

TEMPORARY RESOLUTION NO. 120-24

PERMANENT RESOLUTION NO. 114-24

A RESOLUTION TO AUTHORIZE THE MAYOR TO ENTER INTO A PRE-ANNEXATION AGREEMENT WITH METRO DEVELOPMENT II, LLC, ON BEHALF OF SIX OWNERS INCLUDING FAIRFIELD COUNTY AUDITOR PARCEL NUMBERS 0148098910, 0140099511, 0140099520, 0140099530, 0140099540, 0140099500, AND 0140099541, CONSISTING OF 22.080 +/- ACRES IN GREENFIELD TOWNSHIP, AND TO DECLARE AN EMERGENCY

WHEREAS, Petitioners' real property consisting of 22.080 +/- acres in Greenfield Township, Fairfield County, Ohio, which property is generally described in the legal description and survey attached as Exhibit 1, is the subject of an Expedited Type 2 Annexation Petition filed with the Fairfield County Board of County Commissioners on October 15, 2024, and served on the City on October 16, 2024; and

WHEREAS, a proposed Pre-Annexation Agreement has been negotiated between the City and the Developer, Metro Development II, LLC and is attached hereto as Exhibit 2; and

WHEREAS, said 22.080 +/- acres is contiguous to the City, and would benefit from municipal services provided by the City, including natural gas, sanitation, police, and fire/EMS services; now, therefore,

BE IT RESOLVED BY COUNCIL OF THE CITY OF LANCASTER, STATE OF OHIO:

SECTION 1. That the Pre-Annexation Agreement in the form presently on file with the Clerk of Council is hereby approved and authorized with changes therein not inconsistent with this Resolution and not substantially adverse to this City as shall be approved by the Mayor. That the Mayor, for and in the name of the City, is hereby authorized to execute the Agreement, provided further that the approval of changes thereto by the Mayor, their character not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof. This Council further authorizes the Mayor for and in the name of the City, to execute any amendments to the Agreement, which amendments are not inconsistent with this Resolution and not substantially adverse to this City.

SECTION 2. That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the City and for the further reason that this resolution must be enacted to meet the Expedited Type 2 Annexation timeline imposed by the Ohio Revised Code; wherefore, this resolution shall take effect and be in force immediately upon its adoption and approval by the Mayor.

Passed October 28, 2024 after 1 reading. Vote: Yeas 10 Nays 0

Date Approved: October 28, 2024

Clerk: [Signature]

[Signature]
President of Council

[Signature]
Mayor

Offered by: Mayra Hoop

Second by: Kurt M. Cull

Requested by Economic Development Committee



PRE-ANNEXATION AGREEMENT

This Agreement is entered into by and between the City of Lancaster, Ohio (hereinafter "City"), and Metro Development II LLC (hereinafter "Developer") on the last date set forth below.

WITNESSETH

WHEREAS, Developer owns or controls by contract approximately 22.080+/- acres of real property in Greenfield Township, Fairfield County, Ohio, which area is generally described in the legal description and survey attached hereto as Exhibit A (hereinafter referred to as the "Property"); and

WHEREAS, such property is contiguous to the City, and would benefit from municipal services provided by the City, including water, sanitary sewer, stormwater, sanitation, gas, police, and fire/EMS services; and

WHEREAS, the City can provide such municipal services to the Property, if the Property is annexed to the City; and

WHEREAS, the Developer wishes to annex its Property to the City, and to develop the site for a multi-family residential development; and

WHEREAS, the Property is currently situated within Greenfield Township; and

WHEREAS, the parties agree that it is in their mutual interest during the annexation process to enter into this Agreement for the development of the Property for the mutual benefit of the Developer and the City; and

WHEREAS, the City and Developer wish to address these issues as set forth below.

NOW THEREFORE, in consideration of the mutual benefits presented by an annexation of Developer's Property into the City, it is hereby agreed by and between the parties as follows:

- 1. Annexation Petition** - The Developer will file a petition for annexation of the Property, to the City, in reliance upon the other mutual promises and terms set forth herein. The annexation process shall be an "Expedited Type II" annexation as provided in Ohio Revised Code ("ORC") Section 709.023.
- 2. Easements** - The Developer covenants and agrees that easements will be needed for the constructions, installation, and maintenance of all City utilities which will service the Property. The specific location and width of such easements have not been determined at the time of execution of this Agreement. However, upon the City's determination of the utility easements necessary, the Developers will grant such easements to the City in exchange for utility services.

