

REAL ESTATE CONTRACT
US183 Right of Way

State of Texas
County of Williamson

THIS REAL ESTATE CONTRACT ("Contract") is made by and between CAPITOL AGGREGATES, LTD., a Texas limited partnership, (referred to in this Contract as "Seller", whether one or more) and the COUNTY OF WILLIAMSON (referred to in this Contract as "Purchaser"), upon the terms and conditions set forth in this Contract.

ARTICLE I
PURCHASE AND SALE

By this Contract, Seller agrees to sell and convey, and Purchaser agrees to purchase and pay for, the tract(s) of land described as follows:

All of that certain 0.787 acre tract of land, more or less, out of the John B. Robinson Survey, Abstract No. 521, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein (Parcel 5);

together with all and singular the rights and appurtenances pertaining to the property, including any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (all of such real property, rights, and appurtenances being referred to in this Contract as the "Property"), and any improvements and fixtures situated on and attached to the Property described herein, for the consideration and upon and subject to the terms, provisions, and conditions set forth below.

ARTICLE II
PURCHASE PRICE

Purchase Price

2.01. The purchase price for the Property shall be the sum of SIXTY EIGHT THOUSAND NINE HUNDRED THIRTY ONE and 00/100 Dollars (\$68,931.00).

Payment of Purchase Price

2.02. The Purchase Price shall be payable in cash at the closing.

**ARTICLE III
PURCHASER'S OBLIGATIONS**

Conditions to Purchaser's Obligations

3.01. The obligations of Purchaser hereunder to consummate the transactions contemplated hereby are subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Purchaser at or prior to the closing.): None

Miscellaneous

3.02. Seller shall have performed, observed, and complied with all of the covenants, agreements, and conditions required by this Contract to be performed, observed, and complied with by Seller prior to or as of the closing.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES
OF SELLER**

Seller hereby represents and warrants to Purchaser as follows, which representations and warranties shall be deemed made by Seller to Purchaser also as of the closing date, to Seller's actual knowledge:

- (1) There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers, other than previously disclosed to Purchaser;
- (2) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property, or any part thereof;

The Property herein is being conveyed to Purchaser under threat of condemnation.

**ARTICLE V
CLOSING**

Closing Date

5.01. The closing shall be held at the office of Texas American Title Company on or before November 20, 2009, or at such time, date, and place as Seller and Purchaser may agree upon, or within 10 days after the completion of any title curative matters if necessary for items as shown on the Title Commitment or in the contract (which date is herein referred to as the "closing date").

Seller's Obligations at Closing

5.02. At the closing Seller shall:

(1) Deliver to the State of Texas a duly executed and acknowledged Special Warranty Deed conveying good and indefeasible title in fee simple to all of the Property described in Exhibit "A", free and clear of any and all liens and restrictions, except for the following:

- (a) General real estate taxes for the year of closing and subsequent years not yet due and payable;
- (b) Any exceptions approved by Purchaser in writing.
- (c) Any items listed on Schedule B of the title commitment obtained by Purchaser dated May 11, 2009 (GF 9691-09-1367), as updated.
- (d) Reservation of water, water rights, oil, gas and other minerals in and under the land herein conveyed but waiver of all rights of ingress and egress to the surface thereof for the purpose of exploring, developing, mining or drilling or pumping the same.

The deed shall be in the form as shown in Exhibit "B" attached hereto and incorporated herein.

(2) Deliver to Purchaser a Texas Owner's Title Policy at Purchaser's sole expense, issued by Title Company, in Purchaser's favor in the full amount of the purchase price, insuring Purchaser's fee simple title to the Property subject only to those title exceptions listed herein, such other exceptions as may be approved in writing by Purchaser, and the standard printed exceptions contained in the usual form of Texas Owner's Title Policy, provided, however:

- (a) The boundary and survey exceptions shall be deleted;
 - (b) The exception as to restrictive covenants shall be endorsed "None of Record", if applicable; and
- (3) Deliver to Purchaser possession of the Property if not previously done.

Purchaser's Obligations at Closing

5.03. At the Closing, Purchaser shall:

- (a) Pay the cash portion of the purchase price and additional compensation, if any.

Prorations

5.04. General real estate taxes for the then current year relating to the Property shall be prorated as of the closing date and shall be adjusted in cash at the closing. If the closing shall occur before the tax rate is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. Agricultural roll-back taxes, if any, shall be paid by Purchaser.

