

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF PFLUGERVILLE, TEXAS  
CONDITIONALLY AUTHORIZING THE ABANDONMENT AND RELEASE OF  
AN EXISTING LIFT STATION AND ACCESS EASEMENT ORIGINALLY  
GRANTED TO THE CITY IN DOCUMENT NUMBER 2006237340 OF THE REAL  
PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS**

WHEREAS, by that certain instrument recorded December 12, 2006, as Document Number 2006237340 in the Real Property Records of Travis County, Texas, a Lift Station and Access easement ("Easement") was granted to the City of Pflugerville, Texas; and

WHEREAS, the City of Pflugerville ("City") is currently advancing the SH 130 Wastewater Interceptor Capital Improvement Project ("Project") towards ultimate construction and operation, a part of which will be to abandon an existing lift station and associated appurtenances contained within the Easement property and route the Project through real property owned and controlled by Geraldine Timmermann, individually and as Independent Executor of the Estate of Terrell Timmermann, Deceased ("Landowner"); and

WHEREAS, Landowner is also the sole owner of fee simple title to the property encompassed by the Easement and is willing to convey a wastewater and reclaimed water pipeline and temporary construction easement ("Substitute Easement") over, under, across and through Landowner's property to the City in consideration for the City's release and abandonment of the existing Easement; and

WHEREAS, City staff has evaluated the needs of the Project and has determined that, upon completion of the Project and abandonment of the existing lift station and associated appurtenances the City will no longer need the Easement interest but does need to acquire the Substitute Easement from the Landowner to complete the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE:

**Section 1. Findings.**

That the foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

**Section 2. Conditional Release and Abandonment.**

That, subject to satisfaction of the conditions precedent provided in Section 3 of this Resolution, and for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration as provided for herein, the receipt and sufficiency of which is hereby acknowledged, THE CITY DOES HEREBY FOR ALL PURPOSES: (I) VACATE, ABANDON AND RELEASE THE EASEMENT, AS MORE

SPECIFICALLY DESCRIBED IN **EXHIBIT A** ATTACHED HERETO AND INCORPORATED HEREIN; AND (II) RELINQUISH ALL OF ITS RIGHTS, TITLE, AND INTEREST IN AND TO THE EASEMENT.

### **Section 3. Conditions Precedent.**

That prior to the execution of said Abandonment and Release in substantially the same form provided as **Exhibit B**, attached hereto and incorporated herein, and the recording the same in the Official Public Records of Travis County, Texas, the City Manager is hereby directed to secure from the Landowner and record the Substitute Easement in the Official Public Records of Travis County, Texas as necessary for the construction and perpetual operation and maintenance of components of the Project to be located on Landowner's real property, in substantially the same form as provided in **Exhibit C**, attached hereto and incorporate herein. Further, said Abandonment and Release shall not be effective or recorded until the completion of the Project and the decommissioning of the existing lift station and associated appurtenances on the Easement property, it being understood by the parties that the City must maintain the Easement rights until said decommissioning and completion. Finally, the City Council hereby authorizes the City Attorney to prepare any other documents deemed necessary to vacate, abandon, and release the Easement and the City Manager to execute any such documents on behalf of the City.

### **Section 4. Effective Date.**

That this Resolution shall become effective immediately upon its approval and passage.

PASSED AND APPROVED this \_\_\_ day of \_\_\_\_\_ 2018.

By: \_\_\_\_\_  
Victor Gonzales, Mayor

ATTEST

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Charles E. Zech, City Attorney  
DENTON NAVARRO ROCHA BERNAL & ZECH, PC



EASE

2006237340

8 PGS

**LIFT STATION AND ACCESS EASEMENT AGREEMENT**

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF TRAVIS    §

**GRANT OF EASEMENT:**

**TERRELL TIMMERMANN** ("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 property of Grantor which is more particularly described on Exhibit "A", attached hereto and incorporated herein by reference ("Easement Tract").

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.

**CHARACTER OF EASEMENT:**

The Easement is an easement in gross.

**PURPOSE OF EASEMENT:**

The Easement shall be used for a lift station and related public utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of a lift station and related public utility facilities and 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 lift station and related public utility facilities and appurtenances.

**DURATION OF EASEMENT:**

The Easement shall be perpetual.

