

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY OF PFLUGERVILLE, TEXAS AUTHORIZING THE VACATION, ABANDONMENT AND RELEASE OF AN EXISTING TEMPORARY DRAINAGE EASEMENT GRANTED TO THE CITY BY EASEMENT RECORDED IN TRAVIS COUNTY REAL PROPERTY RECORDS, DOCUMENT NO. 2012195951**

**WHEREAS**, by that certain instrument dated November 19, 2012, recorded as Document No. 2012195951 of the Official Public Records of Travis County, Texas, a temporary drainage easement (“Easement”) was granted to the City of Pflugerville, Texas described as 0.106 acre (4,597 square feet) tract situated in Travis County, Texas (“Property”), being more particularly described in Exhibit “A”, attached hereto and incorporated herein for all purposes; and

**WHEREAS**, the owner of the Property desires to revise the Property’s development concept necessitating revising the use and scope of the Easement and has requested that the City vacate, abandon and release the Easement; and

**WHEREAS**, the Property owner has dedicated a new drainage easement for the property recorded in the Travis County Public Records as document number 2018011732, and the City is agreeable to vacating, abandoning and releasing the Easement due to the Property owner’s development plans.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE:**

Section 1.

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2.

The City of Pflugerville, Texas does hereby for all purposes formally evidence and effectuate its intent to (i) VACATE, ABANDON AND RELEASE that certain Easement provided in **Exhibit “A”** attached hereto and incorporate herein, “AS IS, WHERE IS” AND WITH ALL FAULTS, AND SUBJECT TO THE PROPERTY OWNER’S ACKNOWLEDGMENT THAT THE CITY OF PFLUGERVILLE SHALL HAVE NO FURTHER OBLIGATION FOR ANY RESTORATION OR MAINTENANCE OF THE PROPERTY SO VACATED, ABANDONED AND RELEASED; and (ii) hereby relinquishes all of its rights, title, and interest in and to the Easement.

Section 3.

The City Council of the City of Pflugerville hereby authorizes the City Manager to execute all documents necessary to effectuate City Council's intent to vacate, abandon and release the Easement.

PASSED, APPROVED and EFFECTIVE on this \_\_ day of \_\_\_\_\_ 2021.

By: \_\_\_\_\_  
Victor Gonzales, Mayor

ATTEST

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Charles E. Zech, City Attorney  
DENTON NAVARRO ROCHA BERNAL & ZECH, PC

**EXHIBIT A**



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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.

**TEMPORARY DRAINAGE EASEMENT AGREEMENT**

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

**GRANT OF EASEMENT:**

BANCROFT AUSTIN 45, L.P. ("Grantor", whether one or more), 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"), a temporary easement and right-of-way ("Easement") upon and across the parcels of real property of Grantor which are more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (collectively, "Easement Tract") for the construction and maintenance of a storm drainage way to consist of an open drainage ditch upon, and across the following described property, to-wit:

TO HAVE AND TO HOLD the same to Grantee and its successors and assigns, together with the right and privilege at any and all times to enter the Easement Tract, or any part thereof, for the purpose of construction, operation, maintenance, replacement, upgrade, and repair of the improvements which are constructed and installed therein or thereon by Grantee under the terms of this 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, subject to the matters set forth herein.

**CHARACTER OF EASEMENT:**

The Easement is an easement in gross.

**PURPOSE OF EASEMENT:**

The Easement shall be used for public drainage purposes, to receive storm water from tracts located upstream from the Easement Tract, including placement, construction, installation

replacement, repair, maintenance, relocation, removal, and operation of a drainage channel and related drainage facilities, or making connections thereto.

Grantee shall have a continuous right of access to the Easement Property for the operation, repair, maintenance, replacement and expansion of the drainage facilities and related appurtenances.

#### **DURATION OF EASEMENT:**

The Easement shall terminate upon the occurrence of one of the following, whichever occurs first: (1) a date ninety-nine (99) years after the date of this Temporary Easement; or Grantee's approval and recordation of the tract burdened by the Temporary Easement; or the mutual written agreement of Grantee and Grantor to terminate this Temporary Easement... Grantor hereby binds Grantor and Grantor's heirs, legal representatives, successors and assigns, to warrant and forever defend the Easement unto Grantee, its successors and assigns, against any person whomsoever lawfully claiming or to claim the same or any part thereof

#### **EXCLUSIVENESS OF EASEMENT:**

The Easement is non-exclusive and Grantee's use shall be in common with Grantor and their successors and assigns. To the extent that such entry or use does not interfere with Grantee's use of the Easement as a drainage easement, Grantor hereby reserve, for themselves and their 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.. Notwithstanding anything contained herein to the contrary, Grantor 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, or is inconsistent with, the easements, rights, and privileges granted hereunder or the terms and conditions hereof.

