 (R.O.W. varies), being an angle point in the northerly lines of said 659.9 acre remainder tract and said 6.4500 acre tract, for the northeast corner of the tract described herein;

THENCE leaving the south right-of-way line of said R.M. Highway No. 12 and the north line of said 0.611 acre easement tract, with the curving north right-of-way line of said Old Ranch Road 12, also with the curving northerly interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, for the east line of the tract described herein, the following three (3) courses and distances:

1. with the arc of a curve to the left, having a radius of 560.00 feet, an arc length of 174.70 feet, and a chord which bears S 68°05'29" W, a distance of 173.99 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found,
2. S 58°43'50" W, a distance of 47.47 feet to a TXDOT type II monument found, and
3. S 75°23'37" W, a distance of 54.82 feet to a TXDOT type II monument found at the intersection of the north right-of-way line of said Old Ranch Road 12 with the east right-of-way of said Wonder World Drive, being an angle point in the interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, for the most southerly corner of the tract described herein;

FIELD NOTES DESCRIPTION - TRACT 3 2.303 ACRES

DESCRIPTION OF 2.303 ACRES OF LAND SITUATED IN THE LYDIA GLASGOW SURVEY NO. 14, ABSTRACT NO. 188, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF THAT CALLED 659.9 ACRE TRACT (ONE HALF UNDIVIDED INTEREST), DESCRIBED IN THE SPECIAL WARRANTY DEED FROM HAROLD M. FREEMAN, A SINGLE MAN, TO FROST NATIONAL BANK, INDEPENDENT EXECUTOR & TRUSTEE UNDER THE WILL OF JOSEPH FREEMAN (DECEASED), OF RECORD IN VOLUME 359, PAGE 863, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 653.045 ACRES BEING COMPRISED OF TRACT 1 (649.592 ACRES), TRACT 2 (1.150 ACRES) AND TRACT 3 (2.303 ACRES), AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found in the east right-of-way line of said Wonder World Drive, being an angle point in the northerly line of said 659.9 acre remainder tract and an angle point in the easterly line of that called 6.4500 acre tract of land described in the Special Warranty Deed to the City of San Marcos, of record in Volume 3100, Page 712, Official Public Records of Hays County, Texas, same being the most northerly corner of that called 6.8059 acre tract of land described in the Special Warranty Deed to the City of San Marcos, of record in Volume 3197, Page 401, Official Public Records of Hays County, Texas, same being an angle point in the westerly line of that called 114 acre tract described as "Tract 1" in the Executor's Deed to Marla D. Sams & Marvin C. Wills, Jr., Co-Trustees of the Marvin C. Wills Family Trust, of record in Volume 3394, Page 424, Official Public Records of Hays County, Texas, for the most southerly corner and **POINT OF BEGINNING** of the tract described herein, from which a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found in the west right-of-way line of said Wonder World Drive, being an angle point in the northerly line of said 659.9 acre remainder tract, same being the most southerly corner of said 6.4500 acre tract, same being the northwest corner of said 6.8059 acre tract, bears, S 35°27'05" W, a distance of 243.79 feet;

THENCE with the east right-of-way line of said Wonder World Drive, also with the interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, with the west line of the tract described herein, the following two (2) courses and distances:

1. N 19°34'42" W, a distance of 83.03 feet to a TXDOT type II monument found at the beginning of a curve to the left,
2. with the arc of said curve to the left, having a radius of 2009.86 feet, an arc length of 276.89 feet, and a chord which bears N 23°34'40" W, a distance of 276.67 feet to a 1/2 inch iron rod with plastic cap stamped "BCG" set at the intersection of the east right-of-way line of said Wonder World Drive with the south right-of-way line of said Old Ranch Road 12, being an angle point in the interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, for the most westerly corner of the tract described herein;

THENCE leaving the east right-of-way line of said Wonder World Drive and with the south right-of-way line of said Old Ranch Road 12, also with the interior lines of said 659.9 acre remainder tract and said 6.4500 acre tract, with the north line of the tract described herein, the following three (3) courses and distances:

1. N 37°48'08" E, a distance of 46.59 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found,
2. N 58°50'07" E, a distance of 47.11 feet to a 1/2 inch iron rod with a 1-1/2 inch aluminum cap stamped "Texas Dept of Tran" found at the beginning of a curve to the right, and
3. with the arc of said curve to the right, having a radius of 440.00 feet, an arc length of 390.22 feet, and a chord which bears N 84°25'07" E, a distance of 377.56 feet to a painted hole found in concrete being the most easterly corner of said 6.4500 acre tract and an angle point in the easterly

line of said 659.9 acre remainder tract, also being in the west line of said 114 acre remainder tract, for the most easterly corner of the tract described herein,

THENCE S 35°28'03" W, with a portion of the east line of said 659.9 acre remainder tract and also with a portion of the west line of said 114 acre remainder tract, with the east line of the tract described herein, a distance of 527.61 feet to the **POINT OF BEGINNING** and containing 2.303 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.

BOWMAN WORD FILE: FN1548C(cw)

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TRAVIS §

That I, Cara L. Williams, a Registered Professional Land Surveyor, do hereby certify that the above description and the accompanying sketch is true and correct to the best of my knowledge and belief and that the property described herein was determined by a series of surveys made on the ground during the months of December 2013 and January 2014, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 5TH day of January 2014, A.D.

Bowman Consulting Group, Ltd.
Austin, Texas 78746



Cara L. Williams
Registered Professional Land Surveyor
No. 6336 – State of Texas



Exhibit "C"

DESCRIPTION OF 390.52 ACRES, MORE OR LESS, OF LAND AREA IN THE WILLIAM BURKE SURVEY, ABSTRACT NO. 68, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 515.964 ACRES IN A DEED FROM V & H ROBINSON RANCHES, LTD. TO W. L. WOOTAN ET UX DATED DECEMBER 9, 1998 AND RECORDED IN HAYS COUNTY DOCUMENT NO. 9920197 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an 8" Cedar fence corner post in the northeast line of the Jonathan Scott Survey, Abstract No. 430 for the approximate west corner of the William Burke Survey, Abstract No. 68 and for the south corner of the G. W. A. Colton Survey, Abstract No. 95 and for the northerly-west corner of the Wootan tract, and being in the northeast line of that 1422.46 acre tract described in a deed from Milton H. West et ux to MHW Operations Ltd. dated December 28, 2000 and recorded in Volume 1754, Page 588 of the Hays County Official Public Records, and being the south corner of the Bridlewood Ranches, Section 2, a subdivision recorded in Volume 11, Page 69 of the Hays County Plat Records;

THENCE leaving the Scott Survey, the MHW Operations 1422.46 acre tract, and the **PLACE OF BEGINNING** as shown on that plat numbered 27873-17-2-d dated March 22, 2017 as prepared for Wootan Family Estate by Byrn & Associates, Inc. of San Marcos, Texas with the common northwest line of the Burke Survey and the Wootan tract and southeast line of the Colton Survey and Bridlewood Ranches, Section 2, as fenced and used upon the ground, the following six courses:

1. N 47° 38' 55" E 424.80 feet to an angle point,
2. N 46° 40' 52" E 282.88 feet to a 6" Cedar post for an angle point,
3. N 44° 51' 43" E 557.74 feet to an 8" Cedar post for an angle point,
4. N 46° 16' 27" E 548.58 feet to a 4" Cedar post for an angle point,
5. N 45° 46' 36" E 604.71 feet to a 4" Cedar post for an angle point, and
6. N 45° 18' 03" E 260.56 feet to a 1/2" iron rod found with a plastic cap stamped "B&G" for the north corner of this tract and the west corner of that 1388.17 acre tract described in a deed from BAT Partners, Ltd. to Lazy Oaks Ranch, LP dated November 13, 2009 and recorded in Volume 3772, Page 231 of the Hays County Official Public Records;

THENCE leaving the Colton Survey and Bridlewood Ranch tract and entering the Burke Survey with the common northeast line of the Wootan tract and southwest line of the Lazy Oaks Ranch tract as fenced, the following five courses:

1. S 21° 03' 09" E 169.44 feet to a triple 5" Elm tree for an angle point,
2. S 15° 51' 32" E 479.74 feet to a 10" Live Oak tree for an angle point,
3. S 15° 05' 56" E 382.38 feet to a 3" Cedar post for an angle point,
4. S 17° 43' 48" E 393.12 feet to an 8" Live Oak tree for an angle point, and
5. S 24° 52' 31" E 288.56 feet to a 1/2" iron rod set for an angle point;

