

AGENDA ITEM REQUEST

KENDALL COUNTY COMMISSIONERS COURT

COURT DATE:

- ☒ Regular Agenda : 02-24-14
☐ Supplemental Agenda: _____
☐ Special Agenda: _____
☐ Executive Session: _____

SUBJECT: Deputy Recognitions for 2013

REQUESTED BY: Al Auxier, Sheriff

PHONE #/EXT: 249-9721 Ext 128

TIME NEEDED FOR PRESENTATION: 10 min

WORDING OF AGENDA ITEM (Please write it the way you think it should appear) :

Recognition of Kendall County Sheriff's Office Employees for performance in year 2013.

AGENDA ITEM REQUEST

KENDALL COUNTY COMMISSIONERS COURT

COURT DATE:

- ☒ Regular Agenda : 02-24-14
☐ Supplemental Agenda: _____
☐ Special Agenda: _____
☐ Executive Session: _____

SUBJECT: Constable Precinct 3 Pickup

REQUESTED BY: Al Auxier, Sheriff

PHONE #/EXT: 249-9721 Ext 128 TIME NEEDED FOR PRESENTATION: 10 min

WORDING OF AGENDA ITEM (Please write it the way you think it should appear) :

Consideration and action concerning the approval of the transfer of motor vehicles between the Kendall County Sheriff and Kendall County Constable Precinct 3

AGENDA ITEM REQUEST

KENDALL COUNTY COMMISSIONERS COURT

COURT DATE:

- ☒ Regular Agenda: 02-24-2014
☐ Supplemental Agenda: _____
☐ Special Agenda: _____
☐ Executive Session: _____

SUBJECT: Use of Leased Soccer Field on Adler Road

REQUESTED BY: Darrel Lux, County Judge
(Please print your name and title)

PHONE #/EXT: 213 TIME NEEDED FOR PRESENTATION: 5 minutes

WORDING OF AGENDA ITEM (Please write it the way you think it should appear):

Consideration and action on the request from the Living Church of God to use the County-owned
property on Adler Road on October 14, 2014 from 1:00 p.m. until 4:30 p.m. The property is currently
leased to the Boerne Soccer League who has given permission for the church to use the field on that date.

AGENDA ITEM REQUEST

KENDALL COUNTY COMMISSIONERS COURT

COURT DATE:

- ☒ Regular Agenda: 02-24-2014
☐ Supplemental Agenda: _____
☐ Special Agenda: _____
☐ Executive Session: _____

SUBJECT: i-INFO system

REQUESTED BY: Darrel Lux, County Judge
(Please print your name and title)

PHONE #/EXT: 213 TIME NEEDED FOR PRESENTATION: 5 minutes

WORDING OF AGENDA ITEM (Please write it the way you think it should appear):

Consideration and action on designating who is to be responsible for the coordination of information
into and out of the i-INFO system for Kendall County.

AGENDA ITEM REQUEST

KENDALL COUNTY COMMISSIONERS COURT

COURT DATE:

- ☒ Regular Agenda: 02-24-2014
☐ Supplemental Agenda: _____
☐ Special Agenda: _____
☐ Executive Session: _____

SUBJECT: Racial Profiling Reports

REQUESTED BY: Darrel L. Lux, County Judge

PHONE #/EXT: 213 TIME NEEDED FOR PRESENTATION: 5 minutes

WORDING OF AGENDA ITEM (Please write it the way you think it should appear) :

Consideration and action to accept Racial Profiling Reports for 2013 from Law Enforcement Agencies in Kendall County.

FULL EXEMPTION RACIAL PROFILING REPORT

Agency Name: KENDALL CO. CONST. PCT. 1
Reporting Date: 02/19/2014
TCOLE Agency Number: 259101
Chief Administrator: DON L WHITE
Agency Contact Information: Email: dlwhite@gvtc.com

Article 2.132 CCP Law Enforcement Policy on Racial Profiling

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

I certify it is not the policy of this agency to make traffic stops in the routine performance of the officers' official duties.

Executed by: **DON L WHITE**

Chief Administrator

KENDALL CO. CONST. PCT. 1

Date: 02/19/2014

Submitted electronically to the



X The Texas Commission on Law Enforcement

FULL EXEMPTION RACIAL PROFILING REPORT

Agency Name: KENDALL CO. CONST. PCT. 2
Reporting Date: 01/29/2014
TCOLE Agency Number: 259102
Chief Administrator: MILBURN W DEARING
Agency Contact Information: Phone: 830-249-2171
Email: dearing@gvte.com
Mailing Address:
KENDALL CO. CONST. PCT. 2
124 Sharon Dr.
Boerne, Tx 78006

Article 2.132 CCP Law Enforcement Policy on Racial Profiling

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

I certify it is not the policy of this agency to make traffic stops in the routine performance of the officers' official duties.

Executed by: MILBURN W DEARING

Chief Administrator

KENDALL CO. CONST. PCT. 2

Date: 01/29/2014

Submitted electronically to the



The Texas Commission on Law Enforcement

Racial Profiling Totals

Month: January Year: 2013
 Officer: Pankratz Badge: 264

Total Contacts			3
Total Searches			1

Date	Contacts						Caucasian			African			Hispanic			Asian			Nat Amer			Other		
	Cauc	African	Hispan	Asian	Nat Am	Other	Con	PC	Cus	Con	PC	Cus	Con	PC	Cus	Con	PC	Cus	Con	PC	Cus	Con	PC	Cus
1	3								1															
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31																								
Totals	3	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Cauc	African	Hispan	Asian	Nat Am	Other	Caucasian			African			Hispanic			Asian			Nat Amer			Other		

Constable Pct 4 Monthly Racial Profiling Totals

Monthly Racial Profiling Totals

Month	January
Year	2013

Race/ Ethnicity	Contacts		Searches		Consensual Searches		PC for Search		Custody Arrest	
	N	%	N	%	N	%	N	%	N	%
Caucasian	9	75.00	3	100.00	0	#DIV/0!	0	#DIV/0!	3	100.00
African	1	8.33	0	0.00	0	#DIV/0!	0	#DIV/0!	0	0.00
Hispanic	2	16.67	0	0.00	0	#DIV/0!	0	#DIV/0!	0	0.00
Asian	0	0.00	0	0.00	0	#DIV/0!	0	#DIV/0!	0	0.00
Native American	0	0.00	0	0.00	0	#DIV/0!	0	#DIV/0!	0	0.00
Other	0	0.00	0	0.00	0	#DIV/0!	0	#DIV/0!	0	0.00
Total	12	100.00	3	100.00	0	#DIV/0!	0	#DIV/0!	3	100.00

KENDALL COUNTY SHERIFF'S OFFICE

RACIAL PROFILING REPORT 2013

Since January 1, 2002, the Kendall County Sheriff's Office, in accordance with the Texas Racial Profiling Law, has been collecting law enforcement contact data for the purpose of identifying and responding to concerns regarding racial profiling practices. It is my hope that the findings in this report will serve as evidence that the Kendall County Sheriff's Office continues to strive towards the goal of maintaining strong relations with all members of the community.

In this report, the reader will encounter several sections designed at providing background information on the rationale and objectives of the Texas Racial Profiling Law. Other sections contain information relevant to the institutional policies adopted by the Kendall County Sheriff's Office prohibiting the practice of racial profiling.

