

RESOLUTION NO. 2016-22

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

WHEREAS, the City of Copperas Cove, (hereinafter the "City"), received an Easement from Lehmann Heritage Corporation, (hereinafter "Lehmann"), for Sanitary Sewer Facilities with a Temporary Construction Easement, and said Easement Instrument was recorded in the Public Records of Coryell County on April 14, 2016, as Document Number 28786 hereinafter the "Easement"); and

WHEREAS, Lehmann has provided a Sanitary Easement Instrument with Temporary Construction Easement, to substitute for the Easement, and which was approved for acceptance by City Council by Resolution No. 2016-21 on May 17, 2016; and

WHEREAS, with the substitution of the Easement with the new Sanitary Easement Instrument the City Council deems it appropriate to terminate and grant a release of the Easement.

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 release and terminate the Easement Instrument was recorded in the Public Records of Coryell County on April 14, 2016, as Document Number 28786.

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.

SECTION 3. That the City Secretary is authorized to record the instrument referenced in Section 2, only after recording the Sanitary Sewer Easement approved by City Council on May 17, 2016, by Resolution No. 2016-21.

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

RELEASE AND TERMINATION OF PUBLIC UTILITY 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.

RELEASE AND TERMINATION OF PUBLIC UTILITY EASEMENT

THE STATE OF TEXAS §
 §
COUNTY OF CORYELL §

WHEREAS, A copy of the Easement Instrument, which includes a more particular description of the Easement is shown in **Exhibit "A"** attached hereto and incorporated herein for all purpose.

NOW THEREFORE, for ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the benefit of all present and future owners of the Property, or any portion thereof, the City has **RELEASED AND TERMINATED** and, by these presents, does **RELEASE AND TERMINATE** Easement attached hereto as Exhibit "A". It is expressly agreed and understood that this is a release of only said Easement and that this release does not release, affect or impair any other remaining easements as they may relate to the Property or any real property which is not included within the Property. By execution hereof, the City confirms and acknowledges the Easement as recorded on April 14, 2016, as Document Number 28786 in the Public Records of Coryell County will be of no further force or effect.

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EXECUTED TO BE EFFECTIVE the 18th day of May, 2016.

CITY OF COPPERAS COVE, TEXAS

ATTEST:

Andrea Gardner

Andrea Gardner, City Manager

Mariela Altott

Mariela Altott, City Secretary

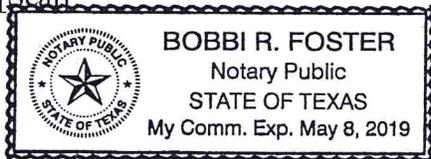
THE STATE OF TEXAS §

COUNTY OF CORYELL §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Andrea Gardner, of the City of Copperas Cove, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 18 day of MAY, 2016.

[Seal]



Bobbi R. Foster

Notary Public in and for the State of Texas

My Commission Expires: May 8, 2019

AFTER RECORDING RETURN TO:

City of Copperas Cove, Texas
Attn. City Secretary
914 S. Main St.
Copperas, Cove 76522

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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.

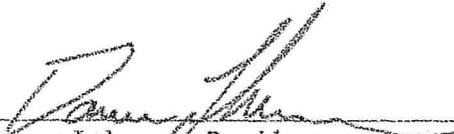
Grantor expressly reserves the right to use the surface only of the Sewer Easement for purposes that do not unreasonably interfere with, interrupt or impair Grantee's use of the Sewer Easement or the Facilities including, but not limited to, the right to install: (1) walking paths and greenbelts; (2) 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.

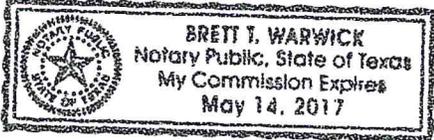
Grantor and Grantor's successors and assigns are and shall be bound to warrant and forever defend the easements and rights conveyed in this instrument to Grantee and Grantee's successors and assigns.

LEHMANN HERITAGE CORPORATION

By: 
Darren Lehmann, President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on April 6, 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. _____ passed on _____, 2016, hereby accepts and consents to the form and contents of this instrument.

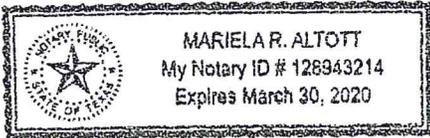
Copperas Cove

by Andrea Gardner
Andrea Gardner, City Manager

STATE OF TEXAS

COUNTY OF CORYELL

This instrument was acknowledged before me on April 6, 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.



Mariela R. Altott
Notary Public, State of Texas

EXHIBIT

A

**FIELD NOTES
LEHMANN PROPERTY
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 described in a deed to Copperas Cove Independent School District, Official Public Records of 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 31.76 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, 198.15 feet, to a point for an angle corner;
3. S 21° 16' 46" E, 495.47 feet, to a point for an angle corner;
4. S 24° 30' 48" E, 499.47 feet, to a point for an angle corner;
5. S 26° 52' 11" E, 324.10 feet, to a point for an angle corner;
6. S 31° 51' 44" W, 505.06 feet, to a point for an angle corner;
7. S 13° 13' 42" W, 999.53 feet, to a point for an angle corner;
8. S 26° 14' 52" W, 255.62 feet, to a point for a corner;
9. N 63° 45' 08" W, 25.00 feet, to a point for a corner;
10. N 26° 14' 52" E, 252.77 feet, to a point for an angle corner;
11. N 13° 13' 42" E, 1000.78 feet, to a point for an angle corner;
12. N 31° 51' 44" E, 495.10 feet, to a point for an interior corner;
13. N 26° 52' 11" W, 310.54 feet, to a point for an angle corner;
14. N 24° 30' 48" W, 500.69 feet, to a point for an angle corner;
15. N 21° 16' 46" W, 494.28 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 240.14 feet, to the **POINT OF BEGINNING**, and containing 2.020 acres of land, more or less.

NOTE:

The bearings recited hereon are grid bearings referenced to The Texas State Plane Coordinate System, NAD83 (2011) datum, Texas Central Zone No. 4203, as derived from GPS observations. The Combined Correction Factor (CCF) for this project is 0.9998406722. $\text{Grid Distance} = \text{Ground Distance} * \text{CCF}$.



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

2/22/2016



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 936 O'CLOCK A M

APR 14 2016

Barbara Simpson
COUNTY CLERK, CORYELL CO., TEXAS

287786

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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