

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

#### **TEMPORARY CONSTRUCTION EASEMENT**

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (the "Agreement") made, between **MELVIN SPIRA TRUSTEE, LLP**, fee owner of a certain 91.09 acre parcel of land (the "Property") and **Zdunkewicz Farms**, lessee in possession of a portion of the Property impacted by the rights to be granted herein, (collectively referred to herein as "Grantor"), and the **FORT BEND COUNTY DRAINAGE DISTRICT**, (herein called "Grantee"), whose mailing address is 301 Jackson Street., Richmond, Texas 77469, WITNESSETH:

Grantor for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration in hand paid to it by Grantee, the receipt of which is hereby acknowledged does hereby grant unto the said Grantee, its successors and assigns, a temporary non-exclusive construction easement (the "Easement") being approximately 3.2 acres as depicted on Exhibit "A" (the "Easement Area"), attached hereto and made a part hereof, for the purpose of stockpiling spoil related soil or dirt from the Big Creek Improvement Project, to wit:

#### **ATTACHED AS EXHIBIT "A"**

together with the rights of ingress and egress to the above described Easement herein granted.

TO HAVE AND TO HOLD said rights and privileges, unto Grantee, its successors and assigns until Grantee releases said Agreement by an instrument in writing, duly recorded, subject to the following conditions, within twelve (12) months beginning November 1, 2016:

1. The Term of this Easement granted herein shall be for a period of twelve (12) months commencing upon the date of execution of this Agreement and expiring automatically on the expiration or earlier termination of this Easement (unless otherwise extended in writing between Grantor and Grantee) without further action required by either party.
2. Grantor reserves the right to occupy, use and cultivate the Easement Area for all purposes not inconsistent with the rights herein granted. However, Grantor's use of the Easement Area shall not materially interfere with the use and quiet enjoyment of the Easement Area by Grantee, its employees, tenants, invitees, contractors or representatives.
3. It is understood and agreed that this grant is not a conveyance of the lands described herein or of any interest in the oil, gas and other minerals in, on or under said lands, but is a grant solely of the Easement granted herein. This grant is made subject to all applicable laws, ordinances, easements, leases, restriction, reservations or covenants, either of record or evidenced by improvements upon the ground and to the extent same are in force, regarding the storage of dirt or soil owned by Melvin Spira Trustee, LLP as and when removed from creek bank.
4. It is agreed that this Agreement covers all agreements between the parties and no representations or statements, verbal or written, have been made, modifying, adding to, or changing the terms of this Agreement.

**IN WITNESS WHEREOF**, this instrument is executed and effective on the date executed by the final party hereto.

**GRANTOR:**

**MELVIN SPIRA TRUSTEE, LLP**  
as owner in fee of the Property subject to this Agreement

By: *Jack E. Clark*  
Name: JACK E. CLARK  
Title: managing partner

THE STATE OF TEXAS       §  
  §  
COUNTY OF FORT BEND   §

This instrument was acknowledged before me on this 19<sup>th</sup> day of December, 2016,  
by JACK E. CLARK, Managing Partner, on behalf of the Melvin Spira Trustee, LLP.

(NOTARY SEAL)



*Laura Rothbauer*  
Notary Public, State of Texas

**ZDUNKEWICZ FARMS,**  
as Lessee in possession of a portion of the Property subject to and affected by this Agreement

By: *Randa Zdzunkewicz*  
Name: Randa Zdzunkewicz  
Title: general partner

THE STATE OF TEXAS       §  
  §  
COUNTY OF FORT BEND   §

This instrument was acknowledged before me on this 4<sup>th</sup> day of January, 2017,  
by Randa Zdzunkewicz Partner, on behalf of Zdunkewicz Farms.



*Rosalie Vargas*  
Notary Public, State of Texas

GRANTEE:

FORT BEND COUNTY DRAINAGE DISTRICT:

By: \_\_\_\_\_  
Robert E. Hebert, County Judge

ATTEST:

By: \_\_\_\_\_  
Laura Richard, County Clerk

THE STATE OF TEXAS           §  
  §  
COUNTY OF FORT BEND       §

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_,  
by Robert E. Hebert, County Judge, of Fort Bend County, Texas, on behalf of the Fort Bend County  
Drainage District.

(NOTARY SEAL)

