

POSSESSION AND USE AGREEMENT FOR TRANSPORTATION PURPOSES

STATE OF TEXAS

§

Project No.: SH195

§

Parcel No.: 109B

COUNTY OF WILLIAMSON

§

CSJ No.: 0440-02-0112

This agreement, effective the 28th day of MARCH, 2011, between the State of Texas, acting by and through Williamson County, Texas (the "State"), and WILFORD C. SCHNEIDER, Trustee, (the "Grantor(s)"), grants an irrevocable right to possession and use to the State, its contractors, agents and all others deemed necessary by the State for the purpose of constructing a portion of Highway No. 195. The property involved is described more fully in field notes and plat map (attached as Exhibit "A") and made a part of this Agreement by reference (the "Property").

1. For the consideration paid by the State which is set forth in Paragraph two below, the receipt and sufficiency of which is acknowledged, Grantor(s) grant, bargain, sell and convey to the State of Texas exclusive possession and use of the Property for the purpose of constructing a highway and appurtenances thereto and the right to remove any improvements. This Possession and Use Agreement will extend to the State, its contractors, assigns and/or owners of any existing utilities on the Property and those which may be lawfully permitted on the Property by the State in the future. This grant will allow the construction, relocation, replacement, repair, improvement, operation and maintenance of these utilities on the Property.
2. In full consideration for this irrevocable grant of possession and use, the State will tender to the Grantor(s) the sum of TWO HUNDRED TEN THOUSAND NINE HUNDRED EIGHTY NINE and 00/100 Dollars (\$210,989.00). The Grantor(s) agrees that this sum represents adequate and full compensation for the possession and use of the Property. The State will be entitled to take possession and use of the Property upon tender of payment. The parties agree that the sum tendered represents 90 percent of the State's approved value. The approved value is the State's determination of the just compensation owed to the Grantor(s) for the full fee title interest to be acquired by the State in the Property, encumbered with the improvements thereon, if any, and damages to the remainder, if any, save and except all oil, gas and sulphur. The parties agree that this sum will be deducted from any final settlement amount, award or verdict. In the event the final award or verdict for the fee title is less than the amount the State has paid for the possession and use of the property, then the Grantors agree that the original amount tendered represents an overpayment and that the State is entitled to seek a refund.
3. The Grantor(s) warrants and represents that the title to the Property is free and clear of all liens and encumbrances and that proper releases will be executed for the Property prior to funds being disbursed under this agreement. Grantors further warrant that no other person or corporation owns an interest in the fee title to the Property.

The Grantor(s) further agree(s) to indemnify the State from all unreleased or undisclosed liens, claims or encumbrances affecting the Property.

4. This agreement is made with the understanding that the State will continue to negotiate in good faith with the Grantor(s) to acquire a fee interest in the Property by direct purchase. It is further understood in the event a settlement is not reached within ninety (90) days of the effective date of this agreement, the State shall begin proceedings in eminent domain to acquire fee title to the Property. The State will not unreasonably delay the commencement of proceedings under eminent domain once the time provided for in this paragraph has expired.
5. The parties agree that the valuation date for determining the amount of just compensation for the fee title for the Property, for negotiation or eminent domain proceeding purposes, will be the date on which payment was tendered to the Grantor(s) pursuant to paragraph two above.
6. This grant will not prejudice Grantor's rights to receive full and just compensation for the fee title or any easement interest to be acquired by the State in the Property, encumbered with the improvements thereon, if any, and damages, if any, to the remainder of Grantors' lands, save and except all oil, gas and sulphur. This grant will not prejudice Grantor(s) rights to any relocation benefits for which they may be eligible.
7. In the event the State institutes eminent domain proceedings, the State will not be liable to Grantor(s) for interest upon any award or judgment as a result of such proceedings for any period of time prior to the date of the award. Payment of any interest may be deferred by the State until entry of judgment.
8. The purpose of this agreement is to allow the State to proceed with its construction project without delay and to allow the Grantor(s) to avoid litigation at this time.
9. Grantors reserve all of the oil, gas and sulphur in and under the land herein conveyed but waive all right of ingress and egress to the surface for the purpose of exploring, developing, mining or drilling. Nothing in this reservation will affect the title and rights of the State to take and use all other minerals and materials thereon, and thereunder. The extraction of oil, gas and minerals may not affect the geological stability of the surface.
10. The undersigned Grantor(s) agree(s) to pay all taxes, including prorated taxes for the current year, and special assessments due at the time the State takes possession of the Property.
11. This agreement will also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors and assigns of the parties.
12. It is agreed the State will record this document
13. Other conditions: None.

