

#47

QF# 6765203N

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DECLAR 2008033335
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1.

**DECLARATION OF RESTRICTIVE COVENANTS
AND ACCESS EASEMENT AGREEMENT**

THIS DECLARATION OF RESTRICTIVE COVENANTS AND ACCESS EASEMENT AGREEMENT (this "Declaration") is entered into as of the 29 day of FEB, 2008, by and between **SCC PFLUGERVILLE PARTNERS, LTD.**, a Texas limited partnership ("SCC"), and **TIMMERMAN & HAGN, LTD.**, a Texas limited partnership ("T&H") (SCC and T&H sometimes hereafter, individually a "Party" and collectively, the "Parties").

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I. Recitals

1.1 SCC is the owner of that certain parcel of land containing approximately 23.621 acres located in Travis County, Texas (the "SCC Tract"), such SCC Tract being depicted on Exhibit A attached hereto and made a part hereof and being further described in Exhibit A-1 attached hereto and made a part hereof.

1.2 T&H is the owner of that certain parcel of land surrounding the SCC Tract, such parcel being depicted and described on Exhibit B hereto (the "T&H Tract"), which tract includes a parcel of land adjacent to the northern boundary of the SCC Tract containing approximately 11.33 acres depicted on Exhibit A hereto and being further described in Exhibit B-1 attached hereto and made a part hereof (the "T&H Development Tract").

1.3 SCC and T&H shall develop the SCC Tract and the T&H Tract, respectively, subject to the easements, covenants and restrictions as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises and the easements and covenants contained herein, the sufficiency of which are hereby acknowledged, the undersigned Parties do hereby agree that the SCC Tract and the T&H Tract shall be impressed with certain covenants, easements and restrictions, such to be deemed and considered as covenants running with the land, and which shall be binding on the Property, the Parties, and their respective successors and assigns, as follows:

II. Definitions

2.1 Common Areas. The Common Areas shall include fire corridors, automobile parking areas, access roads, sidewalks, traffic lanes, parcel pickup areas, service drives, entrances and exits from and to public roads, curbs, landscaping, lighting facilities, stairways and utility facilities and similar public areas.

2.2 Floor Area. The total number of square feet of floor area located within the perimeter walls of a particular building(s) constructed on the Property (hereinafter defined), as the same are constructed from time-to-time, which number of square feet shall be based upon measurements extending from the midpoint of the demising walls of such building(s) and the exterior surface of the perimeter walls of such building(s). Floor Area shall not include outdoor sales or seating areas, which are not heated or air-conditioned, mezzanines used only for stock, storage and related offices and non-sales uses located therein, drive-thrus or loading docks/areas and ramps.

RETURN TO:
PROMINENT TITLE
3101 Bee Caves Suite 290
Austin, Texas 78746

2.3 SCC Building. The building(s) to be constructed by SCC or its successors within the SCC Tract.

2.4 Occupant. Any Person, from time to time, entitled to the use and occupancy of any portion of the Property under any lease, sublease, license, concession or other similar agreement.

2.5 Owner. The owner of any portion of the Property.

2.6 Person. Individuals, partnerships, firms, associations, corporations, limited liability companies, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

2.7 Property. Collectively, the SCC Tract and the T&H Tract.

III. Development of Property

3.1 Construction and Maintenance. The SCC Tract and the T&H Development Tract (such real property, a "Parcel" and more than one parcel of such real property "Parcels") shall be developed by the respective Owners thereof. Each Owner shall be responsible for the construction of all driveway surfaces, parking areas and drainage facilities, and all other improvements, within their respective Parcel, such construction to be performed in a good workmanlike manner. After the construction of any improvements under this Section 3.1, each Owner shall be responsible for maintaining the improvements situated on the portion of their respective Parcel in good condition and repair. Notwithstanding the above, if the Property is developed in phases, the Parties each hereby agree to cooperate with one another in granting to the other Party temporary access easements or other rights necessary or desirable to allow a Party to construct parking areas, driveways and/or similar improvements on the other Party's Parcel that will serve the Property.

3.2 Grading Plan. The Parcels shall generally conform and be maintained in compliance with a grading plan mutually acceptable to the Parties, as necessary to facilitate the access easements described in Section 4.2 below; without limiting the generality of the foregoing, if due to changes in the site layout on either the SCC Tract or the T&H Development Tract result in material grade changes, the Parties hereby agree to cooperate with one another to insure compatibility in the grade between the SCC Tract and the T&H Development Tract with respect to such access easements.

3.3 Wastewater and Water Lines. The Parties shall cooperate with one another in connection with the design, engineering and construction of wastewater and water lines on the Parcels pursuant to mutually agreeable plans approved by SCC and T&H in conjunction with SCC's and/or T&H's development of its respective Parcel. The Parties shall pay their allocable share of said wastewater and water lines benefiting the SCC Tract and the T&H Development Tract based on the lineal feet of the lines located on the respective Parcels.

3.4 Pfennig Lane Extension. SCC will conduct the design, engineering and construction of the extension of Pfennig Lane from FM 685 on a portion of the T&H Tract located adjacent to the southern boundary of the SCC Tract to a line even with the eastern

boundary of the SCC Tract in compliance with the requirements of applicable governmental authorities (the "**Pfennig Lane Extension**"). SCC shall pay the costs associated with the Pfennig Lane Extension, and T&H shall dedicate right of way for such extension without contribution from SCC for the value of said right of way or credit against T&H's share of the costs associated with the extension. Within thirty (30) days after the date T&H obtains final plat approval of a Parcel abutting the Pfennig Lane Extension, T&H will reimburse SCC for fifty percent (50%) of SCC's costs of the Pfennig Lane Extension as reduced by any reimbursements SCC has or will receive from governmental or quasi-governmental authorities for such costs pursuant to reimbursement agreements with such authorities.

IV. Grant of Easements

4.1 Utility Easements. The Parties each hereby agree to cooperate with one another in granting to the other Party or a public utility company (in accordance with this Paragraph 4.1) perpetual, non-exclusive, reasonable underground utility easements in, on, and across the Property, as are reasonably necessary to serve the other's intended development. Such easements to be in locations and sizes reasonably acceptable to the granting Party. Upon the written request by either Party delivered to the other Party for the grant of an easement meeting the requirements of this Paragraph 4.1, and at such requesting Party's sole cost and expense (including a survey, if necessary), the non-requesting Party shall execute a recordable instrument granting such utility easement to the requesting Party or a public utility company. No easement shall be created hereunder until an instrument specifically locating an easement is recorded, it being the intention of the Parties hereto not to burden the Property unnecessarily with "blanket" easements.

4.2 Access Easement. Each Party hereby grants and conveys to the other Party, for the benefit and use of such Party and its successors, assigns, mortgagees, employees, agents, customers, licensees, invitees and lessees (including, without limitation, the sublessees, employees, customers, agents and invitees of such lessees) a perpetual, non-exclusive access easement for vehicular and pedestrian access over and across the paved areas and the Critical Drives (as defined below) located on its respective Parcels through and to public highways or public and private roads. The easements provided in this paragraph are subject to the rights of each Party to reconfigure the paved areas located on the Parcels owned by such Party; provided, however, that neither Party shall block or unreasonably restrict access by the other Party to its respective Parcels or to the public roads adjacent thereto. Neither Party may park on the other's Parcel or count any parking spaces on such other Party's Parcel toward the required minimum parking required for development of its own Parcel.

4.3 Critical Drives.

(a) The Parties have agreed on and approved the drawing attached hereto as Exhibit C (the "**Site Plan**") as a substantially accurate depiction of the location of the Critical Drives (herein so called), as depicted on the Site Plan. Provided, however, the Critical Drive on the SCC Tract shown on the Site Plan as "Drive A" running east and west within the SCC Tract and roughly parallel with Pfennig Lane may be located anywhere south of the "Lowe's" building between the location shown on the Site Plan and Pfennig Lane so long as such Critical Drive

provides substantially the same direct access from the Critical Drive running north and south within the SCC Tract to the service drives along the easterly boundary of the SCC Tract. Likewise, the Critical Drive on the SCC Tract shown on the Site Plan as "Drive B" running east and west within the SCC Tract between the "McDonald's" building and the "Taco Cabana" building is contingent upon approval of applicable governmental authorities, including, without limitation, approval as to location, configuration and other matters within the jurisdiction of such governmental authorities, which approval SCC will diligently pursue.

(b) Subject to the other provisions of this Declaration, a Party shall construct portions of the Critical Drive located on its Parcel at the times it develops the portions of its Parcel upon which such portion of the Critical Drive is located, except that all Critical Drives on the SCC Tract shall be constructed at the time it develops the portion of the SCC Tract shown on the Site Plan as Lot 10 (herein so called)(i.e., the lot on which the "Lowe's" building is located on the Site Plan). The Critical Drives shall be designed and constructed in accordance with then applicable governmental regulations. For purposes of this Declaration, "develops" means the construction of buildings and associated improvements on portions of a Parcel. All reasonable costs and expenses of maintenance, repairs and upkeep for any given portion of a Critical Drive shall be paid by the Party on whose Parcel that portion of the Critical Drive is located. Either Party may, however, design, engineer and construct the portion of the Critical Drive located on the other Party's Parcel shown on the Site Plan as "Drive C" running east and west between the SCC Tract and the T&H Development Tract in accordance with then applicable governmental regulations (the "**Shared Critical Drive**"), subject to the approval by the other Party of the final plans and cost budget for such construction. The constructing Party shall pay the costs associated with the design, engineering and construction of the Shared Critical Drive (the "**Shared Drive Costs**"), and the other Party shall, within thirty (30) days after it (i) receives a request for reimbursement and copies of invoices evidencing the Shared Drive Cost and (ii) first develops its Parcel, reimburse the constructing Party for fifty percent (50%) of the Shared Drive Costs.