Closing Costs

5.05. All costs and expenses of closing in consummating the sale and purchase of the Property shall be borne and paid as follows:

- (1) Owner's Title Policy and survey to be paid by Purchaser.
- (2) Deed, tax certificates, and title curative matters, if any, paid by Purchaser.
- (3) All other closing costs shall be paid by Purchaser.
- (4) Attorney's fees paid by each respectively.

ARTICLE VI ESCROW DEPOSIT

For the purpose of securing the performance of Purchaser under the terms and provisions of this Contract, Purchaser has delivered to Title Company the sum of Five Hundred Dollars (\$500.00), the Escrow Deposit, which shall be paid by the title company to Seller in the event Purchaser breaches this Contract as provided herein. At the closing, the Escrow Deposit shall be paid over to Seller and applied to the cash portion of the purchase price, provided, however, that in the event the Purchaser shall have given written notice to the title company that one or more of the conditions to its obligations set forth in Article III have not been met, or, in the opinion of Purchaser, cannot be satisfied, in the manner and as provided for in Article III, then the Escrow Deposit shall be forthwith returned by the title company to Purchaser.

ARTICLE VII BREACH BY SELLER

In the event Seller shall fail to fully and timely perform any of its obligations hereunder or shall fail to consummate the sale of the Property for any reason, except Purchaser's default,

Purchaser, as its sole remedy, may: (1) enforce specific performance of this Contract; or (2) request that the Escrow Deposit shall be forthwith returned by the title company to Purchaser.

ARTICLE VIII BREACH BY PURCHASER

In the event Purchaser should fail to consummate the purchase of the Property, the conditions to Purchaser's obligations set forth in Article III having been satisfied and Purchaser being in default and Seller not being in default hereunder, Seller shall have the right to receive the Escrow Deposit from the title company, the sum being agreed on as liquidated damages for the failure of Purchaser to perform the duties, liabilities, and obligations imposed upon it by the terms and provisions of this Contract, and Seller agrees to accept and take this cash payment as its total damages and relief and as Seller's sole remedy hereunder in such event.

ARTICLE IX MISCELLANEOUS

Notice

9.01. Any notice required or permitted to be delivered hereunder shall be deemed received (i) upon actual receipt or refusal by the addressee by hand delivery, or (ii) two business days after having been deposited in the United States mail, certified or registered, return receipt requested, sufficient postage affixed and prepaid; or (iii) one business day after having been deposited with an expedited, overnight courier service (such as by way of example but not limitation, U.S. Express Mail, Federal Express, Airborne Express or UPS), by United States mail, provided that such notice is addressed to Seller or Purchaser, as the case may be, at the address set forth opposite the signature of the party.

Texas Law to Apply

9.02. This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Williamson County, Texas.

Parties Bound

9.03. This Contract shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Contract.

Legal Construction

9.04. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

Prior Agreements Superseded

9.05. This Contract constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Time of Essence

9.06. Time is of the essence in this Contract.

Gender

9.07. Words of any gender used in this Contract 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.

Memorandum of Contract

9.08. Upon request of either party, the parties shall promptly execute a memorandum of this Contract suitable for filing of record.

Compliance

9.09 In accordance with the requirements of Section 20 of the Texas Real Estate License Act, Purchaser is hereby advised that it should be furnished with or obtain a policy of title insurance or Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection.

Effective Date

9.10 This Contract shall be effective as of the date it is approved by the Williamson County Commissioner's Court, which date is indicated beneath the Judge's signature below.

Counterparts

9.11 This Contract may be executed in any number of counterparts, which may together constitute the Contract. Signatures transmitted by facsimile may be considered effective as originals for purposes of this Contract.

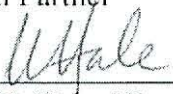
Possession and Use Agreement

9.12 Should the closing hereunder be delayed as a result of Seller's default hereunder, Seller agrees to allow Purchaser and its contractors and assigns to use and possess the Property for the purpose of constructing and/or improving a public roadway and related facilities, including the relocation of utilities, if necessary to begin the project prior to the completion of the closing of this transaction. Upon request by Purchaser, Seller agrees that it shall execute a separate possession and use agreement in compliance with this provision, which possession and use agreement is suitable for recording in the real property records of Williamson County. Should the closing hereunder be delayed for any reason other than Seller's default, Purchaser shall have no right to use and/or possess the Property.

