

RESOLUTION NO. 20-R-116

**A RESOLUTION OF THE CITY COUNCIL OF SCHERTZ, TEXAS
AUTHORIZING THE CITY MANAGER TO SIGN AND EXECUTE
DEVELOPMENT AGREEMENT EXTENSIONS IN RELATION TO
DEVELOPMENT AGREEMENTS ENTERED INTO JULY OF 2010**

WHEREAS, Texas Local Government Code Section 43.016 requires that before unilateral annexation of a property which is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter that a municipality must offer a development agreement to said property owner pursuant to Texas Local Government Code Section 212.172 that guarantees the continuation of the extraterritorial status of the area for a certain time and authorizes the enforcement of all regulations and planning authority of the municipality that do not interfere with the use of the area for agriculture, wildlife management, or timber; and

WHEREAS, in 2010 the City of Schertz offered Development Agreements to property owners for a period of 10 years at which time the agreement was set to expire the first group expiring in July of 2020; and

WHEREAS, due to the nationwide and statewide declaration of public health emergency related to COVID-19, which impacted the city's ability to reach out well in advance to discuss the expiration of the delayed annexation agreements and the resulting annexation of the properties under said agreements with the property owner; and

WHEREAS, City staff has recommend to the City Council that Development Agreement Extensions be offered to the property owners with existing Development Agreements in order to delay the annexation of their properties for a term not to exceed January 1, 2024 with the City concluding all annexation proceedings commenced under these Development Agreement Extensions before December 31, 2024; and

WHEREAS, City staff has communicated with and received signed Development Agreement Extensions from all property owners within the July Expiration group; listed as Exhibit A and shown on Exhibit B and

WHEREAS, the City desires to allow the City Manager to sign and execute Development Agreement Extensions with all property owners with original Development Agreements expiring in July of 2020.

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

Section 1. The City Council hereby authorizes the City Manager to offer to qualifying landowners, and to execute and deliver, a Development Agreement Extension with such landowners identified in Exhibit A and Exhibit B in substantially the form set forth on Exhibit C, to be completed with the name of the property owner (s), the legal description of the property, the

county in which the property is located, the property owner's notice address, and the date of the Development Agreement Extension. Development Agreement which otherwise varies from the attached Form Development Agreement must be approved by the City Council.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

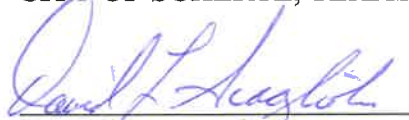
Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 27th day of October, 2020.

CITY OF SCHERTZ, TEXAS



Ralph Gutierrez, Mayor

ATTEST:



City Secretary, Brenda Dennis



EXHIBIT A
(List of Property Owners within the July Expiration Group)

