

**REAL ESTATE CONTRACT**  
**SH 29 Right of Way**

State of Texas  
County of Williamson

THIS REAL ESTATE CONTRACT ("Contract") is made by MARK EKRUT and DARLA EKRUT (referred to in this Contract as "Seller") and the COUNTY OF WILLIAMSON, TEXAS (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 sells and agrees to convey, and Purchaser purchases and agrees to pay for, the tract(s) of land described as follows:

Lot 4, TWENTY-NINE RANCH, a subdivision in Williamson County, Texas, according to the map or plat thereof recorded in Cabinet K, Slides 115-116, Plat Records Williamson County, Texas, as conveyed to grantor in the General Warranty Deed with Vendor's Lien recorded as Document Number 9706477, Williamson County Deed Records. Prior to the execution of a Special Warranty Deed document by Seller, Purchaser shall create a metes and bounds description of the exact area to be conveyed and which shall be attached to the executed deed document for recording in the real property records of Williamson County, Texas.

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, 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 \$375,053.00

Payment of Purchase Price

2.03. 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.)

Miscellaneous Conditions

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 the best of Seller's 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;

**ARTICLE V  
CLOSING**

Closing Date

5.01. The closing shall be held at the office of Texas American Title Company on or before the 45th day after the effective date of this Contract, or at such time, date, and place as Seller and Purchaser may agree upon, or within 10 days after the completion of (1) any title curative matters if necessary for items as shown on the Title Commitment or in the contract or (2) the survey completion obligation described herein (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 Purchaser a duly executed and acknowledged Special Warranty Deed conveying good and marketable title in fee simple to all of the Property or as otherwise described herein, 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 pursuant to Article III hereof; and
- (c) Any exceptions approved by Purchaser in writing.

(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 or other property interest in and 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
- (c) The exception as to the lien for taxes shall be limited to the year of closing and shall be endorsed "Not Yet Due and Payable."

(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;
- (b) At Closing, Purchaser and Seller shall enter into a lease agreement (the "Leaseback Agreement") wherein Purchaser, as Landlord, shall lease back to Seller, As Tenant, the Property for a term of six (6) months, such term

commencing on the Closing Date. The Leaseback Agreement shall be in the form attached hereto as Exhibit "A".

#### 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 in Article IX hereof. 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 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 may: (1) enforce specific performance of this Contract; or (2) request that the Escrow Deposit be forthwith returned by the title company to the Seller.

**ARTICLE IX  
MISCELLANEOUS  
Notice**

9.01. Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, 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

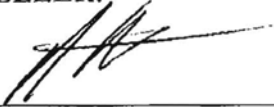
9.11. This Contract may be executed in any number of counterparts, which may together constitute the Contract. Signatures transmitted by facsimile may be considered effective as originals for purposes of this Contract.

Purchase of Future Right of Way

9.12. Purchaser acknowledges that it is an entity which possesses the power of condemnation, and that the Property has been identified for proposed future SH29 right of way on the current CAMPO Long Range Transportation Plan and the current Williamson County Transportation Plan.

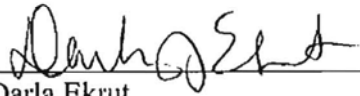
*(Signatures on the following page.)*

**SELLER:**

  
\_\_\_\_\_  
Mark Ekrut

Date: 6-19-2011

Address: 9769 Hwy 29 west  
Georgetown TX 78628


  
\_\_\_\_\_  
Darla Ekrut

Date: \_\_\_\_\_

Address: 9769 Hwy 29 W  
Georgetown TX 78628

**PURCHASER:**

County of Williamson, Texas

By:   
\_\_\_\_\_  
Dan A. Gattis, County Judge  
Date: 6-27-11

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

Exhibit "A"

**Leaseback Agreement**

**Basic Terms**

Effective Date: \_\_\_\_\_, 2011

Landlord: WILLIAMSON COUNTY, TEXAS

Landlord's Address: 710 Main Street, Suite 101  
Georgetown, Texas 78626

Tenant: MARK AND DARLA EKRUT

Tenant's Address: 9769 W. State Highway 29  
Georgetown, Texas 78628

Premises: The following described property located in Williamson County, Texas, being all of the same property purchased on this date by Landlord from Tenant:

a. Land. Lot 4, TWENTY-NINE RANCH, a subdivision in Williamson County, Texas, according to the map or plat thereof recorded in Cabinet K, Slides 115-116, Plat Records Williamson County, Texas, as conveyed to grantor in the General Warranty Deed with Vendor's Lien recorded as Document Number 9706477, Williamson County Deed Records (the "Land");

b. Buildings. All improvements and fixtures owned by Landlord and located on the Land (the "Building") that are considered part of the real property, and specifically excluding any personal property of Landlord or any tenant located on the Land;

c. Other Property.