THENCE leaving fence, and continuing with said common line S 54° 00' 57" E 5744.26 feet to a 1/2" iron rod set in fence in the southeast line of the Burke Survey for the east corner of the Wootan tract and south corner of the Lazy Oaks Ranch tract and being in the northwest line of the John Williams Survey, Abstract No. 490 and that 100 acre tract described in a deed from Rita P. Steitle to Rita P. Steitle et vir dated May 27, 2015 and recorded in Volume 5249, Page 252 of the Hays County Official Public Records;

THENCE with the common southeast line of the Burke Survey and the Wootan tract and northwest line of the Williams Survey and Steitle tract, as fenced and agreed to in a boundary line agreement between J. H. Robinson and E. E. Posey dated May 24, 1942 and recorded in Volume 124, Page 496 of the Hays County Deed Records, the following four courses:

1. S 44° 50' 55" W 648.35 feet to a 4" Cedar post for an angle point,
2. S 45° 15' 06" W 472.53 feet to a 12" Live Oak tree for an angle point,
3. S 48° 27' 47" W 112.04 feet to a 20" Live Oak tree for an angle point, and
4. S 41° 06' 56" W 95.25 feet to an 8" Cedar corner post for the west corner of the Williams Survey and Steitle tract and the north corner of the Isaac Lower Survey, Abstract N. 287 and that 248.18 acre tract - Exhibit A - described in a deed from George R. Williams et al to George R. Williams et al dated July 26, 2012 and recorded in Volume 4402, Page 461 of the Hays County Official Public Records;

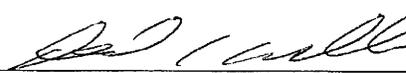
THENCE leaving the Steitle tract with the common southeast line of the Burke Survey and the Wootan tract and northwest line of the Lowe Survey and the Williams 248.18 acre tract, as fenced and used, the following nine courses:

1. S 45° 23' 08" W 792.32 feet to a 12" Cedar tree for an angle point,
2. S 45° 44' 41" W 239.94 feet to a 24" Live Oak tree for an angle point,
3. S 61° 50' 25" W 145.68 feet to an 8" Live Oak tree for an angle point,
4. S 69° 03' 13" W 37.17 feet to a 16" Cedar tree for an angle point,
5. S 75° 18' 47" W 41.96 feet to a 10" Live Oak tree for an angle point,
6. S 64° 57' 31" W 41.05 feet to a 14" Live Oak tree for an angle point,
7. S 54° 42' 38" W 43.53 feet to a 16" Live Oak tree for an angle point,
8. S 47° 50' 55" W 38.51 feet to an 8" Live Oak tree for an angle point, and
9. S 43° 42' 13" W 143.87 feet to a 6" Cedar corner post for an interior corner in the east line of the Wootan tract and west corner of the Williams 248.18 acre tract;

THENCE crossing the Wootan tract S 44° 24' 40" W 26.23 feet to an 8" creosote post for an interior corner in the west line of the Wootan tract and the east corner of the aforementioned MHW Operations 1422.46 acre tract, as fenced and used upon the ground, and being the south corner of this tract;

THENCE with the common southwest line of the Wootan tract and northeast line of the MHW Operations tract, as fenced and used upon the ground, the following two courses:

1. N 25° 25' 07" W 23.14 feet to an 8" creosote fence post and
2. N 44° 38' 00" W (being the Bearing Basis for this description) 7118.29 feet to the **PLACE OF BEGINNING**. There are contained within these metes and bounds 390.52 acres, more or less, of land area as prepared from public records and a survey made on the ground on during March, 2017 by Byrn & Associates, Inc. of San Marcos. All 1/2" iron rods set are capped with a plastic cap stamped "Byrn Survey".

