

STATE OF TEXAS §

## CITY/OWNER AGREEMENT

COUNTY OF TRAVIS §

### KNOW ALL MEN BY THESE PRESENTS:

THIS AGREEMENT is entered into by the City of Pflugerville, Texas, a home-rule municipality hereinafter "**City**", whose address is 100 E Main Street, Pflugerville, TX 78660 and LC Pflugerville, LLC, an Ohio limited liability company, hereinafter "**Owner**", whose address is 230 West Street, Suite 200, Columbus, Ohio 43215 (referred to herein individually as "**Party**" and collectively as "**Parties**").

**WHEREAS**, Owner intends to acquire the land legally described on Exhibit A attached hereto (the "**Land**") and to thereafter develop a community preliminary known as Lifestyle Community Pflugerville (the "**Project**"); and

**WHEREAS**, City is authorized by law to approve subdivision plats within its corporate limits and its extraterritorial jurisdiction; and

**WHEREAS**, City ordinances require the completion of various improvements in connection with the development of the subdivision to protect the health, safety, and general welfare of the community and to limit the harmful effects of substandard subdivisions; and

**WHEREAS**, Owner, in connection with the development of the Project, is required to design and construct certain Project improvements and is also responsible for certain traffic mitigation improvements and mitigation payments; and

**WHEREAS**, to provide for the development, City is permitting the improvement of its unimproved right-of-way (Segment A), and improvements to the intersection at Town Center Drive with a roundabout;

**WHEREAS**, the accelerated and timely benefit of certain improvements described herein is to the Parties and others tying into such improvements, beneficial to improved connectivity for public use; and

**WHEREAS**, the City shall be holding a bond election on November 3, 2020 for the purpose of funding certain improvements ("**Bond Election**"); and

**WHEREAS**, the City's purposes in entering into this subdivision improvement agreement are to accelerate the delivery of the entire Pfluger Farm Lane corridor, encourage development in an equitable manner by all benefiting parties, and to minimize the City's costs associated with limited extensions initiated solely by a private party's interest in expansion; and

**WHEREAS**, the Parties to this agreement wish to provide for the protection of the rights and interests of the respective parties and to document for posterity a record of their agreement so that the public interest of the citizens of the City of Pflugerville is well served;

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF**, the mutual covenants and obligations herein expressed, the parties hereto agree as follows:

#### RECITALS

1. Incorporation of Recitals and Legislative Findings. The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

#### OBLIGATIONS OF OWNER

2. Construction Entrance. Owner's construction entrance for the Project will be from Wilke Lane.
3. Segments A & B. Owner has previously engaged a licensed civil engineer to design and will hereafter engage a general contractor to construct the Roundabout, Segment A & Segment B roadway and utility improvements as part of the Project in accordance with the Roundabout, Segment A and B Plans described in Exhibit F attached hereto, which Roundabout, Segment A & B improvements are depicted in Exhibit B attached hereto and incorporated herein for all intents and purposes (the "**Segments A & B Improvements**"). After approval and permit are granted by the City, Owner agrees to construct and dedicate the improvements as an independent obligation on its part, regardless of City's performance under this Agreement with respect to the City's obligations that are conditioned on the Bond election passing under Section 11 hereof.
4. Segments C & D. Owner agrees to dedicate to the City the portion of the Land, including Temporary Construction Easements, as more particularly described in Exhibit C, attached hereto and incorporated herein for all intents and purposes (the "**Segments C & D Improvements**").
5. Limestone Commercial Drive Reservation. Owner agrees to reserve the portion of the Land as more particularly described in Exhibit D, attached hereto and incorporated herein for all intents and purposes, for the future extension of Limestone Commercial Drive from the eastern property through to the western property line. Further, Exhibit D represents the approximate location of the road extension within a right of way consistent with Limestone Commercial at 60 feet. No further public street extensions shall be required.
6. Compliance with Law. Owner agrees that nothing herein shall negate the applicability of future health and safety regulations which are not currently a part of the laws concerning subdivisions, including, without limitation, under the City of Pflugerville's Unified Development Code dated effective February 25, 2015 ("**UDC**") as amended.

7. Conveyance/Dedication. No dedications by Owner will be effective until the City takes formal action to accept the dedication(s) by letter of acceptance.
8. Warranty. The Owner shall provide a two (2) year warranty bond for construction of Segments A & B Improvements and, if constructed by Owner, Segments C & D Improvements in accordance with the City of Pflugerville Engineering Design Manual. Improvements shall be designed and constructed in accordance with the City's standards and specifications under the UDC and the City of Pflugerville Engineering Design Manual and Construction Standards and shall be free from defects.
9. Inspections. Owner agrees that all work performed regarding the Segment A & B Improvements and, if constructed by Owner, the Segment C & D Improvements shall be inspected by the City's designated engineer or inspector to ensure the quality of work and materials. The acceptance of any improvement, upon completion, is subject to approval of the City's designated engineer, which approval will not be unreasonably withheld, conditioned, or delayed, provided that such improvements are in accordance with the Segments A & B plans, after being approved and permitted by the City for construction, described in Exhibit F attached hereto, or the Segments C & D procured by the City, as applicable.

#### CITY'S OBLIGATIONS

10. Segment A. The City will make available, at no cost to Owner, the right to use any rights of way or easements held by the City to accommodate Owner's construction of Segment A.
11. Segment Design. The City, at its sole cost and expense, shall engage a licensed civil engineer to design Segments C & D Improvements to extend Segments A & B to Wilke Lane. The City agrees to promptly commence design of Segments C & D after Owner acquires the Land and to cause completion of 100% construction drawings no later than one year after the date that Owner acquires the Land. Owner shall be named as a party that may rely on the use of the Segments C & D plans.
12. Segment Construction.
  - a. Should the Bond Election pass the City will construct Segments C & D Improvements. The City acknowledges and agrees that the construction of Segments C & D is critical to improving connectivity in furtherance of the City's Master Transportation Plan, and enhancing safety and circulation in the area and will start construction no later than one year after Owner dedicates Segments C & D, and will thereafter diligently pursue completion of Segments C & D. Alternatively, if mutually agreeable by the Parties, Owner may construct Segments C & D and the City will reimburse Owner for certain costs thereof under a separate written agreement.

