

"City of Choice"

**COPY**

**ORDINANCE NO. 1162**

**THE CITY COUNCIL OF THE CITY OF CIBOLO, TEXAS HEREBY RECOGNIZES AND APPROVES THE NON-ANNEXATION AGREEMENT EXECUTED BETWEEN THE CITY OF CIBOLO AND KATHY TACKETT OWNER OF APPROXIMATELY 0.828 ACRE AREA DESCRIBED HEREIN. PROPERTY DESCRIBED IN THE NON-ANNEXATION AGREEMENT IS WEST OF HAECKERVILLE ROAD, SOUTH OF LOWER SEGUIN ROAD AND HALF A MILE NORTH OF VALLEY VIEW DRIVE AND IS LOCATED IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF CIBOLO, GUADALUPE COUNTY, TEXAS.**

**WHEREAS**, Texas Local Government Code section 43.142 authorizes the City of Cibolo, as a home-rule municipality, to disannex area in the municipality in accordance with the City of Cibolo City Charter and consistent with all procedural rules prescribed by Texas Local Government Code Chapter 43 Subchapter G; and

**WHEREAS**, section 1.04 of the City Charter of the City of Cibolo provides that the City Council has authority by ordinance to identify territory not suitable or necessary for City purpose and to disannex said territory as part of the City in accordance with state law; and

**WHEREAS**, the City Council of the City of Cibolo, approved Ordinance 997 on October 25, 2011, annexing 523.79 acres south of FM 78 into the City of Cibolo, including the 0.828 acres owned by Kathy Tackett; and

**WHEREAS**, at the time that Ordinance 997 was approved by the City Council, the 0.828 acre parcel owned by Kathy Tackett, referenced as GCAD Parcel 63364, was within the City of Cibolo ETJ and eligible to enter into a Non-Annexation Agreement for said 0.828 acre tract that was the homestead of GCAD Parcel 63363 with a lawfully granted Agricultural Exemption by the GCAD; and

**WHEREAS**, Texas Local Government Code section 43.035(b)(1) stipulates that a municipality must offer to make a development agreement with landowners eligible under TLGC 43.035(a)(2) to guarantee the continuation of the extraterritorial status of the area; and

**WHEREAS**, the 0.828 acres owned by Kathy Tackett in GCAD Parcel Number 63364 and the 20.547 acres also owned by Kathy Tackett in GCAD Parcel Number 63363 did in fact qualify under Texas

Local Government Code section 43.035(b)(1) to be offered development agreements under TLGC 43.035(a)(2), with Ms. Tackett being legally informed of this fact and executing a non-annexation agreement on said properties on September 19, 2011; and

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**WHEREAS**, Texas Local Government Code section 43.035(a)(2) stipulates that a municipality may not annex an area appraised for ad valorem tax purposes as land for agricultural use under Subchapter C or D, Chapter 23, Tax Code; and

**WHEREAS**, Texas Local Government Code section 43.035(b)(1) stipulates provides that a municipality must offer to make a development agreement with landowners eligible under TLGC 43.035(a)(2) to guarantee the continuation of the extraterritorial status of the area; and

**WHEREAS**, the City of Cibolo executed a Non-Annexation Agreement for each of the 0.828 and 20.547 acre parcels of property owned by Ms. Tackett, for a term that would run until October 25, 2019.

**NOW THEREFORE:**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CIBOLO, TEXAS:**

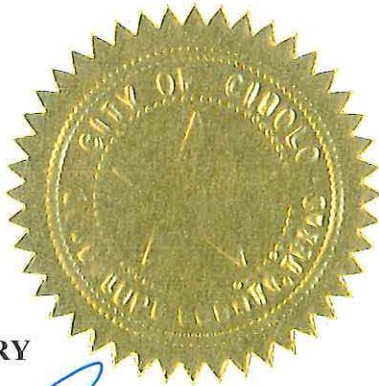
**SECTION 1.** The Non-Annexation Agreement executed between the City of Cibolo and Ms. Tackett, the eligible property owner of 0.828 acre area described in Exhibit A, is hereby recognized as being approved and in full force and effect and are attached hereto and incorporated herein as Exhibit B.

**SECTION 2.** The lawfully executed Non-Annexation Agreement attached hereto as Exhibit "B", shall apply to the entire property described in Exhibits "A" and shall remain in effect for the entire acreage until October 25, 2019.

**SECTION 3.** The service plan adopted as Exhibit 'C' to Ordinance Number 997 shall hereby be null and void relative to the property described in this disannexation ordinance.

