

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, ANNEXING 280.35 ACRES OF LAND LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 35 ALONG THE SOUTH SIDE OF OLD VAN VLECK ROAD AS FURTHER DESCRIBED HEREIN, INTO THE CITY'S MUNICIPAL BOUNDARIES.**

\* \* \* \* \*

**WHEREAS**, the City Council has received petitions (collectively, "Petition"), requesting that a geographic area consisting of 280.35 acres, in the extraterritorial jurisdiction of the City of Bay City, Texas ("City"), as depicted as Tracts I, II, III, and V in **Exhibit A** (collectively, "Land"), be annexed into the municipal boundaries of the City, under the provisions of Chapter 43 of the Texas Local Government Code, specifically Subchapter C-3 of Chapter 43, as amended ("Act"); and

**WHEREAS**, the Petition was submitted by the owners of the Land; and

**WHEREAS**, Section 43.016 of the Texas Local Government Code does not apply to the Land; and

**WHEREAS**, the City and the Petitioners have negotiated and entered into a written Annexation Services and Development Agreement ("Agreement"), for the provision of services to the Land, which is attached as **Exhibit B**; and

**WHEREAS**, the City held a public hearing on February 8, 2022, where the City provided an opportunity for persons interested in the annexation of the Land to be heard; and

**WHEREAS**, the City posted notice of the hearing on the City's website and published notice of the hearing in a newspaper of general circulation in the City and the Land proposed for annexation, in accordance with Section 43.0673 of the Act; and

**WHEREAS**, evidence was received and presented at the public hearing in favor of the proposed annexation of the Land; and

**WHEREAS**, after due consideration, the City Council desires to annex the Land as depicted in **Exhibit A**, into the municipal boundaries of the City; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS:**

**Section 1.** That the findings contained in the preamble of this Ordinance are declared to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** The Land is hereby annexed into the municipal boundaries of the City.

**Section 3.** The Agreement marked **Exhibit B** is hereby approved.

**Section 4.** The City Secretary is directed to 1) notify the Texas Comptroller and Matagorda County Central Appraisal District of this annexation pursuant to Texas Tax Code Sections 6.07 and 321.102, 2) file a certified copy of this Ordinance with the office of the Matagorda County Clerk pursuant to Texas Local Code Section 41.0015, and 3) if relevant, notify all Certified Telecommunications Providers of the annexation.

**Section 5.** Any and all ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

**Section 6.** If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining provisions of this Ordinance shall not be affected, it being the intent of the City Council in adopting this Ordinance that no portion, provision, or regulation herein shall become inoperative or fail by reason of any

unconstitutionality, voidness, or invalidity of any other portion, provision or regulation, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 7.** That the City Council officially finds, determines, recites and declares a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting as required by the Open Meetings Law, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves, and confirms such written notice and the contents and posting thereof.

**Section 8.** This Ordinance shall take effect immediately from and after its passage and approval by the City Council of the City of Bay City.

**PASSED AND ADOPTED** this 8<sup>th</sup> day of February, 2022.

**CITY OF BAY CITY, TEXAS**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary

Attachments:

