

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.

PUBLIC UTILITY EASEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

GRANT OF EASEMENT:

CITY OF PLFUGERVILLE (“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”), 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; and Grantor, subject to the Exceptions, to Warranty, 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.

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) “Permitted Improvements” shall mean landscaping or planting of vegetation, driveways and sidewalks; 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 Utility” shall mean water, wastewater, electricity, fiber optic, gas, television cable, and telecommunication infrastructure.

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.
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. 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.
4. *Term.* Easement shall be in perpetuity unless relinquished or abandoned by ordinance or resolution by Grantee.
5. *Reservation of Rights (Surface use only).* Grantor retains the right to surface use, Holder's right to use the Easement Property is exclusive and Grantor shall not convey to others any right to use all or part of the Easement Property. 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 with the use of the Easement Property by Holder for the Easement Purpose. Specifically, Grantor shall not construct any building, structure or obstruction on the Easement Property. 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 7, 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. 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 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. *Maintenance of Surface Easement Property/Permitted Improvements.* Notwithstanding any contrary provision, Grantor shall retain the obligation to maintain the surface of the Easement Property, including the obligation to regularly mow or cut back vegetation and to keep the surface of the Easement Property free of litter, debris, or trash.
8. *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.
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. *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.
14. *Exceptions to Warranty.* This grant is subject to any and all encumbrances and easements of record, to the extent the same are valid and enforceable.
15. *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.

16. *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.

17. *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 _____, 2021.

GRANTOR:

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 _____, 2021, 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)

EXHIBIT A

County: Travis
Parcel: 5 PUE
Project: Kelly Lane

June 26, 2020
Page 1 of 5

PROPERTY DESCRIPTION FOR PARCEL 5-PUE

DESCRIPTION OF A 0.227 ACRE (9,893 SQUARE FOOT), PARCEL OF LAND SITUATED IN THE JOHN DAVIS SURVEY NO. 13 IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 15.60 ACRE OF LAND DEPICTED IN WARRANTY DEED TO THE CITY OF PFLUGERVILLE RECORDED IN VOLUME 13196, PAGE 829 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS (R.P.R.T.C.T.) AND DESCRIBED IN CORRECTION WARRANTY DEED TO SAID CITY OF PFLUGERVILLE RECORDED IN DOCUMENT NO. 2000167100 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.), SAID 0.227 ACRE (9,893 SQUARE FOOT) PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron rod with aluminum cap stamped "ROW 4933" set, for an ell corner in the proposed southerly Right-of-Way (ROW) line of Kelly Lane (variable width ROW), being in the westerly boundary line of that called 10.00 acre tract of land described in Warranty Deed with Vendor's Lien to Ardalia E. Martin, deceased, recorded in Document No. 2005056379 of the O.P.R.T.C.T., (see Probate Document No. 2018073180 naming Frank E. Martin III as Independent Executor of Estate of Ardalia Ellen Stark Martin), same being the northeasterly corner of said 15.60 acre tract and the southeasterly corner of Block R, Lot 1, a called 20,069 square foot tract dedicated to the City of Pflugerville on Falcon Pointe – Section Eight-A, a subdivision of record in Document No. 200500062 of the O.P.R.B.C.T. for the northeasterly corner and **POINT OF BEGINNING** of the herein described parcel, and from which a 1/2" ID iron pipe found, being the northwesterly corner of said 10.00 acre tract, same being an ell corner in said existing southerly ROW line of Kelly Lane, bears N 27°24'30" E, at a distance of 5.00 feet, pass an iron rod with aluminum cap stamped "ROW 4933" set, being an ell corner in said proposed southerly ROW line, at 15.00 feet pass the northeast corner of said Lot 1, being an ell corner in said existing southerly ROW line, and continuing for a total distance of 30.00 feet;

- 1) **THENCE**, departing said Lot 1, with said westerly boundary line of the 10.00 acre tract, same being the easterly boundary line of said 15.60 acre tract, **S 27°24'30" W**, a distance of **10.00** feet to the calculated southeasterly corner of the herein described parcel;
- 2) **THENCE**, departing said 10.00 acre tract, through the interior of said 15.60 acre tract, **N 63°07'13" W**, for a distance of **994.81** feet to a calculated point in a cut-back line transitioning from said proposed southerly ROW line of Kelly Lane to the proposed easterly ROW line of Falcon Pointe Boulevard (variable width ROW), for the southwest corner of the herein described parcel, and from which an iron rod with aluminum cap stamped "ROW 4933" set, being the end of said cut-back line in said proposed easterly ROW line, bears S 75°22'06" W, at a distance of 76.14 feet;
- 3) **THENCE**, with said proposed cut-back ROW line, continuing through the interior of said 15.60 acre tract, **N 75°22'06" E**, a distance of **15.09** feet to an iron rod with aluminum cap stamped "ROW 4933" set, being in said proposed southerly ROW line, same being in the southerly boundary line of said Lot 1 and the northerly boundary line of said 15.60 acre tract, for the northwesterly corner of the herein described parcel;

