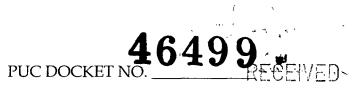


Control Number: 46499

Item Number: 1

Addendum StartPage: 0



§

§

s s

§

§

§ §

PETITION BY MCALISTER OPPORTUNITY FUND 2012, L.P. and MCALISTER OPPORTUNITY FUND 2014, L.P. TO AMEND HMW SPECIAL UTILITY DISTRICT'S WATER CCN NO. 10342 IN HARRIS COUNTY BY EXPEDITED RELEASE

PUBLIC "T".ITY CONTRIBUTION FILING CLERK

COMMISION OF TEXAS

MCALISTER OPPORTUNITY FUND 2012, L.P. AND MCALISTER OPPORUNITY FUND 2014, L.P.'S PETITION TO AMEND HMW SPECIAL UTILITY DISTRICT'S WATER CCN NO. 10342 BY EXPEDITED RELEASE

TO THE PUBLIC UTILTY COMMISSION OF TEXAS:

COMES NOW, McAlister Opportunity Fund 2012, L.P. and McAlister , Opportunity Fund 2014, L.P. ("Petitioners") and file this Petition with the Public Utility Commission of Texas ("PUC") to Amend through Expedited Release HMW Special Utility District's ("SUD") Water Certificate of Convenience and Necessity ("CCN") No. 10342 pursuant to Texas Water Code §13.254(a-5) and 16 Tex. Admin. Code §24.113. In support of the Petition, the Petitioners would respectfully show as follows:

I. PURPOSE OF THE PETITION AND DECERTIFICATION CRITERIA

The Petitioners file this Petition requesting expedited release of property owned by the Petitioners in Harris County, Texas, through an amendment of the SUD's Water CCN No. 10342. The tract of land owned by the Petitioners contains 634.84 acres, is comprised of three separate parcels, and is located on FM 2920 between Highways 290 and 249 in Harris County, Texas (the "Property"). As provided by Texas Water Code §13.254(a-5) and 16 Tex. Admin. Code §24.113(r), an owner of a tract of land that is at least 25 acres and that is not receiving water service may petition the PUC for expedited release from a water CCN and is entitled to the expedited release if the property is located in Harris County, among other counties.

II. REQUEST FOR DECERTIFICATION

1

The Petitioners' request that the PUC amend the SUD's Water CCN No. 10342 by expedited release under Texas Water Code §13.254(a-5) and 16 Tex. Admin. Code §24.113(r) and release the Petitioners' Property from the SUD's Water CCN No. 10342. In support of its request for expedited release from the SUD's Water CCN No. 10342, the Petitioners have attached the "Affidavit of Hydie McAlister in Support of McAlister Opportunity Fund 2012, L.P. and McAlister Opportunity Fund 2014, L.P.'s Petition to Amend HMW SUD's Water CCN No. 10342 by Expedited Release" (hereinafter referred to as the "Petitioners' Affidavit"). The Petitioners' Affidavit is attached hereto and incorporated as **Exhibit A**. Petitioners' Affidavit verifies that McAlister Opportunity Fund 2012, L.P. and McAlister Opportunity Fund 2014, L.P. are the owners of the Property, the Property is located in Harris County, Texas, total acreage of the Property is 634.84 acres, and the Property is not receiving water service from the SUD. *See* **Exhibit A**.

The Petitioners' Affidavit also includes (1) McAlister Opportunity Fund 2012, L.P.'s and McAlister Opportunity Fund 2014, L.P.'s deeds for the Property; (2) a map showing the general location of the Property and the surrounding water CCNs held by both the SUD and other retail public utilities in the vicinity; (3) a map identifying the boundaries of the Property (4) a survey of the Property; (5) an "Agreement for the Release of Certified Retail Public Water Utility Service Area" ("Agreement") dated August 8, 2016 whereby the SUD has indicated it does not object to McAlister Opportunity Fund 2012, L.P.'s Petition for Expedited Release. In addition to the Petitioners' Affidavit and its attachments, attached to this Petition is a compact disc containing the projectable digital data with metadata for the area to be released which corresponds to the maps attached to the Petitioner's Affidavit. *See* Exhibit B. A copy of this Petition is being sent to the SUD by certified mail on the same day this Petition is filed with the PUC.

CERTIFICATE OF SERVICE

I hereby certify by my signature below that on the 31st day of October, 2016, a true and correct copy of the above and foregoing document was sent via certified mail to the following:

HMW Special Utility District

Via Certified Mail

Attn: William K. Coe, General Manager PO Box 837

* Pinehurst, TX 77362

Sean David Abbott

III. CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, the Petitioners respectfully request that the PUC process this Petition and release the Petitioner's Property form the SUD's Water CCN No. 10342 pursuant to Texas Water Code §13.254(a-5) and 16 Tex. Admin. Code §24.113(r). If for any reasons the PUC Finds that the information submitted with this Petition is insufficient for application acceptance, the Petitioner respectfully requests that it be notified immediately and provided an opportunity to cure any deficiencies identified.

Respectfully submitted,

ALLEN BOONE HUMPHRIES ROBINSON LLP 1108 Lavaca, Suite 510 Austin, Texas 78701 Telephone: (512) 518-2424 Facsimile: (512) 518-2415 sabbott@abhr.com By: Sean David Abbott State Bar No. 24069267

ATTORNEYS FOR PETITIONERS MCALISTER OPPORTUNITY FUND 2012, L.P. & MCALISTER OPPORTUNITY FUND 2014, L.P.

EXHIBIT "A"

Affidavit of Hydie McAlister

· · ·

| PETITION BY MCALISTER | § | PUBLIC UTILITY |
|---------------------------------|-----|---------------------------|
| OPPORTUNITY FUND 2012, L.P. and | § | |
| MCALISTER OPPORTUNITY FUND | · § | • |
| 2014, L.P. | § | 4 |
| TO AMEND HMW SPECIAL | § | COMMISION OF TEXAS |
| UTILITY DISTRICT'S | § | |
| WATER CCN NO. 10342 IN HARRIS | § | -46 14 |
| COUNTY BY EXPEDITED RELEASE | § | |

AFFIDAVIT OF HYDIE MCALISTER IN SUPPORT OF MCALISTER OPPORTUNITY FUND 2012, L.P. AND MCALISTER OPPORTUNITY FUND 2014, L.P.'S PETITION TO AMEND HMW SPECIAL UTILITY DISTRICT'S WATER CCN NO. 10342 <u>BY EXPEDITED RELEASE</u>

BEFORE ME, the undersigned notary public, appeared <u>Hydie McAlister</u>, the Manager of MOF 2012 GP, LLC, General Partner of McAlister Opportunity Fund 2012, L.P., a Delaware limited partnership, and MOF 2014 GP, LLC, General Partner of McAlister Opportunity Fund 2014, L.P., a Delaware limited partnership, known to me to be the person whose name is subscribed to the following instrument, and who having been duly sworn upon her oath, deposed and stated as follows:

- 1. My name is Hydie McAlister. I am over twenty-one (21) years of age, am competent to make this Affidavit, and have personal knowledge of the facts stated in this Affidavit, and they are true and correct.
- 2. I am the Manager of MOF 2012 GP, LLC, the General Partner of McAlister Opportunity Fund 2012, L.P. and MOF 2014 GP, LLC, the General Partner of McAlister Opportunity Fund 2014, L.P. I am familiar with the property that McAlister Opportunity Fund 2012, L.P. and McAlister Opportunity Fund 2014, L.P. own and the bills and accounts pertinent to those properties.
- McAlister Opportunity Fund 2012, L.P. and McAlister Opportunity Fund 2014,
 L.P. own 634.84 acres of land (the "Property") located on FM 2920 between Highways 290 and 249 in Harris County, Texas. The deeds for the Property are recorded in the real property records in Harris County as document numbers 20140310898, 20140445295, and 20150107598, and true and correct copies of the deeds are attached to this Affidavit as Attachment 1. Attached as Attachment 2 is a true and correct copy of a map showing the general location of the Property.

- Attached as Attachment 3 is a true and correct map identifying the boundaries of the Property. Attached as Attachment 4 is a true and correct copy of the survey of the Property. Attached as Attachment 5 is a true and correct copy of the Agreement for the Release of Certified Retail Public Water Utility Service Area.
- 4. The Property is located in the HMW Special Utility District's (the "SUD") Water Certificate of Convenience and Necessity ("CCN") No. 10342. The Property is not receiving water service from the SUD, or any other water provider. I am not
- aware of any meters, lines, or other facilities owned or operated by the SUD on the Property.
- 5. The SUD, by its signature to the "Agreement for the Release of Certified Retail Public Water Utility Service Area" (the "Agreement") dated August 18, 2016, does not object to McAlister Opportunity Fund 2012, L.P and McAlister
 - . Opportunity Fund 2014, L.P.'s petition for expedited release of the portion of its CCN that is included on the Property. Attached as Attachment 5 is a true and correct copy of the Agreement.
- 6. On behalf of McAlister Opportunity Fund 2012, L.P. and McAlister Opportunity Fund 2014, L.P. I request that the Public Utility Commission of Texas release the Property from Water CCN No. 10342.

