
IN THE COURT OF APPEALS FOR THE
FOURTH DISTRICT OF TEXAS

THE MAYAN AT SAN MARCOS RIVER, LLC
AND THE CITY OF MARTINDALE, TEXAS
Appellants

V.

CITY OF SAN MARCOS
Appellees

From the 25th Judicial District Court, Guadalupe County, Texas
Trial Court Cause No. 18-0985-CV-A,
Honorable Jessica R. Crawford, presiding

SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into by the parties identified herein for the purposes and under the terms and conditions set forth below, to be effective as indicated and to be binding on the parties hereto as follows:

I. PARTIES AND RECITALS

- 1) **Parties:** The parties to this Settlement Agreement and Full and Final Mutual Release (the "Agreement") are as follows:
- (a) ***THE MAYAN AT SAN MARCOS RIVER, LLC*** (hereafter "Mayan"), Plaintiff below and Appellant herein, its attorneys, agents, parents, subsidiaries, servants, employees, successors, assigns, legal representatives and all other persons, firms and corporations for whose conduct the persons or entities named in this definition may be liable in connection with the occurrence as set forth in Paragraph 2 below.
 - (b) ***THE CITY OF MARTINDALE, TEXAS*** (hereafter "Martindale"), Intervener below and Appellant herein, its attorneys, agents, parents, subsidiaries, servants, employees, successors, assigns, legal representatives, elected officials, and all other persons, firms and corporations for whose conduct the persons or entities named in this definition may be liable in connection with the occurrence as set forth in Paragraph 2 below.
 - (c) ***THE CITY OF SAN MARCOS, TEXAS*** (hereafter "City"), Defendant below and

Appellee herein, its attorneys, agents, parents, subsidiaries, servants, employees, successors, assigns, legal representatives, elected officials, and all other persons, firms and corporations for whose conduct the persons or entities named in this definition may be liable in connection with the occurrence as set forth in Paragraph 2 below. Mayan, Martindale, and City are referred to herein collectively as the “Parties”.

2) Recitals: The Parties agree to the following facts and that the following recitals reflect the intent of the Parties as applied to this Agreement:

- (a) On June 14, 2007, Mayan’s predecessors in interest filed a completed application entitled “*City of San Marcos Request for Out-of-City Utility Extension or Connection*”, dated June 13, 2007, with the City (hereafter the “Application”). The Application requested the City to serve +/-563.767 acres of property located in Hays and Guadalupe Counties which is identified by the metes and bounds description contained in the Application which is attached hereto as “Exhibit A” (hereafter the “Mayan Tract”) with sanitary sewer service. The Application was for an approval required by the laws of the City at the time it was filed for the development of +1,100 living unit equivalents (hereafter “LUEs”) of single-family, multi-family, and commercial uses. The City accepted and approved the Application by passage and approval of Resolution No. 2008-33R, which occurred more than 90 days prior to the effective date of the City’s Ordinance 2008-16 (hereafter the “Annexation Ordinance”) which annexed the Mayan Tract. A copy of Resolution 2008-33R is attached hereto as “Exhibit B”, and a copy of the Annexation Ordinance is attached hereto as “Exhibit C”.
- (b) Ordinance 2008-16, passed, approved and adopted by the City on April 19, 2008 annexed both the Mayan Tract and a 13.069-acre tract which connected the Mayan Tract to the then existing corporate limits of the City. The Annexation Ordinance also approved and adopted a service plan consistent with development and extension requirements to provide municipal services to the properties annexed by the Annexation Ordinance.
- (c) On April 18, 2018, the Mayan filed suit against the City under Cause Number 18-0958-CV-A in the District Court of Guadalupe County, Texas challenging the validity of the Annexation Ordinance and asserting other claims as set forth in more detail below (hereafter the “Suit”). Martindale intervened in the Suit against the City, and together with Mayan have asserted certain claims against City arising out of a dispute concerning the annexation by City of the two (2) tracts, being a +/-563.199 acre tract and a +/- 13.069 acre

tract (collectively the “Annexed Property”), pursuant to City’s Annexation Ordinance.

- (d) Said claims made by Mayan and Martindale include, but are not limited to, the following:
 - (i) Suit for Declaratory Relief to Determine Validity of Annexation; (ii) Suit for Permanent Injunction Preventing Enforcement of Annexation Ordinance; (iii) Suit for Declaratory Action to Determine Rights and Obligations Under the Service Plan; (iv) Violation of Mayan's Due Process Rights; (v) a request for a Writ of Mandamus to Enforce the Service Plan; (vi) that the City’s annexation violated various sections of chapter 43 of Texas Local Government Code (hereafter the “Code”); (vii) the City’s annexation was void as it annexed property within Martindale’s extraterritorial jurisdiction; and, (viii) other claims for declaratory judgements, injunctive relief, cost of court, and attorney’s fees (collectively the “Claims”).
- (e) The City has denied and continues to deny the validity of the Claims and denies liability for any Claims as set forth above and all Parties agree that settlement herein is not and shall not be construed as an admission of liability by any of the Parties to the suit herein.
- (f) All the parties to this Agreement wish to reach a full and final settlement on all matters and all causes of action arising out of the Claims. The Parties intend for this Agreement to be effective and binding upon satisfaction of the contingencies identified in Article III, Section 1, Subsection (a) through (b), below.

II. TERMS OF SETTLEMENT

All Parties hereto, for the consideration set forth in this Agreement, hereby agree to settle and compromise these Claims under the terms and conditions of this Agreement. Said Claims of the Parties are further set forth in the live and most current pleadings in CAUSE NO. 18-0958-CV-A styled *The Mayan at San Marcos River, LLC, Plaintiff, and The City of Martindale, Intervenor, vs. The City of San Marcos, Defendant*, pending in the 2nd 25th Judicial District Court of Guadalupe County, Texas; and, in the appeal pending in the Court of Appeals for the Fourth District of Texas under CAUSE NO. 04-19-00018-CV (hereafter collectively referred to as the “Litigation”). The Parties agree that they have filed joint motions to abate the Litigation both in the Court of Appeals and in the District Court to allow the Parties to obtain the approvals and consents set forth in Article III, Section 1, Subsection (a) through (b), below, on which approvals and consents the effectiveness and binding nature of this Agreement is contingent.

1) **Consideration and Settlement Terms:**

The Parties hereby agree to the following terms and conditions of settlement and acknowledge that each term and obligation set forth herein constitute consideration for the making of the mutual agreements between the Parties, to which they agree to be bound, as follows:

- (a) **ANNEXATION:** The Parties agree that City of San Marcos Ordinance 2008-16, passed, approved and adopted by the City and effective on April 19, 2008 is valid and binding on the Parties, and that no party to this Agreement shall challenge or contest the validity of said Annexation Ordinance after the effective date of this Agreement;
- (b) **VESTED RIGHTS:** The City agrees that the Mayan is entitled to, and has established entitlement to, the protection afforded to the development of the Mayan Tract pursuant to Section 245.002 of the Texas Local Government Code effective as of the date the Application was filed with the City on June 14, 2007 (hereafter “Vested Rights”). City agrees that it shall consider the approval, disapproval, or conditional approval of applications for any development permit(s) filed for any property within the Mayan Tract solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect on June 14, 2007 (hereafter the “Vesting Date”). The City and Mayan agree the City was given fair notice upon the Vesting Date that the Mayan Tract would be developed into up to 1,100 LUEs of single-family, multi-family, retail, commercial, and light industrial (as limited below) uses. The City and Mayan expressly agree that no permit or application filed related to the development of any property within the Mayan Tract will be considered a dormant project under the provisions of section 245.005 of the Texas Local Government Code until after five years following the later of: (i) the effective date of this Agreement; or, (ii) the date on which the permit or application was filed. Further the City agrees that pursuant to section 245.002(d) of the Code the Mayan may unilaterally avail itself to the benefit of any change in the City’s development regulations that occurred after the Vesting Date without forfeiting its Vested Rights. The provisions of this sub-section shall apply to the Mayan and to any successors, grantees, or assigns that acquire an interest in any part of the Mayan Tract after the effective date of this Agreement.
- (c) **ZONING & LAND USE:** The City and Mayan agree that prior to the execution of this Agreement the Mayan has filed zoning applications with the City which request the City

to rezone portions of the Mayan Tract from their existing zoning of Future Development District (hereafter “FD”) as defined by Section 4.1.2.3 of the Land Development Code of San Marcos, Texas (hereafter the “Development Code”) to Character District 3 (hereafter “CD-3”), Character District 4 (hereafter “CD-4”), Character District 5 (hereafter “CD-5”) and Light Industrial (hereafter “LI”), as said zoning districts are defined by said Development Code. The Mayan’s zoning applications were considered by the City Council under zoning case numbers ZC-20-17, ZC-20-18, ZC-20-19, and ZC-20-20 (hereafter collectively the “Mayan Zoning Cases”). The areas of the Mayan Tract to be rezoned, and the respective zoning that were requested on each area, under the Mayan Zoning Cases are identified on the map attached hereto as Exhibit “D”. The City and Mayan agree that the Mayan has submitted the metes and bounds description of each area to be rezoned, as well as each zoning category requested in each area, as part of the Mayan Zoning Cases. The City and Mayan agree that the City staff reviewed and made a recommendation to the Planning and Zoning Commission and City Council on the zoning applications submitted by Mayan. The City and Mayan acknowledge that changing the zoning as contemplated by this section and as applied for in the applications for the Mayan Zoning Cases is a legislative function and that the City could not contractually agree to a predetermined outcome of said action; however, the City and Mayan also agree that the City’s City Council approved the changes in zoning as requested in the Mayan Zoning Cases (or if not as requested, as otherwise agreed to by the Mayan) by ordinances 2020-63, 2020-64, 2020-65, and 2020-66, approved by the Council on first reading on September 1, 2020, and approved and finally adopted on second reading by the Council on September 15, 2020. In relation to Ordinance 2020-63, which rezoned the property identified therein from FD to LI, the Mayan agrees to the following as conditions precedent to the ordinance granting Light Industrial (LI) zoning becoming effective

- (i) The following uses, which would ordinarily be allowed in an LI zoning district pursuant to Section 5.1.1.2 of the Development Code, shall not be allowed to occur within the 30.35 acre tract or the 7.62 acre tract requested to be rezoned to LI as identified on Exhibit “D” (collectively the “LI Tracts”):
 - 1. Vehicle Repair (minor);
 - 2. Waste-Related Service;
 - 3. Self-Storage; and
 - 4. Bus or rail transit vehicle maintenance or storage facility;
- (ii) In addition to the uses prohibited subsection (i), above, the following uses shall also be prohibited within the said LI Tracts:

1. Acid manufacturing;
 2. Gas manufacturing;
 3. Vehicle wrecking yard;
 4. Junk yard, including storage, sorting, bailing or processing of rags;
 5. Manufacturing or storage of hazardous materials or explosives, except for fuels contained in vehicles;
 6. Manufacturing or storage of fertilizer;
 7. Manufacturing of carbon batteries;
 8. Manufacturing of paint, lacquer, oil, turpentine, varnish, enamel and similar products;
 9. Manufacturing of rubber, glucose, or dextrin;
 10. Manufacturing of paper or pulp;
 11. Manufacturing or distillation of tar;
 12. Monument or marble works;
 13. Oil compounding and barreling plant;
 14. Operation of a business that provides the services of disposal, storage, reduction or incineration of solid or hazardous waste (including garbage, refuse, trash, sewage, offal, dead animals);
 15. Extraction or refining of petroleum or its products;
 16. Distillation of bones;
 17. Smelting of iron, tin, zinc, copper or other ores;
 18. Fat rendering;
 19. Stockyards or slaughter of animals; and
 20. Cemeteries;
- (iii) The Mayan shall file deed restrictions on the LI Tracts (being the 30.35 acre and 7.62 acre tracts of land identified in Exhibit "D"), which deed restrictions shall:
- a. be effective upon the LI Tracts zoned LI;
 - b. run with the land and shall be applicable to the Mayan, its successors, and assigns; and
 - c. prohibit the following uses on the LI Tracts:
 - i. Vehicle Repair (minor);
 - ii. Waste-Related Service;
 - iii. Self-Storage;
 - iv. Bus or rail transit vehicle maintenance or storage facility Acid manufacturing;

- v. Gas manufacturing;
- vi. Vehicle wrecking yard;
- vii. Junk yard, including storage, sorting, bailing or processing of rags;
- viii. Manufacturing or storage of hazardous materials or explosives, except for fuels contained in vehicles;
- ix. Manufacturing or storage of fertilizer;
- x. Manufacturing of carbon batteries;
- xi. Manufacturing of paint, lacquer, oil, turpentine, varnish, enamel and similar products;
- xii. Manufacturing of rubber, glucose, or dextrin;
- xiii. Manufacturing of paper or pulp;
- xiv. Manufacturing or distillation of tar;
- xv. Monument or marble works;
- xvi. Oil compounding and barreling plant;
- xvii. Operation of a business that provides the services of disposal, storage, reduction or incineration of solid or hazardous waste (including garbage, refuse, trash, sewage, offal, dead animals);
- xviii. Extraction or refining of petroleum or its products;
- xix. Distillation of bones;
- xx. Smelting of iron, tin, zinc, copper or other ores;
- xxi. Fat rendering;
- xxii. Stockyards or slaughter of animals;
- xxiii. Cemeteries;

(d) **OTHER RESTRICTIONS:** The City and Mayan agree that the following provisions regarding other restrictions on the Mayan Tract shall apply to and be binding on the City and Mayan:

- (i) The Mayan shall file deed restrictions on the overall Mayan Tract, which deed restrictions shall:
 - 1. be effective upon the establishment of a PID (as defined below) over the Mayan Tract;
 - 2. require a minimum buffer of 35' will be maintained between the property line of the FM 110 right-of-way located on the Mayan Tract (the "FM 110 Property Line") and the property line of any residential lots platted adjacent to the FM 110 Property Line (the "35' Buffer"), which 35' Buffer shall only be used for the preservation of open space, the placement of signage, a pedestrian or multi-use

path, and masonry walls (collectively the “Buffer Improvements”) to be constructed by the PID (as defined below);

3. Prohibit any development within the Mayan Tract from being marketed, advertised, or named using the word “Mayan” or any other word related to or describing any ethnic group, the use of which for such purposes may be reasonably considered objectional or offensive to members of such ethnic group (this provision of the deed restrictions shall be effective upon recording and shall not be contingent on creation of the PID);

(ii) The provisions of subsections A through C of Section 7.1.4.1 of the Development Code shall not apply to residential developments within the Mayan Tract. This subsection shall constitute a variance to said section for single family homes built within the Mayan Tract.

(e) **FORMATION OF PUBLIC IMPROVEMENT DISTRICT:** The term “PID” as used in this Agreement shall mean a Public Improvement District created by the City as authorized by Chapter 372 Tex. Loc. Gov’t. Code pursuant to a petition requesting such creation filed with the City by the Mayan and other landowners (the “Petitioners”) on September 1, 2020 and amended by the Petitioners on September 22, 2020. The term “Regional Sewer Improvements” as used in this Agreement shall mean a regional lift station built on the Mayan Tract together with associated sewer mains, sewer forced mains, 3-phase electrical infrastructure, and related improvements which shall be constructed to provide sanitary sewer service to the Mayan Tract (and surrounding areas) as depicted in the plans and maps attached hereto and made a part hereof as Exhibits “E”. The term “Regional Sewer Improvements” shall not include the sewer collection system to individual lots within the Mayan Tract, but shall include major sewer gravity trunk lines, force mains, and other improvements and costs identified in Exhibit “E”. As partial consideration for this Agreement, and to assist with funding construction of the Regional Sewer Improvements, the City agrees that it shall create a Public Improvement District pursuant to Chapter 372 of the Texas Local Government Code pursuant to the petition to create the “Staples Road Public Improvement District”, as amended, a copy of which petition and amendment are attached hereto as Exhibit “F-1” and “F-2”, over the area identified in said petition (the “PID Area”) which area shall be served by the Regional Sewer Improvements (the “Served Area”). The City expressly agrees that it shall create and establish the PID to issue bonds or certificates of obligations (to be paid back by the PID’s assessments) to fund the

construction of the Regional Sewer Improvements and Buffer Improvement (as defined in the Petition) and Buffer Improvements to be constructed by the PID. The City and Mayan agree that the PID shall not request the City to approve the issuance of more than lesser of: (1) 125% of the sum of the Regional Sewer Improvements as identified on page 3 of Exhibit “E” and the cost of the estimated cost of the Buffer Improvements (the “Bonded PID Improvements”); or (2) \$30,000,000.00, whichever is less. The City and Mayan further agree that the debt service for any debt issued to fund the Bonded PID Improvements shall be paid solely from the assessments levied by the District. The City agrees to take ownership of the Regional Sewer Improvements to the extent said improvements are within the boundaries of the City’s certificate of convenience and necessity (hereafter “CCN”) and/or within the City’s incorporated boundaries, provided: (i) engineering plans for the Regional Sewer Improvements are submitted and approved by the City in compliance with City standards and specifications; and (ii) the Regional Sewer Improvements are inspected after constructions and accepted by the City in accordance with standard City practice. After acceptance by the City, the City agrees that it shall be responsible for the operation and maintenance of the Regional Sewer Improvements as a part of its overall sewer collection system. The Mayan agrees to file a petition for inclusion of Mayan Tract in City’s wastewater CCN with the appropriate state agencies in cooperation with the City within 10 days after approval of this Agreement by the San Marcos City Council.

