

**POSSESSION AND USE AGREEMENT  
RM 2338**

STATE OF TEXAS	§
	§
COUNTY OF WILLIAMSON	§

WHEREAS, BRAD ALLEN and NANCY ALLEN, hereinafter referred to as "GRANTOR", whether one or more, is the owner of that certain pieces, parcels or tracts of land in Williamson County, Texas, being more particularly described by metes and bounds in Exhibits "A-B" (Parcel 25 & 25E), which is attached hereto and made a part hereof; and

WHEREAS, WILLIAMSON COUNTY, TEXAS, CHISHOLM TRAIL SPECIAL UTILITY DISTRICT and PEDERNALES ELECTRIC COOPERATIVE "collectively GRANTEE", plan to acquire a fee simple interest in the tract of land described in Exhibit "A", and a waterline/electric utility easement interest in the tract of land described in Exhibit "B", whether through contract and conveyance or through eminent domain proceedings; and

WHEREAS, the GRANTEE must have possession of said-described tract of land for the purposes described below,

Construction of the RM 2338 roadway improvements and related utility relocations (Project).

NOW THEREFORE, BE IT KNOWN:

That in consideration of the payment of THIRTY THREE THOUSAND THREE HUNDRED FIFTY TWO AND 00/100 Dollars (\$33,352.00), which amount represents 90% of the GRANTEE'S estimated compensation for the acquisition of the Property to be acquired and any damages to the remaining property, GRANTOR has GRANTED and CONVEYED and by these presents does GRANT and CONVEY unto the GRANTEE, its employees, agents and assigns an irrevocable right-of-entry, possession, and construction easement, with the right of exclusive possession over, upon, and across those tracts of land described in Exhibits "A-B".

GRANTOR warrants and represents by, through, and under the GRANTOR, but not otherwise, that the title to the Property is free and clear of all liens and encumbrances on the title to the Property, or that any necessary and proper releases or subordinations will be executed for the Property prior to or simultaneously with the first payment of funds being disbursed under this agreement. The GRANTOR further agrees to indemnify the GRANTEE from all unreleased or undisclosed liens, claims or encumbrances that are known to GRANTEE and that affect the Property.

It is expressly agreed, acknowledged, and understood that the consideration paid hereunder shall be credited against, applied towards, and offset from any consideration to be paid in satisfaction of an agreed purchase price under a contract and conveyance or in satisfaction of the award of the Special Commissioners or subsequent judgment in any condemnation proceeding for the acquisition of the property interests described herein and shown in Exhibits "A-B".

It is expressly agreed, acknowledged, and understood that the easements, rights, and privileges herein granted are assignable and shall be used by the GRANTEE, its employees, agents, and assigns, for the purposes of entering upon the above-described property, before the closing of the contemplated real estate transaction or the acquisition of title through condemnation, and proceeding with surveying, site review and analysis, utility relocation, actual construction on the Project, and all manner of preparation and work attendant thereto. Utility relocation, if any, shall include, but not be limited to, the relocation of water and wastewater lines, electrical lines, cable television lines, telephone lines, gas lines, and their attendant facilities from the existing roadway right-of-way on the property described in Exhibits "A-B".

The GRANTEE, its employees, agents, and assigns shall have the full and exclusive right to control and use the above-described tracts, including the right to erect and maintain fencing and traffic and pedestrian control and devices and signs, the right to clear trees and vegetation, and the right to excavate, trench, fill, and grade the real property itself.

At no time during the possession of the property by GRANTEE for the purposes described herein shall GRANTOR be denied reasonable access and/or ingress to or egress from the remaining property.

The easement, rights, and privileges herein granted shall automatically terminate upon the contemplated closing of the above-described real estate transaction or the rendition of a final judgment in condemnation proceedings. However, this grant shall survive the termination of any purchase contract agreement and shall also survive any institution of condemnation proceedings.

The parties further agree as follows:

1. That by virtue of the granting of permission to the GRANTEE to take temporary possession of the Property in accordance with this Agreement, GRANTOR does not waive any legal rights or defenses under the Constitution of the United States, the Constitution and Statutes of the State of Texas or any other provisions of the law that GRANTOR may have in connection with the acquisition of any rights to the Property by the GRANTEE.
2. That this Right of Entry, Possession, and Construction Easement is irrevocable by GRANTOR but only valid until sixty (60) business days after the filing of a Special Commissioners' award in the Cause. Thereafter, continued possession, if at all, will be pursuant to a deposit of a Special Commissioners' award according to Texas law governing possession in a statutory eminent domain case.
3. The date of valuation for purposes of determining the value of the just compensation for the Property to be acquired shall be the date of the full execution of this document by all parties.