Exhibit A – Legal Description of the Land


Exhibit B – Annexation Services and Development Agreement

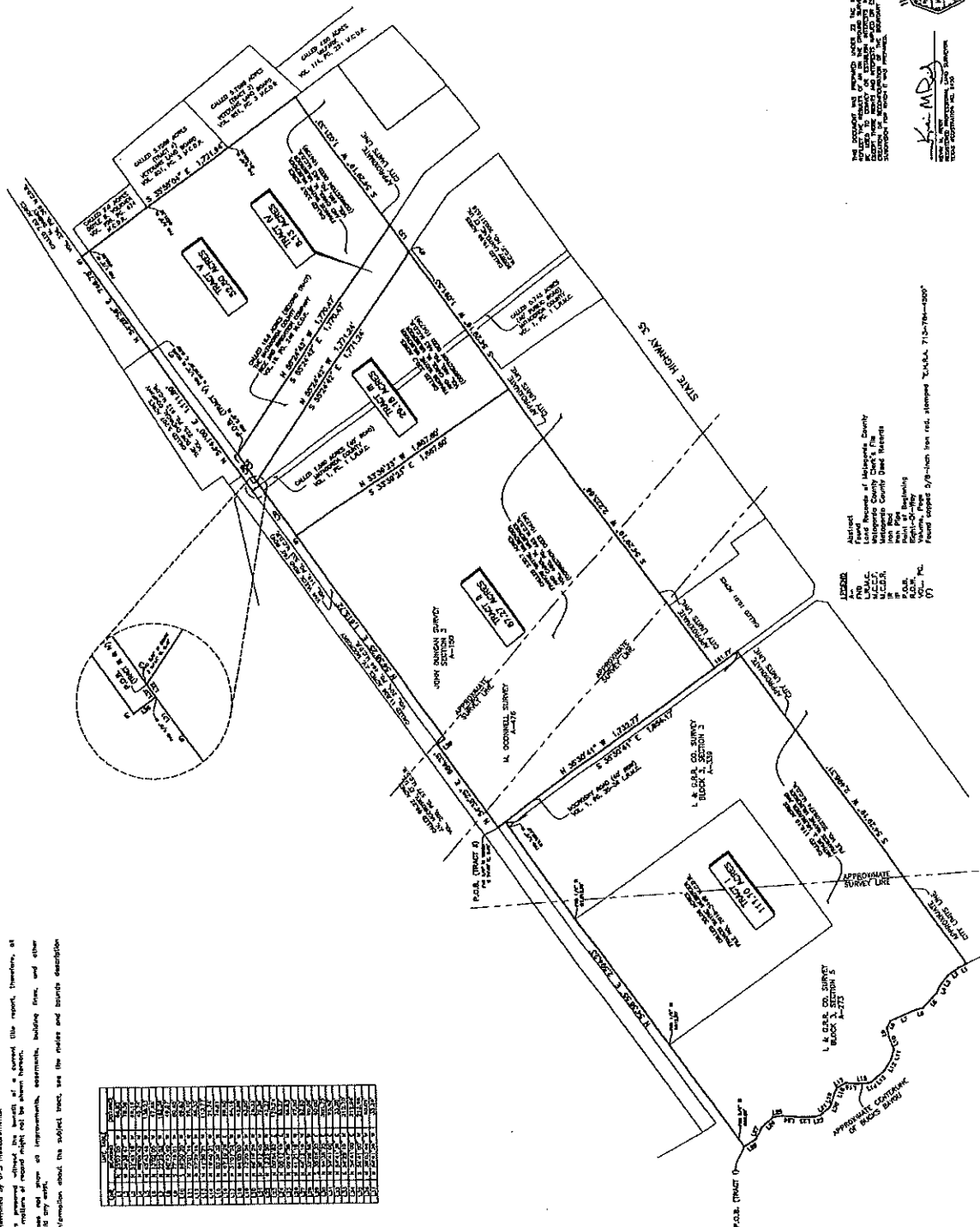
**EXHIBIT A**

**Legal Description of the Land**

(see attached)



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NOTES:

1. Sources shown herein refer to the Texas State Plans Computers System of 1982, South-Central Zone, as determined by GPS measurements.
2. This weight was assumed without the benefit of a control (like report, however, at measurements of other models of record might not be shown therein).
3. This weight was not shown at improvements, estimates, building firms, and other circumstances, should any arise.
4. For additional information about the subject tract, see the notes and source description presented separately.

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# EXHIBIT

"A to

**Exhibit B**

**Annexation Services and Development Agreement**

(see attached)

**CITY OF BAY CITY, TEXAS  
ANNEXATION SERVICES AND DEVELOPMENT AGREEMENT FOR  
ANNEXATION OF LAND LOCATED IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF BAY CITY**

**I. INTRODUCTION**

THIS ANNEXATION SERVICES AND DEVELOPMENT AGREEMENT ("AGREEMENT") IS ENTERED INTO BY THE CITY OF BAY CITY, TEXAS, ("CITY") AND \_\_\_\_\_, \_\_\_\_\_, AND \_\_\_\_\_ (COLLECTIVELY, "LANDOWNER"), AND BOLD FOX DEVELOPMENT, LLC ("BOLD FOX"), PURSUANT TO THE LOCAL GOVERNMENT CODE SEC. 43.0672.

**II. DEFINITIONS**

"Tract" means the 280.35 acres of land described and reflected on Exhibit A attached hereto and incorporated herein for all purposes.

"Bold Fox Tract" means the 52.8 acres of land described and reflected on Exhibit B attached hereto and incorporated herein for all purposes. The Bold Fox Tract is a portion of the Tract.

"Milberger Tract" means the 227.55 acres of land described and reflected on Exhibit C attached hereto and incorporated herein for all purposes. The Milberger Tract is a portion of the Tract.

**III. TERM AND EFFECTIVE DATE**

The LANDOWNER has requested that the City annex the TRACT. Pursuant to Texas Local Government Code Sec. 43.0672, the parties enter into this Agreement regarding services to be provided to the TRACT.

This AGREEMENT is proposed to be in effect for a term of ten (10) years commencing on the effective date of the annexation of the TRACT. Upon expiration of the AGREEMENT, the TRACT will remain within the corporate limits of the City, and the City will provide services to and within such TRACT on substantially the same basis as the City provides services to other similarly situated tracts/developments within the CITY.

**IV. SERVICE PLAN**

A. Services. According to this AGREEMENT, the CITY shall provide the same or substantially same services to the TRACT as the City currently offers to similarly situated landowners, including police protection; fire protection; solid waste collection; operation and maintenance of water and wastewater facilities to the TRACT that are not within the service area of another water or wastewater utility; operation and maintenance of public roads and streets, including road and street lighting; operation and maintenance of public parks, playgrounds, and swimming pools; and operation and maintenance of any other publicly owned facility, building, or service (collectively, "Services"). The CITY shall provide or be ready to provide (in the case of Services for which a tie-in to CITY facilities/infrastructure is necessary for such Services to be provided) such Services on the effective date of annexation. The CITY anticipates LANDOWNER or its successor-in-interest ("Developer") initiating the acquisition or construction of other capital improvements after the effective date of annexation which would be necessary for providing Services to serve the TRACT (collectively, "Capital Improvements"), as further described in Section D of this Agreement.

This CITY may cause or allow public or private utilities, contractors, governmental entities and other public service organizations to provide such Services to the TRACT, in whole or in part.

B. Scope and Quality of Proposed Service. The CITY shall provide Services to the TRACT pursuant to any methods by which it provides or is authorized to provide Services to any other area of the CITY. Under this AGREEMENT, the CITY shall not provide fewer Services or a lower level of Services to the TRACT than were in existence in the area immediately preceding the date of annexation. However, it is not the intent of this AGREEMENT to require that a uniform level of Services be provided to all areas of the CITY, including the TRACT, where differing characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.

