

15N



24A

15 PGS  
ABANDON

2017063075

THE STATE OF TEXAS     §

COUNTY OF FORT BEND   §

**RESOLUTION AND ORDER TO ABANDON RIGHT OF WAY EASEMENT AT THE FOLLOWING LOCATION:**

**TWO (2) TRACTS, EACH ADJOINING AND BEING THIRTY FEET (30') WIDE EACH, AND BEING IN THE CHARLES A. BETTNER 1/4 LEAGUE, ABSTRACT 11, OUT OF 67.78 ACRES ORIGINALLY OWNED BY ALEX FOJTIK, JR., AND WIFE, CAROLYN J. FOJTIK (33.89 ACRES, VOLUME 792, PAGE 5, DEED RECORDS, FORT BEND COUNTY, TEXAS), AND ROSE FOJTIK STAVINOHA AND HUSBAND, ALBERT B. STAVINOHA (33.89 ACRES, VOLUME 792, PAGE 8, DEED RECORDS, FORT BEND COUNTY, TEXAS).**

WHEREAS, Alex Fojtik, Jr., Carolyn J. Fojtik, Rose Fojtik Stavinoha, Albert B. Stavinoha, and Albina Fojtik, ("Grantors") conveyed their respective interests to the public, as a right of way easement and public thoroughfare, together with the right to maintain a right of way for the purpose of ingress and egress across the above-described property ("Property") in the Right of Way Easement Grant dated October 20, 1995 and recorded September 9, 1998, Instrument Number. 9873439, Official Public Records of Fort Bend County, Texas, attached hereto as Exhibit "A" and incorporated herein for all purposes; and

WHEREAS, the Grantors executed a Correction Right of Way Easement Grant on November 30, 1998 and recorded on December 30, 1998, Instrument No. 98105812, Official Public Records of Fort Bend County, Texas, attached hereto as Exhibit "B" and incorporated herein for all purposes, to clarify the Grantors' intent to grant the easement for use as a private driveway rather than a public thoroughfare as stated in the original Right of Way Easement Grant; and

WHEREAS, the Correction Right of Way Easement Grant failed to fully clarify the intent due to inconsistent language stating both a grant "to the public as a right of way and public thoroughfare" and dedication "for the purpose of a private drive, limited to land owners with land bordering on either side of the easement specifically not designated as a street, or as a public thoroughfare"; and

WHEREAS, although Fort Bend County (the "County") recognized the intent of the Grantors to dedicate an easement for use as a private drive, the Fort Bend

County Appraisal District records currently reflect ownership of the Property in the name of the County, on behalf of the Public; and

WHEREAS, the Property never appears to have been accepted by the County as a public thoroughfare or utilized by the Public, and certain improvements have been constructed within the Property for private use; and

WHEREAS, without acknowledging the acceptance of any such interests on behalf of the Public, the County desires to release and abandon any and all interest in the Property, if any existing, as it never appears to have been needed, nor is currently needed for use by the Public, consistent with the original intent of the Grantors.

THEREFORE, on this 6<sup>th</sup> day of June, 2017, at a regular meeting of the Commissioners Court of Fort Bend County, Texas, sitting as the governing body of Fort Bend County, Texas, upon motion of Commissioner Morales, seconded by Commissioner Prestage, duly put and carried, by unanimous vote, Commissioners Court adopts the resolution and orders to abandon the right of way easement interest, if any, in two (2) thirty feet (30') wide tracts of land in Fort Bend County, Texas, as described in Instrument Number 9873439 and Instrument Number No. 98105812, Official Public Records of Fort Bend County, Texas.

As the owner of the property that abuts the portion of the Property being abandoned, title to shall be vested in the name of the following property owners as a property owner who receives a conveyance under § 251.058, Texas Transportation Code:

- Tony L. and Kathleen Lindemann
- Barbara J. Waggoner and Derek W. Fojtik
- Rose Stavinoha

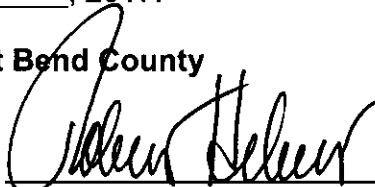
After due consideration, the Court finds that the Property never been used a Public right of way and the County's needs and that of the public interest would be better served if any existing interest in the Property is released, abandoned and closed.

