

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY OF PFLUGERVILLE, TEXAS,  
RELEASING AND VACATING A 120' TEMPORARY DRAINAGE  
EASEMENT AGREEMENT DATED APRIL 17, 2008, RECORDED  
UNDER DOCUMENT NO. 2010137966 OF THE OFFICIAL  
PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS**

**WHEREAS**, the City has received a petition for the vacation of a 120' temporary drainage easement agreement dated April 17, 2008, recorded under Document No. 2010137966 of the Official Public Records of Travis County, Texas ; and

**WHEREAS**, based on the recommendation of the City Engineer, the City Council finds the nature and extent of the public use, and the public interest in the Easement to be subserved, is such as to warrant the vacation:

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF PFLUGERVILLE:**

1. That the City Council finds the Petition to Vacate Easement and Release, attached hereto as **Exhibit "A"** in order.
2. That upon acceptance of a Release and Vacation of Easement Instrument, in substantially the same form as **Exhibit "B"** attached hereto, by Petitioner, the City Council authorizes the City Manager to execute same for recordation by Petitioner.

Approved this 22<sup>nd</sup> day of October, 2013.

City of Pflugerville, Texas

By: \_\_\_\_\_  
Jeff Coleman, Mayor

Attest:

\_\_\_\_\_  
Karen Thompson, City Secretary

**EXHIBIT A**  
**PETITION TO VACATE EASEMENT AND RELEASE**

**PETITION TO VACATE EASEMENT AND RELEASE**

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

WE, THE UNDERSIGNED PETITIONER, HEREBY PETITIONS FOR THE VACATION OF THAT CERTAIN **120' TEMPORARY DRAINAGE EASEMENT AGREEMENT DATED APRIL 17, 2008, RECORDED UNDER DOCUMENT NO. 2010137966 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS** (THE "EASEMENT AGREEMENT"). IN SUPPORT OF SAID PETITION, WE SHOW THE FOLLOWING:

1. THE SOLE OWNER OF THE PROPERTIES WHICH ARE AFFECTED BY THE EASEMENT AGREEMENT REQUESTED TO BE VACATED HEREIN ARE AS FOLLOWS:

CONTINENTAL HOMES OF TEXAS, L.P., A TEXAS LIMITED PARTNERSHIP, WITH ITS ADDRESS AT 10700 PECAN PARK BLVD., SUITE 400, AUSTIN, TEXAS 78750, IN WILLIAMSON COUNTY, TEXAS, AS OWNER OF THE FOLLOWING DESCRIBED PROPERTY IN TRAVIS COUNTY, TEXAS: 3.31 ACRES OF LAND BEING OUT OF THE THOMAS G. STUART SURVEY NO. 6, ABSTRACT NO. 689, AND BEING A PORTION OF THE REAL PROPERTY DESCRIBED IN THE DEED RECORDED AS DOCUMENT NO. 2007122920 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND AS MORE PARTICULARLY DESCRIBED IN THE EASEMENT AGREEMENT.

2. THE NATURE AND EXTENT OF THE PUBLIC USE, AND THE PUBLIC INTEREST TO BE SUBSERVED, IS SUCH AS TO WARRANT THE VACATION OF THE EASEMENT AGREEMENT, AS TO ALL REAL PROPERTY SUBJECT THERETO DESCRIBED IN EXHIBIT "A" AND DEPICTED IN THE SKETCH MARKED AS EXHIBIT "B", BOTH BEING ATTACHED HERETO AND MADE A PART HEREOF.
3. THE PETITIONER LISTED IN PARAGRAPH 1, ABOVE, FOR ITSELF AND FOR ITS SUCCESSORS AND ASSIGNS, FOR AND IN CONSIDERATION OF THE VACATION OF THE EASEMENT AGREEMENT WITH RESPECT TO THE REAL PROPERTY DESCRIBED IN ATTACHED EXHIBITS "A" AND "B" AND OTHER VALUABLE CONSIDERATION, HEREBY RELEASES, REMISES, AND FOREVER DISCHARGES THE CITY OF PFLUGERVILLE, ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM ANY AND ALL CLAIMS, ACTIONS, AND DAMAGES, IF ANY, WHATSOEVER WHICH THEY MAY HAVE IN LAW OR EQUITY WITH RESPECT TO ANY DAMAGE TO THE PROPERTY DESCRIBED HEREIN AS A RESULT OF THE SAID VACATION. THIS RELEASE IS NOT TO BE CONSTRUED AS AN ADMISSION ON THE PART OF THE CITY OF PFLUGERVILLE OF ANY LIABILITY IN CONSEQUENCE OF THE ABOVE DESCRIBED VACATION.