- b. Should the Bond Election not pass, and the City does not specifically dedicate funding for construction of the Segments C & D Improvements, and Owner desires to construct the Segments C & D Improvements, the City shall provide all design documents for the Segments C & D Improvements to Owner for their use in construction. The transfer of such documents by City to Owner shall be without warranty. The City will make available, at no cost to Owner, the right to use any rights of way or easements held by the City to accommodate Owner's construction of Segments C & D if it elects to construct the same.
- c. Should the Bond Election not pass, and City specifically dedicates funding for construction of the Segments C & D Improvements, the City shall construct the Segments C & D Improvements or, should said funds be dedicated after Owner has constructed the Segments C & D Improvements, then City shall reimburse Owner for the construction of the C & D Improvements in the amount of the dedicated funds subject to Owner constructing the improvements in compliance with all Texas public procurement laws. Should the Bond Election not pass, the City will use its best efforts to include funds dedicated for the construction of Segments C & D in future traffic infrastructure bonds, which funds shall be used to construct Segments C & D or reimburse Owner for the same if Owner constructs Segments C & D.

#### CREDITS AND REIMBURSEMENTS

13. Traffic Impact Mitigation Improvements and Fees. As consideration to Owner for entering into this Agreement and for Owner's agreement to perform the obligations herein, Owner shall not be liable for and is released from any obligation to pay any traffic mitigation fees or construct any traffic mitigation improvements in connection with the Project, including without limitation, any obligation to pay traffic mitigation fees in the amount of \$373,786 or construct the Wilke Lane driveway 4 eastbound right turn lane as described in that certain Traffic Impact Analysis report prepared by Kimley-Horn dated July 30, 2019, notwithstanding any additional right of way that may be necessary to construct these improvements. The right of way will be donated by Owner as needed to fulfill the TIA obligations, and City will incorporate into the design accordingly. The Project shall not be subject to any future traffic or roadway impact fees imposed by the City nor shall any additional traffic improvements be required to be constructed by Owner unless there is an approved increase in density of the Project in excess of the density proposed in such Traffic Impact Analysis.

Wastewater Easement and Wastewater Impact Fee Credit. Owner will cause Owner's predecessor-in-interest to execute and deliver to the City, or Owner will within 15 days of closing to execute and deliver to the City upon acquiring the Land or before, the Wastewater Pipeline and Temporary Access Easement attached hereto as Exhibit E (the "WW Easement"). As consideration and upon recordation of the WW Easement, the City hereby grants Owner and the Project a wastewater impact fee credit in the amount of \$75,000, which shall be credited against any wastewater impact fees that are payable by Owner in connection with the Project.

14. Segment A & B Plans. Owner has previously caused a licensed civil engineer to design construction drawings for Segments A & B, which are referenced in Exhibit F attached hereto. At such time as Owner dedicates to the City the land for Segments C & D, the City will pay Owner a reimbursement payment in the amount of \$300,000, which is an agreed contribution toward the cost of such construction drawings.
15. Segment C & D Reimbursement. The City shall reimburse Owner no later than thirty (30) days after receiving the funds described under Section 12.c. above if Owner constructs Segments C & D and the City receives such funding. Reimbursement is subject to demonstration by Owner that Segments C & D were publicly bid in compliance with applicable public procurement laws.

#### GENERAL TERMS AND CONDITIONS

16. Specifications. It is understood among the parties that the technical requirements and specifications for the construction of all improvements shall be in accordance with those established by the City's designated engineer in accordance with the UDC, City of Pflugerville Engineering Design Manual and Construction Standards and approved plans.
17. Objectives. In the negotiation and acceptance of any term or condition, the Parties hereby agree that the objectives to be fulfilled are the development of the improvements described herein and the orderly development in all the areas in its vicinity capable of development by reason of its location, topography, and pressure planes, subject to reasonable engineering efforts, so that both the public interests of the City of Pflugerville and Owner will be well served.
18. Binding Agreement. Subject to Section 26 hereof, the terms and conditions set out in this Agreement shall be binding upon the Parties hereto, and upon the heirs, successors, executors, administrators, personal representatives, and assigns of Owner and City.
19. Governing Law. In any dispute between the Parties, it is hereby agreed that the laws of the State of Texas shall control.
20. Effective Date. This Agreement is effective upon signature by the last Party to sign it.
21. Default. If one Party believes that the other Party is in Default (herein so called) of any provision of this Agreement, the non-defaulting Party will give written notice to the other Party ("Default Notice"), specifying the event of Default and extend the defaulting Party 30 days to cure the Default, or, if the curative action cannot reasonably be completed within 30 days, 30 days to commence the curative action and thereafter to diligently pursue the curative action to completion. This 30-day period for notice and opportunity to cure must pass before the non-defaulting Party may initiate any remedies available to the non-defaulting Party due to an alleged Default. The non-

defaulting Party must mitigate any direct or consequential damages arising from any Default to the extent reasonably possible under the circumstances.

