

ORDINANCE NO. 5398

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY, BY GRANTING A CONDITIONAL USE PERMIT ON CERTAIN TRACTS OF LAND DESCRIBED IN EXHIBIT "A", BEING IDENTIFIED AS GRAYSON COUNTY APPRAISAL DISTRICT PROPERTY ID NOS. 112272 AND 140206, DENISON, TEXAS, COMMONLY REFERRED TO AS 2827 RAY DRIVE, DENISON, TEXAS, TO ALLOW SAND/GRAVEL/CLICHE/STONE SALES (STORAGE) AS A USE IN ITS ZONING CLASSIFICATION OF LIGHT INDUSTRIAL DISTRICT; PROVIDING CONDITIONS FOR THE CONDITIONAL USE PERMIT TO REMAIN EFFECTIVE; PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING A PENALTY OF UP TO \$2,000 PER VIOLATION; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS ADOPTED WAS LAWFULLY HELD IN ACCORDANCE WITH THE TEXAS OPEN MEETINGS ACT; PROVIDING NO VESTED INTEREST/REPEAL, UNLAWFUL USE OF PROPERTY, REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Denison, Texas (hereinafter referred to as "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the "City Council") adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the "Zoning Ordinance"); and

WHEREAS, Union Pacific Railroad Company ("Owner") owns tracts of land being identified as Grayson County Appraisal District Property ID Nos. 112272 and 140206, Denison, Texas, and commonly known as 2827 Ray Drive, Denison, Texas, and as more particularly described and depicted in **Exhibit "A"**, attached and incorporated as if fully set forth herein (the "Property"), and has made this application under the provisions of the Zoning Ordinance of the City of Denison for a conditional use permit to allow a Sand/Gravel/Cliche/Stone Sales (Storage) use on the Property, which has a zoning district classification of Light Industrial District, as depicted by Site Plan in **Exhibit "B"**; and

WHEREAS, Owner has identified the Dolese Bros. Co. leased +/- 41.07 acre portion of the Property, more specifically described and depicted in **Exhibit "C"**, copies of which are

attached and incorporated as if fully set forth therein, as the area that will be utilized for the Sand/Gravel/Cliche/Stone Sales (Storage) use (the “Area”); and

WHEREAS, Owner has designated Andrew Aardema, of Dolese Bros. Co., to act in the capacity of Owner as agent for submittal, processing, representation, and/or presentation of the application, and as the principal contact person for responding to all requests for information; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered the requested zoning change, the recommendation of the Planning and Zoning Commission, and among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the rezoning approved hereby accomplishes such objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:

SECTION 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein, are found to be true, and are adopted a legislative findings of the City Council.

SECTION 2. Conditional Use Permit Approved. Chapter 28 of the Code of Ordinances of the City, the same being the City’s Comprehensive Zoning Ordinance, is hereby amended to reflect the Conditional Use Permit (“CUP”) authorizing Sand/Gravel/Cliche/Stone Sales (Storage) as a use approved in the Light Industrial District for the Property, subject to all Applicable Regulations (defined below) and to the following conditions:

- A. Uses. The following use of Sand/Gravel/Cliche/Stone Sales (Storage) shall be permitted in accordance with the conditions of the CUP, with such use being defined as:

Sand, gravel or stone extraction and/or storage shall be considered the process of extracting and/or storing sand, gravel, stone, topsoil, compost or other products from the earth.

- B. Applicable Regulations. In additional to the specific requirements set forth in this Ordinance, this CUP shall be subject to all ordinances and regulations of the City applicable to the Property, including without limitation the Comprehensive Zoning Ordinance and those regulations governing the Light Industrial District (“Applicable

Regulations”). The CUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Comprehensive Zoning Ordinance.

- C. The Sand/Gravel/Cliche/Stone Sales (Storage) use shall be limited to the Area as described and depicted in **Exhibit “C”**.
- D. Acquisition and compliance with all state and local permits.
- E. Continuous abatement of dust and noise related to the aggregate yard operations.
- F. Maintenance of the existing tree line and vegetation located on the north side of Ray Drive.
- G. Civil Engineering Plan approval and construction of the access road located under Hwy. US 75 connecting to Katy Memorial Expressway for all customer and operational traffic within the Union Pacific Railyard.
- H. Barriers being placed along Ray Drive to prevent customer and truck traffic from entering or exiting Union Pacific Railyard and replacing the gate located on the east side of Ray Drive requiring access to be locked and available for emergency services only.
- I. Civil Engineering Plan approval and construction of utility infrastructure for operations.

