

EASEMENT PURCHASE AGREEMENT

This Purchase Agreement (this "Agreement") is made and entered into by and between the **CITY OF PFLUGERVILLE, TEXAS**, a Texas home rule municipality corporation ("Buyer"), and **MELANIE ELAINE SAMUELSON, RUSSELL HENRY KUEMPEL A/K/A RUSSELL H. KUEMPEL, MARILYN L. SMITH, JULIA HEBBE, NANCY TEMPLE ROBERTSON, ROBERT KUEMPEL A/K/A ROBERT H. KUEMPEL, THE ESTATE OF EDMUND KUEMPEL, DECEASED, DAVID K. JOHNSON, MARY K. JOHNSON HACKERMAN, and DIANE R. JOHNSON**, ("Seller"), hereafter collectively referred to as the "Parties", upon the premises and for the purposes set out herein, and is effective as stated in this Agreement.

INTRODUCTION

A. Seller is the current owner thereof of 96.34 acres called Tract 3 and Tract 4 in a deed recorded in Document No. 2009205387, Official Public Records of Travis County, Texas.

B. Buyer requires acquisition of portions of this tract for a permanent wastewater easement and a temporary workspace easement as described on **Exhibits "A" and "B"**, collectively, the "Easements" for the Carmel Wastewater Interceptor CIP project.

C. Seller is willing to convey and Buyer to purchase the permanent wastewater easement and the temporary construction easement for the negotiated price of **\$32,500.00**.

NOW, THEREFORE, in exchange for the mutual promises provided herein, the Parties agree as follows:

I.

Purchase and Sale Agreement. For the Purchase Price, Seller agrees to sell and convey Easements to Buyer, and Buyer agrees to buy and pay Seller for the permanent wastewater easement for the purpose of providing access for the operation, repair, maintenance, placement, replacement, relocation, removal, operation, expansion, connections, of the public wastewater utility facilities and related appurtenances which are constructed and installed therein; and a temporary workspace easement for any and all purposes incident to effectuating the Project, including but not limited to construction staging, equipment storage, temporary spoil storage, and access as described in **Exhibits "A" and "B"**. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract. The obligation of the Buyer contained in this agreement are conditional on City Council of Pflugerville's approval and acceptance of the Easements. In the event the City Council does not approve the acceptance of the Easements, Buyer shall pay Seller \$100.00, as consideration for Seller's agreement to the condition on closing and shall return to Seller all original documents, unfiled with the County, at Buyer's expense.

II.

The Purchase Price. Thirty-Two Thousand Five Hundred Dollars and NO/100 (**\$32,500.00**) to be paid at closing.

As additional consideration, Buyer and Seller have agreed to other terms included

in the Memorandum of Agreement attached hereto and incorporated herein as **Exhibit “C”**.

III.

The Property. A variable width permanent wastewater easement and a 20 foot wide temporary workspace easement over, across, under and through a 96.34 acre tract of land called Tract 3 and Tract 4 in a deed recorded in Document No. 2009205387, Official Public Records of Travis County, Texas as more particularly described in **Exhibit “A”** and **Exhibit “B”**, attached hereto and incorporated by reference for all purposes.

IV.

Easement Instrument. The Instrument of Conveyance shall be in substantial conformance with the form and substance as stated in the Wastewater Easement Agreement (**Exhibit “D”**), attached hereto and incorporated by reference for all purposes.

V.

Miscellaneous.

- A. *Closing Date.* The parties shall close on this transaction within 30 days of City Council’s approval and acceptance of the Easement.
- B. *Notice.* Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; (ii) by depositing it with Federal Express or another service guaranteeing “next day delivery”, addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement; or (iv) by facsimile with confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or three (3) days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

Buyer: City of Pflugerville
Attn: Brandon Wade, City Manager
100 East Main Street
Pflugerville, Texas 78660

Seller: Kuempel Family
c/o Sejin Brooks
Barron, Adler, Clough & Oddo, LLP
808 Nueces Street
Austin, TX 78701-2216

- C. *Severability; Waiver.* If any provision of this agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal,

invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is similar in terms to the illegal, invalid, or enforceable provision as is possible. Each of the rights and obligations of the parties hereto are separate covenants. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not be deemed a waiver of such provision or any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

- D. Applicable Law and Venue.* The interpretation, performance, enforcement, and validity of this Agreement is governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Travis County, Texas.
- E. Entire Agreement.* With the exception of the permits and approvals to be issued in connection with this Agreement, this Agreement contains the entire agreement of the Parties and there are no other agreements or promises, oral or written between the Parties regarding the subject matter of this Agreement. This Agreement can be amended only by written agreement signed by the Parties. This Agreement supersedes all other agreements between the Parties concerning the subject matter hereof.
- F. Exhibits and Counterparts.* All exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The section headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the sections. The Parties acknowledge that each of them have been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and otherwise applicable City ordinances, the terms of this Agreement will control. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts bear the signatures of all the parties.
- G. Representations and Warranties by Seller.* Seller warrants, represents, covenants, and agrees that Seller has fee simple absolute title to the Property described in **Exhibits "A" and "B"**, that said Property is free of any liens or other encumbrances that would prevent this conveyance, and that Seller meets all requirements to contract with the City of Pflugerville as provided by Chapter 38 of the City's Code of Ordinances.
- H. Eligibility Certification.* Seller certifies that the individual or business entity named in the Agreement is not ineligible to receive the award of, or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.

- I. Payment of Debt or Delinquency* to the State or Political Subdivision of the State. Pursuant to Chapter 38, City of Pflugerville Code of Ordinances, Seller agrees that any payments owing to Seller under the Agreement may be applied directly toward any debt or delinquency that Seller owes the City of Pflugerville, State of Texas or any political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- J. Texas Family Code Child Support Certification.* Seller certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

SELLER:

Melanie Elaine Samuelson

Nancy Temple Robertson

Marilyn L. Smith

David K. Johnson

Mary K. Johnson Hackerman

Russell Henry Kuempel a/k/a Russell H. Kuempel

Diane R. Johnson

Julia Hebbe

Robert Kuempel
a/k/a Robert H. Kuempel

The Estate of Edmund Kuempel,
deceased, Roberta Blumberg Kuempel,
Executor

PURCHASER:

CITY OF PFLUGERVILLE,
a Texas home rule municipality

By: _____
Brandon Wade, City Manager

ATTEST:

Karen Thompson, City Secretary



**1.263 ACRE WASTEWATER EASEMENT
LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162
TRAVIS COUNTY, TEXAS**

FIELD NOTES FOR A 1.263 ACRE WASTEWATER EASEMENT LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162, TRAVIS COUNTY, TEXAS, AND BEING OUT OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 3 IN A DEED TO MELANIE ELAINE SAMUELSON AN UNDIVIDED ONE-HALF INTEREST AND RUSSELL HENRY KUEMPEL AN UNDIVIDED ONE-HALF INTEREST RECORDED IN TRAVIS COUNTY CLERK'S DOCUMENT (T.C.C.D.) 2009205387 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.). SAID 1.263 ACRE TRACT BEING MORE PARTICULARLY SHOWN ON THE ATTACHED EXHIBIT DRAWING AND FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A POINT IN THE EAST LINE OF A CALLED 6.365 ACRE TRACT DESCRIBED AS TRACT 4 IN A DEED TO CE DEVELOPMENT, INC., A TEXAS CORPORATION RECORDED IN T.C.C.D. 2015146187 OF THE O.P.R.T.C.T. FOR THE NORTHWEST CORNER OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 4 IN SAID DEED TO MELANIE ELAINE SAMUELSON AND RUSSELL HENRY KUEMPEL, SAME BEING THE SOUTHWEST CORNER OF SAID TRACT 3 FROM WHICH A 1/2" IRON ROD FOUND MARKING THE SOUTHWEST CORNER OF SAID TRACT 4 BEARS S 27°13'04" W – 1458.50', AND A CONCRETE MONUMENT WITH A 2" ALUMINUM CAP STAMPED "SAM INC" FOUND MARKING THE NORTHWEST CORNER OF TRACT 3 BEARS N 27°12'14" E – 383.98' AND N 26°58'27" E – 1088.98';

THENCE S 62°33'37" E – 604.45' WITH THE COMMON LINE OF SAID TRACTS 3 AND 4 TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE **POINT OF BEGINNING** AND THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE DEPARTING SAID COMMON LINE AND CROSSING THE INTERIOR OF SAID TRACT 3 THE FOLLOWING FIVE (5) CALLS:

- 1) **N 50°55'27" E – 295.95'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 2) **S 85°54'42" E – 172.74'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 3) **N 29°32'50" E – 560.40'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 4) **N 56°50'55" E – 267.94'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 5) **S 65°46'36" E – 379.85'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET IN THE EAST LINE OF SAID TRACT 3, SAME BEING THE WEST LINE OF A CALLED 7.140 ACRE TRACT DESCRIBED AS TRACT 6 IN SAID DEED TO CE DEVELOPMENT, INC., A TEXAS CORPORATION FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT FROM WHICH A 1/2" IRON ROD FOUND MARKING THE NORTHEAST CORNER OF TRACT 3 BEARS N 26°42'11" E – 318.29';

THENCE S 26°42'12" W – 25.88' WITH THE COMMON LINE OF SAID TRACT 3 AND SAID 7.140 ACRE TRACT TO A 1/2" IRON ROD WITH AN ILLEGIBLE CAP FOUND MARKING AN ANGLE POINT OF SAID COMMON LINE;

THENCE S 26°23'12" W – 4.15' CONTINUING WITH SAID COMMON LINE TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET;

Exhibit "A"

- 2 -

December 31, 2015

THENCE DEPARTING SAID COMMON LINE AND CROSSING THE INTERIOR OF SAID TRACT 3 THE FOLLOWING FIVE (5) CALLS:

- 1) **N 65°46'36" W – 338.41'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 2) **S 56°50'55" W – 295.79'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 3) **S 29°32'50" W – 528.45'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 4) **N 85°54'42" W – 179.81'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 5) **S 50°55'27" W – 271.05'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET IN THE COMMON LINE OF SAID TRACTS 3 AND 4 FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE **N 62°33'37" W – 32.71'** RETURNING TO THE **POINT OF BEGINNING** AND CONTAINING 1.263 ACRES OF LAND.

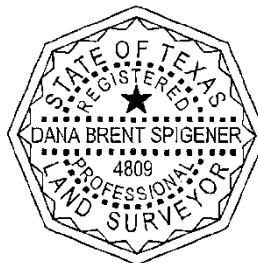
THIS DESCRIPTION IS BASED ON THE ATTACHED SURVEY AND EXHIBIT DRAWING MADE BY DANA B. SPIGENER, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 4809.

BEARINGS CITED WITHIN THIS DESCRIPTION ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS.

SURVEY DATE: JANUARY, 2015 – JANUARY, 2016
RELEASE DATE: JANUARY 4, 2016

Dana B. Spigener
DANA B. SPIGENER, R.P.L.S. 4809

PROJ NO. 1-02656
PLAT NO. A1-1007
FIELD NOTE NO. 1
MAP CHECKED 12-21-15





**20 FEET WIDE (0.777 ACRE) TEMPORARY WORKSPACE EASEMENT
LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162
TRAVIS COUNTY, TEXAS**

FIELD NOTES FOR A 20 FEET WIDE (0.777 ACRE) TEMPORARY WORKSPACE EASEMENT LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162, TRAVIS COUNTY, TEXAS, AND BEING OUT OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 3 IN A DEED TO MELANIE ELAINE SAMUELSON AN UNDIVIDED ONE-HALF INTEREST AND RUSSELL HENRY KUEMPEL AN UNDIVIDED ONE-HALF INTEREST RECORDED IN TRAVIS COUNTY CLERK'S DOCUMENT (T.C.C.D.) 2009205387 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.). SAID 0.777 ACRE TRACT BEING MORE PARTICULARLY SHOWN ON THE ATTACHED EXHIBIT DRAWING AND FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A POINT IN THE EAST LINE OF A CALLED 6.365 ACRE TRACT DESCRIBED AS TRACT 4 IN A DEED TO CE DEVELOPMENT, INC., A TEXAS CORPORATION RECORDED IN T.C.C.D. 2015146187 OF THE O.P.R.T.C.T. FOR THE NORTHWEST CORNER OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 4 IN SAID DEED TO MELANIE ELAINE SAMUELSON AND RUSSELL HENRY KUEMPEL, SAME BEING THE SOUTHWEST CORNER OF SAID TRACT 3 FROM WHICH A 1/2" IRON ROD FOUND MARKING THE SOUTHWEST CORNER OF SAID TRACT 4 BEARS S 27°13'04" W – 1458.50', AND A CONCRETE MONUMENT WITH A 2" ALUMINUM CAP STAMPED "SAM INC" FOUND MARKING THE NORTHWEST CORNER OF TRACT 3 BEARS N 27°12'14" E – 383.98' AND N 26°58'27 E – 1088.98';

THENCE S 62°33'37" E – 604.45' WITH THE COMMON LINE OF SAID TRACTS 3 AND 4 TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE **POINT OF BEGINNING** AND THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE N 62°33'37" W – 21.81' WITH SAID COMMON LINE TO A POINT FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE DEPARTING SAID COMMON LINE AND CROSSING THE INTERIOR OF SAID TRACT 3 THE FOLLOWING FIVE (5) CALLS:

- 1) **N 50°55'27" E – 312.56'** TO AN ANGLE POINT,
- 2) **S 85°54'42" E – 168.02'** TO AN ANGLE POINT,
- 3) **N 29°32'50" E – 552.63'** TO AN ANGLE POINT,
- 4) **N 56°50'55" E – 283.74'** TO AN ANGLE POINT,
- 5) **S 65°46'36" E – 391.66'** TO A POINT IN THE EAST LINE OF SAID TRACT 3, SAME BEING THE WEST LINE OF A CALLED 7.140 ACRE TRACT DESCRIBED AS TRACT 6 IN SAID DEED TO CE DEVELOPMENT, INC., A TEXAS CORPORATION FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE S 26°42'12" W – 20.02' WITH THE COMMON LINE OF SAID TRACT 3 AND SAID 7.140 ACRE TRACT TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET;

Exhibit "A"

- 2 -

December 31, 2015

THENCE DEPARTING SAID COMMON LINE AND CROSSING THE INTERIOR OF SAID TRACT 3 THE FOLLOWING FIVE (5) CALLS:

- 1) **N 65°46'36" W – 379.85'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 2) **S 56°50'55" W – 267.94'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 3) **S 29°32'50" W – 560.40'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 4) **N 85°54'42" W – 172.74'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 5) **S 50°55'27" W – 295.95'** RETURNING TO THE **POINT OF BEGINNING** AND CONTAINING 0.777 ACRE OF LAND.

