

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.

DRAINAGE EASEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

GRANT OF EASEMENT:

BOARD OF TRUSTEES OF THE PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT ("Grantor") 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 property of Grantor which is more particularly described on Exhibit "A", 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.

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor. As additional consideration for the grant of this easement, Grantor and Grantee acknowledge and agree that Grantor hereby reserves the right to access and utilize this Easement and Public drainage facilities in accordance with and subject to the rules and regulations established by the City of Pflugerville's adopted Code of Ordinances, as amended, upon development of the property. However, Grantee does not warrant or guarantee, and hereby expressly disclaims that said facilities shall be of sufficient design or construction to ensure adequate carrying capacity for storm water generated by any future development purposes of Grantor. Grantor acknowledges and agrees that upon development, Grantor's property shall conform to all applicable local, state and federal laws for purposes of storm water conveyance.

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 and sidewalks that do not impede the functionality of any Public drainage facilities; 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 drainage facilities" or "Facilities" shall mean a channel and related drainage facilities designed and operated to control and convey surface or storm water runoff.
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. The Easement shall be exclusive, and Grantor covenants that Grantor will not convey any other easement or conflicting rights within the Easement Tract.
3. *Purpose of Easement.* The Easement shall be used for Public drainage facilities purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of a public channel and related appurtenances, or making connections thereto. The Easement shall also be used for the purpose of providing access for the operation, repair, maintenance, replacement and expansion of the Facilities. Grantor and Grantee acknowledge and agree that Grantor hereby reserves the right to access and utilize this Easement and Public drainage facilities in accordance with and subject to the rules and regulations established by the City of Pflugerville's adopted Code of Ordinances, as amended, upon development of the property. However, Grantee does not warrant or guarantee, and hereby expressly disclaims that said facilities shall be of sufficient design or construction to ensure adequate carrying capacity for storm water generated by any future development purposes of Grantor. Grantor acknowledges and agrees that upon development, Grantor's property shall conform to all applicable local, state and federal laws for purposes of storm water conveyance.
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. 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 interferes nor conflicts with the use of the Easement Property by Holder for the Easement Purpose. *Grantor shall not construct any building, structure or obstruction on the Easement Property. Any improvement made by Grantor (Permitted Improvement) must comply with applicable ordinances, development codes, and engineering guidelines of the City of Pflugerville. Grantor shall obtain Holder's permission prior to the start of constructing Permitted Improvements. Grantor shall not construct any fencing or gating on the Easement Property without Holder's permission.*
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 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 fences or other encroachments 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 not 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.*
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, 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 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.* 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.
20. *Assignability.* The Easement may be assigned by Grantee, its successors or assigns, without the prior written consent of Grantor.

IN WITNESS WHEREOF, this instrument is executed this 8th day of December 2016.

GRANTOR:
BOARD OF TRUSTEES OF THE
PFLUGERVILLE
INDEPENDENT SCHOOL DISTRICT

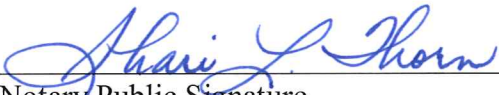
By: Vernagene Mott
Vernagene Mott, President

[Acknowledgment on following page.]

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

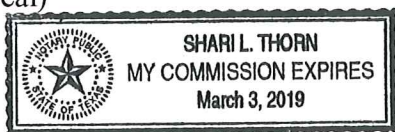
BEFORE ME, a Notary Public, on this day personally appeared Vernagene Mott, known to me to be the person whose name is subscribed to the foregoing instrument, and having been sworn, upon her oath stated that she is the President of the Board of Trustees of the Pflugerville Independent School District; that she was authorized to execute such instrument pursuant to resolution of the Board of Trustees adopted on July 25, 2016; and that said instrument is executed as the free and voluntary act and deed of such governmental unit for the purposes and consideration expressed therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 8th day of December 2016.



Notary Public Signature

(seal)



GRANTEE:

AGREED AND ACCEPTED:

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

By: _____
Brandon Wade, City Manager

ATTEST:

Thompson, City Secretary

Karen

[Acknowledgment on following page.]

