

TCEQ DOCKET NO. 2023-1665-DIS

APPLICATION FOR THE	§	
CREATION OF PERSIMMON	§	BEFORE THE TEXAS
MUNICIPAL UTILITY DISTRICT	§	
	§	COMMISSION ON
	§	
	§	ENVIRONMENTAL QUALITY

BAILEY LAND INVESTMENTS, LP'S
AND
ARMBRUSTER LAND INVESTMENTS, LP'S
RESPONSE TO HEARING REQUESTS

Bailey Land Investments, LP and Armbruster Land Investments, LP (“Petitioners”) respectfully submit this Response to Hearing Requests in the above-referenced matter.

I. INTRODUCTION AND PROCEDURAL HISTORY

The proposed Persimmon Municipal Utility District (“District”) contains approximately 459 acres located within Hays County, Texas.

It is critical to note that the land within the proposed District is no longer within the extraterritorial jurisdiction of the City of Buda. A copy of Resolution No. 2023-R-34 Extraterritorial Jurisdiction Release from the City of Buda is attached hereto as Exhibit 1.

The proposed district will be located approximately 750 feet north of the Haleys Way Drive and FM 967 intersection. The proposed District will purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to: (1) provide a water supply for municipal uses and commercial purposes; (2) collect, transport, process, dispose of and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; (3) gather, conduct, divert, and control local stormwater or other local harmful excesses of water in the proposed District and the payment of organization expenses, operational expenses during construction and interest during construction; (4) design, acquire,

construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; and (5) provide such other facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created.

II. APPLICABLE LAW

A municipal utility district (“MUD” or “district”) may be created under and subject to the authority, of Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, and the Commission’s administrative. A district may be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

TEX. WATER CODE § 54.012.

To create a MUD, a petition requesting creation shall be filed with the Commission. *See* TEX. WATER CODE § 54.014. The petition shall be signed by a majority in value of the holders of title of the land within the proposed district, as indicated by the tax rolls of the central appraisal district. *See id.* The petition shall: (1) describe the boundaries of the proposed district by metes and bounds or by lot and block number; (2) state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the

petition; and (3) include a name of the district which shall be generally descriptive of the locale of the district. *See* TEX. WATER CODE § 54.015, 30 TEX. ADMIN. CODE § 293.11(a) and (d).

The Commission shall grant the petition if it conforms to the requirements of section 54.015 of the Water Code and the project is feasible, practicable, necessary, and further, would be a benefit to the land to be included in the district. *See* TEX. WATER CODE § 54.021(a). In determining if the project is feasible, practicable, necessary, and beneficial to the land included in the district, the Commission shall consider:

- (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
 - (A) land elevation;
 - (B) subsidence;
 - (C) groundwater level within the region;
 - (D) recharge capability of a groundwater source;
 - (E) natural run-off rates and drainage;
 - (F) water quality; and
 - (G) total tax assessments on all land located within a district.

TEX. WATER CODE § 54.021(b).

A hearing requestor must make the request in writing within the time period specified in the notice and identify the requestor's personal justiciable interest affected by the application, specifically explaining the "requestor's location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public." 30 TEX. ADMIN. CODE § 55.251(b)—(d).

An affected person is “one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.” 30 TEX. ADMIN. CODE § 55.256(a). Governmental entities with authority under state law over issues contemplated by the application may be considered affected persons. See 30 TEX. ADMIN. CODE § 55.256(b). Relevant factors to be considered in determining whether a person is affected include, but are not limited to:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health, safety, and use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TEX. ADMIN. CODE § 55.256(c).

III. ANALYSIS OF HEARING REQUESTS

A. Governmental Entity Request

1. The City of Buda

The City of Buda requested a contested case hearing and asserts it is an affected person.

It is critical to note that the land within the proposed District is no longer within the extraterritorial jurisdiction of the City of Buda. A copy of Resolution No. 2023-R-34

Extraterritorial Jurisdiction Release from the City of Buda is attached hereto as Exhibit 1. The

District was removed from the City of Buda's ETJ on October 11, 2023. Therefore, as of that date, any arguments that the City has standing as an affected person is no longer valid.

Both the ED and OPIC's primary argument that the City of Buda has standing based on the ETJ status is without basis. The City has no statutory authority over or interest in the issues relevant to the application. It is simply incorrect that the District is within the City of Buda's ETJ.

Because the proposed District does not lie within the ETJ of the City of Buda, no consent from the City is necessary to its creation. Because the proposed District is not within the ETJ of the City of Buda and because the proposed District does not need consent from the City of Buda, the bases the ED and OPIC (and the City) set forth for concluding the City of Buda is an affected person do not exist. The City of Buda is not an affected person.

The City asserts that because a portion of the District is within the City of Buda's CCN for water service, it has an interest in this proceeding. Specifically, it states that "Buda has legal interests in the Property within its Water CCN."¹ Notwithstanding, by its own admission, the City has stated that "Buda simply lacks the capacity to provide water and wastewater services to Persimmon."² Therefore, whether a portion of the District is within the City's CCN is irrelevant.

Nothing in this hearing request shows that the City of Buda has a personal justiciable interest. 30 TEX. ADMIN. CODE § 55.256(a).

B. Individual Public Requests

1. Shawna-Lee Huskey, Brett Koger, Jesus Mares, Kody Schouten, and Kerri Webb.

¹ City of Buda Request at 5.

² City of Buda Request at 5.

In their requests, these individuals raised issues regarding the District's alleged impact on their homes and property. Their concerns primarily were the District's alleged drainage impacts and impacts on water quality and groundwater.

Other than by its mere existence, these requesters fail to identify how the District's activities will cause a likely impact of the regulated activity on the health, safety, and use of property of the person or how it will likely impact the use of the impacted natural resource by the person. They expressed interests only common to members of the general public. Their hearing request, therefore, does not qualify as a personal justiciable interest.” 30 Tex Admin. Code § 55.256(a).

2. Susan Hernandez and Doug Walker

The Applicant adopts and incorporates by reference the Executive Director's Response to Hearing requests for Susan Hernandez and Doug Walker.

Pursuant to 30 TAC § 55.251(d), hearing requests must be filed with the chief clerk within the time period specified in the notice. The notice of creation was last published on August 24, 2023, and the comment period closed September 25, 2023. According to the Commissioner's Integrated Database, Ms. Hernandez submitted her hearing request on October 11, 2023, and Mr. Walker submitted his request on September 27, 2023. Therefore, both of the individuals failed to file a timely hearing request, and the Commission should deny their hearing requests.

3. Art Arizpe, Michael Baran, Darren Bien, Debra Dulski, Connie Faber, David Fletcher, James Flores, Carol Gee, Gail Hall, Gerald Haschke, Bryan Huddleston, Virginia Jurika, Jeffrey C. Kaufmann, Stephen Kent Kinslow, JP Kirksey, Marta E. Knight, Aimee Lakey, Phillip Lakey, Robert Lambert, Elena Mares-Coyote, Sharon Neukam, Connie Nicholson, Cynthia C Pasadeos, Robin Perry, Scott Perry, Janet Pierce, Blythe Powell, Roxanne Rios, Kathy Sellstrom, Nathan Sewell, Sara Shannon, Natalie Gilmer, Martha Terrel, Sandra Tidwell, and James Van Eyk.

The Applicant adopts and incorporates by reference the Executive Director's Response to Hearing requests for the above referenced requesters.

Each of these requestors failed to comply with 30 TAC § 55.251 because they did not identify a justiciable interest or explain how the requestor will be uniquely affected by the district in a manner not common to members of the general public. The requests express generalized concerns about the proposed district's practicability rather than identifying something specific regarding the creation that affects them and that is within the Commission's jurisdiction to consider.

While the requests did identify issues, the requestors failed to specifically articulate how they would uniquely be affected. Impacts to groundwater and traffic were the dominant issues in the requests, but these specific hearing requests expressed general concerns about the practicability of the district without tying those concerns to a unique justiciable interest. Many claimed that their source of water is the Edwards Aquifer and were concerned about the impact to the aquifer, but such an interest is too attenuated to be considered unique, especially when such water is sourced through a communal well or city utility. The requestors also expressed concerns with the district's logistical impact as they believe the existing road infrastructure is inadequate to accommodate future residents.

While the issue of groundwater impact is material and relevant to the creation review process, the requestors did not tie the MUD's activities or impacts to an interest that was unique to them, such as private well. Regarding road impacts, it is not within the statutory framework for the Commission to consider as part of the creation process.

Therefore, having failed to identify a personal justiciable interest that would be affected in a manner not common to members of the general public and that is within the Commission's jurisdiction, the Commission should deny these hearing requests.

4. Rep. Erin Zwiener.

The Applicant adopts and incorporates by reference the Executive Director's Response to Hearing requests for Representative Erin Zwiener.

Rep. Zwiener did not identify any personal justiciable interests of her own that she believes could be uniquely affected by the proposed district. Because Rep. Zwiener's hearing request did not identify any personal justiciable interest unique to her, the Commission should deny her hearing request.

IV. CONCLUSION

None of the requests for contested case hearing identify any personal justiciable interest as required under the Texas Administrative Code. Specifically, the requests have not shown that any person would be affected by the proposed District in a manner not common to members of the general public or have statutory authority over or an interest in the issues relevant to the applications. Therefore, the requests do not meet the definition of an "affected person" and the hearing requests should be denied.

WHEREFORE, Petitioner requests that the hearing requests be denied and that the Petition be granted.

Respectfully submitted,

THE AL LAW GROUP PLLC

/s/ David Tuckfield

David J. Tuckfield

State Bar Number: 00795996

12400 West Hwy 71, Suite 350-150

Austin, TX 78738

Telephone: (512) 576-2481

Facsimile: (512) 366-9949

david@allawgp.com

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following parties as shown below on this 15th day of April 2024 as follows

By email:

TCEQ Executive Director

Harrison “Cole” Malley, Staff Attorney
TCEQ
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087
harrison.malley@tceq.texas.gov

The City of Buda

Alan Bojorquez
Bojorquez Law Firm Pc
11675 Jollyville Rd, Ste 300
Austin Tx 78759-3939
alan@texasmunicipallawyers.com

TCEQ Office of Public Interest Counsel

Jessica M. Anderson
Assistant Public Interest Counsel
State Bar No. 24131226
P.O. Box 13087, MC 103
Austin, Texas 78711-3087
Jessica.Anderson@tceq.texas.gov

TCEQ External Relations

Ryan Vise, Deputy Director
TCEQ External Relations Division
MC-108
P.O. Box 13087
Austin, Texas 78711-3087
ryan.vise@tceq.texas.gov

TCEQ Alternative Dispute Resolution

Kyle Lucas, Attorney
Texas Commission on Environmental
Quality
Alternative Dispute Resolution MC-222
P.O. Box 13087
Austin, Texas 78711-3087
kyle.lucas@tceq.texas.gov

I further hereby certify that a true and correct copy of the foregoing document was served on the following parties as shown below on this 16th day of April 2024 as follows

By first class mail:

Arizpe, Art
129 Clover Leaf Cv
Buda Tx 78610-2878

Baran, Michael
103 Nopal Ln
Buda Tx 78610-3260

Bien, Darren
1002 Magnolia Cv
Buda Tx 78610-2876

Alan Bojorquez
Bojorquez Law Firm PC
11675 Jollyville Rd, Ste 300
Austin Tx 78759-3939

Dulski, Debra
261 Kates Cv
Buda Tx 78610-3238

Faber, Connie
212 Longspur Dr
Buda Tx 78610-2652

Fletcher, David
PO Box 332
Manchaca Tx 78652-0332

Flores, James
121 Pilot Grove Ct
Buda Tx 78610-2773

Gee, Carol
123 Nopal Ln
Buda Tx 78610-3260

Hall, Gail
300 Treetop Way
Buda Tx 78610-2851

Hall, Thomas L
300 Treetop Way
Buda Tx 78610-2851

Haschke, Gerald
308 Fox Holw
Buda Tx 78610-2827

Hernandez, Susan
165 Amandas Way
Buda Tx 78610-2925

Huddleston, Bryan
12703 Sagebrush Cir
Buda Tx 78610-2806

Huskey, Shawna-Lee
210 Treetop Way
Buda Tx 78610-2840

Jurika, Virginia
161 Serene Hollow Ln
Buda Tx 78610-2791

Kaufmann, Jeffrey C
407 Leisurewoods Dr
Buda Tx 78610-2613

Kinslow, Stephen Kent
12610 Shady Acres Dr
Buda Tx 78610-2522

Kirksey, J P
12503 Scissortail Dr
Manchaca Tx 78652-3723

Knight, Marta E
305 Ranger Dr
Buda Tx 78610-2539

Koger, Brett
12507 Shady Acres Dr
Buda Tx 78610-2517

Lakey, Aimee & Phillip
1165 Clark Brothers Dr
Buda Tx 78610-5127

Lambert, Robert
298 Kates Cv
Buda Tx 78610-3235

Mares, Jesus
907 Magnolia Cv
Buda Tx 78610-2889

Mares-Coyote, Elena
907 Magnolia Cv
Buda Tx 78610-2889

Neukam, Sharon
1001 Laurel Cv
Buda Tx 78610-2872

Nicholson, Connie
119 Saguaro Dr
Buda Tx 78610-3262

Pasadeos, Cynthia C
2592 Garlic Creek Dr
Buda Tx 78610-5187

Perry, Robin & Scott
307 Lakewood Dr
Buda Tx 78610-2507

Pierce, Janet
13100 Onion Creek Dr
Manchaca Tx 78652-5620

Powell, Blythe
230 Treetop Way
Buda Tx 78610-2840

Rios, Roxanne
1129 Haleys Way Dr
Buda Tx 78610-3206

Schouten, Kody
804 Laurel Cv
Buda Tx 78610-2874

Sellstrom, Kathy
301 Buttercup Trl
Buda Tx 78610-2832

Sewell, Nathan
12701 Pheasant Run
Buda Tx 78610-2531

Shannon, Sara
307 Raccoon Run
Buda Tx 78610-2834

Shebel, Natalie Gilmer
12615 Eagle Nest Dr
Buda Tx 78610-2447

Terrel, Martha
905 Magnolia Cv
Buda Tx 78610-2889

Twidwell, Sandra
100 Devons Cv
Buda Tx 78610-2893

Van Eyk, James
301 Treetop Way
Buda Tx 78610-2853

Walker, Doug
1366 Heep Run
Buda Tx 78610-5093

Webb, Kerri
213 Amandas Way
Buda Tx 78610-2926

The Hon. Rep. Erin Zwiener
Texas House of Representatives
District 45
PO Box 2910
Austin Tx 78768-2910

/s/ David Tuckfield
David J. Tuckfield

EXHIBIT 1

RESOLUTION NO. 2023-R-34

EXTRATERRITORIAL JURISDICTION RELEASE

**A RESOLUTION OF THE CITY OF BUDA, TEXAS FOR THE RELEASE OF
LAND FROM THE CITY'S EXTRATERRITORIAL JURISDICTION (ETJ)
UPON REQUEST AND PROVIDING FOR FINDINGS OF FACT,
REPEALER, SEVERABILITY, EFFECTIVE DATE, PROPER NOTICE, AND
MEETING**


- WHEREAS,** pursuant to Texas Local Government Code Section 51.001, the City of Buda ("City") has general authority to adopt an ordinance, resolution, or police regulation that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and
- WHEREAS,** pursuant to Texas Senate Bill 2038 passed by the Texas State Legislature in the 88th Legislative Session, Texas Local Government Code Chapter 42 allows for the release of an area from the City's extraterritorial jurisdiction ("ETJ") by petition of landowners or by election; and
- WHEREAS,** pursuant to Texas Local Government Code Section 42.102, a resident of an area or the owners of the majority in value of an area in the City's ETJ may file a petition with the City Secretary for the area to be released from the ETJ; and
- WHEREAS,** pursuant to Texas Local Government Code Section 42.152, a resident of an area in the City's ETJ may request the City to hold an election to vote on the question of whether to release the area from the City's ETJ by filing a petition with the City Secretary; and
- WHEREAS,** the City Council has received a petition for the release of a certain tract of land more commonly known as Persimmon ("Property"), which Property is more accurately described in Exhibit A, which is attached hereto and incorporated herein; and,
- WHEREAS,** having received verification from the City Clerk, the City Council finds the attached ETJ Release Petition for the Property ("Petition"), which is attached here as Exhibit A and incorporated herein, is valid and this Resolution is necessary and proper for the good government, peace, or order of the City to release the Property from the City's ETJ.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Buda, Texas:

- Section 1. Findings of Fact:** The foregoing recitals are incorporated into this resolution ("Resolution") by reference as findings of fact as if expressly set forth word-for-word herein.
- Section 2. Release:** The Petition is hereby considered verified; therefore, the Property as described in the Petition is hereby released from the City's ETJ.
- Section 3. Filing:** The City Secretary is hereby directed to file a certified copy of this Resolution and an updated map of the City's ETJ boundary with the County Clerk of Hays County, Texas.
- Section 4. Repealer:** To the extent reasonably possible, resolutions are to be read together in harmony. However, all resolutions, or parts thereof, that 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 regulated.
- Section 5. Severability:** Should any of the clauses, sentences, paragraphs, sections, or parts of this Resolution be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Resolution.
- Section 6. Effective Date:** This Resolution shall take effect upon the date of final passage noted below, or when all applicable publication requirements, if any, are satisfied in accordance with the City's Charter, its Code of Ordinances, and the laws of the State of Texas.
- Section 7. Proper Notice & Meeting:** It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.


PASSED & ADOPTED by the City Council of the City of Buda, on this, the 11th day of October, 2023.

CITY OF BUDA, TEXAS

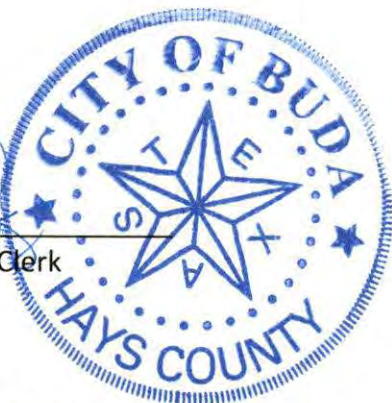


Lee Urbanovsky, Mayor

ATTEST:



Alicia Ramirez, City Clerk



APPROVED AS TO FORM:

Alan Bojorquez, City Attorney

Exhibit "A"

ETJ Release Petition





4301 Bull Creek Rd. Ste 150
Austin, Texas 78731
phone 512.328.2008
fax 512.328.2409
www.mcleanhowardlaw.com

September 1, 2023

City of Buda
Attn: Alicia Ramirez, City Clerk
405 E. Loop Street, Building 100
Buda, Texas 78610

Via Hand Delivery

RE: Request and Petition for Release of Property from the Extraterritorial Jurisdiction
of the City of Buda

Dear Ms. Ramirez:

On behalf of Bailey Land Investments, LP and Armbruster Land Investments, LP (collectively, "Petitioners"), the owners of property located within the extraterritorial jurisdiction of the City of Buda, enclosed please find a Corrected and Restated Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Buda (the "Petition"). This Corrected and Restated Request and Petition for Release of Property from the Extraterritorial Jurisdiction corrects and supersedes the original Request and Petition for Release of Property from the Extraterritorial Jurisdiction filed with the City on June 20, 2023.

In accordance with Sections 42.101-105 of the Texas Local Government Code, the Petitioner requests the release of lands owned by the Petitioner from the City's extraterritorial jurisdiction, as more particularly described in the Petition. We appreciate the City's action regarding this Petition.

Please file stamp and return the enclosed extra copy of the Petition.

Sincerely,

A handwritten signature in blue ink that reads 'Jeff Howard'.

Jeffrey S. Howard

RECEIVED
SEP 01 2023
CITY OF BUDA

**CORRECTED AND RESTATED
REQUEST AND PETITION FOR RELEASE OF PROPERTY FROM THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF BUDA
(459 ACRES)**

TO THE MAYOR OF THE GOVERNING BODY OF THE CITY OF BUDA, TEXAS:

The undersigned ("Petitioners"), acting pursuant to the provisions of Sections 42.101-105 of the Texas Local Government Code, respectfully petitions the City of Buda (the "City") to release the land described by metes and bounds on Exhibit "A" and depicted on Exhibit "A-1" (the "Land"; Bailey Land Investments, LP and Armbruster Land Investments, LP owning the portions of the Land as identified Exhibit "A-1") from the extraterritorial jurisdiction ("ETJ") of the City. In support of this petition, Petitioners would show the following:

I.

This Corrected and Restated Request and Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Buda corrects and supersedes the original Request and Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Buda filed with the City on June 20, 2023.

II.

Petitioners are the owners of all of the Land, comprised of approximately 459.0 acres currently situated within the extraterritorial boundaries of the City in Hays County, Texas, and is fully described by metes and bounds on Exhibit "A", attached hereto and incorporated herein by reference. Petitioners certify that the description of the Land attached as Exhibit "A" is true and correct. A map of the Land to be released is attached hereto as Exhibit "B".

III.

Pursuant to Section 43.102(b) of the Texas Local Government Code, Petitioners certify that they are the owners of one hundred percent (100%) in value of the holders of title of the Land pursuant to the tax rolls of the Hays County Appraisal District as evidenced by Exhibit "C" and are, therefore, authorized to file this Petition.

IV.

To the extent required by applicable law, this Petition has satisfied the signature requirements described in Sections 42.103 and 42.104(a) of the Texas Local Government Code and Chapter 277 of the Texas Election Code, not later than the 180th day after the date the first signature for the Petition is obtained.

V.

The individual who executed this Petition on behalf of the Petitioners is fully authorized to sign this Petition as evidenced by Exhibit "D". The signatures are hereby sufficient to effectuate the immediate release of the Land from the City's ETJ. If the City fails to take action to release the Land by the later of the 45th day after the date the City receives this Petition or the next meeting of the City's governing body that occurs after the 30th day after the date the City receives this Petition, the Land is released by operation of law.

VI.

Petitioners pray that (i) this Petition be verified by the City Secretary or other person at the City responsible for verifying signatures, (ii) the Petitioner be notified of the results, and (iii) this Petition be granted, immediately releasing the Land from the City's ETJ. This petition for release from the City's ETJ is not, nor should it be constructed as, a voluntary request or consent for the Land to be included in or added to the ETJ or corporate boundaries of any other municipality.

Executed to be effective as of the 1st day of September, 2023.

* * *

SIGNATURE PAGE TO
CORRECTED AND RESTATED
REQUEST AND PETITION FOR RELEASE OF PROPERTY FROM THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF BUDA
(459 ACRES)

PETITIONERS:

BAILEY LAND INVESTMENTS, LP
a Texas limited partnership

By: Bailey Land Investments GP, LLC,
a Texas limited liability company,
its General Partner

By: 
Terry LaGrone, Authorized Signatory

Date: 8/30/2023

DOB or VRN of Signer: 7/19/1969

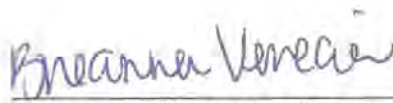
Residence Address of Signer:

21305 Bison Tr
690 Gista TX 78645

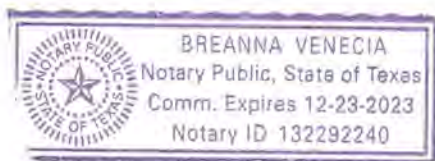
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 30th day of August, 2023 by Terry LaGrone, Authorized Signatory of Bailey Land Investments GP, LLC, a Texas limited liability company, General Partner of Bailey Land Investments, LP, a Texas limited partnership, on behalf of said limited partnership and limited liability company.


Notary Public, State of Texas

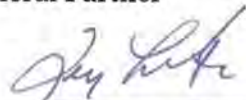
(SEAL)



SIGNATURE PAGE TO
CORRECTED AND RESTATED
REQUEST AND PETITION FOR RELEASE OF PROPERTY FROM THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF BUDA
(459 ACRES)

ARMBRUSTER LAND INVESTMENTS, LP,
a Texas limited partnership

By: Armbruster Land Investments GP, LLC,
a Texas limited liability company,
its General Partner

By: 
Terry LaGrone, Authorized Signatory

Date: 7/30/2023

DOB or VRN of Signer: 7/19/1969

Residence Address of Signer:

21305 Bison Tr
Lago Vista TX 78645

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 30th day of August, 2023 by Terry LaGrone, Authorized Signatory of Armbruster Land Investments GP, LLC, a Texas limited liability company, General Partner of Armbruster Land Investments, LP, a Texas limited partnership, on behalf of said limited partnership and limited liability company.

(SEAL)


Notary Public, State of Texas

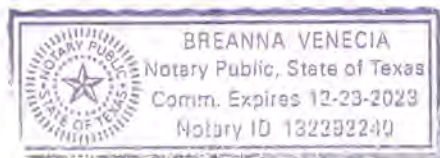


EXHIBIT "A"
THE LAND

Exhibit A



**Professional Land Surveying, Inc.
Surveying and Mapping**

Exhibit "A"

Office: 512-443-1724
Fax: 512-389-0943

3500 McCall Lane
Austin, Texas 78744

**459.0 ACRES
S.V.R. EGGLESTON SURVEY NO. 3, ABS. NO. 5,
HAYS COUNTY, TEXAS**

A DESCRIPTION OF APPROXIMATELY 459.0 ACRES OF LAND, MORE OR LESS, OUT OF THE S.V.R. EGGLESTON SURVEY NUMBER 3, ABSTRACT NUMBER 5 OF HAYS COUNTY, TEXAS, BEING A PORTION OF A 79.00 ACRE TRACT CONVEYED TO ARMBRUSTER LAND INVESTMENTS, LP., IN DOCUMENT NO. 21071113 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, BEING A PORTION OF A 217.066 ACRE TRACT, SAVE AND EXCEPT 79.000 ACRES, CONVEYED TO ARMBRUSTER LAND INVESTMENTS, LP., IN DOCUMENT NO. 202184020 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS AND DOCUMENT NO(S). 21071107 AND 21071108 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY TEXAS AND ALSO BEING A PORTION OF A 208.892 ACRE TRACT CONVEYED TO ARMBRUSTER LAND INVESTMENTS, LP., IN DOCUMENT NO(S). 2021280420, 2021280421, 2021280422, 2021280423, 2021280424, 2021280425 AND 2021280426, ALL OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS AND DOCUMENT NO(S). 21071107, 21071109, 21071110, 21071111, 21071112, 21071114 AND 21071115, ALL OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, ALSO BEING A PORTION OF A 348.277 ACRE TRACT AND A PORTION OF LOT 1, BLOCK T, THE WOODS OF BEAR CREEK, A SUBDIVISION OF RECORD IN VOLUME 3, PAGE 347 OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS, BOTH CONVEYED TO BAILEY LAND INVESTMENT, LP, IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DATED JUNE 3, 2021 AND RECORDED IN DOCUMENT NO. 21030465 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 459.0 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 3/8" rebar found in the north right-of-way line of F.M. 967 (right-of-way width varies), being the southwest corner of said 79.000 acre tract, being also the southwest corner of said 217.066 acre tract, also being the south termination of the agreed boundary line described in Volume 222, Page 163 of the Deed Records of Hays County, Texas and also being the southwest corner of Lot 1, Cimarron Professional Park Section One, a subdivision of record in Volume 7, Page 306 of the Plat Records of Hays County, Texas;

THENCE North 01°35'28" West, with said agreed boundary line, being the west line of the 79.000 acre tract, same being the east lines of Lots 1 and 2, said Cimarron Professional Park, Section One, a distance of 454.21 feet to a calculated point for the **POINT OF BEGINNING** hereof;

THENCE North $01^{\circ}35'28''$ West, continuing, with said agreed boundary line, being the west line of the 79.000 acre tract, the west line of the 217.066 acre tract, with the east line of said Lot 2, also with the east right-of-way line of Dove Drive (right-of-way width varies), described in Volume 4, Page 126, Volume 3, Page 99 and Volume 4, Page 363, all of the Plat Records of Hays County, Texas, also with the east lines of Coves of Cimmaron, a subdivision of record in Volume 3, Page 99, corrected in Volume 4, Page 363, both of the Plat Records of Hays County, Texas, with the east line of Cimmaron Park Section III, Phase III, a subdivision of record in Volume 3, Page 37 of the Plat Records of Hays County, Texas, distance of 5009.08 feet to a $1/2''$ iron pipe found for the northwest corner of the 217.066 acre tract, being the northeast corner of Lot 42, Block F, said Cimarron Park Section III, Phase III and also being in the south line of said 208.892 acre tract;

THENCE South $89^{\circ}18'45''$ West, with the south line of the 208.892 acre tract, same being the north line of Cimarron Park Section III, Phase III, a distance of 1050.80 feet to a $1/2''$ rebar with "Chaparral" cap set for the southwest corner of the 208.892 acre tract, being the northwest corner of Lot 14, Block E and also being in the east line of Lot 7, Block E, both of Cimarron Park Section III, Phase III;

THENCE North $01^{\circ}36'39''$ West, with the west line of the 208.892 acre tract, same being the west line of Cimarron Park Section III, Phase III, the east line of Cimarron Park Section Three Phase Two, a subdivision of record in Volume 2, Page 321 of the Plat Records of Hays County, Texas, the east line of a 0.629 acre tract described in Document No. 18022446 of the Official Public Records, the east line of a 0.83 acre tract described in Volume 962, Page 90 of the Deed Records, the east line of a 0.852 acre tract described in Volume 525, Page 85 of the Deed Records, the east line of a 0.346 acre tract described in Volume 988, Page 579 of the Deed Records, the east line of a 1.00 acre tract described in Volume 2656, Page 108 of the Deed Records, the east line of a 1.00 acre tract described in Volume 388, Page 516 of the Deed Records, the east line of a 1.00 acre tract described in Document No. 20056742 of the Official Public Records, the east line of a 1.00 acre tract described in Volume 742, Page 640 of the Deed Records, the east line of a 1.00 acre tract described in Volume 1100, Page 212 of the Deed Records and the east line of a 1.46 acre tract described in Volume 796, Page 317 of the Deed Records, all of Hays County, Texas, a distance of 3092.05 feet to a calculated point in the approximate northeast line of the City of Buda E.T.J. (extraterritorial jurisdiction) line, same being the approximate southwest line of the City of Austin E.T.J. line;

THENCE crossing the 208.892 acre tract and the 217.066 acre tract, with said approximate E.T.J. line, the following four (4) courses and distances:

1. South $37^{\circ}11'33''$ East, a distance of 2952.81 feet to a calculated point;
2. South $43^{\circ}40'39''$ East, a distance of 1026.83 feet to a calculated point;

Page 3

3. South 50°36'22" East, a distance of 482.65 feet to a calculated point;
4. South 67°28'52" East, a distance of 197.26 feet to a calculated point in the east line of the 217.066 acre tract, same being the west line of said 348.277 acre tract;

THENCE crossing the 348.277 acre tract, continuing with the approximate E.T.J. line, the following five (5) courses and distances:

1. South 54°27'08" East, a distance of 84.54 feet to a calculated point;
2. South 57°40'22" East, a distance of 887.17 feet to a calculated point;
3. South 65°19'16" East, a distance of 381.65 feet to a calculated point;
4. South 64°10'31" East, a distance of 395.95 feet to a calculated point;
5. South 72°26'48" East, a distance of 347.68 feet to a calculated point in the east line of the 348.277 acre tract, same being the west line of a 97.36 acre tract described in Volume 153, Page 490 of the Deed Records of Hays County, Texas;

THENCE with the east line of the 348.277 acre tract, same being the west line of said 97.36 acre tract, the following four (4) courses and distances:

1. South 01°18'09" East, a distance of 400.41 feet to a calculated point;
2. South 01°46'48" East, a distance of 310.90 feet to a calculated point;
3. South 01°45'49" West, a distance of 241.89 feet to a calculated point;
4. South 01°50'33" East, a distance of 288.45 feet to a calculated point for the northwest corner of a 98.01 acre tract described in Volume 203, Page 527 of the Deed Records of Hays County, Texas;

THENCE continuing with the east line of the 348.277 acre tract, same being the west line of said 98.01 acre tract, the following six (6) courses and distances:

1. South 55°03'49" West, a distance of 24.59 feet to a calculated point;
2. South 56°08'39" West, a distance of 85.68 feet to a calculated point;
3. South 14°07'00" West, a distance of 239.07 feet to a calculated point;
4. South 15°54'31" East, a distance of 63.94 feet to a calculated point;

Page 4

5. South 08°18'35" West, a distance of 463.00 feet to a calculated point;
6. South 07°22'38" West, a distance of 455.90 feet to a calculated point for the north corner of a graveyard referenced in Volume 203, Page 527 of the Deed Records of Hays County, Texas;

THENCE continuing with the east line of the 348.277 acre tract, same being the west line of said graveyard, the following two (2) courses and distances:

1. South 25°57'19" West, a distance of 31.27 feet to a calculated point;
2. South 39°05'02" West, a distance of 272.60 feet to a calculated point for the southwest corner of the graveyard, being the northwest corner of an 81.67 acre tract described in Volume 1001, Page 24 of the Deed Records of Hays County, Texas;

THENCE with the east line of the 348.277 acre tract, being the west line of said 81.67 acre tract, the following two (2) courses and distances:

1. South 51°26'41" West, a distance of 333.89 feet to a calculated point;
2. South 25°00'46" West, a distance of 238.99 feet to a calculated point for the northernmost west corner of the 81.67 acre tract, being the north corner of Creekside Park Section Two, P.U.D. Final Plat, a subdivision of record in Volume 8, Page 283 of the Plat Records of Hays County, Texas;

THENCE continuing with the east line of the 348.277 acre tract, same being the west line of said Creekside Park Section Two, the following two (2) courses and distances:

1. South 24°36'19" West, a distance of 35.08 feet to a calculated point;
2. South 24°16'53" West, a distance of 999.38 feet to a calculated point for the southeast corner of the 348.277 acre tract;

THENCE with the south line of the 348.277 acre tract, in part with the north line of Creekside Park Section Two and the north line of Lot 28, Block A, Creekside Park Section One, P.U.D. Final Plat, a subdivision of record in Volume 8, Page 103 of the Plat Records of Hays County, Texas, the following two (2) courses and distances:

1. South 89°30'14" West, a distance of 191.49 feet to a calculated point;
2. South 85°18'14" West, a distance of 140.04 feet to a calculated point in the south line of said Lot 1;

THENCE continuing with the south line of the 348.277 acre tract, same being the south

line of Lot 1 and also being the north line of said Creekside Park Section One, the following seven (7) courses and distances:

1. South 62°49'33" West, a distance of 229.00 feet to a calculated point;
2. South 88°24'33" West, a distance of 97.00 feet to a calculated point;
3. South 60°06'42" West, a distance of 262.00 feet to a calculated point;
4. South 21°49'52" West, a distance of 64.00 feet to a calculated point;
5. South 56°52'57" West, a distance of 208.35 feet to a calculated point;
6. South 48°06'33" West, a distance of 92.00 feet to a calculated point;
7. South 62°01'33" West, a distance of 88.26 feet to a calculated point in the east right-of-way line of F.M. 967, being the southernmost southwest corner of the 348.277 acre tract and also being the south corner of a 0.062 acre tract, described in Document No. 21059955 of the Official Public Records of Hays County, Texas;

THENCE North 00°22'18" East, with the east right-of-way line of F.M. 967, same being the east line of said 0.062 acre tract, also being a west line of the 348.277 acre tract and crossing Lot 1, a distance of 263.17 feet to a calculated point for the southernmost northeast corner of the 348.277 acre tract, being the northwest corner of the 0.062 acre tract, also being in the south line of a 0.1337 acre tract described in Volume 5102, Page 282 of the Official Public Records of Hays County, Texas;

THENCE with the common lines of the 348.277 and said 0.1337 acre tract, crossing Lot 1, the following three (3) courses and distances:

1. South 89°37'52" East, a distance of 85.03 feet to a calculated point;
2. North 00°22'18" East, a distance of 65.00 feet to a calculated point;
3. North 89°37'42" West, a distance of 71.90 feet to a calculated point in the east right-of-way line of F.M. 967, same being the east line of a 0.499 acre tract described in Document No. 21059955 of the Official Public Records of Hays County, Texas and also being in a west line of the 348.277 acre tract;

THENCE with the east right-of-way line of F.M. 967, same being the east line of said 0.499 acre tract, also being a west line of the 348.277 acre tract, in part continuing across Lot 1, the following five (5) courses and distances:

1. With a curve to the left, having a radius of 127.00 feet, a delta angle of 80°05'43",

an arc length of 177.54 feet, and a chord which bears North 21°02'27" East, a distance of 163.43 feet to a calculated point;

2. With a curve to the right, having a radius of 168.00 feet, a delta angle of 27°35'13", an arc length of 80.89 feet, and a chord which bears North 05°12'47" West, a distance of 80.11 feet to a calculated point;
3. South 88°30'13" West, a distance of 16.72 feet to a calculated point;
4. With a curve to the right, having a radius of 184.33 feet, a delta angle of 09°34'54", an arc length of 30.83 feet, and a chord which bears North 12°22'05" East, a distance of 30.79 feet to a calculated point;
5. North 74°07'17" West, in part with the north line of a 0.032 acre tract described in Document No. 21059958 of the Official Public Records of Hays County, Texas, a distance of 93.30 feet to a 1/2" rebar with "BGE" cap found for an angle point in the north right-of-way line of F.M. 967, being the northwest corner of said 0.032 acre tract, also being the southwest corner of the 348.277 acre tract, being in the east line of the 217.066 acre tract, same being the east line of the 79.000 acre tract;

THENCE with the east line of the 217.066 acre tract, and the east line of the 79.000 acre tract, same being the north right-of-way line of F.M. 967, the following two (2) courses and distances:

1. South 14°59'24" West, a distance of 53.72 feet to a 1/2" iron pipe found;
2. South 12°21'43" West, a distance of 6.44 feet to a 1/2" rebar with "BGE" cap found for the southeast corner of 217.066 acre tract, being the southeast corner of the 79.000 acre tract;

THENCE South 88°34'15" West, with the north right-of-way line of F.M. 967, same being the south line of the 217.066 acre tract and the south line of the 79.000 acre tract, a distance of 84.09 feet to a calculated point;

THENCE crossing the 217.066 acre tract and the 79.000 acre tract, the following two (2) courses and distances:

1. North 14°47'42" East, a distance of 499.03 feet to a calculated point;

Page 7

2. South $87^{\circ}51'02''$ West, a distance of 1207.60 feet to the **POINT OF BEGINNING**, containing 459.0 acres of land, more or less.

Surveyed on the ground on November 12, 2021. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from The National Geodetic Survey (RTN) on-line positioning user service (OPUS) for Chaparral control point "3". Attachments: Survey Drawing No. 759-022-MUD.

Paul J. Flugel

5-11-2023

Paul J. Flugel Date
Registered Professional Land Surveyor
State of Texas No. 5096
TBPLS Firm No. 10124500



EXHIBIT "A-1"

Exhibit A-1

EXHIBIT “B”
MAP

Exhibit B

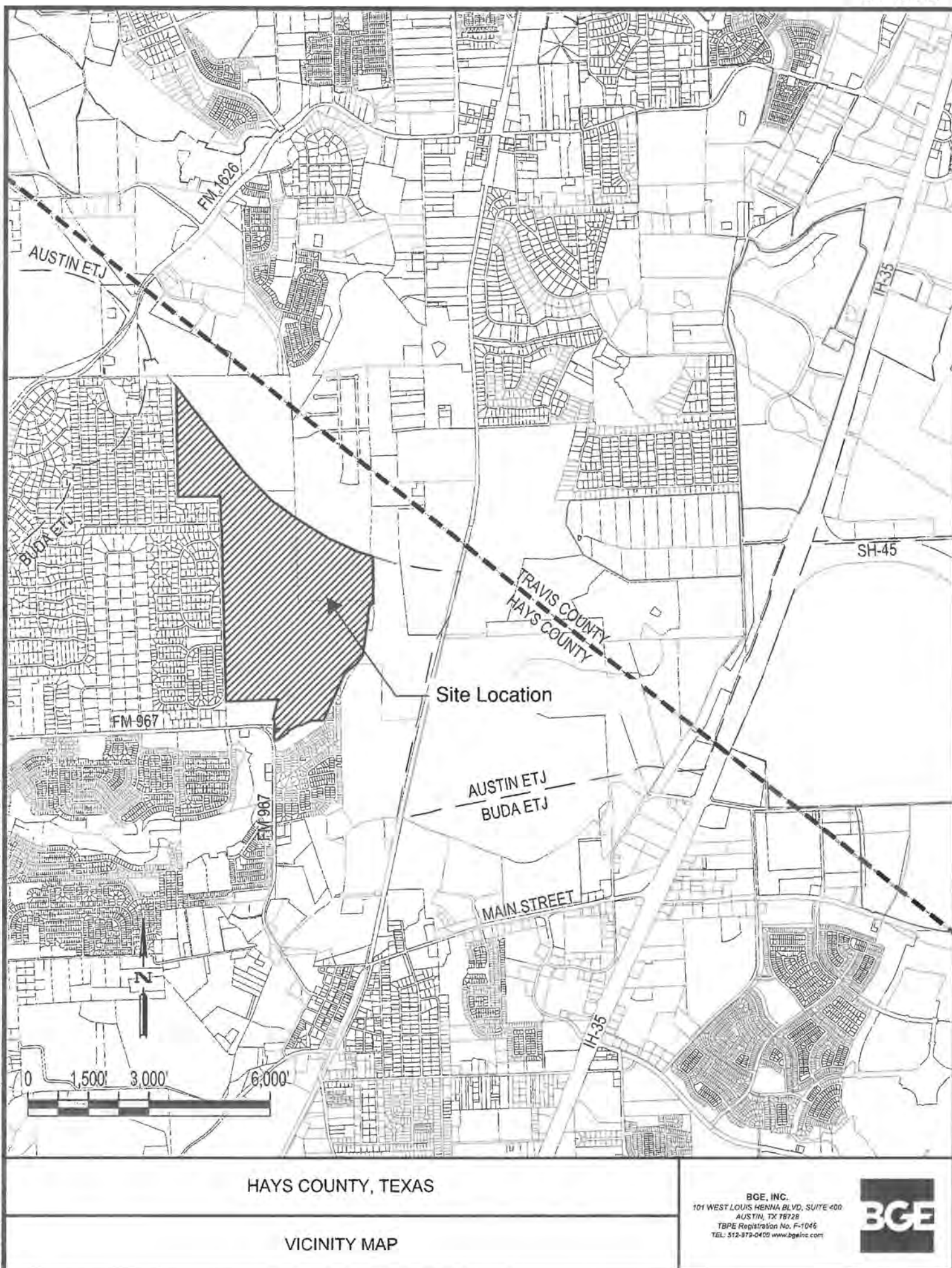


EXHIBIT "C"
CERTIFICATE OF OWNERSHIP

Exhibit C

**Hays
Central
Appraisal
District**



512-268-2522 ■ Lex Word Building ■ 21001 IH 35 ■ Kyle, Texas 78640 ■ info@hayscad.com

CERTIFICATE OF OWNERSHIP

STATE OF TEXAS §

COUNTY OF HAYS §

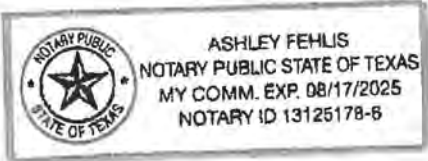
Pursuant to the authority granted by Section 49.184(f) Texas Water Code, I, Laura Raven, Chief Appraiser of the Hays Central Appraisal District of Hays County, hereby certify that I have examined the appraisal records of Hays Central Appraisal District and find that Armbruster Land investments LP and Bailey Land Investments LP are the only owners of lands within the real property encompassing approximately 459 acres of real property being more particularly described in Exhibit "A" attached hereto and proposed to be included within Persimmon Municipal Utility District (or some other name as permitted or required by law) and that such tract of real property is located within Hays County.


Laura Raven, Chief Appraiser

STATE OF TEXAS §

COUNTY OF HAYS §

This instrument was acknowledged before me on the 19th day of May 2023, by Laura Raven, Chief Appraiser of the Hays Central Appraisal District.




Notary Public in and for the State of Texas

EXHIBIT “D”
SIGNATURE AUTHORIZATION

Exhibit D

Exhibit "D"

**UNANIMOUS WRITTEN CONSENT OF PARTNERS OF
BAILEY LAND INVESTMENTS, LP**

May 5, 2023

The undersigned, being the partners of Bailey Land Investments, LP, a Texas limited partnership (the "Partnership"), pursuant to that certain Agreement of Limited Partnership of Bailey Land Investments, LP, dated effective as of March 19, 2020 (as amended, the "Partnership Agreement"), consent to, adopt, ratify and approve the following resolutions and each and every action effected thereby.

WHEREAS, the Partnership owns certain real property certain real property located in Buda, Hays and Travis Counties, Texas (the "Property"); and

WHEREAS, in connection with the Partnership's ownership of the Property, the Partnership may be required to execute and deliver certain agreements, easements, contracts, documents, certifications, and instruments necessary or convenient in connection with the investment in, management, maintenance, and operation of the Property (collectively, the "Property Documents").

NOW THEREFORE, IT IS HEREBY RESOLVED, the Partners believe that it is in the best interest of the Partnership to confirm that Bailey Land Investments GP, LLC, a Texas limited liability company ("General Partner"), has the authority to execute any and all Property Documents.

BE IT FURTHER RESOLVED, that the General Partner, in the General Partner's capacity as the general partner of the Partnership, is authorized to execute and deliver any and all Property Documents and take such other actions on behalf of the Partnership in connection with the ownership of the Property as the General Partner deems necessary or appropriate.

This Written Consent may be executed by electronic signatures and by one or more of the parties to this consent on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

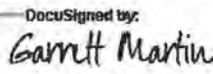
[Signature Page Follows]

Exhibit "D"


IN WITNESS WHEREOF, this Written Consent is executed to be effective as of the date first written above.

GENERAL PARTNER:

BAILEY LAND INVESTMENTS GP, LLC, a
Texas limited liability company

By: 
Garrett S. Martin, Manager

By: 
Alan Topfer, Manager

By: 
Richard Topfer, Manager

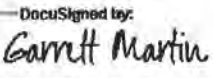
LIMITED PARTNERS:

CASTLETOP CAPITAL EQUITIES, L. P.,
a Texas limited partnership

By: Castletop Management, Inc.,
a Texas corporation,
its general partner

By: 
Alan Topfer, Managing Director

G&J HOLDINGS, LLC

By: 
Garrett S. Martin, Member


GARRETT S. MARTIN

Exhibit "D"

**UNANIMOUS WRITTEN CONSENT OF MEMBERS OF
BAILEY LAND INVESTMENTS GP, LLC**

May 5, 2023

The undersigned, being the members of Bailey Land Investments GP, LLC, a Texas limited liability company (the "Company"), pursuant to that certain Company Agreement of Bailey Land Investments GP, LLC, dated effective as of March 19, 2020 (as amended, the "Company Agreement"), consent to, adopt, ratify and approve the following resolutions and each and every action effected thereby.

WHEREAS, the Company is the general partner of Bailey Land Investments, LP, a Texas limited liability company ("Partnership");

WHEREAS, the Partnership owns certain real property certain real property located in Buda, Hays and Travis Counties, Texas (the "Property"); and

WHEREAS, in connection with the Partnership's ownership of the Property, the Partnership may be required to execute and deliver certain agreements, easements, contracts, documents, certifications, and instruments necessary or convenient in connection with the investment in, management, maintenance, and operation of the Property (collectively, the "Property Documents").

NOW THEREFORE, IT IS HEREBY RESOLVED, the Members believe that it is in the best interest of the Company and the Partnership to confirm that the Company has the authority to execute any and all Property Documents.

BE IT FURTHER RESOLVED, that Terry LaGrone shall be an "Authorized Signatory" of the Company for purposes of the Property Documents.

FURTHER RESOLVED, that any Manager or Authorized Signatory of the Company, in the Company's capacity as the general partner of the Partnership, is hereby authorized to execute and deliver any and all Property Documents and take such other actions on behalf of the Partnership in connection with the ownership of the Property as such Manager or Authorized Signatory deems necessary or appropriate.

This Written Consent may be executed by electronic signatures and by one or more of the parties to this consent on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[Signature Page Follows]

Exhibit "D"

IN WITNESS WHEREOF, this Written Consent is executed to be effective as of the date first written above.

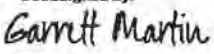
MEMBERS:

CASTLETOP CAPITAL EQUITIES, L. P.,
a Texas limited partnership

By: Castletop Management, Inc.,
a Texas corporation,
its general partner

DocuSigned by:
By: 
DC62898B85504F4...
Alan Topfer, Managing Director

G&J HOLDINGS, LLC,
a Texas limited liability company

DocuSigned by:
By: 
FD7810F1C47E403...
Garrett S. Martin, Member


DocuSigned by:

FD7810F1C47E403...
GARRETT S. MARTIN

MANAGERS:

DocuSigned by:

FD7810F1C47E403...
GARRETT S. MARTIN, Manager

DocuSigned by:

77D577E5FC17462...
RICHARD H. TOPFER, Manager


DocuSigned by:

DC62898B85504F4...
ALAN TOPFER, Manager

Exhibit "D"

**UNANIMOUS WRITTEN CONSENT OF PARTNERS OF
ARMBRUSTER LAND INVESTMENTS, LP**

May 5, 2023

The undersigned, being the partners of Armbruster Land Investments, LP, a Texas limited partnership (the "Partnership"), pursuant to that certain Agreement of Limited Partnership of Armbruster Land Investments, LP, dated effective as of November 12, 2021 (as amended, the "Partnership Agreement"), consent to, adopt, ratify and approve the following resolutions and each and every action effected thereby.

WHEREAS, the Partnership owns certain real property certain real property located in Hays and Travis Counties, Texas (the "Property"); and

WHEREAS, in connection with the Partnership's ownership of the Property, the Partnership may be required to execute and deliver certain agreements, easements, contracts, documents, certifications, and instruments necessary or convenient in connection with the investment in, management, maintenance, and operation of the Property (collectively, the "Property Documents").

NOW THEREFORE, IT IS HEREBY RESOLVED, the Partners believe that it is in the best interest of the Partnership to confirm that Armbruster Land Investments GP, LLC, a Texas limited liability company ("General Partner"), has the authority to execute any and all Property Documents.

BE IT FURTHER RESOLVED, that the General Partner, in the General Partner's capacity as the general partner of the Partnership, is authorized to execute and deliver any and all Property Documents and take such other actions on behalf of the Partnership in connection with the ownership of the Property as the General Partner deems necessary or appropriate.

This Written Consent may be executed by electronic signatures and by one or more of the parties to this consent on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[Signature Page Follows]

Exhibit "D"

IN WITNESS WHEREOF, this Written Consent is executed to be effective as of the date first written above.

GENERAL PARTNER:

ARMBRUSTER LAND INVESTMENTS GP,
LLC, a Texas limited liability company

By: 
Garrett S. Martin, Manager

By: 
Alan Topfer, Manager

By: 
Richard Topfer, Manager

[Signatures Continue]

Exhibit "D"

LIMITED PARTNERS:

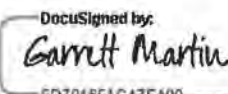
ADT INVESTMENT TRUST

By:  DocuSigned by:
DC6289BB95504F4...
Alan Topfer, Trustee

RICHARD H. TOPFER INVESTMENT TRUST

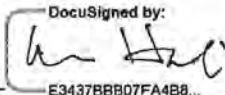
By:  DocuSigned by:
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Richard H. Topfer, Trustee

GSM TRUST OF 2016

By:  DocuSigned by:
FD7015F1C47E405...
Garrett Martin, Trustee

ARMBRUSTER HOLT LTD.
A Texas limited partnership

By: Holt Armbruster, LLC,
its General Partner

By:  DocuSigned by:
E3437BBB07FA4B8...
Alan L. Holt, President

 DocuSigned by:
686B98148FE3437...
CHANCE ARMBRUSTER

Exhibit "D"

UNANIMOUS WRITTEN CONSENT OF MEMBERS OF
ARMBRUSTER LAND INVESTMENTS GP, LLC

May 5, 2023

The undersigned, being the members of Armbruster Land Investments GP, LLC, a Texas limited liability company (the "Company"), pursuant to that certain Company Agreement of Armbruster Land Investments GP, LLC, dated effective as of November 12, 2021 (as amended, the "Company Agreement"), consent to, adopt, ratify and approve the following resolutions and each and every action effected thereby.

WHEREAS, the Company is the general partner of Armbruster Land Investments, LP, a Texas limited liability company ("Partnership");

WHEREAS, the Partnership owns certain real property certain real property located in Hays and Travis Counties, Texas (the "Property"); and

WHEREAS, in connection with the Partnership's ownership of the Property, the Partnership may be required to execute and deliver certain agreements, easements, contracts, documents, certifications, and instruments necessary or convenient in connection with the investment in, management, maintenance, and operation of the Property (collectively, the "Property Documents").

NOW THEREFORE, IT IS HEREBY RESOLVED, the Members believe that it is in the best interest of the Company and the Partnership to confirm that the Company has the authority to execute any and all Property Documents.

BE IT FURTHER RESOLVED, that Terry LaGrone shall be an "Authorized Signatory" of the Company for purposes of the Property Documents.

FURTHER RESOLVED, that any Manager or Authorized Signatory of the Company, in the Company's capacity as the general partner of the Partnership, is hereby authorized to execute and deliver any and all Property Documents and take such other actions on behalf of the Partnership in connection with the ownership of the Property as such Manager or Authorized Signatory deems necessary or appropriate.

This Written Consent may be executed by electronic signatures and by one or more of the parties to this consent on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[Signature Page Follows]

Exhibit "D"

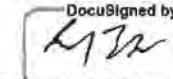
IN WITNESS WHEREOF, this Written Consent is executed to be effective as of the date first written above.

MEMBERS:


ADT INVESTMENT TRUST

By:  DocuSigned by:
DC6289BBB5504F4...
Alan Topfer, Trustee

RICHARD H. TOPFER INVESTMENT TRUST

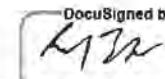
By:  DocuSigned by:
77D577E5FC17462...
Richard H. Topfer, Trustee

GSM TRUST OF 2016

By:  DocuSigned by:
FD7618F1C47E408...
Garrett Martin, Trustee

MANAGERS:

 DocuSigned by:
FD7618F1C47E408...
GARRETT S. MARTIN, Manager

 DocuSigned by:
77D577E5FC17462...
RICHARD H. TOPFER, Manager

 DocuSigned by:
DC6289BBB5504F4...
ALAN TOPFER, Manager