

## DECERTIFICATION AND COMPENSATION AGREEMENT

This Decertification and Compensation Agreement (the “Agreement”) is made and entered into on this the \_\_\_\_ day of March, 2023, by and between Texas WH200, LP, a Texas limited partnership and Heart of Manor, LP, a Texas limited partnership (hereinafter “Petitioners”), the City of Manor, a Texas home rule municipality (hereinafter “City”). Together, Petitioners, and City are sometimes referred to herein as the “Parties.”

### RECITALS

WHEREAS, Petitioners own certain real property in Travis County, Texas, more particularly described in Exhibit A, attached hereto and incorporated herein for all purposes (“Property”); and WHEREAS, it is not feasible for the City to provide retail water service to the Property as needed by Petitioners;

WHEREAS, Petitioners intend to petition the Public Utility Commission of Texas (“PUC”) requesting that the Property be released from the certificate of convenience and necessity (“CCN”) No. 10947 issued to the City for water service in Travis County, Texas using any legal method authorized by the Texas Water Code, including through a streamlined expedited release process pursuant to Texas Water Code § 13.2541 and 16 Tex. Admin. Code § 24.245(h) (the “SER Petition”); and

WHEREAS, pursuant to 16 Tex. Admin. Code § 24.245(i)(1), the Parties hereto agree to the amount of compensation owed by Petitioners to the City related to the City’s agreement to release of the Property and grant of the SER Petition by the PUC; and WHEREAS, at the appropriate time, Petitioners will make a filing regarding this agreement on compensation with the PUC.

NOW, THEREFORE, it is the intent of Petitioners and the City to effectuate a full and complete settlement and resolution of their disputes regarding service to the Property, the SER Petition, and any related compensation through the execution of this Agreement. By their representatives affixing signatures below, Petitioners and the City agree as follows:

### TERMS OF AGREEMENT

IN CONSIDERATION of the mutual promises and covenants contained in this Agreement, including the recitals set forth above, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. SER Compensation.
  - a) Compensation. The Parties agree that Petitioners shall pay the City compensation pursuant to 16 Tex. Admin. Code § 24.245. Specifically, Petitioners agree to pay the City compensation in the total amount of \$15,000 to satisfy its obligation herein and to comply with a PUC determination on compensation pursuant Texas Water Code § 13.2541 and 16 Tex. Admin. Code § 24.245.

- b) PUC Filing. No later than 10 days after the PUC order granting the SER Petition, Petitioners will prepare a joint filing regarding compensation with the PUC, in lieu of the parties selecting appraisers.
- c) Payment. Petitioners shall pay the City the compensation agreed upon in Section l(a) above no later than 30 days after the PUC grants a determination on compensation and such payment shall be made not later than 30 days after the PUC order which approves the amount of the compensation. Payment shall be made by check, unless otherwise agreed by the Parties.

2. Cooperation and Waiver of Appeal. In consideration of this settlement, the City agrees not to act to oppose the SER Petition. Petitioners shall incur all costs associated with the SER Petition or other legal method authorized by the Texas Water Code, including preparation of all pleadings and exhibits, Jackson Walker LLP's attorneys' fees, administrative and filing fees, and consultants' fees. Petitioners will provide the City with reasonable updates on the status of the SER Petition. The City will work in good faith with Petitioners to effectuate the purpose of this Agreement and will execute the documents and cooperate in the filing of those documents needed to effectuate the purpose of this Agreement, including those filings required by the PUC.

3. Settlement of Claims. The Parties recognize and acknowledge that the payment specified herein is paid to settle any and all claims relating to the SER Petition, any compensation to the City as required by law, and for the release by the City of the retail water certificated service rights to the Property.

## **MISCELLANEOUS**

1. This Agreement shall be governed by and construed and enforced under the laws of the State of Texas.

2. The obligations and undertakings of each of the parties to this Agreement shall be performed in Travis County, Texas. The parties expressly agree that all judicial proceedings to enforce any of the provisions of this Agreement shall take place in Travis County, Texas.

