

**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 DRIVERS' LICENSE NUMBER.**

AFTER RECORDING RETURN TO:  
City of Wylie  
Attention: City Manager  
300 Country Club Road  
Wylie, Texas 75098

## **DRAINAGE EASEMENT**

---

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COLLIN

That **KEP BROWN STREET VILLAGE, LP** ("Grantor"), whether one or more, for and in consideration of the sum of TEN DOLLARS (\$10.00) cash in hand to Grantor paid by the **CITY OF WYLIE, TEXAS**, a home-rule municipality ("Grantee"), the receipt of which are hereby acknowledged, and for which no lien is retained, either expressed or implied, does hereby GRANT, SELL AND CONVEY unto Grantee the easement and right to construct, reconstruct, operate, repair, enlarge, re-build, replace, relocate, alter, remove and perpetually maintain drainage facilities, together with all incidental improvements and all necessary appurtenances (collectively, "Facilities"), over, across, in, on, under and through certain real property owned by Grantor and located in the City of Wylie, Collin County, Texas, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein for all purposes ("Easement Property"). As part of the grant hereby made, it is agreed between the parties hereto that any stone, earth, gravel or caliche which may be excavated in the opening, construction or maintenance of said easement may be removed from said premises by Grantee.

TO HAVE AND TO HOLD the Easement Property perpetually unto the Grantee, its successors and assigns, together with the right and privilege at all times to enter the Easement Property, or any part thereof, for the purpose of constructing, reconstructing, operating, repairing, enlarging, re-building, replacing, relocating, altering, removing and perpetually maintaining the Facilities, and all incidental improvements thereto and for making connections therewith.

Grantor does hereby bind itself and its successors to WARRANT AND FOREVER DEFEND all and singular the Easement Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise.

Grantee, its successors and assigns, shall have the right to construct, reconstruct and perpetually maintain additional Facilities at all times in the future within the Easement Property. If Grantee is unable to access the Easement Property due to physical barriers or conditions, then Grantee shall have, and is hereby granted, the right of ingress and egress over that portion of the

Grantor's adjacent property within fifteen feet (15') of the Easement Property as is reasonably necessary to and for the limited purpose of accessing the Easement Property.

The Easement Property shall remain open at all times and will be maintained in a safe and sanitary condition by the owners of the lot or lots that are traversed by or adjacent to the Easement Property. Notwithstanding anything to the contrary herein, Grantee will not be responsible for the maintenance and operation of the Easement Property or for any damage to private property or person that results from conditions in the Easement Property, or for the control of erosion. No obstruction to the natural flow of storm water run-off shall be permitted by construction of any type of building, fence or any other structure within the Easement Property, unless approved by the City Engineer; provided, however, that it is understood that in the event it becomes necessary for Grantee to consider channelizing or erecting any type of drainage structure in order to improve storm drainage, then in such event, Grantee shall have the right, but not the obligation, to enter upon the Easement Property at any point, or points, with all rights of ingress and egress to investigate, survey, or to erect, construct and maintain any drainage or detention facility deemed necessary for drainage or detention purposes.

Grantor shall keep the Easement Property clean and free of debris, silt and any substance which would result in unsanitary conditions or obstruct the flow of water, and Grantee shall have the right of ingress and egress for the purpose of inspection and supervision of maintenance work by the Grantor to alleviate any undesirable conditions which may occur. In the event that Grantor or other property owners do not properly maintain or repair the Easement Property in accordance with Grantee's laws or other applicable regulations, Grantee has the right, but not the obligation, to enter on the Easement Property at any point, or points, to investigate, survey, erect, construct, maintain and/or repair the Facilities or to conduct emergency repairs or supervise the work of others deemed necessary, as solely determined by Grantee, for drainage purposes, and the failure of Grantor or other property owners to undertake such required repairs or maintenance and diligent completion of such repairs or maintenance.

The natural drainage through the Easement Property is subject to storm water overflow and natural bank erosion to an extent which cannot be definitely defined. Grantor and/or other property owners shall be liable to Grantee for any costs Grantee incurs as a result of any maintenance or repairs implemented by Grantee. Grantee shall not be held liable for any damages of any nature resulting from the failure of any structure or structures erected or installed by Grantor within the Easement Property, and Grantor hereby agrees to indemnify, defend and hold harmless Grantee from any such damages and injuries.

Grantee will at all times after doing any work in connection with the construction, operation or repair of the Facilities, restore the surface of the Easement Property as close to the condition in which it was found before such work was undertaken as is reasonably practicable, except for trees, shrubs and structures within the Easement Property that were removed as a result of such work.

Grantor represents and warrants to Grantee that Grantor is the sole owner of the fee simple title to the Easement Property. Grantor does hereby represent and warrant that there are no liens, attachments or other encumbrances which will affect the title or right of the Grantor to convey this

easement to the Grantee for the purposes as described herein. If such condition does exist, a signature with acknowledgment shall be included and made a part of this document conveying the rights and privileges contained herein and subordinating any such lien to the easement granted herein.

This instrument shall not be considered as a deed to the Easement Property or any part thereof, and the right is hereby reserved to Grantor, its successors and assigns, to use the Easement Property to landscape and build and construct fences, driveways, parking lots and other associated improvements over or across said easement; provided, however, that in no event shall a wall, structure or building of any type other than those previously described or any piling, pier or isolated footing of any wall, structure or building be placed directly on the Easement Property.

The easement rights and privileges granted herein are non-exclusive, but Grantor covenants that Grantor will not convey any other easement or conflicting rights within the area covered by this grant which unreasonably interfere with Grantee's rights granted herein and provided all such other grants comply with all applicable local, state and federal laws, ordinances, rules, regulations and/or requirements, as they exist, may be amended or in the future arising.

