

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.

WATER PIPELINE EASEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

GRANT OF EASEMENT:

TERRABROOK FALCON POINTE, LLC, a Delaware limited liability company ("Grantor"), for the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, does hereby grant, sell and convey unto **THE CITY OF PFLUGERVILLE, TEXAS**, a home-rule city located in Travis County, Texas ("Grantee"), an exclusive easement and right-of-way ("Easement") upon and across the property of Grantor which is more particularly described on Exhibit "A", attached hereto and incorporated herein by reference ("Easement Property"). Grantor and Grantee may jointly be referred to by "the parties."

TO HAVE AND TO HOLD the same perpetually to Grantee and its successors and assigns, together with the rights and privileges and on the terms and conditions set forth below. Grantor does hereby covenant and agree to WARRANT AND FOREVER DEFEND title to the Easement herein granted, unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof to the extent that such claim arises by, through, or under Grantor.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

1. *Definitions.* For the purposes of this grant of Easement certain terms shall have the meanings that follow:
 - (a) "Holder" shall mean Grantee and Grantee's heirs, successors and assigns who at any time own any interest in the conveyance is subject to the terms of this agreement.

- (b) "Permitted Improvements" shall mean landscaping or planting of vegetation, driveways and sidewalks; but shall not mean the construction of a building or structure unless such installation or construction is approved in writing by the City Manager or the City Manager's designee.
 - (c) "Public water pipeline" shall mean a pipeline designed and operated to transport water.
- 2. *Character of Easement.* The Easement granted herein is "in gross," in that there is no "Benefitted Property." Nevertheless, the Easement rights herein granted shall pass to Grantee's successors and assigns, subject to all of the Terms hereof. The Easement rights of use granted herein is irrevocable. The Easement is for the benefit of Holder.
- 3. *Purpose of Easement.* The Easement shall be used for public water utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of public water pipelines and related appurtenances, or making connections thereto (hereinafter collectively "Facilities"). The Easement shall also be used for the purpose of providing access for the operation, repair, maintenance, replacement and expansion of the Facilities.
- 4. *Term.* Easement shall be in perpetuity unless relinquished or abandoned by ordinance or resolution by Grantee.
- 5. *Reservation of Rights.* Save and except: Grantor retains the right to surface use. Grantor and Grantor's heirs, successors, and assigns shall retain the right to use the surface of all or part of the Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns neither interferes nor conflicts with the use of the Easement Property by Holder for the Easement Purpose. Grantor shall not construct any building, structure or obstruction on the Easement Property. Any improvement made by Grantor (Permitted Improvement) must comply with applicable ordinances, development codes, and engineering guidelines of the City of Pflugerville. Grantor shall obtain Holder's permission prior to the start of constructing Permitted Improvements. Grantor shall not construct any fencing or gating on the Easement Property without Holder's permission.
- 6. *Improvement and Maintenance of Easement Property.* Subject to the provisions of Section 7, immediately below, improvement and maintenance of the Easement Property and the Facilities will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Easement Property. Holder has the right to construct, install, maintain, replace, and remove the Facilities under or across any portion of

the Easement Property. All matters concerning the Facilities and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences or other encroachments within the Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the Facilities. Holder shall not be required to repair or replace to their original condition any landscaping, driveways, parking areas, or Permitted Improvement on the Easement Property that are damaged in connection with the placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of the Facilities.

7. *Maintenance of Surface Easement Property/Permitted Improvements.* Notwithstanding any contrary provision, Grantor shall retain the obligation to regularly mow or cut back vegetation and to keep the surface of the Easement Property free of litter, debris, or trash.
8. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.
9. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.
10. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
11. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.
12. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

13. *Waiver of Default.* It is not a waiver of or consent to default if the non-defaulting party fails to declare immediately default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
14. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
15. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.
16. *Legal Construction.* Any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
17. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
18. *Recitals/Exhibits.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement. All exhibits referenced herein are attached hereto and incorporated by reference herein for all purposes.
19. *Entire Agreement.* This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representation or modification concerning this

instrument shall be of no force and effect except for any subsequent modification in writing, signed by the party to be charged.

20. *Assignability.* The Easement may be assigned by Grantee, its successors or assigns, without the prior written consent of Grantor.

IN WITNESS WHEREOF, this instrument is executed this 5 day of August 2016.