4. BY THE SIGNATURE(S) AFFIXED HERETO, THE UNDERSIGNED REPRESENTS AND WARRANTS THAT CONTINENTAL HOMES OF TEXAS, L.P., A TEXAS LIMITED PARTNERSHIP, IS THE OWNER OF THE PROPERTIES AS SET FORTH IN PARAGRAPH 1 OF THIS DOCUMENT AND, AS SUCH, IS/ARE FULLY AUTHORIZED TO MAKE THIS PETITION.


**PRAYER**

THE UNDERSIGNED PROPERTY OWNER HEREBY PRAYS THAT THE EASEMENT AGREEMENT AFFECTING THE REAL PROPERTY DESCRIBED IN EXHIBITS "A" AND "B", ATTACHED HERETO, BE VACATED OF RECORD BY THE CITY OF PFLUGERVILLE, AND THAT SAID VACATION BE RECORDED IN THE OFFICIAL RECORDS OF THE TRAVIS COUNTY CLERK.

EXECUTED THIS 27 DAY OF September, 2013.

**CONTINENTAL HOMES OF TEXAS, L.P.**  
(a Texas limited partnership)

By: CHTEX of Texas, Inc.  
(a Delaware corporation)  
*Its General Partner*

By:   
Name: RICHARD MAIER TJA  
Title: VICE PRESIDENT

## EXHIBIT "A"

### FIELD NOTES

JOB No. 0584

DATE: January 15, 2007

PAGE: 1 of 2

### 3.31 ACRES

All that certain tract or parcel of land situated in Travis County, Texas, out of the Thomas G. Stuart Survey No. 6, Abstract No. 689 and being a portion of that tract described as approximately 150.65 acres in a General Warranty Deed granted to WDP, Ltd, a Texas limited partnership, dated June 20, 2002 and recorded as Document No. 2002120520 Official Public Records of Travis County, Texas and further described by metes and bounds as follows:

BEGINNING at a calculated point for the northeast corner of this tract from which a 1" iron pipe found in the west line of that tract described as 221.80 acres in a Warranty Deed granted to Robert Shapiro, et al, dated December 16, 1976 and recorded in Volume 5676, Page 1779, Deed Records of Travis County, Texas for the southeast corner of Highland Park North, Phase A, Section 3, a subdivision in Travis County Texas according to the map or plat thereof recorded in Document No. 200300283, said official public records for the northeast corner of said WDP, Ltd. tract bears N 27°33'33" E 1146.03 feet and S 62°26'27" E 967.18 feet;

THENCE: S 27°34'35" W 1200.81 feet with the east line of this tract to a calculated point for the southeast corner of this tract;

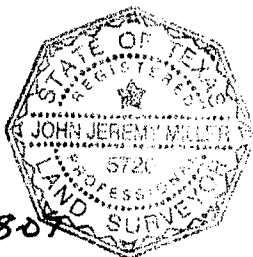
THENCE: N 62°25'25" W 120.00 feet with the south line of this tract to a calculated point for the southwest corner of this tract;

THENCE: N 27°34'35" E 1200.81 feet with the west line of this tract to a calculated point for the northwest corner of this tract;

THENCE: S 62°25'25" E 120.00 feet with the north line of this tract to the point of Beginning and containing 0.28 acre (12,084 sq. ft.) of land.

Bearings cited hereon based on Grid North, Texas State Plane Coordinate System, Central Zone NAD83(93).

Castleberry Surveying, Ltd.  
3613 Williams Drive, Suite 903  
Georgetown, Texas 78628



