

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY 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 Public Access Easement Agreement (“Agreement”) is made by and between **TERRABROOK FALCON POINTE, LLC**, a Delaware limited liability company (“Owner”) and the **CITY OF PFLUGERVILLE, TEXAS**, a Texas home-rule municipality (“City”), and is as follows:

RECITALS

A. Owner is the owner of certain real property located in Travis County, Texas, which is more particularly described on Exhibit “A” and Exhibit “B”, attached hereto and incorporated herein by reference (the “Easement Tracts”);

B. Owner has agreed to grant City a non-exclusive easement and right-of-way upon, over, through and across the Easement Tracts (“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 Tracts, 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 Owner and its successors and assigns. Owner hereby reserves, for itself and its successors and assigns, the right to enter upon and use the surface of the Easement Tracts, subsurface of the Easement Tracts and the air space over the Easement Tracts for the purposes of installing, constructing, repairing, maintaining, operating, replacing, upgrading and using (i) landscaping, irrigation sleeves and other irrigation facilities; and (ii) any other improvements that are permitted under the City of Pflugerville Code of Ordinances to encroach into any setbacks or private easements. It is acknowledged that Owner, or its successors and assigns, may need to

grant additional public or private easements across the Easement Tracts to provide access to and from and/or to bring utility services to the property adjacent to the Easement Tracts, and that such access and/or utility service are critical to the development, use and enjoyment of such adjacent property. Grantor agrees, however, that the plans for the construction of any improvements or utility lines on or under the Easement Tracts shall be subject to the prior approval of Grantee, which approval shall not be unreasonably conditioned, withheld or delayed so long as such proposed improvements or lines do not cause any damage to the sidewalk improvements located on the Easement Tracts and the plans comply with applicable codes and construction standards. Owner shall not otherwise use the Easement Tracts in any other manner or otherwise grant any easement on or across the Easement Tracts 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 Tracts 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 Tracts result in any damage to or destruction of any subsurface improvements constructed or installed on the Easement Tracts by Owner (or its 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 Owner's construction, repairs, operations and/or other activities on the Easement Tracts result in any damage to or destruction of any improvements constructed or installed on the Easement Tracts by City (or its successors and assigns), then Owners agree to repair or replace, as necessary, at Owner's 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 Tracts and shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties.

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on July, 2014, 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: Brandon E. Wade, City Manager
P.O. Box 589
Pflugerville, Texas 78691

EXHIBIT A

**0.4691 OF ONE ACRE OF LAND
SIDEWALK EASEMENT OUT OF
THE JOHN DAVIS SURVEY, ABSTRACT 13
CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS**

Being a 0.4691 Acres or (20,433 Square Feet) of land in the John Davis Survey, Abstract 13, City of Pflugerville, Travis County, Texas, being out of a Remainder of a called 149.99 acre tract of record conveyed to Terrabrook Falcon Pointe, L.P. as recorded in TRV 200105424, of the Official Public Records of Travis County, Texas (O.P.R.T.C.T.) and being more particularly described by Meets and Bounds as follows with all bearings referenced to Falcon Pointe-South Tract Major Facilities, Final Plat as Recorded in Document Number 201300218 (O.P.R.T.C.T.), with all distances scaled to surface:

POINT OF COMMENCING, Being, a 1/2- inch iron rod with "McKIM & CREED" cap found for the Southwest curve return of Lot 1 Block "C" Open Space and Right-of-Way Reserve of said Falcon Pointe-South Tract Major Facilities, Final Plat,

THENCE, North 60°28'09" West, a distance of 15.99 feet, to the **POINT OF BEGINNING**;

THENCE, North 60°28'09" West, a distance of 508.45 feet, to a 1/2- inch iron rod with "McKIM & CREED" cap found for the Northwest corner of said Lot 1 Block "C" Open Space and Right-of-Way Reserve of said Falcon Pointe-South Tract Major Facilities, Final Plat, same being a point in the east line of a called 6.963 acre tract (Parcel 162, I-130 Project) as Recorded in Document Number 2004239501 of the (O.P.R.T.C.T.), from which a 1/2- inch iron rod with "TXDOT aluminum cap " Bears: South 29°44'08" West, a distance of 40.00 feet;

THENCE, North 29°44'08" East, along the east line of said Parcel 162, a distance of 12.94 feet to a 1/2- inch iron rod with "TXDOT aluminum cap found for an angle of said Falcon Pointe-South Tract Major Facilities, Final Plat;

