

SIDEWALK EASEMENT AGREEMENT

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This Sidewalk Easement Agreement (“Agreement”) is made by and between **Pflugerville Community Church** (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.

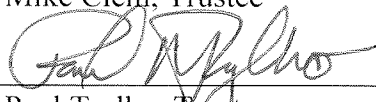
IN WITNESS WHEREOF, this Agreement is executed this 21 day of February, 2012 (the "Effective Date").

Address:
Pflugerville Community Church
1214 Pfennig Lane
Pflugerville, Texas 78660

OWNERS:

Pflugerville Community Church, a Texas
non-profit corporation

By: 
Mike Clem, Trustee

By: 
Paul Trylko, Trustee

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

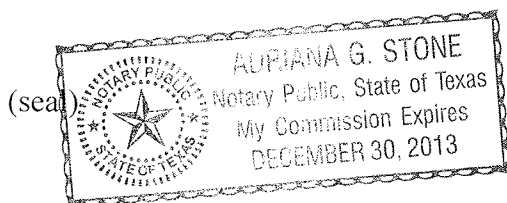
CITY:

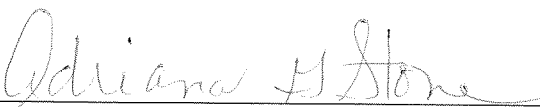
CITY OF PFLUGERVILLE, TEXAS, a
Texas home-rule municipality

By: _____
Brandon Wade, City Manager

THE STATE OF TEXAS §
 §
COUNTY OF Texas §

This instrument was acknowledged before me on February 21, 2012, by
Mike Clem, Trustee of Pflugerville Community Church, Pflugerville, Texas, on behalf of said
Corporation

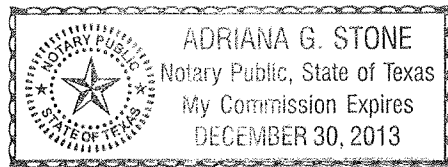



Notary Public Signature

THE STATE OF TEXAS §
 §
COUNTY OF Tarrant §

This instrument was acknowledged before me on February 22, 2012, by Paul Trylko, Trustee of Pflugerville Community Church, Pflugerville, Texas, on behalf of said Corporation.

(seal)



Adriana G. Stone
Notary Public Signature

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2012, by Brandon Wade, City Manager of the City of Pflugerville, Texas, a Texas home-rule municipality, on behalf of said municipality.

(seal)

Notary Public Signature

After Recording Return To:

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

EXHIBIT "A"

Variable Width Sidewalk Easement

METES AND BOUNDS DESCRIPTION OF A
0.056 ACRE TRACT OF LAND OUT OF THE
PFLUGERVILLE COMMUNITY CHURCH TRACT
LOCATED IN TRAVIS COUNTY, TEXAS

BEING A 0.056 ACRE (2,425 SQUARE FOOT) TRACT OF LAND SITUATED IN THE THOMAS G. STUART SURVEY, ABSTRACT NO. 689, TRAVIS COUNTY, TEXAS; SAID 0.056 ACRE TRACT BEING A PART OF LOT 1, BLOCK A, NORTH PFLUGERVILLE ESTATES SUBDIVISION, FILED ON JANUARY 14, 2000, AND RECORDED IN DOCUMENT NO. 200000013 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.); SAID LOT 1 BEING THE SAME TRACT OF LAND DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN TO PFLUGERVILLE COMMUNITY CHURCH, FILED ON JANUARY 24, 2000, AND RECORDED IN DOCUMENT NO. 2000010393, O.P.R.T.C.T.; SAID 0.056 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod set with orange plastic cap stamped "Wallace Group" (hereafter referred to as "Wallace cap") for the northernmost corner of said Lot 1 and the herein described tract, same being the northernmost corner of said 5.965 acre tract, said point also being on the southwest right-of-way (R.O.W.) line of Pflugerville Parkway (having a variable width);

THENCE, with the common southwest R.O.W. line of said Pflugerville Parkway and the northeast line of said Lot 1, same being the northeast line of said 5.965 acre tract, by course 1 as follows:

- 1) **South 60° 14' 00" East**, at a distance of 185.08 feet passing a 1/2 inch iron rod found with orange plastic collar stamped "Carson Bush Professional Surveyors 1904 Fortview Rd, Austin, TX", continuing in all a total distance of **391.72 feet** to a 1/2 inch iron rod set with "Wallace Group" for the easternmost corner of said Lot 1 and the herein described tract, same being the easternmost corner of said 5.965 acre tract;

THENCE, departing the southwest R.O.W. line of said Pflugerville Parkway and with the southeast line of said Lot 1, same being the southeast line of said 5.965 acre tract, by course 2 as follows:

- 2) **South 30° 01' 03" West**, a distance of **18.22 feet** to a calculated point for the southernmost corner of the herein described tract;

Exhibit "A" continued
Description of a 0.056 acre tract

THENCE, departing the southeast line of said Lot 1, and traveling across the interior of said Lot 1, same being the interior of said 5.965 acre tract, by courses 3 and 4 as follows:

- 3) **North 15° 14' 01" West**, a distance of **17.29 feet** to a calculated point for an interior corner of the herein described tract;
- 4) **North 60° 14' 01" West**, with a line 6 feet south of and parallel with the common southwest R.O.W. line of said Pflugerville Parkway and the northeast line of said Lot 1, same being the northeast line of said 5.965 acre tract, a distance of **379.44 feet** to a calculated point for the westernmost corner of the herein described tract, said point being on the northwest line of said Lot 1, same being the northwest line of said 5.965 acre tract;

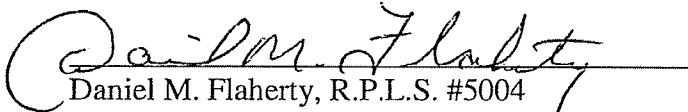
THENCE, with the northwest line of said Lot 1, same being the northwest line of said 5.965 acre tract, by course 5 as follows:

- 5) **North 30° 01' 03" East**, a distance of **6.00 feet** to the **POINT OF BEGINNING** of the herein described tract, delineating and encompassing within the metes recited 0.056 acre (2,425 square feet) of land, more or less, based on the survey and exhibit drawing made by The Wallace Group, Inc. in January of 2012.

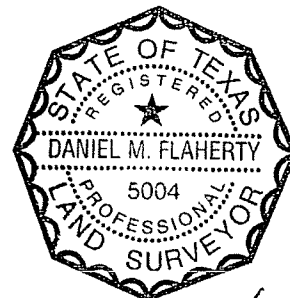
Basis of Bearings: Bearings are based on the northwest line of North Pflugerville Estates Subdivision, a subdivision in Travis County, Texas, according to the plat recorded in Document No. 200000013, Official Public Records of Travis County, Texas.

An easement exhibit drawing of even survey date herewith accompanies this metes and bounds description.

I, Daniel M. Flaherty, Registered Professional Land Surveyor No. 5004, State of Texas, do hereby certify that the above description and exhibit drawing A-4484 attached hereto is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.


Daniel M. Flaherty, R.P.L.S. #5004
The Wallace Group, Inc.

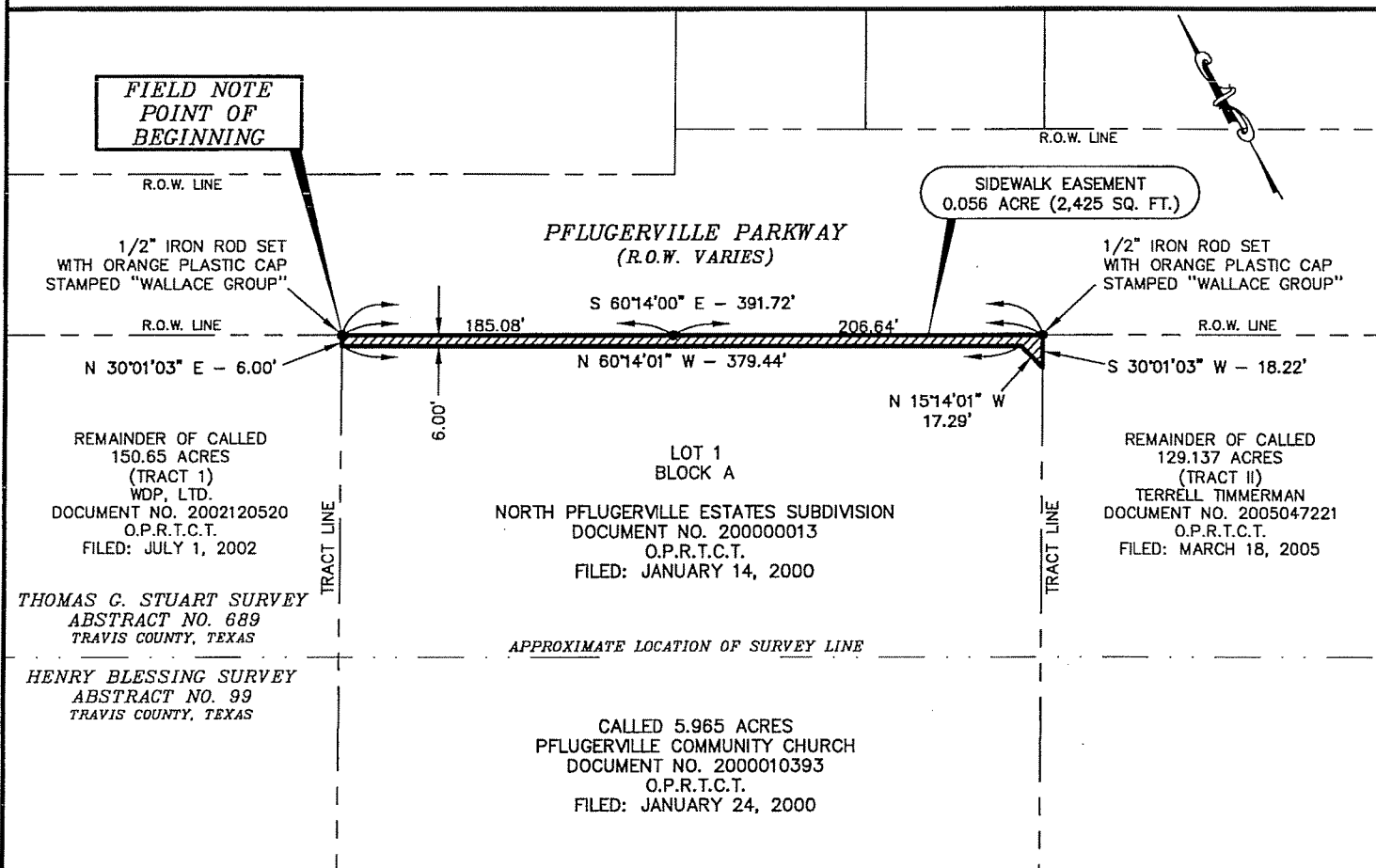
One Chisholm Trail, Suite 130
Round Rock, Texas 78681
Ph. (512) 248-0065
Work Order No. 22531
See attached Plat No. A-4484
22531-FN01.doc



