

# **AGREEMENT REGARDING CONVEYANCE OF RIGHT OF REDEMPTION AND WAIVER OF AGRICULTURAL VALUATION**

(TRACE PID)

This agreement regarding conveyance of right of redemption and waiver of agricultural valuation (the “Agreement”), dated as of \_\_\_\_\_, 2019 (the “Effective Date”), by and among Highpointe Trace, LLC, a California limited liability company (the “Landowner”), the City of San Marcos, Texas (the “City”), and UMB Bank, N.A. (the “Escrow Agent”), each acting by and through its duly authorized representative (the Landowner, City, and Escrow Agent collectively referred to as the “Parties”). Capitalized terms not defined herein shall have the meanings provided in Appendix “A” attached hereto.

## **RECITALS**

WHEREAS, on October 20, 2015, the City authorized the formation of the Trace Public Improvement District (the “District”) on the Property (defined below) in accordance with Chapter 372 of the Texas Local Government Code. The “Property” shall mean the approximately 417.63 acres of land located in Hays County, Texas and more particularly described in Exhibit “A” attached hereto;

WHEREAS, Landowner intends to develop the Property as a master planned development and Landowner has constructed and/or proposes to construct certain public improvements to serve the Property and transfer certain of those improvements to the City in accordance with the terms and provisions of the Trace Public Improvement District Financing Agreement, dated as of October 20, 2015, between the Landowner and the City, as such was amended and restated on September 18, 2018 (the “PID Financing Agreement”);

WHEREAS, the City adopted ordinances (each an “Assessment Ordinance”) pursuant to which assessments were levied against all or a portion of the Property (“Assessed Property”), and intends to issue one or more series of bonds for payment of costs associated with construction and/or acquisition of the certain public improvements in connection with the Property (the “PID Bonds”);

WHEREAS, Landowner agrees to (a) convey to the Escrow Agent all rights to redeem any portion of the Non-Redeemable Property (defined below), following a (i) tax sale, (ii) foreclosure sale for failure to pay assessments levied by an Assessment Ordinance, or (iii) sale, transfer, or conveyance in lieu of foreclosure for failure to pay assessments under an Assessment Ordinance (each of items (i) - (iii), a “Forced Sale”), and (b) execute and deliver into escrow with the Escrow Agent a waiver of agricultural use valuation as described in Section 2 hereof; and

NOW, THEREFORE, in consideration of the premises set forth above, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto hereby agree as follows:

## **SECTION 1. CONVEYANCE OF RIGHT OF REDEMPTION.**

Landowner GRANTS to Escrow Agent, to its successors, and to its assigns forever, to have and to hold, all rights that Landowner and its successors and assigns now have or in the future may have in equity, at law, or otherwise to redeem, repurchase, or reacquire those portions of the Property that are Assessed Property and are designated and claimed for agricultural use as described in Subchapter C of Chapter 23 of the Texas Tax Code (the “Non-Redeemable Property”) following a Forced Sale, including, without limitation, any and all rights arising under Subchapter B of Chapter 34 of the Texas Tax Code (collectively, the “Tax Redemption Rights”). As of the Effective Date, the Non-Redeemable Property is more particularly described in Exhibit “A-1” attached hereto and made a part hereof.

Landowner GRANTS to Escrow Agent, to its successors, and to its assigns forever, to have and to hold, the Tax Redemption Rights in the Non-Redeemable Property belonging in any way to Landowner so that neither Landowner nor Landowner’s successors and assigns, nor any other person claiming by, through, or under Landowner, shall at any time hereafter claim any right, title, or interest in or to the Tax Redemption Rights in the Non-Redeemable Property or any part thereof, except as expressly provided in this Agreement.

In the event that a court of competent jurisdiction enters a final judgment that the foregoing conveyance of Tax Redemption Rights is not effective, Landowner hereby irrevocably waives and surrenders forever all Tax Redemption Rights it has now or in the future may have, in equity, at law, or otherwise, to redeem, repurchase, or reacquire any portion of the Property that is Non-Redeemable Property following a Forced Sale, including, without limitation, any and all rights arising under Subchapter B of Chapter 34 of the Texas Tax Code.

## **SECTION 2. DEPOSIT OF FUNDS WITH ESCROW AGENT/WAIVER OF AGRICULTURAL USE VALUATION.**

(a) Deposit. Concurrently with the closing of the PID Bonds, the Landowner will deposit \$1,591.72 with the Escrow Agent to be held in the “Developer Property Tax Reserve Fund” relating to the “City of San Marcos, Texas, Special Assessment Revenue Bonds, Series 2019 (Trace Public Improvement District) (the “Property Tax Fund”), which is estimated to be two years of ad valorem taxes levied by all taxing units on the Non-Redeemable Property for the calendar years 2018 and 2019. Escrow Agent is instructed to hold the Property Tax Fund in cash until such time as the Escrow Agent receives further instruction from the City to either (i) return the funds to the Landowner; or (ii) deliver the funds to the City if, and only if, the Agricultural

Use Waiver (defined herein) is released to the City under Section 2(b) below; provided however, if on the eighth anniversary of the execution of this Agreement (the “Anniversary Date”), the Escrow Agent has not received instruction from the City, then it shall return such funds to the Landowner within 30 days of the Anniversary Date and this Agreement shall terminate subject to the return of the Agricultural Use Waiver as described in Section 2(b) below.

(b) Delivery of Agricultural Use Waiver into Escrow. Concurrently with the execution and delivery of this Agreement, Landowner executed and delivered, or will promptly deliver, to the Escrow Agent to be held in escrow 5 originals of the form attached hereto as Exhibit “B” (each an “Agricultural Use Waiver”) waiving any agricultural use valuation and any right to special appraisal arising based on agricultural use with respect to Non-Redeemable Property. The Agricultural Use Waiver shall be held in escrow, and shall only be released from escrow in accordance with the provisions of this Section 2.

The Escrow Agent shall hold the Agricultural Use Waiver in escrow until it receives further instruction from the City to (i) deliver the Agricultural Use Waiver to the City if, and only if, foreclosure or sale for failure to pay assessments levied by the Assessment Ordinance or foreclosure of a tax lien or sale, transfer or conveyance in connection with a sale for failing to pay assessments under the Assessment Ordinance or a tax sale has occurred with respect to Non-Redeemable Property; (ii) return the Agricultural Use Waiver to the Landowner; provided however, if on the Anniversary Date the Escrow Agent has not received such instruction from the City, then it shall return the Agricultural Use Waiver to the Landowner within 30 days of the Anniversary Date and this Agreement shall terminate subject to the Property Tax Fund being returned to the Landowner as described in Section 2(a) above; or (iii) provided this Agreement remains in effect and the City has previously informed the Escrow Agent in writing of a foreclosure sale of a tax lien or public improvement district lien that has been conducted in a legally sufficient manner with respect to Non-Redeemable Property and such sale has failed to occur for any reason other than the payment by the Landowner of the delinquent taxes and/or assessments, penalties and interest, then, upon the City’s instruction and certification to Escrow Agent and Landowner that such failed foreclosure sale has occurred, the Escrow Agent shall deliver the Agricultural Use Waiver to the City.

(c) Proportional Release. Notwithstanding anything in this Agreement to the contrary, if all or a portion of the Non-Redeemable Property ceases to be included in the Assessment Rolls with respect to the District, then the owner of such land shall have the right to assume ownership of the Tax Redemption Rights for said portion of the Non-Redeemable Property. In addition, if all or a portion of the Non-Redeemable Property ceases to be designated and claimed for agricultural use as described in Subchapter C of Chapter 23 of the Texas Tax Code (the “Non-Agricultural Portion”), that Non-Agricultural Portion shall be entitled to release from this Agreement upon Landowner providing written notice to the Escrow Agent and the City with documentation that shows (i) the Non-Agricultural Portion no longer has an agricultural use

appraisal, and (ii) that the taxes for the final year in which an agricultural use appraisal applied to the Non-Agricultural Portion have been paid in full. Upon written request by an owner of land subject to an event described in this Section 2(c), the City and the Escrow Agent shall execute a Release of Redemption from this Agreement in the form attached hereto as Exhibit "C".

It is hereby acknowledged and agreed that the Hays County Appraisal District is the sole entity authorized to make the determination of whether the Property is subject to an agricultural use valuation and/or any right to special appraisal arising based on agricultural use.

### **SECTION 3. DEFAULT AND REMEDIES.**

If Landowner or any Subsequent Landowner (defined herein) of Non-Redeemable Property shall violate any of the terms and provisions set forth in this Agreement, then the Escrow Agent, upon written notice from the City of a violation of this Agreement, shall have any remedies available at law or in equity. Upon written direction from the City, the Escrow Agent shall provide 30 days' notice to any lender or mortgagee that holds a lien or security interest in all or a portion of the Assessed Property prior to taking any enforcement action. Notwithstanding anything to the contrary set forth in this Agreement, the obligations of Landowner under this Agreement shall be several, not joint.

