

RESOLUTION NO. 06-06-2017 D

A RESOLUTION MAKING FINDINGS AND APPROVING AN AGREEMENT BY AND BETWEEN THE CITY OF GAINESVILLE, TEXAS, AND NORTH GAINESVILLE SOLAR, LLC; PROVIDING FOR AD VALOREM TAX ABATEMENT FOR SAID BUSINESS WITHIN THE ENTERPRISE ZONE OF THE CITY OF GAINESVILLE, TEXAS; AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT FOR AND ON BEHALF OF THE CITY, FOR THE CONSIDERATION AND ON THE TERMS AND CONDITIONS STATED THEREIN.

WHEREAS, North Gainesville Solar, LLC, has requested that the City of Gainesville enter an agreement for abatement of ad valorem taxes in an area designated by the State of Texas as an enterprise zone of the City of Gainesville, Texas; and

WHEREAS, Section 312.2011 Enterprise Zone, of the State of Texas Tax Code, provides that the designation of an area as an enterprise zone under Chapter 2303, Government Code, constitutes designation of the area as a reinvestment zone; and

WHEREAS, said tax abatement will have no adverse affect on the City of Gainesville's ability to provide public services or on its tax base nor will the planned use of the property constitute any hazard to the public's health, safety or morals; and

WHEREAS, upon full review and consideration of the Agreement, and all matters related thereto, the City Council is of the opinion that the terms and conditions of the agreement should be approved and the Mayor should be authorized to execute it on behalf of the City of Gainesville.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, MEETING IN REGULAR SESSION ON JUNE 6, 2017:

Section 1. Name of Resolution.

This resolution shall be known as the **"North Gainesville Solar, LLC Tax Abatement Agreement Resolution of 2017"**.

Section 2. Findings.

The City Council hereby makes the following findings concerning the Agreement with **North Gainesville Solar, LLC** which is the subject of this Resolution:

1. All required notices have been given to the taxing units to be included in the agreement;
2. The City of Gainesville has elected to become eligible to participate in tax abatements;
3. The terms and conditions of the Agreement, a copy of which is attached as Exhibit "A" and incorporated herein for all purposes, comply with requirements of the City

of Gainesville Guidelines and Criteria for Tax Abatement and the Property Redevelopment and Tax Abatement Act, Chapter 312, Tex. Tax Code, ("the Act");

4. The real property to be included in the tax abatement agreement, which is described in Exhibit "A" of the Tax Abatement Agreement attached to this Resolution, is entirely within an area previously designated as an Enterprise Zone in the City of Gainesville;

Section 3. Authorization of Execution.

The Mayor is hereby authorized, for and on behalf of the City of Gainesville, Texas, to execute the Tax Abatement Agreement with **North Gainesville Solar, LLC** on the terms and conditions and for the consideration stated therein.

Section 4. General Authorization.

The City Manager, or his designee, is authorized to take all necessary action to carry out the terms of the Agreement.

PASSED AND APPROVED THIS 6TH DAY OF JUNE 2017 BY THE FOLLOWING VOTE:

 6 AYES, 0 NAYS, 1 ABSENT, 0 ABSTENTIONS



KEITH CLEGG, MAYOR PRO TEM

ATTEST:


CAITLYN HUDDLESTON, CITY SECRETARY



**AGREEMENT FOR DEVELOPMENT AND TAX ABATEMENT
FOR COMMERCIAL TAX ABATEMENT
BETWEEN THE CITY OF GAINESVILLE AND NORTH GAINESVILLE SOLAR, LLC**

**STATE OF TEXAS §
 §
COUNTY OF COOKE §**

This Agreement entered into by and between the **CITY OF GAINESVILLE, TEXAS**, a home rule municipal corporation, Cooke County, Texas, acting herein by and through its Mayor, hereinafter referred to as **City** and **North Gainesville Solar, LLC**, hereinafter referred to as **Owner**, acting herein by and through its duly authorized officer.

