

# 4139 CENTURION WAY

ADDISON, TX



## BUILDING FEATURES:

- One story, 30,287 sf., single or multi-tenant office building with 5,263 sf. warehouse completely air conditioned
- Two dock high doors, one grade level door
- 145 parking spaces
- Dual fiber optics with diverse routing
- Heavy power with three distribution points
- Conveniently located just north of Beltline Road on Midway



*"4139 Centurion Way is a prestigious North Dallas office/warehouse facility. Its contemporary architectural styling and unparalleled location in Addison make this a premier choice."*

444 Westgrove, Suite 210  
Addison, TX 75001

**ADR Partners**

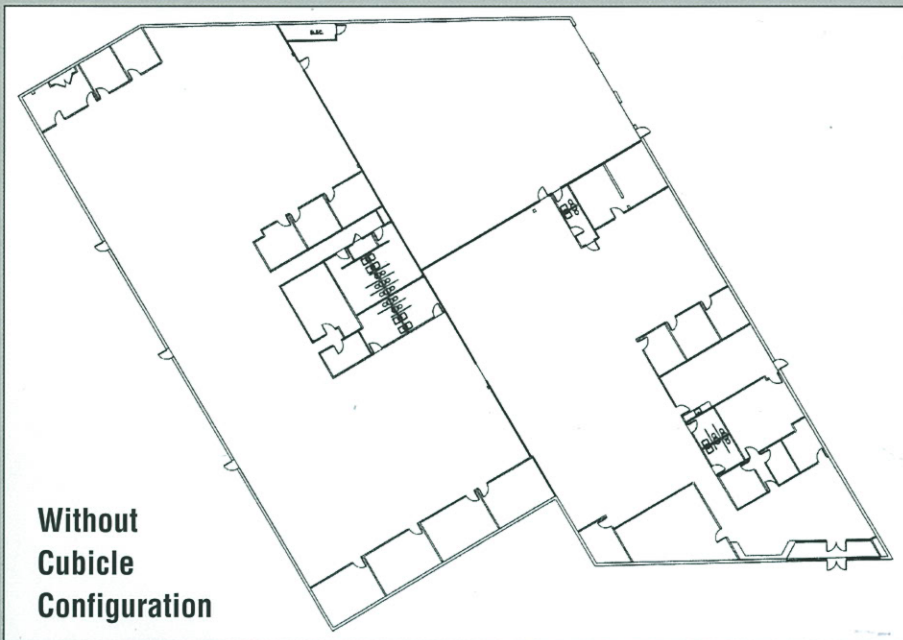
## LOCATION:

4139 Centurion Way is located one block north of Beltline Road and just west of Midway Road. In close proximity to The Galleria and "Restaurant Row," this building also benefits from access to the Dallas North Tollway and LBJ Freeway/

For office leasing contact:

**ADR Partners**

(972) 380-6752



# COWLES & THOMPSON

A Professional Corporation

ATTORNEYS AND COUNSELORS



ANGELA K. WASHINGTON  
214.672.2144  
AWASHINGTON@COWLESTHOMPSON.COM

March 17, 2004

***VIA HAND DELIVERY***

Ms. Cynthia Calhoun  
County Clerk  
Records Building  
509 Main Street, Second Floor  
Dallas, Texas 75202

**RE: Correction Special Warranty Deed**

Dear Ms. Calhoun:

Enclosed please find an original and two (2) copies of a Correction Special Warranty Deed granted by Post Services, Inc. to Town of Addison, Texas.

Please file the original in the Dallas County Real Property Records and file-stamp and date the enclosed copies and return the copies to me in the self-addressed, stamped envelope which is enclosed with this letter. Once the original has been filed, please return the original to:

Angela K. Washington  
Cowles & Thompson, P.C.  
901 Main Street, Suite 4000  
Dallas, TX 75202

A check in the amount of \$26.00 is enclosed as the filing fee to file the original of Correction Special Warranty Deed.

Thank you for your help and attention to this matter. Should you have any questions, please give me a call.

Sincerely,

Angela K. Washington

AKW/yjr

Enclosures

c(w/o Enc.): Ms. Carmen Moran  
(w/o Enc.) Mr. Mike Murphy  
(w/o Enc.) Mr. Kenneth C. Dippel

# COWLES & THOMPSON

A Professional Corporation

ATTORNEYS AND COUNSELORS



ANGELA K. WASHINGTON  
214.672.2144  
AWASHINGTON@COWLESTHOMPSON.COM

March 16, 2004

Ms. Gayle Walton  
Department Secretary  
City Manager's Office  
Town of Addison  
P.O. Box 9010  
Addison, TX 75001-9010

**RE: *Town of Addison, Texas v. Absolute Systems, Ltd., et al.***  
**Cause No. CC-03-01967-B**  
**Parcel 8, Arapaho Extension of Road Project**

Dear Gayle:

Enclosed for the Town of Addison's records is the original Settlement Agreement, Release and Agreement to Grant Easement in the above-referenced case. Once the Judgment in this case has been entered with the Court, I will obtain a conformed copy for the Town's records. If you have any questions, please give me a call.

Sincerely,

Angela K. Washington

AKW/yjr  
Enclosure

c(w/Enc.): Mr. Mike Murphy  
(w/Enc.) Mr. Steve Chutchian  
(w/o Enc.) Mr. Kenneth C. Dippel

No. CC-03-01967-B

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**SETTLEMENT AGREEMENT, RELEASE AND  
AGREEMENT TO GRANT EASEMENT**

This Agreement is entered into on this date by and between the **TOWN OF ADDISON, TEXAS** (“**Plaintiff**”) and **ABSOLUTE SYSTEMS, LTD., 276 TRUST** and **MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC.** (referred to herein collectively as “**Defendant**”) for the purposes of resolving all matters of controversy in dispute arising out of or related to the matters set forth in the above styled and numbered cause of action. On or about the 19<sup>th</sup> day of February, 2003, the Town of Addison, Texas filed the above action in order to acquire a 0.6709 acre permanent easement upon, under, over and through the property owned by Absolute Systems, Ltd. commonly known as 4139 Centurion Way, Addison, Texas, and which is more particularly described in said Statement in Condemnation (the “**Subject Property**”). The Subject Property is owned by Absolute Systems, Ltd. and it is encumbered by a Deed of Trust to Merrill Lynch Business Financial Services, Inc. Further, under the

terms of that certain Condemnation Rights Reservation Agreement, dated the 2<sup>nd</sup> day of July, 2002, 276 Trust, pursuant to this Agreement, has exercised its rights to recover all condemnation proceeds arising from the acquisition of the permanent easement as set forth more particularly under the terms of that particular agreement.

In consideration for the granting of the Easement by Absolute Systems, Ltd., the Town of Addison shall pay to 276 Trust the total amount of \$225,000, consisting of a check in the amount of \$110,000, paid contemporaneously with the execution of this Agreement, along with all sums currently in the registry of the Court representing the \$115,000 previously posted by the Town of Addison in accordance with the Award of the Special Commissioners. The parties agree that, contemporaneously with the execution of this Agreement, they will execute an appropriate order or documents enabling 276 Trust to withdraw the sum of \$115,000 which is currently in the registry of the Court. The parties further agree to execute any and all documents reasonably necessary to effectuate the withdrawal of these funds from the Court.

For and in consideration of the above amount, and the mutual promises contained herein, Absolute Systems, Ltd. shall grant the Town of Addison the 0.6709 acre permanent easement for the construction, repair and maintenance, revision, inspection, and supervision of that certain roadway, bridge and associated improvements, appurtenances and all related structures and supports required to be constructed within the permanent easement area being granted hereunder related to the extension of Arapaho Road through Addison, Texas. In further consideration for the above sum, Defendants do hereby fully and forever release and discharge the Town of Addison, Texas from any and all claims, demands, causes of

action, damages, or any other alleged injuries related to or associated with the acquisition of the permanent easement, the negotiation for said easement, including but not limited to, any and all claims for any alleged lack of good faith negotiation, procedural inadequacies or defects related to the condemnation process in this cause, claims for compensation for the rights being acquired for the permanent easement and for damages to the remainder of the Subject Property, if any, claims for damages related to any alleged impact or adverse effect on the use or usability of the Subject Property related to the bridge, for any alleged noise or vibration associated with the bridge, or otherwise related to the construction, operation or maintenance of the bridge, damages for mental anguish or stress, attorney's fees, or any and all other damages which could be claimed arising from the Project across, upon, under, over and through the Subject Property or from the relationship of the parties in this action, except nothing contained herein shall prevent Absolute Systems, Ltd. from asserting or recovery for any claims it may have for any damage to the building located on the Subject Property which is caused by or results from the construction of the bridge.

This release contains the entire agreement between the parties hereto, and the terms of this release are contractual and not a mere recital.

As further consideration for the granting of this easement, the Town of Addison agrees to restore the parking area currently within the 0.6709 acre permanent easement. Upon completion of the construction of the parking area, the Town of Addison shall have no further obligation or responsibility with regard to the maintenance and upkeep of the parking area, which responsibility shall remain solely with the owner of the underlying fee estate of that permanent easement area.

The Town of Addison hereby represents that the construction of the bridge and associated structures and improvements within the permanent easement area will not render the building currently located at 4139 Centurion Way nonconforming and that the construction of such improvements shall not be constructed within any portion of the building currently existing at 4139 Centurion Way and that the construction of the bridge and associated improvements and structures shall be located within the permanent easement being granted hereunder.

276 Trust represents that it is the sole entity entitled to receive all proceeds being paid hereunder pursuant to that certain Condemnation Rights Reservation Agreement; that no other person or entity, save and except its attorneys, are entitled to receive any of such proceeds; and that Gary Crouch is duly authorized to execute this agreement and any related documents on behalf of 276 Trust.

Absolute Systems, Ltd. represents that it is the owner of fee simple title of the Subject Property; that no other person or entity holds any interest in or to said Property except those certain rights held by 276 Trust under the terms of the Condemnation Reservation Rights Agreement referenced herein and those rights held under that certain Deed of Trust on the Subject Property for the benefit of Merrill Lynch Business Financial Services, Inc.; that Gene Harris is duly authorized officer to execute this agreement and all related documents on its behalf; and further acknowledges that 276 Trust is entitled to all condemnation proceeds being paid hereunder and does hereby expressly relinquish and waive any and all right to any proceeds being paid hereunder.



Merrill Lynch Business Financial Services, Inc. represents that the person executing this document on its behalf is a duly authorized officer to execute said Agreement; and further acknowledges that 276 Trust is entitled to all condemnation proceeds hereunder and does expressly relinquish and waive any and all right to any proceeds being paid hereunder.

Defendants each represent and warrant that they are the owner and holder of all claims and causes of action which are the subject matter of this agreement and that they have not assigned, transferred, sold, or otherwise encumbered any portion of its causes of action herein to anyone other than to their attorneys.

This Agreement contains the entire agreement of the parties and supercedes all other prior agreements among or between any of the parties. No representations were made or relied upon by any of the parties, other than those expressly set forth herein. No party or representative of a party is empowered to alter any of the terms hereof, unless done in writing and signed by the party. This Agreement cannot be amended, altered, or modified except by a subsequent written agreement executed by all parties hereto. Except for provisions related to entitlement to the proceeds from any condemnation proceedings, nothing contained in this Agreement shall be deemed to effect the rights or obligations between 276 Trust, Absolute Systems, Ltd. and Merrill Lynch Business Financial Services, Inc. under any instrument between those parties related to the Subject Property.

The parties agree that simultaneously with the execution of this Agreement, the parties shall execute that Agreed Judgment attached hereto as Exhibit "A".

EACH PARTY HERETO ACKNOWLEDGES THAT THEY HAVE READ AND UNDERSTAND THE EFFECT OF THIS AGREEMENT, HAVE BEEN ADVISED BY COUNSEL AS TO THE EFFECT OF THIS AGREEMENT, AND EXECUTE THE AGREEMENT OF THEIR OWN FREE WILL AND ACCORD FOR THE PURPOSES AND CONSIDERATIONS SET FORTH. THIS AGREEMENT MAY BE EXECUTED IN MULTIPLE COUNTERPARTS.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created by this agreement shall be performed in Dallas County, Texas.

If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and shall, if possible, be construed as if such invalid, illegal, or unenforceable provision had been drafted to be valid, legal, or enforceable.

This Settlement Agreement and Release is being entered into solely for the purpose of avoiding the expense and uncertainties of litigation, and the payment of the sums due hereunder are not to be construed as an admission of liability by either party, which liability is expressly denied.

SIGNED this \_\_\_ day of \_\_\_\_\_, 2004, by:

By:  \_\_\_\_\_  
276 TRUST  
GARY CROUCH

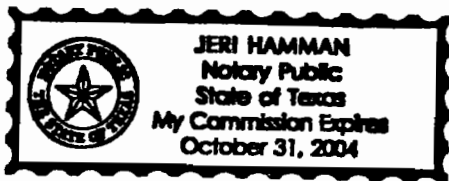
THE STATE OF TEXAS

§  
§  
§

COUNTY OF Dallas

BEFORE ME, the undersigned authority, on this day personally appeared GARY CROUCH, for and on behalf of 276 TRUST, who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 1st day of March, 2004.



Jeri Hamman  
NOTARY PUBLIC, State of Texas

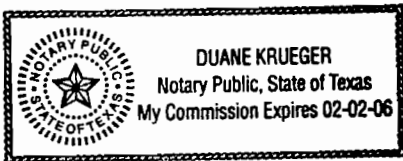
THE STATE OF TEXAS

§  
§  
§

COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, on this day personally appeared GENE HARRIS, for and on behalf of ABSOLUTE SYSTEMS, LTD., who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8 day of March, 2004.



Duane Krueger  
NOTARY PUBLIC, State of Texas



## COWLES &amp; THOMPSON

A Professional Corporation

ATTORNEYS AND COUNSELORS

*Gary Cronch*

## FACSIMILE COVER PAGE

Date: September 8, 2005

Time: \_\_\_\_\_

Total Number of Pages (including this sheet): 18Normal/Rush: NormalClient/Matter #: 3195/62693TO: (1) Nancy Cline  
Director of Public Works

FAX: (972) 450-2837

PHONE:

FROM: Kenneth C. DippelDirect Dial #: (214) 672-2158

MESSAGE: RE: Absolute Systems, Ltd. - Per your e-mail request, I have attached the Statement in Condemnation and settlement papers. Please call if you have any questions.

IF YOU HAVE ANY PROBLEMS WITH THIS TRANSMISSION,  
PLEASE CALL

Yolanda Rodriguez at (214) 672-2629

Thank you.

**IMPORTANT\CONFIDENTIAL:** This message is intended only for the use of the individual or entity to which it is addressed. This message contains information from the law firm of Cowles & Thompson which may be privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee, or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at our telephone number (214) 672-2000. We will be happy to arrange for the return of this message to us, via the United States Postal Service, at no cost to you.

No. 03-01967-B

FILED

2003 FEB 19 PM 2:43

TOWN OF ADDISON, TEXAS

IN THE COUNTY COURT

COUNTY CLERK  
DALLAS COUNTY

vs.

AT LAW, NUMBER 2

ABSOLUTE SYSTEMS, LTD., 276 TRUST  
AND MERRILL LYNCH BUSINESS  
FINANCIAL SERVICES, INC.

DALLAS COUNTY, TEXAS

**STATEMENT IN CONDEMNATION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the TOWN OF ADDISON, TEXAS, a home rule City operating under the laws of the State of Texas and files this its Statement in Condemnation and would respectfully show this Court as follows:

I.

The Town of Addison, Texas files this action to acquire a permanent easement in, over, under, across and through that certain 0.6709 acre portion of a 2.521 acre tract of land, being Lot 6, Surveyor Addition, recorded in Vol. 79130, Pg. 2496 in the Deed Records of Dallas County, commonly known as 4139 Centurion Way, in the Town of Addison, Texas, and more fully described in Exhibit "A" attached hereto and incorporated by reference herein as if set forth at length, for the purpose of constructing those improvements necessary to provide for the realignment, extension and

improvement of Arapaho Road. The property is owned by **ABSOLUTE SYSTEMS, LTD.**, a Texas Limited Partnership, which may be served with process by serving Mr. Gene Harris, Vice President of Juvat, Inc., its General Partner at 2309 West Parker Road, Plano, Texas 75023. **ABSOLUTE SYSTEMS, LTD.** acquired title to the property on or about July 2, 2002, when it purchased the property from **276 TRUST**, a Trust organized and existing under the laws of the State of Texas. In connection with that transaction, **276 TRUST** retained an interest in the condemnation proceeds as set forth in that certain Condemnation Rights Reservation Agreement entered into between the parties on or about the above date. Therefore, **276 TRUST** holds an interest in this property and the proceeds from this proceeding, and is a necessary party to this proceeding. **276 TRUST** may be served with process by serving its attorney, Barry Knight, who has agreed to accept service. **MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC.** holds a security interest in the above property under that certain Deed of Trust recorded in Vol. 2002131, Page 7475 of the Deed Records of Dallas County, Texas, and may be served with process by serving its registered agent, Prentice Hall Corporation, 800 Brazos Street, Austin, Texas 78701.

## II.

The City Council of the **TOWN OF ADDISON, TEXAS** has found and determined that it is necessary to acquire a permanent easement in, over, under, across, and through the above said tract of land (Exhibit "A"), pursuant to existing law, same to be paid for by said **TOWN OF ADDISON**, with title thereto vesting in the **TOWN OF ADDISON**, for the purpose of acquiring

the necessary right-of-way for the Arapaho Road Project through these proceedings in eminent domain. Said Condemnees shall retain the right to use that portion of the property taken within the easement area and located under the elevated roadway, for the purposes of parking, for ingress and egress, provided that such use does not interfere with the right of the City to operate and maintain the roadway or otherwise endanger the health and safety of the public.

### III.

That for the establishment, construction and operation of the said Arapaho Road Project, it is necessary that Plaintiff acquire the permanent easement in, over, under, across and through the above-described tract. Plaintiff and Condemnees have been unable to agree upon the damages resulting from the taking of such property although Plaintiff has made an effort to reach such an agreement, and in furtherance of said effort, has made a firm offer to purchase the easement from the Condemnees, which offer was rejected. Further negotiations would be futile.

### IV.

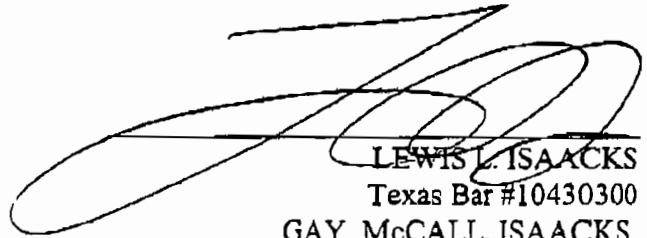
That there has been conferred upon Plaintiff the powers of condemning and acquiring land as it is entitled to do under existing law, with title thereto vesting in the **TOWN OF ADDISON, TEXAS.**



**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that three disinterested freeholders of Dallas County, Texas, be appointed Special Commissioners as provided by law, to assess the actual damages occasioned by the acquisition of the property rights herein described; and prays for a Decree of Condemnation, vesting title to the easement described in Exhibit "A" attached hereto, in Plaintiff, that Plaintiff recover its costs of court, and for all other relief to which it may be entitled.

Respectfully submitted,



LEWIS L. ISAACKS  
Texas Bar #10430300  
GAY, McCALL, ISAACKS,  
GORDON & ROBERTS  
777 East 15th Street  
Plano, Texas 75074  
Telephone: 972/424-8501  
Telecopier: 972/424-5619

ATTORNEY FOR PLAINTIFF

Parcel 8  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 0.6709 acre (29,223 square foot) tract of land situated in the W.H. Witt Survey, Abstract Number 1609, and the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 2.5212 acre tract of land conveyed to Absolute Systems, Ltd. on July 8, 2002 and recorded in Volume 2002131, Page 07460 of the Deed Records of Dallas County, Texas, said called 2.5212 acre tract being all of "Lot 6, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated March 29, 1979 and recorded in Volume 79130, Page 2495 of said Deed Records, said 0.6709 acre tract of land being more particularly described by metes and bounds as follows;

**BEGINNING** at a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corners of said called 2.5212 acre tract and "Lot 6, Surveyor Addition, Addison West Industrial Park", and Northwest corner of a called 3.4654 acre tract of land, 25% interest conveyed by Epina Properties Limited to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02787 of said Deed Records, 75% interest conveyed by Lehndorff & Babson Property Fund to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02796 of said Deed Records, said called 3.4654 acre tract being all of the Surveyor Addition, Addison West Industrial Park, an addition to the Town of Addison, as evidenced by the plat dated October 24, 1978 and recorded in Volume 79029, Page 0984 of said Deed Records;

THENCE, SOUTH 00°07'27" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 2.5212 acre tract and West line of said called 3.4654 acre tract, a distance of 78.96 feet to a 5/8 inch iron rod set in the proposed South right of way line of Arapaho Road;

**EXHIBIT "A"**

## PARCEL 8 - ARAPAHO ROAD PROJECT

THENCE, NORTH 89°58'49" WEST, departing said common line and along the proposed South right of way line of Arapaho Road, a distance of 370.10 feet to an "X" in concrete set in the common West line of said called 2.5212 acre tract and East line of a called 1.776 acre tract of land conveyed to Michael B. Schiff on August 31, 1982 and recorded in Volume 82172, Page 2888 of said Deed Records, said called 1.776 acre tract of land being all of Intervest Companies Addition, an addition to the Town of Addison, as evidenced by the plat dated October 29, 1982 and recorded in Volume 83017, Page 2268 of said Deed Records;

THENCE, NORTH 00°05'03" EAST (called North 00°08'05" East), departing said line and along the common West line of said called 2.5212 acre tract and East line of said called 1.776 acre tract, a distance of 78.95 feet to a 5/8 inch iron rod set in the proposed North right of way line of Arapaho Road Road and South right of way line of said DART railroad for the common Northwest corner of said called 2.5212 acre tract and Northeast corner of said called 1.776 acre tract, from said point a found 1/2 inch iron rod bears North 00°08'18" East, a distance of 0.24 feet;

THENCE, SOUTH 89°58'49" EAST (Called EAST), departing said common line and along the common North line of said called 2.5212 acre tract, proposed North right of way line of Arapaho Road, and South right of way line of said DART railroad, a distance of 370.15 feet (called 370.00 feet) to the **POINT OF BEGINNING**;

CONTAINING an area of 0.6709 acres or 29,223 square feet of land within the metes recited.

## PARCEL 8 - ARAPAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Revised August 21, 2002 to change ownership.

Ayub R. Sandhu 11-12-99  
Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910

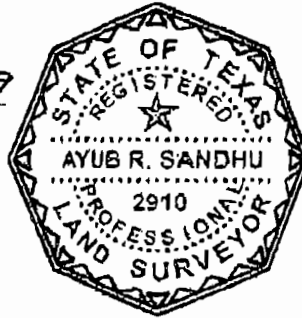


EXHIBIT "B"

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL 91008, PG. 1390  
D.R.D.C.T.

DAVID MYERS SURVEY  
A-923

W.H. WITT SURVEY  
A-1609

P.09/18  
2146722020

FND. 1/2" IRON ROD  
N00°08'18"E - 0.24

(CALLED EAST)  
S 89°58'49" E - 370.15'

3' ELECTRIC EASEMENT

FND. 1/2" IRON ROD

P.O.B.

(CALLED INTEREST)  
N 00°05'03" E  
78.85'

30' WATER EASEMENT

PROPOSED ARAPAHO ROAD

50' DRAINAGE CHANNEL  
EASEMENT

(CALLED SURVEY)  
S 00°07'27" W  
78.96'

N 89°58'49" W - 370.10'

SET "X" IN COND.

APPROXIMATE SURVEY LINE

MICHAEL B. SCHIFF  
AUGUST 31, 1982  
VOL 82172, PG. 2888  
D.R.D.C.T.

LOT 6  
SURVEYOR ADDITION  
ADDISON WEST  
INDUSTRIAL PARK  
MARCH 29, 1979  
VOL 79130, PG. 2495  
D.R.D.C.T.

CALLED 2.5212 AC.  
ABSOLUTE SYSTEMS, LTD  
JULY 8, 2002  
VOL 2002131, PG. 7460  
D.R.D.C.T.

CALLED 3.465 AC.  
15101 MIDWAY ROAD PARTNERS, LTD.  
DECEMBER 25, 1998  
VOL 98250, PG. 02787 (25% INTEREST)  
VOL 98250, PG. 02796 (75% INTEREST)  
D.R.D.C.T.

LOT 4  
SURVEYOR ADDITION  
ADDISON WEST  
INDUSTRIAL PARK  
DECEMBER 26, 1978  
VOL 79028, PG. 0984  
D.R.D.C.T.

PARCEL 8  
A PLAT OF A  
0.6709 ACRE (29,223 SQ. FT.)  
TRACT OF LAND  
IN THE W.H. WITT SURVEY  
ABSTRACT NO. 1609  
& DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS

EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED  
ON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT  
PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY  
OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO  
PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN  
PAGE 135, D.R.D.C.T.

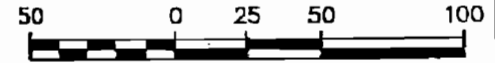
LEGAL DESCRIPTION OF EVEN SURVEY DATE HEREWITH  
CONTAINS THIS PLAT.

REVISIONS:

OWNER NAME CHANGE 8/20/02

- DENOTES A FOUND POINT AS INDICATED
- DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED

— PROPOSED RIGHT OF WAY LINE



GRAPHIC SCALE  
1 INCH = 50 FT.

SEP-08-2005 08:31

No. CC-03-01967-B

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
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<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
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<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**SETTLEMENT AGREEMENT, RELEASE AND AGREEMENT TO GRANT EASEMENT**

This Agreement is entered into on this date by and between the **TOWN OF ADDISON, TEXAS** ("Plaintiff) and **ABSOLUTE SYSTEMS, LTD., 276 TRUST and MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC.** (referred to herein collectively as "Defendant") for the purposes of resolving all matters of controversy in dispute arising out of or related to the matters set forth in the above styled and numbered cause of action. On or about the 19<sup>th</sup> day of February, 2003, the Town of Addison, Texas filed the above action in order to acquire a 0.6709 acre permanent easement upon, under, over and through the property owned by Absolute Systems, Ltd. commonly known as 4139 Centurion Way, Addison, Texas, and which is more particularly described in said Statement in Condemnation (the "Subject Property"). The Subject Property is owned by Absolute Systems, Ltd. and it is encumbered by a Deed of Trust to Merrill Lynch Business Financial Services, Inc. Further, under the

terms of that certain Condemnation Rights Reservation Agreement, dated the 2<sup>nd</sup> day of July, 2002, 276 Trust, pursuant to this Agreement, has exercised its rights to recover all condemnation proceeds arising from the acquisition of the permanent easement as set forth more particularly under the terms of that particular agreement.

In consideration for the granting of the Easement by Absolute Systems, Ltd., the Town of Addison shall pay to 276 Trust the total amount of \$225,000, consisting of a check in the amount of \$110,000, paid contemporaneously with the execution of this Agreement, along with all sums currently in the registry of the Court representing the \$115,000 previously posted by the Town of Addison in accordance with the Award of the Special Commissioners. The parties agree that, contemporaneously with the execution of this Agreement, they will execute an appropriate order or documents enabling 276 Trust to withdraw the sum of \$115,000 which is currently in the registry of the Court. The parties further agree to execute any and all documents reasonably necessary to effectuate the withdrawal of these funds from the Court.

For and in consideration of the above amount, and the mutual promises contained herein, Absolute Systems, Ltd. shall grant the Town of Addison the 0.6709 acre permanent easement for the construction, repair and maintenance, revision, inspection, and supervision of that certain roadway, bridge and associated improvements, appurtenances and all related structures and supports required to be constructed within the permanent easement area being granted hereunder related to the extension of Arapaho Road through Addison, Texas. In further consideration for the above sum, Defendants do hereby fully and forever release and discharge the Town of Addison, Texas from any and all claims, demands, causes of

action, damages, or any other alleged injuries related to or associated with the acquisition of the permanent easement, the negotiation for said easement, including but not limited to, any and all claims for any alleged lack of good faith negotiation, procedural inadequacies or defects related to the condemnation process in this cause, claims for compensation for the rights being acquired for the permanent easement and for damages to the remainder of the Subject Property, if any, claims for damages related to any alleged impact or adverse effect on the use or usability of the Subject Property related to the bridge, for any alleged noise or vibration associated with the bridge, or otherwise related to the construction, operation or maintenance of the bridge, damages for mental anguish or stress, attorney's fees, or any and all other damages which could be claimed arising from the Project across, upon, under, over and through the Subject Property or from the relationship of the parties in this action, except nothing contained herein shall prevent Absolute Systems, Ltd. from asserting or recovery for any claims it may have for any damage to the building located on the Subject Property which is caused by or results from the construction of the bridge.

This release contains the entire agreement between the parties hereto, and the terms of this release are contractual and not a mere recital.

As further consideration for the granting of this easement, the Town of Addison agrees to restore the parking area currently within the 0.6709 acre permanent easement. Upon completion of the construction of the parking area, the Town of Addison shall have no further obligation or responsibility with regard to the maintenance and upkeep of the parking area, which responsibility shall remain solely with the owner of the underlying fee estate of that permanent easement area.



The Town of Addison hereby represents that the construction of the bridge and associated structures and improvements within the permanent easement area will not render the building currently located at 4139 Centurion Way nonconforming and that the construction of such improvements shall not be constructed within any portion of the building currently existing at 4139 Centurion Way and that the construction of the bridge and associated improvements and structures shall be located within the permanent easement being granted hereunder.

276 Trust represents that it is the sole entity entitled to receive all proceeds being paid hereunder pursuant to that certain Condemnation Rights Reservation Agreement; that no other person or entity, save and except its attorneys, are entitled to receive any of such proceeds; and that Gary Crouch is duly authorized to execute this agreement and any related documents on behalf of 276 Trust.

Absolute Systems, Ltd. represents that it is the owner of fee simple title of the Subject Property; that no other person or entity holds any interest in or to said Property except those certain rights held by 276 Trust under the terms of the Condemnation Reservation Rights Agreement referenced herein and those rights held under that certain Deed of Trust on the Subject Property for the benefit of Merrill Lynch Business Financial Services, Inc.; that Gene Harris is duly authorized officer to execute this agreement and all related documents on its behalf; and further acknowledges that 276 Trust is entitled to all condemnation proceeds being paid hereunder and does hereby expressly relinquish and waive any and all right to any proceeds being paid hereunder.

Merrill Lynch Business Financial Services, Inc. represents that the person executing this document on its behalf is a duly authorized officer to execute said Agreement; and further acknowledges that 276 Trust is entitled to all condemnation proceeds hereunder and does expressly relinquish and waive any and all right to any proceeds being paid hereunder.

Defendants each represent and warrant that they are the owner and holder of all claims and causes of action which are the subject matter of this agreement and that they have not assigned, transferred, sold, or otherwise encumbered any portion of its causes of action herein to anyone other than to their attorneys.

This Agreement contains the entire agreement of the parties and supercedes all other prior agreements among or between any of the parties. No representations were made or relied upon by any of the parties, other than those expressly set forth herein. No party or representative of a party is empowered to alter any of the terms hereof, unless done in writing and signed by the party. This Agreement cannot be amended, altered, or modified except by a subsequent written agreement executed by all parties hereto. Except for provisions related to entitlement to the proceeds from any condemnation proceedings, nothing contained in this Agreement shall be deemed to effect the rights or obligations between 276 Trust, Absolute Systems, Ltd. and Merrill Lynch Business Financial Services, Inc. under any instrument between those parties related to the Subject Property.

The parties agree that simultaneously with the execution of this Agreement, the parties shall execute that Agreed Judgment attached hereto as Exhibit "A".

EACH PARTY HERETO ACKNOWLEDGES THAT THEY HAVE READ AND UNDERSTAND THE EFFECT OF THIS AGREEMENT, HAVE BEEN ADVISED BY COUNSEL AS TO THE EFFECT OF THIS AGREEMENT, AND EXECUTE THE AGREEMENT OF THEIR OWN FREE WILL AND ACCORD FOR THE PURPOSES AND CONSIDERATIONS SET FORTH. THIS AGREEMENT MAY BE EXECUTED IN MULTIPLE COUNTERPARTS.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created by this agreement shall be performed in Dallas County, Texas.

If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and shall, if possible, be construed as if such invalid, illegal, or unenforceable provision had been drafted to be valid, legal, or enforceable.

This Settlement Agreement and Release is being entered into solely for the purpose of avoiding the expense and uncertainties of litigation, and the payment of the sums due hereunder are not to be construed as an admission of liability by either party, which liability is expressly denied.

SIGNED this \_\_\_ day of \_\_\_\_\_, 2004, by:

By:  \_\_\_\_\_  
**GARY CROUCH**

**276 TRUST**

**ABSOLUTE SYSTEMS, LTD.**

By: *Gene Harris*  
GENE HARRIS

**MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC.**

By: *[Signature]*  
Its: *Vice President*

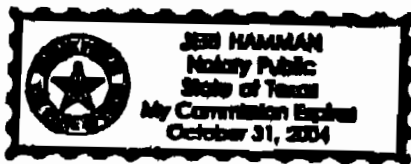
**TOWN OF ADDISON, TEXAS**

By: *Ron Whitehead*  
RON WHITEHEAD, City Manager

THE STATE OF TEXAS §  
COUNTY OF Dallas §

BEFORE ME, the undersigned authority, on this day personally appeared GARY CROUCH, for and on behalf of 276 TRUST, who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 1st day of March, 2004.



Jeri Hamman  
NOTARY PUBLIC, State of Texas

THE STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned authority, on this day personally appeared GENE HARRIS, for and on behalf of ABSOLUTE SYSTEMS, LTD., who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8 day of March, 2004.



Duane Krueger  
NOTARY PUBLIC, State of Texas

THE STATE OF Illinois §  
COUNTY OF Cook §

BEFORE ME, the undersigned authority, on this day personally appeared Daniel Spencer, for and on behalf of MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC., who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27th day of February, 2004.

Wendy A. Champin  
NOTARY PUBLIC, State of Illinois

THE STATE OF TEXAS §  
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared RON WHITEHEAD, for and on behalf of the TOWN OF ADDISON, TEXAS, who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 4th day of MARCH, 2004.



Michele L. Covino  
NOTARY PUBLIC, State of Texas

# HP LaserJet 3200se



HP LASERJET 3200

SEP-8-2005 08:37

## Fax Call Report

Job	Date	Time	Type	Identification	Duration	Pages	Result
867	9/ 8/2005	08:34:22	Receive	2146722020	2:30	18	OK

SEP-08-2005 08:38

2146722020 P.01/18

**COWLES & THOMPSON**  
A Professional Corporation  
ATTORNEYS AND COUNSELORS



### FACSIMILE COVER PAGE

Date: September 8, 2005 Time: \_\_\_\_\_

Total Number of Pages (including this sheet): 18

Normal/Rush: Normal Client/Matter #: 3195/62693

TO: (1) Nancy Cline Director of Public Works FAX: (972) 450-2837 PHONE:

FROM: Kenneth C. Dippe Direct Dial #: (214) 672-2158

MESSAGE: RE: Absolute Systems, Ltd. - Per your e-mail request, I have attached the Statement in Condemnation and settlement papers. Please call if you have any questions.

IF YOU HAVE ANY PROBLEMS WITH THIS TRANSMISSION,  
PLEASE CALL  
Yolanda Rodriguez at (214) 672-2629  
Thank you.

**IMPORTANT/CONFIDENTIAL:** This message is intended only for the use of the individual or entity to which it is addressed. This message contains information from the law firm of Cowles & Thompson which may be privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee, or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at our telephone number (214) 672-2000. We will be happy to arrange for the return of this message to us, via the United States Postal Service, at no cost to you.

DALLAS TYLER

903 MAIN STREET SUITE 4000 DALLAS, TEXAS 75202-3779  
TEL 214.672.2000 FAX 214.672.2020  
WWW.COWLESTHOMPSON.COM

Church File

5-14-05

FYI

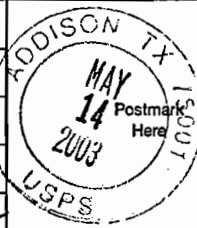
Copy of certified mail receipt for check # 18990 to  
Dallas County Clerks Office - amount of check \$115,000.00

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

290E 306Z  
8599 0000 09E0 T00Z

Postage	\$ .37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To Dallas County Clerks office  
Street, Apt. No.,  
or PO Box No. 500 MAIN ST  
City, State, ZIP+4<sup>®</sup> DALLAS TX 75202



COWLES & THOMPSON  
A Professional Corporation  
ATTORNEYS AND COUNSELORS

*Cary Crowdy*  


ANGELA K. WASHINGTON  
214.672.2144  
AWASHINGTON@COWLESTHOMPSON.COM

March 9, 2004

**VIA FACSIMILE (972) 450-7065**

Ms. Carolyn Burgette  
Accounting Manager  
Town of Addison  
P.O. Box 9010  
Addison, TX 75001-9010

**RE: *Town of Addison, Texas v. Absolute Systems, Ltd., et al.*  
Cause No. CC-03-01967-B**

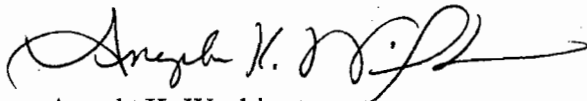
Dear Carolyn:

In connection with the above-referenced case, enclosed is a copy of the fully executed Settlement Agreement, Release and Agreement to Grant Easement. Pursuant to the agreement, the Town of Addison is to provide a check to 276 Trust in the amount of \$110,000. Please have a check for that amount made out to 276 Trust and forward it directly to the attorney handling this matter for the Town at the following address:

Mr. Lewis L. Isaacks  
Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
777 East 15<sup>th</sup> Street  
Plano, Texas 75074

It is the intent of the parties to close this transaction by the end of the week. Thank you for your assistance. Please let me know if you have any questions or if you need anything further.

Sincerely,



Angela K. Washington

AKW/yjr  
Attachment

c w/o Attachment: Mr. Bryan Langley, w/Addison  
Mr. Mike Murphy, w/Addison  
Mr. Steve Chutchian, w/Addison  
Mr. Lewis Isaacks  
Mr. Kenneth C. Dippel, w/firm

# COWLES & THOMPSON

A Professional Corporation  
ATTORNEYS AND COUNSELORS



ANGELA K. WASHINGTON  
214.672.2144  
AWASHINGTON@COWLESTHOMPSON.COM

March 16, 2004

Ms. Gayle Walton  
Department Secretary  
City Manager's Office  
Town of Addison  
P.O. Box 9010  
Addison, TX 75001-9010

**RE: *Town of Addison, Texas v. Absolute Systems, Ltd., et al.***  
**Cause No. CC-03-01967-B**  
**Parcel 8, Arapaho Extension of Road Project**

Dear Gayle:

Enclosed for the Town of Addison's records is the original Settlement Agreement, Release and Agreement to Grant Easement in the above-referenced case. Once the Judgment in this case has been entered with the Court, I will obtain a conformed copy for the Town's records. If you have any questions, please give me a call.

Sincerely,

Angela K. Washington

AKW/yjr  
Enclosure

c(w/Enc.): Mr. Mike Murphy  
(w/Enc.) Mr. Steve Chutchian  
(w/o Enc.) Mr. Kenneth C. Dippel

No. CC-03-01967-B

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**SETTLEMENT AGREEMENT, RELEASE AND AGREEMENT TO GRANT EASEMENT**

This Agreement is entered into on this date by and between the **TOWN OF ADDISON, TEXAS** (“Plaintiff) and **ABSOLUTE SYSTEMS, LTD., 276 TRUST and MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC.** (referred to herein collectively as “Defendant”) for the purposes of resolving all matters of controversy in dispute arising out of or related to the matters set forth in the above styled and numbered cause of action. On or about the 19<sup>th</sup> day of February, 2003, the Town of Addison, Texas filed the above action in order to acquire a 0.6709 acre permanent easement upon, under, over and through the property owned by Absolute Systems, Ltd. commonly known as 4139 Centurion Way, Addison, Texas, and which is more particularly described in said Statement in Condemnation (the “Subject Property”). The Subject Property is owned by Absolute Systems, Ltd. and it is encumbered by a Deed of Trust to Merrill Lynch Business Financial Services, Inc. Further, under the

terms of that certain Condemnation Rights Reservation Agreement, dated the 2<sup>nd</sup> day of July, 2002, 276 Trust, pursuant to this Agreement, has exercised its rights to recover all condemnation proceeds arising from the acquisition of the permanent easement as set forth more particularly under the terms of that particular agreement.

In consideration for the granting of the Easement by Absolute Systems, Ltd., the Town of Addison shall pay to 276 Trust the total amount of \$225,000, consisting of a check in the amount of \$110,000, paid contemporaneously with the execution of this Agreement, along with all sums currently in the registry of the Court representing the \$115,000 previously posted by the Town of Addison in accordance with the Award of the Special Commissioners. The parties agree that, contemporaneously with the execution of this Agreement, they will execute an appropriate order or documents enabling 276 Trust to withdraw the sum of \$115,000 which is currently in the registry of the Court. The parties further agree to execute any and all documents reasonably necessary to effectuate the withdrawal of these funds from the Court.

For and in consideration of the above amount, and the mutual promises contained herein, Absolute Systems, Ltd. shall grant the Town of Addison the 0.6709 acre permanent easement for the construction, repair and maintenance, revision, inspection, and supervision of that certain roadway, bridge and associated improvements, appurtenances and all related structures and supports required to be constructed within the permanent easement area being granted hereunder related to the extension of Arapaho Road through Addison, Texas. In further consideration for the above sum, Defendants do hereby fully and forever release and discharge the Town of Addison, Texas from any and all claims, demands, causes of

action, damages, or any other alleged injuries related to or associated with the acquisition of the permanent easement, the negotiation for said easement, including but not limited to, any and all claims for any alleged lack of good faith negotiation, procedural inadequacies or defects related to the condemnation process in this cause, claims for compensation for the rights being acquired for the permanent easement and for damages to the remainder of the Subject Property, if any, claims for damages related to any alleged impact or adverse effect on the use or usability of the Subject Property related to the bridge, for any alleged noise or vibration associated with the bridge, or otherwise related to the construction, operation or maintenance of the bridge, damages for mental anguish or stress, attorney's fees, or any and all other damages which could be claimed arising from the Project across, upon, under, over and through the Subject Property or from the relationship of the parties in this action, except nothing contained herein shall prevent Absolute Systems, Ltd. from asserting or recovery for any claims it may have for any damage to the building located on the Subject Property which is caused by or results from the construction of the bridge.

This release contains the entire agreement between the parties hereto, and the terms of this release are contractual and not a mere recital.

As further consideration for the granting of this easement, the Town of Addison agrees to restore the parking area currently within the 0.6709 acre permanent easement. Upon completion of the construction of the parking area, the Town of Addison shall have no further obligation or responsibility with regard to the maintenance and upkeep of the parking area, which responsibility shall remain solely with the owner of the underlying fee estate of that permanent easement area.

The Town of Addison hereby represents that the construction of the bridge and associated structures and improvements within the permanent easement area will not render the building currently located at 4139 Centurion Way nonconforming and that the construction of such improvements shall not be constructed within any portion of the building currently existing at 4139 Centurion Way and that the construction of the bridge and associated improvements and structures shall be located within the permanent easement being granted hereunder.

276 Trust represents that it is the sole entity entitled to receive all proceeds being paid hereunder pursuant to that certain Condemnation Rights Reservation Agreement; that no other person or entity, save and except its attorneys, are entitled to receive any of such proceeds; and that Gary Crouch is duly authorized to execute this agreement and any related documents on behalf of 276 Trust.

Absolute Systems, Ltd. represents that it is the owner of fee simple title of the Subject Property; that no other person or entity holds any interest in or to said Property except those certain rights held by 276 Trust under the terms of the Condemnation Reservation Rights Agreement referenced herein and those rights held under that certain Deed of Trust on the Subject Property for the benefit of Merrill Lynch Business Financial Services, Inc.; that Gene Harris is duly authorized officer to execute this agreement and all related documents on its behalf; and further acknowledges that 276 Trust is entitled to all condemnation proceeds being paid hereunder and does hereby expressly relinquish and waive any and all right to any proceeds being paid hereunder.

Merrill Lynch Business Financial Services, Inc. represents that the person executing this document on its behalf is a duly authorized officer to execute said Agreement; and further acknowledges that 276 Trust is entitled to all condemnation proceeds hereunder and does expressly relinquish and waive any and all right to any proceeds being paid hereunder.

Defendants each represent and warrant that they are the owner and holder of all claims and causes of action which are the subject matter of this agreement and that they have not assigned, transferred, sold, or otherwise encumbered any portion of its causes of action herein to anyone other than to their attorneys.

This Agreement contains the entire agreement of the parties and supercedes all other prior agreements among or between any of the parties. No representations were made or relied upon by any of the parties, other than those expressly set forth herein. No party or representative of a party is empowered to alter any of the terms hereof, unless done in writing and signed by the party. This Agreement cannot be amended, altered, or modified except by a subsequent written agreement executed by all parties hereto. Except for provisions related to entitlement to the proceeds from any condemnation proceedings, nothing contained in this Agreement shall be deemed to effect the rights or obligations between 276 Trust, Absolute Systems, Ltd. and Merrill Lynch Business Financial Services, Inc. under any instrument between those parties related to the Subject Property.

The parties agree that simultaneously with the execution of this Agreement, the parties shall execute that Agreed Judgment attached hereto as Exhibit "A".


EACH PARTY HERETO ACKNOWLEDGES THAT THEY HAVE READ AND UNDERSTAND THE EFFECT OF THIS AGREEMENT, HAVE BEEN ADVISED BY COUNSEL AS TO THE EFFECT OF THIS AGREEMENT, AND EXECUTE THE AGREEMENT OF THEIR OWN FREE WILL AND ACCORD FOR THE PURPOSES AND CONSIDERATIONS SET FORTH. THIS AGREEMENT MAY BE EXECUTED IN MULTIPLE COUNTERPARTS.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created by this agreement shall be performed in Dallas County, Texas.

If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and shall, if possible, be construed as if such invalid, illegal, or unenforceable provision had been drafted to be valid, legal, or enforceable.

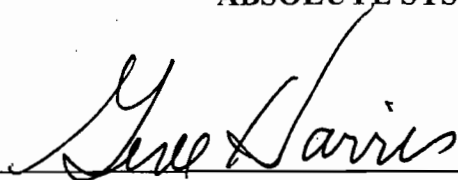
This Settlement Agreement and Release is being entered into solely for the purpose of avoiding the expense and uncertainties of litigation, and the payment of the sums due hereunder are not to be construed as an admission of liability by either party, which liability is expressly denied.

SIGNED this \_\_\_ day of \_\_\_\_\_, 2004, by:


By:  \_\_\_\_\_  
276 TRUST  
GARY CROUCH



**ABSOLUTE SYSTEMS, LTD.**

By:   
**GENE HARRIS**

**MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC.**

By:   
Its: Vice President

**TOWN OF ADDISON, TEXAS**

By:   
**RON WHITEHEAD, City Manager**

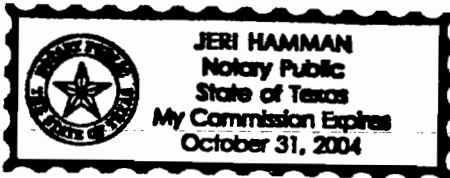
THE STATE OF TEXAS

§  
§  
§

COUNTY OF Dallas

BEFORE ME, the undersigned authority, on this day personally appeared GARY CROUCH, for and on behalf of 276 TRUST, who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 1st day of March, 2004.



Jeri Hamman  
NOTARY PUBLIC, State of Texas

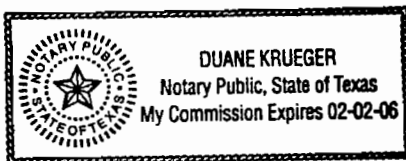
THE STATE OF TEXAS

§  
§  
§

COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, on this day personally appeared GENE HARRIS, for and on behalf of ABSOLUTE SYSTEMS, LTD., who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8 day of March, 2004.



Duane Krueger  
NOTARY PUBLIC, State of Texas

THE STATE OF Illinois §  
COUNTY OF Cook §

BEFORE ME, the undersigned authority, on this day personally appeared Daniel Spencer, for and on behalf of MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC., who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27th day of February, 2004.

Wendy A. Champin  
NOTARY PUBLIC, State of Illinois

THE STATE OF TEXAS §  
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared RON WHITEHEAD, for and on behalf of the TOWN OF ADDISON, TEXAS, who, being by me first duly sworn, upon oath stated that he has read the above and foregoing Settlement Agreement, Release and Agreement to Grant Easement, and that he has executed the same for the considerations therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 4th day of MARCH, 2004.



Michele L. Covino  
NOTARY PUBLIC, State of Texas

LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

*NOTED ON Nike's  
Calendar - S*

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID McCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

November 7, 2003

▼ BOARD CERTIFIED - CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

Mark Goodman, Esq.  
Two Lincoln Centre  
5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240

CERTIFIED MAIL, R.R.R.

Re: Cause No. 03-01967-B;  
Town of Addison v. Absolute Systems, Ltd., et al;  
Our File No. 93516.03054

Dear Mark:

Enclosed please find a copy of Plaintiff's Notice to take the deposition of Gary Crouch on Wednesday, December 3, 2003, beginning at 9:30 a.m. in your office.

Very truly yours,

  
LEWIS L. ISAACKS

LLI/jbg  
Enclosure

xc: Sterling Reporting Services  
4560 Explorer Drive  
Frisco, Texas 75034

Michael Murphy  
Town of Addison  
P. O. Box 9010  
Addison, Texas 75001-9010

Angela Washington  
901 Main Street, Suite 4000  
Dallas, Texas 75202-3793

No. CC-03-01967-B

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**NOTICE OF INTENTION TO TAKE ORAL DEPOSITION**

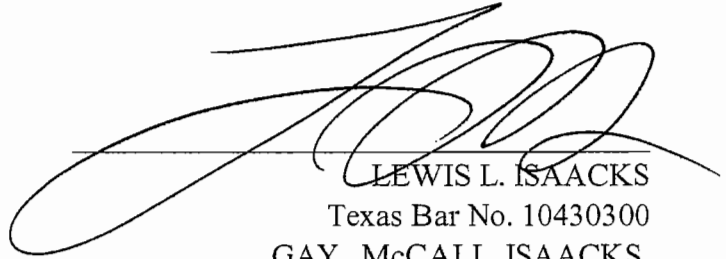
TO: **GARY CROUCH**, by and through his attorney, Mark Goodman, Two Lincoln Centre, 5420 LBJ Freeway, Suite 1200, Dallas, Texas 75240.

Pursuant to Rule 199, Texas Rules of Civil Procedure, notice is hereby given that the **TOWN OF ADDISON, TEXAS**, Plaintiff in the above numbered and entitled cause, intends to take the oral deposition of **GARY CROUCH of 276 TRUST**, on Wednesday, December 3, 2003, at 9:30 o'clock, a.m., in the offices of David Goodman & Madole, at Two Lincoln Centre, 5420 LBJ Freeway, Suite 1200, Dallas, Texas 75240.

The oral examination will continue from day to day until concluded. Said deposition, when taken and returned according to law, may be used as evidence upon the trial of said cause.

SIGNED this the 7 day of November, 2003.

Respectfully submitted,

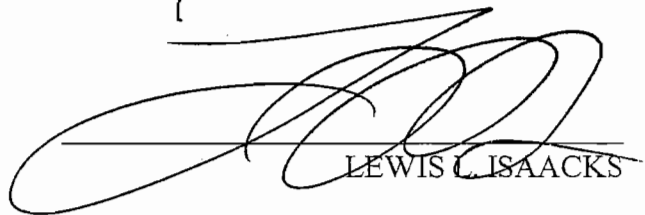


LEWIS L. ISAACKS  
Texas Bar No. 10430300  
GAY, McCALL, ISAACKS.  
GORDON & ROBERTS, P.C.  
777 East 15th Street  
Plano, Texas 75074  
Telephone: 972/424-8501  
Telecopier: 072/424-5619

ATTORNEY FOR PLAINTIFF  
TOWN OF ADDISON, TEXAS

**CERTIFICATE OF SERVICE**

I, LEWIS L. ISAACKS, Attorney for Plaintiff, Town of Addison, Texas, certify that a true and correct copy of the foregoing Notice of Intent to Take Oral Deposition Duces Tecum has been mailed by certified mail, return receipt requested, to Mark Goodman, Attorney for 276 Trust, at Two Lincoln Centre, 5420 LBJ Freeway, Suite 1200, Dallas, Texas 75240, on this 7 day of November, 2003.



LEWIS L. ISAACKS

LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

*Cathy Roach*

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
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JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID McCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

▼ BOARD CERTIFIED – CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

October 29, 2003

+ ATTORNEY - MEDIATOR

Mark Goodman, Esq.  
Kyle Johnson, Esq.  
Two Lincoln Centre  
5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240

Re: Cause No. 0301967-B;  
Town of Addison, Texas v. Absolute Systems, Ltd., et al;  
Our File No. 93516.03054

Dear Mr. Goodman:

Enclosed please find a copy of the Notice from the Court setting the above matter for trial on February 23, 2004.

Very truly yours,

*Jean B. Gipson*  
JEAN BARTON GIPSON  
Legal Assistant

/jbg

Enclosure

xc: Michael E. Murphy, P.E.  
P. O. Box 9010  
Addison, Texas 75001-9010

Mr. Mark Hipes  
7557 Rambler Road, Suite 260  
Dallas, Texas 75231

Mr. Grant Wall  
6220 Gaston Avenue, Suite 404  
Dallas, Texas 75214

Angela Washington, Esq.  
Cowles & Thompson  
901 Main Street, Suite 4000  
Dallas, Texas 75202-3793





DALLAS COUNTY

COUNTY COURT AT LAW NO 2  
RECORDS BUILDING, 3RD FLOOR  
509 MAIN STREET  
DALLAS, TEXAS 75202-5755  
(214)-653-7366

Chambers of  
JUDGE JOHN B. PEYTON

LEWIS L ISAACKS JR  
777 EAST 15TH STREET  
PLANO TX 75074

OCTOBER 14, 2003

RE: Case No. 0301967-B

TOWN OF ADDISON TEXAS VS. ABSOLUTE SYSTEMS LTD ETAL

All Counsel of Record:

The parties are instructed to cross-serve this notice on all adverse parties in compliance with Texas Rule of Civil Procedure 21a.

Please take note of the following settings:

Pre-trial:

Jury Trial:

Non Jury Trial: 02/23/04 09:00 A.M.

Trial announcements in ALL cases must be made in accordance with Local Rule 3.02(a). WHEN NO ANNOUNCEMENT IS MADE FOR PLAINTIFF, THE CASE MAY BE DISMISSED FOR WANT OF PROSECUTION.

An agreed or unopposed motion for continuance, even for a first trial setting, will NOT automatically be granted. Counsel(or pro se parties) are responsible for contacting court personnel to determine if a continuance has been granted or denied. FAILURE TO APPEAR FOR TRIAL MAY RESULT IN CASE DISMISSAL OR DEFAULT JUDGMENT, AND EVEN AN AGREED OR UNOPPOSED MOTION TO REINSTATE WILL NOT AUTOMATICALLY BE GRANTED.

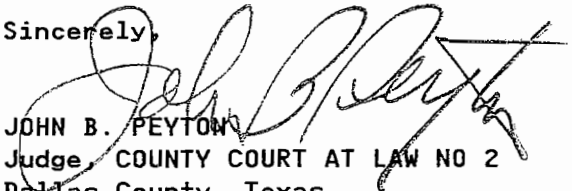
Completion of discovery, presentation of pretrial motions and other matters relating to preparation for trial are governed by the Local Rules of the Civil Courts of Dallas County available from the County Clerk's office and at [www.dallascourts.com/civil.ht](http://www.dallascourts.com/civil.ht)

RECEIVED GAY, McCALL, & ISAACKS

OCT 16 2003

COPY TO CLIENT

Sincerely,

  
JOHN B. PEYTON  
Judge, COUNTY COURT AT LAW NO 2  
Dallas County, Texas

*GARY CROUCH*

LAW OFFICES  
**GAY, MCCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

PLEASE DELIVER UPON RECEIPT

DATE:

10/10/03

TIME:

9:30 AM

**FACSIMILE MESSAGE COVER SHEET**

Please print all data (black ink will give better results).

Following is/are \_\_\_\_\_ page(s) **not** including this cover. If any part of this message is missing or received poorly, please call the sender as soon as possible.

PLEASE DELIVER UPON RECEIPT

TO:

*Duke Murphy*

COMPANY:

RE:

PHONE:

FAX NO:

972-450-2837

FROM:

*Steve Isaacks*

REMARKS:

**CONFIDENTIALITY NOTICE**

The information contained in this facsimile message and documents accompanying same are legally privileged and confidential information intended only for the use of the individual or entity named herein. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.

No. CC-03-01967-B

TOWN OF ADDISON, TEXAS

§  
§  
§  
§  
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§  
§

IN THE COUNTY COURT

vs.

AT LAW, NUMBER 2

ABSOLUTE SYSTEMS, LTD., 276 TRUST  
AND MERRILL LYNCH BUSINESS  
FINANCIAL SERVICES, INC.

DALLAS COUNTY, TEXAS

AFFIDAVIT OF MICHAEL MURPHY

STATE OF TEXAS §  
  §  
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority on this day, appeared MICHAEL MURPHY, who is personally known to me, and first being duly sworn according to law, deposed and said;

My name is MICHAEL MURPHY. I am over twenty-one (21) years of age, and I am fully competent to make this Affidavit. I have personal knowledge of each of the facts stated herein and each fact is within my personal knowledge and is true and correct.

I am the Public Works Director for the Town of Addison, Texas, Plaintiff in the above cause of action. In connection with my duties and responsibilities I am responsible for the oversight of the Public Works Project known as the Arapaho Road Extension. The purpose of that Project is to extend Arapaho Road west of Midway Road in Addison, Texas to alleviate the traffic congestion experienced on Belt Line Road in Addison. In connection with that Project, the City determined that it was necessary to construct a portion of Arapaho Road across the rear of the property located at 4139 Centurion Way, Addison, Texas (the subject property of this action). The extension of Arapaho Road over the subject property

involves the construction of an overhead bridge which will cross the property. The acquisition of an easement over that property was authorized by resolution of the city council of the Town of Addison, Texas, a true and correct copy of which is attached as Exhibit "A" and incorporated by referenced herein as if set forth at length.

The area of the easement being acquired for the overhead bridge had, on the date of taking, approximately 36 parking spaces available for use by the owner of the subject property. The parking area was constructed upon existing easements, including a 30-foot Dallas water utility easement and a 50-foot drainage easement. In connection with the taking of this easement for the construction of the bridge, the Town of Addison has agreed to reconstruct the parking spaces to provide the same number of spaces that existed on the date of taking. The property owner will continue to own the property in fee simple, save and except the easements which encumber that portion of the property.

In early 2002, the Town of Addison began negotiating with Mr. Gary Crouch of 276 Trust, for the acquisition of the area required for the project. In connection with those negotiations, the Town of Addison obtained an appraisal by Evaluation Associates, Inc. At the time the first appraisal was performed, the appraiser was under the mistaken belief that the 36 parking spaces would be lost due to the taking and this loss would impact the highest and best use of the property because it would no longer comply with the zoning requirements of the Town of Addison for its current use. Evaluation Associates appraised the property taken and the damage to the property at \$225,000.00. The above value was comprised of \$62,381.00 for the property to be taken and \$162,619.00 attributed to damages to the remainder due to the above misconception. Based upon that appraisal the Town of Addison offered the

owner (276 Trust) \$225,000.00. A true and correct copy of the correspondence transmitting that offer is attached hereto as Exhibit "B" and incorporated by reference herein as if set forth at length.

After receiving the initial offer, Mr. Crouch corresponded with the City requesting clarification of various issues related to the 36 parking spaces, as evidenced by Exhibit "C" attached hereto. The Town's initial offer was rejected as evidenced by that correspondence from Mr. Gary Crouch's attorney which is attached hereto as Exhibit "D" and incorporated by reference herein as if set forth at length. On April 10, 2002, Mr. Crouch requested to address the City Council regarding these issues, which he did. A true and correct copy of that letter is attached hereto as Exhibit "E".

Subsequent to the offer being rejected and after lengthy discussions regarding the parking, the Town of Addison determined that the taking of the property, and the reconstruction of the parking spaces, would not result in the subject property being in non-compliance with the zoning requirements of the Town of Addison. In addition the Town agreed to re-construct the 36 parking spaces as evidenced in that letter of April 24, 2002, which is attached hereto as Exhibit "F". Accordingly, the appraiser was instructed that his misconception concerning the impact of the bridge upon the zoning compliance issues was erroneous. He revised his appraisal to reflect the value of the property taken of \$62,381.00. In the April 24, 2002 letter, Mr. Crouch was notified that the subject property would remain in compliance with the zoning requirements of the Town of Addison under the plans for the construction of the bridge and reconstruction of the parking spaces and that he would be able to continue to use the property at its highest and best use. At that time, an offer was made to Mr. Crouch of \$62,381.00 reflecting the value of the part actually taken by the Town of Addison. That offer was likewise rejected.

On May 5, 2002, a counteroffer made by Mr. Crouch, through his attorney, of \$400,000.00 for the acquisition of the easement. A true and correct copy of the letter transmitting that offer is attached hereto to as Exhibit "G" and incorporated by reference herein.

In an effort to resolve this matter and avoid the necessity for condemnation, the Town of Addison made a final offer of \$112,381.00, which consisted of the \$62,381.00 for the part taken and an additional \$50,000.00 being offered in an effort to settle the valuation issues. A true and correct copy of that offer is attached hereto as Exhibit "H" and incorporated by reference herein as if set forth at length. That offer was not accepted by Mr. Crouch. On September 17, 2002, the Town once again offered \$112,381.00 for the easement, as shown in Exhibit "I" attached hereto. Once again, the offer was rejected. At no time has Mr. Crouch offered to sell the easement to the Town of Addison for any less than \$400,000.00.

It became apparent that continued negotiations would be futile and that it would be necessary for the Town of Addison to proceed with condemnation. After negotiations had broken down and it was determined that the Town of Addison would be required to proceed with condemnation, the Town of Addison obtained an additional appraisal by Hipes & Associates on or about September 26, 2002. Mr. Hipes' opinion of value of the easement to be acquired was \$52,601.00 which was substantially less than the final offer made by the Town of Addison. The Town of Addison did not have the Hipes' appraisal at the time that the final offer was made to Mr. Crouch. Although I believe that a copy of that appraisal had been provided to Mr. Crouch, I have been unable to locate any document reflecting delivery by certified mail or hand delivery.

Prior to filing condemnation, the Town of Addison used its best efforts to negotiate a settlement of this matter by making the offers referenced above. The Town of Addison does not believe that Mr. Crouch's final offer of \$440,000.00 represents the value of the part being acquired nor for the alleged damages which Mr. Crouch believes that he has sustained. Therefore, although the Town of Addison is not willing to pay \$400,000.00, I believe that we have negotiated in good faith based upon the appraised values of the property.

Further Affiant sayeth not.

---

MICHAEL MURPHY

SWORN TO AND SUBSCRIBED BEFORE ME by the said MICHAEL MURPHY, on this \_\_\_\_\_ day of October, 2003, to certify which, witness my hand and seal of office.

---

Notary Public in and for  
the State of Texas

**GAY, McCALL, ISAACKS,  
GORDON & ROBERTS, P.C.**

ATTORNEYS AND COUNSELORS

777 EAST 15TH STREET  
PLANO, TEXAS 75074

972/424-8501

FAX: 972/424-5619

FAX: 972/422-9322

JOHN F. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS\*  
MARC MAY  
DAVID B. McCALL\*  
KELLI ROACH  
WILLIAM J. ROBERTS\*

\*Attorney-Mediator

\*Board Certified  
Civil Trial Law  
Texas Board of Legal-  
Specialization

DATE: 10/10/03

TIME: 12:35 p.m.

**FACSIMILE MESSAGE COVER SHEET**

**Following is/are 36 page(s) including this cover. If any part of this message is missing or received poorly, please call the sender as soon as possible.**

**PLEASE DELIVER UPON RECEIPT**

**TO: Mark Goodman/Kyle Johnson  
Angela Washington  
Mike Murphy**

**FAX NO. 972-404-0516  
214-672-2020  
972-450-2837**

**FR: Lewis Isaacks**

**RE: Addison v. 276 Trust;**

**MESSAGE:**

**CONFIDENTIALITY NOTICE**

**The information contained in this facsimile message and documents accompanying same are legally privileged and confidential information intended only for the use of the individual or entity named herein. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.**



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**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

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LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID McCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

October 10, 2003

▼ BOARD CERTIFIED - CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

**VIA FACSIMILE AND HAND-DELIVERY**

Mark Goodman, Esq.  
Kyle Johnson, Esq.  
Two Lincoln Centre  
5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240

Re: Cause No. 03-01967-B;  
Town of Addison v. Absolute Systems, Ltd., et al;  
Our File No. 93516.03054

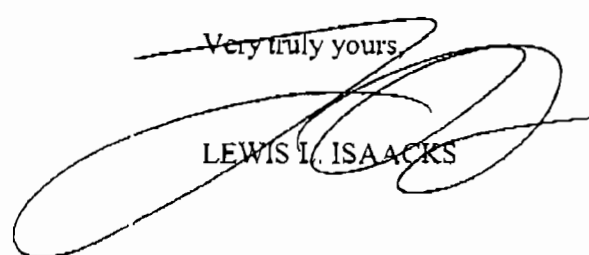
Gentlemen:

Enclosed is a copy of The Town of Addison's Response to 276 Trust's Plea to the Jurisdiction. I am faxing this copy to you as well as having a hard copy hand delivered to your office. Although the courier has left with that copy, I wanted to make sure that you had at least a fax prior to our agreed 2:00 p.m. deadline.

On Monday, I would like to discuss deposition dates for Mr. Crouch. Therefore, I would request that you confer with him prior to that time with regard to his availability for deposition.

As always, should you need to discuss any issue in this action, please do not hesitate to contact me.

Very truly yours,



LEWIS L. ISAACKS

LLI/jbg  
Enclosure

LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID McCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

October 10, 2003

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\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

Clerk, County Court at Law #2  
3<sup>rd</sup> Floor, Records Building  
500 Main Street  
Dallas, Texas 75202

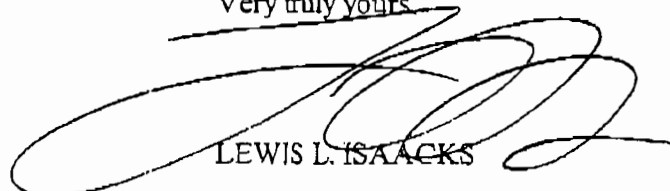
Re: Cause No. CC-03-01967-B;  
Town of Addison, Texas v. Absolute Systems, Ltd., 276 Trust  
and Merrill Lynch Business Financial Services, Inc.;  
Our File No. 93516.03054

Dear Clerk:

Enclosed please find Plaintiff's Response to Defendant's Plea to the Jurisdiction and a Rule 11 Agreement for filing in the above cause. Please return file marked copies to the courier delivering same.

Thank you for your assistance in this matter.

Very truly yours



LEWIS L. ISAACKS

LLI/jbg  
Enclosure

xc: HAND DELIVERED  
Mark Goodman, Esq.  
Kyle Johnson, Esq.  
Two Lincoln Centre  
5420 LBJ Freeway, #1200  
Dallas, Texas 75240

OCT. -10' 03 (FRI) 14:02

TEL: 972 422 9322

P. 004

10-09-2003 16:09 FAX 9724040516

DAVID GOODMAN & MADOLE

002/002

OCT -09' 03 (THU) 14:55

TEL: 972 422 9322

P. 003

LAW OFFICES  
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 A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
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JOHN E. GAY  
 SYDNEY H. GORDON  
 LEWIS L. ISAACKS  
 RACHAEL L. KING  
 MARK R. MAY  
 JAMES McCALL  
 WELLS L. ROBERTS  
 WILLIAM J. ROBERTS  
 KRISTINA A. SCHAEFER

October 9, 2003

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 TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
 TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

Mr. Kyle Johnson  
 Two Addison Centre  
 5020 LBJ Freeway, Suite 1200  
 Dallas, Texas 75240

FACSIMILE NO. 972-404-0516

Re: Cause No. 03-01967-B;  
 Town of Addison v. Absolute Systems, Ltd, et al;  
 Our File No. 98516.03054

Dear Kyle:

This will confirm our agreement that the Town of Addison may file its Response to Defendant, 276 Trust's Plea to Jurisdiction and deliver a copy to you by 2:00 p.m. tomorrow, Friday, October 10, 2003. I appreciate your consideration in this matter, particularly in light of the fact that I have been in trial all week in Collin County and unable to provide you with finalized Response any earlier.

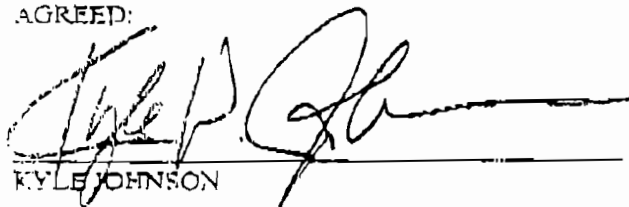
If this correctly reflects our agreement, please signify same by signing in the space provided below and return to me at your earliest convenience.

Very truly yours,

  
 LEWIS L. ISAACKS

LLI/jbg

AGREED:

  
 KYLE JOHNSON

CAUSE NO. CC-03-01967-B

TOWN OF ADDISON, TEXAS,	§	IN COUNTY COURT
	§	
<b>Plaintiff</b>	§	
	§	
VS.	§	
	§	AT LAW NO. 2
ABSOLUTE SYSTEMS, LTD., 276	§	
TRUST AND MERRILL LYNCH	§	
BUSINESS, FINANCIAL SERVICES,	§	
INC.,	§	
	§	
<b>Defendants</b>	§	DALLAS COUNTY, TEXAS

**PLAINTIFF'S RESPONSE TO DEFENDANT 276 TRUST'S PLEA TO JURISDICTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff Town of Addison and files this Response to 276 Trust's Plea to Jurisdiction and states as follows:

**I.**

**FACTUAL BACKGROUND**

1. This is a condemnation action brought by the Town of Addison to acquire an easement over property owned by Absolute Systems, Ltd. in order to extend Arapaho Road through the Town of Addison, Texas. Although Absolute Systems, Ltd. is the owner of record title to the property, 276 Trust retained the right to the condemnation proceeds at the time of the sale to Absolute Systems. In early 2002, the Town of Addison began negotiations with 276 Trust who owned the property at that time. As detailed in the Affidavit of Michael Murphy, the Public Works Director for the Town of Addison, various offers and

counteroffers were made during 2002 in an effort to negotiate the purchase of the easement rather than proceeding with a condemnation action. However, as set forth in Mr. Murphy's Affidavit, those negotiations were unsuccessful. Therefore, after such negotiations had failed and proved futile, the City Council of the Town of Addison passed its Resolution authorizing the acquisition of the easement through eminent domain. A detailed description of Addison's efforts to acquire the property through negotiations are detailed in Mr. Murphy's Affidavit. At the outset of this process, Addison obtained an appraisal from Evaluation Associates, Inc. to determine the market value of the property sought to be acquired.

