

EXHIBIT**"A"**

Form ROW-N-PUA
(12/12)
Replaces Form ROW-N-7
Page 1 of 5

POSSESSION AND USE AGREEMENT FOR TRANSPORTATION PURPOSES**STATE OF TEXAS**

§

Parcel No.: 13

COUNTY OF WILLIAMSON

§

Project: Gattis School Road (Ph. 6)

This Possession and Use Agreement For Transportation Purposes (the "Agreement") between CITY OF ROUND ROCK, TEXAS ("Grantee"), and MENFI A. MANAGEMENT, LP (the "Grantor" whether one or more), grants to the Grantee, its contractors, agents and all others deemed necessary by the Grantee, an irrevocable right to possession and use of the Grantor's property for the purpose of constructing improvements to Gattis School Road and related utility adjustments (the "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 from the Grantee which is set forth in Paragraph 2 below, the receipt and sufficiency of which is acknowledged, the Grantor grants, bargains, and conveys to Grantee the right of entry and exclusive possession and use of the Property for the purpose of constructing a roadway, utility adjustments and all related 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 Projects. This Possession and Use Agreement will extend to the Grantee, its contractors and assigns, owners of any existing utilities on the Property and those which may be lawfully permitted on the Property by the Grantee in the future, and all others deemed necessary by the Grantee for the purpose of the Projects. This grant will allow the construction, relocation, replacement, repair, improvement, operation and maintenance of utilities on the Property only.
2. In full consideration for this irrevocable grant of possession and use and other Grantor covenants, warranties, and obligations under this Agreement, the Grantee will tender to the Grantor the sum of NINETY-TWO THOUSAND NINE HUNDRED EIGHTY-EIGHT and 00/100 Dollars (\$92,988.00). The Grantor agrees that this sum represents adequate and full compensation for the possession and use of the Property. Grantee will be entitled to take possession and use of the Property upon tender of payment as set out herein, subject to the conditions in paragraph 14 below, if any. The parties agree that the sum tendered represents 90% of the Grantee's approved value, which assumes no adverse environmental conditions affecting the value of the Property. The approved value is the Grantee's determination of the just compensation owed to the Grantor for the real property interest to be acquired by the Grantee in the Property, encumbered with the improvements thereon, if any, and damages to the remainder, if any, save and except all oil, gas and sulphur. The parties agree that the sum tendered to Grantor will be deducted from any final settlement amount, Special Commissioners' award or court judgment. In the event the amount of the final settlement or judgment for acquisition of the Property is less than the amount the Grantee has paid for the possession and use of the Property, then the Grantor agrees that the original amount tendered represents an overpayment for the difference and, upon written notice from the Grantee, the Grantor will promptly refund the overpayment to the Grantee.

NPUA

3. The effective date of this Agreement will be the date on which payment pursuant to Paragraph 2 above was tendered to the Grantor by the Grantee, or disbursed to the Grantor by a title company acting as escrow agent for the transaction, (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 1827482-KFO effective June 26, 2018 by Independence Title/Title Resources Guaranty Company, and that proper releases will be executed for the Property prior to funds being disbursed under this Agreement. 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 Grantee 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 Grantee 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 Grantee 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 Grantee, 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 Grantee'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 Grantee institutes or has instituted eminent domain proceedings, the Grantee 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 Grantee until entry of judgment.
8. The purpose of this Agreement is to allow the Grantee to proceed with its Project without delay and to allow the Grantor to avoid proceeding with condemnation litigation at the current time and continue voluntary investigation and negotiation for the proposed Property acquisition. The Grantor expressly acknowledges that the proposed Project are 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 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 Grantee 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 Grantee takes title to the Property.
11. Notwithstanding the acquisition of right of possession to the Property by the Grantee 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 Grantee 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 Grantee will record this document.
14. Other conditions: N/A
15. By its authorized signature below the following Tenants which have a leasehold interest in the Property hereby consent in all things to Grantee taking exclusive and sole possession of the Property pursuant to the terms of this Agreement, and to Grantor receiving the consideration recited herein:

Tenants: _____

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 without prior advance agreement between Grantor/Tenant and Grantee.

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

[signature pages follow]

GRANTOR:

MENFI A. MANAGEMENT, LP

By: Aurora-Menfi Properties, LLC,
a Texas limited liability company,
Its General Partner

By: [Signature]

Name: Benjamin Menfi

Its: MANAGING MEMBER

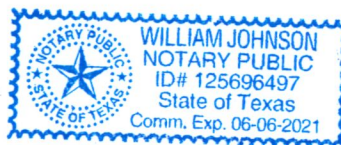
ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF Travis

This instrument was acknowledged before me on this the 7th day of February, 2019 by Ben Menfi, in the capacity and for the purposes and consideration recited herein.

