

27056

ACCESS EASEMENT AGREEMENT

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.

DATE: July 10, 2007

GRANTOR (including address):

Z. BRUCE BOND and LOUISA BOND, husband and wife
210A Walnut Grove Road
Boerne, TX 78006

GRANTEE (including address):

RGB DEVELOPMENT LLC, a California limited liability company
P.O. Box 3465
Santa Rosa, California 95402

DOMINANT ESTATE PROPERTY (including any improvements):

Being a 15.12 acre, more or less, tract of land out of the Robert Meadows Survey No. 802, Abstract No. 1001, Kendall County, Texas; said 15.12 acres being more particularly described on Exhibit "A", which is attached hereto and made a part hereof.

EASEMENT PROPERTY:

Sixty (60) foot wide strip located within the Robert Meadows Survey No. 802, Abstract No. 1001, Kendall County, Texas, being a portion of the remainder of a 19.76 acre tract as described in deed recorded in Volume 855, Page 658, Kendall County Official Records; said strip being more particularly described on Exhibit "B", which is attached hereto and made a part hereof.

EASEMENT PURPOSE:

For providing free and uninterrupted pedestrian and vehicular ingress and egress between the Dominant Estate Property, and portions thereof, and Lost Valley Road.

CONSIDERATION:

Cash in hand paid, the further consideration of the easement grant and the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged and stipulated.

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

A. Reservations. Grantor reserves the following rights to be exercised only in combination with ownership of all or a part of the servient tenement:

(1) Reserved Rights. For Grantor and Grantor's heirs, successors and assigns forever, the right to continue to use and enjoy the surface of the Easement Property for all purposes directly related to the servient tenement which do not interfere with or interrupt the use or enjoyment of the easement.

(2) Nonexclusive Rights. For Grantor and Grantor's heirs, successors and assigns forever, the right to convey the same or other rights and easements to others as an appurtenant easement for substantially the same purpose, so long as any further conveyance is subject to this grant.

B. Exceptions.

Easements, rights-of-way and prescriptive rights, whether of record or not; all presently recorded and valid instruments, other than encumbrances and conveyances, that affect the Easement Property; and Deeds of Trust recorded in Vol. 855, Pg.663 and refiled in Vol. 895, Pg. 889, Vol. 855, Pg. 680 and refiled in Vol. 895. Pg. 909, and Vol. 1012, Pg. 472, all in Official Records of Kendall County, Texas.

AGREEMENT:

Grantor, for the Consideration and subject to the Reservations From and Exceptions to Conveyance and Warranty, GRANTS, SELLS AND CONVEYS to Grantee an easement over, upon and across the Easement Property for the Easement Purpose and for the benefit of the Dominant Estate Property, and portions thereof, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the easement to Grantee and Grantee's heirs, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations From and Exceptions to Conveyance and Warranty.

A. EASEMENT TERMS AND CONDITIONS:

The easement is subject to the following terms and conditions:

1. Agreements of Grantor. Grantor agrees to:

a. Maintenance. Improve, repair and maintain the Easement Property in a neat and clean condition at Grantor's sole expense.

b. Improvements. Construct and maintain the following improvements on or under the Easement Property: concrete and asphalt road.

c. Special Indemnity. Indemnify and hold Grantee harmless from and against all loss, liability, and expense of whatsoever nature (including reasonable attorney's fees) to persons or property caused by or arising out of: (i) the Grantor's exercise of rights under this Agreement, (ii) default on the terms and conditions of this Agreement, or (iii) failure to comply with applicable laws, rules, regulations and safety standards relating to it.

2. Limitations on Grantor. Grantor agrees not to:

a. Interference. Interfere with or interrupt the use or enjoyment of the easement.

b. Construction of Improvements. Construct improvements on or under the Easement Property, except for the placement of asphalt on the surface made available by Grantor for moving or parking vehicles.

c. Gates. Place any gate or other obstruction across the Easement Property, except for one gate at the perimeter for which Grantee will be given a separate lock and key.

d. Other Prohibitions. Without Grantee's prior written consent unless otherwise specifically authorized by this Agreement, place any above ground wires or other improvements on the Easement Property.

