# GENERAL MEETING OF THE BOARD OF DIRECTORS OF THE CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY

#### **RESOLUTION NO. 11-052**

# RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY RIGHTS BY AGREEMENT OR CONDEMNATION OF CERTAIN PROPERTY IN TRAVIS COUNTY FOR THE US 290 EAST TOLL PROJECT (Parcel 49B & 49B(E)

WHEREAS, pursuant to and under the authority of Subchapter E, Chapter 370, Texas Transportation Code and other applicable law, the Central Texas Regional Mobility Authority ("CTRMA") has found and determined that to promote the public safety, to facilitate the safety and movement of traffic, and to preserve the financial investment of the public in its roadways and the roadways of the State of Texas, public convenience and necessity requires acquisition of fee simple title to that certain 0.011 acre parcel or real estate and a 0.022 acre parcel of easement, respectivel, described by metes and bounds in Exhibit "A" to this Resolution (the "Subject Property"), owned by River City Roloffs, Inc., (the "Owner"), located at 9741 US 290E in Travis County, for the construction, reconstruction, maintaining, widening, straightening, lengthening, and operating of the US 290 East Toll Project (the "Project"), as a part of the improvements to the Project, but excluding all the oil, gas, and sulphur which can be removed from beneath the Subject Property, without any right whatever remaining to the owner of such oil, gas, and sulphur of ingress to or egress from the surface of the Subject Property for the purpose of exploring, developing, or mining of the same, and that such constructing, reconstructing, maintaining, widening, straightening, lengthening, and operating of the Project shall extend across and upon, and will cross, run through, and be upon the Subject Property; and

WHEREAS, an independent, professional appraisal report of the Subject Property has been submitted to the CTRMA, and an amount has been established to be just compensation for the property rights to be acquired; and

WHEREAS, the Executive Director of the CTRMA, through agents employed or contracted with the CTRMA, has transmitted an official written offer to the Owner, based on the amount determined to be just compensation, and has entered into good faith negotiations with the Owner of the Subject Property to acquire the Subject Property; and

WHEREAS, as of the date of this Resolution, the Executive Director and the Owner have failed to agree on the amount determined to be just compensation and damages, if any, due to said Owner for the Subject Property; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the CTRMA that the Executive Director is specifically authorized and directed to acquire the Subject Property and all leasehold interests in the Subject Property for the Project by agreement,

subject to approval of the purchase contract by the Board of Directors of the CTRMA; and

BE IT FURTHER RESOLVED that the Executive Director is specifically authorized to negotiate and execute, if possible, a possession and use agreement in such form as is acceptable to the Executive Director and for consideration in an amount not to exceed ninety percent (90%) of the purchase price set forth in the official written offer to purchase the Subject Property previously transmitted to the Owner; and

BE IT FURTHER RESOLVED that the Executive Director is specifically authorized to negotiate and execute, if possible, a purchase contract for consideration in an amount not to exceed the purchase price set forth in the official written offer to purchase the Subject Property previously transmitted to the Owner; and

BE IT FURTHER RESOLVED that at such time as the Executive Director concludes that further negotiations with Owner to acquire the Subject Property by agreement would be futile, the Executive Director or his designee is hereby authorized and directed to file or cause to be filed a suit in eminent domain to acquire the property interests for the aforesaid purposes against the Owner and the owners of any interest in, and the holders of any lien secured by, the Subject Property, the Subject Property described in the attached Exhibit "A" to this Resolution; and

BE IT FURTHER RESOLVED that the Executive Director or his designee is hereby authorized and directed to incur such expenses and to employ such experts as he shall deem necessary to assist in the prosecution of such suit in eminent domain, including, but not limited to, appraisers, engineers, and land use planners.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 27<sup>th</sup> day of April, 2011.