5. This Agreement shall be binding upon the heirs, devisees, executors, administrators, legal representatives, successors and assigns of the parties. Specifically, Grantee's heirs, devisees, executors, administrators, legal representatives, successors or assigns are bound by terms of this agreement which state that the consideration paid hereunder to Grantee shall be credited against, applied towards, and offset from any consideration to be paid in satisfaction of an agreed purchase price under a contract and conveyance or in satisfaction of the award of the Special Commissioners or subsequent judgment in any condemnation proceeding for the acquisition of the property described herein, whether said Grantee is or is not the owner of said property, now or in the future.
6. The easement, right, and privileges granted herein are exclusive, and GRANTOR covenants that it will not convey any other easement or conflicting rights within the area covered by this grant. This grant shall be binding upon legal representatives, successors, and assigns of GRANTOR for the term of this grant.

TO HAVE AND TO HOLD the possession of the above-described tracts of land for the purposes and subject to the limitations described above, and GRANTOR warrants that he knows of no persons or business entity owns a present possessory interest in the fee title to the above-described premises other than GRANTOR, and that there are no parties in possession of any portion of the referenced real property as lessees other than identified herein.

*[signature page follows]*

Executed this the \_\_\_\_ day of \_\_\_\_\_, 2010.

**GRANTOR:**

\_\_\_\_\_  
Brad Allen

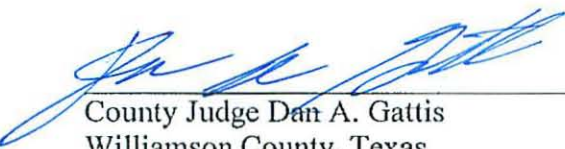
Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Nancy Allen

Address: \_\_\_\_\_  
\_\_\_\_\_

**GRANTEE:**

WILLIAMSON COUNTY, TEXAS

  
\_\_\_\_\_  
County Judge Dan A. Gattis  
Williamson County, Texas

Address: 710 Main Street  
Suite 101  
Georgetown, Texas 78626

**ACKNOWLEDGMENT**

**STATE OF TEXAS**

**COUNTY OF \_\_\_\_\_**

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_, 2010 by Brad Allen and Nancy Allen, in the capacity and for the purposes and consideration recited herein.

\_\_\_\_\_  
Notary Public, State of Texas

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**STATE OF TEXAS**

**COUNTY OF WILLIAMSON**

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_, 2010 by Dan A. Gattis, Williamson County Judge, in the capacity and for the purposes and consideration recited herein.

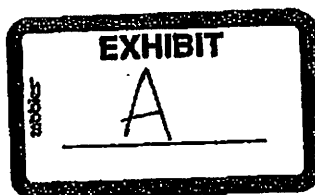
\_\_\_\_\_  
Notary Public, State of Texas

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

After recording return to:

Don Childs  
Sheets & Crossfield, P.C.  
309 E. Main St.  
Round Rock, Texas 78664



Page 1 of 4  
PARCEL 25  
March 4, 2009

County: Williamson  
Parcel No.: 25  
Highway: R.M. 2338  
Limits: From 0.3 Miles North of Ronald W. Reagan Blvd.  
To F.M. 3405  
CSJ: 2211-01-023

### LEGAL DESCRIPTION FOR PARCEL 25

BEING 0.220 of an acre (9,579 Square Feet) of land, situated in the Lewis P. Dyches Survey, Abstract No. 171, in Williamson County, Texas, said land being a portion of Lot 3A of Resubdivision of Lot 2, Block Three, Northlake, Section E, a subdivision of record in Cabinet K, Slide 108, of the Plat Records of Williamson County, Texas, said Lot 3A having been conveyed to Brad Allen and wife, Nancy Allen, by deed recorded in Document No. 9649794 of the Official Records of Williamson County, Texas. Surveyed on the ground in the month of January 2008, under the supervision of Brian F. Peterson, Registered Professional Land Surveyor, and being more particularly described as follows;

