



ORDINANCE NO. 3702

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, PROHIBITING THE USE OF AND CONTACT WITH DESIGNATED GROUNDWATER FROM BENEATH, DESCRIBED IN EXHIBIT “A” HERETO, TO FACILITATE CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION (“MSD”) OF SAID PROPERTY BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (“TCEQ”) PURSUANT TO THE TEXAS SOLID WASTE DISPOSAL ACT; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED \$2,000.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 361, Subchapter W, of the Texas Solid Waste Disposal Act (“MSD legislation”) authorizes the TCEQ to certify Municipal Setting Designations for properties upon receipt and approval of a proper application to the TCEQ; and

WHEREAS, the Texas legislature, in enacting the MSD legislation, found that an action by a municipality to restrict access to or the use of groundwater in support of or to facilitate a MSD advances a substantial and legitimate State interest; and

WHEREAS, as part of the application process for an MSD, an applicant is required to provide the TCEQ with documentation of a resolution or ordinance of support from the municipality in which the MSD is being sought, which ordinance prohibits the use of and contact with groundwater from beneath the designated property for potable purposes; and

WHEREAS, due to limited quantity and low quality, there are areas of shallow groundwater within the City and its extraterritorial jurisdiction that are not valuable as potable water sources and therefore are not utilized for potable water; and

WHEREAS, some commercial and industrial properties within the City and its extraterritorial jurisdiction are underlain with unusable groundwater that has become contaminated by historical on-site or off-site sources; and

WHEREAS, the potable use of groundwater in designated areas should be prohibited to protect public health and welfare when the quality of the groundwater presents an actual or potential threat to public health; and

WHEREAS, the use of an MSD allows for a State-evaluated corrective action process for groundwater that is directed towards the protection of human health and the environment; and

WHEREAS, Cozobel, LLC (the “Applicant”) intends to submit an application to the TCEQ for certification of an MSD for 9.998± acres of land within the city limits of the City of Farmers Branch generally described by metes and bounds and depicted in Exhibit “A” attached hereto and

made a part hereof (the “MSD Property”), the MSD Property being generally within the boundaries shown in Exhibit “B”, attached hereto and incorporated herein by reference; and

WHEREAS, the Applicant has certified that the type of known contaminants in the uppermost groundwater beneath the MSD Property are as set forth in Exhibit “C” attached hereto and made a part hereof; and

WHEREAS, the Applicant has certified to the City that:

1. The purpose of the application is to assist the Applicant in obtaining from the TCEQ closure documentation demonstrating the TCEQ's determination, after completion of any remediation requirements and appropriate review by the TCEQ, that no further environmental cleanup or restoration is required by the TCEQ with respect to the MSD Property; and
2. As a part of the application, the Applicant has or will submit to the TCEQ a statement regarding the type of known contamination in the groundwater beneath the MSD Property and has identified that shallow groundwater contains chemicals of concern above Tier 1 groundwater ingestion protective concentration levels, as set forth in 30 Texas Administrative Code, Chapter 350, the Texas Risk Reduction Program; and

WHEREAS, the Applicant has continuing obligations to satisfy applicable statutory and regulatory provisions concerning groundwater contamination investigation and response actions at the MSD Property; and

WHEREAS, a public drinking water supply system exists that satisfies the requirements of Texas Health and Safety Code Chapter 341 for the MSD Property and property within one-half mile of the MSD Property; and

WHEREAS, the City Council finds it to be in the best interest of the public and the City to facilitate the Applicant's efforts to secure an MSD and TCEQ closure documentation by passage of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:

SECTION 1. The City Council finds the declarations and findings set forth in the preamble of this Ordinance are true and correct and are incorporated herein.

SECTION 2. The City Council finds this Ordinance is necessary because the contaminant concentrations exceed TCEQ potable water standards.

SECTION 3. The City Council finds it is in the best interest and welfare of the public to facilitate TCEQ's certification of an MSD for the MSD Property as well as the TCEQ closure documentation.