[Execution page to follow]

FURTHER AFFIANT SAYETH NOT day of **EXECUTED** this 2016. Hydie McAlister, Manager McAlister Opportunity Fund 2012, L.P., a Delaware limited partnership by MOF 2012 GP, LLC, a Delaware limited liability

company, its General Partner McAlister Opportunity Fund 2014, L.P., a Delaware limited partnership by MOF 2014 GP, LLC, a Delaware limited liability company, its General Partner

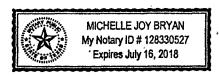
THE STATE OF TEXAS § § COUNTY OF TRAVIS ş

BEFORE ME, the undersigned, a Notary Public, on this day personally appeared Hydie McAlister, Manager of MOF 2012 GP, LLC, General Partner of McAlister Opportunity Fund 2012, L.P. and MOF 2014 GP, LLC, General Partner of McAlister Opportunity Fund 2014, L.P., known to me to be the persons and officers whose names are subscribed to the foregoing instrument and affirmed and acknowledged that said instrument is correct and accurate to the best of their knowledge and belief, and that they executed the same for the purposes and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ∂U^{th} day of UCtoDP/_, 2016.

Notary Public, State of

(SEAL)



ATTACHMENT 1 Property Deeds

.*

ٹ

¥

ļ

• • •

* ~*

•

••••

1045002242

SPECIAL WARRANTY DEED

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

§

§

§

THE STATE OF TEXAS

KNOW ALL PERSONS BY THESE PRESENTS:

THAT FM 2920/HOPFE/CYPRESS ROSEHILL, LTD., . a Texas limited partnership ("Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10,00) in hand paid to Grantor by MCALISTER OPPORTUNITY FUND 2012, LP., a Delaware limited partnership ("Grantee"), the receipt of which is hereby acknowledged by Grantor, and other good and valuable consideration paid and agreed and secured to be paid to Grantor by Grantee in the manner set forth below. the sufficiency of which consideration is hereby acknowledged by Grantor, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto said Grantee, its successors and assigns, subject to the Permitted Exceptions (as defined below), the following (collectively, the "Property"): all of that certain real property located in Harris County, Texas, more particularly described in Exhibit "A" attached hereto and made a party hereof (the "Land"), together with any and all buildings, improvements, fixtures, furniture, equipment and other personal property thereon or therein, all easements, tenements, hereditaments, privileges, and appurtenances belonging or appertaining thereto, including all utility capacities allocated or reserved thereto, all development rights and rights gained and/or reserved by virtue of the payment of impact fees with respect thereto, all oil, gas and other minerals, all water rights, and any right, title, and interest of Grantor_in_and to the lands situated within the right-of-way of all publicly-dedicated (but not private) roads, streets and alleys, or rights-of-way, and Grantor's interest in and to all leases and rents attributable to the Land.

This conveyance is made by Grantor and accepted by Grantee expressly subject to the following (collectively, the "<u>Permitted Exceptions</u>"): the liens securing payment of real estate ad valorem taxes for the current and all subsequent years; those matters set forth on <u>Exhibit "B</u>" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns forever; and subject to the above described Permitted Exceptions, Grantor does hereby bind itself and its successors, to WARRANT AND FOREVER DEFEND all and singular the Property upon Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise.

1

Address of Grantee: 2211 1

2211 Norfolk St., Suite 803 -Houston, Texas 77098

002876.000179\4819-6696-1692.v1

WD

Ν

1EE

25.2337

EXECUTED effective as of

FM 2920/HOPFE/CYPRESS ROSEHILL, LTD:, a Texas limited partnership

2014.

By: FM 2920/Hopfe/Cypress Rosehill, GP, Ltd., its general partner

By: FM 2920/I lopfe/Cypross Rosehill I, Inc., its general partner?

By: Name: Title:

30R

THE STATE OF TEXAS § COUNTY OF HARRIS § COUN

.

ž

[Seal]

BETTY S. WARD Commission Expired May 05, 2018 Μv

Notary Public-State of Texas

: 002876.000179\4819-6696-1692.v1

ER 058 - 93 - 1491

ŝ,

í

EXHIBIT "A" (Property)

All that certain tract or parcel containing 595.2333 acres of land situated in the A. Roberts Survey, A-03, the B. Sime Survey, A-745, the C. Frazier Survey, A-266, and the L. Long Survey, A-514 each in Harris County, Texas, said 665.2333 sore tract of tand being that seme tract of land comprised of all of that cortain eall 258.7394 uses tract of as described in a deed filed for record under Harris County Clerk's File No. 2007.0401525, all of that cartain call 43.69961 acre tract of as described in a deed filed for record under Harris County Clerk's File No. 2007.0568.0553, all of that certain call 30.000 acre tract of as described in a deed filed for record under Harris County Clerk's File No. 2007.0568.051, all contain call 43.69961 acre tract of as described in a deed filed for record under Harris County Clerk's File No. 2007.0568.053, all of that certain call 30.000 acre tract of as described in a deed filed for record under Harris County Clerk's File No. 2007.0568.051, all of that certain call 1 55.9510 acre tract of as described in a deed filed for record under Harris County Clerk's File No. 2007.052377 and all of that certain call 97.7448 acre into of as doscribed in a deed filed for record under Harris County Clerk's File No. 2007.056804, sald 566.2333 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" from rod (found) In the Southerly right-of-way line of F.M. 2920; (ata Waller-Tomball Road, 100.00 feet in width), marking the Northwast corner of the romainder of that outhin call 43.893 acre troot of land se described in a dead filed for record under Harris County Clork's File No. D-764566, the Northeast corner of said call 43.6991 acre tract of land, and the Northerly-Northeast corner and POINT OF BEGINNING of the hareholdes S2333 acre tract of land;

THENCE S 00"09'33" E, a distance of 2,298.59 feet along the common line of the remainder of said 43.693 acre trad of land and said 43.6981 acre trad of land to a 1/2" iron rod (found) in the South line of said A. Roberts Survey, the North line of said C. Frazier Survey and an Interior fine of said 258.7394 acre trad of land marking the Southwest corner of the remainder of and 43.883 acre trad of land, the Southeast corner of said 43.6981 acre trad of land an laterior corner of the herein described 385.2333 acre trad of land;

THENCE N 89*25'29" E, a distance of 2,679.28 feet, along the common line of the remainder of said 43.853 some tract, said 258.7394 screetract of land, the South line of said A. Roberts Survey, the North line of said C. Frazier Survey, and the North line of said L. Long Survey to a 1/2" iron rod (found) in the South line of thist certain call 100.503 acro tract, of tand as described in u dead filed for record under Harris County Clerk's File No. P931132 marking Northeast corner of vald Long Survey, the Northwest corner of the Samiel Young Survey, A-942 in Harris County, Texas, the Northwest corner of that certain call .864 acro tract of land known as Tract 14 in Rosehill Ranchettes, Section 2, (unrecorded), as described in a dead field for record under Harris County Clerk's File No. R442003, the Easterly-Northeast corner of said 258.7394 acro tract of land in Easterly-Northeast corner of sold 258.2333 acro tract of land;

THENCE 5 00°32°14" E, along the common line of sold L. Long Survey, sold Samuel Young Survey, sold Roachill Banchettes, Section 2 and sold 258.7394 apre that of latid, passing at call 114.19 feet a point for cornor marking an interior corner of sold Tract 14 and the Northerly corner of Tract 13 in sold Roschill Ranchettes, Section 2 as described in a doed filed for record under Hards County Clerk's File No. L60785, from this point a 1/2" iron pipe (found) for reference bears 5 60°49'28" 5, 1.74 feet, and passing at call 1,150.93 feet a point for corner marking the Southwest corner of that cartain call 5.00 acre tract of land as described in a deed filed for second under Harris County Clerk's File No. N 28°23'88" and the Northwest acriter of that cartain call 5.00 acre tract of land as described in a deed filed for second under Harris County Clerk's File No. N 28°23'88" and the Northwest acriter of that cartain call 6.00 acre tract of land as described in a deed filed for record under Harris Dounty Clerk's File No. N 28°23'86" and the Northwest acriter of that cartain call 5.00 acre tract of land as described in a deed filed for second under Harris County Clerk's File No. N 28°23'86" and the Northwest acriter of that cartain call 6.00 acre tract of land as described in a deed filed for record under Harris Dounty Clerk's File No. N 28°23'86" and passing at 2,565.42 feet a 518" from rod with Projean & Company cap (found) in the West line of that cartain call 2.447 area tract of land as described in a deed filed for record under Harris County Clark's File No. W73'10D1 marking the Northeast corner of that 0 156.0560 acre tract of land and the Southeast comer of wild 258,7394 -acre tract of land, and passing at 2,895.59 feet a point for corner marking the Southwest corner of stald 2.447 acre tract of land and the Northwest corner of that certain call 1.2700 acre tract of land and the Northwest corner of that certain call 1.2700 acre tract of land as described in

002876.000179\4819-6696-1692.v1

D

a dead filed for record under Harris County Clark's File No. 7236245, from this point a 1/2" (ron pipe (found) for reference bases S 67'47'62" E, 0.32 feet, and passing at 3,6'4.52 feet a 3/8" (ron rod (found) marking the Southwest comer of that certain call 5.5000 word tract of land as described in a deed filed for record under Harris County Clark's File No. 7980749 and the Northwest corner of that certain call 10.2220 acrest the filed for record under Harris County Clark's File No. 7980749 and the Northwest corner of that certain call 10.2220 acrest to filed as described in a deed filed for record under Harris County Clark's File No. 7980749 and the Northwest corner of that certain call 10.2220 acrest to filed as described in a deed filed for record under Harris County Clark's File No. M728633, from this point a 1" fron pipe (found) for reference hears S 24'56'47" E, 0.48 faot, a total distance of 5,110.87 feet to a 5/8" fron rod with Prejean and Company cap (found) marking the Southeast corner of the said it. Long Survey, an Interfor corner of the J. Ivy Survey, A-477, In Harris County, Taxas, an interfor corner of that remainder of a call 300 acre fract of land as Resulted in a deed filed for record under Harris County Clark's File Number R§21531, the Southeast corner of acid 165.0310 acre fract of land and the Southeast corner of the 364 files 5233 acre tract of land and the Southeast corner of the 518 5233 acre tract of land;