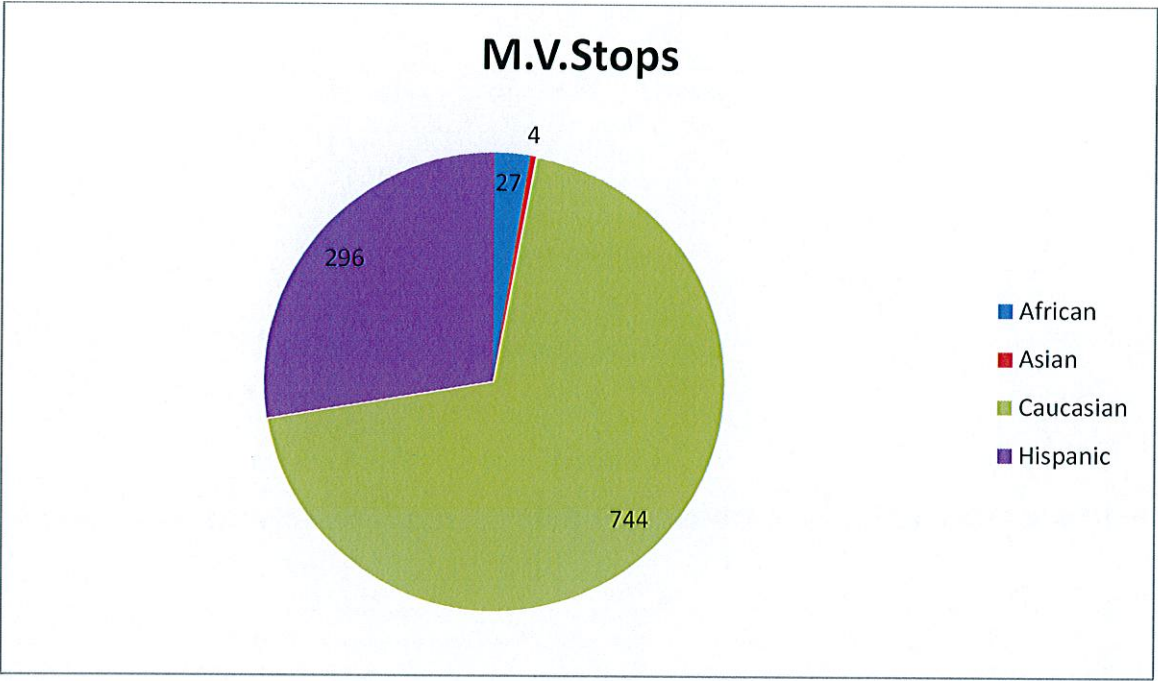
This report may differ from previous reports due to changes in the Texas Racial Profiling Law. Law enforcement agencies are no longer required to compare demographic data for their respective jurisdiction to traffic stop data; however, we must now report the data to the Texas Commission on Law Enforcement Officer Standards and Education.

Analysis

The data presented in this report contains information on traffic stops or Kendall County Deputy traffic contacts with the public between January 1, 2013 and December 31, 2013. During that time frame there were no complaints alleging racial profiling. Additionally, internal reviews of recorded traffic stops and a review of citations issued does not support any evidence of racial profiling on the part of Kendall County Deputies.

During 2013, 1,043 traffic stops were made which resulted in a traffic citation. 26 traffic stops resulted in an arrest, and 7 traffic stops resulted in an arrest and citation. Total of traffic stops was 1,076. Approximately 2% of persons stopped were African, with 70% of persons stopped being Caucasian and 27% Hispanic.

We believe the findings suggest the Kendall County Sheriff's Office does not currently experience a problem regarding racial profiling. The continuing effort to collect law enforcement contact data will assure an on-going evaluation of the Kendall County Sheriff's Office practices. Thus, allowing for the citizens of Kendall County to benefit from professional and courteous service from their Sheriff's Office.



Texas Racial Profiling Law

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

- (1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.
 - (2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.
 - (3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern descent.
- (b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:
- (1) clearly define acts constituting racial profiling;
 - (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
 - (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
 - (4) provide public education relating to the agency's complaint process;
 - (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
 - (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - (A) the race or ethnicity of the individual detained;
 - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
 - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 25, eff. September 1, 2009.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS. (a) In this article, "race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 26, eff. September 1, 2009.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article:

(1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a).

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency.

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; and

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 27, eff. September 1, 2009.

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 28, eff. September 1, 2009.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

- (1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;
- (2) smaller jurisdictions; and
- (3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 1172, Sec. 29, eff. September 1, 2009.

KENDALL COUNTY COMMISSIONERS COURT AGENDA ITEM REQUEST

COURT DATE: February 24, 2014 **X Open Session (After Executive Session)**

SUBJECT: Authorizing use of eminent domain to condemn property to acquire ROW and easements for the Herff Road Project

REQUESTED BY: Don Allee, County Attorney

PHONE NO. /EXT.: 295

TIME FOR PRESENTATION: 10 min.

WORDING OF AGENDA ITEM:

Consideration and action concerning Kendall County Resolution No. 02-24-2014, declaring a public necessity for the acquisition of fee simple title to the following: a 3.360-acre tract of land, more or less and a 0.117-acre tract of land, permanent drainage easement, more or less, out of the John Small Survey No. 183, Abstract No. 441, Kendall County, Texas, also being out of the remaining portion of a 32.609-acre tract described in warranty deed dated March 16, 1999 to James E. Roerig and wife Deborah A. Roerig recorded in Volume 607, Page 405, Official Records of Kendall County, Texas, being more particularly described in Exhibit "A" attached hereto and made a part hereof, save and except any oil, gas or other minerals in, on or under or produced from said real property, which may be removed from beneath said real property without any right whatsoever remaining to the owner(s) of said oil, gas or minerals of ingress and egress to or from the surface of said real property for the purpose of exploring, developing, drilling, or production of same, for the public purpose of a public highway, street, and road right-of-way purposes for the Herff Road Expansion Project and authorizing the use of eminent domain to condemn property – institution of condemnation (eminent domain) proceedings to acquire such interest in land.

JUSTIFICATION (REASON ITEM SHOULD BE ON AGENDA): Resolution is required for acquisition of right-of-way and easements for Phase 1 of the Herff Road Project.

PERSONS SCHEDULED TO PRESENT THE ITEM: Patrick Lindner, Condemnation Attorney, Don Allee, County Attorney

SUPPORTING DOCUMENTATION (ATTACHED): Draft Resolution No. 02-24-2014 and excerpts from Texas Government Code, section 2206.053.

COST (IF ANY): Attorneys' fees and court costs, Appraisal costs, litigation expenses, balance of funds to land owners, if fair market value of the property determined in the condemnation proceeding is in excess of the amount previously paid to land owners.

SOURCE OF FUNDS: Herff Road Project Bond Funds

PUBLIC HEARING REQUIRED: NO

NEWSPAPER PUBLICATION REQUIRED: NO

STATE OF TEXAS
KENDALL COUNTY

KENDALL COUNTY RESOLUTION NO. 02-24-2014

RESOLUTION AND ORDER DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF FEE SIMPLE TITLE TO THE FOLLOWING: A 3.360 ACRE (146,383 SQ. FT.) TRACT OF LAND, MORE OR LESS, AND A 0.117 ACRE (5,106 SQ. FT.) TRACT OF LAND, PERMANENT DRAINAGE EASEMENT, MORE OR LESS, OUT OF THE JOHN SMALL SURVEY NO. 183, ABSTRACT NO. 441, KENDALL COUNTY, TEXAS, ALSO BEING OUT OF THE REMAINING PORTION OF A 32.609 ACRE TRACT DESCRIBED IN A WARRANTY DEED DATED MARCH 16, 1999, TO JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG, RECORDED IN VOLUME 607, PAGE 405, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS; SAID 3.360 ACRE (146,383 SQ. FT.) TRACT AND SAID 0.117 ACRE (5,106 SQ. FT.) TRACT OF LAND SAVE AND EXCEPT ANY OIL, GAS OR MINERALS RIGHTS IN AND TO THE PROPERTY WITHOUT ANY RIGHT OF THE OWNERS OF INGRESS AND EGRESS TO AND FROM THE SURFACE OF SAID PROPERTY TO EXPLORE, DEVELOP, DRILL OR PRODUCE) FOR PUBLIC HIGHWAY, STREET, AND ROAD RIGHT-OF-WAY PURPOSES FOR THE HERFF ROAD EXPANSION PROJECT, AND AUTHORIZING INSTITUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE SUCH INTERESTS IN LAND.