SECTION 4. Upon and after the effective date of this Ordinance, the drilling of wells and use of designated groundwater for any purpose, including, but not limited to, any potable purpose, and excepting only: (i) wells used as monitoring wells for the collection of groundwater samples for chemical or biological laboratory analysis; and (ii) wells used for the purpose of remediation of soil or groundwater contamination, is hereby prohibited on or from any portion of the MSD Property.

SECTION 5. Failure of the Applicant to diligently pursue and obtain from the TCEQ an MSD certificate for the MSD Property and TCEQ closure documentation for the MSD Property shall render this Ordinance voidable by the City Council following 30 days' written notice to the TCEQ and the Applicant.

SECTION 6. All provisions of the ordinances of the City of Farmers Branch in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Farmers Branch not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 7. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

SECTION 8. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 9. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 10. This Ordinance shall take effect from and after its passage and the publication of the caption of said Ordinance as the law and the City Charter in such case provides.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THE 7TH DAY OF SEPTEMBER, 2021.

APPROVED:

Robert C. Dye, Mayor

ATTEST:

Amy Piukana, City Secretary

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(kbl:8/27/21:124466)

Exhibit “A” – Boundary Description and Survey of the MSD Property

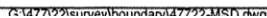


Exhibit “A” – Boundary Description and Survey of the MSD Property

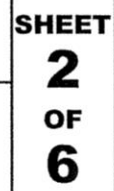
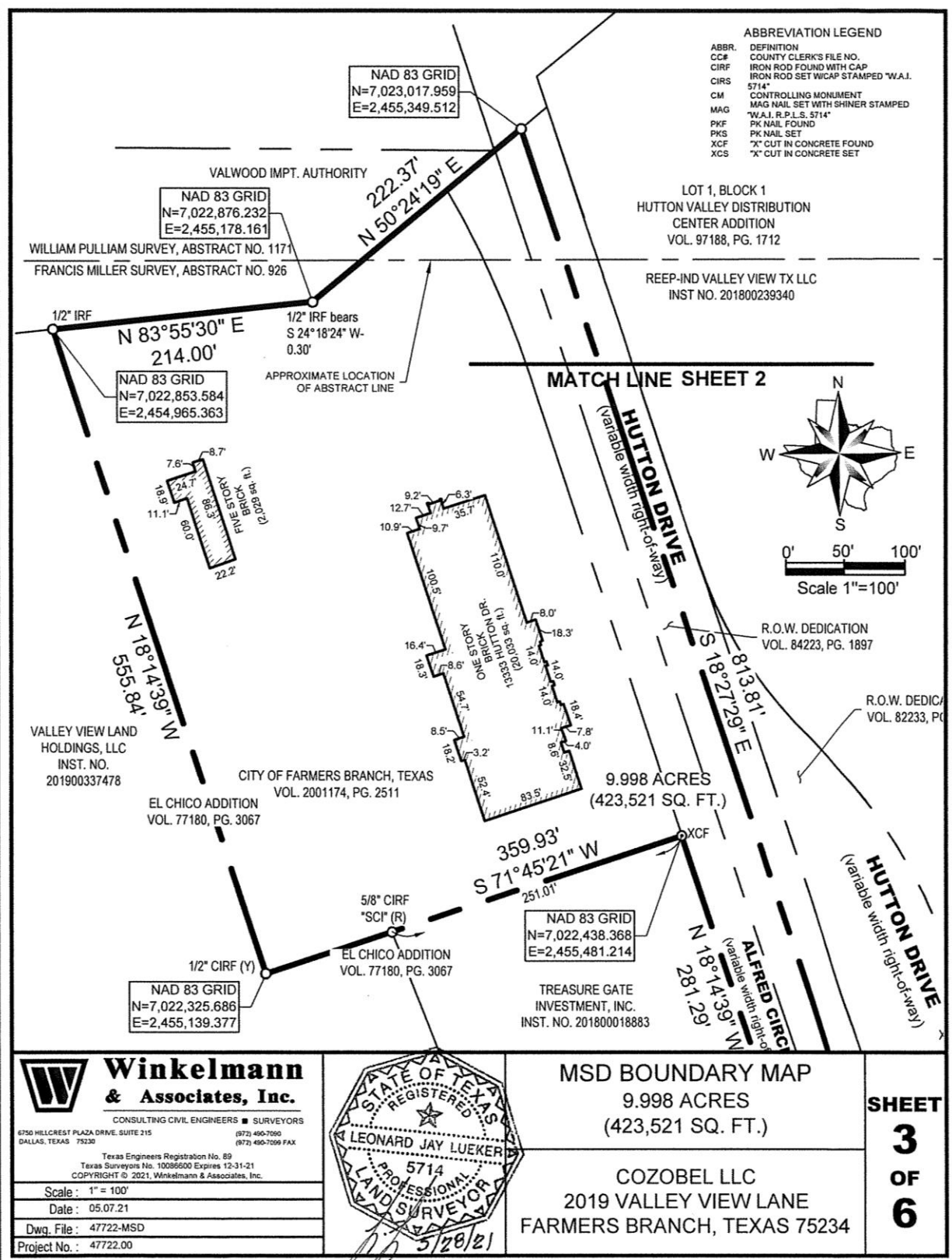