THENCE S 69°56'04" W. along the common lines of said L. Long Survey, said C. Frazier Survey, said B. Sims Survey, and J. by Survey, said 155.0510 acre and said 360 acre tracts of land, possing at a distance of 41.81 feet a 3/4" iron rod with Prejean and Company cap (found) for returnes, also peeting at a distance of 2,624.75 feat a point for reference, from which points 1" iron pipe (found) bears N 00'03'69" W. 0.24 feet, also passing at a distance of 3,416.16 feet, a point for comer marking the most Northerly-Northwest corner of said remainder of a 350 acre tract of land and the Northeest comer that certain call 10 acre tract of land as described in a deud filed for record under Harris County Clerk's File No. M805854, from which point a 5/0" iron rod (found) bears B 00"03'59" E, 0.18 feet, a total distance of 4,278.78 feet to a "Tiron bar (found) in the East line of Hopfe Road, (variable width), marking the Northwest courser of said 10 acre tract of land, the Southwest conter of said 155.0510 acre tract of land and the Southwest comer the terein discribed conter of said 155.0510 acre tract of land and the Southwest comer of here in a distance of said 155.0510 acre tract of land and the Southwest comer of here in the southwest conter of said 155.0510 acre tract of land and the Southwest comer of here in discribed \$55.2333 acre tract of land;

THENCE N 52°15'15" W. 4 distance of 50.06 slong the East right-of-way line of said Hopfa Road and the Vest line of said 155,0510 acre tract of land to a 3/8" from rod (found) (nside a 3/4" iron pipe for angle point marking the Southwast corner of said 97,7449 acre tract of land.d and the Westoriy-Northwost corner of said 150.0510 acre tract of land, from which point a 1/2" iron pipe (found) bears 5 62°17'21" W. 0.37 feet;

THENCE N 02°07'25" W, a distance of 485,24 feet along the East right-of-way line of sold Hopfe Road and the West line of sold 97.7448 nore tract of land to a 5/8" from rod with cap (found stamped Swonks) inside a 3/4" iron pipe marking an angle point;

THENCE N 92°45'23" W, a distance of 1,740.85 feet, stong the East right-of-way line of said Hopfe Rond and the West line of said 97.7448 acre tract of land to a 5'8" fron red with cap (found stamped Sworke) marking an angle point;

THENCE N 01°17'32" E, a distance of 286.45 feet, along the East right-of-way line of said Hopfe Road and the West line of said 97.7448 acre tract of land to a - 1/2" from pipe (found) for angle point marking the Southwest comer of said 30.000 acre tract of land and the Northwest domar of said 97.7448 acre tract of land and the from which point a - 1/2" from rod with cap (found stamped Swonke) hours N 77°10'21" W, 0.21 feet;

THENCE N 01*00*06** E, along the East right-of-way line of sold Hopfa Road and the West line of sold 30.000 acre tract of iond, passing at 400.07 feet a 5/8** from rod with EIC cap (found) marking the Northwest comer of sold 36.000 core tract of land and the Westelly -Southwest comer of sold 258.7594 acre tract of land, a total distance of 925.26 feet to a 5/8** from rod with EIC cap (found) marking the intersection of the East right-of-way line of acid Hopfe Road with the North right-of-way line of Hopfo Road, (variable width), same point marking an interfor comer of sold 256.7594 acre tract of land and an interfor corner ' of the herein described 585.2333 acre tract of land;

002876.000179\4819-6696-1692.v1

ThENCE 9 69*16'42" W, a distance of 30.14 feet along the North right-di-way line of oold Hopfe Road to a 5/8" from rod with EIC cap (found) in the Weet line of said 5. Sims Survey and the East line of the T. Bolley Survey, A-143 in said Harris County, Texas marking the Southeast corner of that certain call \$0.000 acro tract of land as described in a deed filed for record under Harris County Clerk's File No. B296979, an Interfor corner of said 258,7364 acro tract of land and an Interfor corner of the horein described \$85,2333 acro tract of land;

THENCE N 00°11'04" E, a diatance of 1,590.80 feet along the common line of sold B. Shma Survey, sold T. Balloy Survey, sold 50.000 acts tract of land and sold 258.7394 eart trad of land to a 5/6" iron rod with EIC cap (found) in the South line of sold A. Roberts Survey marking the Northwest corner of sold B. Sims Survey, the Northeast comer of sold T. Balloy Survey, the Northwast corner of sold S. Sims Survey, the Northeast comer of sold T. Balloy Survey, the Northwast corner of sold S. Sims Survey, the Northeast corner of stild 259.7394 ears tract of land and on interior corner of the herein described 585,2333 are breat of land;

THENCE 8 89*18'02" W, a distance of 60.47 fast along the common line of said A. Roberts Survey, end 90.000 acre tract of land, said T. Halloy Survey and said 258.7394 acre tract to a 1- call (found) marking the Southeast concer of the romainder of that cartain call 83.4 acre tract of land as described in a dead filed for record under Harris County Clork's File No. 826878, an interior corner of said 256.7394 acre tract of land and an interior corner of the Herein described 586.7333 acre tract of land;

THENGE N 00°53'07" W/a distance of 1,689.02 feet along the common line of said 83.4 acre and said 255.7394 acre (racts of land to a 588" fron rod with EIC cap (found) in the Southerly right-of-way line of said F.M. 2920 marking the Northeast corner of the romaindor of said 83.4 acre tract of land, the Northwest corner of said 258.7394 acre tract of land and the Northwest corner the herein desorthed 585.2333 acre tract of land;

THENCE N 69°45'11" E, a distance of 881,40 feat along the Southerly right-of-way line of sold F.M. 2920 and the Northerly line of sold 258,7394 acre tract of land to a 3/8" from rod (found) for angle point marking the Northerly-Northeast corner of sold 258,7394 acre tract of land and the Northwest corner of sold 43.6981 acre tract of land;

THENCE N 70°00'23" E, a distance of 959.50 feet along the Southerly right-of-way line of sold F.M. 2920 and the Northerly line of said 43.6981 area tract of land to the POINT OF BEGINNING and containing 585,2333 acres of land.

The basis of bearing is N 69°45'11" E along the South right-of-way line of F.M. 2920 per prior deud.

002876.000179\4819-6696-1692.v1

12

EXHIBIT "B" (Permitted Exceptions)

- . Rights of tenant in possession under the following unrecorded lease:
- Farming and Grazing Lease between FM 2920/Hopfe/Cypress Rosehill, Ltd., a Texas limited partnership as Lessor and Jim R. Schultz as Lessee, as affected by Amendment Extensions, including, but not limited to, Second Lease Amendment Extension of the Lease Term (as to 258 Acres, 97 Acres, and 75 Acres):
- 2. Fractional interest in and to all coal, lignite, oil, gas or other mineral interests, together with rights incident thereto, contained in instrument dated July 22, 2005 recorded July 27, 2005 at Harris County Clerk's File No. Y643903 of the Official Records of Harris County, Texas (as to 43.6981 acre portion in Abstract No. 63).
- Coal, lignite, oil, gas or other mineral interests, together with rights incident thereto, contained in instrument dated September 12, 2007, recorded September 17, 2007 at Harris County Clerk's File No. 20070568551 of the Official Records of Harris County, Texas (as to 30.00 acre portion in Abstract 746, Abstract 266 & Abstract 514).
- 4. Fractional interest in and to all coal, lignite, oil, gas or other mineral interests, together with rights incident thereto, contained in instrument dated April 29, 1964 recorded April 30, 1964 at Harris County Clerk's File No. B979138 and in Volume 5503, Page 89, re-recorded June 1, 1964 under Harris County Clerk's File No. B896555 in Volume 5538, Page 101, both of the Deed Records of Harris County, Texas (as to 97.695 acre portion in Abstract 746 & Abstract 266).
- 5. Fractional non-participating royalty interest in and to all coal, lignite, oil, gas or other mineral interests, together with rights incident thereto, contained in instrument dated March 7, 2007, recorded March 14, 2007 at Harris County Clerk's File No. 20070156804 of the Official Records of Harris County, Texas (as to 97.695 acre portion in Abstract 746 & Abstract 266).
- Coal, lignite, oil, gas, or other mineral interests, together with rights incident thereto, contained in instrument dated June 26, 2006 recorded July 3, 2006 at Harris County Clerk's File No. Z4422038, re-recorded November 13, 2006 under Harris County, Clerk's File No. 20060192207, both in the Official Records of Harris County, Texas (as to 258.7394 acre portion in Abstract No. 746, Abstract 63, Abstract 266 & Abstract 514).
- Coal, lignite, oil, gas, or other mineral interests, together with rights incident thereto, contained in instrument dated June 28, 2007 recorded July 2, 2007 at Harris County Clerk's File No. Z4422038, re-recorded November 13, 2006 under Harris County, Clerk's File No. 20070401525 of the Official Records of Harris County, Texas (as to 258.7394 acre portion in Abstract 746, Abstract 63, Abstract 266 & Abstract 514).
- Fractional interests in and to all coal, lignite, oil, gas or other mineral interests, together with rights incident thereto, contained in instrument dated January 3, 2006 recorded January 5, 2006 at Harris County Clerk's File No. Z008778 of the Official Records of Harris County, Texas (as to 155.0510 acre portion in Abstract 746, Abstract 266 & Abstract 514).

002876.000179\4819-6696-1692.v1

ER 058 - 93 - 1495

Ξ×.

