

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 PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

TEMPORARY DRAINAGE EASEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

GRANT OF EASEMENT:

AHV GUARDIAN LEGACY, LLC, a Delaware limited liability company, with notice address at c/o American Housing Ventures, LLC, 3 Upper Newport Plaza, Newport Beach, CA 92660, Attn: Mark Wolf ("Grantor"), for the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, does hereby grant, sell and convey unto **THE CITY OF PFLUGERVILLE, TEXAS**, a Texas home-rule city, with offices located at 100 East Main Street Pflugerville, Travis County, Texas ("Grantee"), an easement and right-of-way ("Easement") upon and across the property of Grantor which is more particularly described on Exhibit "A", attached hereto and incorporated herein by reference ("Easement Tract"),

TO HAVE AND TO HOLD the same to Grantee and its successors and assigns, together with the rights, and privileges and on the terms and conditions set forth, and for the duration set out, below; and Grantor, subject to the Exceptions, to Warranty, does hereby covenant and agree to WARRANT AND DEFEND title to the Easement herein granted, unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

1. *Definitions.* For the purposes of this grant of Easement certain terms shall have the meanings that follow:
 - a) "Holder" shall mean Grantee and Grantee's heirs, successors and assigns who at any time own any interest in the conveyance is subject to the terms of this agreement.
 - b) "Public Utility" shall mean storm water drainage.
2. *Character of Easement.* The Easement granted herein is "in gross," in that there is no "Benefitted Property." Nevertheless, the Easement rights herein granted shall

pass to Grantee's successors and assigns, subject to all of the Terms hereof. The Easement is for the benefit of Holder.

3. *Purpose of easement.* The Easement shall be used for storm water drainage purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of public storm water drainage facilities and related appurtenances, or making connections thereto ("Facilities"). The Easement shall also be used for the purpose of providing access for the operation, repair, maintenance, replacement and expansion of the storm water drainage facilities and related appurtenances.
4. *Term.* The Easement shall automatically terminate and be of no further force or effect as to the Easement Tract, or applicable portion thereof upon the earliest occurrence of one of the following: (1) a date ninety-nine (99) years after the Effective Date of this Temporary Easement; (2) automatically upon the issuance of a final Letter of Map Revision Based on Fill ("LOMR-F" or its equivalent) by the Federal Emergency Management Agency (FEMA), or any successor agency, that removes the Easement Tract, or applicable portion thereof, from the Special Flood Hazard Area (SFHA), as shown on the applicable FEMA Flood Insurance Rate Map or Digital Flood Insurance Map; provided, however, that such termination will only be effective as to those portions of the Easement Tract so removed from the SFHA by the final LOMR-F, the scope of such termination to be determined and memorialized in written correspondence from the Grantee's Flood Administrator to the Grantor upon Grantee's receipt and review of the LOMR-F from FEMA; or (3) the mutual written agreement of Grantee and Grantor to terminate this Temporary Easement. Grantor hereby binds Grantor and Grantor's heirs, legal representatives, successors and assigns, to warrant and forever defend the Easement unto Grantee, its successors and assigns, against any person whomsoever lawfully claiming or to claim the same or any part thereof. Following the termination of the Easement as provided herein, upon the request of Grantor, Grantee shall execute a memorandum of termination confirming the termination if the Easement in form is reasonably acceptable to Grantee.
5. *Reservation of Rights (Surface use only).* Holder's right to use the Easement Property is exclusive and Grantor shall not convey to others any right to use all or part of the Easement. This exclusivity is subject to Grantor and Grantor's heirs, successors, and assigns retained right to use the surface of all or part of the Easement in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns provided such use in no way interferes with the use of the Easement by Holder for the Easement purpose.
6. *Improvement and Maintenance of Easement.* Subject to the provisions of Section 8 below, should Grantee, at its sole discretion, elect to make improvements and/or complete maintenance in the Easement and/or to the Facilities, improvements or maintenance will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Easement. Holder has the right to construct,

install, maintain, replace, and remove the Facilities under or across any portion of the Easement. All matters concerning the Facilities and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences or other encroachments within the Easement if reasonably necessary to construct, install, maintain, replace, or remove the Easement or Facilities.