#### **MAINTENANCE:**

Grantor shall keep the Drainage Easement free from any obstruction not authorized by Grantee. Grantor shall maintain the surface area or the Easement Property, which shall include but shall not be limited to regular mowing to prevent vegetation from becoming an obstruction to the flow of water within the Drainage 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

**ENTIRE AGREEMENT:**

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

**BINDING EFFECT:**

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

**ASSIGNABILITY:**

This Easement and the rights of Grantee hereunder may be assigned by Grantee so long as the assignee utilizes the Easement as contemplated herein.

Signature page to follow:

In witness whereof, this instrument is executed this 1 day of OCTOBER, 2012

**GRANTOR:**

Bancroft Austin 45 L.P  
12792N. Schicks Ridge Rd.  
Boise, ID 83714-9454

By: Bancroft Austin GP LLC, a Texas  
limited liability company, its General  
Partner

By: Bancroft SF Properties, LLC, a  
California limited liability company, its sole  
member

By: Bancroft SF Management Co., LLC, a  
California limited liability company, its  
Manager

By: Paul Bancroft III  
Paul Bancroft III, Managing Member

By: Peter Bancroft  
Peter Bancroft, Managing Member

**AGREED AND ACCEPTED:**

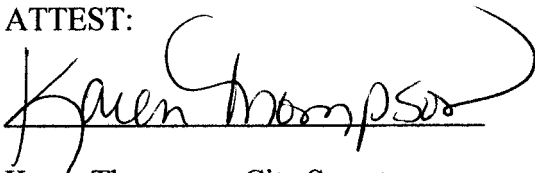
**CITY OF PFLUGERVILLE, TEXAS,**

a Texas home-rule municipality

By: 

Brandon Wade, City Manager

ATTEST:



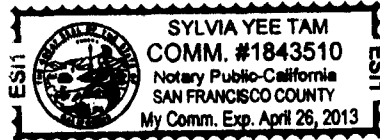
Karen Thompson, City Secretary

ACKNOWLEDGEMENT

State of ~~Idaho~~ <sup>California</sup> §  
County of ~~SAN FRANCISCO~~ § S.S.

I, Sylvia Yee Tam a notary public, do hereby certify that on this 8<sup>th</sup> day of October 2012, personally appeared before me Paul Bancroft III, who, being by me first duly sworn, declared that he is a Managing Member of Bancroft SF Management Co., LLC, a California limited liability company, that he signed the foregoing document as Managing Member, of the company, and that the statements therein contained are true.

Sylvia Yee Tam  
Notary Public  
My Commission Expires on APRIL 26, 2013

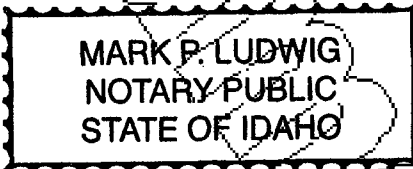


ACKNOWLEDGEMENT

State of Idaho §  
County of Ada § S.S.

I, Mark Ludwig a notary public, do hereby certify that on this 1 day of October, 2012, personally appeared before me Peter Bancroft, who, being by me first duly sworn, declared that he is a Managing Member of Bancroft SF Management Co., LLC, a California limited liability company, that he signed the foregoing document as Managing Member, of the company, and that the statements therein contained are true.

Mark Ludwig  
Notary Public  
My Commission Expires on 2/1/2017





ACKNOWLEDGEMENT

THE STATE OF TEXAS §  
§  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on November 13, 2012, by Brandon Wade, City Manager of the City of Pflugerville, Texas, a Texas home-rule municipality, on behalf of said municipality.

