

AGREEMENT REGARDING POST-ANNEXATION PROVISION OF SERVICES

This Agreement is entered into by and between the City of Pflugerville, a Texas Municipal Corporation (“City”), acting by and through its Interim City Manager, and Dwain and Jan Selman, individually and as sole heirs to the Lisso Carl Estate (collectively, “Landowner”), both of which may be referred to herein singularly as “Party” or collectively as the “Parties.”

Recitals

WHEREAS, the Landowner has requested that the City consider annexation of two tracts of land totaling approximately 229.992 acres of land situated in the Alexander Walters Survey No. 67, Abstract No. 791, Travis County, Texas, as specifically described in **Exhibit “A”** (“Property”), which is attached hereto and incorporated herein for all purposes; and

WHEREAS, in accordance with Texas Local Government Code, Chapter 43, Sub-Chapter C-3, Sections 43.067 et seq., the City and the Landowner must enter into a written agreement identifying a list of public services to be provided to the Property and a schedule for provision of the same; and

WHEREAS, this Agreement is being entered into by and between the Parties to comply with the Texas Local Government Code prior to the City’s consideration of an ordinance annexing the Property, it being understood and agreed to by the Parties that annexation of the Property is a condition precedent to this Agreement becoming effective; and

WHEREAS, this Agreement shall be deemed effective on the effective date of an ordinance approved by the City annexing the Property (the “Effective Date”).

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1.

The Parties hereto acknowledge and agree that the foregoing recitals are hereby found to be true and correct and are hereby adopted by the Parties and made a part hereof for all purposes.

Section 2.

The following service list and schedule (“Service Plan”) represents the provision of services agreed to between the Landowner of the Property and the City establishing a program under which the City will provide municipal services to the Property (referred to hereinafter as the “Annexed Area”) on the Effective Date of this Agreement, as required by § 43.0672 of the Texas Local Government Code, which will be provided at a level consistent with service levels provided to other similarly-situated areas within the City:

I.

- A. Police Protection. The City provides police service within its City limits, including routine patrols through the City and law enforcement services upon call. Upon annexation, police protection will be provided to the Annexed Area at a level consistent with the service to other areas of the City with similar population density and characteristics. The City's police services include neighborhood patrols, criminal investigations, crime prevention, community services and school programs.
- B. Fire Protection and Emergency Medical Service.
1. Travis County Emergency Services District No. 2 (TCESD #2) includes the City and the Annexed Area. TCESD #2 will continue to provide fire protection service to the Annexed Area after annexation.
 2. The City fire marshal enforces the City fire code, investigates fires, and conducts fire prevention inspections within the City limits, and will provide these services within the Annexed Area upon annexation.
 3. The City provides Emergency Medical Transport Services through an interlocal agreement with Travis County, Texas. Upon annexation, transport services will be provided to the Annexed Area at a level consistent with the service to other areas of the City with similar population density and characteristics. Emergency Medical First Responder Services are provided by TCESD #2, and TCESD #2 will continue to provide such services to the Annexed Area after annexation.

II.

Upon annexation, the City will provide the following municipal services to the Annexed Area on the same basis as it provides such services to other similarly situated areas of the City:

- A. Solid Waste Collection. The City provides residential solid waste collection services within the City limits for a fee under a contract between the City and various private refuse collection companies. The residential solid waste collection services include garbage collection, recycling, bulky item collection and brush collection or chipping. Commercial solid waste collection services are also available. This service will be provided for a fee to any person within the Annexed Area requesting the service after the date of annexation, provided that a privately owned solid waste management service provider ("POSWMSP") is unavailable. In the event that the Annexed Area is already receiving service, or desires to receive service from a POSWMSP, the City may not prohibit solid waste collection by the POSWMSP, nor may the City offer solid waste collection services for a period of two years following the effective date of the annexation unless a POSWMSP is or becomes unavailable, as established by Texas Local Government Code § 43.0661. If a landowner uses the services of a POSWMSP or services are available from a POSWMSP during the two years following annexation, the City will not provide solid waste collection services to that landowner.