V. Construction and Maintenance of Common Areas

5.1 Maintenance and Repair.

(a) Common Areas. Each Owner shall be responsible for keeping the Common Areas on its Parcel in good condition and repair and clean and free from refuse and rubbish. Such maintenance shall include, but not be limited to, the following: regular and timely removal of all litter, garbage, trash and waste; regular lawn mowing; tree, shrub and plant pruning and trimming; watering of landscaped areas; weed control; pest control; maintaining exterior lighting and mechanical facilities in good working order; keeping parking areas, walks, driveways and roads clean and in good repair; striping of all parking and driveway areas; and the repairing and repainting of the exterior improvements visible to neighboring properties and/or public view. Any landscaped areas shall be mowed and otherwise tended to by the Owner thereof so as to be reasonably weed-free. The standard for such maintenance shall be that which would maintain the Parcel in a manner and quality equal to at least that maintained by the owners of first-class facilities of the same type in the Austin, Texas metropolitan area (the "market area"). Each Owner shall maintain, repair, and replace all improved portions of the Critical Drives

located on its respective Parcel so as to keep such areas at all times in a safe, sightly, good, and functional condition to standards of similar first-class developments in the market area.

(b) Unimproved Portions of Parcels. Until such time as buildings or improvements are constructed on any Parcel, each Owner shall take or cause to be taken such measures as may be necessary to control weeds, blowing dirt and sand, and similar matters, with respect to the undeveloped area located on its Parcel. Each Owner shall have the right to build or otherwise improve any unimproved portion of their Parcel subject to the applicable provisions of this Declaration.

(c) Building Maintenance. Each Owner shall maintain (or use commercially reasonable efforts to cause to be maintained by tenants, to the extent required under individual tenant leases), in good order and repair, consistent in manner and appearance with similar first-class developments in the market area, all buildings (including, but not limited to, all loading docks, truck facilities, compactor areas, and permitted building signs) located on its Parcel, as well as its identification panels, if any, on any pylon signs.

VI. Use and Development of Property

6.1 Construction Standards. Any improvements constructed on the Parcels shall be constructed with materials typically used in other first-class developments in the market area and in accordance with all applicable governmental rules, laws and ordinances. The front and side elevations of all buildings constructed on the Parcels shall be one hundred percent (100%) masonry, except for doors, windows, roofs, patios, balconies, awnings, gutters, special decorative features and trim. In addition to brick, ledge stone, field stone, or any other native type stone veneer, stucco, tiltwall, or architectural concrete masonry units, "masonry", as such term is used in this Declaration shall also include EFIS (Exterior Finish Insulation System), decorative CMU (including split faced concrete block), pre-cast concrete panel, and such other similar quality material. No metal buildings shall be permitted within the Property, except buildings may have decorative metal roofs or accents.

6.2 Parking. Each Owner shall maintain on its respective Parcel the number parking spaces required by the City of Pflugerville for the uses conducted thereon. In the event of a condemnation of part of a Parcel or sale or transfer in lieu thereof that reduces the number of usable parking spaces below that which is required herein, the Owner whose Parcel is so affected shall use its reasonable good faith efforts (including using proceeds from the condemnation award or settlement) to restore and/or substitute parking spaces in order to comply with the parking requirements set forth above. If such compliance is not possible, such Owner shall not be deemed in default hereunder, but shall not be permitted to expand the amount of Floor Area of buildings located upon its Parcel beyond that which exists immediately following the condemnation. If such Floor Area is thereafter reduced, then it may not subsequently be increased unless the parking requirement is satisfied.

6.3 Use Exclusives.

(a) Restrictions on SCC Tract. No portion of the SCC Tract will be leased, occupied or used, directly or indirectly, for the purpose of or in connection with the conduct of:

(i) the operation of a drugstore or a so-called prescription pharmacy or prescription order, processing or delivery facility, whether or not a pharmacist is present at such facility, or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind; (ii) a financial institution and/or banking facility owned or operated by International Bank of Commerce ("IBC") or (iii) apartments or other residential use. Notwithstanding the foregoing, if Walgreen Co., its affiliates or its successors by merger ("Walgreen"), or IBC does not commence construction on the T&H Development Tract within five (5) years after the date hereof, or, if after commencing operations, thereafter discontinues the applicable protected use for a period in excess of eighteen (18) consecutive months (so long as such discontinuance is not due to remodeling, fire, casualty, repairs, strike, temporary loss of licenses, or other causes beyond the applicable operator's control), the restrictions contained in this Section 6.3(a), as to the applicable user that fails to timely commence or, having commenced, thereafter discontinues its operations for the applicable protected use on the T&H Development Tract, shall automatically terminate and be of no continuing force and/or effect as to the SCC Tract. The restriction in Section 6.3(a)(i), shall not apply to (1) doctors, dentists or veterinarians who provide sample doses of medicinal drugs to their patients during office visits, without fee or remuneration of any kind, or (2) a general retailer, grocer or a supermarket of at least 50,000 square feet. T&H agrees that Walgreen may consent to additional exceptions from the restriction in Section 6.3(a)(i) without the joinder of T&H.

(b) Restrictions on T&H Tract. For a period of five (5) years after the date hereof, no portion of the T&H Tract will be leased, occupied or used, directly or indirectly, for the purpose of or in connection with the conduct of a retail store owned or operated by Lowe's Home Centers, Inc., its affiliates or its successors by merger ("Lowe's"). Notwithstanding the foregoing, if SCC or its successors or assigns enters into leases with, or consummates sales to either Lowe's or any other tenants or purchasers occupying in the aggregate at least 90,000 square feet of floor area as to any portion of the SCC Tract other than the four (4) proposed pad sites adjacent to F.M. 685, the restrictions contained in this Section 6.3(b) shall automatically terminate and be of no continuing force and/or effect as to the T&H Tract.

6.4 Prohibited Uses, Other Uses. No Owner will permit the use of any portion of its Parcels for any purpose other than uses permitted by zoning regulations applicable to the Parcels. No use or operation will be made, conducted or permitted on or with respect to all or any part of the Parcels, which is obnoxious to or out of harmony with the development or operation of the Parcels, including, but not limited to, any of the following uses (collectively, the "Prohibited Uses"): any nuisance; any use which violates laws or requirements of governmental authorities having jurisdiction over the Parcels; the primary use of any building as a warehouse; an assembly hall; distillation operation; mobile home or trailer park; the drilling for and/or removal of subsurface substances; kennel or veterinary clinic where animals are kept outside; assembly hall; museum; pawn shop; game room or amusement park (except (i) as an incidental use to a tenant's restaurant operation, or (ii) in connection with the operation by a Retail Chain such as a Cici's Pizza, Chuck E. Cheese's, ESPN Zone or Dave and Busters), pool or gaming hall, except lottery ticket sales shall be permitted; skating rink; pool hall or billiard parlor; bowling alley, except as a part of a business permitted above; dancehall; saloon, cocktail lounge, nightclub or bar (including a restaurant which derives more than fifty percent (50%) of its annual gross

revenues from the sale of alcoholic beverages); mortuary or funeral home; automobile body and repair shop other than a Retail Chain such as Firestone or Discount Tire; flea market; or adult book store or store selling sexually explicit material. As used herein, a "Retail Chain" shall mean a retailer with more than 25 stores.

6.5 Building Orientation. Any building improvements constructed on Lot 10 for a Lowe's building shall be built substantially consistent with the orientation provided in the Site Plan unless the prior written approval of T&H is obtained.

VII. Casualties

7.1 In the event of any damage to or destruction of any building on either the SCC Tract or the T&H Tract from any cause whatsoever, the Party upon whose Parcel the casualty occurred shall, at its sole option and within one (1) year from the date of the casualty, either (i) repair, restore, or rebuild and complete the same with reasonable diligence, (ii) raze and demolish such building or improvement (or such part thereof that has been damaged or destroyed), clear the affected area of all debris and thereafter either pave and/or landscape such affected area and keep the same weed-free and clean, or (iii) effectuate any combination of subsections (i) and (ii) of this Section 7.1 as such Party may deem appropriate.

VIII. Default and Remedies

8.1 Self Help and Other Remedies. If any Party defaults in the performance of its obligations hereunder and the default is not cured within ten (10) days following delivery of written notice to such defaulting Party and any ground tenant of such Party of which the non-defaulting party has been notified then the non-defaulting Party shall have the right to (i) perform such obligation on behalf of the defaulting Party, in which event such defaulting Party shall reimburse such non-defaulting Party for all amounts expended by the non-defaulting Party on behalf of the defaulting Party, together with interest thereon at the lesser of twelve percent (12%) per annum, or the maximum amount permitted by law from the date the amounts are expended until the date repaid; and/or (ii) exercise any other rights or remedies available to the non-defaulting Party either at law or in equity. Each defaulting Party agrees to execute any applications for permits or other documents required by the non-defaulting Party in order to perform the obligations of the defaulting Party. In addition, should SCC no longer be an Owner but remains an Occupant of any portion of the Property, it shall have the right to enforce the provisions of this Article VIII.