2. On January 23, 2002, Evaluation Associates conducted an appraisal on the subject property located at 4139 Centurion Way, Addison, Texas. This appraisal stated that a true value of the property to be taken would be \$225,000. This amount can be broken down into two parts: \$62,381.00 for the actual taking and \$162,619.00 for the loss of value of the remainder of the property. However, this appraisal was completed under the assumption that the existing office/warehouse building could not be rebuilt in its current location due to the taking of the easement. After review of the existing city ordinances, it was determined that Addison's ordinances would permit the reconstruction of the existing building at its current location in the event of destruction. Therefore, the assumption of the initial appraisal was erroneous. Consequently, Evaluation Associates conducted a second appraisal of the property on February 13, 2002. The second appraisal determined the total compensation for the taking would be \$62,381.00, as there was no damage to the remainder.

3. Addison made three offers to the Trust, all of which have been rejected. (See Murphy Affidavit). In response to Addison's offer, 276 Trust countered with \$440,000.00 for the easement.

Plaintiff and condemnees were unable to agree upon the compensation due as a result of the taking of such property.

4. Accordingly, on August 27, 2002, the Addison City Council passed resolution No. R02-078, which determined that public convenience and necessity required the Town to acquire fee simple ownership of a portion of the property owned by Absolute Systems, Ltd. ("Absolute") for the realignment and extension of Arapaho Road in the Town. Subsequent to the passage of the above resolution, Addison obtained a third appraisal from Mark Hipes.

5. Addison then initiated condemnation proceedings. The Special Commissioners granted Addison the permanent easement and ordered payment to the Trust of \$115,000, as compensation for the taking. The Trust now claims the Special Commissioners had no jurisdiction to hear the condemnation proceedings, and the Statement in Condemnation should be dismissed. For the reasons set forth below, 276 Trust's contentions are without merit.

## II.

### ARGUMENT AND AUTHORITY

#### **A. Addison and the Trust were "Unable to Agree" as to the Amount of Damages**

Under Texas Property Code Section 21.012, an entity with eminent domain authority who cannot agree with the landowner on the amount of damages, may file a condemnation petition to initiate a condemnation proceeding. The petition must (1) describe the property to be condemned; (2) state the purpose for which the entity intends to use the property; (3) state the name of the owner, if known; and (4) **state that the entity and landowner are unable to agree.** *Pitts v. Sabine River Authority of Texas,*

107 S.W.3d 811, 815 (Tex. App.—Texarkana 2003, pet. filed); *ExxonMobil Pipeline Company v. Bell*, 84 S.W.3d 800, 804 (Tex. App.—Houston [1st Dist.], 2002, pet. filed). Addison filed its “Statement in Condemnation” satisfying all the necessary requirements, as described above, with this Court on February 19, 2003.

To prove that a condemnor was unable to agree with the landowner as to the amount of damages, it is only required to show that a bona fide offer was made to pay the estimated true value of the property and the landowner rejected such offer. *Pitts*, 107 S.W.3d at 815-16; *Hubenak*, 65 S.W. 3d at 797; *State v. Schmidt*, 894 S.W.2d 543, 545 (Tex. App.—Austin 1995). In order to be a bona fide offer, the offer must be made in good faith and made honestly, openly and sincerely, without deceit or fraud. *Id.* The offer must not be arbitrary or capricious, but must be based on a reasonably thorough investigation of the amount of compensation owed to the landowner as a result of the taking. *Pitts*, 107 S.W.3d at 819; *ExxonMobil Pipeline Company v. Harrison Interests, Ltd.*, 93 S.W.3d 188 (Tex. App.—Houston [14th Dist.], 2002, pet. for review filed Oct. 14, 2002).

Addison made a good faith effort to negotiate with the Trust. On March 4, 2002, Addison sent a letter to the Trust offering \$225,000 based upon the appraisal by Evaluation Associates. Unbeknownst to Addison at that time, the above value was based upon erroneous assumptions by the appraiser. Nevertheless, 276 Trust did not accept this offer. Addison then cooperated with the Trust by meeting with the trustee, Gary Crouch, to address his concerns surrounding the planned acquisition of the property.

During this general time frame, Addison confirmed that the taking would not impact the property owner's ability to comply with certain zoning requirements related to the use of the property. On April 24,

2002, Addison made another offer of \$62,381.00 to the Trust based on the revised appraisal conducted by Evaluation Associates on February 13, 2002. Addison also agreed to reconstruct substitute parking. However, the Trust also refused this offer. Finally, Addison offered \$112,381.00 for the taking. This offer was rejected. (See Murphy Affidavit).

A good faith effort to determine the value of land can be made by hiring a state-certified general real estate appraiser. *Hubenak*, 65 S.W.3d at 800-01. Following this procedure, Addison made a good faith effort to determine the true value of the land. The offers to the Trust were based on the thorough investigation and honest assessment conducted by these appraisals. Both offers were bona fide offers, as they were made in good faith and made honestly, openly and sincerely, without deceit or fraud. The Trust, however, refused the offers. Under Texas law, once it becomes apparent to the condemnor that further negotiations will be futile and the parties will be unable to agree as to damages, the condemning entity may then initiate a condemnation proceeding by filing a petition. *Hubenak*, 62 S.W.3d at 797. Addison only initiated condemnation proceedings once it was quite apparent that it would not be able to reach an agreement with the Trust.

**B. Addison Did Make a Bona Fide Offer Prior to Filing Suit**

The Trust claims that no bona fide offer was made because Addison made no offer between the time the City Council passed the resolution and the time the condemnation suit was filed. No such action is required under Texas law. Resolution No. R02-078, passed on August 27, 2002, permitted Addison to make an offer to the Trust for the property in the amount of \$62,381.00, the amount already offered and rejected by the Trust just a few months earlier. However, on September 17, 2002, a letter was sent by



Addison to Barry Knight, the attorney who represents the Trust, offering compensation in the amount of \$112,381.00. This offer was also made to Mr. Crouch, the trustee, on May 9, 2002. That offer was not accepted and Addison initiated a condemnation proceeding on February 19, 2003. Addison **did make an offer between the time Addison's City Council passed Resolution R02-078 (August 27, 2002) and the time Addison filed the condemnation suit (February 19, 2003) with the offer mailed to Mr. Knight on September 17, 2003.**

The Trust also bases its Plea to Jurisdiction on the fact that no copy of Mark Hipes' appraisal was made available until the Special Commissioners hearing. Section 21.0111 of the Texas Property Code requires the condemning entity to disclose to the property owner **"at the time an offer to purchase is made, any and all existing appraisal reports** produced or acquired by the entity that specifically relate to the property and the determination of the value of such property." Addison did not have the Hipes' appraisal when any final offer was made. Although Addison believed that the Hipes' appraisal had been provided to the landowner prior to the hearing, it apparently was not. At the hearing, Addison put on evidence of the Hipes' appraisal. Such appraisal calculated the value of the property at \$52,601. Making an offer based on that appraisal would certainly have been futile in light of the rejection of the final offer of \$112,381.00. Section 21.0111 only requires the disclosure of appraisal reports used in determining the final valuation offer. Addison made no final offer based on the Hipes' appraisal, thus the production of an appraisal report reflecting such value was not required. Addison has not violated Section 21.0111.

**C. The Trust Waived any Complaint(s) They May Have Had by Participating at Condemnation Hearing**

Regardless of Addison's bona fide offer and good faith negotiations, the Trust cannot now complain of any lack of good faith negotiations because it waived any complaints by attending and participating at the condemnation proceeding. Under Texas law, landowners waive any complaint they may have as to lack of good faith negotiations by appearing at the special commissioners hearing. *Austin Home Center Associates v. State*, 794 S.W.2d 593, 595 (Tex. App.—Austin 1990); *Phillips Pipeline Company v. C.R. Woods*, 610 S.W.2d 204, 207 (Tex. App.—Houston [14th Dist.], 1980, writ refused n.r.e.); *State v. Royal Central Condominium Owners*, 1997 WL 66712 (Tex. App.—Dallas 1997, not designated for publication); *Jones v. City of Mineola*, 203 S.W.2d 1020 (Tex. Civ. App.—Texarkana 1947, writ refused).

If a condemnee is dissatisfied with the special commissioner's award, he can file objections with the court, in which case, the award is vacated and the commissioner's administrative proceeding is converted into a judicial proceeding. *Amason v. Natural Gas Pipeline Company*, 682 S.W.2d 240, 242 (Tex. 1985). The condemnee's right of appeal only affords the petitioner an adequate remedy for errors occurring in the special commissioner's proceeding, up to and including the award. *Tonahill v. Gulf States Utilities Company*, 446 S.W.2d 301, 302 (Tex. 1969); *City of Dallas v. Martin*, 711 S.W.2d 285, 287 (Tex. App.—Dallas 1986). Thus, the Trust can now only complain about the commissioner's award, but cannot complain of any jurisdictional matters preceding the Commissioners Hearing. Whether

Addison made a bona fide offer is a jurisdictional matter that cannot now be litigated before this Court. The Trust cannot now complain of lack of good faith negotiations prior to the special commissioner's proceeding because the Trust attended, participated in, and consequently waived, its right to challenge jurisdiction under Section 21.012.

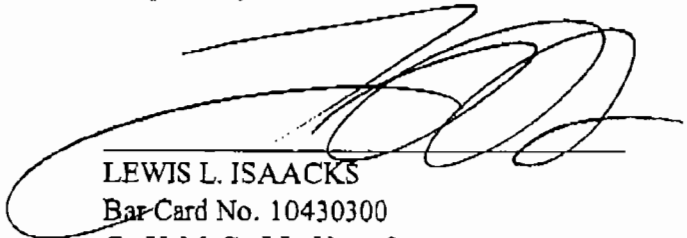
Further, the Dallas Court of Appeals has held in an unpublished opinion, that the requirement of being "unable to agree" is also a prelitigation matter that is waived when the condemnee appears and participates at the condemnation proceeding. *State v. Royal Central Condominium Owners*, 1997 WL 66712. Thus, under this holding, this Court should not review whether Addison established its inability to agree with the Trust because that would be a prelitigation issue, not proper for review by this Court. The Trust's right to review in this Court is limited to the amount of compensation to be awarded for the taking.

### CONCLUSION

Addison made bona fide offers and negotiated in good faith with the Trust prior to commencing this action. Further, Addison has established that it was "unable to agree" with the Trust as to the amount of damages. Under the Texas Property Code, this Court has jurisdiction over this matter. Further, the Trust has waived any complaint as to good faith negotiations and other jurisdictional matters by attending and participating at the condemnation proceeding. Therefore, this Court has proper jurisdiction to hear and decide only the amount of compensation due the landowner.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon hearing, the Court deny Defendant's Plea to the Jurisdiction, that it retain this case on the docket, and for such other and further relief to which it may show itself to be entitled.

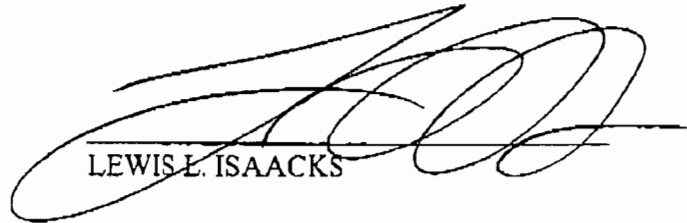
Respectfully Submitted,



LEWIS L. ISAACKS  
Bar Card No. 10430300  
GAY, McCALL, ISAACKS,  
GORDON & ROBERTS, P.C.  
777 East 15th Street  
Plano, Texas 75074  
Telephone: 972/424-8501  
Telecopier: 972/424/5619  
ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

A copy of this Brief has been delivered by facsimile and hand-delivery to all counsel of record on this the 10<sup>th</sup> day of October, 2003.



LEWIS L. ISAACKS

No. CC-03-01967-B

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST AND MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC.</b>	§	<b>§ DALLAS COUNTY, TEXAS</b>

**AFFIDAVIT OF MICHAEL MURPHY**

STATE OF TEXAS	§
	§
COUNTY OF COLLIN	§

BEFORE ME, the undersigned authority on this day, appeared MICHAEL MURPHY, who is personally known to me, and first being duly sworn according to law, deposed and said;

My name is MICHAEL MURPHY. I am over twenty-one (21) years of age, and I am fully competent to make this Affidavit. I have personal knowledge of each of the facts stated herein and each fact is within my personal knowledge and is true and correct.

I am the Public Works Director for the Town of Addison, Texas, Plaintiff in the above cause of action. In connection with my duties and responsibilities, I am responsible for the oversight of the Public Works Project known as the Arapaho Road Extension. The purpose of that Project is to extend Arapaho Road west of Midway Road in Addison, Texas to alleviate the traffic congestion experienced on Belt Line Road in Addison. In connection with that Project, the City determined that it was necessary to construct a portion of Arapaho Road across the rear

of the property located at 4139 Centurion Way, Addison, Texas (the subject property of this action). The extension of Arapaho Road over the subject property involves the construction of an overhead bridge which will cross the property. The acquisition of an easement over that property was authorized by resolution of the city council of the Town of Addison, Texas, a true and correct copy of which is attached as Exhibit "A" and incorporated by referenced herein as if set forth at length.

The area of the easement being acquired for the overhead bridge had, on the date of taking, approximately 36 parking spaces available for use by the owner of the subject property. The parking area was constructed upon existing easements, including a 30-foot Dallas water utility easement and a 50-foot drainage easement. In connection with the taking of this easement for the construction of the bridge, the Town of Addison has agreed to reconstruct the parking spaces to provide the same number of spaces that existed on the date of taking. The property owner will continue to own the property in fee simple, save and except the easements which encumber that portion of the property.

In early 2002, the Town of Addison began negotiating with Mr. Gary Crouch of 276 Trust, for the acquisition of the area required for the project. In connection with those negotiations, the Town of Addison obtained an appraisal by Evaluation Associates, Inc. At the time the first appraisal was performed, the appraiser was under the mistaken belief that the 36 parking spaces would be lost due to the taking and this loss would impact the highest and best use of the property because it would no longer comply with the zoning requirements of the Town of Addison for its current use. Evaluation Associates appraised the property taken and the damage to the property at \$225,000.00. The above value was comprised of \$62,381.00 for the property to be taken and \$162,619.00 attributed to damages to the remainder due to the above

use. At that time, an offer was made to Mr. Crouch of \$62,381.00 reflecting the value of the part actually taken by the Town of Addison. That offer was likewise rejected.

On May 5, 2002, a counteroffer made by Mr. Crouch, through his attorney, of \$400,000.00 for the acquisition of the easement. A true and correct copy of the letter transmitting that offer is attached hereto as Exhibit "G" and incorporated by reference herein.

In an effort to resolve this matter and avoid the necessity for condemnation, the Town of Addison made a final offer of \$112,381.00, which consisted of the \$62,381.00 for the part taken and an additional \$50,000.00 being offered in an effort to settle the valuation issues. A true and correct copy of that offer is attached hereto as Exhibit "H" and incorporated by reference herein as if set forth at length. That offer was not accepted by Mr. Crouch. On September 17, 2002, the Town once again offered \$112,381.00 for the easement, as shown in Exhibit "I" attached hereto. Once again, the offer was rejected. At no time has Mr. Crouch offered to sell the easement to the Town of Addison for any less than \$400,000.00.

It became apparent that continued negotiations would be futile and that it would be necessary for the Town of Addison to proceed with condemnation. After negotiations had broken down and it was determined that the Town of Addison would be required to proceed with condemnation, the Town of Addison obtained an additional appraisal by Hipes & Associates on or about September 26, 2002. Mr. Hipes' opinion of value of the easement to be acquired was \$52,601.00 which was substantially less than the final offer made by the Town of Addison. The Town of Addison did not have the Hipes' appraisal at the time that the final offer was made to

Mr. Crouch. Although I believe that a copy of that appraisal had been provided to Mr. Crouch, I have been unable to locate any document reflecting delivery by certified mail or hand delivery.

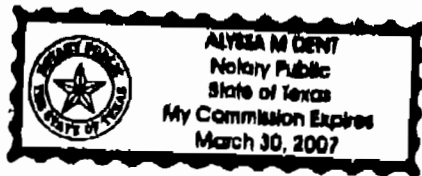


Prior to filing condemnation, the Town of Addison used its best efforts to negotiate a settlement of this matter by making the offers referenced above. The Town of Addison does not believe that Mr. Crouch's final offer of \$440,000.00 represents the value of the part being acquired nor for the alleged damages which Mr. Crouch believes that he has sustained. Therefore, although the Town of Addison is not willing to pay \$400,000.00, I believe that we have negotiated in good faith based upon the appraised values of the property.

Further Affiant sayeth not.

*M. E. Murphy*  
 \_\_\_\_\_  
 MICHAEL MURPHY

SWORN TO AND SUBSCRIBED BEFORE ME by the said MICHAEL MURPHY, on this 10 day of October, 2003, to certify which, witness my hand and seal of office.



*Alyssa M. Lent*  
 \_\_\_\_\_  
 Notary Public in and for  
 the State of Texas

**TOWN OF ADDISON, TEXAS**

**RESOLUTION NO. R02-078**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS DETERMINING THE NECESSITY OF ACQUIRING THE HEREINAFTER DESCRIBED REAL PROPERTY OWNED BY ABSOLUTE SYSTEMS, LTD., ET AL. AND AUTHORIZING ITS CONDEMNATION AND/OR APPROPRIATION FOR PUBLIC USE IN CONNECTION WITH THE REALIGNMENT AND EXTENSION OF ARAPAHO ROAD IN ADDISON, TEXAS.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

SECTION 1. That for the purposes of this Resolution, the following definitions of terms shall apply:

"PROPERTY": The areas described in Exhibit "A" attached hereto and made a part hereof for all purposes.

"PROPERTY INTEREST": Fee simple title to the land described in Exhibit "A" attached hereto and incorporated herein.

"PROJECT": Realignment and extension of Arapaho Road, Addison, Texas.

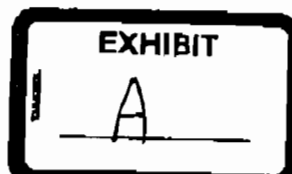
"OFFER AMOUNT": Sixty Two Thousand Three Hundred and Eighty One and No/100 Dollars (\$62,381.00).

"OWNERS": Absolute Systems, Ltd.  
Juvat, Inc., general partner of Absolute Systems, Ltd.  
Joyce Harris, individually and as officer of Juvat, Inc.  
Gene Harris, individually and as officer of Juvat, Inc.  
276 Trust  
Gary B. Crouch, Trustee

"LIENHOLDER": Merrill Lynch Business Financial Services, Inc.  
David L. Fair, Trustee

SECTION 2. That it is hereby determined that public convenience and necessity requires that the Town of Addison should acquire the PROPERTY INTEREST in, over, and across the PROPERTY necessary for the PROJECT.

SECTION 3. That the PROPERTY is hereby determined to be necessary for the PROJECT. That for the purpose of acquiring the PROPERTY INTEREST in,



over, and across the PROPERTY, the City Manager, or such employee as he may designate, is hereby authorized and directed to offer the OFFER AMOUNT as payment for the PROPERTY to be acquired and full damages allowable by law, which amount represents its fair cash market value.

SECTION 4. That the Town of Addison determines to appropriate the PROPERTY INTEREST in, over, and across the PROPERTY for the PROJECT under the laws of the State of Texas and the provisions of the Charter of the Town of Addison.

SECTION 5. That, in the event the OWNERS accept the OFFER AMOUNT as authorized herein, the City Finance Director be and is hereby authorized to draw a check in favor of the OWNERS named above, or the current owners of record, in the OFFER AMOUNT.

SECTION 6. That the City is to have possession of the PROPERTY on closing; and the City will pay any title expenses and closing costs; and the City will pay court costs as may be assessed by the Special Commissioners or the court.

SECTION 7. Should the employee designated to make the official offer report to the City Attorney that the OWNERS have refused to accept the OFFER AMOUNT as compensation for the hereinabove described taking from the OWNERS under the laws of eminent domain, which amount the City Council deems to be the fair cash market value and all just compensation, in compliance with the laws of the State of Texas, this will be evidence that the Town of Addison cannot agree with the OWNERS as to the damages legally allowable by law. In such case, the City Attorney is authorized and directed to file the necessary suit and take the necessary action for the prompt acquisition of the PROPERTY in condemnation or in any manner provided by law.

SECTION 8. That in the event the Special Commissioners in Condemnation appointed by the court return an award that is the same amount or less than the OFFER AMOUNT, the City Finance Director is hereby authorized to issue a check not to exceed the amount of the Commissioners' award made payable to the County Clerk of Dallas County to be deposited into the registry of the court to enable the City to take possession of the PROPERTY without further action of the City Council.

SECTION 9. That in the event it is subsequently determined that additional persons other than those named herein have an interest in the PROPERTY, then the City Attorney is authorized and directed to join said parties as defendants in said condemnation suit.

SECTION 10. That this resolution shall take effect immediately from and after its passage, as in the Charter in such cases is made and provided.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON,  
TEXAS, this the 27<sup>th</sup> day of August 2002.



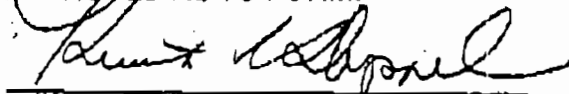
\_\_\_\_\_  
Mayor

ATTEST:



\_\_\_\_\_  
City Secretary

APPROVED AS TO FORM:



\_\_\_\_\_  
Ken C. Dippel, City Attorney

**"EXHIBIT A"**

Parcel 8  
 Field Note Description  
 Arapaho Road Project  
 Town of Addison  
 Dallas County, Texas

BEING a description of a 0.6709 acre (29,223 square foot) tract of land situated in the W.H. Witt Survey, Abstract Number 1609, and the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 2.5212 acre tract of land conveyed to J. H. Crouch, Jr. and Jo Doris Crouch on August 4, 1997 and recorded in Volume 97153, Page 03266 of the Deed Records of Dallas County, Texas, said called 2.5212 acre tract being all of "Lot 6, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated March 29, 1979 and recorded in Volume 79130, Page 2495 of said Deed Records, said 0.6709 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corners of said called 2.5212 acre tract and "Lot 6, Surveyor Addition, Addison West Industrial Park", and Northwest corner of a called 3.4654 acre tract of land, 25% interest conveyed by Epina Properties Limited to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02787 of said Deed Records, 75% interest conveyed by Lehndorff & Babson Property Fund to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02796 of said Deed Records, said called 3.4654 acre tract being all of the Surveyor Addition, Addison West Industrial Park, an addition to the Town of Addison, as evidenced by the plat dated October 24, 1978 and recorded in Volume 79029, Page 0984 of said Deed Records;

THENCE, SOUTH 00°07'27" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 2.5212 acre tract and West line of said called 3.4654 acre tract, a distance of 78.96 feet to a 5/8 inch iron rod set in the proposed South right of way line of Arapaho Road;

## PARCEL B - ARAPAHO ROAD PROJECT

THENCE, NORTH 89°58'49" WEST, departing said common line and along the proposed South right of way line of Arapaho Road, a distance of 370.10 feet to an "X" in concrete set in the common West line of said called 2.5212 acre tract and East line of a called 1.776 acre tract of land conveyed to Michael B. Schiff on August 31, 1982 and recorded in Volume B2172, Page 288B of said Deed Records, said called 1.776 acre tract of land being all of Interwest Companies Addition, an addition to the Town of Addison, as evidenced by the plat dated October 29, 1982 and recorded in Volume B3017, Page 2268 of said Deed Records;

THENCE, NORTH 00°05'03" EAST (called North 00°05'05" East), departing said line and along the common West line of said called 2.5212 acre tract and East line of said called 1.776 acre tract, a distance of 78.95 feet to a 5/8 inch iron rod set in the proposed North right of way line of Arapaho Road Road and South right of way line of said DART railroad for the common Northwest corner of said called 2.5212 acre tract and Northeast corner of said called 1.776 acre tract, from said point a found 1/2 inch iron rod bears North 00°08'18" East, a distance of 0.24 feet;

THENCE, SOUTH 89°58'49" EAST (called EAST), departing said common line and along the common North line of said called 2.5212 acre tract, proposed North right of way line of Arapaho Road, and South right of way line of said DART railroad, a distance of 370.15 feet (called 370.00 feet) to the POINT OF BEGINNING;

CONTAINING an area of 0.6709 acres or 29,223 square feet of land within the metes recited.

PARCEL 8 - ARAFAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Ayub R. Sandhu 11-12-99  
Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910



**OFFICE OF THE CITY MANAGER**

(972) 450-7000 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75001-9010

5300 Belt Line Road

March 4, 2002

Mr. Gary B. Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, Texas 75001-3208

Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison  
Recorded in Vol. 79130, Pg. 2495 in the Deed Records of Dallas County

Dear Mr. Crouch:

In February 2000, the Town of Addison elected to sell bonds in order to fund six construction projects. Included in these projects is the extension of Arapaho road, from Addison Road to Marsh Lane. At this time we are in the right-of-way acquisition phase of the project.

The Town of Addison has determined the public need to acquire a 0.6709 acre portion of the 2.521 acre tract of land that is owned by you at 4139 Centurion Way. The public purpose for this land acquisition is the necessary right-of-way for the Arapaho Road project along with related municipal uses including a public hike and bike trail. The firm of Evaluation Associates appraised the property on January 23, 2002. The attached summary sheet shows a summary of facts and conclusions regarding this taking. On February 26, 2002, the City Council of the Town of Addison authorized me to make an offer to purchase the 0.6709 acre tract of land at the appraised value of \$225,000.00.

The Town of Addison requests that you respond to this offer of purchase within thirty (30) days of the date of this letter. If we do not hear from you within the thirty (30) day period, the Town will consider its offer rejected and we will initiate eminent domain proceedings to acquire the property.

Should you have any questions, please feel free to contact Mr. Mike Murphy, P.E., Director of Public Works, at 972-450-2871, or me.

Sincerely,

Ron Whitehead  
City Manager





**EVALUATION ASSOCIATES**

RIGHT OF WAY LAND RIGHTS ANALYSIS • APPRAISAL • ACQUISITION • SOLUTIONS

**SUMMARY OF SALIENT FACTS AND CONCLUSIONS  
ARAPAHO ROAD PROJECT****Property Owner: 276 Trust****Valuation Conclusion:**

Whole Property	\$1,900,000
Proposed Acquisition	\$ 62,381
Remainder Before Acquisition	\$1,837,619
Remainder After Acquisition	\$1,675,000
Loss in Value of Remainder After	\$ 162,619

**Determination of Compensation:**

Permanent Right of Way	\$ 40,181
Compensation for Improvements (paving)	\$ 22,200
Landscaping (None - Replacement)	\$ -0-
Loss in Value of Remainder After	\$ 162,619

<b>Total Compensation</b>	<b>\$ 225,000</b>
---------------------------	-------------------

Date of Appraisal: January 23, 2002

Location: 4139 Centurion Way, Town of Addison, Texas

Legal Description: Lot 6, Surveyor Addition, Town of Addison, Dallas County, Texas

Land Size: Whole Property (per DCAD records) 2.521 Acres  
Right of way Area. 0.6709 Acres

Zoning: I-1, Industrial-1 District

**Highest and Best Use:**

As if Vacant BEFORE:	Commercial use
As if Vacant AFTER:	Commercial use

**ADR Partners**

March 12, 2002

Mr. Ron Whitehead  
City Manager  
Town of Addison  
5300 Belt Line Road  
Addison, TX 75001

Via Facsimile 972-450-7043 &  
Certified Mail Return Receipt Requested  
Item Number 7000 1670 0008 7795 0483

Re: 4139 Centurion Way – Addison, Texas

Dear Mr. Whitehead,

I am in receipt of the notice letter to 276 Trust dated March 4, 2002 that makes an offer to acquire a portion of the referenced property. I am currently working with several tenants to lease the referenced facility. The area that the Town of Addison needs to acquire has thirty-six parking spaces that are necessary for the building. The Town of Addison has been vague on what will happen to these thirty-six parking spaces. In order to respond to these potential tenants for the property and not lose the opportunity to lease the property, I need the Town of Addison to immediately address the following issues:

1. Does the property lose the thirty-six parking spaces?
2. If the parking lot will be available then:
  - a. How many spaces will be available?
  - b. How will the parking be accessible and will there be a height restriction that will affect SUVs or trucks?
  - c. What will be the construction of the parking lot (i.e. asphalt, concrete or dirt)?
  - d. Will the Town of Addison maintain the parking lot?
  - e. Will the parking lot be lighted?
  - f. What are the restrictions on using the parking lot?
  - g. Will the parking lot be designated for 4139 Centurion Way use only?
  - h. What insurance will be required for use of parking lot?
  - i. What will be the term of use of the parking lot and how will it be documented?
  - j. Will the use of the parking lot be granted to the property or only the current ownership?
  - k. List all fees, costs and expenses that the Town of Addison would require for use of the parking lot.
    - l. When will construction start and how long will it last?
    - m. Where can the tenants park when they lose the thirty-six parking spaces during construction?

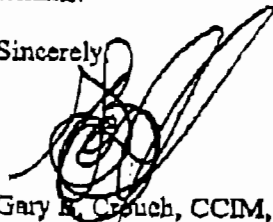
4444 Westgrove, Suite 210 • Addison, TX 75001  
Phone (972) 380-6752 • Fax (972) 931-1688



Mr. Ron Whitehead  
March 12, 2002  
Page 2 of 2

As previously outlined, these questions are immediately critical and impact the ability to lease the property. I need an immediate response so that I can address these issues with potential tenants.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Crouch". The signature is stylized with a large, circular flourish at the beginning and a long, sweeping tail that extends upwards and to the right.

Gary R. Crouch, CCIM, CPM

c.c. Mr. Mike Murphy

# WINSTEAD

March 26, 2002

direct dial: 214.745.3274  
bknight@winstead.com

VIA FACSIMILE

Mr. Kenneth C. Dippel  
Cowles & Thompson  
901 Main Street, Suite 4000  
Dallas, Texas 75202

Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison  
Recorded in Volume 79130, Page 2495 in the Deed Records of Dallas County

Dear Ken:

The undersigned represents 276 Trust, the owner of the above referenced property. I am in receipt of the March 4, 2002 letter from Ron Whitehead, City Manager of Addison, a copy of which is attached. I am informing you as city attorney that my client rejects the Town's offer.

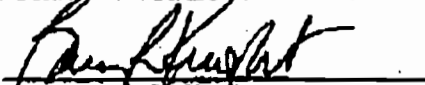
In an effort to negotiate in good faith and attempt to resolve this matter amicably, my client has asked that a meeting be arranged between Mr. Whitehead, the Town's appraiser, you and any other appropriate Town officials, and Gary Crouch, our appraiser, and me. The purpose of the meeting would be to discuss valuation issues and whether the area under the elevated lanes can be used by my client for parking in an effort to resolve this matter.

Please let me know of your client's availability for such a meeting. I look forward to hearing from you in this regard.

Sincerely,

WINSTEAD SECHREST & MINICK P.C.

By

  
Barry R. Knight

BRK:ikb  
cc: Gary Crouch

DALLAS, (04303981)  
39332-1-

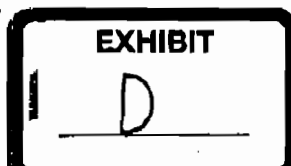
1400 RENAISSANCE TOWER  
1201 ELM STREET  
DALLAS TEXAS 75270  
201-3 796/300 d 327-4

PH 972 422 9300  
FAX 972 422 9320  
WINSTEAD.COM  
0002-076-415

WINSTEAD SECHREST & MINICK  
Attorneys and Counselors  
A Professional Corporation

Austin, Dallas, Fort Worth,  
Houston, Mexico City,  
The Woodlands, Washington, D.C.

2/20/02 11:41 AM 2002-03-26 11:30



**ADR Partners**

April 10, 2002

Mr. Ron Whitehead  
City Manager  
Town of Addison  
5300 Belt Line Road  
Dallas, TX 75240

Via Facsimile 972-450-7043 &  
Certified Mail Return Receipt Requested  
Item Number 7001 2510 0004 1401 1573

Re: Letter Dated March 12, 2002  
4139 Centurion Way - Addison, Texas

Dear Mr. Whitehead,

I sent you the attached referenced letter almost thirty days ago and The Town of Addison has failed to respond as of this date in a definite manner to the assumptions in the appraisal by Evaluation Associates that there would be no loss of parking due to the condemnation. Additionally, I subsequently asked for written confirmation of the policy, as represented in the appraisal by Evaluation Associates, that if the property improvements were destroyed by more than 50%, the building could not be rebuilt in the same footprint.

The Town continues to be vague and noncommittal on both of these issues and I am losing the opportunity to lease and potentially sell the property based on the lack of credible information. The Town chose to affect the economic viability of the property with the extension of Arapaho Road. Since the process is represented to be fair and equitable it would be helpful if the Town would be concise and consistent and decide if the representations made in the appraisal are correct.

It was my understanding from speaking last week with Mike Murphy that the Town planned to have a meeting to discuss these issues on Monday or Tuesday of this week and would contact me to set a meeting to define these issues; however, as of this date I have not been contacted..

I request the opportunity to address the City Council at the next meeting on April 23, 2002.

Sincerely,



Gary B. Crouch, CCIM, CPM

c.c. Mr. Mike Murphy

4444 Wesgrove, Suite 210 • Addison, TX 75001  
Phone (972) 380-6752 • Fax (972) 931-1688



G U U U



OFFICE OF THE CITY MANAGER

(972) 450-7000 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75001-9010

5340 Belt Line Road

April 24, 2002

Mr. Gary Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, Texas 75001

Via Facsimile 972-931-1688 &  
Certified Mail Return Receipt Requested  
Item Number 7000 0600 0025 3591 6255

**Re: Arapaho Road Improvements**

Dear Mr. Crouch:

We appreciated the opportunity to meet with you last week regarding the planned improvements to Arapaho Road and the acquisition by the Town of Addison of an interest in a portion (0.6709 acres out of the entire tract of 2.521 acres) of the property located at the rear of 4139 Centurion Way in connection with that project. You indicated during our meeting that you have several groups who are interested in purchasing or leasing that property, and that you would like us to address two items regarding the Town's acquisition so that you can proceed with your plans: (1) whether or not the parking which is currently in place at the rear of the building (approximately 36 parking spaces) will be available for use by the owner upon the completion of the improvements, and (2) whether or not the building will be able to be reconstructed in the event it is damaged by more than 50% of its replacement value.

With respect to the parking, if the 36 parking spaces in the rear of the property are removed, the property will continue to have adequate parking under the Town's current parking regulations. However, the Town will agree that, upon the completion of the Arapaho Road improvements, the owner of the property will have access to substitute parking (constructed by the Town) at the rear of the property where parking is currently available.

With respect to the reconstruction of the building, the property at 4139 Centurion Way is currently zoned I-1 Industrial District. The I-1 District regulations provide that the rear yard setback requirements are the same as for the LR Local Retail District. In the LR District there is no rear yard depth requirement unless the District adjoins a single-family or apartment district, in which case a 10 foot rear yard is required. Therefore, the existing building will not be in violation of the current rear-yard setback requirements after the Town's acquisition of the property and construction of the improvements and will be able to be reconstructed in its current location if it is damaged.

EXHIBIT

F

Mr. Gary Crouch

Page 2

April 24, 2002

As you know, we had previously provided to you an appraisal prepared by Evaluation Associates, which valued the portion of the property being acquired at \$62,381.00 and concluded that the remainder of the property would be damaged in the amount of \$162,619.00 as a result of the acquisition. Based on that appraisal, the Town had offered to pay \$225,000.00, which was not accepted. The damage to the property after the acquisition, however, was based upon an understanding that the building might not be able to be reconstructed if it was damaged by more than 50% of its replacement value. However, as indicated above, under current regulations the building would be able to be reconstructed in its current location, which eliminates the damages. Therefore, our offer is to acquire the 0.6709 acre tract for its appraised value at \$62,381.00 together with the right to have substitute parking in the rear of the property as described above.

We hope that this clarifies the issues which we have been discussing. Regarding the above offer, we request that you respond to the offer within thirty (30) days of the date of this letter. If we do not hear from you within that time period, we will consider the offer rejected.

Sincerely,



Ron Whitehead  
City Manager

# WINSTEAD

May 5, 2002

direct  
dial: 214.745.5274  
blmigh1@winstead.com

VIA FACSIMILE 214.672.2020

Mr. Kenneth C. Dippel  
Cowles & Thompson  
901 Main Street, Suite 4000  
Dallas, Texas 75202

Re: 276 Trust  
Lot 5, Surveyor Addition to the Town of Addison (the "Property")  
Recorded in Volume 79130, Page 2495 in the Deed Records of Dallas County

Dear Ken:

In accordance with our telephone conference on April 29, 2002, my client, Gary Crouch, has authorized me to present a settlement offer for the acquisition of 0.6709 acres of land to construct Arapaho Road elevated on the north side of my client's Property.

As you know from the meeting and other discussions, Mr. Crouch believes that his Property will be damaged substantially by this project. However, in order to settle this matter amicably, my client is willing to settle this matter under the following terms:

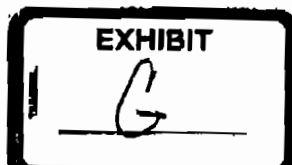
1. Payment of \$440,000 for the acquisition of the right-of-way and remainder damages;
2. An interpretation, Board of Adjustment approval and/or City Council approval of the necessary zoning to cure any nonconformities created by the right-of-way acquisition; and
3. The provision of an easement at no cost to 276 Trust to allow a minimum of 36 parking spaces under the bridge structure to replace the parking spaces lost due to the roadway construction to be constructed by the Town at its expense.

5400 RENAISSANCE TOWER  
1307 ELM STREET  
DALLAS, TEXAS 75270

PH 214.745.3400  
FAX 214.745.3390  
WINSTEAD.COM

WINSTEAD SECURITIES-MENICK  
Attorneys and Counselors  
A Professional Corporation

Austin, Dallas, Fort Worth,  
Houston, Miami City,  
The Woodlands, Washington D.C.





Mr. Kenneth C. Dippel  
May 5, 2002  
Page 2

This offer is contingent upon the sale of the Property to a third party on or before July 31, 2002. The closing of the sale of the right of way shall occur on the same day and immediately before the sale of the Property to the third party. Closing of the sale of the right-of-way shall occur upon five (5) days written notice from 276 Trust to the Town. The above referenced \$440,000 shall be deposited with Hexter Fair Title Company, 8333 Douglas Avenue, Suite 130, Dallas, Texas 75225, Attention: Traci R. Miller, upon notice of the closing of the sale of the right-of-way to the Town of Addison and the sale of the Property to the third party. The Town and 276 Trust shall work in good faith and take reasonable efforts to cure the nonconformities created by the right-of-way acquisition and finalize the easement to provide a minimum of 36 parking spaces under the bridge structure on or before the closing of the sale of the right-of-way.

My client believes that his Property has been damaged far in excess of the settlement offer contained in this letter. However, Mr. Crouch believes that settlement of this matter is in the best long-term interest of both parties. This settlement offer shall expire unless accepted in writing on or before 5:00 p.m. Dallas time on May 9, 2002.

Sincerely,

WINSTEAD SECHREST & MINICK P.C.

By:   
Barry R. Knight

BRK:kt  
cc: Gary Crouch

DALLAS (0455027)  
20020505

COPY



**OFFICE OF THE CITY MANAGER**  
 Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-7800 • FAX (972) 450-7843  
 5300 Blair Line Road

May 9, 2002

Mr. Gary Crouch  
 ADR Partners  
 4444 Westgrove Drive, Suite 210  
 Addison, TX 75001

Re: 276 Trust  
 Lot 6, Surveyor Addition to the Town of Addison (4136 Centurion Way) (the  
 "Property")

Dear Mr. Crouch:

On Monday of this week we received a letter from your attorney, Mr. Barry R. Knight, setting out your proposal to settle the Town of Addison's acquisition from the 276 Trust of a portion of the Property located at 4139 Centurion Way for the extension of Arapaho Road. As you know, we believe that the Property will not be damaged by the Town's acquisition; however, in a spirit of cooperation and in an attempt to amicably resolve this matter, we would offer the following in response to Mr. Knight's proposal:

1. The Town will agree to pay you an additional \$50,000 over and above the \$62,381.00 offered in my letter of April 24, 2002, making a total payment for the acquisition of the right-of-way and any and all damages to the remainder of the Property in the amount of \$112,381.00.
2. As indicated in my April 24 letter, there are no nonconformities created by the right-of-way acquisition.
3. Upon the completion of the Arapaho Road improvements, the owner of the property will have access through a license agreement to substitute parking (constructed by the Town) at the rear of the Property where parking is currently available.

Mr. Knight's letter conditioned your settlement proposal on the sale of the Property to a third party; however, the City is not willing to enter into any contingency arrangements regarding the sale or leasing of the Property.

We would ask that you respond to this offer on or before 5:00 p.m. on Tuesday, May 14, 2002.

Sincerely,

Ron Whitehead  
 City Manager



COPY



OFFICE OF THE CITY MANAGER

(972) 450-7800 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75010-9010

5300 Bell Line Road

September 17, 2002

Mr. Barry R. Knight  
Winstead Sechrest & Minick, P.C.  
5400 Renaissance Tower  
1201 Elm Street  
Dallas, Texas 75270

RE: 276 Trust  
Lot 6, Surveyor Addison to the Town of Addison  
(4136 Centurion Way) (the "Property")  
Recorded in Volume 79130, Page 2495 in the Deed Records of Dallas County

Dear Mr. Knight:

On August 27, 2002, the Town of Addison authorized condemnation of the above-referenced property. A copy of the condemnation resolution is enclosed. As stated in my May 9, 2002 letter to your client Gary Crouch, the Town's final offer for the purchase of the property is \$112,381.00. If Mr. Crouch wishes to accept this offer, please let us know by September 27, 2002. If we do not hear from you by September 27, 2002, we will proceed to file an action in condemnation.

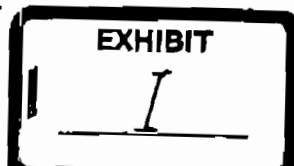
Very truly yours,

Ron Whitehead  
City Manager for the Town of Addison

Enclosure

c: Gene Harris  
Absolute Systems, Ltd.

Ken C. Dippel  
Angela K. Washington



10-10-03

No. CC-03-01967-B

TOWN OF ADDISON, TEXAS

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE COUNTY COURT

vs.

AT LAW, NUMBER 2

ABSOLUTE SYSTEMS, LTD., 276 TRUST  
AND MERRILL LYNCH BUSINESS  
FINANCIAL SERVICES, INC.

§  
DALLAS COUNTY, TEXAS

**AFFIDAVIT OF MICHAEL MURPHY**

STATE OF TEXAS

§  
§  
§

COUNTY OF COLLIN

BEFORE ME, the undersigned authority on this day, appeared MICHAEL MURPHY, who is personally known to me, and first being duly sworn according to law, deposed and said;

My name is MICHAEL MURPHY. I am over twenty-one (21) years of age, and I am fully competent to make this Affidavit. I have personal knowledge of each of the facts stated herein and each fact is within my personal knowledge and is true and correct.

I am the Public Works Director for the Town of Addison, Texas, Plaintiff in the above cause of action. In connection with my duties and responsibilities, I am responsible for the oversight of the Public Works Project known as the Arapaho Road Extension. The purpose of that Project is to extend Arapaho Road west of Midway Road in Addison, Texas to alleviate the traffic congestion experienced on Belt Line Road in Addison. In connection with that Project, the City determined that it was necessary to construct a portion of Arapaho Road across the rear

of the property located at 4139 Centurion Way, Addison, Texas (the subject property of this action). The extension of Arapaho Road over the subject property involves the construction of an overhead bridge which will cross the property. The acquisition of an easement over that property was authorized by resolution of the city council of the Town of Addison, Texas, a true and correct copy of which is attached as Exhibit "A" and incorporated by referenced herein as if set forth at length.

The area of the easement being acquired for the overhead bridge had, on the date of taking, approximately 36 parking spaces available for use by the owner of the subject property. The parking area was constructed upon existing easements, including a 30-foot Dallas water utility easement and a 50-foot drainage easement. In connection with the taking of this easement for the construction of the bridge, the Town of Addison has agreed to reconstruct the parking spaces to provide the same number of spaces that existed on the date of taking. The property owner will continue to own the property in fee simple, save and except the easements which encumber that portion of the property.

In early 2002, the Town of Addison began negotiating with Mr. Gary Crouch of 276 Trust, for the acquisition of the area required for the project. In connection with those negotiations, the Town of Addison obtained an appraisal by Evaluation Associates, Inc. At the time the first appraisal was performed, the appraiser was under the mistaken belief that the 36 parking spaces would be lost due to the taking and this loss would impact the highest and best use of the property because it would no longer comply with the zoning requirements of the Town of Addison for its current use. Evaluation Associates appraised the property taken and the damage to the property at \$225,000.00. The above value was comprised of \$62,381.00 for the property to be taken and \$162,619.00 attributed to damages to the remainder due to the above

misconception. Based upon that appraisal the Town of Addison offered the owner (276 Trust) \$225,000.00. A true and correct copy of the correspondence transmitting that offer is attached hereto as Exhibit "B" and incorporated by reference herein as if set forth at length.

After receiving the initial offer, Mr. Crouch corresponded with the City requesting clarification of various issues related to the 36 parking spaces, as evidenced by Exhibit "C" attached hereto. The Town's initial offer was rejected as evidenced by that correspondence from Mr. Gary Crouch's attorney which is attached hereto as Exhibit "D" and incorporated by reference herein as if set forth at length. On April 10, 2002, Mr. Crouch requested to address the City Council regarding these issues, which he did. A true and correct copy of that letter is attached hereto as Exhibit "E".

Subsequent to the offer being rejected and after lengthy discussions regarding the parking, the Town of Addison determined that the taking of the property, and the reconstruction of the parking spaces, would not result in the subject property being in non-compliance with the zoning requirements of the Town of Addison. In addition the Town agreed to re-construct the 36 parking spaces as evidenced in that letter of April 24, 2002, which is attached hereto as Exhibit "F". Accordingly, the appraiser was instructed that his misconception concerning the impact of the bridge upon the zoning compliance issues was erroneous. He revised his appraisal to reflect the value of the property taken of \$62,381.00. In the April 24, 2002 letter, Mr. Crouch was notified that the subject property would remain in compliance with the zoning requirements of the Town of Addison under the plans for the construction of the bridge and reconstruction of the parking spaces and that he would be able to continue to use the property at its highest and best

use. At that time, an offer was made to Mr. Crouch of \$62,381.00 reflecting the value of the part actually taken by the Town of Addison. That offer was likewise rejected.

On May 5, 2002, a counteroffer made by Mr. Crouch, through his attorney, of \$400,000.00 for the acquisition of the easement. A true and correct copy of the letter transmitting that offer is attached hereto as Exhibit "G" and incorporated by reference herein.

In an effort to resolve this matter and avoid the necessity for condemnation, the Town of Addison made a final offer of \$112,381.00, which consisted of the \$62,381.00 for the part taken and an additional \$50,000.00 being offered in an effort to settle the valuation issues. A true and correct copy of that offer is attached hereto as Exhibit "H" and incorporated by reference herein as if set forth at length. That offer was not accepted by Mr. Crouch. On September 17, 2002, the Town once again offered \$112,381.00 for the easement, as shown in Exhibit "I" attached hereto. Once again, the offer was rejected. At no time has Mr. Crouch offered to sell the easement to the Town of Addison for any less than \$400,000.00.

It became apparent that continued negotiations would be futile and that it would be necessary for the Town of Addison to proceed with condemnation. After negotiations had broken down and it was determined that the Town of Addison would be required to proceed with condemnation, the Town of Addison obtained an additional appraisal by Hipes & Associates on or about September 26, 2002. Mr. Hipes' opinion of value of the easement to be acquired was \$52,601.00 which was substantially less than the final offer made by the Town of Addison. The Town of Addison did not have the Hipes' appraisal at the time that the final offer was made to

Mr. Crouch. Although I believe that a copy of that appraisal had been provided to Mr. Crouch, I have been unable to locate any document reflecting delivery by certified mail or hand delivery.

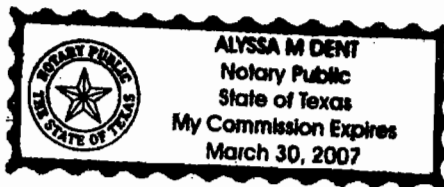


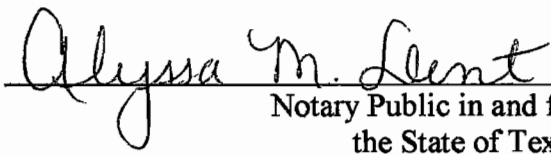
Prior to filing condemnation, the Town of Addison used its best efforts to negotiate a settlement of this matter by making the offers referenced above. The Town of Addison does not believe that Mr. Crouch's final offer of \$440,000.00 represents the value of the part being acquired nor for the alleged damages which Mr. Crouch believes that he has sustained. Therefore, although the Town of Addison is not willing to pay \$400,000.00, I believe that we have negotiated in good faith based upon the appraised values of the property.

Further Affiant sayeth not.

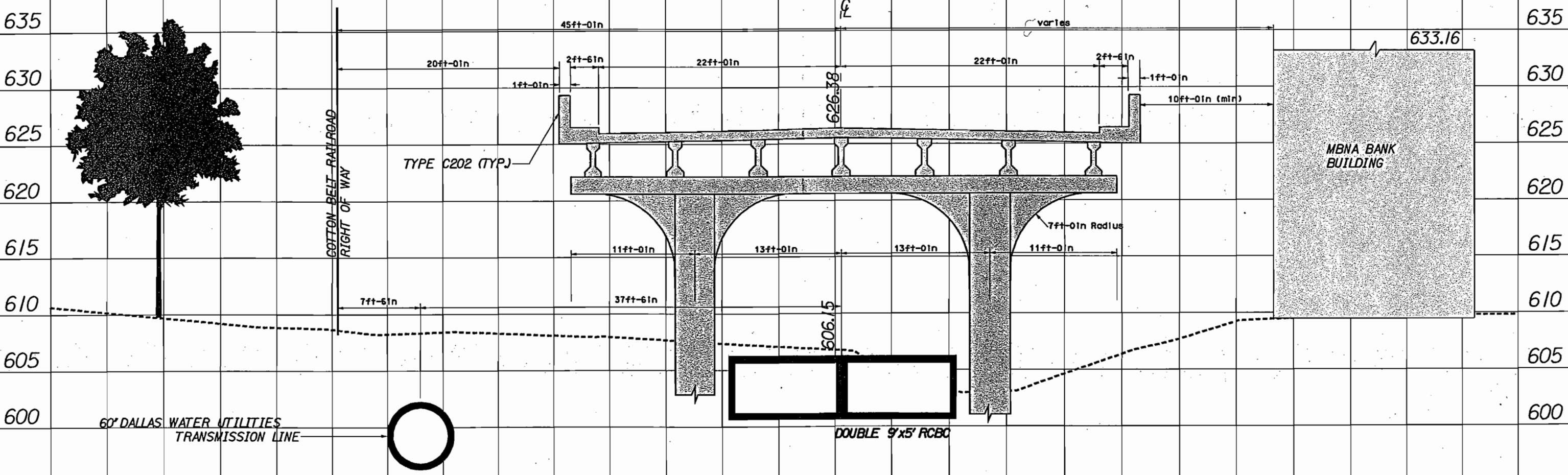
  
MICHAEL MURPHY

SWORN TO AND SUBSCRIBED BEFORE ME by the said MICHAEL MURPHY, on this 10 day of October, 2003, to certify which, witness my hand and seal of office.

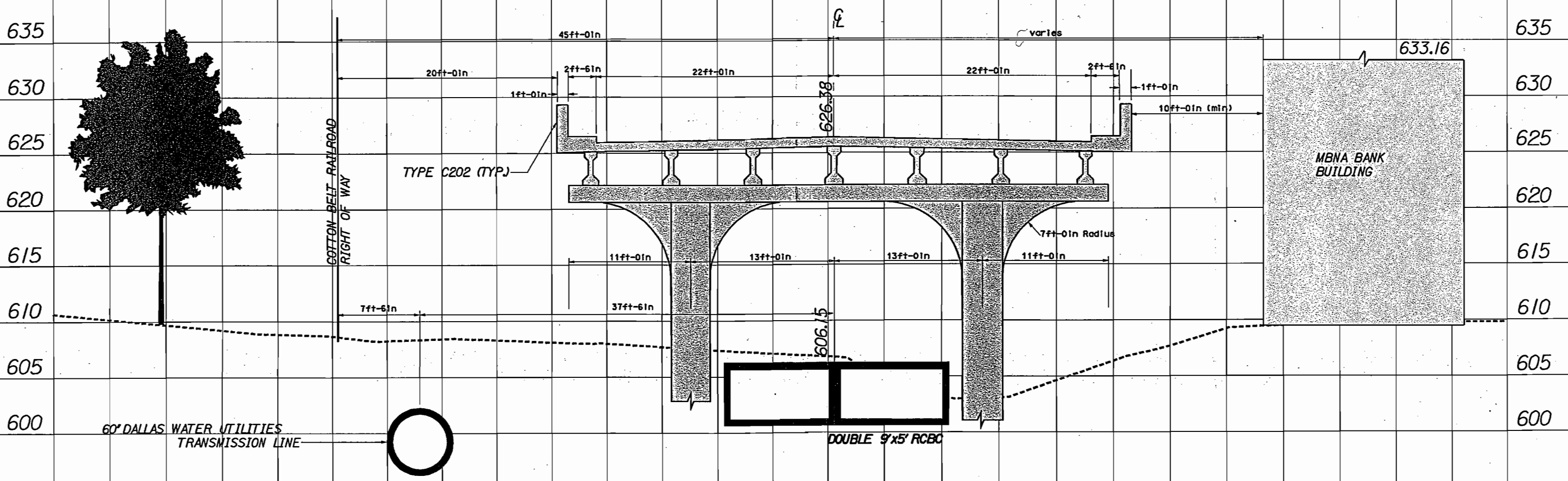


  
Notary Public in and for  
the State of Texas

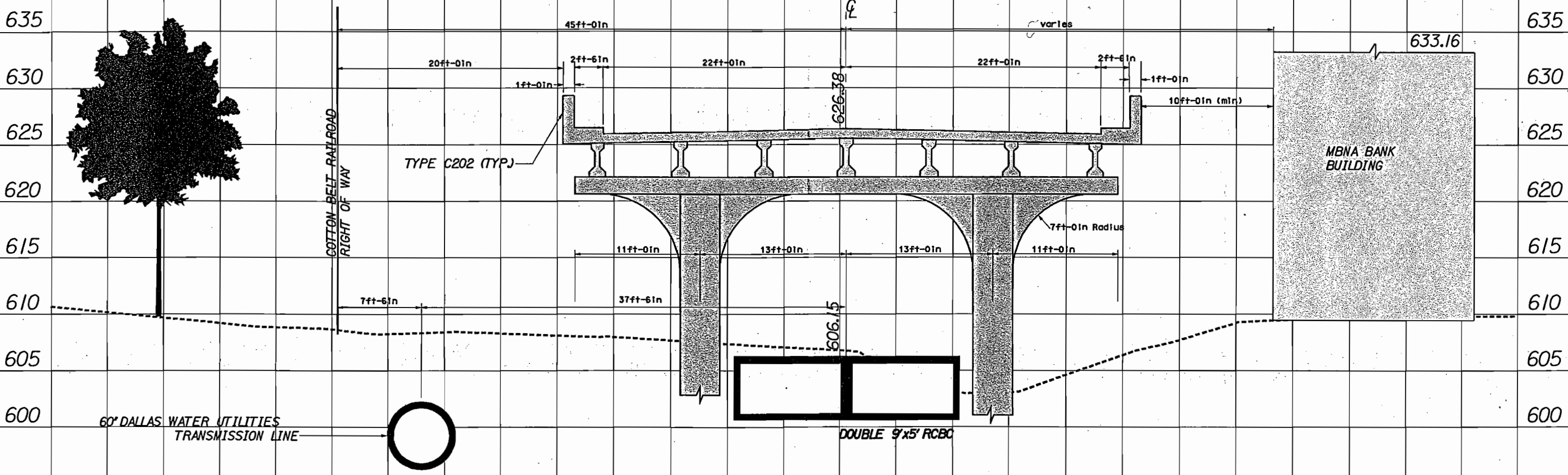
**TYPICAL SECTION**  
*Elevated Structure - West of Midway*  
**STA 52+50**



TYPICAL SECTION  
Elevated Structure - West of Midway  
STA 52+50

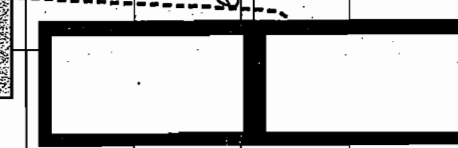
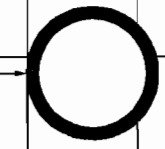
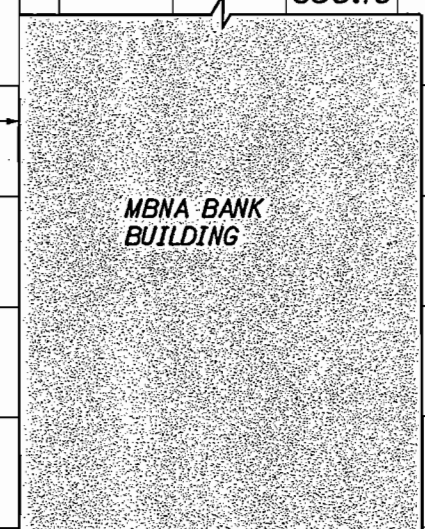
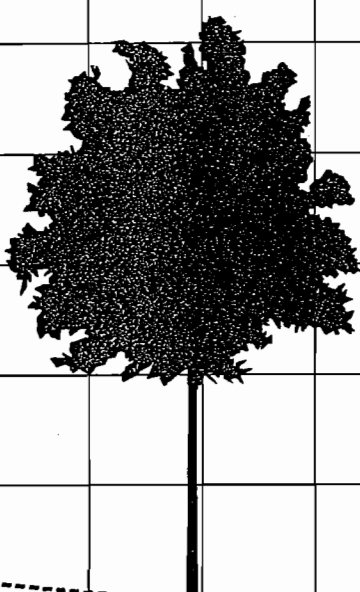
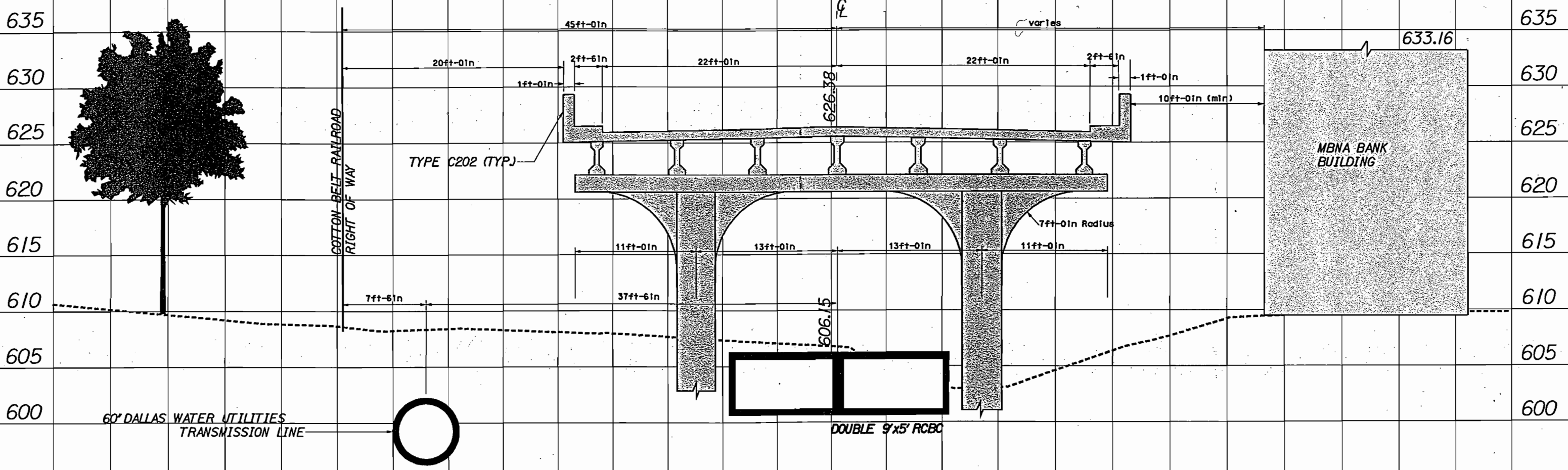


**TYPICAL SECTION**  
*Elevated Structure - West of Midway*  
 STA 52+50

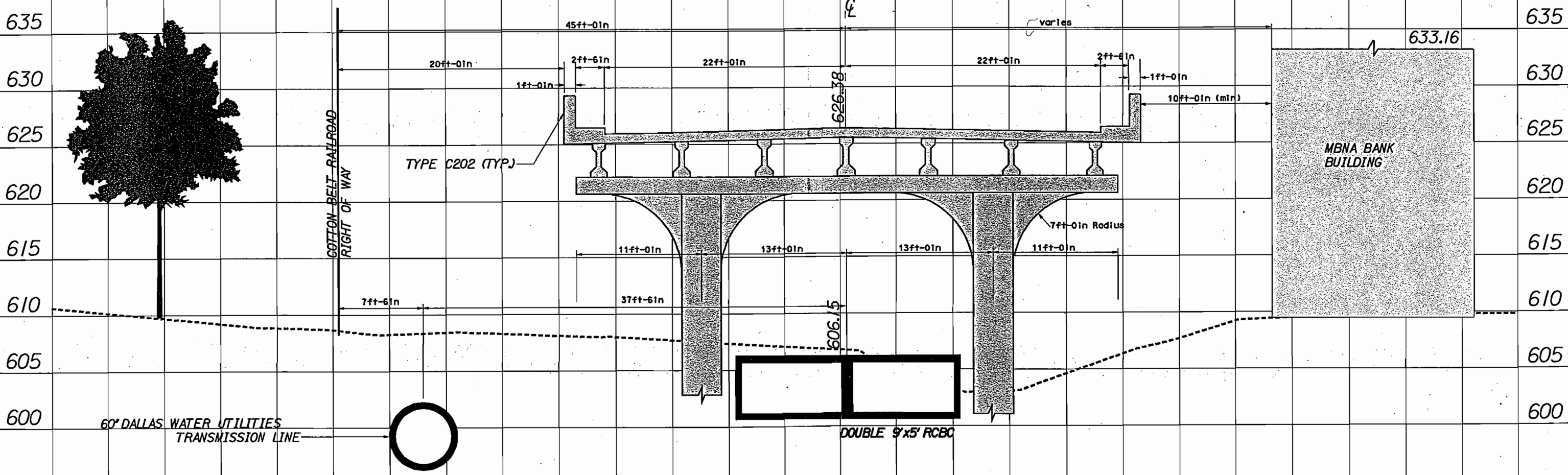


**THERE ARE NO  
ATTACHMENTS  
FOR ITEM #R5**

TYPICAL SECTION  
Elevated Structure - West of Midway  
STA 52+50



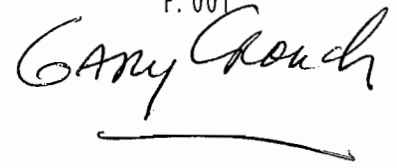
*TYPICAL SECTION*  
*Elevated Structure - West of Midway*  
*STA 52+50*



AUG. -06' 03 (WED) 12:40

TEL: 972 422 9322

P. 001



**GAY, McCALL, ISAACKS,  
GORDON & ROBERTS, P.C.**  
ATTORNEYS AND COUNSELORS

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-6501  
FAX: 972/424-5619  
FAX: 972/422-9322

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS\*  
MARC MAY  
DAVID B. McCALL\*  
KELLI ROACH  
WILLIAM J. ROBERTS\*  
HEATHER SCHAEFFER

\*Attorney-Mediator

\*Board Certified  
Civil Trial Law  
Texas Board of Legal-  
Specialization

DATE: 08/06/03 TIME: 1:15 p.m.

**FACSIMILE MESSAGE COVER SHEET**

**Following is/are 4 page(s) including this cover. If any part of this message is missing or received poorly, please call the sender as soon as possible.**

**PLEASE DELIVER UPON RECEIPT**

**TO: Michael Murphy FAX NO. 972-450-2837**

**FR: Lewis Isaacks**

**RE: Absolute Systems, et al;**

**MESSAGE:**

**CONFIDENTIALITY NOTICE**

**The information contained in this facsimile message and documents accompanying same are legally privileged and confidential information intended only for the use of the individual or entity named herein. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.**

*REVIEWED  
8/7/03  
dc [signature]*



AUG. -06' 03 (WED) 12:40

TEL: 972 422 9322

P. 003

LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**

A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

JOHN E. GAY  
SYDRA H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY +  
DAVID McCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHARFBR

August 6, 2003

▼ BOARD CERTIFIED - CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

Mark Goodman, Esq.  
Two Lincoln Centre  
5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240

Re: Cause No. 03-01967-B;  
Town of Addison v. Absolute Systems, Ltd., et al;  
Our File No. 93516.03054

Dear Mr. Goodman:

As you requested at Mr. Harris' deposition, I am forwarding a copy of Mark Hipes' appraisal which was presented at the Special Commissioners hearing, along with the plans for the bridge to be constructed across the subject property showing the placement of the bridge, details with regard to the clearance beneath the bridge after construction, and the parking to be in place within the easement.

I trust that this meets your needs with regard to the plans. Should you need additional information, please do not hesitate to contact me.

Very truly yours,



LEWIS L. ISAACKS

LLI/jbg  
Enclosure

AUG. -06' 03 (WED) 12:40

TEL: 972 422 9322

P. 004

LAW OFFICES  
**GAY, MCCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID MCCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

August 6, 2003

▼ BOARD CERTIFIED - CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

Mr. Gene Harris  
Absolute Systems, Ltd.  
4139 Centurion Way  
Addison, Texas 75001

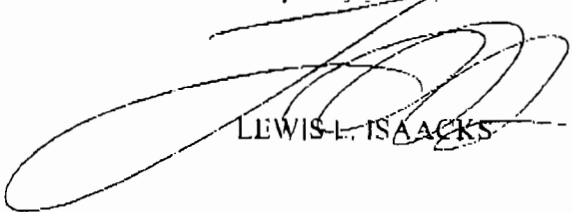
Re: Cause No. 03-01967-B;  
Town of Addison, Texas v. Absolute Systems, Ltd., 276 Trust  
and Merrill Lynch Business Financial Services, Inc.;  
Our File No. 93516.03054

Dear Mr. Harris:

I have enclosed plans for the Arapaho Road extension across the rear of your property. Although you did not request copies of this at your deposition, I felt that I should forward them to you for your information. In particular, please review the proposed replacement of the parking underneath the bridge.

I would appreciate any comments that you might have with regard to the proposed parking. In addition, should you have any other comments or questions, please do not hesitate to call me.

Very truly yours,

  
LEWIS L. ISAACKS

LLI/jbg  
Enclosure

AUG. -06' 03(WED) 12:40

TEL:972 422 9322

P. 002

LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID MCCALL †  
KELLI L. ROACH  
WILLIAM J. ROBERTS †  
HEATHER A. SCHAEFER

August 6, 2003

▼ BOARD CERTIFIED - CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

**VIA FACSIMILE**

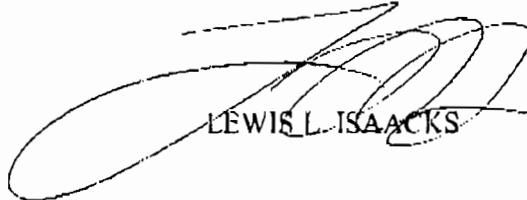
Michael E. Murphy, P.E.  
P. O. Box 9010  
Addison, Texas 75001-9010

Re: Cause No. 03-01967-B;  
Town of Addison v. Absolute Systems, Ltd., et al;  
Our File No. 93516.03054

Dear Michael:

Please review the enclosed letter transmitting the plans for the bridge across the Absolute System property. If it meets with your approval, please advise me and I will forward it to Mr. Goodman.

Very truly yours,



LEWIS L. ISAACKS

LLI/jbg  
Enclosure

LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

*Cary Crouch*

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
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RACHEL L. KING  
MARC R. MAY \*  
DAVID McCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

September 2, 2003

▼ BOARD CERTIFIED - CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

Ms. Therese Casterline  
408 South Central Expressway  
Dallas, Texas 75201

Re: Cause No. CC-03-01967-B:  
Town of Addison, Texas vs. Absolute Systems, Ltd., 276 Trust  
and Merrill Lynch Financial Services, Inc.  
Our File No. 93516.03054

Dear Ms. Casterline:

Enclosed please find two Notices of Deposition by Written Questions in connection with the above cause. This will further confirm that your office will schedule the date and time for the depositions and provide appropriate notice to the deponents.

Thank you for your assistance in this matter.

Very truly yours,

  
LEWIS L. ISAACKS

LLL/jbg

Enclosure

xc: CERTIFIED MAIL, R.R.R.  
Mr. Mark Goodman  
Two Lincoln Centre  
5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240

Mr. Mike Murphy

TOWN OF ADDISON, TEXAS

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§

IN THE COUNTY COURT

vs.

AT LAW, NUMBER 2

ABSOLUTE SYSTEMS, LTD., 276 TRUST  
AND MERRILL LYNCH BUSINESS  
FINANCIAL SERVICES, INC.

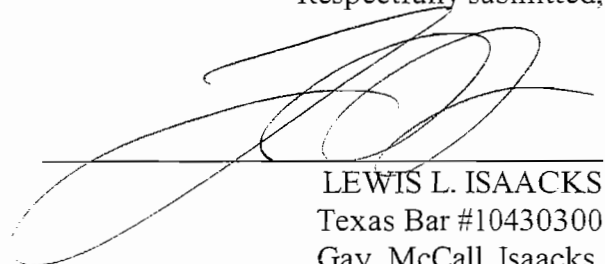
DALLAS COUNTY, TEXAS

**NOTICE OF DEPOSITION BY WRITTEN QUESTIONS**

TO: REGIONS BANK, by serving any officer at 16600 North Dallas Parkway, Dallas, Texas.

You will take notice that on \_\_\_\_\_, September \_\_\_\_\_, 2003, at \_\_\_\_\_ a.m., Plaintiff, **TOWN OF ADDISON, TEXAS**, intends to take the deposition upon written questions, attached hereto, of the custodian of records for REGIONS BANK, at 16600 North Dallas Parkway, Dallas, Texas, together with such written questions as are served, in accordance with the Texas Rules of Civil Procedure for use in the above-styled cause. The reporter and notary public before whom the deposition is to be taken is with Therese Casterline. You will further take notice that prior to the time of taking the deposition of said witness, a subpoena duces tecum will be issued requesting said witness to produce the originals or true and correct copies of any and all documents, as hereinafter defined in Exhibit "A".

Respectfully submitted,

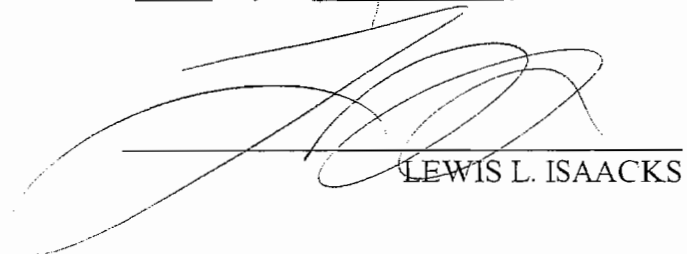


LEWIS L. ISAACKS  
Texas Bar #10430300  
Gay, McCall, Isaacks,  
Gordon & Roberts, P.C.  
777 East 15th Street  
Plano, Texas 75074  
Telephone: 972/424-8501  
Telecopier: 972/424-5619

ATTORNEY FOR PLAINTIFF  
TOWN OF ADDISON, TEXAS

CERTIFICATE OF SERVICE

I, LEWIS L. ISAACKS, Attorney for Plaintiff, Town of Addison, Texas, certify that a true and correct copy of the foregoing Notice of Deposition by Written Questions has been sent by certified mail, return receipt requested to Mr. Mark Goodman, Esq., Two Lincoln Centre, 5420 LBJ Freeway, Suite 1200, Dallas, Texas 75240, on this the 2 day of September 2003.



