

AN ORDINANCE 2010-11-18-0983

AUTHORIZING A 10-YEAR LICENSE AGREEMENT TO ELECTRON ACQUISITIONS LLC FOR USE OF AERIAL RIGHT OF WAY SPACE OVER GREEN MOUNTAIN ROAD SOUTH OF EVANS ROAD FOR A CONVEYOR SYSTEM TO TRANSPORT AGGREGATES FROM A QUARRY TO A RAIL YARD, LOCATED IN COUNCIL DISTRICT 10 AND THE ACCEPTANCE OF \$8,150.00 FOR THE LICENSE AGREEMENT.

* * * * *

WHEREAS, the licensed improvement or facility will not be located on, extend onto, or intrude on (A) the roadway; or (B) a part of the sidewalk needed for pedestrian use;

WHEREAS, the licensed improvement or facility will not create a hazardous condition or obstruction of vehicular or pedestrian travel on the municipal street; and

WHEREAS, the design and location of licensed the improvement or facility includes all reasonable planning to minimize potential injury or interference to the public in the use of the municipal street; therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee is authorized and directed to execute and deliver on behalf of the City an instrument in substantially the form attached as **Attachment I**, which is incorporated for all purposes as if fully set forth. The City Manager and her designee should take all other actions necessary or convenient to effectuate the transaction, including agreeing to non-material changes to the approved form and executing all necessary or convenient ancillary instruments and agreements.

SECTION 2. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 240000000061 and General Ledger 4202410.

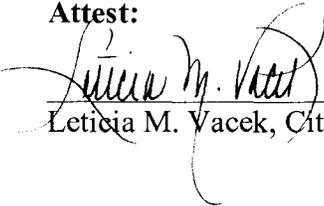
SECTION 3. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 4. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code § 1-15, in which case it becomes effective immediately.

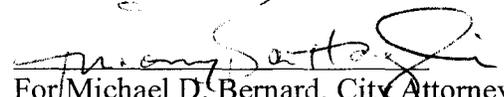
PASSED AND APPROVED this 18th day of November 2010.

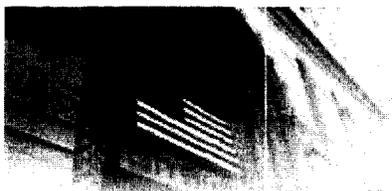

M A Y O R
Julián Castro

Attest:


Leticia M. Vacek, City Clerk

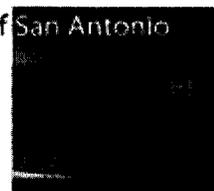
Approved As To Form:


For Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**

City of San Antonio



Agenda Voting Results - 14

Name:	5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17A, 17B, 17C, 17D, 17E, 17F, 19, 21, 22, 23, 24, 25, 26A, 26B, 27A, 27B, 27C, 28, 29, 31						
Date:	11/18/2010						
Time:	09:31:09 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing a 10-year license agreement to Electron Acquisitions LLC for use of aerial right of way space over Green Mountain Road south of Evans Road for a conveyor system to transport aggregates from a quarry to a rail yard, located in Council District 10 and the acceptance of \$8,150.00 for the license agreement. [Peter Zanoni, Assistant City Manager; Mike Frisbie, Director, Capital Improvements Management Services]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x			x	
Philip A. Cortez	District 4	x					
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9	x					
John G. Clamp	District 10		x				x

Attachment I

License Agreement

(Green Mountain Road // Vulcan Materials)

This License Agreement (“License”) is entered into between Licensee and the City of San Antonio (“Licensor”) under the authority of the Authorizing Ordinance.

Table of Contents

1. Identifying Information..... 3
2. Grant of License..... 4
3. Restrictions on Use/Recording..... 4
4. License Fee..... 5
5. Construction, Maintenance, and Operations. 5
6. Indemnity..... 5
7. Insurance. 6
8. Termination..... 9
9. Assignment/Sublicensing..... 9
10. Condemnation. 9
11. Attorney's Fees and Court Costs..... 9
12. Taxes and Licenses..... 9
13. Prohibited Interests in Contracts. 10
14. Licensee Financing..... 10
15. Lien for License Fee, Taxes, Fees and Other Charges. 10
16. Consent/Approval of Licensor..... 11
17. Appropriations. 11
18. Miscellaneous Provisions..... 11
19. Public Information..... 13
Exhibit A..... 14
Exhibit B 19

