## POSSESSION AND USE AGREEMENT FOR TRANSPORTATION PURPOSES

STATE OF TEXAS

§ Parcel No.: 89

COUNTY OF WILLIAMSON

§ Project: FM 3349 / South East Loop

This Possession and Use Agreement For Transportation Purposes (the "Agreement") between WILLIAMSON COUNTY, TEXAS (the "County"), and JOHN ARTHUR BIGON, JR. and JAMES ALAN BIGON, Independent Co-Executors of the Estates of John A. Bigon, Sr. and Mary S. Bigon, Deceased (the "Grantor" whether one or more), grants to the County, their contractors, agents and all others deemed necessary by the County, an irrevocable right to possession and use of the Grantor's property for the purpose of constructing the FM 3349 / South East Loop Project and related appurtenances and utility relocations (the "Roadway Construction Project"). The property subject to this Agreement is described more fully in field notes, plat map or other description (attached as "Exhibit "A") and made a part of this Agreement by reference (the "Property").

- 1. For the consideration paid by the County which is set forth in Paragraph 2 below, the receipt and sufficiency of which is acknowledged, the Grantor grants, bargains, sells and conveys to the County the right of entry and possession and use of the Property for the purpose of constructing a roadway, utility adjustments and appurtenances thereto and the right to remove any improvements. Authorized activities include surveying, inspection, environmental studies, archeological studies, clearing, demolition, construction of permanent improvements, relocating, replacing, and improving existing utility facilities, locating new utility facilities, and other work required to be performed in connection with the Roadway Construction Project. This Possession and Use Agreement will extend to the County, its contractors and assigns, owners of any existing utilities on the Property and those which may be lawfully permitted on the Property by the County in the future, and all others deemed necessary by the County for the purpose of the Roadway Construction Project. This grant will allow the construction, relocation, replacement, repair, improvement, operation and maintenance of utilities on the Property.
- 2. In full consideration for this irrevocable grant of possession and use, the County will tender to the Grantor payment in the amount of NINE HUNDRED THIRTY ONE THOUSAND TWO HUNDRED THIRTY AND no/100 DOLLARS (\$931,230.00) (the "Entry Deposit"). The County will be entitled to take possession and use of the Property upon tender of payment as set forth in paragraph 3 herein, subject to the conditions in paragraph 14 below, if any. The parties agree that the Entry Deposit tendered represents 100% payment of the County's approved value, which assumes no adverse environmental conditions affecting the value of the Property. The approved value is the County's determination of the just compensation owed to the Grantor for the real property interest to be acquired by the County in the Property, 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 Entry Deposit tendered to Grantor will be deducted from any final settlement amount, Special Commissioners' award, or court judgment. In the event the amount of the final settlement or

judgment for acquisition of the Property is less than the amount of the Entry Deposit, then the Grantor agrees that the difference between the amount of the Entry Deposit tendered and the amount of such final settlement or judgment for acquisition of the Property represents an overpayment and, upon written notice from the County, the Grantor will promptly refund the difference between the Entry Deposit and the amount of the settlement or judgment to the County.

- 3. The effective date of this Agreement will be the date on which payment of the Entry Deposit pursuant to Paragraph 2 above was tendered in full to the Grantor by the County, or disbursed to the Grantor by a title company acting as escrow agent for the transaction (the "Effective Date").
- 4. The Grantor warrants and represents by, through, and under Grantor but not otherwise, that the title to the Property is free and clear of all liens and encumbrances (and any subsequent updates prior to the Effective Date), and that proper releases will be executed for the Property prior to funds being disbursed under this Agreement. The Grantor further warrants that no other person or entity owns an interest in the fee title to the Property and further agrees to indemnify the County from all unreleased or undisclosed liens, claims or encumbrances affecting the Property.

