

**MUNICIPAL SERVICES AGREEMENT**  
**BETWEEN THE CITY OF FORT WORTH, TEXAS AND**  
**BENCHMARK ACQUISITIONS LLC**

This Municipal Services Agreement ("Agreement") is entered into on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the City of Fort Worth, Texas, a home-rule municipality of the State of Texas, ("City") and Benchmark Acquisitions, LLC ("Owner").

**RECITALS**

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement.

**WHEREAS**, the City is currently classified as a Tier 2 municipality for purposes of annexation under the Texas Local Government Code ("LGC");

**WHEREAS**, Section 43.0671 of the LGC permits the City to annex an area if each owner of land in an area requests the annexation;

**WHEREAS**, where the City elects to annex such an area, the City is required to enter into a written agreement with the property owner(s) that sets forth the City services to be provided for the Property on or after the effective date of annexation (the "Effective Date");

**WHEREAS**, Owner owns certain parcels of land situated in Tarrant County, Texas, which consists of approximately 40.043 acres of land in the City's extraterritorial jurisdiction, such property being more particularly described and set forth in Exhibit "A" attached and incorporated herein by reference ("Property");

**WHEREAS**, Owner has filed a written request with the City for full-purpose annexation of the Property, identified as Annexation Case No. AX-19-011 ("Annexation Case");

**WHEREAS**, City and Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation;

**WHEREAS**, the Annexation Case and execution of this Agreement are subject to approval by the Fort Worth City Council; and

**NOW THEREFORE**, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

- 1. PROPERTY.** This Agreement is only applicable to the Property, which is the subject of the Annexation Case.
- 2. INTENT.** It is the intent of the City that this Agreement provide for the delivery of full,

available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law. For purposes of this Agreement, “full municipal services” means all services provided by the City within its full-purpose boundaries, including water and wastewater services and excluding gas or electrical service.

### **3. MUNICIPAL SERVICES.**

- a. Commencing on the Effective Date, the City will provide the municipal services set forth below. As used in this Agreement, “providing services” includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances, rules, regulations, and policies.
  - i. Fire – The City's Fire Department will provide emergency and fire protection services.
  - ii. Police – The City's Police Department will provide protection and law enforcement services.
  - iii. Emergency Medical Services – The City's Fire Department and MedStar (or other entity engaged by the City after the Effective Date) will provide emergency medical services.
  - iv. Planning and Zoning – The City's Planning and Development Department will provide comprehensive planning, land development, land use, and building review and inspection services in accordance with all applicable laws, rules, and regulations.
  - v. Parks and Recreational Facilities – Residents of the Property will be permitted to utilize all existing publicly-owned parks and recreational facilities and all such facilities acquired or constructed after the Effective Date (including community service facilities, libraries, swimming pools, etc.), throughout the City. Any private parks, facilities, and buildings will be unaffected by the annexation; provided, however, that the City will provide for maintenance and operation of the same upon acceptance of legal title thereto by the City and appropriations therefor. In the event the City acquires any other parks, facilities, or buildings necessary for City services within the Property, the appropriate City department will provide maintenance and operations of the same.
  - vi. Other Publicly Owned Buildings – Residents of the Property will be permitted to use all other publicly owned buildings and facilities where the public is granted access.
  - vii. Stormwater Utility Services – The Property will be included in the City's Stormwater Utility service area and will be assessed a monthly fee based on the amount of impervious surface. The fees will cover the direct and indirect costs of stormwater management services.
  - viii. Roads and Streets (including Street lighting) – The City's Transportation and Public Works Department will maintain the public streets and streetlights over which the City has jurisdiction. The City will provide regulatory signage services in accordance with the City policies and procedures and applicable laws.
  - ix. Water and Wastewater to Existing Structures – Occupied structures that are

using water-well and on-site sewer facilities on the Effective Date may continue to use the same. If a property owner desires to connect an existing structure to the City water and sewer system, then the owner may request a connection and receive up to 200 linear feet of water and sewer extension at the City's cost for each occupied lot or tract in accordance with the City's "Policy for the Installation of Community Facilities" and applicable law. Once connected to the City's water and sanitary sewer mains, the water and sanitary sewage service will be provided by the City at rates established by City ordinances for such service.

