

**PURCHASE AGREEMENT  
FORTUNE LAND INVESTMENTS, LLC (SELLER)**

This Purchase Agreement (this “Agreement”) is made and entered into by and between the **CITY OF PFLUGERVILLE, TEXAS**, a Texas home rule municipality (“Buyer”), and **FORTUNE LAND INVESTMENTS, LLC**, (“Seller”), hereafter collectively referred to as the “Parties,” upon the premises and for the purposes set out herein and is effective as stated in this Agreement.

**INTRODUCTION**

A. Seller is the current owner thereof of a 86.753 ACRE TRACT HAVING BEEN CONVEYED TO FORTUNE LAND INVESTMENTS, LLC BY INSTRUMENT OF RECORD IN DOCUMENT NUMBER 2021228022 OF THE OFFICIAL PUBLIC RECORD OF TRAVIS COUNTY, TEXAS.

B. Buyer requires acquisition of a +/- 1.23-acre Utility Easement and +/- 1.46 acres of Temporary Construction Easement as described (**Exhibit “A”**) hereafter referred to as the “Property”.

C. Seller is willing to convey and Buyer to purchase the Property for the settlement value of **\$318,349.00**.

NOW, THEREFORE, in exchange for the mutual promises provided herein, the Parties agree as follows:

**I.**

*Purchase and Sale Agreement.* For the Purchase Price, Seller agrees to sell and convey Property to Buyer, and Buyer agrees to buy and pay Seller for the Property as described in **Exhibit “A”** as part of the Wilbarger Creek Wastewater Interceptor Project. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract. The obligation of the Buyer contained in this agreement are conditional on City Council of Pflugerville’s approval and acceptance of the Purchase Agreement. In the event the City Council does not approve the acceptance of the Purchase Agreement within the deadline stated in Paragraph V(A) herein, Buyer shall pay Seller \$100.00, as consideration for Seller’s agreement to the condition on closing and shall return to Seller all original documents, unfiled with the County, at Buyer’s expense.

**II.**

*The Purchase Price.* **Three Hundred Eighteen Thousand Three Hundred Forty-Nine Dollars and No Cents (\$318,349.00)** to be paid at closing.

**III.**

*The Property.* 1.23-acre (53,962 sf) tract of land and a 1.46-acre (63,757 sf) tract of land in the Sumner Bacon Survey Abstract No. 63 in the City of Pflugerville, Travis County, Texas, being out a 86.753-acre tract having been conveyed to Fortune Lane Investments, LLC by instrument recorded in Document No. 2021228022, Official Public Records of

Travis County, Texas as more particularly described in **Exhibit “A”**, attached hereto and incorporated by reference for all purposes.

If Seller owns any or all oil, gas, groundwater, and other minerals, Seller reserves from the conveyance of the Property to Buyer all its rights to oil, gas, and other minerals in and under the Property and which may be produced therefrom (the “Mineral Estate Reservation”). Seller waives all surface rights and other rights of ingress and egress in and to the Property, but Seller reserves the right (i) to explore for and produce said oil, gas, and other minerals by means of directional drilling from surface locations outside the boundaries of the Property, and (ii) pool or unitize said oil, gas, and other minerals with other lands located outside the boundaries of the Property.

#### IV.

*Deed.* The Instrument of Conveyance shall be in substantial conformance with the form and substance as stated in the **Utility and Temporary Construction Easement Agreement (Exhibit “A.1”)**, attached hereto and incorporated by reference for all purposes.

At Closing, Seller will deliver the following items:

1. Utility and Temporary Construction Easement Agreement (Exhibit “A.1”) attached hereto and incorporated by reference for all purposes
2. Other documents that may be required to close this transaction provided that such other documents are prepared at no cost to Seller and do not require Seller to make any additional representations, indemnifications, or promises to Buyer, any title company, or any other person except as otherwise specifically provided in this contract
3. Evidence of Seller’s authority to close this transaction

At Closing, Buyer will deliver the following items:

1. Purchase Price
2. All closing costs including but not limited to, title policy premium, recording deed, closing fees to any title company, and Seller’s closing costs except fees Seller elects to pay Seller’s attorney.
3. Any other documents that may be required by any title company to close this transaction and issue a title policy, if any.