8.2 Injunctive Relief. In the event of a breach by any Party of any obligation of such Party under this Declaration, the non-defaulting Party shall be entitled to injunctive relief mandating compliance herewith, and shall be entitled to obtain a decree specifically enforcing the performance of the obligations created hereunder. The undersigned hereby acknowledge and stipulate the inadequacy of legal remedies and irreparable harm which would be caused by the breach of this Declaration, and such non-defaulting party shall be entitled to relief by any and all other available legal and equitable remedies from the consequences of such breach. Any costs and expenses of any such proceeding, including reasonable attorney's fees, shall be paid by the defaulting Party.

8.3 Non-Waiver. No delay or omission of any Party hereto in the exercise of any rights created hereunder shall impair such right, or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of an event of default hereunder. A waiver by any Party hereto of a breach of, or default in, any of the terms and conditions of this Declaration by the other party shall not be construed to be a waiver of any subsequent breach thereof or of any other provision of this Declaration. Except as otherwise specifically provided in this Agreement, no remedy provided in this Declaration shall be exclusive, but shall be cumulative with all other remedies provided for in this Declaration, and all other remedies at law or in equity which are available to the parties hereto.

IX. Indemnity

9.1 Indemnity. Each Party shall indemnify, defend and hold the other Party and any mortgagee of a Parcel and each other Party harmless from any and all liability, damage, expense, cause of action, suit, claim or judgment for personal injury, death or property damage arising on the indemnifying Party's Parcel, including activities of the indemnifying Party and its employees and agents, but not if the liability is caused by the gross negligence or willful misconduct of the indemnified Party, its agents or employees.

X. General Provisions

10.1 No Third-Party Beneficiary. The provisions of this Declaration are for the exclusive benefit of the Parties and their successors and assigns, and not for the benefit of any third person, nor shall this Declaration be deemed to have conferred any rights, express or implied, upon any third person.

10.2 No Dedication. No provision of this Declaration shall ever be construed to grant or create any rights whatsoever in or to any portion of the Property other than the easements, covenants and restrictions specifically set forth herein. Nothing in this Declaration shall ever constitute or be construed as a dedication of any interest herein described to the public or give any member of the public any right whatsoever.

10.3 Notice. All notices required or permitted to be given hereunder, or given in regard to this Declaration by one Party to the other, shall be in writing and the same shall be given and be deemed to have been served, given and received (a) one (1) business day after being placed in a prepaid package with a national, reputable overnight courier addressed to the Party at the address hereinafter specified; or (b) if mailed, three (3) business days following the date placed in the United States mail, postage prepaid, by certified mail, return receipt requested, addressed to the Party at the address hereinafter specified. Any Party may change its address for notices by giving five (5) days' advance written notice to the other Party hereto in the manner provided for herein. Until changed in the manner provided herein, the Parties' respective addresses for notices hereunder are as follows:

If to SCC:

c/o SCC Texas Group, Inc.
301 Congress Avenue, Suite 1550
Austin, Texas 78701
Attn: Steve Helble

With a copy to:

Law Offices of Matthew T. Hagan, P.C.
1180 Galleria Financial Center
5075 Westheimer Road
Houston, Texas 77056
Attn: Matthew T. Hagan, Esq.

If to T&H:

c/o Commerce Properties, Inc.
2490 FM 685
Hutto, TX 78634
Attn: Tim Timmerman

With a copy to:

Locke Lord Bissell & Liddell LLP
100 Congress Avenue, Suite 300
Austin, Texas 78701
Attn: Brad B. Hawley, Esq.

10.4 Attorneys' Fees. In the event any legal action or proceeding for the enforcement of any right or obligations herein contained is commenced, the prevailing party in such action or proceeding shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

10.5 Entire Declaration. This Declaration constitutes the entire agreement between the Parties hereto regarding the matters set forth herein. The Parties do not rely upon any statement, promise or representation with respect to the matters set forth herein that is not herein expressed, and this Declaration once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

10.6 Severability. If any provision of this Declaration shall be or become invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

10.7 Rights of Successors. The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the land. Subject to the other provisions hereto, this Declaration shall bind and inure to the benefit of the Parties and their

respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

10.8 Estoppel Certificates. At any time, and from time to time (but not more often than once every calendar quarter), within fifteen (15) calendar days after notice or request by an Owner, the other Owner(s), at no cost to the requesting Owner and, if applicable, such requesting Owner's lender and/or a prospective lender or purchaser (and such purchaser's lender) with respect to the portion of the Property owned by the requesting Owner, shall execute and deliver to such requesting Owner a statement certifying: (a) that this Declaration is unmodified and is in full force and effect (or if there have been modifications, certifying that this Declaration is in full force and effect as modified in the manner specified in such statement); (b) that there exists no default under this Declaration except as otherwise specified in such statement; and (c) to such other matters relating to this Declaration as may reasonably be requested by the requesting Owner.

10.9 Counterparts; Multiple Originals. This Declaration may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

10.10 Modification and Cancellation. This Declaration may be canceled, changed, modified or amended, in whole or in part, only by the written and recorded agreement of the then current Owners of the Property. In the event that either the SCC Tract or the T&H Tract shall be owned by more than one Owner, then this Agreement may be canceled, changed, modified or amended, in whole or in part, only by the written and recorded agreement of the Owners of sixty percent (60%) of the land area of each of the SCC Tract and the T&H Tract; provided, however, that SCC, as long as it has any interest in the SCC Tract as an Owner, Occupant or otherwise, shall be required to join in any cancellation, change, amendment or modification of this Declaration. Except as expressly provided in this paragraph, in no event shall any amendment of this Declaration ever require the consent or joinder of any one or more of the agents, patrons, customers, employees, tenants, licensees or invitees of the Property, other than SCC.

10.11 No Easement for Parking. Notwithstanding anything herein to the contrary, no easement for parking is included or intended to be included in this Declaration.

10.12 Exculpation. Any person or entity acquiring fee or leasehold title to any portion of the Property shall be bound by this Declaration only as to the Property or portion thereof acquired by such person or entity. Such person or entity shall be bound by this Declaration only during the period such person or entity is the fee or leasehold owner of such Property or portion thereof, except as to obligations, liabilities or responsibilities that accrue during said period. Although persons or entities may be released under this Section 10.13, the easements, covenants and restrictions in this Declaration shall continue to be benefits and servitudes upon the Property running with the land.

10.13 Subordination. The liens of any mortgage loans or deeds of trust now or hereafter obtained by an Owner secured in whole or in part by any part of a Parcel shall be subordinate to this Declaration, and the Owner whose Parcel is burdened by such liens shall cause the liens to be so subordinated promptly upon the execution of this Agreement.

[SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]

EXECUTED as of the date first set forth above.

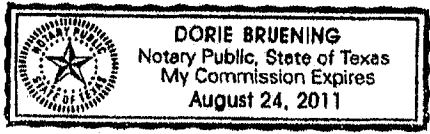
TIMMERMAN & HAGN, LTD., Texas limited partnership

By: T&H, LLC, a Texas limited liability company
General Partner

By: [Signature]
Name: Timothy Timmerman
Its: PRESIDENT

THE STATE OF TEXAS §
 §
COUNTY OF Williamson §

This instrument was acknowledged before me on the 28th day of February, 2008, by Timothy Timmerman, President of T&H, LLC, a Texas limited liability company, the general partner of Timmerman & Hagn, Ltd., a Texas limited partnership, on behalf of said limited liability company and limited partnership.

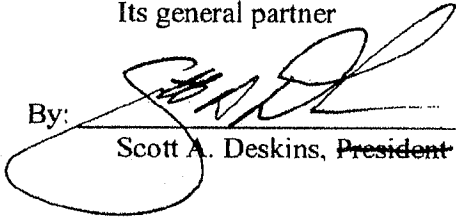


[Signature]
Notary Public in and for the State of Texas
My Commission Expires: 8 24-11

[Signature Pages Continue]

SCC PFLUGERVILLE PARTNERS, LTD.,
a Texas limited partnership

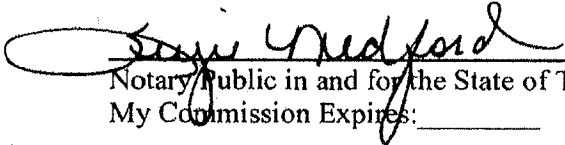
By: SCC Pflugerville Partners GP, LLC,
a Texas limited liability company,
Its general partner

By: 

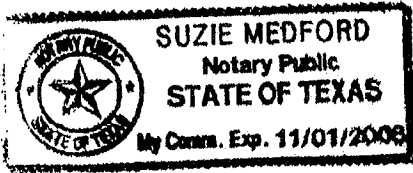
Scott A. Deskins, ~~President~~ **MANAGER**
SAD

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 29 day of FEB, 2008, by Scott A. Deskins, the ~~President~~ **MANAGER** of SCC Pflugerville Partners GP, LLC, the general partner of SCC PFLUGERVILLE PARTNERS, LTD., a Texas limited partnership, on behalf of said company and partnership.



Notary Public in and for the State of Texas
My Commission Expires: _____



SEAL

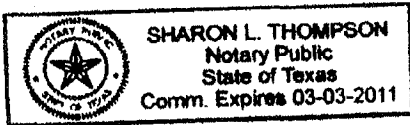
The undersigned joins in the execution hereof to evidence its consent hereto and to subordinate its liens to the terms and conditions set forth herein.

WHITNEY NATIONAL BANK

By: [Signature]
Name: RUBEN ALVAREZ
Title: VICE PRESIDENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 29 day of February, 2008, by Ruben Alvarez, the Vice President of WHITNEY NATIONAL BANK, on behalf of said bank.