SECTION 3. Failure to Comply/Expiration/Transferable. All terms of this CUP shall be complied with prior to issuance of a certificate of occupancy. This CUP shall be declared null and void and of no force and effect and shall discontinue if or for any one or more of the following:

- A. Any failure to comply with any term or condition of this Ordinance or the applicable regulations, as they exist or may be amended; or
- B. Any improvements, the Property, uses or structures regulated by this CUP are enlarged, modified, structurally altered or otherwise significantly changed unless a separate conditional use permit or other required authorization is granted therefor; or
- C. A building permit for the construction of any new structure for which a use is authorized hereunder has not been approved within one (1) year of the date of approval of this Ordinance; or
- D. A certificate of occupancy for any existing structure for which a use authorized by this Ordinance is not applied for and issued within one hundred and eighty (180) days from the effective date of this Ordinance; or
- E. A use for which this CUP is granted ceases to operate for a continuous period of one hundred eighty (180) calendar days; or
- F. A structure for which this CUP is granted remains vacant for a continuous period of one

hundred eighty (180) calendar days; or

G. This CUP was obtained by fraud or deception; or

H. As otherwise permitted by law, this Ordinance and/or the City's Zoning Ordinance, as they exist or may be amended, including without limitation the requirements of Section 28.9 "Nonconforming Uses and Structures".

SECTION 4. Zoning Map and Code Requirements. The Zoning Map of the City, adopted by Section 28.3 of the Code of Ordinances, and on file in the office of the Director of Development Services is hereby amended to reflect the conditional use permit. The Property shall be developed and used in accordance with all applicable City, state, and federal laws, as they exist or may be in the future amended, including but not limited to building codes, fire codes, and all accessibility standards as required by law.

SECTION 5. No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed or amended by the City Council in the manner provided for by law.

SECTION 6. Unlawful Use of Property. It shall be unlawful for any person, firm, association, entity or corporation to make use of the Property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person, firm, association, entity, or corporation to construct on said Property and building that is not in conformity with the permissible uses under the City's Zoning Ordinance and this Ordinance.

SECTION 7. Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, phrase or word thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases and words be declared unconstitutional or invalid.

SECTION 8. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 9. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City

from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 10. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

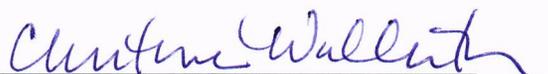
SECTION 11. Open Meeting. That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Section 551.041, Texas Government Code.

PASSED AND APPROVED BY THE CITY COUNCIL ON THE 16TH DAY OF JUNE 2025.



ROBERT CRAWLEY, MAYOR

ATTEST:



Christine Wallentine, City Clerk





EXHIBIT "A" Property Depiction

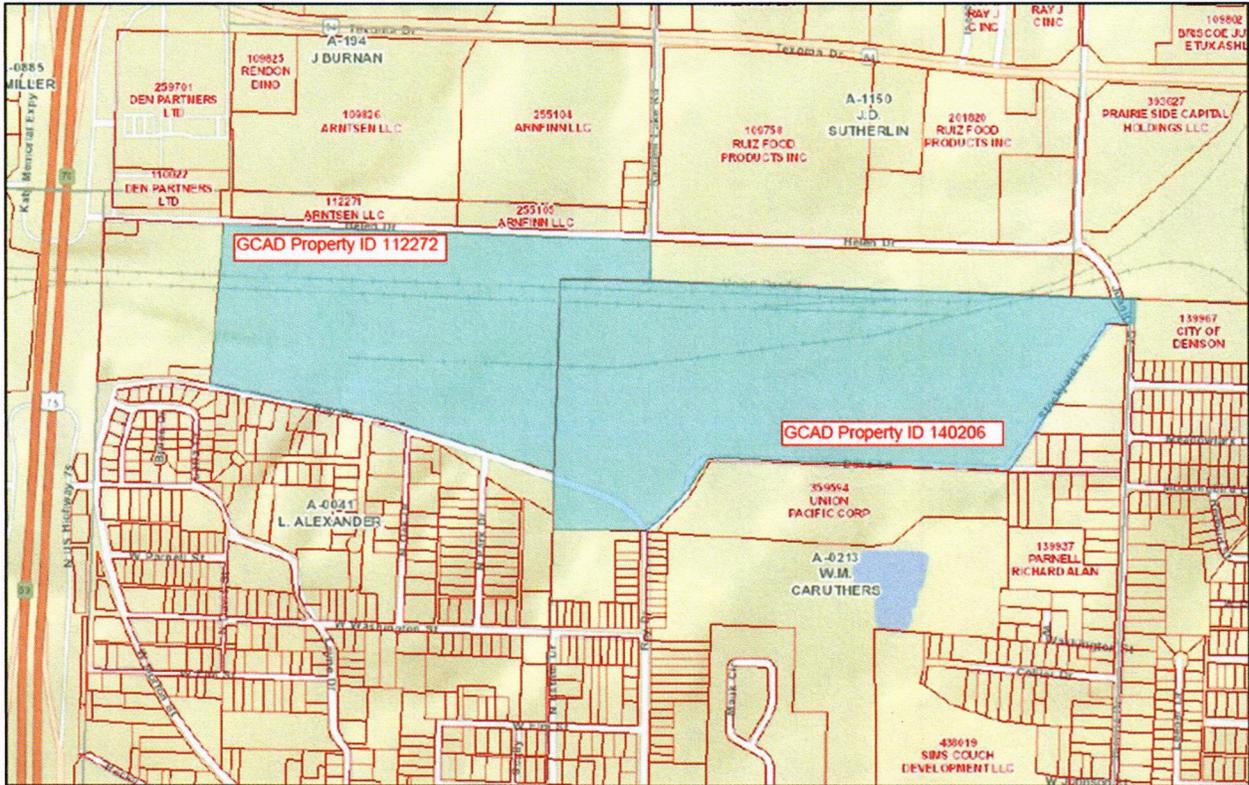


Exhibit "C"
Area Description and Depiction

Being a 41.07 acre tract of land situated in the W. M. Caruthers Survey, Abstract No. GO213, Grayson County, Texas, and being a portion of the tract of land described by deed to Missouri, Kansas, Texas, Railroad Company of Texas, as recorded in Volume 916, Page 458, Deed Records, Grayson County, Texas, and being more particularly described as follows:

COMMENCING at a found aluminum monument stamped "COPLEY RPLS 6720", being the northwest corner of Sycamore Springs Phase One, as recorded in Document No, 2021-258 Deed Records, Grayson County, Texas, and being in the northeast corner of Sims-Couch Fifth Addition Phase One, as recorded in Document No. 2021-154, Deed Records, Grayson County, Texas, and also being in the south line of said Missouri, Kansas, Texas, Railroad Company of Texas tract;

THENCE North 41°14'47" East, a distance of 402.14 feet to the POINT OF BEGINNING;

THENCE North 85°13'26" West, a distance of 570.48 feet to a point;

THENCE North 46°15'33" West, a distance of 257.45 feet to a point;

THENCE North 75°49'25" West, a distance of 691.14 feet to a point;

THENCE North 63°29'33" West, a distance of 666.57 feet to a point;

THENCE North 87°52'32" West, a distance of 161.86 feet to a point;

THENCE North 52°37'47" East, a distance of 234.31 feet to a point;

THENCE North 88°38'08" East, a distance of 1,925.32 feet to a point;

THENCE North 81°55'04" East, a distance of 1,313.45 feet to a point;

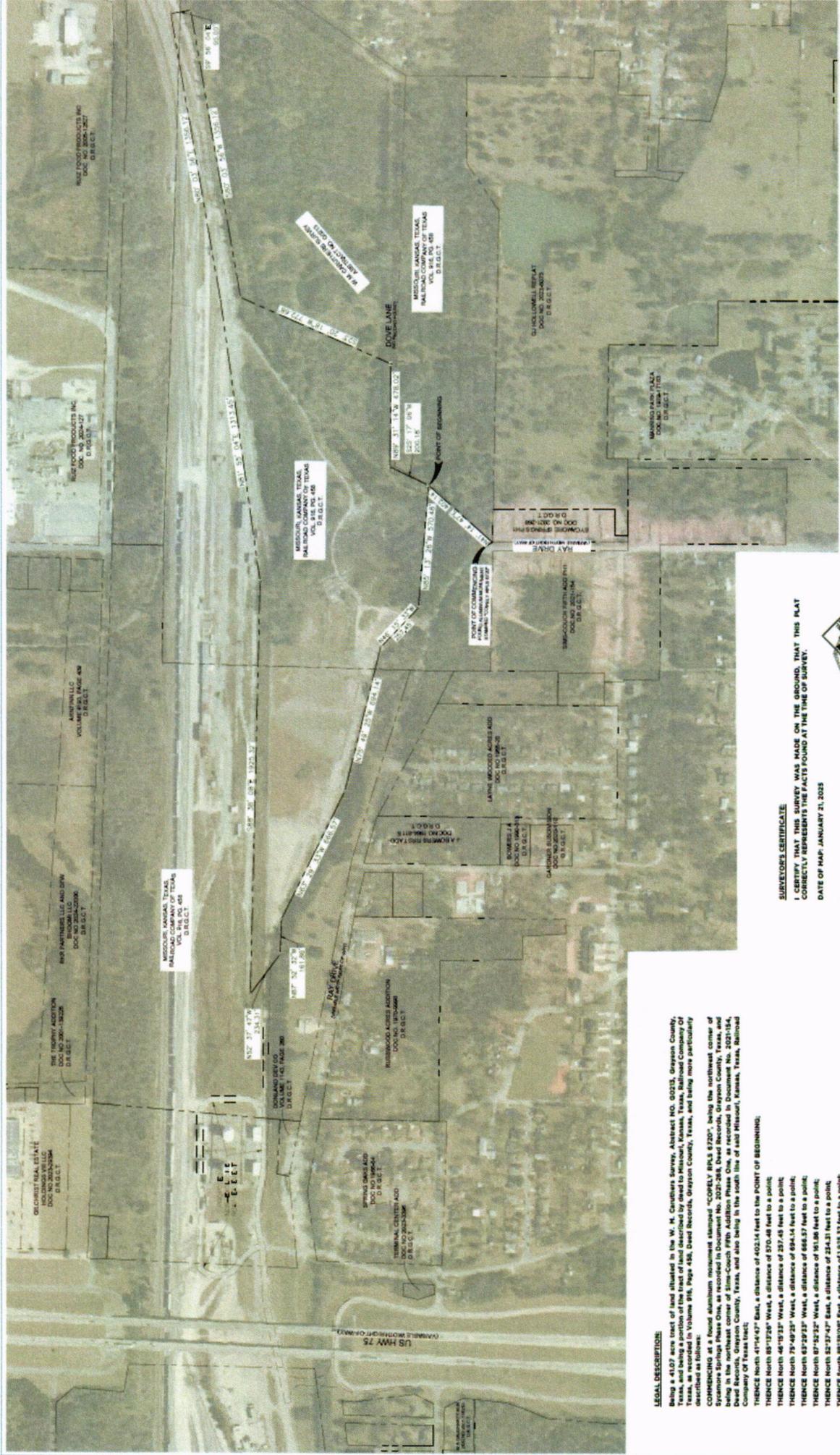
THENCE North 80°03'56" East, a distance of 1,356.12 feet to a point;

