

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PFLUGERVILLE TEXAS CLOSING, VACATING, ABANDONING AND CONVEYING A PORTION OF KELLY LANE IN THE CITY OF PFLUGERVILLE, TEXAS; AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED WITHOUT WARRANTY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City of Pflugerville desires to continue to protect and ensure the public health, safety, and welfare of its residents and businesses by effectively managing the City's real property interests that are held in trust for the public; and

WHEREAS, Section 311.007 of the Texas Transportation Code authorizes home-rule cities to vacate, abandon and close any street or alley; and

WHEREAS, Section 272.001(b)(2) of the Texas Local Government Code authorizes the conveyance of City streets and alleys owned in fee or used by easement to abutting property owners; and

WHEREAS, the City of Pflugerville has received a request from the sole abutting property owner, Costco Wholesale Corporation (the "Requestor") has requested that the City close, vacate, abandon and convey a portion of Kelly Lane as more specifically described in **Exhibit A** (the "Property"), which is attached hereto and incorporated herein for all purposes; and

WHEREAS, the City, after vetting the request and confirming with all franchised public utility providers and appropriate City departments, has determined that the Property is no longer needed for a public right of way or any other public purpose and that it is in the public interest to close, vacate, abandon and convey the Property to the Requestor in accordance with Section 3.14 of the City Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

SECTION 1. Finding of Fact.

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. All of the Property described in **Exhibit A** is hereby closed, abandoned and vacated as a right of way or passage by the City of Pflugerville, Texas, as the Property has been found to no longer be necessary for public purposes and it being found to be in the public interest by the City of Pflugerville to close, vacate and abandon the same to the extent of the public right, title and interest in and to the Property that the City may lawfully abandon.

SECTION 3. That the Property is possessed by the City and shall be conveyed to the abutting property owner, or its successor-in-interest, Costco Wholesale Corporation, in accordance with Section 272.001(b)(2) of the Texas Local Government Code, and that the City Manager of the City of Pflugerville, Texas is hereby authorized, empowered and directed to execute the deed and place such deed in escrow for conveyance to the Requestor, its successors, heirs and assigns, by virtue of a Deed without Warranty in substantially the form provided as **Exhibit B**, which is attached hereto and incorporated herein for all purposes.

SECTION 4. Conflicting Ordinances.

All prior ordinances of the City dealing with or applicable to this Ordinance are hereby amended to the extent of any conflict herewith, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other ordinance of the City, the terms and provisions of this Ordinance shall govern.

SECTION 5. Severability.

Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable. In the event that changes are made to Texas Water Code, Chapter 26, the provisions of state law will govern in the event of a conflict.

SECTION 6. Effective Date.

This Ordinance will take effect upon its passage and adoption by the City Council in accordance with the provisions of Section 3.15(d) of the City Charter.

PASSED, APPROVED, AND ADOPTED on the _____ day of _____,
2017.

Victor Gonzales, Mayor

ATTEST:

Karen Thompson, City Secretary

APPROVED AS TO FORM:

Charles E. Zech, City Attorney
DENTON, NAVARRO, ROCHA, BERNAL & ZECH, P.C.

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

THE STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

DEED WITHOUT WARRANTY

THE CITY OF PFLUGERVILLE, TEXAS ("**Grantor**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to Grantor in hand paid by **Costco Wholesale Corporation** whose mailing address is 999 Lake Drive, Issaquah, Washington 98027 ("**Grantee**"), the receipt and sufficiency of which consideration are hereby acknowledged and confessed, Grantor has GRANTED, SOLD, AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY, unto Grantee that certain parcel of land lying and being situated in the State of Texas and County of Travis, more particularly described on **Exhibit "A"** attached hereto and incorporated herein by reference ("**Property**").

This conveyance is made by Grantor and accepted by Grantee expressly subject to any and all restrictions, covenants, conditions, ordinances, easements, encroachments, maintenance charges and the liens securing the same, all outstanding royalty or mineral interests, and all other matters, of record or otherwise, to the extent the same are now in force and effect and relate to the Property (the "**Permitted Exceptions**").

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance, conveys to Grantee the Property to have and to hold it to Grantee, Grantee's heirs, successors or assigns forever, **without express or implied warranty**, and all warranties that might arise by common law and the warranties in Section 5.023 of the Texas Property Code (or its successor) are excluded.

