

AGREEMENT BETWEEN THE PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION, AND THE CITY OF PFLUGERVILLE, TEXAS

WHEREAS, the City of Pflugerville, Texas, A Texas home rule municipality (hereinafter referred to as the “City”), and the Pflugerville Community Development Corporation (hereinafter referred to as the “Corporation”) a Texas non-profit corporation formed under the Texas Development Corporation Act Section, Texas Local Government Code Chapters 501, 502 and 505 (hereinafter referred to as the “Act”) have joint and mutual interests in the economic development of the City of Pflugerville; and

WHEREAS, in August 2001 the citizens of Pflugerville voted for the adoption of a 4B Sales and Use Tax, in the amount of one-half cent, to be used for the purposes permitted by the Act; and

WHEREAS, pursuant to the Act, the City adopted articles of incorporation, creating the Corporation and collects the Sales and Use Tax; and

WHEREAS, the City collects the tax and allocates according to the budget authorized by the City Council; and

WHEREAS, Section 501.055(a) of the Texas Local Government Code defines an economic development corporation as a constituted authority and instrumentality that may act on behalf of the City for the specific public purpose authorized by the City;

WHEREAS, the statutory purpose of an economic development corporation is to carry out the economic development efforts authorized by state law and the City; and

WHEREAS, the City has the opportunity to purchase property described in Exhibit “A”, attached hereto, currently owned by the Texas Department of Transportation (“TxDot”) which property is adjacent to the economic development business park owned and operated by the Corporation; and

WHEREAS, acquisition of the Property by the City and conveyance of same by the City to the Corporation serves the public purpose of economic development, allows an expansion of the Corporation business park and can provide access to and from the business park and Highway 130; and

WHEREAS, the Corporation has budgeted the purchase price and can contractually provide the funds to the City necessary to acquire the Property;

WHEREAS, Section 253.011, Texas Local Gov’t Code, authorizes a City to convey property to a non-profit corporation for a public use without complying with Section 272.001(a) of the Texas Local Gov’t Code; and

WHEREAS, entering into this agreement builds cooperation between the City and the Corporation, eliminates duplication, promotes economy, expands opportunities for economic development projects within the city and will enhance the operational viability of the business park and the value of the property located within the business park; and

WHEREAS, the City has determined that it would be a direct benefit to the City of Pflugerville and enhance the economic development of the community for the City to purchase the Property and convey same to the Corporation; and

WHEREAS, the Corporation has determined that acquisition of the Property by the Corporation and providing the City with the purchase price for the Property to be used for economic development purposes is an "Authorized Project" as that term is defined in Chapter 505 of the Texas Local Government Code, as amended; and

WHEREAS, the PCDC Board finds that the payment to the City for the Property described herein is paid as permissible "Project Costs" as that term is defined in Chapters 501 and 505 of the Texas Local Government Code, as amended; and

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. City Obligations

The City agrees to:

- (a) Purchase the Property described in Exhibit "A", attached hereto, from TxDot according to the terms and conditions set out in Exhibit "B", attached hereto (the "TxDot Conditions"); conditioned on receipt from the Corporation of the sums necessary to purchase the Property and any associated closing costs per the TxDot Conditions.
- (b) Upon closing on the Property from TxDot, convey the Property to the Corporation for \$1.00.

Section 2. The Corporation Obligations

In consideration of the City's obligations and services rendered, the Corporation agrees to:

- (a) On or before the City's closing date with TxDot, Corporation shall pay to City the TxDot required purchase price of Five Million Eight Hundred Nine Thousand Six Hundred Twenty Two Dollars and .98 s (\$5,809,622.98) together with any closing costs or additional funds required by the TxDot Conditions. Corporation shall reimburse City for any expenses incurred by the City with regard to the conveyance.
- (b) Corporation shall use the Property for the public purpose of economic development and consistent with the requirements set out in Texas Local Government Code Chapters 501 and 502 and Section 253.011 of the Texas Local Gov't Code.

Section 3. Term

This Agreement shall be effective on the date that the last party approves and executes same and will terminate on the date that the Property is conveyed to the Corporation. All payment

obligations within this agreement survive termination if not paid in full prior to the termination date.

Section 4. Conditions

The Parties agree that the conveyance of the Property from the City to the Corporation shall be subject to the conditions set out in Section 253.011 of the Texas Local Gov't Code as well as any terms and conditions that may be imposed by TxDot. Provided however, that encompassed within the purpose of using the Property for economic development the parties expressly agree that such purposes include the right of the Corporation to sell the property for economic development purposes and use the Property for any purposes authorized by Chapter 501, 502 or 505 of the Texas Local Gov't Code. This section shall survive termination of this Agreement.