THENCE, North 58°08'09" West, generally along a fence line, along the north line of said Parcel 162, a distance of 740.97 feet to a 1/2- inch iron rod with "TXDOT aluminum cap found for an angle point for the easterly Right-of-Way of the main portion of said I-130 Project;

THENCE, North 03°50'53" West, a distance of 2.36 feet to a point in the east Right-of-Way line of said Parcel 162;

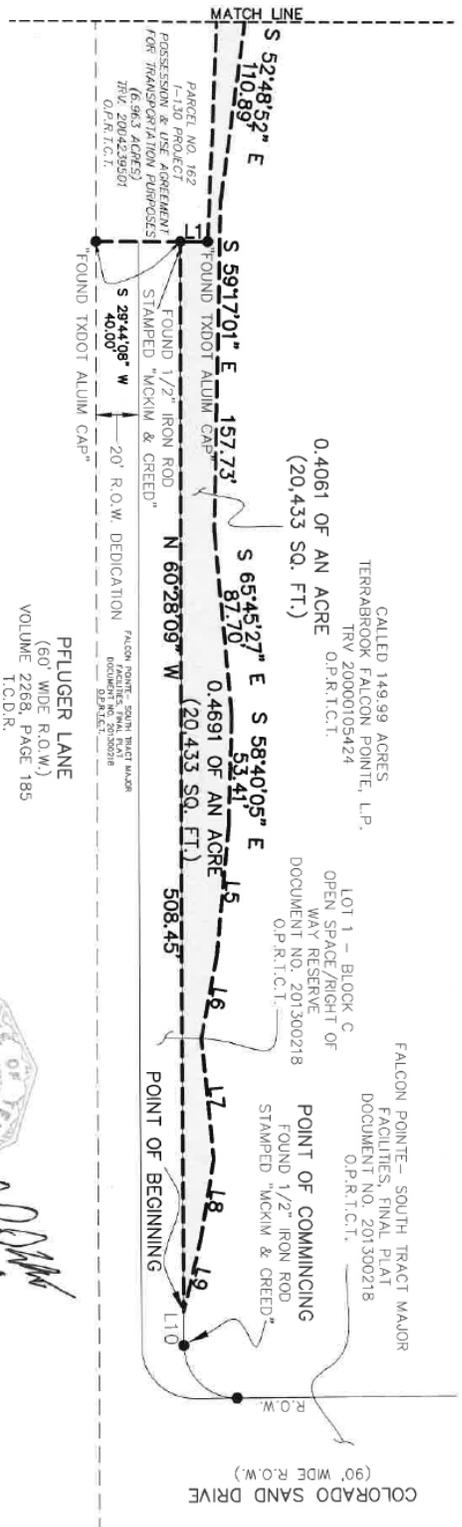
THENCE, departing said east Right-of-Way line and over and across said 149.99 Acre Terrabrook tract the following sixteen (16) courses:

1. South 60°08'03" East, a distance of 11.57 feet to a point of curvature to the Left;

2. 21.49 feet along the arc of said curve to the Left, having a Radius of 53.00 feet, a Central angle of 23°13'59", a Chord bearing of South 71°45'03" East, a distance of 21.34 feet to a point of reverse curvature to the Right;
3. 109.16 feet along the arc of said curve to the Right having a Radius of 157.00 feet, a Central angle of 39°50'17", a Chord bearing of South 63°26'54" East, a distance of 106.98 feet to a point of reverse curvature to the Left;
4. 169.31 feet along the arc of said curve to the Left having a Radius of 338.00 feet, a Central angle of 28°42'00", a Chord bearing of South 57°52'45" East, a distance of 167.54 feet to a point of reverse curvature to the Right;
5. 207.42 feet along the arc of said curve to the Right having a Radius of 475.00 feet, a Central angle of 26°00'18", a Chord bearing of South 59°13'36" East, a distance of 205.74 feet to a point;
6. South 54°29'41" East, a distance of 74.03 feet to an angle point;
7. South 57°54'27" East, a distance of 26.02 feet to an angle point;
8. South 52°48'52" East, a distance of 110.89 feet to an angle point;
9. South 59°17'01" East, a distance of 157.73 feet to an angle point;
10. South 65°45'27" East, a distance of 87.70 feet to an angle point;
11. South 58°40'05" East, a distance of 53.41 feet to an angle point;
12. South 55°05'47" East, a distance of 61.84 feet to an angle point;
13. South 49°38'37" East, a distance of 39.31 feet to an angle point;
14. South 66°00'12" East, a distance of 58.05 feet to an angle point;
15. South 50°56'43" East, a distance of 39.47 feet to an angle point;
16. South 46°38'14" East, a distance of 33.92 feet, to the **POINT OF BEGINNING** containing a computed area of 0.4691 of an acre land or 20,433 Square feet of land, more or less.