### **SECTION 4. REGARDING ESCROW AGENT.**

(a) The duties and obligations of the Escrow Agent shall be determined by the express provisions of this Agreement, and the Escrow Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement and no implied obligations or duties are to be imposed upon Escrow Agent. The Escrow Agent shall not be responsible for the enforceability of the transfer rights provided in Section 2 or the terms of this Agreement.

(b) The Escrow Agent shall not be liable for any action taken or omitted by it in the performance of its duties under this Agreement, except for its own negligence or willful misconduct.

(c) Any action against the Escrow Agent under this Agreement shall be limited to specific performance.

(d) The Escrow Agent shall be under no obligation to institute any suit, or to undertake any proceeding under this Agreement, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of its responsibilities hereunder or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays, and counsel

fees and other reasonable disbursements, and against all liability except as a consequence of its own negligence or willful misconduct.

## **SECTION 5. MISCELLANEOUS.**

(a) Term of Agreement. This Agreement shall continue in full force and effect until the earlier of: (1) Escrow Agent receives instruction from the City under Section 2(a)-(b); (2) the Anniversary Date and the return of Property Tax Fund and Agricultural Use Waiver to the Landowner; or (3) the Landowner provides written notice to the Escrow Agent and the City with documentation that shows (i) the Assessed Property no longer has an agricultural use appraisal, and (ii) that the taxes for the final year in which an agricultural use appraisal applied to the Assessed Property have been paid in full.

(b) Covenants Run with the Land; Transfers of the Property. This Agreement shall be recorded in the deed records of Hays County, Texas, and shall run with the land and the ownership of any Non-Redeemable Property and shall be binding upon Subsequent Landowners having an interest in the Non-Redeemable Property. Upon the acquisition by any party of any interest in the Non-Redeemable Property, (a) such party shall automatically and without further action by such party or any other party be deemed to have assumed and agreed to be bound by this Agreement from and after the date of such transfer, and (b) Landowner shall be released of liability with respect to the transferred interest in the Non-Redeemable Property from and after the date of such transfer, but not prior thereto. Without limiting the foregoing, any party who acquires a fee interest in any portion of the Non-Redeemable Property (each, a “Subsequent Landowner”) shall, and hereby shall be deemed to have agreed to, (i) execute and record in the Official Public Records of Hays County, Texas, promptly following the recording of the conveyance instrument, an agreement in the form attached hereto as Exhibit “D” (the “Acknowledgment and Agreement”) to acknowledge that such party is subject to the terms of this Agreement, expressly agreeing to comply with the terms and provisions of this Agreement applicable to the portion of the Non-Redeemable Property acquired by such party, and waiving such party’s right to redeem such portion of the Non-Redeemable Property, and (ii) execute and deliver to the Escrow Agent, concurrently with the recording of the Acknowledgment and Agreement, 5 Agricultural Use Waivers in the form attached hereto as Exhibit “B” for that portion of the Non-Redeemable Property acquired by such party. In the event that the number of Agricultural Use Waivers signed by a Subsequent Landowner that are held by Escrow Agent is fewer than 2 and some portion of the Property owned by the Subsequent Landowner is Non-Redeemable Property, such Subsequent Landowner agrees to promptly execute and deliver to the Escrow Agent, to be held in and released from escrow as provided herein, another Agricultural Use Waiver for use with any remaining Non-Redeemable Property owned by such Subsequent Landowner; provided, however, that the Escrow Agent shall deliver to the Hays County Tax Assessor/Collector or its successor an Agricultural Use Waiver with respect to the remaining Non-Redeemable Property owned by a Subsequent Landowner that has not paid taxes or

assessments as required by this Agreement, if said Subsequent Landowner does not execute and deliver to the Escrow Agent such additional Agricultural Use Waivers within 30 days of a written request by the Escrow Agent.

(c) Release of Obligations and Notice of Termination. Immediately prior to the termination of this Agreement as contemplated in Subsection (a) of this Section 5, the City shall execute and cause the Escrow Agent to record the Release of Obligations and Notice of Termination of this Agreement in the form attached hereto as Exhibit "E" in the deed records of Hays County, Texas.

(d) **INDEMNIFICATION.** LANDOWNER AND SUBSEQUENT OWNERS, SEVERALLY SHALL, TO THE FULLEST EXTENT PERMITTED BY LAW, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ESCROW AGENT AND EACH DIRECTOR, OFFICER, EMPLOYEE, ATTORNEY, AGENT AND AFFILIATE OF ESCROW AGENT AND CITY (COLLECTIVELY, THE "INDEMNIFIED PARTIES") AGAINST ANY AND ALL ACTIONS, CLAIMS (WHETHER OR NOT VALID), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES, COSTS AND EXPENSES) INCURRED BY OR ASSERTED AGAINST ANY OF THE INDEMNIFIED PARTIES AS A RESULT OF OR ARISING FROM OR IN ANY WAY RELATING TO ANY CLAIM, DEMAND, SUIT, ACTION OR PROCEEDING BY ANY PERSON, INCLUDING WITHOUT LIMITATION SUCH LANDOWNER, ASSERTING A CLAIM FOR ANY LEGAL OR EQUITABLE REMEDY AGAINST ANY PERSON ARISING FROM OR IN CONNECTION WITH THE NEGOTIATING, EXECUTION, PERFORMANCE OR FAILURE OF PERFORMANCE OF THIS AGREEMENT BY LANDOWNER OR SUCH SUBSEQUENT OWNER, AS APPLICABLE, WHETHER OR NOT ANY SUCH INDEMNIFIED PARTY IS A PARTY TO ANY SUCH SUIT, ACTION OR PROCEEDING; PROVIDED, HOWEVER, THAT NO INDEMNIFIED PARTY SHALL HAVE THE RIGHT TO BE INDEMNIFIED HEREUNDER FOR ANY LIABILITY TO HAVE RESULTED SOLELY FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH INDEMNIFIED PARTY.

(e) Escrow Agent's Fees. The Escrow Agent shall not charge a fee for the performance of services hereunder. The Landowner and/or Subsequent Owner shall fully cover payment for any and all expenses incurred by the Escrow Agent, including legal expenses, relating to or arising from the Escrow Agent's duties under this Agreement.

(f) Binding Effect. This Agreement shall be binding upon Landowner and its successors, receivers, trustees, and assigns and shall inure to the benefit of the City, the Escrow Agent, and the successors and assigns of the City and Escrow Agent.

(g) Amendments. This Agreement may be modified or amended only by a written agreement executed by the Escrow Agent, the City, and each owner of Non-Redeemable Property and recorded in the Official Public Records of Hays County, Texas.

(h) Severability; No Waiver. If any provision of this Agreement is held invalid or unenforceable, no other provision of this Agreement will be affected by such holding and all other provisions of this Agreement will continue in full force and effect. Any failure by a party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver of such requirement or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

(i) Notices. Any notice, communication or disbursement required to be given or made hereunder shall be in writing and shall be given or made by (i) hand delivery, (ii) overnight courier, or (iii) by United States mail, certified or registered mail, return receipt requested, postage prepaid, at the address set forth below or at such other address as may be specified in writing by any party hereto to the other Parties.

If to Landowner: Highpointe Trace, LLC  
Attn: Timothy D. England  
2 Venture, Suite 350  
Irvine, California 92618

With a copy to: Metcalfe Wolff Stuart & Williams, LLP  
Attn: Talley Williams  
221 W. 6th, Suite 1300  
Austin, Texas 78701

If to City: City of San Marcos  
Attn: City Manager  
630 E. Hopkins Street  
San Marcos, Texas 78666

With a copy to: San Marcos City Attorney  
Attn: Michael Cosentino  
630 E. Hopkins Street  
San Marcos, Texas 78666

If to Escrow Agent: UMB Bank, N.A.  
Attn: Jose Gaytan  
6034 W Courtyard Dr., Ste. 370  
Austin, Texas 78730

(j) Third Party Beneficiaries. The provisions of this Agreement are and will be for the benefit of the Parties, the Escrow Agent and the holders of the PID Bonds only and are not for the benefit of any other third party and, accordingly, no other third party shall have the right to enforce the provisions of this Agreement.

(k) Counterparts. This Agreement may be executed in any number of counterparts and by different Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

(l) Governing Law. The law of the State of Texas shall govern this Agreement.

(m) Anti-Boycott Verification. Pursuant to Section 2270.002, Texas Government Code, the Landowner and the Escrow Agent hereby verify that neither the Landowner, the Escrow Agent, nor any parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Landowner or Escrow Agent, if any, boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Landowner and Escrow Agent understand ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Landowner or the Escrow Agent and exists to make a profit.

(n) Iran, Sudan and Foreign Terrorist Organizations. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, the Landowner and Escrow Agent represent that neither the Landowner, the Escrow Agent, nor any parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Landowner or Escrow Agent is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Landowner, the Escrow Agent, and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Landowner or Escrow Agent, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal



sanctions regime relating to a foreign terrorist organization. The Landowner and the Escrow Agent understand 'affiliate' to mean any entity that controls, is controlled by, or is under common control with the Landowner or the Escrow Agent and exists to make a profit.

