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**TAX ABATEMENT AGREEMENT BETWEEN
FORT BEND COUNTY DRAINAGE DISTRICT AND
MARQUEZ ENTERPRISES, LLC**

This Tax Abatement Agreement, hereinafter referred to as “Agreement,” is executed by and between **FORT BEND COUNTY DRAINAGE DISTRICT, TEXAS**, hereinafter referred to as “District,” acting by and through the Drainage District Board and **MARQUEZ ENTERPRISES, LLC**, hereinafter referred to as “Owner” of the Real Property and Improvements located within the City of Rosenberg Reinvestment Zone No. 18.

1. **Authorization:**

- a. This Agreement is authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the TEXAS TAX CODE as it exists on the effective date of this Agreement, and;
- b. The Amended Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones created by Fort Bend County Drainage District, Texas, were approved by the Drainage District Board on February 24, 2015. District has determined that the request for Tax Abatement presented by Owner conforms to the criteria established in the Guidelines for Tax Abatement.
- c. No official of District has an interest in the property subject to this Agreement.

2. Definition:

As used in this Agreement, the following terms shall have the meanings set forth below:

- a. The “Certified Appraised Value or Value” means the value certified as of January 1 of each year of this Agreement regarding the property within City of Rosenberg Reinvestment Zone No. 18 by the District.
- b. “Real Property” means the approximate 6.4962-acre tract of land described in Exhibit "B" attached hereto and incorporated herein for all purposes, and all improvements currently located thereon, which tract of land is located within the Reinvestment Zone 18.
- c. “Improvements” means a new building to be used for office and distribution facility located in Reinvestment Zone No. 18, containing at least 54,000 square feet of floor space, and the interior improvements to such office, distribution and warehousing building and any sidewalks, parking lots, outdoor lighting, landscaping and other improvements to serve the building, all as shown in Exhibit C, attached to and incorporated into this Agreement by reference.
- d. “Abatement” means the full or partial exemption from ad valorem taxes of certain property in the City of Rosenberg Reinvestment Zone No. 18 designated for economic development purposes.

- e. "Ineligible Property" means real property, existing improvements, tangible personal property that the FBCAD classifies as inventory or supplies, real property used primarily to provide retail sales or services to the public, real property used for residential purposes, tangible personal property classified as furnishings, tangible personal property located in the reinvestment zone prior to the execution date of the tax abatement agreement, real property with a productive life of less than 10 years, or any other property for which abatement is not allowed by state law.
- f. "Owner" means Marquez Enterprises, LLC, or other person or entity to which this Agreement is assigned, with prior approval of the Fort Bend County Drainage District.
- g. "County" means the County of Fort Bend, Texas.
- h. "FBCAD" means Fort Bend County Central Appraisal District.

3. Subject Property:

- a. The City of Rosenberg Reinvestment Zone No. 18 is an area located in Fort Bend County, Texas, being legally described in Exhibit A attached hereto and incorporated herein for all purposes.
- b. The FBCAD has established the base year values for the subject property as of January 1, 2015.

4. Responsibility of Owner:

In consideration of receiving the tax abatement granted herein, Owner represents and agrees:

- a. That construction of the Improvements will commence without delay.
- b. That construction of the Improvements shall be completed on or before December 31, 2016.
- c. That Owner shall provide the District's Tax Assessor/Collector a certified statement evidencing a minimum of \$1,600,000.00 in project costs with respect to the design and construction of the Improvements within sixty (60) days after completion of the Improvements.
- d. That Owner shall provide the District's Tax Assessor/Collector with a copy of the Certificate of Occupancy for the Improvements on or before December 31, 2016. Owner's failure to present a copy of the Certificate of Occupancy to District may result in a forfeiture of the tax abatement of tax year 2017.
- e. That the Certified Appraised Value of the Improvements on January 1, 2017, and on each and every January 1 thereafter during the term of this Agreement must not be less than \$1,600,000. Owner may from time to time during the term of this Agreement install additional improvements, and modify, remove or replace improvements as Owner may determine in their discretion. Failure to meet the requirements of this section will invalidate the tax abatement for the year this requirement was not satisfied.