WITNESSETH:

WHEREAS, the **City** is authorized and empowered under applicable Texas law to aid in the development of industrial enterprises within the geographic boundaries of the City by offering economic and other incentives to prospective new, developing, and expanding businesses; and

WHEREAS, the City Council of the City of Gainesville, Texas, (“Council”) on June 6, 2017 adopted Resolution Number 06-06-2017 C establishing guidelines and criteria for granting tax abatement in a reinvestment zone or enterprise zone created within the City of Gainesville. The Council has adopted and passed a resolution electing to become eligible to participate in tax abatements.

WHEREAS, the Property, more specifically described Exhibit A, is located in an enterprise zone (“Zone”) as authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312, Section 312.2011 V.T.C.A, TAX CODE, (“Act”); and

WHEREAS, Cooke County, Texas, who in accordance with the Act, has voted to approve a tax abatement for North Gainesville Solar, LLC on the property, more specifically described in Exhibit A; and

WHEREAS, in order to provide for the proper development of the Property (as hereinafter defined) and to aid in the conduct of the operation thereof to the best interest of the **City** and the **Owner** in accordance with the above-referenced resolution and statutes, the parties do mutually agree as follows; and

WHEREAS, **North Gainesville Solar, LLC** owns said Property and shall build a solar electric generation facility.

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual obligations and promises set forth below, and for other good and valuable consideration, the adequacy and receipt of which are hereby acknowledge, the City and Owner agree as follows:

1. **Definitions.** For the purposes of this Agreement, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. The words “shall” and “will” are mandatory and the word “may” is permissive. Words not defined in this Agreement shall be given their common and ordinary meaning. The following words shall be given the meanings designated:

Full-time Employees shall mean any employee (excluding temporary or seasonal employees) on the payroll in a budgeted position and having an official scheduled work week of not less than thirty (30) hours or more and that according to company policy is entitled to full benefits.

Baseline Date or Baseline shall mean the date from which **Owner’s** fixture, furniture, employment, and job creation requirements shall be measured, which shall be January 1, 2017.

Full-time Equivalent Employees shall mean the number of forty (40) hour/week schedules on payroll, and is comprised of full and part-time employees. For example, a 20 hour/week employee is equal to 0.5 full-time equivalent. A twenty-four (24) hour/week employee is equal to 0.625 full-time equivalents. Together, these two employees represent 1.12 full-time equivalents.

Part-time Employees shall mean any employee (excluding temporary or seasonal employees) on the payroll in a budgeted position and having an official scheduled workweek of less than thirty (30) hours and that according to company policy is entitled to limited benefits.

Property shall refer to 2.9 acres of land more or less, more specifically described in Exhibit “A”, attached hereto and incorporated herein by reference. Said, “Property”, together with all fixtures and permanent improvements shall be referred to as the “Premises”.

2. **Grant of Tax Abatement.** In consideration of **Owner’s** construction of a 5MW solar power electric generation facility for a total amount of \$7,500,000, to be completed on or before December 31, 2018 with the expectation of the creation and retention of jobs and payroll, as detailed in Section 10, herein below, **City** agrees, subject to the terms and conditions contained herein, that the above-described Premises shall be entitled to a fifty percent (50%) exemption from taxation for the increase in value of said Premises over the Base Year (as hereafter defined) for a period of ten (10) years, subject to the terms and conditions of this Agreement, and that upon the expiration of such time, this Tax Abatement Agreement shall terminate. The tax abatement shall take effect for values of the new facility on January 1, 2018. Thereafter the fifty percent (50%) abatement will be in effect for ten (10) years through December 31, 2027. **Owner** acknowledges and agrees that the purpose of this Tax Abatement Agreement is to encourage development of the Property, which is located in an enterprise zone. **Owner** agrees to limit the use of the Premises to further said purposes of this Agreement.

- a. The tax abatement shall **not** include the value of the land, inventories, supplies, tools, vehicles, aircraft, housing or boats.

3. **Plans for Improvements.** **Owner** agrees that the site plan, design drawings, specification and materials (hereinafter referred to as "Plans") for the improvement will be submitted to **City**, and/or its designated representative, for its approval which approval shall not be unreasonably withheld, which Plans are incorporated herein for all purposes. An official set of Plans will be designated by the **Owner** and kept on file with **City**.

4. **Compliance with Law.** **Owner** agrees to construct all improvements in accordance with all applicable laws, ordinances, codes, rules, requirements, or regulations, of the City of Gainesville, Cooke County, and the State of Texas, and any subdivision, agency, or authority thereof in effect at the time of development.