IN WITNESS WHEREOF, the Parties to this Agreement have caused this Agreement to be executed by their duly authorized representatives on dates set forth in the acknowledgements below, to be effective as of the day and year first above written.

The City of San Marcos, Texas

By: \_\_\_\_\_,  
Jane Hughson, Mayor

ATTEST:

By: \_\_\_\_\_  
Jamie Lee Case, City Clerk

STATE OF TEXAS

§

§

COUNTY OF HAYS

§

BEFORE ME, a Notary Public, on this day personally appeared, Jane Hughson, Mayor, and Jamie Lee Case, City Clerk of the City of San Marcos, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed on behalf of that municipality.

GIVEN UNDER MY HAND AND SEAL of office this \_\_\_\_ day of \_\_\_\_\_, 2019.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

Highpointe Trace, LLC,  
a California limited liability company

By: Highpointe Posey, LP, a California limited  
partnership, its managing member

By: Highpointe Investments, Inc., a California  
corporation, its general partner

By: \_\_\_\_\_  
Timothy D. England, SVP

#### ACKNOWLEDGMENT

A notary public or other officer completing this  
certificate verifies only the identity of the individual  
who signed the document to which this certificate is  
attached, and not the truthfulness, accuracy, or  
validity of that document.

State of California  
County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

UMB Bank, N.A., as Escrow Agent

By:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

THE STATE OF TEXAS     §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on\_\_\_\_\_, 2019, by  
\_\_\_\_\_, \_\_\_\_\_, on behalf of [ \_\_\_\_\_ ]

[SEAL]

\_\_\_\_\_

Notary Public, State of Texas

## Appendix “A”

### Definitions

“Indenture” shall mean the Indenture of Trust between the City and UMB Bank, N.A. relating to the issuance of a series of PID Bonds for financing costs of authorized public improvements, as it may be amended from time to time.

“Assessment Roll” or “Assessment Rolls” shall mean the Assessment Roll prepared and approved in connection with the Service and Assessment Plan pertaining to the District, as such Service and Assessment Plan was initially approved by the City Council of the City pursuant to Ordinance No. 2016-42 on October 18, 2016, as such Service and Assessment Plan is amended or restated from time to time.

## Exhibit "A"

### Description of the Property

#### FIELD NOTES

**BEING A 417.630 ACRE TRACT OUT OF THE WILLIAM H. VAN HORN SURVEY, ABSTRACT NO. 464, HAYS COUNTY, TEXAS, AND BEING A PORTION OF THOSE CERTAIN 100.22 ACRE, 67.53 ACRE, 248.77 ACRE, AND 5.01 ACRE TRACTS CONVEYED TO JOQ-SAN MARCOS VENTURES L.P. BY DEED OF RECORD IN VOLUME 1820, PAGE 715, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 417.630 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING**, at a 1-inch iron pipe found in the east right-of-way line of Interstate Highway 35 (300' R.O.W.), being the called northeast corner of that certain 85.00 acre tract conveyed to San Marcos 197 Acre Associates, LLC, by Deed of record in Volume 4015, Page 562, of said Official Public Records, also being the northwest corner of said 248.77 acre tract, for the northwesterly corner hereof;

**THENCE**, N43°34'33"E, along said east right-of-way line of Interstate Highway 35, being the north line of said 248.77 acre tract, a distance of 2222.49 feet to a 1/2-inch iron rod found near the base of a fence post at the called northeast corner of said 248.77 acre tract, being the northwest corner of that certain 14.86 acre tract conveyed to Kimberley Gunnarson, by Deed of record in Volume 3281, Page 47, of said Official Public Records, for the northeasterly corner hereof;

**THENCE**, S45°57'08"E, leaving said east right-of-way line, along the west line of said 14.86 acre tract, being an east line of said 248.77 acre tract, generally with the remnants of an old barbed-wire fence (a new barbed-wire fence meanders parallel and several feet to the west), a distance of 976.48 feet to a calculated point at the called southwest corner of said 14.86 acre tract, being an angle point of said 248.77 acre tract, for an angle point hereof, from which an 8-inch cedar fence post found bears S45°57'08"E, a distance of 0.87 feet;

**THENCE**, N44°02'46"E, along the south line of said 14.86 acre tract, generally with a barbed-wire fence, at 14.92 feet passing a 1/2-inch iron rod found at the base of an 8-inch cedar fence post, being approximately at an angle point in the east line of said 248.77 acre tract and the approximate northwest corner of said 67.53 acre tract, and continuing along the north line of said 67.53 acre tract for a total distance of 673.37 feet to a 1/2-inch iron rod found at the base of a leaning 10-inch cedar fence post at the called southeast corner of said 14.86 acre tract, being the northeast corner of said 67.53 acre tract, also being in the west line of Lot 2, Final Plat of San Marcos Toyota Subdivision, of record in Book 9, Pages 155-156, of the Plat Records of Hays County, Texas, for an angle point hereof;

**THENCE**, S46°27'25"E, in part along the west line of said Lot 2 and in part along the remainder of that certain 56.288 acre tract conveyed to JMC Realty, LP, by Deed of record in Volume 1662, Page 628, of said Official Public Records, being the east line of said 67.53 acre tract, generally with a barbed-wire fence as called in said Volume 1662, Page 628 and Volume 1820, Page 715, a distance of 181.47 feet to a 3-inch cedar fence post found, for an angle point hereof;

**THENCE**, continuing along the west line of said 56.288 acre tract, being the east line of said 67.53 acre tract, generally with a barbed-wire fence as called in said Volume 1662, Page 628 and said Volume 1820, Page 715, the following four (4) courses and distances:

- 1) S46°59'15"E, a distance of 232.69 feet to an 8-inch cedar fence post found, for an angle point

hereof;

- 2) S49°30'26"E, deviating from a re-established fence line over a creek, a distance of 126.95 feet to a 6-inch cedar fence post found, for an angle point hereof;
- 3) S47°20'32"E, rejoining and continuing generally with a barbed-wire fence line, a distance of 387.84 feet to a 1/2-inch iron rod found in the base of a hackberry tree, as called in said Volume 1662, Page 628, for an angle point hereof;
- 4) S47°39'57"E, a distance of 528.76 feet to a 1/2-inch iron rod found at the called southwest corner of said 56.288 acre tract, being at the base of a 10-inch cedar fence post at a called angle point in the east line of said 67.53 acre tract, for an angle point hereof;

**THENCE**, N44°31'00"E, along the south line of said 56.288 acre tract, being an east line of said 67.53 acre tract, generally with a barbed-wire fence, a distance of 646.04 feet to a 1/2-inch iron rod found at an angle point in the east line of said 67.53 acre tract, being the northwest corner of that certain 1.000 acre tract conveyed to Wilford L. Wootan, Jr., et ux, by Deed of record in Volume 536, Page 849, of the Real Property Records of Hays County, Texas, for an angle point hereof;

**THENCE**, S46°59'32"E, leaving the south line of said 56.288 acre tract, along the west line of said 1.000 acre tract, being an east line of said 67.53 acre tract, generally with a barbed-wire fence, a distance of 280.51 feet to a 1/2-inch iron rod found at the base of a fence post at the called southwest corner of said 1.000 acre tract, for an angle point hereof;

**THENCE**, N47°03'15"E, along the south line of said 1.000 acre tract and that certain 1.335 acre tract conveyed to Wilford L. Wootan, Jr., et ux, by Deed of record in Volume 401, Page 769, of said Real Property Records, being an east line of said 67.53 feet, generally with a barbed-wire fence, a distance of 335.24 feet to a 1/2-inch iron rod with "Capital Surveying Company" cap found at the northwest corner of that certain 0.8521 acre tract conveyed to Hays County, Texas for right-of-way purposes, by Deed of record in Volume 2927, Page 699, of said Official Public Records, being the southwest right-of-way line of Posey Road (R.O.W. varies), for an angle point hereof;

**THENCE**, leaving the south line of said 1.335 acre tract, over and across said 67.53 acre tract and said 100.22 acre tract, along said southwest right-of-way line of Posey Road, being the west line of said 0.8521 acre tract, and those certain 0.5415 acre and 2.4004 acre tracts conveyed to Hays County, Texas for right-of-way purposes, by said Deed of record in Volume 2927, Page 699, the following eight (8) courses and distances:

- 1) S41°53'43"E, a distance of 78.28 feet to a disturbed 1/2-inch iron rod found at the point of curvature of a curve to the left;
- 2) Along said curve, having a radius of 6075.00 feet, a central angle of 04°47'50", an arc length of 508.66 feet, and a chord which bears S44°20'45"E, a distance of 508.51 feet to a 1/2-inch iron rod with "Capital Surveying Company" cap found at the point of tangency of said curve;
- 3) S46°43'43"E, at 327.46 feet passing a 1/2-inch iron rod found on the south line of said 67.53 acre tract, being the north line of said 100.22 acre tract, and continuing for a total distance of 865.99 feet to a calculated point at the point of curvature of a curve to the right;
- 4) Along said curve, having a radius of 15031.48 feet, a central angle of 00°34'12", an arc length of 149.56 feet, and a chord which bears S46°08'19"E, a distance of 149.56 feet to a 1/2-inch iron rod with "Capital Surveying Company" cap found at the point of tangency of said curve;