#### V.

*Miscellaneous.*

*A. Closing Date.* The parties shall close on this transaction within 30 days of City Council’s approval and acceptance of the Purchase Agreement. If City Council does not approve and accept the Purchase Agreement within 90 days of execution of this Purchase Agreement the Purchase Agreement shall be void.

*B. Notice.* Any notice given under this Agreement must be in writing and may be

given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement; or (iv) by facsimile with confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or three (3) days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

Buyer: City of Pflugerville  
Attn: Sereniah Breland, City Manager  
100 East Main Street  
Pflugerville, Texas 78660

Seller: Fortune Land Investments, LLC  
223 Dakota Dr  
Cedar Park, TX 78613-7826

with a copy to

Nicholas P. Laurent  
Barron, Adler, Clough & Oddo, LLP  
808 Nueces Street  
Austin, Texas 78701

- C. Buyer shall be liable and responsible for the payment of all ad valorem and similar taxes and assessments on the Property for the calendar year in which Closing occurs only up to and including the Closing Date.
- D. Pursuant to Tex. Prop. Code Sec. 21.023, the Buyer hereby advises, and Seller hereby acknowledges they have been advised, of the following: If Seller's property is acquired through eminent domain, (1) Seller or Seller's heirs, successors, or assigns are entitled to repurchase the Property if the public use for which the Property was acquired through eminent domain is canceled before the 10th anniversary of the date of acquisition; and (2) the repurchase price is the price paid to the owner by Buyer at the time the entity acquired the Property.
- E. Seller and the Buyer agree that Seller's property rights are being conveyed to the City of Pflugerville, Texas under the imminence of condemnation, as that term is used in the United States Internal Revenue Code.
- F. AS-IS SALE. BUYER ACCEPTS THE PROPERTY "AS IS," "WHERE IS," AND "WITH ALL FAULTS," WITHOUT WARRANTY OR REPRESENTATION FROM SELLER. BUYER AGREES AND

REPRESENTS:

(a) BUYER IS NOT RELYING ON ANY WRITTEN, ORAL, OR IMPLIED STATEMENT OR REPRESENTATION BY SELLER OR ANY REPRESENTATIVE OF SELLER ABOUT OR RELATED TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO STATEMENTS OR REPRESENTATIONS ABOUT: (i) THE NATURE, USE, VALUE, DEVELOPMENTAL POTENTIAL, SUITABILITY OR FITNESS FOR ANY USE, COMPLIANCE WITH RESTRICTIONS OR ZONING ORDINANCES, COMPLIANCE WITH ANY REGULATIONS OR LAWS, HABITABILITY, MARKETABILITY, ACCESS TO, EGRESS FROM, QUALITY OF IMPROVEMENTS, CONDITION OF IMPROVEMENTS OR THE LAND, SIZE OF THE IMPROVEMENTS OR LAND, SOILS, OR DRAINAGE (ON OR FROM); OR (ii) THE PRESENCE OF ANY ENVIRONMENTAL CONDITIONS, ENVIRONMENTAL CONTAMINANTS, UTILITIES, FLOOD HAZARD AREAS, FLOOD PRONE AREAS, EASEMENTS, RIGHTS-OF-WAY, ROADS;

(b) BUYER HAS THE OPPORTUNITY TO INSPECT THE PROPERTY, IS FAMILIAR WITH THE PROPERTY, IS SATISFIED WITH THE CONDITION OF THE PROPERTY, AND IS RELYING ON BUYER'S OWN DETERMINATION AND INVESTIGATION OF THE PROPERTY;

(c) BUYER IS EXPERIENCED IN THE PURCHASE OF PROPERTIES SIMILAR TO THE PROPERTY; AND

(d) THE SALES PRICE HAS BEEN NEGOTIATED BETWEEN THE PARTIES AS A RESULT OF BUYER AGREEING TO TAKE THE PROPERTY IN AN AS-IS CONDITION.

