

STATE OF TEXAS

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COUNTY OF WILLIAMSON

**COMPROMISE SETTLEMENT AGREEMENT AND RELEASE**

**I.**

1. The parties to this Settlement Agreement and Release (“the Agreement”) are Williamson County, Texas, and its officers, agents and employees, including, but not limited to, Dan Gattis, County Judge of Williamson County (the “County”); W. Paul Reed, Cecil D. Reed and Jean L. Reed, Individually and As Co-Trustees of The Cecil D. Reed and Jean L. Reed Revocable Living Trust (“the Reeds”); James R. Smith and Patricia Smith (“the Smiths”); and Michael A. Hallmark (“Hallmark”), collectively referred to herein as the “Parties”.

2. The Reeds have asserted certain disputed claims against the County and/or its officers, agents and employees related to the County’s issuance of a Commissioners Court resolution or order dated June 26, 2012 finding a certain road situated upon the Reeds property (the “disputed road”) to be a public road and accepting that road for County maintenance (the “Reed Claim” or “Reed Claims”) and the County denies all such claims. The Reeds have also asserted claims against the Smiths and Hallmark relative to the disputed road (“Reed Claims against the Smiths and Hallmark”) which the Smiths and Hallmark deny. The County together with the Smiths and Hallmark have asserted the claim that the disputed road is a public road (“County Claim” or

Counterclaim) and the Reeds deny this claim. Collectively, all of the parties' claims are referred to as "the Claims".

3. Suit has been previously brought in the District Court of Williamson County Texas, 277<sup>th</sup> Judicial District by the Reeds against the other Parties as a result of the disputed road and Claims and County has asserted its counterclaim, said suit being Cause No. 12-0721-C277, styled *W. Paul Reed, Cecil D. Reed and Jean L. Reed, Individually and as Co-Trustees of the Cecil D. Reed and Jean L. Reed Revocable Living Trust v. Williamson County, Texas, Dan Gattis in His Official Capacity as County Judge of Williamson County, Texas, James Robert Smith and Patricia Smith and Michael A. Hallmark*; (the "Litigation"). County Smiths and Hallmark have denied and continue to deny Plaintiffs' allegations and any liability for the allegations asserted in the Litigation; and the Reeds continue to deny the allegations of the County's counterclaim. The County, while denying liability for all such claims, by this Agreement has decided to compromise and settle these disputed claims in order to avoid further cost, expense and litigation and the Reeds, likewise, have decided to compromise and settle these disputed claims in order to avoid further cost, expense and litigation.

4. The consideration herein mentioned is accepted by the Parties in full compromise and settlement of all claims and causes of action against the released Parties being asserted by each party in the suit or which might have been asserted by each party in the suit whether for property damages, personal injury or other loss or damage.

5. The Parties have agreed to compromise and settle this Litigation in its entirety on the terms stated in this Agreement;

6. NOW THEREFORE, for the mutual consideration expressed in this Agreement, the Parties agree to the following terms herein below and to those stated in the paragraphs/sections of this Agreement:

(a) The County will construct a new road in a 32 feet wide public road right-of-way ("ROW") on the route agreed upon by the County and the Reeds (see attached illustration, Exhibit A, for general depiction) and build the road with caliche material furnished from the Smith and Hallmark tracts or possibly other additional road material. The County estimates that it will commence construction of the road in the fourth quarter of 2016 and that the duration of construction to final completion of the road will be approximately three (3) months. A survey of the agreed upon route will be conducted by and paid for by County prior to commencement of the road's construction. The Reeds will allow the Smiths and Hallmark to continue to use the disputed road until final completion of construction of the new road in the 32 feet-wide road ROW, certification of final completion by the County and the County's opening of the new road in the 32 feet wide road ROW for public traffic following completion of fencing by the Reeds.

(b) The County shall pay for fencing on each side of the roadway (goat netting with three strands of barbed wire) and shall pay for a 36' opening with a pair of 18' gates on each side of the road to the south of the pole barn to allow for the transport of livestock to opposite sides

of the road. The Reeds will provide the location. The Reeds agree that the gates for animal transfer shall only be opened across the road and shall only temporarily obstruct road passage during times when animals are being actively moved from one side of the road to the other side. The parties agree that there will be not be any gates across the road, other than the temporary blockage of the road by the gates for animal transfer when animals are being actively moved. The County shall install "livestock crossing" signs and post a speed limit of 30 MPH in this area. During construction of the new road, the County shall furnish temporary, movable fencing or enclosing structures at each ends of the road (panels or wire fencing) to keep animals from leaving the property.