02/03/12

EXHIBIT "A"

**DRAWING TO ACCOMPANY METES AND BOUNDS DESCRIPTION OF A
VARIABLE WIDTH (0.056 ACRE) SIDEWALK EASEMENT
LOCATED IN THE THOMAS G. STUART SURVEY, ABSTRACT NO. 689
AND BEING PART OF LOT 1, BLOCK A, NORTH PFLUGERVILLE ESTATES SUBDIVISION
RECORDED IN DOCUMENT NO. 200000013 OF THE
OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS**



GENERAL NOTES:

- 1.) ALL PROPERTY CORNERS FOUND ARE CONTROL MONUMENTS.
- 2.) SUBJECT TO ANY AND ALL COVENANTS, RESTRICTIONS, EASEMENTS AND CONDITIONS THAT MAY BE APPLICABLE.
- 3.) THE SURVEYOR DID NOT ABSTRACT THE SUBJECT TRACT.
- 4.) THIS DRAWING IS ACCOMPANIED BY A METES AND BOUNDS DESCRIPTION.
- 5.) BEARINGS SHOWN HEREON ARE REFERENCED TO THE NORTHWEST LINE OF NORTH PFLUGERVILLE ESTATES SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN DOCUMENT NO. 200000013, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

LEGEND

- = 1/2" IRON ROD FOUND WITH ORANGE PLASTIC COLLAR STAMPED "CARSON BUSH PROFESSIONAL SURVEYORS 1904 FORTVIEW RD, AUSTIN, TX" (UNLESS OTHERWISE NOTED)

O.P.R.T.C.T. = OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS



The Wallace Group, Inc.

One Chisholm Trail, Suite 130, Round Rock, Texas 78681 (512) 248-0065
Engineers ■ Architects ■ Planners ■ Surveyors
Waco * Killeen * Dallas * Round Rock

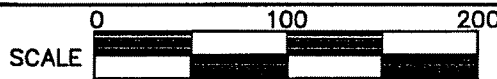


I HEREBY STATE THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF THAT THIS PLAT AND THE SURVEY UPON WHICH IT IS BASED MEETS THE REQUIREMENTS FOR LAND SURVEYS IN THE STATE OF TEXAS. THIS THE 3RD DAY OF FEBRUARY, 2012.

SURVEYED: 11-30-2011

DANIEL M. FLAHERTY, RPLS NO. 5004

3 OF 3



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PLAT NO. A-4484

DRAFT DATE 02-03-2012

DRAWN BY TAB

WORK ORDER NO. 22531

FIELDBOOK/PG. 158/61

TAB # A-4484

DIGITAL FILE 22531R-ESMT

F/N # 22531-FN01