

ORDINANCE NO. 589

AN ORDINANCE OF THE CITY OF MANOR, TEXAS, CLOSING, VACATING, AND ABANDONING A PORTION (161,158 SQUARE FEET) OF STREET RIGHT-OF-WAY COMMONLY KNOWN AS OLD KIMBRO ROAD (80 FEET WIDE); AUTHORIZING CONVEYANCE TO ABUTTING PROPERTY OWNERS; PROVIDING FINDINGS OF FACT; AUTHORIZING CONVEYANCE OF SUCH ABANDONED RIGHT-OF-WAY BY SPECIAL WARRANTY DEED; PROVIDING SEVERABILITY, EFFECTIVE DATE AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the City of Manor (the “City”) contemplates a new alignment of Old Kimbro Road; and

WHEREAS, the portion of the street right-of-way as shown in Exhibit “A”, commonly known as Old Kimbro Road located in the City of Manor, Texas is not necessary for use by the City, the general public, or the landowners adjacent thereto as an alley or street with the new alignment;

WHEREAS, by statutory authority a home rule municipality may vacate, abandon, or close a street or alley, pursuant to Section 311.007 of the Texas Transportation Code; and

WHEREAS, Chapt. 272 of the Texas Local Government Code, authorizes political subdivisions to convey rights-of-way to abutting owners in proportion to abutting ownership at an appraised fair market value; and

WHEREAS, the City has established the fair market value of the above described street right-of-way; and

WHEREAS, the City Council of the City of Manor has determined that closure of the aforementioned portion of Old Kimbro Road to be in the best interest of the public health, safety, and general welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are incorporated into this Ordinance as findings of fact by the City Council of Manor, Texas.

Section 2. Old Kimbro Road. The 161,158 square feet portion of Old Kimbro Road (80 feet wide) as more particularly described by metes and bounds in Exhibit “A” attached hereto and incorporated herein for all purposes (the “Property” or “right-of-way”), is hereby permanently closed, vacated, and abandoned by the City and the general public.

Section 3. Consideration and Authorization to Execute Special Warranty Deed. The Mayor and the City Secretary are hereby authorized, empowered, instructed and directed to execute a special warranty deed in a form substantially similar to that set forth in Exhibit “B” (the “Deed”), conveying the rights and interests of the City in the Property to the abutting property owners, in proportion to their ownership of the abutting property in exchange for the dedication by plat of right-of-way for the new alignment of Old Kimbro Road; and further provided that the provisions set out in that certain Second Amendment to Development Agreement (Manor Heights) dated October 21, 2020 (the “Second Amendment”) be complied with and adhered to. Upon compliance with the provisions set out in the Second Amendment, any surveying fees, and a proportionate amount of attorneys fees related to drafting and reviewing documents necessary to convey the Property, and the execution and filing of a release in the county real property records, as necessary, and the execution of such Deed, such Deed shall be and become a valid and binding act of the City of Manor, Texas.

Section 4. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 5. Effective Date. This ordinance shall take effect immediately from and after its passage.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Tex. Gov't. Code.

PASSED AND APPROVED on this 4th day of November 2020.

THE CITY OF MANOR, TEXAS

Dr. Larry Wallace, Jr., Mayor

ATTEST

Lluvia T. Almaraz, City Secretary

Exhibit “A”

[see attached]

**A METES AND BOUNDS
DESCRIPTION OF A
3.700 ACRE RIGHT-OF-WAY OF LAND**

BEING a 3.700 acre (161,158 square feet) tract of land situated in the A.C. Caldwell Survey No. 52, Abstract No. 154, City of Manor, Travis County, Texas; and being a portion of Old Kimbro Road (80 feet wide); and being more particularly described as follows:

COMMENCING, at a 1/2-inch iron rod with a plastic cap stamped "KHA" found on the southerly right-of-way line of said Old Kimbro Road marking the northwest corner of a called 51.533 acre tract of land described in instrument to Chau Dinh and Kim Pham recorded in Document No. 2014139510 of the Official Public Records of Travis County, same being the northeast corner of a called 90.0888 acre tract of land described in instrument to RHOF, LLC recorded in Document No. 2017194263 of the Official Public Records of Travis County;

THENCE, North 85°48'57" West, 846.55 feet, along the southerly right-of-way line of Old Kimbro Road and the north line of said 90.0888 acre tract to the **POINT OF BEGINNING** of the herein described tract;