IT IS ORDERED that any existing interest in the Property be released, abandoned and closed as a public thoroughfare and the same is hereby abandoned as a county right of way pursuant to Texas Transportation Code §251.058b and §251.051 and that this Order be hereby filed in the Official Public Records of Fort Bend County, Texas forthwith.

Executed this 6 day of June, 2017.

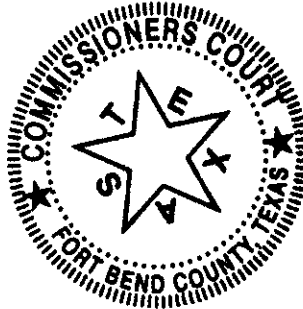
Fort Bend County

By:

  
Robert E. Hebert, County Judge

ATTEST:

  
Laura Richard, County Clerk



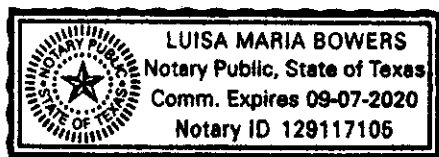
THE STATE OF TEXAS

COUNTY OF Fort Bend

§  
§  
§

This instrument was acknowledged before me on the 6<sup>th</sup> day of June, 2017 by Robert E. Hebert, County Judge, Fort Bend County, Texas, on behalf of Fort Bend County, Texas.

(SEAL)



  
Notary Public in and for the State of Texas

# EXHIBIT A

RIGHT-OF-WAY EASEMENT GRANT

THE STATE OF TEXAS §  
COUNTY OF FORT BEND §

KNOW ALL MEN BY THESE PRESENT:

That we, ALEX FOJTIK, JR., and wife, CAROLYN J. FOJTIK, 15222 Hy. 36, Needville, Texas, being of Fort Bend County, Texas, and ROSE FOJTIK STAVINOHHA et vir, ALBERT B. STAVINOHHA both of Fort Bend County, Texas, and further joined herein by ALBINA FOJTIK, a widow, of Fort Bend County, Texas, a life estate holder in said real estate and interest hereby conveyed, in consideration of TEN & NO/100 (\$10.00) DOLLARS, together with other good and valuable considerations, the receipt of which is hereby acknowledged, have GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents do GRANT, SELL, AND CONVEY, to the public, as a right of way and public thoroughfare, together with the right to maintain a right-of-way for the purpose of ingress and egress across property lying and being situated in Fort Bend County, Texas, described as follows, to-wit:

two (2) tracts, each adjoining and being 30 feet wide each, and being in the Charles A. Bettner 1/4 League, Abstract 11, out of 67.78 acres owned by Alex Fojtik, Jr., and wife, Carolyn J. Fojtik (33.89 ac., see Volume 792 page 5, Deed Records, Fort Bend County, Texas), and Rose Fojtik Stavinotha and husband, Albert B. Stavinotha (33.89 ac., see Volume 792, page 8, Deed Records, Fort Bend County, Texas), said subject tracts being shown herein as EXHIBIT "A", attached hereto and made a part hereof for all purposes;

together with the free right to enter and depart over and across such property, insofar as such right to enter and depart, and maintain for road purposes, as necessary to the proper use of any other right granted herein, and upon the conditions herein contained, to the said Grantee hereinabove named.

The above-described land is by this instrument dedicated for the purpose of a street, as a public thoroughfare, and the maintenance thereof, and for no other purpose. Should the same ever be abandoned as a public thoroughfare, or used for some other purpose or purposes inconsistent with such purpose as a street or thoroughfare, the tracts, together with all right, title and interest, so defined herein, shall revert to and revert in the grantors herein, their heirs or assigns, as fully and completely as if this instrument had not been executed.

