POSSESSION AND USE AGREEMENT

STATE OF TEXAS §
COUNTY OF WILLIAMSON §

WHEREAS, MARK MASON, hereinafter referred to as "GRANTOR", whether one or more, is the owner of that certain piece, parcel or tract of land in Williamson County, Texas, being more particularly described by metes and bounds in Exhibit "A", which is attached hereto and made a part hereof; and

WHEREAS, WILLIAMSON COUNTY, TEXAS, and the STATE OF TEXAS, acting by and though Williamson County "collectively GRANTEE", plan to acquire a fee simple interest in the tract(s) of land described in Exhibit "A" (parcel 21), whether through contract and conveyance or through eminent domain proceedings; and

WHEREAS, the GRANTEE must have possession of said-described tract of land for the purposes described below,

Construction of the Highway 183 roadway improvements (Project).

NOW THEREFORE, BE IT KNOWN:

That in consideration of the payment of FOUR HUNDRED FORTY EIGHT THOUSAND THREE HUNDRED EIGHTY ONE AND 00/100 Dollars (\$448,381.00), which compensation amount represents 90% of the estimated compensation for the acquisition of the Property to be acquired and any damages to the remaining property, GRANTOR has GRANTED and CONVEYED and by these presents does GRANT and CONVEY unto the GRANTEE, its employees, agents and assigns an irrevocable right-of-entry, possession, and construction easement, with the right of exclusive possession over, upon, and across those tracts of land described in Exhibit "A".

GRANTOR warrants and represents by, through, and under the GRANTOR, but not otherwise, that the title to the Property is free and clear of all liens and encumbrances on the title to the Property, or that any necessary and proper releases will be executed for the Property prior to or simultaneously with the first payment of funds being disbursed under this agreement. The GRANTOR further agrees to indemnify the GRANTEE from all unreleased or undisclosed liens, claims or encumbrances that are known to GRANTEE and that affect the Property.

It is expressly agreed, acknowledged, and understood that the consideration paid hereunder shall be credited against, applied towards, and offset from any consideration to be paid in satisfaction of an agreed purchase price under a contract and conveyance or in satisfaction of the award of the Special Commissioners or subsequent judgment in any condemnation proceeding for the acquisition of the property interests described in Exhibit "A", and any other real property situated on Exhibit "A" or on the remainder property adjacent to Exhibit "A" to be acquired from GRANTOR.

It is expressly agreed, acknowledged, and understood that the easements, rights, and privileges herein granted are assignable and shall be used by the GRANTEE, its employees, agents, and assigns, for the purposes of entering upon the above-described property, before the closing of the contemplated real estate transaction or the acquisition of title through condemnation, and proceeding with surveying, site review and analysis, utility relocation, actual construction on the Project, and all manner of preparation and work attendant thereto. Utility relocation, if any, shall include, but not be limited to, the relocation of water and wastewater lines, electrical lines, cable television lines, telephone lines, gas lines, and their attendant facilities from the existing roadway right-of-way on the property described in Exhibit "A".

The GRANTEE, its employees, agents, and assigns shall have the full and exclusive right to control and use the above-described tracts, including the right to erect and maintain fencing and traffic and pedestrian control and devices and signs, the right to clear trees and vegetation, and the right to excavate, trench, fill, and grade the real property itself.

At no time during the possession of the property by GRANTEE for the purposes described herein shall GRANTOR be denied reasonable access and/or ingress to or egress from the remaining property.

The easement, rights, and privileges herein granted shall automatically terminate upon the contemplated closing of the above-described real estate transaction or the rendition of a final judgment in condemnation proceedings. However, this grant shall survive the termination of any purchase contract agreement and shall also survive any institution of condemnation proceedings.

The parties further agree as follows:

- 1. That by virtue of the granting of permission to the GRANTEE to take temporary possession of the Property in accordance with this Agreement, GRANTOR does not waive any legal rights or defenses under the Constitution of the United States, the Constitution and Statutes of the State of Texas or any other provisions of the law that GRANTOR may have in connection with the acquisition of any rights to the Property by the GRANTEE.
- 2. That this Right of Entry, Possession, and Construction Easement is irrevocable by GRANTOR but only valid until sixty (60) business days after the filing of a Special Commissioners' award in the Cause. Thereafter, continued possession, if at all, will be pursuant to a deposit of a Special Commissioners' award according to Texas law governing possession in a statutory eminent domain case.
- 3. The date of valuation for purposes of determining the value of the just compensation for the Property to be acquired shall be the date of a deposit of a Special Commissioners Award in any applicable condemnation suit for this acquisition.

