

151



19

**TEMPORARY ACCESS EASEMENT**

THE STATE OF TEXAS                   §  
  §       KNOW ALL BY THESE PRESENTS:  
COUNTY OF FORT BEND               §

THAT TOLL-GTIS PROPERTY OWNER LLC, a Texas limited liability company ("Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash to Grantor in hand paid by SIENNA PLANTATION MUNICIPAL UTILITY DISTRICT NO. 5, a political subdivision of the State of Texas (the "District"), the CITY OF MISSOURI CITY, TEXAS, a Texas home-rule municipality in Fort Bend and Harris Counties, Texas (the "City"), and FORT BEND COUNTY, TEXAS, a political subdivision of the State of Texas (the "County") (the District, the City, and the County are sometimes referred to herein collectively as "Grantees"), the receipt and sufficiency of which is hereby acknowledged, has GRANTED, SOLD, AND CONVEYED and by these presents does GRANT, SELL AND CONVEY unto Grantees, their successors and assigns, an easement and right-of-way (the "Easement") for limited vehicular and pedestrian ingress, egress, and regress over, across, along, and upon that certain tract of land located in Fort Bend County, Texas, more particularly described in **Exhibit A**, attached hereto and made a part hereof for all purposes (the "Easement Tract") subject to the terms and conditions set forth herein. The Easement shall automatically terminate when construction of the Sienna Parkway extension to FM 521 has been completed, all of the right of way for Sienna Parkway has been platted and dedicated to the City of Missouri City, and the one year maintenance period is initiated for the last part of the Sienna Parkway extension to FM 521 that is constructed.

Grantees may construct, install, maintain, repair, relocate, replace, remove, and operate a roadway (the "Roadway") for fire and emergency services access and evacuation purposes, within the Easement Tract and shall have access across, along, under, over and upon the Easement Tract to engage in such activities as may be necessary, requisite, convenient, or appropriate in connection therewith. Each Grantee's rights and obligations with respect to construction, installation, maintenance, repair, relocation, replacement, removal, and operation of the Roadway are set forth in that certain Interlocal Project Agreement for Transportation Facilities (the "Interlocal Agreement") dated October 12, 2012, by and between the District and the County, and that certain Sienna Plantation Joint Development Agreement (the "Development Agreement") dated February 19, 1996, by and between the City and Sienna Plantation Development Company, as amended. Grantees' rights shall include, without limitation, the right to clear and remove trees, growth, shrubbery, and other improvements from within the Easement Tract and the right to bring and operate such equipment thereupon as may be necessary or appropriate to effectuate the purpose for which the Easement is granted and to permit each Grantee to perform its responsibilities with

493660\_3.doc

28.828 acres

respect to the Roadway under the Interlocal Agreement and the Development Agreement. Each Grantee will, at all times after using the Roadway, restore the Roadway as nearly as possible to its condition prior to such use; provided, however, that in connection with such use, each Grantee, or its successors or assigns, shall not be required to replace trees, overhanging limbs, undergrowth, brush, shrubbery, improvements, and other natural and non-natural obstructions that interfere with such Grantee maintaining or operating the Roadway.

Grantor expressly reserves the right to the use and enjoyment and maintenance of the surface of the Easement Tract for any and all purposes, except construction of houses, buildings and structures, provided that such use will not prevent Grantees from the exercise of all their rights under the Easement.

Grantor reserves the right, at any time and from time to time, upon 60 days advance written notice to Grantees and at Grantor's sole expense, to relocate and construct the Easement Tract to an alternative location provided such alternative location is reasonably equivalent to the location identified in **Exhibit A** and does not hinder, obstruct or unreasonably interfere with the use of the Roadway on the Easement Tract for fire and emergency services and evacuation purposes.

Grantees shall, to the extent permitted by applicable law, indemnify and hold Grantor and any of Grantor's employees agents or representatives, harmless from any damage or liability resulting directly or indirectly from the applicable Grantee's use of the Easement. Grantees shall further cause any third party user of the Easement, including, without limitation, any contractor providing construction or maintenance services on the Easement Tract, to indemnify and hold harmless Grantor and Grantor's employees, agents and representatives in accordance with the preceding sentence.