THIS DESCRIPTION IS BASED ON THE ATTACHED SURVEY AND EXHIBIT DRAWING MADE BY DANA B. SPIGENER, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 4809.

BEARINGS CITED WITHIN THIS DESCRIPTION ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS.

SURVEY DATE: JANUARY, 2015 – JANUARY, 2016
RELEASE DATE: JANUARY 4, 2016

Dana B. Spigener
DANA B. SPIGENER, R.P.L.S. 4809

PROJ NO. 1-02656
PLAT NO. A1-1007
FIELD NOTE NO. 2
MAP CHECKED 12-21-15

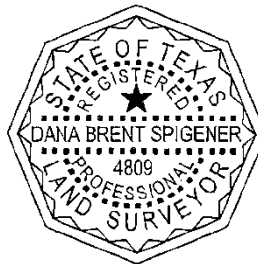
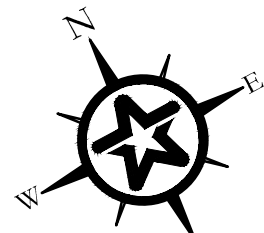


Exhibit "A"

TEMPORARY WORKSPACE EASEMENT LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 62°33'37" W	21.81'
L2	N 50°55'27" E	312.56'
L3	S 85°54'42" E	168.02'
L4	N 29°32'50" E	552.63'
L5	N 56°50'55" E	283.74'
L6	S 65°46'36" E	391.66'
L7	S 26°42'12" W	20.02'

CE DEVELOPMENT, INC., A TEXAS CORPORATION
TRACT 3
CONCRETE MONUMENT WITH 2" CALLED 20.287 ACRES
ALUMINUM CAP STAMPED T.C.C.D. 2015146169
"SAM INC" FOUND O.P.R.T.C.T.



**20 FEET WIDE (0.777 ACRE)
TEMPORARY WORKSPACE
EASEMENT**

1/2" IRON ROD
WITH ILLEGIBLE
CAP FOUND

S 65°46'36" E
379.85'

N 56°50'55" E
267.94'

N 26°42'12" W - 25.88'
S 26°23'12" W - 4.15'

MELANIE ELAINE SAMUELSON
AN UNDIVIDED ONE-HALF
INTEREST AND RUSSELL HENRY
KUEMPEL AN UNDIVIDED
ONE-HALF INTEREST
TRACT 3
CALLED 48.170 ACRES
T.C.C.D. 2009205387
O.P.R.T.C.T.

WINNIE MAE MURCHISON
AND JACK MURCHISON
FIRST TRACT
CALLED 125.15 ACRES
VOLUME 4501, PAGE 1828
DEED RECORDS OF
TRAVIS COUNTY, TEXAS

**FIELD NOTE
POINT OF
COMMENCEMENT**
N: 10126311.49 E: 3168536.89
(SEE SURVEYOR'S NOTES)

**1.263 ACRE
WASTEWATER
EASEMENT**

S 85°54'42" E
172.74'

N 29°32'50" E
560.40'

S 29°32'50" W
528.45'

N 50°55'27" E
295.95'

N 85°54'42" W
179.81'

S 50°55'27" W
271.05'

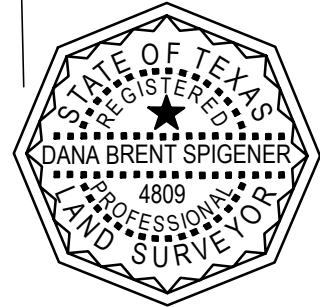
S 62°33'37" E 604.45'

N 62°33'37" W
32.71'

**FIELD NOTE
POINT OF
BEGINNING**

MELANIE ELAINE SAMUELSON AN UNDIVIDED ONE-HALF INTEREST
AND RUSSELL HENRY KUEMPEL AN UNDIVIDED ONE-HALF INTEREST
TRACT 4, CALLED 48.170 ACRES
T.C.C.D. 2009205387
O.P.R.T.C.T.

CE DEVELOPMENT, INC.
A TEXAS CORPORATION
TRACT 6
CALLED 7.140 ACRES
T.C.C.D. 2015146187
O.P.R.T.C.T.



Dana B. Spigener

SURVEYOR'S NOTES:

SURVEY DATE: JANUARY, 2014 - JANUARY, 2016.
RELEASE DATE: JANUARY 4, 2016.

FIELD NOTES ATTACHED HERETO, MADE A PART HEREOF AND TITLED:

1.263 ACRE WASTEWATER EASEMENT, LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162, TRAVIS COUNTY, TEXAS.
20 FEET WIDE (0.777 ACRE) TEMPORARY WORKSPACE EASEMENT, LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162, TRAVIS COUNTY, TEXAS.

THE SURVEYOR DID NOT ABSTRACT THE SUBJECT TRACT. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, THEREFORE THE SURVEYOR CERTIFIES THAT EASEMENTS THAT HE HAS BEEN ADVISED OF HAVE BEEN ADDRESSED HEREON. HOWEVER, THE SURVEYOR DOES NOT GUARANTEE THAT ALL EASEMENTS, RESTRICTIONS OR ENCUMBRANCES (EITHER OF RECORD OR NOT OF RECORD) WHICH MAY AFFECT THE SUBJECT TRACT ARE SHOWN HEREON.

THE BEARINGS AND GRID COORDINATES SHOWN HEREON ARE BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS. DISTANCES ARE SURFACE VALUES USING A COMBINED SCALE FACTOR OF 1.00010 (GRID TO SURFACE).

