

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

When Recorded, Return To:
Collin County Special Projects
4690 Community Avenue, Ste. 200
McKinney, Texas 75071
Attn: Jeff Durham

POSSESSION AND USE AGREEMENT FOR TRANSPORTATION PURPOSES

STATE OF TEXAS	§	Project: Frontier Pkwy
	§	
COUNTY OF COLLIN	§	Parcel No.: 5

This Possession and Use Agreement for Transportation Purposes (this “Agreement”) between COLLIN COUNTY, TEXAS (the “County”), and MAHARD EGG FARM, INC., a Texas corporation (the “Grantor”), grants to the County, its 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 County Road 5 (Frontier Parkway) from the Dallas North Tollway to Preston Road (SH 289) (the “Roadway Construction Project”). The property subject to this Agreement is described more fully in field notes and plat map 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 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 will tender (in the manner contemplated by Paragraph 3) to the Grantor the sum of FIVE HUNDRED THIRTY-FOUR THOUSAND, FOUR HUNDRED SEVENTY-THREE DOLLARS and

NO/100 (\$534,473.00). The Grantor agrees that this sum 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 tender of payment. The parties agree that the sum tendered represents 100% percent of the County's approved value, which assumes no adverse environmental conditions affecting the value of the Property. The approved value is the County's determination of the just compensation owed to the Grantor for the real property interest to be acquired by the County in the Property, encumbered with the improvements thereon, if any, and damages to the Remainder (as hereinafter defined), if any, save and except all oil, gas and sulphur. The parties agree that the sum tendered to the 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 County 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 County, the Grantor will promptly refund the overpayment to the County.

3. The effective date of this Agreement will be the date on which this Agreement has been signed by both parties, as shown by the date below the signatures of each party (the "Effective Date"). The County will make payment of the consideration set forth in Paragraph 2 above within sixty (60) days of the Effective Date by, at the County's election, either tendering such payment directly to the Grantor, or causing same to be disbursed to the Grantor by a title company acting as escrow agent for the transaction.
4. The Grantor warrants and represents that the title to the Property is free and clear of all liens and encumbrances or 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 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 February 1, 2020. The County agrees to deposit, into the Registry of the Court, any additional sums awarded by the Special Commissioners (i.e., the net difference between the Special Commissioners' award and the amount paid for possession and use herein) no later than ninety (90) days after the rendering of the award by the Special Commissioners.
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 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

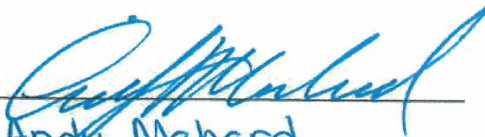
(the "Remainder"), if any; all as the Property exists on the Effective Date of this Agreement. The County's removal or construction of improvements on the Property shall in no way affect the fair market value of the Property in determining compensation due to the Grantor in the eminent domain proceedings. There will be no project impact upon the appraised value of the Property. 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 have the use at this time of compensation equal to 100% percent of the County's approved value for the acquisition by the County of a real property interest in the Property. 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, including prorated taxes 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.

To have and to hold the property interest 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.

GRANTOR:

MAHARD EGG FARM, INC.,
a Texas corporation

By: 
Name: Andy Mahard
Title: President

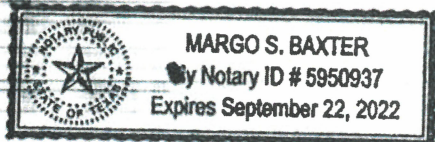
Date: December 2, 2019.

Corporate Acknowledgement

State of Texas

County of Collin

This instrument was acknowledged before me on December 2, 2019 by
Andy Mahard in the capacity as President of Mahard
Egg Farm, Inc., a Texas corporation, on behalf of said entity.




Notary Public's Signature

COUNTY:

COLLIN COUNTY, TEXAS

By: 

Chris Hill, County Judge

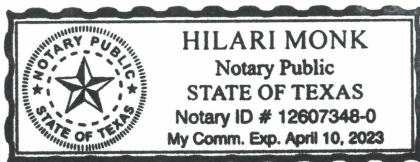
Date: 21 JANUARY, 2020.

Acknowledgement

State of Texas

County of Collin

This instrument was acknowledged before me on January 21, 2020 by
Chris Hill, County Judge, Collin County, Texas, in the capacity and for the purposes and
consideration recited therein.