- (f) **SEWER SERVICE:** The City expressly represents and agrees that it has sufficient sewer treatment capacity at its Wastewater Treatment Plant located at 720 River Road, in San Marcos, Texas, to properly receive, treat, and legally dispose of, the sewer effluent that is projected to be generated by the development of the Mayan Tract (to-wit: +/-1,100 LUEs of wastewater flow) and the other areas within the PID; and, that the City will serve the Mayan Tract and other area within the PID with sanitary sewer service under the City’s Certificate of Convenience and Necessity (“CCN”) No. 20116, issued by the State of Texas, provided the property to be served is located within the said CCN. The impact fees to be charged for subdivisions platted or service connections made within the Mayan Tract and other areas within the PID shall be assessed by City pursuant to the published and approved rates in effect as of the date the plat application is filed. By separate agreement with the City, an impact fee credit and/or reimbursement will be provided to the developer of the Mayan Tract and other areas within the PID for “oversizing” of the Regional Sewer

Improvements in accordance/consistent with the San Marcos City Code, Section 86.002(a)(3). Impact fee credits or reimbursements will not be provided for Regional Sewer Improvements paid for by the PID. The City agrees that in the event the Mayan requires more than 1,100 LUEs of sanitary sewer capacity the City will provide such additional service, as and if such additional capacity is available, to the Mayan Tract at the then prevailing terms of service.

(g) **SEWER OVERSIZING:** The City acknowledges that the development plan for the Mayan Tract estimates only 1,100 LUEs of sewer service capacity will be required, but that the City desires the Regional Sewer Improvements to be built to be oversized to serve the overall sewer shed within the City's Sewer Service Area as depicted in page 4 of Exhibit "E". As such the City hereby agrees to participate in the cost of construction of the Regional Sewer Improvements based on their actual cost of construction pursuant to the provisions of San Marcos City Code, Section 86.002(a)(3) (hereafter "City's Oversize Reimbursement Policy"). Pursuant to the City's Oversize Reimbursement Policy the owners of the property within the PID will pay their pro rata share of the Sewer Improvements based on the number of LUE's of capacity required to serve each respective tract in the form of PID assessments levied on each said tract to pay the funding of the pro rata cost of said improvements; and the City shall pay only the additional cost of sewer lines of a pipe size larger than necessary to serve the tracts within the PID (the "Oversize Cost"). A separate oversize agreement approved by the Mayan and City at the time of finalizing construction plans for the Regional Sewer Improvements shall govern the reimbursements and contributions to be made by the City to the PID created by the City for funding said Oversizing and other matters related thereto.

(h) **EASEMENTS:** In connection with the construction of the Sewer Improvements the City agrees, subject to approval by its City Council, to use the City's power of eminent domain to acquire any easements reasonably required for the construction, installation, and maintenance of the Sewer Improvements to be built pursuant to this Agreement. Mayan agrees that it shall convey any easements located within the boundaries of the Mayan Tract that are reasonably required for construction of the Sewer Improvements, but the City and Mayan agree that Mayan shall have the right to seek acknowledgement of a donation for the fair market value of such easements. In the event easements are required to install the Sewer

Infrastructure outside of the Mayan Tract, and Mayan acquires said easements, Mayan shall be entitled to seek reimbursement for the cost thereof as a part of the allowed costs of the Regional Sewer Improvements

- (i) **MUTUAL RELEASE:** Mayan, City, and Martindale, for the consideration outlined herein, hereby release, acquit and forever discharge each other and all other parties, their affiliates, subsidiaries, and parents, their representatives, elected officials, servant, agents, employees, shareholders, attorneys, risk pool, insurers, officers, directors, managers, members, successors, heirs and assigns, of and from any and all claims, demands, damages, causes of action, debts, liabilities or controversies of any kind whatsoever, whether known or unknown, whether liquidated or unliquidated, on account of or in any way resulting or to result from the Claims outlined in this Settlement Agreement. It is further understood and agreed that this is a full and final release made to fully and finally compromise any and all claims of every nature and kind whatsoever which have been or could have been brought by the any of any of the Parties in their various capacities against the any of the other Parties as a result of the Claims brought in the Litigation. Additionally, said Claims include, but are not limited to, any claims that could and/or were brought in any state court, federal court, or any other State and/or City agency. The Parties hereby acknowledge that they will receive no more monies or other damages or relief, and are entitled to receive no more monies, other damages or relief from any other party, either directly or indirectly, as a result of the Claims other than the relief expressly provided for in this Agreement. The provisions of any state, federal, local or territorial law or statute providing in substance that releases shall not extend to Claims, demands, injuries or damages which are unknown or unsuspected to exist at the time, to the person executing such release, are hereby EXPRESSLY WAIVED, after full consultation with counsel. Each Party hereby expressly waives all immunity from suit and liability from any action brought by a Party hereto complaining of breach of this Agreement or for the purpose of enforcing the provisions of this Agreement in law or in equity. The Parties agree to file a Joint Motion to Dismiss the Interlocutory Appeal within ten (10) days after the Contingencies identified in Article III, Section 1, Subsection (a) and (b) have been satisfied. Within ten (10) days after the appeal has been dismissed, the Parties agree to submit a joint motion to enter an agreed final judgment to the trial court which: (1) confirms the validity of the Annexation Ordinance; (2) requires each Party to pay their respective attorney's fees and costs; (3) disposes of all

claims and requests for relief sought by Mayan and Martindale in the Litigation and which are released in this Agreement with prejudice; and, (4) requires each Party to comply with this Agreement (the “Agreed Judgment”).

- (j) **TAX CONSEQUENCES:** It is understood and agreed by and between the Parties hereto and their attorneys that the Parties and their attorney have not relied upon any representations, express or implied, made by the Parties, their affiliates and subsidiaries, or any of their representatives, agents, employees, shareholders, attorneys, insurers, officers, directors, successors and assigns as to the tax consequences of this Agreement, and the Parties and their attorneys hereby release the Parties, their representatives, agents, employees, shareholders, attorneys, insurers, officers, directors, successors and assigns from any and all liability in connection with such tax consequences, if any.
- (k) **ACKNOWLEDGMENT OF RELEASE:** The Parties acknowledge that they have read the contents of this agreement in its entirety and have consulted with their attorney(s) who has fully explained said Agreement. The Parties state they understand the contents of the Agreement and freely approved and executed the same.
- (l) **SUCCESSION:** The terms, provisions, covenants and conditions contained in this Agreement shall apply to and inure to the benefit of and be binding upon the Parties hereto and their respective successors in interest and legal representatives, heirs, executors, administrators, successors and assigns, except as otherwise herein expressly provided.
- (m) **INTEGRATED AGREEMENTS; MODIFICATION; WAIVER:** This Agreement contains all of the agreements of the parties and cannot be amended or modified except by written agreement by the parties. No waiver of any of the provisions of the Agreement shall be denied, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

III. EFFECTIVE DATE OF SETTLEMENT

- 1) **Effectiveness contingent upon future actions:** The Parties hereby expressly agree that this Agreement is being executed: by the Mayan acting with full authority to act by express resolution of its managers; by the City by the signature of its City Manager, as authorized by its City Council; and, by Martindale through the signature of its City Manager, as authorized by its

City Council. As such, the Parties agree that at the time of execution, this Agreement shall have been accepted and approved by the majority vote of their respective City Council acting at a properly noticed public meeting. Further, the Parties expressly agree that this Agreement shall be binding upon each of the Parties, but that this Agreement shall terminate and be of no force or effect on any Party unless on or before October 30th, 2020, the following contingencies identified in subsections (a) through (b), below, are fully satisfied:

(a) **ZONING CHANGE:** The Mayan's Zoning Cases are approved by the City Council, so that the zoning on the Mayan Tract is changed to the zoning districts with the boundaries as set forth in the applications for the Mayan Zoning Cases (or, if not approved as submitted, approved in a manner acceptable to the Mayan), which Mayan admits were finally approved by City on September 15, 2020; and

(b) **PUBLIC IMPROVEMENT DISTRICT ESTABLISHED:** The Staples Road Public Improvement District has been created by the City, acting through a resolution adopted by its City Council pursuant to Chapter 372 of the Texas Local Government Code (the "Code"), as requested by the Petition, for the purpose of financing the Sewer Improvements and Buffer Improvements through the issuance of bonds or certificates of obligation to be issued under Section 372.024 of the Code.

2) **Effect of Contingencies being satisfied:** The Parties expressly agree that in the event each of the contingencies set forth in Article III, Section 1, Subsection (a) through (b) are satisfied on or before October 30, 2020 (hereafter the "Contingent Date") this Agreement shall be fully effective and binding on each Party hereto, and may be fully enforced in law or at equity. In the event all the contingencies are satisfied as set forth in this subsection, each Party shall be responsible for their respective costs related to the Litigation, and the Parties shall work in good faith to carry out the intent of the Agreement. Failure of a Party hereto to act in good faith to carry out the intent of this Agreement shall be considered a breach by such party.

3) **Effect of Contingencies not being satisfied:** The Parties expressly agree that in the event one or more of the contingencies set forth in Article III, Section 1, Subsection (a) through (b) are not satisfied on or before Contingent Date this Agreement shall terminate, and the Parties shall:

(a) File a joint motion to lift the stay and end the abatement in the Litigation at the trial court and the appellate court informing said courts that the Litigation was not settled and requesting the courts to resume the judicial process as to all Claims as if the they had not

been stayed as of the date of the said joint motion is filed;

- (b) Mutually extend all deadlines and toll all limitations for the period of time the Agreement was in effect through the date it was terminated, so that each Party shall be left, as to the deadlines and limitations, as they were on the moment the Agreement was signed; and
- (c) Notify their respective governing bodies that the Agreement was terminated and that the Claims will continue to be litigated.
- (d) In the event this Agreement is terminated, no Party can use this Agreement, its terms, the proposed consideration or contingencies, and/or communications regarding the same in the Litigation, at either the trial or appellate court, and this Agreement and its attachments shall be subject to Rule 408 of the Texas Rules of Evidence.

THIS AGREEMENT IS EXECUTED ON THIS ____ th DAY OF _____, 2020 BY:

[Signatures are on the following pages which may be executed in counterparts]

THE MAYAN AT SAN MARCOS RIVER, LLC

By: _____
Todd Burek, its Manager

By: _____
Gerald Bennett, its Manager

By: Lawland Group, LLC, its Manager

By: _____
David L. Earl, its Sole Member

APPROVED AS TO FORM:

Earl & Associates, P.C.

By: _____
David L. Earl, Attorney at Law for the
Mayan at San Marcos River, LLC

[Remainder of page left blank]

THIS AGREEMENT IS ENTERED INTO THIS ____ DAY OF _____, 2020 BY:
THE CITY OF SAN MARCOS, TEXAS

By: _____

City Manager

Attested to By: _____

City Secretary

APPROVED AS TO FORM:

By: _____

City Attorney

[Remainder of page left blank]

THIS AGREEMENT IS ENTERED INTO THIS ____ DAY OF _____, 2020 BY:
THE CITY OF MARTINDALE, TEXAS

By: _____

City Manager

Attested to By: _____

City Secretary

APPROVED AS TO FORM:

By: _____

City Attorney

[Remainder of page left blank]

EXHIBIT "A"

Application

City of San Marcos Request for Out-of-City Utility Extension or Connection	
Name:	<u>Rick Anderson</u> Date: <u>June 13, 2007</u>
Address:	<u>2710 Walsh Tarlton Lane, Suite 200</u> <u>Austin, Texas 78746</u>
Phone:	<u>(512) 347-8801</u>
FAX:	<u>(512) 347-8853</u>
E-mail:	<u>rickycanderson@austin.rr.com</u>
Note:	Please include check for recording fee payable to "Hays County Clerk" for \$14 + \$2/page for legal description.
Subject Property	
Location:	<u>San Marcos ETJ, just south of the intersection of Staples Road and Old Bastrop Highway</u>
Development Name & Developer (if applicable)	<u>Development Name TBD, The Anderson Group</u>
Total Acreage:	<u>563.767</u>
Plat Date:	<u>n/a</u>
Tax ID Number:	<u>R 14041,16385,16386,55712,55713,55714</u>
Proposed Use:	<input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Other _____
Water Service Area (CCN):	<u>Crystal Clear CCN</u>
Service Requested:	<input checked="" type="checkbox"/> Wastewater* <input type="checkbox"/> Water *Note: City wastewater service is available only for City water service customers.
Type of Request	<input type="checkbox"/> Connection to existing main <input checked="" type="checkbox"/> Extend existing main to subject property
Estimated Utility Demand:	<u>Approximately 200 gpm average, 699 gpm peak</u>
<input checked="" type="checkbox"/> Please attach calculations for average and peak flow conditions for each service requested.	
<input checked="" type="checkbox"/> Please attach a map and a "metes and bounds" legal description (from deed or survey) of the property for which service is requested.	
<input checked="" type="checkbox"/> If the property is not contiguous to the existing city limits, please attach the required requests for annexation along the extension. (Not required for connection to existing main fronting the property to be served.)	
See Owner's Acknowledgement and Consent to Annexation on the next page.	
Form last updated: 10/26/05	



Owner's Acknowledgment and Consent to Annexation

I hereby certify under oath that all of the information presented in this application is accurate and complete. I understand all of the following policies of the City of San Marcos regarding out-of-city utility connections:

1. All costs for utility connections are to be borne by the owner.
2. The City does not provide wastewater service unless City water service is used.
3. The requirement that the owner consent to annexation of the subject property by the City.
4. Utility extensions also require a written request for annexation of an area at least 15' in width from each property owner along the intended route of the line extension if the subject property is not contiguous to the existing city limits.

I also certify that I am not seeking vesting of development standards for any project by completing this application.

In consideration of the City's approval of this application, I hereby petition the City for annexation of the property to be served by the utility connection, and I certify that I am either the owner of the subject property, or the duly authorized agent of the owner of the subject property. I understand that this consent to annexation will be binding on the current and future owners of the subject property, and that this consent will be recorded in the official county records if this request is approved.

Signature: *Rick C. Anderson*

Printed Name: RICK C. ANDERSON

State of TEXAS

County of TRAVIS

SWORN TO AND SUBSCRIBED before me on 6-28-2007 (date)

by RICK C. ANDERSON, known personally to me, or proved to me by a photo identification, to be the person who executed this instrument.



D. Langness
Notary Public, State of TEXAS

Reserved for County

EXHIBIT "A"

JAMES E. GARON & ASSOCIATES
PROFESSIONAL LAND SURVEYORS

2312 Western Trails Blvd., D-404; Austin, Texas 78748; 512-707-8087 fax 512-707-1848
1009 Chestnut Street; Bastrop, Texas 78002; 512-303-4155 fax 512-321-2107

LEGAL DESCRIPTION: BEING 563.797 ACRES OF LAND LYING IN AND SITUATED OUT OF THE WILLIAM BURNET SURVEY AND THE WILLIAM A. MATTHEWS SURVEY IN HAYS COUNTY, TEXAS AND THE B & G FULCHER LEAGUE IN GUADALUPE COUNTY, TEXAS, BEING THE REMAINDER PORTION OF THAT CALLED 455 ACRE TRACT OF LAND AND 100 ACRE TRACT OF LAND CONVEYED TO HAH ANGUS FARM BY DEED RECORDED IN VOLUME 349, PAGE 843 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 563.797 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS AND AS SURVEYED UNDER THE SUPERVISION OF JAMES E. GARON & ASSOCIATES IN SEPTEMBER, 1998:

BEGINNING at an iron rod found on the northeasterly right-of-way (80') line of State Highway 621 for the westerly corner hereof and said 455 acre tract and the southerly corner of that certain 715 acre tract conveyed to John F. Baugh by deed recorded in Volume 165, Page 86 of the Hays County Deed Records;

THENCE North 49°42'36" East a distance of 12452.90 feet along the northwesterly line hereof and the southeasterly line of said 715 acre tract and that certain 184.883 acre tract conveyed to Barbara Baugh Morrison by deed recorded in Volume 645, Page 679 of the Hays County Deed Records to an iron rod set for corner on the southwest line of the "Mexican" cemetery;

THENCE along the limits of said cemetery and including a called 11 vara lane within this tract being described:

1. South 47°13'40" East a distance of 115.53 feet to an iron rod set for corner;
2. North 50°41'11" East a distance of 394.83 feet to an iron rod set for corner;
3. North 50°5'00" West a distance of 93.87 feet to an iron rod set for corner;
4. North 49°22'11" East a distance of 110.28 feet to a point on the southwesterly bank of the San Marcos River;

THENCE along the bank of the San Marcos River the following calls:

1. South 47°14'45" East a distance of 92.17 feet;
2. South 74°56'22" East a distance of 77.32 feet;
3. South 59°2'15" East a distance of 118.50 feet;
4. South 39°27'01" East a distance of 132.88 feet;
5. South 29°21'49" East a distance of 118.75 feet;
6. South 19°38'57" West a distance of 193.59 feet;
7. South 59°27'46" West a distance of 57.08 feet;
8. South 9°55'20" West a distance of 363.02 feet;
9. South 29°25'19" East a distance of 380.90 feet;
10. South 41°46'55" East a distance of 177.83 feet;
11. South 55°45'15" East a distance of 311.85 feet;
12. South 22°36'40" East a distance of 27.91 feet;

legal description - 563.797 acres
page 2

THENCE South 50°18'03" West a distance of 359.89 feet leaving said river and along the northwest line of that certain 1.04 acre tract conveyed to Roy J. Hotz by deed recorded in Volume 414, Page 417 of the Guadalupe County Deed records to an iron rod found for the west corner of said 1.04 acre tract;

THENCE South 33°46'59" East a distance of 207.19 feet along the southwest line of said tract to an iron rod set for the southerly corner of said 1.04 acre tract;

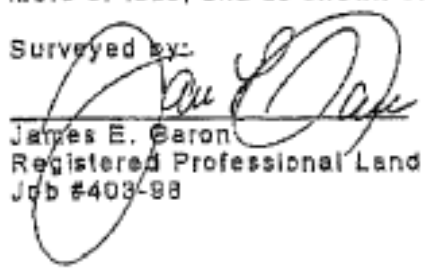
THENCE South 49°39'15" West a distance of 12091.83 feet along the southeast line hereof and said 455 and 100 acre tracts and the northwest line of that certain 385.88 acre tract conveyed to Fred G. DuPuy by deed recorded in Volume 1311, Page 876, that certain 8.85 acre tract conveyed to Richard G. Davis by deed recorded in Volume 731, Page 22 and that certain 48.872 acre tract conveyed to Malcolm Ray Scott by deed recorded in Volume 1048, Page 691, all Guadalupe County Deed Records, to a concrete monument found on the northeasterly r-o-w of State Highway 621 for the southerly corner hereof and westerly corner of said 49.872 acre tract;

THENCE along said r-o-w line the following calls:

1. North 40°46'40" West a distance of 1144.52 feet to a concrete r-o-w monument found for point of curvature of a curve to the left;
2. a length of 352.53 feet along the arc of said curve to the left having a radius of 5771.07 feet and a chord bearing North 42°31'40" West a distance of 352.48 feet to a concrete r-o-w monument found;
3. North 44°18'40" West a distance of 463.45 feet

to the POINT OF BEGINNING and containing 563.797 acres of land, more or less, and as shown on map of survey prepared herewith.