County: Travis
Parcel: 5 PUE
Project: Kelly Lane

June 19, 2020
Page 2 of 5

- 4) **THENCE**, with said common boundary line, **S 63°07'13" E**, for a distance of **983.61** feet to the **POINT OF BEGINNING**, containing 0.227 acre, (9,893 square feet) of land, more or less.

This property description is accompanied by a separate parcel plat.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83.

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

That I, M. Stephen Truesdale, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct and that the property described herein was determined by a survey made on the ground under my direct supervision.

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

M. Stephen Truesdale

3 AUG 2020

M. Stephen Truesdale
Registered Professional Land Surveyor No. 4933
Licensed State Land Surveyor
Inland Geodetics, LLC
Firm Registration No: 100591-00
1504 Chisholm Trail Road, Suite 103
Round Rock, TX 78681

Date

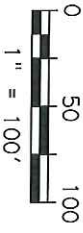


EXHIBIT " " **PLAT TO ACCOMPANY PARCEL DESCRIPTION**

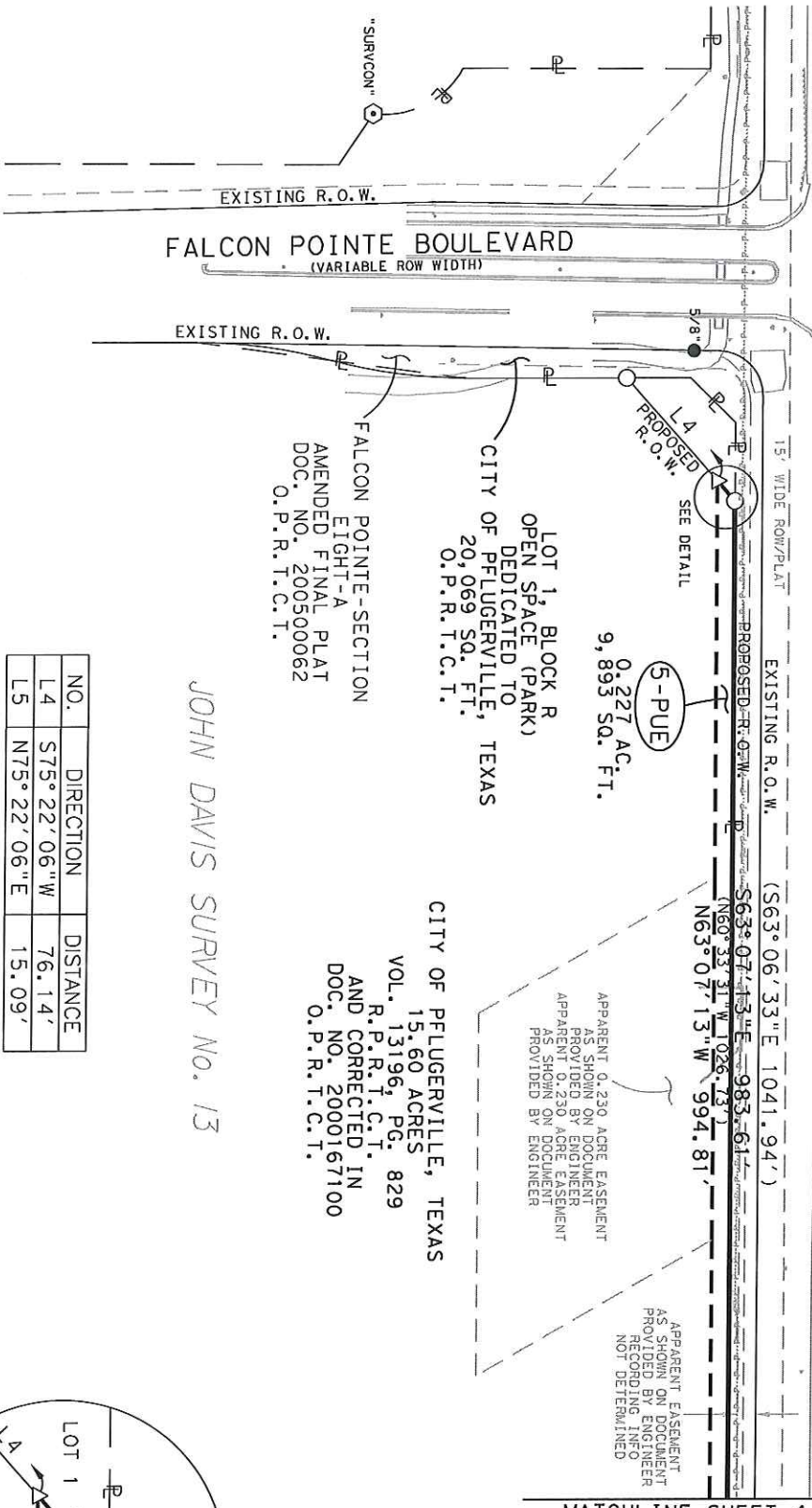
VILAMOURA
(60' ROW WIDTH)