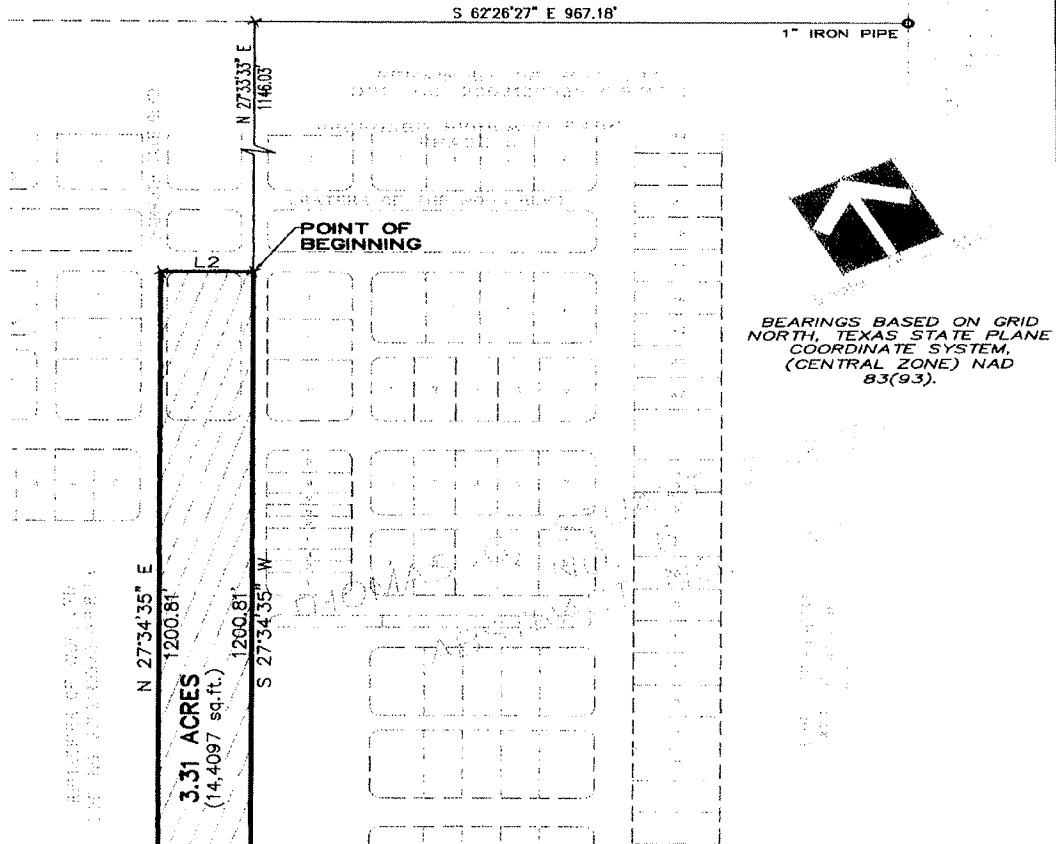
*John Jeremy Miller 1-18-07*  
John Jeremy Miller  
Registered Professional Land Surveyor No. 5720

JJM/tcp

**EXHIBIT "B"**

EXHIBIT TO ACCOMPANY METES AND BOUNDS DESCRIPTION OF  
**3.31 ACRES (144,097 SQ. FT.) OUT OF THE THOMAS G. STUART  
 SURVEY No. 6, ABSTRACT NO. 689, IN TRAVIS COUNTY, TEXAS**

BEARINGS AND DISTANCES  
 TO CORNER POINTS  
 OF THE SURVEYED TRACT



BEARINGS BASED ON GRID  
 NORTH, TEXAS STATE PLANE  
 COORDINATE SYSTEM,  
 (CENTRAL ZONE) NAD  
 83(93).

**LINE TABLE**

NUMBER	DIRECTION	DISTANCE
L1	N 62°25'24" W	120.00'
L2	S 62°25'25" E	120.00'

**SYMBOL LEGEND**

○	1" IRON PIPE FOUND
+	CALCULATED POINT
O.P.R.T.C.	OFFICIAL PUBLIC RECORDS TRAVIS COUNTY
D.R.T.C.	DEED RECORDS TRAVIS COUNTY

FIELD NOTES ATTACHED

DRAWING FILE: R:\Egpt\_01\0584\_HIGHLAND\_PARK\EXHIBITS\0584\_D1\_TEMP\_DR\_ESWT\_5\_011207.dwg Jan 18, 2007 - 2:46 pm ted



3613 Williams Drive, Suite 903 -- Georgetown, Texas 78628  
 (512) 930-1800/(512) 930-9389 fax  
 www.castleberryurveying.com

SHEET  
 2 OF 2

**UTILITY CONSENT TO VACATE  
AN ALLEY, EASEMENT OR RIGHT-OF-WAY**

**WHEREAS**, I THE UNDERSIGNED, AM A DULY AUTHORIZED REPRESENTATIVE OF THE SUBJECT UTILITY COMPANY; AND

**WHEREAS**, MY COMPANY DOES NOT HAVE FACILITIES LOCATED IN THE EASEMENT DESCRIBED IN EXHIBIT "A", OR HAS MADE ARRANGEMENTS WITH THE RELEVANT PROPERTY OWNER FOR THE RELOCATION OF ANY EXISTING FACILITIES; AND

**WHEREAS**, OUR COMPANY HAS NO FUTURE PLANS FOR SUCH FACILITIES IN SAID LOCATION;

**NOW THEREFORE**; I DO HEREBY GRANT, BY MY SIGNATURE, MY COMPANY'S CONSENT TO THE CITY OF PFLUGERVILLE FOR THE VACATION OF SAID EASEMENT AS DESCRIBED HEREIN.