Beginning for REFERENCE at an iron pin found on the Southwest line of Oakland Road, marking the most easterly corner of the above-referenced Lot 3A, being the most northerly corner of Lot 4A, of that said Resubdivision of Lot 2 of Block Three, North Lake, Section E, said Lot 4A having been conveyed to Arlin R. Thomsen and Catherine J. Thomsen, by deed as recorded in Volume 2330, Page 189, of the Official Records of Williamson County, Texas;

THENCE, along the Southeast line of the said Lot 3A, being the Northwest line of the said Lot 4A, S 49°37'45" W, 773.80 feet to an iron pin with TxDOT aluminum cap set on the proposed Northeast line of Ranch to Market Highway No. 2338, 75.00 feet left of station 441+69.80, for the most easterly corner and Point of BEGINNING hereof;

- 1) THENCE, S 49°37'45" W, 28.28 feet to an iron pin found on the existing Northeast line of RM 2338, marking the most southerly corner of the said Lot 3A, being the most westerly corner of the said Lot 4A, for the most southerly corner hereof;
- 2) THENCE, along the said existing Northeast line of RM 2338, N 45°01'30" W, 348.35 feet to an iron pin with TxDOT aluminum cap set for the most westerly corner of the said Lot 3A, being the most southerly corner of that certain tract of land, called 0.16 of an acre 20-Foot-Dedicated Road Widening as shown on the Plat of Castlerock Subdivision, a subdivision of record in Cabinet L, Slide 352, of the Plat Records of Williamson County, Texas, for the most westerly corner hereof;
- 3) THENCE, along the Northwest line of the said Lot 3A, N 50°59'45" E, 20.22 feet to an iron pin with TxDOT aluminum cap set marking the most easterly corner of the said 0.16 of an acre 20-Foot-Dedicated Road Widening and the most southerly corner of Lot 1 of the said Castlerock Subdivision;

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83. All distances are surface distances and may be converted back to grid with a Combined Adjustment Factor of 1.00014.