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.

(seal)

Notary Public Signature

AFTER RECORDING, RETURN TO:

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

EXHIBIT “A”

NOTES:

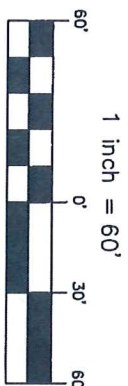
1. THE PROFESSIONAL SERVICES PROVIDED HEREWITH INCLUDE THE PREPARATION OF A FIELD NOTE DESCRIPTION.
2. THE BEARINGS ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (CORS 1996), FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE CENTRAL ZONE.
3. ADJOINERS SHOWN FOR INFORMATIONAL PURPOSES ONLY.

LEGEND:

- O.P.R. OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- FD. FOUND
- I.R. IRON ROD (SURVEYOR)
- FOUND IRON ROD (SIZE & CAP AS NOTED)

EXHIBIT OF

A 0.183 OF AN ACRE, OR 7,963 SQUARE FEET TRACT OF LAND OUT OF A CALLED 5.00 ACRE TRACT CONVEYED TO THE BOARD OF TRUSTEES OF THE PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT, RECORDED IN DOC NO. 2008200132 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SITUATED IN THE E. BEBEE SURVEY NO. 5, ABSTRACT 53 IN THE CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS.



**E. BEBEE SURVEY NO. 5
ABSTRACT 53**

A CALLED 5.00 ACRE TRACT
OWNER: BOARD OF TRUSTEES
OF THE PFLUGERVILLE
INDEPENDENT SCHOOL DISTRICT
DOC. NO. 2008200132 (O.P.R.)

A CALLED 5.0 ACRE TRACT
OWNER: BOARD OF TRUSTEES
OF THE PFLUGERVILLE
INDEPENDENT SCHOOL DISTRICT
DOC. NO. 2008200131 (O.P.R.)

S63°30'25"E 398.12'

S27°27'22"W 20.00'

N63°30'25"W 398.11'

0.183 ACRES
(7,963 SQ. FT. MORE OR LESS)

P.O.B.
FD. I.R. (RPLS 5784)

A REMNANT PORTION OF A CALLED 100
ACRE TRACT (FIRST TRACT)
OWNER: KUEMPEL, C.U.
VOL. 1419, PG. 547 (D.R.)

**PAPE-DAWSON
ENGINEERS**

7800 SHOAL CREEK BLVD | AUSTIN, TEXAS 78757 | PHONE: 512.454.8711
SUITE 220 WEST | FAX: 512.459.0867

TEXAS BOARD OF PROFESSIONAL LAND SURVEYING, FIRM REGISTRATION # 10022801



MAY 4, 2016

JOB No.:

SHEET 1 OF 1
50871-00



FIELD NOTES

FOR

A 0.183 OF AN ACRE, OR 7,963 SQUARE FEET TRACT OF LAND OUT OF A CALLED 5.00 ACRE TRACT CONVEYED TO THE BOARD OF TRUSTEES OF THE PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT, RECORDED IN DOC NO. 2008200132 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SITUATED IN THE E. BEBEE SURVEY NO. 5, ABSTRACT 53 IN THE CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS. SAID 0.183 OF AN ACRE TRACT BEING MORE FULLY DESCRIBED AS FOLLOWS, WITH BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE CENTRAL ZONE FROM THE NORTH AMERICAN DATUM OF 1983 NAD 83 (NA2011) EPOCH 2010.00.

