

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

RESOLUTION NO. 11-072

**RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY RIGHTS BY
AGREEMENT OR CONDEMNATION OF CERTAIN PROPERTY IN TRAVIS
COUNTY FOR THE US 290 EAST TOLL PROJECT
(Parcel 46)**

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 1.528 acres described by metes and bounds in Exhibit "A" to this Resolution (the "Subject Property"), owned by Duff RE Austin, LP, (the "Owner"), located at 9665 US Hwy 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 25th day of May, 2011.

Submitted and reviewed by:



Andrew Martin, General Counsel
Central Texas Regional Mobility Authority

Approved:



Ray A. Wilkerson
Chairman, Board of Directors
Resolution Number 11-072
Date Passed: 05/25/11

Exhibit "A" to Resolution 11-072

Description of Parcel 46

EXHIBIT _____

County: Travis
Parcel No.: 46
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 46

DESCRIPTION OF 1.528 ACRES (66,562 SQ. FT.) OF LAND OUT OF THE WILLIAM H. SANDERS SURVEY NO. 54, ABSTRACT NO. 690, IN AUSTIN, TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF LOT 1, CROFFORD ADDITION NO. 2, A SUBDIVISION OF RECORD IN BOOK 90, PAGES 50-51, PLAT RECORDS, TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO HARDY CREDIT, CO., OF RECORD IN DOCUMENT 2003069039, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, SAID 1.528 ACRES 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, in the proposed south right-of-way (ROW) line of U.S. Highway 290 and at the beginning of this Access Denial Line, 250.00 feet right of Engineer's Baseline Station 412+25.22, at the southeast corner of the herein described tract, same being in the east line of said Hardy Credit tract and said Lot 1, and in the west line of Lot 3, Block A, 290 East Business Park, a subdivision of record in Document 200300003, Official Public Records, Travis County, Texas, said Lot 3 being described in a deed to Kerry S. Yom, of record in Document 2003010702, Official Public Records, Travis County, Texas, from which point a 1/2" iron rod found at the south corner of said Hardy Credit tract and said Lot 1, and the east corner of that certain tract of land described as 4.03 acres in a deed to Southwestern Motor Transport, Inc., of record in Document 2000027131, Official Public Records, Travis County, Texas, same being in the west line of said Yom tract and said Lot 3, bears S23°37'02"W 694.62 feet;

THENCE, with the south line of this tract, and the proposed south ROW line of U.S. Highway 290, crossing said Hardy Credit tract and said Lot 1, the following five (5) courses numbered 1 through 5;

- 1) S71°25'55"W 170.19 feet, with said Access Denial Line, to a 1/2" iron rod set with a TxDOT aluminum cap stamped "ADL", at the end of said Access Denial Line, 250.00 feet right of Engineer's Baseline Station 410+55.03;
- 2) S71°25'55"W 287.59 feet to a 1/2" iron rod set with a TxDOT aluminum cap to be replaced with a TxDOT Type II concrete monument after acquisition, 250.00 feet right of Engineer's Baseline Station 407+67.44;

EXHIBIT _____

- 3) **S88°22'25"W 68.64 feet** to a 1/2" iron rod set with a TxDOT aluminum cap to be replaced with a TxDOT Type II concrete monument after acquisition, 230.00 feet right of Engineer's Baseline Station 407+01.79;
- 4) **S71°25'55"W 39.00 feet** to a 1/2" iron rod set with a TxDOT aluminum cap to be replaced with a TxDOT Type II concrete monument after acquisition, 230.00 feet right of Engineer's Baseline Station 406+62.79; and
- 5) **S50°30'54"W 21.18 feet** to a 1/2" iron rod set with a TxDOT aluminum cap to be replaced with a TxDOT Type II concrete monument after acquisition, 237.56 feet right of Engineer's Baseline Station 406+43.01, at the southwest corner of this tract, same being in the west line of the remainder of said Hardy Credit tract and the west line of said Lot 1, and the existing east ROW line of Crofford Lane, a public ROW for which no record information was found, same being the east line of a strip dedicated for street purposes by plat of said Crofford Addition No. 2, from which point a 1/2" iron rod found at the southwest corner of said remainder of said Hardy Credit tract and said Lot 1, same being in the existing east ROW line of Crofford Lane and the north line of said Southwestern Motor Transport tract, bears S23°31'43"W 226.84 feet;