1. Identifying Information.

Authorizing Ordinance:

Project No. 1477

Licensee: Electron Acquisitions, LLC

Licensee’s Address: 1200 Urban Center Drive, Birmingham, Alabama
35242

Term: 10 years

Fee: \$8,150

Premises: An aerial space above a 0.1 acre, or 4,347 square foot tract of land being a portion of Green Mountain Road, an 86-foot right-of-way, recorded in Volume 4884, Pages 1414-1420 of the Official Public Records of Real Property of Bexar County, Texas and out of the Robert B. Lewis Survey No. 412, Abstract 437, County Block 4962, in the City of San Antonio, Bexar County, Texas as encroached upon by Licensee within the Scope of the License and being more particularly described in the attached **Exhibit A**, which is incorporated herein by reference for all purposes as if fully set forth.

Scope of License: Installation, operation, and maintenance of an aerial, 42-inch conveyor belt, steel support structure, and catch compartment.

Effective Date: The effective date of the Authorizing Ordinance

Licensor's Address: City Clerk, City of San Antonio, P.O. Box 839966/2nd Floor, City Hall, San Antonio, Texas 78283-3966

2. Grant of License.

Licensor grants Licensee a license (License) to use, maintain, and operate the Premises within the Scope of the License. This License is limited to the stated Term and is conditioned on Licensee's payment of the Fee. This license does not relieve Licensee of any other approvals, permits, or licenses that may otherwise be required including but not limited to right-of-way management permits. This license is subject to all pre-existing rights of the San Antonio Water System, CPS Energy, telecommunications and cable companies, and others who have rights in the Premises. Licensor expressly disclaims a covenant of quiet enjoyment as to this License.

3. Restrictions on Use/Recording.

3.01. This License does not grant Licensee authority to use any public rights-of-way beyond the Premises.

3.02. This License grants only a privilege, not a real property interest. Licensor may enter the Premises at any time to assert its real property interest or for other purposes not interfering unreasonably with the Scope of License.

3.03. A Memorandum of License Agreement in form satisfactory to Licensor will be recorded by Licensor in the Official Public Records of Real Property of Bexar County, Texas. Licensee must pay the recording fees.

3.04. Licensee's aerial conveyor and supporting structure must leave a minimum 14 feet of clearance underneath and must be in substantially similar form and scale as the structure depicted in the attached **Exhibit B**, which is hereby incorporated by reference for all purposes as if fully set forth.

3.05. Licensee's aerial conveyor and supporting structure must not interfere with any existing utility infrastructure. All supporting structure built by Licensee must be located outside

the existing utility easement under the Premises. Licensee, at Licensee's sole expense, must convert overhead electrical facilities to underground facilities.

4. License Fee.

Licensee must pay the Fee in a one-time lump sum, on or before the Effective Date. The Fee must be paid at the Department of Capital Improvement Management Services, 114 W. Commerce St., 2nd Floor (c/o Property Disposition Manager), San Antonio, Texas 78205.

5. Construction, Maintenance, and Operations.

5.01. Costs. Licensee is solely responsible for all costs of construction, installation, repairs, maintenance, operation, and the like of any property placed on the Premises.

5.02. No Liability. Licensor assumes neither liability nor expense under this License. Licensor is not liable to Licensee or otherwise for damage to the Premises arising from or related to activities of Licensor in the vicinity.

5.03. Relocation. If Licensor's needs require relocation, maintenance, or adjustment in the Premises or improvements by Licensee thereto, the relocation, maintenance, or adjustments will be at Licensee's sole cost and expense.

5.04. Maintenance. Licensee, at its sole cost and expense, must maintain all improvements it constructs or installs on the Premises. In so doing, Licensee must adhere to all applicable safety standards and must adhere to all applicable federal, state, or local laws, rules, or regulations.

5.05. No Power to Bind. Licensee cannot bind or permit another to bind Licensor for payment of money or for any other obligation.

5.06. Contractors and Subcontractors. Licensee must promptly pay anyone performing work on behalf of Licensee who could file a mechanics' or materialmen's lien on the Premises. If any such lien is filed, Licensor may treat it as an event of default and terminate this License by delivering 45 days prior written notice to Licensee. But if the lien is removed or released of record within the notice period, this License remains in effect. Licensee remains obligated to clear the lien without cost to Licensor even after termination.

