48

ORDINANCE NO. _____

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 320 EAST RUNDBERG LANE FROM MULTIFAMILY RESIDENCE LOW DENSITY (MF-2) DISTRICT, COMMUNITY COMMERCIAL (GR) DISTRICT, LIMITED OFFICE (LO) DISTRICT, AND MULTIFAMILY RESIDENCE MEDIUM DENSITY (MF-3) DISTRICT TO WAREHOUSE LIMITED OFFICE-CONDITIONAL OVERLAY (W/LO-CO) COMBINING DISTRICT FOR TRACT ONE AND GENERAL COMMERCIAL SERVICES-CONDITIONAL OVERLAY (CS-CO) COMBINING DISTRICT FOR TRACT TWO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base districts on the property described in Zoning Case No. C14-2007-0232, on file at the Neighborhood Planning and Zoning Department, as follows:

Tract One: From limited office (LO) district, multifamily residence low density (MF-2) district, multifamily residence medium density (MF-3) district, and community commercial (GR) district to warehouse limited office-conditional overlay (W/LO-CO) combining district.

A 12.930 acre tract of land, more or less, out of the John Applegait Survey No. 58, Abstract No. 29, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance; and

Tract Two: From multifamily residence medium density (MF-3) district, limited office (LO) district, and community commercial (GR) district to general commercial services-conditional overlay (CS-CO) combining district.

A 8.768 acre tract of land, more or less, out of the John Applegait Survey No. 58, Abstract No. 29, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this ordinance (the "Property"),

locally known as 320 East Rundberg Lane, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "C".

PART 2. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

A. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.

B. A 50-foot building setback is required along the west and north property lines of Tract One that abut an adjacent residential use.

C. The following uses are prohibited uses of Tract Two:

Adult oriented businesses	Commercial blood plasma center
Bail bond services	Campground
Kennels	Pawn shop services
Pet services	Vehicle storage

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the respective base districts, and other applicable requirements of the City Code.

PART 3. This ordinance takes effect on _____, 2008.

PASSED AND APPROVED

§
§
_____, 2008 § _____
Will Wynn
Mayor

APPROVED: _____ **ATTEST:** _____
David Allan Smith
City Attorney

Shirley A. Gentry
City Clerk

Chaparral

Professional Land Surveying, Inc.
Surveying and Mapping

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

3500 McCall Lane
Austin, Texas 78744

EXHIBIT A

12.930 ACRE
ZONING DESCRIPTION

A DESCRIPTION OF A 12.930 ACRE TRACT OF LAND IN THE JOHN APPLEGAIT SURVEY NO. 58, ABSTRACT NO. 29, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT 24.001 ACRE TRACT CONVEYED TO RUNDBERG BUSINESS PARK, LP, IN A SPECIAL WARRANTY DEEDS, RECORDED: OCTOBER 24, 2006, RECORDED IN DOCUMENT NO. 2006206151; MAY 07, 2007, RECORDED IN DOCUMENT NO'S. 2007082522, 2007082523, 2007082526, 2007082527, 2007082530, 2007082532, 2007082534, 2007082535 & 2007082537; AND JULY 29, 2008, RECORDED IN DOCUMENT NO. 2008127826, ALL OF THE OFFICIAL PUBLIC RECORD OF TRAVIS COUNTY, TEXAS, SAID 12.930 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1" bolt found for the southwest corner of the said 24.001 acre tract, being also the southeast corner of Lot 1, Block A, North Creek East Subdivision, a subdivision of record in Volume 47, Page 13 of the Plat Records of Travis County, Texas, the northwest corner of a 0.29 acre (street deed) recorded in Volume 4034, Page 1419, of the Deed Records of Travis County, Texas and the north right-of-way line of Rundberg Lane (right-of-way width varies);

THENCE North 27°25'25" East, with the common line of the 24.001 acre tract and Block A, North Creek East subdivision, a distance of 414.23 feet to a calculated point in the west line of the 24.001 acre tract, being also in the east line of Block A, North Creek East for the **POINT OF BEGINNING** of the herein described tract;

THENCE North 27°25'25" East, with the common line of the 24.001 acre tract and Block A, North Creek East, a distance of 171.81 feet to a cotton spindle found for a northwest corner of the 24.001 acre tract; being also a point in the west line of Lot 9, Block A, North Creek East, Subdivision and the southwest corner of Lot 5, Block A, North Creek East, Section One, a subdivision of record in Volume 50, Page 55 of the Plat Records of Travis County, Texas;

THENCE leaving the east line of Block A, North Creek East Subdivision, along the common line of the 24.001 acre tract and Block A, North Creek East, Section One, the following two (2) courses:

1. South 62°22'38" East, a distance of 280.38 feet to a 1/2" rebar with Carson & Bush cap found;

2. North 27°24'14" East, a distance of 1461.69 feet to a 1/2" rebar found for the northeast corner of Lot 29, Block A, North Creek East, Section One;

THENCE leaving the northeast corner of Lot 29, Block A, over and across the 24.001 acre tract, North 28°22'58" East, a distance of 359.58 feet, to a calculated point in the north line of the 24.001 acre tract, being also in the south line of Block H, Western Trails of Quail Creek, Section One-A, a subdivision of record in Volume 81, Page 106 of the Plat Records of Travis County, Texas;

THENCE South 61°33'39" East, along the common line of the 24.001 acre tract, the south line of Block H, Western Trails of Quail Creek and the south line of Western Trails of Quail Creek Section Two, a subdivision of record in Volume 81, Page 214 of the Plat Records of Travis County, Texas, a distance of 230.15 feet to a calculated point;

THENCE leaving the south line of Western Trails of Quail Creek Section Two, over and across the 24.001 acre tract, South 27°16'37" West, a distance of 1853.18 feet to a 1/2" rebar found for an interior angle of the 24.001 acre tract, being also the northwest corner of the K/N Subdivision, a subdivision of record in Volume 87, Page 153D of the Plat Records of Travis County, Texas, from which a 1/2" rebar found bears North 71°59'09" West, a distance of 228.23 feet;

THENCE South 27°37'24" West, along the common line of the 24.001 acre tract and K/N Subdivision, a distance of 159.94 feet to a 1/2" rebar found for a southeast corner of the 24.001 acre tract, being also the southwest corner of K/N Subdivision and in the north line of the Reed Subdivision, a subdivision of record in Volume 82, Page 381 of the Plat Records of Travis County, Texas;

THENCE along the common line of the 24.001 acre tract and the Reed Subdivision the following two (2) courses:

1. North 61°40'55" West, a distance of 97.99 feet to a 1/2" rebar found;

2. South 27°30'03" West, a distance of 61.34 feet to a 1/2" rebar found for a southeast corner of the 24.001 acre tract, being also the northeast corner of the Racetrac Subdivision No. 2, a subdivision of record in Volume 102, Page 352 of the Plat Records of Travis County, Texas and in the west line of the Reed Subdivision;

THENCE along the common line of the 24.001 acre tract and the Racetrac Subdivision the following three (3) courses:

1. North 61°47'59" West, a distance of 80.15 feet to a 1/2" rebar found;

2. South 27°43'41" West, a distance of 85.09 feet to a 1/2" rebar found;

3. North 61°44'22" West, a distance of 194.94 feet to a 1/2" rebar found for an interior corner of the 24.001 acre tract, being also the northwest corner of the Racetrac Subdivision, from which a /2" rebar found bears South 27°38'11" West, a distance of 250.07 feet:

THENCE leaving the northeast corner of the Racetrac over and across the 24.001 acre tract the following two (2) courses:

1. North 27°38'11" East, a distance of 166.13 feet to a calculated point;

2. North 62°34'35" West, a distance of 147.24 feet to the **POINT OF BEGINNING,** containing 12.930 acres of land, more or less.

North 27°38'11" East, a distance of 166.13 feet to a calculated point;

North 62°34'35" West, a distance of 147.24 feet to the **POINT OF BEGINNING,** containing 12.930 acres of land, more or less.

Surveyed on the ground in November, 2007, Bearing Basis is Grid Azimuth for the Texas Central Zone State Plane Coordinates, based on GPS solutions from the National Geodetic Survey (NGS) On-Line Positioning User Service (OPUS). Attachments: None

08/4/08

David Klotz
Registered Professional Land Surveyor
State of Texas No. 5428

STATE OF TEXAS
REGISTERED
DAVID KLOTZ
5428
PROFESSIONAL
LAND SURVEYOR

Chaparral

Professional Land Surveying, Inc.
Surveying and Mapping

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

3500 McCall Lane
Austin, Texas 78744

EXHIBIT B

8.768 ACRE
ZONING DESCRIPTION

A DESCRIPTION OF AN 8.768 ACRE TRACT OF LAND IN THE JOHN APPLEGAIT SURVEY NO. 58, ABSTRACT NO. 29, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT 24.001 ACRE TRACT CONVEYED TO RUNDBERG BUSINESS PARK, LP, IN A SPECIAL WARRANTY DEEDS, RECORDED: OCTOBER 24, 2006, RECORDED IN DOCUMENT NO. 2006206151; MAY 07, 2007, RECORDED IN DOCUMENT NO'S. 2007082522, 2007082523, 2007082526, 2007082527, 2007082530, 2007082532, 2007082534, 2007082535 & 2007082537; AND JULY 29, 2008, RECORDED IN DOCUMENT NO. 2008127826, ALL OF THE OFFICIAL PUBLIC RECORD OF TRAVIS COUNTY, TEXAS, SAID 8.768 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found for the northeast corner of the 24.001 acre tract, being also the southeast corner of Western trails of Quail Creek Section Two, a subdivision of record in Volume 81, Page 214 of the Plat Records of Travis County, Texas and in the west line of, A-AAA Storage Center, a subdivision of record in Volume 86, Page 72 of the Plat Records of Travis County, Texas;

THENCE South 27°32'26" West along the east line of the 24.001 acre tract, the west line of the A-AAA Storage Center, the west line of the A-AAA Storage Center Resubdivision of Lot 2, a subdivision of record in Volume 87, page 114B, of the Plat Records of Travis County. Texas and the west line of the 2.518 acre tract recorded in Documents No. 2002069113, of the Official Public records of Travis County, Texas, a distance of 885.35 feet to a 1/2" rebar found in the east line of the 24.001 acre tract, being also the southwest corner of the 2.518 acre tract, and the northwest corner of a 1.443 acre tract recorded in Volume 12595, Page 1883, of the Real Property Records of Travis County, Texas,

THENCE South 27°06'47" West, along the common line of the 24.001 acre tract and the 1.443 acre tract, a distance of 199.67 feet to a 1/2" rebar with cap set in the east line of the 24.001 acre tract, being also the southwest corner of the 1.443 acre tract and the northwest corner of the said 1.08 acre tract;

THENCE South 27°59'54" West, along the common line of the 24.001 acre tract and the 1.08 acre tract, a distance of 149.88 feet to a a 1/2" iron pipe found for the southwest corner of the 1.08 acre tract, being also in the east line of the 24.001 acre tract, and the point of terminus of the north right-of-way line of Show Place Lane (70' right-of-way width), K/N Subdivision, a subdivision of record in Volume 87, Page 153D of the Plat Records of Travis County, Texas;

THENCE along the common line of the 24.001 acre tract and K/N Subdivision the following four (4) courses:

1. South 27°50'28" West, a distance of 69.96 feet to a 1/2" rebar found;

2. North 62°33'40" West, a distance of 70.08 feet to a 1/2" rebar found;

3. South 27°28'00" West, a distance of 381.52 feet to a 1/2" rebar found;

4. South 71°59'09" West, a distance of 228.23 feet to a 1/2" rebar found for an interior angle of the 24.001 acre tract, being also a northwest corner of the K/N Subdivision, from which a 1/2" rebar found bears South 27°37'24" West, a distance of 159.94 feet;

THENCE leaving the northwest corner of the K/N Subdivision, over and across the 24.001 acre tract, North 27°16'37" East, a distance of 1,853.18 feet to a calculated point in the common line of the 24.001 acre tract and the south line of Western trails of Quail Creek Section Two, being also in the southwest right-of-way line of Chenault Parkway (60' right-of-way width);

THENCE South 61°33'39" East, along the common line of the 24.001 acre tract and the south line of Western trails of Quail Creek Section Two, a distance of 238.03 feet to the **POINT OF BEGINNING**, containing 8.768 acres of land, more or less.

Surveyed on the ground in November, 2007, Bearing Basis is Grid Azimuth for the Texas Central Zone State Plane Coordinates, based on GPS solutions from the National Geodetic Survey (NGS) On-Line Positioning User Service (OPUS). Attachments: None

8/4/08

David Klotz
Registered Professional Land Surveyor
State of Texas No. 5428

STATE OF TEXAS
REGISTERED
DAVID KLOTZ
5428
PROFESSIONAL
LAND SURVEYOR

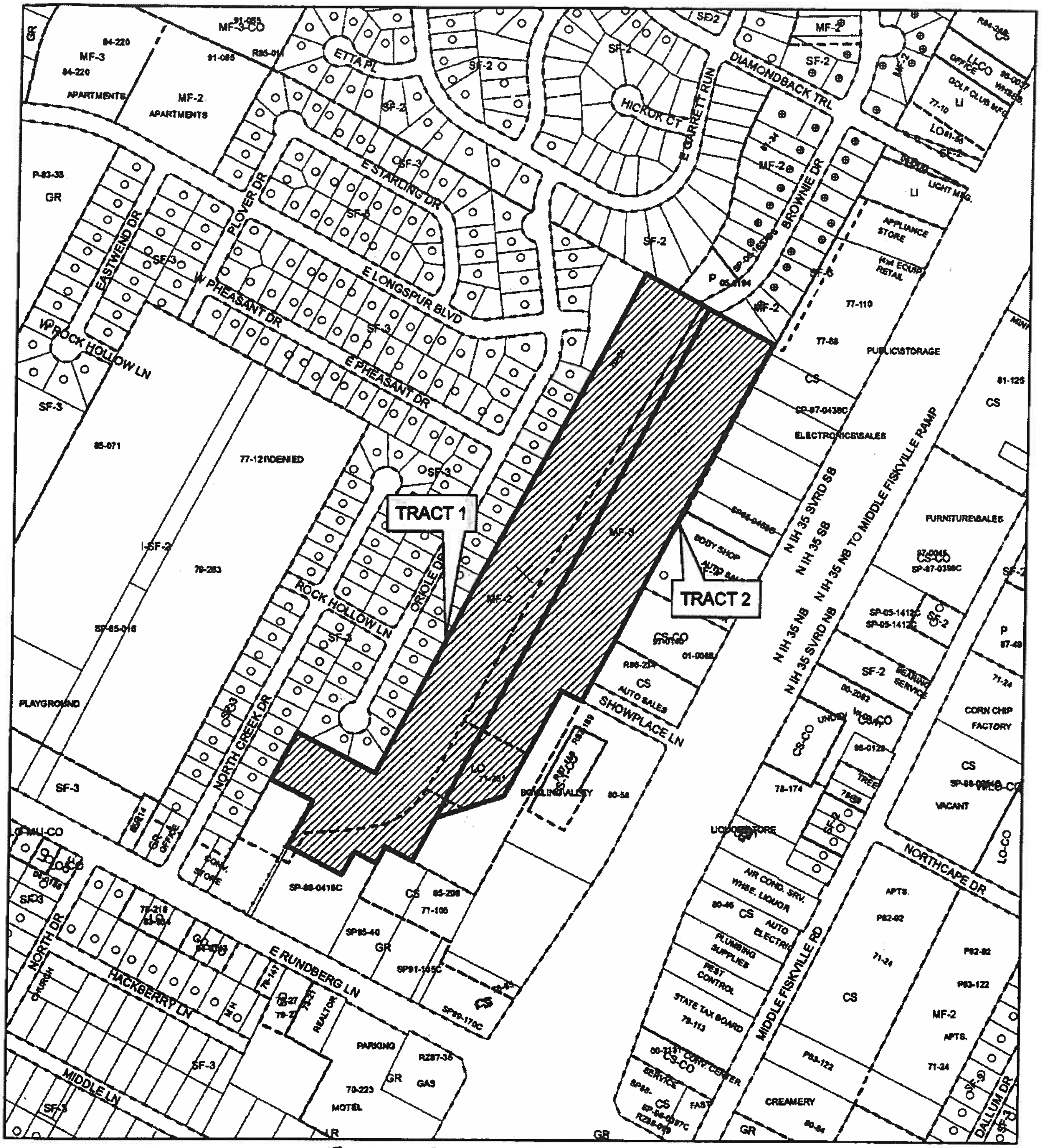

EXHIBIT C

ZONING

▨ SUBJECT TRACT

ZONING BOUNDARY

PENDING CASE

N

1" = 400'

OPERATOR: S. MEEKS

ZONING CASE#: C14-2007-0232
ADDRESS: 320 E RUNDBERG LANE
SUBJECT AREA: 21.698 ACRES
GRID: L30
MANAGER: J. ROUSSELIN

CITY OF AUSTIN
FOUNDED 1839

This map has been produced by G.I.S. Services for the sole purpose of geographic reference.
No warranty is made by the City of Austin regarding specific accuracy or completeness.

Zoning Case No. C14-2007-0232

RESTRICTIVE COVENANT

OWNER: RUNDBERG BUSINESS PARK, LP,
a Texas limited partnership

ADDRESS: 7035 Bee Caves Road, Suite 200, Austin, Texas 78746

CONSIDERATION: Ten and No/100 Dollars ($10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Tract One: A 12.930 acre tract of land, more or less, out of the John Applegait Survey No. 58, Abstract No. 29, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant; and

Tract Two: A 8.768 acre tract of land, more or less, out of the John Applegait Survey No. 58, Abstract No. 29, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this covenant, (both tracts known as the "Property").

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Neither East Longspur Drive nor Brownie Drive shall be extended into the Property.

2. An overhead bay door located on Tract One shall not face towards or open in a westerly direction.

3 If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

4 If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

5. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

6. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2008.

OWNER:

RUNDBERG BUSINESS PARK, LP,
a Texas limited partnership

By: Triton Capital Services, LLC,
a Texas limited liability company
its General Partner

By: _____
David Tuckfield,
Chief Compliance Officer and
General Counsel

APPROVED AS TO FORM:

_____
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2008, by David Tuckfield, Chief Compliance Officer and General Counsel, of Triton Capital Services, LLC, a Texas limited liability company, General Partner of RUNDBERG BUSINESS PARK, LP, a Texas limited partnership, on behalf of the limited liability company and the limited partnership..

_____
Notary Public, State of Texas