

**ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT
BETWEEN A-S 64 CR 119-Hwy 79, L.P, A TEXAS LIMITED PARTNERSHIP
AND THE HUTTO ECONOMIC DEVELOPMENT CORPORATION TYPE B
FOR "PROJECT NQ2"**

This Economic Development Performance Agreement (referred to as "**EDPA**" or this "**Agreement**") is hereby made by and between A-S 64 CR 119-Hwy 79, L.P, A Texas limited partnership (referred to as "**NQ2**") and the Hutto Economic Development Corporation, Type B, a Texas nonprofit corporation ("**HEDC**") established pursuant to the applicable sections of Texas Local Government Code Chapters 501-505 and otherwise operated pursuant to the Texas Non-Profit Corporation Act, and relates to Project NQ2, hereinafter described in further detail.

WHEREAS, NQ2 and the City of Hutto (sometimes referred to as the "**City**") previously entered into that certain Economic Development Agreement dated effective December 18, 2006 (as amended from time to time, the "**City EDA**"), the parties to the City EDA have completed their obligations thereunder, and this EDPA supersedes the City EDA and any prior economic development grants between NQ2 and either the City of Hutto or the HEDC; and,

WHEREAS, the Parties agree and the HEDC Board finds HEDC is a Texas Type 4B economic development corporation operating pursuant to the applicable provisions of Texas Local Government Code, as amended and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and,

WHEREAS, the Parties agree and the HEDC Board finds that NQ2 owns and is further developing the approximately 24.5-acre property (the "**Property**") in the City of Hutto, Texas, commonly known as Townwest Commons, a large commercial retail and restaurant center (See Exhibit A legal description and Exhibit B site plan). Plans for the fully developed Property are intended to include approximately 200,000 square feet of improved floor space; and,

WHEREAS, the Parties agree and the HEDC Board finds that NQ2's further development of the Property is planned to include additional infrastructure and improvements, which shall include large scale regional and national retailers in entertainment, restaurant and other retail and related users commonly found in shopping centers (the "**Project NQ2**" or "**Project**"), like, for example, Stone Hill Town Center in Pflugerville, Texas; and,

WHEREAS, once completed, Project NQ2 shall include the following initial users: (a) an Academy Sports & Outdoors sporting goods retailer with at least 50,000 square feet of space carrying a variety of sporting goods and outdoor products, (b) a regional or national table service or counter service restaurant (without a drive-thru) occupying at least 5,000 square feet that is projected to generate approximately Three Million and 00/100 Dollars (\$3,000,000.00) in annual sales revenue, such as Chuy's Tex-Mex restaurant, and (c) a regional or national retailer occupying at least 8,000 square feet that is projected to generate approximately Four Million and 00/100 Dollars (\$4,000,000) in annual sales

revenue, such as Petco. As used herein, "regional" means a chain with at least ten (10) locations in the state of Texas and "national" means a chain commonly found in retail shopping centers with at least (20) locations, collectively, in at least two states; and,

WHEREAS, the Parties agree and the HEDC Board finds that Project NQ2 is projected to create approximately 200 direct and indirect jobs in the City of Hutto, Texas; and,

WHEREAS, the Parties agree and the HEDC Board finds that NQ2's projections for the cost of the further development and necessary improvements is approximately \$15,000,000; authorizing Project NQ2 as herein described and carried out as an "Authorized Project", as that term is defined in Texas Local Government Code Chapter 501 and 505; and,

WHEREAS, the Parties agree and the HEDC Board finds that the payment of the incentives described herein are paid as permissible "Project Costs" as that term is defined by Texas Local Government Code Chapters 501 & 505, as amended; and,

WHEREAS, the Parties agree and the HEDC Board finds that at least one public hearing was conducted on the proposition of this Project prior to spending funds to undertake this project in accordance with Texas Local Government Code §505.159; and,

WHEREAS, the Parties agree and the HEDC Board finds that the time to file petition requesting that an election be held before the project is undertaken in accordance with Texas Local Government Code §505.160 expired or will expire before funds are expended on this project; and,

WHEREAS, the Parties agree and the HEDC Board finds that once completed, NQ2 anticipates that the Project will allow for the employment on average of approximately 40 new employees (an employee who performs a regular work schedule of at least thirty-five (35) hours per week) within the city limits of the City of Hutto, Texas, subject to periods of closure for purposes of repairs, alterations, or renovations or due to government issued "shutdown" orders, pandemics, or the like; and,

WHEREAS, the Parties agree and the HEDC Board finds that this EDPA benefits HEDC in accordance with Texas Local Government Code §501.156; and,

WHEREAS, the Parties agree and the HEDC Board finds that the terms, conditions, and obligations made by HEDC and accepted by NQ2 are conditional upon the authority granted by Texas Local Government Code § 501.073(a) requiring the City Council of the City of Hutto, Texas, to approve all programs and expenditures of the HEDC, and accordingly this EDPA is not effective until the City Council has approved this project in accordance with Texas law.

NOW, THEREFORE, for and in consideration of the EDPA, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the HEDC and NQ2 agree as follows:

SECTION 1 – RECITALS INCORPORATED

The foregoing recitals are hereby incorporated into the body of this EDPA and shall be considered mutual covenants that are part of and incorporated within the terms and conditions that are relied upon and bind the parties.

