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WATER UTILITY AND ACCESS EASEMENT AGREEMENT

(Wilkins Tract)

THE STAPE OF TEXAS

COUNTY OF TRAVIS

EASE

2004021593

GRANT OF EASEMENT

JOHN ALLEN WILKINS, TRUSTEE ("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"), a perpetual, exclusive 40 foot wide 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, by, through or under Grantor, but not otherwise, subject to all title exceptions of record, to the extent the same are valid and subsisting against the Easement Tract, and the matters set forth herein.

CHARACTER OF EASEMENT:

The Easement is an easement in gross.

PURPOSE OF EASEMENT:

The Easement shall be used for the placement, construction; installation, replacement, repair, maintenance, relocation, removal, and operation of no more than two underground raw water lines and related facilities, and related appurtenances, or making connections thereto. Such raw water lines shall be buried at least 48 inches below the surface of the land and shall be designed to allow Grantor to build drives and driveways across the Easement Tract; provided, however, the minimum cover over the water lines shall never be less than 36 inches. Grantor acknowledges that certain related facilities including, but not limited to, air valves will be located on and above the surface of the land.

The Easement shall also be used for the purpose of providing access for the operation, repair, maintenance, replacement and expansion of the raw water lines and related facilities.

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DURATION OF EASEMENT:

The Easement shall be perpetual.

ÉXCLUSIVENESS OF EASEMENT:

Subject to the following sentence and the section entitled "Surface Use" below, the Easement shall be exclusive, and Grantor covenants that Grantor will not convey any other easement or conflicting rights within the Easement Tract. Grantor may alter or otherwise use the surface of the Easement Tract for purposes that do not interfere with Grantee's exercise of the rights herein granted, and may place, construct, operate, repair and maintain drainage lines and systems, and other public utility lines (including without limitation, water, wastewater, electric, telephone, cable television, and gas lines and systems) in, over and across the Easement Tract (but may not install parallel lines within the Easement Tract), and may grant public and/or private easements for such uses provided, however, that plans for all improvements to be placed within the Easement Tract (except for landscaping improvements installed no deeper than 24 inches below the surface of the land) must be approved by Grantee before such improvements are installed or built, with such approval not to be unreasonably withheld or delayed.

TEMPORARY CONSTRUCTION EASEMENT:

In addition to the Easement granted, Grantee is hereby granted and conveyed a temporary construction easement ("Construction Easement") sixty (60) feet in width upon and across the property of Grantor which is depicted on Exhibit "B" ("Construction Easement Area"), attached hereto and incorporated herein for all purposes, for the construction and installation of the facilities, including but not limited to, the raw water lines with related facilities to be located upon the Easement Tract. The Construction Easement shall terminate and be of no further force or effect upon completion of original construction of such facilities and acceptance of the facilities by Grantee for operation and maintenance.

SURFACE USE:

Grantor hereby retains, reserves, and shall continue to enjoy the use of the surface of the Easement Tract for any and all purposes which do not interfere with or prevent the use by Grantee of the Easement herein granted. 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. Grantee will install temporary fencing adequate to contain and protect any livestock located on the Easement Tract during any construction activities.

RESTORATION:

Upon completion of construction of the raw water lines and related utility improvements within the Easement Tract, or upon completion of any subsequent construction, maintenance or repair which disturbs the surface of the Easement Tract or the Construction Basement Area, Grantee will fill all trenches, repair and restore any fencing damaged by the construction activities, remove all construction debris and restore, as nearly as possible, the surface of the

Easement Tract or the Construction Easement Area to its condition prior to commencement of construction.

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 Construction Easement and the rights of Grantee hereunder may be assigned in whole or in part by Grantee so long as the assignee utilizes the Easement and Construction Easement as contemplated herein.

NO WATER TAPS:

Grantor is prohibited from tapping into or using water from the raw water lines constructed on the Easement Tract.