STATE OF TEXAS

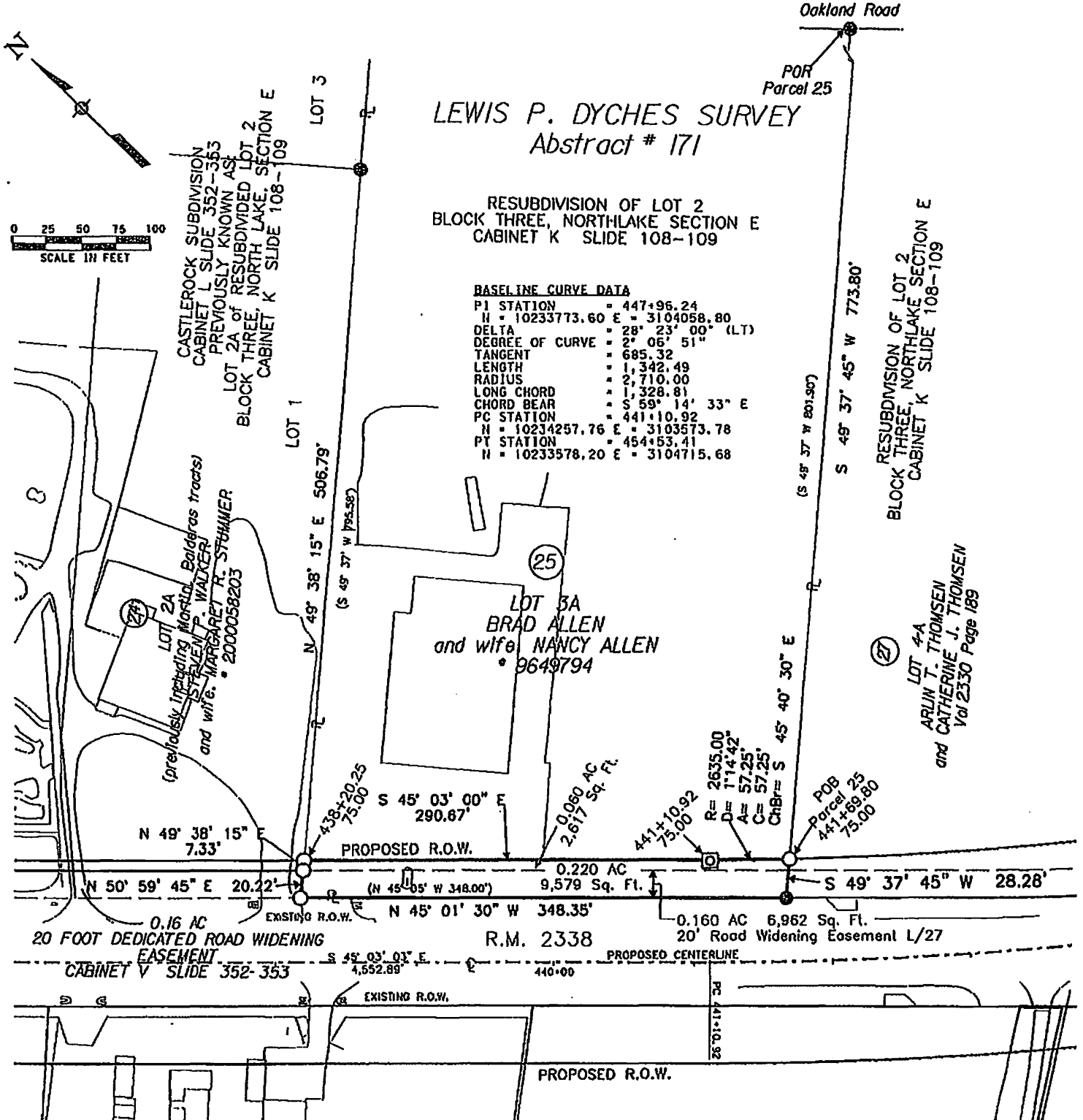
}

COUNTY OF WILLIAMSON

}

To certify which, witness my hand and seal at Georgetown, Williamson County, Texas, this the 18th day of March, 2008 A.D.

# PLAT TO ACCOMPANY PARCEL DESCRIPTION



## LEWIS P. DYCHES SURVEY Abstract # 171

RESUBDIVISION OF LOT 2  
BLOCK THREE, NORTHLAKE SECTION E  
CABINET K SLIDE 108-109

### BASELINE CURVE DATA

P1 STATION = 447+96.24  
H = 10233773.60 E = 3104058.80  
DELTA = 28° 23' 00" (LT)  
DEGREE OF CURVE = 2° 06' 51"  
TANGENT = 685.32  
LENGTH = 1,342.49  
RADIUS = 2,710.00  
LONG CHORD = 1,328.81  
CHORD BEAR = S 59° 14' 33" E  
PC STATION = 441+10.92  
H = 10234257.76 E = 3103573.78  
PT STATION = 454+53.41  
H = 10233578.20 E = 3104715.68

LOT 3A  
BRAD ALLEN  
and wife NANCY ALLEN  
• 9649794

RESUBDIVISION OF LOT 2  
BLOCK THREE, NORTHLAKE SECTION E  
CABINET K SLIDE 108-109

LOT 4A  
ARLIN T. THOMSEN  
and CATHERINE J. THOMSEN  
Var 2530 Page 189

STEGE BIZZELL

PARCEL PLAT SHOWING PROPERTY OF:

BRAD ALLEN  
and wife, NANCY ALLEN



Texas Department of Transportation  
By Order of the Department of Transportation

SCALE:

1" = 100'

CSJ #:

2211-01-023

PROJECT:

RM 2338

COUNTY:

WILLIAMSON

PARCEL: 25

Plat 1 of 2



PLAT TO ACCOMPANY PARCEL DESCRIPTION

# LEGEND

- TYPE I CONCRETE MONUMENT FOUND
- TYPE II MONUMENT FOUND
- ⊠ 1/2" IRON ROD SET TO BE REPLACED WITH TxDOT TYPE II MONUMENT AFTER R.O.W. ACQUISITION IS COMPLETE
- ⊠ 1/2" IRON ROD FOUND TO BE REPLACED WITH TxDOT TYPE II MONUMENT AFTER R.O.W. ACQUISITION IS COMPLETE
- ⊙ 1/2" IRON PIPE FOUND UNLESS NOTED
- 1/2" IRON ROD SET W/ TxDOT ALUM CAP
- 1/2" IRON ROD FOUND UNLESS NOTED
- △ CALCULATED POINT
- ⊕ NAIL FOUND
- ⊙ CENTER LINE
- ⊙ PROPERTY LINE
- ( ) RECORD INFORMATION
- P.O.R. POINT OF REFERENCE
- P.O.B. POINT OF BEGINNING
- LINE BREAK