THENCE, with the west line of this tract, and said remainder of said Hardy Credit tract and said Lot 1, and the existing east ROW line of Crofford Lane, and the east line of said strip dedicated for street purposes the following two (2) courses numbered 6 and 7;

- 6) **N23°31'43"E 130.18 feet** to a calculated point being the beginning of a curve; and
- 7) with said curve to the right, whose intersection angle is **51°41'52"**, radius is **50.00 feet**, an arc distance of **45.11 feet**, the chord of which bears **N50°12'01"E 43.60 feet** to a calculated point at the northwest corner of this tract, and said remainder of said Hardy Credit tract and of said Lot 1, same being in the existing south ROW line of U.S. Highway 290, and the south line of that certain tract of land described as 1.733 acres in a deed to the State of Texas, of record in Volume 843, Page 595, Deed Records, Travis County, Texas, from which point a 1/2" iron rod found bears N14°43'35"E 0.84 feet;

THENCE, with the north line of this tract, said Hardy Credit tract and said Lot 1, the existing south ROW line of U.S Highway 290, and the south line of said 1.733 acre State of Texas tract, the following two (2) courses numbered 8 and 9;

- 8) with a curve to the left, whose intersection angle is **03°50'03"**, radius is **5839.58 feet**, an arc distance of **390.78 feet**, the chord of which bears **N73°21'24"E 390.71 feet** to a calculated point at the end of said curve, from which point a 1/2" iron rod found bears N18°36'13"W 0.80 feet; and

EXHIBIT _____

9) **N71°23'48"E 165.14 feet** to a TxDOT Type I concrete monument found at the northeast corner of this tract, said Hardy Credit tract, and said Lot 1, and the northwest corner of said Yom tract and said Lot 3, from which a 1/2" iron rod found bears **N14°25'52"E 0.82 feet**;

10) THENCE, with the east line of this tract, of said Hardy Credit tract and of said Lot 1, and the west line of said Yom tract and of said Lot 3, **S23°37'02"W 150.89 feet** to the POINT OF BEGINNING and containing 1.528 acres 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 WILL BE DENIED TO AND FROM THE TRANSPORTATION FACILITY ACROSS THE EXISTING RIGHT-OF-WAY LINE WITHIN THE LIMITS OF THE PROPOSED "ACCESS DENIAL LINE" AS DESCRIBED HEREIN, BEING A PORTION OF THE COMMON BOUNDARY LINE BETWEEN THE PROPOSED U.S. 290 HIGHWAY FACILITY AND THE ABUTTING PROPERTY.

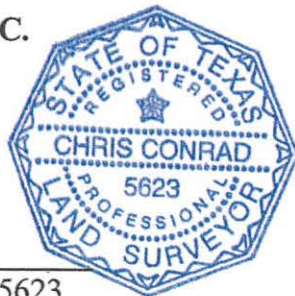
STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF TRAVIS §

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 20th day of October, 2010 A.D.

SURVEYED BY:

McGRAY & McGRAY LAND SURVEYORS, INC.
3301 Hancock Dr., Ste. 6 Austin, TX 78731 (512) 451-8591