- f. Owner agrees to meet the following employee requirements:

Tax Year	Number of Employees Required
2017	At least 50 Employees employed at the Improvements
2018	At least 55 Employees employed at the Improvements
2019	At least 60 Employees employed at the Improvements
2020	At least 65 Employees employed at the Improvements
2021	At least 70 Employees employed at the Improvements
2022	At least 75 Employees employed at the Improvements
2023	At least 75 Employees employed at the Improvements

- g. Owner shall annually furnish District with only those payroll records allowed by law and necessary for District to confirm Owner's compliance with this Agreement (e.g. number of employees is appropriate; payroll dollars, taxes, benefits, and bonuses are not appropriate).
- h. OWNER SHALL BE RESPONSIBLE FOR NOTIFYING THE FBCAD OF THE ABATEMENT, INCLUDING FILING WITH THE FBCAD ANY APPLICATION OR OTHER FORMS NECESSARY TO QUALIFY FOR OR RECEIVE THE ABATEMENT GRANTED.
- i. OWNER SHALL BE RESPONSIBLE FOR REQUESTING AN ASSIGNMENT OF THIS AGREEMENT IN THE EVENT THE REAL PROPERTY THE SUBJECT OF THIS AGREEMENT IS SOLD, TRANSFERRED OR ASSIGNED. EXCEPT AS OTHERWISE PROVIDED HEREIN, ANY ASSIGNMENT IS NOT EFFECTIVE UNTIL APPROVED IN WRITING BY DISTRICT.
- j. That Owner has, as of the effective date of this Agreement, the financial resources to implement the above representations.

5. Value and Term of Abatement:

- a. This Agreement shall be effective on the date executed by District and shall terminate (unless earlier terminated in accordance with the terms hereof) on December 31, 2023. In no event shall this Agreement extend beyond December 31, 2023.
- b. In each year that this Agreement is in effect, the amount of abatement shall be an amount equal to the percentage indicated below of the taxes assessed upon the Improvements.

- c. Subject to the limitations imposed by law and conditioned upon the representations outlined in Section 4 herein above, there shall be granted and allowed hereunder a property tax abatement for the following years and in the following amounts on the value of the Improvements:

Tax Year	Percentage Abatement
2017	50%
2018	50%
2019	50%
2020	50%
2021	50%
2022	50%
2023	50%

- 1) The abatement granted shall not apply to the value of the Real Property, increases in the value of the Real Property, Ineligible Property, Eligible Property, inventory or supplies.
- 2) All Eligible Property shall be placed and/or installed in accordance with applicable laws, ordinances, rules or regulations in effect at the time such Eligible Property is placed and/or installed.
- 3) The FBCAD's determination of values shall be used to determine the value of the property subject to this Agreement. If Owner protests the FBCAD's valuation of the property, the valuation placed on the property after the protest is resolved under State law shall be used.
- 4) On or before September 1 of each year of this Agreement, Owner shall certify in writing to the District Tax Assessor/Collector Owner's compliance with each term of this Agreement.
- 5) Owner may terminate this Agreement with thirty (30) days written notification to the District. Owner shall not be entitled to a tax abatement for the year in which such termination is made. If taxes for the year of termination have been abated, the Owner shall, with such notice, make payment to the District of any abated taxes for the year of termination with appropriate interest and penalty.

6. Taxability:

During the period that this tax abatement is effective, taxes shall be payable by the Owner as follows:

- a. The value of Real Property, Ineligible Property and Eligible Property shall be fully taxable, including inventory, and
- b. The value of existing improvements, if any, and existing Eligible Property shall be determined in the base year by the FBCAD.

7. Event of Default:

- a. District may declare Owner in default of this Agreement if: (1) Owner fails to comply with any term of this Agreement or (2) Owner allows District ad valorem taxes on any Eligible Property or Ineligible Property, or any property located thereon, to become delinquent, (3) Owner allows

ad valorem taxes on any property owned in the District to become delinquent, even if the delinquent taxes are for a property not subject to an abatement or (4) Owner ceases operations on the Real Property for a continuous period of one hundred eighty (180) days before the expiration of the term of the Abatement without the prior written consent of the District, except that in the event of (i) a temporary shutdown of the facility, with assurance of the resumption of operations, for the purpose of facility modification, expansion, improvement, retooling or similar purpose, (ii) the facility is being actively marketed, the District shall not unreasonably withhold consent to a reasonable extension to such period to permit the sale of the facility to another operator, (iii) the closure of the facility pending settlement of insurance, casualty or condemnation claims or (iv) the closure of the facility due to inadequate or unacceptable raw water supply shall not constitute a vacating of or a cessation of operations on the Real Property under this Section 7(a)(3). Such exceptions are subject to further extension for force majeure as defined in Section 11 herein.

