

**RESOLUTION NO. 23-R-128**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN AGREEMENT TO DEDICATE RIGHT-OF-WAY (ROW) IN EXISTING PARKLAND FOR A SECONDARY ACCESS FOR ADDITIONAL DEVELOPMENT IN THE HALLIE'S COVE SUBDIVISION IN EXCHANGE FOR FUNDING PUBLIC PARK IMPROVEMENTS AND DEDICATION OF LAND.**

WHEREAS, the developer of the Hallie's Cove subdivision needs secondary access for additional development and that access is through existing dedicated parkland; and

WHEREAS, City staff negotiated a public benefit of \$30,000 for park improvements for the right-of-way (ROW) needed in the existing parkland; and

WHEREAS, the Parks & Recreation Advisory Board recommended approval of the concept agreement at their meeting on November 27, 2023; and

WHEREAS, the City of Schertz will benefit from the additional public park improvements that will be funded with this agreement.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to act on behalf of the City of Schertz in all matters relating to the above mentioned right-of-way (ROW) dedication and funding of park improvements and dedication of land in approving an agreement generally as per Exhibit "A".

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject

matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this \_<sup>th</sup> day of \_\_\_\_\_, 2023.

CITY OF SCHERTZ, TEXAS

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Ralph Gutierrez, Mayor

ATTEST:

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Sheila Edmondson, City Secretary

**Exhibit "A"**

**Park Dedication Agreement**

STATE OF TEXAS                   §  
  §  
COUNTY OF GUADALUPE       §

**PARK DEDICATION AGREEMENT  
REVOLUTION CHURCH SUBDIVISION – PUBLIC IMPROVEMENTS**

This PARK DEDICATION AGREEMENT (the “Agreement”) is by and between \_\_\_\_\_ (the “Developer”) and the CITY OF SCHERTZ, a Texas municipal corporation (the “City”), and is effective upon the execution of this Agreement by the Developer and the City (the “Effective Date”).

**WHEREAS**, the Developer is the owner of that certain real property located in the City of Schertz, Bexar County, Texas, more specifically described on **Exhibit “A”**, attached hereto and made a part hereof for all purposes (the “Property” or “\_\_\_\_\_ Subdivision”); and,

**WHEREAS**, the Developer seeks to develop a commercial subdivision on the Property (the “Subdivision”) that requires the construction of certain public improvements and dedication of parkland; and,

**WHEREAS**, this Agreement is made solely with respect to the commitments and assurances set forth and approved by the City of Schertz City Council in Resolution 23-R-128 on December 5, 2023 and attached as Exhibit B.

**NOW THEREFORE**, in consideration of the agreements set forth herein and for other reciprocal good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and stipulated by the Parties, the Owner, the Developer and the City agree as follows:

Dedication of Parkland and Easements; Covenants. The Developer and the City covenant and agree to the following:

As a part of the development of the Property, and in addition to all other development requirements set forth in the Unified Development Code, Developer covenants and agrees to provide the following, as depicted on the attached Exhibit C:

- i. dedicate additional parkland from Developer owned land to enlarge the existing City owned parkland adjacent to the Property.
- ii. Pay \$30,000 to be used to construct park improvements in parkland adjacent to the additional parkland dedication.

- iii. Construct a street, in conformance with City standards, across the City owned parkland.

As a part of the development of the Property, and in accordance with the intent expressed in Resolution 23-R-128 on December 5, 2023, City covenants and agrees to the following, as depicted on the attached Exhibit C:

- i. Allow construction of a street to in conformance with City standards across the City owned parkland.

Approval of Agreement. The City has approved the execution and delivery of this Agreement and the Developer represents and warrants that it has taken all necessary action to authorize its execution and delivery of this Agreement.

Governmental Immunity. The City does not waive or relinquish any immunity or defense on behalf of itself, its officers, employees, Councilmembers, and agents as a result of the execution of this Agreement and the performance of the covenants and actions contained herein.

Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, representatives, successors, and assigns, and the terms hereof shall run with the Property.

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 shall be construed together and shall constitute one and the same Agreement.

Integration. This Agreement is the complete agreement between the parties as to the subject matter hereof and cannot be varied except by the written agreement of the Developer and the City. The Developer and the City each agrees that there are no oral agreements, understandings, representations or warranties which are not expressly set forth herein.

Notices. Any notice or communication required or permitted hereunder shall be deemed to be delivered three (3) days after such notice is deposited in the United States mail, postage fully prepaid, registered or certified mail return receipt requested, and addressed to the intended recipient at the address shown herein. Any address for notice may be changed by written notice delivered as provided herein. All notices hereunder shall be in writing and served as follows:

If to the Developer:

\_\_\_\_\_  
\_\_\_\_\_

Attention: Harry Hausman

If to the City:

CITY OF SCHERTZ  
1400 Schertz Parkway  
Schertz, Texas 78154  
Attention: City Manager

With copy to:

Denton Navarro Rocha Bernal & Zech, P.C.  
2517 N. Main Avenue  
San Antonio, Texas 78212  
Attention: T. Daniel Santee

Legal Construction. If 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, such 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 this Agreement. Whenever the 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.

Recitals; Exhibits. Any recitals in this Agreement are represented by the parties hereto to be accurate, constitute a part of the parties' substantive agreement, and are fully incorporated herein as matters of contract and not mere recitals. Further, any exhibits to this Agreement are incorporated herein as matters of contract and not mere exhibits.

No Joint Venture. It is acknowledged and agreed by the parties that the terms hereof are not intended to, and shall not be deemed to, create a partnership or joint venture among the parties.

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 shall be in the State District Courts of Guadalupe County, Texas with respect to any lawsuit arising out of or construing the terms and provisions of this Agreement. No provision of this Agreement shall constitute consent by suit by any party.

*[ Signatures and acknowledgments on the following pages ]*

**Signature Page to  
Improvement Agreement**

This Improvement Agreement has been executed by the parties as of the dates of the Acknowledgments to be effective as of the Effective Date.

Developer:

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

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

THE STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_       §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, on behalf of said limited liability company.

(SEAL)

\_\_\_\_\_  
Notary Public in and for  
The State of Texas

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

**Signature Page to  
Improvement Agreement**

This Improvement Agreement has been executed by the parties as of the dates of the Acknowledgments to be effective as of the Effective Date.

City:

**CITY OF SCHERTZ,**  
a Texas municipal corporation

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

Name: Steve Williams, City Manager

Date: \_\_\_\_\_

THE STATE OF TEXAS           §  
  §  
COUNTY OF GUADALUPE       §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2023 by Steve Williams, City Manager of the City of Schertz, Texas, a Texas municipal corporation, on behalf of said City.

(SEAL)

\_\_\_\_\_  
Notary Public in and for  
The State of Texas

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

**EXHIBIT “A”**

The Property

*[ See attached ]*

**EXHIBIT "B"**

Resolution 23-R-128

*[See attached]*

**EXHIBIT "C"**

Depiction of Improvements, Land Dedication and Street

*[See attached]*

