SPENCER RANCH
DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered by and between the **City of Boerne**, a Texas home-rule municipal corporation located within Kendall County, Texas (hereinafter, referred to as "City"), **Forestar (USA) Real Estate Group, Inc.** (a Delaware Corporation, hereinafter referred to as "Forestar"), **Matkin Properties, LP**, a Texas limited partnership ("Matkin Properties"), **Equity Trust Company Custodian FBO Harold T. duPerier III IRA**, 50% undivided interest, and **Equity Trust Company Custodian FBO John-Mark Matkin IRA**, 50% undivided interest (collectively, the "Undivided Interest Holders"). Matkin Properties and the Undivided Interest Holders are referred to herein collectively as the "Frontage Owners." Forestar and the Frontage Owners are, collectively, the owners of approximately +/-160 acres of Real Property generally located at Spencer Road and State Highway 46, more specifically described below. Forestar and Frontage Owners hereby enter into this Agreement with the City to allow for certain development provisions and the annexation of the property described herein. City, Forestar, and Frontage Owners shall hereafter collectively be referred to as "Parties" or in the singular as "Party."

RECITALS

WHEREAS, Forestar owns approximately 71.12-acres of Real Property in Kendall County, Texas (the "County") and within the extra-territorial jurisdiction ("ETJ") of the City (hereinafter referred to as the "Forestar Property;" *see* **"Exhibit A"**). Forestar has submitted and the City has approved the Master Plan for approximately 209 single-family homes (*see* **"Exhibit B;"** hereinafter referred to as "Forestar's Project" or the "Birch at Spencer Ranch");

WHEREAS, Frontage Owners own approximately 87-acres of Real Property in the County and within the City's ETJ (hereinafter referred to as the "Frontage Owners Property;" *see* **"Exhibit C"**). Such Property is intended to be developed for mixed use purposes (the "Frontage Owners Project" *see* **"Exhibit D"**).

WHEREAS, in order for Forestar and Frontage Owners to carry out their respective projects, and pursuant to the City's Subdivision Ordinance No. 2007-56, et. Seq., (the "Subdivision Ordinance") certain improvements in the area need to be made. Specifically, the construction and/or dedication of a Spencer Ranch Boulevard, which is approximately 2,200 (1,850+350) feet and traverses both the Forestar Property and the Frontage Owners Property (the "Road;" *see* **"Exhibit E"**).

WHEREAS, It is the intent that both Forestar and Frontage Owners, and any successor owners of the identified properties, shall participate in their proportionate share of construction and/or dedication of 2,200 feet of a 4 lane, primary collector roadway, from Highway 46 in a northwestern direction as depicted in Exhibit E, including a traffic signal and any required turn lanes at the intersection of Highway 46 and the Road, referred to herein collectively as "Spencer

Ranch Roadway Improvements", either by constructing their proportionate share of roadway improvements or by providing roadway funds for the City to construct roadway improvements when warranted, all of which is provided in the Rough Proportionality Determination issued by the City on October 1, 2020 ("Rough Proportionality Determination; *see* "**Exhibit F**").

WHEREAS, the Parties desire to enter into this Agreement pursuant to Subchapter C-3 of Chapter 43 of the Texas Local Government Code, § 43.0671, et. Seq., (the "Code") to reflect that in consideration of Forestar's and Frontage Owners' agreement to voluntary annexation and other consideration as stated herein, the City shall abide by and comply with the terms of this Agreement and the conditions stated herein. More specifically, City shall agree to (1) allow for the Road to be constructed and maintained as a Private Road pursuant to the methods and procedures in this Agreement, (2) annex the Forestar Property and the Frontage Owners' Property in a timely manner in accordance with procedures set forth in state law, and (3) the remaining provisions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties now wish to enter into this Agreement and agree as follows:

I. DEFINITIONS

1.1 "Agreement" shall mean this document executed by the Parties, which may be amended from time to time, pursuant to the provisions contained herein.

1.2 "Annexation Area" shall reflect the Properties in Exhibit K (see below).

1.3 "Birch at Spencer Ranch" shall have the meaning specified above.

1.4 "City" and "County" shall have the meaning specified above.

1.5 "Code" shall mean the Texas Local Government Code, as amended.

1.6 "CPI Adjustment" shall mean means the year-to-year adjustment commencing on the first anniversary of the date this Agreement is signed by all Parties, unless otherwise noted, which adjustment shall use the Bureau of Labor Statistics, U.S. Department of Labor Price Index for all Urban Consumers for All Items for the South Region, 1982-84=100.

1.7 "Cure Period" shall have the meaning described in Article VII, below.

1.8 "Effective Date" shall mean the date of execution of this Agreement by all Parties.

1.9 "ETJ" shall have the meaning specified above.

1.10 "Forestar" shall have the meaning specified above.

1.11 "Forestar Project" shall have the meaning specified above.

1.12 "Forestar Property" shall have the meaning specified above.

1.13 "Forestar's Rough Proportionality" shall have the meaning specified below.

1.14 "Frontage Owners" shall have the meaning specified above.

1.15 "Frontage Owners Project" shall have the meaning specified above.

1.16 "Frontage Owners Property" shall have the meaning specified above.

1.17 "Frontage Owners' Rough Proportionality" shall mean the Rough Proportionality Determination issued by the City on October 1, 2020 (see Exhibit F, below).

1.18 "Road" shall have the meaning specified above.

1.19 "Road Reserve Fund" shall have the definition prescribed below.

1.20 "Spencer Ranch Roadway Improvements" shall have the meaning specified above.

1.21 "Subdivision Ordinance" shall have the meaning specified above.

1.22 "Traffic Impact Analysis" shall have the meaning described in the Subdivision Ordinance.

Singular and Plural: Words used herein in the singular, where the context so permits, also includes the plural and vice versa, unless otherwise specified.

II. REPRESENTATIONS AND ACKNOWLEDGMENTS

2.1 The recitals set forth hereinabove are included here as if set out in full and are part of the conditions of this Agreement and binding on Parties.

2.2 Forestar and Frontage Owners represent to City that they collectively are the owners of their respective properties and have the legal capacity and authority to enter into this Agreement and to perform the requirements of this Agreement.

2.3 City acknowledges that it has the authority to agree to the provisions herein and

annex the Frontage Owners Property and the Forestar Property pursuant to the Code and all City regulations, ordinances, and rules pursuant to statutory requirements.

III. THE BIRCH AT SPENCER RANCH

3.1 The Birch at Spencer Ranch consists of approximately 209 single-family homes on the Forestar Property (see previously mentioned Exhibit B). Pursuant to the Subdivision Ordinance and Code, Forestar is required to construct its proportion of infrastructure in coordination with the development of the Birch at Spencer Ranch. Specifically, Forestar's monetary contribution to the Road, as determined by the City's Rough Proportionality Determination for said 209 single-family homes, issued on October 1, 2020 (see previously mentioned Exhibit F) shall not exceed $1,432,477.45 ("Forestar's Rough Proportionality") as adjusted in accordance with the CPI Adjustment (as hereinafter defined). This includes the design and construction of approximately 1,850 ft. of the Road. Upon complete payment of Forestar's Rough Proportionality, all Rough Proportionality for the Birch at Spencer Ranch shall be satisfied and no additional payment or construction of improvements shall be requested or required of Forestar. The City reserves the right to reassess and recalculate the rough proportionality determination if the single-family home count at the Birch at Spencer Ranch changes by more than ten (10) percent.

3.2 This Agreement shall allow Forestar to design, construct, and maintain its proportion (such proportion as specified in previously mentioned Exhibit F) of the Road as a private road, as that term is identified in the Subdivision Ordinance, until such time that the City completes the state prescribed requirements to annex Forestar's Property. City shall perform and complete all inspections and approvals of such portion of the Road as though the City would be maintaining such Road to allow for a timely transfer of maintenance of the Road upon annexation of Forestar's Property.

3.3 Forestar shall dedicate 94-foot right-of-way for the construction of the 350-foot extension of the Road to the City (*see* **"Exhibit G"**) with Phase 3 of the Birch at Spencer Ranch (see previously mentioned Exhibit D) or no later than five (5) years after the date of execution of this agreement. Forestar shall not be required to design or construct the 350 feet of the Road depicted in Exhibit G.

3.4 In association with the permitting, platting, design, and construction of the Birch at Spencer Ranch, Forestar shall be Subject to the following provisions:

> 3.4.1 Pursuant to Sec. 7.03.004 of the Subdivision Ordinance, all water mains for the Birch at Spencer Ranch shall be looped and such water looping shall coincide with the phased development, as indicated in the Overall Utility Plan (see "**Exhibit H**"). Such looping can occur by other means acceptable to both Forestar and the City, as evidenced in writing and executed by both Parties. Compliance with Sec. 7.03.004 of the Subdivision Ordinance shall be completed

concurrently with Phase 3 of the Birch at Spencer Ranch or no later than five (5) years after the date of execution of this agreement.

3.4.2 In lieu of the method of calculation of the yearly contribution for common area reserve fund as described in Section 5.11.014(F)(8)(ii) of the subdivision ordinance, the value of the yearly contribution to the Birch at Spencer Ranch HOA reserve fund shall be assessed at $26,120 per year for the Road, and upon the completion and annexation of each Phase of the Birch at Spencer Ranch (see Exhibit B) the Association shall cause the following funds to be contributed for local streets: $27,385 for Phase 1B, $28,928 for Phase 2, and $22,549 for Phase 3, respectively. The year each Phase of the Birch at Spencer Ranch is annexed such fees shall be prorated. The aforementioned amounts can be adjusted in accordance with the CPI Adjustment. The HOA shall deposit the $26,120 yearly Reserve Fund contribution amount for the Road every 12 months from execution of this Agreement. Upon annexation of Area 5 (see Exhibit K, below), and written request by Forestar, the City shall take over maintenance of the Road and local streets per the process as described in Section 5.11.011 of the Subdivision Ordinance. Upon City commencing maintenance of the Road, the HOA reserve fund balance shall be dedicated to City of Boerne per subdivision ordinance section 5.11.005(C)(iv).

3.4.3 A five-foot (5') sidewalk shall be constructed on the North and South side of the Road where there are four (4) traffic lanes. Where there are only two (2) traffic lanes on the Road a sidewalk shall only be constructed on the South side of the Road (*see* "**Exhibit I**").

3.4.4 The Monument Signs shown in Exhibit J shall be located outside of the right-of-way and outside of the intersection visibility area on either side of the primary collector known as Spencer Ranch Blvd at the intersection of Highway 46 West. These signs will serve as an entrance feature for the Road and the entire development, including the residential and commercial development surrounding the primary collector. The monument signs shall be constructed as shown in Exhibit J, the letters may be backlit and the landscaping shall be provided as demonstrated using the plants listed in Exhibit J and shall not be allowed to exceed one hundred (100) square feet in size. No up-lighting of the monument signs will be permitted, and the signs shall only contain the words Spencer Ranch on the face of the signs. Each sign, landscaping and irrigation shall be maintained in perpetuity by the Birch at Spencer Ranch Homeowners Association which shall be demonstrated in the CCR's.

IV. FRONTAGE OWNERS PROJECT

4.1 Future developments within the Frontage Owners Property are responsible for their

proportionate share of the Spencer Ranch Roadway improvements as defined in Exhibit F. If future development on the Frontage Owners Property requires a Traffic Impact Assessment (TIA), and the results of the same require border street or turn Lane improvements, then these improvements shall be constructed at time of platting. However, if the future development's proposed traffic impact, as determined by the TIA, is an amount that does not require construction of those border street or turn lane improvements, the development shall be required to provide roadway funds into an escrow account, managed by the City, based upon each development's proportionate share of the roadway improvements. Such proportionate share of roadway funds shall be calculated based upon the maximum peak hour trips as determined in each development's TIA and as described in City ordinances as of the Effective Date, multiplied by $551.55 per peak hour trip, subject however to the maximum contribution amounts set forth in Section 4.1.2 below.

4.2 At time of plat submittals to the City, each development shall provide a TIA that determines the peak hour trip for the development. Upon approval of the TIA by the City, the proportionate share of roadway funds shall be provided to the City prior to final plat approval for each development. Any change of land use from the initial TIA, provided during the platting process, shall require an updated TIA and the development shall provide additional roadway funds for any increase in peak hour trips pursuant to the Subdivision Ordinance prior to the City issuing a building permit. At no time shall the roadway funds described herein and provided to the City exceed a total of $1,742,889.00 (total cost equaling $1,442,889 in estimated cost for the completion of the Road and $300,000 in estimated cost for a traffic signal at Hwy 46), as adjusted in accordance with the CPI Adjustment (as hereinafter defined) which is the proportionate share of the Frontage Owners Property roadway improvements per the City's Rough Proportionality determination. All TIA's for development projects within the Frontage Owners Property shall include background traffic generation data from all previously platted parcels in the Frontage Owners Property and Forestar Property for warrant determination of said Spencer Ranch Roadway Improvements. Upon City approval of a TIA that warrants said Spencer Ranch Roadway Improvements, City shall begin the design and construction of said warranted roadway improvements to be paid from the available funds in City's escrow account. The City reserves the right to reassess and recalculate the rough proportionality determination if the single-family home count at the Birch at Spencer Ranch changes by more than ten (10) percent.

4.3 At such time that all roadway improvements, full buildout of the Road and Highway 46 Intersection Road Improvements, are constructed and accepted by the regulating authority, the collection of the proportionate share of the roadway funds shall cease.

4.4 All commercial construction on the Frontage Owners' Property that is within 350 feet of the State Highway 46 right of way and 350 feet. of the Road that occurs prior to annexation into the City limits shall comply with the specific design criteria and lighting regulations (*see* **Exhibit "L"**).

4.5 No structure shall be constructed on the Frontage Owners Property unless a building permit has been issued by the City and a final plat has been recorded for the lot on which the Structure is proposed to be built on.

V. ANNEXATION

5.1 Upon City's compliance with Subchapter C-3 of Chapter 43 of the Code and Annexation of Area 1, the Properties referenced in this Agreement shall be annexed as described below (*see* "**Exhibit K**"):

5.1.1 Area 2 and Area 3 to be annexed as soon as legally permissible in accordance with requirements of state law.

5.1.2 Area 4 to be annexed as soon as legally permissible in accordance with requirements of state law.

5.1.3 Area 5 to be annexed within 18 months of execution of this agreement or as soon thereafter the annexation in 5.1.2 as legally permissible in accordance with State law.

5.1.4 Area 6- Any portions of land within Area 6 that are contiguous to land previously annexed by the City in Areas 1-5 must be annexed and zoned by the City prior to the application by the owner of such contiguous land for a building permit. The owner of any portion of land within Area 6 that is not contiguous to land previously annexed by the City in Areas 1-5 for which development is proposed by such owner, must take whatever action is necessary in order for the City to be able to annex and zone such affected land, prior to such owner applying for a building permit. The platting of any tracts within Area 6 into tracts of smaller acreage does not trigger the requirement for annexation. The owner of any remaining land in Area 6 that has not been theretofore annexed by the City at the expiration of 60 months from the Effective Date of this Agreement must begin the annexation process immediately after the expiration of such 60-month period.

VI. CONSIDERATION

Section 1.01 6.1 Voluntary petition for annexation. The Parties agree that this Agreement constitutes a voluntary petition to the City for annexation of the Forestar Property and the Frontage Owners' Property for full purposes under the provisions of Subchapter C-3 of Chapter 43 of the Code which shall be deemed submitted to the City on the Effective Date of this Agreement.

6.2 Parties agree that this voluntary petition and consent may not be revoked and is intended to be and shall be binding upon the Parties as well as their successors and assigns in ownership of any right, title, or interest in and to the Forestar Property and the Frontage Owners' Property or any part thereof.

6.3 Waiver. To the extent authorized by state and local laws, the Parties agree that the City is only obligated to perform those tasks set forth in Subchapter C-3 of Chapter 43 of the Texas Local Government Code that are required when annexing property under that subchapter. Parties agree that the Parties shall not oppose any action taken by the City to annex the Annexation Area under this Agreement or under Subchapter C-3 of Chapter 43 of the Code.

6.4 All covenants, agreements and terms contained in this agreement obligating Parties shall run with the land and shall hereafter bind all of their successors and assigns and all future owners of the Forestar Property or Frontage Owners' Project.

6.5 Notwithstanding any provision herein to the contrary, the Parties agree and acknowledge that, in accordance with Section 212.172(g), this Agreement constitutes a permit under Chapter 245 of the Code.

VII. WRITTEN AGREEMENT REGARDING SERVICES

7.1 When the City annexes the Forestar Property and the Frontage Owners' Property pursuant to this Agreement, the Parties agree that this Section VII of this Agreement shall constitute a Written Agreement Regarding Services required under Chapter 43, section 43.0672 of the Code; shall run with the land; and shall govern all municipal services to be provided to the Forestar Property and the Frontage Owners' Property.

A. PROGRAM FOR SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF THE ANNEXATION.

The City will provide the following services in the Annexation Area on the effective date of the annexation, unless otherwise noted. As used in this plan, the term "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.

1. POLICE PROTECTION

The City of Boerne Police Department will provide regular and routine patrols to the Annexation Area at the same or similar level now being provided to other areas of the City with similar topography, land use and population densities.

The services will include, but are not limited to:

- Normal patrols and responses to calls for service;
- Handling of offense and incident reports;
- Special units, such as traffic enforcement, criminal investigations, narcotics law enforcement, gang suppression, and crime response team deployment when required; and
- Animal Control services.

2. FIRE SERVICE

The City of Boerne, Texas and its Fire Department will provide fire protection services to the Annexation Area at the same or similar level now being provided to other areas of the City with similar topography, land use and population densities. The Fire Department will perform these duties as part of its overall activities. Adequate fire suppression activities can be afforded to the annexed area within current budget appropriation. Fire prevention activities will be provided by the Fire Marshall's office as needed.

These services include, but are not limited to:

- Basic Life Support (BLS) 1st responder emergency medical services;
- Fire suppression and rescue;
- Hazardous materials mitigation and regulation;
- Technical rescue;
- Fire Safety Education;
- Aircraft/rescue/firefighting;
- Fire protection system plan review; and
- Inspections.