- b. District shall notify Owner of any default in writing specifying the default. Owner shall have sixty (60) days from the date of the notice to cure any default. If Owner fails to cure the default within ninety (90) days from receipt of notice, District may terminate this Agreement by written notice.
- c. If this Agreement is terminated by District, as District's sole and exclusive remedy, Owner agrees that they are liable for and will pay to District within thirty (30) days of the termination of this Agreement:
 - i. The amount of all taxes abated during the term of this Agreement; and
 - ii. Interest on the abated amount at the rate provided for in the Texas Tax Code for delinquent taxes.
 - iii. Penalties on the amount abated in the year of default, at the rate provided for in the Texas Tax Code for delinquent taxes.
- d. District shall have a lien against the Real Property, Ineligible Property and Eligible Property for the taxes and interest owed because of the recapture of taxes under this paragraph during the time period beginning on the date such payment obligation accrues and continuing until the date is paid.
- e. This paragraph is required by Chapter 2264, TEXAS GOVERNMENT CODE and governs over any conflicting provisions of this Agreement. Owner and Lessee are prohibited from knowingly employing undocumented workers as that term is defined in Section 2264.001, TEXAS GOVERNMENT CODE. If Owner or Lessee is convicted of a violation under 8 U.S.C. Section 1324a(f), the conviction shall be considered default of this Agreement, from which no cure provisions shall apply. In such event, District shall provide written notice to Owner and Lessee of the default and this Agreement shall automatically terminate on the 30th day after the date of the notice of default from District to Owner and Lessee. In the event of termination under this paragraph, Owner or Lessee shall repay to District the amount of all property taxes abated under this Agreement, plus interest

on the abated amount at the rate provided for in the TEXAS TAX CODE for delinquent taxes.

8. Administration and Inspection

- a. This Agreement shall be administered on behalf of the District Tax Assessor/Collector or her designee. Owner shall allow employees or other representatives of District who have been designated by the Tax Assessor/Collector to have access to the Real Property (during normal business hours) during the term of the Agreement. All regular inspections shall be made only after two (2) business days prior notice and will be conducted in such a manner as not to unreasonably interfere with the construction or operation of the facility. A representative of Owner may accompany the inspector. District shall cause each of its employees and representatives who conduct such inspections to abide by all of Owner's security, safety and operational rules (as the same may be amended from time to time), copies of which have been made available to District.
- b. Upon completion of the placement and/or installation of the Eligible Property, District shall annually evaluate the Improvements and any Eligible Property to ensure compliance with the terms and provisions of this Agreement and shall report potential defaults to the Owner.
- c. The Chief Appraiser of the FBCAD shall annually determine (1) the taxable value under the terms of this abatement of the Improvements, and any Eligible Property located on the Real Property and (2) the full taxable value without abatement of the Real Property, the Improvements, and any Eligible Property located on the Real Property. The Chief Appraiser shall record both abatement taxable value and full taxable value in the appraisal records. The full taxable value figure listed in the appraisal records shall be used to compute the amount of abated taxes that is terminated in a manner that results in recapture of abated taxes.
- d. Owner shall furnish the Chief Appraiser annually such information as provided for under Chapter 22 of the Texas Tax Code, including payroll records, as may be necessary for the administration of the this Agreement. Such information, including payroll records, shall also be provided annually to the District Tax Assessor/Collector in preparation of its annual evaluation for compliance with the terms and provisions of this Agreement.

9. Assignment

- a. Owner may not assign this Agreement without prior written consent of District. No assignment shall be effective or approved if District has declared a default hereunder which has not been cured or the assignee is delinquent in the payment of any ad valorem taxes owed to District. Approval shall not be unreasonably withheld.
- b. Any and all assignments shall contain the same terms and conditions as set out in this Agreement and shall be granted for the remaining term of the original Agreement only.
- c. Owner shall provide notice to District within ninety (90) days of any sale or assignment of the Real Property subject to this Agreement.