- G. Severability; Waiver.* If any provision of this agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is similar in terms to the illegal, invalid, or enforceable provision as is possible. Each of the rights and obligations of the parties hereto are separate covenants. 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 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.
- H. Applicable Law and Venue.* The interpretation, performance, enforcement, and validity of this Agreement is governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Travis County, Texas.
- I. Entire Agreement.* With the exception of the permits and approvals to be issued in connection with this Agreement, this Agreement contains the entire agreement of the Parties and there are no other agreements or promises, oral or written between the Parties regarding the subject matter of this Agreement. This Agreement can be amended only by written agreement signed by the Parties. This

Agreement supersedes all other agreements between the Parties concerning the subject matter hereof.

- J. Exhibits and Counterparts.* All exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The section headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the sections. The Parties acknowledge that each of them have been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and otherwise applicable City ordinances, the terms of this Agreement will control. 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.
- K. Representations and Warranties by Seller.* Seller warrants, represents, covenants, and agrees that Seller has fee simple absolute title to the Property described in **Exhibit “A”**, that said Property is free of any liens or other encumbrances that would prevent this sale, and that Seller meets all requirements to contract with the City of Pflugerville as provided by Chapter 38 of the City’s Code of Ordinances.
- L. Eligibility Certification.* Seller certifies that the individual or business entity named in the Agreement is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.
- M. Payment of Debt or Delinquency to the State or Political Subdivision of the State.* Pursuant to Chapter 38, City of Pflugerville Code of Ordinances, Seller agrees that any payments owing to Seller under the Agreement may be applied directly toward any debt or delinquency that Seller owes the City of Pflugerville, State of Texas or any political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- N. Texas Family Code Child Support Certification.* Seller certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

EXECUTED this the 5 day of October, 2023.

**SELLER:**

**FORTUNE LAND INVESTMENTS,  
LLC**

By: D. Gircech  
Name: GIREESH DHANEKULA  
Title: MANAGER

**BUYER:**

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

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

**ATTEST:**

\_\_\_\_\_  
Trista Evans, City Secretary

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.

**UTILITY AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT**

THE STATE OF TEXAS     §  
   §  
COUNTY OF TRAVIS     §

**GRANT OF EASEMENT:**

**FORTUNE LAND INVESTMENTS, LLC, 223 Dakota Dr., Cedar Park, TX 78613-7826** (“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 Texas home-rule city in Travis County, Texas (“GRANTEE”, “HOLDER”, OR “CITY”), an easement and right-of-way (“EASEMENT”) and temporary 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”),

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; and GRANTOR, subject to the Exceptions, to Warranty, does hereby covenant and agree to WARRANT AND FOREVER DEFEND title to the EASEMENT PROPERTY 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.

GRANTOR, for the CONSIDERATION paid to GRANTOR, hereby grants and conveys to GRANTEE a non-exclusive easement and right-of-way in, upon, under, over and across the EASEMENT PROPERTY, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold to GRANTEE and GRANTEE’S successors and assigns forever for the purpose of constructing, maintaining, operating, repairing, rebuilding, replacing, relocating and removing 1 underground wastewater pipeline(s) each not to exceed 60" inches in nominal internal diameter. GRANTOR does not grant the right to install any additional pipelines or other utilities aside from the 1 contemplated here. The permissible appurtenances to be constructed pursuant to this conveyance shall be below-ground with the exception of pipeline markers, valves, and vents which may be above-ground. No lift stations or other similar appurtenances shall be constructed on the EASEMENT PROPERTY. GRANTOR disclaims and GRANTEE acknowledges and accepts that GRANTOR has disclaimed making any representations, warranties or assurances with respect to the easement or the EASEMENT PROPERTY specifically including, without limitation, representations or warranties as to matters of zoning, tax consequences, physical condition, occupancy, governmental approvals or governmental regulations and that GRANTOR makes no warranties, express, statutory, implied

or otherwise and that GRANTOR expressly disclaims any implied warranty that GRANTOR'S property or the EASEMENT PROPERTY are or will be suitable for GRANTEE'S intended purposes. GRANTEE agrees that it has relied upon its own inspections and accepts the easement and EASEMENT PROPERTY in their "AS IS, WHERE IS AND WITH ALL FAULTS" condition and without any warranties of any type whatsoever, express or implied.

