



POSSESSION AND USE AGREEMENT FOR TRANSPORTATION PURPOSES

STATE OF TEXAS

§

Project No.: SH195

§

Parcel No.: 109C

COUNTY OF WILLIAMSON

§

CSJ No.: 0440-02-0112

This agreement, effective the 29th day of March, 2011, between the State of Texas, acting by and through Williamson County, Texas (the "State"), and JANIS K. JOHNSON, Trustee, 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 SEVEN HUNDRED TWENTY ONE THOUSAND THREE HUNDRED FIFTY EIGHT and 00/100 Dollars (\$721,358.00). 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.

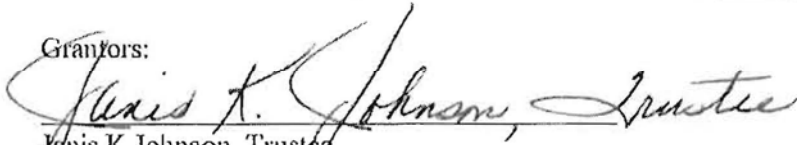
The Grantor(s) further agree(s) to indemnify the State from all unreleased or undisclosed liens, claims or encumbrances affecting the Property.

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 29 DAY OF March, 2011.

Grantors:


Janis K Johnson, 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:

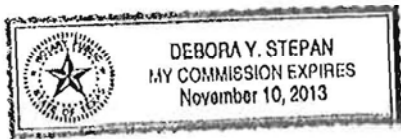

Dan A. Gattis, County Judge

Acknowledgement

State of Texas
County of Travis

This instrument was acknowledged before me on March 21, 2011

by Janis K. Johnson, Trustee, in the capacity and for the purposes and consideration recited herein.



Debora Y. Stepan
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 A

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

Legal Description Parcel 109 C

BEING a 10.824 acre (471,476 square feet) tract of land located in the Burrell Eaves Survey, Abstract No. 216, of Williamson County, Texas, said 10.824 acre tract of land is out of and a part of a 12.54 acre tract conveyed by Wilford C. Schneider, et al to Janis K. Johnson individually and as Trustee of the JKJ Heritage Trust, by deed recorded May 10, 2010 as Document No. 2010030329 of the Official Public Records of Williamson County, Texas, said 10.824 acre tract of land is further described by metes and bounds as follows;

COMMENCING at a 1/2" inch iron rod with a plastic yellow cap found for the south corner of the above referenced 12.54 acre tract, said point is located 311.23 feet right of Proposed State Highway 195 (SH 195) Baseline Station 1681+96.04;

THENCE North 68° 46' 25" East with the southeast line of the said 12.54 acre tract and the northwest line of an 11.01 acre tract of land conveyed by Tahmádege Edwin Brannen and Betty M. Brannen to Brannen Family Trust by deed recorded June 8, 2001 as Document No. 2001040681 of the Official Records of Williamson County, Texas, for a distance of 13.38 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 300.00 feet right of Proposed SH 195 Baseline Station 1682+03.32;

1. THENCE North 54° 09' 23" West with the proposed southwest right of way line of SH 195, at 103.32 feet pass a 5/8" iron rod set with a TxDOT aluminum cap stamped "ADL" for the beginning of a proposed ACCESS DENIAL LINE, then continue on the same bearing with proposed ACCESS DENIAL LINE and proposed southwest right of way line for 115.00 feet in all a distance of 218.32 feet to a TxDOT Type II concrete monument set for an angle point, said monument is located 300.00 feet right of Proposed SH 195 Baseline Station 1679+85.00;
2. THENCE North 45° 46' 53" West continuing with the proposed southwest right of way line of SH 195 and ACCESS DENIAL LINE, for a distance of 348.72 feet to

EXHIBIT _____

a 5/8" iron rod set with a TxDOT aluminum cap stamped "ADL" for the ending of said ACCESS DENIAL LINE, said rod is located 249.21 feet right of Proposed SH 195 Baseline Station 1676+40.00;

3. THENCE North 45° 46' 53" West continuing with the proposed southwest right of way line of SH 195 for a distance of 502.19 feet to a 5/8 inch iron rod with an aluminum cap set in the west line of said 12.54 acre tract, said rod is located 176.06 feet right of Proposed SH 195 Baseline Station 1671+43.17;
4. THENCE North 30° 12' 10" East with the west or northwest line of said 12.54 acre tract for a distance of 240.91 feet to a 1/2" iron rod with a plastic cap found in the existing southwest right of way line of SH 195;
5. THENCE South 59° 50' 49" East with the existing southwest right of way line of SH 195 for a distance of 1173.72 feet to a calculated point of curvature, from which a TxDOT Type I concrete monument found bears North 50° 37' 04" West a distance of 0.67 feet;
6. THENCE continuing with the existing southwest right of way line of SH 195 in a southeasterly direction and with a curve turning to the right for an arc distance of 240.85 feet, said curve has a radius of 8135.11 feet, a delta angle of 1° 41' 47", a chord bearing of South 58° 59' 56" East, and a chord distance of 240.84 feet, to a 3/8 inch iron rod found for the east corner of the aforementioned 12.54 acre tract and for the north corner of the said 11.01 acre tract;

EXHIBIT _____

7. THENCE South 68° 46' 25" West with the common line of the 12.54 acre tract and the 11.01 acre tract for a distance of 596.17 feet to the POINT OF BEGINNING, said described tract containing 10.824 acres (471,476 square feet) of land, more or less.

