

PERMANENT EASEMENT

PROJECT NO. 753990

Grant of Permanent Easement, between **KB HOME NEW MEXICO, INC., a New Mexico corporation** ("Grantor"), whose address is 7807 E. Peakview Avenue, #300, Centennial, CO 80111, and the **City Of Albuquerque, a New Mexico municipal corporation** ("City"), whose address is P.O. Box 1293, Albuquerque, New Mexico, 87103.

Subject to existing rights of record, Grantor grants to the City an exclusive, permanent easement ("Easement") in, over, upon and across the real property described on Exhibit "A" attached hereto ("Property") for the construction, installation, maintenance, repair, modification, replacement and operation of a retention pond (the "Pond"), together with the right to remove trees, bushes, undergrowth and any other obstacles upon the Property if the City determines they interfere with the appropriate use of this Easement.

The City shall construct the Pond within the Property at the City's sole expense in accordance with the standard plans and specifications approved by the City pursuant to Drainage File No. NO8DOO6F1, for the discharge of waters from the City Memorial Park located on Tract A-1-B, Anderson Heights Unit 4. The City will not permit the Drainage Facility to constitute a hazard to the health or safety of the general public.

In the event Grantor constructs any improvements ("Improvements") within the Easement, the City has the right to enter upon Grantor's property at any time and perform whatever inspection, installation, maintenance, repair, modification or removal ("Work") it deems appropriate without liability to the City. If the Work effects any Improvements or encroachments made by the Grantor, the City will not be financially or otherwise responsible for rebuilding or repairing the Improvements or encroachments. If in the opinion of the City, the Work to be performed by the City could endanger the structural integrity or otherwise damage the Improvements or encroachments, the Grantor shall, at its own expense, take whatever protective measures are required to safeguard the Improvements or encroachments.

The City shall cause its contractor performing the work to maintain liability insurance in the minimum amount of \$1,000,000.00 per occurrence naming the Grantor as an additional insured.

The City shall be responsible for all claims, actions, suits and proceedings arising out of, or resulting from, the City's negligent maintenance, construction, repair or use of the Pond. To the extent, if at all, Section 56-7-1 NMSA 1978 is applicable to this Easement, this indemnification will not extend to liability, claims, damages, losses or expenses, including attorneys' fees arising out of indemnity obligations proscribed by Section 56-7-1 NMSA 1978 Comp.

Upon the construction of an alternative drainage facility which accommodates the storm waters accommodated by the Pond, this Easement shall no longer be required. As partial consideration for the grant of this Easement at such time as this Easement is no longer required the City agrees to terminate this Easement, and if an administrative process is required to vacate this Easement, the City shall process the vacation action at its sole expense.

Grantor covenants and warrants that Grantor is the owner in fee simple of the Property, that Grantor has a good lawful right to convey the Property or any part thereof and that Grantor will forever warrant and defend the title to the Property against all claims from all persons or entities.

Doc# 2018041626

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EASE R: \$25.00 Linda Stover, Bernalillo County



The grant and other provisions of this Easement constitute covenants running with the Property for the benefit of the City and its successors and assigns until terminated.

This Easement shall not be effective until approved by the City Engineer in the signature block below.

WITNESS my hand and seal this 4th day of April, 2018.

APPROVED:

[Signature]
Shahab Biazar, P.E. City Engineer
Date: 5/9/18

GRANTOR:

KB HOME NEW MEXICO, INC., a
New Mexico corporation

By: [Signature]
Morris Barbera
Vice President Land Development
and Entitlements

Date: 4/11/18

STATE OF Colorado)

COUNTY OF Apache)

This instrument was acknowledged before me on 17th day of APRIL, 2018, by Morris Barbera, Vice President Land Development and Entitlements, of KB Home New Mexico, Inc., a New Mexico corporation.

(SEAL)

My Commission Expires:
April 26, 2020

[Signature]
Notary Public

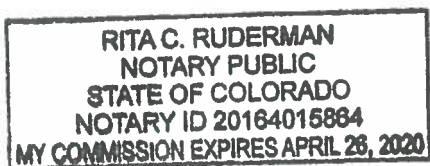


Exhibit "A"

**Public Drainage Easement
Across
Tract A-1-A, Anderson Heights Unit 4
City of Albuquerque
Bernalillo County, New Mexico
February, 2018**

A Public Drainage Easement comprising a portion of Tract A-1-A, Anderson Heights Unit 4, as said Tract A-1-A is shown and designated on the plat of survey thereof filed in the office of the Bernalillo County Clerk on June 6, 2017 in Book 2017C, Page 0069, said Easement being more particularly described using New Mexico State Plane grid bearings (Central Zone, NAD 83) and horizontal ground distances as follows:

BEGINNING at a point on the easterly boundary line of Tract A-1-B, Anderson Heights Unit 4, as said Tract A-1-B is shown and designated on the plat of survey thereof filed in the office of the Bernalillo County Clerk on June 6, 2017 in Book 2017C, Page 0069, said easterly boundary line also being the northerly boundary line of said Tract A-1-A, from which the City of Albuquerque geodetic control monument "1-N8" (3-1/4" brass cap stamped "ACS 1-N8") bears N45°47'40"W a distance of 2399.85 feet, also from which the northeast corner of said Tract A-1-B bears N00°01'54"E a distance of 85.86 feet;

Thence, N57°07'21"E a distance of 101.25 feet to an angle point;

Thence, S00°01'54"W a distance of 185.70 feet to an angle point;

Thence, N89°58'06"W a distance of 85.00 feet to an angle point;

Thence, N00°01'54"E a distance of 15.00 feet to the southeast corner of said Tract A-1-B;

Thence, N00°01'54"E a distance of 115.69 feet along the common boundary line between said Tract A-1-A and said Tract A-1-B to the point and place of beginning.