- x. Solid Waste Services – The City will provide solid waste collection services in accordance with existing City ordinances and policies, except where prohibited by law.
  - xi. Code Compliance – The City's Code Department will provide education, enforcement, and abatement relating to code violations within the Property.
  - xii. Full Municipal Services – Commencing on the Effective Date, the City will provide to the Property all services provided by the City within its full-purpose boundaries and not otherwise listed above, except as provided in Section 3(b).
- b. The City will provide water service and wastewater treatment service to developments established after the Effective Date in accordance with, and on the schedule determined by, the City's extension policies and applicable law and at rates established by City ordinances for such services.
  - c. It is understood and agreed that the City is not required to provide a service that is not included in this Agreement.
  - d. Owner understands and acknowledges that the City departments listed above may change names or be re-organized by the City Manager. Any reference to a specific department also includes any subsequent City department that will provide the same or similar services.
4. **SERVICE LEVEL.** The City will provide the Property with a level of services, infrastructure, and infrastructure maintenance that is comparable to the level of services, infrastructure, and infrastructure maintenance available in other parts of the City with topography, land use, and population density similar to those reasonably contemplated or projected for the Property.
5. **AUTHORITY.** City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges that approval of the Annexation Case is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.
6. **SEVERABILITY.** If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
7. **INTERPRETATION.** The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted

according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.

8. **GOVERNING LAW AND VENUE.** Venue shall be in the state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division and construed in conformity with the provisions of Texas Local Government Code Chapter 43.
9. **NO WAIVER.** The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.
10. **GOVERNMENTAL POWERS.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.
11. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
12. **CAPTIONS.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
13. **AGREEMENT BINDS AND BENEFITS SUCCESSORS AND RUNS WITH THE LAND.** This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property, is binding on the Owner and the City, and is enforceable by any current or future owner of any portion of the Property.
14. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between said parties. This Agreement shall not be amended unless executed in writing by both parties.

Executed as of the day and year first above written to be effective on the effective date of annexation of the Property.

**CITY OF FORT WORTH**

**PROPERTY OWNER  
Benchmark Acquisitions, LLC.**

By: \_\_\_\_\_  
Dana Burghdoff  
Interim Assistant City Manager

By:   
Kyle Kirkland

Approved as to Form and Legality:

\_\_\_\_\_  
Senior Assistant City Attorney

Attest:

\_\_\_\_\_  
Mary Kayser  
City Secretary

Approvals:  
M&C \_\_\_\_\_  
Ordinance No. \_\_\_\_\_

**State of Texas**                   §  
**County of Tarrant**           §

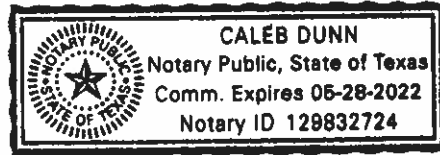
This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Dana Burghdoff, Interim Assistant City Manager of the City of Fort Worth, a Texas  
municipal corporation, on behalf of said corporation.