[Signature]
Notary Public in and for the State of Texas
My Commission Expires: 3-3-11

EXHIBIT A

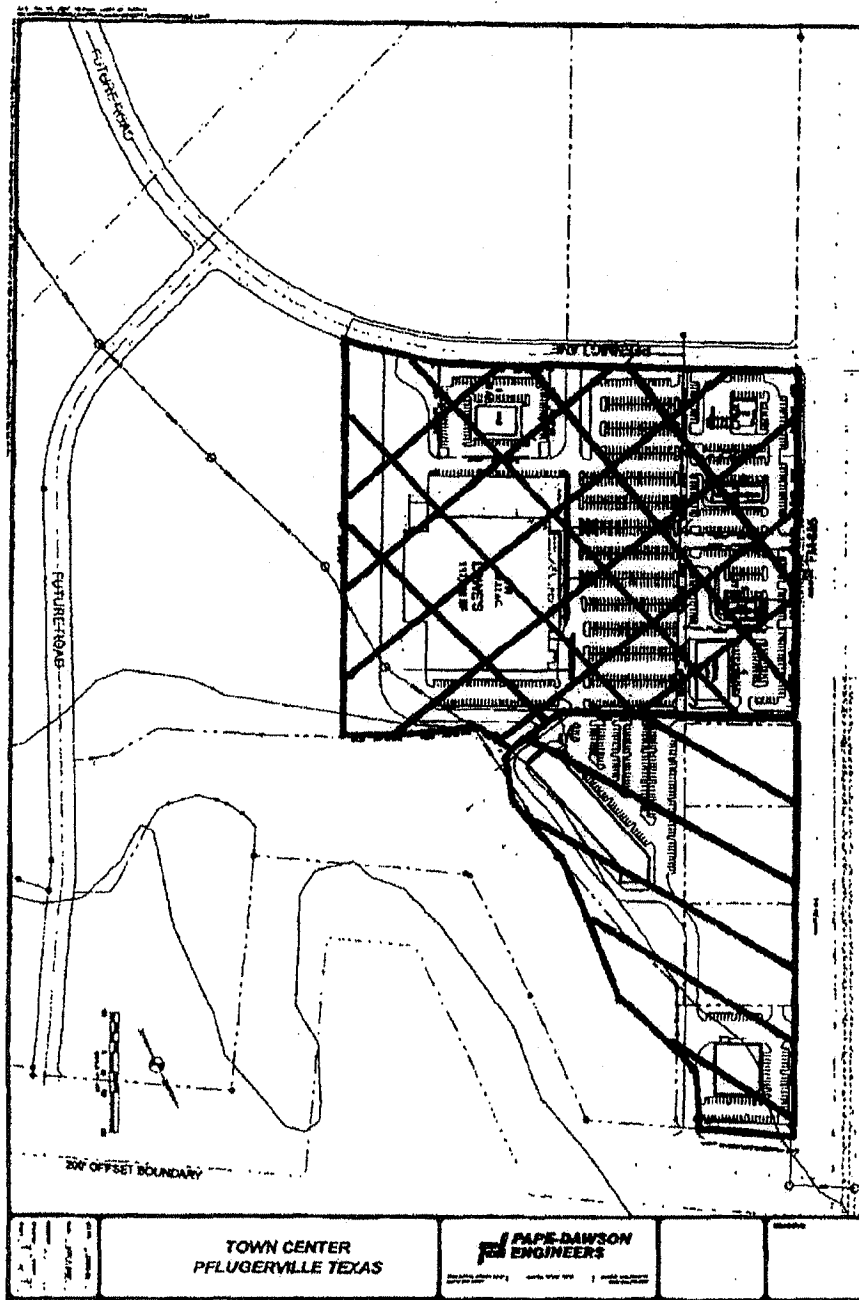


EXHIBIT A-1

Legal Description of SCC Tract

FIELD NOTE DESCRIPTION OF 23.621 ACRES OF LAND OUT OF THE SEFRIN EISELIN SURVEY NO. 4, ABSTRACT NO. 265 AND THE JOHN DAVIS SURVEY NO. 13, ABSTRACT NO. 231, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 535 ACRE TRACT CONVEYED TO TIMMERMAN & HAGN, LTD RECORDED IN VOLUME 8394, PAGE 544 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, THE SAID 535 ACRES BEING MORE PARTICULARLY DESCRIBED IN A DEED RECORDED IN VOLUME 365, PAGE 164, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, THE HEREIN DESCRIBED 23.621 ACRE TRACT ALSO BEING OUT OF THAT CERTAIN 300.03 ACRE PORTION OF THE SAID 535 ACRE TRACT DESCRIBED IN A DEED TO TIMMERMAN & HAGN, LTD RECORDED IN DOCUMENT NUMBER 2004025616 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS. THE SAID 23.621 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at a 1/2 inch diameter steel pin set with cap stamped Lenz & Assoc. on the curving east right-of-way line of F.M. 685 at the southwest corner of the said 300.03 acre tract, from which a concrete right-of-way monument found at the south end of curve bears a chord bearing and distance of S 28°13'06" W, 145.47 feet and a 1/2 inch diameter steel pin found with TXDOT cap at the intersection of the south line of the said 300.03 acre tract with the west right-of-way line of S.H. 130 bears S 60°38'27" E, 4437.84 feet

THENCE, with the east right-of-way line of F.M. 685, the following two (2) courses and distances:

- 1) With a curve to the left, having a central angle of 01°17'10", a radius of 5779.58 feet, an arc of 129.73 feet and a chord bearing and distance of N 26°51'16" E, 129.73 feet to a concrete right-of-way monument found;
- 2) N 26°08'34" E, 844.77 feet to a 1/2 inch diameter steel pin set with cap stamped Lenz & Assoc. for the southwest corner and **PLACE OF BEGINNING** of the herein described tract:

THENCE, traversing the interior of the said 300.03 acre and 535 acre tracts, the following forty-two (42) courses and distances:

- 1) S 64°26'40" E, 767.72 feet to a 1/2 inch diameter steel pin set with cap stamped Lenz & Assoc.;
- 2) With a curve to the right, having a central angle of 19°31'21", a radius of 1040.75 feet, an arc of 354.62 feet and a chord bearing and distance of S 54°40'17" E, 352.90 feet to a 1/2 inch diameter steel pin set with cap stamped Lenz & Assoc. for the southeast corner of the herein described tract;

- 3) N 24°36'04" E, at 850.13 feet passing a point on the north line of the said 300.03 acre tract, being N 59°57'43" W, 1904.23 feet from a ½ inch diameter steel pin found at the intersection of the north line of the said 300.03 acre tract with the west right-of-way line of S.H. 130, and continuing a **total distance of 1029.79 feet** to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc. at the northeast corner of the herein described tract;
- 4) N 59°41'22" W, 12.27 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 5) N 66°37'07" W, 26.27 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 6) N 64°39'52" W, 20.58 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 7) N 41°31'19" W, 11.88 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 8) N 49°54'46" W, 21.46 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 9) N 80°35'20" W, 45.40 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 10) N 85°56'55" W, 34.06 feet to a calculated point;
- 11) N 71°44'07" W, 70.16 feet to a calculated point;
- 12) N 61°20'20" W, 11.59 feet to a calculated point;
- 13) N 70°58'59" W, 9.75 feet to a calculated point;
- 14) N 43°24'19" W, 11.64 feet to a calculated point;
- 15) N 49°16'55" W, 7.55 feet to a calculated point;
- 16) N 74°39'26" W, 8.40 feet to a calculated point;
- 17) N 84°01'43" W, 13.74 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 18) N 72°28'58" W, 12.66 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;

- 19) N 68°02'58" W, 10.62 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 20) N 62°36'03" W, 6.17 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 21) N 77°07'53" W, 8.01 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 22) N 64°29'50" W, 5.44 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 23) N 34°44'17" W, 13.71 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 24) N 39°18'13" W, 7.93 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 25) N 51°01'22" W, 6.03 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 26) N 46°08'18" W, 4.03 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 27) N 45°00'54" W, 1.89 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 28) N 34°38'14" W, 5.23 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 29) N 50°27'16" W, 7.54 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 30) N 53°45'35" W, 9.41 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 31) N 60°57'27" W, 7.81 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 32) N 68°45'34" W, 4.88 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;

- 33) N 81°07'25" W, 8.19 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 34) N 58°24'15" W, 3.86 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 35) N 36°02'27" W, 6.88 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 36) N 17°56'12" W, 9.03 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 37) N 10°18'37" E, 5.65 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 38) N 21°27'26" E, 7.60 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 39) N 38°53'54" E, 10.07 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 40) S 75°58'28" W, 131.54 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 41) S 75°46'52" W, 12.33 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 42) N 64°26'40" W, 551.46 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc. on the east right-of-way line of F.M. 685 at the northwest corner of the herein described tract;

THENCE, S 26°08'34" W, a distance of 900.05 feet along the east right-of-way line of F.M. 685 to the **PLACE OF BEGINNING**, containing 23.621 acres of land, more or less.

EXHIBIT B

The T&H Tract consists of the property described below, which is bounded by Pfluger Loop to the north, FM 685 to the west and SH 130 to the east, as shown marked with diagonal lines on the aerial photograph appearing on the following page.