SECTION 2 – EFFECTIVE DATE AND TERM

- (A) This EDPA shall become effective on the date of execution by the last party to execute this Agreement (the Effective Date”) and shall terminate fifteen (15) years thereafter (the “Term”), unless otherwise terminated in due course.
- (B) This EDPA shall be conditioned upon:
 - 1) Approval of this EDPA by the HEDC Board and the City Council of the City of Hutto, Texas; and
 - 2) Approval of this EDPA by NQ2; and,
 - 3) Compliance with all other legal requirements in accordance with Texas law.

SECTION 3 – PERFORMANCE REQUIREMENTS

NQ2 covenants and agrees that while this EDPA is in effect, it shall be obligated to comply with all the terms and conditions of the EDPA and in addition, shall perform the following obligations:

- (A) NQ2 shall develop the Property by completing construction of a minimum of 50,000 square feet of improved floor space for initial occupancy by Academy Sports & Outdoors within three (3) years from the Effective Date of this Agreement (subject to force majeure), which improvements shall be considered completed based on the date the certificate of occupancy for a minimum of 50,000 square feet of improved floor space is issued by the City of Hutto, Texas.
- (B) NQ2 shall construct within six (6) years of the Effective Date all on-site and off-site suitable infrastructure necessary for the Project, such as streets and roads, water and sewer utilities, drainage, site improvements, and related improvements.
- (C) NQ2 shall make within six (6) years of the Effective Date a total capital investment of at least \$15,000,000 achieved through the expenditure of costs related to vertical construction and infrastructure development of Project NQ2, as provided by Section 3, parts (A) and (B).
- (D) NQ2 shall request that its contractors and subcontractors use reasonable efforts to purchase materials associated with Project NQ2 that may qualify as a Taxable Item, hereinafter defined, from a supplier or vendor having a sales tax location situated within the City's corporate limits but shall not be required to incur above market prices in connection therewith.

- (E) Project NQ2 shall comply with all local, state, and federal laws and environmental regulations.

SECTION 4 - INCENTIVES

So long as NQ2 is not in material breach of this EDPA and such failure does not continue for more than 90 days after receipt of written notice from HEDC, then the HEDC shall grant NQ2, subject to the conditions identified above, the following:

4.1. Definitions:

- (A) **"Sales Tax Incentive"** means the HEDC's qualifying incentive payment to NQ2 received from the HEDC for Sales Tax Collections occurring during the Incentive Period. The unencumbered city sales and use tax for this project is set at 1%. The unencumbered economic development corporation sales and use tax for this project is set at .5%.
- (B) **"Economic Development Grant Funds"** means any qualifying payment of public monies NQ2 receives from the HEDC in the form of grant incentive payments in conjunction with NQ2's development and construction of the Project NQ2 improvements.
- (C) **"Incentive Commencement Date"** or **"ICD"** means the date that NQ2 satisfies the obligations in Section 3, parts (A) and (B).
- (D) **"Incentive Period"** means the twelve (12) year period beginning on the Incentive Commencement Date and ending twelve (12) years later.
- (E) **"Sales and Use Tax"** means the unencumbered city sales and use tax for this project (1%) and the unencumbered economic development sales and use tax for this project is (.5%).
- (F) **Mixed Beverage Sales Tax and Mixed Beverage Gross Receipts Tax** means that tax revenue paid to the City of Hutto as provided by Texas Tax Code Section 183.051.
- (G) **"Sales Tax Collections"** means the amount of Sales and Use Tax, Mixed Beverage Sales Tax and Mixed Beverage Gross Receipts Tax that the HEDC actually recovers from the City and that the City had previously received from the Texas Comptroller generated by the Project for each year during the Incentive Period. The Mixed Beverage Sales Tax and Mixed Beverage Gross Receipts Tax shall be calculated from Texas Comptroller Form 67-103 and Form 67-103 (as amended) filed by end users, annually during the Incentive Period. Any taxes which cannot be verified as directly generated from the Project are excluded.

(H) **"Taxable Item"** shall have the same meaning assigned by Section 151.010 and 151.0101 of the Texas Tax Code, as may be amended.

(I) **"Texas Comptroller"** means the comptroller of public accounts of the State of Texas whose duties include the collection and disbursement of sales and use taxes in accordance with Chapter 403 of the Texas Government Code.

4.2 Economic Development Grant Funds:

(A) For each year during the Incentive Period, HEDC agrees to provide NQ2 with Economic Development Grant Funds as provided in the below schedule.

Incentive Payment Number	Eligible EDGF Available	EDGF Amount	EDGF Payment Milestone
1	\$4,000,000	\$350,000	Incentive Commencement Date (building 1 CO – 50,000 SF - Academy)
2	\$3,650,000	\$350,000	1 year following the ICD, so long as a certificate of occupancy for a minimum of 5,000 square feet of improvements is issued by the City of Hutto (building 2 CO)
3	\$3,300,000	\$350,000	2 years following the ICD, so long as annual sales revenue generated from the Property is equal to or greater than \$20,000,000
4	\$2,950,000	\$350,000	3 years following the ICD, so long as a certificate of occupancy for a minimum of 8,000 square feet of improvements is issued by the City of Hutto (building 3 CO)
5	\$2,600,000	\$350,000	4 years following the ICD, so long as annual sales revenue generated from the Property is equal to or greater than \$30,000,000
6	\$2,250,000	\$350,000	5 years following the ICD, so long as annual sales revenue generated from the Property is equal to or greater than \$38,000,000
7	\$1,900,000	\$350,000	6 years following the ICD, so long as annual sales revenue generated from the Property is equal to or greater than \$40,000,000
8	\$1,550,000	\$350,000	7 years following the ICD, so long as annual sales revenue generated from