- B. Maintenance. Routine maintenance of the following City-owned facilities, if any, will be provided within the Annexed Area upon the effective date of annexation:
1. **Water and wastewater facilities** that are not within the service area of another water or wastewater utility. These facilities will include all internal water and wastewater distribution and collection lines owned by the City that are within the Annexed Area. The City maintains distribution and collection lines and handles all customer billing, service calls and complaints.
 2. **Public streets and right-of-ways.** The City provides street repairs, improvements, inspections, street lighting and traffic control devices. This City does not maintain private streets or private right-of-ways or other public owned streets under the ownership and control of another public entity.
 3. **Publicly owned parks, playgrounds, and swimming pools.** The City will maintain and operate City-owned land and facilities within the Annexed Area.
 4. **Other public easement, facilities or buildings,** including drainage facilities, such as drainage channels, storm sewers and detention ponds contained within dedicated public easements not under the ownership and control of another public entity. The City maintains drainage facilities through regular mowing and cleaning or repair, as needed. The City will periodically inspect facilities and perform maintenance on facilities in the Annexed Area as necessary to ensure continued functionality of the facilities through the year. Any unacceptable conditions that exist in the drainage areas and are reported to the City of Pflugerville between scheduled inspections will be evaluated and resolved as necessary. A maintenance schedule for these areas can be obtained from the Public Works and Parks and Recreation Departments.
- C. Development Regulation. The City will impose and enforce zoning, subdivision development, site development and building code regulations within the Annexed Area upon the effective date of the annexation. Enforcement will be in accordance with City ordinances. Development plans and plats for projects within the Annexed Area will be reviewed for compliance with City standards.
- D. Other Services. City recreational facilities, including parks and library, will be available for use by landowners or residents of the Annexed Area on the same basis as those facilities are available to current City landowners and residents. City residents receive program preference for some City programs. Other City services including Animal Control, Code Enforcement, Municipal Court and General Administration services will be also be available to landowners and residents in the Annexed Area on the same basis those facilities are available to current City landowners and residents. All other services contemplated herein will be available upon the effective date of annexation.

III.

- A. Capital Improvements. Capital improvement acquisition or construction will occur in accordance with applicable ordinances and regulations and the adopted capital improvement plans of the City, as amended, which are incorporated herein by reference.
- B. Water and Wastewater Service. For portions of the Annexed Area not within the certificated service areas of the City, water and wastewater service to such areas will be subject to service extension regulations and policies provided in the City's Unified Development Code, as amended.

The portions of the Annexed Area that are currently within the certificated service areas of other water and wastewater utilities will continue to receive water and wastewater utility services from such utility providers after annexation, unless subsequent agreements are entered into between the City and the other utility providers.

IV.

- A. In accordance with Texas Local Government Code § 43.0672(c), no other services are contemplated by this Service Plan and a schedule for future services as contemplated by Texas Local Government Code § 43.0672(b) is not applicable as all services identified herein will be provided upon the effective date of annexation.

Section 3.

General Terms.

- 1. **Binding Effect/Authority.** This Agreement binds and inures to the benefit of the Parties and their respective heirs, successors, and permitted assigns. Each Party further warrants that each signatory to this Agreement is legally authorized to bind the respective individual or entity for the purposes established herein.
- 2. **Choice of Law.** This Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue for any dispute shall lie exclusively in Travis County, Texas.
- 3. **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all signatory Parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.
- 4. **Legal Construction.** If any provision in this Agreement is for any reason found to be unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Headings in this Agreement are for reference only and are not intended to

restrict or define the text of any section. This Agreement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

5. Entire Agreement. This Agreement contains the entire Agreement between the Parties relating to the rights herein granted and the obligations herein assumed and cannot be varied except by written agreement of the Parties. Any oral representation or modification concerning this instrument shall be of no force and effect except for any subsequent modification in writing, signed by the Party to be charged.

Executed and Agreed to by the Parties on this the ____ day of _____ 2018.

CITY OF PFLUGERVILLE

ATTEST:

by: _____
Trey Fletcher, Interim City Manager

by: _____
Karen Thompson, City Secretary

Date: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Charles E. Zech, City Attorney
Denton, Navarro, Rocha, Bernal & Zech, P.C.

