

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WASTEWATER EASEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

GRANT OF EASEMENT:

CONTINENTAL HOMES OF TEXAS, L.P., a Texas limited partnership (“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 easement and right-of-way (“Easement”) upon and across the property of Grantor which is more particularly described on Exhibit “A”, Exhibit “B”, and Exhibit “C”, attached hereto and incorporated herein by reference (“Easement Tracts”).

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, by, through or under Grantor, but not otherwise, subject to all title exceptions of record, to the extent the same are valid and subsisting against the Easement Tracts, and the matters set forth herein.

DEFINITIONS

For the purposes of this grant of Easement certain terms shall have the meanings that follow:

“Permitted Improvements” shall mean landscaping or planting of vegetation, driveways and sidewalks; but shall not mean parking facilities or other impervious cover, or 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.

CHARACTER OF EASEMENT:

The Easement is an easement in gross.

PURPOSE OF EASEMENT:

The Easement is granted for the installation, construction, operation, use, enjoyment, maintenance, reconstruction, replacement, repair, re-alignment, upgrade, expansion, inspection, patrol, and removal of public wastewater facilities, together with appurtenances and facilities related to such public wastewater facilities and for making connections therewith; all public wastewater lines will be located underground, but facilities and appurtenances related to the wastewater lines may be located above ground.

Grantee shall have the right of access to the Easement Tracts for the operation, repair, maintenance, replacement and expansion of the public wastewater utility facilities and related appurtenances.

DURATION OF EASEMENT:

The Easement shall be temporary. The Easement will expire upon recordation of a Final Plat and subsequent dedication of right-of-way or an easement over the improvements constructed within each of the Easement Tracts. Upon expiration of the Easement, Grantee agrees to execute and deliver a release of the Easement, in recordable form, upon request by Grantor.

EXCLUSIVENESS OF EASEMENT:

The Easement shall be non-exclusive; and Grantor may dedicate all or any portion of the Easement Tracts to any utility so long as such dedication and use recognizes, accepts and does not unreasonably interfere or conflict with the use of the Easement Tracts by Grantee for the purposes, uses and rights herein provided.

SURFACE USE:

Grantor hereby retains, reserves, and shall continue to enjoy the use of the Easement Tracts for any and all purposes which do not interfere with or prevent the use by Grantee of the Easement for the purposes herein granted. Grantor shall not make any improvements to the Easement Tracts, save and except Permitted Improvements (as defined herein). Grantor further covenants and agrees to use the Easement Tracts only in those ways consistent with the Easement granted herein and agrees to do nothing which would impair, damage, or destroy said Easement. Grantee has the right to trim and cut down trees and shrubbery and to remove other improvements and structures to the extent reasonably necessary to prevent interference with the operation or repairs to Grantee's facilities in the Easement Tracts, subject to Grantee's restoration obligations set forth below.

MAINTENANCE:

Except for Grantee's facilities, which Grantee shall maintain, Grantor shall maintain the Easement Tracts at its expense.

RESTORATION:

Grantee agrees to promptly restore any portion of the surface of the Easement Tracts, and any Permitted Improvements thereon disturbed by Grantee during its use of the Easement to the condition, or substantially to the condition, found prior to such activity.

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.

BINDING EFFECT:

This agreement shall bind and inure to the benefit of the respective parties hereto, their heirs, legal representatives, successors and assigns.

ASSIGNABILITY:

This Easement and the rights of Grantee hereunder may be assigned in whole or in part by Grantee.

In witness whereof, this instrument is executed this _____ day of _____, 2012.

GRANTOR:

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

Address:
12554 Riata Vista Circle
Austin, Texas 78727

By: CHTEX of Texas, Inc
(a Delaware corporation)
its General Partner

By: _____
Richard Maier, Vice President

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

AGREED AND ACCEPTED:

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

By: _____
Brandon Wade, City Manager

ATTEST:

Karen Thompson, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2012, by Richard Maier, Vice President of CHTEX of Texas, Inc., a Delaware corporation, as general partner of Continental Homes of Texas, L.P., a Texas limited partnership, on behalf of said corporation and limited partnership.