Notary Public's Signature

EXHIBIT "A"

**FIELD NOTE DESCRIPTION FOR
PERMANENT RIGHT-OF-WAY & TEMPORARY CONSTRUCTION EASEMENT**

**MAHARD EGG FARM INC.
INSTRUMENT No. 19920519000332390**

Being a 1.64 acre tract of land for Permanent Right-of-Way out of; and a 0.45 acre Temporary Construction Easement over, under and across, Tract 85, Sheet 4, Collin County School Land #14 Survey, Abstract No. 167, Collin County, Texas, a called 10.000 acre tract of land conveyed to MAHARD EGG FARM INC. by deed recorded in Instrument No. 19920519000332390 of the Deed Records, Collin County, Texas (DRCCT), said Permanent Right-of-Way and Temporary Construction Easement being more particularly described as follows:

Permanent Right-of-Way

BEGINNING at a point for corner at the southwest property corner of said Mahard Egg Farm tract and in the east line of the Burlington Northern Santa Fe Railroad (BNSF) right-of-way, a 100-foot wide right-of-way, said Point of Beginning also being at a 3/8-inch iron rod found in the approximate centerline of Frontier Parkway (County Road No. 5), a 60-foot wide prescriptive right-of-way, and at the northwest corner of a variable width right-of-way dedication as shown by the final plat of Prosper High School Addition, an addition to the Town of Prosper, Collin County, Texas, as recorded in Instrument No. 20110317010000510, Map Records, Collin County, Texas (MRCCT), said Point of Beginning bears N 89°23'36" E, a distance of 522.94 feet, from a 3/8-inch iron rod found in the approximate centerline of said Frontier Parkway and in the south property line of a tract of land conveyed to LFC Land Company II LLC by deed recorded in Instrument No. 20140107000015410, DRCCT, said 3/8-inch iron rod found also being at the northwest property corner of a tract of land conveyed to Effie Christie by deed recorded in Instrument No. 20060824001216760, DRCCT, and at the northeast corner of a variable width right-of-way dedication as shown by the final plat of Prosper Sports Complex Addition, an addition to the Town of Prosper, Collin County, Texas, as recorded in Instrument No. 20120920010002320, MRCCT;

THENCE, N 11°20'57" E, being along the west property line of said Mahard Egg Farm tract and along the east line of said BNSF right-of-way, a distance of 200.19 feet to an iron rod set for corner;

THENCE, departing the west property line of said Mahard Egg Farm tract and the east line of said BNSF right-of-way, the following calls for bearing and distance:

THENCE S 84°37'22" E, a distance of 165.83 feet to an iron rod set for corner;

THENCE S 83°45'03" E, a distance of 54.28 feet to an iron rod set for corner;

THENCE S 82°39'26" E, a distance of 79.81 feet to a point for corner (OBSTRUCTED);

THENCE S 76°34'47" E, a distance of 112.27 feet to an iron rod set for corner, said iron rod set being in the east property line of said Mahard Egg Farm tract and in the west property line of a tract of land conveyed to All Storage Celina LLC by deed recorded in Instrument No. 20170817001100390, DRCCT;

THENCE, S 07°51'26" W, being along the east property line of said Mahard Egg Farm tract and along the west property line of said All Storage Celina tract, a distance of 131.73 feet to a point for corner, said point being at a 3/8-inch iron rod found for the southeast property corner of said Mahard Egg Farm tract, said 3/8-inch iron rod found also being at the southwest property corner of said All Storage Celina tract and in the approximate centerline of said Frontier Parkway and in the north line of said Prosper High School right-of-way dedication;

THENCE, S 88°55'17" W, departing the east property line of said Mahard Egg Farm tract and the west property line of said All Storage Celina tract, being along the south property line of said Mahard Egg Farm tract and along the approximate centerline of said Frontier Parkway, a distance of 428.88 feet to the POINT OF BEGINNING, and containing 1.64 acres (71,518 square feet) of land, more or less, of which 0.36 acre (15,723 square feet) lies within the existing TxDOT Quitclaim to Prosper as recorded in Instrument No. 20090721000915890, leaving a net right-of-way acquisition of 1.28 acres (55,795 square feet) of land, more or less.

Temporary Construction Easement

COMMENCING at said Point of Beginning for the above described proposed Permanent Right-of-Way;

THENCE, N 11°20'57" E, being along the west property line of said Mahard Egg Farm tract and along the east line of said BNSF right-of-way, a distance of 200.19 feet to the POINT OF BEGINNING for the Temporary Construction Easement (POB-TCE), said POB-TCE being at an iron rod set for the northwest corner of the above described proposed Permanent Right-of-Way;

THENCE, departing the west property line of said Mahard Egg Farm tract and the east line of said BNSF right-of-way, being along the north line of the above described proposed Permanent Right-of-Way, the following calls for bearing and distance:

THENCE S 84°37'22" E, a distance of 165.83 feet to an iron rod set for corner;

THENCE S 83°45'03" E, a distance of 54.28 feet to an iron rod set for corner;

