

11. Approval of a Permit to Construct Access Driveway Facilities on Highway Right-of-Way with the Texas Department of Transportation Related to the Improvements to Markum Ranch Road and Authorize the County Engineer to Sign



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER _____

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DATE: 05/21/2024

SUBJECT: APPROVAL OF A PERMIT TO CONSTRUCT ACCESS DRIVEWAY FACILITIES ON HIGHWAY RIGHT-OF-WAY WITH THE TEXAS DEPARTMENT OF TRANSPORTATION RELATED TO THE IMPROVEMENTS TO MARKUM RANCH ROAD AND AUTHORIZE THE COUNTY ENGINEER TO SIGN

***** CONSENT AGENDA *****

COMMISSIONERS COURT ACTION REQUESTED

It is requested that the Commissioners Court approve a Permit to Construct Access Driveway Facilities on Highway Right-of-Way with the Texas Department of Transportation (TxDOT) related to improvements to Markum Ranch Road and authorize the County Engineer to sign.

BACKGROUND

Markum Ranch Road, located in Tarrant County Precinct 1, is planned to be widened and reconstructed as a concrete roadway from the I-20 eastbound access road southward to Ranchers Legacy Trail.

A portion of the project is within the I-20 eastbound access road right-of-way which is maintained and operated by the TxDOT. The final construction plans for the Markum Ranch Road improvements were sent to TxDOT for review and approval. Permit No. 03-DCC-10-2024 was provided by TxDOT staff and requires an authorized signature from the County to finalize the review coordination with TxDOT and allow for the County to construct improvements within the State right-of-way.

With approval, the Commissioners Court will authorize Joseph Jackson, County Engineer, to sign and execute the Permit to Construct Access Driveway Facilities on Highway Right-of-Way with the Texas Department of Transportation to finalize the review coordination with TxDOT.

The permit has been approved as to form by the Criminal District Attorney's Office.

FISCAL IMPACT

There is no fiscal impact associated with this item.

SUBMITTED BY:	Transportation	PREPARED BY: APPROVED BY:	Joseph Jackson
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TARRANT COUNTY
TRANSPORTATION DEPARTMENT

RE: Form 1058 (Rev. 09/23): Permit to Construct Access Driveway Facilities on Highway Right of Way

Dear Mr. Alva,

The Tarrant County Transportation Services Department intends to execute the Permit to Construct Access Driveway Facilities on Highway Right of Way for the IH-20 Frontage Road and Markum Rach Road intersection upon approval of the Tarrant County Commissioners Court. For reference, the permit number is 03-DCC-10-2024. However, Form 1058 includes a term which Tarrant County seeks to modify in paragraph 5. Under Article XI, Section 7 of the Texas Constitution, Tarrant County is prohibited from taking on debts unless a sinking fund is created. The Office of the Attorney General has opined an indemnification provision in a contract creates a debt to the extent such language requires a county to indemnify another party for damages arising from the acts of that party constitutes a debt. *See Tex. Att'y Gen. Op. DM—467 (1998).*

With this in mind, you have advised Tarrant County may submit any special language sought as part of the permit on a separate letter which will be attached to the permit. By this letter, Tarrant County executes Form 1058 with the following modification to the language in paragraph 5:

Revision to No. 5: The Permittee shall hold harmless the State and its duly appointed agents and employees against any action for personal injury or property damage related to the driveway permitted hereunder. Notwithstanding the foregoing, Permittee's obligation hereunder to indemnify and hold harmless the State is only to the extent permitted by the laws and Constitution of the State of Texas, and only to the extent the Texas Legislature waives Permittee's existing immunity.

Should you have any questions, please do not hesitate to contact me.

Respectfully,

Joseph Jackson, P.E., CFM
County Engineer / Assistant Director
Tarrant County Transportation Services Department
100 E. Weatherford St., Suite 401
Fort Worth, Texas 76196

Permit to Construct Access Driveway Facilities on Highway Right of Way

PERMIT NUMBER: 03-DCC-10-2024			
REQUESTOR		GPS*	ROADWAY
		LATITUDE, LONGITUDE	HWY NAME IH 20
		32.6931457,-97.5186964	FOR TxDOT'S USE
NAME		CONTROL	0008
		SECTION	-16
MAILING ADDRESS			
CITY, STATE, ZIP			
PHONE NUMBER			
*GLOBAL POSITIONING SYSTEM COORDINATES AT INTERSECTION OF DRIVEWAY CENTERLINE WITH ABUTTING ROADWAY			

The Texas Department of Transportation, hereinafter called the State, hereby authorizes _____, hereinafter called the Permittee, to ☐ construct / ☒ reconstruct a Street (residential, convenience store, retail mall, farm, etc.) access driveway on the highway right of way abutting highway number IH-20 in Tarrant County, located IH-20 Frontage Rd and Markum Ranch rd Intersection.

