

**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.**

## **WASTEWATER LINE EASEMENT**

**Date:** \_\_\_\_\_, 2021

**Grantor:** MOUNTAIN PLUM, LTD., a Texas limited liability company

**Grantor's Address:** 4040 Broadway, Suite 501  
San Antonio, Texas 78209

**City:** CITY OF KYLE, TEXAS, situated in Hays County, Texas

**City's Address:** 100 W. Center Street  
Kyle, Hays County, Texas 78640

**Easement Tract:** All that parcel of land situated in Hays County, Texas, described in the attached Exhibit A.

**Easement Duration:** Perpetual or until the Facilities (as defined below) are abandoned.

**Easement Purpose:** To install, construct, operate, use, maintain, repair, modify, upgrade, monitor, inspect, replace, make connections with, remove, and decommission the Facilities.

**Facilities:** Wastewater lines with all associated appurtenances

**Permitted Encumbrances:** Any easements, liens, encumbrances, and other matters that are valid, existing and affect the Easement Tract as of the Date set forth herein and of record in the Real Property Records of Hays County, Texas, in which the Easement Tract is located.

**Eligible Improvements:** Irrigation systems which are installed perpendicular to the Facilities, walkways made of concrete, asphalt, granite or any other similar materials, sidewalks, driveways, curbs, parking areas, and access roads at grade level, barbed-wire, chain-link, metal or wooden fences, landscaping items such as plants, flowers, shrubs, bushes, hardscapes, rocks, pathways, and movable structures such as benches, gazebos and other similar items, signage, lighting and all other similar improvements which do not interfere in any material way or are not inconsisten

with the rights granted to the City under this Wastewater Line Easement for the Easement Purpose.

Grantor, for **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable consideration paid to Grantor, the receipt and sufficiency of which is acknowledged by Grantor, **GRANTS, SELLS, AND CONVEYS** to the City a non-exclusive easement in, over, under, on, and across the Easement Tract for the Easement Purpose as may be necessary or desirable subject to the Permitted Encumbrances, together with (i) the right of ingress and egress at all times over, on, and across the Easement Tract for use of the Easement Tract for the Easement Purpose, (ii) the right to eliminate encroachments in the Easement Tract that interfere in any material way or are inconsistent with the rights granted to the City under this instrument for the Easement Purpose as determined by the City in its reasonable discretion, and (iii) any and all rights and appurtenances pertaining to use of the Easement Tract (collectively, the "**Easement**").

**TO HAVE AND TO HOLD** the Easement to the City and the City's successors and assigns for the Easement Duration and Easement Purpose; provided, however, Grantor reserves the right to enter upon and use any portion of the Easement Tract and to install, construct, operate, use, maintain, repair, inspect, modify, upgrade, replace and/or relocate within the Easement Tract the Eligible Improvements and the right to grant additional easements or rights-of-way upon or across the Easement Tract to other parties for any purposes which do not endanger the Facilities or unreasonably interfere with the City's use of the Facilities, but in no event shall Grantor, except with respect to the Eligible Improvements, enter upon or use any portion of the Easement Tract in any manner that interferes in any material way or is inconsistent with the rights granted the City under this Easement for the Easement Purpose as determined by the City in its reasonable discretion.

The City, at its sole cost and expense, shall be obligated to restore, repair or replace the portions of the Easement Tract and Grantor's adjacent land and the Eligible Improvements therein that do not interfere in any material way or are not inconsistent with the City's use of the Easement for the Easement Purpose as determined by the City in its reasonable discretion, which have been removed, relocated, altered, damaged, or destroyed as a result of the City's use of the Easement Tract, in each case to equal or better than the condition which existed immediately prior to such removal, relocation, alteration, damage or destruction.

Grantor reserves its interest in all oil, gas and other minerals in and under and that may be produced from the Easement Tract.

This Wastewater Line Easement constitutes a dedication of the Wastewater Easement as defined in that certain Wastewater Easement and Temporary Construction Easement dated as of July 17, 2018, by and between Grantor and Majestic Kyle, LLC, recorded under Instrument No. 18025710 in the Official Public Records of Hays County, Texas (the "**Prior Easement**"). Accordingly, the Prior Easement shall automatically expire and terminate and shall no longer affect the Grantor

Property, as defined in the Prior Easement, as of the date of the recording of this Wastewater Line Easement.

Grantor binds Grantor and Grantor's heirs, successors, and assigns to **WARRANT AND FOREVER DEFEND** the title to the Easement, subject to the Permitted Encumbrances, to the City against every person whomsoever lawfully claiming or to claim the Easement Tract or any part of the Easement Tract when the claim is by, through, or under Grantor, but not otherwise.