Notary Public Signature

(seal)

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2012, 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

Engineering Dept.

P.O. Box 589

Pflugerville, Texas 78691

EXHIBIT "A"

EASEMENT TRACT

FIELD NOTES

JOB NO. 0584-33

DATE: April 2, 2012

PAGE 1 OF 2 (exhibit attached)

0.09 ACRE

Being 0.09 acre 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 18.18 acres in a Special Warranty Deed to Continental Homes of Texas, L.P., dated June 28, 2007 and recorded as Document No. 2007122920 of the Official Public Records of Travis County, Texas, and further described by metes and bounds as follows:

BEGINNING at a calculated point in the west line of said 18.18 acre tract, also being in the east line of that certain tract described as 10.16 acres in a General Warranty Deed to the City of Pflugerville, dated December 23, 2009 and recorded as Document No. 2010006423 of said official public records, for the northwest corner of this tract, from which a 1/2 inch iron pin with yellow cap inscribed "CS, LTD" found for the northwest corner of said 18.18 acre tract bears N 19°08'17" E 109.90 feet;

THENCE: across said 18.18 acre tract the following two (2) courses:

1. S 62°25'25" E 263.87 feet to a calculated point for the northeast corner of this tract;
2. S 27°34'35" W 2.50 feet to a 1/2 inch iron pin with yellow cap inscribed "CS, LTD" found in the west line of Kingston Lacy Boulevard (R.O.W. Varies) as dedicated in Highland Park, Phase D, Section 2 subdivision as recorded under Document No. 201000152 of said official public records, said iron pin also being the northeast corner of proposed Obed River Cove;

THENCE: S 27°34'35" W 12.50 feet with the west line of said Kingston Lacy Boulevard to a calculated point for the southeast corner of this tract;

THENCE: N 62°25'25" W 271.54 feet across said 18.18 acre tract to a calculated point in the west line of said 18.18 acre tract, also being in the east line of said 10.16 acre tract for the southwest corner of this tract;

THENCE: 16.90 feet with a non-tangent curve to the right ($\Delta=16^{\circ}10'46"$, $R=59.86$ feet, LC bears N 54°39'36" E 16.85 feet) to the Point of Beginning.