10. Indemnity

It is understood and agreed between the parties that Owner, in performing obligations hereunder, is acting independently, and District assumes no responsibilities or liabilities in connection therewith to third parties. **OWNER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS DISTRICT AND THE FBCAD FROM ANY AND ALL NON-OWNER CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF OWNER'S BREACH OF ITS OBLIGATIONS HEREUNDER EXCEPT THAT THE INDEMNITY SHALL NOT APPLY TO THAT PORTION OF RESPONSIBILITIES AND LIABILITIES RESULTING FROM THE FAULT OR NEGLIGENCE OF DISTRICT OR TAXING UNITS, THEIR RESPECTIVE OFFICERS, AGENTS OR EMPLOYEES. OWNER'S INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEYS FEES AND EXPENSES INCURRED IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, AND CAUSES OF ACTION WHICH ARE NOT DUE TO DISTRICT'S, THE DISTRICT'S OR THEIR REPRESENTATIVES' INTENTIONAL CONDUCT OR NEGLIGENCE. OWNER SHALL BE RESPONSIBLE FOR ALL FEES INCURRED BY DISTRICT IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION SO LONG AS DEFENSE COUNSEL AND COURSES OF ACTION ARE DETERMINED SOLELY BY OWNER. NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT DISTRICT FROM INCURRING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF ACTION AND OWNER SHALL NOT BE RESPONSIBLE FOR ANY SUCH COSTS AND OR FEES SO INCURRED.**

11. Force Majeure:

If by reason of force majeure, Owner is unable to perform any obligation of this Agreement, it shall give notice of the force majeure to District in writing within thirty (30) calendar days after Owner first becomes aware or should have become aware of the occurrence relied upon. By doing so, the obligation of Owner, to the extent and for the period of time affected by the force majeure, shall be suspended. Owner shall endeavor to remove or overcome the inability with all reasonable effort. For purposes of this provision, "force majeure" shall include, but not be limited to acts of God, landslides, lightning, earthquakes, hurricanes, storms, floods, or other natural occurrences; strikes, lockouts, insurrections, riots, wars or other civil or industrial disturbances; orders of any kind of the federal or state government or of any civil or military authority; explosions, fires, breakage or accidents to machinery, lines, or equipment, or the failure or lack of capacity of the wastewater system or water supply system; or any other cause not reasonably within the control of the Owner.

12. Board Approval:

This Agreement is conditioned entirely upon the approval of the Drainage District Board by the affirmative vote of a majority of the members present at a duly scheduled meeting of the Drainage District Board.

13. Compliance with State and Local Regulations:

This Agreement shall not be construed to alter or affect the obligations of Owner to comply with any city ordinance or federal or state law or regulation.

14. Changes in Laws/Vested Rights:

The tax abatement provided in this Agreement is conditioned upon and subject to any changes in the state tax laws during the term of this Agreement, but only the extent required by law to be enforceable and after giving Owner all vesting, non-conforming and/or "grandfather" rights, contained in and applicable to this Agreement and allowed by law.

15. Miscellaneous:

- a. This Agreement and the rights and obligations of each party shall be construed and enforced under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.
- b. In the event of one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- c. The waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach.
- d. Any amendments of this Agreement shall be of no effect unless in writing and signed by both parties hereto.

16. Notices

- a. Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been hand delivered or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and certified, return receipt requested, in a United States Post Office, addressed to District and Owner at the mailing address as hereinafter set out. If mailed, any notice of communication shall be deemed to be received three (3) business days after the date of deposit in the United States Mail.
- b. Unless otherwise provided in this Agreement, all notices shall be delivered to Owner or District at the following addresses:

To the **Tax Assessor/Collector:** The Honorable Patsy Schultz
District Tax Assessor-Collector
1317 Eugene Heimann Circle
Richmond, Texas 77469

To **District:** Fort Bend County Drainage District
401 Jackson
Richmond, Texas 77469
Attention: County Judge

Copy to: Fort Bend County Attorney
401 Jackson
Richmond, Texas 77469

To Owner:

Marquez Enterprises, LLC
9500 Lucas Ranch Road
Rancho Cucamonga, California 91730-5724
Attn: James Marquez

- c. Any party may designate a different address by giving the other parties ten (10) days prior written notice thereof. Failure of Owner to provide District Tax Assessor/Collector thirty (30) days notice of a change of address may result in termination of this Agreement.