**SECTION 4.** This ordinance shall be effective immediately; and, to the extent permitted by law, shall be retroactively effective as of October 25, 2011.

**PASSED AND APPROVED** this, the 24<sup>th</sup> day of May 2016.



**MAYOR**

A handwritten signature in blue ink, appearing to read "Allen Dunn", is written over a horizontal line.

**Allen Dunn**

**ATTEST:**

**CITY SECRETARY**

A handwritten signature in blue ink, appearing to read "Peggy Cimics", is written over a horizontal line.

**Peggy Cimics**

**APPROVED AS TO FORM:**

**CITY ATTORNEY**

**DNRBH&Z P.C.**

**EXHIBIT A (Field Notes)**  
**DISANNEXATION AREA METES & BOUNDS DESCRIPTION**

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Field Notes for an approximate 0.828 Acre tract of land out of the Jose Flores Survey, Abstract No. 134, to be disannexed out the City of Cibolo, Guadalupe County, Texas; said 0.828 Acres of land is adjacent to and/or surrounded by the existing City Limits or ETJ of the City of Cibolo, Guadalupe County, Texas;

**COMMENCING:**

At a point being on the City Limit line of the City of Cibolo, more specifically on the southwest Right of Way line of Haeckerville Rd., said point being the most northern corner of a 20.547 acre tract listed in Guadalupe County Appraisal District, Account No. 63363;

**THENCE:** Leaving said Right of Way of Haeckerville Rd and along with the northwest of Line of the said 20.547 acre tract a distance of 1,670.16 feet to the POINT OF BEGINNING for the herein described 0.828 acre tract, said point being the most northern corner of said 0.828 acre tract listed in Guadalupe County Appraisal District, Account No. 63364;

**THENCE:** Into the above mentioned 20.547 acre tract with the northeast line of said 0.828 acre tract a distance of 169.94 feet to a point, said point also being the most eastern corner of said 0.828 acre tract;

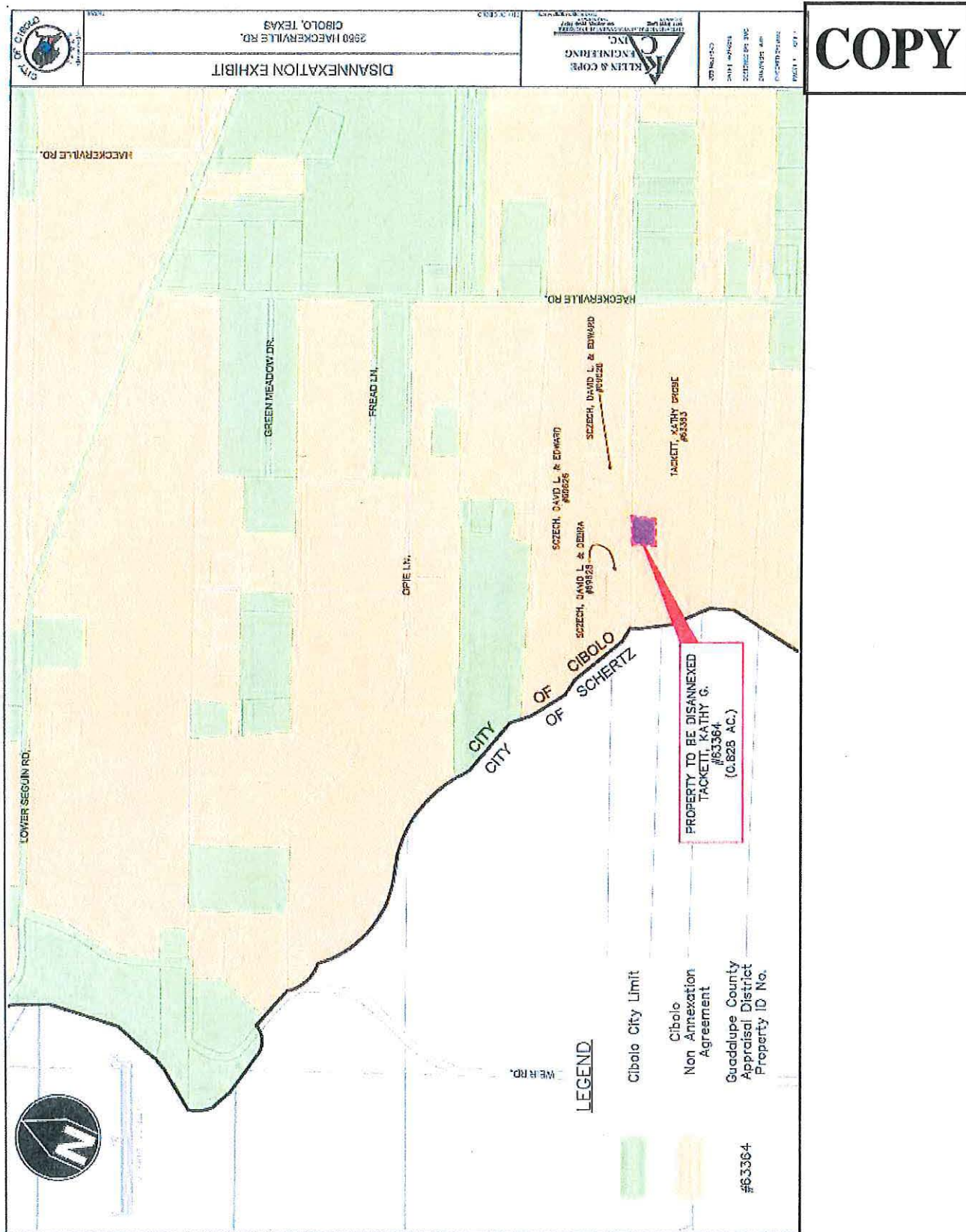
**THENCE:** Along with the southeastern line of said 0.828 acre tract a distance of 212.76 feet to a point, said point also being the most southern corner of said 0.828 acre tract;