LEWIS L. ISAACKS

## **EXHIBIT "A"**

1. A copy of any and all appraisals related to the extension of credit to Absolute Systems, Ltd. for the purpose of purchasing 4139 Centurion Way, Addison, Texas, which closed on or about June 21, 2002.
2. Copies of any and all studies or other analyses, reports, or similar documents related to the potential impact of the extension of Arapaho Road across 4139 Centurion Way, Addison, Texas, or related to the construction of Arapaho Road on a portion of that property.
3. A copy of any other analyses, memos or reports made by, or on behalf of, Merrill Lynch Business Financial Services related to the extension of credit to Absolute Systems, Ltd. which are related to the use or value of 4139 Centurion Way, Addison, Texas or the extension of Arapaho Road over a portion of that property.
4. A copy of any correspondence, letters, or other document reflecting any communication between Merrill Lynch Business Financial Services and Gene Harris related to 4139 Centurion Way, Addison, Texas from January 1, 2002 through June, 2002.
5. Any application for a loan or similar document regarding the possible extension of credit in connection with the purchase of 4139 Centurion Way, Addison, Texas from January 2002 through June 2002.

Please note: The personal financial information of Mr. Gene Harris and/or Absolute Systems, Ltd. is not being sought under this Notice. To the extent that such private financial information appears on responsive documents, please redact that information.

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**DIRECT QUESTIONS FOR THE CUSTODIAN OF RECORDS  
FOR REGIONS BANK**

1. Please state your name, employer, occupation and business address.
2. Are you the custodian of the records for your employer?
3. Please check your records and tell us if you find those records or documents which reference the documents as outlined in the subpoena duces tecum served on your employer for the property known as 4139 Centurion Way, Addison, Texas.
4. Are these records or documents presently in your custody as an employee of your employer?
5. If so, hand all such requested reports, records, memoranda, photographs, graphic or oral records or representations of any kind, etc., or the photocopies thereof to the Notary Public to be attached to your answers to this deposition.
6. If you attached photostatic or xeroxed copies of the records or documents, please state whether or not these are exact copies of the original records in your custody.



7. Please segregate any records which are made in the regular course of the business and of the profession of your employer from those which are not kept in the regular course of business. The Court Reporter will label the records kept in the regular course of business as Exhibit "A" to your Deposition, and those not kept in the regular course of business as Exhibit "B".

8. Was it the regular course of the business of your employer for an employee or representative of your employer, with personal knowledge of the act, event, condition, opinion or a diagnosis reflected in the records attached as Exhibit "A" to your answers, to make the original memorandum or records or to transmit information to be included in such memorandum or records?

9. Were such records made at or near the time of the acts, events or conditions reflected in such records or reasonably soon thereafter?

10. Are the records or documents you tendered to the Notary, all the requested records or documents in your employer's possession pertaining to the property known as 4139 Centurion Way, Addison, Texas, and if not, please state why not.

11. For those records or documents which are not kept in the ordinary course of your employer's business, please state how such records were obtained.

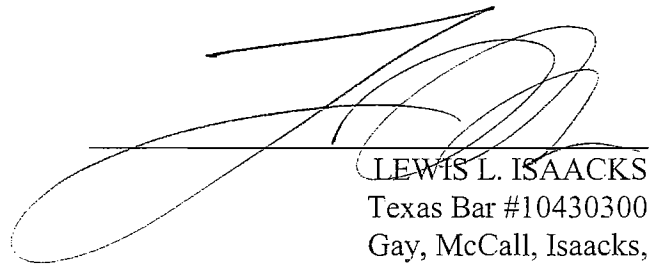
<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**NOTICE OF DEPOSITION BY WRITTEN QUESTIONS**

TO: MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC. by serving any officer at 1255 West 15<sup>th</sup> Street, Plano, Texas.

You will take notice that on \_\_\_\_\_, September \_\_\_\_\_, 2003, at \_\_\_\_\_ a.m., Plaintiff, **TOWN OF ADDISON, TEXAS**, intends to take the deposition upon written questions, attached hereto. of the custodian of records for MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC., at 1255 West 15<sup>th</sup> Street, Plano, Texas , together with such written questions as are served. in accordance with the Texas Rules of Civil Procedure for use in the above-styled cause. The reporter and notary public before whom the deposition is to be taken is with Therese Casterline. You will further take notice that prior to the time of taking the deposition of said witness, a subpoena duces tecum will be issued requesting said witness to produce the originals or true and correct copies of any and all documents, as hereinafter defined in Exhibit "A".

Respectfully submitted,

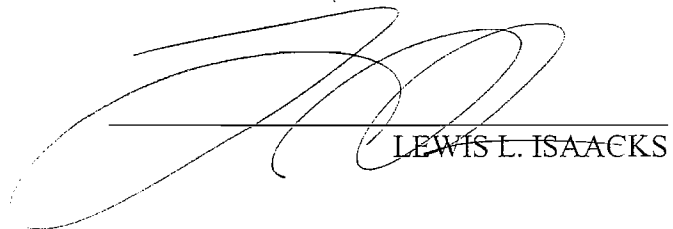


LEWIS L. ISAACKS  
Texas Bar #10430300  
Gay, McCall, Isaacks,  
Gordon & Roberts, P.C.  
777 East 15th Street  
Plano, Texas 75074  
Telephone: 972/424-8501  
Telecopier: 972/424-5619

ATTORNEY FOR PLAINTIFF  
TOWN OF ADDISON, TEXAS

CERTIFICATE OF SERVICE

I, LEWIS L. ISAACKS, Attorney for Plaintiff, Town of Addison, Texas, certify that a true and correct copy of the foregoing Notice of Deposition by Written Questions has been sent by certified mail, return receipt requested to Mr. Mark Goodman, Esq., Two Lincoln Centre, 5420 LBJ Freeway, Suite 1200, Dallas, Texas 75240, on this the 2 day of September, 2003.



LEWIS L. ISAACKS

**EXHIBIT "A"**

1. A copy of any and all appraisals related to the extension of credit to Absolute Systems, Ltd. for the purpose of purchasing 4139 Centurion Way, Addison, Texas, which closed on or about June 21, 2002.
2. Copies of any and all studies or other analyses, reports, or similar documents related to the potential impact of the extension of Arapaho Road across 4139 Centurion Way, Addison, Texas, or related to the construction of Arapaho Road on a portion of that property.
3. A copy of any other analyses, memos or reports made by, or on behalf of, Merrill Lynch Business Financial Services related to the extension of credit to Absolute Systems, Ltd. which are related to the use or value of 4139 Centurion Way, Addison, Texas or the extension of Arapaho Road over a portion of that property.
4. A copy of any correspondence, letters, or other document reflecting any communication between Merrill Lynch Business Financial Services and Gene Harris related to 4139 Centurion Way, Addison, Texas from January 1, 2002 through June, 2002.
5. Any application for a loan or similar document regarding the possible extension of credit in connection with the purchase of 4139 Centurion Way, Addison, Texas from January 2002 through June 2002.

Please note: The personal financial information of Mr. Gene Harris and/or Absolute Systems, Ltd. is not being sought under this Notice. To the extent that such private financial information appears on responsive documents, please redact that information.

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**DIRECT QUESTIONS FOR THE CUSTODIAN OF RECORDS  
FOR MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC.**

1. Please state your name, employer, occupation and business address.
2. Are you the custodian of the records for your employer?
3. Please check your records and tell us if you find those records or documents which reference the documents as outlined in the subpoena duces tecum served on your employer for the property known as 4139 Centurion Way, Addison, Texas.
4. Are these records or documents presently in your custody as an employee of your employer?
5. If so, hand all such requested reports, records, memoranda, photographs, graphic or oral records or representations of any kind, etc., or the photocopies thereof to the Notary Public to be attached to your answers to this deposition.
6. If you attached photostatic or xeroxed copies of the records or documents, please state whether or not these are exact copies of the original records in your custody.

7. Please segregate any records which are made in the regular course of the business and of the profession of your employer from those which are not kept in the regular course of business. The Court Reporter will label the records kept in the regular course of business as Exhibit "A" to your Deposition, and those not kept in the regular course of business as Exhibit "B".

8. Was it the regular course of the business of your employer for an employee or representative of your employer, with personal knowledge of the act, event, condition, opinion or a diagnosis reflected in the records attached as Exhibit "A" to your answers, to make the original memorandum or records or to transmit information to be included in such memorandum or records?

9. Were such records made at or near the time of the acts, events or conditions reflected in such records or reasonably soon thereafter?

10. Are the records or documents you tendered to the Notary, all the requested records or documents in your employer's possession pertaining to the property known as 4139 Centurion Way, Addison, Texas, and if not, please state why not.

11. For those records or documents which are not kept in the ordinary course of your employer's business, please state how such records were obtained.

AUG. -01' 03 (FRI) 09:59

TEL: 972 422 9322

P. 001

*Gary Crouch*

**GAY, McCALL, ISAACKS,  
GORDON & ROBERTS, P.C.**  
ATTORNEYS AND COUNSELORS

777 EAST 15TH STREET  
PLANO, TEXAS 75074

972/424-8501  
FAX: 972/424-5619  
FAX: 972/422-9322

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS\*  
MARC MAY  
DAVID B. McCALL\*  
KELLI ROACH  
WILLIAM J. ROBERTS\*  
HEATHER SCHAEFER

\*Attorney-Mediator

\*Board Certified  
Civil Trial Law  
Texas Board of Legal  
Specialization

DATE: 08/01/03

TIME: 10:00 a.m.

**FACSIMILE MESSAGE COVER SHEET**

**Following is/are 24 page(s) including this cover. If any part of this message is missing or received poorly, please call the sender as soon as possible.**

**PLEASE DELIVER UPON RECEIPT**

**TO: Michael E. Murphy**

**FAX NO. <sup>972</sup> 450-2837**

**FR: Lewis L. Isaacks**

**RE: Addison v. 276 Trust;**

**MESSAGE:**

**CONFIDENTIALITY NOTICE**

**The information contained in this facsimile message and documents accompanying same are legally privileged and confidential information intended only for the use of the individual or entity named herein. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.**

AUG. -01' 03 (FRI) 10:00

TEL: 972 422 9322

P. 002

LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15<sup>TH</sup> STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

JOHN E. GAY  
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RACHEL L. KING  
MARC R. MAY +  
DAVID McCALL +  
KEITH L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHARFER

August 1, 2003

▼ BOARD CERTIFIED - CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

Michael E. Murphy, P.E.  
P. O. Box 9010  
Addison, Texas 75001-9010

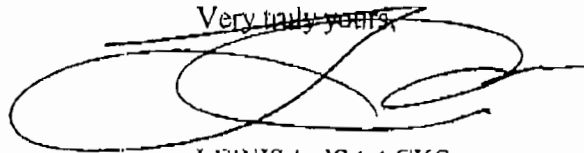
Re: Cause No. 03-01967-B;  
Town of Addison v. Absolute Systems, Ltd., et al;  
Our File No. 93516.03054

Dear Michael:

Enclosed is Defendant 276 Trust's First Set of Interrogatories, Request for Production of Documents and Request for Admissions in the above case. Please review the same and assemble the documents responsive to the requests. At such time as you have assembled the documents, please call me so that we may arrange a time to discuss this discovery. Also, please make any comments you have on the enclosed with regard to the Interrogatories and Requests for Admission.

At such time as we meet to discuss this discovery, I will discuss with you each of the specific discovery items. Should you have any questions, please do not hesitate to call me.

Very truly yours,



LEWIS L. ISAACKS

LLI/jbg  
Enclosure



AUG. -01' 03 (FRI) 10:00

TEL: 972 422 9322

P. 003

08/01/2003 08:26 FAX 0724040510

DAVID GOODMAN & MADOLE

0002

CAUSE NO. CC-03-01967-B

TOWN OF ADDISON, TEXAS,	§	IN THE COUNTY COURT
	§	
Plaintiff,	§	
v.	§	
	§	
ABSOLUTE SYSTEMS, LTD., 276 TRUST	§	AT LAW, NUMBER 2
AND MERRILL LYNCH BUSINESS,	§	
FINANCIAL SERVICES, INC.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**DEFENDANT 276 TRUST'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF**

TO: Town of Addison, Texas, by and through its attorney of record, Lewis L. Isaacks, Gay, McCall, Isaacks, Gordon & Roberts, P.C., 7777 East 15<sup>th</sup> Street, Plano, Texas 75074

Defendant 276 Trust (herein "Defendant"), hereby requests that Plaintiff, Town of Addison, Texas, produce for inspection and copying, pursuant to the provisions of the Texas Rules of Civil Procedure, the following designated documents within thirty (30) days from service hereof, at the offices of David, Goodman & Madole, A Professional Corporation, Two Lincoln Centre, 5420 I.BJ Freeway, Suite 1200, Dallas, Texas 75240.

I.

**DEFINITIONS AND INSTRUCTIONS**

1. 276 Trust incorporates by reference as though fully set forth herein the definitions and instructions contained in Defendant 276 Trust's First Set of Interrogatories to Plaintiff.

II.

**DOCUMENTS TO BE PRODUCED**

**REQUEST NO. 1:** All documents identified in your response to Defendant's First Set of Interrogatories to Plaintiff.

AUG. -01' 03 (FRI) 10:00

TEL:972 422 9322

P.004

08-01/2003 09:25 FAX 0724040510

DAVID GOODMAN &amp; MADOLE

01000

**RESPONSE:**

**REQUEST NO. 2:** All documents and correspondence that relate or refer in any manner to any of the claims asserted by Plaintiff in the Statement of Condemnation filed in this action, or any amendment thereto, or any other pleading filed in this cause.

**RESPONSE:**

**REQUEST NO. 3:** All documents and materials prepared by an expert used for consultation when that person's opinions or impressions have been reviewed, either in whole or in part, by an expert who may be called as a witness in this case.

**RESPONSE:**

**REQUEST NO. 4:** Copies of all transcripts of deposition testimony given in the past five (5) years by each person or entity whom you may call as expert witness in the trial of this case or whose opinions or impressions have been reviewed or relied upon by someone who may be called to testify in the trial of this case.

**RESPONSE:**

**REQUEST NO. 5:** The entire file for this case, including but not limited to, all correspondence, bills, memoranda, letters, graphs, charts, work notes, written notes, calculations, estimations or other documents of any expert witness who may be called to testify in the trial of this cause, or whose opinions or impressions have been reviewed or relied upon by someone who may be called to testify in the trial of this cause.

**RESPONSE:**

**REQUEST NO. 6:** A current list of, or documents showing, works written or published for each person or entity whom you may call as an expert witness in the trial of this case or whose opinions or impressions have been reviewed or relied upon by someone who may be called to testify in the trial of this cause.

AUG. -01' 03 (FRI) 10:00

TEL: 972 422 9322

P. 005

08-01/2003 08:25 FAX 0724040510

DAVID GOODMAN &amp; MADOLE

004

**RESPONSE:**

**REQUEST NO. 7:** All photographs, slides, films, videotapes, negatives or other visual representations in the possession of Plaintiff or its attorneys that refer or relate to:

1. The Property in question;
2. The Defendant 276 Trust;
3. The Arapaho Road Expansion;
4. The Signature Bridge over Midway Road; or
5. Any other photographs, slides, films, videotapes, negatives or other visual representations that are relevant to the above-referenced cause.

**RESPONSE:**

**REQUEST NO. 8:** All documents, charts, summaries, and the like you intend to introduce at the trial of this matter.

**RESPONSE:**

**REQUEST NO. 9:** Any and all statements made by 276 Trust regarding the subject matter of this suit.

**RESPONSE:**

**REQUEST NO. 10:** Any witness statements that relate or refer in any manner to the subject matter of this dispute.

**RESPONSE:**

**REQUEST NO. 11:** All correspondence, documents and the like by and between Addison on the one hand and on the other:

1. Absolute Systems, Ltd.;
2. 276 Trust; or
3. Merrill Lynch Business Financial Services, Inc.

AUG. -01' 03 (FRI) 10:00

TEL: 972 422 9322

P. 006

09/01/2003 08:28 FAX 9724010610

DAVID GOODMAN &amp; MADOLE

005

**RESPONSE:**

**REQUEST NO. 12:** The entire file maintained by the Town of Addison related to the Property.

**RESPONSE:**

**REQUEST NO. 13:** Each and every appraisal, valuation, report or the like related to the Property.

**RESPONSE:**

**REQUEST NO. 14:** All drafts of any appraisal, valuation, report or the like related to the Property.

**RESPONSE:**

**REQUEST NO. 15:** The appraisal obtained and presented by Addison at the Commissioner's hearing, and all drafts thereof.

**RESPONSE:**

**REQUEST NO. 16:** All correspondence and documents between Addison and any appraisers hired in connection with performing an appraisal or valuation of the Property.

**RESPONSE:**

**REQUEST NO. 17:** Each and every appraisal done or prepared for or on behalf of Addison (and all drafts) in connection with any condemnation proceedings or negotiations related to the Arapaho Road extension project.

**RESPONSE:**

AUG. -01' 03 (FRI) 10:00

TEL: 972 422 9322

P. 007

05/01/2003 00:20 FAX 0724040510

DAVID GOODMAN &amp; MADOLE

10000

**REQUEST NO. 18:** Each and every document that refers or relates in any manner to the Property.

**RESPONSE:**

**REQUEST NO. 19:** Each and every document showing the plans for the Signature Bridge over Midway Road as it relates to the Property.

**RESPONSE:**

**REQUEST NO. 20:** All documents which in any way concern, mention, refer, or relate to the appraisal done by Brian E. Shuler concerning the Property.

**RESPONSE:**

**REQUEST NO. 21:** Any studies, surveys, investigations, analysis or the like done by Addison concerning the Arapaho Road expansion.

**RESPONSE:**

**REQUEST NO. 22:** Any studies, surveys, investigations, analysis or the like done by Addison concerning the Property.

**RESPONSE:**

**REQUEST NO. 23:** Any noise or pollution surveys, studies, investigations or the like done by Addison with respect to the Property.

**RESPONSE:**

AUG. -01' 03 (FRI) 10:01

TEL: 972 422 9322

P. 008

08/01/2003 00:20 FAX 0724040516

DAVID GOODMAN &amp; MADOLE

10/007

**REQUEST NO. 24:** Any noise or pollution surveys, studies, investigations or the like done by Addison with respect to Signature Bridge over Midway Road.

**RESPONSE:**

**REQUEST NO. 25:** Any and all correspondence or documents evidencing any communication between Addison and any other person, from January 1, 2000 to the present time, related to the value of the Property or any effort to market or sell the Property.

**RESPONSE:**

**REQUEST NO. 26:** Any and all correspondence and documents related to the Property by and between Addison and HNTB Architects and Engineers.

**RESPONSE:**

**REQUEST NO. 27:** Any and all correspondence and documents related to the Signature Bridge over Midway Road by and between Addison and HNTB Architects and Engineers.

**RESPONSE:**

**REQUEST NO. 28:** All drafts of the Evaluation Associates' appraisal for the Property dated January 23, 2002.

**RESPONSE:**

**REQUEST NO. 29:** All documents, correspondence, memos and the like by and between Addison and Evaluation Associates related to the Property.

**RESPONSE:**

AUG. -01' 03 (FRI) 10:01

TEL: 972 422 9322

P. 009

08/01/2003 00:20 FAX #724040510

DAVID GOODMAN &amp; MADOLE

005

**REQUEST NO. 30:** Any documents, correspondence, memos or the like which show the potential for increased insurance rates for the properties located in and around the Signature Bridge over Midway Road.

**RESPONSE:**

**REQUEST NO. 31:** All documents which evidence appraisals, reports, valuations or the like done with respect to any property affected by the Addison Road Expansion.

**RESPONSE:**

**REQUEST NO. 32:** All documents or correspondence related to the compensation paid by Addison for the taking of any property in connection with the Arapaho Road Expansion.

**RESPONSE:**

**REQUEST NO. 33:** All documents evidencing the final plans, specifications, drawings, graphic representations and the like, related to the Arapaho Road Expansion Project and the Signature Bridge over Midway Road as it specifically relates to the Property.

**RESPONSE:**

**REQUEST NO. 34:** All documents and correspondence by and between Addison and any property owner impacted by the Arapaho Road Expansion.

**RESPONSE:**

**REQUEST NO. 35:** All minutes, notes, reports, memos, drafts, or the like of any meeting held by Addison, its council, or its representatives related to the Property.

AUG. -01' 03 (FRI) 10:01

TEL: 972 422 9322

P. 010

08-01-2003 08:27 FAX 0724040510

DAVID GOODMAN &amp; MADOLE

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Respectfully submitted,

**DAVID, GOODMAN & MADOLE,**  
A Professional CorporationBy: 

Mark A. Goodman

State Bar No. 08156920

Two Lincoln Centre

5420 LBJ Freeway, Suite 1200

Dallas, Texas 75240

972/991-0889


972/404-0516 Telecopier

ATTORNEYS FOR DEFENDANT 276 TRUST

**CERTIFICATE OF SERVICE**

I certify that on July 28, 2003, a true and correct copy of Defendant 276 Trust's First Request for Production of Documents to Plaintiff was served via certified mail, return receipt requested to the following counsel of record:

Lewis L. Isaacks  
Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
7777 East 15<sup>th</sup> Street  
Plano, Texas 75074

  
Mark A. Goodman

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TEL: 972 422 9322

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DAVID GOODMAN & MADOFF

2010

CAUSE NO. CC-03-01967-B

TOWN OF ADDISON, TEXAS,	§	IN THE COUNTY COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
ABSOLUTE SYSTEMS, LTD., 276 TRUST	§	AT LAW, NUMBER 2
AND MERRILL LYNCH BUSINESS,	§	
FINANCIAL SERVICES, INC.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**DEFENDANT 276 TRUST'S FIRST REQUEST FOR ADMISSIONS**

TO: Town of Addison, Texas, by and through its attorney of record, Lewis I. Isaacks, Gay, McCall, Isaacks, Gordon & Roberts, P.C., 7777 East 15<sup>th</sup> Street, Plano, Texas 75074

Defendant 276 Trust (herein "Defendant") serves the following Requests for Admissions upon Plaintiff Town of Addison in accordance with the Texas Rules of Civil Procedure.

**I.**

**DEFINITIONS AND INSTRUCTIONS**

1. 276 Trust incorporates by reference as though fully set forth herein the definitions and instructions contained in Defendant 276 Trust's First Set of Interrogatories to Plaintiff.

**II.**

**REQUEST FOR ADMISSIONS**

**REQUEST NO. 1:** The Signature Bridge over Midway Road is expected to come as close as three feet to the building on the Property.

**ADMIT OR DENY:**

**REQUEST NO. 2:** It is estimated that approximately 25,000 cars will pass over the Signature Bridge over Midway Road on a daily basis.

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DAVID GOODMAN &amp; MADOLE

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**ADMIT OR DENY:**

**REQUEST NO. 3:** It is estimated that the average rate of speed over the Signature Bridge at Midway Road will be approximately 40 miles per hour.

**ADMIT OR DENY:**

**REQUEST NO. 4:** The traffic passing over the Signature Bridge near the Property will cause noise that has not been heard at the Property before the construction of the Bridge.

**ADMIT OR DENY:**

**REQUEST NO. 5:** The Signature Bridge over Midway Road will create safety risks for those parking below the bridge at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 6:** The Signature Bridge over Midway Road will create safety risks for those parking around the bridge at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 7:** The Arapaho Road Expansion will preclude certain trucks from using a loading dock at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 8:** Prior to construction of the Signature Bridge over Midway Road, the building at the Property was rented to a commercial tenant, MBNA.

**ADMIT OR DENY:**

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DAVID GOODMAN &amp; MADOLE

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**REQUEST NO. 9:** The Arapaho Road Expansion as it relates to the Property will cause a decrease in the fair market value of the Property.

**ADMIT OR DENY:**

**REQUEST NO. 10:** As of the date of the sending of these Request for Admissions, Addison has yet to provide 276 Trust with the final plans for the Arapaho Road Expansion as it relates to the Property.

**ADMIT OR DENY:**

**REQUEST NO. 11:** Evaluation Associates was employed by Addison to assist them in the evaluation of the Property for compensation related to the right of way.

**ADMIT OR DENY:**

**REQUEST NO. 12:** As part of Evaluation Association's evaluation of the Property, it considered many physical and economic factors.

**ADMIT OR DENY:**

**REQUEST NO. 13:** The Arapaho Road Expansion and Signature Bridge, as it relates to the Property, will likely cause the Property to become more industrial in nature.

**ADMIT OR DENY:**

**REQUEST NO. 14:** The Arapaho Road Expansion and Signature Bridge over Midway Road will preclude 276 Trust from building a mezzanine level at the building on the Property.

**ADMIT OR DENY:**

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DAVID GOODMAN &amp; MADOLE

TEL: 972 422 9322

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**REQUEST NO. 15:** Liability insurance rates with respect to the Property will rise as a result of the Arapaho Road Expansion and the Signature Bridge over Midway Road.

**ADMIT OR DENY:**

**REQUEST NO. 16:** Rental rates for the Property will decrease as a result of the Arapaho Road Expansion and the Signature Bridge over Midway Road.

**ADMIT OR DENY:**

**REQUEST NO. 17:** Addison's prior offer made to 276 Trust was not based on any exact location of the bridge.

**ADMIT OR DENY:**

**REQUEST NO. 18:** In July 2002, Addison said the Signature Bridge would be ten feet from the building at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 19:** In April 2003, Addison said the Signature Bridge would be three feet from the building at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 20:** As of this date, Addison cannot confirm the height under the Signature Bridge.

**ADMIT OR DENY:**

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P. 015

05/01/2003 09:29 FAX 0724040510

DAVID GOODMAN &amp; MADOLE

014

**REQUEST NO. 21:** As of this date, Addison cannot confirm the usability of parking under the Signature Bridge.

**ADMIT OR DENY:**

**REQUEST NO. 22:** As of this date, Addison cannot confirm the number of parking spaces under the Signature Bridge.

**ADMIT OR DENY:**

**REQUEST NO. 23:** The cost to operate the building will increase due to the Signature Bridge.

**ADMIT OR DENY:**

**REQUEST NO. 24:** Addison has not addressed the maintenance of the parking lot at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 25:** Addison refused to let the parties' appraisers meet to discuss values with respect to the Property.

**ADMIT OR DENY:**

**REQUEST NO. 26:** Addison refused to allow an independent third appraiser to meet with Addison's appraiser and 276 Trust's appraiser with respect to the Property.

**ADMIT OR DENY:**

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TEL: 972 422 9322

P. 016

AUG 01 2003 00:25 FAX 8724040510

DAVID GOODMAN &amp; MADOLE

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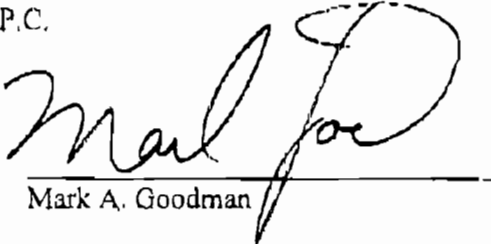
Respectfully submitted,

**DAVID, GOODMAN & MADOLE,**  
A Professional CorporationBy: Mark A. Goodman  
State Bar No. 08156920Two Lincoln Centre  
5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240  
972/991-0889  
972/404-0516 Telecopier

ATTORNEYS FOR DEFENDANT 276 TRUST

**CERTIFICATE OF SERVICE**

I certify that on July 28, 2003, a true and correct copy of Defendant 276 Trust's First Request for Admissions was served via certified mail, return receipt requested to the following counsel of record:

Lewis L. Isaacks  
Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
7777 East 15<sup>th</sup> Street  
Plano, Texas 75074  
Mark A. Goodman

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TEL: 972 422 9322

P. 017

05/01/2003 08:20 FAX 0724040510

DAVID GOODMAN & MADOLE

016

CAUSE NO. CC-03-01967-B

TOWN OF ADDISON, TEXAS,	§	IN THE COUNTY COURT
	§	
Plaintiff,	§	
v.	§	
	§	
ABSOLUTE SYSTEMS, LTD., 276 TRUST	§	AT LAW, NUMBER 2
AND MERRILL LYNCH BUSINESS,	§	
FINANCIAL SERVICES, INC.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**DEFENDANT 276 TRUST'S FIRST SET OF INTERROGATORIES TO PLAINTIFF**

TO: Town of Addison, Texas, by and through its attorney of record, Lewis L. Isaacks, Gay, McCall, Isaacks, Gordon & Roberts, P.C., 7777 East 15<sup>th</sup> Street, Plano, Texas 75074

Defendant 276 Trust (herein "Defendant"), hereby serves the following Interrogatories upon Plaintiff Town of Addison, Texas, and requests that answers thereto, under oath, be made within thirty (30) days from service hereof, in accordance with the Texas Rules of Civil Procedure.

**I.**

**DEFINITIONS AND INSTRUCTIONS**

1. As used herein the terms "you," "your," "Addison," or "Plaintiff," shall mean Town of Addison, Texas, Plaintiff herein, and all representatives who acted or purported to act on Town of Addison's behalf.

2. These requests seek answers current to the date of response, and further shall be deemed to be continuing under the Texas Rules of Civil Procedure so that any additional information relating in any way to these requests that you acquire or that becomes known to you up to and including the time of trial shall be furnished to Defendant promptly after such information is acquired or becomes known.

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DAVID GOODMAN &amp; MADDLE

P. 017

3. As used herein, the term "document" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, account entry, diary, calendar, telex, telegram, cable, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, or any other written, recorded, transcribed, stored on disk, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in Town of Addison's possession, custody, or over which she has control.

4. As used herein, "identify" or to give the "identity" of means:

(i) in the case of a person, to state:

- (a) name;
- (b) last known residence address and phone number;
- (c) last known employer or business affiliation; and
- (d) last known occupation and business position held;

(ii) in the case of a company, to state:

- (a) name;
- (b) place of incorporation;
- (c) principal place of business; and
- (d) the "identity" of persons having knowledge of the matter with respect to which the company is named;

(iii) in the case of a document, to state:



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DAVID GOODMAN &amp; MADOLE

- (a) the "identity" of the persons preparing it and the sender;
  - (b) its title or a description of the general nature of its subject matter;
  - (c) the "identity" of the addressees, if any;
  - (d) its dates of preparation;
  - (e) its dates and manner of distribution and publication, if any;
  - (f) location of each copy and the "identity" of present custodian;
  - (g) the "identity" of persons who can "identify" it; and
  - (h) if a privilege is claimed, the specific basis therefor;
- (iv) in the case of a communication to state:
- (a) a brief description of the subject matter of the communication;
  - (b) the date when it took place;
  - (c) the means of communication;
  - (d) the place or places where it occurred; and
  - (e) the identity of each party who participated in the communication.

5. If you object to or otherwise decline to answer any portion of any request, provide all information called for by that portion of the request to which you do not object or to which you do not decline to answer. If you object to a request on the ground that it is too broad (i.e., that it calls for information that is relevant to the subject matter of the action and information that is not), provide such information as is concededly relevant. If you object to a request on the ground that to provide an answer would constitute an undue burden, provide such requested information as can be supplied without undertaking an undue burden. For those portions of a request to which you object or otherwise decline to answer, state the reason for such objection or declination. If you object to any portion of a request on the ground that it seeks privileged information, identify all persons to

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DAVID GOODMAN & MADOLE

whom such information was and has been communicated, the general nature of such information, the nature of the privilege asserted, and the dates of any communications or documents for which the privilege is asserted.

6. As used herein, the word "person" includes natural persons, proprietorships, partnerships, firms, corporations, public corporations, municipal corporations, federal, state and local governments, all departments and agencies thereof, any other governmental agencies, political subdivisions, groups, associations or organizations.

7. As used herein, the term "date" means the exact day, month and year, if ascertainable, or, if not, your best approximation thereof.

8. Where appropriate in the context of an interrogatory or a response thereto, the singular shall mean the plural, the masculine gender shall mean the feminine, and vice versa.

9. As used herein the terms "276 Trust" or "Defendant" shall mean 276 Trust, Defendant herein, and all representatives who acted or purported to act on its behalf.

10. As used herein, the term "Property" shall mean 4139 Centurion Way, Addison, Dallas County, Texas.

11. The conjunctions "and" and "or" shall each be individually interpreted in every instance as meaning "and/or" and shall not be interpreted disjunctively to exclude any information otherwise within the scope of any specification.

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DAVID GOODMAN &amp; MADOLE

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**II.****INTERROGATORIES**

**INTERROGATORY NO. 1:** If you contend that any of the opinions set forth in the appraisal of Brian E. Shuler are inaccurate, then for each such opinion, state the following:

- a. The specific opinion you believe is inaccurate;
- b. The reason for your contention;
- c. Identify any documents or other tangible evidence that you will rely on to refute such opinion; and
- d. If you have a contrary opinion, state same and identify all documents supporting your contrary opinion.

**ANSWER:**

**INTERROGATORY NO. 2:** Please identify all individuals who answered these Interrogatories, and for each specific individual, identify those Interrogatories that person assisted in answering.

**ANSWER:**

**INTERROGATORY NO. 3:** Please identify each person whom you have ever retained or specifically employed as an expert in anticipation of this litigation or preparation for trial and who is not expected to be called as an expert witness but whose opinions, impressions or work product have been reviewed by a testifying expert. For each such expert, identify all documents and reports made, prepared, or reviewed by such experts.

**ANSWER:**

**INTERROGATORY NO. 4:** Identify any property which Addison has taken or obtained over the past two years, whether in whole or in part, with respect to the Arapaho Road Expansion.

**ANSWER:**

**INTERROGATORY NO. 5:** With respect to each property identified in the previous Interrogatory, state the nature of the taking, the compensation paid, and identify the property owner.

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DAVID GOODMAN &amp; MADOLE

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**ANSWER:**

**INTERROGATORY NO. 6:** Identify each and every condemnation proceeding initiated by Addison, (other than the instant lawsuit), and which is related to the Arapaho Road Expansion. Identify such proceeding by indicating the file or cause number, the style of the case, and the current status of such litigation.

**ANSWER:**

**INTERROGATORY NO. 7:** State the name, address, and telephone number of each expert witness who will or may be called to testify at the trial of this case. For each such expert, state:

- A. The field of his/her expertise;
- B. The subject matter involved in this lawsuit of which he/she has knowledge;
- C. The identity of the work product, opinion, documents or other tangible thing prepared by such non-testifying expert which maybe used by any testifying expert at the trial of this case;
- D. The dollar amount which said expert contends represents the fair market value of the property made the basis of this lawsuit, as of the date of taking;
- E. His/her opinion as to the present and future use and development of the subject property; and
- F. His/her opinion as to any item constituting damage to the remainder of the subject property as a result of the taking.

**ANSWER:**

**INTERROGATORY NO. 8:** With respect to the Signature Bridge over Midway Road, state whether you believe there will be any noise pollution affecting the Property.

**ANSWER:**

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DAVID GOODMAN &amp; MADOLE

P. 022

**INTERROGATORY NO. 9:** Are the plans for the Arapaho Road Expansion and the Signature Bridge over Midway Road finalized? If so, please attach the final plans and specifications to your answers hereto.

**ANSWER:**

**INTERROGATORY NO. 10:** If you have denied any of the Request for Admissions served concurrently herewith, please state in detail the specific reason for each denial.

**ANSWER:**

Respectfully submitted,

**DAVID, GOODMAN & MADOLE,**  
A Professional Corporation

By: 

Mark A. Goodman  
State Bar No. 08156920

Two Lincoln Centre  
5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240  
972/991-0889  
972/404-0516 Telecopier

ATTORNEYS FOR DEFENDANT 276 TRUST

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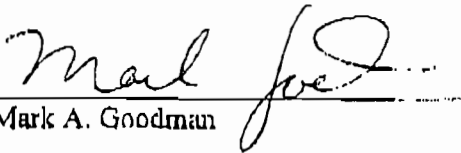
DAVID GOODMAN & MADOLE

024

**CERTIFICATE OF SERVICE**

I certify that on July 28, 2003, a true and correct copy of Defendant 276 Trust's First Set of Interrogatories to Plaintiff was served via certified mail, return receipt requested to the following counsel of record:

Lewis L. Isaacks  
Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
7777 East 15<sup>th</sup> Street  
Plano, Texas 75074

  
Mark A. Goodman

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LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID McCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

▼ BOARD CERTIFIED – CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

August 1, 2003

Michael E. Murphy, P.E.  
P. O. Box 9010  
Addison, Texas 75001-9010

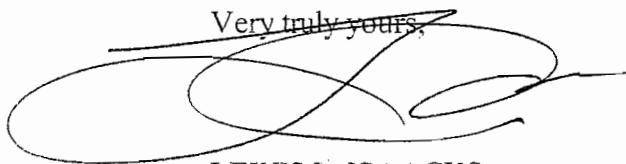
Re: Cause No. 03-01967-B;  
Town of Addison v. Absolute Systems. Ltd., et al;  
Our File No. 93516.03054

Dear Michael:

Enclosed is Defendant 276 Trust's First Set of Interrogatories, Request for Production of Documents and Request for Admissions in the above case. Please review the same and assemble the documents responsive to the requests. At such time as you have assembled the documents, please call me so that we may arrange a time to discuss this discovery. Also, please make any comments you have on the enclosed with regard to the Interrogatories and Requests for Admission.

At such time as we meet to discuss this discovery, I will discuss with you each of the specific discovery items. Should you have any questions, please do not hesitate to call me.

Very truly yours,



LEWIS L. ISAACKS

LLI/jbg  
Enclosure

CAUSE NO. CC-03-01967-B

TOWN OF ADDISON, TEXAS,	§	IN THE COUNTY COURT
	§	
Plaintiff,	§	
v.	§	
	§	
ABSOLUTE SYSTEMS, LTD., 276 TRUST	§	AT LAW, NUMBER 2
AND MERRILL LYNCH BUSINESS,	§	
FINANCIAL SERVICES, INC.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**DEFENDANT 276 TRUST'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF**

TO: Town of Addison, Texas, by and through its attorney of record, Lewis L. Isaacks, Gay, McCall, Isaacks, Gordon & Roberts, P.C., 7777 East 15<sup>th</sup> Street, Plano, Texas 75074

Defendant 276 Trust (herein "Defendant"), hereby requests that Plaintiff, Town of Addison, Texas, produce for inspection and copying, pursuant to the provisions of the Texas Rules of Civil Procedure, the following designated documents within thirty (30) days from service hereof, at the offices of David, Goodman & Madole, A Professional Corporation, Two Lincoln Centre, 5420 LBJ Freeway, Suite 1200, Dallas, Texas 75240.

**I.**

**DEFINITIONS AND INSTRUCTIONS**

1. 276 Trust incorporates by reference as though fully set forth herein the definitions and instructions contained in Defendant 276 Trust's First Set of Interrogatories to Plaintiff.

**II.**

**DOCUMENTS TO BE PRODUCED**

**REQUEST NO. 1:** All documents identified in your response to Defendant's First Set of Interrogatories to Plaintiff.



**RESPONSE:**

**REQUEST NO. 2:** All documents and correspondence that relate or refer in any manner to any of the claims asserted by Plaintiff in the Statement of Condemnation filed in this action, or any amendment thereto, or any other pleading filed in this cause.

**RESPONSE:**

**REQUEST NO. 3:** All documents and materials prepared by an expert used for consultation when that person's opinions or impressions have been reviewed, either in whole or in part, by an expert who may be called as a witness in this case.

**RESPONSE:**

**REQUEST NO. 4:** Copies of all transcripts of deposition testimony given in the past five (5) years by each person or entity whom you may call as expert witness in the trial of this case or whose opinions or impressions have been reviewed or relied upon by someone who may be called to testify in the trial of this case.

**RESPONSE:**

**REQUEST NO. 5:** The entire file for this case, including but not limited to, all correspondence, bills, memoranda, letters, graphs, charts, work notes, written notes, calculations, estimations or other documents of any expert witness who may be called to testify in the trial of this cause, or whose opinions or impressions have been reviewed or relied upon by someone who may be called to testify in the trial of this cause.

**RESPONSE:**

**REQUEST NO. 6:** A current list of, or documents showing, works written or published for each person or entity whom you may call as an expert witness in the trial of this case or whose opinions or impressions have been reviewed or relied upon by someone who may be called to testify in the trial of this cause.

**RESPONSE:**

**REQUEST NO. 7:** All photographs, slides, films, videotapes, negatives or other visual representations in the possession of Plaintiff or its attorneys that refer or relate to:

1. The Property in question;
2. The Defendant 276 Trust;
3. The Arapaho Road Expansion;
4. The Signature Bridge over Midway Road; or
5. Any other photographs, slides, films, videotapes, negatives or other visual representations that are relevant to the above-referenced cause.

**RESPONSE:**

**REQUEST NO. 8:** All documents, charts, summaries, and the like you intend to introduce at the trial of this matter.

**RESPONSE:**

**REQUEST NO. 9:** Any and all statements made by 276 Trust regarding the subject matter of this suit.

**RESPONSE:**

**REQUEST NO. 10:** Any witness statements that relate or refer in any manner to the subject matter of this dispute.

**RESPONSE:**

**REQUEST NO. 11:** All correspondence, documents and the like by and between Addison on the one hand and on the other:

1. Absolute Systems, Ltd.;
2. 276 Trust; or
3. Merrill Lynch Business Financial Services, Inc.

**RESPONSE:**

**REQUEST NO. 12:** The entire file maintained by the Town of Addison related to the Property.

**RESPONSE:**

**REQUEST NO. 13:** Each and every appraisal, valuation, report or the like related to the Property.

**RESPONSE:**

**REQUEST NO. 14:** All drafts of any appraisal, valuation, report or the like related to the Property.

**RESPONSE:**

**REQUEST NO. 15:** The appraisal obtained and presented by Addison at the Commissioner's hearing, and all drafts thereto.

**RESPONSE:**

**REQUEST NO. 16:** All correspondence and documents between Addison and any appraisers hired in connection with performing an appraisal or valuation of the Property.

**RESPONSE:**

**REQUEST NO. 17:** Each and every appraisal done or prepared for or on behalf of Addison (and all drafts) in connection with any condemnation proceedings or negotiations related to the Arapaho Road extension project.

**RESPONSE:**

REQUEST NO. 18: Each and every document that refers or relates in any manner to the Property.

RESPONSE:

REQUEST NO. 19: Each and every document showing the plans for the Signature Bridge over Midway Road as it relates to the Property.

RESPONSE:

REQUEST NO. 20: All documents which in any way concern, mention, refer, or relate to the appraisal done by Brian E. Shuler concerning the Property.

RESPONSE:

REQUEST NO. 21: Any studies, surveys, investigations, analysis or the like done by Addison concerning the Arapaho Road expansion.

RESPONSE:

REQUEST NO. 22: Any studies, surveys, investigations, analysis or the like done by Addison concerning the Property.

RESPONSE:

REQUEST NO. 23: Any noise or pollution surveys, studies, investigations or the like done by Addison with respect to the Property.

RESPONSE:

**REQUEST NO. 24:** Any noise or pollution surveys, studies, investigations or the like done by Addison with respect to Signature Bridge over Midway Road.

**RESPONSE:**

**REQUEST NO. 25:** Any and all correspondence or documents evidencing any communication between Addison and any other person, from January 1, 2000 to the present time, related to the value of the Property or any effort to market or sell the Property.

**RESPONSE:**

**REQUEST NO. 26:** Any and all correspondence and documents related to the Property by and between Addison and HNTB Architects and Engineers.

**RESPONSE:**

**REQUEST NO. 27:** Any and all correspondence and documents related to the Signature Bridge over Midway Road by and between Addison and HNTB Architects and Engineers.

**RESPONSE:**

**REQUEST NO. 28:** All drafts of the Evaluation Associates' appraisal for the Property dated January 23, 2002.

**RESPONSE:**

**REQUEST NO. 29:** All documents, correspondence, memos and the like by and between Addison and Evaluation Associates related to the Property.

**RESPONSE:**

**REQUEST NO. 30:** Any documents, correspondence, memos or the like which show the potential for increased insurance rates for the properties located in and around the Signature Bridge over Midway Road.

**RESPONSE:**

**REQUEST NO. 31:** All documents which evidence appraisals, reports, valuations or the like done with respect to any property affected by the Addison Road Expansion.

**RESPONSE:**

**REQUEST NO. 32:** All documents or correspondence related to the compensation paid by Addison for the taking of any property in connection with the Arapaho Road Expansion.

**RESPONSE:**

**REQUEST NO. 33:** All documents evidencing the final plans, specifications, drawings, graphic representations and the like, related to the Arapaho Road Expansion Project and the Signature Bridge over Midway Road as it specifically relates to the Property.

**RESPONSE:**

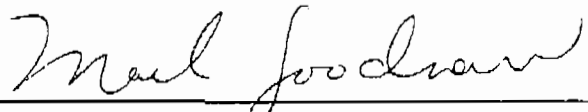
**REQUEST NO. 34:** All documents and correspondence by and between Addison and any property owner impacted by the Arapaho Road Expansion.

**RESPONSE:**

**REQUEST NO. 35:** All minutes, notes, reports, memos, drafts, or the like of any meeting held by Addison, its council, or its representatives related to the Property.

Respectfully submitted,

**DAVID, GOODMAN & MADOLE,**  
A Professional Corporation

By: 

Mark A. Goodman  
State Bar No. 08156920

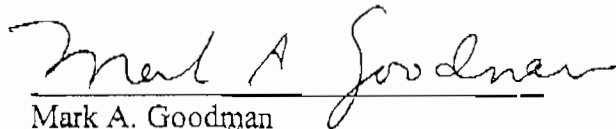
Two Lincoln Centre  
5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240  
972/991-0889  
972/404-0516 Telecopier

ATTORNEYS FOR DEFENDANT 276 TRUST

CERTIFICATE OF SERVICE

I certify that on July 28, 2003, a true and correct copy of Defendant 276 Trust's First Request for Production of Documents to Plaintiff was served via certified mail, return receipt requested to the following counsel of record:

Lewis L. Isaacks  
Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
7777 East 15<sup>th</sup> Street  
Plano, Texas 75074



Mark A. Goodman

133269.10030 010

CAUSE NO. CC-03-01967-B

TOWN OF ADDISON, TEXAS,	§	IN THE COUNTY COURT
	§	
Plaintiff,	§	
v.	§	
	§	
ABSOLUTE SYSTEMS, LTD., 276 TRUST	§	AT LAW, NUMBER 2
AND MERRILL LYNCH BUSINESS,	§	
FINANCIAL SERVICES, INC.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**DEFENDANT 276 TRUST'S FIRST REQUEST FOR ADMISSIONS**

TO: Town of Addison, Texas, by and through its attorney of record, Lewis L. Isaacks, Gay, McCall, Isaacks, Gordon & Roberts, P.C., 7777 East 15<sup>th</sup> Street, Plano, Texas 75074

Defendant 276 Trust (herein "Defendant") serves the following Requests for Admissions upon Plaintiff Town of Addison in accordance with the Texas Rules of Civil Procedure.

I.

**DEFINITIONS AND INSTRUCTIONS**

1. 276 Trust incorporates by reference as though fully set forth herein the definitions and instructions contained in Defendant 276 Trust's First Set of Interrogatories to Plaintiff.

II.

**REQUEST FOR ADMISSIONS**

**REQUEST NO. 1:** The Signature Bridge over Midway Road is expected to come as close as three feet to the building on the Property.

**ADMIT OR DENY:**

**REQUEST NO. 2:** It is estimated that approximately 25,000 cars will pass over the Signature Bridge over Midway Road on a daily basis.



**ADMIT OR DENY:**

**REQUEST NO. 3:** It is estimated that the average rate of speed over the Signature Bridge at Midway Road will be approximately 40 miles per hour.

**ADMIT OR DENY:**

**REQUEST NO. 4:** The traffic passing over the Signature Bridge near the Property will cause noise that has not been heard at the Property before the construction of the Bridge.

**ADMIT OR DENY:**

**REQUEST NO. 5:** The Signature Bridge over Midway Road will create safety risks for those parking below the bridge at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 6:** The Signature Bridge over Midway Road will create safety risks for those parking around the bridge at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 7:** The Arapaho Road Expansion will preclude certain trucks from using a loading dock at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 8:** Prior to construction of the Signature Bridge over Midway Road, the building at the Property was rented to a commercial tenant, MBNA.

**ADMIT OR DENY:**

**REQUEST NO. 9:** The Arapaho Road Expansion as it relates to the Property will cause a decrease in the fair market value of the Property.

**ADMIT OR DENY:**

**REQUEST NO. 10:** As of the date of the sending of these Request for Admissions, Addison has yet to provide 276 Trust with the final plans for the Arapaho Road Expansion as it relates to the Property.

**ADMIT OR DENY:**

**REQUEST NO. 11:** Evaluation Associates was employed by Addison to assist them in the evaluation of the Property for compensation related to the right of way.

**ADMIT OR DENY:**

**REQUEST NO. 12:** As part of Evaluation Association's evaluation of the Property, it considered many physical and economic factors.

**ADMIT OR DENY:**

**REQUEST NO. 13:** The Arapaho Road Expansion and Signature Bridge, as it relates to the Property, will likely cause the Property to become more industrial in nature.

**ADMIT OR DENY:**

**REQUEST NO. 14:** The Arapaho Road Expansion and Signature Bridge over Midway Road will preclude 276 Trust from building a mezzanine level at the building on the Property.

**ADMIT OR DENY:**

**REQUEST NO. 15:** Liability insurance rates with respect to the Property will rise as a result of the Arapaho Road Expansion and the Signature Bridge over Midway Road.

**ADMIT OR DENY:**

**REQUEST NO. 16:** Rental rates for the Property will decrease as a result of the Arapaho Road Expansion and the Signature Bridge over Midway Road.

**ADMIT OR DENY:**

**REQUEST NO. 17:** Addison's prior offer made to 276 Trust was not based on any exact location of the bridge.

**ADMIT OR DENY:**

**REQUEST NO. 18:** In July 2002, Addison said the Signature Bridge would be ten feet from the building at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 19:** In April 2003, Addison said the Signature Bridge would be three feet from the building at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 20:** As of this date, Addison cannot confirm the height under the Signature Bridge.

**ADMIT OR DENY:**

**REQUEST NO. 21:** As of this date, Addison cannot confirm the usability of parking under the Signature Bridge.

**ADMIT OR DENY:**

**REQUEST NO. 22:** As of this date, Addison cannot confirm the number of parking spaces under the Signature Bridge.

**ADMIT OR DENY:**

**REQUEST NO. 23:** The cost to operate the building will increase due to the Signature Bridge.

**ADMIT OR DENY:**

**REQUEST NO. 24:** Addison has not addressed the maintenance of the parking lot at the Property.

**ADMIT OR DENY:**

**REQUEST NO. 25:** Addison refused to let the parties' appraisers meet to discuss values with respect to the Property.

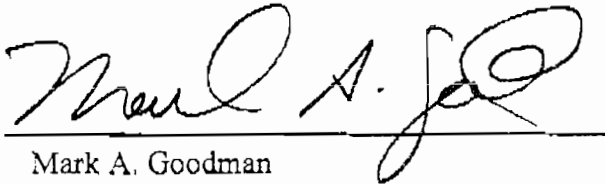
**ADMIT OR DENY:**

**REQUEST NO. 26:** Addison refused to allow an independent third appraiser to meet with Addison's appraiser and 276 Trust's appraiser with respect to the Property.

**ADMIT OR DENY:**

Respectfully submitted,

**DAVID, GOODMAN & MADOLE,**  
A Professional Corporation

By: 

Mark A. Goodman  
State Bar No. 08156920

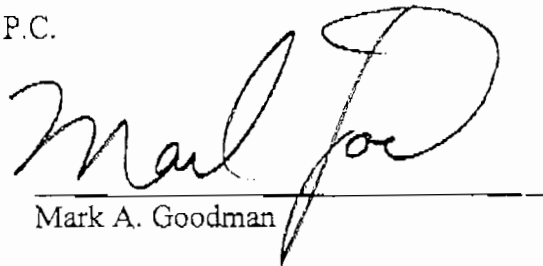
Two Lincoln Centre  
5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240  
972/991-0889  
972/404-0516 Telecopier

ATTORNEYS FOR DEFENDANT 276 TRUST

**CERTIFICATE OF SERVICE**

I certify that on July 28, 2003, a true and correct copy of Defendant 276 Trust's First Request for Admissions was served via certified mail, return receipt requested to the following counsel of record:

Lewis L. Isaacks  
Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
7777 East 15<sup>th</sup> Street  
Plano, Texas 75074

  
Mark A. Goodman

133419.1/3030.010

CAUSE NO. CC-03-01967-B

TOWN OF ADDISON, TEXAS,	§	IN THE COUNTY COURT
	§	
Plaintiff,	§	
v.	§	
	§	
ABSOLUTE SYSTEMS, LTD., 276 TRUST	§	AT LAW, NUMBER 2
AND MERRILL LYNCH BUSINESS,	§	
FINANCIAL SERVICES, INC.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**DEFENDANT 276 TRUST'S FIRST SET OF INTERROGATORIES TO PLAINTIFF**

TO: Town of Addison, Texas, by and through its attorney of record, Lewis L. Isaacks, Gay, McCall, Isaacks, Gordon & Roberts, P.C., 7777 East 15<sup>th</sup> Street, Plano, Texas 75074

Defendant 276 Trust (herein "Defendant"), hereby serves the following Interrogatories upon Plaintiff Town of Addison, Texas, and requests that answers thereto, under oath, be made within thirty (30) days from service hereof, in accordance with the Texas Rules of Civil Procedure.

**I.**

**DEFINITIONS AND INSTRUCTIONS**

1. As used herein the terms "you," "your," "Addison," or "Plaintiff," shall mean Town of Addison, Texas, Plaintiff herein, and all representatives who acted or purported to act on Town of Addison's behalf.

2. These requests seek answers current to the date of response, and further shall be deemed to be continuing under the Texas Rules of Civil Procedure so that any additional information relating in any way to these requests that you acquire or that becomes known to you up to and including the time of trial shall be furnished to Defendant promptly after such information is acquired or becomes known.

3. As used herein, the term "document" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, account entry, diary, calendar, telex, telegram, cable, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, or any other written, recorded, transcribed, stored on disk, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in Town of Addison's possession, custody, or over which she has control.

4. As used herein, "identify" or to give the "identity" of means:

(i) in the case of a person, to state:

- (a) name;
- (b) last known residence address and phone number;
- (c) last known employer or business affiliation; and
- (d) last known occupation and business position held;

(ii) in the case of a company, to state:

- (a) name;
- (b) place of incorporation;
- (c) principal place of business; and
- (d) the "identity" of persons having knowledge of the matter with respect to which the company is named;

(iii) in the case of a document, to state:

- (a) the "identity" of the persons preparing it and the sender;
  - (b) its title or a description of the general nature of its subject matter;
  - (c) the "identity" of the addressees, if any;
  - (d) its dates of preparation;
  - (e) its dates and manner of distribution and publication, if any;
  - (f) location of each copy and the "identity" of present custodian;
  - (g) the "identity" of persons who can "identify" it; and
  - (h) if a privilege is claimed, the specific basis therefor;
- (iv) in the case of a communication to state:
- (a) a brief description of the subject matter of the communication;
  - (b) the date when it took place;
  - (c) the means of communication;
  - (d) the place or places where it occurred; and
  - (e) the identity of each party who participated in the communication.

5. If you object to or otherwise decline to answer any portion of any request, provide all information called for by that portion of the request to which you do not object or to which you do not decline to answer. If you object to a request on the ground that it is too broad (i.e., that it calls for information that is relevant to the subject matter of the action and information that is not), provide such information as is concededly relevant. If you object to a request on the ground that to provide an answer would constitute an undue burden, provide such requested information as can be supplied without undertaking an undue burden. For those portions of a request to which you object or otherwise decline to answer, state the reason for such objection or declination. If you object to any portion of a request on the ground that it seeks privileged information, identify all persons to



whom such information was and has been communicated, the general nature of such information, the nature of the privilege asserted, and the dates of any communications or documents for which the privilege is asserted.

6. As used herein, the word "person" includes natural persons, proprietorships, partnerships, firms, corporations, public corporations, municipal corporations, federal, state and local governments, all departments and agencies thereof, any other governmental agencies, political subdivisions, groups, associations or organizations.

7. As used herein, the term "date" means the exact day, month and year, if ascertainable, or, if not, your best approximation thereof.

8. Where appropriate in the context of an interrogatory or a response thereto, the singular shall mean the plural, the masculine gender shall mean the feminine, and vice versa.

9. As used herein the terms "276 Trust" or "Defendant" shall mean 276 Trust, Defendant herein, and all representatives who acted or purported to act on its behalf.

10. As used herein, the term "Property" shall mean 4139 Centurion Way, Addison, Dallas County, Texas.

11. The conjunctions "and" and "or" shall each be individually interpreted in every instance as meaning "and/or" and shall not be interpreted disjunctively to exclude any information otherwise within the scope of any specification.

**II.****INTERROGATORIES**

**INTERROGATORY NO. 1:** If you contend that any of the opinions set forth in the appraisal of Brian E. Shuler are inaccurate, then for each such opinion, state the following:

- a. The specific opinion you believe is inaccurate;
- b. The reason for your contention;
- c. Identify any documents or other tangible evidence that you will rely on to refute such opinion; and
- d. If you have a contrary opinion, state same and identify all documents supporting your contrary opinion.

**ANSWER:**

**INTERROGATORY NO. 2:** Please identify all individuals who answered these Interrogatories, and for each specific individual, identify those Interrogatories that person assisted in answering.

**ANSWER:**

**INTERROGATORY NO. 3:** Please identify each person whom you have ever retained or specifically employed as an expert in anticipation of this litigation or preparation for trial and who is not expected to be called as an expert witness but whose opinions, impressions or work product have been reviewed by a testifying expert. For each such expert, identify all documents and reports made, prepared, or reviewed by such experts.

**ANSWER:**

**INTERROGATORY NO. 4:** Identify any property which Addison has taken or obtained over the past two years, whether in whole or in part, with respect to the Arapaho Road Expansion.

**ANSWER:**

**INTERROGATORY NO. 5:** With respect to each property identified in the previous Interrogatory, state the nature of the taking, the compensation paid, and identify the property owner.

**ANSWER:**

**INTERROGATORY NO. 6:** Identify each and every condemnation proceeding initiated by Addison, (other than the instant lawsuit), and which is related to the Arapaho Road Expansion. Identify such proceeding by indicating the file or cause number, the style of the case, and the current status of such litigation.

**ANSWER:**

**INTERROGATORY NO. 7:** State the name, address, and telephone number of each expert witness who will or may be called to testify at the trial of this case. For each such expert, state:

- A. The field of his/her expertise;
- B. The subject matter involved in this lawsuit of which he/she has knowledge;
- C. The identity of the work product, opinion, documents or other tangible thing prepared by such non-testifying expert which maybe used by any testifying expert at the trial of this case;
- D. The dollar amount which said expert contends represents the fair market value of the property made the basis of this lawsuit, as of the date of taking;
- E. His/her opinion as to the present and future use and development of the subject property; and
- F. His/her opinion as to any item constituting damage to the remainder of the subject property as a result of the taking.

**ANSWER:**

**INTERROGATORY NO. 8:** With respect to the Signature Bridge over Midway Road, state whether you believe there will be any noise pollution affecting the Property.

**ANSWER:**

**INTERROGATORY NO. 9:** Are the plans for the Arapaho Road Expansion and the Signature Bridge over Midway Road finalized? If so, please attach the final plans and specifications to your answers hereto.

**ANSWER:**

**INTERROGATORY NO. 10:** If you have denied any of the Request for Admissions served concurrently herewith, please state in detail the specific reason for each denial.

**ANSWER:**

Respectfully submitted,

**DAVID, GOODMAN & MADOLE,**  
A Professional Corporation

By: 

Mark A. Goodman  
State Bar No. 08156920

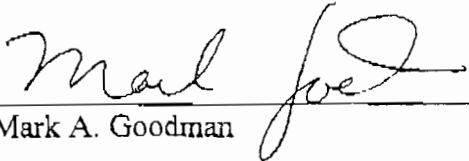
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5420 LBJ Freeway, Suite 1200  
Dallas, Texas 75240  
972/991-0889  
972/404-0516 Telecopier

ATTORNEYS FOR DEFENDANT 276 TRUST

**CERTIFICATE OF SERVICE**

I certify that on July 28, 2003, a true and correct copy of Defendant 276 Trust's First Set of Interrogatories to Plaintiff was served via certified mail, return receipt requested to the following counsel of record:

Lewis L. Isaacks  
Gay, McCall, Isaacks, Gordon & Roberts, P.C.  
7777 East 15<sup>th</sup> Street  
Plano, Texas 75074

  
\_\_\_\_\_  
Mark A. Goodman

133324.1/2030.010



TELECOPY COVER SHEET

August 1, 2003

- Alan H. Alexander
- Christopher L. Clark
- Clinton J. David
- Mark A. Goodman
- Barry L. Hardin
- Heather Hitt
- Kyle W. Johnson
- Kelly Cash Lee
- Lori Lowenberg
- John-Paul Lunn
- John M. J. Madden
- Bret A. Madole
- Brett L. Myers
- Wesley C. Myers
- Sarah L. Schwartz
- Eric L. Scott
- Gregory S. Weiss

TO: Jean - Lewis L. Isaacks

FROM: Mark A. Goodman

TO TELECOPIER NUMBER: 972/422-9322

FROM TELECOPIER NUMBER: 972/404-0516

NUMBER OF PAGES: 23, INCLUDING THIS COVER PAGE

PLEASE CONTACT LORI AT 972/991-0889 IF THERE ARE ANY PROBLEMS.

DOCUMENTS REGARDING: **Our File No. 3030.010**

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Lincoln Centre  
 6220 LBJ Freeway  
 Suite 1200  
 Dallas, Texas 75240  
 PH: (972) 991-0889  
 FX: (972) 404-0516

TRANSACTION REPORT

Transmission  
Transaction(s) completed

NO.	TX DATE/TIME	DESTINATION	DURATION	PGS.	RESULT	MODE
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**GAY, McCALL, ISAACKS,  
GORDON & ROBERTS, P.C.**  
ATTORNEYS AND COUNSELORS

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501  
FAX: 972/424-5619  
FAX: 972/422-9322

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS\*  
MARC MAY  
DAVID B. McCALL\*  
KELLI ROACH  
WILLIAM J. ROBERTS\*  
HEATHER SCHAEFER

\*Attorney-Mediator

▼Board Certified  
Civil Trial Law  
Texas Board of Legal  
Specialization

DATE: 08/01/03 TIME: 10:00 a.m.

**FACSIMILE MESSAGE COVER SHEET**

Following is/are 24 page(s) including this cover. If any part of this message is missing or received poorly, please call the sender as soon as possible.

**PLEASE DELIVER UPON RECEIPT**

**TO: Michael E. Murphy**

**FAX NO. <sup>972</sup> 450-2837**

**FR: Lewis L. Isaacks**

**RE: Addison v. 276 Trust;**

**MESSAGE:**

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**NOTICE OF INTENTION TO TAKE ORAL DEPOSITION DUCES TECUM**

TO: **GENE HARRIS, Vice President/Partner of ABSOLUTE SYSTEMS, LTD.**, Defendant,  
at 4139 Centurion Way, Addison, Texas 75001.

Pursuant to Rule 199, Texas Rules of Civil Procedure, notice is hereby given that the **TOWN OF ADDISON, TEXAS**, Plaintiff in the above numbered and entitled cause, intends to take the oral deposition of **GENE HARRIS, Vice President/Partner of ABSOLUTE SYSTEMS, LTD.**, on Wednesday, July 30, 2003, at 9:30 o'clock, a.m., in the offices of Absolute Systems, at 4139 Centurion Parkway, Addison, Texas.

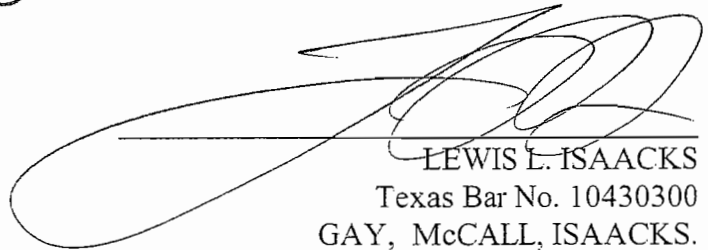
You are further notified that the witness is to bring to the deposition the following books, papers, documents and tangible things, listed on Exhibit "A", attached hereto, at the time and place specified above. In the event the witness has any objection to surrendering the originals of the above to the Court Reporter for copying, request is hereby made for copies of said items to be ready and available at the time of deposition.



The oral examination will continue from day to day until concluded. Said deposition, when taken and returned according to law, may be used as evidence upon the trial of said cause.

SIGNED this the 18 day of June, 2003.

Respectfully submitted,



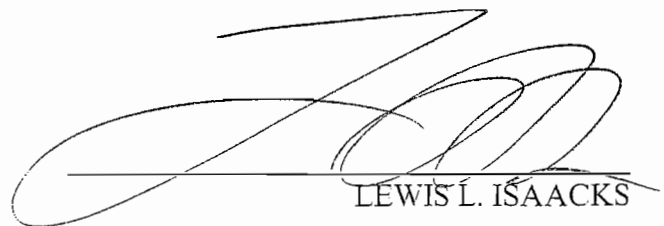
LEWIS L. ISAACKS  
Texas Bar No. 10430300  
GAY, McCALL, ISAACKS.  
GORDON & ROBERTS, P.C.  
777 East 15th Street  
Plano, Texas 75074  
Telephone: 972/424-8501  
Telecopier: 072/424-5619

ATTORNEY FOR PLAINTIFF  
TOWN OF ADDISON, TEXAS

**CERTIFICATE OF SERVICE**

I, LEWIS L. ISAACKS, Attorney for Plaintiff, Town of Addison, Texas, certify that a true and correct copy of the foregoing Notice of Intent to Take Oral Deposition Duces Tecum has been mailed by certified mail, return receipt requested, to all counsel of record, on this 18 day of

June, 2003.



LEWIS L. ISAACKS

## EXHIBIT "A"

The term "PROPERTY" as used herein refers to the property described generally as 4139 Centurion Way, Addison, Texas 75001.

1. A copy of the closing binder related to the purchase of the PROPERTY by Absolute Systems, Ltd. from 276 Trust.
2. A copy of the title policy related to the purchase of the PROPERTY by Absolute Systems, Ltd. from 276 Trust.
3. A copy of any appraisals obtained by Absolute Systems, Ltd. or on behalf of Absolute Systems, Ltd. related to the PROPERTY from 276 Trust.
4. A copy of any feasibility studies or similar analyses related to the purchase of the PROPERTY from 276 Trust.
5. A copy of the studies, analyses, or reports related to the use or future use of the PROPERTY.
6. A copy of any studies or analyses related to the impact of Arapaho Road or the construction of Arapaho Road on the PROPERTY related to the use or value of the PROPERTY.
7. Any other studies or analyses related to the impact of Arapaho Road or the construction of Arapaho Road on the PROPERTY.

# HP LaserJet 3200se



HP LASERJET 3200

MAY-20-2003 3:27PM

## Fax Call Report

Job	Date	Time	Type	Identification	Duration	Pages	Result
447	5/20/2003	3:14:25PM	Send	92146722020	13:27	35	OK

**TOWN OF ADDISON  
PUBLIC WORKS**

To: Angela  
Washington

From: Michael E. Murphy, P.E.  
Director of Public Works

Company: \_\_\_\_\_

Office: 972/450-2878  
Fax: 972/450-2837

FAX #: \_\_\_\_\_

Date: 5-20-03

16801 Westgrove  
P.O. Box 9010  
Addison, TX 75001-9010

No. of Pages(including cover): 35

*Including Blank Separation  
Pages*

DATE SUBMITTED: May 6, 2003  
FOR COUNCIL MEETING: May 13, 2003

**Council Agenda Item**

**SUMMARY:**

This item is to request Council consideration of the Award of Special Commissioners, in the amount of \$115,000.00, for the acquisition of a 0.6709 acre Permanent Easement owned by Absolute Systems, LTD., et al.

**FINANCIAL IMPACT:**

Budgeted Amount: N/A  
Appraised Value: \$52,601.00  
Source of Funds: Funds are available from Year 2002 General Obligation Bond Program, Project No. 83300.

**BACKGROUND:**

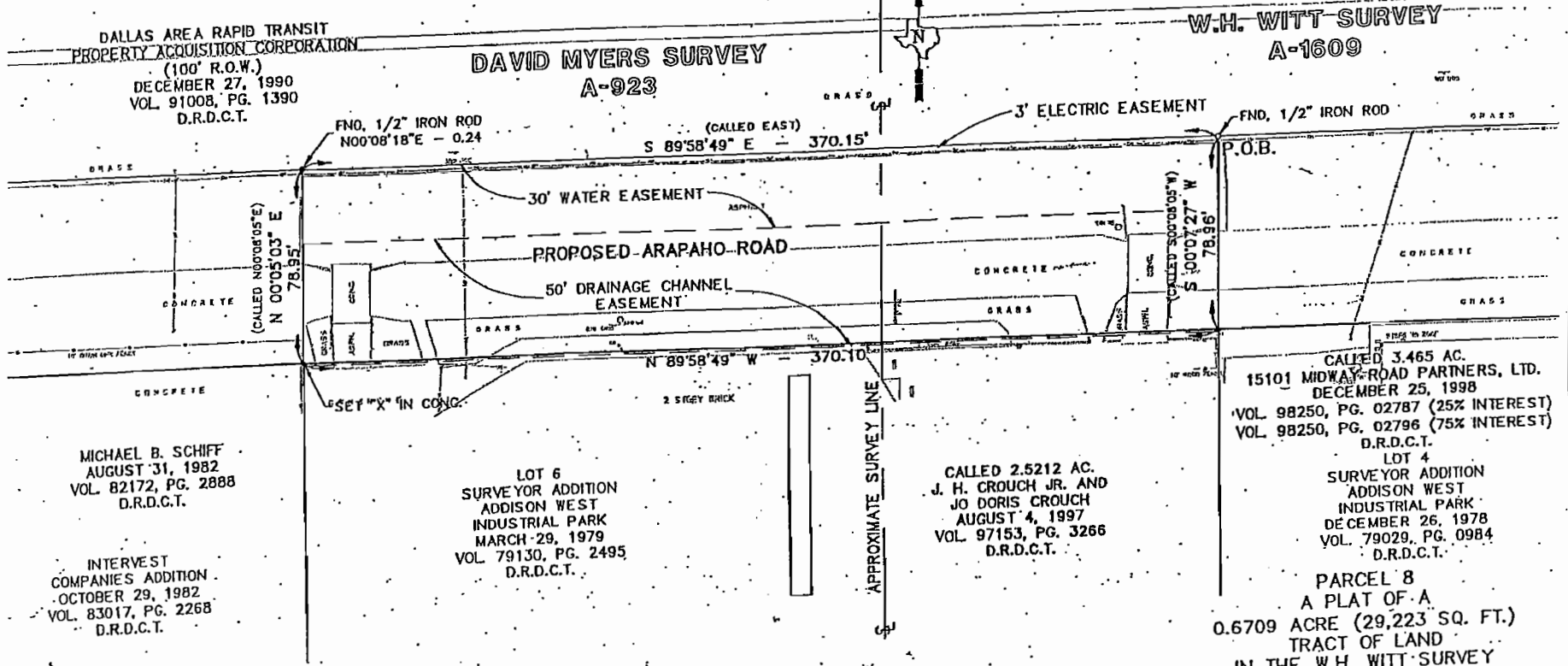
The right-of-way acquisition process is currently underway on the proposed Arapaho Road, Phase III project. Approximately 0.6709 acre of permanent easement adjacent to the proposed extension of Arapaho Road (see attached Parcel 8 map) is required as part of the proposed roadway improvements. This parcel is a portion of Lot 6, Surveyor Addition, and is owned by Absolute Systems, LTD., et al.

