

DEPARTMENT: NUMBER:

DATE OF COURT MEETING: 8/25/2020

ITEM: Approval of Order Setting Fees Of The Special Commissioners in Cause No. 607-CC.

TO: **Commissioners Court** 

DATE: 08/17/2020

False FISCAL IMPACT: BUDGETED: False

**DOLLAR AMOUNT:** \$0.00

**ATTACHMENTS:** 

File Name **Description** <u>Type</u>

Order Setting Fees of the Special Commissioners in Cause No. 607-CC.pdf Backup Material



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BUDGETED:

False

**DOLLAR AMOUNT:** 

\$0.00

**ATTACHMENTS:** 

No Attachments Available

File Name

**Description** 

<u>Type</u>

APPROVED

Duane Peters

County Judge

#### Cause No. 607-CC

| BRAZOS COUNTY, TEXAS           | §      | PROCEEDING IN EMINENT DOMAIN |
|--------------------------------|--------|------------------------------|
| Vs.                            | §<br>§ | COUNTY COURT AT LAW 1        |
|                                | §      |                              |
| DAVID J. LEATHAM AND           | ş      |                              |
| MICHELLE D. LEATHAM, TRUSTEES  | §      |                              |
| AND DAVID AND MICHELLE         | ş      |                              |
| LEATHAM REVOCABLE LIVING TRUST | §      | BRAZOS COUNTY, TEXAS         |

#### ORDER SETTING FEES OF THE SPECIAL COMMISSIONERS

BE IT REMEMBERED that the Special Commissioners named below, previously appointed by this Court in the above-styled and numbered cause, having discharged their duties according to law, and this Court, being empowered under and by virtue of Section 21.047(c) of the Texas Property Code to set their fees, it is, therefore, ORDERED that the fees due Special Commissioners as set by the Court to be paid by Plaintiff BRAZOS COUNTY, TEXAS, are as follows:

| CHRIS QUINN  |                           |
|--------------|---------------------------|
| JERRY PONZIO |                           |
| WES HALL     | hour(s)= \$750.00 (Total) |
| SIGNED this  | . <u> </u>                |
|              |                           |

# Submitted by:

BRUCHEZ, GOSS, THORNTON, MERONOFF & BRIERS, PC.

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DEPARTMENT: NUMBER:

DATE OF COURT MEETING: 8/25/2020

Approval of Special Commissioners Award in Cause No. 607-CC. ITEM:

TO: **Commissioners Court** 

DATE: 08/17/2020

False FISCAL IMPACT: BUDGETED: False **DOLLAR AMOUNT:** \$0.00

**ATTACHMENTS:** 

File Name **Description** <u>Type</u>

Special Commissioners Award in Cause No. 607-CC.pdf Award **Backup Material** 



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TO:

**Commissioners Court** 

DATE:

08/17/2020

FISCAL IMPACT:

False

BUDGETED:

False

DOLLAR AMOUNT:

\$0.00

**ATTACHMENTS:** 

No Attachments Available

File Name

**Description** 

<u>Type</u>

APPROVED

Duane Peters

County Judge

Date

Filed 08/13/2020
Karen McQueen - County Clerk
Brazos County, Texas
Baker, Debbie
Deputy Clerk

#### Cause No. 607-CC

| BRAZOS COUNTY, TEXAS           | § | PROCEEDING IN EMINENT DOMAIN |
|--------------------------------|---|------------------------------|
|                                | § | •                            |
| Vs.                            | § | COUNTY COURT AT LAW 1        |
|                                | § | •                            |
| DAVID J. LEATHAM AND           | § |                              |
| MICHELLE D. LEATHAM, TRUSTEES  | § |                              |
| AND DAVID AND MICHELLE         | Š | •                            |
| LEATHAM REVOCABLE LIVING TRUST | § | BRAZOS COUNTY, TEXAS         |

#### SPECIAL COMMISSIONERS AWARD

TO THE HONORABLE JUDGE OF SAID COURT:

On July 27, 2020, at 1:00 p.m. at the Brazos Center, Assembly 3, 3232 Briarcrest Drive, Bryan, Brazos County, Texas 77802, in the above entitled and numbered eminent domain proceeding came to be heard before the undersigned Special Commissioners.