It is intended that no other right or interest in said tracts, other than right of ingress and egress, and maintenance thereof, is conveyed hereby, and grantors EXPRESSLY RESERVE, for themselves, their heirs and assigns, all oil, gas and other

minerals which might be produced and saved in, on, or under said lands, together with the right of ingress and egress for the production and transportation of same.

Dated this the 20th day of October, 1995.

Alex Fojtik Jr.  
Alex Fojtik, Jr.

Carolyn J. Fojtik  
Carolyn J. Fojtik

Rose Fojtik Stavinoha  
Rose Fojtik Stavinoha

Albert B. Stavinoha  
Albert B. Stavinoha

Albina Fojtik  
Albina Fojtik

THE STATE OF TEXAS §

COUNTY OF FORT BEND §

BEFORE ME, the undersigned authority, on this day personally appeared ALEX FOJTIK, JR. and wife, CAROLYN J. FOJTIK, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 20<sup>th</sup> day of October, 1995.

Marvin R. Kanak  
NOTARY PUBLIC IN AND FOR THE STATE  
OF TEXAS



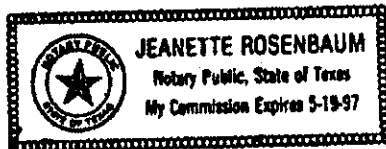
AS PER ORIGINAL

THE STATE OF TEXAS §

COUNTY OF FORT BEND §

BEFORE ME, the undersigned authority, on this day personally appeared ROSE FOJTIK STAVINOH, et vir, ALBERT B. STAVINOH, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 10th day of ~~October~~ November, 1995.



*Jeanette Rosenbaum*  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

THE STATE OF TEXAS §

COUNTY OF FORT BEND §

BEFORE ME, the undersigned authority, on this day personally appeared ALBINA FOJTIK, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 20<sup>th</sup> day of October, 1995.

*Marvin R. Kanak*  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS



AS PER ORIGINAL

AS PER ORIGINAL

EXHIBIT "A", page 2

**SCHMIDT-TURNER**  
& ASSOCIATES  
*Professional Land Surveyors*

11025 Roeeler Road  
Needville, Texas 77461

September 9, 1995  
Revised November 21, 1995

**30 FOOT ACCESS EASEMENT IN THE  
CHARLES A. BETTNER ¼ LEAGUE, ABSTRACT 11**

Being 0.745 acre (32,435 square feet) of land in the Charles A. Bettner ¼ League, Abstract 11 and being out of that certain 33.89 acre tract of land conveyed to Rose Fojtik Stavinoha and Albert B. Stavinoha by deed recorded in Volume 792, Page 8 of the Deed Records of Fort Bend County, Texas, said 0.745 acre being more particularly described by metes and bounds as follows:

BEGINNING at a found ½ inch iron rod at the southeast corner of said 33.89 acre tract and the southwest corner of that certain 33.89 acre tract conveyed to Alex Fojtik Jr. and wife Carolyn J. Fojtik by deed recorded in Volume 792, Page 5, of the Deed Records of Fort Bend County, Texas and being in the north right-of-way line of Pleasant Road;

THENCE South 45°03'01" West, along said right-of-way line and south line of said Stavinoha 33.89 acre tract, a distance of 30.00 feet to a point for corner;

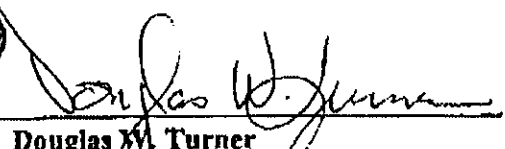
THENCE North 45°10'00" West, a distance of 1081.10 feet to a point for corner;

THENCE North 44°50'00" East, a distance of 30.00 feet to a point for corner in the common line of said 33.89 acre tracts;

THENCE South 45°10'00" East, along said common line, a distance of 1081.21 feet to the POINT OF BEGINNING and containing 0.745 acres (32,435 square feet) of land, more or less.

