

PUBLIC UTILITY EASEMENT

December 15, 2003

DATE: ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~

GRANTOR: Mr J Michael Chargois, P O Box 204385, Austin, Travis County, Texas 78720

GRANTEE: City of San Marcos, Texas, 630 E Hopkins Street, San Marcos, Hays, County, TX 78666

PROPERTY: An approximately 0.228 acre tract or parcel of land situated in the William H Van Horn Survey, A-484, in Hays County, Texas, and being a part of a 56.288 acre tract of land conveyed to J Michael Chargois by deed recorded in Volume 1798, Page 47 of the Official Public Records of Hays County, Texas, and being also a part of Lot 2 in Block A of San Marcos Toyota Subdivision as recorded in Book 9, Page 155 of the Plat Records of Hays County, Texas, and being more particularly described by metes and bounds in Exhibit A attached hereto and incorporated herein by reference.

CONSIDERATION: Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor

Grantor, for the consideration, and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee a non-exclusive easement within, across, through and over the Property for the purposes of constructing, reconstructing, installing, operating and maintaining wastewater utility facilities, which will consist of one 8 inch wastewater line buried a minimum of 42" below the surface, together with a right of ingress and egress to cross, over and within the Property for these purposes, to have and to hold it to Grantee and Grantee's permitted successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, successors and assigns to warrant and forever defend this easement to Grantee and Grantee's successors and assigns against every person whomever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise, subject to the matters stated herein

GRANTEE AGREES, TO THE FULL EXTENT OF THE GRANTEE'S LIABILITY UNDER APPLICABLE LAW, TO INDEMNIFY AND HOLD GRANTORS, HIS HEIRS, LEGAL REPRESENTATIVES, LESSEES, TENANTS, SUCCESSORS AND ASSIGNS, HARMLESS OF, FROM AND AGAINST ANY AND ALL LOSS, COST, EXPENSE, TAXES, SUITS, JUDGMENTS AND LIABILITIES FOR DAMAGES OR INJURIES, OF WHATSOEVER KIND, WHETHER TO PERSONS OR PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE EXERCISE BY GRANTEE, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS AND/OR ASSIGNS, OF GRANTEE'S RIGHTS GRANTED BY THIS EASEMENT, WHETHER ARISING FROM THE ACTS OR FROM THE OMISSIONS OF GRANTEE, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS AND/OR ASSIGNS, RESULTING FROM OR CAUSED BY THE CONSTRUCTION, RECONSTRUCTION, INSTALLATION, OPERATION AND/OR MAINTENANCE OR OTHER WORK ON THE WASTEWATER LINES AND RELATED FACILITIES OR THE PROPERTY BY GRANTEE, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS AND/OR ASSIGNS, SO LONG AS SUCH DAMAGES ARE NOT CAUSED OR CONTRIBUTED TO BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF GRANTOR. The foregoing indemnities shall survive termination of this easement

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY: (i) any and all restrictions, covenants, easements, tenancies and other encumbrances of whatsoever nature, if any, relating to the Property, and all matters visible and apparent on the ground, (ii) all zoning laws, regulations and ordinances of municipal and other governmental authorities, if any, relating to the

Property, (iii) the right to use the surface of the Property for any and all uses which do not unreasonably interfere with the easement herein granted, and (iv) the right to grant additional easements over, across and/or along the Property, provided that rights granted under the additional easements shall be exercised in a reasonable manner so as not to unreasonably interfere with the rights of Grantee herein Grantor agrees to include provisions in all such additional easements that (a) Grantee must coordinate with the City of San Marcos any (1) excavation within the Property and (2) installation of any subsurface utility line, fixture or appurtenance within the Property, and (b) any subsurface utility line, fixture or appurtenance installed by or for Grantee in the Property must maintain an offset of at least five (5) feet from any utility line of the City of San Marcos in place within the Property