Karen S. Thompson  
Notary Public Signature

(seal)



KAREN S. THOMPSON  
Printed Name of Notary Public

My commission expires: 5-18-15

~~After Recording, Please Return To:~~

City of Pflugerville  
Attn: Brandon E. Wade, City Manager  
P.O. Box 589,  
Pflugerville, Texas 78691

EXHIBIT "A"

County: Travis  
Parcel No.: Bancroft—Drainage Easement  
Project: Heatherwilde Blvd Roadway Improvements  
Half AVO: 26890

Page 1 of 4  
8/2/2012

DESCRIPTION FOR BANCROFT TRACT—DRAINAGE EASEMENT

BEING A 0.106 ACRE (4,601 SQUARE FEET) TRACT SITUATED IN THE THOMAS G. STEWART SURVEY NO. 6, ABSTRACT NO. 689, TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF A CALLED 27.067 ACRES TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO BANCROFT AUSTIN 45 LP, AND RECORDED IN DOCUMENT NO. 2005085898 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2-inch iron rod with plastic cap stamped "CHAPARRAL BOUNDARY" found in the east right-of-way line of Heatherwilde Blvd, a varying width right-of-way, for the southwest corner of said 27.067 acres tract;

**THENCE** with said east right-of-way line of Heatherwilde Blvd, same being the west line of said 27.067 acres tract, the following six (6) courses and distances:

1. N27°22'52"E a distance of 14.44 feet to a 1/2-inch iron rod with plastic cap stamped "CHAPARRAL BOUNDARY" found,
2. N26°48'06"E a distance of 357.29 feet to a 1/2-inch iron rod with plastic cap stamped "CHAPARRAL BOUNDARY" found,
3. N27°20'31"E a distance of 19.13 feet to a 1/2-inch iron rod with plastic cap stamped "CHAPARRAL BOUNDARY" found,
4. N28°19'24"E a distance of 158.51 feet to a Texas Department of Transportation (TXDOT) Type II Concrete Monument with Brass Disk found,
5. N39°22'47"E a distance of 143.54 feet to a Texas Department of Transportation (TXDOT) Type II Concrete Monument with Brass Disk found, and
6. N28°42'40"E a distance of 49.99 feet to the **POINT OF BEGINNING** of the tract described herein;

**CONTINUING** with said east right-of-way line of Heatherwilde Blvd and said west line of the 27.067 acres tract, N28°42'40"E a distance of 25.44 feet;

EXHIBIT "A"

County: Travis  
Parcel No.: Bancroft—Drainage Easement  
Project: Heatherwilde Blvd Roadway Improvements  
Half AVO: 26890

Page 2 of 4  
8/2/2012

DESCRIPTION FOR BANCROFT TRACT—DRAINAGE EASEMENT

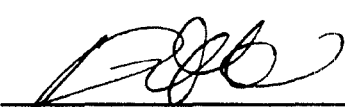
THENCE leaving said east right-of-way line of Heatherwilde Blvd and said west line of the 27.067 acres tract, crossing said 27.067 acres tract the following three (3) courses and distances:

1. S71°54'20"E a distance of 181.70 feet,
2. S18°05'40"W a distance of 25.00 feet, and
3. N71°54'20"W a distance of 186.38 feet to said **POINT OF BEGINNING** and containing 0.106 acre (4,601 square feet).

NOTES:

All bearings shown hereon are based upon the Texas Coordinate System of 1983, Central Zone. All distances shown hereon are surface distances. The Grid to Surface adjustment scale factor is 1.00011.