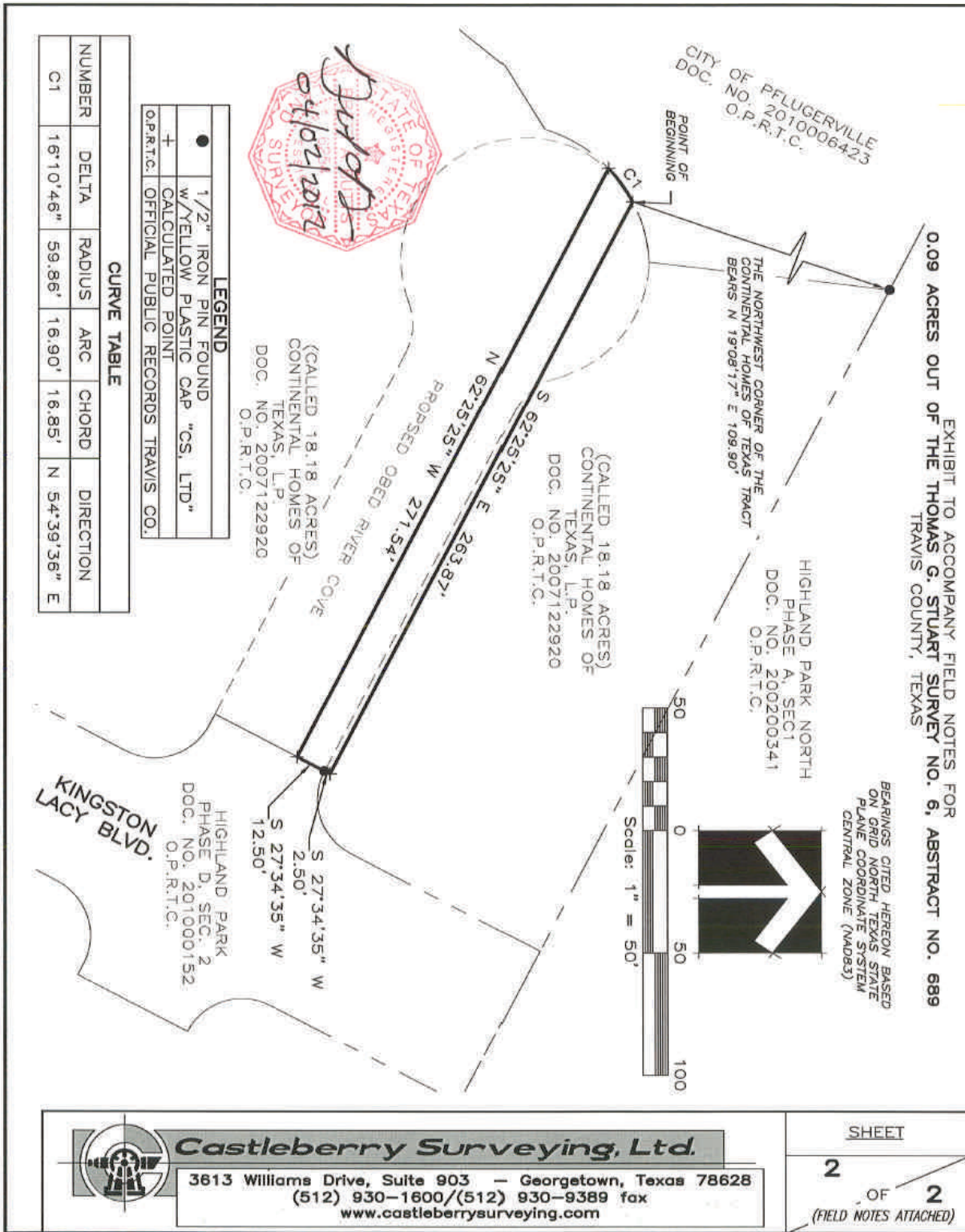
Bearings cited hereon based on Grid North Texas State Plane Coordinate System (Central Zone) NAD83.

 04/04/2012

Brett A. Butts, R.P.L.S. No. 6254
Castleberry Surveying, Ltd.
3613 Williams Drive, Suite 903
Georgetown, Texas 78628



bab



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www.castleberrysurveying.com

SHEET

2 OF 2
(FIELD NOTES ATTACHED)

EXHIBIT "B"

EASEMENT TRACT

FIELD NOTES

JOB NO. 0584-33
DATE: April 2, 2012
PAGE 1 OF 2 (sketch attached)

0.10 ACRE

Being 0.10 acre 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 18.18 acres in a Special Warranty Deed to Continental Homes of Texas, L.P., dated June 28, 2007 and recorded as Document No. 2007122920 of the Official Public Records of Travis County, Texas, and further described by metes and bounds as follows:

BEGINNING at a calculated point in the west line of said 18.18 acre tract, also being in the east line of that certain tract described as 10.16 acres in a General Warranty Deed to the City of Pflugerville, dated December 23, 2009 and recorded as Document No. 2010006423 of said official public records, for the northwest corner of this tract, from which a 1/2 inch iron pin with yellow cap inscribed "CS, LTD" found for the northwest corner of said 18.18 acre tract bears N 28°31'27" E 408.76 feet;

THENCE: across said 18.18 acre tract the following two (2) courses:

1. S 62°25'25" E 291.76 feet to a calculated point for the northeast corner of this tract;
2. S 27°34'35" W 2.50 feet to a 1/2 inch iron pin with yellow cap inscribed "CS, LTD" found in the west line of Kingston Lacy Boulevard (R.O.W. Varies) as dedicated in Highland Park, Phase D, Section 2 subdivision, recorded as Document No. 201000152 of said official public records, said iron pin also being the northeast corner of proposed Noatak Cove;

THENCE: S 27°34'35" W 12.50 feet with the west line of said Kingston Lacy Boulevard to a calculated point for the southeast corner of this tract;

THENCE: N 62°25'25" W 298.41 feet across said 18.18 acre tract to a calculated point in the west line of said 18.18 acre tract, also being in the east line of said 10.16 acre tract for the southwest corner of this tract;

THENCE: 16.48 feet with a non-tangent curve to the right ($\Delta=18^{\circ}53'22"$, $R=50.00$ feet, LC bears N 51°29'55" E 16.41 feet) to the Point of Beginning.