Section 4. Notices

Any notices required or desirable hereunder shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States Postal Service, postage prepaid, return receipt requested, addressed as follows:

Notice to the City:

City of Pflugerville
Attention: City Manager
100 East Main Street, Suite 300
P.O. Box 589
Pflugerville, TX 78660/78691

Notice to the Corporation:

Pflugerville Community Development Corporation
Attention: Executive Director
3801 Helios Way, Ste. 130
Pflugerville, TX 78660

Section 5. Miscellaneous Provisions

- (a) Neither party may assign this Agreement, or any interest in this Agreement, without the other party's prior written consent.
- (b) All remedies permitted hereunder are cumulative, not alternative. Waiver of any default herein is not a waiver of the subsequent default.
- (c) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns where permitted by this Agreement.

- (d) This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.
- (e) This Agreement embodies the entire agreement between the parties. It shall not be modified or terminated except as provided herein or by other written agreement. If any provision herein is invalid, it shall be considered deleted here from, and shall not invalidate the remaining provisions. This agreement restates and supersedes any current existing agreements in their entirety.
- (f) The provisions of the Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.
- (g) To the fullest extent permitted by applicable law, the Corporation shall indemnify, protect, defend and hold harmless the City and each of its respective agents and employees from and against all liabilities, claims, damages, fines, penalties, losses, liens, causes of action, costs, and expenses (including court costs, attorneys' fees and costs of investigation) of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (in whole or in part), (1) the services or work performed hereunder, (2) this Agreement, or (3) any act or omission of the City and each of its respective agents and employees, anyone directly or indirectly employed by the City, or anyone that the Corporation controls or exercises control over. City shall promptly advise the Corporation in writing of any action, administrative or legal proceeding or investigation as to which this indemnification may apply, and the Corporation, at its expense, shall reimburse the City on demand any and all costs as described herein expended in connection with such matter. This indemnification shall not be limited to damages, compensation or benefits payable under insurance policies, workers' compensation acts, disability acts or other employees' benefit acts.
- (h) This Agreement shall be construed in accordance with the laws of the State of Texas and venue for all purposes hereunder shall be in Travis County, Texas.

IN WITNESS WHEREOF, the Undersigned Corporation and City have executed this agreement by and through their duly authorized representatives effective as of the date signed below.

CITY OF PFLUGERVILLE, TEXAS

ATTEST:

By: _____
Victor Gonzales, Mayor

Trista Evans, City Secretary

Date: _____

**PFLUGERVILLE COMMUNITY
DEVELOPMENT CORPORATION, TEXAS**

ATTEST:

, PCDC Secretary

By: _____
Dennis Spencer, PCDC President

Date: _____

EXHIBIT "A"
PROPERTY DESCRIPTION

BEING a 17.7034 acre (771,161 square feet) tract of land located in Travis County, Texas, situated in the William Caldwell Survey Number 66, Abstract Number 162 described by Deed executed August 20, 2004 as Parcel 169-MNT, called 17.693 acres of land, more or less, Grantor being Willie Mae Burns, Grantee being State of Texas, recorded in Instrument Number 2004188029, Official Public Records, Travis County, Texas (O.P.R.T.C.T.), said 17.7034 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod found in the south line of a tract of land described by Plat submitted December 2, 2013 as Final Plat, Re-Plat of Lot 3C – Renewable Energy Park, lying within the city of Pflugerville, Travis County, Texas, recorded in Instrument Number 201300274, Plat Records, Travis County, Texas (P.R.T.C.T.) and the north line of a tract of land described by General Warranty Deed executed February 26, 1998 as Tract A to Travis County, Texas, recorded in Volume 13131, Page 3751, Real Property Records, Travis County, Texas (R.P.R.T.C.T.), having Texas Coordinate System of 1983, Central Zone (4203) surface coordinates of North 10,126,098.515, East 3,160,873.517, adjusted using a surface adjustment factor of 1.00010;

THENCE South 62° 05' 24" East along the south line of said Plat and the north line of said Tract A, a distance of 956.43 feet to a 5/8 inch iron rod with cap stamped TranSystems set being the northeast corner of said Tract A and the **POINT OF BEGINNING** of said Parcel 169-MNT, having Texas Coordinate System of 1983, Central Zone (4203) surface coordinates of North 10,125,650.826, East 3,161,718.699, adjusted using a surface adjustment factor of 1.00010;