Surveyed by:


James E. Garon
Registered Professional Land Surveyor
Job #403-98

September 17, 1998

EXHIBIT "B"

RESOLUTION 2008-33R

RESOLUTION NO. 2008-33R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN EXTENSION OF THE CITY'S WASTEWATER SYSTEM TO SERVE THE HILLERT TRACT; GRANTING A VARIANCE TO THE REQUIREMENT OF PURCHASING WATER FROM THE CITY OF SAN MARCOS AS A CONDITION OF RECEIVING WASTEWATER TREATMENT SERVICE; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. San Marcos City Code Section 86.004 requires City Council approval for the extension of City's wastewater mains to serve uses outside the City limits.
2. San Marcos City Code Section 86.003(c) provides that a variance from the City Council is necessary to receive wastewater service without purchasing water from the City of San Marcos.
2. Loomis Austin, on behalf of Rick Anderson and Bob Mayo, (the "Applicant"), has requested permission to extend a City wastewater main to serve the Applicant's property, known as the Hillert Tract which is currently outside the city limits.
3. The Hillert Tract is within the water service area of Crystal Clear Water Supply Corporation and granting of a variance from the requirement of purchasing water from the City of San Marcos is appropriate if water service is provided by that entity.
4. The City's existing wastewater treatment plant has sufficient capacity to serve the proposed development.
5. The Applicant has submitted a written request for annexation of the Property by the City.

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

PART 1. The extension of the City's wastewater system mains to serve the Property, to be constructed at the sole expense of the Applicant (subject to the City's policies on oversizing), and on the basis of the Applicant's request for annexation of the Property, is approved.

PART 2. A variance to the requirement of purchasing water from the City of San Marcos is hereby granted contingent upon the Crystal Clear Water Supply Corporation providing water service to the Hillert Tract.

PART 3. This Resolution shall be in full force and effect from and after its passage.

ADOPTED on the 3rd day of March, 2008.


Susan Narvaiz
Mayor

EXHIBIT B

Attest:

Sherry Mashburn
City Clerk

EXHIBIT "C"
ANNEXATION ORDINANCE

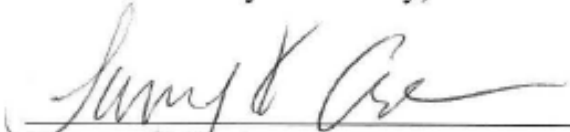
CERTIFICATE OF RECORD

THE STATE OF TEXAS §

COUNTY OF HAYS §

I, Jamie Lee Case, City Clerk for the City of San Marcos, Texas, in the performance of the functions of my office, hereby certify that the above and foregoing is a full, true and correct copy of Ordinance 2008-16 of the City Council of the City of San Marcos adopted on April 19, 2008, as the same appears of record in my office in the City Hall, 630 E. Hopkins Street, San Marcos, Texas 78666, and that I am the lawful possessor and have legal custody of said record.

WITNESS MY HAND AND SEAL of the City of San Marcos, Texas,
this the 12th day of January, 2018.



Tammy K. Cook
Deputy City Clerk
City of San Marcos, Texas

(SEAL)

ORDINANCE NO. 2008-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, ANNEXING TO THE CITY TWO AREAS OF LAND CONSISTING OF 563.199 AND 13.069 ACRES, MORE OR LESS, LOCATED ON STAPLES ROAD (FM HWY 621) EAST OF THE PRESENT CITY LIMITS; APPROVING A SERVICE PLAN FOR THIS AREA; AND INCLUDING PROCEDURAL PROVISIONS.

RECITALS:

1. The City Council of the City of San Marcos, Texas, provided an opportunity for all interested persons to be heard at two public hearings, held on March 4, 2008 and on March 18, 2008, to consider the proposed annexation by the City of two tracts of land consisting of 563.199 and 13.069 acres, more or less, located on Staples Road in Hays and Guadalupe County, Texas (collectively the "Annexation Area"), consisting of all of the following tracts of property:

- A. The 563.199 acre, more or less, tract of land described by metes and bounds in the attached Exhibit A.
- B. The 13.069 acre, more or less, tract of land described by metes and bounds in the attached Exhibit B.

2. The eastern part of the tract described in Exhibit A is within the extraterritorial jurisdiction ("ETJ") of the City of Martindale. The City of Martindale, upon petition by the owner of the property, passed a resolution releasing the land from its ETJ. A copy of the City of Martindale Resolution releasing the land from its ETJ is attached as Exhibit C.

3. The City has received a petition for annexation from the owner(s) of the tract described in Exhibit A, a copy of which is attached as Exhibit D.

4. The tract described in Exhibit B consists of several parcels of land forming a contiguous utility easement over which the City has received consent to annexation through the documents attached hereto as Exhibits E1- E5

5. The Annexation Area has no permanent residents.

6. A notice of each of the public hearings was published in the San Marcos Daily Record, a newspaper having general circulation in the City and in the Annexation Area, on February 21, 2008 and February 28, 2008, these dates being on or after the 20th day and before the 10th day before the date of the respective hearings. A notice of each of the public hearings was also posted on the City's Internet website on or after the 20th day and before the 10th day before the date of the respective hearings, and these notices remained posted on the website until the dates of the respective hearings.

7. The proposed service plan was made available for inspection and explained to the residents, if any, of the Annexation Area at the public hearings.

8. The Annexation Area is contiguous and adjacent to the current boundaries of the City.

9. Notice of all meetings of, and all deliberations of, the City Council involving the annexation of the Annexation Area, including public hearings and the vote(s) on adoption of this ordinance, were done and performed in accordance with the Texas Open Meetings Law, TEX. GOV'T CODE ANN. Chapter 551, as amended.

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

SECTION 1. The recitals of this ordinance are approved and adopted.

SECTION 2. The Annexation Area is annexed to the City of San Marcos, Texas.

SECTION 3. The Service Plan for the Annexation Area, a copy of which is attached hereto as Exhibit F and incorporated herein for all purposes, is approved.

SECTION 4. The corporate limits of the City are extended to include the Annexation Area.

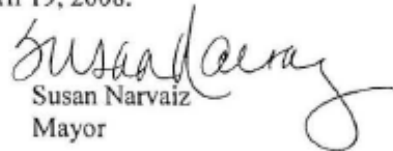
SECTION 5. The Annexation Area is a part of the City of San Marcos, Texas, and residents in it are entitled to all the rights and privileges of all citizens of the City, and are bound by the acts, ordinances, resolutions and regulations of the City.

SECTION 6. This Ordinance will take effect ten days after the date of its final passage, and the City Clerk will publish notice of its adoption in a newspaper of general circulation in the City.

PASSED on first reading on April 1, 2008.

PASSED on second reading on April 15, 2008.

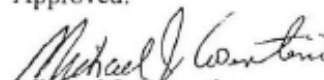
PASSED, APPROVED AND ADOPTED on April 19, 2008.


Susan Narvaiz
Mayor

Attest:


Sherry Mashburn
City Clerk

Approved:


Michael J. Cosentino
City Attorney

Published in the San Marcos Daily Record on Tuesday, May 6, 2008.

FIELD NOTES DESCRIPTION

DESCRIPTION OF 563.199 ACRES OF LAND IN THE WM. A MATTHEWS SURVEY, AND THE B & G FULCHER LEAGUE, HAYS COUNTY AND GUADALUPE COUNTY, TEXAS; BEING A PORTION OF THAT CERTAIN TRACT OF LAND CALLED TO BE 563.797 ACRES DESCRIBED IN A DEED TO STEPHEN R. SMITH, ET AL OF RECORD IN VOLUME 2650, PAGE 435, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 563.199 ACRE TRACT OF LAND, AS SURVEYED BY LOOMIS AUSTIN, INC., BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron rod found in the northeast right-of-way line of F.M. Highway No. 621, at the west corner of the said 563.797 acre tract same being the south corner of that certain 532.212 acre tract of land designated as Tract 1 and described in a deed to B&B Family Partnership Ltd. of record in Document No. 9915749 of the Official Public Records of Hays County Texas, for the west corner and **POINT OF BEGINNING** of the tract described herein;

THENCE N 49° 10' 15" E, with the northwest line of the said 563.797 acre tract and with the southeast line of the said 532.212 acre tract, at a distance of 6,133.37 feet passing a 1/2-inch iron rod found 1.22 feet south of line, at a distance of 9,940.18 feet passing a 1/2-inch iron rod found at the east corner of the said 532.212 acre tract, same being the south corner of that certain 164.883 acre tract of land designated as Tract 2 and described in a deed to B&B Family Partnership Ltd. of record in Document No. 9915749 of the Official Public Records of Hays County, Texas, continuing with the southeast line of the said 164.883 acre tract at a distance of 11,354.97 feet passing a 1/2-inch iron rod, and continuing for a total distance of 12,434.81 feet to a calculated point in the southwest line of an area of uncertain title designated as the "Mexican Cemetery" in said deeds of record in Document No. 9915749 and Volume 2,650, Page 435, for a north corner of the tract described herein, from which a 1/2-inch iron rod found in the southwest line of the said "Mexican Cemetery", bears N 40° 49' 45" W a distance of 19.49 feet;

THENCE with north, west and south lines of the said 563.797 acre tract along the easterly limits of said cemetery, the following three (3) courses and distances:

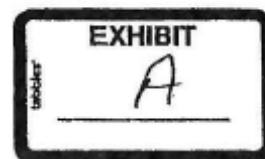
1. S 53° 31' 15" E, a distance of 118.04 feet to a calculated point for a re-entrant corner,
2. N 50° 02' 12" E, a distance of 370.64 feet to a calculated point for a re-entrant corner, and
3. N 53° 31' 15" W, a distance of 123.78 feet to a calculated point in the southeast line of the said 164.883 acre tract, for a west corner of the said 563.797 acre tract and the tract described herein;

THENCE N 49° 10' 15" E, with the south line of the said 164.883 acre tract a distance of 133.16 feet to a calculated angle point on the gradient boundary of the San Marcos River;

THENCE along the meanders of the gradient boundary of the San Marcos River, the following twenty-one (21) courses and distances:

1. S 71° 41' 54" E, a distance of 101.46 feet to a calculated angle point,

H:\Survey\FieldNotes\FN-0800s\FN0873(teb).doc



2. S 59° 40' 00" E, a distance of 60.62 feet to a calculated angle point,
3. S 61° 36' 10" E, a distance of 195.96 feet to a calculated angle point,
4. S 70° 00' 00" E, a distance of 26.00 feet to a calculated angle point,
5. S 45° 20' 20" E, a distance of 73.41 feet to a calculated angle point,
6. S 41° 13' 32" E, a distance of 102.82 feet to a calculated angle point,
7. S 15° 43' 57" E, a distance of 100.14 feet to a calculated angle point,
8. S 03° 53' 08" W, a distance of 49.67 feet to a calculated angle point,
9. S 45° 19' 47" W, a distance of 105.00 feet to a calculated angle point,
10. S 55° 40' 12" W, a distance of 203.14 feet to a calculated angle point,
11. S 00° 47' 06" W, a distance of 54.23 feet to a calculated angle point,
12. S 26° 11' 15" W, a distance of 54.04 feet to a calculated angle point,
13. S 00° 20' 09" W, a distance of 58.85 feet to a calculated angle point,
14. S 19° 18' 17" E, a distance of 100.53 feet to a calculated angle point,
15. S 20° 13' 52" E, a distance of 113.03 feet to a calculated angle point,
16. S 23° 46' 55" E, a distance of 140.30 feet to a calculated angle point,
17. S 37° 19' 18" E, a distance of 104.40 feet to a calculated angle point,
18. S 44° 01' 08" E, a distance of 133.10 feet to a calculated angle point,
19. S 36° 41' 54" E, a distance of 95.87 feet to a calculated angle point,
20. S 32° 03' 40" E, a distance of 125.18 feet to a calculated angle point,
21. S 31° 35' 15" E, a distance of 210.27 feet to a calculated point for the northern east corner of the said 563.797 acre tract, same being the north corner of that certain 1.04 acre tract of land described in a deed to Roy J. Hotz of record in Volume 1099, Page 0755 of the Official Public Records of Guadalupe County, Texas, for the northern east corner of the tract described herein, and

THENCE S 48° 49' 47" W, leaving said gradient boundary, with the southwest line of the said 563.797 acre tract, the northwest line of the said 1.04 acre tract, and the northwest line of that certain 0.50 acre tract of land described in a deed to Roy J. Hotz Jr. and Sarah C. Hotz of record in Volume 1914, Page 0710 of the Official Public Records of Guadalupe County, Texas, at a distance of 240.96 feet passing a ½-inch iron rod found at the west corner of the said 1.04 acre

H:\Survey_\FieldNotes\FN-0800s\FN0873(teb).doc

tract, the north corner of the said 0.50 acre tract and a re-entrant corner of the said 563.797 acre tract, and continuing across the said 563.797 acre tract for a total distance of 346.82 feet to a ½-inch iron rod with plastic cap stamped "J.E. Garon RPLS 4303" found at the west corner of the said 0.50 acre tract, for a re-entrant corner of the tract described herein;

THENCE S 34° 09' 12" E, across the said 563.797 acre tract, with the southwest line of the said 0.50 acre tract, a distance of 206.19 feet to a ½-inch iron rod with plastic cap stamped "JE Garon RPLS 4303" found in the northwest line of that certain 365.86 acre tract of land described in a deed to Fred G. Dupuy of record in Volume 1311, Page 676 of the Official Public Records of Guadalupe County, Texas, at the south corner of the said 0.50 acre tract, for the southern east corner of the tract described herein;

THENCE S 49° 06' 56" W, with the southeast line of the said 563.797 acre tract, and the northwest line of the said 365.86 acre tract, at a distance of 1,609.48 feet passing a ¾-inch flared iron pipe found 9.95 feet north of line, at a distance of 8,954.20 feet passing a ½-inch iron rod found 0.2 feet north of line, at the west corner of the said 365.86 acre tract, same point being the north corner of that certain 8.85 acre tract described in a deed to Richard Davis et ux of record in Volume 734, Page 22 of the Official Public Records of Guadalupe County, Texas, at a distance of 9,409.01 feet to a disturbed concrete monument found 0.60 feet north of line, at the west corner of the said 8.85 acre tract, same point being the north corner line of that certain 49.872 acre tract described in a deed to Malcom Ray Scott in Volume 1048, Page 0692 of the Official Public Records of Guadalupe County, Texas, and continuing with the northwest line of the said 49.872 acre tract for a total distance of 11,984.17 feet to a Texas Department of Transportation Concrete Monument found in the northeast right-of-way line of said F.M. Highway 621, at the west corner of the said 49.872 acre tract, for the south corner of the tract described herein;

THENCE along the said F.M. 621 right-of-way line, the following three (3) courses and distances:

1. N 41° 19' 20" W, a distance of 1143.82 feet to a Texas Department of Transportation Type I Concrete Monument found for a point of curvature,
2. with the arc of a curve to the left having a radius of 5,773.79 feet, an arc distance of 352.70 feet, a chord bearing N 43° 12' 00" W, a distance of 352.65 feet, to a Texas Department of Transportation Type I Concrete Monument found for a point of tangency, and
3. N 44° 56' 03" W, a distance of 463.25 feet to the **POINT OF BEGINNING** and containing 563.199 acres of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD 83, Grid.

