

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

## WATER PIPELINE EASEMENT AGREEMENT

THE STATE OF TEXAS     §  
                                     §  
COUNTY OF TRAVIS     §

### GRANT OF EASEMENT:

BAYLOR SCOTT & WHITE MEDICAL CENTERS – CAPITOL AREA, a Texas nonprofit corporation ("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 home-rule city located in Travis County, Texas ("Grantee"), a non-exclusive easement ("Easement") upon and across the property of Grantor which is more particularly described on Exhibit "A" and Exhibit "B", attached hereto and incorporated herein by reference ("Easement Property"). Grantor and Grantee may jointly be referred to by "the parties."

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. 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 to the extent that such claim arises by, through, or under Grantor, but not otherwise. The grant and conveyance made in this agreement is expressly made by Grantor and accepted by Grantee subject to and encumbered by all restrictions, covenants, conditions, rights-of-way, easements, ordinances, maintenance charges and liens securing said charges, mineral and royalty grants and reservations, and all other matters, if any, of record in Travis County, Texas, to the extent, but only to the extent, that the same are valid and subsisting and cover or related to the Easement Property or some portion or interest therein, and all matters that are visible or apparent on the ground or that would be shown by a survey of the Property shown on a survey of the Easement Property.

**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 parking areas 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 water pipeline" shall mean a pipeline designed and operated to transport water.
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 water utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of public water pipelines and related appurtenances, or making connections thereto (hereinafter collectively "Facilities"). The Easement shall also be used for the purpose of providing access for the operation, repair, maintenance, replacement and expansion of the Facilities.
4. *Term.* Easement shall be in perpetuity unless relinquished or abandoned by ordinance or resolution by Grantee.
5. *Reservation of Rights.* Save and except: Grantor retains the right to surface use, including, without limitation, the construction of Permitted Improvements. 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 materially interferes nor materially conflicts with the use of the Easement Property by Holder for the Easement Purpose. 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 that violate the terms of this instrument 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 encroachments that violate the terms of this agreement 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 be required to repair or replace to their original condition any landscaping, driveways, parking areas, or Permitted Improvement on the Easement Property that are damaged in connection with the placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of the Facilities. Further, Holder shall use reasonable efforts to minimize any interference with Grantor's use and operation of the Easement Property in connection with Holder's activities under this agreement.
7. *Maintenance of Surface Easement Property/Permitted Improvements.* Notwithstanding any contrary provision, Grantor shall retain 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 in violation of the terms of this agreement, 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. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.
10. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.

11. *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.
12. *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.
13. *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.
14. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
15. *Integration.* This agreement contains the complete agreement of the parties with respect to the subject matter herein 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.
16. *Legal Construction.* If 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.
17. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any

address for notice may be changed by written notice delivered as provided herein.

18. *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.
19. *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.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, this instrument is executed this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

**GRANTOR:**

BAYLOR SCOTT & WHITE MEDICAL  
CENTERS – CAPITOL AREA, a Texas nonprofit  
corporation

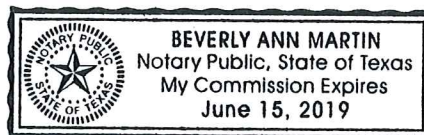
By: John McWhorter  
Name: John McWhorter  
Title: Vice President

THE STATE OF TEXAS   §  
  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on January 31, 2017,  
2017, by John McWhorter, VP of BAYLOR SCOTT &  
WHITE MEDICAL CENTERS – CAPITOL AREA, a Texas nonprofit corporation, on  
behalf of said nonprofit corporation.

Beverly Ann Martin  
Notary Public Signature

(seal)



**GRANTEE:**

**AGREED AND ACCEPTED:**

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

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

**ATTEST:**

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

THE STATE OF TEXAS       §  
                                     §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on \_\_\_\_\_,  
2017, by Brandon Wade, City Manager of the City of Pflugerville, Texas, a Texas home-  
rule municipality, on behalf of said municipality.

