

DEVELOPMENT AGREEMENT PARTIAL ASSIGNMENT, ASSUMPTION, MODIFICATION, AND CITY CONSENT AGREEMENT

This Development Agreement Partial Assignment, Assumption, Modification, and City Consent Agreement ("Agreement") is entered into by and among Craddock Avenue Partners LLC ("Assignor"), Carson Diversified Land, LP ("Assignee"), and the City of San Marcos ("City"), with reference to the following recitals of fact and intention:

A. Assignor and City have executed that certain Development Agreement regarding the Buie Tract Property dated November 24, 2009 and recorded in Volume 3914, Page 871 of the Official Public Records of Hays County, Texas, (the "Original Agreement"), concerning certain real property located in the City of San Marcos, County of Hays, State of Texas as further described on Exhibit "A" to the Development Agreement (the "Overall Property"), as such Original Agreement was approved by the City pursuant to Resolution No. 2009-166R dated December 1, 2009 (the "Resolution") and as corrected by the Correction to Recorded Development Agreement dated October 26, 2012, recorded on November 7, 2012 in the Official Public Records of Hays County as Document Number 1203224 (the "Correction"). Said Development Agreement was partially assigned and modified under terms of a Partial Assignment, Assumption and City Consent Agreement approved by the City by Resolution No. 2013-79R (the "First Assignment"). The Correction, the Original Agreement, Resolution and First Assignment are, collectively, the "Development Agreement".

B. Assignee is under contract to purchase from Assignor a portion of the Overall Property as further described on Exhibit "A" attached hereto (referred to herein as the "Craddock Mixed Use Property" and previously referred to in the Original Agreement as "Phase 1 MU"). As a condition to Assignee's purchase of the Craddock Mixed Use Property, Assignor desires to assign all of its right, title and interest under the Development Agreement with respect to the Craddock Mixed Use Property to Assignee, and Assignee desires to assume all of Assignor's obligations under the Development Agreement with respect to the Craddock Mixed Use Property, and City desires to consent to such assignment and assumption, upon the terms that follow.

C. City, Assignor, and Assignee (referred to herein individually as a "Party" and collectively as the "Parties") also wish to make certain minor modifications to the terms of the Development Agreement to clarify the current intent of the Parties.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment of Rights. Effective upon closing of the sale of the Craddock Mixed Use Property from Assignor to Assignee (the "Closing"), and only if the Closing occurs, Assignor hereby assigns to Assignee all of its right, title and interest in, to and under the Development Agreement with respect to the Craddock Mixed Use Property. Assignor hereby represents and warrants that Assignor is not currently in default under the Development Agreement.

2. Assumption of Responsibilities. Effective upon the Closing, and only if the Closing occurs, Assignee assumes and agrees to be bound by and liable for all of the covenants, warranties, representations and agreements to be observed or performed under the Development Agreement with respect to the Craddock Mixed Use Property from and after the Closing, with the same effect as though Assignee was the original and named developer under the Development Agreement with respect to the Craddock Mixed Use Property. Assignee acknowledges receipt of a copy of the Development Agreement previously provided to Assignee, and Assignee has read and fully understands the Development Agreement.

3. Rights and Responsibilities as to Overall Property. Assignee has no liability whatsoever for performance of Assignor's covenants, warranties, representations and agreements to be observed or performed by the Assignor, if any, under the Development Agreement with respect to portions of the Overall Property other than the Craddock Mixed Use Property, whether required to be performed before or after the Closing. Assignor has no liability whatsoever for performance of Assignee's covenants, warranties, representations and agreements to be observed or performed by the Assignee under the Development Agreement with respect to the Craddock Mixed Use Property after the Closing. Prior to closing, Assignee has no liability whatsoever for performance of Assignor's covenants, warranties, representations and agreements to be observed or performed by the Assignor under the Development Agreement with respect to the Craddock Mixed Use Property.