In September 2002, the firm of Hipes & Associates appraised the fee simple value of the 0.6709 acre of permanent easement at \$52,601.00. By Council Resolution, dated January 28, 2003, this appraised value was authorized for payment to the property owner in the event of a settlement between the two parties, or if the Special Commissioners in Condemnation appointed by the court return an award that is the same amount as the appraised amount. The actual award established by the Special Commissioners was \$115,000.00, which exceeded the appraised value by \$62,399.00.

**RECOMMENDATION:**

It is recommended that Council approve payment to Absolute Systems, LTD., et al, based on the Award of Special Commissioners, in the amount of \$115,000.00, for acquisition of a 0.6709 acre Permanent Easement from Lot 6, Surveyor Addition.

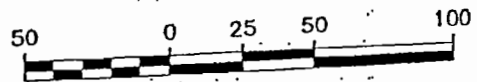
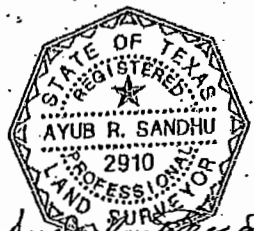
EXHIBIT "B"



BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN 77173, PAGE 135, D.R.D.C.T.

LEGAL DESCRIPTION OF EVEN SURVEY DATE HERewith COMPANIES THIS PLAT.

- DENOTES A FOUND POINT AS INDICATED
- DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED.
- PROPOSED RIGHT OF WAY LINE



GRAPHIC SCALE  
1 INCH = 50 FT.

MAY-06-2003 10:12

COWLES & THOMPSON

2146722000 P.02/03

**No. CC-03-01967-B**

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUSTS</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**AWARD OF SPECIAL COMMISSIONERS**

On this day, the undersigned Special Commissioners, appointed by the Judge of the above Court to determine the fair market value of certain property rights and damages, if any, occasioned by the acquisition described in the above condemnation proceedings brought by the Plaintiff. **TOWN OF ADDISON, TEXAS**, to condemn a certain easement for right-of-way over and across the property of Defendants, which easement is described in the Statement in Condemnation, filed with said Judge on the 19<sup>th</sup> day of February, 2003, having determined that Defendants have been duly served with notice as required by law, and that Plaintiff appeared and announced ready for hearing, and that the following Defendants appeared and announced ready for hearing:

276 Trust

The Commissioners proceeded to hear the evidence as to the fair market value of the property rights being acquired by Plaintiff, and damages, if any, to Defendants' remaining property which will be caused by its acquisition.

After consideration, we assess the fair market value of the Permanent Easement being acquired by the Town of Addison and the damages, if any, caused by its acquisition to be the total sum of ONE HUNDRED FIFTEEN THOUSAND (\$115,000.00) which sum is to be paid to the following parties as their respective interests may appear:

276 Trust

**SPECIAL COMMISSIONERS:**

Date: 4-16-03

Robert Kiley  
**ROBERT KILEY**

Ernestine Bridges  
**ERNESTINE BRIDGES**

Joe Pena  
**JOE PENA**

The foregoing Award of Special Commissioners was filed with me this \_\_\_\_\_ day of April, 2003.

As provided by Section 21.047 of the Property Code of the State of Texas, the fees of the Special Commissioners which are to be taxed as cost in this cause are set as follows:

ROBERT KILEY	4 1/2 HOURS.	\$	<u>850.00</u>
ERNESTINE BRIDGES	4 1/2 hrs	\$	<u>850.00</u>
JOE PEÑA	4 1/2 HRS.	\$	<u>850.00</u>

SIGNED this 17 day of April, 2003.

John P. [Signature]  
**JUDGE PRESIDING**

**TOWN OF ADDISON, TEXAS**

**RESOLUTION NO. R \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS DETERMINING THE NECESSITY OF ACQUIRING AN EASEMENT IN, OVER, UNDER, ACROSS AND THROUGH REAL PROPERTY GENERALLY LOCATED AT 4139 CENTURION WAY AND OWNED BY ABSOLUTE SYSTEMS, LTD., ET AL.; AUTHORIZING ITS CONDEMNATION AND/OR APPROPRIATION FOR PUBLIC USE IN CONNECTION WITH THE REALIGNMENT AND IMPROVEMENT OF ARAPAHO ROAD IN ADDISON, TEXAS; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

SECTION 1. That for the purposes of this Resolution, the following definitions of terms shall apply:

"PROPERTY": The areas described in Exhibit "A" attached hereto and made a part hereof for all purposes.

"PROPERTY INTEREST": Easement in, over, under, across and through the land described in Exhibit "A" attached hereto and incorporated herein.

"PROJECT": Realignment and improvement of Arapaho Road, Addison, Texas.

"OFFER AMOUNT": Fifty Two Thousand Six Hundred One and No/100 Dollars (\$52,601.00).

"OWNERS": Absolute Systems, Ltd.  
Juvat, Inc., general partner of Absolute Systems, Ltd.  
Joyce Harris, individually and as officer of Juvat, Inc.  
Gene Harris, individually and as officer of Juvat, Inc.  
276 Trust  
Gary B. Crouch, Trustee

"LIENHOLDER": Merrill Lynch Business Financial Services, Inc.  
David L. Fair, Trustee

SECTION 2. That it is hereby determined that public convenience and necessity requires that the Town of Addison should acquire the PROPERTY INTEREST in, over, under, across and through the PROPERTY necessary for the PROJECT.

SECTION 3. That the PROPERTY is hereby determined to be necessary for the PROJECT. That for the purpose of acquiring the PROPERTY INTEREST in, over, under,



across and through the PROPERTY, the City Manager, or such employee as he may designate, is hereby authorized and directed to offer the OFFER AMOUNT as payment for the PROPERTY to be acquired and full damages allowable by law, which amount represents its fair cash market value.

SECTION 4. That the Town of Addison determines to appropriate the PROPERTY INTEREST in, over, under, across and through the PROPERTY for the PROJECT under the laws of the State of Texas and the provisions of the Charter of the Town of Addison.

SECTION 5. That, in the event the OWNERS accept the OFFER AMOUNT as authorized herein, the City Finance Director be and is hereby authorized to draw a check in favor of the OWNERS named above, or the current owners of record, in the OFFER AMOUNT.

SECTION 6. That the City is to have possession of the PROPERTY on closing; and the City will pay any title expenses and closing costs; and the City will pay court costs as may be assessed by the Special Commissioners or the court.

SECTION 7. Should the employee designated to make the official offer report to the City Attorney that the OWNERS have refused to accept the OFFER AMOUNT as compensation for the hereinabove described taking from the OWNERS under the laws of eminent domain, which amount the City Council deems to be the fair cash market value and all just compensation, in compliance with the laws of the State of Texas, this will be evidence that the Town of Addison cannot agree with the OWNERS as to the damages legally allowable by law. In such case, the City Attorney is authorized and directed to file the necessary suit and take the necessary action for the prompt acquisition of the PROPERTY in condemnation or in any manner provided by law.

SECTION 8. That in the event the Special Commissioners in Condemnation appointed by the court return an award that is the same amount or less than the OFFER AMOUNT, the City Finance Director is hereby authorized to issue a check not to exceed the amount of the Commissioners' award made payable to the County Clerk of Dallas County to be deposited into the registry of the court to enable the City to take possession of the PROPERTY without further action of the City Council.

SECTION 9. That in the event it is subsequently determined that additional persons other than those named herein have an interest in the PROPERTY, then the City Attorney is authorized and directed to join said parties as defendants in said condemnation suit.

SECTION 10. That this resolution shall take effect immediately from and after its passage, as in the Charter in such cases is made and provided.

PASSED AND APPROVED this 28th day of January, 2003.

---

Mayor  
Town of Addison, Texas

ATTEST:

---

Carmen Moran, City Secretary

APPROVED AS TO FORM:

---

Ken C. Dippel, City Attorney

**TOWN OF ADDISON, TEXAS**

**RESOLUTION NO. R03-017**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS DETERMINING THE NECESSITY OF ACQUIRING AN EASEMENT IN, OVER, UNDER, ACROSS AND THROUGH REAL PROPERTY GENERALLY LOCATED AT 4139 CENTURION WAY AND OWNED BY ABSOLUTE SYSTEMS, LTD., ET AL.; AUTHORIZING ITS CONDEMNATION AND/OR APPROPRIATION FOR PUBLIC USE IN CONNECTION WITH THE REALIGNMENT AND IMPROVEMENT OF ARAPAHO ROAD IN ADDISON, TEXAS; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

SECTION 1. That for the purposes of this Resolution, the following definitions of terms shall apply:

"PROPERTY": The areas described in Exhibit "A" attached hereto and made a part hereof for all purposes.

"PROPERTY INTEREST": Easement in, over, under, across and through the land described in Exhibit "A" attached hereto and incorporated herein.

"PROJECT": Realignment and improvement of Arapaho Road, Addison, Texas.

"OFFER AMOUNT": Fifty Two Thousand Six Hundred One and No/100 Dollars (\$52,601.00).

"OWNERS": Absolute Systems, Ltd.  
Juvat, Inc., general partner of Absolute Systems, Ltd.  
Joyce Harris, individually and as officer of Juvat, Inc.  
Gene Harris, individually and as officer of Juvat, Inc.  
276 Trust  
Gary B. Crouch, Trustee

"LIENHOLDER": Merrill Lynch Business Financial Services, Inc.  
David L. Fair, Trustee

SECTION 2. That it is hereby determined that public convenience and necessity requires that the Town of Addison should acquire the PROPERTY INTEREST in, over, under, across and through the PROPERTY necessary for the PROJECT.

SECTION 3. That the PROPERTY is hereby determined to be necessary for the PROJECT. That for the purpose of acquiring the PROPERTY INTEREST in, over,

under, across and through the PROPERTY, the City Manager, or such employee as he may designate, is hereby authorized and directed to offer the OFFER AMOUNT as payment for the PROPERTY to be acquired and full damages allowable by law, which amount represents its fair cash market value.

SECTION 4. That the Town of Addison determines to appropriate the PROPERTY INTEREST in, over, under, across and through the PROPERTY for the PROJECT under the laws of the State of Texas and the provisions of the Charter of the Town of Addison.

SECTION 5. That, in the event the OWNERS accept the OFFER AMOUNT as authorized herein, the City Finance Director be and is hereby authorized to draw a check in favor of the OWNERS named above, or the current owners of record, in the OFFER AMOUNT.

SECTION 6. That the City is to have possession of the PROPERTY on closing; and the City will pay any title expenses and closing costs; and the City will pay court costs as may be assessed by the Special Commissioners or the court.

SECTION 7. Should the employee designated to make the official offer report to the City Attorney that the OWNERS have refused to accept the OFFER AMOUNT as compensation for the hereinabove described taking from the OWNERS under the laws of eminent domain, which amount the City Council deems to be the fair cash market value and all just compensation, in compliance with the laws of the State of Texas, this will be evidence that the Town of Addison cannot agree with the OWNERS as to the damages legally allowable by law. In such case, the City Attorney is authorized and directed to file the necessary suit and take the necessary action for the prompt acquisition of the PROPERTY in condemnation or in any manner provided by law.

SECTION 8. That in the event the Special Commissioners in Condemnation appointed by the court return an award that is the same amount or less than the OFFER AMOUNT, the City Finance Director is hereby authorized to issue a check not to exceed the amount of the Commissioners' award made payable to the County Clerk of Dallas County to be deposited into the registry of the court to enable the City to take possession of the PROPERTY without further action of the City Council.

SECTION 9. That in the event it is subsequently determined that additional persons other than those named herein have an interest in the PROPERTY, then the City Attorney is authorized and directed to join said parties as defendants in said condemnation suit.

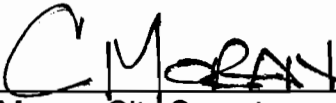
SECTION 10. That this resolution shall take effect immediately from and after its passage, as in the Charter in such cases is made and provided.

PASSED AND APPROVED by the City Council of the Town of Addison this 28th day of January, 2003.



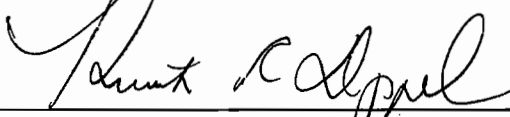
\_\_\_\_\_  
Mayor  
Town of Addison, Texas

ATTEST:



\_\_\_\_\_  
Carmen Moran, City Secretary

APPROVED AS TO FORM:



\_\_\_\_\_  
Ken C. Dippel, City Attorney

"EXHIBIT A"

Parcel 8  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 0.6709 acre (29,223 square foot) tract of land situated in the W.H. Witt Survey, Abstract Number 1609, and the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 2.5212 acre tract of land conveyed to J. H. Crouch, Jr. and Jo Doris Crouch on August 4, 1997 and recorded in Volume 97153, Page 03266 of the Deed Records of Dallas County, Texas, said called 2.5212 acre tract being all of "Lot 6, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated March 29, 1979 and recorded in Volume 79130, Page 2495 of said Deed Records, said 0.6709 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corners of said called 2.5212 acre tract and "Lot 6, Surveyor Addition, Addison West Industrial Park", and Northwest corner of a called 3.4654 acre tract of land, 25% interest conveyed by Epina Properties Limited to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02787 of said Deed Records, 75% interest conveyed by Lehndorff & Babson Property Fund to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02796 of said Deed Records, said called 3.4654 acre tract being all of the Surveyor Addition, Addison West Industrial Park, an addition to the Town of Addison, as evidenced by the plat dated October 24, 1978 and recorded in Volume 79029, Page 0984 of said Deed Records;

THENCE, SOUTH 00°07'27" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 2.5212 acre tract and West line of said called 3.4654 acre tract, a distance of 78.96 feet to a 5/8 inch iron rod set in the proposed South right of way line of Arapaho Road;

PARCEL 8 - ARAPAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

*Ayub R. Sandhu 11-12-99*

Ayub R. Sandhu, R.P.L.S.

Texas Registration No. 2910

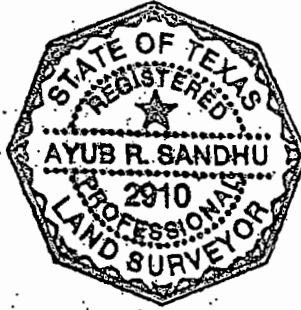
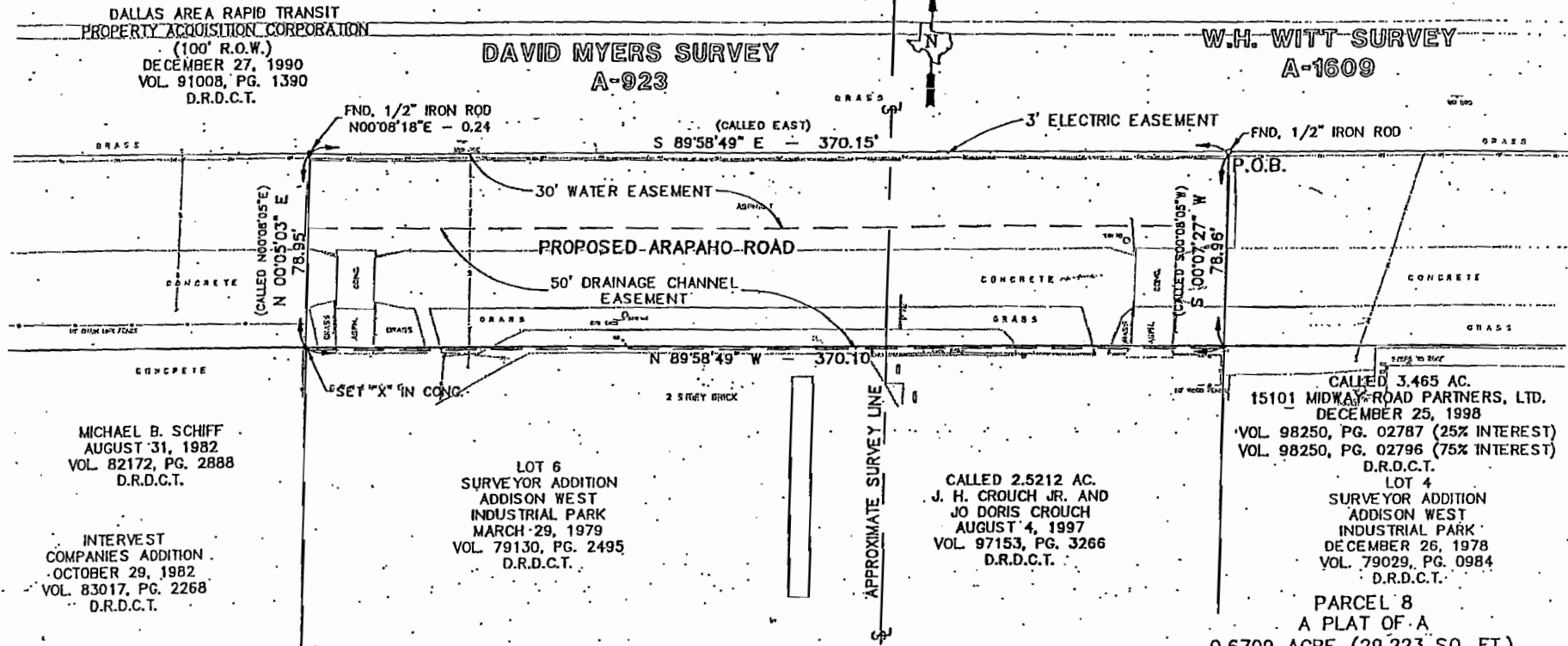


EXHIBIT "B"



NOTES:  
 EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED  
 THEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT  
 PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

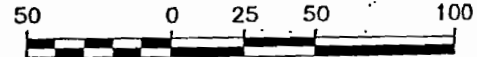
BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY  
 OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO  
 FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN  
 77173, PAGE. 135, D.R.D.C.T.

LEGAL DESCRIPTION OF EVEN SURVEY DATE. HEREWITH  
 COMPANIES THIS PLAT.

- DENOTES A FOUND POINT AS INDICATED
- DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



*Ayub R. Sandhu*  
 11-12-99



GRAPHIC SCALE  
 1" = 50 FT.



DATE SUBMITTED: May 6, 2003  
FOR COUNCIL MEETING: May 13, 2003

### **Council Agenda Item**

#### **SUMMARY:**

This item is to request Council consideration of the Award of Special Commissioners, in the amount of \$115,000.00, for the acquisition of a 0.6709 acre Permanent Easement owned by Absolute Systems, LTD., et al.

#### **FINANCIAL IMPACT:**

Budgeted Amount: N/A

Appraised Value: \$52,601.00

Source of Funds: Funds are available from Year 2000 General Obligation Bond Program, Project No. 83300.

#### **BACKGROUND:**

The right-of-way acquisition process is currently underway on the proposed Arapaho Road, Phase III project. Approximately 0.6709 acre of permanent easement adjacent to the proposed extension of Arapaho Road (see attached Parcel 8 map) is required as part of the proposed roadway improvements. This parcel is a portion of Lot 6, Surveyor Addition, and is owned by Absolute Systems, LTD., et al.

In September 2002, the firm of Hipes & Associates appraised the fee simple value of the 0.6709 acre of permanent easement at \$52,601.00. By Council Resolution, dated January 28, 2003, this appraised value was authorized for payment to the property owner in the event of a settlement between the two parties, or if the Special Commissioners in Condemnation appointed by the court return an award that is the same amount as the appraised amount. The actual award established by the Special Commissioners was \$115,000.00, which exceeded the appraised value by \$62,399.00.

#### **RECOMMENDATION:**

It is recommended that Council approve payment to Absolute Systems, LTD., et al, based on the Award of Special Commissioners, in the amount of \$115,000.00, for acquisition of a 0.6709 acre Permanent Easement from Lot 6, Surveyor Addition.

**DRAFT AGENDA**

**REGULAR MEETING OF THE CITY COUNCIL**

**APRIL 22, 2003**

**7:30 P.M.**

**COUNCIL CHAMBERS**

**5300 BELT LINE ROAD**

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**REGULAR SESSION**

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Item #R1 - Consideration of Old Business.

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Item #R2 - Consent Agenda.

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**CONSENT AGENDA**

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#2a - Approval of the Minutes for the April 8, 2003 Council Meeting.

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Item #R3 - Appointment of members to the Charter Review Commission.

Administrative Comment:

Section 11.29 of the Charter states that each Councilmember shall have the right to appoint two members to the Commission.

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Item #R4 - Consideration of a Resolution approving a Change Order in the amount of \$221,291.00 to a previously approved contract with Abstract Construction Company for the construction of the Arts and Events District.

Attachments:

1. Council Agenda Item Overview
2. Change Order

Administrative Recommendation:

Administration recommends approval.

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Item #R5 - Consideration of a Resolution authorizing the City Manager to enter into a sponsorship contract with Lowenbrau to be the primary import draft beer sponsor of the 2003 Addison Oktoberfest with the option to renew for the 2004 event.

Attachments:

1. Council Agenda Item Overview
2. Import Beer RFP Proposal Comparison
3. Executive Summary
4. Contract

Administrative Recommendation:

Administration recommends approval.

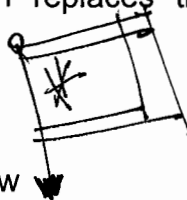
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Item #R6 - Consideration of a Resolution approving the Guidelines for the Addison Arts and Events District Functions which replaces the current Addison Conference & Theater Centre Guidelines.



Attachments:

1. Council Agenda Item Overview
2. Permitt Guidelines for Addison Arts & Events District Functions
3. Executive Summary



Administrative Recommendation:

Administration recommends approval.

---

Item #R7 - Consideration of a Resolution approving the Permit Guidelines for the Addison Arts and Events District events.

*OK*

Attachments:

1. Council Agenda Item Overview
2. Permit Guidelines for Addison Arts & Events District Functions
3. Executive Summary

Administrative Recommendation:

Administration recommends approval.

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*↑*  
*(V)*

Item #R8 - Consideration of an Ordinance amending the Code of Ordinances of the Town of Addison to create a new chapter, 67-Special Events, and repealing Division 2 of Article III of Chapter 54.

Attachments:

1. Council Agenda Item Overview
2. Ordinance
3. Executive Summary

Administrative Recommendation:

Administration recommends approval.

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Item #R9 - Consideration of approval and Resolution authorizing the City Manager to enter into a contract in the amount of \$40,194.00 with RCC Consultants Inc. to provide consulting services to assist with the procurement of equipment, site preparation, system implementation, and system acceptance and coverage testing (Phase III) as part of the planned upgrade of the public safety radio system.

Attachments:

- WHERE'S THE MONEY*
1. Council Agenda Item Overview
  2. Proposal
  3. Contract

Administrative Recommendation:

Administration recommends approval.

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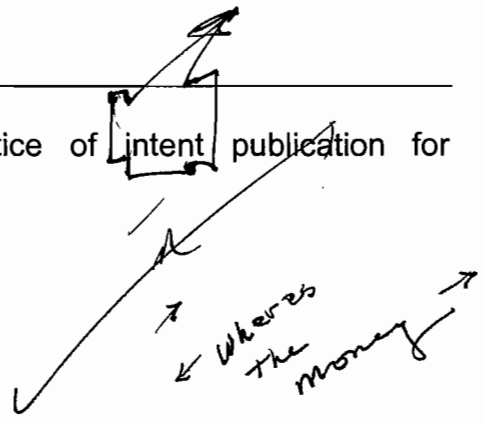
Item #R10 - Consideration of a Resolution authorizing notice of intent publication for Certificates of Obligation.

Attachments:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

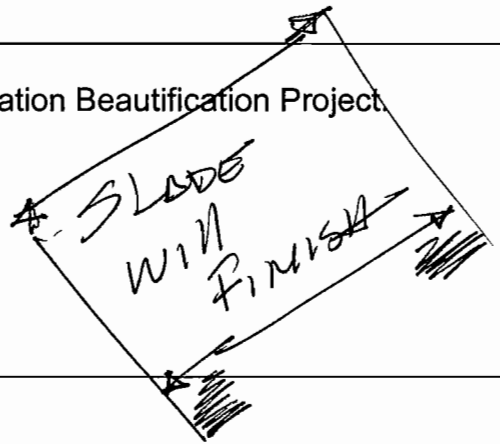


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Item #R11 - Presentation of the 2003 Addison Arbor Foundation Beautification Project

Attachments:

1. Council Agenda Item Overview
2. Memorandum to Ron Whitehead
3. Addison Arbor Day General Overview



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**EXECUTIVE SESSION**

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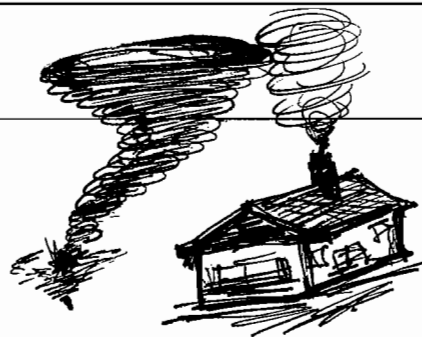
Item #ES1 - Closed (Executive) session of the City Council, pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase or value for public purpose(s) of certain real property, located in the Addison Airport Industrial District Addition.

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Adjourn Meeting

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Posted 5:00 p.m.  
April 16, 2003  
Carmen Moran  
City Secretary



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**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS WITH DISABILITIES. PLEASE CALL (972) 450-2819 AT LEAST 48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

MAY. -05' 03 (MON) 09:01

TEL: 972 422 9322

P. 001

**GAY, McCALL, ISAACKS,  
GORDON & ROBERTS, P.C.**  
ATTORNEYS AND COUNSELORS

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501  
FAX: 972/424-5619

\*Attorney-Mediator

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS\*  
RACHEL KING  
MARC MAY  
DAVID B. McCALL\*  
KEELI ROACH  
WILLIAM J. ROBERTS\*  
HEATHER SCHAEFER

\*Board Certified  
Civil Trial Law  
Texas Board of Legal-  
Specialization

DATE: 05/05/03 TIME: 9:20 a.m.

**FACSIMILE MESSAGE COVER SHEET**

**Following is/are 2 page(s) including this cover. If any part of this message is missing or received poorly, please call the sender as soon as possible.**

**PLEASE DELIVER UPON RECEIPT**

**TO: Michael Murphy** FAX NO. **972-450-2837**  
**Angela Washington** **214-672-2020**

**FR: Lewis Isaacks**

**RE: Addison v. 276 Trust;** *(Gary Couch)*

**MESSAGE:**

**CONFIDENTIALITY NOTICE**

The information contained in this facsimile message and documents accompanying same are legally privileged and confidential information intended only for the use of the individual or entity named herein. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.

*{ malpl G = }*

MAY. -05' 03 (MON) 09:01

TEL:972 422 9322

P. 002

LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**

A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

JOHN E. GAY  
SYDNE H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID McCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

May 5, 2003

▼ BOARD CERTIFIED - CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

**VIA FACSIMILE NO. 972-450-2837**

Michael E. Murphy, P.E.  
P. O. Box 9010  
Addison, Texas 75001-9010

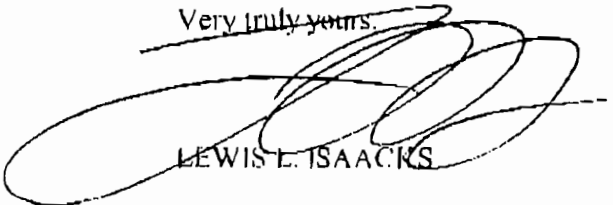
Re: Cause No. 03-01967-B;  
Town of Addison v. Absolute Systems, Ltd., et al;  
Our File No. 93516.03054

Dear Michael:

Based upon the outcome of the Commissioners' hearing, it is my understanding that the Town of Addison does not wish to file objections to the Commissioners' Award. As you know, if objections are not filed on or before the Monday after the 20<sup>th</sup> day that the Commissioners file their Award with the Court, the Award will become the Judgment of the Court. I anticipate that the 276 Trust will file objections to the Award. However, if the Town of Addison is in disagreement with the Commissioners' Award and wants to protect its interest, please advise me so that we may timely file such objections.

If objections are not timely filed by either party, then the \$115,000 Commissioners' Award will become the Judgment of the Court. Should you have any questions, or need to discuss this matter, please do not hesitate to contact me.

Very truly yours,



LEWIS L. ISAACKS

LLI/jhg  
xc: Angela Washington, Esq.



LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

4139 Centurian  
WAY  
Church

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID McCALL+  
KELLI L. ROACH  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

June 3, 2003

▼ BOARD CERTIFIED – CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

**CERTIFIED MAIL, R.R.R.**

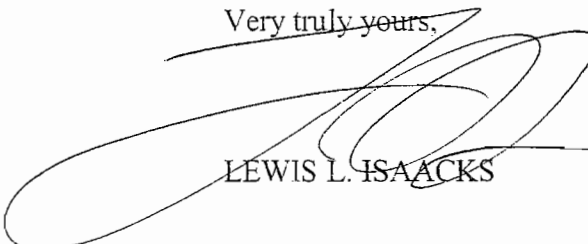
Barry R. Knight, Esq.  
Winstead, Sechrest & Minick, P.C.  
1400 Renaissance Tower  
1201 Elm Street  
Dallas, Texas 75270

Re: Cause No. CC-03-01967-B;  
Town of Addison v. Absolute Systems, Ltd., et al;  
Our File No. 93516.03054

Dear Barry:

Enclosed please find Plaintiff's Request for Disclosure and Plaintiff's Request for Production of Documents and First Set of Interrogatories in connection with the above cause.

Very truly yours,

  
LEWIS L. ISAACKS

LLI/jbg

Enclosure

xc: Angela Washington, Esq.  
Mr. Mike Murphy

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**PLAINTIFF'S REQUEST FOR DISCLOSURE**

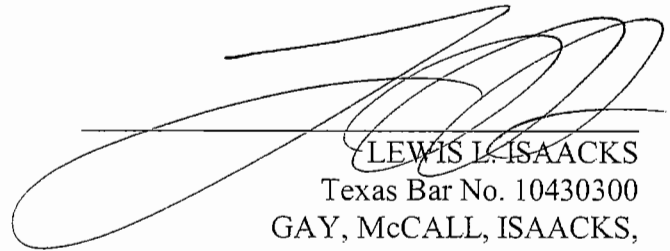
TO: 276 TRUST, Defendant, by and through its attorney of record, Barry R. Knight, Esq., at Winstead, Sechrest & Minick, P.C., 1400 Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270.

Plaintiff, **TOWN OF ADDISON, TEXAS**, hereby serves its Request for Disclosure pursuant to Rule 194. You are hereby requested to disclose, within thirty (30) days of service of this request, the information or material described in Rule 194.2, including the following:

- (a) the correct names of the parties to the lawsuit;
- (b) the name, address, and telephone number of any and all potential parties;
- (c) the legal theories and, in general, the factual basis of the responding party's claims or defenses;
- (d) the amount of and any method of calculating economic damages; i.e., taxes in dispute and/or attorney's fees;
- (e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection in the case;
- (f) for any testifying expert:

- (1) the expert's name, address and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
  - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
  - (B) the expert's current resume and bibliography;
- (g) any discoverable witness statements.

Respectfully submitted,

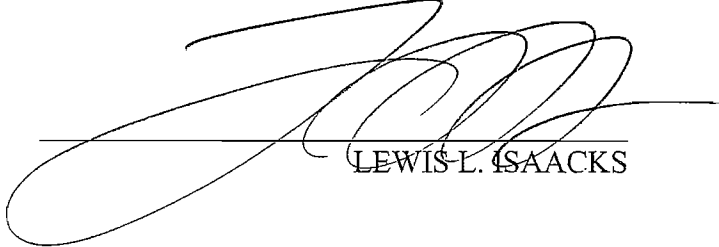


LEWIS L. ISAACKS  
Texas Bar No. 10430300  
GAY, McCALL, ISAACKS,  
GORDON & ROBERTS, P.C.  
777 East 15th Street  
Plano, Texas 75074  
Telephone: 972/424-8501  
Telecopier: 972/422-9322

Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I, LEWIS L. ISAACKS, attorney of record for Allen Independent School District, do hereby certify that a true and correct copy of the foregoing Plaintiff's Request for Disclosure has been mailed by certified mail, return receipt requested, to Barry R. Knight, Esq., Attorney for 276 Trust, at Winstead, Sechrest & Minick, P.C., 1400 Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270, on this 3 day of June, 2003.



LEWIS L. ISAACKS

<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS  
AND FIRST SET OF WRITTEN INTERROGATORIES**

TO: 276 TRUST, Defendant, by and through its attorney of record, Barry R. Knight, Esq., at Winstead, Sechrest & Minick, P.C., 1400 Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270.

Pursuant to Rule 196 and Rule 197, Texas Rules of Civil Procedure, you are hereby required to:

1. Answer fully and factually each of the Interrogatories hereinafter set out;
2. Furnish all information called for in the Request for Production, as is available to you, your officers and/or agents;
3. Sign your responses;
4. Swear to your responses to the Interrogatories;
5. Serve your answers upon the undersigned attorney within thirty-one (31) days after service on your attorney of record, or within such other time limit as specified by the Court.

6. You are further instructed that:
- (a) To the extent possible, you should answer these Interrogatories in the spaces left therefor, following each Interrogatory. Answers may be continued on separate sheets of paper attached to these Interrogatories.
  - (b) The term "Addison" as used herein, refers to the TOWN OF ADDISON, TEXAS, Plaintiff in the above styled and numbered cause of action, its officers, directors, servants, agents, and/or employees.
  - (c) The term "276 Trust" as used herein refers to 276 TRUST, a Defendant in the above styled and numbered cause of action, its officers, directors, servants, agents, and/or employees.
  - (d) The term "subject property" as used herein refers to that certain tract of land depicted on Exhibit "A" attached hereto, and which is the subject of this condemnation.
  - (e) The term "permanent easement" as used herein means that portion of the subject property being acquired by Plaintiff as a permanent easement herein, as described in particular detail in Plaintiff's Statement in Condemnation.
  - (f) The term "remainder" as used herein means that portion of the subject property to which Plaintiff is not acquiring a permanent interest, in this action.
  - (g) The term "date of taking" as used herein refers to May 19, 2003.

(h) The term "document" is used in its customary broad sense to include, by way of illustration only and not by way of limitation, all written and graphic matter of every kind and description, whether printed or reproduced by any process, or written and/or produced by hand, whether final draft, original or reproduction, whether or not claimed to be privileged or otherwise excludable from discovery and whether in the actual or constructive possession, custody, or control of Defendant.

(i) As used herein, "identify" or to give the "identity" of, means:

(i) in the case of the person, to state:

(a) name;

(b) last known address;

(c) employer or business affiliation; and

(d) occupation and position held.

(ii) in the case of a document, to state:

(a) identity of the persons preparing or who prepared it;

(b) its title or a description of the general nature of its subject matter;

(c) the date of its preparation;

(d) the date and manner of distribution or publication, if any;

(e) location of each copy and identity of present custodian; and

(f) identity of the persons who can identify it.

(iii) in the case of communication, to state:

- (a) any and all correspondence, letters, memoranda, conversations, and records of any conversations, either in writing or upon any mechanical, electrical or electronic recording device; and
  - (b) any and all oral conversations.
- (j) If any answer is refused in whole or in part, on the basis of a claim of privilege/exemption, state the following:
- (i) the nature of the privilege/exemption claimed;
  - (ii) the general nature of the matter withheld (e.g., substance of conversation of the withheld information, name of organization);
  - (iii) names of persons to whom the information has been imparted; and
  - (iv) the extent, if any, to which the information will be provided, subject to the privilege/exemption.

### **DOCUMENTS TO BE PRODUCED BY DEFENDANT**

1. Any and all reports, writings, memoranda, or other documents containing or reflecting the opinions or work products of any consulting experts, who will not be called to testify at the trial of this case, but whose opinions may form the basis, in whole or in part, of the opinions of any expert witnesses you intend to call to testify at the trial of this case.
2. Any and all correspondence or any document evidencing any communication between Plaintiff and Defendants related to the subject property.
3. Any and all correspondence or document evidencing any other communication between Defendants and any other person from January 1, 2001 to the present time related to the value of the subject property or any effort to market or sell the subject property.



4. Copies of any and all appraisals, market evaluations, and/or valuation analysis in your possession on the property for the past three (3) years, other than those prepared by any expert witnesses retained in connection with this lawsuit.
5. Copies of any and all income and expense statements, summaries, or profit and loss statements on the property for the past three (3) years.
6. A copy of the operating budget for the subject property for the years 2001 and 2002.
7. A copy of the closing binder related to the sale of the subject property from 276 Trust to Absolute Systems, Ltd.
8. Any and all photos, videos, or similar depictions of the subject property from January 1, 2002 to the present time.
9. Any appraisals performed on the subject property from January 1, 2001 to the present time.
10. Any documents related to any deferred maintenance on the subject property from January 1, 2001 to the present time.
11. Copies of any management agreements for the subject property in effect from January 1, 2001 to the present time.
12. Any and all inspection reports on the subject property made by, at the request of, or for the benefit of 276 Trust from January 1, 2000 to the present time.
13. A copy of the acquisition or investment analysis made in connection with the purchase of the subject property by 276 Trust.
14. A copy of all invoices, contracts or receipts related to any repairs or renovations performed on the subject property from January 1, 2000 to December 31, 2001.
15. A copy of the declarations page for any and all insurance policies on the subject property from January 1, 2001 through the present time.
16. A copy of any inspection or maintenance reports related to the property from January 1, 2001 to the present time.
17. Copies of any and all brochures, pamphlets, or similar material used to advertise or lease the subject property.

18. Any and all contracts or offers to purchase the subject property from January 1, 2001 to the present time.
19. A copy of the closing binder related to the purchase of the property by 276 Trust.
20. A copy of any appraisals on the subject property made in connection with the purchase of the property by 276 Trust.
21. Any and all maps, plats, land use plans, subdivision plans, zoning requests, or other documents regarding the subject property or any planned or possible future use or development of the subject property.
22. Any and all contracts, agreements, correspondence or other documents regarding any leases on the subject property for the past ten years.
23. Any and all documents related to the calculation of damages to the remainder, including specifically the method or formula used in arriving at said damage amount.
24. Copies of all leases between 276 Trust and any tenant on the subject property from the date 276 Trust acquired the property to the present time.
25. Copies of any reports, analyses, studies or similar documents regarding any impact of Arapaho Road, or the construction of Arapaho Road on the subject property.
26. Copies of any reports, analyses, studies or similar documents regarding the use of the subject property before and after the taking of the easement across the subject property.
27. Any listing agreements, brochures, advertisements or similar documents related to Defendant's effort to market or sell the property from January 1, 2001 to the present time.

## INTERROGATORIES

INTERROGATORY NO. 1: Identify all persons or entities who own, or otherwise hold any interest in the subject property. For each person or entity, state the date each said person or entity acquired any interest in the subject property, the consideration paid for their interest in the subject property, and the exact nature of each interest held in the subject property.

ANSWER:

INTERROGATORY NO. 2: Identify any property in which Defendant has purchased within a 2 mile radius of the subject property within the last 2 years.

ANSWER:

INTERROGATORY NO. 3: Identify all easements on the subject property as of the date of taking.

ANSWER:

INTERROGATORY NO. 4: State the name, address, and telephone number of each expert witness who will not be called to testify at the trial of this case, but whose opinion and work product may be used, in whole or in part, by any expert witness you may call to testify at the trial of this case. For each such expert, state:

- A. The field of his/her expertise;
- B. The subject matter involved in this lawsuit of which he/she has knowledge;
- C. The identity of the work product, opinion, documents or other tangible thing prepared by such non-testifying expert which may be used by any testifying expert at the trial of this case;
- D. The dollar amount which said expert contends represents the fair market value of the property made the basis of this lawsuit, as of the date of taking;
- E. His/her opinion as to the present and future use and development of the subject property; and
- F. His/her opinion as to any item constituting damage to the remainder of the subject property as a result of the taking.

ANSWER:

INTERROGATORY NO. 5:

State the total amount spent on the subject property from January 1, 2000 to the date 276 Trust sold the property for:

1. Repairs;
2. Capital improvements; and
3. Renovation or remodeling.

ANSWER:

INTERROGATORY NO. 6: Identify each tenant of the subject property from the date of acquisition by 276 Trust to the present time.

ANSWER:

INTERROGATORY NO. 7: State the amount which you contend represents the fair market value of the whole property immediately prior to the date of taking.

ANSWER:

INTERROGATORY NO. 11: Please state the amount you contend represents the fair market value of the remainder:

- A. Immediately prior to the date of taking; and
- B. Immediately after the date of taking.

ANSWER:

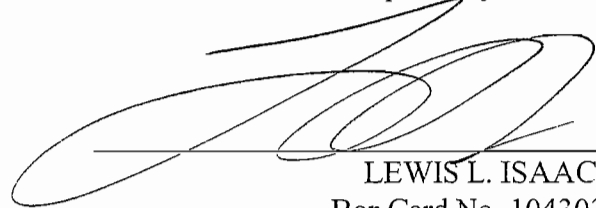
INTERROGATORY NO. 12: Identify each item of damage which you contend you have suffered as a result of the condemnation of the subject property made the basis of this action. For each alleged item of damage, please state the method for calculating each element of said damage.

ANSWER:

INTERROGATORY NO. 13: If you contend that the existence of the permanent easement limits or otherwise affects the use of the remainder of the subject property, please identify each such limitation or effect on the remainder.

ANSWER:

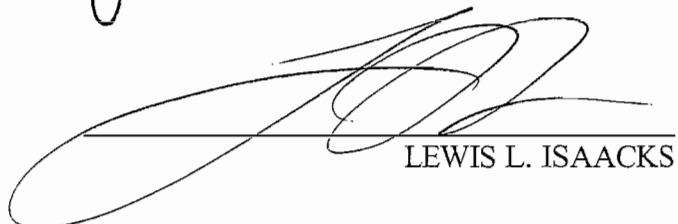
Respectfully submitted,



LEWIS L. ISAACKS  
Bar Card No. 10430300  
GAY, McCALL, ISAACKS,  
GORDON & ROBERTS, P.C.  
777 East 15th Street  
Plano, Texas 75074  
Telephone: 972/424-8501  
Telecopier: 972/424-5619  
Attorney for the Town of Addison

**CERTIFICATE OF SERVICE**

I, LEWIS L. ISAACKS, attorney of record for Plaintiff, do hereby certify that a true and correct copy of the foregoing Request for Production of Documents and First Set of Written Interrogatories has been mailed by certified mail, return receipt requested, to Barry R. Knight, Esq., Attorney for 276 Trust, at Winstead, Sechrest & Minick, P.C., 1400 Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270, on this 3 day of June, 2003.



LEWIS L. ISAACKS

EXHIBIT A  
PROPERTY  
Legal Description

Being a 2.5212 acre tract of land situated in the DAVID MYERS SURVEY, ABSTRACT NO. 923 and the W.H. WITT SURVEY, ABSTRACT NO. 1609, being part of an 18.195 acre tract of land conveyed to 2230 Corporation by Central Park Limited by deed recorded in Volume 78277, Page 2607, Deed Records, Dallas County, Texas and also being all of Lot 6, SURVEYOR ADDITION, ADDISON WEST INDUSTRIAL PARK, an addition to the City of Addison, according to the map thereof recorded in Volume 79130, Page 2495, Map Records, Dallas County, Texas, said 2.5212 acre tract being more particularly described by metes and bounds as follows:

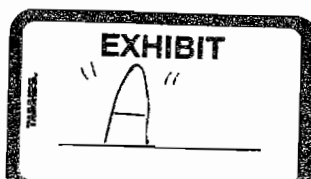
BEGINNING at a 1/2 inch iron rod found for corner in the north right-of-way line of Centurion Way (Addison West Drive), a 60 foot wide street dedicated by plat recorded in Volume 78202, Page 0879, Deed Records, Dallas County, Texas, said point being N 89 deg. 51 min. 55 sec. W, a distance of 483.00 feet from the intersection of said north line of said Centurion Way, with the west right-of-way line of Midway Road, and being the southwest corner of Lot 4, Surveyor Addition, an addition to the City of Addison, recorded in Volume 79029, Page 0584, Deed Records, Dallas County, Texas;

THENCE N 89 deg. 51 min. 55 sec. W, with said north line of said Centurion Way, a distance of 370.00 feet to a 5/8 inch iron rod found for corner at the southwest corner of said Lot 6;

THENCE N 00 deg. 08 min. 05 sec. E, along the west line of said Lot 6, a distance of 296.39 feet to a 1/2 inch iron rod found for corner in the south right-of-way line of the St. Louis & Southwestern Railway;

THENCE East, with said south right-of-way line of the St. Louis & Southwestern Railway, a distance of 370.00 feet to a 1/2 inch iron rod found for corner at the northwest corner of said Lot 4, Surveyor Addition;

THENCE S 00 deg. 08 min. 05 sec. W, with the west line of said Lot 4, a distance of 297.26 feet to the POINT OF BEGINNING, and containing 109,825.25 square feet or 2.5212 acres of land and being subject to a 30-foot water line easement to the City of Dallas, a 6-foot sanitary easement to the City of Addison, and a 50-foot drainage easement to the City of Addison.



25th  
Anniversary  
1978-2003

COWLES & THOMPSON  
A Professional Corporation  
ATTORNEYS AND COUNSELORS



ANGELA K. WASHINGTON  
214.672.2144  
AWASHINGTON@COWLESTHOMPSON.COM

April 22, 2003

Mr. Mike Murphy  
Director of Public Works  
Town of Addison  
P.O. Box 9010  
Addison, TX 75001-9010

**RE: *Town of Addison vs. Absolute Systems, Ltd.***  
**Cause #CC-03-01967-B**

Dear Mike:

Enclosed for your files is a copy of the Commissioners Award in the above referenced case which was entered by the Court on April 17, 2003.

Sincerely,

Angela K. Washington

AKW/db  
Enclosure

c (w/enc.): Lewis Isaacks *Via Facsimile (972) 424-5619*  
(w/o enc.): Mr. Kenneth Dippel



<b>TOWN OF ADDISON, TEXAS</b>	§	<b>IN THE COUNTY COURT</b>
	§	
	§	
	§	
<b>vs.</b>	§	<b>AT LAW, NUMBER 2</b>
	§	
<b>ABSOLUTE SYSTEMS, LTD., 276 TRUST</b>	§	
<b>AND MERRILL LYNCH BUSINESS</b>	§	
<b>FINANCIAL SERVICES, INC.</b>	§	<b>DALLAS COUNTY, TEXAS</b>

**AWARD OF SPECIAL COMMISSIONERS**

On this day, the undersigned Special Commissioners, appointed by the Judge of the above Court to determine the fair market value of certain property rights and damages, if any, occasioned by the acquisition described in the above condemnation proceedings brought by the Plaintiff, **TOWN OF ADDISON, TEXAS**, to condemn a certain easement for right-of-way over and across the property of Defendants, which easement is described in the Statement in Condemnation, filed with said Judge on the 19<sup>th</sup> day of February, 2003, having determined that Defendants have been duly served with notice as required by law, and that Plaintiff appeared and announced ready for hearing, and that the following Defendants appeared and announced ready for hearing:

276 Trust \_\_\_\_\_

The Commissioners proceeded to hear the evidence as to the fair market value of the property rights being acquired by Plaintiff, and damages, if any, to Defendants' remaining property which will be caused by its acquisition.

After consideration, we assess the fair market value of the Permanent Easement being acquired by the Town of Addison and the damages, if any, caused by its acquisition to be the total sum of ONE HUNDRED FIFTEEN THOUSAND <sup>and 10/100</sup> (\$115,000.<sup>00</sup>) which sum is to be paid to the following parties as their respective interests may appear:

276 Trust

**SPECIAL COMMISSIONERS:**

Date: 4-16-03

Robert Kiley  
**ROBERT KILEY**

Ernestine Bridges  
**ERNESTINE BRIDGES**

Joe Pena  
**JOE PENA**

The foregoing Award of Special Commissioners was filed with me this \_\_\_\_\_ day of April, 2003.

As provided by Section 21.047 of the Property Code of the State of Texas, the fees of the Special Commissioners which are to be taxed as cost in this cause are set as follows:

ROBERT KILEY	4 1/2 hours.	\$	<u>850.<sup>00</sup></u>
ERNESTINE BRIDGES	4 1/2 hrs	\$	<u>850.<sup>00</sup></u>
JOE PENA	4 1/2 HRS.	\$	<u>850.<sup>00</sup></u>

SIGNED this 17 day of April, 2003.

John P. [Signature]  
**JUDGE PRESIDING**

*Absolute*  
**FAXED**  
2/21/03  
*TO Randy*

**TOWN OF ADDISON, TEXAS**

§  
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§  
§

**IN THE COUNTY COURT**

**vs.**

**AT LAW, NUMBER 2**

**ABSOLUTE SYSTEMS, LTD., 276 TRUST  
AND MERRILL LYNCH BUSINESS  
FINANCIAL SERVICES, INC.**

**DALLAS COUNTY, TEXAS**

**AWARD OF SPECIAL COMMISSIONERS**

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276 TRUST , \_\_\_\_\_ , \_\_\_\_\_ .

The Commissioners proceeded to hear the evidence as to the fair market value of the property rights being acquired by Plaintiff, and damages, if any, to Defendants' remaining property which will be caused by its acquisition.

After consideration, we assess the fair market value of the Permanent Easement being acquired by the Town of Addison and the damages, if any, caused by its acquisition to be the total sum of ONE HUNDRED FIFTEEN THOUSAND (\$ 115,000.<sup>00</sup>) which sum is to be paid to the following parties as their respective interests may appear:

276 TRUST

**SPECIAL COMMISSIONERS:**

Date: 4-16-03

Robert Kiley  
**ROBERT KILEY**

Ernestine Bridges  
**ERNESTINE BRIDGES**

Joe Peña  
**JOE PEÑA**

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As provided by Section 21.047 of the Property Code of the State of Texas, the fees of the Special Commissioners which are to be taxed as cost in this cause are set as follows:

ROBERT KILEY 4 1/2 hours \$ \_\_\_\_\_

ERNESTINE BRIDGES 4 1/2 hrs \$ \_\_\_\_\_

JOE PEÑA < 4 1/2 HOURS > \$ \_\_\_\_\_

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
JUDGE PRESIDING

**TOWN OF ADDISON  
PUBLIC WORKS**

**FAXED**  
4/21/03

To: Randy

From: Michael E. Murphy, P.E.  
Director of Public Works

Company: TOA

Office: 972/450-2878

FAX #: 7065

Fax: 972/450-2837

Date: 4/21/03

16801 Westgrove  
P.O. Box 9010

No. of Pages(including cover): 5

Addison, TX 75001-9010

Randy

ATTACHED ARE COMMISSIONERS AWARDS  
FOR LAST TWO TWO CONDEMNATION  
CASES.

PLEASE MAKE CHECKS PAYABLE TO  
DALLAS COUNTY CLERK'S OFFICE.

Thanks  
ME

Please Return checks to me. We  
will continue to T&C.

ADR Partners  
4444 Westgrove, suite 210  
Addison, TX 75001  
ATTN: Gary B. Crouch

Dear Mr. Crouch,

Per our conversations during a meeting with you and Mr. Knight regarding the Right of Way acquisition of a portion of the property at 4139 Centurion Way (April 17,2001). We discussed what the Town of Addison's position is as it relates to parking and building set back requirements.

The Town of Addison will agree to rebuild 36 parking spaces underneath the bridge structure so that there will be no net loss of parking as a result of the construction.

The Town of Addison will agree to allow a non-conforming use of the property and allow build back to the original building line in case of unforeseen destruction of over 50% of the structure.

These conditions are contingent upon your agreement to accept or enter into meaningful negotiations of the appraised value of the property in question.

Therefore, The Towns current offer is to pay \$225,000 for property and damages, reconstruct a 36 space parking area and allow a non-conforming use that will enable property owner to rebuild structure to its current set back location.

Sincerely,

# EVALUATION ASSOCIATES

RIGHT OF WAY LAND RIGHTS ANALYSIS • APPRAISAL • ACQUISITION • SOLUTIONS

---

## SUMMARY OF SALIENT FACTS AND CONCLUSIONS ARAPAHO ROAD PROJECT

**Property Owner: JH Crouch Jr. and Jo Crouch  
Parcel No. 8**

**Valuation Conclusion:**

Whole Property	\$1,900,000
Proposed Acquisition	\$ 62,381
Remainder Before Acquisition	\$1,837,619
Remainder After Acquisition	\$1,675,000
Loss in Value of Remainder After	\$ 162,619

**Determination of Compensation:**

Permanent Right of Way	\$ 40,181
Compensation for Improvements (paving)	\$ 22,200
Landscaping (None - Replacement)	\$ -0-
Loss in Value of Remainder After	\$ 162,619

**Total Compensation \$ 225,000**

**Date of Appraisal:** January 23, 2002

**Location:** 4139 Centurion Way, Town of Addison, Texas

**Legal Description:** Lot 6, Surveyor Addition, Town of Addison, Dallas County, Texas

**Land Size:** Whole Property (per DCAD records) 2.521 Acres  
Right of way Area 0.6709 Acres

**Zoning:** I-1, Industrial-1 District

**Highest and Best Use:**

As if Vacant BEFORE: Commercial use  
As if Vacant AFTER: Commercial use

**Analysis and Valuation of Proposed Acquisition Area (Continued)**

Proposed acquisition area located (see Page 28 for derivation of values)			
within the existing easement area	\$29,223 x 5.50/SF x 25%		= \$40,181
(See Item 2 - Page 28)			
<i>plus</i> compensation for improvements in acquisition area:			
Asphalt parking area	11,100 SF x \$2.00/SF		= <u>\$ 22,200</u>
Total compensation			\$62,381

**Value of the Remainder Before the Acquisition**

The value of the Remainder Before the Acquisition is simply the mathematical difference between the value of the whole property less the value of the Proposed Acquisition Area. Therefore, the value of the Remainder Before the Acquisition can be calculated as follows:

Whole Property Value (Land only)	\$1,900,000
Less: Value of Proposed Acquisition Area	<u>\$ 62,381</u>
Value of the Remainder Before the Acquisition	\$1,837,619

**Value of the Remainder After the Acquisition**

As noted, the proposed acquisition area will be used for the widening and realignment of Arapaho Road. After the acquisitions, the remaining site will continue to be an interior tract having similar accessibility and increased visibility. The remaining site will have similar highest and best use as before the acquisition.

In developing the analysis of the Remainder Highest and Best Use and estimating the value after the acquisition, several questions were formulated and answered through the combined sources of: analysis of the Right of Way Acquisition Map, the engineering design and construction plans, the Town of Addison Department of Engineering, and consultation with locally knowledgeable consultants. The answers to specific questions, combined with the analysis of the undersigned land rights appraiser, were subsequently applied to market reaction observations and data introduced by the appraiser to finalize remainder impact conclusions. Following are some of the considerations in the valuation of the remainder after the proposed acquisition(Remainder After).

- 1) Will the remainder property comply with zoning regulations?

*No, it appears the remainder site will be a legal non-conforming use under current zoning. According to Ms. Carmen Moran, City Secretary and Director of Planning and Zoning, if the subject remainder improvements were destroyed by more than 50%, the building could not be re-built in the same foot print. The new Arapaho Road row line*



*will be 4 feet from the rear of the building. In order to comply with the required 25 feet setback, 21 feet of the building would have to be removed. This necessitates a re-evaluation of the subject remainder property which begins on the following page.*

- 2) Will the remainder property have access to new Arapaho Road?

*No, at this time it appears Arapaho Road will be a limited access route and no access will be granted to individual properties along the route, nor, would access benefit the subject property. Additionally, the new road is several feet above the grade of the remainder and it is not practical to have access to the roadway from the subject remainder.*

- 3) What is the grade of the new Arapaho Road adjacent to the subject property?

*Based on available plan and profile design plans, the new road will be approximately seven (7) feet above grade at the western boundary of the subject remainder tract, rising at a grade of 2.88% and is planned to be fifteen (15) feet above the eastern property boundary.*

- 4) Are there any direct benefits as a result of this project?

*Even though there will be no direct access, the subject remainder property may experience some degree of increased visibility as a result of adjacency to the new Arapaho Road. However, this is not a measurable benefit.*

*Secondly, although not a benefit from the new road, the property owner should request a reduction in the assessed value due to the reduced land and building size.*

*Thirdly, it appears the property owner is relieved of any maintenance and liability of the existing easement area.*

*Fourthly and more importantly, the new elevated roadway being constructed as a bridge behind the subject property building, will effectively provide the opportunity for covered parking. As of the date of this appraisal, a specific site/parking plan has not been provided to the appraisers for consideration in this valuation process. However, it is assumed that a minimum of the same number (approximately 22) spaces will be substituted, as a part of the new road construction. Assuming that an equal or greater number of parking spaces will be provided for the benefit of the subject property under new Arapaho Road, it is assumed there is no loss of parking as a result of the proposed acquisition.*

ADR Partners  
4444 Westgrove, suite 210  
Addison, TX 75001  
ATTN: Gary B. Crouch

Dear Mr. Crouch,

Per our conversations during a meeting with you and Mr. Knight regarding the Right of Way acquisition of a portion of the property at 4139 Centurion Way (April 17, 2011). We discussed what the Town of Addison's position is as it relates to parking and building set back requirements.

The Town of Addison will agree to rebuild 36 parking spaces underneath the bridge structure so that there will be no net loss of parking as a result of the construction.

The Town of Addison will agree to allow a non-conforming use of the property and allow build back to the original building line in case of unforeseen destruction of over 50% of the structure.

These conditions are contingent upon your agreement to accept or enter into meaningful negotiations of the appraised value of the property in question.

Therefore, The Town's current offer is to pay \$225,000 for property and damages, reconstruct a 36 space parking area and allow a non-conforming use that will enable property owner to rebuild structure to its current set back location.

Sincerely,

WHAT DO I NEED TO DO FOR THIS EVENING'S MEETING:

- WE WILL DO THE BLDG. SET BACK.
- WE WILL REBUILD PARKING LOT.

**Analysis and Valuation of Proposed Acquisition Area (Continued)**

Proposed acquisition area located (see Page 28 for derivation of values)		
within the existing easement area	\$29,223 x 5.50/SF x 25%	= \$40,181
(See Item 2 - Page 28)		
<i>plus</i> compensation for improvements in acquisition area:		
Asphalt parking area	11,100 SF x \$2.00/SF	= <u>\$ 22,200</u>
Total compensation		\$62,381

**Value of the Remainder Before the Acquisition**

The value of the Remainder Before the Acquisition is simply the mathematical difference between the value of the whole property less the value of the Proposed Acquisition Area. Therefore, the value of the Remainder Before the Acquisition can be calculated as follows:

Whole Property Value (Land only)	\$1,900,000
Less: Value of Proposed Acquisition Area	<u>\$ 62,381</u>
Value of the Remainder Before the Acquisition	\$1,837,619

**Value of the Remainder After the Acquisition**

As noted, the proposed acquisition area will be used for the widening and realignment of Arapaho Road. After the acquisitions, the remaining site will continue to be an interior tract having similar accessibility and increased visibility. The remaining site will have similar highest and best use as before the acquisition.

In developing the analysis of the Remainder Highest and Best Use and estimating the value after the acquisition, several questions were formulated and answered through the combined sources of: analysis of the Right of Way Acquisition Map, the engineering design and construction plans, the Town of Addison Department of Engineering, and consultation with locally knowledgeable consultants. The answers to specific questions, combined with the analysis of the undersigned land rights appraiser, were subsequently applied to market reaction observations and data introduced by the appraiser to finalize remainder impact conclusions. Following are some of the considerations in the valuation of the remainder after the proposed acquisition(Remainder After).

1) Will the remainder property comply with zoning regulations?

*No, it appears the remainder site will be a legal non-conforming use under current zoning. According to Ms. Carmen Moran, City Secretary and Director of Planning and Zoning, if the subject remainder improvements were destroyed by more than 50%, the building could not be re-built in the same foot print. The new Arapaho Road row line*

*will be 4 feet from the rear of the building. In order to comply with the required 25 feet setback, 21 feet of the building would have to be removed. This necessitates a re-evaluation of the subject remainder property which begins on the following page.*

- 2) Will the remainder property have access to new Arapaho Road?

*No, at this time it appears Arapaho Road will be a limited access route and no access will be granted to individual properties along the route, nor, would access benefit the subject property. Additionally, the new road is several feet above the grade of the remainder and it is not practical to have access to the roadway from the subject remainder.*

- 3) What is the grade of the new Arapaho Road adjacent to the subject property?

*Based on available plan and profile design plans, the new road will be approximately seven (7) feet above grade at the western boundary of the subject remainder tract, rising at a grade of 2.88% and is planned to be fifteen (15) feet above the eastern property boundary.*

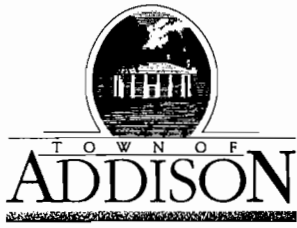
- 4) Are there any direct benefits as a result of this project?

*Even though there will be no direct access, the subject remainder property may experience some degree of increased visibility as a result of adjacency to the new Arapaho Road. However, this is not a measurable benefit.*

*Secondly, although not a benefit from the new road, the property owner should request a reduction in the assessed value due to the reduced land and building size.*

*Thirdly, it appears the property owner is relieved of any maintenance and liability of the existing easement area.*

*Fourthly and more importantly, the new elevated roadway being constructed as a bridge behind the subject property building, will effectively provide the opportunity for covered parking. As of the date of this appraisal, a specific site/parking plan has not been provided to the appraisers for consideration in this valuation process. However, it is assumed that a minimum of the same number (approximately 22) spaces will be substituted, as a part of the new road construction. Assuming that an equal or greater number of parking spaces will be provided for the benefit of the subject property under new Arapaho Road, it is assumed there is no loss of parking as a result of the proposed acquisition.*



**OFFICE OF THE CITY MANAGER**

(972) 450-7000 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75001-9010

5300 Belt Line Road

March 4, 2002

Mr. Gary B. Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, Texas 75001-3208

Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison  
Recorded in Vol. 79130, Pg. 2495 in the Deed Records of Dallas County

Dear Mr. Crouch:

In February 2000, the Town of Addison elected to sell bonds in order to fund six construction projects. Included in these projects is the extension of Arapaho road, from Addison Road to Marsh Lane. At this time we are in the right-of-way acquisition phase of the project.

The Town of Addison has determined the public need to acquire a 0.6709 acre portion of the 2.521 acre tract of land that is owned by you at 4139 Centurion Way. The public purpose for this land acquisition is the necessary right-of-way for the Arapaho Road project along with related municipal uses including a public hike and bike trail. The firm of Evaluation Associates appraised the property on January 23, 2002. The attached summary sheet shows a summary of facts and conclusions regarding this taking. On February 26, 2002, the City Council of the Town of Addison authorized me to make an offer to purchase the 0.6709 acre tract of land at the appraised value of \$225,000.00.

The Town of Addison requests that you respond to this offer of purchase within thirty (30) days of the date of this letter. If we do not hear from you within the thirty (30) day period, the Town will consider its offer rejected and we will initiate eminent domain proceedings to acquire the property.

Should you have any questions, please feel free to contact Mr. Mike Murphy, P.E., Director of Public Works, at 972-450-2871, or me.

Sincerely,

Ron Whitehead  
City Manager

# EVALUATION ASSOCIATES

RIGHT OF WAY LAND RIGHTS ANALYSIS • APPRAISAL • ACQUISITION • SOLUTIONS

---

## SUMMARY OF SALIENT FACTS AND CONCLUSIONS ARAPAHO ROAD PROJECT

**Property Owner: 276 Trust**

**Valuation Conclusion:**

Whole Property	\$1,900,000
Proposed Acquisition	\$ 62,381
Remainder Before Acquisition	\$1,837,619
Remainder After Acquisition	\$1,675,000
Loss in Value of Remainder After	\$ 162,619

**Determination of Compensation:**

Permanent Right of Way	\$ 40,181
Compensation for Improvements (paving)	\$ 22,200
Landscaping (None - Replacement)	\$ -0-
Loss in Value of Remainder After	\$ 162,619

**Total Compensation \$ 225,000**

**Date of Appraisal: January 23, 2002**

**Location: 4139 Centurion Way, Town of Addison, Texas**

**Legal Description: Lot 6, Surveyor Addition, Town of Addison, Dallas County, Texas**

**Land Size: Whole Property (per DCAD records) 2.521 Acres  
Right of way Area. 0.6709 Acres**

**Zoning: I-1, Industrial-1 District**

**Highest and Best Use:**

**As if Vacant BEFORE: Commercial use  
As if Vacant AFTER: Commercial use**

# **ADR Partners**

March 12, 2002

Mr. Ron Whitehead  
City Manager  
Town of Addison  
5300 Belt Line Road  
Addison, TX 75001

*Via Facsimile 972-450-7043 &  
Certified Mail Return Receipt Requested  
Item Number 7000 1670 0008 7795 0483*

Re: 4139 Centurion Way – Addison, Texas

Dear Mr. Whitehead,

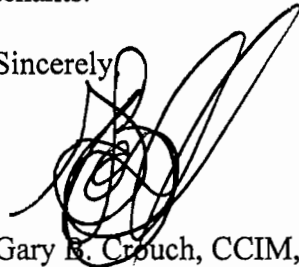
I am in receipt of the notice letter to 276 Trust dated March 4, 2002 that makes an offer to acquire a portion of the referenced property. I am currently working with several tenants to lease the referenced facility. The area that the Town of Addison needs to acquire has thirty-six parking spaces that are necessary for the building. The Town of Addison has been vague on what will happen to these thirty-six parking spaces. In order to respond to these potential tenants for the property and not lose the opportunity to lease the property, I need the Town of Addison to immediately address the following issues:

1. Does the property lose the thirty-six parking spaces?
2. If the parking lot will be available then:
  - a. How many spaces will be available?
  - b. How will the parking be accessible and will there be a height restriction that will affect SUVs or trucks?
  - c. What will be the construction of the parking lot (i.e. asphalt, concrete or dirt)?
  - d. Will the Town of Addison maintain the parking lot?
  - e. Will the parking lot be lighted?
  - f. What are the restrictions on using the parking lot?
  - g. Will the parking lot be designated for 4139 Centurion Way use only?
  - h. What insurance will be required for use of parking lot?
  - i. What will be the term of use of the parking lot and how will it be documented?
  - j. Will the use of the parking lot be granted to the property or only the current ownership?
  - k. List all fees, costs and expenses that the Town of Addison would require for use of the parking lot.
  - l. When will construction start and how long will it last?
  - m. Where can the tenants park when they lose the thirty-six parking spaces during construction?

Mr. Ron Whitehead  
March 12, 2002  
Page 2 of 2

As previously outlined, these questions are immediately critical and impact the ability to lease the property. I need an immediate response so that I can address these issues with potential tenants.

Sincerely

A handwritten signature in black ink, appearing to read "Gary B. Crouch". The signature is highly stylized and somewhat illegible due to the cursive and overlapping lines.

Gary B. Crouch, CCIM, CPM

c.c. Mr. Mike Murphy



# **ADR** Partners

April 10, 2002

Mr. Ron Whitehead  
City Manager  
Town of Addison  
5300 Belt Line Road  
Dallas, TX 75240

Via Facsimile 972-450-7043 &  
Certified Mail Return Receipt Requested  
Item Number 7001 2510 0004 1401 1573

Re: Letter Dated March 12, 2002  
4139 Centurion Way – Addison, Texas

Dear Mr. Whitehead,

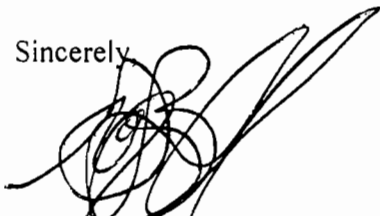
I sent you the attached referenced letter almost thirty days ago and The Town of Addison has failed to respond as of this date in a definite manner to the assumptions in the appraisal by Evaluation Associates that there would be no loss of parking due to the condemnation. Additionally, I subsequently asked for written confirmation of the policy, as represented in the appraisal by Evaluation Associates, that if the property improvements were destroyed by more than 50%, the building could not be rebuilt in the same footprint.

The Town continues to be vague and noncommittal on both of these issues and I am losing the opportunity to lease and potentially sell the property based on the lack of credible information. The Town chose to affect the economic viability of the property with the extension of Arapaho Road. Since the process is represented to be fair and equitable it would be helpful if the Town would be concise and consistent and decide if the representations made in the appraisal are correct.

It was my understanding from speaking last week with Mike Murphy that the Town planned to have a meeting to discuss these issues on Monday or Tuesday of this week and would contact me to set a meeting to define these issues; however, as of this date I have not been contacted..

I request the opportunity to address the City Council at the next meeting on April 23, 2002.

Sincerely,



Gary B. Crouch, CCIM, CPM

c.c. Mr. Mike Murphy

# 4139 CENTURION WAY

ADDISON, TX



## BUILDING FEATURES:

- One story, 30,287 sf., single or multi-tenant office building with 5,263 sf. warehouse completely air conditioned
- Two dock high doors, one grade level door
- 145 parking spaces
- Dual fiber optics with diverse routing
- Heavy power with three distribution points
- Conveniently located just north of Beltline Road on Midway



*“4139 Centurion Way is a prestigious North Dallas office/warehouse facility. Its contemporary architectural styling and unparalleled location in Addison make this a premier choice.”*

444 Westgrove, Suite 210  
Addison, TX 75001

**ADR Partners**

## LOCATION:

4139 Centurion Way is located one block north of Beltline Road and just west of Midway Road. In close proximity to The Galleria and "Restaurant Row," this building also benefits from access to the Dallas North Tollway and LBJ Freeway/

For office leasing contact:

**ADR Partners**

(972) 380-6752



*BRIAN E. SHULER*  
*REAL ESTATE APPRAISER & CONSULTANT*

---

# FACSIMILE

To: Lewis Isaacks

Phone: 972-424-8501

Fax: 972-424-5619

From: Brian E. Shuler, MAI, GAA

Phone: (972) 429-0847

Fax: (972) 442-0729

Date: April 5, 2003

Number of pages including cover sheet: 26

Comments: FYI

*CROUCH  
FILE*

*PLEASE CALL IF YOU DO NOT RECEIVE ANY PART OF THIS FACSIMILE.*

*2062 Quail Run Road ♦ Wylie, Texas 75098  
Telephone: (972) 429-0847 ♦ Fax: (972) 442-0729*



**Brian E. Shuler, MAI, GAA**  
Affiliate of  
Real Estate Counseling Group  
Appraisers - Consultants

**APPRAISAL OF:**

Office-Warehouse located at  
4139 Centurion Way,  
Addison, Dallas County, Texas

**FOR:**

Gary B. Crouch  
4444 Westgrove  
Suite 210  
Addison, TX 75001

**BY:**

**BRIAN E. SHULER, MAI, GAA**  
2062 QUAIL RUN ROAD  
WYLIE, TEXAS 75098  
TAX I.D. #75-2798129

**AS OF:**

April 5, 2003

SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Date of Appraisal: April 5, 2003

Date of Report: April 5, 2003

Location of Property: 4139 Centurion Way

Description of Property: Lot 6, Surveyor Addition, Addison West Industrial Park, Addison, Dallas County, Texas

Land Size: 109,825 Square Feet; 2.5212 Acres

Zoning: I-1 Industrial

Highest and Best Use: Office-warehouse

Description of Improvements: 30,287 Square foot office-warehouse and attendant facilities

Value Estimates:

As Is:

Effective Date: April 5, 2003

Land: \$605,000

Cost Approach: \$2,400,000

Direct Sales Comparison Approach: \$2,310,000

Income Approach: \$2,360,000

Final Value Estimate As Is: \$2,350,000

## SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS (Continued)

Whole Property:	\$2,350,000	
Taking:		\$115,485
Value of Remainder - Before Taking:	\$2,234,515	
Value of Remainder - After Taking:	<u>1,750,000</u>	
Remainder Damages:		<u>484,515</u>
Total Compensation Due:		\$600,000





## CLIENT

The Client in this case is Gary B. Crouch.

