

THE STATE OF TEXAS

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COUNTY OF FORT BEND

POSSESSION AND USE AGREEMENT

THIS POSSESSION AND USE AGREEMENT (the "Agreement") is entered into by and between Fort Bend County, Texas (hereinafter referred to as "the County"), a body politic acting herein by and through its Commissioners' Court and Katy Gaston Investment, Inc., (hereinafter referred to as "Owner"), an irrevocable right to possession and use of the Owner's property for the purpose of construction of a portion of Katy-Flewellen Road (the "Project"). The property subject to this Agreement is described more fully in "Exhibit A", and made a part of this Agreement by reference (the "Property"). The County and the Owner may be individually referred to as a "Party" or collectively as the "Parties."

1. The County is seeking negotiate the County's acquisition of the Property. In order to expedite and facilitate the necessary work to complete the Project, the County desires that the Owner provides the County the right of entry and exclusive possession and use of the Property for the purpose of constructing a public 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 Project. This 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 Project. This grant will allow the construction, relocation, replacement, repair, improvement, operation and maintenance of utilities on the Property.
2. The County will be entitled to take possession and use of the Property upon full execution of the Agreement.
3. The Owner warrants and represents that proper release or consent of lienholder will be executed for the Property prior to funds being disbursed under this Agreement. The Owner further warrants that no other person or entity owns an interest in the fee title to the Property.

The above made warranties are made by Owner and accepted by the County subject to the following:

- A. Visible and apparent easements not appearing of record;
- B. Any discrepancies, conflicts or shortages in area or boundary lines or any encroachments or any overlapping of improvements which a current survey would show; and,
- C. Easements, restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances and encumbrances for taxes and assessments (other than liens and conveyances) presently of record in the Official Public Records of Fort Bend County, Texas, that affect the property, but only to the extent that said items are still valid and in force and effect at this time.

4. The Owner 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.
5. The undersigned Owner agrees to pay all ad valorem property taxes and special assessments assessed against Property which are due and payable as of the date of this Agreement, and such prorated taxes for the current year, which shall be prorated using the date on which this Agreement is approved by the County. The County shall be responsible for payment of any further taxes or special assessments which will otherwise become due following the County's approval of this Agreement and prior to Owner's conveyance of title and interest in and to the Property to the County.
6. This Agreement will also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors in interest and assigns of the parties.
7. It is the intent of Owner and the County that Owner shall convey all right, title and interest in and to the Property to the County following payment to Owner of adequate compensation for such right, title, and interest, as determined by an appraiser licensed in the State of Texas and engaged by Owner, by Fort Bend County Municipal Utility District No. 163 for the title and interest in and to the Property which Owner holds as of the time immediately prior to the date on which this Agreement is approved by the County.
8. This Agreement shall in no way prejudice Owner's rights to receive full and just compensation from Fort Bend County Municipal Utility District No. 163 as allowed by law for all of Owner's interest in and to the Property.
9. To the extent permitted by the laws and Constitution of the State of Texas, the County will indemnify, defend and hold Owner harmless against any and all claims for personal injury of third parties and damages to the property of third parties that are caused by the County's use of the Property; provided Owner promptly notifies the County of any such claim and provides the County with the opportunity to defend against the claim. The foregoing indemnity shall not include any amounts payable as a result of the use or possession of the property by Owner or pursuant to settlements that have not been approved in advance by the County. The County will cause its contractors, employees, agents, and other persons and entities authorized to enter the Property under this Agreement (collectively called the "Authorized Entity") to be responsible for the safety of all the Authorized Entity's employees, contractors, consultants, invitees, and agents who enter onto the Property at the direction of the Authorized Entity.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the date executed by the County.

FORT BEND COUNTY:

KP George, County Judge

Date

Attest:

Laura Richard, County Clerk

Approved:

Stacy Slawinski, Interim County Engineer

Approved as to legal form:

Marcus D. Spencer, First Assistant County Attorney

OWNER:

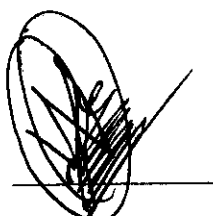
EXECUTED this the 24 day of May, 2019.

KATY GASTON INVESTMENT, INC

By:

Name:

Title:



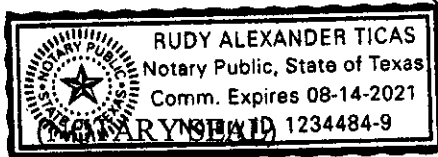
Owner

THE STATE OF TEXAS

COUNTY OF FORT BEND

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This instrument was acknowledged before me on this 24 day of May, 2019, by Nizar Manesia, _____, on behalf of Katy Gaston Investment, Inc.