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

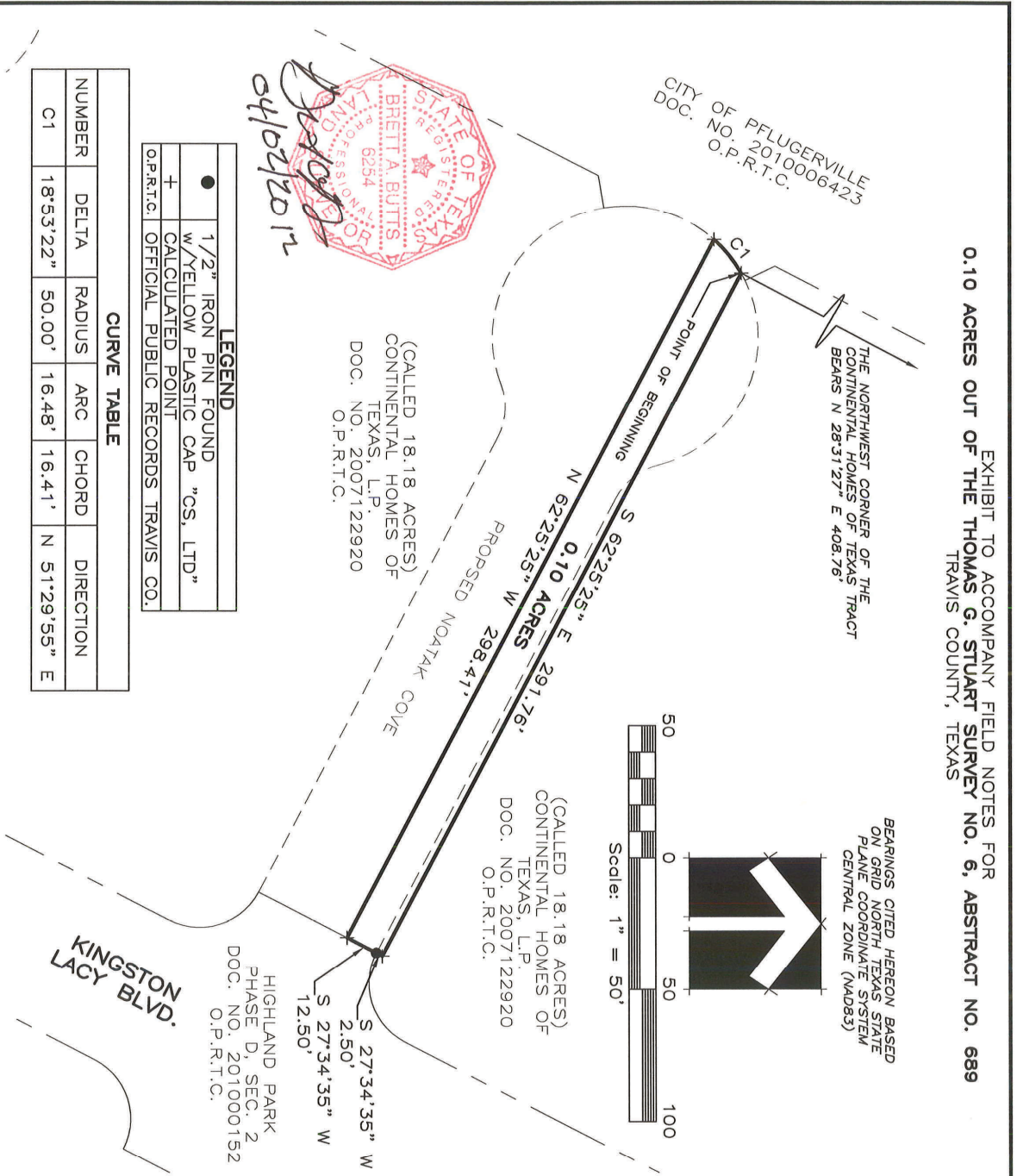
Brett A. Butts 04/02/2012

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bab

EXHIBIT TO ACCOMPANY FIELD NOTES FOR
0.10 ACRES OUT OF THE THOMAS G. STUART SURVEY NO. 6, ABSTRACT NO. 689
 TRAVIS COUNTY, TEXAS



