

Agreement Regarding Texas Crushed Stone Drainage Easement

This Agreement Regarding Texas Crushed Stone Drainage Easement (this "Agreement") is made and entered into to be effective as of this 11 day of May, 2021, by and between the City of Georgetown, Texas ("City"), Williamson County, Texas ("County"), with reference to the following facts:

- A. HM Parkside, LP, a Texas limited partnership and HM CR 176-2243, LP, a Texas limited partnership (collectively, "Developer") entered into that certain Development Agreement Parkside on the River Subdivision with the City dated November 19, 2019, wherein the Developer, among other items, agreed to acquire drainage easements on land owned by Texas Crushed Stone and on land owned by Gordon W. Faubion to service the Parkside on the River Subdivision (the "Development").
- B. Separately, Developer and County entered into a Drainage Improvements Participation Agreement dated June 23, 2020, attached hereto as **Exhibit A**, wherein the County and the Developer agreed to obtain certain easements required for the Development as well as County Road 176.
- C. As part of the Drainage Improvements Participation Agreement, the County agreed to obtain an approximately 2.04 acre drainage easement from Texas Crushed Stone as depicted and described in **Exhibit B** attached hereto ("TCS Easement") and the Developer agreed to obtain an approximately 4.057 acre drainage easement from Gordon W. Faubion ("Faubion Easement").
- D. Due to Covid and other issues, the County has not yet acquired the TCS Easement, and the Developer has not been able to obtain the Faubion Easement.
- E. In order to allow Developer to file and record a final plat described as Parkside on the River Section 1A (City Case File # 2020-20-FP) (the "Phase 1A Final Plat") per the terms and conditions of the City's agreements with the Developer (and its affiliates) pertaining to the Development, and to facilitate the operation and maintenance of CR 176 by the County, the County and the City wish to enter into this Agreement regarding the County's acquisition of the TCS Easement.

NOW THEREFORE, for good and valuable consideration, and the mutual obligations of the parties, the receipt and sufficiency of which consideration are hereby acknowledged and confessed, the parties agree as follows:

1. The foregoing Recitals are true and correct.

2. The County will use good faith, diligent efforts to acquire the TCS Easement through eminent domain proceedings, if necessary, until the TCS Easement is obtained.
3. In reliance upon the County's execution of this Agreement and promise to acquire the TCS Easement, together with the Developer's execution of an Indemnity Agreement Regarding the Faubion Easement and promise to acquire the Faubion Easement, the City agrees to withdraw its denial of approval of the Parkside on the River Phase 1A Final Plat for reasons related to the TCS Easement and Faubion Easement and allow Developer to record the Phase 1A Final Plat in the Official Records of Williamson County, Texas and proceed with Phase 1A Activity.
4. The County hereby agrees to INDEMNIFY, DEFEND AND HOLD HARMLESS the City, and the City's elected officials, appointed officials, employees, agents, and attorneys (collectively the "*City Parties*" and each a "*City Party*") from any and all Loss (defined herein) or Litigation Expenses (defined herein) suffered or incurred by a City Party or the City Parties arising out of or relating to the City's allowing the Phase 1A Final Plat to be recorded in the Official Public Records of Williamson County, Texas to occur before the TCS Easement is obtained. The term "Loss" as used in this Agreement shall mean any liability, loss, claim, settlement payment, cost and expense, interest, award, judgment, damages (including punitive damages), diminution in value, fines, fees and penalties or other charge, excluding Litigation Expenses (defined herein). The term "Litigation Expenses" as used in this Agreement shall mean any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim for indemnification under this Agreement, including, without limitation, in each case, attorney's fees, other professionals' fees, and disbursements.
5. In support of the promises in this Agreement, the County represents and warrants that all funds necessary to indemnify the City and perform its obligations in this Agreement are readily available to the County, payable out of County current revenues or a cash fund within the immediate control of the County, and that said funds will remain available until the TCS Easement is recorded in the Official Public Records of Williamson County, Texas.
6. If any third party makes a claim against any of the City (a "*Third Party Claim*,") the City will give prompt written notice to the County of the Third-Party Claim and deliver to the County a copy of the notice of claim, claim, process and legal pleadings with respect to the Third-Party Claim. If the City fails to give proper notice, the County remains obligated to defend the City Parties, except for Litigation Expenses incurred prior to the giving of proper notice.
7. This Agreement contains the entire agreement of the Parties regarding the subject matter hereof and supersedes all prior or contemporaneous understandings or representations, whether oral or written, regarding the subject matter.

8. Any amendment of this Agreement must be in writing and will be effective if signed by the authorized representatives of the Parties.
9. This Agreement will be construed in accordance with Texas law. Venue for any action arising hereunder will be in Williamson County, Texas.
10. Any notices given under this Agreement will be effective if (i) forwarded to a Party by hand-delivery; (ii) transmitted to a Party by confirmed telecopy; or (iii) deposited with the U.S. Postal Service, postage prepaid, certified, to the address of the Party indicated below:

GEORGETOWN: P.O. Box 409, Georgetown, Texas 78627
808 Martin Luther King Jr. Street
Georgetown Texas 78726
Attn: City Manager
Telephone: (512) 930-3652
Facsimile: (512) 930-3559
Email: david.morgan@georgetown.org

COUNTY: 710 S. Main Street, Georgetown, Texas 78626
Attn: William Gravell, Jr.
Telephone: (512) 943-1550
Facsimile: (512) 943-1662


11. This Agreement may be executed simultaneously in multiple counterparts, each of which will be deemed an original, but all of which will constitute the same instrument.
12. Each Party represents and warrants that it has the full right, power and authority to execute this Agreement.
13. This Agreement is executed to be effective on the date the last Party signs this Agreement.

(Signature Page Follows)

CITY OF GEORGETOWN, TEXAS

By: _____
Printed Name: Josh Schroeder
Title: Mayor

ATTEST:

By: 
Robyn Densmore, City Secretary

APPROVED AS TO FORM:

By: 
Skye Masson, City Attorney

WILLIAMSON COUNTY, TEXAS

By: 
William Gravell, Jr., County Judge

ATTEST:

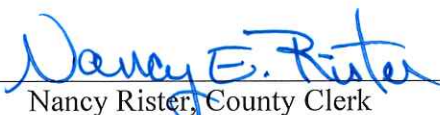
By: 
Nancy Rister, County Clerk

Exhibit A

DRAINAGE IMPROVEMENTS PARTICIPATION AGREEMENT

This Drainage Improvements Participation Agreement (this "Agreement") is entered into between Williamson County, Texas (the "County") and HM Parkside, LP, a Texas limited partnership (the "Developer"). In this Agreement, the County and the Developer are sometimes individually referred to as a "Party" and collectively referred to as the "Parties." Each of the Parties confirms that it has the authority to enter into and the ability to perform its obligations under this Agreement, without the further approval or consent of any other person or entity.

Recitals

WHEREAS, the County is in the process of making improvements to County Road 176 (the "Roadway"), including improvements at the Roadway's intersection with FM 2243 (the "Intersection"), as depicted on the attached **Exhibit A** (the "Project"); and

WHEREAS, in recognition of the impact the Project will have on drainage in and along the Roadway, including an area within Williamson County Municipal Utility District No. 25 (the "District") as well as certain offsite floodplain area, the County desires to design and construct certain drainage improvements as part of the Project (the "Drainage Improvements"); and

WHEREAS, the Developer is in the process of developing a residential development to be known as Parkside on the River (the "Subdivision") which will be located north of the Intersection and will include an extension of the Roadway to be known as Parkside Parkway (the "Parkway"); and

WHEREAS, in recognition of the impact the Subdivision will have on area drainage, the Developer desires to cooperate with the County in connection with the Drainage Improvements;

NOW, THEREFORE, in consideration of the mutual covenants, obligations and benefits set forth in this Agreement, the Parties agree as follows:

Section 1. 42-inch Storm Sewer Culvert Pipe.

(a) The County agrees to design and construct a 42-inch storm sewer culvert pipe within the Roadway beginning at a point approximately 50 feet south of the Intersection and terminating at a point in the north right-of-way line of FM 2243 (the "Culvert") as a part of the Drainage Improvements. The Culvert is depicted on Sheet 57 of the County Road 176 at RM 2243 Culvert/Culvert Layout Sta 611 + 92.70 Construction Plan Sheet, a copy of which is attached as **Exhibit B**.

(b) The Developer agrees to design and construct an extension of the Culvert from its termination point under Section 1.(a), above, to the point of discharge shown on the attached **Exhibit C** (the "Culvert Extension"). The Culvert Extension will be located within a portion of the future right-of-way for Parkside Parkway (the "Future Right of Way"), as shown on **Exhibit C**. The Developer agrees to grant the County a temporary drainage and access easement within the Future Right-of-Way for the Culvert Extension in the form attached as **Exhibit D** (the "Temporary Drainage Easement") at no cost to the County. Upon the County's approval of the final plat for the phase of the Subdivision that includes the portion of the Future Right of Way within which the Temporary Drainage Easement is located, the Temporary Drainage Easement will terminate. The Developer will construct the Culvert Extension concurrently with Phase 1A of the Subdivision.

