

STATE OF TEXAS §

§

COUNTY OF HAYS §

**CHAPTER 43 TEXAS LOCAL GOVERNMENT CODE
DEVELOPMENT AGREEMENT**

This Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code by and between the City of Kyle, Texas (the "City") and the undersigned property owner(s) (the "Owner"). The term "Owner" includes all owners of the Property.

WHEREAS, the Owner owns a parcel of real property (the "Property") in Hays County, Texas, which is more particularly and separately described in the attached Exhibit "A"; and

WHEREAS, the City has begun the process to institute annexation proceedings on parcels of property currently located in the City's ETJ and has set public hearings on September 10 and September 17, 2013; and

WHEREAS, the City contemplated including the Owner's property as part of the City's annexation process, Owner desires to have the Property remain in the City's extraterritorial jurisdiction, in consideration for which the Owner agrees to enter into this Agreement; and

WHEREAS, this Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code, in order to address the desires of the Owner and the procedures of the City; and

WHEREAS, the Owner and the City acknowledge that this Agreement is binding upon the City and the Owner and their respective successors and assigns for the term (defined below) of this Agreement; and

WHEREAS, this Development Agreement is to be recorded in the Real Property Records of Hays County, Texas.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

Section 1. The City guarantees the continuation of the extraterritorial status of the Owner's Property, its immunity from annexation by the City, and its immunity from City property taxes, for the term of this Agreement, subject to the provisions of this Agreement. Except as provided in this Agreement, the City agrees not to annex the Property, agrees not to involuntarily institute proceedings to annex the Property, and further agrees not to include the Property in a statutory annexation plan for the Term of this Agreement.

Section 2. The Owner covenants and agrees not to use the property for any use other than for agriculture, consistent with Chapter 23 of the Texas Tax Code, except for any now-existing single-family residential use of the property, without the prior written consent of the City.

The Owner covenants and agrees that the Owner will not file any type of subdivision plat or related development document for the Property with Hays County or the City until the Property has been annexed into the City. During the duration of this Agreement, the Owner covenants and agrees not to construct, or allow to be constructed, any buildings on the Property that would require a building permit if the Property were in the City limits, subject to the exceptions set forth herein. The Owner reserves the right to construct, repair, or renovate buildings on the Property that are consistent with its agricultural use without obtaining a building permit or triggering annexation. Further, the Owner may construct an accessory structure to an existing single-family dwelling. Additionally, Owner reserves the right to construct a new residence on the Property, provided that Owner provides written notice of the construction to the City so that the parties can modify the description of the land subject to this Agreement.

The Owner acknowledges that each and every owner of the Property must sign this Agreement in order for the Agreement to take full effect, and the Owners who sign this Agreement covenants and agrees, jointly and severably, to indemnify, hold harmless, and defend the City against any and all legal claims, by any person claiming an ownership interest in the Property who has not signed the Agreement, arising in any way from the City's reliance on this Agreement.

Section 3. The Owner acknowledges that if any plat or related development document is filed in violation of this Agreement, or if the Owner commences development of the Property in violation of this Agreement, then in addition to the City's other remedies, such act will constitute a petition for voluntary annexation by the Owner, and the Property will be subject to annexation at the discretion of the City Council. The Owner agrees that such annexation shall be voluntary and the Owner hereby consents to such annexation as though a petition for such annexation had been tendered by the Owner.

If annexation proceedings begin pursuant to this Section, the Owner acknowledges that this Agreement serves as an exception to Local Government Code Section 43.052, requiring a municipality to use certain statutory procedures, including notices and hearings under an annexation plan. Furthermore, the Owner hereby waives any and all vested rights and claims that they may have under Section 43.002(a) (2) and chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any actions Owner has taken in violation of Section 2 herein.

Section 4. Pursuant to Sections 43.035(b) (1) (B) of the Texas Local Government Code, the City is authorized to enforce all of the City's regulations and planning authority that do not materially interfere with the regulations that are enforced within the City's boundaries. The City states and specifically reserves its authority pursuant to Chapter 251 of the Texas Local Government Code to exercise eminent domain over property that is subject to a Chapter 43 and/or Chapter 212 development agreement.