CURVE TABLE					
NUMBER	DELTA	RADIUS	ARC	CHORD	DIRECTION
C1	18°53'22"	50.00'	16.48'	16.41'	N 51°29'55" E

LEGEND	
●	1/2" IRON PIN FOUND
+	W/YELLOW PLASTIC CAP "CS, LTD"
	CALCULATED POINT
O.P.R.T.C. OFFICIAL PUBLIC RECORDS TRAVIS CO.	

KINGSTON LACY BLVD.
 HIGHLAND PARK
 PHASE D1, SEC. 2
 DOC. NO. 201000152
 O.P.R.T.C.

(CALLED 18.18 ACRES)
 CONTINENTAL HOMES OF
 TEXAS, L.P.
 DOC. NO. 2007122920
 O.P.R.T.C.

(CALLED 18.18 ACRES)
 CONTINENTAL HOMES OF
 TEXAS, L.P.
 DOC. NO. 2007122920
 O.P.R.T.C.

CITY OF PFLUGERVILLE
 DOC. NO. 2010006423
 O.P.R.T.C.

THE NORTHWEST CORNER OF THE
 CONTINENTAL HOMES OF TEXAS TRACT
 BEARS N 28°31'27" E 408.76'

BEARINGS CITED HEREON BASED
 ON GRID NORTH TEXAS STATE
 PLANE COORDINATE SYSTEM
 CENTRAL ZONE (NAD83)



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SHEET
2 OF **2**
 (FIELD NOTES ATTACHED)

EXHIBIT "C"

EASEMENT TRACT

FIELD NOTES

JOB NO. 0584-33

DATE: April 2, 2012

PAGE 1 OF 2 (sketch attached)

0.10 ACRE

Being 0.10 acre 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 18.18 acres in a Special Warranty Deed to Continental Homes of Texas, L.P., dated June 28, 2007 and recorded as Document No. 2007122920 of the Official Public Records of Travis County, Texas, and further described by metes and bounds as follows:

BEGINNING at a calculated point in the west line of said 18.18 acre tract, also being in the east line of that certain tract described as 10.16 acres in a General Warranty Deed to the City of Pflugerville, dated December 23, 2009 and recorded as Document No. 2010006423 of said official public records, for the northwest corner of this tract, from which a 1/2 inch iron pin with yellow cap inscribed "CS, LTD" found for the northwest corner of said 18.18 acre tract bears N 28°07'22" E 708.74 feet;

THENCE: across said 18.18 acre tract the following two (2) courses:

1. S 62°25'25" E 291.76 feet to a calculated point for the northeast corner of this tract;
2. S 27°34'35" W 2.50 feet to a 1/2 inch iron pin with yellow cap inscribed "CS, LTD" found in the west line of Kingston Lacy Boulevard (R.O.W. Varies) as dedicated in Highland Park, Phase D, Section 2 subdivision, as recorded as Document No. 201000152 of said official public records, said iron pin also being the northeast corner of proposed Niobrara River Cove;

THENCE: S 27°34'35" W 12.50 feet with the west line of said Kingston Lacy Boulevard to a calculated point for the southeast corner of this tract;

THENCE: N 62°25'25" W 298.41 feet across said 18.18 acre tract to a calculated point in the west line of said 18.18 acre tract, also being in the east line of said 10.16 acre tract for the southwest corner of this tract;

THENCE: 16.48 feet with a non-tangent curve to the right ($\Delta=18^{\circ}53'22"$, $R=50.00$ feet, LC bears N 51°29'55" E 16.41 feet) to the Point of Beginning.