22. Rights Upon Default. If the Default is not cured within the 30-day period, or if curative action is not commenced or diligently pursued in the case of curative action that cannot reasonably be completed in 30 days, the non-defaulting Party may pursue all remedies, at law or in equity, that it deems appropriate to redress such Default. Either Party may seek specific performance of a default by the other Party at any time (after the period to cure the default has expired), and neither Party will be liable for damages to the other Party, except for the costs as specifically listed herein. The non-defaulting Party shall have the right (but not the obligation) to perform such obligations on behalf of the defaulting Party. The defaulting Party shall cooperate in all respects with such efforts by the non-defaulting Party, including without limitation by assigning any construction contracts and easements to the non-defaulting Party at its request. If the non-defaulting Party exercises its self-help rights hereunder and completes construction of any portion of the traffic improvements, the defaulting Party shall pay or reimburse the non-defaulting Party for all costs and expenses incurred by the non-defaulting Party in connection with the cure of Default.
23. Waiver. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not be deemed a waiver of such provision or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement. Nothing herein shall constitute an implied waiver of City's sovereign immunity.
24. Severability. If any provision of this Agreement is held by the courts to be illegal or unenforceable, that provision shall be severed from the Agreement and shall not render invalid the remaining provisions of this Agreement.
25. Entire Agreement. The provisions herein and the exhibits attached hereto and incorporated herein constitute the full extent of the Agreement concerning the subject matter herein between the Parties, and no parole evidence shall be allowed to contradict the terms hereof. Any amendment to or modification of this Agreement shall be by the written, mutual consent of the Parties hereto. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts bear the signatures of all the parties.
26. Assignment. This Agreement and any rights and obligations contained herein shall not be transferred or assigned without the written, mutual consent of the Parties hereto, except that this Agreement shall run with the Land, Owner's interest in this Agreement shall automatically be assigned with respect to the portion conveyed upon the transfer of the Land or any portion thereof, the assignor shall be released from any further obligations hereunder with respect to the portion of the Land conveyed, and the assignee shall assume all obligations hereunder with respect to the portion of the acquired from and after the date of such acquisition; further provided, that any of

Owner's rights to payment or reimbursement hereunder are expressly reserved to LC PFLUGERVILLE, LLC, an Ohio limited liability company, shall not run with the land or automatically be assigned with the conveyance of the Land or any portion thereof, and will only be assigned if LC PFLUGERVILLE, LLC, an Ohio limited liability company, (i) files a recorded assignment referencing an assignment of such payment and/or reimbursement rights in the Official Public Records of Travis County, Texas, and (ii) gives written notice to the City of such reservation or assignment promptly before or after filing such recorded assignment. Owner, at its election, also hereby reserves the right to withdraw no more than 35 acres of the Land from this Agreement by recording a notice of withdrawal respect to such withdrawn Land, provided such withdrawn Land may not include any of the Land affected by Segments A & B or Segments C & D, or any portion of the Land that is contemplated to be dedicated hereunder. Following a notice of withdrawal that satisfies the terms hereof, such withdrawn Land shall no longer be subject to the terms of this Agreement.

27. Attorney's Fees. Should any Party hereto bring suit in court to enforce the terms hereof, it is agreed that the losing Party or Parties shall pay to the successful Party or Parties costs and reasonable attorney's fees. If relief is granted to all Parties, each will bear its own costs in their entirety.
28. Term. The term of this Agreement will commence on the Effective Date and continue until each Party has completed all of its obligations hereunder, unless terminated on an earlier date under other provisions of this Agreement or by written agreement of the City and Developer. The Effective Date of this Agreement shall be the date stated on the signature page below, provided that the obligations of the Parties shall be subject to the acquisition of the Land by Owner. Owner will notify the City at such time as Owner acquires the Land. No current owner shall be bound by this Agreement unless such current owner subsequently becomes a successor to or assignee of Owner. In the event that Owner fails to acquire the Land within one (1) year after the date of this Agreement, this Agreement shall terminate and be of no further force and effect.
29. Estoppel. From time to time upon written request by any seller or purchaser of property within the Property, or any lender or prospective lender of the Owner or its assignees, the City shall execute a written estoppel certificate to such seller, purchaser, and/or lender stating, if true, that the City has not given or received any written notices alleging any events of default under this Agreement.
30. Cooperation. The City and Owner shall cooperate with each other as reasonable and necessary to carry out the intent of this Agreement, including but not limited to the execution of such further documents as may be reasonably required.

(Signature Page to follow)

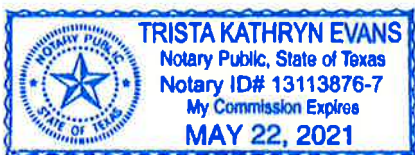
Executed this 21<sup>st</sup> day of December, 2020.

**CITY:**  
**CITY OF PFLUGERVILLE**  
100 E. Main St.  
Pflugerville, TX 78660

BY: [Signature]  
Sereniah Breland, City Manager

State of TEXAS           §  
                                     §  
County of TRAVIS       §

This instrument was acknowledged before me on this 21 day of December, 2020, by Sereniah Breland, City Manager of City of Pflugerville, a Texas Municipal City, on behalf of said City.



[Signature]  
Notary Public  
My Commission expires: 5/22/2021

**OWNER:**  
**LC PFLUGERVILLE, LLC,**  
an Ohio Limited liability company

By: [Signature]  
Name: Michael J. DeAscentis II  
Its: President

State of OHIO           §  
                                     §  
County of FRANKLIN   §

This instrument was acknowledged before me on this 9 day of December, 2020, by MJ DeAscentis II, President of LC Pflugerville, LLC, an Ohio limited liability company, on behalf of said company.



THOMAS ROBERT BROWNLEE JR  
ATTORNEY AT LAW  
NOTARY PUBLIC  
STATE OF OHIO  
My Comm. Has No  
Expiration Date  
Section 147.03 R. C.

T.R. Brownlee Jr  
Notary Public  
My Commission expires: \_\_\_\_\_



## **EXHIBIT A**

### **The Land**

## EXHIBIT A

### The Land

#### TRACT 1 METES AND BOUNDS

**BEING** a 41.312 acre (1,799,537 square feet) tract of land situated in the Thomas G. Stuart Survey, Abstract 689, Travis County, Texas; and being a portion of that certain 52.92 acre tract described in instrument recorded in Volume 7721, Page 203 Deed Records of Travis County, save and except that certain 10.57 acre tract described in instrument recorded in Volume 7756, Page 926 of the Deed Records of Travis County; also being all of that certain 41.317 acre tract described in instrument recorded in Document No. 2007197531 of the Official Public Records of Travis County; and being more particularly described as follows:

**BEGINNING**, at a 1/2-inch iron rod found on the southwesterly right of way line of Wilke Lane (width varies) marking the northern-most northeast corner of the said 41.317 acre tract, and marking the northern-most corner of that certain 23.538 acre tract described in instrument recorded in Document No. 2007195233 of the Official Public Records of Travis County;

