

**POSSESSION AND USE AGREEMENT FOR WASTEWATER LINE
CONSTRUCTION PURPOSES**

(Manor Commercial Park Wastewater Line Project – Parcel 1, David Price)

STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

This Possession and Use Agreement (the “Agreement”) between the City of Manor, Texas, a Texas home-rule municipality (the “City”), and David Price (the “Grantor” whether one or more), grants to the City, its contractors, agents and all others deemed necessary by the City, an irrevocable right to possession and use of the Grantor’s property for the purpose of constructing a wastewater line and appurtenances thereto (the “Project”). The property subject to this Agreement is described more fully in field notes and plat map (attached as “Exhibit A”) and made a part of this Agreement by reference (the “Property”). In addition to the Property, this Agreement also includes a 25’ wide strip of land abutting the Property to the north, being approximately 0.4172 acres in size, more or less, and being described graphically on Exhibit “A” as “25’ TEMPORARY CONSTRUCTION EASEMENT” (the “Temporary Construction Easement”).

1. For the consideration paid by the City which is set forth in Paragraph 2 below, the receipt and sufficiency of which is acknowledged, the Grantor hereby grants, bargains, sells and conveys to the City of Manor the irrevocable right of entry and exclusive possession and use of the Property and Temporary Construction Easement for the purpose of constructing a wastewater line and appurtenances thereto and the right to remove any improvements located within the Property or Temporary Construction Easement. Authorized activities include access, surveying, inspection, environmental studies, archeological studies, clearing, demolition, construction staging, temporary spoil storage, construction, reconstruction, operation, maintenance, repair, upgrade, and/or removal of wastewater lines, facilities, connections therewith, manholes, vents, and all necessary appurtenances thereto, and any other work required to be performed in connection with the Project. This Agreement will extend to the City, its contractors and assigns, owners of any existing utilities on the Property and Temporary Construction Easement and those which may be lawfully permitted on the Property or Temporary Construction Easement by the City in the future, and all others deemed necessary by the City for the purpose of the Project.
2. In full consideration for this irrevocable grant of possession and use and other Grantor covenants, warranties, and obligations under this Agreement, the City will tender to the Grantor the non-refundable sum of **FORTY-FOUR THOUSAND FOUR HUNDRED SEVENTY-FOUR AND NO/100’S DOLLARS (\$44,474.00)**. The Grantor agrees that this sum represents adequate and full compensation for the possession and use of the Property and Temporary Construction Easement. The City will be entitled to take possession and use of the Property and Temporary Construction Easement upon tender of payment. The parties agree that the sum tendered represents **90%** percent of the City’s approved value. The approved value is the City’s determination of the just compensation owed to the Grantor for the real property interest to be acquired by the City in the Property and Temporary Construction Easement, encumbered with the improvements thereon, if any, and damages to the remainder, if any, save and except all oil, gas, and sulphur. The parties agree that the sum tendered to Grantor hereunder will be deducted from any final settlement amount, Special Commissioners’ award or court judgment for the City’s acquisition of the Property and Temporary Construction Easement.

