

## AGREEMENT FOR THE PROVISION OF MUNICIPAL SERVICES FOR ANNEXATION OF AREA ON REQUEST OF OWNERS

This Agreement for the Provision of Municipal Services is made and entered into on May 16, 2023, and becomes effective on the date that the City of Alpine agrees by a majority vote of its governing body to annex the proposed area in this Agreement as requested by the Property Owners. ("Effective Date"). This Agreement may be executed in counterparts among the City of Alpine, Texas, hereinafter called "City" and Van Neie, Sue Neie, as well as prospective owner, Skyway Gardens, Ltd. ("Skyway Gardens"), hereinafter three non-City parties jointly called "Owner," each of which duplicate copies shall have the full force and dignity as an original.

This Agreement relates to an area of land that has been requested by the owner to be annexed into the city limits of the City of Alpine ("annexed area"). This area is depicted in the attached map ("annexation area") and is legally described as:

*"5.000 acres out of Section 102, Block 9, G.H. & S.A. Ry. Co. Surveys, Brewster County, Texas, Being a portion of that certain 10.0 acre tract described in Volume 314, Page 453 Official Public Records of Brewster County, Texas."*

In accordance with Texas Local Government Code 43.0672, this Agreement provides for the provisions of municipal services in the annexed area no later than 2.5 years after the effective date of the annexation, unless certain services cannot reasonably be provided within that period and the City proposes a schedule for providing those services.

### A. SERVICES TO BE PROVIDED TO THE ANNEXED AREA ON THE EFFECTIVE DATE OF THE ANNEXATION ARE:

- (1) **POLICE:** The City of Alpine Police Department will provide police protection.
- (2) **FIRE:** The Alpine Volunteer Fire Department will provide fire protection and suppression through its existing fire station.
- (3) **EMERGENCY MEDICAL SERVICES:** The City of Alpine will provide emergency medical services. The City currently has a contract with Elite Medical Air Transport, LLC, DBA Emergent Air to provide emergency medical services.

- (4) **BUILDING SERVICES:** The City of Alpine Building Services Department will provide ~~Building Services and Code Enforcement~~ building services ~~upon annexation~~ and code enforcement services. This includes issuing building, electrical, and plumbing permits for any new construction and remodeling, and enforcing all other applicable codes which regulate building construction within the City of Alpine.
- (5) **PLANNING & ZONING:** The City of Alpine Planning & Zoning division of the Building Services Department ~~is~~ will be responsible for regulating development and land use through the administration of the City of Alpine Zoning Ordinance, ~~which will extend to this area on the effective date of the annexation. The property will also continue to be regulated under the City of Alpine and~~ Subdivision Ordinance and any other applicable city ordinances.
- (6) **SOLID WASTE COLLECTION:** The City of Alpine ~~will provide solid waste collection services.~~ The City currently has a contract with Texas Disposal Systems to provide solid waste collection services to utility customers within the City limits.-
- (7) **WATER AND WASTEWATER:** ~~Water and Wastewater services will be provided by the~~ The City ~~to the annexed area. Skyway Gardens will construct all~~ will provide retail water and sewer infrastructure within the development to city standards ~~wastewater services.~~
- (8) ~~NATURAL GAS: Natural Gas Services will be provided by the City to the annexed area. Skyway Gardens will construct all gas infrastructure within the development, to City standards.~~ **NATURAL GAS:** The City will provide retail natural gas services.
- (9) **ROADS AND STREETS:** The City will maintain public roads and streets over which the City has jurisdiction. Roads, streets, or alleyways which are dedicated to and accepted by the City of Alpine, Texas, or which are owned by the City of Alpine, Texas, shall be maintained to the same degree and extent that other roads, streets, and alleyways are maintained in the City. ~~Skyway Gardens will complete all unfinished roads and drainage to city standards before such roads and drainage is transferred to and accepted by the City.~~ limits
- (10) **LIGHTING:** The lighting of public roads, streets, and alleyways shall be maintained by the applicable utility company servicing the City. The City of Alpine will coordinate any request for improved public street lighting with the local electric provider in accordance with the standard city policy.
- (11) **DRAINAGE:** ~~Skyway Gardens~~ The City will develop a drainage plan ~~acceptable to City, and construct any such drainage improvements necessary~~ to inhibit street flooding on Lechugilla Street.
- (12) **PARKS, PLAYGROUNDS, AND SWIMMING POOLS:** There are no public recreational facilities in the annexation area including parks, playgrounds, or swimming pools.
- (13) **OTHER PUBLICLY OWNED FACILITY, BUILDING, OR SERVICE:** Currently, there are no other publicly-owned facilities, buildings, or services identified in the annexation area.
- (14) **OTHER MUNICIPAL SERVICES:** Excluding electric services, all other City Departments with