Grantee agrees to be responsible for any ad valorem taxes with respect to the Property accruing after the date of this conveyance and Grantee assumes and agrees to pay the same and to indemnify and hold Grantor harmless with respect thereto. Any and all ad valorem taxes with respect to the Property assessed for periods prior to the date hereof shall be the sole responsibility of Grantor, including any rollback taxes due to a change in use of the Property, and Grantor assumes and agrees to pay the same and to indemnify and hold harmless Grantee and Grantee's assigns with respect thereto.

EXECUTED on the _____ day of _____, 2017.

THE CITY OF PFLUGERVILLE, TEXAS

By: _____
Brandon Wade, City Manager

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

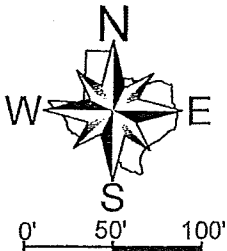
BEFORE ME, the undersigned authority, on this day personally appeared Brandon Wade, City Manager of the City of Pflugerville, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and who acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated, and as the act and deed of the City of Pflugerville, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, 2017.

Notary Public in and for the State of Texas

EXHIBIT A
THE PROPERTY

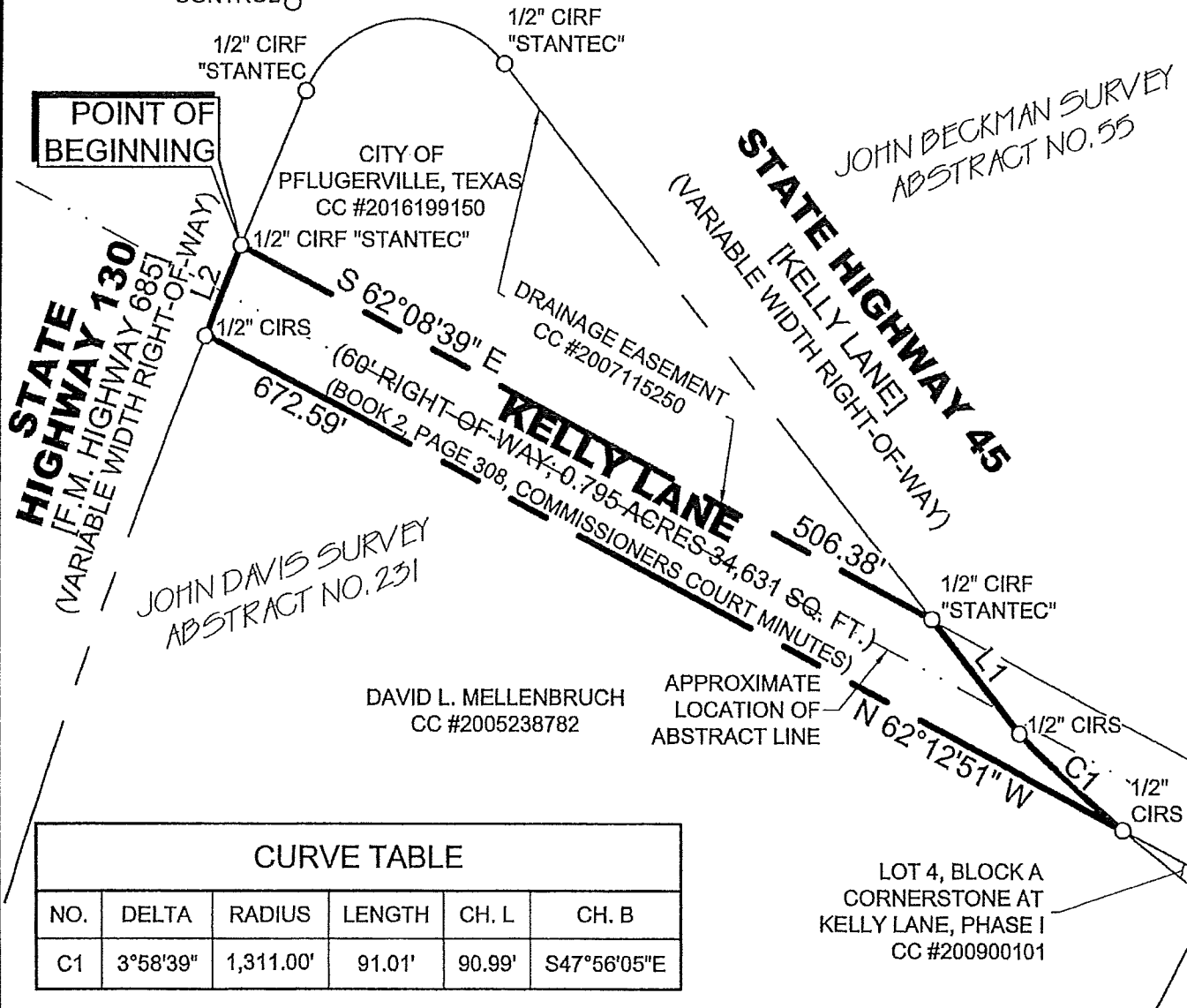
EXHIBIT "A"