7. *Maintenance of surface Easement.* Notwithstanding any contrary provision, Grantor shall retain the obligation to maintain the surface of the Easement, including the obligation to regularly mow or cut back vegetation and to keep the surface of the Easement free of litter, debris, or trash.
8. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.
9. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.
10. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
11. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.
12. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.
13. *Waiver of Default.* It is not a waiver of or consent to default if the non-defaulting party fails to declare immediately default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
14. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary

or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.

15. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.
16. *Exceptions to Warranty.* This grant is subject to any and all encumbrances and easements of record, to the extent the same are valid and enforceable
17. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
18. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
19. *Recitals/Exhibits.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement. All exhibits referenced herein are attached hereto and incorporated by reference herein for all purposes.
20. *Entire Agreement.* This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representation or modification concerning this instrument shall be of no force and effect except for any subsequent modification in writing, signed by the party to be charged.
21. When the context requires, singular nouns and pronouns include the plural.

[Signature Page Follows]

In witness whereof, this instrument is executed this 27th day of October, 2016 (Effective Date).


GRANTOR:

AHV GUARDIAN LEGACY, LLC, a
Delaware limited liability company

By: AHV Legacy Partners, LLC, a Texas
limited liability company, its
Manager

By: MSWOLFCO, LLC, a Delaware
limited liability company, its
Manager

Address:
c/o American Housing Ventures, LLC
3 Upper Newport Plaza
Newport Beach, CA 92660

By: 
Name: MARK WOLF
Title: manager

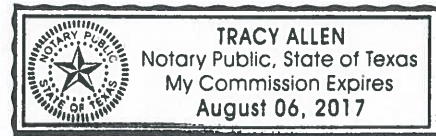
[Signatures Continue]

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on October 27, 2016, by Mark S. Wolf, CEO of the MSWOLFCO, LLC, a Delaware limited liability company, in its capacity as the Manager of AHV Legacy Partners, LLC, a Texas limited liability company, in its capacity as the Manager of AHV Guardian Legacy, LLC, a Delaware limited liability company, on behalf of said limited liability companies.

Tracy Allen
Notary Public Signature

(seal)



GRANTEE:

AGREED AND ACCEPTED:

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

By: _____
Brandon Wade, City Manager

ATTEST:

Karen Thompson, City Secretary

[Acknowledgement Pages Follow]

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

 This instrument was acknowledged before me on _____,
201_, 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)

EXHIBIT "A"

EASEMENT TRACT

LEGEND:

O.P.R. OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

P.O.B. POINT OF BEGINNING

P.O.C. POINT OF COMMENCEMENT

FD. FOUND

I.R. IRON ROD (SURVEYOR)

FOUND IRON ROD (SIZE & CAP AS NOTED)

CALCULATED POINT

NOTES:

1. THE PROFESSIONAL SERVICES PROVIDED HEREWITH INCLUDE THE PREPARATION OF A FIELD NOTE DESCRIPTION.
2. THE BEARINGS ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (CORS 1996), FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE CENTRAL ZONE.
3. ADJOINERS SHOWN FOR INFORMATIONAL PURPOSES ONLY.



EXHIBIT OF

A 4.075 ACRE TRACT BEING OUT OF A CALLED 17.659 ACRE TRACT CONVEYED TO D&B REALTY HOLDINGS, LLC, A TEXAS LIMITED LIABILITY COMPANY RECORDED IN DOCUMENT NO. 2016074627 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SITUATED IN THE E. BEBEE SURVEY NO. 5, ABSTRACT 53 IN THE CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS.

SWENSON FARM SINGLE FAMILY PHASE B
DOC. NO. 200400075 (O.P.R.)
A CALLED 0.50 ACRE TRACT
15' HIKE AND BIKE TRAIL LOT
DEDICATED TO THE CITY OF PFLUGERVILLE
DOC. NO. 2004036572 (O.P.R.)

