

## **SIDEWALK EASEMENT AGREEMENT**

THE STATE OF TEXAS           §  
COUNTY OF WILLIAMSON       §

This Sidewalk Easement Agreement ("Agreement") is made by and between **LOCKARD PFLUGERVILLE HOLDINGS, LLC**, an Iowa limited liability company (collectively, "Owners") and the **CITY OF PFLUGERVILLE, TEXAS**, a Texas home-rule municipality ("City"), and is as follows:

### **RECITALS**

A. Owners are the owners of certain real property located in Travis County, Texas, which is more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (the "Easement Tract");

B. Owners have agreed to grant City a non-exclusive easement and right-of-way upon, over, through and across the Easement Tract ("Easement"), subject to the terms, conditions and other matters set forth in this Agreement.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged and confessed, Owner hereby GRANTS, SELLS and CONVEYS, to City an access easement on, over, through and across the Easement Tract, subject to the reservations, terms and conditions of this Agreement and subject to any and all encumbrances and easements of record, to the extent the same are valid and enforceable. The Easement shall be subject to the following terms and provisions:

1. **Character of Easement.** The Easement is an easement in gross.
2. **Duration of Easement.** The Easement is perpetual.
3. **Exclusiveness of Easement.** The Easement is non-exclusive and City's use shall be in common with Owners and their successors and assigns. Owners hereby reserve, for themselves and their successors and assigns, the right to enter upon and use the surface of the Easement Tract, subsurface of the Easement Tract and the air space over the Easement Tract for the purposes of installing, constructing, repairing, maintaining, operating, replacing, upgrading and using (i) landscaping, irrigation sleeves and other irrigation facilities; (ii) any other improvements that are permitted under the City of Pflugerville Code of Ordinances to encroach into any setbacks or private easements; and (iii) for any other purposes that do not unreasonably interfere with the rights granted to City hereunder. Notwithstanding anything contained herein to the contrary, Owners shall not use the Easement Tract in any other manner or grant any easement on or across the Easement Tract that interferes in any material way, or is inconsistent with, the easements, rights, and privileges granted hereunder or the terms and conditions hereof.
4. **Purpose of Easement.** The Easement shall be used only for the purpose of pedestrian ingress and egress over and across the Easement Tract by Grantee and Grantee's licensees, employees, agents, invitees, members, and the general public.

5. **Repairs and Restoration.** In the event that City's operations and/or other activities on the Easement Tract result in any damage to or destruction of any improvements constructed or installed on the Easement Tract by Owners (or their successors and assigns), then City agrees to repair or replace, as necessary, at City's expense, any such improvements so damaged or destroyed. In the event that Owners' construction, repairs, operations and/or other activities on the Easement Tract result in any damage to or destruction of any improvements constructed or installed on the Easement Tract by City (or its successors and assigns), then Owners agree to repair or replace, as necessary, at Owners' expense, any such improvements so damaged or destroyed.

6. **Entire Agreement.** This Agreement contains the entire agreement between the parties relating to the rights granted. Any oral representations or modifications concerning this Agreement shall be of no force and effect except in a subsequent modification in writing, signed by the party to be charged.

7. **Assignment.** The Easement may be assigned by City, its successors or assigns, without the prior written consent of Owner as long as the proposed successor or assign is a governmental entity that expressly assumes City's obligations under this Agreement.

8. **Attorney's Fees.** In the event of any controversy, claim, or dispute relating to this Agreement or the breach, the prevailing party shall be entitled to recover from the non-prevailing party reasonable expenses, attorney's fees, and costs.

9. **Binding Effect.** This Agreement, and the terms, covenants, and conditions shall be covenants running with the Easement Tract and shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties.

10. **No Waiver.** Except for a written waiver signed by the party to be charged, any action or inaction by any party with respect to any provision of this Agreement, including, but not limited to, a party's failure to enforce any provision of this Agreement, shall not constitute a waiver of that provision or any other provision of this Agreement. Any waiver by any party of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement.

11. **Headings.** Any section headings in this Agreement are for reference only and shall not modify or affect the interpretation of this Agreement in any manner whatsoever.

[Signature Page to Follow]

IN WITNESS WHEREOF, this Agreement is executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date").

**OWNERS:**

Address:  
4501 Prairie Parkway  
Cedar Falls, Iowa 50613

LOCKARD PFLUGERVILLE HOLDINGS, LLC,  
an Iowa limited liability company

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

Robert L. Smith, Jr., Manager

STATE OF TEXAS *Iowa* §

COUNTY OF TRAVIS- §  
*Black Hawk*

This instrument was acknowledged before me on the *19<sup>th</sup>* day of December, 2014, by Robert J. Smith, Jr., Manager of Lockard Pflugerville Holdings, LLC, an Iowa limited liability company, on behalf of said limited company.