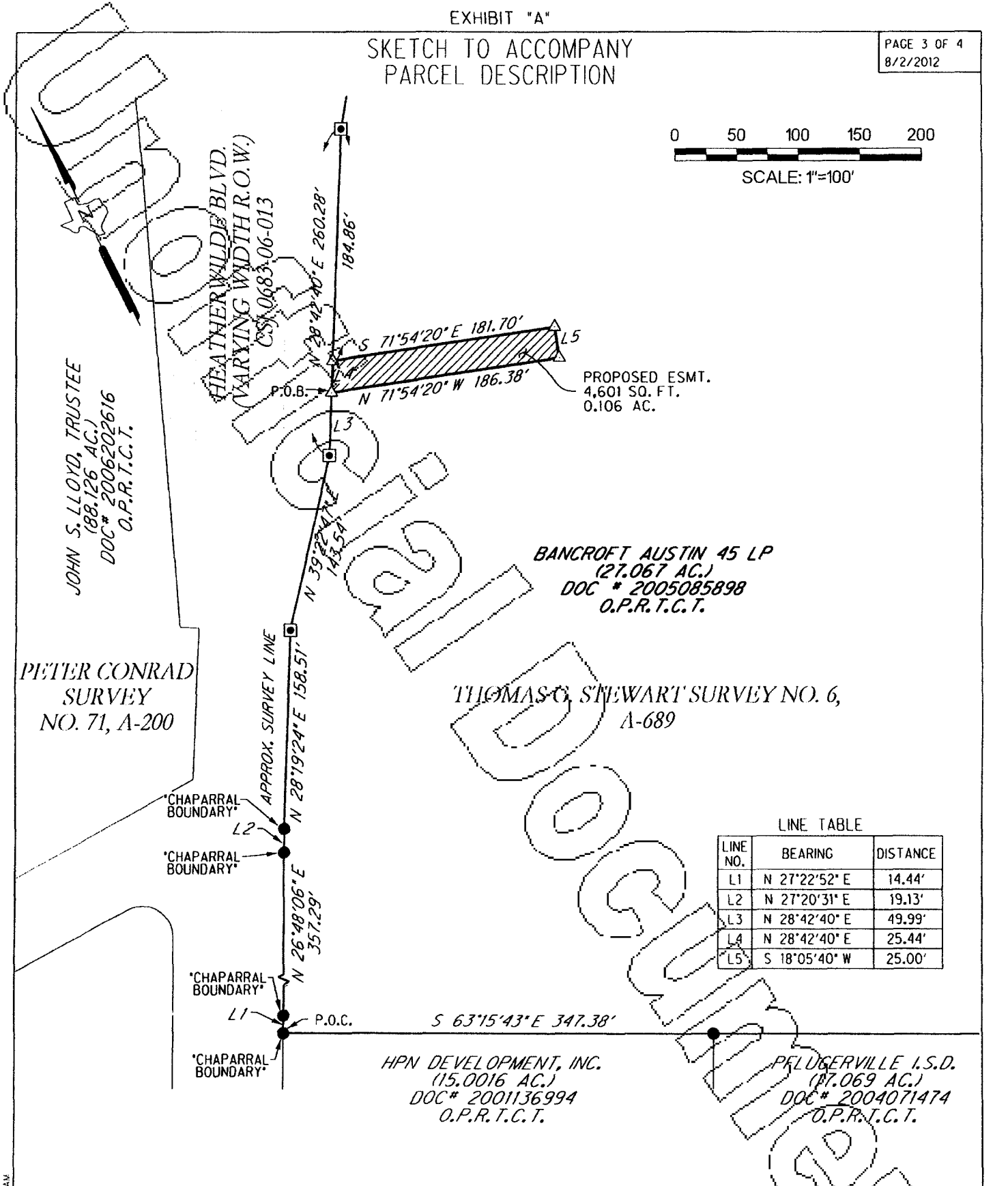
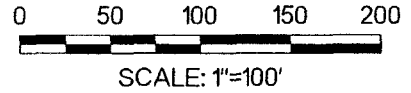
I, Dan H. Clark, a Registered Professional Land Surveyor, do hereby certify that the above description and the accompanying plat of even date herewith, are true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey on the ground under my direction and supervision.

  
\_\_\_\_\_  
Dan H. Clark, R.P.L.S.  
Registered Professional Land Surveyor  
Texas Registration No. 6011  
Halff Associates, Inc.,  
4030 W. Braker Ln, Suite 450, Austin, Texas 78759, 512-252-8184

*8/2/2012*  
Date



SKETCH TO ACCOMPANY  
PARCEL DESCRIPTION



JOHN S. LLOYD, TRUSTEE  
(88.126 AC.)  
DOC # 2006202616  
O.P.R.T.C.T.

PIETER CONRAD  
SURVEY  
NO. 71, A-200

BANCROFT AUSTIN 45 LP  
(27.067 AC.)  
DOC # 2005085898  
O.P.R.T.C.T.

THOMAS G. STEWART SURVEY NO. 6,  
A-689

\*CHAPARRAL BOUNDARY\*  
L2  
\*CHAPARRAL BOUNDARY\*  
L1  
\*CHAPARRAL BOUNDARY\*  
\*CHAPARRAL BOUNDARY\*

LINE TABLE

LINE NO.	BEARING	DISTANCE
L1	N 27°22'52" E	14.44'
L2	N 27°20'31" E	19.13'
L3	N 28°42'40" E	49.99'
L4	N 28°42'40" E	25.44'
L5	S 18°05'40" W	25.00'

HPN DEVELOPMENT, INC.  
(15.0016 AC.)  
DOC # 2001136994  
O.P.R.T.C.T.

PFLUGERVILLE I.S.D.  
(7.069 AC.)  
DOC # 2004071474  
O.P.R.T.C.T.