4. Modifications. Upon the Effective Date (as hereinafter defined) the following modifications shall be made to the Development Agreement:

(a) Buildings Along Craddock. Subsection B.1 of the Original Agreement shall be deleted in full and replaced with the following:

~~Buildings in the Phase 1 MU tract must be brought to the street edge of Craddock Street and contain ground floor retail or office. Future platted lots within in the Phase 1 MU tract abutting Craddock Street must include a principal building brought to the street edge of Craddock Street, said street to include any public easement grants to which the applicable lot is subservient.~~

(b) Future Assignments. Notwithstanding anything in subsection D.8 of the Original Agreement to the contrary, Assignee and its successors-in-interest may further assign the rights under the Development Agreement and this Agreement without further consent by Assignor or the City, provided that: (i) no modifications of the terms of the Development Agreement are made; (ii) such further assignment is done in conjunction with, and effective only upon the closing of, a transfer of ownership of all, or a fully platted portion of, the Craddock Mixed Use Property; (iii) the City is given written notice and a copy of the proposed assignment document no less than fourteen (14) days prior to said closing; and (iv) the assignment instrument is recorded in the Official Public Records of Hays County and a file stamped copy is delivered to the City within fourteen (14) days of recordation. Any assignment made in violation of the aforementioned terms may be voidable by the City. Any assignment made involving any modification of the terms of the Development

Agreement other than those contemplated by this Agreement must receive the prior written consent of the City.

5. City Consent to Assignment, Assumption, Modification, and Effective Date of Agreement. City hereby consents to such partial assignment, assumptions, and modifications in conformance with the terms and conditions of the Development Agreement. This Agreement shall be effective upon the full satisfaction of the City's Approval and Closing (the "Effective Date"), and City hereby agrees that, from and after the Effective Date of this Agreement, it shall recognize Assignee as the "Owner" of the Craddock Mixed Use Property for all purposes under the terms of the Development Agreement.

6. Recording. Within fourteen (14) days of the Effective Date, Assignor shall cause this Agreement to be recorded in the Official Public Records of Hays County and a file stamped copy to be delivered to the City and Assignee.

7. Notice Address. If any notice is given by the City to either the Assignor or the Assignee, the City shall also give such notice to the other Party. For purposes of notices under the Development Agreement, the address for Assignee is PO Box 666, San Marcos, TX 78666 with copy to 407 S Stagecoach Trail, Ste 203, San Marcos, Texas 78666, and the address for Assignor is P.O. Box 50324, Austin, Texas 78763, with a copy to Douglas Bender, Esq., 1208 West Avenue, Austin, Texas 78701. Notices to the City shall be sent to: City Manager, City of San Marcos, 630 East Hopkins Street, San Marcos, Texas 78666.

8. Indemnification. Assignor shall indemnify and hold harmless Assignee from any claims, obligations, or liabilities related to the Development Agreement for any actions or events that occurred prior to the Closing. Assignee shall indemnify and hold harmless Assignor from any claims, obligations, or liabilities related to the Development Agreement with respect to the Craddock Mixed Use Property for any actions or events that shall occur after the Closing. Assignor shall indemnify and hold harmless Assignee from any claims, obligations, or liabilities related to the Development Agreement with respect to portions of the Overall Property other than the Craddock Mixed Use Property for any actions or events that shall occur after the Closing.

9. Assignor's Representations and Warranties. Assignor does hereby represent and warrant to Assignee and City as follows:

(a) The Development Agreement is in full force and effect in all respects, and has not been amended or modified (except as specifically contemplated in this Agreement) and has not been terminated;

(b) Assignor has performed all of its obligations under the Development Agreement as of the Effective Date, and no condition, act, or omission that constitutes or would constitute, with notice, the passage of time, or both, a default by Assignor under the Development Agreement has occurred; and

(c) Assignor has full power and authority to enter into this Agreement and assign all of its rights and remedies under the Development Agreement with respect to the Craddock

Mixed Use Property to Assignee.

10. Defined Terms. All defined terms used herein shall have the meanings ascribed to them in the Development Agreement, unless otherwise defined herein.

11. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature page and this Agreement may be executed by the affixing of the signature of each of the parties to one of such counterpart signature pages and all such counterpart signature pages shall be attached to one Agreement and read having the same force and effect as though all the signatories had signed a single page.

12. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any disputes arising under this Agreement shall be in the state court having jurisdiction in Hays County, Texas or, if in federal court, the United States District Court for the western District of Texas, Austin Division.

13. Attorney's Fees. In any action brought by a Party hereto to enforce the obligations of any other party hereto, the substantially prevailing Party shall be entitled to collect from the opposing party to such action such substantially prevailing Party's reasonable litigation costs and attorney's fees and expenses (including court costs, reasonable fees of accountants and experts, and other expenses incidental to the litigation).