3. This Agreement contains the entire agreement of the Parties with respect to the real property located within Manor CCN No. 10947 more fully described in Exhibit A. No agreement, statement, or promise made by any party or to any employee, agent, or officer of any party, that is not contained in this Agreement shall be valid, binding, or of any force or effect. Any amendments to this Agreement must be in writing and signed by the party or parties to be charged.

4. This Agreement shall be binding upon the parties hereto and their respective successors, heirs, representatives, and assigns.

5. This Agreement shall be effective as of the date of execution by the last signatory of the Agreement (the "Effective Date").

6. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning,

and any presumption or principle that the language herein is to be construed against either Party shall not apply.

7. Should any provision of this Agreement be declared void by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

8. This Agreement may be executed in counterparts.

9. In the event that the terms and conditions of this Agreement are breached by either party, and the parties participate in a proceeding before any state or federal tribunal because the terms and conditions of this Agreement are not being complied with by one of the parties, the prevailing party shall recover its fees, damages, costs, attorneys' fees, and such other and further relief from the non-prevailing party, general or special, at law or in equity, to which the prevailing party may show itself justly entitled.

10. The respective signatories to this Agreement represent to the Parties that they are authorized to sign this Agreement on behalf of their respective party.

11. The recitals, covenants, and agreement contained herein, and in the attached agreements, are contractual in nature and not mere recitations of fact.

*[signature pages follow]*

IN WITNESS THEREOF, the Parties have executed this Agreement effective as of the date above written.

**CITY OF MANOR**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Printed Name: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Lluvia T. Almaraz, City Secretary

**TEXAS WH200, LP**

By: \_\_\_\_\_

Its: Manager

Printed Name: Peter A. Dwyer

**HEART OF MANOR, LP**

By: \_\_\_\_\_

Its: Manager

Printed Name: Peter A. Dwyer

**EXHIBIT A**

*(Property Description)*

## PROPERTY DESCRIPTION

**BEING** a 11.723 acre (510,642 square feet) tract of land situated in the James Manor Survey No. 40, Abstract No. 546, James Manor Survey No. 39, Abstract No. 528, and the William H. Sanders Survey No. 54, Abstract No. 690, City of Austin, Travis County, Texas and being a portion of a remainder of a called 100.00 acre tract described in Special Warranty Deed to Texas WH200, LP. recorded in Instrument No. 2010177691, Official Public Records, Travis County, Texas and being a portion of the City of Manor Water Certificate of Convenience and Necessity and being more particularly described as follows:

**BEGINNING** at a point in the west right-of-way line of Blue Bluff Road (a variable width right-of-way) and being the northeast corner of said 100.00 acre tract and being in the southwest line of a called 142.196 acre tract of land described in Quit Claim Deed to Carol Anne Schryver, Trustee of the Ronald Bloom and Carol Anne Schryver Living Trust recorded in Instrument No. 2013096121 of said Official Public Records;

**THENCE** along said west right-of-way line of Blue Bluff Road and east line of said 100.00 acre tract, the following courses and distances:

South 09°08'57" West, a distance of 224.11 feet to a point for corner;  
South 17°37'21" East, a distance of 592.53 feet to a point for corner;  
South 01°08'13" East, a distance of 223.56 feet to a point for corner;  
South 15°22'50" West, a distance of 135.27 feet to a point for corner;

**THENCE** departing said west right-of-way line of Blue Bluff Road and over and across said 100.00 acre tract and along the approximate Water Certificate of Convenience and Necessity line as provided by Chris Robertson of Steger Bizzell Engineering, Inc., the following courses and distances:

North 36°25'07" West, a distance of 977.44 feet to a point for corner;  
North 18°35'19" West, a distance of 761.86 feet to a point for corner in said southwest line of the 142.196 acre tract;

**THENCE** along said southwest line of the 142.196 acre tract, South 62°34'58" East, a distance of 800.78 feet to the **POINT OF BEGINNING** and containing 510,642 square feet or 11.723 acres of land.