SIGNATURE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
COMPANY: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
TELEPHONE: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED \_\_\_\_\_, KNOW TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT (S) HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

\_\_\_\_\_  
PRINTED NAME OF NOTARY

MY COMMISSION EXPIRES:

(SEAL)

\_\_\_\_\_

**SECTION 4: CERTIFICATIONS, NOTES, FORMS  
UTILITY PROVIDER CONTACTS**

**AT&T - TEXAS NORTH ENGINEERING**

MARK DAVIS  
11220 JOSEPH CLAYTON DR., FLOOR 1 AUSTIN, TX 78753  
512-870-4760

**ATMOS**

CHRIS LEBLANC  
3110 N. I-35  
ROUND ROCK, TX 78681  
512-310-3801

**ONCOR**

PAUL LEMONS  
350 TEXAS AVE.  
ROUND ROCK, TX 78664  
512-244-5693

**SUDDENLINK COMMUNICATIONS**

PHILLIP WOMACK  
111 N COLLEGE RD.  
GEORGETOWN, TX 78626  
512-931-2964

**GRANDE COMMUNICATIONS**

GREGORY PEPPER  
9601 DESSAU RD., #305  
AUSTIN, TX 78754  
512-220-4000

**CITY OF PFLUGERVILLE - PUBLIC WORKS DEPARTMENT**

15500 SUN LIGHT NEAR WAY #B  
P O BOX 589  
PFLUGERVILLE, TX 78660  
512-251-9935

**WINDERMERE UTILITY / SOUTHWEST WATER CORPORATION**

JOE TORRALVA  
512-219-2260

**MANVILLE WSC**

TONY GRAF  
512-251-7852



**EXHIBIT B**  
**RELEASE AND VACATION OF EASEMENT**

## Release and Vacation of Easement

**Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.**

Date

Pursuant to Resolution number \_\_\_\_\_ passed and approved by its City Council on October 22, 2013, the City of Pflugerville, a Texas Home Rule Municipality hereby releases and vacates the easement that is the subject of that certain 120' Temporary Drainage Easement Agreement dated April 17, 2008, recorded under Document No. 2010137966 of the Official Public Records of Travis County (the "*Easement*"), and unencumbering all of the underlying Burdened Property from said Easement, said Burdened Property being held by CONTINENTAL HOMES OF TEXAS, L.P., A TEXAS LIMITED PARTNERSHIP and described as 3.31 acres of land out of the Thomas G. Stuart Survey No. 6, Abstract No. 689, and being a portion of the real property described in the deed recorded as Document No. 2007122920 of the Official Public Records of Travis County, Texas (the "*Burdened Property*").

**CONTINENTAL HOMES OF TEXAS, L.P., HAVING PETITIONED FOR THIS RELEASE IS TAKING THE RELEASED AND VACATED EASEMENT "AS IS, WHERE IS" AND WITH ANY AND ALL DEFECTS. UPON CONTINENTAL HOMES OF TEXAS, L.P.'S ACCEPTANCE OF THIS RELEASE AND VACATION, THE CITY OF PFLUGERVILLE SHALL HAVE NO FURTHER OBLIGATION FOR ANY RESTORATION OR MAINTENANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS RELEASE AND VACATION.**

Signature Page to Follow:

**CITY OF PFLUGERVILLE**

\_\_\_\_\_  
Brandon Wade, City Manager  
City of Pflugerville  
100 East Main Street  
Pflugerville, Texas 78691

**ATTEST:**

\_\_\_\_\_  
Karen Thompson, City Secretary

State of Texas  
County of Travis

This instrument was acknowledged before me on \_\_\_\_\_, 2013, by Brandon Wade, City Manager of the City of Pflugerville, Texas, on behalf of said municipal corporation.

(Personalized Seal)

\_\_\_\_\_  
Notary Public's Signature

**ACCEPTED BY:**

**CONTINENTAL HOMES OF TEXAS, L.P.**  
(a Texas limited partnership)

By: CHTEX of Texas, Inc.,  
(a Delaware Corporation),  
*Its General Partner*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CONTINENTAL HOMES OF TEXAS, L.P  
10700 PECAN PARK BLVD., SUITE 400,  
AUSTIN, TEXAS 78750

State of Texas  
County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2013 by \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of CHTEX of Texas, Inc., a Delaware corporation, General Partner of Continental Homes of Texas, L.P., a Texas limited partnership, on behalf of said corporation and said limited partnership.

(Personalized Seal)

\_\_\_\_\_  
Notary Public's Signature