PROPERTY OWNER(S):

Dwain Selman (Individually and On Behalf of the Lisso Carl Estate)

By: _____

Name (Print): _____

Title: _____

Date: _____

Jan Selman (Individually and On Behalf of the Lisso Carl Estate)

By: _____

Name (Print): _____

Title: _____

Date: _____

EXHIBIT “A”

PROPERTY/ANNEXED AREA

EXHIBIT "A"

A METES AND BOUNDS DESCRIPTION OF A 196.457 ACRE TRACT OF LAND

BEING a 196.457 acre (8,557,677 square feet) tract of land situated in the Alexander Walters Survey No. 67, Abstract No. 791, Travis County, Texas; and being a portion of a called 223.34 acre Tract II described in instrument to Dwain & Jan Selman in Document No. 2008024920 of the Official Public Records of Travis County; said 196.457 acre tract also containing portions of that certain 120 acre tract recorded in Volume T, Page 124 of the Deed Records of Travis County and that certain 100 acre tract recorded in Volume S, Page 124 of the Deed Records of Travis County; and being more particularly describes as follows:

BEGINNING at a 5/8-inch iron rod found marking the northerly end of a corner clip at the intersection of the southeasterly right-of-way line of Immanuel Road (variable width) and the northeasterly right-of-way line of Wells Branch Parkway (variable width); from which, a 5/8-inch iron rod found marking the southerly end of said corner clip bears South 18°24'37" East, 48.39 feet;

THENCE, North 27°11'37" East, 1614.11 feet along the southeasterly right-of-way line of said Immanuel Road to a 1/2-inch iron found marking western-most corner of that certain 2.00 acre tract described in instrument to Dessau Investments, Inc. recorded in Volume 11532, Page 1467 of the Official Public Records of Travis County;

THENCE, departing the southeasterly right-of-way line of said Immanuel Road and along the boundary of the said 2.00 acre tract the following two (2) courses and distances:

1. South 62°32'22" East, 414.85 feet to a point for corner;
2. North 26°54'50" East, 217.20 feet to a point for corner on the southerly boundary of Lot 7, Block C of Gatlinburg Section Five, plat of which is recorded in Volume 83, Pages 152C-152D of the Plat Records of Travis County;

THENCE, South 62°19'23" East, 1941.89 feet along the southerly boundary of said Gatlinburg Section Five to a 1/2-inch iron rod with a plastic cap stamped "KHA" set marking the most southerly corner of Lot 9 of said Block C on the northwesterly line of a called 130.81 acre tract of land described in instrument to Timmerman Farms, Ltd. in Document No. 2004240372 of the Official Public Records of Travis County;

THENCE, South 27°12'10" West, 55.13 feet along the northwesterly line of said 130.81 acre tract to a 1/2-inch iron rod with a plastic cap stamped "KHA" set marking the southwest corner of said 130.81 acre tract;

THENCE, South 62°16'33" East, 1679.97 feet to a 1/2-inch iron rod found marking the northwesterly corner of a called 19.71 acre tract of land described in instrument to the City of Pflugerville in Volume 9482, Page 895 of the Deed Records of Travis County, being on the southerly line of a called 19.00 acre tract described in instrument to the City of Pflugerville in Volume 9236, Page 954 of the Deed Records of Travis County;

THENCE, South 27°16'53" West, departing the southerly line of said 19.00 acre tract, along the northwesterly line of said 19.71 acre tract and along the northwesterly line of a called 82.33 acre Tract II described in instrument to Sun Boulder Ridge LLC in Document No. 2016012106 of the Official Public Records of Travis County; at a distance of 987.11 feet, pass a 1/2-inch iron rod found on line; continuing for a total distance of 2600.33 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set on the northeasterly right-of-way line of Killingsworth Lane (variable width);

Description continued on Sheet 2 of 3.

JGM
6-18-2018

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SAN ANTONIO, TEXAS 78216
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196.457 ACRES
ALEXANDER WALTERS SURVEY NO. 67,
ABSTRACT NO. 791
TRAVIS COUNTY, TEXAS

Kimley»Horn					
601 NW Loop 410, Suite 350 San Antonio, Texas 78216					
FIRM # 10193973			Tel. No. (210) 541-9166 www.kimley-horn.com		
Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
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THENCE, North 62°44'52" West, 1039.73 feet departing the northwesterly line of said Sun Boulder Ridge Tract II and along the northeasterly right-of-way line of said Killingsworth Lane to a 1/2-inch iron rod with a plastic cap stamped "KHA" set for corner at the intersection of the northeasterly right-of-way line of said Killingsworth Lane with the easterly right-of-way line of aforesaid Wells Branch Parkway;

THENCE, along the northeasterly right-of-way line of said Wells Branch Parkway the following seven (7):