- 5) S46°08'26"E, a distance of 1770.49 feet to a calculated point at the point of curvature of a curve to the left;
- 6) Along said curve, having a radius of 14862.04 feet, a central angle of 00°34'49", an arc length of 150.53 feet, and a chord which bears S46°25'49"E, a distance of 150.53 feet to a 1/2-inch iron rod with "Capital Surveying Company" cap found at the point of tangency of said curve;
- 7) S46°41'07"E, a distance of 195.22 feet to a 1/2-inch iron rod with "Capital Surveying Company" stamp found near the base of a 2-inch steel fence post, for an angle point hereof;
- 8) S01°32'03"E, a distance of 28.03 feet to a calculated point at the southwest corner of said 2.4004 acre tract, being in the south line of said 100.22 acre tract, also being the intersection of said southwest right-of-way line of Posey Road and the northeast right-of-way line of County Road 266/Old Bastrop Highway/El Camino Real (R.O.W. varies), for the southeasterly corner hereof;

**THENCE**, along the used and occupied northeast right-of-way line of County Road 266, being the called south line of said 100.22 acre tract, generally with a barbed-wire fence, the following two (2) courses and distances:

- 1) S43°45'05"W, a distance of 70.45 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 2) S44°04'56"W, a distance of 207.09 feet to a calculated point at the point of curvature of a curve to the right, being near the base of a 2-inch steel fence post, also being the east corner of that certain 0.0123 acre tract conveyed to Hays County, Texas for right-of-way purposes, by Deed of record in Volume 4600, Page 118, of said Official Public Records;

**THENCE**, continuing along said northeast right-of-way line, over and across said 100.22 acre tract, along said curve to the right, having a radius of 950.00 feet, a central angle of 08°05'19", an arc length of 134.11 feet, and a chord which bears S62°20'44"W, a distance of 134.00 feet to a calculated point near the base of a 2-inch steel fence post at the west corner of said 0.123 acre tract, being on the called south line of said 100.22 acre tract, for an angle point hereof;

**THENCE**, continuing along the used and occupied northeast right-of-way line of County Road 266, being the called south line of said 100.22 acre tract, generally with a barbed-wire fence, the following four (4) courses and distances:

- 1) S68°39'21"W, a distance of 769.76 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 2) S69°15'47"W, a distance of 221.52 feet to a 60D nail found in an 8-inch cedar fence post, for an angle point hereof;
- 3) S70°25'00"W, a distance of 127.68 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 4) S69°14'26"W, a distance of 228.32 feet to a calculated point at the called southwest corner of said 100.22 acre tract, being the southeast corner of that certain 5.0000 acre tract conveyed to Pleasant F. Rexroat and wife, Elwanda J. Rexroat, by Deed of record in Volume 1898, Page 98, of said Official Public Records, for an angle point hereof;

**THENCE**, N45°06'19"W, leaving said northeast right-of-way line of County Road 266, along the called west line of said 100.22 acre tract, generally with the remnants of an old barbed-wire fence



(new wire fence meanders approximately parallel and several feet southwest of old fence), a distance of 85.52 feet to a 6-inch cedar fence post found leaning, for an angle point;

**THENCE**, N46°36'04"W, continuing generally with the remnants of an old-barbed wire fence as called in said Volume 1820, Page 715, a distance of 642.34 feet to a 1/2-inch iron pipe found near the base of a fence post, being the called northeast corner of said Rexroat 5.0000 acre tract, also being an angle point in the occupied east line of said 248.77 acre tract, for an angle point hereof;

**THENCE**, S70°39'07"W, leaving the occupied west line of said 100.22 acre tract, along the called and occupied north line of said Rexroat 5.0000 acre tract, being the occupied east line of said 248.77 acre tract, generally with a barbed-wire fence, a distance of 329.36 feet to a 1/2-inch iron pipe found near the base of a fence post at the called northwest corner of said Rexroat 5.0000 acre tract, being the occupied northeast corner of said 5.01 acre tract, for an angle point hereof;

**THENCE**, S46°20'51"E, leaving the east line of said 248.77 acre tract, along the called and occupied west line of said Rexroat 5.0000 acre tract, being the occupied east line of said 5.01 acre tract, generally with a barbed-wire fence, a distance of 747.43 feet to a 1/2-inch iron pipe found near the base of a fence post at the called southwest corner of said Rexroat 5.0000 acre tract, being the southeast corner of said 5.01 acre tract, also being in said used and occupied northeast right-of-way line of County Road 266, for an angle point hereof;

**THENCE**, S72°25'29"W, along the used and occupied northeast right-of-way of County Road 266, being the called south line of said 5.01 acre tract, generally with a barbed-wire fence, a distance of 335.30 feet to a calculated point in a fence line, being the called southwest corner of said 5.01 acre tract, being the occupied southeast corner of said 248.77 acre tract, from which a 1/2-inch iron pipe found bears N46°20'31"W, a distance of 2.00 feet, for an angle point hereof;

**THENCE**, continuing along the used and occupied northeast right-of-way line of County Road 266, being the called south line of said 248.77 acre tract, generally with a barbed-wire fence, the following nine (9) courses and distances:

- 1) S71°40'15"W, a distance of 115.86 feet to a calculated point in a fence line, for an angle point hereof;
- 2) S76°06'10"W, a distance of 46.03 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 3) S86°28'05"W, a distance of 428.20 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 4) N89°34'56"W, a distance of 321.83 feet to a T-post found, for an angle point hereof;
- 5) N89°02'24"W, a distance of 554.59 feet to a calculated point in a fence line, for an angle point hereof;
- 6) S89°48'27"W, a distance of 68.91 feet to an 8-inch creosoted fence post found, for an angle point hereof;
- 7) N81°53'25"W, a distance of 50.53 feet to an 8-inch creosoted fence post found, for an angle point hereof;
- 8) N88°55'45"W, at approximately 713 feet leaving said barbed-wire fence line, and continuing for a distance of 802.47 feet to a 1/2-inch iron rod with "Macias" cap found, for an angle point

hereof;

- 9) N70°06'57"W, a distance of 39.04 feet to an 8-inch creosoted fence post found, for the southwesterly corner hereof;

**THENCE**, N46°27'14"W, continuing along the used and occupied northeast right-of-way line of County Road 266, being the called west line of said 248.77 acre tract, generally with a barbed-wire fence, a distance of 79.93 feet to a 1/2-inch iron pipe found at the called southeast corner of said 85.00 acre tract, for an angle point hereof;

**THENCE**, leaving said northeast right-of-way line of County Road 266, along the occupied east line of said 85.00 acre tract, being the called and occupied west line of said 248.77 acre tract, generally with a barbed wire fence, the following eight (8) courses and distances:

- 1) N41°35'30"W, a distance of 51.65 feet to a 1/2-inch iron pipe found, for an angle point hereof;
- 2) N45°22'24"W, a distance of 1221.06 feet to a 6-inch cedar fence post found, for an angle point hereof;
- 3) N45°15'48"W, a distance of 427.82 feet to a 6-inch cedar fence post found, for an angle point hereof;
- 4) N45°19'43"W, a distance of 673.22 feet to a 10-inch cedar fence post found, for an angle point hereof;
- 5) N46°33'40"W, a distance of 275.02 feet to a calculated point in a fence line, for an angle point hereof;
- 6) N47°51'30"W, a distance of 124.53 feet to a 6-inch cedar fence post found, for an angle point hereof;
- 7) N46°26'02"W, a distance of 218.87 feet to a T-post found, for an angle point hereof;
- 8) N46°25'10"W, at 158.03 feet passing a 1/2-inch iron pipe found, and continuing for a total distance of 769.08 feet to the **POINT OF BEGINNING**, and containing 417.630 acres (18,191,980 square feet) of land, more or less.