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

STATE OF TEXAS           §  
  §  
COUNTY OF Tarrant   §

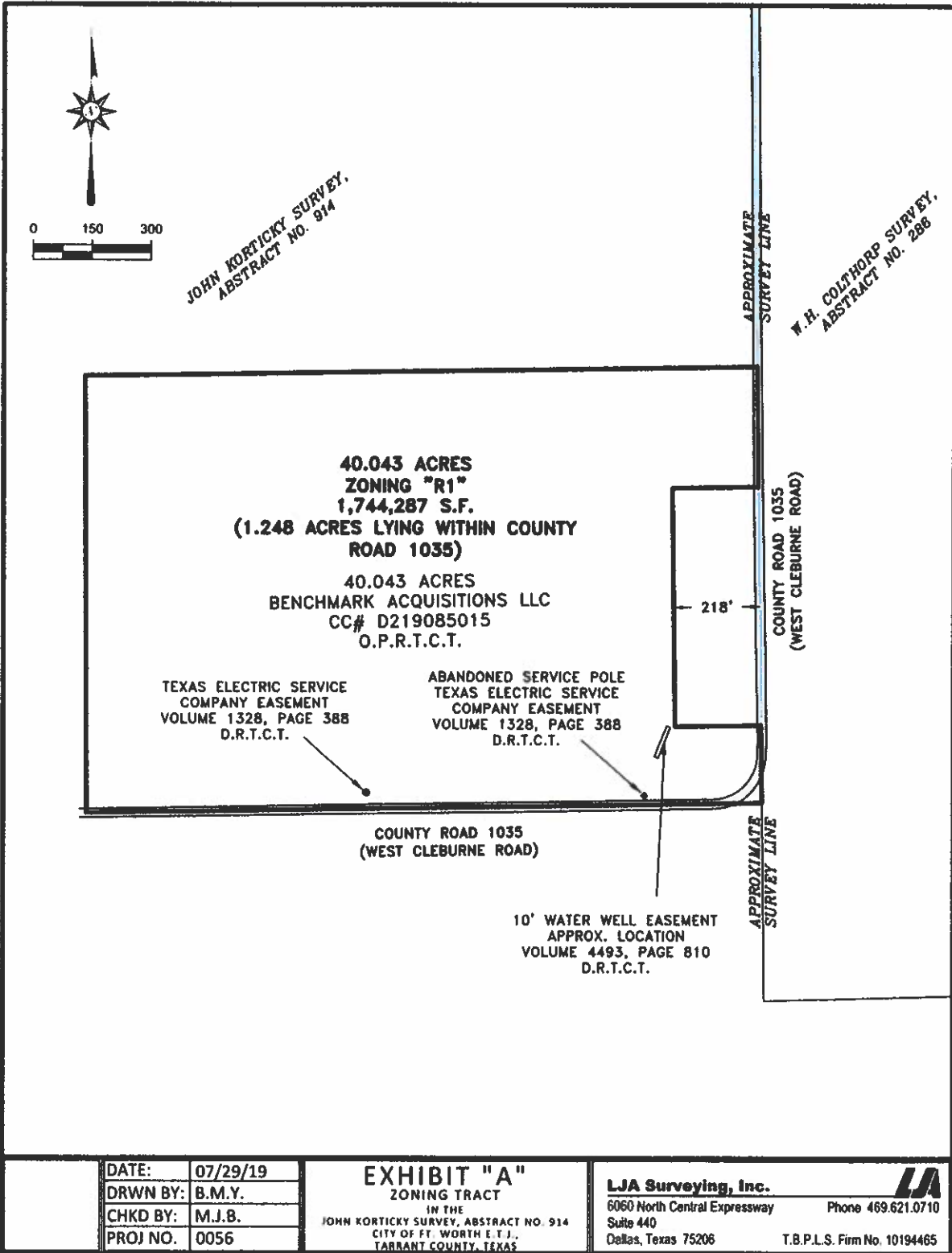
This instrument was acknowledged before me on the 27<sup>th</sup> day of August, 2019,  
by Kyle Kirkland [Signature] on behalf of Benchmark  
Acquisitions, LLC.

By: [Signature]  
Notary Public, State of Texas



**After Recording Return to:  
City Secretary  
City of Fort Worth  
200 Texas Street  
Fort Worth, Texas 76102**

EXHIBIT A



S:\MDC-LAND\0056\200 - Survey\0280 - Easements\0056\203.dwg, 7/29/2018

|          |          |
|----------|----------|
| DATE:    | 07/29/19 |
| DRWN BY: | B.M.Y.   |
| CHKD BY: | M.J.B.   |
| PROJ NO. | 0056     |

