

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN EASEMENT BETWEEN THE TOWN OF ADDISON AND KRISTIN MIDDLETON OF 14727 SHERLOCK DRIVE, TO OBTAIN A DRAINAGE EASEMENT ON PRIVATE PROPERTY LOCATED AT 3907 WINTER PARK LANE ASSOCIATED WITH THE SHERLOCK DRAINAGE IMPROVEMENTS, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. The Easement between the Town of Addison and Kristin Middleton of 14727 Sherlock Drive, to obtain a drainage easement on private property located at 3907 Winter Park Lane for improvements associated with the Sherlock Drainage Project, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 26nd day of June, 2018.

Joe Chow, Mayor

ATTEST:

By: _____
Irma Parker, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

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.

STATE OF TEXAS §
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COUNTY OF DALLAS §

After Recording Return To:

Ms. Irma Parker
Town of Addison, Texas
P.O. Box 9010
Addison, TX 75001

DRAINAGE EASEMENT

DATE: May 22, 2018

GRANTOR: KRISTIN MIDDLETON
 14727 SHERLOCK DR
 ADDISON, TX 75001

GRANTEE: Town of Addison, Texas
 P.O. Box 9010
 Addison, TX 75001

CONSIDERATION:

Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor.

EASEMENT PROPERTY:

See Exhibit A attached hereto and incorporated herein by reference.

EASEMENT PURPOSE: For drainage, including, without limitation, the construction, installation, operation, improvement, use, inspection, access, repair, maintenance, alteration, protection, upgrading, reconstruction, replacement, relocation and removal of drainage and storm water facilities, together with all and singular related rights and appurtenances, facilities, equipment and attachments thereto (including, without limitation, drainage pipes, valves, and manholes) (such drainage, and drainage and storm water facilities, being collectively the "Facilities"), and customary uses attendant thereto.

RESERVATIONS FROM CONVEYANCE:

None.

Drainage Easement
Page 1 of 7

EXHIBIT A

EXCEPTIONS TO WARRANTY:

None.

GRANT OF EASEMENT: Grantor, for the Consideration described above and subject to the Reservations from Conveyance and the Exceptions to Warranty, GRANTS, SELLS, and CONVEYS to Grantee and Grantee's heirs, successors, and assigns an easement and right-of-way in, on, over, under, through, and across the Easement Property for the Easement Purpose, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), TO HAVE AND TO HOLD the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, successors and assigns to WARRANT AND FOREVER DEFEND the title to the Easement in Grantee and Grantee's heirs, successors and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement, except as to the Reservations from Conveyance and the Exceptions to Warranty.

TERMS AND CONDITIONS: The following terms and conditions apply to the Easement granted by this instrument:

1. *Character of Easement.* The Easement is exclusive and irrevocable. The Easement is for the benefit of Grantee and Grantee's heirs, successors and assigns.
2. *Duration of Easement.* The duration of the Easement is perpetual.
3. *Reservation of Rights.* Grantor reserves for Grantor and Grantor's heirs, successors and assigns the right to use all or part of the Easement Property in conjunction with Grantee as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with or interrupt the use or enjoyment of the Easement and the Easement Property for the Easement Purpose by Grantee and Grantee's heirs, successors, and assigns. In conjunction with this reservation of rights, Grantor agrees to maintain the Easement Property in such a way to preserve the Easement purpose.
4. *Secondary Easement.* Grantee has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Easement Property ("Adjacent Property") as may be reasonably necessary in connection with the Easement and the Easement Purpose. However, Grantee must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.
5. *Improvement and Maintenance of Easement Property.* Grantee has the right, but not the obligation, to eliminate any encroachments into the Easement Property, including, without limitation, the right to remove any and all fencing, paving, trees and undergrowth, and other obstructions that may injure Grantee's Facilities, or interfere with the construction, installation, use operation, inspection, repair, alteration, protection, maintenance, replacement, upgrading, paralleling or removal thereof. Grantor agrees, for the consideration set forth herein, not to construct or place within the Easement Property any buildings, structures, fences, or other improvements of any nature whatsoever, or any shrubs, trees or other growth of any kind, or otherwise interfere with the Easement, without the prior written consent of Grantee. Grantee shall

