

WATER EASEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

GRANT OF EASEMENT:

First National Bank("Grantor"), for the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, does hereby grant, sell and convey unto **THE CITY OF PFLUGERVILLE, TEXAS**, a home-rule city located in Travis County, Texas ("Grantee"), an easement and right-of-way ("Easement") upon and across the property of Grantor which is more particularly described on Exhibit "A", attached hereto and incorporated herein by reference ("Easement Tract").

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. This easement is made and accepted subject to all easements, covenants, restrictions, liens, and other encumbrances of record in Travis County, Texas affecting the Easement.

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.

DEFINITIONS

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

Permitted improvements shall mean installation of landscaping or planting of vegetation by Grantor and, if authorized by a development permit issued by the City of Pflugerville, sidewalks, driveways, parking areas and other impervious cover. Buildings and similar structures shall not be permitted within the Easement Tract.

CHARACTER OF EASEMENT:

The Easement is an easement in gross.

PURPOSE OF EASEMENT:

The Easement shall be used for public water utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation,

removal, and operation of public water utility facilities and related appurtenances, or making connections thereto.

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

DURATION OF EASEMENT:

The Easement shall be perpetual.

EXCLUSIVENESS OF EASEMENT:

The Easement shall be exclusive for public water utility facilities owned or operated by Grantee, and Grantor covenants that Grantor will shall not convey any other public water line easements or conflicting rights within the Easement Tract that would interfere with Grantee’s use of the Easement Tract; provided, however, save and except Grantor may convey other easements that cross the Easement Tract provided that:

- a) The proposed crossing easement does not interfere with Grantee’s use of the Easement Tract, as determined by Grantee; and
- b) if Grantee approves the crossing easement, in writing, which approval will not be unreasonably denied or conditioned.

SURFACE USE:

Grantor hereby retains, reserves, and shall continue to enjoy the use of the surface of the Easement Tract for any and all purposes which do not interfere with or prevent the use by Grantee of the Easement for the purposes herein granted; and Grantor shall not make any improvements to the Easement save and except “permitted uses” as defined herein. Grantor further covenants and agrees to use the Easement Tract only in those ways consistent with the Easement granted herein and agrees to do nothing which would impair, damage, or destroy said Easement. Grantee has the right to trim and cut down trees and shrubbery and to remove other improvements and structures to the extent reasonably necessary to prevent interference with the operation or repairs to Grantee’s facilities in the Easement Tract.

MAINTENANCE:

Except for Grantee’s facilities, which Grantee shall maintain, Grantor shall maintain Easement Tract at its expense.

RESTORATION:

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

ENTIRE AGREEMENT:

This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representation or modification concerning this instrument shall be of no force and effect except for any subsequent modification in writing, signed by the party to be charged.

BINDING EFFECT:

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

ASSIGNABILITY:

The Easement may be assigned by Grantee, its successors or assigns, without the prior written consent of Owner as long as the proposed successor or assign is a governmental entity that expressly assumes Grantee's obligations to maintain the water utility facilities.

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

GRANTOR:

First National Bank

By: _____

Sean Denton, Region 11 President

AGREED AND ACCEPTED:

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

By: _____
Brandon Wade, City Manager

ATTEST:

Karen Thompson, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____,
2012, by _____, an individual residing in Travis County, Texas.

Notary Public Signature

(seal)

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____,
2012, by Brandon Wade, City Manager of the City of Pflugerville, Texas, a Texas home-
rule municipality, on behalf of said municipality.

Notary Public Signature

(seal)