**Exhibit “A-1”**

**Non-Redeemable Property**

6.800 ACRES  
WILLIAM H. VAN HORN SURVEY  
SAN MARCOS, TX

FIELD NOTE FILE: 15.068  
PROJECT NO.: 230-001  
SEPTEMBER 23, 2015

#### FIELD NOTES

**BEING A 6.800 ACRE TRACT OUT OF THE WILLIAM H. VAN HORN SURVEY, ABSTRACT NO. 464, HAYS COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN 248.77 ACRE TRACT CONVEYED TO JOQ-SAN MARCOS VENTURES L.P. BY DEED OF RECORD IN VOLUME 1820, PAGE 715, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 6.800 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING**, at a 1-inch iron pipe found in the east right-of-way line of Interstate Highway 35 (300' r.o.w.), being the northeast corner of that certain 85.00 acre tract conveyed to San Marcos 197 Acre Associates, LLC, by Deed of record in Volume 4015, Page 562, of said Official Public Records, also being the northwest corner of said 248.77 acre tract, for the northwesterly corner hereof;

**THENCE**, N43°34'33"E, along said east right-of-way line, being the north line of said 248.77 acre tract, a distance of 339.95 feet to a calculated point, for the northeasterly corner hereof, from which a 1/2-inch iron rod found at the northeast corner of said 248.77 acre tract bears N43°34'33"E, a distance of 1882.54 feet;

**THENCE**, leaving said east right-of-way line, over and across said 248.77 acre tract, the following twelve (12) courses and distances:

- 1.) Along a non-tangent curve to the left, having a radius of 50.09 feet, a central angle of 102°40'36", an arc length of 89.76 feet, and a chord which bears S66°59'57"E, a distance of 78.23 feet to a calculated point at the end of said curve;
  - 2.) N73°07'25"E, a distance of 56.81 feet to a calculated point, for an angle point;
  - 3.) S88°52'39"E, a distance of 49.90 feet to a calculated point, for an angle point;
  - 4.) S85°06'15"E, a distance of 85.66 feet to a calculated point at the beginning of a non-tangent curve to the left;
  - 5.) Along said curve, having a radius of 154.84 feet, a central angle of 45°04'40", an arc length of 121.82 feet, and a chord which bears N72°59'34"E, a distance of 118.71 feet to a calculated point at the point of reverse curvature of a curve to the right;
  - 6.) Along said curve, having a radius of 103.69 feet, a central angle of 62°54'23", an arc length of 113.85 feet, and a chord which bears N65°39'52"E, a distance of 108.21 feet to a calculated point at the end of said curve;
  - 7.) S86°01'48"E, a distance of 77.24 feet to a calculated point, for an angle point;
  - 8.) S80°32'37"E, a distance of 76.23 feet to a calculated point, for an angle point;
  - 9.) S65°47'10"E, a distance of 29.82 feet to a calculated point, for an angle point;
-

6.800 ACRES  
WILLIAM H. VAN HORN SURVEY  
SAN MARCOS, TX

FIELD NOTE FILE: 15.068  
PROJECT NO.: 230-001  
SEPTEMBER 23, 2015

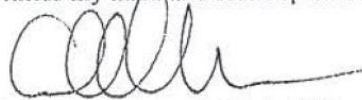
- 10.) N90°00'00"E, a distance of 34.19 feet to a calculated point at the beginning of a non-tangent curve to the right;
- 11.) Along said curve, having a radius of 175.23 feet, a central angle of 11°33'29", an arc length of 35.35 feet, and a chord which bears N79°10'38"E, a distance of 35.29 feet to a calculated point at the end of said curve, for the southeasterly corner hereof;
- 12.) S43°34'33"W, a distance of 861.94 feet to a calculated point on the west line of said 248.77 acre tract, being the east line of said 85.00 acre tract, for the southwesterly corner hereof, from which a 1-inch iron pipe found bears S46°25'10"E, a distance of 111.05 feet;

**THENCE**, N46°25'10"W, along the east line of said 85.00 acre tract, being the west line of said 248.77 acre tract, a distance of 500.00 feet to the **POINT OF BEGINNING**, and containing 6.800 acres (296,219 square feet) of land, more or less.

BEARING BASIS: TEXAS COORDINATE SYSTEM, NAD 83(2012A), SOUTH CENTRAL ZONE, REFERENCING THE LEICA SMARTNET REFERENCE NETWORK.

I HEREBY CERTIFY THAT THIS DESCRIPTION AND ANY ACCOMPANYING SKETCHES ARE THE RESULT OF AN ACTUAL ON-THE-GROUND SURVEY PERFORMED UNDER MY DIRECT SUPERVISION DURING THE MONTH OF FEBRUARY, 2014, AND ARE TRUE AND CORRECT TO THE BEST OF MY ABILITIES.

Witness my hand and seal September 23, 2015



Abram C. Dashner, R.P.L.S. 5901  
PROJECT NO. 253-001





5.525 ACRES  
WILLIAM H. VAN HORN SURVEY  
SAN MARCOS, TX

FIELD NOTE FILE: 15.072  
PROJECT NO.: 230-001  
SEPTEMBER 23, 2015

**FIELD NOTES**

**BEING A 5.525 ACRE TRACT OUT OF THE WILLIAM H. VAN HORN SURVEY, ABSTRACT NO. 464, HAYS COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN 248.77 ACRE TRACT CONVEYED TO JOQ-SAN MARCOS VENTURES L.P. BY DEED OF RECORD IN VOLUME 1820, PAGE 715, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 5.525 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**COMMENCING**, for reference, at a 1-inch iron pipe found in the east right-of-way line of Interstate Highway 35 (300' r.o.w.), being the northeast corner of that certain 85.00 acre tract conveyed to San Marcos 197 Acre Associates, LLC, by Deed of record in Volume 4015, Page 562, of said Official Public Records, also being the northwest corner of said 248.77 acre tract;

**THENCE**, N43°34'33"E, along said east right-of-way line, being the north line of said 248.77 acre tract, a distance of 441.02 feet to a calculated point, for the **POINT OF BEGINNING** and northwesterly corner hereof;

**THENCE**, N43°34'33"E, continuing along said east right-of-way line, being the north line of said 248.77 acre tract, a distance of 789.48 feet to a calculated point, for the northeasterly corner hereof, from which a 1/2-inch iron rod found at the northeast corner of said 248.77 acre tract bears N43°34'33"E, a distance of 991.98 feet;

**THENCE**, leaving said east right-of-way line, over and across said 248.77 acre tract, the following twenty-two (22) courses and distances:

- 1.) S46°25'27"E, a distance of 506.75 feet to a calculated point, for the southeasterly corner hereof;
  - 2.) S41°54'06"W, a distance of 25.01 feet to a calculated point, for an angle point;
  - 3.) S12°09'06"W, a distance of 40.97 feet to a calculated point, for an angle point;
  - 4.) S75°28'29"W, a distance of 49.39 feet to a calculated point, for an angle point;
  - 5.) S59°03'10"W, a distance of 62.78 feet to a calculated point, for an angle point;
  - 6.) S56°19'38"W, a distance of 88.10 feet to a calculated point, for an angle point;
  - 7.) S49°46'55"W, a distance of 18.87 feet to a calculated point, for an angle point;
  - 8.) N79°30'55"W, a distance of 11.71 feet to a calculated point, for an angle point;
  - 9.) N87°16'32"W, a distance of 33.92 feet to a calculated point, for an angle point;
  - 10.) S79°00'12"W, a distance of 43.96 feet to a calculated point, for an angle point;
  - 11.) N90°00'00"W, a distance of 3.12 feet to a calculated point, for an angle point;
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5.525 ACRES  
WILLIAM H. VAN HORN SURVEY  
SAN MARCOS, TX


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- 12.) N65°47'10"W, a distance of 21.32 feet to a calculated point, for an angle point;
- 13.) N80°32'37"W, a distance of 93.97 feet to a calculated point, for an angle point;
- 14.) N86°01'48"W, a distance of 91.05 feet to a calculated point, for an angle point;
- 15.) S83°39'50"W, a distance of 78.44 feet to a calculated point, for an angle point;
- 16.) S59°45'35"W, a distance of 65.63 feet to a calculated point, for an angle point;
- 17.) S45°01'07"W, a distance of 32.84 feet to a calculated point, for an angle point;
- 18.) S60°02'04"W, a distance of 18.44 feet to a calculated point, for an angle point;
- 19.) S82°34'24"W, a distance of 38.72 feet to a calculated point, for an angle point;
- 20.) N85°06'15"W, a distance of 78.16 feet to a calculated point, for an angle point;
- 21.) N88°52'39"W, a distance of 69.04 feet to a calculated point, for an angle point;
- 22.) S73°07'25"W, a distance of 44.75 feet to the **POINT OF BEGINNING**, and containing 5.525 acres (240,647 square feet) of land, more or less.

BEARING BASIS: TEXAS COORDINATE SYSTEM, NAD 83(2012A), SOUTH CENTRAL ZONE, REFERENCING THE LEICA SMARTNET REFERENCE NETWORK.

I HEREBY CERTIFY THAT THIS DESCRIPTION AND ANY ACCOMPANYING SKETCHES ARE THE RESULT OF AN ACTUAL ON-THE-GROUND SURVEY PERFORMED UNDER MY DIRECT SUPERVISION DURING THE MONTH OF FEBRUARY, 2014, AND ARE TRUE AND CORRECT TO THE BEST OF MY ABILITIES.