GRANTOR:

TERRABROOK FALCON POINTE, LLC,
a Delaware limited liability company

By: 
E. William Meyer, Vice President

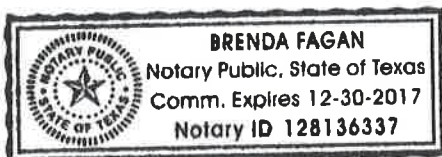
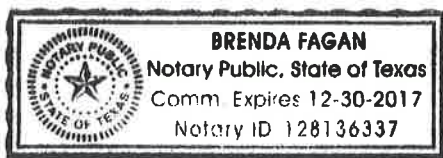
THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, a Notary Public, on this day personally appeared E. William Meyer, known to me to be the person whose name is subscribed to the foregoing instrument, and having been sworn, upon his oath stated that he is authorized to execute such instrument; and that said instrument is executed as the free and voluntary act and deed for the purposes and consideration expressed therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 5 day of August 2016.


Notary Public Signature

(seal)



GRANTEE:

AGREED AND ACCEPTED:

CITY OF PFLUGERVILLE, TEXAS,
a Texas home-rule municipality

By: _____
Brandon Wade, City Manager

ATTEST:

By: _____
Karen Thompson, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____,
2016, by Brandon Wade, City Manager of the City of Pflugerville, Texas, a Texas home-
rule municipality, on behalf of said municipality.

Notary Public Signature

(seal)

AFTER RECORDING, RETURN TO:

City of Pflugerville
Attn.: Emily Barron, Planning Director
Development Services Center
P.O. Box 589
Pflugerville, Texas 78691

EXHIBIT “A”

EXHIBT "A"

TERRABROOK FALCON POINTE, LLC TO
CITY OF PFLUGERVILLE
(WATER METER EASEMENT)

2,228 SQUARE FEET
FALCON POINTE POD 7
WATER METER EASEMENT

FN. NO. 16-263(KWA)
JULY 28, 2016
JOB NO. 222010220

DESCRIPTION

OF A 2,228 SQUARE FOOT OF LAND OUT OF THE JOHN DAVIS SURVEY NO. 13, ABSTRACT NO. 231, SITUATED IN TRAVIS COUNTY, TEXAS BEING A PORTION OF LOT 3, BLOCK 2, FALCON POINTE POD 7, PHASE 1 FINAL PLAT OF RECORD IN DOCUMENT NO. 201600108 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID LOT 3 CONVEYED TO TERRABROOK FALCON POINTE, LLC BY DEED OF RECORD IN DOCUMENT NO. 2000105424 OF SAID OFFICIAL PUBLIC RECORDS; SAID 2,228 SQUARE FEET BEING MORE PARTICULARLY DESCRIBED IN TWO (2) PARTS BY METES AND BOUNDS AS FOLLOWS:

PART 1- 1,160 SQ. FT.

COMMENCING, at a 1/2 inch iron rod with "BURY" cap found in the curving easterly right-of-way line of Colorado Sand Drive (90' R.O.W.) being the common easterly corner of Lot 2 and Lot 3 of said Falcon Pointe Pod 7, Phase 1 Final Plat;

THENCE, along the curving westerly right-of-way line of Colorado Sand Drive, being the easterly line of said Lot 3, along a non-tangent curve to the right, having a radius of 895.00 feet, a central angle of 3°26'16", an arc length of 53.70 feet, and a chord which bears S01°51'02"E, a distance of 53.69 feet to the **POINT OF BEGINNING** and northeasterly corner hereof;

THENCE, continuing along the curving westerly right-of-way line of Colorado Sand Drive, being the easterly line of said Lot 3, for the easterly line hereof, along a non-tangent curve to the right, having a radius of 895.00 feet, a central angle of 1°16'50", an arc length of 20.00 feet, and a chord which bears S00°30'31"W, a distance of 20.00 feet to the end of said curve, for the southeasterly corner hereof;

THENCE, leaving the curving westerly right-of-way line of Colorado Sand Drive, over and across said Lot 3, for the southerly, westerly and northerly lines hereof, the following three (3) courses and distances:

- 1) N90°00'00"W, a distance of 57.90 feet to the southwesterly corner hereof;
- 2) N00°00'00"E, a distance of 20.00 feet to the northwesterly corner hereof, from which a 1/2 inch iron rod with "BURY" cap found at the northwesterly corner of said Lot 3 bears N78°39'28"W, a distance of 239.20 feet;

- 3) S90°00'00"E, a distance of 58.08 feet to the **POINT OF BEGINNING**, containing an area of 1,160 square feet (0.027 acre of land, more or less, within these metes and bounds.

PART 2 - 1,068 SQ. FT.

