

EXCHANGE LETTER AGREEMENT

This Letter Agreement (the "Agreement") is made by and between BKCK LTD., a Texas Limited Partnership ("Grantor"), c/o Benjamin Keating, 5802 N. Navarro, Suite 100, Victoria, Texas 77904 (address), and the City of San Marcos, Texas ("City"), 630 East Hopkins Street, San Marcos, Texas 78666 to be effective as of the date executed by both parties below (the "Effective Date").

I. Recitals

1. The city requires a **0.4945-acre (21,541 square foot)** area for a COSM Public Wastewater Utility Easement owned by Grantor in connection with Posey Road Wastewater Project.
2. Grantor has agreed to Grant a COSM Public Wastewater Utility Easement to the City, subject to the terms of this Agreement.

II. Agreement

1. Together with this Agreement, Grantor has executed a COSM Public Wastewater Utility Easement in favor of the city, which is attached hereto and made a part hereof for all purposes (the "Easement"). The Easement grants certain rights to the City across a portion of real property owned by Grantor, described in the Easement as the "Easement Area." In addition, the City has agreed to the following conditions.

- The city will replace and or repair any section of fence taken down to construct or maintain the Easement.
- If the City's contractor is unable to complete the work, the city will complete the project with City Employees and City Equipment.

2. As compensation to the Grantor for the Easement, the city agrees to pay Grantor the sum of **\$35,505.00** for a total **0.4945-acre (21,541 square foot)** COSM Public Wastewater Utility Easement, within 90 days after the receipt of this Agreement and the City agrees to Release Easement Doc. #04022975 and a Partial Release of Easement Doc. #04022974 to Grantor attached to this Agreement as Exhibit "A & B" ("Properties"), after construction of the COSM Public Wastewater Utility Easement and physical removal of any public facilities on the Properties.

3. The City will pay for all expenses associated with the recording of the instruments used in this exchange of the Easement Areas and the Properties.

4. The City's obligation to accept the COSM Public Wastewater Utility Easement and pay Grantor is subject to the City's review and acceptance, in its sole discretion, of the state of title of the COSM Public Wastewater Easement Area, including evidence of Grantor's authority to grant the Easement and subject to the completion of any environmental investigations.

5. **Subject to Approval:** The effectiveness of this agreement is subject to its approval by the San Marcos City Council, in its sole discretion.

EXECUTED to be effective as of the date of the last signature below.

GRANTOR: BKCK LTD., a Texas Limited Partnership

By: Keat LLC, a Texas Limited Liability Company, General Partner


Benjamin Keating, Manager

Date: JUNE 24, 2024

CITY:

Date: _____

EXHIBIT "A"
Legal Description of Property
(next page)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

RELEASE OF EASEMENT

Date: _____

Easement Holder: City of San Marcos, Texas, 630 East Hopkins Street, San Marcos, Hays County, Texas 78666

Property: Being all of Tract 1 and Tract 2 as described in Special Warranty Deed with Vendor's Lien recorded in Instrument No. 20009852 of the Real Property Records of Hays County, Texas

Easement(s): City of San Marcos Public Utility Easement from Mr. J. Michael Chargois to the City of San Marcos dated December 15, 2003, and recorded as Instrument No. 04022975, Volume 2521, Page 26, Official Public Records of Hays County, Texas.

Release of Easement(s): Easement Holder hereby releases the Property from and relinquishes any right, title or interest in and to the Easement(s).

EASEMENT HOLDER:

By: City of San Marcos

City Manager, Stephanie Reyes

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on _____, by Stephanie Reyes, City Manager of the City of San Marcos, Texas in such capacity, on behalf of the said municipal corporation.