## PURPOSE OF APPRAISAL

The purpose of this complete summary appraisal is to estimate the Fair Market Value of the real estate rights in the subject property as defined in the body of this report. These rights may include fee simple, leased fee, leasehold, easement, or some other ownership interest.

## INTENDED USE OF APPRIASAL

The appraisal is prepared for the sole use of the Client for condemnation litigation.

## SUBJECT SALES HISTORY

The subject property is currently owned by Absolute Systems, Ltd. and has been since July 2, 2002. The sellers in this transaction retained the obligation of the condemnation. The sellers of record were FW Exchange Corporation, as qualified intermediary for 276 Trust, a Texas trust. The subject property is currently not for sale. The subject property is currently under litigation for the purpose of condemnation of 0.6709 acres or 29,223 square feet for a permanent roadway easement.

## AD VALOREM TAX DATA

Ad Valorem tax data is typically not admissible in condemnation cases in the State of Texas. As such, this information has been omitted from this report.

## IDENTIFICATION OF SUBJECT PROPERTY

The subject property is located on the north side of Centurion Way, approximately 483 feet west of Midway Road. The tract can be legally described as 109,825 square feet or 2.5212 acres being Lot 6, Surveyor Addition, Addison West Industrial Park, Addison, Dallas County, Texas. As of the effective date of this value estimate, the site was improved with an office-warehouse containing 30,287 square feet.

## IDENTIFICATION OF RIGHTS APPRAISED

The rights appraised are within what is known as the Fee Simple. These rights are frequently referred to as the "Bundle of Rights". They consist of the right to use real property, sell it, lease it, enter it and keep others from entering it, and give it away, as well as the right to refuse to exercise any of these rights. The Fee Simple is an absolute fee, a fee without limitations to any particular class of heirs or restrictions, but subject to the limitations of eminent domain, escheat, police power, and taxation.

Other limitations to ownership and operation may include any agreements establishing partial interests in the property. Such limitations include leases, easements, mineral reservations, etc. Any known existing and anticipated limitations to the fee simple ownership of the subject property are described in the body of this report.

### DEFINITION OF FAIR MARKET VALUE

Fair market value is defined within the condemnation case law of the State of Texas as the price the property will bring when offered for sale by one who desires to sell, but is not obliged to sell, and is bought by one who desires to buy, but is under no necessity of buying, taking into consideration all those uses to which it is reasonably adaptable and for which it either is or in all reasonable probability will become available within the reasonable future.

### THE APPRAISAL PROCESS AND SCOPE

In preparing this appraisal, the appraiser inspected the subject and the improvements; gathered information from the subject's neighborhood on comparable land and improved sales, rents, operating expenses, construction costs, accrued depreciation, capitalization and yield rates; confirmed all comparable sale information with at least one party to the transaction; and analyzed the information gathered in applying the sales comparison, cost, and income approaches.

To develop the opinion of value, the appraiser performed a complete appraisal process, as defined by the Uniform Standards of Professional Appraisal Practice. This means that no departures from the Standard 1 were invoked. This Summary Appraisal Report is a brief recapitulation of the appraiser's data, analyses, and conclusions. Any supporting documentation which is not included in this report is retained in the appraiser's file.

### NEIGHBORHOOD ANALYSIS

The Dallas/Fort Worth region has been one of the fastest growing in the nation. The two major cities are a part of the Consolidated Metropolitan Statistical Area (CMSA). The nine county CMSA includes Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties, an area of 6,998 square miles. The Dallas/Fort Worth CMSA has a 2000 population estimate of almost 5 million. The core of this metropolitan area is the City of Dallas, which has a history of steady population growth since its earliest inception. Dallas is the primary economic influence on the many communities within the Metroplex. One of the major assets of the Dallas area is its diversified economic base. Most recently, it is indicated that the market is stable and the long term outlook for the Dallas economy is good.

The subject's neighborhood is located 10 miles north of Dallas' Central Business District. The area is bounded by the Dallas North Tollway, LBJ Freeway (IH 635), Marsh Lane, and President George Bush Turnpike. Several types of land use can be found throughout the neighborhood. Residential uses can be found throughout the area at appropriate locations.

Commercial uses are located along major thoroughfares and at important intersections. Industrial uses can be found throughout the area. Current land uses adjacent to the subject include light industrial. The area features limited vacant land for future development. Improvements within the neighborhood receive good maintenance. Real estate market conditions and activity in the subject neighborhood have been steady in recent months. The facts and observations noted above indicate the subject's neighborhood will be stable for the foreseeable future.

### SITE ANALYSIS

The subject property is located on the north side of Centurion Way, 483 feet west of Midway Road. The site contains 109,825 square feet or 2.5212 acres. The parcel has approximately 370 front feet along Centurion Way and an average depth of 297 feet. The shape of the subject is rectangular. The subject property is zoned I-1 Industrial by the City of Addison. Permitted uses in this classification include light industrial, such as the subject improvements. The property is level and at grade with surrounding property except for a concrete drainage channel in the northern portion of the property. Per the Flood Insurance Rate Map, Community Panel Number 4810890005A, dated July 16, 1980, the subject site is not located within a designated flood hazard area. There are no known or apparent environmental hazards on or about the site. A full complement of urban utilities and services is available to the subject site. The site is encumbered by a three foot wide Texas Power & Light easement along the north property line, a 30 foot wide City of Dallas water easement which overlaps and extends south of the Dallas Power & Light easement, a six foot wide City of Addison sewer easement adjacent to the south line of the City of Dallas easement, and a 50 foot wide drainage easement which overlaps and extends south of the City of Addison easement. The Dallas Power and Light, City of Dallas, and City of Addison easements are typical utility easements utilized for parking and drives for the property. The drainage easement contains the 24 foot wide concrete drainage channel noted above, some grassed sloped area, concrete drainage flumes, two vehicle bridges, and paved parking and drives. The area of reduced utility within this easement is the area of the open drainage channel, the grassed sloped area, and the concrete drainage flumes totaling 11,950 square feet. The area occupied by the bridges, parking, and drives totaling 6,550 square feet continues to be utilized to its highest and best use in conjunction with the whole property.

The subject improvements consist of a one story office-warehouse, containing 30,287 square feet, and having 25,024 square feet of office area, 5,263 square feet of air conditioned warehouse, two dock high doors, one grade door, concrete and asphalt paving with parking for 145 cars, and landscaping. The building is 23 years old and in good condition. It includes fiber optics and heavy electrical service. Much of the office space is an open interior design.

The subject taking consists of a parcel containing 29,223 square feet encompassing the northern 78.95 to 78.96 feet of the subject whole site. The rights taken are those of a permanent easement for construction of an elevated roadway. It is stated in the Statement In Condemnation that "Said Condemnees shall retain the right to use that portion of the property taken within the easement area and located under the elevated roadway, for the

purposes of parking, for ingress and egress, provided that such use does not interfere with the right of the city to operate and maintain the roadway or otherwise endanger the health and safety of the public.”

The remainder contains 80,602 square feet or 1.8504 acres exclusive of the permanent easement taken. The southern boundary of the taking is within 1.04 to 1.05 feet of the north wall of the building. The taking includes the northern drive and parking for 36 spaces the bridges, and the drive at the rear of the building. Although the right to use the easement for “... parking, for ingress and egress...” is reserved to the property owner, there is no guarantee that such use will be physically possible due to the design and construction of the city’s improvements and there is no guarantee that such use would be legally possible because the city is retaining the right to unilaterally determine if use of the easement would “... interfere with the right of the city to operate and maintain the roadway or otherwise endanger the health and safety of the public.” The area within the taking and the purpose for which it is being taken may be expected to reduce the potential rental rate for the property; increase the vacancy of the property; increase expenses to the property including insurance, building maintenance and repair, landscape and site maintenance; increase the appropriate capitalization rate due to perceived increased physical and economic risk; or a combination of these factors. Each of these impacts have the effect of decreasing the value of the remainder property.

### MARKET AND HIGHEST AND BEST USE ANALYSIS

The market conditions in the subject area are such that the subject, as vacant, could be immediately developed. Economic conditions are at a level that would justify construction today. Therefore the highest and best use of the subject as vacant would be to hold in anticipation of future light industrial development.

Since the improvements exist, attempts should be made to maximize the subject's income potential under its current use as an office-warehouse. In my opinion, the highest and best use of the subject property, as improved, is its current use. This use is supported by the site's location, size, shape, access, zoning, topography, and available utilities. Further, this is consistent with the current use of the site.

Historically, exposure times for vacant tracts in the subject neighborhood have varied widely, from purchasers approaching property owners who have not put their properties up for sale to up to two year exposures. Given the current state of the market, exposure times of 6 to 12 months are indicated. Likewise, an anticipated marketing time of approximately 6 to 12 months may be expected for the subject property.

After the taking, the remainder has decreased utility for its use. The highest and best use of the remainder is to hold, as improved, at a lower level of operation and value.

## SUMMARY OF ANALYSIS AND VALUATION

### Direct Sales Comparison Approach - Land

As noted in the site analysis, the subject has 11,950 square feet of drainage easement occupied by a concrete drainage channel, drainage flumes, and grassed sloped area. This is an area of reduced utility requiring a discount of its value. The methodology employed in this appraisal is to, first, appraise the site without consideration of this encumbrance and then apply a specific discount to the affected area. A summary of the comparable land sales is illustrated below.

1	N. side Arapaho @ Commercial	04/26/01	190,031	\$5.26
2	N. side Sunbelt no. of Westgrove	11/01/00	167,382	\$4.51
3	NE corner Excel/Westgrove	05/16/00	816,380	\$4.38
4	E. corner Sojourn/Golden Bear	04/03/00	237,402	\$5.39
5	E. side Midway @ Commander	01/31/00	58,417	\$8.00

Prior to analysis, the per unit sales prices on the basis of cash or its equivalent ranged from \$4.38 to \$8.00 per square foot. Each was compared to the subject in terms of size, location, and special influences. Adjustments were then made to each to reflect any differences between the comparable and the subject site.

Market conditions are considered stable over the period analyzed. All of the sales have similar light industrial highest and best use. No adjustment is required for these factors.

This data set indicates that smaller sites have sold for more per square foot than larger sites. Sales 1, 2, 3, and 4 are adjusted upward for size while Sale 5 is adjusted downward for this factor. Sales 3 and 4 are adjusted downward for corner locations and Sale 5 is adjusted downward for its frontage on Midway. Sales 1 and 2 are considered comparable to the subject in location. Sale 4 reportedly had 18,000 square feet which were unusable due to a drainage area. As noted above, the subject whole is appraised, first, without consideration of its 11,950 square foot drainage ditch and grassed sloped area, then a specific discount will be applied to this area. Sale 4 is adjusted upward for this factor.

The following table illustrates the adjustments applied to the data.

Size	+	+	+	+	-
Location	0	0	-	-	-
Special Influences	0	0	0	+	0
Total Adjustment	+	+	+	+	-

After full consideration of all the data and analysis, it is my opinion that the subject site has a market value of \$6.00 per square foot prior to consideration of the area within the drainage ditch and grassed sloped area. A summary of the site valuation follows:

Usable Site	97,875 SF @ \$6.00/SF =	\$587,250
Ditch & Slope	11,950 SF @ \$6.00/SF x .25 =	<u>17,925</u>
Total Land Value		\$605,175
Rounded To:		\$605,000

### Cost Approach

The direct costs are estimated primarily from section 14, page 16, class C, Good of the Marshall Valuation Service. Physical deterioration is estimated based upon the subject's age and observed condition. Analysis of the subject property and the neighborhood in which it is located indicates that neither functional nor external obsolescence is applicable to the subject.

The value indicated by the cost approach is summarized as follows:

Direct Costs		
Main Building	30,287 SF X \$61.00/SF	\$1,847,507
Site Improvements, Landscaping, Paving, Bridges		<u>300,000</u>
Total Direct Costs		\$2,147,507
Indirect Costs		<u>200,000</u>
Total Cost New of Improvements		\$2,347,507
Less: Depreciation (35%)		<u>821,627</u>
Depreciated Value of Improvements		\$1,525,880
Plus: Estimated Land Value		<u>605,000</u>
Total Depreciated Cost		\$2,130,880
Plus: Entrepreneurial Profit and Overhead (12.5%)		<u>266,360</u>
Estimated Value by Cost Approach		\$2,397,240
Rounded To:		\$2,400,000

### Direct Sales Comparison Approach - Improved

A summary of the comparable improved sales data is illustrated below.

1	2560 Tarpley	11/28/01	1997	24,168	\$69.93
2	16650 Westgrove	11/08/01	2000	96,355	\$108.45
3	4265 Kellway Circle	01/09/01	1984	25,783	\$65.93
4	14340 Proton	04/05/00	1974	24,850	\$52.31

Prior to analysis, the per unit sales prices on the basis of cash or its equivalent ranged from \$52.31 to \$108.45 per square foot. Adjustments were then made to each to reflect any differences between the comparable and the subject site. No adjustment is required for conditions of sale or market conditions. Only Sale 2 varies substantially in size from the subject, requiring an upward adjustment. The subject has a 3.63:1 land to building ratio and a parking ratio of one space per 209 square feet of building. This is superior to the sales, necessitating upward adjustments. The subject's effective age is approximately 14 years, is in good condition, and has fiber optics and heavy electrical. Sales 1 and 2 are superior to the subject in this category due to their lesser age. Sales 3 and 4 are inferior in this category. Sales 1, 2, and 3 are similar to the subject in location. Sale 4 is located in an older light industrial area of Farmers Branch. An upward adjustment has been applied to this sale for location. The subject is 83% office and 100% air conditioned. Sales 2 and 4 are considered similar to the subject in this factor, while Sale 1 is inferior and Sale 3 is superior being 100% office and 100% air conditioned. The following table illustrates the adjustments applied to the improved sales.

Size	0	+	0	0
Land to Building Ratio/Parking	+	+	+	+
Age, Construction, Condition	-	-	+	+
Location	0	0	0	+
Office/Air Condition	+	0	-	0
Total Adjustment	+	-	+	+

After full consideration of all the data and analysis, it is my opinion that the subject, containing 30,287 square feet, has a market value of \$75.00 to \$77.50 per square foot, or \$2,310,000 rounded.

**Income Approach**

A summary of the comparable rentals is illustrated below.

1	16650 Westgrove	2000	96,355	100	\$11.35	NNN
2	3330 Keller Springs	1981	99,710	100	\$11.84	Ind. Gross
3	4285 Kellway Circle	1984	102,855	74	\$11.67	Ind. Gross
4	2125 Chenault	1995	56,000	36	\$7.00	Ind. Gross

Analysis of the rental data indicates that rental income ranges from \$7.00 to \$11.84 per square foot per year on triple net and industrial gross bases. Rental 1 is 100% air conditioned office. Rental 2 is 96.5% office and 100% air conditioned. Rental 3 is approximately 90% air conditioned office with the majority of the warehouse space being air conditioned. Rental 4 is 22% air conditioned office. The last lease in the subject property

prior to this condemnation was for \$8.50 per square foot. On this basis, it is my opinion that the market (economic) rent for the subject is \$8.75 per square foot per year on a triple net basis. Vacancy and expense information is based on data gathered on comparable properties in the area. Vacancy and collection losses are estimated at 8% of the potential gross income. Ad valorem taxes, based on Dallas Central Appraisal District calculations total approximately \$30,000. The property owner is responsible for the pro rata share based on the vacant space. At a stabilized 8% vacancy, the landlord would pay \$2,400 in taxes per year. Insurance expense is estimated based on \$0.125 per building square foot per year on the 8% vacant space or \$303 per year. Management costs are estimated at 4% of projected effective gross income or \$9,752 per year. Maintenance and repairs are based on \$0.25 per building square foot per year on the 8% vacancy or \$606. Replacement allowance for replacement of long lived items and miscellaneous expenses which can not be passed through to the tenants is estimated at \$500 per year. Comparable sales indicate an overall capitalization rate of 9.75%.

The income approach using direct capitalization is summarized as follows:

Potential Gross Income		\$265,011
Vacancy & Collection Loss		<u>21,201</u>
Effective Gross Income		\$243,810
Expenses:		
Taxes	\$2,400	
Insurance	303	
Management	9,752	
Maintenance & Repairs	606	
Replacement Allowance & Miscellaneous	<u>500</u>	
Total Expenses		<u>13,561</u>
Net Operating Income		\$230,249
Capitalized at .0975		\$2,361,528
Rounded To:		\$2,360,000

### Reconciliation and Final Value Estimate

The Income Approach is based upon current market rent and expense information found in the subject area as well as the current status of the subject. The capitalization rate was derived from recent market transactions and competing investments. This approach is felt to closely reflect the potential purchasers' thinking in the analysis of the subject as an income producing property and was heavily relied upon. The Direct Sales Comparison Approach is well documented by comparable sales. The value estimate by this approach is considered to be reliable. The Cost Approach is considered, but is given the least weight in the final estimate of value for the subject property.

The market value of the subject whole property, as of April 5, 2003, is estimated to be \$2,350,000.



### Whole Property

After full consideration of all the data and analyses, it is my opinion that the subject whole property has a market value as of April 5, 2003 of:

\$2,350,000

### Permanent Taking

The value of the permanent taking is estimated as a portion of the subject whole. Although the condemnee is reserved the right to use the easement area for parking, ingress, and egress, the city reserves the right to not permit this use if the city unilaterally determines that such use would interfere with the operation and maintenance of the roadway or that such use would endanger the health and safety of the public. Also, the city's planned and/or unforeseen future construction in the easement may render its use physically unfeasible or impossible. As such, the city is taking the vast majority of the rights to the land within the taking. It is my opinion that the taking constitutes 95% of the fair market value of the land impacted. It is my opinion that the value of the subject permanent taking, containing 29,223 square feet, is as follows:

Land: Usable Site	17,273 SF @ \$6.00/SF x .95	\$98,456
Ditch & Slope	11,950 SF @ \$6.00/SF x .25 x .95	<u>17,029</u>
Total Taking (excluding loss in value to improvements within taking)		\$115,485

### Remainder Before Taking

The value of the remainder immediately before the permanent taking is simply the mathematical difference between the value of the whole property and the value of the permanent taking. Again, this calculation is made without consideration of any loss in value to the improvements located within the area taken. This indicates a remainder value before the taking of:

\$2,234,515

### Remainder After Taking

After the taking, the remainder is considered negatively impacted by the taking. The new right-of-way line comes within 1.04 to 1.05 feet of the north wall of the building. The use of the parking, drives, and bridges within the part taken is at severe risk. The proximity of the taking and proposed roadway is a major concern. These factors impact both the value of the improvements within the taking and the remainder property.

Subsequent to knowledge of this condemnation, Mr. Gary B. Crouch marketed the subject property on the basis of full disclosure of available information regarding the condemnation. Areas of concern by parties investigating the property included lower rental rates, decreased occupancy, longer lease up periods, lower quality tenants, less favorable lease terms, debris and pollution, security, and increased insurance expense.

Two offers were received on the property during the marketing period. One was by investors interested in purchasing the remainder property as an income producing investment. The offer was \$1,200,000 received May 8, 2002. The only other offer on the remainder was for \$1,750,000 by a purchaser interested in occupying the property. This offer was accepted and the sale of the remainder was consummated July 2, 2002.

This sale represents a 22.7% decrease in the value of the remainder. As reflected by the much lower offer from investors, it is reasonable to conclude that a user purchasing a property which fits his needs would be less concerned about the economic impacts from the condemnation. The user would be most concerned with the physical impacts to his operation of the property.

Had a user-purchaser not been found, it is likely that the property would have sold to investors at a lower price. However, the sale did occur at the \$1,750,000 level. Due to the relatively stable light industrial market in this area since July, 2002, it is my opinion that this sale is the best indication of the value of the remainder as of April 5, 2003.

The total value of the remainder after the take is:

\$1,750,000

#### Remainder Damages

The damages to the remainder are the difference between the estimated value of the remainder immediately before the taking and the estimated value of the remainder immediately after the taking. In this case there are estimated remainder damages of \$484,515.

#### Total Compensation Due Owner

The total compensation due the owner is the sum of the value of the takings and the damages to the remainder. The estimated value of the permanent taking is \$115,485 and the remainder damages are \$484,515 for a total of:

\$600,000

The following is a summary of these value estimates.

SUMMARY

Value of Whole	\$2,350,000	
Value of Taking		\$115,485
Value of Remainder - Before Taking	\$2,234,515	
Value of Remainder - After Taking	<u>1,750,000</u>	
Total Remainder Damages		<u>484,515</u>
Total Compensation Due		\$600,000

## CERTIFICATION

I certify that, to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.

I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.

I have made a personal inspection of the property that is the subject of this report.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report, I, Brian E. Shuler, MAI have completed the requirements of the continuing education program of the Appraisal Institute.

No one provided significant professional assistance to the person signing this report.

I certify that, to the best of my knowledge and belief, the reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.



Brian E. Shuler, MAI, GAA

State of Texas General Real Estate Appraiser

Certificate Number: TX-1320199-G

ADDENDA

## CONTINGENT AND LIMITING CONDITIONS (Page 1 of 3)

The following statements, assumptions, and considerations are limitations of this appraisal report. Use of or reliance on this appraisal report by client or any third party constitutes acceptance of these conditions.

This is a Summary Appraisal Report which is intended to comply with the reporting requirements set forth under Standard Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it might not include full discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. This report is to be used in conjunction with oral testimony which, to the degree possible, will relate these substantive matters. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.

The term "market value", is defined by the Uniform Standards of Appraisal practice as a type of value, stated as an opinion, that presumes the transfer of property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the definition of the term identified by the appraiser as applicable in an appraisal.

The date of value to which the opinions expressed in this report apply is stated in the document. The appraiser(s) assumes no responsibility for unforeseen economic or physical factors occurring at some later date which may affect the opinions herein stated. All dollar amounts are based on the purchasing power and price of the dollar as reflected in the time period analyzed.

Possession of this report or a copy thereof does not carry with it the right of publication. Neither all nor any part of this report shall be conveyed to the public through advertising, public relations, news media, sales media, or other media for public communication without the prior written consent of the appraiser. This appraisal is to be used only in its entirety and no change in any item in the report shall be made by anyone other than the appraiser(s). No responsibility is assumed by the appraiser(s) for any such unauthorized change(s).

The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate valuations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.

No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated. Responsible ownership and competent property management are assumed unless otherwise stated in this report.

The information furnished by others is assumed to be reliable. However, no warranty is given for its accuracy. If the client has any questions regarding this information, it is the client's responsibility to seek whatever independent verification is deemed necessary.

All engineering is assumed to be correct. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, drainage with regard to inundation, mechanical equipment, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging or paying for studies or surveys that may be required to discover them. If the client has any questions regarding these items, it is the client's responsibility to order and pay for any inspections deemed appropriate. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.

It is assumed that there is full compliance with all applicable federal, state, and local environmental, zoning, and use regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report. It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

Unless otherwise stated in this report, the appraiser(s) has no knowledge concerning the presence or absence of toxic materials or gases in or about this property. The appraiser(s) is not expert in insulation or other products banned or restricted by the Consumer Products Safety Commission or any other entity. The appraiser(s) has not inspected for, tested for, nor taken into consideration such materials or gases. The presence of such may affect the value of the property and, if found to be present, reappraisal at additional cost would be necessary to estimate these effects.

Unless otherwise stated in this report, the subject property is appraised without a specific compliance survey having been conducted to determine if the property is or is not in conformance with the requirements of the Americans with Disabilities Act. The presence of architectural and communications barriers that are structural in nature that would restrict access by disabled individuals may adversely affect the property's value, marketability, or utility.

Where improvements are proposed, the plans and specifications furnished to the appraiser upon which the valuation is predicated are assumed to show the intent of the builder, but the appraiser assumes no responsibility for their correctness or for undisclosed revisions or modifications. It is assumed that proposed improvements to the subject property will be built in a competent and workmanlike manner.

No consideration has been given to personal property located on the premises, or to the cost of moving or relocating such personal property. Only the real property has been considered, unless otherwise stated.

Any income and expense data applicable to this appraisal report do not represent an audited return.

The fee for this assignment is not contingent on any loan commitment, sale, trial outcome, receipt of funds or any other condition.

The appraiser(s) herein by reason of this appraisal is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.

This report is written in conformity with our understanding of the Uniform Standards of Professional Appraisal Practice and Code of Professional Ethics of the Appraisal Institute.

Appraiser(s) liability extends only to the stated client, not to any subsequent parties or users of any type.

The total liability of the appraiser(s) is limited to the amount of the fee received by the appraiser(s).

#### DISCLOSURE

One or more of the signatories of this appraisal report is a Member or Candidate of the Appraisal Institute. The Bylaws and Regulations of the Institute require each Member and Candidate to control the use and distribution of each appraisal report signed by such Member or Candidate. Therefore, except as hereinafter provided, the party for whom this appraisal report was prepared may distribute copies of this report, in its entirety, to such third parties as may be selected by the party for whom this report was prepared; however, select portions of this appraisal report shall not be given to third parties without prior written consent of the signatories of this appraisal report. Further, neither all nor any part of this appraisal report shall be disseminated to the general public by the use of advertising media, public relations media, news media, sales media, or other media for public communication without the prior written consent of the signatories of this appraisal report.



**QUALIFICATIONS OF  
BRIAN E. SHULER, MAI, GAA**

**EXPERIENCE**

Brian E. Shuler, MAI, GAA is a real estate appraiser, consultant and analyst located at 2062 Quail Run Road, Wylie, Texas 75098. He is a graduate of Texas A & M University (1976) with a Bachelor of Science Degree in Agricultural Economics - Business. He has been active in the appraisal and analysis of all types of real estate since 1976, primarily within the State of Texas and, also, throughout the United States. Mr. Shuler has published several articles related to real estate and appraisal. He has qualified as an expert witness in property valuation in county, state, and federal courts. Mr. Shuler is a Licensed Real Estate Broker, State of Texas, #236666-02.

**AFFILIATIONS**

Member -	Appraisal Institute, MAI #7175
State Certified -	State of Texas
	General Real Estate Appraiser
	Certificate Number: TX-1320199-G
National Association of Realtors	
Real Estate Appraisal Section -	GAA (General Accredited Appraiser) #99
Texas Association of Realtors	
Greater Dallas Association of Realtors	

**BIBLIOGRAPHY**

"Case Law and the Condemnation Appraisal." *Institute on Planning, Zoning, and Eminent Domain* (1992): pgs. 9/1 - 9/13.

"Hazardous Curves Ahead: Appraising Contaminated Properties." *Institute on Planning, Zoning, and Eminent Domain* (1995): pgs. 11/1 - 11/17.

"Complex Properties: Made Simple?" *The Twenty-Seventh Annual Institute on Planning, Zoning, and Eminent Domain* (1997): pgs. 15/1 - 15/10.

**PROFESSIONAL EDUCATION**

Course 1A -	Basic appraisal principles, methods, and techniques - American Institute of Real Estate Appraisers
Course 201 -	"Principles of Income Property Appraising" - Society of Real Estate Appraisers
Course 2-1 -	"Case Studies In Real Estate Valuation" - American Institute of Real Estate Appraisers
Course 2-2 -	"Valuation Analysis and Report Writing" - American Institute of Real Estate Appraisers
Course 2-3 -	"Standards of Professional Practice" - American Institute of Real Estate Appraisers

- Course 410 - Standards of Professional Practice, Part A - Appraisal Institute  
 Course 420 - Standards of Professional Practice, Part B - Appraisal Institute  
 Course 430 Standards of Professional Practice, Part C - Appraisal Institute

Residential Examination Number Two - Society of Real Estate Appraisers  
 "Rural Valuation" - American Institute of Real Estate Appraisers  
 Comprehensive Examination - American Institute of Real Estate Appraisers  
 Numerous courses and seminars on valuation techniques, market trends and influences, report preparation and presentation, appraisal for litigation, zoning and land use, eminent domain, environmental issues, and other areas of appraisal and related practices.

## EMPLOYMENT

### 1999 - Present

Real estate appraiser and consultant, Wylie, Texas

### 1985 - 1999

Real estate appraiser and consultant with Shuler, Osenbaugh & Associates, Richardson, Texas

### 1983 - 1985

Real estate appraiser and consultant with Clettenberg, Osenbaugh & Associates, Dallas, Texas

### 1976 - 1983

Real estate appraiser and consultant with Real Property Analysts, Houston, Texas

## PARTIAL LIST OF REPRESENTATIVE CLIENTS

### Government Agencies

Allen Independent School District	Houston Independent School District
City of Arlington	Internal Revenue Service
City of Coppell	Irving Independent School District
City of Dallas	McKinney Independent School District
City of Farmers Branch	Metropolitan Transit Authority (Houston)
City of Grapevine	North Texas Tollway Authority
City of Houston	North Texas Municipal Water District
City of Lewisville	Resolution Trust Corporation - Dallas District
City of Plano	Resolution Trust Corporation - Denver District
Collin County Community College District	Resolution Trust Corporation - Kansas District
Dallas Area Rapid Transit (DART)	TXU
Dallas County	Texas Attorney General's Office
Dallas County Community College District	Texas Department of Transportation
Federal Deposit Insurance Corporation	Texas Turnpike Authority
Federal Home Loan Bank Board	United States Department of Justice
Federal Housing Administration	Veterans Administration
Harris County	
Harris County Department of Mental Health and Mental Retardation	

### Financial Institutions

American National Bank  
 Bank One Texas  
 Barclays Bank PLC, New York  
 Carteret Savings Bank, New Jersey  
 Charter One, Cleveland, Ohio  
 City Savings and Loan, California  
 Compass Bank  
 Cornerstone Bank  
 First American Bank  
 First Interstate Bank  
 First Nationwide Bank, Missouri

First Savings of Arkansas, F.S.B.  
 Guaranty Federal Bank  
 Mercantile Bank & Trust  
 Murray Financial  
 NationsBank of Texas  
 NCNB Texas National Bank  
 One National Bank, Arkansas  
 Spring Branch Bank, Houston  
 Texas Commerce Bank  
 Universal Federal Savings Association  
 Victoria Savings Association, F.S.A.

### Corporations

Atlantic Richfield Company  
 Bell Telephone Systems  
 Ben Franklin Stores Household Merchandise,  
 Incorporated  
 Brown & Root USA, Inc.  
 Cencor Realty Services  
 Centex Development  
 Champion International Corporation  
 Chicago, Rock Island & Pacific Railroad Company  
 City Industries  
 Compaq Computer Corporation  
 Conoco, Inc.  
 D. Alan Bowlby & Associates  
 DLM, Inc.  
 Dupont Corporation  
 E-Systems  
 Enserch Corporation  
 Explorer Pipeline Company  
 Exxon Company, U.S.A.  
 Ford Motor Company  
 George McElroy & Associates  
 General Telephone Company  
 Graham Associates  
 Gramex Corporation  
 Grubb & Ellis  
 Houston Belt & Terminal Railroad  
 Hunt Properties, Inc.  
 I.B.M. Corporation  
 Kenneth H. Hughes Interests  
 Kinder-Care Learning Centers, Incorporated  
 Las Colinas Land L.P.  
 McDonald's Corporation

Melvin Simon & Associates, Inc.  
 M.K.T. Railroad Company  
 Mobil Oil Corporation  
 MRealty Corporation  
 National Asset Services, Inc.  
 National Convenience Stores  
 Nevander Asset Management, Inc.  
 Paragon Group  
 Raymond D. Nasher Company  
 S & A Restaurant Corp. (Steak and Ale)  
 SCI Texas Real Estate Development, Ltd.  
 Search Investment Holdings Limited  
 Sentry Environmental  
 Shell Oil Company  
 Simon Property Group  
 Sinicola Properties, Inc.  
 Southern Pacific Transportation Company  
 Southern Ventures  
 Southland Corporation  
 Southwestern Bell Telephone Company  
 Tabor Investments Corporation  
 Teamsters Union  
 Texaco, Incorporated  
 Texas Eastern Transmission Corporation  
 Texas Industries  
 Texas United Outdoor Advertising Company  
 Texas Utilities  
 Texas Wholesale Supply Company  
 Trinity Industries Incorporated  
 Union Pacific Railroad System  
 U.S. Home Corporation  
 Walter Mischer/Mischer Enterprises

## Law Firms

Arter, Hadden, Johnson & Bromberg, Dallas, Texas  
 Baker & Botts, Dallas, Texas  
 Banks & Widmer, Denton, Texas  
 Blackburn & Carter, Houston, Texas  
 Bracewell & Paterson, Houston, Texas  
 Butler & Binion, Houston, Texas  
 Calhoun & Stacy, Dallas, Texas  
 Carrington, Coleman, Sloman & Blumenthal, Dallas, Texas  
 Collie, Key, Austin, Texas  
 Curtis, Mallet-Prevost, Colt & Mosle, New York, New York  
 Dawson, Sodd, Moe, Jacobsen & Beard, Corsicana, Texas  
 Decker, Jones & McMackin, Ft. Worth, Texas  
 Eddie Vassallo & Associates, Dallas, Texas  
 Frost & Jacobs, Cincinnati, Ohio  
 Fulbright and Jaworski, Dallas, Texas  
 Gay, McCall & Isaacks, Plano, Texas  
 Geary, Porter & Donovan, Dallas, Texas  
 Godwin & Carlton, Dallas, Texas  
 Goforth & Lewis, Houston, Texas  
 Griffin, Whitten & Jones, Denton, Texas  
 Hastie & Kirschner, Oklahoma City, Oklahoma  
 Haynes & Boone, Dallas, Texas  
 Haynes & Fullenweider, Houston, Texas  
 Hooper & Evans, Fort Worth, Texas  
 Jackson & Walker, Dallas, Texas  
 Jeffer, Mangels & Butler, Los Angeles, California  
 Jenkins & Gilchrist, Dallas, Texas  
 Kennedy, Minshew, Campbell & Morris, Sherman, Texas  
 Law, Snakard & Gambill, Fort Worth, Texas  
 Locke Purnell Rain Harrell, Dallas, Texas  
 Mayor, Day, Caldwell & Keeton, Austin, Texas  
 Mayor, Day, Caldwell & Keeton, Houston, Texas  
 McAfee & Taft, Oklahoma City, Oklahoma  
 McFall, Sherwood & Sheehy, Houston, Texas  
 Melton & Melton, Dallas, Texas  
 Miller & Lehman, Palmer, Texas  
 O'Quinn & Laminack, Houston, Texas  
 Osborne, Lowe, Helman & Smith, Austin, Texas  
 Popp & Ikard, Austin, Texas  
 Prager & Benson, Dallas, Texas  
 Radar, Campbell, Fisher & Pyke, Dallas, Texas  
 Ragio & Ragio, Dallas, Texas  
 Rogers & Wright, Dallas, Texas  
 Saperston & Day, Buffalo, New York  
 Suggs, Spradling & Associates, Irving, Texas  
 Thompson & Knight, Dallas, Texas  
 Tobolowsky, Prager & Schlinger, Dallas, Texas  
 Verner, Lipfert, Bernhard-McPherson & Hand, Houston, Texas  
 Vinson and Elkins, Houston, Texas  
 Williams & Connolly, Washington, D.C.  
 Wilshire, Scott and Dyer, Houston, Texas  
 Winstead, Sechrest & Minick, Dallas, Texas

**PARTIAL LIST OF APPRAISAL AND CONSULTING ASSIGNMENTS**

Ad Valorem Tax Studies  
Advertising Sign Boards (Billboards)  
Analysis of Effects of Public Paving Projects on Abutting Properties  
Automobile Dealerships  
Component Depreciation  
Condemnation  
Damage Analyses related to natural and man made disasters  
Day Care Facilities  
Environmental Contaminated Facilities  
Farms and Ranches  
Feasibility Studies - individual properties, office parks, industrial parks, etc.  
Waste Water Treatment Manufacturing Plants  
Heavy Industrial Facilities  
Highest and Best Use Studies  
Historical Buildings  
Hotels and Motels  
Land  
Leasehold/Leased Fee Analyses  
Market Studies  
Multi-Family Residences  
Nursing Homes  
Office Buildings  
Parking Lots  
Railroad and Pipeline Corridors  
Recreational and Park Properties  
Restaurants  
Retail Facilities - free-standing and shopping centers including regional malls  
Sanitary Landfills  
Single Family Residences  
Special Purpose Properties - schools, churches, post offices, etc.  
Subdivisions  
Timber Lands  
Townhomes and Condominiums  
Warehouses

LAW OFFICES  
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▼ BOARD CERTIFIED – CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

March 24, 2003

Mr. Robert Kiley  
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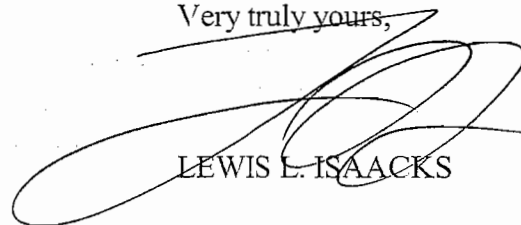
Re: Cause No. 03-01967-B;  
Town of Addison, Texas v. Absolute Systems, Ltd., 276 Trust  
and Merrill Lynch Business Financial Services, Inc.  
Our File No. 93516.03054

Dear Commissioners:

Please be advised that the Special Commissioners hearing in the above matter previously scheduled for Friday, March 28, 2003 has been rescheduled for **Wednesday, April 16, 2003 beginning at 2:00 p.m.** The hearing will still be held at the Addison Conference Centre Boardroom, at 15650 Addison Road, Addison, Texas 75001.

If you have any questions, or need additional information, please do not hesitate to call me.

Very truly yours,



LEWIS L. ISAACKS

LLI/jbg

xc: Ms. Angela Washington  
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Mr. Barry Knight  
Winstead Sechrest & Minick  
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Mr. Mark Hipes  
7557 Rambler Road, Suite 260  
Dallas, Texas 75231

Mr. Michael Murphy, P.E.  
Director of Public Works  
Town of Addison  
16801 Westgrove  
Addison, Texas 75001

LAW OFFICES  
**GAY, MCCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY \*  
DAVID MCCALL+  
WILLIAM J. ROBERTS +  
HEATHER A. SCHAEFER

▼ BOARD CERTIFIED – CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

\* BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

March 7, 2003

Mr. Robert Kiley  
9608 Bill Brown Lane  
Dallas, Texas 75243

Ms. Ernestine Bridges  
2202 Schirra Way  
Mesquite, Texas 75150

Mr. Joe Pena  
2808 Prescott  
Carrollton, Texas 75006

Re: Cause No. 03-01967-B;  
Town of Addison, Texas v. Absolute Systems, Ltd., 276 Trust  
and Merrill Lynch Business Financial Services, Inc.  
Our File No. 93516.03054

Dear Commissioners:

Enclosed please find a copy of the Statement in Condemnation filed in the above cause. The Special Commissioners hearing in this matter has been scheduled for **Friday, March 28, 2003 beginning at 9:30 a.m.** The hearing will be held at the Addison Conference Centre Boardroom, at 15650 Addison Road, Addison, Texas 75001.

If you have any questions, or need additional information, please do not hesitate to call me.

Very truly yours,

  
LEWIS L. ISAACKS



Enclosure

xc: Ms. Angela Washington  
Cowles & Thompson  
901 Main Street, Suite 4000  
Dallas, Texas 75202-3793

Mr. Barry Knight  
Winstead Sechrest & Minick  
5400 Renaissance Tower  
1201 Elm Street  
Dallas, Texas 75270

Mr. Mark Hipes  
7557 Rambler Road, Suite 260  
Dallas, Texas 75231

Mr. Michael Murphy, P.E.  
Director of Public Works  
Town of Addison  
16801 Westgrove  
Addison, Texas 75001

## Sue Ellen Fairley

---

**From:** Michael Murphy  
**Sent:** Wednesday, March 12, 2003 9:45 AM  
**To:** Sue Ellen Fairley  
**Subject:** FW: Parcel 8, Arapaho Rd Project (Absolute Systems)

SEF,

please reserve conf room and place on my schedule.....thanks

-----Original Message-----

From: Washington, Angela [mailto:awashington@cowlesthompson.com]  
Sent: Tuesday, March 11, 2003 2:16 PM  
To: 'mmurphy@ci.addison.tx.us'  
Subject: RE: Parcel 8, Arapaho Rd Project (Absolute Systems)

OK. The prep meeting is scheduled for 1:30 pm on March 24 at your office. You may have already spoken to Lewis Isaacks' office. Will you reserve the conference room if you have not already?

-----Original Message-----

From: mmurphy@ci.addison.tx.us [mailto:mmurphy@ci.addison.tx.us]  
Sent: Monday, March 10, 2003 9:35 AM  
To: awashington@cowlesthompson.com  
Cc: schutchian@ci.addison.tx.us  
Subject: RE: Parcel 8, Arapaho Rd Project (Absolute Systems)

Angela,

We have a meeting with DWU for this Thursday. But it does look like we may be only 3.5 feet away from the building. I would also recommend that we invite our consulting engineers (URS) and Mark Hypes to the prep meeting before we go to hearing.

-----Original Message-----

From: Washington, Angela [mailto:awashington@cowlesthompson.com]  
Sent: Friday, March 07, 2003 11:27 AM  
To: Mike Murphy (E-mail); Steve Chutchian (E-mail)  
Cc: DIPPEL, KEN  
Subject: Parcel 8, Arapaho Rd Project (Absolute Systems)

I received a telephone call from Barry Knight asking to see the plans for the portion of the bridge spanning the property. I told him that I did not think the plans were ready and that I or Lewis Issacks would get back with him.

I know that he will want to see them before the hearing. Please let me know when you think we can set him up to look at them. I will call Lewis Isaacks to let him know that the plans are being revised and ask that he attend when Barry views them. If it does not appear that the plans will be ready and available a reasonable amount of time before the hearing on the 28th, we may have to reschedule it to give them an opportunity to view and prepare.

No. 03-01967-B

FILED 

2003 FEB 19 PM 2:43

**TOWN OF ADDISON, TEXAS** §  
§  
§  
§  
**vs.** §  
§  
**ABSOLUTE SYSTEMS, LTD., 276 TRUST** §  
**AND MERRILL LYNCH BUSINESS** §  
**FINANCIAL SERVICES, INC.** §

**IN THE COUNTY COURT**  
COUNTY CLERK  
DALLAS COUNTY  
**AT LAW, NUMBER** 2  
**DALLAS COUNTY, TEXAS**

**STATEMENT IN CONDEMNATION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **the TOWN OF ADDISON, TEXAS**, a home rule City operating under the laws of the State of Texas and files this its Statement in Condemnation and would respectfully show this Court as follows:

I.

The Town of Addison, Texas files this action to acquire a permanent easement in, over, under, across and through that certain 0.6709 acre portion of a 2.521 acre tract of land, being Lot 6, Surveyor Addition, recorded in Vol. 79130, Pg. 2496 in the Deed Records of Dallas County, commonly known as 4139 Centurion Way, in the Town of Addison, Texas, and more fully described in Exhibit "A" attached hereto and incorporated by reference herein as if set forth at length, for the purpose of constructing those improvements necessary to provide for the realignment, extension and

improvement of Arapaho Road. The property is owned by **ABSOLUTE SYSTEMS, LTD.**, a Texas Limited Partnership, which may be served with process by serving Mr. Gene Harris, Vice President of Juvat, Inc., its General Partner at 2309 West Parker Road, Plano, Texas 75023. **ABSOLUTE SYSTEMS, LTD.** acquired title to the property on or about July 2, 2002, when it purchased the property from **276 TRUST**, a Trust organized and existing under the laws of the State of Texas. In connection with that transaction, **276 TRUST** retained an interest in the condemnation proceeds as set forth in that certain Condemnation Rights Reservation Agreement entered into between the parties on or about the above date. Therefore, **276 TRUST** holds an interest in this property and the proceeds from this proceeding, and is a necessary party to this proceeding. **276 TRUST** may be served with process by serving its attorney, Barry Knight, who has agreed to accept service. **MERRILL LYNCH BUSINESS FINANCIAL SERVICES, INC.** holds a security interest in the above property under that certain Deed of Trust recorded in Vol. 2002131, Page 7475 of the Deed Records of Dallas County, Texas, and may be served with process by serving its registered agent, Prentice Hall Corporation, 800 Brazos Street, Austin, Texas 78701.

## II.

The City Council of the **TOWN OF ADDISON, TEXAS** has found and determined that it is necessary to acquire a permanent easement in, over, under, across, and through the above said tract of land (Exhibit "A"), pursuant to existing law, same to be paid for by said **TOWN OF ADDISON**, with title thereto vesting in the **TOWN OF ADDISON**, for the purpose of acquiring

the necessary right-of-way for the Arapaho Road Project through these proceedings in eminent domain. Said Condemnees shall retain the right to use that portion of the property taken within the easement area and located under the elevated roadway, for the purposes of parking, for ingress and egress, provided that such use does not interfere with the right of the City to operate and maintain the roadway or otherwise endanger the health and safety of the public.

### III.

That for the establishment, construction and operation of the said Arapaho Road Project, it is necessary that Plaintiff acquire the permanent easement in, over, under, across and through the above-described tract. Plaintiff and Condemnees have been unable to agree upon the damages resulting from the taking of such property although Plaintiff has made an effort to reach such an agreement, and in furtherance of said effort, has made a firm offer to purchase the easement from the Condemnees, which offer was rejected. Further negotiations would be futile.

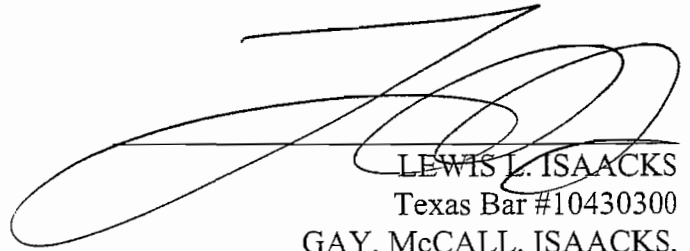
### IV.

That there has been conferred upon Plaintiff the powers of condemning and acquiring land as it is entitled to do under existing law, with title thereto vesting in the **TOWN OF ADDISON, TEXAS.**

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that three disinterested freeholders of Dallas County, Texas, be appointed Special Commissioners as provided by law, to assess the actual damages occasioned by the acquisition of the property rights herein described; and prays for a Decree of Condemnation, vesting title to the easement described in Exhibit "A" attached hereto, in Plaintiff, that Plaintiff recover its costs of court, and for all other relief to which it may be entitled.

Respectfully submitted,



LEWIS L. ISAACKS  
Texas Bar #10430300  
GAY, McCALL, ISAACKS,  
GORDON & ROBERTS  
777 East 15th Street  
Plano, Texas 75074  
Telephone: 972/424-8501  
Telecopier: 972/424-5619

ATTORNEY FOR PLAINTIFF

Parcel 8  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 0.6709 acre (29,223 square foot) tract of land situated in the W.H. Witt Survey, Abstract Number 1609, and the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 2.5212 acre tract of land conveyed to Absolute Systems, Ltd. on July 8, 2002 and recorded in Volume 2002131, Page 07460 of the Deed Records of Dallas County, Texas, said called 2.5212 acre tract being all of "Lot 6, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated March 29, 1979 and recorded in Volume 79130, Page 2495 of said Deed Records, said 0.6709 acre tract of land being more particularly described by metes and bounds as follows;

**BEGINNING** at a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corners of said called 2.5212 acre tract and "Lot 6, Surveyor Addition, Addison West Industrial Park", and Northwest corner of a called 3.4654 acre tract of land, 25% interest conveyed by Epina Properties Limited to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02787 of said Deed Records, 75% interest conveyed by Lehndorff & Babson Property Fund to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02796 of said Deed Records, said called 3.4654 acre tract being all of the Surveyor Addition, Addison West Industrial Park, an addition to the Town of Addison, as evidenced by the plat dated October 24, 1978 and recorded in Volume 79029, Page 0984 of said Deed Records;

THENCE, SOUTH 00°07'27" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 2.5212 acre tract and West line of said called 3.4654 acre tract, a distance of 78.96 feet to a 5/8 inch iron rod set in the proposed South right of way line of Arapaho Road;

**EXHIBIT "A"**

PARCEL 8 - ARAPAHO ROAD PROJECT

THENCE, NORTH 89°58'49" WEST, departing said common line and along the proposed South right of way line of Arapaho Road, a distance of 370.10 feet to an "X" in concrete set in the common West line of said called 2.5212 acre tract and East line of a called 1.776 acre tract of land conveyed to Michael B. Schiff on August 31, 1982 and recorded in Volume 82172, Page 2888 of said Deed Records, said called 1.776 acre tract of land being all of Interwest Companies Addition, an addition to the Town of Addison, as evidenced by the plat dated October 29, 1982 and recorded in Volume 83017, Page 2268 of said Deed Records;

THENCE, NORTH 00°05'03" EAST (called North 00°08'05" East), departing said line and along the common West line of said called 2.5212 acre tract and East line of said called 1.776 acre tract, a distance of 78.95 feet to a 5/8 inch iron rod set in the proposed North right of way line of Arapaho Road Road and South right of way line of said DART railroad for the common Northwest corner of said called 2.5212 acre tract and Northeast corner of said called 1.776 acre tract, from said point a found 1/2 inch iron rod bears North 00°08'18" East, a distance of 0.24 feet;

THENCE, SOUTH 89°58'49" EAST (Called EAST), departing said common line and along the common North line of said called 2.5212 acre tract, proposed North right of way line of Arapaho Road, and South right of way line of said DART railroad, a distance of 370.15 feet (called 370.00 feet) to the **POINT OF BEGINNING**;

CONTAINING an area of 0.6709 acres or 29,223 square feet of land within the metes recited.

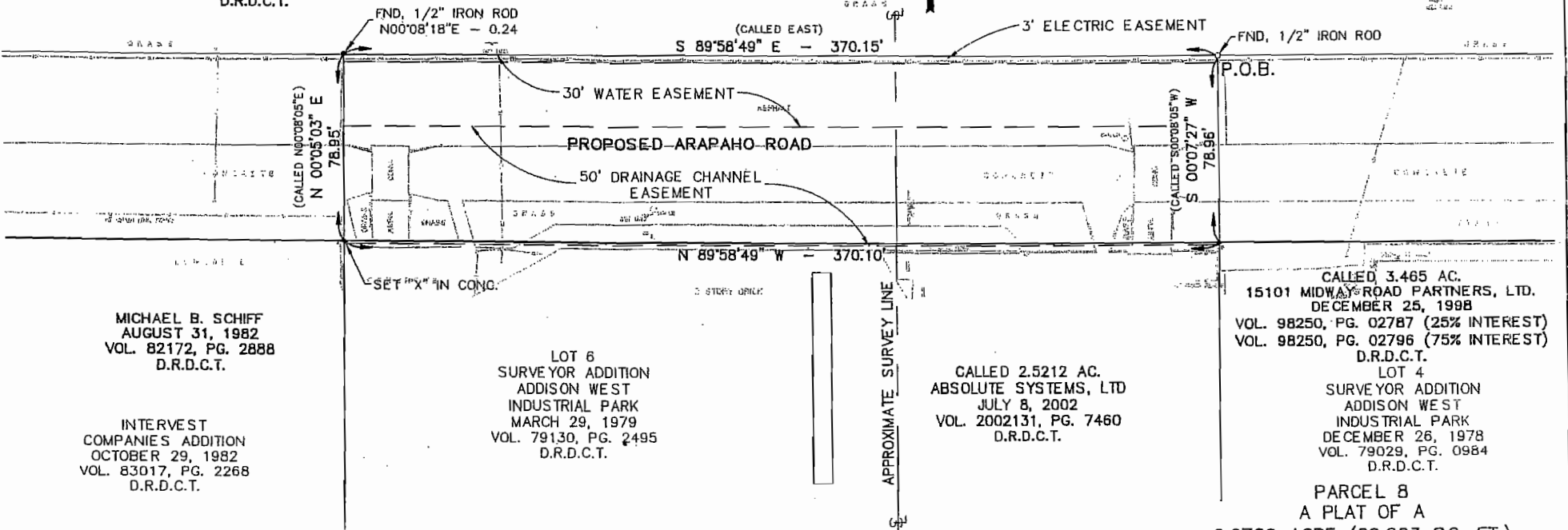


EXHIBIT "B"

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 91008, PG. 1390  
D.R.D.C.T.

DAVID MYERS SURVEY  
A-923

W.H. WITT SURVEY  
A-1609



MICHAEL B. SCHIFF  
AUGUST 31, 1982  
VOL. 82172, PG. 2888  
D.R.D.C.T.

INTERVEST  
COMPANIES ADDITION  
OCTOBER 29, 1982  
VOL. 83017, PG. 2268  
D.R.D.C.T.

LOT 6  
SURVEYOR ADDITION  
ADDISON WEST  
INDUSTRIAL PARK  
MARCH 29, 1979  
VOL. 79130, PG. 2495  
D.R.D.C.T.

CALLED 2.5212 AC.  
ABSOLUTE SYSTEMS, LTD  
JULY 8, 2002  
VOL. 2002131, PG. 7460  
D.R.D.C.T.

CALLLED 3.465 AC.  
15101 MIDWAY ROAD PARTNERS, LTD.  
DECEMBER 25, 1998  
VOL. 98250, PG. 02787 (25% INTEREST)  
VOL. 98250, PG. 02796 (75% INTEREST)  
D.R.D.C.T.  
LOT 4  
SURVEYOR ADDITION  
ADDISON WEST  
INDUSTRIAL PARK  
DECEMBER 26, 1978  
VOL. 79029, PG. 0984  
D.R.D.C.T.

PARCEL 8  
A PLAT OF A  
0.6709 ACRE (29,223 SQ. FT.)  
TRACT OF LAND  
IN THE W.H. WITT SURVEY  
ABSTRACT NO. 1609  
& DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS

NOTES:

ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED THEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO THE ORIGINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN VOL. 73, PAGE 135, D.R.D.C.T.

LEGAL DESCRIPTION OF EVEN SURVEY DATE HEREWITH TO COMPANIES THIS PLAT.

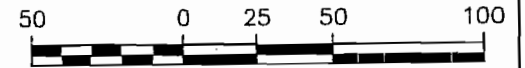
REVISIONS:

OWNER NAME CHANGE 8/20/02

- DENOTES A FOUND POINT AS INDICATED
- DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



*Ayub R. Sandhu*  
11-12-99



GRAPHIC SCALE  
1 INCH = 50 FT.

FEB. -18' 03 (TUE) 12:16

TEL: 972 422 9322

P. 001

**GAY, McCALL, ISAACKS,  
GORDON & ROBERTS, P.C.**

ATTORNEYS AND COUNSELORS

777 EAST 15TH STREET  
PLANO, TEXAS 75074

972/424-8501

FAX: 972/424-5619

FAX: 972/422-9322

JOHN E. GAY  
SYDNA H. GORDON  
LEWIS L. ISAACKS\*  
RACHEL KING  
MARC MAY  
DAVID B. McCALL\*  
KELLI ROACH  
WILLIAM J. ROBERTS\*  
HEATHER SCHAEFER

\*Attorney-Mediator

\*Board Certified  
Civil Trial Law  
Texas Board of Legal-  
Specialization

DATE: 02/18/03

TIME: 11:45 a.m.

**FACSIMILE MESSAGE COVER SHEET**

**Following is/are 2 page(s) including this cover. If any part of this message is missing or received poorly, please call the sender as soon as possible.**

**PLEASE DELIVER UPON RECEIPT**

**TO: Michael Murphy  
Steven Z. Chutchian  
Luke A. Jalbert**

**FAX NO. 972-450-2837**

**FR: Lewis Isaacks**

**RE: Town of Addison/Parcel 8 condemnation**

**MESSAGE:**

**CONFIDENTIALITY NOTICE**

**The information contained in this facsimile message and documents accompanying same are legally privileged and confidential information intended only for the use of the individual or entity named herein. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.**

FEB. -18' 03(TUE) 12:16

TEL: 972 422 9322

P. 002

8

LAW OFFICES  
**GAY, McCALL, ISAACKS, GORDON & ROBERTS**  
A PROFESSIONAL CORPORATION

777 EAST 15TH STREET  
PLANO, TEXAS 75074  
972/424-8501 • FAX 972/424-5619



JOHN E. GAY  
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LEWIS L. ISAACKS ▼+  
RACHEL L. KING  
MARC R. MAY +  
DAVID McCALL +  
WILLIAM J. ROBERTS +  
HEATHER A. SCHARFER

February 18, 2003

▼ BOARD CERTIFIED - CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ BOARD CERTIFIED - FAMILY LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

+ ATTORNEY - MEDIATOR

**VIA FACSIMILE NO. 972-450-2837**

Michael E. Murphy, P.E.  
Steven Z Churchian, P.E.  
Luke A. Jalbert, Project Manager  
P. O. Box 9010  
Addison, Texas 75001-9010

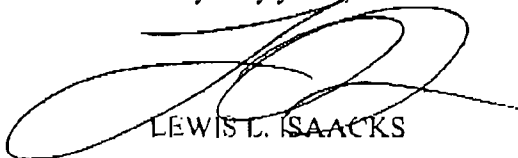
Re: Town of Addison v. Absolute Systems, Ltd., et al;  
Our File No. 93516.03054

Gentlemen:

We are filing the Statement in Condemnation on Parcel 8 of the Arapaho Road Project. Please advise me if March 5, 2003 is available on your schedule for the Commissioners' hearing. If so, we will plan on proceeding on that date. I will be in contact with you prior to that date to arrange a time to come over and prepare for the hearing. In that connection, please advise me if we have aerial photographs showing the property.

As always, should you have any questions or need to discuss this matter, please do not hesitate to contact me.

Very truly yours,

  
LEWIS L. ISAACKS

LLI/jbg

25th  
Anniversary  
1978-2003

COWLES & THOMPSON  
A Professional Corporation  
ATTORNEYS AND COUNSELORS

Public Storage  
Watson-Taylor

JOHN M. HILL  
214.672.2170  
JHILL@COWLESTHOMPSON.COM

January 29, 2003

**VIA HAND DELIVERY**

Mr. William M. Blackburn  
Attorney and Counselor  
9400 North Central Expwy., Suite 1616  
Dallas, Texas 75231

**RE: Town of Addison / Public Storage of Dallas, Ltd.**

Dear Bill:

Enclosed are three (3) execution copies of the Contract of Sale between the Town of Addison and Public Storage of Dallas, Ltd. I would appreciate it if you would have the copies signed by Public Storage and then return the copies to me. I will then forward them to Addison for signature, and once signed will return to you a fully executed copy.

I mentioned that I would send to you copies of the Title Commitments for each of the parcels. However, I am waiting on a revised copy of each Commitment from the Title Company, which I expect to receive today or tomorrow; once I receive it, I will forward a copy to you.

Please give me a call if you have any questions or comments.

Very truly yours,



John M. Hill

JMH/yjr  
Enclosures

cc: Mr. Mike Murphy  
Mr. Ken Dippel

## CONTRACT OF SALE

This Contract of Sale ("Contract") is made and entered into by and between Public Storage of Dallas, Ltd. ("Seller"), a Texas limited partnership, and the Town of Addison, Texas ("Buyer").

### **ARTICLE I** **Defined Terms**

**1.1 Definitions.** As used herein, the following terms shall have the meanings indicated:

**"Closing"** means the consummation of the purchase of the Property by Buyer from Seller in accordance with Article VII.

**"Closing Date"** means the date specified in Section 7.1 on which the Closing is to be held.

**"Deed"** means the Special Warranty Deed executed by Seller in favor of Buyer, substantially in the form attached hereto as Exhibit C.

**"Temporary Construction Easement"** means the Temporary Construction Easement executed by Seller in favor of Buyer, substantially in the form attached hereto as Exhibit D.

**"Easement Area"** means those certain tracts of land described in Exhibit B, attached hereto, which property shall be used temporarily for construction purposes (and identified in the said Exhibit B as Parcel 12-TE and Parcel 13-TE) pursuant to and in accordance with the Temporary Construction Easement. The exact metes and bounds description of the Easement Area shall be determined by the Survey.

**"Effective Date"** means the date on which Buyer and Seller have both fully executed this Contract, including, if appropriate, the initials of the parties on any counter-offers proposed by either party.

**"Permitted Exceptions"** means, with respect to the Property and the Easement Area, all validly existing and presently recorded public utility easements, all exceptions reflected in either the Survey or the Title Commitment (or both) to which Buyer does not timely object under Section 5.3 of this Contract or which are waived or deemed waived by Buyer under Section 5.4, and as otherwise defined herein; provided, however, that notwithstanding the foregoing, or any other term or provision of this Contract to the contrary, Seller agrees that (i) liens, leases, or rental agreements on or affecting the Property and the Easement Area are not Permitted Exceptions, and shall be removed, cured or bonded around by Seller at or prior to Closing to Buyer's satisfaction and at Seller's sole cost and expense and (ii) the requirements of Schedule C of the Title Commitment shall in no event be deemed to have been waived.

**"Property"** means those certain tracts of land situated in the Town of Addison, Dallas County, Texas, described by metes and bounds in Exhibit A attached hereto and incorporated herein (and identified in the said Exhibit A as Parcel 12 and Parcel 13), together with all buildings, facilities, or other structures or improvements, including, without limitation, fixtures, presently situated

thereon and all privileges, rights, easements, hereditaments and other rights appurtenant thereto. The exact metes and bounds description of the Property shall be determined by the Survey.

“**Purchase Price**” means the total consideration to be paid by Buyer to Seller for the purchase of the Property as set forth in Section 3.1.

“**Remaining Property**” means the real property described in Exhibit E save and except the Property.

“**Survey**” means the Survey as described in Section 5.2.

“**Title Company**” means Republic Title of Texas, Inc., 2626 Howell St., 10<sup>th</sup> Floor, Dallas, Texas 75204-4064.

**1.2 Other Defined Terms.** Certain other defined terms shall have the respective meanings assigned to them elsewhere in this Contract.

## **ARTICLE II**

### **Agreement of Purchase and Sale**

**2.1 Agreement.** On the terms and conditions stated in this Contract, Seller hereby sells and agrees to convey the Property and the Easement Area to Buyer, and Buyer, in consideration of the performance of the agreements of Seller contained in this Contract and in reliance on the representations and warranties of Seller contained in this Contract and subject to the conditions precedent contained in this Contract, hereby agrees to purchase the Property and the Easement Area from Seller.

**2.2 Inspection Period.** For a period of 30 days from and after the Effective Date (the “Inspection Period”), Buyer shall have the right to enter upon the Property and to conduct such inspection and review of the Property as Buyer shall determine to be necessary. Buyer agrees to indemnify and hold harmless Seller, its tenants and employees from and against any and all injuries, losses, liens, claims, judgments, liabilities, costs, expenses or damages sustained by or threatened against Seller which result from or arise out of Buyer’s inspection or review of the Property; provided, however, that such indemnity and hold harmless is given by Buyer subject to and without waiving any immunity or any defense to which Buyer, its officials, officers, employees or agents are or may be entitled; and further, the parties hereto agree that such indemnity and hold harmless is subject to, and any payment by Buyer in connection with such indemnity and hold harmless shall not exceed, the monetary limitation of damages (for municipalities) set forth in the Texas Tort Claims Act (Chapter 101, Tex. Civ. Prac. & Rem. Code). In the event the sale of the Property is not consummated, Buyer shall restore, or cause to be restored the Property to as near the condition thereof existing prior to any entry by Buyer, its agents, employees, contractors or representatives, normal wear and tear excepted. In the event the inspection and review of the Property does not meet with Buyer’s approval, in Buyer’s sole discretion, Buyer may at any time within the Inspection Period terminate this Contract by giving written notice to Seller of such election.

## **ARTICLE III**

### **Purchase Price**

**3.1 Purchase Price.** The Purchase Price for the Property and the Easement Area to be paid by Buyer to Seller is One Million Five Hundred Eighty-Three Thousand Two Hundred Ten and No/100 Dollars (\$1,583,210.00). The Purchase Price is payable by Buyer in cash (subject to prorations and other credits provided for in this Contract) at Closing.

**ARTICLE IV**  
**Representations, Warranties and Covenants**

**4.1 Seller's Representations and Warranties.** Seller makes the following representations and warranties:

(a) Seller is a limited partnership duly organized, validly existing and in good standing under the laws of the State of Texas and Seller has the full right, power, and authority to sell and convey the Property and the Easement Area as provided in this Contract and to carry out Seller's obligations hereunder, and all requisite action necessary to authorize Seller to enter into this Contract and to carry out its obligations hereunder has been, or by the Closing will have been, taken;

(b) Seller has not received notice from any governmental or quasi-governmental agency requiring the correction of any condition with respect to the Property or the Easement Area, or any part thereof, by reason of a violation of any federal, state, county or city statute, ordinance, code, rule or regulation or stating that any investigation is being commenced or is contemplated regarding any of the foregoing;

(c) There are no leases, licenses or other agreements or obligations to which Seller is a party or by which Seller, the Property, or the Easement Area is bound which affect or may affect the Property or the Easement Area or the use thereof by the Buyer;

(d) Seller has not itself, and to the best of Seller's knowledge no prior owner or current or prior tenant or other occupant of all or any part of the Property or the Easement Area at any time has used or deposited Hazardous Materials (hereinafter defined) on, from, or affecting the Property or the Easement Area in any manner that violates federal, state, or local laws, ordinances, orders, policies, rules, standards, or regulations (and including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, the Clean Air Act, and all so-called federal, state and local "superfund" and "superlien" statutes) governing or regulating the use, storage, treatment, transportation, generation, or disposal of Hazardous Materials (collectively, the "Environmental Laws") and to the best of Seller's knowledge no Hazardous Materials have been disposed of on the Property or the Easement Area. "Hazardous Materials" shall mean and include those elements or compounds which are contained in the list of Hazardous Substances adopted by the United States Environmental Protection Agency and the list of toxic pollutants designated by Congress or the Environmental Protection Agency, and any flammable substances, explosives, radioactive materials, hazardous waste, toxic substances, pollutants, pollution or related materials regulated under any of the Environmental Laws;

(e) No work has been performed or is in progress at, and no materials have been furnished to, the Property or the Easement Area which, though not presently the subject of, might

give rise to, mechanics', materialmen's or other liens against the Property or the Easement Area or any portion thereof. If any lien for such work is filed before or after Closing hereunder, Seller shall promptly discharge the same.

(f) Neither the Property nor the Easement Area, nor any part of the Property or the Easement Area, is subject to or the subject of any litigation, or other legal or administrative proceeding to which Seller is a named party, and Seller has no actual knowledge of any facts which might result in any such litigation or proceedings and no actual knowledge of any litigation or other legal or administrative proceeding involving the Property or the Easement Area.

**4.2 Buyer's Representations and Warranties.** Buyer has the full right, power, and authority to buy the property as provided in this Contract and to carry out Buyer's obligations hereunder, and all requisite action necessary to authorize Buyer to enter into this Contract and to carry out its obligations hereunder has been, or by the Closing will have been, taken.

**4.3 "AS IS". TO INDUCE SELLER TO ENTER INTO THIS CONTRACT, BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS ARTICLE IV, AND EXCEPT FOR SELLER'S WARRANTY OF TITLE IN SELLER'S SPECIAL WARRANTY DEED AND TEMPORARY CONSTRUCTION EASEMENT, THE PROPERTY AND EASEMENT AREA SHALL BE CONVEYED AND TRANSFERRED TO BUYER "AS IS, WHERE IS, AND WITH ANY AND ALL FAULTS AND PATENT AND LATENT DEFECTS", AND SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS, ANY REPRESENTATION, PROMISE, COVENANT, AGREEMENT, GUARANTY OR WARRANTY OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, AS TO THE QUANTITY, QUALITY, CONDITION, SUITABILITY, HABITABILITY, OR FITNESS OF THE PROPERTY AND EASEMENT AREA FOR ANY PURPOSE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION REGARDING SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, OR ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES, REGULATIONS OR ORDINANCES. BUYER ALSO ACKNOWLEDGES AND AGREES THAT THE PROVISIONS IN THIS CONTRACT FOR BUYER'S INSPECTION AND INVESTIGATION OF THE PROPERTY AND EASEMENT AREA ARE ADEQUATE TO ENABLE BUYER TO MAKE BUYER'S OWN DETERMINATION WITH RESPECT TO THE SUITABILITY OR FITNESS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, AND ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES, REGULATIONS OR ORDINANCES. BUYER ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH ARE AN INTEGRAL PORTION OF THIS CONTRACT AND THAT SELLER WOULD NOT AGREE TO SELL THE PROPERTY AND CONVEY THE EASEMENT AREA TO BUYER FOR THE PURCHASE PRICE WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH. BUYER FURTHER ACKNOWLEDGES THAT BUYER IS NOT IN A DISPARATE BARGAINING POSITION WITH RESPECT TO**



**SELLER. THE PROVISIONS CONTAINED IN THIS PARAGRAPH SHALL SURVIVE THE CLOSING HEREUNDER AND THE DELIVERY FROM SELLER TO BUYER OF THE SPECIAL WARRANTY DEED AND THE TEMPORARY CONSTRUCTION EASEMENT, EACH OF WHICH SHALL CONTAIN APPROPRIATE "AS IS" LANGUAGE SIMILAR TO THE FOREGOING.**

**ARTICLE V**  
**Survey and Title**

**5.1 Title Commitment; Exception Documents.** Within 10 days after the expiration of the Inspection Period, Buyer, at Buyer's expense, shall obtain a commitment for title insurance (the "Title Commitment") for the Property issued by the Title Company, along with copies of the instruments that create or evidence all title exceptions affecting the Property. With regard to the standard printed exceptions and other common exceptions generally included in the Texas form of Commitment for Title Insurance: (i) the exception for restrictive covenants shall be deleted, (ii) the exception for area and boundaries shall be annotated to show that upon receipt by the Title Company of a satisfactory survey and payment of premium by Buyer, the exception will at Closing be limited to "shortages in area", (iii) the exception for ad valorem taxes shall reflect only taxes for the then current year and subsequent years and subsequent taxes and assessments for prior years due to change in land usage or ownership, (iv) there shall be no exception for "visible and apparent easements," for "public or private roads" or the like, and (v) there shall be no exception for rights of parties in possession or rights of tenants under any unrecorded leases or rental agreements.

**5.2 Survey.** Buyer has heretofore obtained a survey of the Property and the Easement Area, a true and correct copy of which has been provided to Seller. Within 20 days after the Effective Date, Buyer may obtain, at its expense and as Buyer deems necessary, a new survey or an updated survey of the Property and the Easement Area (the existing survey or the new or updated survey being referred to as the "Survey"). Such Survey may include thereon such information as the Buyer deems appropriate or necessary.