COMMENCING, at a 1/2 inch iron rod with "BURY" cap found at the southerly end of a right-of-way return at the intersection of the westerly right-of-way line of Colorado Sand Drive and the northerly right-of-way line of Falcon Village Lane (60' R.O.W.), being the southeasterly corner of said Lot 3

THENCE, along the northerly right-of-way line of Falcon Village Lane, being the southerly line of said Lot 3, the following two (2) courses and distances:

- 1) S82°12'10"W, a distance of 56.64 feet to a 1/2 inch iron rod with "BURY" cap found at the point of curvature of a curve to the right;
- 2) Along said curve, having a radius of 435.00 feet, a central angle of 22°06'24", an arc length of 167.84 feet, and a chord which bears N86°44'38"W, a distance of 166.80 feet to the **POINT OF BEGINNING** and southeasterly corner hereof;

THENCE, continuing along the northerly right-of-way line of Falcon Village Lane, being the southerly line of said Lot 3, for the southerly line hereof, along a non-tangent curve to the right, having a radius of 435.00 feet, a central angle of 7°17'27", an arc length of 55.35 feet, and a chord which bears N72°02'43"W, a distance of 55.32 feet to the southwesterly corner hereof;

THENCE, leaving the northerly right-of-way line of Falcon Village Lane, over and across said Lot 3, for the westerly, northerly and easterly lines hereof, the following three (3) courses and distances:

- 1) N63°45'57"E, a distance of 34.75 feet to the northwesterly corner hereof, from which a 1/2 inch iron rod with "BURY" cap found at the southwesterly corner of said Lot 3 bears N45°00'50"W, a distance of 359.00 feet;
- 2) S71°14'03"E, a distance of 30.74 feet to the northeasterly corner hereof;


FN NO. 16-263 (KWA)
JULY 28, 2016
PAGE 3 OF 3

- 3) S18°45'57"W, a distance of 23.79 feet to the **POINT OF BEGINNING**, containing an area of 1,068 square feet (0.025 acre of land, more or less, within these metes and bounds.

BEARING BASIS: THE BASIS OF BEARING OF THE SURVEY SHOWN HEREON IS TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD 83(96), UTILIZING WESTERN DATA SYSTEMS CONTINUALLY OPERATING REFERENCE STATION (CORS) NETWORK.

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

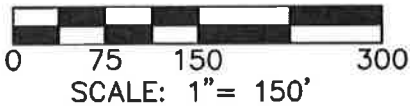
STANTEC CONSULTING
SERVICES INC.
221 WEST SIXTH ST.
SUITE 600
AUSTIN, TEXAS 78701


JOHN T. BILNOSKI Date
R.P.L.S. NO. 4998
STATE OF TEXAS
TBPLS # F-10194230
John.Bilnoski@stantec.com



LEGEND

- 1/2" IRON ROD WITH "BURY" CAP FOUND
- P.O.C. POINT OF COMMENCING
- P.O.B. POINT OF BEGINNING



*JOHN DAVIS SURVEY 13,
ABSTRACT NO. 231*

LOT 2, BLOCK 2
FALCON POINTE POD 7,
PHASE 1 FINAL PLAT
DOCUMENT NO. 201600108

PART 1
1,160 SQ. FT.
(0.027 ACRE)
WATER METER
EASEMENT

LOT 3, BLOCK 2
FALCON POINTE POD 7,
PHASE 1 FINAL PLAT
DOCUMENT NO. 201600108
TERRABROOK FALCON RIDGE, LLC
DOCUMENT NO. 2000105424

**FALCON
VILLAGE
LANE**
(60' R.O.W.)

PART 2
1,068 SQ. FT.
(0.025 ACRE)
WATER METER
EASEMENT

LOT 1, BLOCK 1
OPEN SPACE
FALCON POINTE
POD 7
ENTRANCE ROAD
FINAL PLAT
DOCUMENT NO.
201600100

REMAINDER OF 149.599 ACRES
TERRABROOK FALCON RIDGE, LLC
DOCUMENT NO. 2000105424

P.O.C.

P.O.B. LANE

DILLON POND

COLORADO SAND DRIVE
(90' R.O.W.)

**FALCON VILLAGE
LANE**

P.O.C.

P.O.B.