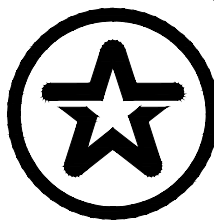
EXHIBIT OF

1.263 ACRE WASTEWATER EASEMENT

20 FEET WIDE (0.777 ACRE) TEMPORARY WORKSPACE EASEMENT

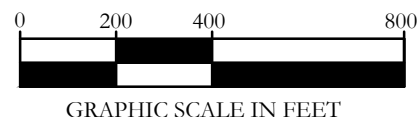
LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162, TRAVIS COUNTY, TEXAS AND
BEING OUT OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 3 IN A DEED TO MELANIE
ELAINE SAMUELSON AND RUSSELL HENRY KUEMPEL, RECORDED IN TRAVIS COUNTY CLERK'S
DOCUMENT 2009205387 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

© COPYRIGHT ALL RIGHTS RESERVED



**Walker
Partners**
ENGINEERS • SURVEYORS

600 AUSTIN AVENUE, SUITE 20 • WACO, TEXAS 76701
PHONE: 1-254-714-1402 • T.B.P.E. REGISTRATION NO. 8053
T.B.P.L.S. REGISTRATION NO. 10032500



PLAT NO. A1-1007 DRAFT DATE 12-16-15 FB/PG 334/40
PROJ. NO. 1-02656 TAB NO. NA FIELD NOTE NO. 01&02
DWG. NAME 1-02656ESMT SAMUELSON WW1 DRAWN BY DBS

REVISIONS

G:\PROJECTS\1-02656ESMT SAMUELSON WW1.DWG, 8.5X11, 1/4/2016 7:58:08 AM, dspigener, 1:1



**30 FEET WIDE (0.474 ACRE) WASTEWATER EASEMENT
LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162
TRAVIS COUNTY, TEXAS**

FIELD NOTES FOR A 30 FEET WIDE (0.474 ACRE) WASTEWATER EASEMENT LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162, TRAVIS COUNTY, TEXAS, AND BEING OUT OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 4 IN A DEED TO MELANIE ELAINE SAMUELSON AN UNDIVIDED ONE-HALF INTEREST AND RUSSELL HENRY KUEMPEL AN UNDIVIDED ONE-HALF INTEREST RECORDED IN TRAVIS COUNTY CLERK'S DOCUMENT (T.C.C.D.) 2009205387 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.). SAID 0.474 ACRE TRACT BEING MORE PARTICULARLY SHOWN ON THE ATTACHED EXHIBIT DRAWING AND FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A POINT IN THE EAST LINE OF A CALLED 6.365 ACRE TRACT DESCRIBED AS TRACT 4 IN A DEED TO CE DEVELOPMENT, INC., A TEXAS CORPORATION RECORDED IN T.C.C.D. 2015146187 OF THE O.P.R.T.C.T. FOR THE SOUTHWEST CORNER OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 3 IN SAID DEED TO MELANIE ELAINE SAMUELSON AND RUSSELL HENRY KUEMPEL, SAME BEING THE NORTHWEST CORNER OF SAID TRACT 4 FROM WHICH A 1/2" IRON ROD FOUND MARKING THE SOUTHWEST CORNER OF SAID TRACT 4 BEARS S 27°13'04" W – 1458.50', AND A CONCRETE MONUMENT WITH A 2" ALUMINUM CAP STAMPED "SAM INC" FOUND MARKING THE NORTHWEST CORNER OF TRACT 3 BEARS N 27°12'14" E – 383.98' AND N 26°58'27" E – 1088.98';

THENCE S 62°33'37" E – 604.45' WITH THE COMMON LINE OF SAID TRACTS 3 AND 4 TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE **POINT OF BEGINNING** AND THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE S 62°33'37" E – 32.71' WITH SAID COMMON LINE TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE DEPARTING SAID COMMON LINE AND CROSSING THE INTERIOR OF SAID TRACT 4 THE FOLLOWING TWO (2) CALLS:

- 1) **S 50°55'27" W – 127.95'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;
- 2) **N 65°42'36" W – 586.49'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET IN THE COMMON LINE OF TRACT 4 AND SAID 6.365 ACRE TRACT FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE N 27°13'04" E – 30.04' WITH SAID COMMON LINE TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET;

Exhibit "B"

- 2 -

December 31, 2015

THENCE DEPARTING SAID COMMON LINE AND CROSSING THE INTERIOR OF SAID TRACT 4 THE FOLLOWING TWO (2) CALLS:

- 1) **S 65°42'36" E – 566.44'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT,
- 2) **N 50°55'27" E – 96.40'** RETURNING TO THE **POINT OF BEGINNING** AND CONTAINING 0.474 ACRE OF LAND.

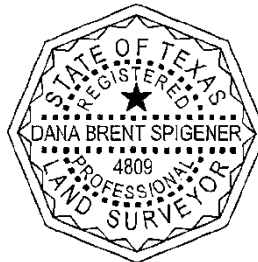
THIS DESCRIPTION IS BASED ON THE ATTACHED SURVEY AND EXHIBIT DRAWING MADE BY DANA B. SPIGENER, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 4809.

BEARINGS CITED WITHIN THIS DESCRIPTION ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS.

SURVEY DATE: JANUARY, 2015 – JANUARY, 2016
RELEASE DATE: JANUARY 4, 2016

Dana B. Spigener
DANA B. SPIGENER, R.P.L.S. 4809

PROJ NO. 1-02656
PLAT NO. A1-1008
FIELD NOTE NO. 3
MAP CHECKED 12-21-15





**20 FEET WIDE (0.298 ACRE) TEMPORARY WORKSPACE EASEMENT
LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162
TRAVIS COUNTY, TEXAS**

FIELD NOTES FOR A 20 FEET WIDE (0.298 ACRE) TEMPORARY WORKSPACE EASEMENT LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162, TRAVIS COUNTY, TEXAS, AND BEING OUT OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 4 IN A DEED TO MELANIE ELAINE SAMUELSON AN UNDIVIDED ONE-HALF INTEREST AND RUSSELL HENRY KUEMPEL AN UNDIVIDED ONE-HALF INTEREST RECORDED IN TRAVIS COUNTY CLERK'S DOCUMENT (T.C.C.D.) 2009205387 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.). SAID 0.298 ACRE TRACT BEING MORE PARTICULARLY SHOWN ON THE ATTACHED EXHIBIT DRAWING AND FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A POINT IN THE EAST LINE OF A CALLED 6.365 ACRE TRACT DESCRIBED AS TRACT 4 IN A DEED TO CE DEVELOPMENT, INC., A TEXAS CORPORATION RECORDED IN T.C.C.D. 2015146187 OF THE O.P.R.T.C.T. FOR THE SOUTHWEST CORNER OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 3 IN SAID DEED TO MELANIE ELAINE SAMUELSON AND RUSSELL HENRY KUEMPEL, SAME BEING THE NORTHWEST CORNER OF SAID TRACT 4 FROM WHICH A 1/2" IRON ROD FOUND MARKING THE SOUTHWEST CORNER OF SAID TRACT 4 BEARS S 27°13'04" W – 1458.50', AND A CONCRETE MONUMENT WITH A 2" ALUMINUM CAP STAMPED "SAM INC" FOUND MARKING THE NORTHWEST CORNER OF TRACT 3 BEARS N 27°12'14" E – 383.98' AND N 26°58'27" E – 1088.98';

THENCE S 62°33'37" E – 604.45' WITH THE COMMON LINE OF SAID TRACTS 3 AND 4 TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE **POINT OF BEGINNING** AND THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE DEPARTING SAID COMMON LINE AND CROSSING THE INTERIOR OF SAID TRACT 4 THE FOLLOWING TWO (2) CALLS:

- 1) **S 50°55'27" W – 96.40'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;
- 2) **N 65°42'36" W – 566.44'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET IN THE COMMON LINE OF TRACT 4 AND SAID 6.365 ACRE TRACT FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE N 27°13'04" E – 32.25' WITH SAID COMMON LINE TO AN OUTSIDE CORNER POINT;

THENCE DEPARTING SAID COMMON LINE AND CROSSING THE INTERIOR OF SAID TRACT 4 THE FOLLOWING THREE (3) CALLS:

- 1) **S 09°23'26" E – 14.67'** TO AN ANGLE POINT,
- 2) **S 65°42'36" E – 544.31'** TO AN ANGLE POINT,
- 3) **N 50°55'27" E – 75.36'** TO A POINT IN THE COMMON LINE OF SAID TRACTS 3 AND 4;

Exhibit "B"

- 2 -

December 31, 2015

THENCE S 62°33'37" E – 21.81' WITH SAID COMMON LINE RETURNING TO THE POINT OF BEGINNING AND CONTAINING 0.298 ACRE OF LAND.