Exhibit “A” – Boundary Description and Survey of the MSD Property



ORDINANCE NO. 3702**Exhibit "A" – Boundary Description and Survey of the MSD Property****CURVE TABLE**

NO.	DELTA	RADIUS	LENGTH	CH. L	CH. B
C1	12°35'21"	1,433.21'	314.91'	314.27'	S83°09'35"W
C2	10°31'55"	1,497.40'	275.25'	274.86'	N84°17'48"E

LINE TABLE

LINE #	BEARING	DISTANCE
L1	N89°34'15"E	29.10'
L2	N89°52'09"E	239.81'
L3	S01°08'30"E	15.90'
L4	N89°49'40"E	127.78'

MSD DESCRIPTION

STATE OF TEXAS §
COUNTY OF DALLAS §

BEING a tract of land situated in the FRANCIS MILLER SURVEY, ABSTRACT NO. 926 and the WILLIAM PULLIAM SURVEY, ABSTRACT NO. 1171, City of Farmers Branch, Dallas County, Texas, and being a portion of Senlac Drive (variable width right-of-way), a portion of Valley View Lane (variable width right-of-way), a portion of Alfred Circle (variable width right-of-way), a portion of Hutton Drive (variable width right-of-way), all of Lot 1, Block A, D.P. Smith Addition, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded in Volume 81084, Page 2912, Deed Records, Dallas County, Texas (D.R.D.C.T.), all of Lot 1, Hudson Subdivision, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded in Volume 762, Page 1547, Map Records, Dallas County, Texas (M.R.D.C.T.), a portion of the El Chico Addition, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded in Volume 77180, Page 3067, D.R.D.C.T., and all of a tract of land as described in deed to The City of Farmers Branch, Texas, recorded in Volume 2001174, Page 2511, D.R.D.C.T., and being more particularly described as follows:

BEGINNING at a point for corner, (NAD 83, Grid, N=7,022,210.448, E=2,456,479.724) said point being the intersection of the approximate centerline of said Valley View Lane and the approximate centerline of said Senlac Drive;

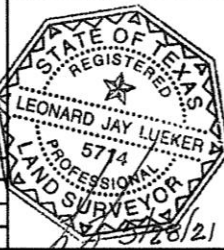
THENCE South.89 deg 49 min 40 sec West, departing the approximate centerline of said Senlac Drive and along the approximate centerline of said Valley View Lane, a distance of 598.41 feet to a point for corner (NAD 83, Grid, N=7,022,208.649, E=2,455,881.314) and the beginning of a curve to the left, having a radius of 1,433.21 feet, a central angle of 12 deg 35 min 21 sec, a chord bearing of South 83 deg 09 min 35 sec West and a chord length of 314.27 feet;

THENCE continuing along said approximate centerline, and along said curve to the left, an arc distance of 314.91 feet to a point for corner (NAD 83, Grid, N=7,022,171.217, E=2,455,569.277);

(con't on sheet 5)

Winkelmann & Associates, Inc.
 CONSULTING CIVIL ENGINEERS ■ SURVEYORS
 6750 HILLCREST PLAZA DRIVE, SUITE 215 (972) 490-7090
 DALLAS, TEXAS 75230 (972) 490-7099 FAX
 Texas Engineers Registration No. 89
 Texas Surveyors No. 10086600 Expires 12-31-21
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Scale: N/A
 Date: 05.07.21
 Dwg. File: 47722-MSD
 Project No.: 47722.00



MSD BOUNDARY MAP
 9.998 ACRES
 (423,521 SQ. FT.)