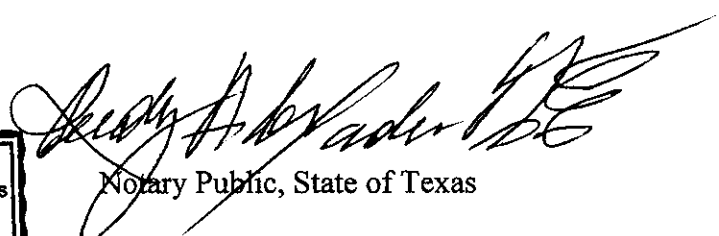

Notary Public, State of Texas

EXHIBIT "A"

METES AND BOUNDS DESCRIPTIONS KATY FLEWELLEN ROAD, SEGMENT 1 GASTON ROAD TO ROUNDABOUT (CROSSOVER ROAD) TRACTS 1 & 15 FORT BEND COUNTY, TEXAS

TRACT 1

All that certain 2.7497 acre (119,776 sq. ft.) tract of land, out of a called 46.2037 acre tract described in deed to Katy Gaston Investment, Inc., a Texas corporation dated April 14, 2008 as recorded in Fort Bend County Clerk File Number (FBCCF#) 2008038738, situated in the James Conner Survey, Abstract No. 157 in Fort Bend County, Texas, said 2.7497 acre being more particularly described by metes and bounds as follows with all bearings referenced to the Texas South Central Zone NAD 83, coordinates are grid and can be converted to surface by dividing by the combined factor of 0.99988808:

BEGINNING at a 5/8 inch bent iron rod with cap at the southeast corner of said 46.2037 acre tract in common with the southwest corner of a called 0.4748 acre tract as described in dedication to Fort Bend County dated January 4, 2012 as recorded in FBCCF# 2002001346, found for the southeast corner of the herein described tract, having coordinates $X = 2,972,989.71$ feet, $Y = 13,836,017.34$ feet;

THENCE, South $88^{\circ}13'10''$ West, with the south line of said 46.2037 acre tract in common with the north line of a called 4.000 acre tract described in deed to LaBelle Properties, LTD., a Texas limited partnership, dated August 21, 2010 as recorded in FBCCF#2002136996, 2010018317, 9402560 and 2010092182, a distance of 539.25 feet to a 5/8 inch capped iron rod found for the northwest corner of said 4.000 acre tract;

THENCE, continue South $88^{\circ}13'10''$ West, with the south line of said 46.2037 acre tract in common with the north line of called 1.1339 acre tract dedicated to the City of Katy, October 9, 2013, as recorded in FBCCF#201411108 and Fort Bend County Plat#20140239, a distance of 954.07 feet to a 5/8 inch capped iron rod set for the southwest corner of the herein described tract;

THENCE, North $01^{\circ}47'20''$ West, a distance of 67.87 feet to a 5/8 inch capped iron rod in the proposed north right-of-way line of Gaston Road (100.00 feet wide), set for the northwest corner of the herein described tract;

THENCE, North $88^{\circ}12'38''$ East, along said proposed north right-of-way line, a distance of 597.33 feet to a 5/8 inch capped iron rod set for the beginning of a curve to the left;

THENCE, easterly, along said curve to the left with said proposed north right-of-way line, an arc distance of 76.29 feet, having a radius of 800.00 feet, a central angle of $5^{\circ}27'58''$ and a chord which bears North $85^{\circ}28'43''$ East, 76.26 feet to a 5/8 inch iron rod with cap set for the end of said curve;

THENCE, North $82^{\circ}44'45''$ East, along said proposed north right-of-way line, a distance of 369.78 feet to a 5/8 inch capped iron rod set for the beginning of a curve to the right;

THENCE, easterly, along said curve to the right with said proposed north right-of-way line, an arc distance of 487.63 feet, having a radius of 900.00 feet, a central angle of $31^{\circ}02'35''$ and a chord which bears South $81^{\circ}43'55''$ East, 481.69 feet to a 5/8 inch iron rod with cap in the east line of said 46.2037 acre tract;

THENCE, South $42^{\circ}52'44''$ West, along the east line of said 46.2037 acre tract in common with the west line said 0.4748 acre tract, a distance of 32.11 feet to the PLACE OF BEGINNING, containing within these calls 2.7497 acre (119,776 sq. ft.) of land.