jurisdiction in the area will provide services according to City policy and procedure.

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**B. CAPITAL IMPROVEMENT PROGRAM PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 43.056(E).**

(1) **POLICE:** No capital improvements are necessary at this time to provide police services.

(2) **FIRE:** No capital improvements are necessary at this time to provide fire services. ~~Skyway Gardens will install fire hydrants within the development.~~

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(3) **EMERGENCY MEDICAL SERVICES:** No capital improvements are necessary at this time to provide emergency medical services.

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(4) **SOLID WASTE COLLECTION:** No capital improvements are necessary at this time to provide solid waste collection services.

(5) **WATER:** No new capital improvements by the City ~~will be required to provide water services to the area. If additional waterline development becomes necessary, the City and developer will jointly plan such improvements, and developer will pay its pro rata share of the costs of such upgrade or improvement are required to provide retail water services.~~

(6) **WASTEWATER:** No new capital improvements ~~will be~~ required to provide ~~waste water services to the area. If additional sewer line capacity is needed, developer will construct and pay for such improvement. If a pump station is needed for sewer delivery, such will be constructed and paid for by developer.~~ retail wastewater services.

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(7) **NATURAL GAS:** No new capital improvements ~~will be~~ required to provide retail natural gas services ~~to the area.~~

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(8) **ROADS AND STREETS:** No new road or street-related capital improvements are ~~necessary~~ required at this time. ~~In general, the, excluding the Road Improvements identified in that certain Development Agreement entered by the City, will acquire control of all public roads and public streets within the annexed area upon annexation. Future extensions of roads or streets and future installation of related facilities, such as traffic control devices, will be governed by the City's standard policies and procedures and Skyway Gardens, Ltd., dated September 20, 2019.~~

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(9) **LIGHTING:** No capital improvements are necessary at this time to provide street lighting services. ~~Lighting in new and existing subdivisions will be installed and maintained~~

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(10) **DRAINAGE.** The City shall endeavor to include the drainage plan referenced in accordance with the applicable standard policies and procedures A.11 above in the City's capital improvements plan.

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(11) **PARKS, PLAYGROUNDS, AND SWIMMING POOLS:** No capital improvements are ~~necessary~~ required at this time ~~to provide services.~~

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~~(11) OTHER PUBLICLY OWNED FACILITIES, BUILDINGS, OR SERVICES:~~ In general,  
~~(12) other City functions and services and the additional services described above can be provided for the annexed area by using existing capital improvements, except for necessary water and wastewater capital improvements.~~

~~(12)(13) CAPITAL IMPROVEMENTS PLANNING:~~ The annexed area will be included with the other territory in the City limits in connection with the planning for new or expanded facilities, functions, and services as part of the City's Capital Improvement Plan.

### C. EFFECTIVE TERM

This Agreement shall be in effect for a ten-year period commencing on the effective date of the annexation unless otherwise stated in this Plan. Renewal of the Agreement shall be at the option of the City. A renewal of this Agreement may be exercised by the City Council provided the renewal is adopted by ordinance and specifically renews this Agreement for a stated period of time.

### D. SPECIAL FINDINGS

The City Council of the City of Alpine, Texas, finds and determines that this Agreement will not provide any fewer services or a lower level of services in the annexation area than were in existence in the annexation area at the time immediately preceding the annexation process. The Plan will provide the annexed area with a level of service, infrastructure, and infrastructure maintenance that is comparable to the level of service, infrastructure, and infrastructure maintenance available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the annexed area.