**5.3 Review of Title Commitment, Survey, and Exception Documents.** Buyer shall have ten (10) days after receipt of the last of the Title Commitment and the Survey (the "Title Review Period") in which to give notice to Seller specifying Buyer's objections to one or more of the Title Commitment, the Survey, and the items or instruments described in Section 5.1 (the "Objections"), if any. All items set forth in the Title Commitment as being required to be released at or prior to Closing, or that are requirements that must be satisfied or the Title Company will refuse to cover them, shall not be Permitted Exceptions, whether or not objected to by Buyer. Seller covenants to cure all matters listed in Schedule C of the Title Commitment so that none will be Permitted Exceptions. None of the exception items described in Section 5.1 above shall be Permitted Exceptions except as described in Section 5.1, whether or not objected to by Buyer. Other items set forth in the Title Commitment which are not objected to by Buyer shall be deemed Permitted Exceptions.

**5.4 Seller's Obligation to Cure; Buyer's Right to Terminate.** If Buyer notifies Seller of Objections, then Seller shall, within ten (10) days thereafter (the "Cure Period"), either satisfy the Objections at Seller's sole cost and expense, or promptly notify Buyer in writing of the Objections that Seller cannot or will not satisfy at Seller's expense. If Seller fails or refuses to

satisfy any Objections within the Cure Period, then Buyer as its sole remedy has the option of either (i) waiving the unsatisfied Objections, or (ii) terminating this Contract in which event Seller and Buyer shall have no further obligations, one to the other, with respect to the subject matter of this Contract. Buyer's written election to terminate this Contract shall be given to Seller no later than five (5) days after expiration of the Cure Period. Buyer's failure to timely send notice of its termination of this Contract will be deemed an election of subsection (i) above.

**5.5 Title Policy.** At the Closing, Buyer, at Buyer's sole cost and expense, shall cause a standard Texas owner's policy of title insurance (the "Title Policy") to be furnished to Buyer. The Title Policy shall be issued by the Title Company in the amount of the Purchase Price, and insuring the Buyer an indefeasible fee simple title to the Property. The Title Policy may contain only the standard printed exceptions (except that (i) the restrictive covenants shall be endorsed "None of Record", and (ii) Buyer, at its expense, may cause the Title Company to delete all portions of the survey exception except "shortages in area") and the Permitted Exceptions.

## **ARTICLE VI**

### **Conditions to Buyer's Obligations**

**6.1 Conditions to Buyer's Obligations.** The obligations of Buyer hereunder to consummate the transaction contemplated hereby are subject to the satisfaction, as of the Closing, of each of the following conditions (any of which may be waived in whole or in part in writing by Buyer at or prior to the Closing):

(a) All representations and warranties of the Seller shall be true on and as of the Closing Date; and

(b) The Property, the Easement Area or any part thereof, shall not have been and shall not be threatened to be materially or adversely affected in any way as a result of litigation, any action by the United States or any other governmental authority, flood or act of God; and

(c) Buyer has received the Title Policy.

## **ARTICLE VII**

### **Closing**

**7.1 Date and Place of Closing.** The Closing shall take place in the offices of the Title Company. The Closing Date shall be 45 days after the expiration of the Cure Period, unless such date is a Saturday, Sunday or legal holiday, in which event the Closing Date shall be the next business day.

**7.2 Items to be Delivered at the Closing.**

(a) **Seller.** At the Closing, Seller shall deliver or cause to be delivered to Buyer, at Seller's sole cost and expense (except as otherwise expressly provided in this Contract), the following items:

(i) The Deed, duly executed and acknowledged by Seller, subject only to the Permitted Exceptions;

(ii) The Temporary Construction Easement, duly executed and acknowledged by Seller;

(iii) An affidavit, in form acceptable to Buyer, in compliance with Section 1445 of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder, stating under penalty of perjury the Seller's United States identification number and that Seller is not a "foreign person" as that term is defined in Section 1445; provided, however, that if Seller fails to deliver this affidavit, Buyer shall be entitled to withhold from the Purchase Price and pay to the Internal Revenue Service the amounts required by Section 1445, and applicable regulations promulgated thereunder;

(iv) A "Bills Paid Affidavit" on the Title Company's standard form verifying that there are no unpaid bills or claims for labor performed or materials furnished to the Property or Easement Area prior to the Closing, and by which Affidavit Seller indemnifies and holds Buyer harmless from any loss, liability, cost or expense (including, without limitation, attorneys' fees and court costs) of Buyer resulting from or incident to claims against the Property or Easement Area for any matter;

(v) Sufficient evidence that the sale of the Property and the execution of the Temporary Construction Easement has been approved in accordance with the terms of Seller's governing documents and that the person executing the Deed, the Temporary Construction Easement and any other closing documents on behalf of Seller is duly authorized by Seller to do so;

(vi) Such other documents as the Title Company may request in order to close this Contract and issue the Title Policy (including, without limitation, such affidavits as the Title Company may reasonably request in order that the Title Policy will not contain exceptions for parties in possession or tenants in possession under unrecorded leases, or to the extent necessary to determine that the Seller is not the same individual as may be identified in any abstracts of judgment, bankruptcy filings, that there are no unpaid debts for work that has been done or materials furnished in connection with the Property and that there are no unrecorded mechanic's or materialmen's liens upon the Property, etc.).

(b) **Buyer.** At the Closing, Buyer shall deliver to Seller:

(i) The Purchase Price; and

(ii) Resolutions of Buyer authorizing this transaction; and

(iii) Such other documents as the Title Company may request in order to close this Contract and issue the Title Policy.

**7.3 Adjustments at Closing.** Seller has and shall assume the obligation to pay property taxes and assessments for the current year 2003 through the Closing Date only.

**7.4 Possession at Closing.** Possession of the Property shall be delivered to Buyer by Seller at the Closing. In connection therewith, Seller shall cause each person (whether an individual or

a business entity) occupying the Property (whether pursuant to a lease or otherwise) to vacate the Property or any part thereof and to remove all personal property therefrom. Possession of the Easement Area shall be provided by Seller to Buyer as set forth in and in accordance with the Temporary Construction Easement.

**7.5 Costs of Closing.** Buyer shall pay all recording fees attributable to the transfer of title to the Property. Buyer and Seller shall split the closing or escrow fees of the Title Company. Each party shall pay its own attorneys' fees and expenses incurred in negotiating, preparing and closing the transaction contemplated herein.

## **ARTICLE VIII** **Defaults and Remedies**

**8.1 Seller's Defaults; Buyer's Remedies.** If Seller defaults under this Contract, Buyer may, as Buyer's sole option, do any one of the following: (i) terminate this Contract by written notice delivered to Seller on or before the Closing Date; or (ii) enforce specific performance of this Contract against Seller requiring Seller to convey the Property and the Temporary Construction Easement to Buyer. Buyer shall also be entitled to pursue condemnation of the Property and the Easement Area.

**8.2 Buyer's Default; Seller's Remedies.** In the event that Buyer should fail to consummate the transaction contemplated herein for any reason, except default by Seller or the nonsatisfaction of any of the conditions to Buyer's obligations, set forth herein, Seller, as its sole and exclusive remedy, may either: (i) terminate this Contract by written notice delivered to Buyer on or before the Closing Date; or (ii) sue Buyer to enforce specific performance of this Contract.

## **ARTICLE IX** **Post-Closing Obligations**

**9.1 Arapaho Road Construction.** The Property and the Easement Area are being purchased and acquired by Buyer for the purpose of the extension of and the construction of improvements to Arapaho Road and for other public purposes (the "Arapaho Road Improvements"). In connection with the construction of the Arapaho Road Improvements:

(a) The Town of Addison shall construct or cause to be constructed a security wall or barrier constructed generally of masonry material (such as stone, brick, concrete, hollow-tile concrete-block, gypsum-block, or other similar building units or materials or a combination of the same) and iron at least eight (8) feet in height (the "wall") to serve as a buffer between the Property and the Remaining Property. The wall (together with a security gate as shown on the attached Exhibit F) shall be constructed in accordance with the standards of the Town of Addison. Such wall shall be constructed on the Remaining Property and adjacent to the Property, and shall generally extend the length of the common boundary between the Property and the Remaining Property. A general description and depiction of the location of the wall is shown on Exhibit F attached hereto and incorporated herein. The elevation and design of the wall shall be submitted by the Town of Addison to the Seller for the Seller's review and reasonable approval prior to construction. As a part of the construction of the wall and upon the completion of construction and the acceptance thereof by the Town of Addison and the Seller, the Town shall obtain from the contractor a maintenance bond covering the faithful maintenance

of the contractor's work for a period of at least one (1) year (the term of such bond being the "maintenance period") following the final completion and acceptance of the wall. During the maintenance period, Buyer shall have the right and an easement (and Seller hereby grants such right and easement) to use as much of the surface of the Remaining Property that is adjacent to the wall as may be reasonably necessary to maintain the wall. Upon the expiration of the maintenance period, Seller, its successors and assigns, shall be responsible for the upkeep, maintenance, and repair of the wall (including, without limitation, any reconstruction or replacement of the wall) and shall keep the wall in a good and safe condition. This obligation of Seller to provide upkeep, maintenance and repair of the wall in a good and safe condition following the expiration of the maintenance bond period shall run with the Remaining Property.

(b) The Town of Addison shall construct or cause to be constructed on the Property a median opening (and attendant curb cuts) to allow motor vehicle access to the Remaining Property for motor vehicles traveling east or west bound on Arapaho Road. A general depiction of the location of the median opening is depicted in attached Exhibit F. Such construction shall be in accordance with the standards of the Town of Addison.

(c) The Town of Addison shall submit for the Seller's review drainage plans which affect the Remaining Property.

(d) The Town of Addison will: (i) remove all metal "clips" from existing concrete pavement after storage structures located within the Easement Area are removed; and (ii) protect existing concrete pavement within the Easement Area and replace any damaged concrete to an equivalent design strength and thickness.

(e) The Town of Addison will provide written notice to Seller of the commencement of construction of the Arapaho Road Improvements on the Property and the Easement Area at least forty-five (45) days prior to such commencement. Upon its receipt of such notice, Seller shall cause each person (whether an individual or a business entity) occupying the Easement Area to vacate the Easement Area and to remove all personal property therefrom at least thirty (30) days prior to the commencement of construction of the Arapaho Road Improvements on the Property and the Easement Area. Upon the request of the Town of Addison, Seller shall confirm to the Town of Addison that the Easement Area has been so vacated and personal property removed. In the event that the Town of Addison determines, upon such commencement of construction, that the Easement Area has not been so vacated or such personal property removed, the Town of Addison may, at Seller's sole cost and expense, cause the Easement Area to be vacated and such personal property to be removed, and either dispose of such property or deliver such property to Seller by depositing the same on the Remaining Property; and Seller shall defend, indemnify and hold harmless the Town of Addison, its officials, officers, employees, agents and contractors from and against any and all claims, actions, or judgments in connection therewith.

(f) Between the date of Closing and the termination of the Temporary Construction Easement, Seller shall not release and not allow or permit the release of Hazardous Materials of any kind in, under, or above the improvements on the Easement Area or into or onto the surface water, ground water, soil or subsurface of the Easement Area.

## ARTICLE X

## Miscellaneous

**10.1 Notices.** All notices, demands, requests, and other communications required or permitted hereunder shall be in writing, and shall be deemed to be given (unless otherwise specified herein), upon the earlier to occur of (a) actual receipt, and (b) the deposit of both the original and the copy, as provided below, in a regularly maintained receptacle for the United States mail, registered or certified, return receipt requested, postage prepaid, addressed as follows:

**Seller:**

Public Storage of Dallas, Ltd.  
c/o Watson & Taylor Management Company  
4015 Belt Line Road  
Addison, TX 75001-4383

**With a copy to:**

William M. Blackburn  
9400 North Central Expressway  
Suite 1616  
Dallas, Texas 75231

**Buyer:**

The Town of Addison  
5300 Belt Line Road  
Dallas, Texas 75240-7606  
Attn: Ron Whitehead, City Manager

**With a copy to:**

John M. Hill  
Cowles & Thompson, P.C.  
901 Main Street, Suite 4000  
Dallas, Texas 75202

**10.2 Brokers.** Seller and Buyer represent one to the other that no brokers have been retained in connection with the transaction contemplated herein and that there are no commissions payable to any broker in connection with this transaction. Seller and Buyer both agree to indemnify each other from any loss, liability, damage, cost, or expense (including reasonable attorney's fees) resulting from a breach of the foregoing representation.

**10.3 Governing Law.** This Contract is being executed and delivered, and is intended to be performed in the State of Texas and the laws of Texas govern the validity, construction, enforcement, and interpretation of this Contract, unless otherwise specified herein.

**10.4 Entirety and Amendments.** This Contract embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, relating to the Property.

and may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

**10.5 Parties Bound.** This Contract is binding upon and inures to the benefit of Seller and Buyer, and their respective heirs, personal representatives, successors, and permitted assigns.

**10.6 Further Acts.** In addition to the acts and deeds recited in this Contract and contemplated to be performed, executed, and/or delivered by Seller to Buyer, Seller and Buyer agree to perform, execute, and/or deliver or cause to be performed, executed, and/or delivered at the Closing or after the Closing any and all further acts, deeds, and assurances as are reasonably necessary to consummate the transaction contemplated hereby.

**10.7 Assignment.** Neither Seller nor Buyer shall have the power or right to assign, transfer, pledge, or otherwise convey this Contract without the prior written consent of the other party hereto; any such assignment, transfer, pledge, or other conveyance without such prior written consent shall be null and void.

**10.8 Survival.** Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the Closing or expiration of this Agreement shall survive termination or expiration. All warranties, representations, disclaimers and agreements contained herein shall survive the Closing hereof.

**10.9 Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**10.10 Counterpart Execution.** This Contract may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument. Either party may execute and deliver this Contract by telephone facsimile transmission, and the receiving party shall be entitled to rely fully thereon as an original.

**10.11 Maintenance of the Property and Easement Area.** Between the Effective Date and the Closing, Seller shall:

(a) Maintain the Property and the Easement Area in good repair, reasonable wear and tear accepted, except that in the event of a fire or other casualty, damage or loss, Seller shall have no duty to repair said damage other than as provided in this Contract;

(b) Advise Buyer promptly of any litigation, arbitration or administrative hearing concerning or affecting the Property of which Seller has knowledge or notice;

(c) Immediately notify Buyer of any material injury or damage to the Property or any portion thereof;

(d) Not, without the prior written consent of the Buyer, create, place or permit to be created or placed, or through any act or failure to act, acquiesce in the placing of, or allow to remain, any deed of trust, mortgage, voluntary or involuntary lien, whether statutory, constitutional or contractual (except for the lien for ad valorem taxes on the property which are not delinquent) security interest, encumbrance or charge, or conditional sale or other title

retention document, and should any of the foregoing become attached hereafter in any manner to any part of the Property or Easement Area without the prior written consent of Buyer, Seller shall cause the same to be promptly discharged and released; and

(f) Not release and not allow or permit the release of Hazardous Materials of any kind in, under, or above the improvements on the Property and Easement Area or into or onto the surface water, ground water, soil or subsurface of the Property and the Easement Area.

**10.12 Saturday, Sunday or Legal Holiday.** If any date set forth in this Contract for the performance of any obligation by Buyer or Seller or for the delivery of any instrument or notice should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday.

**10.13 Time.** Time is of the essence in all matters pertaining to the performance of this Contract.

**Dated Effective:** \_\_\_\_\_, 2003

**SELLER:**

**PUBLIC STORAGE OF DALLAS, LTD.**

By: Watson & Taylor Management, Inc., a  
Texas corporation, its sole general partner

By: \_\_\_\_\_  
A. Starke Taylor III, President  
Watson & Taylor Management, Inc.

**Dated Effective:** \_\_\_\_\_, 2003

**BUYER:**

**TOWN OF ADDISON, TEXAS**

By: \_\_\_\_\_  
Ron Whitehead, City Manager



**EXHIBIT A**  
**TO CONTRACT OF SALE**

Parcel 12  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 1.0855 acre (47,282 square foot) tract of land situated in the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of the Deed Records of Dallas County, Texas, said called 4.081 acre tract being all of Lot 3, of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records, said 1.0855 acre tract of land being more particularly described by metes and bounds as follows;

**BEGINNING** at a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corner of said called 4.081 acre tract and Northwest corner of a called 1.103 acre tract of land conveyed to Bullough/Lykos Office Building No. 1, L.P. on June 11, 1998 and recorded in Volume 98115, Page 03999 of said Deed Records, said called 1.103 acre tract being all of "Lot 5, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated February 7, 1979 and recorded in Volume 79053, Page 0620 of said Deed Records;

THENCE, SOUTH 00°06'08" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 4.081 acre tract and West line of said called 1.103 acre tract, a distance of 78.95 feet to a 5/8 inch iron rod set in the proposed South right of way line of Arapaho Road;

PARCEL 12 - ARAPAHO ROAD PROJECT

THENCE, NORTH 89°58'49" WEST, departing said common line and along the proposed South right of way line of Arapaho Road, a distance of 180.61 feet to a 5/8 inch iron rod set for the point of curvature of a tangent curve to the left;

THENCE, SOUTHWESTERLY, continuing along said line and along the arc of said curve to the left having a radius of 818.00 feet, a central angle of 23°27'04", a chord bearing South 78°17'39" West a distance of 332.48, for an arc distance of 334.81 feet to a point in the common West line of said called 4.081 acre tract and East line of a called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of said Deed Records, said called 137,968 square foot tract being all of Lot 1, of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records;

THENCE, NORTH 00°33'49" WEST (called North 00°26'30" East), departing said line and along the common West line of said called 4.081 acre tract and East line of said called 137,968 square foot tract, a distance of 146.53 feet to a 5/8 inch iron rod set in the proposed North right of way line of Arapaho Road and the South right of way line of said DART railroad, said point being the common Northwest corner of said called 4.081 acre tract and Northeast corner of said called 137,968 square foot tract;

THENCE, SOUTH 89°58'49" EAST (called EAST), departing said common line and along the common North line of said called 4.081 acre tract, proposed North right of way line of Arapaho Road, and South right of way of said DART railroad, a distance of 507.75 feet (called 507.71 feet) to the **POINT OF BEGINNING**;

CONTAINING an area of 1.0855 acres or 47,282 square feet of land within the metes recited.

PARCEL 12 - ARAPAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Ayub R. Sandhu 11-12-99

Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910

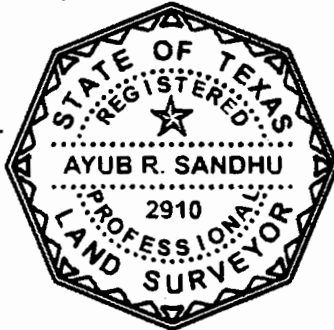


EXHIBIT "B"

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 91008, PG. 1390  
D.R.D.C.T.

DAVID MYERS SURVEY  
A-923



ALLED 137,988 SQ. FT.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
JUNE 13, 1978  
VOL. 78115, PG. 3018  
D.R.D.C.T.

LOT 1  
WATSON AND TAYLOR  
SUBDIVISION NO. 1  
MARCH 31, 1978  
VOL. 78082, PG. 889  
D.R.D.C.T.

(CALLED NORTH 30° E)  
N 00°33'49" W - 146.53'

(CALLED EAST)  
S 89°58'49" E - 507.75'

P.O.B.

FND. 1/2" IRON ROD

30' WATER EASEMENT

(CALLED SOUTHWEST)  
S 00°06'06" W - 78.95'

PROPOSED ARAPAHO ROAD

50' DRAINAGE CHANNEL  
EASEMENT

N 89°58'49" W - 180.81'

CALLED 1.103 AC.  
BULLOUGH/LYKOS OFFICE  
BUILDING NO. 1, L.P.  
JUNE 11, 1998  
VOL. 98115, PG. 03999  
D.R.D.C.T.

LOT 3  
WATSON AND TAYLOR  
SUBDIVISION NO. 2  
SEPTEMBER 12, 1979  
VOL. 79180, PG. 0888  
D.R.D.C.T.

CALLED 4.081 AC.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
OCTOBER 3, 1979  
VOL. 79196, PG. 3188  
D.R.D.C.T.

LOT 5  
SURVEYOR ADDITION,  
ADDISON WEST  
INDUSTRIAL PARK  
FEBRUARY 7, 1979  
VOL. 79053, PG. 0620  
D.R.D.C.T.

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	23°27'04"	818.00'	334.81'	S 78°17'39" W - 332.48'

NOTES:

ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED:  
HEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT  
PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

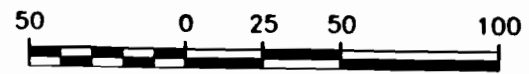
ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY  
LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO  
THE FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN  
VOL. 77173, PAGE 135, D.R.D.C.T.

A LEGAL DESCRIPTION OF EVEN SURVEY DATE HERE WITH  
ACCOMPANIES THIS PLAT.

- DENOTES A FOUND POINT AS INDICATED
- DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



PARCEL 12  
A PLAT OF A  
1.0855 ACRE (47,282 SQ. FT.)  
TRACT OF LAND  
IN THE DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS



GRAPHIC SCALE  
1 INCH = 50 FT

Parcel 13  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 1.0955 acre (47,722 square foot) tract of land situated in the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of the Deed Records of Dallas County, Texas, said called 137,968 square foot tract being all of Lot 1, of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records, said 1.0955 acre tract of land being more particularly described by metes and bounds as follows;

**BEGINNING** at a 5/8 inch iron rod set in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corner of said called 137,968 square foot tract and Northwest corner of a called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of said Deed Records, said called 4.081 acre tract being all of Lot 3, of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records;

THENCE, SOUTH 00°33'49" EAST (called South 00°26'30" East), departing said lines and along the common East line of said called 137,968 square foot tract and West line of said called 4.081 acre tract, a distance of 146.53 feet to a point in a curve of the proposed South right of way line of Arapaho Road;

THENCE, departing said common line and along the proposed South right of way line of Arapaho Road the following courses and distances;

PARCEL 13 - ARAPAHO ROAD PROJECT

SOUTHWESTERLY, along the arc of a non-tangent curve to the left having a radius of 818.00 feet, a central angle of  $7^{\circ}15'29''$ , a chord bearing South  $62^{\circ}56'22''$  West a distance of 103.55 feet, for an arc distance of 103.62 feet to the point of tangency of said curve;

SOUTH  $53^{\circ}39'46''$  WEST, a distance of 130.54 feet to an "X" in concrete set for an angle point;

SOUTH  $56^{\circ}50'32''$  WEST, a distance of 31.95 feet to a point in the common West line of said called 137,968 square foot tract and East line of a called 2.20 acre tract of land conveyed to the City of Addison on June 28, 1977 and recorded in Volume 77135, Page 1581 of said Deed Records;

THENCE, NORTH  $00^{\circ}27'52''$  WEST (called North  $00^{\circ}26'30''$  West), departing said line and along the common West line of said called 137,968 square foot tract and East line of said called 2.20 acre tract, a distance of 288.54 feet to a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of said DART railroad, said point being the common Northwest corner of said called 137,968 square foot tract and Northeast corner of said called 2.20 acre tract;

THENCE, SOUTH  $89^{\circ}58'49''$  EAST (called EAST), departing said common line and along the common North line of said called 137,968 square foot tract, proposed North right of way line of Arapaho Road, and South right of way line of said DART railroad, a distance of 225.02 feet (called 225 feet) to the **POINT OF BEGINNING**;

CONTAINING an area of 1.0955 acres or 47,722 square feet of land within the metes recited.

PARCEL 13 - ARAPAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

*Ayub R. Sandhu 11-12-99*

Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910

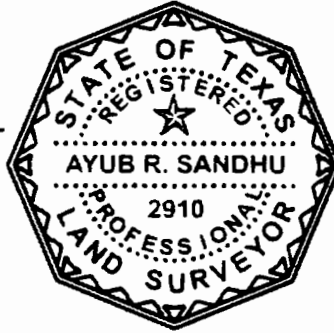




EXHIBIT "B"

(CALLED EAST)  
S 89°58'49" E - 225.02'

P.O.B.

DAVID MYERS SURVEY  
A-923

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 81008, PG. 1390  
D.R.D.C.T.

CALLLED 2.20 AC.  
CITY OF ADDISON  
JUNE 28, 1977  
VOL. 77135, PG. 1581  
D.R.D.C.T.

(CALLED 100' R.O.W.)  
N 00°27'52" W - 288.54'

50' DRAINAGE CHANNEL  
EASEMENT

PROPOSED ARAPAHO ROAD

(CALLED 100' R.O.W.)  
S 00°33'49" E - 146.53'

LOT 1  
WATSON AND TAYLOR  
SUBDIVISION  
MARCH 31, 1978  
VOL. 78082, PG. 889  
D.R.D.C.T.

LOT 3  
WATSON AND TAYLOR  
SUBDIVISION NO. 2  
SEPTEMBER 12, 1979  
VOL. 79180, PG. 0888  
D.R.D.C.T.

CALLLED 4.081 AC.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
OCTOBER 3, 1979  
VOL. 79196, PG. 3188  
D.R.D.C.T.

CALLLED 137,988 SQ. FT.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
JUNE 13, 1978  
VOL. 78115, PG. 3018  
D.R.D.C.T.

PARCEL 13  
A PLAT OF A  
1.0955 ACRE (47,722 SQ. FT.)  
TRACT OF LAND  
IN THE DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS

LINE TABLE		
LINE	BEARING	DIST
L1	S 58°50'32" W	31.95'

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	07°15'29"	818.00'	103.82'	S 62°56'22" W - 103.55'

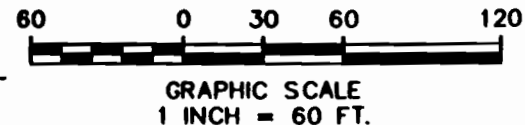
NOTES:

ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED  
HEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT  
PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY  
LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO  
THE FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN  
VOL. 77173, PAGE 135, D.R.D.C.T.

A LEGAL DESCRIPTION OF EVEN SURVEY DATE HERewith  
ACCOMPANIES THIS PLAT.

- DENOTES A FOUND POINT AS INDICATED
  - DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



**EXHIBIT B**  
**TO CONTRACT OF SALE**

Parcel 12-TE  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 0.5291 acre (23,049 square foot) tract of land situated in the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of the Deed Records of Dallas County, Texas, said called 4.081 acre tract being all of Lot 3, of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records, said 0.5291 acre tract of land being more particularly described by metes and bounds as follows;

**COMMENCING** at the common Northeast corner of said called 4.081 acre tract and Northwest corner of a called 1.103 acre tract of land conveyed to Bullough/Lykos Office Building No. 1, L.P. on June 11, 1998 and recorded in Volume 98115, Page 03999 of said Deed Records, said called 1.103 acre tract being all of "Lot 5, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated February 7, 1979 and recorded in Volume 79053, Page 0620 of said Deed Records said corner being in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records;

THENCE, SOUTH 00°06'08" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 4.081 acre tract and West line of said called 1.103 acre tract, a distance of 78.95 feet to a point in the proposed South right of way line of Arapaho Road for the Northeast corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, SOUTH 00°06'08" WEST continuing along said common line, a distance of 40.00' to the most Easterly Southeast corner of the herein described tract;

PARCEL 12-TE - ARAPAHO ROAD PROJECT

THENCE, NORTH 89°58'49" WEST, departing said common line, a distance of 180.55 feet to the point of curvature of a tangent curve to the left;

THENCE, SOUTHWESTERLY, along the arc of said curve to the left having a radius of 778.00 feet, a central angle of 15°58'34", a chord bearing South 82°01'54" West a distance of 216.23 feet, for an arc distance of 216.93 feet to an angle point;

THENCE SOUTH 89°51'04" WEST, a distance of 57.80 feet to a point for corner;

THENCE, SOUTH 00°24'42" EAST, a distance of 18.80 feet to the point of curvature of a non-tangent curve to the left;

THENCE, SOUTHWESTERLY, along the arc of said curve to the left having a radius of 778.00 feet, a central angle of 01°56'00", a chord bearing South 68°36'19" West a distance of 26.25 feet, for an arc distance of 26.25 feet to an angle point;

THENCE SOUTH 00°05'59" WEST, a distance of 109.96 feet to the most Southerly Southeast corner of the herein described tract;

THENCE SOUTH 89°26'35" WEST, a distance of 27.71 feet to the southwest corner of the herein described tract and being in the common West line of said called 4.081 acre tract and East line of a called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of said Deed Records, said called 137,968 square foot tract being all of Lot 1, of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records;

THENCE, NORTH 00°33'49" WEST (called North 00°26'30" West), along said common line, a distance of 141.29 feet to a point in said proposed South right of way line of Arapaho Road, being in a non-tangent curve to the right;

THENCE, NORTHEASTERLY, departing said common line, along said proposed South right of way line of Arapaho Road and the arc of said curve to the right having a radius of 818.00 feet, a central angle of 23°27'04", a chord bearing North 78°17'39" East a distance of 332.48, for an arc distance of 334.81 feet;

PARCEL 12-TE - ARAPAHO ROAD PROJECT

THENCE, SOUTH 89°58'49" EAST, continuing along said proposed South right of way line, a distance of 180.61 feet to the POINT OF BEGINNING;

CONTAINING an area of 0.5291 acres or 23,049 square feet of land within the metes recited.

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Ayub R. Sandhu 10-31-02

Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910

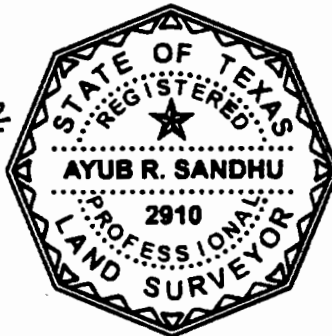
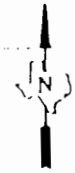


EXHIBIT "B"

P.O.C.



DAVID MYERS SURVEY  
A-923

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 91008, PG. 1390  
D.R.D.C.T.

PROPOSED ARAPAHO ROAD

30' WATER EASEMENT

50' DRAINAGE CHANNEL  
EASEMENT

(CALLED S00'06"08" W  
78.95')

S 89°58'49" E - 180.61'

P.O.B.

CALLLED 1.103 AC.  
BULLOUGH/LYKOS OFFICE  
BUILDING NO. 1, L.P.  
JUNE 11, 1998  
VOL. 98115, PG. 03999  
D.R.D.C.T.

LOT 5  
SURVEYOR ADDITION,  
ADDISON WEST  
INDUSTRIAL PARK  
FEBRUARY 7, 1979  
VOL. 79053, PG. 0620  
D.R.D.C.T.

(CALLED S00'06"08" W  
40.00')

N 89°58'49" W - 180.55'

CALLLED 4.081 AC.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
OCTOBER 3, 1979  
VOL. 79196, PG. 3188  
D.R.D.C.T.

LOT 3  
WATSON AND TAYLOR  
SUBDIVISION NO. 2  
SEPTEMBER 12, 1979  
VOL. 79180, PG. 0888  
D.R.D.C.T.

S 00°24'42" E  
18.80'

57.80'  
S 89°51'04" W

109.96'

S 89°26'35" W  
27.71'

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	15°58'34"	778.00'	216.93'	S 82°01'54" W - 216.23'
C2	01°58'00"	778.00'	26.25'	S 68°36'19" W - 26.25'
C3	23°27'04"	818.00'	334.81'	N 78°17'39" E - 332.48'

NOTES:

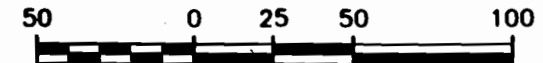
ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED  
HEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT  
PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY  
LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO  
THE FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN  
VOL. 77173, PAGE 135, D.R.D.C.T.

A LEGAL DESCRIPTION OF EVEN SURVEY DATE HERE WITH  
ACCOMPANIES THIS PLAT.



PARCEL 12-TE  
A PLAT OF A  
0.5291 ACRE (23,049 SQ. FT.)  
TRACT OF LAND  
IN THE DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS



GRAPHIC SCALE  
1 INCH = 50 FT.

CALLLED 137,968 SQ. FT.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
JUNE 13, 1978  
VOL. 78115, PG. 3018  
D.R.D.C.T.

LOT 1  
WATSON AND TAYLOR  
SUBDIVISION NO. 1  
MARCH 31, 1978  
VOL. 78082, PG. 889  
D.R.D.C.T.

(CALLED N00°33'48" W - 141.29')

- DENOTES A FOUND POINT AS INDICATED
- DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE

Parcel 13-TE  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 0.4361 acre (18,995 square foot) tract of land situated in the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of the Deed Records of Dallas County, Texas, said called 137,968 square foot tract being all of Lot 1, of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records, said 0.4361 acre tract of land being more particularly described by metes and bounds as follows;

**COMMENCING** at a point being the common Northeast corner of said called 137,968 square foot tract and Northwest corner of a called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of said Deed Records, said called 4.081 acre tract being all of Lot 3, of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records;

THENCE, SOUTH 00°33'49" EAST (called South 00°26'30" East), along the common East line of said called 137,968 square foot tract and West line of said called 4.081 acre tract, a distance of 146.53 feet to a point in the proposed South right of way line of Arapaho Road for the Northeast corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, SOUTH 00°33'49" EAST (called South 00°26'30" East), continuing along said common line, a distance of 141.29 feet to the Southeast corner of the herein described tract;

THENCE, SOUTH 89°26'35" WEST, a distance of 156.19 feet to an angle point;

THENCE, SOUTH 53°39'46" WEST, a distance of 19.61 feet to an angle point;

THENCE, SOUTH 89°39'59" WEST, a distance of 3.80 feet to an angle point;

PARCEL 13-TE - ARAPAHO ROAD PROJECT

THENCE, SOUTH 00°18'38" EAST, a distance of 2.77 feet to an angle point;

THENCE, SOUTH 56°50'32" WEST, a distance of 58.96 feet to the Southwest corner of the herein described tract, said corner being in the common West line of said called 137,968 square foot tract and East line of a called 2.20 acre tract of land conveyed to the City of Addison on June 28, 1977 and recorded in Volume 77135, Page 1581 of said Deed Records;

THENCE, NORTH 00°27'52" WEST (called North 00°26'30" West), along said common line, a distance of 47.53 feet to a point in said proposed South right of way line of Arapaho Road;

THENCE, NORTH 56°50'32" EAST, a distance of 31.95 feet to a point'

THENCE, NORTH 53°39'46" EAST, a distance of 130.54 feet to a non-tangent curve to the right;

THENCE, NORTHEASTERLY, along the arc of said curve to the right having a radius of 818.00 feet, a central angle of 07°15'29", a chord bearing North 62°56'22" East a distance of 103.55 feet, for an arc distance of 103.62 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 0.4361 acres or 18,995 square feet of land within the metes recited.



PARCEL 13-TE - ARAPAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Ayub R. Sandhu 10-31-02  
Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910

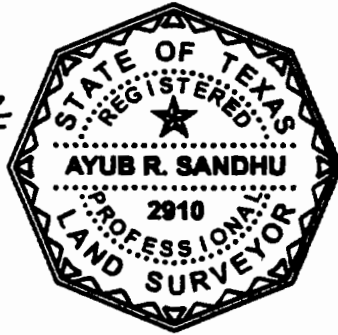


EXHIBIT "B"

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 91008, PG. 1390  
D.R.D.C.T.

CALLED 2.20 AC.  
CITY OF ADDISON  
JUNE 28, 1977  
VOL. 77135, PG. 1581  
D.R.D.C.T.

DAVID MYERS SURVEY  
A-923

CALLED 137,988 SQ. FT.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
JUNE 13, 1978  
VOL. 78115, PG. 3018  
D.R.D.C.T.

LOT 1  
WATSON AND TAYLOR  
SUBDIVISION  
MARCH 31, 1978  
VOL. 78082, PG. 889  
D.R.D.C.T.

LOT 3  
WATSON AND TAYLOR  
SUBDIVISION NO. 2  
SEPTEMBER 12, 1979  
VOL. 79180, PG. 0888  
D.R.D.C.T.

CALLED 4.061 AC.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
OCTOBER 3, 1979  
VOL. 79196, PG. 3188  
D.R.D.C.T.

PARCEL 13-TE  
A PLAT OF A  
0.4361 ACRE (18,995 SQ. FT.)  
TRACT OF LAND  
IN THE DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS

LINE TABLE		
LINE	BEARING	DIST
L1	S 53°39'46" W	19.81'
L2	S 89°39'59" W	3.80'
L3	S 00°18'38" E	2.77'
L4	S 56°50'32" W	58.98'
L5	N 56°50'32" E	31.85'

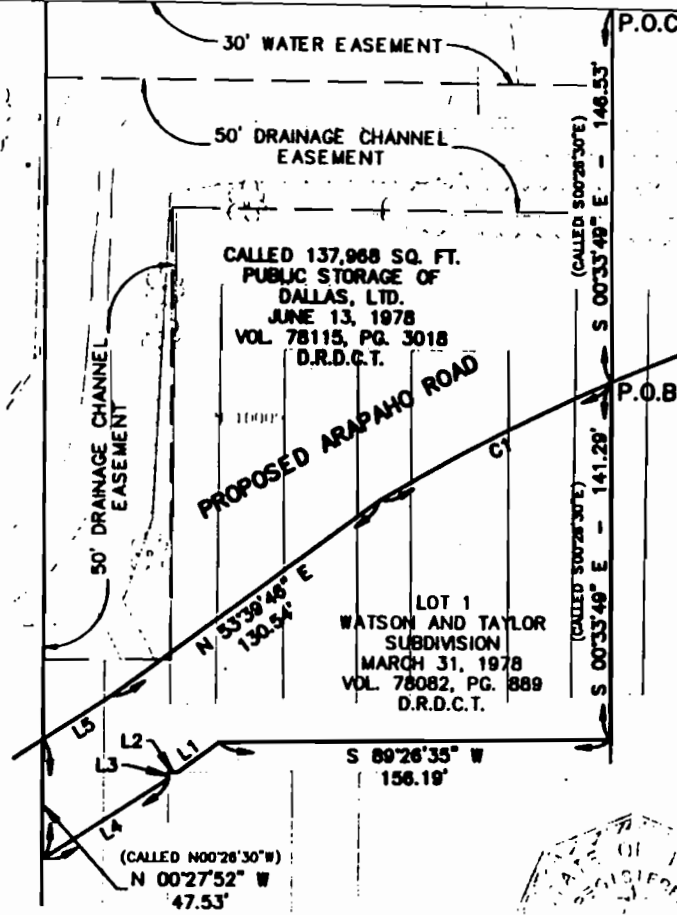
CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	07°15'29"	818.00'	103.62'	N 62°56'22" E - 103.55'

NOTES:

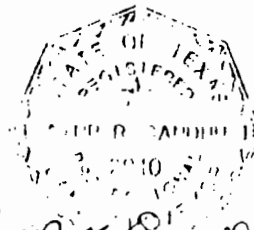
ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED HEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO THE FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN VOL. 77173, PAGE 135, D.R.D.C.T.

A LEGAL DESCRIPTION OF EVEN SURVEY DATE HEREWITH ACCOMPANIES THIS PLAT.



- DENOTES A FOUND POINT AS INDICATED
  - DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



GRAPHIC SCALE  
1 INCH = 60 FT.

**EXHIBIT C**  
**TO CONTRACT OF SALE**

SPECIAL WARRANTY DEED

STATE OF TEXAS            )  
  )  
COUNTY OF DALLAS        )        KNOW ALL MEN BY THESE PRESENTS:

THAT **Public Storage of Dallas, Ltd.**, a Texas limited partnership with offices at 4015 Belt Line Road, Addison, TX 75001-4383 ("Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration to the undersigned paid by the **Town of Addison, Texas**, a Texas municipal corporation ("Grantee"), whose address is 5300 Belt Line Road, Dallas, TX 75240-7606, the adequacy and receipt of which are hereby acknowledged, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto Grantee, all of the real property in Dallas County, Texas, described in the attached Exhibit A, (the "Property"), together with all and singular the rights and appurtenances thereto in anywise belonging, subject only to the exceptions and encumbrances described in the attached Exhibit B (the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee and Grantee's successors and assigns forever; and Grantor does hereby bind itself and its successors to WARRANT AND FOREVER DEFEND, all and singular, the Property unto Grantee, and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Property or any part thereof, when the claim is by, through, or under Grantor, but not otherwise, except as to the Permitted Exceptions.

**PROVIDED, HOWEVER, THAT THE PROPERTY IS CONVEYED AND TRANSFERRED TO GRANTEE "AS IS, WHERE IS, AND WITH ALL FAULTS AND PATENT AND LATENT DEFECTS", AND, EXCEPT AS EXPRESSLY OTHERWISE SET FORTH IN ARTICLE IV, SECTION 4.1, OF THAT CONTRACT OF SALE DATED \_\_\_\_\_ BETWEEN GRANTOR AND GRANTEE (A TRUE AND CORRECT COPY OF WHICH SECTION IS ATTACHED HERETO AS EXHIBIT C), GRANTOR HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS, ANY REPRESENTATION, PROMISE, COVENANT, AGREEMENT, GUARANTY OR WARRANTY OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, AS TO THE QUANTITY, QUALITY, CONDITION, SUITABILITY, HABITABILITY, OR FITNESS OF THE PROPERTY FOR ANY PURPOSE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION REGARDING SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, OR ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES, REGULATIONS OR ORDINANCES. GRANTEE ALSO ACKNOWLEDGES AND AGREES THAT GRANTEE'S INSPECTION AND INVESTIGATION OF THE PROPERTY HAVE BEEN ADEQUATE TO ENABLE GRANTEE TO MAKE GRANTEE'S OWN DETERMINATION WITH RESPECT TO THE SUITABILITY OR FITNESS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, AND ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES, REGULATIONS OR ORDINANCES. GRANTEE**

**ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH ARE AN INTEGRAL PORTION OF THIS DEED AND THAT GRANTOR WOULD NOT AGREE TO SELL THE PROPERTY TO GRANTEE FOR THE PURCHASE PRICE WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH. GRANTEE FURTHER ACKNOWLEDGES THAT GRANTEE IS NOT IN A DISPARATE BARGAINING POSITION WITH RESPECT TO GRANTOR.**

Seller has and assumes the obligation to pay property taxes and assessments for the Property for current year 2003 through the Closing Date of the Contract of Sale dated January \_\_, 2003 between Grantor and Grantee.

EXECUTED this \_\_ day of \_\_\_\_\_, 200\_\_.

**GRANTOR:**

**Public Storage of Dallas, Ltd,**  
a Texas limited partnership

By: Watson & Taylor Management, Inc., a  
Texas corporation, its sole General Partner

BY: \_\_\_\_\_  
A. Starke Taylor III,  
President

STATE OF Texas    )  
                              )  
COUNTY OF Dallas )

This instrument was acknowledged before me on this \_\_ day of \_\_\_\_\_, 20\_\_, by A. Starke Taylor III, President of Watson & Taylor Management, Inc., a Texas corporation, on behalf of said corporation, and the corporation acknowledged this instrument as sole general partner of Public Storage of Dallas, Ltd., a Texas limited partnership, on behalf of said limited partnership.

My Commission Expires:

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

\_\_\_\_\_  
Typed or Printed Name of  
Notary

EXHIBIT A  
TO SPECIAL WARRANTY DEED

Parcel 12  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 1.0855 acre (47,282 square foot) tract of land situated in the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of the Deed Records of Dallas County, Texas, said called 4.081 acre tract being all of Lot 3, of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records, said 1.0855 acre tract of land being more particularly described by metes and bounds as follows;

**BEGINNING** at a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corner of said called 4.081 acre tract and Northwest corner of a called 1.103 acre tract of land conveyed to Bullough/Lykos Office Building No. 1, L.P. on June 11, 1998 and recorded in Volume 98115, Page 03999 of said Deed Records, said called 1.103 acre tract being all of "Lot 5, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated February 7, 1979 and recorded in Volume 79053, Page 0620 of said Deed Records;

THENCE, SOUTH 00°06'08" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 4.081 acre tract and West line of said called 1.103 acre tract, a distance of 78.95 feet to a 5/8 inch iron rod set in the proposed South right of way line of Arapaho Road;

PARCEL 12 - ARAPAHO ROAD PROJECT

THENCE, NORTH 89°58'49" WEST, departing said common line and along the proposed South right of way line of Arapaho Road, a distance of 180.61 feet to a 5/8 inch iron rod set for the point of curvature of a tangent curve to the left;

THENCE, SOUTHWESTERLY, continuing along said line and along the arc of said curve to the left having a radius of 818.00 feet, a central angle of 23°27'04", a chord bearing South 78°17'39" West a distance of 332.48, for an arc distance of 334.81 feet to a point in the common West line of said called 4.081 acre tract and East line of a called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of said Deed Records, said called 137,968 square foot tract being all of Lot 1, of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records;

THENCE, NORTH 00°33'49" WEST (called North 00°26'30" East), departing said line and along the common West line of said called 4.081 acre tract and East line of said called 137,968 square foot tract, a distance of 146.53 feet to a 5/8 inch iron rod set in the proposed North right of way line of Arapaho Road and the South right of way line of said DART railroad, said point being the common Northwest corner of said called 4.081 acre tract and Northeast corner of said called 137,968 square foot tract;

THENCE, SOUTH 89°58'49" EAST (called EAST), departing said common line and along the common North line of said called 4.081 acre tract, proposed North right of way line of Arapaho Road, and South right of way of said DART railroad, a distance of 507.75 feet (called 507.71 feet) to the **POINT OF BEGINNING**;

CONTAINING an area of 1.0855 acres or 47,282 square feet of land within the metes recited.



PARCEL 12 - ARAPAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Ayub R. Sandhu 11-12-99  
Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910

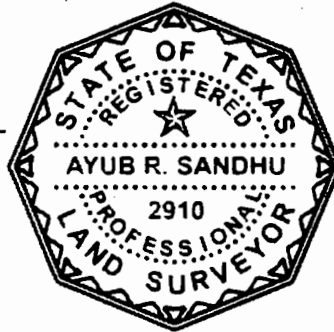


EXHIBIT "B"

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 91008, PG. 1390  
D.R.D.C.T.

DAVID MYERS SURVEY  
A-923



ALLED 137,968 SQ. FT.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
JUNE 13, 1978  
VOL. 78115, PG. 3018  
D.R.D.C.T.  
  
LOT 1  
WATSON AND TAYLOR  
SUBDIVISION NO. 1  
MARCH 31, 1978  
VOL. 78082, PG. 889  
D.R.D.C.T.

(CALLED NORTH 30'E)  
N 00°33'49" W - 146.53'

(CALLED EAST)  
S 89°58'49" E - 507.75'

P.O.B.

FND. 1/2" IRON ROD

30' WATER EASEMENT

50' DRAINAGE CHANNEL  
EASEMENT

PROPOSED ARAPAHO ROAD

(CALLED SOUTH 05' W)  
S 00°06'08" W  
78.95'

N 89°58'49" W - 180.61'

C1

LOT 3  
WATSON AND TAYLOR  
SUBDIVISION NO. 2  
SEPTEMBER 12, 1979  
VOL. 79180, PG. 0888  
D.R.D.C.T.

CALLED 4.061 AC.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
OCTOBER 3, 1979  
VOL. 79186, PG. 3188  
D.R.D.C.T.

CALLED 1.103 AC.  
BULLOUGH/LYKOS OFFICE  
BUILDING NO. 1, L.P.  
JUNE 11, 1998  
VOL. 98115, PG. 03999  
D.R.D.C.T.

LOT 5  
SURVEYOR ADDITION,  
ADDISON WEST  
INDUSTRIAL PARK  
FEBRUARY 7, 1979  
VOL. 79053, PG. 0620  
D.R.D.C.T.

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	23°27'04"	818.00'	334.81'	S 78°17'39" W - 332.48'

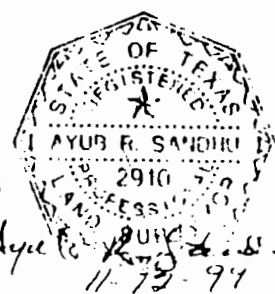
NOTES:

ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED:  
HEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT  
PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

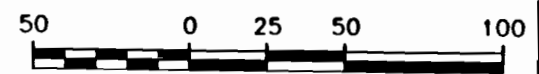
ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY  
LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO  
THE FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN  
VOL. 77173, PAGE 135, D.R.D.C.T.

A LEGAL DESCRIPTION OF EVEN SURVEY DATE HEREWITH  
ACCOMPANIES THIS PLAT.

- DENOTES A FOUND POINT AS INDICATED
- DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



PARCEL 12  
A PLAT OF A  
1.0855 ACRE (47,282 SQ. FT.)  
TRACT OF LAND  
IN THE DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS



GRAPHIC SCALE  
1 INCH = 50 FT

Parcel 13  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 1.0955 acre (47,722 square foot) tract of land situated in the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of the Deed Records of Dallas County, Texas, said called 137,968 square foot tract being all of Lot 1, of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records, said 1.0955 acre tract of land being more particularly described by metes and bounds as follows;

**BEGINNING** at a 5/8 inch iron rod set in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corner of said called 137,968 square foot tract and Northwest corner of a called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of said Deed Records, said called 4.081 acre tract being all of Lot 3, of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records;

THENCE, SOUTH 00°33'49" EAST (called South 00°26'30" East), departing said lines and along the common East line of said called 137,968 square foot tract and West line of said called 4.081 acre tract, a distance of 146.53 feet to a point in a curve of the proposed South right of way line of Arapaho Road;

THENCE, departing said common line and along the proposed South right of way line of Arapaho Road the following courses and distances;

PARCEL 13 - ARAPAHO ROAD PROJECT

SOUTHWESTERLY, along the arc of a non-tangent curve to the left having a radius of 818.00 feet, a central angle of  $7^{\circ}15'29''$ , a chord bearing South  $62^{\circ}56'22''$  West a distance of 103.55 feet, for an arc distance of 103.62 feet to the point of tangency of said curve;

SOUTH  $53^{\circ}39'46''$  WEST, a distance of 130.54 feet to an "X" in concrete set for an angle point;

SOUTH  $56^{\circ}50'32''$  WEST, a distance of 31.95 feet to a point in the common West line of said called 137,968 square foot tract and East line of a called 2.20 acre tract of land conveyed to the City of Addison on June 28, 1977 and recorded in Volume 77135, Page 1581 of said Deed Records;

THENCE, NORTH  $00^{\circ}27'52''$  WEST (called North  $00^{\circ}26'30''$  West), departing said line and along the common West line of said called 137,968 square foot tract and East line of said called 2.20 acre tract, a distance of 288.54 feet to a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of said DART railroad, said point being the common Northwest corner of said called 137,968 square foot tract and Northeast corner of said called 2.20 acre tract;

THENCE, SOUTH  $89^{\circ}58'49''$  EAST (called EAST), departing said common line and along the common North line of said called 137,968 square foot tract, proposed North right of way line of Arapaho Road, and South right of way line of said DART railroad, a distance of 225.02 feet (called 225 feet) to the **POINT OF BEGINNING**;

CONTAINING an area of 1.0955 acres or 47,722 square feet of land within the metes recited.

PARCEL 13 - ARAPAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Ayub R. Sandhu 11-12-99  
Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910



EXHIBIT "B"

(CALLED EAST)  
S 89°58'49" E - 225.02'

FND. 1/2" IRON ROD

P.O.B.

DAVID MYERS SURVEY  
A-923

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 81008, PG. 1390  
D.R.D.C.T.

CALLLED 2.20 AC.  
CITY OF ADDISON  
JUNE 28, 1977  
VOL. 77135, PG. 1581  
D.R.D.C.T.

(CALLED 100'x30' W)  
N 00°27'52" W - 288.54'

(CALLED 50'x30' E)  
S 00°33'49" E - 146.53'

50' DRAINAGE CHANNEL  
EASEMENT

PROPOSED ARAPAHO ROAD

LOT 1  
WATSON AND TAYLOR  
SUBDIVISION  
MARCH 31, 1978  
VOL. 78082, PG. 889  
D.R.D.C.T.

LOT 3  
WATSON AND TAYLOR  
SUBDIVISION NO. 2  
SEPTEMBER 12, 1979  
VOL. 79180, PG. 0888  
D.R.D.C.T.

CALLLED 4.081 AC.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
OCTOBER 3, 1979  
VOL. 79196, PG. 3188  
D.R.D.C.T.

CALLLED 137,988 SQ. FT.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
JUNE 13, 1978  
VOL. 78115, PG. 3018  
D.R.D.C.T.

PARCEL 13  
A PLAT OF A  
1.0955 ACRE (47,722 SQ. FT.)  
TRACT OF LAND  
IN THE DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS

LINE TABLE		
LINE	BEARING	DIST
L1	S 56°50'32" W	31.95'

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	07°15'29"	818.00'	103.62'	S 62°56'22" W - 103.55'

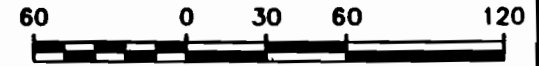
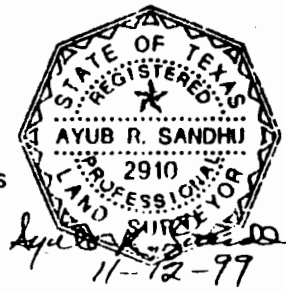
NOTES:

ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED  
HEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT  
PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY  
LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO  
THE FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN  
VOL. 77173, PAGE 135, D.R.D.C.T.

A LEGAL DESCRIPTION OF EVEN SURVEY DATE HERewith  
ACCOMPANIES THIS PLAT.

- DENOTES A FOUND POINT AS INDICATED
  - DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



GRAPHIC SCALE  
1 INCH = 60 FT.

EXHIBIT B  
TO SPECIAL WARRANTY DEED

1. Standby fees, taxes and assessments by any taxing authority for the year 200\_, and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the Property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year.
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or protrusions or any overlapping of improvements.
3. [Schedule B exceptions to title policy]

**EXHIBIT C**  
**TO SPECIAL WARRANTY DEED**

**4.1 Seller's Representations and Warranties.** Seller makes the following representations and warranties:

(a) Seller has the full right, power, and authority to sell and convey the Property and the Easement Area as provided in this Contract and to carry out Seller's obligations hereunder, and all requisite action necessary to authorize Seller to enter into this Contract and to carry out its obligations hereunder has been, or by the Closing will have been, taken;

(b) Seller has not received notice from any governmental or quasi-governmental agency requiring the correction of any condition with respect to the Property or the Easement Area, or any part thereof, by reason of a violation of any federal, state, county or city statute, ordinance, code, rule or regulation or stating that any investigation is being commenced or is contemplated regarding any of the foregoing;

(c) There are no leases, licenses or other agreements or obligations to which Seller is a party or by which Seller, the Property, or the Easement Area is bound which affect or may affect the Property or the Easement Area or the use thereof by the Buyer;

(d) Seller has not itself, and to the best of Seller's knowledge no prior owner or current or prior tenant or other occupant of all or any part of the Property or the Easement Area at any time has used or deposited Hazardous Materials (hereinafter defined) on, from, or affecting the Property or the Easement Area in any manner that violates federal, state, or local laws, ordinances, orders, policies, rules, standards, or regulations (and including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, the Clean Air Act, and all so-called federal, state and local "superfund" and "superlien" statutes) governing or regulating the use, storage, treatment, transportation, generation, or disposal of Hazardous Materials (collectively, the "Environmental Laws") and to the best of Seller's knowledge no Hazardous Materials have been disposed of on the Property or the Easement Area. "Hazardous Materials" shall mean and include those elements or compounds which are contained in the list of Hazardous Substances adopted by the United States Environmental Protection Agency and the list of toxic pollutants designated by Congress or the Environmental Protection Agency, and any flammable substances, explosives, radioactive materials, hazardous waste, toxic substances, pollutants, pollution or related materials regulated under any of the Environmental Laws;

(e) No work has been performed or is in progress at, and no materials have been furnished to, the Property or the Easement Area which, though not presently the subject of, might give rise to, mechanics', materialmen's or other liens against the Property or the Easement Area



or any portion thereof. If any lien for such work is filed before or after Closing hereunder, Seller shall promptly discharge the same.

(f) Neither the Property nor the Easement Area, nor any part of the Property or the Easement Area, is subject to or the subject of any litigation, or other legal or administrative proceeding to which Seller is a named party, and Seller has no actual knowledge of any facts which might result in any such litigation or proceedings and no actual knowledge of any litigation or other legal or administrative proceeding involving the Property or the Easement Area.

**EXHIBIT D**  
**TO CONTRACT OF SALE**

**TEMPORARY CONSTRUCTION EASEMENT**

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

**KNOW ALL MEN BY THESE PRESENTS:**

WHEREAS, Public Storage of Dallas, Ltd., a Texas limited partnership, is the sole owner of those certain tracts of land described in Exhibit A attached hereto (the said tracts of land being referred to herein together as the "Storage Property") and made a part hereof for all purposes, which includes those tracts of land described in Exhibit B attached hereto and made a part hereof for all purposes (the said tracts of land being referred to herein together as the "Easement Area"); and

WHEREAS, the Town of Addison, Texas intends to construct, by and through a third party contractor (the "Contractor") an extension of Arapaho Road through a portion of the Town (the "Roadway Improvements"), a part of which Roadway Improvements is located adjacent to the Easement Area, and in connection therewith the Town requires the use of the Easement Area for the purposes set forth herein.

NOW, THEREFORE, Public Storage of Dallas, Ltd., LTD., a Texas limited partnership (hereinafter called "Grantor"), for good and valuable consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration to Grantor in hand paid by the Town of Addison, Texas (hereinafter called "Grantee"), the receipt and sufficiency of which is hereby acknowledged and confessed, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto Grantee, its successors and assigns, for those purposes hereinafter set forth, a temporary and exclusive easement and right-of-way (the "Easement") in, over, above, under, across, and to that certain lot, tract or parcel of land (the "Easement Area") situated in the Town of Addison, Dallas County, Texas, and being more particularly described in Exhibit B attached hereto and made a part hereof for all purposes, subject only to the exceptions and encumbrances described in the attached Exhibit D (the "Permitted Exceptions").

The Easement may be used by Grantee, its officers, employees, contractors, agents, successors, and assigns, in connection with activities relating to the construction of the Roadway Improvements (the "Project") and all appurtenances thereto, including, without limitation, utility

installation and relocation, drainage structures and landscaping, the modification and removal of existing structures (including structures located within the Easement Area), the performance of necessary excavation, boring, backfilling, embedding, drilling, grading and paving, the construction of curbs, gutters, maintenance and storage of equipment and materials, the activities described in Exhibit C attached hereto and incorporated herein (including, without limitation, the construction of a wall and security gate to be located generally as shown and depicted in Exhibit C), and the use of the Easement for access, ingress to, and egress between the site of construction and public rights-of-way.

Upon final completion of the activities described herein, but in no event more than thirty (30) months from and after the date Grantee issues to the Contractor a notice to proceed with construction of the Roadway Improvements, Grantee, its successor or assign, shall return the Easement Area to the condition as described in Exhibit C attached hereto and incorporated herein, and the Easement shall automatically terminate (except that those obligations stated in Exhibit C hereto as surviving the termination or expiration of this Temporary Construction Easement (the "surviving obligations") shall survive such automatic termination). Upon the request of Grantor, Grantee shall execute a memorandum of termination for recordation by Grantor in the real property records of Dallas County, Texas, which memorandum shall include a reference to the surviving obligations.

Grantee shall not permit any worker's, mechanic's or materialman's lien or liens to be placed on the Storage Property or the Easement Area caused by or resulting from any work performed, materials furnished or obligations incurred by, at the request of, or on behalf of, Grantee under or pursuant to this Temporary Construction Easement, and, in the case of the filing any such lien, Grantee promptly shall have the same released or insured or bonded around within thirty (30) days of the filing of such lien or liens.

It is acknowledged and agreed that Grantee is acquiring this Temporary Construction Easement in connection with Grantee's construction and operation of the Roadway Improvements. The consideration exchanged between the parties hereto for this Temporary Construction Easement shall be considered full compensation for this Easement and for any severance damages, or any damages to, or diminution in the value of, other lands belonging to Grantor, that may be claimed or asserted by virtue of such acquisition and use of this Temporary Construction Easement by Grantee.

The recitals first set forth above are incorporated into and made a part of this Temporary Construction Easement.

From the date of execution of this Temporary Construction Easement through the date of its termination, Grantor shall not store, place, install or release and shall not allow or permit the storage, placement, installation or release of Hazardous Materials (as defined in the attached Exhibit C) of any kind in, under, or above the improvements on the Easement Area or into or onto the surface water, ground water, soil, surface or subsurface of the Easement Area. In the event of such storage, placement, installation or release, Grantor shall promptly cause the removal and clean-up of any such Hazardous Materials at Grantor's sole cost and expense, and Grantor shall defend, indemnify and hold harmless the Town of Addison, its officials, officers, employees, agents and contractors from and against any and all claims, actions, or judgments in connection therewith.

TO HAVE AND TO HOLD the Easement, together with all and singular the rights, privileges, and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns; and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the Easement unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Permitted Exceptions when the claim is by, through, or under Grantor, but not otherwise.

**PROVIDED, HOWEVER, THAT THE EASEMENT AREA IS CONVEYED AND TRANSFERRED TO GRANTEE "AS IS, WHERE IS, AND WITH ALL FAULTS AND PATENT AND LATENT DEFECTS", AND, EXCEPT AS EXPRESSLY OTHERWISE SET FORTH HEREIN AND IN ARTICLE IV, SECTION 4.1, OF THAT CONTRACT OF SALE DATED \_\_\_\_\_ BETWEEN GRANTOR (AS SELLER) AND GRANTEE (AS BUYER) (A TRUE AND CORRECT COPY OF WHICH SECTION IS ATTACHED HERETO AS EXHIBIT E), GRANTOR HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS, ANY REPRESENTATION, PROMISE, COVENANT, AGREEMENT, GUARANTY OR WARRANTY OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, AS TO THE QUANTITY, QUALITY, CONDITION, SUITABILITY, HABITABILITY, OR FITNESS OF THE EASEMENT AREA FOR ANY PURPOSE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION REGARDING SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, OR ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES, REGULATIONS OR ORDINANCES. GRANTEE ALSO ACKNOWLEDGES AND AGREES THAT GRANTEE'S INSPECTION AND INVESTIGATION OF THE EASEMENT AREA HAVE BEEN ADEQUATE TO**

ENABLE GRANTEE TO MAKE GRANTEE'S OWN DETERMINATION WITH RESPECT TO THE SUITABILITY OR FITNESS OF THE EASEMENT AREA, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, AND ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES, REGULATIONS OR ORDINANCES. GRANTEE ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH ARE AN INTEGRAL PORTION OF THIS TEMPORARY CONSTRUCTION EASEMENT AND THAT GRANTOR WOULD NOT AGREE TO GRANT AND CONVEY THIS TEMPORARY CONSTRUCTION EASEMENT WITHOUT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS PARAGRAPH. GRANTEE FURTHER ACKNOWLEDGES THAT GRANTEE IS NOT IN A DISPARATE BARGAINING POSITION WITH RESPECT TO GRANTOR.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2003.

**GRANTOR:**

**PUBLIC STORAGE OF DALLAS, LTD.**

By: Watson & Taylor Management, Inc., a  
Texas corporation, its sole general partner

By: \_\_\_\_\_  
A. Starke Taylor III, President  
Watson & Taylor Management, Inc.

Accepted and Agreed:

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2003.

**GRANTEE:**

**TOWN OF ADDISON, TEXAS**

By: \_\_\_\_\_  
Ron Whitehead, City Manager

STATE OF TEXAS       §  
                                      §

**COUNTY OF DALLAS §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2003, by A. Starke Taylor III, President of Watson & Taylor Management, Inc., a Texas corporation, the sole general partner of Public Storage of Dallas, Ltd., a Texas limited partnership, on behalf of the said limited partnership.

[Seal]

By: \_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

**STATE OF TEXAS §**

**§**

**COUNTY OF DALLAS §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2003 by Ron Whitehead, City Manager of the Town of Addison, Texas, a Texas municipal corporation, on behalf of the said municipal corporation.

[Seal]

By: \_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

**GRANTEE'S ADDRESS:**

Town of Addison, Texas  
P. O. Box 9010  
Addison, Texas

**CONSENT OF LIENHOLDER**

The undersigned, as the holder of lien(s) on the fee simple title to the Easement Area, consents to the above grant of temporary construction easement, including the terms and conditions of such grant.

\_\_\_\_\_  
(Name of Lienholder)

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: \_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_



**EXHIBIT A**  
**TO TEMPORARY CONSTRUCTION EASEMENT**

The Storage Property is described as follows:

A called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of the Deed Records of Dallas County, Texas, said called 4.081 acre tract being all of Lot 3 of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records;

and

A called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of the Deed Records of Dallas County, Texas, said called 137,968 square foot tract being all of Lot 1 of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records.

**EXHIBIT B**  
**TO TEMPORARY CONSTRUCTION EASEMENT**

Parcel 12-TE  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 0.5291 acre (23,049 square foot) tract of land situated in the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of the Deed Records of Dallas County, Texas, said called 4.081 acre tract being all of Lot 3, of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records, said 0.5291 acre tract of land being more particularly described by metes and bounds as follows;

**COMMENCING** at the common Northeast corner of said called 4.081 acre tract and Northwest corner of a called 1.103 acre tract of land conveyed to Bullough/Lykos Office Building No. 1, L.P. on June 11, 1998 and recorded in Volume 98115, Page 03999 of said Deed Records, said called 1.103 acre tract being all of "Lot 5, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated February 7, 1979 and recorded in Volume 79053, Page 0620 of said Deed Records said corner being in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records;

THENCE, SOUTH 00°06'08" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 4.081 acre tract and West line of said called 1.103 acre tract, a distance of 78.95 feet to a point in the proposed South right of way line of Arapaho Road for the Northeast corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, SOUTH 00°06'08" WEST continuing along said common line, a distance of 40.00' to the most Easterly Southeast corner of the herein described tract;

PARCEL 12-TE - ARAPAHO ROAD PROJECT

THENCE, NORTH 89°58'49" WEST, departing said common line, a distance of 180.55 feet to the point of curvature of a tangent curve to the left;

THENCE, SOUTHWESTERLY, along the arc of said curve to the left having a radius of 778.00 feet, a central angle of 15°58'34", a chord bearing South 82°01'54" West a distance of 216.23 feet, for an arc distance of 216.93 feet to an angle point;

THENCE SOUTH 89°51'04" WEST, a distance of 57.80 feet to a point for corner;

THENCE, SOUTH 00°24'42" EAST, a distance of 18.80 feet to the point of curvature of a non-tangent curve to the left;

THENCE, SOUTHWESTERLY, along the arc of said curve to the left having a radius of 778.00 feet, a central angle of 01°56'00", a chord bearing South 68°36'19" West a distance of 26.25 feet, for an arc distance of 26.25 feet to an angle point;

THENCE SOUTH 00°05'59" WEST, a distance of 109.96 feet to the most Southerly Southeast corner of the herein described tract;

THENCE SOUTH 89°26'35" WEST, a distance of 27.71 feet to the southwest corner of the herein described tract and being in the common West line of said called 4.081 acre tract and East line of a called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of said Deed Records, said called 137,968 square foot tract being all of Lot 1, of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records;

THENCE, NORTH 00°33'49" WEST (called North 00°26'30" West), along said common line, a distance of 141.29 feet to a point in said proposed South right of way line of Arapaho Road, being in a non-tangent curve to the right;

THENCE, NORTHEASTERLY, departing said common line, along said proposed South right of way line of Arapaho Road and the arc of said curve to the right having a radius of 818.00 feet, a central angle of 23°27'04", a chord bearing North 78°17'39" East a distance of 332.48, for an arc distance of 334.81 feet;

PARCEL 12-TE - ARAPAHO ROAD PROJECT

THENCE, SOUTH 89°58'49" EAST, continuing along said proposed South right of way line, a distance of 180.61 feet to the POINT OF BEGINNING;

CONTAINING an area of 0.5291 acres or 23,049 square feet of land within the metes recited.

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

*Ayub R. Sandhu 10-31-02*

Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910

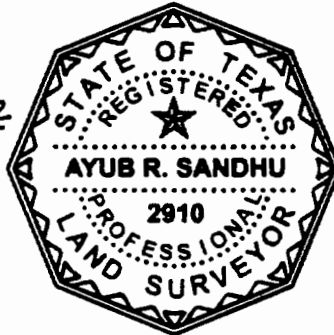
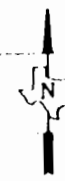


EXHIBIT "B"

P.O.C.



DAVID MYERS SURVEY  
A-923

CALLED 137,968 SQ. FT.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
JUNE 13, 1978  
VOL. 78115, PG. 3018  
D.R.D.C.T.

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 91008, PG. 1390  
D.R.D.C.T.

PROPOSED ARAPAHO ROAD

50' DRAINAGE CHANNEL  
EASEMENT

30' WATER EASEMENT

(CALLED S 00'08'08" W)  
78.95'

P.O.B.

S 89°58'49" E - 180.61'

CALLED 1.103 AC.  
BULLOUGH/LYKOS OFFICE  
BUILDING NO. 1, L.P.  
JUNE 11, 1998  
VOL. 98115, PG. 03999  
D.R.D.C.T.

LOT 1  
WATSON AND TAYLOR  
SUBDIVISION NO. 1  
MARCH 31, 1978  
VOL. 78082, PG. 889  
D.R.D.C.T.

LOT 3  
WATSON AND TAYLOR  
SUBDIVISION NO. 2  
SEPTEMBER 12, 1979  
VOL. 79180, PG. 0888  
D.R.D.C.T.

CALLED 4.061 AC.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
OCTOBER 3, 1979  
VOL. 79196, PG. 3188  
D.R.D.C.T.

(CALLED S 00'08'08" W)  
S 00'08'08" W  
40.00'

LOT 5  
SURVEYOR ADDITION,  
ADDISON WEST  
INDUSTRIAL PARK  
FEBRUARY 7, 1979  
VOL. 79053, PG. 0620  
D.R.D.C.T.

(CALLED N 00'28'30" W)  
N 00'33'48" W - 141.29'

S 00'05'59" W - 109.96'

S 89°28'35" W  
27.71'

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	15°58'34"	778.00'	216.93'	S 82°01'54" W - 216.23'
C2	01°56'00"	778.00'	26.25'	S 68°36'19" W - 26.25'
C3	23°27'04"	818.00'	334.81'	N 78°17'39" E - 332.48'

NOTES:

ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED  
HEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT  
PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

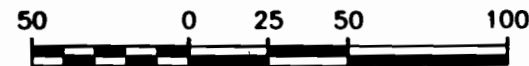
ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY  
LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO  
THE FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN  
VOL. 77173, PAGE 135, D.R.D.C.T.

A LEGAL DESCRIPTION OF EVEN SURVEY DATE HEREWITH  
ACCOMPANIES THIS PLAT.

- DENOTES A FOUND POINT AS INDICATED
  - DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



PARCEL 12-TE  
A PLAT OF A  
0.5291 ACRE (23,049 SQ. FT.)  
TRACT OF LAND  
IN THE DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS



GRAPHIC SCALE  
1 INCH = 50 FT.