During initial construction of the wastewater pipelines and appurtenances contemplated herein, GRANTEE shall also have the use of a temporary easement as shown on **Exhibit** (hereinafter the "TEMPORARY EASEMENT") for access, construction staging and storage, and other construction activities. The TEMPORARY EASEMENT shall automatically, terminate and revert to the GRANTOR upon the earlier of (1) the conclusion of the original construction of GRANTEE'S wastewater pipelines laid herein, (2) eighteen (18) months after the commencement of GRANTEE'S construction of said wastewater pipelines on GRANTOR'S property, or (3) thirty-six months from the date this Utility Easement Agreement is executed. All of the terms of this Utility Easement Agreement shall apply to the TEMPORARY EASEMENT while the same is in effect, unless such duty, right or obligation specifically survives termination of the TEMPORARY EASEMENT.

As part of the consideration for this conveyance, GRANTEE agrees to provide GRANTOR a future tie-in physically located on GRANTOR'S property to the wastewater line that is the subject of this agreement. GRANTOR shall be solely responsible for the cost to tie-in to the wastewater line, however during construction of the wastewater line GRANTEE shall construct a stub-out physically located on GRANTOR'S property for GRANTOR'S future tie-in. GRANTOR must submit a development plan to determine service needs for any future tie-in and obtain approval from GRANTEE before any such tie-in may be made. Said approval shall not be unreasonably delayed, conditioned, or withheld by GRANTEE. GRANTOR is specifically relying on the covenants and representations contained in this paragraph in agreeing to convey the EASEMENT to GRANTEE. GRANTEE agrees that upon completion of construction, all surplus excavation, debris, trash, or litter resulting from construction shall be cleaned up and disposed of off the premises by GRANTEE, at its sole cost and expense. Should the GRANTEE damage or modify the EASEMENT PROPERTY, any adjacent property, or any improvements located on the EASEMENT PROPERTY in connection with the use of the easement, in any way, including damage caused by leaks or broken wastewater lines and at all times after completing any work in connection with the Facilities, GRANTEE will restore the surface of said property, including any improvements, as nearly as possible, to the condition in which said property was found immediately before such damage was incurred. GRANTEE agrees to perform all work undertaken in a good and workmanlike manner and to promptly complete any work in the EASEMENT PROPERTY.

GRANTEE shall conduct all of its activities on the EASEMENT PROPERTY in compliance with all applicable federal, state, and local laws and ordinances.

GRANTOR shall retain all of the oil, gas, groundwater and other minerals in, on and under the EASEMENT PROPERTY; provided, however, that GRANTOR shall not be permitted to drill or operate equipment for the production or development of minerals on the surface of the EASEMENT PROPERTY, but it will be permitted to extract the oil and other minerals from and under the EASEMENT PROPERTY by directional drilling and other means, provided the drill bit enters the EASEMENT PROPERTY at a subsurface depth with sufficient distance to meet all



of GRANTEE's spacing requirements and so long as such activities do not damage, destroy, injure, and/or interfere with GRANTEE's use of the EASEMENT PROPERTY for the purposes for which the EASEMENT PROPERTY is being sought by GRANTEE.

GRANTEE shall be responsible for paying GRANTOR's agriculture tenant for crop damages caused by GRANTEE and GRANTEE's contractors, agents or other representatives following initial construction and subsequent operations.

**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) "GRANTOR" shall mean GRANTOR and GRANTOR's heirs, successors and assigns.
  - (c) "Permitted improvements" shall mean utilities, landscaping or planting of vegetation, driveways and sidewalks; but except as permitted herein 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.
  - (d) "Public Utility" shall mean water, wastewater, reclaimed water, and appurtenances as permitted herein needed to support the operation of these utility services.
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 and the obligations herein shall pass to GRANTOR'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 Utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of Public Utility facilities and related appurtenances, or making connections thereto all as specified herein. The Easement shall also be used for the purpose of providing access for the operation, repair, maintenance, replacement and expansion of the Public Utility facilities and related appurtenances, provided however all such access shall be limited to the EASEMENT PROPERTY only and GRANTEE shall not be permitted to access GRANTOR's adjoining property for any reason whatsoever

4. *Term.* Easement shall be in perpetuity unless relinquished or abandoned by ordinance or resolution by GRANTEE.
  