			the Property is equal to or greater than \$42,000,000
9	\$1,200,000	\$300,000	8 years following the ICD, so long as annual sales revenue generated from the Property is equal to or greater than \$42,000,000
10	\$900,000	\$300,000	9 years following the ICD, so long as annual sales revenue generated from the Property is equal to or greater than \$42,000,000
11	\$600,000	\$300,000	10 years following the ICD, so long as annual sales revenue generated from the Property is equal to or greater than \$42,000,000
12	\$300,000	\$300,000	11 years following the ICD, so long as annual sales revenue generated from the Property is equal to or greater than \$42,000,000

Except with respect to any delayed payments, if any, that may be paid pursuant to Section 5.1(A), NQ2 shall only be eligible for one grant payment per year during the Incentive Period according to the schedule outlined in this Section 4.2(A) above.

4.3 Conditional Sales Tax Incentives:

(A) For each year during the Incentive Period, HEDC agrees to provide NQ2 with an annual Sales Tax Incentive that reimburses NQ2 a percentage of the Sales Tax Collections generated by the Project, as shown in the below table:

Incentive Period Year	Percentage of Sales Tax Collections allocation to NQ2	Target annual sales revenue
1	100%	\$20,000,000
2	100%	\$20,000,000
3	90%	\$30,000,000
4	90%	\$30,000,000
5	80%	\$38,000,000
6	80%	\$40,000,000
7	80%	\$42,000,000

8	75%	\$42,000,000
9	65%	\$42,000,000
10	60%	\$42,000,000
11	50%	\$42,000,000
12	50%	\$42,000,000

The incentive will continue until the earlier of: (a) expiration of the Incentive Period or (b) until the Sales Tax Incentive issued to NQ2 equals FIVE MILLION AND NO/100 (\$5,000,000).

- 4.4 The Sales Tax Collections shall be computed from the amount the HEDC actually receives from the City, which receives the funds from the Texas Comptroller, from sales and use taxes, Mixed Beverage Sales Taxes, and Mixed Beverage Gross Receipts Tax paid to the Texas Comptroller by businesses within the Property (excluding EVO Entertainment, to the extent EVO Entertainment is operating within the Property) during the Incentive Period.
- 4.5 To identify the amount of Sales and Use Tax, Mixed Beverage Tax and Mixed Beverage Gross Receipts Tax paid to the Texas Comptroller annually occurring during the Incentive Period, HEDC shall gather the Sales Tax Collections information from the Texas Comptroller through the use of the ZakTax Program.
- 4.6 The HEDC shall pay any Sales Tax Incentive earned under the Agreement per the schedule above on a semi-annual basis (each March 1 and September 1) during the Incentive Period.
- 4.7 Contemporaneous with this Agreement, the HEDC and the City of Hutto entered into a Chapter 380 Funding Agreement for the purpose of funding the City's portion of Sales Tax Collections as provided by law. The HEDC represents and warrants that the HEDC will not enter into any modification of the Funding Agreement which would impact the obligation to fund this Agreement.

SECTION 5 – INCENTIVE LIMITATIONS AND REPAYMENT

5.1 Incentive Limitations.

(A) In the event NQ2 does not meet a payment milestone in Section 4.2 above, then:

- (1) if the payment milestone relates to a certificate of occupancy, NQ2 shall not be entitled to the payment until such later date when the certificate of occupancy is actually issued; and
- (2) if the payment milestone relates to annual sales revenue, then NQ2 shall be entitled to a prorated payment based on the percentage of the annual sales

revenue actually met. NQ2 shall be entitled to the corresponding remaining payment at such future time as the actual annual sales revenue exceeds the annual sales revenue milestone by the corresponding unmet amount.

5.2 Repayment.

(A) Pursuant to Texas Local Government Code Section 501.158, this EDPA must contain terms under which repayment must be made if NQ2 does not meet the performance requirements (Section 3, above). Therefore, if the items listed below in this Section 5.2 occur, then HEDC has no obligation to advance, disburse or pay any financial assistance to NQ2. Further, if any of the items listed below occur and such failure continues for more than 90 days after receipt of written notice from HEDC, NQ2 shall reimburse HEDC total amount of all past advances, disbursements or any other financial assistance made to NQ2 by HEDC, without interest, within 30 days of written demand, paid in lump sum or in equal installments for a period not to exceed a length of time equal to what would have been the Term:

- (1) NQ2 becomes insolvent, files a petition in bankruptcy (voluntarily or, if filed involuntarily, such petition is not dismissed within 60 days after being filed) or any similar proceedings, or is adjudged bankrupt; or
- (2) NQ2 fails to materially perform any one or all of the obligations, terms or conditions required under this EDPA, or
- (3) NQ2 fails to meet any time requirement under this EDPA.

