

TEMPORARY CONSTRUCTION AND ACCESS EASEMENT

Effective Date: Jan. 4, 2019

Grantor: Cemex Construction Materials South, LLC
2682 Wald Road
New Braunfels, Texas 78132

Grantee: Comal County, Texas
150 N. Seguin Avenue
New Braunfels, Texas 78130

Easement Property: Those properties described in *Exhibit "A"* and depicted on *Exhibit "B"* attached hereto, located in Comal County, Texas.

Grantor's Property: A 0.212 acre tract of land out of Survey Number 1, Juan Martin De Veramendi, Abstract Number 2 in Comal County, Texas. Said 0.212 acre tract of land being a portion of a 0.45 acre tract of land Parcel (c) described in a deed from Charles H. Mergele to Comal County dated March 13, 1967 recorded in Volume 154, Page 306 of the Deed Records of Comal County, Texas.

Easement Purpose: The purpose of the Easement (as hereinafter defined) is for the use by Grantee and Grantee's employees, agents, contractors and subcontractors for equipment, materials storage and temporary public traffic detours in connection with Grantee's replacement of the North Solms Road Bridge ("Project").

Grant: Grantor, for the Consideration grants, sells and conveys to Grantee a temporary easement ("Easement") over, upon and across the Easement Property for the Easement Purpose and for the benefit of Grantee, to have and to hold it to Grantee, subject to the terms hereof.

Exceptions to Conveyance and Warranty: All matters of record in Comal County, Texas, to the extent the same are valid and effective against the Easement Property.

Terms: The following terms apply to this Easement:

1. *Duration.* The Easement will terminate and cease to exist automatically and without further action on December 31, 2021.
2. *Storage.* The Easement Purpose includes the right for Grantee and Grantee's contractors, agents and representatives to store materials and equipment on the Easement Property for the duration of the Easement.

3. *Miscellaneous.*

- a. No rights or privileges are granted hereby except or expressly set forth herein.
- b. Notwithstanding anything to the contrary contained herein, in the event Grantee is prevented from completing the Project by December 31, 2021, due to inclement weather, strikes, riots, civil unrest, or any other cause which is beyond the reasonable control of Grantee (a delay due to any such cause being referred to herein as a "Force Majeure Delay"), then the duration of the Easement will be extended by the length of the Force Majeure Delay. In order for Grantee to obtain a Force Majeure Delay, Grantee must give written notice of the event causing the Force Majeure Delay to the Grantor within 10 days of the occurrence of the event causing the Force Majeure Delay. In no event will a Force Majeure Delay extend the duration of the Easement for more than 30 days.

- 4. *Notices.* Any notice of communication required or permitted hereunder is deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage fully prepaid, registered or certified mail, and address to the intended recipient at the address shown herein, and if shown, then at the last known address according to the records of the party delivery the notice. Notice herein given in any other manner is effective if and when received by the addressee. Any address for notice may be changed by written notice delivered as provided.

GRANTOR:

CEMEX CONSTRUCTION MATERIALS SOUTH, LLC

By: _____

Name: Rodrigo Portales

Title: Vice-President

GRANTEE:

By: _____

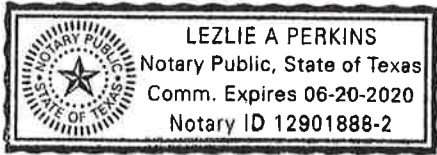
Name: Sherman Krause

Title: Comal County Judge

THE STATE OF TEXAS §

COUNTY OF COMAL §

This instrument was acknowledge before me on January 4, 2019, 2019, by Rodrigo Portales, Vice President of THE COUNTY OF COMAL, on behalf of same and in capacity herein stated.



Leslie A Perkins
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF COMAL §

This instrument was acknowledge before me on _____, 2019, by _____ of CEMEX CONSTRUCTION MATERIALS SOUTH, LLC, on behalf of same and in capacity herein stated.

Notary Public, State of Texas

DRAFT



EXHIBIT "A"

*Land Surveying
Land Planning*

P.O. Box 160609

15315 San Pedro

San Antonio, Texas 78280-2809

(210) 494-6405

Fax (210) 494-9840

Parcel 3

State of Texas §
County of Comal §

Field notes to 0.212 acres of land out of Survey Number 1, Juan Martin de Veramendi, Abstract Number 2 in Comal County, Texas. Said 0.212 acre tract of land being a portion of a 0.45 acre tract of land Parcel (c) described in a deed from Charles H. Mergele to Comal County dated March 13, 1967 recorded in Volume 154, Page 306 of the Deed Records of Comal County, Texas. Said 0.212 acre tract of land being more particularly described by metes and bounds as follows:

Beginning at a one half inch steel pin (rebar) with plastic cap (marked ACS, INC) set on a curve to the left on the common southwest line of Solms Road being the northeast line of a called 21.160 acre tract of land described in a deed from Herman Calcote and wife, Mary Jane Calcote to General Portland Inc. recorded in Volume 266, Page 708 of the Deed Records of Comal County, Texas and the southwest line of a called 0.45 acre tract of land Parcel (c) described in a deed from Charles H. Mergele to Comal County dated March 13, 1967 recorded in Volume 154, Page 306 of the Deed Records of Comal County, Texas. From said point a one inch diameter metal pipe found for the western most corner of said General Portland Inc. 21.160 acre tract of land bears the following four calls: North 53° 13' 42" West, a distance of 213.16 feet to a one half inch steel pin (rebar) with plastic cap (marked ACS, INC) set; North 48° 30' 27" West, a distance of 668.32 feet to a one half inch steel pin (rebar) with plastic cap (marked ACS, INC) set; North 83° 28' 40" West, a distance of 103.89 feet to a one half inch steel pin (rebar) with plastic cap (marked ACS, INC) set and South 60° 27' 48" West, a distance of 591.22 feet.

Thence with the proposed southwest right-of-way line of Solms Road the following two calls: with said curve to the left (whose radius point bears North 32° 03' 02" East, a distance of 1294.99 feet, central angle is 01° 05' 20", whose chord bears South 58° 29' 38" East, a distance of 24.61 feet) an arc distance of 24.61 feet to a one half inch steel pin (rebar) with plastic cap (marked ACS, INC) set for the P.T. of said curve and South 59° 02' 17" East, a distance of 327.93 feet to a one half inch steel pin (rebar) with plastic cap (marked ACS, INC) set in the center of Comal Creek for the western most corner of this tract of land.

Thence with the center of Comal Creek the following two calls: South 32° 05' 00" West, a distance of 21.42 feet to a calculated point and South 21° 00' 53" West, a distance of 19.42 feet to a calculated point for the common eastern most corner of said Herman Calcote and wife, Mary Jane Calcote to General Portland Inc. 21.160 acre tract of land and the northern most corner of a called 29.732 acre tract of land described in a deed to Trans Texas Properties, LLC recorded in DOC# 200806022075 of the Official Public Records of Comal County, Texas. From said point a one half inch steel pin found for an angle point on the northeast line of said Trans Texas Properties, LLC called 29.732 acre tract of land bears South 60° 38' 17" East, a distance of 124.96 feet.

Thence with the existing southwest right-of-way line of Solms Road being the common southwest line of said Charles H. Mergele to Comal County 0.45 acre tract of land and the northeast line of said Herman Calcote and wife, Mary Jane Calcote to General Portland Inc. 21.160 acre tract of land the following two calls: North 56° 10' 58" West, a distance of 186.47 feet to a one inch diameter metal pipe found for an angle point and North 48° 29' 52" West, a distance of 172.14 feet to the point of **Beginning**. Bearing basis: GRID NAD 83, Texas South Central Zone from G.P.S. observation taken on August 11, 2014 at Latitude 29°40'25.583" North; Longitude 98°10'39.905" West, NAD83 (2011) (EPOCH:2010.0000) OPUS Solution from PID's DJ7862, DG5767 and DJ7872.

I, Michael J. Harris, Registered Professional Land Surveyor hereby certify that these field notes, field notes for Parcels 1, 2, 4 and 5 were prepared from an on the ground survey made under my direction January 20, 2015. Plat prepared separately dated January 20, 2015.