Access will be prohibited across the ACCESS DENIAL LINE as herein described to the highway facility from the remainder of the property lying adjacent to SH 195.

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.

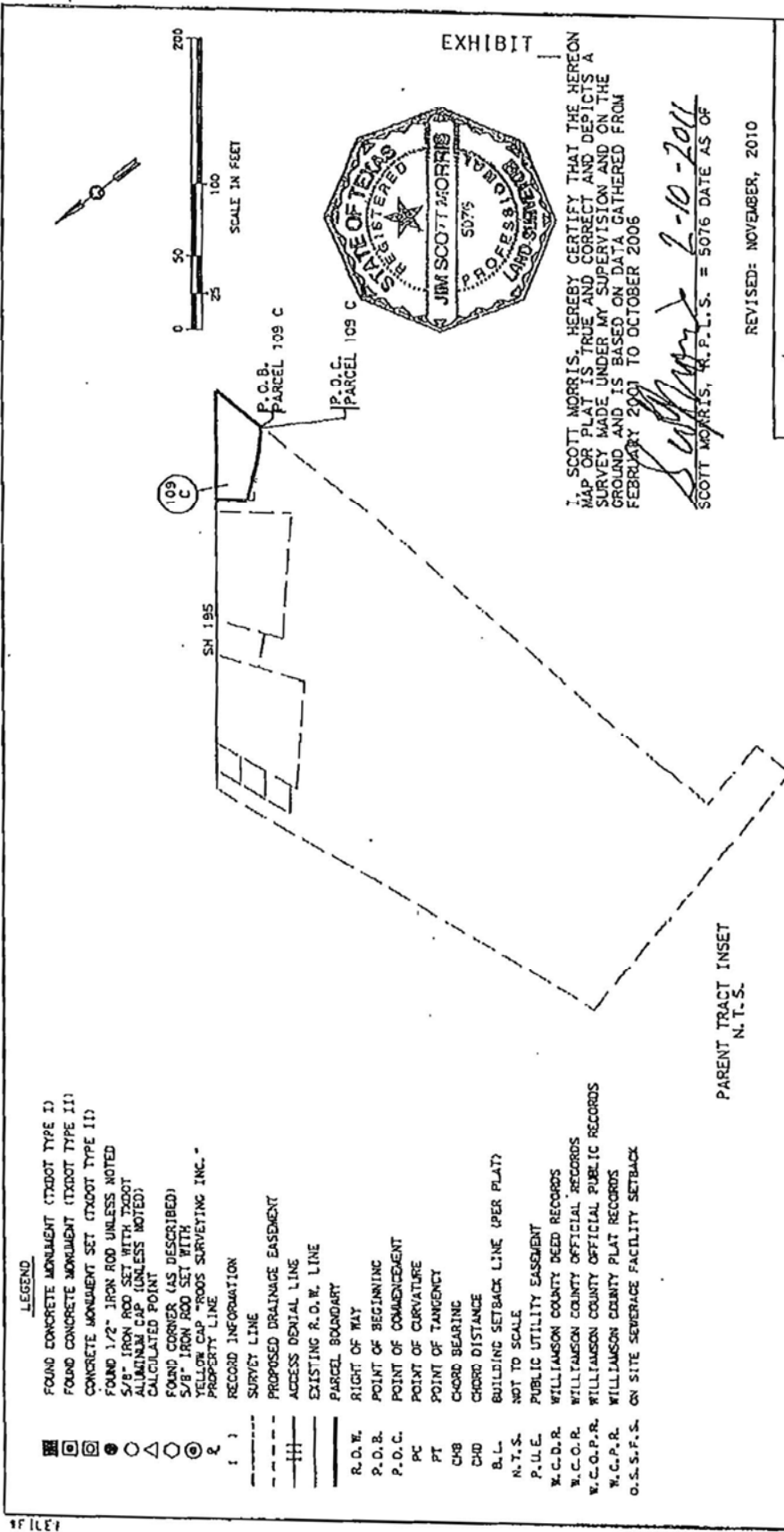
This description was prepared in conjunction with, and is accompanied by a plat of an even date herewith.