C. Fees. The CITY may impose a fee for a Service to the TRACT if the same fee is imposed within the corporate boundaries of the CITY before annexation.

D. Effective Date of Services. The CITY acknowledges that the TRACT is located within Tax Increment Reinvestment Zone Number Two ("TIRZ 2"), and, pursuant to existing or forthcoming developer financing agreements with the City and TIRZ 2, including that certain Development Financing Agreement by and among the City, TIRZ 2, and Bold Fox, dated December 21, 2021 ("Reimbursement Agreement"), Developer shall design and construct the water and wastewater systems and other necessary Capital Improvements to serve development within the TRACT and convey same to the City for ownership, operation, and maintenance. Therefore, the City shall provide water and wastewater services and other Services to the TRACT as such necessary infrastructure is constructed and conveyed by the Developer to the City and incorporated into the City's systems. The CITY shall provide all other Services herein, on the effective date of the annexation.

**NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO WAIVE OR OVERRIDE ANY PRE-EXISTING OBLIGATION THAT ANY OTHER PUBLIC OR GOVERNMENTAL ENTITY CURRENTLY HAS TO CONSTRUCT OR OTHERWISE MAINTAIN THE PUBLIC IMPROVEMENTS OR INFRASTRUCTURE CURRENTLY EXISTING TO THE TRACT.**

#### **V. BOLD FOX DEVELOPMENT GUIDELINES**

A. Compliance with City Requirements. Bold Fox agrees to construct, or cause to be constructed by third parties, Capital Improvements on or for the Bold Fox Tract in accordance with the City's ordinances and regulations as of the date of this Agreement (collectively, "City Requirements"), except as modified (i) by the Reimbursement Agreement, or (ii) pursuant to subsection B immediately below. Bold Fox shall be responsible for obtaining all governmental approvals and permits, including approvals and permits from the City.

B. Agreed-Upon Development Standards. Bold Fox agrees to develop pursuant to and in compliance with (i) the land plan attached hereto as Exhibit D ("Development Plan"), and (ii) the development standards attached hereto as Exhibit E (collectively, "Development Standards," and, together with "Development Plan," the "Development Guidelines"). Notwithstanding the foregoing, given the evolutionary nature of the Development Guidelines, the City hereby agrees that additional approvals for changes and modifications to the Development Guidelines shall not be required so long as any such changes or modifications meet the City Requirements. Reapprovals of the Development Guidelines shall only be necessary if the proposed changes or modifications require consideration by City Council for requested variances to the City Requirements.



C. Variances. Notwithstanding any provision herein to the contrary, neither Bold Fox nor its successors-in-interest (if any), shall be required to design or construct public infrastructure to a standard higher than a standard made applicable, prior to the effective date of this Agreement or thereafter, to another landowner or developer developing land within the City or City's extraterritorial jurisdiction ("ETJ"), it being the intention and desire of the City that development in the Bold Fox Tract not be at a competitive disadvantage with other developments within the City or City's ETJ.

D. Bold Fox Tract. At Bold Fox's request, the Bold Fox Tract shall also include any additional portion of the Tract that Bold Fox may acquire in the future.

## **VI. AMENDMENT; GOVERNING LAW**

This AGREEMENT may not be amended or repealed except as provided by the Local Government Code or other controlling law. Neither changes in the methods or means of implementing any part of the services nor changes in the responsibilities of the various departments of the CITY shall constitute amendments to this AGREEMENT, and the CITY reserves the right to make such changes. This AGREEMENT is subject to and shall be interpreted in accordance with the Local Government Code, the Constitution and laws of the federal government of the United States of America and the State of Texas, as amended.

## **VII. FORCE MAJEURE**

Should a *force majeure* interrupt the services described herein, the CITY shall resume services under this AGREEMENT within a reasonable time after the cessation of the *force majeure*. The term "*force majeure*," for the purposes of this AGREEMENT, shall include, but not be limited to, acts of God, acts of the public enemy, war, blockades, insurrection, riots, epidemics, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of government, explosions, collisions, and any other inability imposed upon the CITY whether similar to those enumerated or otherwise, which is not within the control of the CITY.

## **VIII. ENTIRE AGREEMENT**

This document contains the entire and integrated AGREEMENT relating to the TRACT and supersedes all other negotiations, representations, plans and agreements, whether written or oral.

## **IX. NOTICE AND DISCLOSURE**

Pursuant to Texas Local Government Code Sec. 43.004, the parties understand and agree as follows:

1. The LANDOWNER is not required to enter into this Agreement.
2. Upon execution of this Agreement, the City may annex the TRACT pursuant to the provisions of Tex. Loc. Gov't Code 43.0673.

3. The CITY may annex the TRACT following a request of annexation by the LANDOWNER, entering into a Services Agreement, holding a public hearing and adopting an ordinance annexing the TRACT.
4. These annexation procedures require the consent of the LANDOWNER.
5. Pursuant to Tex. Loc. Gov't Code Sec. 212.172(i) the City waives immunity from suit for the purpose of adjudicating a claim for breach of an agreement in which a landowner consents to annexation.