5. *Reservation of Rights.* GRANTOR retains, reserves, and shall continue to enjoy the use of the EASEMENT PROPERTY for any and all purposes which do not interfere with or prevent the use by GRANTEE, and the rights, and privileges granted herein, subject to all applicable laws and regulations of the State of Texas or its political subdivisions. GRANTOR agrees that, without GRANTEE's consent (which consent will not be unreasonably conditioned, delayed, or denied), GRANTOR shall not construct on or over the EASEMENT PROPERTY any vertical improvements that interfere with the operation or maintenance of the GRANTEE's Facilities. Notwithstanding the foregoing or anything else in this Agreement, GRANTOR shall have the right to: (a) maintain, repair, alter, upgrade, and replace all existing driveways, roads, fences, and gates crossing or covering a portion of the EASEMENT PROPERTY; (b) cross the EASEMENT PROPERTY with additional public and private streets, roads, drives, alleys, trails, and sidewalks (including those made of rock, gravel, asphalt, or concrete) at any locations on the EASEMENT PROPERTY that the GRANTOR chooses; (c) cross the EASEMENT PROPERTY with public and private communication, pipeline, water, sewer, storm sewer, drainage ditches and culverts, lighting, wastewater, cable, fiber, electric and other utilities; and (d) cross the EASEMENT PROPERTY with additional fences and gates. Any improvement made by GRANTOR (Permitted Improvement) must comply with applicable ordinances, development codes and engineering guidelines of the City of Pflugerville.
  
6. *Improvement and Maintenance of Easement Property.* Subject to the provisions of Section 5, immediately above, 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 impermissible 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 GRANTOR's reserved rights and the performance of HOLDER's obligations under this agreement. HOLDER has the right to remove or relocate any fences or other impermissible 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 be required to replace to their original condition any landscaping, driveways or parking areas that were in existence prior to the granting of the Easement Property and are damaged in connection with the work.
  
7. *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.

8. *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.
9. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
10. *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.
11. *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.
12. *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.
13. *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.
14. *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.
15. *Exception to Warranty.* This conveyance is made by GRANTOR and accepted by GRANTEE subject to the following:
  - a. Visible and apparent easements not appearing of record.
  - b. Any discrepancies, conflicts, or shortages in area or boundary lines or any encroachments or any overlapping of improvements which a current survey would show.
  - c. Easements, restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, and encumbrances for taxes and

assessments (other than liens and conveyances) presently of record in the Official Public Records of the county in which the property is located and that affect the property, but only to the extent that said items are still valid and in force and effect at this time.

- d. The EASEMENT PROPERTY is granted by GRANTOR with a special warranty of title, "AS-IS", "WHERE-IS" and WITH ALL FAULTS. GRANTEE ACKNOWLEDGES THAT IT HAS BEEN PROVIDED ADEQUATE ACCESS TO THE EASEMENT PROPERTY AND TIME TO CONDUCT ITS OWN INSPECTIONS AND THAT NEITHER GRANTOR NOR A GRANTOR PARTY HAS MADE NOR WILL MAKE ANY REPRESENTATION OR WARRANTY TO GRANTEE WITH RESPECT TO THE CONDITION OF THE EASEMENT PROPERTY, GRANTOR'S REMAINING PROPERTY, OR ACCESS THERETO, WHETHER EXPRESS, STATUTORY, IMPLIED OR OTHERWISE, AND THAT GRANTOR EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY THAT SUCH EASEMENT PROPERTY AREAS ARE OR WILL BE SUITABLE FOR GRANTEE'S INTENDED COMMERCIAL PURPOSES.

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.

