

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS, ADOPTING THE AWARD AMOUNT OF SPECIAL COMMISSIONERS IN A CONDEMNATION ACTION STYLED CAUSE NO. C-1-PB-24-000714, *THE CITY OF PFLUGERVILLE, TEXAS v. AUSTIN HB RESIDENTIAL PROPERTIES, LTD.*, FOR THE ACQUISITION OF A TEMPORARY CONSTRUCTION EASEMENT FOR A RAW WATER LINE PROJECT KNOWN AS “SECONDARY COLORADO RIVER RAW WATER LINE PROJECT AND AUTHORIZING RELEASE OF SAID AMOUNT AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER’S DESIGNEE TO EXECUTE ALL DOCUMENTS TO FACILITATE THE ACQUISITION OF SAID PARCEL OF LAND.

WHEREAS, the City of Pflugerville, Texas (the “City”) has found and determined that public necessity requires the City to acquire A certain temporary construction easement from the owner, Austin HB Residential Properties, Ltd., for a raw water line project known as “Secondary Colorado River Raw Water Line Project for the public purpose of operating the existing water line, and to construct and operate an additional raw water line; and

WHEREAS, the City of Pflugerville City Council passed by recorded vote Resolution 2101-24-01-09-1171 on January 9, 2024, directing the City Manager or the City Manager’s Designee to execute all documents to institute eminent domain proceedings and directing the City Attorney to initiate condemnation proceedings for Austin HB Residential Properties, Ltd. identified as Parcel 43.

WHEREAS, Special Commissioners appointed by the court with jurisdiction over condemnations in Travis County, Texas conducted a hearing on January 30, 2025, and considered evidence and arguments as to the value of the property sought to be condemned and damages, if any, that will be sustained by the landowner, and awarded the landowner, Austin HB Residential Properties, Ltd. for Parcel 43, the amount of **ONE HUNDRED EIGHTY THOUSAND AND 00/100 (\$180,000.00)**. A copy of the Award of Commissioners is attached and incorporated into this Resolution; and

WHEREAS, the City of Pflugerville hereby adopts the amount awarded by the Special Commissioners for the acquisition of the temporary construction easement for the Secondary Colorado River Raw Water Line Project; and

WHEREAS, the City of Pflugerville City Council is authorizing the release of said funds into the registry of the Court or release of said amount by other lawful means as consideration for the City’s acquisition of said easement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS; THAT:

SECTION 1. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council of the City of Pflugerville, Texas and made a part hereof for all purposes as findings of fact.

SECTION 2. The City of Pflugerville City Council adopts the Award of Commissioners in amount of **ONE HUNDRED EIGHTY THOUSAND AND 00/100 (\$180,000.00)** and hereby release said amount into the registry of the court or release said amount by other lawful means for Austin HB Residential Properties, Ltd., as consideration for the acquisition of the temporary construction easement for the Secondary Colorado River Raw Water Line Project.

SECTION 3: The easement to be acquired is described by legal description and survey as part of the Award of Commissioners that is attached to this Resolution.

SECTION 4: This Resolution shall become effective immediately upon its passage.

PASSED AND APPROVED on this _____ day of _____, 2025.

Victor Gonzales, Mayor
City of Pflugerville, Texas

ATTEST:

Trista Evans, City Secretary

NO. C-1-PB-24-000714

THE CITY OF PFLUGERVILLE, TEXAS	§	PROBATE COURT No. 1
	§	
VS.	§	OF
	§	
AUSTIN HB RESIDENTIAL PROPERTIES, LTD.	§	TRAVIS COUNTY, TEXAS

AWARD OF COMMISSIONERS

On January 30, 2025, via Zoom Teleconference this proceeding was heard by the persons whose names and signatures appear at the bottom of this Award for the purpose of assessing the damages resulting from this proceeding in eminent domain. **Plaintiff, The City of Pflugerville, Texas** appeared through its duly authorized representative and attorney, Adolfo Ruiz. **Defendant, Austin HB Residential Properties, Ltd.**, appeared through its duly authorized representative, Ryan Buicko and its attorney Racy Haddad.

