

RIGHT OF ENTRY, POSSESSION AND USE AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF LUBBOCK §

This Right of Entry, Possession and Use Agreement (“Agreement”) is entered into by and between THE COUNTY OF LUBBOCK (hereinafter “LUBBOCK COUNTY” or “Condemnor”) and JONATHAN THOMS and SANDRA THOMS, (collectively hereinafter “OWNER”).

WHEREAS, LUBBOCK COUNTY and OWNER are parties in Eminent Domain Proceedings, in Cause No. _____, styled “*THE COUNTY OF LUBBOCK, TEXAS v. JONATHAN THOMS, SANDRA THOMS, ET AL.*”, pending in the County Court at Law No. 3 in Lubbock County, Texas, a court of competent and proper jurisdiction, whereby LUBBOCK COUNTY seeks to condemn and acquire a permanent easement and right of way to construct, operate and maintain a public roadway and related improvements as more particularly described and depicted in LUBBOCK COUNTY’s Original Petition and Statement in Condemnation and exhibits thereto (the “Petition”). The Petition is attached hereto as Exhibit “AA”;

WHEREAS, OWNER is the owner in fee of the land upon, over, under, along, and across which LUBBOCK COUNTY’s easement is sought, as described and depicted in Exhibits “A”, and “B” to the Petition (“Easement Property”);

WHEREAS, LUBBOCK COUNTY desires to have a right of entry upon and possession of the Easement Property for the purposes stated in the Petition so as to allow LUBBOCK COUNTY to construct and operate the planned improvements;

WHEREAS, OWNER is agreeable to permit LUBBOCK COUNTY, including its employees, agents, contractors, successors and assigns the right to enter upon and take possession of the Easement Property so that LUBBOCK COUNTY may use and possess the Easement Property to the same effect as if: (i) negotiations had been completed and conveyance of the easement and right-of-way to LUBBOCK COUNTY had been irrevocably made; or alternatively, (ii) a Special Commissioners’ Hearing had been held in a condemnation proceeding and the award of Special Commissioners had been deposited in the registry of the Court;

WHEREAS, OWNER and LUBBOCK COUNTY agree that the sole remaining issue in dispute relating to the easement sought is the amount of compensation OWNER should receive in

relation to the rights being acquired which the parties agree may be resolved through either: (i) further negotiation and agreement, or (ii) if no agreement is reached, the above-referenced lawsuit;

WHEREAS, OWNER and LUBBOCK COUNTY agree that the Entry Deposit, defined below, will be paid directly to the OWNER with a check made payable to OWNER as further outlined in Paragraph 1 below, and that by making the payments to OWNER as outlined in Paragraph 1 below, OWNER specifically agrees that OWNER waives (i) any and all of the OWNER's rights to challenge LUBBOCK COUNTY's right to acquire the easement and right-of-way through condemnation, and (ii) any other jurisdictional challenges. LUBBOCK COUNTY recognizes and acknowledges that OWNER's consent to the entry upon and possession of the Easement Property by LUBBOCK COUNTY shall not be construed as a waiver of OWNER's right to seek additional compensation, if any, for the Easement Property in the condemnation case, which shall be the only remaining issue therein; and

WHEREAS, it is necessary for LUBBOCK COUNTY to construct and reconstruct Woodrow Road (the "Road"), and to place any other related public improvements over, under, across, and upon the Easement Property, as more specifically stated in the Petition.

