

12. Right of Way Easement dated January 31, 1966, executed by Charles Boerner, Jr. to Southwestern States Telephone Company, recorded in Vol. 89, page(s) 242-243, Deed Records of Gillespie County, Texas.

13. Electric power line as shown on plat dated July 7, 1978, prepared by Nixon Associates, and revised on December 14, 1992, August 1997, October 1997, and November 1997.

14. Rules, Regulations and Orders governing the creation of Residential Subdivisions, Sanitation and Waste Disposal, and the drilling, construction and use of water wells as passed by the City of Fredericksburg, Texas, Commissioners' Court of Gillespie County, Texas, and the Texas Water Quality Board.

15. No mobile home(s) shall be placed on property.

16. One travel trailer or recreational vehicle shall be permitted on the property for residential use for a period not to exceed three years while residence is under construction.

17. Any residence constructed on property shall have a minimum of 1,000 square feet of living space exclusive of porches and balconies.

18. Poultry and other domestic fowl shall be penned.

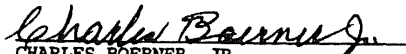
19. No swine shall be kept on the property.

20. No commercial feeding of live stock shall be permitted on the property.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors, to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

The vendor's lien against and superior title to the property are retained until each note described is fully paid according to its terms, at which time this Deed shall become absolute.

When the context requires, singular nouns and pronouns include the plural.

  
CHARLES BOERNER, JR.,  
Individually and as Trustee  
of the CHARLES BOERNER, JR.  
REVOCABLE LIVING TRUST

STATE OF TEXAS §

COUNTY OF GILLESPIE §

This instrument was acknowledged before me on the 9<sup>th</sup> day of January, 1998, by CHARLES BOERNER, JR., Individually and as Trustee of the CHARLES BOERNER, JR. REVOCABLE LIVING TRUST.

*Meridel S. Solbrig*  
Notary Public, State of Texas



AFTER RECORDING RETURN TO:

Mr. James Thorson  
General Delivery  
Fredericksburg, Texas 78624

PREPARED IN THE LAW OFFICE OF:

Meridel S. Solbrig  
205 West Austin Street  
Fredericksburg, Texas 78624

EXHIBIT H

THE STATE OF TEXAS, \*  
COUNTY OF GILLESPIE \*

Field notes of a survey of 7.0 acres of land, more or less, made at the request of Charles Boerner, Jr. Said land is situated in Gillespie County, Texas, being part of the Wm. O. Merriwether Survey No. 36, Abstract No. 488, and being part of that 20.0 acre tract described in a conveyance to Charles Boerner, Jr. by Gary Dean Boerner, found of record in Volume 325, pages 512-513 of the Real Property Records of Gillespie County, Texas.

Said 7.0 acre, more or less, tract of land is described by metes and bounds as follows, to wit:

BEGINNING at a point at a fence corner, in the south line of that 52.9 acre tract described of record in Volume 87, pages 257-258 of the Deed Records of Gillespie County, Texas and in the north line of that 20.0 acre tract described in said conveyance to Charles Boerner, Jr. by Gary Dean Boerner, found of record in Volume 325, pages 512-513 of the Real Property Records of Gillespie County, Texas, 689.44 feet N. 89 deg. 29 min. E. from a 6 inch dia. pine post found set for the N.W. corner of said 20.0 acre tract, for the N.W. corner of this tract of land;

THENCE generally along fence and the north line of said 20.0 acre tract as follows:

N. 89 deg. 29 min. E. 376.66 feet;  
East 1074.0 feet to a point at a 12 inch dia. cedar post found set in the west line of the Old San Antonio (county) Road, for the S.E. corner of said 52.9 acre tract, for the N.E. corner of said 20.0 acre tract, for the N.E. corner of this tract of land;

THENCE with the west line of said county road, S. 32 deg. 53 min. E. 83.36 feet to a 1/2 inch dia. steel bar set for the E.S.E. corner of this tract of land;

