

**POSSESSION AND USE AGREEMENT  
SH 195**

STATE OF TEXAS

§  
§  
§

COUNTY OF WILLIAMSON

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

WHEREAS, WILLIAMSON COUNTY, TEXAS, and the STATE OF TEXAS, acting by and through Williamson County, Texas, identified as "GRANTEE" herein, plans to acquire a fee simple interest in the tract(s) of land described in Exhibit "A" (Parcel 115), whether through contract and conveyance or through eminent domain proceedings; and

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

Construction of the State Highway 195 roadway improvements and related utility adjustments (Project).

NOW THEREFORE, BE IT KNOWN:

That in consideration of the payment of NINE THOUSAND ONE HUNDRED TWENTY-SEVEN AND 00/100 Dollars (\$9,127.00), which amount represents 90% of the estimated compensation for the acquisition of the right of way Property to be acquired and any damages to or cost to cure 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 herein and shown in Exhibit "A".

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 on the Property described in Exhibits "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 for its current uses.

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.

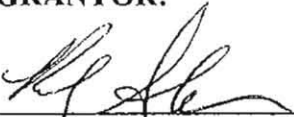
4. This Agreement shall be binding upon the heirs, devisees, executors, administrators, legal representatives, successors and assigns of the parties. Specifically, Grantor's heirs, devisees, executors, administrators, legal representatives, successors or assigns are bound by terms of this agreement which state that the consideration paid hereunder to Grantor 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 Grantor is or is not the owner of said property, now or in the future.
5. 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.
6. GRANTEE agrees that once the GRANTOR, in writing, asks for a special commissioner's hearing to be scheduled, a Petition in Condemnation will be filed to acquire the specified parcel(s) within thirty (30) days after said written request is received. Furthermore, both parties will undertake all reasonable efforts to hold a special commissioners' hearing within ninety (90) days after the GRANTOR asks for a special commissioners' hearing to be scheduled. Any award that exceeds \$8,214.00 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 for any of the required property interests 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 which 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 28<sup>th</sup> day of MAY, 2010.

**GRANTOR:**

  
\_\_\_\_\_  
Ricky Shipman

Address: 1510 High Lonesome  
Leander, Tx 78641

**GRANTEE:**

WILLIAMSON COUNTY, TEXAS

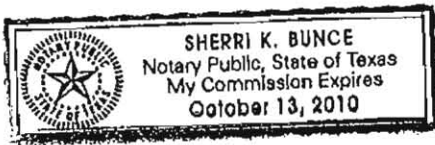
  
\_\_\_\_\_  
County Judge Dan A. Gattis

Address: 710 Main Street, Suite 101  
Georgetown, Texas 78626

ACKNOWLEDGMENT

STATE OF TEXAS  
COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 28<sup>th</sup> day of May, 2010  
by Ricky Shipman, in the capacity and for the purposes and consideration recited herein.



Sherri K. Bunce  
Notary Public, State of Texas  
Printed Name: Sherri K. Bunce  
My Commission Expires: 10-13-2010

STATE OF TEXAS  
COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the \_\_\_ day of \_\_\_\_\_,  
2010 by Dan A. Gattis, Williamson County Judge, in the capacity and for the purposes and  
consideration recited herein.

\_\_\_\_\_  
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

County: Williamson  
Highway: SH 195  
Limits: From 8.105 Miles South of S. H. 138 to I.H. 35  
ROW CSJ: 0440-02-012

Legal Description Parcel 115

BEING a 0.138 acre (6,015 square feet) tract of land located in the W. Roberts Survey, Abstract No. 524, of Williamson County, Texas, said 0.138 acre tract of land is out of and a part of a 5.00 acre tract conveyed by Mark A. Shelton and wife, Jamie L. Shelton to Ricky Shipman, by deed recorded October 16, 2003 as Document No. 2003101243 of the Official Records of Williamson County, Texas, said 0.138 acre tract of land is further described by metes and bounds as follows:

COMMENCING at a ½ inch iron rod found for the east or southeast corner of the above referenced 5.00 acre tract and for the south or southwest corner of Lot 4 of River Road Subdivision as recorded in Cabinet V, Slide 123-124, of the Plat Records of Williamson County, Texas, said rod is located 482.30 feet right of Proposed State Highway 195 (SH 195) Baseline Station 1699+35.45;

THENCE North 51° 32' 21" West with the northeast line of the said 5.00 acre tract for a distance of 1146.40 feet to a 5/8 inch iron rod with a Texas Department of Transportation (TxDOT) aluminum cap set in the proposed south right of way line of SH 195, said rod being the POINT OF BEGINNING of the herein described tract, said rod is located 69.33 feet right of Proposed Shell Road Baseline Station 9+42.53 and 434.05 feet right of the Proposed SH 195 Baseline Station 1687+73.90;

1. THENCE South 34° 14' 34" West along the proposed south right of way line of SH 195, at 61.16 feet pass a TxDOT Type II concrete monument, then continuing along said proposed right of way line, continue along same bearing 130.26 feet, for a total distance of 191.42 feet to a 5/8 inch iron rod with Texas Department of Transportation aluminum cap set in the south line of the said 5.00 acre tract and in the north line of a called 5.00 acre tract conveyed to Micky Shipman by deed dated October 16, 2003 and recoded as Document No. 2003101242 of said Official Public Records, said rod is located 70.00 feet right of Proposed Baseline Station 7+49.58 and 625.40 feet right Proposed SH 195 Baseline Station 1687+79.25
2. THENCE North 51° 32' 22" West with the common line of the two 5.00 acre tract s for a distance of 31.35 feet to a calculated point in the existing south right of way line of Shell Road (80 feet ROW) for the northwest corner of the said 5.00 acre tract;



EXHIBIT \_\_\_\_\_

3. THENCE North 34° 09' 05" East with the existing south right of way line of Shell Road for a distance of 191.45 feet to a calculated point for the northeast corner of the said 5.00 acre tract and for the northwest corner of Lot 1 of the aforementioned subdivision, from which a 1/2 inch iron rod found bears North 51° 32' 21" West a distance of 0.60 feet;
4. THENCE South 51° 32' 21" East with the common line of Lot 1 and the 5.00 acre tract for a distance of 31.66 feet to the POINT OF BEGINNING, said described tract containing 0.138 acres (6,015 square feet) of land, more or less.

This survey is referenced to the National Spatial Reference System. The projection and datum are the Texas State Plane Coordinate System, Central Zone, North American Datum of 1983. All bearings are relative to National Geodetic Survey, 1993 Adjustment, monuments T27 A (PID AB2837), Austin RRP (PID AF9537) and, Georgeport (PID BM1093). All distances are surface values expressed in U. S. Survey feet and may be converted to grid by dividing by the TxDOT surface adjustment factor of 1.000120. Access will be permitted to the highway facility for the remainder of the property lying adjacent to SH 195.

This description was prepared in conjunction with, and is accompanied by a plat of an even date herewith.

Surveyed by:  
RODS Surveying, Inc.  
6810 Lee Road, Spring Texas 77379  
Phone (281) 379-6388

I, Scott Morris, hereby certify that the above description is true and correct and depicts a survey made under my supervision and on the ground and is based on data gathered from February 2001 to October 2006.