FALCON POINTE
SECTION SIXTEEN
FINAL PLAT
DOCUMENT NO. 201300217

FALCON POINTE - SECTION EIGHTEEN
FINAL PLAT
DOCUMENT NO. 201500208



Stantec

221 West Sixth Street, Suite 600
Austin, Texas 78701
Tel (512) 328-0011 Fax (512) 328-0325
TBPE # F-6324 TBPLS # F-10194230
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SKETCH TO ACCOMPANY DESCRIPTION

OF A 2,228 SQUARE FOOT TRACT OF LAND OUT OF THE
JOHN DAVIS SURVEY 13, ABSTRACT NO. 231 SITUATED IN
TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 3,
BLOCK 2 FALCON POINTE POD 7, PHASE 1 FINAL PLAT OF
RECORD, IN DOCUMENT NO. 201600108, OF THE OFFICIAL
PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

**NEWLAND
COMMUNITIES,
LLC**

SHEET 1 OF 2

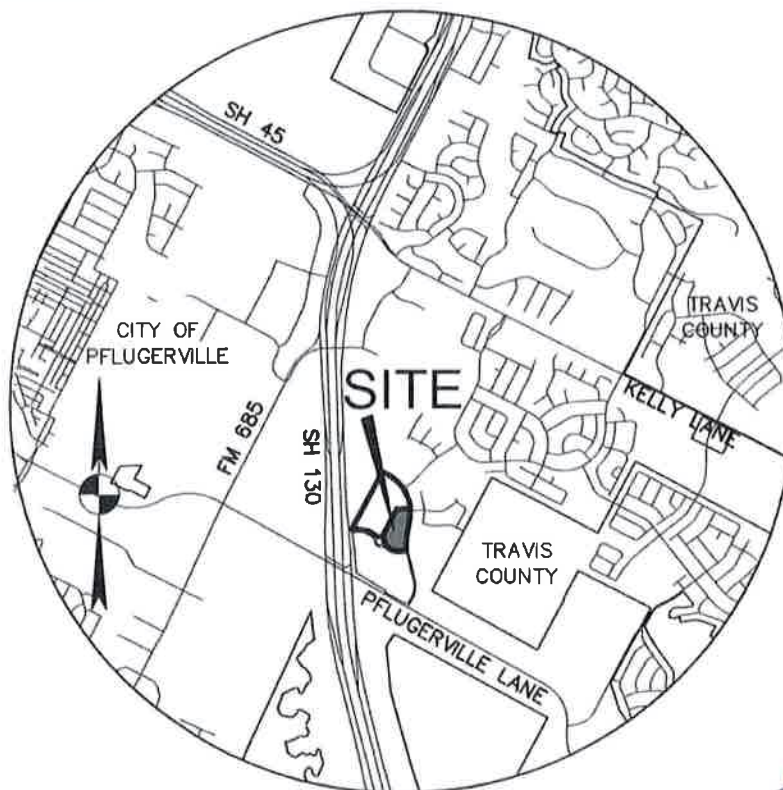
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PROJECT No. 222010220



VICINITY MAP
N.T.S.



BEARING BASIS NOTE:

THE BASIS OF BEARING OF THE SURVEY SHOWN HEREON IS TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD 83(96), UTILIZING WESTERN DATA SYSTEMS CONTINUALLY OPERATING REFERENCE STATION (CORS) NETWORK.

CURVE TABLE

NO.	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	53.70'	895.00'	3°26'16"	S01°51'02"E	53.69'
C2	20.00'	895.00'	1°16'50"	S00°30'31"W	20.00'
C3	114.88'	895.00'	7°21'16"	S04°49'33"W	114.80'
C4	167.84'	435.00'	22°06'24"	N86°44'38"W	166.80'
C5	55.35'	435.00'	7°17'27"	N72°02'43"W	55.32'
C6	131.08'	435.00'	17°15'57"	N59°46'01"W	130.59'

LINE TABLE

NO.	BEARING	DISTANCE
L1	N90°00'00"W	57.90'
L2	N0°00'00"E	20.00'
L3	N90°00'00"E	58.08'
L4	S82°12'10"W	56.64'
L5	N63°45'57"E	34.75'
L6	S71°14'03"E	30.74'
L7	S18°45'57"W	23.79'



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SKETCH TO ACCOMPANY DESCRIPTION

OF A 2,228 SQUARE FOOT TRACT OF LAND OUT OF THE JOHN DAVIS SURVEY 13, ABSTRACT NO. 231 SITUATED IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 3, BLOCK 2 FALCON POINTE POD 7, PHASE 1 FINAL PLAT OF RECORD IN DOCUMENT NO. 201600108, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

**NEWLAND
COMMUNITIES,
LLC**

SHEET 2 OF 2

DATE: 07/28/16

DRAWN BY: KWA

FN: 16-263(KWA)

FILE: H:\222010220\222010220EX5.DWG

PROJECT No. 222010220