3. The effective date of this Agreement will be the date on which payment pursuant to Paragraph 2 above was either tendered directly to the Grantor by the City or disbursed to the Grantor by a title company acting as escrow agent for the transaction, (the “Effective Date”).
4. The Grantor warrants that no other person or entity owns an interest in the fee title to the Property and Temporary Construction Easement and further agrees to indemnify the City from all unreleased or undisclosed liens, claims or encumbrances affecting the Property or Temporary Construction Easement.
5. The parties agree that the valuation date for determining the amount of just compensation for the real property interests proposed to be acquired by the City in the Property and Temporary Construction Easement, for negotiation or eminent domain proceeding purposes, will be the Effective Date or date of the Special Commissioners Hearing, whichever is later.
6. This Agreement is made with the understanding that the City will continue to proceed with acquisition of a real property interest in the Property and Temporary Construction Easement, and that the City will initiate eminent domain proceedings if necessary and endeavor to schedule a Special Commissioners Hearing on or before **June 30, 2024**. The Grantor reserves all rights of compensation for the title and interest in and to the Property and Temporary Construction Easement which the Grantor holds as of the time immediately prior to the Effective Date of this Agreement. This Agreement shall in no way prejudice the Grantor’s rights to receive full and just compensation as allowed by law for all of the Grantor’s interests in and to the Property and Temporary Construction Easement to be acquired by the City, encumbered with the improvements thereon, if any, and damages, if any, to the remainder of the Grantor’s interest in any larger tract of which the Property and Temporary Construction Easement are a part (the “Remainder”); all as the Property and Temporary Construction Easement exist on the Effective Date of this Agreement. The City’s removal or construction of improvements on the Property or Temporary Construction Easement shall in no way affect the fair market value of the Property and Temporary Construction Easement in determining compensation due to the Grantor in the eminent domain proceedings. There will be no project impact upon the appraised value of the Property or Temporary Construction Easement. This grant will not prejudice the Grantor’s rights to any relocation benefits for which Grantor may be eligible.
7. In the event the City institutes or has instituted eminent domain proceedings, the City will not be liable to the Grantor for interest upon any award or judgment as a result of such proceedings for any period of time prior to the date of the award. Payment of any interest may be deferred by the City until entry of judgment.
8. The purpose of this Agreement is to allow the City to proceed with the Project without delay and to allow the Grantor to have the use at this time of a percentage of the estimated compensation for the City’s acquisition of a real property interest in the Property and Temporary Construction Easement. The Grantor expressly acknowledges that the proposed Project is for a valid public use and voluntarily waives any right the Grantor has or may have, known or unknown, to contest the jurisdiction of the court in any condemnation proceeding for acquisition of the Property and Temporary Construction Easement related to the Project, based upon claims that the City has no authority to acquire the Property and Temporary Construction Easement through eminent domain, has no valid public use for the Property and Temporary Construction Easement, that acquisition of the Property and Temporary Construction Easement is not necessary for a public purpose, or for any other reason.

9. The Grantor reserves all the oil, gas, and sulphur in and under the land herein conveyed but waives all rights of ingress and egress to the surface for the purpose of exploring, developing, mining, or drilling. The extraction of oil, gas and minerals may not affect the geological stability of the surface. Nothing in this reservation will affect the title and rights of the City to take and use all other minerals and materials thereon, and thereunder.
10. The undersigned Grantor agrees to pay as they become due all ad valorem property taxes and special assessments assessed against Property.
11. Notwithstanding the acquisition of right of possession to the Property and Temporary Construction Easement by the City in a condemnation proceeding by depositing the Special Commissioners' Award as provided by law, less any amounts tendered to the Grantor pursuant to Paragraph 2 above, this Agreement shall continue to remain in effect until the City finally acquires recorded easements in the Property and Temporary Construction Easement either by negotiation, settlement, or final court judgment.
12. The parties further agree that in the event Grantor's property is not already annexed into the City, should Grantor elect to have the Property annexed into the City, that upon completion of such annexation Grantor shall then be eligible to obtain a service connection to the wastewater line being installed in the Property after payment of all necessary fees.
13. This Agreement will also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors in interest and assigns of the parties.
14. It is agreed the City will record this document.

To have and to hold the Agreement herein described and conveyed, together with all the rights and appurtenances belonging to the City of Manor and its assigns forever, for the purposes and subject to the limitations set forth above.

GRANTOR:

David Price

David Price

1/12/24

Date

CITY:

CITY OF MANOR, TEXAS, a Texas home-rule municipality

By:

Scott Moore, City Manager
City of Manor, Texas

Date

******* ACKNOWLEDGEMENTS *******

STATE OF TEXAS

§

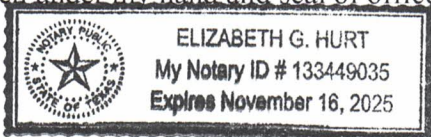
COUNTY OF TRAVIS

§

§

Before me, the undersigned authority, on this day personally appeared **DAVID A. PRICE**, a person either known to me or proved to me through legal identification to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same in the capacities represented and for the purposes and consideration therein expressed.

