

UTitle No. 213620/KM

**FIRST AMENDMENT TO  
EASEMENT, RESTRICTION  
AND MAINTENANCE AGREEMENT**

This First Amendment to Easement, Restriction and Maintenance Agreement ("First Amendment") is made effective the 11 day of February, 2022 by **SOUTHWEST WELLBORN, LLC**, a Texas limited liability company ("Declarant").

**RECITALS:**

**WHEREAS**, Declarant made that certain Easement, Restriction and Maintenance Agreement dated April 27, 2021, and which was recorded as in Volume 16955, Page 66 in the Official Records of Brazos County, Texas (the "Agreement"); and

**WHEREAS**, Declarant desires to amend certain provisions of the Agreement as further described herein and as allowed by Section 6.2 of the Agreement.

**NOW, THEREFORE**, Declarant hereby declares, adopts, grant, and establishes the following modifications to the Agreement as more fully set forth in this First Amendment:

1. The foregoing recitals are incorporated into this First Amendment as if fully set forth herein. All terms used in this First Amendment not otherwise defined herein shall have the same definitions and meanings as set forth in the Declaration.

2. Section 3.4 of the Agreement is modified to include the following provision:

"The Owner of Lot 2 shall be solely responsible for the Pylon Sign Costs, as defined in the 2017 Declaration, and all other obligations of the Owner of Lot 1 under the 2017 Declaration with respect to the Pylon Sign, and the Owner of Lot 1 shall not be responsible for any of such Pylon Sign Costs or any other obligations with respect to the Pylon Sign."

3. Article 8 entitled, "Easements" is hereby added to the Agreement as follows:

Article 8  
Easements

8.1 Temporary Sanitary Sewer Easement. Declarant does hereby reserve unto itself and grant the Owner(s) and Permittees of Lot 2 a temporary, non-exclusive easement for the use, maintenance and repair of the existing sanitary sewer line and related facilities and appurtenances ("Sanitary Sewer Improvements") situated within the Sanitary Sewer Easement located on Lot 1 (as defined herein). The Owners and Permittees of Lot 1 shall have the right to use the Sanitary Sewer Improvements in common with the Owners and Permittees of Lot 2, and the Owners and Permittees of Lot 1 shall have the right to use the Sanitary Sewer Easement for all purposes so long as such use does not unreasonably interfere with the use of the Sanitary Sewer Easement by the Owner and Permittees of Lot 2. During the Maintenance Period (as defined herein), the Owner of Lot 2 shall maintain the Sanitary Sewer Improvements in good working order, condition and repair at all times, at its sole cost and expense; provided, however, if any Owner or Permittee of Lot 1 damages all or any portion of the Sanitary Sewer

Improvements, then the cost of repair thereof shall be at the sole cost and expense of the Owner of Lot 1. "Maintenance Period" means the period beginning on the date hereof and ending on the earlier to occur of July 10, 2022 or the date the substitute PUE (as defined below) is recorded. Upon completion of any maintenance and repair work to the Sanitary Sewer Improvements, the repairing Owner shall, at its sole cost and expense, repair and restore the Sanitary Sewer Easement to substantially the same condition existing immediately prior to the commencement of such work. As used herein, the term "Sanitary Sewer Easement" means the area described on Exhibit D attached hereto. This temporary easement will terminate automatically when a public utility easement in the location of the Sanitary Sewer Easement ("Substitute PUE") is granted by the Owner of Lot 1 to the City of College Station, either by plat or separate instrument.

8.2 Private Drainage Easement. Declarant does hereby reserve unto itself and grant to the Owners and Permittees of Lots 1 and 2 a perpetual and non-exclusive easement for storm water drainage over and across the Private Drainage Easement (as defined herein). The Owners and Permittees of the Lot shall have the right to use the Private Drainage Easement for all purposes so long as such use does not unreasonably interfere with the use of the Private Drainage Easement by the Owner and Permittee of Lots 1 and 2. The Owner of Lot 1 shall be responsible for maintaining the Private Drainage Easement, and all improvements constructed therein, in good working order, condition and repair at all times, at its sole cost and expense; provided, however, if the Owner or Permittee of Lot 2 damages all or any portion of the Private Drainage Easement or the improvements located therein, then the cost of repair thereof shall be at the sole cost and expense of the Owner of Lot 2. As used herein, the "Private Drainage Easement" means the area lying seven and one-half feet on either side of the storm sewer line located on Lot 1 that serves both Lot 1 and Lot 2 and connects to the 15' wide private drainage easement located on Lot 1 of the Final Plat of The Woodlands of College Station, City of College Station, recorded in Volume 16773, Page 294, Official Records, Brazos County, Texas. A depiction showing the location of the storm sewer line is attached hereto as Exhibit E.

8.3 No Dedication to Public. Nothing contained in this Article 8 shall ever constitute or be construed as a dedication of the Sanitary Sewer Easement or Private Drainage Easement to the public; it being the express intention that the Sanitary Sewer Easement and Private Drainage Easement shall be for the benefit of the Owner(s) and their respective successors and assigns. Notwithstanding the foregoing, Declarant intends that there will be a future dedication by separate instrument of the Substitute PUE by the Owner of Lot 1.