The City reserves the right guaranteed to it by the Texas Local Government Code to amend this Plan if the City Council determines that changed conditions or subsequent occurrences or any other legally sufficient circumstances exist under the Local Government Code or other Texas laws to make this Agreement unworkable or obsolete or unlawful.

### E. GOVERNING LAW

This Agreement may not be amended or repealed except as provided by the Texas Local Government Code or other controlling law. Neither changes in the methods or means of implementing any part of the service programs nor changes in the responsibilities of the various departments of the City shall constitute amendments to this Agreement, and the City reserves the right to make such changes. This Agreement is subject to and shall be interpreted in accordance with the Constitution and laws of the United States of America and the State of Texas, the Texas Local Government Code, and the orders, rules, and regulations of governmental bodies and officers having jurisdiction.

### F. FORCE MAJEURE

~~In case of an emergency, such as force majeure as that term is defined in this Agreement, in which the City is forced to temporarily divert its personnel and resources away from the annexed area for humanitarian purposes or protection of the general public, the City obligates itself to take all reasonable measures to restore services to the annexed area of the level described in this Plan as soon as reasonably possible. Force Majeure shall include, but not be limited to, acts of God, acts of the public enemy, war, blockages, insurrection, riots, pandemics, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts,~~

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GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

[Seal]

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

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

Commission Expires: \_\_\_\_\_

**VAN ARTHUR NEIE JR**  
**PROPERTY OWNER**

\_\_\_\_\_  
VAN ARTHUR NEIE JR

The State of Texas                    §  
County of \_\_\_\_\_               §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas on this day personally appeared **VAN ARTHUR NEIE JR**, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said **VAN ARTHUR NEIE JR**, and that he executed the same for the purposes and consideration therein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

[Seal]

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

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

Commission Expires: \_\_\_\_\_

**SUE LYNN NEIE**  
**PROPERTY OWNER**

\_\_\_\_\_  
SUE LYNN NEIE

The State of Texas                    §  
County of \_\_\_\_\_               §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas on this day personally appeared **SUE LYNN NEIE** known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said **SUE LYNN NEIE**, and that he executed the same for the purposes and consideration therein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

[Seal]

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

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

Commission Expires: \_\_\_\_\_



**SKYWAY GARDENS, LTD  
PROSPECTIVE OWNER**

~~XXXX, Authorized Representative~~

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

The State of Texas                    §  
County of \_\_\_\_\_               §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas on this day personally appeared ~~XXXX~~, Skyway Gardens, Ltd., a Texas limited partnership, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said ~~XXXX~~ limited partnership, and that he executed the same for the purposes and consideration therein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