ï

- Coal, lignite, oil, gas, or other mineral interests, together with rights incident thereto, contained in instrument dated January 23, 2007 recorded January 26, 2007 at Harris County Clerk's File No. 20070052377 (as to 155.0510 acre portion in Abstract 746, Abstract 266 & Abstract 514).
- 10. Claims or assertion of claims by adjoining property owners for any portion of the property located between existing fences and boundary lines of the property, as same fences are depicted on survey plat prepared <u>Called 1.5</u>, 2014 by Emil Haddad, RPLS 5702 for EIC Surveying Company, Job No. 14-408-06.0
- 11: Right in common with others to the use and benefit of the pond located along the most northern east line of the property as depicted on survey plat prepared <u>Galactic</u>, 2014 by Emil Haddad, RPLS 5702 for EIC Surveying Company, Job No. 14-408-06.

2¹

4819-6696-1692, v. 1

••

CHARTER TOTLE COMPANY 11 GREEFIWAY PLAZA SUMMIT TOWER, SUITE 120 HOUSTON, TEXAS 77046

002876.000179\4819-6696-1692.v1

)

20140310898 # Pages 8 07/16/2014 14:09:10 PM e-Filed & e-Recorded in the Official Public Records of HARRIS COUNTY STAN STANART COUNTY CLERK Fees 40.00

RECORDERS MEMORANDUM This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

.

1

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law. THE STATE OF TEXAS COUNTY OF HARRIS I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Fublic Récords of Real Property of Harris County, Texas.

Stan Stanant

.

ER 058 - 93 - 1497

...

~

60767 ac

1EE

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

| THE STATE OF TEXAS | § 5 | KNOW ALL PERSONS BY THESE PRESENTS: |
|--------------------|--------|--------------------------------------|
| COUNTY OF HARRIS | 9 9 | KNOW ALL FERSONS DT THESE FRESLINTS. |

THAT WESTFIELD REAL PROPERTY, L.P., a Texas limited partnership ("Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid to Grantor by MCALISTER OPPORTUNITY FUND 2014, L.P., a Delaware limited partnership ("Grantee"), the receipt of which is hereby acknowledged by Grantor, and other good and valuable consideration paid and agreed and secured to be paid to Grantor by Grantee in the manner set forth below, the sufficiency of which consideration is hereby acknowledged by Grantor, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto said Grantee, its successors and assigns, subject to the Permitted Exceptions (as defined below), the following (collectively, the "Property"): all of that certain real property located in Harris County, Texas, more particularly described ; In Exhibit A attached hereto and made a part hereof (the "Land"), together with any and all buildings, improvements fixtures; furniture, equipment and other, personal property thereon or therein, all easements,³ tenements, hereditaments, privileges, and appurtenances belonging or appertaining thereto, including all utility capacities allocated or reserved thereto, all development rights and rights gained and/or reserved by virtue of the payment of Impact fees with respect thereto, and any right, title and interest of Grantor in and to the lands situated within the right-of-way of all publicly-dedicated (but not private) roads, streets and alleys, or rights-of-way, and Grantor's interest in and to all leases and rents attributable to the Land.

This conveyance is made by Grantor and accepted by Grantee expressly subject to the following (collectively, the "<u>Permitted Exceptions</u>"): the liens securing payment of real estate ad valorem taxes for the current and all subsequent years; and those matters set forth on <u>Exhibit B</u> attached hereto and made a part hereof.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns forever; and subject to the above described Permitted Exceptions, Grantor does hereby bind itself and its successors, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor but not otherwise.

Address of Grantee:

2211 Norfolk St., Suite 803 Houston, Texas 77098

[SIGNATURE ON FOLLOWING PAGE]

1

₩H000331618/DD/33 STEWART TITLE

R 061 - 82 - 0854

EXECUTED effective as of Octor 2, 2014.

5

§

6

GRANTOR:

WESTFIELD REAL PROPERTY, L.P. a Texas limited partnership

20R

By: Westfield Real Estate, L.L.C., a Texas limited liability company as its General Partner

By Homer B. Saye, Manager

THE STATE OF TEXAS

This instrument was acknowledged before me on Orthon 2, 2014, by Homer B. Saye, Manager of Westfield Real Estate, L.L.C., a Texas limited liability company, as the general partner of Westfield Real Property, L.P., a Texas limited partnership, on behalf of same.

a des

Real P

Notary Public Signature

(Saf VID DRAPER 'n۵ UBLIC, STATE OF TEXAS COMMISSION EXPIRES MARCH, 15, 2015

ER 061 - 82 - 0855

All that certain tract or parcel containing 6.0767 acres of land situated in the Abraham Roberts Survey, A-63 in Harris County, Texas, said 6.0767 acre tract being that same tract of land as described in a deed filed for record under Harris County Clerk's File No. Y354214 and being more particularly described by metes and bounds as follows:

D

COMMENCING at a 1/2" iron rod (found) in the Southeasterly right-of-way line of F.M. 2920, (100.00 feet in width), marking the Northerly-Northwest corner of that certain call 19.974 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. T078618 and the Northeast corner of that certain call 6.000 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. E448347;

THENCE S 54°05'26" W, (call S 54°00'00" W), a distance of 64.00 feet along the Southeasterly right-ofway line of said F.M. 2920 to a concrete monument (found) in the North line of said 6.000 acre tract of land marking the beginning of a curve to the right having a radius of 2,914.83 feet;

THENCE Southwesterly, along the Southeasterly right-of-way line of said F.M. 2920, with sald curve to the right through a central angle of 03°18'01", (call 03°18'18"), a chord bearing and distance of S 55° 38'09" W, 167.87 feet, an arc distance of 167.89 feet, (call 168.14 feet) to a 1/2" iron rod (found) marking the Northwest corner of said 6.000 acre tract of land and the Northeast corner and POINT OF BEGINNING of the herein described 6.0767 acre tract of land, from which point a 3/8" iron rod (found) bears S 40°43'39" W, 23.60 feet;

THENCE S 00°01'02" W, along the common line of said 6.000 acre and said 6.0706 acre tracts of land, passing at 158.45 feet a 5/8" iron rod with EIC cap (found) for reference, passing at 616.90 feet a 5/8" iron rod with EIC cap (found) for reference and passing at 800.01 feet a 5/8" iron rod with EIC cap (found) for reference, a total distance of 1306.37 feet to a 1/2" iron rod (found) in the lower North line of said 19.974 acre tract of land marking the Southwest corner of said 6.000 acre tract of land and the Southeast corner of the herein described 6.0767 acre tract of land, from which point a 1/2" iron rod (found) marking the Southeast corner of said 6.000 acre tract of land and the 19.974 acre tract of land bears N 89°58'11", E, 190.68 feet, (call EAST, 190.58 feet);

THENCE N 89°55'07" W, a distance of 213.71 feet along the common line of said 19.974 acre and said 6.0767 acre tracts of land to a 1/2" iron rod (found) in the East line of that certain call 43.883 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. D784556 marking the Westerly-Northwest corner of said 19.974 acre tract of land and the Southwest corner of the herein described 6.0767 acre tract of land;

THENCE N 00°00'51" W/a distance of 1,166.92 feet along the common line of said 43.883 acre and said 6.0767 acre tracts of land to a 1/2" iron rod (found) in the Southeasterly right-of-way line of said F.M. 2920 marking the Northeast corner of said 43.883 acre tract of land and the Northwest corner of the herein described 6.0767 acre tract of land;

THENCE N 57,00'55" E, a distance 255.59 feet along the Southeasterly right-of-way line of said F.M. 2920 to the POINT OF BEGINNING and containing 6.0767 acres of land.

<u>Exhibit B</u>

Ę

Ł

1.

đ

3

3

ER 061 - 82 - 0857

PERMITTED EXCEPTIONS

All of the oil, gas and other minerals, the royalties, bonuses, rentals and all other rights in some connection with same all of which are expressly excepted herefrom and not conveyed hereunder, as the same are set forth in instrument recorded in Volume 1848, Page 59 of the Deed Records of Harris County, Records.

Time of 1.1 20140445295 # Pages 5 10/02/2014 15:39:23 PM e-Filed & Recorded in the Official Public Records of HARRIS COUNTY STAN STANART COUNTY CLERK Fees 28.00 RECORDERS MEMORANDUM This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded. V. y Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law. THE STATE OF TEXAS COUNTY OF HARRIS I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas. Į. Stan Stanart COUNTY CLERK HARRIS COUNTY, TEXAS 32

1.

20150107598 03/18/2015 ER \$32.00

WD N

067 - 12 - 0004

1

E S

43.5360ac

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

SPECIAL WARRANTY DEED

THE STATE OF TEXAS

§ §

§

COUNTY OF HARRIS

KNOW ALL PERSONS BY THESE PRESENTS:

THAT RONALD WAYNE MARTENS ("Grantor"), not joined herein by his spouse as the Property (defined below) constitutes no portion of community or homestead property, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid to Grantor by MCALISTER OPPORTUNITY FUND 2014, 1 1EE L.P., a Delaware limited partnership ("Grantee"), the receipt of which is hereby acknowledged by Grantor, and other good and valuable consideration paid and agreed and secured to be paid to Grantor by Grantee in the manner set forth below, the sufficiency of which consideration is hereby acknowledged by Grantor, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does GRANT, BARGAIN, BARGAINED, SOLD, and CONVEY unto said Grantee, its successors and assigns, Subject of Permitted Exceptions (as defined below), the following (collectively, the "Property"): all property located in Harris County, Texas, more particularly "Located in Harris County, Texas, more particularly SELL, and CONVEY unto said Grantee, its successors and assigns, subject to the described in Exhibit A attached hereto and made a part hereof (the "Land"), together with any and all buildings, improvements, fixtures, furniture, equipment and other personal property thereon or therein, all easements, tenements, hereditaments, privileges, and appurtenances belonging or appertaining thereto, including all utility capacities allocated or reserved thereto, all oil, gas and other minerals, all water rights, all development rights and rights gained and/or reserved by virtue of the payment of impact fees with respect thereto, and any right, title and interest of Grantor in and to the lands situated within the right-of-way of all publicly-dedicated (but not private) roads, streets and alleys, or rights-of-way, and Grantor's interest in and to all leases and rents attributable to the Land.