SECTION 6 – ADDITIONAL PROVISIONS

Representations. HEDC hereby represents and warrants to NQ2 that this EDPA is within its authority and that HEDC has been duly authorized and empowered to execute this EDPA. NQ2 hereby represents and warrants to HEDC that this EDPA is within its authority and that NQ2 has been duly authorized and empowered to enter this EDPA. NQ2 acknowledges that the EDPA may be terminated, and payment may be withheld if this certification is inaccurate.

Mutual Assistance. HEDC and NQ2 will each do all things reasonably necessary and appropriate to carry out the terms and provisions of this EDPA.

Successor and Assigns. This EDPA shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties. Neither party hereto may assign this EDPA, in whole or in part, without the prior written consent of the other party hereto, such consent not to be unreasonably withheld, conditioned or delayed. No assignment may occur which divorces rights from obligations of a party. No partial assignments may occur.

Payment of Debt or Delinquency to the Local or State Government. NQ2 agrees that any payments owing to NQ2 under any agreement with the HEDC may be applied directly toward any past due debt or delinquency that NQ2 owes the State of Texas, Williamson County, the City of Hutto or any other political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full. Notwithstanding anything in the foregoing to the contrary, any amounts which NQ2 has disputed or protested shall not be considered past due debts or delinquencies.

Severability. If any portion of this EDPA is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this EDPA shall be given the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this EDPA shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision.

Survival. Any portion of the Agreement necessary to enforce the repayment of an incentive shall survive termination of the Agreement for the limited purpose of enforcement of the Agreement to recover any incentive provided by HEDC, in accordance with Texas law.

Governing Law. This EDPA shall be governed, construed, applied, and enforced in accordance with the laws of the State of Texas, and shall be performable with venue in Williamson County, Texas.

Third Party Beneficiaries. This EDPA is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third-party beneficiary.

Amendments. This EDPA may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

Time. Time is of the essence in the performance of this EDPA.

Attorneys' Fees. Should any party employ attorneys to enforce any of the provisions hereof, the party losing in any final judgment agrees to pay the prevailing party all reasonable costs, charges and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.

Notice and Payments. All notices hereunder must be in writing and shall be deemed delivered on the day personally delivered on the third day from the day sent by registered mail or certified mail, return receipt requested with the U.S. Postal Service, or on the day after the day sent by national overnight courier, to the parties at the following addresses, or at such other addresses as shall be specified by notice.

If notice to the HEDC:

Hutto Economic Development Corporation
Attention: Executive Director
500 W. Live Oak Street
Hutto Texas 78634

Copied to: George E. Hyde, General Counsel
2806 Flintrock Trace, Suite A104
Austin, Texas 78738

If notice to NQ2:

A-S 64 CR 119-Hwy 79, L.P.
c/o NewQuest Properties
8827 W. Sam Houston Pkwy N. Ste. 200
Houston, Texas 77040
Attn: Legal Department

Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this EDPA and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this EDPA or any exhibits or amendments hereto.

Counterpart Execution. This EDPA may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute one EDPA.

Performance. Performance by HEDC under the EDPA is dependent upon the approval of the City Council of the City of Hutto (the "**Council**"). If the Council fails to approve this EDPA, then HEDC shall issue written notice to NQ2 and HEDC may terminate the EDPA without further duty or obligation hereunder. NQ2 acknowledges that the approval of this document is beyond the control of HEDC.

Undocumented Workers. Pursuant to Chapter 2264 of the Texas Government Code, NQ2 certifies that it will not knowingly employ any undocumented workers. NQ2 further agrees that if NQ2, or a branch, division, or department of NQ2, is convicted of a violation under 8 U.S.C. Section 1324a(f), NQ2 shall repay the amount of the public subsidy with interest, equal to the then-current prime interest rate per annum as published by JPMorgan Chase (but in no event to exceed ten percent (10%) or the maximum interest permitted by applicable law), accruing from the date of the first grant payment under this EDPA, not later than the 120th day after the date the public agency, state or local taxing jurisdiction, or economic development corporation notifies the business of the violation.

[Signature pages follow.]

DATED this 20th day of March, 2023.

A-S 64 CR 119-Hwy 79, L.P.,
a Texas limited partnership

By: A-S 64, L.C.,
a Texas limited liability company,
its general partner

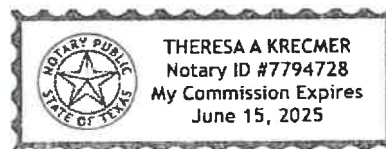
By:
Name:
Title:

Jay K. Sears
Manager

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 20th day of March, 2023, by Jay K. Sears, Manager of A-S 64, L.C., a Texas limited liability company, general partner of A-S 64 CR 119-Hwy 79, L.P., a Texas limited partnership on behalf of said limited liability company and limited partnership.

Theresa A. Krecmer
Notary Public in and for the State of Texas



HUTTO ECONOMIC DEVELOPMENT CORPORATION
A Texas Economic Development Corporation

By:


Mike Arismendez
Board Chair

STATE OF TEXAS,
COUNTY OF TRAVIS.

BEFORE ME, the undersigned authority, on this day personally appeared Mike Arismendez, Chair of the Hutto Economic Development Corporation Type B, a Section 4B corporation incorporated pursuant to Texas Local Government Code Chapters 501-505, known to me to be the person whose name is subscribed to the foregoing instrument, and swore and acknowledged to me that he executed the same for the purpose and consideration therein expressed, and in the capacity therein stated and as the act and deed of the Hutto Economic Development Corporation, Type B.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 30th day of March, 2023.