 Darrell D. White
 Registered Professional Land Surveyor
 Texas Registration Number 4816

Date: 7-29-14



CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	LENGTH
C1	21.49'	53.00'	231.359°	S 71°45'03" E	21.34'
C2	109.16'	157.00'	39°50'17"	S 63°26'54" E	106.98'
C3	189.31'	338.00'	28°42'00"	S 57°52'45" E	187.54'
C4	207.42'	457.00'	26°00'18"	S 59°13'36" E	205.64'

LINE	LENGTH	BEARING
L1	12.94'	N 29°44'08" E
L2	2.36'	S 03°50'53" E
L3	11.57'	S 60°08'03" E
L4	26.02'	S 57°54'27" E
L5	61.84'	S 55°05'47" E
L6	39.31'	S 49°38'37" E
L7	58.05'	S 66°00'12" E
L8	39.47'	S 50°56'43" E
L9	33.92'	S 46°38'14" E
L10	15.99'	N 60°28'09" W

NOTES:
 1. BEARING BASIS: FALCON POINTE-SOUTH MAJOR FACILITIES, FINAL PLAT, WITH ALL DISTANCES SCALED TO SURFACE.
 2. THIS BOUNDARY MAP EXHIBIT IS ACCOMPANIED BY A NARRATIVE METES AND BOUNDS DESCRIPTION.
 3. T.C.D.R. = TRAVIS COUNTY DEED RECORDS.
 4. O.P.R.I.C.I. = OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

SHEET 1 OF 2
 NO PART OR PARTS OF THIS DRAWING MAY BE REPRODUCED OR TRANSMITTED IN ANY WAY OR FORM (ELECTRONIC, MECHANICAL, PHOTOCOPIING, OR OTHERWISE) WITHOUT THE EXPRESS WRITTEN PERMISSION OF MKIM & CREED.
 DRAWING: Sidewalk Easement_2_VER 2004.dwg