- 3. Service Resolution** - Pursuant to and in accordance with the ORC, the City agrees to enact, prior to twenty (20) days after the date of filing the annexation petition with the Board of County Commissioners of Fairfield County, Ohio (the "Commissioners"), the appropriate resolution of service (the "Service Resolution") stating that the services described in Section 3 of this Agreement will be provided to the Property upon annexation. The Service Resolution, once adopted, shall be immediately certified and filed with the Clerk of the Commissioners. In the event that the Commissioners approve the annexation petitions, the City shall accept the annexation of the Property by emergency ordinance at the next regular meeting following County approval and following the filing of a copy of the record with the Clerk of the City and laying it before Council (ORC Section 709.04), unless the Developer notifies the City that it wants to delay acceptance of the annexation in accordance with Section 4 hereof. The City also agrees to provide all reasonable assistance requested by the Developer in pursuing the annexation. It is not expected that there will be any legal challenge to the Commissioners' approval of the annexation, or appeal of the Commissioners' approval of the annexation; however, if such a challenge occurs, the Developer may, at its sole option, choose to terminate this Agreement within thirty (30) days of: (i) the denial of the annexation by the Commissioners; or (ii) the filing of an appeal of the decision of the Commissioners to approve the annexation or of any other legal or administrative action seeking to overturn the Commissioners' approval. Should the Developer elect to terminate this Agreement as set forth in this paragraph, this Agreement shall immediately become null and void and no party shall have any further obligations to the other.

- 4. Services –**

 - A. Sanitary Sewer Services:** Sanitary sewer service will be provided by Fairfield County, Ohio.

 - B. Water Services:** Water service will be provided by Fairfield County, Ohio.

 - C. Natural Gas Services:** The City covenants and agrees that it has available capacity and public natural gas service lines in proximity to the Property up to 12K cubic feet (MCF)/hour. City agrees to provide natural gas service to the entire Property upon annexation. The alignment through the proposed development is undetermined at this time, but Developer and City shall work together, as the development progresses, to ensure proper looping and connectivity can be supplied to the Property. Upon review and approval by City of natural gas service, City agrees to determine and provide public natural gas line connection points for the Property. City shall be solely responsible for the cost and expense of the development, design, and construction of the public natural gas line system to provide natural gas service to the Property in compliance with Lancaster Codified Ordinance and City design standards. It is expressly understood that costs of connection and tap and capacity/user fees shall be borne by the Developer, at applicable standard rates/schedules of the City.

- D. Stormwater Services:** Storm water drainage facilities will be located entirely on the Property and will be privately owned and maintained. No direct connections to City, County or Township facilities are proposed.
 - E. Sanitation Services:** The City covenants and agrees that it will provide sanitation service to the Property upon Developer request. It is anticipated that dumpsters will be placed at various locations within each designated area. Developer shall comply with Lancaster Codified Ordinance and City standards regarding dumpster locations. It is expressly understood that costs associated with sanitation services shall be borne by the Developer, at applicable standard rates/schedules of the City.
 - F. Police Services:** The City covenants and agrees that it will provide Police services to the Property upon annexation. In order to provide necessary Police services in an existing high traffic density area, Developer shall construct sufficient entry points to facilitate emergency vehicle access and response.
 - G. Fire/EMS Services:** The City covenants and agrees that it will provide Fire/EMS services to the Property upon annexation. In order to provide necessary Fire/EMS services in an existing high traffic density area, Developer shall construct sufficient entry points to facilitate emergency vehicle access and response.
 - H. Election House Road:** The City agrees to enter into a road maintenance agreement with Fairfield County, Ohio for Election House Road as required by Ohio Revised Code 709.023.
5. **Zoning** - The Developer's intended use of the Property is that of multi-family residential development as shown on the Development Concept attached hereto as Exhibit B (the "Development Concept"). The Developer has determined to submit and seek zoning for Residential Multi-Family District (RM) designation of the Property consistent with such intended use.