**THENCE**, South 27°44'21" West, 1705.98 feet along the northwesterly line of the said 23.538 acre tract to a 1/2-inch iron rod with "KHA" cap set marking the southwest corner of the said 23.538 acre tract and an interior corner of the said 41.317 acre tract;

**THENCE**, South 62°14'08" East, 623.09 feet along the southwesterly line of said 23.538 acre tract to a 1/2-inch iron rod found on the northwesterly line of Lot 14-R, Block 1, of Stone Hill Town Center Lot 14 Replat No. 2, plat of which is recorded in Document No. 201600198 of the Official Public Records of Travis County, marking the southern-most of the said 23.538 acre tract;

**THENCE**, South 28°37'15" West, along the northwesterly boundary of said Lot 14-R; at 666.19 feet passing a 1/2-inch iron rod with cap found; continuing for a total distance of 772.27 feet to a 5/8-inch iron rod found marking the southern-most corner of the said 41.317 acre tract;

**THENCE**, North 62°06'44" West, along the southwesterly line of the said 41.317 acre tract; at 283.93 feet passing a 1/2-inch iron rod with cap found at the northeasterly terminus of the westerly right-of-way line of Pfleger Farm Lane (70 feet wide), marking the northeast corner of Lot 22, Block 7 of Stone Hill Town Center Section Two, Phase Two, plat of which is recorded in Document No. 201500009 of the Official Public Records of Travis County; continuing for a total distance of 1126.19 feet to a 1/2-inch iron rod found marking the south corner of that certain 34.098 acre tract described in instrument Roeder Holdings, LLC, recorded in Document No. 2017134084 of the Official Public Records of Travis County, and the southwestern corner of the said 41.317 acre tract;

**THENCE**, North 26°50'36" East, 2476.91 feet along the southeasterly boundary of the said 34.098 acre tract to a 1/2-inch iron rod found on the southwesterly right of way line of Wilke Lane marking the northeast corner of the said 34.098 acre tract and the north corner of the said 41.317 acre tract;

**THENCE**, South 62°08'51" East, 553.70 feet along the said southwesterly right-of-way line of Wilke Lane to the **POINT OF BEGINNING**, and containing 41.312 acres of land in Travis County, Texas. The basis of bearing for this description is the Texas State Plane Coordinate System Grid, Central Zone (FIPS 4203) (NAD'83). All distances are on the Surface and shown in U.S. Survey Feet. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.

#### TRACT 2 METES AND BOUNDS

**BEING** a 23.540 acre (1,025,423 square feet) tract of land situated in the Thomas G. Stuart Survey, Abstract 689, Travis County, Texas; and being all of that certain 23.5585 acre tract described in instrument recorded in Volume 12783, Page 1753 of the Official Public Records of Travis County, also being all of that certain 23.538 acre tract described in Document No. 2007195235 of the Official Public Records of Travis County; and being more particularly described as follows:

**BEGINNING**, at a 1/2-inch iron rod found on the southwesterly right of way line of Wilke Lane (width varies) marking the northern-most northeast corner of that certain 41.317 acre tract recorded in Document No. 2007197531 of the Official Public Records of Travis County, and marking the northern-most corner of the said 23.538 acre tract;

**THENCE**, South 62°08'51" East, 600.15 feet along the said southwesterly right-of-way line of Wilke Lane to a 1/2-inch iron rod found marking the north corner of that certain 0.2664 acre strip of land recorded in Document No. 2016205034 of the Official Public Records of Travis County;

**THENCE**, South 27°44'40" West, 1618.70 feet along the northwesterly boundary of the said 0.2664 acre tract to a 1/2-inch iron rod found for corner;

**THENCE**, South 60°56'41" East, at 9.07 feet passing a 1/2-inch iron rod found marking the southern-most corner of the said 0.2664 acre tract and the most western corner of Lot 14-R, Block 1, of Stone Hill Town Center Lot 14 Replat No. 2, plat of which is recorded in Document No. 201600198 of the Official Public Records of Travis County; continuing for a total distance of 23.17 feet to a 1/2-inch iron rod found for an interior corner of said Lot 14-R;

**THENCE**, South 27°47'05" West, 85.83 feet along the northwesterly boundary of said Lot 14-R to a 1/2-inch iron rod found marking the eastern-most common corner of the aforesaid 41.317 acre tract and the southern-most of the said 23.538 acre tract;

**THENCE**, along the boundary of the said 41.317 acre tract the following two (2) courses and distances:

1. North 62°14'08" West, 623.09 feet along the southwesterly line of said 23.538 acre tract to a 1/2-inch iron rod with "KHA" cap set marking the western-most corner of the said 23.538 acre tract;
2. North 27°44'21" East, 1,705.98 feet along the northwesterly line of said 23.538 acre tract to the **POINT OF BEGINNING**, and containing 23.540 acres of land in Travis County, Texas. The basis of bearing for this description is the Texas State Plane Coordinate System Grid, Central Zone (FIPS 4203) (NAD'83). All distances are on the Surface and shown in U.S. Survey Feet. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.



**DESCRIPTION OF A  
4.557 ACRE TRACT OF LAND**

**BEING** a 4.557 acre (198,487 square feet) tract of land situated in the Thomas G. Stuart Survey, Abstract 889, Travis County, Texas; and being a portion of that certain 60.0420 acre tract described in instrument to A-S 93 SH 130-SH 45, L.P., in Document Number 2007090027 of the Official Public Records of Travis County, and a portion of Lot 14-R, Block 1, of Stone Hill Town Center Lot 14 Replat No. 2, plat of which is recorded in Document No. 201800186 of the Official Public Records of Travis County; and being more particularly described as follows:

**COMMENCING** at a 1/2-inch iron rod with "MBC" cap found at the intersection of the northwesterly right-of-way line of Pfluger Farm Lane, (70' wide right-of-way) as described in Stone Hill Town Center Section Two, Phase Two Subdivision, plat of which is recorded in Document number 201500009 of the Official Public Records of Travis County, with the southwesterly line of that certain 41.317 acre tract described in instrument to DBSI North Austin III Units, L.L.C., recorded in Document Number 2007227199 of the Official Public Records of Travis County, for the northern-most corner of said Pfluger Farm Lane; whence a 1/2" iron rod with plastic cap found at the west corner of said 41.317 acre tract bears North 62°06'44" West, a distance of 842.28 feet;