SELLER:

CAPITOL AGGREGATES, LTD.,
a Texas limited partnership

By: Capital Aggregates, LLC (TX),
a Delaware limited liability company
Its General Partner

By: 
Greg W. Hale, Vice President

Address: 12625 Wetmore Rd
San Antonio, TX 78247

Date: 10/21/09

PURCHASER:

County of Williamson

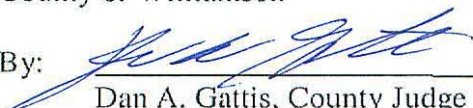
By: 
Dan A. Gattis, County Judge
Date: 11-04-09

EXHIBIT **A**

County: Williamson
Parcel No.: 5
Highway: U.S. 183
Limits: From: Riva Ridge Drive
To: State Highway 29

PROPERTY DESCRIPTION FOR PARCEL 5

DESCRIPTION OF A 0.787 ACRE TRACT OF LAND LOCATED IN THE JOHN B. ROBINSON SURVEY, ABSTRACT NO. 521, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A CALLED 10.86 ACRE TRACT OF LAND, DESCRIBED IN THE DEED TO CAPITOL AGGREGATES, LTD., AS RECORDED IN DOCUMENT NO. 2003101293, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 0.787 ACRE TRACT, AS SHOWN ON A RIGHT-OF-WAY SKETCH PREPARED BY SAM, INC. FOR THIS PARCEL, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8-inch iron rod with a "SAM Inc." aluminum cap set in concrete, 220.00 feet right of U.S. Highway 183 Engineer's Centerline Station 108+01.89, being in the proposed west right-of-way line of U.S. Highway 183, a varying width right-of-way, being in the north line of said 10.86 acre tract and the south line of a called 156.48 acre tract of land, described in the deed to Land Partnership No. 1, as recorded in Document No. 2004030001, of the Official Public Records of Williamson County, Texas, being the northwest corner and the **POINT OF BEGINNING** of the tract described herein, from which a 1/2-inch iron rod found for the west common corner of said 10.68 acre tract and said 156.48 acre tract bears, S 69° 16' 03" W, a distance of 1835.98 feet;

THENCE leaving said proposed west right-of-way line with the common line of said 10.86 acre tract and said 156.48 acre tract the following two (2) courses and distances:

1. N 69° 16' 03" E, a distance of 277.19 feet to a 1/2-inch iron rod found, and
2. N 53° 57' 06" E, a distance of 34.92 feet to an iron pipe found for the east common corner of said 10.86 acre tract and said 156.48 acre tract, same being in the existing west right-of-way line of U.S. Highway 183, a varying width right-of-way;

THENCE leaving said common corner with said existing west right-of-way line, S 21° 02' 37" E, a distance of 119.87 feet to a 1/2-inch iron rod found for the common east corner of said 10.86 acre tract and a called 117.15 acre tract of land, described in the deed to Philip Hogan and wife, Gina Rae Hogan, as recorded in Document No. 2000007280, of the Official Public Records of Williamson County, Texas, from which a Texas Department of Transportation Type I monument found bears, S 21° 02' 37" E, a distance of 1365.16 feet;

THENCE leaving said existing west right-of-way line with the common line of said 10.68 acre tract and said 117.15 acre tract, the following two (2) courses and distances:

1. S 53° 58' 46" W, a distance of 20.07 feet to a 1/2-inch iron rod found, and

2. S 69° 16' 01" W, a distance of 291.53 feet to a 5/8-inch iron rod with a "SAM Inc." aluminum cap set in concrete, 220.00 feet right of U.S. Highway 183 Engineer's Centerline Station 109+11.83, being in said proposed west right-of-way line, from which a 1/2-inch iron rod found for an ell corner of said 10.86 acre tract bears, S 69° 16' 01" W, a distance of 1946.56 feet;

THENCE leaving said common line with said proposed west right-of-way line crossing through the interior of said 10.86 acre tract, N 21° 02' 37" W, a distance of 109.94 feet to the **POINT OF BEGINNING** and containing 0.787 acres of land, more or less.

This property description is accompanied by a separate sketch of even date.

All coordinates shown hereon are NAD 83/93 (HARN) Texas State Plane Coordinates, Central Zone, adjusted to the surface using a combined scale factor of 1.00012.

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

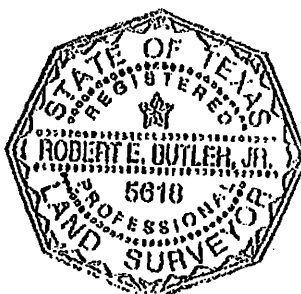
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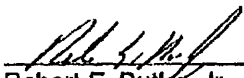
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That I, Robert E. Butler, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 4th day of March 2009.