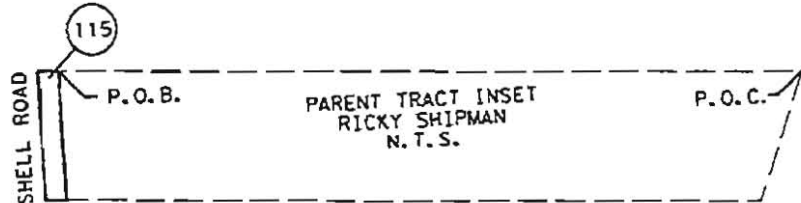


Scott Morris, Registered Professional Land Surveyor No. 5076  
Date as of: 5-29-2009



# LEGEND

- FOUND CONCRETE MONUMENT (TXDOT TYPE I)
- FOUND CONCRETE MONUMENT (TXDOT TYPE II)
- ⊠ CONCRETE MONUMENT SET (TXDOT TYPE III)
- FOUND 1/2" IRON ROD UNLESS NOTED
- 5/8" IRON ROD SET WITH TXDOT ALUMINUM CAP (UNLESS NOTED)
- △ CALCULATED POINT
- FOUND CORNER (AS DESCRIBED)
- ⊙ 5/8" IRON ROD SET WITH YELLOW CAP - RODS SURVEYING INC. - PROPERTY LINE
- R RECORD INFORMATION
- SURVEY LINE
- PROPOSED DRAINAGE EASEMENT
- ACCESS DENIAL LINE
- EXISTING R.O.W. LINE
- PARCEL BOUNDARY
- R.O.W. RIGHT OF WAY
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- PC POINT OF CURVATURE
- PT POINT OF TANGENCY
- CHB CHORD BEARING
- CHD CHORD DISTANCE
- B.L. BUILDING SETBACK LINE (PER PLAT)
- N.T.S. NOT TO SCALE
- P.U.E. PUBLIC UTILITY EASEMENT
- W.C.D.R. WILLIAMSON COUNTY DEED RECORDS
- W.C.O.R. WILLIAMSON COUNTY OFFICIAL RECORDS
- W.C.O.P.R. WILLIAMSON COUNTY OFFICIAL PUBLIC RECORDS
- W.C.P.R. WILLIAMSON COUNTY PLAT RECORDS
- O.S.S.F.S. ON SITE SEWERAGE FACILITY SETBACK



I, SCOTT MORRIS, HEREBY  
MAP OR PLAT IS TRUE AND  
SURVEY MADE UNDER MY SU  
GROUND AND IS BASED ON  
FEBRUARY 2001 TO OCTOBER

*Scott Morris*  
SCOTT MORRIS, R.P.L.S.

REVISED MAY 29,

## NOTES:

1. IMPROVEMENTS SHOWN HEREON ARE BASED UPON TXDOT AERIAL SURVEY: DIGITAL FILES DATED FEBRUARY, 2001 AND MAY, 2002 UPDATED BY ON THE GROUND SURVEYS MADE IN FEBRUARY, 2006.

2. THIS SURVEY IS REFERENCED TO THE NATIONAL SPATIAL REFERENCE SYSTEM. THE PROJECTION AND DATUM ARE THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983. ALL BEARINGS ARE RELATIVE TO NATIONAL GEODETIC SURVEY, 1993 ADJUSTMENT, MONUMENTS T27 A (PID AB2837), AUSTIN RRP (PID AF9537) AND, GEDRGEPORT (PID BM1093). ALL DISTANCES ARE SURFACE VALUES EXPRESSED IN U. S. SURVEY FEET AND MAY BE CONVERTED TO GRID BY DIVIDING BY THE TXDOT SURFACE ADJUSTMENT FACTOR OF 1.000120.

RECORD AREA		ACQUIRED AREA		APPROXIMATE REMAINDER			
				LEFT		RIGHT	
ACRES	SQ. FT.	ACRES	SQ. FT.	ACRES	SQ. FT.	ACRES	SQ. FT.
5.00	217,800	0.138	6,015	---	---	4.862	211,785



RIGHT  
SHOW  
RI  
PA  
P  
ROW CSJ  
STATE HIGHWAY 195  
RODS  
6810 LEE ROAD  
(2)  
SCALE: 1"=10'



[illegible]

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REVISÉ MAY 29, 2009