All parties to the proceeding were properly before the Special Commissioners. The Special Commissioners found:

1. On March 22, 2024, Plaintiff filed a written petition with the County Clerk, Travis County, Texas, seeking judgment for a temporary construction easement over, upon, across and under the land described in **Exhibit "A" and, "B"** attached hereto.

2. On April 9, 2024, the Honorable Guy Herman, Judge of the Probate Court No. 1, Travis County, Texas, appointed Morrie Schulman, John Andrew Yeager and Conrad Masters as three (3) disinterested landholders of Travis County, Texas, as Special Commissioners, and two alternates to assess the damages resulting from this eminent domain proceeding. On April 12, 2024, Defense counsel filed a Notice of Striking of Special Commissioner Conrad Masters. On April 14, 2024, the Honorable Guy Herman, Judge of the Probate Court No. 1, Travis County, Texas, appointed Perry Lorenz in place of Conrad Masters. On December 3, 2024, Plaintiff's

Counsel filed a Motion to Appointment of Alternate Special Commissioner in place of Morrie Schulman. On December 11, 2024, the Honorable Guy Herman, Judge of the Probate Court No. 1, Travis County, Texas, appointed Thomas Fritz in place of Morrie Schulman.

3. These Special Commissioners were duly qualified, and each took the oath prescribed by law in which each swore to assess the damages fairly and impartially and in accordance with law. Copies of these oaths are on file with the papers in this proceeding.

4. Having been sworn, the Special Commissioners, on or about January 6, 2025, promptly set January 30, 2025, at 10:00 a.m., via Zoom Teleconference as the time and manner for hearing the parties. The day appointed was the earliest practicable day based on all parties availability, and the manner selected was at the convenience of the Special Commissioners, appointed in the County in which the property is situated.

5. Notice in writing was issued by the Commissioners to each of the interested parties, notifying them of the time and manner selected for the January 30, 2025, hearing.

6. The notices were served upon the parties at least 20 days before the day set for the hearing, exclusive of the day of the service, and they were served by a person competent to testify, by delivering a copy of the notice to each party or the party's agent or attorney.

7. After service of the notice, the Commissioners, at the time and manner by Zoom Teleconference, proceeded to hear the parties, all of whom announced ready for hearing. Evidence was received, and argument was submitted by the parties.

8. After hearing the evidence and arguments as to the value of the property sought to be condemned and as to the damages which will be sustained by the owner, if any, by reason of the condemnation and as to the benefits that will result to the remainder of the property belonging to the owner, if any, by reason of the condemnation of the property and its employment for the

purpose for which it is to be condemned, the Special Commissioners assess the actual damages that will accrue to the Defendant by the condemnation as follows: **ONE HUNDRED EIGHTY THOUSAND AND 00/100 (\$180,000.00).**

We adjudge the costs against Plaintiff for the reasons provided by law below.

We certify that we spent approximately 8 hours each, including travel time, in service in this matter.

On the 30th day of January, 2025, we have reduced our decision to writing and have signed that decision on that date.

John Andrew Yeager
John Andrew Yeager - Jan 30, 2025 15:45:53

John Andrew Yeager
Special Commissioner

Perry Lorenz
Perry Lorenz - Jan 30, 2025 15:45:53

Perry Lorenz
Special Commissioner

Thomas Fritz
Thomas Fritz - Jan 30, 2025 15:45:53

Thomas Fritz
Special Commissioner

This award of the Special Commissioners was filed with the Court within seven (7) working days after the day the decision was made. It is ordered that each Special Commissioner receive the sum of \$ _____ as a reasonable fee for services in this proceeding.

SIGNED this ____ day of _____, 2025.