Witness my hand and seal September 23, 2015

  
Abram C. Dashner, R.P.L.S. 5901  
PROJECT NO. 253-001





48.128 ACRES  
WILLIAM H. VAN HORN SURVEY  
SAN MARCOS, TX

FIELD NOTE FILE: 15.073  
PROJECT NO.: 230-001  
SEPTEMBER 23, 2015

#### FIELD NOTES

BEING A 48.128 ACRE TRACT OUT OF THE WILLIAM H. VAN HORN SURVEY, ABSTRACT NO. 464, HAYS COUNTY, TEXAS, AND BEING A PORTION OF THOSE CERTAIN 67.53 ACRE AND 248.77 ACRE TRACTS CONVEYED TO JOQ-SAN MARCOS VENTURES L.P. BY DEED OF RECORD IN VOLUME 1820, PAGE 715, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 48.128 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING**, at a 1/2-inch iron rod found near the base of a fence post in the east right-of-way line of Interstate Highway 35 (300' r.o.w.), at the called northeast corner of said 248.77 acre tract, being the northwest corner of that certain 14.86 acre tract conveyed to Kimberley Gunnarson, by Deed of record in Volume 3281, Page 47, of said Official Public Records, for the northeasterly corner hereof;

**THENCE**, S45°57'08"E, leaving said east right-of-way line, along the west line of said 14.86 acre tract, being an east line of said 248.77 acre tract, generally with the remnants of an old barbed-wire fence (a new barbed-wire fence meanders parallel and several feet to the west), a distance of 976.48 feet to a calculated point at the called southwest corner of said 14.86 acre tract, being an angle point of said 248.77 acre tract, for an angle point, from which an 8-inch cedar fence post found bears S45°57'08"E, a distance of 0.87 feet;

**THENCE**, N44°02'46"E, along the south line of said 14.86 acre tract, generally with a barbed-wire fence, at 14.92 feet passing a 1/2-inch iron rod found at the base of an 8-inch cedar fence post, being approximately at an angle point in the east line of said 248.77 acre tract and the approximate northwest corner of said 67.53 acre tract, and continuing along the north line of said 67.53 acre tract for a total distance of 673.37 feet to a 1/2-inch iron rod found at the base of a leaning 10-inch cedar fence post at the called southeast corner of said 14.86 acre tract, being the northeast corner of said 67.53 acre tract, also being in the west line of Lot 2, Final Plat of San Marcos Toyota Subdivision, of record in Book 9, Pages 155-156, of the Plat Records of Hays County, Texas, for an angle point;

**THENCE**, S46°27'25"E, in part along the west line of said Lot 2 and in part along the remainder of that certain 56.288 acre tract conveyed to JMC Realty, LP, by Deed of record in Volume 1662, Page 628, of said Official Public Records, being the east line of said 67.53 acre tract, generally with a barbed-wire fence as called in said Volume 1662, Page 628 and Volume 1820, Page 715, a distance of 181.47 feet to a 3-inch cedar fence post found, for an angle point;

**THENCE**, continuing along the west line of said 56.288 acre tract, being the east line of said 67.53 acre tract, generally with a barbed-wire fence as called in said Volume 1662, Page 628 and said Volume 1820, Page 715, the following four (4) courses and distances:

- 1) S46°59'15"E, a distance of 232.69 feet to an 8-inch cedar fence post found, for an angle point;
  - 2) S49°30'26"E, a distance of 29.86 feet to a calculated point, for the southeasterly corner hereof;
-



48.128 ACRES  
WILLIAM H. VAN HORN SURVEY  
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**THENCE**, leaving the west line of said 56.288 acre tract, over and across said 67.53 acre and said 248.77 acre tracts, the following eighteen (18) courses and distances:

- 1.) Along a non-tangent curve to the left, having a radius of 52.13 feet, a central angle of  $125^{\circ}11'32''$ , an arc length of 113.91 feet, and a chord which bears  $S10^{\circ}10'02''E$ , a distance of 92.56 feet to a calculated point at the end of said curve;
  - 2.)  $S00^{\circ}35'28''W$ , a distance of 0.97 feet to a calculated point at the beginning of a non-tangent curve to the right;
  - 3.) Along said curve, having a radius of 257.51 feet, a central angle of  $16^{\circ}44'39''$ , an arc length of 75.25 feet, and a chord which bears  $S38^{\circ}53'08''W$ , a distance of 74.99 feet to a calculated point at the end of said curve;
  - 4.)  $S09^{\circ}46'04''W$ , a distance of 34.74 feet to a calculated point, for an angle point;
  - 5.)  $S09^{\circ}28'06''E$ , a distance of 28.23 feet to a calculated point, for an angle point;
  - 6.)  $S30^{\circ}23'43''W$ , a distance of 5.43 feet to a calculated point, for an angle point;
  - 7.)  $S19^{\circ}02'13''W$ , a distance of 21.95 feet to a calculated point, for an angle point;
  - 8.)  $S11^{\circ}57'06''W$ , a distance of 20.73 feet to a calculated point, for an angle point;
  - 9.)  $S26^{\circ}34'48''W$ , a distance of 12.48 feet to a calculated point, for an angle point;
  - 10.)  $S36^{\circ}35'27''W$ , a distance of 26.24 feet to a calculated point at the beginning of a non-tangent curve to the right;
  - 11.) Along said curve, having a radius of 220.38 feet, a central angle of  $46^{\circ}19'41''$ , an arc length of 178.19 feet, and a chord which bears  $S18^{\circ}34'32''W$ , a distance of 173.38 feet to a calculated point at the end of said curve;
  - 12.)  $S05^{\circ}42'52''W$ , a distance of 20.02 feet to a calculated point at the beginning of a non-tangent curve to the left;
  - 13.) Along said curve, having a radius of 239.33 feet, a central angle of  $12^{\circ}07'22''$ , an arc length of 50.64 feet, and a chord which bears  $S20^{\circ}16'33''W$ , a distance of 50.54 feet to a calculated point at the end of said curve;
  - 14.)  $S45^{\circ}48'26''W$ , a distance of 1229.89 feet to a calculated point, for an angle point;
  - 15.)  $S55^{\circ}30'40''W$ , a distance of 100.10 feet to a calculated point, for the southwesterly corner hereof;
  - 16.)  $N31^{\circ}57'14''W$ , a distance of 383.71 feet to a calculated point at the point of curvature of a curve to the left;
-

48.128 ACRES  
WILLIAM H. VAN HORN SURVEY  
SAN MARCOS, TX

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17.) Along said curve, having a radius of 1450.00 feet, a central angle of  $14^{\circ}28'14''$ , an arc length of 366.21 feet, and a chord which bears  $N39^{\circ}11'20''W$ , a distance of 365.23 feet to a calculated point at the point of tangency of said curve;

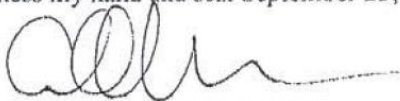
18.)  $N46^{\circ}25'27''W$ , a distance of 880.42 feet to a calculated point in the north line of said 248.77 acre tract, being said east right-of-way line of Interstate Highway 35, for the northwesterly corner hereof;

**THENCE**,  $N43^{\circ}34'33''E$ , along said east right-of-way line, being the north line of said 248.77 acre tract, a distance of 991.99 feet to the **POINT OF BEGINNING**, and containing 48.128 acres (2,096,445 square feet) of land, more or less.

BEARING BASIS: TEXAS COORDINATE SYSTEM, NAD 83(2012A), SOUTH CENTRAL ZONE, REFERENCING THE LEICA SMARTNET REFERENCE NETWORK.

I HEREBY CERTIFY THAT THIS DESCRIPTION AND ANY ACCOMPANYING SKETCHES ARE THE RESULT OF AN ACTUAL ON-THE-GROUND SURVEY PERFORMED UNDER MY DIRECT SUPERVISION DURING THE MONTH OF FEBRUARY, 2014, AND ARE TRUE AND CORRECT TO THE BEST OF MY ABILITIES.

Witness my hand and seal September 23, 2015



Abram C. Dashner, R.P.L.S. 5901  
PROJECT NO. 253-001





9.929 ACRES  
WILLIAM H. VAN HORN SURVEY  
SAN MARCOS, TX

FIELD NOTE FILE: 15.077  
PROJECT NO.: 253-001  
SEPTEMBER 23, 2015

#### FIELD NOTES

**BEING A 9.929 ACRE TRACT OUT OF THE WILLIAM H. VAN HORN SURVEY, ABSTRACT NO. 464, HAYS COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN 100.22 ACRE TRACT CONVEYED TO JOQ-SAN MARCOS VENTURES L.P. BY DEED OF RECORD IN VOLUME 1820, PAGE 715, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 9.929 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING**, at a calculated point in the southwest right-of-way line of Posey Road, being the west line of that certain 2.4004 acre tract conveyed to Hays County, Texas for right-of-way purposes, by Deed of record in Volume 2927, Page 699, of said Official Public Records, also being the east line of the remainder of said 100.22 acre tract, for the northeasterly corner hereof, from which a 1/2-inch iron rod with "Capital Surveying Company" cap found at an angle point in said southwest right-of-way line bears N46°08'26"W, a distance of 1607.49 feet;

**THENCE**, along said southwest right-of-way line of Posey Road, being the west line of said 2.4004 acre tract, over and across said 100.22 acre tract, the following four (4) courses and distances:

- 1) S46°08'26"E, a distance of 163.00 feet to a calculated point at the point of curvature of a curve to the left;
- 2) Along said curve, having a radius of 14862.04 feet, a central angle of 00°34'49", an arc length of 150.53 feet, and a chord which bears S46°25'49"E, a distance of 150.53 feet to a 1/2-inch iron rod with "Capital Surveying Company" cap found at the point of tangency of said curve;
- 3) S46°41'07"E, a distance of 195.22 feet to a 1/2-inch iron rod with "Capital Surveying Company" stamp found near the base of a 2-inch steel fence post, for an angle point;
- 4) S01°32'03"E, a distance of 28.03 feet to a calculated point at the southwest corner of said 2.4004 acre tract, being in the south line of said 100.22 acre tract, also being the intersection of said southwest right-of-way line of Posey Road and the northeast right-of-way line of County Road 266/Old Bastrop Highway/El Camino Real (R.O.W. varies), for the southeasterly corner hereof;

**THENCE**, along the used and occupied northeast right-of-way line of County Road 266, being the called south line of said 100.22 acre tract, generally with a barbed-wire fence, the following two (2) courses and distances:

- 1) S43°45'05"W, a distance of 70.45 feet to an 8-inch cedar fence post found, for an angle point;
  - 2) S44°04'56"W, a distance of 207.09 feet to a calculated point at the point of curvature of a curve to the right, being near the base of a 2-inch steel fence post, also being the east corner of that certain 0.0123 acre tract conveyed to Hays County, Texas for right-of-way purposes, by Deed of record in Volume 4600, Page 118, of said Official Public Records;
-

9.929 ACRES  
WILLIAM H. VAN HORN SURVEY  
SAN MARCOS, TX

FIELD NOTE FILE: 15.077  
PROJECT NO.: 253-001  
SEPTEMBER 23, 2015

**THENCE**, continuing along said northeast right-of-way line, over and across said 100.22 acre tract, along said curve to the right, having a radius of 950.00 feet, a central angle of  $08^{\circ}05'19''$ , an arc length of 134.11 feet, and a chord which bears  $S62^{\circ}20'44''W$ , a distance of 134.00 feet to a calculated point near the base of a 2-inch steel fence post at the west corner of said 0.123 acre tract, being on the called south line of said 100.22 acre tract, for an angle point hereof;

**THENCE**, continuing along the used and occupied northeast right-of-way line of County Road 266, being the called south line of said 100.22 acre tract, generally with a barbed-wire fence, the following three (3) courses and distances:

- 1)  $S68^{\circ}39'21''W$ , a distance of 769.76 feet to an 8-inch cedar fence post found, for an angle point;
- 2)  $S69^{\circ}15'47''W$ , a distance of 221.52 feet to a 60D nail found in an 8-inch cedar fence post, for an angle point;
- 3)  $S70^{\circ}25'00''W$ , a distance of 20.28 feet to calculated point, for the most westerly corner hereof;

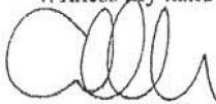
**THENCE**, leaving said northeast right-of-way line, over and across said 100.22 acre tract, the following two (2) courses and distances:

- 1.)  $N41^{\circ}15'56''E$ , a distance of 498.01 feet to a calculated point, for an angle point;
- 2.)  $N41^{\circ}24'18''E$ , a distance of 841.99 feet to the **POINT OF BEGINNING**, and containing 9.929 acres (432,505 square feet) of land, more or less.

BEARING BASIS: TEXAS COORDINATE SYSTEM, NAD 83(2011), SOUTH CENTRAL ZONE, REFERENCING THE LEICA SMARTNET REFERENCE NETWORK.

I HEREBY CERTIFY THAT THIS DESCRIPTION AND ANY ACCOMPANYING SKETCHES ARE THE RESULT OF AN ACTUAL ON-THE-GROUND SURVEY PERFORMED UNDER MY DIRECT SUPERVISION DURING THE MONTH OF FEBRUARY, 2014, AND ARE TRUE AND CORRECT TO THE BEST OF MY ABILITIES.

Witness my hand and seal September 23, 2015



Abram C. Dashner, R.P.L.S. 5901  
PROJECT NO. 253-001



**EXHIBIT “B”**

**AGRICULTURAL USE WAIVER**

THE STATE OF TEXAS                   §  
   §       KNOW EVERYONE BY THESE PRESENTS:  
COUNTY OF HAYS                   §

      THAT this Agricultural Use Waiver (this “Waiver”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for the benefit of the City of San Marcos, Texas (the “City”) and the Escrow Agent (as defined below), by Highpointe Trace, LLC, a California limited liability company (the “Landowner”), owner of the property described on Schedule 1 hereto (the “Property”), which Property is located within Trace Public Improvement District (the “District”), a public improvement district of the City, pursuant to Texas Tax Code Ann. §23.20.

**RECITALS**

      A.     The City has the right to levy assessments on land located within the District pursuant to a separate ordinance enacted by the City Council of the City, which assessments are intended to provide for the financing of certain public improvements for the benefit of the District.

      B.     The purpose of the City in levying assessments and, if approved by the City Council of the City, selling its assessment revenue bonds is to provide, among other things, financing for certain public improvements to serve the District (the “Facilities”).

      C.     UMB Bank, N.A. (the “Escrow Agent”) is a trustee as described in that certain Trace Public Improvement District Financing Agreement having an effective date of October 20, 2015 (the “PID Financing Agreement”), by and between Landowner and the City, as amended and restated effective September 18, 2018.

      D.     In furtherance of this purpose, the City has agreed to reimburse Landowner for payments made for certain public improvements for the benefit of the District.

      E.     Landowner, the City and Escrow Agent have also entered into that certain Agreement Regarding Conveyance of Right of Redemption and Waiver of Agricultural Valuation (the “Agreement”) dated \_\_\_\_\_, 2019, which requires Landowner to provide executed originals of this Waiver to the Escrow Agent to be held in escrow pursuant to the terms and conditions of said Agreement;

F. Landowner acknowledges that the election by Landowner to claim agricultural use exemptions or valuations arising under Subchapter C of Chapter 23 of the Texas Tax Code (collectively, the “Exemptions”), but not including any residential homestead exemption, for the Property would be detrimental to the property valuation base and may significantly impair the ability of the City to meet its obligations under the PID Financing Agreement or, if issued, its revenue bonds secured by and payable from assessment revenues.

G. Landowner further acknowledges that the exercise of the right to redemption after a tax sale pursuant to Subchapter B of Chapter 34 of the Texas Tax Code would also significantly impair the City’s ability to meet its debt obligations for its revenue bonds secured by and payable from assessment revenues.

### WAIVER

Section 1. Waiver of Exemptions. Landowner, on behalf of itself, its successors and assigns, (i) irrevocably waives its right to claim any of the Exemptions with respect to the Property for a period of 30 years beginning on the date this Waiver is received by the Hays County Tax Assessor/Collector (the “Waiver Period”); (ii) authorizes the City and/or the Escrow Agent to file this Waiver with the Chief Appraiser of the Hays Central Appraisal District, or its successors, in accordance with the terms of the Agreement; and (iii) covenants that it will not, during the Waiver Period, if applicable, make any claim for a special appraisal except on written authorization of the City. Landowner acknowledges that it may have the right under Article 8 of the Texas Constitution to assert some or all of the Exemptions which it is waiving herein, and agrees that it shall be estopped from claiming such Exemptions at any time during the Waiver Period, if applicable; provided, however, it is expressly acknowledged and agreed by Landowner that mechanisms for single-family residences now available or to be made available by any change in Texas laws for the reduction of ad valorem tax liability or of valuation for the purposes of ad valorem taxes or other assessments with respect to real property, such as exemptions for homesteads, disabled veterans, elderly homesteads, and etcetera, are not included in the definition of Exemptions and are expressly allowed, to the extent such exemptions would be otherwise available, with respect to the Property.

[Section 2. Disclosures of Lienholders. Landowner represents and warrants that \_\_\_\_\_ and \_\_\_\_\_ are the current lienholders on the Property.]

Section 3. Covenants to Run with Land. The terms and provisions hereof shall be deemed to be restrictive covenants encumbering and running with the Property and shall be binding upon the Landowner and its successors and assigns. In particular, each successive purchaser of the Property shall, upon purchase thereof (or such portion thereof) be deemed to have waived its right to claims of the Exemptions with respect to the Property (or such portions thereof) at any time during the Waiver Period, if applicable.



Section 4. Enforceability. The covenants and restrictions binding the Property hereunder shall be enforceable only by the City, the Escrow Agent, and their respective successors and assigns. This Waiver is for the sole benefit of the parties hereto, and of the Escrow Agent, and no other third party is intended to be a beneficiary of this Waiver.

Section 5. Termination. This Waiver shall continue in full force and effect until the earlier to occur of the following: (i) the expiration of the Waiver Period; or (ii) such time as the Escrow Agent approves a revocation in writing.

Section 6. Severability. Every provision of this Waiver is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable to the maximum extent permitted by law, it being the intent of the parties hereto to give full force and effect to the agreements made hereunder to the maximum extent permitted by law.