This conveyance is made by Grantor and accepted by Grantee expressly subject to the following (collectively, the "<u>Permitted Exceptions</u>"): the liens securing payment of real estate ad valorem taxes for the current and all subsequent years; those matters set forth on <u>Exhibit B</u> attached hereto and made a part hereof.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns forever; and subject to the above described Permitted Exceptions, Grantor does hereby bind itself and its successors, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, its successors and assigns, against every person

STEWART TITLE / 14000332633 DD [33

whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor but not otherwise.

Address of Grantee: 2211 Norfolk St., Suite 803 Houston, Texas 77098

EXECUTED effective as of March 16, 2015. **GRANTOR: 10**R AYNE MAR THE STATE OF TEXAS § COUNTY OF HAREIS § This instrument was acknowledged before me on March / , 2015, by Ronald Wayne Martens. Notary Public Signature DAVID DRAPHR Notary Publia, State of Texas My Commission Expires 3 March 15, 2019 extre. (Seal) 2



<u>Exhibit A</u>

PROPERTY

All that certain tract or parcel containing 43.5360 acres of land situated in the Abraham Roberts Survey, A-63 in Harris County, Texas, said 43.5360 acre tract being that same tract described as 43.883 acres of land in a deed, filed for record under Harris County Clerk's File No. 20130430619 and being more particularly described by metes and bounds as follows:

COMMENCING at a 3/8" iron^{*} rod (found) in the Southerly right-of-way line of F. M. 2920, (A.K.A. Waller-Tomball Road, 100.00¹⁵ feet in width), marking the Northwest corner of that certain call 43.6981 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. 20070568553;

THENCE N 70°00'23" E, a distance of 959.50 feet along the Southerly right-of-way line of F. M. 2920 and the

North line of. said 43.6981 acre tract of land to a 1/2" iron rod (found) for angle point marking the Northeast corner of said 43.6981 acre tract of land and the Northwest corner and POINT OF BEGINNING of the herein described 43.5360 acre tract of land;

THENCE N 69°51'14" E, a distance of 423.44 feet, (call N 70°18'00" E, 423.98 feet), fect along the Southerly right-of-way line of F. M. 2920 and the North line of said 43.5360 acre tract of land to a concrete monument (found) marking the beginning of a curve to the left having a radius of 2,914.83 feet;

THENCE Northeasterly, along the Southerly right-of-way line of F. M. 2920 and the North line of said 43.5360 acre tract of land, with said curve to the left through a central angle of 06°34'02", (call 06°42'57"), a chord bearing and distance of N 69°55'21" E, 333.92 feet, an arc distance of 334.10 feet, (call 341.65 feet), to a 5/8" iron rod with EIC cap (set) marking a point of tangency;

THENCE N 56°41'43" E, (call N 70°18'00" E), a distance of 74.71 feet along the Southerly right-of-way line of F.

M. 2920 and the North line of said 43.5360 acre tract of land to a 1/2" iron rod (found) marking the Northwest corner of that certain call 6.0767 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. 20140445295 and the Northeast of the herein described 43.5360 acre tract of land;

THENCE S 00°20'03" E, (call South), a distance of 1,166.92 feet along the common line of said 6.6067 acre and said 43.5360 acre tracts of land to a 1/2" iron rod (found) for angle point marking the Southwest corner of said 6.0767 acre tract of land and the Westerly Northwest corner of that certain call 19.974 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. T-078618;

THENCE S 00°19'33" E, (call South), a distance of 294.99 feet along the common line of said 19.974 acre and said 43.5360 acre tracts of land to a 1/2" iron rod (found) for angle point

3

ŀ

D

marking the Southwest corner of said 19.974 acre tract of land and the Westerly Northwest corner of that certain call 100.5037 acre tract of land as described in a deed filed for record under. Harris County Clerk's File No. 20130187290;

THENCE S 00°19'07" E, (call South), a distance of 1,130.35 feet along the common line of said 100.5037 acre and said 43.5360 acre tracts of land to a 5/8" iron rod with EIC cap (set) in the South line of said Abraham Roberts Survey, the North line of the C. Frazier Survey, A-266 in said Harris County, Texas and the North line of

that certain call 258.7394 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. 20070401525 marking the Southwest corner of said 100.5037 acre tract of land and the Southeast corner of the herein described 43.5360 acre tract of land;

THENCE S 89°25'29" W (call S 89°40'00" W), a distance of 782.02 feet along the common line of said Abraham Roberts Survey, said C. Frazier Survey, said 258.7394 acre tract of land and said 43.5360 acre tract of land to a 1/2" iron rod (found) marking the Southeast corner of said 43.6981 acre tract of land and the Southwest corner of the herein described 43.5360 acre tract of land;

THENCE N 00°09'33" W, a distance of 2,298.59 feet, (call North, 2,302.07 feet), along the common line of said 43.6981 acre and said 43.5360 acre tracts of land to the POINT OF BEGINNING and containing 43.5360 acres of land.

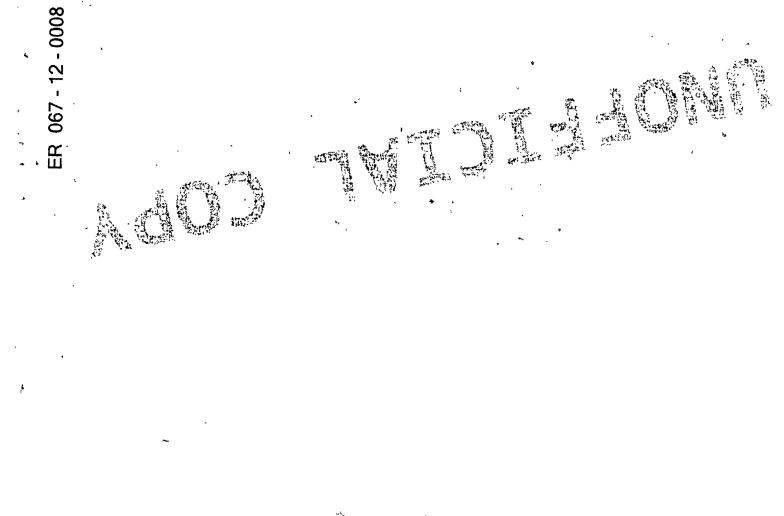
۲.

Exhibit B

PERMITTED EXCEPTIONS Fence outside the north property line as reflected by the survey by Craig A. Laney, RPLS No. 4507 dated November 25, 2014.

Ŀ.