- (c) The County agrees that the fenced right-of-way ("ROW") shall not exceed 32 feet in width. The County will need an easement along the east side of the right-of-way for drainage ditch purposes and an additional easement or license to cross the Reed property to access and maintain those drainage ditch areas outside of the fenced area. The Reeds agree the County shall have and hereby grant the County a 15 foot wide drainage easement for drainage ditch purposes along the east side of the right-of-way easement and further agree that the County shall have and hereby grant the County a 15 foot wide access or maintenance license extending 15 feet along the east side of the drainage easement for purposes of access to and

maintenance of the drainage ditches in the drainage easement, less and except the first approximately 625 feet adjacent to the new road ROW and next to and abutting the Whittenburg property. Any drainage ditch located outside of the 32 feet wide ROW area will not be included within the fenced area, provided that in most if not all places this means the drainage ditch will have to be placed outside of the fenced ROW area and in the 15 foot-wide drainage easement to avoid a situation where the fence is in the middle of or on an embankment of the drainage ditch.

(d) The County agrees to make the following payments to the Reeds by check payable to W. Paul Reed, Cecil D. Reed and Jean L. Reed:

(1) payment in the amount of \$8,985. The check for this payment, or containing this payment and the other payment listed herein below, shall be mailed or otherwise delivered to the Reed's attorneys within twenty (20) business days of the execution of this Agreement;

(2) payment of \$ 2,000.00 for gate relocation. The check for this payment, or containing this payment and the other payment listed herein, shall be mailed or otherwise delivered to the Reed's attorneys within twenty (20) business days of the execution of this Agreement; and

(3) payment(s) for the cost of fencing and gates for animal transfer along the new 32 feet wide road ROW, as provided in sections 6. (b) and (f) of this Agreement.

- (e) The County further agrees to arrange for and pay directly to the service provider the survey costs for the road lay-out and construction. The Reeds shall have the right to review and approve the survey for consistency with the parties' agreed and approved route, generally depicted in Exhibit A.
  
- (f) The Reeds shall make arrangements for the construction and installation of the fencing on each side of the new roadway and the gates for animal transfer referenced above; and the County shall pay the costs of the fencing and gate installation directly to the Reeds based on estimates to be furnished to the County, as provided herein. The Reeds agree to wait until the County has certified final completion of the road to construct and install the fencing and gates on each side of the roadway. The County agrees to keep the new road closed from public traffic (by temporary blockades) until the fencing and gates have been installed, or until the expiration of sixty (60) days from the date of the certification of final completion of the road by the County, whichever comes first. The Reeds shall obtain three (3) estimates from each service provider or material supplier used for construction and installation of the fencing and gates for animal transfer and, upon submission of the estimates to the County through the County Engineer, the County will directly pay to the Reeds the amount of the lowest-priced, qualified estimate. The Reeds agree to construct and install the fencing and gates on each side of the

roadway within sixty (60) days of the certification of final completion of the roadway by the County or make arrangements for the fencing and gate construction and installation to be completed within sixty (60) days of the certification of final completion of the roadway by the County. The Reeds agree that the Smiths and Hallmark shall have the right to continue to use the existing disputed road until the Reeds complete construction and installation of fencing and gates and the County opens its temporary blockade of the new road (following completion of the construction and installation of fencing and gates by the Reeds), or until the County opens its temporary blockade of the new road after the expiration of sixty (60) days following certification of final completion of the road by the County.

- (g) The County shall install drainage culverts, livestock crossing signs and a 30 MPH maximum speed limit sign. The Reeds shall approve designated locations for culverts, subject to appropriate County engineering standards for drainage, and agree that their approval shall not be unreasonably withheld.
- (h) The Smiths and Hallmark agree to furnish to County from their land the material needed for road construction. The County shall determine at its discretion the amount of road material to be extracted from each site based



upon the quality of material found on site and other factors such as distance to work site.

(i) The Smiths acknowledge a public road easement existing on their land comprised of the existing caliche/gravel road generally depicted on the 1969 Tobin survey map attached as Exhibit B. In addition, the Smiths agree to convey to County without cost (by Right-of-Way Easement Deed in the form attached as Exhibit C) a 32 feet wide right-of-way comprised of the existing public road easement on their land and such land as necessary to contain a 32 feet wide right-of-way easement, being 16 feet in width on each side of the midline of the existing public road easement. The Smiths shall execute a right-of-way deed conveying such strip of land as a right-of-way easement within ten (10) business days of the completion of a survey at County's expense.