Submitted and reviewed by:

Andrew Martin, General Counsel

CentralTexas Regional Mobility Authority

Approved:

James H. Mills

Vice Chairman,

Board of Directors

Resolution Number 11-052

Date Passed: 04/27/11

# Exhibit "A" to Resolution 11-052

Description of Parcel 49B & 49B(E)

Page 1 of 4 Parcel 49B(E) December 03, 2010 Rev. 1

#### EXHIBIT \_\_\_

County: Travis
Parcel No.: 49B(E)

Highway: U.S. Highway 290

Project Limits: From: E of US 183

To: E of SH 130

Right of Way CSJ: 0114-02-085

#### PROPERTY DESCRIPTION FOR PARCEL 49B(E)

DESCRIPTION OF 0.022 OF ONE ACRE (944 SQUARE FEET) OF LAND OUT OF THE WILLIAM H. SANDERS SURVEY NO. 54, ABSTRACT NO. 690, IN AUSTIN, TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED AS 17.772 ACRES IN A DEED TO DAVID RODEWALD, OF RECORD IN DOCUMENT 2005111754, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS; SAID 0.022 OF ONE ACRE OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod set with a TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) aluminum cap to be replaced with a TxDOT Type II concrete monument after acquisition, in the proposed south right-of-way (ROW) line of U.S. Highway 290, 250.00 feet right of Engineer's Baseline Station 422+98.59, at the northeast corner of the herein described tract, same being in the northeast line of said Rodewald tract, and the southwest line of that certain tract of land described as 3.65 acres (Tract One) in a deed to Robert Hurst Rental Company, of record in Volume 5697, Page 2338, Deed Records, Travis County, Texas;

1) THENCE, with the northeast line of this tract and said Rodewald tract and the southwest line of said Hurst tract, S56°56'44"E 40.27 feet to a 1/2" iron rod set with a TxDOT aluminum cap at the east corner of this tract, from which point a non TxDOT concrete monument found in the southeast line of said Rodewald tract, and the northwest line of that certain tract of land described as 22.497 acres in a deed to Nancy Swenson Smith and Agnes Swenson Aldridge, of record in Volume 11995, Page 152, Real Property Records, Travis County, Texas, bears S56°56'44"E 219.92 feet and S16°03'40"W 22.25 feet;

THENCE, with the southeast and southwest lines of this tract, crossing said Rodewald tract, the following two (2) courses, numbered 2 and 3;

#### EXHIBIT

- 2) S31°25'55"W 18.76 feet to a 1/2" iron rod set with a TxDOT aluminum cap at the south corner of this tract; and
- 3) N58°34'05"W 56.96 feet to a 1/2" iron rod set with a TxDOT aluminum cap, 250.00 feet right of Engineer's Baseline Station 422+61.30, at the west corner of this tract, same being in the proposed south ROW line of U.S. Highway 290;
- 4) THENCE, with the north line of this tract and the proposed south ROW line of U.S. Highway 290, continuing across said Rodewald tract, N71°25'55"E 25.98 feet to the POINT OF BEGINNING and containing 0.022 of one acre within these metes and bounds, more or less.

All bearings are based on the Texas State Plane Coordinate System, Central Zone, NAD83(93) HARN. All distances and coordinates were adjusted to surface using a combined scale factor of 1.00011.

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS §

That I, Chris Conrad, a Registered Professional Land Surveyor, do hereby certify 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 under my direction and supervision.