**THENCE**, along the southwesterly line of said 41.317 acre tract, the following two (2) courses and distances:

1. South 62°06'44" East, 70.00 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set marking the eastern-most corner of said Pfluger Farm Lane, the **POINT OF BEGINNING**, and the westerly north corner of the herein described tract;
2. South 62°06'44" East, 213.93 feet to a 5/8-inch iron rod found on the northwesterly line of said Lot 14-R, Block 1, and marking the southern-most corner of the said 41.317 acre tract, for an interior corner of this tract;

**THENCE**, North 28°37'15" East, 106.08 feet along the southeasterly line of said 41.317 acre tract and the northwesterly line of said Lot 14-R, Block 1 to a 1/2-inch iron rod with a plastic cap found for the easterly north corner of this tract;

**THENCE**, South 61°56'04" East, 46.41 feet crossing said Lot 14-R, Block 1 to a 1/2-inch iron rod with a plastic cap stamped "KHA" set at the north corner of Lot 14-C, Block 1, of said Stone Hill Town Center Lot 14 Replat No. 2, and at an interior corner of said Lot 14-R, Block 1, for the east corner of this tract;

**THENCE**, along a southeasterly line of said Lot 14-R, Block 1, the following three (3) courses and distances:

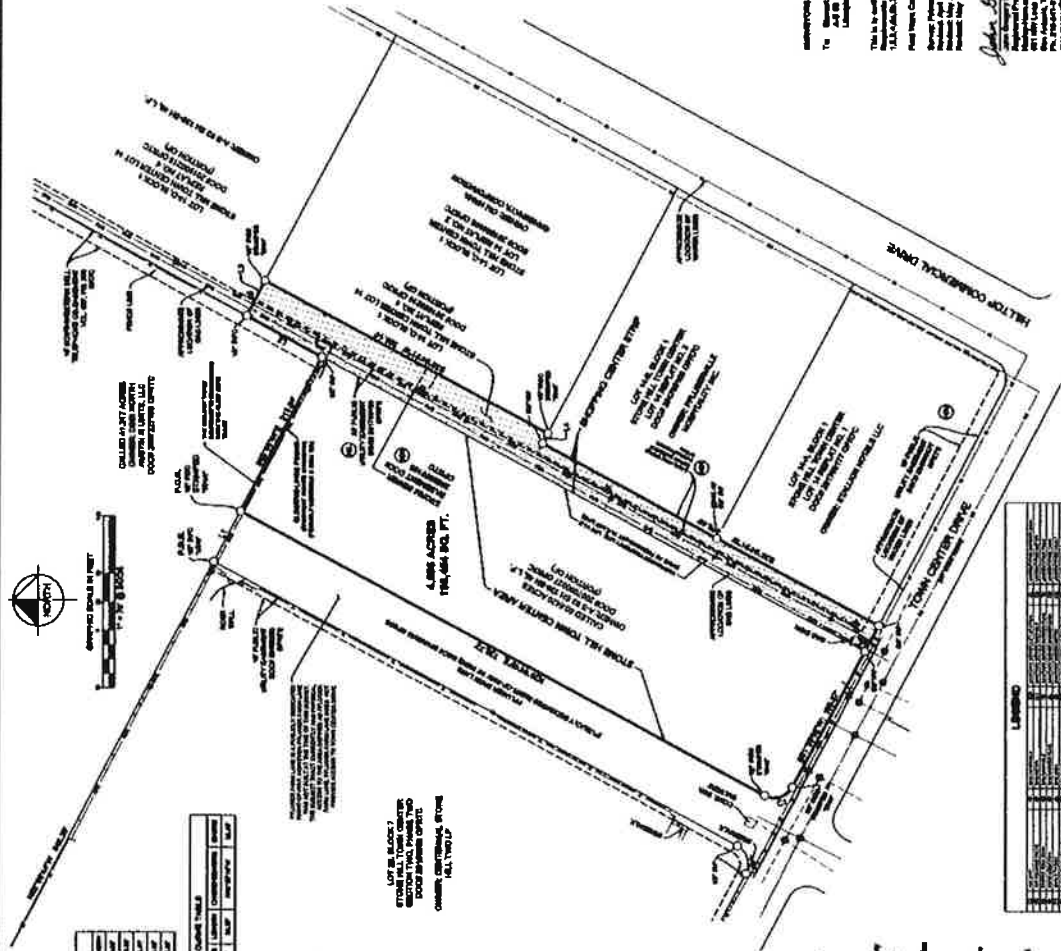
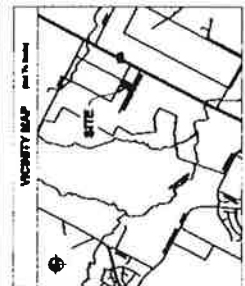
1. South 28°04'51" West, 395.14 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set in the northeasterly line of Lot 14-B, Block 1, of said Stone Hill Town Center, Lot 14 Replat No. 2, plat of which is recorded in Document No. 201700189 of the Official Public Records of Travis County; marking the west corner of said Lot 14-C, Block 1, for an exterior corner of this tract;
2. North 61°55'08" West, 13.69 feet to a 5/8-inch iron rod found marking the north corner of said Lot 14-B, Block 1, for an interior corner of this tract;
3. South 28°04'51" West, at a distance of 245.40 feet passing a 5/8-inch iron rod found marking the west corner of said Lot 14-B, Block 1, and the north corner of Lot 14-A, Block 1, Stone Hill Town Center, Lot 14 Replat No. 1, plat of which is recorded in Document No. 201700177 of the Official Public Records of Travis County; then continuing for a total distance of 470.40 feet to a 5/8-inch iron rod found on the northeasterly right-of-way line of Town Center Drive (60' wide right-of-way), at the west corner of said Lot 14-A, Block 1, for a south corner of said Lot 14-R, Block 1 and the south corner of this tract;