3. Agreements of Grantee. Grantee agrees to indemnify and hold Grantor harmless from and against all loss, liability, and expense of whatsoever nature (including reasonable attorney's fees) to persons or property caused by or arising out of: (i) the Grantee's exercise of easement rights under this Agreement, (ii) default on the terms and conditions of this Agreement, or (iii) failure to comply with applicable laws, rules, regulations and safety standards relating to it.

4. Limitations on Grantee. Grantee agrees not to:

a. Hazardous Materials. Cause or knowingly authorize environmentally hazardous materials to be transported on the easement; and

b. Nuisance. Knowingly cause, authorize, or fail to halt any common law nuisance to occur on the Easement Property.

5. Mutual Agreements. Grantor and Grantee agree:

a. Character of Easement. The easement granted is appurtenant to, and will run with, the Dominant Estate Property, and portions thereof, whether or not it is referenced in any conveyance of the Dominant Estate Property, and/or any portion of it.

b. Duration of Easement. The easement is perpetual.

c. Exclusiveness of Easement. The easement is nonexclusive.

d. Additional Rights Intended to Accompany Easement. Grantee has the right to:

(1) eliminate any encroachments into the Easement Property;

(2) construct a road in the configuration and the manner determined by Grantee's sole discretion, together with any gates, cattle guards, culverts, bridges, drainage ditches, and other similar facilities relating to it over or under all or any portion of the Easement Property; and

(3) remove or relocate any fences within the Easement Property.

e. Secondary Easement. In addition, Grantee has the right to use so much of the surface of the property adjacent to the Easement Property as may be reasonably necessary to install and maintain a road reasonably suited for the Easement Purpose; however, Grantee will promptly restore adjacent property to its previous physical condition if changed by the utilization of the rights granted by this secondary easement.

f. Limitation of Warranties. Except for the warranties of title, there are no implied warranties of merchantability, of fitness for a particular purpose, or of any other kind arising out of this Agreement.

g. Allocation of Responsibility. Each party is responsible for loss or liability caused by such party, or by those using the easement on the basis of such party's invitation or consent.

h. Limitation on Assignment & Exercise. Any assignments or exercise of this easement by Grantee or of the Grantor's rights in this Agreement are prohibited except to the extent the easement remains

appurtenant to the Dominant Estate and the Grantor's rights in this Agreement are based upon ownership of the servient tenement relating to the easement.

B. REMEDIES:

1. Equitable Rights of Enforcement. In the event of any interference or threatened interference with the easement, it may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting such interference and commanding compliance with its terms, which restraining orders and injunctions will be obtainable upon proof of the existence of such interference or threatened interference, and without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the holder or lienholder of the easement or part of it; provided, however, this is not to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

2. Alternative Dispute Resolution. Grantor and Grantee agree to submit in good faith to mediation before filing a suit for damages.

C. MISCELLANEOUS:

1. Attorney's Fees. If either party retains an attorney to enforce the terms of this instrument, the prevailing party is entitled to recover reasonable attorney's fees.

2. Amendment. This Agreement may be amended only by an instrument in writing signed by the parties to be bound by it.

3. Binding Effect. This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective heirs, successors and assigns where not prohibited by this Agreement; thus, the term "Grantor" and "Grantee" includes the successors, heirs and assigns of each party.

4. Choice of Law. This Agreement is subject to and governed by the laws of the State of Texas, excluding any conflicts-of-law rule or principle that might refer the construction or interpretation of this Agreement to the laws of another state. Each party submits to the jurisdiction of the state and federal courts in the State of Texas and to venue in the county in which the Easement Property is situated.

5. 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 are to be construed together and will constitute one and the same instrument, and the signature pages of each document may be attached to one instrument for convenience or for recording.