Scale 1"=100'

AMON TxDOT CONTROL

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S38°22'57"E	92.33'
L2	N21°42'36"E	60.71'



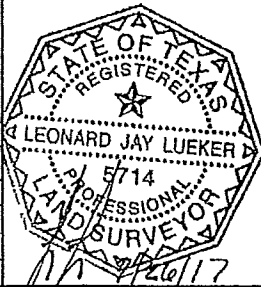
CURVE TABLE

NO.	DELTA	RADIUS	LENGTH	CH. L	CH. B
C1	3°58'39"	1,311.00'	91.01'	90.99'	S47°56'05"E

Winkelmann & Associates, Inc.

CONSULTING CIVIL ENGINEERS ■ SURVEYORS
 8750 HILLCREST PLAZA DRIVE, SUITE 325 (872) 490-7090
 DALLAS, TEXAS 75230 (872) 490-7099 FAX
 Texas Engineers Registration No. 89
 Texas Surveyors No. 1006600 Expires 12-31-17
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Scale: 1" = 100'
 Date: 06.26.17
 Dwg. File: 58813 - EXH Kelly abd
 Project No.: 58813



KELLY LANE RIGHT-OF-WAY
 ABANDONMENT
 0.795 ACRES (34,631 SQ. FT.)

COSTCO WHOLESALE
 CORPORATION
 9 CORPORATE DRIVE, SUITE 230
 IRVINE, CALIFORNIA 92606

SHEET
1
 OF
2

PROPERTY DESCRIPTION

STATE OF TEXAS §
 COUNTY OF TRAVIS §

BEING a tract of land situated in the JOHN BECKMAN SURVEY, ABSTRACT NO. 55 and the JOHN DAVIS SURVEY, ABSTRACT NO. 231, in the City of Pflugerville, Travis County, Texas, and being part of Kelly Lane, a 60-foot right-of-way dedicated in Book 2, Page 308, Commissioners Court Minutes of Travis County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod with a pink plastic cap stamped "STANTEC" found for the Southwesterly corner of a tract of land described in deed to the City of Pflugerville, Texas as recorded in County Clerk's Instrument No. 2016199150, Official Public Records, Travis County, Texas, on the Easterly right-of-way of State Highway 130 [Farm to Market 685], a variable width right-of-way, at its intersection with the Northerly right-of-way of said Kelly Lane;

THENCE South 62 deg 08 min 39 sec East, departing the Easterly right-of-way of said State Highway 130, along the Northerly right-of-way of said Kelly Lane and the Southwesterly line of said City of Pflugerville, Texas tract, a distance of 506.38 feet to a 1/2-inch iron rod with a pink plastic cap stamped "STANTEC" found for corner on the Southwesterly right-of-way of State Highway 45 [Kelly Lane], a variable width right-of-way, at its intersection with the Northerly right-of-way of said Kelly Lane (Book 2, Page 308);

THENCE South 38 deg 22 min 57 sec East, along the Southwesterly right-of-way of said State Highway 45, a distance of 92.33 feet to a 1/2-inch iron rod with a red plastic cap stamped "WAI" set for corner, said point being the beginning of a non-tangent curve to the left having a radius of 1,311.00 feet, a central angle of 003 deg 58 min 39 sec, a chord bearing of South 47 deg 56 min 05 sec East, and a chord length of 90.99 feet;