BEGINNING at an iron rod with cap marked "RPLS 5784" found for the southwest corner of said called 5.00 acre tract conveyed to the Board of Trustees of the Pflugerville Independent School District, same being the northwest corner of a remnant portion of a called 100 acre tract (First Tract) conveyed to Kuempel, C.J., in Volume 1419, Page 547 of the Deed Records of Travis County, Texas, also being a point in the east line of Swenson Farm Single Family Phase B recorded in Document No. 200400075 of the Official Public Records of Travis County, Texas;

THENCE N 27°24'50" E, departing the north line of said remnant portion of a 100 acre tract, with the east line of said Swenson Farm Single Family Phase B, same being the west line of said 5.00 acre Board of Trustees of the Pflugerville Independent School District Tract, a distance of **20.00 feet** to a calculated point for the northwest corner hereof;

THENCE S 63°30'25" E, departing the west line of said Swenson Farms Single Family Phase B, through the interior of said 5.00 acre Board of Trustees of the Pflugerville Independent School District Tract, a distance of **398.12 feet** to a calculated point in the west line of a called 5.0 acre tract conveyed to the Board of Trustees of the Pflugerville Independent School District recorded in Document No. 2008200131 of the Official Public Records of Travis County, Texas, for the northeast corner hereof,

THENCE S 27°27'22" W, with the east line of said 5.00 acre Board of Trustees of the Pflugerville Independent School District Tract, same being the west line of said 5.0 acre Board of Trustees of the Pflugerville Independent School District Tract, a distance of **20.00 feet** to a 1/2" iron rod found for the southeast corner of said 5.00 acre Board of Trustees of the Pflugerville Independent School District Tract, same being the southwest corner of said 5.0 acre Board of Trustees of the Pflugerville Independent School District Tract, also being a point in the north line of said remnant portion of a 100 acre tract for the southeast corner hereof,

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7800 Shoal Creek Blvd., Suite 220 West, Austin, TX 78757 T: 512.454.8711 www.Pape-Dawson.com

THENCE N 63°30'25" W, with the north line of said remnant portion of a 100 acre tract, same being the south line of said 5.00 acre Board of Trustees of the Pflugerville Independent School District Tract, a distance of **398.11 feet** to the **POINT OF BEGINNING** and containing 0.183 of an acre in the City of Pflugerville, Travis County, Texas. Said tract being described in accordance with an exhibit by Pape-Dawson Engineers, Inc. under Job Number 50871-00.

PREPARED BY: Pape-Dawson Engineers, Inc.

DATE: May 4, 2016

JOB No.: 50871-00

DOC.ID.: H:\survey\CIVIL\50871-00\Easements\Word\0.183Ac_Easement.docx

TBPE Firm Registration #470

TBPLS Firm Registration #100288-01



NOTES:

1. THE PROFESSIONAL SERVICES PROVIDED HEREWITH INCLUDE THE PREPARATION OF A FIELD NOTE DESCRIPTION.
2. THE BEARINGS ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (CORS 1996), FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE CENTRAL ZONE.
3. ADJOINERS SHOWN FOR INFORMATIONAL PURPOSES ONLY.

LEGEND:

- O.P.R. OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- FD. FOUND
- I.R. IRON ROD (SURVEYOR)
- FOUND IRON ROD (SIZE & CAP AS NOTED)

EXHIBIT OF

A 0.117 OF AN ACRE, OR 5,116 SQUARE FEET TRACT OF LAND OUT OF A CALLED 5.0 ACRE TRACT CONVEYED TO THE BOARD OF TRUSTEES OF THE PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT, RECORDED IN DOC NO. 2008200131 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SITUATED IN THE E. BEBEE SURVEY NO. 5, ABSTRACT 53 IN THE CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS

**E. BEBEE SURVEY NO. 5
ABSTRACT 53**

A CALLED 5.00 ACRE TRACT
OWNER: BOARD OF TRUSTEES
OF THE PFLUGERVILLE
INDEPENDENT SCHOOL DISTRICT
DOC. NO. 2008200132 (O.P.R.)

A CALLED 5.0 ACRE TRACT
OWNER: BOARD OF TRUSTEES OF THE
PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT
DOC. NO. 2008200131 (O.P.R.)

A CALLED 5.0 ACRE TRACT
OWNER: LOGOS BAPTIST CHURCH
DOC. NO. 2004228871 (O.P.R.)

N27°27'22"E
20.00'
P.O.B.
FD. 1/2" I.R.

S63°34'25"E 255.63'
N63°34'25"W 255.96'

S26°29'50"W
20.00'
FD. 1/2" I.R.