*Notices.* Any notice required to be delivered hereunder shall be deemed to be delivered on the earlier of actual receipt or, whether actually received or not, when deposited in the United States mail, postage pre-paid, registered or certified mail, return receipt requested, addressed as follows:

As to GRANTOR: Fortune Land Investments, LLC  
223 Dakota Dr  
Cedar Park, TX 78613-7826

with a copy to:

Nicholas P. Laurent  
Barron, Adler, Clough & Oddo, LLP  
808 Nueces Street  
Austin, Texas 78701

As to GRANTEE: City of Pflugerville  
Attn: Sereniah Breland, City Manager  
100 East Main Street  
Pflugerville, Texas 78660

GRANTOR and GRANTEE and their respective heirs, executors, administrators, successors and assigns may, from time to time and at any time, change their respective addresses. Any change properly made is effective twenty (20) days after the delivery of written notice to all other parties to this Agreement in the manner provided herein.

- 17. Any notice required or permitted under this agreement must be in writing.
- 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.

IN WITNESS WHEREOF, this instrument is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**GRANTOR:**

FORTUNE LAND INVESTMENTS, LLC

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

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

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

THE STATE OF TEXAS    §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 2023, by \_\_\_\_\_ of FORTUNE LAND INVESTMENTS, LLC, on behalf of said limited liability company.

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

(seal)

**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 \_\_\_\_\_, 2023, by \_\_\_\_\_, City Manager of the City of Pflugerville, Texas, a Texas home-rule municipality, on behalf of said municipality.

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

(seal)



**MACIAS & ASSOCIATES, L.P.**  
LAND SURVEYORS – FIRM REG. NO. 101141-00

EXHIBIT A

FORTUNE LAND INVESTMENTS, LLC  
TO  
CITY OF PFLUGERVILLE  
UTILITY EASEMENT  
PARCEL NO. 14

### LEGAL DESCRIPTION

#### 57' CITY OF PFLUGERVILLE UTILITY EASEMENT

OF A 1.23 ACRE (53,962 SQUARE FEET) TRACT OF LAND BEING OUT OF A CALLED 86.753 ACRE TRACT IN THE SUMNER BACON SURVEY ABSTRACT NO. 63 IN THE CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS, HAVING BEEN CONVEYED BY SPECIAL WARRANTY DEED TO FORTUNE LAND INVESTMENTS, LLC BY INSTRUMENT OF RECORD IN DOCUMENT NUMBER 2021228022 OF THE OFFICIAL PUBLIC RECORD OF TRAVIS COUNTY, TEXAS. SAID 1.23 ACRE TRACT (53,962 SQUARE FEET) OF LAND AS SHOWN ON THE ACCOMPANYING SKETCH AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**POINT OF COMMENCEMENT** on a 1/2" diameter iron rod found on the easterly right-of-way line of Fuchs Grove Road (width varies), being the most northerly corner of a called 95.00 acre tract of land being conveyed by Special Warranty Deed to Adam and Andra Gozenbach recorded in Document Number 2021133616 of the Official Public Records of Travis County, Texas, being the most westerly corner of said 86.753 acre tract, THENCE with the northeasterly boundary line of said 95.00 acre tract, same being the southwesterly boundary line of said 86.753 acre tract, S 62°45'23" E a distance of 2,108.76 feet, to a calculated angle point, passing a property line of a called 67.44 acre tract conveyed by Special Warranty Deed to the Pflugerville Independent School District recorded in Document Number 2008166816 of the Official Public Records of Travis County, Texas. Also, said calculated angle point being the southwest corner and the **POINT OF BEGINNING** of the herein described easement;

**THENCE, N 27°27'06" E, 946.86 feet** departing said northeasterly boundary line of said 67.44 acre tract and the southwesterly boundary line of said 86.753 acre tract, through the interior of said 86.753 acre tract, to a calculated angle point on the southerly right-of-way line of Bennett Pokorney Lane (50' width) and the northerly line of said 86.753 acre tract. Also, being the most northerly corner of the herein described easement;

**THENCE, S 62°27'31" E, 57.00 feet,** along the northerly boundary line of said 86.753 acre tract and the southerly right-of-way line of Bennett Pokorney Lane to a calculated angle point and the most easterly corner of the herein described easement;

