ORDINANCE NO.

AN ORDINANCE OF THE CITY OF PFLUGERVILLE TEXAS CLOSING, VACATING, ABANDONING AND CONVEYING A PORTION OF BECKER FARM ROAD 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, WMV Becker Farm Road, LLC (the "Requestor"), who is the successor in interest to the property owner that originally conveyed the property to the City and has requested that the City close, vacate, abandon and convey a portion of Becker Farm Road 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 was possessed by the City in fee title and shall be conveyed to the sole abutting property owner from which the Property was originally acquired, 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 convey said Property 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 12th day of December, 2017.

Victor Gonzales, Mayor

ATTEST:

Karen Thompson, City Secretary

APPROVED AS TO FORM:

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

EXHIBIT A

THE PROPERTY

1

EXHIBIT 'A'

METES AND BOUNDS DESCRIPTION PREPARED BY ALL COUNTY SURVEYING, INC.

September 26, 2017

Surveyor's Metes and Bounds Description for WAYMAKER VENTURES, LLC:

BEING 0.828 ACRE (APPROX. 36,064 SQ. FT.) IN THE GEORGE M. MARTIN SURVEY NO. 9, ABSTRACT NO. 529, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF TRACT 4: A 3.542 ACRE TRACT OF LAND CONVEYED TO THE CITY OF PFLUGERVILLE, TEXAS, IN A SPECIAL WARRANTY DEED DATED OCTOBER 28, 2003, RECORDED IN DOCUMENT NO. 2003254738 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS. SAID 0.828 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2" iron rod found in the west line of said Tract 4, known as Becker Farm Road, at the southeast corner of the 8.28 acre tract conveyed to Melissa D. Morris in Document No. 2001019057 of the Official Public Records of Travis County, Texas, being the northeast corner of an 8.299 acre tract conveyed to Jose Villarreal in a deed recorded in Document No. 2014022564 of the Official Public Records of Travis County, Texas;

THENCE North 27°43'09" East, with the west line of Tract 4, a distance of 210.31 feet to a 5/8" iron rod with "ACS" cap set for the **POINT OF BEGINNING** and southwest corner of the herein described tract of land;

THENCE North 27°43'09" East, with the west line of said Tract 4, being the east line of the said 8.28 acre tract, a distance of 239.92 feet to a 1/2" iron rod found at the northeast corner of the said 8.28 acre tract, being the southeast corner of a 8.491 acre tract of land conveyed to WMV Becker Farm Road, LLC in a deed recorded in Document No. 2017078679 of the Official Public Records of Travis County, Texas, for an angle point hereof;

THENCE North 27°59'48" East, with the west line of said Tract 4, being the east line of the said 8.491 acre tract, a distance of 462.02 feet to a 1/2" iron rod found in the south line of Lot 17, Block UU of the Villages of Hidden Lake Phase 6B-2, a subdivision of record in Document No. 201400072 of the Official Public Records of Travis County, Texas, for the northwest corner of said Tract 4 and of the herein described tract of land, being also the northeast corner of the said 8.491 acre tract;

THENCE South 63°02'38" East, with the north line of said Tract 4, being the south line of said Lot 17, a distance of 60.16 feet to a 1/2" iron rod found at the northeast corner of said Tract 4 and of the herein described tract of land, being the northwest corner of Lot 1, Villages of Hidden Lake Phase 5A, a subdivision of record in Document No. 200700104 of the Official Public Records of Travis County, Texas;

THENCE South 27°52'04" West, with the east line of said Tract 4, being the west line of Lot 1 of said Villages of Hidden Lake Phase 5A, a distance of 541.92 feet to a 5/8" iron rod with "ACS" cap set for the southeast corner of the herein described tract of land;

THENCE crossing said Tract 4, the following two (2) courses and distances:

- 1. South 63°13'51" West, a distance of 25.84 feet to a 5/8" iron rod with "ACS" cap set for point of curvature;
- With said curve, to the left, having an arc length of 149.66 feet, a radius of 235.47 feet, and a chord which bears South 45°55'38" West, and distance of 147.16 feet to the **POINT OF BEGINNING**, containing 0.828 acre of land, more or less.

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS observations, processed through the National Geodetic Survey (NGS) On-Line Positioning User Service (OPUS) for Trav#1, having Grid Coordinate values of N=10137283.76 and E=3166090.66 and Trav#5, having Grid Coordinate values of N=10138249.01 and E=3165405.44, Combined Scale Factor = 0.99990133 (Surface to Grid), Theta Angle: 01°25'17.11"

This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.