WHEREAS, the County of Kendall, by and through its Commissioners Court, has determined that the tract or parcels of land hereinafter described, is required for public highway, street, and road right-of-way purposes for the Herff Road Expansion Project; and

WHEREAS, the County of Kendall is unable to acquire said land by negotiation and is compelled to exercise its power of eminent domain:

IT IS THEREFORE RESOLVED by the Commissioners Court of Kendall County, Texas, at its regular meeting, that:

SECTION 1. A public necessity is declared for Kendall County to acquire for public highway, street, and road right-of-way purposes for the Herff Road Expansion Project, fee simple title to the tract of land located in Kendall County and described as follows:

A 3.360 ACRE (146, 383 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOHN SMALL SURVEY NO 183, ABSTRACT NO. 441, KENDALL COUNTY, TEXAS, ALSO BEING OUT OF THE REMAINING PORTION OF A 32.609 ACRE TRACT

DESCRIBED IN A WARRANTY DEED DATED MARCH 16, 1999, TO JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG, RECORDED IN VOLUME 607, PAGE 405, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS; SAID 3.360 ACRE (146,383 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING for reference at a found 5/8" iron rod at an interior corner of a 125.324 acre tract described in a deed dated October 5, 1964, to the City of Boerne, recorded in Volume 88, Page 635, Deed Records of Kendall County, Texas, and the southeast corner of a 0.3357 of an acre tract described in a Warranty Deed dated June 28, 1967, to the City of Boerne, recorded in Volume 95, Page 429, Deed Records of Kendall County, Texas;

Thence N. 89°23'41" W., with the north line of said 125.324 acre tract and the south line of said 0.3357 of an acre tract, at 206.14 feet, pass a found 1/2" iron rod at the southwest corner of said 0.3357 of an acre tract and the southeast corner of a 1.436 acre tract described in a Warranty Deed dated October 28, 2003, to Friends of Cibolo Wilderness, recorded in Volume 829, Page 569, Official Records of Kendall County, Texas, and continuing with the north line of said 125.324 acre tract and the south line of said 1.436 acre tract, a total distance of 823.68 feet to a found 1/2" iron rod at the northeast corner of the remaining portion of said 32.609 acre tract and the northwest corner of said 125.324 acre tract, for a corner and POINT OF BEGINNING of the herein described tract:

- (1) Thence S. 46°45'51" E., with the northeast line of said 32.609 acre tract and the southwest line of said 125.324 acre tract, a distance of 48.49 feet to a set 1/2" iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 69.81 feet right of proposed Herff Road centerline station 75+81.86, at the intersection of the northeast line of said 32.609 acre tract and the southwest line of said 125.324 acre tract, with the proposed east right-of-way line of Herff Road, for the northeast corner of the herein described tract; Thence Southerly, across said 32.609 acre tract, with the proposed east right-of-way line of Herff Road, the following ten courses numbered (2) through (11):
- (2) Along a curve to the left having a radius of 500.00 feet, a central angle of 43°44'38", a chord which bears S. 22°07'46" W., 372.54 feet, and an arc distance of 381.74 feet to a 1/2" iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 71+50.00, at the point of tangency;
- (3) S. 00°15'27" W., a distance of 758.43 feet to a set 1/2" iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of

proposed Herff Road centerline station 63+91.56, at the point of curvature of a curve to the left;

- (4) Along said curve to the left having a radius of 455.00 feet, a central angle of $16^{\circ}00'34''$, a chord which bears S. $07^{\circ}44'50''$ E., 126.72 feet, and an arc distance of 127.13 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 62+49.06, at the point of non-tangency;
- (5) S. $28^{\circ}05'57''$ E., a distance of 49.86 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 63.00 feet right of proposed Herff Road centerline station 61+93.39, at the point of curvature of a non-tangent curve to the left;
- (6) Along said curve to the left having a radius of 447.00 feet, a central angle of $05^{\circ}16'24''$, a chord which bears S. $24^{\circ}38'37''$ E., 41.13 feet, and an arc distance of 41.14 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 63.00 feet right of proposed Herff Road centerline station 61+46.45, at the point of non-tangency;
- (7) S. $63^{\circ}27'37''$ E., a distance of 29.93 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 80.00 feet right of proposed Herff Road centerline station 61+18.33, for an angle point;
- (8) S. $30^{\circ}06'12''$ E., a distance of 90.00 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 80.00 feet right of proposed Herff Road centerline station 60+28.33, for an angle point;
- (9) S. $14^{\circ}53'48''$ W., a distance of 35.36 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 60+03.33, for an angle point;
- (10) S. $30^{\circ}06'12''$ E., a distance of 351.62 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 56+51.71, at the point of curvature of a curve to the right;
- (11) Along said curve to the right having a radius of 1094.00 feet, a central angle of $01^{\circ}54'17''$, a chord which bears S. $29^{\circ}09'03''$ E., 36.36 feet, and an arc distance

of 36.37 feet to a set ½" iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 56+17.17, at the intersection of the proposed east right-of-way line of Herff Road, with the south line of said 32.609 acre tract and the north line of a 6.010 acre tract described in a General Warranty Deed with Vendor's Lien dated July 30, 2009, to Friends Cibolo Wilderness, recorded in Volume 1178, Page 815, Official Records of Kendall County, Texas, for the southeast corner of the herein described tract from said point, a found ½" iron rod with an orange plastic cap stamped "MDS SURVEY", on the south line of said 32.609 acre tract and the north line of said 6.010 acre tract, bears N. 66°17'01" E., 397.20 feet;

- (12) Thence S. 66°17'01" W., with the south line of said 32.609 acre tract and the north line of said 6.010 acre tract, a distance of 53.36 feet to a found cotton spindle on the east right-of-way line of Herff Road, a varying width right-of-way, at the southwest corner of said 32.609 acre tract and the northwest corner of said 6.010 acre tract, for the southwest corner of the herein described tract;

Thence Northerly, with the east right-of-way line of Herff Road and the west line of the remaining portion of said 32.609 acre tract, the following eight courses numbered (13) through (20):

- (13) N. 31°33'58" W., a distance of 655.42 feet to a found ½" iron rod for an angle point;
- (14) N. 03°55'34" W., a distance of 57.23 feet to a found chain-link fence post for an angle point;
- (15) N. 00°24'32" E., a distance of 857.55 feet to a found ½" iron rod with an orange plastic cap stamped "MDS SURVEY", for an angle point;
- (16) N. 15°02'56" E., a distance of 62.21 feet to a found ½" iron rod for an angle point;
- (17) N. 03°55'46" E., a distance of 67.04 feet to a found ½" iron rod for an angle point;
- (18) N. 11°51'11" E., a distance of 60.36 feet to a found ½" iron rod angle point;

- (19) N. 20°19'55" E., a distance of 82.23 feet to a found ½" iron rod angle point;
- (20) N. 39°59'40" E., a distance of 118.47 feet to a found ½" iron rod at the northwest corner of the remaining portion of said 32.609 acre tract and the southwest corner of said 1.436 acre tract, for the northwest corner of the herein described tract;
- (21) Thence S. 89°23'41" E., with the north line of the remaining portion of said 32.609 acre tract and the south line of said 1.436 acre tract, a distance of 45.71 feet to the POINT OF BEGINNING and containing 3.360 acres (146,383 Square Feet) of land, more or less.

save and except any oil, gas or other minerals in, on or under or produced from said real property, which may be removed from beneath said real property without any right whatsoever remaining to the owner(s) of said oil, gas or minerals of ingress and egress to or from the surface of said real property for the purpose of exploring, developing, drilling, or production of same, as further described in Exhibit A attached hereto; and