In exercising the rights granted it in this easement, Grantee agrees (i) to undertake its activities in a manner which reasonably cause the least amount of disturbance of Grantor on its adjacent and nearby property and operations; (ii) to protect trees located adjacent to or nearby the Property during its construction and other operations, (iii) to comply, at all times and at its sole cost and expense, with all applicable federal, state and local laws, rules, regulations, ordinances and safety standards applicable to Grantee’s activities hereunder, (iv) not to enlarge or expand the use of the Property from that currently contemplated herein, (v) to restore the surface of the Property to similar or better condition (soil and grade) existing before such work was undertaken (provided, the grade of the Property shall not be changed without Grantor’s written consent), and (vi) within one hundred twenty (120) days after Grantee completes its initial construction at the Property, to provide grantor with an as-built survey reflecting the location of the wastewater lines and other facilities

Any notice required or permitted to be delivered under this easement shall be in writing and shall be deemed received on the earlier of (i) actual receipt by mail, Federal Express or other overnight delivery service, telecopy or hand delivery; or (ii) three business days after being sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows.

GRANTOR Mr J Michael Chargois
 P O. Box 204835
 Austin, Texas 78720

GRANTEE City of San Marcos, Texas
 Attn. _____
 630 E Hopkins Street
 San Marcos, Texas 78666

Grantor or Grantee may change his or its address for notice upon written notice to the other pursuant to the terms hereof

When the context requires, singular nouns and pronouns include the plural

Recognizing that the parties hereto may find it necessary from time to time to establish to lenders, mortgagees, accountants or other parties of the then current status of performance hereunder, each party bound or benefited by this easement agrees, upon written request, that he or it will from time to time, with reasonable promptness, furnish a written statement in recordable form on the status of any matter relating to this easement.

Nothing contained herein shall be construed as creating any rights in any third parties Nothing contained herein shall be interpreted or construed to create a public dedication of the easement granted herein It is understood and agreed that this agreement is an easement only and in no way grants or conveys any part of the underlying fee simple estate of any lands owned by Grantor

Grantee shall not assign this easement or its rights or obligations hereunder without the prior written consent of Grantee, which consent may be granted, withheld, conditioned or delayed by Grantor in his sole discretion

This easement and the rights and obligations of the parties thereto shall be interpreted, construed and enforced in accordance with the laws of the State of Texas

Except as may be expressly otherwise stated or provided, with respect to all required acts of the parties, time is of the essence

Notwithstanding anything to the contrary contained in this easement, the termination or expiration of this easement, whether by lapse of time or otherwise, shall not relieve the parties of their respective obligations accruing prior to the termination or expiration of this easement, and such obligations shall survive any such expiration or other termination.

This easement may be executed in multiple counterparts or by legible facsimile copy, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same instrument

Grantee are signing below to evidence their acceptance of and agreement to all of the terms and provisions hereof.

Executed effective as of the date set forth above

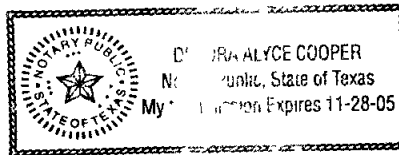
GRANTOR

J MICHAEL CHARGOIS

THE STATE OF TEXAS §
COUNTY OF Williamson §

This instrument was acknowledged before me on this 15th day of December, 2003, by J. Michael Chargois, proved through a driver's license to be the person whose name is subscribed to this instrument.