8/2/2012 10:35:14 AM

4030 WEST BRAKER LANE, SUITE 450  
AUSTIN, TEXAS 78759-5356  
TEL (512) 252-8184  
FAX (512) 252-8141

DRAINAGE EASEMENT  
0.106 AC  
CITY OF PFLUGERVILLE  
HEATHERWILDE BLVD.  
ROADWAY IMPROVEMENTS  
ACCOMPANYING FILE: I:\26000s\26890\Data Out\VE\EXH-BANCROFT-DR.DOC

PROJECT AVO: 26890  
COUNTY: TRAVIS  
EASEMENT AREA: 0.106 AC.  
SCALE: 1"=100'

LEGEND

- TXDOT TYPE I CONCRETE MONUMENT FOUND
- ◼ TXDOT TYPE II CONCRETE MONUMENT FOUND
- ◻ TXDOT TYPE III CONCRETE MONUMENT SET
- 1/2" IRON ROD SET WITH 1/2" ESMT CAP (UNLESS NOTED)
- IRON ROD FOUND (SIZE/CAP NOTED)
- ◐ SQUARE-HEAD BOLT FOUND
- ◑ IRON PIPE FOUND (SIZE NOTED)
- ▲ FOUND MARK (UNLESS NOTED)
- △ CALCULATED POINT
- ◊ FENCE POST
- N.T.S. NOT TO SCALE
- (XXX) RECORD INFORMATION PARENT TRACT
- [XXX] RECORD INFORMATION ADJOINED TRACT
- R.O.W. RIGHT-OF-WAY
- ESMT. EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- D.R.W.C.T. DEED RECORDS OF WILLIAMSON COUNTY, TEXAS
- P.R.W.C.T. PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS
- O.P.R.W.C.T. OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS
- O.R.W.C.T. OFFICIAL RECORDS OF WILLIAMSON COUNTY, TEXAS
- DOC.# DOCUMENT NUMBER
- D.E. DRAINAGE EASEMENT
- B.L. BUILDING SETBACK LINE
- DISTANCE NOT SHOWN TO SCALE
- PROPERTY LINE
- - - APPROXIMATE SURVEY LINE
- P.O.C. POINT OF COMMENCING
- P.O.B. POINT OF BEGINNING

SKETCH TO ACCOMPANY  
PARCEL DESCRIPTION

- 1) THE BEARINGS SHOWN HEREON ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES SHOWN HEREON ARE SURFACE DISTANCES, THE GRID TO SURFACE ADJUSTMENT SCALE FACTOR IS 1.00011.
- 2) THE ACREAGE CALCULATED AND SHOWN HEREON IS CONVERTED FROM THE SQUARE FOOTAGE SHOWN HEREON, AND IS FOR INFORMATIONAL PURPOSES ONLY.
- 3) THE RECORDED EASEMENTS, SETBACKS AND ENCUMBRANCES SHOWN HEREON ARE FROM SCHEDULE B OF THE COMMITMENT FOR TITLE INSURANCE ISSUED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY OF NO. 12048435, EFFECTIVE DATE JUNE 25, 2012, ISSUE DATE JULY 2, 2012. THE SURVEYOR HAS RELIED UPON THE ACCURACY AND COMPLETENESS OF THE INFORMATION DESCRIBED ABOVE AND HAS MADE NO INDEPENDENT INVESTIGATION OR SEARCH FOR THIS INFORMATION.

I HEREBY CERTIFY THAT THIS PLAT AND THE ACCOMPANYING DESCRIPTION OF EVEN DATE HERewith ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THE PROPERTY SHOWN HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.



*[Signature]* 8/2/2012

DAN H. CLARK  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS REGISTRATION NO. 6011

DATE

DRAINAGE EASEMENT  
0.106 AC  
CITY OF PFLUGERVILLE

HEATHERWILDE BLVD.  
ROADWAY IMPROVEMENTS

PROJECT AVO: 26890

COUNTY: TRAVIS

EASEMENT AREA: 0.106 AC

SCALE: 1"=100'

ACCOMPANYING FILE: t:26000s\26890\Data Out\VEXH-BANCROFT-DR.DOC



4030 WEST BRAKER LANE, SUITE 450  
AUSTIN, TEXAS 78759-5356  
TEL (512) 252-8184  
FAX (512) 252-8141

After Recording Please Return To:

City of Pflugerville

City Managers Office

PO Box 589

Pflugerville, TX 78691

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

Nov 19, 2012 02:35 PM

2012195951

MITCHELLM: \$56.00

Dana DeBeauvoir, County Clerk

Travis County, TEXAS

**Recorders Memorandum**-At the time of recording this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.