THENCE continuing along the Southwesterly right-of-way of said State Highway 45 and along said non-tangent curve to the left, an arc distance of 91.01 feet to a 1/2-inch iron rod with a red plastic cap stamped "WAI" set for the most Northerly corner of Lot 4, Block A, Cornerstone at Kelly Lane, an addition to the City of Pflugerville, Travis County, Texas, according to the Plat thereof recorded in County Clerk's Instrument No. 200900101, Official Public Records, Travis County, Texas, said point being on the Southerly right-of-way of said Kelly Lane;

THENCE North 62 deg 12 min 51 sec West, along the Southerly right-of-way of said Kelly Lane, a distance of 672.59 feet to a 1/2-inch iron rod with a red plastic cap stamped "WAI" set for corner on the Westerly right-of-way of said State Highway 130;

THENCE North 21 deg 42 min 36 sec East, along the Easterly right-of-way of said State Highway 130, a distance of 60.71 feet to the POINT OF BEGINNING.

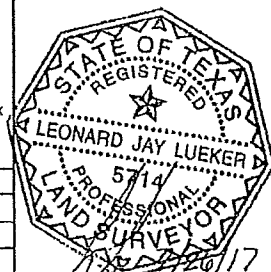
CONTAINING within these metes and bounds 34,631 square feet or 0.795 acres of land, more or less. Bearings shown hereon are based upon an on-the-ground Survey performed in the field on the 22nd day of June, 2017, utilizing a G.P.S. measurement (NAD 83, GRID) from the City of Pflugerville Monument Nos. 113 & 114.

Winkelmann & Associates, Inc.

CONSULTING CIVIL ENGINEERS ■ SURVEYORS
 8750 HILLCREST PLAZA DRIVE, SUITE 315 (817) 480-7090
 DALLAS, TEXAS 75230 (817) 480-7099 FAX

Texas Engineers Registration No. 89
 Texas Surveyors No. 10085500 Expires 12-31-17
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KELLY LANE RIGHT-OF-WAY
 ABANDONMENT
 0.795 ACRES (34,631 SQ. FT.)

COSTCO WHOLESALE
 CORPORATION
 9 CORPORATE DRIVE, SUITE 230
 IRVINE, CALIFORNIA 92606

SHEET
2
OF
2

EXHIBIT B

DEED WITHOUT WARRANTY FORM

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THE STATE OF TEXAS §
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COUNTY OF TRAVIS §

DEED WITHOUT WARRANTY

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EXECUTED on the _____ day of _____, 2017.

THE CITY OF PFLUGERVILLE, TEXAS

By: _____
Brandon Wade, City Manager

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Brandon Wade, City Manager of the City of Pflugerville, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and who acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated, and as the act and deed of the City of Pflugerville, Texas.