3. BUILDING INSPECTION AND CODE ENFORCEMENT SERVICES

The City of Boerne Code Enforcement Department activities will extend to Annexation Area, pursuant to applicable policies and/or ordinances of the City, now existing or as such policies and/or ordinances may be amended. These services include, but are not limited to, consultation with project developers for building code requirements, plan review for structures, issuance of building permits, and on-site inspection services for new construction.

The Code Enforcement Department will also enforce the City's code of ordinances and will respond to requests for inspection and complaints of suspected City Code violations including, but not limited to: high weeds and grass, trash and debris, solid waste, trash carts and illegal dumping, junked and abandoned vehicles, zoning, food, daycare, pool and spa inspections, stray animals, cruelty and bite investigations. Complaints of ordinance or regulation violations within the Annexation Area will be answered and investigated by existing personnel within the appropriate City department beginning on the effective date of the annexation.

4. PLANNING AND ZONING

The City of Boerne Planning and Zoning Department activities will extend to the Annexation Area, pursuant to applicable policies and/or ordinances of the City, now existing or as may be amended. The Planning and Zoning Commission will initiate permanent zoning of the newly annexed area as soon as possible after annexation.

5. LIBRARY

Free library uses, and privileges will be available to residents of the Annexation Area, pursuant to applicable policies and/or ordinances as may be amended.

6. PARKS, PLAYGROUNDS, AND SWIMMING POOLS

Residents of the Annexation Area may utilize all existing parks and community service facilities throughout the City subject to existing ordinances and policies as may be amended. Existing parks, playgrounds, swimming pools and other recreational and community facilities within the Annexation Area that are private facilities will be unaffected by the annexation.

7. SOLID WASTE COLLECTION

Solid waste collection is contracted for by the City's contracted agent upon annexation. Solid waste collection will be provided to the Annexation Area at the same or similar level of service now being provided to other areas of the City in accordance with existing ordinances and policies as may be amended from time to time.

8. STREET AND DRAINAGE MAINTENANCE

The effects of this addition on drainage will be addressed under the provisions of the Subdivision Ordinance in effect at the time of platting.

Roads, streets and drainage improvements that have been properly platted, duly dedicated, and accepted by the City of Boerne and/or Kendall County shall be maintained by the Department of Development Services. All roads, streets or alleyways in the Annexation Area which have been dedicated to the public shall be maintained to the same degree and extent that other roads, streets and alleyways are maintained in areas of the City of Boerne with similar land use, population density and topography.

Construction of new roads and streets, if any, is the responsibility of the developer or land owner desiring them and must be designed and built in accordance with applicable City of Boerne ordinances and policies as may be amended.

The effects of this addition on drainage will be addressed under the provisions of the Subdivision Ordinance in effect at the time of platting, if and when such platting occurs. The effects will be consistent with such maintenance provided by the City of Boerne to other areas within the City exhibiting land use, population density and topography similar to that of the Annexation Area.

VIII. DEFAULT

8.1 Subject to Sections 8.3 and 8.4 below, a Party shall be declared in "Default" of this

Agreement if such Party violates or causes a violation of any rules, regulations, orders, ordinances or other laws that are applicable to the Property covered in this Agreement, as described herein, during the term of this Agreement.

8.2 Subject to Sections 8.3 and 8.4 below, a Party shall be declared in "Default" if that Party materially breaches any covenant, obligation, or provisions of this Agreement.

8.3 Notwithstanding any provision to the contrary, no Party shall be declared in Default, under this Agreement and subject to the remedies available to the non-defaulting party, as set forth herein, until written notice of Default has been given to the defaulting Party (which notice shall set forth in reasonable detail the nature of the Default) and until such Party has been given, from and after the receipt of such written notice, ninety (90) calendar days to cure the Default (the "Cure Period"). The Cure Period may be extended by written agreement of the Amending Parties (defined below) and shall be subject to written approval of the City Manager.

8.4 The duties of a Party to observe or perform any of the provisions of this Agreement, on its part to be performed or observed, shall be excused for a period equal to the period of prevention, delay, or stoppage due to causes beyond the control of the applicable Party, including reason of strikes, pandemics, epidemics, terrorism, civil riots, war, invasion, fire or other casualty, or Acts of God.

IX. REMEDIES

9.1 Upon the occurrence of Default by a Party, the non-defaulting Party may seek all remedies available to it at law or in equity, including, without limitation, termination, injunctive relief, mandamus, and specific performance. Notwithstanding any provision herein to the contrary, the following applies: (i) upon the occurrence of Default by Frontage Owners, regarding the terms provided herein for the Frontage Owners' Project, the City may proceed with any and all remedies described herein of only the Frontage Owners' Project (or any portion thereof); and (ii) upon the occurrence of Default by Forestar, regarding the terms provided herein for the Forestar Property, the City may proceed with any and all remedies described herein of only the Forestar Property.

9.2 The Parties hereto expressly agree that, in the event of litigation, each Party hereby waives its right to payment of attorneys' fees.

X. NON-WAIVER

No course of dealing on the part of the Parties nor any failure or delay by the Parties in exercising any right, power, or privilege under this Agreement shall operate as a waiver of any right, power or privilege owing under this Agreement.

XI. ASSIGNMENT

11.1 All covenants and agreements contained herein by the City shall bind its successors and assigns and shall inure to the benefit of Parties and their successors and assigns.

11.2 This Agreement (including the duties, rights and obligations set forth herein) may be assigned, in whole or in part by Forestar or Frontage Owners, for their respective properties, without the prior written consent of City.

XII. ENTIRE AGREEMENT

12.1 This written Agreement embodies the final and entire agreement between Parties hereto and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of Parties.

12.2 The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein. Notwithstanding, the exhibits shall not constitute any binding commitment regarding, but not limited to, the final location of boundaries, lots, and improvements and infrastructure, such being of approximate location that may be amended from time to time by the Parties.

XIII. AMENDMENTS

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be affected only by amendment, in writing, executed by the Amending Parties, and subject to the written approval by the City, which shall not be unreasonably withheld, conditioned, or delayed. This section is reserved to the Amending Parties of this Agreement and shall only be assigned by such a Party when that Party no longer owns Property subject to this Agreement or if assigned in writing to another fee owner of real property subject to the terms hereof, and with notice to the other Parties.

As used in this Section, the term "Amending Parties" shall mean: (i) Forestar, as the fee title holder of the Forestar Property as of the date hereof, (ii) the Undivided Interest Holders as the fee title holders of the Frontage Property as of the date hereof, and (iii) the City of Boerne. Notwithstanding anything herein to the contrary, there shall be only three (3) Amending Parties under this Agreement at all times. In the event the Undivided Interest Holders convey fee title to the entirety of the acreage of the Frontage Property, the Amending Party rights hereunder shall convey therewith and such successor fee title holder shall be the successor Amending Party to the Undivided Interest Holders. In the event less than the entirety of the acreage of the Forestar Property or Frontage Property is conveyed, the such conveying Amending Party whose property is subdivided in such case shall have the right, but not the obligation, in its sole and absolute discretion, to assign all of its Amending Party rights under this Section to the owner that acquires

the fee simple title of any portion of the Property by recording an assignment to this effect in the real property records of Kendall County, Texas.

XIV. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the charter, code, or ordinances of the City, then and in that event it is the intent of Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein. It is also the intent of Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XV. LEGAL AUTHORITY

The person(s) executing this Agreement on behalf of the respective Parties, represent, warrant, assure, and guarantee that they have full legal authority to (i) execute this Agreement on behalf of the respective Party, and (ii) to bind the respective Party to all of the terms, conditions, provisions, and obligations herein contained.

XVI. VENUE AND GOVERNING LAW

16.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

16.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in Kendall County, Texas.

XVII. PARTIES' REPRESENTATIONS

This Agreement has been jointly negotiated between the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

XVIII. NOTICE

18.1 All notices, demands or other communications given in connection with or required

under this Agreement must be in writing and delivered to the person to whom it is directed and may be given by (a) overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) sent by email with a PDF attachment with an original copy thereof transmitted to the recipient by one of the means described in clauses (a), (c) or (d), in which case notice shall be deemed delivered on the date of transmittal of the email with PDF attachment, (c) personal delivery, in which case notice shall be deemed delivered upon receipt or refusal of delivery, or (d) United States certified mail, return receipt requested, postage prepaid, addressed to the addressee, in which case notice shall be deemed delivered three business after deposit of such notice, postage prepaid, in a mailbox under the care, custody or control of the United States Postal Service. All notices, demands and other communications shall be given to the Parties (and in all events the Amending Parties) at the addresses set forth below, or at any other addresses that they have theretofore specified by written notice delivered in accordance herewith:

City:
City of Boerne
Attn: Boerne City Manager
P.O. Box 1677
447 N. Main St
Boerne, Texas, 78006
Email: bthatcher@boerne-tx.gov

Forestar:
Forestar (USA) Real Estate Group, Inc.
10700 Pecan Park Blvd., Suite 150
Austin, Texas, 78750
Email: JohnMaberry@forestar.com; CarrieCappel@forestar.com

With copies to:
Brown & Ortiz, P.C.
Attention: Daniel Ortiz
112 E. Pecan Street, Suite 1360
San Antonio, Texas 78205
Email: doa@brownortiz.law

Frontage Owners:
Attn: John-Mark Matkin
8 Spencer Road, Suite 100
Boerne, Texas 78006
Email:

Attn: Harold T. duPerier III
28615 IH 10W
Boerne, Texas 78006

Matkin Properties
Matkin Properties, LP

Attn: John-Mark Matkin
8 Spencer Road, Suite 100
Boerne, Texas 78006
Email:

Each Party may change its address by written notice in accordance with this Article XVIII.

Whenever a Frontage Owner conveys all or any portion of the Frontage Owners Property to a third party, such conveying Frontage Owner shall have the right to: (i) record or cause the subject transferee to record a notice in the Official Public Records of Kendall County, Texas, making reference to the recording information of this Agreement at the closing of such conveyance that states the address of the transferee (i.e. the new Frontage Owner) for notice purposes under this Agreement; and (ii) send or cause the subject transferee to send copy of the aforesaid notice to the then current Parties at their then effective address or addresses. Upon recordation of the notice and sending a copy of such notice to the other then current Parties, this Article XVIII will be deemed as modified and updated accordingly and each then current Party will be deemed to have constructive and/or actual notice of the new address of the affected Frontage Property Owner for notice purposes hereunder.

XIX. CAPTIONS

All captions used herein are only for the convenience of reference and shall not be construed to have any effect or meaning as to the Agreement between Parties hereto.

XX. UNINTENDED OMISSION

If any punctuation, word, clause, sentence, or provisions necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision of this Agreement is omitted, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

XXI. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each and every provision hereof.

XXII. COUNTERPARTS

This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument. This Agreement may be executed in any number of counterparts and by different Parties in separate counterparts, each of which when so executed and delivered, shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or electronic mail shall be as effective as delivery of a manually executed counterpart of this Agreement, except that any Party delivering an executed counterpart of this Agreement by facsimile or electronic mail also must deliver a manually executed counterpart of this Agreement. Notwithstanding the foregoing, failure to deliver a manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

XXIII. RECORDATION

This Agreement shall be recorded in the Real Property Records of Kendall County, Texas.

XXIV. TERM

The term of this Agreement shall commence on the Effective Date and terminate fifteen (15) years from the Effective Date. The term may be extended upon mutual consent and written agreement between the Parties and subject to written approval of the City Manager, not to be unreasonably withheld, conditioned, or delayed.

Signatures on the Following Pages

IN WITNESS THEREOF, Parties hereto have executed this Agreement to be effective as of the Effective Date.

CITY:

CITY OF BOERNE, TEXAS

By: _____

Name: Ben Thatcher

Title: City Manager

Date: 6/16/2021

ATTEST/SEAL:

By: LORI A. CARROLL

Name: Lori A Carroll

Title: City Clerk

Date: 6/16/2021

APPROVED AS TO LEGAL FORM:

By: _____

Name: Barbara L. Quirk

Title: City Attorney

Date: 6-16-21

ACKNOWLEDGEMENT

State of Texas §
§
County of Kendall §

This instrument was acknowledged before me on this 16th day of June, 2021 by Ben Thatcher, City Manager of the City of Boerne, a Texas home rule municipality, on behalf of said municipality.

Date: 6/16/2021

Siria Arreola
Notary Public, State of Texas

My Commission expires: 2/9/2023

SIRIA ARREOLA
Notary Public, State of Texas
My Commission expires
February 9, 2023
ID # 12594878-7

FORESTAR (USA) REAL ESTATE GROUP, INC.
Forestar (USA) Real Estate Group, Inc.

By: _____

Title: Vice President - Central Texas Division President

Date: 6/11/2021

ACKNOWLEDGEMENT

State of Texas §
§
County of Williamson §

The foregoing instrument was acknowledged before me this 11th day of June, 2021, by John Maberry, Vice President of Forestar (USA) Real Estate Group, Inc.

Date: 6/11/2021

_____
Notary Public, State of Texas

My Commission expires: 07-18-2022

THERESE TRAN
Notary Public, State of Texas
Comm. Expires 07-18-2022
Notary ID 131651657

MATKIN PROPERTIES:

MATKIN PROPERTIES, LP,
a Texas limited partnership

By: JM2 MANAGEMENT, LLC,
a Texas limited liability company,
its sole General Partner

By: _____
John-Mark Matkin, Manager

STATE OF TEXAS §
§
COUNTY OF Kendall §

This instrument was acknowledged before me, the undersigned authority, this 16th day of June, 2021, by JOHN-MARK MATKIN, the Manager of JM2 MANAGEMENT, LLC, a Texas limited liability company, the sole general partner of MATKIN PROPERTIES, LP, a Texas limited partnership, on behalf of said limited partnership.

_____
Notary Public ★ State of Texas

SIRIA ARREOLA
Notary Public, State of Texas
My Commission expires
February 9, 2023
ID # 12594878-7

UNDIVIDED INTEREST HOLDER:

EQUITY TRUST COMPANY CUSTODIAN FBO HAROLD T. DUPERIER III IRA,
50% undivided interest

By: JMM on Behalf of Trip DuPerier
Name: Trip DuPerier
Title: Owner

Account Holder Acknowledgment:

JMM on behalf of Trip DuPerier
Harold T. duPerier, III

Date: 6/16/21

STATE OF TEXAS §
§
COUNTY OF Kendall §

This instrument was acknowledged before me on the 16th day of June, 2021 by John Mark Matkin, as the owner of Equity Trust Company Custodian FBO Harold T. dePerier, III IRA.

SIRIA ARREOLA
Notary Public, State of Texas
My Commission expires
February 9, 2023
ID # 12594878-7

Siria Arreola
Notary Public – State of Texas

STATE OF TEXAS §
§
COUNTY OF Kendall §

This instrument was acknowledged before me on the 16th day of June, ~~2020~~ 2021 by ~~Harold T. dePerier III.~~ John Mark Matkin on behalf of Harold T. dePerier III.

SIRIA ARREOLA
Notary Public, State of Texas
My Commission expires
February 9, 2023
ID # 12594878-7

Siria Arreola
Notary Public – State of Texas

UNDIVIDED INTEREST HOLDER:

EQUITY TRUST COMPANY CUSTODIAN FBO JOHN-MARK MATKIN IRA, 50% undivided interest

By: _____

Name: JOHN-MARK MATKIN

Title: OWNER

Account Holder Acknowledgment:

_____

John-Mark Matkin

Date: 6/16/21

STATE OF TEXAS §
§
COUNTY OF Kendall §

This instrument was acknowledged before me on the 16th day of June, 2021 by John-Mark Matkin, as the owner of Equity Trust Company Custodian FBO John-Mark Matkin IRA.

SIRIA ARREOLA
Notary Public, State of Texas
My Commission expires
February 9, 2023
ID # 12594878-7

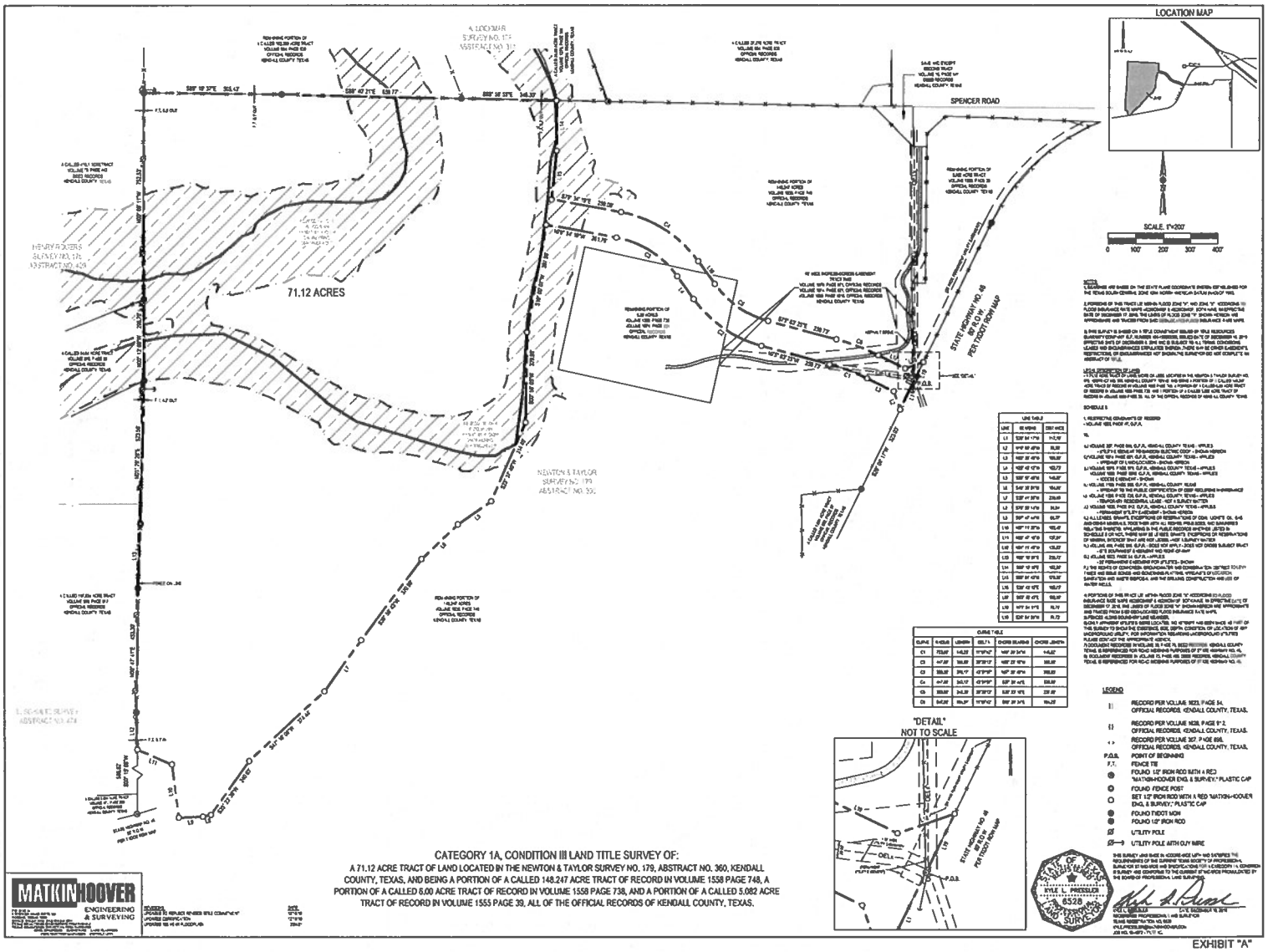
_____
Notary Public – State of Texas

STATE OF TEXAS §
§
COUNTY OF Kendall §

This instrument was acknowledged before me on the 16th day of June, 2021 by John-Mark Matkin.