NOW, THEREFORE, in consideration of the above-stated Recitals, which are incorporated herein for all purposes, and LUBBOCK COUNTY's agreement to pay monies to OWNER an incentive in the amount of Three Thousand and No/100 Dollars (\$3,000.00) (hereinafter "Entry Deposit"), the receipt and sufficiency of which are hereby acknowledged and confessed, OWNER hereby consents and agrees to allow LUBBOCK COUNTY, and its employees, agents, contractors, successors and assigns the right to enter upon and take irrevocable possession of the Easement Property as follows:

1. The "Effective Date" of this Agreement shall be when this Agreement is signed by both parties (hereafter "Effective Date"). LUBBOCK COUNTY (hereinafter including its employees, agents, contractors, successors and assigns) shall have the right of entry upon and possession of the Easement Property on the Effective Date, and LUBBOCK COUNTY shall promptly pay the Entry Deposit to OWNER with a check made payable to OWNER. If a Special Commissioners' Hearing is held, LUBBOCK COUNTY agrees to deposit the amount awarded by the Special Commissioners into the registry of the court within forty-five (45) days from the date of the Award of Special Commissioners. The Entry Deposit is made for the purpose of allowing LUBBOCK COUNTY the right to enter upon and take possession of the Easement Property for the purposes stated in the Petition

so as to allow LUBBOCK COUNTY to construct and operate the planned improvements and are paid by LUBBOCK COUNTY to OWNER on a non-recourse basis; in the event the just compensation due OWNER is determined to be less than the Entry Deposit, OWNER shall nevertheless retain the entire Entry Deposit.

2. OWNER agrees to permit LUBBOCK COUNTY to enter immediately upon the Easement Property on the Effective Date and thereafter and perform any and all activities necessary for carrying out the purposes of the easement as stated in Exhibit "AA".

3. LUBBOCK COUNTY shall have the right of ingress and egress on the Easement Property. LUBBOCK COUNTY will use reasonable efforts to avoid construction activities outside of the Easement Property during construction of the planned improvements.

4. It is further agreed that the granting of this Agreement shall not preclude or prejudice OWNER in any manner from contesting the consideration for such easement and any damages to OWNER's remaining property or from seeking additional compensation as allowed by law, in the event that the parties fail to agree on the terms and/or consideration for the easement, and the condemnation case is pursued through a Special Commissioners' hearing and/or an appeal and trial de novo. Further, this Agreement does not preclude or prohibit OWNER from pursuing and seeking any damages allowed by law caused by LUBBOCK COUNTY to OWNER's property as a result of LUBBOCK COUNTY's activities on the Easement Property.

5. OWNER HEREBY EXPRESSLY WAIVES ANY RIGHT TO CHALLENGE, CONTEST OR OBJECT TO LUBBOCK COUNTY'S RIGHT TO ACQUIRE THE EASEMENT PROPERTY SOUGHT IN THE CONDEMNATION CASE OR TO ACQUIRE THE RIGHTS INCLUDED IN THE EXHIBIT AA ATTACHED HERETO, AND SUCH WAIVERS SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

6. OWNER and LUBBOCK COUNTY agree to and hereby designate the Effective Date as the date of taking for all purposes, including the determination of just compensation owed to OWNER.

7. If LUBBOCK COUNTY and OWNER are unable to agree on the amount of adequate compensation for the acquisition of the Easement and damages to the remainder, if any, prior to a Special Commissioners' hearing, LUBBOCK COUNTY and OWNER agree to work together in the setting of said Special Commissioners' hearing. In the event that the parties are unable to

agree within ninety (90) days of the Effective Date on a date for such hearing, either party may then request that a Special Commissioners' hearing be set and convened.

8. LUBBOCK COUNTY's right of entry upon Easement Property is limited to carrying out the intent of this Agreement.

9. OWNER and LUBBOCK COUNTY agree that if any portion of this Agreement is deemed to be illegal, invalid or unenforceable, such illegal, invalid or unenforceable provision shall not affect the legality, validity or enforceability of the remainder of this Agreement.

10. OWNER and LUBBOCK COUNTY agree that Texas law governs this Agreement, and all obligations of the parties are performable in Lubbock County, Texas.