Drainage Easement
Page 2 of 7

EXHIBIT A

have the right to remove, and keep removed, all or parts of any building, structure, fence, or other improvement, or any shrub, tree, or other growth, of any character that is located within the Easement Property and which, in the judgment of Grantee, may endanger or in any way interfere with the construction, efficiency, or convenient and safe operation and maintenance of the Facilities described herein or the exercise of Grantee's rights hereunder. Grantee, its heirs, successors and assigns and its officers, employees, contractors, and licensees shall at all times have the right and privilege to access the Easement Property for the Easement Purpose. Grantee has the right to abandon-in-place any and all pipelines, appurtenances and other Facilities, such that Grantee shall have no obligation or liability to Grantor or to Grantor's heirs, successors or assigns, to move or remove any such abandoned pipelines, appurtenances or other Facilities.

6. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunction (temporary or permanent) prohibiting interference and commanding compliance. Restraining order and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law, in equity, or otherwise.

7. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.

8. *Choice of Law.* This agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue for all matters, claims, or proceedings hereunder lies exclusively in Dallas County, Texas.

9. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

10. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.

11. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.

12. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.

13. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will

Drainage Easement
Page 3 of 7

EXHIBIT A

be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the test of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

14. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

15. *Time.* Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.

EXECUTED effective as of the date first written above.

GRANTOR

By: Kristin Middleton
Typed Name: KRISTIN MIDDLETON
Title: INDIVIDUAL

STATE OF TEXAS

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DALLAS

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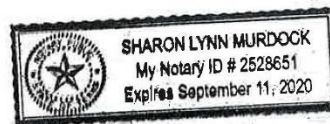
COUNTY OF DALLAS

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Before me, the undersigned Notary Public, on this day personally appeared Kristin Middleton, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 20 day of June, 2018.

Sharon Lynn Murdock
Notary Public, State of Texas



Drainage Easement
Page 4 of 7

EXHIBIT A

GRANTEE

By: _____
Typed Name: _____
Title: _____

STATE OF TEXAS

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COUNTY OF DALLAS

Before me, the undersigned Notary Public, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed on behalf of the Town of Addison, Texas.

Given under my hand and seal of office this ____ day of _____, 2018.

Notary Public, State of Texas

EXHIBIT A

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EXHIBIT A
DRAINAGE EASEMENT
PART OF LOT 56, BLOCK C of MIDWAY MEADOWS REVISED ADDITION
IN THE THOMAS L. CHENOWITH SURVEY, ABSTRACT NO. 273
TOWN OF ADDISON, DALLAS COUNTY, TEXAS

BEING a 282 square foot tract of land situated in the Thomas L. Chenowith Survey, Abstract Number 273, and being a part of Lot 56 of a Replat of Part of Lot 41, Block C and all of Lots 42 through 58, Block C, of Midway Meadows – Revised, an Addition to the Town of Addison, as recorded in Volume 80127, Page 1604, Deed Records of Dallas County, Texas (D.R.D.C.T.), and also being part of that tract of land described in General Warranty Deed to Carl Nase and Kristin Middleton, Both Unmarried Persons, as Joint Tenants with Right of Survivorship, as recorded in Instrument Number 201100278460 (D.R.D.C.T.), and being more particularly described as follows:

COMMENCING at the southeast corner of said Lot 56 on the North line of Winter Park Lane, a variable width right-of-way (60 feet wide at this point), from which said point a 3/8-inch iron rod found bears North 89 degrees 00 minutes 12 seconds East, a distance of 0.24 feet;

THENCE South 89 degrees 00 minutes 12 seconds West, along said north line of Winter Park Lane, a distance of 10.00 feet to the POINT OF BEGINNING of the herein described tract;

THENCE South 89 degrees 00 minutes 12 seconds West, continuing along said north right-of-way line, a distance of 0.21 feet to a point for corner, said point being the easterly end of an existing Drainage and Utility Easement dedicated by said Midway Meadows – Revised addition;

THENCE North 60 degrees 14 minutes 53 seconds West, departing said north right-of-way line and along the northeasterly line of said existing Drainage and Utility Easement, a distance of 108.40 feet to an angle point in said existing easement;

THENCE North 24 degrees 06 minutes 44 seconds West, continuing along said existing easement line, a distance of 8.80 feet to a point for corner;

THENCE South 57 degrees 44 minutes 04 seconds East, departing said existing easement line, and over and across said Lot 56, a distance of 115.80 feet to the POINT OF BEGINNING AND CONTAINING 282 square feet, or 0.0065 acres of land, more or less.