ŧ





ATTACHMENT 2

۰,

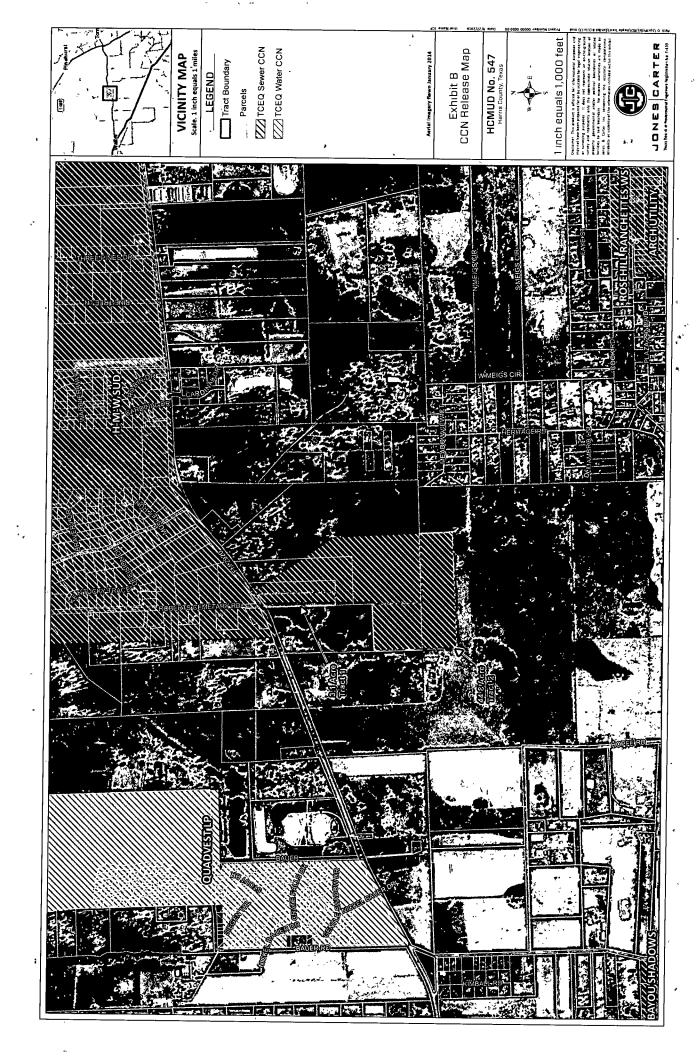
*4. *1

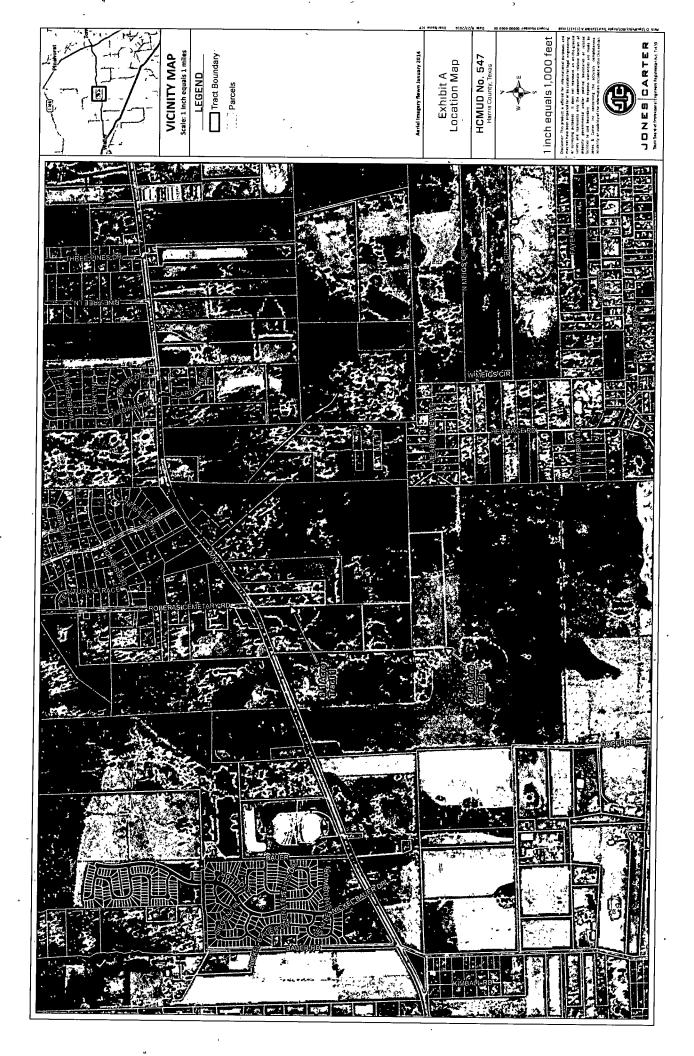
•

۰.,

Map reflecting the general location of the Property

•





ATTACHEMENT 3

Map identifying the boundaries of the Property

*

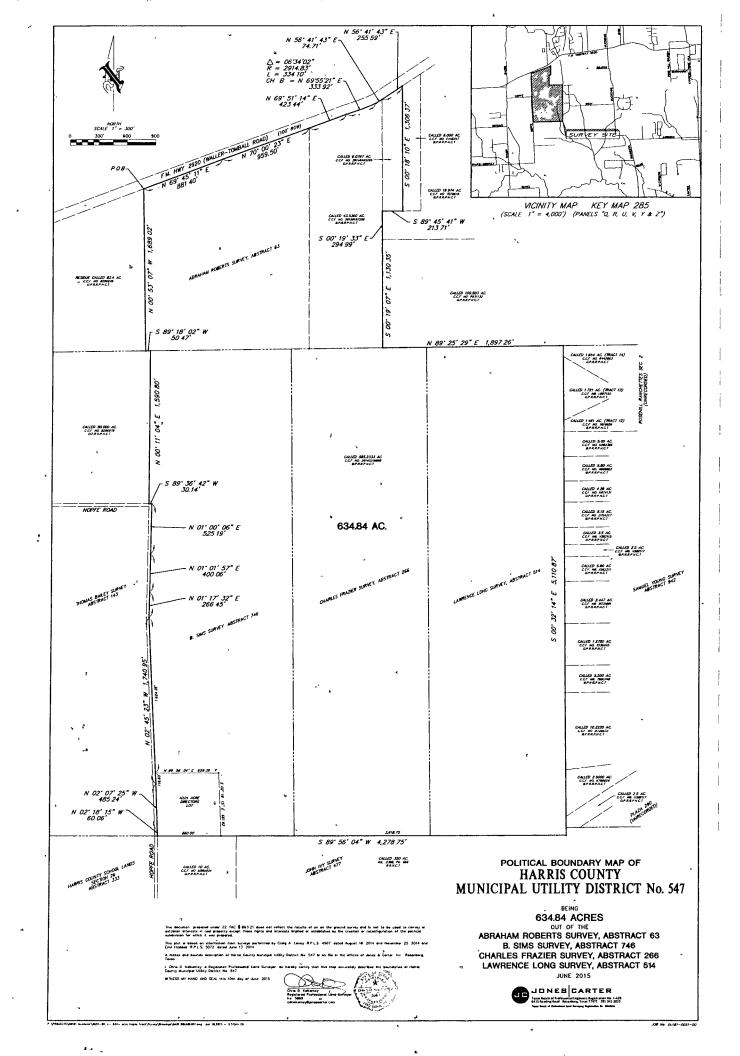
۰ مـــ ۱

* .

¥2

• • • . • • • •

ź



ATTACHEMENT 4

.*****

•

(

1

Survey of the Property

Abraham Roberts Survey, Abstract 63 B. Sims Survey, Abstract 746 Charles Frazier Survey, Abstract 266 Lawrence Long Survey, Abstract 514

STATE OF TEXAS §

COUNTY OF HARRIS §

A **METES & BOUNDS** description of a 634.84 acre tract of land in the Abraham Roberts Survey, Abstract 63, the B. Sims Survey, Abstract 746, the Charles Frazier Survey, Abstract 266, and the Lawrence Long Survey, Abstract 514, Harris County, Texas, being comprised of that certain called 6.0767 acre tract recorded under County Clerk's File Number 20140445295, Official Public Records of Real Property, Harris County, Texas, that certain called 43.5360 acretract recorded under County Clerk's File Number 20150107598, Official Public Records of Real Property, Harris County, Texas, and that certain called 585.2333 acre tract recorded under County Clerk's File Number 20140310898, Official Public Records of Real Property, Harris County, Texas, with all bearings based upon a portion of the northerly line of said called 585.2333 acre tract, same being the southerly right-of-way line of F. M. Highway 2920, as being North 69 degrees 45 minutes 11 seconds East (called North 69 degrees 45 minutes 11 seconds East under County Clerk's File Number 20140310898, Official Public Records of Real Property, Harris County, Texas).

Beginning at the northwest corner of said called 585.2333 acre tract, same being the northeast corner of the adjoining residue of a called 83.4 acre tract recorded under County Clerk's File Number B296978, Official Public Records of Real Property, Harris County, Texas, for the northwest corner and **Place of Beginning** of the herein described tract, said point being in the southerly right-of-way line of F. M. Highway 2920 (100-feet wide);

Thence along the northerly line of said called 585.2333 tract, said called 43.5360 acre tract, and said called 6.0767 acre tract, same being the southerly right-of-way line of F. M. Highway 2920, with the following courses and distances:

- 1) North 69 degrees 45 minutes 11 seconds East, 881.40 feet;
- North 70 degrees 00 minutes 23 seconds East, 959.50 feet;
- 3) North 69 degrees 51 minutes 14 seconds East, 423.44 feet to a point at the beginning of a curve to the left;
- 4) Thence along said curve to the left having a central angle of 06 degrees 34 minutes
 02 seconds, a radius of 2914.83 feet, an arc length of 334.10 feet, and a chord bearing North 69 degrees 55 minutes 21 seconds East, 333.92 feet;
- 5) North 56 degrees 41 minutes 43 seconds East; 74.71 feet;

6) North 56 degrees 41 minutes 43 seconds East, 255.59 feet to the upper northeast corner of said called 6.0767 acre tract, same being the northwest corner of an adjoining called 6.000 acre tract recorded under County Clerk's File Number E448347, Official Public Records of Real Property, Harris County, Texas;

Page 1 of 4

P:\PROJECTS\00181 McAlister\0051-00 +- 634- acre Hopfe Tract\Survey\Legal Description\634.8ac docx

Abraham Roberts Survey, Abstract 63 B. Sims Survey, Abstract 746 Charles Frazier Survey, Abstract 266 Lawrence Long Survey, Abstract 514

Thence South 00 degrees 18 minutes 10 seconds East along the east line of said called 6.0767 acre tract, same being the west line of said adjoining called 6.000 acre tract, 1,306.37 feet to the southeast corner of said called 6.0767 acre tract, same being the southwest corner of said adjoining called 6.000 acre tract, and being in the lower north line of an adjoining called 19.974 acre tract recorded under County Clerk's File Number T078618, Official Public Records of Real Property, Harris County, Texas;

Thence South 89 degrees 45 minutes 41 seconds West along the south line of said called 6.0767 acre tract, same being the lower north line of said adjoining called 19.974 acre tract, 213.71 feet to the southwest corner of said called 6.0767 acre tract, same being the lower northwest corner of said adjoining called 19.974 acre tract, and being in the east line of the aforementioned called 43.5360 acre tract;

Thence South 00 degrees 19 minutes 33 seconds East along the east line of said called 43.5360 acre tract, same being the lower west line of said adjoining called 19.974 acre tract, 294.99 feet to the southwest corner of said adjoining called 19.974 acre tract, same being the northwest corner of an adjoining called 100.503 acre tract recorded under County Clerk's File Number P931132, Official Public Records of Real Property, Harris County, Texas;

Thence South 00 degrees 19 minutes 07 seconds East along the east line of said called 43.5360 acre tract, same being the west line of said adjoining called 100.503 acre tract, 1,130.35 feet to the southeast corner of said called 43.5360 acre tract, same being the southwest corner of said adjoining called 100.503 acre tract, said point being in the south line of said Abraham Roberts Survey, Abstract 63, same being the north line of said Charles Frazier Survey, Abstract 266, and the lower north line of the aforementioned called 585.2333 acre tract;

Thence North 89 degrees 25 minutes 29 seconds East along the lower north line of said called 585.233 acre tract, same being the south line of said adjoining called 100.503 acre tract, being the south line of said Abraham Roberts Survey, Abstract 63, same being the north line of said Charles Frazier Survey, Abstract 266, and the north line of said Lawrence Long Survey, Abstract 514, 1,897.26 feet to the lower northeast corner of said called 585.233 acre tract and the northeast corner of said Lawrence Long Survey, Abstract 514, same being the northwest corner of the adjoining Samuel Young Survey, Abstract 942, and the northwest corner of the adjoining Rosehill Ranchettes Section 2 (an unrecorded subdivision in Harris County);