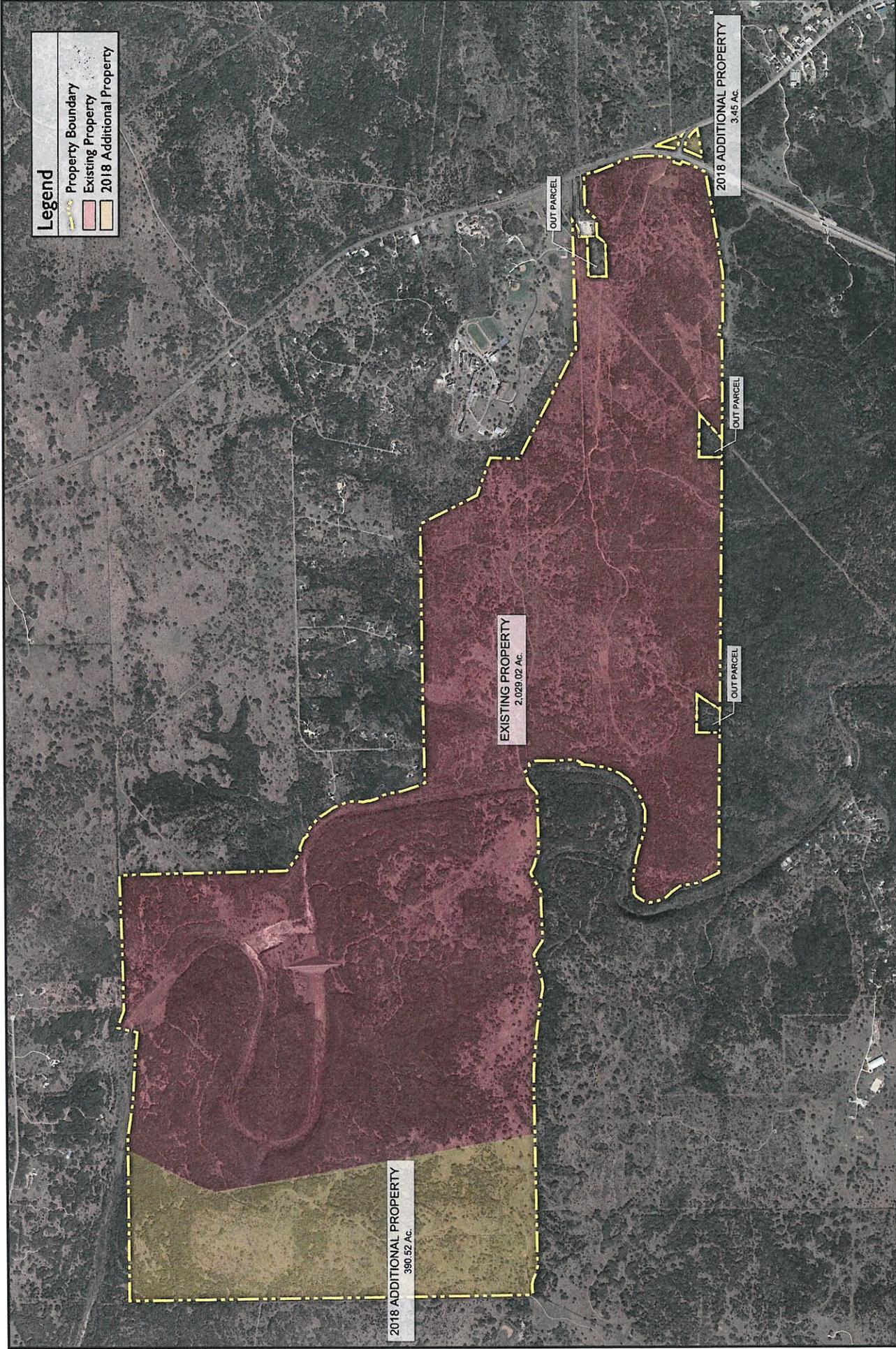

 David C. Williamson, R.P.L.S. #4190



Client: Wootan Family Estate
 Date: April 4, 2017
 Survey: Burke, William, A- 68
 County: Hays, Texas
 Job No: 27373-17
 FND 390.52 ac