The above made warranties are made by Grantor and accepted by County subject the following:

- A. Visible and apparent easements not appearing of record;
- B. Any discrepancies, conflicts or shortages in area or boundary lines or any encroachments or any overlapping of improvements which a current survey would show; and,
- C. Easements, restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances and encumbrances for taxes and assessments (other than liens and conveyances) presently of record in the Official Public Records of Williamson County, Texas, that affect the Property, but only to the extent that said items are still valid and in force and effect as of the Effective Date.
- 5. The parties agree that the valuation date for determining the amount of just compensation for the real property interest proposed to be acquired by the County in the Property, for negotiation or eminent domain proceeding purposes, will be October 31, 2021.
- 6. This Agreement is made with the understanding that the County will continue to proceed with acquisition of a real property interest in the Property. The Grantor reserves all rights of compensation for the title and other interest in and to the Property 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 to be acquired by the County, 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 is a part (the "Remainder"), all

as the Property exists on the Effective Date of this Agreement. The County's removal or construction of improvements on the Property shall in no way affect the fair market value of the Property in determining compensation due to the Grantor in the eminent domain proceedings, except as such removal or construction of improvements may impact or damage the Remainder. No beneficial project influence will impact the appraised value of the Property to be acquired. This grant will not prejudice the Grantor's rights to any relocation benefits for which Grantor may be eligible.

- 7. In the event the County institutes or has instituted eminent domain proceedings, the County 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 County until entry of judgment.
- 8. The purpose of this Agreement is to allow the County to proceed with its Roadway Construction Project without delay and to allow the Grantor to have the use at this time of 100% of the Entry Deposit. The Grantor expressly acknowledges that the proposed Roadway Construction 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 related to the Roadway Construction Project, based upon claims that the condemning authority has no authority to acquire the Property through eminent domain, has no valid public use for the Property, or that acquisition of the Property is not necessary for the public use.
- 9. The undersigned Grantor agrees to pay as they become due, all unpaid ad valorem property taxes and special assessments assessed against Property as of the Effective Date.
- 10. Notwithstanding the acquisition of right of possession to the Property by the County in a condemnation proceeding by depositing the Special Commissioners' award into the registry of the court, less any amounts tendered to the Grantor pursuant to Paragraph 2 above, this Agreement shall continue to remain in effect until the County acquires title to the Property either by negotiation, settlement, or final court judgment.
- 11. This Agreement will also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors in interest and assigns of the parties.
- 12. It is agreed the County will record this document.
- 13. Other conditions: Should the Special Commissioners' Award (if any) be greater than the Entry Deposit paid pursuant to paragraph 2 herein, the County shall tender the difference to the registry of the court within 30 (thirty) days of the date that the Special Commissioners' Award is entered.

At no time during the possession of the Property by County for the purposes described herein shall Grantor be denied reasonable access and/or ingress to or egress from the remainder of Grantor's land for its current uses, unless otherwise agreed to in writing in advance.

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

#### **GRANTOR:**

John Arthur Bigon, Jr., Independent Co-Executor

of the Estate of John A. Bigon, Sr. and Mary S. Bigon, Deceased

## **ACKNOWLEDGMENT**

STATE OF TEXAS

COUNTY OF Williamson

This instrument was acknowledged before me on this the  $\frac{1}{2}$  day of  $\frac{1}{2}$  day of  $\frac{1}{2}$  day of  $\frac{1}{2}$  and for the purposes and consideration recited herein.

Notary Public, State of Texas



#### **GRANTOR:**

James Alan Bigon, Independent Co-Executor

of the Estate of John A. Bigon, Sr. and Mary S. Bigon, Deceased

# **ACKNOWLEDGMENT**

STATE OF TEXAS

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the day of <u>September</u> 2021 by James Alan Bigon, in the capacity and for the purposes and consideration recited herein.

Notary Public, State of Texas



COUNTY:

WILLIAMSON COUNTY, TEXAS

Bill Gravell, Jr. County Judge

# **ACKNOWLEDGMENT**

# STATE OF TEXAS COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the day of pleaser, 2021 by Bill Gravell, Jr., County Judge of Williamson County, Texas, in the capacity and for the purposes and consideration recited herein.