This conveyance is further made subject to any and all restrictions, covenants, easements, rights-of-way, encumbrances, and mineral or royalty reservations or interests affecting the Easement Tract and appearing of record in the Official Public Records of Fort Bend County, Texas, to the extent the same are in effect and validly enforceable against the Easement Tract (the "Permitted Encumbrances"); provided, however, to the extent that Grantor has the ability to enforce any of the Permitted Encumbrances, Grantor will not do so in a manner that would unreasonably prejudice or interfere with the exercise of the rights in the Easement and use of the Easement Tract for the purposes set forth herein.

Grantor represents and warrants that the execution and delivery of this instrument by the signatory hereto has been duly authorized by Grantor, and this instrument is valid and legally binding on Grantor.

TO HAVE AND TO HOLD the Easement, together with, all and singular, the rights and appurtenances thereto in any wise belonging, including all necessary rights



to ingress, egress, and regress, unto Grantees, their successors and assigns, forever. Grantor does hereby bind itself and its successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the Easement and right-of-way and other rights described herein unto Grantees, their successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise, subject only to the Permitted Encumbrances.

This instrument may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one instrument.

*[Signature pages follow this page.]*

A handwritten signature in dark ink, appearing to be "J. J. O.", located in the bottom left corner of the page.

EXECUTED this 12<sup>th</sup> day of September, 2014..

**TOLL-GTIS PROPERTY OWNER LLC,**  
a Texas limited liability company

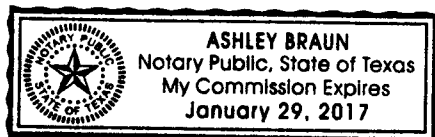
By: Toll-GTIS Sienna Holdings LLC,  
a Delaware limited liability company,  
Member

By: Karl K. Mistry  
Name: KARL K. MISTRY  
Title: Authorized Representative

THE STATE OF TEXAS           §  
  §  
COUNTY OF Harris       §

This instrument was acknowledged before me on September 12<sup>th</sup>, 2014, by Karl K. Mistry, Authorized representative of Toll-GTIS Sienna Holdings LLC, a \_\_\_\_\_ limited liability company, Member of TOLL-GTIS PROPERTY OWNER LLC, a Texas limited liability company, on behalf of said limited liability companies.

(NOTARY SEAL)



Ashley Braun  
Notary Public, State of Texas

Agreed to and accepted this 6<sup>th</sup> day of October, 2014, by  
Sienna Plantation Municipal Utility District No. 5.

**SIENNA PLANTATION MUNICIPAL  
UTILITY DISTRICT NO. 5**

By: [Signature]  
Name: Mark Kilkeny  
Title: President

ATTEST:

By: [Signature]  
Name: Stephanie Trevino  
Title: Asst. Vice President

THE STATE OF TEXAS   §  
  §  
COUNTY OF FEND   §

This instrument was acknowledged before me on the 6<sup>th</sup> day of  
October, 2014, by Mark Kilkeny, President, and  
Stephanie Trevino, Asst. Vice President, of the Board of Directors of SIENNA  
PLANTATION MUNICIPAL UTILITY DISTRICT NO. 5, a political subdivision of the  
State of Texas, on behalf of said political subdivision.

[Signature]  
Notary Public, State of Texas

(NOTARY SEAL)



Agreed to and accepted this 3rd day of November, 2014, by  
the City of Missouri City, Texas.

CITY OF MISSOURI CITY, TEXAS

By: [Signature]  
Allen Owen, Mayor

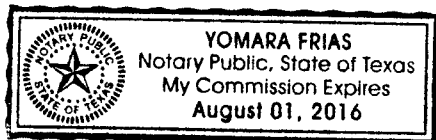
ATTEST:

By: [Signature]  
Maria Gonzalez, City Secretary



THE STATE OF TEXAS   §  
                                  §  
COUNTY OF Tarrant   §

This instrument was acknowledged before me on the 3 day of November, 2014, by Allen Owen, Mayor, and Maria Gonzalez, City Secretary, of the CITY OF MISSOURI CITY, TEXAS, a Texas home-rule municipality, on behalf of said municipality.

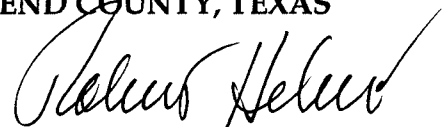


(NOTARY SEAL)

[Signature]  
Notary Public, State of Texas

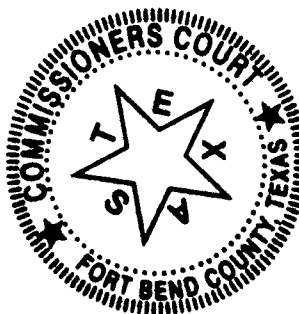
Agreed to and accepted this 18<sup>th</sup> day of November, 2014, by  
Fort Bend County, Texas.

