

Easement Agreement for Temporary Wastewater Easement

Date: 3-5-13

Grantor: RH of Texas Limited Partnership, a Maryland limited partnership

Grantor's Mailing Address: 1101 Arrow Point Drive #101
Cedar Park, Texas 78613

Grantee/Holder: City of Buda, Hays County, Texas

Grantee's Mailing Address: 121 Main Street, Buda, Texas

Dominant Estate: A portion of the 472.00 acre tract and the 13.118 acre tract located in the Philip J. Allen, Survey No. 5, Abstract -1, Hays County, Texas, conveyed to Giberson Properties Inc. by deed of record in Volume 2437, Page 764, of the Official Public Records of Hays County, Texas.

Easement Property: All that certain tract, piece or parcel of land, lying and being situated in the County of Hays, State of Texas, described in EXHIBIT "A" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property.

Easement Purpose: For the installation, construction, maintenance, replacement, repair, and upgrade of wastewater utility lines and facilities.

Consideration: The sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations the receipt and sufficiency of which are acknowledged by Grantor.

Reservations from Conveyance: None.

Exceptions to Warranty: Any and all documents recorded in the Real Property Records of Hays County, Texas.

Grant of Easement: Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, sells, and conveys to Grantee, its successors, and assigns a temporary easement over, on, and across the Easement Property for the Easement Purpose, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee, its successors, and assigns until the Easement granted herein terminates in accordance with Paragraph 2 hereof. Grantor binds Grantor and Grantor's successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement, except as to the Reservations from Conveyance and Exceptions to Warranty to the extent that such claim arises by, through, or under Grantor but not otherwise.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

1. *Character of Easement.* The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominant Estate Property, whether or not the Easements referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Easement is nonexclusive and

irrevocable. The Easement is for the benefit of Grantee, its successors and assigns who at any time own any interest in the Dominant Estate.

2. *Duration of easement.* This easement shall terminate at such time as the parcel of land described in Exhibit "A" becomes a part of an approved and recorded final subdivision plat.
3. *Reservation of Rights.* Holder's right to use the Easement Property is nonexclusive, and Grantor and Grantor's successors and assigns have the right to use all or part of the Easement Property in conjunction with Holder as long as such use by Grantor, its successors, and assigns do not interfere with the use of the Easement Property by Holder for the Easement Purpose, save and except in connection with Grantor's construction of improvements in accordance with an approved plat. The right to convey to others the right to use all or part of the Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.
4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use a portion of the property that is adjacent to the Easement Property and within fifteen (15) feet thereof ("Adjacent Property") to install and maintain the Facilities within the Easement Property that are reasonably suited for the Easement Purpose. However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.
5. *Improvement and Maintenance of Easement Property.* 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 must maintain the Easement Property in a neat and clean condition. 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, cost and expense, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the facilities. Grantee will replace the fence to original condition on the completion of work. If the fence was constructed after this easement agreement, replacement shall be at the expense of the grantor.
6. *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.
7. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorneys fees and court and other costs.
8. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective successors and permitted assigns.
9. *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.

10. *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.
11. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting 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.
12. *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.
13. *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.
14. *Legal Construction.* If 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.
15. *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.
16. *Recitals.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

[Signature page to follow]

GRANTOR:

RH of Texas Limited Partnership, a Maryland limited partnership

By: Ryland Homes of Texas, Inc.,
a Texas corporation,
its sole general partner

By: [Signature]
Name: DOMINIC M LONGI
Title: VICE PRESIDENT

GRANTEE:

City of Buda, by its City Manager, Kenneth Williams

ACKNOWLEDGMENTS

STATE OF TEXAS)
COUNTY OF Williamson)

This instrument was acknowledged before me on the 5th day of MARCH, 2013, by DOMINIC LONGI, DIVISION PRESIDENT of Ryland Homes of Texas, Inc., a Texas corporation, general partner of RH OF TEXAS LIMITED PARTNERSHIP, a Maryland limited partnership, on behalf of said entities.

[Signature]
Notary Public, State of Texas



STATE OF TEXAS)
COUNTY OF _____)

This instrument was acknowledged before me on the _____ day of _____, 20____, by Kenneth Williams, City Manager of the City of Buda, on behalf of said city.

Notary Public, State of Texas

SKETCH TO ACCOMPANY DESCRIPTION

TEMPORARY WASTEWATER EASEMENT

SHEET 1 OF 1
OFFSHOOT "A"

PROPOSED CLEAR SPRINGS HOLLOW (50' R.O.W.)

