

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.

### **DRAINAGE EASEMENT AGREEMENT**

THE STATE OF TEXAS       §  
  §  
COUNTY OF TRAVIS                       §

#### **GRANT OF EASEMENT:**

**TACK DEVELOPMENT, LTD**, a Texas limited partnership, located at 2490 FM 385, Hutto, Williamson County, Texas, 78634 (“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”).

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 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 shall be exclusive, and Grantor covenants that Grantor will not convey any other easement or conflicting rights within the Easement Tract.

**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.

In witness whereof, this instrument is executed this \_\_\_\_ day of \_\_\_\_\_, 2016.

**GRANTOR:**

**TACK DEVELOPMENT, LTD**  
**A Texas limited partnership**

**By Commerce Texas Properties, Inc.**  
**A Texas corporation, General Partner**

By: \_\_\_\_\_  
Timothy Timmerman, President

**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 WILLIAMSON       §

This instrument was acknowledged before me on \_\_\_\_\_, 2016, by Timothy Timmerman, President of Commerce Texas Properties, Inc., a Texas corporation, on behalf of said corporation, general partner of Tack Development, Ltd., a Texas limited partnership, on behalf of said partnership.

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

(seal)

THE STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on \_\_\_\_\_, 2016, 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)

EXHIBIT "A "

County: Travis  
Project: Helios Way  
Half AVO: 31018

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7/13/2016

0.0812 ACRE DRAINAGE EASEMENT

BEING A 0.0812 ACRE (3,538 SQUARE FEET) TRACT SITUATED IN THE TAYLOR S. BARNES SURVEY, ABSTRACT NO. 67, TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF A CALLED 75.30 ACRES TRACT AS DESCRIBED IN A WARRANTY DEED TO TACK DEVELOPMENT, LTD. AND RECORDED IN DOCUMENT NO. 2003232092 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a ½-inch iron rod with plastic cap stamped "CHAPPARAL" found in the east line of a called 2.56 acres tract as described in a Warranty Deed to The City of Pflugerville and recorded in Vol. 9236, Pg. 954 of the Real Property Records of Travis County, Texas, for the southwest corner of Sun Light Near Way, a variable width right-of-way according to Document No. 201100199 of the O.P.R.T.C.T., same being the northwest corner of a called 17.800 acres tract as described in a Notice of Lis Pendens recorded in Document No. 1999122493 of the O.P.R.T.C.T.;

**THENCE** with the west right-of-way line of said Sun Light Near Way, same being the east line of said 2.56 acres tract, N28°23'35"E a distance of 70.18 feet to a calculated point, and from which a ½-in iron rod with plastic cap stamped "G&R SURVEYING" found in said west right-of-way line of Sun Light Near Way and said east line of the 2.56 acres tract bears, N28°23'35"E a distance of 1153.66 feet;

**THENCE** leaving said west right-of-way line of Sun Light Near Way and said east line of the 2.56 acres tract, crossing said 2.56 acres tract, N62°59'55"W a distance of 20.01 feet to a ½-inch iron rod with plastic cap stamped "HALFF ESMT" set;

**THENCE** crossing said 75.30 acres tract, with said proposed north right-of-way line of Helios Way, the following two (2) courses and distances:

1. N62°59'55"W a distance of 475.07 feet to a ½-inch iron rod with plastic cap stamped "HALFF ESMT" set for the **POINT OF BEGINNING** of the tract described herein, and
2. N62°59'55"W a distance of 62.76 feet to a ½-inch iron rod with plastic cap stamped "HALFF" set at the intersection of said proposed north right-of-way line of Helios Way with the proposed east right-of-way line of Biltmore Avenue, a variable width right-of-way;

**THENCE** leaving said proposed north right-of-way line of Helios Way, with said proposed east right-of-way line of Biltmore Avenue, continuing across said 75.30 acres tract the following two (2) courses and distances:

1. N17°59'55"W a distance of 35.36 feet to a ½-inch iron rod with plastic cap stamped "HALFF" set, for an angle point in said proposed east right-of-way line of Biltmore Avenue, and

EXHIBIT "A"

County: Travis  
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Halff AVO: 31018

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0.0812 ACRE DRAINAGE EASEMENT

2. N27°00'50"E a distance of 62.75 feet to a ½-inch iron rod with plastic cap stamped "HALFF ESMT" set;

**THENCE** leaving said proposed east right-of-way line of Biltmore Avenue, continuing across said 75.30 acres tract, S17°59'55"E a distance of 124.10 feet to said **POINT OF BEGINNING** and containing 0.0812 acre (3,538 square feet).

NOTES:

Basis of bearings is the Texas Coordinate System of 1983, Central Zone 4203 (NAD83/2011). All distances shown hereon are surface and may be converted to grid by using the surface adjustment factor of 1.00010. Units: U.S. Survey Feet.