Given under my hand and seal of office this 12 day of January, 2024.



Elizabeth G. Hurt
Notary Public, State of Texas

(Seal and Expiration)

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared **SCOTT MOORE**, a person either known to me or proved to me through legal identification to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same in the capacities represented and for the purposes and consideration therein expressed.

Given under my hand and seal of office this ____ day of _____, 2024.

Notary Public, State of Texas

(Seal and Expiration)



10090 W Highway 29 | Liberty Hill, Texas 78642

TBPELS Firm No. 10001800 | 512-238-7901 office

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION

BEING 0.3340 OF ONE ACRE OF LAND (14,550 SQ. FT.), SURVEYED BY LANDESIGN SERVICES, INC., SITUATED IN THE TIMOTHY MCKANE SURVEY NO. 47, ABSTRACT NO. 525, IN TRAVIS COUNTY, TEXAS AND BEING A PORTION OF LOT 6, MANOR VILLA ESTATES, A SUBDIVISION OF RECORD IN VOLUME 83, PAGE 155C, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS (P.R.T.C.T.), AND BEING THE SAME TRACT OF LAND DESCRIBED IN A SPECIAL WARRANTY DEED TO DAVID A. PRICE, RECORDED IN DOCUMENT NO. 2016134444, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch rebar with cap stamped "4WARD BOUNDARY" found in the existing Northerly right-of-way line of Old Highway 20 (80' R.O.W.), for the Southerly common corner of said Lot 6 and of Lot 1, said MANOR VILLA ESTATES, from which a 1/2-inch rebar with cap stamped "SURVTEX LLC" found in the existing Northerly right-of-way line of said Old Highway 20, for the Southerly common corner of said Lot 1 of Lot 7, MANOR VILLA ESTATES, bears South 72°55'19" East a distance of 50.66 feet;

THENCE **North 72°55'19" West** with the existing Northerly right-of-way line of said Old Highway 20 and the common Southerly line of said Lot 6, a distance of **727.60** feet to a Calculated Point in the Westerly line of said Lot 6 and the common Easterly line of a called 2.011 acre tract of land described in a General Warranty Deed to William M. Forsythe and John C. Forsythe, recorded in Document No. 2019125687 of said O.P.R.T.C.T., from which a 1/2-inch rebar with cap found in the existing Northerly right-of-way line of said Old Highway 20, for the Southeasterly corner of said 2.011 acre tract, bears South 28°05'44" West a distance of 20.38 feet;

THENCE **North 28°05'44" East** with the Westerly line of said Lot 6 and the common Easterly line of said 2.011 acre tract, a distance of **20.38** feet to a Calculated Point;


THENCE **South 72°55'19" East** over and across said Lot 6, a distance of **727.17** feet to a Calculated Point in the Easterly line of said Lot 6 and the common Westerly line of said Lot 1, from which a 1/2-inch rebar found in the Easterly line of said Lot 6 and the common Westerly line of said Lot 1, bears North 26°53'36" East a distance of 61.72 feet;



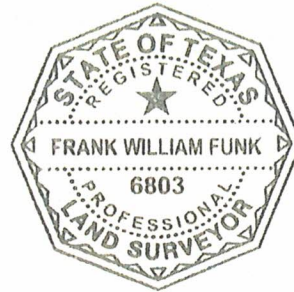
THENCE **South 26°53'36" West** with the Easterly line of said Lot 6 and the common Westerly line of said Lot 1, a distance of **20.30** feet to the **POINT OF BEGINNING** and containing 0.3340 of one acre of land (14,550 Sq. Ft.), more or less.

This project is referenced for all bearing and coordinate basis to the Texas State Plane Coordinate System, North American Datum of 1983 (NAD83 - 2011 adjustment), Central Zone (4203). Distances and Areas shown hereon are Grid values represented in U.S. survey feet.

This property description accompanies a separate plat of even date and was prepared by an on the ground survey made under my supervision during the month of November, 2022.