(j) Hallmark acknowledges a public road easement existing on his land comprised of the existing caliche/gravel road generally depicted on the 1969 Tobin survey map attached as Exhibit B. In addition, Hallmark agrees with County and understands that the County has not, by the Commissioners Court Order of June 26, 2012, accepted and does not accept at this time into the County road system (of public roads designated for maintenance) the part of the existing public road easement on his land. Hallmark further agrees that if and when the County should, within the



next ten (10) years from the date of execution of the Settlement Agreement, and at its sole determination, choose to develop the existing public road easement on his land as part of the County road system designated for maintenance, Hallmark shall convey to the County (by Right-of-Way Easement Deed in the form attached as Exhibit C), a 32 feet wide right-of-way, without cost to the County, being a strip of land comprised of 16 feet in width on each side of the mid-line of the existing public road easement on his land and shall convey such strip of land as a right-of-way easement within ten (10) business days of the completion of a survey at County's expense; provided however, and at the County's sole election, if and when the County may elect to abandon the public road easement on Hallmark's land within the next ten (10) years from the date of execution of the Settlement Agreement, Hallmark agrees to such abandonment and will agree to such abandonment without objection or claim for compensation or damages.

- (k) The County further agrees to release and abandon and hereby releases and abandons any claim to a public easement in the existing disputed road on the Reeds' property and releases its claims for attorney's fees and costs. The Smiths and Hallmark abandon their easement claims in the existing disputed road on the Reeds' property and release their claims for attorney's fees and costs, provided that the Reeds will allow the Smiths and Hallmark to continue to use the disputed road until final completion of

construction of the new 32 feet wide road ROW, certification of final completion by the County and the County's opening of the new 32 feet wide road for public traffic following completion of fencing by the Reeds.

- (l) In consideration of the above, the Reeds agree to convey to the County (by Right-of-Way Easement Deed in the form attached as Exhibit C) the 32 feet wide new ROW easement described above and as described in the last mutually approved, revised route, within twenty (20) business days of the completion of the survey of the 32 feet new ROW easement; and the Reeds further agree to release and hereby release their claims for attorney fees and costs and all claims of any kind the Reeds may have against the County, the Smiths and Hallmark. The County and the Smiths and Hallmark likewise release all claims against the Reeds for attorney's fees and costs.
- (m) The Parties, by their signatures below, represent and warrant that they are fully competent to enter into this Agreement and are doing so only after full consultation with counsel regarding the meaning and intent of this Agreement and all of its terms.
- (n) The Parties agree to be solely responsible for any and all federal, state and local tax consequences that result from receipt of settlement funds paid in accordance with this Agreement, or any portion thereof.

- (o) The Parties agree and covenant not to sue one another based on any cause of action currently asserted in the Litigation or related to the Claims or that is the subject of this Agreement and/or the release contained herein;
- (p) The Parties agree to sign and file a notice or stipulation of dismissal in the above referenced suit upon execution of this Agreement.

## II.

### RELEASE

7. This release is executed by the undersigned Parties. The Parties released are each party to this Agreement and the party's agents, officers, servants, employees, elected officials and administrators (the "Released Parties").
8. The Parties, for the consideration and payment stated in this Agreement, have released, acquitted and forever discharged, and by these presents do, for themselves, and their heirs, executors, administrators, legal representatives and assigns, release, acquit and forever discharge, indemnify and hold harmless each other Party and the representatives, agents, officers, servants, and employees of each Party from any and all claims, demands and causes of action, of whatsoever nature, whether in contract, tort, constitutional, statutory or common law, which have accrued or may ever accrue to them or their heirs, executors, administrators, legal representatives or assigns, for and on account of and arising from the incident(s) and Claims asserted in the Litigation related to the disputed road (the "Claims").
9. The consideration hereinabove mentioned is accepted by the Parties in full compromise and settlement of all claims and causes of action against the Released Parties

being asserted and claimed by the Parties or which might have been or could be asserted and claimed by them now or in the future, whether for property damages, personal injury or other loss or damage.

10. It is agreed and understood that the payment of the above mentioned sum of money and other consideration furnished by the Parties is being made by each party here released in compromise and settlement of disputed claims, and in order that such Parties may avoid litigation and costs and buy their peace, and such payment is in no way to be construed as an admission of liability on the part of the Parties hereby released or anyone else, all liability being expressly denied.

