

POSSESSION AND USE AGREEMENT FOR UTILITY RELOCATION PURPOSES

STATE OF TEXAS	§	Project No.: SH195
	§	Parcel No.: 109—utility easements
COUNTY OF WILLIAMSON	§	CSJ No.: 0440-02-0112

- 1. For the consideration paid by the County 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 County exclusive possession and use of the Property for the purpose of electric facility and water line facility relocations and appurtenances thereto and the right to remove any improvements. This Possession and Use Agreement will extend to Chisholm Trail Special Utility District and Pedernales Electric Cooperative, Inc., their contractors, and assigns. 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 County will tender to the Grantor(s) the sum of TEN THOUSAND THREE HUNDRED TWENTY ONE and 00/100 Dollars (\$10,321.00). The Grantor(s) agrees that this sum represents adequate and full compensation for the possession and use of the Property. The County 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 County's approved value. The approved value is the County's determination of the just compensation owed to the Grantor(s) for the full electric/waterline easement interest and temporary construction easement interest to be acquired by the County in the Property, and damages to the remainder, if any. 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 utility easement interests is less than the amount the County 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 County is entitled to seek a refund.
- 3. The 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 on the title to the Property, or that any necessary and proper releases will be executed for the Property prior to or simultaneously with the first payment of funds being disbursed under this agreement. GRANTOR further agrees to indemnify State from all unreleased or undisclosed liens, claims or encumbrances that are known to

Grantor and that affect the Property. This conveyance is made by GRANTOR and accepted by County subject to the following:

- a. visible and apparent easements not appearing of record;
- b. any discrepancies, conflicts, or shortages in area or boundary lines or any encroachments or any overlapping of improvements which a current survey would show; and
- c. easements, restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, and encumbrances for taxes and assessments (other than liens and conveyances) that affect the Property and are presently of record in the Official Public Records of the county in which the Property is located, but only to the extent that said items are still valid and in force and effect at this time.
- 4. This agreement is made with the understanding that the County will continue to negotiate in good faith with the Grantor(s) to acquire the easement 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, at the Grantor's request the County shall begin proceedings in eminent domain to acquire fee title to the Property. The County 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 purposes of determining the value of the just compensation for the Property to be acquired shall be the date of the deposit by County of any amount by which a special commissioners' award exceeds the consideration paid for this Agreement or the date of the special commissioners award if it does not exceed the amount of the consideration paid for this Agreement. The Property shall be valued, as of the date of valuation, as if any improvements located thereon as of the date the consideration is paid for this Agreement are still located on the Property.
- 6. This grant will not prejudice Grantor's rights to receive full and just compensation for the easement interests to be acquired by the County in the Property, encumbered with the improvements thereon, if any, and damages, if any, to the remainder of Grantors' lands. This grant will not prejudice Grantor(s) rights to any relocation benefits for which they may be eligible.
- 7. In the event the County institutes eminent domain proceedings, the County 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 County until entry of judgment.
- 8. The purpose of this agreement is to allow the County 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. 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 County 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 County will record this document
- 13. Other conditions: The parties agree that the grant of this Possession and Use Agreement, and the presence of any utility provider facilities constructed upon the property may not be used as evidence or as an assumption of the existence of a utility easement or any utility provider facilities on the Property as part of the valuation of the parent tract(s) by the State in connection with its acquisition of parcel 109 right of way or the value thereof.

