

**POSSESSION AND USE AGREEMENT FOR TRANSPORTATION PURPOSES**

STATE OF TEXAS	§	
	§	Parcel No.: 23
COUNTY OF WILLIAMSON	§	Project: CR 258

This Possession and Use Agreement For Transportation Purposes (the "Agreement") between WILLIAMSON COUNTY, TEXAS ("County"), and MARION SHIPMAN (the "Grantor" whether one or more), grants to the County, their contractors, agents and all others deemed necessary by the County, an irrevocable right to possession and use of the Grantor's property for the purpose of constructing a portion of CR 258 and related appurtenances and utility relocations (the "Roadway Construction Project"). The property subject to this Agreement is described more fully in field notes, plat map or other description (attached as "Exhibit A") and made a part of this Agreement by reference (the "Property").

1. For the consideration paid by the County which is set forth in Paragraph 2 below, the receipt and sufficiency of which is acknowledged, the Grantor grants, bargains, sells and conveys to the County the right of entry and exclusive possession and use of the Property for the purpose of constructing a roadway, utility adjustments and appurtenances thereto and the right to remove any improvements. Authorized activities include surveying, inspection, environmental studies, archeological studies, clearing, demolition, construction of permanent improvements, relocating, replacing, and improving existing utility facilities, locating new utility facilities, and other work required to be performed in connection with the Roadway Construction Project. This Possession and Use Agreement will extend to the County, its contractors and assigns, owners of any existing utilities on the Property and those which may be lawfully permitted on the Property by the County in the future, and all others deemed necessary by the County for the purpose of the Roadway Construction Project. This grant will allow the construction, relocation, replacement, repair, improvement, operation and maintenance of utilities on the Property.
2. In full consideration for this irrevocable grant of possession and use and other Grantor covenants, warranties, and obligations under this Agreement, the County agrees to postpone proceeding with a condemnation lawsuit to acquire the Property so that the parties may continue negotiations for a voluntary purchase. The Grantor agrees that this agreement represents adequate and full compensation for the possession and use of the Property. The County will be entitled to take possession and use of the Property upon recording of this document in the Real Property Records of Williamson County, subject to the other conditions in paragraph 14. below.
3. The effective date of this Agreement will be the date on which the last party executes the Agreement (the "Effective Date").
4. The Grantor warrants and represents that the title to the Property is free and clear of all liens and encumbrances except as disclosed to GRANTEE in that certain title commitment numbered G-15-228784 effective October 20, 2015 by First National Title Insurance Company. The Grantor further warrants that no other person or entity owns an interest in the fee title to the Property and further agrees to indemnify the County from all unreleased or undisclosed liens, claims or encumbrances



affecting the Property.

5. The parties agree that the valuation date for determining the amount of just compensation for the real property interest proposed to be acquired by the County in the Property, for negotiation or eminent domain proceeding purposes, will be the Effective Date of this Agreement.
6. This Agreement is made with the understanding that the County will continue to proceed with acquisition of a real property interest in the Property. The Grantor reserves all rights of compensation for the title and other interest in and to the Property which the Grantor holds as of the time immediately prior to the Effective Date of this Agreement. This Agreement shall in no way prejudice the Grantor's rights to receive full and just compensation as allowed by law for all of the Grantor's interests in and to the Property to be acquired by the County, encumbered with the improvements thereon, if any, and damages, if any, to the remainder of the Grantor's interest in any larger tract of which the Property is a part (the "Remainder"), if any; all as the Property exists on the Effective Date of this Agreement. The County's removal or construction of improvements on the Property shall in no way affect the fair market value of the Property in determining compensation due to the Grantor in the eminent domain proceedings. This grant will not prejudice the Grantor's rights to any relocation benefits for which Grantor may be eligible.
7. In the event the County institutes or has instituted eminent domain proceedings, the County will not be liable to the Grantor for interest upon any award or judgment as a result of such proceedings for any period of time prior to the date of the award. Payment of any interest may be deferred by the County until entry of judgment.
8. The purpose of this Agreement is to allow the County to proceed with its Roadway Construction Project without delay and to allow the Grantor to avoid proceeding to condemnation litigation at the current time. The Grantor expressly acknowledges that the proposed Roadway Construction Project is for a valid public use and voluntarily waives any right the Grantor has or may have, known or unknown, to contest the jurisdiction of the court in any condemnation proceeding for acquisition of the Property related to the Roadway Construction Project, based upon claims that the condemning authority has no authority to acquire the Property through eminent domain, has no valid public use for the Property, or that acquisition of the Property is not necessary for the public use.
9. The Grantor reserves all of the oil, gas and sulphur in and under the land herein conveyed but waives all right of ingress and egress to the surface for the purpose of exploring, developing, mining or drilling. The extraction of oil, gas and minerals may not affect the geological stability of the surface. Nothing in this reservation will affect the title and rights of the County to take and use all other minerals and materials thereon, and thereunder.
10. The undersigned Grantor agrees to pay as they become due, all ad valorem property taxes and special assessments assessed against Property until the Effective Date, including prorated taxes until the Effective Date for the year in which the County takes title to the Property.
11. Notwithstanding the acquisition of right of possession to the Property by the County in a condemnation proceeding by depositing the Special Commissioners' award into the registry of the court, less any amounts tendered to the Grantor pursuant to Paragraph 2 above, this Agreement shall continue to remain in effect until the County acquires title to the Property either by negotiation,