Thence South 00 degrees 32 minutes 14 seconds East along the lower east line of said called 585.2333 acre tract and the east line of said Lawrence Long Survey, Abstract 514, same being the west line of said adjoining Samuel Young Survey, Abstract 942, 5,110.87 feet to the southeast corner of said called 585.2333 acre tract and said Lawrence Long Survey, Abstract 514, same being a reentry corner to the adjoining John Ivy Survey, Abstract 477, same being a reentry corner to an adjoining called 350 acre tract recorded in Volume 2308, Page 666, Deed Records, Harris County, Texas;

Abraham Roberts Survey, Abstract 63 B. Sims Survey, Abstract 746 Charles Frazier Survey, Abstract 266 Lawrence Long Survey, Abstract 514

Thence South 89 degrees 56 minutes 04 seconds West along the south line of said called 585.2333 acre tract, the south line of said Lawrence Long Survey, Abstract 514, the south line of said Charles Frazier Survey, Abstract 266, and the south line of said B. Sims Survey, Abstract 746, same being the north line of said adjoining John Ivy Survey, Abstract 477, 4,278.75 feet to the southwest corner of said called 585.2333 acre tract, same being the northwest corner of an adjoining called 10 acre tract recorded under County Clerk's File Number M805954, Official Public Records of Real Property, Harris County, Texas, as located in the east right-of-way line of Hopfe Road;

Thence along the west line of said called 585.2333 acre tract, same being the east right-of-way line of Hopfe Road, with the following courses and distances:

1) North 02 degrees 18 minutes 15 seconds West, 60.06 feet;

- 2) North 02 degrees 07 minutes 25 seconds West, 485.24 feet;
- 3) North 02 degrees 45 minutes 23 seconds West, 1740.95 feet;
- 4) North 01 degree 17 minutes 32 seconds East, 266.45 feet;
- 5) North 01 degree 01 minute 57 seconds East, 400.06 feet;
- 6) North 01 degree 00 minutes 06 seconds East, 525.19 feet to a reentry corner of said called 585.2333 acre tract, being the intersection of the east right-of-way line of Hopfe Road and the north right-of-way line of Hopfe Road;

Thence South 89 degrees 36 minutes 42 seconds West along the North right-of-way line of Hopfe Road, 30.14 feet to a southwest corner of said called 585.2333 acre tract, same being the southeast corner of an adjoining called 50.000 acre tract recorded under County Clerk's File Number B296979, Official Public Records of Real Property, Harris County, Texas;

Thence North 00 degrees 11 minutes 04 seconds East along a west line of said called 585.2333 acre tract, same being the east line of said adjoining called 50.000 acre tract, 1,590.80 feet to a reentry corner to said called 585.2333 acre tract, same being the northeast corner of said adjoining called 50.000 acre tract, said point being in the south line of said Abraham Roberts Survey, Abstract 63;

Thence South 89 degrees 18 minutes 02 seconds West along with common line of said called 585.2333 acre tract and said adjoining called 50.000 acre tract, 50.47 feet to the upper southwest corner of said called 585.2333 acre tract, same being the southeast corner of the aforementioned adjoining residue of a called 83.4 acre tract;

\$

Abraham Roberts Survey, Abstract 63 B. Sims Survey, Abstract 746 • Charles Frazier Survey, Abstract 266 Lawrence Long Survey, Abstract 514

Thence North 00 degrees 53 minutes 07 seconds West along the upper west line of said called 585.2333 acre tract, same being the east line of said adjoining residue of a called 83.4 acre tract, 1,689.02 feet to the Place of Beginning and containing 634.84 acres of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except, those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

This description is based on information from surveys by Craig A. Laney, RPLS 4507, dated August 18, 2014, and November 25, 2014, and Emil Haddad, RPLS 5072, dated June 13, 2014.

June 10, 2015

٠,

Job Number 00181-0051-00

Jones & Carter, Inc. 6415 Reading Road Rosenberg, TX 77471-5655. (281) 342-2033 Texas Board of Professional Land Surveying Registration Number 10046104

Acting By/Through Chris D. Kalkomey Registered Professional Land Surveyor No. 5869 CDKalkomey@jonescarter.com

Page 4 of 4 P:\PROJECTS\00181 McAlister\0051-00 +- 634- acre Hopfe Tract\Survey\Legal Description\634.8ac.docx

ł

ATTACHMENT 5

Agreement for the Release of Certified Retail Public Water Utility Service Area

*

1

1

AGREEMENT FOR THE RELEASE OF CERTIFIED RETAIL PUBLIC WATER UTILITY SERVICE AREA

This Agreement is between McAlister Opportunity Fund 2012, L.P., a Texas limited partnership ("Landowner") and HMW Special Utility District of Harris and Montgomery Counties, a water and special utility district operating pursuant to Chapters 49 and 65, Texas Water Code (the "SUD") for the release and removal of real property owned by Landowner from the certified retail public water utility service area of the SUD.

This Agreement is made pursuant to Chapter 13, Texas Water Code. It shall be contingent upon the Public Utility Commission of Texas (the "PUC") approval as provided by law.

RECITALS:

WHEREAS, Landowner owns approximately 634 acres of unplatted land in the extraterritorial jurisdiction of the City of Houston, Harris County (the "Tract") and Landowner intends to develop the Tract for single family and commercial uses;

WHEREAS, the SUD holds certificate of convenience and necessity ("CCN") No. 10342, to provide water service to its service area, of which, approximately 40 acres of the Tract are located within the CCN as shown on the attached Exhibit "A," (the "Release Tract");"

WHEREAS, the SUD has never provided and does not plan to provide utility service to the Release Tract as it has no water utility service or facilities immediately available to serve the projected service demands for the Release Tract;

WHEREAS, Landowner has petitioned the Texas Commission on Environmental Quality for the creation of Harris County Municipal Utility District No. 547 (the "MUD") over its Tract and intends to obtain water and sewer service for the entire Tract from the MUD upon its creation;

WHEREAS, the Landowner has received the consent of the City of Houston for the creation of the MUD over the Tract; and

WHEREAS, the SUD will agree to amend its boundaries and release and decertify the Release Tract from its CCN in exchange for \$2,500 in total compensation for facilities allocated to the Release Tract.

Now Therefore, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the SUD and Landowner agree as follows:

AGREEMENT:

- 1. SUD does not plan to provide utility service to timely meet the projected service demands of the Release Tract and, therefore, agrees to amend its CCN boundaries to release or decertify the Release Tract, as more particularly described in Exhibit "A".
- 2. In consideration of the amendment to its boundaries, Landowner shall pay the SUD \$2,500 for compensation of facilities related to the Release Tract. These funds will be paid by Landowner to the SUD at the address below on or before September 15, 2016.
- 3. Landowner shall prepare, prosecute, and bear all expenses for an application to the PUC in order to amend the boundaries of the CCN and decertify the Release Tract under the terms of this Agreement and the rules of the PUC.
- 4. The SUD, its engineer, employees, and consultants agree to fully cooperate with all reasonable requests relating to decertifying the Release Tract from CCN No. 10342, including but not limited to signing required documents and providing information or maps to be included in the decertification process.
- ^{*}5. The Agreement may be assigned by Landowner upon written notice to the SUD.
- 6. Any notices to the parties shall be in writing to the addresses provided below:

HMW Special Utility District P.O. Box 837 Pinehurst, TX 77362 •Attention: William K. Coe, General Manager

Mr. Paul Connor McAlister Investments Real Estate 2211 Norfolk Street, Suite 803 Houston, TX 77098

ENTERED INTO AND TO BE PERFORMED IN HARRIS COUNTY, TEXAS ON THE $\$ Day of August, 2016.

MCALISTER OPPORTUNITY FUND 2012, L.P., a Delaware limited partnership

. By: MOF 2012 GP, LLC, a Delaware limited liability company, its General Partner

Name: Manager

HMW Special Utility District:

Y,

| BY: | k |
|--------|----------|
| NAME: | |
| TITLE: | |

2

ENTERED INTO AND TO BE PERFORMED IN HARRIS COUNTY, TEXAS ON THE _____ DAY OF AUGUST, 2016.

MCALISTER OPPORTUNITY FUND 2012, L.P., a Delaware limited partnership

By: MOF 2012 GP, LLC, a Delaware limited liability company, its General Partner

By: Name: Manager

. HMW Special Utility District: BY: ILLER NAME: TITLE: _ PRESIDENT

616600

ł

' x

,

٠

ţ

EXHIBIT "A"

á

¥,

.