Surveyed May 9th, 2017

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ALL COUNTY SURVEYING, INC. 1-800-749-PLAT Tx. Firm Lic. No. 10194304

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09/26/17

Curtis W. Watts Date Registered Professional Land Surveyor Registration No. 6614





EXHIBIT B

DEED WITHOUT WARRANTY FORM

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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 **WMV Becker Farm Road**, **LLC** whose mailing address is 3310 North Capital of Texas Highway, Suite 202, Austin, Texas ("**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**").

If applicable: [The Grantor hereby reserves a public utility easement ("Easement") over the Property, as more particularly described in Exhibit "B". Grantor, its successors, assigns, or agents, and owners of other public utilities as approved by the Grantor shall have the right and privilege to enter upon, under, over, across and along the tract or parcel covered by the easement, and all premises adjacent to the outside boundaries of said easement, to the extent necessary and at any time that Grantor or approved public utility providers deem proper for the purpose of exercising their rights and privileges for the purpose of constructing, reconstructing, operating, maintaining and repairing publicly owned utilities within said easement; and for the purpose of ingress and egress to and from said easement.]

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 AND DELIVERED 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

:



METES AND BOUNDS DESCRIPTION PREPARED BY ALL COUNTY SURVEYING, INC.

September 26, 2017

Surveyor's Metes and Bounds Description for WAYMAKER VENTURES, LLC:

BEING 0.828 ACRE (APPROX. 36,064 SQ. FT.) IN THE GEORGE M. MARTIN SURVEY NO. 9, ABSTRACT NO. 529, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF TRACT 4: A 3.542 ACRE TRACT OF LAND CONVEYED TO THE CITY OF PFLUGERVILLE, TEXAS, IN A SPECIAL WARRANTY DEED DATED OCTOBER 28, 2003, RECORDED IN DOCUMENT NO. 2003254738 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS. SAID 0.828 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2" iron rod found in the west line of said Tract 4, known as Becker Farm Road, at the southeast corner of the 8.28 acre tract conveyed to Melissa D. Morris in Document No. 2001019057 of the Official Public Records of Travis County, Texas, being the northeast corner of an 8.299 acre tract conveyed to Jose Villarreal in a deed recorded in Document No. 2014022564 of the Official Public Records of Travis County, Texas;

THENCE North 27°43'09" East, with the west line of Tract 4, a distance of 210.31 feet to a 5/8" iron rod with "ACS" cap set for the **POINT OF BEGINNING** and southwest corner of the herein described tract of land;

THENCE North 27°43'09" East, with the west line of said Tract 4, being the east line of the said 8.28 acre tract, a distance of 239.92 feet to a 1/2" iron rod found at the northeast corner of the said 8.28 acre tract, being the southeast corner of a 8.491 acre tract of land conveyed to WMV Becker Farm Road, LLC in a deed recorded in Document No. 2017078679 of the Official Public Records of Travis County, Texas, for an angle point hereof;

THENCE North 27°59'48" East, with the west line of said Tract 4, being the east line of the said 8.491 acre tract, a distance of 462.02 feet to a 1/2" iron rod found in the south line of Lot 17, Block UU of the Villages of Hidden Lake Phase 6B-2, a subdivision of record in Document No. 201400072 of the Official Public Records of Travis County, Texas, for the northwest corner of said Tract 4 and of the herein described tract of land, being also the northeast corner of the said 8.491 acre tract;

THENCE South 63°02'38" East, with the north line of said Tract 4, being the south line of said Lot 17, a distance of 60.16 feet to a 1/2" iron rod found at the northeast corner of said Tract 4 and of the herein described tract of land, being the northwest corner of Lot 1, Villages of Hidden Lake Phase 5A, a subdivision of record in Document No. 200700104 of the Official Public Records of Travis County, Texas;

THENCE South 27°52'04" West, with the east line of said Tract 4, being the west line of Lot 1 of said Villages of Hidden Lake Phase 5A, a distance of 541.92 feet to a 5/8" iron rod with "ACS" cap set for the southeast corner of the herein described tract of land;

THENCE crossing said Tract 4, the following two (2) courses and distances:

- 1. South 63°13'51" West, a distance of 25.84 feet to a 5/8" iron rod with "ACS" cap set for point of curvature;
- With said curve, to the left, having an arc length of 149.66 feet, a radius of 235.47 feet, and a chord which bears South 45°55'38" West, and distance of 147.16 feet to the **POINT OF BEGINNING**, containing 0.828 acre of land, more or less.