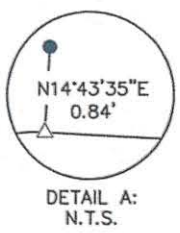
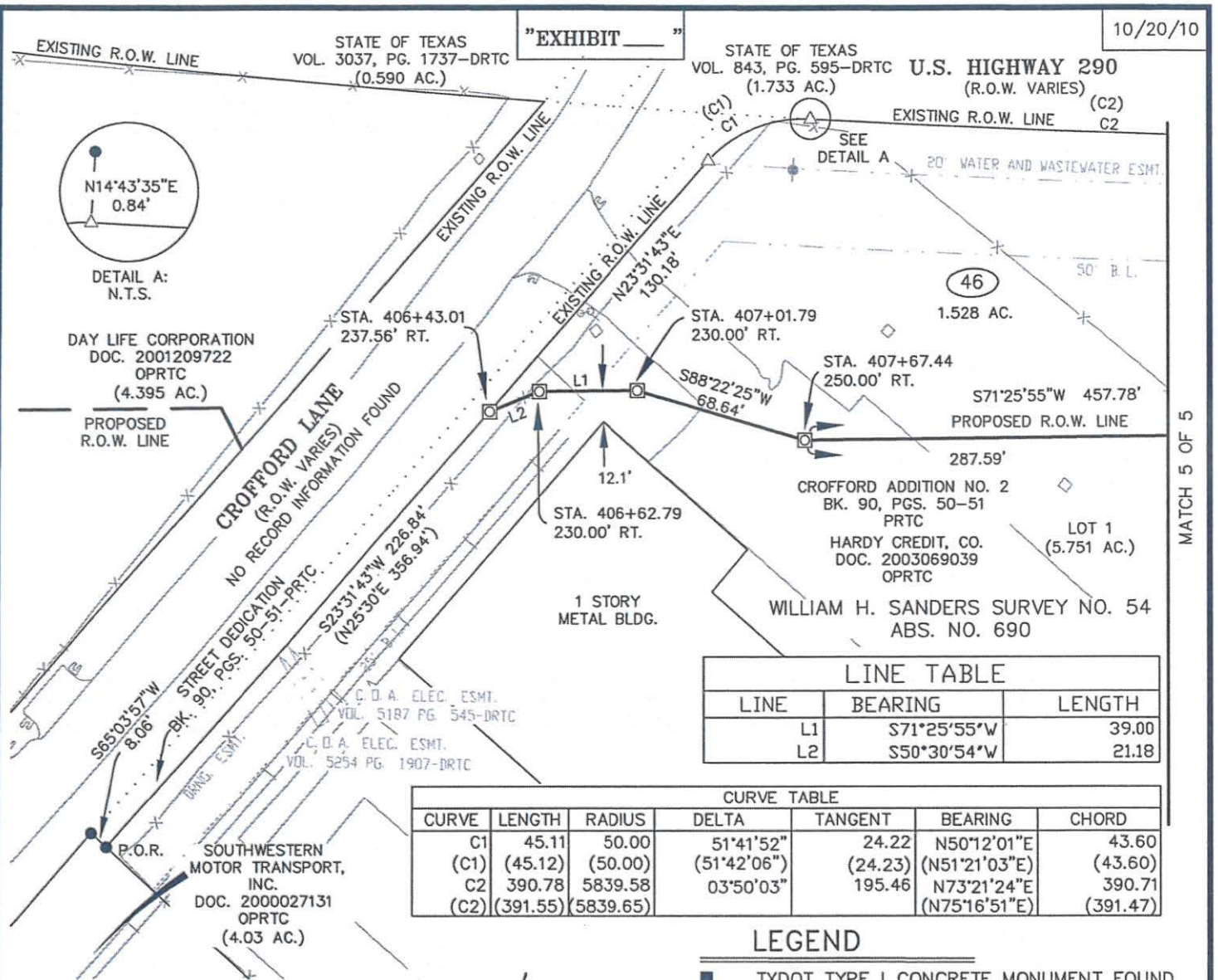
Chris Conrad, Reg. Professional Land Surveyor No. 5623
Note: There is a plat to accompany this description. US 290 P46 REV3
Issued 02/27/09; Revised 10/20/2010

"EXHIBIT"

STATE OF TEXAS
VOL. 3037, PG. 1737-DRTC
(0.590 AC.)

STATE OF TEXAS
VOL. 843, PG. 595-DRTC
(1.733 AC.)

U.S. HIGHWAY 290
(R.O.W. VARIES)



DAY LIFE CORPORATION
DOC. 2001209722
OPRTC
(4.395 AC.)

PROPOSED
R.O.W. LINE

CROFFORD LANE
(R.O.W. VARIES)
NO RECORD INFORMATION FOUND

STREET DEDICATION
BK. 90, PGS. 50-51-PRTC
S23°31'43\"/>

S65°03'57\"/>

SOUTHWESTERN
MOTOR TRANSPORT,
INC.
DOC. 2000027131
OPRTC
(4.03 AC.)