COZOBEL LLC
 2019 VALLEY VIEW LANE
 FARMERS BRANCH, TEXAS 75234

SHEET
4
OF
6

ORDINANCE NO. 3702

Exhibit "A" – Boundary Description and Survey of the MSD Property

MSD DESCRIPTION (con't)

THENCE North 18 deg 14 min 39 sec West, departing the approximate centerline of said Valley View Lane, over and across the right-of-way of said Valley View Lane and along the East line of a tract of land as described in deed to Treasure Gate Investment, Inc., recorded in Instrument No. 201800018883, Official Public Records, Dallas County, Texas (O.P.R.D.C.T.), a distance of 281.29 feet to an "X" cut in concrete found for corner (NAD 83, Grid, N=7,022,438.368, E=2,455,481.214), said "X" cut being the Northeast corner of said Treasure Gate Investment, Inc. tract and the Southeast corner of said City of Farmers Branch Texas tract;

THENCE South 71 deg 45 min 21 sec West, departing the East line and along the North line of said Treasure Gate Investment, Inc. tract and the South line of said City of Farmers Branch tract, a distance of 359.93 feet to a 1/2-inch iron rod with yellow plastic cap found for corner (NAD 83, Grid, N=7,022,325.686, E=2,455,139.377), said iron rod being the Southwest corner of said City of Farmers Branch Texas tract;

THENCE North 18 deg 14 min 39 sec West, departing the South line and along the West line of said City of Farmers Branch Texas tract, a distance of 555.84 feet to a 1/2-inch iron rod found for corner (NAD 83, Grid, N=7,022,853.584, E=2,454,965.363), said iron rod being the Northwest corner of said City of Farmers Branch Texas tract and being situated in the South line of a tract of land as described in deed to Valwood Impt. Authority;

THENCE North 83 deg 55 min 30 sec East, departing the West line and along the North line of said City of Farmers Branch Texas tract and along the South line of said Valwood Impt. Authority tract, a distance of 214.00 feet to a point for corner (NAD 83, Grid, N=7,022,876.232, E=2,455,178.161), from which a 1/2-inch iron rod found bears South 24 deg 18 min 24 sec West, a distance of 0.30 feet;

THENCE North 50 deg 24 min 19 sec East, continuing along the North line of said City of Farmers Branch Texas tract and the south line of said Valwood Impt. Authority tract and over and across the right-of-way of said Hutton Drive, a distance of 222.37 feet to a point for corner (NAD 83, Grid, N=7,023,017.959, E=2,455,349.512);


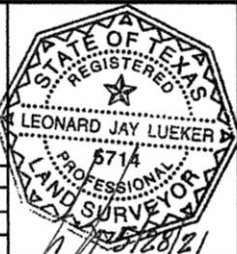
THENCE South 18 deg 27 min 29 sec East, along the approximate centerline of said Hutton Drive, a distance of 813.81 feet to a point for corner (NAD 83, Grid, N=7,022,246.018, E=2,455,607.171), and the beginning of a non-tangent curve to the right having a radius of 1,497.40 feet, a central angle of 10 deg 31 min 55 sec, a chord bearing of North 84 deg 17 min 48 sec East and a chord length of 274.86 feet;

THENCE departing the approximate centerline of said Hutton Drive, over and across said Hutton Drive and along the the South line of Lot 1, Block 1, Hutton Valley Distribution Center Addition, an addition to the City of Farmers Branch, recorded in Volume 97188, Page 1712, Deed Records, Dallas County, Texas and along said non-tangent curve to the right, an arc distance of 275.25 feet to a point for corner (NAD 83, Grid, N=7,022,273.333, E=2,455,880.670);

THENCE North 89 deg 34 min 15 sec East, continuing along the South line of said Hutton Valley Distribution Center Addition, a distance of 29.10 feet to a point for corner (NAD 83, Grid, N=7,022,273.550, E=2,455,909.769);