256.63 acres of land, being portions of the John Davis Survey No. 13, Abstract No 231 and the Sefrin Eiselin Survey No. 4, Abstract No. 265, situated in Travis County, Texas, and being a portion of that certain 535 acre tract of land conveyed to Timmerman & Hagn, Ltd. by deed recorded in Volume 8394, Page 544 of the Deed Records of Travis County, Texas, and a portion of that certain 158.22 acre tract of land conveyed to Timmerman & Hagn, Ltd. by deed recorded in Volume 8394, Page 544 of the said Deed Records, being more particularly described by metes and bounds on **Schedule 1** attached hereto,

SAVE AND EXCEPT THEREFROM, THE FOLLOWING THREE (3) TRACTS OF LAND:

That certain 3.320 acre tract (the TU Electric Pflugerville Substation Site) which is more particularly described by metes and bounds on **Schedule 2** attached hereto.

and

That certain 6.500 acre tract (the TXU Electric Pflugerville South Site) which is more particularly described by metes and bounds on **Schedule 3** attached hereto.

and

That certain 23.621 acre tract of land which is more particularly described by metes and bounds on **Schedule 4** attached hereto.

Exhibit "B"



Schedule 1
(page 1 of 1)

FIELD NOTES describing 256.63 acres of land, being portions of the John Davis Survey No. 13, Abstract No. 231 and the Seffrin Eiselin Survey No. 4, Abstract No. 265, situated in Travis County, Texas, and being a portion of that certain 535 acre tract of land conveyed to Timmerman & Hagn, Ltd. by deed recorded in Volume 8394, Page 544 of the Deed Records of Travis County, Texas and a portion of that certain 158.22 acre tract of land conveyed to Timmerman & Hagn, Ltd. by deed recorded in Volume 8394, Page 544 of said Deed Records, and being more particularly described by metes and bounds as follows:

BEGINNING at a point being the intersection of the east right-of-way line of F.M. 685 and the south right-of-way line of Pflugler Lane, for the northwest corner and POINT OF BEGINNING of the hereinafter described 256.63 acre tract;

THENCE along said south right-of-way line, being the north line of said 535 acre tract, S58°55'07"E, 2648.71 feet to a point in the Pflugerville one-half (1/2) mile EBU line, for the northeast corner hereof;

THENCE departing said south right-of-way line, along said Pflugerville one-half (1/2) mile EBU line, for the east line hereof, the following three (3) courses:
1.) S26°26'00"W, 2617.63 feet to a Point of Curvature hereof;
2.) along the arc of a curve to the right having elements of delta= 2°44'00", radius= 8419.58 feet, arc= 401.66 feet, tangent= 200.87 feet, chord and chord bearing= 401.62 feet, S27°48'00"W to a Point of Tangency hereof;
3.) S29°10'00"W, 1180.12 feet to a point in the north line of that certain 71.67 acre tract of land conveyed to Lanier C. Bohls, et al, by deed recorded in Volume 3951, Page 2106 of said Deed Records, being the south line of said 158.22 acre tract, for the southeast corner hereof;

THENCE along the north line of said 71.67 acre tract and the north line of that certain 95.39 acre tract of land conveyed to Lillian Thornton, et al, by deed recorded in Volume 4829, Page 737 of said Deed Records, being the south line of said 158.22 acre tract, for the south line hereof, N64°04'00"W, 2046.53 feet to a point in the east right-of-way line of Gregg Lane, for the most southerly southwest corner hereof;

THENCE along east and north lines of said Gregg Lane, for west and south lines hereof, the following three (3) courses:
1.) N19°30'00"E, 150.00 feet to an angle point hereof;
2.) N14°50'00"W, 393.33 feet to an angle point hereof;
3.) N58°15'00"W, 298.61 feet to a point in the east right-of-way line of F.M. 685, for the most westerly southwest corner hereof;

THENCE along said east right-of-way line of F.M. 685, along a line being 2640 feet west of and parallel to the east line herein described, for the west line hereof, the following three (3) courses:
1.) N29°10'00"E, 851.28 feet to a Point of Curvature hereof;
2.) along the arc of a curve to the left having elements of delta= 2°44'00", radius= 5779.58 feet, arc= 275.72 feet, tangent= 137.89 feet, chord and chord bearing= 275.69 feet, N27°48'00"E to a Point of Tangency hereof;
3.) N26°26'00"E, 2832.27 feet to the POINT OF BEGINNING of the herein described tract, containing 256.63 acres of land.

I, Jay D. Becker, A REGISTERED PUBLIC SURVEYOR, do hereby certify that these field notes were prepared from existing records, supplemental surveys and computations made by Haynie, Kallman & Gray, Inc., and are true and correct to the best of my knowledge.

HAYNIE, KALLMAN & GRAY, INC.




Jay D. Becker,
Registered Public Surveyor No. 4443

7-2-57
Date

Schedule 2
(page 1 of 2)

3.320 Acres
TU Electric
Substation Site

F.N. 5015 (JMC)
November 9, 1994
SRI Job No. 2016-61

A DESCRIPTION OF A 3.320 ACRE TRACT OF LAND OUT OF THE JOHN DAVIS SURVEY NO. 13, ABSTRACT NO. 231 IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 535 ACRE TRACT OF LAND DESCRIBED IN A DEED TO THEODOR TIMMERMAN, RECORDED IN VOLUME 8384, PAGE 544 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 3.320 ACRES AS SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a fence post corner found in the east right-of-way line of F.M. Highway No. 685 at its intersection with the south right-of-way line of Pflugger Lane, said point being also at the northwest corner of said 535 acres;

THENCE, departing the east right-of-way line of said F.M. Highway No. 685, with the south right-of-way line of said Pflugger Lane and the north line of said 535 acres, S 80° 32' 50" E, a distance of 512.66 feet to a fence corner post found for the POINT OF BEGINNING of the herein described 3.320 acre tract of land;

THENCE, continuing with the south right-of-way line of said Pflugger Lane and the north line of said 535 acres, S 80° 32' 50" E, a distance of 564.21 feet to a 1/2-inch iron rod set for the northeast corner of this tract;

THENCE, departing the south right-of-way line of said Pflugger Lane, and crossing said 535 acres, the following three (3) courses and distances:

1. S 29° 27' 10" W, a distance of 300.00 feet to a 1/2-inch iron rod set for the southeast corner of this tract,
2. N 80° 32' 50" W, a distance of 400.00 feet to a 1/2-inch iron rod set for the southwest corner of this tract, and
3. N 00° 46' 29" E, a distance of 342.01 feet to the POINT OF BEGINNING and containing 3.320 acres of land.

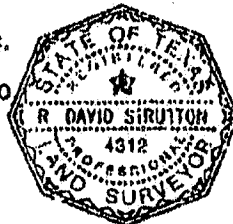
THE STATE OF TEXAS |
 |
COUNTY OF TRAVIS |

KNOW ALL MEN BY THESE PRESENTS:

That I, R. David Strutton, 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 during November 1994 under my direction and supervision.

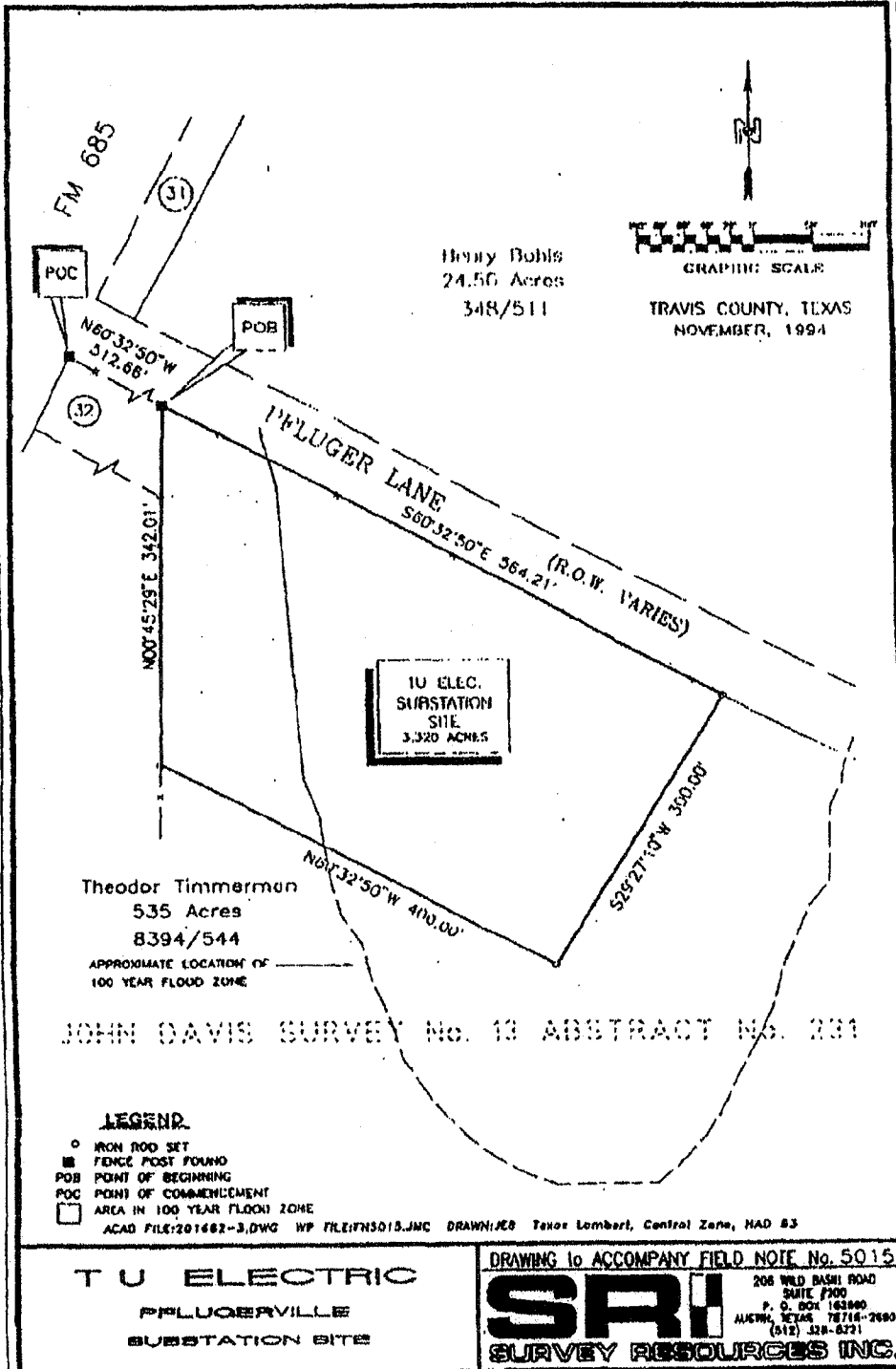
WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 9th day of November, 1994 A.D.