_____
Notary Public – State of Texas

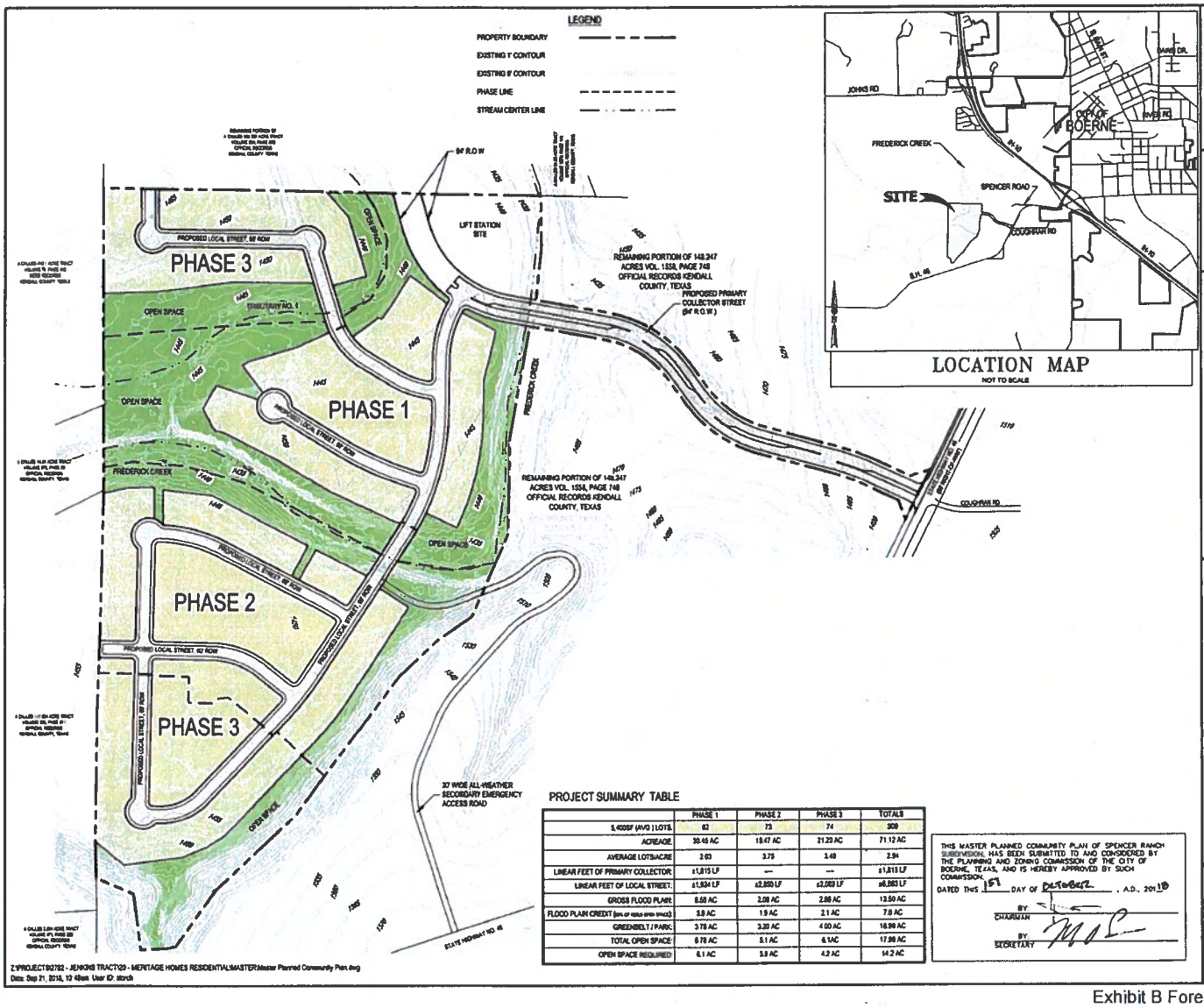
SIRIA ARREOLA
Notary Public, State of Texas
My Commission expires
February 9, 2023
ID # 12594878-7



CATEGORY 1A, CONDITION III LAND TITLE SURVEY OF:

A 71.12 ACRE TRACT OF LAND LOCATED IN THE NEWTON & TAYLOR SURVEY NO. 179, ABSTRACT NO. 360, KENDALL COUNTY, TEXAS, AND BEING A PORTION OF A CALLED 148.247 ACRE TRACT OF RECORD IN VOLUME 1558 PAGE 748, A PORTION OF A CALLED 8.00 ACRE TRACT OF RECORD IN VOLUME 1558 PAGE 738, AND A PORTION OF A CALLED 5.082 ACRE TRACT OF RECORD IN VOLUME 1555 PAGE 39, ALL OF THE OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS.

EXHIBIT "A"



PROJECT SUMMARY TABLE

	PHASE 1	PHASE 2	PHASE 3	TOTALS
5,400SF (AVG.) LOTS	62	73	74	209
ACREAGE	30.48 AC	18.47 AC	21.23 AC	71.12 AC
AVERAGE LOTS/ACRE	2.03	3.75	3.48	2.94
LINEAR FEET OF PRIMARY COLLECTOR	±1,015 LF	—	—	±1,015 LF
LINEAR FEET OF LOCAL STREET	±1,934 LF	±2,850 LF	±2,099 LF	±6,883 LF
GROSS FLOOD PLAIN	6.50 AC	2.08 AC	2.88 AC	13.50 AC
FLOOD PLAIN CREDIT (50% OF GROSS OPEN SPACE)	3.0 AC	1.0 AC	2.1 AC	7.0 AC
GREENBELT / PARK	3.78 AC	3.20 AC	4.00 AC	10.98 AC
TOTAL OPEN SPACE	6.78 AC	5.1 AC	6.1AC	17.98 AC
OPEN SPACE REQUIRED	6.1 AC	3.8 AC	4.2 AC	14.2 AC

THIS MASTER PLANNED COMMUNITY PLAN OF SPENCER RANCH SUBDIVISION, HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BOERNE, TEXAS, AND IS HEREBY APPROVED BY SUCH COMMISSION.

DATED THIS 1st DAY OF October, A.D., 2018

BY: CHAIRMAN

BY: SECRETARY

Z:\PROJECTS\2782 - JENKINS TRACT\20 - MERITAGE HOMES RESIDENTIAL\MASTER\Master Planned Community Plan.dwg
Date: Sep 21, 2018, 12:49am User ID: stonch

Exhibit B Forestar Master Plan

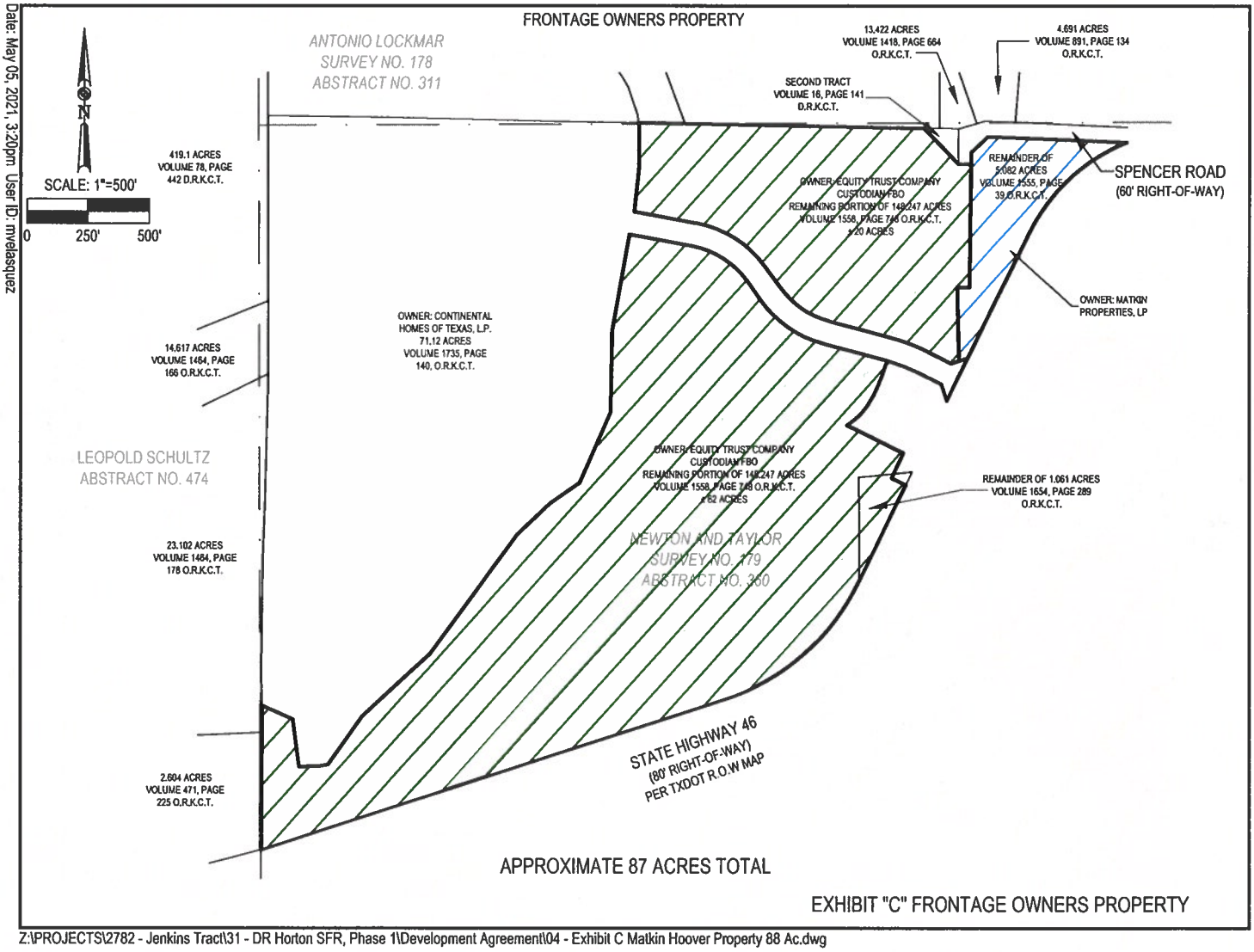
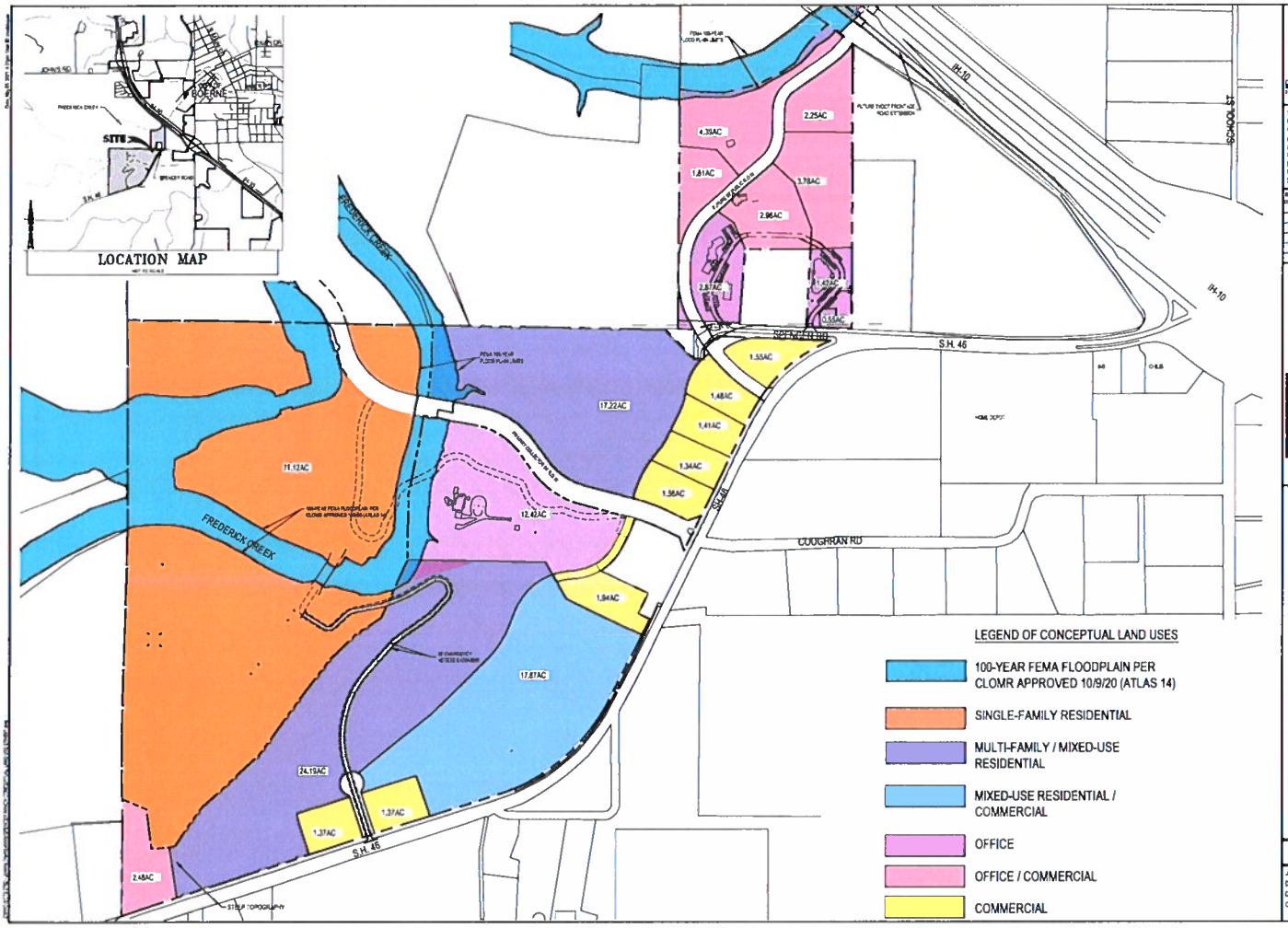


EXHIBIT "C" FRONTAGE OWNERS PROPERTY

Date: May 05, 2021, 3:20pm User ID: mvelasquez

Z:\PROJECTS\2782 - Jenkins Tract\31 - DR Horton SFR, Phase 1\Development Agreement\04 - Exhibit C Matkin Hoover Property 88 Ac.dwg



N

SHEET SIZE 24" x 36"

This document is released for REVIEW PURPOSES ONLY. NOT FOR CONSTRUCTION and was prepared under the supervision of Karl Kelley, Registered Professional Engineer, State of Texas, Registration No. 86300. DATE: SEPTEMBER 2020

REVISIONS:

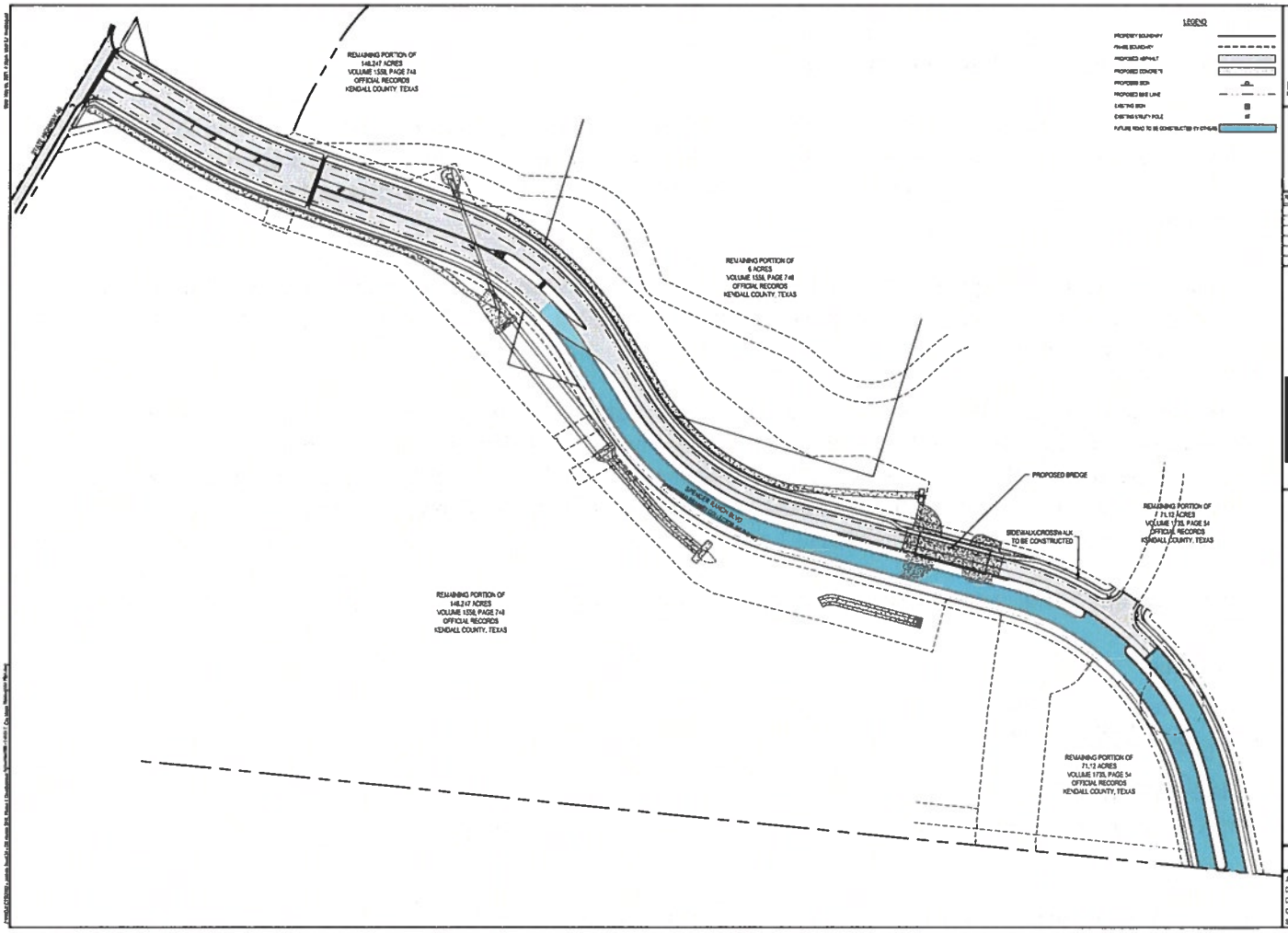
MATKIN HOOVER ENGINEERING & SURVEYING

SPENCER RANCH CONCEPTUAL DEVELOPMENT PLAN

183 ACRES
BOERNE, TEXAS

EXHIBIT D

JOB NO.	2782.00
DESIGNED BY	JMM
DRAWN BY	RJV
CHECKED BY	KBK


REMAINING PORTION OF
148.247 ACRES
VOLUME 1558, PAGE 748
OFFICIAL RECORDS
KENDALL COUNTY, TEXAS
REMAINING PORTION OF
6 ACRES
VOLUME 1558, PAGE 748
OFFICIAL RECORDS
KENDALL COUNTY, TEXAS
REMAINING PORTION OF
148.247 ACRES
VOLUME 1558, PAGE 748
OFFICIAL RECORDS
KENDALL COUNTY, TEXAS
BIRCH RANCH BLVD
PROPOSED BRIDGE
SIDEWALK/CROSSWALK
TO BE CONSTRUCTED
REMAINING PORTION OF
71.12 ACRES
VOLUME 1735, PAGE 54
OFFICIAL RECORDS
KENDALL COUNTY, TEXAS
REMAINING PORTION OF
71.12 ACRES
VOLUME 1735, PAGE 54
OFFICIAL RECORDS
KENDALL COUNTY, TEXAS
LEGEND
PROPERTY BOUNDARY
PHASE BOUNDARY
PROPOSED ASPHALT
PROPOSED CONCRETE
PROPOSED BCH
PROPOSED BSE LINE
EXISTING BCH
EXISTING UTILITY POLE
FUTURE ROAD TO BE CONSTRUCTED BY OTHERS
N
SCALE 1"=40'
This document is released for REVIEW PURPOSES ONLY NOT FOR CONSTRUCTION and was prepared under the authorization of JOSHUA J. VALENTA, Registered Professional Engineer, State of Texas, Registration No. 114383.
REVISIONS
MATKIN HOOVER
ENGINEERING & SURVEYING
ROAD EXHIBIT
FOR
THE BIRCH AT SPENCER RANCH
BOERNE, TEXAS
EXHIBIT E
JOB NO. 2783.21
DESIGNED BY KRM
DRAWN BY MEV
CHECKED BY JJV
SHEET # 14 OF 21

City of Boerne

P.O. Box 1677 • 447 N. Main
Boerne, Texas 78006

October 1, 2020

RE: Spencer Ranch Project – 183.03 Acres
City of Boerne Rough Proportionality Determination

In response to the proportionality determination request pursuant to section 212.904 of the Texas Local Government Code received on September 3rd, 2020, City staff has provided a rough proportionality determination for the Spencer Ranch Project. Attached you will find several exhibits that provide detail of the analysis.

The area analyzed for rough proportionality was the 183.03-acre Spencer Ranch Project, as demonstrated by the Spencer Ranch Conceptual Land Use Plan dated May 2017, as provided to the City by John-Mark Matkin on July 23rd, 2020.

We color coded each area of use to provide a clear delineation between acreages and uses. Each area was considered separately and then compiled to provide a complete picture regarding the overall impact of the projected development on the existing roadway system. The total proportional impact for the entire Spencer Ranch Project demonstrates a demand greater than supply, therefore the roadway improvements listed on the attached Table 1 are justified.

If you have any further questions or need any assistance, please do not hesitate to call.

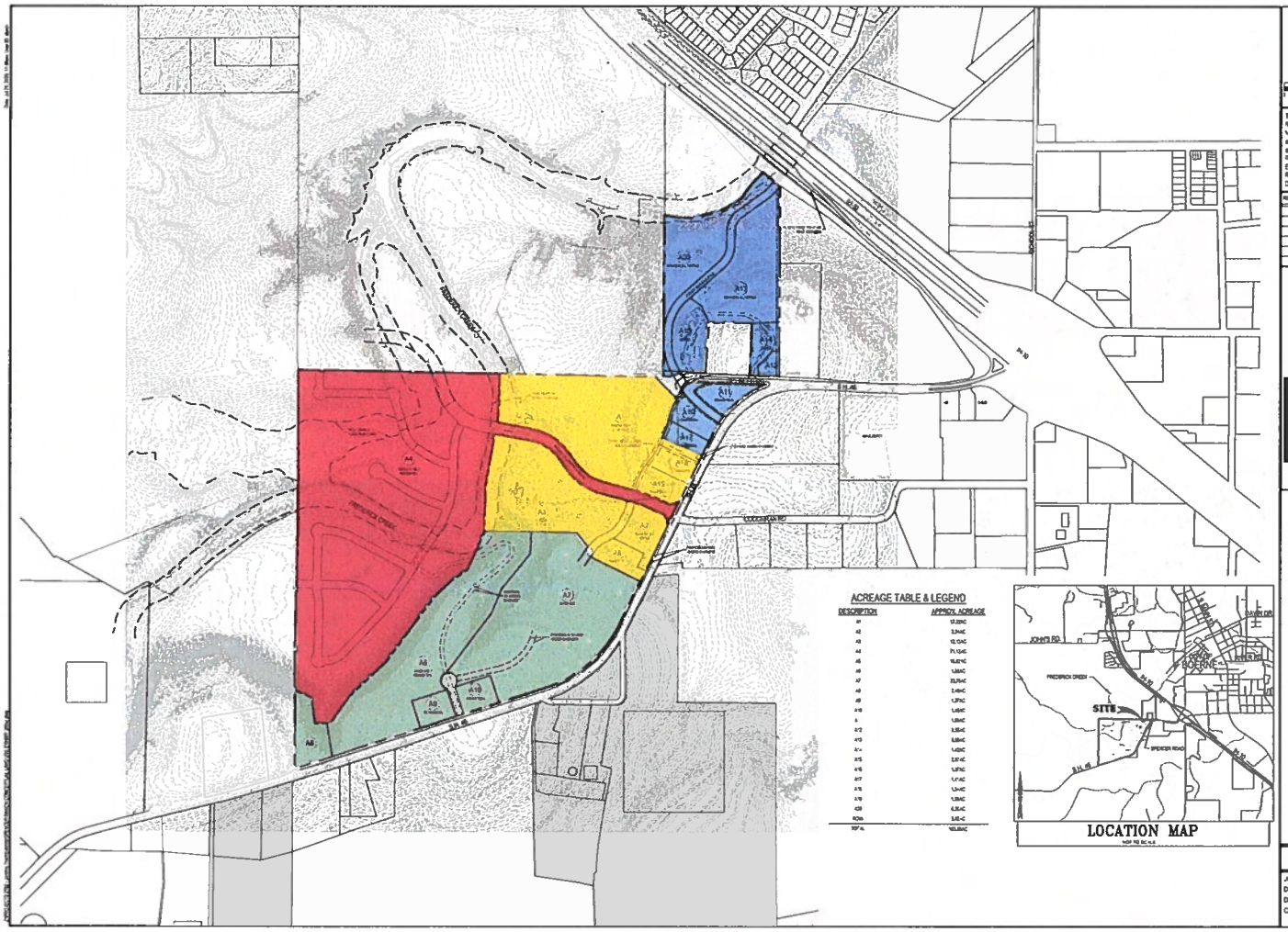
Sincerely,

Jeffrey D. Carroll, P.E.
Director of Development Services

cc: Jeff Thompson, Deputy City Manager/General Manager of Utilities
Nick Montagno, Assistant to City Manger

Exhibit F

(830) 249-9511 • (830) 249-9264 fax • www.boerne-tx.gov


ACREAGE TABLE & LEGEND
DESCRIPTION
APPROX. ACREAGE
LOCATION MAP
SITE
BOERNE
JOHNS RD
SPENCER ROAD
FREDRICK CREEK
N
SCALE: 1"=200'
SHEET SIZE: 24" x 36"
This document is released for REVIEW PURPOSES ONLY. NOT FOR CONSTRUCTION and was prepared under the authorization of Ken Kotecky Registered Professional Engineer, State of Texas. Registration No. 85303. DATE: MAY 2017
REVISIONS:
MATKIN HOOVER
ENGINEERING & SURVEYING
SPENCER RANCH CONCEPTUAL LAND USE PLAN
183 ACRES
BOERNE, TEXAS
EXHIBIT
JOB NO. 2767.00
DESIGNED BY: JMM
DRAWN BY: SGL
CHECKED BY: KBK

Project:	Spencer Ranch
Parcel Info:	Conceptual Landplan, dated May 2017
Land Area:	183 Acres
Date:	10/1/2020
Prepared by:	City of Boerne

TABLE 1 - ROADS OR IMPROVEMENTS TO BE FUNDED BY DEVELOPERS (SUPPLY)

Phase	Associated Development Unit	Roadway Type	Improvement Type	Description of Improvement	Improvement Trigger	Cost Source	Estimated Value
	Spencer Ranch, Birch P1A	Primary Collector	Roadway	NB & SB lanes (4 lanes for 950') north of Hwy 46 & SB lanes (2 lanes for 1,000) [MH OPC]	Traffic Mitigation	MH OPCC	$825,225.00
	Spencer Ranch, Birch P1A	Primary Collector	Roadway	SB bridge - 2 lanes	Traffic Mitigation	MH OPCC	$501,888.75
Red	Spencer Ranch, Birch P1A	Primary Collector	Intersection	Decel & Right Turn Lane @ Hwy46	Traffic Mitigation	MH OPCC	$55,492.50
	Spencer Ranch, Birch P1A	Primary Collector	ROW	Dedicate 94' ROW for limits of Phase 1A (2,000')	Traffic Mitigation	City RP Worksheet	$41,824.25
	Spencer Ranch, Birch P3	Primary Collector	ROW	Dedicate 94' ROW from limits of Phase 1A to Wynn Ranch	Traffic Mitigation	City RP Worksheet	$8,046.95
							$1,432,477.45
	Spencer Ranch Central	Primary Collector	Roadway	NB lanes to Wynn Ranch (2 lanes for 1,376')	Traffic Mitigation	City RP Worksheet	$739,000.00
	Spencer Ranch Central	Primary Collector	Roadway	SB lanes to Wynn Ranch (2 lanes for 376')	Traffic Mitigation	City RP Worksheet	$202,000.00
Yellow	Spencer Ranch Central	Primary Collector	Roadway	NB bridge - 2 lanes [MH OPC]	Traffic Mitigation	MH OPCC	$501,888.75
	Spencer Ranch Central	Primary Collector	Intersection	Left Turn Lane @ Hwy 46	Traffic Mitigation	City RP Worksheet	$150,000.00
	Spencer Ranch Central	Primary Collector	Intersection	Traffic Signal @ Hwy 46	Traffic Mitigation	City RP Worksheet	$300,000.00
	Spencer Ranch Central	Major Arterial	ROW	Dedicate 14' ROW along Hwy 46 (750')	Traffic Mitigation	City RP Worksheet	$2,384.28
							$1,895,273.03
	Spencer Ranch, North	Secondary Collector	Roadway	NB & SB lanes from Hwy46 to IH10 (2 lanes for 2,250')	Traffic Mitigation	City RP Worksheet	$1,948,000.00
	Spencer Ranch, North	Secondary Collector	Intersection	Decel & Right Turn Lane @ IH10	Traffic Mitigation	City RP Worksheet	$75,000.00
	Spencer Ranch, North	Secondary Collector	Intersection	Decel & Right Turn Lane @ Hwy46	Traffic Mitigation	City RP Worksheet	$75,000.00
Blue	Spencer Ranch, North	Secondary Collector	Intersection	Left Turn Lane @ Hwy 46	Traffic Mitigation	City RP Worksheet	$150,000.00
	Spencer Ranch, North	Secondary Collector	Intersection	Traffic Signal @ Hwy 46	Traffic Mitigation	City RP Worksheet	$300,000.00
	Spencer Ranch, North	Major Arterial	Intersection	Realignment/Improvements of exist road @ Hwy 46	Traffic Mitigation	City RP Worksheet	$150,000.00
	Spencer Ranch, North	Secondary Collector	ROW	Dedicate 74' ROW from Hwy46 to IH10 (2,250')	Traffic Mitigation	City RP Worksheet	$37,973.00
	Spencer Ranch, North	Major Arterial	ROW	Dedicate 14' ROW along Hwy 46 (750')	Traffic Mitigation	City RP Worksheet	$2,384.28
							$2,738,357.28
	Spencer Ranch, South	Secondary Collector	Roadway	NB & SB lanes from Hwy46 to IH10 (2 lanes for 350')	Traffic Mitigation	City RP Worksheet	$303,000.00
	Spencer Ranch, South	Secondary Collector	Intersection	Decel & Right Turn Lane @ Hwy46	Traffic Mitigation	City RP Worksheet	$75,000.00
Green	Spencer Ranch, South	Secondary Collector	Intersection	Left Turn Lane @ Hwy46	Traffic Mitigation	City RP Worksheet	$150,000.00
	Spencer Ranch, South	Secondary Collector	Intersection	Traffic Signal @ Hwy46	Traffic Mitigation	City RP Worksheet	$300,000.00
	Spencer Ranch, South	Secondary Collector	ROW	Dedicate 74' ROW from Hwy46 (350')	Traffic Mitigation	City RP Worksheet	$5,907.17
	Spencer Ranch, South	Major Arterial	ROW	Dedicate 14' ROW along Hwy 46 (3,150')	Traffic Mitigation	City RP Worksheet	$10,033.85
							$843,941.02

Total capacity (supply) added to system: $6,910,048.78

Spencer Ranch - overall
183.03 Acres
10/1/2020

Rough Proportionality Summary

	Total Capacity (Supply)	Total Demand Placed
Spencer Ranch - Red	$1,432,477.45	$878,082.00
Spencer Ranch - Yellow	$1,895,273.03	$2,054,470.00
Spencer Ranch - Green	$843,941.02	$3,333,980.00
Spencer Ranch - Blue	$2,738,357.28	$1,354,510.00
	$6,910,048.78	$7,621,042.00
	Delta =	***$710,993.22***

Demand > Supply

Therefore, the roadway improvements required by City are justified

Rough Proportionality Worksheet
City of Boerne, Texas

City of Boerne

Development Name: Spencer Ranch (209 SF lots) [RED]

Applicant: MH on behalf of Forestar

Legal Description (Lot, Block): Spencer Ranch - 71.12 Acres as shown on Masterplan approved 10/1/2018

Case / Plat Number: **Date:** October 1, 2020

Worksheet Last Updated: 11/13/2018

DEMAND - Traffic Generated by Proposed Development

Land Use Type:	Development Unit:	Intensity:	PM Peak Hour Trip Rate:	Trip Length: (miles)	Demand: (vehicle-miles)	Impact of Development: ($)
Single-Family Detached Housing	Dwelling Unit	209	0.99	1.50	310.37	878,082.00

TOTAL DEMAND PLACED ON THOROUGHFARE SYSTEM: 310.37 $878,082

Estimated Average Cost Per Vehicle Mile: $2,829.15

SUPPLY - Roads to be built or funded by Applicant:

COST ESTIMATES BASED ON DETAILED OPCC

Roadway Name:	Classification:	Capacity: (vphpl)	Length: (Linear Feet)	Number of Lanes:	Cost of Capacity / Supply Added: ($)	Cost Estimate Based on Detailed OPCC: ($)
Spencer Ranch Blvd	Primary Collector	525	2,060			$825,225.00
as shown on phase 1A plans						
dated 9/4/2020.						
Spencer Ranch Bridge	Primary Collector	525				$501,888.75

ROADWAY SYSTEM SUPPLY SUBTOTAL: $1,327,114

INTERSECTION IMPROVEMENTS - Specific Improvements to be Built or Funded by the Applicant:

Intersection:	Description of Improvement:	Estimated Cost: ($)
Spencer Ranch @ Hwy 46	Right Hand Decel/turn lane (from MH estimate)	$55,492.50

INTERSECTION IMPROVEMENTS SYSTEM SUBTOTAL: $55,493

RIGHT-OF-WAY DEDICATION - ROW to be dedicated by the Applicant:

ROW Dedication:	General Description of ROW Dedication:	Estimated Cost: ($)
4.21 Acres - Phase 1A	Collector Road X $9,934.50/Ac.	$41,824.25
0.81 - Phase 3	Collector Road X $9,934.50/Ac.	$8,046.95

RIGHT-OF-WAY DEDICATION SUPPLY ADDED TO THE SYSTEM SUBTOTAL: $49,871

TOTAL VALUE OF SUPPLY ADDED TO THOROUGHFARE SYSTEM: $1,432,477

SUPPLY / DEMAND COMPARISON:

A comparison of the capacity provided by a development exaction against the traffic impacts of the proposed development.