Section 7. Headings. The Section headings are included in this Waiver for convenience of reference only, and shall not be deemed to affect the substantive provisions of this Waiver.

Section 8. Remedies. If Landowner breaches its obligations hereunder, the Escrow Agent or the City (on behalf of the Escrow Agent), in addition to all other remedies set forth herein or otherwise available at law or in equity, shall be entitled to recover from Landowner the amount of assessments that would have been due to the City had Landowner complied with this Waiver. Such payment will be due and payable, and will incur penalties and charges under the same terms as if the payment had been an assessment obligation of Landowner to City.

EXECUTED to be effective as of the date first above written.

Highpointe Trace, LLC,  
a California limited liability company

By: Highpointe Posey, LP, a California limited  
partnership, its managing member

By: Highpointe Investments, Inc., a California  
corporation, its general partner

By: \_\_\_\_\_  
Timothy D. England, SVP

#### ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)



Schedule 1 to Agricultural Use Waiver

**EXHIBIT "C"**

**RELEASE OF REDEMPTION AGREEMENT**

STATE OF TEXAS                   §  
  §                   KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF HAYS               §

WHEREAS, the land described in the attached Exhibit "A" ("Property") is located within the Trace Public Improvement District ("District");

WHEREAS, \_\_\_\_\_ is the owner of the Property ("Owner");

WHEREAS, the Property is subject to the terms of the Agreement Regarding Conveyance of Right of Redemption and Waiver of Agricultural Valuation with an effective date of \_\_\_\_\_, 201\_\_ and recorded in Document No. \_\_\_\_\_, Official Public Records of Hays County, Texas ("Redemption Agreement");

WHEREAS, the City of San Marcos, Texas (the "City"), Highpointe Trace, LLC (the "Initial Owner"), and UMB Bank, N.A. (the "Escrow Agent") are parties to the Redemption Agreement;

WHEREAS, pursuant to the Redemption Agreement, certain rights to redeem the Property under the Texas Tax Code (as described in the Redemption Agreement) were conveyed by the Initial Owner to the Escrow Agent;

WHEREAS, pursuant to Redemption Agreement, the Escrow Agent is authorized to deliver a Waiver of Agricultural Use to the City for filing with the appropriate Tax Assessor/Collector office in the event that delinquent taxes or assessments are owed on the Property;

WHEREAS, pursuant to Redemption Agreement, the City and the Escrow Agent are authorized to release property from the terms of the Redemption Agreement; and

WHEREAS, the City and the Escrow Agent have determined that the Property should be released from the terms of the Redemption Agreement.

NOW, THEREFORE, for and in consideration of the above stated premises, and for other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged by the City and the Escrow Agent, the City and the Escrow Agent do hereby forever release and discharge the Property from all terms, restrictions, covenants, and conditions of the Redemption Agreement in its entirety, and release any and all rights that the City and the Escrow Agent had, have or may have by virtue of the Redemption Agreement. In no event shall this release have any impact on land within the District other than the Property described in the attached Exhibit "A".

Escrow Agent has GRANTED, to have and to hold, and by these presents does hereby GRANT, unto Owner all rights that Escrow Agent and its successors and assigns received from Owner or its predecessors pursuant to the Redemption Agreement and, to the extent applicable, the Acknowledgment of Assumption and Conveyance of Right of Redemption in the form attached as Exhibit “D” to the Redemption Agreement.

Escrow Agent does hereby GRANT, TO HAVE AND TO HOLD the Tax Redemption Rights (as defined in the Redemption Agreement) in the Property, which Property is described in the attached Exhibit “A”, belonging in any way to Escrow Agent, unto the Owner, its successors and assigns, forever without warranty.

[SIGNATURE PAGE FOLLOWS]

WITNESS THE EXECUTION HEREOF this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

The City of San Marcos, Texas

By: \_\_\_\_\_,  
\_\_\_\_\_, Mayor

ATTEST:

By: \_\_\_\_\_  
\_\_\_\_\_, City Clerk

THE STATE OF TEXAS     §

COUNTY OF HAYS         §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by  
\_\_\_\_\_ and \_\_\_\_\_, the Mayor and Clerk, respectively, of the City of  
San Marcos, Texas, a home rule city and Texas municipal corporation, on behalf of said city and  
municipal corporation.

\_\_\_\_\_  
Notary Public, State of  
Texas

WITNESS THE EXECUTION HEREOF this the \_\_ day of \_\_\_\_\_, 20\_\_.

Escrow Agent

By: \_\_\_\_\_

THE STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by \_\_\_\_\_, the \_\_\_\_\_, on behalf of said entity.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

\* Attach description of the Property as Exhibit "A"  
prior to recording.

After Recording Mail to:

## **EXHIBIT "D"**

### **ACKNOWLEDGMENT OF ASSUMPTION AND CONVEYANCE OF RIGHT OF REDEMPTION**

This Acknowledgment of Assumption and Conveyance of Right of Redemption (this "Acknowledgment and Agreement") is entered into effective \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, a \_\_\_\_\_ (whether one or more, the "Buyer") in favor of the City of San Marcos, Texas and the Escrow Agent, as such term is defined in the Redemption Agreement (defined below).

#### **RECITALS**

A. WHEREAS, Buyer has purchased and acquired certain land described on Exhibit "A" attached hereto (the "Property"); and

B. WHEREAS, the Property is subject to that certain Agreement Regarding Conveyance of Right of Redemption and Wavier of Agricultural Valuation, dated on or about \_\_\_\_\_, 2019 (the "Redemption Agreement"); and

C. WHEREAS, pursuant to the requirements of the Redemption Agreement, it is a condition to the acquisition of the Property that the Buyer execute this Acknowledgment and Agreement and record same in the Official Public Records of Hays County, Texas; and

D. WHEREAS, the purchase price paid by Buyer for the Property was calculated and determined, in part, based upon the benefits and restrictions applicable to the Property and arising in connection with the Redemption Agreement and the other agreements executed in connection therewith and the requirement that Buyer execute this Acknowledgment and Agreement.

NOW, THEREFORE, in consideration of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Buyer hereby represents, warrants and agrees as follows:

1. Buyer acknowledges that the Redemption Agreement continues to affect the Property, and that Buyer has assumed, and Buyer hereby does assume and agree to perform, the obligations of Landowner (as such term is defined in the Redemption Agreement) under the Redemption Agreement with respect to the Property.

2. Buyer hereby grants, sells, conveys and assigns to the Escrow Agent all rights Buyer and its successors and assigns now have or in the future may have in equity, pursuant to statute, the Constitution of the State of Texas or otherwise to redeem, repurchase or reacquire, following any Forced Sale in connection with any portion of the Property that constitutes Non-Redeemable Property (as defined in the Redemption Agreement), including, without limitation, any and all rights arising under Subchapter B of Chapter 34 of the Texas Tax Code, but excluding any redemption rights arising out of the homestead status of the Property. In the event that the foregoing conveyance is not effective, Buyer hereby absolutely, unconditionally and



irrevocably waives, releases, relinquishes and surrenders forever, on behalf of itself and its successors and assigns, and agrees not to assert or exercise any and all rights it now has or in the future may have in equity, pursuant to statute, the Constitution of the State of Texas or otherwise to redeem, repurchase or reacquire, following any foreclosure of a tax lien or sale, transfer or conveyance in connection with a tax sale, any portion of the Property that constitutes Exempt Property, including, without limitation, any and all rights arising Subchapter B of Chapter 34 of the Texas Tax Code.

3. Concurrently with the execution and delivery of this Acknowledgment and Agreement, Buyer has executed and has delivered (or will promptly deliver) to the Escrow Agent to be held in escrow a Waiver of Special Appraisal in the form attached as Exhibit "B" to the Redemption Agreement waiving any agricultural use valuation and any right to special appraisal arising based on agricultural use with respect to the Property. Such agreement shall be held in, and released from, escrow in accordance with the provisions of the Redemption Agreement.

EXECUTED to be effective as of the date first above written.

BUYER:

Address for Buyer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE STATE OF TEXAS                   §  
  §  
COUNTY OF \_\_\_\_\_           §

This document was acknowledged before me on \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, on behalf of said entity.

\_\_\_\_\_  
Notary Public in and for the State of TEXAS

\* Attach description of the Property as **Exhibit A** prior to recording.

## RELEASE OF OBLIGATIONS AND NOTICE OF TERMINATION

All rights and obligations under that certain Agreement Regarding Conveyance of Right of Redemption and Waiver of Agricultural Valuation having an effective date of \_\_\_\_\_, 2019 (the "Agreement") recorded in the Official Public Records of Hays County, Texas, on \_\_\_\_\_, 201\_ under Instrument No. \_\_\_\_\_ ARE HEREBY RELEASED and NOTICE IS HEREBY GIVEN of the termination of the Agreement in accordance with its terms.

ATTEST:  
By: \_\_\_\_\_  
\_\_\_\_\_, City Clerk

Notary Public, State of Texas