(i) The interest of the lessor or landlord under all leases, tenancies, rental, use, occupancy, and concession agreements covering space on the Land (hereinafter called the "Leases");

(ii) All of Landlord's interest in the following to the extent they relate to the ownership, use, leasing, maintenance, service, or operation of the Land or Buildings and are assignable without the consent of or payment to any other party: (i) contracts or agreements such as maintenance, service, or utility contracts, (ii) warranties, guaranties, indemnities and claims, (iii) development rights, utility capacity, governmental approvals, licenses and permits, and (iv) plans, drawings,



specifications, surveys, engineering reports and environmental reports;  
and

(iii) All and singular the rights and appurtenances pertaining to any of the foregoing, including without limitation, the right of the Landlord, if any, in and to adjacent streets, alleys, easements, rights-of-way and rights of ingress and egress thereto.

**Term:** One (1) year from the Effective Date, subject to early termination as provided herein.

**Termination Date:** One (1) year from the Effective Date, or such earlier date as determined by the early termination provisions herein.

**Rent:** One Thousand Five Hundred and No/100 Dollars (\$1,500.00) per month, payable on the first day of each month.

**Security Deposit:** N/A

**Permitted Use:** Any lawful use.

### **Definitions**

"Injury" means (a) harm to or impairment or loss of property or its use, (b) harm to or death of a person, or (c) "personal and advertising injury" as defined in the form of liability insurance Tenant is required to maintain.

"Landlord" means Landlord and its agents, employees, invitees, licensees, or visitors.

"Tenant" means Tenant and its agents, contractors, employees, invitees, licensees, or visitors.

"Subtenant" means (a) any tenant, licensee or other occupant or party entitled to use all or any portion of the Premises as of the Effective Date under any of the Leases and (b) subject to Paragraph 20, any tenant, licensee or other occupant or party entitled to use all or any portion of the Premises after the Effective Date pursuant to a sublease or other agreement entered into with Tenant.

### **Clauses and Covenants**

#### **A. Tenant agrees to—**

1. Lease the Premises for the entire Term beginning on the Effective Date and ending on the Termination Date.

2. Accept the Premises in their present condition "AS IS".

3. Obey (a) all applicable laws relating to the use, condition, and occupancy of the Premises and (b) any requirements imposed by utility companies serving or insurance companies covering the Premises; provided, that in no event will Tenant be required to make any alterations or additions to the Premises in order to bring the Premises into compliance with applicable law.

4. Pay or cause to be paid the normal and customary costs of any maintenance or other operating or use expenses related to or required for the Premises during the Term.

5. Maintain during the Term insurance coverage on the Building in the same manner as currently provided.

6. Vacate the Premises on the last day of the Term or as otherwise required herein.

7. INDEMNIFY, DEFEND, AND HOLD LANDLORD HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) OCCURRING IN ANY PORTION OF THE PREMISES. THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) IS INDEPENDENT OF TENANT'S INSURANCE, (b) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, (c) WILL SURVIVE THE END OF THE TERM, AND (d) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD.

8. Pay all ad valorem property taxes assessed against the Land, Building and other portions of the Premises.

**B. Tenant agrees not to—**

1. Use the Premises for any purpose other than the Permitted Use.

2. Create a public nuisance.

3. Allow a lien to be placed on the Premises that will not be released or extinguished as of the end of the Term.

**C. Landlord agrees to—**

1. Lease to Tenant the Premises for the entire Term beginning on the Effective Date and ending on the Termination Date.

**D. Landlord agrees not to—**

1. Interfere with Tenant's quiet and peaceful enjoyment and possession of the Premises as long as Tenant is not in default beyond applicable grace or cure periods.

**E. Landlord and Tenant agree to the following:**

1. *Alterations.* Any additions or improvements now or hereafter located on the Premises will become the property of Landlord at the end of the Term unless removed by Tenant prior to the Termination Date. Tenant shall be entitled, but not required, to remove any additions or improvements, other than the Building, now or hereafter located on the Premises prior to the termination date. Tenant shall repair any alterations or restore the Premises to the condition existing at the Effective Date. Upon termination of this Leaseback Agreement, the Premises shall be surrendered to Landlord.