Notary Public, State of Texas



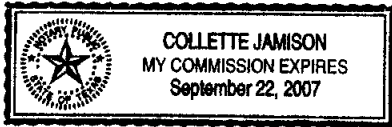
GRANTEE

CITY OF SAN MARCOS, TEXAS, a municipal corporation

By D. O'Leary
Name DAN O'LEARY
Title CITY MANAGER

THE STATE OF TEXAS §
COUNTY OF Hays §
§

This instrument was acknowledged before me on this 9 day of August, 2004, by Dan O'Leary, City Manager of the City of San Marcos, Texas, a municipal corporation, on behalf of said entity, proved through a known to be the person whose name is subscribed to this instrument



[Signature]
Notary Public, State of Texas

Exhibit "A"

AUSTIN SURVEYORS

P.O. BOX 180243
AUSTIN, TEXAS 78718

2105 JUSTIN LANE #103
(512) 454-6605

Bk Vol Ps
04022975 OFR 2521 30

Accompaniment to sketch 960-1 easeP

FIELD NOTES FOR 0.228 ACRES

All that certain tract or parcel of land situated in the William H Van Horn Survey, A-484, in Hays County, Texas and being a part of a 56 288 acre tract of land conveyed to J Michael Chargois by deed recorded in Volume 1798, Page 47 of the Official Public Records of Hays County, Texas and being also a part of Lot 2 in Block A of San Marcos Toyota Subdivision as recorded in Book 9, Page 155 of the Plat Records of Hays County Texas and being more particularly described by metes and bounds as follows

BEGINNING at an iron pin found on the SW line of Posey Road, in the East corner of the above mentioned San Marcos Toyota Subdivision for the North corner of this tract

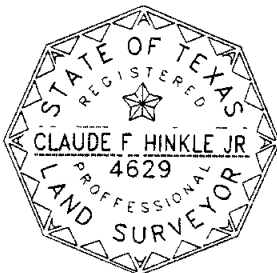
THENCE S 46° 01' 17" E with the Southwest line of Posey Road 20 00 feet to the East corner of this tract

THENCE S 44° 08' 00" W 497 93 feet to the South corner of this tract

THENCE N 36° 21' 10" W 20 28 feet to the West corner of this tract.

THENCE N 44° 08' 00" E at 214 52 feet pass an interior ell corner of the above mentioned Lot 2 and continue for a total of 494 52 feet to the **POINT OF BEGINNING** containing 0 228 acres of land, more or less

I, Claude F Hinkle, Jr , a Registered Professional Land Surveyor, do hereby certify that these field notes were prepared from public records, supplemental on-the-ground surveys, and calculations made under my supervision and are correct to the best of my knowledge and belief These field notes are to be used for public utility easement only Any use by these or other persons or parties for any other purpose is expressly prohibited