SURVEYING AND MAPPING, Inc.
5508 West Highway 290
Building B
Austin, Texas 78735



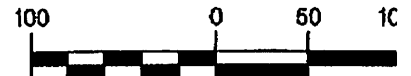

Robert E. Butler, Jr.
Registered Professional Land Surveyor
No. 5618 - State of Texas

LEGEND

- TYPE I CONCRETE MONUMENT FOUND
- TYPE II CONCRETE MONUMENT FOUND UNLESS NOTED
- ⊙ 1/2" IRON ROD W/ SAM INC. ALUMINUM CAP SET IN CONCRETE
- 1/2" IRON ROD W/ SAM INC. PLASTIC CAP SET
- ✕ CHISELED PLUS FOUND
- 1/2" IRON ROD FOUND UNLESS NOTED
- 1/2" PIPE FOUND UNLESS NOTED
- COTTON SPINDLE FOUND UNLESS NOTED
- FENCE POST FOUND UNLESS NOTED
- △ CALCULATED POINT
- △ PROPERTY LINE
- △ RECORD INFORMATION
- ORW.GTX DEED RECORDS WILLIAMSON COUNTY, TEXAS
- ORW.GTX OFFICIAL RECORDS WILLIAMSON COUNTY, TEXAS
- OPR.W.GTX OFFICIAL, PUBLIC RECORDS WILLIAMSON COUNTY, TEXAS
- PRW.GTX PLAT RECORDS WILLIAMSON COUNTY, TEXAS
- P.O.B. POINT-OF-BEGINNING

LINE TABLE

LINE NO.	BEARING	DISTANCE
L1	N53° 57'05"E	34.92'
(L1)	(N55° 40'00"E)	(34.80')
L2	S53° 58'46"W	20.07'
(L2)	(N55° 40'00"E)	(20.13')



GRAPHIC SCALE
SCALE: 1" = 100'
WILLIAMSON COUNTY, TEXA

JOHN B. ROBINSON SURVEY
ABSTRACT NO. 521

EXISTING R.O.W.

U.S. 183
(VARIABLE WIDTH R.O.W.)

EXISTING R.O.W.

U.S. 183 ENGINEER'S CENTERLINE

S21° 02'37"E
113.87'

(S19° 21'00"E
113.87')

S21° 02'37"E 1365.16'

110.00

S 21° 02'36.73" E 7,621.54'

⑤
0.787
ACRES

CAPITOL AGGREGATES, LTD.
CALLED 10.86 ACRES
DOC. NO. 2003101293
O.P.R.W.C.TX.

P.O.B.
108° 01.89
220.00' RT

109° 11.83
220.00' RT

PROPOSED R.O.W. LINE

LAND PARTNERSHIP NO. 1
CALLED 156.48 ACRES
DOC. NO. 2004030001
O.P.R.W.C.TX.

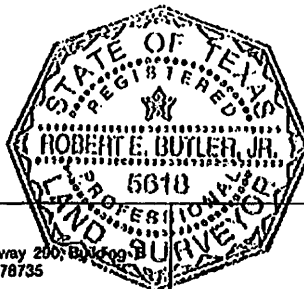
PHILIP HOGAN AND WIFE,
GINA RAE HOGAN
CALLED 117.15 ACRES
DOC. NO. 2000007280
O.P.R.W.C.TX.

NOTES:

1. RECORD INFORMATION ON THIS DRAWING IS BASED ON A PUBLIC RECORDS SEARCH BY THE SURVEYOR AND MAY NOT INCLUDE ALL EASEMENTS OR INSTRUMENTS PERTAINING TO THIS PROPERTY.
 2. ALL COORDINATES AND BEARINGS ARE BASED UPON NAD 83/93 (NAD83) TEXAS STATE PLANE COORDINATES, CENTRAL ZONE, ADJUSTED TO THE SURFACE USING A CORRECTION SCALE FACTOR OF 1.00012.
 3. IMPROVEMENTS SHOWN HEREON ARE BASED UPON SAM, INC. AERIAL SURVEY DIGITAL FILES SUPPLEMENTED BY ON-THE-GROUND SURVEY BY SAM, INC. THERE MAY BE ADDITIONAL IMPROVEMENTS THAT ARE NOT SHOWN.
 4. VISIBLE UTILITIES SHOWN HEREON ARE BASED UPON VISIBLE EVIDENCE FOUND ON THE GROUND. THERE MAY BE ADDITIONAL UNDERGROUND UTILITIES THAT ARE NOT SHOWN.
 5. PROPERTY DESCRIPTION OF EVEN DATE ACCOMPANIES THIS SKETCH.
- I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION AND THAT THIS PLAT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

ROBERT E. BUTLER, JR.
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5616, STATE OF TEXAS

03/04/09
DATE



5503 West Highway 200, Suite 409
Austin, Texas 78735
(612) 447-0576
Fax: (512) 328-3029

PAGE 3 OF 3
REF. FIELD NOTE NO. 4810



RIGHT-OF-WAY SKETCH
PARCEL
5
WILLIAMSON COUNTY, TEXAS

EXHIBIT "B"

**SPECIAL WARRANTY DEED
US 183 Right of Way**

THE STATE OF TEXAS

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COUNTY OF WILLIAMSON

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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.