A 0.117 OF AN ACRE (5,106 SQ. FT.) PERMANENT DRAINAGE EASEMENT, MORE OR LESS, OUT OF THE JOHN SMALL SURVEY NO. 183, ABSTRACT NO. 441, KENDALL COUNTY, TEXAS, ALSO BEING OUT OF THE REMAINING PORTION OF A 32.609 ACRE TRACT DESCRIBED IN A WARRANTY DEED DATED MARCH 16, 1999, TO JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG, RECORDED IN VOLUME 607, PAGE 405, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS; SAID 0.117 OF AN ACRE (5,106 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING for reference at a found ½" iron rod with an orange plastic cap stamped "MDS SURVEY", on the south line of said 32.609 acre tract and the north line of a 6.010 acre tract described in a General Warranty Deed with Vendor's Lien dated July 30, 2009, to Friends of Cibolo Wilderness, recorded in Volume 1178, Page 815, Official Records of Kendall County, Texas;

Thence S. 66°17'01"W., with the south line of said 32.609 acre tract on the north line of said 6.010 acre tract, a distance of 397.20 feet to a set ½" iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 56+17.17, at the intersection of the south line of said 32.609 acre tract and the north line of said 6.010 acre tract, with the proposed curving east right-of-way line of Herff Road, from said point, a found cotton spindle on the east right-of-way line of Herff Road, a varying width right-of-way, at the southwest corner of said 32.609 acre tract and the northwest corner of said 6.010 acre tract bears S. 66°17'01" W., 53.36 feet;

Thence Northwesterly, across said 32.609 acre tract, with the proposed curving east right-of-way line of Herff Road, along a curve to the left having a radius of 1094.00 feet, a central angle of $01^{\circ}54'17''$, a chord which bears N. $29^{\circ}09'03''$ W., 36.36 feet, and an arc distance of 36.37 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 56+51.71, at the point of tangency.

Thence N. $30^{\circ}06'12''$ W., continuing across said 32.609 acre tract, with the proposed east right-of-way line of Herff Road, a distance of 211.94 feet to a set $\frac{1}{2}$ " iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT", 55.00 feet right of proposed Herff Road centerline station 58+63.65, for the southwest corner and **POINT OF BEGINNING** of the herein described tract;

Thence, continuing across said 32.609 acre tract, the following four courses numbered (1) and (4):

- (1) N $30^{\circ}06'12''$ W., continuing with the proposed east right-of-way line of Herff Road, a distance of 52.09 feet to a set $\frac{1}{2}$ " iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT", 55.00 feet right of proposed Herff Road centerline station 59+15.73, for the northwest corner of the herein described tract;
- (2) N. $76^{\circ}10'08''$ E., a distance of 109.41 feet to a set $\frac{1}{2}$ " iron rod with a yellow plastic stamp "B.M.B. INC., EASEMENT", 160.03 feet to right of proposed Herff Road centerline station 58+85.07, for the northeast corner of the herein described tract;
- (3) S. $13^{\circ}49'52''$ E., a distance of 50.00 feet to a set $\frac{1}{2}$ " iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT", 146.02 feet right of proposed Herff Road centerline station 58+37.08, for the southeast corner of the herein described tract;
- (4) S. $76^{\circ}10'08''$ W., a distance of 94.82 feet to the **POINT OF BEGINNING** and containing 0.117 of an acre (5,106 Square Feet) of land, more or less.

save and except any oil, gas or other minerals in, on or under or produced from said real property, which may be removed from beneath said real property without any right whatsoever remaining to the owner(s) of said oil, gas or minerals of ingress and egress to or from the surface of said real property for the purpose of exploring, developing, drilling, or production of same, as further described in Exhibit B attached hereto.

SECTION 2. Kendall County, Texas, acting by and through its attorneys, is hereby directed and authorized to institute and prosecute to conclusion a condemnation suit against the record owner(s), James E. Roerig and Deborah A. Roerig, and against any and all other persons and legal entities who own or claim any interest and rights in said land, and all necessary proceedings to condemn the property interests described in

Section 1 of this Order and to acquire such interests and rights in land as the County is unable to acquire through negotiation by reason of its inability to agree with the owners of the land as to the value of such interest and rights in land, and to take any other legal action necessary or incidental to such acquisitions or eminent domain proceedings to investigate, survey, specify, define, appraise and secure the necessary property rights.

SECTION 3. All acts and proceedings done or initiated by the employees, agents and attorneys of Kendall County, Texas for the acquisition of such property interests rights are hereby authorized, ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates of such acts and proceedings, with and in regard to the parties from whom such rights are being purchased or acquired.

SECTION 4. If any provision, section, subsection, sentence, clause or phrase of this Order, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Order shall not be affected thereby, it being the intent of the Commissioners Court in adopting this Order that no portion hereof, or provisions or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion hereof and all provisions of this Order are declared to be severable for that purpose.

SECTION 5. This resolution shall be effective upon passage.

PASSED AND APPROVED this _____ day of _____, 2014.

Darrel L. Lux, County Judge

Mike Fincke, Commissioner, Pct. 1

Gene Miertschin, Commissioner, Pct. 2

Richard J. Chapman, Commissioner, Pct. 3

Kenneth Rusch, Commissioner, Pct. 4

Attest: _____
Darlene Herrin, County Clerk

EXHIBIT "A"

**FIELD NOTES
for a 3.360 Acre (146,383 SQ. FT.)
Right-of-way Acquisition**

BEING A 3.360 ACRE (146,383 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOHN SMALL SURVEY NO. 183, ABSTRACT NO. 441, KENDALL COUNTY, TEXAS, ALSO BEING OUT OF THE REMAINING PORTION OF A 32.609 ACRE TRACT DESCRIBED IN A WARRANTY DEED DATED MARCH 16, 1999, TO JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG, RECORDED IN VOLUME 607, PAGE 405, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS; SAID 3.360 ACRE (146,383 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING for reference at a found 5/8" iron rod at an interior corner of a 125.324 acre tract described in a deed dated October 5, 1964, to the City of Boerne, recorded in Volume 88, Page 635, Deed Records of Kendall County, Texas, and the southeast corner of a 0.3357 of an acre tract described in a Warranty Deed dated June 28, 1967, to the City of Boerne, recorded in Volume 95, Page 429, Deed Records of Kendall County, Texas;

Thence N. 89°23'41" W., with the north line of said 125.324 acre tract and the south line of said 0.3357 of an acre tract, at 206.14 feet, pass a found 1/2" iron rod at the southwest corner of said 0.3357 of an acre tract and the southeast corner of a 1.436 acre tract described in a Warranty Deed dated October 28, 2003, to Friends of Cibolo Wilderness, recorded in Volume 829, Page 569, Official Records of Kendall County, Texas, and continuing with the north line of said 125.324 acre tract and the south line of said 1.436 acre tract, a total distance of 823.68 feet to a found 1/2" iron rod at the northeast corner of the remaining portion of said 32.609 acre tract and the northwest corner of said 125.324 acre tract, for a corner and **POINT OF BEGINNING** of the herein described tract;

(1) Thence S. 46°45'51" E., with the northeast line of said 32.609 acre tract and the southwest line of said 125.324 acre tract, a distance of 48.49 feet to a set 1/2" iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 69.81 feet right of proposed Herff Road centerline station 75+81.86, at the intersection of the northeast line of said 32.609 acre tract and the southwest line of said 125.324 acre tract, with the proposed east right-of-way line of Herff Road, for the northeast corner of the herein described tract;

Thence Southerly, across said 32.609 acre tract, with the proposed east right-of-way line of Herff Road, the following ten courses numbered (2) through (11):