Legend

- Property Boundary
- Existing Property
- 2018 Additional Property

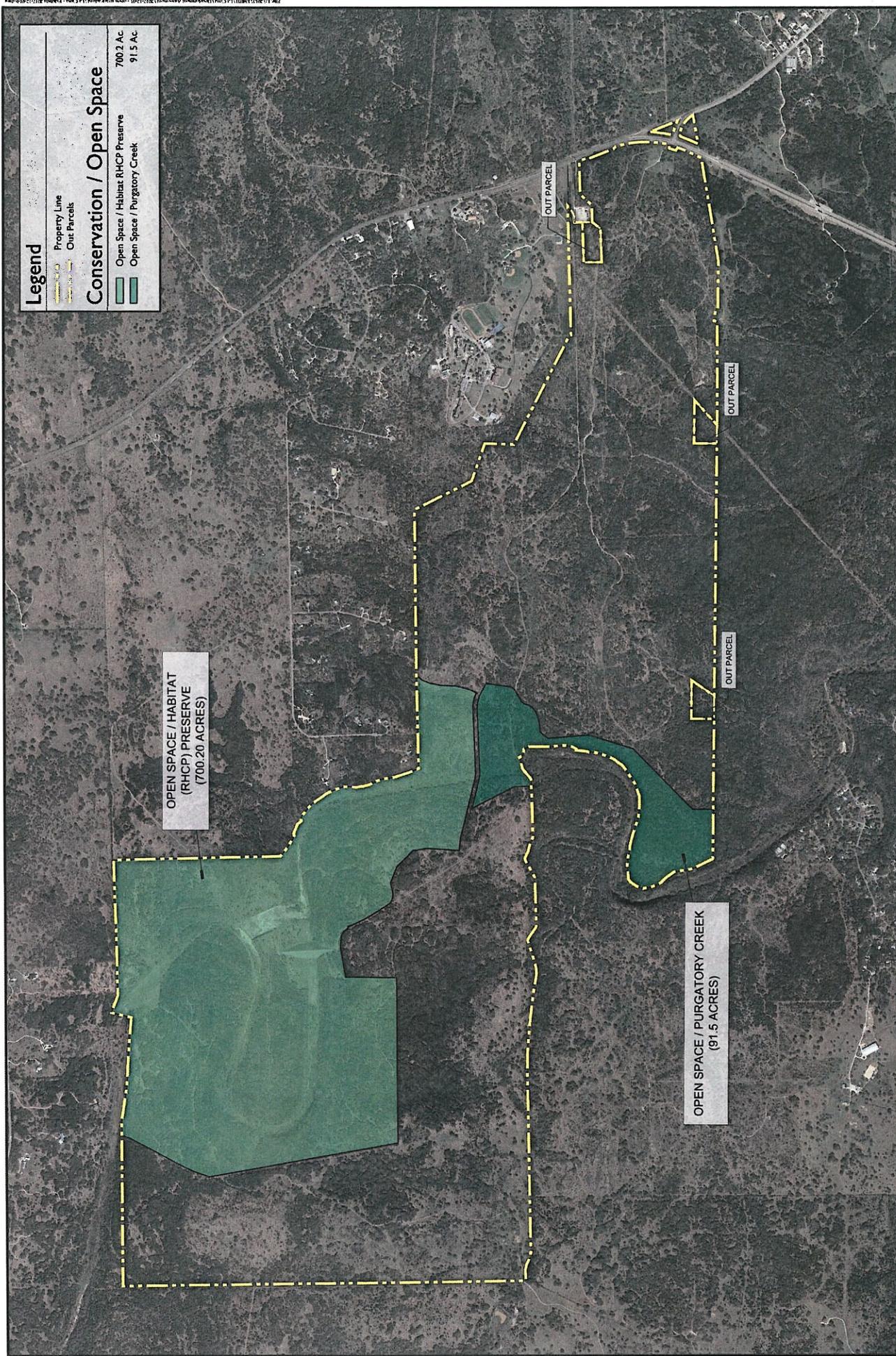


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Exhibit D - Project Breakdown

SCALE: 1" = 400'
 DATE: 05-23-2018
 NORTH

La Cima
San Marcos



Legend

- Property Line
- Out Parcels
- Open Space / Habitat RHCP Preserve
- Open Space / Purgatory Creek

Conservation / Open Space

- 700.2 Ac
- 91.5 Ac

OPEN SPACE / HABITAT
(RHCP) PRESERVE
(700.20 ACRES)

OPEN SPACE / PURGATORY CREEK
(91.5 ACRES)

OUT PARCEL

OUT PARCEL

OUT PARCEL