THENCE, continuing along the southerly right-of-way of said Old Kimbro Road and along the north line of said 90.0888 acre tract the following two (2) courses and distances:

1. North 85°48'57" West, 1629.02 feet to an iron rod with plastic cap stamped "KHA" found for a point of curvature;
2. in a southwesterly direction, along a tangent curve to the left, a central angle of 43°49'58", a radius of 533.10 feet, a chord bearing and distance of South 72°20'04" West, 397.96 feet, and a total arc length of 407.84 feet to a point for corner;

THENCE, departing the north line of said 90.0888 acre tract and crossing said Old Kimbro Road the following two (2) courses and distances:

1. North 40°17'42" West, 46.07 feet to a point for corner;
2. North 61°40'04" West, 35.46 feet to a 5/8-iron rod found on the northerly right-of-way line of said Old Kimbro Road marking the southwest corner of a called 157.9603 acre tract of land described in instrument to RHOF, LLC recorded in Document No. 2017180885 of the Official Public Records of Travis County;

THENCE, along the northerly right-of-way line of said Old Kimbro Road and along the south line of said 157.9603 acre tract the following three (3) courses and distances:

1. in a northeasterly direction, along a non-tangent curve to the right, a central angle of 36°32'19", a radius of 613.14 feet, a chord bearing and distance of North 68°23'46" East, 384.42 feet, and a total arc length of 391.01 feet to a 1/2-iron rod found for a point for corner;
2. in a northeasterly direction, along a non-tangent curve to the right, a central angle of 7°10'29", a radius of 1407.07 feet, a chord bearing and distance of South 89°23'14" East, 176.08 feet, and a total arc length of 176.20 feet to a concrete monument found for a point of tangency;
3. South 85°54'35" East, 1541.16 feet to a point for corner;

THENCE, South 4°11'03" West, 80.00 feet departing the south line of said 157.9603 acre tract and crossing said Old Kimbro Road to the **POINT OF BEGINNING**, and containing 3.700 acres of right-of-way in Travis County, Texas. The basis of bearing for this description is the Texas State Plane Coordinate System Grid, Central Zone (FIPS 4203) (NAD'83). All distances are on the surface and shown in U.S. Survey Feet. To convert grid distances to grid, apply the combined SURFACE to GRID scale factor of 0.99992097045. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.

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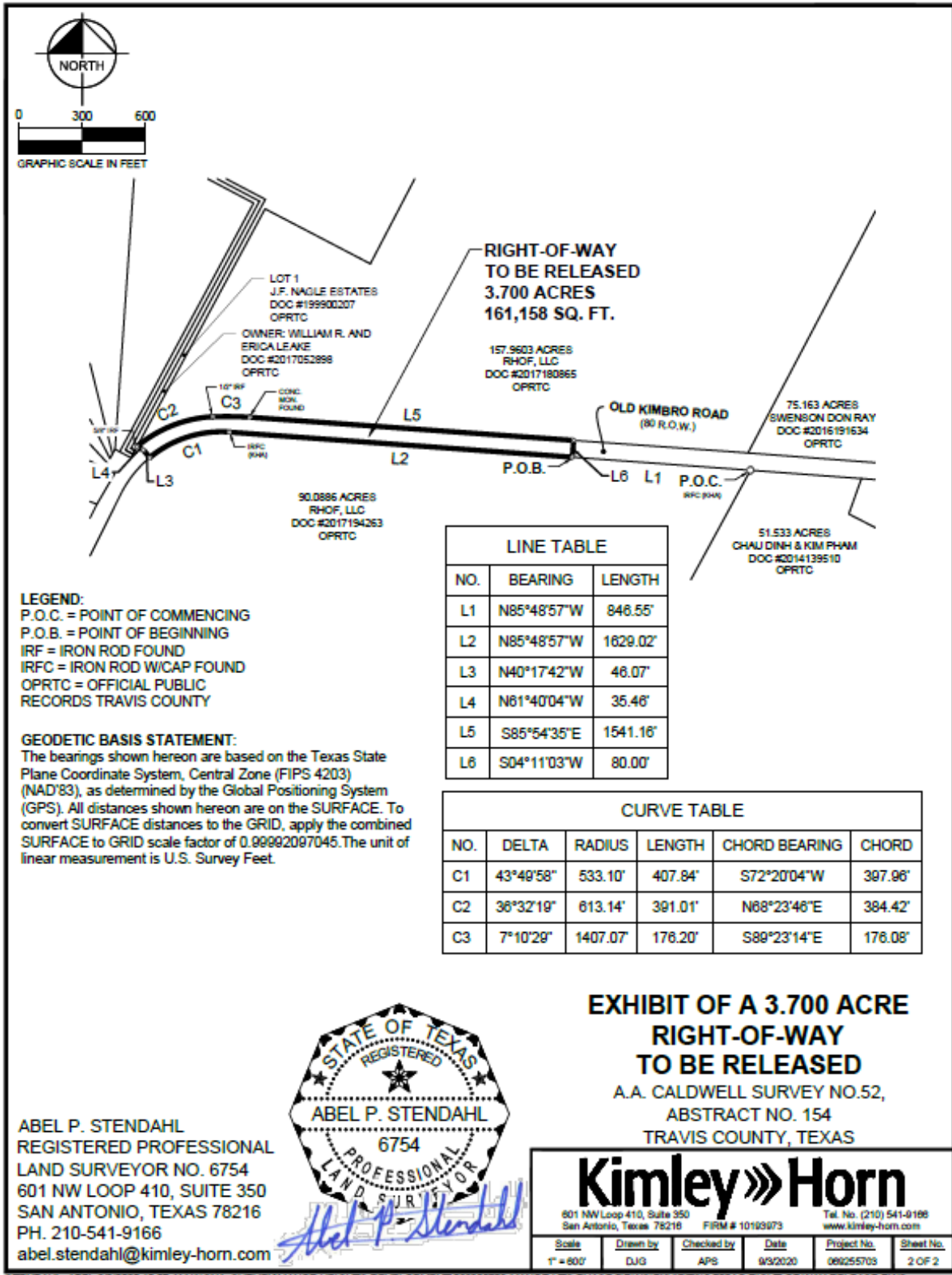
**EXHIBIT OF A 3.700 ACRE
RIGHT-OF-WAY
TO BE RELEASED**