LAI WORD FILE: FN0873(teb)

H:\Survey\FieldNotes\FN-0800s\FN0873(teb).doc

563.199 Acres
Wm. A Matthews Survey and the B & G Fulcher League
Hays County and Guadalupe County, Texas

LAI Job No. 050705
FN0873
Page 4 of 4

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

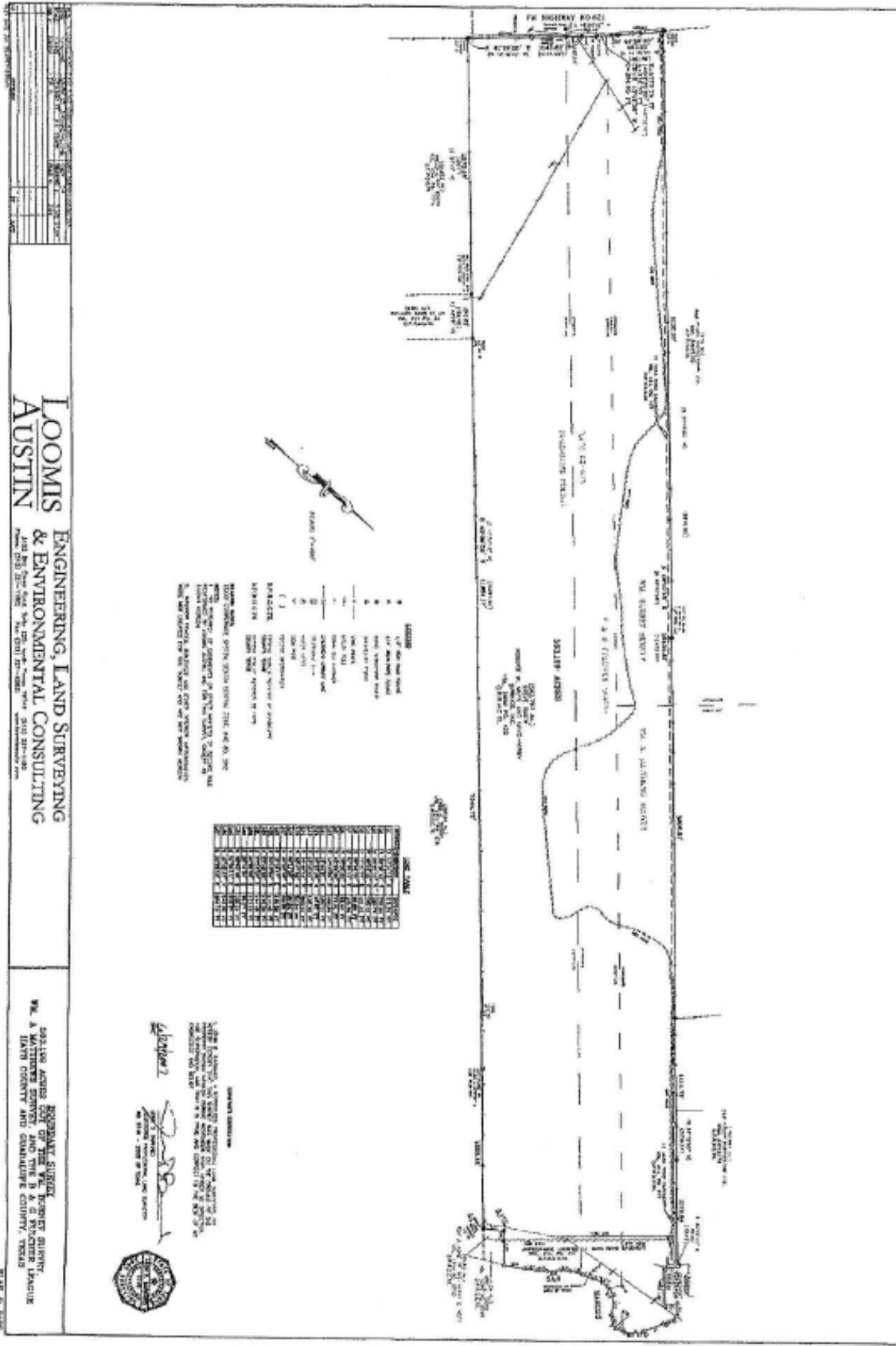
That I, John D. Barnard, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during the month of November 2005, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas on this 21st of January, 2008, A.D.

Loomis Austin, Inc
Austin, Texas 78746




John D. Barnard
Registered Professional Land Surveyor
No. 5749 - State of Texas



ANNEXATION METES AND BOUNDS DESCRIPTION

DESCRIPTION OF 13.069 ACRES OF LAND IN THE BARNETT O. KANE SURVEY, A-281, THE JESSE W. WILSON SURVEY AND THE S.A. & M.C. R.R. CO. SURVEY, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF A 43.40 ACRE TRACT OF RECORD IN VOLUME 2221, PAGE 204, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS AND DESCRIBED IN VOLUME 560, PAGE 396, DEEDS RECORDS OF HAYS COUNTY, TEXAS; BEING A PORTION OF LOT 1, BLOCK 2, R AND R SUBDIVISION, SECTION TWO, A SUBDIVISION ACCORDING TO THE PLAT OF RECORD IN BOOK Q, PAGE 768, PLAT RECORDS OF HAYS COUNTY, TEXAS; BEING A PORTION OF A 156.350 ACRE TRACT OF RECORD IN VOLUME 1146, PAGE 825, DEED RECORDS OF HAYS COUNTY, TEXAS; BEING A PORTION OF A 100.00 ACRE TRACT OF RECORD IN VOLUME 173, PAGE 44, DEED RECORDS OF HAYS COUNTY, TEXAS; BEING A PORTION OF A 99.56 ACRE TRACT OF RECORD IN VOLUME 1346, PAGE 689, DEED RECORDS OF HAYS COUNTY, TEXAS; AND BEING A PORTION OF A 525.22 ACRE TRACT OF RECORD IN VOLUME 359, PAGE 870, DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 13.069 ACRES BEING ALL OF THOSE PERMANENT EASEMENTS GRANTED TO THE CITY OF SAN MARCOS AS DESCRIBED AND RECORDED IN VOLUME 2664, PAGE 245; VOLUME 3205, PAGE 543; VOLUME 3217, PAGE 465; VOLUME 3217, PAGE 476; AND VOLUME 3217, PAGE 487, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point in the east right-of-way line of State Highway No. 123, said point being the southwest corner of the said 43.40 acre tract and the northwest corner of a tract of record in Volume 1886, Page 204, Deed Records of Hays County, Texas, for a corner and **POINT OF BEGINNING** of the tract described herein;

THENCE N 04°22'39" E, with the east right-of-way line of said Highway No. 123, a distance of 43.11 feet to a point for a corner of the tract described herein;

THENCE crossing the said 43.40 acre tract and said Lot 1, the following three (3) courses and distances:

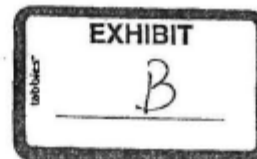
1. N 48°28'15" E, a distance of 1559.98 feet to an angle point,
2. N 48°29'51" E, a distance of 102.04 feet to an angle point in the southwest line of said Lot 1, and
3. N 48°29'51" E, a distance of 259.96 feet to a point in the northeast line of said Lot 1, same being the southwest right-of-way line of County Road No. 232 (a.k.a. Redwood Road) for a point on line of the tract described herein;

THENCE N 48°29'51" E, crossing County Road No. 232, a distance of 74.87 feet to a point in the northeast right-of-way line of County Road No. 232, same being the southwest line of the said 156.350 acre tract for a point on line of the tract described herein;

THENCE crossing said 156.350 acre tract, the following three (3) courses and distances:

1. N 48°29'51" E, a distance of 30.00 feet to a point for a corner of the tract described herein,

H:\Survey\FieldNotes\FN-0800s\FN0831R2(teb).doc



2. S 41°38'16" E, a distance of 362.96 feet to a point for an interior corner of the tract described herein, and

3. N 60°42'55" E, a distance of 2717.84 feet to a point in the east line of the said 156.350 acre tract, same being the west line of a 195.677 acre tract of record in Volume 361, Page 24, Deed Records of Hays County, Texas, for a corner of the tract described herein;

THENCE S 41°13'56" E, with the east line of the said 156.350 acre tract and the east line of the said 100.00 acre tract, same being the west line of the said 195.677 acre tract and the west line of a tract of record in Volume 878, Page 325, Deed Records of Hays County, Texas, at a distance of 30.66 feet passing the northeast corner of the said 100.00 acre tract, same being the southeast corner of the said 156.350 acre tract, at a distance of 116.73 feet passing the southwest corner of the said 195.677 acre tract, same being the northwest corner of the said tract of record in Volume 878, Page 325, Deed Records of Hays County, Texas, and continuing for a total distance of 1647.29 feet to a point at the northeast corner of the said 99.56 acre tract, same being the southeast corner of the said 100.00 acre tract;

THENCE with the east line of the said 99.56 acre tract, same being the west line of the said tract of record in Volume 878, Page 325, Deed Records of Hays County, Texas, the following two (2) courses and distances:

1. S 41°01'51" E a distance of 272.36 feet to an angle point, and
2. S 40°34'02" E a distance of 1362.62 feet to a point in the north right-of-way line of County Road No. 266, at the southwest corner of the said tract of record in Volume 878, Page 325, Deed Records of Hays County, Texas, same being the southeast corner of the said 99.56 acre tract, for a point on line of the tract described herein;

THENCE S 40°34'02" E, crossing County Road No. 266, a distance of 66.35 feet to a point in the south right-of-way line of County Road No. 266, same being the north line of the said 525.22 acre tract for a point on line of the tract described herein;

THENCE crossing said 525.22 acre tract, the following seven (7) courses and distances:

1. S 40°34'02" E, a distance of 20.41 feet to an angle point,
2. N 60°57'22" E a distance of 1047.05 feet to an angle point,
3. N 60°53'41" E a distance of 1278.71 feet to a point for a corner of the tract described herein,
4. S 46°06'45" E, a distance of 20.92 feet to a point for an interior corner of the tract described herein,
5. N 60°54'06" E, a distance of 82.70 feet to an angle point,
6. N 52°25'03" E, a distance of 249.43 feet to an angle point, and

H:\Survey\FieldNotes\FN-0800s\FN0831R2(teb).doc

7. N 45°32'12" E, a distance of 293.70 feet to a point in a curve of the southwest right-of-way line of F.M. Highway No. 621 for a corner of the tract described herein;

THENCE with the southwest right-of-way line of F.M. Highway No. 621, the following three (3) courses and distances:

1. with the arc of a curve to the right, having a radius of 955.00 feet, an arc distance of 392.77 feet and a chord of which bears S 61° 33' 51" E, a distance of 390.01 feet to a point of tangency,
2. S 48° 38' 02" E, a distance of 1228.85 feet to an angle point,
3. S 44° 48' 05" E, a distance of 862.40 feet to a point for an interior corner of the tract described herein,

THENCE N 49°10'15" E, crossing F.M. Highway No. 621, a distance of 79.12 feet to a ½-inch iron rod found in the northeast right-of-way line of F.M. Highway No. 621, at the south corner of that called 715 acre tract described in Doc. No. 9915749 of the Official Public Records of Hays County, Texas, same being the west corner of that called 563.797 acre tract described in Volume 2650, Page 435 of the Official Public Records of Hays County, Texas, for a northeast corner of the tract described herein;

THENCE with the northeast right-of-way line of F.M. Highway No. 621 and the southwest line of the said 563.797 acre tract, the following three (3) courses and distances:

1. S 44° 56' 03" E, a distance of 463.25 feet to a Texas Department of Transportation (TxDOT) Type I concrete highway monument found at a point of curvature,
2. with the arc of a curve to the right, having a radius of 5773.79 feet, an arc distance of 352.70 feet and a chord of which bears S 43° 12' 00" E, a distance of 352.65 feet to a Texas Department of Transportation (TxDOT) Type I concrete highway monument found at a point of tangency,
3. S 41° 19' 20" E, a distance of 1143.82 feet to a concrete monument found at the south corner of the said 563.797 acre tract, for the southeast corner of the tract described herein;

THENCE S 49°06'56" W, crossing F.M. Highway No. 621, a distance of 80.00 feet to a point in the southwest right-of-way line of F.M. Highway No. 621, for a southwest corner of the tract described herein;

THENCE N 41°19'20" W, with the southwest right-of-way line of F.M. Highway No. 621, a distance of 981.39 feet to a calculated point at the east corner of the said 525.22 acre tract from which a ½"-iron rod found bears S 48°49'31" W a distance of 0.39 feet, said calculated point being an interior corner of the tract described herein;

THENCE S 48° 49' 31" W, with the southeast line of the said 525.22 acre tract, a distance of 20.00 feet to a point for a south corner of the tract described herein;

THENCE crossing the said 525.22 acre tract, the following thirteen (13) courses and distances:

1. N 41° 19' 20" W, a distance of 161.66 feet to a point of curvature,

2. with the arc of a curve to the left, having a radius of 5673.79 feet, an arc distance of 346.48 feet and a chord of which bears N 43° 12' 02" W, a distance of 346.43 feet to a point of tangency,
3. N 44° 48' 05" W, a distance of 1330.71 feet to an angle point,
4. N 48° 38' 02" W, a distance of 1227.98 feet to a point of curvature, and
5. with the arc of a curve to the left, having a radius of 935.00 feet, an arc distance of 361.21 feet and a chord of which bears N 60° 51' 40" W, a distance of 358.96 feet to a point for an interior corner of the tract described herein;
6. S 45° 32' 55" W, a distance of 288.92 feet to an angle point,
7. S 52° 25' 03" W, a distance of 253.46 feet to an angle point,
8. S 60° 54' 06" W, a distance of 107.12 feet to a point for a corner of the tract described herein,
9. N 46° 06' 45" W, a distance of 20.91 feet to a point for a corner of the tract described herein,
10. S 60° 53' 41" W, a distance of 1256.53 feet to an angle point,
11. S 60° 57' 22" W, a distance of 1051.59 feet to a point on line,
12. S 60° 57' 22" W, a distance of 19.98 feet to a point for a corner of the tract described herein, and
13. N 40° 34' 02" W, a distance of 51.02 feet to a point in the south right-of-way line of County Road No. 266, for a point on line of the tract described herein;

THENCE N 40°34'02" W, crossing County Road No. 266, a distance of 66.33 feet to a point in the north right-of-way line of County Road No. 266, same being the south line of the said 99.56 acre tract for a point on line of the tract described herein;

THENCE crossing said 99.56 acre tract, the following two (2) courses and distances:

1. N 40°34'02" W, a distance of 1356.41 feet to an angle point, and
2. N 41°01'51" W, a distance of 278.29 feet to an angle point in the north line of the said 99.56 acre tract, same being the south line of the said 100.00 acre tract;

THENCE N 41°13'56" W crossing the said 100.00 acre tract, a distance of 1616.82 feet to a point in the north line of the said 100.00 acre tract, same being the south line of the said 156.350 acre tract, for an interior corner of the tract described herein;

THENCE S 60°42'55" W, with the north line of the said 100.00 acre tract, same being the south line of the said 156.350 acre tract, a distance of 2717.65 feet to a point in the northeast right-of-way line of County Road No. 232, at the southwest corner of the said 156.350 acre tract, same being the northwest corner of the said 100.00 acre tract, for a corner of the tract described herein;

H:\Survey\FieldNotes\FN-0800s\FN0831R2(teb).doc

13.069 acres
Barnett O. Kane Survey
Jesse W. Wilson Survey
S.A. & M.G. R.R. Co. Survey
Hays County, Texas

LAI Job No. 050705
FN0831R2(teb)
Page 5 of 11

THENCE N 41°38'16" W, with the northeast right-of-way line of County Road No. 232, same being the southwest line of the said 156.350 acre tract, a distance of 357.17 feet to a point for a corner of the tract described herein;

THENCE S 48°29'51" W, crossing County Road No. 232, a distance of 75.00 feet to a point in southwest right-of-way line of County Road No. 232, at the east corner of said Lot 1, for a point on line of the tract described herein;

THENCE S 48°29'51" W, with the south line of said Lot 1 and the south line of the said 43.40 acre tract a distance of 361.93 feet to an angle point;

THENCE S 48°28'15" W, with the south line of the said 43.40 acre tract a distance of 1590.93 feet to the **POINT OF BEGINNING**, and containing 13.069 acres of land more or less.

BEARING BASIS: Bearings and distances herein are recited from those permanent easements granted to The City Of San Marcos as described and recorded in Volume 2664, Page 245; Volume 3205, Page 543; Volume 3217, Page 465; Volume 3217, Page 476; and Volume 3217, Page 487, Official Public Records of Hays County, Texas, except for those calls which include a description of a found monument, which were surveyed on-the-ground. The bearing basis for the on-the-ground survey is the Texas Coordinate System, South Central Zone, NAD83. Grid.

LAI WORD FILE:

THE STATE OF TEXAS

COUNTY OF TRAVIS

§
§
§


KNOW ALL MEN BY THESE PRESENTS

That I, John D. Barnard, a Registered Professional Land Surveyor, do hereby certify that this document was prepared under 22 TAC 663.21, does not reflect the results of an on-the-ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

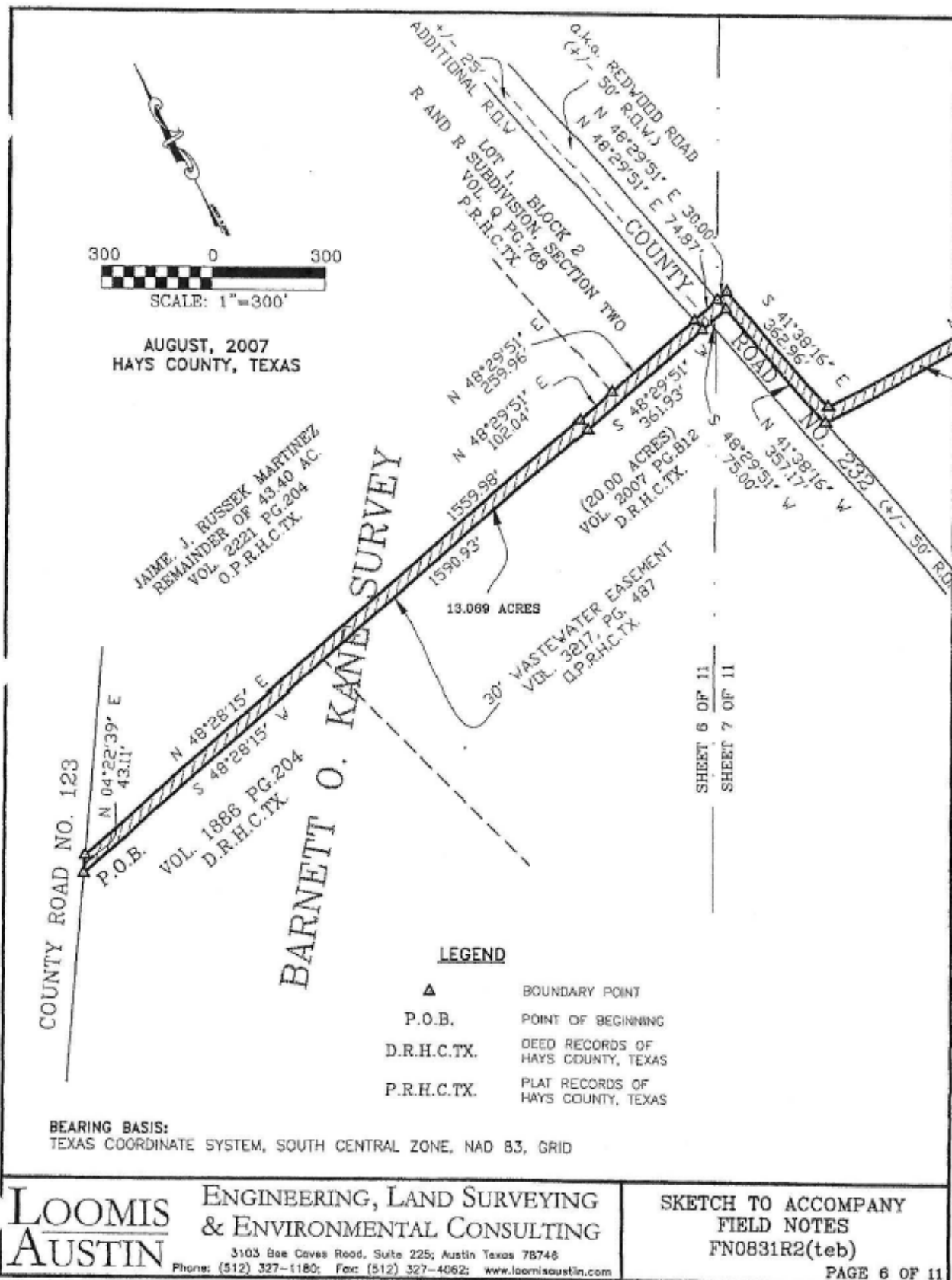
WITNESS MY HAND AND SEAL at Austin, Travis County, Texas on this 21st of January 2008 A.D.