17. Entire Agreement

This Agreement contains the entire Agreement among the parties and supercedes all other negotiations and agreements, whether written or oral. This Agreement shall inure to the benefit of and be binding upon the parties hereto and each of their respective successors and assigns. Attached hereto are (a) Exhibit A – City of Rosenberg Ordinance No. designating Reinvestment Zone No. 18, (b) Exhibit B - legal description of Real Property which are made part of this Agreement.

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[execution page follows]

18. Execution

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by District and Owner as of the dates below stated. Owner warrants and represents that the individuals executing this agreement on behalf of Owner have full authority to execute this Agreement and bind Owner to the same.

“DISTRICT:”

FORT BEND COUNTY DRAINAGE DISTRICT

By: _____
Robert E. Hebert, County Judge

ATTEST:

Date: _____

Laura Richard, County Clerk

“OWNER”

MARQUEZ ENTERPRISES, LLC

By: _____

Printed: Name: _____

Title: _____

ATTEST:

Date: _____

Printed Name: _____

Exhibit A
Ordinance Creating City of Rosenberg Reinvestment Zone No. 18

ORDINANCE NO. 2014-43

AN ORDINANCE CREATING CITY OF ROSENBERG REINVESTMENT ZONE NO. 18, SAME BEING A 6.4962 ACRE TRACT OF LAND BEING ALL OF RESERVE "A", DELTEX CENTER REPLAT NO. 1 (PLAT NO. 20130094L F.B.C.P.R.) IN THE HENRY SCOTT LEAGUE, ABSTRACT NO. 83, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS; MAKING CERTAIN FINDINGS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

WHEREAS, City Council has passed and approved Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones Created in the City of Rosenberg, Texas; and,

WHEREAS, pursuant to such Guidelines, the City Council has received an application for creation of a reinvestment zone and the granting of tax abatement; and,

WHEREAS, after the giving of proper notice, as required by law, the City Council held a public hearing where all interested persons were given an opportunity to speak and present evidence for and against the creation of Reinvestment Zone No. 18; and,

WHEREAS, notice of such public hearing was duly given to the presiding officer of the governing body of each taxing unit that includes within its boundaries real property that is to be included in proposed Reinvestment Zone No. 18; and,

WHEREAS, City Council has determined that the improvements sought to be located in proposed Reinvestment Zone No. 18 are feasible and practical and would be a benefit to the land to be included in the Zone and to the City after the expiration of the tax abatement agreement; and,

WHEREAS, the creation of Reinvestment Zone No. 18 will be reasonably likely, as a result of its creation, to contribute to the retention or expansion of primary employment or to attract major investment into the Zone that would benefit to property located therein and that will contribute to the economic development of the City of Rosenberg; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROSENBERG:

Section 1. That the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. That Reinvestment Zone No. 18 is hereby created for the purpose of encouraging economic development through tax abatement. A description of the property which comprises said Reinvestment Zone No. 18 is attached hereto as Exhibit "A" and

made a part hereof for all purposes. Improvements constructed, erected, or placed within Reinvestment Zone No. 18 as created hereby shall be eligible for commercial-industrial tax abatement.

Section 3. That the property which comprises Reinvestment Zone No. 18 is located within the corporate limits of the City of Rosenberg.

Section 4. This designation of Reinvestment Zone No. 18 shall expire five (5) years after the date of adoption of this Ordinance.

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

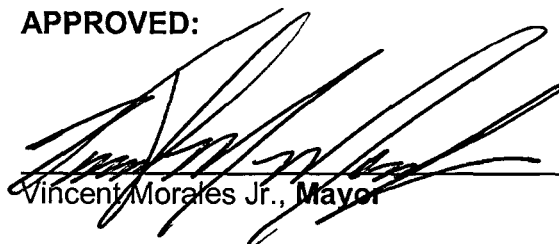
Section 6. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Rosenberg, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED by a vote of 7 "ayes" in favor and 0 "noes" against on this first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on the 4th day of November 2014.