14. Recitals. The recitals of fact and intention set forth on the first page of this Agreement are incorporated herein by this reference and are acknowledged by the parties to be true and correct.

15. Continuing Effect of Development Agreement. This Agreement applies only to terms and conditions under the Development Agreement related to the Craddock Mixed Use Property and all terms, covenants, conditions and provisions set forth in the Development Agreement, including those related to the Craddock Mixed Use Property, shall remain in full force and effect except as amended by this Agreement.

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**SIGNATURE PAGE OF ASSIGNOR TO DEVELOPMENT AGREEMENT PARTIAL
ASSIGNMENT, ASSUMPTION AND CITY CONSENT AGREEMENT**

ASSIGNOR:

Craddock Avenue Partners, LLC.

By: _____
Edward R Coleman, Authorized Member

STATE OF TEXAS

COUNTY OF _____

SWORN TO AND SUBSCRIBED before me on _____, 2019 by
Edward R Coleman in his capacity as Authorized Member of Craddock Avenue Partners, LLC.

Notary Public, State of Texas

**SIGNATURE PAGE OF ASSIGNEE TO DEVELOPMENT AGREEMENT PARTIAL
ASSIGNMENT, ASSUMPTION AND CITY CONSENT AGREEMENT**

ASSIGNEE:

Carson Diversified Land, LP

By: Carson Diversified GP, LLC, Its General Partner

By: _____
W.C. Carson, Manager

STATE OF TEXAS

COUNTY OF HAYS

SWORN TO AND SUBSCRIBED before me on_____, 2019 by
W.C. Carson, Manager of Carson Diversified GP, LLC, a Texas limited liability company, on
behalf of said company, as General Partner of Carson Diversified Land, LP, a Texas limited
partnership, on behalf of said partnership.

Notary Public, State of Texas

**SIGNATURE PAGE OF CITY TO DEVELOPMENT AGREEMENT PARTIAL
ASSIGNMENT, ASSUMPTION AND CITY CONSENT AGREEMENT**

CITY CONSENT:

City of San Marcos, Texas

By: _____
Bert Lumbreras, City Manager

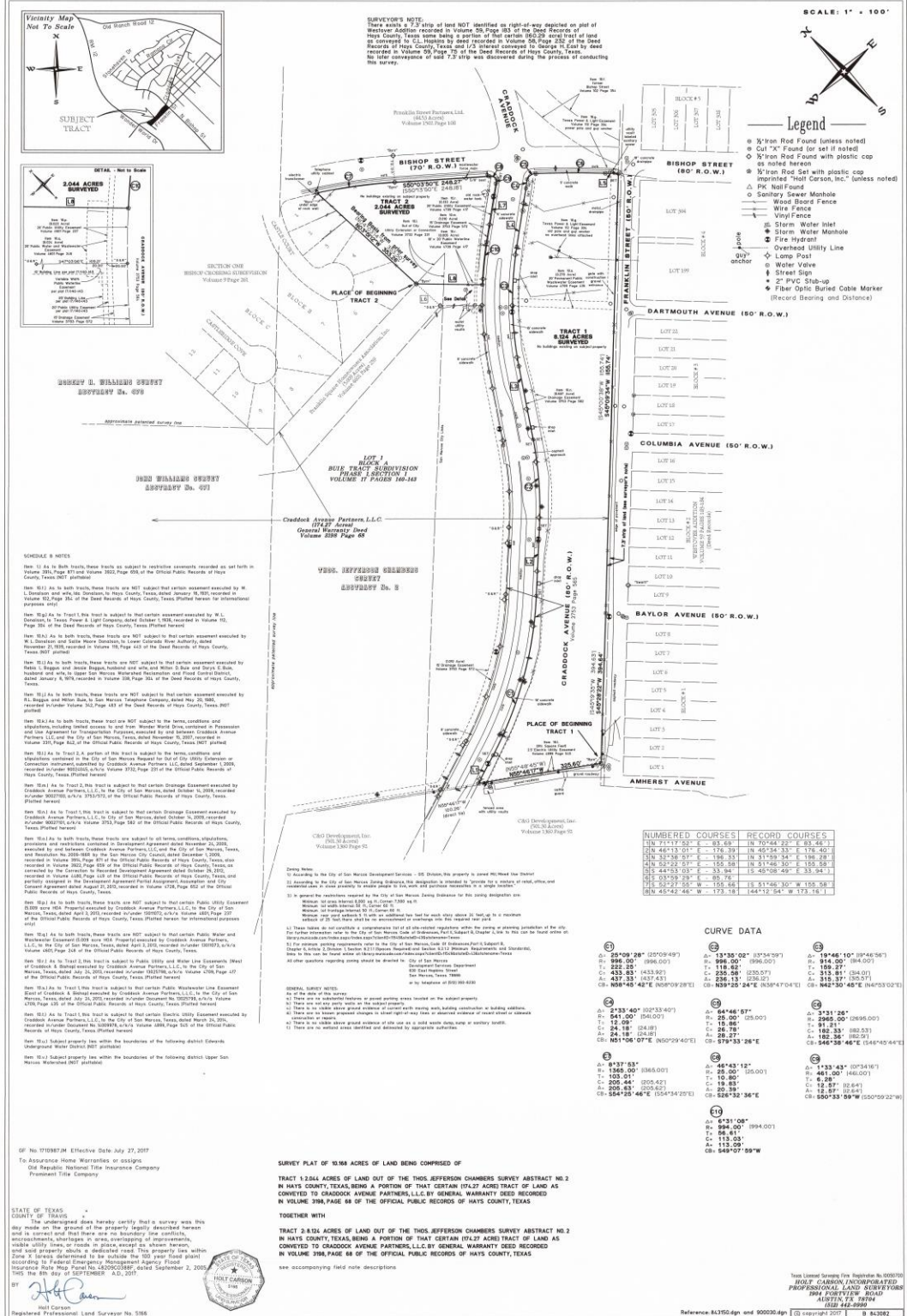
STATE OF TEXAS

COUNTY OF HAYS

SWORN TO AND SUBSCRIBED before me on _____,
2019 by Bert Lumbreras, City Manager of the City of San Marcos, Texas, in such capacity on
behalf of said municipality.

Notary Public, State of Texas

EXHIBIT "A"



HOLT CARSON, INCORPORATED

PROFESSIONAL LAND SURVEYORS

Texas Licensed Surveying Firm Registration No. 10050700

1904 FORTVIEW ROAD

AUSTIN, TX 78704

TELEPHONE: (512) 442-0990

email: hci@austin.rr.com

September 8, 2017

TRACT 1

FIELD NOTE DESCRIPTION OF 8.124 ACRES OF LAND OUT OF THE THOS. JEFFERSON CHAMBERS SURVEY ABSTRACT No. 2 IN HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN (174.27 ACRE) TRACT OF LAND AS CONVEYED TO CRADDOCK AVENUE PARTNERS, L.L.C. BY GENERAL WARRANTY DEED RECORDED IN VOLUME 3198, PAGE 68 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod with a plastic cap imprinted "Byrn" found at an angle corner of that certain (174.27 acre) tract of land as conveyed to Craddock Avenue Partners, L.L.C. by General Warranty Deed recorded in Volume 3198, Page 68 of the Official Public Records of Hays County, Texas, same being an angle corner of that certain (501.30 acre) tract of land as conveyed to C&G Development, Inc. by deed recorded in Volume 1360, Page 92 of the Official Public Records of Hays County, Texas, also being a point in the Northwest line of a 7.3 ft. wide strip of land as depicted on the plat of Westover Addition, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 59, Pages 183-184 of the Deed Records of Hays County, Texas, being 7.3 ft. removed from the Northwest right-of-way line of Franklin Street as depicted on the plat of Westover Addition and being the most Southerly corner and **PLACE OF BEGINNING** of the herein described tract;

THENCE with the common line of said Craddock Avenue Partners (174.27 acre) tract and said C&G Development (501.30 acre) tract, **N 55 deg. 46' 17" W 325.60 ft.** to a ½" iron rod with a plastic cap imprinted "Holt Carson, Inc." set in the Southeast right-of-way line of Craddock Avenue and being the most Westerly corner of the herein described tract, from which a ½" iron rod with a plastic cap imprinted "G&R Surveying" found in the Northwest right-of-way line of Craddock Avenue at the most Southerly corner of Lot 1, Block A, Buic Tract Subdivision Phase 1, Section 1, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in volume 17, Pages 140-143 of the Plat Records of Hays County, Texas bears, **N 55 deg. 46' 17" W 100.26 ft.** (direct tie);