**METES AND BOUNDS DESCRIPTIONS
KATY FLEWELLEN ROAD, SEGMENT 1
GASTON ROAD TO ROUNDABOUT (CROSSOVER ROAD)
TRACTS 1 & 15
FORT BEND COUNTY, TEXAS**

TRACT 15

All that certain 0.0693 acre (3,020 sq. ft.) tract of land, out of a called 46.2037 acre tract described in deed to Katy Gaston Investment, Inc., a Texas corporation dated April 14, 2008 as recorded in Fort Bend County Clerk File Number (FBCCF#) 200803873, situated in the James Conner Survey, Abstract No. 157 in Fort Bend County, Texas, said 0.0693 tract being more particularly described by metes and bounds as follows with all bearings referenced to the Texas South Central Zone NAD 83, coordinates are grid and can be converted to surface by dividing by the combined factor of 0.99988808:

BEGINNING at a 5/8" capped iron rod at the intersection the east line of said 46.2037 acre tract and the west line of the proposed west right-of-way line of Katy Flewellen Road (width varies), having coordinates X= 2,973,075.34 feet, Y= 13,837,109.57 feet, set for the south corner of the herein described tract, from which a bent 5/8 inch iron rod with cap found at the southeast corner of said 46.2037 acre tract bears South 42°48'55" West, 125.85 feet;

THENCE, northeasterly, non-tangent to the east line of said 46.2037 acre tract, along a curve to the right with said proposed west right-of-way line, an arc distance of 82.01 feet, having a radius of 1,470.50 feet, a central angle of 3°11'43" and a chord which bears North 35°00'38" East, 82.00 feet to a 5/8 inch iron rod with cap set for the beginning of a compound curve to the right;

THENCE, northeasterly, along said compound curve to the right with said proposed west right-of-way line, an arc distance of 51.91 feet, having a radius of 1,315.50 feet, a central angle of 9°25'37" and a chord which bears North 41°19'07" East, 51.85 feet to a 5/8 inch iron rod with cap set for end of said compound curve;

THENCE, North 46°01'56" East, with said proposed west right-of-way line, a distance of 77.36 feet to a 5/8 inch capped iron rod set for the beginning of a curve to the left;

THENCE, northeasterly, along said curve to the left with said proposed west right-of-way line, an arc distance of 18.25 feet, having a radius of 284.50 feet, a central angle of 3°40'31" and a chord which bears North 44°11'40" East, 18.25 feet to a 5/8 inch iron rod with cap set for the beginning of a reverse curve to the right;

THENCE, northeasterly, along said curve to the right with said proposed west right-of-way line, an arc distance of 88.23 feet, having a radius of 1,458.50 feet, a central angle of 3°27'58" and a chord which bears North 44°05'24" East, 88.22 feet to a 5/8 inch iron rod with cap set for the end said compound curve to the right;

THENCE, North 45°49'23" East, with said proposed west right-of-way line, a distance of 109.52 feet to a 5/8 inch capped iron rod in the east line of said 46.2037 acre tract in common with the west line of a called 0.4748 acre tract described in deed to Fort Bend County dated January 4, 2012 as recorded in FBCCF#2012001346, set for the north corner of the herein described tract;

**METES AND BOUNDS DESCRIPTIONS
KATY FLEWELLEN ROAD, SEGMENT 1
GASTON ROAD TO ROUNDABOUT (CROSSOVER ROAD)
TRACTS 1 & 15
FORT BEND COUNTY, TEXAS**

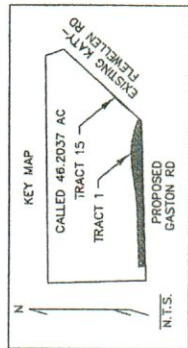
THENCE, South 42°48'55" West, along the east line of said 46.2037 acre tract in common with the west line of said 0.4748 acre tract, a distance of 426.13 feet to the PLACE OF BEGINNING, containing within these calls 0.0693 acre (3,020 sq. ft.) of land.

A survey map of even date accompanies this description.

Signed and sealed by my hand this 27th day of March, 2017.

Clyde C. Lunsford III
R.P.L.S. No. 6506
Amani Engineering, Inc.
8303 Southwest Freeway Ste. 600
Houston, Texas 77074





KATY GASTON INVESTMENT, INC.,
A TEXAS CORPORATION
FBCCF#2008038738
4/14/2008
CALLED 46.2037 AC

L=487.63
R=900.00
Δ=31°02'35"
CH=S81°43'55"E - 481.69'

MATCH LINE - SEE SHEET 2

TRACT 1
2.7497 AC.
119,776 SQ. FT.