6. Effect of Waiver or Consent. No waiver or consent, express or implied, by any party to or of any breach or default by any party in the performance by such party of its obligations hereunder will be

deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such party of the same or any other obligations of such party hereunder. Failure on the part of a party to complain of any act of any party or to declare any party in default, irrespective of how long such failure continues, will not constitute a waiver by such party of its rights hereunder until the applicable statute of limitation period has run.

7. Further Assurances. In connection with this Agreement as well as all transactions contemplated by this Agreement, each signatory party hereto agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement and all such transactions.

8. Integration. This Agreement contains the complete agreement between the parties and cannot be varied except by the written agreement of the parties. The parties agree that there are no oral agreements, understandings, representations or warranties which are not expressly set forth herein.

9. Legal Construction. If one or more of the provisions of this Agreement are invalid, illegal or unenforceable in any respect, to the extent the invalidity or unenforceability does not destroy the basis of the bargain among the parties, it will not affect any other provision and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never existed. When required by the context, singular nouns and pronouns include the plural and the neuter includes the masculine or feminine gender. The Article and Section headings are for convenience of reference only and are not intended to limit or define the text. This Agreement is not to be construed more or less favorably between the parties by reason of authorship or origin of language.

10. Notices. Any notice or communication required or permitted hereunder will be deemed to be delivered, whether or not actually received, when deposited in the United States mail, postage fully prepaid, registered or certified mail, and addressed to the intended recipient at the address shown, and if not shown, then at the last known address according to the records of the party delivering the notice. Notice given in any other manner will be effective only if and when received by the addressee. Any address for notice may be changed by written notice delivered in the same manner.

11. Recitals. Any recitals in this Agreement are represented by the parties hereto to be accurate, and constitute a part of the substantive agreement.

12. Time. Time is of the essence. Unless otherwise specified, all references to "days" mean and refer to calendar days. Business days exclude all Saturdays, Sundays, and Texas legal banking holidays. In the event the date for performance of any obligation falls on a Saturday, Sunday or Texas legal banking holiday, that obligation will be performable on the next following business day.

13. Lienholder. Grantee understands that the rights under this Access Easement Agreement could be extinguished or terminated in the event of a foreclosure by the existing lienholder on the Easement Property. Grantee understands that Grantee could require the agreement by such lienholder to subordinate its liens to the rights under this Access Easement Agreement, but Grantee waives such requirement.

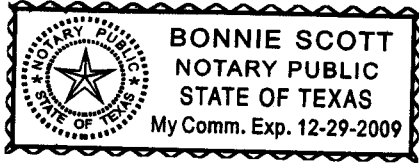
Grantor: [Signature]
Z. BRUCE BOND
[Signature]
LOUISA BOND

Grantee:

RGB DEVELOPMENT LLC, a California
limited liability company
By: [Signature] ^{Mrs. G. R. Alexander}
Name: GARY R ALEXANDER
Title: Mrs. G. R. Alexander

STATE OF TEXAS §
COUNTY OF Kendall §

This instrument was acknowledged before me on the 6 day of July, 2007, by
Z. BRUCE BOND.



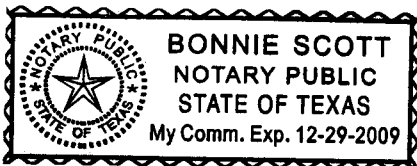
[Signature]
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF Kendall §

This instrument was acknowledged before me on the 9 day of July, 2007, by LOUISA BOND.

Bonnie Scott
Notary Public, State of Texas

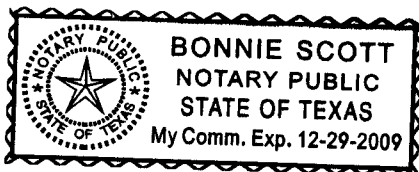


STATE OF TEXAS §

COUNTY OF Kendall §

This instrument was acknowledged before me on the 10th day of July, 2007, by Gary Alexander, Managing Member of RGB DEVELOPMENT LLC, a California limited liability company, on behalf of said limited liability company.