Notary Public, State of Texas

EXHIBIT "B"
Legal Description of Property
(next page)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

PARTIAL RELEASE OF EASEMENT

Date: _____

Easement Holder: City of San Marcos, Texas, 630 East Hopkins Street, San Marcos, Hays County, TX 78666

Property: Lot 2, Block A, San Marcos Toyota Subdivision, a plat of record in Volume 9 Pages 155-156 of the Plat Records of Hays County, Texas, also called Tract 1, as conveyed to BKCK LTD of record in Document No. 20009852, of the Official Public Records of Hays County, Texas

Easement(s): A 0.4490-acre tract of land being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes, such tract being a portion of the easement property granted by that certain Access and Public Utility Easement from Mr. J. Michael Chargois to the City of San Marcos dated December 15, 2003, and recorded on August 10, 2004, as Instrument No. 04022974, Volume 2521, Page 19, Official Public Records of Hays County, Texas.

Partial Release and Modification of Easement: The Easement Holder hereby partially releases the Easement(s) only as to the Property and relinquishes any right, title or interest to or in the Easement(s) to the extent located within the Property. Except as modified herein, the easement(s) granted in that certain Access and Public Utility Easement from Mr. J. Chargois to the City of San Marcos dated December 15, 2003, and recorded on August 10, 2004, as Instrument No. 04022974, Volume 2521, Page 19, Official Public Records of Hays County, Texas remains in full force and effect as to all other areas and land located outside of the Property.

EASEMENT HOLDER:

By: City of San Marcos

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

City Manager, Stephanie Reyes

This instrument was acknowledged before me on _____, by Stephanie Reyes, City Manager of the City of San Marcos, Texas in such capacity, on behalf of the said municipal corporation.

Notary Public, State of Texas

Exhibit "A"

**DESCRIPTION OF
A 0.4490 - ACRE VARIABLE WIDTH
ACCESS AND PUBLIC UTILITY EASEMENT**

A **0.4490 - acre** tract of land, being a variable width Access and Public Utility Easement, over and across the William H Vanhorn Survey, Abstract No. 464, situated in the City of San Marcos, Hays County, Texas, over and across a Lot 2, Block A, San Marcos Toyota Subdivision, a plat of record in Volume 9 Pages 155-156 of the Plat Records of Hays County, Texas, also called Tract 1, as conveyed to BRCK LTD of record in Document No. 20009852, of the Deed Records of Hays County, Texas Deed Records of Hays County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a point in the South line of Lot 2, Block A, and the North line of the 56.288 acre tract of land as conveyed to JMC Realty LP of record in Volume 1662 Page 628, recorded May 1, 2000, Deed Records of Hays County, Texas, for the South corner of the herein described easement, from which a found $\frac{1}{2}$ iron rod for the Northwest corner of the 56.288 acre tract and the Southwest corner of Lot 2, Block A bears South 43 degrees 33 minutes 04 seconds West, a distance of 75.18 feet for a reference;

THENCE, over and across Lot 2, Block A, the following ten (10) courses and distances

1. **North 46 degrees 16 minutes 36 seconds West**, a distance of **155.49 feet**;
2. **North 43 degrees 35 minutes 04 seconds East**, a distance of **351.62 feet**;
3. **North 03 degrees 19 minutes 43 seconds East**, a distance of **29.73 feet**;
4. **North 36 degrees 55 minutes 37 seconds West**, a distance of **228.59 feet**
5. **North 43 degrees 33 minutes 00 seconds East**, a distance of **25.34 feet**;
6. **South 36 degrees 55 minutes 37 seconds East**, a distance of **273.43 feet**;
7. **South 43 degrees 35 minutes 04 seconds West**, a distance of **357.32 feet**;
8. **South 01 degrees 24 minutes 56 seconds East**, a distance of **14.18 feet**;

9. **South 46 degrees 16 minutes 36 seconds East**, a distance of **120.45 feet**, from which a found $\frac{1}{2}$ iron rod with a cap stamped HMT on the Southwest right-of-way line of Posey Road, (having a 40 foot wide right-of-way), for the common corner of the remaining portion of the 56.288 acre tract and a 2.571 acre tract, called Tract 2, conveyed to BRCK LTD of record in Document No. 20009852 Deed Records of Hays County, Texas, bears North 43 degrees 33 minutes 04 seconds East, a distance of 908.58 feet for a reference;
10. **South 43 degrees 33 minutes 04 seconds West**, a distance of **25.00 feet to the POINT OF BEGINNING**, containing 19,559 square feet or **0.4490 - acres**, said tract being described in accordance with an exhibit prepared by KFW Surveying. Basis of bearings is based on Texas State-Plane South Central Zone, 4204 (N.A.D.83).