To have and to hold the Agreement herein described and conveyed, together with all the rights and appurtenances belonging to the State of Texas and its assigns forever, for the purposes and subject to the limitations set forth above.

IN WITNESS WHEREOF, THIS INSTRUMENT IS EXECUTED ON THIS THE 18th DAY OF March, 2011.

Grantors:

Wilford C. Schneider
Wilford C. Schneider, Trustee

ACCEPTED AND AGREED TO BY THE STATE OF TEXAS, ACTING BY AND THROUGH
WILLIAMSON COUNTY, THIS THE _____ DAY OF _____, 2011.

WILLIAMSON COUNTY, TEXAS

By: 

Dan A. Gattis, County Judge

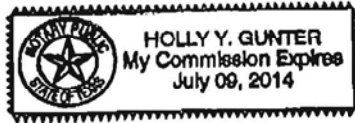
Acknowledgement

State of Texas

County of _____

This instrument was acknowledged before me on 18th of MARCH 2011

by Wilford C. Schneider, Trustee, in the capacity and for the purposes and consideration recited herein.



Holly Y. Gunter
Notary Public's Signature

State of Texas

County of Williamson

This instrument was acknowledged before me on _____

by Dan A. Gattis, Williamson County Judge, in the capacity and for the purposes and consideration recited herein.

Notary Public's Signature

After recording return to:

EXHIBIT



County: Williamson
Highway: SH 195
Limits: From 8.105 Miles South of S. H. 138 to I.H. 35
ROW CSJ: 0440-02-012

Legal Description Parcel 109 B

BEING a 3.166 acre (137,901 square feet) tract of land located in the Burrell Hayes Survey, Abstract No. 216, of Williamson County, Texas, said 3.166 acre tract of land is out of and a part of a 11.17 acre tract conveyed by Wilford C. Schneider, et al to Wilford C. Schneider, by deed recorded May 10, 2010 as Document No. 2010030328 of the Official Public Records of Williamson County, Texas, said 3.166 acre tract of land is further described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod with a plastic cap found for the south corner of the above referenced 11.17 acre tract, said rod is located 516.32 feet right of Proposed State Highway 195 (SH 195) Baseline Station 1670+56.19;

THENCE North 30° 11' 59" East with the southeast line of the said 11.17 acre tract for a distance of 360.02 feet to a 5/8 inch iron rod with TxDOT aluminum cap set in the proposed southwest right of way line of SH 195 for the POINT OF BEGINNING of the herein described tract, said rod is located 158.05 feet right of Proposed SH 195 Baseline Station 1670+20.78;

1. THENCE North 45° 46' 53" West, with the proposed southwest right of way line of SH 195 for a distance of 55.22 feet to a TxDOT Type II concrete monument set for an angle point, said monument is located 150.00 feet right of Proposed SH 195 Baseline Station 1669+66.15;
2. THENCE North 54° 26' 29" West continuing with the proposed southwest right of way line of SH 195 for a distance 557.23 feet to a TxDOT Type II concrete monument set for angle point, said monument is located 125.00 feet right of Proposed SH 195 Baseline Station 1663+95.55;
3. THENCE North 59° 39' 26" West continuing with the proposed southwest right of way line of SH 195 for a distance of 240.31 feet to a 5/8 inch iron rod with TxDOT aluminum cap set in the southeast line of a 2.24 acre tract conveyed by Wilford Schneider and wife, Mary Lois Schneider, to Janis Johnson and Richard

EXHIBIT _____

W. Johnson, by deed recorded September 20, 1982 in Volume 889, Page 756, of the Deed Records of Williamson County, Texas, said rod is located 124.14 feet right of Proposed SH 195 Baseline Station 1661+55.24;

4. THENCE North 44° 56' 38" East with the southeast line of the 2.24 acre tract for a distance of 149.07 feet to a calculated point in the existing southwest right of way line of SH 195, from which a 1/2 inch iron rod found bears South 44° 56' 38" West a distance of 0.28 feet;
5. THENCE South 59° 50' 49" East with the existing southwest right of way line of SH 195 for a distance of 810.74 feet to a 1/2" iron rod with a plastic cap found for the north or northeast corner of said 11.17 acre tract;
6. THENCE South 30° 11' 59" West, with the southeast line of said 11.17 acre tract for a distance of 210.85 feet to the POINT OF BEGINNING, said described tract containing 3.166 acres or (137,901 square feet) of land, more or less.