Section 5. In accordance with Texas Local Government Code 212.172(d), the initial term of this Agreement (the "Initial Term") is **fifteen (15) years** from the date that the City Manager's signature to this Agreement is acknowledged by a public notary. Unless each party agrees to a subsequent term, the City will commence the annexation of the Property at the end of the Initial Term. In connection with annexation pursuant to this section, the Owners hereby waive any vested rights they may have under Section 43.002(a) (2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any plat or construction any of the owners may initiate during the time between the expiration of this Agreement and the institution of annexation proceedings by the City.

Section 6. Any person who sells or conveys any portion of the Property shall, prior to such sale or conveyances, give written notice of this Agreement to the prospective purchaser or grantee, and shall give written notice of the sale or conveyance to the City. Furthermore, the Owners and the Owners' heirs, successors, and assigns shall give the City written notice within 14 days of any change in the agricultural exemption status of the Property. A copy of either notice required by this section shall be forwarded to the City at the following address:

City of Kyle
Attn: City Manager
2110 4th Street
Kyle, Texas 78640

Section 7. This Agreement shall run with the Property and be recorded in the Real Property Records of Hays County, Texas.

Section 8. If a court of competent jurisdiction determines that any covenant of this Agreement is void or unenforceable, including the covenants regarding involuntary annexation, then the remainder of this Agreement shall remain in full force and effect.

Section 9. This Agreement may be enforced by any Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

Section 10. No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement or the City's ability to annex the properties covered herein pursuant to the terms of this Agreement.

Section 11. Venue for this Agreement shall be in Hays County, Texas.

Section 12. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 13. This Agreement shall survive its termination to the extent necessary for the implementation of the provisions of Sections 3, 4, and 5 herein.

In witness whereof, the above and foregoing provisions are hereby agreed to, and accepted and approved by the parties.

OWNER"

By: Charles L. LaCaze Jr

Name: Charles L. LaCaze Jr.

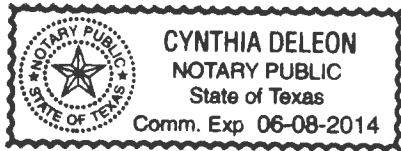
Date: 8/22/2013

THE STATE OF TEXAS §
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COUNTY OF HAYS §

This instrument was acknowledged before me on the 22nd day of August 2013 by Charles Lacaze, being known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Cynthia DeLeon
Notary Public, State of Texas

(NOTARY SEAL)



“CITY” City of Kyle, Texas

By: Lanny L. Lambert

Name: Lanny Lambert

Title: City Manager

Date: September 3, 2013

THE STATE OF TEXAS §
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This instrument was acknowledged before me on the 10th day of Sept 2013, by Lanny Lambert, as City Manager of the City of Kyle, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Amelia L. Sanchez
Notary Public, State of Texas



EXHIBIT B
PROPERTY DESCRIPTION

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RECORDING PURPOSES**

FIELD NOTES

BEING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE WILLIAM HEMPHILL SURVEY, ABSTRACT NUMBER 221, SITUATED IN HAYS COUNTY, TEXAS, BEING MORE FULLY DESCRIBED AS BEING ALL OF THAT CERTAIN 10.095 ACRE TRACT OF LAND, CONVEYED TO CHARLES LACAZE JR. IN VOLUME 815, PAGE 441, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, (O.P.R.H.C.TX.), AND ALL OF THAT CERTAIN 10.112 ACRE TRACT OF LAND, CONVEYED TO CHARLES LACAZE JR. IN VOLUME 298, PAGE 453 OF THE O.P.R.H.C.TX., SAID 20.207 ACRE TRACT BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a point found on the northeastern right-of-way line of FM 150 (R.O.W. varies), at the westernmost corner of a 14.156 acre tract, conveyed to Kenneth Joe O'Bryant in Volume 1219, Page 80 of the O.P.R.H.C.TX., also being the southernmost corner of said 10.112 acre, for the southernmost corner and **POINT OF BEGINNING** of the herein described tract,