 02/03/2023

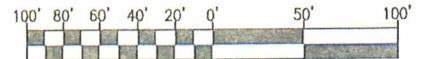
Frank W. Funk
Registered Professional Land Surveyor
State of Texas No. 6803



Job Number: 22-021

Attachments: K:\JAY MANOR CIP\CAD\DWGS\MANOR COMM PARK WWL ESMT 5.DWG

LEGEND



GRAPHIC SCALE

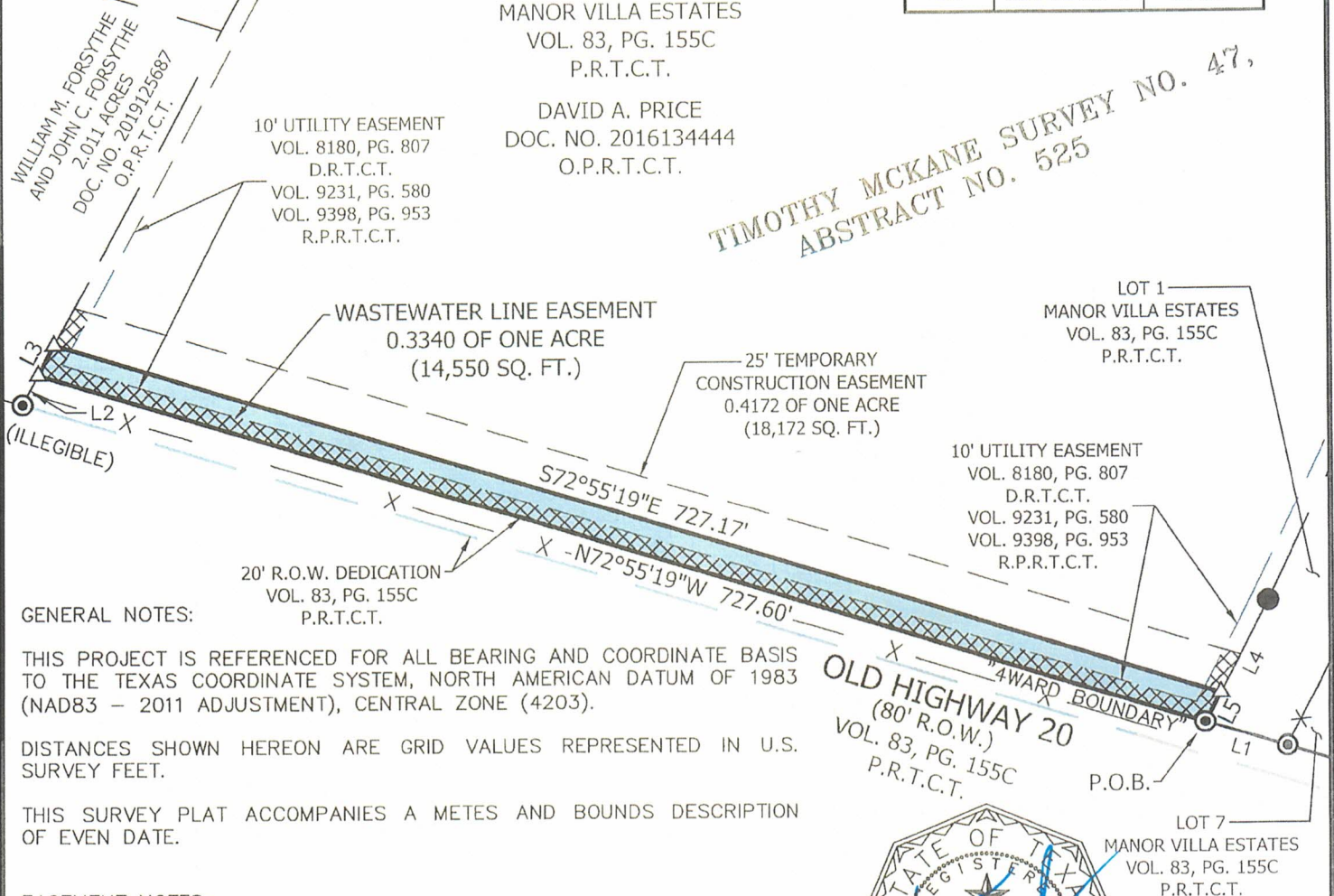
LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S72°55'19"E	50.66'
L2	S28°05'44"W	20.38'
L3	N28°05'44"E	20.38'
L4	N26°53'36"E	61.72'
L5	S26°53'36"W	20.30'