**EXCLUSIVENESS OF EASEMENT:**

The Easement shall be non exclusive, but the holders of other easements, or rights affecting the Easement Tract may not utilize the Easement Tract in any manner which conflicts with the rights of Grantee under this Easement. Grantor may alter or otherwise use the surface of

the Easement Tract for such purposes that do not interfere with the exercise by Grantee of the rights herein granted provided that the plans for all improvements to be placed in the Easement Tract by Grantor must be approved by Grantee before the improvements are constructed, with such approval not to be unreasonably withheld or delayed. 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. Subject to Grantee's approval rights set forth above, Grantor has the right to construct and install landscaping and parking improvements within the Easement Tract. Grantee will repair any landscaping and parking improvements located upon the Easement Tract that may be removed, relocated, altered, damaged, or destroyed as a result of the Grantee's use of the Easement as close as practicable to the condition of such improvement prior to being damaged.

**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 in whole or in part by Grantee.

In witness whereof, this instrument is executed this 7<sup>th</sup> day of SEPTEMBER, 2006.

**GRANTOR:**

Terrell Timmermann  
**TERRELL TIMMERMANN**

**AGREED AND ACCEPTED:**

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

By: David Buesing  
David Buesing, City Manager

**ATTEST:**

Karen Thompson  
Karen Thompson, City Secretary

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF Travis   §

This instrument was acknowledged before me on September, 2006, by Terrell Timmermann, an individual residing in Travis County, Texas.

[Signature]  
Notary Public Signature

(seal)



THE STATE OF TEXAS   §  
                                  §  
COUNTY OF Travis   §

This instrument was acknowledged before me on September 13, 2006, by David Buesing, City Manager of the City of Pflugerville, Texas, a Texas home-rule municipality, on behalf of said municipality.

Karen S. Thompson  
Notary Public Signature

(seal)



0.08 Acre (3300 Square Feet)  
Terrell Timmermann  
to  
The City of Pflugerville  
(Lift Station Easement)

PD06-037.DOC  
C&B Project No. 050820.001.200.0285

### METES AND BOUNDS DESCRIPTION

**A DESCRIPTION OF A 0.08 ACRE (3300 SQUARE FEET) TRACT OR PARCEL OF LAND IN THE THOMAS STUART SURVEY NO. 6, ABSTRACT 689, TRAVIS COUNTY TEXAS BEING A PORTION OF THAT CERTAIN TRACT OR PARCEL OF LAND DESCRIBED AS CONTAINING 166.19 ACRES IN A QUIT CLAIM DEED TO TERRELL TIMMERMAN OF RECORD IN VOLUME 12483, PAGE 71 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS. SAID 0.08 ACRE (3300 SQUARE FEET) TRACT OF LAND, AS SHOWN ON THE ATTACHED SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**COMMENCING**, at a ½ inch iron rod with a plastic Chaparral cap found monumenting the southeast corner of the remainder of said 166.19 acre tract and the northeast corner of that certain tract or parcel of land described as containing 25.617 acres of land in a General Warranty Deed to Wal-Mart Stores Texas, LP, of record in Document No. 2005078015 of the Official Public Records of Travis County, Texas;

**THENCE**, along the east line of said 166.19 acre tract, the east line of that certain tract or parcel of land described as containing 2.917 acres in a Special Warranty Deed to the City of Pflugerville of record in Document No. 2005211953 of the Official Public Records of Travis County, Texas, and the west right-of-way line of FM 685, a 100 foot wide right-of-way, **N24°49'02"E**, a distance of **1043.97** feet to a point of curvature in the said right-of-way line, from which a TxDOT type 1 concrete right-of-way monument found monumenting the east right-of-way of FM 685 bears **S65°10'53"E**, a distance of **99.96** feet;

**THENCE**, continuing along the east line of said 166.19 acre tract, the east line of said 2.917 acre tract and the west right-of-way line of said FM 685, along the arc of a curve to the right **289.35** feet, having a central angle of **2°52'04"**, a radius of **5781.05** feet, and a chord that bears **N26°10'45"E**, a distance of **289.32** feet to a TxDOT type 1 concrete right-of-way monument found monumenting the a point of tangency in the west right-of-way of FM 685;

**THENCE**, departing the west right-of way of said FM 685, over and across said 166.19 acre tract **N62°25'50"W**, a distance of **50.00** feet to the west line of a 50 foot wide 0.494 acre drainage easement of record in Document No. 2005211957 of the Official Public Records of Travis County, Texas and the **POINT OF BEGINNING** of the herein described tract, and having Texas State Plane Coordinate System, NAD83, Texas Central Zone grid values of N=10140455.49, E=3157104.99;