[Signatures Follow]

CITY OF BAY CITY, TEXAS

\_\_\_\_\_  
By: Robert Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Jeanna Thompson, City Secretary

\_\_\_\_\_  
FRANCIS WAYNE MILBERGER, INDIVIDUALLY AND AS  
TRUSTEE OF THE FRANCIS WAYNE MILBERGER FAMILY  
TRUST

\_\_\_\_\_  
ARTHUR J. MILBERGER, INDIVIDUALLY AND AS TRUSTEE  
ARTHUR J. MILBERGER TRUST

\_\_\_\_\_  
BRYAN M. MILBERGER, AS TRUSTEE OF THE BRYAN M.  
MILBERGER TRUST

SMBG BAY CITY, LLC, A TEXAS LIMITED  
LIABILITY COMPANY

\_\_\_\_\_  
BY: MARK SCHULMAN, OWNER/MANAGER

BOLD FOX DEVELOPMENT, LLC

\_\_\_\_\_  
BY: ALEX KAMKAR, PRINCIPAL

**EXHIBIT A**

**Tract**

**(see attached)**

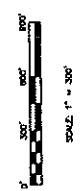
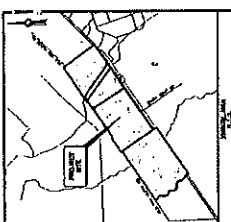


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**EXHIBIT B**

**Bold Fox Tract**

**(see attached)**

**METES AND BOUNDS DESCRIPTION  
52.80 ACRE TRACT  
IN THE JOHN DUNCAN SURVEY, SECTION 3, ABSTRACT NO. 150  
MATAGORDA COUNTY, TEXAS**

A 52.80 ACRE TRACT OF LAND IN THE JOHN DUNCAN SURVEY, SECTION 3, ABSTRACT NO. 150, MATAGORDA COUNTY, TEXAS, BEING OUT OF A CALLED 230.7 ACRE TRACT OF LAND, CONVEYED TO FRANCIS WAYNE MILBERGER AND CAROL M. MILBERGER, AS RECORDED UNDER VOLUME 490, PAGE 463 OF THE MATAGORDA COUNTY DEED RECORDS (M.C.D.R.), THE SAID 52.80 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (WITH BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

**BEGINNING** at a 5/8-inch Iron rod, found marking the most northerly corner of a called 15.9 acre tract of land, conveyed to the Matagorda County Rice and Irrigation Company, as recorded under Volume 16, Page 249, M.C.D.R., an interior corner of said 230.7 acre tract, and the herein described tract;

**THENCE**, South 54°41'00" West, along with the northwesterly line of said 15.9 acre tract, common with a southeasterly line of said 230.7 acre tract, a distance of 212.96 feet to a capped 5/8-inch iron rod, stamped "E.H.R.A. 713-784-4500" found marking the most westerly corner of said called 15.9 acre tract, from which a found 5/8-inch iron rod bears for reference South 54°41' West, a distance of 0.46 feet;

**THENCE**, South 54°41'39" West, over and across said 230.7 acre tract, a distance of 33.28 feet to a 5/8-inch iron rod found marking an interior corner of said 230.7 acre tract;

**THENCE**, North 36°03'44" West, along a southwesterly line of said 230.7 acre tract, a distance of 60.01 feet to a capped 5/8-inch iron rod, stamped "E.H.R.A. 713-784-4500" found in the southeasterly line of a called 11.856 acre tract of land, conveyed to J.V. McCrosky, as recorded under Volume 204, Page 464, M.C.D.R., marking the northwest corner of the herein described tract;

**THENCE**, North 54°41'00" East, along the northwesterly line of said 230.7 acre tract, common with the southeasterly line of said 11.856 acre tract and the southeasterly line of a called 5.207 acre tract of land, conveyed to The Dow Chemical Company, as recorded under Volume 225, Page 612, M.C.D.R., a distance of 1,111.80 feet to a capped 5/8-inch iron rod, stamped "E.H.R.A. 713-784-4500" found marking the southeast corner of said 5.207 acre tract, the southwest corner of a called 7.83 acre tract of land, conveyed to M. Dabney, as recorded under Volume 338, Page 386, M.C.D.R., from which a found 1/2-inch iron rod bears for reference North 54°28'59" East, a distance of 0.50 feet;

**THENCE**, North 54°28'59" East, along the northwesterly line of said 230.7 acre tract, common with the southeasterly line of said 7.83 acre tract, a distance of 746.78 feet to a capped 5/8-inch iron rod, stamped "E.H.R.A. 713-784-4500" found marking the northeast corner of said 230.7 acre tract and the herein described tract;

**THENCE**, South 35°55'04" East, along the northeasterly line of said 230.7 acre tract, a distance of 1,721.94 feet the city limits line of Bay City, for the southeast corner of the herein described tract;

**THENCE**, South 54°29'19" West, along said city limit line, a distance of 1,021.33 feet to the northeasterly line of said 15.9 acre tract, common with a southwesterly line of said 230.7 acre tract, for the southwest corner of the herein described tract;

**THENCE**, North 55°24'42" West, along said common line, a distance of 1,770.47 feet to the **POINT OF BEGINNING** and containing 52.80 acres of land. This description is accompanied by an exhibit of even date.

This document was prepared under 22 TAC 663.21 and 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.

EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC. dba EHRA, Inc. TBPLS No. 10092300



Kevin M. Reidy, R.P.L.S.  
Texas Registration No. 6450  
10011 Meadowglen Lane  
Houston, Texas 77042  
713-784-4500



Date: November, 2021  
Job No: 201-007-00  
File No: R:\2020\201-007-00\Docs\Description\Boundary\52.80AC-MB.doc

**EXHIBIT C**

**Milberger Tract**

**(see attached)**



## EXHIBIT A

### METES AND BOUNDS DESCRIPTION

#### 111.10 ACRE TRACT

IN THE I. & G.R.R. CO. SURVEY, BLOCK NO. 3, SECTION NO. 5 ABSTRACT NO. 273  
AND THE I. & G.R.R. CO. SURVEY, BLOCK NO. 3, SECTION NO. 3 ABSTRACT NO. 339  
MATAGORDA COUNTY, TEXAS

A 111.10 ACRE TRACT OF LAND IN THE I. & G.R.R. CO. SURVEY, BLOCK NO. 3, SECTION NO. 5 ABSTRACT NO. 273, AND THE I. & G.R.R. CO. SURVEY, BLOCK NO. 3, SECTION NO. 3 ABSTRACT NO. 339, MATAGORDA COUNTY, TEXAS, BEING ALL OF A CALLED 30.06 ACRE TRACT OF LAND, CONVEYED TO FRANCIS WAYNE MILBERGER, AS RECORDED UNDER FILE NO. 2018-3449 OF THE MATAGORDA COUNTY DEED RECORDS (M.C.D.R.), A PORTION OF A CALLED 116.10 ACRE TRACT OF LAND, CONVEYED TO ARTHUR J. MILBERGER AND FRANCIS WAYNE MILBERGER, AS RECORDED UNDER FILE NO. 202106374, M.C.D.R., AND A PORTION OF MCCROSKY ROAD (40-FOOT-WIDE) AS RECORDED UNDER VOLUME 1, PAGES 35 AND 36 OF THE LAND RECORDS OF MATAGORDA COUNTY (L.R.M.C.), THE SAID 111.10 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (WITH BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

**BEGINNING** at a point in the southeasterly Right-of-Way (R.O.W.) line of Van Vleck Road at its intersection with the centerline of Bucks Bayou, being the northwest corner of said 116.10 acre tract;

**THENCE**, North 54°38'55" East, along the southeasterly R.O.W. line of said Van Vleck Road, common with the northwesterly line of said 116.10 acre tract, passing at a distance of 60.00 feet, a 5/8-inch iron rod found for reference, passing at a distance of 812.50 feet, a 1/2-inch iron rod found marking the northwest corner of said 30.06 acre tract, continuing along the northwesterly line of said 30.06 acre tract, passing at a distance of 1,815.90 feet, a 1/2-inch iron rod found marking the northeast corner of said 30.06 acre tract, continuing along the northwesterly line of said 116.10 acre tract, passing at a distance of 2,555.53 feet, a 5/8-inch iron rod found marking the northeast corner of said 116.10 acre tract, and continuing for a total distance of 2,594.23 feet to the northeasterly R.O.W. line of said McCrosky Road, common with the southwesterly line of a called 230.7 acre tract of land, conveyed to Francis Wayne Milberger and Carol M. Milberger as recorded under Volume 490, Page 463, M.C.D.R. for the northeast corner of the herein described tract;

**THENCE**, South 35°30'41" East, along the northeasterly R.O.W. line of said McCrosky Road, a distance of 1,854.17 feet to the city limits line of Bay City, for the southeast corner of the herein described tract;

**THENCE**, South 54°29'19" West, along said city limits line, a distance of 2,496.31 feet to the centerline of Bucks Bayou marking the southwest corner of the herein described tract;

**THENCE**, along the centerline of Bucks Bayou, and the southwesterly line of said 116.10 acre tract, the following twenty-eight (28) courses and distances;

- 1) North 25°07'05" West, a distance of 66.82 feet to an angle point;
- 2) North 34°38'47" West, a distance of 78.59 feet to an angle point;
- 3) North 51°45'18" West, a distance of 86.19 feet to an angle point;
- 4) North 68°09'43" West, a distance of 45.74 feet to an angle point;
- 5) North 45°43'45" West, a distance of 138.23 feet to an angle point;
- 6) North 13°02'05" West, a distance of 47.66 feet to an angle point;
- 7) North 22°25'52" West, a distance of 182.36 feet to an angle point;
- 8) North 58°45'40" West, a distance of 49.97 feet to an angle point;
- 9) South 77°19'51" West, a distance of 60.45 feet to an angle point;
- 10) South 66°50'20" West, a distance of 86.83 feet to an angle point;
- 11) North 73°01'14" West, a distance of 66.10 feet to an angle point;
- 12) North 57°39'19" West, a distance of 86.33 feet to an angle point;
- 13) North 41°50'21" West, a distance of 113.77 feet to an angle point;
- 14) North 16°40'31" West, a distance of 21.74 feet to an angle point;
- 15) North 03°39'32" West, a distance of 74.87 feet to an angle point;
- 16) North 07°10'26" East, a distance of 69.60 feet to an angle point;
- 17) North 31°07'52" West, a distance of 64.16 feet to an angle point;

- 18) North 64°05'03" West, a distance of 42.98 feet to an angle point;
- 19) North 73°20'54" West, a distance of 63.50 feet to an angle point;
- 20) North 66°16'29" West, a distance of 26.32 feet to an angle point;
- 21) North 39°12'45" West, a distance of 79.38 feet to an angle point;
- 22) North 13°25'50" West, a distance of 42.27 feet to an angle point;
- 23) North 00°54'52" East, a distance of 120.24 feet to an angle point;
- 24) North 05°12'19" East, a distance of 83.27 feet to an angle point;
- 25) North 06°47'58" West, a distance of 64.83 feet to an angle point;
- 26) North 41°21'16" West, a distance of 97.60 feet to an angle point;
- 27) North 64°12'16" West, a distance of 82.95 feet to an angle point;
- 28) North 32°29'58" West, a distance of 90.06 feet to the **POINT OF BEGINNING** and containing 111.10 acres of land. This description is accompanied by an exhibit of even date.