(c) Within 15 days of the Developer's opening of competitive bids for the Culvert Extension, the Developer will provide the County a copy of the bid tabulation and notice of award of the contract for

the Culvert Extension to the lowest responsible bidder (the "Notice of Award"). Within 30 days of the date of delivery of the Notice of Award, the County will pay the Developer an amount equal to the bid amount set out in the Notice of Award, not to exceed the maximum sum of \$266,245.10, as compensation for the Temporary Drainage Easement and the costs of the Culvert Extension.

(d) The Developer agrees that the County or its duly authorized representatives will, until the expiration of three (3) years after the County's payment described in Subsection 1.(c), above, have the right of access to and the right to examine and photocopy any and all books, documents, papers and records of the Developer that are directly pertinent to the costs of the Culvert Extension for the purposes of making audits, examinations, excerpts, and transcriptions (collectively, "Audits"). The Developer agrees that the County will be provided with access at the offices of the Developer during normal working hours and that the Developer will provide the County with adequate and appropriate workspace to conduct such Audits in compliance with the provisions of this subsection. The County agrees that, as a condition to its right to conduct such Audits and being provided such workspace, it will give the Developer with reasonable advance notice of the date, time and purpose of such Audits.

Section 2. Additional Drainage Easements and Improvements.

(a) The County agrees to use diligent, good faith efforts to obtain a drainage easement in favor of HM Parkside Development, Inc., its successors and assigns and/or Williamson County from Texas Crushed Stone over the tract depicted on the attached Exhibit E (the "TCS Easement") through negotiation and, if negotiations are not successful, through condemnation. All costs of acquisition of the TCS Easement will be borne by the County.

(b) The Developer agrees to use commercially reasonable efforts to obtain a drainage easement in favor of HM Parkside Development, Inc., its successors and assigns and/or Williamson County from Gordon W. Faubion over the 4.057 acre tract depicted on the attached Exhibit F (the "Faubion Easement") through negotiation. If negotiations are not successful, the Developer will use commercially reasonable efforts to cause the District to acquire the Faubion Easement through condemnation. If the District fails or refuses to pursue the acquisition of the Faubion Easement through condemnation, the County agrees, at the Developer's request, to use diligent, good faith efforts to acquire the Faubion Easement through condemnation. All costs of the Faubion Easement acquisition will be advanced the Developer, subject to the Developer's right to reimbursement for such costs from the District.

(c) The County and the Developer agree that a letter agreement, signed by the applicable property owner, in a form acceptable to both the Developer and the County, that evidences the property owner's consent to the additional flows that will be generated by the Project and the Subdivision may be accepted in lieu of the drainage easements described in Subsections (a) and (b), above.

(d) In consideration of the Developer's performance of its obligations under this Agreement, the County agrees that it will not require any further dedications of easements or land for or construction of regional drainage improvements relating to the Subdivision or the Project.

Section 3. Designated Representatives. The County and the Developer each designate the individual specified below ("Designated Representative") to represent it and to act on its behalf with respect to the subject matter of this Agreement. Each Designated Representative will have authority to determine and interpret the policies and exercise the discretion of the Party it represents, and a Party may rely on the decisions and representations made by the other Party's Designated Representative with respect to the subject matter of this Agreement. Each Designated Representative may designate other representatives to transmit instructions and receive information on the Designated Representative's behalf.

County: Terron Evertson
Address: Williamson County Road & Bridge.
3151 SE Inner Loop
Georgetown, Texas 78626

District/Developer: Blake Magee
Address: 1011 North Lamar Boulevard
Austin, Texas 78703

The Designated Representatives will cooperate and coordinate with one another, including meeting with and or reporting information to one another regarding the subject matter of this Agreement at regular intervals and reviewing and commenting in a timely manner on all work product.

Section 4. Public Works Projects.

(a) The Culvert Extension involves the construction of public improvements. Accordingly, the Culvert Extension will be constructed and all easements, equipment, materials and supplies acquired in the name of the District and/or the County, as applicable. All tangible personal property to be purchased for use relating to and all taxable services to be performed for the design, management and construction of the Culvert Extension are subject to the sales tax exemption provisions of Section 151.311 of the *Texas Tax Code*. The County agrees to provide its employer identification number and any other information reasonably required to obtain an exemption of sales tax for such construction and the labor and materials incorporated therein upon request.

Section 5. Miscellaneous.

(a) Any notice given hereunder by any Party to another must be in writing and may be effected by personal delivery or by certified mail, return receipt requested, when mailed to the appropriate Party's Designated Representative, at the addresses specified in Section 5, with copies as noted below:

County: Charlie Crossfield
Sheets & Crossfield
309 East Main Street
Round Rock, Texas 78664

Developer Sue Brooks Littlefield
Armbrust & Brown, PLLC
100 Congress Ave., Ste. 1300
Austin, Texas 78701

The Parties may change their respective addresses for purposes of notice by giving at least five days written notice of the new address to the other Party. If any date or any period provided in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period will be extended to the next business day.

(b) As used in this Agreement, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number will each be deemed to include the others.

(c) This Agreement contains the complete and entire agreement between the Parties respecting the Drainage Improvements, and supersedes all prior negotiations, agreements, representations, and understandings, if any, between the Parties. This Agreement may not be modified, discharged, or

changed except by a further written agreement, duly executed by the Parties. However, any consent, waiver, approval or other authorization will be effective if signed by the Party granting or making such consent, waiver, approval, or authorization.

(d) The Parties agree to execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the purposes of this Agreement.

(e) If performance by any Party of any obligation under this Agreement is interrupted or delayed by reason of unforeseeable event beyond its control, whether such event is an act of God or the common enemy, or the result of war, riot, civil commotion, sovereign conduct other than acts of the County under this Agreement, or the act of conduct of any person or persons not a party or privy hereto, then such Party will be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

(f) To the extent allowed by law, each Party will be responsible for, and will indemnify and hold harmless the other Parties, their officers, agents, and employees, from any and all claims, losses, damages, causes of action, lawsuits or liability resulting from, the indemnifying Party's acts or omissions of negligence or misconduct or in breach of this Agreement, including but not limited to claims for liquidated damages, delay damages, demobilization or remobilization costs, or claims arising from inadequacies, insufficiencies, or mistakes in the plans and specifications and other work products or any other materials or services a Party provides under this Agreement. Each Party will promptly notify the others of any claim asserted by or against it for damages or other relief in connection with this Agreement.

(g) The Parties acknowledge that in the event of default on any obligation under this Agreement, remedies at law will be inadequate and that, in addition to any other remedy at law or in equity, each Party will be entitled to seek specific performance of this Agreement.

(h) This Agreement will be construed under the laws of the State of Texas and all obligations of the Parties hereunder are performable in Williamson County, Texas. Any suits pursued relating to this Agreement will be filed in a court of Williamson County, Texas.

(i) Any clause, sentence, provision, paragraph, or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective will not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof will be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.

(j) This Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns. No Party may assign its rights or obligations under this Agreement without the written consent of the other Party.

(k) Except as otherwise expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties hereto and the District, any benefits, rights or remedies under or by reason of this Agreement.

(l) This Agreement is effective upon execution by both of the Parties. This Agreement may be executed simultaneously in one or several counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. The terms of this Agreement will become binding upon each Party from and after the time that it executes a copy hereof. In like manner, from and after the time it executes a consent or other document authorized or required by the terms of this Agreement, such consent or other document will be binding upon such Party.

(m) The following exhibits are attached to and incorporated into this Agreement for all purposes:

Exhibit A	-	Depiction of the Project
Exhibit B	-	Culvert Plan Sheet
Exhibit C	-	Depiction of Culvert Extension and Future Right of Way
Exhibit D	-	Form Temporary Drainage Easement
Exhibit E	-	TCS Easement Tract
Exhibit F	-	Faubion Easement Tract

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, on this 23rd day of June, 2020.

WILLIAMSON COUNTY, TEXAS

By Bill Gravelle Jr.

Name: Bill Gravelle Jr.

Title: County Judge

Date: June 23, 2020

HM PARKSIDE, LP, a Texas limited partnership

By: Hanna/Magee GP #1, Inc., a Texas corporation,
its general partner

By: 