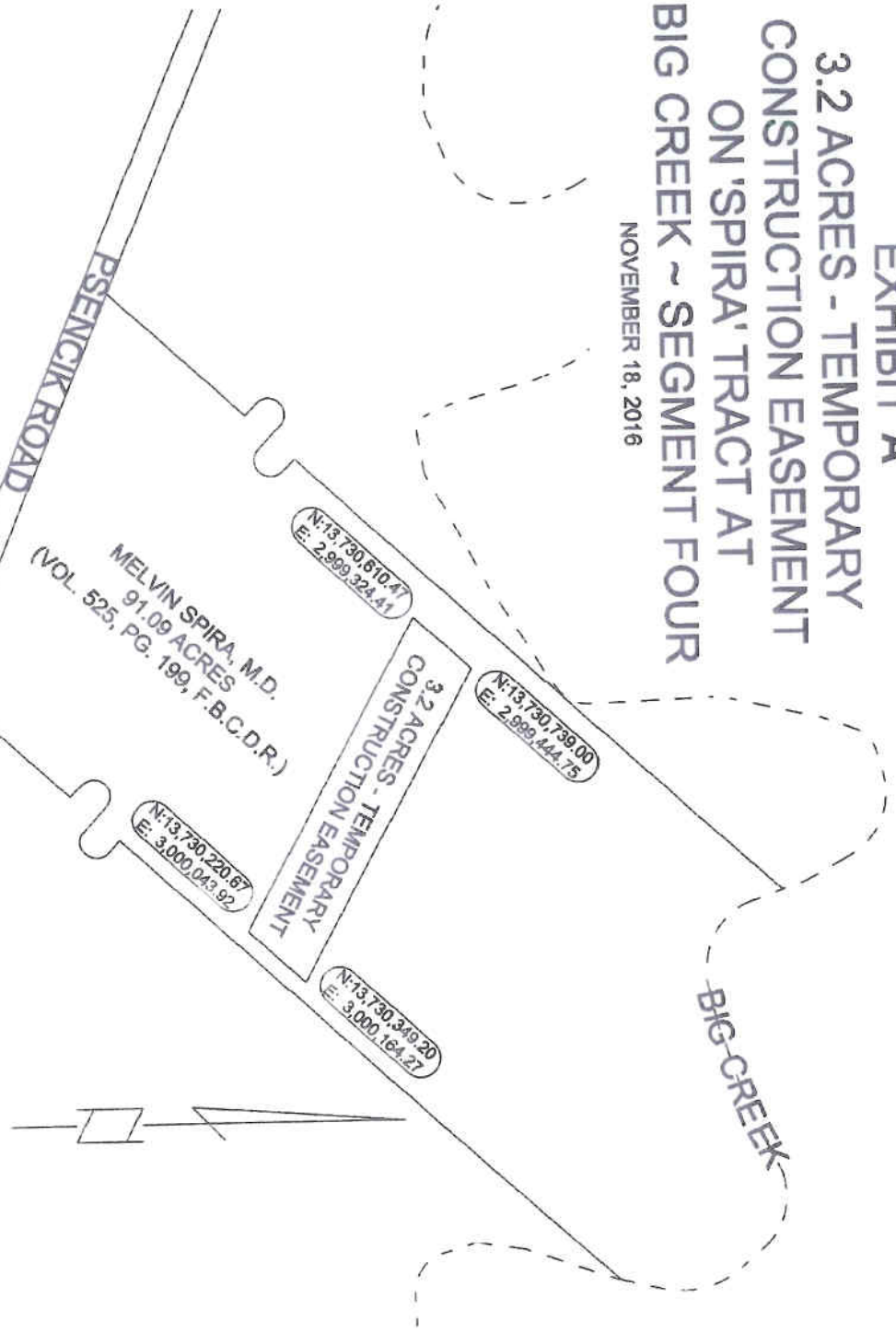
\_\_\_\_\_  
Notary Public, State of Texas

Attachments:

Exhibit A – Description of Easement Tract

# **EXHIBIT A** **3.2 ACRES - TEMPORARY** **CONSTRUCTION EASEMENT** **ON 'SPIRA' TRACT AT** **BIG CREEK ~ SEGMENT FOUR**

NOVEMBER 18, 2016



THE COORDINATES SHOWN HEREON ARE TEXAS  
 COORDINATE SYSTEM, SOUTH CENTRAL ZONE  
 No. 4204 STATE PLANE GRID COORDINATES (NAD 83)





# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Melvin Spira Trustee LLP  
Hallettsville, TX United States

**Certificate Number:**  
2017-154678

**Date Filed:**  
01/16/2017

**Date Acknowledged:**

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

Fort Bend County, Texas

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

R40386  
Temporary Construction Easement

| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of interest<br>(check applicable) |              |
|---|--------------------------|--|--|--------------|
|   |                          |  | Controlling                              | Intermediary |
|   | Clark, JACK              | Hallettsville, TX United States          | X  |              |
|   |                          |  |  |              |
|   |                          |  |  |              |
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|   |                          |  |  |              |

**5 Check only if there is NO Interested Party.**

☐

**6 AFFIDAVIT**



AFFIX NOTARY STAMP / SEAL ABOVE

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

*Jack E. Clark - JACK E. CLARK*  
*LLP*  
*ACTING FOR MELVIN SPIRA TRUSTEE, as Managing Partner*

Signature of authorized agent of contracting business entity

Sworn to and subscribed before me, by the said Jack Clark, this the 19<sup>th</sup> day of January, 20 17, to certify which, witness my hand and seal of office.

*Rosalie Vargas*  
Signature of officer administering oath

Rosalie Vargas  
Printed name of officer administering oath

Administrative Assistant  
Title of officer administering oath

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:  
2017-155272

Date Filed:  
01/17/2017

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Zdunkewicz Farms  
Needville, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

R40386  
Temporary Construction Easement

| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of interest<br>(check applicable) |              |
|---|--------------------------|--|--|--------------|
|   |                          |  | Controlling                              | Intermediary |
|   | Zdunkewicz, Randall      | Needville, TX United States              | X  |              |
|   |                          |  |  |              |
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|   |                          |  |  |              |
|   |                          |  |  |              |

5 Check only if there is NO Interested Party. ☐

### 6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



*[Signature]*

Signature of authorized agent of contracting business entity

AFFIX NOTARY SEAL ABOVE

Sworn to and subscribed before me, by the said Randall Zdunkewicz, this the 17th day of January, 2017, to certify which, witness my hand and seal of office.

*[Signature]*

Signature of officer administering oath

Rosalie Vargas

Printed name of officer administering oath

Administrative Assistant

Title of officer administering oath