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





EXHIBIT



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

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

REVISED: NOVEMBER, 2010

TEXAS DEPARTMENT OF TRANSPORTATION
©2004

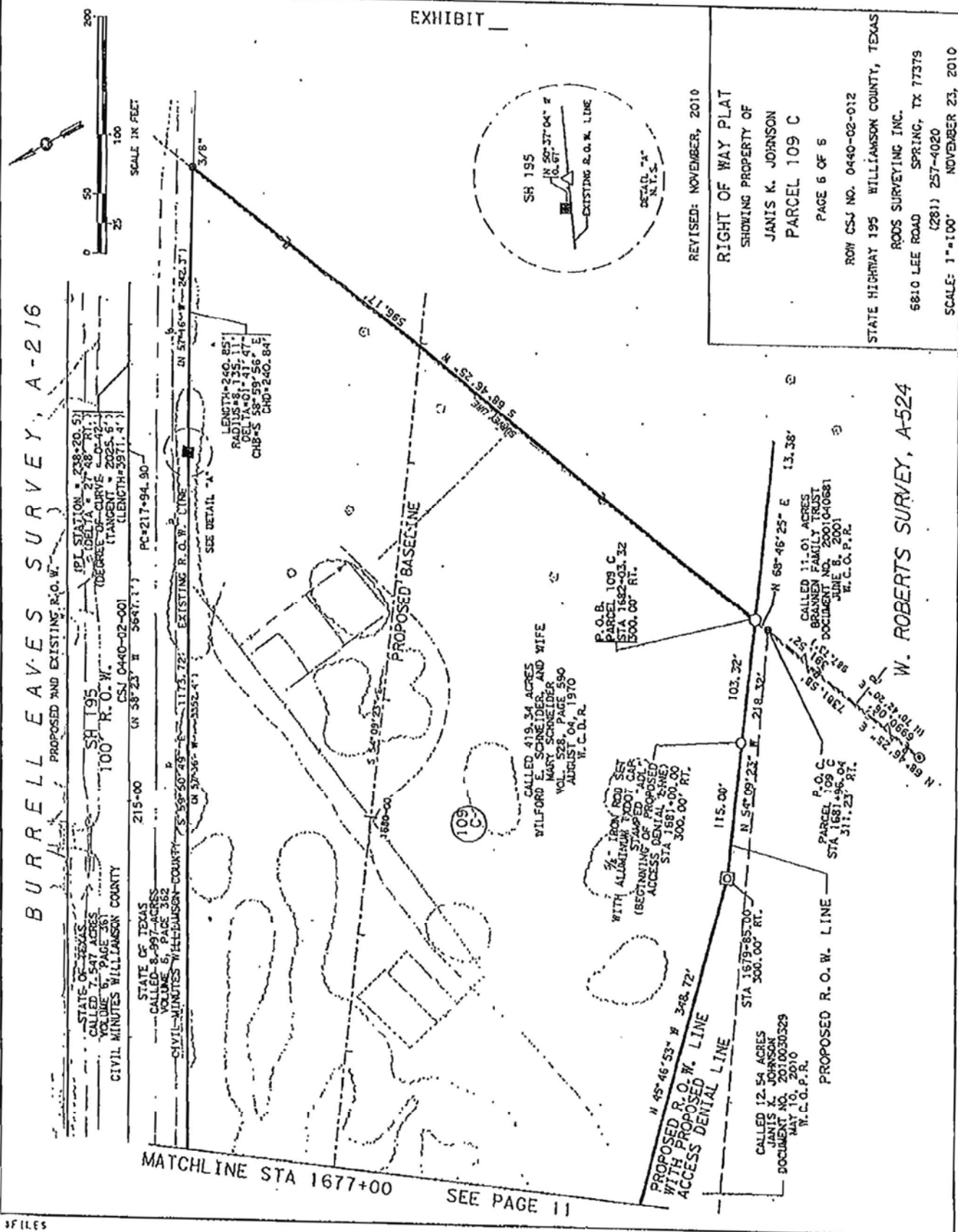
RIGHT OF WAY PLAT
SHOWING PROPERTY OF
JANIS K. JOHNSON
PARCEL 109 C
PAGE 4 OF 6
ROW CSJ NO. 0440-02-012
STATE HIGHWAY 195 WILLIAMSON COUNTY, TEXAS
RODS SURVEYING INC.
6810 LEE ROAD SPRING, TX 77379
(281) 257-4020
SCALE: 1"=100' NOVEMBER 23, 2010

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 RRP (PID AF5537) AND, GEORGETOWN (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.

| PARCEL NO. | RECORD AREA | | ACQUIRED AREA | | APPROXIMATE REMAINDER | | | |
|------------|-------------|---------|---------------|---------|-----------------------|---------|-------|---------|
| | ACRES | SQ. FT. | ACRES | SQ. FT. | LEFT | | RIGHT | |
| 109 C | 12.54 | 546,242 | 10.824 | 471,476 | ACRES | SQ. FT. | ACRES | SQ. FT. |
| | | | | | | | 1.716 | 74,766 |

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BURRELL EAVES SURVEY, A-216



EXHIBIT

REVISED: NOVEMBER, 2010

RIGHT OF WAY PLAT

SHOWING PROPERTY OF

JANIS K. JOHNSON

PARCEL 109 C

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ROW CSJ NO. 0440-02-012

STATE HIGHWAY 195 WILLIAMSON COUNTY, TEXAS

ROOS SURVEYING INC.

6810 LEE ROAD SPRING, TX 77379

(281) 257-4020

SCALE: 1"=100' NOVEMBER 23, 2010

W. ROBERTS SURVEY, A-524

FILES

DATE: 10/25/10 TIME: 11:00 AM