FORT BEND COUNTY, TEXAS

By:   
Robert Hebert, Fort Bend County Judge

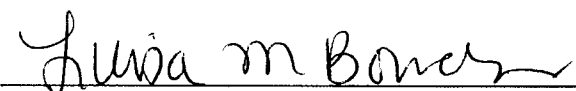
ATTEST:

By:   
Dianne Wilson, Fort Bend County Clerk



THE STATE OF TEXAS   §  
                                     §  
COUNTY OF Fort Bend §

This instrument was acknowledged before me on the 18<sup>th</sup> day of  
November, 2014, by Robert Hebert, County Judge, and Dianne Wilson, County Clerk,  
of FORT BEND COUNTY, TEXAS, a political subdivision of the State of Texas, on  
behalf of said political subdivision.

  
Notary Public, State of Texas

(NOTARY SEAL)



**Attachments:**

Consent of Lienholder      (U.S. Bank National Association d/b/a Housing Capital  
Company)

Exhibit A - Description of Easement Tract

**After recording, return to:** Allen Boone Humphries Robinson LLP, Attn: Jeanette  
Harris, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027.



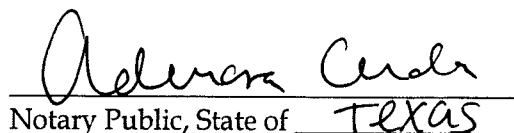
**U.S. BANK NATIONAL ASSOCIATION**, a national banking association, d/b/a Housing Capital Company, being the owner and holder of certain liens or other security interests (the "Security Interests"), against the real property described in **Exhibit A** attached hereto (the "Easement Tract"), hereby:

- (a) Consents to the conveyance of the Temporary Access Easement to Sienna Plantation Municipal Utility District No.5 (the "District"), the City of Missouri City, Texas (the "City"), and Fort Bend County, Texas (the "County"), across, along, under, over, upon, and through the Easement Tract;
- (b) Subordinates all of its Security Interests (including, without limitation, all extensions of the Security Interests and modification agreements thereto) that encumber the Easement Tract, to the rights and interests created under the Temporary Access Easement; and
- (c) Acknowledges and agrees that a foreclosure of its Security Interests shall not extinguish the rights, obligations, and interests of the District, the City, and the County created under the Temporary Access Easement.

**U.S. BANK NATIONAL ASSOCIATION,**  
a national banking association, d/b/a  
Housing Capital Company

By: Alpratka  
Name: \_\_\_\_\_  
Title: ALYSSA PRATKA  
VICE PRESIDENT

This instrument was acknowledged before me on the 16 day of September, 2014, by Alyssa Pratkan, Vice President of U.S. BANK NATIONAL ASSOCIATION, a national banking association, d/b/a Housing Capital Company, on behalf of said banking association.



County: Fort Bend  
Project: Sienna South  
Job No. 144904  
MBS No. 14-131

### FIELD NOTES FOR 28.828 ACRES

Being a tract containing 28.828 acres of land, located in the David Fitzgerald League, Abstract 25 and the William Hall Survey, Abstract 31, in Fort Bend County, Texas; Said 28.828 acre tract being a portion of a call 2808.323 acre tract styled as Tract "A" and recorded in the name of Toll-GTIS Property Owner LLC in File Number 2013153798 of the Official Public Records of Fort Bend County (O.P.R.F.B.C.); Said 28.828 acre tract being more particularly described by two (2) metes and bounds descriptions as follows (bearings being based on the Texas Coordinate System, South Central Zone, NAD 83, as derived from GPS Observations):

### TRACT I: 8.300 ACRES

**Commencing** at a 5/8-inch iron rod at the northeasterly terminus of Waters Lake Boulevard (100-feet wide), a street dedicated in Sienna Christ the Lord Evangelical Lutheran Church, a subdivision recorded in Plat Number 20110106 of the Fort Bend County Plat Records (F.B.C.P.R.), from which a 5/8-inch iron rod found at the southeasterly terminus of said Waters Lake Boulevard bears South 33 degrees 45 minutes 52 seconds West, a distance of 100.00 feet;