- 5. This Agreement shall be binding upon the heirs, devisees, executors, administrators, legal representatives, successors and assigns of the parties. Specifically, Grantee's heirs, devisees, executors, administrators, legal representatives, successors or assigns are bound by terms of this agreement which state that the consideration paid hereunder to Grantee shall be credited against, applied towards, and offset from any consideration to be paid in satisfaction of an agreed purchase price under a contract and conveyance or in satisfaction of the award of the Special Commissioners or subsequent judgment in any condemnation proceeding for the acquisition of the property described herein, whether said Grantee is or is not the owner of said property, now or in the future.
 - 6. The easement, right, and privileges granted herein are exclusive, and GRANTOR covenants that it will not convey any other easement or conflicting rights within the area covered by this grant. This grant shall be binding upon legal representatives, successors, and assigns of GRANTOR for the term of this grant.
 - 7. GRANTEE agrees that once the GRANTOR, in writing, asks for a special commissioner's hearing to be scheduled, both parties will undertake all reasonable efforts to hold a special commissioners' hearing within ninety (90) days after the GRANTOR'S request. Any award that exceeds \$448,381.00 will be deposited in the registry of the court within twenty (20) days following the award made by the special commissioners. If the compensation issue is settled through negotiations, a fixed date for receipt of the additional funds, if any, will be agreed upon as part of the negotiation process.

TO HAVE AND TO HOLD the possession of the above-described tracts of land for the purposes and subject to the limitations described above, and GRANTOR warrants that he knows of no persons or business entity owns a present possessory interest in the fee title to the above-described premises other than GRANTOR, and that there are no parties in possession of any portion of the referenced real property as lessees other than identified herein.

[signature page follows]

Executed this the 22 day of January , 2010.

GRANTOR:

Address: 114 CLECK DEIVE

UNIVERSALCITY, TEXAS 7814

GRANTEE:

WILLIAMSON COUNTY, TEXAS

County Judge Dan A. Gattis Williamson County, Texas

ACKNOWLEDGMENT

STATE OF TEXAS COUNTY OF BEXAR

This instrument was acknowledged before me on this the 22 day of January, 2010 by Mark Mason, in the capacity and for the purposes and consideration recited herein.

Notary Public, State of Texas
Printed Name: Riellard A. Don W
My Commission Expires: 5-14-2011

STATE OF TEXAS COUNTY OF WILLIAMSON

before me on this the day of nty Judge, in the capacity and for the purposes and
Notary Public, State of Texas Printed Name: My Commission Expires:

After recording return to:

Don Childs Sheets & Crossfield, P.C. 309 E. Main St. Round Rock, Texas 78664 Parcel 21 Page 1 of 3

ЕХНІВІТ______

County:

Williamson

Parcel No.:

21

Highway:

U.S. 183

Limits:

From: Riva Ridge Drive To: State Highway 29

PROPERTY DESCRIPTION FOR PARCEL 21

DESCRIPTION OF A 3.042 ACRE TRACT OF LAND LOCATED IN THE JOHN B. ROBINSON SURVEY, ABSTRACT NO. 521, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A CALLED 21.543 ACRE TRACT OF LAND DESCRIBED IN THE DEED TO MARK MASON, AS RECORDED IN DOCUMENT NO. 2007021744, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 3.042 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, 200.00 feet left of U.S. Highway 183 Engineer's Centerline Station 195+81.76, same being the south line of said 21.543 acre tract, and the north line of a called 38.24 acre tract of land, described in the deed to Emogene Champion, as recorded in Volume 595, Page 288, of the Deed Records of Williamson County, Texas, also being in the proposed east right-of-way line of said U.S. Highway 183, and the southeast corner and the POINT OF BEGINNING of the tract described herein, from which a 1/2-inch iron rod found for the east common corner of said 21.543 acre tract and said 38.24 acre tract, bears N 68° 55' 45" E, distance of 1722.91 feet;

THENCE leaving said proposed east right-of-way line, with the common line of said 21.543 acre tract and said 38.24 acre tract, S 68° 55' 45" W, a distance of 282.01 feet to the calculated west common corner of said 21.543 acre tract and said 38.24 acre tract, same being in the existing east right-of-way line of said U.S. Highway 183;

THENCE with said existing east right-of-way line, N 25° 04' 07" W, a distance of 469.38 feet to a 1/2-inch iron rod with a "3DS" cap found for a common west corner of said 21.53 acre tact and a called 19.758 acre tract of land, described in the deed to Michael W. Mason, as recorded in Document No. 2007021745, of the Official Public Records of Williamson County, Texas, same being the northwest corner of the tract described herein;

THENCE leaving said existing east right-of-way line with the north line of said 21.543 acre tract same being the south line of said 19.758 acre tract, N 69° 09' 35" E, a distance of 286.68 feet to a 5/8-inch iron rod with a "SAM Inc." aluminum cap set in concrete, 200.00 feet left of U.S. Highway 183 Engineer's Centerline Station 191+09.10, same being the northeast corner of the tract described herein, also being the proposed east right-of-way line of said U.S. Highway 183, from which a 1/2-inch iron rod found for the east common corner of said 21.543 acre tract and said 19.758 acre tract, bears N 69° 09' 35"E, a distance of 1754.75 feet;

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THENCE leaving said common line with said proposed east right-of-line and crossing through the interior of said 21.543 acre tract with the arc of a curve to the left a distance of 467.94 feet, through a central angle of 01° 21' 15", having a radius of 19,800.00 feet, and whose chord bears S 24° 30' 30° E, a distance of 467.93 feet to the POINT OF BEGINNING and containing 3,042 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 \$

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 12th day of September 2007.

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

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