THIS DESCRIPTION IS BASED ON THE ATTACHED SURVEY AND EXHIBIT DRAWING MADE BY DANA B. SPIGENER, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 4809.

BEARINGS CITED WITHIN THIS DESCRIPTION ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS.

SURVEY DATE: JANUARY, 2015 – JANUARY, 2016
RELEASE DATE: JANUARY 4, 2016

Dana B. Spigener
DANA B. SPIGENER, R.P.L.S. 4809



PROJ NO. 1-02656
PLAT NO. A1-1008
FIELD NOTE NO. 4
MAP CHECKED 12-21-15

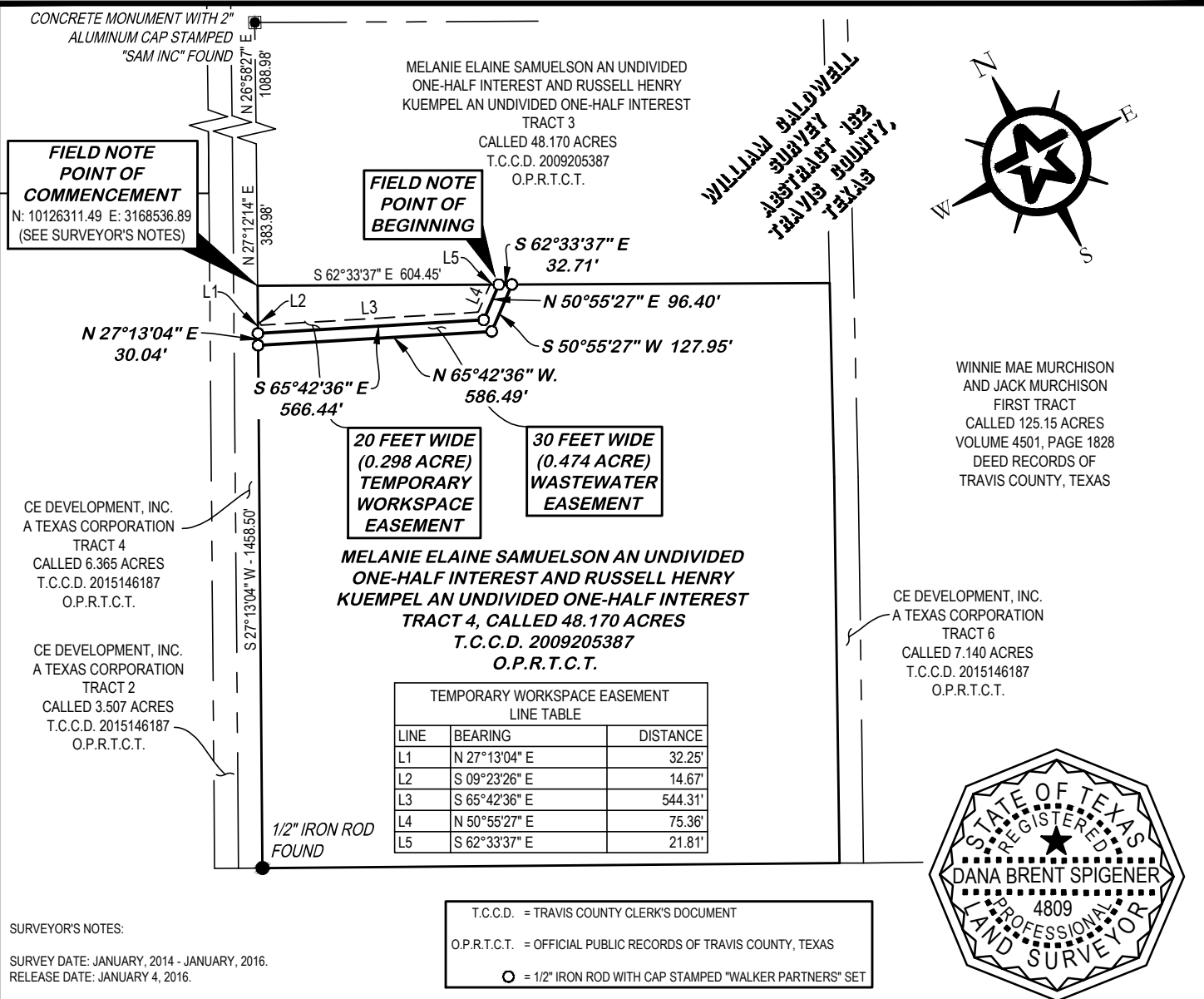


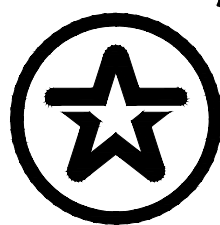
EXHIBIT OF

30 FEET WIDE (0.474 ACRE) WASTEWATER EASEMENT

20 FEET WIDE (0.298 ACRE) TEMPORARY WORKSPACE EASEMENT

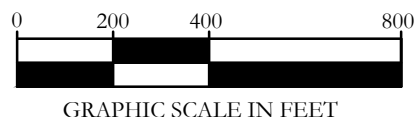
LOCATED IN THE WILLIAM CALDWELL SURVEY, ABSTRACT 162, TRAVIS COUNTY, TEXAS AND BEING OUT OF A CALLED 48.170 ACRE TRACT DESCRIBED AS TRACT 4 IN A DEED TO MELANIE ELAINE SAMUELSON AND RUSSELL HENRY KUEMPEL, RECORDED IN TRAVIS COUNTY CLERK'S DOCUMENT 2009205387 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

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Walker Partners
ENGINEERS • SURVEYORS

600 AUSTIN AVENUE, SUITE 20 • WACO, TEXAS 76701
PHONE: 1-254-714-1402 • T.B.P.E. REGISTRATION NO. 8053
T.B.P.L.S. REGISTRATION NO. 10032500



REVISIONS

PLAT NO. A1-1008 DRAFT DATE 12-17-15 FB/PG 334/40
PROJ. NO. 1-02656 TAB NO. NA FIELD NOTE NO. 03&04
DWG. NAME 1-02656ESMT SAMUELSON WW2 DRAWN BY DBS

EXHIBIT "C"

Austin Office
808 Nueces Street
Austin, TX 78701-2216
Telephone: (512) 478-4995
Fax: (512) 478-6022



Houston Office
801 Congress Avenue, Suite 200
Houston, TX 77002
Telephone: (713) 526-1500
Fax: (713) 526-1550

March 10, 2017

BY EMAIL

Blaire A. Knox
knox@barronadler.com
Office: (512) 478-4995

Scott Osburn
Cynthia Trevino
Denton Navarro Rocha Bernal Hyde & Zech, PC
2500 W. William Cannon, Suite 609
Austin, Texas 78745
scott.osburn@rampage-aus.com
cynthia.trevino@rampage-aus.com

Re: City of Pflugerville
Carmel Wastewater Interceptor Project
Kuempel Family Wastewater Easement

Dear Scott and Cynthia:

Our negotiations concerning the City of Pflugerville's acquisition of a wastewater easement on the Kuempel Family property for the Carmel Wastewater Interceptor Project have progressed to the point that both parties appear ready to sign a mutually agreeable Wastewater Easement. In order to avoid any possible misunderstanding regarding the agreements between the City of Pflugerville and the Kuempel Family, this letter is intended to confirm the agreements of the parties.

