

RESOLUTION NO. 24-R-157

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN AGREEMENT WITH THE SCHERTZ CIBOLO UNIVERSAL CITY INDEPENDENT SCHOOL DISTRICT FOR EASEMENT AND DRAINAGE AND ROAD RIGHT-OF-WAY ACQUISITION AND AN AGREEMENT WITH THE DEVELOPER OF THE RUMPF PROPERTY FOR THE REIMBURSEMENT OF COSTS ASSOCIATED WITH DRAINAGE RIGHT-OF-WAY AND EASEMENT ACQUISITION.

WHEREAS, there is a lack of street access to serve an area of southern Schertz east of FM 1518; and

WHEREAS, there is a need for drainage right-of-way and easements to allow for the construction of sewer facilities and stormwater conveyance facilities, and

WHEREAS, the existing section of Ray Corbett Drive extends to the east of FM 1518, but not as far as the future extension of Redbud Parkway, which will not only provide for access to the properties in the immediate area, but also provide for needed circulation to the large area in the City of Schertz; and

WHEREAS, the Developer of the Rumpf Tract is proposing to construct an offsite section drainage channel and sewer line from their property to connect to future facilities within the Saddlebrook Development, across the property owned by SCUCISD; and

WHEREAS, the Development Agreement from July 2024 with the Rumpf Tract stipulate they must build the future extension of Ray Corbett Drive to their southeastern property line if the necessary right-of-way is dedicated by January 1, 2025

WHEREAS, SCUCISD has indicated a willingness to sell the needed drainage right-of-way and easement to the City of Schertz in order that it may be constructed; and

WHEREAS, the Developer of the Rumpf Property has requested to pay for the cost of the drainage right-of-way and easement acquisition if the City will acquire it from SCUCISD; and

WHEREAS, the City Council finds that it is in the best interest of the City to enter into the Agreement with Developer for acquisition of the right-of-way necessary for the construction of the drainage channel and sewer line and an agreement with SCUCISD to acquire the necessary rights-of-way and easement in order to provide the infrastructure to serve other properties outside of the Rumpf property and the larger community.

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 execute the agreement with Developer for acquisition of drainage right-of-way and easements and the

associated agreement with SCUSISD, generally in the forms attached as Exhibits “A” and “B”, subject to changes approved by the City Manager and City Attorney.

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 ____th day of November, 2024.

CITY OF SCHERTZ, TEXAS

Mayor, Ralph Gutierrez

ATTEST:

City Secretary, Sheila Edmondson

(CITY SEAL)

Exhibit "A"

Agreement with the Rumpf Developer

the construction of Public Improvement in order to provide the infrastructure to serve other properties outside the boundary of the proposed Den-Ott Subdivision plat:

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 and the City agree as follows:

1. Ownership of the Property. The Owner hereby represents and warrants that, as of the Effective Date, it has not conveyed, assigned, or transferred all or any portion of its interest in the Property to any other person or entity (any such person or entity referred to herein as “Purchaser”), nor is it a party to any contract or other understanding to do so that is not subject to this Agreement.

2. Acquisition of Right-of-way and Easements; Covenants. The Owner and the City covenant and agree to the following:

- a) The Owner is obligated by the City’s Unified Development Code to provide for sewer service and stormwater conveyance for all residential subdivisions.
- b) The Owner is proposing to drain and sewer to the south through the SCUCISD site south of future Ray Corbett Drive.
- c) Construction of the drainage and sewer improvements requires acquisition of offsite drainage right-of-way and utility easements and the Owner is proposing to bear the cost of right-of-way and easement acquisition. The Owner has sought the City’s assistance in acquiring the offsite drainage right-of-way and easements, see Exhibit “B”. The Owner agrees to reimburse the City for all costs associated with acquiring the right-of-way and easements, including but not limited to the appraisal cost and acquisition price. The acquisition costs may include the costs of surveys. The Owner shall pay the City the amount of the total costs required to acquire the easements in advance of the City closing on the acquisition. The cost of the appraisal shall be paid upon execution of the agreement.
- d) Prior to moving forward with the actual acquisition of the Property after the purchase price has been provided by SCUCISD, the Owner will provide written notice to the City.
- e) Upon provision of notice to acquire the property as provide above, the

3. Approval of Agreement. The City has approved the execution and delivery of this Agreement pursuant to Section 21.4.15(C.)(2.) of the City’s Unified Development Code, and the Owner represents and warrants that it has taken all necessary action to authorize its execution and delivery of this Agreement.

4. 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.

5. 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.

6. 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.

7. 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 Owner and the City. The Owner and the City each agrees that there are no oral agreements, understandings, representations or warranties which are not expressly set forth herein.

8. 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 Owner:

XXX
XXX
XXX
Attention: XXXX

With copy to:

Killen, Griffin & Farrimond, PLLC
10101 Reunion Place, Suite 250
San Antonio, Texas
Attention: Ashley Farrimond

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

9. 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.

10. 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.

11. 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.

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 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.

Owner:

XXXXX

By: _____
Name: _____
Title: _____
Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2024 by _____, the _____ of XXXX.

(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 _____, 2024 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

Legal Metes and Bounds
and
Master Plan

[See attached]

EXHIBIT "B"

The Right-of-Way/Easement

[See attached]