Except where the context otherwise requires, Grantor includes Grantor's heirs, successors, and assigns, and City includes City's employees, agents, consultants, contractors, successors, and assigns; and where the context requires, singular nouns and pronouns include the plural.

This Wastewater Line Easement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute but one Wastewater Line Easement.

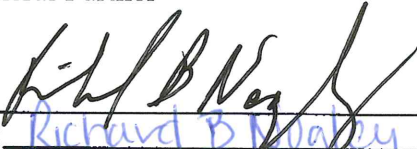
*--- The remainder of this page is intentionally blank ---*

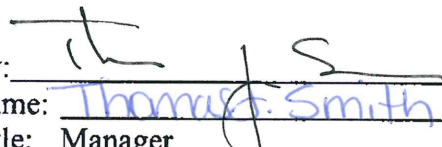
IN WITNESS WHEREOF, this instrument to be executed as of the Effective Date.

GRANTOR:


**MOUNTAIN PLUM, LTD.,**  
a Texas limited partnership

By: MP General, L.L.C.,  
a Texas limited liability company,  
its General Partner

By:   
Name: Richard B. Wagle  
Title: Manager

By:   
Name: Thomas J. Smith  
Title: Manager

By: MountainCityLand, LLC,  
a Texas limited liability company,  
its Manager

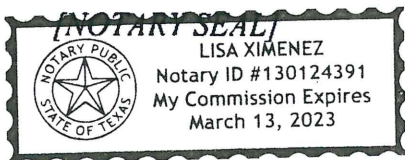
By:   
Name: Laura N. Gill  
Title: Manager



ACKNOWLEDGEMENT

THE STATE OF TEXAS §  
§  
COUNTY OF BEXAR §

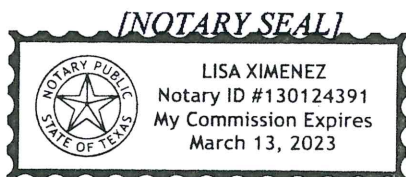
This instrument was acknowledged before me on the 27 day of January, 2021, by Richard B. Morley, Manager of MP General, L.L.C., a Texas limited liability company, the general partner of Mountain Plum, Ltd., for and on behalf of said limited liability company and limited partnership.



Lisa Ximenez  
Notary Public, State of Texas

THE STATE OF TEXAS §  
§  
COUNTY OF BEXAR §

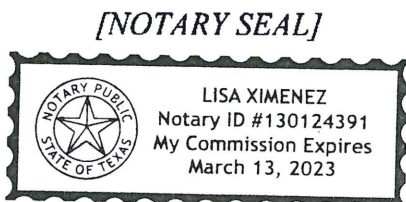
This instrument was acknowledged before me on the 27 day of January, 2021, by Thomas J. Smith, Manager of MP General, L.L.C., a Texas limited liability company, the general partner of Mountain Plum, Ltd., for and on behalf of said limited liability company and limited partnership.



Lisa Ximenez  
Notary Public, State of Texas

THE STATE OF TEXAS §  
§  
COUNTY OF BEXAR §

This instrument was acknowledged before me on the 27 day of January, 2021, by Laura N. Gill, Manager of MountainCityLand, LLC, a Texas limited liability company, Manager of MP General, L.L.C., a Texas limited liability company, the general partner of Mountain Plum, Ltd., for and on behalf of said limited liability company and limited partnership.



Lisa Ximenez  
Notary Public, State of Texas

**CITY OF KYLE, TEXAS,**  
a municipal corporation and political subdivision of  
the State of Texas

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF HAYS       §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_ of the City of Kyle, a municipal corporation and political subdivision of the State of Texas, for and on behalf of said city.

*[NOTARY SEAL]*

\_\_\_\_\_  
Notary Public, State of Texas

**Exhibit A to Wastewater Line Easement**  
**Easement Tract**

[See Attached]



EXHIBIT A

Hays County, Texas  
Jesse Day Survey No. 162, Abstract No. 152  
Jesse Day Survey, Abstract No. 159