**SURVEYORS CERTIFICATION:** THIS DOCUMENT WAS PREPARED UNDER 22 TEXAS ADMINISTRATIVE CODE § 138.95, 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.

*James Janisse*  
02/22/23

JAMES L. JANISSE  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 0038704  
10101 REUNION PLACE, SUITE 400  
SAN ANTONIO, TEXAS 78216  
PH. 210-541-9166  
jay.janisse@kimley-horn.com



## EXHIBIT OF A 11.723 ACRE TRACT

JAMES MANOR SURVEY NO. 40, ABSTRACT NO. 546,  
JAMES MANOR SURVEY NO. 39, ABSTRACT NO. 528,  
WILLIAM H. SANDERS SURVEY NO. 54, ABSTRACT NO. 690,  
CITY OF AUSTIN, TRAVIS COUNTY, TEXAS

**Kimley»Horn**

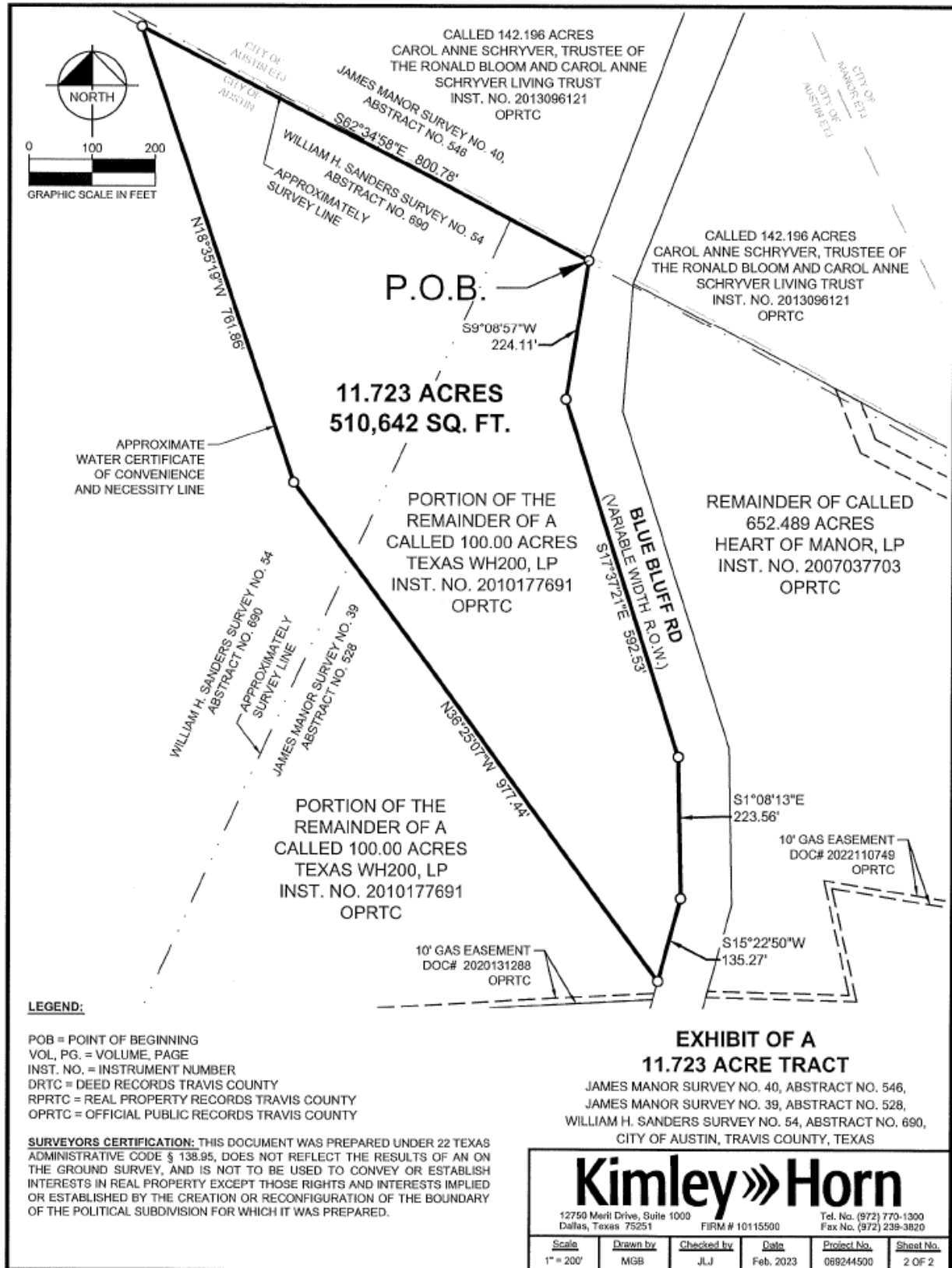
12750 Merit Drive, Suite 1000  
Dallas, Texas 75251