Parcel 13-TE  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 0.4361 acre (18,995 square foot) tract of land situated in the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of the Deed Records of Dallas County, Texas, said called 137,968 square foot tract being all of Lot 1, of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records, said 0.4361 acre tract of land being more particularly described by metes and bounds as follows;

**COMMENCING** at a point being the common Northeast corner of said called 137,968 square foot tract and Northwest corner of a called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of said Deed Records, said called 4.081 acre tract being all of Lot 3, of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records;

THENCE, SOUTH 00°33'49" EAST (called South 00°26'30" East), along the common East line of said called 137,968 square foot tract and West line of said called 4.081 acre tract, a distance of 146.53 feet to a point in the proposed South right of way line of Arapaho Road for the Northeast corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, SOUTH 00°33'49" EAST (called South 00°26'30" East), continuing along said common line, a distance of 141.29 feet to the Southeast corner of the herein described tract;

THENCE, SOUTH 89°26'35" WEST, a distance of 156.19 feet to an angle point;

THENCE, SOUTH 53°39'46" WEST, a distance of 19.61 feet to an angle point;

THENCE, SOUTH 89°39'59" WEST, a distance of 3.80 feet to an angle point;

PARCEL 13-TE - ARAPAHO ROAD PROJECT

THENCE, SOUTH 00°18'38" EAST, a distance of 2.77 feet to an angle point;

THENCE, SOUTH 56°50'32" WEST, a distance of 58.96 feet to the Southwest corner of the herein described tract, said corner being in the common West line of said called 137,968 square foot tract and East line of a called 2.20 acre tract of land conveyed to the City of Addison on June 28, 1977 and recorded in Volume 77135, Page 1581 of said Deed Records;

THENCE, NORTH 00°27'52" WEST (called North 00°26'30" West), along said common line, a distance of 47.53 feet to a point in said proposed South right of way line of Arapaho Road;

THENCE, NORTH 56°50'32" EAST, a distance of 31.95 feet to a point'

THENCE, NORTH 53°39'46" EAST, a distance of 130.54 feet to a non-tangent curve to the right;

THENCE, NORTHEASTERLY, along the arc of said curve to the right having a radius of 818.00 feet, a central angle of 07°15'29", a chord bearing North 62°56'22" East a distance of 103.55 feet, for an arc distance of 103.62 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 0.4361 acres or 18,995 square feet of land within the metes recited.



PARCEL 13-TE - ARAPAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Ayub R. Sandhu 10-31-02  
Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910

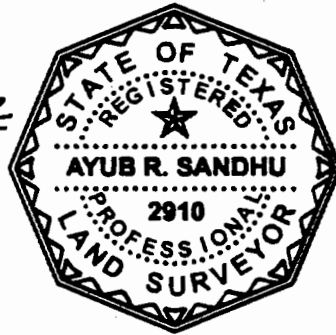


EXHIBIT "B"

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 81008, PG. 1390  
D.R.D.C.T.

CALLED 2.20 AC.  
CITY OF ADDISON  
JUNE 28, 1977  
VOL. 77135, PG. 1581  
D.R.D.C.T.

30' WATER EASEMENT

50' DRAINAGE CHANNEL  
EASEMENT

CALLED 137,988 SQ. FT.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
JUNE 13, 1978  
VOL. 78115, PG. 3018  
D.R.D.C.T.

PROPOSED ARAPAHO ROAD

LOT 1  
WATSON AND TAYLOR  
SUBDIVISION  
MARCH 31, 1978  
VOL. 78082, PG. 889  
D.R.D.C.T.

DAVID MYERS SURVEY  
A-923

LOT 3  
WATSON AND TAYLOR  
SUBDIVISION NO. 2  
SEPTEMBER 12, 1979  
VOL. 79180, PG. 0888  
D.R.D.C.T.

CALLED 4.061 AC.  
PUBLIC STORAGE OF  
DALLAS, LTD.  
OCTOBER 3, 1979  
VOL. 79198, PG. 3188  
D.R.D.C.T.

PARCEL 13-TE  
A PLAT OF A  
0.4361 ACRE (18,995 SQ. FT.)  
TRACT OF LAND  
IN THE DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS

LINE TABLE		
LINE	BEARING	DIST
L1	S 53°39'48" W	19.81'
L2	S 89°39'59" W	3.80'
L3	S 00°18'38" E	2.77'
L4	S 56°50'32" W	58.98'
L5	N 56°50'32" E	31.85'

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	07°15'29"	818.00'	103.62'	N 62°56'22" E - 103.55'

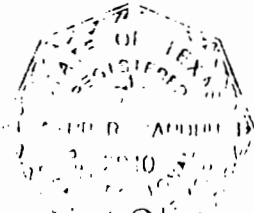
NOTES:

ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED HEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO THE FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN VOL. 77173, PAGE 135, D.R.D.C.T.

A LEGAL DESCRIPTION OF EVEN SURVEY DATE HERE WITH ACCOMPANIES THIS PLAT.

- DENOTES A FOUND POINT AS INDICATED
  - DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



*David Myers*  
10-31-02



GRAPHIC SCALE  
1 INCH = 60 FT.

**EXHIBIT C**  
**TO TEMPORARY CONSTRUCTION EASEMENT**

In connection with the Roadway Improvements and the construction thereof and the use of the Easement and Easement Area by Grantee:

1. Structures located on and within the Easement Area and identified as "Structures to be Demolished" on the drawing attached hereto as Exhibit C-1 (prepared by HNTB and dated January, 2003, and herein referred to as the "Demolition Plan") will be demolished and removed in their entirety.
2. Structures located on and within the Easement Area and identified as "Structures to be Partially Demolished and Modified" on the Demolition Plan will be partially demolished and modified. With respect to such structures, Grantee will reconstruct and modify, with proper engineering, such structures in accordance with the Demolition Plan.
3. Following the demolition and removal of the Structures to be Demolished, all metal "clips" from existing concrete pavement will be removed.
4. Existing concrete pavement within the Easement Area will be protected, and any of such concrete pavement damaged by the construction will be restored to an equivalent design strength and thickness.

5. Wall

(a) A security wall or barrier constructed generally of masonry material (such as stone, brick, concrete, hollow-tile concrete-block, gypsum-block, or other similar building units or materials or a combination of the same) and iron at least eight (8) feet in height (the "wall") (together with a security gate as indicated on the drawing attached hereto as Exhibit C-2 and referred to herein as the "Drawing") shall be constructed in accordance with the standards of the Town of Addison. Such wall shall be constructed on and within the Easement Area in the approximate location as shown on the Drawing. The elevation and design of the wall shall be submitted by the Town of Addison to Grantor for Grantor's review and reasonable approval prior to construction. In the construction of the wall, Grantee will remove and replace any existing concrete pavement related to such construction.

(b) Upon the final completion of the wall and the acceptance thereof by Grantor and Grantee, Grantee (or Grantee's contractor) shall maintain the wall for a period of time set forth in a maintenance bond obtained by Grantee from its contractor, but in any event not less than one (1) year (the term of such bond being the "maintenance period") from such completion and acceptance. During the maintenance period, Grantee (or its contractor) shall have the right and an easement (and Grantor hereby grants and conveys such right and easement) to use as much of the surface of the Easement Area or other property owned by Grantor that is adjacent to the wall (the "maintenance easement area") as may be reasonably necessary from time to time for Grantee (or its contractor) to maintain the wall; provided, however, that except in the case of an emergency, Grantee (or its contractor) shall give Grantor at least seventy-two (72) hours written

notice prior to coming onto the maintenance easement area for maintenance purposes. **SUCH MAINTENANCE OBLIGATION AND MAINTENANCE EASEMENT SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS TEMPORARY CONSTRUCTION EASEMENT.**

(c) Upon the expiration of the maintenance period, Grantor, its successors and assigns, shall be responsible and provide for the upkeep, maintenance, and repair of the wall (including, without limitation, any reconstruction or replacement of the wall) and shall keep the wall in a good and safe condition. In connection therewith, Grantor (or its contractor) shall have the right and an easement (and Grantee hereby grants and conveys such right and easement) to use the public right-of-way located immediately adjacent to the wall (the "right-of-way easement area") as may be reasonably necessary from time to time for Grantor (or its contractor) to provide for the upkeep, maintenance, and repair of the wall; provide, however, that Grantor (or its contractor) shall give Grantee at least seventy-two (72) hours written notice prior to coming onto the right-of-way easement area for such purposes. **THIS OBLIGATION OF GRANTOR TO PROVIDE UPKEEP, MAINTENANCE AND REPAIR OF THE WALL IN A GOOD AND SAFE CONDITION FOLLOWING THE EXPIRATION OF THE MAINTENANCE PERIOD SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS TEMPORARY CONSTRUCTION EASEMENT AND SHALL CONSTITUTE A COVENANT RUNNING WITH THE STORAGE PROPERTY AS DESCRIBED IN EXHIBIT A TO THIS TEMPORARY CONSTRUCTION EASEMENT.**

6. "Hazardous Materials" means and includes those elements or compounds which are contained in the list of Hazardous Substances adopted by the United States Environmental Protection Agency and the list of toxic pollutants designated by Congress or the Environmental Protection Agency, and any flammable substances, explosives, radioactive materials, hazardous waste, toxic substances, pollutants, pollution or related materials regulated under any Environmental Laws. "Environmental Laws" means any federal, state, or local laws, ordinances, orders, policies, rules, standards, or regulations (and including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, the Clean Air Act, and all so-called federal, state and local "superfund" and "superlien" statutes) governing or regulating the use, storage, treatment, transportation, generation, or disposal of Hazardous Materials.

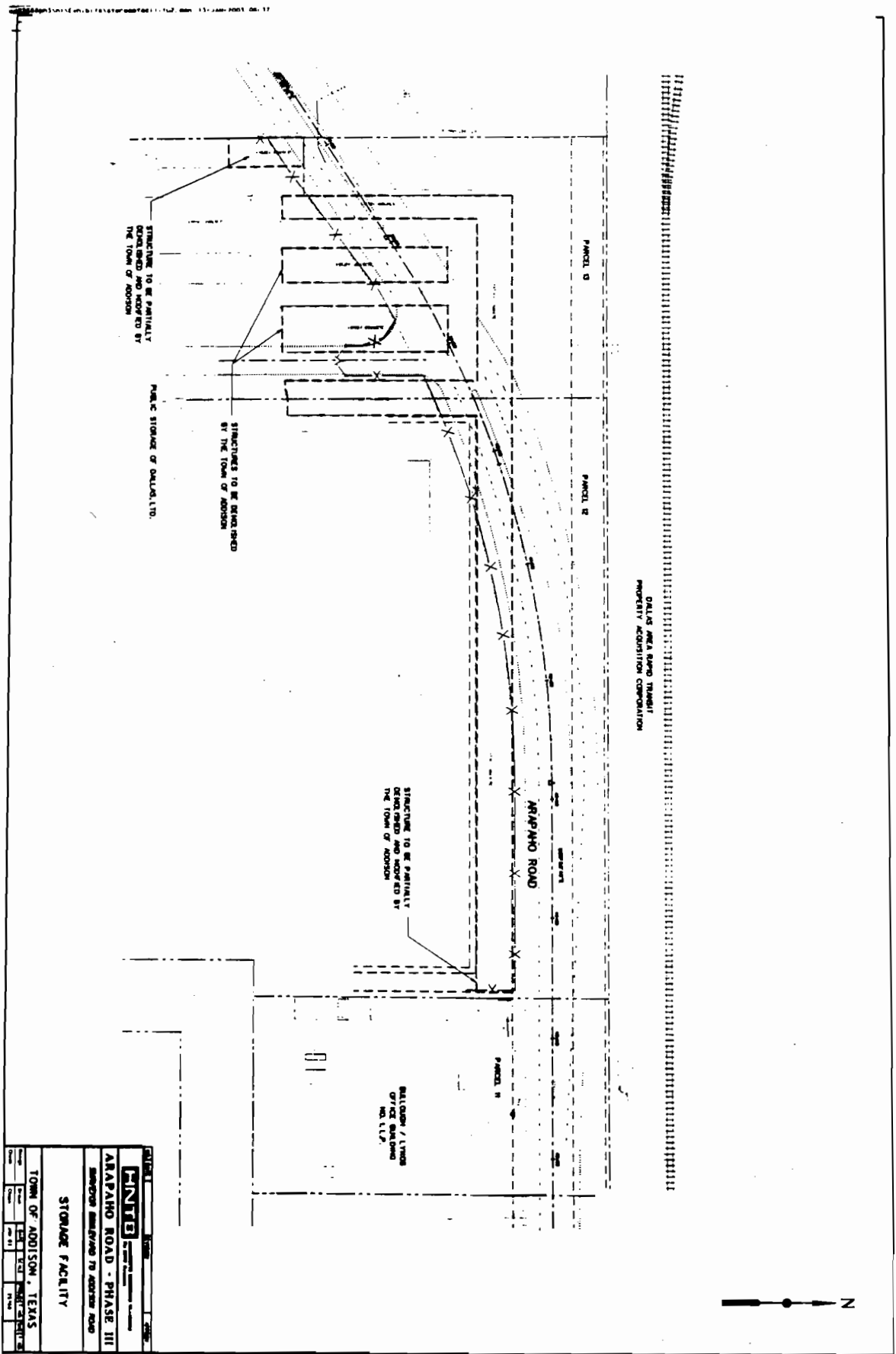
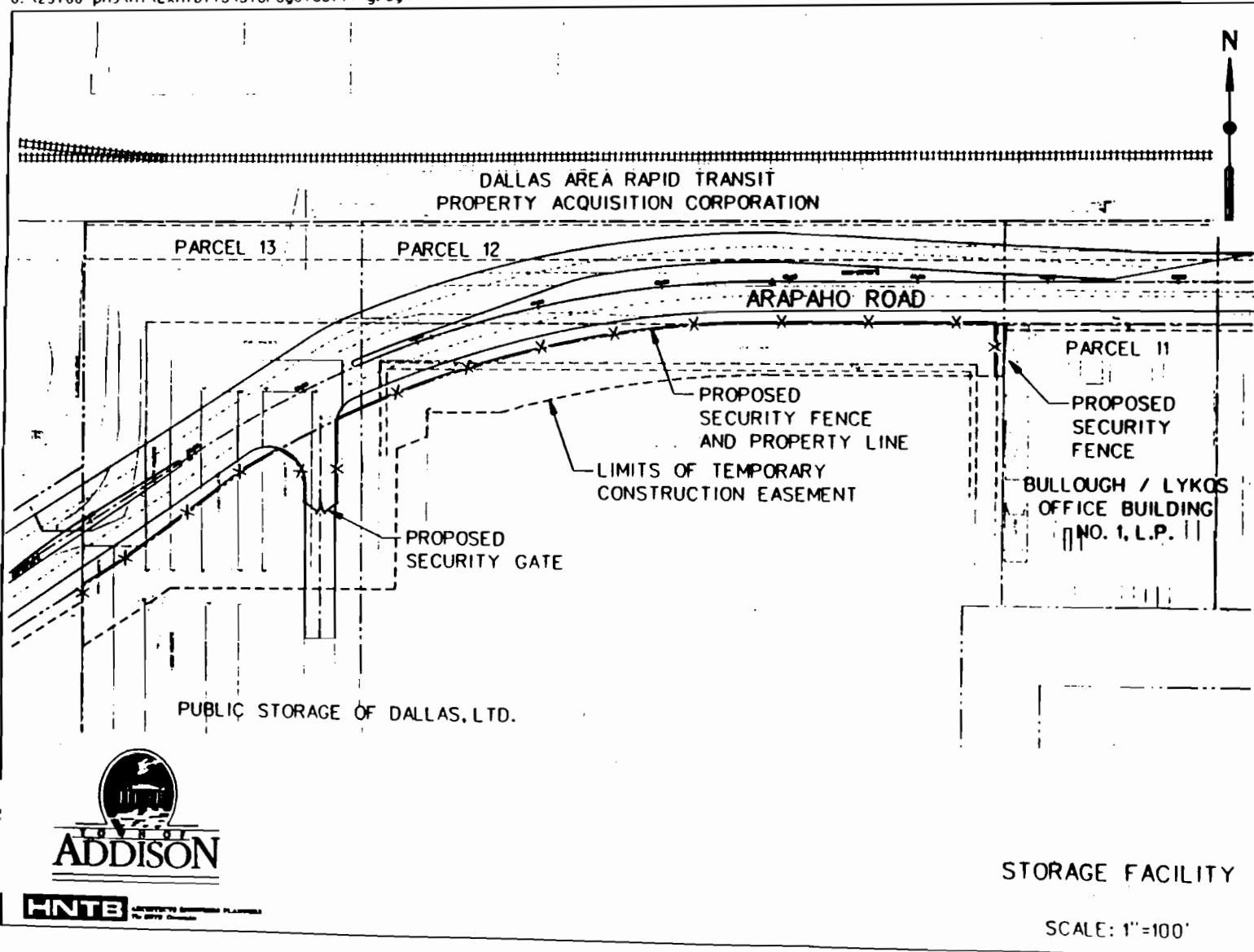


Exhibit C-1



**EXHIBIT D**  
**TO TEMPORARY CONSTRUCTION EASEMENT**

1. Standby fees, taxes and assessments by any taxing authority for the year 200\_, and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the Easement Area under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year.

2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or protrusions or any overlapping of improvements.

3. [Schedule B exceptions to title policy]

**EXHIBIT E**  
**TO TEMPORARY CONSTRUCTION EASEMENT**

**4.1 Seller's Representations and Warranties.** Seller makes the following representations and warranties:

(a) Seller has the full right, power, and authority to sell and convey the Property and the Easement Area as provided in this Contract and to carry out Seller's obligations hereunder, and all requisite action necessary to authorize Seller to enter into this Contract and to carry out its obligations hereunder has been, or by the Closing will have been, taken;

(b) Seller has not received notice from any governmental or quasi-governmental agency requiring the correction of any condition with respect to the Property or the Easement Area, or any part thereof, by reason of a violation of any federal, state, county or city statute, ordinance, code, rule or regulation or stating that any investigation is being commenced or is contemplated regarding any of the foregoing;

(c) There are no leases, licenses or other agreements or obligations to which Seller is a party or by which Seller, the Property, or the Easement Area is bound which affect or may affect the Property or the Easement Area or the use thereof by the Buyer;

(d) Seller has not itself, and to the best of Seller's knowledge no prior owner or current or prior tenant or other occupant of all or any part of the Property or the Easement Area at any time has used or deposited Hazardous Materials (hereinafter defined) on, from, or affecting the Property or the Easement Area in any manner that violates federal, state, or local laws, ordinances, orders, policies, rules, standards, or regulations (and including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, the Clean Air Act, and all so-called federal, state and local "superfund" and "superlien" statutes) governing or regulating the use, storage, treatment, transportation, generation, or disposal of Hazardous Materials (collectively, the "Environmental Laws") and to the best of Seller's knowledge no Hazardous Materials have been disposed of on the Property or the Easement Area. "Hazardous Materials" shall mean and include those elements or compounds which are contained in the list of Hazardous Substances adopted by the United States Environmental Protection Agency and the list of toxic pollutants designated by Congress or the Environmental Protection Agency, and any flammable substances, explosives, radioactive materials, hazardous waste, toxic substances, pollutants, pollution or related materials regulated under any of the Environmental Laws;

(e) No work has been performed or is in progress at, and no materials have been furnished to, the Property or the Easement Area which, though not presently the subject of, might give rise to, mechanics', materialmen's or other liens against the Property or the Easement Area or any portion thereof. If any lien for such work is filed before or after Closing hereunder, Seller shall promptly discharge the same.



(f) Neither the Property nor the Easement Area, nor any part of the Property or the Easement Area, is subject to or the subject of any litigation, or other legal or administrative proceeding to which Seller is a named party, and Seller has no actual knowledge of any facts which might result in any such litigation or proceedings and no actual knowledge of any litigation or other legal or administrative proceeding involving the Property or the Easement Area.

**EXHIBIT E**  
**TO CONTRACT OF SALE**

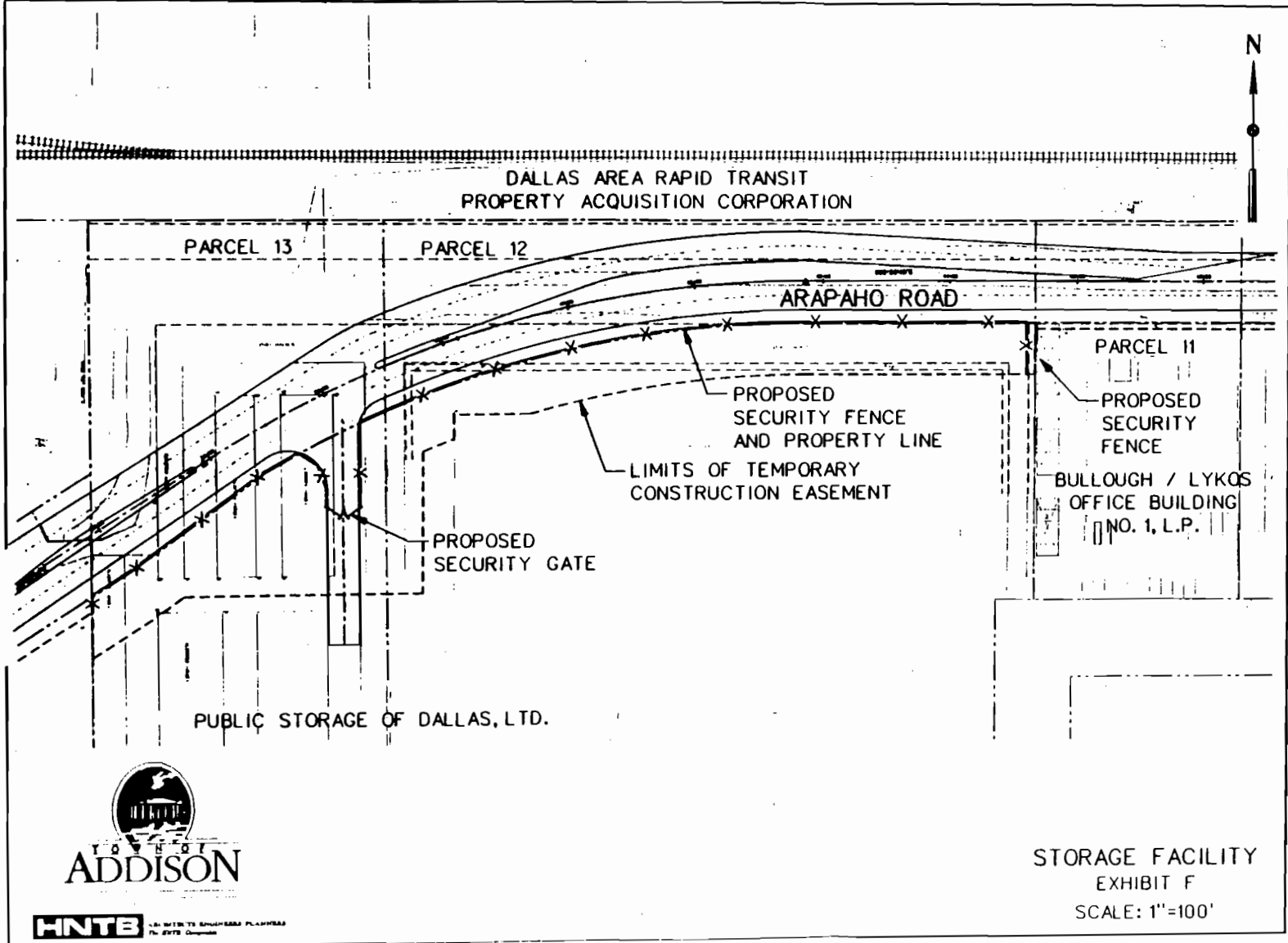
The Remaining Property is described as follows:

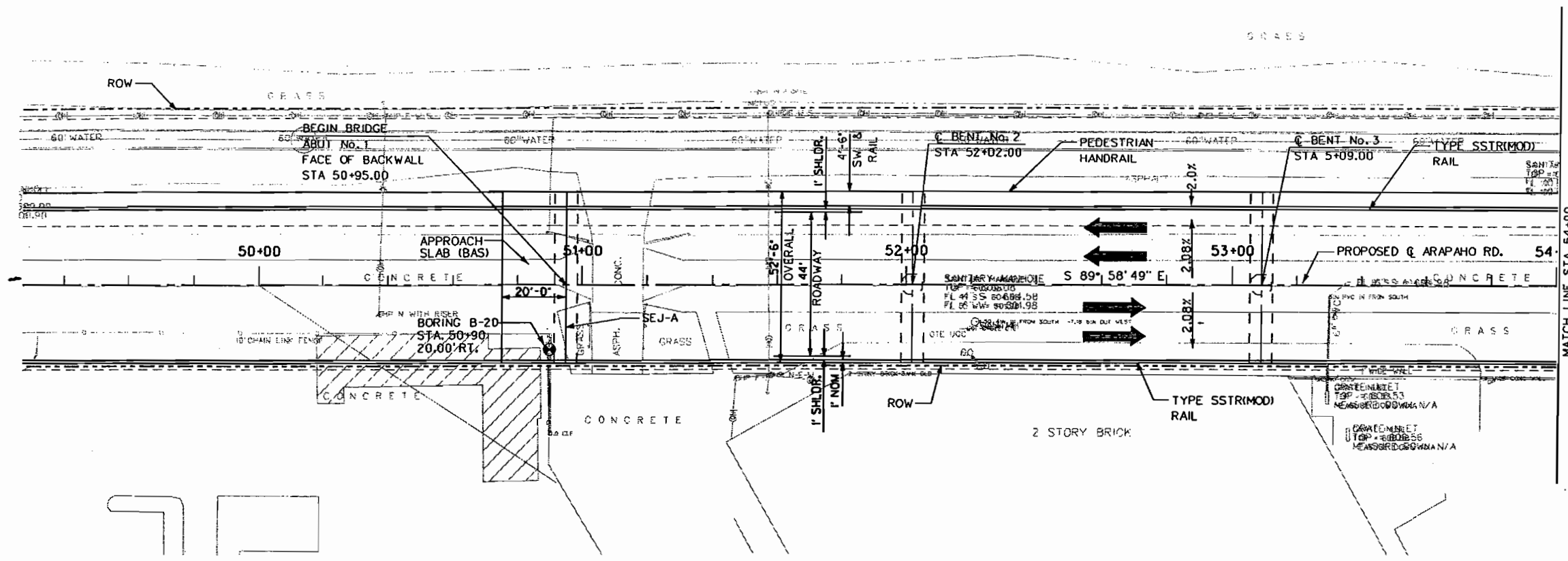
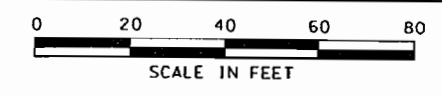
1. A called 4.081 acre tract of land conveyed to Public Storage of Dallas, LTD. on October 3, 1979 and recorded in Volume 79196, Page 3188 of the Deed Records of Dallas County, Texas, said called 4.081 acre tract being all of Lot 3 of the Watson and Taylor Subdivision No. 2, an addition to the Town of Addison, as evidenced by the plat dated September 12, 1979 and recorded in Volume 79180, Page 0888 of said Deed Records, SAVE AND EXCEPT that portion of the Property described in Exhibit A to this Contract of Sale and identified therein as Parcel 12;

and

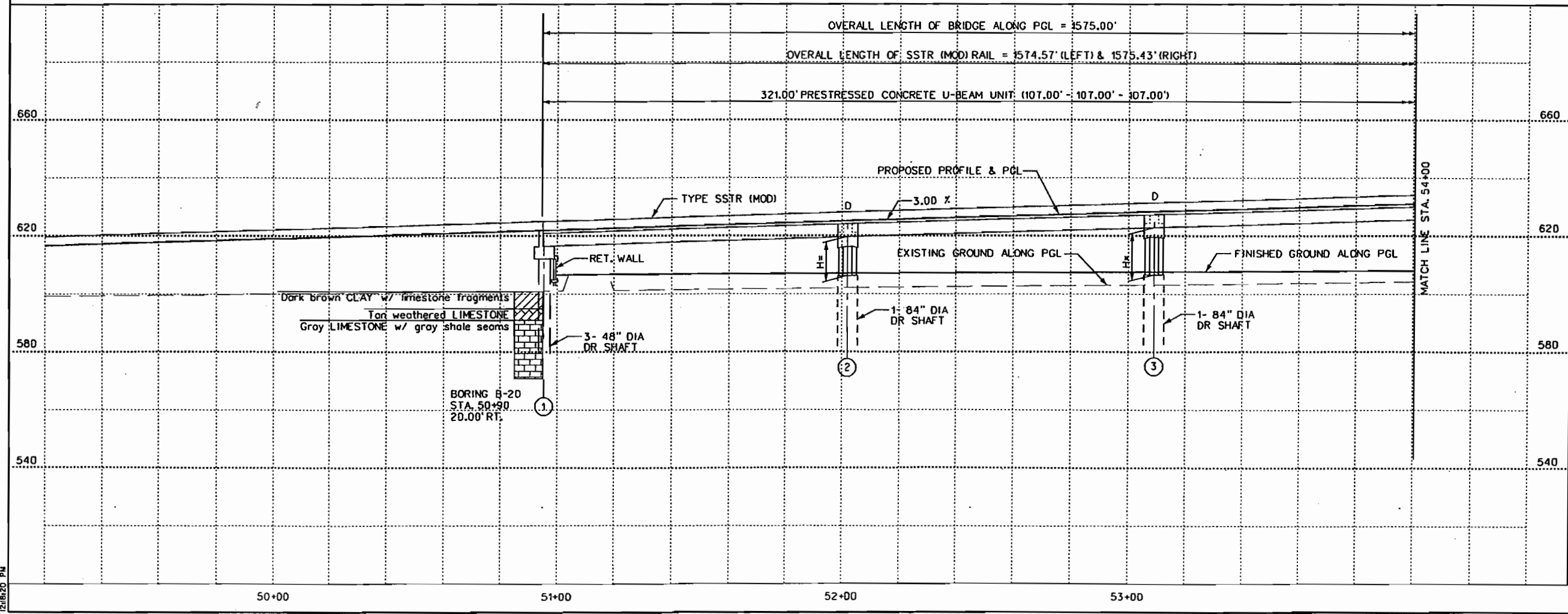
2. A called 137,968 square foot tract of land conveyed to Public Storage of Dallas, LTD. on June 13, 1978 and recorded in Volume 78115, Page 3018 of the Deed Records of Dallas County, Texas, said called 137,968 square foot tract being all of Lot 1 of the Watson and Taylor Subdivision, an addition to the Town of Addison, as evidenced by the plat dated March 31, 1978 and recorded in Volume 78082, Page 889 of said Deed Records, SAVE AND EXCEPT that portion of the Property described in Exhibit A to this Contract of Sale and identified therein as Parcel 13.

**EXHIBIT F**  
**TO CONTRACT OF SALE**





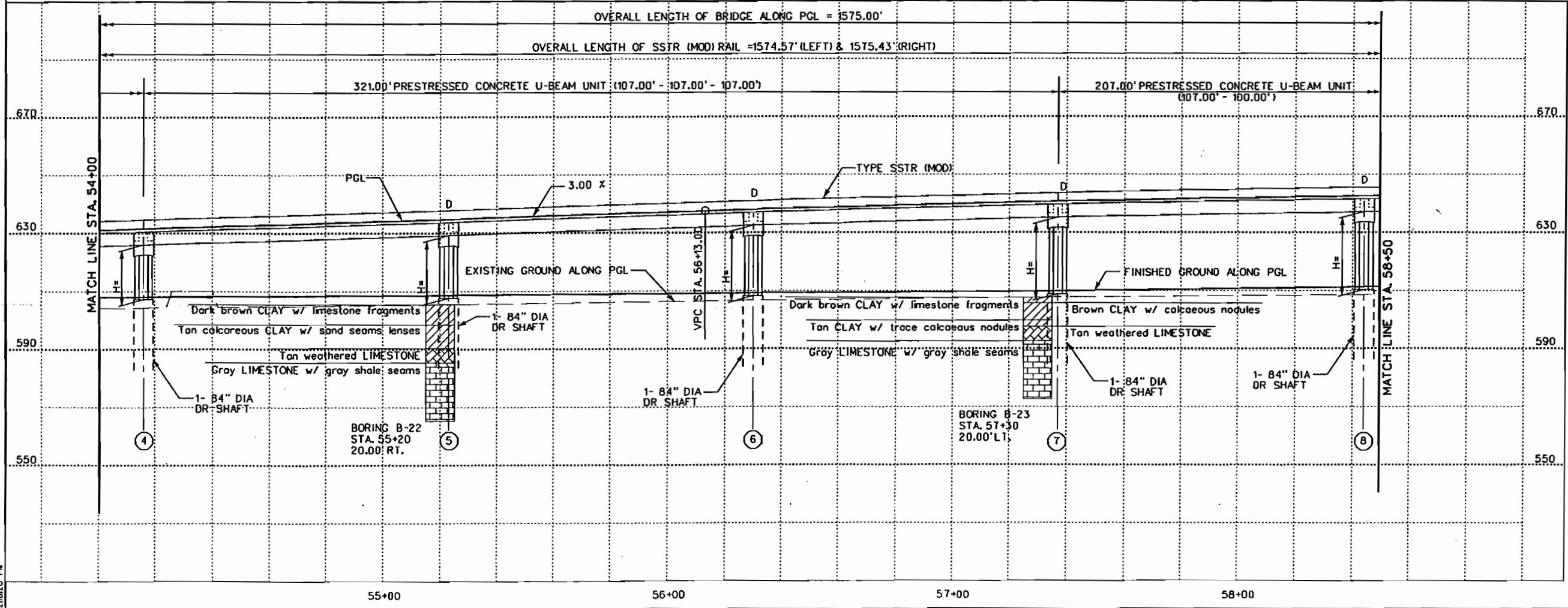
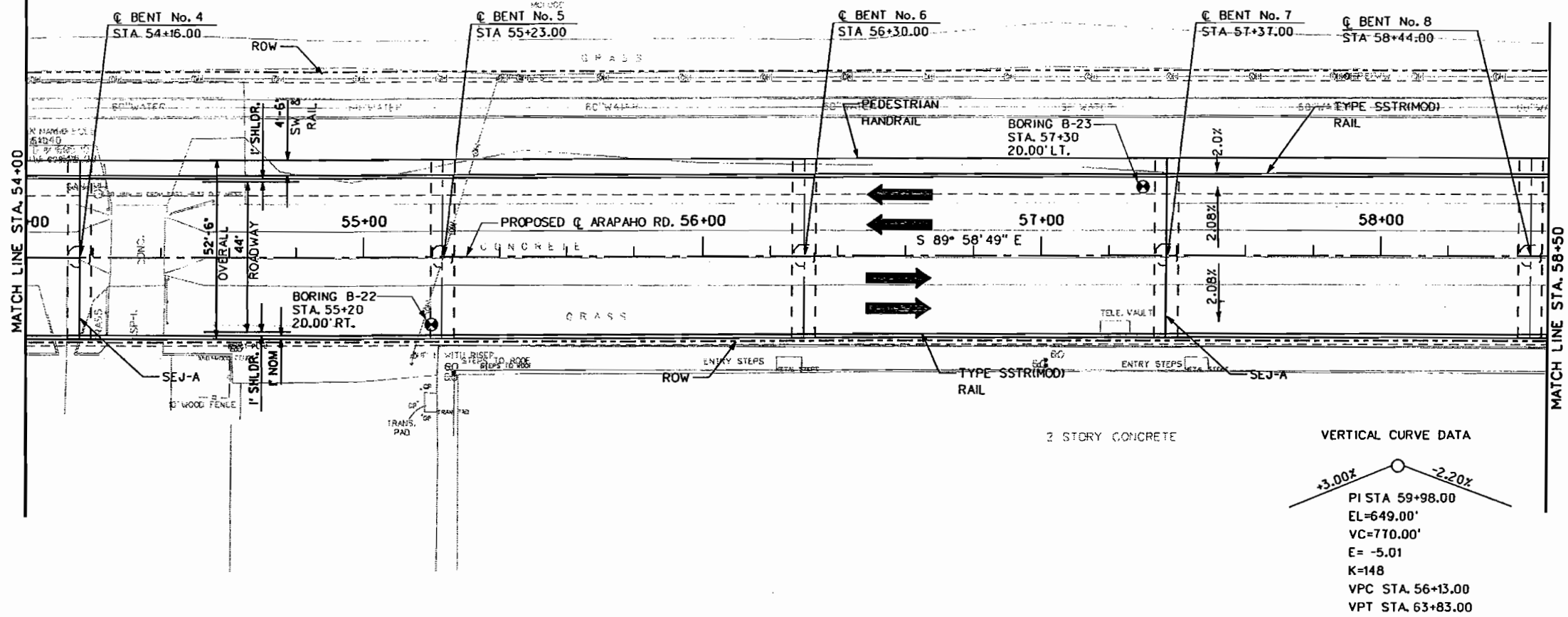
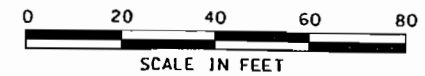
- GENERAL NOTES:
1. DESIGNED IN ACCORDANCE WITH AASHTO "STANDARD SPECIFICATIONS FOR HIGHWAY BRIDGES" 17TH EDITION- 2002, FOR HS20-44 LOADING.
  2. ALL DIMENSIONS ARE EITHER HORIZONTAL OR VERTICAL AND MUST BE CORRECTED FOR GRADE, CROWN, AND/OR SUPERELEVATION.
  3. ALL BENTS ARE RADIAL UNLESS NOTED OTHERWISE.



FOR INTERIM REVIEW ONLY  
 By CLIFF R. HALL, P.E. - 82211  
 URS CORPORATION  
 Date 6-25-03  
 NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES

NO.	DATE	REVISION	APPROV.
<b>URS</b> GREYSTONE CENTRE 3010 LBJ FREETWY, SUITE 1300 DALLAS, TX 75234			
<b>ARAPAHO ROAD - PHASE III</b>			
SURVEYOR BOULEVARD TO ADDISON ROAD			
BRIDGE LAYOUT			
SHEET 1 OF 4			
TOWN OF ADDISON, TEXAS			
Design	CBJ	Drawn	JBY
Check	---	Check	CBJ
DATE	6-25-03	SCALE	1" = 40'
PROJECT NO.	---	SHEET NO.	---

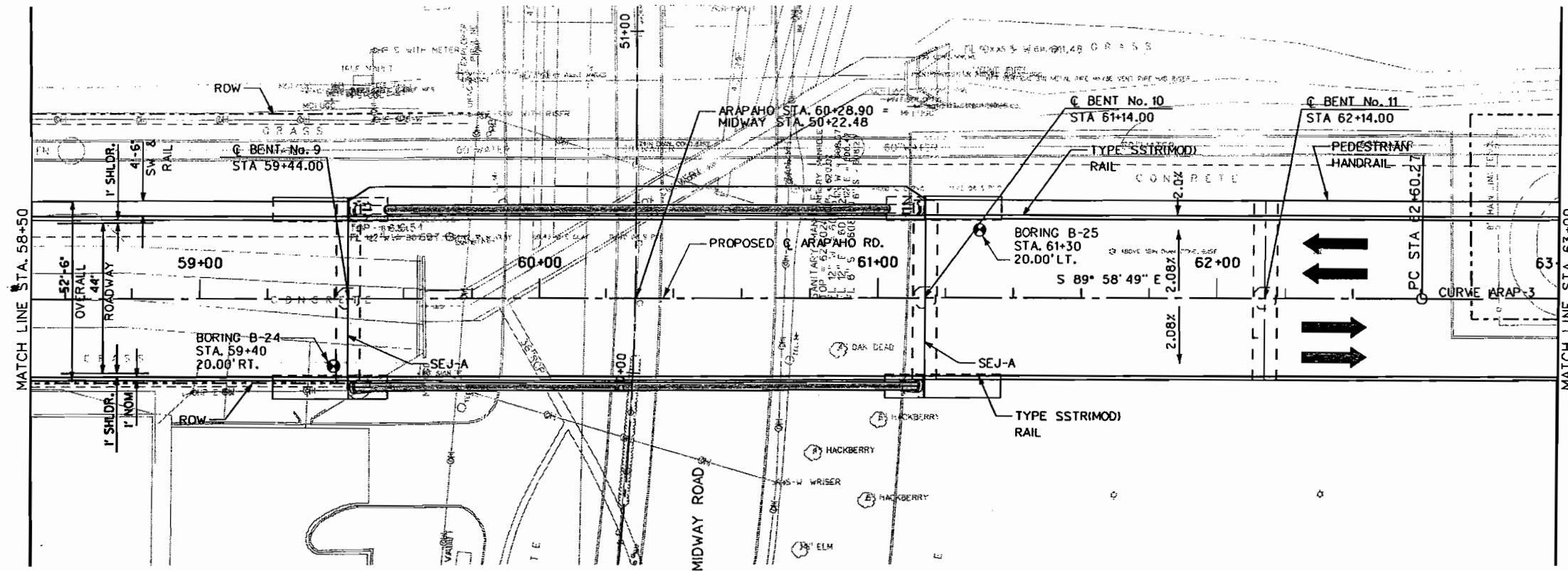
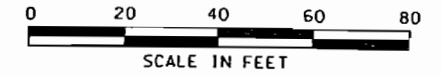
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FOR INTERIM REVIEW ONLY  
 By CLIFF R. HALL, P.E. # 82211  
 URS CORPORATION  
 Date 6-25-03  
 NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES

NO.	DATE	REVISION	APPROV.
<b>URS</b> GREYSTONE CENTRE 3010 LBJ FREEWAY, SUITE 1300 DALLAS, TX 75234			
<b>ARAPAHO ROAD - PHASE III</b> SURVEYOR BOULEVARD TO ADDISON ROAD			
BRIDGE LAYOUT SHEET 2 OF 4			
<b>TOWN OF ADDISON, TEXAS</b>			
Design	CRB	Drawn	JRH
Check	---	Check	CRB
DATE	6-25-03	SCALE	1" = 40'
PROJECT NO.	---	SHEET NO.	---

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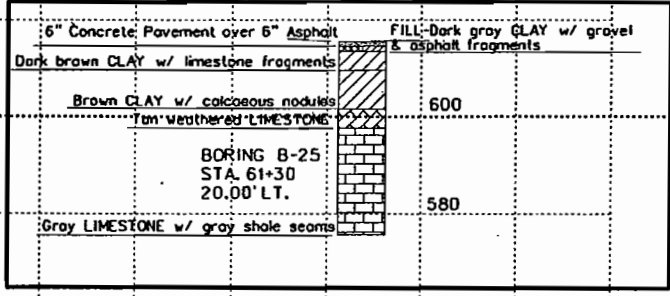
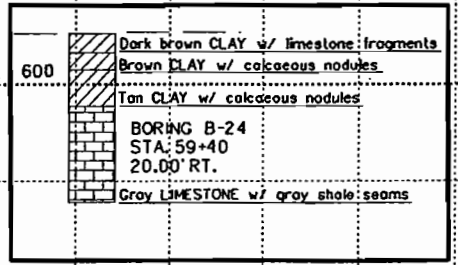
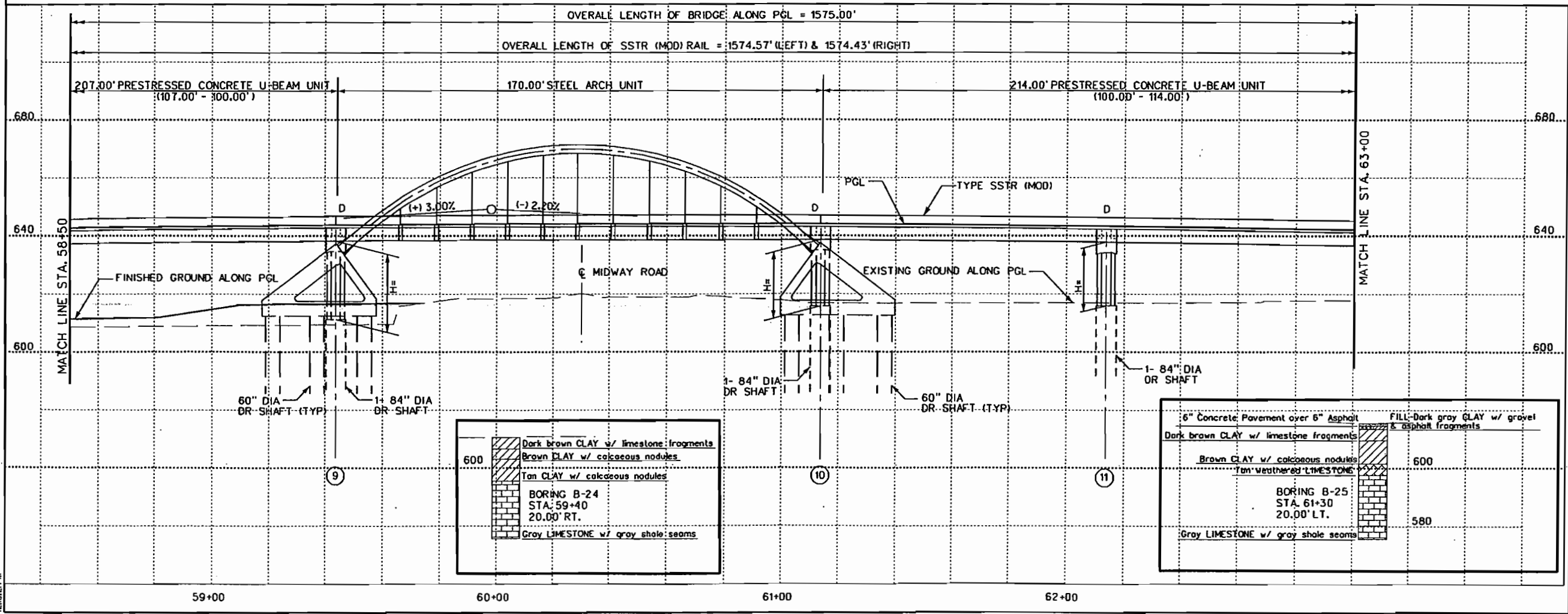


**HORIZONTAL CURVE DATA**  
 CURVE ARAP-3  
 PISTA 63+05.13  
 Δ=01°01'41" LT  
 D=01°08'45"  
 T=44.86'  
 L=89.72'  
 R=5000.00'  
 PC STA 62+60.27  
 PT STA 63+49.99

**VERTICAL CURVE DATA**

$\begin{matrix} & \nearrow & & \searrow \\ & +3.00\% & & -2.20\% \end{matrix}$

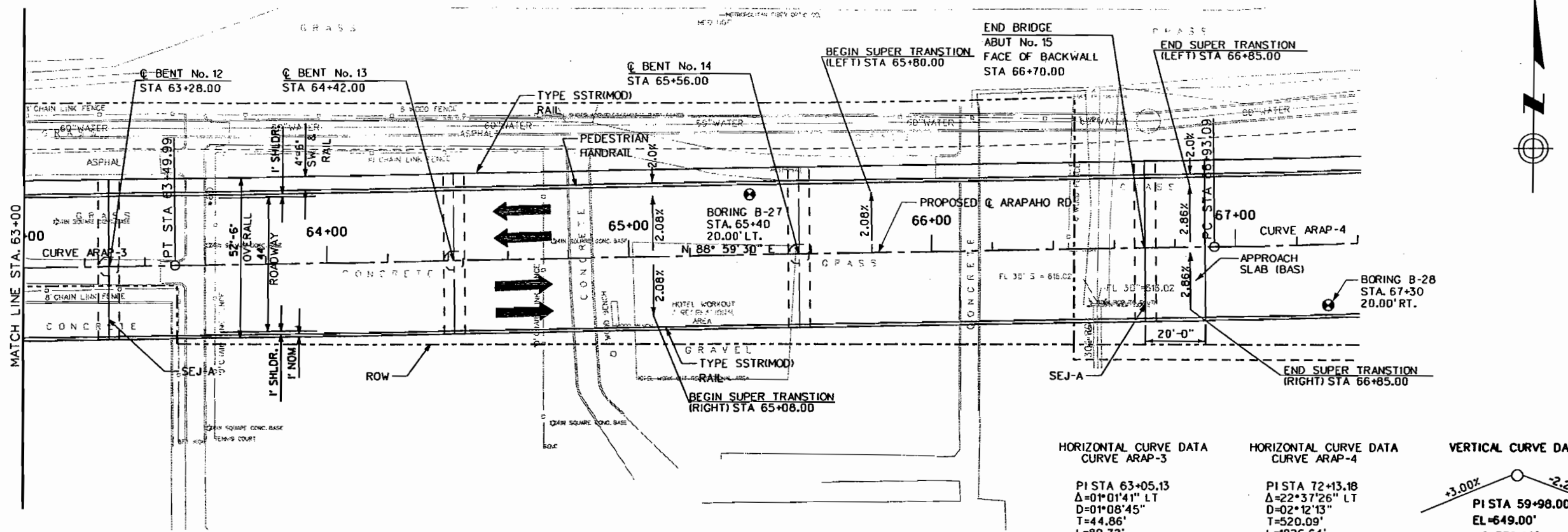
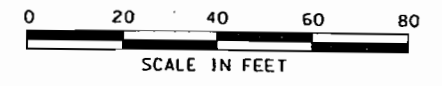
PISTA 59+98.00  
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 VC=770.00'  
 E= -5.01  
 K=148  
 VPC STA 56+13.00  
 VPT STA 63+83.00



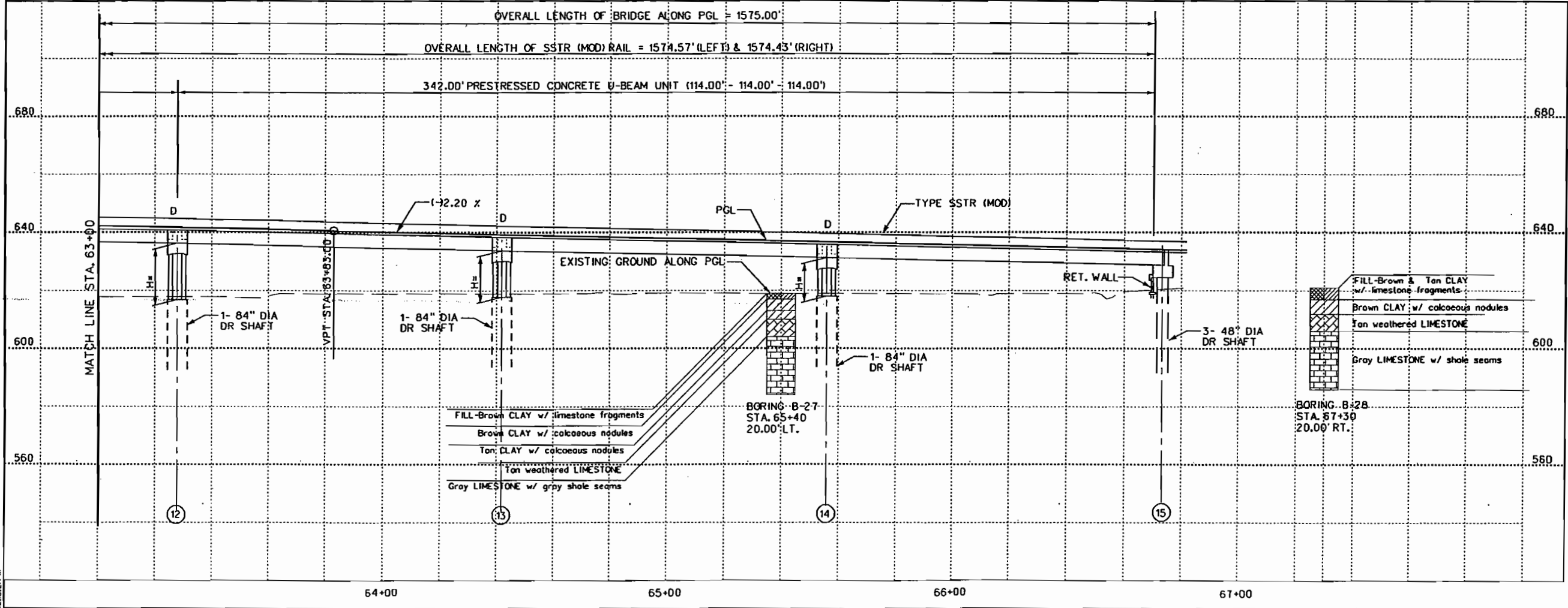
FOR INTERIM REVIEW ONLY  
 BY CLIFF R. HALL, P.E. # 82211  
 URS CORPORATION  
 Date 6-25-03  
 NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES

NO.	DATE	REVISION	APPROV.
<b>URS</b> GREYSTONE CENTRE 3010 LBJ FREEWAY, SUITE 1300 DALLAS, TX 75234			
<b>ARAPAHO ROAD - PHASE III</b>			
SURVEYOR BOULEVARD TO ADDISON ROAD			
<b>BRIDGE LAYOUT</b>			
SHEET 3 OF 4			
<b>TOWN OF ADDISON, TEXAS</b>			
Design: CBB	Drawn: JBB	DATE: 6-25-03	SCALE: 1" = 40'
Check: ---	Check: CBB		

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HORIZONTAL CURVE DATA	HORIZONTAL CURVE DATA	VERTICAL CURVE DATA
CURVE ARAP-3	CURVE ARAP-4	
PI STA 63+05.13	PI STA 72+13.18	PI STA 59+96.00
Δ=0°01'41" LT	Δ=22°37'26" LT	EL=649.00'
D=01°08'45"	D=02°12'13"	VC=770.00'
T=44.86'	T=520.09'	E= -5.01
L=89.72'	L=1026.64'	K=148
R=5000.00'	R=2600.00'	VPC STA. 56+13.00
PC STA 62+60.27	PC STA 66+93.09	VPT STA. 63+83.00
PT STA 63+49.99	PT STA 77+19.73	

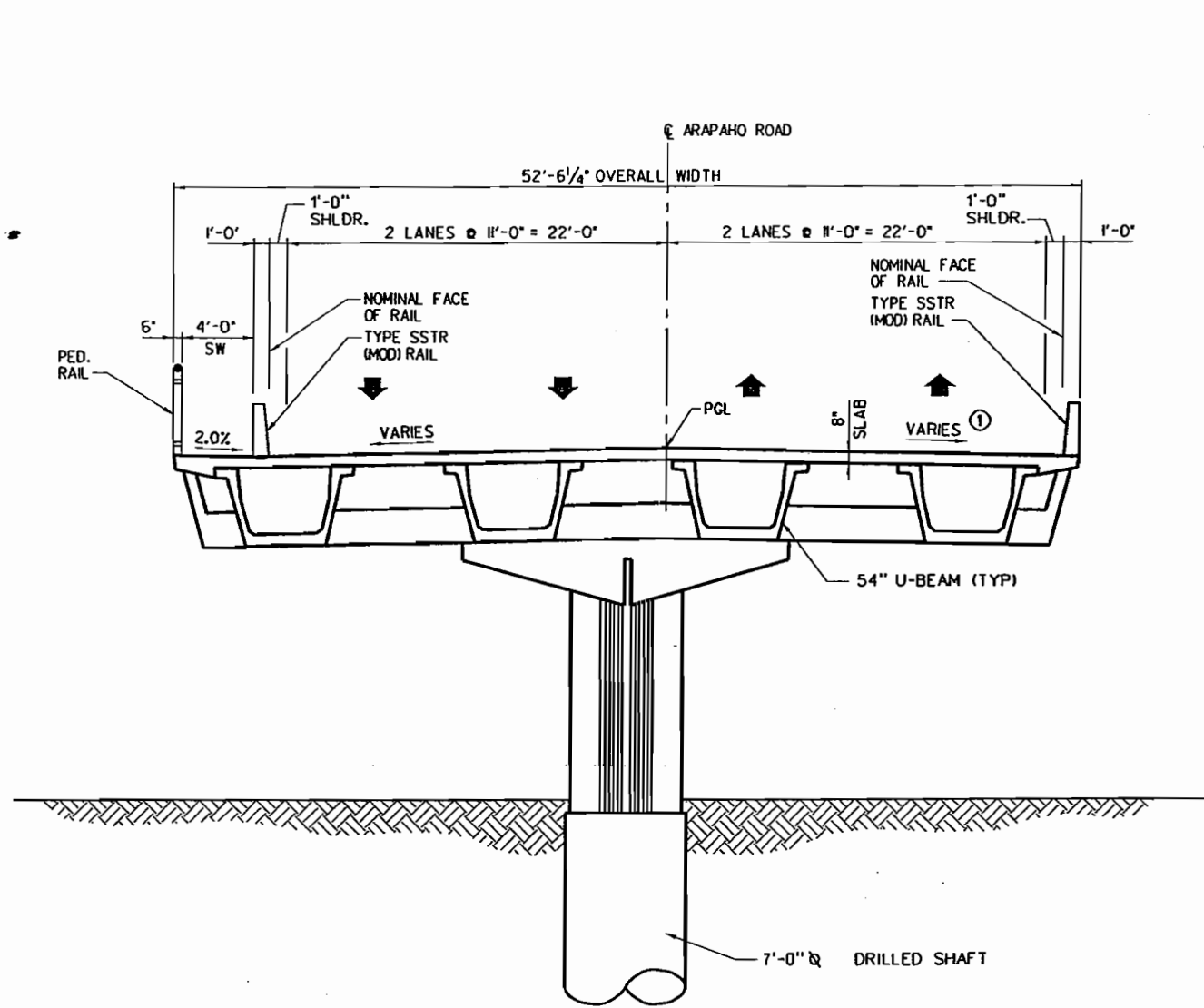


FOR INTERIM REVIEW ONLY  
 By CLIFF R. HALL, P.E. # 82211  
 URS CORPORATION  
 Date 6-25-03  
 NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES

NO.	DATE	REVISION	APPROV.
<b>URS</b>			
GREYSTONE CENTRE 3010 LEJ FREEMAN, SUITE 1300 BALLAS, TX 75234			
<b>ARAPAHO ROAD - PHASE III</b>			
SURVEYOR BOULEVARD TO ADDISON ROAD			
<b>BRIDGE LAYOUT</b>			
SHEET 4 OF 4			
TOWN OF ADDISON, TEXAS			
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Check	---	Check	CBH
DATE	6-25-03	SCALE	1" = 40'
PROJECT NO.	-----	SHEET NO.	-----

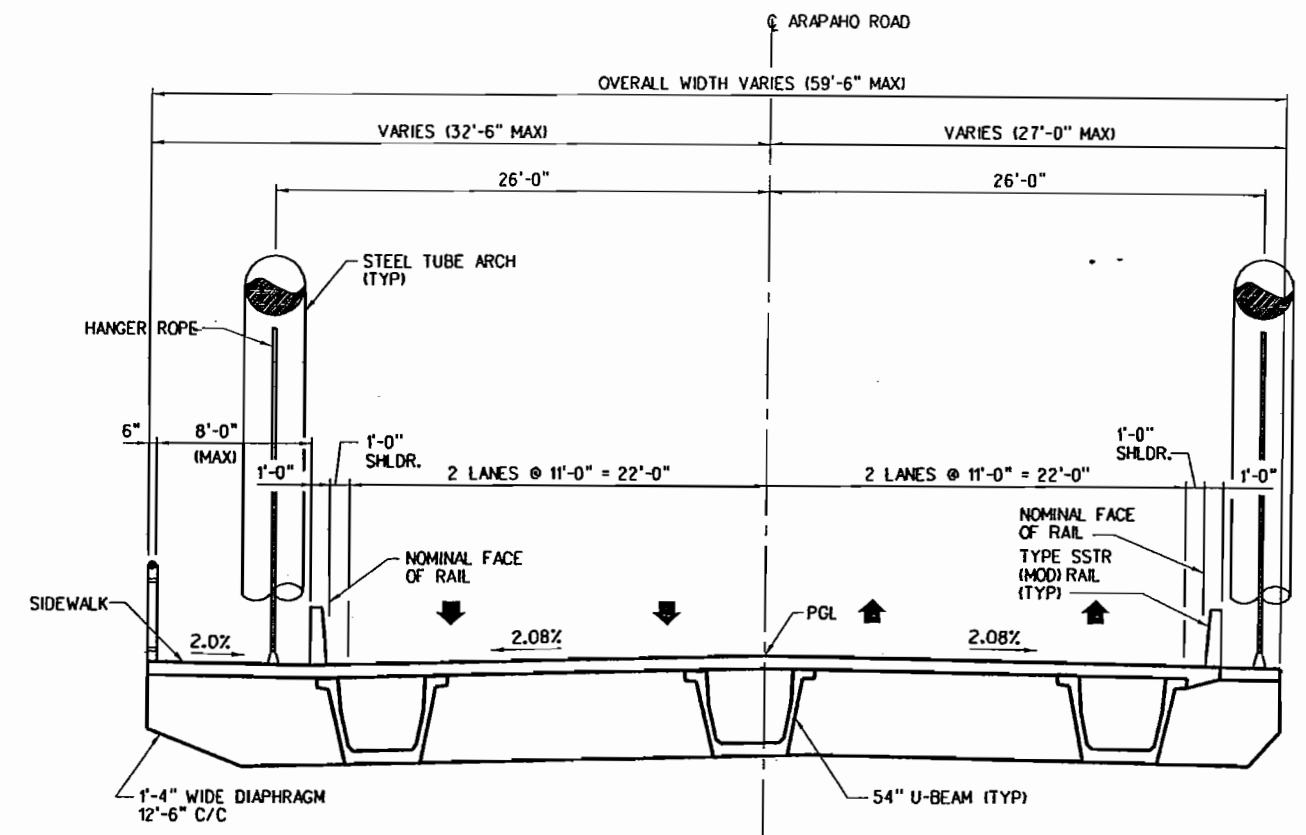
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TYPICAL SECTION (SPANS 1-8 & 10-14)

① REVERSE DIRECTION IN SUPERELEVATION



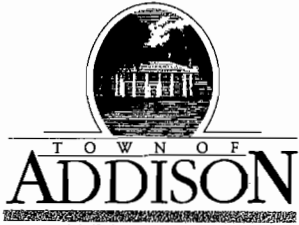
TYPICAL SECTION (SPAN 9)

FOR INTERIM REVIEW ONLY  
 BY CLIFF R. HALL, P.E. - 82211  
 URS CORPORATION  
 Date 6-25-03  
 NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES

NO.	DATE	REVISION	APPROV.
<b>URS</b> CREYSTONE CENTRE 3010 LBJ FREEWAY, SUITE 1300 DALLAS, TX 75234			
<b>ARAPAHO ROAD - PHASE III</b>			
SURVEYOR BOULEVARD TO ADDISON ROAD			
<b>TYPICAL SECTIONS</b>			
TOWN OF ADDISON, TEXAS			
Design	CRH	Drawn	JRH
Check	CRH	DATE	6-25-03
SCALE	1" = 40'	PROJECT NO.	
SHEET NO.			

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*Regular mail*



**PUBLIC WORKS DEPARTMENT**  
Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-2871 FAX (972)450-2837  
16801 Westgrove

30 October 2002

Mr. Gary B. Crouch  
ADR Partners  
4444 Westgrove Drive, #210  
Addison, TX 75001-3208

RE LOT 1 – HOUSLEY ADDITION

Dear Mr. Crouch:

Per your request, I have reviewed your property located on Survey Boulevard and your request for Town crews to remove vegetation from a drainage easement located within the referenced property. According to the Code of Ordinances, Town of Addison, Section 34.114, and Appendix B, Subdivision Ordinance No. 261, Section IX, Paragraph P:

“Drainage easements at all times shall be maintained by the individual owner of the lot or lots that are traversed by or are adjacent to the drainage or floodway easement.”

Therefore, based on the wording in the Code of Ordinances, it is the property owner’s responsibility to maintain the easement. Due to the condition of growth within the easement and your concern regarding erosion, the Town requests that you begin cleanup as soon as possible.

If you would like to view the Town of Addison Code of Ordinances, you can find it online at [www.ci.addison.tx.us](http://www.ci.addison.tx.us).

If you have any questions, please contact me at 972-450-2871.

Sincerely,

Michael E. Murphy, P.E.  
Director of Public Works

MEM:sef

cc: John Hill, City Attorney, Cowles & Thompson

Good!

30 October 2002

Mr. Gary B. Crouch  
ADR Partners  
4444 Westgrove Drive, #210  
Addison, TX 75001-3208

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“Drainage easements at all times shall be maintained by the individual owner of the lot or lots that are traversed by or are adjacent to the drainage or floodway easement.”

Therefore, based on the wording in the Code of Ordinances, it is the property owner’s responsibility to maintain the easement. Based on the condition of growth within the easement and your concern regarding erosion, the Town requests that you begin cleanup as soon as possible.

If you would like to view the Town of Addison Code of Ordinances, you can find it online at [www.ci.addison.tx.us](http://www.ci.addison.tx.us).

If you have any questions, please contact me at 972-450-2871.

Sincerely,

Michael E. Murphy, P.E.  
Director of Public Works

cc: John Hill - City Attorney - Cowles & Thompson

MEM:sef

cc: John Hill, City Attorney, Cowles & Thompson

30 October 2002

Mr. Gary B. Crouch  
ADR Partners  
4444 Westgrove Drive, #210  
Addison, TX 75001-3208

~~at~~ CITY CREWS to  
remove

RE LOT 1 - HOUSLEY ADDITION

Dear Mr. Crouch:

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SEC. 34.114

↑ and

“Drainage easements at all times shall be maintained by the individual owner of the lot or lots that are traversed by or are adjacent to the drainage or floodway easement.”

it is the property owners responsibility  
to maintain the easment.

Therefore, based on the wording in the Code of Ordinances, responsibility for maintenance is the property owner at which the easement resides.

Based on the condition of growth within the easement and your concern regarding erosion, the Town requests that you begin cleanup as soon as possible.

If you have any questions, please contact me at 972-450-2871.

Sincerely,

If you would like to view the Town of Addison Code of Ordinances you can go to find online at [www.ci.addison.tx.us](http://www.ci.addison.tx.us).

Michael E. Murphy, P.E.  
Director of Public Works

MEM:sef

cc: John Hill, City Attorney, Cowles & Thompson

#R18-1

Passed  
8-27-02

Council Agenda Item #R18

**SUMMARY:**

This item is to request Council approval of a resolution determining the necessity of acquiring real property owned by Absolute Systems, LTD., et al, and authorizing its condemnation and/or appropriation for public use in connection with realignment and extension of Arapaho Road.

**FINANCIAL IMPACT:**

Budgeted Amount: N/A

Appraised Value: \$62,381.00

Source of Funds: Funds are available from Year 2000 and/or 2002 General Obligation Bond Program, Project No. 83300.

**BACKGROUND:**

The right-of-way acquisition process is currently underway on the proposed Arapaho Road, Phase III project. Approximately 0.6709 acre of permanent right-of-way for the proposed extension of Arapaho Road (see attached Parcel 8 map) is required as part of the proposed roadway improvements. This parcel is a portion of Lot 6, Surveyor Addition, and was very recently acquired by Absolute Systems, LTD. et al from the previous owner, 276 Trust. The previous trustee was Gary B. Crouch, and all attached appraisals and descriptive documents were prepared during the previous ownership of Mr. Crouch.

In January 2002, the firm of Evaluation Associates appraised the fee simple value of the 0.6709 acre of right-of-way at \$225,000.00 (See attached Summary of Salient Facts and Conclusions), which included a loss in value of the remainder of the property after the taking in the amount of \$162,619.00. This loss of value was established by staff's original determination that the proposed taking would leave the existing building on the site as a "Non-Conforming Use." Specifically, the current structure would not meet setback requirements from the proposed roadway and could not be rebuilt in its current location if it was damaged by more than 50% of the total square footage. Additional compensation, totaling \$22,200.00 was provided for damages to an existing permitted parking area that is located within the Town's existing drainage easement.

Subsequently, City Attorney and staff review of existing ordinances revealed that the remainder of the property would not be considered damaged due to the construction of the proposed bridge over Midway Road. Current ordinance provisions permit the reconstruction of the owner's building structure in its existing location if it is damaged by more than 50% at any time. Consequently, a new appraisal was developed by Evaluation Associates, which stated the total compensation value at \$62,381.00. (See attached Summary of Salient Facts and Conclusions).

On March 4, 2002 the Town made an initial offer to the owner, 276 Trust, with Gary B. Crouch as Trustee, based on the original appraisal of \$225,000 (See attached letter). In a letter from Mr. Crouch, dated March 26, 2002 (See attached letter), the Town's offer was rejected. In subsequent correspondence to Mr. Crouch, dated April 24, 2002 (See attached letter), the Town made a second offer, based on the revised appraisal amount of \$62,381.00. In addition, the Town offered to reconstruct an equivalent number of parking spaces, with associated lighting, to replace the existing parking spaces located under the proposed bridge. However, the property owner did not formally respond to the Town within the required thirty (30) day period of time. In July 2002, Mr. Crouch informed the Town that it's latest offer was rejected and that the majority ownership of the property had been transferred to several parties, including Absolute Systems, LTD. In addition, Mr. Crouch stated that he contractually retained condemnation rights to the property. The City Attorney performed a title search of the site and determined that several parties will be involved in the Town's effort to acquire the necessary property through eminent domain proceedings.

**RECOMMENDATION:**

It is recommended that Council approve a resolution determining the necessity of acquiring real property owned by Absolute Systems LTD, and authorizing its condemnation and/or appropriation for public use in connection with realignment and extension of Arapaho Rd.

#R18-2

**TOWN OF ADDISON, TEXAS**

**RESOLUTION NO. R\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS DETERMINING THE NECESSITY OF ACQUIRING THE HEREINAFTER DESCRIBED REAL PROPERTY OWNED BY ABSOLUTE SYSTEMS, LTD., ET AL. AND AUTHORIZING ITS CONDEMNATION AND/OR APPROPRIATION FOR PUBLIC USE IN CONNECTION WITH THE REALIGNMENT AND EXTENSION OF ARAPAHO ROAD IN ADDISON, TEXAS.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

SECTION 1. That for the purposes of this Resolution, the following definitions of terms shall apply:

"PROPERTY": The areas described in Exhibit "A" attached hereto and made a part hereof for all purposes.

"PROPERTY INTEREST": Fee simple title to the land described in Exhibit "A" attached hereto and incorporated herein.

"PROJECT": Realignment and extension of Arapaho Road, Addison, Texas.

"OFFER AMOUNT": Sixty Two Thousand Three Hundred and Eighty One and No/100 Dollars (\$62,381.00).

"OWNERS": Absolute Systems, Ltd.  
Juvat, Inc., general partner of Absolute Systems, Ltd.  
Joyce Harris, individually and as officer of Juvat, Inc.  
Gene Harris, individually and as officer of Juvat, Inc.  
276 Trust  
Gary B. Crouch, Trustee

"LIENHOLDER": Merrill Lynch Business Financial Services, Inc.  
David L. Fair, Trustee

SECTION 2. That it is hereby determined that public convenience and necessity requires that the Town of Addison should acquire the PROPERTY INTEREST in, over, and across the PROPERTY necessary for the PROJECT.

SECTION 3. That the PROPERTY is hereby determined to be necessary for the PROJECT. That for the purpose of acquiring the PROPERTY INTEREST in, over, and across the PROPERTY, the City Manager, or such employee as he may designate, is hereby authorized



and directed to offer the OFFER AMOUNT as payment for the PROPERTY to be acquired and full damages allowable by law, which amount represents its fair cash market value.

SECTION 4. That the Town of Addison determines to appropriate the PROPERTY INTEREST in, over, and across the PROPERTY for the PROJECT under the laws of the State of Texas and the provisions of the Charter of the Town of Addison.

SECTION 5. That, in the event the OWNERS accept the OFFER AMOUNT as authorized herein, the City Finance Director be and is hereby authorized to draw a check in favor of the OWNERS named above, or the current owners of record, in the OFFER AMOUNT.

SECTION 6. That the City is to have possession of the PROPERTY on closing; and the City will pay any title expenses and closing costs; and the City will pay court costs as may be assessed by the Special Commissioners or the court.

SECTION 7. Should the employee designated to make the official offer report to the City Attorney that the OWNERS have refused to accept the OFFER AMOUNT as compensation for the hereinabove described taking from the OWNERS under the laws of eminent domain, which amount the City Council deems to be the fair cash market value and all just compensation, in compliance with the laws of the State of Texas, this will be evidence that the Town of Addison cannot agree with the OWNERS as to the damages legally allowable by law. In such case, the City Attorney is authorized and directed to file the necessary suit and take the necessary action for the prompt acquisition of the PROPERTY in condemnation or in any manner provided by law.