5. **Damage or Destruction of Premises.** In the event Premises is damaged by fire, act of God, or any other casualty, the **Owner** shall diligently prosecute such reconstruction, repair, remodel, or renovation of Premises in accordance with the Plans or revised Plans. **Owner** shall notify the **City** within sixty (60) days of such event. If **Owner** decides not to repair, remodel, renovate, or reconstruct the damaged Premises, then the exemption from the taxation as provided for in this Agreement shall cease, the Premises will be taxed at full market value, and **Owner** shall repay to **Taxing Units** the amount of the tax previously abated in prior years.

6. **Responsibility of City.** **City**, by approving Plans or any revised Plans, assumes no liability or responsibility therefore for any defect in any structure constructed, renovated, or repaired from the Plans or approved revised Plans. The relationship between **City** and **Owner** at all times shall not be deemed a partnership or joint venture for purposes of this Agreement.

7. **Indemnification.** **Owner** agrees to and shall indemnify and hold harmless and defend **City**, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all reasonable expenses of litigation, court costs, and reasonable attorney's fees, for injury to or death of any person, for damage to the Premises, for any breach of contract, except for a breach by **City**, or its failure to abide by all applicable environmental laws, rules, and regulations arising out of or in connection with **Owner's** operation and construction of improvements on the Premises.

8. **City's Right of Inspection.** At all reasonable times during the construction of Premises, and following its completion, **City** and its respective designees may inspect Premises in order to ensure that all construction, workmanship, materials, and installations involved in or incident to the project are performed in substantial compliance with the approved Plans and that the Premises comply with all of the conditions and the applicable building permits and governmental regulations. **City** agrees to provide reasonable notice beforehand of any such request for inspection. Such inspection shall take place at a time and manner as not to materially interfere with construction or with **Owner's** business operations.

9. **Payment of Taxes and Assessments.** **Owner** agrees to pay all ad valorem taxes and assessments that may be owed to **City** or any other taxing entity by **Owner** prior to such taxes and / or assessments becoming delinquent; provided that **Owner** shall have the right to contest in good faith the validity or application of any such tax or assessment and shall not be considered in default hereunder so long as such contest is diligently pursued to completion. In the event **Owner** does contest any such tax or assessment, **Owner** shall, nevertheless, promptly pay to

City or any other taxing entity prior to their becoming delinquent taxes, and assessments. If **Owner** undertakes any such contest, it shall so notify **City** and keep **City** apprised of the status of such contest. Should **Owner** be unsuccessful in such contest, **Owner** shall promptly pay the taxes, penalties, and / or interest, resulting therefrom.

10. **Employment and Payroll.** **Owner** represents that the following employment and payroll figures are correct and agrees to maintain during the term of this Agreement, the specified employment and payroll:

10.1 **Owner** represents that since the Baseline Date, it will construct a headquarters building in and may add new jobs equal to one (1), full-time equivalent employees (over 10 years).

10.2 **Owner** represents that the average annual salary of the new jobs will be approximately \$50,000 per employee.

11. **Submission of Reports and / or Inspection and Auditing.**

11.1 The parties herein agree that the **City** shall have the right annually to an on-site inspection of the Premises to verify that **Owner** is in substantial compliance with the terms of this Agreement and any modification hereto. **City** agrees to provide reasonable notice beforehand of any such request for inspection. Such inspection shall take place at a time and manner as not to materially interfere with **Owner's** business operations. Additionally, **Owner** shall submit to the **City**, on an annual basis, the information or reports necessary for the monitoring of the performance criteria established in this Agreement. The submission shall be certified, at **Owner's** expense, by a designated officer of the **Owner**.

11.2 Because of the highly competitive nature of the industry in which **Owner** does business, **Taxing Units** agrees that the reports which **Owner** is required to submit may contain information which **Owner** considers to be valuable proprietary information. As such, **City** agrees to keep any and all reports provided by **Owner** as confidential information to the extent the documents are not public information under the Public Information Act, Chapter 552, TEXAS GOVERNMENT CODE, as amended.