ATTEST:


Erin Clancy
Secretary
Hutto Economic Development Corporation

Approved by majority vote of the City of Hutto, Texas City Council on the 23rd day of March, 2023.

By:


Mike Snyder
Mayor
City of Hutto, Texas

ATTEST:



Angela Lewis
City Secretary
City of Hutto, Texas

EXHIBIT A

Legal Description of the Property

32.2666 acres of land in the Nathaniel Edwards Survey, Abstract No. 225 City of Hutto, Williamson County, Texas

A FIELD NOTE DESCRIPTION of 32.2666 acres (1,405,532 square feet) of land in the Nathaniel Edwards Survey, Abstract Number 225, City of Hutto, Williamson County, Texas; said 32.2666 acre tract of land being all of Lot 1 and Lot 2, Townwest Commons, Section 5, according to the map or plat recorded in Cabinet EE, Slides 130 and 131 of the Williamson County Plat Records, all of a 1.303 acre tract of land, all of a 11.460 acre tract of land, all of a 3.569 acre tract of land and all of a 10.840 acre tract of land conveyed to A-S 64 CR 119-Hwy 79, L.P., as recorded in Williamson County Clerk's File Nos. 2003057682, 2004057867, 2007026600, 2007026602, 2007026603 and 2007069943; said tract being more particularly described by metes-and-bounds as follows with the bearings being based on the Texas State Plane Coordinate System, Central Zone using National Geodetic Survey Continuously Operating Reference Stations:

BEGINNING, at a 1/2-inch iron rod with cap found at the northeast end of a cutback at the intersection of the west right-of-way line of Ed Schmidt Boulevard (County Road 119, width varies) with the north right-of-way line of U.S. Highway 79 (width varies) for a southeast corner of said Lot 1 and for a southeast corner of this tract;

THENCE, South 43° 45' 34" West - 50.01 feet (called South 43° 49' 58" West - 49.99 feet) with said cutback and with the southeast line of said Lot 1 to a 1/2-inch iron rod with cap found at the southwest end of said cutback for a southeast corner of said Lot 1 and for a southeast corner of this tract;

THENCE, South 77° 20' 34" West - 267.66 feet (called South 77° 20' 32" West - 267.45 feet) with the north right-of-way line of said U.S. Highway 79 and with the south line of said Lot 1 to a 1/2-inch iron rod with cap found for the southeast corner of Lot F, Townwest Commons Subdivision, Section One, according to the map or plat recorded in Cabinet W, Slide 148 of the Williamson County Plat Records, conveyed to Sonic Development of Central Texas, as recorded in Williamson County Clerk's File No. 2002068779, for the southwest corner of said Lot 1 and for a southwest corner of this tract;

THENCE, North 12° 43' 17" West - 250.25 feet (called North 12° 43' 45" West - 250.24 feet) with the east line of said Lot F and with the west line of said Lot 1 to a pk nail found in a south line of said Lot 2 for the northeast corner of said Lot F, for the northwest corner of said Lot 1 and for an interior corner of this tract;

THENCE, South 77° 19' 29" West - 189.99 feet (called South 77° 18' 57" West - 190.10 feet) with the north line of said Lot F and with a south line of said Lot 2 to cotton spindle found for the northwest corner of said Lot F for an interior corner of said Lot 2 and for an interior corner of this tract;

THENCE, South 12° 41' 32" East – 250.18 feet (called South 12° 43' 45" East – 250.15 feet) with the west line of said Lot F and with an east line of said Lot 2 to a pk nail found in the north right-of-way line of said U.S. Highway 79 for the southwest corner of said Lot F, for a southeast corner of said Lot 2 and for a southeast corner of this tract;

THENCE, South 77° 18' 33" West – 44.99 feet (called South 77° 20' 32" West – 44.99 feet) with the most southerly line of said Lot 2 and with the north right-of-way line of said U.S. Highway 79 to a pk nail found for the southeast corner of Lot D of said Townwest Commons Subdivision, Section One, for the southwest corner of said Lot 2 and for a southwest corner of this tract;.

THENCE, North 12° 41' 27" West – 250.14 feet (called North 12° 43' 45" West – 250.13 feet) with the east line of said Lot D and with a west line of said Lot 2 to a hole punched in concrete found for the northeast corner of said Lot D, for a southeast corner of said 11.460 acre tract and for an interior corner of this tract;

THENCE, South 77° 19' 57" West – 190.04 feet (called South 77° 18' 57" West – 190.10 feet) with the north line of said Lot D and with a south line of said 11.460 acre tract to a 1/2-inch iron rod found for the northwest corner of said Lot D, for an interior corner of said 11.460 acre tract and for an interior corner of this tract;

THENCE, South 12° 35' 18" East – 209.83 feet (called South 12° 33' 58" East – 209.86 feet) with the west line of said Lot D and with an east line of said 11.460 acre tract to a 3/8-inch iron rod (spinner) found in the north right-of-way line of said U.S. Highway 79 for the southwest corner of said Lot D, for the most southerly southeast corner of said 11.460 acre tract and for a southeast corner of this tract;