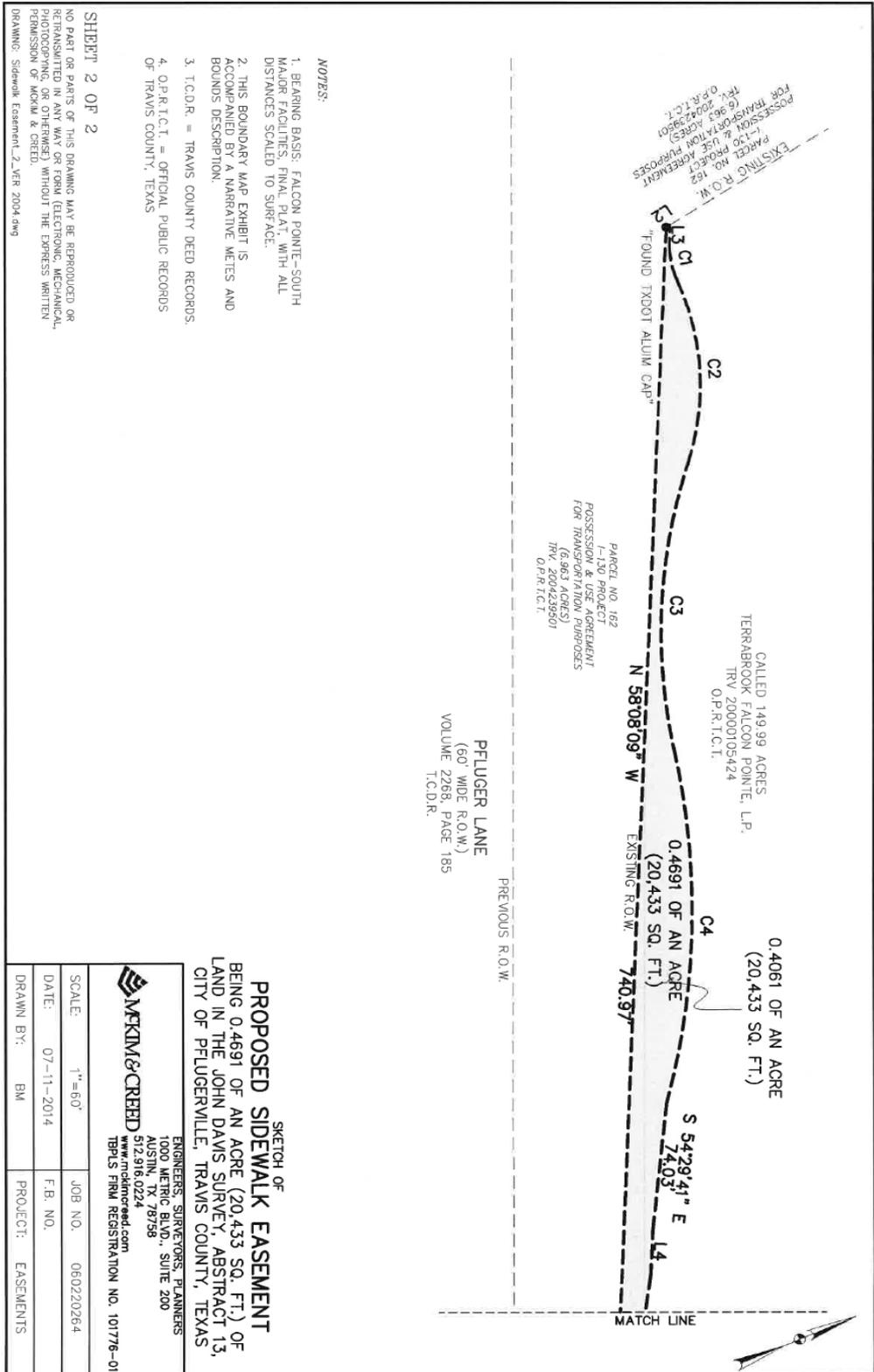
Darrell D. White
 Surveyor

PROPOSED SIDEWALK EASEMENT
 BEING 0.4691 OF AN ACRE (20.433 SQ. FT.) OF LAND IN THE JOHN DAVIS SURVEY, ABSTRACT 13, CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS

SKETCH OF
 ENGINEERS, SURVEYORS, PLANNERS
 1000 METRIC BLD., SUITE 200
 AUSTIN, TX 78758
 www.mkimcreed.com
 TEPUS FIRM REGISTRATION NO. 101776-01

SCALE: 1"=60'
 DATE: 07-11-2014
 DRAWN BY: BM

JOB NO. 060220264
 F.B. NO.
 PROJECT: EASEMENTS



- NOTES:**
1. BEARING BASIS: FALCON POINTE--SOUTH MAJOR FACILITIES, FINAL PLAT, WITH ALL DISTANCES SCALED TO SURFACE.
 2. THIS BOUNDARY MAP EXHIBIT IS ACCOMPANIED BY A NARRATIVE METES AND BOUNDS DESCRIPTION.
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SHEET 2 OF 2

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DRAWING: Sidewalk Easement_2_VER 2004.dwg

PROPOSED SIDEWALK EASEMENT

SKETCH OF
BEING 0.4691 OF AN ACRE (20,433 SQ. FT.) OF
LAND IN THE JOHN DAVIS SURVEY, ABSTRACT 13,
CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS

ENGINEERS, SURVEYORS, PLANNERS
1000 METRIC BLDG., SUITE 200
AUSTIN, TX 78758
512.916.0224
www.mckimcreed.com
TBPRLS FIRM REGISTRATION NO. 101776-01

MCKIM & CREED

SCALE:	1"=60'	JOB NO.	060220264
DATE:	07-11-2014	F.B. NO.	
DRAWN BY:	BM	PROJECT:	EASEMENTS

EXHIBIT B

**281 SQUARE FEET OF LAND
SIDEWALK EASEMENT OUT OF
THE JOHN DAVIS SURVEY, ABSTRACT 13
CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS**

Being a 281 Square foot tract of land in the John Davis Survey, Abstract 13, City of Pflugerville, Travis County, Texas, being out of a Remainder of a called 149.99 acre tract of record conveyed to Terrabrook Falcon Pointe, L.P. as recorded in TRV 200105424, of the Official Public Records of Travis County, Texas (O.P.R.T.C.T.) and being more particularly described by Meets and Bounds as follows with all bearings referenced to Falcon Pointe-South Tract Major Facilities, Final Plat as Recorded in Document Number 201300218 (O.P.R.T.C.T.), with all distances scaled to surface:

POINT OF BEGINNING, Being, a 1 /2 inch iron rod with "McKIM & CREED" cap found for the Southeast curve return of Lot 1 Block "B" Open Space and Right-of -Way Reserve of said Falcon Pointe-South Tract Major Facilities, Final Plat, from which the northeast corner of said Lot 1, Block "B", the relocated Southeast corner of a remainder of said 149.99 acre tract, being a point in the west line of a called 197.270 acres of record to Timmerman & Hagn, LTD, as recorded in Volume 8394, Page 542 of the Deed Records Travis County, Texas (D.R.T.C.T.) Bears: South 60°28'09" East, a distance of 216.45 feet;

THENCE, along the curving north line of Lot 1 Block "B" of said Falcon Pointe-South Tract Major Facilities, Final Plat; being a curvature to the right containing the following element, 18.46 feet along the arc of said curve to the right having a Radius of 25.00 feet, a Central angle of 42°17'50", a Chord bearing of North 39°19'14" West, a distance of 18.04 feet, to a point in the west margin of a called 1.556 acre sidewalk easement agreement as described in Document Number 2013181724 (O.P.R.T.C.T.);

THENCE, along the east margin of said 1.556 acre sidewalk easement agreement the Three (3) courses:

1. North 29°31'49" East, a distance of 14.12 feet to a point of curvature to the right;
2. 27.97 feet along the arc of said curve to the right having a Radius of 159.99 feet, a Central angle of 10°01'03", a Chord bearing of North 34°32'20" East, a distance of 27.94 feet to a point of reverse curvature to the left;
3. 0.49 feet along the arc of said curve to the left having a Radius of 202.00 feet, a Central angle of 00°08'20", a Chord bearing of North 39°28'42" East, a distance of 0.49 feet to a point for the north corner hereof;

THENCE, departing the east margin of said 1.556 acre sidewalk easement agreement and over and across said 149.99 acre tract the following two (2) courses:

1. South 29°21'19" West, a distance of 19.05 feet to angle point;

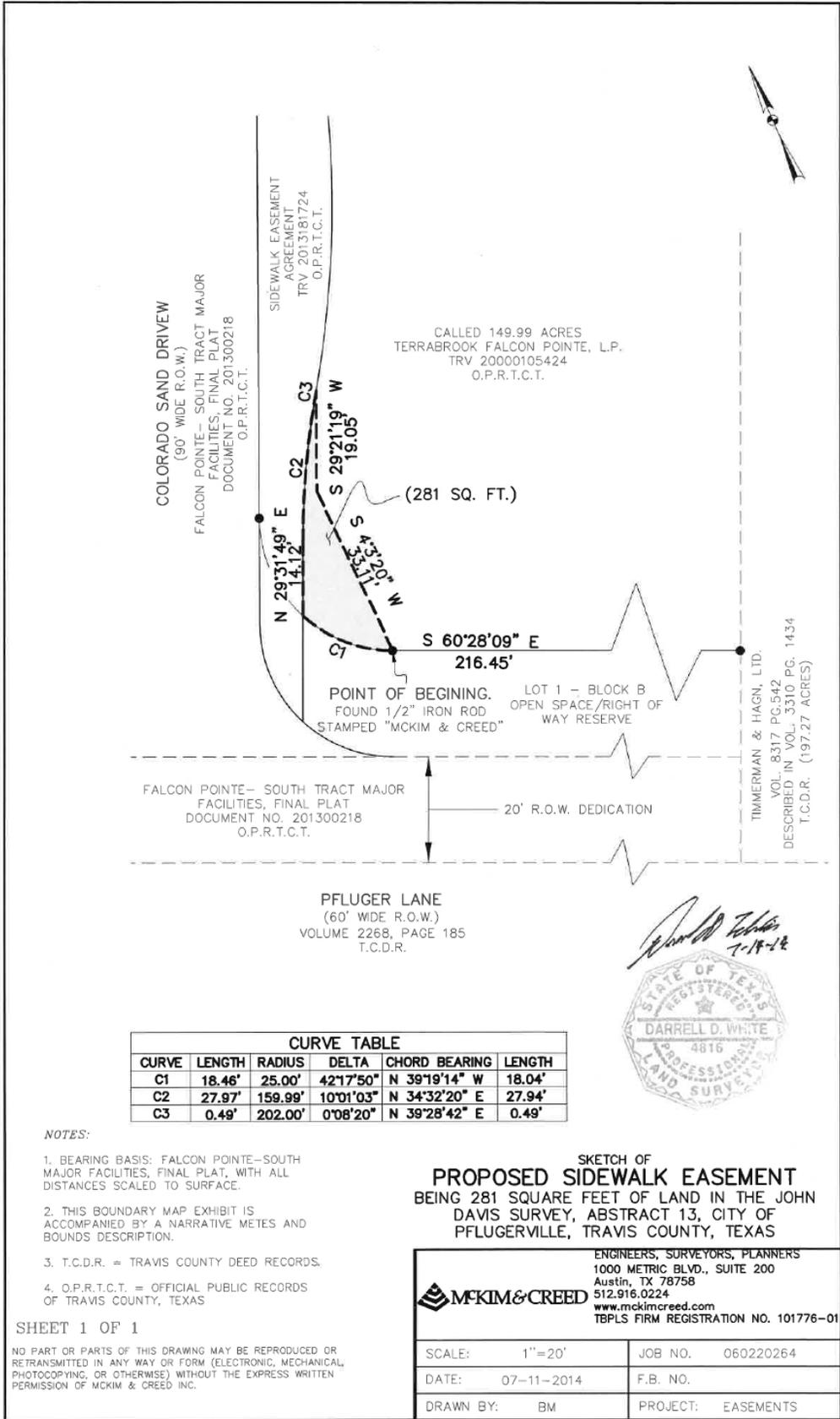
2. South $04^{\circ}03'20''$ West, a distance of 33.11 feet, to the **POINT OF BEGINNING** containing a computed area of 281 square feet of land, more or less.