**EXHIBIT "A"**  
 ZONING TRACT  
 IN THE  
 JOHN KORTICKY SURVEY, ABSTRACT NO. 914  
 CITY OF FT. WORTH E.T.J.,  
 TARRANT COUNTY, TEXAS

**LJA Surveying, Inc.**  
 6060 North Central Expressway  
 Suite 440  
 Dallas, Texas 75206  
 Phone 469.621.0710  
 T.B.P.L.S. Firm No. 10194465



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**ZONING TRACT**

BEING A 40.043 ACRE TRACT OF LAND SITUATED IN THE JOHN KORTICKY SURVEY, ABSTRACT NO. 914, CITY OF FORT WORTH-E.T.J., TARRANT COUNTY, TEXAS AND BEING ALL OF A 40.043 ACRE TRACT OF LAND CONVEYED TO BENCHMARK ACQUISITIONS LLC, AS RECORDED IN COUNTY CLERK'S FILE NO. D219085015, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS. SAID 40.043 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (NAD83 (2011) EPOCH DATE 2010), DETERMINED BY GPS OBSERVATIONS, CALCULATED FROM DENTON CORS ARP (PID-DF8986) AND ARLINGTON RRP2 CORS ARP (PID-DF5387), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT A 1" CAST IRON PIPE FOUND FOR THE SOUTHEAST CORNER OF SAID 40.043 ACRE TRACT, AND A COMMON INTERIOR ELL CORNER OF A 280.597 ACRE TRACT OF LAND CONVEYED TO BLOOMFIELD HOMES, L.P., AS RECORDED IN COUNTY CLERK'S FILE NO. D218204120, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 05 MINUTES 12 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 40.043 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 280.597 ACRE TRACT AND GENERALLY ALONG COUNTY ROAD 1035, ALSO KNOWN AS WEST CLEBURNE ROAD (A PRESCRIPTIVE RIGHT-OF-WAY), A DISTANCE OF 1706.58 FEET TO A POINT FOR THE SOUTHWEST CORNER OF SAID 40.043 ACRE TRACT AND THE COMMON SOUTHEAST CORNER OF A 10.26 ACRE TRACT OF LAND CONVEYED TO GREGORY HIGGINS AND RAINIE HIGGINS, AS RECORDED IN COUNTY CLERK'S FILE NO. D202019778, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 17 MINUTES 44 SECONDS WEST, ALONG THE WEST LINE OF SAID 40.043 ACRE TRACT AND THE COMMON EAST LINE OF SAID 10.26 ACRE TRACT, PASSING AT A DISTANCE OF 24.42 FEET A 5/8" IRON ROD FOUND FOR WITNESS, AND CONTINUING A TOTAL DISTANCE OF 1102.34 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR THE NORTHWEST CORNER OF SAID 40.043 ACRE TRACT AND THE COMMON SOUTHWEST CORNER OF A 20.011 ACRE TRACT OF LAND CONVEYED TO CROWLEY INDEPENDENT SCHOOL DISTRICT, AS RECORDED IN COUNTY CLERK'S FILE NO. D207416955, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS, FROM WHICH A 1" IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 10.26 ACRE TRACT AND THE COMMON EXTERNAL ELL CORNER OF PANTHER HEIGHTS PHASE II, AN ADDITION TO THE CITY OF CROWLEY, AS RECORDED IN CABINET A, SLIDE 7768, PLAT RECORDS, TARRANT COUNTY, TEXAS, BEARS NORTH 00 DEGREES 17 MINUTES 44 SECONDS WEST, A DISTANCE OF 12.70 FEET;

THENCE, NORTH 89 DEGREES 07 MINUTES 45 SECONDS EAST, ALONG THE NORTH LINE OF SAID 40.043 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 20.011 ACRE TRACT, PASSING AT A DISTANCE OF 1673.27 FEET A 1/2" IRON ROD FOUND FOR WITNESS AND CONTINUING A TOTAL DISTANCE OF 1698.27 FEET TO A 60D NAIL FOUND FOR THE NORTHEAST CORNER OF SAID 40.043 ACRE TRACT AND THE COMMON SOUTHEAST CORNER OF SAID 20.011 ACRE TRACT, SAID 60D NAIL FOUND LYING IN SAID COUNTY ROAD 1035;