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

(seal)

**AFTER RECORDING, RETURN TO:**

City of Pflugerville  
Attn.: Emily Barron, Planning Director  
Development Services Center  
P.O. Box 589  
Pflugerville, Texas 78691

## EXHIBIT "A"

### Easement Description

LEGAL DESCRIPTION  
WATER EASEMENT  
0.006 ACRES OF LAND

0.006 acres of land located in the John Davis Survey No. 13, Abstract No. 231, City of Pflugerville, Travis County, Texas, being a portion of that certain Lot 1, Block 3, Falcon Pointe POD 7, Phase 2 Subdivision, according to the map or plat thereof recorded in Document No. 201600254, Official Public Records of Travis County, Texas; said 0.006 acres being more particularly described as follows:

**COMMENCING**, at a found  $\frac{1}{2}$  inch iron rod marking the westerly end of a curve at the intersection of southerly right of way line of Falcon Village Lane (60' R.O.W.) with the westerly right of way line of Colorado Sand Drive ( 90' R.O.W.);

**THENCE**, along the southerly right way line of Falcon Village Lane, the following courses:

South 82deg 12' 10" West, a distance of 56.65 feet, to a found  $\frac{1}{2}$  inch iron rod;  
Westerly, along the arc of a curve to right having a radius of 495.00 feet, a central angle 32deg 19' 07", an arc length of 279.21 feet and chord bearing: S 81deg 38' 17" E, 275.53 feet, to a point

**THENCE**, South 24deg 31' 17" West, leaving the southerly right of way line of said Falcon Village Lane and into said Lot 1, Block 3, a distance of 10.00 feet, to the **POINT OF BEGINNING**, of the herein described easement;

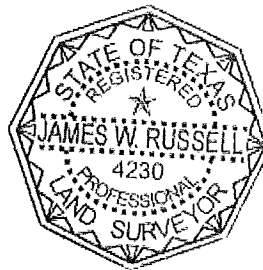
**THENCE**, continuing into said Lot 1, Block 3, the following courses:

South 27deg 51' 41" West, a distance of 12.87 feet, to a point;  
North 62deg 08' 31" West, a distance of 22.50 feet, to a point;  
North 27deg 51' 41" East, a distance of 12.06 feet, to a point;  
Southeasterly, along the arc of a curve to left having a radius of 505.00 feet, a central angle 02deg 33' 17", an arc length of 22.52 feet and chord bearing: S 64deg 11' 32" E, 22.51 feet, to the **POINT OF BEGINNING** and containing 0.006 acres (279 square feet) of land, more or less.

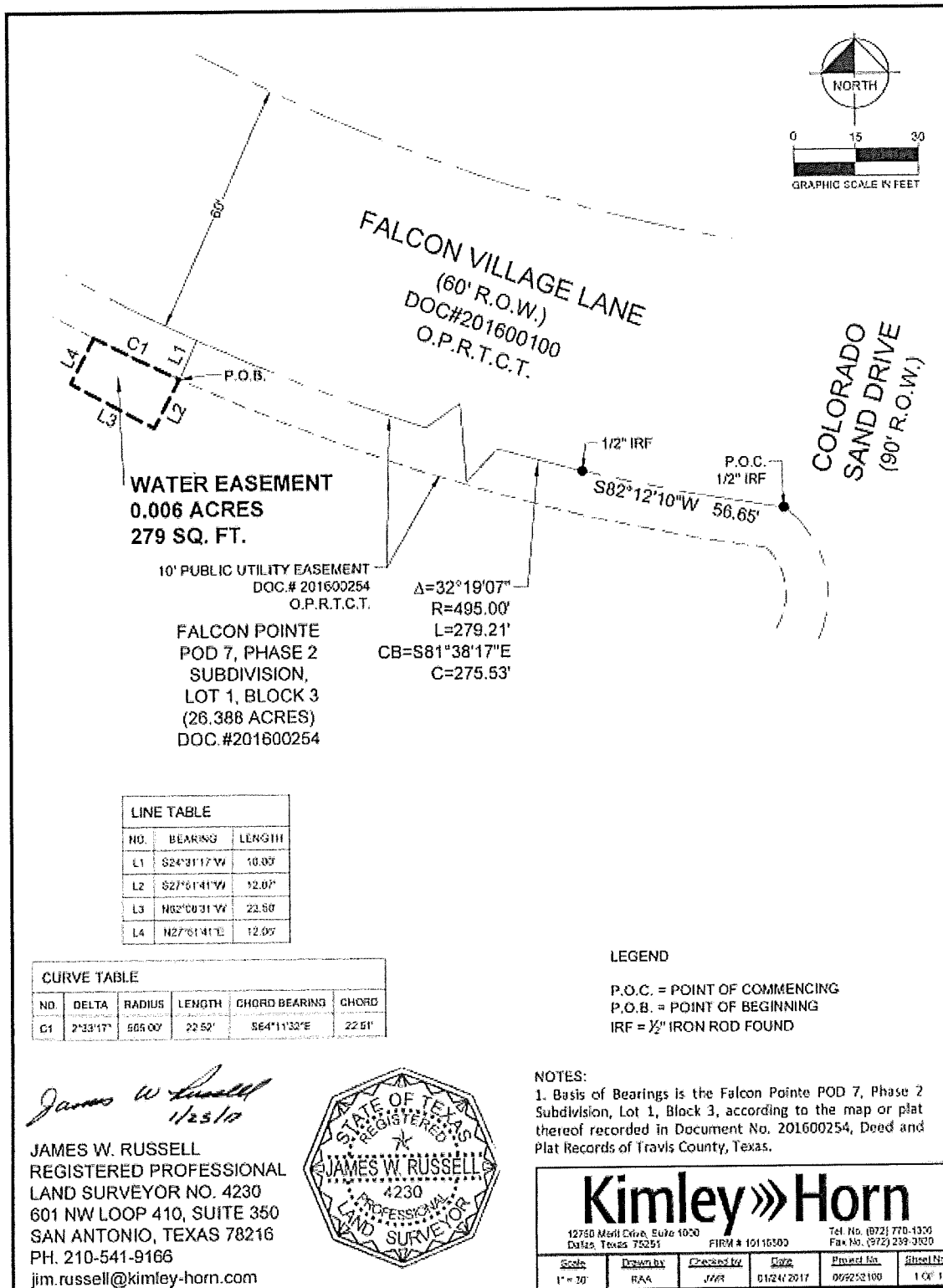
Basis of Bearings is the Falcon Pointe POD 7, Phase 2 Subdivision, Lot 1, Block 3, according to the map or plat thereof recorded in Document No. 201600254, Deed and Plat Records of Travis County, Texas.