11. The Parties further hereby expressly warrant and represent to the parties released that before executing this instrument, each party has fully informed the party of its terms, contents, conditions and effects; that in making this settlement, each party had the benefit of advice of an attorney; that no promise or representation of any kind has been made by the parties hereby released or anyone acting for them, except as is expressly stated in this instrument.

12. Each party further states that the party relied solely and completely upon each party's judgment and advice of the party's attorney in making this settlement; and fully understand that the sum of money to be paid and the other consideration mentioned above is all the money that is ever to be paid and all the consideration to be furnished as a result of the above described incidents and the Claims, whether for past or future injuries and damages.

### **III.**

#### **GENERAL / MISCELLANEOUS PROVISIONS**

13. This contract contains the entire agreement between the Parties hereto and no representation, inducements, promises, agreements, oral or otherwise between the Parties not embodied herein shall be of any force or effect.

14. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall be deemed to for all purposes to be one and the same agreement.

15. **EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2015 (with the execution date being the date of signature by the County Judge of Williamson County).

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W. PAUL REED


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CECIL D. REED, Individually and As Co-  
Trustee of The Cecil D. Reed and Jean L.  
Reed Revocable Living Trust

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JEAN L. REED, Individually and As Co-  
Trustee of The Cecil D. Reed and Jean L.  
Reed Revocable Living Trust

WILLIAMSON COUNTY, TEXAS

By:   
County Judge, Dan Gattis

Date Signed: 10-20-2015

JAMES R. SMITH

PATRICIA SMITH

MICHAEL A. HALLMARK

THE STATE OF TEXAS           §  
COUNTY OF WILLIAMSON       §

I, James G. Ruiz, represent and warrant that I am the Attorney for W. Paul Reed, Cecil D. Reed and Jean L. Reed, Individually and As Co-Trustees of The Cecil D. Reed and Jean L. Reed Revocable Living Trust ("the Reeds") that the foregoing is their true and genuine signatures, and that I have recommended the above settlement to them. The above instrument has been fully and completely explained to them

SIGNED on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
JAMES G. RUIZ

THE STATE OF TEXAS           §  
COUNTY OF WILLIAMSON       §

I, Richard T. Miller, represent and warrant that I am the Attorney for James and Patricia Smith and Michael A. Hallmark, that the foregoing is their true and genuine signatures, and that I have recommended the above settlement to them. The above instrument has been fully and completely explained to them

SIGNED on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
RICHARD T. MILLER







WILLIAMSON COUNTY, TEXAS

OWNERSHIP MAP WITH WELL DATA

COPYRIGHT 1969 BY

EDGAR TOBIN AERIAL SURVEYS

SAN ANTONIO,

SCALE 1"=3,000'