In witness whereof, this instrument is executed this 1 day of 18.4

JOHN ALLEN WILKINS, TRUSTEE

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RECEIVED, ACCEPTED AND AGREED TO BY GRANTEE: CFT OF PFLUGERVILLE, TEXAS Steve Jones, City Manager ADDRESS OF GRANTEE City of Pflugerville P.O. Box 589 Pflugerville, Texas 7869 THE STATE OF TEXAS. COUNTY OF Irour'S This instrument was acknowledged before me on Jenuary 7, 2003, by John Wilkins Trustee Allen Wilkins, Trustee. Notary Public Signature GENTRY M. HUBBARD (seal) MY COMMISSION EXPIRES September 7, 2005

175508-1 11/06/2003

THE STÂTE OF TEXAS COUN<u>BY</u> OF TRAVIS 8 This instrument was acknowledged before me on December 2,2003, by Steve Jones, City Manager of the City of Pflugerville, Texas, on behalf of said municipality/ KIMBERLY S. BECKHAM Notary-Rublic STATE OF TEXAS My-Comm. Exp. 08-01-2007 (seal

FŃ2992(TWH) JUNE,2, 2003 SAM, Ibc. Job No. 22259E-01 John Allen Wilkens, Trustee 40-Foot Wide Waterline Easement

EXHIBIT "A"

DESCRIPTION OF A 2.740 ACRE TRACT OF LAND LOCATED IN THE JAMES O. RICE SURVEY NO. 31, ABSTRACT, 675, AND THE LUCAS MUNOS SURVEY NO. 55, ABSTRACT 513, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF A CALLED 119.38 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM A.N. WILKENS, TRUSTEE, TO JOHN ALLEN WILKENS, TRUSTEE, DATED JUNE 24, 1985, AND RECORDED IN VOLUME 9303, PAGE 26 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY TEXAS, SAID 2.740 ACRE TRACT OF LAND, AS SHOWN ON THE ACCOMPANYING SKETCH: AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

COMMENCING at a 5/8-inch iron rod with a plastic cap found for the northeast corner of a called 21.39 acre tract of land described in the deed from Charles Maretzky and wife, Barbara Martezky, to Waste Management of Texas, Inc. dated June 18, 1993, and recorded in Volume 11965, Page 1443 of the Real Property Records, Travis County, Texas, same being in the south line of said 119.38 acre tract;

THENCE with said south line and the north line of said 21.39 acre tract, N 62° 33' 45" W, a distance of 665.89 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set for the southeast corner and the POINT OF BEGINNING of the tract described herein;

THENCE continuing with said south and north lines, N 62° 33' 45" W, a distance of 45.93 feet to a 1/2-inch iron rod with a plastic cap marked "SAM: INC" set for the southwest corner of the tract described herein, from which a calculated point in the east line of a called 219.184 acre tract of land described in the deed from the Missouri Pacific Railroad Company to the State of Texas, dated November 21, 1990, and recorded in Volume 11339, Page 2005, of the Real Property Records, Travis County, Texas bears with said south and north lines, N 62° 33' 45" W, passing at a distance of 112.46 feet a 5/8-inch iron rod found, in all a total distance of 113.34 feet;

THENCE crossing said 119.38 acre tract N 01^b 5<u>9′ 2</u>7^a ½, a distance of 830.31 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set in the north deed line of said 119.38 acre tract;

THENCE with said north deed line the following five (5) courses and distances:

- 1. N 73° 52' 20" E, a distance of 140.97 feet to a 1/2-jnch, iron rod with a plastic cap marked "SAM, INC" set.
- 2. N 79° 53' 20" E, a distance of 1255.56 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set,
- 3. N 89° 42' 20" E, a distance of 203.06 feet to to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set,
- 4. S 75° 54' 40" E, a distance of 393.89 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set, and
- 5. S 85° 46' 40" E, a distance of 149.06 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set;

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John Allen Wilkens, Trustee 40-Foot Wide Waterline Easement

THÉNCE leaving said north deed line, N 42° 42' 17" E, a distance of 8.93 feet to a calculated point in the south Right-of-Way (ROW) line of Blue Goose Road, a 50-foot wide ROW;

THENCE with said south ROW line, S 73° 35′ 53″ E, passing at a distance of 33.12 feet, said north deed line, in all a total distance of 44.62 feet to a 1/2-inch iron rod with a plastic cap set for the east corner of the tract described herein, from which a 1/2-inch iron rod found in said south ROW line bears S73°35′53″É, a distance of 1273.29 feet;

THENCE crossing said 119 38 acre tract the following eight (8) courses and distances:

- 1. S 42° 42'-17" W, a-distance of 48.00 feet to a 1/2-inch iron rod with a plastic cap marked "SAM INC." set
- 2. N 85° 46′ 40 W, a distarce of 171.82 feet to a 1/2-inch iron rod with a plastic cap marked "SAM INC." set,
- 3. N 75° 54' 40" W, a distance of 392,29 feet to a 1/2-inch iron rod with a plastic cap marked "SAM INC." set,
- 4. S 89° 42' 20" W, a distance of 194.57 feet to a 1/2-inch iron rod with a plastic cap marked "SAM INC." set,
- 5. S 79° 53' 20" W, a distance of 1250.02 feet to a 1/2 inch iron rod with a plastic cap marked "SAM INC." set,
- 6. S 73° 52' 20" W, a distance of 107.69 feet to a 1/2-inch iron rod with a plastic cap marked "SAM INC." set,

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John Allen Wilkens, Trustee 40-Foot Wide Waterline Easement

7. 5 01° 59' 27" E, a distance of 799.14 feet to a 1/2-inch iron rod with a plastic cap marked "SAM TNC." set, and

8. (S 01° 59' 23" Exa distance of 22.56 feet to the **POINT OF BEGINNING**, and containing 2.740 acres of land, more or less.

BEARING BASIS: Bearings are based on the Texas State Coordinate System, Central Zone, NAD 83/(1993). The distances are adjusted to surface using a combined scale factor of 1.00007.

THE STATE OF TEXAS

COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

That I, Paul L. Easley, 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 of 2003 under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 4th day of June 2003 A.D.