**THENCE, S 27°27'06" W, 946.56 feet** departing said northerly boundary line of said 86.753 acre tract and the southerly right-of-way line of Bennett Pokorney Lane, through the interior of said 86.753 acre tract, to a calculated angle point on the southwesterly boundary line of said 86.753 acre tract and the northeasterly line of said 67.44 acre tract. Also, being the most southerly corner of the herein described easement;

**THENCE, N 62°45'23" W, 57.00 feet,** to the **POINT OF BEGINNING** containing 1.23 acres (53,962 square feet) of land.

**BEARING BASIS**

THE BEARINGS SHOWN HEREON ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEMS (CENTRAL ZONE 4203), NORTH AMERICAN DATUM 1983 (NAD83).

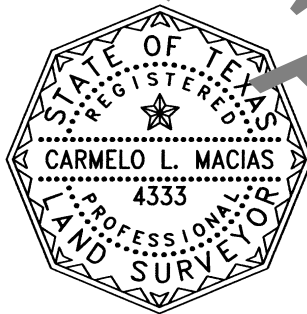
**THE STATE OF TEXAS** §  
§  
**COUNTY OF TRAVIS** §

KNOW ALL MEN BY THESE PRESENTS:

That I, Carmelo L. Macias, a registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 20th day of September 2023, A.D.

Revision 1 – 07/21/23  
Revision 2 – 09/20/23



Macias & Associates, L.P.  
10017 Wild Dunes Drive  
Austin, Texas 78747  
512-442-7875

*Carmelo L. Macias*

Carmelo L. Macias  
Registered Professional Land Surveyor  
No. 4333 – State of Texas

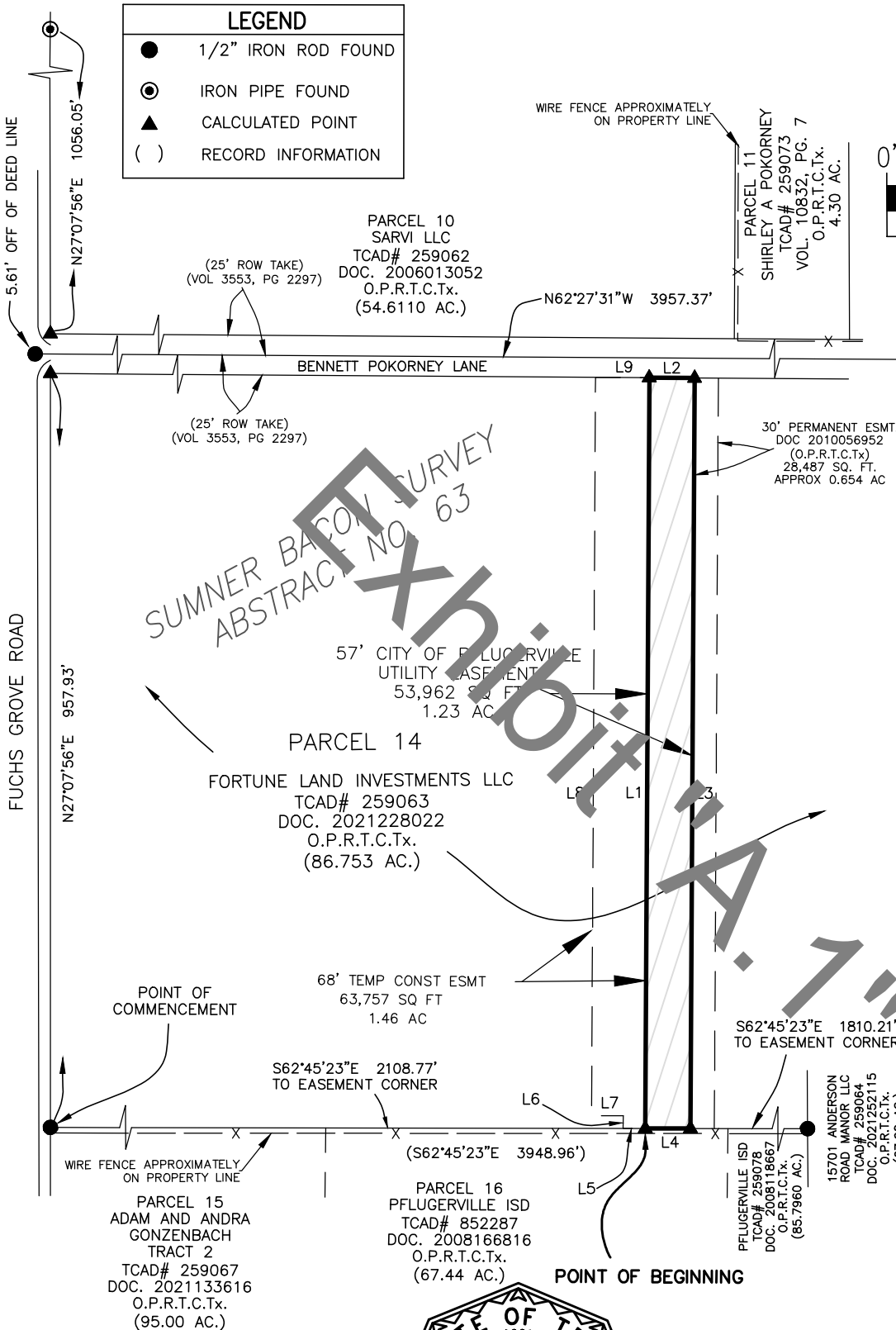
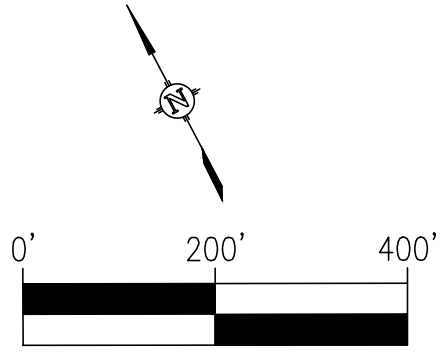
**REFERENCES**