This document was prepared under 22 TAC 663.21 and 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.

EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC. dba EHRA, Inc. TBPLS No. 10092300



Kevin M. Reidy, R.P.L.S.  
Texas Registration No. 6450  
10011 Meadowglen Lane  
Houston, Texas 77042  
713-784-4500



Date: November, 2021  
Job No: 201-007-00  
File No: R:\2020\201-007-00\Docs\Description\Boundary\111.10AC-MB.doc

## EXHIBIT A

**METES AND BOUNDS DESCRIPTION  
87.27 ACRE TRACT  
IN THE I. & G.R.R. CO. SURVEY, BLOCK NO. 3, SECTION NO. 3 ABSTRACT NO. 339,  
THE M. O'CONNELL SURVEY, ABSTRACT NO. 476,  
AND THE JOHN DUNCAN SURVEY, SECTION 3, ABSTRACT NO. 150  
MATAGORDA COUNTY, TEXAS**

A 87.27 ACRE TRACT OF LAND IN THE I. & G.R.R. CO. SURVEY, BLOCK NO. 3, SECTION NO. 3 ABSTRACT NO. 339, THE M. O'CONNELL SURVEY, ABSTRACT NO. 476, AND THE JOHN DUNCAN SURVEY SECTION 3, ABSTRACT NO. 150, MATAGORDA COUNTY, TEXAS, BEING OUT OF A CALLED 230.7 ACRE TRACT OF LAND, CONVEYED TO FRANCIS WAYNE MILBERGER AND CAROL M. MILBERGER, AS RECORDED UNDER VOLUME 490, PAGE 463 OF THE MATAGORDA COUNTY DEED RECORDS (M.C.D.R.), THE SAID 87.27 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (WITH BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

**BEGINNING** at the northwest corner of said 230.7 acre tract, from which a found 5/8-inch Iron rod bears for reference South 74°48' East, a distance of 0.46 feet;

**THENCE**, North 54°38'25" East, along the northwest line of said 230.7 acre tract, common with the southeast line of a called 11.856 acre tract of land, conveyed to J.V. McCrosky, as recorded under Volume 204, Page 464, M.C.D.R., a distance of 664.35 feet to a point for corner;

**THENCE**, South 35°06'35" East, departing said common line, a distance of 60.00 feet to an interior corner;

**THENCE**, North 54°38'25" East, along the northwesterly line of said 230.7 acre tract, common with the southwesterly R.O.W. line of Van Vleck Road (60-feet-wide) as recorded under Volume 149, Page 533, M.C.D.R., a distance of 1,615.72 feet to a capped 5/8-inch Iron rod stamped "E.H.R.A. 713-784-4500" found marking the northeast corner of the herein described tract;

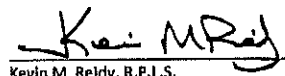
**THENCE**, South 33°39'23" East, over and across said 230.7 acre tract, a distance of 1,667.60 feet to the city limits line of Bay City, for the southeast corner of the herein described tract;

**THENCE**, South 54°29'19" West, along said city limit line, a distance of 2,225.66 feet to the northeasterly R.O.W. line of McCrosky Road (40-feet-wide) as recorded under Volume 1, Pages 35 and 36 of the Land Records of Matagorda County (L.R.M.C.) for the southwest corner of the herein described tract;

**THENCE**, North 35°30'41" West, along the northeasterly R.O.W. line of said McCrosky Road, a distance of 1,732.77 feet to the **POINT OF BEGINNING** and containing 87.27 acres of land. This description is accompanied by an exhibit of even date.

This document was prepared under 22 TAC 663.21 and 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.

EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC. dba EHRA, Inc. TBPLS No. 10092300



Kevin M. Reidy, R.P.L.S.  
Texas Registration No. 6450  
10011 Meadowglen Lane  
Houston, Texas 77042  
713-784-4500



Date: November, 2021  
Job No: 201-007-00  
File No: R:\2020\201-007-00\Docs\Description\Boundary\87.27AC-MB.doc

**METES AND BOUNDS DESCRIPTION  
29.18 ACRE TRACT  
IN THE JOHN DUNCAN SURVEY, SECTION 3, ABSTRACT NO. 150  
MATAGORDA COUNTY, TEXAS**

A 29.18 ACRE TRACT OF LAND IN THE JOHN DUNCAN SURVEY, SECTION 3, ABSTRACT NO. 150, MATAGORDA COUNTY, TEXAS, BEING OUT OF A CALLED 230.7 ACRE TRACT OF LAND, CONVEYED TO FRANCIS WAYNE MILBERGER AND CAROL M. MILBERGER, AS RECORDED UNDER VOLUME 490, PAGE 463 OF THE MATAGORDA COUNTY DEED RECORDS (M.C.D.R.), THE SAID 29.18 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (WITH BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

**BEGINNING** at a capped 5/8-inch Iron rod, stamped "E.H.R.A. 713-784-4500" found marking the most westerly corner of a called 15.9 acre tract of land, conveyed to the Matagorda County Rice and Irrigation Company, as recorded under Volume 16, Page 249, M.C.D.R., an interior corner of said 230.7 acre tract, and the northeast corner of the herein described tract, from which a found 5/8-inch Iron rod bears for reference South 54°41' West, a distance of 0.46 feet;

**THENCE**, South 55°24'42" East, along the common line of said 15.9 acre tract and said 230.7 acre tract, a distance of 1,771.24 feet to the city limits line of Bay City, for the southeast corner of the herein described tract;