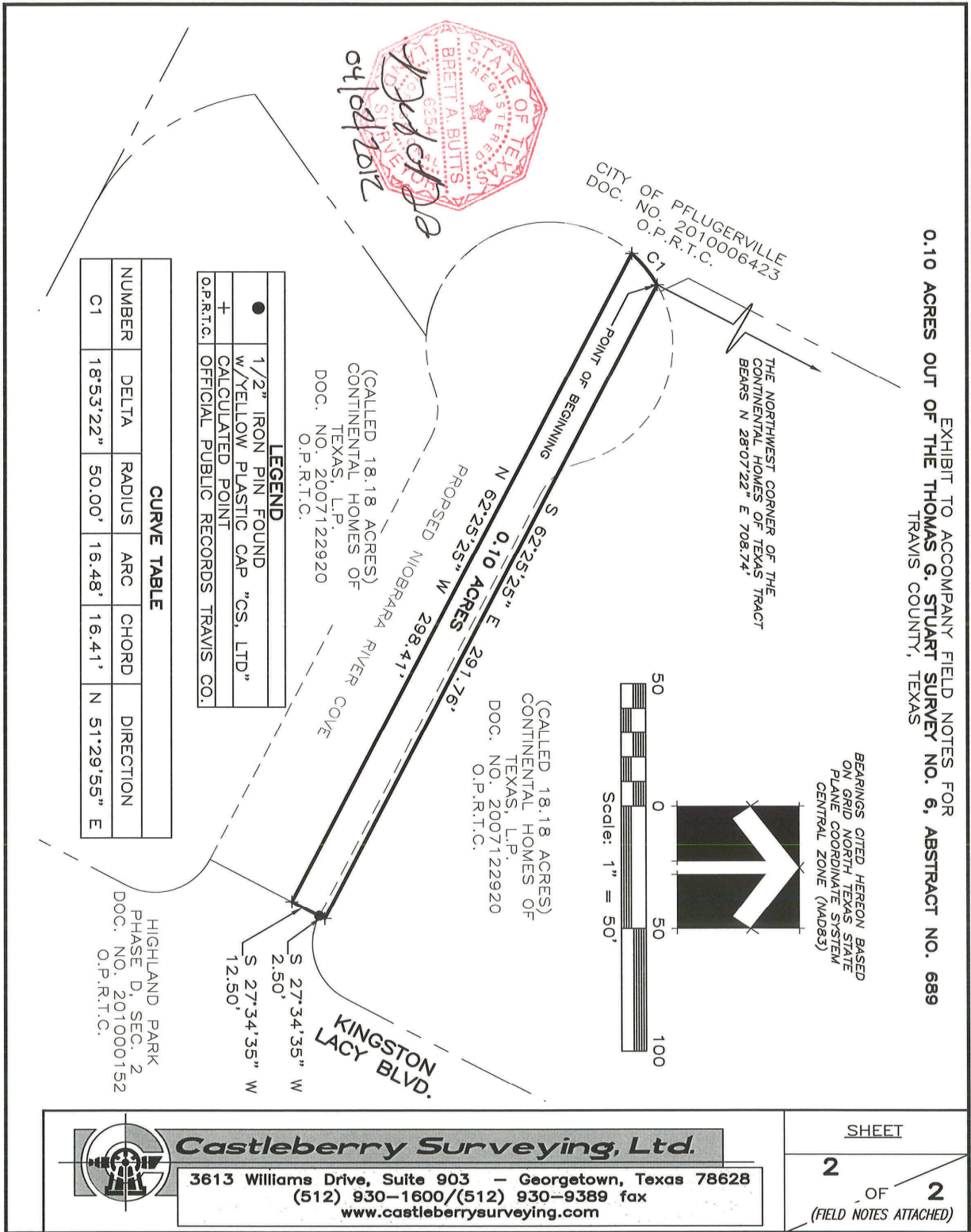
Bearings cited hereon based on Grid North Texas State Plane Coordinate System (Central Zone) NAD83.

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SHEET

2 OF 2
(FIELD NOTES ATTACHED)