THENCE, with the common boundary of the northeastern right-of-way line of said FM 150 (R.O.W varies), said 10.112 acre tract and said 10.095 acre tract, N41°11'00"W, for a distance of 908.86 feet to a point for the southernmost corner of Waterleaf Subdivision Phase A Section 4, a subdivision recorded in Volume 16, Page 382 of the Hays County Plat Records (H.C.P.R), also being the westernmost corner of the herein described tract,

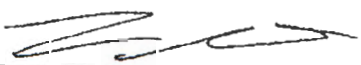
THENCE, with the common boundary line of said Waterleaf Subdivision Phase A Section 4 and said 10.095 acre tract, N44°54'00"E, for a distance of 915.13 feet to a point for the northernmost corner of said 10.095 acre tract, also being the westernmost corner of a 3.817 acre tract, conveyed to Daniel Saucedo in Volume 3811, Page 691 of the O.P.R.H.C.TX.,

THENCE, with the common boundary line of said 3.817 acre tract, said 10.095 acre tract and said 10.112 acre tract, S41°36'00"E, for a distance of 999.93 feet to a point in the northeastern boundary line of a 1.155 acre tract, conveyed to Sandra Woods in Volume 2325, Page 153 of the O.P.R.H.C.TX., for the southernmost corner of said 3.817 acre tract, also being the easternmost corner of the herein described tract,

THENCE, with the common boundary line of said 1.155 acre tract, said 10.112 acre tract and said 14.156 acre tract, the following four (4) courses and distances, numbered 1 through 4:

- 1) S48°24'00"W, for a distance of 433.33 feet to a point for the westernmost corner of said 1.155 acre tract,
- 2) S48°24'00"W, for a distance of 61.87 feet to a point,
- 3) S58°24'00"W, for a distance of 171.57 feet to a point, and
- 4) S49°37'00"W, for a distance of 255.93 feet to the **POINT OF BEGINNING**, and containing 20.207 acres of land.

THIS SURVEY WAS PREPARED FROM RECORD INFORMATION FOUND IN VOLUME 815, PAGE 441 & VOLUME 298, PAGE 453 (O.P.R.H.C.TX.), NO ON-THE-GROUND SURVEY WAS PERFORMED

Surveyed by:  8-27-13

ROBERT J. GERTSON, R.P.L.S. NO. 6367
Carlson, Briggance and Doering, Inc.
5501 West William Cannon
Austin, TX 78749
Ph: 512-280-5160 Fax: 512-280-5165
rgertson@cbdeng.com