0.117 ACRES
(5,116 SQ. FT. MORE OR LESS)

A REMNANT PORTION OF A CALLED 100
ACRE TRACT (FIRST TRACT)
OWNER: KUEMPEL, C.J.
VOL. 1419, PG. 547 (O.R.)

PAPE-DAWSON
ENGINEERS

7800 SHOAL CREEK BLVD | AUSTIN, TEXAS 78757 | PHONE: 512.454.8711
SUITE 220 WEST | FAX: 512.459.8867

TEXAS BOARD OF PROFESSIONAL ENGINEERS, FIRM REGISTRATION # 470
TEXAS BOARD OF PROFESSIONAL LAND SURVEYING, FIRM REGISTRATION # 10028901





FIELD NOTES
FOR

A 0.117 OF AN ACRE, OR 5,116 SQUARE FEET TRACT OF LAND OUT OF A CALLED 5.0 ACRE TRACT CONVEYED TO THE BOARD OF TRUSTEES OF THE PFLUGERVILLE INDEPENDENT SCHOOL DISTRICT, RECORDED IN DOC NO. 2008200131 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SITUATED IN THE E. BEBEE SURVEY NO. 5, ABSTRACT 53 IN THE CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS. SAID 0.117 OF AN ACRE TRACT BEING MORE FULLY DESCRIBED AS FOLLOWS, WITH BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE CENTRAL ZONE FROM THE NORTH AMERICAN DATUM OF 1983 NAD 83 (NA2011) EPOCH 2010.00.

BEGINNING at an iron rod found for the southwest corner of said 5.0 acre Board of Trustees of the Pflugerville Independent School District Tract, same being the southeast corner of a called 5.00 acre tract conveyed to the Board of Trustees of the Pflugerville Independent School District Tract recorded in Document No. 2008200132 of the Official Public Records of Travis County, Texas, same being a point in the north line of a remnant portion of a called 100 acre tract conveyed to Kuempel, C.J. recorded in Volume 1419, Page 547 of the Deed Records of Travis County, Texas,

THENCE N 27°27'22" E, with the east line of said 5.00 acre Board of Trustees of the Pflugerville Independent School District Tract, same being the west line of said 5.0 acre Board of Trustees of the Pflugerville Independent School District Tract, a distance of **20.00 feet** to a calculated point for the northwest corner hereof;

THENCE S 63°34'25" E, departing the east line of said 5.00 acre Board of Trustees of the Pflugerville Independent School District Tract, through the interior of said 5.0 acre Board of Trustees of the Pflugerville Independent School District Tract, a distance of **255.63 feet** to a calculated point in the west line of a called 5.0 acre tract conveyed to Logos Baptist Church recorded in Document No. 2004228871 of the Official Public Records of Travis County, Texas, for the northeast corner hereof;

THENCE S 26°29'50" W, with the east line of said 5.0 acre Board of Trustees of the Pflugerville Independent School District Tract, same being the west line of said 5.0 acre Logos Baptist Church Tract, a distance of **20.00 feet** to a ½" iron rod found for the southeast corner of

said 5.0 acre Board of Trustees of the Pflugerville Independent School District Tract, same being the southwest corner of said 5.0 acre Logos Baptist Church Tract and southeast corner hereof;

THENCE N 63°34'25" W, with the north line of said remnant portion of a 100 acre tract, same being the south line of said 5.0 acre Board of Trustees of the Pflugerville Independent School District Tract, a distance of **255.96 feet** to the **POINT OF BEGINNING** and containing 0.117 of an acre in the City of Pflugerville, Travis County, Texas. Said tract being described in accordance with an exhibit by Pape-Dawson Engineers, Inc. under Job Number 50871-00.

PREPARED BY: Pape-Dawson Engineers, Inc.

DATE: May 4, 2016

JOB No.: 50871-00

DOC.ID.: H:\survey\CIVIL\50871-00\Easements\Word\0.117Ac_Easement.docx

TBPE Firm Registration #470

TBPLS Firm Registration #100288-01