6. Indemnity.

6.01. These definitions apply to the indemnity provisions of this Contract:

6.01.01. "Indemnified Claims" mean all loss, cost, liability, or expense, directly or indirectly arising, in whole or in part, out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract, whether or not the person is a party to this agreement. Indemnified Claims include attorneys' fees and court costs and include claims arising from property damage and from personal or bodily injury, including death and including matters arising partly out of the negligence of one or more Indemnitees.

6.01.02. "Indemnitees" means the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

6.01.03. "Indemnitor" means Licensee.

6.02. Indemnitor must indemnify Indemnitees, individually and collectively, from all Indemnified Claims.

6.03. If Indemnitor and one or more Indemnitees are finally adjudged to be jointly liable for Indemnified Claim, Indemnitor need not further indemnify the so-adjudged Indemnitees from liability arising from the Indemnitees' adjudicated share of liability. But despite allegations of Indemnitee negligence, Indemnitor must nevertheless defend all Indemnitees until final adjudication. Indemnitor may not recover sums previously spent defending or otherwise indemnifying the Indemnitee who has been adjudged to be negligent and must continue to indemnify other Indemnitees.

6.04. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees..

6.05. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.

6.06. In addition to the indemnity required under this Contract, each Indemnitee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.

6.07. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnitee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any Indemnitee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the City of San Antonio is not an Indemnitee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind an Indemnitee must first be approved by City Council.

6.08. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.

6.09. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees and 95% by the Indemnitor. Indemnitor need look only to the City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.

7. Insurance.

7.01. Prior to the commencement of any work under this Agreement, LICENSEE shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Capital Improvement Management Services Department, which shall be clearly labeled "Green Mountain Road // Vulcan Materials" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Capital Improvement Management Services Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

7.02. The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

7.03. **A LICENSEE's financial integrity is of interest to the City; therefore, subject to LICENSEE's right to maintain reasonable deductibles in such amounts as are approved by the City, LICENSEE shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at LICENSEE's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:**

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$500,000/\$500,000/\$500,000
3. Broad form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations *b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability * f. Explosion, Collapse, Underground	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

7.04. LICENSEE agrees to require, by written contract, that all subLICENSEEs providing goods or services hereunder obtain the same insurance coverages required of LICENSEE herein, and provide a certificate of insurance and endorsement that names the LICENSEE and the CITY as additional insureds. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subLICENSEE. This

provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

7.05. As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). LICENSEE shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. LICENSEE shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: Capital Improvement Management Services Department
P.O. Box 839966
San Antonio, Texas 78283-3966

7.06. LICENSEE agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

7.07. Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, LICENSEE shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend LICENSEE's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

7.08. In addition to any other remedies the City may have upon LICENSEE's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order LICENSEE to stop work hereunder, and/or withhold any payment(s) which become due to LICENSEE hereunder until LICENSEE demonstrates compliance with the requirements hereof.

7.09. Nothing herein contained shall be construed as limiting in any way the extent to which LICENSEE may be held responsible for payments of damages to persons or property resulting from LICENSEE's or its subLICENSEE's performance of the work covered under this Agreement.

7.10. It is agreed that LICENSEE's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

7.11. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

7.12. LICENSEE and any SubLICENSEEs are responsible for all damage to their own equipment and/or property.

8. Termination.

8.01. Licensor may terminate this License at any time before expiration by giving Licensee 30 days' written notice.

8.02. Upon expiration or termination, all rights and privileges immediately cease, and Licensee must immediately cease use of the Premises. Licensor may direct Licensee to either (a) abandon the encroaching improvements and appurtenances, including lines and equipment; or (b) remove all or any part of them and restore the Premises, at Licensee's sole cost, to original condition. Improvements or appurtenances not removed within 90 days after termination, whether by expiration or otherwise, become the property of Licensor. Licensor may, without liability to Licensee, dispose of such property at a public or private sale, without notice to Licensee. Licensee is liable for Licensor's costs incurred in connection with Licensee's property.

9. Assignment/Sublicensing.

This License may be assigned once to a successor by merger with an entity controlling, controlled by, or under common control with Licensee. Otherwise, this License cannot be assigned or sublicensed. Licensee must give Licensor 30 days' written notice before such an assignment or sublicense. Licensee cannot lease or sublease the Premises.

