

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

PUBLIC ACCESS EASEMENT AGREEMENT

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This Access Easement Agreement (“Agreement”) is made by and between Property Owners of Spring Trails Pflugerville Assoc, Inc. (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 vehicular and 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.

IN WITNESS WHEREOF, this Agreement is executed this _____ day of _____, 2013 (the "Effective Date").

GRANTOR:

Roger Arriaga
Roger Arriaga
Spring Trails HOA, President

AGREED AND ACCEPTED:

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

By: _____
Brandon Wade, City Manager

ATTEST:

Karen Thompson, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF Brewster §

This instrument was acknowledged before me on March 22nd, 2013, by
Roger Arriaga, an individual residing in Travis County, Texas.

Laurie Lee Lara

Notary Public Signature

(seal)



THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2013, 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

FIELD NOTES

BEING ALL OF THAT CERTAIN TRACT OF LAND OUT OF THE JOHN VAN WINKLE SURVEY NUMBER 70, ABSTRACT 787, BEING MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF LOT 41, BLOCK 'N', SPRING TRAILS PHASE 1-B A SUBDIVISION RECORDED IN DOCUMENT NUMBER 200700171 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.095 ACRE (4,129 SQ. FT.) TRACT OF LAND BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at an iron rod found at northeasternmost corner of Lot 1, Block N, said Spring Trails Phase 1-B common to northwesternmost corner of said Lot 41, Block N, also being in the southern line of a 28.8207 acre tract conveyed to KB Home Lone Star L.P., in Document No. 2007226228, Official Public Records of Travis County, Texas, for the **POINT OF COMMENCEMENT** of the herein described tract,

THENCE, leaving the southern boundary line of said 28.8207 acre tract and with the common boundary line of said Lot 41 and said Lot 1, S51°28'11"W, a distance of 4.68 to a calculated point at a point of curvature for the northernmost corner and **POINT OF BEGINNING** of the herein described tract,

THENCE, leaving the common boundary line of said Lot 41 and said Lot 1 and crossing Lot 41 the following four (4) courses and distances, numbered 1 through 4

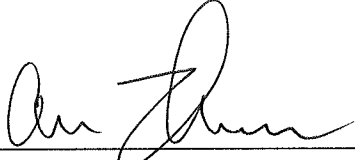
1. With said curve to the right having a radius of 63.50 feet, an arc length of 84.60 feet, and whose chord bears S39°27'32"E, a distance of 78.48 feet to a calculated point,
2. S01°17'31"E, a distance of 138.61 feet to a calculated point at a point of curvature to the right,
3. With said curve to the right having a radius of 57.50 feet, an arc length of 27.58 feet, and whose chord bears S12°26'52"W, a distance of 27.31 feet to a calculated point at a point of curvature to the left, and
4. With said curve to the left having a radius of 42.50 feet, an arc length of 39.36 feet, and whose chord bears S00°20'31"E, a distance of 37.97 feet to a calculated point in the northeastern line of said Lot 1,

THENCE, with the common boundary line of said Lot 1 and said Lot 41, N46°34'31"W, a distance of 26.97 feet to a calculated point at a point of curvature to the right, from which a ½" iron rod found at an angle point in the common boundary line of said lots, bears N46°34'31"W, a distance of 61.45 feet.

THENCE, leaving the common boundary line of said Lot 41 and said Lot 1 and crossing Lot 41 the following five (5) courses and distances, numbered 1 through 5,

1. With said curve to the right having a radius of 57.50 feet, an arc length of 26.95 feet, and whose chord bears N12°45'31"E, a distance of 26.71 feet to a calculated point at a point of curvature to the left,
2. With said curve to the left having a radius of 42.50 feet, an arc length of 20.38 feet, and whose chord bears N12°26'52"E, a distance of 20.19 feet to a calculated point,
3. N01°17'31"W, a distance of 138.61 feet to a calculated point at a point of curvature to the left,
4. With said curve to the left having a radius of 48.50 feet, an arc length of 66.00 feet, and whose chord bears N40°16'31"W, a distance of 61.02 feet to a calculated point at a point of curvature to the left, and
5. With said curve to the left having a radius of 673.50 feet, an arc length of 11.01 feet, and whose chord bears N78°47'26"W, a distance of 11.01 feet to a calculated point in the common boundary line of said Lot 41 and said Lot 1,

THENCE, with the common boundary line of said Lot 41 and said Lot 1, N51°28'11"E, a distance of 19.64 feet to the **POINT OF BEGINNING** and containing 0.095 acre (4,129 Sq. Ft.) of land