I.

On February 21, 2020, Plaintiff, Brazos County, Texas, filed it's Original Petition in Eminent Domain with the County Court at Law No. 1, Brazos County, Texas, wherein, upon the facts alleged Plaintiff Brazos County sought condemnation of an easement upon certain land more particularly described in its Petition in Eminent Domain (the "Petition") and in Exhibit "A" attached hereto as though fully set forth herein.

II.

Upon consideration of such Petition and forthwith upon filing, the Court appointed the undersigned three disinterested real property owners of Brazos County, Texas as Special Commissioners to assess the damages, if any, occasioned by the condemnation of such property interest for the purpose of easement for repairing and making improvements for the construction

and maintenance of roads and bridges, said real property being more particularly described in the attached Exhibit "A" which is incorporated herein for all purposes.

III.

By Notice of Hearing dated July 1, 2020, the undersigned Commissioners set the hearing of this matter for July 27, 2020, at 3:00 p.m. at the at the Brazos Center, Assembly 3, 3232 Briarcrest Drive, Bryan, Brazos County, Texas 77802, which is a place that is as near as practical to the property being condemned. On the day and at the place and time so appointed for such hearing, the undersigned Commissioners appeared for said hearing, and Plaintiff Brazos County duly appeared by its representatives and attorneys. Defendants David J. Leatham, Trustee, Michelle D. Leatham, Trustee, and David and Michelle Leatham Revocable Living Trust appeared by and through, Padon Holt, [did] [did not] appear and participate in the hearing. Whereupon the undersigned Commissioners proceeded to hear evidence as to the value of the property interest sought to be condemned and as to the damages which will be sustained by the owner of said property by reason of such condemnation of those certain easements described in Plaintiff's Original Petition in Eminent Domain; and said undersigned Commissioners have assessed the damages sustained and the benefits received by the Defendants by reason of such condemnation, both to the property taken and any remainder, if any.

IV.

Accordingly on July 27, 2020, we the undersigned Commissioners do hereby state, decided, assess and ORDER that the total amount of damages payable to Defendants, David J. Leatham, Trustee, Michelle D. Leatham, Trustee, and David and Michelle Leatham Revocable Living Trust for their undivided interest in the property taken is

\$ 21,869.00 and adjudge all costs of this proceeding against Plaintiff
Brazos County.

V.

Our decision is hereby reduced to writing, and it and all other papers connected with this proceeding are herewith returned to the Honorable Judge of the County Court at Law No.

1, Brazos County, Texas.

CHRIS QUINN, Special Commissioner

JERRY ONZIO Special Commissioner

WES HALL, Special Commissioner

The above Award of Special Commissioners is filed with me on the 8/13/2020

JUDGE PRESIDING



1722 Broadmoor Ste. 105
Bryan, Texas 77802
Phone: (979) 776 – 9836
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EXHIBIT "A" SHEET 1 OF 3

BRAZOS COUNTY
I & GN ROAD
0.275 OF ONE ACRE
DRAINAGE EASEMENT
OUT OF THE
DAVID & MICHELLE LEATHAM REVOCABLE LIVING TRUST
LOT ONE-B (1-B)
REPLAT OF LOT 1
WILLOW RUN, PHASE ONE
DEED VOLUME 14198, PAGE 149
PLAT VOLUME 7101, PAGE 45
JOHN PAYNE SURVEY, A – 195
BRAZOS COUNTY, TEXAS
JULY 17, 2019

All that certain lot, tract or parcel of land being 0.275 of one acre situated in the JOHN PAYNE SURVEY, Abstract No. 195, Brazos County, Texas and being a part of that certain Lot One-B (1-B), Replat of Lot 1, Willow Run, Phase One as described in Plat of record in Volume 7101, Page 45, Official Records of Brazos County, Texas, and further described in deed from David J. Leatham and wife, Michelle D. Leatham to David J. Leatham or Michelle D. Leatham, Trustees, or their successors in trust, under the David & Michelle Leatham Revocable Living Trust, of record in Volume 14198, page 149, Official Records of Brazos County, Texas, said 0.275 of one acre tract being more particularly described in two (2) Drainage Easements by metes and bounds as follows:

## DRAINAGE EASEMENT NO. 1 - 0.157 OF ONE ACRE

BEGINNING at a point at the intersection of the northeast right-of-way line of I & GN Road as described in Volume 3, Page 517, Condemnation Records of Brazos County, Texas (No Deed Found for Road R.O.W.) in an existing creek for the northwest corner, said point being the northwest corner of said Lot 1-B, said point being the most southwest corner of Lot 1-D, Replat of Lot 1, Willow Run, Phase One as described in Plat of record in Volume 7101, Page 45, Official Records of Brazos County, Texas, a 3/8" Iron Rod found for the most westerly corner of Lot 1-C of said Willow Run, Phase One bears N 22 ° 11 ' 36 " W a distance of 375.18 feet:

THENCE S 86°39'43" E, along the north line of said Lot 1-B and the south line of said Lot 1-D along the centerline of said creek a distance of 42.09 feet to a point for angle point;

THENCE N 55°01'10" E continuing along the north line of said Lot 1-B and the south line of said Lot 1-D along the centerline of said creek a distance of 16.66 feet to a point for the northeast comer;

THENCE S 21°18'01" E a distance of 124.99 feet to a 1/2" Iron Rod with Cap set for the most easterly corner.

THENCE S 67°57'33" W a distance of 52.28 feet to a 1/2" Iron Rod with Cap set in the southwest line of said Lot 1-B for the most southerly corner, said point being located in the northeast right-of-way line of



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said I & GN Road, a 1/2" Iron Rod with Cap (Kling) found for the most southerly corner of said Lot 1-B bears S 22 ° 11 ′ 36 " E a distance of 344.43 feet:

THENCE N 22°11'36" W along the southwest line of said Lot 1-B and the northeast right-of-way line of said I & GN Road a distance of 139.29 feet to the PLACE OF BEGINNING AND CONTAINING AN AREA OF 0.157 OF ONE ACRE IN DRAINAGE EASEMENT NO. 1.

#### DRAINAGE EASEMENT NO. 2 - 0.118 OF ONE ACRE

BEGINNING at a 1/2" Iron Rod with Cap (Kling) found for the most southerly corner of said Lot 1-B for the most southerly corner, said point being the most westerly corner of the Matthew Thomas Moore & Terri Lynn Moore, Lot 2A, Replat of Lot 2, Willow Run, Phase One as described in Plat of record in Volume 4555, Page 319, Official Records of Brazos county, Texas and further described in Deed of record in Volume 4610, Page 218, Official records of Brazos County, Texas, said point being in the northeast right-of-way of I & GN Road as described in Volume 3, Page 517, Condemnation Records of Brazos County, Texas (No Deed found for Road R.O.W.);