12. **Default.**

12.1 **Capital Investment.** If **Owner** fails to construct the specified improvements as described in Section 2 of this Agreement as of December 31, 2018, then **City** may at **City's** sole option, terminate this Agreement.

12.2 **Cessation of Operations.** In the event **Owner** ceases operations at the facilities on the Premises within **ten (10)** years from the Baseline Date of this Agreement, **Owner** shall be in default. **City** shall provide **Owner** written notice of **Owner's** default. If such default is not cured within thirty (30) days from the date written notice is received by **Owner** from **City**, **City** may at **City's** sole option, terminate Tax Abatement to **Owner** after the date of such default and thereafter require that **Owner** repay taxes previously abated.

12.3 **Lack of Diligence.** City and Owner further agree that, if Owner does not diligently, faithfully, and conscientiously pursue the completion of construction on the Premises, in accordance with the Plans (or revised Plans), as provided in this Agreement for tax abatement, City shall have the right to renegotiate or terminate this Agreement, and Owner shall repay to City the amount of the tax abated in prior years pursuant to the Schedule established in Section 12 herein.

13. **Payment of Taxes after Default.**

13.1 Should the Owner be required to pay the City the taxes that would have been paid to City had the taxes not been abated under the terms of this Agreement, it shall pay such recaptured taxes plus penalties and interest at the rate provided for delinquent taxes in accordance with V.T.C.A., TAX CODE, SECTION 33.01 as amended and shall be secured by tax liens and collected as provided in the Texas Property Tax Code. Such payment of taxes and interest shall be due within thirty (30) days of City's termination of this Agreement and notification to Owner for the termination of this Agreement and of the amount of taxes and interest due or Owner's uncured default following notice. The taxes and interest are delinquent and incur penalties as provided by law for ad valorem taxes imposed by City if not paid before February 1 of the year following the date on which the termination of this Agreement occurs or the date of Owner's uncured default following notice, as applicable.

13.2 If Owner believes that such termination is improper, Owner may file suit in the Cooke County district courts appealing such termination within sixty (60) days after the written notice of the termination by the City. If an appeal suit is filed, Owner shall remit to the City, within such sixty (60) days after the notice of termination, any additional and/or recaptured taxes as may be payable during the pendency of the litigation pursuant to the payment provisions of SECTION 42.08, TEXAS TAX CODE. If the final determination of the appeal increases Owner's tax liability above the amount of tax paid, Owner shall remit the additional tax to the City pursuant to SECTION 42.42, TEXAS TAX CODE. If the final determination of the appeal decreases Owner's tax liability, the Taxing Units shall refund to Owner the difference between the amount of tax paid and the amount of tax for which the Owner is liable pursuant to SECTION 42.43, TEXAS TAX CODE.

14. **Certifications.** Owner shall certify in writing to City that all construction of the improvements to the Premises has been completed in accordance with the approved Plans. After receipt of this certification, City shall make a final inspection of Premises to verify whether Premises have been constructed in compliance with this Agreement; and that upon so finding, City shall issue a Certificate of Compliance.

15. **Application of Abatement.** The tax exemption provided for by the Agreement shall exempt the value of the buildings, and the other permanent improvements. Taxes on personal property as allowed by Section 2 of this agreement shall also be abated, but only those items of personal property furnished to the Appraisal District, no later than December 31, annually. This tax abatement shall apply to the value of the Premises over and above the certified value of the Property for the 2017 tax year (herein the Base Year). Such abatement shall be effective for the years 2018 through December 31, 2027, subject to the limitations provided herein.

16. **Determining Taxable Value.** The Chief Appraiser of the Cooke County Appraisal District shall determine (i) the taxable value of the real and personal property comprising the Premises taking into consideration the abatement provided by this Agreement; and (ii) the full taxable value without abatement of the real and personal property comprising the Premises. The Chief Appraiser shall record both the abated taxable value and the full taxable value in the records. The full taxable figure listed in the appraisal records shall be used to compute the amount of abated taxes that are required to be recaptured and paid in the event this Agreement is terminated in a manner that results in recapture. Each year the **Owner** shall furnish the Chief Appraiser with such information outlined in Chapter 22, TEXAS TAX CODE, as amended, as may be necessary for the administration of this Agreement.

