

CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 47-2024

A RESOLUTION WHEREBY CITY COUNCIL MAKES A FINDING OF PUBLIC CONVENIENCE AND NECESSITY FOR AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS, IF NECESSARY, FOR THE ACQUISITION OF A FEE SIMPLE ESTATE TOTALING 54.9 ACRES, SITUATED IN THE JOHN MATCHETT SURVEY NO. 243, ABSTRACT NO. 43, KERR COUNTY, TEXAS, FOR RUNWAY EXPANSION, SAFETY AREAS, AND OTHER IMPROVEMENTS OF A PRIVATELY OWNED REAL PROPERTY; AUTHORIZING ALL APPROPRIATE ACTION BY THE JOINT AIRPORT BOARD, STAFF, RETAINED ATTORNEYS AND ENGINEERS AND TECHNICAL CONSULTANTS IN THE INSTITUTION AND PROSECUTION OF CONDEMNATION PROCEEDINGS TO ACQUIRE THE NECESSARY FEE SIMPLE ESTATE THAT CANNOT BE ACQUIRED THROUGH NEGOTIATION; DECLARING FURTHER NEGOTIATIONS FUTILE; RATIFYING AND AFFIRMING ALL ACTS AND PROCEEDINGS HERETOFORE DONE OR INITIATED BY EMPLOYEES, AGENTS, AND ATTORNEYS OF THE CITY THROUGH ITS JOINT OWNERSHIP WITH KERR COUNTY OF THE KERRVILLE-KERR COUNTY AIRPORT TO ACQUIRE SUCH PROPERTY INTEREST INCLUDING NECESSARY ACTS FOR ANY APPLICABLE LIENHOLDERS FOR THE PROPERTY; AUTHORIZING ALL OTHER LAWFUL ACTION NECESSARY AND INCIDENTAL TO SUCH ACQUISITION OR EMINENT DOMAIN PROCEEDING TO SURVEY, SPECIFY, DEFINE, AND SECURE THE NECESSARY INTEREST IN REAL PROPERTY; DECLARING THE SECTIONS OF THE RESOLUTION TO BE SEVERABLE ONE FROM THE OTHER IN THE EVENT ANY SECTION OF THE RESOLUTION IS DETERMINED TO BE INVALID; ESTABLISHING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City of Kerrville (City) and Kerr County (County) jointly own the real property upon which is located the Kerrville-Kerr County Airport (KERV); and

WHEREAS, the City and County are parties to an *Restated Interlocal Agreement for the Continued Existence of a Joint Airport Board to Provide Management of Kerrville/Kerr County Airport* dated May 24, 2022 (Interlocal Agreement) that affirms the creation and continued existence of the Joint Airport Board (Board); and

WHEREAS, City Council, after a request from the Board and pursuant to the Interlocal Agreement, consents to and institutes the City's power of eminent domain

pursuant to state law (Chapter 22, Texas Transportation Code) for the Airport's acquisition of property for use by KERV; and

WHEREAS, based upon actions of the Board to date, and in order to promote public health, safety, and welfare, the City hereby finds that public convenience and necessity requires the acquisition of a fee simple estate totaling 54.9-acres, situated in the John Matchett Survey No. 243, Abstract No. 43, Kerr County, Texas, and being more specifically described by metes and bounds in **Exhibit A** (Property) for the public use for runway expansion, safety areas, and other improvements in connection with KERV; and

WHEREAS, in order to effectuate the public use, it will be necessary and convenient that agents, representatives, or employees of the Board lay out and acquire this fee simple estate from this Property for the purpose of construction, reconstruction, operation, inspection, maintenance and repair of KERV's expansion; and

WHEREAS, it may be necessary for the Board to hire engineers, surveyors, appraisers, attorneys, title companies, architects, or other persons or companies to effect the laying out, establishment, and acquisition of the land right necessary to effectuate said public use; and

WHEREAS, in order to acquire the necessary land right, it will be or has been necessary for the Board's agents, representatives, or employees to enter upon the Property for the purpose of surveying and establishing said land title and to determine adequate compensation for said land right, to conduct tests, and to negotiate with the owner thereof for the purchase of necessary land right; and

WHEREAS, it was necessary to set out procedures for the establishment and approval of just compensation for the necessary land right to be acquired for the public use; and

WHEREAS, as provided for by Texas Local Government Code Section 251.001 and Texas Transportation Code Chapter 22, including Section 22.080, as a constituent of the Board with Kerr County, City Council finds and determines that the Property is necessary as a part of the KERV's runway expansion and safety and it is necessary to acquire the fee simple estate title in the Property as part of the public use; and

WHEREAS, City Council finds and determines that the facilities to be constructed or improved on the Property and the interest to be acquired are necessary to serve the public; and

WHEREAS, City Council finds and determines that condemnation of the Property is required; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, TEXAS:

SECTION ONE. In order to promote the public health, safety, and welfare, public convenience and necessity require the City's acquisition of the fee simple estate interest for the public use for runway expansion, safety areas, and other improvements for KERV over the certain property described with particularity on **Exhibit A**, attached and incorporated herein by reference as if fully set out.

