

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.

WATER EASEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF GUADALUPE §

GRANT OF EASEMENT:

SCHERTZ R1, LLC, 15010 Lakefair Drive, Richmond, Fort Bend County, Texas 77406 (“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 SCHERTZ, TEXAS**, a Texas home-rule city, with offices located at 1400 Schertz Parkway, Schertz, Texas 78154 (“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 perpetually to Grantee and its successors and assigns, together with the rights, and privileges and on the terms and conditions set forth below; and Grantor, subject to the Exceptions, to Warranty, 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.

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 water facilities.
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 rights of use granted herein are nonexclusive and irrevocable. The Easement is for the benefit of Holder.

3. *Purpose of Easement.* The Easement shall be used for public utility purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of public utility facilities and related appurtenances, or making connections thereto. The Easement shall also be used for the purpose of providing access for the operation, repair, maintenance, replacement and expansion of the public utility facilities and related appurtenances.
4. *Term.* Easement shall be in perpetuity unless relinquished or abandoned by ordinance or resolution by Grantee.
5. *Reservation of Rights.* Holder's right to use the Easement Property is nonexclusive, and Grantor and Grantor's heirs, successors, and assigns retain the right to use all or part of the Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not (i) interfere with the use of the Easement Property by Holder for the Easement Purpose, nor (ii) may Grantor construct any building, structure or obstruction on the Easement Property. The right to convey to others the right to use all or part of the Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement. Written approval of Holder must be obtained prior to any use or improvement of Easement Property.
6. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use the surface of the 20-foot wide area adjacent to the Easement Property, to assist in the initial installation and as may be reasonably necessary to maintain, repair, and replace the Facilities within the Easement Property of the Facilities within the Easement Property. However, Holder must promptly restore the area of the Temporary Construction Easement to its previous physical condition if changed by use of the rights granted by this Secondary Easement.
7. *Improvement and Maintenance of Easement Property.* Subject to the provisions of Section 8., immediately below, improvement and maintenance of the Easement Property and the Facilities will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Easement Property. Holder has the right to construct, install, maintain, replace, and remove the Facilities under or across any portion of the Easement Property. 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 Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the Facilities. Holder will also replace to their original condition any landscaping, driveways or parking areas that were in existence prior to the granting of the Easement Property and are damaged in connection with the work.

8. *Maintenance of Surface Easement Property/Permitted Improvements.* Notwithstanding any contrary provision, Grantor shall retain the obligation to maintain the surface of the Easement Property, including the obligation to regularly mow or cut back vegetation and to keep the surface of the Easement Property free of litter, debris, or trash. Any permitted improvement made by Grantor must comply with applicable ordinances, development codes and engineering guidelines of the City of Schertz, and must not conflict with use of the easement for its intended purpose as described herein.
9. *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.
10. *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.
11. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
12. *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.
13. *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.
14. *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.
15. *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.

16. *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.
17. *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.
18. *Legal Construction.* 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.
19. *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.
20. *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.
21. *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.

IN WITNESS WHEREOF, this instrument is executed this 20 day of May, 2019.

GRANTOR:

[Signature]

(Grantor's Name)

By: Beau EVANS

(Grantor's Signature)

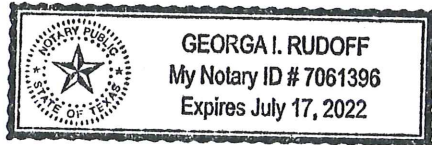
THE STATE OF TEXAS §
 §
COUNTY OF Ft. Bend §

This instrument was acknowledged before me on May 20, 2019, by Beau Evans, an individual residing in Ft. Bend County, Texas.

Georgia J. Rudoff

Notary Public Signature

(seal)



GRANTEE:

AGREED AND ACCEPTED:

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

By: _____
Dr. Mark Browne, City Manager

THE STATE OF TEXAS §
 §
COUNTY OF GUADALUPE §

This instrument was acknowledged before me on _____, 2019, by Dr. Mark Browne, City Manager of the City of Schertz, Texas, a Texas home-rule municipality, on behalf of said municipality.

Notary Public Signature

(seal)

EXHIBIT "A"

EASEMENT TRACT

**A METES AND BOUNDS
DESCRIPTION OF A
0.007 ACRE TRACT OF LAND**

BEING a 0.007 acre (315 square feet, 15 feet by 21 feet) tract of land situated in the Genobrera Malpaz Survey No. 67, Abstract No. 221, City of Schertz, Guadalupe County, Texas; being a portion of Lot 3, Block 1 of Schertz 3009 Subdivision II, plat of which recorded in Volume 7, Page 638 of the Plat Records of Guadalupe County; and being more particularly described as follows:

COMMENCING at a 1/2-inch iron rod with a plastic cap stamped "KHA" found on the southwesterly right-of-way line of Roy Richards Drive (F.M. 3009 - 110 feet wide) marking the northern-most corner of said Lot 3, same being the eastern-most southeast corner of Lot 5 of said Schertz 3009 Subdivision II; from which a 1/2-inch iron rod with a plastic cap stamped "KHA" found marking the western-most corner of said Lot 3 bears South 59°35'23" West, 240.00 feet;

THENCE, South 30°24'16" East, 17.50 feet along the southwesterly right-of-way line of said Roy Rogers Drive to the **POINT OF BEGINNING** of the herein described tract;

THENCE, South 30°24'16" East, 15.00 feet, continuing along the southwesterly right-of-way line of said Roy Rogers Drive to a point for corner;

THENCE, departing the southeasterly right-of-way line of said Roy Rogers Drive and crossing said Lot 3, the following three (3) courses and distances:

1. South 59°35'24" West, 21.00 feet to a point for corner;
2. North 30°24'16" West, 15.00 feet to a point for corner;
3. North 59°35'24" East, 21.00 feet to the **POINT OF BEGINNING**, and containing 0.007 acre of land in Guadalupe County, Texas. The basis of bearing for this description is the Texas State Plane Coordinate System Grid, South Central Zone (FIPS 4204) (NAD'83). All distances are on the Grid and shown in U.S. Survey Feet. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.