1. in a northwesterly direction along the easterly right-of-way of said Wells Branch Parkway, a central angle of 42°18'39", a radius of 2070.00 feet, a chord bearing and distance of North 31°27'24" West, 1494.12 feet, and a total arc length of 1528.62 feet to a point for corner;
2. North 48°32'27" West, 104.23 feet to a point of for corner;
3. in a northwesterly direction, along a non-tangent curve to the left, a central angle of 7°37'53", a radius of 2080.00 feet, a chord bearing and distance of North 59°17'35" West, 276.84 feet, and a total arc length of 277.04 feet to a point for corner;
4. North 63°06'31" West, 733.61 feet to a point for corner;
5. North 57°23'53" West, 100.44 feet to a point for corner;
6. North 63°06'31" West, 470.29 feet to a point for corner;
7. North 18°24'37" West, 48.39 feet to the **POINT OF BEGINNING** and containing 196.457 acres of land in Travis County, Texas. The basis of bearing for this description is the Texas State Coordinate System Grid, Central Zone (FIPS 4203) (NAD'83). All distances are on the Grid and shown in U.S. Survey Feet. To convert grid distances to surface, apply the combined GRID to SURFACE scale factor of 1.000094815. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.

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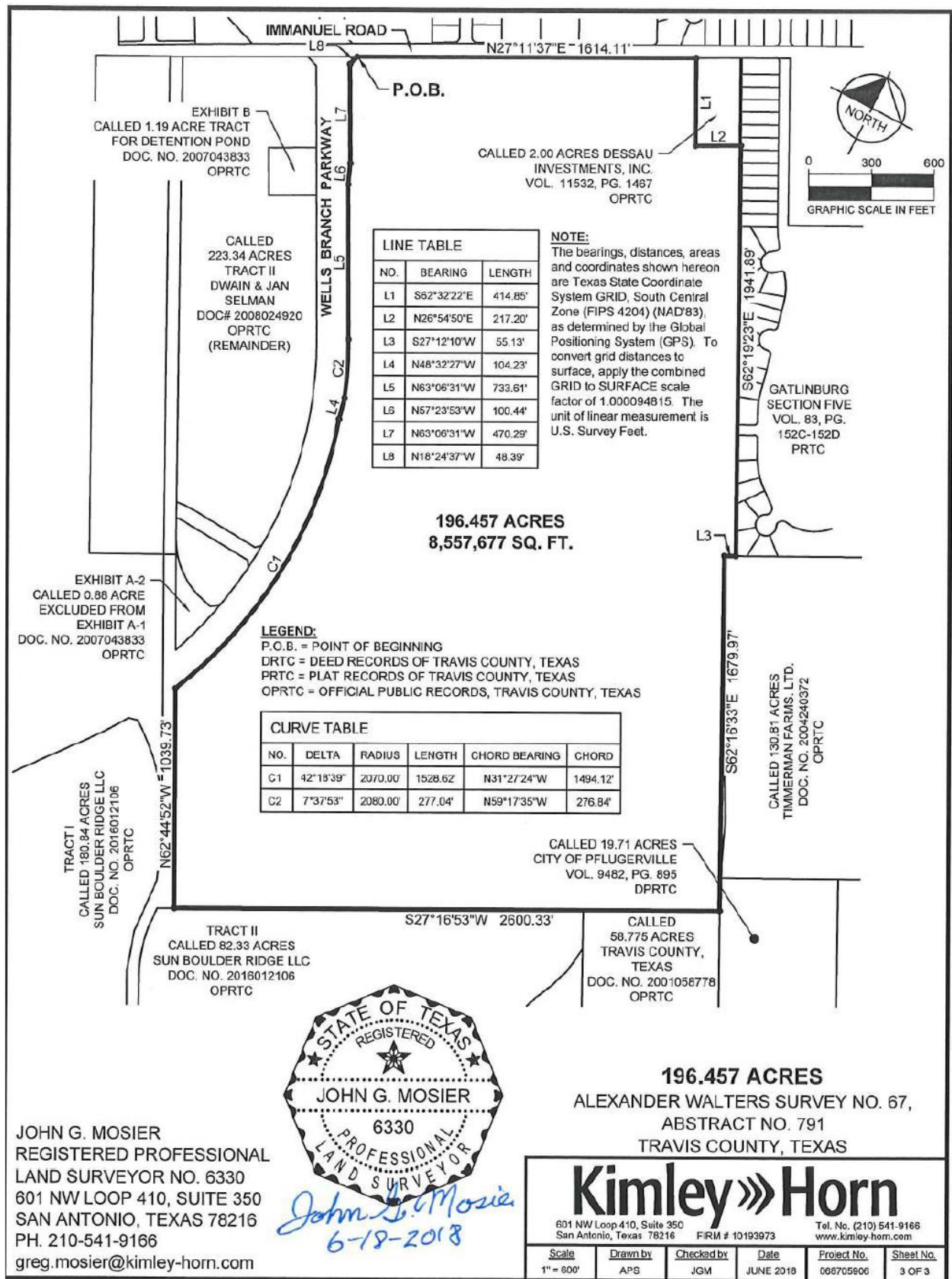
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A METES AND BOUNDS