Thence, with the easterly line of said Waters Lake Boulevard, South 33 degrees 45 minutes 52 seconds West, a distance of 38.92 feet to the **Point of Beginning** of the herein described tract;

Thence, through and across aforesaid 2808.323 acre tract, the following eleven (11) courses:

- 1) South 48 degrees 18 minutes 46 seconds East, a distance of 36.73 feet;
- 2) 129.00 feet along the arc of a curve to the right, said curve having a radius of 100.00 feet, a central angle of 73 degrees 54 minutes 32 seconds and a chord that bears South 11 degrees 21 minutes 29 seconds East, a distance of 120.24 feet;
- 3) South 25 degrees 35 minutes 47 seconds West, a distance of 201.74 feet;
- 4) 32.44 feet along the arc of a curve to the left, said curve having a radius of 20.00 feet, a central angle of 92 degrees 55 minutes 20 seconds and a chord that bears South 20 degrees 51 minutes 53 seconds East, a distance of 29.00 feet;
- 5) South 67 degrees 19 minutes 33 seconds East, a distance of 548.43 feet;
- 6) 1529.76 feet along the arc of a curve to the right, said curve having a radius of 1090.00 feet, a central angle of 80 degrees 24 minutes 41 seconds and a chord that bears South 27 degrees 07 minutes 13 seconds East, a distance of 1407.26 feet;

afg

- 7) South 13 degrees 05 minutes 08 seconds West, a distance of 1110.50 feet;
- 8) 639.83 feet along the arc of a curve to the left, said curve having a radius of 770.00 feet, a central angle of 47 degrees 36 minutes 36 seconds and a chord that bears South 10 degrees 43 minutes 10 seconds East, a distance of 621.58 feet;
- 9) South 34 degrees 31 minutes 28 seconds East, a distance of 206.57 feet;
- 10) 21.49 feet along the arc of a curve to the left, said curve having a radius of 20.00 feet, a central angle of 61 degrees 33 minutes 07 seconds and a chord that bears South 65 degrees 18 minutes 02 seconds East, a distance of 20.47 feet;
- 11) 36.27 feet along the arc of a curve to the left, said curve having a radius of 1950.00 feet, a central angle of 01 degree 03 minutes 56 seconds and a chord that bears North 83 degrees 23 minutes 26 seconds East, a distance of 36.26 feet to the westerly line of a call 25.758 acre tract recorded in the name of Sienna Plantation Levee Improvement District in File Number 9741281 of the O.P.R.F.B.C., from which the northwesterly corner of said 25.758 acre tract bears North 13 degrees 16 minutes 29 seconds East, a distance of 468.61 feet;

Thence, with said westerly line, South 13 degrees 16 minutes 29 seconds West, a distance of 105.13 feet;

Thence, through and across aforesaid 2808.323 acre tract, the following ten (10) courses:

- 1) 102.80 feet along the arc of a curve to the right, said curve having a radius of 110.00 feet, a central angle of 53 degrees 32 minutes 36 seconds and a chord that bears North 61 degrees 17 minutes 47 seconds West, a distance of 99.10 feet;
- 2) North 34 degrees 31 minutes 28 seconds West, a distance of 223.28 feet;
- 3) 706.31 feet along the arc of a curve to the right, said curve having a radius of 850.00 feet, a central angle of 47 degrees 36 minutes 36 seconds and a chord that bears North 10 degrees 43 minutes 10 seconds West, a distance of 686.16 feet;
- 4) North 13 degrees 05 minutes 08 seconds East, a distance of 1110.50 feet;
- 5) 1417.48 feet along the arc of a curve to the left, said curve having a radius of 1010.00 feet, a central angle of 80 degrees 24 minutes 41 seconds and a chord that bears North 27 degrees 07 minutes 13 seconds West, a distance of 1303.98 feet;
- 6) North 67 degrees 19 minutes 33 seconds West, a distance of 548.43 feet;
- 7) 162.18 feet along the arc of a curve to the right, said curve having a radius of 100.00 feet, a central angle of 92 degrees 55 minutes 20 seconds and a chord that bears North 20 degrees 51 minutes 53 seconds West, a distance of 144.98 feet;