WHEREAS, Williamson County, Texas and the State of Texas, acting by and through the Texas Transportation Commission are authorized to purchase and receive land and such other property rights deemed necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of a portion of the proposed US Highway 183 improvements ("Project"); and,

WHEREAS, the acquisition of the hereinafter-described premises has been deemed necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of the Project;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That CAPITOL AGGREGATES, LTD., a Texas limited partnership, hereinafter referred to as Grantor, whether one or more, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor in hand paid by Williamson County, Texas, receipt and sufficiency of which is hereby acknowledged, and for which no lien is retained, either expressed or implied, have this day Sold and by these presents do Grant, Bargain, Sell and Convey unto the State of Texas, acting by and through the Texas Transportation Commission all those certain tracts or parcels of land lying and being situated in the County of Williamson, State of Texas, along with any improvements thereon, being more particularly described as follows:

All of that certain 0.787 acre tract of land, more or less, being out of the John B. Robinson Survey, Abstract No. 521, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein (Parcel 5).

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

Easements and rights-of-way of record; all presently recorded restrictions, reservations, covenants, conditions, oil, gas or other mineral leases, mineral severances, and other instruments, other than liens and conveyances, that affect the property; rights of adjoining

owners in any walls and fences situated on a common boundary; and any encroachments or overlapping of improvements.

Grantors reserve all of the water, water rights, oil, gas and other minerals in and under the land herein conveyed but waive all rights of ingress and egress to the surface thereof for the purpose of exploring, developing, mining or drilling or pumping the same; provided, however, that operations for exploration or recovery of any such minerals and water shall be permissible so long as all surface operations in connection therewith are located at a point outside the acquired parcel and upon the condition that none of such operations shall be conducted so near the surface of said land as to interfere with the intended use thereof or in any way interfere with, jeopardize, or endanger the facilities of the Texas Department of Transportation or create a hazard to the public users thereof; it being intended, however, that nothing in this reservation shall affect the title and the rights of Grantee to take and use without additional compensation any, stone, earth, gravel, caliche, iron ore, gravel or any other road building material upon, in and under said land for the construction and maintenance of US 183, but shall not be used or exported from the Property for any other purpose.

TO HAVE AND TO HOLD the premises herein described and herein conveyed together with all and singular the rights and appurtenances thereto in any wise belonging unto the State of Texas, acting by and through the Texas Transportation Commission and its assigns forever; and Grantors do hereby bind ourselves, our heirs, executors, administrators, successors and assigns to Warrant and Forever Defend all and singular the said premises herein conveyed unto the State of Texas, acting by and through the Texas Transportation Commission and its assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantors, but not otherwise.

This deed is being delivered in lieu of condemnation.

IN WITNESS WHEREOF, this instrument is executed on this the ____ day of _____, 2009.

GRANTOR:

CAPITOL AGGREGATES, LTD.,
a Texas limited partnership

By: Capital Aggregates, LLC (TX),
a Delaware limited liability company
Its General Partner

By: _____
Greg W. Hale, Vice President

ACKNOWLEDGMENT

STATE OF TEXAS

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COUNTY OF _____

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This instrument was acknowledged before me on this the ____ day of _____, 2008 by Greg W. Hale, in the capacity and for the purposes and consideration recited therein.

Notary Public, State of Texas

PREPARED IN THE OFFICE OF:

Sheets & Crossfield, P.C.
309 East Main
Round Rock, Texas

GRANTEE'S MAILING ADDRESS:

Texas Department of Transportation
Attn: Right of Way Administrator
7901 N. IH 35, Building A
Austin, Texas 78761

AFTER RECORDING RETURN TO:



October 21, 2009

Mr. Jim Henry
Crossland Acquisition, Inc.
12325 Hymeadow Drive
Suite 3-200
Austin, Texas 78750

Re: Real Estate Contract US 183 Right of Way

Dear Jim,

Please find attached one executed original Real Estate Contract for the US 183 Right of Way.

If you have any questions, please feel free to contact Shannon at 210-871-3381.

Thank you.

A handwritten signature in black ink that reads 'Paige Henney'.

Paige Henney
Assistant to Shannon Moralez

Attachment

cc: Valerie Van Courlandt