settlement, or final court judgment.

12. This Agreement will also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors in interest and assigns of the parties.

13. It is agreed the County will record this document.

14. Other conditions: Upon written notice by Grantor to Grantee requesting the initiation of condemnation proceedings to acquire the Property, Grantor shall complete any statutory prerequisites to the filing of a condemnation suit, and shall initiate such suit in the proper court, within seventy five (75) days after receipt of same. The County agrees to deposit into the Court registry any amount that the special commissioners' award exceeds the consideration paid for this Agreement, no later than sixty (60) days from the date of the special commissioners' hearing.

Grantor also grants County a limited right of entry on the remainder of Grantor's Land as necessary only to remove those improvements which will encroach on the Property upon the conveyance proposed herein, if any, upon reasonable notice to Grantor. County's entry on to the remainder of Grantor's Land, if necessary, will not interfere with Grantor's remainder operations or current uses thereon.

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 remainder of Grantor's land for its current uses.

To have and to hold the Agreement herein described and conveyed, together with all the rights and appurtenances belonging to the County and its assigns forever, for the purposes and subject to the limitations set forth above.

*[signature pages follow]*

GRANTOR:

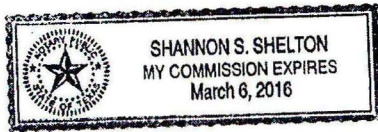
  
MARION SHIPMAN

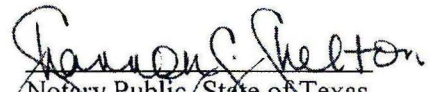
ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF Travis

This instrument was acknowledged before me on this the 7<sup>th</sup> day of December, 2015 by Marion Shipman, in the capacity and for the purposes and consideration recited herein.




  
Notary Public, State of Texas  
Printed Name: SHANNON S. SHELTON  
My Commission Expires: 3/6/16



COUNTY:

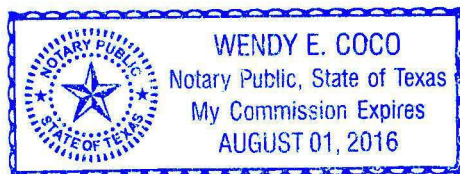
WILLIAMSON COUNTY, TEXAS

By:   
Dan A. Gattis  
County Judge

**ACKNOWLEDGMENT**

STATE OF TEXAS  
COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the 15<sup>th</sup> day of December, 2015 by Dan A. Gattis, County Judge of Williamson County, Texas, in the capacity and for the purposes and consideration recited herein.



Wendy E. Coco  
Notary Public, State of Texas  
Printed Name: Wendy E. Coco  
My Commission Expires

**EXHIBIT "A"**



P. O. Box 324  
Cedar Park, Texas 78630-0324  
(512) 259-3361  
T.B.P.L.S. Firm No. 10103800

**0.485 ACRE RIGHT-OF-WAY PARCEL NO. 23  
MARION SHIPMAN  
B. MANLOVE SURVEY, ABSTRACT NO. 417  
WILLIAMSON COUNTY, TEXAS**

A DESCRIPTION OF 0.485 ACRES (APPROXIMATELY 21,144 SQ. FT.) IN THE B. MANLOVE SURVEY, ABSTRACT NO. 417, WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A 88.6365 ACRE TRACT CONVEYED TO MARION SHIPMAN IN A GENERAL WARRANTY DEED DATED SEPTEMBER 25, 2013 AND RECORDED IN DOCUMENT NO. 2013092374 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 0.485 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2" iron rod found at an angle point in the existing north right-of-way line of County Road 258 (right-of-way width varies) for the southwest corner of the said 88.6365 acre tract and the southwest corner of the herein described tract of land;