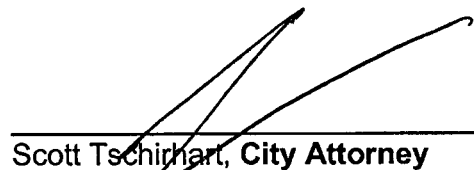
ATTEST:

 Linda Cernosek
Linda Cernosek City Secretary

APPROVED:


Vincent Morales Jr., Mayor

APPROVED AS TO FORM:



Scott Tschirhart, **City Attorney**
Denton Navarro Rocha Bernal Hyde & Zech, P.C.

Exhibit B

Legal Description of Real Property

Legal Description of the Property

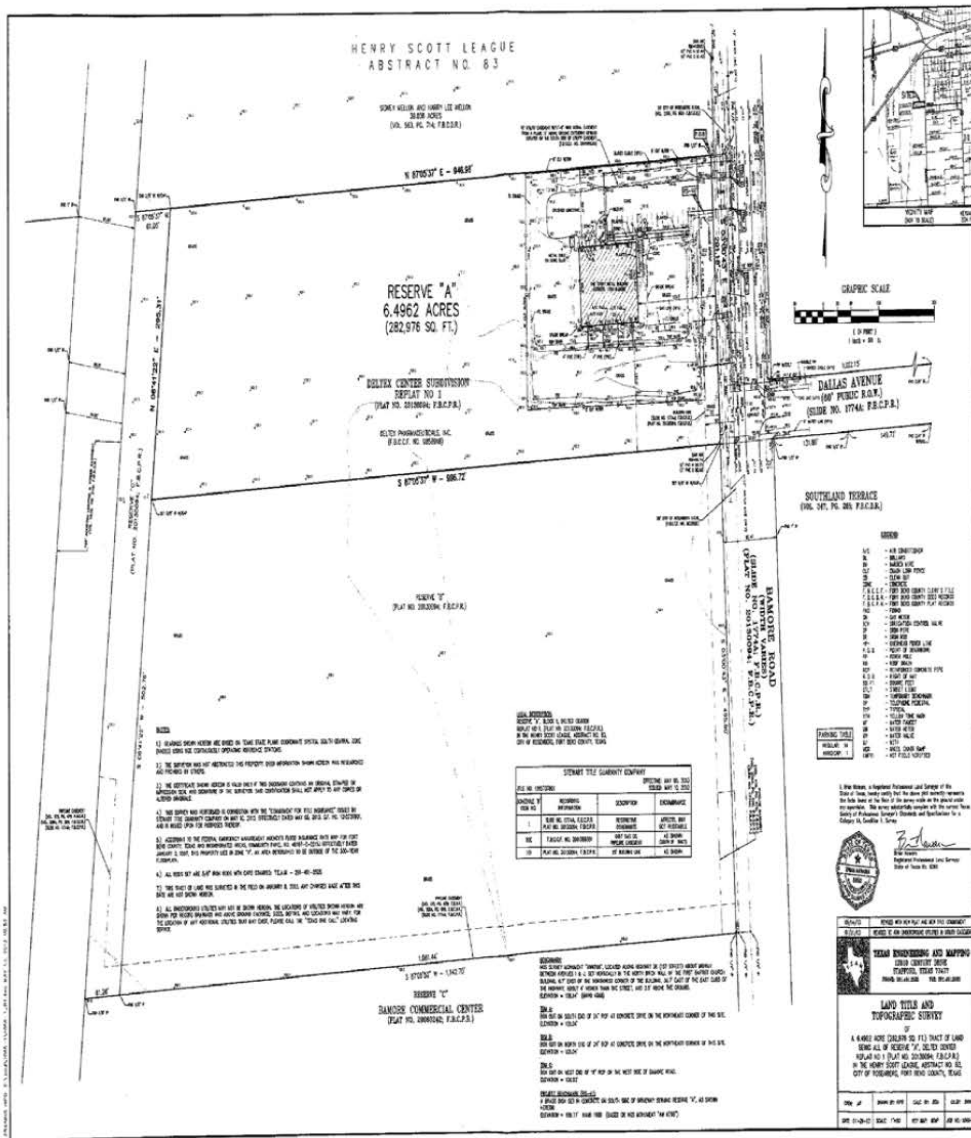


Exhibit C

Description of the Proposed Improvements

Description of the Proposed Improvements