SURVEY RESOURCES, INC.
P.O. Box 162690
Austin, Texas 78716-2690



R. David Strutton
R. David Strutton
Registered Professional Land Surveyor
No. 4312 - State of Texas

Schedule 2
(page 2 of 2)



Schedule 3
(page 1 of 2)

6.500 ACRES
TRAVIS COUNTY, TEXAS
TIMMERMANN TO TXU

F.N. NO. 6238(RDS)
MARCH 15, 2001
PBS&J JOB NO. 440728.00

A DESCRIPTION OF 6.500 ACRES OF LAND OUT OF THE S. EISELEN SURVEY, ABSTRACT NO. 286, IN TRAVIS COUNTY, TEXAS, SAID 6.500 ACRES BEING A PORTION OF THAT CERTAIN 635 ACRE TRACT OF LAND DESCRIBED IN A DEED TO TIMMERMAN AND HAGN, LTD, OF RECORD IN VOLUME 8364, PAGE 544 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at an iron rod found in the south right-of-way line of Pfluger Lane, said point being at the northeast corner of that certain 3.320 acre tract of land described in a deed to Texas Utilities Electric Company, of record in Volume 12440, Page 1318 of the Real Property Records of Travis County, Texas, and at a northwest corner of said 635 acre tract for a northwest corner of the herein described tract of land;

THENCE, with the south right-of-way line of said Pfluger Lane and the north line of said 535 acre tract, S 60° 31' 49" E, a distance of 312.57 feet to a 1/4-inch iron rod with cap set in the south right-of-way line of said Pfluger Lane;

THENCE, over and across the said 535 acre tract the following four (4) courses:

1. S 20° 25' 02" E, a distance of 605.32 feet to a 1/4-inch iron rod with cap set in an existing wire fence line, at the south east corner of the tract described herein;
2. with the existing wire fence, N 60° 13' 00" W, a distance of 528.20 feet to a 1/4-inch iron rod with cap set, at the southwesterly corner of the tract described herein,
3. continuing with the existing wire fence, N 30° 24' 10" W, a distance of 12.22 feet to a 1/4-inch iron rod with cap set, and
4. N 01° 00' 23" W, a distance of 343.33 feet to an iron rod found at the southeast corner of the said 3.320 acre tract, being the most westerly corner of the tract described herein;

THENCE, with common line between said 3.320 acre tract and said 535 acre tract the following two (2) courses:

1. S 60° 34' 58" E, a distance of 400.04 feet to an iron rod found at the southeast corner of the 3.320 acre tract being an interior ell corner of the tract described herein, and
2. N 20° 25' 02" E, a distance of 300.03 feet to the POINT OF BEGINNING and containing 6.500 acres of land.

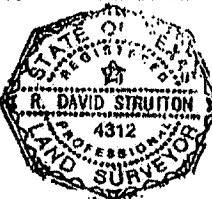
THE STATE OF TEXAS
COUNTY OF TRAVIS

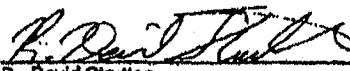
I
KNOW ALL MEN BY THESE PRESENTS:
I

That I, R. David Strutton, 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 during February, 2001 under my direction and supervision.

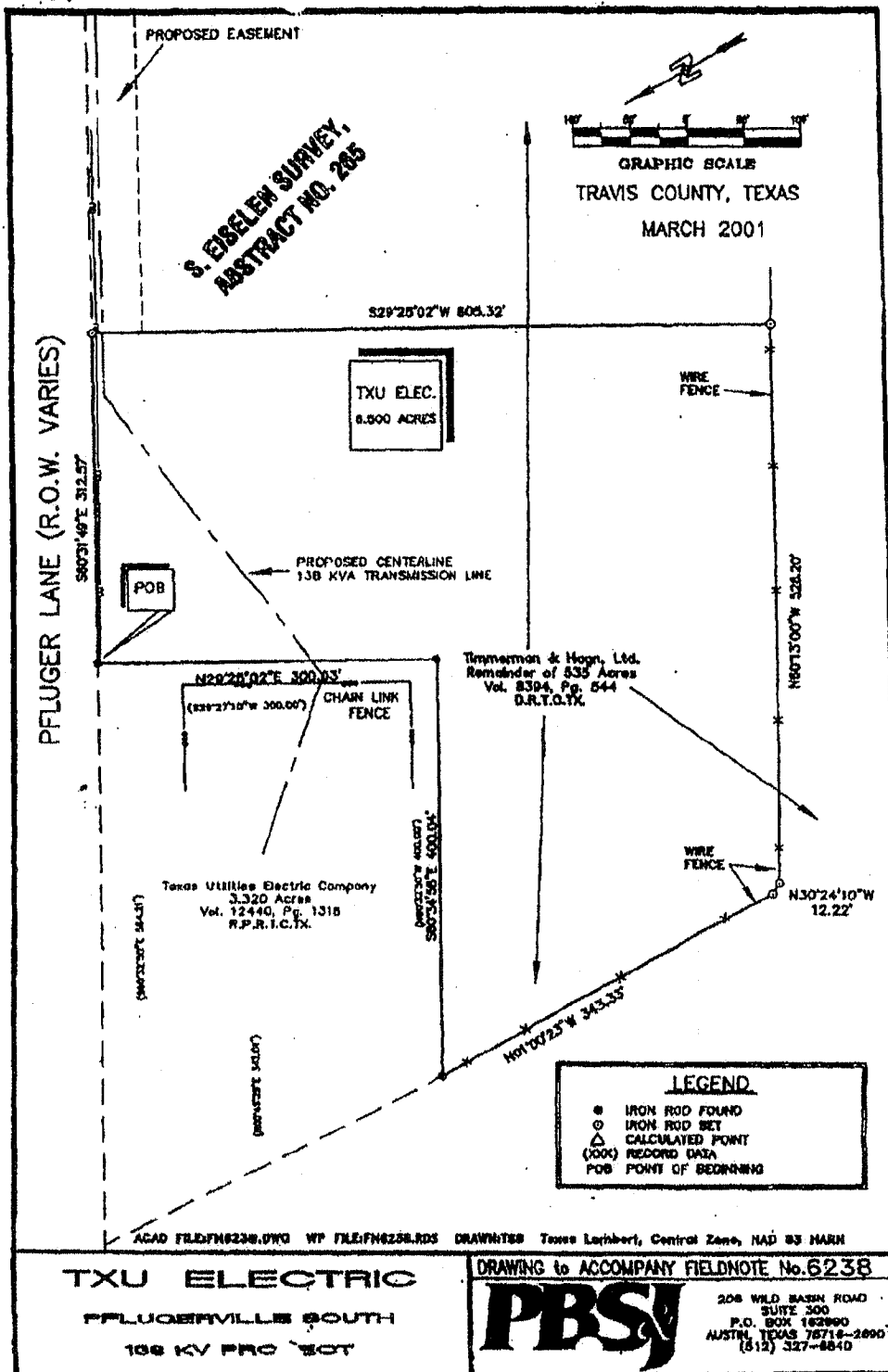
WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 19th day of March, 2001 A.D.

