

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:**

**CORNERSTONE AT KELLY LANE, LLC**, a Texas limited liability company (“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”), an easement and right-of-way (“Easement”) upon and across the parcels of real property of Grantor which are more particularly described on Exhibits “A-B”, attached hereto and incorporated herein by reference (collectively, “Easement Tract”).

TO HAVE AND TO HOLD the same perpetually 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, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of a drainage channel and related drainage facilities, and related appurtenances, or making connections thereto.

**DURATION OF EASEMENT:**

The Easement shall terminate upon the occurrence of one of the following, whichever occurs first: (1) Grantee's approval and recordation of the tract burdened by the Temporary Easement; or (2) 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.

**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 herein granted. 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:**

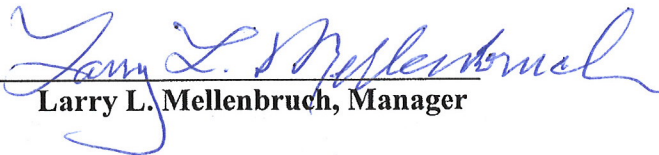
This Easement and the rights of Grantee hereunder may be assigned by Grantee so long as the assignee utilizes the Easement as contemplated herein.

Signature page to follow:

In witness whereof, this instrument is executed this \_\_\_\_ day of \_\_\_\_\_, 2013.

**GRANTOR:**

**CORNERSTONE AT KELLY LANE, LLC.  
LARRY L. MELLENBRUCH  
P. O. BOX 1199  
BASTROP, TEXAS 78602  
TRAVIS COUNTY**

By:   
**Larry L. Mellenbruch, Manager**

**AGREED AND ACCEPTED:**

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

By: \_\_\_\_\_  
Brandon Wade, City Manager

**ATTEST:**

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

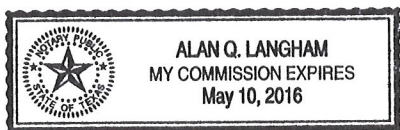
ACKNOWLEDGEMENT

STATE OF TEXAS

§  
§  
§

COUNTY OF TRAVIS

This instrument was acknowledged before me on April 1, 2013, by LARRY L. MELLENBRUCH, Manager of Cornerstone at Kelly Lane, LLC, a Texas limited liability company, on behalf of said company.



*Alan Q. Langham*

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS

§  
§  
§

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2013, by Brandon Wade, City Manager of the City of Pflugerville, Texas, a Texas home-rule municipality, no behalf of said municipality.

[seal]

\_\_\_\_\_  
Notary Public, State of Texas

After recording, Please Return To:  
City of Pflugerville  
Attn: Brandon E. Wade, City Manager  
P. O. Box 589  
Pflugerville, Texas 78691

**EXHIBIT A**

**PROPERTY DESCRIPTION**

DESCRIPTION OF A 1.626 ACRE (70,817 SQUARE FOOT), TRACT OF LAND SITUATED IN THE JOHN DAVIS SURVEY NO. 13, ABSTRACT NO. 231, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT 7.196 ACRE TRACT OF LAND CONVEYED TO CORNERSTONE AT KELLY LANE, LLC (AS 7.51 ACRES) BY INSTRUMENT RECORDED IN DOCUMENT NO. 2012190944 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND CORRECTED IN DOCUMENT NO. 2013042898 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS, SAID 1.626 ACRE (70,817 SQUARE FOOT) TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a calculated point in the southerly boundary line of that 0.143 acre tract of land conveyed to the City of Pflugerville, Texas by instrument recorded in Document No. 2010196140 of the Official Public Records of Travis County, Texas, being the northerly boundary line of said 7.196 acre tract, for the northeasterly corner of the herein described tract and from which a 1/2" iron rod with cap stamped "All County" found, being the southeasterly corner of said 0.143 acre tract, also being the northwesterly corner of the remainder of that called 12.257 acre tract of land conveyed to Pflugerville Independent School District (P.I.S.D.) by instrument recorded in Volume 13151, Page 2149, of the Real Property Records of Travis County, Texas, and the northeast corner of said 7.196 acre tract, bears S 62°31'26" E at a distance of 49.18 feet;

**THENCE**, departing the southerly boundary line of said 0.143 acre tract, through the interior of said 7.196 acre tract, along the easterly boundary line of the herein described tract, the following three (3) courses:

- 1) **S 27°44'19" W** for a distance of **116.87** feet to a calculated ell corner;
- 2) **N 62°13'33" W** for a distance of **55.95** feet to a calculated ell corner;
- 3) **S 27°36'13" W** for a distance of **485.13** feet to a the calculated southeasterly corner of the herein described tract in the easterly boundary line of that called 5.920 acre tract (Tract 1, Exhibit A) of land conveyed to Cornerstone at Kelly Lane, LLC by instrument recorded in Document No. 2013042897 of the Official Public Records of Travis County, Texas, same being in the northerly right-of-way line of Autumn Slate Drive (50' right-of-way width) on "Final Plat Cornerstone at Kelly Lane Colorado Sand right-of-way Dedication" (recordation pending), and from which a 5/8" iron rod with aluminum cap stamped "C.O.P. R.O.W." set, being an angle point in the northerly right-of-way line of said Autumn Slate Drive, same being in the easterly boundary line of said 5.920 acre tract, bears S 62°20'22" E for a distance of 25.37 feet;
- 4) **THENCE**, with said northerly right-of-way line, same being the easterly boundary line of said 5.920 acre tract, along the southerly boundary line of the herein described tract, **N 62°20'22" W** for a distance of **40.00** feet to the calculated southwesterly corner of the herein described tract, and from which a 5/8" iron rod with aluminum cap stamped "C.O.P. R.O.W." set, being a point of curvature in the northerly right-of-way line of said Autumn Slate Drive, same being in the easterly boundary line of said 5.920 acre tract, bears N 62°20'22" W for a distance of 114.59 feet;

**THENCE**, departing said northerly right-of-way line, continuing through the interior of said 7.196 acre tract, along a portion of the westerly boundary line of the herein described tract, the following two (2) courses:

- 5) **N 27°36'13" E** for a distance of **182.37** feet to a calculated point for a point of curvature of a non tangent curve;
- 6) Along said curve to the left, having a delta angle of **08°40'47"**, a radius of **3215.00** feet, an arc length of **487.03** feet, and a chord which bears **N 58°24'25" W** for a distance of **486.57** feet to a calculated point in the curving easterly right-of-way line of Colorado Sand Drive (90' right-of-way width) on said "Final Plat Cornerstone at Kelly Lane Colorado Sand right-of-way Dedication" (recordation pending), same being the easterly boundary line of said 5.920 acre tract, and from which a 5/8" iron rod with aluminum cap stamped "C.O.P. R.O.W." set, being a point of curvature of said Colorado Sand Drive, same being the easterly boundary line of said 5.920 acre tract, bears along a curve to the right, having a delta angle of **17°59'13"**, a radius of **545.00** feet, an arc length of **171.09** feet, and a chord which bears **S 50°10'17" W** for a distance of **170.39** feet;

- 7) **THENCE**, with said easterly right-of-way line, continuing with said westerly line of the herein described tract, along a curve to the left, having a delta angle of  $05^{\circ}21'35''$ , a radius of **545.00** feet, an arc length of **50.98** feet, and a chord which bears **N  $38^{\circ}29'53''$  E** for a distance of **50.96** feet to a calculated point, and from which a 5/8" iron rod with aluminum cap stamped "C.O.P. R.O.W." set, being in the southerly boundary line of Lot 1, Block B, of the Final Plat Cornerstone at Kelly Lane Phase I by instrument recorded in Document No. 200900101 of the Official Public Records of Travis County, Texas, and of the Plat Records of Travis County, Texas, same being in the southerly boundary line of said Lot 1, Block B as conveyed to CVS Pharmacy by instrument recorded in Document No. 2012190942 of the Official Public Records of Travis County, Texas, also being the most southerly northwest corner of said 7.196 acre tract, bears along a curve to the left, having a delta angle of  $04^{\circ}47'51''$ , a radius of 545.00 feet, an arc length of 45.63 feet, and a chord which bears **N  $33^{\circ}25'10''$  E** for a distance of 45.62 feet;

**THENCE**, departing said easterly right-of-way line, continuing through the interior of said 7.196 acre tract, along the continuation of the said westerly line of the herein described tract, the following four (4) courses:

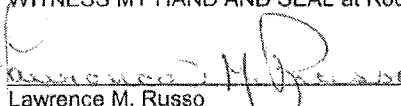
- 8) Along said curve to the right, having a delta angle of  $08^{\circ}22'36''$ , a radius of **3265.00** feet, an arc length of **477.35** feet, and a chord, which bears **S  $58^{\circ}23'02''$  E** for a distance of **476.92** feet to a calculated point of non tangency;
- 9) **N  $27^{\circ}36'13''$  E** for a distance of **252.31** feet to a calculated ell corner;
- 10) **N  $62^{\circ}13'33''$  W** for a distance of **139.05** feet to a to a calculated ell corner;
- 11) **N  $27^{\circ}44'19''$  E** for a distance of **115.64** feet to the calculated northwesterly corner of the herein described tract, being in the southerly boundary line of said 0.143 acre tract, same being in the northerly boundary line of said 7.196 acre tract;
- 12) **THENCE**, with the common boundary line of said 0.143 acre tract and said 7.196 acre tract, along the northerly boundary line of the herein described tract, **S  $62^{\circ}31'26''$  E** for a distance of **235.00** feet to the **POINT OF BEGINNING**, containing 1.626 acres (70,817 square feet) of land, more or less.

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

This property description is accompanied by a separate exhibit.

That I, Lawrence M. Russo, 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.

  
Lawrence M. Russo  
Registered Professional Land Surveyor No. 5050  
Inland Geodetics, L.P.  
Firm Registration No. 100591-00  
1504 Chisholm Trail Road, Suite 103  
Round Rock, TX 78681  
512-238-1200

03/13/2013  
Date

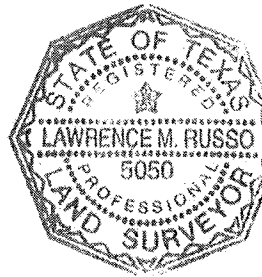
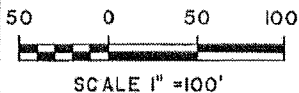


EXHIBIT A

PLAT TO ACCOMPANY DESCRIPTION

**COLORADO SAND DRIVE**  
(90' R.O.W. WIDTH)

**COLORADO SAND DRIVE**  
(80' R.O.W.)



FORWARD  
ACCESS EASEMENT  
0.04 ACRES  
DOC. NO. 200804417  
EXHIBIT A  
O.P.R.T.C.T.

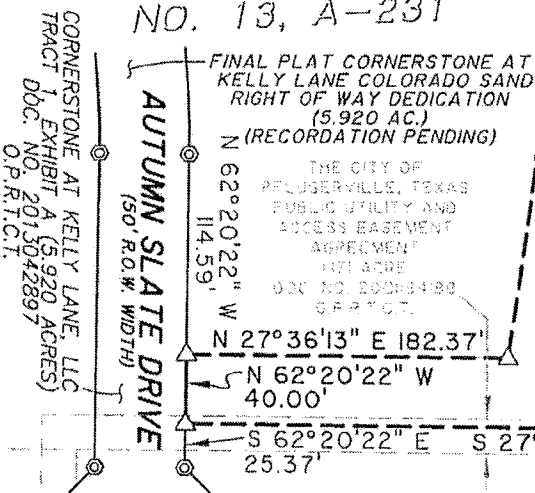
FINAL PLAT CORNERSTONE AT  
KELLY LANE COLORADO SAND  
RIGHT OF WAY DEDICATION  
(5.920 AC.)  
(RECORDATION PENDING)

CORNERSTONE AT  
KELLY LANE, LLC  
TRACT 1, EXHIBIT A  
(5.920 ACRES)  
DOC. NO. 2013042897  
O.P.R.T.C.T.

LEGEND	
●	IRON ROD WITH CAP FOUND
⊙	5/8" IRON ROD W/ ALUMINUM CAP STAMPED "COP-ROW" SET
△	CALCULATED POINT
⊔	PROPERTY LINE
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS TRAVIS COUNTY, TEXAS
R.P.R.T.C.T.	REAL PROPERTY RECORDS TRAVIS COUNTY, TEXAS