In addition to the Wastewater Easement Agreement, attached hereto as Exhibit A, the City of Pflugerville, and its successors and assigns (collectively the "City") agrees to authorize the Kuempel Family, and their heirs, assigns, and successors, (collectively the "Kuempel Family") to install two reasonably accessible sewer taps on the Kuempel Family property along the Carmel Wastewater line, in accordance with the applicable City of Pflugerville requirements (permitting, payment of applicable fees, inspection and release for construction) in perpetuity. The parties acknowledge and agree that the foregoing promise from the City is a material part of the consideration for the Kuempel Family's easement conveyance and is a material inducement the Kuempel Family has relied upon as part of its agreement to convey the referenced easement. The payment of \$32,500 by the City to the Kuempel Family will constitute full payment to be made by the City for the easement interest to be conveyed to the City. Final closing shall be arranged by the City's right of way agent, David Baylor.

EXHIBIT "C"

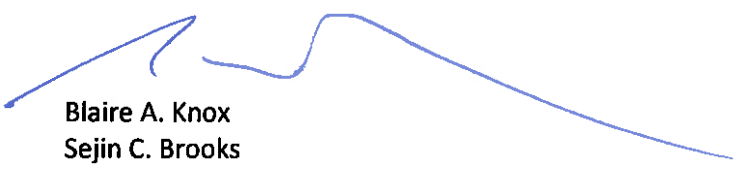
Kuempel Family Waterwater Easmenr

March 10, 2017

Page 2

If I have correctly stated the terms of our agreement, please sign below on behalf of the City.

Very truly yours,



Blaire A. Knox
Sejin C. Brooks

Enclosures

The understanding provided above is hereby acknowledged and agreed to this __ day of _____, 2017, by _____, as a duly authorized agent of the City of Pflugerville, Texas.

Brandon E. Wade, City Manager or his designee



EXHIBIT "D"

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.

WASTEWATER EASEMENT AGREEMENT

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

GRANT OF EASEMENT:

MELANIE ELAINE SAMUELSON, RUSSELL HENRY KUEMPEL A/K/A RUSSELL H. KUEMPEL, MARILYN L. SMITH, JULIA HEBBE, NANCY TEMPLE ROBERTSON, ROBERT KUEMPEL A/K/A ROBERT H. KUEMPEL, THE ESTATE OF EDMUND KUEMPEL, DECEASED, DAVID K. JOHNSON, MARY K. JOHNSON HACKERMAN, and DIANE R. JOHNSON, ("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 municipality located in Travis County, Texas ("Grantee"), a permanent and perpetual non-exclusive easement and right-of-way ("Permanent Easement") and a temporary workspace easement ("Temporary Easement") upon and across the property of Grantor which is more particularly described on Exhibit "A"; a permanent and perpetual non-exclusive easement and right-of-way ("Permanent Easement") and a temporary workspace easement ("Temporary Easement") upon and across the property of Grantor which is more particularly described on Exhibit "B", attached hereto and incorporated herein by reference. Collectively, the easements described on Exhibits A and B shall be referred to as the "Easement Tract" or the "Easements," which shall be subject to this agreement hereinafter referred to as the "Easement Agreement."

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. This Easement Agreement, including all benefits and burdens, shall run with the land.

The undersigned executing on behalf of Grantor below, warrant that they are the owner(s) of the property herein described and have authority to execute this Easement Agreement on behalf of Grantor. The undersigned executing on behalf of Grantee hereby represents and warrants that such party is duly authorized and has the authority to bind Grantee to the terms and provisions of this Easement Agreement. This conveyance is made by Grantor and accepted by Grantee subject to the following:

1. Visible and apparent easements not appearing of record.
Carmel Interceptor
Parcel 5

EXHIBIT "D"

2. Any discrepancies, conflicts, or shortages in area or boundary lines or any encroachments or any overlapping of improvements which a current survey would show.

3. Easements, restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, and encumbrances for taxes and assessments (other than liens and conveyances) and any other items presently of record in the Official Public Records of Travis County, Texas that affect the Easement Tract, but only to the extent that said items are still valid and in force and effect at this time.

4. The Easement Tract is granted by Grantor with special warranty as to title, "AS-IS", "WHERE-IS" and WITH ALL FAULTS. GRANTEE ACKNOWLEDGES THAT IT HAS BEEN PROVIDED ADEQUATE ACCESS TO THE EASEMENT TRACT AND TIME TO CONDUCT ITS OWN INSPECTIONS AND THAT NEITHER GRANTOR NOR A GRANTOR PARTY HAS MADE NOR WILL MAKE ANY REPRESENTATION OR WARRANTY TO GRANTEE WITH RESPECT TO THE CONDITION OF THE EASEMENT TRACT, GRANTOR'S REMAINING PROPERTY, OR ACCESS THERETO, WHETHER EXPRESS, STATUTORY, IMPLIED, OR OTHERWISE, AND THAT GRANTOR EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY THAT SUCH PROPERTIES AND AREAS ARE OR WILL BE SUITABLE FOR GRANTEE'S INTENDED PURPOSES.

TO HAVE AND TO HOLD, subject to the matters set forth herein and the permitted encumbrances, the Easements, together with, all and singular, the rights and appurtenances thereto in any wise belonging, including all necessary rights to ingress, egress, and regress, unto Grantee, its successors and assigns, forever. Grantor does hereby bind itself and its successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the Easements and right-of-way and other rights described herein unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise.

CHARACTER OF EASEMENT:

The Permanent Easements is an easement in gross.

EXHIBIT "D"

PURPOSE AND TERMS OF EASEMENT:

The Permanent Easements shall only be used for public utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of public wastewater utility facilities and related appurtenances (collectively, the "Facilities"), or making connections thereto across, along, over, upon and through the Easement Tract, none of which shall be located above-ground other than the manholes, vent pipes and associated appurtenances. Grantee shall bury the Facilities to a minimum depth of forty-eight inches (48") below the surface of the ground and then existing drainage ditches, creeks, and roads.

The Permanent Easements shall also be used for the purpose of providing access for the operation, repair, maintenance, replacement, modification, and removal of the public wastewater utility facilities and related appurtenances. Except for ingress, egress, or access on the Easement Tract, nothing herein shall be understood or construed to grant, provide, or allow Grantee ingress, egress, or access on Grantor's adjoining private property or private roads or right of ways for any reason.