JOHN G. MOSIER
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6330
601 NW LOOP 410, SUITE 350
SAN ANTONIO, TEXAS 78216
PH. 210-541-9166
greg.mosier@kimley-horn.com



John G. Mosier
4-16-2019

15'X21' WATER EASEMENT
GENOBRERA MALPAZ SURVEY NO. 67,
ABSTRACT NO. 221
CITY OF SCHERTZ
GUADALUPE COUNTY, TEXAS

Kimley»Horn

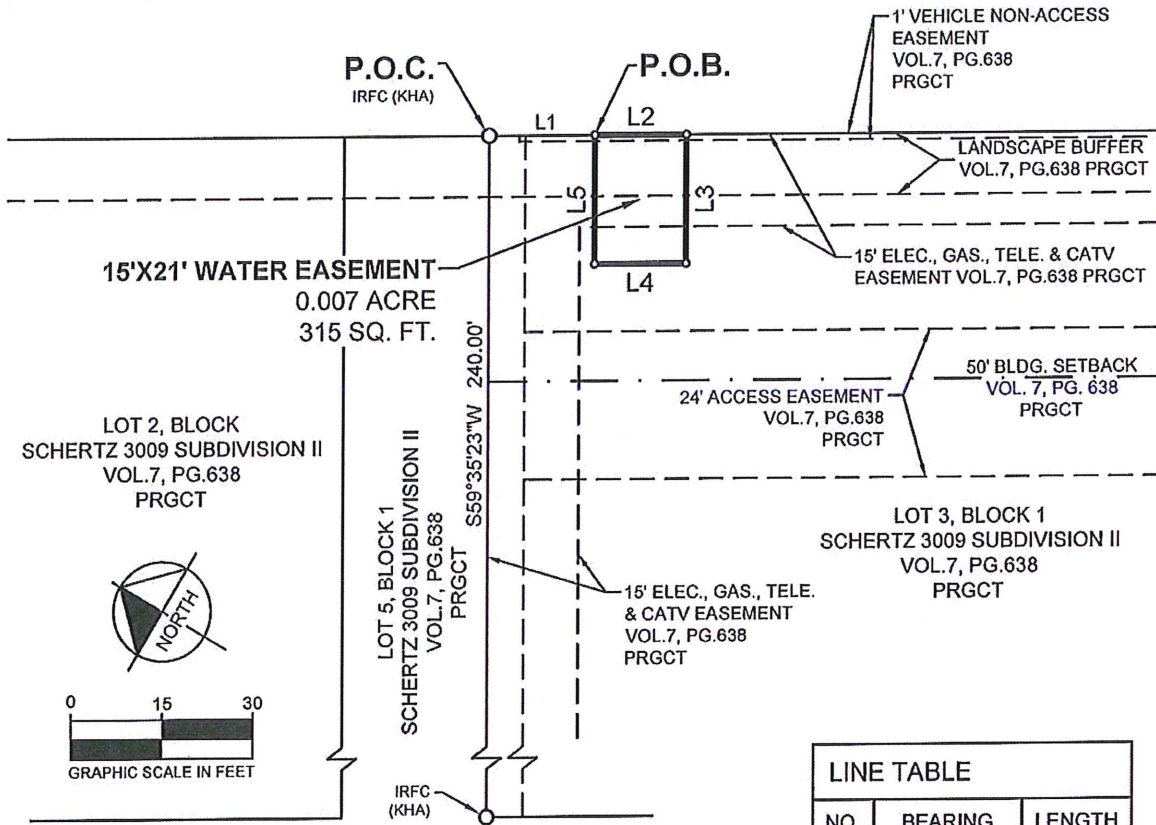
601 NW Loop 410, Suite 350
San Antonio, Texas 78216

FIRM # 10193973

Tel. No. (210) 541-9166
www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	APS	JGM	4/16/2019	068711100	1 OF 2

ROY RICHARDS DRIVE
(F.M. 3009 - 110' R.O.W.)



LEGEND:

P.O.C. = POINT OF COMMENCING
P.O.B. = POINT OF BEGINNING
IRFC = IRON ROD W/CAP FOUND
PRGCT = PLAT RECORDS OF GUADALUPE COUNTY

NOTES:

The bearings, distances, areas and coordinates shown hereon are Texas State Coordinate System GRID, South Central Zone (FIPS 4204) (NAD'83), as determined by the Global Positioning System (GPS). The unit of linear measurement is U.S. Survey Feet.

LINE TABLE		
NO.	BEARING	LENGTH
L1	N30°24'16"W	17.50'
L2	S30°24'16"E	15.00'
L3	S59°35'24"W	21.00'
L4	N30°24'36"W	15.00'
L5	N59°35'24"E	21.00'



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15'X21' WATER EASEMENT
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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 30'	AFS	JGM	4/16/2019	068711100	2 OF 2