FIRM # 10115500

Tel. No. (972) 770-1300  
Fax No. (972) 239-3820

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
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## PROPERTY DESCRIPTION

**BEING** a 9.257 acre (403,244 square feet) tract of land situated in the James Manor Survey No. 40, Abstract No. 546 and James Manor Survey No. 39, Abstract No. 528, City of Austin, Travis County, Texas and being a portion of a remainder of a called 652.489 acre tract described in General Warranty Deed with Vendor's Lien to Heart of Manor, LP. recorded in Instrument No. 2007037703, Official Public Records, Travis County, Texas and being a portion of the City of Manor Water Certificate of Convenience and Necessity and being more particularly described as follows:

**BEGINNING** at a point in the east right-of-way line of Blue Bluff Road (a variable width right-of-way) and being the northwest corner of said 652.489 acre tract and being in the southwest line of a called 142.196 acre tract of land described in Quit Claim Deed to Carol Anne Schryver, Trustee of the Ronald Bloom and Carol Anne Schryver Living Trust recorded in Instrument No. 2013096121 of said Official Public Records;

**THENCE** along said southwest line of the 142.196 acre tract, South 62°34'24" East, a distance of 301.15 feet to a point for corner;


**THENCE** departing said southwest line of the 142.196 acre tract, and over and across said 652.489 acre tract, South 12°32'42" East, a distance of 1,511.24 feet to a point for corner in the approximate Water Certificate of Convenience and Necessity line as provided by Christ Robertson of Steger Bizzell Engineering, Inc.;

**THENCE** along said approximate Water Certificate of Convenience and Necessity line, North 48°24'13" West, a distance of 656.51 feet to a point for corner in said east right-of-way line of Blue Bluff Road and west line of said 652.489 acre tract;

**THENCE** along said east right-of-way line of Blue Bluff Road and west line of said 652.489 acre tract, the following courses and distances:

North 15°22'47" East, a distance of 202.46 feet to a point for corner;  
North 01°08'07" West, a distance of 246.87 feet to a point for corner;  
North 17°38'01" West, a distance of 558.12 feet to a point for corner;  
North 04°23'38" East, a distance of 204.70 feet to the **POINT OF BEGINNING** and containing 403,244 square feet or 9.257 acres of land.

**SURVEYORS CERTIFICATION:** THIS DOCUMENT WAS PREPARED UNDER 22 TEXAS ADMINISTRATIVE CODE § 138.95, 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.