Surveyed by:  29 Mar 2013
AARON V. THOMASON, R.P.L.S. NO. 6214
Carlson, Brigrance and Doering, Inc.
5501 West William Cannon
Austin, TX 78749
Ph: 512-280-5160 Fax: 512-280-5165
aaron@cbdeng.com



BEARING BASIS: TEXAS COORDINATE SYSTEM CENTRAL ZONE (4203)

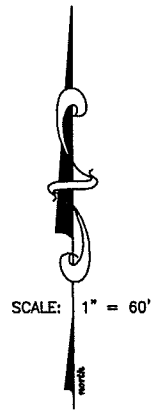
EXHIBIT "A" EASEMENT TRACT

KB HOME LONE STAR L.P.
26.8207 ACRES
DOC. NO.
2007226228

LOT 41 2.080 ACRES
PARK LOT
SPRING TRAILS PHASE 1-B
DOC. # 200700171

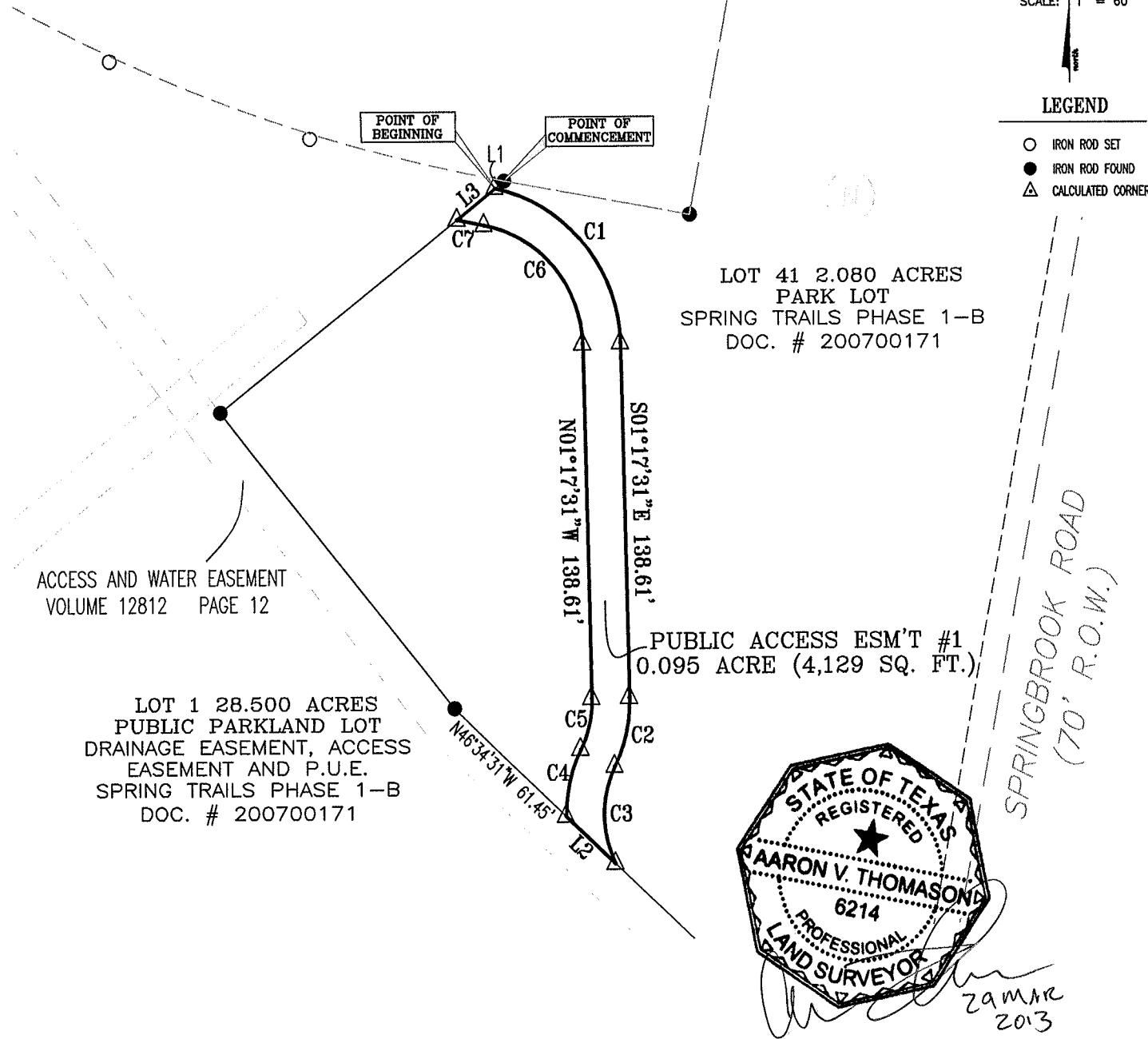
ACCESS AND WATER EASEMENT
VOLUME 12812 PAGE 12