2. *Abatement.* Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.

3. *Casualty/Total or Partial Destruction.* Neither party shall be entitled to terminate this Leaseback Agreement or abate rent as a result of fire or any other casualty nor shall either party have any duty or obligation to rebuild or restore any damaged improvements. Tenant shall be entitled to receive and retain all proceeds of insurance paid in connection with any casualty damage occurring during the Term, and Landlord waives any interest in such proceeds.

4. *Default by Landlord/Events.* Defaults by Landlord are failing to comply with any provision of this Leaseback Agreement within thirty days after written notice; provided, that if such default cannot reasonably be cured within such thirty day period but Landlord commences and thereafter diligently attempts to cure such default during and after such thirty day period, then Landlord shall be entitled to such reasonable additional period of time as is necessary to cure such default.

5. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and/or injunctive relief.

6. *Default by Tenant/Events.* Defaults by Tenant are failing to comply within thirty days after written notice with any provision of this Leaseback Agreement; provided, that if such default cannot reasonably be cured within such thirty day period but Tenant commences and thereafter diligently attempts to cure such default during and after such thirty day period, then Tenant shall be entitled to such reasonable additional period of time as is necessary to cure such default.

7. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to terminate this Leaseback Agreement by written notice and/or sue for damages.

8. *Default/Waiver/Mitigation.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Leaseback Agreement does not preclude pursuit of other remedies in this Leaseback Agreement or provided by applicable law. Landlord and Tenant have a duty to mitigate damages.

9. *Holdover.* If Tenant does not vacate the Premises following termination of this Leaseback Agreement, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

10. *Attorney's Fees.* If either party retains an attorney to enforce this Leaseback Agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.

11. *Venue.* Exclusive venue is in the county in which the Premises are located.

12. *Entire Agreement.* This Leaseback Agreement is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this Leaseback Agreement or to any expressly mentioned exhibits and riders not incorporated in writing in this Leaseback Agreement.

13. *Amendment of Lease.* This Leaseback Agreement may be amended only by an instrument in writing signed by Landlord and Tenant.

14. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASEBACK AGREEMENT, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASEBACK AGREEMENT.

15. *Notices.* Any notice required or permitted under this Leaseback Agreement must be in writing. Any notice required by this Leaseback Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Leaseback Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.



A copy of any notice given to Tenant shall be given at the same time and in the same manner as the notice to Tenant to:

Mark and Darla Ekrut  
9769 W. State Highway 29  
Georgetown, Texas 78628

A copy of any notice given to Landlord shall be given at the same time and in the same manner as the notice to Landlord to:

Sheets & Crossfield, P.C.  
Attn: Charlie Crossfield  
309 East Main Street  
Round Rock, Texas 78664  
512/255-8877  
ccrossfield@sheets-crossfield.com

16. *Abandoned Property.* Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

17. *Leaseback; Assignment of Leases and Other Property.* This Leaseback Agreement is executed simultaneously with the sale of the Premises by Tenant to Landlord and is intended to be a leaseback of the entire property and all rights, benefits and privileges thereof sold to Landlord by Tenant. In addition to leasing Tenant all of the Premises for the term, Landlord hereby assigns, transfers and conveys to Tenant all of Landlord's right, title and interest in the Leases and the other personal property described in the description of Premises herein. Tenant assumes the obligation for the performance of any and all of the obligations of Landlord under the Leases and such other personal property. Landlord shall not be entitled to receive any portion of the amounts payable under any Lease.

18. *Sublease; Assignment.*

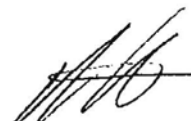
- a. Tenant may not assign, sublet or agree to occupancy of the Property during the Term by any other person or entity in whole or in part without Landlord's consent.

19. *Early Termination Option.* Either Landlord or Tenant may terminate this Leaseback Agreement at any time by delivering thirty (60) days prior written notice of such early termination to Tenant. By way of example, if Landlord delivers the Termination Notice on January 1, 2012, this Leaseback Agreement shall terminate on March 3, 2012. Landlord and Tenant's obligations under this Paragraph shall survive the termination of this Leaseback Agreement.



TENANT:

MARK EKRUT

By:   
Mark Ekrut

DARLA EKRUT

By:   
Darla Ekrut

LANDLORD:

WILLIAMSON COUNTY, TEXAS

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