AUSTIN GRID NO. T-33  
TCAD PARCEL ID NO. 259063  
VESTING DEED Doc. No. 2021228022



SKETCH TO ACCOMPANY LEGAL DESCRIPTION

LEGEND	
●	1/2" IRON ROD FOUND
⊙	IRON PIPE FOUND
▲	CALCULATED POINT
( )	RECORD INFORMATION



LINE TABLE		
LINE	DIRECTION	LENGTH
L1	N27° 27' 06"E	946.86'
L2	S62° 27' 31"E	57.00'
L3	S27° 27' 06"W	946.56'
L4	N62° 45' 23"W	57.00'
L5	N62° 45' 23"W	28.00'
L6	N27° 27' 06"E	15.95'
L7	N62° 32' 54"W	40.00'
L8	N27° 27' 06"E	931.12'
L9	S62° 27' 31"E	68.00'

**BEARING BASIS:**  
THE COORDINATES AND BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM (CENTRAL ZONE, NAD83 (CORS).

**NOTE:**  
THE EASEMENTS SHOWN ON THIS SURVEY ARE THOSE LISTED IN SCHEDULE B OF THE TITLE COMMITMENT ISSUED BY TITLE RESOURCES GUARANTY COMPANY FILE GF No. 2118369-KFO AND EFFECTIVE DATE OF FEBRUARY 15, 2022.

STATE OF TEXAS }  
COUNTY OF TRAVIS }  
I HEREBY CERTIFY THAT THIS EASEMENT SURVEY WAS PREPARED FROM THE RESULTS OF AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



*Carmelo L. Macias* 09/20/23  
CARMELO L. MACIAS, RPLS #4333 DATE

REV 2: September 19, 2023  
REV 1: July 21, 2023  
DATE: March 7, 2022  
DRAWN BY: Gino M.  
MAI JOB NO.: 620-01-21(P14)  
REFERENCE: FB. 15, PG. 29

PAGE 3 OF 3

**MACIAS & ASSOCIATES, L.P.**  
LAND SURVEYORS FIRM#101141-00

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