**THENCE** North 21°26'22" West, with the north right-of-way line of County Road 258, in part, being the west line of the said 88.6365 acre tract, at a distance of 10.44 feet passing a 1/2" iron rod found with "RPLS 5784" cap found at the southeast corner of Lot B of Kujawa Subdivision, a subdivision of record in Document No. 2005000982 of the Official Public Records of Williamson County, Texas, also recorded under Cabinet Z, Slides 351-352 of the Plat Records of Williamson County, Texas, continuing with the common line of the said 88.6365 acre tract and said Lot B, in all, a distance of 36.23 feet to a 1/2" iron rod with "Charles G. Walker, RPLS 5283 cap" set in the proposed north right-of-way line of County Road 258 for the northwest corner of the herein described tract of land, from which a nail found for angle point in said common line bears North 21°26'22" East, a distance of 203.12 feet;

**THENCE** crossing the said 88.6365 acre tract, with the proposed north right-of-way line of County Road 258, the following two (2) courses and distances:

1. With a curve to the left, having a radius of 1140.16 feet, a delta angle of 36°12'24", an arc length of 720.50 feet, and a chord bearing North 57°58'26" East, a distance of 708.57 feet to a 1/2" iron rod with "Charles G. Walker, RPLS 5283 cap" set;

2. North 39°52'14" East, a distance of 46.31 feet to a 1/2" Iron rod with "Charles G. Walker, RPLS 5283 cap" set in the west right-of-way line of Ronald Reagan Boulevard North (right-of-way width varies) described in Document No. 2004049203 of the Official Public Records of Williamson County, Texas, being the east line of the said 88.6365 acre tract, from which a 1/2" Iron rod with "Haynie" cap found at an angle point in the west right-of-way line of Ronald Reagan Boulevard North, being the east line of the said 88.6365 acre tract, bears North 18°40'25" West, a distance of 87.41 feet;

**THENCE** with the west right-of-way line of Ronald Reagan Boulevard North, being the west line of the said 88.6365 acre tract, the following two (2) courses and distances:

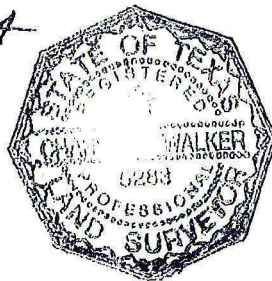
1. South 18°40'25" East, a distance of 21.96 feet to a 1/2" iron rod with "Haynie" cap found;
2. South 10°56'04" West, a distance of 49.11 feet to a 1/2" iron rod with "Haynie" cap found for the intersection of the west right-of-way line of Ronald Reagan Boulevard North and the existing north right-of-way line of County Road 258, for the southeast corner of the said 88.6365 acre tract and the southeast corner of the herein described tract of land;

**THENCE** with the existing north right-of-way line of County Road 258, being the south line of the said 88.6365 acre tract, the following two (2) courses and distances:

1. South 40°38'12" West, a distance of 168.03 feet to a 1/2" iron rod with "Haynie" cap found;
2. South 63°49'12" West, a distance of 563.24 feet to the **POINT OF BEGINNING**, containing 0.485 acres of land, more or less.

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS solutions from the National Geodetic Survey (NGS) On-Line Positioning User Service (OPUS). Attachments: Survey Drawing No. 075029-PARCEL 23.

*Charles G. Walker* 11.26.14  
Charles G. Walker Date  
Registered Professional Land Surveyor  
State of Texas No. 5283  
Walker Texas Surveyors, Inc.  
T.B.P.L.S. FIRM NO. 10103800





**SKETCH TO ACCOMPANY A DESCRIPTION OF 0.485 ACRES (APPROXIMATELY 21,144 SQ. FT.) IN THE B. MANLOVE SURVEY, ABSTRACT NO. 417, WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A 88.6365 ACRE TRACT CONVEYED TO MARION SHIPMAN IN A GENERAL WARRANTY DEED DATED SEPTEMBER 25, 2013 AND RECORDED IN DOCUMENT NO. 2013092374 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS.**

LEGEND

- 1/2" IRON ROD WITH "WALKER5283" CAP SET
- 1/2" IRON ROD FOUND
- 5784 1/2" IRON ROD WITH "RPLS 5784" CAP FOUND
- HAYNIE 1/2" IRON ROD WITH "HAYNIE" CAP FOUND
- △ CALCULATED POINT
- ▲ NAIL FOUND
- ( ) RECORD INFORMATION
- [ ] RECORD INFORMATION FROM DOC. 2004049203
- D.R.W.C.T. DEED RECORDS OF WILLIAMSON COUNTY, TEXAS
- P.R.W.C.T. PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS
- O.R.W.C.T. OFFICIAL RECORDS OF WILLIAMSON COUNTY, TEXAS
- O.P.R.W.C.T. OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS

LINE TABLE

LINE	BEARING	DISTANCE
L1	N21°26'22"W	36.23'
L2	N39°52'14"E	46.31'
L3	S18°40'25"E	21.96'
L4	S10°56'04"W	49.11'
L5	S40°38'12"W	168.03'
	(S40°33'34"W)	(167.99')
L6	N18°40'25"W	109.37'
	(N18°44'35"E)	(109.21')
	[N18°30'13"W]	[109.20']
L7	N21°26'22"W	228.91'
	(N21°13'W)	(228.93')
L8	N21°26'22"W	10.44'
	(N21°13'W)	(10.43')

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM THE NATIONAL GEODETIC SURVEY (NGS) ON-LINE POSITIONING USER SERVICE (OPUS).

COMBINED SCALE FACTOR = 0.999860020  
(FOR SURFACE TO GRID CONVERSION)

INVERSE SCALE FACTOR = 1.00014  
(FOR GRID TO SURFACE CONVERSION)

SCALED ABOUT 0.0

WALKER TEXAS SURVEYORS, INC.  
P.O. BOX 324  
CEDAR PARK, TEXAS 78630  
(512) 259-3361  
T.B.P.L.S. FIRM NO. 10103800

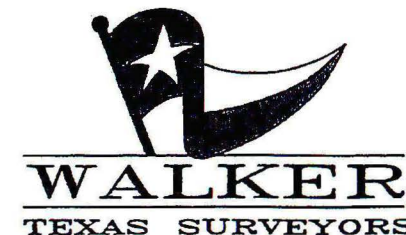
DATE OF SURVEY: 11/26/14  
DRAWING NO.: 075029-PARCEL 23  
PROJECT NO.: 075029  
DRAWN BY: CWW  
PAGE 3 OF 4



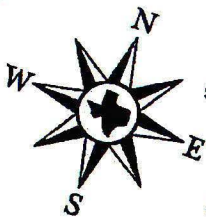
*Cell-W 11.26.14*

CURVE TABLE

CURVE	RADIUS	DELTA	ARC	BEARING	CHORD
C1	1140.16'	36°12'24"	720.50'	N57°58'26"E	708.57'







SCALE: 1" = 100'

LOT B  
KUJAWA SUBDIVISION  
(2005000982)  
O.P.R.W.C.T.  
(Z/351-352)  
P.R.W.C.T.

PROPOSED  
R.O.W. LINE

R.O.W. DEDICATED  
(2005000982)  
(Z/351-352)

ROBERT V. PHILLIPS  
AND DORETHA B. PHILLIPS  
8.61 ACRES  
DESCRIBED IN 1456/153  
(2001071141)  
O.P.R.W.C.T.

PT 543  
N: 10222555.03  
E: 3078793.09  
(SURFACE)

N: 10221124.08  
E: 3078362.12  
(GRID)

PT 545  
N: 10222966.33  
E: 3079423.51  
(SURFACE)

N: 10221535.32  
E: 3078992.45  
(GRID)

THIS SURVEY WAS PERFORMED WITHOUT  
BENEFIT OF A TITLE COMMITMENT AND NO  
TITLE SEARCH WAS PERFORMED BY THE  
SURVEYOR. THERE MAY BE EASEMENTS OR  
OTHER INSTRUMENTS PERTAINING TO THIS  
PROPERTY THAT ARE NOT SHOWN HEREON.

# B. MANLOVE SURVEY ABS. 417

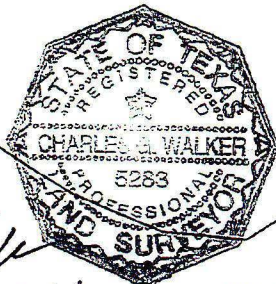
MARION SHIPMAN  
88.6365 ACRES  
(2013092374)  
O.P.R.W.C.T.

**PARCEL 23**  
0.485 ACRES  
APPROX. 21,144 SQ. FT.

COUNTY ROAD 258  
(R.O.W. WIDTH VARIES)

PROPOSED  
R.O.W. LINE

MARION SHIPMAN  
3.4073 ACRES  
(2013092374)  
O.P.R.W.C.T.



11-26-14

SANTA RITA COMMERCIAL, LLC  
26.40 ACRES  
(2014012340)  
O.P.R.W.C.T.