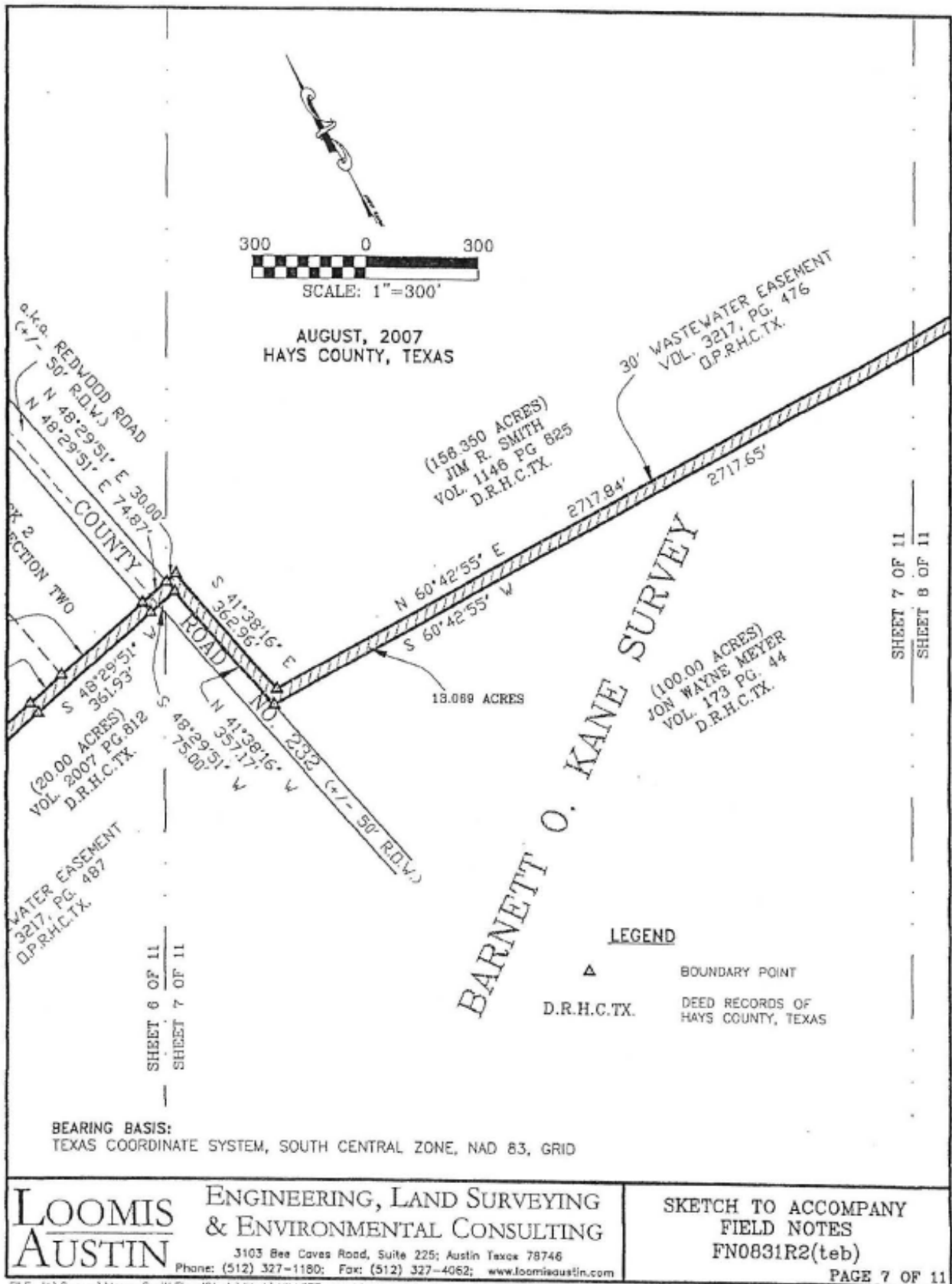
Loomis Austin, Inc.
Austin, Texas 78746

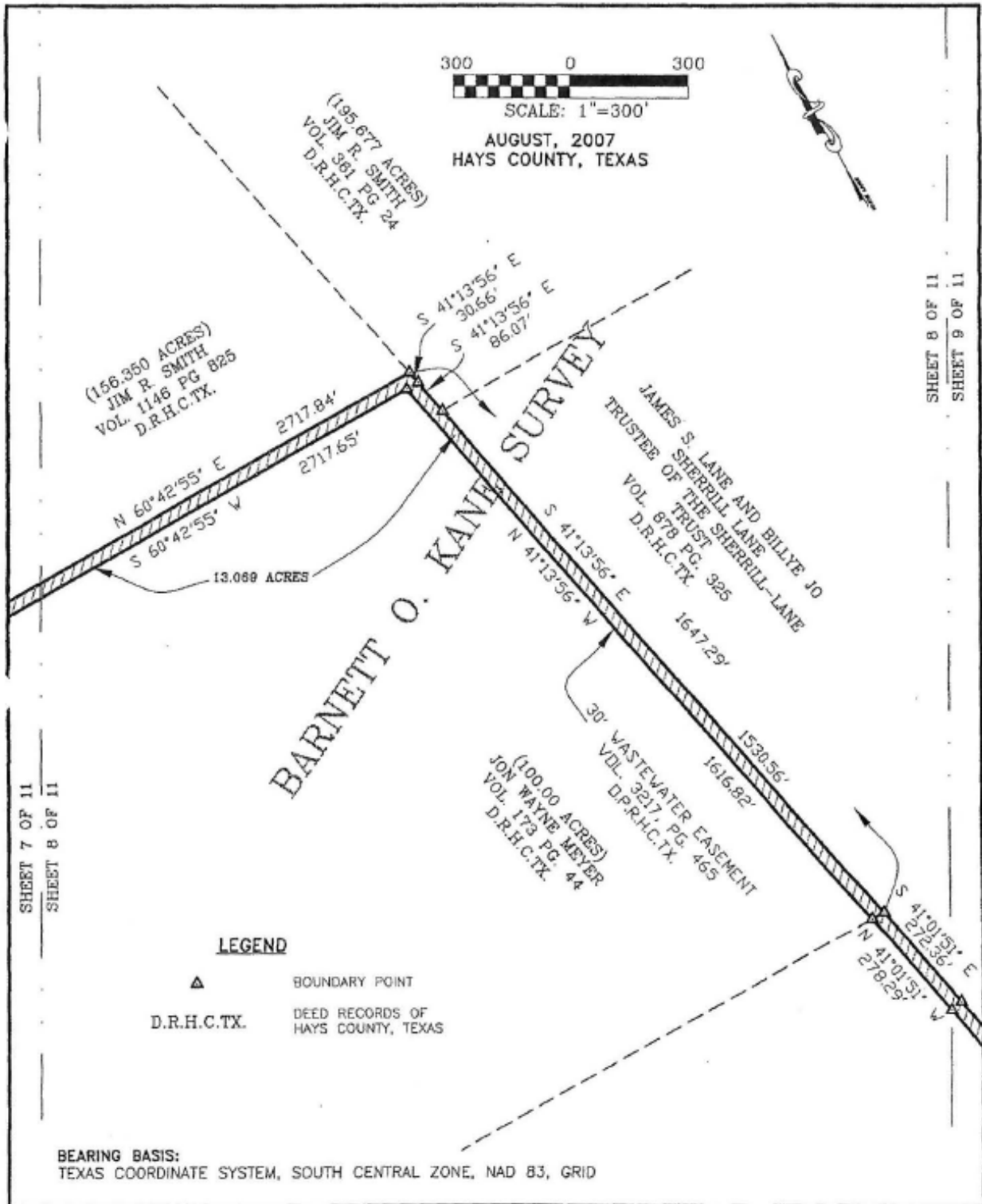



John D. Barnard
Registered Professional Land Surveyor
No. 5749, State of Texas

H:\Survey\FieldNotes\FN-0800s\FN0831R2(teb).doc





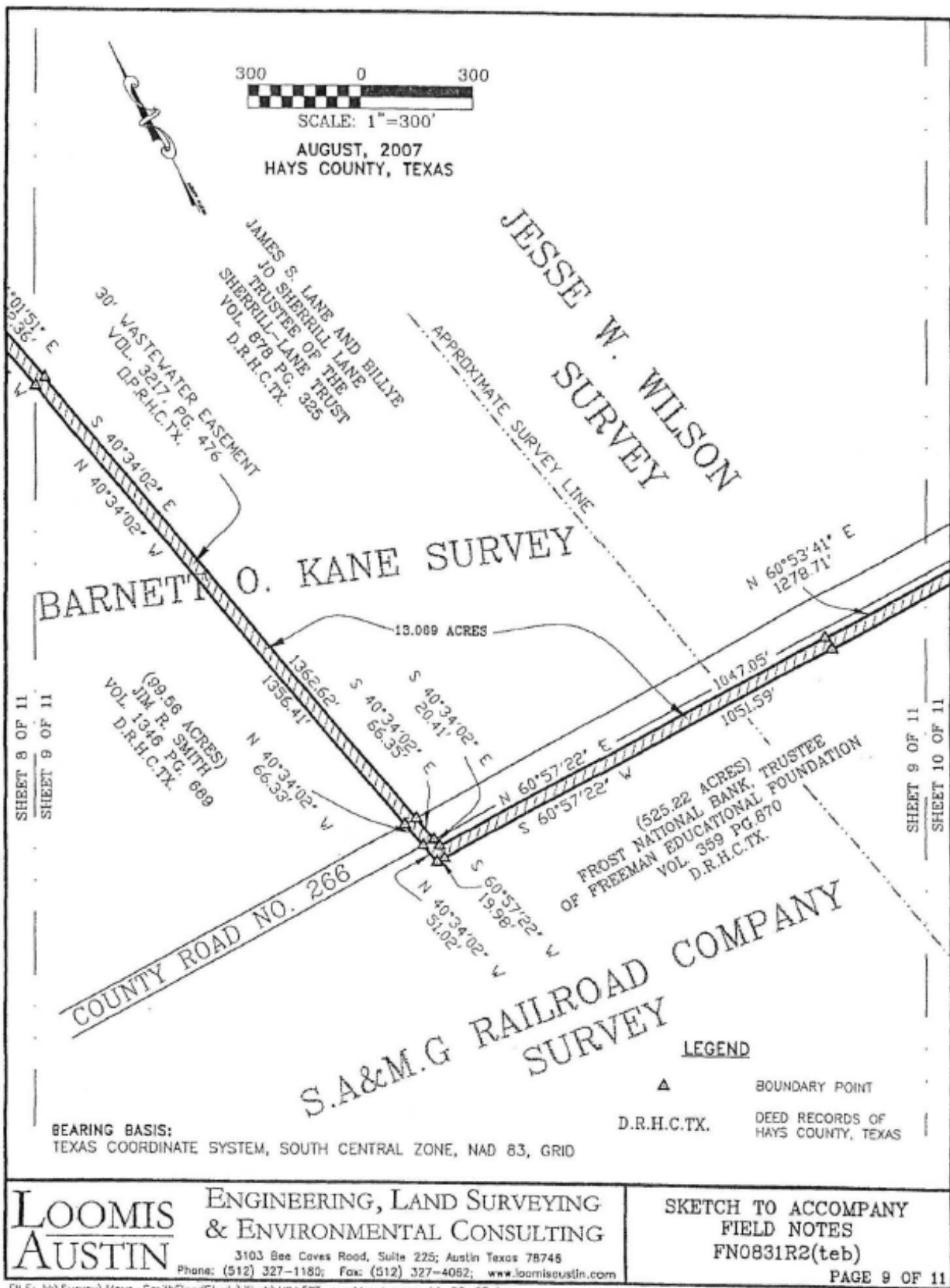


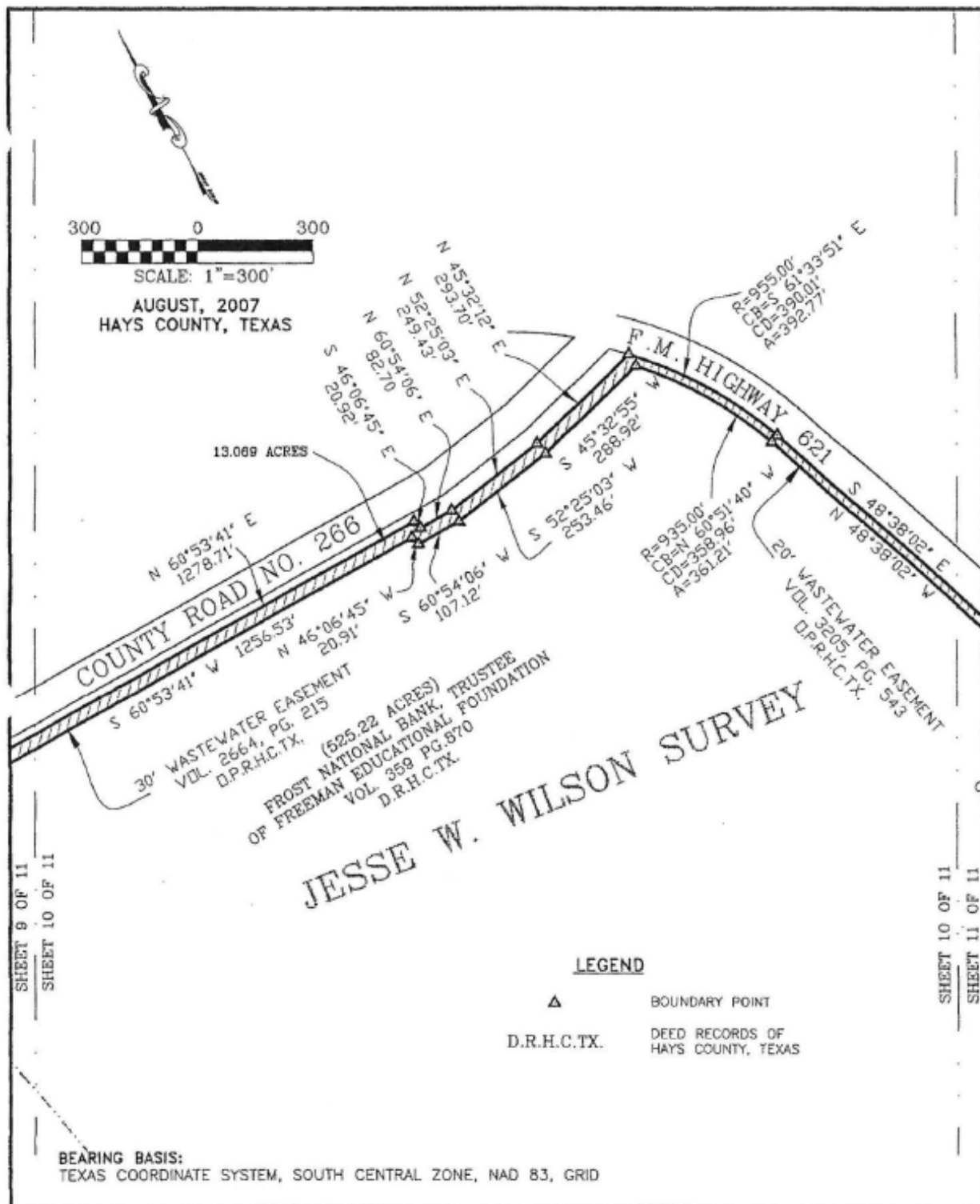
SHEET 7 OF 11
SHEET 8 OF 11

SHEET 8 OF 11
SHEET 9 OF 11

LOOMIS AUSTIN	ENGINEERING, LAND SURVEYING & ENVIRONMENTAL CONSULTING	SKETCH TO ACCOMPANY FIELD NOTES FN0831R2(teb)
	3103 Bee Caves Road, Suite 225; Austin Texas 78746 Phone: (512) 327-1180; Fax: (512) 327-4062; www.loomisaustin.com	PAGE 8 OF 11

FILE: H:\Survey\Mayo-SmithFloodStudy\Work\HILBERT_combined_ease_11-20-07.dwg
DATE: Jan 03, 2008-4:15pm