**THENCE**, along the northeasterly right-of-way line of said Town Center Drive, the following two (2) courses and distances:

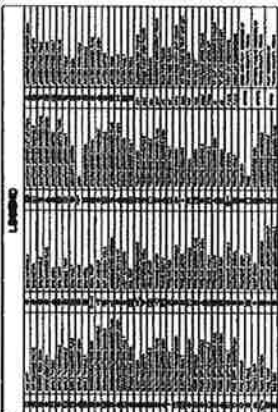
1. North 61°55'08" West, 36.68 feet to a 5/8-inch iron rod found marking the west corner of said Lot 14-R, Block 1;
2. North 61°55'00" West, 188.87 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set at a point of curvature marking the southeastern end of a right-of-way cutback curve with the southeasterly line of aforesaid Pfluger Farm Lane;

**THENCE**, along the southeasterly right-of-way line of said Pfluger Farm Lane, the following two (2) courses and distances:

1. in a northwesterly direction, along the southeasterly right-of-way line of said Pfluger Farm Lane, and a tangent curve to the right, a central angle of 89°59'23", a radius of 25.00 feet, a chord bearing and distance of North 18°55'18" West, 35.35 feet, and a total arc length of 39.27 feet to a 1/2-inch iron rod with a plastic cap stamped "KHA" set for a point of tangency;
2. North 28°04'23" East, 733.72 feet to the **POINT OF BEGINNING** and containing 4.557 acres of land in Travis County, Texas, as shown in the document saved in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas. The basis of bearing for this description is the Texas State Plane Coordinate System Grid, Central Zone (FIPS 4203) (NAD83). All distances are on the Grid and shown in U.S. Survey Feet. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.



LINE TYPE	DESCRIPTION
1	Survey Boundary
2	Property Boundary
3	Right of Way Boundary
4	Easement Boundary
5	Utility Boundary
6	Other Boundary



**ALTAIR SURVEYING & ENGINEERING, L.L.C.**  
 11000 N. Mopac Expressway, Suite 100, Austin, Texas 78753  
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 Email: info@altair-surveying.com  
 Website: www.altair-surveying.com

**Kimley»Horn**  
 11000 N. Mopac Expressway, Suite 100, Austin, Texas 78753  
 Phone: (512) 444-1100  
 Fax: (512) 444-1101  
 Email: info@kimleyhorn.com  
 Website: www.kimleyhorn.com

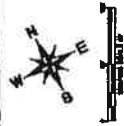
**ALTAIR SURVEYING & ENGINEERING, L.L.C.**  
 11000 N. Mopac Expressway, Suite 100, Austin, Texas 78753  
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1. The survey was conducted in accordance with the Texas Surveying and Mapping Act, Chapter 81, Texas Occupations Code, and the Texas Surveying and Mapping Rules, Chapter 200, Texas Administrative Code.
2. The survey was conducted in accordance with the Texas Surveying and Mapping Act, Chapter 81, Texas Occupations Code, and the Texas Surveying and Mapping Rules, Chapter 200, Texas Administrative Code.
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10. The survey was conducted in accordance with the Texas Surveying and Mapping Act, Chapter 81, Texas Occupations Code, and the Texas Surveying and Mapping Rules, Chapter 200, Texas Administrative Code.
11. The survey was conducted in accordance with the Texas Surveying and Mapping Act, Chapter 81, Texas Occupations Code, and the Texas Surveying and Mapping Rules, Chapter 200, Texas Administrative Code.
12. The survey was conducted in accordance with the Texas Surveying and Mapping Act, Chapter 81, Texas Occupations Code, and the Texas Surveying and Mapping Rules, Chapter 200, Texas Administrative Code.
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14. The survey was conducted in accordance with the Texas Surveying and Mapping Act, Chapter 81, Texas Occupations Code, and the Texas Surveying and Mapping Rules, Chapter 200, Texas Administrative Code.
15. The survey was conducted in accordance with the Texas Surveying and Mapping Act, Chapter 81, Texas Occupations Code, and the Texas Surveying and Mapping Rules, Chapter 200, Texas Administrative Code.

## **EXHIBIT B**

### **Road Segments A & B**



**Kimley»Horn**

10014 Lyndon Rd.  
Dallas, TX 75243  
972-343-7777  
State of Texas Registration No. 1438

**SEGMENT B - 1062.3'**

**SEGMENT A - 770.4'**

**ROUNDABOUT  
(TOWN CENTER DR.  
& PFLUGER FARM  
LANE)**

TOWN CENTER DRIVE

WATER  
MARKINGS

**Lifestyle Communities**

**Exhibit B - Roundabout, Segment A, and Segment B**

Geacilia, Texas  
September 2020

## EXHIBIT C

### Road Segments C & D





POLL BOX  
(TELE)

12" WATER LINE  
FROM MANVILLE  
WATER SUPPLY  
CORPORATION

Kimley»Horn

2014 Augusta Rd  
Austin, TX 78750  
512.438.1771  
www.kimleyhorn.com

SEGMENT D - 949.8'

SEGMENT C - 654.8'

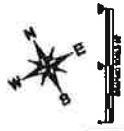
WATER LINE FROM

Lifestyle Communities  
Exhibit C - Segment C & Segment D

Geoville, Texas  
September 2020

## **EXHIBIT D**

### **Limestone Commercial Reservation**



PULL BOX  
(T.E.L.)

12" WATER LINE  
FROM MANVILLE  
WATER SUPPLY  
CORPORATION

Kimley»Horn

Kimley-Horn & Associates, Inc.  
10000 North Loop West  
Suite 200  
Houston, Texas 77057  
Tel: 281.463.1777  
Fax: 281.463.1778  
Email: kha@kimley-horn.com  
State of Texas Registration No. P-423

SEGMENT D - 944.8'

RESERVATION FOR THE  
EXTENSION OF LIMESTONE  
COMMERCIAL DRIVE - 60' ROW  
(APPROXIMATE LOCATION,  
SUBJECT TO CHANGE)

SEGMENT C - 659.8'

WATER LINE FROM

**Lifestyle Communities**  
**Exhibit D - Limestone Commercial Drive Reservation**

Waco, Texas  
September 2020

## **EXHIBIT E**

### **Form of Wastewater Pipeline and Temporary Access Construction Easement Agreement**

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.