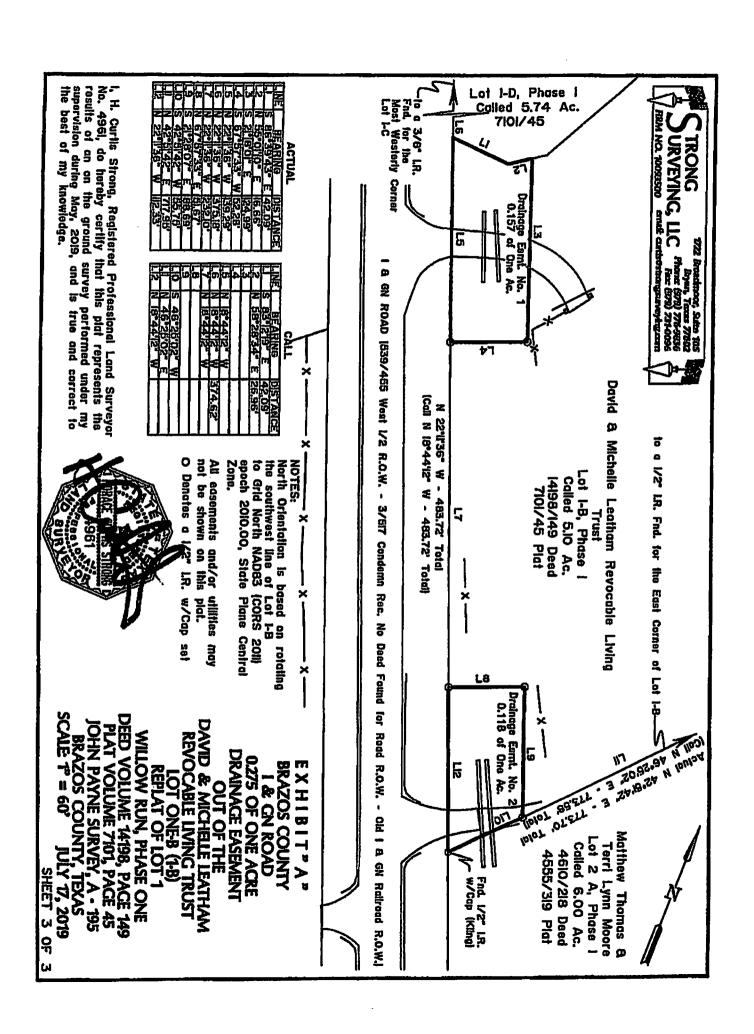
THENCE N 22°11'36" W along the southwest line of said Lot 1-B and the northeast right-of-way line of said I & GN Road a distance of 112.33 feet to a 1/2" Iron Rod with Cap set for the most westerly corner, the centerline of the creek found for the most westerly corner of said Lot 1-B bears N 22°11'36" W a distance of 371.39 feet:

THENCE N 67°57'33" E a distance of 51.67 feet to a 1/2" Iron Rod with Cap set for the most northerly corner.

THENCE S 21°28'07" E a distance of 88.69 to a 1/2" Iron Rod with Cap set in the southeast line of said Lot 1-B for the most easterly corner, a 1/2" Iron Rod found for the most easterly corner of said Lot 1-B bears N 42°51'42" E a distance of 717.95 feet;

THENCE S 42°51'42" W along the southeast line of said Lot 1-B and the northwest line of said Lot 2A a distance of 55.75 feet to the PLACE OF BEGINNING AND CONTAINING AN AREA OF 0.118 OF ONE ACRE IN DRAINAGE EASEMENT NO. 2.

Both Easements Combined CONTAINING AN AREA OF 0.275 OF ONE ACRE OF LAND MORE OR LESS, according to a survey performed on the ground during May 2019 under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961 and working under Firm No. 10093500. North Orientation is based on rotating the southwest line of said Lot 1-B to Grid North NAD83 (CORS 2011) State Plane Central Zone. For other information see accompanying plat.





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**DOLLAR AMOUNT: ATTACHMENTS:** 

File Name **Description** <u>Type</u>

\$0.00

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BUDGETED:

False

**DOLLAR AMOUNT:** 

\$0.00

**ATTACHMENTS:** 

No Attachments Available

File Name

**Description** 

<u>Type</u>

APPROVED

Duane Peters

County Judge

Date

#### Cause No. 608-CC

| BRAZOS COUNTY, TEXAS                      | §<br>§      | PROCEEDING IN EMINENT DOMAIN |
|---|-------------|------------------------------|
| Vs.                                       | 5<br>§<br>§ | COUNTY COURT AT LAW 2        |
| MATTHEW THOMAS MOORE AND TERRI LYNN MOORE | §<br>§      |                              |
|   | §<br>§      | BRAZOS COUNTY, TEXAS         |

# ORDER SETTING FEES OF THE SPECIAL COMMISSIONERS

BE IT REMEMBERED that the Special Commissioners named below, previously appointed by this Court in the above-styled and numbered cause, having discharged their duties according to law, and this Court, being empowered under and by virtue of Section 21.047(c) of the Texas Property Code to set their fees, it is, therefore, ORDERED that the fees due Special Commissioners as set by the Court to be paid by Plaintiff BRAZOS COUNTY, TEXAS, are as follows:

| SIGNED this _ | 30th of July, 2020      |
|---------------|-------------------------|
| WES HALL      |                         |
| JERRY PONZIO  |                         |
| CHRIS QUINN   | 3  hour(s) = 5  (Total) |

JUDGE PRESIDING

Page 1

# Submitted by:

BRUCHEZ, GOSS, THORNTON, MERONOFF & BRIERS, PC.