Bonnie Scott
Notary Public, State of Texas



AFTER RECORDING RETURN TO:

Kendall County Abstract
103 N. Saunders Street
Berne, TX 78006

PREPARED IN THE LAW OFFICE OF:

Sid Lawrence, III
512 Heimer Road
San Antonio, Texas 78232
(210) 495-5560

STATE OF TEXAS #

COUNTY OF KENDALL #

Field notes of a 15.12 acre, more or less, tract of land out of the Robert Meadows Survey No. 802, Abstract No. 1001, Kendall County, Texas, out of a 21.12 acre tract as described in deed recorded in Volume 874, Page 76, Kendall County Official Records; said 15.12 acre tract being more fully described as follows:

Beginning at an existing steel rod at the southwest corner of this tract, said steel rod being the southwest corner of the above referenced 21.12 acre tract, being in a northern line of the Ronald and Deborah MacDonald tract as described in deed recorded in Volume 855, Page 696, Kendall County Official Records and being at the southeast corner of the Morris and Janell R. Jernigan 6.72 acre tract as described in deed recorded in Volume 895, Page 862, Kendall County official Records;

Thence, with the western and northern lines of said 21.12 acre tract and the eastern and southern lines of the said Jernigan 6.72 acre tract as follows:

N 00° 55' 24" E	736.04 feet to an existing steel rod
N 09° 02' 45" W	170.30 feet to an existing steel rod
N 41° 40' 42" E	112.52 feet to an existing steel rod
N 72° 21' 05" E	220.35 feet to an existing steel rod
S 58° 26' 57" E	116.42 feet to an existing steel rod
S 37° 22' 59" E	141.82 feet to an existing steel rod and
S 61° 07' 16" E	144.12 feet to a steel rod set;

Thence, through the interior of said 21.12 acre tract as follows:

S 07° 07' 32" E	574.30 feet to a steel rod set
S 65° 29' 31" E	142.66 feet to a steel rod set
S 49° 25' 10" E	212.96 feet to a steel rod set and
S 72° 47' 48" E	159.40 feet to a steel rod set in a northwest line of Lost Valley

Road (a Public Road);

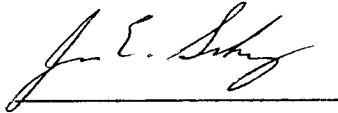
Thence, with said line of Lost Valley Road (a Public Road)¹, S 28° 50' 21" W² 1.13 feet to an

existing steel rod at the beginning of an arc of a cul-de-sac;

Thence, to the left with the arc of said cul-de-sac having a radius of 50.00 feet, a central angle of $72^{\circ} 07' 43''$ and a length of 62.94 feet (chord bears $S 66^{\circ} 06' 22'' W 58.87$ feet) to an existing steel rod, this steel rod being at the southeast corner of the aforementioned MacDonald tract;

Thence, with the southern line of this tract and the northern line of said MacDonald tract $N 88^{\circ} 28' 22'' W 1,042.45$ feet to the place of beginning and containing 15.12 acres of land, more or less.³

I, James E. Schwarz, a Registered Professional Land Surveyor, hereby certify that the above field notes are of a survey made on the ground under my supervision on July 21, 2005.



James E. Schwarz
Registered Professional
Land Surveyor No. 4760
Job No. 05-103

Schwarz Engineering & Surveying, Inc. 723 N. Main St., Boerne, TX 78006 830-249-8907

1. Lost Valley Road declared a Public Road by Kendall County Engineer, said road described in Ingress/Egress easement recorded in Volume 350, Page 755 (Tract II), Kendall County Official Records.
2. The bearing used as the bearing basis for this survey is a calculated bearing of $S 24^{\circ} 58' 04'' W$ between steel rods found at the northeast and southeast corners of the 97.000 acre tract as described in deed recorded in Volume 474, Page 677, Kendall County Official Records.
3. A plat of this tract has been prepared.

