

## TEMPORARY CONSTRUCTION EASEMENT

THE STATE OF TEXAS

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KNOW ALL BY THESE PRESENTS: THAT

COUNTY OF TRAVIS

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**LYNN BROWN and JAN BROWN**, a married couple (collectively, "Grantor"), in their capacity as owners of the real property located at 10944 Fitzhugh Rd., Austin, Texas 78736, and described by metes and bounds in the General Warranty Deed dated September 18, 2009, recorded as Document No. 2009159936, Official Public Records of Travis County, Texas (the "Property"), for and in consideration of the payment of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid to Grantor by **CLAYTON PROPERTIES GROUP, INC.**, a Tennessee corporation doing business in Texas as **BROHN HOMES** ("Grantee"), the receipt of which is hereby acknowledged, has GRANTED, SOLD and CONVEYED and by these presents does GRANT, SELL, and CONVEY unto Grantee a temporary right of vehicular and pedestrian access over and across the following described property and a temporary easement to construct, install, maintain, inspect and operate a water line and other necessary improvements and appurtenances related thereto, in, upon, over, under, and across that certain 0.433 acre tract of land described on Exhibit "A" attached hereto and incorporated herein for all purposes (the "Easement Tract").

This conveyance is made and accepted subject to any and all conditions, restrictions, covenants, ordinances, easements, and other title matters, if any, relating to the hereinabove described property that are of record in Travis County, Texas, and/or discoverable by an on the ground survey of the Easement Tract. The terms, provisions and obligations hereof shall be covenants running with the land affected hereby and shall inure to the benefit of and be binding upon Grantor and Grantee and their respective heirs, executors, administrators, successors, and assigns.

The easement, rights and privileges herein granted shall commence on the date of execution of this instrument and shall terminate upon the completion and acceptance of the water line and other necessary improvements and appurtenances related thereto and restoration of the Easement Tract.

Grantee hereby covenants and agrees: (a) Grantee shall promptly repair any damage it shall do to Grantor's property, however, Grantee will not be obligated to replace trees, shrubs or other landscape features on Grantor's property; (b) Grantee shall use commercially reasonable efforts to avoid or limit damage to any oak trees on Grantor's property in connection with its activities and, in the event Grantee damages any oak trees, Grantee shall replace or rehabilitate such oak trees according to the recommendation of a state-licensed arborist that is mutually agreeable to both Grantor and Grantee, in each's reasonable discretion; (c) Grantee shall indemnify and hold harmless Grantor and its heirs, executors, administrators, partners, successors and assigns from and against all liability, damages, suits, actions, lien claims, costs and expenses of whatsoever nature (including reasonable attorney's fees) to persons or property caused by or arising out of any of Grantee's operations or activities hereunder, including those of Grantee's agents and contractors; and (d) this easement does not create any third party beneficiary rights in any third party who is not a party to this Temporary Construction Easement.

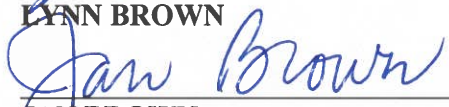
Grantor, for itself and Grantor's heirs, executors, administrators, successors and assigns, also excepts from the grant and retains and reserves the right to fully use and enjoy the Easement Tract for any

and all purposes which do not interfere with and prevent the use by Grantee of the easement as provided herein.

This Temporary Construction Easement may be signed in any number of multiple counterparts, which when taken together, constitute one agreement enforceable against all parties.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed to be effective MARCH 27, 2024.

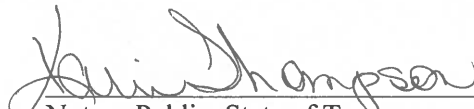
GRANTOR:

  
\_\_\_\_\_  
LYNN BROWN  
  
\_\_\_\_\_  
JAN BROWN

STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 27TH day of MARCH, 2024, by Lynn Brown, an individual.

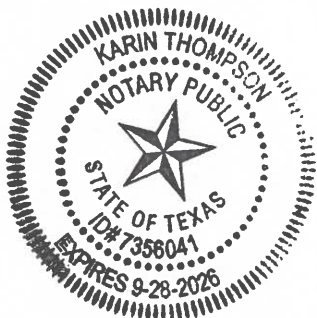


  
\_\_\_\_\_  
Notary Public, State of Texas

Printed Name: Karin Thompson  
My Commission expires: 9/28/26

STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 27TH day of MARCH, 2024, by Jan Brown, an individual.