4.075 ACRES



A CALLED 17.659 ACRE TRACT
OWNER: D&B REALTY HOLDINGS,
LLC, A TEXAS LIMITED LIABILITY
COMPANY
DOC. NO. 2016074627 (O.P.R.)

E. BEBEE SURVEY NO. 5
ABSTRACT 53

A CALLED 0.675 ACRE TRACT
CITY OF PFLUGERVILLE
DOC. NO. 2006078503 (O.P.R.)
P.O.B.
FD. I.R. (CHAPARRAL)
N63°14'35"W 207.09'

C2
A CALLED 1.937 ACRE TRACT
CITY OF PFLUGERVILLE
DOC. NO. 2001039980 (O.P.R.)
PFENNIG LANE
(VARIABLE WIDTH R.O.W.)

R=1,215.00'
Delta=6°24'51"
CB=N68°06'45"E
CD=135.95'
L=136.02'

PAPE-DAWSON ENGINEERS

AUSTIN | SAN ANTONIO | HOUSTON | FORT WORTH | DALLAS
7800 SHOAL CREEK BLVD, STE 220 W | AUSTIN, TX 78757 | 512.454.8711
TYPE FIRM REGISTRATION #470 | TPLS FIRM REGISTRATION #1028801

NOVEMBER 30, 2016

JOB No.:

50871-00

SHEET 1 OF 2

EXHIBIT OF

A 4.075 ACRE TRACT BEING OUT OF A CALLED
17.659 ACRE TRACT CONVEYED TO D&B REALTY
HOLDINGS, LLC, A TEXAS LIMITED LIABILITY
COMPANY RECORDED IN DOCUMENT NO.
2016074627 OF THE OFFICIAL PUBLIC RECORDS
OF TRAVIS COUNTY, TEXAS, SITUATED IN THE E.
BEBEE SURVEY NO. 5, ABSTRACT 53 IN THE CITY
OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS.

LINE TABLE

LINE	BEARING	LENGTH
L1	N21°22'35"E	16.22'
L2	N27°54'20"E	182.44'
L3	S63°30'25"E	131.50'
L4	N86°48'18"E	63.61'
L5	N27°24'50"E	137.54'
L6	S62°35'10"E	120.00'
L7	N27°24'50"E	6.19'
L8	N84°11'56"E	66.72'
L9	S05°40'58"E	122.74'
L10	S19°03'23"E	50.00'
L11	S18°48'37"E	138.59'

CURVE TABLE

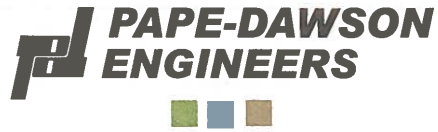
CURVE	RADIUS	DELTA	CHORD BEARING	CHORD	LENGTH
C1	975.00'	13°22'25"	N77°37'49"E	227.06'	227.58'
C2	1215.00'	29°42'38"	S86°10'30"W	623.00'	630.04'



AUSTIN | SAN ANTONIO | HOUSTON | FORT WORTH | DALLAS
7800 SHOAL CREEK BLVD, STE 220 W | AUSTIN, TX 78757 | 512.454.8711
TBPB FIRM REGISTRATION #4470 | TBPB FIRM REGISTRATION #10028801

NOVEMBER 30, 2016

SHEET 2 OF 2
JOB No.: 50871-00



FIELD NOTES

FOR

A 4.075 ACRE TRACT BEING OUT OF A CALLED 17.659 ACRE TRACT CONVEYED TO D&B REALTY HOLDINGS, LLC, A TEXAS LIMITED LIABILITY COMPANY RECORDED IN DOCUMENT NO. 2016074627 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SITUATED IN THE E. BEBEE SURVEY NO. 5, ABSTRACT 53 IN THE CITY OF PFLUGERVILLE, TRAVIS COUNTY, TEXAS. SAID 4.075 ACRE TRACT BEING MORE FULLY DESCRIBED AS FOLLOWS, WITH BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE CENTRAL ZONE FROM THE NORTH AMERICAN DATUM OF 1983 NAD 83 (NA2011) EPOCH 2010.00.

