

**R.O.W. EASEMENT AGREEMENT**

**ORIGINAL**

THE STATE OF TEXAS     §  
COUNTY OF TRAVIS     §

This R.O.W. Easement Agreement ("Agreement") is made by and between **A-S 93 SH 130-SH 45, L.P.** ("Owner") and the **CITY OF PFLUGERVILLE, TEXAS**, a Texas home-rule municipality ("City") and is as follows:

**RECITALS**

WHEREAS, Owner is the owner of certain real property located in Travis County, Texas, which is more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Easement Tract");

WHEREAS, Owner is willing to grant City a non-exclusive easement and right-of-way upon, over, through and across the Easement Tract ("Easement") subject to the terms, conditions and other matters set forth in this Agreement; and

WHEREAS, the "Stormwater Acceptance, Roadway Dedication, Release and Settlement Agreement" recorded in Document No. 2011116061 of the Official Public Records of Travis County, Texas, identified a "North-South Roadway Dedication" intersecting Town Center Drive at ninety (90) degrees and follow a single continuous alignment through the Town Center Drive intersection and property without offsets of any kind.

WHEREAS, as shown on the Plat for Stone Hill Town Center, Section Two, Phase One, a subdivision in Travis County, Texas, recorded in Document No. 201100162 of the Official Public Records of Travis County, Texas, the southern segment of the "North-South" roadway has been dedicated to the City of Pflugerville.

WHEREAS, the grant of easement contained herein shall satisfy the obligation for the northern portion of "North-South Roadway Dedication" per the "Stormwater Acceptance, Roadway Dedication, Release and Settlement Agreement" until such time, a final plat for Stone Hill Town Center, Section Two, Phase Two described in Exhibit B has been approved and recorded with Travis County.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged and confessed, Owner hereby GRANTS, SELLS and CONVEYS, to City an access easement on, over, through and across the Easement Tract, subject to the reservations, terms and conditions of this Agreement and subject to any and all encumbrances and easements of record, to the extent the same are valid and enforceable. The Easement shall be subject to the following terms and provisions:

1.     **Character of Easement.** The Easement is an easement in gross.
2.     **Duration of Easement.** The Easement shall continue until such time as a final plat for Stone Hill Town Center, Section Two, Phase Two has been approved and recorded with Travis County to include a dedication of the above referenced roadway (as may be relocated as

provided herein), at which time this Agreement and the Easement granted herein shall automatically terminate and be of no further force or effect. Upon request by Owner, the City shall execute and deliver a document evidencing such termination to be recorded in the Real Property Records of Travis County, Texas.

3. **Exclusiveness of Easement.** The Easement is non-exclusive and City's use shall be in common with Owner and its successors and assigns. Owner hereby reserves, for itself and its successors and assigns, the right to enter upon and use the surface of the Easement Tract, subsurface of the Easement Tract and the air space over the Easement Tract for the purposes of installing, constructing, repairing, maintaining, operating, replacing, upgrading and using (i) landscaping, irrigation sleeves and other irrigation facilities; (ii) any other improvements that are permitted under the City of Pflugerville Code of Ordinances to encroach into any setbacks or private easements; (iii) ingress and egress and vehicular and pedestrian traffic to and from Town Center Drive; and (iv) for any other purposes that are not inconsistent with the City use of the Easement. Grantor shall be responsible for any repairs necessary to the improvements constructed by the City within the Easement Area to the extent caused by the exercise by Grantor of its rights hereunder. Notwithstanding anything contained herein to the contrary, Owner shall not use the Easement Tract in any other manner or grant any easement on or across the Easement Tract that interferes in any material way the easements, rights, and privileges granted hereunder or the terms and conditions hereof.

4. **Purpose of Easement.** The Easement shall be used only for the purpose of vehicular and pedestrian ingress and egress over and across the Easement Tract by Grantee and Grantee's licensees, employees, agents, invitees, members, and guests to access the Detention Facilities.