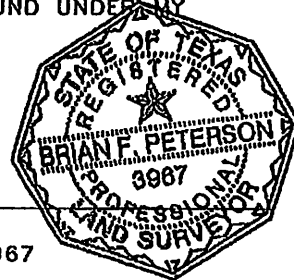
NOTES:

ALL BEARINGS ARE BASED ON GRID BEARINGS. DISTANCES ARE SURFACE DISTANCES. COORDINATES ARE SURFACE VALUES BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, CENTRAL ZONE USING A COMBINED SURFACE ADJUSTMENT FACTOR OF 1.00014.

THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT. THERE MAY BE EASEMENTS OR OTHER INSTRUMENTS PERTAINING TO THIS PROPERTY THAT ARE NOT SHOWN HEREON.

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THE PROPERTY SHOWN HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

*3/19/07*  
BRIAN F. PETERSON  
REGISTERED PROFESSIONAL LAND SURVEYOR, No. 3967  
STATE OF TEXAS



PAGE 4 OF 4

STEGERY BIZZELL

PARCEL PLAT SHOWING PROPERTY OF:

BRAD ALLEN  
and wife, NANCY ALLEN



Texas Department of Transportation  
9100 North Loop East, Suite 1000  
Houston, Texas 77060

SCALE:  
1" = 100'

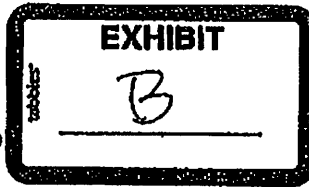
CSJ #:  
2211-01-023

PROJECT:  
RM 2338

COUNTY:  
WILLIAMSON

PARCEL: 25  
Plot 2 of 2

STATE OF TEXAS  
COUNTY OF WILLIAMSON



0.160 ACRE OF LAND SITUATED IN  
LEWIS P. DYCHES SURVEY  
ABSTRACT 171  
WILLIAMSON COUNTY, TEXAS

### LEGAL DESCRIPTION

DESCRIPTION OF A 0.160 ACRE (6,959 SQUARE FEET) TRACT OF LAND SITUATED IN THE LEWIS P. DYCHES SURVEY, ABSTRACT 171, WILLIAMSON COUNTY, TEXAS AND BEING A PORTION OF LOT 3A, RESUBDIVISION OF LOT 2, BLOCK THREE, NORTHLAKE SECTION E, A SUBDIVISION ACCORDING TO THE PLAT OF RECORD IN CABINET K, SLIDES 108-109 OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS, AND BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a point being the intersection of the southeast line of said Lot 3A, same being the northwest line of Lot 4A, said Resubdivision of Lot 2, Block Three, Northlake Section E, and the proposed curving northeast right-of-way line of Ranch to Market Road No. 2338, a proposed 150-foot wide right-of-way, and from which a 1/2-inch iron rod with aluminum cap stamped "Texas Dept. of Trans." found bears S00°28'35"W a distance of 0.38 feet, also a 1/2-inch iron rod found in the existing northeast right-of-way line of R.M. 2338 for the south corner of said Lot 3A, same being the west corner of said Lot 4A, bears S49°37'44"W a distance of 28.28 feet;

**THENCE** leaving said southeast line of Lot 3A and said northwest line of Lot 4A, crossing said Lot 3A, with said proposed northeast right-of-way line of R.M. 2338, the following two (2) courses and distances:

1. with the arc of a curve to the right a distance of 57.25 feet, said curve having a radius of 2635.00 feet, a central angle of 01°14'42", and a chord bearing N45°40'24"W a distance of 57.25 feet to a 1/2-inch iron rod with aluminum cap stamped "Texas Dept. of Trans." found for a point of tangency, and
2. N45°03'03"W a distance of 290.67 feet to a point being the intersection of said proposed northeast right-of-way line of R.M. 2338 and the northwest line of said Lot 3A, same being the southeast line of Lot 1, Castlerock Subdivision, a subdivision according to the plat of record in Cabinet V, Slides 352-353 of said Plat Records of Williamson County;