BEGINNING at an iron rod with cap marked "Chaparral" found in the north right of way line of Pfennig Lane, a variable width right of way, same being the northwest corner of a called 1.937 acre tract conveyed to the City of Pflugerville in Document No. 2001039980 of the Official Public Records of Travis County, Texas, same being the northeast corner of a called 0.675 acre tract conveyed to the City of Pflugerville recorded in Document No. 2006078503 of the Official Public Records of Travis County, Texas, same being the easternmost corner of a called 0.50 acre tract, a 15' Hike and Bike Trail dedicated to the City of Pflugerville in Document No. 2004036572 of the Official Public Records of Travis County, Texas, for the southernmost southwest corner and **POINT OF BEGINNING** hereof;

THENCE N 63°14'55" W, departing the north right of way line of said Pfennig Lane, with a north line of said 0.50 acre tract, same being the south line of said 17.659 acre tract, a distance of **207.09 feet** to a ½" iron rod with yellow cap marked "Pape-Dawson" found for the southwest corner of said 17.659 acre tract, same being the northeast ell corner of said 0.50 acre tract for the westernmost southwest corner hereof;

THENCE with the east line of said 0.50 acre tract, same being the west line of said 17.659 acre tract, the following two (2) courses and distances

1. **N 21°22'35" E**, a distance of **16.22 feet** to a ½" iron rod found, and
2. **N 27°54'20" E**, a distance of **182.44 feet** to a calculated point for the westernmost northwest corner hereof;

THENCE departing the southeast line of said 0.50 acre tract, through the interior of said 17.659 acre tract the following ten (10) courses and distances:

1. **S 63°30'25" E**, a distance of **131.50 feet** to a calculated angle point,

2. **N 86°48'18" E**, a distance of **63.61 feet** to a calculated angle point,
3. **N 27°24'50" E**, a distance of **137.54 feet** to a calculated angle point for the northernmost corner hereof,
4. **S 62°35'10" E**, a distance of **120.00 feet** to a calculated angle point,
5. **N 27°24'50" E**, a distance of **6.19 feet** to a calculated angle point,
6. **N 84°11'56" E**, a distance of **66.72 feet** to a calculated angle point,
7. **S 05°40'58" E**, a distance of **122.74 feet** to a calculated point of non-tangent curvature,
8. along the arc of a curve to the left, having a **radius of 975.00 feet**, a **central angle of 13°22'25"**, a **chord bearing and distance of N 77°37'49" E, 227.06 feet**, an **arc length of 227.58 feet** to a calculated point of tangency and easternmost northeast corner hereof,
9. **S 19°03'23" E**, a distance of **50.00 feet** to a calculated point,
10. **S 18°48'37" E**, a distance of **138.59 feet** to a calculated point of non-tangent curvature in the north right of way line of said Pfenning Lane, same being the north line of said 1.937 acre tract for the southeast corner hereof, from which a iron rod with cap marked "Chaparral" found bears along the arc of a curve to the right having a radius of 1215.00 feet, a central angle of 06°24'51", a chord bearing and distance of N 68°06'45" E, 135.95 feet, an arc length of 136.02 feet,

THENCE along the arc of a curve to the right, having a **radius of 1215.00 feet**, a **central angle of 29°42'38"**, a **chord bearing and distance of S 86°10'30" W, 623.00 feet**, an **arc length of 630.04 feet** to the **POINT OF BEGINNING** and containing 4.075 acres in the City of Pflugerville, Travis County, Texas. Said tract being described in accordance with an exhibit by Pape-Dawson Engineers, Inc. under Job Number 50871-00.

PREPARED BY: Pape-Dawson Engineers, Inc.

DATE: November 30, 2016

JOB No.: 50871-00

DOC.ID.: H:\survey\CIVIL\50871-00\Easements\Word\50871-00_4.075Ac_DrainageEsmt.docx

TBPE Firm Registration #470

TBPLS Firm Registration #100288-01