11. This Agreement shall continue from the Effective Date defined in Paragraph 1, above and terminate upon the earlier of the following two events:

- (a) The execution and delivery of an easement and right of way by OWNER to LUBBOCK COUNTY conveying the easement rights sought in the condemnation and identified in Exhibit "AA", attached hereto, or an alternative easement that is acceptable to LUBBOCK COUNTY; or,
- (b) Upon the conclusion of a Special Commissioners' hearing and subsequent deposit of the monies awarded by the Special Commissioners, pursuant to Texas Property Code §21.021(a)(1), with a credit to LUBBOCK COUNTY for the Entry Deposit already paid to OWNER, this Agreement shall terminate and all rights, obligations and privileges of possession and use shall be governed by LUBBOCK COUNTY's condemnation pleadings. It is further agreed that LUBBOCK COUNTY shall comply with its obligations under Texas Property Code §21.021 and pay any and all sums which exceed the Entry Deposit, make deposits within forty-five (45) days from the date that the Award by Special Commissioners is filed with the Court in this condemnation case. It is expressly agreed that this Agreement may be presented to the trial court as evidence that LUBBOCK COUNTY has complied with Texas Property Code §21.021(a)(1) by the tender and payment of the Entry Deposit described above. Upon Final Judgment or upon the execution of a final easement between the parties, the rights

defined in said judgment or easement will be the final, sole and exclusive rights acquired by LUBBOCK COUNTY.

12. Nothing in the Agreement is intended to limit any rights, including rights of ingress and egress, which LUBBOCK COUNTY may have pursuant to any existing easement it owns burdening any property owned by OWNER.

13. This Agreement runs with the land and will extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors and assigns of the parties; however, LUBBOCK COUNTY and OWNER agree that only a memorandum of this Agreement that LUBBOCK COUNTY drafts may be filed of record in the real property records of Lubbock County.

14. Time is of the essence in this Agreement.


EXECUTED the 11 day of Sept., 2024, to be effective as set forth above.


OWNER: JONATHAN THOMS

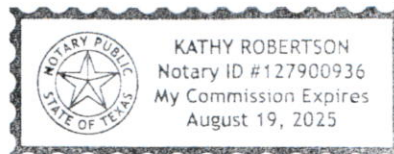
STATE OF TEXAS §
 §
COUNTY OF Lubbock §

BEFORE ME, the undersigned authority, on this day personally appeared JONATHAN THOMS known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 11 day of September, 2024.


Notary Public in and for the State of Texas

My Commission Expires:
8-19-2025



EXECUTED the 11 day of September 2024, to be effective as set forth above.

Sandra Thoms
OWNER: SANDRA THOMS

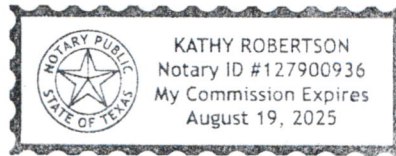
STATE OF TEXAS §
 §
COUNTY OF Lubbock §

BEFORE ME, the undersigned authority, on this day personally appeared SANDRA THOMS known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and she is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 11 day of September, 2024.

Kathy Robertson
Notary Public in and for the State of Texas

My Commission Expires:
8-19-2025



EXECUTED the ____ day of _____, 2024, to be effective as set forth above.

Curtis Parrish
Lubbock County Judge

Terence Kovar, Commissioner, Pct. 1

Jason Corley, Commissioner, Pct. 2

Gilbert A. Flores, Commissioner, Pct. 3

Jordan Rackler, Commissioner, Pct. 4

ATTEST:

Kelly Pinion, County Clerk

LUBBOCK COUNTY AUDITOR
916 MAIN STREET STE 700
LUBBOCK, TX 79401
PH: (806) 775-1097



LUBBOCK COUNTY PURCHASING
916 MAIN STREET STE 503
LUBBOCK, TX 79401
E-MAIL:
PURCHASING@LUBBOCKCOUNTY.GOV
PH: (806) 775-1016