**WASTEWATER PIPELINE EASEMENT AND TEMPORARY ACCESS  
CONSTRUCTION EASEMENT AGREEMENT**

THE STATE OF TEXAS     §  
                                     §  
COUNTY OF TRAVIS     §

**GRANT OF EASEMENT:**

[                                    ] ("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 .205 acre property of Grantor which is more particularly described on Exhibit "A", attached hereto ("Easement Property") together with a thirty (30') foot nonexclusive temporary access and construction easement ("TACE") adjoining the Easement Property, as depicted on Exhibit "A" attached hereto. 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, but not otherwise.

**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:

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Parcel 7, DBSI North Austin II Units LLC ETAL

- (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, curbing, sidewalks, and other non-structural improvements which do not interfere with the purpose of the easement; 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 wastewater pipeline" shall mean a pipeline designed and operated to transport wastewater and its associated appurtenances.
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 and Holder accepts the Easement subject to all covenants, conditions, restrictions, easements, and other matters filed of record in the Official Public Records of Travis County, Texas, as of the date hereof.
3. *Purpose of Easement.* The Easement shall only be used for public wastewater utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of public wastewater 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. The TACE is appurtenant to the Easement and shall only be used to facilitate the construction of public infrastructure for the Facilities, which shall include use of the TACE for access, construction staging and storage, and other construction activities related to Grantee's Facilities. Grantee shall give Grantor reasonable notice before it uses the TACE for staging and storage and other construction activities and Grantor and Grantee shall coordinate their use of the TACE so that one party's use thereof does not interfere with other party's use thereof.
5. *Term.* Easement shall be in perpetuity unless relinquished or abandoned by ordinance or resolution by Grantee.

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6. *Term of TACE.* The thirty (30') foot width TACE granted herein shall terminate automatically two (2) years after the date hereof or upon completion of the construction of the Facilities, whichever occurs first.
7. *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 may place Permitted Improvements on the Easement Property and the same are not obstructions, but shall not construct any building, structure or obstruction on the Easement Property. Any improvement made by Grantor (Permitted Improvement) shall be permitted through the City of Pflugerville and must comply with applicable ordinances, development codes, and engineering guidelines of the City of Pflugerville. Grantor shall give Holder written notice prior to the start of constructing Permitted Improvements within the Easement Property. Grantor shall not construct any fencing or gating on the Easement Property without Holder's permission.
8. *Improvement and Maintenance of Easement Property.* Subject to the provisions of Section 9, 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 subject to the rights of third parties disclosed in the Official Public Records of Travis County, Texas, as of the date hereof, if any. Permitted Improvements are not encroachments. 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 require removal in connection with the placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of the Facilities.
9. *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.

10. *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.
11. *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.
12. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
13. *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.
14. *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.
15. *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.
16. *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.
17. *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



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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.

18. *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.
19. *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.
20. *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.
21. *Assignability.* The Easement may not be assigned by Grantee, its successors or assigns, without the prior written consent of Grantor.

IN WITNESS WHEREOF, this instrument is executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**GRANTOR:**

[ \_\_\_\_\_ ]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SH 45 – WW & TCE Easement  
Parcel 7, DBSI North Austin II Units LLC ETAL

THE STATE OF TEXAS     §  
  §  
COUNTY OF TRAVIS     §

BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, 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 \_\_\_\_\_  
day of \_\_\_\_\_ 20\_\_.

(seal)

\_\_\_\_\_  
Notary Public Signature

SH 45 – WW & TCE Easement  
Parcel 7, DBSI North Austin II Units LLC ETAL

**GRANTEE:**

**AGREED AND ACCEPTED:**

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

By: \_\_\_\_\_  
Sereniah Breland, City Manager

**ATTEST:**

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

THE STATE OF TEXAS       §  
  §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on \_\_\_\_\_,  
20\_\_, by Sereniah Breland, 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.: Patricia A. Davis, P.E., City Engineer  
Public Works Engineering  
P.O. Box 589  
Pflugerville, Texas 78691

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Parcel 7, DBSI North Austin II Units LLC ETAL  
**EXHIBIT "A"**

**EXHIBIT A**

**County:** Travis  
**Parcel:** EASE. & T.C.E. -- DBSI North Austin II Units, Et. Al.  
**Project:** City of Pflugerville

**PROPERTY DESCRIPTION FOR EASEMENT PARCEL**

DESCRIPTION OF A 0.205 ACRE (8,909 SQUARE FOOT) TRACT OF LAND SITUATED IN THE THOMAS G. STUART (STEWART) SURVEY, NO. 6, ABSTRACT NO. 689, WITHIN THE CITY OF PFLUGERVILLE IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 23.538 ACRE TRACT OF LAND OF WHICH 64.44624% INTEREST WENT TO DBSI NORTH AUSTIN II UNITS, LLC IN DOCUMENT NO. 2008000072, A 13.17253% INTEREST WENT TO OLIVER W. DAVIDSON AND NANCY JO DAVIDSON IN DOCUMENT NO. 2007195233, A 3.25151% INTEREST WENT TO LESLIE D. MIRO IN DOCUMENT NO. 2007195234, A 7.31590% INTEREST WENT TO NEW LIFE PROPERTIES, LLC IN DOCUMENT NO. 2007195235, A 7.47847% INTEREST WENT TO KEVIN C. O'MALLEY IN DOCUMENT NO. 2007195236 AND A 4.33535% INTEREST WENT TO CLIFFORD A. VIGE AS TRUSTEE OF THE VIGE LIVING TRUST IN DOCUMENT NO. 2007196776 ALL OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.205 ACRE (8,909 SQUARE FOOT) TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at an iron rod found in the existing southerly Right-of-Way (ROW) line of S.H. 45 (ROW width varies) a/k/a Wilke Lane, being the northeasterly corner of said 23.538 acre tract, same being the northwesterly corner of that called 0.2664 acre tract of land described in Special Warranty Deed to A-S 93 Stone Hill TC Phase 2, L.P. recorded in Document No. 2016205034 of the Official Public Records of Travis County, Texas, for the northeasterly corner and **POINT OF BEGINNING** of the herein described 30 foot wide Easement and from which, an iron rod with plastic cap (unreadable) found, being the northeasterly corner of said 0.2664 acre tract, same being the northwesterly corner of Stone Hill Town Center, Lot 14 Replat No. 2, a subdivision of record in Document No. 201700189 of the Official Public Records of Travis County, Texas bears S 62°31'28" E, at a distance of 5.27 feet;