LOT 1 28.500 ACRES
PUBLIC PARKLAND LOT
DRAINAGE EASEMENT, ACCESS
EASEMENT AND P.U.E.
SPRING TRAILS PHASE 1-B
DOC. # 200700171



LEGEND

- IRON ROD SET
- IRON ROD FOUND
- △ CALCULATED CORNER



CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	CHORD BEARING	TANGENT
C1	63.50'	84.60'	78.48'	N39°27'32"W	49.91
C2	57.50'	27.58'	27.31'	S12°26'52"W	14.06
C3	42.50'	39.36'	37.97'	S00°20'31"E	21.22
C4	57.50'	26.95'	26.71'	S12°45'31"W	13.73
C5	42.50'	20.38'	20.19'	N12°26'52"E	10.39
C6	48.50'	66.00'	61.02'	N40°16'31"W	39.25
C7	673.50'	11.01'	11.01'	N78°47'26"W	5.50

LINE TABLE		
LINE	LENGTH	BEARING
L1	4.68	S51°28'11"W
L2	26.97	N46°34'31"W
L3	19.64	N51°28'11"E

BEARING BASIS: TEXAS COORDINATE SYSTEM CENTRAL ZONE (4203)

Carlson, Brigrance & Doering, Inc.

Civil Engineering Surveying
5501 West William Cannon Drive Austin, Texas 78749
Phone No. (512) 280-5160 Fax No. (512) 280-5165

FIELD NOTES

BEING ALL OF THAT CERTAIN TRACT OF LAND OUT OF THE JOHN VAN WINKLE SURVEY NUMBER 70, ABSTRACT 787, BEING MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF LOT 41, BLOCK 'N', SPRING TRAILS PHASE 1-B, A SUBDIVISION RECORDED IN DOCUMENT NUMBER 200700171, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.006 (273 SQ. FT.) ACRE TRACT OF LAND BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at an iron rod found at a point of curvature in the western right-of-way of Springbrook Road (70' R.O.W.), also being in the eastern boundary line of said Lot 41 for the **POINT OF COMMENCEMENT** of the herein described tract,

THENCE, with the common line of said Springbrook Road and said Lot 41, the following two (2) courses and distances, numbered 1 and 2

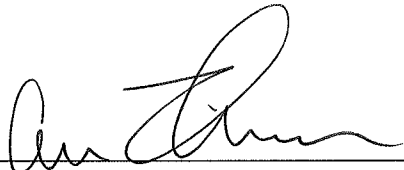
1. With said curve to the right having a radius of 465.00 feet, an arc length of 57.05 feet, and whose chord bears S11°44'27"W, a distance of 57.01 feet to a calculated point of curvature to the right for the easternmost corner and **POINT OF BEGINNING** of the herein described tract, and
2. With said curve to the right having a radius of 465.00 feet, an arc length of 15.00 feet, and whose chord bears S16°10'46"W, a distance of 15.00 feet to a calculated point, from which an iron rod found at the southernmost corner of said Lot 41, common to the easternmost corner of said Lot 1, bears with said curve to the right having a radius of 465.00 feet, an arc length of 1.87 feet and whose chord bears S17°13'08"W, a distance of 1.87 feet,

THENCE, leaving the common line of said Springbrook Road and said Lot 41 and crossing into Lot 41, N73°54'31"W, a distance of 3.65 feet to a calculated point in the common boundary line of said Lot 41 and said Lot 1,

THENCE, with the common boundary line of said Lot 41 and said Lot 1, N46°34'31"W, a distance of 32.67 feet to a calculated point,

THENCE, leaving the common boundary line of said Lot 41 and said Lot 1 and crossing into Lot 41, S73°54'31"E, a distance of 32.70 feet to the **POINT OF BEGINNING** and containing 0.006 acre (273 Sq. Ft.) of land

Surveyed by: _____

 29 Mar 2013

AARON V. THOMASON, R.P.L.S. NO. 6214

Carlson, Brigance and Doering, Inc.