**THENCE**, continuing over and across said 166.19 acre tract the following six (6) courses:

1. with the west line of said 0.494 acre drainage easement, along the arc of a curve to the left **15.25** feet, having a central angle of **0°08'59"**, a radius of **5831.06**, and a chord which bears **S27°32'16"W**, a distance of **15.25** feet to north line of a proposed utility easement,
2. with the north line of said proposed utility easement and the north line of a proposed access and utility easement, **N62°28'40"W**, a distance of **55.00** feet to the east line of a proposed temporary construction easement,
3. with the east line of said proposed temporary construction easement, along the arc of a curve to the right **15.37** feet, having a central angle of **0°08'59"**, a radius of **5886.05** feet, and a chord which bears **N27°32'18"E**, a distance of **15.37** feet,

0.08 Acre (3300 Square Feet)

Terrell Timmermann

to

The City of Pflugerville

(Lift Station Easement)

PD06-037.DOC  
C&B Project No. 050820.001.200.0285

4. continuing with the east line of said proposed temporary construction easement, **N27°31'00"E**, a distance of **44.63** feet to an interior 'L' corner of the said proposed temporary construction easement,
5. with the south line of said proposed temporary construction easement, **S62°28'40"E**, a distance of **55.00** feet to the west line of said 0.494 acre drainage easement,
6. with the west line of said 0.494 acre drainage easement, **S27°31'25"W**, a distance of **44.75** feet to the **POINT OF BEGINNING** and containing 0.08 acre of land more or less.

**BEARING BASIS NOTE**

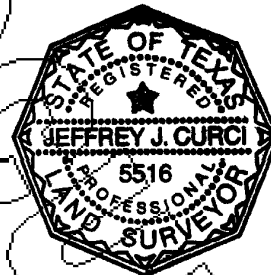
The bearings described hereon are Texas State Plane Grid Bearings (Texas Central Zone, NAD83(CORS), Combined Scale Factor 0.999890928). Project Reference Points are two property corners the first being a iron rod with plastic Chaparral cap at the northeast corner of the Wal-Mart 25.617 acre tract labeled with an "A" on the accompanying sketch and having Grid Coordinate values of N=10139225.28, E=3156583.55, and the second being the base of a TxDOT type 1 concrete monument just north of Pflug Lane on the east right-of-way of FM685 labeled with a 'B' on the accompanying sketch and having Grid Coordinate values of N=10140130.79, E=3157112.40. The bearing and distance between the two Project Reference Points is N30°17'12"E, 1048.75 feet.

I Jeffrey J. Curci, a Registered Professional Land Surveyor in the state of Texas do hereby certify that this description and sketch is based on an actual on the ground survey performed under my supervision during the month of March 2006 and is true and correct to the best of my knowledge.

8/11/06  
DATE

*Jeffrey J. Curci*  
Jeffrey J. Curci  
REGISTERED PROFESSIONAL LAND SURVEYOR  
NO. 5516 - STATE OF TEXAS

Prepared by:  
**Carter & Burgess, Inc.**  
2705 Bee Cave Road, Ste. 300  
Austin, Texas 78746  
(512) 314-3100



SKETCH TO ACCOMPANY A METES AND BOUNDS DESCRIPTION OF A 0.08 ACRE (3300 SQUARE FEET) IN THE THOMAS STUART SURVEY NO. 6, ABSTRACT 689, TRAVIS COUNTY TEXAS BEING A PORTION OF THAT CERTAIN TRACT OR PARCEL OF LAND DESCRIBED AS CONTAINING 166.19 ACRES IN A QUIT CLAIM DEED TO TERRELL TIMMERMAN OF RECORD IN VOLUME 12483, PAGE 71 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

**NOTES:**

1. COORDINATES SHOWN HEREON ARE GRID COORDINATES BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS CENTRAL ZONE (4203), NAD83(CORS), COMBINED SCALE FACTOR 0.999890928.