THENCE, South 77° 23' 35" West – 339.91 feet (called South 77° 23' 29" West – 339.91 feet) with the north right-of-way line of said U.S. Highway 79 and with the most southerly line of said 11.460 acre tract to a 5/8-inch iron rod with "TXDOT" cap found for the southeast corner of said 1.303 acre tract, for the most southerly southwest corner of said 11.460 acre tract and for an angle point of this tract;

THENCE, South 77° 16' 21" West – 279.33 feet (called South 77° 17' 56" West – 279.40 feet) with the north right-of-way line of said U.S. Highway 79 and with the south line of said 1.303 acre tract to a 5/8-inch iron rod with cap stamped "T.E.A.M." set at the southeast end of a cutback at the intersection of the north right-of-way line of said U.S. Highway 79 with the east right-of-way line of County Road 165 (width varies) for a southwest corner of said 1.303 acre tract and for a southwest corner of this tract;

THENCE, North 47° 13' 58" West – 36.52 feet (called North 47° 13' 06" West – 36.54 feet) with said cutback and with the southwest line of said 1.303 acre tract to a 5/8-inch iron rod with cap stamped "T.E.A.M." set at the northwest end of said cutback for a southwest corner of said 1.303 acre tract and for a southwest corner of this tract;

EXHIBIT A

THENCE, North 07° 35' 39" East (called North 07° 36' 44" East) with the east right-of-way line of said County Road 165, at a distance of 191.93 feet (called 191.93 feet) pass a 1/2-inch iron rod with cap found for the northwest corner of said 1.303 acre tract and for the most westerly southwest corner of said 11.460 acre tract and continuing for a total distance of 727.08 feet (called 727.08 feet) to an angle point of this tract;

THENCE, North 07° 32' 19" East (called North 07° 32' 07" East) with the east right-of-way line of said County Road 165, at a distance of 151.27 feet (called 151.27 feet) pass the northwest corner of said 11.460 acre tract and the southwest corner of said 10.840 acre tract and continuing for a total distance of 761.78 feet (called 761.74 feet) to a 5/8-inch iron rod with cap stamped "T.E.A.M." set for the northwest corner of said 10.840 acre tract, for the southwest corner of said 3.569 acre tract and for an angle point of this tract;

THENCE, North 07° 40' 03" East – 199.99 feet (called North 07° 40' 52" East – 199.99 feet) with the east right-of-way line of said County Road 165 and with the west line of said 3.569 acre tract to a 1/2-inch iron rod with cap stamped "Chaparral" found for the southwest corner of Emory Farms, Section One, according to the map or plat recorded in Cabinet CC, Slide 134 of the Williamson County Plat Records, for the northwest corner of said 3.569 acre tract and for the northwest corner of this tract;

THENCE, South 82° 22' 41" East – 768.96 feet (called South 82° 22' 15" East – 769.08 feet) with the south line of said Emory Farms, Section One and with the north line of said 3.569 acre tract to a 1/2-inch iron rod with cap stamped "Vara Land Surveying" found for an angle point of this tract;

THENCE, South 82° 21' 01" East – 6.87 feet (called South 82° 26' 09" East – 7.07 feet) with the south line of said Emory Farms, Section One and with the north line of said 3.569 acre tract to a 5/8-inch iron rod with cap stamped "T.E.A.M." set for the southeast corner of said Emory Farms, Section One, for the southwest corner of Townwest Commons, Section Three, according to the map or plat recorded in Cabinet CC, Slide 157 of the Williamson County Plat Records, for the northwest corner of Townwest Commons, Section Four, according to the map or plat recorded in Cabinet CC, Slide 292 of the Williamson County Plat Records, for the northeast corner of said 3.569 acre tract and for the most northerly northeast corner of this tract;

THENCE, South 06° 56' 06" West (called South 06° 57' 50" West) with the west line of said Townwest Commons, Section Four, at a distance of 200.00 feet (called 200.01 feet) pass a pk nail found for the southeast corner of said 3.569 acre tract and for the northeast corner of said 10.840 acre tract and continuing for a total distance of 797.83 feet (called 797.72 feet) to a 1/2-inch iron rod with cap found for the southwest corner of said Townwest Commons, Section Four, for the southeast corner of said 10.840 acre tract, for the northeast corner of said 11.460 acre tract, for the northwest corner of said Lot 2 and for an interior corner of this tract;

THENCE, South 83° 18' 56" East – 275.25 feet (called South 83° 18' 20" East – 275.28 feet) with the south line of said Townwest Commons, Section Four and with the north line of said Lot 2 to a pk nail found for an angle point of this tract;

EXHIBIT A

THENCE, South 83° 04' 26" East – 58.10 feet (called South 83° 04' 12" East – 58.14 feet) with the south line of said Townwest Commons, Section Four and with the north line of said Lot 2 to a cotton spindle found for the northwest corner of Lot 3 of said Townwest Commons, Section 5, for the northeast corner of said Lot 2 and for a northeast corner of this tract;

THENCE, South 06° 50' 11" West – 90.55 feet (called South 06° 49' 57" West – 90.38 feet) with a west line of said Lot 3 and with an east line of said Lot 2 to a cotton spindle found for the beginning of a non-tangent curve to the left;