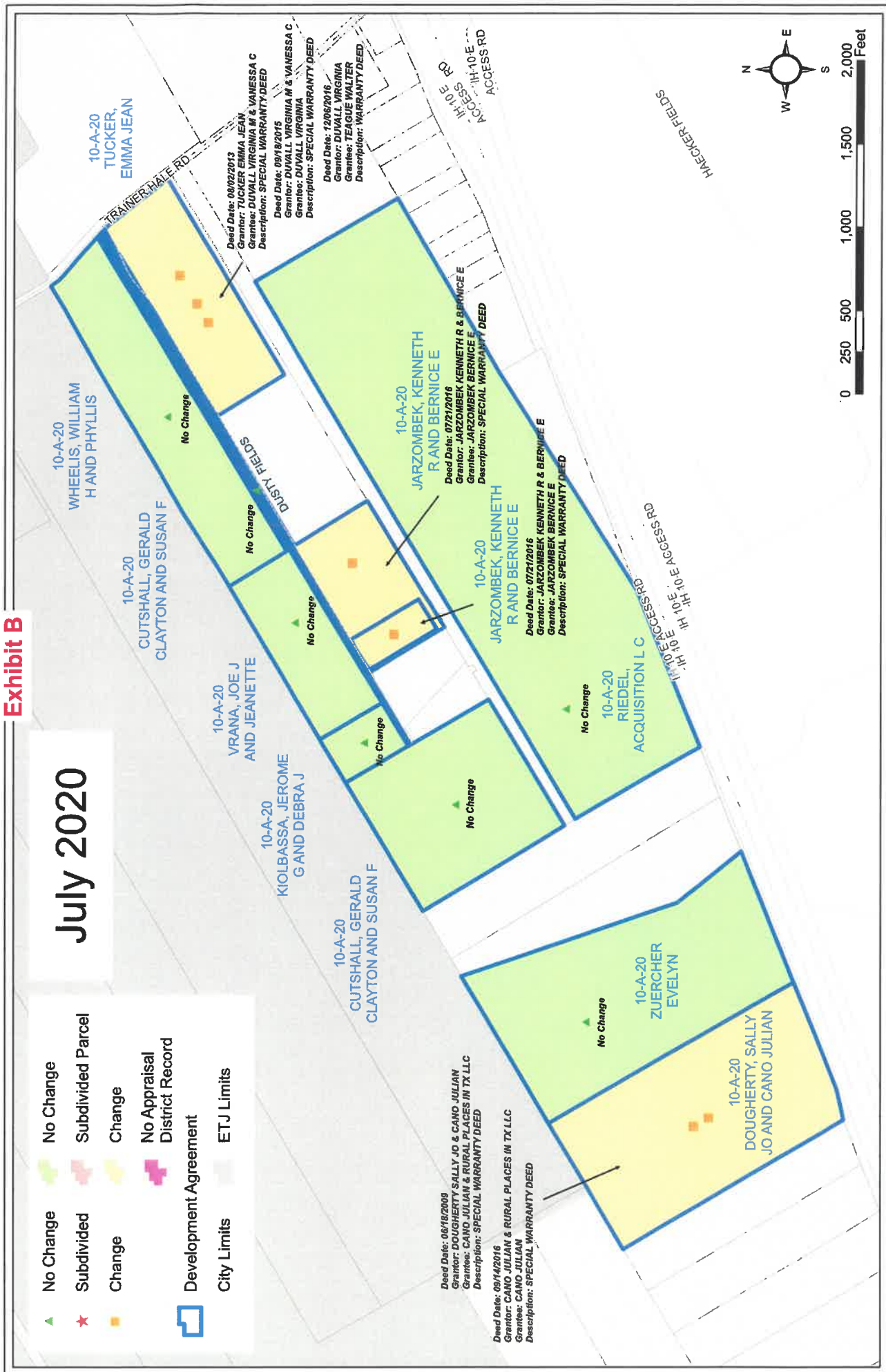
Ord. No.	Current Property Owners	Property Address	Acres	County	Parcel IDs	Effective Date	Termination Date
10-A-20	Bernice Jarzombek	13880 Dusty Flds	8.85	Bexar	339772	July 20, 2010	July 20, 2020
10-A-20	Bernice Jarzombek	13880 Dusty Flds	2.3	Bexar	339773	July 20, 2010	July 20, 2020
10-A-19	Estate of Howard Schaefer and Estate of Alice	No Address Provided on CAD	25.39	Comal	75463	July 6, 2010	July 6, 2020
10-A-19	Estate of Milton W Schaefer and Estate of Melinda Birdsong	6335 FM 482	74.99	Comal	79012	July 6, 2010	July 6, 2020
10-A-19	Estate of Milton W Schaefer and Estate of Melinda Birdsong	No Address Provided on CAD	5.01	Comal	75462	July 6, 2010	July 6, 2020
10-A-20	Evelyn Zuercher	13597 Ih 10 E	35.32	Bexar	339362	July 20, 2010	July 20, 2020
10-A-19	Friesenhahn RVCBL LFTM TRST ET AL	No Address Provided on CAD	1.13	Comal	78923	July 6, 2010	July 6, 2020
10-A-19	Friesenhahn RVCBL LFTM TRST ET AL	No Address Provided on CAD	0.573	Comal	374148	July 6, 2010	July 6, 2020
10-A-20	Gerald Clayton and Susan F Cutshall	13782 Dusty Flds	20.3	Bexar	339744	July 20, 2010	July 20, 2020
10-A-20	Gerald Clayton and Susan F Cutshall	Dusty Flds	1.69	Bexar	1050203	July 20, 2010	July 20, 2020
10-A-19	Howard and Alice Schaefer	No Address Provided on CAD	0.91	Comal	79018	July 6, 2010	July 6, 2020
10-A-19	Howard and Alice Schaefer	6185 FM 482	30.98	Comal	79017	July 6, 2010	July 6, 2020
10-A-19	Howard and Alice Schaefer	No Address Provided on CAD	24.66	Comal	75468	July 6, 2010	July 6, 2020
10-A-20	Jerome G and Debra J Kiobassa	13825 Dusty Flds	3.01	Bexar	340030	July 20, 2010	July 20, 2020
10-A-20	Joe J and Jeanette Vrana	13915 Dusty Flds	10.811	Bexar	339348	July 20, 2010	July 20, 2020
10-A-20	Julian Cano	13597 Ih 10 E	32.7	Bexar	339359	July 20, 2010	July 20, 2020
10-A-19	Martin and Jana Friesenhahn	No Address Provided on CAD	8.74	Comal	374146	July 6, 2010	July 6, 2020