JUDGE PRESIDING

PARTIES TO BE NOTIFIED:

Adolfo Ruiz
Patrick C. Bernal
DENTON NAVARRO RODRIGUEZ BERNAL SANTEE & ZECH
2517 N. Main Avenue
San Antonio, Texas 78212
Attorneys for Plaintiff

AUSTIN HB RESIDENTIAL PROPERTIES, LTD.
Corporate Creations Network, Inc. (Registered Agent for Service)
5444 Westheimer #1000
Houston, Texas 77056
(Landowner)

Racy Haddad, Esq
Husch Blackwell LLP
111 Congress Ave., Suite 1400
Austin, TX 78701
(Landowner's Attorney)

Tom Owens, Esq
Wilson Sonsini Goodrich & Rosati
900 S. Capital of Texas Hwy
Austin, Texas 78746
(Landowner's Attorney)

Texas Utilities Electric Company
f/k/a Texas Power & Light Company
Capitol Corporate Services Inc., (Registered Agent for Service)
1501 S. Mopac Expressway, Ste. 220
Austin, Texas 78746
(Electric Easement)

City of Austin
c/o City Clerk,
301 W. Second Street, Suite 2030,
Austin, Texas 78701
(Easements: Electric; Sanitary Sewer; Telephone Lines and Systems; Water and Wastewater;
Electric Distribution and Telecommunications Lines and Systems)

City of Austin

Attn: Real Estate Services

P.O. Box 1088

Austin, Texas 78767

(Easements: Electric; Sanitary Sewer; Telephone Lines and Systems; Water and Wastewater;
Electric Distribution and Telecommunications Lines and Systems)

Dollar Texas Properties IV, LLC

f/k/a Austin (MLK) DTP IV, LLC

c/o Dollar Texas Properties VIII, LLC

David W. Richardson (Registered Agent for Service)

2301 S. Capital of Texas Highway

Building J-102

Austin, TX 78746

(Memorandum of Lease-Lessor)

Dolgencorp of Texas, Inc.

Corporation Service Company (Registered Agent for Service)

d/b/a CSC-Lawyers Incorporating Service Company

211 E. 7th Street, Suite 620

Austin, TX 78701

(Memorandum of Lease-Lessee)

Signature: Kimberley Valdez
Kimberley Valdez [Jan 31, 2025 08:38 CST]

Email: kvaldez@rampagelaw.com

EXHIBIT "A"

1.190 Acre TCE
Temporary Construction Easement
Mariguita Castro Survey No. 50, Abstract No. 160
Travis County, Texas

DESCRIPTION FOR A 1.190 ACRE
TEMPORARY CONSTRUCTION EASEMENT

DESCRIPTION OF A 1.190 ACRE (51,827 SQUARE FOOT) EASEMENT OUT OF THE MARIGUITA CASTRO SURVEY NO. 50, ABSTRACT NO. 160, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER THAT TRACT DESCRIBED AS 1,220.210 ACRES CONVEYED TO AUSTIN HB RESIDENTIAL PROPERTIES, LTD. BY SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DATED JULY 17, 1996, AS RECORDED IN VOLUME 12731, PAGE 1051, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS; SAID 1.190 ACRE EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point at the west corner of this easement, being in the south corner of a 40 foot waterline easement recorded in Document No. 2004057116, Official Public Records, Travis County, Texas, also being in the southwest line of the remainder of said 1,220.210 acre Austin HB Residential Properties tract, and the existing northeast right-of-way line of F.M. 734 (E. Parmer Lane, varying width), from which a 1/2-inch iron rod (disturbed) found bears North 24°10'21" West 0.40 feet, and also from which a Texas Department of Transportation (TxDOT) Type I monument found in the northwest line of the remainder of said 1,220.210 acre Austin HB Residential Properties tract, being the south corner of Lot 1, Block D, Bales and Warren Subdivision, a subdivision of record in Book 61, Page 64, Plat Records, Travis County, Texas, bears, along a curve to the right, whose delta angle is 00°37'19", radius is 3,719.72 feet, an arc distance of 40.38 feet, and the chord of which bears North 61°41'33" West 40.38 feet to a calculated point at the west corner of the remainder of said 1,221.210 acre Austin HB Residential Properties tract, and North 33°51'28" East, passing at 0.65 feet a TxDOT Type II monument found, continuing an additional distance of 9.38 feet for a total distance of 10.03 feet, and from which a 1/2-inch iron pipe found at the east corner of said Lot 1, being in the existing southwest right-of-way line of Bobwar Street (50 foot width), bears North 32°11'51" East 176.54 feet, said POINT OF BEGINNING having Surface Coordinates of N=10,109,760.58, E=3,151,918.18;