THENCE, in a southerly direction with a west line of said Lot 3, with an east line of said Lot 2 and with said non-tangent curve to the left having a radius of 67.50 feet, a central angle of 19° 39' 11" (called 19° 39' 29"), a length of 23.15 feet (called 23.16 feet) and a chord bearing South 02° 54' 48" East – 23.04 feet (called South 02° 59' 47" East – 23.05 feet) to a broken pk nail found for the end of said non-tangent curve;

THENCE, South 12° 47' 47" East – 165.25 feet (called South 12° 49' 32" East – 165.42 feet) with a west line of said Lot 3 and with an east line of said Lot 2 to a pk nail found in the north line of said Lot 1 for the southwest corner of said Lot 3, for the southeast corner of said Lot 2 and for an interior corner of this tract;

THENCE, North 77° 22' 07" East – 92.30 feet (called North 77° 21' 02" East – 92.27 feet) with the north line of said Lot 1 and with the south line of said Lot 3 to a pk nail found for an angle point of this tract;

THENCE, South 67° 03' 11" East - 44.50 feet (called South 67° 03' 18" East - 44.40 feet) with the southwest line of said Lot 3 and with the northeast line of said Lot 1 to a pk nail found in the west right-of-way line of said Ed Schmidt Boulevard for the southeast corner of said Lot 3, for the northeast corner of said Lot 1 and for the most easterly northeast corner of this tract;

THENCE, in a southerly direction with the west right-of-way line of said Ed Schmidt Boulevard, with the east line of said Lot 1 and with a non-tangent curve to the left having a radius of 480.00 feet, a central angle of 09° 17' 53" (called 09° 17' 19"), a length of 77.90 feet (called 77.82 feet) and a chord bearing South 12° 02' 22" West - 77.81 feet (called South 12° 06' 08" West - 77.73 feet) to a pk nail found for the end of said non-tangent curve;

THENCE, South 07° 27' 29" West - 134.31 feet (called South 07° 27' 31" West - 134.45 feet) with the west right-of-way line of said Ed Schmidt Boulevard and with the east line of said Lot 1 to the POINT OF BEGINNING and containing 32.2666 acres (1,405,532 square feet) of land.

EXHIBIT A

SAVE AND EXCEPT THE FOLLOWING 3 TRACTS

Tract 1:

A FIELD NOTE DESCRIPTION of 4.0538 acres (176,582 square feet) of land in the Nathaniel Edwards Survey, Abstract Number 225, City of Hutto, Williamson County, Texas; said 4.0538 acre tract of land being out of a 10.840 acre tract of land conveyed to A-S 64 CR 119-Hwy 79, L.P., as recorded in Williamson County Clerk's File No. 2007069943 and being more particularly described by metes-and-bounds as follows with the bearings being based on the Texas State Plane Coordinate System, Central Zone using National Geodetic Survey Continuously Operating Reference Stations:

COMMENCING FOR REFERENCE, at a 5/8-inch iron rod with cap stamped "T.E.A.M." set for the southeast corner of Emory Farms, Section One, according to the map or plat recorded in Cabinet CC, Slide 134 of the Williamson County Plat Records, for the southwest corner of Townwest Commons, Section Three, according to the map or plat recorded in Cabinet CC, Slide 157 of the Williamson County Plat Records, for the northwest corner of Townwest Commons, Section Four, according to the map or plat recorded in Cabinet CC, Slide 292 of the Williamson County Plat Records and for the northeast corner of a 3.569 acre tract of land conveyed to A-S 64 CR 119-Hwy 79, L.P., as recorded in Williamson County Clerk's File No. 2007026603; from which a 1/2-inch iron rod with cap stamped "Vara Land Surveying" found bears North 82° 21' 01" West – 6.87 feet (called South 82° 26' 09" East – 7.07 feet);

THENCE, South 06° 56' 06" West – 200.00 feet (called South 06° 57' 50" West – 200.01 feet) with the west line of said Townwest Commons, Section Four to a pk nail found for the southeast corner of said 3.569 acre tract and for the northeast corner of said 10.840 acre tract;

THENCE, North 82° 22' 41" West – 406.51 feet (called South 82° 22' 16" East) with the south line of said 3.569 acre tract and with the north line of said 10.840 acre tract to a 5/8-inch iron rod with cap stamped "T.E.A.M." set for the northeast corner and POINT OF BEGINNING of this tract;

THENCE, South 07° 32' 19" West – 474.58 feet to a 5/8-inch iron rod with cap stamped "T.E.A.M." set for the southeast corner of this tract;

THENCE, North 82° 27' 41" West – 371.87 feet to a 5/8-inch iron rod with cap stamped "T.E.A.M." set in the east right-of-way line of County Road 165 (width varies) and in the west line of said 10.840 acre tract for the southwest corner of this tract; from which the southwest corner of said 10.840 acre tract bears South 07° 32' 19" West – 135.39 feet (called North 07° 32' 07" East);

THENCE, North 07° 32' 19" East – 475.12 feet (called North 07° 32' 07" East) with the east right-of-way line of said County Road 165 and with the west line of said 10.840 acre tract to a 5/8-inch iron rod with cap stamped "T.E.A.M." set for the northwest corner of said 10.840 acre tract, for the southwest corner of said 3.569 acre tract and for the northwest corner of this tract;

THENCE, South 82° 22' 41" East – 371.87 feet (called South 82° 22' 16" East) with the south line of said 3.569 acre tract and with the north line of said 10.840 acre tract to the POINT OF BEGINNING and containing 4.0538 acres (176,582 square feet) of land.