17. **Representation.** **Owner** represents and warrants that no member of the Gainesville City Council or the Gainesville Planning and Zoning Commission has an interest in the Premises or the Property and that the same are not owned or leased by any member of the Gainesville City Council or the Gainesville Planning and Zoning Commission. **Owner** further represents that no member of the Gainesville City Council is under contract either directly or indirectly with **Owner**, **Owner's** agents, contractors, or subcontractor. This representation and warranty shall be in effect for the full term of this agreement.

18. **Term.** The term of this Agreement shall be from date of execution through December 31, 2027.

19. **Miscellaneous.**

19.1 **Attorney's Fees.** If on account of any breach or default by either party to this Agreement of their obligations under the terms, conditions, or covenants of the Agreement, it shall be necessary for either party to employ an attorney or attorneys to enforce or defend any of the rights or remedies hereunder, and should such party prevail, the prevailing party shall be entitled to any reasonable attorney's fees, costs, or expenses incurred by it in connection therewith.

19.2 **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected thereby; and in lieu of such deleted provision, there shall be added automatically as part of this agreement a provision that is similar in terms and substance to such deleted provision as may be possible and yet be legal, valid, and enforceable.

19.3 **Texas Law to Apply.** This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Cooke County, Texas. In the event of litigation, jurisdiction shall lie in Cooke County, Texas.

19.4 **Prior Agreements Superseded.** This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

19.5 **Amendments.** No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

19.6 **Rights and Remedies Cumulative.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all of their remedies. Said rights and remedies are given in addition to any other rights the parties may have according to law, statute, ordinance or otherwise.

19.7 **No Waiver.** No waiver by any party to this Agreement in any event of default, or breach of any covenant, condition or stipulation herein contained shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition, or stipulation thereof.

19.8 **Assignment.** **Owner** may not assign in this Agreement, either collectively or individually, without the prior written consent of the **City**, which consent shall not unreasonably be withheld or delayed; provided however, that **Owner** may assign this Agreement to an Affiliate or to a party which acquires all or substantially all of the capital stock of **Owner**, upon written notice to the **City** but without the requirement of prior consent, so long as the Assignee has a net worth equal to that of **Owner** as of the date of this Agreement, and further so long as there is no resulting reduction in the gross payroll and capital investments commitments hereunder. A change in ownership in a single transaction of fifty-one (51%) of the stock of **Owner**, or the transfer of ownership of **Owner** to a third party other than as specified above, shall be considered an assignment for purposes of this paragraph. An assignment as prohibited above shall cause this Agreement to terminate immediately and the exemption from taxation as provided herein shall cease. Such assignment shall, however not be considered a violation of this Agreement as to require the recapture of any taxes previously abated herein.

19.9 **Binding.** This Agreement is binding on the parties herein their successor, assigns, parent corporations, and subsidiaries.

19.10 **Authority to Act.** The parties to this Agreement shall provide proof of authorization to execute this document.

19.11 All notices required by this Agreement (i) shall be in writing, (ii) shall be addressed to the parties as set forth below unless notified in writing of a change in address, and (iii) shall be deemed to have been delivered either when personally delivered or, if sent by mail, in which event it shall be sent by registered or certified mail, return receipt requested, three (3) business days after mailing. The addresses of the parties are as follows:

To Owner:	North Gainesville Solar, LLC c/o Chief Financial Officer 3250 Ocean Park Blvd., Suite 355 Santa Monica, CA 90405	To City:	City of Gainesville 200 S. Rusk Gainesville, TX 76240 Attn: City Manager
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The parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in multiple counterparts, each of equal dignity.

SIGNATURE PAGES FOLLOW:

North Gainesville Solar, LLC

By: [Signature]

Date: 6/15/17

ATTEST:

Secretary

See Attached Notary
Acknowledgment Certificate

STATE OF TEXAS
COUNTY OF COOKE

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ACKNOWLEDGEMENT

Before me, the undersigned authority, on this day personally appeared John Schmitz, who is the President and Chief Executive Officer of SES Holdings, LLC and B-29 Properties, LLC on behalf of said partnership, known to me to be the other person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed.

Given under my hand seal of office on this _____ day of _____ 2017.