0.3098 Acre  
Page 1 of 3

DESCRIPTION OF 0.3098 OF ONE ACRE (13,496 SQUARE FEET) OF LAND IN THE JESSE DAY SURVEY NO. 162, ABSTRACT NO. 152 AND THE JESSE DAY SURVEY, ABSTRACT NO. 159, HAYS COUNTY, TEXAS; BEING A PORTION OF A CERTAIN CALLED 185.77 ACRE TRACT DESIGNATED AS TRACT 4 AND DESCRIBED IN THE DEED TO MOUNTAIN PLUM, LTD. OF RECORD IN VOLUME 2297, PAGE 139, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 0.3098 OF ONE ACRE (13,496 SQUARE FEET) OF LAND, AS SURVEYED BY LANDDEV CONSULTING, LLC AND SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a ½-inch iron rod with a plastic cap stamped "BCG" (Grid Coordinates: N= 13,923,136.11', E= 2,328,590.55') found at the intersecting south right-of-way line of Kohlers Crossing (County Road 171), a varying width right-of-way, and the east right-of-way line of Marketplace Avenue, an 80-foot right-of-way, as shown on the Plum Creek Phase 1, Lot 1, Block A, Business Park, a subdivision according to the map or plat of record in Cabinet 14, Pages 34 and 35, Plat Records of Hays County, Texas, at the southwest corner of that certain called 1.347 acre tract, designated as Parcel 5, Tract 2 and described in the Special Warranty Deed to the City of Kyle, Texas, of record in Volume 3218, Page 810, Official Public Records of Hays County, Texas;

THENCE S 01°07'35" E, leaving the south right-of-way line of said Kohlers Crossing, crossing the said 185.77 acre tract, with the east right-of-way line of said Marketplace Avenue, a distance of 1,525.47 feet to a calculated point for the northwest corner and POINT OF BEGINNING of the tract described herein;

THENCE leaving the east right-of-way line of said Marketplace Avenue, crossing the said 185.77 acre tract, with the north line of the tract described herein, the following two (2) courses and distances:

1. N 88°33'45" E, a distance of 169.32 feet to a calculated angle point, and
2. N 46°04'15" E, a distance of 733.10 feet to a calculated point in the west line of Lot 3, Majestic Industrial Park, a subdivision according to the plat or map of record in Instrument No. 18025013, Official Public Records of Hays County, Records, for the northeast corner of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "GEOMATICS RPLS 5516" found in the south right-of-way line of said Kohlers Crossing, and the south line of the said 1.347 acre tract, at the northwest corner of said Lot 3, Majestic Industrial Park bears N 04°37'25" E, a distance of 1,016.65 feet;

THENCE S 04°37'25" W, continuing across the said 185.77 acre tract, with the west line of said Lot 3, Majestic Industrial Park, with the east line of the tract described herein, a distance of 22.66 feet to a ½-inch iron rod found at an angle point in the south line of the said 185.77 acre tract, at the southwest corner of said Lot 3, Majestic Industrial Park, same being the north corner of a certain called 126.130 acres, designated as Tract 1, and described in the deed to Sheldon - Tanglewood, Ltd. of record in Volume 2495, Page 677, Official Public Records of Hays County, Texas;

THENCE S 46°04'15" W, leaving the southwest corner of said Lot 3, Majestic Industrial Park, with the south line of the said 185.77 acre tract, with the northwest line of the said 126.130 acre tract, with the south line of the tract described herein, a distance of 721.95 feet to a calculated angle point of the tract described herein, from which a ½-inch iron rod with a plastic cap stamped "LAI" found at the southern terminus of the east right-of-way line of said Marketplace Avenue bears S 46°04'15" W, a distance of 238.83 feet;

THENCE S 88°33'45" W, leaving the northwest line of the said 126.130 acre tract, crossing the said 185.77 acre tract, with the south line of the tract described herein, a distance of 175.23 feet to a calculated point in the east right-of-way line of said Marketplace Avenue, for the southwest corner of the tract described herein, from which the said ½-inch iron rod with a plastic cap stamped "LAI" found at the southern terminus of the east right-of-way line of said Marketplace Avenue bears S 01°07'35" E, a distance of 161.33 feet;

THENCE N 01°07'35" W, continuing across the said 185.77 acre tract, with the east right-of-way line of said Marketplace Avenue, with the west line of the tract described herein, a distance of 15.00 feet to the POINT OF BEGINNING and containing 0.3098 of one acre (13,496 square feet) of land, more or less.

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.

LandDev Consulting, LLC • 5508 Highway 290 West, Suite 150, Austin, TX 78735 • (512) 872-6696  
TBPE Firm No. 16384 | TBPLS Firm No. 10194101

Hays County, Texas  
Jesse Day Survey No. 162, Abstract No. 152  
Jesse Day Survey, Abstract No. 159

0.3098 Acre  
Page 2 of 3

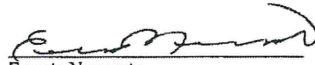
THE STATE OF TEXAS  
COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