CITY OF KATY
1.1339 AC.
FBCCF#20141108
10/09/2013

FND 5/8" I.R. W/CAP
AT NW CORNER LABELLE
PROPERTIES, LTD

LABELLE PROPERTIES, LTD, A TEXAS
LIMITED PARTNERSHIP
FBCCF#2002136996 &
2010018317 & 9402560
CALLED 4.000 AC
FBCCF#201009218
9/21/2010

LABELLE PROPERTIES, LTD,
A TEXAS LIMITED PARTNERSHIP
CALLED 4.000 AC
FBCCF#2002136996, 2010018317,
9402560 & 2010092182
9/21/2010

P.O.B. TRACT 1
X=2,972,989.71
Y=13,837,017.34
FND 5/8" BENT I.R. W/CAP

FORT BEND COUNTY
CALLED 0.4748 AC
FBCCF#2002001346
01/04/2012

P.O.B. TRACT 15

GRAPHIC SCALE



I HEREBY CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH
THE CURRENT SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS
AND SPECIFICATIONS FOR CATEGORY I-A, CONDITION II SURVEY
DATED THIS THE 27TH DAY OF MARCH, 2017.



SIGNED

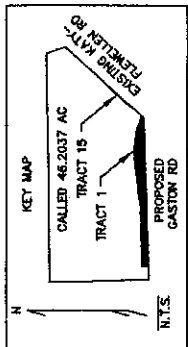
CLYDE C. LUNSFORD III
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6506

AMANI ENGINEERING, INC.
6303 SOUTHWEST FREEWAY SUITE 600 HOUSTON, TX 77074
TM (713) 270-3700 Fax (713) 271-3487 TYPE REG NO. F-4528

TRACTS 1 & 15
KATY FLEWELLEN ROAD
SEGMENT 1
ROW PLAT
FORT BEND PN 13316

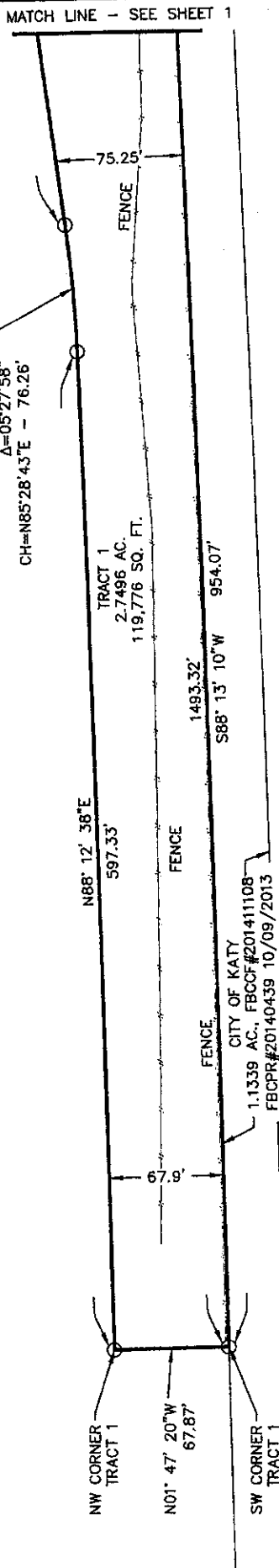
SCALE:	JOB NO.:	DATE:	DRAWING:
1" = 60'	15062	01/06/2017	1 OF 3

NOTES:
1. ALL BEARINGS AND COORDINATES REFERENCED TO THE TEXAS STATE PLANE
COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 1983. COORDINATES ARE GRID AND MAY
BE CONVERTED TO SURFACE BY DIVIDING BY A COMBINED FACTOR OF 0.99988808.
DISTANCES ARE SURFACE AND MAY BE CONVERTED TO GRID BY MULTIPLYING BY A
COMBINED FACTOR OF 0.99988808.
2. LEGAL DESCRIPTION OF THE TRACT OF LAND SHOWN HEREON IS ON ACCOMPANYING
METES AND BOUNDS DESCRIPTION OF EVEN DATE.