5. **Relocation.** Owner shall have the right to relocate the Easement Tract, and the roadway and other improvements location thereon, provided that the Easement Tract shall at all times be not less than 70 feet and shall intersect Town Center Drive at ninety (90) degrees such that the major collector roadway uses a single, continuous alignment through the Town Center Drive intersection without offsets of any kind. Upon relocation by Owner, each of Owner and City shall execute and deliver an amendment to this Agreement revising the location of the Easement granted herein, such amendment to be recorded in the Real Property Records of Travis County, Texas.

6. **Maintenance.** Grantee shall keep and maintain the Easement Tract in good condition and repair and, if required by law, in accordance with the standards necessary to comply with applicable laws, codes and ordinances and shall pay, when due, all costs and expenses of such maintenance and repair. Grantor shall be responsible for maintenance of any landscaping, irrigation sleeves and other irrigation facilities Grantor's installs within the Easement Tract.

7. **Entire Agreement.** This Agreement contains the entire agreement between the parties relating to the rights granted. Any oral representations or modifications concerning this Agreement shall be of no force and effect except in a subsequent modification in writing, signed by the party to be charged.

8. **Assignment.** The Easement may be assigned by City, 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 City's obligations under this Agreement. Otherwise, the rights granted to the City hereunder may not be assigned without the prior written consent of Owner.

9. **Attorney's Fees.** In the event of any controversy, claim, or dispute relating to this Agreement or the breach thereof, the prevailing party shall be entitled to recover from the non-prevailing party reasonable expenses, attorney's fees, and costs.

10. **Binding Effect.** This Agreement, and the terms, covenants, and conditions shall be covenants running with the Easement Tract and shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties.

11. **No Waiver.** Except for a written waiver signed by the party to be charged, any action or inaction by any party with respect to any provision of this Agreement, including, but not limited to, a party's failure to enforce any provision of this Agreement, shall not constitute a waiver of that provision or any other provision of this Agreement. Any waiver by any party of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement.

12. **Headings.** Any section headings in this Agreement are for reference only and shall not modify or affect the interpretation of this Agreement in any manner whatsoever.

13. **Sovereign Immunity.** Any provision of this easement that seeks to waive the City's immunity from suit and/ or immunity from liability is void unless agreed to by specific acknowledgement within the easement.

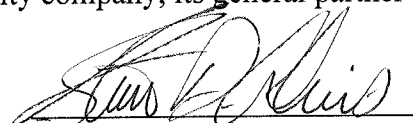
IN WITNESS WHEREOF, this Agreement is executed this 11<sup>th</sup> day of July, 2012.

**OWNER:**

Address:  
8827 W. Sam Houston Parkway  
Suite 200  
Houston, Texas 77040

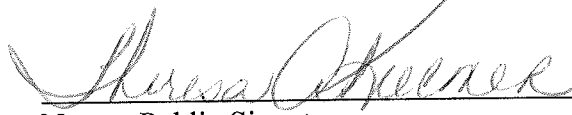
**A-S 93 SH 130-SH 45, L.P.**, a Texas  
Limited Partnership

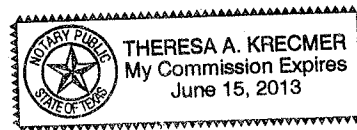
By: A-S 93, L.C., a Texas limited  
liability company, its general partner

By:   
Name: Steve D. Alvis  
Title: Manager

THE STATE OF TEXAS   §  
                                      §  
COUNTY OF HARRIS   §

This instrument was acknowledged before me on July 11, 2012, by Steven D. Alvis, Manager of A-S 93, L.C., a Texas limited liability company, general partner of A-S 93 SH 130-SH 45, L.P., a Texas limited partnership, on behalf of such limited partnership.