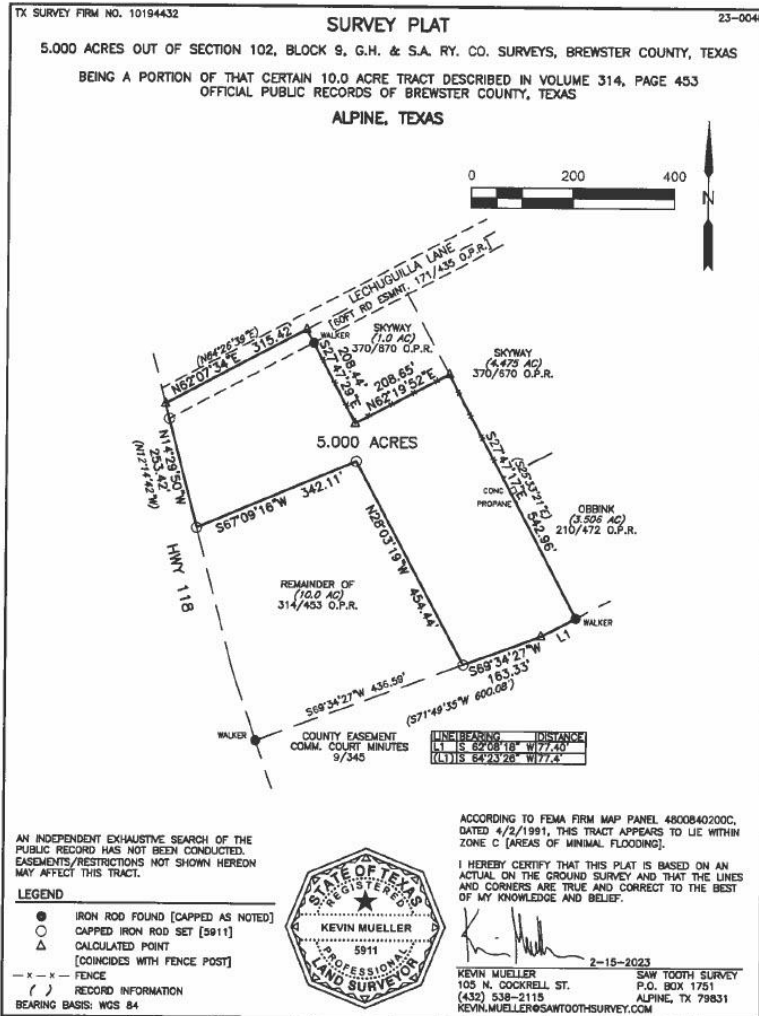
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\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

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

Commission Expires: \_\_\_\_\_

**MAP OF AREA PROPOSED FOR ANNEXATION ON REQUEST BY  
PROPERTY OWNERS**



## DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is executed by and between SKYWAY GARDENS, LTD., a Texas limited liability company (the "Developer"), its successors, transferees, and assigns, and the CITY OF ALPINE, TEXAS (the "City"), concerning expansion of the Skyway Gardens development project over the area depicted on Exhibit A (plat) and Exhibit B (metes and bounds description), (the "Development").

The Developer and City hereby agree to the following:

1. Previous Agreement. Developer will complete all provisions that remain outstanding in that March 20, 2019, Development Agreement executed by Developer and City concerning the original Skyway Gardens Development, to include completion of Road Improvement therein described to meet City standards as stated in the 2019 Development Agreement.

2. Utility Site Plan. The City and Developer will cooperate to create a Utility Site Plan ("USP") for the Development that documents the location and characteristics of the water, sewer, and gas infrastructure contemplated under this Agreement. This USP is intended (i) to ensure Developer constructs all such infrastructure to City standards, and (ii) to facilitate the seamless integration of the Development into existing City utility systems.<sup>1</sup>

3. Water. The City will provide the Development with retail water service. The Developer will construct an off-site water main extension to City standards, from the Development to the City's existing water main located on the North side of Lechugilla Street (the "Off-Site Water Extension"). This Off-Site Water Extension will be shown on the USP. The Off-Site Water Extension will be conveyed and dedicated to the City at no cost, and thereafter the City will own, operate and maintain the Off-Site Water Extension. Developer will construct all on-site water facilities required to serve the Development, including any water storage tanks, a pump station booster pumps, and a backflow prevention valve valves (collectively, the "On-Site Water System").<sup>2</sup> Developer's On-Site Water System will be designed and operated to provide adequate water pressure for fire hydrant and to Skyways Gardens residents. Developer will construct, operate and maintain the On-Site Water System in accordance with all applicable local, state and federal laws.<sup>3</sup> City will operate and maintain the city-owned water system in accordance with all applicable local, state and federal laws.