5501 West William Cannon

Austin, TX 78749

Ph: 512-280-5160

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BEARING BASIS: TEXAS COORDINATE SYSTEM CENTRAL ZONE (4203)

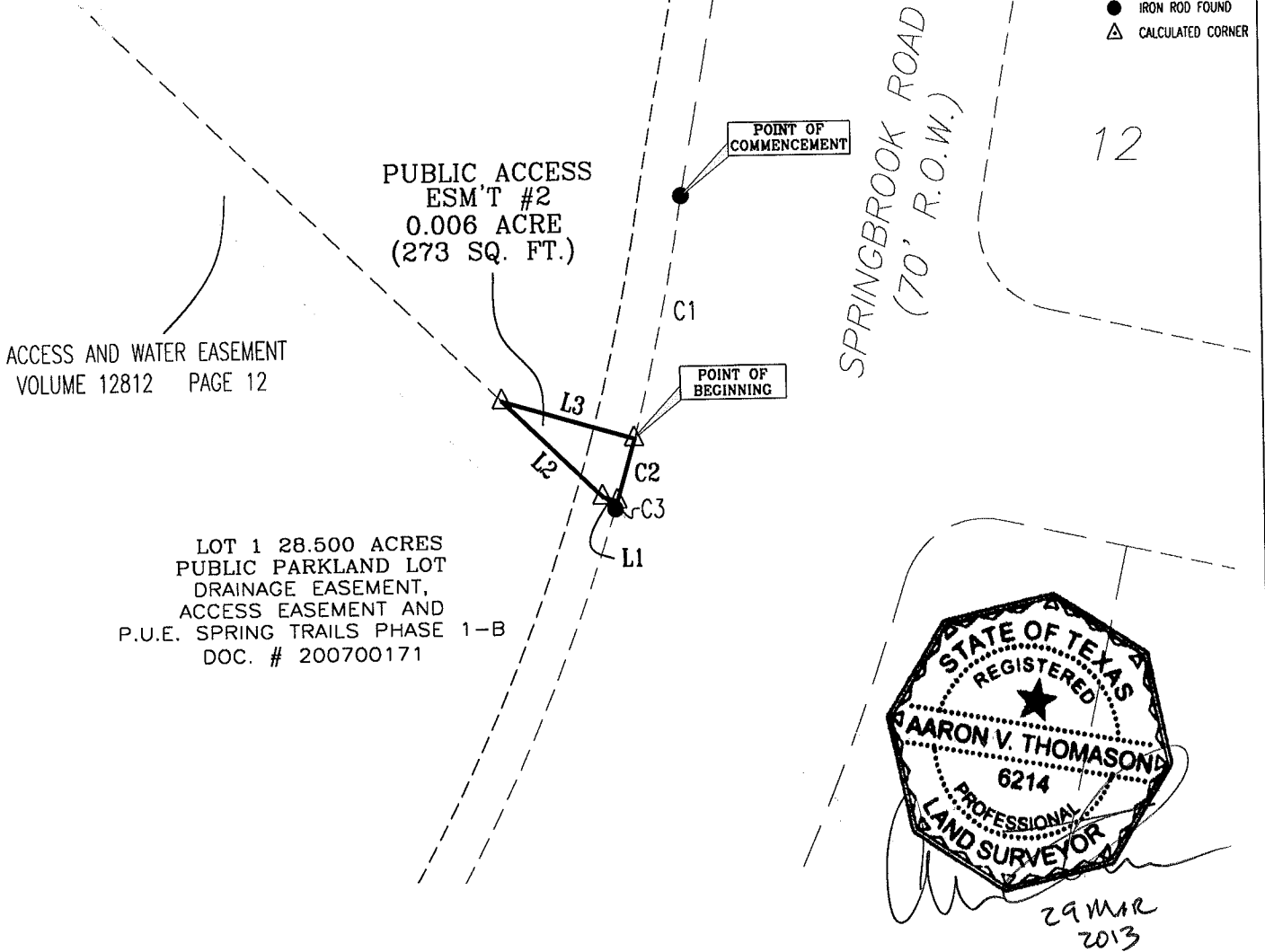
EXHIBIT "A" EASEMENT TRACT

(N)
LOT 41 2.080 ACRES
PARK LOT
SPRING TRAILS PHASE 1-B
DOC. # 200700171

SCALE: 1" = 40'

LEGEND

- IRON ROD SET
- IRON ROD FOUND
- △ CALCULATED CORNER



CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	CHORD BEARING	TANGENT
C1	465.00'	57.05'	57.01'	S11°44'27"W	28.56
C2	465.00'	15.00'	15.00'	S16°10'46"W	7.50
C3	465.00'	1.87'	1.87'	S17°13'08"W	0.93

LINE TABLE		
LINE	LENGTH	BEARING
L1	3.65	N73°54'31"W
L2	32.67	N46°34'31"W
L3	32.70	S73°54'31"E

BEARING BASIS: TEXAS COORDINATE SYSTEM CENTRAL ZONE (4203)

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