C.D.A. ELEC. ESMT.
VOL. 5187 PG. 545-DRTC
C.D.A. ELEC. ESMT.
VOL. 5254 PG. 1907-DRTC

1 STORY
METAL BLDG.

CROFFORD ADDITION NO. 2
BK. 90, PGS. 50-51
PRTC
HARDY CREDIT, CO.
DOC. 2003069039
OPRTC

WILLIAM H. SANDERS SURVEY NO. 54
ABS. NO. 690

LINE TABLE

LINE	BEARING	LENGTH
L1	S71°25'55\"/>	

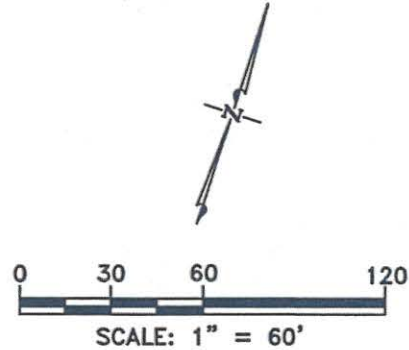
CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	TANGENT	BEARING	CHORD
C1	45.11	50.00	51°41'52\"/>			

LEGEND

- TXDOT TYPE I CONCRETE MONUMENT FOUND
- TXDOT TYPE II CONCRETE MONUMENT FOUND
- ⊠ 1/2" IRON ROD SET WITH TXDOT ALUM. CAP TO BE REPLACED WITH A TXDOT TYPE II CONCRETE MONUMENT AFTER ACQUISITION
- 1/2" IRON ROD SET WITH TXDOT ALUM. CAP
- ⊙ IRON PIPE FOUND (SIZE NOTED)
- 1/2" IRON ROD FOUND (UNLESS NOTED)
- ▲ 60D NAIL FOUND
- △ CALCULATED POINT
- FENCE POST
- N.T.S. NOT TO SCALE
- (XXX) RECORD INFORMATION
- P.O.B POINT OF BEGINNING
- P.O.R. POINT OF REFERENCE
- ▬ ACCESS DENIAL LINE
- PRTC PLAT RECORDS OF TRAVIS COUNTY
- DRTC DEED RECORDS OF TRAVIS COUNTY
- RPRTC REAL PROPERTY RECORDS OF TRAVIS COUNTY
- OPRTC OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY

DEED ACREAGE	5.751 AC.
ACQUISITION ACREAGE	1.528 AC.
ACQUISITION SQUARE FEET	66,562
REMAINDER ACREAGE	4.223 AC.
REMAINDER SQUARE FEET	183,952



McGRAY & McGRAY
LAND SURVEYORS, INC.
3301 HANCOCK DRIVE #6
AUSTIN, TEXAS 78731
(512) 451-8591

PLAT OF 1.528 AC. OF LAND OUT OF THE WILLIAM H. SANDERS SURVEY NO. 54, ABSTRACT NO. 690, SAME BEING A PORTION OF LOT 1, CROFFORD ADDITION NO. 2, A SUBDIVISION OF RECORD IN BOOK 90, PAGES 50-51, PLAT RECORDS, TRAVIS COUNTY, TEXAS, SAID LOT 1 BEING DESCRIBED IN A DEED TO HARDY CREDIT, COMPANY, OF RECORD IN DOCUMENT 2003069039, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS

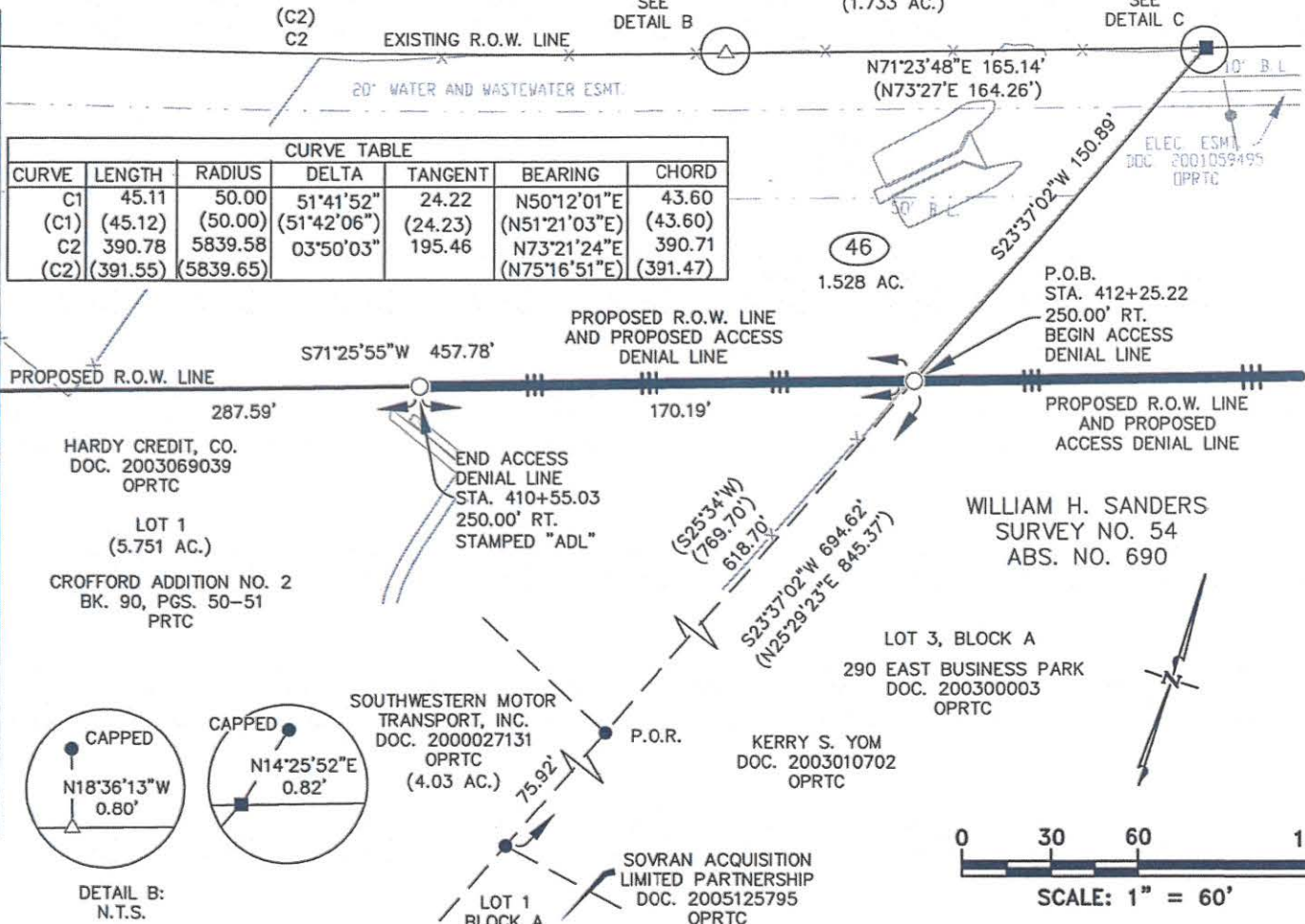
TRAVIS COUNTY
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U.S. HIGHWAY 290
(R.O.W. VARIES)

"EXHIBIT _____"

10/20/10

STATE OF TEXAS
VOL. 843, PG. 595-DRTC
(1.733 AC.)



MATCH PAGE 4 OF 5

- NOTES:
- 1) BEARINGS AND COORDINATES 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.
 - 2) SEE PAGES 1, 2, AND 3 OF 5 FOR A DESCRIPTION OF THIS PARCEL.
 - 3) IMPROVEMENTS SHOWN ARE TAKEN FROM TXDOT AERIAL SURVEY DIGITAL FILES.
 - 4) THIS SURVEY WAS DONE WITHOUT A TITLE REPORT OR EASEMENT SEARCH.
 - 5) ENGINEER'S BASELINE IS NOT THE SAME AS THE ORIGINAL SURVEY "CENTERLINE".
 - 6) ACCESS WILL BE DENIED TO AND FROM THE TRANSPORTATION FACILITY ACROSS THE PROPOSED RIGHT-OF-WAY LINE WITHIN THE LIMITS OF THE PROPOSED "ACCESS DENIAL LINE" AS SHOWN HEREON, BEING A PORTION OF THE COMMON BOUNDARY LINE BETWEEN THE PROPOSED U.S. 290 HIGHWAY FACILITY AND THE REMAINDER OF THE ABUTTING PROPERTY.

SURVEYED BY: MCGRAY & MCGRAY LAND SURVEYORS, INC.
3301 HANCOCK DR., STE 6, AUSTIN, TX 78731 512/451-8591

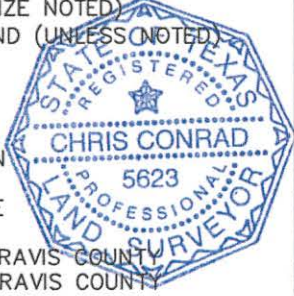
Chris Conrad

10/20/10

CHRIS CONRAD, REG. PROF. LAND SURVEYOR NO. 5623 DATE
SURVEYED ON GROUND UNDER MY DIRECT SUPERVISION

LEGEND

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