Lubbock County
Vendor Maintenance Form

VENDOR NAME: JONATHAN THOMS

VENDOR PHONE: 806-549-4863

VENDOR REMITTANCE/PAYMENT ADDRESS: 4811 Woodrow Rd.
Lubbock TX 79424

OFFICIAL CONTACT(S)

ACCOUNTS RECEIVABLE / FINANCE / ACCOUNTING

NAME: Jonathan Thoms

PHONE: 806-549-4863

EMAIL: Jonathan 5656 @ Hotmail . Com

REPRESENTATIVE / SALES

NAME: N/A

PHONE: _____

EMAIL: _____

Preferred method of payment, if applicable:

CHECK ACH/EFT ACH/EFT EMAIL REMITTANCE: Jonathan 5656 @ Hotmail . com

- Direct Deposit Authorization Form to be furnished to vendor by Purchasing once onboard process is complete.

LUBBOCK COUNTY AUDITOR
916 MAIN STREET STE 700
LUBBOCK, TX 79401
PH: (806) 775-1097



LUBBOCK COUNTY PURCHASING
916 MAIN STREET STE 503
LUBBOCK, TX 79401
E-MAIL:
PURCHASING@LUBBOCKCOUNTY.GOV
PH: (806) 775-1016

Lubbock County Vendor Maintenance Form

VENDOR NAME: SANDRA THOMS

VENDOR PHONE: 806-549-6111

VENDOR REMITTANCE/PAYMENT ADDRESS: 4811 Woodrow rd. Lubbock TX
79424

OFFICIAL CONTACT(S)

ACCOUNTS RECEIVABLE / FINANCE / ACCOUNTING

NAME: Sandra Thoms

PHONE: 806-549-6111

EMAIL: SandraThoms99@yahoo.com

REPRESENTATIVE / SALES

NAME: N/A

PHONE: _____

EMAIL: _____

Preferred method of payment, if applicable:

CHECK

ACH/EFT

ACH/EFT EMAIL REMITTANCE: SandraThoms99@yahoo.com

- Direct Deposit Authorization Form to be furnished to vendor by Purchasing once onboard process is complete.

**Request for Taxpayer
 Identification Number and Certification**
 Go to www.irs.gov/FormW9 for instructions and the latest information.

**Give form to the
 requester. Do not
 send to the IRS.**

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type. See Specific Instructions on page 3.	1	Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.) JONATHAN THOMS
	2	Business name/disregarded entity name, if different from above.
	3a	Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one of the following seven boxes. <input checked="" type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C corporation <input type="checkbox"/> S corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) _____
	4	Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____ <i>(Applies to accounts maintained outside the United States.)</i>
	3b	If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions <input type="checkbox"/>
	5	Address (number, street, and apt. or suite no.). See instructions. 4811 WOODROW Rd.
	6	City, state, and ZIP code Lubbock TX 79424
	7	List account number(s) here (optional)
		Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Social security number	
457 - 81 - 3249	
or	
Employer identification number	

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person	Date 9-11-24
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

**Request for Taxpayer
 Identification Number and Certification**

Go to www.irs.gov/FormW9 for instructions and the latest information.

Give form to the
 requester. Do not
 send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)
SANDRA THOMS

2 Business name/disregarded entity name, if different from above.

3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only **one** of the following seven boxes.
 Individual/sole proprietor C corporation S corporation Partnership Trust/estate
 LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership)
Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner.
 Other (see instructions) _____

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
 Exempt payee code (if any) _____
 Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____
(Applies to accounts maintained outside the United States.)

3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions

5 Address (number, street, and apt. or suite no.). See instructions.
4811 WOODROW RD

6 City, state, and ZIP code
Lubbock TX 79424

7 List account number(s) here (optional)

Requester's name and address (optional)

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Social security number
 455 - 79 - 5757
 or
Employer identification number
 -

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person **Sandra Thoms** Date **9-11-24**

General Instructions

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