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS observations, processed through the National Geodetic Survey (NGS) On-Line Positioning User Service (OPUS) for Trav#1, having Grid Coordinate values of N=10137283.76 and E=3166090.66 and Trav#5, having Grid Coordinate values of N=10138249.01 and E=3165405.44, Combined Scale Factor = 0.99990133 (Surface to Grid), Theta Angle: 01°25'17.11"

This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.

Surveyed May 9th, 2017

ALL COUNTY SURVEYING, INC. 1-800-749-PLAT

Tx. Firm Lic. No. 10194304

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09/26/17

Curtis W. Watts Date Registered Professional Land Surveyor Registration No. 6614





Exhibit B

Easement(s) Reserved [if applicable]

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METES AND BOUNDS DESCRIPTION PREPARED BY ALL COUNTY SURVEYING, INC.

September 26, 2017

PUBLIC UTILITY EASEMENT PORTION OF 3.542 ACRES IN THE GEORGE M. MARTIN SURVEY NO. 9, ABSTRACT NO. 529

BEING 0.190 ACRE (APPROX. 8286 SQ. FT.) OF LAND IN THE GEORGE M. MARTIN SURVEY NO. 9, ABSTRACT NO. 529, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF TRACT 4: A 3.542 ACRE TRACT OF LAND CONVEYED TO THE CITY OF PFLUGERVILLE, TEXAS, IN A SPECIAL WARRANTY DEED DATED OCTOBER 28, 2003, RECORDED IN DOCUMENT NO. 2003254738 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS. SAID 0.190 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8" iron rod with "ACS" cap set in east line of said Tract 4, called Becker Farm Road, also being in the west line of Lot 1 of the Villages of Hidden Lake Phase 5A, a subdivision of record in Document No. 200700104 of the Official Public Records of Travis County, Texas, for the southeast corner of the herein described tract of land, from which a 1/2" iron rod with illegible cap found in the east line of said Tract 4, at the southwest corner of said Lot 1 bears South 27°52'04" West, a distance of 152.52 feet;

THENCE crossing said Tract 4, the following three (3) courses and distances:

- 1. South 63°13'51" West, a distance of 25.84 feet to a 5/8" iron rod with "ACS" cap set for point of curvature;
- 2. With said curve, to the left, having an arc length of 0.08 feet, a radius of 235.47 feet, and a chord which bears South 64°07'31" West, and distance of 0.08 feet to a calculated point, from which a 5/8" iron rod set in the west line of Tract 4, being the east line of the 8.28 acre tract conveyed to Melissa D. Morris in Document No. 2001019057 of the Official Public Records of Travis County, Texas bears with a curve, to the left, having a radius of 235.47 feet, a delta angle of 36°23'46" and a chord bearing South 45°55'02" West, a distance of 147.08 feet;
- 3. North 27°52'04" East, a distance of 562.81 feet to a calculated point in the north line of Tract 4, being also in the south line of Lot 17, Block UU of the Villages of Hidden Lake Phase 6B-2, a subdivision of record in Document No. 201400072 of the Official Public Records of Travis County, Texas, for the northwest corner of the herein described tract of land, from which a 1/2" iron rod found for the northwest corner of said Tract 4 bears North 63°02'38" West, a distance of 45.16 feet;

THENCE South 63°02'38" East, with the north line of Tract 4, being the south line of said Lot 17, a distance of 15.00 feet to a 1/2" iron rod found at the northeast corner of said Tract 4 and of the herein described tract of land, being the northwest corner of said Lot 1;

THENCE South 27°52'04" West, with the east line of said Tract 4, being the west line of Lot 1 of said Villages of Hidden Lake Phase 5A, a distance of 541.92 feet to the **POINT OF BEGINNING**, containing 0.190 acre of land, more or less.

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS observations, processed through the National Geodetic Survey (NGS) On-Line Positioning User Service (OPUS) for Trav#1, having Grid Coordinate values of N=10137283.76 and E=3166090.66 and Trav#5, having Grid Coordinate values of N=10138249.01 and E=3165405.44, Combined Scale Factor = 0.99990133 (Surface to Grid), Theta Angle: 01°25'17.11"

This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.

Surveyed May 9th, 2017

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ALL COUNTY SURVEYING, INC. 1-800-749-PLAT Tx. Firm Lic. No. 10194304

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09/26/17

Curtis W. Watts Date Registered Professional Land Surveyor Registration No. 6614