KATY GASTON INVESTMENT, INC.,
A TEXAS CORPORATION
FBCCF#2008038738
4/14/2008
CALLED 46.2037 AC

ADJACENT TO TRACT 15
ADJACENT TO TRACT 15

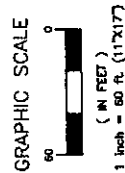


AVALONAT
SPRING GREEN
SEC. 2
CALLED 27.5177 AC
FBCCF#2014111108
PLAT#20140239
10/09/2013

CITY OF KATY
1.1339 AC., FBCCF#201411108
FBCPR#20140439 10/09/2013

LEGEND

- FBCCF# FORT BEND COUNTY CLERK'S FILE NO.
- FBCPR# FORT BEND COUNTY PLAT RECORD NO.
- SET 5/8" IRON ROD WITH CAP
- AS DESCRIBED



NOTES:
1. ALL BEARINGS AND COORDINATES REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 1983. COORDINATES ARE GRID AND MAY BE CONVERTED TO SURFACE BY DIVIDING BY A COMBINED FACTOR OF 0.99988808. DISTANCES ARE SURFACE AND MAY BE CONVERTED TO GRID BY MULTIPLYING BY A COMBINED FACTOR OF 0.99988808.
2. LEGAL DESCRIPTION OF THE TRACT OF LAND SHOWN HEREON IS ON ACCOMPANYING METES AND BOUNDS DESCRIPTION OF EVEN DATE.

AMANI ENGINEERING, INC.
6303 SOUTHWEST FREEWAY SUITE 100 HOUSTON, TX 77074
TEL (713) 276-3700 FAX (713) 271-3487 INTERNET WWW.AMANI-INC.COM

TRACTS 1 & 15
KATY FLEWELLEN ROAD
SEGMENT 1
ROW PLAT
FORT BEND PN 13316

SCALE:	JOB NO.:	DATE:	DRAWING:
AS SHOWN	15062	01/06/2017	2 OF 3

KATY GASTON INVESTMENT, INC.,
A TEXAS CORPORATION
CALLED 46.2037 AC
FBCC#2008038738
4/14/2018

L=82.01', R=1,470.50'
C=N35°00'38"E - 82.00'
Δ=3°11'43"

FND. 5/8" BENT I.R. W/CAP
SE CORNER
CALLED 46.2037 AC
(POB TRACT 1)

L=51.91', R=1,315.50'
C=N41°19'07"E - 51.85'
Δ=9°25'37"

L=18.25', R=284.50'
C=N44°11'40"E - 18.25'
Δ=3°40'31"

L=88.23', R=1458.50'
C=N44°05'24"E - 88.22'
Δ=3°27'58"

N45°48'23"E
109.52'

POB TRACT 15:
N=13,837,109.57'
E=2,973,075.34'
SET 5/8" CAPPED I.R.

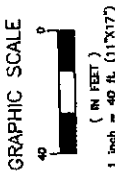
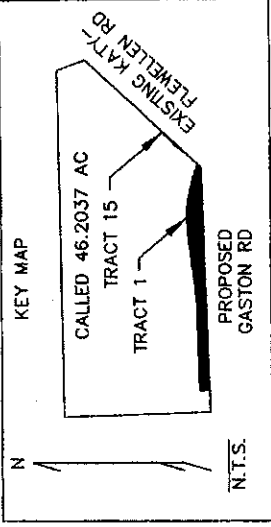
FORT BEND COUNTY
CALLED 0.4748 AC
FBCC#2002001346
01/04/2012

TRACT 15
0.0693 AC
3,020 S.F.

EXISTING
KATY-FLEWELLEN RD.
(60' R.O.W. ESMT.)
FBCC#2002132067

LEGEND

- FBCC# FORT BEND COUNTY CLERK'S FILE NO.
- FBCCP# FORT BEND COUNTY PLAT RECORD NO.
- SET 5/8" IRON ROD WITH CAP
- MONUMENT AS NOTED
- ○ ○ UTILITY POLE



AMANI ENGINEERING, INC.
2001 SOUTHWEST PARKWAY SUITE 600 HOUSTON, TX 77074
TEL (713) 270-5700 FAX (713) 271-3467 TOLL FREE 1-800-455-4555

TRACTS 1 & 15
KATY FLEWELLEN ROAD
SEGMENT 1
ROW PLAT
FORT BEND PN 13316

NOTES:
1. ALL BEARINGS AND COORDINATES REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE. NAD 1983. COORDINATES ARE GRID, AND MAY BE CONVERTED TO SURFACE BY DIVIDING BY A COMBINED FACTOR OF 0.99988888. DISTANCES ARE SURFACE AND MAY BE CONVERTED TO GRID BY MULTIPLYING BY A COMBINED FACTOR OF 0.99988888.

2. LEGAL DESCRIPTION OF THE TRACT OF LAND SHOWN HEREON IS ON ACCOMPANYING METES AND BOUNDS DESCRIPTION OF EVEN DATE.

SCALE:	JOB NO.:	DATE:	DRAWING:
AS SHOWN	15062	12/07/2016	3 OF 3