USE ADDITIONAL SHEETS AS NEEDED

Is this parcel in current litigation with the State of Texas? ☐ YES ☒ NO

Is the Permittee or a family member of Permittee an employee or official of the Texas Department of Transportation? ☐ YES ☒ NO

Does an employee or official of the Texas Department of Transportation serve as an employee or officer of Permittee or own a controlling interest in Permittee? ☐ YES ☒ NO

This permit is subject to the Access Driveway Policy described on page 2 and the following:

1. The undersigned hereby agrees to comply with the terms and conditions set forth in this permit for construction and maintenance of an access driveway on the state highway right of way.
2. The Permittee represents that the design of the facilities, as shown in the attached sketch, is in accordance with the Roadway Design Manual, Hydraulic Design Manual and the access management standards set forth in the Access Management Manual (except as otherwise permitted by an approved variance).
3. Construction of the driveway shall be in accordance with the attached design sketch, and is subject to inspection and approval by the State.
4. Maintenance of facilities constructed hereunder shall be the responsibility of the Permittee, and the State reserves the right to require any changes, maintenance or repairs as may be necessary to provide protection of life or property on or adjacent to the highway. Changes in design will be made only with prior written approval of the State.
5. The Permittee shall hold harmless the State and its duly appointed agents and employees against any action for personal injury or property damage related to the driveway permitted hereunder.
6. Except for regulatory and guide signs at county roads and city streets, the Permittee shall not erect any sign on or extending over any portion of the highway right of way. The Permittee shall ensure that any vehicle service fixtures such as fuel pumps, vendor stands, or tanks shall be located at least 12 feet from the right of way line to ensure that any vehicle services from these fixtures will be off the highway right of way.
7. The State reserves the right to require a new access driveway permit in the event of: (i) a material change in land use, driveway traffic volume or vehicle types using the driveway, or (ii) reconstruction or other modification of the highway facility by the State.
8. The State may revoke this permit upon violation of any provision of this permit by the Permittee.
9. This permit will become null and void if the above-referenced driveway facilities are not constructed within six (6) months from the issuance date of this permit.
10. The Permittee will contact the State's representative Mr. Isaac Alva telephone, (817) 889-7215 , at least twenty-four (24) hours prior to beginning the work authorized by this permit.
11. The requesting Permittee will be provided instructions on the appeal process if this permit request is denied by the State.

The undersigned hereby agrees to comply with the terms and conditions set forth in this permit for construction and maintenance of an access driveway on the highway right of way.

Date: _____

Signed: _____

(Property owner or owner's representative)

Date of Issuance

District Engineer, or designee Approval

Date of Issuance as per Variance to AMM

District Engineer, or designee Approval

Date of Denial

District Engineer Denial (No Delegation)

Access Driveway Policy

Title 43 Texas Administrative Code (Transportation), Chapter 11 (Design), Subchapter C (Access Connections To State Highways) and the "Access Management Manual" establish policy for the granting of access and the design, materials, and construction of driveways connecting to state highways. All driveway facilities must follow this policy. To the extent there is any conflict between this permit and the policy, the policy shall control. If a proposed driveway does not comply with the access management standards, the owner may seek a variance to a requirement contained in the access management standards by contacting the local TxDOT office.

TxDOT Driveway Permit Request Contact

For a local contact for your TxDOT Driveway Permit Request or variance request, visit: <http://www.txdot.gov/inside-txdot/district.html>. You can click on the section of the map closest to your location to find the local TxDOT office. You can also click on the drop down box below the map to find the district for your county.

Other Conditions

In addition to Items 1 thru 11 on page 1 of this permit, the facility shall also be in accordance with the attached sketch and subject to the following additional conditions stated below:

Requirements and Conditions for Permit: See TXDOT Final set plans for the state standards and conditions of the Permit. The Pre Construction meeting is before work starts on project. Email to schedule for the Pre Construction meeting and request construction data needed before start. ion). All Traffic control requires a 10 day in advance of a closure notice and message boards shell be in place 7 days in advance. Form HCRS is need to be completed along with the TCP. No work in rain, snow or forecast of bad weather condition on State roadway. Work Hours in roadway are 9am to 4pm. Weekdays. Before work begins please call (817)-370-3661 to locate any ITS or Traffic communication lines owned by TxDOT.

Variance Documentation Justification

For a Variance request, please indicate which of the below are applicable, as required by TAC §11.52(e):

- ☐ a significant negative impact to the owner's real property or its use will likely result from the denial of its request for the variance, including the loss of reasonable access to the property or undue hardship on a business located on the property.
- ☐ an unusual condition affecting the property exists that was not caused by the property owner and justifies the request for the variance.

For the conditions selected above, provide written justification below. (Attach additional sheets, if needed)

For TXDOT use below:

For Variance denials, please indicate which of the below conditions, as provided in TAC §11.52(e), were determined:

- ☐ adversely affect the safety, design, construction, mobility, efficient operation, or maintenance of the highway; or
- ☐ likely impair the ability of the state or the department to receive funds for highway construction or maintenance from the federal government.

Attachments:

Sketch of Installation

All Variance Documentation