10-A-19	Martin and Jana Friesenhahn	No Address Provided on CAD	1.65	Comal	374145	July 6, 2010	July 6, 2020
10-A-19	Martin and Jana Friesenhahn	22900 Old Nacogdoches Road	2.47	Comal	374144	July 6, 2010	July 6, 2020
10-A-19	Martin and Jana Friesenhahn	No Address Provided on CAD	1.04	Comal	374147	July 6, 2010	July 6, 2020
10-A-20	Raul Martinez	7723 Trainer Hale Road	14.75	Bexar	339341	July 20, 2010	July 20, 2020
10-A-20	Riedel Acquisition LC	14210 Ih10 E	85.03	Bexar	339353	July 20, 2010	July 20, 2020
10-A-20	Rockie and Lashanda Carter	7783 Trainer Hale Road	19.92	Bexar	339771	July 20, 2010	July 20, 2020

Exhibit B

July 2020

- ▲ No Change
- ★ Subdivided
- Change
- No Change
- Subdivided Parcel
- Change
- No Appraisal District Record
- Development Agreement
- City Limits
- ETJ Limits



10-A-20 WHEELER, WILLIAM H AND PHYLLIS
 10-A-20 CUTSHALL, GERALD CLAYTON AND SUSAN F
 10-A-20 VRANA, JOE J AND JEANNETTE
 10-A-20 KIOLBASSA, JEROME G AND DEBRA J
 10-A-20 CUTSHALL, GERALD CLAYTON AND SUSAN F
 10-A-20 ZUERCHER, EVELYN
 10-A-20 DOUGHERTY, SALLY JO AND CANO JULIAN

10-A-20 TUCKER, EMMA JEAN
 10-A-20 JARZOMBEK, KENNETH R AND BERNICE E
 10-A-20 JARZOMBEK, KENNETH R AND BERNICE E
 10-A-20 JARZOMBEK, KENNETH R AND BERNICE E
 10-A-20 RIEDEL, ACQUISITION L C

Deed Date: 09/02/2013
 Grantor: TUCKER, EMMA JEAN
 Grantee: DUVALL VIRGINIA M & VANESSA C
 Description: SPECIAL WARRANTY DEED

Deed Date: 09/18/2015
 Grantor: DUVALL VIRGINIA M & VANESSA C
 Grantee: DUVALL VIRGINIA M & VANESSA C
 Description: SPECIAL WARRANTY DEED

Deed Date: 12/06/2016
 Grantor: DUVALL VIRGINIA M & VANESSA C
 Grantee: TEAGUE WALTER
 Description: WARRANTY DEED