THENCE as follows:

West 396.62 feet to a 1/2 inch dia. steel bar set;  
South 82.0 feet to a 1/2 inch dia. steel bar set;  
West 152.0 feet to a 1/2 inch dia. steel bar set;  
North 82.0 feet to a 1/2 inch dia. steel bar set;  
West 341.64 feet to a 1/2 inch dia. steel bar set for a reentrant corner of this tract of land;

Thence South 336.78 feet to a 1/2 inch dia. steel bar set in the north line of that 104.4 acre TRACT II described of record in Volume 125, pages 692-694 of the Deed Records of Gillespie County, Texas and in the south line of said 20.0 acre tract, for the S.S.E. corner of this tract of land;

THENCE with the south line of said 20.0 acre tract, West 539.0 feet to a 1/2 inch dia. steel bar set in fence, for the S.W. corner of this tract of land;

THENCE with fence, N. 9 deg. 22 min. 48 sec. W. 408.85 feet to the place of beginning.

**CERTIFICATE OF LEGALITY AND AUTHENTICITY**

I, certify that the discrete numbered microfilm images between the Title Page and the Certificate of Legality and Authenticity have been made in strict accordance with Article 1941 (a) V.T.C.S., and that each image is a true, correct, and exact copy of the page or pages of the identified instrument of writing, legal document, paper, or record which had been filed for record on the date and at the time stamped on each; that no microfilm image or images were substituted for any original discrete microfilm image or images between the Title Page and this Certificate. Official Public Records of Real Property. Volume 338 Page 138-142 , filmed on the 12th day of January , A.D. 19 98 .

DORIS LANGE, Clerk, by Kathy Contreras Deputy.  
Kathy Contreras

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WARRANTY DEED WITH VENDOR'S LIEN

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY 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.**

Date of conveyance: October 1, 2004

Grantor's name: Charles Boerner, III, Gary Dean Boerner, Gretchen Goertz, Carl Boerner, John Daniel Boerner, James Wayne Boerne Mary Boerner, and Mark Edward Boerner, Boerner L.L.C.

Grantor's mailing address: Attn: Carl Boerner, President  
186 Knollwood Drive  
Livingston, Texas 77351  
Polk County

Grantee's name: Bryan K. Hodges and Kimberly M. Hodges

Grantee's mailing address: 1201 Crenwelge Drive  
Fredericksburg, Texas 78624  
Gillespie County

Trustee's name: Laura Vickers, Esq.

Trustee's mailing address: The Vickers Law Firm, P.C.  
26001 Hamilton Pool Road  
Round Mountain, Texas 78663  
Travis County

**Conveyance:** Subject to the Vendor's Lien that is retained by Grantor, Grantor has granted, sold, and conveyed unto Grantee the following identified and described property:

53.8 acres of land, more or less, situated in Gillespie County, Texas, being part of the Wm. O. Merriwether Survey No. 36, Abstract No. 488, and being part of that 66.7 acre tract of land described in a conveyance to Mark Edward Boerner, et al, by Gary Dean Boerner and Charles Boerner, III, dated March 14, 2002, found of record in Volume 460, pages 133-136 of the Official Public Records of Gillespie County, Texas, and being part of that 13.0 acre tract of land described in a conveyance to Mark Edward Boerner, et al, by Gary Dean Boerner and Charles Boerner, III, dated March 14, 2002, found of record in Volume 460, pages 129-132 of said Official Public Records.

Save and Except an Easement described as: an approximate centerline 10' wide easement to the City of Fredericksburg for a water line, as recorded in Vol. 47, Pg. 251-252 D.R., of the Records of Gillespie County.

Save and Except a Donation of Land for an 30 Foot Wide Right-of-Way for Highway No. 9 (Now the old San Antonio Road) found in Volume 40, Pages 14-17 Deed Records of Gillespie County. The East Line of the Tract is 40 feet West of the As-Built Centerline of Said Old San Antonio Road.