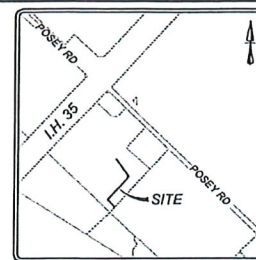
Job No.: 19-115
Prepared by: KFW Surveying
Date: March 22, 2023
File: S:\Draw 2019\19-115 Posey Road Detention Project\DOCS\FN 0.4490AC.docx

SVC 03/22/2023

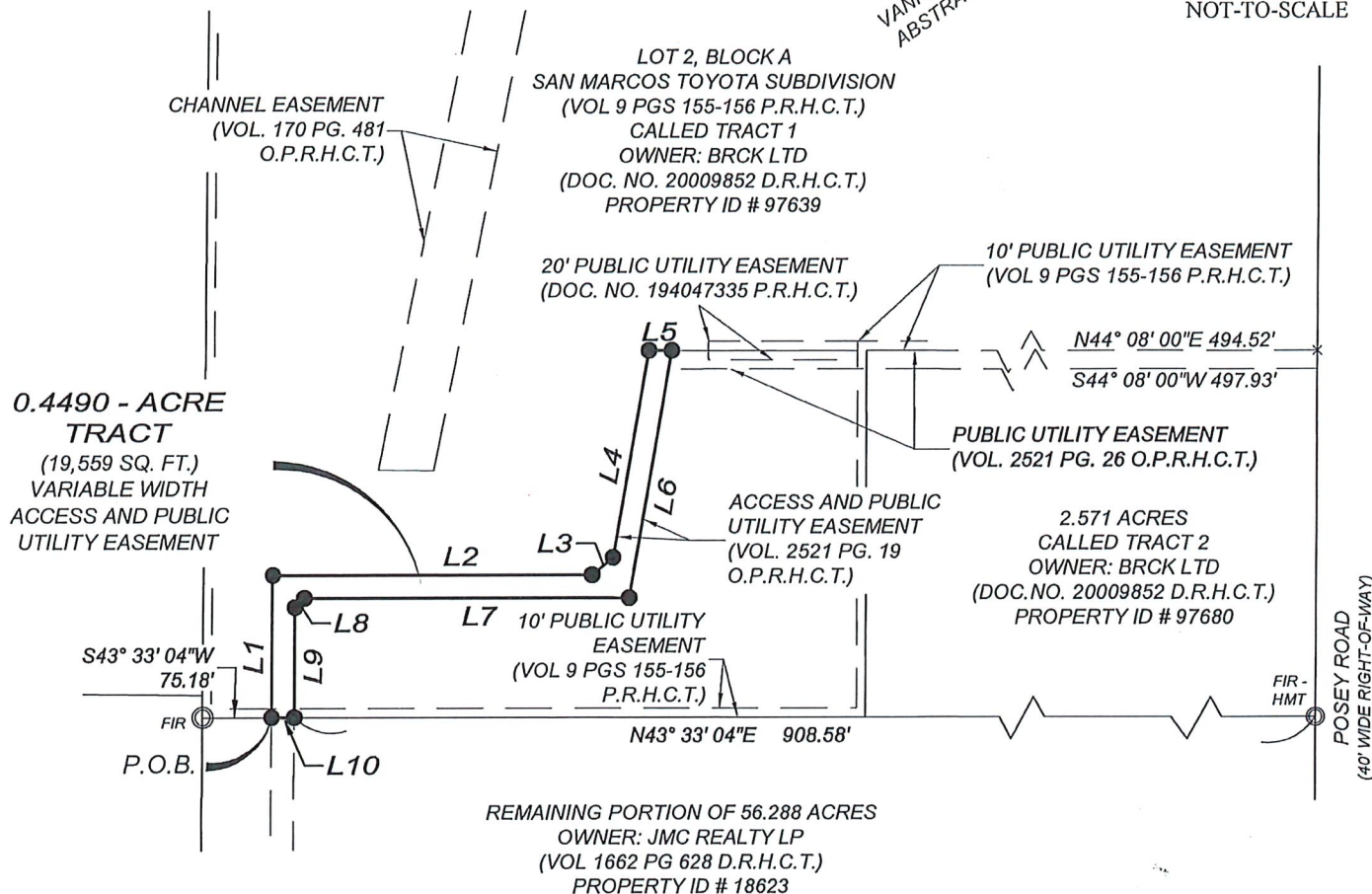
1. BEARINGS ARE BASED ON THE STATE PLANE COORDINATE SYSTEM ESTABLISHED FOR THE TEXAS SOUTH CENTRAL ZONE 4204, NORTH AMERICAN DATUM (NAD) OF 1983.
2. THE TRACT SHOWN HEREON IS SUBJECT TO ALL CITY OF SAN MARCOS AND HAYS COUNTY ORDINANCES AND RESTRICTIONS.
3. METES AND BOUNDS WERE PREPARED FOR THIS EXHIBIT.
4. SET IRON PINS ARE 1/2" DIAMETER REBAR WITH A YELLOW CAP STAMPED "KFW EASEMENT".
5. ADJOINERS SHOWN HEREON ARE PER CURRENT HAYS COUNTY APPRAISAL DISTRICT RECORDS AND OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.