- (2) Along a curve to the left having a radius of 500.00 feet, a central angle of $43^{\circ}44'38''$, a chord which bears S. $22^{\circ}07'46''$ W., 372.54 feet, and an arc distance of 381.74 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 71+50.00, at the point of tangency;
- (3) S. $00^{\circ}15'27''$ W., a distance of 758.43 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 63+91.56, at the point of curvature of a curve to the left;
- (4) Along said curve to the left having a radius of 455.00 feet, a central angle of $16^{\circ}00'34''$, a chord which bears S. $07^{\circ}44'50''$ E., 126.72 feet, and an arc distance of 127.13 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 62+49.06, at the point of non-tangency;
- (5) S. $28^{\circ}05'57''$ E., a distance of 49.86 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 63.00 feet right of proposed Herff Road centerline station 61+93.39, at the point of curvature of a non-tangent curve to the left;
- (6) Along said curve to the left having a radius of 447.00 feet, a central angle of $05^{\circ}16'24''$, a chord which bears S. $24^{\circ}38'37''$ E., 41.13 feet, and an arc distance of 41.14 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 63.00 feet right of proposed Herff Road centerline station 61+46.45, at the point of non-tangency;
- (7) S. $63^{\circ}27'37''$ E., a distance of 29.93 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 80.00 feet right of proposed Herff Road centerline station 61+18.33, for an angle point;
- (8) S. $30^{\circ}06'12''$ E., a distance of 90.00 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 80.00 feet right of proposed Herff Road centerline station 60+28.33, for an angle point;
- (9) S. $14^{\circ}53'48''$ W., a distance of 35.36 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 60+03.33, for an angle point;
- (10) S. $30^{\circ}06'12''$ E., a distance of 351.62 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of

proposed Herff Road centerline station 56+51.71, at the point of curvature of a curve to the right;

(11) Along said curve to the right having a radius of 1094.00 feet, a central angle of $01^{\circ}54'17''$, a chord which bears S. $29^{\circ}09'03''$ E., 36.36 feet, and an arc distance of 36.37 feet to a set $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 56+17.17, at the intersection of the proposed east right-of-way line of Herff Road, with the south line of said 32.609 acre tract and the north line of a 6.010 acre tract described in a General Warranty Deed with Vendor's Lien dated July 30, 2009, to Friends of Cibolo Wilderness, recorded in Volume 1178, Page 815, Official Records of Kendall County, Texas, for the southeast corner of the herein described tract, from said point, a found $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "MDS SURVEY", on the south line of said 32.609 acre tract and the north line of said 6.010 acre tract, bears N. $66^{\circ}17'01''$ E., 397.20 feet;

(12) Thence S. $66^{\circ}17'01''$ W., with the south line of said 32.609 acre tract and the north line of said 6.010 acre tract, a distance of 53.36 feet to a found cotton spindle on the east right-of-way line of Herff Road, a varying width right-of-way, at the southwest corner of said 32.609 acre tract and the northwest corner of said 6.010 acre tract, for the southwest corner of the herein described tract;

Thence Northerly, with the east right-of-way line of Herff Road and the west line of the remaining portion of said 32.609 acre tract, the following eight courses numbered (13) through (20):

(13) N. $31^{\circ}33'58''$ W., a distance of 655.42 feet to a found $\frac{1}{2}$ " iron rod for an angle point;

(14) N. $03^{\circ}55'34''$ W., a distance of 57.23 feet to a found chain-link fence post for an angle point;

(15) N. $00^{\circ}24'32''$ E., a distance of 857.55 feet to a found $\frac{1}{2}$ " iron rod with an orange plastic cap stamped "MDS SURVEY", for an angle point;

(16) N. $15^{\circ}02'56''$ E., a distance of 62.21 feet to a found $\frac{1}{2}$ " iron rod for an angle point;

(17) N. $03^{\circ}55'46''$ E., a distance of 67.04 feet to a found $\frac{1}{2}$ " iron rod for an angle point;

(18) N. $11^{\circ}51'11''$ E., a distance of 60.36 feet to a found $\frac{1}{2}$ " iron rod for an angle point;

(19) N. $20^{\circ}19'55''$ E., a distance of 82.23 feet to a found $\frac{1}{2}$ " iron rod for an angle point;

(20) N. $39^{\circ}59'40''$ E., a distance of 118.47 feet to a found $\frac{1}{2}$ " iron rod at the northwest corner of the remaining portion of said 32.609 acre tract and the southwest corner of

said 1.436 acre tract, for the northwest corner of the herein described tract;

(21) Thence S. 89°23'41" E., with the north line of the remaining portion of said 32.609 acre tract and the south line of said 1.436 acre tract, a distance of 45.71 feet to the **POINT OF BEGINNING** and containing 3.360 acres (146,383 Square Feet) of land, more or less.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 28th day of January, 2013, A.D.

Bain Medina Bain, Inc.
7073 San Pedro Ave.
San Antonio, Texas 78216
210-494-7223



Gregorio Lopez, Jr.
Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas

Owner: James E. Roerig and wife,
Deborah A. Roerig

Project Name: Harff Road Reconstruction Project

S.H. 46

PARCEL 9
3.360 ACRES
(146,383 SQ. FT.)

JAMES E. ROERIG AND WIFE,
DEBORAH A. ROERIG
REMAINDER OF 32.608 ACRES
(30.014 ACRES)
VOL.607, PG.405, D.R.K.G.T.

PARENT TRACT NOT TO SCALE

Kendall County
STATE HIGHWAY 46
(RIVER ROAD) (80' R.O.W.)
CIBOLO CREEK

MARIA IGNACIA LEAL
SURVEY NO. 180
ABSTRACT NO. 298

STATE HIGHWAY 48
(RIVER ROAD)
(R.O.W. WIDTH VARIES)

CITY OF BOERNE
0.3357 ACRE
VOL.95, PG.429, D.R.K.C.T.

POINT OF COMMENCEMENT

CITY OF BOERNE
REMAINDER OF 125.324 ACRES
VOL.88, PG.635, D.R.K.C.T.

— PARCEL 9
3.360 ACRES
(146,383 SQ. FT.)

PROPOSED HERFF ROAD

PI STATION	=	74+33.24
DELTA	=	51° 05' 19.80" (RT)
DEGREE OF CURVE	=	11° 14' 04.08"
TANGENT	=	243.74
LENGTH	=	454.75
RADIUS	=	510.00
PC STATION	=	71+89.50
PT STATION	=	76+44.25

JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG
REMAINDER OF 32.609 ACRES
(30.014 ACRES)
VOL. 607, PG. 405, O.R.K.C.T.

REFERENCES:
THIS SURVEY WAS PREPARED IN CONJUNCTION WITH, BUT NOT SOLELY
RELYING ON THE COMMITMENT LISTED BELOW.
TITLE COMMITMENT: ALAMO TITLE COMPANY G.F.# 4044000944

EFFECTIVE DATE: November 29, 2012
ONLY THESE MATTERS AFFECTING THE AREA OF THE SUBJECT TRACT
IDENTIFIED IN SCHEDULE B OF THE TITLE COMMITMENT ARE SHOWN.

TELEPHONE EASEMENT GRANTED TO SOUTHWESTERN BELL TELEPHONE
COMPANY BY INSTRUMENT RECORDED IN VOLUME 86, PAGE 249, DEED
RECORDS OF KENDALL COUNTY, TEXAS, DOES AFFECT THIS PARCEL. (Item 10a)

SANITARY SEWER LINE EASEMENT GRANTED TO THE CITY OF HOERNE BY INSTRUMENT RECORDED IN VOLUME 274, PAGE 57, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS, DOES NOT AFFECT THIS PARCEL (Item 10b)

PROVISIONS OF WILL OF OLGA M. HERFF AS TO PET CEMETERY AND
ACCESS THERETO, PROBATED UNDER CAUSE NO. 3894, IN KENDALL
COUNTY, TEXAS, DO AFFECT THIS PARCEL. (Item 10c)

STATE OF TEXAS }
COUNTY OF BEXAR }

THIS SURVEY PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION.

THIS 28TH DAY OF JANUARY, 2013 A.D.

Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 - State of Texas

JOB NO.: 5-5350

LINE	BEARING	LENGTH
L1	S46°45'51"E	48.49
L2	N15°02'58"E	62.21
L3	N03°55'46"E	67.04
L4	N11°51'11"E	60.36
L5	N20°19'55"E	82.23
L6	N39°59'40"E	118.47
L7	S89°23'41"E	45.71

SCALE: 1" = 100'

LEGEND

- FOUND 1/2" IRON ROD
UNLESS NOTED OTHERWISE
- SET 1/2" IRON ROD WITH
AN ORANGE PLASTIC CAP
STAMPED "BAIN MEDINA BAIN
INC. PROP COR"
- POWER POLE
- GUY ANCHOR
- SIGN
- OVERHEAD ELECTRIC
- BARBED WIRE FENCE
- CHAIN LINK FENCE
- WOOD FENCE
- EXISTING R.O.W
- PROPOSED PARCEL
- P.R.K.C.T. PLAT RECORDS OF
KENDALL COUNTY, TEXAS
- D.R.K.C.T. DEED RECORDS OF
KENDALL COUNTY, TEXAS
- O.R.K.C.T. OFFICIAL RECORDS OF
KENDALL COUNTY, TEXAS
- () RECORD INFORMATION

MATCH LINE PAGE 8

BEARING SOURCE:

NAD 83(93) TEXAS STATE PLANE COORDINATES
SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017

SURVEY PLAT SHOWING:

3.3560 ACRE (146,383 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOHN SMALL SURVEY NO. 183, ABSTRACT NO. 441, KENDALL COUNTY, TEXAS, ALSO BEING OUT OF THE REMAINING PORTION OF A 32.609 ACRE TRACT DESCRIBED IN A WARRANTY DEED DATED MARCH 16, 1999 TO JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG, RECORDED IN VOLUME 607, PAGE 405, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS.

PREPARED BY:



BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TSLF REG No. 100209-00



PAGE 5 OF 7

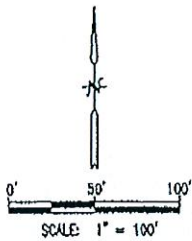
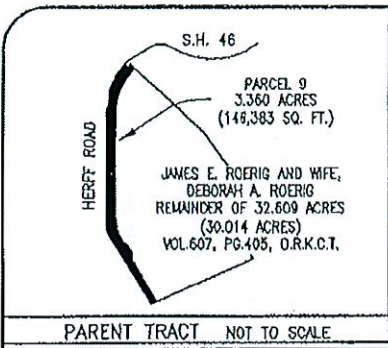
EXHIBIT A

Kendall County Parcel: 9

Owner: James E. Roerig and wife,
Deborah A. Roerig

Project Name: Herff Road Reconstruction Project

MATCH LINE PAGE 5



JAMES L. BEENE
2.34 ACRES (FIRST TRACT)
VOL. 1133, PG. 326, O.R.K.C.T.

JOHN SMALL SURVEY NO. 183
ABSTRACT NO. 441

LEGEND	
•	FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
⊙	SET 1/2" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "BAIN MEDINA BAIN INC. PROP COR"
—●—	POWER POLE
—>—	GUY ANCHOR
—x—	SIGN
—O—	OVERHEAD ELECTRIC
—X—	BARBED WIRE FENCE
—oo—	CHAIN LINK FENCE
—//—	WOOD FENCE
---	EXISTING R.O.W.
---	PROPOSED PARCEL
P.R.K.C.T.	PLAT RECORDS OF KENDALL COUNTY, TEXAS
D.R.K.C.T.	DEED RECORDS OF KENDALL COUNTY, TEXAS
O.R.K.C.T.	OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS
()	RECORD INFORMATION

JAMES L. BEENE
REMAINDER OF
2.635 ACRES
(SECOND TRACT)
VOL. 1133, PG. 326,
O.R.K.C.T.

JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG
REMAINDER OF 32.609 ACRES
(30.014 ACRES)
VOL. 607, PG. 405, O.R.K.C.T.

PARCEL 9
3.360 ACRES
(146,383 SQ. FT.)

ESTATE OF OLGA M. HERFF
0.036 ACRE
DESCRIBED IN
VOL. 204, PG. 919, O.R.K.C.T.

BEARING SOURCE:
HAD 83(83) TEXAS STATE PLANE COORDINATES
SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017

SURVEY PLAT SHOWING:
A 3.380 ACRE (146,383 SQ. FT.) TRACT OF LAND,
MORE OR LESS, OUT OF THE JOHN SMALL SURVEY
NO. 183, ABSTRACT NO. 441, KENDALL COUNTY,
TEXAS, ALSO BEING OUT OF THE REMAINING PORTION
OF A 32.609 ACRE TRACT DESCRIBED IN A WARRANTY
DEED DATED MARCH 16, 1999 TO JAMES E. ROERIG
AND WIFE, DEBORAH A. ROERIG, RECORDED IN
VOLUME 607, PAGE 405, OFFICIAL RECORDS OF
KENDALL COUNTY, TEXAS.

GREEN MEADOWS
DRIVE
(80' R.O.W.)

LOT 21
1175 N. 152° 24' 40" W.
1175 N. 152° 24' 40" W.
1175 N. 152° 24' 40" W.

STA. 63+91.56
55.00' RT.

PROPOSED HERFF ROAD
PI STATION = 62+59.69
DELTA = 30° 21' 38.14" (RT)
DEGREE OF CURVE = 11' 14" 04.08"
TANGENT = 138.38
LENGTH = 270.25
RADIUS = 510.00
PC STATION = 61+21.32
PT STATION = 63+91.56

R=455.00'
L=127.13'
D=16° 00' 34"
CB=S07° 44' 50" E
C=126.72

MATCH LINE PAGE 7

PREPARED BY:



BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TSLF REG No. 100209-00

S.H. 48
 PARCEL 9
 3.360 ACRES
 (146,383 SQ. FT.)
 JAMES E. ROERIG AND WIFE,
 DEBORAH A. ROERIG
 REMAINDER OF 32.609 ACRES
 (30.014 ACRES)
 VOL. 607, PG. 405, O.R.K.C.T.

PARENT TRACT NOT TO SCALE

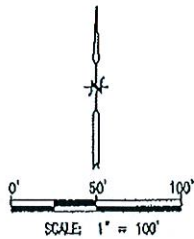
Kendall County Parcel: 9

Owner: James E. Roerig and wife,
 Deborah A. Roerig

Project Name: Herff Road Reconstruction Project

LINE TABLE		
LINE	BEARING	LENGTH
L8	S28°05'57"E	49.88'
L9	S63°27'37"E	29.93'
L10	S14°53'48"W	35.36'

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD DIST.
C1	447.00'	41.14'	05°16'24"	S24°30'37"E	41.13'
C2	1094.00'	36.37'	01°54'17"	S29°09'03"E	36.36'



LEGEND

- FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
- ⊙ SET 1/2" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "BAIN MEDINA BAIN INC. PROP COR"
- POWER POLE
- GUY ANCHOR
- SIGN
- O— OVERHEAD ELECTRIC
- X— BARBED WIRE FENCE
- ∞— CHAIN LINK FENCE
- //— WOOD FENCE
- --- EXISTING R.O.W
- — — PROPOSED PARCEL
- P.R.K.C.T. PLAT RECORDS OF KENDALL COUNTY, TEXAS
- D.R.K.C.T. DEED RECORDS OF KENDALL COUNTY, TEXAS
- O.R.K.C.T. OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS
- () RECORD INFORMATION

BEARING SOURCE:

NAD 83(93) TEXAS STATE PLANE COORDINATES
 SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017

SURVEY PLAT SHOWING:

A 3.360 ACRE (146,383 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOHN SMALL SURVEY NO. 183, ABSTRACT NO. 441, KENDALL COUNTY, TEXAS, ALSO BEING OUT OF THE REMAINING PORTION OF A 32.609 ACRE TRACT DESCRIBED IN A WARRANTY DEED DATED MARCH 16, 1999 TO JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG, RECORDED IN VOLUME 607, PAGE 405, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS.

