

**POSSESSION AND USE AGREEMENT FOR TRANSPORTATION PURPOSES
WITH ADDITIONAL PAYMENT OF INDEPENDENT CONSIDERATION**

STATE OF TEXAS

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ROW CSJ: 0865-01-108

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Parcel ID: 20

COUNTY OF HIDALGO

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This Possession and Use Agreement For Transportation Purposes (the "Agreement") between the State of Texas, acting by and through the Hidalgo County ("County"), and H-E-B, LP, a Texas limited partnership, formerly known as HEB Grocery Company, LP, successor by merger to H.E. Butt Grocery Company ("Grantor"), grants to the County, its contractors, agents and all others deemed necessary by the State, an irrevocable right to possession and use of the Grantor's property for the purpose of constructing a portion of Veterans Blvd (the "Highway Construction Project"). The property subject to this Agreement is described more fully in field notes and plat map (attached as "Exhibit A") and made a part of this Agreement by reference (the "Property").

1. For the consideration paid by the County which is set forth in Paragraphs 2 and 3 below, the receipt and sufficiency of which is acknowledged, the Grantor grants, bargains, sells and conveys to the County the right of entry and exclusive possession and use of the Property for the purpose of constructing a highway and appurtenances thereto and the right to remove any improvements. Authorized activities include surveying, inspection, environmental studies, archeological studies, clearing, demolition, construction of permanent improvements, relocating, replacing, and improving existing utility facilities, locating new utility facilities, and other work required to be performed in connection with the Highway Construction Project. This Agreement will extend to the County, its contractors and assigns, owners of any existing utilities on the Property and those which may be lawfully permitted on the Property by the County in the future, and all others deemed necessary by the County for the purpose of the Highway Construction Project. This grant will allow the construction, relocation, replacement, repair, improvement, operation and maintenance of utilities on the Property.

2. In full consideration for this irrevocable grant of possession and use and other Grantor covenants, warranties, and obligations under this Agreement, the County will tender to the Grantor the sum of One Hundred Sixty Five Thousand Five Hundred Forty-Two Dollars (\$165,542.00). The Grantor agrees that this sum represents adequate and full compensation for the possession and use of the Property. The County will be entitled to take possession and use of the Property upon tender of payment. The parties agree that the sum tendered represents 100% percent of the County's approved value, which assumes no adverse environmental conditions affecting the value of the Property. The approved value is the County's determination of the just compensation owed to the Grantor for the real property interest to be acquired by the County in the Property, encumbered with the improvements thereon, if any, and damages to the remainder, if any, save and except all oil, gas and sulphur. The parties agree that the sum tendered to Grantor will be deducted from any final settlement amount, Special Commissioners' award or court judgment. In the event the amount of the final settlement or judgment for acquisition of the Property is less than the amount the County has paid for the possession and use of the Property, then the Grantor agrees that the original amount tendered represents an overpayment for the difference and, upon written notice from the County, the Grantor will promptly refund the overpayment to the County.

3. As additional consideration, the County will tender to the Grantor the sum of One Hundred and No/100 Dollars (\$100.00), the receipt and sufficiency of which is acknowledged. The parties agree that the sum tendered under this Paragraph 3:

(i) is independent consideration for the possession and use of Grantor's Property and represents no part of the County's compensation to be paid for the anticipated purchase of the Property; and

(ii) will not be refunded to the County upon any acquisition of the Property by the County.

4. The effective date of this Agreement will be the date on which payment pursuant to Paragraphs 2 and 3 above was tendered to the Grantor by the County, or disbursed to the Grantor by a title company acting as escrow agent for the transaction, (the "Effective Date").

5. The Grantor warrants and represents that the title to the Property is free and clear of all liens and encumbrances or that proper releases will be executed for the Property prior to funds being disbursed under this Agreement. The Grantor further warrants that no other person or entity owns an interest in the fee title to the Property and further agrees to indemnify the County from all unreleased or undisclosed liens, claims or encumbrances affecting the Property. The above made warranties are made by Grantor and accepted by the State subject the following:

A. Visible and apparent easements not appearing of record;

B. Any discrepancies, conflicts or shortages in area or boundary lines or any encroachments or any overlapping of improvements which a current survey would show; and,

C. Easements, restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances and encumbrances for taxes and assessments (other than liens and conveyances) presently of record in the Official Public Records of Hidalgo County, Texas, that affect the property, but only to the extent that said items are still valid and in force and effect at this time.