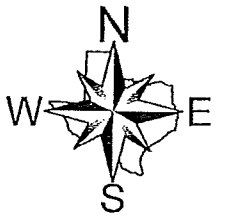
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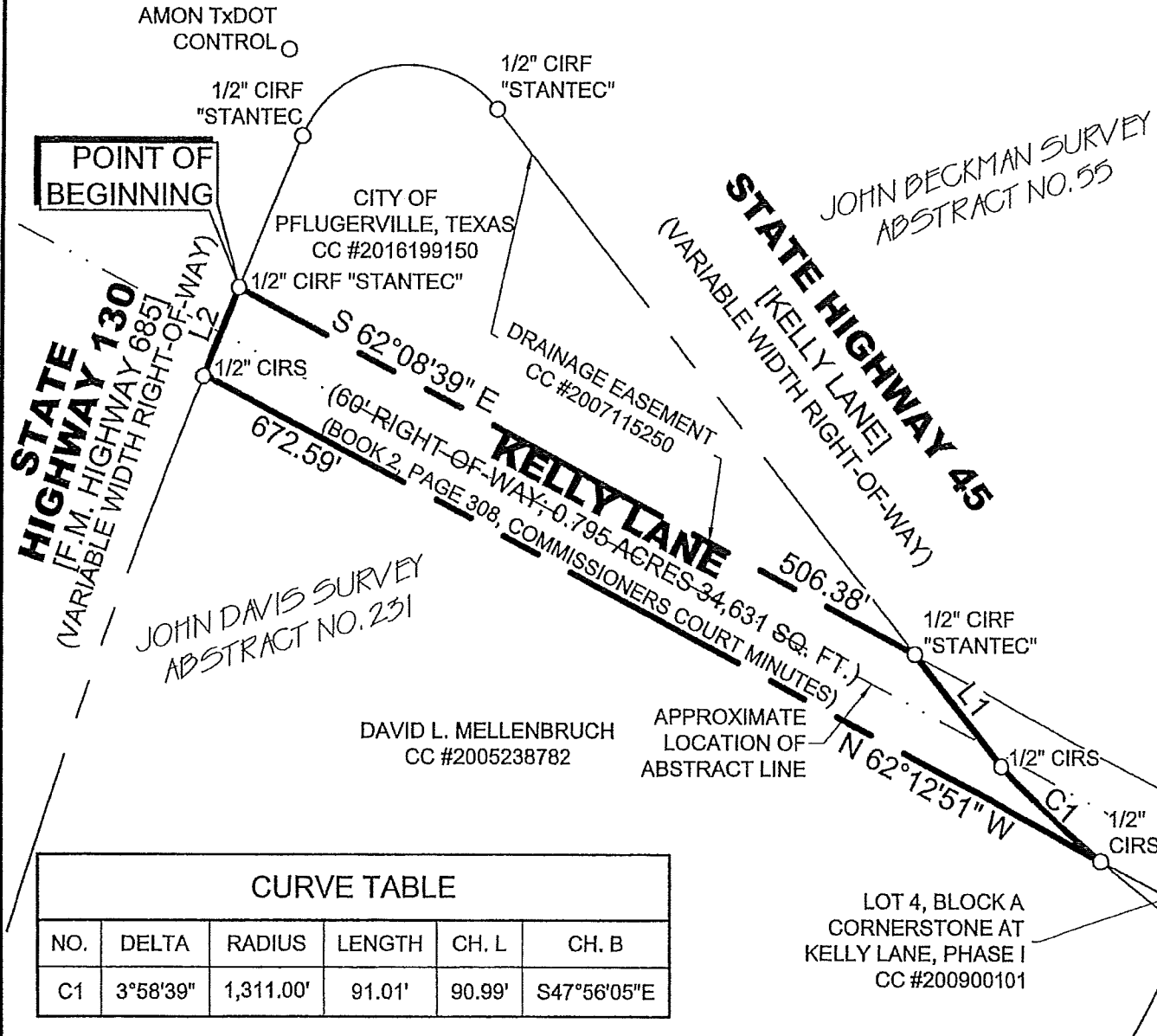
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The Property

EXHIBIT "A"



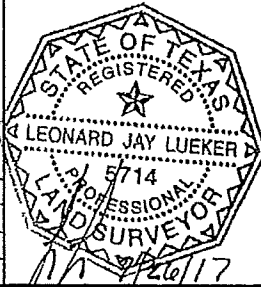
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 8750 HILLCREST PLAZA DRIVE, SUITE 325 DALLAS, TEXAS 75230
 Texas Engineers Registration No. 89
 Texas Surveyors No. 1006600 Expires 12-31-17
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Scale: 1" = 100'
 Date: 06.26.17
 Dwg. File: 58813 - EXH Kelly abd
 Project No.: 58813



KELLY LANE RIGHT-OF-WAY ABANDONMENT
 0.795 ACRES (34,631 SQ. FT.)

COSTCO WHOLESALE CORPORATION
 9 CORPORATE DRIVE, SUITE 230
 IRVINE, CALIFORNIA 92606

SHEET 1 OF 2

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 COUNTY OF TRAVIS §

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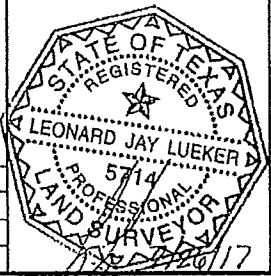
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KELLY LANE RIGHT-OF-WAY
 ABANDONMENT
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COSTCO WHOLESALE
 CORPORATION
 9 CORPORATE DRIVE, SUITE 230
 IRVINE, CALIFORNIA 92606