CONTROLLING MONUMENTS USED:

AUSTIN NORTH (CORS) N=10099791.31 E=3136085.70

PF16 - N=10140229.42 E=3155310.41 (FOUND CONCRETE MONUMENT WITH 3" BRASS DISC STAMPED "PF16")

PF28 - N=10140949.17 E=3152356.49 (FOUND CONCRETE MONUMENT WITH 3" BRASS DISC STAMPED "PF28")

2. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT.

CURVE TABLE						
CURVE	LENGTH	CEN.	ANGLE	RADIUS	CHORD BRG.	CHORD
C1	289.35'		2°52'04"	5781.05'	N26°10'45"E	289.32'
C2	15.25'		0°08'59"	5831.06'	S27°32'16"W	15.25'
C3	15.37'		0°08'59"	5886.05'	N27°32'18"E	15.37'

SCALE : 1" = 50'  
AUGUST, 2006  
TRAVIS COUNTY, TEXAS

**LEGEND**

- IRON ROD FOUND
- IRON ROD FOUND WITH CAP
- ⊙ IRON PIPE FOUND
- TxDOT TYPE 1 CONCRETE R.O.W. MONUMENT

P.O.C. POINT OF COMMENCEMENT

P.O.B. POINT OF BEGINNING

O.P.R.T.C.T. OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

D.R.T.C.T. DEED RECORDS OF TRAVIS COUNTY, TEXAS

SKETCH to ACCOMPANY DESCRIPTION No. 06-037  
**Carter-Burgess** Carter & Burgess, Inc.  
2705 Blue Cove Road  
Suite 300  
Austin, Texas 78748  
Phone: 512.314.3100  
Fax: 512.328.8672  
www.c-b.com  
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THOMAS G. STUART  
SUR. 6, ABS. 689

JOHN DAVIS  
SUR. 13, ABS. 231

0.08 ACRE (3300 SQ. FT.)  
LIFT STATION  
EASEMENT

TERRELL TIMMERMAN  
REMAINDER OF 166.19 ACRES  
VOL. 12483, PG. 71  
D.R.T.C.T.

0.494 ACRE  
DRAINAGE  
EASEMENT  
D.C. No.  
2005211957  
O.P.R.T.C.

P.O.B.  
GRID COORD.  
N=10140455.49  
E=3157104.99

FM 685  
(100' ROW)

(B)  
GRID COORD.  
N=10140130.79  
E=3157112.40

PFLUGERVILLE LOOP  
(115' ROW) 2.917 ACRES  
DOC. No. 2005211953  
O.P.R.T.C.

(A)  
GRID COORD.  
N=10139225.28  
E=3156583.55 P.O.C.

S65°10'53"E 99.96'

N24°48'02"E 1043.97'

N30°17'12"E 1048.75'

LINE FOR DIRECTIONAL CONTROL



GRAPHIC SCALE

SCALE : 1" = 50'  
AUGUST, 2006  
TRAVIS COUNTY, TEXAS

SKETCH TO ACCOMPANY DESCRIPTION No. 06-037

**Carter-Burgess** Carter & Burgess, Inc.  
2705 Blue Cove Road  
Suite 300  
Austin, Texas 78748  
Phone: 512.314.3100  
Fax: 512.328.6672  
www.cb-inc.com  
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**DO NOT RECORD THIS PAGE**

**Return Document to:**

**Gina Fechter  
City of Pflugerville  
PO Box 589  
Pflugerville, TX 78691**

**Recorders Memorandum**-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

2006 Dec 12 03:06 PM 2006237340

CORTEZY \$44.00

DANA DEBEAUVOIR COUNTY CLERK  
TRAVIS COUNTY TEXAS

## ABANDONMENT AND RELEASE OF LIFT STATION AND ACCESS EASEMENT

Sereniah Breland, City Manager  
City of Pflugerville, Texas

*Acknowledgement page follows.*

STATE OF TEXAS           §  
                                     §  
COUNTY OF TRAVIS       §

BEFORE ME, this undersigned, a Notary Public in and for the said County and State, on this day personally appeared Sereniah Breland, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes herein expressed.

GIVEN under my hand and seal of office this the \_\_\_\_ day of \_\_\_\_\_ 201\_\_.

\_\_\_\_\_  
Notary Public in and for  
Travis County, Texas

AFTER RECORDING, RETURN TO:

City of Pflugerville  
Public Works Administration  
Attn.: City Engineer.  
PO Box 589  
Pflugerville, Texas 78691

## Exhibit C

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.