WILLIAM H
VANHORN SURVEY,
ABSTRACT NO. 464



LOCATION MAP
NOT-TO-SCALE



○	<i>FIR</i>	<i>FOUND 1/2" IRON ROD OR AS NOTED</i>
●		<i>CALCULATED POINT</i>
	<i>D.R.H.C.T.</i>	<i>DEED RECORDS OF HAYS COUNTY, TEXAS</i>
	<i>P.R.H.C.T.</i>	<i>PLAT RECORDS OF HAYS COUNTY, TEXAS</i>
	<i>O.P.R.H.C.T.</i>	<i>OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS</i>
	<i>P.O.B.</i>	<i>POINT OF BEGINNING</i>
×	<i>FXC</i>	<i>FOUND "X" IN CONCRETE</i>

Line Table		
LINE #	DIRECTION	LENGTH
L1	N46°16'36"W	155.49'
L2	N43°35'04"E	351.62'
L3	N03°19'43"E	29.73'
L4	N36°55'37"W	228.59'
L5	N43°33'00"E	25.34'
L6	S36°55'37"E	273.43'
L7	S43°35'04"W	357.32'
L8	S01°24'56"E	14.18'
L9	S46°16'36"E	120.45'
L10	S43°33'04"W	25.00'



SAUL V. CASTILLO
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6192
EMAIL:SCASTILLO@KFWENGINEERS.COM
DATE OF SURVEY: 03/22/23
PROJECT NO.: 19-115

ANY COMPLAINTS REGARDING THE SERVICES YOU HAVE RECEIVED CAN BE DIRECTED TO:
THE TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS (TBPELS)
1917 S INTERSTATE 35, AUSTIN, TEXAS, 78741
PHONE: 512-440-7723 FAX: 512-442-1414 - EMAIL: WFO@PELS.TEXAS.GOV



has joined Collera Engineering & Design
TYPE FIRM #0513 / TOPLE FIRM #101223-00

*A 0.4490 OF AN ACRE TRACT, BEING A VARIABLE WIDTH
ACCESS AND PUBLIC UTILITY EASEMENT, SITUATED IN THE
CITY OF SAN MARCOS, HAYS COUNTY, TEXAS*

REVISIONS: ADDED 20' PUBLIC UTILITY ESMT EXTENDED 10' PUBLIC UTILITY ESMT TO POSEY RD		ISSUE DATE: 05/05/2023 05/05/2023
JOB NO. 19-115		
DATE: 03/22/2023		DESIGNER: SVC
DRAWN: KIMM CAR		CHECKED: SVC



SHEET: 1 OF 1