Claude F Hinkle, Jr

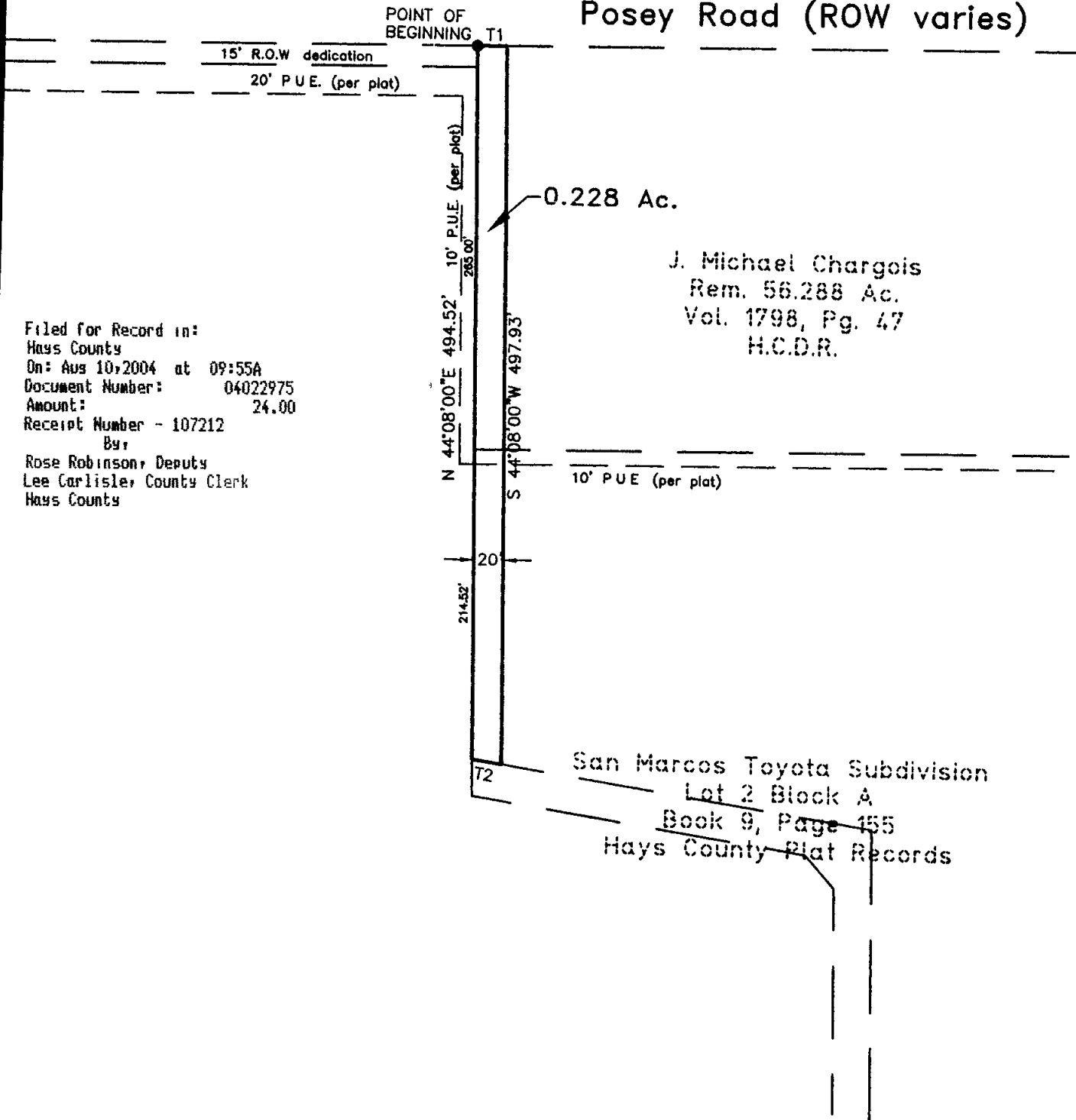
Claude F Hinkle, Jr
R P L S No 4629

02 Sept 03

Date 960-1E/doc

Sketch to accompany field notes for a 0.228 acre tract of land in the W.H. Van Horn Survey, A-484, Hays County, Texas

Posey Road (ROW varies)

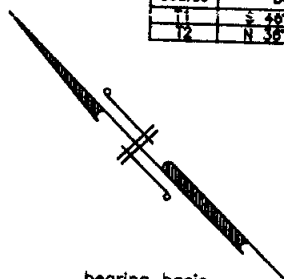


Filed for Record in:
Hays County
On: Aug 10, 2004 at 09:55A
Document Number: 04022975
Amount: 24.00
Receipt Number - 107212
By:
Rose Robinson, Deputy
Lee Carlisle, County Clerk
Hays County

J. Michael Chargois
Rem. 56.288 Ac.
Vol. 1798, Pg. 47
H.C.D.R.

San Marcos Toyota Subdivision
Lot 2 Block A
Book 9, Page 155
Hays County Plat Records

Course	Bearing	Distance
T1	S 44°01'17\" E	20.00'
T2	N 38°21'10\" W	26.28'



bearing basis
subdivision plat

Scale 1" = 100'

© Austin Surveyors 2003

Field notes prepared

File No.: 960-leaseP	Designed By: skip
Job No.: 960-177	Drawn By: skip
Date: August, 2003	Checked By:
Scale: 1" = 100'	Revised



AUSTIN SURVEYORS

2105 Justin Lane #103
Austin, Texas 78757
512-454-6605