THENCE S 82°39'26" E, a distance of 79.81 feet to a point for corner (OBSTRUCTED);

THENCE S 76°34'47" E, a distance of 112.27 feet to an iron rod set for corner, said iron rod set being in the east property line of said Mahard Egg Farm tract and in the west property line of said All Storage Celina tract;

THENCE, N 07°51'26" E, departing the north line of the above described proposed Permanent Right-of-Way, being along the east property line of said Mahard Egg Farm tract and along the west property line of said All Storage Celina tract, a distance of 40.91 feet to a point for corner;

THENCE, departing the east property line of said Mahard Egg Farm tract and the west property line of said All Storage Celina tract, the following calls for bearing and distance:

THENCE N 76°59'07" W, a distance of 125.88 feet to a point for corner;

THENCE N 82°37'49" W, a distance of 143.67 feet to a point for corner;

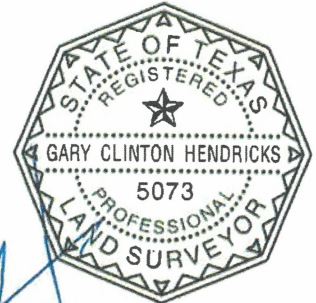
THENCE N 70°38'50" W, a distance of 140.53 feet to a point for corner, said point being in the west property line of said Mahard Egg Farm tract and in the east line of said BNSF right-of-way;

THENCE, S 11°20'57" W, being along the west property line of said Mahard Egg Farm tract and along the east line of said BNSF right-of-way, a distance of 77.68 feet to the POINT OF BEGINNING (POB-TCE), and containing 0.45 acre (19,599 square feet) of land, more or less.

Notes:

1. Bearings and distances cited in this field note description are based on the Texas State Plane Coordinate System, NAD-83, Texas North Central Zone 4202.
2. Field survey concluded on 12/11/2018.
3. An Easement Plat of even date herewith accompanies this Field Note Description.
4. All "I.R. SET are 1/2-inch diameter Iron rods with yellow cap stamped "BHC"

Gary C. Hendricks, P.E., R.P.L.S.
Texas Registration No. 5073
Birkhoff, Hendricks & Carter, L.L.P.
TBPLS Firm No. 100318-00
11910 Greenville Ave., Suite 600
Dallas, Texas 75243



[Handwritten signature]
03/20/2019

EXHIBIT "A"

RIGHT-OF-WAY		TEMPORARY CONSTRUCTION EASEMENT
GROSS AREA	TXDOT QUITCLAIM AREA	NET AREA
1.64 ACRES	0.36 ACRES	1.28 ACRES
		0.45 ACRES

P.O.B.
(T.C.E.)

COMMENCEMENT BEARING
N11°20'57"E - 200.19'

Bg-Gbt CELINA 15 LP
INST. 20161121001582420

BURLINGTON NORTHERN
SANTA FE RAILROAD CO.
(100' WIDE R.O.W.)

PERMANENT RIGHT-OF-WAY
1.64 ACRES (71,518 S.F.)

VARIABLE WIDTH TEMPORARY
CONSTRUCTION EASEMENT
0.45 ACRE (19,599 S.F.)

ALL STORAGE CELINA LLC
INST. 20170817001100390

COLLIN COUNTY
SCHOOL LAND #12
SURVEY
ABSTRACT 147

TXDOT QUITCLAIM TO PROSPER
INST. 20090721000915890
0.36 ACRE (15,724 S.F.)

RIGHT-OF-WAY
BY PLAT
PROSPER HIGH SCHOOL
INST. 2011031701000

POINT OF BEGINNING

COLLIN COUNTY RIGHT-OF-WAY
VOL 4723, PG. 953

NOTES:

1. BEARINGS AND DISTANCES CITED IN THIS PLAT DESCRIPTION ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD-83, TEXAS NORTH CENTRAL ZONE 4202.

2. FIELD SURVEYS CONCLUDED ON 12/11/2018.

3. A FIELD NOTE DESCRIPTION OF EVEN DATE
HEREWITH ACCOMPANIES THIS EXHIBIT.

4. O = 1/2" IRON ROD SET WITH YELLOW PLASTIC CAP STAMPED "BHC".



COLLIN COUNTY, TEXAS

**MAHARD EGG FARM INC.
PERMANENT RIGHT-OF-WAY**

BIRKHOFF, HENDRICKS & CARTER, L.L.P.

PROFESSIONAL ENGINEERS

TBPE Firm No. 526: TBPLS Firm No. 10031800

11910 Greenville Ave., Suite 600 Dallas, Texas 75243 (214) 361-7900
TELEX FILM NO. 523, IDLES FILM NO. 10031800

March
2019