

288785

RESOLUTION NO. 2016-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, ACCEPTING A SANITARY SEWER EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT FROM LEHMANN HERITAGE CORPORATION.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:

SECTION 1. That the City Council hereby finds and determines that it is in the best interest of the citizens of the City of Copperas Cove to accept a Sanitary Sewer Easement and Temporary Construction Easement from Lehmann Heritage Corporation, in substantially the same form as **Exhibit "A"** attached hereto.

SECTION 2. That the City Manager is hereby authorized to execute an instrument in substantially the same form as Exhibit "A" attached hereto, and such other instruments and documents that may be reasonably necessary to fulfill the intent of this Resolution.

PASSED, APPROVED, AND ADOPTED on this 17th day of May 2016 at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code*, §551.001, et.seq. at which meeting a quorum was present and voting.


Frank Seffrood, Mayor

ATTEST:


Mariela Altott, City Secretary

APPROVED AS TO FORM:


Denton Navarro Rocha Bernal
Hyde & Zech, P.C., City Attorney



EXHIBIT A

SANITARY SEWER AND TEMPORARY CONSTRUCTION EASEMENT

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

CORRECTION SANITARY SEWER EASEMENT
WITH TEMPORARY CONSTRUCTION EASEMENT

This Sanitary Sewer Easement is made by **LEHMANN HERITAGE CORPORATION**, a Texas corporation, of 808 N. 23rd St., Copperas Cove, Coryell Co., TX 76522 ("**Grantor**"). For and in consideration of: (i) the benefits accruing to Grantor as the owner of certain adjacent property by reason of this instrument, (ii) Grantee's covenant to reserve for the benefit of Grantor's adjacent property a service capacity of not less than 988 living unit equivalents (LUEs) in the Facilities to be installed in the Sewer Easement, and (iii) other good and valuable consideration, including the terms, conditions, covenants and provisions contained herein, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant and convey to the **CITY OF COPPERAS COVE**, a municipal corporation of 914 S. Main St., Copperas Cove, Coryell County, TX 76522 ("**Grantee**") a permanent exclusive sanitary sewer easement ("**Sewer Easement**") over and across certain real property as described on Exhibits A and B attached hereto and incorporated by reference. Grantee may use the Sewer Easement for the placement, construction, operation, enlargement, inspection, maintenance, replacement, upgrade, rebuilding, relocation, abandonment in place, repair and removal of a sanitary sewer line and its associated equipment, improvements, and appurtenances (collectively, the "**Facilities**"), and for making connections therewith.

Grantor expressly reserves the right to use the surface only of the Sewer Easement for purposes that do not unreasonably interfere with, interrupt or impair Grantee's use of the Sewer Easement or the Facilities including, but not limited to, the right to install: (1) walking paths and greenbelts; (2) agricultural fences and residential wooden privacy fences (provided that Grantor also installs gates and provides Grantee with keys or access codes so that Grantee's access rights are not materially impaired); (3) asphalt surfaces; and (4) any necessary culverts. However, Grantor shall not: (1) plant any vegetation in the Sewer Easement other than grass or ground cover; (2) install or construct cattle guards in the Sewer Easement; (3) install or construct any roadways which run directly over or parallel to the Facilities unless the such roadways are sufficient to support vehicle load bearing capacity consistent with HS-20 as defined by the American Association of State Highway and Transportation Officials; or (4) install or construct any portion of a building or other structure, whether temporary or permanent, in the Sewer Easement. Grantor shall maintain the surface of the Sewer Easement, mow grass, maintain any vegetation, and not allow the accumulation of trash or debris in the Sewer Easement.

Grantor further grants and conveys to Grantee a temporary construction easement ("**Construction Easement**") over and across certain real property as depicted on Exhibit B for the initial construction and installation of the Facilities in the Sewer Easement. The Construction Easement will automatically expire upon completion of the initial installation of the Facilities.

When construction is complete Grantee shall remove all debris, surplus material and construction equipment from the Construction Easement.

Grantor and Grantor's successors and assigns are and shall be bound to warrant and forever defend the easements and rights conveyed in this instrument to Grantee and Grantee's successors and assigns.

CORRECTION NOTICE: This instrument is made as a correction easement in substitution of the easement titled "Sanitary Sewer Easement with Temporary Construction Easement" ("Corrected Easement") dated April 1, 2016, and recorded in Document Number 287786 of the real property records of Coryell County, Texas, to correct the incorrect legal descriptions in Exhibits A and B. Other than the stated correction, this instrument is intended to restate in all respects the Corrected Easement, and the effective date of this instrument relates back to the effective date of the Corrected Easement.