- 8) North 25 degrees 35 minutes 47 seconds East, a distance of 201.74 feet;
- 9) 25.80 feet along the arc of a curve to the left, said curve having a radius of 20.00 feet, a central angle of 73 degrees 54 minutes 32 seconds and a chord that bears North 11 degrees 21 minutes 29 seconds West, a distance of 24.05 feet;
- 10) North 48 degrees 18 minutes 46 seconds West, a distance of 21.92 feet to the southeasterly line of Reserve "A", aforesaid Sienna Christ the Lord Evangelical Lutheran Church;

Thence, with said line, North 23 degrees 32 minutes 33 seconds East, a distance of 20.52 feet to a 5/8-inch iron rod found at the aforesaid southeasterly terminus of Waters Lake Boulevard;

Thence, with the easterly line of said Waters Lake Boulevard, North 33 degrees 45 minutes 52 seconds East, a distance of 61.08 feet to the **Point of Beginning** and containing 8.300 acres of land.

#### **TRACT II: 20.528 ACRES**

**Commencing** at the northeasterly corner of aforesaid 25.758 acre tract, from which the northwesterly corner of said 25.758 acre tract bears North 36 degrees 15 minutes 41 seconds West, a distance of 262.88 feet;

Thence, with the easterly line of said 25.758 acre tract, South 13 degrees 16 minutes 29 seconds West, a distance of 210.52 feet to the **Point of Beginning** of the herein described tract;

Thence, through and across aforesaid 2808.323 acre tract, the following twelve (12) courses:

- 1) 197.25 feet along the arc of a curve to the left, said curve having a radius of 1950.00 feet, a central angle of 05 degrees 47 minutes 45 seconds and a chord that bears North 73 degrees 32 minutes 33 seconds East, a distance of 197.17 feet;
- 2) North 70 degrees 38 minutes 41 seconds East, a distance of 2405.92 feet;
- 3) 250.36 feet along the arc of a curve to the right, said curve having a radius of 2050.00 feet, a central angle of 06 degrees 59 minutes 50 seconds and a chord that bears North 74 degrees 08 minutes 36 seconds East, a distance of 250.20 feet;
- 4) 148.37 feet along the arc of a curve to the left, said curve having a radius of 460.00 feet, a central angle of 18 degrees 28 minutes 51 seconds and a chord that bears North 68 degrees 24 minutes 06 seconds East, a distance of 147.73 feet;
- 5) 261.61 feet along the arc of a curve to the right, said curve having a radius of 540.00 feet, a central angle of 27 degrees 45 minutes 27 seconds and a chord that bears North 73 degrees 02 minutes 24 seconds East, a distance of 259.06 feet;



- 6) North 86 degrees 55 minutes 07 seconds East, a distance of 1893.92 feet;
- 7) North 86 degrees 27 minutes 29 seconds East, a distance of 1785.07 feet;
- 8) North 85 degrees 50 minutes 14 seconds East, a distance of 939.32 feet;
- 9) North 72 degrees 38 minutes 31 seconds East, a distance of 310.25 feet;
- 10) North 70 degrees 15 minutes 59 seconds East, a distance of 1920.36 feet;
- 11) North 73 degrees 13 minutes 37 seconds East, a distance of 193.37 feet;
- 12) 134.25 feet along the arc of a curve to the right, said curve having a radius of 250.00 feet, a central angle of 30 degrees 46 minutes 06 seconds and a chord that bears North 88 degrees 36 minutes 40 seconds East, a distance of 132.65 feet to the easterly line of said 2808.323 acre tract and the westerly line of a call 9.289 acre tract recorded in the name of Sienna Plantation Municipal Utility District Number Five in File Number 2011049918 of the O.P.R.F.B.C.;

Thence, with said line, South 13 degrees 56 minutes 43 seconds West, a distance of 80.00 feet;

Thence, through and across aforesaid 2808.323 acre tract, the following thirteen (13) courses:

- 1) 91.36 feet along the arc of a curve to the left, said curve having a radius of 170.00 feet, a central angle of 30 degrees 47 minutes 31 seconds and a chord that bears South 88 degrees 37 minutes 22 seconds West, a distance of 90.27 feet;
- 2) South 73 degrees 13 minutes 37 seconds West, a distance of 191.30 feet;
- 3) South 70 degrees 15 minutes 59 seconds West, a distance of 1919.96 feet;
- 4) South 72 degrees 38 minutes 31 seconds West, a distance of 321.16 feet;
- 5) South 85 degrees 50 minutes 14 seconds West, a distance of 949.01 feet;
- 6) South 86 degrees 27 minutes 29 seconds West, a distance of 1785.83 feet;
- 7) South 86 degrees 55 minutes 07 seconds West, a distance of 1890.22 feet;
- 8) 195.95 feet along the arc of a curve to the left, said curve having a radius of 460.00 feet, a central angle of 24 degrees 24 minutes 24 seconds and a chord that bears South 74 degrees 42 minutes 55 seconds West, a distance of 194.47 feet;
- 9) South 62 degrees 30 minutes 44 seconds West, a distance of 153.11 feet;