**THENCE**, South 54°29'19" West, along said city limits line, a distance of 1,091.53 feet, to the southwest corner of the herein described tract;

**THENCE**, North 33°39'23" West, over and across said 230.7 acre tract, a distance of 1,667.60 feet to a capped 5/8-inch Iron rod, stamped "E.H.R.A. 713-784-4500" found in the southeasterly Right-of-Way (R.O.W.) line of Van Vleck Road (60-feet-wide) as recorded under Volume 149, Page 533, M.C.D.R., marking the northwest corner of the herein described tract

**THENCE**, North 54°38'25" East, along the southeasterly R.O.W. line of said Van Vleck Road, common with the northwesterly line of said 230.7 acre tract, a distance of 305.75 feet to a capped 5/8-inch Iron rod, stamped "E.H.R.A. 713-784-4500" found marking an angle point;

**THENCE**, North 54°41'00" East, continuing along said R.O.W. line, a distance of 95.62 feet to a 5/8-inch Iron rod found marking an interior corner of said 230.7 acre tract and an angle point of the herein described tract;

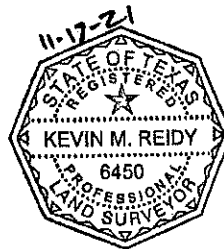
**THENCE**, North 54°41'39" East, over and across said 230.7 acre tract, a distance of 33.28 feet to the **POINT OF BEGINNING** and containing 29.18 acres of land. This description is accompanied by an exhibit of even date.

This document was prepared under 22 TAC 663.21 and 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.

EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC. dba EHRA, Inc. TBPLS No. 10092300



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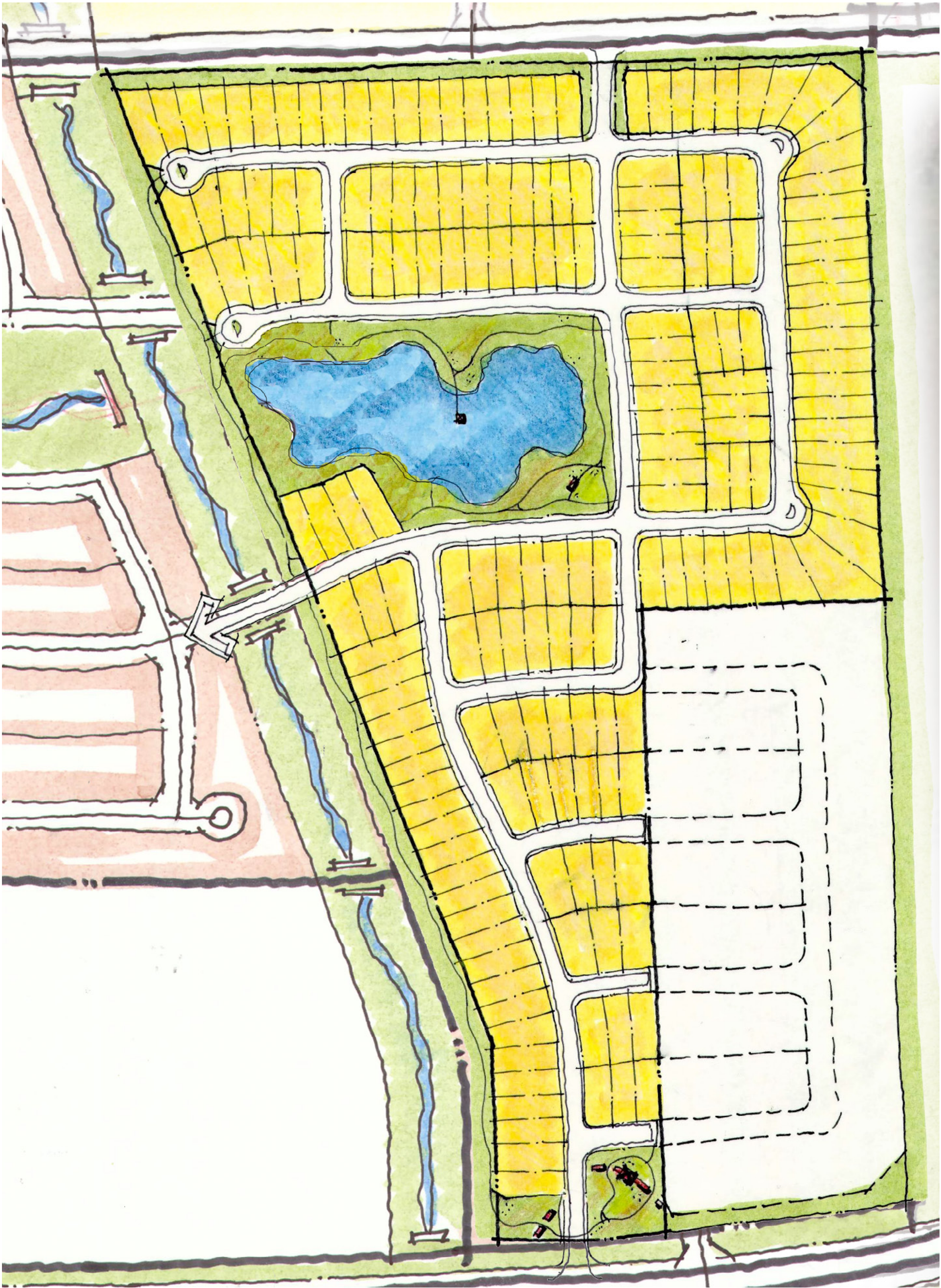
Date: November, 2021  
Job No: 201-007-00  
File No: R:\2020\201-007-00\Docs\Description\Boundary\29.18AC-MB.doc

**EXHIBIT D**

**Development Plan**

**(see attached)**





TBG

# Bay City TIRZ 2 Bold Fox Tract

Conceptual Master Plan

Bay City, Texas  
25 January 2022  
Bold Fox



TBG  
1333 West Loop South, Suite 1450  
Houston, Tx 77027  
[713] 439 0027  
tbgpartners.com



The information shown is based on the best information available and is subject to change without notice.







