

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.

**GRADING EASEMENT AGREEMENT**

THE STATE OF TEXAS     §

COUNTY OF TRAVIS     §

**GRANT OF EASEMENT:**

**WESTERN RIM INVESTORS 2011-1. L.P.** a Texas limited partnership (“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”), an 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 of roadway embankment necessary for the Pfluger Farm Lane roadway construction project, 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 roadway grading and embankment including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of roadway improvements, 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 be perpetual. 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 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 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:**

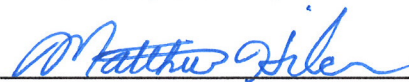
This Easement and the rights of Grantee hereunder may be assigned by Grantee so long as the assignee utilizes the Easement as contemplated herein.

Signature page to follow:

In witness whereof, this instrument is executed this 7<sup>th</sup> day of March, 2013.

**GRANTOR:**

**WESTERN RIM INVESTORS 2011-1. L.P.,**  
a Texas limited partnership

By: 

**AGREED AND ACCEPTED:**

**CITY OF PFLUGERVILLE, TEXAS,**

a Texas home-rule municipality

By: \_\_\_\_\_

Brandon Wade, City Manager

**ATTEST:**

\_\_\_\_\_

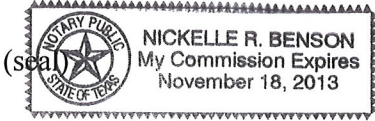
Karen Thompson, City Secretary

ACKNOWLEDGEMENT

THE STATE OF TEXAS §

COUNTY OF Tarrant §

This instrument was acknowledged before me on March 7th, 2013, by Matthew Hiles, an individual residing in Travis County, Texas.



Nickelle R. Benson  
Notary Public Signature

Nickelle R. Benson  
Printed Name of Notary Public

My commission expires: 11-18-2013

THE 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, on behalf of said municipality.

(seal)

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

\_\_\_\_\_  
Printed Name of Notary Public

My commission expires: \_\_\_\_\_

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

EXHIBIT " \_ "

DRAINAGE EASEMENT  
Stone Hill Town Center  
Section Two, Phase One

## DESCRIPTION OF 0.004 ACRE TRACT

DESCRIPTION OF 0.004 OF ONE ACRE OR 167 SQUARE FEET OF LAND, MORE OR LESS, OUT OF LOT 19, BLOCK 6, STONE HILL TOWN CENTER, SECTION TWO, PHASE ONE, A SUBDIVISION OF RECORD IN DOCUMENT NO. 200100162, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, SAID LOT 19, BLOCK 6 BEING DESCRIBED IN THAT DEED TO WESTERN RIM INVESTORS 2011-1, L.P., OF RECORD IN DOCUMENT NO. 2011160861, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS; SAID 0.004 OF ONE ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point at the southwest corner of this tract, same being in the south line of said Lot 19, Block 6, and the north line of that tract described as 136.450 acres in a deed to Terrell Timmermann, of record in Document No. 1999104396, Official Public Records, Travis County, Texas, from which a 1/2" iron rod found at the northwest corner of said Timmermann tract bears N61°57'01"W 699.93 feet; and said point of beginning having State Plane Coordinates (Texas Central Zone, NAD83, U.S. Feet, Combined Grid to Surface Scale Factor of 1.00010) grid value of N=10,143,630.89 E=3,156,505.13;

THENCE, with the perimeter of this tract, crossing said Lot 19, Block 6, the following two (2) courses, numbered 1 and 2:

1. **N63°02'57"E 26.66 feet** to a calculated point at the northeast corner of this tract; and
2. **S28°05'01"W 21.84 feet** to a calculated point at the southeast corner of this tract, same being in the south line of said Lot 19, Block 6, and the north line of said Timmermann tract, from which a 5/8" iron rod found with cap at the southeast corner of said Lot 19, Block 6, and the southwest corner of the southern terminus of Pfluger Farm Lane bears S61°57'01"E 10.00 feet;

0.004 AC

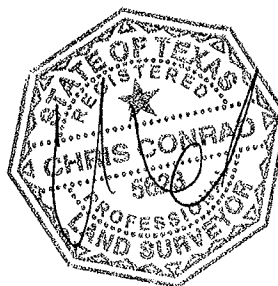
THENCE, with the south line of this tract and said Lot 19, Block 6, and the north line of said Timmermann tract, **N61°57'01"W 15.28 feet** to the POINT OF BEGINNING, and containing 0.004 of one acre or 167 square feet, more or less, contained within these metes and bounds.

Bearing Basis Note

The bearings described herein are Texas State Plane Grid bearings (Texas Central Zone, NAD83 (CORS96). The Combined Grid to Surface Scale Factor is 1.00010) and was established by GPS observations.

SURVEYED BY:

**McGRAY & McGRAY LAND SURVEYORS, INC.**  
3301 Hancock Dr., Ste. 6, Austin, TX 78731 (512) 451-8591



A handwritten signature in black ink, appearing to read "Chris Conrad", written over a horizontal line.