A.A. CALDWELL SURVEY NO.52,
ABSTRACT NO. 154
TRAVIS COUNTY, TEXAS

Kimley»Horn

601 NW Loop 410, Suite 350 San Antonio, Texas 78216 FIRM # 1019973 Tel. No. (210) 541-9166 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	DJG	APS	9/3/2020	069255703	1 OF 2



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 TRAVIS COUNTY, TEXAS

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 800'	DJG	APS	9/3/2020	069255703	2 OF 2

Exhibit "B"

SPECIAL WARRANTY DEED

THE STATE OF TEXAS §

COUNTY OF TRAVIS § KNOW ALL PERSONS BY THESE PRESENTS:

That the **City of Manor, Texas**, a Texas municipal corporation, hereinafter called "**GRANTOR**," for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), together with other good and valuable consideration, to **GRANTOR** cash in hand paid by _____, [*insert name(s) of buyer(s)*], hereinafter called "**GRANTEE**", the receipt of which is hereby acknowledged, has **GRANTED, SOLD and CONVEYED**, and by these presents does **GRANT, SELL and CONVEY** unto the said **GRANTEE**, all that certain lot, tract or parcel of land known and described as follows:

PROPERTY: [*insert property description*]

This conveyance is expressly made subject to the the restrictions, covenants and easements, if any, apparent on the ground, in use or existing of record in the office of the County Clerk of Travis County, Texas, to which reference is here made for all purposes.

TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in anywise belonging, unto the said **GRANTEE**, the heirs, executors, successors and assigns forever, and **GRANTOR** does hereby bind its successors and assigns to **WARRANT AND FOREVER DEFEND**, all and singular, the said premises unto the said **GRANTEE**, the heirs, executors, successors and assigns, against every person whomsoever lawfully claiming or to claim the same by, through or under the City of Manor, Texas, but not otherwise.

EXECUTED at Manor, Travis County, Texas, this the _____ day of _____, 20__.

Attest:

City of Manor, Texas

Lluvia T. Almaraz, City Secretary

Dr. Larry Wallace, Jr., Mayor

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Dr. Larry Wallace, Jr., Mayor, of the City of Manor, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20____.

Notary Public-State of Texas

AFTER RECORDING PLEASE RETURN TO:

City of Manor
Attn: City Secretary
105 E. Eggleston Street
Manor, Texas 78653