Grantee agrees not to install any above-ground facilities, appurtenances, and/or fixtures on the Easement Tract other than manholes, vent pipes and associated appurtenances, and Grantor and Grantee agree this grant shall not be construed to allow any above-ground facilities, appurtenances, and/or fixtures other than those set forth in this sentence. Grantor only grants the right to install wastewater line(s) and all related below-ground connections, and related manholes, vent pipes and associated appurtenances. Except for the above-ground appurtenances set forth in the preceding sentence, Grantor only grants the right to install below-ground appurtenances only and that no other utilities and/or other utility lines shall be installed in the Easement Tract, and Grantor and Grantee further agree this grant shall not be construed to permit Grantee to install anything other than wastewater line(s) and all related below-ground connections and below-ground and permitted above ground appurtenances only. Nothing in this Easement Agreement shall be construed to include the right to allow storage or permanent staging of vehicles, machinery, equipment or materials, it being understood by the parties that temporary storage and staging of vehicles, machinery, equipment and materials will be necessary during the construction phase of the Facilities and at times in the future if and when necessary to exercise the purposes herein provided.

Grantee shall have the right to clear and remove trees, growth, shrubbery, and other improvements from within the Easement Tract and the right to bring and operate such equipment on the Easement Tract as may be necessary, requisite, convenient, or appropriate to effectuate the purposes for which the Easements are granted. Subject to the rights granted to Grantee herein, Grantee will, at all times after doing any work in connection with the Easements, restore the surface of the Easement Tract as nearly as reasonably practicable to substantially its condition prior to the undertaking of such work; provided, however, that Grantee shall not be obligated to replace or restore any trees, growth, shrubbery, or other improvements or obstructions removed from the Easement Tract in connection with the construction, installation, repair, maintenance, relocation, replacement, removal, upgrade, operation, placement, inspection,

EXHIBIT "D"

protection, or alteration of the Facilities if said growth, shrubbery, or other improvements or obstructions interfere with Grantee's use of the Easement Tract for the purposes set forth herein. Grantee shall remove, at Grantee's expense, any dirt, earth, or other material excavated from the Easement Tract in connection with Grantee's construction, operation, or maintenance of the Facilities that is not used in connection with Grantee's activities hereunder.

Grantee, Grantee's agents, representatives, contractors, and/or subcontractors shall not fence the Easement Tract without Grantor's prior written consent, except for temporary fencing associated with the construction phase of the Facilities. Grantee shall have the right to remove any fence which now crosses or may cross the Easement Tract during initial construction of the Facilities or thereafter. Prior to cutting any fence, however, Grantee shall brace the existing fence to be cut adequately on both sides of the proposed cut by suitable H-braces to prevent the remainder of the fence from sagging. Before the fence wire is cut, it is to be attached to the posts in a manner that there will be no slackening of or damage to the wire. Each such wire gap is to be reinforced so as to be strong enough to prevent livestock from passing through the same. Upon completion of the Facilities construction, permanent fencing destroyed or disturbed by project construction activities shall be installed by Grantee, at its sole expense, of the same or better quality and type as was on the Easement Tract at the time Grantee commenced work along the same alignment and approximate location of the Grantor's existing fences. Grantee will restore all fences cut during construction as nearly as possible to as good, or better, condition as they were prior to the construction of the Facilities.

Grantee, Grantee's agents, representatives, contractors, and/or subcontractors agree to keep all gates in fences closed at all times so that livestock located on Grantor's property cannot stray from fenced pastures.

Subject to the limitations set forth herein, Grantor expressly reserves the right to the use and enjoyment of the surface of the Easement Tract for any and all purposes, however, that such use and enjoyment of the surface of the Easement Tract shall not interfere with, obstruct, or restrict the full and complete use and enjoyment of the Easement for the purposes set forth herein. Notwithstanding this reservation, Grantor shall limit such use and enjoyment by Grantor, Grantor's invitees and guests, during the initial construction phase of the Facilities due to the inherent risk associated with the same. Grantor may use the Easement Tract for agricultural, pasture, crops, open space, set-back, street, parking, paved parking, internal circulation, driveway, and roadway purposes which do not interfere with, obstruct, restrict, damage or destroy the operation of the Facilities or diminish Grantee's access thereto. Grantor is permitted to construct any and all streets and roadways, at any angle not less than forth-five degrees to Grantee's Facilities across the Easement Tract which do not interfere with, obstruct, restrict, damage, or destroy the operation of the Facilities or diminish Grantee's access thereto. Grantor may also construct and/or install fences, berms, and improvements, water, sewer, gas, electric, cable TV, telephone or other utility lines across the Easement Tract at any angle of not less than forty-five degrees to Grantee's Facilities, provided that all of Grantee's required and applicable spacings, including depth separation limits and other protective requirements are met by Grantor and Carmel Interceptor

Parcel 5

EXHIBIT "D"

Grantee's access to the Facilities is not diminished. The use of the Easement Tract by Grantor shall be regulated by all appropriate ordinances, regulations, resolutions or laws of the governmental entity with authority over the Easement Tract. Grantor, Grantor's heirs, successors and assigns shall have the right to construct, reconstruct or maintain underground and above-ground utilities over and across the Easement Tract at such place or places previously approved by the Grantee in writing (in Grantee's sole and reasonable discretion) as Grantor may from time to time hereafter select for public or private use, provided that all of the Grantee's required and applicable spacings, including depth separation limits and other protective requirements are met by the Grantor. The failure of Grantee to respond to Grantor's written request for permission to cross the Easement Area with utilities within sixty (60) days of Grantor's request shall result in the deemed approval of Grantor's request. Notwithstanding anything herein to the contrary, Grantor shall not, without the prior written consent of Grantee, (i) construct or place or allow to be constructed or places houses, buildings, structures, or other permanent above-ground improvements on the Easement Tract; (ii) install or permit the installation of pipelines or other underground facilities within the Easement Tract; (iii) dedicate other easements within the Easement Tract; or (iv) change the grade over the Facilities constructed under the Easement Tract. If Grantor constructs, places, installs, or permits any construction, placement, or installation in violation of this Easement Agreement that interferes with, obstructs, or restricts Grantee's full and complete use and enjoyment of the Easement for the purposes set forth herein, Grantee shall notify Grantor of the alleged violation and give Grantor a reasonable period of time not to exceed thirty days to correct any such violation. If Grantor does not cure the alleged violation then Grantee may remove such obstructions at Grantor's sole cost and expenses provided such cost and expense are reasonable. Grantee confirms that Grantee has inspected the Easement Tract and there are no known above-ground improvements and/or encroachments (other than trees or brush) within the Easement Tract that currently exist as of the date of execution of this Easement Agreement that need to be removed from the Easement Tract.

Grantor reserves all oil, gas, and other minerals in, on, or under the Easement Tract, but waives the right to use the surface of the Easement Tract for, and all rights of ingress and egress for, the purpose of exploring, developing, mining, or drilling for the same; provided, however, that nothing herein shall prohibit or in any manner restrict the right of Grantor to extract oil, gas, and other minerals from and under the Easement Tract by directional drilling or other means that does not interfere with or disturb the Facilities, the surface of the Easement Tract or Grantee's use of the Easement Tract for the purposes set forth herein.