THENCE, along the northwest line of this easement, and the southeast line of said 40 foot waterline easement, crossing the remainder of said 1,220.210 acre Austin HB Residential Properties tract, the following three (3) courses, numbered 1 through 3:

- 1) **North 32°11'51" East 94.55 feet** to a calculated point,
- 2) **North 79°53'57" East 672.48 feet** to a calculated point, from which a 1/2-inch iron rod with "SAM INC" cap found at an angle point in the northwest line of said 40 foot waterline easement, bears North 27°20'19" West 41.88 feet, and
- 3) **North 45°25'25" East 104.46 feet** to a calculated point at the north corner of this easement, being in the northeast line of the remainder of said 1,220.120 acre Austin HB Residential Properties tract, and the southwest corner of that tract described as 39.314 acres (Exhibit "D") conveyed to Harris Branch Master Association, Inc. by Special Warranty Deed, as recorded in Document No. 2006057009, Official Public Records, Travis County, Texas, from which a 1/2-inch iron rod found at an angle point in the northwest line of said 40 foot waterline easement, bears North 49°28'05" West 4.92 feet, North 58°01'30" West 36.08 feet, and North 45°25'25" East 58.03 feet;
- 4) THENCE, along the northeast line of this easement and the remainder of said 1,220.120 acre Austin HB Residential Properties tract, and the southwest line of said 39.314 acre Harris Branch Master Association tract, **South 49°28'05" East 60.22 feet** to a calculated point at the east corner of this easement;

THENCE, along the southeast line of this easement, crossing the remainder of said 1,220.120 acre tract, the following three (3) courses, numbered 5 through 7:

- 5) **South 45°25'25" West 128.21 feet** to a calculated point,
- 6) **South 79°53'57" West 664.57 feet** to a calculated point, and
- 7) **South 32°11'51" West 63.13 feet** to a calculated point at the south corner of this easement, being in the southwest line of the remainder of said 1,220.210 acre Austin HB Residential Properties tract, and in the existing northeast right-of-way line of F.M. 734;

8) THENCE, along the southwest line of this easement and the remainder of said 1,220.210 acre Austin HB Residential Properties tract, and the existing northeast right-of-way line of F.M. 734, with a curve to the right, whose delta angle is **00°55'38"**, radius is **3,719.72 feet**, an arc distance of **60.20 feet**, and the chord of which bears **North 62°28'02" West 60.20 feet** to the POINT OF BEGINNING and containing 1.190 acres (51,827 square feet) of land within these metes and bounds.

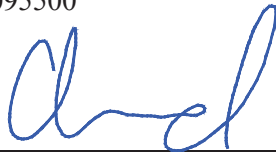
Bearing Basis Note

The bearings described herein are based on the Texas Coordinate System, Central Zone (4203), NAD83 (2011) EPOCH 2010.00. The coordinates shown are surface coordinates and can be converted to grid by dividing a combined scale factor of 1.000070.

SURVEYED BY:

McGRAY & McGRAY LAND SURVEYORS, INC.

3301 Hancock Dr., Ste. 6
Austin, TX 78731 (512) 451-8591
TBPELS Survey Firm# 10095500



11/04/2022

Chris Conrad, Reg. Professional Land Surveyor No. 5623

Date

Note: There is a plat to accompany this description.