THENCE North 89 deg 52 min 09 sec East, continuing along the South line of said Hutton Valley Distribution Center Addition, a distance of 239.81 feet to a point for corner (NAD 83, Grid, N=7,022,274.097, E=2,456,149.579), said point being the Southeast corner of said Hutton Valley Distribution Center Addition and being situated in the West line of said Lot 1, Hudson's Subdivision;

(con't on sheet 6)

 Winkelmann & Associates, Inc. <small>CONSULTING CIVIL ENGINEERS ■ SURVEYORS 6750 HILLCREST PLAZA DRIVE, SUITE 215 DALLAS, TEXAS 75230 (972) 490-7090 (972) 490-7099 FAX Texas Engineers Registration No. 89 Texas Surveyors No. 10086500 Expires 12-31-21 COPYRIGHT © 2021, Winkelmann & Associates, Inc.</small>		MSD BOUNDARY MAP 9.998 ACRES (423,521 SQ. FT.)	SHEET 5 OF 6
		COZOBEL LLC 2019 VALLEY VIEW LANE FARMERS BRANCH, TEXAS 75234	
Scale: N/A Date: 05.07.21 Dwg. File: 47722-MSD Project No.: 47722.00			

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Exhibit "A" – Boundary Description and Survey of the MSD Property

MSD DESCRIPTION (con't)

THENCE North 01 deg 08 min 30 sec West, departing the South line and along the East line of said Hutton Valley Distribution Center Addition and along the West line of said Lot 1, Hudson's Subdivision, a distance of 347.00 feet to a point for corner (NAD 83, Grid, N=7,022,621.024, E=2,456,142.666);

THENCE North 00 deg 55 min 24 sec West, continuing along said East line and said West line, a distance of 74.72 feet to a point for corner (NAD 83, Grid, N=7,022,695.734, E=2,456,141.462) from which a 1/2-inch iron rod with yellow plastic cap found bears South 89 deg 43 min 30 sec West, a distance of 0.82 feet, said point being the Northwest corner of said Lot 1, Hudson's Subdivision;

THENCE North 89 deg 43 min 30 sec East, departing said common line and along the North line of said Lot 1, a distance of 199.72 feet to a 1/2-inch found for corner (NAD 83, Grid, N=7,022,696.692, E=2,456,341.175), said iron rod being the Northeast corner of said Lot 1;


THENCE South 01 deg 08 min 30 sec East, departing the North line and along the East line of said Lot 1, a distance of 15.90 feet to a 1/2-inch iron rod with yellow plastic cap found for corner (NAD 83, Grid, N=7,022,680.799, E=2,456,341.491), said iron rod being the Northwest corner of said Lot 1, Block A, D.P. Smith Addition;

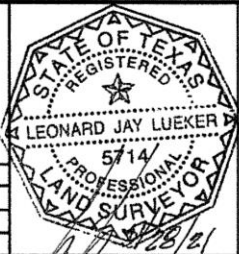
THENCE North 89 deg 49 min 40 sec East, departing the East line of said Lot 1, Hudson's Subdivision and along the North line of said Lot 1, Block A, and over and across said Senlac Drive, a distance of 127.78 feet to a point for corner (NAD 83, Grid, N=7,022,681.183, E=2,456,469.269), said point being situated in the approximate centerline of said Senlac Drive;

THENCE South 01 deg 16 min 20 sec East, along the approximate centerline of said Senlac Drive, a distance of 470.85 feet to the POINT OF BEGINNING.

CONTAINING within these metes and bounds 9.998 acres or 423,521 square feet of land, more or less.

Bearings shown hereon are based upon an on-the-ground Survey performed in the field on the 5th day of May, 2021, utilizing a G.P.S. bearing related to the Texas Coordinate System, North Texas Central Zone (4202), NAD 83, grid values from the GeoShack VRS network.