10. Condemnation.

If the Premises are taken, in whole or in part, by eminent domain, Licensor may terminate this License as of the date title to the taken land vests in the condemning authority. Licensee waives any claim to condemnation proceeds paid to Licensor. Licensee may seek a separate condemnation award.

11. Attorney's Fees and Court Costs.

In any action in which Licensee is found to have materially defaulted hereunder, Licensor can recover from Licensee its reasonable attorney's fees.

12. Taxes and Licenses.

Licensee must pay, on or before the due date all federal, state, and local taxes, license fees, permit fees, and similar charges now or hereafter levied on Licensee or its property or on the Premises and arising from Licensee's use thereof.

13. Prohibited Interests in Contracts.

13.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (a) a City officer or employee;
- (b) his parent, child or spouse;
- (c) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (d) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

13.02. Licensee warrants and certifies as follows:

- (a) Licensee and its officers, employees and agents are neither officers nor employees of the City.
- (b) Licensee has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

13.03. Licensee acknowledges that City's reliance on the above warranties and certifications is reasonable.

14. Licensee Financing.

Licensee may encumber Licensee's personal property on the Premises, and any lien of Licensor (whether by statute or under this License) is subordinate to the financing lien. Licensor will acknowledge this subordination in writing, if the proffered documents do not modify the rights and obligations of this License. The City Manager or a designee may execute such documents, without a further ordinance. But if the documents modify the License, then a specific ordinance is required.

15. Lien for License Fee, Taxes, Fees and Other Charges.

Licensee grants Licensor a security interest in Licensee's property on the Premises. The security interest secures payment of the Fee and all taxes, fees, and other charges owing because of Licensee's use under this License. Licensee may dispose of the property free of the security interest in the ordinary course of business. At Licensor's request, Licensee must execute a financing statement.

16. Consent/Approval of Licensor.

When Licensor's consent and approval is called for under this License, the consent and approval may be granted or withheld by the Director of Capital Improvement Management Services, unless the City Charter requires Council action.

17. Appropriations.

All obligations of the City of San Antonio under this instrument are funded through the City of San Antonio General Fund and are subject to the discretion of City Council whether to appropriate funding for any given year of a term. The City need not pay any sum not appropriated by City Council.

18. Miscellaneous Provisions

18.01. Relationship Limited. This instrument creates only the relationship of Licensor and Licensee. The parties are not principal and agent, partners, joint venturers, or participants in any other enterprise between them.

18.02. Nondiscrimination. Licensee must not discriminate against any individual or group on account of race, color, gender, age, religion, national origin, or handicap, in employment practices or in the use of the Premises.

18.03. Release From Liability. If Licensor transfers the Premises, Licensor will have no liability relating to the period after transfer. Licensor's transferee will succeed to all Licensor's rights hereunder.

18.04. Yielding Up. Licensee must, at termination, whether by expiration or otherwise, yield the Premises up peacefully.

18.05. Authority to Execute. The party or parties executing this License on behalf of Licensee personally warrant that each of them has full authority to do so.

18.06. Acknowledgment of Reading. The parties acknowledge reading this License, including exhibits or attachments, and have received the advice and counsel necessary to form a complete understanding of their rights and obligations. Having so done, they execute this License freely and voluntarily.

18.07. Applicable Law. The Construction Of This License And The Rights, Remedies, And Obligations Arising Thereunder Are Governed By The Laws Of The State Of Texas. But the Texas conflicts of law rules must not cause the application of the laws of a jurisdiction other than Texas. The obligations of both parties are performable in San Antonio, Bexar County, Texas.

18.08. Severability. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

18.09. Successors. This License inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

18.10. Integration. This Written License Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.

18.11. Modification. This License may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either (i) any other term or (ii) the same term or condition as it applies on a subsequent or previous occasion.

18.12. Third Party Beneficiaries. This License is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries.

18.13. Notices. Notices must be in writing and by certified mail, return receipt requested. Notice is complete three days after deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice. Unless changed, notice to Licensee goes to Licensee's address specified at the beginning, and notice to Licensor goes to:

City Clerk		Director, Capital Improvement
City of San Antonio		Management Services
P.O. Box 839966	With a copy	City of San Antonio
San Antonio, Texas 78283-3966	to	P.O. Box 839966
		San Antonio, Texas 78283-3966

18.14. Pronouns. In construing this License, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire License, not to any particular provision of it.