**LOOMIS
AUSTIN**

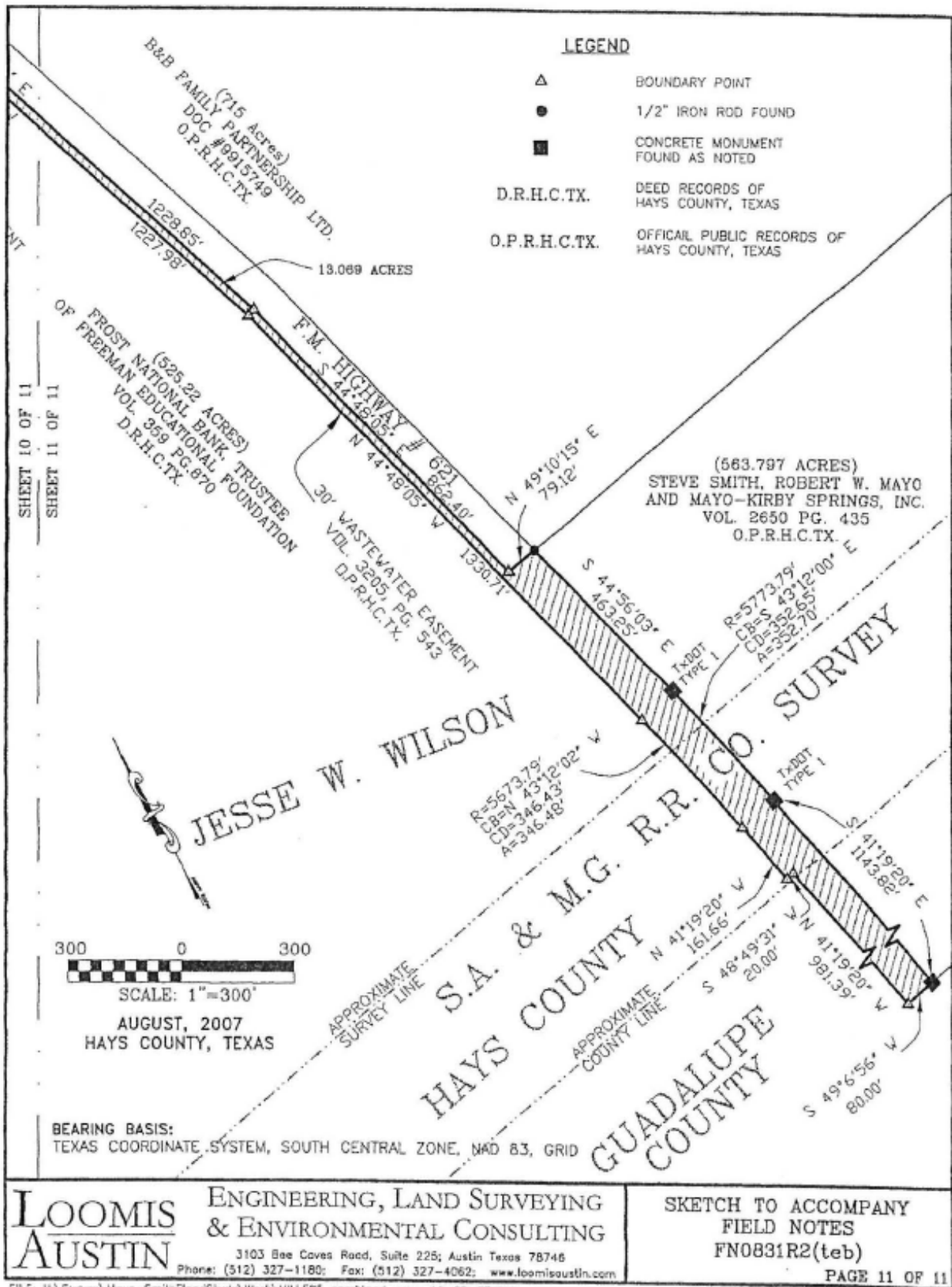
ENGINEERING, LAND SURVEYING
& ENVIRONMENTAL CONSULTING

3103 Bee Coves Road, Suite 225; Austin Texas 78746
Phone: (512) 327-1180; Fax: (512) 327-4052; www.loomis-austin.com

SKETCH TO ACCOMPANY
FIELD NOTES
FN0831R2(teb)

PAGE 10 OF 11

FILE: H:\Survey\Mayo-Smith\FloodStudy\Work\HILLERT_combined_ease_11-20-07.dwg
DATE: Jan 03, 2008-4:16pm



RESOLUTION NO. 2007-R-235

WHEREAS, The Anderson Group, owner, has requested the City of Martindale to release from its extraterritorial jurisdiction, ("ETJ"), the easternmost edge of the 563.199 acres comprising the territory commonly known as the Hillert Tract, and identified on the map attached as Exhibit "A" to this resolution, because, as owners of this property, they have requested annexation of the entire 563.199 acre Hillert Tract into the city limits of City of San Marcos; and

WHEREAS, the City of Martindale, as evidenced by the unanimous vote at its regular city council meeting on November 6, 2007, has no objection to the release of this ETJ area to be annexed into the city limits of San Marcos; and

WHEREAS, principals of sound regional cooperation incline the Martindale City Council to give due respect and consideration to the development concerns of Martindale's neighbor cities; and

WHEREAS, Section 42.023 of the Texas Local Government Code authorizes the City Council to release territory from the City of Martindale's extraterritorial jurisdiction by resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARTINDALE:

The easternmost edge of the 563.199 acre territory known as the Hillert Tract, identified on the map attached as Exhibit "A" to this resolution, which falls within the ETJ of the City of Martindale, is hereby released from the City of Martindale's extraterritorial jurisdiction under authority of Section 42.023 of the Texas Local Government Code; provided however, that the area is released only upon the condition that it shall become a part of the complete tract to be annexed into the city limits of San Marcos.

BE IT FURTHER RESOLVED:

The Mayor of Martindale or her designee is authorized and directed to revise the City of Martindale's map of its extraterritorial jurisdiction to reflect the release of the territory identified on the map attached as Exhibit "A" to this resolution.

BE IT FURTHER RESOLVED:

The City Manager or her designee is authorized and directed to apply to the Texas Commission on Environmental Quality to remove the area from Martindale's water and wastewater Certificates of Convenience and Necessity service area.

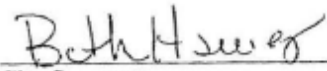


APPROVED BY THE CITY COUNCIL FOR THE CITY OF
MARTINDALE, TEXAS, in its meeting held on the 20th day of
November, 2007, and executed by its authorized representative.

CITY OF MARTINDALE, TEXAS

By: 
Mayor

ATTEST:


City Secretary

NOTE - FOR REMAINDER OF ANNEXATION ORDINANCE PLEASE SEE:

<https://www.dropbox.com/s/egaeiyqpc4gno75/City%20Ordinance%202008-16%20re%20Annexation.pdf?dl=0>

01/09/2018 Wayne at San Marcos/01/09 Wayne Submitter/01/09 Wayne Development Phase/01/09-01/09/01/09 Wayne_Production
 Date: 01/09/2018
 Last Modified: Jan 26, 2018 - 15:13
 Print Date/Time: Jan 15, 2018 - 10:10:13



Sewer Improvements



[illegible]

EXHIBIT "E" (page 3)

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST
FOR
ULTIMATE CONDITIONS - LIFT STATION & FORCE MAIN @ 9680 LUE'S
April 29, 2020

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL AMOUNT
<i>Lift Station Improvements</i>					
1	Mobilization	LS	1	11%	\$ 1,168,421.74
2	Insurance & Bond	LS	1	3%	\$ 318,660.48
3	Preparing Right-of-Way	LS	1	4%	\$ 424,880.63
4	6" DR13.5 HDPE Force Main #1	LF	22465	\$ 40.00	\$ 898,600.00
5	6" DR13.5 HDPE Force Main #2	LF	22465	\$ 40.00	\$ 898,600.00
6	12" DR13.5 HDPE Force Main #3	LF	22465	\$ 100.00	\$ 2,246,500.00
7	20" DR13.5 HDPE Force Main #4	LF	22465	\$ 150.00	\$ 3,369,750.00
8	Air Release Valve	EA	20	\$ 2,500.00	\$ 50,000.00
9	Trench Excavation Safety Protection	LF	89860	\$ 1.00	\$ 89,860.00
10	Force Main Tie-In	EA	4	\$ 2,000.00	\$ 8,000.00
11	Sanitary Sewer Manhole	EA	5	\$ 4,500.00	\$ 22,500.00
12	30'Hx20'D Cast-In-Place Wet Well	LS	1	\$ 750,000.00	\$ 750,000.00
13	Submersible Pumps	EA	3	\$ 100,000.00	\$ 300,000.00
14	Site Pavement	LS	1	\$ 30,000.00	\$ 30,000.00
15	Concrete Driveway	LS	1	\$ 15,000.00	\$ 15,000.00
16	Structural Slabs	LS	1	\$ 100,000.00	\$ 100,000.00
17	Earthwork	LS	1	\$ 50,000.00	\$ 50,000.00
18	Fencing & Gates	LS	1	\$ 20,000.00	\$ 20,000.00
19	Electrical Service, Control Panels, & SCADA Tower	LS	1	\$ 500,000.00	\$ 500,000.00
20	Yard Piping, Wet Well Piping, Valves, & Fittings	LS	1	\$ 150,000.00	\$ 150,000.00
21	Water Service	EA	1	\$ 1,200.00	\$ 1,200.00
22	Backup Power Generator	EA	1	\$ 80,000.00	\$ 80,000.00
23	Temporary Construction Esm't	AC	15.5	\$ 7,500.00	\$ 116,250.00
24	Water Easement	AC	18.1	\$ 15,000.00	\$ 270,755.85
25	Easement Acquisition (35'-Wide)	LS	1	\$ 500,000.00	\$ 500,000.00
26	Canopy for Control Panels	LS	1	\$ 25,000.00	\$ 25,000.00
27	Odor Control Appurtenances	LS	1	\$ 30,000.00	\$ 30,000.00
28	Miscellaneous Appurtenances	LS	1	\$ 100,000.00	\$ 100,000.00
29	Driveway Crossings	EA	11	\$ 1,000.00	\$ 11,000.00
30	Bore & Casing 12"	LF	500	\$ 300.00	\$ 150,000.00
31	Bore & Casing 24"	LF	250	\$ 400.00	\$ 100,000.00
32	Bore & Casing 42"	LF	250	\$ 600.00	\$ 150,000.00
33	3-Phase Services	LS	1	\$ 500,000.00	\$ 500,000.00
<i>Gravity Main Improvements</i>					
33	8" Sewer Main (Trunk Line)	LF	6411	\$ 40.00	\$ 256,440.00
34	21" SDR26 Sewer Main (Trunk Line)	LF	1330	\$ 125.00	\$ 166,250.00
35	24" SDR26 Sewer Main (Trunk Line)	LF	4772	\$ 200.00	\$ 954,400.00
36	Gravity Manholes	EA	37	\$ 4,500.00	\$ 166,500.00
	Contingency	LS	1	20%	\$ 2,997,713.74
	Engineering	LS	1	10%	\$ 1,498,856.87

ULTIMATE SEWERSHED TOTAL LIFT STATION IMPROVMENTS \$19,485,139.32

This is an estimate only. Actual "Oversizing Cost" will be calculated after bids are awarded and work is completed based on actual cost per LUE of service.

LJA Engineering, Inc. does not warrant or guarantee this "estimated cost" as an "actual cost" and/or if an "actual Construction Cost" is required, and/or desired then construction bids should be obtained from appropriate sources. This estimate is being supplied for the applicable municipality only and no representations, warranties, or guarantees are rendered hereby to any other person or entity specifically including, but not limited to, any mortgagee or lending institution.

PREPARED BY:
LJA ENGINEERING, INC.
Texas Board of Professional Engineers Registration # F-1386

APPROVED BY:

Petition to Create the Staples Road Public Improvement District

DocuSign Envelope ID: 702C01B6-55BC-48DC-B05A-71B9C8966006

**PETITION FOR CREATION OF A PUBLIC IMPROVEMENT DISTRICT
TO BE NAMED THE STAPLES ROAD PUBLIC IMPROVEMENT DISTRICT, FOR
APPOINTMENT OF DIRECTORS, AND ASSESSMENTS
AT A SPECIFIED RATE, WITHIN THE BOUNDARIES OF THE DISTRICT**

STATE OF TEXAS §
CITY OF SAN MARCOS §

TO THE HONORABLE COUNCIL MEMBERS OF SAN MARCOS, TEXAS:

The undersigned (hereinafter the “Petitioners”), being the entities which hold fee simple title to 87.969% (more than 50 percent) of the appraised value of taxable property proposed to be included within the public improvement district (the “District”) as proposed in this petition (the “Petition”), with the intention to further the development of the land hereinafter described in Exhibit “A”, and to benefit the City of San Marcos, Texas (the “City”), a home-rule municipality, acting pursuant to the provisions of Subchapter A (“Subchapter A”) and Subchapter B (“Subchapter B”) of Chapter 372, Texas Local Government Code (“Chapter 372”), hereby respectfully petition the Council Members (the “Council”) of the City, requesting the creation of the District, and would show the following:

ARTICLE I
DISTRICT NAME

The name of the District shall be the “Staples Road Public Improvement District.”

ARTICLE II

PURPOSE

The District shall be created and organized under the terms and provision of Subchapter A of Chapter 372. The primary purpose of the District will be to fund and construct the infrastructure required to provide sanitary sewer service to the benefited property identified in Exhibit "A", and to fund other infrastructure required to develop the Property and create service connections within such Property.

ARTICLE III

NATURE OF IMPROVEMENTS

This Petition requests that the City create the District and, on behalf thereof, engage in economic development projects and exercise the powers relative thereto, requested in this Petition. The Petitioners propose that the District enter into development agreements as are deemed advisable to promote state and local economic development and to stimulate responsible and proper growth in the District as permitted and in accordance with Subchapter A. The general nature of the improvements and work proposed within the boundaries of the proposed District include, but are not limited to, construction of sewer utilities and related infrastructure as further detailed on Exhibit “B” attached hereto, and other infrastructure improvements as allowed by Section 372.003 of Chapter 372. The District may undertake the improvement projects in conjunction with private or public entities. The District will comply with Subchapter A of Chapter 372 in determining its undertakings.

The area comprising the proposed District is not presently improved with sewer utilities in a way that will lead to new properly restricted development in the District and the City. The proposed District is necessary in order to advance, upgrade and pay for or finance the

PETITION FOR CREATION OF STAPES ROAD PUBLIC IMPROVEMENT DISTRICT

Page 1

construction of the improvements within the District to provide such sewer service and other improvements. The proposed District and its projects appear feasible, necessary, and will be a benefit to the land within the District, City, and surrounding areas. After construction, the sewer improvements identified on Exhibit "B" will be dedicated to the City to become part of, and operated under, the City's sanitary sewer system, and the rules and regulations of the City related to such service. The dedication of improvements to the City will be subject to the City's inspection and approval prior to acceptance.

ARTICLE IV ESTIMATED COSTS

The estimated costs of the sewer improvements proposed to be constructed in the District, and financed using bonds issued under Chapter 372, is \$19,485,139.32 (plus interest and cost of issuance); and the itemized estimated costs therefore are further detailed on the Opinion of Probable Cost attached hereto as Exhibit "B". The District may undertake other improvements as required as provided pursuant to Chapter 372.

ARTICLE V DISTRICT BOUNDARIES

The District shall contain an area of approximately 1,816.29 acres of land, being more specifically identified in Exhibit "A". The District is situated within the corporate limits and extraterritorial jurisdiction of the City. All the land proposed to be included may properly be included within the District. None of the land proposed to be included within the District is within the corporate boundaries or extraterritorial jurisdiction of any other municipality. The boundaries of the proposed District are depicted in the map and identified by Hays and Guadalupe County Appraisal District Parcel ID Numbers on Exhibit "A", which is attached hereto and incorporated herein for all purposes.

ARTICLE VI METHOD OF ASSESSMENT; ASSESSABLE PROPERTY

Petitioners request that the City impose within the District an assessment based on the per \$100 appraised valuation as reflected in the official tax rolls of Hays and Guadalupe County Appraisal Districts, for the year of each respective assessment, in an amount necessary to satisfy the budget of the District (anticipated to initially total \$0.10 per \$100 of the aforementioned valuation); provided, however: (a) that this method of assessment may be changed by the Board to a per living unit equivalent ("LUE") basis, with the assessment per LUE being equal to the product of the total improvement cost actually constructed divided by the total number of LUEs of capacity created by said improvements (plus pro rata interest costs), with each benefited property being assessed according to the number of LUEs of capacity it requires (the "alternative Assessment Method"). If the above methodology for imposing assessments within public improvement districts is ever invalidated under applicable Texas law, the City shall be permitted to implement a substitute assessment methodology that is permissible under applicable Texas law and most closely approximates the funding result of the then-invalidated methodology.

Petitioners request that the following classes of assessable property be excluded from the assessment rolls: Any property which is 100% exempt from ad valorem taxation according to the respective official tax roll of Hays and Guadalupe Counties.

Petitioners request that the following classes of assessable property be included in the assessment rolls: All property identified on Exhibit "A" which is not 100% exempt from ad valorem taxation according to the respective official tax roll of Hays and Guadalupe Counties.

ARTICLE VII APPORTIONMENT OF COSTS

Except as hereafter described, assessments collected within the District shall represent the sole source of funds to pay all costs of construction of the improvements, and interest thereon, within the District that are the subject of this Petition. No costs are to be apportioned to the City.

ARTICLE VIII ADVISORY & MANAGEMENT

Pursuant to Chapter 372 no advisory body will be established by the City. The District will be managed by the private sector acting in the form of a three member board (described below) which develop the improvement plan and submit it to the governing body of the City for approval as required by Chapter 372. Petitioners request that the operations of the District be managed by the Board of Directors having three (3) members (the "Board") that the City appoints at the time it adopts the Resolution creating the District, in compliance with Sections 372.005(6) and 372.008 of Chapter 372, as set forth in Article X, below.

ARTICLE IX DISTRICT REQUEST

Pursuant to Section 372.005 (7) of Chapter 372, the property owners acting through the individuals signing this Petition hereby request the City to establish of the District, and concur with the creation of the District both individually and on behalf of the entities which they represent.