	Cost	Comparison
TOTAL CAPACITY (SUPPLY) ADDED TO SYSTEM:	$1,432,477	SUPPLY > DEMAND
TOTAL DEMAND PLACED ON THOROUGHFARE SYSTEM:	$878,082	61.30%

Based upon the results of this rough proportionality analysis, the capacity (supply) provided by the proposed development exceeds the anticipated demand it places on the system. Given these assumptions, only 61.30% of the capacity supplied can be attributed to the proposed development. Therefore, the roadway improvements are NOT roughly proportional to the demands placed on the system (i.e. the applicant is adding more capacity than needed to support their development).

Rough Proportionality Worksheet
City of Boerne, Texas

City of Boerne

Development Name: Spencer Ranch (Yellow Portion)

Applicant: MH on behalf of Duperier/Matkin IRA

Legal Description (Lot, Block): 183 Acres - Yellow Portion

Case / Plat Number: | **Date:** October 1, 2020

Worksheet Last Updated: 11/13/2018

DEMAND - Traffic Generated by Proposed Development

Land Use Type:	Development Unit:	Intensity:	PM Peak Hour Trip Rate:	Trip Length: (miles)	Demand: (vehicle-miles)	Impact of Development: ($)
Multifamily Housing (Low-Rise)	Dwelling Unit	356	0.56	1.50	299.04	846,028.00
Gasoline/Service Station w/ Conv Mark	Vehicle Fueling Position	8	6.16	1.50	73.92	209,131.00
Shopping Center	1,000 SF GLA	48.8	2.51	1.50	183.73	519,799.00
Office Park	1,000 SF GFA	105.6	1.07	1.50	169.49	479,512.00
TOTAL DEMAND PLACED ON THOROUGHFARE SYSTEM:					726.18	$2,054,470

Estimated Average Cost Per Vehicle Mile: $2,829.15

SUPPLY - Roads to be built or funded by Applicant:

COST ESTIMATES BASED ON DETAILED OPCC

Roadway Name:	Classification:	Capacity: (vphpl)	Length: (Linear Feet)	Number of Lanes:	Cost of Capacity / Supply Added: ($)	Cost Estimate Based on Detailed OPCC: ($)
S.R. Blvd - S.B. 2 lane	Primary Collector	525	1,376	2	739,000.00	
S.R. Blvd - N.B. 2 lane	Primary Collector	525	376	2	202,000.00	
Bridge - 2 lanes	Primary Collector	525				$501,888.75

ROADWAY SYSTEM SUPPLY SUBTOTAL: $1,442,889

INTERSECTION IMPROVEMENTS - Specific Improvements to be Built or Funded by the Applicant:

Intersection:	Description of Improvement:	Estimated Cost: ($)
Spencer Ranch @ Hwy 46	Left Turn Lane	$150,000.00
Spencer Ranch @ Hwy 46	Traffic Signal	$300,000.00

INTERSECTION IMPROVEMENTS SYSTEM SUBTOTAL: $450,000

RIGHT-OF-WAY DEDICATION - ROW to be dedicated by the Applicant:

ROW Dedication:	General Description of ROW Dedication:	Estimated Cost: ($)
0.24 Acres	750 LF of 14' Hwy 46 Dedication ($9,934.50/Acre)	$2,384.28

RIGHT-OF-WAY DEDICATION SUPPLY ADDED TO THE SYSTEM SUBTOTAL: $2,384

TOTAL VALUE OF SUPPLY ADDED TO THOROUGHFARE SYSTEM: $1,895,273

SUPPLY / DEMAND COMPARISON:

A comparison of the capacity provided by a development exaction against the traffic impacts of the proposed development.

	Cost	Comparison
TOTAL CAPACITY (SUPPLY) ADDED TO SYSTEM:	$1,895,273	SUPPLY > DEMAND
TOTAL DEMAND PLACED ON THOROUGHFARE SYSTEM:	$2,054,470	108.40%

Based upon the results of this rough proportionality analysis, the anticipated demand on the system exceeds the capacity (supply) provided by the proposed development. Given these assumptions, the anticipated demand of the development exceeds the capacity supplied by approximately 8.40%. Therefore, the roadway improvements required by the City are justified (i.e. the applicant is adding less capacity than needed to support their development).

Rough Proportionality Worksheet
City of Boerne, Texas

City of Boerne

Development Name: Spencer Ranch (Blue Portion)

Applicant: MH on behalf of Duperier/Matkin IRA

Legal Description (Lot, Block):

Case / Plat Number: **Date:** October 1, 2020

Worksheet Last Updated: 11/13/2018

DEMAND - Traffic Generated by Proposed Development

Land Use Type:	Development Unit:	Intensity:	PM Peak Hour Trip Rate:	Trip Length: (miles)	Demand: (vehicle-miles)	Impact of Development: ($)
Office Park	1,000 SF GFA	54	1.07	1.50	86.67	245,202.00
Office Park	1,000 SF GFA	78.3	1.07	1.50	125.67	355,539.00
Office Park	1,000 SF GFA	52.7	1.07	1.50	84.58	239,289.00
Shopping Center	1,000 SF GLA	48.3	2.51	1.50	181.85	514,480.00

TOTAL DEMAND PLACED ON THOROUGHFARE SYSTEM: 478.77 **$1,354,510**

Estimated Average Cost Per Vehicle Mile: $2,829.15

SUPPLY - Roads to be built or funded by Applicant:

Roadway Name:	Classification:	Capacity: (vphpl)	Length: (Linear Feet)	Number of Lanes:	Cost of Capacity / Supply Added: ($)	Cost Estimate Based on Detailed OPCC: ($)
Collector Road	Secondary Collector	425	2,250	2	1,948,000.00	

ROADWAY SYSTEM SUPPLY SUBTOTAL: **$1,948,000**

INTERSECTION IMPROVEMENTS - Specific Improvements to be Built or Funded by the Applicant:

Intersection:	Description of Improvement:	Estimated Cost: ($)
Road @ IH10	Right Hand Decel/turn lane	$75,000.00
Road @ Hwy 46	Right Hand Decel/turn lane	$75,000.00
Road @ Hwy 46	Left Hand Turn lane	$150,000.00
Collector Road @ Hwy 46	Traffic Signal	$300,000.00
Existing Spencer Rd.	Realignment/Improvements of Exist Road	$150,000.00

INTERSECTION IMPROVEMENTS SYSTEM SUBTOTAL: **$750,000**

RIGHT-OF-WAY DEDICATION - ROW to be dedicated by the Applicant:

ROW Dedication:	General Description of ROW Dedication:	Estimated Cost: ($)
3.82 Acres	250 LF of 74' ROW Secondary Collector Road ($9,934.50/Ac	$37,973.00
0.24 Acres	750 LF of 14' Hwy 46 Dedication ($9,934.50/Acre)	$2,384.28

RIGHT-OF-WAY DEDICATION SUPPLY ADDED TO THE SYSTEM SUBTOTAL: **$40,357**

TOTAL VALUE OF SUPPLY ADDED TO THOROUGHFARE SYSTEM: **$2,738,357**

SUPPLY / DEMAND COMPARISON:

A comparison of the capacity provided by a development exaction against the traffic impacts of the proposed development.

	Cost	Comparison
TOTAL CAPACITY (SUPPLY) ADDED TO SYSTEM:	$2,738,357	SUPPLY > DEMAND
TOTAL DEMAND PLACED ON THOROUGHFARE SYSTEM:	$1,354,510	49.46%

Based upon the results of this rough proportionality analysis, the capacity (supply) provided by the proposed development exceeds the anticipated demand it places on the system. Given these assumptions, only 49.46% of the capacity supplied can be attributed to the proposed development. Therefore, the roadway improvements are NOT roughly proportional to the demands placed on the system (i.e. the applicant is adding more capacity than needed to support their development).

Rough Proportionality Worksheet
City of Boerne, Texas

City of Boerne

Development Name: Spencer Ranch (Green Portion)

Applicant: MH on behalf of Duperier/Matkin IRA

Legal Description (Lot, Block):

Case / Plat Number: **Date:** October 1, 2020

Worksheet Last Updated: 11/13/2018

DEMAND - Traffic Generated by Proposed Development

Land Use Type:	Development Unit:	Intensity:	PM Peak Hour Trip Rate:	Trip Length: (miles)	Demand: (vehicle-miles)	Impact of Development: ($)
Multifamily Housing (Low-Rise)	Dwelling Unit	225	0.56	1.50	189.00	534,709.00
Shopping Center	1,000 SF GLA	56.8	2.51	1.50	213.85	605,013.00
Shopping Center	1,000 SF GLA	206	2.51	1.50	775.59	2,194,258.00
TOTAL DEMAND PLACED ON THOROUGHFARE SYSTEM:					**1,178.44**	**$3,333,980**

Estimated Average Cost Per Vehicle Mile: $2,829.15

SUPPLY - Roads to be built or funded by Applicant:

Roadway Name:	Classification:	Capacity: (vphpl)	Length: (Linear Feet)	Number of Lanes:	Cost of Capacity / Supply Added: ($)	Cost Estimate Based on Detailed OPCC: ($)
Collector Road	Secondary Collector	425	350	2	303,000.00	

ROADWAY SYSTEM SUPPLY SUBTOTAL: **$303,000**

INTERSECTION IMPROVEMENTS - Specific Improvements to be Built or Funded by the Applicant:

Intersection:	Description of Improvement:	Estimated Cost: ($)
Road @ Hwy 46	Right Hand Decel/turn lane	$75,000.00
Road @ Hwy 46	Left Turn Lane	$150,000.00
Road @ Hwy 46	Traffic Signal	$300,000.00

INTERSECTION IMPROVEMENTS SYSTEM SUBTOTAL: **$525,000**

RIGHT-OF-WAY DEDICATION - ROW to be dedicated by the Applicant:

ROW Dedication:	General Description of ROW Dedication:	Estimated Cost: ($)
0.59 Acres	50 LF of 74' ROW Secondary Collector Road ($9,934.50/Acre	$5,907.00
1.01 Acres	3150 LF of 14' Hwy 46 Dedication ($9,934.50/Acre)	$10,033.85

RIGHT-OF-WAY DEDICATION SUPPLY ADDED TO THE SYSTEM SUBTOTAL: **$15,941**

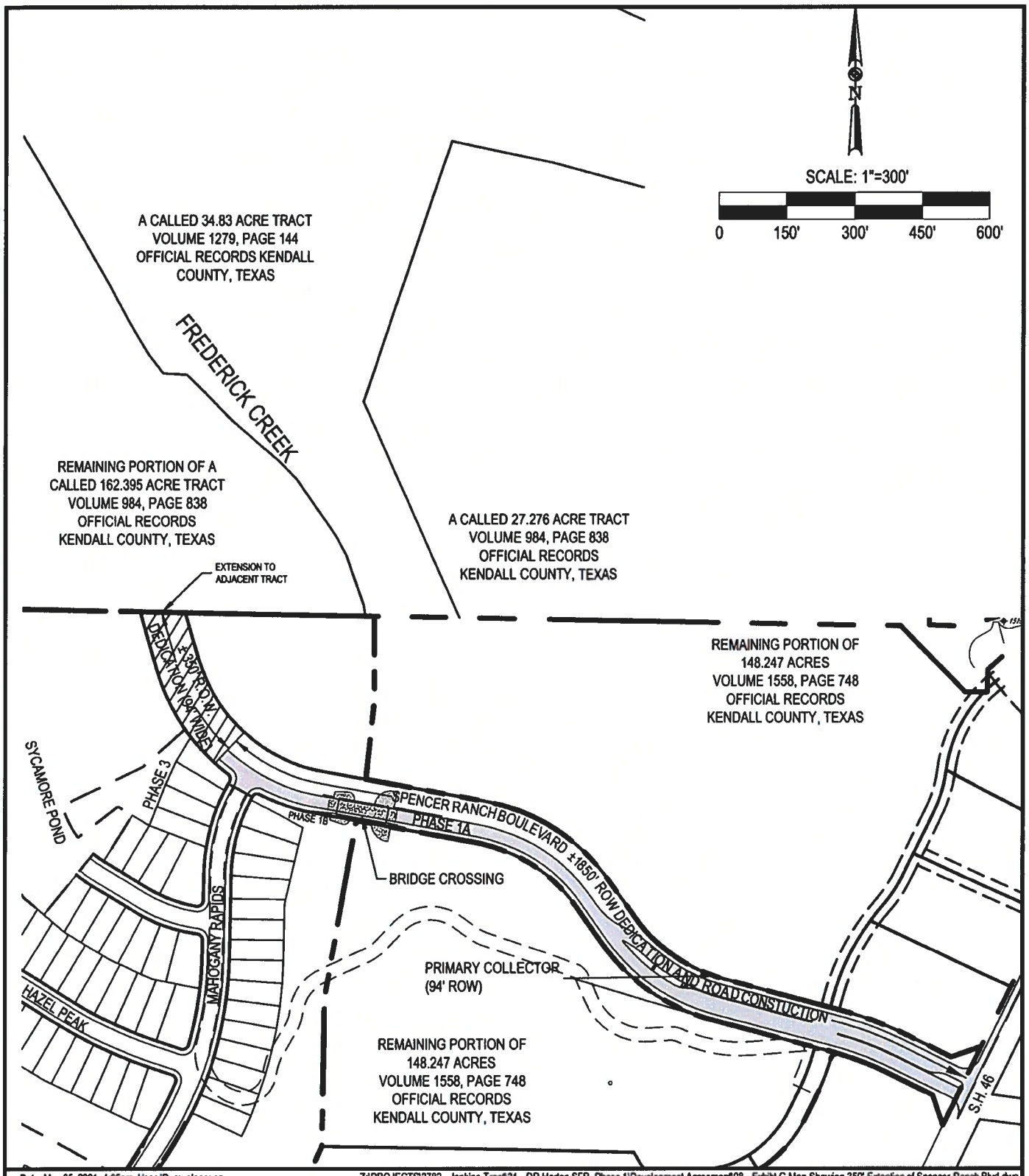
TOTAL VALUE OF SUPPLY ADDED TO THOROUGHFARE SYSTEM: **$843,941**

SUPPLY / DEMAND COMPARISON:

A comparison of the capacity provided by a development exaction against the traffic impacts of the proposed development.

	Cost	Comparison
TOTAL CAPACITY (SUPPLY) ADDED TO SYSTEM:	$843,941	SUPPLY < DEMAND
TOTAL DEMAND PLACED ON THOROUGHFARE SYSTEM:	$3,333,980	395.05%

Based upon the results of this rough proportionality analysis, the anticipated demand on the system exceeds the capacity (supply) provided by the proposed development. Given these assumptions, the anticipated demand of the development exceeds the capacity supplied by approximately 295.05%. Therefore, the roadway improvements required by the City are justified (i.e. the applicant is adding less capacity than needed to support their development).