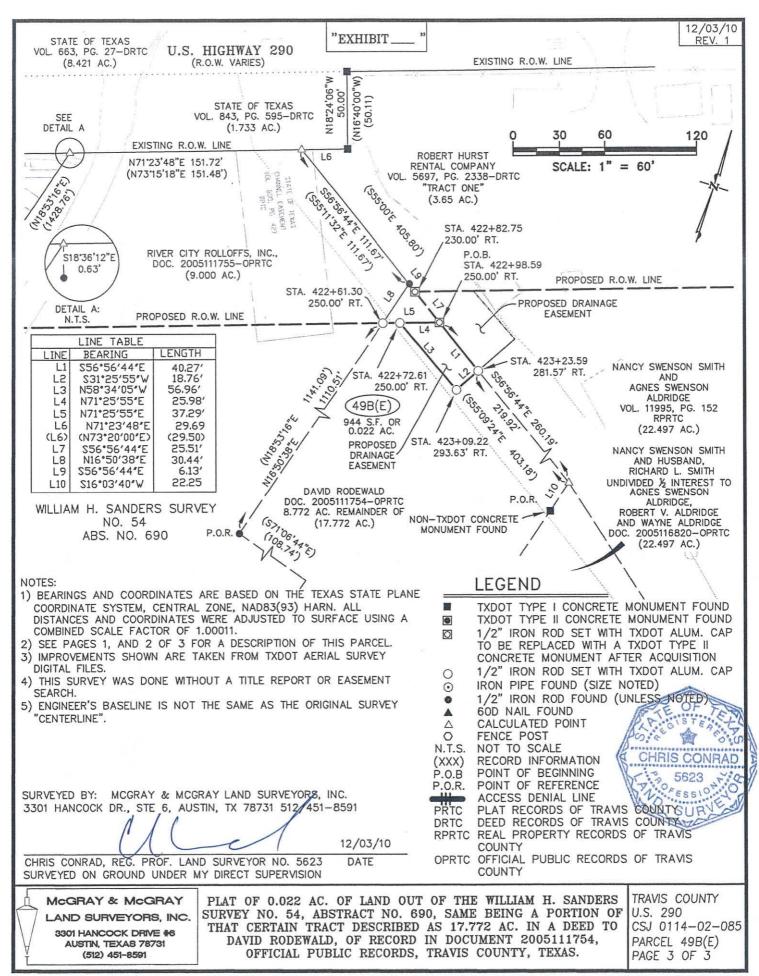
WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this the 3rd day of December, 2010 A.D.

SURVEYED BY:

McGRAY & McGRAY LAND SURVEYORS, INC.

3301 Hancock Dr., Ste, 6 Aystin, TX 78731 (517) 451-8591

Chris Conrad, Reg. Professional Land Surveyor No. 5623 Note: There is a plat to accompany this description. US 290 P49B(E) R2 Issued 5/22/09, 09/17/10; Revised 12/3/10



## FINAL CLOSURE PARCEL 49B(E) US HIGHWAY 290

#### PARCEL 49B(E) - SKETCH MAPCHECK

North: 10096002.8588 East: 3154933.1777

Course: S 56-56-44 E Distance: 40.27000

North: 10095980.8941 East: 3154966.9301

Course: S 31-25-55 W Distance: 18.76000

North: 10095964.8869 East: 3154957.1470

Course: N 58-34-05 W Distance: 56.96000

Perimeter: 141.97000

Area: 944.41766

0.02168 acres

Mathematical Closure - (Uses Survey Units)

Error of Closure: 0.006722 Course: S 44-36-02 E

Precision 1: 21120.28

#### PARCEL 49B(E) - STRIPMAP MAPCHECK

North: 10092495.2923 East: 3147349.5825

Course: S 56-56-44 E Distance: 40.27000
North: 10092473.3276 East: 3147383.3349
Course: S 31-25-55 W Distance: 18.76000
North: 10092457.3205 East: 3147373.5518
Course: N 58-34-05 W Distance: 56.96000
North: 10092487.0243 East: 3147324.9501

Course: N 71-25-55 E Distance: 25.98000
North: 10092495.2971 East: 3147324.9501

Perimeter: 141.97000

Area: 944.41766 0.02168 acres Mathematical Closure - (Uses Survey Units)

Error of Closure: 0.006722 Course: S 44-36-02 E

Precision 1: 21120.28

#### PARCEL 49B(E) - DESCRIPTION MAPCHECK

North: 10093491.7966 East: 3156768.3141

Course: S 56-56-44 E Distance: 40.27000
North: 10093469.8319 East: 3156802.0665
Course: S 31-25-55 W Distance: 18.76000
North: 10093453.8247 East: 3156792.2835
Course: N 58-34-05 W Distance: 56.96000

Perimeter: 141.97000

# FINAL CLOSURE PARCEL 49B(E) **US HIGHWAY 290**

PARCEL 49B(E) - DESCRIPTION MAPCHECK (cont.)

