

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 MAINTENANCE AND EASEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF GUADALUPE §

GRANT OF EASEMENT:

SCHERTZ-CIBOLO-UNIVERSAL CITY INDEPENDENT SCHOOL DISTRICT, a body corporate and political subdivision in the Counties of Guadalupe and Bexar, State of Texas (“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) “Utility” shall mean drainage 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 utility purposes, including placement, construction, and installation of utility facilities and related appurtenances, and for the authorization of Grantee to enforce maintenance obligations including the right of self-help.
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. *Improvement and Maintenance of Easement Property.* Maintenance of the Easement Property and the Facilities will be at the sole expense of Grantor. Holder has the right to enforce that maintenance obligation via self-help remedies if it so elects.
7. *Permitted Improvements.* Notwithstanding any contrary provision, Grantor shall retain the right to improve the easement area. 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.
8. *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.
9. *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.

10. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
11. *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.
12. *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.
13. *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.
14. *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.
15. *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.
16. *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.
17. *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.
18. *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.

19. *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.
20. *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 ____ day of _____, 2021.

GRANTOR:

(Grantor's Name)

By:

(Grantor's Signature)

STATE OF TEXAS §
 §
COUNTY OF GUADALUPE §

This instrument was acknowledged before me on the ____ day of _____, 2021, by _____, an individual residing in _____ County, Texas.

Notary Public, State Of Texas

AGREED AND ACCEPTED:

City of Schertz
A Texas home-rule municipality

Dr. Mark Browne
City Manager, City of Schertz

STATE OF TEXAS §
 §
COUNTY OF GUADALUPE §

This instrument was acknowledged before me on the ____ day of _____, 2021, by Dr. Mark Browne, City Manager of the City of Schertz, Texas, a Texas home-rule municipality, on behalf of said municipality.

Notary Public, State of Texas

Exhibit:
"A" Description of Development Tract

EXHIBIT "A"

Description of Easement Area



FORD ENGINEERING, INC.

Date: July 02, 2021
Project No: 1124.9403

DRAINAGE EASEMENT DESCRIPTION 0.017 ACRE (722 square feet) TRACT

A 0.017 of an acre (722 square feet) tract of land, situated in the Genobera Malpaz Survey No. 67, Abstract 221, Guadalupe County, Texas, being a portion of a called 29.379 acre tract described in a deed to Schertz-Cibilo Independent School District, recorded in Volume 346, Page 456, Deed Records Guadalupe County, Texas, being at the at the Samuel E. Clements High School; Said 0.017 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a calculated point on the northwest right-of-way line of Elbel Road (80' R.O.W. width), for the east corner hereof, from which a 1/2 inch iron rod found at the intersection of the northeast boundary line of the Schertz-Cibilo ISD 29.379 acre tract and the northwest right-of-way line of Elbel Road, bears North 59° 37' 48" East (record North 60° East) a distance of 616.40 feet;

THENCE South 59° 37' 48" West, (record South 60° West), along the northwest right-of-way line of Elbel Road, a distance of 37.49 feet, to a calculated point for the south corner hereof;

THENCE leaving the northwest right-of-way line of Elbel Road, crossing through the Schertz-Cibilo ISD 29.379 acre tract, the following three (3) courses and distances:

1. **North 30° 22' 12" West**, a distance of 19.25 feet, to a calculated point for the west corner hereof;
2. **North 59° 37' 48" East**, a distance of 37.49 feet, to a calculated point for the north corner hereof;
3. **South 30° 22' 12" East**, a distance of 19.25 feet, to the **POINT OF BEGINNING**, containing 0.017 of an acre of land.

**BEARINGS ARE BASED ON LAMBERT GRID, TEXAS STATE PLANE
COORDINATES, SOUTH CENTRAL ZONE NAD 83/93.**



Robert W. Johnston, RPLS
Registered Professional Land Surveyor
License Number 5579

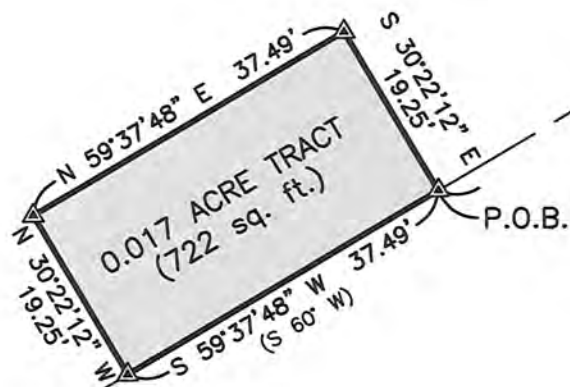
**PLAT SHOWING DRAINAGE EASEMENT:
OUT OF THE GENOBERA MALPAZ SURVEY No. 67
ABSTRACT No. 221
CITY OF SCHERTZ, GUADALUPE COUNTY, TEXAS.**

NORTH
SCALE: 1" = 20'

- LEGEND**
- 1/2" IRON ROD FOUND
 - DRGCT DEED RECORDS OF GUADALUPE COUNTY
 - () RECORD INFORMATION
 - P.O.B. POINT OF BEGINNING

G E N O B E R A M A L P A Z S U R V E Y N o . 6 7
A B S T R A C T N o . 2 2 1

SCHERTZ-CIBILO INDEPENDENT SCHOOL DISTRICT
SAMUEL E. CLEMENTS HIGH SCHOOL
(29.379 ACRES)
VOL. 346, PG. 456
DRGCT



ELBEL ROAD
(80' ROW)

STATE OF TEXAS :
COUNTY OF GUADALUPE:

I, ROBERT W. JOHNSTON, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND AND UNDER MY SUPERVISION. ON JUNE 30, 2021

Robert W. Johnston

ROBERT W. JOHNSTON
DATE: 07-02-2021
PROJECT NO.: 1124-9403
DRAWN BY: RWJ

RPLS No. 5579



ENGINEERING * PLANNING * DEVELOPMENT

10927 WYE DRIVE, SUITE 104, SAN ANTONIO, TEXAS 78217, (210) 590-4777



**PLAT SHOWING DRAINAGE EASEMENT:
OUT OF THE GENOBERA MALPAZ SURVEY No. 67
ABSTRACT No. 221
CITY OF SCHERTZ, GUADALUPE COUNTY, TEXAS.**

NORTH
SCALE: 1"=20'

- LEGEND**
- 1/2" IRON ROD FOUND
 - DRGCT DEED RECORDS OF GUADALUPE COUNTY
 - () RECORD INFORMATION
 - P.O.B. POINT OF BEGINNING

G E N O B E R A M A L P A Z S U R V E Y N o . 6 7
A B S T R A C T N o . 2 2 1



STATE OF TEXAS :
COUNTY OF GUADALUPE:

I, ROBERT W. JOHNSTON, DO HEREBY CERTIFY THAT
THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY
MADE ON THE GROUND AND UNDER MY SUPERVISION.
ON JUNE 30, 2021

ROBERT W. JOHNSTON
DATE: 07-02-2021
PROJECT NO.: 1124-9403
DRAWN BY: RWJ

RPLS No. 5579



10927 WYE DRIVE, SUITE 104, SAN ANTONIO, TEXAS 78217, (210) 590-4777

H:\CIV_PROJ\SCHERTZ\112494 03 Elbel Rd - Storm Ext and Overlay\Drawings\11249403DrainageEasement.dwg, PLAT, 7/2/2021 2:51:52 PM, 1:1