THENCE crossing through the interior of said Craddock Avenue Partners (174.27 acre) tract with the Southeast right-of-way line of Craddock Avenue, the following eight (8) courses:

- 1.) **N 71 deg. 17' 52" E 83.69 ft.** to an X cut in in a concrete walk at a point of curvature
- 2.) Along a curve to the left with a radius of 996.00 ft. for an arc length of 437.33 ft. and which chord bears, **N 58 deg. 45' 42" E 433.83 ft.** to an X cut in a concrete walk at a point of tangency;
- 3.) **N 46 deg. 13' 01" E 176.39 ft.** to an X cut in a concrete walk at a point of curvature;
- 4.) Along a curve to the left with a radius of 996.00 ft. for an arc length of 236.13 ft. and which chord bears, **N 39 deg. 25' 24" E 235.58 ft.** to an X cut in the top of curb at a point of tangency;
- 5.) **N 32 deg. 38' 57" E 196.33 ft.** to a ½" iron rod with a plastic cap imprinted "Holt Carson, Inc." set on the Southeast edge of a concrete walk at a point of curvature;
- 6.) Along a curve to the right with a radius of 914.00 ft. for an arc length of 315.37 ft. and which chord bears, **N 42 deg. 30' 45" E 313.81 ft.** to an X cut in a concrete walk at a point of tangency;

8.124 Acres

End of Page 1 of 2

8.124 Acres

- 7.) N 52 deg, 22' 57" E 155.58 ft. to an X cut in concrete at a point of curvature;
- 8.) Along a curve to the left with a radius of 541.00 ft. for an arc length of 24.18 ft. and which chord bears, N 51 deg, 06' 07" E 24.18 ft. to an X cut in a concrete walk at a point of reverse curvature at the intersection to the Southeast right-of-way of Craddock Avenue and the Southwest right-of-way of Bishop Street, same being a point in a Northeasterly line of said Craddock Avenue Partners (174.27 acre) tract and being the most Northerly corner of the herein described tract;

THENCE with the Southwest right-of-way line of Bishop Street and with a Northeast line of said Craddock Avenue Partners (174.27 acre) tract, the following three (3) courses:

- 1.) Along a curve to the right with a radius of 25.00 ft. for an arc length of 28.27 ft. and which chord bears, S 79 deg, 33' 26" E 26.78 ft. to a ½" iron rod with a plastic cap imprinted "Holt Carson, Inc." set at a point of compound curvature;
- 2.) Along a curve to the right with a radius of 2965.00 ft. for an arc length of 182.36 ft. and which chord bears, S 46 deg, 38' 46" E 182.33 ft. to a ½" iron rod with a plastic cap imprinted "Holt Carson, Inc." set at a point of tangency;
- 3.) S 44 deg, 53' 03" E 33.94 ft. to a X cut in the bottom of a concrete drainage structure and being in the Northwest line of the aforementioned 7.3 ft. wide strip of land as depicted on the plat of Westover Addition and being the most Easterly corner of the herein described tract;

THENCE leaving the Southwest right-of-way line of Bishop Street with the Southeast line of said Craddock Avenue Partners (174.27 acre) tract, 7.3 ft. Northwest of and parallel to the Northwest right-of-way line of Franklin Street the following two (2) courses:

- 1.) S 45 deg, 09' 34" W 1155.74 ft. to a ½" iron rod found;
- 2.) S 45 deg, 28' 22" W 394.64 ft. to the **PLACE OF BEGINNING** and containing 8.124 acres of land.

SURVEYED: September 8th, 2017


Holt Carson

Registered Professional Land Surveyor No. 5166

reference map no. B 843082



HOLT CARSON, INCORPORATED
PROFESSIONAL LAND SURVEYORS

Texas Licensed Surveying Firm Registration No. 10050700
1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
email: hci@austin.rr.com