To have and to hold the Agreement herein described and conveyed, together with all the rights and appurtenances belonging to Chisholm Trail Special Utility District and Pedernales Electric Cooperative, Inc, acting by and through Williamson County, and their 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 O	IN WITHERS WHEREOF	THIS INSTRUMENT I	S EXECUTED ON TH	IIS THE 29 DAY OF
	TAPRITIES,	2011	O EMBCOTED ON TH	

Grantors:

W. CHARLES SCHNEIDER, Individually and as

Trustee of the WCS Heritage Trust

JANIS K. JOHNSON, Individually and as Trustee of the JKJ Heritage Trust

JOHN B. SCHNEIDER, Individually and as Trustee of the JBS Heritage Trust

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ACCEPTED AND AGREED TO BY CHISHOM TRAIL SPECIAL UTILITY DISTRICT AND PEDERNALES ELECTRIC COOPERATIVE, 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 Uyalde				
This instrument was acknowledged before me on 29th april 2011				
by W. Charles Schneider, in the capacity and for the purposes and consideration recited herein.				
HOLLY Y. GUNTER My Commission Expires July 09, 2014 Notary Public's Signature				
State of Texas County of				
This instrument was acknowledged before me on				
by Janis K. Johnson, in the capacity and for the purposes and consideration recited herein.				
Notary Public's Signature				
State of Texas County of				
This instrument was acknowledged before me on				
by John B. Schneider, in the capacity and for the purposes and consideration recited herein.				
Notary Public's Signature				

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DAY OF

IN WITNESS WHEREOF, THIS INSTRUMENT IS EXECUTED ON THIS THE $_$
, 2011.
Grantors:
W. CHARLES SCHNEIDER, Individually and as
Trustee of the WCS Heritage Trust
Janis K. Johnson
JANIS K. JOHNSON, Individually and as
Trustee of the JKJ Heritage Trust

JOHN B. SCHNEIDER, Individually and as Trustee of the JBS Heritage Trust Form ROW-N-7 Rev. 5/2003. Page 4 of 5

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WILLIAMSON COUNTY, TEXAS
By: Dan A. Cattis, County Judge
Acknowledgement
State of Texas County of
This instrument was acknowledged before me on
by W. Charles Schneider, in the capacity and for the purposes and consideration recited herein.
Notary Public's Signature
State of Texas County of TRAUS
This instrument was acknowledged before me on April 21, 2011
by Janis K. Johnson, in the capacity and for the purposes and consideration recited herein.
DEBORA Y. STEPAN MY COMMISSION EXPIRES November 10, 2013 Debora 4 Stepan Notary Public's Signature
Notary Priories Signature
State of Texas County of
This instrument was acknowledged before me on
by John B. Schneider, in the capacity and for the purposes and consideration recited herein.
Notary Public's Signature

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To have and to hold the Agreement herein described and conveyed, together with all the rights and appurtenances belonging to Chisholm Trail Special Utility District and Pedernales Electric Cooperative, Inc, acting by and through Williamson County, and their assigns forever, for the purposes and subject to the limitations set forth above.

IN WITNESS WHEREOF, THIS INSTRUMENT IS EXECUTED ON THIS THE, 2011.	DAY OF
Grantors:	
W. CHARLES SCHNEIDER, Individually and as Trustee of the WCS Heritage Trust	

JANIS K. JOHNSON, Individually and as Trustee of the JKJ Heritage Trust

JOHN B. SCHNEIDER, Individually and as

Trustee of the JBS Heritage Trust

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ACCEPTED AND AGREED TO BY CHISHOM TRAIL SPECIAL UTILITY DISTRICT AND PEDERNALES ELECTRIC COOPERATIVE, ACTING BY AND THROUGH WILLIAMSON COUNTY, THIS THEDAY OF, 2011.		
WILLIAMSON COUNTY, TEXAS		
By: Dan A. Gattis, County Judge		
Acknowledgement		
State of Texas County of		
This instrument was acknowledged before me on		
by W. Charles Schneider, in the capacity and for the purposes and consideration recited herein.		
Notary Public's Signature		
State of Texas County of		
This instrument was acknowledged before me on		
by Janis K. Johnson, in the capacity and for the purposes and consideration recited herein.		
Notary Public's Signature		
a		
State of Texas Lavaca County of Lavaca		
This instrument was acknowledged before me on April 29, 2011		
by John B. Schneider, in the capacity and for the purposes and consideration recited herein.		
DEBORAH PETERS Notary Public, State of Texes My Commission Expires January 29, 2014 Notary Public's Signature		