Deed Date: 07/21/2016
 Grantor: JARZOMBEK, KENNETH R & BERNICE E
 Grantee: JARZOMBEK, KENNETH R & BERNICE E
 Description: SPECIAL WARRANTY DEED

Deed Date: 07/21/2016
 Grantor: JARZOMBEK, KENNETH R & BERNICE E
 Grantee: JARZOMBEK, KENNETH R & BERNICE E
 Description: SPECIAL WARRANTY DEED

Deed Date: 07/21/2016
 Grantor: JARZOMBEK, KENNETH R & BERNICE E
 Grantee: JARZOMBEK, KENNETH R & BERNICE E
 Description: SPECIAL WARRANTY DEED

Deed Date: 06/18/2009
 Grantor: DOUGHERTY, SALLY JO & CANO JULIAN
 Grantee: CANO JULIAN & RURAL PLACES IN TX LLC
 Description: SPECIAL WARRANTY DEED

Deed Date: 09/14/2016
 Grantor: CANO JULIAN & RURAL PLACES IN TX LLC
 Grantee: CANO JULIAN & RURAL PLACES IN TX LLC
 Description: SPECIAL WARRANTY DEED

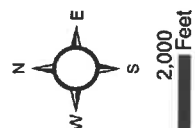


EXHIBIT C
(Development Agreement Extension Example)

DEVELOPMENT AGREEMENT EXTENSION

This DEVELOPMENT AGREEMENT EXTENSION (“Extension”), dated _____, 2020 (“Effective Date”), made by and between the CITY OF SCHERTZ, TEXAS, a home rule municipality located in Guadalupe County, Texas (“City”), and [Property Owners Name] (“Landowner”), collectively (“Parties”);

WHEREAS, Landowner owns certain real property located in [County in which the property is in] County, Texas that is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter of the Tax Code and such real property being more particularly depicted in **Exhibit A** attached hereto and incorporated into this agreement (the “Property”);

WHEREAS, Texas Local Government Code Section 43.016 requires that before unilateral annexation of a property which is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter that a municipality must offer a development agreement to said property owner pursuant to Texas Local Government Code Section 212.172 that guarantees the continuation of the extraterritorial status of the area for a certain time and authorizes the enforcement of all regulations and planning authority of the municipality that do not interfere with the use of the area for agriculture, wildlife management, or timber; and

WHEREAS, the Parties entered into a Development Agreement that both agree satisfies the requirements of Texas Local Government Code Sections 43.016 and 212.172 and as attached hereto as **Exhibit B**; and

WHEREAS, in recognition of the mutual benefits to be derived from the controlled development of the Property and its guaranteed continued extra territorial status for a certain time, the Parties desire to enter into this Extension, pursuant to Sections 212.172 and 43.016 of the Local Government Code of the State of Texas, to evidence their agreements with respect to guaranteeing the continuation of the extraterritorial status of the land and its immunity from annexation by the City for a period of years, extending the municipality’s regulatory authority over the land by providing for all regulations and planning authority of the City that do not interfere with the use of the area for its currently appraised purpose, authorizing enforcement by the City of certain regulations in the same manner the regulations are enforced within the City’s boundaries and authorizing enforcement by the City of certain agreed upon land use and development regulations; and

WHEREAS, the City of Schertz City Council authorized and approved this Extension at a regularly scheduled council meeting subject to the Open Meetings Act in compliance with the laws of the State of Texas and the ordinances and Charter of the City of Schertz on _____.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained or referred to herein, the receipt and sufficiency of which is hereby acknowledged by the City and the Landowner, the Parties hereto agree as follows:

PURPOSE

The Agreement entered between the Parties was for a period of ten (10) years, after which the City was to begin the process of annexation. In March of 2020, a nationwide and statewide declaration of public health emergency was declared by President Trump and Governor Abbott respectively. Such declarations significantly limited the ability of the City and Landowner to adequately discuss and/or negotiate the annexation of the Property in a manner satisfactory to the Parties. There exists a possibility that the City will begin a review and possible update of the Comprehensive Plan that could influence the future land use in the City. Because of the foregoing factors, the Parties agree that it is in the best interest of the Parties to continue the extraterritorial status of the area for a certain time and authorize the continued enforcement of all regulations and planning authority of the municipality that do not interfere with the use of the area for agriculture, wildlife management, or timber.

