

STATE OF TEXAS§

COUNTY OF LUBBOCK

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DRAINAGE EASEMENT

Date: April 18, 2022

Grantor: LUBBOCK COUNTY, TEXAS

Grantee: DDT LANDS, LLC, a Texas limited liability company

Benefitted Property: Attached hereto as Exhibit "A" and incorporated herein by reference.

Easement Property: Attached hereto as Exhibit "B" and incorporated herein by reference.

Easement Purpose:

The right to construct, reconstruct, maintain, repair, clean and clear the Easement Property for the free and unobstructed drainage of surface water, together with the right of ingress, egress, and regress for such purposes in, on, along, through and across the Easement Property to accomplish the purposes set out herein.

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor.

Reservations from Conveyance:

Grantor, reserves for themselves, and any subsequent grantees of Grantor, the right to use all or part of the Easement Property in conjunction with Grantee, for all purposes that do not interfere with or interrupt the use or enjoyment of the easement by Grantee for the Easement Purpose.

Exceptions to Warranty:

Any and all existing easements, covenants, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Benefitted Property, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of the County in which any part of the Benefitted Property is located, or that may be apparent on the Benefitted Property.

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 to, over, and across the Easement Property for the Easement Purpose, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold the easement, rights, and appurtenances 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, rights, and appurtenances in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the easement, rights, or appurtenances, or any part thereof, except as to the Reservations from Conveyance and Exceptions to Warranty.

The easement, rights, and appurtenances hereby granted by and between Grantor and Grantee are referred to herein as the "Easement." The Benefitted Property and Easement Property are sometimes referred to herein collectively as the "Properties." Grantor and Grantee are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

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

1. *Character of Easement.* The Easement is appurtenant to and runs with all or any portion of the Benefitted Property, whether or not the Easement is referenced or described in any conveyance of all or any portion of the Benefitted Property. The Easement is for the benefit of the Grantee as owner of the Benefitted Property, and its successors, tenants, and assigns who at any time own or lease all or any part of the Benefitted Property (the "Holder").
2. *Duration of Easements.* The duration of the Easement is perpetual.
3. *Nonexclusiveness of Easement.* Holder's right to use the Easement Property is nonexclusive, and Grantor reserves for Grantor and Grantor's heirs, successors, and assigns 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 interfere with the use of the Easement Property by Holder for the Easement Purpose, and 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.
4. *Improvement and Maintenance of Property.* Improvement and maintenance of the Easement Property for the Easement Purpose will be at the sole expense of Grantor. Holder has the right to eliminate any encroachments into the Easement Property. Holder must maintain the Easement Property in a neat and clean condition. All matters concerning the drainage grade and direction of flow of surface waters on the Property and their configuration, construction and maintenance, are at Grantor's sole discretion.
5. *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 benefitted 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.
6. *Attorney's Fees.* If any Party retains an attorney to enforce this Easement, the Party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.
7. *Binding Effect.* This Easement binds and inures to the benefit of the Parties and their respective heirs, successors, and permitted assigns.
8. *Choice of Law.* This Easement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any other jurisdiction. Venue is in the county or counties in which the Properties are located.
9. *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 Easement does not preclude pursuit of other remedies in this Easement or provided by law.
10. *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 Easement and all transactions contemplated by this Easement.
11. *Indemnity.* 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 Easement by the indemnifying Party.

12. *Legal Construction.* If any provision in this Easement 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 Easement will be construed as if the unenforceable provision had never been a part of the Easement. 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 Easement are for reference only and are not intended to restrict or define the text of any section. This Easement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.
13. *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 for such person or entity in the records of the Lubbock Central Appraisal District. 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.
14. This Easement agreement may be amended, modified or terminated, in whole or in part, only by the written agreement of the owners of all parts of the Easement Property and all parts of the Benefitted Property.
15. *Recitals.* Any recitals in this Easement are represented by the Parties to be accurate, and constitute a part of the substantive Easement.
16. *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:

LUBBOCK COUNTY, TEXAS

Executed by and approved for the County

By: _____
CURTIS PARRISH, Lubbock County Judge

Date: _____

Attest:

Kelly Pinion, County Clerk

Approved as to form:

Lubbock County District Attorney's Office
Civil Division

GRANTEE:

DDT LANDS, LLC, a Texas limited liability company

By: _____
Printed Name: _____
Title: _____

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 This instrument was acknowledged before me this ____ day of _____, 2022, by
_____, _____ of DDT LANDS, LLC, a Texas limited liability company,
in the capacity therein stated.

Notary Public, State of Texas

Exhibit "A"
(Benefitted Property)

METES AND BOUNDS DESCRIPTION of an 18.930 acre portion of a 125.42 acre tract described under County Clerk File No. 2020000812 of the Official Public Records of Lubbock County, Texas, located in Section 11, Block A, Tyler Tap Railroad Company Survey, Lubbock County, Texas, being further described as follows:

BEGINNING at a 5/8" iron rod found in the East right-of-way line of North University Avenue as described in Volume 1206, Page 211 of the Deed Records of Lubbock County, Texas, at the Northwest corner of a 9.7 acre tract described under County Clerk File No. 2013021610 of the Official Public Records of Lubbock County, Texas, the most Westerly Southwest corner of said 125.42 acre tract and the Southwest corner of this tract, which bears N. 01°43'25" E. a distance of 1319.27 feet and S. 88°11'55" E. a distance of 40.05 feet from the Southwest corner of Section 11, Block A, Lubbock County, Texas;

THENCE N. 01°18'50" E., along said East right-of-way line and the Western boundary of said 125.42 acre tract, at 30.00 feet pass a 1/2" iron rod with cap marked "HRA" set in reference, at 1289.51 feet pass a 1/2" iron rod with cap marked "HRA" set in reference, continuing for a total distance of 1319.52 feet to a 1/2" iron rod with cap marked "HRA" found at the Southwest corner of a 78.8 acre tract described under County Clerk Probate File No. 2012-776,549 of the Official Public Records of Lubbock County, Texas, the Northwest corner of said 125.42 acre tract and the Northwest corner of this tract;

THENCE S. 88°11'30" E., along the Southern boundary of said 78.8 acre tract and the Northern boundary of said 125.42 acre tract, a distance of 633.73 feet to a 1/2" iron rod with cap marked "HRA" set for the Northeast corner of this tract;

THENCE S. 02°04'37" W., at 30.00 feet pass a 1/2" iron rod with cap marked "HRA" set in reference, at 80.00 feet pass a 1/2" iron rod with cap marked "HRA" set in reference, at 1289.41 feet pass a 1/2" iron rod with cap marked "HRA" set in reference, continuing for a total distance of 1319.41 feet to 1/2" iron rod found at the Northeast corner of said 9.7 acre tract, an "ell" corner of said 125.42 acre tract and the Southeast corner of this tract;

THENCE N. 88°11'55" W., along the Northern boundary of said 9.7 acre tract and the Western boundary of said 125.42 acre tract a distance of 616.16 feet to the Point of Beginning.

Contains: 824,574 square feet.

Exhibit "B"
Easement Property