The City agrees that, upon filing of the annexation petition for the Property, it will expeditiously process contemporaneously filed applications for rezoning the Property and for the Preliminary Develop Plan. The City's planning staff and administration agree to actively support the rezoning application and the Preliminary Develop Plan so long as it is consistent with the Development Concept attached hereto in order that such documents may be presented to City Council for final approval, immediately following approval of the annexation petition by the Commissioners and acceptance thereof by the City Council, so that the rezoning can be effective at the earliest time permitted by law. Upon the written request of the Developer on behalf of the petitioners, the City shall delay acceptance of the annexation until legislative approval of the rezoning is accomplished or can be accomplished contemporaneously with the acceptance of the annexation. If, for any reason, the rezoning cannot be accomplished substantially in accordance with the

provisions of this paragraph (or as it may be modified in a manner acceptable to the Developer) and/or the rezoning is referred or defeated for any reason, and/or a building moratorium or other ordinance, resolution or rule is enacted by the City that would, in the opinion of the Developer, adversely affect Developer's intended use of the Property, the City agrees, at the Developer's request, not to accept the annexation by allowing the 120-day acceptance period to expire, and thus, rejecting the annexation of the Property and Developer may, its option, terminate this Agreement. If (i) the annexation approval occurs prior to or other than concurrently with the legislative approval of the rezoning and the rezoning is subsequently not approved substantially in accordance with this paragraph (or as it may be modified in a manner acceptable to the Developer), (ii) the annexation approval is referred to a vote of the electorate, or (iii) a building moratorium or any other ordinance, resolution or rule is enacted or adopted by the City that would, in the opinion of the Developer, adversely affect Developer's intended use of the Property, the City agrees, at the request of the Developer: (a) to reconsider the ordinance accepting the annexation and rescind, repeal and reject the annexation approval within twenty (25) days of the date of the disapproval of the rezoning, referral to a vote of the electorate, or the enactment of the building moratorium or other ordinance, resolution or rule; or (b) to detach/de-annex from the City all or part of the Property or not oppose any petition to detach/de-annex all or party of the Property and the Developer may, at its option, terminate this Agreement.

6. **Traffic Improvements** - Developer shall have a Traffic Impact Study performed to evaluate the impacts of the proposed development of the Property to the roadway system. City will establish the scope and requirements of the Traffic Impact Study and the study area. Developer must construct, at Developer's expense, all public infrastructure traffic improvements recommended as a result of said study. Any public infrastructure traffic improvements shall be built to City guidelines and standards.
7. **Community Reinvestment Area ("CRA")** - The parties agree to enter into a CRA agreement upon the following terms: CRA agreement will provide a 15-year, 100% property tax exemption for each building constructed on the Property on the condition that 10% of the residential units are rented to tenants at or below 60% of the area median income ("AMI") and 10% of the residential units are rented to tenants at or below 80% of AMI for which the annual rent charged complies with affordable rents at 60% and 80% AMI as defined by the U.S. Department of Housing and Urban Development (HUD). Developer shall provide accurate rent rolls to City annually to verify compliance with this tax incentive.
8. **Notices** - Notices under this Agreement shall be in writing to the Developer and its attorney and to the City via the City Law Director at the addresses listed below.

To Developer:

Metro Development II LLC

Attention: Joe Thomas
470 Olde Worthington Road, Suite 100
Westerville, OH 43082
Email: jthomasjr@drkmetro.com

With a copy to:

Jill S. Tangeman, Esq.
52 East Gay Street
Columbus, OH 43215
Email: jstangeman@vorys.com

To the City:

Law Director & City Prosecutor
City of Lancaster
136 W. Main Street
PO Box 1008
Lancaster, Ohio 43130
Email: slhall@ci.lancaster.oh.us