**THENCE:** Along with the southwestern line of said 0.828 acre tract a distance of 169.83 feet to a point said point also being the most western corner of said 0.828 acre tract, said point also being on the southeast line of a 44.344 acre tract listed in Guadalupe County Appraisal District, Account No. 69626;

**THENCE:** Along with the northwest line of said 0.828 acre tract a distance of 212.33 feet to the POINT OF BEGINNING and containing 0.828 acres of land more or less.



# EXHIBIT A (Graphically)



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**EXHIBIT B**  
**EXECUTED NON-ANNEXATION AGREEMENT**

# CITY OF CIBOLO NON ANNEXATION DEVELOPMENT AGREEMENT

**COPY**

This DEVELOPMENT AGREEMENT ("Agreement"), dated May 18, 2016 ("Effective Date"), made by and between the CITY OF CIBOLO, TEXAS, a home rule municipality located in Guadalupe County, Texas ("City"), and Kathy Tackett ("Landowner");

WHEREAS, Landowner owns certain real property located in Guadalupe County, Texas that is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter of the Tax Code and such real property being more particularly depicted in **Exhibit A** attached hereto and incorporated into this agreement (the "Property");

WHEREAS, Texas Local Government Code Section 43.035 requires that before unilateral annexation of a property which is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter that a municipality must offer a development agreement to said property owner pursuant to Texas Local Government Code Section 212.172 that guarantees the continuation of the extraterritorial status of the area for a certain time and authorizes the enforcement of all regulations and planning authority of the municipality that do not interfere with the use of the area for agriculture, wildlife management, or timber; and

WHEREAS, City and Landowner agree that this Agreement satisfies the requirements of Texas Local Government Code Sections 43.035 and 212.172; and

WHEREAS, in recognition of the mutual benefits to be derived from the controlled development of the Property and its guaranteed continued extra territorial status for a certain time, Landowner and City desire to enter into this agreement, pursuant to §§212.172 and 43.035 of the Local Government Code of the State of Texas, to evidence their agreements with respect to guaranteeing the continuation of the extraterritorial status of the land and its immunity from annexation by the City for a period years, extending the municipality's regulatory authority over the land by providing for all regulations and planning authority of the City that do not interfere with the use of the area for its currently appraised purpose, authorizing enforcement by the City of certain regulations in the same manner the regulations are enforced within the City's boundaries and authorizing enforcement by the City of certain agreed upon land use and development regulations; and

WHEREAS, the City of Cibolo City Council authorized and approved this agreement at a regularly scheduled council meeting subject to the Open Meetings Act in compliance with the laws of the State of Texas and the ordinances and Charter of the City of Cibolo.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained or referred to herein, the receipt and sufficiency of which is hereby acknowledged by the City and the Landowner, the parties hereto agree as follows:

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1. The Landowner covenants and agrees not to file a development document, master plan or for plat approval or a permit, not to include permits for uses existing on the date of this agreement ("Existing Uses"), on their respective property until such property has been annexed into the City and zoned pursuant to all applicable laws of the State of Texas and ordinances of the City of Cibolo, said zoning to be at the sole discretion of the City.
2. Land Use. The Landowner further covenants and agrees not use the Property for any use other than the Existing Uses, without the prior written consent of the City, said Existing Uses specifically being uses that allow the Property Owner to retain its current Property appraisal for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Tax Code, or as timber land under Subchapter E of that chapter as applicable to the Property on the Effective Date of this agreement or those other Existing Uses as listed in **Exhibit B** attached hereto.
3. Municipal Regulations. Those municipal regulations listed in the **Exhibit C** attached hereto and incorporated by reference into this agreement, which both Landowner and City agree do not interfere with the Existing Uses of the Property, are hereby extended to the Property. The Landowner further covenants, agrees and authorizes enforcement by the City of these regulations in the same manner the regulations are enforced within the City's boundaries.
4. Permits and Vested Rights. Pursuant to Texas Local Government Code Section 43.035 this Agreement is not a permit for purposes of Chapter 245 of the Texas Government Code. The Landowner and all Landowner's heirs, successors and assigns hereby waive any and all vested rights including rights and claims that they may have under common law, federal case law or Section 43.002 of the Texas Local Government Code related to uses, anticipated uses or potential uses of the Property, other than the Existing Uses.
5. Municipal Services. The City shall not be obligated to provide the landowner with any municipal services (such as police protection, fire protection, drainage and street construction, or maintenance), with respect to the Property for the duration of this Agreement.
6. Extraterritorial Status. The City hereby guarantees the extraterritorial status of the Property and that it shall not annex the Property for the duration of this agreement. Except that, regardless of how the area is then currently appraised for ad valorem tax purposes, should the Landowner or the Landowner's heirs, successors or assigns file for any type of development document, master plan, plat approval or permit for the area with a governmental entity that has jurisdiction over the area, or change the existing use to a use not allowed hereunder then this provision of the Agreement shall be void pursuant to Texas Local Government Code Section 43.035. Plat is defined as any plat authorized by

Chapters 212 or 232 of the Texas Local Government Code, or their successor statutes. Permit is defined the same as in Local Government Code Chapter 245.

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7. Voluntary Annexation. Should the Landowner, heirs, successors or assigns file for any type of development document, master plan, plat approval or permit for the area with a governmental entity that has jurisdiction over the area, or change the existing use to a use not allowed hereunder this provision then said action shall be deemed a request for voluntary annexation by the City with this agreement serving as the required petition and the Property shall, at the discretion of the City, be annexed into the City. The Landowner and Landowner's heirs, successors and assigns covenant and agree that such annexation is voluntarily made and shall be considered to be by voluntary petition of the owners of the Property at the time of such annexation.
8. Amendments. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated except by an agreement in writing signed by all parties hereto.
9. Law Governing. This agreement shall be deemed to be a contract under the laws of the State of Texas which is performable in Guadalupe, County, Texas, and for all purposes shall be construed and enforced in accordance with and governed by the laws of the State of Texas.
10. Assignment; Binding Effect. The parties may not assign this Agreement to any other person or entity without the prior written consent of the other; provided, however, that no such assignment shall operate to release the assigning party from its obligations hereunder. This Agreement and all of its terms and provisions shall be binding upon and inure to the benefit of the City and the Landowner and their respective successors and assigns, including all future owners of the Property.
11. Duration; Expiration. This Agreement shall be in effect until October 25, 2019. Upon the expiration of this Agreement, the Landowner and Landowner's successors, heirs or assigns agree to the voluntary annexation of the property with this Agreement serving as a petition for voluntary annexation.
12. Counterparts. To facilitate execution, this Agreement may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of all parties hereto be contained on any one counterpart hereof. A facsimile transmission shall be deemed to be an original signature.



EXECUTED by the parties hereto to be effective as of the date first set forth above.