[Signature]
Notary Public, State of Texas
Printed Name: William Johnson
My Commission Expires:



GRANTEE:

CITY OF ROUND ROCK, TEXAS

By: _____
Craig Morgan, Mayor

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the ____ day of _____, 2019 by
Craig Morgan, in the capacity and for the purposes and consideration recited herein.

Notary Public, State of Texas
Printed Name: _____
My Commission Expires _____

EXHIBIT A

County: Williamson
Parcel : 13
Project: Gattis School Road

PROPERTY DESCRIPTION FOR PARCEL 13

DESCRIPTION OF A 0.297 ACRE (12,915 SQUARE FOOT) TRACT OF LAND SITUATED IN THE SAMUEL JENKINS SURVEY, ABSTRACT NO. 347, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF LOT 1, BLOCK "A" (3.016 ACRES), CHRIST COVENANT ADDITION, A SUBDIVISION OF RECORD IN CABINET T, SLIDE 8 OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS, DESCRIBED IN GENERAL WARRANTY DEED TO MENFI A. MANAGEMENT, LP RECORDED IN DOCUMENT NO. 2007099309 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 0.297 ACRE (12,915 SQUARE FOOT) TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a 1/2" iron rod found 346.38 feet right of proposed Gattis School Road Baseline Station 164+33.11, being the southwesterly corner of said Christ Covenant Addition, same being the common northerly boundary corner of Lot 11 and Lot 12, Block "A", High Country, Section One, a subdivision of record in Cabinet J, Slides 29-31 of the Plat Records of Williamson County, Texas, also being the southeasterly corner of Lot 1, Block A, Final Plat of FBC Addition, a subdivision of record in Cabinet W, Slides 116-117 of the Plat Records of Williamson County, Texas;

THENCE, with the common boundary line of said Christ Covenant Addition and said FBC Addition, N 17°12'14" W, for a distance of 274.38 feet to an iron rod with aluminum cap stamped "ROW 4933" (Grid Coordinates determined as N=10154973.58, E=3151514.86 TxSPC Zone 4203) set 73.57 feet right of proposed Gattis School Road Baseline Station 164+01.06 in the proposed southerly right-of-way (ROW) line of Gattis School Road (ROW width varies), for the southwesterly corner and **POINT OF BEGINNING** of the herein described tract;

- 1) **THENCE**, departing said proposed southerly ROW line, continuing with said common boundary line, N 17°12'14" W, for a distance of 30.58 feet to a calculated point in the existing southerly ROW line of Gattis School Road (ROW width varies), same being the common northerly boundary corner of said Christ Covenant Addition and said FBC Addition, for the northwesterly corner of the herein described tract;
- 2) **THENCE**, departing said FBC Addition, with said existing southerly ROW line, same being the northerly boundary line of said Christ Covenant Addition, along a curve to the right, having a delta angle of 08°43'08", a radius of 2814.93 feet, an arc length of 428.36 feet and a chord which bears N 83°27'36" E, for a distance of 427.95 feet to a 1/2" iron rod found, being a point of compound curvature and the calculated northwesterly corner of High Country Boulevard (90' ROW width), for the northeasterly corner of the herein described tract;

THENCE, departing said existing southerly ROW line, with the existing westerly ROW line of said High Country Boulevard, same being the easterly boundary line of said Christ Covenant Addition, the following two (2) courses:

- 3) Along a curve to the right, having a delta angle of 91°16'37", a radius of 25.03 feet, an arc length of 39.87 feet and a chord which bears S 46°24'27" E, for a distance of 35.79 feet to a 1/2" iron rod found, for a point of tangency;

- 4) **S 00°47'47" E**, for a distance of **18.75** feet to an iron rod with aluminum cap stamped "ROW 4933" set 86.84 feet right of proposed Gattis School Road Baseline Station 168+59.85 in said proposed southerly ROW line of Gattis School Road, for the southeasterly corner of the herein described tract, and from which a 1/2" iron rod found in said existing High Country Boulevard ROW, being the southeasterly corner of said Christ Covenant Addition, same being the northeasterly corner of Lot 6, Block "A" said High Country, Section One bears S 00°47'47" E, at a distance of 291.85 feet;

THENCE, departing said Hill Country Boulevard, with said proposed southerly ROW line of Gattis School Road, through the interior of said Christ Covenant Addition, the following three (3) courses:

- 5) **N 45°52'53" W**, for a distance of **25.48** feet to an iron rod with aluminum cap stamped "ROW 4933" set 68.74 feet right of proposed Gattis School Road Baseline Station 168+41.33, for an angle point;
- 6) **S 84°49'43" W**, for a distance of **301.14** feet to an iron rod with aluminum cap stamped "ROW 4933" set 70.22 feet right of proposed Gattis School Road Baseline Station 165+31.38, for an angle point;
- 7) **S 78°33'10" W**, for a distance of **126.61** feet to the **POINT OF BEGINNING**, containing 0.297 acre (12,915 square feet) of land, more or less.