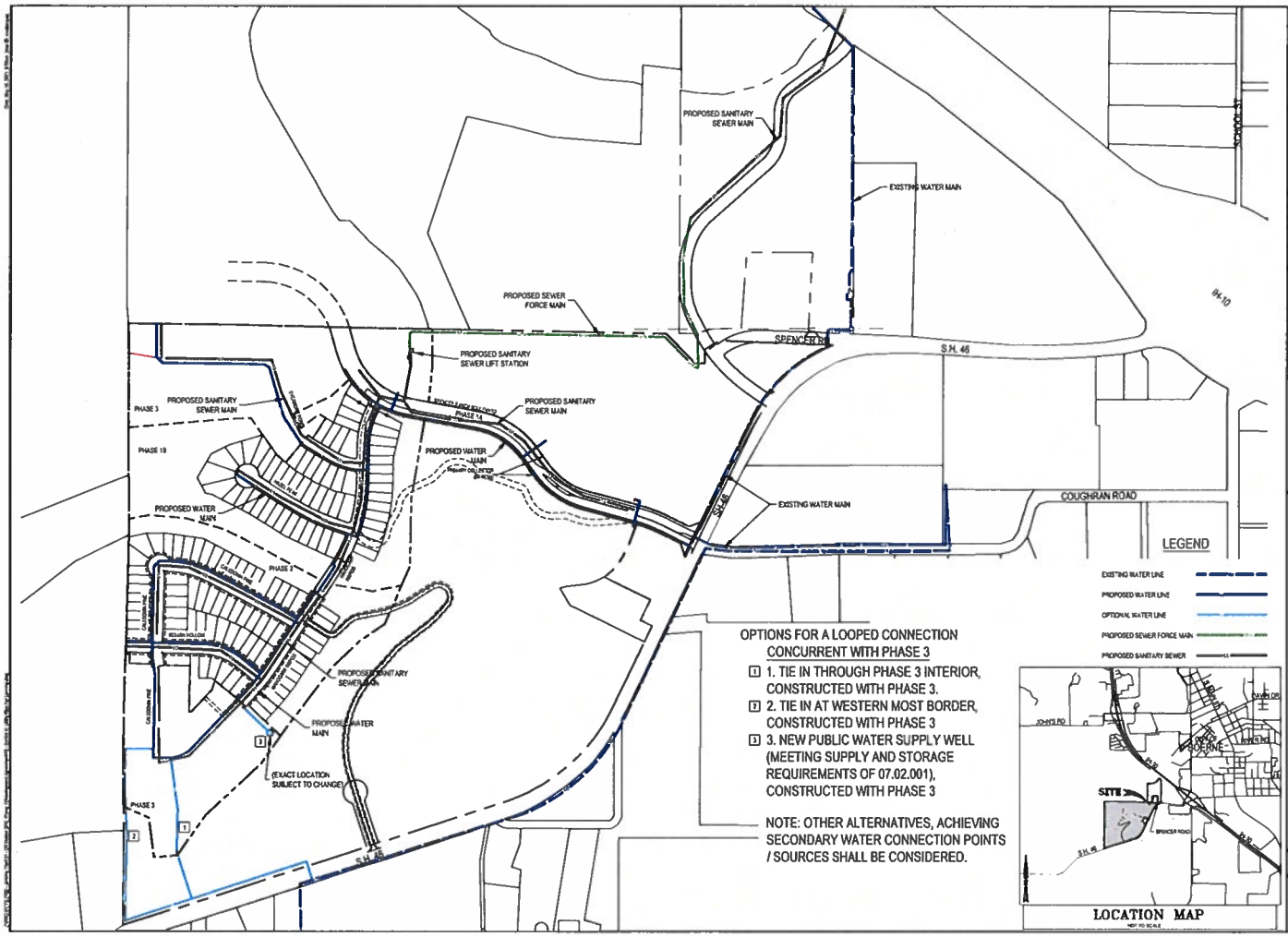


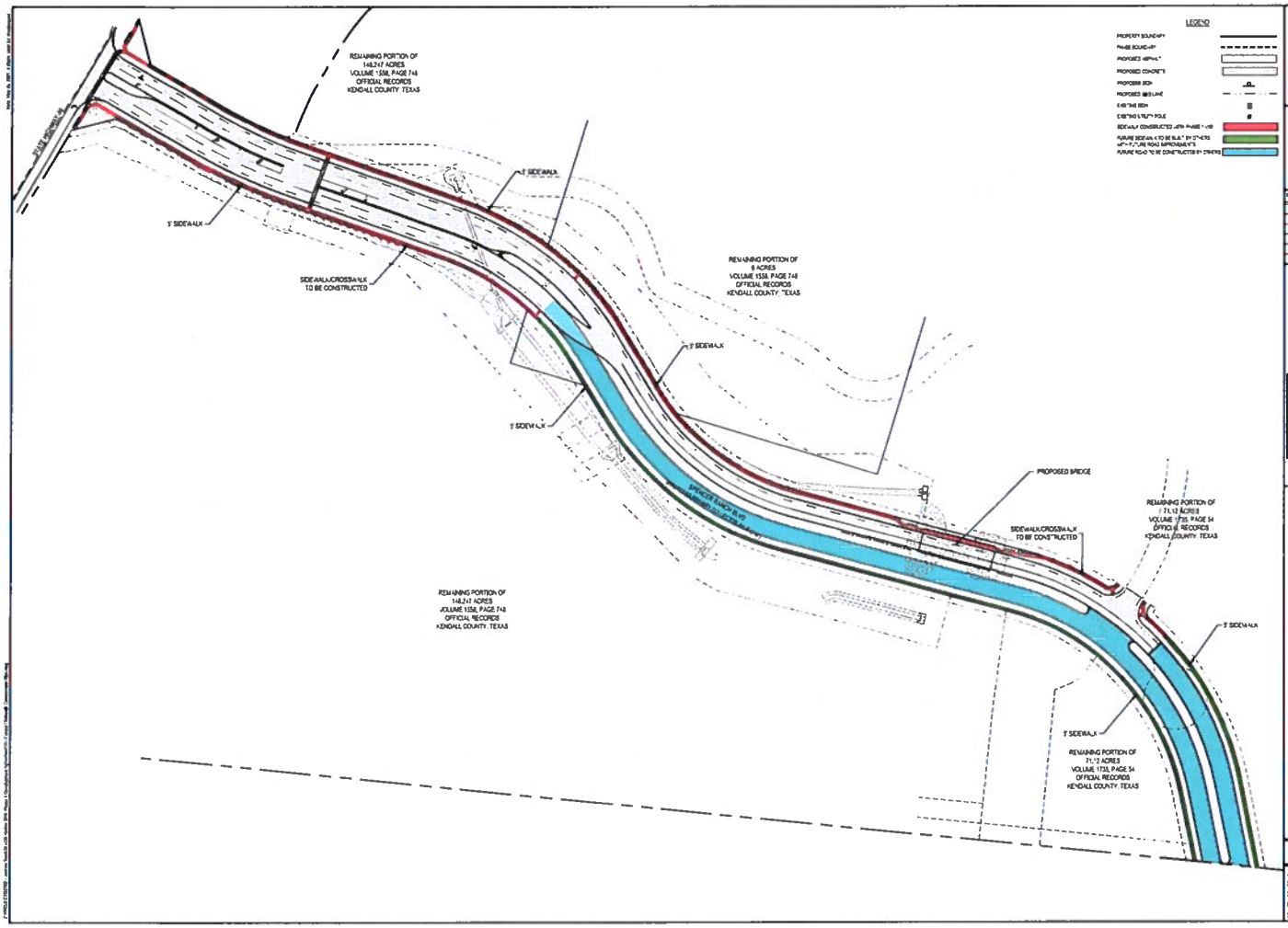
Date: May 05, 2021, 4:05pm User ID: mvelasquez

Z:\PROJECTS\2782 - Jenkins Tract\31 - DR Horton SFR, Phase 1\Development Agreement\08 - Exhibt G Map Showing 350' Extention of Spencer Ranch Blvd.dwg

MATKIN HOOVER
ENGINEERING & SURVEYING
P.O. BOX 54
8 SPENCER ROAD SUITE 100
BOERNE, TEXAS 78006
OFFICE: 830.249.0600 FAX.830.249.0099
CIVIL ENGINEERS SURVEYORS LAND PLANNERS CONSTRUCTION MANAGERS CONSULTANTS

EXHIBIT "G";
FUTURE 350-FOOT. EXTENSION OF SPENCER RANCH BOULEVARD


PROPOSED SANITARY SEWER MAIN
EXISTING WATER MAIN
PROPOSED SEWER FORCE MAIN
SPENCER RD
S.H. 46
SCHOOL ST
PROPOSED SANITARY SEWER LIFT STATION
PROPOSED SANITARY SEWER MAIN
PHASE 3
PHASE 1B
PHASE 1A
PROPOSED WATER MAIN
PHASE 2
EXISTING WATER MAIN
COUGHRAN ROAD
PROPOSED SANITARY SEWER MAIN
PROPOSED WATER MAIN
(EXACT LOCATION SUBJECT TO CHANGE)
PHASE 3
S.H. 46
LEGEND
EXISTING WATER LINE
PROPOSED WATER LINE
OPTIONAL WATER LINE
PROPOSED SEWER FORCE MAIN
PROPOSED SANITARY SEWER
OPTIONS FOR A LOOPED CONNECTION CONCURRENT WITH PHASE 3
1. TIE IN THROUGH PHASE 3 INTERIOR, CONSTRUCTED WITH PHASE 3.
2. TIE IN AT WESTERN MOST BORDER, CONSTRUCTED WITH PHASE 3
3. NEW PUBLIC WATER SUPPLY WELL (MEETING SUPPLY AND STORAGE REQUIREMENTS OF 07.02.001), CONSTRUCTED WITH PHASE 3
NOTE: OTHER ALTERNATIVES, ACHIEVING SECONDARY WATER CONNECTION POINTS / SOURCES SHALL BE CONSIDERED.
JOHN'S RD
BOERNE
SITE
SPENCER ROAD
S.H. 46
LOCATION MAP
N
SCALE 1"=200'
This document is released for REVIEW PURPOSES ONLY, NOT FOR CONSTRUCTION and was prepared under the authorization of Kim Kilbourn, Registered Professional Engineer, State of Texas, Registration No. 86300, DATE: FEBRUARY, 2021
REVISIONS
MATKIN HOOVER ENGINEERING & SURVEYING
UTILITY PLAN FOR LOOPING FOR SPENCER RANCH
BOERNE, TEXAS
EXHIBIT H
JOB NO. 2192.05
DESIGNED BY: JMM
DRAWN BY: RJV
CHECKED BY: TRK


LEGEND
PROPERTY BOUNDARY
PHASE BOUNDARY
PROPOSED ASPHALT
PROPOSED CONCRETE
PROPOSED INLET
PROPOSED BRIDGE
EXISTING INLET
EXISTING UTILITY POLE
SIDEWALK CONSTRUCTED JOB# PHASE 1 (1/2)
FUTURE SIDEWALK TO BE BUILT BY DEVELOPERS
FUTURE ROAD TO BE CONSTRUCTED BY DEVELOPER
REMAINING PORTION OF 148.247 ACRES VOLUME 1538, PAGE 748 OFFICIAL RECORDS KENDALL COUNTY, TEXAS
REMAINING PORTION OF 5 ACRES VOLUME 1538, PAGE 748 OFFICIAL RECORDS KENDALL COUNTY, TEXAS
REMAINING PORTION OF 71.12 ACRES VOLUME 1733, PAGE 54 OFFICIAL RECORDS KENDALL COUNTY, TEXAS
5' SIDEWALK
SIDEWALK/CROSSWALK TO BE CONSTRUCTED
PROPOSED BRIDGE
SPENCER RANCH BLVD
N
SCALE: 1"=40'
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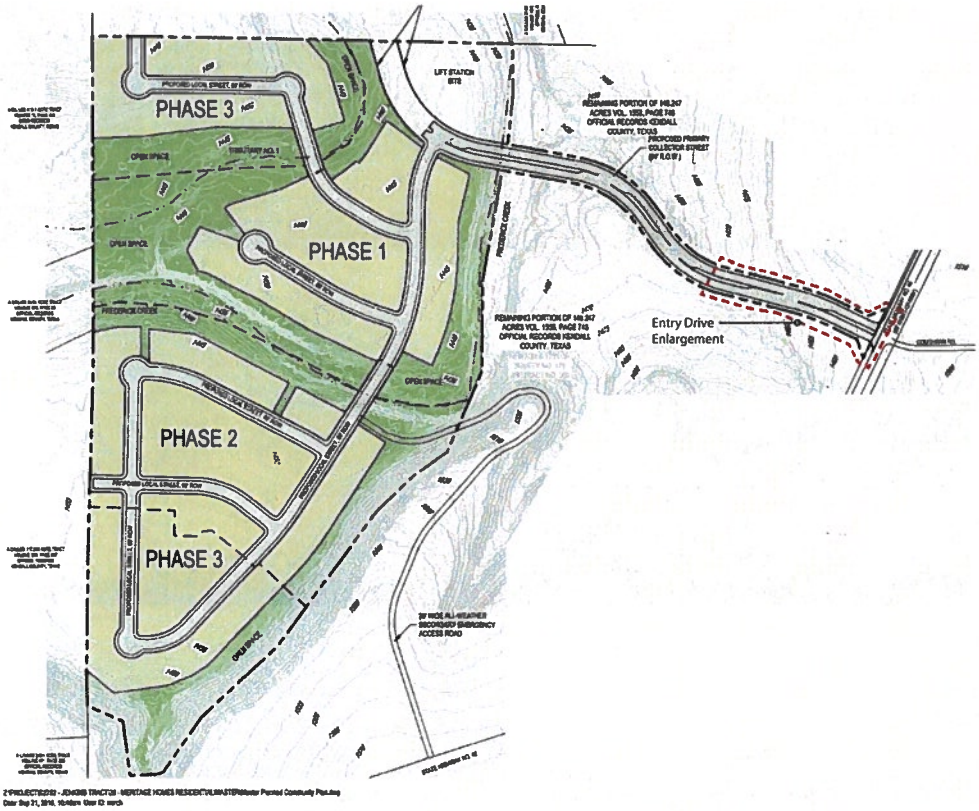
REVISIONS
MATKIN HOOVER ENGINEERING & SURVEYING
SIDEWALK CONSTRUCTION PLAN
FOR
THE BIRCH AT SPENCER RANCH
BOERNE, TEXAS
EXHIBIT I
JOB NO. 2793.31
DESIGNED BY KMH
DRAWN BY MCV
CHECKED BY JJV
SHEET # 14 OF 21



Orientation Map

SPENCER RANCH

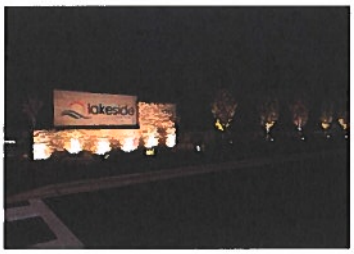
Boerne, Texas

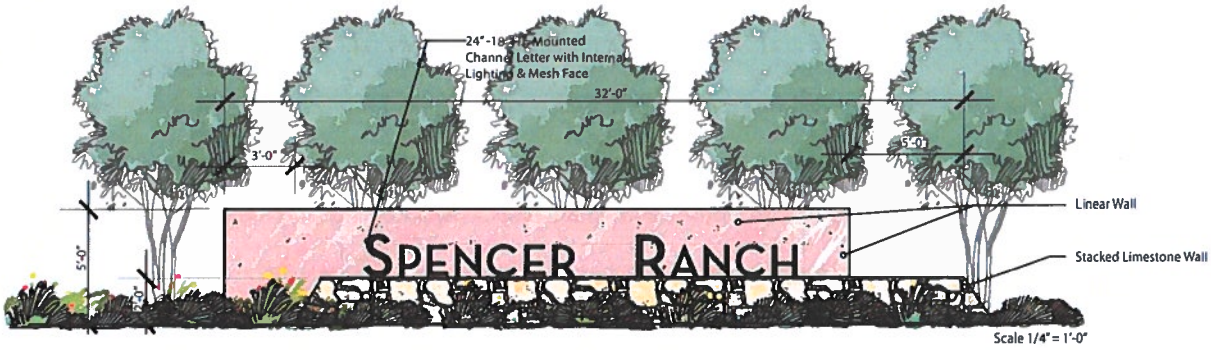
ISSUE DATE: March 12, 2021
All drawings are preliminary and subject to change.

NORTH

PREPARED FOR
FORESTAR

Exhibit J





Not to Scale

Entry Tower Concept
SPENCER RANCH

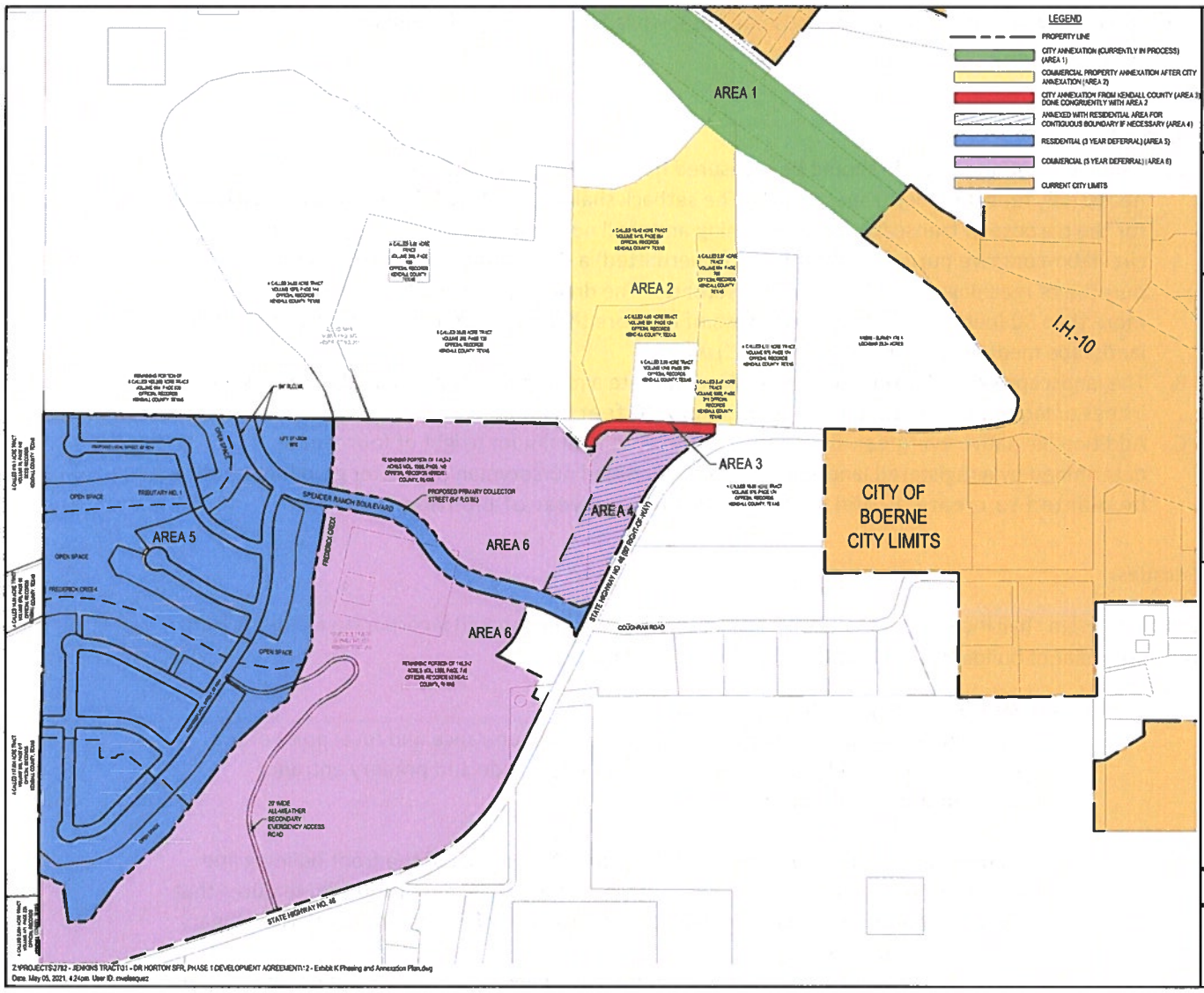
Boerne, Texas

ISSUE DATE: March 12, 2021
All drawings are preliminary and subject to change.