Area: 944.41766

0.02168 acres

Mathematical Closure - (Uses Survey Units)

Precision 1: 21120.28

Page 1 of 3 Parcel 49B February 03, 2011 Rev. 2

#### EXHIBIT \_\_\_

County: Travis
Parcel No.: 49B

Highway: U.S. Highway 290

Project Limits: From: E of US 183

To: E of SH 130

Right of Way CSJ: 0114-02-085

#### PROPERTY DESCRIPTION FOR PARCEL 49B

DESCRIPTION OF 0.011 OF ONE ACRE (463 SQUARE FEET) OF LAND OUT OF THE WILLIAM H. SANDERS SURVEY NO. 54, ABSTRACT NO. 690, IN AUSTIN, TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED AS 17.772 ACRES IN A DEED TO DAVID RODEWALD, OF RECORD IN DOCUMENT 2005111754, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS; SAID 0.011 OF ONE ACRE OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod set with a TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) aluminum cap to be replaced with a TxDOT Type II concrete monument after acquisition, in the proposed south right-of-way (ROW) line of U.S. Highway 290, 250.00 feet right of Engineer's Baseline Station 422+98.59, at the southeast corner of the herein described tract, same being in the northeast line of said Rodewald tract, and the west line of that certain tract of land described as 3.65 acres (Tract One) in a deed to Robert Hurst Rental Company, of record in Volume 5697, Page 2338, Deed Records, Travis County, Texas, from which point a concrete monument found in the southeast line of said Rodewald tract, and the northwest line of that certain tract of land described as 22.497 acres in a deed to Nancy Swenson Smith and Agnes Swenson Aldridge, of record in Volume 11995, Page 152, Real Property Records, Travis County, Texas, bears \$56°56'44"E 260.19 feet and \$16°03'40"W 22.25 feet;

1) THENCE, with the south line of this tract, and the proposed south ROW line of U.S. Highway 290, crossing said Rodewald tract, S71°25'55"W 37.29 feet to a 1/2" iron rod set with a TxDOT aluminum cap, 250.00 feet right of Engineer's Baseline Station 422+61.30, at the southwest corner of this tract, same being in the west line of said Rodewald tract, and the east line of that tract described as 9.000 acres in a deed to River City Rolloffs, Inc., of record in Document 2005111755, Official Public Records, Travis County, Texas, from which point a 1/2" iron rod found at the west corner of said Rodewald tract, bears S16°50'38"W 1110.51 feet;

#### **EXHIBIT**

- 2) THENCE, with the west line of this tract and said Rodewald tract, the east line of said River City Rolloffs tract, N16°50'38"E 30.44 feet to a 1/2" iron rod found at the north corner of this tract and said Rodewald tract, and the east corner of said River City Rolloffs tract, same being in the southwest line of said Hurst tract;
- 3) THENCE, with the northeast line of this tract and said Rodewald tract, and the southwest line of said Hurst tract, S56°56'44"E passing at 6.13 feet a iron rod set with a TxDOT aluminum cap to be replaced with a TxDOT concrete monument to be set after acquisition, 230.00 feet right of Engineer's Baseline Station 422+82.75 and continuing 25.51 feet for a total distance of 31.64 feet to the POINT OF BEGINNING and containing 0.011 of one acre within these metes and bounds, more or less.

All bearings are based on the Texas State Plane Coordinate System, Central Zone, NAD83(93) HARN. All distances and coordinates were adjusted to surface using a combined scale factor of 1.00011.

ACCESS MAY BE PERMITTED TO AND FROM THE TRANSPORTATION FACILITY ACROSS THE PROPOSED RIGHT-OF-WAY LINE AS DESCRIBED HEREIN, BEING THE COMMON BOUNDARY LINE BETWEEN THE PROPOSED U.S. 290 HIGHWAY FACILITY AND THE REMAINDER OF THE ABUTTING PROPERTY.

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS §

That I, Chris Conrad, a Registered Professional Land Surveyor, do hereby certify 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 under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this the 3rd day of February, 2011 A.D.