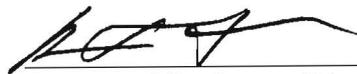
LEHMANN HERITAGE CORPORATION

By: 
Darren Lehmann, President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 12th, 2016, by Darren Lehmann, President of Lehmann Heritage Corporation, a Texas corporation, on behalf of said corporation.




Notary Public, State of Texas

Certificate of Acceptance

The City of Copperas Cove, as the Grantee in the foregoing instrument, pursuant to Resolution No. 2016-21 passed on May 17, 2016, 2016, hereby accepts and consents to the form and contents of this instrument.

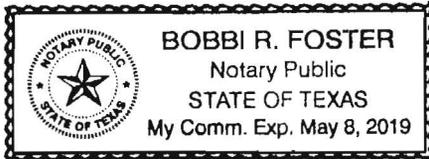
Copperas Cove

by: Andrea Gardner
Andrea Gardner, City Manager

STATE OF TEXAS

COUNTY OF CORYELL

This instrument was acknowledged before me on May 17, _____, 2016, by Andrea Gardner, City Manager of the City of Copperas Cove, a Texas municipal corporation, on behalf of said municipality and as the act and deed thereof.



Bobbi R Foster
Notary Public, State of Texas

EXHIBIT "A"
FIELD NOTES
CORYELL COUNTY, TEXAS
SANITARY SEWER EASEMENT

Being a twenty five (25) foot wide strip of land situated in the E. Jones Survey, Abstract No. 551, the P. Lehmann Survey, Abstract No. 1700, the W.D. Mosteller Survey, Abstract No. 758, and the B.W. Tolliver Survey, Abstract No. 1035, and also being within the remainder of a called 402 acre tract of land conveyed to Lehmann Heritage Corporation, recorded in Volume 412, Page 416, Official Public Records of Coryell County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1 inch iron pipe found in the south margin of Lutheran Church Road, same being at the northwest corner of said remainder 402 acre tract and at the northeast corner of a called 25.854 acre tract conveyed to Copperas Cove Independent School District, Coryell County, Texas, and the most northerly corner of the herein described tract;

THENCE S 73° 09' 50" E, along the south margin of said Lutheran Church Road and north line of said remainder tract, for a distance of 233.31 feet, to a 4 inch cedar fence post marking the apparent southwest intersection of said Lutheran Church and F.M. Highway 116, same being at the northeast corner of said remainder tract, for a corner of the herein described tract;

THENCE S 21° 13' 48" E, along the west margin of said F.M. 116 and east line of said remainder tract, for a distance of 31.75 feet, to a point for a corner of the herein described tract;

THENCE departing the west margin of said F.M. 116, across and upon said remainder tract, for the following sixteen (16) courses:

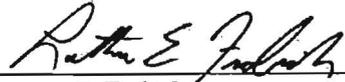
1. N 73° 09' 50" W, 227.67 feet, to a point for an ell corner;
2. S 16° 19' 59" W, 198.30 feet, to a point for an angle corner;
3. S 21° 16' 46" E, 494.62 feet, to a point for an angle corner;
4. S 24° 30' 48" E, 499.39 feet, to a point for an angle corner;
5. S 26° 52' 11" E, 324.05 feet, to a point for an angle corner;
6. S 31° 51' 44" W, 865.02 feet, to a point for an angle corner;
7. S 13° 47' 15" W, 818.92 feet, to a point for an angle corner;
8. S 00° 46' 25" E, 111.49 feet, to a point for a corner;
9. S 88° 39' 32" W, 25.00 feet, to a point for a corner;
10. N 00° 46' 25" W, 114.94 feet, to a point for an angle corner;
11. N 13° 47' 15" E, 826.09 feet, to a point for an angle corner;
12. N 31° 51' 44" E, 854.93 feet, to a point for an interior corner;
13. N 26° 52' 11" W, 310.49 feet, to a point for an angle corner;
14. N 24° 30' 48" W, 500.61 feet, to a point for an angle corner;
15. N 21° 16' 46" W, 493.43 feet, to a point for an angle corner;

16. N 73° 40' 01" W, 6.35 feet, to a point at the west line said remainder tract and at the east line of said Copperas Cove I.S.D. tract, for a corner of the herein described tract;

THENCE N 16° 19' 59" E, along the common line of said remainder tract and said Copperas Cove I.S.D. tract, for a distance of 240.28 feet, to the **POINT OF BEGINNING**, and containing 2.043 acres of land, more or less.

NOTE:

The bearings recited hereon are grid bearings derived from GPS observations based on the Texas State Plane Coordinate System, NAD1983 (2011) datum, Texas Central Zone No. 4203. All distances are horizontal ground distances. The average Combined Correction Factor (CCF) is 0.9998406722. Grid distance = Ground Distance x CCF.