DESCRIPTION OF A

33.535 ACRE TRACT OF LAND

BEING a 33.535 acres (1,460,802 square feet) tract of land situated in the Alexander Walters Survey No. 67, Abstract No. 791, Travis County, Texas; containing a portion of a called 223.34 acre Tract II described in instrument to Dwain & Jan Selman in Document No. 2008024920 of the Official Public Records of Travis County; also containing a portions of that certain 120 acre tract recorded in Volume T, Page 124 of the Deed Records of Travis County and that certain 100 acre tract recorded in Volume S, Page 124 of the Deed Records of Travis County; also containing all a called 0.72 acre tract for a right-of-way dedication agreement recorded in Document No. 2006013020 of the Official Public Records of Travis County; and being more particularly describes as follows:

BEGINNING at a 60D-nail found in a wood fence post at the intersection of the southeasterly right-of-way line of Immanuel Road (width Varies) and the northeasterly right-of-way line of Killingsworth Lane (60 feet wide), marking the western-most corner of the said 120 acre tract;

THENCE, North 27°03'55" East, 597.74 feet along the said southeasterly right-of-way line of Emmanuel Road to a point for corner at the southwesterly end of a right-of-way cutback corner at the intersection with the southwesterly right-of-way line of Wells Branch Parkway (width varies);

THENCE, along the said southwesterly right-of-way line of Wells Branch Parkway the following two (2) courses and distances:

1. North 71°40'20" East, 60.10 feet to a point for corner;
2. South 63°06'31" East, 388.02 feet to a point marking the northern-most corner of a called 1.19 acre tract described in instrument to Travis County, recorded in Document No. 2007043833 of the Official Public Records of Travis County;

THENCE, along the boundary of the said 1.19 acre tract the following three (3) courses and distances:

1. South 26°53'29" West, 230.00 feet to a point for corner;
2. South 63°06'31" East, 225.00 feet to a point for corner;
3. North 26°53'29" East, 230.00 feet to a point for corner on the aforesaid southwesterly right-of-way line of Wells Branch Parkway;

THENCE, along the said southwesterly right-of-way line of Wells Branch Parkway the following two (2) courses and distances:

1. South 63°06'32" East, 683.66 feet to a 5/8-inch iron road found a point of curvature;
2. in a southeasterly direction, along a tangent curve to the right, a central angle of 40°40'36", a radius of 1930.04 feet, a chord bearing and distance of South 42°46'06" East, 1341.62 feet, and a total arc length of 1370.21 feet to a point marking the northern-most corner of a called 0.88 acre tract recorded in Document No. 2007043833 of the Official Public Records of Travis County;

THENCE, along the said 0.88 acre tract the following three (3) courses and distances:

1. South 22°37'46" West, 45.24 feet to a point for corner;
2. South 68°32'05" West, 75.00 feet to a point of for corner;
3. in a northwesterly direction, along a non-tangent curve to the right, a central angle of 44°42'36", a radius of 375.20 feet, a chord bearing and distance of North 85°08'12" West, 285.41 feet, and a total arc length of 292.78 feet to a 5/8-inch iron road found a point of tangency on the aforesaid northeasterly right-of-way line of Killingsworth Lane;

THENCE, North 62°15'13" West, 2287.99 feet along the northeasterly right-of-way line of Killingsworth Lane to the **POINT OF BEGINNING** and containing 33.535 acres of land in Travis County, Texas. The basis of bearing for this description is the Texas State Coordinate System Grid, Central Zone (FIPS 4203) (NAD'83). All distances are on the Grid and shown in U.S. Survey Feet. To convert grid distances to surface, apply the combined GRID to SURFACE scale factor of 1.000094815. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.

JGM
6/11/2018

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33.535 ACRES

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