CURVE TABLE					
NO.	DELTA	RADIUS	ARC	CHORD	BEARING
C1	08°40'47"	3215.00'	487.03'	486.57'	N 58°24'25" W
C2	17°59'13"	545.00'	171.09'	170.39'	S 50°10'17" W
C3	05°21'35"	545.00'	50.98'	50.96'	N 38°29'53" E
C4	04°47'51"	545.00'	45.63'	45.62'	N 33°25'10" E
C5	08°22'36"	3265.00'	477.35'	476.92'	S 58°23'02" E

JOHN DAVIS SURVEY  
NO. 13, A-231

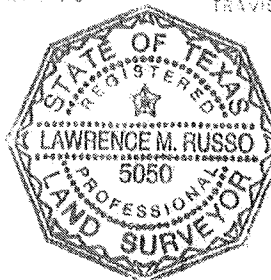


NOTES:  
1) BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, CENTRAL ZONE. DISTANCES ARE SURFACE DISTANCES.  
2) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF AN UPDATED TITLE ABSTRACT. THERE MAY BE OTHER INSTRUMENTS OF RECORD THAT AFFECT THIS TRACT NOT DEPICTED HEREON.

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

*Lawrence M. Russo* 08/13/2013

LAWRENCE M. RUSSO DATE  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5050  
STATE OF TEXAS  
INLAND GEODETICS, LP  
FIRM REGISTRATION NO. 100591-00  
1504 CHISHOLM TRAIL ROAD, SUITE 103  
ROUND ROCK, TX 78681



PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT (P.I.S.D.) (REMAINDER OF THAT 12.257 AC.) VOL. 13151, PG. 2149 R.P.R.T.C.T.

**INLAND GEODETICS**  
PROFESSIONAL LAND SURVEYORS  
1504 CHISHOLM TRAIL RD. STE. 103  
ROUND ROCK, TX. 78681  
PH. (512) 238-1200, FAX (512) 238-1251

**EASEMENT**  
1.626 ACRE  
70,817 SQUARE FEET

EXHIBIT B

PROPERTY DESCRIPTION

DESCRIPTION OF A 0.007 ACRE (298 SQUARE FOOT), TRACT OF LAND SITUATED IN THE JOHN DAVIS SURVEY NO. 13, ABSTRACT NO. 231, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 3.114 ACRE TRACT (TRACT 2, EXHIBIT B) OF LAND CONVEYED TO CORNERSTONE AT KELLY LANE, LLC BY INSTRUMENT RECORDED IN DOCUMENT NO. 2013042897 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.007 ACRE (298 SQUARE FOOT) TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 5/8" iron rod with aluminum cap stamped "C.O.P. R.O.W." set as a Point of Curvature in the easterly boundary line of said 3.114 acre tract, same being in the westerly boundary line of that called 5.920 acre tract (Tract 1, Exhibit A, said Document No. 2013042897) conveyed to said Cornerstone at Kelly Lane, LLC, also being in the westerly Right-of-Way line of Colorado Sand Drive (90' Right-of-Way width) on "Final Plat Cornerstone at Kelly Lane Colorado Sand Right of Way Dedication" (recordation pending), and being a Point of Curvature in the easterly boundary line of the herein described tract, and from which a 5/8" iron rod with aluminum cap stamped "C.O.P. R.O.W." set, being a point of intersection of said Colorado Sand Drive and Copper Mine Drive (right-of-way width varies) bears S 04°54'26" W at a distance of 209.36 feet;

- 1) **THENCE**, with said westerly right-of-way line, same being the easterly boundary line of said 3.114 acre tract, also being the westerly boundary line of the said 5.920 acre tract, S 04°54'26" W for a distance of 12.96 feet to a calculated angle point, for the southeasterly corner of the herein described tract;

**THENCE**, departing said westerly right-of-way line, through the interior of said 3.114 acre tract, the following three (3) courses:

- 2) **N 84°52'36" W** for a distance of 10.00 feet to the calculated southwesterly corner of the herein described tract;
- 3) **N 05°19'51" E** for a distance of 30.00 feet to the calculated northwesterly corner of the herein described;
- 4) **S 84°52'36" E** for a distance of 10.04 feet to a calculated point, being in said westerly right-of-way line, same being the easterly boundary line of said 3.114 acre tract, for the northeasterly corner of the herein described,
- 5) **THENCE**, with said westerly right-of-way line, same being the easterly boundary line of said 3.114 acre tract along said curve to the left, having a delta angle of 01°47'30", a radius of 545.00 feet, an arc length of 17.04 feet, and a chord which bears S 05°48'11" W for a distance of 17.04 feet to the **POINT OF BEGINNING**, containing 0.007 acres (298 square feet) of land, more or less.