This survey is referenced to the National Spatial Reference System. The projection and datum are the Texas State Plane Coordinate System, Central Zone, North American Datum of 1983. All bearings are relative to National Geodetic Survey, 1993 Adjustment, monuments T27 A (PID AB2837), Austin RRP (PID AF9537) and, Georgeport (PID BM1093). All distances are surface values expressed in U. S. Survey feet and may be converted to grid by dividing by the TxDOT surface adjustment factor of 1.00012.

This description was prepared in conjunction with, and is accompanied by a plat of an even date herewith.

Surveyed by:
RODS Surveying, Inc.
6810 Lee Road, Spring Texas 77379
Phone (281) 379-6388

I, Scott Morris, hereby certify that the above description is true and correct and depicts a survey made under my supervision and on the ground and is based on data gathered from February 2001 to October 2006.

Scott Morris, Registered Professional Land Surveyor No. 5076
Date as of: 2-10-2011



FILED

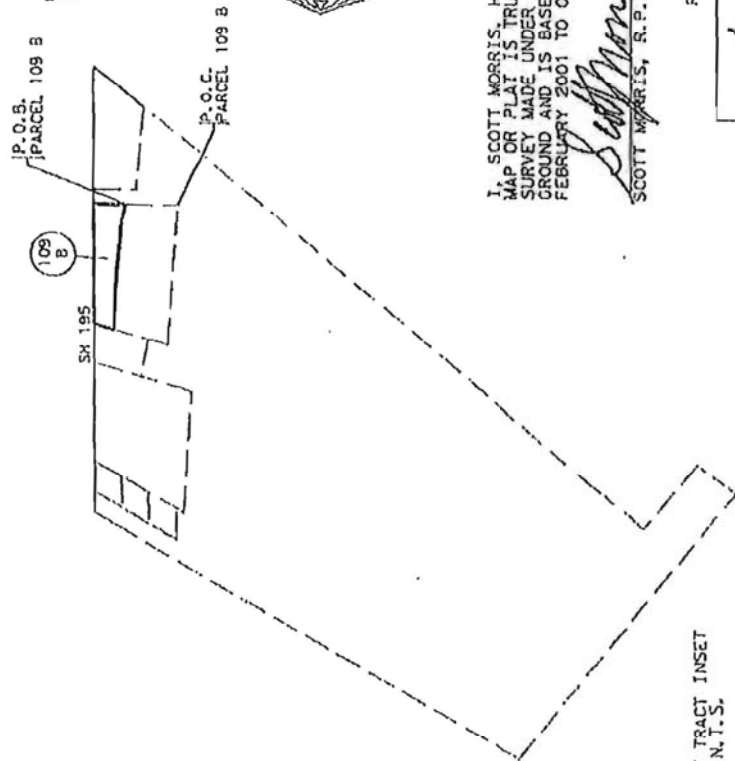
LEGEND

- FOUND CONCRETE MONUMENT (TXDOT TYPE 1)
- FOUND CONCRETE MONUMENT (TXDOT TYPE 11)
- CONCRETE MONUMENT SET (TXDOT TYPE 11)
- FOUND 1/2" IRON ROD UNLESS NOTED
- 5/8" IRON ROD SET WITH TXDOT
- ALUMINUM CAP (UNLESS NOTED)
- CALCULATED POINT
- FOUND CORNER (AS DESCRIBED)
- 5/8" IRON ROD SET WITH
- YELLOW CAP "RODS SURVEYING INC."
- PROPERTY LINE
- RECORD INFORMATION

RECORD INFORMATION

- SURVEY LINE
- PROPOSED DRAINAGE EASEMENT
- ACCESS DENIAL LINE
- EXISTING R.O.W. LINE
- PARCEL BOUNDARY

- R.O.W.
- P.O.B.
- P.O.C.
- PC
- PT
- POINT OF TANGENCY
- CHD
- CHD BEARING
- CHD DISTANCE
- B.L.
- N.T.S.
- NOT TO SCALE
- P.U.E.
- PUBLIC UTILITY EASEMENT
- W.C.O.R.
- WILLIAMSON COUNTY DEED RECORDS
- W.C.O.R.
- WILLIAMSON COUNTY OFFICIAL PUBLIC RECORDS
- W.C.O.P.R.
- WILLIAMSON COUNTY OFFICIAL PUBLIC RECORDS
- W.C.P.R.
- WILLIAMSON COUNTY PLAT RECORDS
- O.S.S.F.S.
- ON SITE SEWERAGE FACILITY SETBACK



PARENT TRACT INSET
N.T.S.

