

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.

DRAINAGE EASEMENT AGREEMENT

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

GRANT OF EASEMENT:

KB3, LLC. (“Grantor”, whether one or more), 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 home rule city located in Travis County, Texas (“Grantee”), a easement and right-of-way (“Easement”) upon and across the parcels of real property of Grantor which are more particularly described on Exhibits “A” & “B”, attached hereto and incorporated herein by reference (collectively, “Easement Tract”) for the construction of roadway embankment, reconstruction of a private driveway including installation of a reinforced concrete culvert crossing and drainage channel grading necessary for the Heatherwilde Boulevard widening roadway construction project, and across the following described property, to-wit:

TO HAVE AND TO HOLD the same to Grantee and its successors and assigns, together with the right and privilege at any and all times to enter the Easement Tract, or any part thereof, for the purpose of construction, operation, maintenance, replacement, upgrade, and repair of the improvements which are constructed and installed therein or thereon by Grantee under the terms of this Easement.

Grantor does hereby covenant and agree to WARRANT AND FOREVER 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, subject to the matters set forth herein.

CHARACTER OF EASEMENT:

The Easement is an easement in gross.

PURPOSE OF EASEMENT:

The Easement shall be used for public roadway and drainage purposes, to receive storm water from tracts located upstream from the Easement Tract, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of a drainage culvert, channel drainage improvements and construction of a new concrete driveway approach or making connections thereto.

Grantee shall have a continuous right of access to the Easement Property for the operation, repair, maintenance, replacement and expansion of the drainage facilities and related appurtenances.

DURATION OF EASEMENT:

The Easement shall be perpetual. 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.

EXCLUSIVENESS OF EASEMENT:

The Easement is non-exclusive and Grantee's use shall be in common with Grantor and their successors and assigns. To the extent that such entry or use does not interfere with Grantee's use of the Easement as a drainage easement, Grantor 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. Notwithstanding anything contained herein to the contrary, Grantor 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.

MAINTENANCE:

Grantor shall keep the Easement free from any obstruction not authorized by Grantee. Grantor shall maintain the surface area or the Easement Property, which shall include but shall not be limited to regular mowing to prevent vegetation from becoming an obstruction to the flow of water within the Easement.

Grantee has the right to trim and cut down trees and shrubbery and to remove other improvements and structures to the extent reasonably necessary to prevent interference with the operation or repairs to Grantee's facilities in the Easement Tract

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.

BINDING EFFECT:

This agreement shall bind and inure to the benefit of the respective parties hereto, their heirs, legal representatives, successors and assigns.

ASSIGNABILITY:

This Easement and the rights of Grantee hereunder may be assigned by Grantee so long as the assignee utilizes the Easement as contemplated herein.

Signature page to follow:

In witness whereof, this instrument is executed this ____ day of _____, 2013.

GRANTOR:

KB3, LLC.

By: _____

Name: _____

Title: _____

AGREED AND ACCEPTED:

CITY OF PFLUGERVILLE, TEXAS,

a Texas home-rule municipality

By: _____

Brandon Wade, City Manager

ATTEST:

Karen Thompson, City Secretary

ACKNOWLEDGEMENT

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2013, by _____, an individual residing in Travis County, Texas.

(seal)

Notary Public Signature

Printed Name of Notary Public

My commission expires: _____

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.

(seal)

Notary Public Signature

Printed Name of Notary Public

My commission expires: _____

After Recording, Please Return To:
City of Pflugerville
Attn: Brandon E. Wade, City Manager
P.O. Box 589, Pflugerville, Texas 78691