OWNERSHIP DATE COMPILED 1969

WELL DATA DATE COMPILED 1969

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EXHIBIT

B

1 OF 2

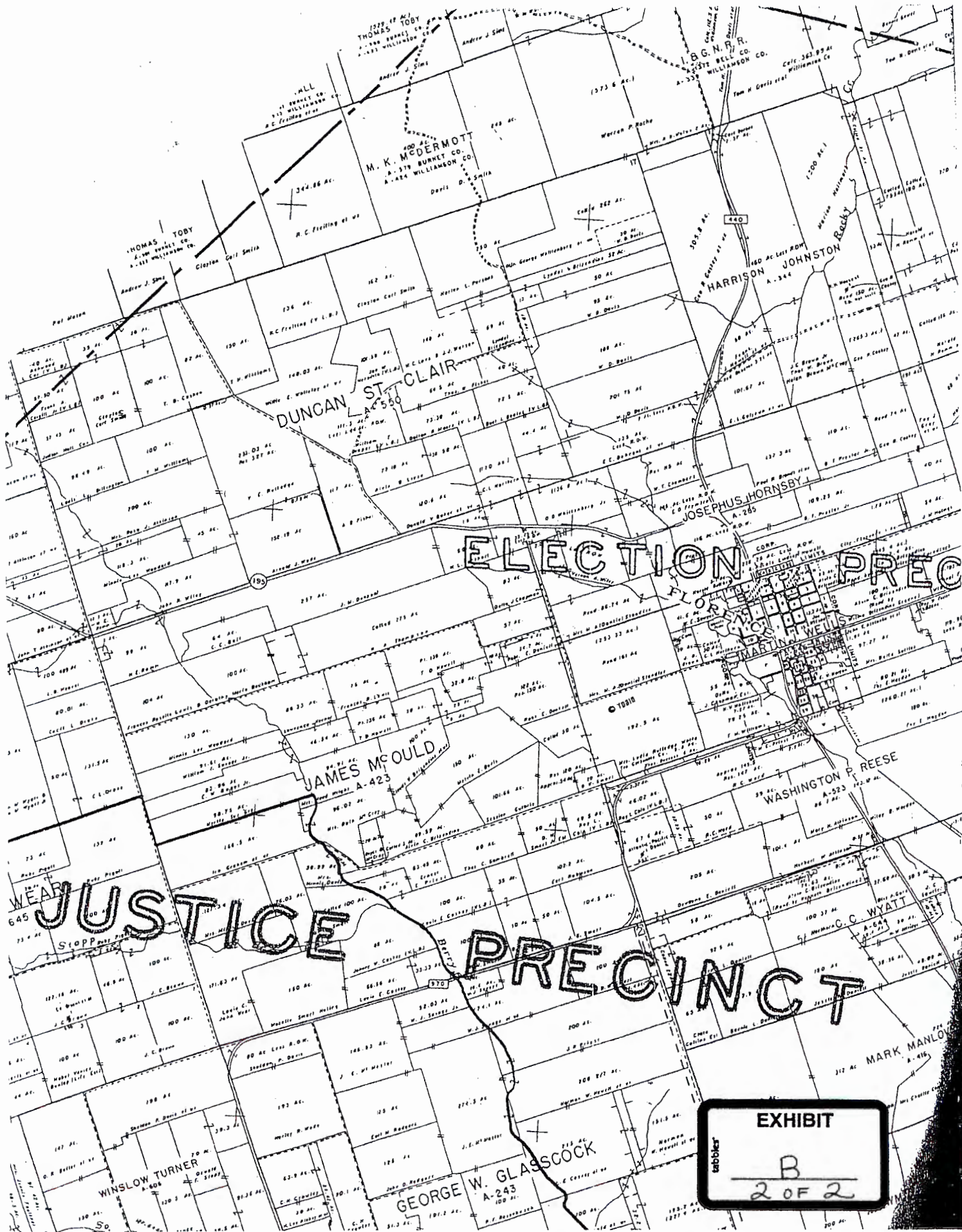


EXHIBIT  
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2 OF 2

**RIGHT OF WAY EASEMENT**

**THE STATE OF TEXAS**

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**COUNTY OF WILLIAMSON**

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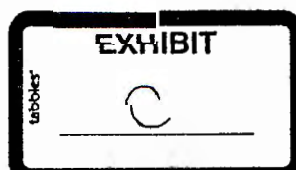
**KNOW ALL MEN BY THESE PRESENTS:**

That, \_\_\_\_\_ of \_\_\_\_\_ of the County of Williamson County, State of Texas, hereinafter referred to as Grantors, whether one or more, for and in consideration of the sum of ONE DOLLARS (\$1.00) and other good and valuable consideration to Grantor in hand paid by the County of Williamson, Texas, receipt of which is hereby acknowledged, and for which no lien is retained, either expressed or implied, have this day granted and by these presents do Grant and Convey unto the County of Williamson, Texas an easement for road purposes of laying out, opening, constructing, operating, maintaining and reconstructing a road or street thereon, together with necessary incidentals and appurtenances thereto, in, along, upon and across the following described property in the County of Williamson, State of Texas, more particularly described as follows, to wit:

**SEE EXHIBIT A ATTACHED**

Grantor reserves all of the oil, gas, sulphur and other minerals in and under the land herein conveyed but waives all rights of ingress and egress to the surface thereof for the purpose of exploring, developing, mining or drilling for same; however, nothing in this reservation shall affect the title and rights of the County of Williamson to take and use without compensation all other minerals and materials such as stone, earth, gravel, caliche or any other road building materials upon, in and under said property.

TO HAVE AND TO HOLD the said easement herein conveyed together with all and singular the rights and appurtenances thereto in any wise belonging unto the County of Williamson, and its assigns forever; and Grantor does hereby bind himself, his heirs, executors, administrators, successors and assigns to Warrant and Forever Defend all and singular the said premises herein conveyed unto the County of Williamson and its assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.



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**THE STATE OF TEXAS** §  
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**COUNTY OF WILLIAMSON** §

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This \_\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_\_.

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