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

Printed Name: Karin Thompson  
My Commission expires: 9/28/26

GRANTEE:

**CLAYTON PROPERTIES GROUP, INC.,** a  
Tennessee corporation doing business in Texas as  
**BROHN HOMES**

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

Adam B. Boenig, Vice President

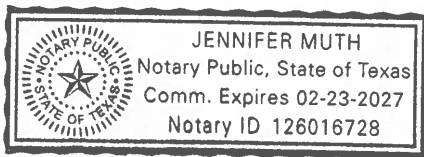
STATE OF TEXAS

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COUNTY OF TRAVIS

BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this day personally appeared Adam B. Boenig, Vice President of Clayton Properties Group, Inc., a Tennessee corporation doing business in Texas as Brohn Homes, on behalf of said corporation, in the capacity herein stated.

GIVE UNDER MY HAND AND SEAL OF OFFICE this 28<sup>th</sup> day of June, 2024.



\_\_\_\_\_  
Notary Public in and for the State of Texas

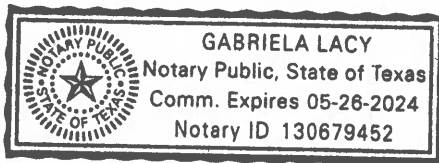
CONSENT AND SUBORDINATION BY LIENHOLDER

Capital Farm Credit ("Lienholder"), as the holder of lien(s) on the Easement Tract, consents to the above grant of an easement, including the terms and conditions of such grant, and Lienholder subordinates its lien(s) to the rights and interests of the easement, such that a foreclosure of the lien(s) shall not extinguish the rights and interests of the easement.

*Mark Rutledge*  
By: *MARK Rutledge*  
Its: *RD*  
Date: *4/3/24*

STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 3<sup>rd</sup> day of April, 2024 by Mark Rutledge on behalf of Capital Farm Credit



*Gabriela Lacy*  
Notary Public, State of Texas  
Printed Name: *Gabriela Lacy*  
My Commission expires:

EXHIBIT "A"

EASEMENT TRACT

EXHIBIT \_\_\_\_

Temporary Construction Easement  
0.433 Acres

LEGAL DESCRIPTION

FIELD NOTES FOR A 0.433 ACRE (18,879 SQUARE FOOT) TRACT OF LAND OUT OF THE BD BASSFORD SURVEY, ABSTRACT NO. 84 AND THE ELZY HARRISON SURVEY, ABSTRACT NO. 379; BEING A PORTION OF A CALLED 6.739 ACRE TRACT AS CONVEYED TO H. LYNN BROWN AND JAN H. BROWN BY WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN DOCUMENT NUMBER 2009159936 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 0.433 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS AND SHOWN ON THE ATTACHED SKETCH:

**BEGINNING** at a calculated point on the northerly right-of-way line of Fitzhugh Road (variable width right-of-way), at the west corner of the called 5.472-acre tract as conveyed to Roger P. Kitowski and Nannette Hinchliffe by warranty deed recorded in Document Number 2000036531 of the Official Public Records of Travis County, Texas, at the southeast corner of the above described Brown 6.739-acre tract, for the southeast corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, with the northerly right-of-way line of said Fitzhugh Road, N 60°19'21" W a distance of 101.70 feet to a calculated point for corner;

THENCE, continuing with the northerly right-of-way line of said Fitzhugh Road, N 62°31'05" W a distance of 334.97 feet to a 1/2-inch iron pipe found at the common south corner of said Brown 6.739-acre tract and a called 71.10-acre tract of land as conveyed to Clayton Properties Group, Inc. by general warranty deed recorded in Document Number 2018073892 of the Official Public Records of Travis County, Texas, for the west corner of the herein described tract;

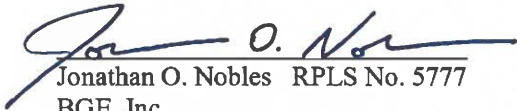
THENCE, leaving the northerly right-of-way line of said Fitzhugh Road, with the west line of said Brown 6.739-acre tract, N 41°51'19" E a distance of 46.42 feet to a calculated point on the east line of said Clayton Properties Group, Inc. 71.10-acre tract, for the northwest corner of the herein described tract, from which a 1/2-inch iron pipe found bears N 41°51'19" E, a distance of 852.04 feet;