**THENCE** leaving said proposed northeast right-of-way line of R.M. 2338, with said northwest line of Lot 3A and said southeast line of Lot 1, N49°38'21"E a distance of 20.07 feet;

**THENCE** leaving said northwest line of Lot 3A and said southeast line of Lot 1, with a line being 20-feet northeast of and parallel to said proposed northeast right-of-way line of R.M. 2338 the following two (2) courses and distances:

1. S45°03'03"E a distance of 289.03 feet to a point of curvature to the left, and

2. with the arc of said curve to the left a distance of 58.90 feet, said curve having a radius of 2615.00 feet, a central angle of  $01^{\circ}17'26''$ , and a chord bearing  $S45^{\circ}41'46''E$  a distance of 58.89 feet to a point in said southeast line of Lot 3A and said northwest line of Lot 4A;

THENCE with said southeast line of Lot 3A and said northwest line of Lot 4A,  $S49^{\circ}37'44''W$  a distance of 20.11 feet to said POINT OF BEGINNING and containing 0.160 acre.

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

§

COUNTY OF TRAVIS


§

That I, Dan H. Clark, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during the month of September 2008.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 30th day of July 2009, A.D.

Halff Associates, Inc.  
4030 West Braker Lane  
Suite 450  
Austin, Texas 78759



 7/30/2009  
Dan H. Clark  
Registered Professional Land Surveyor  
No. 6011 – State of Texas

ADDITIONAL NOTES:

1. Bearings shown hereon are based on the Texas State Plane Coordinates System, NAD 83, Central Zone, using a combined surface adjustment factor of 1.00014. Distances shown hereon are surface distances.
2. This description has been prepared as a result of a survey completed in July 2009 and is submitted in connection with a survey drawing prepared by Halff Associates, Inc. titled S301-IS(25)-26424.dgn, dated July 30, 2009, AVO No. 26424.
3. See Texas Department of Transportation Right-of-Way map CSJ 2211-01-023 for detailed information regarding Ranch to Market Road No. 2338.

LOT 1  
CASTLEROCK SUBDIVISION  
CAB. V, SLIDES 352-353  
P.R.W.C.T.

GRAPHIC SCALE 1"=50'



## LEGEND:

1/2" IRON ROD FOUND W/CAP "XDOY"  
CALCULATED POINT  
O.P.R.W.C.T. OFFICIAL PUBLIC RECORDS OF WILLIAMSON CO., TX  
P.R.W.C.T. PLAT RECORDS OF WILLIAMSON CO., TX  
D.R.W.C.T. DEED RECORDS OF WILLIAMSON CO., TX  
P.O.B. POINT OF BEGINNING  
( ) RECORD INFORMATION

PROPOSED WATER  
LINE ESMT.  
0.160 AC.  
6,959 SQ. FT.

RESUBDIVISION OF LOT 2,  
BLOCK THREE  
NORTHLAKE SECTION E  
CAB. K, SLIDES 108-109  
P.R.W.C.T.

LOT 3A

LEWIS P. DYCHES SURVEY,  
ABSTRACT NO. 171

LOT 4A

LINE	BEARING	DISTANCE
L1	N 49° 38' 21" E	20.07'
L2	S 49° 37' 44" W	20.11'
L3	S 49° 38' 21" W	7.33'
L4	S 50° 59' 44" W	20.22'
L5	S 49° 37' 44" W	28.28'

CURVE	RADIUS	DELTA	LENGTH	BEARING	DISTANCE
C1	2635.00'	01° 14' 42"	57.25'	N 45° 40' 24" W	57.25'
C2	2615.00'	01° 17' 26"	58.90'	S 45° 41' 46" E	58.89'



**HALFF**

4030 WEST BRAVERLY LANE, SUITE 450  
AUSTIN, TEXAS 78759-5324  
TEL (512) 252-8184  
FAX (512) 252-8111

PARCEL 25  
SKETCH TO ACCOMPANY DESCRIPTION

HALFF AVO:  
26424

DATE:  
7/30/2009

ACCOMPANYING FILE NAME:  
SV-LD-P25-28424.doc

SKETCH BY:  
KKH

6,959 SQUARE FEET  
~ 0.160 ACRE  
SITUATED IN THE  
LEWIS P. DYCHES SURVEY,  
ABSTRACT NO. 171  
WILLIAMSON COUNTY, TEXAS