  
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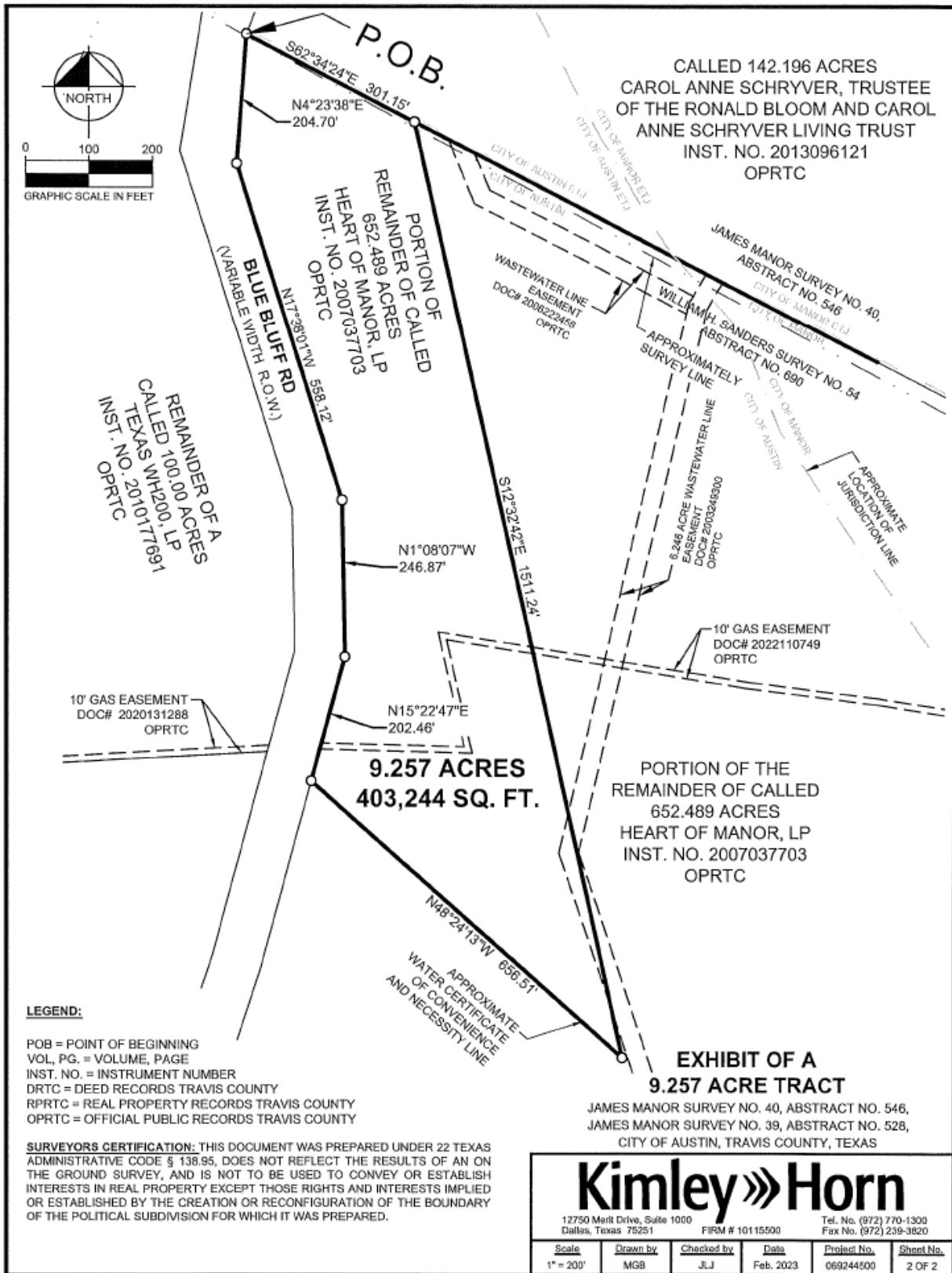
## EXHIBIT OF A 9.257 ACRE TRACT

JAMES MANOR SURVEY NO. 40, ABSTRACT NO. 546,  
JAMES MANOR SURVEY NO. 39, ABSTRACT NO. 528,  
CITY OF AUSTIN, TRAVIS COUNTY, TEXAS

**Kimley»Horn**  
12750 Merit Drive, Suite 1000  
Dallas, Texas 75251 FIRM # 10115500 Tel. No. (972) 770-1300  
Fax No. (972) 239-3820

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