STRIP OUT OF BOND TRACT

STATE OF TEXAS #

COUNTY OF KENDALL #

Field notes of a sixty (60') foot wide strip located within the Robert Meadows Survey No. 802, Abstract No. 1001, Kendall County, Texas being a portion of the remainder of a 19.76 acre tract as described in deed recorded in Volume 855, Page 658, Kendall County Official Records; said strip being more fully described as follows:

Beginning at an existing steel rod in a northwest line of Lost Valley Road, a private road, for the northeast corner of this tract, said steel rod being the most easterly northeast corner of the above referenced 19.76 acre tract as described on an Affidavit of Land Location recorded in Volume 947, Page 588, Kendall County Official Records;

Thence, with the northeast lines of this strip and the southwest lines of said 6.65 acre tract as follows:

N 58° 10' 08" W	94.87 feet to an existing steel rod
N 48° 44' 16" W	96.97 feet to an existing steel rod
N 31° 34' 18" W	344.55 feet to an existing steel rod
N 43° 47' 23" W	86.44 feet to an existing steel rod
N 76° 37' 10" W	145.05 feet to an existing steel rod
N 61° 10' 40" W	251.57 feet to an existing steel rod
N 37° 17' 46" W	139.05 feet to an existing steel rod and
N 58° 26' 58" W	58.46 feet to a steel rod set for the northwest corner of this strip;

Thence, through the interior of the above referenced remainder of 19.76 acre tract and with the northwest end of this strip, S 31° 33' 03" W 60.00 feet to a steel rod set in a northeast line of the Morris Jernigan tract as described in Volume 895, Page 862, Kendall County Official Records;

Thence, with southwest lines of this strip and northeast lines of said Morris Jernigan tract as follows:

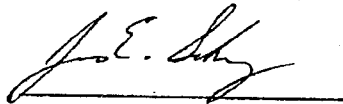
S 58° 26' 57" E	47.30 feet to an existing steel rod
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S 37° 22' 59" E	140.37 feet to an existing steel rod
S 61° 07' 16" E	272.39 feet to an existing steel rod
S 76° 37' 10" E	135.53 feet to an existing steel rod
S 43° 47' 23" E	62.34 feet to an existing steel rod
S 31° 34' 18" E	347.19 feet to an existing steel rod
S 48° 44' 16" E	110.98 feet to an existing steel rod and
S 58° 10' 08" E	102.96 feet to an existing steel rod in the aforementioned northwest

line of Lost Valley Road;²

Thence, with said line of Lost Valley Road, N 28° 50' 21" E 60.08 feet to the place of beginning.³

I, James E. Schwarz, a Registered Professional Land Surveyor, hereby certify that the above field notes are of a survey made on the ground under my supervision on January 6, 2004 and December 22, 2006.



James E. Schwarz
Registered Professional
Land Surveyor No. 4760
Job No. 06-388

Schwarz Engineering & Surveying, Inc. 723 N. Main St., Boerne, TX 78006 830-249-8907

1. The bearing basis for this survey is from deed recorded in Volume 474, Page 677, Kendall County Official Records having a calculated bearing of S 24° 58' 04" W between steel pins found at the northeast and southeast corner of the 97.00 acre tract.
2. The private roadway easement called Lost Valley Road was established in Cause No. 93-256, District Court of Kendall County, Texas recorded in Volume 48, Pages 443-444.
3. A plat of this tract has been prepared.

Filed for Record in:

Kendall County
Darlene Herrin
County Clerk

On: Jan 22, 2008 at 12:03P

Document Number: 00228616
Total Fees : 59.00

Receipt Number - 106933
By Deputy: Harriet Seidensticker

This Document has been received by this Office for Recording into the Official Public Records. We do hereby swear that we do not discriminate due to Race, Creed, Color, Sex or National Origin. *XOAC*

STATE OF TEXAS, COUNTY OF KENDALL
I hereby certify that this instrument was filed in File Number Sequence on the date and at the time stamped hereon and was duly recorded in the Official Records of Kendall County, Texas on:



JAN 23 2008

DARLENE HERRIN, County Clerk
Kendall County, Texas

By: *[Signature]* Deputy