01/18/13

Chris Conrad, Reg. Professional Land Surveyor No. 5623

Date

Note: This copy of this description is not valid unless an original signature through an original seal appears on its face. There is a plat to accompany this description.

Descriptions 2013/Pfluger Farm Lane/0.004 DE  
Issued 01/18/13

AUSTIN GRID Q-38, Q-39 & R-39  
TCAD # 02-8246-06-02

**SKETCH TO ACCOMPANY DESCRIPTION  
OF 0.004 AC. OR 167 SQ. FT. OF LAND OUT OF  
STONE HILL TOWN CENTER, SECTION TWO, PHASE ONE  
CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS**

RE: CITY OF PFLUGERVILLE

LINE TABLE		
LINE	BEARING	LENGTH
L1	N63°02'57"E	26.66'
L2	S28°05'01"W	21.84'
L3	N61°57'01"W	15.28'
L4	S61°57'01"E	10.00'

TERRELL TIMMERMANN  
DOC. 1999104399, O.P.R.T.C.  
REMAINDER OF  
(129.137 AC.)



SCALE 1" = 100'

STONE HILL TOWN CENTER  
SECTION TWO, PHASE ONE  
DOC. 201100182, O.P.R.T.C.

LOT 19  
BLOCK 6

(RESTRICTED TO MULTI-FAMILY USE)

WESTERN RIM INVESTORS 2011-1, L.P.  
DOC. NO. 2011160861, O.P.R.T.C.  
(LOT 19)

P.O.B.  
GRID COORDINATES  
N=10,143,630.89  
E=3,156,505.13

DRAINAGE EASEMENT  
0.004 AC. OR  
167 SQ. FT.

TERRELL TIMMERMANN  
DOC. 1999104396, O.P.R.T.C.  
REMAINDER OF  
(136.450 AC.)

PFLUGER FARM LANE  
(70' R.O.W.)

LOT 20  
BLOCK 5

(RESTRICTED TO COMMERCIAL,  
DRAINAGE & UTILITIES)

STONE HILL TOWN CENTER  
SECTION TWO, PHASE ONE  
DOC. 201100182, O.P.R.T.C.

LOT 15  
BLOCK 5

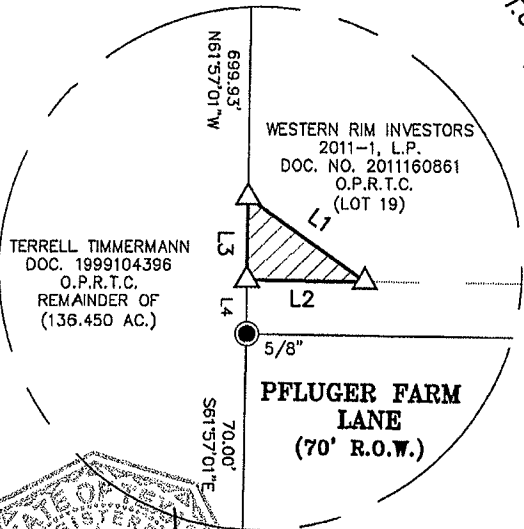
STONE HILL  
TOWN CENTER  
DOC. 200700201, O.P.R.T.C.

**LEGEND**

- 1/2" IRON ROD FOUND  
(UNLESS OTHERWISE NOTED)
- 1/2" IRON ROD FOUND CAPPED  
(UNLESS OTHERWISE NOTED)
- △ CALCULATED POINT
- (XXX) RECORD INFORMATION
- P.O.B. POINT OF BEGINNING
- P.R.T.C. PLAT RECORDS TRAVIS COUNTY
- O.P.R.T.C. OFFICIAL PUBLIC RECORDS  
TRAVIS COUNTY

CITY OF PFLUGERVILLE, TEXAS  
DOC. 201115870, O.P.R.T.C.  
(9.653 AC.)

T.G. STEWART SURVEY NO. 689  
ABSTRACT NO. 689



NOTES:  
1. THE COORDINATE SHOWN HEREON IS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD83 (CORS96) DATUM AND WAS ESTABLISHED BY GPS OBSERVATION. THE BEARINGS SHOWN ARE GRID BEARINGS. THE COMBINED GRID TO SURFACE SCALE FACTOR IS 1.00010. ALL DISTANCES SHOWN ARE SURFACE DISTANCES.  
2. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT OR EASEMENT REPORT.

*Chris Conrad*

01/18/13

CHRIS CONRAD, REG. PROF. LAND SURVEYOR NO. 5623 DATE  
Note: This copy of this plat is not valid unless an original signature through an original seal appears on its face. There is a description to accompany this plat.  
TCAD# 02-8246-06-02

SURVEYED BY: ISSUED: 01/18/13  
PAGE 3 OF 3

**McGRAY & McGRAY**  
**LAND SURVEYORS, INC.**  
3301 HANCOCK DRIVE #6  
AUSTIN, TEXAS 78731  
(512) 451-8591