Blake Magee, President

Date: 6/16/2020

EXHIBIT A

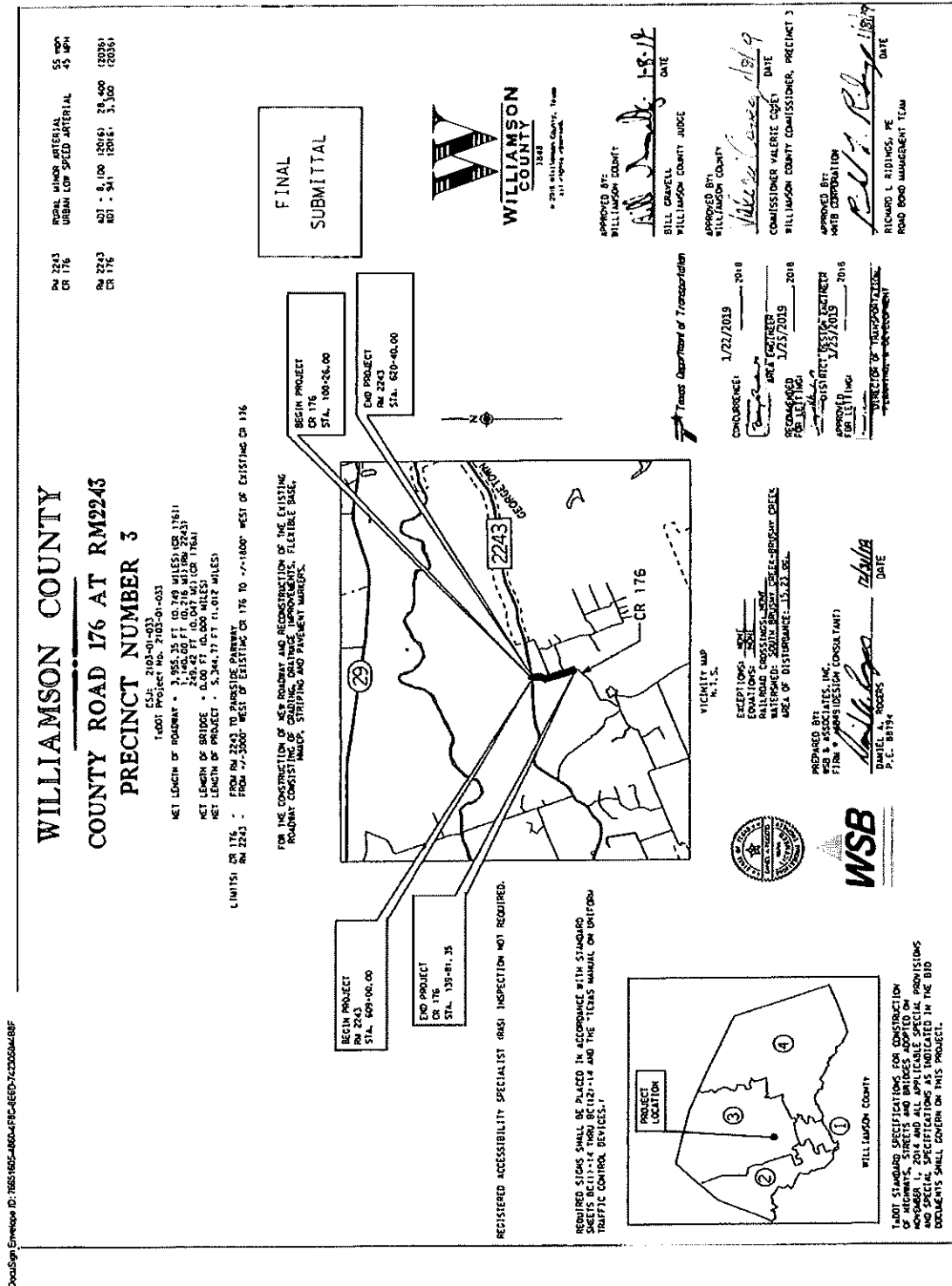


EXHIBIT B

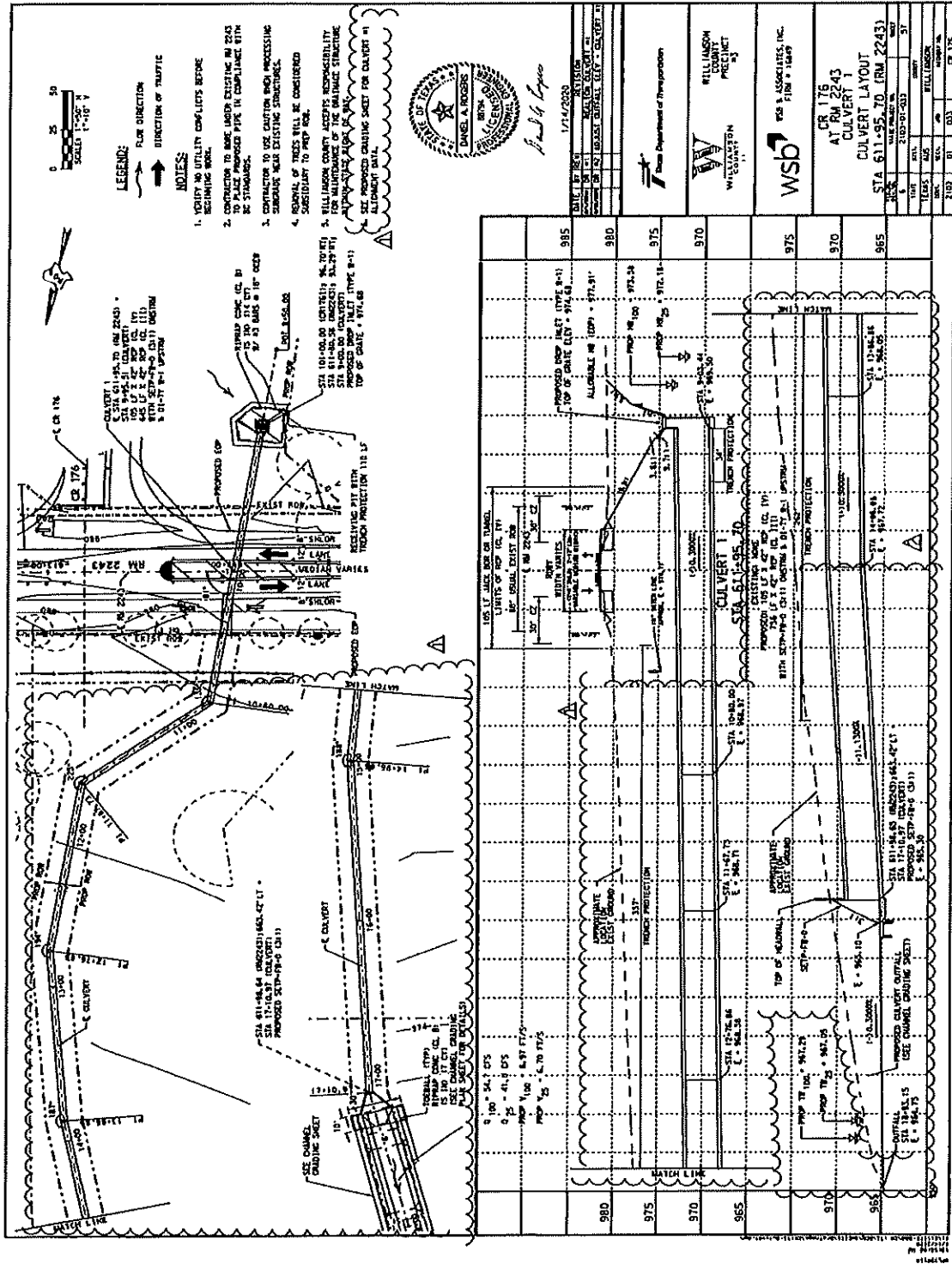


EXHIBIT C

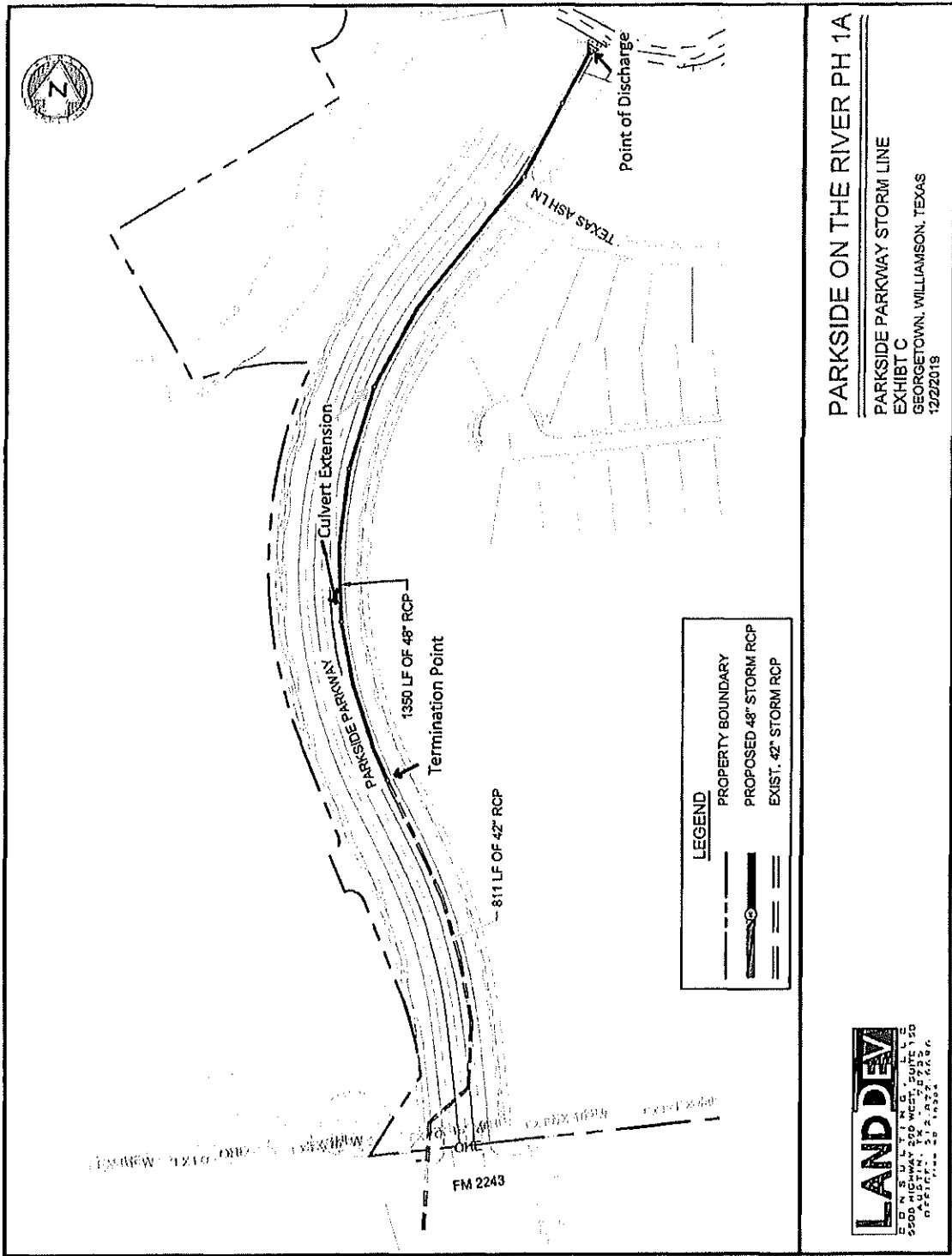


EXHIBIT D

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.