6. The parties agree that the valuation date for determining the amount of just compensation for the real property interest proposed to be acquired by the County in the Property, for negotiation or eminent domain proceeding purposes, will be the date the Special Commissioners' Award is tendered to the registry of the court, or if the Special Commissioners' Award is not greater than the consideration paid for this Agreement, the date of the Special Commissioners' Hearing. Should the Special Commissioners' Award be greater than the amount paid in paragraph 2 (two), the State shall tender the difference to the registry of the court no later than 60 (sixty) days following the date the Award of Special Commissioners is signed by the Judge and filed with the court.

7. This Agreement is made with the understanding that the County will continue to proceed with acquisition of a real property interest in the Property. The Grantor reserves all rights of compensation for the title and interest in and to the Property which the Grantor holds as of the time immediately prior to the Effective Date of this Agreement. This Agreement shall in no way prejudice the Grantor's rights to receive full and just compensation as allowed by law for all of the Grantor's interests in and to the Property to be acquired by the State, encumbered with the improvements thereon, if any, and damages, if any, to the remainder of the Grantor's interest in any larger tract of which the Property is a part (the "Remainder"), if any; all as the Property exists on the Effective Date of this Agreement.

The County's removal or construction of improvements on the Property shall in no way affect the fair market value of the Property in determining compensation due to the Grantor in the eminent domain proceedings. There will be no project impact upon the appraised value of the Property. This grant will not prejudice the Grantor's rights to any relocation benefits for which Grantor may be eligible.

8. In the event the County institutes or has instituted eminent domain proceedings, the County will not be liable to the Grantor for interest upon any award or judgment as a result of such proceedings for any period of time prior to the date of the award. Payment of any interest may be deferred by the County until entry of judgment.

9. The purpose of this Agreement is to allow the County to proceed with its Highway Construction Project without delay and to allow the Grantor to have the use at this time of a percentage of the estimated compensation for the County's acquisition of a real property interest in the Property. The Grantor expressly acknowledges that the proposed Highway Construction Project is for a valid public use and voluntarily waives any right the Grantor has or may have, known or unknown, to contest the jurisdiction of the court in any condemnation proceeding for acquisition of the Property related to the Highway Construction Project, based upon claims that the condemning authority has no authority to acquire the Property through eminent domain, has no valid public use for the Property, or that acquisition of the Property is not necessary for the public use.

10. The Grantor reserves all of the oil, gas and sulphur in and under the land herein conveyed but waives all right of ingress and egress to the surface for the purpose of exploring, developing, mining or drilling. The extraction of oil, gas and minerals may not affect the geological stability of the surface. Nothing in this reservation will affect the title and rights of the County to take and use all other minerals and materials thereon, and thereunder.

11. The undersigned Grantor agrees to pay as they become due, all ad valorem property taxes and special assessments assessed against Property, including prorated taxes for the year in which the County takes possession under this agreement.

12. Notwithstanding the acquisition of right of possession to the Property by the County in a condemnation proceeding by depositing the Special Commissioners' award into the registry of the court, less any amounts tendered to the Grantor pursuant to Paragraph 2 above, this Agreement shall continue to remain in effect until the County acquires title to the Property either by negotiation, settlement, or final court judgment.

13. This Agreement will also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors in interest and assigns of the parties.

14. It is agreed the County will record this document.

15. Other conditions:

To have and to hold the Agreement herein described and conveyed, together with all the rights and appurtenances belonging to Hidalgo County and its assigns forever, for the purposes and subject to the limitations set forth above.

GRANTOR:

H-E-B, LP,
a Texas limited partnership



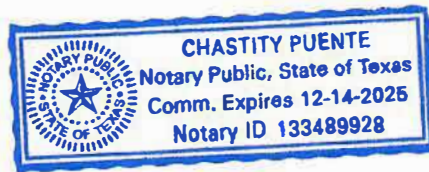
By: BS
Name: Benjamin R. Scott
Title: Group Vice President of Real Estate
and Shopping Center Development

Corporate Acknowledgment
State of Texas
County of Bexar

This instrument was acknowledged before me on May 10, 2024 by Benjamin R. Scott, the Group Vice President of Real Estate and Shopping Center of H-E-B, LP a Texas limited partnership, on behalf of said partnership.

The acknowledging person personally appeared by: BS

Notary Public's Signature



HIDALGO COUNTY

Executed by and approved for Hidalgo County Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
County Judge

Date: _____

By: _____
Hidalgo County Clerk

Date: _____