9. Miscellaneous -

- A.** The Developer agrees to provide City with a minimum of Forty (40) feet of dedicated roadway/right of way from the centerline along existing N. Columbus Street upon successful annexation and establishment of zoning with the City.
- B.** The City agrees to process the contemplated establishment of zoning for the proposed development on a parallel time frame with the planned annexation, within the statutory time frame provided by Ohio law for such annexation. The parties specifically contemplate the passage of the Ordinance to establish zoning within the same session as the City's Council meeting to finally accept annexation of the Property.
- C.** This Agreement represents the entire agreement between the parties. If a dispute arises, the Courts of Fairfield County, Ohio shall have jurisdiction to resolve any dispute unless both parties expressly agree otherwise in writing.
- D.** No modifications, discussions or alterations from the terms included herein shall be considered effective unless as made in writing and signed by all parties.
- E.** This Agreement shall be binding upon the parties hereto and their respective transferee, heirs and/or assigns.

F. It is expressly understood that time is of the essence in doing and performing all things to be done under the terms of this Agreement.

10. Representations and Warranties - The parties make each of the following representations and warranties as of the effective date of this Agreement. These representations and warranties are given as partial consideration for and as a material inducement to the execution of this Agreement and each shall survive the execution, delivery and performance of this Agreement.

A. Developer's Warranty regarding Power and Authority. Developer warrants and represents that it is duly organized, validly existing and in good standing under the laws of the state of Ohio and has the capacity to enter into this Agreement. Each person executing this Agreement on Developer's behalf represents and warrants that he or she has full power and authority to do so and to deliver and perform this Agreement and all transactions contemplated by this Agreement without the consent of any additional persons or entities.

B. City's Warranty regarding Power and Authority. The City warrants that it has the power, authority and capacity to enter into, and to deliver and perform this Agreement and all transactions contemplated by this Agreement without the consent of any additional persons, boards or any other group or entity. Each person executing this Agreement on behalf of the City represents and warrants that he or she has full power and has been authorized to do so by appropriate actions by the governing body of the City.

C. Valid and Binding. Each party represents and warrants that this Agreement creates a valid, binding and enforceable obligation and that this Agreement is enforceable against the warranting party in accordance with its terms.

(Signature Pages To Follow)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed

by their duly authorized representatives this _____ day of _____, 20__.

CITY OF LANCASTER, OHIO

APPROVED AS TO FORM FOR THE CITY

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF FAIRFIELD)

On this _____ day of _____, 20__, before me a Notary Public personally appeared Mayor Don McDaniel, the authorized representative of the City of Lancaster, Ohio, and acknowledged the execution of the foregoing instrument, and that the same is his voluntary act and deed on behalf of the City of Lancaster, Ohio.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the date and year aforesaid.

Notary Public

Thence South 86°37'04" East, with said southerly right of way line, a distance of 1122.86 feet, to the southeasterly corner thereof, being in the centerline and the westerly line of said 1.527 acre tract;

Thence North 3°01'22" East, with said centerline and said westerly line, a distance of 1188.89 feet to the **POINT OF BEGINNING** containing **22.080** acres, more or less.

The total perimeter of annexation area is 8034.99 feet, of which 1432.99 feet are contiguous with the City of Lancaster, giving 17.8% contiguity.

Subject to all covenants, restrictions, reservations and easements contained in any instrument of record pertaining to the above described tract of land.

This description was prepared from existing record information and is for annexation purposes only.