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Acknowledgement

State of Texas County of	
This instrument was acknowledged before me on	
by Dan A. Gattis, in the capacity and for the purposes and consideration	recited herein.
Ĩ	Notary Public's Signature

After recording return to:

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

STATE OF TEXAS COUNTY OF WILLIAMSON

EASEMENT

0.1058 ACRE SITUATED IN BURRELL EAVES SURVEY ABSTRACT 216 WILLIAMSON COUNTY, TEXAS

LEGAL DESCRIPTION

DESCRIPTION OF THREE TRACTS TOTALING 0.1058 ACRE, BEING A 0.0160 ACRE (695 SQUARE FEET) TRACT, A 0.0568 ACRE (2,474 SQUARE FEET) TRACT, AND A 0.0330 ACRE (1,438 SQUARE FEET) TRACT, ALL SITUATED IN THE BURRELL EAVES SURVEY, ABSTRACT 216, WILLIAMSON COUNTY, TEXAS AND BEING PORTIONS OF A CALLED 326 ACRES REMAINDER TRACT AS DESCRIBED IN A DISTRIBUTION DEED TO WILFORD C. SCHNEIDER, JOHN B. SCHNEIDER, AND JANIS K. JOHNSON AND RECORDED IN DOCUMENT NO. 2010030325 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, AND BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

0.0160 ACRE (695 SQUARE FEET) TRACT:

COMMENCING at a 1/2-inch iron rod found in the existing southwest right-of-way line of State Highway No. 195 (SH195), a 100-feet wide right-of-way, for the north corner of said 326 acres remainder tract, same being the east corner of a called 417.81 acres tract as described in a Warranty Deed to FWD Property Investors L.P. and recorded in Document No. 2010037193 of said Official Public Records of Williamson County, Texas;

THENCE leaving said existing southwest right-of-way line of SH195, with the northwest line of said 326 acres remainder tract, same being the southeast line of said 417.81 acres tract, S59°47'54"W a distance of 161.48 feet to a 1/2-inch iron rod with plastic cap stamped "Forest RPLS 1847" found at the intersection of said northwest line of the 326 acres remainder tract and said southeast line of the 417.81 acres tract with the proposed southwest right-of-way line of SH195, a varying width right-of-way, and being the POINT OF BEGINNING of the tract described herein;

THENCE leaving said northwest line of the 326 acres remainder tract and said southeast line of the 417.81 acres tract, crossing said 326 acres remainder tract with said proposed southwest right-of-way line of SH195, S59°51'46"E a distance of 34.77 feet to the intersection of said proposed southwest right-of-way line of SH195 with the northwest line of a called 1.00 acre tract as described in a General Warranty Deed with Vendor's Lien in Favor of Third Party to Debra Cahill and John Cahill and recorded in Document No. 2000054348 of said Official Public Records of Williamson County, Texas, and from which a 1/2-inch iron rod found in said existing southwest right-of-way line of SH195 for the north corner of said 1.00 acre tract, bears N59°47'06"E a distance of 161.45 feet;

THENCE leaving said proposed southwest right-of-way line of SH195, with said northwest line of the 1.00 acre tract, S59°47'06"W a distance of 23.01 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" set, and from which a 1/2-inch iron rod found for the west corner of said 1.00 acre tract bears S59°47'06"B a distance of 40.46 feet:

THENCE leaving said northwest line of the 1.00 acre tract, crossing said 326 acres remainder tract, N59°51'45"W a distance of 34.78 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" set in said northwest line of the 326 acres remainder tract and said southeast line of the 417.81 acres tract;

THENCE with said northwest line of the 326 acres remainder tract and said southeast line of the 417.81 acres tract, N59°47'54"E a distance of 23.02 feet to said POINT OF BEGINNING and containing 0.0160 acre.