Compiled by:  
Schmidt-Turner & Associates  
Professional Land Surveyors



  
Douglas W. Turner  
Registered Professional Land Surveyor  
Texas Registration Number 3988



AS PER ORIGINAL

EXHIBIT "A", page 1

**SCHMIDT-TURNER**  
& ASSOCIATES  
Professional Land Surveyors

12026 Roesler Road  
Needville, Texas 77461

September 9, 1995  
Revised November 21, 1995

**30 FOOT ACCESS EASEMENT IN THE  
CHARLES A. BETTNER ¼ LEAGUE, ABSTRACT 11**

Being 0.659 acre (28,688 square feet) of land in the Charles A. Bettner ¼ League, Abstract 11 and being out of that certain 33.89 acre tract of land conveyed to Alex Fojtik Jr. and wife Carolyn J. Fojtik by deed recorded in Volume 792, Page 5 of the Deed Records of Fort Bend County, Texas, said 0.659 acre being more particularly described by metes and bounds as follows:

**BEGINNING** at a found ½ inch iron rod at the southwest corner of said 33.89 acre tract and the southeast corner of that certain 33.89 acre tract conveyed to Rose Fojtik Stavinoha and Albert B. Stavinoha by deed recorded in Volume 792, Page 8, of the Deed Records of Fort Bend County, Texas and being in the north right-of-way line of Pleasant Road;

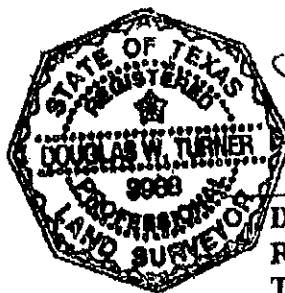
**THENCE** North 45°10'00" West, along the common line between said 33.89 acre tracts, a distance of 956.21 feet to a set ½ inch iron pipe for corner;

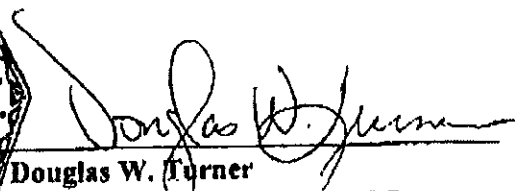
**THENCE** North 44°50'00" East, a distance of 30.00 feet to a point for corner;

**THENCE** South 45°10'00" East, a distance of 956.32 feet to a point for corner in the north right-of-way line of Pleasant Road;

**THENCE** South 45°03'01" West, along said right-of-way line, a distance of 30.00 feet to the **POINT OF BEGINNING** and containing 0.659 acre (28,688 square feet) of land, more or less.

Compiled by:  
Schmidt-Turner & Associates  
Professional Land Surveyors



  
Douglas W. Turner  
Registered Professional Land Surveyor  
Texas Registration Number 3988

Return: Carolyn Foytik  
15222 Hwy 36  
Needville TX. 77461-9272

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

*Dianne Wilson*

9-9-98 10:48 AM 9873439

TD \$17.00

DIANNE WILSON, County Clerk  
FORT BEND COUNTY, TEXAS

# EXHIBIT B

--CORRECTION--

RIGHT-OF-WAY EASEMENT GRANT

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

That we, ALEX FOJTIK, JR., and wife, CAROLYN J. FOJTIK, 15222 Hy. 36, Needville, Texas, being of Fort Bend County, Texas, and ROSE FOJTIK STAVINOKA et vir, ALBERT B. STAVINOKA both of Fort Bend County, Texas, and further joined herein by ALBINA FOJTIK, a widow, of Fort Bend County, Texas, a life estate holder in said real estate and interest hereby conveyed, in consideration of TEN & NO/100 (\$10.00) DOLLARS, together with other good and valuable considerations, the receipt of which is hereby acknowledged, have GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents do GRANT, SELL, AND CONVEY, to the public, as a right of way and public thoroughfare, together with the right to maintain a right-of-way for the purpose of ingress and egress across property lying and being situated in Fort Bend County, Texas, described as follows, to-wit:

two (2) tracts, each adjoining and being 30 feet wide each, and being in the Charles A. Bettner 1/4 League, Abstract 11, out of 67.78 acres owned by Alex Fojtik, Jr., and wife, Carolyn J. Fojtik (33.89 ac., see Volume 792 page 5, Deed Records, Fort Bend County, Texas), and Rose Fojtik Stavinocha and husband, Albert B. Stavinocha (33.89 ac., see Volume 792, page 8, Deed Records, Fort Bend County, Texas), said subject tracts being shown herein as EXHIBIT "A", attached hereto and made a part hereof for all purposes.

together with the free right to enter and depart over and across such property, insofar as such right to enter and depart, and maintain for road purposes, as necessary to the proper use of any other right granted herein, and upon the conditions herein contained, to the said Grantee hereinabove named.

The above-described land is by this instrument dedicated for the purpose of a Private drive, limited to land owners with land bordering on either side of the easement and is specifically not designated as a street, or as a public thoroughfare. Should the same ever be abandoned as a private drive, or used for some other purpose or purposes inconsistent with such purpose as a private driveway, the tracts, together with all right, title and interest, so defined herein, shall revert to and revert in the grantors herein, their heirs or assigns, as fully and completely as if this instrument had not been executed.

It is intended that no other right or interest in said tracts, other than right of ingress and egress, and maintenance thereof as a private driveway, is conveyed hereby, and grantors EXPRESSLY RESERVE, for themselves, their heirs and assigns, all

oil, gas and other minerals which might be produced and saved in, on, or under said lands, together with the right of ingress and egress for the production and transportation of same.

It is intended that this easement is given as a correction of that certain easement granted October 20, 1995, by the parties herein, under filed No. 9873439, Official Records, Fort Bend County, Texas, wherein the use of said real estate exceeded the use intended by the grantors herein, and was intended to be a private driveway rather than a public thoroughfare.

Dated this the 30th day of November, 1998.

Alex Fojtik, Jr.  
Alex Fojtik, Jr.

Carolyn J. Fojtik  
Carolyn J. Fojtik

Rose Fojtik Stavinoha  
Rose Fojtik Stavinoha

Albert B. Stavinoha  
Albert B. Stavinoha

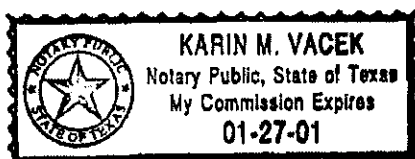
Albina Fojtik  
Albina Fojtik

THE STATE OF TEXAS §

COUNTY OF FORT BEND §

BEFORE ME, the undersigned authority, on this day personally appeared ALEX FOJTIK, JR. and wife, CAROLYN J. FOJTIK, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 28<sup>th</sup> day of December, 1998.



Karin M. Vacek  
NOTARY PUBLIC IN AND FOR THE STATE  
OF TEXAS

THE STATE OF TEXAS §

COUNTY OF FORT BEND §

BEFORE ME, the undersigned authority, on this day personally appeared ROSE FOJTIK STAVINOH, et vir, ALBERT B. STAVINOH, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 28<sup>th</sup> day of December, 1998.



Karin M. Vacek  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

THE STATE OF TEXAS §

COUNTY OF FORT BEND §

BEFORE ME, the undersigned authority, on this day personally appeared ALBINA FOJTIK, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 28<sup>th</sup> day of December, 1998.



Karin M. Vacek  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

Rat Carolyn Fojtik  
15222 Hwy 36  
Needville, Texas 77461-9272

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

*Dianne Wilson*

12-30-98 11:50 AM 98105812  
AG \$13.00  
DIANNE WILSON, County Clerk  
FORT BEND COUNTY, TEXAS

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

*Laura Richard*

Laura Richard, County Clerk  
Fort Bend County, Texas

June 08, 2017 02:42:13 PM

FEE: \$0.00 SB  
ABANDON

2017063075