PBS&J
206 Wild Basin Road
Suite 300
Austin, Texas 78746




R. David Strutton
Registered Professional Land Surveyor
No. 4312 - State of Texas

Schedule 3
(page 2 of 2)



Schedule 4
(page 1 of 4)

FIELD NOTE DESCRIPTION OF 23.621 ACRES OF LAND OUT OF THE SEFRIN EISELIN SURVEY NO. 4, ABSTRACT NO. 265 AND THE JOHN DAVIS SURVEY NO. 13, ABSTRACT NO. 231, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 535 ACRE TRACT CONVEYED TO TIMMERMAN & HAGN, LTD RECORDED IN VOLUME 8394, PAGE 544 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, THE SAID 535 ACRES BEING MORE PARTICULARLY DESCRIBED IN A DEED RECORDED IN VOLUME 365, PAGE 164, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, THE HEREIN DESCRIBED 23.621 ACRE TRACT ALSO BEING OUT OF THAT CERTAIN 300.03 ACRE PORTION OF THE SAID 535 ACRE TRACT DESCRIBED IN A DEED TO TIMMERMAN & HAGN, LTD RECORDED IN DOCUMENT NUMBER 2004025616 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS. THE SAID 23.621 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at a 1/2 inch diameter steel pin set with cap stamped Lenz & Assoc. on the curving east right-of-way line of F.M. 685 at the southwest corner of the said 300.03 acre tract, from which a concrete right-of-way monument found at the south end of curve bears a chord bearing and distance of S 28°13'06" W, 145.47 feet and a 1/2 inch diameter steel pin found with TXDOT cap at the intersection of the south line of the said 300.03 acre tract with the west right-of-way line of S.H. 130 bears S 60°38'27" E, 4437.84 feet

THENCE, with the east right-of-way line of F.M. 685, the following two (2) courses and distances:

- 1) With a curve to the left, having a central angle of 01°17'10", a radius of 5779.58 feet, an arc of 129.73 feet and a chord bearing and distance of N 26°51'16" E, 129.73 feet to a concrete right-of-way monument found;
- 2) N 26°08'34" E, 844.77 feet to a 1/2 inch diameter steel pin set with cap stamped Lenz & Assoc. for the southwest corner and **PLACE OF BEGINNING** of the herein described tract:

THENCE, traversing the interior of the said 300.03 acre and 535 acre tracts, the following forty-two (42) courses and distances:

- 1) S 64°26'40" E, 767.72 feet to a 1/2 inch diameter steel pin set with cap stamped Lenz & Assoc.;
- 2) With a curve to the right, having a central angle of 19°31'21", a radius of 1040.75 feet, an arc of 354.62 feet and a chord bearing and distance of S 54°40'17" E, 352.90 feet to a 1/2 inch diameter steel pin set with cap stamped Lenz & Assoc. for the southeast corner of the herein described tract;

Schedule 4
(page 2 of 4)

- 3) N 24°36'04" E, at 850.13 feet passing a point on the north line of the said 300.03 acre tract, being N 59°57'43" W, 1904.23 feet from a ½ inch diameter steel pin found at the intersection of the north line of the said 300.03 acre tract with the west right-of-way line of S.H. 130, and continuing a **total distance of 1029.79 feet** to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc. at the northeast corner of the herein described tract;
- 4) N 59°41'22" W, 12.27 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 5) N 66°37'07" W, 26.27 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 6) N 64°39'52" W, 20.58 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 7) N 41°31'19" W, 11.88 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 8) N 49°54'46" W, 21.46 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 9) N 80°35'20" W, 45.40 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 10) N 85°56'55" W, 34.06 feet to a calculated point;
- 11) N 71°44'07" W, 70.16 feet to a calculated point;
- 12) N 61°20'20" W, 11.59 feet to a calculated point;
- 13) N 70°58'59" W, 9.75 feet to a calculated point;
- 14) N 43°24'19" W, 11.64 feet to a calculated point;
- 15) N 49°16'55" W, 7.55 feet to a calculated point;
- 16) N 74°39'26" W, 8.40 feet to a calculated point;
- 17) N 84°01'43" W, 13.74 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 18) N 72°28'58" W, 12.66 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;

Schedule 4
(page 3 of 4)

- 19) N 68°02'58" W, 10.62 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 20) N 62°36'03" W, 6.17 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 21) N 77°07'53" W, 8.01 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 22) N 64°29'50" W, 5.44 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 23) N 34°44'17" W, 13.71 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 24) N 39°18'13" W, 7.93 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 25) N 51°01'22" W, 6.03 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 26) N 46°08'18" W, 4.03 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 27) N 45°00'54" W, 1.89 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 28) N 34°38'14" W, 5.23 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 29) N 50°27'16" W, 7.54 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 30) N 53°45'35" W, 9.41 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 31) N 60°57'27" W, 7.81 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 32) N 68°45'34" W, 4.88 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;

Schedule 4
(page 4 of 4)

- 33) N 81°07'25" W, 8.19 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 34) N 58°24'15" W, 3.86 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 35) N 36°02'27" W, 6.88 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 36) N 17°56'12" W, 9.03 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 37) N 10°18'37" E, 5.65 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 38) N 21°27'26" E, 7.60 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 39) N 38°53'54" E, 10.07 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 40) S 75°58'28" W, 131.54 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 41) S 75°46'52" W, 12.33 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc;
- 42) N 64°26'40" W, 551.46 feet to a ½ inch diameter steel pin set with cap stamped Lenz & Assoc. on the east right-of-way line of F.M. 685 at the northwest corner of the herein described tract;

THENCE, S 26°08'34" W, a distance of 900.05 feet along the east right-of-way line of F.M. 685 to the **PLACE OF BEGINNING**, containing 23.621 acres of land, more or less.

EXHIBIT B-1

Legal Description of T&H Development Tract

FIELD NOTES
JOB NO: 70038-00
DATE: December 29, 2007
PAGE: 1 of 3

11.37 ACRES

All that certain tract or parcel of land situated in Travis County, Texas out of the John Davis Survey No. 13, Abstract No. 231, being all that tract or parcel of land described as Town Center, Phase 1, a subdivision in Travis County, Texas according to the map or plat of record in Document No. 200700339, Official Public Records of Travis County, Texas, and being a portion of that certain tract or parcel of land described as 535 acres granted to Timmerman and Hagn, Ltd., recorded in Volume 8394, Page 544, Deed Records of Travis County, Texas, and further described by metes and bounds as follows:

BEGINNING at a 1/2" iron pin with a yellow plastic cap inscribed "CS, LTD" set at the intersection of the south line of East Pflugerville Parkway, a 60 foot right-of-way, and the east line of F. M. 886, a 100 foot right-of-way, for the northwest corner of said Timmerman and Hagn tract and the northwest corner of Lot 8, Block A, said Town Center Phase 1 subdivision, for the northwest corner of this tract;

THENCE: S 60°33'47" E 281.18 feet with the south line of East Pflugerville Parkway and the north line of said Timmerman and Hagn tract and the north line of said Lot 8, Block A, and this tract to a 1/2" iron pin with a yellow plastic cap inscribed "CS, LTD" set for the northeast corner of said Lot 8, Block A and this tract;

THENCE: over and across said Timmerman and Hagn tract with the east line of this tract in the following twenty six (26) courses:

1. S 00°47'56" E 21.35 feet with the east line of said Lot 8, Block A to a 1/2" iron pin with a yellow plastic cap inscribed "CS, LTD" set,
2. S 25°48'10" W 214.74 feet continuing with the east line of said Lot 8, Block A to 1/2" iron pin with a yellow plastic cap inscribed "CS, LTD" set,
3. S 21°21'14" W 33.06 feet continuing with the east line of said Lot 8, Block A to 1/2" iron pin with a yellow plastic cap inscribed "CS, LTD" set,
4. S 27°13'43" W 17.50 feet continuing with the east line of said Lot 8, Block A to 1/2" iron pin with a yellow plastic cap inscribed "CS, LTD" set,
5. S 25°05'08" W 21.41 feet continuing with the east line of said Lot 8, Block A to 1/2" iron pin with a yellow plastic cap inscribed "CS, LTD" set for the southeast corner of said Lot 8, Block A,
6. S 25°27'18" W 39.34 feet to a calculated point,
7. S 20°12'59" W 9.49 feet to a calculated point,
8. S 19°04'02" E 177.87 feet to a calculated point,
9. S 08°54'51" E 88.03 feet to a calculated point,
10. S 15°59'59" E 105.19 feet to a calculated point,
11. S 16°20'22" E 43.83 feet to a calculated point,
12. S 10°11'47" E 17.69 feet to a calculated point,
13. S 03°28'59" E 15.26 feet to a calculated point,
14. S 05°37'16" W 42.53 feet to a calculated point,
15. S 20°29'23" W 22.39 feet to a calculated point,
16. S 31°00'20" E 84.92 feet to a calculated point,
17. S 32°05'44" E 21.94 feet to a calculated point,
18. S 10°05'08" E 11.56 feet to a calculated point,
19. S 02°17'31" E 12.65 feet to a calculated point,
20. S 15°17'35" W 65.76 feet to a calculated point,
21. S 04°37'35" W 17.24 feet to a calculated point,
22. S 09°05'41" E 9.60 feet to a calculated point,
23. S 28°56'19" W 21.85 feet to a calculated point,
24. S 65°30'41" W 37.23 feet to a calculated point,
25. S 76°00'47" W 131.54 feet to a calculated point,
26. S 75°50'40" W 12.33 feet to a calculated point for the southeast corner of this tract;

THENCE: N 64°26'04" W 575.41 feet continuing over and across said Timmerman and Hagn tract with the south line of this tract to a calculated point in the east line of F. M. 886 and the west line of said Timmerman and Hagn tract for the southwest corner of this tract;

FIELD NOTES

JOB NO: 70036-00

DATE: December 29, 2007

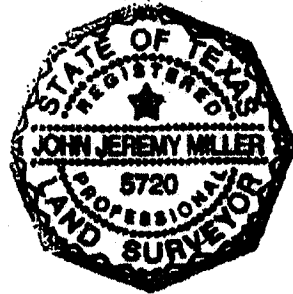
PAGE: 2 of 3

THENCE: N 24°50'59" E with the east line of F. M. 885 and the west line of said Timmerman and Hagn tract and this tract, at 494.50 feet passing a ½" iron pin with a yellow plastic cap inscribed "CS, LTD" set for the southwest corner of Lot 7, Block A, said Town Center Phase 1 subdivision, in all 1082.83 feet to the point of Beginning and containing 11.37 acres (495,229 sq.ft.) within these metes and bounds description.

Bearings cited hereon based on Texas State Plane Coordinate System, Central Zone NAD 83(93).