Luther E. Frobish
Registered Professional Land Surveyor
State of Texas No. 6200

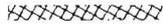
4/29/2016



Exhibit "B"

The intent of this "exhibit" is to pictorially show the approximate location of the easement. It is not intended as an actual survey. Calls shown are references only. No statement is made to the validity of these calls.

LEGEND

-  SEWER LINE EASEMENT
-  TEMPORARY CONSTRUCTION EASEMENT

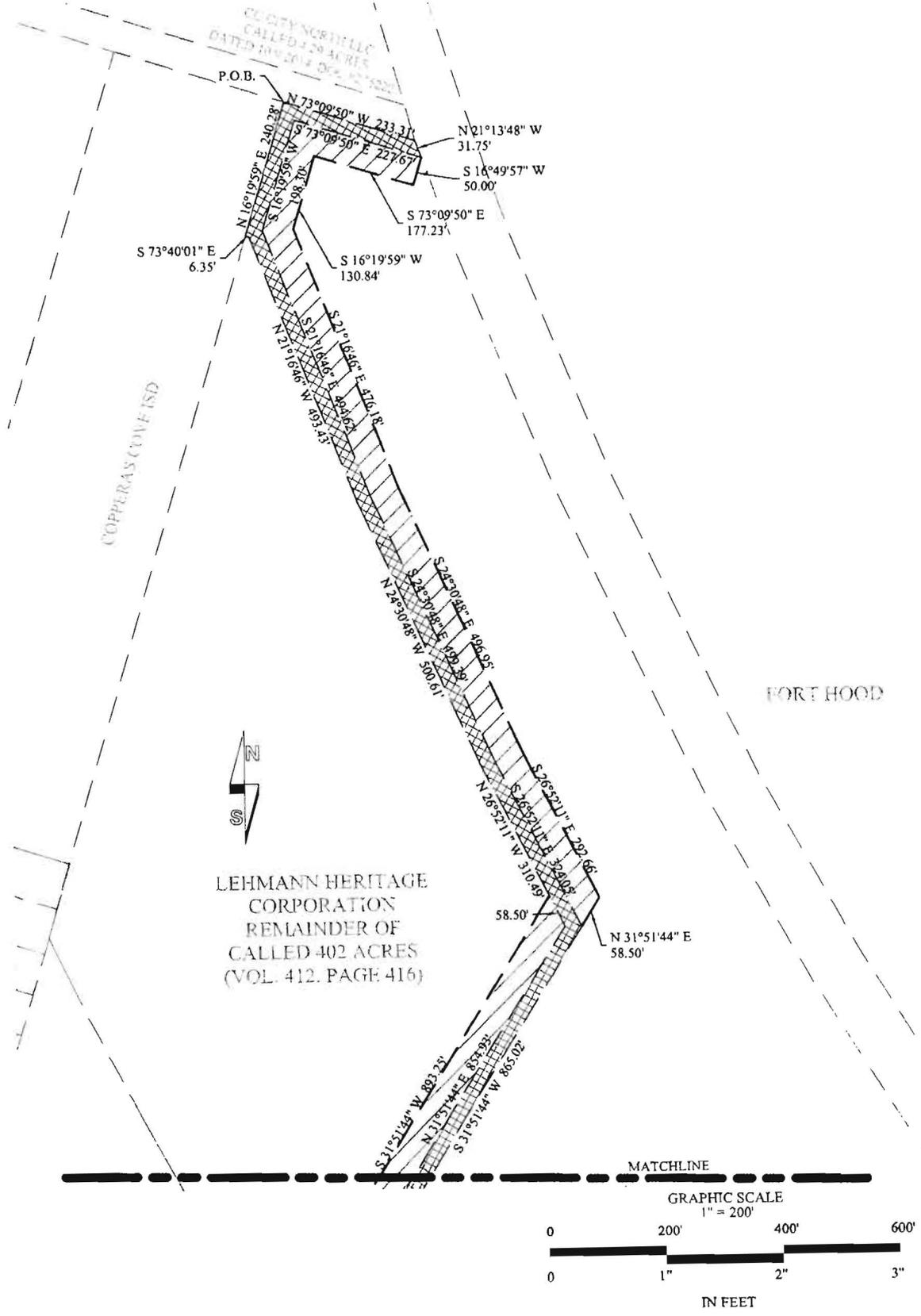
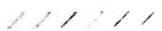
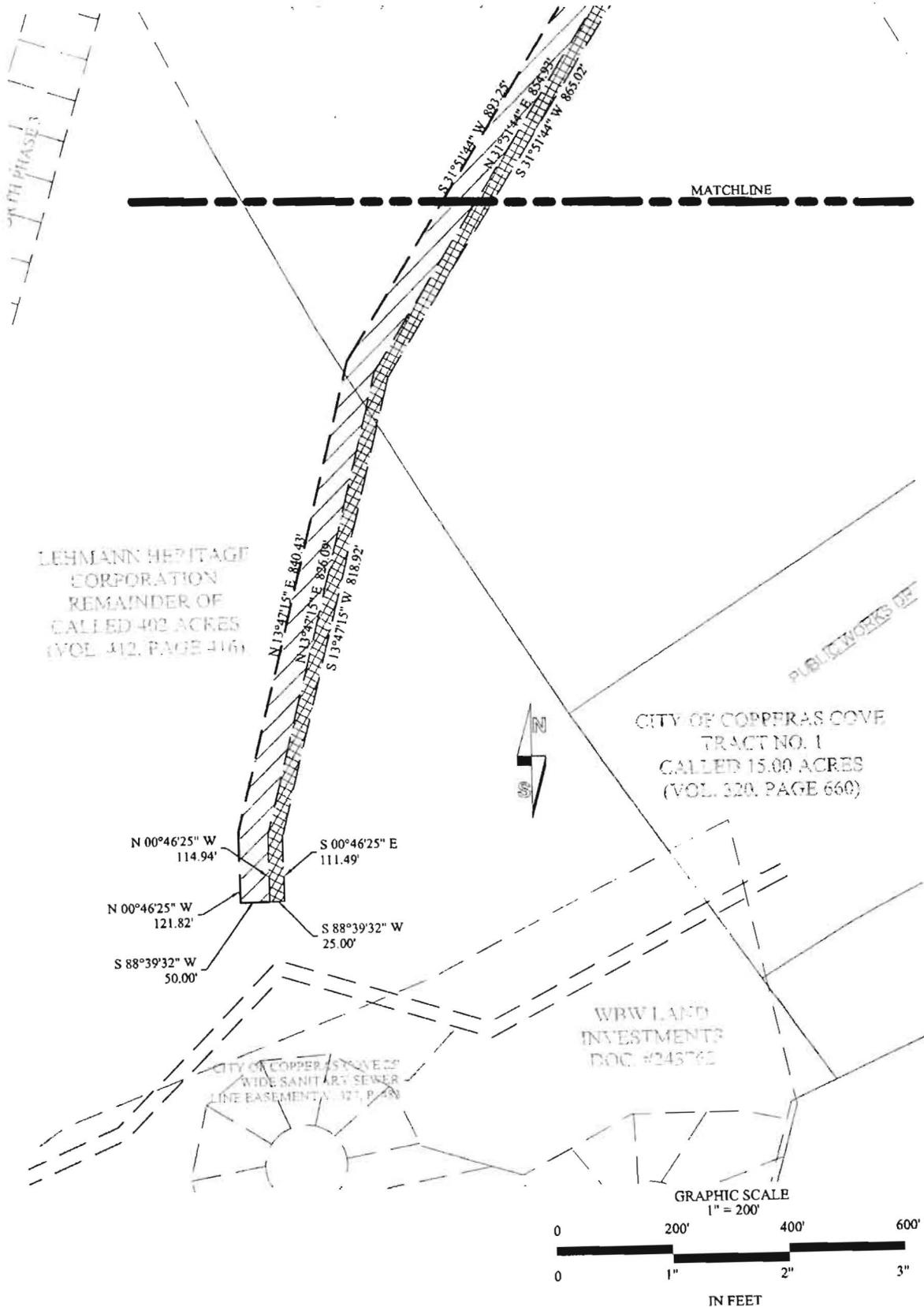


Exhibit "B" CONTINUED

The intent of this "exhibit" is to pictorially show the approximate location of the easement. It is not intended as an actual survey. Calls shown are references only. No statement is made to the validity of these calls.

LEGEND

-  SEWER LINE EASEMENT
-  TEMPORARY CONSTRUCTION EASEMENT



Clerk's Memo:
Seal Not
Legible

STATE OF TEXAS
COUNTY OF CORYELL
I, Barbara Simpson, County Clerk in and for
Coryell County, Texas do hereby certify that
this instrument was filed for record in the
volume and page of the Coryell County Public
Records and of the time and date as stamped
hereon by me.



BARBARA SIMPSON, CLERK
CORYELL COUNTY, TEXAS

Barbara Simpson

FILED FOR RECORD
AT 10 O'CLOCK A M

MAY 24 2016

Barbara Simpson
COUNTY CLERK, CORYELL CO., TEXAS

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