Save and Except an Easement described as: 60 foot wide road easement is situated in Gillespie County, Texas and passes through part of the Wm. O. Meriwether Survey No. 36, Abstract No. 488, and through part of that 66.7 acre tract of land described in a conveyance to Mark Edward Boerner, et al, by Gary Dean Boerner and Charles Boerner, III, dated March 14, 2002, found of record in Volume 460, pages 133-136 of the Official Public Records of Gillespie County, Texas. Beginning at a point in West line of the Old San Antonio (county) Road as described in a Right-of-Way Deed found of record in Volume 40, pages 14-17 of the Deed Records of Gillespie County, Texas and in the centerline of a traveled gravel road.

**RESERVATION from and exceptions to conveyance and Warranty:** Easements, rights-of-way, and prescriptive rights, whether of record or not, all presently recorded restrictions, reservations, and conveyances that affect the property.

**Consideration:** This conveyance is based upon good and valuable consideration, which has been and shall be paid unto the Grantor by the Grantees, and a Real Estate Lien Note dated October 1, 2004. By signing this Deed, Grantor acknowledges receipt of the Grantees' downpayment and Real Estate Lien Note.

**Vendor's Lien:** A Vendor's Lien is retained in favor of the Payee of the Note against the above-described property and improvements to the property. Grantor retains superior title to the property until the Note is paid in full according to its terms. The Note is secured by a Vendor's Lien retained in this Deed and by a Deed of Trust of even date from Grantee to the above-named Trustee. The Vendor's Lien shall remain attached to the property and improvements until the Note and all interest on the Note is fully paid according to the terms of the Note. At that time, this Deed shall become absolute, and the Vendor's Lien shall be released.

**Rights:** This conveyance is made unto Grantee to have and to hold the above-described property, together with, all and singular, the rights and appurtenances thereto in any wise belonging unto the Grantee, his or her heirs or assigns forever.

**Warranty:** Grantor binds itself, heirs, executors, and administrators to warrant and forever defend, all and singular, the above identified property to Grantee, his or her heirs, and assigns, against every person who may lawfully claim the same, or any part thereof. This warranty excludes any and all reservations and exceptions to the conveyance.

**Reservations from and exceptions to the conveyance and warranty:** This conveyance is made subject to any and all valid and subsisting or recorded restrictions, conditions and covenants, easements, rights-of-way, prescriptive rights, whether of record or not, reservations including but not limited to oil and gas leases, mineral severances, interests, and royalty rights, water, water rights or riparian rights, maintenance charges, together with any Lien securing the maintenance charges, zoning laws, ordinances of municipal or other governmental agencies or authorities, and conditions and covenants, if any,

applicable to and enforceable against the property described above and as shown by the records of the County Clerk of Gillespie County.

**Taxes:** Current year property taxes have been pro-rated, and the payment for property taxes is assumed by Grantee, effective October 1, 2004.

**Deed Restrictions:** The subject property and this conveyance have the following restrictions for use:

- (a) There shall be no use of the land that creates a nuisance of sound, air, or pollution of smell. Nuisance and pollution will be determined and defined at the sole discretion of Grantor;
- (b) There shall be no use of the land that interferes with the right to enjoyment of property rights of others, including Grantor. Interference with property rights will be determined and defined at the sole discretion of Grantor.
- (c) There shall be no use of the land that would include raising or having poultry, and/or swine.
- (d) There shall be no use of the land that would include any type of salvage or storage of automobiles or vehicles;
- (e) There shall be no use of the land that would involve subdivision, including, but not limited to, using the land as a place to park recreational vehicles, mobile homes, and/or motor homes.
- (f) There shall be no use of the land that would involve dumping or providing a place for trash or garbage to accumulate.

**Construction:** Words of any gender used in this Deed shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise. If this Deed is executed by or to a corporation or trustee the words "heirs, executors, and administrators" or "heirs and assigns" shall, with respect to the corporation or trustee, be construed to mean "successors and assigns."