SURVEYING AND MAPPING, Inc. 5508 West Highway 290 Building B Austin, Texas 78735

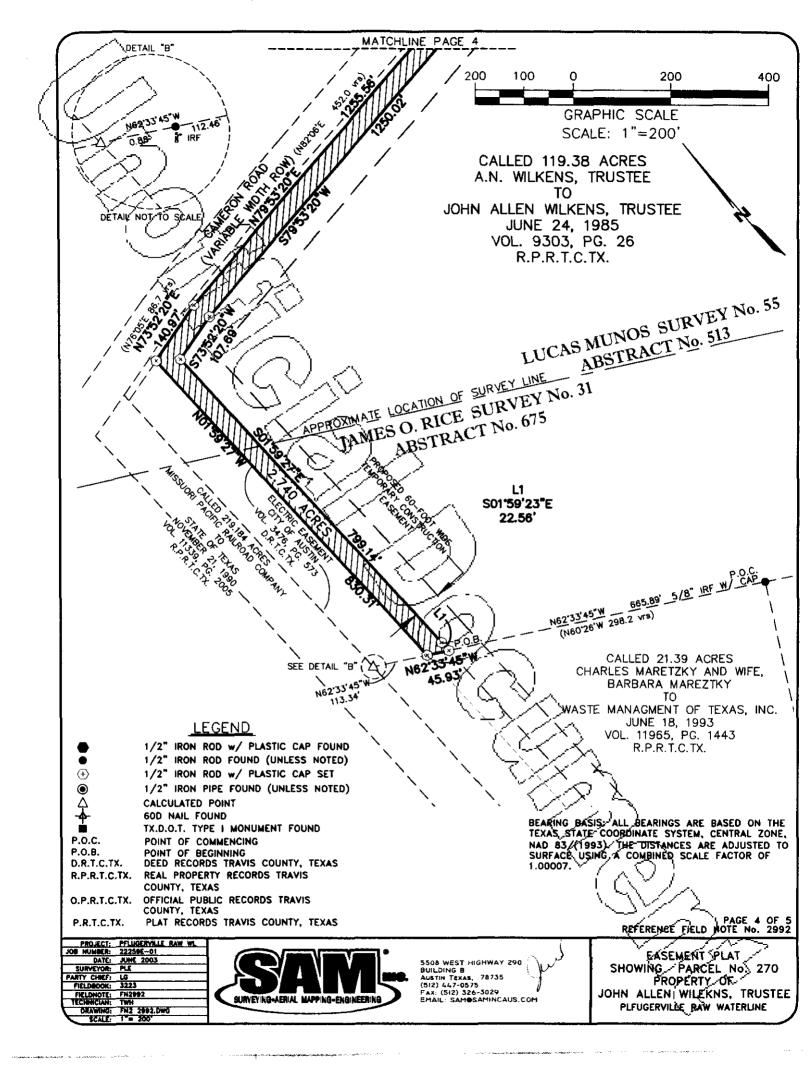
Paul L. Easley

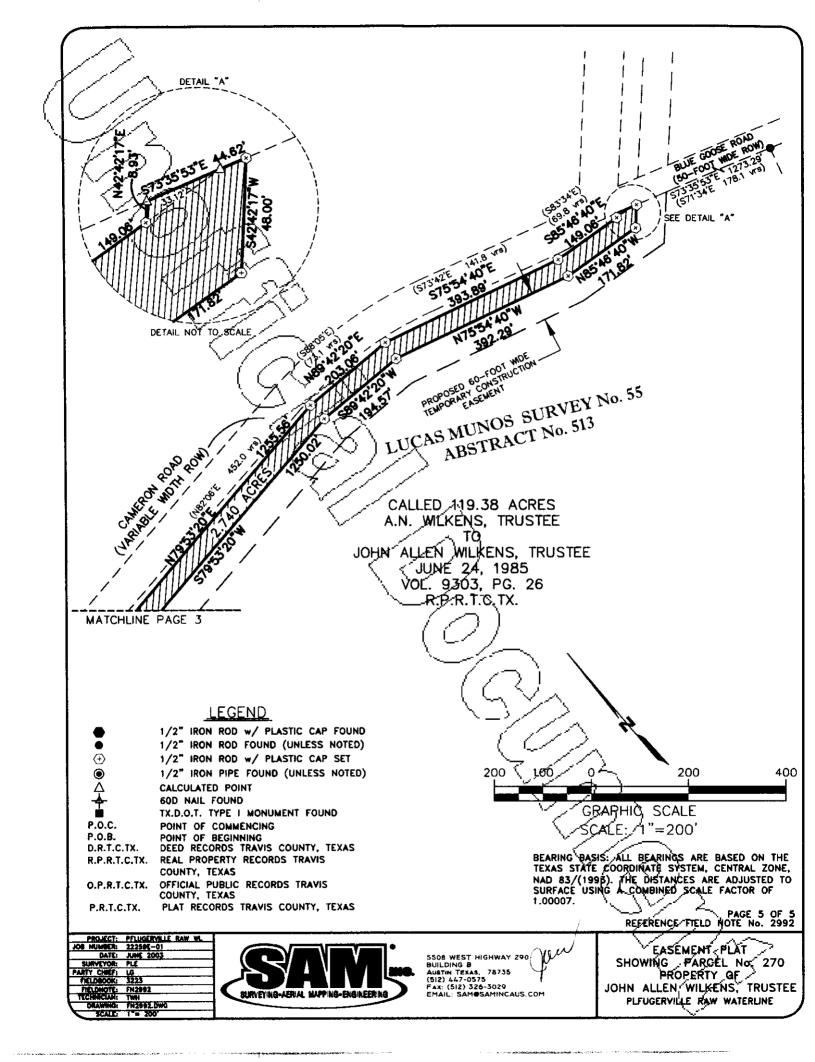
Registered Professional Land Surveyor

No. 4432 - State of Texas

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, FŃ2993(TWH) - JUNE,2, 2003 - SAM, Inc. Job No. 22259⊑-01 John Allen Wilkens, Trustee 60-Foot Wide Temporary Construction Easement

EXHIBIT "B"

DESCRIPTION OF A 4.117 ACRE TRACT OF LAND LOCATED IN THE JAMES O. RICE SURVEY NO. 31, ABSTRACT, 675, AND THE LUCAS MUNOS SURVEY No. 55, ABSTRACT 513, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF A CALLED 119.38 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM A.N. WILKENS, TRUSTEE, TO JOHN ALLEN WILKENS, TRUSTEE, DATED JUNE 24, 1985, AND RECORDED IN VOLUME 9303, PAGE 26 OF THE REAL PROPERTY RECORDS OF TRAVIS, COUNTY, TEXAS, SAID 4.117 ACRE TRACT OF LAND, AS SHOWN ON THE ACCOMPANYING SKETCH AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