4. Sewer. The City will provide the Development with retail sewer service. The Developer will construct an off-site sewer main extension to City standards, from the Development to the City's existing sewer main located on the North side of Lechugilla Street (the "Off-Site Sewer Extension"). This Off-Site Sewer Extension will be shown on the USP. The Off-Site Sewer Extension will be conveyed and dedicated to the City at no cost, and thereafter the City will own, operate and maintain the Off-Site Sewer Extension. Developer will construct all on-site sewer facilities required to serve the Development, including any sewer pump station stations and force main mains (collectively, the "On-Site Sewer System"). Developer will construct, operate and maintain the On-Site Sewer System in accordance with all applicable local, state and federal laws.<sup>4</sup>

5. Gas. The City will provide the Development with retail gas service. The Developer will construct an off-site gas main extension to City standards, from the Development to the City's existing gas

<sup>1</sup> Alpine Ordinances, Appendix B – Section I-II – Utility Site Plan – Subdivisions

<sup>2</sup> Alpine Ordinances, Sec. 18-71 to 18-73 – Plumbing code standards, backflow, inspections

<sup>3</sup> Alpine Ordinances, Sec. 98-103 to 98-106 – Fire suppression; hydrants; pressure requirements

<sup>4</sup> Alpine Ordinances, Sec. 98-36 to 98.48 – main extensions; 98-121—sewage connection requirement; Appendix B – Section III – Utility Construction Subdivisions

main located on the North side of Lechugilla Street (the “Off-Site Gas Extension”). This Off-Site Gas Extension will be shown on the USP. The City will own, operate and maintain the Off-Site Gas Extension. Developer will construct all on-site gas facilities required to serve the Development (the “On-Site Gas System”). Developer will construct, operate and maintain the On-Site Gas System in accordance with all applicable local, state and federal laws.

6. Roads. In addition to the Roads provision contained in the Previous Agreement described in Section 1 above, the Developer will complete to City Standards all roads, streets, or alleyways within the Development, to include adequate drainage thereof;<sup>5,6</sup> provided, however, that notwithstanding anything to the contrary herein, Lechugilla Street shall be constructed to meet City standards as stated in the 2019 Development Agreement. The City and Developer will cooperate to ensure all roads, streets and alleyways within the Development are constructed to City said standards. Once completed to City standards, all roads, streets, and alleyways built by Developer and intended for City maintenance will be dedicated by Developer to the City at no cost, and thereafter the City will maintain said roads, streets, and alleyways to the same degree and extent that other roads, streets, and alleyways are maintained in the City. All road development to be undertaken by Developer under this Agreement and the Previous Agreement will be completed prior to the end of construction.

~~7. Drainage. The Developer, in cooperation with the City, will develop a drainage plan acceptable to the City. The Developer will construct any such drainage improvements necessary to inhibit street flooding.<sup>7-8</sup>~~

~~7. Drainage. The Developer will construct two ponds on the Development as shown on the drainage plan for the Development. The first pond will be designed to capture stormwater runoff generated on the Development. The second pond will be designed to capture and alleviate some, but not all, of the offsite stormwater generated from lands west of the Development. The City acknowledges and agrees that the second pond is intended to and will capture only some of the stormwater generated offsite from lands west of the Development and is not a comprehensive solution to eliminate the existing drainage problems affecting Lechugilla Street and adjoining properties. Developer will operate and maintain the storage ponds in accordance with all applicable local, state and federal laws. The Developer and City agree to work together and make reasonable efforts to cause the Army Corps of Engineers to clean and remove all obstructions in the existing berm located south of the Development, with neither party making any guaranty to the other that the Army Corps of Engineers will do so.~~

8. Inspections. The Development’s engineers shall inspect and certify that the water, sewer, gas, drainage, and road improvements described herein are built to City standards, at Developer’s cost. The City’s inspectors must also inspect and approve the improvements.<sup>9</sup>

9. Electric. City will work with and assist Developer to ensure that off-site electric service is installed within 180 days of the date of this Agreement.

10. Permits and Plat Approvals. This Development Agreement will constitute a permit for purposes of Chapter 245, Texas Local Government Code, and plats of the Development will comply with the City’s current Subdivision Ordinance.

