

Zoning Case: C14-85-288.23 (RCA)

FIRST AMENDMENT TO RESTRICTIVE COVENANT
FOR ZONING CASE: C14-85-288.23 (RCA)

OWNER: 5606 South Rice LLC, a Texas limited liability company

OWNER ADDRESS: 3000 Richmond Avenue
Houston, Texas 77098

CITY: The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

CITY COUNCIL: The City Council of the City of Austin.

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: 13.367 acres (582, 251 square feet) tract of land, called Tract 2, situated in the A.J. Bond Survey, Abstract 91, Travis County, Texas, being a portion of a 23.56 acre tract of land described to Stephen Simon, et al as shown in Document recorded in Volume 5677, page 2275, Deed Records of Travis County, Texas, said 13.367 acres of land being more particularly described by metes and bounds in **Exhibit "A"** incorporated into this restrictive covenant amendment (the "Restricted Property").

WHEREAS, Stephen Simon entered into that certain Restrictive Covenant, dated as of December 19, 1987, and recorded in the Real Property Records of Travis County, Texas, on June 28, 1988, in Volume 10720, Page 0495 (the "Original Restrictive Covenant"), as part of City of Austin Zoning Case No. C14-85-288.23; and

WHEREAS, the Original Restrictive Covenant encumbers real property, consisting of approximately 23.62 acres, more particularly described in the Original Restrictive Covenant (the "Property"); and

WHEREAS, 5606 South Rice, LLC, a Texas limited liability company, as the sole and current owner (the "Owner") of the Property on the date of this First Amendment, desires to amend the Original Restrictive Covenant;

WHEREAS, the Restricted Property is a portion of the Property; and

WHEREAS, the Original Restrictive Covenant provides that the covenant can be modified, amended, or terminated by joint action of both a majority of the members of the City Council and the Owner of the Property at the time of such modification, amendment or termination; and

WHEREAS, the City Council agrees the Original Restrictive Covenant should be amended;

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreement hereinafter set forth, the City and the Owner agree as follows:

1. The covenants contained in paragraph 1.a. and 1.b. of the Original Restrictive Covenant are amended to apply to the Restricted Property and to read as follows:
 - a. The maximum impervious cover of the Restricted Property shall be 50 percent.
 - b. The Restricted Property shall be limited to a maximum floor to area ratio of 1 to 1.
2. The covenants contained in paragraph 1 of the Original Restrictive Covenant is amended to add the following conditions to the Restricted Property.
 - d. Compliance with the Environmental Criteria Manual Section 1.6.9. (Save Our Springs Initiative) is required.
 - e. Cut and fill is limited to a maximum of 8 feet for a site work and grading, excluding building footprints, ponds and related wet well basins and underdrain systems.
 - f. Vehicular access to Little Deer Crossing shall be gated and restricted to emergency vehicles entering and exiting the Restricted Property.
3. The covenants contained in paragraph 3 of the Original Restrictive Covenant is deleted in its entirety and replaced with the following:

Upon completion of the construction of any multifamily development of the Property, all subsequent development or redevelopment of the Property, exclusive of site plan corrections, exemptions, or revisions, shall be subject to current City Code at the time of set development permit application. This condition shall not be construed to establish any vested rights on the Property.

4. Except as expressly provided for in this First Amendment, each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall continue in full force and effect on and after the effective date of this First Amendment.

5. The City Manager, or his designee, shall execute on behalf of the City, this First Amendment as authorized by the City Council of the City of Austin. The First Amendment shall be filed in the Official Public Records of Travis County, Texas.

EXECUTED this the _____ day of _____, 2022.

OWNER:

5606 South Rice LLC, a Texas limited liability company

By: _____
Michael S Morgan, Manager

CITY OF AUSTIN:

By: _____
J. Rodney Gonzales
Assistant City Manager
City of Austin

THE STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on this the ___ day of _____ 2022, by Michael S Morgan, Manager of 5606 South Rice LLC, a Texas limited liability company, on behalf of said company.

Notary Public, State of _____

THE STATE OF TEXAS §

§

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2022, by J. Rodney Gonzales, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

APPROVED AS TO FORM:

Name: _____
Assistant City Attorney
City of Austin

METES & BOUNDS DESCRIPTION OF:

TRACT 2 - 13.367 ACRES

BEING A 13.367 ACRES (582,251 SQUARE FEET) TRACT OF LAND, CALLED TRACT 2, SITUATED IN THE A. J. BOND SURVEY, ABSTRACT 91, IN TRAVIS COUNTY, TEXAS; BEING A PORTION OF A 23.56 ACRE TRACT OF LAND DESCRIBED TO STEPHEN SIMON, ET AL, AS SHOWN ON INSTRUMENT RECORDED IN VOLUME 5677, PAGE 2275, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD FOUND IN THE SOUTHEAST BOUNDARY LINE OF LOT 1, BLOCK A OF THE OAK HILL SUBDIVISION, AS SHOWN ON PLAT RECORDED IN DOCUMENT NO. 201800105 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; AT THE WEST CORNER OF AN 8.803 ACRE TRACT OF LAND, CALLED TRACT 1, JUST SURVEYED, FOR THE WESTERLY NORTH CORNER OF THIS TRACT; WHENCE A CONCRETE TXDOT MONUMENT WITH AN ALUMINUM DISC FOUND FOR REFERENCE AT THE NORTH CORNER OF SAID TRACT 1 BEARS NORTH 28°18'15" EAST, A DISTANCE OF 615.87 FEET;

THENCE, WITH THE COMMON BOUNDARY LINE OF SAID TRACT 1 AND TRACT 2, THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. SOUTH 30°34'50" EAST, A DISTANCE OF 380.17 FEET TO A 1/2 INCH IRON ROD FOUND AT THE SOUTHWEST CORNER OF SAID TRACT 1, FOR AN INTERIOR CORNER OF THIS TRACT;
2. SOUTH 78°59'52" EAST, A DISTANCE OF 267.06 FEET TO A 1/2 INCH IRON ROD FOUND AT THE SOUTHEAST CORNER OF SAID TRACT 1, FOR AN INTERIOR CORNER OF THIS TRACT;
3. NORTH 28°12'21" EAST, AT 575.73 FEET PASSING A BRASS DISC TXDOT MONUMENT FOUND FOR REFERENCE IN THE SOUTHERLY RIGHT-OF-WAY LINE OF HIGHWAY 71 (VARIABLE RIGHT-OF-WAY WIDTH), AT THE EAST CORNER OF SAID TRACT 1, IN ALL A DISTANCE OF 583.62 FEET TO A POINT FOR THE EASTERLY NORTH CORNER OF THIS TRACT;

THENCE, SOUTH 43°31'04" EAST, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID HIGHWAY 71, AT 166.64 FEET PASSING A BRASS DISC TXDOT MONUMENT FOUND FOR REFERENCE, IN ALL A DISTANCE OF 180.15 FEET TO A POINT FOR THE EAST CORNER OF THIS TRACT;

THENCE, SOUTH 28°15'19" WEST, AT 8.86 FEET PASSING A BRASS DISC TXDOT MONUMENT FOUND FOR REFERENCE AT THE OSTENSIBLE NORTH CORNER OF A CALLED 5.00 ACRE TRACT OF LAND DESCRIBED TO ERIC YERKOVICH AS SHOWN ON INSTRUMENT RECORDED IN DOCUMENT NO. 2002137702 AND FURTHER DESCRIBED IN VOLUME 12560, PAGE 2053 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; THEN CONTINUING ALONG THE NORTHWEST BOUNDARY LINE OF SAID 5.00 ACRE TRACT, IN ALL A DISTANCE OF 1192.26 FEET TO A PK NAIL FOUND IN THE NORTHWEST BOUNDARY LINE OF LOT 1 OF THE ROCKING "Y" SUBDIVISION AS SHOWN ON PLAT RECORDED IN VOLUME 91, PAGE 266 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS; AT THE EAST CORNER OF A CALLED 0.25 ACRE CEMETERY TRACT OF LAND AS REFERENCED ON THE SIMON-CASKEY SUBDIVISION, AS SHOWN ON PLAT RECORDED IN DOCUMENT NO. 202000222 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS; FOR THE EASTERLY SOUTH CORNER OF THIS TRACT;

THENCE, NORTH 61°43'25" WEST, ALONG THE NORTHEAST BOUNDARY LINE OF SAID 0.25 ACRE CEMETERY TRACT, A DISTANCE OF 170.19 FEET TO A 1/2 INCH IRON ROD FOUND AT THE NORTH CORNER OF SAID 0.25 ACRE CEMETERY TRACT, FOR AN INTERIOR CORNER OF THIS TRACT;

THENCE, SOUTH 28°16'35" WEST, ALONG THE NORTHWEST BOUNDARY LINE OF SAID 0.25 ACRE CEMETERY TRACT, A DISTANCE OF 49.06 FEET, TO A 1/2 INCH IRON ROD WITH PLASTIC SURVEYOR'S CAP STAMPED "KHA" SET AT AN EXTERIOR CORNER OF THE SIMON-CASKEY SUBDIVISION, FOR THE WESTERLY SOUTH CORNER OF THIS TRACT; WHENCE A 1/2 INCH IRON ROD FOUND FOR REFERENCE AT THE WEST CORNER OF SAID 0.25 ACRE CEMETERY TRACT BEARS SOUTH 28°16'25" WEST, A DISTANCE OF 15.00 FEET;

THENCE, ALONG A NORTHEAST BOUNDARY LINE OF SAID SIMON-CASKEY SUBDIVISION, THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. NORTH 61°43'25" WEST, A DISTANCE OF 277.00 FEET TO A 1/2 INCH IRON ROD WITH PLASTIC SURVEYOR'S CAP STAMPED "KHA" SET IN THE NORTHERLY RIGHT-OF-WAY LINE OF LITTLE DEER CROSSING (CALLED 60' RIGHT-OF-WAY WIDTH) AS SHOWN ON AND DEDICATED BY SAID SIMON-CASKEY SUBDIVISION, AT A POINT OF CURVATURE, FOR AN EXTERIOR CORNER OF THIS TRACT;
2. IN A NORTHWESTERLY DIRECTION ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID LITTLE DEER CROSSING AND A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 70°06'27" A RADIUS OF 230.00 FEET, WITH A CHORD BEARING AND DISTANCE OF NORTH 27°05'46" WEST, 264.20 FEET, AND A TOTAL ARC LENGTH OF 281.43 FEET TO A 1/2 INCH IRON ROD WITH PLASTIC SURVEYOR'S CAP STAMPED "KHA" SET FOR AN ANGLE CORNER OF THIS TRACT;
3. NORTH 62°21'25" WEST, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID LITTLE DEER CROSSING, A DISTANCE OF 87.00 FEET TO A 1/2 INCH IRON ROD WITH PLASTIC SURVEYOR'S CAP STAMPED "KHA" SET AT THE SOUTH CORNER OF LOT 6, BLOCK A OF SAID SIMON-CASKEY SUBDIVISION, FOR THE WEST CORNER OF THIS TRACT; WHENCE A 1/2 INCH IRON ROD FOUND AT THE WEST CORNER OF SAID SIMON-CASKEY SUBDIVISION BEARS SOUTH 28°18'15" WEST, A DISTANCE OF 693.60 FEET;

THENCE, NORTH 28°18'15" EAST, ALONG THE SOUTHEAST BOUNDARY LINE OF LOT 6 AND LOT 1 OF BLOCK A OF SAID SIMON-CASKEY SUBDIVISION, A DISTANCE OF 682.13 FEET TO THE POINT OF BEGINNING AND CONTAINING 13.367 ACRES OF LAND, MORE OR LESS, IN TRAVIS COUNTY, TEXAS. THIS DOCUMENT WAS PREPARED IN THE OFFICE OF KIMLEY-HORN AND ASSOCIATES IN AUSTIN, TEXAS.

SURVEYOR'S NOTES:

THE BEARINGS, DISTANCES, AREAS AND COORDINATES SHOWN HEREON ARE TEXAS STATE COORDINATE SYSTEM GRID, CENTRAL ZONE (FIPS 4203) (NAD'83), AS DETERMINED BY THE GLOBAL POSITIONING SYSTEM (GPS). THE UNIT OF LINEAR MEASUREMENT IS U.S. SURVEY FEET. A BOUNDARY EXHIBIT AND A LINE & CURVE TABLE WERE CREATED IN CONJUNCTION WITH THIS METES & BOUNDS DESCRIPTION.

THE UNDERSIGNED, REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFIES THAT THE FOREGOING DESCRIPTION ACCURATELY SETS OUT THE METES AND BOUNDS OF THIS TRACT.


 ZACHARY KEITH PETRUS
 REGISTERED PROFESSIONAL
 LAND SURVEYOR NO. 6769
 10814 JOLLYVILLE ROAD
 CAMPUS IV, SUITE 200
 AUSTIN, TEXAS 78759
 PH. (512) 572-6674
 ZACH.PETRUS@KIMLEY-HORN.COM



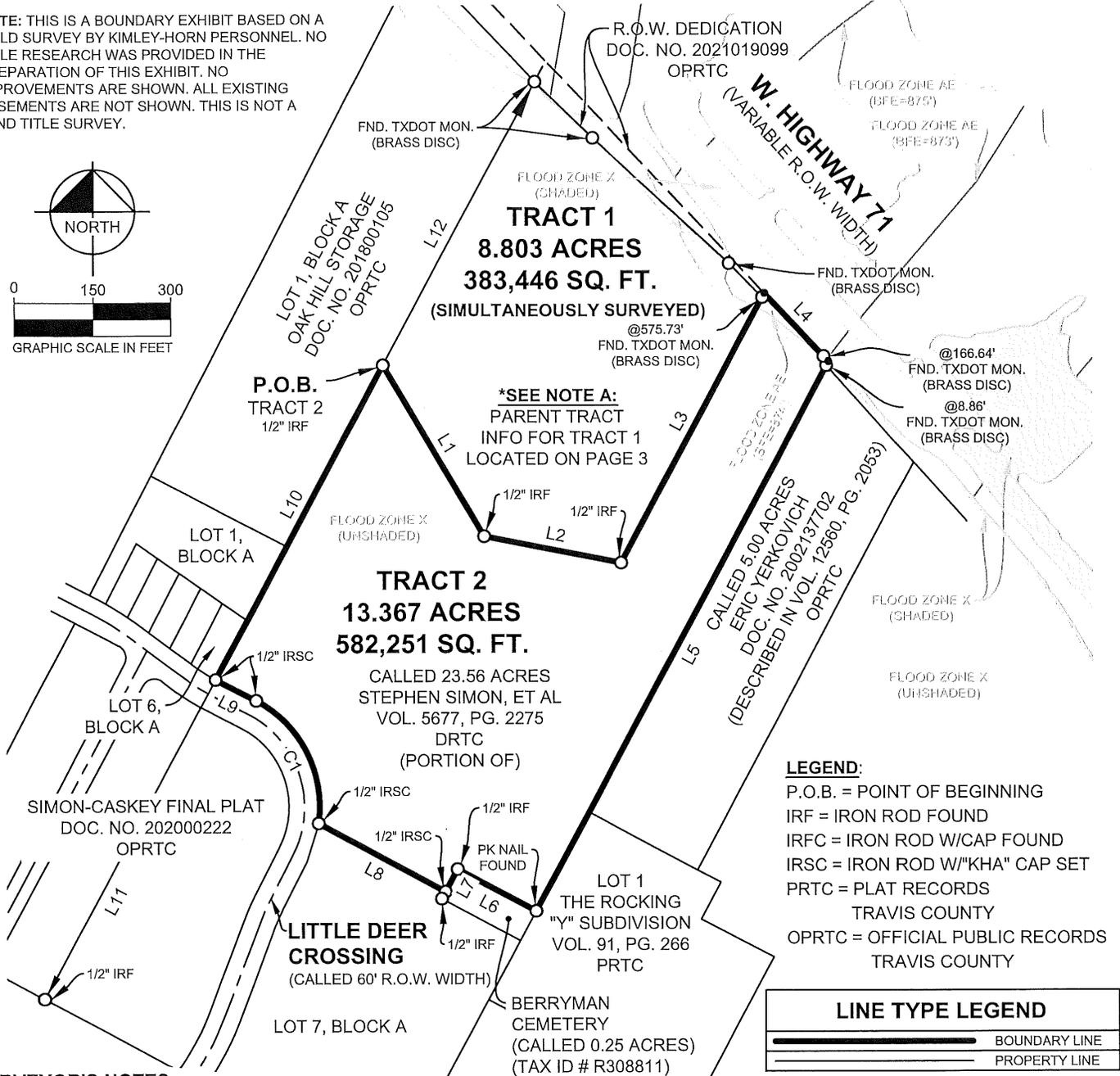
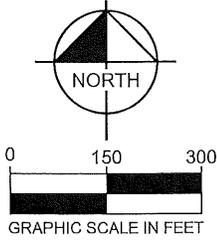
EXHIBIT "A"
BOUNDARY EXHIBIT OF:
 TRACT 2 - 13.367 ACRE TRACT
 BEING OUT OF THE
 A. J. BOND SURVEY, ABSTRACT 91
 CITY OF AUSTIN, TRAVIS COUNTY, TEXAS

Kimley»Horn

10814 Jollyville Road, Campus IV, Suite 200, Austin, Texas 78759 FIRM # 10194624 Tel. No. (512) 418-1771 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	RPP	ZKP	3/10/2021	067786605	1 OF 3

NOTE: THIS IS A BOUNDARY EXHIBIT BASED ON A FIELD SURVEY BY KIMLEY-HORN PERSONNEL. NO TITLE RESEARCH WAS PROVIDED IN THE PREPARATION OF THIS EXHIBIT. NO IMPROVEMENTS ARE SHOWN. ALL EXISTING EASEMENTS ARE NOT SHOWN. THIS IS NOT A LAND TITLE SURVEY.



LEGEND:
P.O.B. = POINT OF BEGINNING
IRF = IRON ROD FOUND
IRFC = IRON ROD W/CAP FOUND
IRSC = IRON ROD W/"KHA" CAP SET
PRTC = PLAT RECORDS TRAVIS COUNTY
OPRTC = OFFICIAL PUBLIC RECORDS TRAVIS COUNTY

LINE TYPE LEGEND	
	BOUNDARY LINE
	PROPERTY LINE

SURVEYOR'S NOTES:

THE BEARINGS, DISTANCES, AREAS AND COORDINATES SHOWN HEREON ARE TEXAS STATE COORDINATE SYSTEM GRID, CENTRAL ZONE (FIPS 4203) (NAD'83), AS DETERMINED BY THE GLOBAL POSITIONING SYSTEM (GPS). THE UNIT OF LINEAR MEASUREMENT IS U.S. SURVEY FEET. A METES & BOUNDS DESCRIPTION AND A LINE & CURVE TABLE WERE CREATED IN CONJUNCTION WITH THIS BOUNDARY EXHIBIT. (SEE FLOOD ZONE STATEMENT AND GENERAL NOTES ON SHEET 3)

THE UNDERSIGNED, REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFIES THAT THIS BOUNDARY EXHIBIT OF SURVEY ACCURATELY REFLECTS THE METES AND BOUNDS OF THESE TRACTS.

ZACHARY KEITH PETRUS
REGISTERED PROFESSIONAL
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AUSTIN, TEXAS 78759
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EXHIBIT "A"
BOUNDARY EXHIBIT OF:
TRACT 2 - 13.367 ACRE TRACT
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1" = 300'	RPP	ZKP	3/10/2021	067786605	2 OF 3

FEMA FLOOD STATEMENT:

ACCORDING TO COMMUNITY PANEL NO. 4806240560, MAP NO. 48453C0560J, EFFECTIVE DATE: JANUARY 22, 2020 OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM), A PORTION OF THE SUBJECT TRACT IS LOCATED WITHIN ZONE "AE" WHICH IS DEFINED BY FEMA AS "1% ANNUAL FLOOD CHANGE AREA WITH BASE FLOOD ELEVATIONS DETERMINED". THE REMAINDER OF THE PROPERTY IS WITHIN ZONE "X" (UN-SHADED) DEFINED BY FEMA AS "AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN." ALL ZONE DELINEATIONS SHOWN HEREON ARE APPROXIMATE. THIS STATEMENT DOES NOT IMPLY THAT ANY PORTION OF THE SUBJECT TRACT IS TOTALLY FREE OF POTENTIAL FLOOD HAZARD. LOCALIZED FLOODING CAN OCCUR DUE TO NATURAL AND/OR MAN-MADE INFLUENCES. THIS FLOOD STATEMENT SHALL CREATE NO LIABILITY ON THE PART OF KIMLEY-HORN OR THE UNDERSIGNED.

GENERAL NOTES:

1. THIS PROPERTY IS CURRENTLY UN-PLATTED AND IS SUBJECT TO THE TEXAS LOCAL GOVERNMENT CODE, TITLE 7, SUBTITLE A, CHAPTER 212 - MUNICIPAL REGULATION OF SUBDIVISIONS, SUBCHAPTER A - REGULATION OF SUBDIVISIONS. A SUBDIVISION PLAT WILL BE REQUIRED FOR SITE DEVELOPMENT.
2. KIMLEY-HORN HAS MADE NO ATTEMPT TO OBTAIN OR SHOW DATA CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY UTILITY OR UNDERGROUND FACILITY. FOR INFORMATION REGARDING SAID UTILITIES OR FACILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES. NO TEXAS 811 MARKINGS SHOWING THE LOCATION OF BURIED UTILITIES WERE OBSERVED AND LOCATED BY SURVEY CREWS WHILE PERFORMING THE FIELD SURVEY. KIMLEY-HORN CANNOT GUARANTEE THE ACCURACY AND THOROUGHNESS OF UTILITY COMPANY REPRESENTATIVES MARKING EFFORT. KIMLEY-HORN ASSUMES NO LIABILITY FOR POORLY OR IMPROPERLY MARKED UTILITY LOCATIONS. NO PRIVATE INTERIOR SERVICE LINES WERE MARKED AND NOT ARE SHOWN.
3. KIMLEY-HORN DID NOT REVIEW LEASE INTEREST WHILE PERFORMING SURVEY.
4. THIS SURVEY DOES NOT SHOW EXISTING TREES OR LANDSCAPING.

SURVEYOR'S NOTES:

THE BEARINGS, DISTANCES, AREAS AND COORDINATES SHOWN HEREON ARE TEXAS STATE COORDINATE SYSTEM GRID, CENTRAL ZONE (FIPS 4203) (NAD'83), AS DETERMINED BY THE GLOBAL POSITIONING SYSTEM (GPS). THE UNIT OF LINEAR MEASUREMENT IS U.S. SURVEY FEET. A METES & BOUNDS DESCRIPTION AND BOUNDARY EXHIBIT WERE CREATED IN CONJUNCTION WITH THIS LINE & CURVE TABLE.

THE UNDERSIGNED, REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFIES THAT THIS LINE & CURVE TABLE OF SURVEY ACCURATELY REFLECTS THE METES AND BOUNDS OF THIS TRACT.


 ZACHARY KEITH PETRUS
 REGISTERED PROFESSIONAL
 LAND SURVEYOR NO. 6769
 10814 JOLLYVILLE ROAD
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 AUSTIN, TEXAS 78759
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 ZACH.PETRUS@KIMLEY-HORN.COM



CURVE TABLE					
NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	70°06'27"	230.00'	281.43'	N27°05'46"W	264.20'

LINE TABLE		
NO.	BEARING	LENGTH
L1	S30°34'50"E	380.17'
L2	S78°59'52"E	267.06'
L3	N28°12'21"E	575.73'
L4	S43°31'04"E	180.15'
L5	S28°15'19"W	1192.26'
L6	N61°43'25"W	170.19'
L7	S28°16'35"W	49.06'
L8	N61°43'25"W	277.00'
L9	N62°21'25"W	87.00'
L10	N28°18'15"E	682.13'
L11	S28°18'15"W	693.60'
L12	N28°18'13"E	615.87'

***NOTE A:**

PARENT TRACT INFORMATION FOR:
TRACT 1 - 8.803 ACRES

REMAINDER OF A
 CALLED 18.40 ACRE TRACT
 VOL. 820, PG. 575
 DRTC
 REMAINDER OF A
 CALLED 9.25 ACRE TRACT
 VOL. 908, PG. 212
 DRTC
 REMAINDER OF A
 CALLED 5.00 ACRE TRACT
 VOL. 2057, PG. 429
 DRTC
 REMAINDER OF A
 CALLED 8.77 ACRE TRACT
 VOL. 2209, PG. 141
 DRTC
 (PORTION OF)

PARENT TRACT INFORMATION FOR:
TRACT 1 - 13.367 ACRES

CALLLED 23.56 ACRES
 STEPHEN SIMON, ET AL
 VOL. 5677, PG. 2275
 DRTC
 (PORTION OF)

EXHIBIT "A"
BOUNDARY EXHIBIT OF:
 TRACT 2 - 13.367 ACRE TRACT
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N/A	RPP	ZKP	3/10/2021	067786605	3 OF 3

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767-1088
Attention: C. Curtis, Paralegal