PREPARED BY:



BAIN MEDINA BAIN, INC.
 ENGINEERS & SURVEYORS
 7073 San Pedro Ave.
 San Antonio, Texas 78216
 210/494-7223
 TFS REG No. 100209-00

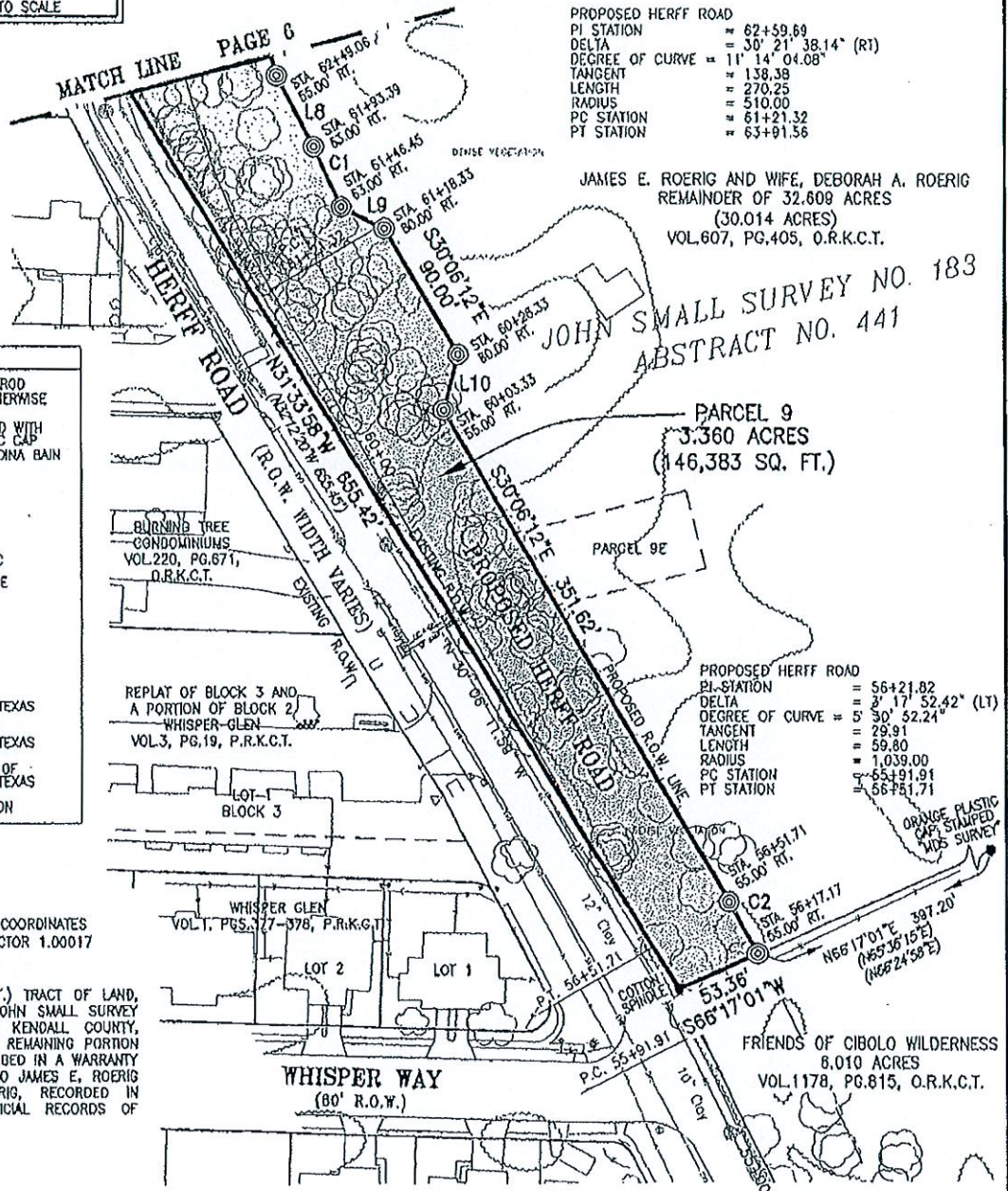


EXHIBIT "A"

FIELD NOTES

**for a 0.117 of an Acre (5,106 SQ. FT.)
Drainage Easement**

BEING A 0.117 OF AN ACRE (5,106 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOHN SMALL SURVEY NO. 183, ABSTRACT NO. 441, KENDALL COUNTY, TEXAS, ALSO BEING OUT OF THE REMAINING PORTION OF A 32.609 ACRE TRACT DESCRIBED IN A WARRANTY DEED DATED MARCH 16, 1999, TO JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG, RECORDED IN VOLUME 607, PAGE 405, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS; SAID 0.117 OF AN ACRE (5,106 SQ. FT.) TRACT AS SHOWN ON THE ACCOMPANYING PARCEL PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING for reference at a found ½" iron rod with an orange plastic cap stamped "MDS SURVEY", on the south line of said 32.609 acre tract and the north line of a 6.010 acre tract described in a General Warranty Deed with Vendor's Lien dated July 30, 2009, to Friends of Cibolo Wilderness, recorded in Volume 1178, Page 815, Official Records of Kendall County, Texas;

Thence S. 66°17'01" W., with the south line of said 32.609 acre tract and the north line of said 6.010 acre tract, a distance of 397.20 feet to a set ½" iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 56+17.17, at the intersection of the south line of said 32.609 acre tract and the north line of said 6.010 acre tract, with the proposed curving east right-of-way line of Herff Road, from said point, a found cotton spindle on the east right-of-way line of Herff Road, a varying width right-of-way, at the southwest corner of said 32.609 acre tract and the northwest corner of said 6.010 acre tract, bears S. 66°17'01" W., 53.36 feet;

Thence Northwesterly, across said 32.609 acre tract, with the proposed curving east right-of-way line of Herff Road, along a curve to the left having a radius of 1094.00 feet, a central angle of 01°54'17", a chord which bears N. 29°09'03" W., 36.36 feet, and an arc distance of 36.37 feet to a set ½" iron rod with an orange plastic cap stamped "BAIN MEDINA BAIN INC. PROP COR", 55.00 feet right of proposed Herff Road centerline station 56+51.71, at the point of tangency;

Thence N. 30°06'12" W., continuing across said 32.609 acre tract, with the proposed east right-of-way line of Herff Road, a distance of 211.94 feet to a set ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT", 55.00 feet

right of proposed Herff Road centerline station 58+63.65, for the southwest corner and **POINT OF BEGINNING** of the herein described tract;

Thence, continuing across said 32.609 acre tract, the following four courses numbered (1) through (4):

(1) N 30°06'12" W., continuing with the proposed east right-of-way line of Herff Road, a distance of 52.09 feet to a set ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT", 55.00 feet right of proposed Herff Road centerline station 59+15.73, for the northwest corner of the herein described tract;

(2) N. 76°10'08" E., a distance of 109.41 feet to a set ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT", 160.03 feet right of proposed Herff Road centerline station 58+85.07, for the northeast corner of the herein described tract;

(3) S. 13°49'52" E., a distance of 50.00 feet to a set ½" iron rod with a yellow plastic cap stamped "B.M.B. INC., EASEMENT", 146.02 feet right of proposed Herff Road centerline station 58+37.08, for the southeast corner of the herein described tract;

(4) S. 76°10'08" W., a distance of 94.82 feet to the **POINT OF BEGINNING** and containing 0.117 of an acre (5,106 Square Feet) of land, more or less.

Bearings based on NAD 83(93), Texas South Central Zone, Surface Coordinates, Scale Factor 1.00017.

All distances are surface.

A plat of even date herewith accompanies this metes and bounds description.

