TEMPORARY CONSTRUCTION EASEMENT OK per Gary 3-22-07

THIS TEMPORARY CONSTRUCTION EASEMENT, executed and delivered to the City of Wichita, Kansas (hereinafter, "City") by Simon Property Group, LP (hereinafter, "Owner").

WITNESSETH:

That for and in consideration of the sum of ONE HUNDRED DOLLARS AND NO CENTS ($100.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, Owner hereby grants, bargains, sells and conveys to City temporary easements in, over, across and upon the following-described premises, to wit:

Rock Road Temporary Easement

TRACT I

A temporary construction easement over, across and upon a strip of land 10 feet wide in Lot 1, Kellogg Mall Addition, in the Southeast Quarter of Section 19, Township 27 South, Range 2 East, of the 6th Principal Meridian, in the city of Wichita, county of Sedgwick, state of Kansas, more particularly described as follows:

Beginning at the Northeast corner of Lot 4, Kellogg Mall Addition, thence North 01°59'15" West along the East line of said Lot 1 for a distance of 231.58 feet; thence South 89°03'09" West and perpendicular to the East line of said Southeast quarter for a distance of 12.03 feet to a point 92.50 feet West of the East line of said Southeast Quarter and the Point of Beginning: thence South 89°03'09" West for a distance of 10.00 feet; thence North 00°56'51" West for a distance of 152.83 feet; thence South 88°56'41" West parallel to the North line of said Southeast Quarter for a distance of 138.00 feet; thence North 00°56'51" West parallel to the East line of said Southeast Quarter for a distance of 173.94 feet; thence North 89°03'09" East for a distance of 148.00 feet to a point 6.10 feet West of the East line of said Lot 1 and 92.50 feet West of the East line of said Southeast Quarter; thence South 00°56'51" East and parallel to the East line of said Southeast Quarter for a distance of 326.50 feet to the Point of Beginning. Said Tract I of land contains 27,251 square feet of land more or less;

AND

TRACT II

A temporary construction easement over, across and upon a strip of land 10 feet wide in Lot 1, Kellogg Mall Addition, in the Southeast Quarter of Section 19, Township 27 South, Range 2 East, of the 6th Principal Meridian, in the city of Wichita, county of Sedgwick, state of Kansas, more particularly described as follows:

Commencing at the Southeast corner of said Lot 1, said point also being the Northeast Corner of Lot 4, Kellogg Mall Addition; thence South 89°12'53" West along the South line of said Lot 1 for a distance of 16.23 feet to a point 92.50 feet West of the East line of said Southeast Quarter for the Point of Beginning: thence continuing along the said South line of Lot 1 on a bearing of South 89°12'53" West for a distance of 10.00 feet; thence North 00°56'51" West and parallel to the East line of said Southeast Quarter for a distance of 231.47 feet to a point 102.50 feet West of the East line of said Southeast Quarter; thence north 89°03'09" East for a distance of 10.00 feet; thence South 00°56'51" East for a distance of 231.49 feet to the Point of Beginning. Said Tract 2 contains 2,316 square feet of land more or less. (Tract I and Tract II are collectively referred to as the "Rock Road Easement").

Kellogg Temporary Easement

A temporary construction easement over, across and upon a strip of land 10 feet wide in Lot 1, Kellogg Mall Addition, in the Southeast Quarter of Section 19, Township 27 South, Range 2 East, of the 6th Principal Meridian, in the city of Wichita, county of Sedgwick, state of Kansas, more particularly described as follows:

Commencing at the Southwest corner of said Lot 1; thence North 01°15'47" West along the West line of said Lot 1 for a distance of 94.72 feet to a point on the proposed North right-of-way line of US 54 Highway for the Point of Beginning: thence continuing North 01°15'47" West along the West line of said Lot 1 for a distance of 10.01 feet; thence North 89°24'10" East and parallel to the said proposed North right-of-way line of US 54 Highway for a distance of 674.44 feet to a point on the West line of Lot 4 of said Kellogg Mall Addition; thence South 00°56'37" East along the West line of said Lot 4 for a distance of 10.01 feet to a point on the proposed North right-of-way line of US 54 Highway; thence South 89°24'09" West along said proposed right-of-way line of US 54 Highway for a distance of 674.39 to the Point of Beginning. Said tract contains 6,750 square feet of land more or less. ("Kellogg Easement")

Old Chicago Temporary Easement

A temporary construction easement over, across and upon a strip of land 10 feet wide in Lot 4, Kellogg Mall Addition, in the Southeast Quarter of Section 19, Township 27 South, Range 2 East, of the 6th Principal Meridian, in the city of Wichita, county of Sedgwick, state of Kansas, more particularly described as follows:

> Commencing at the Southwest corner of said Lot 4; thence North 00°56'37" West along the West line of said Lot 4 for a distance 92.74 feet to a point on the North right-of-way line of proposed US 54 highway for the Point of Beginning: thence continuing North 00°56'37" West along the West line of said Lot 4 a distance of 10.01 feet; thence North 88°34'40" East a distance of 173.65 feet; thence South 00°55'49" East a distance of 10.01 feet to a point on the proposed North right-of-way line of US 54 Highway and 85.85 feet North of the South line of said Lot 4; thence South 88°34'37" West along the proposed North right-of-way line of said US 54 Highway a distance of 173.65 feet to the Point of Beginning. Said tract contains 1,737 square feet of land more or less. ("Old Chicago Easement")