ARTICLE X APPOINTMENT OF DIRECTORS

Petitioners request that the City appoint three (3) individuals nominated by the Petitioners, at the time that the City creates the District, who are qualified under Subsection 372.008(b) of Chapter 372, to serve as Directors of the Board, and charge such Board with the responsibility of preparing the service plan under Section 372.013 of Chapter 372 and of management of the District pursuant to Article III above. The three (3) individuals nominated by Petitioners and representing property owners in the District, to be appointed by the City to the Board shall be one person nominated in writing by of the following property owners:

1. The Mayan at San Marcos River, LLC;
2. HK Baugh Ranch, LLC; and
3. Freeman Educational Foundation.

Each of the above property owners shall submit their nomination to the City Clerk, in writing, no later than September 5th, 2020. In the event a Director appointed by the City is no longer willing or able to serve, the property owner that nominated that Director shall submit a nomination to the City Clerk, in writing, nominating a successor person as Director. In the event a Petitioner conveys its property to a successor, the successor shall have the right to nominate the Director.


ARTICLE XI GENERAL PROVISIONS.

Petitioners pray that this Petition be heard and acted upon by the City Council of San Marcos, Texas on or before September 30, 2020; that a notice of the hearing be published in a newspaper of general circulation at least 15 days prior to the hearing date; and that the Council make

findings, and approve and adopt a resolution creating the Staples Road Public Improvement District, in the manner specified in Chapter 372, Texas Local Government Code, as amended. The Petitioners intend for this document to be signed and filed with the City Clerk electronically pursuant to Chapter 322 of the Texas Business and Commerce Code.


RESPECTFULLY SUBMITTED this 1st day of September, 2020

MAYAN AT SAN MARCOS RIVER, LLC,
a Texas limited liability company

By: 
5E9840F35D1B462...

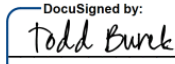
Name: David L. Earl

Title: Manager

By: 
17414FBCD1F1410...

Name: Gerald Bennett

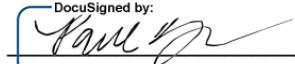
Title: Manager

By: 
3BF2741FC6D4410...

Name: Todd Burek

Title: Manager

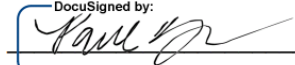
HK REAL ESTATE DEVELOPMENT, LLC, a Texas limited liability company

By: 
9F060AF437B3491...

Name: Paul W. Kuo

Title: Manager

FREEMAN EDUCATIONAL FOUNDATION

By: 
9F060AF437B3491...

Name: Paul W. Kuo

Title: Authorized Representative

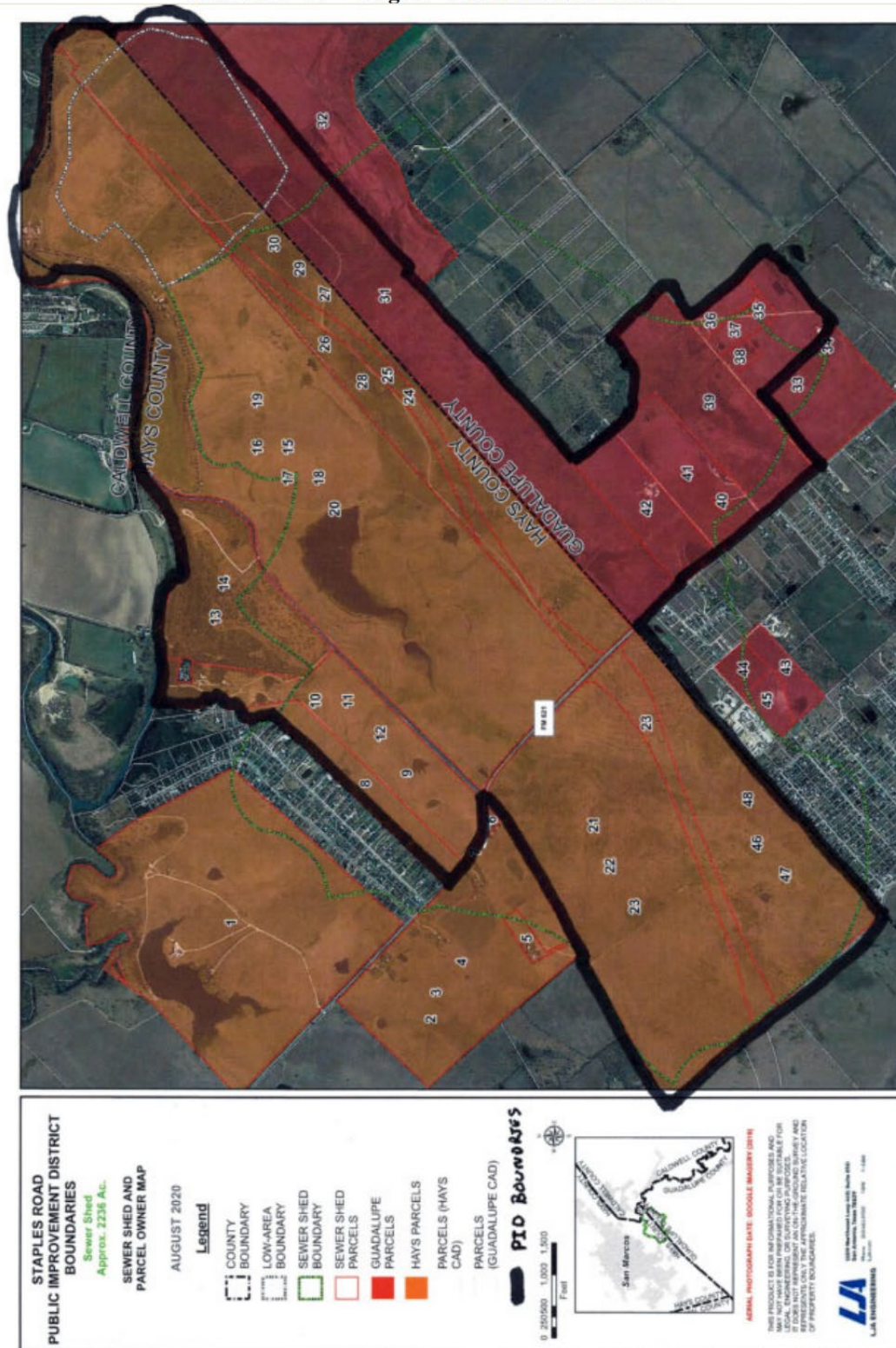
THIS PETITION SHALL BE FILED ELECTRONICALLY BY EMAILING THE FULLY EXECUTED DOCUMENT TO THE CITY CLERK AT cityclerk@sanmarcostx.gov PURSUANT TO SECTION 372.005(C) OF CHAPTER 372 AND SECTION 322.007 OF THE TEXAS BUSINESS & COMMERCE CODE.

EXHIBIT “A” **BOUNDARIES OF THE PROPOSED DISTRICT**

STAPLES ROAD PUBLIC IMPROVEMENT DISTRICT						
Boundaries and Property Included Within District						
TRACT	COUNTY	APPRAISAL DIST. ID NO.	PROPERTY OWNER	OWNER ADDRESS	APPRAISED VALUE	ACRES
6	HAYS	R10488	ISHLER, DEREK	2218 STAPLES RD, SAN MARCOS, TX 78666	\$ 81,040.00	1.921645224
7	HAYS	R85437	ISHLER, DEREK	2218 STAPLES RD, SAN MARCOS, TX 78666	\$ 140,010.00	1.8
8	HAYS	R119855	TOMBLIN HOLDINGS LTD	2011 FM 621, SAN MARCOS, TX 78666	\$ 610,280.00	40.776
9	HAYS	R10495	ALEXANDER, MARY J DAVIS	500 DAVIS RANCH RD, SAN MARCOS, TX 78666-1402	\$ 436,900.00	55.8
10	HAYS	R10497	ALEXANDER, MARY J DAVIS	500 DAVIS RANCH RD, SAN MARCOS, TX 78666-1402	\$ 292,940.00	36.2
11	HAYS	R10504	ALEXANDER, MARY J DAVIS	500 DAVIS RANCH RD, SAN MARCOS, TX 78666-1402	\$ 349,280.00	0.4
12	HAYS	R16585	ALEXANDER, MARY J DAVIS	500 DAVIS RANCH RD, SAN MARCOS, TX 78666-1402	\$ 116,470.00	17
15	HAYS	R16583	HK BAUGH RANCH LLC	24607 FAIRWAY SPGS, SAN ANTONIO, TX 78260	\$ 2,886,220.00	213.596
16	HAYS	R70337	HK BAUGH RANCH LLC	24607 FAIRWAY SPGS, SAN ANTONIO, TX 78260	\$ 1,621,340.00	119.988
17	HAYS	R70338	HK BAUGH RANCH LLC	24607 FAIRWAY SPGS, SAN ANTONIO, TX 78260	\$ 1,044,660.00	7
18	HAYS	R70350	HK BAUGH RANCH LLC	24607 FAIRWAY SPGS, SAN ANTONIO, TX 78260	\$ 152,480.00	9.905
19	HAYS	R70351	HK BAUGH RANCH LLC	24607 FAIRWAY SPGS, SAN ANTONIO, TX 78260	\$ 184,100.00	1
20	HAYS	R133631	CEMENTERIO DEL RIO	FM 621, SAN MARCOS, TX 78666	NA	2.08
21	HAYS	R19015	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 2,007,010.00	99.0201
22	HAYS	R20294	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 4,149,520.00	204.7248
23	HAYS	R130384	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 65,470.00	3.23
23	HAYS	R151625	HAYS COUNTY	111 E SAN ANTONIO ST, SITE 101, SAN MARCOS, TX 78666	NA	45.42
24	HAYS	R151604	HAYS COUNTY	111 E SAN ANTONIO ST, SITE 101, SAN MARCOS, TX 78666	NA	21.14
25	HAYS	R151608	HAYS COUNTY	111 E SAN ANTONIO ST, SITE 101, SAN MARCOS, TX 78666	NA	32.757
26	HAYS	R13041	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 286,630.00	25.7636
27	HAYS	R16386	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 555,000.00	52.0043
28	HAYS	R92442	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 1,101,380.00	103.1999
29	HAYS	R151617	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 664,130.00	35.3146
30	HAYS	R151618	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 275,690.00	14.6596
31	GUADALUPE	56565	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 26,859.00	277.415
35	GUADALUPE	56566	ENDER RAY L & A	725 SCULL RD, SAN MARCOS, TX 78666	\$ 173,000.00	1.00
36	GUADALUPE	56573	ENDER RAY LEE-VLB	725 SCULL RD, SAN MARCOS, TX 78666	\$ 1,994.00	9.32
37	GUADALUPE	56555	ENDER RAY L & A	725 SCULL RD, SAN MARCOS, TX 78666	\$ 1,911.00	8.93
38	GUADALUPE	119535	VTX COMMUNICATIONS LLC	881 EAST HIDALGO AVENUE, RAYMONDVILLE, TX 78580	\$ 96,000.00	3.99291764
39	GUADALUPE	56549	MILLENNIUM INTERESTS LTD	1718 STATE STREET, HOUSTON, TX 77007	\$ 14,399.00	100.691
40	GUADALUPE	56635	SHELL LON R & P	3409 FM 621, SAN MARCOS, TX 78666	\$ 231,132.00	1.002782309
41	GUADALUPE	56633	SHELL LON R & P	3409 FM 621, SAN MARCOS, TX 78666	\$ 13,728.00	48.38
42	GUADALUPE	56610	CADENA JAIME M & SAN JUANA	720 PICASSO DR, SAN MARCOS, TX 78666	\$ 35,144.00	50.062
46	HAYS	R20295	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 2,940,040.00	127.1898
47	HAYS	R20304	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 380,020.00	16.44
48	HAYS	R151626	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 627,930.00	27.1653
TOTAL APPRAISED VALUE OF TAXABLE PROPERTY=					\$ 21,562,687.00	100.000%
TOTAL APPRAISED VALUE OF PETITIONERS PROPERTY=					\$ 18,968,479.00	87.969%

= Denotes Petitioner

EXHIBIT "A" – Page 2 – Boundaries of District



PETITION FOR CREATION OF STAPLES ROAD PUBLIC IMPROVEMENT DISTRICT

Page 6

EXHIBIT "B"

**ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST
FOR
ULTIMATE CONDITIONS - LIFT STATION & FORCE MAIN @ 9680 LUE'S
April 29, 2020**

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>UNIT</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>TOTAL AMOUNT</u>
Lift Station Improvements					
1	Mobilization	LS	1	11%	\$ 1,168,421.74
2	Insurance & Bond	LS	1	3%	\$ 318,660.48
3	Preparing Right-of-Way	LS	1	4%	\$ 424,880.63
4	6" DR13.5 HDPE Force Main #1	LF	22465	\$ 40.00	\$ 898,600.00
5	6" DR13.5 HDPE Force Main #2	LF	22465	\$ 40.00	\$ 898,600.00
6	12" DR13.5 HDPE Force Main #3	LF	22465	\$ 100.00	\$ 2,246,500.00
7	20" DR13.5 HDPE Force Main #4	LF	22465	\$ 150.00	\$ 3,369,750.00
8	Air Release Valve	EA	20	\$ 2,500.00	\$ 50,000.00
9	Trench Excavation Safety Protection	LF	89860	\$ 1.00	\$ 89,860.00
10	Force Main Tie-In	EA	4	\$ 2,000.00	\$ 8,000.00
11	Sanitary Sewer Manhole	EA	5	\$ 4,500.00	\$ 22,500.00
12	30"Hx20"D Cast-In-Place Wet Well	LS	1	\$ 750,000.00	\$ 750,000.00
13	Submersible Pumps	EA	3	\$ 100,000.00	\$ 300,000.00
14	Site Pavement	LS	1	\$ 30,000.00	\$ 30,000.00
15	Concrete Driveway	LS	1	\$ 15,000.00	\$ 15,000.00
16	Structural Slabs	LS	1	\$ 100,000.00	\$ 100,000.00
17	Earthwork	LS	1	\$ 50,000.00	\$ 50,000.00
18	Fencing & Gates	LS	1	\$ 20,000.00	\$ 20,000.00
19	Electrical Service, Control Panels, & SCADA Tower	LS	1	\$ 500,000.00	\$ 500,000.00
20	Yard Piping, Wet Well Piping, Valves, & Fittings	LS	1	\$ 150,000.00	\$ 150,000.00
21	Water Service	EA	1	\$ 1,200.00	\$ 1,200.00
22	Backup Power Generator	EA	1	\$ 80,000.00	\$ 80,000.00
23	Temporary Construction Esm't	AC	15.5	\$ 7,500.00	\$ 116,250.00
24	Water Easement	AC	18.1	\$ 15,000.00	\$ 270,755.85
25	Easement Acquisition (35'-Wide)	LS	1	\$ 500,000.00	\$ 500,000.00
26	Canopy for Control Panels	LS	1	\$ 25,000.00	\$ 25,000.00
27	Odor Control Appurtenances	LS	1	\$ 30,000.00	\$ 30,000.00
28	Miscellaneous Appurtenances	LS	1	\$ 100,000.00	\$ 100,000.00
29	Driveway Crossings	EA	11	\$ 1,000.00	\$ 11,000.00
30	Bore & Casing 12"	LF	500	\$ 300.00	\$ 150,000.00
31	Bore & Casing 24"	LF	250	\$ 400.00	\$ 100,000.00
32	Bore & Casing 42"	LF	250	\$ 600.00	\$ 150,000.00
33	3-Phase Services	LS	1	\$ 500,000.00	\$ 500,000.00
Gravity Main Improvements					
33	8" Sewer Main (Trunk Line)	LF	6411	\$ 40.00	\$ 256,440.00
34	21" SDR26 Sewer Main (Trunk Line)	LF	1330	\$ 125.00	\$ 166,250.00
35	24" SDR26 Sewer Main (Trunk Line)	LF	4772	\$ 200.00	\$ 954,400.00
36	Gravity Manholes	EA	37	\$ 4,500.00	\$ 166,500.00
	Contingency	LS	1	20%	\$ 2,997,713.74
	Engineering	LS	1	10%	\$ 1,498,856.87

ULTIMATE SEWERSHED TOTAL LIFT STATION IMPROVMENTS \$19,485,139.32

This is an estimate only. Actual "Oversizing Cost" will be calculated after bids are awarded and work is completed based on actual cost per LUE of service.

LJA Engineering, Inc. does not warrant or guarantee this "estimated cost" as an "actual cost" and/or if an "actual Construction Cost" is required, and/or desired then construction bids should be obtained from appropriate sources. This estimate is being supplied for the applicable municipality only and no representations, warranties, or guarantees are rendered hereby to any other person or entity specifically including, but not limited to, any mortgage or lending institution.

PREPARED BY:
LJA ENGINEERING, INC.
Texas Board of Professional Engineers Registration # F-1386

APPROVED BY:

DocuSign Envelope ID: B6572F20-12FE-431D-989A-4952F3613DE2

Page 1

facilities or improvements; (10) the establishment or improvement of parks; (11) projects similar to those listed in items (1)-(10) above, including masonry walls as part of the pedestrian malls and park improvements (the "Buffer Improvements"); (12) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement; (13) special supplemental services for improvement and promotion of the District, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; (14) payment of expenses incurred in the establishment, administration, and operation of the district; (15) the development, rehabilitation, or expansion of affordable housing within the District; and (16) the payment of expenses incurred in the establishment, administration, and operation of the District, including costs of issuance, funding debt service and capitalized interest reserves and credit enhancement fees of any bonds issued relating to the District, if necessary. The authorized improvements within the District will include, but not be limited to, specific regional sewer improvements which will include: a regional sewer lift station; regional sewer force mains; regional gravity sewer mains; and related improvements, as identified on Exhibit "B" hereto, to be used upon completion by the City to provide sanitary sewer service to the property within the District (the "Regional Sewer Improvements"). The improvements identified in this Article III are collectively referred to herein as the "Authorized Improvements".