\$

1 1

×

ŀ

ř

, Þ

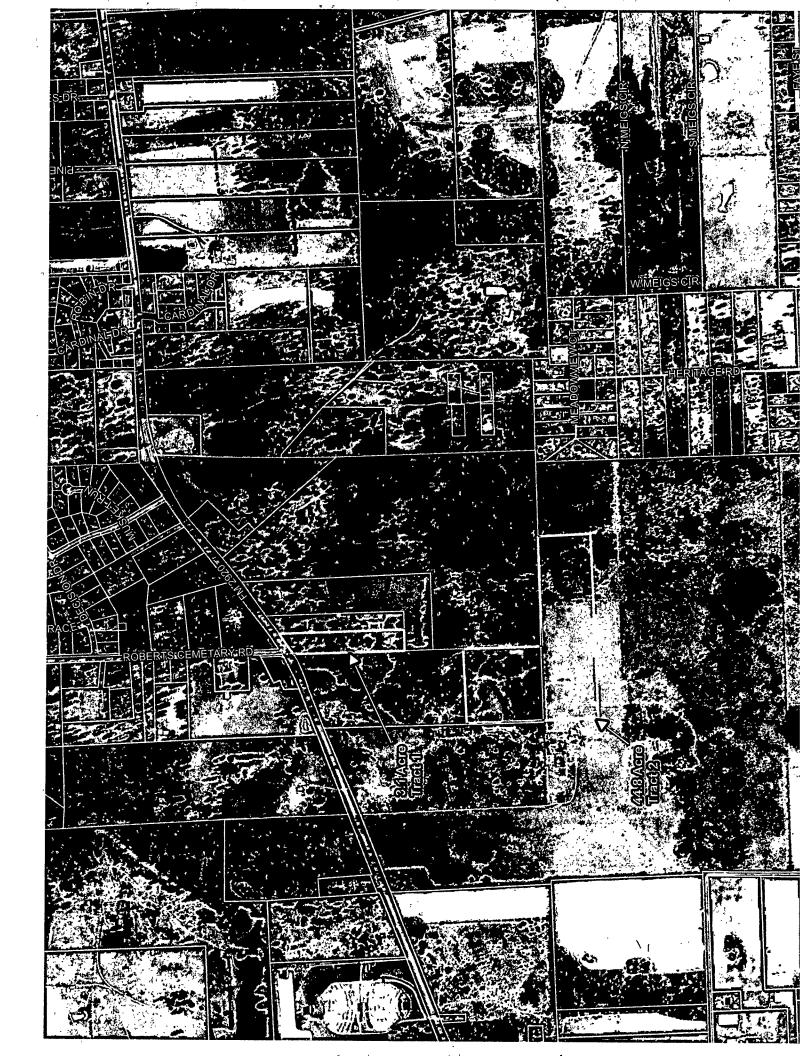
Map and metes and bounds description of the Release Tract

۰.

۰.

1

ay.



Harris County Municipal Utility District No. 547 H-M-W SUD Tract 1 - 3.1 Acres

STATE OF TEXAS (§ COUNTY OF HARRIS §

A METES & BOUNDS description of a 3.1 acre tract of land in the Abraham Roberts Survey, Abstract 63, Harris County, Texas, being out of and a part of that certain called 6.0767 acre tract recorded under County Clerk's File Number 20140445295, Official Public Records of Real Property, Harris County, Texas, and being that portion of said called 6.0767 acre tract located within the boundaries of the H-M-W Special Utility District, with all bearings based upon a portion of the northerly line of that certain called 585.2333 acre tract recorded under County Clerk's File Number 20140310898, Official Public Records of Real Property, Harris County, Texas, same being the southerly right-of-way line of F. M. Highway 2920, as being North 69 degrees 45 minutes 11 seconds East (called North 69 degrees 45 minutes 11 seconds East under County Clerk's File Number 20140310898, Official Public Records of Real Property, Harris County, Texas).

Beginning at the northeast corner of said called 6.0767 acre tract, same being the northwest corner of an adjoining called 6.000 acre tract recorded under County Clerk's File Number E448347, Official Public Records of Real Property, Harris County, Texas, for the northeast corner and **Place of Beginning** of the herein described tract, said point being in the southerly right-of-way line of F. M. Highway 2920 (100-feet wide);

Thence South 00 degrees 18 minutes 10 seconds East along the east line of said called 6.0767 acre tract, same being the west line of said adjoining called 6.000 acre tract, 1,306.37 feet to the southeast corner of said called 6.0767 acre tract, same being the southwest corner of said adjoining called 6.000 acre tract, and being in the lower north line of an adjoining called 19.974 acre tract recorded under County Clerk's File Number T078618, Official Public Records of Real Property, Harris County, Texas;

Thence South 89 degrees 45 minutes 41 seconds West along the south line of said called 6.0767 acre tract, same being the lower north line of said adjoining called 19.974 acre tract, approximately 107.25 feet to the intersection of the south line of said called 6.0767 acre tract and a west line of said H-M-W Special Utility District for the southwest corner of the herein described tract;

Thence North 00 degrees 18 minutes 10 seconds West along a west line of said H-M-W Special Utility District, crossing said called 6.0767 acre tract, approximately 1,236.60 feet to the intersection of the north line of said called 6.0767 acre tract an a west line of said H-M-W Special Utility District for the northwest corner of the herein described tract, being in the south right-of-way line of F. M. Highway 2920;

Harris County Municipal Utility District No. 547 H-M-W SUD Tract 1 - 3.1 Acres Abraham Roberts Survey, Abstract 63

Thence North 56 degrees 41 minutes 43 seconds East along the north line of said called 6.0767 acre tract, same being the south right-of-way line of F. M. Highway 2920, approximately 127.88 feet to the **Place of Beginning** and containing 3.1 acres of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

This description is based on information from surveys by Craig A. Laney, RPLS 4507, dated August 18, 2014, and November 25, 2014, and Emil Haddad, RPLS 5072, dated June 13, 2014.

August 29, 2016

Job Number 00181-0051-00



Jones & Carter, Inc. 6415 Reading Road Rosenberg, TX. 77471-5655 (281) 342-2033 Texas Board of Professional Land Surveying Registration Number 10046104

Acting By/Through Chris D. Kalkomey Registered Professional Land Surveyor No. 5869 CDKalkomey@jonescarter.com

Harris County Municipal Utility District No. 547 H-M-W SUD Tract 2 – 44.8 Acres Abraham Roberts Survey, Abstract 63 Charles Frazier Survey, Abstract 266 Lawrence Long Survey, Abstract 514

STATE OF TEXAS §

A **METES & BOUNDS** description of a 44.8 acre tract of land in the Abraham Roberts Survey, Abstract 63, the Charles Frazier Survey, Abstract 266, and the Lawrence Long Survey, Abstract 514, Harris County, Texas, being out of and a part of that certain called 43.5360 acre tract recorded under County Clerk's File Number 20150107598, Official Public Records of Real Property, Harris County, Texas, and that certain called 585.2333 acre tract recorded under County Clerk's File Number 20140310898, Official Public Records of Real Property, Harris County, Texas, and being those portions of said called 43.5360 acre tract and said called 585.2333 acre tract located within the boundaries of the H-M-W Special Utility District, with all bearings based upon a portion of the northerly line of said called 585.2333 acre tract, same being the southerly right-of-way line of F. M. Highway 2920; as being North 69 degrees 45 minutes 11 seconds East (called North 69 degrees 45 minutes 11 seconds East under County Clerk's File Number 20140310898, Official Public Records Junder County Clerk's File North 69 degrees 45 minutes 11 seconds East under County Clerk's File Number 20140310898, Official Public Records of Real Property, Harris Science County Clerk's File Number 20140310898, Official Public Records of Real Property, Harris County, Texas).

Beginning at the southeast corner of said called 43.5360 acre tract, same being the southwest corner of an adjoining called 100.503 acre tract recorded under County Clerk's File Number 20140310898, Official Public Records of Real Property, Harris County, Texas, for a reentry corner and **Place of Beginning** of the herein described tract, said point being in the south line of said Abraham Roberts Survey, Abstract 63, same being the north line of said Charles Frazier Survey, Abstract 266, and the lower north line of the aforementioned called 585.2333 acre tract;

Thence North 89 degrees 25 minutes 29 seconds East along the lower north line of said called 585.233 acre tract, same being the south line of said adjoining called 100.503 acre tract, being the south line of said Abraham Roberts Survey, Abstract 63, same being the north line of said Charles Frazier Survey, Abstract 266, and the north line of said Lawrence Long Survey, Abstract 514, approximately 1,197.04 feet to the intersection of the lower north line of said called 585.233 acre tract and an east line of said H-M-W Special Utility District for the lower northeast corner of the herein described tract;

Thence South 00 degrees 56 minutes 28 seconds East along an east line of said H-M-W Special Utility District, approximately 808.55 feet to the southeast corner of the herein described tract;

Thence South 88 degrees 53 minutes 32 seconds West along the south line of said H-M-W Special Utility District, approximately 1,911.29 feet to the southwest corner of the herein described tract;

Thence North 00 degrees 55 minutes 33 seconds West along a west line of said H-M-W Special Utility District, approximately 1,355.26 feet to the northwest corner of the herein described tract;

Page 1 of 2

P:\PROJECTS\00181 McAlister\0051-00 +- 634- acre Hopfe Tract\Survey\Legal Description\SUD Tract 2.docx

Harris County Municipal Utility District No. 547 H-M-W SUD Tract 2 – 44.8 Acres Abraham Roberts Survey, Abstract 63 Charles Frazier Survey, Abstract 266 Lawrence Long Survey, Abstract 514

Thence North 87 degrees 19 minutes 11 seconds East along a lower north line of said H-M-W Special Utility District, approximately 720.27 feet to intersection of the lower north line of said H-M-W Special Utility District and the east line of said called 43.5360 acre tract for the upper northeast corner of the herein described tract, said point being in the east line of said called 43.5360 acre tract, same being the west line of the aforementioned adjoining called 100.503 acre tract;

Thence South 00 degrees 19 minutes 07 seconds East along the east line of said called 43.5360 acre tract, same being the west line of said adjoining called 100.503 acre tract, approximately 555.40 feet to the **Place of Beginning** and containing 44.8 acres of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

This description is based on information from surveys by Craig A. Laney, RPLS 4507, dated August 18, 2014, and November 25, 2014, and Emil Haddad, RPLS 5072, dated June 13, 2014.

August 29, 2016

Job Number 00181-0051-00

Jones & Carter, Inc. 6415 Reading Road Rosenberg, TX 77471-5655 (281) 342-2033 Texas Board of Professional Land Surveying Registration Number 10046104

Acting By/Through Chris D. Kalkomey Registered Professional Land Surveyor No. 5869 CDKalkomey@jonescarter.com



EXHIBIT "B"

مر

.

1

ہ

ı 1 Compact disc with projectable digital data for areas to be released