This property description is accompanied by a separate parcel plat.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83.

THE STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF WILLIAMSON §

That I, M. Stephen Truesdale, 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 direct supervision.

WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

M. Stephen Truesdale
M. Stephen Truesdale
Registered Professional Land Surveyor No. 4933
Licensed State Land Surveyor
Inland Geodetics, LLC
Firm Registration No: 100591-00
1504 Chisholm Trail Road, Suite 103
Round Rock, TX 78681

12 MAR 2018
Date



EXHIBIT "A" PLAT TO ACCOMPANY PARCEL DESCRIPTION

01/15/18
PAGE 3 OF 4

164+00 165+00 166+00 167+00 168+00
GATTIS SCHOOL ROAD
(R.O.W. WIDTH VARIES)
PROPOSED GATTIS SCHOOL ROAD BASELINE
DEDICATED FOR ROW
1.525 ACRES PLAT
ALSO VOL. 1502, PG. 641

EXISTING R.O.W.

20' P.U.E.
VOL. 1568, PG. 144

PROPOSED R.O.W.

P.O.B.
STA. 164+01.06
73.57' RT
GRID COORDINATES:
N=10154973.58
E=3151514.86

STA. 168+41.33
68.74' RT

STA. 168+59.65
86.64' RT

MENFI A. MANAGEMENT, LP.
DOC. NO. 200709309
O.P.R.W.C.T.

LOT 1
BLOCK "A"

CHRIST COVENANT ADDITION
CAB. T. SLIDE 8
P.R.W.C.T.

SAMUEL JENKINS SURVEY
ABSTRACT NO. 347

NUMBER	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	08° 43' 08"	2814.93'	428.36'	427.95'	N83° 27' 36"E
(C1)	(08° 43' 06")	(2814.93')	(428.33')	(427.92')	(N85° 54' 00"E)
C2	91° 16' 37"	25.03'	39.87'	35.79'	S46° 24' 27"E
(C2)		(25.00')		(35.79')	(S44° 06' 00"E)

FBC ADDITION
CAB. W.
SLIDE 116-117
P.R.W.C.T.

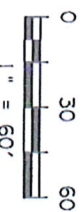
P.O.R.
STA. 164+33.11
346.38' RT

NUMBER	DIRECTION	DISTANCE
L1	N17° 12' 14"W	30.58'
L2	S00° 47' 47"E	18.75'
L3	N45° 52' 53"W	25.48'

500° 47' 47"E 291.85'
(S01° 32' 00"W 309.79')

HIGH COUNTRY BOULEVARD
(90' RIGHT-OF-WAY WIDTH)

EXISTING R.O.W.



INLAND
GEODETICS
PROFESSIONAL LAND SURVEYORS
1504 CHISHOLM TRAIL RD. STE. 103
ROUND ROCK, TX 78681
PH (512) 238-1200 FAX (512) 238-1251
FIRM REGISTRATION NO. 100391-00

HIGH COUNTRY
SECTION ONE
CAB. T. SLIDE 29-31
P.R.W.C.T.

PARCEL PLAT SHOWING PROPERTY OF
MENFI A. MANAGEMENT, LP.

PARCEL 13

SCALE 1" = 60'
PROJECT GATTIS SCHOOL ROAD
COUNTY WILLIAMSON

S:\BROWN&GAY\GATTIS SCHOOL-REBUD TO VIA SONOMA\PARCELS\PARCEL 13-MENFI A. MANAGEMENT\parcel 13-MENFI A. MANAGEMENT.dgn

1) ALL BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, CENTRAL ZONE.

2) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A TITLE ABSTRACT. THERE MAY BE OTHER INSTRUMENTS OF RECORD THAT AFFECT THIS TRACT NOT DEPICTED HEREON.

W. Stephen Venable 12 MAR 2018

STATE OF TEXAS
REGISTERED
M. STEPHEN TRUESDALE
PROFESSIONAL SURVEYOR
4933

**INLAND U
GEODETICS, I**

PROFESSIONAL LAND SURVEYORS
1504 CHISHOLM TRAIL RD. STE. 103
ROUND ROCK, TX 78681

PARCEL 13