SHEET
2
OF
2




Kelly Ln ROW Vacation at Costco Site

Legend

-  ROW Vacation
-  City Limits
-  ETJ

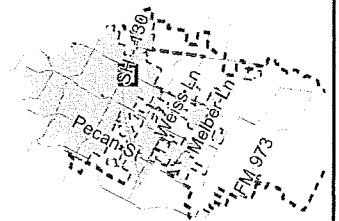
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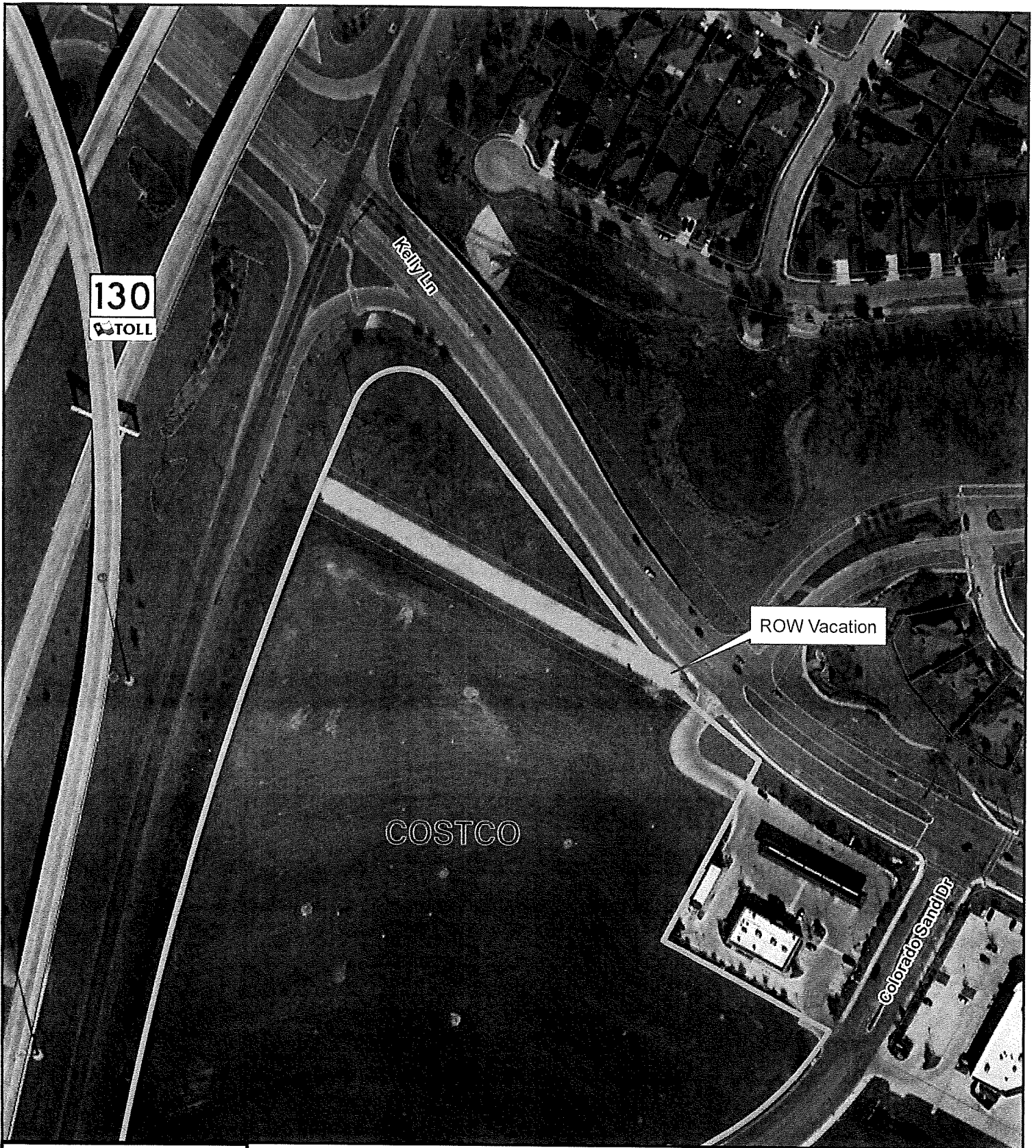


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where quality meets life
PFLUGERVILLE
 TEXAS

Locator Map





130
TOLL

Kelly Ln


ROW Vacation

COSTCO

Colorado Sand Dr

Kelly Ln ROW Vacation at Costco Site

Legend

 Base Map

0 150 300 Feet

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Locator Map