Tract 2:

A DESCRIPTION OF 3.569 ACRES OF LAND IN THE NATHANIEL EDWARDS SURVEY, ABSTRACT NO. 225 IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A 21.207 ACRE TRACT DESCRIBED IN A CORRECTION SPECIAL WARRANTY DEED TO CBR CR 119, L.P. DATED MAY 4, 2004, OF RECORD IN DOCUMENT NO. 2004038679, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 3.569 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with PBSJ cap found in the east right-of-way line of County Road 165 (right-of-way width varies) for the southwest corner of the said 21.207 acre tract, being also the northwest corner of an 8.793 acre tract described in Document No. 2003071808 of the Official Public Records of Williamson County, Texas;

THENCE North 07°40'52" East, with the east right-of-way line of County Road 165, being also the west line of the 21.207 acre tract, a distance of 199.99 feet to a 1/2" rebar with Chaparral cap found for the southwest corner of Lot 41, Block A, Final Plat of Emory Farms, Section One, a subdivision of record in Cabinet CC, Slide 134 of the Plat Records of Williamson County, Texas;

THENCE South 82°22'15" East, over and across the said 21.207 acre tract and with the south line of Lot 41, a distance of 769.08 feet to a 1/2" rebar with Chaparral cap found for the southeast corner of Lot 41, also being the southwest corner of Lot 2, Final Plat of Townwest Commons Subdivision, Section 3, a subdivision of record in Cabinet CC, Slide 157 of the Plat Records of Williamson County, Texas;

THENCE South 82°26'09" East, over and across the said 21.207 acre tract, with the south line of Lot 2, a distance of 7.07 feet to a 1/2" rebar with a Chaparral cap found for an angle point in the south line of Lot 2, also being the northwest corner of Lot 1, Block A, Final Plat of Townwest Commons Subdivision, Section 4, a subdivision of record in Cabinet CC, Slide 292 of the Plat Records of Williamson County, Texas;

THENCE South 06°57'50" West, over and across the said 21.207 acre tract and with the west line of Lot 1, a distance of 200.01 feet to a 1/2" rebar with Chaparral cap set in the south line of the 21.207 acre tract, also being the north line of the 8.793 acre tract, from which a 1/2" rebar with Cunningham-Allen cap found bears South 06°57'50" West, a distance of 597.71 feet;

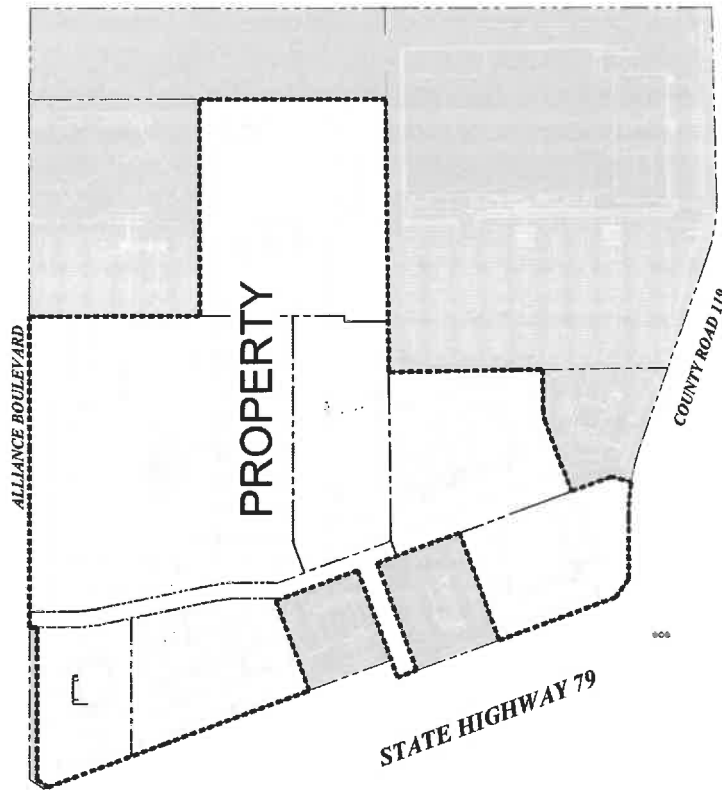
THENCE North 82°22'16" West, with the south line of the 21.207 acre tract and the north line of the 8.793 acre tract, a distance of 778.65 feet to the **POINT OF BEGINNING**, containing 3.569 acres of land, more or less.

Tract 3

0.1296 acres of land in the Nathaniel Edwards Survey, Abstract No. 225, City of Hutto, Williamson County, Texas, dedicated to the Public for ROW purposes per the Final Plat of Townwest Commons, Section Seven, recorded under County Clerk's File No. 2019035180 in the Official Records of Williamson County, Texas.

EXHIBIT B

Site Plan



SITE PLAN
TOWNWEST COMMONS
 EXHIBIT
 NW/4 OF STATE HIGHWAY 79 & COUNTY ROAD 119
 BRITTO, TEXAS

PROPERTY
 NOT A PART

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