Grantor reserves ownership of any and all cultural or historical artifacts discovered in or on the Easement Tract.

Grantee agrees to promptly and fully remediate any spillage and/or environmental contamination that may result or be related to Grantee's use and/or operation of the Facilities.

Solely as it relates to Facilities located within the Easement Tract, during construction and/or installation of the Facilities, all of Grantee's agents, representatives, Carmel Interceptor
Parcel 5

EXHIBIT "D"

contractors, and/or subcontractors will maintain commercial general liability insurance including bodily injury, death, property damage, independent contractors, products/completed operations, contractual, and personal injury liability, with a limit of at least \$1,000,000 per occurrence and in the annual aggregate. Solely as it relates to Facilities located within the Easement Tract, after construction of all Facilities within the Easement Tract is complete, coverage for bodily injury, death, property damage, independent contractors, products/completed operations, contractual, and personal injury liability, with a limit of at least \$1,000,000 per occurrence and \$3,000,000 in the annual aggregate shall be maintained by the Grantee. Grantee will provide Grantor with a certificate of insurance reflecting said coverages by certified mail, return receipt requested to Marilyn L. Smith, 11310 Spicewood Club Drive, Apartment 16, Austin, Texas 78750.

Grantee will maintain the Easement clean of all litter, trash, and/or construction debris during initial construction and/or installation of the Facilities. Grantee will thereafter remove any litter, trash, and/or construction debris from the Easement Tract that is generated by Grantee during subsequent repair, maintenance, relocation, replacement, removal, upgrade, change in the size of, operation, placement, inspection, protection, or alteration of the Facilities.

Grantee agrees to provide Grantor with at least forty-eight hours' notice of the start of initial construction of the Facilities on the Easement Tract. Following completion of the initial construction of the Facilities, Grantee agrees to provide Grantor with at least forty-eight hours' notice of its intent to be on the Easement Tract. Grantee's access restrictions under this paragraph shall not apply if Grantee, in its sole discretion, determines an emergency exists; provided however, Grantee shall notify Grantor of any emergency situation as soon as reasonably practicable after the emergency subsides or earlier if feasible.

During construction and any subsequent altering, repairing, removing or replacing of Facilities hereunder, Grantee agrees that it will not prevent Grantor's or Grantor's invitee's access to Grantor's property adjacent to the Easement Tract unless prior notice has been provided based upon the reasonable necessity of Grantee.

In addition to the rights and conditions in the Permanent Easement, Grantor also hereby grants unto Grantee Temporary Easements as depicted on **Exhibits "A" and "B"** for temporary use and occupancy by Grantee, its agents, employees, contractors, and subcontractors, only in connection with and during the original construction of the Facilities on the Permanent Easement Tracts, including but not limited to construction staging, equipment storage, temporary spoil storage, and access. The duration of said Temporary Easement shall not exceed eighteen (18) months, commencing upon execution of this document and terminating upon the earlier of Grantee's completion of construction of utility lines within the Permanent Easement or _____whichever date first occurs.

DURATION OF PERMANENT EASEMENT:

The Permanent Easement shall be perpetual.

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EXHIBIT "D"

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 Permanent Easement and the rights of Grantee hereunder are only assignable as a part of the Grantee transferring the facility to another governmental entity or entity providing wastewater service and solely for the purpose(s) above stated. Grantee shall provide notice of such assignment to Grantor within 60 days of the recordation of any such assignment. No assignment shall release Grantee from any liability, duty or obligation under this Easement Agreement, unless so released by Grantor in writing in Grantor's reasonable discretion.

The prevailing party in any suit, action, or other proceeding instituted in connection with any controversy arising out of this instrument or the Easements shall be entitled to recover its reasonable attorneys' fees from the other party.

Neither party's failure to insist on strict performance of any part of this instrument shall be construed as a waiver of the performance in any other instance.

This instrument shall be interpreted and construed in accordance with the laws of the State of Texas, without regard to conflict of laws, principles, and venue for any suit, action, or proceeding instituted in connection with any controversy arising out of this instrument or the Easement shall be the state courts situated in Travis County, Texas.

EXHIBIT "D"

This Easement Agreement may be executed in multiple original counterparts and each of such counterparts with the respective acknowledgments, shall, for all purposes, be deemed to be an original, and, as such, be binding upon each person or party executing any counterpart, and the combined executed signature pages of the counterparts, when attached to one original counterpart, shall constitute the fully executed Wastewater Easement Agreement.

In witness whereof, this instrument is executed this ____ day of _____, 2017.

GRANTOR:

Melanie Elaine Samuelson

Nancy Temple Robertson

Marilyn L. Smith

David K. Johnson

Mary K. Johnson Hackerman

Russell Henry Kuempel a/k/a Russell H. Kuempel

Diane R. Johnson

Julia Hebbe

Robert Kuempel
a/k/a Robert H. Kuempel

The Estate of Edmund Kuempel, deceased
Roberta Blumberg Kuempel, Executor

EXHIBIT "D"

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 _____§

This instrument was acknowledged before me on _____, 2017,
by Melanie Elaine Samuelson for the purposes stated therein.

Notary Public Signature

THE STATE OF TEXAS §

COUNTY OF _____§

This instrument was acknowledged before me on _____, 2017,
by Russell Henry Kuempel, a/k/a Russell H. Kuempel for the purposes stated therein.

Notary Public Signature

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EXHIBIT "D"

THE STATE OF TEXAS §

COUNTY OF _____§

This instrument was acknowledged before me on _____ 2017,
by Marilyn L. Smith for the purposes stated therein.

Notary Public Signature

THE STATE OF TEXAS §

COUNTY OF _____§

This instrument was acknowledged before me on _____
2017, by Julia Hebbe for the purposes stated therein.

Notary Public Signature

THE STATE OF TEXAS §

COUNTY OF _____§

This instrument was acknowledged before me on _____ 2017,
by Nancy Temple Robertson for the purposes stated therein.

Notary Public Signature

EXHIBIT "D"

THE STATE OF TEXAS §

COUNTY OF _____§

This instrument was acknowledged before me on _____, 2017,
by Robert Kuempel a/k/a Robert H. Kuempel for the purposes stated therein.

Notary Public Signature

THE STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2017,
by Roberta Blumberg Kuempel, Executor of The Estate of Edmund Kuempel, deceased
for the purposes stated therein.

Notary Public Signature

THE STATE OF TEXAS §

COUNTY OF _____§

This instrument was acknowledged before me on _____, 2017,
by David K. Johnson for the purposes stated therein.

Notary Public Signature

THE STATE OF TEXAS §

COUNTY OF _____§

This instrument was acknowledged before me on _____, 2017,
by Mary K. Johnson Hackerman for the purposes stated therein.

Notary Public Signature

Carmel Interceptor
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EXHIBIT "D"

THE STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2017,
by Diane R. Johnson for the purposes stated therein.

Notary Public Signature

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, for the purposes stated therein.

Notary Public Signature

After Recording Return To:

City of Pflugerville
Attn: Karen Thompson, City Secretary
P.O. Box 589
Pflugerville, Texas 78691

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