COMMENCING at a 5/8-inch iron rod with a plastic cap found for the northeast corner of a called 21.39 acre tract of land described in the deed from Charles Maretzky and wife, Barbara Martezky, to Waste Management of Texas, Inc. dated June 18, 1993, and recorded in Volume 11965, Page 1443 of the Real Property Records, Travisi County, Texas, same being in the south line of said 119.38 acre tract;

THENCE with said south line and the north line of said 21.39 acre tract, N 62° 33' 45" W, a distance of 597.00 feet to a calculated point for the southeast corner and the POINT OF BEGINNING of the tract described herein;

THENCE continuing with said south and north lines, N 62° 33' 45" W, a distance of 68.89 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set for the southwest corner of the tract described herein, from which a calculated point in the east line of a called 219.184 acre tract of land described in the deed from the Missouri Pacific Railroad Company to the State of Texas, dated November 21, 1990, and recorded in Volume 11339, Page 2005, of the Real Property Records, Travis County, Texas bears with said south and north lines, N 62° 33' 45" W, passing at a distance of 158.39 feet a 5/8-inch iron rod found, in all a total distance of 159.27 feet;

THENCE crossing said 119.38 acre tract the following rine (9) sourses and distances:

- 1. N 01° 59′ 23″ W, a distance of 22.56 feet to a 1/2-inch i/on rod with a plastic cap marked "SAM, INC" set,
- 2. N 01° 59′ 27″ W, a distance of 799.14 feet to a 1/2-inch-iron rod with a plastic cap marked "SAM, INC" set,
- 3. N 73° 52' 20" E, a distance of 107.69 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set,
- 4. N 79° 53' 20" E, a distance of 1250.02 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set,
- 5. N 89° 42' 20" E, a distance of 194.57 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set,
- 6. S 75° 54' 40" E, a distance of 392.29 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set,
- 7. S 75° 54' 40" E, a distance of 392.29 feet to a 1/2-inch iron rod with a plastic cap marked SAM, INC" set,
- 8. S 85° 46' 40" E, a distance of 171.82 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, INC" set, and

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FN2993(TWH) JUNÉ 2, 2003 SÁM, Ínc. Job No. 22259E-01 John Allen Wilkens, Trustee 60-Foot Wide Temporary Construction Easement

9. N 42° 42' 17" E, a distance of 48.00 feet to a 1/2-inch iron rod with a plastic cap marked "SAM, NC" set in the south Right-of-Way (ROW) line of Blue Goose Road, a 50-foot wide ROW;

THENQÉ with said south ROW line, S 73° 35' 53" E, a distance of 66.93 feet to a calculated point in the south ROW line of said Blue Goose Road, from which a 1/2-inch iron rod found bears S 73° 35' 53" E, a distance of 1206.36 feet;

THENCE crossing said 119.35 acre tract the following eight (8) courses and distances:

- 1. S 42 42: 17" W, a distance of 106.61 feet to a calculated point,
- 2. N 85° 46° 40" W, a distance of 205.95 feet to a calculated point,
- 3. N 75° 54' 40" W, a distance of 389,90 feet to a calculated point,
- 4. S 89° 42' 20" W, a distance of 181.85 feet to a calculated point,
- 5. S 79° 53' 20" W, a distance of 1241.71 feet to a calculated point,
- 6. S 73° 52' 20" W, a distance of 57-78-feet to a calculated point,
- 7. S 01° 59' 27" E, a distance of 752,38 feet to a calculated point, and
- 8. S 01° 59' 23" E, a distance of 56.41 feet to the **POINT OF BEGINNING**, and containing 4.117 acres of land, more or less.

BEARING BASIS: Bearings are based on the Texas State Coordinate System, Central Zone, NAD 83/(1993). The distances are adjusted to surface using a combined scale factor of 1.00007.

THE STATE OF TEXAS

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KNOW ALL MEN-BY THESE PRESENTS:

COUNTY OF TRAVIS

DUNITY OF TRAVIS

That I, Paul L. Easley, 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 of 2003 under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 4th day of June 2003 A.D.

SURVEYING AND MAPPING, Inc. 5508 West Highway 290 Building B Austin, Texas 78735

PAUL L. EASLEY

Paul L. Easley

Registered Professional Land Surveyor

No. 4432 - State of Texas

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