September 8, 2017

TRACT 2

FIELD NOTE DESCRIPTION OF 2.044 ACRES OF LAND OUT OF THE THOS. JEFFERSON CHAMBERS SURVEY, ABSTRACT NO. 2 IN HAYS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN (174.27 ACRE) TRACT OF LAND AS CONVEYED TO CRADDOCK AVENUE PARTNERS, L.L.C. BY GENERAL WARRANTY DEED RECORDED IN VOLUME 3198 PAGE 68 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod with a plastic cap imprinted "Byrn" found at an angle corner of that certain (174.27 acre) tract of land as conveyed to Craddock Avenue Partners, L.L.C. by General Warranty Deed recorded in Volume 3198, Page 68 of the Official Public Records of Hays County, Texas, same being the Southeast corner of Lot 5, Block B, Section One Bishop Crossing Subdivision, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 9, Page 261 of the Plat Records of Hays County, Texas, also being an angle corner of that certain (5.009 acre) tract of land as conveyed to Franklin Square Homeowners Association, Inc. by deed recorded in Volume 4601, Page 259 of the Official Public Records of Hays County, Texas and being in the City Limit Line of the City of San Marcos and being an angle corner and the **PLACE OF BEGINNING** of the herein described tract, from which a ½" iron rod with a plastic cap imprinted "G&R Surveying" found at an angle corner of Lot 1, Block A, Buie Tract Subdivision Phase 1, Section 1, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 17, Pages 140-143 of the Plat Records of Hays County, Texas bears, S 03 deg. 59' 29" E 85.76 (direct tie);

THENCE with the common line of said Craddock Avenue Partners (174.27 acre) tract and Block B of said Section One Bishop Crossing Subdivision, **N 03 deg. 51' 12" W 353.26 ft.** to a ½" iron rod with a plastic cap imprinted "Byrn" found under the edge of a rock wall in the curving Southwest right-of-way line of Bishop Street at the Northeast corner of Lot 1, Block C, Bishop Crossing Subdivision, same being an angle corner of said Craddock Avenue Partners (174.27 acre) tract and the most Northerly corner of the herein described tract;

THENCE with the Southwest right-of-way line of Bishop Street and with a Northeast line of said Craddock Avenue Partners (174.27 acre) tract, the following three (3) courses:

- 1.) Along a curve to the right with a radius of 1365.00 ft. for an arc length of 205.63 ft. and which chord bears, **S 54 deg. 25' 46" E 205.44 ft.** to a ½" iron rod with a plastic cap imprinted "Byrn" found at a point of tangency;
- 2.) **S 50 deg. 03' 50" E 248.27 ft.** to a bent 5/8" iron rod found at a point of curvature;
- 3.) Along a curve to the right with a radius of 25.00 ft. for an arc length of 20.39 ft. and which chord bears, **S 26 deg. 32' 36" E 19.83 ft.** to an X cut in a concrete sidewalk at a point of compound curvature at the intersection to the Southwest right-of-way of Bishop Street and Northwest right-of-way line of Craddock Avenue and being the most Easterly corner of the herein described tract;

2.044 Acres

End of Page 1 of 2

2.044 Acres

THENCE entering the interior of said Craddock Avenue Partners (174.27 acre) tract with the Northwest right-of-way line of Craddock Avenue the following three (3) courses:

- 1.) Along a curve to the right with a radius of 461.00 ft. for an arc length of 12.57 ft. and which chord bears, **S 50 deg. 33' 59" W 12.57 ft.** to a ½" iron rod with a plastic cap imprinted "Holt Carson, Inc." set at a point of tangency;
- 2.) **S 52 deg. 27' 55" W 155.66 ft.** to a ½" iron rod with a plastic cap imprinted "Holt Carson, Inc." set at a point of curvature;
- 3.) Along a curve to the left with a radius of 994.00 ft. for an arc length of 113.09 ft. and which chord bears, **S 49 deg. 07' 59" W 113.03 ft.** to a ½" iron rod with a plastic cap imprinted "Holt Carson, Inc." set at the most Easterly corner of said Franklin Square Homeowners Association (5.009 acre) tract and being the most Southerly corner of the herein described tract;

THENCE leaving the Northwest right-of-way line of Craddock Avenue and continuing through the interior of said Craddock Avenue Partners (174.27 acre) tract with a Northeast line of said Franklin Square Homeowners Association (5.009 acre) tract, **N 45 deg. 42' 46" W 173.18 ft.** to the **PLACE OF BEGINNING** containing **2.044 acres** of land.

SURVEYED: September 8th, 2017


Holt Carson

Registered Professional Land Surveyor No. 5166

reference map no. B 843082