Therefore, the Parties hereby agree that the Original Development Agreement attached hereto as Exhibit B is hereby extended for a period of two (2) additional years from the effective date. Any terms and conditions of the Original Development Agreement not amended herein shall remain in effect for the duration of the Extension.

Section 1. City Covenants remains and is amended by adding the following: The Parties agree that with respect to municipal services, **Exhibit C** shall constitute a negotiated written agreement regarding services for purposes of voluntary annexation pursuant to the Agreement, and as required by Local Government Code Section 43.0672

Section 2. Landowner Covenants remains and is amended as follows: references to Local Government Code Section 43.035(b)(1)(B) shall be Local Government Code Section 43.016(b)(1)(B) as Redesignated by Acts 2017, 85th Leg., 1st C.S., ch.6 (S.B.6), Section 9, effective Dec.1, 2017.

Section 3. Remedies; No Vested Rights remains and is amended as follows: the reference to Local Government Code Section 43.035(b) shall be Local Government Code Section 43.016(b) as Redesignated by Acts 2017, 85th Leg., 1st C.S., ch.6 (S.B.6), Section 9, effective Dec.1, 2017.

Section 4. Eminent Domain remains unchanged

Section 5. Term; Annexation at End of Term remains and is amended as follows:

(a) The term of this Extension is the earliest to occur of (i) January 1, 2024, (ii) [unchanged] (iii) [unchanged] (iv) [unchanged]

(b) [unchanged]

(c) [add] The City shall conclude any Annexation proceedings commenced under the terms of this Agreement before December 31, 2024 unless an earlier conclusion is required by an applicable statutory timeline.

Section 6. Initial Zoning Upon Annexation is amended as follows: Upon annexation the property shall be zoned in accordance with the uses and procedures set forth in the City's Comprehensive Land Plan and Unified Development Code.

Section 7. Sale of Land; Change in Exemption Status remains unchanged

Section 8. Recordation remains unchanged

Section 9. Subsequent Change in Law remains unchanged

Section 10. Survival remains unchanged

Section 11. No Implied Waiver remains unchanged

Section 12. Successors and Assigns remains and is amended as follows: [add] The parties may not assign this Agreement to any other person or entity without the prior written consent of the other; provided, however, that no such assignment shall operate to release the assigning party from its obligations hereunder. This Agreement and all of its terms and provisions shall be binding upon and inure to the benefit of the City and the Landowner and their respective successors and assigns, including all future owners of the Property.

Section 13. Approvals or Consents remains unchanged

Section 14. Addresses and Notices is amended as follows:

If to the Landowner:

Property Owners Name

Property Owners Mailing Address

Section 15. Severability remains unchanged

Section 16. Merger remains unchanged

Section 17. Cooperation remains unchanged

Section 18. Governing Law remains unchanged

Section 19. Counterparts remains unchanged

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IN WITNESS WHEREOF, by the Parties hereto have executed this Extension by duly authorized representatives, all as of the Effective Date first above written.

City:

CITY OF SCHERTZ,
a Texas municipal corporation

By: _____

Name: Mark Browne City Manager

Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF GUADALUPE §

This instrument was acknowledged before me on the ____ day of _____, 2020 by Mark Browne, City Manager of the City of Schertz, Texas, a Texas municipal corporation, on behalf of said City.

(SEAL)

Notary Public in and for
The State of Texas

My Commission Expires: _____

THE LANDOWNER:

By: _____

Name: _____

Date: _____

THE STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2020 by [Property Owners Name].

(SEAL)

Notary Public in and for
The State of Texas

My Commission Expires: _____