THENCE, SOUTH 00 DEGREES 35 MINUTES 43 SECONDS EAST, ALONG AN EAST LINE OF SAID 40.043 ACRE TRACT AND GENERALLY ALONG COUNTY ROAD 1035, A DISTANCE OF 303.03 FEET TO A POINT FOR AN EXTERIOR ELL CORNER OF SAID 40.043 ACRE TRACT AND THE COMMON NORTHEAST CORNER OF A 2.00 ACRE TRACT OF LAND CONVEYED TO O.F. BUSH, SR. AND JOHNNIE M. BUSH, AS RECORDED IN VOLUME 4777, PAGE 308, DEED RECORDS, TARRANT COUNTY, TEXAS, SAID POINT LYING IN SAID COUNTY ROAD 1035;

THENCE, SOUTH 89 DEGREES 05 MINUTES 17 SECONDS WEST, ALONG A SOUTH LINE OF SAID 40.043 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 2.00 ACRE TRACT, PASSING AT A DISTANCE OF 25.00 FEET A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR WITNESS, AND CONTINUING A TOTAL DISTANCE OF 217.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR AN INTERIOR ELL CORNER OF SAID 40.043 ACRE TRACT AND THE COMMON NORTHWEST CORNER OF SAID 2.00 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 44 MINUTES 51 SECONDS EAST, ALONG AN EAST LINE OF SAID 40.043 ACRE TRACT AND THE COMMON WEST LINE OF SAID 2.00 ACRE TRACT, PASSING AT A DISTANCE OF 402.67 FEET A 1/2" IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 2.00 ACRE TRACT AND THE COMMON NORTHWEST CORNER OF A 1.00 ACRE TRACT OF LAND CONVEYED TO DENVER AND JENNIFER KOON, AS RECORDED IN COUNTY CLERK'S FILE NO. D215131913, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS, AND CONTINUING A TOTAL DISTANCE OF 602.24 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR AN INTERIOR ELL CORNER OF SAID 40.043 ACRE TRACT AND THE COMMON SOUTHWEST CORNER OF SAID 1.00 ACRE TRACT;

THENCE, NORTH 89 DEGREES 03 MINUTES 47 SECONDS EAST, ALONG A NORTH LINE OF SAID 40.043 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 1.00 ACRE TRACT, PASSING AT A DISTANCE OF 192.01 FEET A 1/2" IRON ROD FOUND FOR WITNESS, AND CONTINUING A TOTAL DISTANCE OF 217.01 FEET TO A POINT FOR AN EXTERIOR ELL CORNER OF SAID 40.043 ACRE TRACT AND THE COMMON SOUTHEAST CORNER OF SAID 1.00 ACRE TRACT, SAID POINT BEING ON THE WEST LINE OF AFORESAID 280.597 ACRE TRACT AND LYING IN COUNTY ROAD 1035;

THENCE, SOUTH 00 DEGREES 51 MINUTES 55 SECONDS EAST, ALONG THE EAST LINE OF SAID 40.043 ACRE TRACT AND THE COMMON WEST LINE OF SAID 280.597 ACRE TRACT AND GENERALLY ALONG COUNTY ROAD 1035, A DISTANCE OF 195.84 FEET TO THE POINT OF BEGINNING AND CONTAINING A CALCULATED AREA OF 1,744,287 SQUARE FEET, OR 40.043 ACRES OF LAND.

A PARCEL PLAT OF EQUAL DATE HERewith ACCOMPANIES THIS PROPERTY DESCRIPTION.



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Michael J. Baitup, R.P.L.S.  
Registered Professional Land Surveyor  
Texas Registration No. 4574  
LJA Surveying, Inc.  
6060 North Central Expressway, Suite 440  
Dallas, Texas 75206  
469-484-0778

JULY 29, 2019



TBPLS Firm No. 10194465