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



Address:  
City of Pflugerville  
P.O. Box 589  
Pflugerville, Texas 78691

**CITY:**

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

By: \_\_\_\_\_  
Name: Brandon Wade  
Title: City Manager

THE STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS           §

This instrument was acknowledged before me on July \_\_\_\_, 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

After Recording Return To:

City of Pflugerville  
Attn: Karen Thompson, City Secretary  
P.O. Box 589  
Pflugerville, Texas 78691

Exhibit A  
Easement Tract

***Pflugler Farm Lane Extension***

***1.2254 acres of land in the T. G. Stewart Survey No. 6, Abstract No. 689,  
City of Pflugerville, Travis County, Texas***

A FIELD NOTE DESCRIPTION of 1.2254 acres (53,377 square feet) of land in the T. G. Stewart Survey No. 6, Abstract No. 689, City of Pflugerville, Travis County, Texas; said 1.2254 acre tract being out of the remainder of a 60.64 acre tract of land conveyed to A-S 93 SH 130-SH 45, L.P., as recorded in Travis County Clerk's File No. 2007090027 and being more particularly described by metes and bounds as follows with the bearings being based on the northwest line of Lot 15, Block 5, Stone Hill Town Center, according to the map or plat recorded in Document No. 200700201, the bearing being North 28° 04' 43" East:

COMMENCING FOR REFERENCE at a 5/8-inch iron rod with cap stamped "TEAM" set in the northeast line of a 136.450 acre tract of land conveyed to Terrell Timmermann, as recorded in Travis County Clerk's File No. 1999104396 for the southwest corner of said Stone Hill Town Center and for the southeast corner of Stone Hill Town Center, Section Two, Phase One, according to the map or plat recorded in Document No. 201100162 of the Travis County Map Records;

THENCE, North 28° 04' 43" East with a northwest line of said Stone Hill Town Center and with the southeast line of said Stone Hill Town Center, Section Two, Phase One, at a distance of 754.48 feet pass a 5/8-inch iron rod with cap stamped "TEAM" set in the southwest right-of-way line of Town Center Drive (60 feet wide), according to the map or plat recorded in Document Nos. 200700201 and 201100162 of the Travis County Map Records and continuing for a total distance of 814.48 feet to a 5/8-inch iron rod with cap stamped "TEAM" set in the northeast right-of-way line of said Town Center Drive for the northeast corner of said Stone Hill Town Center, Section Two, Phase One;

THENCE, North 61° 55' 17" West - 129.00 feet with the northeast right-of-way line of said Town Center Drive, same being a northeast line of said Stone Hill Town Center, Section Two, Phase One to a point for the southeast corner and POINT OF BEGINNING of this tract;

THENCE, North 61° 55' 17" West - 120.00 feet with the northeast right-of-way line of said Town Center Drive, same being a northeast line of said Stone Hill Town Center, Section Two, Phase One to a point for the southwest corner of this tract;

THENCE, in an easterly direction with a curve to the left having a radius of 25.00 feet, a central angle of 90° 00' 00", a length of 39.27 feet and a chord bearing North 73° 04' 43" East - 35.36 feet to a point-of-tangency;

THENCE, North 28° 04' 43" East - 733.58 feet to a point in the northeast line of said 60.64 acre tract and in the southwest line of a 41.317 acre tract of land conveyed to DBS1 North Austin III, LLC, as recorded in Travis County Clerk's File No. 2007227199 for the northwest corner of this tract; from which an iron rod found for the southwest corner of said 41.317 acre tract bears North 62° 06' 50" West - 842.22 feet;