SCALE: 1/8"= AS NOTED

PREPARED FOR
FORESTAR

Exhibit J


LEGEND
PROPERTY LINE
CITY ANNEXATION (CURRENTLY IN PROCESS) (AREA 1)
COMMERCIAL PROPERTY ANNEXATION AFTER CITY ANNEXATION (AREA 2)
CITY ANNEXATION FROM KENDALL COUNTY (AREA 3) DONE CONGRUENTLY WITH AREA 2
ANNEXED WITH RESIDENTIAL AREA FOR CONTIGUOUS BOUNDARY IF NECESSARY (AREA 4)
RESIDENTIAL (3 YEAR DEFERRAL) (AREA 5)
COMMERCIAL (3 YEAR DEFERRAL) (AREA 6)
CURRENT CITY LIMITS
AREA 1
AREA 2
AREA 3
AREA 4
AREA 5
AREA 6
AREA 6
I.H.-10
CITY OF BOERNE CITY LIMITS
SPENCER RANCH BOULEVARD
PROPOSED PRIMARY COLLECTOR STREET (64' R.O.W.)
TRIBUTARY NO. 1
OPEN SPACE
FREDERICK CREEK
STATE HIGHWAY NO. 46 (66' RIGHT-OF-WAY)
COCKHRAN ROAD
STATE HIGHWAY NO. 46
29' WIDE ALL-WEATHER SECONDARY EMERGENCY ACCESS ROAD
N
SCALE: 1"=200'
0 100 200 300 400
This document is released for REVIEW PURPOSES ONLY, NOT FOR CONSTRUCTION and was prepared under the authorization of JOSHUA J. VALENTA, Registered Professional Engineer, State of Texas, Registration No. 114592.
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OFFICE: 830.249.0600
CONTACT@MATKINHOOVER.COM
TEXAS REGISTERED ENGINEERING FIRM F-9004/13 SURVEYING FIRM F-10024000
PHASING / ANNEXATION PLAN
FOR
SPENCER RANCH
BOERNE, TEXAS
EXHIBIT K
JOB NO. 2782.20
DESIGNED BY: CDK
DRAWN BY: RJV
CHECKED BY: KBK
Z:\PROJECTS\2782 - JENKINS TRACT\01 - DR HORTON SFR, PHASE 1 DEVELOPMENT AGREEMENT\1-2 - Exhibit K Phasing and Annexation Plan.dwg
Date: May 05, 2021, 4:24pm User ID: rmelesquez

Exhibit L

I. Commercial Design Standards

The following Design Standards shall apply to commercial uses 350 feet from the right-of way of the major arterial (Hwy 46 East) and the primary collector (continuation of Coughran Road).

The Design Standards are intended to enhance the community character. Specifically, they are intended to create character and identity through a wide variety of diverse architectural details, and to create consistent well-designed frontages along streets and other public or community spaces. Creativity is encouraged to avoid dull or homogeneous buildings, while incorporating elements of the Texas Hill Country style.

Setbacks.

A. Setbacks contained herein should be measured from the Hwy 46 right-of-way and do not necessarily reflect the lot front setback. The setback shall be fifty feet (50') and shall be used only for the purpose of landscaping and screening and shall not be utilized for parking or internal circulation or drive purposes, except that (if permitted) a driveway may cut through for the purpose of reaching the area behind the setback. The driveway may cut through the setback no more than 30 feet (30') or paired driveways of no more than 20 feet (20') each if separated by a landscape median at least twelve feet (12') wide.
B. The landscape setback along Hwy 46 shall incorporate a minimum of one legacy tree of twelve inches or larger in circumference planted every 20 feet.
C. Additionally native evergreen shrubs that will grow to a minimum height of four feet as determined by a registered landscape architect, certified nurseryman or master gardener shall be planted to create a solid screening within one year of planting.

Facades.

Building design shall incorporate the following standards. Buildings should incorporate elements from the vernacular of buildings in Boerne and the Texas Hill Country.

A. **Primary and Secondary Façade Standards.**
   1. The primary façade of a building shall be the main entrance and focal point of the structure. All buildings should have its primary façade and primary entrance oriented towards the street.

   2. All primary façades of a building shall occupy at least 50% of the front building line and shall be designed with consistent architectural style, detail and trim features that will keep within the architectural style and heritage of the community. The primary façade must incorporate:
      a. Entrance areas, arcades, display windows, awnings or other architectural variety features along no less than sixty percent (60%) of the primary façade. The remaining forty percent (40%) may not be contiguous.
      b. Offsets, reveals, or projecting ribs shall be used to express architectural or structural bays.

   3. Building materials for primary facades - shall be finished using two or more of the following materials or finishes:

a. Cultured or cast stone, natural rock, brick, marble, or granite
b. Stucco or plaster
c. Exterior Insulation and Finish Systems (EIFS) or equivalent product
d. Decorative metal – less than 10% of any façade
e. Decorative treated wood – less than 10% of any facade

4. Secondary façades attached to a primary façade (such as a side wall not facing a public street) shall wrap around the building by incorporating building materials and features of the primary façade for a minimum of 60% of the overall wall length measured from the primary façade.

5. All facades shall include architectural elements such as accent banding, base plates, cornices, soffits, sills, parapets, transoms, and windows aligned horizontally. The horizontal alignment should differentiate stories in a building and create a base and crown for the building.

6. A rear wall that faces or has the likely potential to face the primary façade of another building must follow secondary façade standards.

7. No long horizontal blank wall space without openings to the interior of the building should occur along street level facades.

8. Any building containing a loading dock, bay or service area shall not be facing a primary street.

9. All buildings with a height of twenty-four feet (24') or greater shall be designed to express a base, midsection, and top. The base and tops of buildings shall vary in material.

10. All buildings within a planned development or development as shown on a concept plan or preliminary site plan shall have similar architectural styles, materials, and colors. Colors on adjacent sides and rear façades shall be finished in a similar color as the front of the proposed building.

B. **Building Material Requirements for remaining facades.** The vertical walls of all buildings (excluding doors and windows) shall be finished in two or more of the following materials:

1. Any permitted primary material, or an equal or better simulated product of a permitted primary material may be used as a secondary material;

2. Split-face concrete block, poured-in-place concrete, and tilt-wall concrete. Any use of concrete products shall have an integrated color and be textured or patterned to compliment the primary material.

C. **Accent Material Requirements.** Up to two accent materials are permitted for moldings and ornamental details, or other significant architectural features. Accent Materials shall consist

of no more than 15% of the façade and may consist of:

1. Any permitted primary or secondary material.
2. Standing seam metal.
3. Precast stone, metal, or wood moldings or similar architectural or ornamental details.

D. **Roof Treatments.**

1. Parapets consisting of similar materials to those on the primary façade shall be used to conceal roof top equipment on flat roofs.

2. All sloping roofs less than or equal to a 2:12 pitch shall utilize full parapet coverage not less than two feet (2') above the highest point of the roof

Parking.

The following design and location standards shall apply to on-site parking:

A. To the greatest extent possible, on-site parking areas shall be designed to reduce the negative visual effects of vast paved areas and shall contain screening, landscape planting islands and defined pedestrian walkways.
B. Any parking along Hwy 46 shall be located behind the fifty foot (50') landscape setback.

The location of the on-site parking surface areas shall to the greatest extent possible be located to the side or rear of a building. No more than 15% of the on-site parking areas shall not be located between the front building line of any principal building and a street. Any alternative to this parking requirement must be approved by the Design Review Committee.

1. Where practical, on-site parking areas shall be connected to adjacent parcels through a rear or side lot line access drive or street. If the adjacent parcel is undeveloped or vacant, the access drive, private street, etc., shall be extended to the lot line for future connection to the adjacent parcel.

C. All on-site parking lots shall include planting islands and planting medians.

1. There shall be at least one shade tree, nine inches or larger in circumference planted for each 12 parking spaces.

2. Additionally, parking areas that contain over 100 vehicles shall provide a planting median between every third parking bay of adjacent parking bays, at a minimum, to prevent traffic movement across parking isles.

3. The planting median shall be a minimum of 15 feet wide and may be designed with a curb-less or perforated curb system provided they are engineered to infiltrate run-off from the parking lot, such as a rain garden or bioswale.

4. Parking area for Over 100 vehicles shall provide a planting median

a. Shall be placed between every third parking bay of adjacent parking bays, at a minimum, to prevent traffic movement across parking isles.

b. A minimum of one shade tree of nine inches or larger in circumference shall be planted in each such landscaped area. If a shade tree of nine inches or larger in circumference or larger already exists in the landscaped area.

c. In addition to any other required plantings, all parking lot planting areas shall be planted with drought tolerant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas shall be solid sided. Mulch, stone, or similar materials may be used sparingly.

D. Parking areas shall be designed to allow for logical interconnection to abutting properties. All parking areas located within 50 feet of a common property line in a non-residential zoning district shall be interconnected to adjacent lots in a nonresidential zoning district

1. For each nonresidential use, the applicant must provide an access easement for proposed parking areas and driveways guaranteeing access to all abutting lots that are within a nonresidential zoning district where such easements enhance traffic circulation and connectivity. In addition, this easement shall provide for the construction of the interconnection between the development's proposed parking area and any parking area on adjacent lots.

2. When an access easement has been provided on an adjacent lot in accordance with this Section, the development must directly connect the parking areas via a driveway.

3. Access easements shall logically connect to internal streets, where practical.

4. Access easements and maintenance agreements or other suitable legal mechanism shall be provided for common parking areas or driveways of each nonresidential use.

<u>Screening.</u>

A. *Screening of parking areas.*

1. Landscaped screening of the parking area from the street is required. This may be achieved with a couple of methods.

a) A planting of 1 2 " n a t ive trees or large evergreen shrubs that shall grow to a minimum height of eight feet as determined by a registered landscape architect, arborist, certified nurseryman or master gardener

b) A three-foot landscaping berm

c) A combination of the above

B. *Screening of Mechanical Equipment.*

1. All roof, ground and wall mounted mechanical equipment (e.g. air handling equipment, compressors, duct work, transformers and elevator equipment) from

view at ground level of the property line.

2. Roof-mounted mechanical equipment shall be shielded from view on four sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers, which are painted to blend with the primary building.

3. Screening shall result in the mechanical equipment blending in with the primary building and not appearing separate from the building. The slab shall be sized to accommodate the proposed container and sufficient area to receive the front axle loaded points of the collection vehicle.

4. Wall or ground-mounted equipment screening shall be constructed of one of the following:
   a) Evergreen planting screens
   b) Brick, stone, reinforced concrete, or other similar masonry materials
   c) Redwood, cedar, preservative pressure treated wood, or other similar materials
   d) A combination of the above

5. All fence posts shall be rust-protected metal, concrete-based masonry or concrete pillars.

C. *Screening of Outside Storage.*

1. Outside storage shall be located on the side or rear of the primary building and shall be screened from public view.

2. Outside storage shall be screened with:
   a) A masonry wall or other material that is similar to the primary structure and at least eight feet tall
   b) A three-foot landscaped berm
   c) A planting enclosure of large evergreen shrubs planted a maximum of four feet (4') apart that shall create a solid screen to a minimum height of eight feet within five (5) years as determined by a registered landscape architect, certified nurseryman or master gardener
   d) A combination of the above

D. *Screening of Waste Containers.*

1. Waste containers shall be discretely located on the side or rear of the building and screened from public view.

2. Waste containers shall be located on a minimum six-inch (6") reinforced slab, sloped to drain.

3. Waste containers shall be screened on four sides, using an enclosure that screens the waste container from view at the property line. Screening shall be composed

of:

a) Brick, stone, reinforced concrete, or other similar masonry materials that have a similar finish to the primary finish; or

b) Redwood, cedar, preservative pressure treated wood, or other similar materials; or

c) Large shrubs planted four feet on center and staggered 30 to 36 inches. Shrubs shall be watered with an irrigation system; and

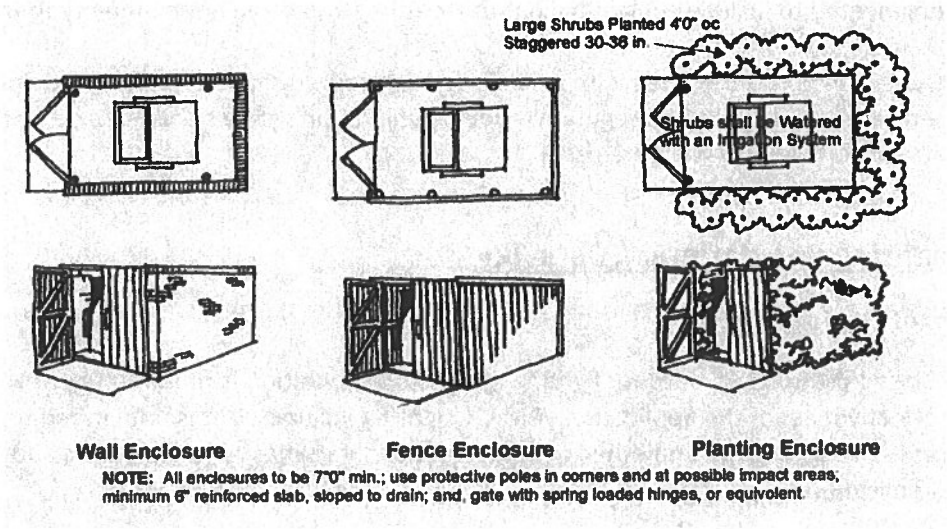
4. All fence posts shall be rust-protected metal, concrete based masonry or concrete pillars; and

5. Six inch (6") concrete filled steel pipes or better shall be located to protect the enclosure from truck operations.

6. Waste container enclosures shall have steel framed gates with spring-loaded hinges or the equivalent and fasteners to keep them closed. When in use, tiebacks should be used to secure the steel framed gates in the open positions.

7. Waste containers shall not be located closer than 50 feet (50') to any single-family lot, unless wholly located within an enclosed building.

8. Planting Enclosures using large evergreen shrubs shall incorporate plants similar to those used elsewhere on primary site and shall be not less than 15-Gallon in size.



E. *Screening of Loading Docks.*

Any delivery and service areas, loading docks, external support equipment, site utility areas, or other similar high-impact elements of site and building design shall be subject to the following:

1. All delivery or service areas and loading docks shall be located on a discrete façade, and internal to the block wherever possible.

2. Any rooftop equipment shall be screened from view of the adjacent public streetscape or other public or common opens spaces by a parapet on flat roofs, or located on a discrete pitch for pitched roofs.

3. Loading areas shall be enclosed on three sides by a wall or other screening device not less than seven feet in height.

4. Loading areas shall not be located closer than 50 feet (50') to any single-family lot, unless wholly located within an enclosed building.

5. Any service areas, loading docks, service equipment, or other site utility area that is visible from adjacent property or public right-of-way shall be screened with a combination of landscape and wall built of a similar material to the main structure at least 6 feet high.

6. Any service use that involves vehicle service bays on a primary or secondary façade shall be located on only secondary or support streets, shall have the service bay portion of the building screened with a combination of landscape and wall built of a similar material to the main structure at least 6 feet high~~,~~ and shall not have service bays that occupy more than 40% of a single façade.

Drainage and Detention Facilities.

A. Drainage facilities, provided they are non-structural drainage facilities, shall be designed and engineered to include substantial natural features and serve as an amenity to the site.

B. Detention ponds designed with a curvilinear contoured shape, are designed not to require fencing, and shall utilize vegetative slope stabilization with a slope not exceeding 3:1, with no structural retaining walls are used.

II. Lighting Regulations / Dark Sky

Definitions of Class Lighting:

1. Class 1 Lighting: All outdoor lighting where color rendition is required to preserve the effectiveness of the application. Class 1 Lighting includes, but is not limited to, outdoor sales, advertising displays and other signs, recreational facilities, amphitheaters and other similar applications.

2. Class 2 Lighting: All outdoor lighting where general illumination for safety and security of grounds is the primary concern and color rendition is not required to preserve the effectiveness of the application. Class 2 Lighting includes, but is not limited to, illumination for walkways, roadways, equipment yards, parking lots, outdoor eating areas, and outdoor security lighting.

3. Class 3 Lighting: All outdoor lighting for primarily decorative effect where safety and security of grounds is not the primary concern and color rendition is not required to preserve the

effectiveness of the application. Class 3 Lighting includes, but is not limited to, architectural illumination, flag and monument lighting, landscape illumination, signs and seasonal holiday lighting and lighting in residential areas (District 3).

Applicability

1. All public and private outdoor lighting installed in the ETJ of the City of Boerne shall conform to the requirements established here, applicable electrical codes, and building codes.
2. All outdoor lighting shall be fully shielded fixture, the luminous elements of the fixture shall not be visible from any other property, and the fixture shall have a correlated color temperature of 2700 K or less. All off-site impacts will be limited to the greatest extent possible.
3. Outdoor lighting fixtures with a maximum output of 1000 lumens per fixture, regardless of the number of bulbs, may be left unshielded, provided that the fixture has an opaque top to prevent light from shining directly up, the source of the light is not visible from any other

B. <u>Lighting Classification</u>

1. Class 1 Lighting

a. Recreational facilities

Any light source permitted by this ordinance may be used for lighting of outdoor recreational facilities (public or private), including, but not limited to, sports fields or courts, amphitheaters, and similar applications, provided the following conditions are met:

i. A secondary low-level lighting system that complies with Class 2 Lighting shall be installed to facilitate security, cleanup, maintenance, and exit from the facility. The low-level lighting system shall provide an average horizontal illumination, at grade level, of no more than three (3) foot-candles.
ii. Recreational facilities shall turn off Class 1 lighting within thirty (30) minutes of the end of an event.
iii. Comply with the levels of illumination consistent with the IESNA "Recommended Practice for Sports and Recreational Area Lighting" (IESNA RP-6-10) or successor recommendations for the class of play appropriate for the kinds of facilities.
iv. Timers must be installed to prevent lights being left on accidentally overnight.
v. Off-site impacts will be limited to the greatest extent possible.

b. Outdoor Sales

Any light source permitted by this ordinance may be used for lighting of outdoor sales located in non-residential districts, provided the following conditions are met:

i. The primary outdoor lighting of the primary facility shall be turned off at 11:00 p.m. or thirty (30) minutes after closing, whichever is later, but in no event shall the main outdoor lighting be illuminated after 12:00 a.m. unless there is a scheduled "special event"; i.e. an all-night sale.
ii. Lighting Levels - During operating hours:

(a) Feature display area (the area within 200 ft. of the main building) the average horizontal illumination level shall not exceed twenty (20) foot-candles. These areas shall not be located within 100 feet of a residentially zoned areas.

(b) Other display areas the average horizontal illumination level shall not exceed fifteen (15) foot-candles. These areas shall not be located within 100 feet of a residentially zoned area.

(c) General parking areas for staff etc. shall not exceed five (5) foot-candles

iii. Timers must be installed to prevent lights being left on accidentally overnight.

c. Lighting Levels - After Hours:

i. The primary outdoor lighting of the primary facility shall be turned off at 11:00 p.m. or thirty (30) minutes after closing, whichever is later, but in no event shall the main outdoor lighting be illuminated after 12:00 a.m. unless there is a scheduled "special event" i.e. an all-night sale.

ii. A secondary low-level lighting system that complies with Class 2 Lighting shall be installed to facilitate security, cleanup, maintenance, and exit from the facility if the property owner desires. The lamps may be metal Halide or LED. The low-level lighting system shall provide an average horizontal illumination, at grade level, of no more than two and one half (2.5) foot-candles.