PHILLIP J. ALLEN SURVEY, NO. 5,
ABSTRACT NO. 1
HAYS COUNTY, TEXAS

PROPOSED ELM GROVE GROVE SECTION 3A

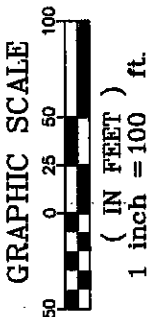
52 53

(28.667 ACRES)
GEHAN HOMES LTD.
VOL. 4331, PG. 147, OPR

PROPOSED ELM GROVE GROVE SECTION 3B

PROPOSED OYSTER CREEK (50' R.O.W.)

GIBERSON PROPERTIES, INC.
VOL. 2437, PG. 764, OPR



LEGEND

- 1/2" IRON ROD FOUND (UNLESS STATED)
- 1/2" IRON ROD SET W/ CAP STAMPED "CUNNINGHAM ALLEN INC"
- ▽ CALCULATED POINT
- OPR OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT

REFERENCE IS HEREON MADE TO THE METES AND BOUNDS DESCRIPTION OF THIS TRACT ACCOMPANYING THIS SKETCH.

SUBJECT TRACT SHOWN HEREON IS AN EASEMENT. NO MONUMENTATION SET FOR CORNERS.

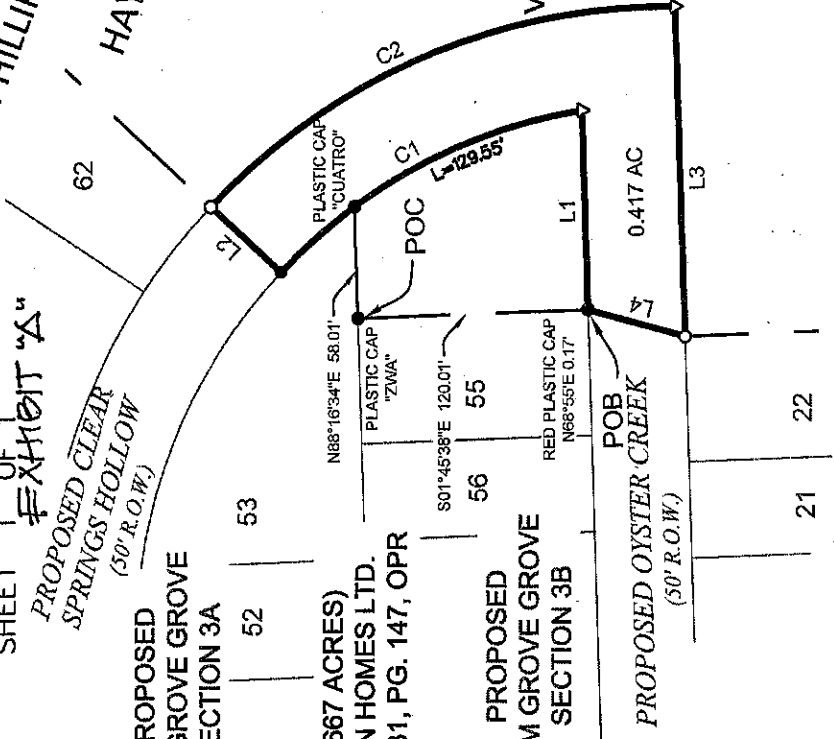
BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE (NAD_83 (CORS96)). DISTANCES WERE ADJUSTED TO THE SURFACE USING A SURFACE ADJUSTMENT FACTOR OF 1.0000819. (SURFACE = GRID X SURFACE ADJUSTMENT FACTOR)

DATE OF LAST FIELD WORK: AUGUST 28, 2012

SURVEYED BY:

Miguel A. Escobar

MIGUEL A. ESCOBAR, L.S.L.S., R.P.L.S.
TEXAS REG. NO. 5630
DATE: 24 JAN 2013



| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L1 | N88°16'14"E | 103.52' |
| L2 | N43°15'36"E | 50.00' |
| L3 | S88°16'14"W | 171.01' |
| L4 | N15°37'01"E | 52.38' |

| CURVE | RADIUS | LENGTH | DELTA | CHORD BRG. | CHORD |
|-------|---------|---------|-----------|-------------|---------|
| C1 | 275.00' | 180.84' | 37°40'41" | N27°51'08"W | 177.60' |
| C2 | 325.00' | 270.22' | 47°38'19" | S22°52'46"E | 262.50' |