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State Bar No. 08222600
jgoss@bruchez.com
4343 Carter Creek Parkway, Suite 100Bryan,
Texas 77802

Telephone: (979) 268-4343 Facsimile: (979) 268-5323



DEPARTMENT: NUMBER:

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ITEM: Approval of Special Commissioners Award in Cause No. 608-CC.

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False FISCAL IMPACT: BUDGETED: False **DOLLAR AMOUNT:** \$0.00

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**ATTACHMENTS:** 

File Name <u>Description</u> <u>Type</u>

No Attachments Available

APPROVED

Duane Peters County Judge

Date

#### Cause No. 608-CC

| BRAZOS COUNTY, TEXAS     | § PROCEEDING IN EMINENT DOMAIN |
|--------------------------|--------------------------------|
|                          | §                              |
| Vs.                      | § COUNTY COURT AT LAW 2<br>§   |
| MATTHEW THOMAS MOORE AND | 5<br><b>S</b>                  |
| TERRI LYNN MOORE         | <b>§</b>                       |
|                          | \$                             |
|                          | § BRAZOS COUNTY, TEXAS         |

## SPECIAL COMMISSIONERS AWARD

#### TO THE HONORABLE JUDGE OF SAID COURT:

On July 27, 2020, at 3:00 p.m. at the Brazos Center, Assembly 3, 3232 Briarcrest Drive, Bryan, Brazos County, Texas 77802, in the above entitled and numbered eminent domain proceeding came to be heard before the undersigned Special Commissioners.

I.

On February 21, 2020, Plaintiff, Brazos County, Texas, filed it's Original Petition in Eminent Domain with the County Court at Law No. 2, Brazos County, Texas, wherein, upon the facts alleged Plaintiff Brazos County sought condemnation of an easement upon certain land more particularly described in its Petition in Eminent Domain (the "Petition") and in Exhibit "A" attached hereto as though fully set forth herein.

II.

Upon consideration of such Petition and forthwith upon filing, the Court appointed the undersigned three disinterested real property owners of Brazos County, Texas as Special Commissioners to assess the damages, if any, occasioned by the condemnation of such property interest for the purpose of easement for repairing and making improvements for the construction

and maintenance of roads and bridges, said real property being more particularly described in the attached Exhibit "A" which is incorporated herein for all purposes.

III.

By Notice of Hearing dated July 1, 2020, the undersigned Commissioners set the hearing of this matter for July 27, 2020, at 3:00 p.m. at the at the Brazos Center, Assembly 3, 3232 Briarcrest Drive, Bryan, Brazos County, Texas 77802, which is a place that is as near as practical to the property being condemned. On the day and at the place and time so appointed for such hearing, the undersigned Commissioners appeared for said hearing, and Plaintiff Brazos County duly appeared by its representatives and attorneys. Defendants Matthew Thomas Moore and Terry Lynn Moore appeared by and through, Padon Holt, [did] [did not] appear and participate in the hearing. Whereupon the undersigned Commissioners proceeded to hear evidence as to the value of the property interest sought to be condemned and as to the damages which will be sustained by the owner of said property by reason of such condemnation of those certain easements described in Plaintiff's Original Petition in Eminent Domain; and said undersigned Commissioners have assessed the damages sustained and the benefits received by the Defendants by reason of such condemnation, both to the property taken and any remainder, if any.

IV.

Accordingly on July 27, 2020, we the undersigned Commissioners do hereby state, decided, assess and ORDER that the total amount of damages payable to Defendants, Matthew Thomas Moore and Terri Lynn Moore for their undivided interest in the property taken is \$6,210.00 \_\_\_\_\_, and adjudge all costs of this proceeding against Plaintiff Brazos County.