The basis of bearings is the Texas Coordinate System of 1983, North Central Zone (4202).

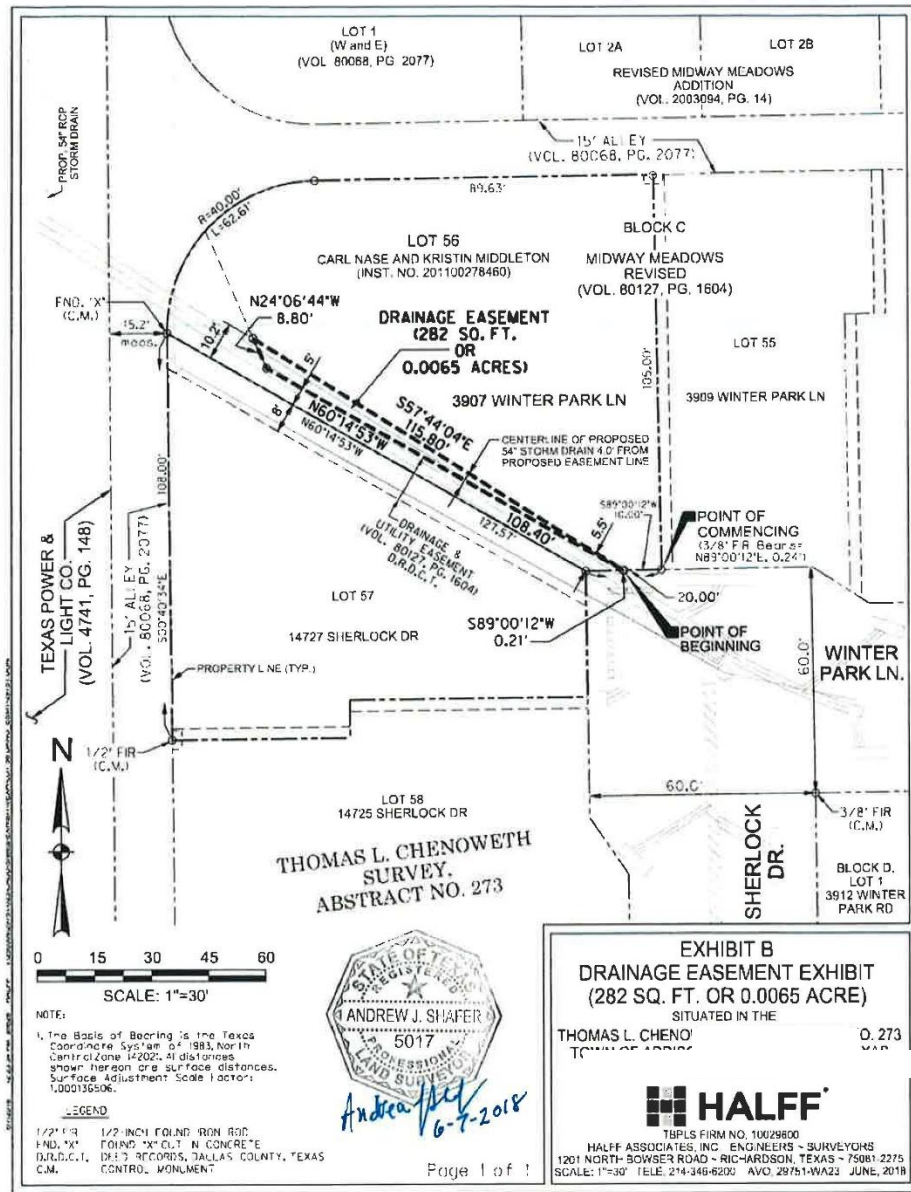

ANDREW J. SHAFER
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS NO. 5017
TBPLS FIRM NO. 10029600



Page 1 of 1

EXHIBIT A

EXHIBIT A



Drainage Easement
 Page 7 of 7

EXHIBIT A

Resolution No. _____

Exhibit A – Page 7