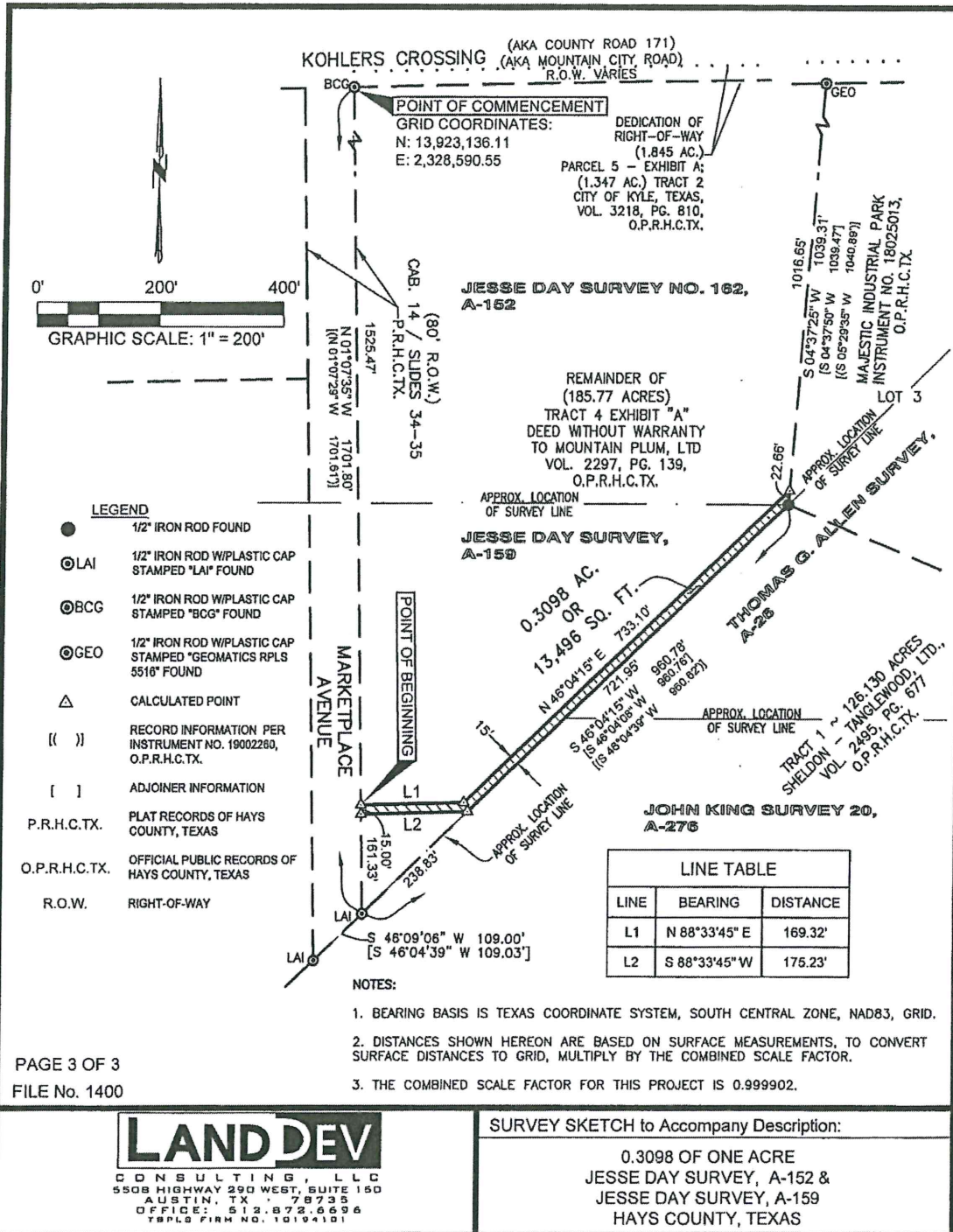
That I, Ernesto Navarrete, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the parcel of land described herein is based upon a survey performed upon the ground under my direct supervision during the months of May and June, 2020.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 1<sup>st</sup> day of July 2020 A.D.

LANDDEV CONSULTING, LLC  
5508 Highway 290 West, Suite 150  
Austin, Texas 78735

  
Ernesto Navarrete  
Registered Professional Land Surveyor  
No. 6642 – State of Texas





**LAND DEV**  
 CONSULTING, LLC  
 5508 HIGHWAY 290 WEST, SUITE 160  
 AUSTIN, TX 78733  
 OFFICE: 512.878.6696  
 TPLB FIRM NO. 10194101

SURVEY SKETCH to Accompany Description:

0.3098 OF ONE ACRE  
 JESSE DAY SURVEY, A-152 &  
 JESSE DAY SURVEY, A-159  
 HAYS COUNTY, TEXAS

L:\Projects\141409 Plum Creek Area 2A\609 Survey\609 L&L\Line 78\Measurements\Plum 78 15 11 WSE.dwg  
 PLOT DATE: 11/01/2012 12:26pm

063750.00016 353621

Wastewater Line Easement