Michael J. Harris
Registered Professional Land Surveyor
Registration Number 4381



DRAFT

Armstrong Cadastral Survey's

Texas Board of Professional Land Surveying Firm Registration Number 101691-00

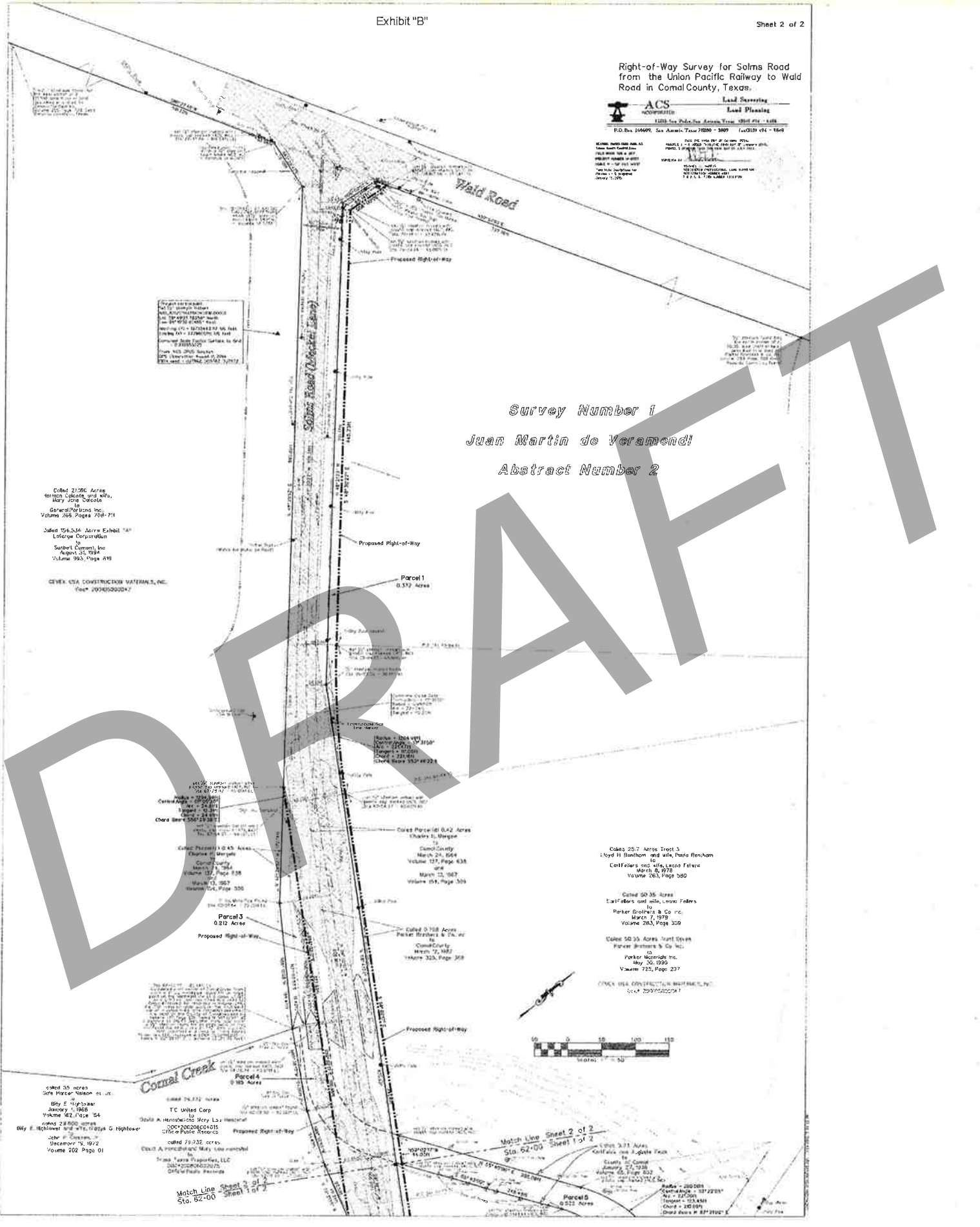
Right-of-Way Survey for Solms Road from the Union Pacific Railway to Wald Road in Comal County, Texas.

ACS
1100 San Pedro San Antonio, Texas 78204-4108
P.O. Box 104609, San Antonio, Texas 78209-9609 Fax (210) 494-1108

Lead Surveying
Lead Planning
DATE OF THIS SURVEY: 02/08/2014
PROJECT: Right-of-Way Survey for Solms Road from the Union Pacific Railway to Wald Road in Comal County, Texas.
SHEET: 2 of 2
SCALE: AS SHOWN
DRAWN BY: [Name]
CHECKED BY: [Name]
DATE: 02/08/2014

Wald Road
137.885

Survey Number 1
Juan Martin de Veramendi
Abstract Number 2



Called 21586 Acres
Terry Cabote and wife,
Mary Jane Cabote
to
General Ponds Inc.
Volume 268, Page 714

Called 54.54 Acres Exhibit "A"
Loforge Corporation
to
Suebel Current, Inc.
August 27, 1994
Volume 993, Page 491

CEVEK USA CONSTRUCTION MATERIALS, INC.
Case# 20091000047

Parcel 1
0.539 Acres

Parcel 2
0.42 Acres

Parcel 3
0.212 Acres

Parcel 4
0.193 Acres

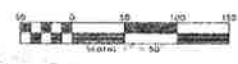
Parcel 5
0.212 Acres

Called 25.7 Acres Tract 3
Roy H. Benham and wife, Phyllis Benham
to
Coffey's and wife, Leona Felice
March 8, 1976
Volume 263, Page 380

Called 50.35 Acres
L. J. Fellers and wife, Leona Fellers
to
Parker Brothers & Co. Inc.
March 7, 1979
Volume 263, Page 329

Called 50.35 Acres Hunt Over
Parker Brothers & Co. Inc.
to
Parker Materials, Inc.
May 30, 1990
Volume 725, Page 237

CEVEK USA CONSTRUCTION MATERIALS, INC.
Case# 20091000047



Match Line Sheet 2 of 2
Sta. 62+00 Sheet 1 of 2

Match Line
Sta. 62+00