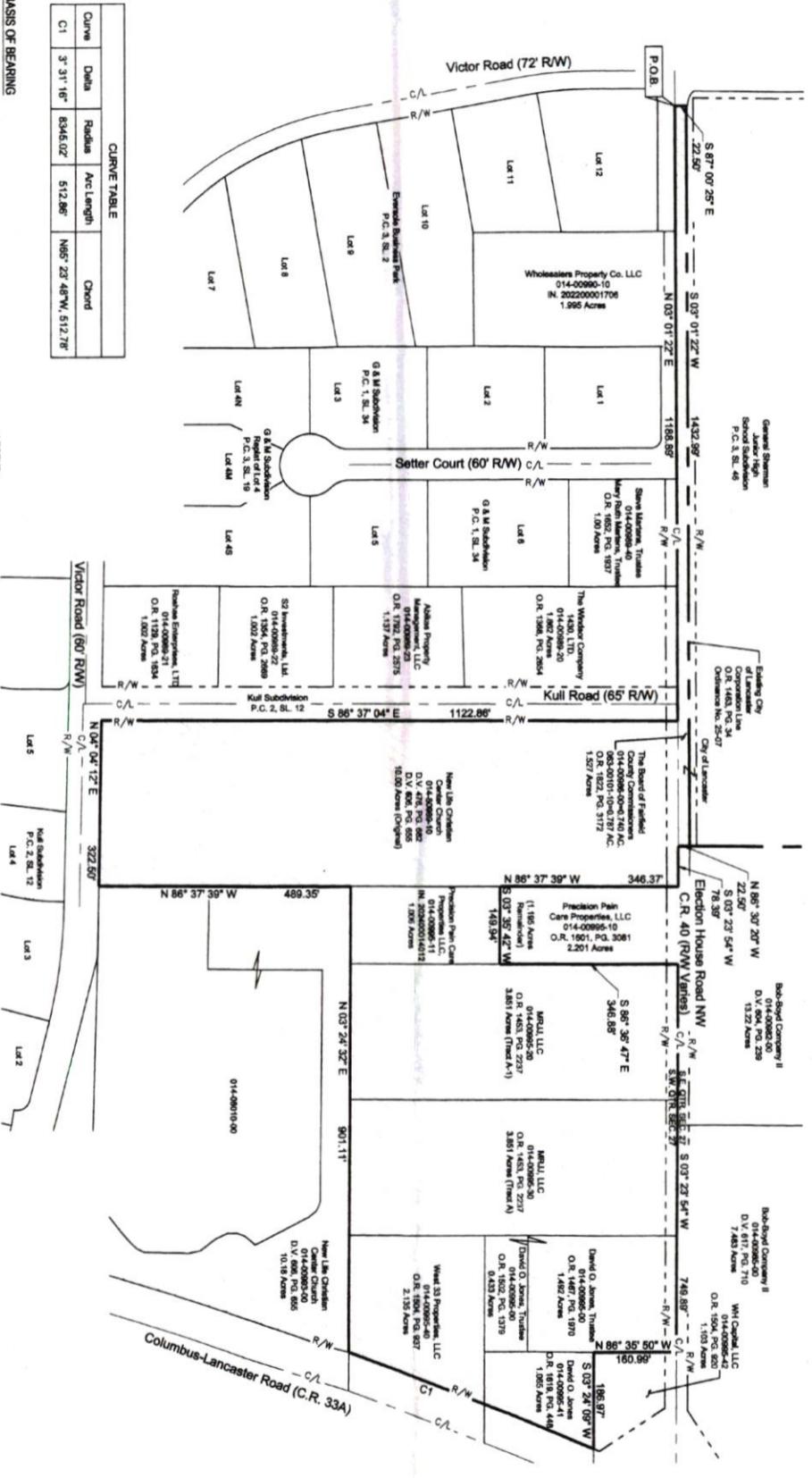
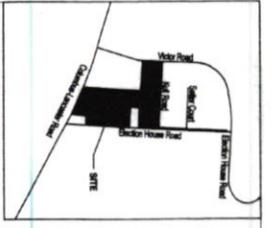
The bearings shown above are based on the Ohio State Plane Coordinate System, South Zone, NAD 83 (2011).



CESO Inc.

A handwritten signature in blue ink, appearing to read "Mack", with the date "9/17/24" written to the right of the signature.