REBECCA PRUITT
Notary Public, State of Texas
Comm. Expires 08-31-2024
Notary ID 132650479

Notary Public, State of Texas

County: Williamson

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# EXHIBIT A PROPERTY DESCRIPTION FOR PARCEL 89

DESCRIPTION OF A 7.187 ACRE (313,053 SQUARE FOOT), PARCEL OF LAND SITUATED IN THE JAMES C. EAVES SURVEY, ABSTRACT NO. 213 IN WILLIAMSON COUNTY, TEXAS, BEING ALL OF THAT CALLED 1.440 ACRE TRACT OF LAND (EXHIBIT A) DESCRIBED IN SPECIAL WARRANTY DEED FROM WILLIAMSON COUNTY, TEXAS TO JOHN BIGON AND MARY BIGON RECORDED IN DOCUMENT NO. 2018004729 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, ALSO BEING TWO (2) REMAINDER TRACTS (2.787 ACRES AND 2.960 ACRES) OUT OF THAT CALLED 72.15 ACRE TRACT OF LAND DESCRIBED IN WARRANTY DEED TO SAID JOHN BIGON AND WIFE, MARY BIGON RECORDED IN VOLUME 558, PAGE 77 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 7.187 ACRE (313,053 SQUARE FOOT) PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at an iron rod with aluminum cap stamped "WILCO ROW 5777" (Grid Coordinates determined as N=10,179,060.48, E=3,193,092.65 TxSPC Zone 4203) found, being the northwesterly corner of said 2.787 acre remainder tract in the original easterly Right-of-Way (ROW) line of County Road (C.R.) 101 (variable width ROW), same being the southwesterly corner of that called 1.379 acre ROW tract of land (Exhibit A) described in Deed to Williamson County, Texas recorded in Document No. 2017113723 of the Official Public Records of Williamson County, Texas, for the northwesterly corner and **POINT OF BEGINNING** of the herein described parcel;

1) THENCE, with the northerly boundary line of said 2.787 acre remainder tract, same being the southerly line of said 1.379 acre ROW tract, N 68°33'58" E, for a distance of 49.77 feet to the calculated northeasterly corner of said 2.787 acre remainder tract, same being the northwesterly corner of that called 3.493 acre ROW tract of land (Exhibit A) described in Deed to Williamson County, Texas recorded in Document No. 2017117137 of the Official Public Records of Williamson County, Texas, for the northeasterly corner of the herein described parcel, and from which, an iron rod with aluminum cap stamped "WILCO ROW 5777" found, being the northeasterly corner of said 3.493 acre tract, same being the southeasterly corner of said 1.379 acre ROW tract in the existing easterly ROW line of said C.R. 101 (variable width ROW), bears N 68°33'58" E, at a distance of 128.57 feet;

**THENCE**, with the easterly boundary line of said 2.787 acre remainder parcel, same being the westerly line of said 3.493 acre ROW tract, also being the existing westerly ROW line of C.R. 101 and the easterly boundary line of the herein described parcel, the following two (2) courses:

- 2) \$ 42°31'49" E, for a distance of 601.71 feet to a 1/2" iron rod found, for the beginning of a tangent curve to the right;
- 3) Along said curve to the right, having a delta angle of 18°02'00", a radius of 1,355.00 feet, an arc length of 426.47 feet and a chord which bears S 33°29'51" E, for a distance of 424.72 feet to an iron rod with aluminum cap stamped "WILCO ROW 5777" found, being the easterly line of said 1.440 acre tract, same being the southerly corner of said 2.787 acre remainder parcel:

THENCE, departing said 2.787 acre remainder tract, with the easterly line of said 1.440 acre tract, continuing with said existing curving westerly ROW line, same being the westerly line of said 3.493 acre tract, and the easterly boundary line of the herein described parcel, the following two (2) courses:

- 4) Along said curve to the right, having a delta angle of 12°03'45", a radius of 1,355.00 feet, an arc length of 285.27 feet and a chord which bears S 18°26'59" E, for a distance of 284.74 feet to a calculated point at the beginning of a cut-back line transitioning from said existing westerly ROW line of C.R. 101 to the existing northerly ROW line of U.S. 79 (variable width ROW);
- 5) S 27°29'55" W, for a distance of 37.13 feet to a calculated point in the easterly boundary line of said 2.960 acre remainder tract, same being the southerly corner of said 1.440 acre tract;
- 6) THENCE, departing said 1.440 acre tract, continuing with said cut-back line, being the easterly boundary line of said 2.960 acre remainder tract, S 27°29'55" W, for a distance of 27.36 feet to a calculated point in said existing northerly ROW line of U.S. 79, same being the southeasterly corner of said 2.960 acre remainder tract, for the southeasterly corner of the herein described parcel;

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7) THENCE, with said existing northerly ROW line, being the southerly boundary line of said 2.960 acre remainder tract, S 77°19'36" W, for a distance of 204.43 feet to a TxDOT Type II ROW monument found, being the southwesterly corner of said 2.960 acre remainder tract, same being the beginning of a cut-back line transitioning from said existing northerly ROW line to the existing easterly ROW line of said original C.R. 101, for the southwesterly corner of the herein described parcel, and from which, a TxDOT Type II ROW monument found in the existing westerly ROW line of said original C.R. 101, being the southeasterly corner of the remainder of that called 1.62 acre tract of land cited in Deed to Williamson County, Texas recorded in Document No. 2019125083 of the Official Public Records of Williamson County, Texas, same being the northeasterly corner of that called 0.660 acre ROW tract described in Special Warranty Deed to the State of Texas recorded in Document No. 2014029873 of the Official Public Records of Williamson County, Texas, bears S 77°19'36" W, at a distance of 128.96 feet;

**THENCE**, departing said existing northerly ROW line, with the westerly boundary line of said 2.960 acre remainder tract, same being the existing easterly ROW line of said original C.R. 101, and in part said cut-back line, for the westerly boundary line of the herein described parcel, the following two (2) courses:

- 8) N 62°19'11" W, for a distance of 104.01 feet to a calculated angle point;
- 9) N 22°28'04" W, for a distance of 566.73 feet to an iron rod with aluminum cap stamped "WILCO ROW 5777" found, being the northerly corner of said 2.960 acre remainder parcel, same being the westerly line of said 1.440 acre tract;
- 10) THENCE, departing said 2.960 acre remainder tract, continuing with said existing easterly ROW line, same being the westerly line of said 1.440 acre tract, N 22°28'04" W, for a distance of 354.55 feet to the calculated northwesterly corner of said 1.440 acre tract, same being an ell corner in the westerly boundary line of said 2.787 acre remainder tract;
- 11) THENCE, departing said 1.440 acre tract, continuing with said existing easterly ROW line, same being the westerly line of said 2.787 acre remainder tract, N 22°28'04" W, for a distance of 272.58 feet to the POINT OF BEGINNING, containing 7.187 acres (313,053 square feet) of land, more or less.

This property description is accompanied by a separate parcel plat.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83.

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF WILLIAMSON

That I, M Stephen Truesdale, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct and that the property described herein was determined by a survey made on the ground under my direct supervision.

WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

M Stephen Truesdale

Registered Professional Land Surveyor No. 4933

Licensed State Land Surveyor

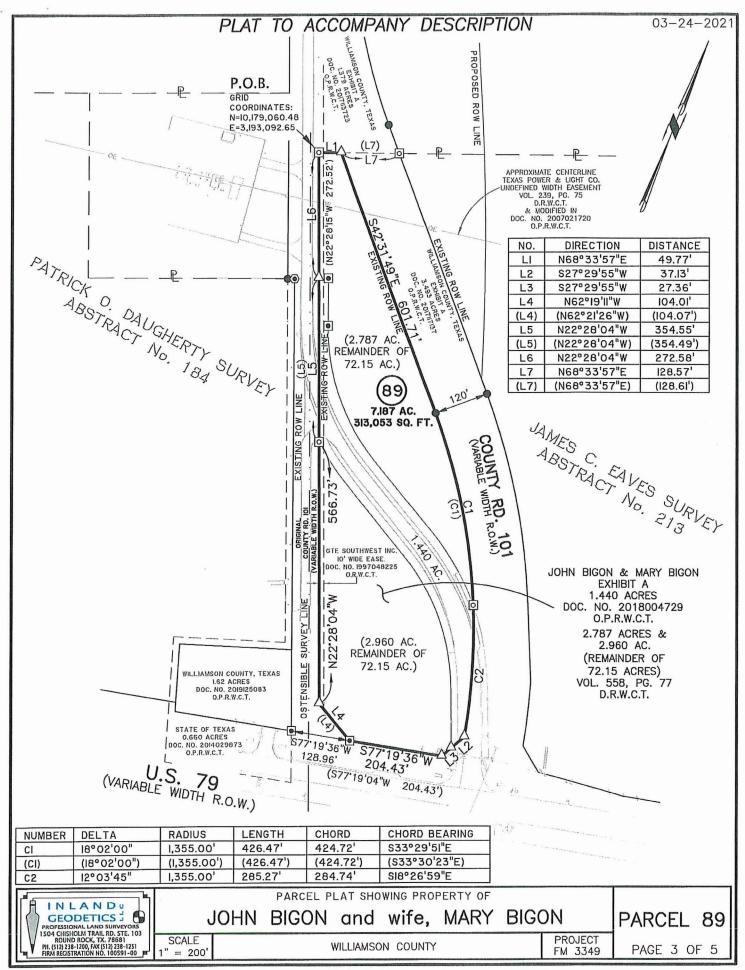
Inland Geodetics, LLC

Firm Registration No: 100591-00

1504 Chisholm Trail Road, Suite 103

Round Rock, TX 78681

Date



1) All bearings shown hereon are based on grid bearing. All distances are surface distances. Coordinates are surface values based on the Texas State Plane Coordinate System, NAD 83, Central Zone.

THE SURVEY SHOWN HEREON WAS PREPARED IN CONJUNCTION WITH THAT COMMITMENT FOR TITLE INSURANCE GF NO. 2066432-KFO, ISSUED BY TITLE RESOURCES GUARANTY COMPANY, EFFECTIVE DATE NOVEMBER 3, 2020, ISSUE DATE NOVEMBER 18, 2020.

- 10C. ELECTRIC AND TELEPHONE LINE(S) EASEMENT AND AGREEMENT TO TEXAS POWER & LIGHT COMPANY RECORDED IN VOLUME 239, PAGE 75, OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, BEING MODIFIED IN DOCUMENT NO. 2007021721 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, AFFECTS AS SHOWN.
- D. ELECTRIC AND TELEPHONE LINE(S) EASEMENT AND AGREEMENT TO TEXAS POWER & LIGHT COMPANY RECORDED IN VOLUME 239, PAGE 80, OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, BEING MODIFIED IN DOCUMENT NO. 2007021720 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, DO NOT AFFECT.
- E. ELECTRIC AND TELEPHONE LINE(S) EASEMENT TO TEXAS POWER & LIGHT COMPANY RECORDED IN VOLUME 303, PAGE 182, OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, FROM ITS DESCRIPTION CAN NOT BE LOCATED.
- F. ELECTRIC AND TELEPHONE LINE(S) EASEMENT TO TEXAS POWER & LIGHT COMPANY RECORDED IN VOLUME 348, PAGE 384, OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, DOES NOT AFFECT.
- G. WATER LINE(S) EASEMENT TO JONAH WATER SUPPLY CORPORATION RECORDED IN VOLUME 563, PAGE 504, OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, FROM ITS DESCRIPTION CAN NOT BE LOCATED.
- H. ELECTRIC AND TELEPHONE LINE(S) EASEMENT TO TEXAS POWER & LIGHT COMPANY RECORDED IN VOLUME 640, PAGE 91, OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, DOES NOT AFFECT.
- I. COMMUNICATIONS LINE(S) EASEMENT TO GTE SOUTHWEST, INC. RECORDED IN DOCUMENT NO. 9748225, OF THE OFFICIAL RECORDS OF WILLIAMSON COUNTY, TEXAS, AFFECTS AS SHOWN.
- J. PUBLIC UTILITY AND ACCESS EASEMENT AGREEMENT TO JONAH WATER SPECIAL UTILITY DISTRICT RECORDED IN DOCUMENT NO. 2008042851, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, AFFECTS, FROM ITS LOCATION CAN NOT BE LOCATED.
- K. TERMS, CONDITIONS, AND STIPULATIONS OF THE RESOLUTION NO. 2006-27R OF THE CITY OF HUTTO RECORDED IN DOCUMENT NO. 2006045188 AND DOCUMENT NO. 2006042885, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, DOES NOT
- L. TERMS, CONDITIONS, AND STIPULATIONS IN THE PUBLIC UTILITY AND ACCESS EASEMENT AGREEMENT RECORDED IN DOCUMENT NO. 2008042852, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, DOES NOT AFFECT.
- M. TERMS, CONDITIONS, AND STIPULATIONS IN THE EASEMENT AGREEMENT RECORDED IN DOCUMENT NO. 2009042802, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, DOES NOT AFFECT.