NOTES:

1. IMPROVEMENTS SHOWN HEREON ARE BASED UPON TXDOT AERIAL SURVEY: DIGITAL FILES DATED FEBRUARY, 2001 AND MAY, 2002 UPDATED BY ON THE GROUND SURVEYS MADE IN FEBRUARY, 2006.

2. THIS SURVEY IS REFERENCED TO THE NATIONAL SPATIAL REFERENCE SYSTEM. THE PROJECTION AND DATUM ARE THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983. ALL BEARINGS ARE RELATIVE TO NATIONAL GEODETIC SURVEY, 1993 ADJUSTMENT, MONUMENTS T27 A (PID AB2837), AUSTIN RSP (PID AF5537) AND, GEORGETOWN (PID B1053). ALL DISTANCES ARE SURFACE VALUES EXPRESSED IN U.S. SURVEY FEET AND MAY BE CONVERTED TO GRID BY DIVIDING BY THE TXDOT SURFACE ADJUSTMENT FACTOR OF 1.00012.

PARCEL NO.	RECORD AREA		ACQUIRED AREA		APPROXIMATE REMAINDER			
	ACRES	SQ. FT.	ACRES	SQ. FT.	LEFT		RIGHT	
109 B	11.17	486,565	3.166	137,901	ACRES	SQ. FT.	ACRES	SQ. FT.
					8.004		348,564	

EXHIBIT.



I, SCOTT MORRIS, HEREBY CERTIFY THAT THE HEREON MAP OR PLAT IS TRUE AND CORRECT AND DEPICTS A SURVEY MADE UNDER MY SUPERVISION AND ON THE GROUND AND IS BASED ON DATA GATHERED FROM FEBRUARY 2001 TO OCTOBER 2006

Scott Morris 2-10-2011
SCOTT MORRIS, R.P.L.S. = 5076 DATE AS OF

REVISED: NOVEMBER, 2010



RIGHT OF WAY PLAT
SHOWING PROPERTY OF
WILFORD C. SCHNEIDER

PARCEL 109 B

PAGE 3 OF 5

ROW CSJ NO. 0440-02-012

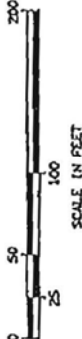
STATE HIGHWAY 195 WILLIAMSON COUNTY, TEXAS

RODS SURVEYING INC.