### **WASTEWATER AND RECLAIMED WATER PIPELINE AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT**

THE STATE OF TEXAS     §  
  §  
COUNTY OF TRAVIS     §

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

\_\_\_\_\_ (“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 exclusive easement and right-of-way (“Easement”) and a temporary access and construction easement (“TCE”) across a variable width area adjacent to the 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 and TCE 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.

**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; 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 wastewater pipeline" shall mean a pipeline designed and operated to transport wastewater.

(d) "Public reclaimed water pipeline" shall mean a pipeline designed and operated to transport reclaimed water.

2. *Character of Easement.* The Easement granted herein is "in gross," in that there is no "Benefitted Property." Nevertheless, the Easement rights herein granted shall pass to Grantee's successors and assigns, subject to all of the Terms hereof. The Easement rights of use granted herein is irrevocable. The Easement is for the benefit of Holder.
3. *Purpose of Easement.* The Easement shall be used for public wastewater and reclaimed water utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of public wastewater and reclaimed water pipelines and related appurtenances, or making connections thereto (hereinafter collectively "Facilities"). The Easement shall also be used for the purpose of providing access for the operation, repair, maintenance, replacement and expansion of the Facilities. The TCE's purpose is to allow access to the Easement and provide an area for construction staging and operations.
4. *Term.* Easement shall be in perpetuity unless relinquished or abandoned by ordinance or resolution by Grantee. The TCE shall terminate automatically upon completion of the West SH 130 Interceptor Project.
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 \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**GRANTOR:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

THE STATE OF TEXAS     §  
                                      §  
COUNTY OF TRAVIS     §

BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and having been sworn, upon his oath stated that he is authorized to execute such instrument; and that said instrument is executed as the free and voluntary act and deed for the purposes and consideration expressed therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

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

(seal)

**GRANTEE:**

**AGREED AND ACCEPTED:**

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

By: \_\_\_\_\_  
Sereniah Breland, City Manager

**ATTEST:**

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

THE STATE OF TEXAS       §  
                                      §  
COUNTY OF TRAVIS       §

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

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

(seal)

**AFTER RECORDING, RETURN TO:**

City of Pflugerville  
Attn.: Amy Giannini, City Engineer  
Public Works Department  
P.O. Box 589  
Pflugerville, Texas 78691

Parcel: 9  
County: Travis  
Project: SH 130 Interceptor Easement

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

DESCRIPTION OF A 0.088 ACRE (3,832 SQUARE FOOT), TRACT OF LAND SITUATED IN THE JOHN DAVIS SURVEY NO. 13, ABSTRACT NO. 231, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER OF THAT CALLED 166.19 ACRE TRACT OF LAND DESCRIBED IN QUITCLAIM DEED TO TERRELL TIMMERMAN AND RECORDED IN VOLUME 12483, PAGE 71, OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.088 ACRE (3,832 SQUARE FOOT) TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 1/2 inch iron rod with plastic cap stamped "Diamond Surveying" found, being a point of tangency in the existing northwesterly right-of-way (ROW) line of R.M. 685 (variable width ROW), same being in the southeasterly boundary line of said remainder of 166.19 acre tract, also being in the southeasterly boundary line of that called 0.494 acre tract of land described in Drainage Easement Agreement to The City of Pflugerville, Texas and recorded in Document No. 2005211957 of the Official Public Records of Travis County, Texas;

**THENCE**, with the southeasterly boundary line of said remainder of 166.19 acre tract, same being said southeasterly boundary line of the 0.494 acre Drainage Easement, also being with said existing northwesterly ROW line of R.M. 685, N 27°32'26" E, for a distance of 37.08 feet to the calculated southeasterly corner and **POINT OF BEGINNING** of the herein described tract;

**THENCE**, departing said existing northwesterly ROW line, through the interior of said remainder of 166.19 acre tract, the following ten (10) courses:

- 1) **N 62°41'41" W**, for a distance of **40.07** feet to a calculated ell corner;
- 2) **S 27°32'26" W**, for a distance of **36.89** feet to a calculated point of curvature to the left;
- 3) Along said curve to the left, having a delta angle of **00°08'48"**, a radius of **5821.05** feet, an arc length of **14.91** feet, and a chord which bears **S 27°32'10" W** for a distance of **14.91** feet to a calculated point of non-tangency, same being the most northeasterly corner of that called 2.67 acre tract of land described in Public Utility and Access Easement Agreement to The City of Pflugerville, Texas recorded in Document No. 2006237339 of the Official Public Records of Travis County, Texas;
- 4) With the northerly boundary line of said 2.67 acre easement tract, **N 62°28'40" W**, at an approximate distance of 10.00 feet pass the northwesterly boundary line of said 0.494 acre Drainage Easement, same being the southeasterly corner of that called 0.08 acre tract of land described in Lift Station and Access Easement Agreement to The City of Pflugerville, Texas recorded in Document No. 2006237340 of the Official Public Records of Travis County, Texas, and continuing with the southerly boundary line of said 0.08 acre easement tract, for a total distance of **25.00** feet to the calculated most northerly northwesterly corner of said 2.67 acre easement tract, for the southwesterly corner of the herein described tract;
- 5) Departing said 2.67 acre easement tract, through the interior of said 0.08 acre easement tract, along a curve to the right, having a delta angle of **00°08'47"**, a radius of **5846.05** feet, an arc length of **14.93** feet, and a chord which bears **N 27°32'10" E**, for a distance of **14.93** feet to a calculated point of tangency;
- 6) Continuing through the interior of said 0.08 acre easement tract, **N 27°32'26" E**, for a distance of **25.41** feet to a calculated angle point;
- 7) **N 10°35'37" W**, at an approximate distance of 24.99 feet, pass the northerly boundary line of said 0.08 acre tract and continuing for a total distance of **35.53** feet to a calculated point, same being in the southeasterly boundary line of that called 1.2534 acre tract of land described in Drainage and Wastewater Easement Agreement to The City of Pflugerville, Texas recorded in Document No. 2007204480 of the Official Public Records of Travis County, Texas and re-recorded in Document No. 2010115535 of the Official Public Records of Travis County, Texas, for an angle point;

- 8) With said southeasterly boundary line of the 1.2534 acre easement tract, **N 65°11'10" E**, for a distance of **19.88** feet to a calculated angle point;
- 9) Continuing with said southeasterly boundary line of the 1.2534 acre easement tract, **N 27°07'12" E**, for a distance of **9.37** feet to the calculated northwesterly corner of the herein described tract;
- 10) Departing said 1.2534 acre easement tract, **S 10°35'37" E**, for a distance of **14.87** feet to a calculated angle point;
- 11) **S 62°41'41" E**, at a distance of 15.75 feet, pass said northwesterly boundary line of said 0.494 acre Drainage Easement and continuing for a total distance for a distance of **65.75** feet to a calculated point in said existing northwesterly ROW line of R.M. 685, for the northeasterly corner of the herein described tract;
- 12) **THENCE**, with said existing northwesterly ROW line, **S 27°32'26" W**, for a distance of **30.00** feet to the **POINT OF BEGINNING**, containing 0.088 acres (3,832 square feet) of land, more or less.

**NOTE:** This parcel is accompanied by a variable width 8,825 Sq. Ft. T.C.E. (Temporary Construction Easement) as shown on the accompanying sketch.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83.

This property description is accompanied by a separate plat.

That I, Lawrence M. Russo, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

*Lawrence M. Russo*  
Lawrence M. Russo  
Registered Professional Land Surveyor No. 5050  
Inland Geodetics, LLC  
Firm Registration No. 100591-00  
1504 Chisholm Trail Road Suite 103  
Round Rock, TX 78681  
512-238-1200

*11/14/2017*  
Date





# EXHIBIT

## PLAT TO ACCOMPANY DESCRIPTION

TERRELL TIMMERMAN  
REMAINDER OF 166.19 AC  
VOL. 12483, PG. 71  
R.P.R.T.C.T.

JOHN DAVIS SURVEY NO. 231  
ABSTRACT NO. 231

THE CITY OF  
PFLUGERVILLE, TEXAS  
15' WIDE 1.2534 AC  
DRAINAGE & WASTEWATER  
EASEMENT AGREEMENT  
DOC No. 2007204480 &  
WASTEWATER UTILITY  
EASEMENT AGREEMENT  
DOC. No. 2010115535  
O.P.R.T.C.T.

THE CITY OF  
PFLUGERVILLE, TEXAS  
(0.494 AC)  
DRAINAGE  
EASEMENT AGREEMENT  
DOC. NO. 2005211957  
O.P.R.T.C.T.