Matthew J. Ackroyd, PS
Registered Surveyor No. 8897





LEGAL DESCRIPTION

22.080 +/- Acres

Situated in the State of Ohio, County of Fairfield, Township of Greenfield, Township 15, Range 19, Section 27, Congress Lands, being all of a 1.006 acre tract as conveyed to Precision Pain Care Properties LLC, of record in Instrument Number 202400013456, a 3.851 acre tract (Tract A) and a 3.851 acre tract (Tract A-1) as conveyed to MRJJ, LLC, of record in Official Record 1453, Page 2237, part of a 2.135 acre tract as conveyed to West 33 Properties, LLC, of record in Official Record 1504, Page 937, all of a 0.433 acre tract as conveyed to David O. Jones, Trustee, of record in Official Record 1502, Page 1379, all of a 1.492 acre tract as conveyed to David O. Jones, Trustee, of record in Official Record 1467, Page 1970, part of a 1.065 acre tract as conveyed to David O. Jones, of record in Official Record 1619, Page 448, all of a 10.00 acre original tract as conveyed to New Life Christian Center Church, of record in Deed Volume 476, Page 682, and Deed Volume 606, Page 655, part of a 1.527 acre tract as conveyed to The Board of Fairfield County Commissioners, of record in Official Record 1822, Page 3172, all deed references refer to the records of the Recorder's Office, Fairfield County, Ohio and being more particularly described as follows:

BEGINNING at the northwesterly corner of said 1.527 acre tract and being in the centerline of Election House Road (County Road 40) (Variable R/W) and the northwest corner of that plat entitled "General Sherman Junior High School Subdivision", of record in Plat Cabinet 3, Slide 46;

Thence South $87^{\circ}00'25''$ East, with the northerly line of said 1.527 acre tract, a distance of 22.50 feet to a point in the Existing City of Lancaster Corporation Line of record in Official Record 1463, Pg 34;

Thence South $3^{\circ}01'22''$ West, through said 1.527 acre tract and with said Corporation Line, a distance of 1432.99 feet to a point in the southerly line of said 1.527 acre tract and said General Sherman Junior High School Subdivision;

Thence North $86^{\circ}30'20''$ West, with said southerly line, a distance of 22.50 feet to a point in said centerline, being the easterly line of said 10.00 acre tract ;

Thence South $3^{\circ}23'54''$ West, with said centerline and said easterly line, a distance of 78.39 feet, to the northeasterly corner of a 2.201 acre original tract as conveyed to Precision Pain Care Properties, LLC of record in Official Record 1601, Page 3081 and the southeasterly corner of said 10.00 acre tract;

Thence North $86^{\circ}37'39''$ West, with the northerly line of said 2.201 acre tract, a distance of 346.37 feet to the northeasterly corner of said 1.006 acre tract;

Thence South $3^{\circ}35'42''$ West, with the easterly line of said 1.006 acre tract, a distance of 149.94 feet to the southeast corner being thereof in the northerly line of said Tract A-1;

Thence South $86^{\circ}36'47''$ East, with said northerly line, a distance of 346.88 feet to the northeasterly corner thereof and in the centerline of Election House Road;

Thence South $3^{\circ}23'54''$ West, with said centerline and with the easterly lines of said Tract A-1, Tract A, and 1.492 acre tract, a distance of 749.89 feet to the southeasterly corner of said 1.492 acre tract;

Thence North $86^{\circ}35'50''$ West, with the southerly line of said 1.492 acre tract, a distance of 160.99 feet to the northeasterly corner of said 1.065 acre tract;

Thence South $3^{\circ}24'09''$ West, with the easterly line of said 1.065 acre tract, a distance of 186.97 feet to a point in the northerly right of way line of Columbus-Lancaster Road;

Thence with said northerly right of way line and through said 1.065 acre tract and 2.135 acre tract, with a curve to the left with a radius of 8345.02 feet, a delta angle $03^{\circ}31'16''$, an arc length of 512.86 feet, a chord distance and bearing of North $65^{\circ}23'48''$ West, 512.78 feet, to a point in the westerly line of said 2.135 acre tract;

Thence North $3^{\circ}24'32''$ East, with the westerly lines of said 2.135 acre tract, said Tract A, said Tract A-1 and said 1.006 acre tract, a distance of 901.11 feet, to the northwesterly corner of said 1.006 acre tract, being in the southerly line of said 10.00 acre tract;

Thence North $86^{\circ}37'39''$ West, with said southerly line, a distance of 489.35 feet, to the southwesterly corner thereof;

Thence North $4^{\circ}04'12''$ East, with the westerly line of said 10.00 acre tract, a distance of 322.50 feet, to the southerly right of way line of Kull Road (65'), as dedicated in the Kull Subdivision, of record in Plat Cabinet 2, Slot 12;