18.15. Captions. Paragraph captions in this License are for ease of reference only and do not affect the interpretation hereof.

18.16. Counterparts. This License may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this License, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

18.17. Further Assurances. The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. But no such additional document(s) may alter the rights or obligations of the parties under this License

18.18. Ambiguities Not to Be Construed Against Drafter. Ambiguities in this License must be resolved without constructing against the drafter.

19. Public Information.

Licensee acknowledges that this instrument is public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public.

[Signature page to follow.]

In Witness Whereof, the parties have caused their representatives to set their hands:

Licensor:

Licensee:

City of San Antonio,
a Texas municipal corporation

Electron Acquisitions, LLC, a
Delaware limited liability company

Signature

Jerry F. Perkins, Jr., Vice President

Name

Date

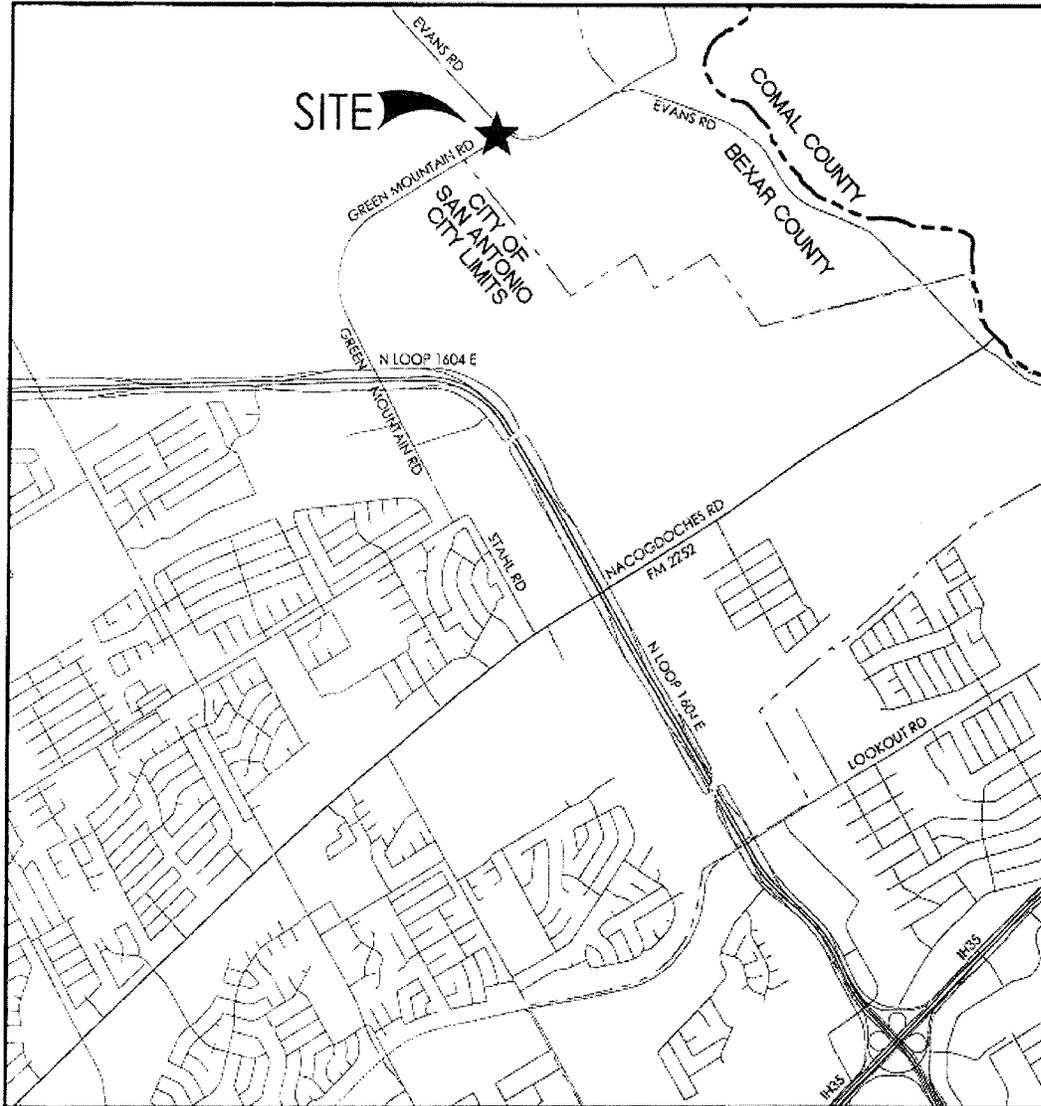
Title

Date

Approved As To Form:

City Attorney

Exhibit A



LOCATION MAP



**PAPE-DAWSON
ENGINEERS**

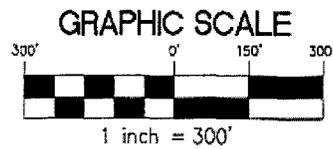
565 EAST RAMSEY | SAN ANTONIO, TEXAS 78216 | PHONE: 210.375.8600
TEXAS BOARD OF PROFESSIONAL ENGINEERS, FIRM REGISTRATION # 470
FAX: 210.375.9010
Copyright © 2009 Pape-Dawson Engineers, Inc. All Rights Reserved

DATE: DECEMBER, 2009

JOB NO. 7494-04



OVERHEAD EASEMENT LOCATION AT GREEN MOUNTAIN ROAD



**PAPE-DAWSON
ENGINEERS**

555 EAST RAMSEY | SAN ANTONIO, TEXAS 78216 | PHONE: 210.375.6000
 TEXAS BOARD OF PROFESSIONAL ENGINEERS, TWP REGISTRATION # 440
 FAX: 210.375.9010
 Copyright © 2009 Pape-Dawson Engineers, Inc. All Rights Reserved

DATE: DECEMBER 2009

JOB NO. 7494-04

FIELD NOTES
FOR

A 0.100 acre, or 4,347 square feet more or less, tract of land being a portion of Green Mountain Road, an 86-foot right-of-way, recorded in Volume 4884, Pages 1414-1420 of the Official Public Records of Real Property of Bexar County, Texas, out of the Robert B. Lewis Survey No. 412, Abstract 437, County Block 4962, in the City of San Antonio, Bexar County, Texas. Said 0.100 acre tract being more fully described as follows, with bearings based on the North American Datum of 1983 (CORS 1996), from the Texas Coordinate System established for the South Central Zone.

COMMENCING: At a set ½" iron rod with yellow cap marked "Pape-Dawson", for the west corner of the south cut back line at the intersection of Green Mountain Road, and Evans Road, a variable width right-of-way, and the northwest corner of a remainder of Tract 9, a 125.97 acre tract, recorded in Volume 1838, Pages 452-472 of the Official Public Records of Real Property of Bexar County, Texas, from which a set ½" iron rod with yellow cap marked "Pape-Dawson", bears N 84°50'33" E, a distance of 31.64 feet, for the east corner of the south cut back line at the intersection of Green Mountain Road, and Evans Road;

THENCE: With the south right-of-way line of Green Mountain Road, and the northwest line of a remainder of Tract 9, the following calls and distances;

S 34°05'34" W, a distance of 40.62 feet to a set ½" iron rod with yellow cap marked "Pape-Dawson";

With a curve to the right, a radius of 1243.00 feet, a central angle of 02°15'22", a chord bearing and distance of S 35°13'15" W, 48.94 feet, for an arc length of 48.94 feet to a set ½" iron rod with yellow cap marked "Pape-Dawson", for the east corner of this tract and the POINT OF BEGINNING of this tract;

With a curve to the right, said curve having a radius of 1243.00 feet, a central angle of 02°19'41", a chord bearing and distance of S 37°30'47" W, 50.50 feet, for an arc length of 50.51 feet to a point, for the south corner of this tract;

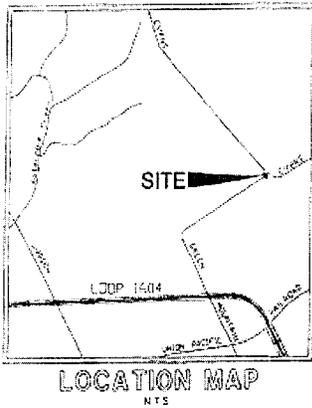
THENCE: N 44°22'59" W, departing the south right-of-way line of Green Mountain Road, and the northwest line of a remainder of Tract 9, across Green Mountain, a distance of 86.67 feet to a point, on the north right-of-way line of Green Mountain Road, and the southeast line of a remainder of Tract 9, for the west corner of this tract;