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<sup>5</sup> Alpine Ordinances, Sec. 86-4. – Prohibition of allowing accumulation of water

<sup>6</sup> Alpine Ordinances, Sec. 86-4. – Prohibition of allowing accumulation of water

<sup>7</sup> Alpine Ordinances, Sec. 86-4 – see note 5

<sup>8</sup> Alpine Ordinance, Ch. 50 – Flood damage prevention

<sup>9</sup> Alpine Ordinances, Appendix B – Section I-III Subdivisions – Inspections

11. Zoning. After annexation of the Development, the City agrees to zone the Development property as R-3.

**CITY OF ALPINE**

**SKYWAY GARDENS, LTD.**

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

Megan Antrim

Its: City Manager

Date: \_\_\_\_\_

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

Roy Lopez

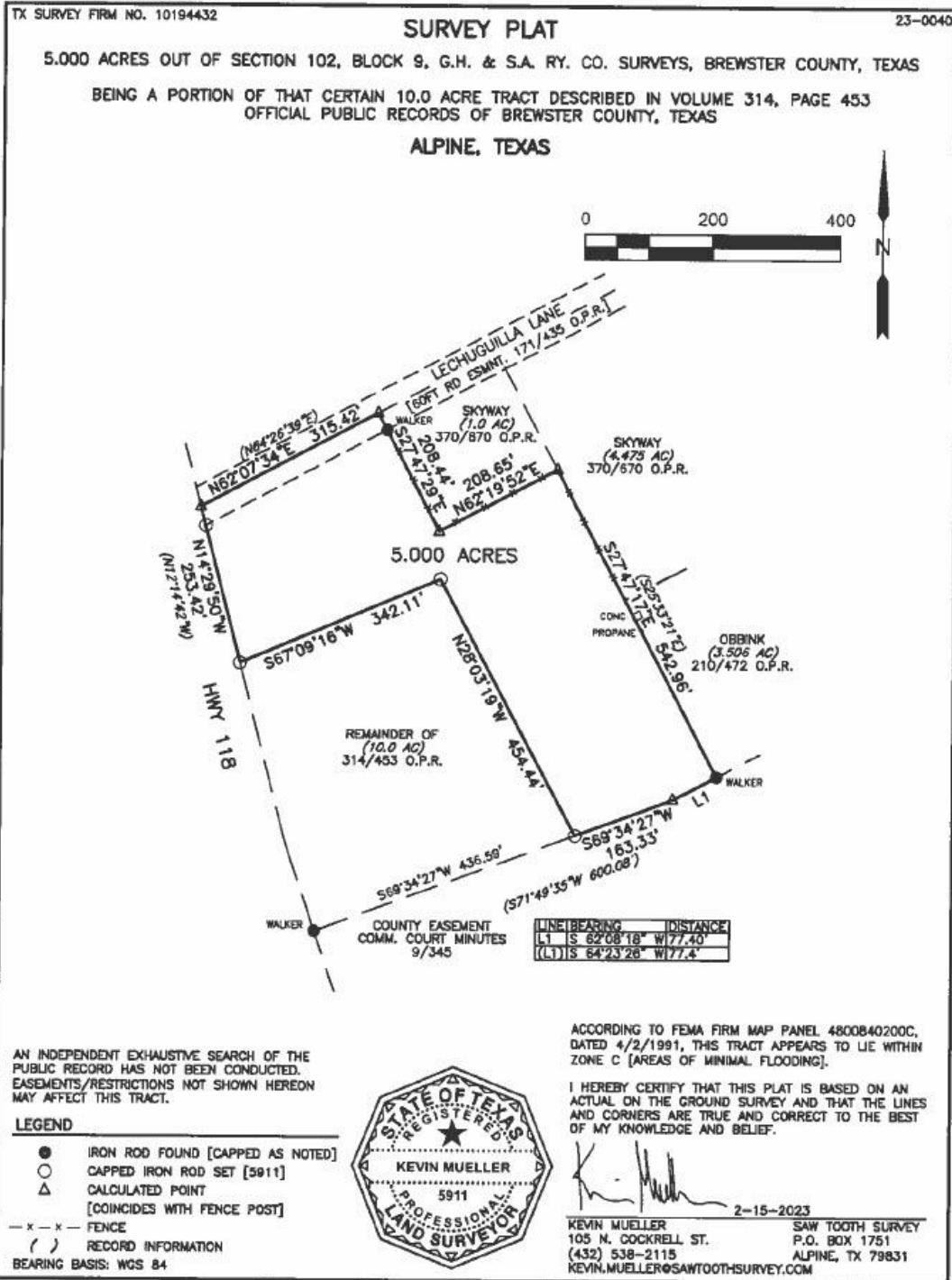
Its: Senior Vice President

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Rod Ponton, City Attorney

# EXHIBIT "A"



## EXHIBIT "B"

SAW TOOTH SURVEY  
FIRM NO. 10194432

SECTION 102, BLOCK 9, G.H. & S.A. RY. CO.  
BREWSTER COUNTY, TEXAS

23-0040

### 5.000 ACRES

5.000 ACRES OUT OF SECTION 102, BLOCK 9, G.H. & S.A. RY. CO. SURVEYS, BREWSTER COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 10.0 ACRE TRACT DESCRIBED IN VOLUME 314, PAGE 453, OFFICIAL PUBLIC RECORDS OF BREWSTER COUNTY, TEXAS, SAID 5.000 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a capped iron rod [WALKER] found for the southeast corner of said 10.0 acre tract and **POINT OF BEGINNING** of the herein described tract;

**THENCE** with the south line of said 10.0 acre tract the following two (2) courses:

- 1) **S 62°08'18" W**, a distance of **77.40 feet** to a calculated point coinciding with a fence post, and
- 2) **S 69°34'27" W**, a distance of **163.33 feet** to a capped iron rod [5911] set for the southernmost southwest corner of the herein described tract, from which a capped iron rod [WALKER] found for the southwest corner of said 10.0 acre tract bears, **S 69°34'27" W**, a distance of **436.59 feet**;

**THENCE** over and across said 10.0 acre tract the following two (2) courses:

- 1) **N 28°03'19" W**, a distance of **454.44 feet** to a capped iron rod [5911] set for a re-entrant corner of the herein described tract, and