TEMPORARY DRAINAGE EASEMENT AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

THIS TEMPORARY DRAINAGE EASEMENT AGREEMENT (this "Agreement") is made effective as of _____, 2020 (the "Effective Date"), by and between HM Parkside, LP, a Texas limited partnership ("Grantor"), and Williamson County, Texas ("Grantee").

RECITALS

Grantor has agreed to grant to Grantee a non-exclusive, temporary drainage easement over, under, through and across that certain tract of real property owned by Grantor that is more particularly described on Exhibit A, attached hereto and made a part hereof (the "Easement Property"), for the purposes and the term described in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Grantor GRANTS, SELLS and CONVEYS to Grantee and Grantee's successors and assigns a temporary, non-exclusive drainage easement (the "Easement") under and across the Easement Property, subject to the reservations, terms and conditions of this Agreement and to any and all encumbrances and easements of record, to the extent the same are valid and enforceable. The Easement will be subject to the following terms and provisions:

1. Purpose of Easement. The Easement may be used only for the installation, construction, placement, expansion, repair, maintenance, modification, replacement, restoration, removal, relocation, inspection, monitoring, operation, use, upgrade, and decommissioning of underground drainage conveyance structures and related underground appurtenances (collectively, the "Facilities") and access related thereto.

2. Term of Easement. The Easement will automatically terminate and be of no further effect upon the first to occur of (i) dedication of the area that includes the Easement Property as public right-of-way, whether by plat or separate instrument; or (ii) recordation of a final subdivision plat that includes the Easement Property that has been approved by Grantee (the "Expiration Date"). Upon the Expiration Date, Grantee agrees, at Grantor's request, to execute, acknowledge where necessary, and deliver an instrument suitable for recordation in the Official Public Records of Williamson County, Texas, sufficient to evidence the termination of this Agreement.

3. Exclusiveness of Easement. The Easement will be non-exclusive and Grantor, its successors and assigns, and their respective contractors, agents and invitees (collectively, the "Grantor Parties"), reserve and will have the right to enter upon and use the Easement Property. Without limiting the generality of the foregoing sentence, the Grantor Parties will have the right to construct, operate and maintain roadways, driveways, parking, and utility infrastructure over, under, through and across the Easement Property, and to dedicate and grant public or private easements for such purposes, so long as

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Temporary Drainage Easement Agreement

such use does not unreasonably interfere with or prevent use of the Easement Property as provided herein. In the event of the damage or destruction of the Facilities by any of the Grantor Parties, the responsible party will be obligated to replace and repair the damage or destruction at its sole cost and expense and any grant to a third party will be subject to this repair and restoration obligation, regardless of whether it is specifically recited in the granting instrument.

4. Grantee's Obligations.

(a) Access to the Easement Property by Grantee must be obtained upon or across public right-of-way and not any other property of Grantor. Grantee must require and ensure that all Grantee Parties comply with this access restriction.

(b) Upon completion of the construction of the Facilities and, thereafter, promptly upon completion of any subsequent activity by Grantee within the Easement Property that disturbs the surface of the ground, Grantee must restore or cause to be restored the surface of the Easement Property to substantially the same condition that existed prior to the commencement of construction or other activity. Restoration will include cleaning up and removing all trash and debris, including stakes, and revegetation as necessary.

(c) Grantee will, to the extent permitted by law, be liable for all damage or injury to persons or property directly resulting from its activities in coming upon or performing work on the Easement Property, or from the construction, repair, operation, maintenance or use of any Facilities. Grantee will require each of Grantee's contractors to obtain and maintain in effect at all times during which such contractors are performing work on or within the Easement Property a policy or policies of insurance, in a minimum amount of \$1,000,000 per occurrence, insuring against liability for bodily injury, personal injury, death, or property damage, naming Grantor and Grantee as additional insureds, and a certificate of insurance or other satisfactory proof of this coverage must be provided to Grantor prior to the contractor in question entering upon or commencing any construction activity on or within the Easement Property. If any contractor's insurance is cancelled, Grantee will promptly notify Grantor and require the contractor to obtain and provide proof of replacement insurance, meeting the requirements specified above, prior to continuing its work within the Easement Property. Each of the Grantee's contractors will be responsible for the safety of all of its employees, contractors, consultants, subcontractors, invitees and agents. GRANTEE WILL, TO THE EXTENT PERMITTED BY LAW, INDEMNIFY, DEFEND AND HOLD GRANTOR HARMLESS FOR ANY CLAIM, CAUSE OF ACTION, LIABILITY, FINE OR EXPENSE, INCLUDING LEGAL FEES AND DEFENSE COSTS, ARISING OUT OF ITS OR ITS CONTRACTORS', SUBCONTRACTORS', AGENTS' OR EMPLOYEES' PRESENCE AND ACTIVITIES ON THE EASEMENT PROPERTY AND OUT OF CONSTRUCTION, OPERATION AND/OR MAINTENANCE OF THE FACILITIES AND, IN ADDITION, GRANTOR COVENANTS AND AGREES TO REQUIRE ITS CONTRACTORS AND, SUBCONTRACTORS TO INDEMNIFY, DEFEND AND HOLD GRANTOR HARMLESS FOR ANY CLAIM, CAUSE OF ACTION, LIABILITY, FINE OR EXPENSE, INCLUDING LEGAL FEES AND DEFENSE COSTS, ARISING OUT OF SUCH PARTY'S PRESENCE AND ACTIVITIES ON THE EASEMENT PROPERTY.

5. Maintenance of Facilities. The Facilities shall be maintained by Grantee unless and until such time as a municipal utility district, a municipality or another governmental authority expressly assumes the maintenance obligations with respect thereto. Grantor will have no responsibility for maintenance of any Facilities installed or constructed within the Easement.

6. Governing Law; Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Texas. Venue of any case or controversy arising under or pursuant to this Agreement will lie in Williamson County, Texas.

7. Attorneys' Fees. If either party brings an action to enforce the terms of this Agreement or to declare rights hereunder, the prevailing party in any such action, on trial or appeal, will be entitled to recover its reasonable attorneys' fees and expenses from the losing party, as fixed by the court. The parties agree that "prevailing party" means the party who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not necessarily receiving an award of damages or other form of recovery.

8. No Waiver. Except for a written waiver signed by the party to be charged, any action or inaction by any party with respect to any provision of this Agreement, including a party's failure to enforce any provision of this Agreement, will not constitute a waiver of that provision or any other provision of this Agreement. Any waiver by any party of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement.

9. Entire Agreement; Amendment and Termination. This Agreement contains the entire agreement between the parties relating to the rights granted. Any oral representations or modifications concerning this Agreement will be of no force and effect. All modifications must be evidenced by a subsequent written agreement, signed by the party to be charged. Except as provided in Paragraph 2 with respect to termination of the Easement, this Agreement may only be modified, amended or terminated by filing a written modification, amendment or termination document, executed, acknowledged and approved by Grantor and Grantee, or their respective successors and assigns, in the Official Public Records of Williamson County, Texas.

10. Execution. To facilitate execution, this Agreement may be executed in any number of counterparts, and it will not be necessary that the signatures of all parties be contained on any one counterpart. Additionally, for purposes of facilitating the execution of this Agreement the signature pages taken from separate, individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts and a facsimile signature will be deemed to be an original signature for all purposes. All executed counterparts of this Agreement will be deemed to be originals, but such counterparts, when taken together, will constitute one and the same instrument.

(The remainder of this page has been intentionally left blank, and the signature page or pages follow.)

EXECUTED as of the Effective Date set forth above.

HM PARKSIDE, LP, a Texas limited partnership

By: Hanna/Magee GP #1, Inc., a Texas corporation, its
general partner

By: 
Blake Magee, President

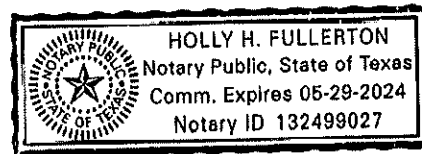
Date: 6/16/2020

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 16th day of June,
2020, by Blake J. Magee, President of Hanna/Magee GP #1, Inc., a Texas corporation, general partner of
HM Parkside, LP, a Texas limited partnership, on behalf of said corporation and limited partnership.