THENCE: With the north right-of-way line of Green Mountain Road, and the southeast line of a remainder of Tract 9, with a non-tangent curve to the left, said curve having a radial bearing of N 51°50'55" W, a radius of 1157.00 feet, a central angle of 02°30'19", a chord bearing and distance of N 36°53'55" E, 50.58 feet, for an arc length of 50.59 feet to a point, for the north corner of this tract;

THENCE: S 44°22'59" E, departing the north right-of-way line of Green Mountain Road, and the southeast line of a remainder of Tract 9, across Green Mountain, a distance of 87.22 feet to the POINT OF BEGINNING, and containing 0.100 acres in the City of San Antonio, Bexar County, Texas, Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: December 03, 2009
JOB NO. 7494-01
DOC. ID. N:\CIVIL\7494-01\WORD\7494-01 GM FN.doc





DEED/PLAT REFERENCE

D.R. DEED RECORDS OF BEXAR COUNTY, TEXAS (IN FEET)
 O.P.R. OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS
 O.P.R. DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS 1 inch = 100 ft.

NOTES:

- 1) The bearings for this survey are based on the North American Datum of 1983 (CORS 1996), from the Texas Coordinate System established for the South Central Zone.
- 2) The professional services provided herewith include the preparation of a field note description.



CURVE TABLE					
CURVE	RADIUS	CENTRAL ANGLE	CHORD BEARING	CHORD DISTANCE	CURVE LENGTH
C1	1243.00	02°15'22"	S 35°13'15" W	48.94'	48.94'
C2	1243.00	02°19'41"	S 37°30'47" W	50.50'	50.51'
C3	1157.00	02°30'19"	N 36°53'55" E	50.58'	50.59'

**ROBERT B. LEWIS
 SURVEY NO. 412,
 ABSTRACT 437,
 COUNTY BLOCK 4962.**

PERMANENT DRAINAGE ESMT
 AS SHOWN ON RIGHT-OF-WAY MAP
 OF GREEN MOUNTAIN ROAD WIDENING SURVEY
 FROM THE DEPARTMENT OF PUBLIC WORKS
 BEXAR COUNTY, TEXAS
 FILE NO: B-1187-5 DATED: APRIL 7, 1989

A REMAINDER OF
 TRACT 9, 125.97 ACRES
 (VOL. 1838, PGS. 452-472 O.P.R.)

14' GAS ESMT
 (VOL. 8942, PGS.
 1144-1173 O.P.R.)

RADIAL BEARING
 N51°50'55" W

EVANS ROAD
 (VARIABLE WIDTH R.O.W.)

A REMAINDER OF
 TRACT 9,
 125.97 ACRES
 (VOL. 1838, PGS.
 452-472 O.P.R.)

0.100 ACRES

(4,347 SQUARE FEET MORE OR LESS)
 TRACT 2, 867.916 ACRES
 (VOL. 1838, PGS. 452-472 O.P.R.)

164.3 ACRES
 (VOL. 8331, PG. 560 O.P.R.)

GREEN MOUNTAIN ROAD

(86-FOOT R.O.W.)
 (VOL. 4884 PGS. 1414-1420 OPR)

LINE TABLE		
LINE	BEARING	LENGTH
L1	N 84°50'33" E	31.64'
L2	S 34°05'34" W	40.82'
L3	N 44°22'59" W	86.57'
L4	S 44°22'59" E	87.22'

PAPE-DAWSON ENGINEERS

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 STATE BOARD OF PROFESSIONAL ENGINEERS, LAW REGISTRATION # 110
 TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS, REGISTRATION # 10279-00
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**EXHIBIT
 OF**

A 50-FOOT CONVEYOR EASEMENT
 A 0.100 acre, or 4,347 square feet more or less,
 tract of land being a portion of Green Mountain
 Road, an 86-foot right-of-way, recorded in
 Volume 4884, Pages 1414-1420 of the Official
 Public Records of Real Property of Bexar County,
 Texas, out of the Robert B. Lewis Survey No.
 412, Abstract 437, County Block 4962, in the
 City of San Antonio, Bexar County, Texas.



JOB No. 7494-01

Exhibit B