- 1) **THENCE** South 62° 05' 24" East along the north line of said Parcel 169-MNT and the south line of said Plat, passing at a distance of 1,002.53 feet to a point being the southeast corner of said Plat and the southwest corner of a tract of land described by Deed executed on November 3, 2003 as Parcel 167A to State of Texas, recorded in Instrument Number 2004044316, O.P.R.T.C.T., in the existing west right-of-way line of State Highway (SH) 130, a variable width right-of-way, from which a 5/8 inch iron rod with TxDOT aluminum cap found bears North 26° 59' 48" East, a distance of 0.28 feet, in all a distance of 1,030.59 feet to a 1/2 inch iron rod found being the southeast corner of said Parcel 167A and the northwest corner of a tract of land described by Deed executed August 20, 2004 as Parcel 169 to State of Texas, recorded in Instrument Number 2004188028, O.P.R.T.C.T.;
- 2) **THENCE** South 62° 57' 38" East along the north line of said Parcel 169-MNT, the south line of said Parcel 169 and the existing west right-of-way line of said SH 130, a distance of 222.90 feet to a point for a corner being the northeast corner of said Parcel 169-MNT and an entrant corner of said Parcel 169, from which a bent 5/8 inch iron rod with TxDOT aluminum cap found bears South 16° 15' 03" West, a distance of 0.55 feet;

- 3) **THENCE** South $19^{\circ} 40' 06''$ East along the east line of said Parcel 169-MNT, the west line of said Parcel 169 and the existing west right-of-way line of said SH130, a distance of 70.30 feet to a 5/8 inch iron rod with cap stamped TranSystems set;
- 4) **THENCE** South $13^{\circ} 55' 01''$ East continuing along the east line of said Parcel 169-MNT, the west line of said Parcel 169 and the existing west right-of-way line of said SH 130, a distance of 634.51 feet to a 5/8 inch iron rod with TxDOT aluminum cap found being the southeast corner of said Parcel 169-MNT, the southwest corner of said Parcel 169, the northwest corner of a tract of land described by Judgement Cause No. 2496 signed on August 15, 2011 as Parcel 171 to State of Texas as condemnor, recorded in Instrument Number 2011120383, O.P.R.T.C.T. and the northeast corner of a tract of land described by Special Warranty Deed executed August 17, 2013 to 15218 Cameron, L.L.C., recorded in Instrument Number 2013156498, O.P.R.T.C.T., from which a 5/8 inch iron rod with TxDOT aluminum cap found bears South $13^{\circ} 55' 41''$ East, a distance of 890.10 feet;
- 5) **THENCE** North $61^{\circ} 59' 33''$ West along the south line of said Parcel 169-MNT and the north line of said 15218 Cameron tract, a distance of 1727.65 feet to a 4 inch galvanized steel fence post being the southwest corner of said Parcel 169-MNT and the northwest corner of said 15218 Cameron tract in the east line of said Tract A;
- 6) **THENCE** North $27^{\circ} 49' 19''$ East along the west line of said Parcel 169-MNT and the east line of said Tract A, a distance of 513.84 feet to the **POINT OF BEGINNING**, containing 17.7034 acres (771,161 square feet) of land, more or less.

Notes:

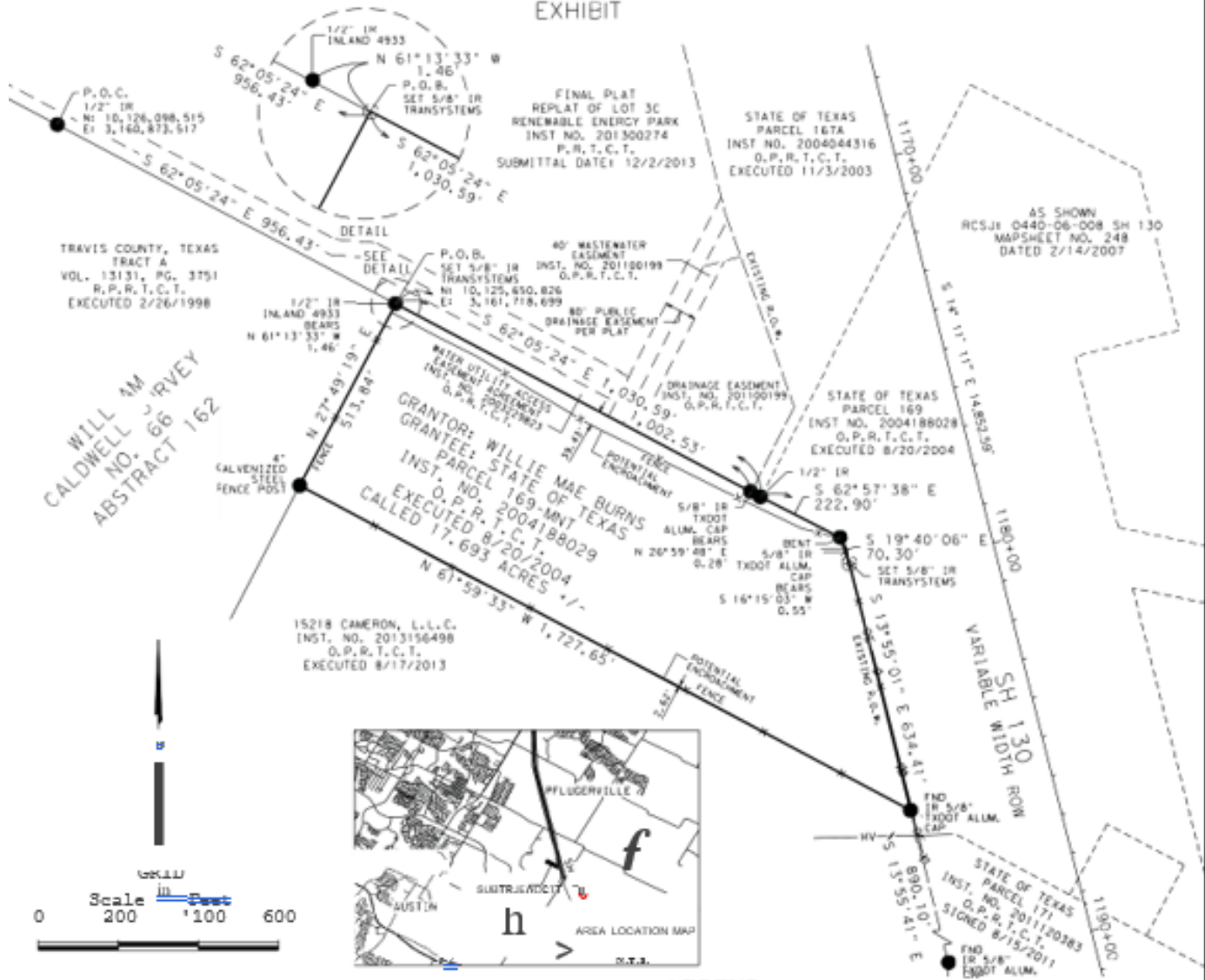
Basis of bearing is the Texas Coordinate System of 1983 (NA 2011), Central Zone (4203), with all coordinates and distances shown being in U.S. Survey Feet and adjusted to surface by TxDOT Travis County surface adjustment factor of 1.00010, Origin of 0,0 (Grid x 1.00010 = Surface).