	Winkelmann & Associates, Inc.
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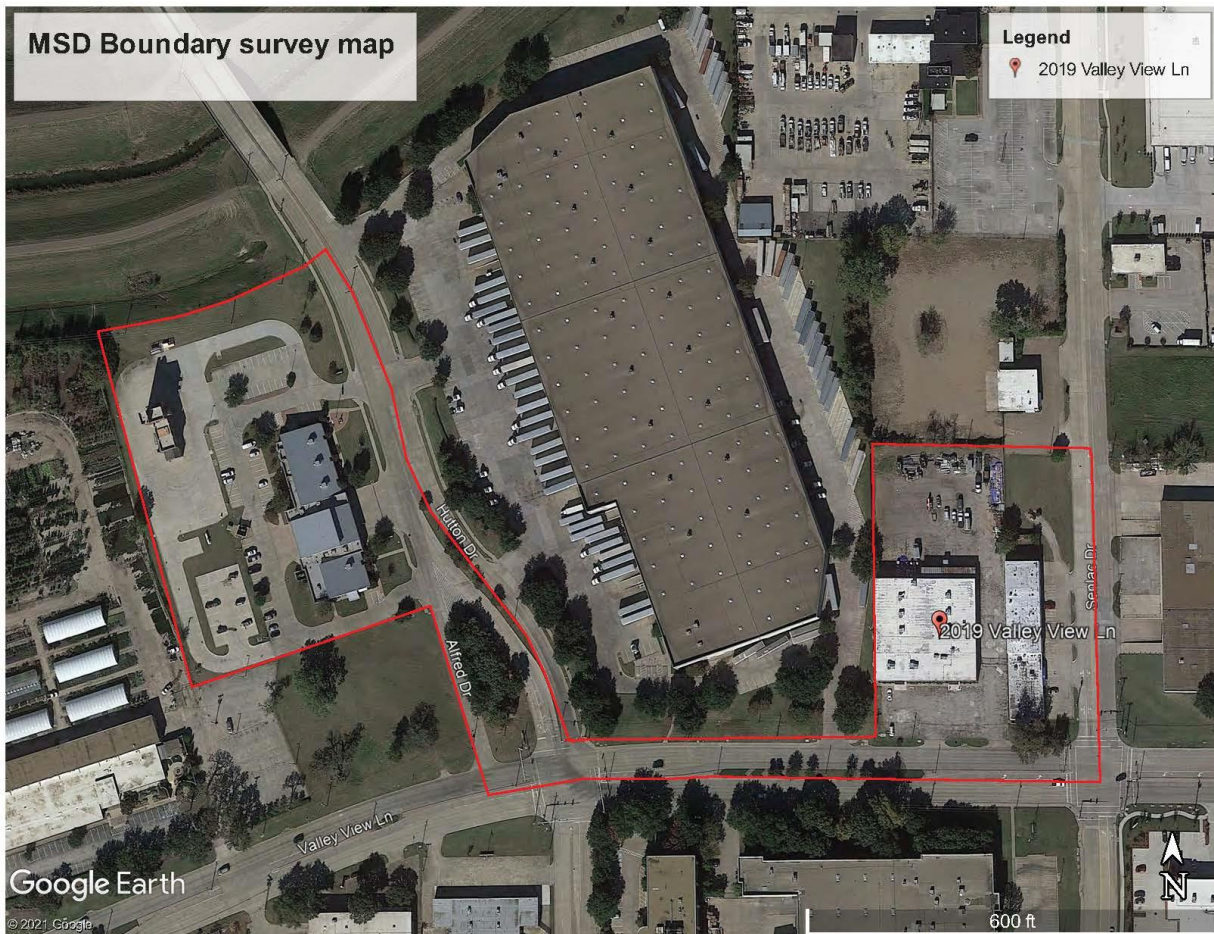


MSD BOUNDARY MAP
9.998 ACRES
(423,521 SQ. FT.)

COZOBEL LLC
2019 VALLEY VIEW LANE
FARMERS BRANCH, TEXAS 75234

**SHEET
6
OF
6**

ORDINANCE NO. 3702
Exhibit “B” –Boundary Map of MSD Property



ORDINANCE NO. 3702
Exhibit “C” – Summary of Known Contaminants

Contaminates in groundwater that exceed the groundwater ingestion PCL:

Trichloroethene (TCE)

Tetrachloroethene (PCE)