Further, notwithstanding anything to the contrary herein, Grantor shall not place any improvement or take any action, permanent or temporary, which may cause damage or jeopardize the integrity of the Facilities, the roadway facilities or other public facilities or which will affect or interfere with, in any way, the rights granted herein. Grantee, may, due to the necessity of repair and maintenance of the Facilities, the roadway facilities or other public facilities, remove and keep removed any and all improvements to the extent necessary to make repairs. Grantee will not be responsible for loss of improvements due to failure or maintenance of the Facilities, the roadway facilities or other public facilities.

This instrument shall be binding on, and inure to the benefit of, Grantee and Grantor and their respective successors or assigns.

The individual executing this instrument on behalf of Grantor represents that all appropriate and necessary actions have been taken to authorize the individual who is executing this instrument to do so for and on behalf of Grantor, that there are no other parties or entities required to execute this instrument in order for the same to be an authorized and binding agreement on Grantor and that the individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

It is understood and agreed that the consideration received by Grantor hereunder includes adequate compensation for the grant of the rights hereunder and for all damages arising out of the construction, reconstruction, repair, operation and maintenance of the Facilities and roadway and other public facilities as well as all damages, if any, to Grantor's property which may occur in the future resulting from Grantee's exercise of any rights granted herein.

This instrument may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

EXECUTED on the dates appearing in the acknowledgements below, however, to be effective on this \_\_\_\_ day of \_\_\_\_\_, 2021.

GRANTOR:

**KEP BROWN STREET VILLAGE, LP**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF TEXAS           §

§

COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ known to me to be one of the persons whose names are subscribed to the foregoing instrument; he/she acknowledged to me that he/she is the \_\_\_\_\_ and duly authorized representative of the \_\_\_\_\_, and that he/she executed said instrument for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

AGREED AND ACCEPTED:

**CITY OF WYLIE, TEXAS**

By: \_\_\_\_\_  
Brent Parker, Interim City Manager

STATE OF TEXAS           §  
                                     §  
COUNTY OF COLLIN      §

BEFORE ME, the undersigned authority, on this day personally appeared **Brent Parker**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the Interim City Manager and duly authorized representative for the **City of Wylie, Texas**, and that he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires:\_\_\_\_\_

## Exhibit A

### TRACT 1:

#### PERMANENT DRAINAGE EASEMENT

BEING a variable width parcel of land for a Permanent Drainage Easement being over, under and across a 2.4721 acre parcel of land in the Samuel B. Shelby Survey, Abstract No. 820T located in the City of Wylie, Collin County, Texas, and conveyed to KEP Brown Street Village L.P. by a deed now of record in the Collin County Clerk's File No. 20060327000390640 of the Deed Records of Collin County, Texas. said Permanent Drainage Easement being described as follows:

BEGINNING at a 1/2-inch iron rod set for corner with a yellow cap marked "BHC" on the south right-of-way line of West Brown Street as described in Texas Transportation Commission Minute Order No. 111608 conveying the right-of-way for FM 3412 (aka West Brown Street) from FM 1378 to Ballard Avenue to the City of Wylie, said point also being the northeast corner of a 0.500-acre parcel of land in the Samuel B. Shelby Survey, Abstract No. 820, Collin County, Texas, as conveyed to Charles Stetler D.D.S. by a deed now of record in Collins Comity Clerk's File

No. 92-0009039 of the Deed Records of Collin County, and the northwest corner of said KEP Brown Street Village tract, said point bears N 89° 05' 16" W a distance from an 1/2-inch iron rod found near the northeast corner of said KEP Brawn Street Village tract, said point also bears S 77° 39' 44" W a distance of 343.64 feet from a 3/8-inch iron rod found for the southeast corner of a lot 58R-2, Block E of the Second Replat of the North Pointe Addition to the City of Wylie, and as convey to Digby IHF, Inc.. by a deed now of record in llic County Clerk's File No. 2008091001130110 of the Deeds Records of Collin County, Texas;

1) THENCE S 88° 58' 26" E, leaving the west property line of said KEP Brown Street Village tract and the east property line of said Charles Stetler tract, along the south right-of-way line of said West Brown Street a distance of 58.72 feet to a 1/2-inch, iron rod set for corner with a yellow cap marked "BHC". being at the intersection of the south right-of-way line of said West Brown Street and the east line of said proposed Drainage Easement;

2) THENCE S 40° 19' 36" W. leaving the south right-of-way line of said West Brown Street and the north property line of said KEP Brown Street Village tract, along the east line of said proposed Permanent Drainage Easement a distance of 44.76 feet to a 1/2-inch iron rod with a yellow cap marked "BHC" set for the southeast corner of said proposed Permanent Drainage Easement;

3) THENCE N 69° 22' 39" W, along the south line of said proposed Permanent Drainage Easement a distance of 40.37 feet to a 1/2-inch iron rod with a yellow cap marked "BHC" set for the southwest corner of said proposed Permanent Drainage Easement, said point being on the east property line of said Charles Stetler tract and the west property line of said KEP Brown Street Village tract;

4) THENCE N 20° 59' 08 E, along the east line of said proposed Permanent Drainage Easement also being the east property line of said Charles Stetler tract and the west property line of said KEP Brown Street Village tract a distance of 22.44 feet to a 1/2-inch iron rod with a yellow cap marked "BHC" set for the northwest corner of said proposed) Permanent Drainage Easement and being on the south right-of-way line of said West Brown Street and being the POINT OF BEGINNING, and containing 0.0337 acres, more or less.