**COPY**

City of Cibolo, a home rule municipality in  
Guadalupe County, Texas

By: Robert T. Herrera

Robert Herrera, Cibolo City Manager      or

Lisa Gonzalez, City Planner

Date: 5/24/16

Landowner:

By:

Address:

City:

State/Zip:

Date:

Andy Jackott

2960 Heckerville

Cibolo

TX 78108

5/18/16

GUADALUPE COUNTY APPRAISAL DISTRICT PROPERTY  
RECORD OF PROPERTY THAT IS SUBJECT TO THE NON-  
ANNEXATION AGREEMENT

Legal	ABS: 134 SUR: JOSE FLORES
Description:	0.8260 AC.
Abstract:	G AD134
Neighborhood:	Null
Appraised Value:	N/A
Jurisdictions:	GCO, LTR, CCI, SCS, CAD

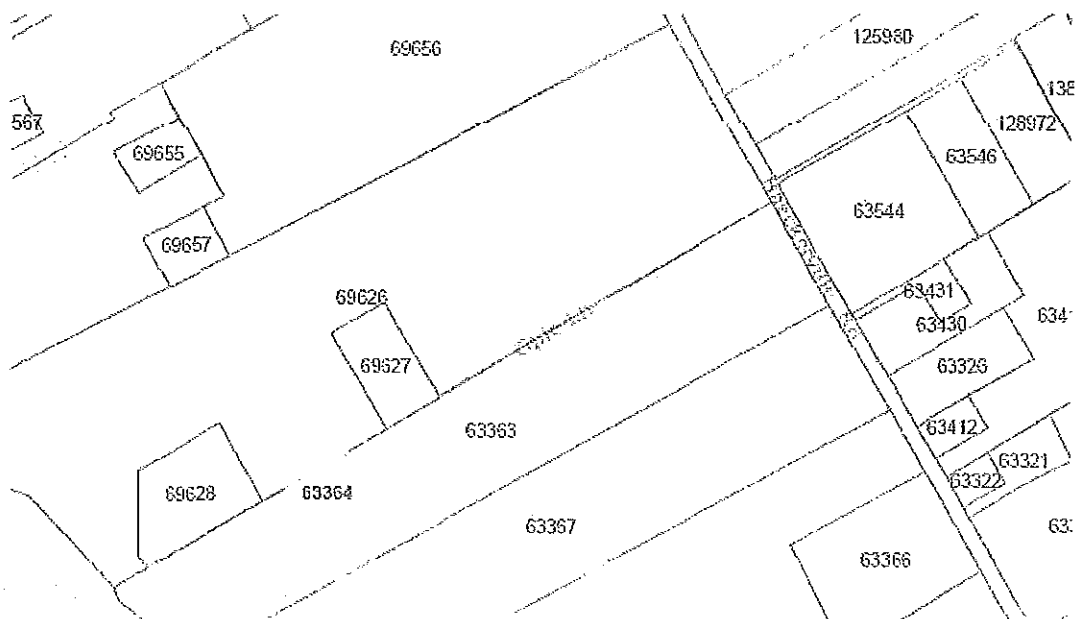


Exhibit B

CITY OF CIBOLO DIS ANNEXATION DEVELOPMENT  
AGREEMENT

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Affidavit of Tax Appraisal Status and Current Uses

Mrs. Kathy Tackett appeared in person before me today and stated under oath:

"My name is Kathy Tackett. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct. I am the owner of the property located at 2960 Haeckerville Road. Said property is appraised for ad valorem tax purposes under the Texas Tax Code for Agricultural/Homestead purposes. Further, my property is currently being used for the following uses: Agricultural/Homestead.

Signed:

Kathy Tackett

Printed Name:

Kathy Tackett

State of Texas

County of Guadalupe

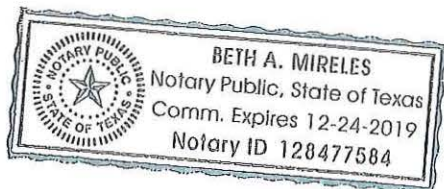
Before me, Beth A Mireles, on this day personally appeared

Kathy Grobe Tackett

To be the person(s) whose name(s) is/are subscribed to the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 18th day of May, 2016.

(Seal)



Beth A Mireles

Notary Public, State of Texas

## Exhibit C

### CITY OF CIBOLO LIST OF MUNICIPAL REGULATIONS

**COPY**

List of City of Cibolo Ordinances Referencing  
Land Uses, Development Requirements and Permits  
as they exist or may be amended.

<u>Ordinance No.</u>	<u>Description</u>
797	Fireworks Regulations
1047	Sign Ordinance w/amendments
1048	Unified Development Code (as amended)
1033	Uniform Plumbing Code 2012*
1034	Uniform Mechanical Code 2012*
1035	International Residential Code 2012*
1036	International Fire Code 2012*
1037	International Building Code 2012*
1038	International Energy Conservation Code 2012*
1039	International Existing Building Code 2012*
1040	International Property Maintenance Code 2012*
1132	National Electric Code 2014*

\*Subject to Local Amendments