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

That I, Gregorio Lopez, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

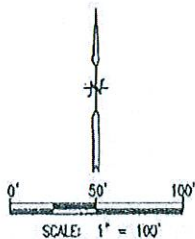
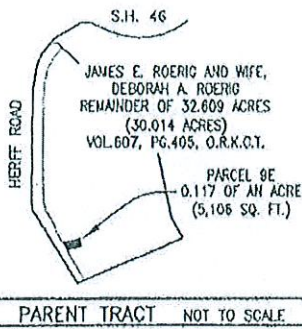
WITNESS MY HAND AND SEAL at San Antonio, Bexar County, Texas, this 28th day of January, 2013, A.D.

Bain Medina Bain, Inc.
7073 San Pedro Ave.
San Antonio, Texas 78216
210-494-7223



Gregorio Lopez, Jr.

Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 – State of Texas



LEGEND	
•	FOUND 1/2" IRON ROD UNLESS NOTED OTHERWISE
⊙	SET 1/2" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "BAIN MEDINA BAIN INC. PROP COR"
○	SET 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "B.M.B. INC EASEMENT"
—	SIGN
—O—O—	OVERHEAD ELECTRIC
—X—X—	BARBED WIRE FENCE
—OO—OO—	CHAIN LINK FENCE
—//—//—	WOOD FENCE
---	EXISTING R.O.W
---	PROPOSED PARCEL
P.R.K.C.T.	PLAY RECORDS OF KENDALL COUNTY, TEXAS
D.R.K.C.T.	DEED RECORDS OF KENDALL COUNTY, TEXAS
O.R.K.C.T.	OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS
()	RECORD INFORMATION

BEARING SOURCE:
NAD 83(93) TEXAS STATE PLANE COORDINATES
SOUTH CENTRAL ZONE, SCALE FACTOR 1.00017

SURVEY PLAT SHOWING:
A 0.117 OF AN ACRE (5,106 SQ. FT.) TRACT OF LAND, MORE OR LESS, OUT OF THE JOHN SMALL SURVEY NO. 183, ABSTRACT NO. 441, KENDALL COUNTY, TEXAS, ALSO BEING OUT OF THE REMAINING PORTION OF A 32.609 ACRE TRACT DESCRIBED IN A WARRANTY DEED DATED MARCH 15, 1999 TO JAMES E. ROERIG AND WIFE, DEBORAH A. ROERIG, RECORDED IN VOLUME 607, PAGE 405, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS.

PREPARED BY:
 BAIN MEDINA BAIN, INC.
ENGINEERS & SURVEYORS
7073 San Pedro Ave.
San Antonio, Texas 78216
210/494-7223
TSLF REG No. 100209-00

LINE TABLE		
LINE	BEARING	LENGTH
L1	N30°06'12"W	52.09'
L2	N76°10'08"E	109.41'
L3	S13°49'52"E	50.00'
L4	S76°10'08"W	94.82'

PROPOSED HERFF ROAD
PI STATION = 62+59.69
DELTA = 30° 21' 38.14" (RT)
DEGREE OF CURVE = 11° 14' 04.08"
TANGENT = 138.38
LENGTH = 270.25
RADIUS = 510.00
PC STATION = 61+21.32
PT STATION = 63+91.56

Kendall County Parcel: 9E

Owner: James E. Roerig and wife,
Deborah A. Roerig

Project Name: Herff Road Reconstruction Project

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD DIST.
C1	1094.00'	36.37'	01°54'17"	N29°09'03"W	36.36'

REFERENCES:
THIS SURVEY WAS PREPARED IN CONJUNCTION WITH, BUT NOT SOLELY RELYING ON THE COMMITMENT LISTED BELOW.
TITLE COMMITMENT: ALAMO TITLE COMPANY G.F.# 4044000949

EFFECTIVE DATE: November 29, 2012
ONLY THESE MATTERS AFFECTING THE AREA OF THE SUBJECT EASEMENT IDENTIFIED IN SCHEDULE B OF THE TITLE COMMITMENT ARE SHOWN.

TELEPHONE EASEMENT GRANTED TO SOUTHWESTERN BELL TELEPHONE COMPANY BY INSTRUMENT RECORDED IN VOLUME 86, PAGE 249, DEED RECORDS OF KENDALL COUNTY, TEXAS, DOES NOT AFFECT THIS PARCEL. (Item 10a)

SANITARY SEWER LINE EASEMENT GRANTED TO THE CITY OF BOERNE BY INSTRUMENT RECORDED IN VOLUME 274, PAGE 57, OFFICIAL RECORDS OF KENDALL COUNTY, TEXAS, DOES NOT AFFECT THIS PARCEL. (Item 10b)

PROMISONS OF WILL OF OLGA M. HERFF AS TO PET CEMETERY AND ACCESS THERETO, PROBATED UNDER CAUSE NO. 3894, IN KENDALL COUNTY, TEXAS, DO NOT AFFECT THIS PARCEL. (Item 10c)

JOHN SMALL SURVEY NO. 183
ABSTRACT NO. 441

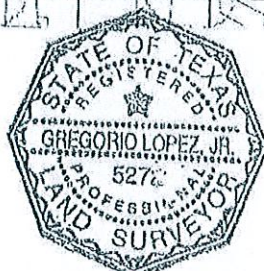
PARCEL 9E
0.117 OF AN ACRE
(5,106 SQ. FT.)

JAMES E. ROERIG AND WIFE,
DEBORAH A. ROERIG
REMAINDER OF 32.609 ACRES
(30.014 ACRES)
VOL.607, PG.405, O.R.K.C.T.

PROPOSED HERFF ROAD
PI STATION = 56+21.82
DELTA = 3° 17' 52.42" (LT)
DEGREE OF CURVE = 5° 30' 52.24"
TANGENT = 29.91
LENGTH = 59.80
RADIUS = 1,039.00
PC STATION = 55+91.91
PT STATION = 56+51.71

FRIENDS OF CIBOLO WILDERNESS
6.010 ACRES
VOL.1178, PG.815, O.R.K.C.T.

WHISPER WAY
(80' R.O.W.)



STATE OF TEXAS }
COUNTY OF BEXAR }

THIS SURVEY PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION.

THIS 28TH DAY OF JANUARY, 2013 A.D.

Gregorio Lopez, Jr.
Gregorio Lopez, Jr.
Registered Professional Land Surveyor
No. 5272 - State of Texas
JOB NO.: S-5350

C

Effective: September 1, 2011

Vernon's Texas Statutes and Codes Annotated Currentness

Government Code (Refs & Annos)

Title 10. General Government (Refs & Annos)

Subtitle E. Government Property

Chapter 2206. Eminent Domain (Refs & Annos)

Subchapter B. Procedures Required to Initiate Eminent Domain Proceedings

→ → § 2206.053. Vote on Use of Eminent Domain

(a) Before a governmental entity initiates a condemnation proceeding by filing a petition under Section 21.012, Property Code, the governmental entity must:

(1) authorize the initiation of the condemnation proceeding at a public meeting by a record vote; and

(2) include in the notice for the public meeting as required by Subchapter C, Chapter 551, in addition to other information as required by that subchapter, the consideration of the use of eminent domain to condemn property as an agenda item.

(b) A single ordinance, resolution, or order may be adopted for all units of property to be condemned if:

(1) the motion required by Subsection (e) indicates that the first record vote applies to all units of property to be condemned; and

(2) the minutes of the governmental entity reflect that the first vote applies to all of those units.

(c) If more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated, a separate record vote must be taken for each unit of property.

(d) For the purposes of Subsections (a) and (c), if two or more units of real property are owned by the same person, the governmental entity may treat those units of property as one unit of property.

(e) The motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings under Chapter 21, Property Code, must be made in a form substantially similar to the following: "I move that the

(name of governmental entity) authorize the use of the power of eminent domain to acquire (describe the property) for (describe the public use)." The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(f) If a project for a public use described by Section 2206.001(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the governmental entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(g) An ordinance, resolution, or order adopted under Subsection (f) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

CREDIT(S)

Added by Acts 2011, 82nd Leg., ch. 81 (S.B. 18), § 2, eff. Sept. 1, 2011.

Current through the end of the 2013 Third Called Session of the 83rd Legislature

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