EXISTING R.O.W. **KELLY LANE**
(ROW WIDTH VARIES)

EXISTING R.O.W. (563° 06' 33" E 1041.94')



MATCHLINE SHEET 4 OF 5



APPARENT 0.230 ACRE EASEMENT
AS SHOWN ON DOCUMENT
PROVIDED BY ENGINEER
APPARENT 0.230 ACRE EASEMENT
SHOWN ON DOCUMENT
PROVIDED BY ENGINEER

APPARENT EASEMENT
AS SHOWN ON DOCUMENT
PROVIDED BY ENGINEER
RECORDING INFO
NOT DETERMINED

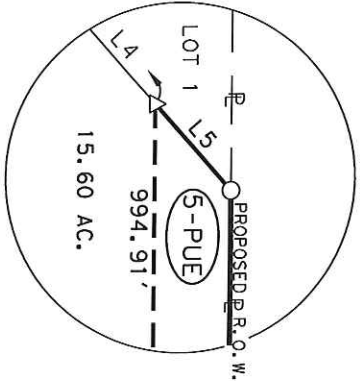
CITY OF PFLUGERVILLE, TEXAS
15.60 ACRES
VOL. 13196, PG. 829
R.P.R.T.C.T.
AND CORRECTED IN
DOC. NO. 2000167100
O.P.R.T.C.T.

**LOT 1, BLOCK R
OPEN SPACE (PARK)
DEDICATED TO
CITY OF PFLUGERVILLE,
TEXAS**
20,069 SQ. FT.
O.P.R.T.C.T.

**FALCON POINTE-SECTION
EIGHT-A
AMENDED FINAL PLAT
DOC. NO. 200500062
O.P.R.T.C.T.**

JOHN DAVIS SURVEY No. 13

NO.	DIRECTION	DISTANCE
L4	S75° 22' 06" W	76.14'
L5	N75° 22' 06" E	15.09'



**INLAND U
GEODETICS**
PROFESSIONAL LAND SURVEYORS
1504 CHISHOLM TRAIL RD, STE. 103
ROUND ROCK, TX. 78681
PH. (512) 238-1200, FAX (512) 238-1251
FIRM REGISTRATION NO. 100591-00

SCALE
1" = 100'