Date: 7-14-14

Darrell D. White
Registered Professional Land Surveyor
Texas Registration Number 4816
Prepared by: McKim & Creed, Inc.
10000 Metric Blvd., Suite 200
Austin, Texas 78758
TBPLS Firm Registration number 101776-01





CALLED 149.99 ACRES
 TERRABROOK FALCON POINTE, L.P.
 TRV 20000105424
 O.P.R.T.C.T.

COLORADO SAND DRIVE
 (90' WIDE R.O.W.)
 FALCON POINTE - SOUTH TRACT MAJOR
 FACILITIES, FINAL PLAT
 DOCUMENT NO. 201300218
 O.P.R.T.C.T.

SIDEWALK EASEMENT
 AGREEMENT,
 TRV 2013181724
 O.P.R.T.C.T.

(281 SQ. FT.)

N 29°31'49" E
 14.12'
 C2
 S 29°21'19" W
 19.05'
 S 4°32'20" W
 33.11'
 C1
 C3

S 60°28'09" E
 216.45'

POINT OF BEGINNING.
 FOUND 1/2" IRON ROD
 STAMPED "MCKIM & CREED"

LOT 1 - BLOCK B
 OPEN SPACE/RIGHT OF
 WAY RESERVE

FALCON POINTE - SOUTH TRACT MAJOR
 FACILITIES, FINAL PLAT
 DOCUMENT NO. 201300218
 O.P.R.T.C.T.

20' R.O.W. DEDICATION

TIMMERMAN & HAGN, LTD.
 VOL. 8317 PG. 542
 DESCRIBED IN VOL. 3310 PG. 1434
 T.C.D.R. (197.27 ACRES)

PFLUGER LANE
 (60' WIDE R.O.W.)
 VOLUME 2268, PAGE 185
 T.C.D.R.



CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	LENGTH
C1	18.46'	25.00'	42°17'50"	N 39°19'14" W	18.04'
C2	27.97'	159.99'	10°01'03"	N 34°32'20" E	27.94'
C3	0.49'	202.00'	0°08'20"	N 39°28'42" E	0.49'

NOTES:

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SHEET 1 OF 1

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SKETCH OF
PROPOSED SIDEWALK EASEMENT
 BEING 281 SQUARE FEET OF LAND IN THE JOHN
 DAVIS SURVEY, ABSTRACT 13, CITY OF
 PFLUGERVILLE, TRAVIS COUNTY, TEXAS

		ENGINEERS, SURVEYORS, PLANNERS 1000 METRIC BLVD., SUITE 200 Austin, TX 78758 512.916.0224 www.mckimcreed.com TBPLS FIRM REGISTRATION NO. 101776-01	
SCALE:	1"=20'	JOB NO.	060220264
DATE:	07-11-2014	F.B. NO.	
DRAWN BY:	BM	PROJECT:	EASEMENTS