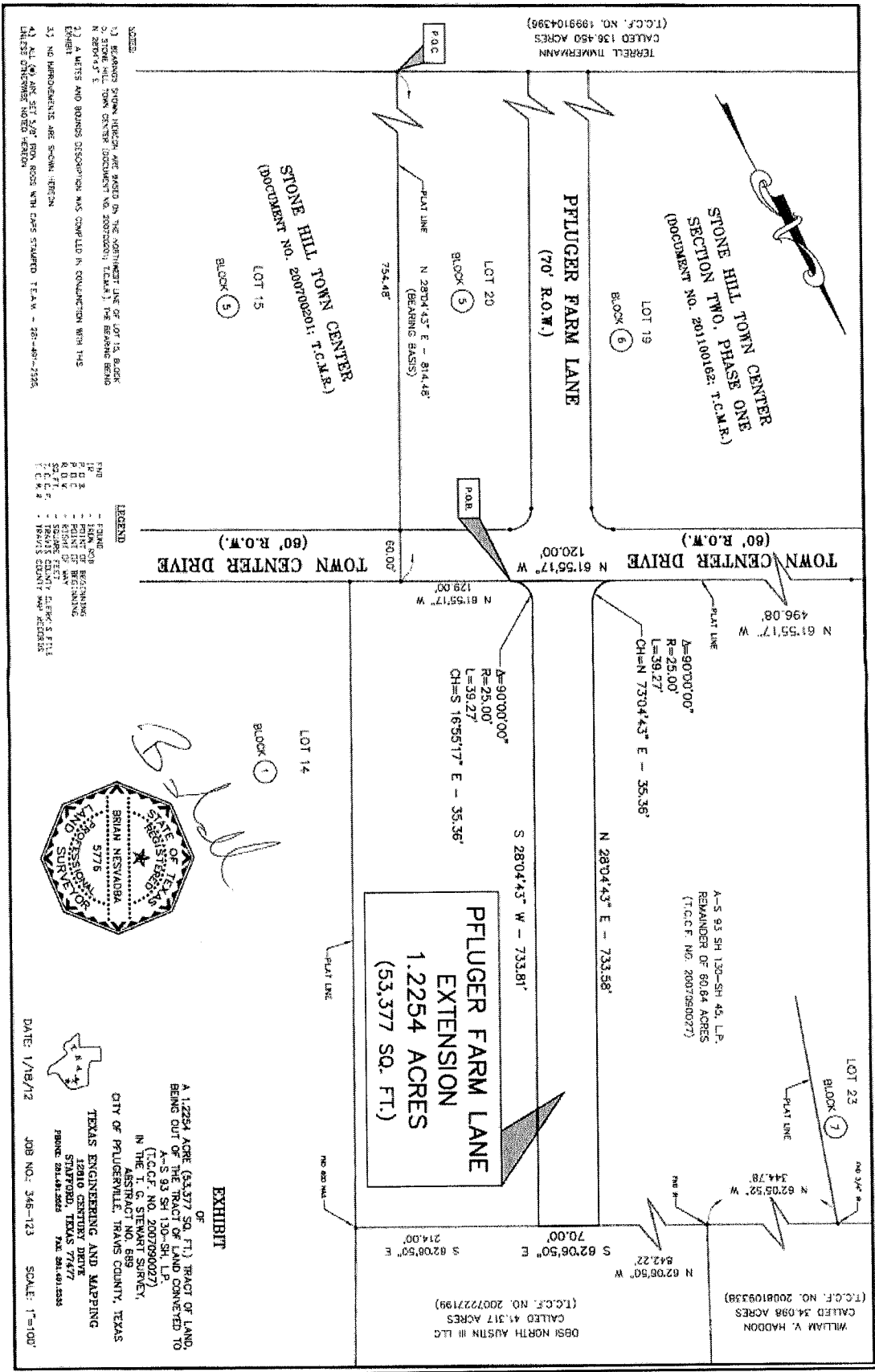
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THENCE, South 62° 06' 50" East – 70.00 feet with the northeast line of said 60.64 acre tract and with the southwest line of said 41.317 acre tract to a point for the northeast corner of this tract; from which a 60d nail found in a northwest line of said Stone Hill Town Center for the northeast corner of said 60.64 acre tract bears South 62° 06' 50" East – 214.00 feet;

THENCE, South 28° 04' 43" West – 733.81 feet to a point-of-curvature;

THENCE, in a southerly direction with a curve to the left having a radius of 25.00 feet, a central angle of 90° 00' 00", a length of 39.27 feet and a chord bearing South 16° 55' 17" East – 35.36 feet to the POINT OF BEGINNING and containing 1.2254 acres (53,377 square feet) of land.

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**Exhibit B**  
**Stone Hill Town Center, Section Two, Phase Two**