- ⊙ 1/2-INCH REBAR WITH CAP STAMPED "SURVTEX LLC" (OR AS NOTED)
- 1/2-INCH REBAR FOUND (OR AS NOTED)
- △ CALCULATED POINT NOT SET
- X CALCULATED POINT NOT SET
- O.P.R.T.C.T. OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS
- R.P.R.T.C.T. REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS
- D.R.T.C.T. DEED RECORDS OF TRAVIS COUNTY, TEXAS
- R.O.W. RIGHT-OF-WAY
- P.O.B. POINT OF BEGINNING
- XXXX EXISTING EASEMENT AREA

LOT 6
MANOR VILLA ESTATES
VOL. 83, PG. 155C
P.R.T.C.T.

DAVID A. PRICE
DOC. NO. 2016134444
O.P.R.T.C.T.

TIMOTHY MCKANE SURVEY NO. 47,
ABSTRACT NO. 525



10' UTILITY EASEMENT
VOL. 8180, PG. 807
D.R.T.C.T.
VOL. 9231, PG. 580
VOL. 9398, PG. 953
R.P.R.T.C.T.

WASTEWATER LINE EASEMENT
0.3340 OF ONE ACRE
(14,550 SQ. FT.)

25' TEMPORARY
CONSTRUCTION EASEMENT
0.4172 OF ONE ACRE
(18,172 SQ. FT.)

10' UTILITY EASEMENT
VOL. 8180, PG. 807
D.R.T.C.T.
VOL. 9231, PG. 580
VOL. 9398, PG. 953
R.P.R.T.C.T.

20' R.O.W. DEDICATION
VOL. 83, PG. 155C
P.R.T.C.T.

GENERAL NOTES:

THIS PROJECT IS REFERENCED FOR ALL BEARING AND COORDINATE BASIS TO THE TEXAS COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983 (NAD83 - 2011 ADJUSTMENT), CENTRAL ZONE (4203).

DISTANCES SHOWN HEREON ARE GRID VALUES REPRESENTED IN U.S. SURVEY FEET.

THIS SURVEY PLAT ACCOMPANIES A METES AND BOUNDS DESCRIPTION OF EVEN DATE.

EASEMENT NOTES:

PERMANENT EASEMENT INCLUDES 0.1717 OF ONE ACRE (7,478 SQ. FT.) OF EXISTING UTILITY EASEMENT AREA (CROSS HATCHED).

TEMPORARY CONSTRUCTION EASEMENT INCLUDES 0.0117 OF ONE ACRE (508 SQ. FT.) OF EXISTING UTILITY EASEMENT AREA (CROSS HATCHED).

OLD HIGHWAY 20
(80' R.O.W.)
VOL. 83, PG. 155C
P.R.T.C.T.



JOB NUMBER: 22-021		DATE: 01/31/23	
PROJECT NAME: JAY MANOR CIP			
DRAWING NAME: MANOR COMM PARK WWL ESMT 5			
DRAWING FILE PATH: K:\22021 - JAY Manor CIP\CAD\DWGs\Manor Comm Park WWL Esmts			
METES AND BOUNDS FILE PATH: K:\22021 - JAY Manor CIP\Descriptions\Manor Comm Park WWL Esmts			
RPLS: FWF	TECH: JRM	PARTY CHIEF: TN	CHK BY: HAS
SHEET 03 of 03		FIELDBOOKS 13/419	SCALE: 1"=100'



10090 W HIGHWAY 29, LIBERTY HILL, TEXAS 78642
TBPELS FIRM NO. 10001800
512-238-7901