The area comprising the proposed District is not presently improved with sewer utilities in a way that will lead to new properly restricted development in the District and the City. The creation of the District is necessary in order to advance, upgrade and pay for or finance the construction of the Authorized Improvements within the District to provide such sewer service, and to provide the other Authorized Improvements. The proposed District and the Authorized Improvements are feasible, necessary, and will be a benefit to the land within the District.

After construction, the Regional Sewer Improvements identified on Exhibit "B" will be dedicated to the City to become part of, and operated under, the City's sanitary sewer system, and the lawful rules and regulations of the City related to such service. The dedication of improvements to the City will be subject to the City's inspection and approval prior to acceptance. The Petitioners, being the persons or entities that signed the Petition and have executed this Amendment, request and concur with the establishment of the District.

ARTICLE IV ESTIMATED COSTS

The estimated costs of the Authorized Improvements are:

- (1) The estimated cost of the design, construction, acquisition and financing of the Regional Sewer Improvements and Buffer Improvements within and or benefiting the District is not expected to exceed \$30,000,000, which cost is proposed to be financed through the issuance of revenue bonds by the City pursuant to Chapter 372 of the Texas Local Government Code, together with the costs of administrating, establishing and operating the District, and the costs of issuance of and interest on such bonds. The revenue bonds would be repaid solely from a pledge of assessments made and collected on benefitted property within the District; and
- (2) The estimated cost of the design, construction, and acquisition of the other Authorized Improvements within the District included in items (1) through (16), above, but excluding the Regional Sewer Improvements and Buffer Improvements, is estimated to be \$51,906.27 per acre of developed property on the +/- 1,507 acres to be developed within the District.

ARTICLE V DISTRICT BOUNDARIES

The District shall contain an area of approximately 1,816.29 acres of land, located partially in Hays County and partially in Guadalupe County, Texas, said land being more specifically identified in the map attached hereto as Exhibit "A-1" (the "Property"). The Property is further identified by Hays and Guadalupe County Appraisal District Parcel ID Numbers on Exhibit "A-2", which is attached hereto and incorporated herein for all purposes. The District is situated within the corporate limits and extraterritorial jurisdiction of the City. The Property may properly be included within the District. None of the Property is within the corporate boundaries or extraterritorial jurisdiction of any other municipality.

ARTICLE VI METHOD OF ASSESSMENT; ASSESSABLE PROPERTY

The proposed method of assessment related to the costs of design, construction, financing, and acquisition of the Regional Sewer Improvements, the Buffer Improvements, and other Authorized Improvements is to impose a special assessment to be paid in installments on all parcels of property within the District, net of any public right-of-way, according to the number of square feet of land contained in each parcel of property, or in any other manner that results in imposing equal shares of the cost of the Regional Sewer Improvements, the Buffer Improvements, and other Authorized Improvements on property similarly benefitted. A report will be prepared showing the special benefits accruing to property within the District and how the costs of the Regional Sewer Improvements, Buffer Improvements, and other Authorized Improvements are assessed to property on the basis of special benefit received by the property from the said improvements. If an assessment is allowed to be paid in installments, then the installments must be paid in amounts necessary to meet annual costs for those authorized improvements financed in part by the assessment, and must continue for a period necessary to retire the indebtedness on those Authorized Improvements (including interest).

Petitioners request that the following classes of assessable property be excluded from the assessment rolls: Any property which is public right of way and 100% exempt from ad valorem taxation according to the respective official tax roll of Hays and Guadalupe Counties.

Petitioners request that the following classes of assessable property be included in the assessment rolls: All property identified on Exhibit "A-1" and "A-2" which is not public right of way and not 100% exempt from ad valorem taxation according to the respective official tax roll of Hays and Guadalupe Counties.

ARTICLE VII APPORTIONMENT OF COSTS

The cost of the Regional Sewer Improvements required for providing sanitary sewer service to the Property within the District, the cost of the Buffer Improvements, and the costs of the other Authorized Improvements acquired to benefit Property within the District, will be paid from assessments levied on the property within the District.

ARTICLE VIII MANAGEMENT

The District will be managed by an entity that is approved and created by the City pursuant to § 372.023 (a) (3) of Chapter 372, which entity shall be named the “Board of Directors of the Staples Road Public Improvement District” (the “PID Board”). The PID Board shall be comprised of three board members that are nominated by the Petitioners, and appointed by the City Council in the resolution creating the District. The PID Board shall assigned the responsibility for preparing an ongoing service plan and presenting the plan to the City Council for review and approval pursuant to § 372.013 of Chapter 372, and of management of the design, construction, and maintenance of the Authorized Improvements acquired or provided within the District on behalf of the City. The three (3) individuals nominated by Petitioners and representing property owners in the District, to be appointed by the City to the PID Board, shall be one person nominated in writing by each of the following property owners:

1. The Mayan at San Marcos River, LLC;
2. HK Baugh Ranch, LLC; and
3. Freeman Educational Foundation.

Each of the above property owners has submitted their nomination to the City Clerk prior to the filing of this Amendment. In the event an individual appointed by the City to the PID Board as described herein (the “Director”) is no longer willing or able to serve, the property owner that nominated that Director shall submit a nomination to the City Clerk, in writing, nominating an individual to serve as a replacement for that Director. In the event a Petitioner conveys its property to a successor and does not reserve the right of nomination, the successor shall have the right to nominate the Director.

ARTICLE IX DISTRICT REQUEST

Pursuant to Section 372.005 (7) of Chapter 372, the property owners acting through the individuals signing this Petition hereby request the City to establish of the District, and concur with the creation of the District both individually and on behalf of the entities which they represent.

ARTICLE X GENERAL PROVISIONS.

Petitioners pray that the Petition, as amended by this Amendment, be heard and acted upon by the City Council of San Marcos, Texas on or before October 7, 2020. Petitioners have confirmed that a notice of a public hearing at which the City Council will consider the advisability of the Authorized Improvements and the creation of the District was published on September 20, 2020 in a newspaper of general circulation; and, that said notice was mailed to the current address of the owners of property within the District, as required by § 372.009 of Chapter 372. The Petitioners request that the Council, after the close of the public hearing, approve and adopt a resolution: making findings as to, and authorizing, the Authorized Improvements; establishing the Staples Road Public Improvement District in the manner specified in Chapter 372; and creating the PID Board and appointing the Directors as requested herein. The Petitioners intend for this document to be signed and filed with the City Clerk electronically pursuant to Chapter 322 of the Texas Business and Commerce Code.

RESPECTFULLY SUBMITTED this 22nd day of September, 2020

MAYAN AT SAN MARCOS RIVER, LLC,
a Texas limited liability company

By: DocuSigned by:
David L. Earl
5E9640F35D1B462...

Name: David L. Earl

Title: Manager

By: DocuSigned by:
Todd Burek
3BF2741FC6D4410...

Name: Todd Burek

Title: Manager

By: DocuSigned by:
Gerald Bennett
17414FB8CD1F1410...

Name: Gerald Bennett

Title: Manager

HK BAUGH RANCH, LLC, a Texas limited liability company

By: DocuSigned by:
Paul W. Kuo
9FD60A0F437B3491...

Name: Paul W. Kuo

Title: Manager

FREEMAN EDUCATIONAL FOUNDATION

By: DocuSigned by:
Paul W. Kuo
9FD60A0F437B3491...

Name: Paul W. Kuo

Title: Authorized Representative

THIS PETITION SHALL BE FILED ELECTRONICALLY BY EMAILING THE FULLY EXECUTED DOCUMENT TO THE CITY CLERK AT cityclerk@sanmarcostx.gov PURSUANT TO SECTION 372.005(C) OF CHAPTER 372 AND SECTION 322.007 OF THE TEXAS BUSINESS & COMMERCE CODE.

-62-



EXHIBIT "A-2" **PARCELS IN THE PROPOSED DISTRICT**

STAPLES ROAD PUBLIC IMPROVEMENT DISTRICT						
Boundries and Property Included Within District						
TRACT	COUNTY	APPRAISAL DIST. ID NO.	PROPERTY OWNER	OWNER ADDRESS	APPRAISED VALUE	ACRES
6	HAYS	R10488	ISHLER, DEREK	2218 STAPLES RD, SAN MARCOS, TX 78666	\$ 81,040.00	1.921645224
7	HAYS	R85437	ISHLER, DEREK	2218 STAPLES RD, SAN MARCOS, TX 78666	\$ 140,010.00	1.8
8	HAYS	R119855	TOMLIN HOLDINGS LTD	2011 FM 621, SAN MARCOS, TX 78666	\$ 610,260.00	40.776
9	HAYS	R10495	ALEXANDER, MARY J DAVIS	500 DAVIS RANCH RD, SAN MARCOS, TX 78666-1402	\$ 436,900.00	55.8
10	HAYS	R10497	ALEXANDER, MARY J DAVIS	500 DAVIS RANCH RD, SAN MARCOS, TX 78666-1402	\$ 292,940.00	36.2
11	HAYS	R10504	ALEXANDER, MARY J DAVIS	500 DAVIS RANCH RD, SAN MARCOS, TX 78666-1402	\$ 349,280.00	0.4
12	HAYS	R16585	ALEXANDER, MARY J DAVIS	500 DAVIS RANCH RD, SAN MARCOS, TX 78666-1402	\$ 116,470.00	17
15	HAYS	R16583	HK BAUGH RANCH LLC	24607 FAIRWAY SPOGS, SAN ANTONIO, TX 78260	\$ 2,886,220.00	213.586
16	HAYS	R70337	HK BAUGH RANCH LLC	24607 FAIRWAY SPOGS, SAN ANTONIO, TX 78260	\$ 1,621,340.00	119.988
17	HAYS	R70338	HK BAUGH RANCH LLC	24607 FAIRWAY SPOGS, SAN ANTONIO, TX 78260	\$ 1,044,660.00	7
18	HAYS	R70350	HK BAUGH RANCH LLC	24607 FAIRWAY SPOGS, SAN ANTONIO, TX 78260	\$ 152,480.00	9.905
19	HAYS	R70351	HK BAUGH RANCH LLC	24607 FAIRWAY SPOGS, SAN ANTONIO, TX 78260	\$ 184,100.00	1
20	HAYS	R133631	CEMENTERIO DEL RIO	FM 621, SAN MARCOS, TX 78666	NA	2.08
21	HAYS	R19015	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 2,007,010.00	99.0201
22	HAYS	R20294	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 4,149,520.00	204.7248
23	HAYS	R130384	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 65,470.00	3.23
23	HAYS	R151625	HAYS COUNTY	111 E SAN ANTONIO ST, STE 101, SAN MARCOS, TX 78666	NA	45.42
24	HAYS	R151604	HAYS COUNTY	111 E SAN ANTONIO ST, STE 101, SAN MARCOS, TX 78666	NA	21.14
25	HAYS	R151608	HAYS COUNTY	111 E SAN ANTONIO ST, STE 101, SAN MARCOS, TX 78666	NA	32.757
26	HAYS	R13041	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 286,630.00	25.7636
27	HAYS	R16386	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 555,000.00	52.0043
28	HAYS	R92442	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 1,101,380.00	103.1999
29	HAYS	R151617	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 664,130.00	35.3148
30	HAYS	R151618	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 275,690.00	14.6596
31	GUADALUPE	56565	MAYAN AT SAN MARCOS RIVER LLC	22711 FOSSIL PEAK, SAN ANTONIO, TX 78261-3022	\$ 26,859.00	277.415
35	GUADALUPE	56556	ENDER RAY L & A	725 SCULL RD, SAN MARCOS, TX 78666	\$ 173,000.00	1.00
36	GUADALUPE	56573	ENDER RAY LEE-VLB	725 SCULL RD, SAN MARCOS, TX 78666	\$ 1,994.00	9.32
37	GUADALUPE	56555	ENDER RAY L & A	725 SCULL RD, SAN MARCOS, TX 78666	\$ 1,911.00	8.93
38	GUADALUPE	119535	VTX COMMUNICATIONS LLC	881 EAST HIDALGO AVENUE, RAYMONDVILLE, TX 78580	\$ 96,000.00	3.992917164
39	GUADALUPE	56549	MILLENNIUM INTERESTS LTD	1718 STATE STREET, HOUSTON, TX 77007	\$ 14,399.00	100.691
40	GUADALUPE	56635	SHELL LON R & P	3409 FM 621, SAN MARCOS, TX 78666	\$ 231,132.00	1.002782309
41	GUADALUPE	56633	SHELL LON R & P	3409 FM 621, SAN MARCOS, TX 78666	\$ 13,728.00	48.38
42	GUADALUPE	56610	CADENA JAIME M & SAN JUANA	720 PICASSO DR, SAN MARCOS, TX 78666	\$ 35,144.00	50.062
46	HAYS	R20296	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 2,940,040.00	127.1898
47	HAYS	R20304	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 380,020.00	16.44
48	HAYS	R151626	FREEMAN EDUCATIONAL FOUNDATION	% FROST NATIONAL BANK TRUST, P O BOX 2950, SAN ANTONIO, TX 78299-2950	\$ 627,930.00	27.1653
TOTAL APPRAISED VALUE OF TAXABLE PROPERTY=					\$ 21,562,687.00	100.000%
TOTAL APPRAISED VALUE OF PETITIONERS PROPERTY=					\$ 18,968,479.00	87.969%

= Denotes Petitioner

EXHIBIT "B"

REGIONAL SEWER IMPROVEMENTS

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST
FOR
ULTIMATE CONDITIONS - LIFT STATION & FORCE MAIN @ 9680 LUE'S
April 29, 2020

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL AMOUNT
<i>Lift Station Improvements</i>					
1	Mobilization	LS	1	11%	\$ 1,168,421.74
2	Insurance & Bond	LS	1	3%	\$ 318,660.48
3	Preparing Right-of-Way	LS	1	4%	\$ 424,880.63
4	6" DR13.5 HDPE Force Main #1	LF	22465	\$ 40.00	\$ 898,600.00
5	6" DR13.5 HDPE Force Main #2	LF	22465	\$ 40.00	\$ 898,600.00
6	12" DR13.5 HDPE Force Main #3	LF	22465	\$ 100.00	\$ 2,246,500.00
7	20" DR13.5 HDPE Force Main #4	LF	22465	\$ 150.00	\$ 3,369,750.00
8	Air Release Valve	EA	20	\$ 2,500.00	\$ 50,000.00
9	Trench Excavation Safety Protection	LF	89860	\$ 1.00	\$ 89,860.00
10	Force Main Tie-In	EA	4	\$ 2,000.00	\$ 8,000.00
11	Sanitary Sewer Manhole	EA	5	\$ 4,500.00	\$ 22,500.00
12	30"Hx20"D Cast-In-Place Wet Well	LS	1	\$ 750,000.00	\$ 750,000.00
13	Submersible Pumps	EA	3	\$ 100,000.00	\$ 300,000.00
14	Site Pavement	LS	1	\$ 30,000.00	\$ 30,000.00
15	Concrete Driveway	LS	1	\$ 15,000.00	\$ 15,000.00
16	Structural Slabs	LS	1	\$ 100,000.00	\$ 100,000.00
17	Earthwork	LS	1	\$ 50,000.00	\$ 50,000.00
18	Fencing & Gates	LS	1	\$ 20,000.00	\$ 20,000.00
19	Electrical Service, Control Panels, & SCADA Tower	LS	1	\$ 500,000.00	\$ 500,000.00
20	Yard Piping, Wet Well Piping, Valves, & Fittings	LS	1	\$ 150,000.00	\$ 150,000.00
21	Water Service	EA	1	\$ 1,200.00	\$ 1,200.00
22	Backup Power Generator	EA	1	\$ 80,000.00	\$ 80,000.00
23	Temporary Construction Esm't	AC	15.5	\$ 7,500.00	\$ 116,250.00
24	Water Easement	AC	18.1	\$ 15,000.00	\$ 270,755.85
25	Easement Acquisition (35'-Wide)	LS	1	\$ 500,000.00	\$ 500,000.00
26	Canopy for Control Panels	LS	1	\$ 25,000.00	\$ 25,000.00
27	Odor Control Appurtenances	LS	1	\$ 30,000.00	\$ 30,000.00
28	Miscellaneous Appurtenances	LS	1	\$ 100,000.00	\$ 100,000.00
29	Driveway Crossings	EA	11	\$ 1,000.00	\$ 11,000.00
30	Bore & Casing 12"	LF	500	\$ 300.00	\$ 150,000.00
31	Bore & Casing 24"	LF	250	\$ 400.00	\$ 100,000.00
32	Bore & Casing 42"	LF	250	\$ 600.00	\$ 150,000.00
33	3-Phase Services	LS	1	\$ 500,000.00	\$ 500,000.00
<i>Gravity Main Improvements</i>					
33	8" Sewer Main (Trunk Line)	LF	6411	\$ 40.00	\$ 256,440.00
34	21" SDR26 Sewer Main (Trunk Line)	LF	1330	\$ 125.00	\$ 166,250.00
35	24" SDR26 Sewer Main (Trunk Line)	LF	4772	\$ 200.00	\$ 954,400.00
36	Gravity Manholes	EA	37	\$ 4,500.00	\$ 166,500.00
	Contingency	LS	1	20%	\$ 2,997,713.74
	Engineering	LS	1	10%	\$ 1,498,856.87

ULTIMATE SEWERSHED TOTAL LIFT STATION IMPROVMENTS \$19,485,139.32

This is an estimate only. Actual "Oversizing Cost" will be calculated after bids are awarded and work is completed based on actual cost per LUE of service.

LJA Engineering, Inc. does not warrant or guarantee this "estimated cost" as an "actual cost" and/or if an "actual Construction Cost" is required, and/or desired then construction bids should be obtained from appropriate sources. This estimate is being supplied for the applicable municipality only and no representations, warranties, or guarantees are rendered hereby to any other person or entity specifically including, but not limited to, any mortgagee or lending institution.

PREPARED BY:
LJA ENGINEERING, INC.
Texas Board of Professional Engineers Registration # F-1386

APPROVED BY: