

Zoning Case No. C14-2019-0109

**RESTRICTIVE COVENANT**

OWNER: Milton A. Messinger Exempt Family Trust

OWNER ADDRESS: Autumn H. Messinger, co-trustee and beneficiary  
Milton A. Messinger Exempt Family Trust  
9900 David Moore Drive, Austin, TX 78748

Brus D. Messinger, co-trustee and beneficiary  
Milton A. Messinger Exempt Family Trust  
2841 Placid Circle, Grapevine, TX 76051

Ivri K. Messinger, beneficiary  
Milton A. Messinger Exempt Family Trust  
146 Pavilion Drive, Cedar Creek, TX 78748

Thane J. Messinger, co-trustee and beneficiary  
Milton A. Messinger Exempt Family Trust  
350 Ward Avenue, Suite 106, Honolulu, HI 96814

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 are acknowledged.

PROPERTY: 27.02 acres (1,176,905 square feet) of land comprised of a called 24.465 acre tract in the S.P. Slaughter League Survey No. 1, and Lot 1, Swanson's Ranchettes No. 3, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Book 47, Page 37, Plat Records of Travis County, Texas, said 27.02 acres of land being more particularly described by metes and bounds in the attached **Exhibit "A"**.

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 ("Agreement"). 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. Development on the Property is subject to the recommendations contained in the Neighborhood Traffic Analysis ("NTA") memorandum from the Transportation

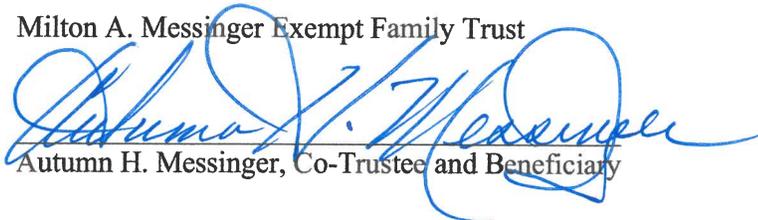
Development Services division of the Austin Transportation Department (the "Department"), dated June 19, 2020. The NTA memorandum shall be kept on file at the Department.

2. If any person or entity shall violate or attempt to violate this Agreement, 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, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this Agreement 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.
4. 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.
5. 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 of the Property, or a portion of the Property, subject to the modification, amendment, or termination at the time of such modification, amendment or termination.

EXECUTED this the 10<sup>th</sup> day of August, 2020.

Owner:

Milton A. Messinger Exempt Family Trust

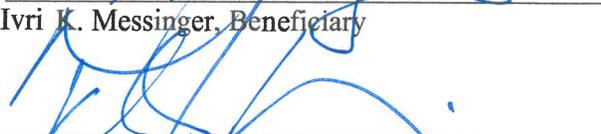


Autumn H. Messinger, Co-Trustee and Beneficiary

Brus D. Messinger, Co-Trustee and Beneficiary



Ivri K. Messinger, Beneficiary

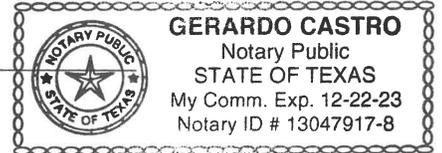


Thane J. Messinger, Co-Trustee and Beneficiary

THE STATE OF TEXAS §  
§  
COUNTY OF Tarrant §

This instrument was acknowledged before me on this the 10<sup>th</sup> day of August 2020, by Autumn H. Messinger, Co-Trustee and Beneficiary of the Milton A. Messinger Exempt Family Trust.

  
\_\_\_\_\_  
Notary Public, State of Texas



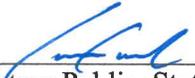
THE STATE OF TEXAS §  
§  
COUNTY OF \_\_\_\_\_ §

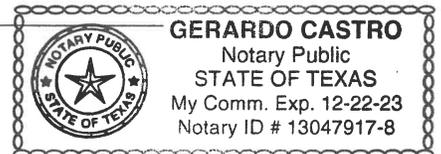
This instrument was acknowledged before me on this the \_\_\_ day of \_\_\_\_\_ 2020, by Brus D. Messinger, Co-Trustee and Beneficiary of the Milton A. Messinger Exempt Family Trust.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS §  
§  
COUNTY OF Tarrant §

This instrument was acknowledged before me on this the 10<sup>th</sup> day of August 2020, by Ivri K. Messinger, Beneficiary of the Milton A. Messinger Exempt Family Trust.

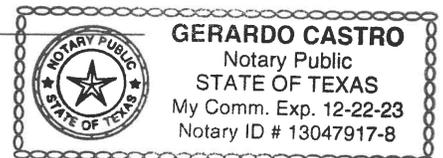
  
\_\_\_\_\_  
Notary Public, State of Texas



THE STATE OF Texas §  
§  
COUNTY OF Tarrant §

This instrument was acknowledged before me on this the 10<sup>th</sup> day of August 2020, by Thane J. Messinger, Co-Trustee and Beneficiary of the Milton A. Messinger Exempt Family Trust.

  
\_\_\_\_\_  
Notary Public, State of Texas



Development Services division of the Austin Transportation Department (the "Department"), dated June 19, 2020. The NTA memorandum shall be kept on file at the Department.

2. If any person or entity shall violate or attempt to violate this Agreement, 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, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this Agreement 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.
4. 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.
5. 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 of the Property, or a portion of the Property, subject to the modification, amendment, or termination at the time of such modification, amendment or termination.

EXECUTED this the 12<sup>th</sup> day of August, 2020.

Owner:

Milton A. Messinger Exempt Family Trust

\_\_\_\_\_  
Autumn H. Messinger, Co-Trustee and Beneficiary

  
\_\_\_\_\_  
Brus D. Messinger, Co-Trustee and Beneficiary

\_\_\_\_\_  
Irvi K. Messinger, Beneficiary

\_\_\_\_\_  
Thane J. Messinger, Co-Trustee and Beneficiary

THE STATE OF TEXAS     §  
  §  
COUNTY OF \_\_\_\_\_ §

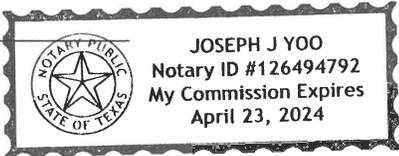
This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_ 2020,  
by Autumn H. Messinger, Co-Trustee and Beneficiary of the Milton A. Messinger Exempt Family  
Trust.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS     §  
  §  
COUNTY OF Tarrant §

This instrument was acknowledged before me on this the 12 day of August 2020,  
by Brus D. Messinger, Co-Trustee and Beneficiary of the Milton A. Messinger Exempt Family  
Trust.

  
\_\_\_\_\_  
Notary Public, State of Texas



THE STATE OF TEXAS     §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_ 2020,  
by Irvi K. Messinger, Beneficiary of the Milton A. Messinger Exempt Family Trust.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_ 2020,  
by Thane J. Messinger, Co-Trustee and Beneficiary of the Milton A. Messinger Exempt Family  
Trust.

\_\_\_\_\_  
Notary Public, State of Texas



Professional Land Surveying, Inc.  
Surveying and Mapping

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

3500 McCall Lane  
Austin, Texas 78744

C14-2019-0109

EXHIBIT " \_\_\_\_\_ "

**EXHIBIT "A"**

27.02 ACRES  
TRAVIS COUNTY, TEXAS

A DESCRIPTION OF 27.02 ACRES (1,176,905 SQUARE FEET) OF LAND, COMPRISED OF A CALLED 24.465 ACRE TRACT IN THE S.P. SLAUGHTER LEAGUE SURVEY No. 1 and LOT 1 OF SWANSON'S RANCHETTES No. 3, TRAVIS COUNTY, TEXAS, SAID 24.465 ACRES TRACT DESCRIBED IN DEED TO ANNIE PAGE CHAPPELL MOORE IN DEED RECORDED UNDER VOLUME 3174, PAGE 2093 OF THE DEED RECORDS OF TRAVIS COUNTY TEXAS, AND SWANSON'S RANCHETTES RECORDED UNDER BOOK 19 PAGE 38 DEED RECORDS OF TRAVIS COUNTY TEXAS SAID 27.02 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING at a 3/4-inch iron pipe found marking the southeasterly corner of the Resubdivision of Lot 1, Block "C" of Texas Oaks Four-B, a subdivision recorded under Volume 102, Page 265 of the Travis County Deed Records;

THENCE North 02°27'18" West, passing at 691.69 feet a 3/4-inch iron pipe found marking the northerly corner of said Texas Oaks Four-B, and being in the easterly Right-of-Way (R.O.W.) line of Bilbrook Street, continuing along said easterly line, passing at 959.79' A 3/4-inch iron rod found marking the northerly corner of said Texas Oaks Four-B, continuing for a total distance of 1,497.87 feet to a capped 1/2-inch rebar stamped "Chaparral" set marking the northwesterly corner of Lot 1 of aforesaid Swanson's Ranchettes No. 3 and of the herein described tract;

THENCE North 87°37'37" East, along the northerly line of said Lot 1, a distance of 207.20 feet to a 1/2-inch iron rod found marking the northeasterly corner of Lot 1;

THENCE South 02°30'23" East, along the easterly line of said Lot 1, a distance of 437.88 feet to a capped rebar stamped "MDS" found marking the beginning of a curve;

THENCE following the arc of a curve to the right having a radius of 49.95 feet, a central angle of 36°53'12" and a chord bearing South 15°56'13" West, a distance of 31.61 feet to a capped 1/2-inch rebar stamped "Chaparral" set marking the point of reverse curvature;

THENCE following the arc of a curve to the left, having a radius of 50.00 feet, a central angle of 89° 53' 44", and a chord bearing South 10°34'03" East, a distance of 70.65 feet to a three inch iron bar found marking the end of curve;

THENCE North 87°37'37" East, passing at 60.00 feet the southwesterly corner of aforesaid Swanson's Ranchettes No. 3, continuing for a total distance of 267.35 feet to 3/4-inch iron pipe found marking the southeasterly corner of said Lot 3;

THENCE North 02°28'14" West, along the easterly line of said Lot 2, passing at 538.08 feet the northeasterly corner of Lot 2, continuing for a total distance of 567.64 feet to a 1 inch iron pipe found marking the intersection with the westerly line of a David Moore Drive, (60 feet wide) recorded under Volume 3942, Page 1552 of the Travis County Deed Records (TCDR) in the easterly line of Lot 3 of aforesaid Swanson's Ranchettes;

THENCE South 14°30'41" East, along said westerly line a distance of 435.45 feet to a 1/2-inch iron pipe found marking the beginning of a curve to the left;

THENCE following said westerly line, along the arc of said curve, having a radius of 509.85 feet, a central angle of 17°46'26", and a chord bearing South 23°19' 44" a distance of 157.53 feet to a 3/4-inch iron pipe found marking the end of curve;

THENCE South 32°14'42" East, continuing along said westerly line a distance of 507.30 feet 1/2-inch iron pipe found marking the beginning of a curve to the right;

THENCE continuing along said westerly line following the arc of said curve to the right, having a radius of 323.00 feet, a central angle of 31°37'59", a chord bearing South 16°25'21" East, a distance of 176.07 feet to a 1/2-inch rebar found marking the end of curve;

THENCE South 00°35'00" East, continuing along said westerly line, a distance of 117.89 feet to a 5/8-inch iron rod found marking the beginning of a curve to the right;

THENCE continuing along said westerly line, following the arc of a curve to the right having a radius of 881.90 feet, a central angle of 09°58'27", a chord bearing South 04°24'13" West, a distance of 153.33 feet to a 1/2-inch iron pipe found marking the end of curve;

THENCE South 09°23'27" West, continuing along said westerly line a distance of 184.82 feet to a capped rebar with "Chaparral" cap set marking the southeasterly corner of the herein described tract in the northerly line of a tract of land described in deed to the Roman Catholic Diocese, recorded under Volume 10508, Page 40 TCDR;

THENCE North 86°33'25" West, along the northerly line of said Roman Catholic Diocese tract, a distance of 636.14 feet, to a capped 1/2-inch rebar with "Chaparral" cap set marking an angle point;

THENCE South 57°47'35" West, along said northerly line of the Roman Catholic Diocese tract, a distance of 80.00 feet to a capped 1/2-inch rebar with "Chaparral" cap set marking an angle point;

THENCE North 89°17'25" West, along said northerly line of the Roman Catholic Diocese tract, a distance of 93.00 feet to a capped 1/2-inch rebar with "Chaparral" cap set marking an angle point;

THENCE North 64°00'25" West, along said northerly line of the Roman Catholic Diocese tract, a distance of 85.00 feet to a capped 1/2-inch rebar with "Chaparral" cap set marking

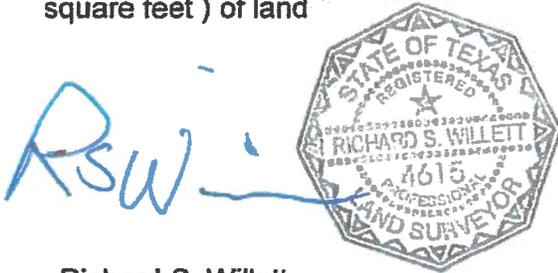
an angle point;

THENCE South  $89^{\circ}49'35''$  West, along said northerly line of the Roman Catholic Diocese tract, a distance of 315.65 feet to a capped 1/2-inch rebar with "Chaparral" cap set in the easterly R.O.W. line of aforesaid Bilbrook Place, marking the southeasterly corner of the herein described tract;

THENCE North  $03^{\circ}25'53''$  West, along said easterly R.O.W. line, a distance of 171.19 feet to a capped 1/2-inch rebar with "Chaparral" cap set marking the beginning of a curve to the right;

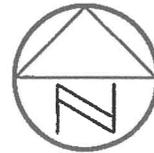
THENCE along said easterly R.O.W. line, following the arc of said curve, having radius of 288.51 feet of a central angle of  $05^{\circ}59'27''$ , and a chord bearing North  $00^{\circ}21'18''$  West, a distance of 30.15 feet to a 1/2-inch rebar found marking the southwesterly corner of aforesaid Resubdivision of Lot 1 Block "C"

THENCE North  $89^{\circ}49'27''$  East, along the southerly line of said Resubdivision, a distance of 313.61 feet to the POINT OF BEGINNING and containing 27.02 acres (1,176,905 square feet ) of land



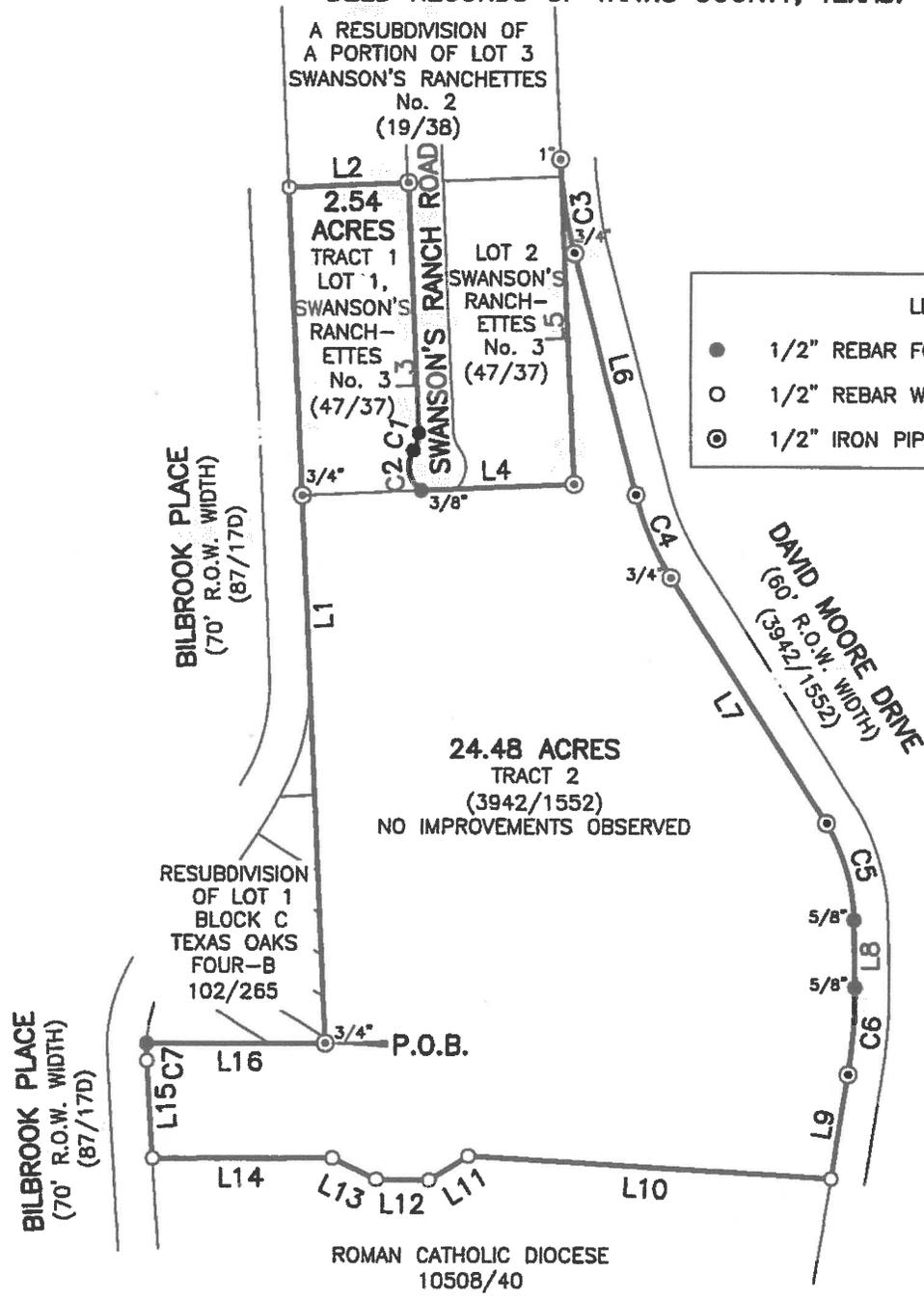
Richard S. Willett  
Registered Professional Land Surveyor  
State of Texas No. 4615  
TBPLS Firm No. 10124500

SKETCH TO ACCOMPANY A DESCRIPTION OF 27.018 ACRES IN THE S.F. SLAUGHTER LEAGUE SURVEY NO. 1, TRAVIS COUNTY, TEXAS, BEING A PORTION OF SWANSON'S RANCHETTES, A SUBDIVISION OF RECORD IN VOLUME 47, PAGE 37 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS; AND BEING ALL OF THAT CERTAIN TRACT OF LAND CONVEYED TO MILTON A. MESSINGER IN VOLUME 3174, PAGE 2093 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS.



1" = 300'

LEGEND	
●	1/2" REBAR FOUND (OR AS NOTED)
○	1/2" REBAR WITH "CHAPARRAL" CAP SET
⊙	1/2" IRON PIPE FOUND (OR AS NOTED)



DATE OF SURVEY: 07/29/19  
 PLOT DATE: 07/30/19  
 DRAWING NO.: 759-018-Z1  
 PROJECT NO.: 759-018  
 T.B.P.L.S. FIRM NO. 10124500  
 DRAWN BY: DLJ  
 SHEET 1 OF 2

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM THE NATIONAL GEODETIC SURVEY (NGS) ON-LINE POSITIONING USER SERVICE (OPUS)

ATTACHMENTS: METES AND BOUNDS DESCRIPTION 759-018-Z1



SKETCH TO ACCOMPANY A DESCRIPTION OF 27.018 ACRES IN THE S.F. SLAUGHTER LEAGUE SURVEY NO. 1, TRAVIS COUNTY, TEXAS, BEING A PORTION OF SWANSON'S RANCHETTES, A SUBDIVISION OF RECORD IN VOLUME 47, PAGE 37 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS; AND BEING ALL OF THAT CERTAIN TRACT OF LAND CONVEYED TO MILTON A. MESSINGER IN VOLUME 3174, PAGE 2093 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N02°27'18"W	1497.87'
L2	N87°37'37"E	207.20'
L3	S02°30'23"E	437.88'
L4	N87°37'37"E	267.35'
L5	N02°28'14"W	567.64'
L6	S14°30'41"E	435.45'
L7	S32°14'42"E	507.30'
L8	S00°35'00"E	117.89'
L9	S09°23'27"W	184.82'
L10	N86°33'25"W	636.14'
L11	S57°47'35"W	80.00'
L12	N89°17'25"W	93.00'
L13	N64°00'25"W	85.00'
L14	S89°49'35"W	315.65'
L15	N03°25'53"W	171.19'
L16	N89°49'27"E	313.61'

CURVE TABLE					
CURVE	RADIUS	DELTA	ARC	BEARING	CHORD
C1	49.95'	36°53'12"	32.16'	S15°56'13"W	31.61'
C2	50.00'	89°53'44"	78.45'	S10°34'03"E	70.65'
C3	789.02'	12°02'31"	165.83'	S08°28'57"E	165.52'
C4	509.85'	17°46'26"	158.16'	S23°19'44"E	157.53'
C5	323.00'	31°37'59"	178.33'	S16°25'21"E	176.07'
C6	881.90'	09°58'27"	153.52'	S04°24'13"W	153.33'
C7	288.51'	05°59'27"	30.17'	N00°21'18"W	30.15'

DATE OF SURVEY: 07/29/19  
 PLOT DATE: 07/30/19  
 DRAWING NO.: 759-018-Z1  
 PROJECT NO.: 759-018  
 T.B.P.L.S. FIRM NO. 10124500  
 DRAWN BY: DLJ  
 SHEET 2 OF 2

*Chaparral*

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM THE NATIONAL GEODETIC SURVEY (NGS) ON-LINE POSITIONING USER SERVICE (OPUS)

ATTACHMENTS: METES AND BOUNDS DESCRIPTION 759-018-Z1

APPROVED AS TO FORM:

\_\_\_\_\_  
Name: \_\_\_\_\_  
Assistant City Attorney  
City of Austin

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