M:\F&N~22-009~Pville Raw Water Line\Description\1.190 Ac Austin HB Residential
Issued 11/04/2022

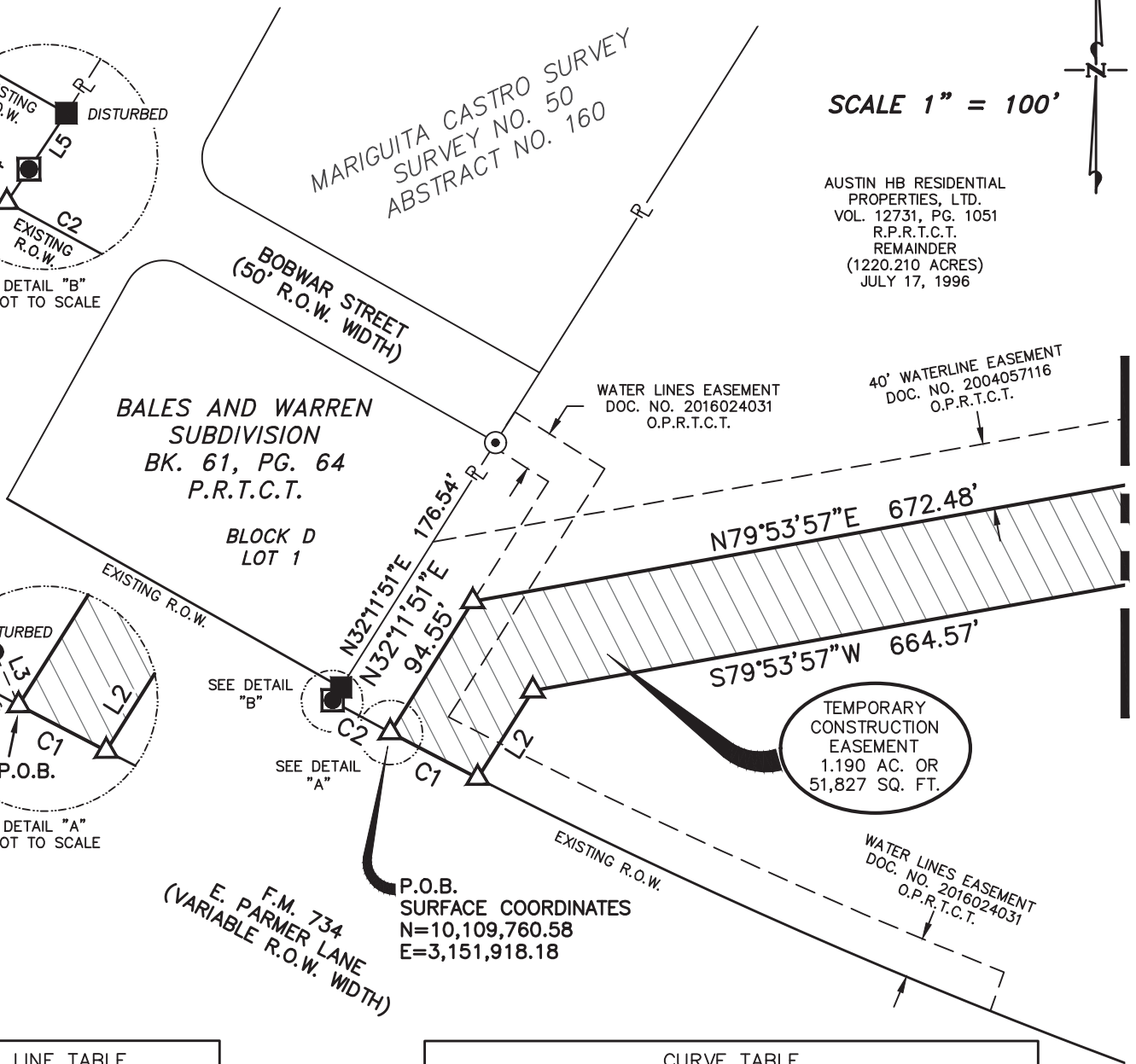
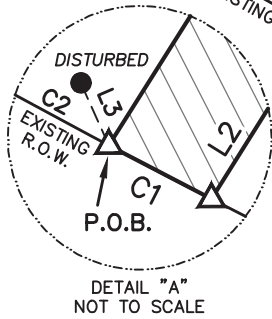
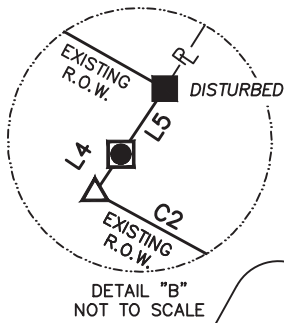
AUSTIN GRID Q-31
TCAD# 0242410136