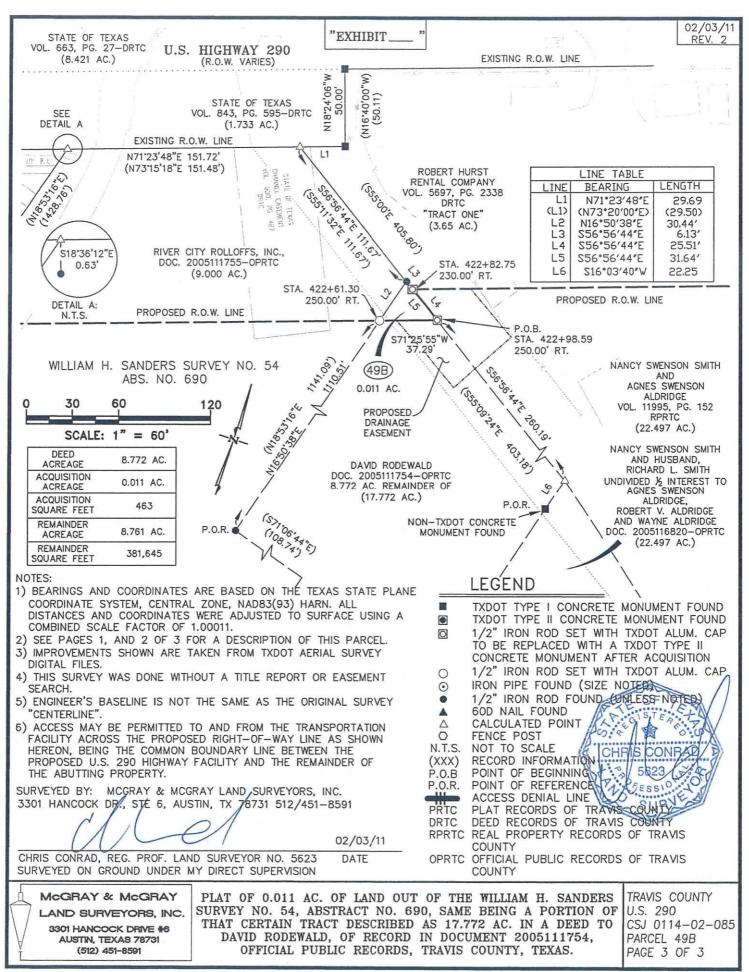
SURVEYED BY:

McGRAY & McGRAY LAND SURVEYORS, INC.

3301 Hancock Dr., Ste. & Austin, TX 78731 (512) 451-8591

Chris Conrad, Reg. Professional Land Surveyor No. 5623 Note: There is a plat to accompany this description. US 290 P49B R2

Issued 5/22/09, 09/17/10; Revised 12/3/10, 02/03/11



### FINAL CLOSURE PARCEL 49B US HIGHWAY 290

#### PARCEL 49B - SKETCH MAPCHECK

Course: S 71-25-55 W Distance: 37.29000
North: 10095906.2459
Course: N 16-50-38 E Distance: 30.44000
North: 10095935.3799 East: 3155016.2126

Course: S 56-56-44 E Distance: 31.64000 North: 10095918.1224 East: 3155042.7317

Perimeter: 99.37000

Area: 462.50895 0.01062 acres

Mathematical Closure - (Uses Survey Units)

Error of Closure: 0.009565 Course: S 76-47-43 E

Precision 1: 10388.45

#### PARCEL 49B - STRIPMAP MAPCHECK

North: 10093797.9211 East: 3155731.6416

Course: S 71-25-55 W Distance: 37.29000

North: 10093786.0469 East: 3155696.2927

Course: N 16-50-38 E Distance: 30.44000

North: 10093815.1809 East: 3155705.1132

Course: S 56-56-44 E Distance: 31.64000

Course: S 56-56-44 E Distance: 31.64000 North: 10093797.9233 East: 3155731.6323

Perimeter: 99.37000

Area: 462.50895 0.01062 acres

Mathematical Closure - (Uses Survey Units)
Error of Closure: 0.009565 Course: S 76-47-43 E

Precision 1: 10388.45

#### PARCEL 49B - DESCRIPTION MAPCHECK

North: 10093246.4985 East: 3159170.6601

Course: S 71-25-55 W Distance: 37.29000

North: 10093234.6242
Course: N 16-50-38 E Distance: 30.44000

North: 10093263.7582
Course: S 56-56-44 E Distance: 31.64000

Perimeter: 99.37000

Area: 462.50895 0.01062 acres Mathematical Closure - (Uses Survey Units)

Precision 1: 10388.45