Notary Public in and for the State of Texas

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On June 15, 2017 before me, Karen R. Elmore, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Evan Riley
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature: [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Agreement for DEV & Tax Abatement- Gainesville & Gainesville Solar, LLC

Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

- Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:

- Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:

Signer Is Representing: Signer Is Representing:



CITY OF GAINESVILLE

By: [Signature]
Jim Goldsworthy, Mayor

Date: July 18, 2017

ATTEST:
[Signature]
Caitlyn Huddleston, City Secretary

APPROVED:
[Signature]
Belvin Harris, City Attorney

STATE OF TEXAS §
 § ACKNOWLEDGEMENT
COUNTY OF COOKE §

Before me, the undersigned authority, on this day personally appeared ^{Jim Goldsworthy} ~~Glenn Loch~~, as Mayor of the City of Gainesville, a Texas home-rule municipal corporation, on behalf of said municipality, known to me to be the other person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed.

Given under my hand seal of office on this 18th day of July 2017.

[Signature]
Notary Public in and for the State of Texas

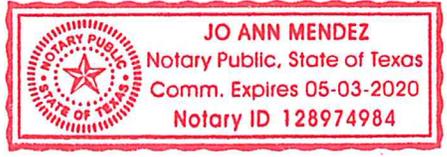


EXHIBIT "A"
BOUNDARY DESCRIPTIONS
INCLUDING PARCELS LOCATED WITHIN THE
CITY LIMITS OF GAINESVILLE
ADJACENT TO I-35

Being 38.232 acres of land lying in an being situated our of the J.B. Botard Survey, Abstract No. 75 in Cooke County, Texas, and being the residue of a 66 acre tract described as Tract 3 conveyed to Primeaux Land, LLC by deed recorded in Volume 1873, Page 669 of the Official Public Records of Cooke County, Texas, said 38.232 acre tract being more particularly described as follows:

66 acres, more or less, out of the J.B. Botard Survey, Abst. No. 75, BEGINNING at the Northeast corner of the said survey which is also the northeast corner of the 160 acre tract conveyed by J.R. Fisher to J.B. Hinton by deed recorded in Book 54, Page 532, of the Cooke County Deed Records; THENCE South with the East line of the said Botard Survey 662 varas to the Southeast corner of said 160 acre tract; THENCE West 411 varas to the line of the right of way of the G.C. & S.F.R.R. Co.; THENCE Northwesterly with said right of way line to North line of said Botard Survey; thence east with said line to the BEGINNING.

And being the same land described as Tract Numbered 1 in Deed dated March 29, 1947, from Mrs. Beattie Wright et vir to W.B. Hinton, recorded in Volume 318, Page 26, Deed Records of Cooke County, Texas; Less, however, the right of way and surface and other rights granted by W.B. Hinton to the State of Texas, in those two certain deeds or grants, one dated November 4, 1947, of record in Volume 324, Page 319, of the Deed Records of Cooke County, Texas, covering 3.12 acres of land, more or less; and one dated March 4, 1958, of record in Volume 412, Page 191, of the Deed Records of Cooke County, Texas, covering 1.51 acres of land, more or less.

LESS AND EXCEPT a tract of 30 acres, more or less conveyed by H&B Properties, Inc. to CSR Polypipe, Inc., by General Warranty Deed dated as of November 26, 1997, recorded in Volume 994, Page 525 of the Deed Records of Cooke County, Texas, and described as follows:

BEGINNING at a set steel pin on the Southwest line of said 65 acre tract, common to the Northeast line of the A.T. & S.F. Railroad (predecessor to the C.G. & S.F.R.R.) at a point South 26 degrees 53 minutes 33 seconds East, a distance of 780.93 feet from the West corner of said 66 acre tract, said beginning corner further being at the Intersection of said railroad with the East line of Interstate Highway 35 as described in a deed from W.B. Hinton to the State of Texas recorded in Volume 412, Page 191 of said Deed Records;

THENCE North 18 degrees 21 minutes 28 seconds East, with said East line of Interstate Highway 35 as described in said Hinton to the State of Texas deed, a distance of 477.0 feet to a set steel pin;

THENCE South 69 degrees 28 minutes 29 seconds East, a distance of 1087.55 feet to a set steel pin;

