

**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.**

**Easement Agreement for Drainage**

**Date:** \_\_\_\_\_, 2017

**Grantor:** Eagle Pass Independent School District, a Texas independent school district

**Grantor's Mailing Address:**

Eagle Pass Independent School District  
1420 Eidson Road  
Eagle Pass, Texas 78852  
Maverick County, Texas

**Grantee:** Elm Creek Properties, LLC, a Texas limited liability company

**Grantee's Mailing Address:**

Elm Creek Properties, LLC  
c/o William Clayton Brown, Jr.  
1152 Ferry Street, Suite D.  
Eagle Pass, Texas 78852  
Maverick County

**Easement Property:** Being a 25 Foot School Drainage Easement located in Maverick County, Texas, and being a tract of land described as Twenty-five feet School Drainage easement, located within 14.480 acres, more or less, out of Survey 3, Abstract 1090, and Survey 4, Abstract 1029 in Maverick County, Texas, said 25 Foot School Drainage Easement being further described by metes and bounds in Exhibit "A" attached hereto and incorporated herein by reference.

**Easement Purpose:** Easement for construction installation, operation repair and maintenance of drainage facilities over and across the Easement Property.

**Consideration:** 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 by Grantor.

**Reservations from Conveyance:**

This conveyance is expressly made subject to all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, and other instruments that affect the property.

**Exceptions to Warranty:** None.

**Grant of Easement:** Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the Easement Property for the Easement Purpose and for the benefit of the Dominant Estate Property, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part thereof, except as to the Reservations from Conveyance and Exceptions to Warranty, to the extent that such claim arises by, through, or under Grantor but not otherwise.

**Terms and Conditions:** The following terms and conditions apply to the Easement granted by this agreement:

1. *Character of Easement.* The Easement is appurtenant to and runs with all or any portion of the Dominant Estate Property, whether or not the Easement is referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Easement is nonexclusive and irrevocable. The Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns.

2. *Duration of Easement.* The duration of the Easement is perpetual.

3. *Reservation of Rights.* Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to continue to use and enjoy the surface of the Easement Property

for all purposes that do not interfere with or interrupt the use or enjoyment of the Easement by Holder for the Easement Purposes. Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Easement in conjunction with Holder and the right to convey to others the right to use all or part of the Easement in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement and the other users agree to bear a proportionate part of the costs of improving and maintaining the Easement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain drainage facilities suited for the Easement Purpose within the Easement Property. However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.

5. *Improvement and Maintenance of Easement Property.* Improvement and maintenance of the Easement Property will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Easement Property. Holder must maintain the Easement Property in a neat and clean condition. Holder has the right to construct, install, maintain, replace, and remove drainage facilities under or across any portion of the Easement Property (collectively, the "Drainage Facilities"). All matters concerning the configuration, construction, installation, maintenance, replacement, and removal of the drainage facilities 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 within the Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the drainage facilities or onto other lands or easements owned by Holder and adjacent to the Easement Property,

subject to replacement of the fences to their original condition on the completion of the work.

6. *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.

7. *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 if awarded by a Court of competent jurisdiction.

8. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.

9. *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.

10. *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.

11. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately a 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.

12. *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.

13. *Indemnity.* To the extent permitted by law, each party agrees to indemnify, defend, and hold harmless the other party from any loss, attorney's fees, expenses, or claims attributable to breach or default of any provision of this agreement by the indemnifying party.

14. *Entire Agreement.* This agreement and any exhibits are the entire agreement of the parties concerning the Easement Property, and the grant of the Easement by Grantor to Grantee. There are no representations, agreements, warranties, or promises, and neither party is relying on any statements or representations of any agent of the other party, that are not in this agreement and any exhibits.

15. *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, 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.

16. *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.

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

18. *Time.* Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.

**GRANTOR:**

Eagle Pass Independent School District, a Texas independent school district,

By: \_\_\_\_\_  
Gilberto Gonzalez, Superintendent

**GRANTEE:**

Elm Creek Properties, LLC

By: \_\_\_\_\_  
William Clayton Brown, Jr., President

STATE OF TEXAS )

COUNTY OF MAVERICK )

This instrument was acknowledged before me on \_\_\_\_\_, 2017, by Gilberto Gonzalez, Superintendent of Eagle Pass Independent School District, a Texas independent school district, as the act of and on behalf of said school district.

\_\_\_\_\_  
Notary Public, State of Texas

My commission expires: \_\_\_\_\_

STATE OF TEXAS )

COUNTY OF MAVERICK )

This instrument was acknowledged before me on \_\_\_\_\_, 2017, by William Clayton Brown, Jr., as President of Elm Creek Properties, LLC, a Texas limited partnership.

\_\_\_\_\_  
Notary Public, State of Texas

My commission expires: \_\_\_\_\_

PREPARED IN THE OFFICE OF:

LANGLEY & BANACK, INC.  
401 Quarry Street  
Eagle Pass, Texas 78852  
Tel: (830) 773-6700  
Fax: (830) 757-4045

AFTER RECORDING RETURN TO:

LANGLEY & BANACK, INC.  
401 Quarry Street  
Eagle Pass, Texas 78852

**EXHIBIT "A"**

**METES AND BOUNDS DESCRIPTION  
FOR A DRAINAGE EASEMENT  
IN MAVERICK COUNTY, TEXAS**

Situated in Maverick County, Texas and being a Drainage Easement out of and part of Survey 4, Abstract 1029, G. Ariola, and out of a property conveyed to Eagle Pass Independent School District in Volume 498, Pages 41-44 of the Official Public Records of Maverick County, Texas. This Tract being more particularly described by metes and bounds as follows:

BEGINNING, at a ½" iron pin found in northwest corner of said Eagle Pass Independent School District tract being the same the southwest corner of Elm Creek Ranch Unit 1 Subdivision and for a corner of this described tract;

THENCE, S. 75° 56" 32" E. 60.0 ft., with the common property line of said Elm Creek Ranch Unit 1 and Eagle Pass Independent School District to a 5/8" iron pin set for a corner of this tract;

THENCE, S. 46° 08' 58" W, 80.0 ft. to a 5/8" iron pin set for a corner of this tract;

THENCE, N. 00° 25' 00" W. 70.0 ft., to the PLACE OF BEGINNING (P.O.B.) and containing 2,033.34 Square Feet.

Del Rio, Texas, October 26, 2017

  
Abner Martinez – Guadarrama  
R.P.L.S. 5009, Texas