THENCE South 09°56'04" East, a distance of 1,356.12 feet to a point;

THENCE South 80°03'56" West, a distance of 1,356.12 feet to a point;

THENCE South 23°20'18" West, a distance of 772.68 feet to a point;

THENCE North 89°31'14" West, a distance of 478.002 feet to the POINT OF BEGINNING and CONTAINING 1,788,993 square feet, 41.07 acres of land, more or less.



LEGAL DESCRIPTION:

Being a 41.07 acre tract of land situated in the W. M. Cleburn Survey, Abstract No. 60215, Grayson County, Texas, and being a portion of the tract of land described by deed to Missouri, Kansas, Texas, Railroad Company of Texas, and being more particularly described as follows:

COMMENCING at a found aluminum monument stamped "CORREY 1813 8720", being the northwest corner of Symmons Springs Phase One, as recorded in Document No. 2021-288, Deed Records, Grayson County, Texas, and being in the northeast corner of 21st-Couch 99th Addition Phase One, as recorded in Document No. 2021-154, Deed Records, Grayson County, Texas, and also being in the south line of said Missouri, Kansas, Texas, Railroad Company of Texas;

- THENCE North 41°46'43" East, a distance of 403.14 feet to the POINT OF BEGINNING;
- THENCE North 81°12'24" West, a distance of 570.48 feet to a point;
- THENCE North 48°19'31" West, a distance of 237.45 feet to a point;
- THENCE North 79°49'23" West, a distance of 884.14 feet to a point;
- THENCE North 63°29'27" West, a distance of 666.87 feet to a point;
- THENCE North 87°52'22" West, a distance of 81.88 feet to a point;
- THENCE North 52°27'47" East, a distance of 234.17 feet to a point;
- THENCE North 81°39'03" East, a distance of 1328.32 feet to a point;
- THENCE North 80°03'50" East, a distance of 1331.45 feet to a point;
- THENCE South 09°26'04" East, a distance of 1336.02 feet to a point;
- THENCE South 80°03'59" West, a distance of 1336.12 feet to a point;
- THENCE North 87°31'49" West, a distance of 772.08 feet to a point;
- UNDEVELOPED square feet, 41.07 acres of land, more or less.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND, THAT THIS PLAN CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF SURVEY.

DATE OF MAP: JANUARY 21, 2023

MICHAEL L. INTERSECON, S.P.L.S.
Texas Registration No. 9992



LEASE BOUNDARY EXHIBIT
DOLESE BROS. CO. LEASE TRACT FROM
UNION PACIFIC RAILROAD
CITY OF DENISON
GRAYSON COUNTY, TEXAS

GRAHAM ASSOCIATES
CIVIL ENGINEERING & SURVEYING
1000 W. 10TH STREET, SUITE 100
DENISON, TEXAS 75020

DATE: JANUARY 21, 2023
PROJECT NO. 2023-10
DRAWING NO. 01A

SHEET 11