LaQuinta Temporary Easement #1

A strip of land 10.00 feet wide in Lot 4, Kellogg Mall Addition, in the Southeast Quarter of Section 19, Township 27 South, Range 2 East, of the 6th Principal Meridian, in the City of Wichita, County of Sedgwick, State of Kansas:

> Commencing at the Southeast corner of Said Lot 4 said Point of Beginning also being a point on the West line of Lot 1, Rockwood 2nd Addition; thence North 00°58'37" West along the East line of said Lot 4 for a distance of 80.79 feet to the Point of Beginning: thence North 88°34'34" West for a distance of 126.61 feet to a point 85.85 feet North of the South line of said Lot 4; thence North 00°55'49" West for a distance of 10.01 feet; thence South 88°34'28" East for a distance of 126.60 feet to a point on the East line of said Lot 4; thence South 00°58'37" East along the East line of said Lot 4 for a distance of 10.01 feet, to the Point of Beginning. Said tract contains 1,266 square feet of land more or less. (LaQuinta #1, Easement)

LaQuinta Temporary Easement #2

A strip of land 10.00 feet wide in Lot 4, Kellogg Mall Addition, in the Southeast Quarter of Section 19, Township 27 South, Range 2 East, of the 6th Principal Meridian, in the City of Wichita, County of Sedgwick, State of Kansas:

> Commencing at the Northeast corner of Lot 4; thence South 89 degrees 12 minutes 53 seconds West along the North line of said Lot 4 a distance of 16.23 feet to a point 92.50 feet West of the East line of the said Southeast Quarter for the Point of Beginning: thence South 00°56'51" East for a distance of 235.22 feet to a point on the North line of Lot 1, Rockwood 2nd Addition, thence South 88°52'37" West along the North line of said Lot 1 for a distance of 10.00 feet; thence North 00°56'51" West for a distance of 235.27 feet to a point on the North line of said Lot 4 and 102.50 feet West of the East line of said Southeast Quarter; thence North 89°12'53" East along the North line of said Lot 4 for a distance of 10.00 feet to the Point of Beginning. Said tract contains 2,353 square feet of land more or less. (LaQuinta #2 Easement)

for the purpose of permitting all construction uses according to plans and specifications now on file or soon to be filed in the office of the City Engineer with regard to the Kellogg Rock Road Interchange Project, City Project No. 54-87 K8259-01, but only insofar as the construction of the north Frontage Road on Kellogg and the Rock Road construction north of Kellogg are involved. Said Kellogg, Old Chicago, and LaQuinta #1 Easements shall expire three (3) months after completion of the above described construction on Kellogg, as herein specified, and the Rock Road and LaQuinta #2 Easements shall expire three (3) months after completion of the above-described construction on Rock Road, as herein specified.

The Rock Road Easement, Kellogg Easement, Old Chicago Easement, LaQuinta Easement #1, and LaQuinta Easement #2 shall be referred to herein as the "Temporary Easements". The Temporary Easements are being acquired for the purpose of surveying, excavating, filling, grading and all other purposes incidental to the construction of a street or sidewalk on the permanent right of way adjacent thereto substantially as shown on the plans filed, or soon to be filed, with the City Engineer for the City of Wichita, Kansas, as aforesaid. All areas disturbed are to be restored by replacement of sod or pavement to a condition as good as or better than before. No trees or improvements are to be damaged or removed excepting those indicated on the plans aforedescribed. No part of any building or structure, including any eaves, awnings or other overhanging attachment, either within or partly within said Temporary Easements, shall be damaged or removed unless indicated on the plans aforedescribed. The owners, tenants, lienholders and easement holders, their heirs and assigns, may fully use and enjoy the land within the construction easement, provided such use shall not interfere with the construction of the adjacent street improvements. The owner, tenants, their customers and the public at large

shall have access from a public street to the property across part of which the Temporary Easements are being acquired at all times during the period of construction.

SIMON PROPERTY GROUP, L.P.
a Delaware limited partnership

By: Simon Property Group, Inc.,
a Delaware corporation, General Partner

By:_____
David Simon, Chief Executive Officer
of Simon Property Group, Inc.

STATE OF _____)
) ss:
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2005, by _____ as _____ of Simon Property Group, L.P., a Delaware limited partnership.

_____
Notary Public

My Appointment Expires:

_____

ACCEPTED BY THE CITY COUNCIL FOR THE CITY OF WICHITA, KANSAS THIS ____ DAY OF _____, 2005.

RECOMMENDED:

_____
Chris Carrier

THE CITY OF WICHITA, KANSAS

_____
Carlos Mayans, Mayor

Director of Public Works

APPROVED AS TO FORM:

Doug Moshier, Assistant City Attorney

Karen Sublett, City Clerk