2. Class 2 lighting

a. Parking lots

Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision, security and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets. Any light source permitted by this ordinance may be used for parking lots, provided the following conditions are met:

i. All luminaires used for parking lot lighting shall be either yellow high-pressure sodium or LED and shall follow the standards for lighting identified below. Any exceptions to this section of the ordinance may be made by the City Manager and/or the City Manager's designee.

ii. All luminaires shall use Fully Shielded Fixtures as that term is defined herein.

iii. Design levels shall correspond to the appropriate IES (Illuminating Engineering Society) minimum requirements for illumination.

iv. No up lighting.

v. Poles are measured from grade.

vi. Light trespass at the property line is 0.00 foot-candle.

vii. Design goals should be the lowest levels that meet the requirement of the task

viii. Any lighting under awnings or canopies shall be completely recessed or shielded

ix. Yellow high-pressure sodium luminaires used for parking lot lighting may be installed at a maximum height of thirty (30) feet

(a) Perimeter poles that abut a residence or residential district shall be no more than 10 feet in height.

(b) They shall turn off by 9:00 p.m. unless there is a special event.

x. LED parking lot lighting shall adhere to the following criteria.

(a) All fixtures are Full cut-off.
(b) Poles shall be 20 feet in height with perimeter (at the property line) poles at 10 feet in height.
(c) Lumens per net acre in industrial areas shall not exceed 75,000 (does not include governmental owned streetlights).

(i) This lumen per net acre value is an upper limit and not a design goal.
(ii) Design goals should be the lowest levels that meet the requirement of the task

(d) Maximum 2,700 kelvins for bulbs.
(e) Any lighting under awnings or canopies shall be completely recessed or shielded.
(f) Outdoor lighting intended to be left on more than 30 minutes after closing, or the completion of activities must be reduced to 50% or less of the normal lumen output. Motion sensor activation may be allowed to cause the light to resume normal lumen output only when activated and to be reduced back to 50% or less of normal lumen output with 5 minutes after activation.
(g) Wall packs may be used in combination with pole lights if they are full cut-off and/or shielded fixtures.

b. Street Lighting

i. Street lighting installed, repaired or replaced after the adoption of this ordinance shall be fully shielded fixture or full cutoff standard for all fixture over 1,000 lumens initial lamp output, in order to limit light trespassing, and shall have a correlated color temperature of 2700 K or less. No exemption shall apply to any street lighting and to any lighting within the public right of way or easement when the purpose of the luminaire is to illuminate areas outside of the public right of way or easement.

ii. New street lighting shall be designed to provide minimum lighting necessary to ensure adequate vision, and comfort in public and private streets, and to not cause glare or direct illumination more than five (5) feet beyond the right of way. Any light source permitted by this ordinance may be used for street lighting in any District, provided the following conditions are met:

(a) Luminaires used for public/private street lighting that are installed after the effective date of this ordinance shall be installed using Fully Shielded Fixtures, as that term is defined herein. Design levels shall correspond to the appropriate IES (Illuminating Engineering Society) minimum requirements for illumination.
(b) The use of adaptative controls are to be employed in all future installations of public outdoor lighting, considering the circumstances indicating the need for said public outdoor lighting based on the presence or absence of citizens on public property or rights-of-way. For the

purposes of this subsection, "public outdoor lighting" shall be defined as all City public street lighting and outdoor lighting on other City property and City owned rights-of-way.

(c) Motion sensor shall be installed and properly maintained, and the trigger threshold set such that the light doesn't inappropriately trigger on; a failed motion sensor must fail only to the "off" state, and not to the "on"; the duration of each trigger should be limited to no longer than five (5) minutes.

c. Security lighting

For the purposes of this section, security lighting is defined as lighting intended to reduce the risk (real or perceived) of personal attack. Any light source permitted by this ordinance may be used for security lighting in any Lighting District, provided the following conditions are met:

i. All security lighting fixtures installed after the effective date of this ordinance shall be fully shielded and aimed so that illumination is directed only within the owner's property boundaries and not cast on other areas. The use of general floodlighting fixtures shall be prohibited.
ii. Security lighting may illuminate vertical surfaces (e.g. building facades and walls) up to a level eight (8) feet above grade or eight (8) feet above the bottoms of doorways or entries, whichever is greater. The use of up-lighting luminaires shall be prohibited.
iii. Security lighting fixtures may be mounted on poles located no less than ten (10) feet from the perimeter of the property boundary.
iv. Security lights intended to illuminate a perimeter (such as a fence line) shall include motion sensors and be designed to be off unless triggered by an intruder located within five (5) feet of the perimeter. The zone of activation sensors must be within the property boundaries of the property wishing to be illuminated.
v. It is the property owner's responsibility to ensure that the motion sensor is properly maintained, and the trigger threshold set such that the light doesn't inappropriately trigger on; a failed motion sensor must fail only to the "off" state, and not to the "on"; the duration of each trigger should be limited to no longer than five (5) minutes.

d. Lighting of Canopies and Service Islands

Lighting levels on service islands and under canopies shall be adequate to facilitate the activities taking place in such locations.

i. Areas on the apron away from the service islands used for parking or vehicle storage shall be illuminated in accordance with the Illuminating Engineering Society (IES) requirements for parking areas.
ii. Areas around the service islands and under canopies shall be illuminated so that the minimum horizontal illuminance at grade level is at least one (1) foot candles and no more than fifteen (15) foot candles in areas of industrial use and ten (10) foot candles in areas of commercial use.

iii. Light fixtures mounted on canopies shall be fully shielded or recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy.

iv. Lights shall not be mounted on top, or sides (fascia) of the canopy, and the sides (fascia) of the canopy shall not be illuminated.

v. Outdoor light fixtures located under canopies, under building overhangs, or under roof eaves where the center of the lamp or luminaire is located at 5 feet, but less than 10 feet from the nearest edge of the canopy or overhang are to be included in the total outdoor light output as though they produced only one-quarter (1/4) of the lamp's rated lumen output.

vi. Outdoor light fixture located under canopies, under building overhang, or under roof eaves where the center of the lamp or luminaire is located 10 or more feet from the nearest edge of a canopy, building overhang, or eaves are to be included in the total outdoor light output as though they produced only one-tenth (1/10) of the lamp's rated lumen output.

e. Lighting Curfews

Nonresidential outdoor lighting intended to be left on more than 30 minutes after closing, or the completion of activities, must be reduced to 25% or less of the total outdoor light output allowed.

i. Motion sensor activation may be allowed to cause the light to resume total outdoor light output allowed only when activated and to be reduced back to 25% or less of total outdoor light output allowed within 5 minutes after activation has ceased, and the light shall not be triggered by activity off the property.

ii. The 75% reduction in illumination may be accomplished by dimming, by turning off 75% of the light fixtures, by a combination of the two, or by any other method that results in a total outdoor light output of no more than 25% of the total outdoor light output allowed.

iii. Illumination for all advertising signs, both externally and internally illuminated, shall be turned off by the later of closing time or 10:00 p.m., provided, however, that such signs may be turned back on prior to sunrise, but no more than one hour prior to opening.

iv. Street lighting, other than at the intersection of roadways, shall utilize half night photocells or timers to turn off the lights halfway between dusk and dawn. Passive reflective roadway markings are encouraged.

v. All outdoor lighting is encouraged to be turned off when no one is present to use the light. Luminance levels for operation between sunset and sunrise shall not exceed 1250 lumens.

3. Class 3 Lighting

Class 3 Lighting shall apply to all outdoor lighting for primarily decorative effect where safety and security of grounds is not the primary concern and color rendition is not required to preserve the effectiveness of the application. Class 3 Lighting includes, but is not limited to, architectural illumination, flag and monument lighting, landscape illumination, and seasonal holiday lighting.

a. Lighting of Building Facades and Landscaping.

Any light source permitted by this ordinance may be used for lighting of building facades and landscaping in any District, provided the following conditions are met:

i. The maximum illumination on any vertical surface or angular roof surface shall not exceed two (2) foot-candles.
ii. Lighting fixtures shall be at least partially shielded, as defined herein, and aimed so that no light is directed onto adjacent streets or roads.
iii. The use of up-lighting luminaires shall be prohibited, unless such luminaires are fully shielded, and directed in such a way that no light is aimed beyond the building or landscaping directly into the night sky with the exception the illumination of governmental flags.

b. Ornamental Lights

Ornamental lights may be used in any Lighting District, provided the following conditions are met:

i. Decorative strings of lamps/bulbs must not create glare on adjacent streets or property.
ii. Lighting (including strings of lamps/bulbs) for parties, celebrations, and other social gatherings is allowed.

c. Lighting of Walkways, Bikeways, Sidewalks

Any light source permitted by this ordinance may be used for lighting walkways, bikeways and sidewalks in any District, provided the following conditions are met:

i. The walkway, pathway, sidewalk, or ground area may be illuminated with bollards.
ii. Lighting fixtures shall be fully shielded, or otherwise designed to direct light downward, and light sources shall have an initial output of no more than 2000 lumens.

d. Outdoor Advertising Signs

Any light source permitted by this ordinance may be used for lighting of outdoor advertising signs located in any District, provided the following conditions are met. In the event of a conflict, the City of Boerne's Sign Ordinance shall control:

i. All legally installed externally illuminated signs shall have top-mounted luminaires which meet the shielding and grandfathering requirements contained herein.
ii. Bottom-mounted luminaires on externally illuminated signs shall be prohibited.
iii. Legally installed internally illuminated signs, to the degree same are permitted by the Boerne Sign Ordinance, shall be constructed of translucent materials, and the source of internal illumination shall not be directly visible through said material. Internally illuminated signs are prohibited in Residential Districts.
iv. Sign illumination shall be extinguished completely one (1) hour after sunset and remain off until one (1) hour before sunrise.

v. The illuminated surface area of an individual sign shall not exceed 200 square feet.

vi. Luminance levels shall not exceed 100 nits (100 candelas per sq. meter)

e. Lighted Signs.

An establishment shall only have one lighted window or door sign per store front, not to exceed three (3) square feet. These signs shall be turned off when the establishment is not open for business. Illuminated exterior signs not lit by internal lighting shall be illuminated by down lighting methods; "up–lighting" is prohibited.

f. Residential Area Lighting.

While fully shielded lights are required, individual lamps are limited to 2700 lumens or less.

C. Illumination Plan requirements for Development Projects

1. Outdoor lighting should be carefully designed with regards to placement, intensity, timing, duration and color. A good lighting plan can promote safety, save money, conserve natural resources, retain community character, reduce skyglow.
2. The submission of an illumination plan shall contain, but shall not be limited to the following, all or part of which may be part or in addition to the information required elsewhere in the ordinances of the City of Boerne upon application for the required permit.

a. Two copies of an illumination plan shall be submitted with the building permit for review for compliance with this section.

b. A site plan, drawn to an appropriate scale, showing buildings, landscaping, parking area, and all proposed exterior fixtures including lamps, supports, reflectors and other devices.

c. Specifications for all proposed lighting fixtures including photometric data designation as IESNA full cut-off fixtures where required, and other descriptive information on the fixtures.

D. Total Outdoor Light Output and Shielding Requirements

Table 1 gives requirements of the total light output permitted per acre for the different lighting areas for class of lighting, lamp type and lighting area. These requirements shall be met for all lighting installations subject to this section.

1. Total Outdoor Light Output

Total outdoor light output shall not exceed the lumen limits given in Table 1. In the table, Total means the sum of shielded. For determining compliance with this section, the total lumens is the sum of the following:

a. One hundred percent of the lumens from outdoor light fixtures installed on grade, on poles, on the top or sides of buildings or other structures.

b. 2. Outdoor light fixture located under canopies, under buildings overhangs, or under roof eaves where the center of the lamp or luminaire is located at 5 feet, but less than 10 feet from the nearest edge of the canopy or overhang are to be included in the total outdoor light output as though they produced only one-quarter (1/4) of the lamp's

rated lumen output. Outdoor light fixture located under canopies, under building overhang, or under roof eaves where the center of the lamp or luminaire is located 10 or more feet from the nearest edge of a canopy, building overhang, or eaves are to be included in the total outdoor light output as though they produced only one-tenth (1/10) of the lamp's rated lumen output.

Maximum Total Outdoor Light Output Requirements Lumen Caps: Mean Lumens per Net Acre (1)			
Uses			
	Industrial	Commercial	Residential
Commercial, Industrial and Multifamily			
Maximum total outdoor light	75,000	50,000	20,000

Notes to Table 1:

1. Mean lumens per acre equals total outdoor light output divided by net acres.

E. Exemptions

1. Emergency lighting utilized during natural or man-made disasters, but only for the duration of the declared emergency may be exempted.
2. Lighting elements, such as shades with perforated patterns and opaque diffusers, shall be exempted from the fully shielded requirement provided they do not exceed 1000 lumens.
3. Ornamental lights that are string lighting.
4. If a proposed lighting plan or fixture does not meet the requirements of this ordinance, and no other reasonable technical solution is available, but is of demonstrable community benefit, the Design Review Committee may approve an exemption. The applicant requesting a permanent exemption under this ordinance shall submit enough information so that the Design Review Committee may adequately consider the proposed community benefit. All requests for exemptions must comply with the zoning variance request procedures.
5. The provisions of this code do not prevent the replacement of an existing grandfathered luminaire with an alternate fixture, or the use of bottom-mounted luminaires on externally illuminated signs if it can be shown that the luminaire(s) to be used improve the view of the night sky consistent with the intent of this code. A person may request (and the City Manager may approve) an exemption if the following information is provided:

    a. The location of the luminaire to be installed or replaced;
    b. The purpose of the luminaire;
    c. The total wattage and lumens of the grandfathered and the replacement luminaire, if applicable;
    d. The type of luminaire to be installed, and if applicable, the type of replacement;
    e. If the luminaire is a replacement, through manufacturer's literature or otherwise, the replacement luminaire will reduce light pollution, glare, or Total Outdoor Light Output; or,
    f. When the luminaire is bottom-mounted, through the use of manufacturer's literature or otherwise, its use is superior in reducing light pollution, glare, or Total Outdoor Light Output as compared to a top-mounted luminaire.
    g. Any other information deemed relevant.

F. Temporary Exemption

1. Any person may submit a written request, to the City Manager or the City Manager's designee for a temporary exemption from the requirements of this section. The Request for Temporary Exemption shall contain the following information:

   a. Specific exemption or exemptions requested;
   b. Type and use of outdoor fixture involved;
   c. Duration of time for requested exemption;
   d. Total wattage of lamp or lamps;
   e. Proposed location on premises (if any) and addresses of premises;
   f. Physical size of outdoor light fixture(s) and type of shielding provided;
   g. Such other data and information as may be required by the Building Official.

2. Approval, Duration

   The City Manager or the City Manager's designee shall have five (5) business days from the date of submission of the Request for Temporary Exemption to act in writing on the request. If approved, the exemption shall be valid for not more than thirty (30) days from the date of issuance of the approval. The approval shall be renewable at the discretion of the City Manager or the City Manager's designee upon a consideration of all the circumstances. Each such renewed exemption shall be valid for not more than thirty (30) days. Each exemption can be renewed up to two (2) times.

3. Disapproval, Appeal

   If the Request for Temporary Exemption is disapproved, the person making the request will have the appeal rights as provided in the City of Boerne's Zoning Ordinance.

G. Prohibitions

1. The installation of any mercury vapor fixture or lamp, krypton, or argon discharge tubes intended for use as an architectural highlight to attract attention is prohibited.
2. The use of laser source light or any similar high-intensity light (such as a strobe light) is prohibited.
3. The operation of searchlights is prohibited.
4. Outdoor lighting that interferes with the safe operation of a motor vehicle is prohibited.
5. Up-lighting is prohibited, except as otherwise provided in this ordinance.
6. It shall be unlawful for any outdoor lighting fixture to cause glare, as defined herein and determined by the City Manager or the City Manager's designee, of sufficient intensity as to create an unsafe condition on public or private streets between the hours of midnight (12:00 a.m.) and 6:00 a.m.

H. Temporary Lighting for Sports Practices

1. Where temporary lighting is to be provided for sports practices that are not located in City Parks, or schools the following requirements shall apply.

   a. The field to be illuminated shall be a minimum of fifty (50) feet from a residential property line or a residential district.

b. Luminaires used for sports practices shall be at a maximum height of twenty (20) feet and may be positioned at that height up to the edge of the property on which the practice is being held.

c. The Luminaires shall be turned triat 9:00 p.m. or thirty (30) minutes after the practice is over, but in no event shall the field be illuminated after 9:30 p.m.

Figure A

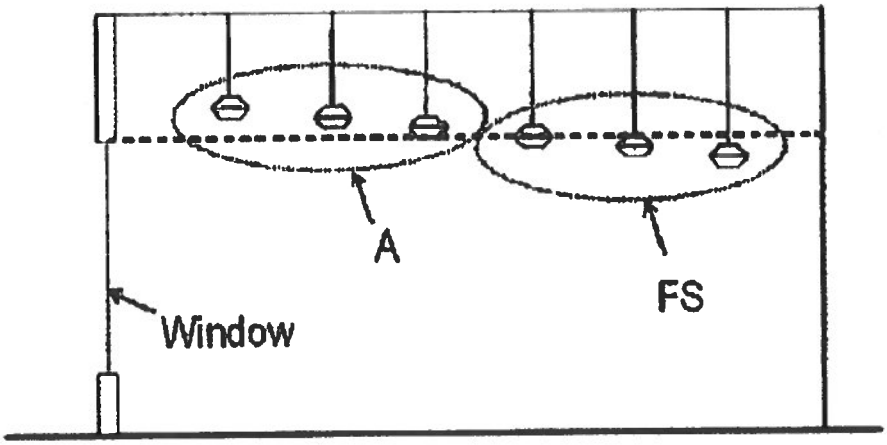


Figure A: Elevation view showing a nonresidential application of indoor lighting, labeled FS, which will be subject to this article and indoor lighting, labeled A, which is installed so that it is not subject to this article. This example presumes the structure in question is not elevated such that any of the luminaires labeled A in the figure above may be seen from any other property. If the structure is elevated such that the luminaires labeled A are visible from another property then, the