THENCE South 00 degrees 18 minutes 18 second West, a distance of 1225.0 feet to a set steel pin on the South line of said 66 acre tract, common to the North line of a tract described in Volume 798, Page 421 of said Deed Records;

THENCE North 89 degrees 41 minutes 42 seconds West, with said South line, along or near a fence, a distance of 578.74 feet to a set steel pin at the Southwest corner of said 66 acre tract, on the said Easterly line of the A.T. & S.F. Railroad;

THENCE North 26 degrees 53 minutes 33 seconds West, with said railroad, a distance of 1290.0 feet to the POINT OF BEGINNING containing 30.00 acres of land, more or less.

Said 38.232 acre tract being more particularly described as follows and as surveyed under the supervision of John F. Watson & Company in June, 2016:

BEGINNING at 60d nail found in the centerline of North Weaver Street, the east line of said J.B. Botard Survey, and the west line of M. McCall Survey, Abstract No. 703 for the southwest corner of a 76.16 acre tract conveyed to Jack Anthony Smith by deed recorded in Volume 1880, Page 348 of said official public records, the northwest corner of a 50-1/2 acre tract of land conveyed to William A. Tyler and wife, Sara Billie Tyler by deed recorded in Volume 564, Page 313 of the Deed Records of Cooke County, Texas, the northeast corner a 3.856 acre tract conveyed to Texas Utilities Electric Company by deed recorded in Volume 1018, Page 444 of said official public records, and the southeast corner hereof;

THENCE South 89°28'45" West a distance of 670.55 feet along the north line of said Texas Utilities Electric Company tract and the North line of the residue of a 23.41 acre tract conveyed to North Texas Economic Development Foundation, Inc. by deed recorded in Volume 735, Page 131 of said deed records to a ½ inch iron rod found for the southeast corner of a 30 acre tract of land conveyed to Poly (Multi) Limited Partnership, a Delaware Limited Partnership by deed recorded in Volume 1357, Page 279 of said deed records and the easternmost southwest corner hereof;

THENCE along the east line of said Poly (Multi) Limited Partnership tract the following two (2) calls:

1. North 00°14'18" West a distance of 1224.53 feet to a bent 5/8 inch iron rod found for an angle point hereof;
2. North 70°00'18" West a distance of 1088.04 feet to a calculated point in the east right-of-way of Interstate Highway 35 conveyed to the State of Texas by deed recorded in Volume 412, Page 191 of said deed records for the westernmost southwest corner hereof, and from which a ½" iron rod found for the West corner of said Poly (Multi) Limited Partnership tract bears S 17°46'21" W 476.99 feet, a t-post fence corner bears N 18°17'56" E 72.22 feet, another t-post fence corner bears S 69°28'45" E 103.76 feet;

THENCE North 17°46'21" East a distance of 252.47 feet along said east right-of-way line to a 4 inch metal fence corner post for the southwest corner of a 7.994 acre tract conveyed to William W. Hall by deed recorded in Volume 1758, Page 243 of said official public records and the northwest corner hereof, from whence a ½ inch iron rod bears South 85°07'41" West 1.29 feet;

THENCE North 89°22'50" East a distance of 736.36 feet along said William W. Hall tract to a ½ inch iron rod found for the southeast corner of said William W. Hall tract, the southwest corner of a 8.044 acre tract conveyed to Steve Metzler by deed recorded in Volume 1000, Page 246 of said deed records and an angle point hereof;

THENCE North 89°26'45" East along the South line of said Steve Metzler tract, at 816.08 feet pass a calculated point for the southeast corner of said Steve Metzler tract, continuing in all a distance of 849.67 feet to a 60d nail in the centerline of North Weaver Street for the northwest corner of said Jack Anthony Smith tract and the northeast corner hereof;

THENCE along the west line of said Jack Anthony Smith tract the following two (2) calls:

1. South 06°53'05" East a distance of 229.18 feet to a calculated point for an angle point hereof, from which a 4 inch wooden fence corner post bears S 63°39'01" W 40.79 feet;
2. South 00°16'15" East a distance of 1619.56 feet to the POINT OF BEGINNING and containing 38.232 acres more or less.