Said Easement contains 0.3087 acre (13,447 square feet), more or less.

I, Stephen James Toler, New Mexico Professional Surveyor No. 11599, do hereby certify that the above legal description and the attached exhibit drawing (Page 2 of 2) were prepared by me based on an actual survey on the ground performed by me or under my direct supervision; that I am responsible for this survey; that this survey meets the Minimum Standards for Easement Surveying in New Mexico; and that it is true and correct to the best of my knowledge and belief.

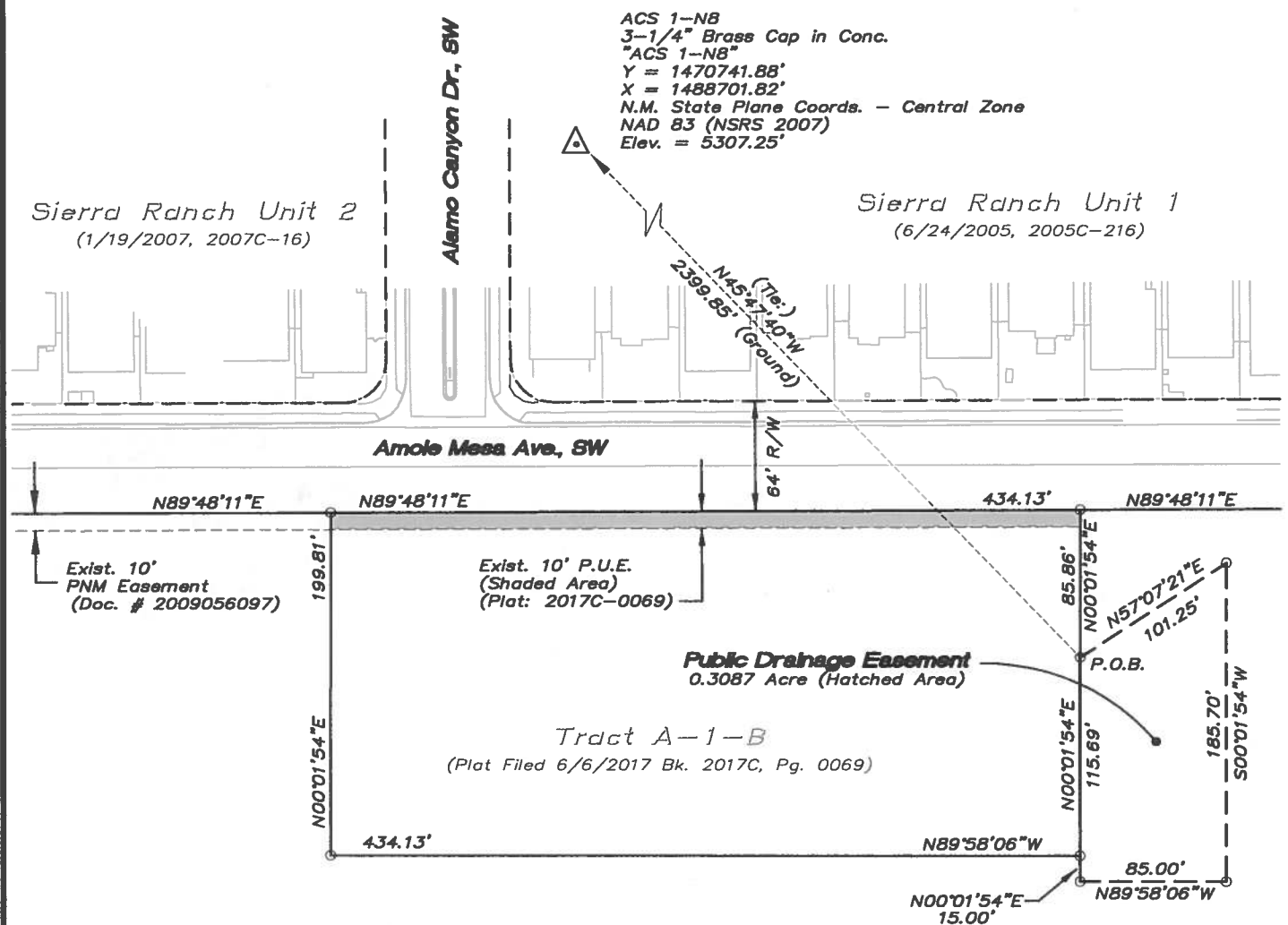

Stephen J. Toler, NMPS 11599

2/5/2018

Date



Exhibit 'A'
PUBLIC DRAINAGE EASEMENT
ACROSS
TRACT A-1-A, ANDERSON HEIGHTS UNIT 4
CITY OF ALBUQUERQUE
BERNALILLO COUNTY, NEW MEXICO
FEBRUARY, 2018



LEGEND:

- △ = City of Albuquerque Geodetic Control Monument
- = Calculated Point - Not Found or Set

NOTES:

- 1.) Bearings shown hereon are referred to Grid North, New Mexico Coordinate System - Central Zone (NAD 83), and were derived using GPS Real Time Kinematic relative positioning techniques.
- 2.) Distances shown hereon are horizontal ground distances and were derived by multiplying inversed state plane grid distances by the project average combined grid to ground factor CF = 1.000320953.
- 3.) Field surveys were conducted in August & September of 2017.

SCI Job No. 2017-027

Surveying Control, Inc
 Specializing in Control Surveys
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