- 2) **S 67°09'16" W**, a distance of **342.11 feet** to a capped iron rod [5911] set in the east right-of-way line of Hwy 118 for the northernmost southwest corner of the herein described tract;

**THENCE** with the east right-of-way line of said Hwy 118, **N 14°29'50" W**, at **222.58 feet** passing a capped iron rod [5911] set in the south line of Lechuguilla Lane [60-ft road easement described in Volume 171, Page 453, Official Public Records of Brewster County, Texas], for a total distance of **253.42 feet** to a calculated point in the center line of said road easement for the northwest corner of the herein described tract;

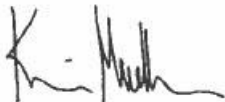
**THENCE** with the center line of said road easement, **N 62°07'34" E**, a distance of **315.42 feet** to a calculated point for the northernmost northeast corner of the herein described tract;

**THENCE** over and across said 10.0 acre the following two (2) courses:

- 1) with the west line of that certain 1.0 acre tract described in Volume 370, Page 670, Official Public Records of Brewster County, Texas, **S 27°47'29" E**, at **30.00 feet** passing a capped iron rod [WALKER] found witnessing the northwest corner of said 1.0 acre tract, for a total distance of **208.44 feet** to a calculated point coinciding with a fence post found for a re-entrant corner of the herein described tract and southwest corner of said 1.0 acre tract, and
- 2) with the south line of said 1.0 acre tract, **N 62°19'52" E**, a distance of **208.65 feet** to a calculated point coinciding with a fence post found in the east line of said 10.0 acre tract for the southernmost northeast corner of the herein described tract;

**THENCE** with the east line of said 10.0 acre tract, **S 27°47'17" E**, a distance of **542.96 feet** to the **POINT OF BEGINNING** of the herein described tract, containing **5.000 ACRES** of land, more or less.

I, Kevin Mueller, do hereby certify that this description was prepared from a survey performed under my supervision during February of 2023, and is true and correct to the best of my knowledge.



2-15-2023

KEVIN MUELLER  
SAW TOOTH SURVEY  
P.O. BOX 1751  
ALPINE, TX 79831  
(432) 538-2115