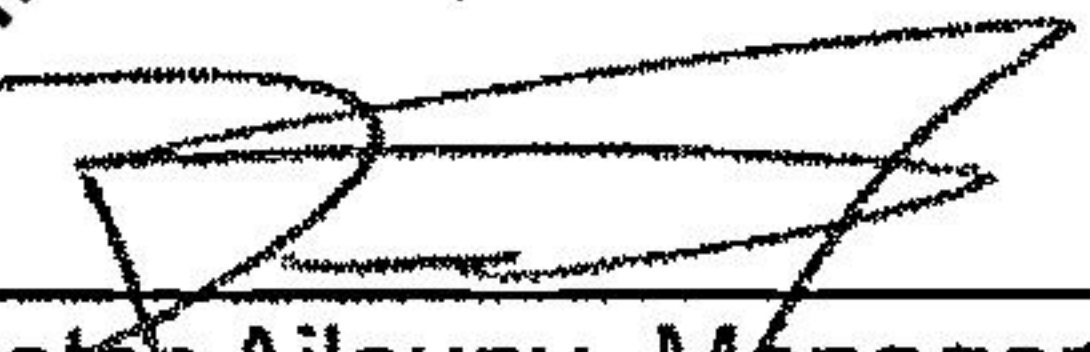
4. Except as otherwise specifically set forth in this First Amendment, the Agreement shall remain in full force and effect. If there shall be any inconsistency between the Agreement and the First Amendment, the terms of this First Amendment shall control. Upon execution and recordation of this First Amendment, the Agreement and First Amendment shall thereafter be referred to, collectively, as the Agreement.

5. This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original. Such counterparts shall constitute but one and the same instrument and shall be binding upon, and shall inure to the benefit of, each of the undersigned individually as fully and completely as if all had signed one instrument.



IN WITNESS WHEREOF, the Declarant has executed this First Amendment as of the day and year first above written.

SOUTHWEST WELLBORN, LLC  
a Texas limited liability company

By:   
Peter Ajlouny, Manager

Notary Certificate Attached

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA §

COUNTY OF \_\_\_\_\_ §

On \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared PETER AJLOUNY, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

### ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of SANTA CLARA

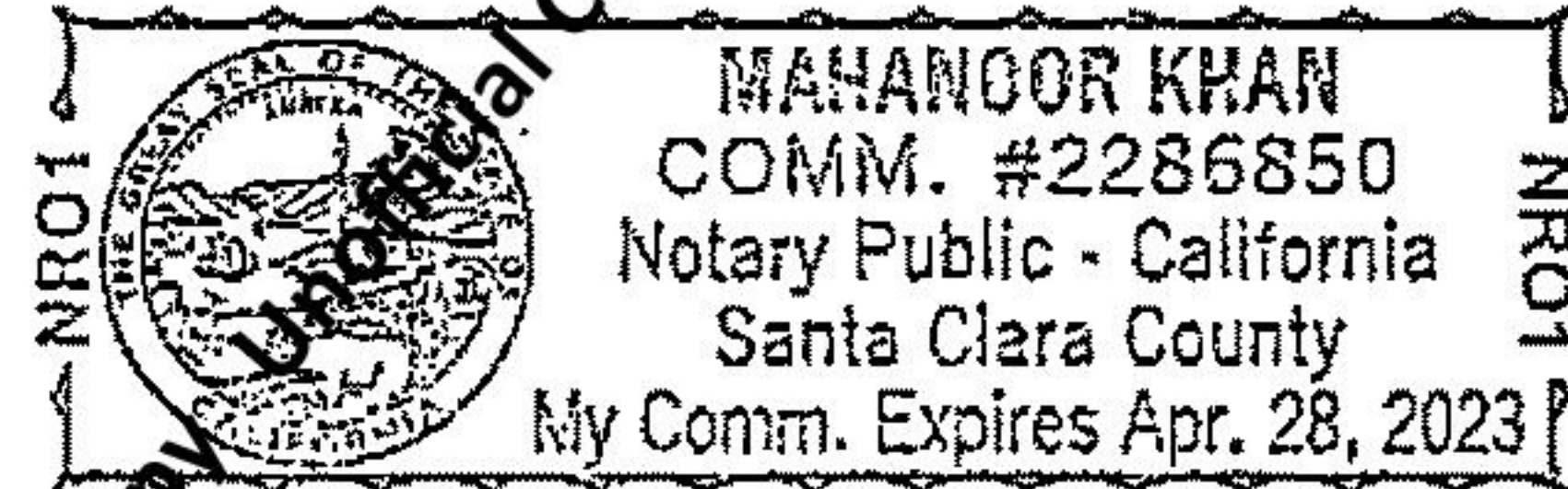
On 2/10/2022 before me, MAHANOOR KHAN, NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared OMAR PETER AJLOUNY  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Mahanoor Khan* (Seal)



Unofficial Copy

EXHIBIT D

See attached

Unofficial Copy Unofficial Copy Unofficial Copy



EXHIBIT E

See attached

Unofficial Copy Unofficial Copy Unofficial Copy



PREPARED IN THE LAW OFFICE OF:

THE ELLISON FIRM  
P.O. BOX 10103  
COLLEGE STATION, TX 77842-0103  
File No. 07690.002

RETURN TO:

THE ELLISON FIRM  
P.O. BOX 10103  
COLLEGE STATION, TX 77842-0103

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Brazos County  
Karen McQueen  
County Clerk

Instrument Number: 1461484  
Volume: 17719  
ERecordings - Real Property

Recorded On: February 15, 2022 01:02 PM

Number of Pages: 11

**" Examined and Charged as Follows: "**

Total Recording: \$66.00

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 1461484  
Receipt Number: 20220215000059  
Recorded Date/Time: February 15, 2022 01:02 PM  
User: Susie C  
Station: CCLEP009

**Record and Return To:**

eRecording Partners



STATE OF TEXAS  
COUNTY OF BRAZOS

I hereby certify that this Instrument was FILED in the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Public Records of Brazos County, Texas.

Karen McQueen  
County Clerk  
Brazos County, TX