PARCEL PLAT SHOWING PROPERTY OF

JOHN BIGON and wife, MARY BIGON

PROJECT FM 3349 PA

PARCEL 89

SCALE 1" = 200'

WILLIAMSON COUNTY

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#### LEGEND

0	IRON ROD WITH ALUMINUM CAP STAMPED "ROW 4933" SET	7-1	DENOTES COMMON OWNERSHIP
o	IRON ROD WITH ALUMINUM CAP	P.O.B.	POINT OF BEGINNING
	FOUND STAMPED "WILCO ROW-5777"	P.O.R.	POINT OF REFERENCE
0	TXDOT TYPE II CONCRETE	( )	RECORD INFORMATION
_	MONUMENT FOUND	P.R.W.C.T.	PLAT RECORDS
<b>®</b>	IRON ROD WITH PLASTIC CAP		WILLIAMSON COUNTY, TEXAS
_	FOUND - AS NOTED	D.R.W.C.T.	DEED RECORDS WILLIAMSON COUNTY, TEXAS
•	I/2" IRON ROD FOUND	O.R.W.C.T.	OFFICIAL RECORDS
Δ	CALCULATED POINT		WILLIAMSON COUNTY, TEXAS
P	PROPERTY LINE	O.P.R.W.C.T.	
7	LINE BREAK		WILLIAMSON COUNTY, TEXAS

- N. TERMS, CONDITIONS, AND STIPULATIONS IN THE AGREEMENT REGARDING ORDINANCE NO. 2012-19 RECORDED IN DOCUMENT NO. 2012057357, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, AFFECTS 1.440 ACRE TRACT.
- O. TERMS, CONDITIONS, AND STIPULATIONS IN THE DEVELOPMENT AGREEMENT RECORDED IN DOCUMENT NO. 2012057885, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, SUBJECT TO DEVELOPMENT AGREEMENT
- T. TERMS, CONDITIONS, EASEMENTS, AND STIPULATIONS IN THE PUBLIC UTILITY AND ACCESS EASEMENT AGREEMENT RECORDED IN DOCUMENT NO. 2017099723, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, AFFECTS 2.787 ACRE REMAINDER TRACT.
- U. TERMS, CONDITIONS, EASEMENTS, AND STIPULATIONS IN THE PUBLIC UTILITY AND ACCESS EASEMENT AGREEMENT RECORDED IN DOCUMENT NO. 2018015046, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, AFFECTS 2.960 ACRE REMAINDER TRACT.

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND THAT THE PROPERTY SHOWN HEREON WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION.

M. STEPHEN TRUESDALE

REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4933

LICENSED STATE LAND SURVEYOR

INLAND GEODETICS, LLC

FIRM REGISTRATION NO. 100591-00

1504 CHISHOLM TRAIL ROAD, SUITE 103

ROUND ROCK, TEXAS 78681





PARCEL PLAT SHOWING PROPERTY OF

JOHN BIGON and wife, MARY BIGON

WILLIAMSON COUNTY

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PARCEL 89

SCALE