**EXHIBIT E**

**Development Standards**

**(see attached)**



## Development Standards.

The Developer shall ensure that the following development standards are met during development of the lots and shall ensure the standards are met by any home builders within the development:

1. Retention ponds, if any, must maintain a minimum of 10 inches of water.
2. Detention ponds must be landscaped and sloped with grass.
3. Two-car driveways and two-car garages; no carports.
4. Five-foot concrete sidewalks, Americans with Disability Act compliant.
5. Front facing yard with 30% masonry on three sides and cement board on the remaining side.
6. No chain-link or barbwire fencing.
7. All privacy fencing consistent among lots.
8. Roads are minimum (i) 36 ft. at entrance, (ii) 32 ft. arterial road running north from entrance to area surrounding detention pond, and (iii) 28 ft. otherwise within the subdivision.
9. No more than 20% hardscaping on each lot. Front yard to be grass/landscaping.
10. All homes to use gas for heating and stove/oven.
11. All internal single phase electric utilities to be underground.
12. Uses other than single family are prohibited in areas designated as S.F. (single family)
13. Any street lighting to be decorative LED lights.
14. Front door must be on the frontage of homes.
15. Rollover curbs and gutters.
16. Sufficient inlets to storm drains (as determined by the City).
17. 4 architecturally unique front elevation designs that do not repeat any more often than every 4<sup>th</sup> house.
18. Slab elevation of homes must meet any applicable requirements of Matagorda County Drainage District No. 2.
19. Internet access and fiber installed in development.
20. Each home must be a minimum of 1400 sq. ft.
21. Minimum lot width shall be 50' for the first 200 lots of development. After the first 200 lots, Developer shall be permitted to submit a reduction in lot size within the then-existing aesthetic, with supporting documentation/data, directly to City Council for consideration.<sup>1</sup>
22. Minimum lot depth shall be 110'.
23. Minimum front setback shall be 15' from ROW on rear-loaded lots, 25' from ROW on front-loaded lots. Front porch may encroach 5' into front setback line.
24. Minimum rear setback shall be 20' from property line.
25. Lot lines may intersect right-of-way at angles other than 90 degrees or radial to street frontage where reasonably necessary as conditions dictate (i.e., cul-de-sac lots, lots adjacent to detention facilities, etc.), as illustrated in **Exhibit D**.
26. The Developer will amenitize (detention pond, trail, etc.) within a pre-determined regional plan, spending a minimum amount of \$40,000 on such amenities.
27. Commercially reasonable efforts will be made to use local contractors and materials.

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<sup>1</sup> Current City Council is amenable to a reduced lot size to support the success of the project.

## Mandatory Homeowners' Association.

1. HOA Maintained Improvements. The Developer will create a mandatory homeowners' association ("HOA") over the portion of the property then being developed as single family homes ("the "Single Family Property"), which HOA, through its conditions and restrictions filed of record in the property records of Matagorda County, shall be required to assess and collect from owners annual fees in an amount calculated to maintain the open spaces, common areas, right-of-way irrigation systems, raised medians and other right-of-way landscaping, retention and detention areas, drainage areas, screening walls, trails, lawns, landscaped entrances to the Single Family Property and any other common improvements or appurtenances (the "HOA Maintained Improvements").
2. HOA Maintenance Agreements. Maintenance of any HOA Maintained Improvements on land owned by the City shall be pursuant to one or more maintenance agreements between the HOA and the City (the "HOA Maintenance Agreements"). Specifically, any detention ponds shall be maintained by the HOA pursuant to an HOA Maintenance Agreement.
3. Assessments. The Parties anticipate that the HOA established to maintain and operate the HOA Maintained Improvements will adequately perform such duties. In the event the City determines that the HOA is not adequately performing the duties for which it was created, which non-performance shall be evidenced by violations of the HOA Maintenance Agreement, applicable deed restrictions, and/or applicable City ordinances, the City reserves the right to levy an assessment each year equal to the actual costs of operating and maintaining the HOA Maintained Improvements that are owned by the City. The City agrees that it will not levy such assessments without first giving the HOA written notice of the deficiencies and providing the HOA with sixty (60) days in which to cure the deficiencies.
4. Covenants, Conditions, and Restrictions. The covenants, conditions and restrictions ("CCRs") for the HOA must include the following:
  - a. No commercial businesses can operate within the residential neighborhood.
  - b. Any trees planted near the curb must not be between sidewalks and roadways.
  - c. 30-year roof shingles or a metal roof.
  - d. No raising of livestock.
  - e. No RVs, mobile homes or bubble homes.
  - f. Boats must be kept enclosed.
  - g. Sheds must be the same material as homes; no metal sheds.
  - h. An approved color palette for homes with standard, neutral colors.
  - i. No aluminum siding.
  - j. No chain-link or barbed wire fencing.
  - k. Standard fencing requirements such that all privacy fencing is consistent among lots.

The CCRs for the HOA must be filed of record in the property records of Matagorda County, and the HOA Maintenance Agreement, if any, must be approved and executed before any assessments are levied by the City.