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

This property description is accompanied by a separate exhibit.

That I, Lawrence M. Russo, 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.

*Lawrence M. Russo*  
 \_\_\_\_\_  
 Lawrence M. Russo  
 Registered Professional Land Surveyor No. 5050  
 Inland Geodetics, L.P.  
 Firm Registration No. 100591-00  
 1504 Chisholm Trail Road, Suite 103  
 Round Rock, TX 78681  
 512-238-1200

Date

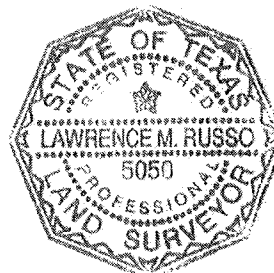
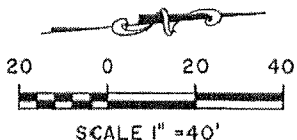




EXHIBIT B

PLAT TO ACCOMPANY DESCRIPTION



LEGEND	
⊙	5/8" IRON ROD W/ ALUMINUM CAP STAMPED "COP-ROW" SET
△	CALCULATED POINT
⊔	PROPERTY LINE
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS TRAVIS COUNTY, TEXAS
R.P.R.T.C.T.	REAL PROPERTY RECORDS TRAVIS COUNTY, TEXAS
D.R.T.C.T.	DEED RECORDS TRAVIS COUNTY, TEXAS

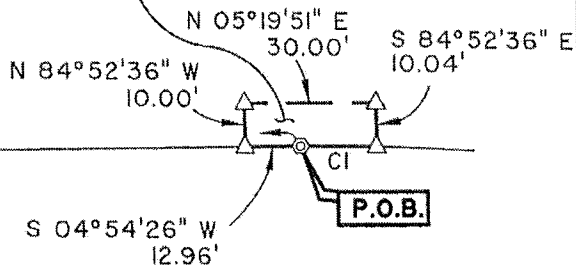
CURVE TABLE					
NO.	DELTA	RADIUS	ARC	CHORD	BEARING
CI	01°47'30"	545.00'	17.04'	17.04'	S 05°48'11" W

COPPER MINE DRIVE  
(R.O.W. WIDTH VARIES)

JOHN DAVIS SURVEY  
NO. 13, A-231

CORNERSTONE AT  
KELLY LANE, LLC  
TRACT 2, EXHIBIT B  
(3.114 ACRES)  
DOC. NO. 2013042897  
O.P.R.T.C.T.

EASEMENT  
0.007 ACRE  
298 SQ. FT.



CORNERSTONE AT  
KELLY LANE, LLC  
TRACT 1, EXHIBIT A  
(5.920 ACRES)  
DOC. NO. 2013042897  
O.P.R.T.C.T.

COLORADO SAND DRIVE  
(90' R.O.W. WIDTH)

FINAL PLAT CORNERSTONE AT  
KELLY LANE COLORADO SAND  
RIGHT OF WAY DEDICATION  
(5.920 AC.)  
(RECORDATION PENDING)

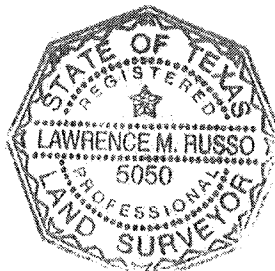
NOTES:

- 1) BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, CENTRAL ZONE. DISTANCES ARE SURFACE DISTANCES.
- 2) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF AN UPDATED 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 HEREON WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION.

*Lawrence M. Russo* 03/13/2013

LAWRENCE M. RUSSO DATE  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5050  
STATE OF TEXAS  
INLAND GEODETICS, LP  
FIRM REGISTRATION NO. 100591-00  
1504 CHISHOLM TRAIL ROAD, SUITE 103  
ROUND ROCK, TX 78681



**INLAND GEODETICS**  
PROFESSIONAL LAND SURVEYORS  
1504 CHISHOLM TRAIL RD. STE. 103  
ROUND ROCK, TX. 78681  
PH. (512) 238-1200, FAX (512) 238-1251

EASEMENT  
0.007 ACRE  
298 SQUARE FEET