- 10) 108.68 feet along the arc of a curve to the right, said curve having a radius of 460.00 feet, a central angle of 13 degrees 32 minutes 14 seconds and a chord that bears South 69 degrees 16 minutes 51 seconds West, a distance of 108.43 feet;
- 11) 183.94 feet along the arc of a curve to the left, said curve having a radius of 1950.00 feet, a central angle of 05 degrees 24 minutes 17 seconds and a chord that bears South 73 degrees 20 minutes 49 seconds West, a distance of 183.87 feet;
- 12) South 70 degrees 38 minutes 41 seconds West, a distance of 2405.92 feet;
- 13) 257.65 feet along the arc of a curve to the right, said curve having a radius of 2050.00 feet, a central angle of 07 degrees 12 minutes 04 seconds and a chord that bears South 74 degrees 14 minutes 43 seconds West, a distance of 257.48 feet to the easterly line of aforesaid 25.758 acre tract;

Thence, with said easterly line, North 13 degrees 16 minutes 29 seconds East, a distance of 111.38 feet to the **Point of Beginning** and containing 20.528 acres of land.

GBI PARTNERS, L.P.

Ph: 281.499.4539

May 20, 2014



SIENNA CHRIST THE LORD  
EVANGELICAL LUTHERAN CHURCH  
PLAT No. 2010106 F.B.C.P.R.

WATERS LAKE BLVD (100' R.O.W.)

P.O.B. TRACT I

DAVID FITZGERALD LEAGUE, A-25

TRACT I: 8.300 AC.

CALL 2808.323 ACRES  
TRACT "A"  
TOLL-GTIS PROPERTY OWNER LLC  
FILE No. 2013153798 O.P.R.F.B.C.

CALL 25758 ACRES  
SIENNA PLANTATION LEVEE  
IMPROVEMENT DISTRICT  
FILE No. 9741281 O.P.R.F.B.C.

P.O.B. TRACT II

WILLIAM HALL SURVEY, A-31

TRACT II: 20.528 AC.

CEMETERY SITE

SIENNA POINT SECTION THREE  
SLIDE NOS. 1795B-1798A  
F.B.C.P.R.

WORD OF RESTORATION  
CHRISTIAN FELLOWSHIP CHURCH  
PLAT No. 2009011 F.B.C.P.R.

F.M. 521 (WIDTH VARIES)

28.828 ACRES

TRACT I: 8.300 ACRES  
TRACT II: 20.528 ACRES

BEING A PORTION OF A CALL 2808.323 ACRE  
TRACT STYLED AS TRACT "A," RECORDED IN THE  
NAME OF TOLL-GTIS PROPERTY OWNER LLC  
IN FILE NUMBER 2013153798 OF THE O.P.R.F.B.C.  
LOCATED IN THE

DAVID FITZGERALD SURVEY, A-25  
& WILLIAM HALL SURVEY, A-31  
FORT BEND COUNTY, TEXAS



GBI PARTNERS, L.P.

LAND SURVEYING CONSULTANTS  
TBPLS No. 101303-00  
13340 S. Gessner Missouri City, TX 77489  
Phone: 281-499-4539 • www.gbisurvey.com

JOB NO: 144904  
SCALE: 1" = 1200'  
DATE: 05/20/2014  
MBS No. 14-131

SCALE: 1" = 1200'

CALL 9,289 ACRES  
SIENNA PLANTATION MUNICIPAL  
UTILITY DISTRICT No. 5  
FILE No. 2011049918 O.P.R.F.B.C.

RETURN:  
FORT BEND COUNTY CLERK  
ADMIN SERV COORDINATOR

**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS

*Dianne Wilson*

Dianne Wilson, County Clerk  
Fort Bend County, Texas

November 20, 2014 03:35:13 PM

FEE: \$0.00 JE  
EASEMENT

2014127275