Halff AVO26903

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Easement

0.0568 ACRE (2,474 SQUARE FEET) TRACT:

COMMENCING at a 1/2-inch iron rod with plastic cap stamped "RPLS 5617" found in said existing southwest right-of-way line of SH195, for the north corner of a called 12.54 acres tract as described in a Special Warranty Deed to Janis K. Johnson, Trustee and recorded in Document No. 2010030329 of said Official Public Records of Williamson County, Texas;

THENCE leaving said southwest right-of-way line of SH195, with the northwest line of said 12.54 acres tract, S30°12'21"W a distance of 240.91 feet to a 1/2-inch iron rod with plastic cap stamped "RODS" found at the intersection of said northwest line of the 12.54 acres tract with said proposed southwest right-of-way line of SH195, a varying width right-of-way, for the POINT OF BEGINNING of the tract described herein;

CONTINUING with said northwest line of the 12.54 acres tract, S30°12'21"W a distance of 20.61 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" set, and from which a 1/2-inch iron rod with plastic cap stamped "RPLS 5617" found for the west corner of said 12.54 acres tract bears S30°12'21"W a distance of 339.35 feet;

THENCE leaving said northwest line of the 12.54 acres tract, crossing said 326 acres remainder tract, N45°46'53"W a distance of 123.70 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" set in the southeast line of a called 11.17 acres tract as described in a Special Warranty Deed to Wilford C. Schneider, Trustee and recorded in Document No. 2010030328 of said Official Public Records of Williamson County, Texas, and from which a 1/2-inch iron rod with plastic cap stamped "RPLS 5617" found for the south corner of said 11.17 acres tract bears S30°11'59"W a distance of 339.41 feet;

THENCE with said southeast line of the 11.17 acres tract, N30°11'59"E a distance of 20.61 feet to a 1/2-inch iron rod with plastic cap stamped "RODS" found at the intersection of said southeast line of the 11.17 acres tract with said proposed southwest right-of-way of SH195, and from which a 1/2-inch iron rod with plastic cap stamped "RPLS 5617" found in said existing right-of-way of SH195 for the east corner of said 11.17 acre tract bears N30°11'59"E a distance of 210.85 feet;

THENCE leaving said southeast line of the 11.17 acres tract, crossing said 326 acres remainder tract with said proposed southwest right-of-way line of SH195, S45°46'53"E a distance of 123.70 feet to said POINT OF BEGINNING and containing 0.0568 acre.

0.0330 ACRE (1,438 SQUARE FEET) TRACT:

BEGINNING at a 1/2-inch iron rod with plastic cap stamped "RPLS 5617" found in the southeast line of said 326 acre tract, same being the northwest line of a called 5.90 acres tract as described in a Correction Special Warranty Deed to Shell-Hwy. 195, LLC and recorded in Document No. 2010016401 of said Official Public Records of Williamson County, Texas, for the south corner of said 12.54 acres tract;

THENCE with said southeast line of the 326 acres remainder tract and said northwest line of the 5.90 acres tract, S68°46'25"W a distance of 10.67 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" set, and from which a 1/2-inch iron rod with plastic cap stamped "RPLS 5784" found in said southeast line of the 326 acres remainder tract for the west corner of said 5.90 acres tract, bears S68°46'25"W a distance of 48.95 feet;

THENCE leaving said southeast line of the 326 acres remainder tract and said northwest line of the 5.90 acres tract, crossing said 326 acres remainder tract the following two (2) courses and distances:

- N54°09'23"W a distance of 206.83 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" set for an angle point, and
- 2. N45°46'53"W a distance of 25.72 feet to a 1/2-inch iron rod with plastic cap stamped "HALFF ESMT" set in the southwest line of said 12.54 acres tract;

THENCE with said southwest line of the 12.54 acres tract, S55°24'33"B a distance of 238.13 feet to said POINT OF BEGINNING and containing 0.0330 acre.