Cunningham|Allen

Engineers • Surveyors

Layout: layout

3103 Bee Cave Road, Suite 202

Austin, Texas 78746-6819

Tel.: (512) 327-2946

Fax: (512) 327-2973

Escobar Date: 1/24/2013 7:49:56 AM

DESCRIPTION

DESCRIPTION OF A 0.417 OF ONE ACRE TRACT OF LAND LOCATED IN THE PHILIP J ALLEN SURVEY NO. 5, ABSTRACT - 1, HAYS COUNTY, TEXAS, BEING A PORTION OF THOSE CERTAIN TRACTS OF LAND CONVEYED TO GIBERSON PROPERTIES INC. BY DEED OF RECORD IN VOLUME 2437, PAGE 764, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, SAID 0.417 OF ONE ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at a ½ inch iron rod found with stamped "ZWA", for a common corner of said Giberson Properties tract and a corner of that certain 28.667 acre tract of land conveyed to Gehan Homes LTD in Volume 4331, Page 147, said Official Public Records, from which point a ½ inch iron rod found with stamped "CUATRO" bears North 88° 16' 34" East, a distance of 58.01 feet;

THENCE, South 01° 45' 38" East, with a common line of said Giberson Properties tract and Gehan Homes tract, a distance of 120.01 feet to a point for another common corner of said Giberson Properties tract and said Gehan Homes tract and the **POINT OF BEGINNING**, from which point a 1/2 inch iron rod with red plastic bears North 68° 55' East 0.17 feet;

THENCE, over cross said Giberson Property tract the following two (2) courses and distances:

1. North 88°16'14" East, a distance of 103.52 feet to a point for the beginning of a non-tangential curve to the left;
2. with said non-tangent curve to the left, having a radius of 275.00 feet, at an arc distance of 129.55 feet pass a ½ inch iron rod found with cap stamped "CUATRO", for a common corner of said Giberson properties tract and said Gehan tract of land, continuing with the common line of said Giberson properties tract and said Gehan tract of land, in all an arc length of 180.84 feet, a delta angle of 37°40'41", and a chord which bears North 27°51'08" West, a distance of 177.60 feet to a ½ inch iron rod found for another common corner of said Giberson properties tract and said Gehan tract of land;

THENCE, North 43°15'36" East, with said common boundary line, a distance of 50.00 feet to a ½ inch iron rod set with cap stamped "CUNNINGHAM-ALLEN INC" for the beginning of a non-tangent on curve to the right, and for the north corner of the herein described tract;

WAE
24 JAN 2013

THENCE, over and across said Giberson properties tract, with said non-tangent curve to the right, having a radius of 325.00 feet, an arc length of 270.22 feet, a delta angle of 47°38'19", and a chord which bears South 22°52'46" East a distance of 262.50 feet to a point;

THENCE, South 88°16'14" West, continuing over and across said Giberson properties tract, a distance of 171.01 feet to a ½ inch iron rod set with cap stamped "CUNNINGHAM-ALLEN INC" for a common corner of said Giberson properties tract and said Gehan tract;

THENCE, North 15°37'01" East, with said common line of the Giberson properties tract and the Gehan tract of land, a distance of 52.38 feet to the POINT OF BEGINNING containing 0.417 of one acre of land within these metes and bounds.

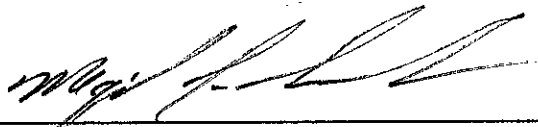
Reference is herein made to the sketch of this tract accompanying this description.

Subject tract described herein is an easement. No monumentation set for corners.

Bearings are based on the Texas Coordinate System of 1983, South Central Zone (NAD_83 (CORS96)). Distances were adjusted to the surface using a Surface Adjustment Factor of 1.0000819. (Surface = Grid X Surface Adjustment Factor)

I certify that this description was prepared from a survey made on August 28, 2012, on the ground under my supervision.

CUNNINGHAM-ALLEN, INC.



24 JAN 2013

Miguel A. Escobar, L.S.L.S., R.P.L.S.
Texas Registration No. 5630
3103 Bee Caves Rd., Ste. 202
Austin, TX 78746
512.327.2946

Date