This survey was prepared without the benefit of a title commitment or report. The surveyor has not abstracted the subject property, nor made any independent investigation or search for easements of record, restrictive covenants or any other encumbrances.

I, Dan H. Clark, a Registered Professional Land Surveyor, do hereby certify that the above description and the accompanying plat of even date herewith, are true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey on the ground under my direction and supervision.

8-16-16

Dan H. Clark, R.P.L.S.

Date

Registered Professional Land Surveyor

Texas Registration No. 6011

Halff Associates, Inc.,

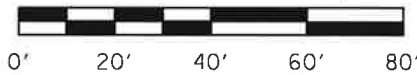
4030 W. Braker Ln, Suite 450, Austin, Texas 78759, 512-777-4600



# LINE TABLE

LINE NO.	BEARING	DISTANCE
L1	N62°59'55"W	20.01'
L2	N17°59'55"W	35.36'

GRAPHIC SCALE  
1"=40'



## TAYLOR S BARNES SURVEY, A-67

DRAINAGE EASEMENT  
0.0812 AC  
(3,538 Sq Ft)

REMAINDER OF  
TACK DEVELOPMENT, LTD  
(75.30 AC)  
DOC. NO. 2003232092  
O.P.R.T.C.T.

## WILLIAM CALDWELL SURVEY, A-162

G&R SURVEYING

REMAINDER OF  
CITY OF  
PFLUGERVILLE  
(2.56 AC.)  
VOL. 9236, PG. 954  
R.P.R.T.C.T.

REMAINDER OF  
TACK DEVELOPMENT, LTD  
(75.30 AC)  
DOC. NO. 2003232092  
O.P.R.T.C.T.

TRAVIS COUNTY  
CAUSE NO. 2319  
(17.800 AC)  
DOC. NO. 1999122493  
O.P.R.T.C.T.

P.O.C.  
CHAPPARAL

PROPOSED  
BILTMORE AVENUE  
(VARIABLE WIDTH R.O.W.)

PROPOSED  
HELIOS WAY  
(80' WIDE R.O.W.)

SUN LIGHT NEAR WAY  
(VARIABLE WIDTH R.O.W.)  
DOC. NO. 201100199  
O.P.R.T.C.T.

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8/15/2016 5:14:03 PM ah2456 HALFF



4030 WEST BRAKER LANE, SUITE 450  
AUSTIN, TEXAS 78759-5356  
TEL (512) 777-4600  
FAX (512) 252-6141  
TBPLS FIRM NO. 10029607

## HELIOS WAY

0.0812 ACRE DRAINAGE EASEMENT

Project No.: 31018

Issued: 8/15/2016

Accompanying file Name:  
SV-LD-DRN ESMT 0.0812.docx

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# LEGEND

○	1/2" IRON ROD SET WITH "HALFF" CAP
●	1/2" IRON ROD SET WITH "HALFF ESMT" CAP
●	1/2" IRON ROD FOUND (CAP NOTED)
△	CALCULATED POINT
N.T.S.	NOT TO SCALE
R.O.W.	RIGHT-OF-WAY
ESMT.	EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
P.R.T.C.T.	PLAT RECORDS OF TRAVIS COUNTY TEXAS
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS
DOC.*	DOCUMENT NUMBER
—	DISTANCE NOT SHOWN TO SCALE
—	PROPERTY LINE
P.O.C.	POINT OF COMMENCING
P.O.B.	POINT OF BEGINNING

1) THE BEARINGS SHOWN HEREON ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES SHOWN HEREON ARE SURFACE DISTANCES. THE SURFACE ADJUSTMENT FACTOR IS 1.00010

2) THE ACREAGE CALCULATED AND SHOWN HEREON IS CONVERTED FROM THE SQUARE FOOTAGE SHOWN HEREON, AND IS FOR INFORMATIONAL PURPOSES ONLY.

3) THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT OR REPORT. THE SURVEYOR HAS NOT ABSTRACTED THE SUBJECT PROPERTY, NOR MADE ANY INDEPENDENT INVESTIGATION OR SEARCH FOR EASEMENTS OF RECORD, RESTRICTIVE COVENANTS OR ANY OTHER ENCUMBRANCES.

I HEREBY CERTIFY THAT THIS PLAT AND THE ACCOMPANYING DESCRIPTION OF EVEN DATE HERewith ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THE PROPERTY SHOWN HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

*[Signature]*

8-16-16

DAN H. CLARK  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS REGISTRATION NO. 6011

DATE



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8/15/2016 11:57:53 AM a12458 HALFF



**HALFF**

4030 WEST BRAKER LANE, SUITE 450  
AUSTIN, TEXAS 78759-5358  
TEL (512) 777-4800  
FAX (512) 252-8141  
TBPLS FIRM NO. 10029607

HELIOS WAY

0.0812 ACRE DRAINAGE EASEMENT

Project No.: 31018

Issued: 8/15/2016

Accompanying file Name:  
SV-LD-DRN ESMT 0.0812.docx

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