6810 LEE ROAD SPRING, TX 77379

(281) 257-4020

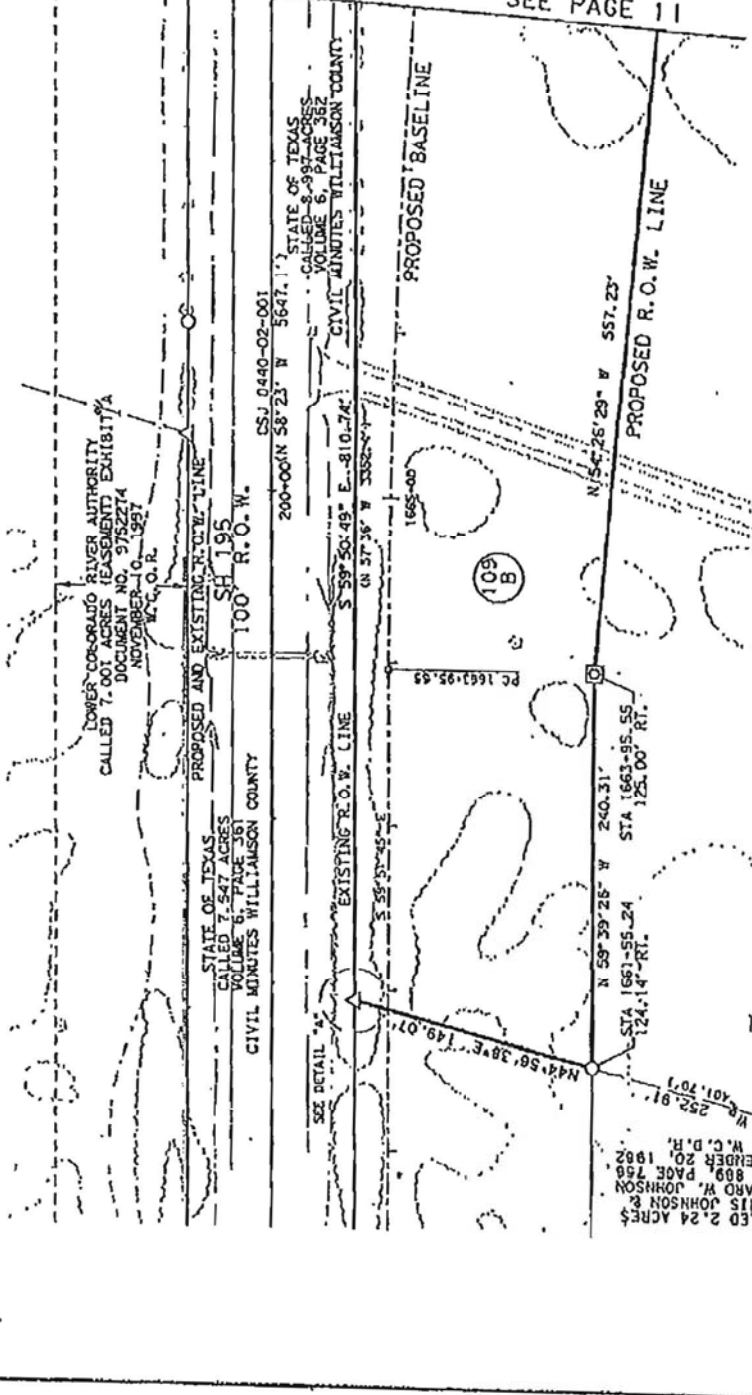
SCALE: 1"=100' NOVEMBER 23, 2010



BURRELL EAVES SURVEY, A-216

MATCHLINE STA 1668+00

SEE PAGE 11



REVISED: NOVEMBER, 2010

RIGHT OF WAY PLAT
SHOWING PROPERTY OF
WILFORD C. SCHNEIDER

PARCEL 109 B

PAGE 4 OF 5

ROW CSJ NO. 0440-02-012

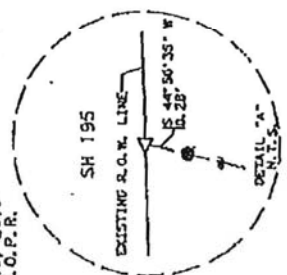
STATE HIGHWAY 195 WILLIAMSON COUNTY, TEXAS

RODS SURVEYING INC.

6810 LEE ROAD SPRING, TX 77379

(281) 257-4020

SCALE: 1"=100' NOVEMBER 23, 2010



BURRELL EAVES SURVEY, A-216

PROPOSED AND EXISTING R.O.W. LINE
WITH PROPOSED ACCESS DENIAL LINE

PROPOSED AND EXISTING R.O.W. LINE

STATE OF TEXAS
CALLED 7.547 ACRES
VOLUME 6, PAGE 381
CIVIL MINUTES WILLIAMSON COUNTY

SH 195
100' R.O.W.

CSJ 0440-02-001
(N 58°23' W 5647.1')

STATE OF TEXAS
CALLED 2.997 ACRES
VOLUME 6, PAGE 382
CIVIL MINUTES WILLIAMSON COUNTY

1/2" 1" R. END.
WITH PLASTIC CAP

EXISTING R.O.W. LINE

(N 57°36'00" W 3352.40')

PROPOSED BASELINE

(S 54°08'23" E)

109
B

P.O.B.
PARCEL 109 OF 2
STA 1670+20.78
158.05' RT.

N 45°45'53" W
55.22' W
N 54°26'29" W 557.23'

STA 1669+66.15
150.00' RT.

CALLED 11.17 ACRES
WILFORD C. SCHNEIDER
DOCUMENT NO. 2010030328
MAY 10, 2010
W.C.D.P.R.

CALLED 419.34 ACRES
WILFORD C. SCHNEIDER AND WIFE
MARY SCHNEIDER
VOL. 528, PAGE 590
AUGUST 04, 1970
W.C.D.R.

P.O.C.
PARCEL 109 B
STA 1670+36.19
516.32' RT.

RIGHT OF WAY PLAT
SHOWING PROPERTY OF
WILFORD C. SCHNEIDER

PARCEL 109 B

PAGE 5 OF 5

ROW CSJ NO. 0440-02-012

STATE HIGHWAY 195 WILLIAMSON COUNTY, TEXAS

RODS SURVEYING INC.

6810 LEE ROAD SPRING, TX 77379

(281) 257-4020

SCALE: 1"=100' NOVEMBER 23, 2010

REVISED: NOVEMBER, 2010

MATCHLINE STA 1677+00

SEE PAGE 12

MATCHLINE STA 1668+00

SEE PAGE 10