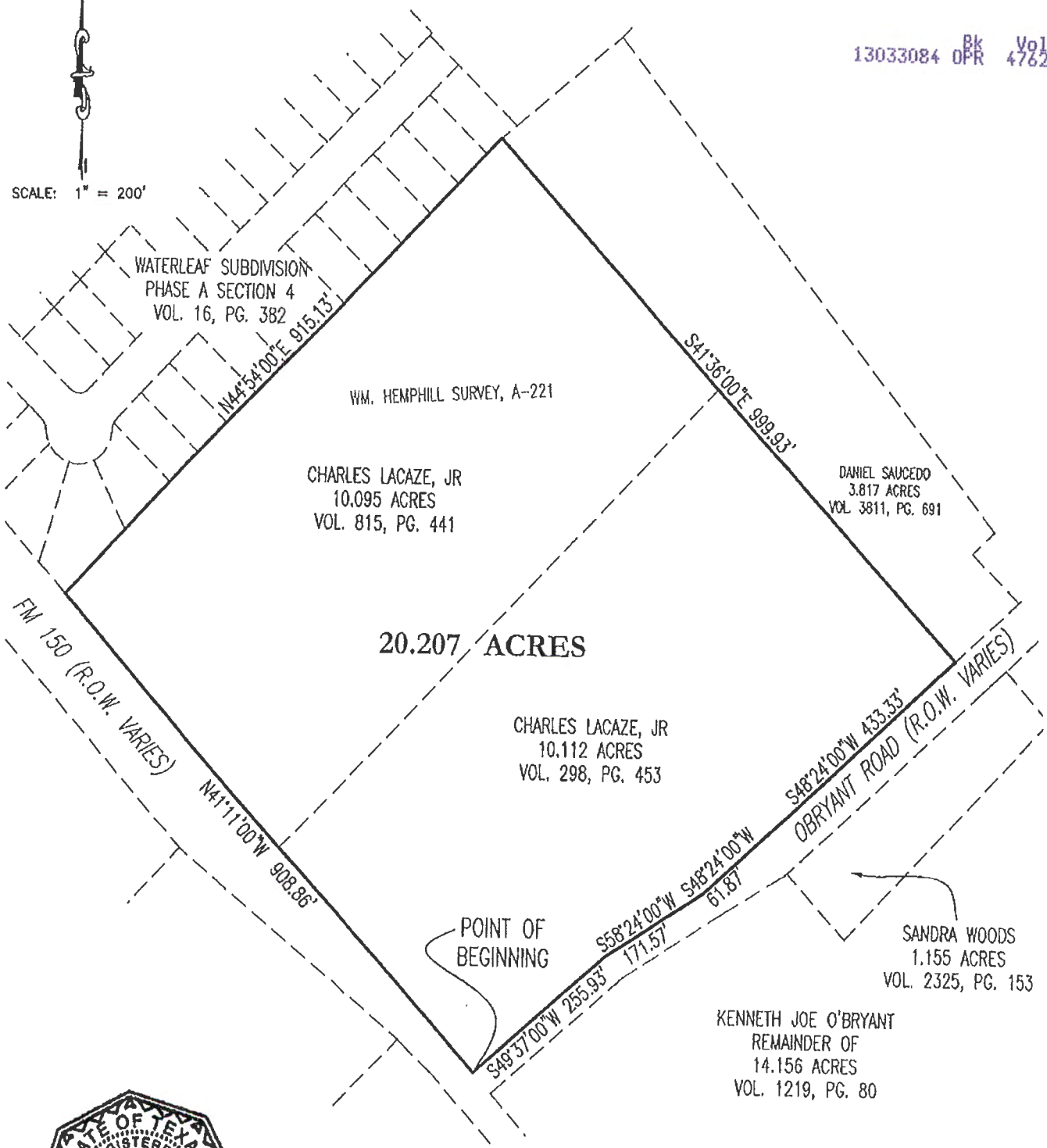


SKETCH TO ACCOMPANY FIELD NOTES

13033084 Bk Vol Pg
0PR 4782 528



SCALE: 1" = 200'