This property description was prepared in conjunction with a parcel plat of even date.

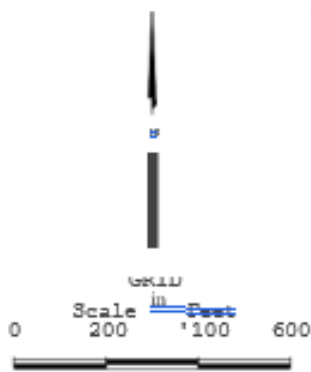
This property description is accompanied by a separate plat.

Surveyed on the ground in October 2021.

EXHIBIT



WILLIAM CALDWELL JR SURVEY NO. 66 ABSTRACT 162



LEGEND

- LEGAL DESCRIPTION TO ACCOMPANY THIS SURVEY SKETCH
- BASIS OF BEARING IS THE TEXAS COORDINATE SYSTEM OF 1983 (NAD 83), CENTRAL ZONE (4203), WITH ALL COORDINATES AND DISTANCES SHOWN BEING IN U.S. SURVEY FEET AND ADJUSTED TO SURFACE USING THE TXDOT TRAVIS COUNTY SURFACE ADJUSTMENT FACTOR OF 1.00010. OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS - OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS
- VALUES WERE DERIVED FROM THE STATE REAL TIME NETWORK (TXDOT VRSI R.P.R.T.C.T. PLAT RECORDS, TRAVIS COUNTY, TEXAS
- IN OCTOBER OF 2021.
- Q 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED TRANSYSTEMS SET, PK WALL SET, OR X-CUT SET MARKER FOUND AS NEEDED
 - MARKER FOUND AS NEEDED
 - OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS
 - R.P.R.T.C.T. REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS
 - P.R.T.C.T. PLAT RECORDS, TRAVIS COUNTY, TEXAS
 - P.O.C. POINT OF COMMENCING
 - P.O.B. POINT OF BEGINNING
 - ◇ POWER POINT
 -) GUY WIRE



I HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED ON THE GROUND UNDER MY SUPERVISION AND THAT THIS PARCEL PLAT REPRESENTS THE FACTS AS FOUND AT THE TIME OF THE SURVEY.

Daniel M. Putman 12-3-2021
 DANIEL M. PUTMAN DATE
 REGISTERED PROFESSIONAL LAND SURVEYOR
 TEXAS REGISTRATION NO. 6729




520 WEST SEVENTH STREET
 SUITE 1100
 FORT WORTH, TX 76132
 PHONE: 817-339-8006
 TRAFFIC INFORMATION: 817-799-6000

TRACT NO.
 STATE OF TEXAS
 TRAVIS COUNTY, TEXAS

CSJ: 5500-00-54