- 1) **THENCE**, departing said existing southerly ROW line, with the common boundary line of said 23.538 acre tract and said 0.2664 acre tract, S 27°44'37" W, at a distance of 42.71 feet, pass an iron rod with plastic cap stamped "PBS&J" found, being the southeasterly corner of a variable width TXU Easement described in Easement and Right Of Way recorded in Document No. 2001034912 of the Official Public Records of Travis County, Texas, and continuing for a total distance of 296.96 feet to the calculated southeasterly corner of the herein described tract, and from which, an iron rod (spinner) found, being an ell corner in the easterly boundary line of said 23.538 acre tract, same being the southwesterly corner of said 0.2664 acre tract bears S 27°44'37" W, at a distance of 1321.99 feet;

**THENCE**, departing said 0.2664 acre tract, through the interior of said 23.538 acre tract, the following two (2) courses:

- 2) N 62°15'23" W, for a distance of 30.00 feet to the calculated southwesterly corner of the herein described tract;

**This property description is accompanied by a separate parcel plat.**

**THE STATE OF TEXAS           \$**

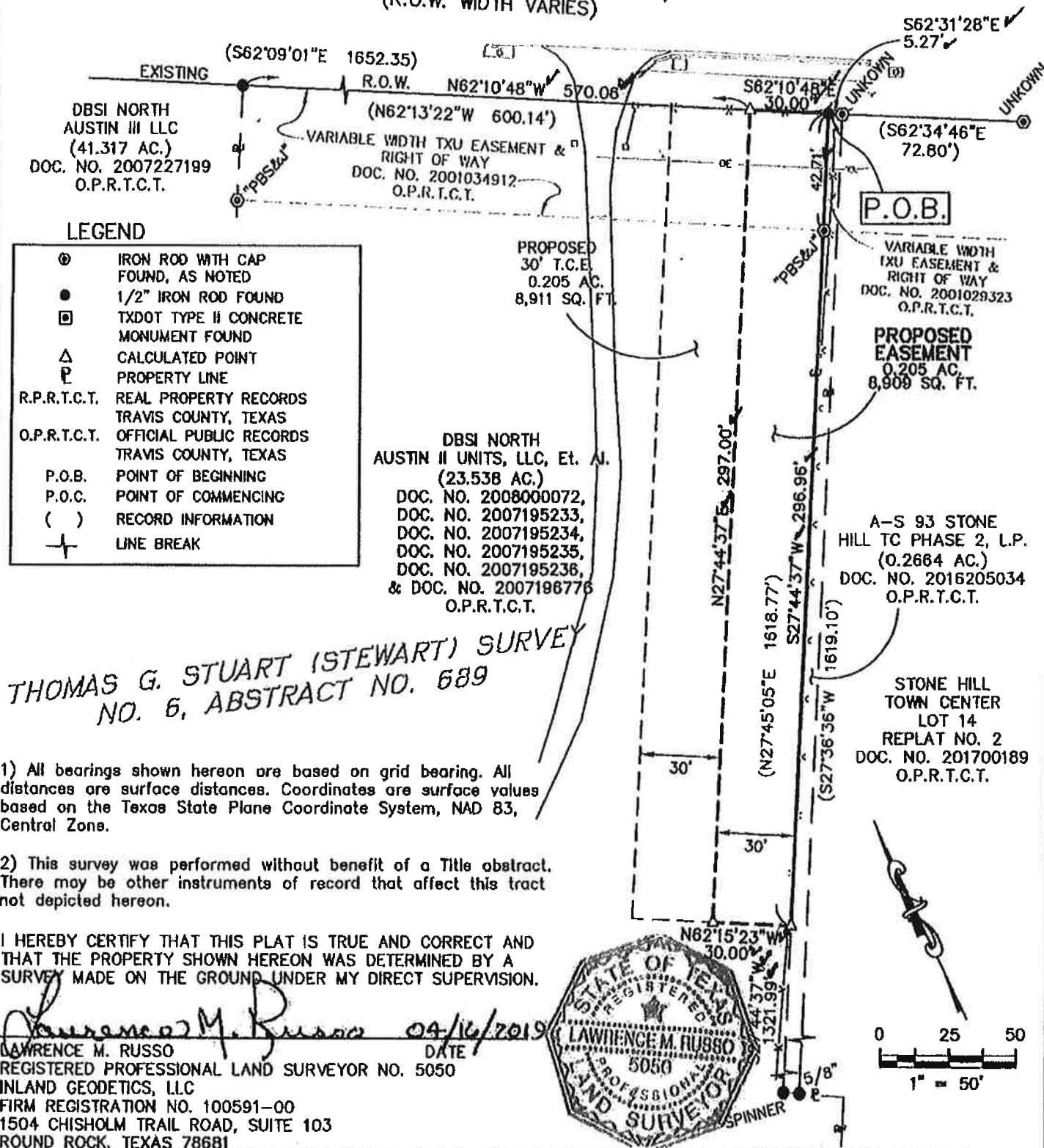
**COUNTY OF WILLIAMSON       \$**

**\$     KNOW ALL MEN BY THESE PRESENTS:**

WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

STATE OF TEXAS  
REGISTERED  
★  
LAWRENCE M. PUSSO  
5050  
PROFESSIONAL  
LAND SURVEYOR

S.H. 45 (A.K.A. WILKE LANE)  
(R.O.W. WIDTH VARIES)



**PROPOSED EASEMENT**  
0.205 ACRES  
8,909 SQUARE FEET

## **EXHIBIT F**

### **Approved Segment A & B Plans**