EXHIBIT "B"

**SKETCH TO ACCOMPANY DESCRIPTION
OF 1.190 AC. OR 51,827 SQ. FT. OF LAND OUT OF
THE MARIGUITA CASTRO SURVEY NO. 50, ABSTRACT NO. 160
AUSTIN, TRAVIS COUNTY, TEXAS**

SCALE 1" = 100'

AUSTIN HB RESIDENTIAL
PROPERTIES, LTD.
VOL. 12731, PG. 1051
R.P.R.T.C.T.
REMAINDER
(1220.210 ACRES)
JULY 17, 1996



MATCHLINE - PAGE 5 OF 5

LINE TABLE		
LINE#	BEARING	DISTANCE
L2	S32°11'51"W	63.13'
L3	N24°10'21"W	0.40'
L4	N33°51'28"E	0.65'
L5	N33°51'28"E	9.38'

CURVE TABLE					
CURVE#	LENGTH	RADIUS	DELTA	BEARING	DISTANCE
C1	60.20'	3,719.72'	00°55'38"	N62°28'02"W	60.20'
C2	40.38'	3,719.72'	00°37'19"	N61°41'33"W	40.38'

TCAD# 0242410136

SURVEYED BY:

PAGE 4 OF 5

McGRAY & McGRAY
LAND SURVEYORS, INC.
3301 HANCOCK DRIVE #6
AUSTIN, TEXAS 78731
MCGRAY.COM (512) 451-8591
TBPELS SURVEY FIRM #10095500

**SKETCH TO ACCOMPANY DESCRIPTION
OF 1.190 AC. OR 51,827 SQ. FT. OF LAND OUT OF
THE MARIGUITA CASTRO SURVEY NO. 50, ABSTRACT NO. 160
AUSTIN, TRAVIS COUNTY, TEXAS**

SCALE 1" = 100'



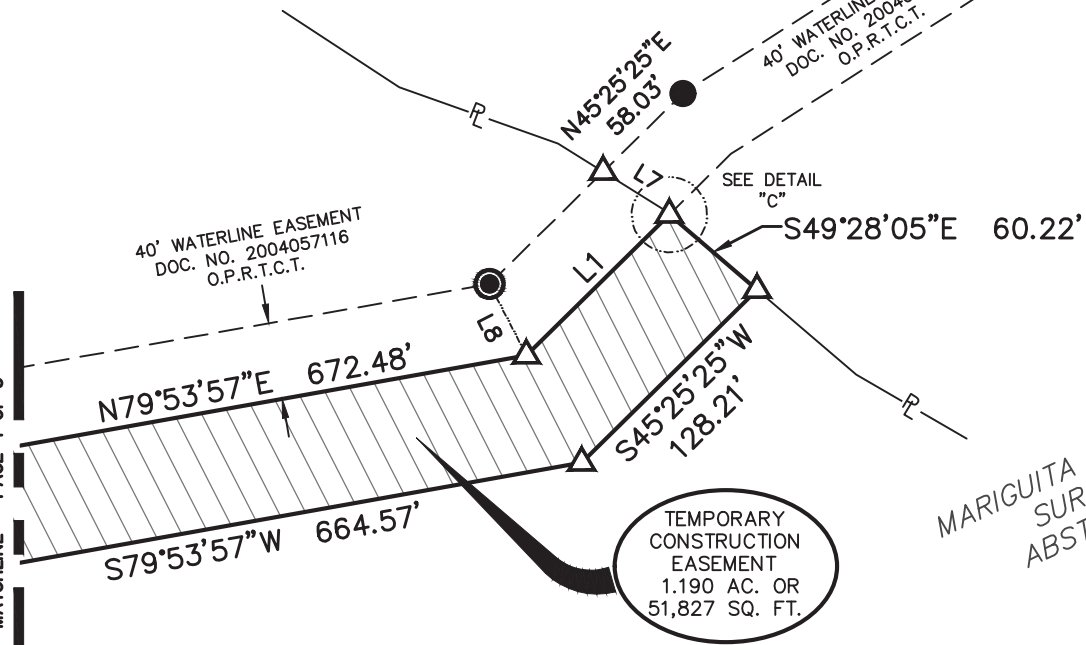
MATCHLINE - PAGE 4 OF 5

40' WATERLINE EASEMENT
DOC. NO. 2004057116
O.P.R.T.C.T.