Our decision is hereby reduced to writing, and it and all other papers connected with this proceeding are herewith returned to the Honorable Judge of the County Court at Law No. 2, Brazos County, Texas.

SIGNED this the 2 Truday of July 2020

CHRIS ONNN, Special Commissioner

JERRY ONZIO, Special Commissioner

WES HALL Special Commissioner

The above Award of Special Commissioners is filed with me on the <u>27</u> day of July, 2020.

JUDGE PRESIDING



1722 Broadmoor Ste. 105 Bryan, Texas 77802 Phone: (979) 776 - 9836 Fax: (979) 731 - 0096



EXHIBIT "A" SHEET 1 OF 3

**BRAZOS COUNTY 1& GN ROAD** 0.071 OF ONE ACRE DRAINAGE EASEMENT OUT OF THE MATTHEW THOMAS MOORE & TERRI LYNN MOORE LOT TWO A (2 A) **6.000 ACRES** REPLAT OF LOT 2 WILLOW RUN, PHASE ONE **DEED VOLUME 4610, PAGE 218** PLAT VOLUME 4555, PAGE 319 JOHN PAYNE SURVEY, A - 195 **BRAZOS COUNTY, TEXAS JULY 17, 2019** 

All that certain lot, tract or parcel of land being 0.071 of one acre situated in the JOHN PAYNE SURVEY, Abstract No. 195, Brazos County, Texas and being a part of that certain Lot TWO A (2 A), Replat of Lot 2, Willow Run, Phase One as described in Plat of record in Volume 4555, Page 319, Official Records of Brazos County, Texas, and further described in deed from Randall G. Rother and wife, Suzanne M. Rother to Matthew Thomas Moore and wife, Terri Lynn Moore of record in Volume 4610, page 218, Official Records of Brazos County, Texas, said 0.071 of one acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" Iron Rod with Cap (Kling) found in the northeast right-of-way line of I & GN Road as described in Volume 3, Page 517, Condemnation Records of Brazos County, Texas (No Deed Found for Road R.O.W.) for the northwest corner, said point being the northwest comer of said Lot 2A, said point being the most southwest corner of Lot 1-8, Replat of Lot 1, Willow Run, Phase One as described in Plat of record in Volume 7101, Page 45, Official Records of Brazos County, Texas;

THENCE N 42 ° 51 ' 42 " E along the northwest line of said Lot 2A and the southeast line of said Lot 1B a distance of 55.75 feet to a 1/2" Iron Rod with Cap set for the northeast corner, a 1/2" Iron Rod found for the most northerly corner of said Lot 2A bears N 42 ° 51 ' 42 ° E a distance of 525.30 feet;

THENCE S 21°28'07" E a distance of 73.50 feet to a 1/2" Iron Rod with Cap set for the most easterly comer;

THENCE S 67°57'33" W a distance of 49.68 feet to a 1/2" Iron Rod with Cap set in the southwest line of said Lot 2A for the most southerly corner, said point being located in the northeast right-of-way line of said I & GN Road, a 1/2" Iron Rod found for the most southerly corner of said Lot 2A bears S 22 ° 07 '01 " E a distance of 378.22 feet:



# TRONG URVEYING, LLC FIRM NO. 10093500 Email

1722 Broadmoor Ste. 105 Bryan, Texas 77802 Phone: (979) 776 -- 9836 Fay: (979) 731 -- 0096

Fax: (979) 731 – 0096 Email: curtis@strongsurveying.com



THENCE N 22°07'01" W along the southwest line of said Lot 2A and the northeast right-of-way line of said I & GN Road a distance of 49.85 feet to the PLACE OF BEGINNING AND CONTAINING AN AREA OF 0.071 OF ONE ACRE OF LAND MORE OR LESS, according to a survey performed on the ground during May 2019 under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961 and working under Firm No. 10093500. North Orientation is based on rotating the southwest line of said Lot 2A to Grid North NAD83 (CORS 2011) State Plane Central Zone. For other information see accompanying plat.