*Markita L. Peterson*  
Notary Public, State of Texas *Iowa*

Address:  
City of Pflugerville  
Attn: City Manager  
P.O. Box 589  
Pflugerville, Texas 78691

**CITY:**

**CITY OF PFLUGERVILLE, TEXAS,** a  
Texas home-rule municipality

By: \_\_\_\_\_  
Brandon Wade, City Manager

THE STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by  
Brandon Wade, City Manager of the City of Pflugerville, Texas, a Texas home-rule  
municipality, on behalf of said municipality.

\_\_\_\_\_  
Notary Public Signature

(seal)

After Recording Return To:

City of Pflugerville  
Attn: Karen Thompson, City Secretary  
P.O. Box 589  
Pflugerville, Texas 78691

**Legal Description**  
**Travis and Williamson Counties, Texas**

**Sidewalk Easement**  
**D&A Job No. 455-008**

**EXHIBIT "A"**

**DESCRIPTION OF A TRACT OF LAND CONTAINING 0.0065 ACRES (281 SQ. FT.) SITUATED IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 2, BLOCK A, GATTIS CROSSING, A SUBDIVISION IN TRAVIS AND WILLIAMSON COUNTIES, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED AS DOCUMENT NO. 200800079 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND RECORDED IN CABINET EE, SLIDES 228-229, OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 0.0065 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a ½-inch iron rod with "Doucet" cap found at the most northerly common corner of said Lot 2 and of Lot 7 of said Block A, said point being on the southerly right-of-way line of County Road #138, for the northeast corner and **POINT OF BEGINNING** hereof;

**THENCE**, along the common line of the westerly line of said Lot 7 and the easterly line of said Lot 2, S10°00'00"W, a distance of 9.97 feet to a calculated point;

**THENCE**, over and across said Lot 2, the following two (2) courses and distances:

1. N85°28'32"W, a distance of 21.03 feet to a calculated point;
2. N50°38'06"W, a distance of 17.10 feet to a calculated point on the southerly right-of-way line of County Road #138;

**THENCE**, along the common line of the southerly right-of-way line of County Road #138, and of the northerly line of said Lot 2, S85°43'37"E, a distance of 36.02 feet to the **POINT OF BEGINNING**, and containing 0.0065 acres of land, more or less



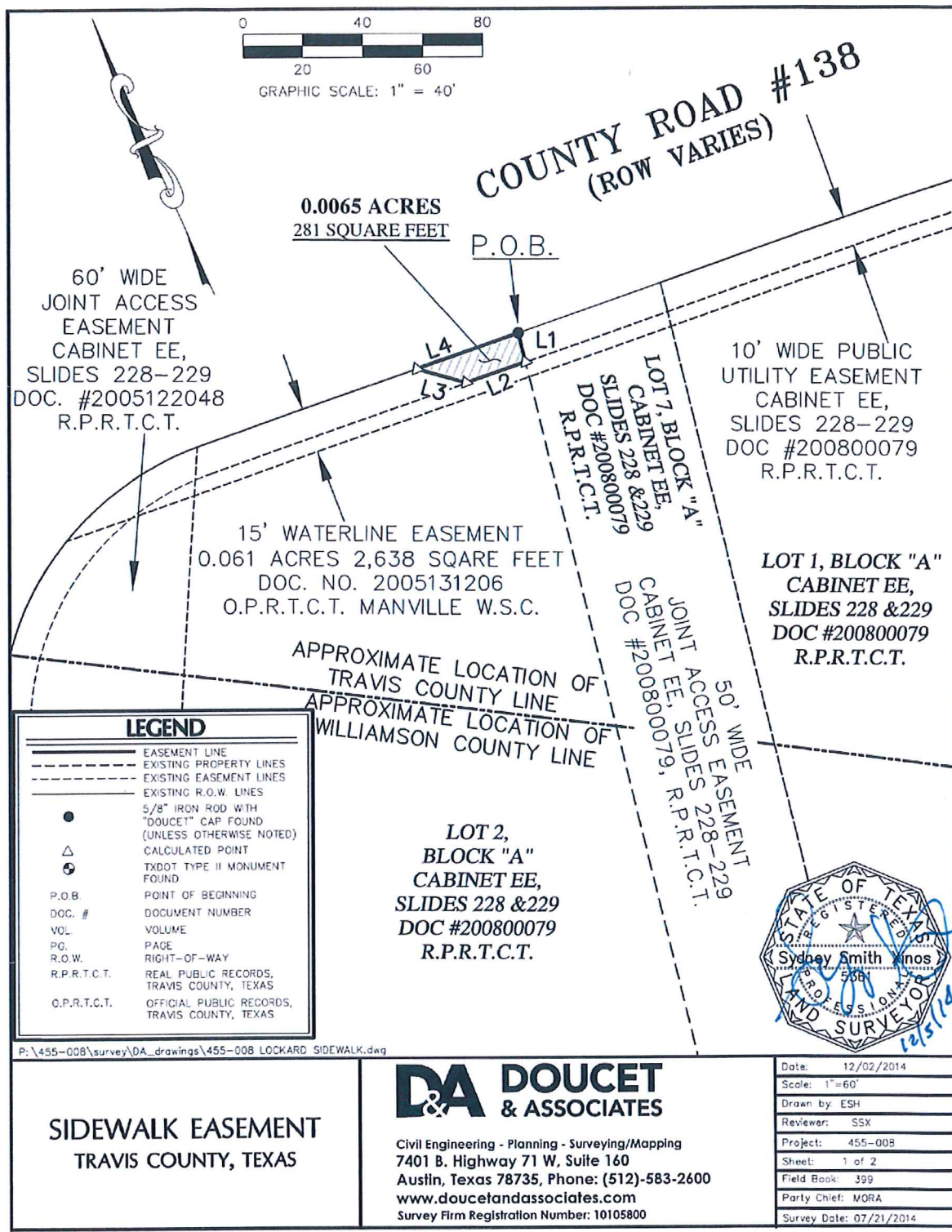
Sydney Smith Xinos, R.P.L.S.  
Texas Registration No. 5361  
Doucet & Associates Inc.,  
7401 B Hwy. 71 West, Suite 160  
Austin, Texas 78735  
Firm Registration No. 10105800