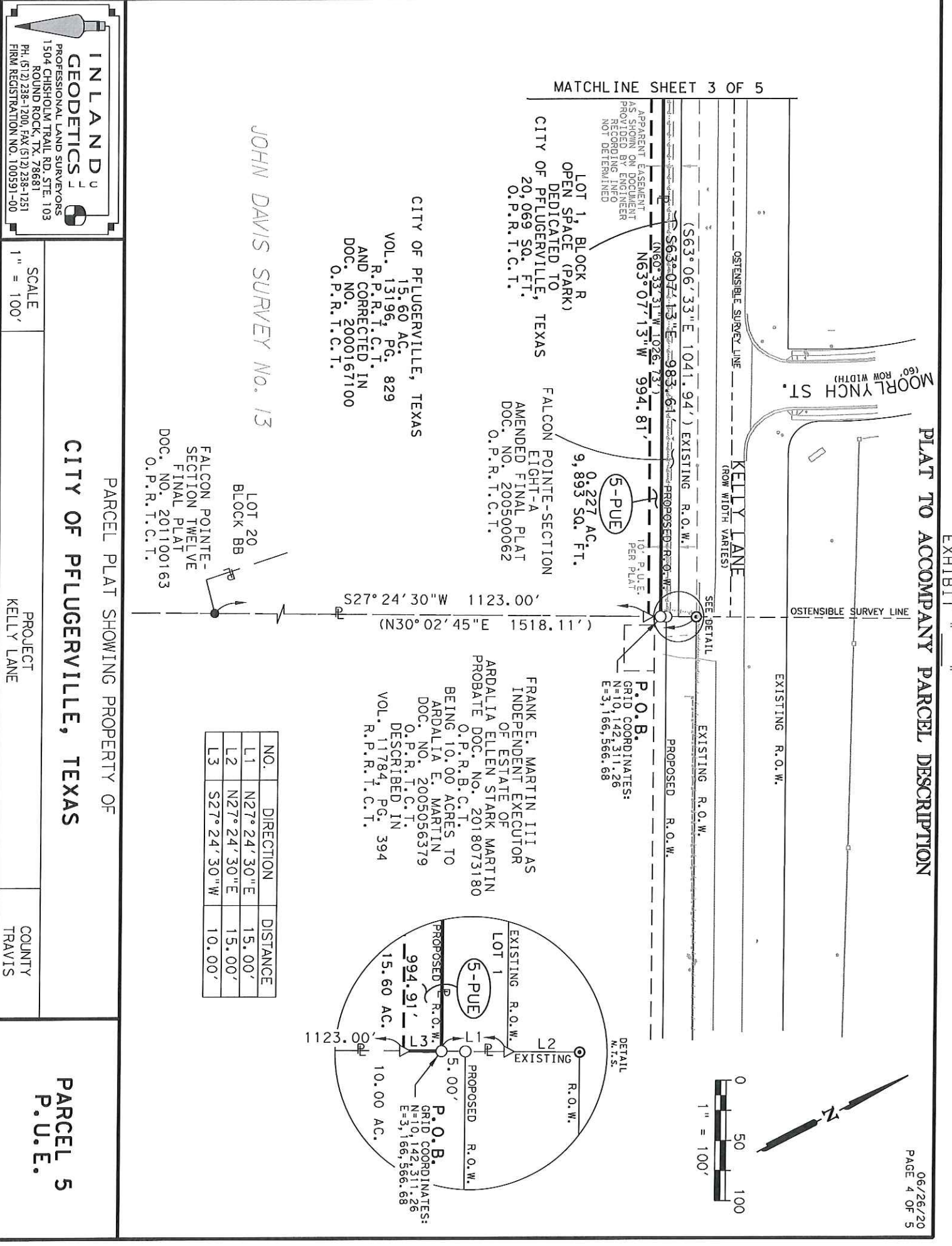
PARCEL PLAT SHOWING PROPERTY OF
CITY OF PFLUGERVILLE, TEXAS

PROJECT
KELLY LANE

COUNTY
TRAVIS

**PARCEL 5
P.U.E.**

MATCHLINE SHEET 3 OF 5



INLAND U
GEODETICS
 PROFESSIONAL LAND SURVEYORS
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SCALE
 1" = 100'

PROJECT
 KELLY LANE

COUNTY
 TRAVIS

PARCEL 5
 P.U.E.

LEGEND

⊙	1/2" IRON PIPE FOUND, UNLESS NOTED	N	DENOTES COMMON OWNERSHIP
●	1/2" IRON ROD FOUND, UNLESS NOTED	P.O.B.	POINT OF BEGINNING
○	IRON ROD W/ ALUMINUM CAP STAMPED "ROW-4933" SET (UNLESS NOTED OTHERWISE)	P.O.C.	POINT OF COMMENCING
▲	60/D NAIL FOUND	N.T.S.	NOT TO SCALE
▲	MAG NAIL SET	P.U.E.	PUBLIC UTILITY EASEMENT
△	CALCULATED POINT	D.R.T.C.T.	DEED RECORDS TRAVIS COUNTY, TEXAS
◊	CENTER LINE	O.R.T.C.T.	OFFICIAL RECORDS TRAVIS COUNTY, TEXAS
Ⓡ	PROPERTY LINE	O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS TRAVIS COUNTY, TEXAS
()	RECORD INFORMATION	P.R.T.C.T.	PLAT RECORDS TRAVIS COUNTY, TEXAS
— —	LINE BREAK		

1) All bearings shown hereon are based on grid bearing. All distances are surface distances. Coordinates are surface values based on the Texas State Plane Coordinate System, NAD 83, Central Zone.

2) This survey was performed without benefit of a Title Abstract. There may be other instruments of record that affect this tract not depicted hereon.

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND THAT THE PROPERTY SHOWN HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION.

M. Stephen Truesdale
M. STEPHEN TRUESDALE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4933
DATE *3 Aug 2020*

1504 CHISHOLM TRAIL, RD. STE. 103
ROUND ROCK, TX. 78681
FIRM REGISTRATION NO. 100591-00
ROUND ROCK, TEXAS 78681



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SCALE
1" = 100'

PARCEL PLAT SHOWING PROPERTY OF
CITY OF PFLUGERVILLE, TEXAS

PROJECT
KELLY LANE

COUNTY
TRAVIS

PARCEL 5
P.U.E.