THE STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

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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 October 2010.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 24th day of March 2011,

A.D.

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



Dan H. Clark

Registered Professional Land Surveyor

No. 6011 - State of Texas

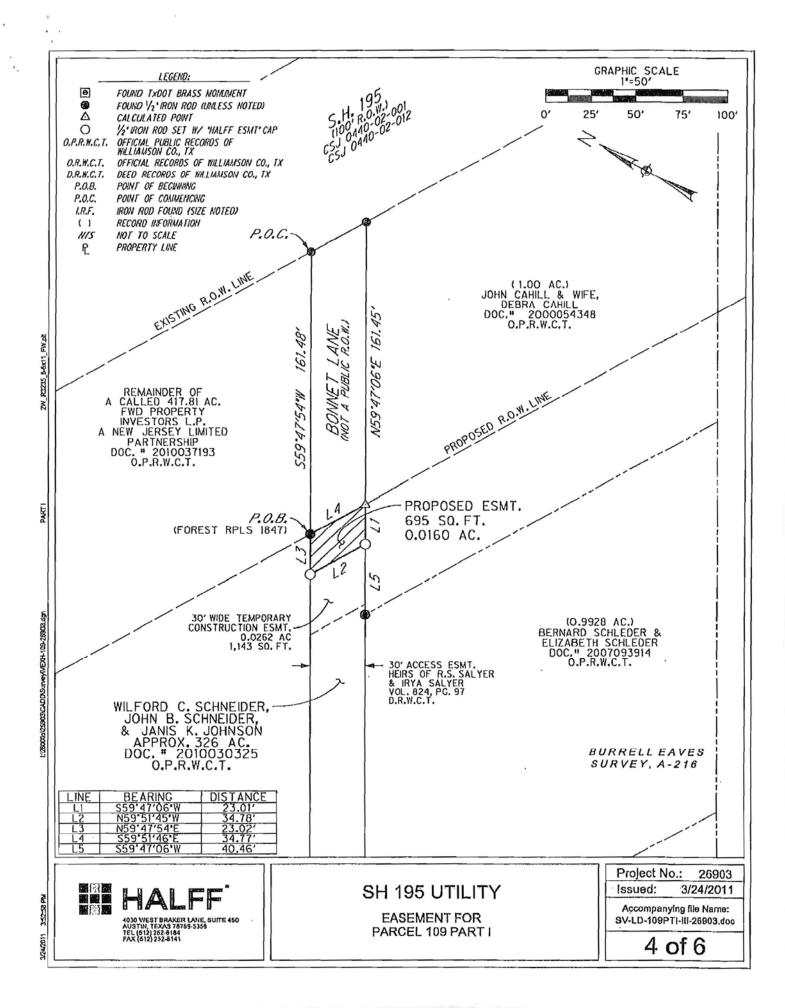
ADDITIONAL NOTES:

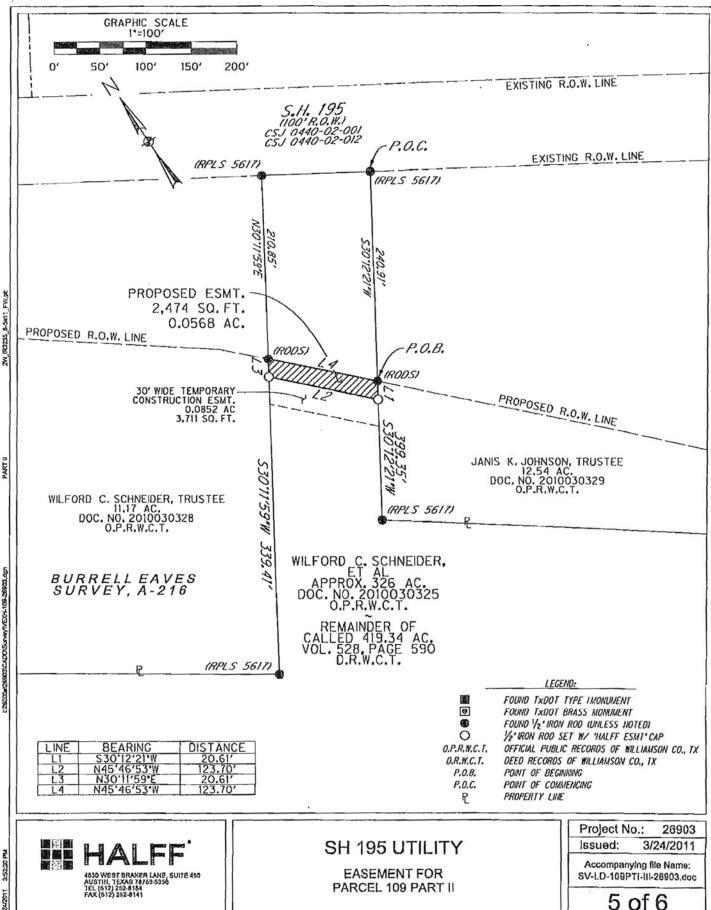
- Bearings shown hereon are based on the Texas State Plane Coordinates System, NAD 83, Central Zone, using a combined surface adjustment factor of 1.000120. Distances shown hereon are surface distances.
- This description has been prepared as a result of a survey completed in October 2010 and is submitted in connection with survey drawings prepared by Halff Associates, Inc. titled VEXH-109 Part I-26903.dgn, VEXH-109 Part II-26903.dgn, and VEXH-109 Part III-26903.dgn, all dated March 24, 2011, AVO No. 26903.
- See Texas Department of Transportation Right-of-Way map CSJ No. 0440-01-036 & 0440-02-012 for detailed information regarding State Highway 195.

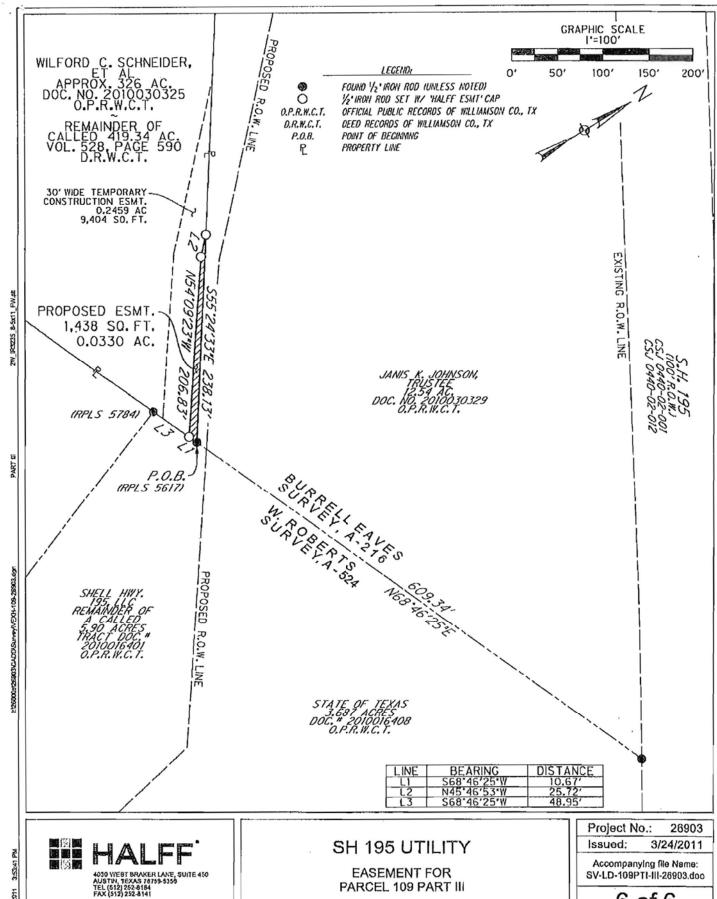
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Easement







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