Date

12/5/14







**SURVEY CONTROL:**

TEXAS COORDINATE SYSTEM 1983

(CENTRAL ZONE-4203)

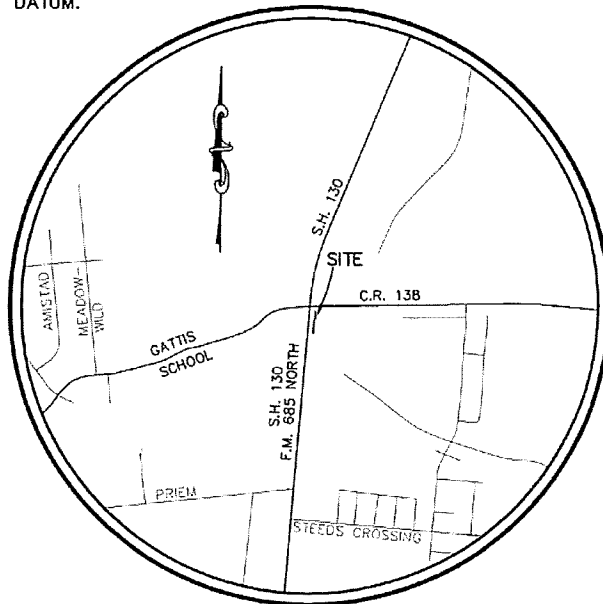
NAD 83. (CORS) U.S. SURVEY FEET

GEIODE MODEL G03U03

COMBINED SCALE FACTOR 0.999919671995

PROJECT CONTROL POINTS WERE ESTABLISHED USING  
THE LEICA DATA SYSTEM COOP NETWORK.**VERTICAL DATUM:**THE VERTICAL DATUM FOR DOUCET AND ASSOC.  
CONTROL POINT #1 WAS ESTABLISHED USING WESTERN  
DATA SYSTEM COOP NETWORK. NAVD'88 VERTICAL  
DATUM.**LINE TABLE**

NO.	BEARING	LENGTH
L1	S10°00'00"W	9.97'
L2	N85°28'32"W	21.03'
L3	N50°38'06"W	17.10'
L4	S85°43'37"E	36.02'

**VICINITY MAP**

NOT TO SCALE

P: \\455-008\\survey\\DA\_drawings\\455-008 LOCKARD SIDEWALK.dwg

**SIDEWALK EASEMENT  
TRAVIS COUNTY, TEXAS**Civil Engineering - Planning - Surveying/Mapping  
7401 B. Highway 71 W, Suite 160  
Austin, Texas 78735, Phone: (512)-583-2600  
[www.doucetandassociates.com](http://www.doucetandassociates.com)  
Survey Firm Registration Number: 10105800

Date: 12/02/2014

Scale: 1"=60'

Drawn by: ESH

Reviewer: SSX

Project: 455-008

Sheet: 2 of 2

Field Book: 399

Party Chief: JM

Survey Date: 07/21/2014