John Jeremy Miller 12-29-07

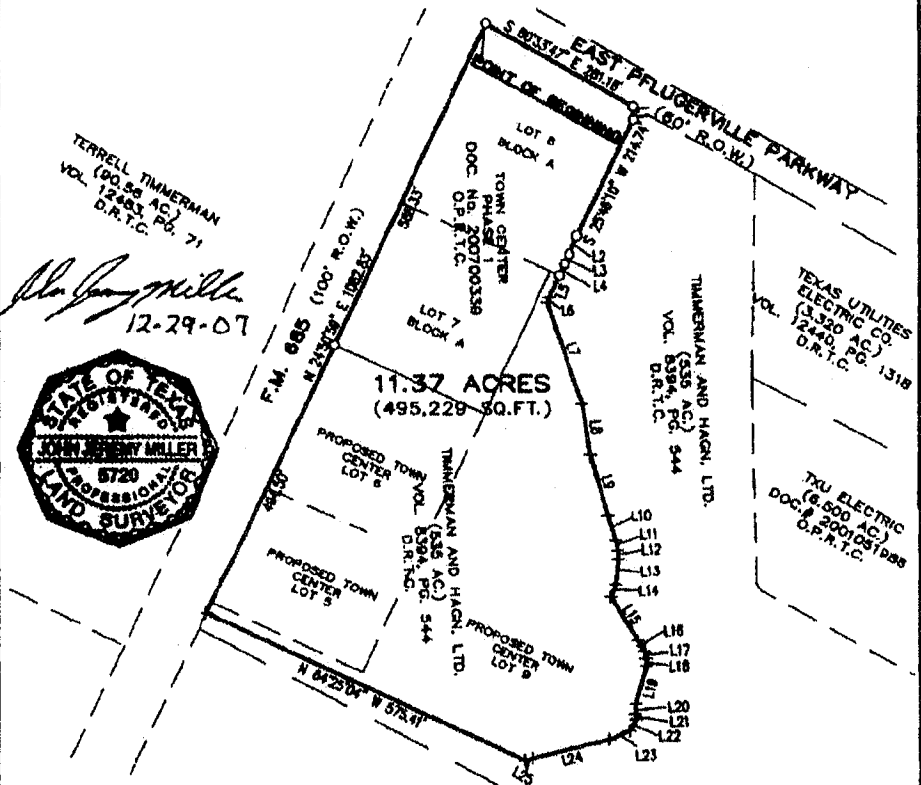
**John Jeremy Miller, R.P.L.S. No. 5720
Castleberry Surveying, Ltd.
3613 Williams Drive, Suite 903
Georgetown, Texas 78628**



JJM/tcp

DRAWING FILE: R:\2007_PROJECTS\70036-00_Timmerman Walgreen Site\DRAWINGS\EXHIBIT\70036_LOTS_5_6_9_122807.dwg Dec 31, 2007 - 1:41 pm Jeremy

EXHIBIT TO ACCOMPANY FIELD NOTES OF
 11.37 ACRES OUT OF THE JOHN DAMS SURVEY NO. 13,
 ABSTRACT NO. 231, TRAVIS COUNTY, TEXAS



TERRELL TIMMERMAN
 (190.58 AC.)
 VOL. 12483, PG. 71
 D.R.T.C.

John Jerry Miller
 12-29-07

STATE OF TEXAS
 REGISTRARS
 JOHN JERRY MILLER
 8720
 PROFESSIONAL
 LAND SURVEYOR

LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	S 00°47'56" E	21.35'
L2	S 21°21'14" W	33.06'
L3	S 27°13'43" W	17.50'
L4	S 25°05'36" W	21.41'
L5	S 25°27'18" W	39.34'
L6	S 20°12'59" W	8.49'
L7	S 19°04'02" E	177.87'
L8	S 08°54'51" E	86.03'
L9	S 15°59'59" E	105.19'
L10	S 16°20'22" E	43.83'
L11	S 10°11'47" E	17.89'
L12	S 03°28'59" E	16.25'
L13	S 05°37'18" W	42.53'
L14	S 20°29'23" W	22.39'
L15	S 31°00'20" E	84.92'
L16	S 32°05'44" E	21.94'
L17	S 10°05'08" E	11.55'
L18	S 02°17'31" E	12.65'
L19	S 15°17'35" W	85.78'
L20	S 04°37'35" W	17.24'
L21	S 09°06'41" E	9.90'
L22	S 26°56'19" W	21.95'
L23	S 65°30'41" W	37.23'
L24	S 76°00'47" W	131.54'
L25	S 75°50'40" W	12.33'

ERNEST K. ECKELMAN
 (300.030 AC.)
 DOC. NO. 2002202438
 O.P.R.T.C.



SCALE: 1"=200'
 BEARINGS CITED HEREON BASED ON
 GRID NORTH, TEXAS STATE PLANE
 COORDINATE SYSTEM, CENTRAL ZONE
 NAD83(83).

LEGEND	
○	1/2" IRON PIN SET (YELLOW CAP "CS. LTD.")
+	CALCULATED POINT
O.P.R.T.C.	OFFICIAL PUBLIC RECORDS TRAVIS CO.
D.R.T.C.	DEED RECORDS TRAVIS CO.

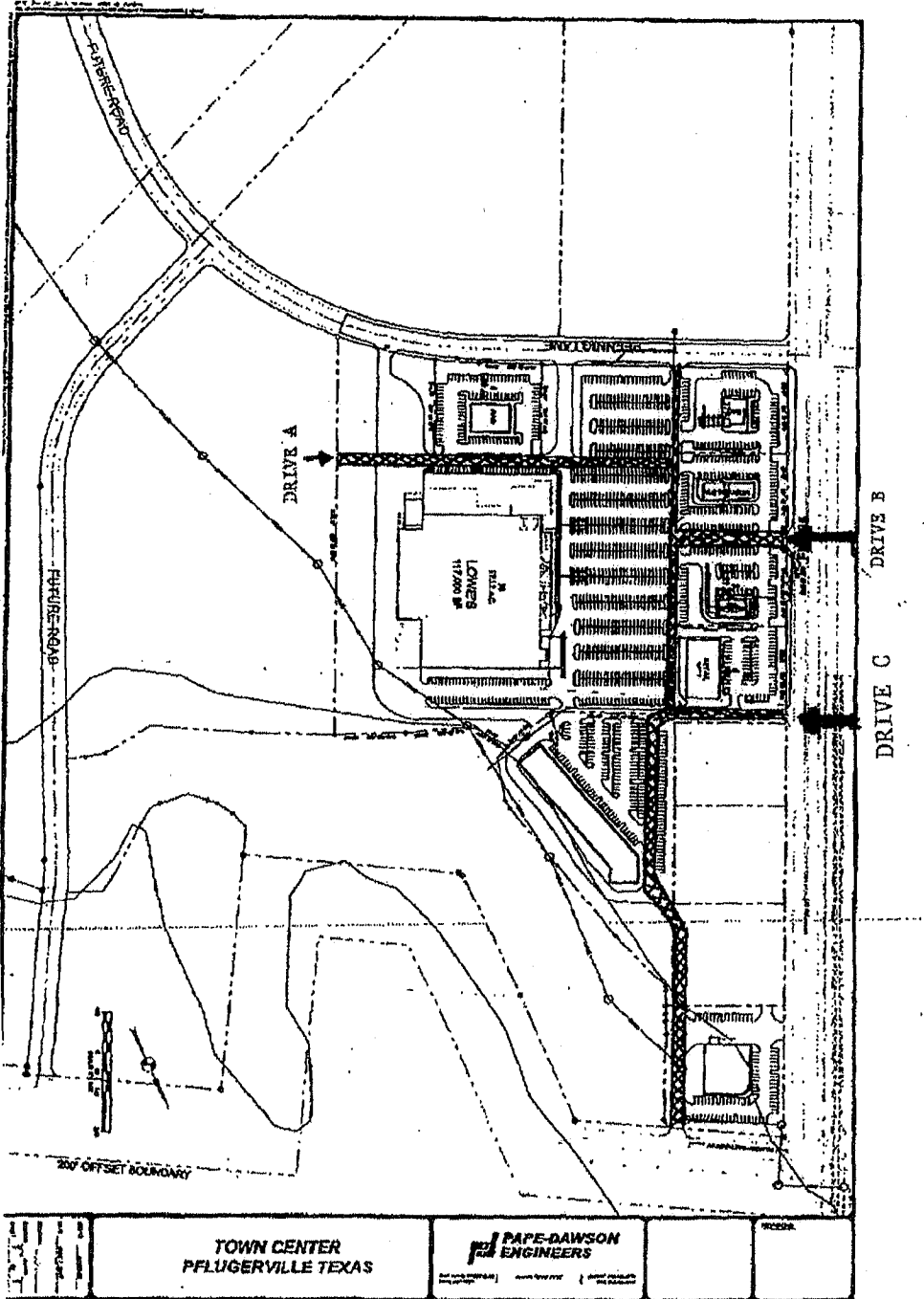


Castleberry Surveying, Ltd.
 3613 Williams Drive, Suite 903 - Georgetown, Texas 78628
 (512) 830-1800/(512) 830-8388 fax
 www.castleberrysurveying.com

SHEET
 3 OF 3

EXHIBIT C

Site Plan



**TOWN CENTER
PFLUGERVILLE TEXAS**

**Pape-Dawson
ENGINEERS**

100000

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2008 Mar 04 08:22 AM 2008033335

BENAVIDESV \$152.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

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.