THE CITY OF  
PFLUGERVILLE, TEXAS  
(0.08 AC)  
LIFT STATION & ACCESS  
EASEMENT AGREEMENT  
DOC. No. 2006237340  
O.P.R.T.C.T.

PROPOSED  
T.C.E.  
0.203 AC.  
8,825 SQ. FT.

THE CITY OF  
PFLUGERVILLE, TEXAS  
(0.10 AC)  
ACCESS EASEMENT  
AGREEMENT  
DOC. No. 2006237338  
O.P.R.T.C.T.

THE CITY OF PFLUGERVILLE, TEXAS  
(2.67 AC)  
PUBLIC UTILITY &  
ACCESS EASEMENT AGREEMENT  
DOC. No. 2006237339  
O.P.R.T.C.T.

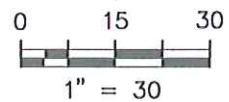
THE CITY OF PFLUGERVILLE, TEXAS  
(0.494 AC)  
DRAINAGE EASEMENT AGREEMENT  
DOC. No. 2005211957  
O.P.R.T.C.T.

P.O.C.

"DIAMOND  
SURVEYING"

P.O.B.

F.M. 685  
(R.O.W. WIDTH VARIES)



11-03-2017

**INLAND U  
GEODETICS**  
PROFESSIONAL LAND SURVEYORS  
1504 CHISHOLM TRAIL RD. STE. 103  
ROUND ROCK, TX. 78681  
PH. (512) 238-1200, FAX (512) 238-1251  
FIRM REGISTRATION NO. 100591-00

**EASEMENT  
PARCEL 9**  
0.088 ACRES  
3,832 SQUARE FEET

PAGE 3 OF 4

**EXHIBIT**  
**PLAT TO ACCOMPANY DESCRIPTION**

**LEGEND**

■	TXDOT TYPE II MON FOUND
⊙	IRON ROD WITH CAP FOUND
△	CALCULATED POINT
ℙ	PROPERTY LINE
R.P.R.T.C.T.	REAL PROPERTY RECORDS TRAVIS COUNTY, TEXAS
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS TRAVIS COUNTY, TEXAS
D.R.T.C.T.	DEED RECORDS TRAVIS COUNTY, TEXAS
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
( )	RECORD INFORMATION
↗	DISTANCE BREAK

NO.	DIRECTION	DISTANCE
L1	N62°41'41"W	40.07'
L2	S27°32'26"W	36.89'
L3	N62°28'40"W	25.00'
L4	N27°32'26"E	25.41'
L5	N10°35'37"W	35.53'
L6	N65°11'10"E	19.88'
L7	N27°07'12"E	9.37'
L8	S10°35'37"E	14.87'
L9	S62°41'41"E	65.75'
L10	S27°32'26"W	30.00'
L11	N27°32'26"E	37.08'

NUMBER	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	00°08'48"	5821.05'	14.91'	14.91'	S27°32'10"W
C2	00°08'47"	5846.05'	14.93'	14.93'	N27°32'10"E

1) ALL BEARINGS SHOWN HEREON ARE BASED ON GRID BEARING.  
ALL DISTANCES ARE SURFACE DISTANCES. COORDINATES ARE  
SURFACE VALUES BASED ON THE TEXAS STATE PLANE  
COORDINATE SYSTEM, NAD 83, CENTRAL ZONE.

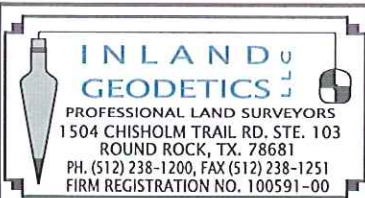
2) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A TITLE  
ABSTRACT. THERE MAY BE OTHER INSTRUMENTS OF RECORD  
THAT AFFECT THIS TRACT NOT DEPICTED HEREON.

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND  
THAT THE PROPERTY SHOWN HEREON WAS DETERMINED BY A  
SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION.

*Lawrence M. Russo* 11/14/2017  
LAWRENCE M. RUSSO  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5050  
INLAND GEODETICS, LLC  
FIRM REGISTRATION NO. 100591-00  
1504 CHISHOLM TRAIL ROAD, SUITE 103  
ROUND ROCK, TEXAS 78681



11-03-2017



**EASEMENT  
PARCEL 9**  
0.088 ACRES  
3,832 SQUARE FEET

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