THENCE, leaving said west line, over and across said Brown 6.739-acre tract, S 62°17'22" E a distance of 277.28 feet to a calculated point of curvature of a curve to the right;

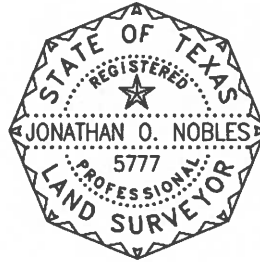
THENCE, continuing over and across said Brown 6.739-acre tract, along said curve to the right, an arc distance of 148.65 feet, having a radius of 1,565.00 feet, a central angle of 5°26'32" and chord which bears S 59°34'06" E a distance of 148.60 feet to a calculated point on the line common to said Brown 6.739 acre-tract, and said Kitowski-Hinchliffe 5.472-acre tract, for the east corner of the herein described tract, from which a 1/2-inch iron pipe found at the northeast corner of said Brown 6.739-acre tract bears, N 28°20'06" E a distance of 877.51 feet;

THENCE, with said common line, S 28°20'06" W, a distance of 40.12 feet to the **POINT OF BEGINNING** and containing 0.433 acre (18,879 square feet) of land, more or less.

I hereby certify that these notes were prepared from a survey made on the ground by BGE, Inc. under my supervision on October 27, 2021 and are true and correct to the best of my knowledge. Bearing orientation is based on the Texas State Plane Coordinate System, Central Zone, NAD 83. A sketch accompanies this description.

  
Jonathan O. Nobles RPLS No. 5777  
BGE, Inc.

101 West Louis Henna Blvd., Suite 400  
Austin, Texas 78728  
Telephone: (512) 879-0400  
TBPELS Licensed Surveying Firm No. 10106502



1/31/2023

Date

Client: Brohn Homes  
Date: October 3, 2022  
Job No.: 8079-01  
Revised: January 30, 2023

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

CLAYTON PROPERTIES GROUP, INC.  
CALLED 71.10 AC. - TRACT 2  
DOC. NO. 2018073892  
O.P.R.T.C.

H. LYNN BROWN & JAN H. BROWN  
CALLED 6.739 AC.  
DOC. NO. 2009159936  
O.P.R.T.C.

BD BASSFORD SURVEY,  
ABSTRACT NO. 84

**BEARING BASIS NOTE**  
BEARING ORIENTATION IS  
BASED ON THE TEXAS STATE  
PLANE COORDINATE SYSTEM,  
CENTRAL ZONE 4203, NAD83.



**TEMPORARY  
CONSTRUCTION EASEMENT**  
0.443 AC.  
18,879 SQ. FT.

PROPOSED  
WATERLINE EASEMENT

**FITZTHUGH ROAD**  
R.O.W. VARIES

ELZY HARRISON SURVEY,  
ABSTRACT NO. 379

| LINE TABLE |               |          |
|------------|---------------|----------|
| NUMBER     | BEARING       | DISTANCE |
| L1         | N 60°19'21" W | 101.70'  |
| L2         | N 82°31'05" W | 334.97'  |
| L3         | N 41°51'19" E | 46.42'   |
| L4         | S 62°17'22" E | 277.28'  |
| L5         | S 28°20'06" W | 40.12'   |

POINT OF  
BEGINNING

ROGER P. KITOWSKI AND  
NANNETTE HINCHUFFE  
CALLED 5.472 AC.  
DOC. NO. 2000036531, O.P.R.T.C.

PROPOSED  
WATERLINE EASEMENT

PROPOSED TEMP.  
CONSTRUCTION EASEMENT

## CURVE TABLE

| NUMBER | ARC LENGTH | RADIUS    | DELTA    | CHORD BEARING | CHORD DISTANCE |
|--------|------------|-----------|----------|---------------|----------------|
| C1     | 148.65'    | 1,565.00' | 5°26'32" | S 59°34'06" E | 148.60'        |

## LEGEND

- O.P.R.T.C. OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY
- ( ) RECORD INFORMATION DOC. NO. 2009159936
- FOUND 1/2" IRON ROD W/ "DOUCET" CAP
- ⊙ FOUND 1/2" IRON PIPE
- Δ CALCULATED POINT



**BGE, Inc.**  
101 West Louis Henna Blvd, Suite 400, Austin, TX 78728  
Tel: 512-879-0400 • www.bgeinc.com  
TBPELS Licensed Surveying Firm No. 10106502

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SHEET  
3  
OF 3

SCALE: 1"=100'