8-27-13

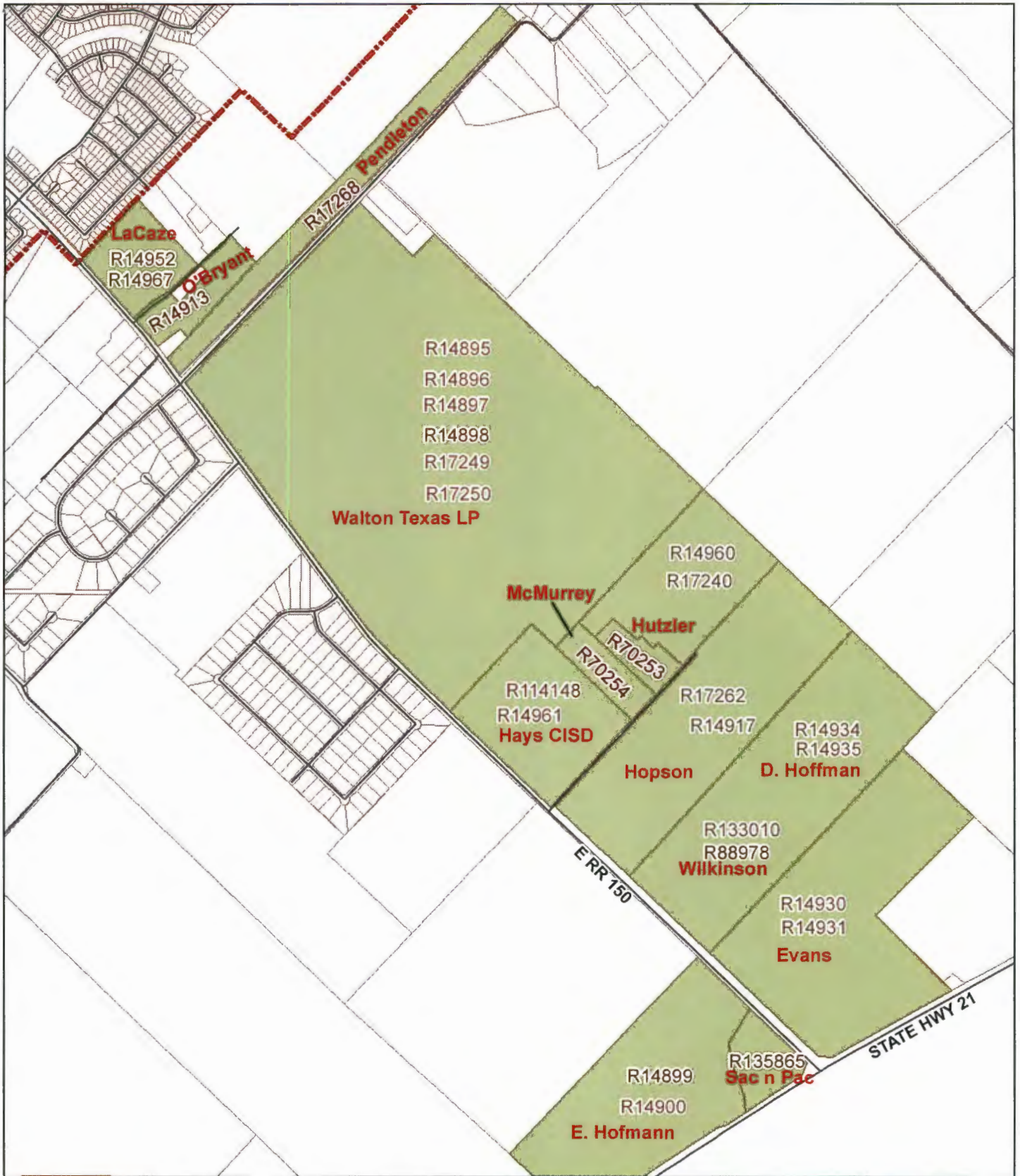
BEARING BASIS: PREPARED WITH RECORD INFORMATION
FOUND IN VOLUME 815, PAGE 441 & VOLUME 298, PAGE 453 (O.P.R.H.C.TX.)

Carlson, Brigance & Doering, Inc.
 Civil Engineering ♦ Surveying
 5501 West William Cullen Drive ♦ Austin, Texas 78749
 Phone No. (512) 280-5180 ♦ Fax No. (512) 280-5165

EXHIBIT C

PROPERTY MAP

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RECORDING PURPOSES**



	Parcel Lines	<u>Proposed Annexations</u>		
	Proposed Annex	Scott St		
	Current Kyle City			

Hays County
Liz Q. Gonzalez
County Clerk
San Marcos, Texas 78666



70 2013 13033084

Instrument Number: 2013-13033084

As

Recorded On: September 30, 2013

OPR RECORDINGS

Parties: KYLE CITY OF

Billable Pages: 10

To LACAZE CHARLES L JR

Number of Pages: 11

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

OPR RECORDINGS	62.00
Total Recording:	62.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Record and Return To:

Document Number: 2013-13033084

Receipt Number: 349678

CITY OF KYLE

Recorded Date/Time: September 30, 2013 03:46:57P

ORIGINALS TO CUSTOMER

Book-Vol/Pg: BK-OPR VL-4762 PG-520

SAN MARCOS TX 78666

User / Station: A Herzog - Cashiering #7



State of Texas |
County of Hays

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Hays County, Texas

Liz Q. Gonzalez

Liz Q. Gonzalez, County Clerk