SECTION TWO. City Council acknowledges that the Board's agents, representatives, or employees will:

- a. Lay out the exact location of the land area needed for the necessary property interests described herein;
- b. Hire such engineers, surveyors, appraisers, title companies, architects, and other persons or companies needed to effect the laying out of the facilities, the establishment and acquisition of fee simple rights and other rights necessary for the public use;
- c. Enter upon any property necessary for the purpose of surveying and establishing title, to determine adequate compensation for the necessary land rights, and to conduct tests;
- d. Negotiate with the owners of the Property for the purchase thereof;
- e. Initiate eminent domain proceedings against the owner(s) of the Property for the acquisition thereof in the event the owner(s) fail to accept a bona fide offer to purchase the fee simple estate; and
- f. Take whatever further actions deemed appropriate to economically effect the establishment of the public purpose thereto.


SECTION THREE. All previous acts and proceedings done or initiated by the Board's agents, representatives, or employees for establishment of the public purpose, including the negotiation for and/or acquisition of any necessary property rights for the fee simple estate are hereby authorized, ratified, approved, confirmed, and validated. This Resolution shall take effect immediately from and after its passage.

SECTION FOUR. City Council authorizes the Airport Manager to execute all documents and undertake all action required by law to initiate and finalize said proceedings.


SECTION FIVE. It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

SECTION SIX. Resolution No. 44-2024 is repealed.

PASSED AND APPROVED ON this the 12 day of November, A.D., 2024.


Joe Herring, Jr., Mayor

ATTEST:


Shelley McElhannon, City Secretary

APPROVED AS TO FORM:


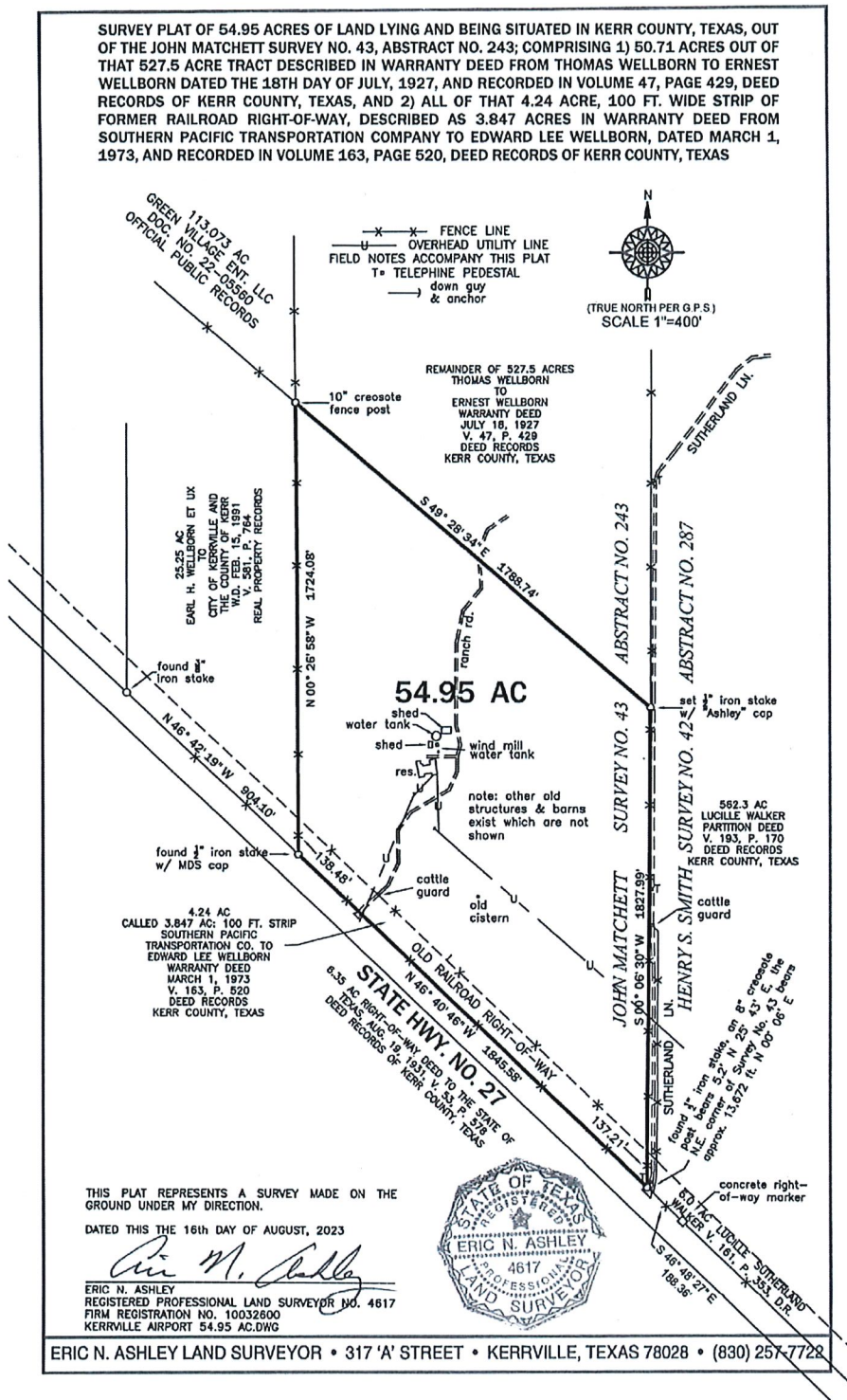

Michael C. Hayes, City Attorney

EXHIBIT A



FIELD NOTES DESCRIPTION OF A 54.95 ACRE TRACT OR PARCEL OF LAND
SITUATED IN KERR COUNTY, TEXAS

BEING 54.95 ACRES OF LAND LYING AND BEING SITUATED IN KERR COUNTY, TEXAS, OUT OF THE JOHN MATCHETT SURVEY NO. 43, ABSTRACT NO. 243; COMPRISING 1) 50.71 ACRES OUT OF THAT 527.5 ACRE TRACT DESCRIBED IN WARRANTY DEED FROM THOMAS WELLBORN TO ERNEST WELLBORN DATED THE 18TH DAY OF JULY, 1927, AND RECORDED IN VOLUME 47, PAGE 429, DEED RECORDS OF KERR COUNTY, TEXAS, AND 2) ALL OF THAT 4.24 ACRE, 100 FT. WIDE STRIP OF FORMER RAILROAD RIGHT-OF-WAY, DESCRIBED AS 3.847 ACRES IN WARRANTY DEED FROM SOUTHERN PACIFIC TRANSPORTATION COMPANY TO EDWARD LEE WELLBORN, DATED MARCH 1, 1973, AND RECORDED IN VOLUME 163, PAGE 520, DEED RECORDS OF KERR COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron stake found in the Northeast right-of-way line of State Highway No. 27, a 100 ft. wide right-of-way described in deed to the State of Texas, recorded in Volume 53, Page 578, Deed Records of Kerr County, Texas, the Southwest corner of that 6.0 acre old railroad tract described in deed to Lucille Sutherland Walker recorded in Volume 161, Page 353, Deed Records of Kerr County, Texas, the Southeast corner of that called 3.847 acre old railroad right-of-way described in deed to Edward Lee Wellborn recorded in Volume 163, Page 520, Deed Records of Kerr County, Texas, for the Southeast corner hereof, from which a 8" creosote fence post bears 5.2 ft. N 25° 43' E, a concrete right-of-way marker bears 188.36 ft. S 46° 48' E, and the Northeast corner of Survey No. 43 bears approximately 13,672 ft. N 00° 06' E;

THENCE generally along a fence, with said highway right-of-way line, the Southwest line of said called 3.847 acre tract, N 46° 40' 46" W 1845.58 ft. to a ½" iron stake with "MDS" cap found at fence post, the Southeast corner of that 25.25 acre tract described in deed to the City of Kerrville and the County of Kerr recorded in Volume 581, Page 764, Real Property Records of Kerr County, Texas, the Southwest corner of said called 3.847 acre tract, for the Southwest corner hereof;

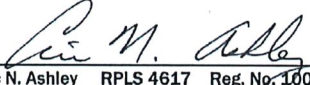
THENCE with the East line of said 25.25 acre tract, generally along a fence, N 00° 26' 58" W at 138.48 ft. passing the Northwest corner of said called 3.847 acre tract, continuing with the West line of said 527.5 acre tract, 1724.08 ft. to a 10" creosote fence post, the Northeast corner of said 25.25 acre tract, the Southeast corner of that 113.073 acre tract described in deed to Green Village Enterprises LLC recorded in Doc. No. 22-05560, Official Public Records of Kerr County, Texas;

THENCE upon, over, and across said 527.5 acre tract, S 49° 28' 34" E 1788.74 ft. to a ½" iron stake with "Ashley" cap set in the fenced East line of said 527.5 acre tract, the West line of that 562.3 acre tract described in Partition Deed to Lucille Walker, recorded in Volume 193, Page 170, Deed Records of Kerr County, Texas, for the Northeast corner hereof;

THENCE with the East line of said 527.5 acre tract, the West line of said 562.3 acre tract, generally along a meandering fence, S 00° 06' 30" W at 1690.17 ft. passing the Southwest corner of said 562.3 acre tract, the Northwest corner of said 6.0 acre tract, continuing for a total distance of 1827.99 ft. to the PLACE OF BEGINNING, containing 54.95 acres of land within these metes and bounds. Bearings based on True North per G.P.S. A plat of this survey has been prepared.

As surveyed on the ground under my direction.

Dated this the 16th day of August, 2023


Eric N. Ashley RPLS 4617 Reg. No. 10032600
Job No. 8026P2
-0823 Kerrville Airport 54.95 ac.doc



ERIC N. ASHLEY LAND SURVEYOR • 317 'A' STREET • KERRVILLE, TEXAS 78028 • (830) 257-7722