Notary Public, State of Texas



{W0933061.1}

4

Temporary Drainage Easement Agreement

{W0980823.2}

Exhibit D -- Page 4 of 6

WILLIAMSON COUNTY, TEXAS

By: Bill Gravell Jr.

Name: Bill Gravell Jr.

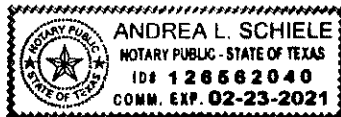
Title: County Judge

Date: June 23, 2020

THE STATE OF TEXAS §

COUNTY OF Williamson

This instrument was acknowledged before me on the 23rd day of June, 2020, by Bill Gravell Jr., County Judge of Williamson County, Texas on behalf of the County.



Andrea L. Schiele
Notary Public, State of Texas

AFTER RECORDING, RETURN TO:

{W0933061.1}

5

Temporary Drainage Easement Agreement

{W0980823.2}

Exhibit D - Page 5 of 6

LEGEND

- FLOODPLAIN - SAN GABRIEL PROPOSED CLNR #15-06-201R
- FLOODPLAIN - PROPOSED GRADE CONDITIONS 100 YR ATLAS 14 FULLY DEVELOPED FLOWS
- FLOODPLAIN - EXISTING GROUND CONDITIONS 100 YR ATLAS 14 FULLY DEVELOPED FLOWS
- FLOODPLAIN - FEMA ZONE AE - HRM 48491C0480E EFFECTIVE DATE 09/26/2008
- FLOODPLAIN - FEMA ZONE A - HRM 48491C0480E EFFECTIVE DATE 09/26/2008
- BOUNDARIES
- DRAINAGE EASEMENT LIMITS NEEDED FROM GORDON W. FAUBION & TEXAS CRUSHED STONE
- CURRENT FEMA FLOODPLAIN AREA

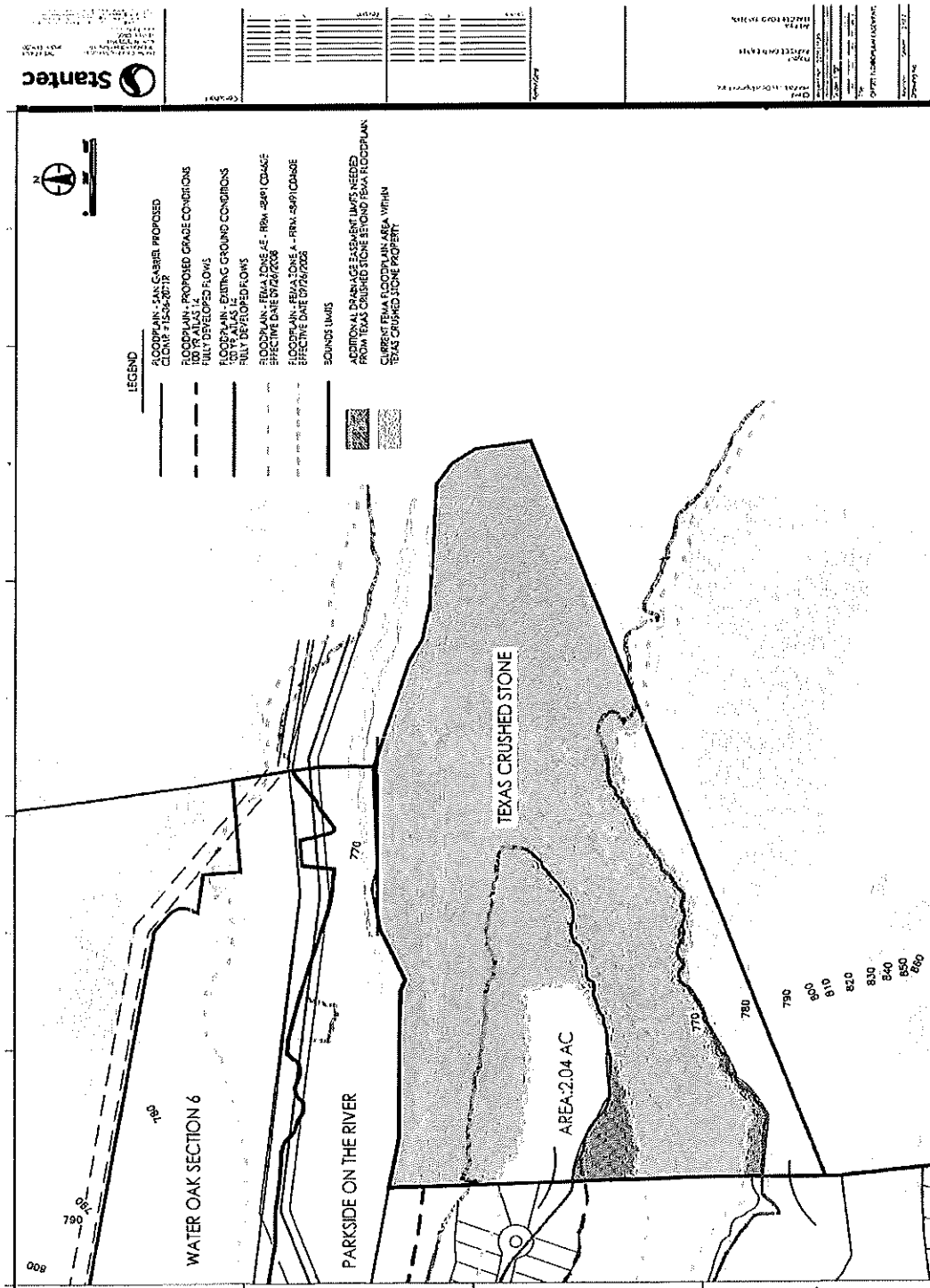


EXHIBIT F

County: Williamson
Project: Parkside on the River
Job No.: A191301
MB No.: 19-053

FIELD NOTES FOR 4.057 ACRES

Being a tract containing 4.057 acres of land located in the J. Thompson Survey, Abstract Number 608 in Williamson County, Texas. Said 4.057 acre tract being a portion of a call 93.60 acre tract of land recorded in the names of Arthur and Gordon Faubion in Document Number 200504318, Official Public Records Williamson County (O.P.R.W.C.). Said 4.057 acres being more particularly described by metes and bounds as follows (*bearings are referenced to the Texas Coordinate System, NAD 1983, Central Zone*):

Beginning at a 1/2-inch iron rod found for the southwesterly corner of said 93.60 acre tract, said iron rod being a corner of a called 1,146.591 acre tract recorded in the name of HM Parkside, LP, in Document Number 2018114043, O.P.R.W.C., also being on the northerly Right-of-Way (R.O.W.) line of F.M. 2243 (80' wide);

Thence, with the westerly line of said 93.60 acre tract and an easterly line of said 1,146.591 acre tract, the following three (3) courses:

1. North 20 degrees 43 minutes 36 seconds West, a distance of 754.25 feet to a 1/2-inch iron rod found;
2. North 20 degrees 57 minutes 06 seconds West, a distance of 930.97 feet to a capped iron rod found stamped "1847";
3. North 21 degrees 20 minutes 43 seconds West, a distance of 498.46 feet to the **Point of Beginning** of the herein described tract;

Thence, continuing with the westerly line of said 93.60 acre tract and an easterly line of said 1,146.591 acre tract, North 21 degrees 20 minutes 43 seconds West, a distance of 216.53 feet;

Thence, through and across said 93.60 acre tract the following fourteen (14) courses;

1. South 86 degrees 41 minutes 13 seconds East, a distance of 43.87 feet;
2. North 76 degrees 47 minutes 16 seconds East, a distance of 39.32 feet;
3. South 89 degrees 23 minutes 06 seconds East, a distance of 56.16 feet;
4. North 72 degrees 18 minutes 53 seconds East, a distance of 40.83 feet;
5. North 62 degrees 31 minutes 18 seconds East, a distance of 49.00 feet;
6. North 70 degrees 34 minutes 49 seconds East, a distance of 42.92 feet;

7. North 50 degrees 31 minutes 39 seconds East, a distance of 55.60 feet;
8. North 26 degrees 36 minutes 13 seconds East, a distance of 72.45 feet;
9. North 64 degrees 48 minutes 26 seconds East, a distance of 92.12 feet;
10. North 44 degrees 12 minutes 28 seconds East, a distance of 48.52 feet;
11. North 50 degrees 18 minutes 43 seconds East, a distance of 65.26 feet;
12. North 33 degrees 03 minutes 40 seconds East, a distance of 45.78 feet;
13. North 56 degrees 23 minutes 15 seconds East, a distance of 115.09 feet;
14. North 26 degrees 23 minutes 04 seconds East, a distance of 11.59 feet to a point on the northerly line of said 93.60 acre tract, said point being on an interior line said 1,146.591 acre tract;

Thence, with the northerly line of said 93.60 acre tract and the interior line of said 1,146.591 acre tract the following two (2) courses;

1. North 69 degrees 32 minutes 42 seconds East, a distance of 231.31 feet to a capped iron rod stamped "1847";
2. North 69 degrees 43 minutes 16 seconds East, a distance of 170.90 feet;

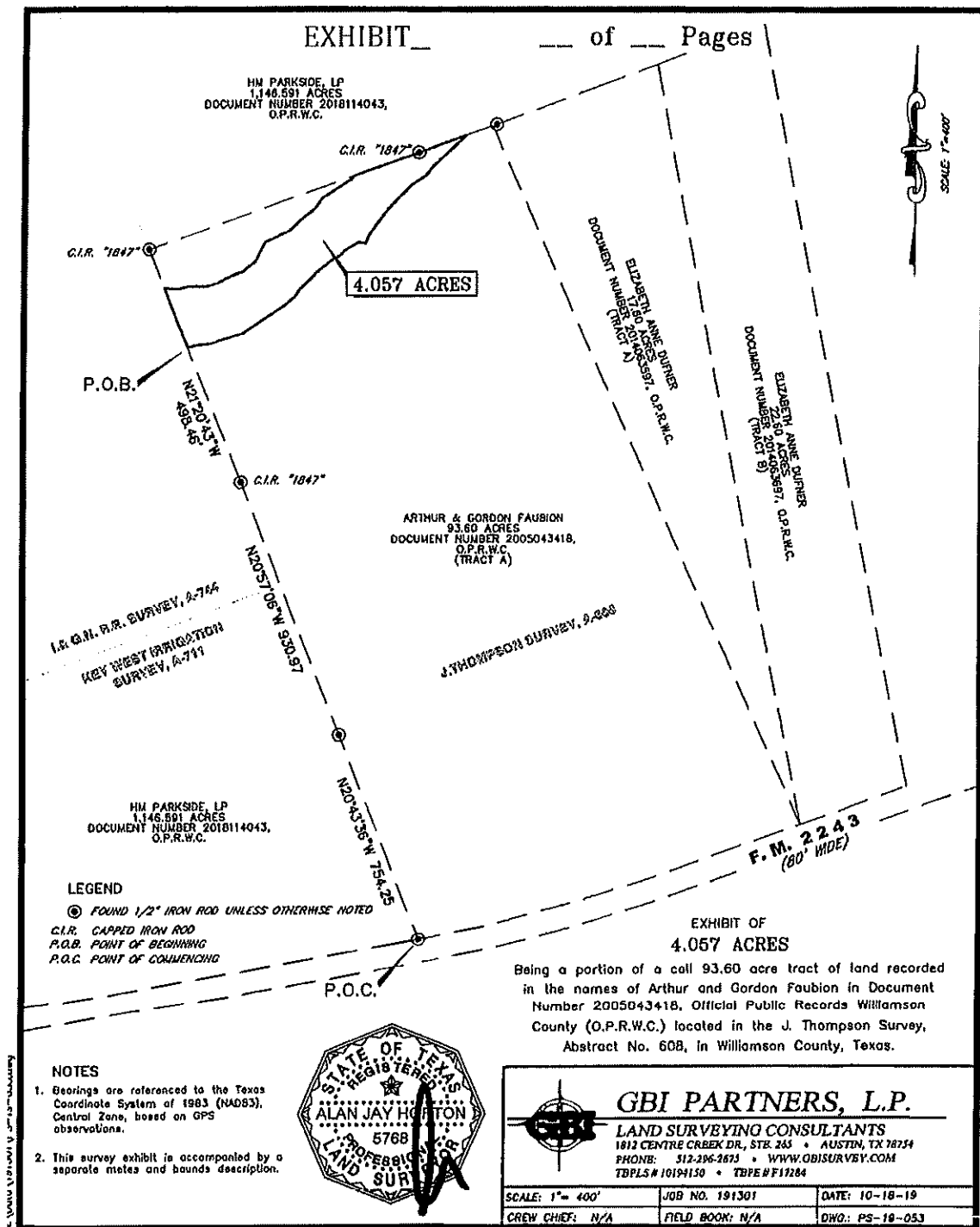
Thence, through and across said 93.60 acre tract the following twenty-one (21) courses;

1. South 46 degrees 56 minutes 27 seconds West, a distance of 105.90 feet;
2. South 44 degrees 29 minutes 49 seconds West, a distance of 51.54 feet;
3. South 37 degrees 58 minutes 01 seconds West, a distance of 36.81 feet;
4. South 55 degrees 50 minutes 25 seconds West, a distance of 57.92 feet;
5. South 41 degrees 59 minutes 58 seconds West, a distance of 122.81 feet;
6. South 34 degrees 51 minutes 37 seconds West, a distance of 100.85 feet;
7. South 20 degrees 20 minutes 48 seconds West, a distance of 29.67 feet;
8. North 83 degrees 58 minutes 15 seconds West, a distance of 24.66 feet;
9. South 58 degrees 49 minutes 41 seconds West, a distance of 44.57 feet;

10. South 43 degrees 39 minutes 07 seconds West, a distance of 24.26 feet;
11. South 58 degrees 17 minutes 02 seconds West, a distance of 48.53 feet;
12. South 49 degrees 22 minutes 32 seconds West, a distance of 61.07 feet;
13. South 44 degrees 13 minutes 58 seconds West, a distance of 47.21 feet;
14. South 48 degrees 40 minutes 37 seconds West, a distance of 28.25 feet;
15. South 28 degrees 55 minutes 50 seconds West, a distance of 24.73 feet;
16. South 49 degrees 33 minutes 56 seconds West, a distance of 46.35 feet;
17. South 55 degrees 33 minutes 55 seconds West, a distance of 170.89 feet;
18. South 72 degrees 59 minutes 20 seconds West, a distance of 70.55 feet;
19. South 69 degrees 00 minutes 16 seconds West, a distance of 39.94 feet;
20. South 82 degrees 15 minutes 23 seconds West, a distance of 42.04 feet;
21. South 78 degrees 12 minutes 37 seconds West, a distance of 38.88 feet to the **Point of Beginning** containing 4.057 acres.

GBI Partners, LP
TBPLS Firm No. 10194150
Ph: 512-296-2675
October 18, 2019





Williamson County, Texas
I. Donagan Survey, A-178

2.039 Acres
Page 1 of 6

FIELD NOTES DESCRIPTION

DESCRIPTION OF 2.039 ACRES OF LAND IN THE I. DONAGAN SURVEY, ABSTRACT NO. 178, WILLIAMSON COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 190.40 ACRE TRACT DESCRIBED IN THE DEED TO TEXAS CRUSHED STONE COMPANY OF RECORD IN VOLUME 743, PAGE 47, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 2.039 ACRES OF LAND, AS SURVEYED BY LANDDEV CONSULTING, LLC, BEING COMPRISED OF TRACT 1 (1.317 ACRES), AND TRACT 2 (0.722 OF ONE ACRE), AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

TRACT 1: 1.317 ACRES

COMMENCING at a calculated point in the approximate centerline of the South Fork of the San Gabriel River, at the northwest corner of the said 190.40 acre tract, same being a re-entrant corner in the east line of a certain called 1,143.511 acre tract designed as Tract 1 and described in the deed to HM PARKSIDE, LP of record in Document No. 2018114043, Official Public Records of Williamson County, Texas, from which a ½-inch iron rod with a plastic cap stamped "1847" found at an angle point in the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract bears S 01°52'09" E, a distance of 1,026.81 feet;

THENCE S 01°52'09" E, with the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract, a distance of 626.15 feet to a calculated point for the northwest corner and **POINT OF BEGINNING** of the tract described herein; from which the said ½-inch iron rod with a plastic cap stamped "1847" found at an angle point in the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract bears S 01°52'09" E, a distance of 400.66 feet;

THENCE leaving the east line of the said 1,143.511 acre tract, crossing the said 190.40 acre tract, with the north, east, and south lines of the tract described herein, the following twenty (20) courses and distances:

1. S 82°41'00" E, a distance of 63.31 feet to a calculated angle point,
2. S 71°25'17" E, a distance of 95.54 feet to a calculated angle point,
3. S 68°01'05" E, a distance of 31.78 feet to a calculated angle point,
4. S 57°18'45" E, a distance of 70.37 feet to a calculated angle point,
5. S 62°49'34" E, a distance of 79.52 feet to a calculated angle point,
6. N 85°29'50" E, a distance of 53.00 feet to a calculated angle point,
7. N 87°54'09" E, a distance of 106.48 feet to a calculated angle point,
8. S 82°38'29" E, a distance of 34.15 feet to a calculated point for the east corner of the tract described herein,
9. S 73°20'38" W, a distance of 12.09 feet to a calculated angle point,
10. S 68°11'32" W, a distance of 40.92 feet to a calculated angle point,
11. S 60°32'55" W, a distance of 29.38 feet to a calculated angle point,
12. S 75°58'35" W, a distance of 68.77 feet to a calculated angle point,
13. S 66°03'16" W, a distance of 43.80 feet to a calculated angle point,
14. N 86°02'55" W, a distance of 32.31 feet to a calculated angle point,
15. S 72°35'52" W, a distance of 59.44 feet to a calculated angle point,
16. S 80°13'55" W, a distance of 65.46 feet to a calculated angle point;
17. S 80°16'00" W, a distance of 39.46 feet to a calculated angle point,
18. S 58°27'42" W, a distance of 16.99 feet to a calculated angle point,

Williamson County, Texas
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2.039 Acres
Page 2 of 6

19. N 81°01'52" W, a distance of 64.16 feet to a calculated angle point, and
20. N 77°31'56" W, a distance of 48.06 feet to a calculated point in the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract, for the southwest corner of the tract described herein, from which the said ½-inch iron rod with a plastic cap stamped "1847" found at an angle point in the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract bears S 01°52'09" E, a distance of 190.12 feet;

THENCE N 01°52'09" W, with the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract, with the west line of the tract described herein, a distance of 210.54 feet to the **POINT OF BEGINNING** and containing 1.317 acres of land, more or less.

TRACT 2: 0.722 OF ONE ACRE

COMMENCING at a calculated point in the approximate centerline of the South Fork of the San Gabriel River, at the northwest corner of the said 190.40 acre tract, same being a re-entrant corner in the east line of a certain called 1,143.511 acre tract designed as Tract 1 and described in the deed to HM PARKSIDE, LP of record in Document No. 2018114043, Official Public Records of Williamson County, Texas;

THENCE, with the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract, the following three (3) courses and distances:

1. S 01°52'09" E, a distance of 1,026.81 feet to a ½-inch iron rod with a plastic cap stamped "1847" found at an angle point,
2. S 01°10'35" E, a distance of 167.79 feet to a calculated point for an angle point, from which a 3/8-inch iron rod found bears S 01°12'20" E, a distance of 2.69 feet, and
3. S 00°03'58" W, a distance of 22.59 feet to a calculated point for the northwest corner and **POINT OF BEGINNING** of the tract described herein;

THENCE leaving the east line of the said 1,143.511 acre tract, crossing the said 190.40 acre tract, with the north, east, and south lines of the tract described herein, the following twenty-eight (28) courses and distances:

1. S 85°07'30" E, a distance of 38.55 feet to a calculated angle point,
2. S 78°30'02" E, a distance of 61.29 feet to a calculated angle point,
3. N 86°25'44" E, a distance of 53.48 feet to a calculated angle point,
4. S 79°41'37" E, a distance of 37.29 feet to a calculated angle point,
5. S 58°01'07" E, a distance of 31.46 feet to a calculated angle point,
6. N 69°55'06" E, a distance of 48.53 feet to a calculated angle point,
7. N 52°23'39" E, a distance of 67.37 feet to a calculated angle point,
8. N 47°28'19" E, a distance of 55.87 feet to a calculated angle point,
9. N 51°10'01" E, a distance of 51.39 feet to a calculated angle point,
10. S 78°41'26" E, a distance of 28.34 feet to a calculated angle point,
11. N 36°22'37" E, a distance of 23.56 feet to a calculated angle point,
12. N 79°50'51" E, a distance of 41.55 feet to a calculated angle point,
13. N 72°31'07" E, a distance of 30.57 feet to a calculated angle point,
14. N 66°48'36" E, a distance of 32.44 feet to a calculated angle point,
15. N 86°22'18" E, a distance of 25.95 feet to a calculated angle point,

Williamson County, Texas
I. Donagan Survey, A-178

2.039 Acres
Page 3 of 6

16. N 77°23'53" E, a distance of 22.52 feet to a calculated angle point,
17. N 65°25'35" E, a distance of 46.48 feet to a calculated angle point,
18. N 60°45'55" E, a distance of 46.96 feet to a calculated angle point,
19. N 57°40'56" E, a distance of 26.60 feet to a calculated angle point,
20. N 81°52'31" E, a distance of 4.85 feet to a calculated angle point,
21. S 04°20'45" W, a distance of 12.34 feet to a calculated angle point,
22. S 58°43'52" W, a distance of 95.37 feet to a calculated angle point,
23. S 74°34'29" W, a distance of 49.46 feet to a calculated angle point,
24. S 61°41'30" W, a distance of 156.24 feet to a calculated angle point,
25. S 66°14'13" W, a distance of 68.73 feet to a calculated angle point,
26. S 43°49'19" W, a distance of 83.44 feet to a calculated angle point,
27. S 58°34'41" W, a distance of 97.35 feet to a calculated angle point, and
28. N 84°48'12" W, a distance of 224.98 feet to a calculated point in the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract, for the southwest corner of the tract described herein, from which a ½-inch iron pipe found at an angle point in the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract bears S 00°03'58" W, a distance of 250.49 feet;

THENCE N 00°03'58" E, with the west line of the said 190.40 acre tract and the east line of the said 1,143.511 acre tract, with the west line of the tract described herein, a distance of 68.65 feet to the **POINT OF BEGINNING** and containing 0.722 of one acre of land, more or less.

FOR A TOTAL AREA OF 2.039 ACRES, BEING ALL OF TRACT 1 (1.317 ACRES) AND ALL OF TRACT 2 (0.722 OF ONE ACRE).

Bearing Basis: Texas Coordinate System, Central Zone, NAD83, Grid.

THE STATE OF TEXAS

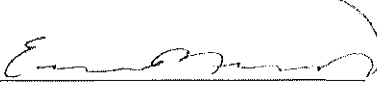
KNOW ALL MEN BY THESE PRESENTS:

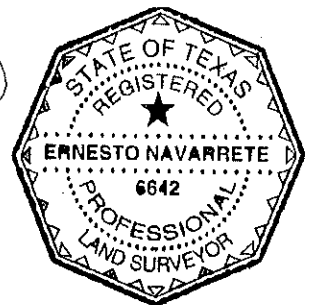
COUNTY OF TRAVIS

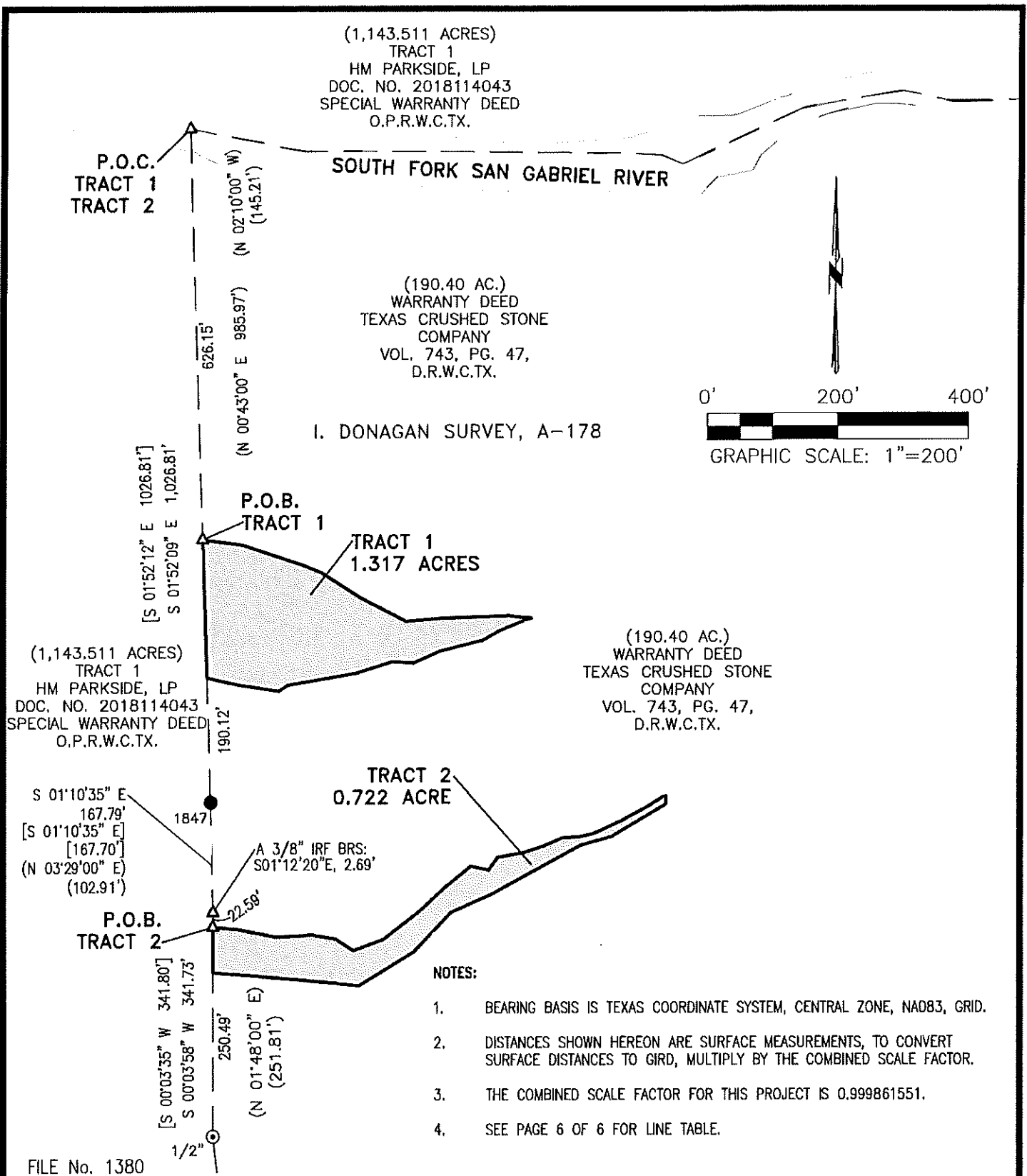
That I, Ernesto Navarrete, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the parcel of land described herein is based upon a survey performed upon the ground under my direct supervision during the month of March, 2021.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 03rd day of May 2021 A.D.

LANDDEV CONSULTING, LLC
5508 Highway 290 West, Suite 150
Austin, Texas 78735


Ernesto Navarrete
Registered Professional Land Surveyor
No. 6642 – State of Texas





FILE No. 1380

LAND DEV

CONSULTING, LLC
5508 HIGHWAY 290 WEST, SUITE 150
AUSTIN, TX 78735
OFFICE: 512.872.6696
TELEFAX: 512.872.6696

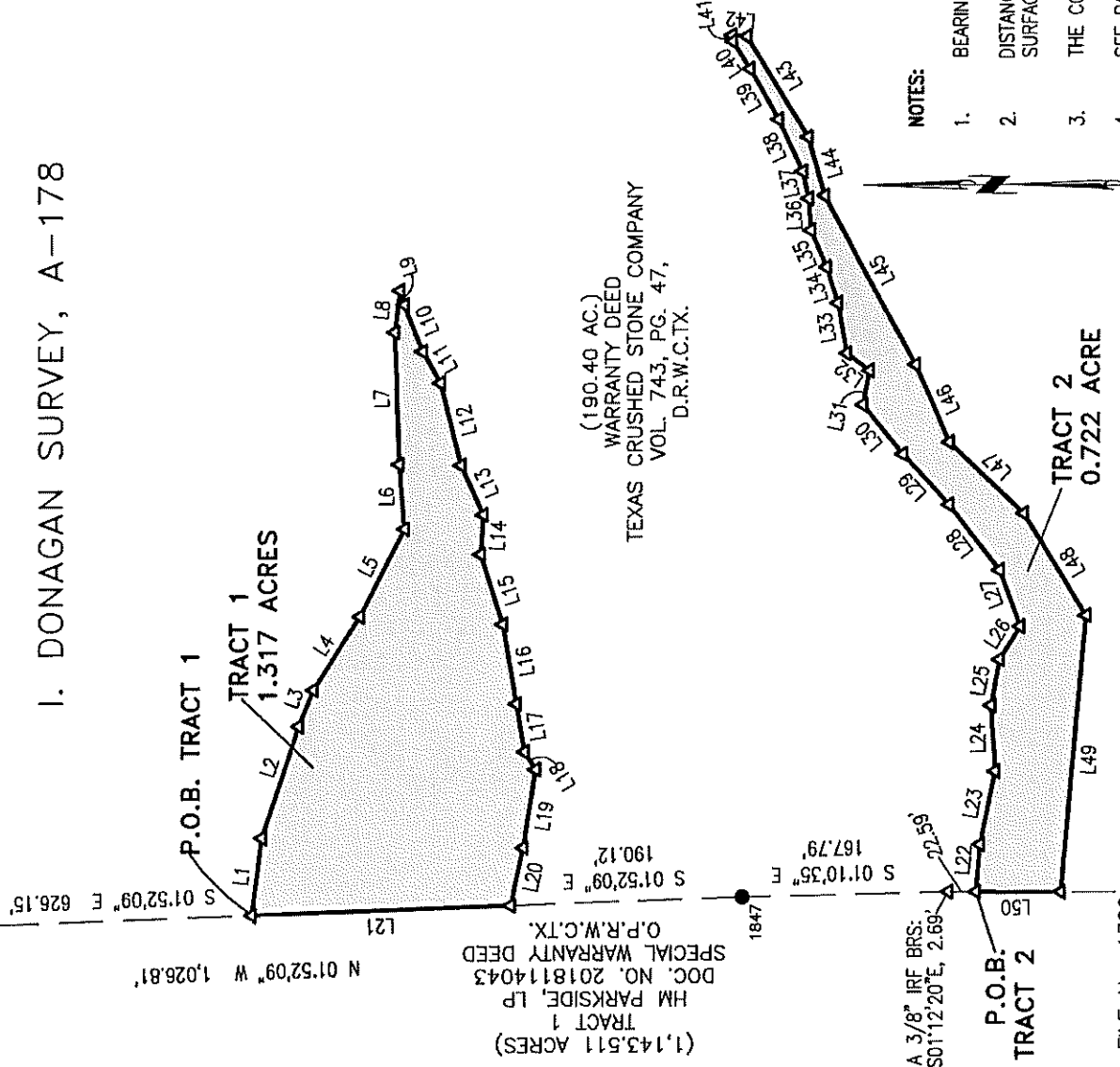
SURVEY SKETCH to Accompany Description:

TRACT 1 - 1.317 ACRES
TRACT 2 - 0.722 ACRE
I. DONAGAN SURVEY, ABSTRACT No. 178
WILLIAMSON COUNTY, TEXAS

I. DONAGAN SURVEY, A-178

LEGEND

- 1847
- ⊙ 1/2"
- △
- ()
- []
- P.O.C.
- P.O.B.
- D.R.W.C.TX.
- O.P.R.W.C.TX.
- 1/2" IRON ROD W/PLASTIC CAP STAMPED "RPLS 1847" FOUND
- 1/2" IRON PIPE FOUND
- CALCULATED POINT
- RECORD INFORMATION (PER VOL.743, PG.47, D.R.W.C.TX.)
- ADJOINER INFORMATION
- POINT OF COMMENCEMENT
- POINT OF BEGINNING
- DEED RECORDS OF WILLIAMSON COUNTY, TEXAS
- OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS



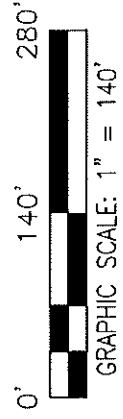
- NOTES:
1. BEARING BASIS IS TEXAS COORDINATE SYSTEM, CENTRAL ZONE, NAD83, GRID.
 2. DISTANCES SHOWN HEREON ARE SURFACE MEASUREMENTS, TO CONVERT SURFACE DISTANCES TO GRID, MULTIPLY BY THE COMBINED SCALE FACTOR.
 3. THE COMBINED SCALE FACTOR FOR THIS PROJECT IS 0.999861551.
 4. SEE PAGE 6 OF 6 FOR LINE TABLE.

LANDDEV

CONSULTING, LLC
5508 HIGHWAY 290 WEST, SUITE 150
AUSTIN, TX 78735
OFFICE: 512.872.6696
TELEPHONE: 512.872.6696

SURVEY SKETCH to Accompany Description:

TRACT 1 - 1.317 ACRES
TRACT 2 - 0.722 ACRE
I. DONAGAN SURVEY, ABSTRACT No. 178
WILLIAMSON COUNTY, TEXAS



LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S 82°41'00" E	63.31'
L2	S 71°25'17" E	95.54'
L3	S 68°01'05" E	31.78'
L4	S 57°18'45" E	70.37'
L5	S 62°49'34" E	79.52'
L6	N 85°29'50" E	53.00'
L7	N 87°54'09" E	106.48'
L8	S 82°38'29" E	34.15'
L9	S 73°20'38" W	12.09'
L10	S 68°11'32" W	40.92'
L11	S 60°32'55" W	29.38'
L12	S 75°58'35" W	68.77'
L13	S 66°03'16" W	43.80'
L14	N 86°02'55" W	32.31'
L15	S 72°35'52" W	59.44'
L16	S 80°13'55" W	65.46'
L17	S 80°16'00" W	39.46'
L18	S 58°27'42" W	16.99'
L19	N 81°01'52" W	64.16'
L20	N 77°31'56" W	48.06'
L21	N 01°52'09" W	210.54'
L22	S 85°07'30" E	38.55'
L23	S 78°30'02" E	61.29'
L24	N 86°25'44" E	53.48'
L25	S 79°41'37" E	37.29'

LINE TABLE		
LINE #	BEARING	DISTANCE
L26	S 58°01'07" E	31.46'
L27	N 69°55'06" E	48.53'
L28	N 52°23'39" E	67.37'
L29	N 47°28'19" E	55.87'
L30	N 51°10'01" E	51.39'
L31	S 78°41'26" E	28.34'
L32	N 36°22'37" E	23.56'
L33	N 79°50'51" E	41.55'
L34	N 72°31'07" E	30.57'
L35	N 66°48'36" E	32.44'
L36	N 86°22'18" E	25.95'
L37	N 77°23'53" E	22.52'
L38	N 65°25'35" E	46.48'
L39	N 60°45'55" E	46.96'
L40	N 57°40'56" E	26.60'
L41	N 81°52'31" E	4.85'
L42	S 04°20'45" W	12.34'
L43	S 58°43'52" W	95.37'
L44	S 74°34'29" W	49.46'
L45	S 61°41'30" W	156.24'
L46	S 66°14'13" W	68.73'
L47	S 43°49'19" W	83.44'
L48	S 58°34'41" W	97.35'
L49	N 84°48'12" W	224.98'
L50	N 00°03'58" E	68.65'

FILE No. 1380

LAND DEV
 CONSULTING, LLC
 5506 HIGHWAY 290 WEST, SUITE 150
 AUSTIN, TX 78735
 OFFICE: 512.872.6696
 TEMPLS FIRM NO. 10194101

SURVEY SKETCH to Accompany Description:

TRACT 1 - 1.317 ACRES
 TRACT 2 - 0.722 ACRE
 I. DONACAN SURVEY, ABSTRACT No. 178
 WILLIAMSON COUNTY, TEXAS