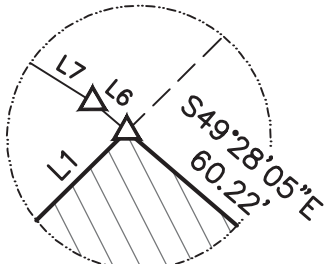
40' WATERLINE EASEMENT
DOC. NO. 2004057116
O.P.R.T.C.T.

HARRIS BRANCH MASTER
ASSOCIATION, INC.
DOC. NO. 2006057009
O.P.R.T.C.T.
EXHIBIT D
(39.314 ACRES)
MARCH 17, 2006

MARIGUITA CASTRO SURVEY
SURVEY NO. 50
ABSTRACT NO. 160



TEMPORARY
CONSTRUCTION
EASEMENT
1.190 AC. OR
51,827 SQ. FT.



DETAIL "C"
NOT TO SCALE

AUSTIN HB RESIDENTIAL
PROPERTIES, LTD.
VOL. 12731, PG. 1051
R.P.R.T.C.T.
REMAINDER
(1220.210 ACRES)
JULY 17, 1996

LINE TABLE		
LINE#	BEARING	DISTANCE
L1	N45°25'25"E	104.46'
L6	N49°28'05"W	4.92'
L7	N58°01'30"W	36.08'
L8	N27°20'19"W	41.88'

LEGEND

- 1/2" IRON ROD FOUND
- ⊙ 1/2" IRON PIPE FOUND
- ⊙ 1/2" IRON ROD CAP STAMPED "SAM, INC" FOUND
- TYPE I CONCRETE MARKER FOUND
- ⊠ TYPE II DISC MONUMENT FOUND
- △ CALCULATED POINT
- O.P.R.T.C.T. OFFICIAL PUBLIC RECORDS TRAVIS COUNTY, TEXAS
- P.R.T.C.T. PLAT RECORDS TRAVIS COUNTY, TEXAS
- R.P.R.T.C.T. REAL PROPERTY RECORDS TRAVIS COUNTY, TEXAS
- P.O.B. POINT OF BEGINNING
- ℙ PROPERTY LINE
- R.O.W. RIGHT OF WAY
- (.....) RECORD INFORMATION

F.M. 734
E. PARMER LANE
(VARIABLE R.O.W. WIDTH)

EXISTING R.O.W.

NOTES:
1. THIS PROJECT IS REFERENCED, FOR ALL BEARING AND COORDINATE BASIS, TO THE TEXAS COORDINATE SYSTEM, CENTRAL ZONE (4203), NORTH AMERICAN DATUM OF 1983 (2011) EPOCH 2010.00. COORDINATES SHOWN HEREON ARE SURFACE COORDINATES AND CAN BE CONVERTED TO GRID BY DIVIDING BY A COMBINED SCALE FACTOR OF 1.000070.
2. THIS SURVEY WAS PERFORMED THE BENEFIT OF A TITLE COMMITMENT PREPARED BY TITLE RESOURCES GUARANTY COMPANY G.F. NO. 2217267-KFO, EFFECTIVE DATE SEPTEMBER 2, 2022.

11/04/2022

CHRIS CONRAD, REG. PROF. LAND SURVEYOR NO. 5623 DATE
Note: There is a description to accompany this plat.



TCAD# 0242410136 ISSUED: 11-04-2022
SURVEYED BY: PAGE 5 OF 5

**McGRAY & McGRAY
LAND SURVEYORS, INC.**
3301 HANCOCK DRIVE #6
AUSTIN, TEXAS 78731
MCGRAY.COM (512) 451-8591
TBPELS SURVEY FIRM #10095500