*James W. Russell*  
1/26/17

James W. Russell  
Registered Professional Land Surveyor No. 4230  
Kimley-Horn and Associates, Inc.  
601 NW Loop 410, Suite 350  
San Antonio, Texas 78216  
Ph. 210-541-9166  
[jim.russell@kimley-horn.com](mailto:jim.russell@kimley-horn.com)  
TBPLS Firm No. 10193973







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## EXHIBIT "B"

### Easement Description

LEGAL DESCRIPTION  
WATER EASEMENT  
0.014 ACRES OF LAND

0.014 acres of land located in the John Davis Survey No. 13, Abstract No. 231, City of Pflugerville, Travis County, Texas, being a portion of that certain Lot 1, Block 3, Falcon Pointe POD 7, Phase 2 Subdivision, according to the map or plat thereof recorded in Document No. 201600254, Official Public Records of Travis County, Texas; said 0.014 acres being more particularly described as follows:

**COMMENCING**, at a found  $\frac{1}{8}$  inch iron rod marking the northerly end of a curve at the intersection of northwesterly right of way line of East Pflugerville Parkway (80' R.O.W.) with the westerly right of way line of Colorado Sand Drive (90' R.O.W.);

**THENCE**, along the westerly right way line of Colorado Sand Drive, the following courses:

North 29deg 07' 33" East, a distance of 134.99 feet, to a found  $\frac{1}{8}$  inch iron rod;  
Northeasterly, along the arc of a curve to left having a radius of 455.00 feet, a central angle 22deg 32' 24", an arc length of 179.00 feet and chord bearing: N 17deg 47' 24" E, 177.84 feet, to a point

**THENCE**, North 83deg 28' 48" West, leaving the westerly right of way line of Colorado Sand Drive and into said Lot 1, Block 3, a distance of 10.18 feet, to the **POINT OF BEGINNING**, of the herein described easement;

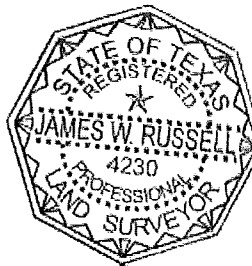
**THENCE**, continuing into said Lot 1, Block 3, the following courses:

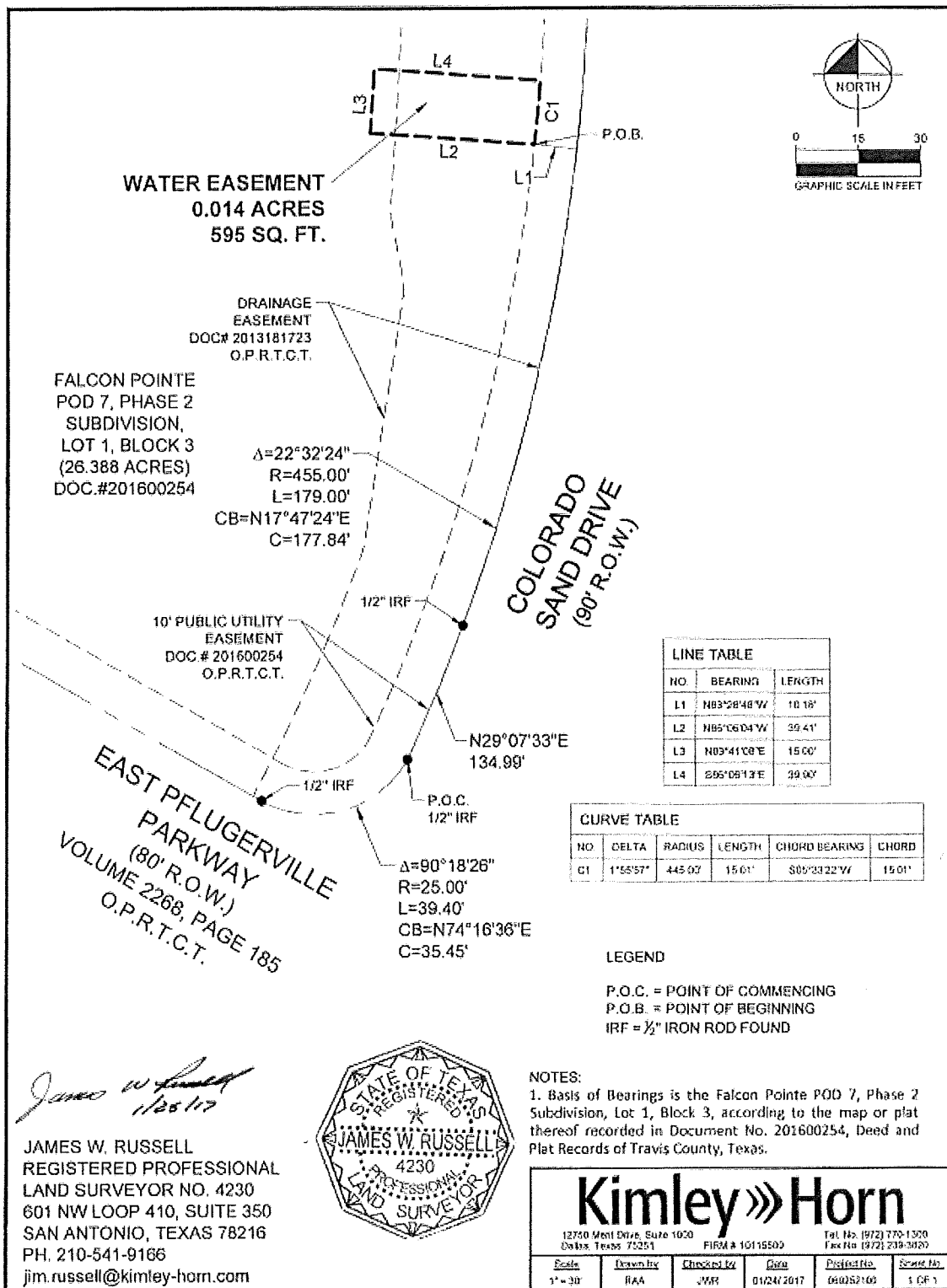
North 86deg 06' 04" West, a distance of 39.41 feet, to a point;  
North 03deg 41' 08" East, a distance of 15.00 feet, to a point;  
South 86deg 06' 13" East, a distance of 39.90 feet, to a point;  
Southeasterly, along the arc of a curve to right having a radius of 445.00 feet, a central angle 01deg 55' 57", an arc length of 15.01 feet and chord bearing: S 05deg 33' 22" W, 15.01 feet, to the **POINT OF BEGINNING** and containing 0.014 acres (595 square feet) of land, more or less.

Basis of Bearings is the Falcon Pointe POD 7, Phase 2 Subdivision, Lot 1, Block 3, according to the map or plat thereof recorded in Document No. 201600254, Deed and Plat Records of Travis County, Texas.

*James W. Russell*  
1/25/17

James W. Russell  
Registered Professional Land Surveyor No. 4230  
Kimley-Horn and Associates, Inc.  
601 NW Loop 410, Suite 350  
San Antonio, Texas 78216  
Ph. 210-541-9166  
[jim.russell@kimley-horn.com](mailto:jim.russell@kimley-horn.com)  
TBPLS Firm No. 10193973





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