SECTION 8. That in the event the Special Commissioners in Condemnation appointed by the court return an award that is the same amount or less than the OFFER AMOUNT, the City Finance Director is hereby authorized to issue a check not to exceed the amount of the Commissioners' award made payable to the County Clerk of Dallas County to be deposited into the registry of the court to enable the City to take possession of the PROPERTY without further action of the City Council.

SECTION 9. That in the event it is subsequently determined that additional persons other than those named herein have an interest in the PROPERTY, then the City Attorney is authorized and directed to join said parties as defendants in said condemnation suit.

SECTION 10. That this resolution shall take effect immediately from and after its passage, as in the Charter in such cases is made and provided.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Mayor  
Town of Addison, Texas

ATTEST:

---

Carmen Moran, City Secretary

APPROVED AS TO FORM:

---

Ken C. Dippel, City Attorney

#R183

"EXHIBIT A"

Parcel 8  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 0.6709 acre (29,223 square foot) tract of land situated in the W.H. Witt Survey, Abstract Number 1609, and the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 2.5212 acre tract of land conveyed to J. H. Crouch, Jr. and Jo Doris Crouch on August 4, 1997 and recorded in Volume 97153, Page 03266 of the Deed Records of Dallas County, Texas, said called 2.5212 acre tract being all of "Lot 6, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated March 29, 1979 and recorded in Volume 79130, Page 2495 of said Deed Records, said 0.6709 acre tract of land being more particularly described by metes and bounds as follows;

**BEGINNING** at a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corners of said called 2.5212 acre tract and "Lot 6, Surveyor Addition, Addison West Industrial Park", and Northwest corner of a called 3.4654 acre tract of land, 25% interest conveyed by Epina Properties Limited to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02787 of said Deed Records, 75% interest conveyed by Lehndorff & Babson Property Fund to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02796 of said Deed Records, said called 3.4654 acre tract being all of the Surveyor Addition, Addison West Industrial Park, an addition to the Town of Addison, as evidenced by the plat dated October 24, 1978 and recorded in Volume 79029, Page 0984 of said Deed Records;

THENCE, SOUTH 00°07'27" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 2.5212 acre tract and West line of said called 3.4654 acre tract, a distance of 78.96 feet to a 5/8 inch iron rod set in the proposed South right of way line of Arapaho Road;

PARCEL 8 - ARAPAHO ROAD PROJECT

All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Ayub R. Sandhu 11-12-99  
Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910

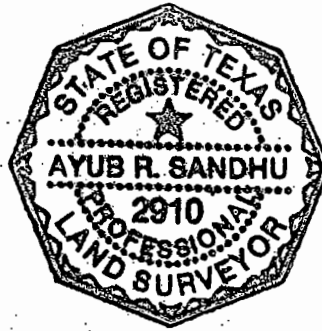
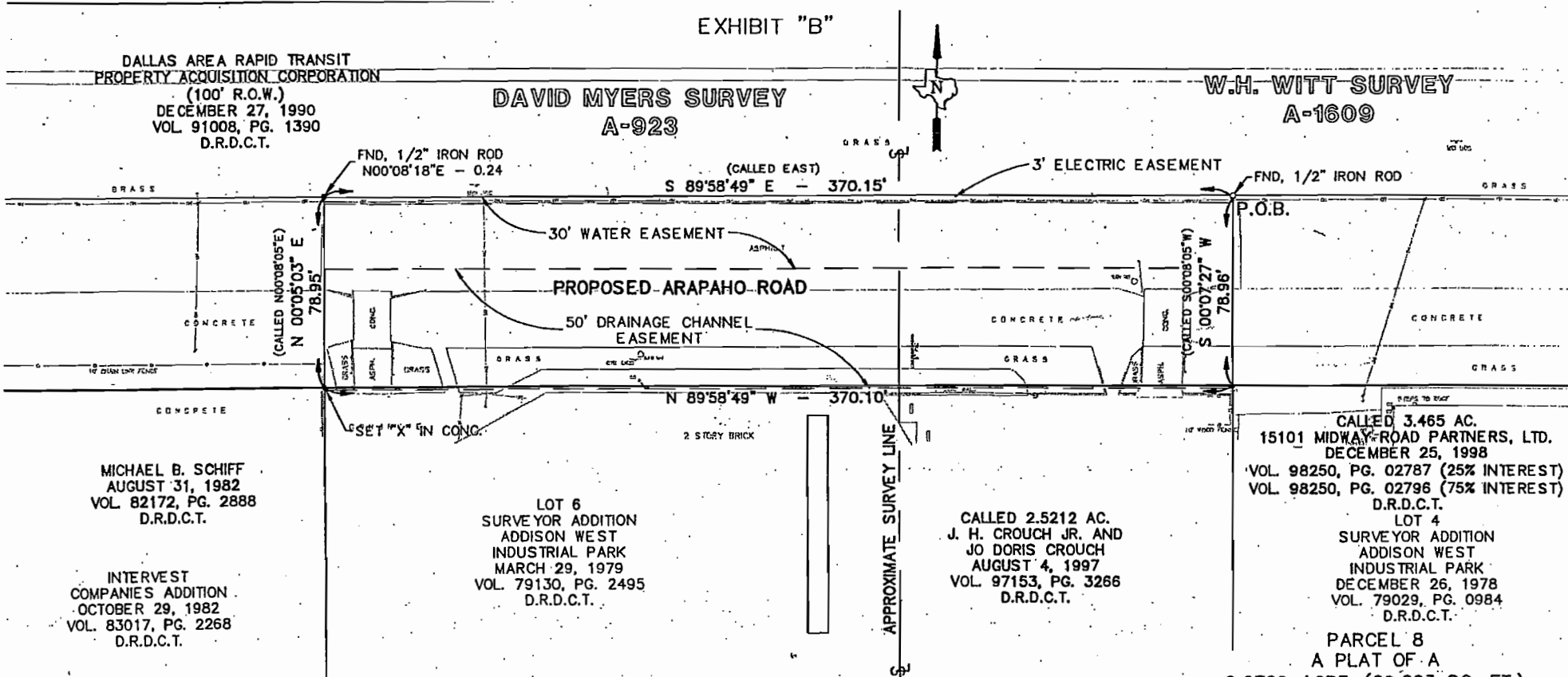


EXHIBIT "B"

DALLAS AREA RAPID TRANSIT  
PROPERTY ACQUISITION CORPORATION  
(100' R.O.W.)  
DECEMBER 27, 1990  
VOL. 91008, PG. 1390  
D.R.D.C.T.

DAVID MYERS SURVEY  
A-923

W.H. WITT SURVEY  
A-1609



MICHAEL B. SCHIFF  
AUGUST 31, 1982  
VOL. 82172, PG. 2888  
D.R.D.C.T.

INTERVEST  
COMPANIES ADDITION  
OCTOBER 29, 1982  
VOL. 83017, PG. 2268  
D.R.D.C.T.

LOT 6  
SURVEYOR ADDITION  
ADDISON WEST  
INDUSTRIAL PARK  
MARCH 29, 1979  
VOL. 79130, PG. 2495  
D.R.D.C.T.

CALLED 2.5212 AC.  
J. H. CROUCH JR. AND  
JO DORIS CROUCH  
AUGUST 4, 1997  
VOL. 97153, PG. 3266  
D.R.D.C.T.

CALLLED 3.465 AC.  
15101 MIDWAY ROAD PARTNERS, LTD.  
DECEMBER 25, 1998  
VOL. 98250, PG. 02787 (25% INTEREST)  
VOL. 98250, PG. 02796 (75% INTEREST)  
D.R.D.C.T.

LOT 4  
SURVEYOR ADDITION  
ADDISON WEST  
INDUSTRIAL PARK  
DECEMBER 26, 1978  
VOL. 79029, PG. 0984  
D.R.D.C.T.

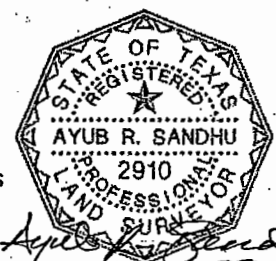
PARCEL 8  
A PLAT OF A  
0.6709 ACRE (29,223 SQ. FT.)  
TRACT OF LAND  
IN THE W.H. WITT SURVEY  
ABSTRACT NO. 1609  
& DAVID MYERS SURVEY  
ABSTRACT NO. 923  
TOWN OF ADDISON  
DALLAS COUNTY, TEXAS

NOTES:  
ALL EASEMENTS SHOWN ARE TAKEN FROM THE PLATS INDICATED THEREON. THE SURVEYOR DID NOT ABSTRACT THE SUBJECT PROPERTY SO ALL EASEMENTS MAY NOT BE SHOWN.

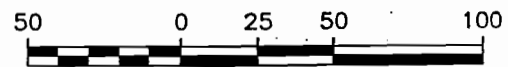
ALL BEARINGS ARE REFERENCED TO THE NORTH RIGHT OF WAY LINE OF CENTURION WAY, CALLED S 89°51'55" E, ACCORDING TO THE FINAL PLAT OF LOT 3, SURVEYOR ADDITION, RECORDED IN O.L. 77173, PAGE 135, D.R.D.C.T.

LEGAL DESCRIPTION OF EVEN SURVEY DATE. HEREWITH ACCOMPANIES THIS PLAT.

- DENOTES A FOUND POINT AS INDICATED
- DENOTES A 5/8" IRON ROD SET UNLESS OTHERWISE NOTED
- PROPOSED RIGHT OF WAY LINE



*Ayub R. Sandhu*  
11-12-99



GRAPHIC SCALE  
1 INCH = 50 FT.

#1718-4

# EVALUATION ASSOCIATES

RIGHT OF WAY LAND RIGHTS ANALYSIS • APPRAISAL • ACQUISITION • SOLUTIONS

#R18-7

## SUMMARY OF SALIENT FACTS AND CONCLUSIONS ARAPAHO ROAD PROJECT

**Property Owner: 276 Trust**

### Valuation Conclusion:

Whole Property	\$1,900,000
Proposed Acquisition	\$ 62,381
Remainder Before Acquisition	\$1,837,619
Remainder After Acquisition	\$1,675,000
Loss in Value of Remainder After	\$ 162,619

### Determination of Compensation:

Permanent Right of Way	\$ 40,181
Compensation for Improvements (paving)	\$ 22,200
Landscaping (None - Replacement)	\$ -0-
Loss in Value of Remainder After	\$ 162,619

**Total Compensation \$ 225,000**

Date of Appraisal: January 23, 2002

Location: 4139 Centurion Way, Town of Addison, Texas

Legal Description: Lot 6, Surveyor Addition, Town of Addison, Dallas County, Texas

Land Size: Whole Property (per DCAD records) 2.521 Acres  
Right of way Area. 0.6709 Acres

Zoning: I-1, Industrial-1 District

### Highest and Best Use:

As if Vacant BEFORE: Commercial use  
As if Vacant AFTER: Commercial use

# R18-5

# EVALUATION ASSOCIATES

RIGHT OF WAY LAND RIGHTS ANALYSIS • APPRAISAL • ACQUISITION • SOLUTIONS

## SUMMARY OF SALIENT FACTS AND CONCLUSIONS ARAPAHO ROAD PROJECT

**Parcel No. 8 - JH Crouch Jr. and Jo Crouch**

**Valuation Conclusion:**

Whole Property	\$1,900,000
Proposed Acquisition	\$ 62,381
Remainder Before Acquisition	\$1,837,619
Remainder After Acquisition	\$1,837,619
Loss in Value of Remainder After	\$ -0-

**Determination of Compensation:**

Permanent Right of Way	\$ 40,181
Compensation for Improvements (paving)	\$ 22,200
Landscaping (None - Replacement)	\$ -0-
Loss in Value of Remainder After	\$ -0-

**Total Compensation \$ 62,381**

**Date of Appraisal:** February 13, 2002 (\*1)

*(Note \*1 - Revised to acknowledge and clarify the absense of a rear yard setback requirement, both before and after the proposed acquisition)*

**Location:** 4139 Centurion Way, Town of Addison, Texas

**Legal Description:** Lot 6, Surveyor Addition, Town of Addison, Dallas County, Texas

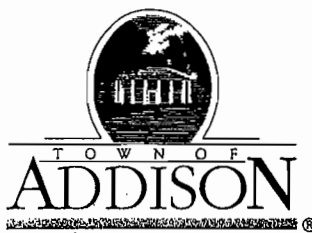
<b>Land Size:</b>	Whole Property (per DCAD records)	2.521 Acres
	Right of way Area	0.6709 Acres

**Zoning:** I-1, Industrial-1 District

**Highest and Best Use:**

As if Vacant BEFORE:	Commercial use
As if Vacant AFTER:	Commercial use

#R18-6



**OFFICE OF THE CITY MANAGER**

(972) 450-7000 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75001-9010

5300 Belt Line Road

March 4, 2002

Mr. Gary B. Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, Texas 75001-3208

Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison  
Recorded in Vol. 79130, Pg. 2495 in the Deed Records of Dallas County

Dear Mr. Crouch:

In February 2000, the Town of Addison elected to sell bonds in order to fund six construction projects. Included in these projects is the extension of Arapaho road, from Addison Road to Marsh Lane. At this time we are in the right-of-way acquisition phase of the project.

The Town of Addison has determined the public need to acquire a 0.6709 acre portion of the 2.521 acre tract of land that is owned by you at 4139 Centurion Way. The public purpose for this land acquisition is the necessary right-of-way for the Arapaho Road project along with related municipal uses including a public hike and bike trail. The firm of Evaluation Associates appraised the property on January 23, 2002. The attached summary sheet shows a summary of facts and conclusions regarding this taking. On February 26, 2002, the City Council of the Town of Addison authorized me to make an offer to purchase the 0.6709 acre tract of land at the appraised value of \$225,000.00.

The Town of Addison requests that you respond to this offer of purchase within thirty (30) days of the date of this letter. If we do not hear from you within the thirty (30) day period, the Town will consider its offer rejected and we will initiate eminent domain proceedings to acquire the property.

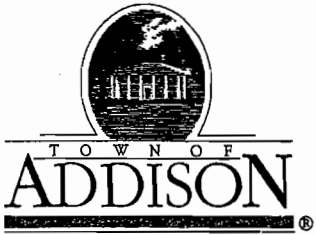
Should you have any questions, please feel free to contact Mr. Mike Murphy, P.E., Director of Public Works, at 972-450-2871, or me.

Sincerely,

Ron Whitehead  
City Manager



COPY  
#R18-8



OFFICE OF THE CITY MANAGER

(972) 450-7000 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75001-9010

5300 Belt Line Road

April 24, 2002

Mr. Gary Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, Texas 75001

*Via Facsimile 972-931-1688 &  
Certified Mail Return Receipt Requested  
Item Number 7000 0600 0025 3591 6255*

**Re: Arapaho Road Improvements**

Dear Mr. Crouch:

We appreciated the opportunity to meet with you last week regarding the planned improvements to Arapaho Road and the acquisition by the Town of Addison of an interest in a portion (0.6709 acres out of the entire tract of 2.521 acres) of the property located at the rear of 4139 Centurion Way in connection with that project. You indicated during our meeting that you have several groups who are interested in purchasing or leasing that property, and that you would like us to address two items regarding the Town's acquisition so that you can proceed with your plans: (1) whether or not the parking which is currently in place at the rear of the building (approximately 36 parking spaces) will be available for use by the owner upon the completion of the improvements, and (2) whether or not the building will be able to be reconstructed in the event it is damaged by more than 50% of its replacement value.

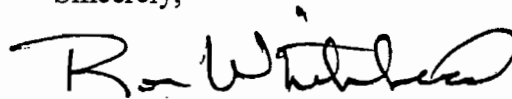
With respect to the parking, if the 36 parking spaces in the rear of the property are removed, the property will continue to have adequate parking under the Town's current parking regulations. However, the Town will agree that, upon the completion of the Arapaho Road improvements, the owner of the property will have access to substitute parking (constructed by the Town) at the rear of the property where parking is currently available.

With respect to the reconstruction of the building, the property at 4139 Centurion Way is currently zoned I-1 Industrial District. The I-1 District regulations provide that the rear yard setback requirements are the same as for the LR Local Retail District. In the LR District there is no rear yard depth requirement unless the District adjoins a single-family or apartment district, in which case a 10 foot rear yard is required. Therefore, the existing building will not be in violation of the current rear-yard setback requirements after the Town's acquisition of the property and construction of the improvements and will be able to be reconstructed in its current location if it is damaged.

As you know, we had previously provided to you an appraisal prepared by Evaluation Associates, which valued the portion of the property being acquired at \$62,381.00 and concluded that the remainder of the property would be damaged in the amount of \$162,619.00 as a result of the acquisition. Based on that appraisal, the Town had offered to pay \$225,000.00, which was not accepted. The damage to the property after the acquisition, however, was based upon an understanding that the building might not be able to be reconstructed if it was damaged by more than 50% of its replacement value. However, as indicated above, under current regulations the building would be able to be reconstructed in its current location, which eliminates the damages. Therefore, our offer is to acquire the 0.6709 acre tract for its appraised value at \$62,381.00 together with the right to have substitute parking in the rear of the property as described above.

We hope that this clarifies the issues which we have been discussing. Regarding the above offer, we request that you respond to the offer within thirty (30) days of the date of this letter. If we do not hear from you within that time period, we will consider the offer rejected.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Whitehead". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Ron Whitehead  
City Manager

**SUMMARY OF SALIENT FACTS**

**J.H. & Jo Crouch Property  
 Surveyor Addition, Lot 6  
 4139 Centurion Way  
 Addison, Texas**

<b>Date of the Appraisal:</b>	September 26, 2002
<b>Value Estimated:</b>	Market Value - Just Compensation
<b>Property Rights Appraised:</b>	Fee Simple
<b>Property Appraised:</b>	A ±109,423 SF site on the north side of Centurion Way, improved with a ±30,287 SF office/warehouse facility in the Town of Addison, Texas.
<b>Property Zoned:</b>	I-1, industrial
<b>Highest &amp; Best Use:</b>	Commercial Development
"As vacant":	To be maintained as office/warehouse
"As improved":	"tech" space until demand warrants re-development of the site.
<b>Estimates of Fee Simple Value:</b>	
<u>Whole Property</u>	
Land & Improvements:	\$1,820,000
Land Only Value:	\$ 427,604
<u>Part Taken:</u>	
Right-of-Way, Land & Improvements:	\$ 52,601
Temporary Easement, Land & Improvements:	\$ n/a
<u>Remainder Before the Take:</u>	
Land & Improvements:	\$1,767,399
<u>Remainder After the Take:</u>	
Land & Improvements:	\$1,820,000
 <b>Final Value Estimate: JUST COMPENSATION</b>	 <b>\$ 52,601</b>

Addison! Crouch!

STEVEN Z. CHUTCHIAN, P.E.  
Assistant City Engineer  
(972) 450-2886  
(972) 450-2837 FAX  
(214) 673-2518 Mobile  
schutchian@ci.addison.tx.us E-mail

Town of Addison 16801 Westgrove Dr. P.O. Box 9010, Addison, Texas 75001-9010

7/17/02

MIKE -

THE CONSTRUCTION BID FOR A  
DOUBLE 10' X 7' BOX COLLECT ON  
ARAPAHO RD. WAS \$850<sup>00</sup>/L.F.

THE MEASURED DISTANCE FROM THE  
EXISTING HEAD WALL, WEST OF  
SURVEYOR & ADJACENT TO MR.  
CROUCH'S PROPERTY, TO THE BACK  
OF HIS PROPERTY IS 300 FT.

FROM THIS POINT, THE CHANNEL  
TURNS TO THE SOUTH.

COST OF CONSTRUCTION:

$$300 \text{ L.F.} \times \$850^{00} = \underline{\$255,000}$$

Steve C.



**FAXED**  
4/10/02

To: Angela

Lewis ISAACS

FACSIMILE TRANSMITTAL SHEET

TO: <i>Mike Murray</i>	FROM: <i>Barry L Brown</i>
COMPANY:	DATE: <i>4/10/02</i>
FAX NUMBER: <i>972-450-2837</i>	TOTAL NO. OF PAGES INCLUDING COVER: <i>4</i>
PHONE NUMBER:	SENDER'S PHONE NUMBER: <i>972-380-6752</i>
RE:	SENDER'S FAX NUMBER: <i>972-931-1688</i>

- URGENT   
 FOR REVIEW   
 PLEASE COMMENT   
 PLEASE REPLY   
 PLEASE RECYCLE

NOTES/COMMENTS

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**Confidentiality Note:** The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at the address set forth below via the United States Postal Service. Thank you.

# ADR Partners

March 12, 2002

Mr. Ron Whitehead  
City Manager  
Town of Addison  
5300 Belt Line Road  
Addison, TX 75001

Via Facsimile 972-450-7043 &  
Certified Mail Return Receipt Requested  
Item Number 7000 1670 0008 7795 0483

Re: 4139 Centurion Way -- Addison, Texas

Dear Mr. Whitehead,

I am in receipt of the notice letter to 276 Trust dated March 4, 2002 that makes an offer to acquire a portion of the referenced property. I am currently working with several tenants to lease the referenced facility. The area that the Town of Addison needs to acquire has thirty-six parking spaces that are necessary for the building. The Town of Addison has been vague on what will happen to these thirty-six parking spaces. In order to respond to these potential tenants for the property and not lose the opportunity to lease the property, I need the Town of Addison to immediately address the following issues:

1. Does the property lose the thirty-six parking spaces?
2. If the parking lot will be available then:
  - a. How many spaces will be available?
  - b. How will the parking be accessible and will there be a height restriction that will affect SUVs or trucks?
  - c. What will be the construction of the parking lot (i.e. asphalt, concrete or dirt)?
  - d. Will the Town of Addison maintain the parking lot?
  - e. Will the parking lot be lighted?
  - f. What are the restrictions on using the parking lot?
  - g. Will the parking lot be designated for 4139 Centurion Way use only?
  - \* h. What insurance will be required for use of parking lot?
  - \* i. What will be the term of use of the parking lot and how will it be documented?
  - \* j. Will the use of the parking lot be granted to the property or only the current ownership?
  - \* k. List all fees, costs and expenses that the Town of Addison would require for use of the parking lot.
  - l. When will construction start and how long will it last?
  - m. Where can the tenants park when they lose the thirty-six parking spaces during construction?

?

ANGELA.

I THINK WE  
NEED TO TALK  
ABOUT \* THESE.

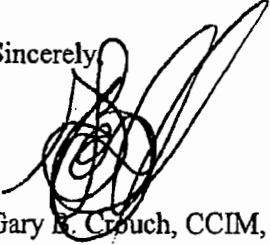
444 Westgrove, Suite 210 • Addison, TX 75001  
Phone (972) 380-6752 • Fax (972) 931-1688

*ph*

Mr. Ron Whitehead  
March 12, 2002  
Page 2 of 2

As previously outlined, these questions are immediately critical and impact the ability to lease the property. I need an immediate response so that I can address these issues with potential tenants.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary E. Crouch". The signature is stylized with several loops and a long, sweeping tail that extends to the right.

Gary E. Crouch, CCIM, CPM

c.c. Mr. Mike Murphy

**ADR Partners**

April 10, 2002

Mr. Ron Whitehead  
City Manager  
Town of Addison  
5300 Belt Line Road  
Dallas, TX 75240

Via Facsimile 972-450-7043 &  
Certified Mail Return Receipt Requested  
Item Number 7001 2510 0004 1401 1573

Re: Letter Dated March 12, 2002  
4139 Centurion Way – Addison, Texas

Dear Mr. Whitehead,

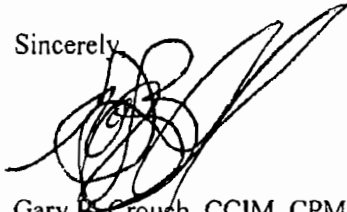
I sent you the attached referenced letter almost thirty days ago and The Town of Addison has failed to respond as of this date in a definite manner to the assumptions in the appraisal by Evaluation Associates that there would be no loss of parking due to the condemnation. Additionally, I subsequently asked for written confirmation of the policy, as represented in the appraisal by Evaluation Associates, that if the property improvements were destroyed by more than 50%, the building could not be rebuilt in the same footprint.

The Town continues to be vague and noncommittal on both of these issues and I am losing the opportunity to lease and potentially sell the property based on the lack of credible information. The Town chose to affect the economic viability of the property with the extension of Arapaho Road. Since the process is represented to be fair and equitable it would be helpful if the Town would be concise and consistent and decide if the representations made in the appraisal are correct.

It was my understanding from speaking last week with Mike Murphy that the Town planned to have a meeting to discuss these issues on Monday or Tuesday of this week and would contact me to set a meeting to define these issues; however, as of this date I have not been contacted..

I request the opportunity to address the City Council at the next meeting on April 23, 2002.

Sincerely,



Gary B. Crouch, CCIM, CPM

c.c. Mr. Mike Murphy



# **ADR** Partners

March 12, 2002

Mr. Ron Whitehead  
City Manager  
Town of Addison  
5300 Belt Line Road  
Addison, TX 75001

Via Facsimile 972-450-7043 &  
Certified Mail Return Receipt Requested  
Item Number 7000 1670 0008 7795 0483

Re: 4139 Centurion Way – Addison, Texas

Dear Mr. Whitehead,

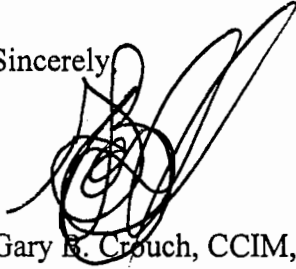
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  - b. How will the parking be accessible and will there be a height restriction that will affect SUVs or trucks?
  - c. What will be the construction of the parking lot (i.e. asphalt, concrete or dirt)?
  - d. Will the Town of Addison maintain the parking lot?
  - e. Will the parking lot be lighted?
  - f. What are the restrictions on using the parking lot?
  - g. Will the parking lot be designated for 4139 Centurion Way use only?
  - h. What insurance will be required for use of parking lot?
  - i. What will be the term of use of the parking lot and how will it be documented?
  - j. Will the use of the parking lot be granted to the property or only the current ownership?
  - k. List all fees, costs and expenses that the Town of Addison would require for use of the parking lot.
  - l. When will construction start and how long will it last?
  - m. Where can the tenants park when they lose the thirty-six parking spaces during construction?

Mr. Ron Whitehead  
March 12, 2002  
Page 2 of 2

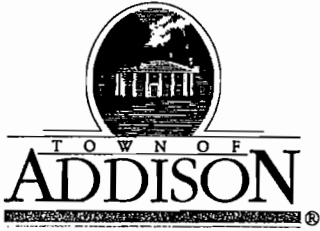
As previously outlined, these questions are immediately critical and impact the ability to lease the property. I need an immediate response so that I can address these issues with potential tenants.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary B. Crouch". The signature is highly stylized and cursive, with a large, sweeping flourish extending upwards and to the right.

Gary B. Crouch, CCIM, CPM

c.c. Mr. Mike Murphy



**OFFICE OF THE CITY MANAGER**

(972) 450-7000 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75001-9010

5300 Belt Line Road

March 4, 2002

Mr. Gary B. Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, Texas 75001-3208

Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison  
Recorded in Vol. 79130, Pg. 2495 in the Deed Records of Dallas County

Dear Mr. Crouch:

In February 2000, the Town of Addison elected to sell bonds in order to fund six construction projects. Included in these projects is the extension of Arapaho road, from Addison Road to Marsh Lane. At this time we are in the right-of-way acquisition phase of the project.

The Town of Addison has determined the public need to acquire a 0.6709 acre portion of the 2.521 acre tract of land that is owned by you at 4139 Centurion Way. The public purpose for this land acquisition is the necessary right-of-way for the Arapaho Road project along with related municipal uses including a public hike and bike trail. The firm of Evaluation Associates appraised the property on January 23, 2002. The attached summary sheet shows a summary of facts and conclusions regarding this taking. On February 26, 2002, the City Council of the Town of Addison authorized me to make an offer to purchase the 0.6709 acre tract of land at the appraised value of \$225,000.00.

The Town of Addison requests that you respond to this offer of purchase within thirty (30) days of the date of this letter. If we do not hear from you within the thirty (30) day period, the Town will consider its offer rejected and we will initiate eminent domain proceedings to acquire the property.

Should you have any questions, please feel free to contact Mr. Mike Murphy, P.E., Director of Public Works, at 972-450-2871, or me.

Sincerely,

Ron Whitehead  
City Manager

# EVALUATION ASSOCIATES

RIGHT OF WAY LAND RIGHTS ANALYSIS • APPRAISAL • ACQUISITION • SOLUTIONS

---

## SUMMARY OF SALIENT FACTS AND CONCLUSIONS ARAPAHO ROAD PROJECT

**Property Owner: 276 Trust**

### Valuation Conclusion:

Whole Property	\$1,900,000
Proposed Acquisition	\$ 62,381
Remainder Before Acquisition	\$1,837,619
Remainder After Acquisition	\$1,675,000
Loss in Value of Remainder After	\$ 162,619

### Determination of Compensation:

Permanent Right of Way	\$ 40,181
Compensation for Improvements (paving)	\$ 22,200
Landscaping (None - Replacement)	\$ -0-
Loss in Value of Remainder After	\$ 162,619

**Total Compensation \$ 225,000**

**Date of Appraisal: January 23, 2002**

**Location: 4139 Centurion Way, Town of Addison, Texas**

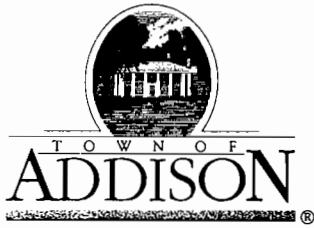
**Legal Description: Lot 6, Surveyor Addition, Town of Addison, Dallas County, Texas**

**Land Size: Whole Property (per DCAD records) 2.521 Acres  
Right of way Area. 0.6709 Acres**

**Zoning: I-1, Industrial-1 District**

### Highest and Best Use:

**As if Vacant BEFORE: Commercial use**  
**As if Vacant AFTER: Commercial use**



**OFFICE OF THE CITY MANAGER**

Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-7000 • FAX (972) 450-7043

5300 Belt Line Road

**FAXED**  
5/20/02  
*Angela Washington*

March 4, 2002

Mr. Gary B. Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, Texas 75001-3208

Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison  
Recorded in Vol. 79130, Pg. 2495 in the Deed Records of Dallas County

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Should you have any questions, please feel free to contact Mr. Mike Murphy, P.E., Director of Public Works, at 972-450-2871, or me.

Sincerely,

Ron Whitehead  
City Manager

# EVALUATION ASSOCIATES

RIGHT OF WAY LAND RIGHTS ANALYSIS • APPRAISAL • ACQUISITION • SOLUTIONS

---

## SUMMARY OF SALIENT FACTS AND CONCLUSIONS ARAPAHO ROAD PROJECT

**Property Owner: 276 Trust**

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**Total Compensation \$ 225,000**

**Date of Appraisal: January 23, 2002**

**Location: 4139 Centurion Way, Town of Addison, Texas**

**Legal Description: Lot 6, Surveyor Addition, Town of Addison, Dallas County, Texas**

**Land Size: Whole Property (per DCAD records) 2.521 Acres  
Right of way Area. 0.6709 Acres**

**Zoning: I-1, Industrial-1 District**

**Highest and Best Use:**

As if Vacant BEFORE:	Commercial use
As if Vacant AFTER:	Commercial use

# EVALUATION ASSOCIATES

RIGHT OF WAY LAND RIGHTS ANALYSIS • APPRAISAL • ACQUISITION • SOLUTIONS

---

## SUMMARY OF SALIENT FACTS AND CONCLUSIONS ARAPAHO ROAD PROJECT

**Property Owner: JH Crouch Jr. and Jo Crouch**  
**Parcel No. 8**

### Valuation Conclusion:

Whole Property	\$1,900,000
Proposed Acquisition	\$ 62,381
Remainder Before Acquisition	\$1,837,619
Remainder After Acquisition	\$1,675,000
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Compensation for Improvements (paving)	\$ 22,200
Landscaping (None - Replacement)	\$ -0-
Loss in Value of Remainder After	\$ 162,619

**Total Compensation** **\$ 225,000**

Date of Appraisal: January 23, 2002

Location: 4139 Centurion Way, Town of Addison, Texas

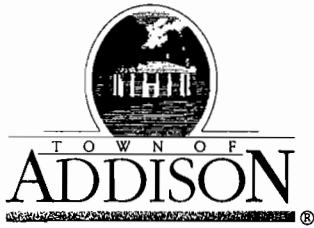
Legal Description: Lot 6, Surveyor Addition, Town of Addison, Dallas County, Texas

Land Size: Whole Property (per DCAD records) 2.521 Acres  
Right of way Area 0.6709 Acres

Zoning: I-1, Industrial-1 District

### Highest and Best Use:

As if Vacant BEFORE: Commercial use  
As if Vacant AFTER: Commercial use



**OFFICE OF THE CITY MANAGER**

(972) 450-7000 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75001-9010

5300 Belt Line Road

March 4, 2002

Mr. Gary B. Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, Texas 75001-3208

Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison  
Recorded in Vol. 79130, Pg. 2495 in the Deed Records of Dallas County

Dear Mr. Crouch:

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Should you have any questions, please feel free to contact Mr. Mike Murphy, P.E., Director of Public Works, at 972-450-2871, or me.

Sincerely,

Ron Whitehead  
City Manager



# EVALUATION ASSOCIATES

RIGHT OF WAY LAND RIGHTS ANALYSIS • APPRAISAL • ACQUISITION • SOLUTIONS

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## SUMMARY OF SALIENT FACTS AND CONCLUSIONS ARAPAHO ROAD PROJECT

**Property Owner: 276 Trust**

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Landscaping (None - Replacement)	\$ -0-
Loss in Value of Remainder After	\$ 162,619

**Total Compensation \$ 225,000**

**Date of Appraisal: January 23, 2002**

**Location: 4139 Centurion Way, Town of Addison, Texas**

**Legal Description: Lot 6, Surveyor Addition, Town of Addison, Dallas County, Texas**

**Land Size: Whole Property (per DCAD records) 2.521 Acres  
Right of way Area. 0.6709 Acres**

**Zoning: I-1, Industrial-1 District**

**Highest and Best Use:**

**As if Vacant BEFORE: Commercial use  
As if Vacant AFTER: Commercial use**

# **ADR Partners**

March 12, 2002

Mr. Ron Whitehead  
City Manager  
Town of Addison  
5300 Belt Line Road  
Addison, TX 75001

*Via Facsimile 972-450-7043 &  
Certified Mail Return Receipt Requested  
Item Number 7000 1670 0008 7795 0483*

Re: 4139 Centurion Way – Addison, Texas

Dear Mr. Whitehead,

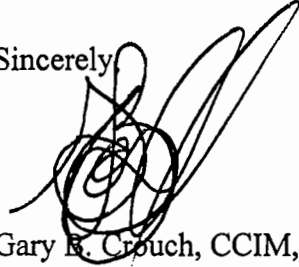
I am in receipt of the notice letter to 276 Trust dated March 4, 2002 that makes an offer to acquire a portion of the referenced property. I am currently working with several tenants to lease the referenced facility. The area that the Town of Addison needs to acquire has thirty-six parking spaces that are necessary for the building. The Town of Addison has been vague on what will happen to these thirty-six parking spaces. In order to respond to these potential tenants for the property and not lose the opportunity to lease the property, I need the Town of Addison to immediately address the following issues:

1. Does the property lose the thirty-six parking spaces?
2. If the parking lot will be available then:
  - a. How many spaces will be available?
  - b. How will the parking be accessible and will there be a height restriction that will affect SUVs or trucks?
  - c. What will be the construction of the parking lot (i.e. asphalt, concrete or dirt)?
  - d. Will the Town of Addison maintain the parking lot?
  - e. Will the parking lot be lighted?
  - f. What are the restrictions on using the parking lot?
  - g. Will the parking lot be designated for 4139 Centurion Way use only?
  - h. What insurance will be required for use of parking lot?
  - i. What will be the term of use of the parking lot and how will it be documented?
  - j. Will the use of the parking lot be granted to the property or only the current ownership?
  - k. List all fees, costs and expenses that the Town of Addison would require for use of the parking lot.
  - l. When will construction start and how long will it last?
  - m. Where can the tenants park when they lose the thirty-six parking spaces during construction?

Mr. Ron Whitehead  
March 12, 2002  
Page 2 of 2

As previously outlined, these questions are immediately critical and impact the ability to lease the property. I need an immediate response so that I can address these issues with potential tenants.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary B. Crouch". The signature is highly stylized and cursive, with a large, sweeping flourish extending upwards and to the right.

Gary B. Crouch, CCIM, CPM

c.c. Mr. Mike Murphy

# WINSTEAD

March 26, 2002

direct dial: 214.745.5274  
bknight@winstead.com

## VIA FACSIMILE

Mr. Kenneth C. Dippel  
Cowles & Thompson  
901 Main Street, Suite 4000  
Dallas, Texas 75202

Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison  
Recorded in Volume 79130, Page 2495 in the Deed Records of Dallas County

Dear Ken:

The undersigned represents 276 Trust, the owner of the above referenced property. I am in receipt of the March 4, 2002 letter from Ron Whitehead, City Manager of Addison, a copy of which is attached. I am informing you as city attorney that my client rejects the Town's offer.

In an effort to negotiate in good faith and attempt to resolve this matter amicably, my client has asked that a meeting be arranged between Mr. Whitehead, the Town's appraiser, you and any other appropriate Town officials, and Gary Crouch, our appraiser, and me. The purpose of the meeting would be to discuss valuation issues and whether the area under the elevated lands can be used by my client for parking in an effort to resolve this matter.

Please let me know of your client's availability for such a meeting. I look forward to hearing from you in this regard.

Sincerely,

WINSTEAD SECHREST & MINICK P.C.

By   
Barry R. Knight

BRK:lkb  
cc: Gary Crouch

DALLAS 106303961  
39335-1 -

1400 RENAISSANCE TOWER  
1201 ELM STREET  
DALLAS TEXAS 75270  
T-428 P.002/004 F-152

PH 214 745 5400  
FAX 214 745 5490  
WINSTEAD.COM  
214-745-6980

WINSTEAD SECHREST & MINICK  
Attorneys and Counselors  
A Professional Corporation

Austin, Dallas, Fort Worth,  
Houston, Mexico City,  
The Woodlands, Washington D.C.

Mar-26-2002 08:41pm FROM-WINSTEAD SECHREST & MINICK/2

# **ADR** Partners

April 10, 2002

Mr. Ron Whitehead  
City Manager  
Town of Addison  
5300 Belt Line Road  
Dallas, TX 75240

Via Facsimile 972-450-7043 &  
Certified Mail Return Receipt Requested  
Item Number 7001 2510 0004 1401 1573

Re: Letter Dated March 12, 2002  
4139 Centurion Way – Addison, Texas

Dear Mr. Whitehead,

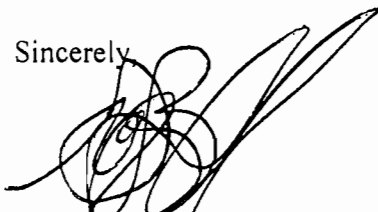
I sent you the attached referenced letter almost thirty days ago and The Town of Addison has failed to respond as of this date in a definite manner to the assumptions in the appraisal by Evaluation Associates that there would be no loss of parking due to the condemnation. Additionally, I subsequently asked for written confirmation of the policy, as represented in the appraisal by Evaluation Associates, that if the property improvements were destroyed by more than 50%, the building could not be rebuilt in the same footprint.

The Town continues to be vague and noncommittal on both of these issues and I am losing the opportunity to lease and potentially sell the property based on the lack of credible information. The Town chose to affect the economic viability of the property with the extension of Arapaho Road. Since the process is represented to be fair and equitable it would be helpful if the Town would be concise and consistent and decide if the representations made in the appraisal are correct.

It was my understanding from speaking last week with Mike Murphy that the Town planned to have a meeting to discuss these issues on Monday or Tuesday of this week and would contact me to set a meeting to define these issues; however, as of this date I have not been contacted..

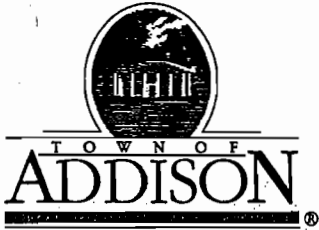
I request the opportunity to address the City Council at the next meeting on April 23, 2002.

Sincerely,



Gary B. Crouch, CCIM, CPM

c.c. Mr. Mike Murphy



OFFICE OF THE CITY MANAGER

(972) 450-7000 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75001-9010

5300 Belt Line Road

April 24, 2002

Mr. Gary Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, Texas 75001

Via Facsimile 972-931-1688 &  
Certified Mail Return Receipt Requested  
Item Number 7000 0600 0025 3591 6255

**Re: Arapaho Road Improvements**

Dear Mr. Crouch:

We appreciated the opportunity to meet with you last week regarding the planned improvements to Arapaho Road and the acquisition by the Town of Addison of an interest in a portion (0.6709 acres out of the entire tract of 2.521 acres) of the property located at the rear of 4139 Centurion Way in connection with that project. You indicated during our meeting that you have several groups who are interested in purchasing or leasing that property, and that you would like us to address two items regarding the Town's acquisition so that you can proceed with your plans: (1) whether or not the parking which is currently in place at the rear of the building (approximately 36 parking spaces) will be available for use by the owner upon the completion of the improvements, and (2) whether or not the building will be able to be reconstructed in the event it is damaged by more than 50% of its replacement value.

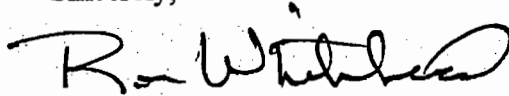
With respect to the parking, if the 36 parking spaces in the rear of the property are removed, the property will continue to have adequate parking under the Town's current parking regulations. However, the Town will agree that, upon the completion of the Arapaho Road improvements, the owner of the property will have access to substitute parking (constructed by the Town) at the rear of the property where parking is currently available.

With respect to the reconstruction of the building, the property at 4139 Centurion Way is currently zoned I-1 Industrial District. The I-1 District regulations provide that the rear yard setback requirements are the same as for the LR Local Retail District. In the LR District there is no rear yard depth requirement unless the District adjoins a single-family or apartment district, in which case a 10 foot rear yard is required. Therefore, the existing building will not be in violation of the current rear-yard setback requirements after the Town's acquisition of the property and construction of the improvements and will be able to be reconstructed in its current location if it is damaged.

As you know, we had previously provided to you an appraisal prepared by Evaluation Associates, which valued the portion of the property being acquired at \$62,381.00 and concluded that the remainder of the property would be damaged in the amount of \$162,619.00 as a result of the acquisition. Based on that appraisal, the Town had offered to pay \$225,000.00, which was not accepted. The damage to the property after the acquisition, however, was based upon an understanding that the building might not be able to be reconstructed if it was damaged by more than 50% of its replacement value. However, as indicated above, under current regulations the building would be able to be reconstructed in its current location, which eliminates the damages. Therefore, our offer is to acquire the 0.6709 acre tract for its appraised value at \$62,381.00 together with the right to have substitute parking in the rear of the property as described above.

We hope that this clarifies the issues which we have been discussing. Regarding the above offer, we request that you respond to the offer within thirty (30) days of the date of this letter. If we do not hear from you within that time period, we will consider the offer rejected.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Whitehead". The signature is written in a cursive, somewhat stylized font.

Ron Whitehead  
City Manager

*Analysis and Valuation of Proposed Acquisition Area (Continued)*

Proposed acquisition area located (see Page 28 for derivation of values)		
within the existing easement area	\$29,223 x 5.50/SF x 25%	= \$40,181
(See Item 2 - Page 28)		
<i>plus</i> compensation for improvements in acquisition area:		
Asphalt parking area	11,100 SF x \$2.00/SF	= <u>\$ 22,200</u>
Total compensation		\$62,381

**Value of the Remainder Before the Acquisition**

The value of the Remainder Before the Acquisition is simply the mathematical difference between the value of the whole property less the value of the Proposed Acquisition Area. Therefore, the value of the Remainder Before the Acquisition can be calculated as follows:

Whole Property Value (Land only)	\$1,900,000
Less: Value of Proposed Acquisition Area	<u>\$ 62,381</u>
Value of the Remainder Before the Acquisition	\$1,837,619

**Value of the Remainder After the Acquisition**

As noted, the proposed acquisition area will be used for the widening and realignment of Arapaho Road. After the acquisitions, the remaining site will continue to be an interior tract having similar accessibility and increased visibility. The remaining site will have similar highest and best use as before the acquisition.

In developing the analysis of the Remainder Highest and Best Use and estimating the value after the acquisition, several questions were formulated and answered through the combined sources of: analysis of the Right of Way Acquisition Map, the engineering design and construction plans, the Town of Addison Department of Engineering, and consultation with locally knowledgeable consultants. The answers to specific questions, combined with the analysis of the undersigned land rights appraiser, were subsequently applied to market reaction observations and data introduced by the appraiser to finalize remainder impact conclusions. Following are some of the considerations in the valuation of the remainder after the proposed acquisition(Remainder After).

- 1) Will the remainder property comply with zoning regulations?

*No, it appears the remainder site will be a legal non-conforming use under current zoning. According to Ms. Carmen Moran, City Secretary and Director of Planning and Zoning, if the subject remainder improvements were destroyed by more than 50%, the building could not be re-built in the same foot print. The new Arapaho Road row line*



*will be 4 feet from the rear of the building. In order to comply with the required 25 feet setback, 21 feet of the building would have to be removed. This necessitates a re-evaluation of the subject remainder property which begins on the following page.*

- 2) Will the remainder property have access to new Arapaho Road?

*No, at this time it appears Arapaho Road will be a limited access route and no access will be granted to individual properties along the route, nor, would access benefit the subject property. Additionally, the new road is several feet above the grade of the remainder and it is not practical to have access to the roadway from the subject remainder.*

- 3) What is the grade of the new Arapaho Road adjacent to the subject property?

*Based on available plan and profile design plans, the new road will be approximately seven (7) feet above grade at the western boundary of the subject remainder tract, rising at a grade of 2.88% and is planned to be fifteen (15) feet above the eastern property boundary.*

- 4) Are there any direct benefits as a result of this project?

*Even though there will be no direct access, the subject remainder property may experience some degree of increased visibility as a result of adjacency to the new Arapaho Road. However, this is not a measurable benefit.*

*Secondly, although not a benefit from the new road, the property owner should request a reduction in the assessed value due to the reduced land and building size.*

*Thirdly, it appears the property owner is relieved of any maintenance and liability of the existing easement area.*

*Fourthly and more importantly, the new elevated roadway being constructed as a bridge behind the subject property building, will effectively provide the opportunity for covered parking. As of the date of this appraisal, a specific site/parking plan has not been provided to the appraisers for consideration in this valuation process. However, it is assumed that a minimum of the same number (approximately 22) spaces will be substituted, as a part of the new road construction. Assuming that an equal or greater number of parking spaces will be provided for the benefit of the subject property under new Arapaho Road, it is assumed there is no loss of parking as a result of the proposed acquisition.*

**COWLES & THOMPSON**  
A Professional Corporation  
ATTORNEYS AND COUNSELORS



**FACSIMILE COVER PAGE**

Date: May 6, 2002

Time: \_\_\_\_\_

Total Number of Pages (including this sheet): 3

Normal/Rush: Normal

Client/Matter #: 3195/25211

**TO:** (1) **Ron Whitehead**  
(2) **Mike Murphy**

**FAX:** (972) 450-7043  
**FAX:** (972) 450-2837

**FROM:** Ken C. Dippel

**Direct Dial #:** (214) 672-2158

**MESSAGE:** FYI regarding Crouch Property

**IF YOU HAVE ANY PROBLEMS WITH THIS TRANSMISSION,  
PLEASE CALL OUR SERVICE CENTER  
AT (214) 672-2508  
or Yolanda Rodriguez at (214) 672-2629  
Thank you.**

**IMPORTANT/CONFIDENTIAL:** This message is intended only for the use of the individual or entity to which it is addressed. This message contains information from the law firm of Cowles & Thompson which may be privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee, or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at our telephone number (214) 672-2000. We will be happy to arrange for the return of this message to us, via the United States Postal Service, at no cost to you.

# WINSTEAD

May 5, 2002

direct  
dial: 214.745.5274  
bknight@winstead.com

**VIA FACSIMILE 214.672.2020**

Mr. Kenneth C. Dippel  
Cowles & Thompson  
901 Main Street, Suite 4000  
Dallas, Texas 75202

Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison (the "Property")  
Recorded in Volume 79130, Page 2495 in the Deed Records of Dallas County

Dear Ken:

In accordance with our telephone conference on April 29, 2002, my client, Gary Crouch, has authorized me to present a settlement offer for the acquisition of 0.6709 acres of land to construct Arapaho Road elevated on the north side of my client's Property.

As you know from the meeting and other discussions, Mr. Crouch believes that his Property will be damaged substantially by this project. However, in order to settle this matter amicably, my client is willing to settle this matter under the following terms:

1. Payment of \$440,000 for the acquisition of the right-of-way and remainder damages;
2. An interpretation, Board of Adjustment approval and/or City Council approval of the necessary zoning to cure any nonconformities created by the right-of-way acquisition; and
3. The provision of an easement at no cost to 276 Trust to allow a minimum of 36 parking spaces under the bridge structure to replace the parking spaces lost due to the roadway construction to be constructed by the Town at its expense.

Mr. Kenneth C. Dippel  
May 5, 2002  
Page 2

This offer is contingent upon the sale of the Property to a third party on or before July 31, 2002. The closing of the sale of the right of way shall occur on the same day and immediately before the sale of the Property to the third party. Closing of the sale of the right-of-way shall occur upon five (5) days written notice from 276 Trust to the Town. The above referenced \$440,000 shall be deposited with Hexter Fair Title Company, 8333 Douglas Avenue, Suite 130, Dallas, Texas 75225, Attention: Traci R. Miller, upon notice of the closing of the sale of the right-of-way to the Town of Addison and the sale of the Property to the third party. The Town and 276 Trust shall work in good faith and take reasonable efforts to cure the nonconformities created by the right-of-way acquisition and finalize the easement to provide a minimum of 36 parking spaces under the bridge structure on or before the closing of the sale of the right-of-way.

My client believes that his Property has been damaged far in excess of the settlement offer contained in this letter. However, Mr. Crouch believes that settlement of this matter is in the best long-term interest of both parties. This settlement offer shall expire unless accepted in writing on or before 5:00 p.m. Dallas time on May 9, 2002.

Sincerely,

WINSTEAD SECHREST & MINICK P.C.

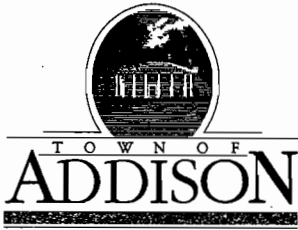
By: 

Barry R. Knight

BRK:ikt  
cc: Gary Crouch

DALLAS (3043562)  
39135-1

COPY



**OFFICE OF THE CITY MANAGER**

(972) 450-7000 • FAX (972) 450-7043

Post Office Box 9010 Addison, Texas 75001-9010

5300 Belt Line Road

May 9, 2002

Mr. Gary Crouch  
ADR Partners  
4444 Westgrove Drive, Suite 210  
Addison, TX 75001

**Re: 276 Trust  
Lot 6, Surveyor Addition to the Town of Addison (4136 Centurion Way) (the  
"Property")**

Dear Mr. Crouch:

On Monday of this week we received a letter from your attorney, Mr. Barry R. Knight, setting out your proposal to settle the Town of Addison's acquisition from the 276 Trust of a portion of the Property located at 4139 Centurion Way for the extension of Arapaho Road. As you know, we believe that the Property will not be damaged by the Town's acquisition; however, in a spirit of cooperation and in an attempt to amicably resolve this matter, we would offer the following in response to Mr. Knight's proposal:

1. The Town will agree to pay you an additional \$50,000 over and above the \$62,381.00 offered in my letter of April 24, 2002, making a total payment for the acquisition of the right-of-way and any and all damages to the remainder of the Property in the amount of \$112,381.00.
2. As indicated in my April 24 letter, there are no nonconformities created by the right-of-way acquisition.
3. Upon the completion of the Arapaho Road improvements, the owner of the property will have access through a license agreement to substitute parking (constructed by the Town) at the rear of the Property where parking is currently available.

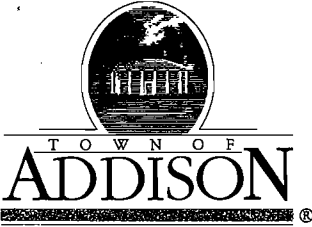
Mr. Knight's letter conditioned your settlement proposal on the sale of the Property to a third party; however, the City is not willing to enter into any contingency arrangements regarding the sale or leasing of the Property.

We would ask that you respond to this offer on or before 5:00 p.m. on Tuesday, May 14, 2002.

Sincerely,

Ron Whitehead  
City Manager

COPY



**OFFICE OF THE CITY MANAGER**  
Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-7000 • FAX (972) 450-7043  
5300 Belt Line Road

September 17, 2002

Mr. Barry R. Knight  
Winstead Sechrest & Minick, P.C.  
5400 Renaissance Tower  
1201 Elm Street  
Dallas, Texas 75270

**RE: 276 Trust**  
**Lot 6, Surveyor Addison to the Town of Addison**  
**(4136 Centurion Way) (the "Property")**  
**Recorded in Volume 79130, Page 2495 in the Deed Records of Dallas County**

Dear Mr. Knight:

On August 27, 2002, the Town of Addison authorized condemnation of the above-referenced property. A copy of the condemnation resolution is enclosed. As stated in my May 9, 2002 letter to your client Gary Crouch, the Town's final offer for the purchase of the property is \$112,381.00. If Mr. Crouch wishes to accept this offer, please let us know by September 27, 2002. If we do not hear from you by September 27, 2002, we will proceed to file an action in condemnation.

Very truly yours,

Ron Whitehead  
City Manager for the Town of Addison

Enclosure

c: Gene Harris  
Absolute Systems, Ltd.

Ken C. Dippel  
Angela K. Washington

**TOWN OF ADDISON, TEXAS**

**RESOLUTION NO. R02-078**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS DETERMINING THE NECESSITY OF ACQUIRING THE HEREINAFTER DESCRIBED REAL PROPERTY OWNED BY ABSOLUTE SYSTEMS, LTD., ET AL. AND AUTHORIZING ITS CONDEMNATION AND/OR APPROPRIATION FOR PUBLIC USE IN CONNECTION WITH THE REALIGNMENT AND EXTENSION OF ARAPAHO ROAD IN ADDISON, TEXAS.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

SECTION 1. That for the purposes of this Resolution, the following definitions of terms shall apply:

"PROPERTY": The areas described in Exhibit "A" attached hereto and made a part hereof for all purposes.

"PROPERTY INTEREST": Fee simple title to the land described in Exhibit "A" attached hereto and incorporated herein.

"PROJECT": Realignment and extension of Arapaho Road, Addison, Texas.

"OFFER AMOUNT": Sixty Two Thousand Three Hundred and Eighty One and No/100 Dollars (\$62,381.00).

"OWNERS": Absolute Systems, Ltd.  
Juvat, Inc., general partner of Absolute Systems, Ltd.  
Joyce Harris, individually and as officer of Juvat, Inc.  
Gene Harris, individually and as officer of Juvat, Inc.  
276 Trust  
Gary B. Crouch, Trustee

"LIENHOLDER": Merrill Lynch Business Financial Services, Inc.  
David L. Fair, Trustee

SECTION 2. That it is hereby determined that public convenience and necessity requires that the Town of Addison should acquire the PROPERTY INTEREST in, over, and across the PROPERTY necessary for the PROJECT.

SECTION 3. That the PROPERTY is hereby determined to be necessary for the PROJECT. That for the purpose of acquiring the PROPERTY INTEREST in,

over, and across the PROPERTY, the City Manager, or such employee as he may designate, is hereby authorized and directed to offer the OFFER AMOUNT as payment for the PROPERTY to be acquired and full damages allowable by law, which amount represents its fair cash market value.

SECTION 4. That the Town of Addison determines to appropriate the PROPERTY INTEREST in, over, and across the PROPERTY for the PROJECT under the laws of the State of Texas and the provisions of the Charter of the Town of Addison.

SECTION 5. That, in the event the OWNERS accept the OFFER AMOUNT as authorized herein, the City Finance Director be and is hereby authorized to draw a check in favor of the OWNERS named above, or the current owners of record, in the OFFER AMOUNT.

SECTION 6. That the City is to have possession of the PROPERTY on closing; and the City will pay any title expenses and closing costs; and the City will pay court costs as may be assessed by the Special Commissioners or the court.

SECTION 7. Should the employee designated to make the official offer report to the City Attorney that the OWNERS have refused to accept the OFFER AMOUNT as compensation for the hereinabove described taking from the OWNERS under the laws of eminent domain, which amount the City Council deems to be the fair cash market value and all just compensation, in compliance with the laws of the State of Texas, this will be evidence that the Town of Addison cannot agree with the OWNERS as to the damages legally allowable by law. In such case, the City Attorney is authorized and directed to file the necessary suit and take the necessary action for the prompt acquisition of the PROPERTY in condemnation or in any manner provided by law.

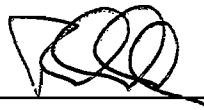
SECTION 8. That in the event the Special Commissioners in Condemnation appointed by the court return an award that is the same amount or less than the OFFER AMOUNT, the City Finance Director is hereby authorized to issue a check not to exceed the amount of the Commissioners' award made payable to the County Clerk of Dallas County to be deposited into the registry of the court to enable the City to take possession of the PROPERTY without further action of the City Council.

SECTION 9. That in the event it is subsequently determined that additional persons other than those named herein have an interest in the PROPERTY, then the City Attorney is authorized and directed to join said parties as defendants in said condemnation suit.

SECTION 10. That this resolution shall take effect immediately from and after its passage, as in the Charter in such cases is made and provided.

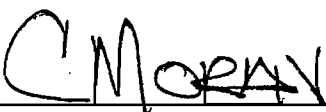


DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON,  
TEXAS, this the 27<sup>th</sup> day of August 2002.



\_\_\_\_\_  
Mayor

ATTEST:



\_\_\_\_\_  
City Secretary

APPROVED AS TO FORM:



\_\_\_\_\_  
Ken C. Dippel, City Attorney

"EXHIBIT A"

Parcel 8  
Field Note Description  
Arapaho Road Project  
Town of Addison  
Dallas County, Texas

BEING a description of a 0.6709 acre (29,223 square foot) tract of land situated in the W.H. Witt Survey, Abstract Number 1609, and the David Myers Survey, Abstract Number 923, Town of Addison, Dallas County, Texas, and being a portion of a called 2.5212 acre tract of land conveyed to J. H. Crouch, Jr. and Jo Doris Crouch on August 4, 1997 and recorded in Volume 97153, Page 03266 of the Deed Records of Dallas County, Texas, said called 2.5212 acre tract being all of "Lot 6, Surveyor Addition, Addison West Industrial Park", an addition to the Town of Addison, as evidenced by the plat dated March 29, 1979 and recorded in Volume 79130, Page 2495 of said Deed Records, said 0.6709 acre tract of land being more particularly described by metes and bounds as follows;

**BEGINNING** at a 1/2 inch iron rod found in the proposed North right of way line of Arapaho Road and the South right of way line of a 100 foot wide railroad right of way as conveyed to Dallas Area Rapid Transit Property Acquisition Corporation (herein referred to as DART) on December 27, 1990 and recorded in Volume 91008, Page 1390 of said Deed Records, said point being the common Northeast corners of said called 2.5212 acre tract and "Lot 6, Surveyor Addition, Addison West Industrial Park", and Northwest corner of a called 3.4654 acre tract of land, 25% interest conveyed by Epina Properties Limited to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02787 of said Deed Records, 75% interest conveyed by Lehndorff & Babson Property Fund to 15101 Midway Road Partners, LTD. on December 25, 1998 and recorded in Volume 98250, Page 02796 of said Deed Records, said called 3.4654 acre tract being all of the Surveyor Addition, Addison West Industrial Park, an addition to the Town of Addison, as evidenced by the plat dated October 24, 1978 and recorded in Volume 79029, Page 0984 of said Deed Records;

THENCE, SOUTH 00°07'27" WEST (called South 00°08'05" West), departing said lines and along the common East line of said called 2.5212 acre tract and West line of said called 3.4654 acre tract, a distance of 78.96 feet to a 5/8 inch iron rod set in the proposed South right of way line of Arapaho Road;

PARCEL 8 - ARAPAHO ROAD PROJECT

THENCE, NORTH 89°58'49" WEST, departing said common line and along the proposed South right of way line of Arapaho Road, a distance of 370.10 feet to an "X" in concrete set in the common West line of said called 2.5212 acre tract and East line of a called 1.776 acre tract of land conveyed to Michael B. Schiff on August 31, 1982 and recorded in Volume 82172, Page 2888 of said Deed Records, said called 1.776 acre tract of land being all of Intervest Companies Addition, an addition to the Town of Addison, as evidenced by the plat dated October 29, 1982 and recorded in Volume 83017, Page 2268 of said Deed Records;

THENCE, NORTH 00°05'03" EAST (called North 00°08'05" East), departing said line and along the common West line of said called 2.5212 acre tract and East line of said called 1.776 acre tract, a distance of 78.95 feet to a 5/8 inch iron rod set in the proposed North right of way line of Arapaho Road Road and South right of way line of said DART railroad for the common Northwest corner of said called 2.5212 acre tract and Northeast corner of said called 1.776 acre tract, from said point a found 1/2 inch iron rod bears North 00°08'18" East, a distance of 0.24 feet;

THENCE, SOUTH 89°58'49" EAST (Called EAST), departing said common line and along the common North line of said called 2.5212 acre tract, proposed North right of way line of Arapaho Road, and South right of way line of said DART railroad, a distance of 370.15 feet (called 370.00 feet) to the **POINT OF BEGINNING;**

CONTAINING an area of 0.6709 acres or 29,223 square feet of land within the metes recited.

PARCEL 8 - ARAPAHO ROAD PROJECT

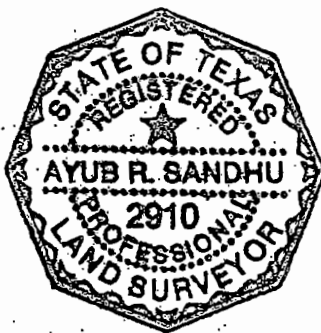
All bearings are referenced to the North Right of Way line of Centurion Way, called S 89°51'55" E, according to the final plat of Lot 3, Surveyor Addition, recorded in Vol. 77173, Page 135, Deed Records of Dallas County, Texas.

A plat of even survey date herewith accompanies this description.

I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

*Ayub R. Sandhu 11-12-99*

Ayub R. Sandhu, R.P.L.S.  
Texas Registration No. 2910





ANGELA K. WASHINGTON  
214.672.2144  
AWASHINGTON@COWLESTHOMPSON.COM

April 11, 2003

***VIA HAND DELIVERY***

Mr. Barry R. Knight  
Winstead Sechrest & Minick, P.C.  
5400 Renaissance Tower  
1201 Elm Street  
Dallas, Texas 75270

**RE: Engineering Plans for Arapaho Bridge**

Dear Barry:

Pursuant to your request, accompanied by this letter, are the above-referenced plans in connection with the condemnation case for Parcel 8, Arapaho Road Extension Project.

Sincerely,

Angela K. Washington

AKW/yjr  
Enclosure

c: Mr. Mike Murphy, w/Addison  
Mr. Steve Chutchian, w/Addison  
Mr. Lewis Isaacks  
Mr. Ken C. Dippel, w/firm

## **Traffic Noise Model<sup>®</sup> (TNM<sup>®</sup>)**

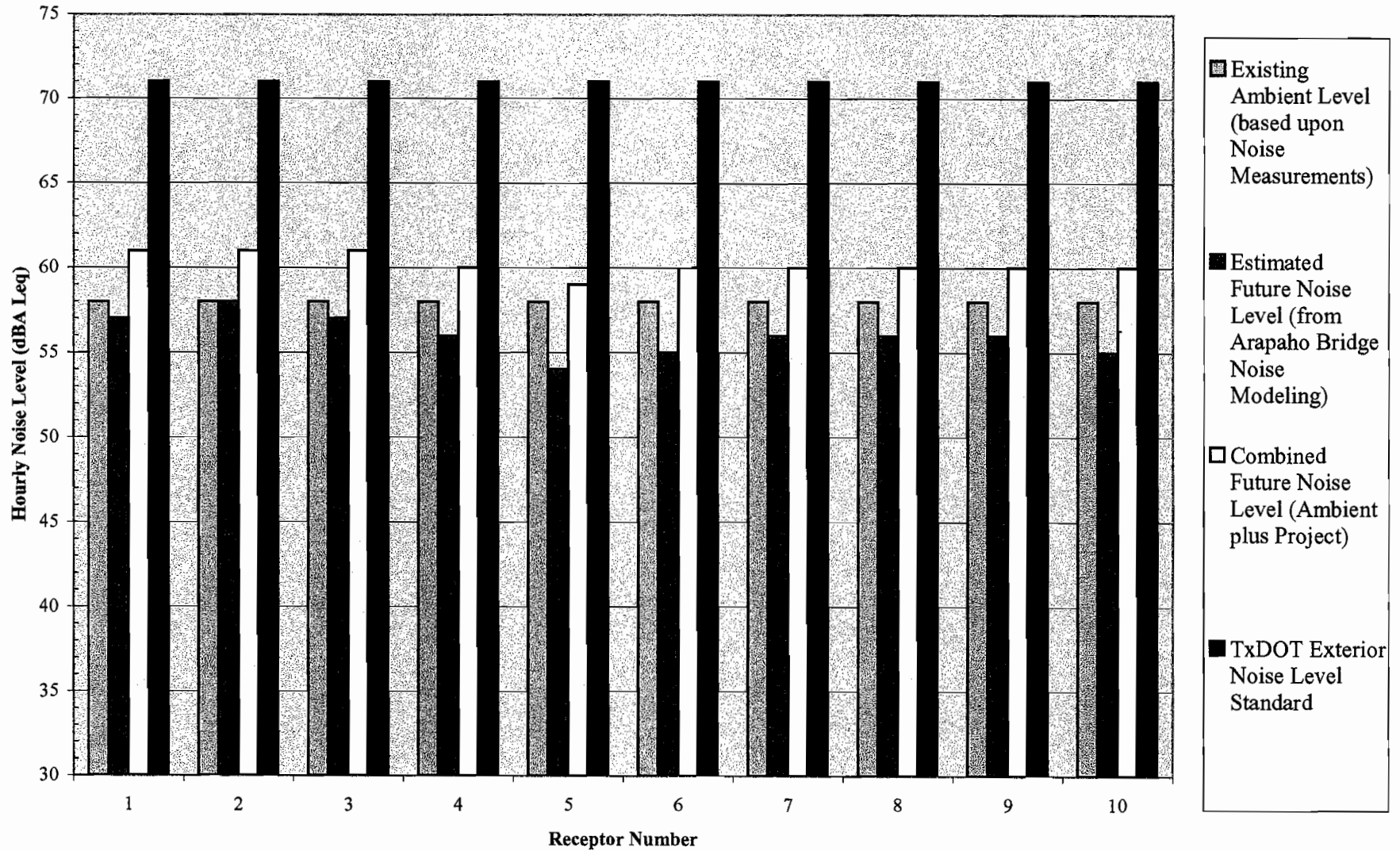
- Used to predict future noise levels from proposed project.
- Development of TNM<sup>®</sup> was funded, supervised and thoroughly validated by the Federal Highway Administration (FHWA).
- Approved for use by Texas Department of Transportation (TxDOT) for their highway noise analysis projects.
- The latest and most sophisticated noise modeling program to be approved for use in modeling of traffic noise on U.S. highways.
- Incorporates features which make it a very good choice for accurate assessment of noise from this project (i.e., a bridge).
- Specifically the ability to very accurately input and model the geometry of the roadway, surrounding structures and receivers in 3 dimensions, as well as traffic volumes and speeds.

# Human Perception to Changes in Noise Levels in a Community Environment

Change in Level (dBA)	Subjective Effect
3	Barely perceptible
5	Clearly perceptible
10	Twice as loud

Source: *Acoustic Noise Measurements*, Hassel and Zaveri, June 1998.  
Based upon behavioral studies of human response to noise.

## Arapaho Bridge Noise Analysis Predicted Exterior Noise Levels





## Vibration Analysis, continued

- **Construction Noise:**
  - FTA methodology for construction vibration assessment.
  - Found that drilling and other construction activities will be well below damage criterion levels, even for “fragile buildings” category.
  - **Conclusion: Construction vibration will be perceptible during the most active phases (i.e., drilling near the building) but temporary and not damaging.**

## Vibration Analysis, continued

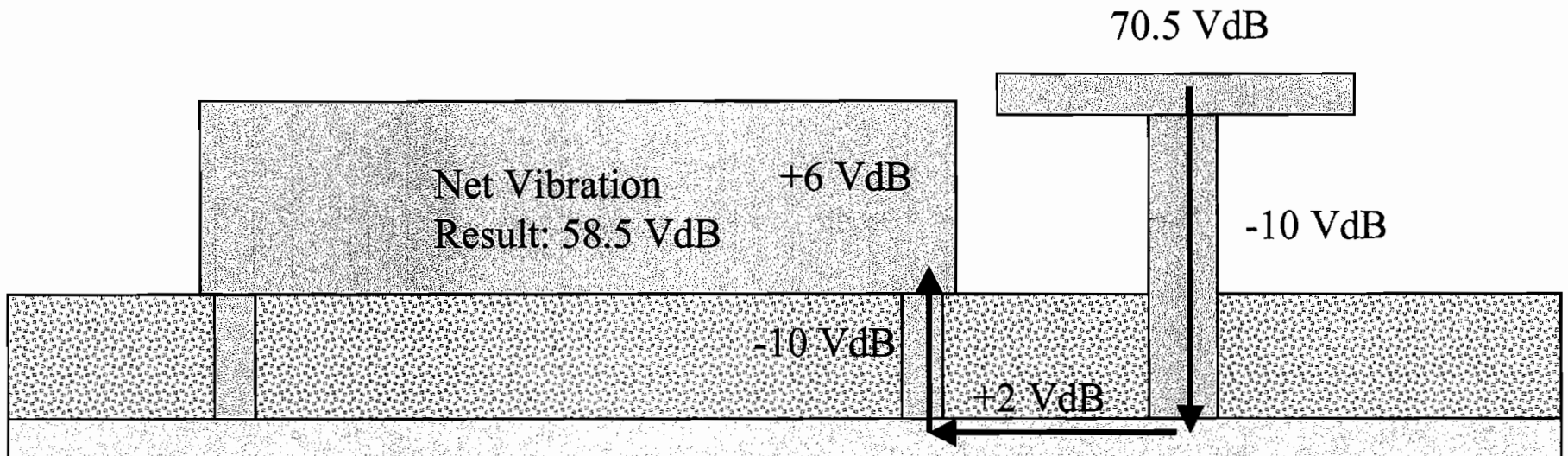
- FTA Vibration Criteria:
  - Category 1 (low ambient vibration essential for interior operations): **65 VdB**
  - Category 2 (residences and buildings where people normally sleep): **72 VdB**
  - Category 3 (institutional land uses with primarily daytime uses): **75 VdB**
- To ensure low vibration levels, extra attention will be paid in the final design and construction to minimize breaks in roadway grade or irregularities in the roadway surface (such as at expansion joints).
- **Conclusion: At 58.5 VdB, the subject property will have a vibration level below any of these categories including that for very sensitive land uses.**

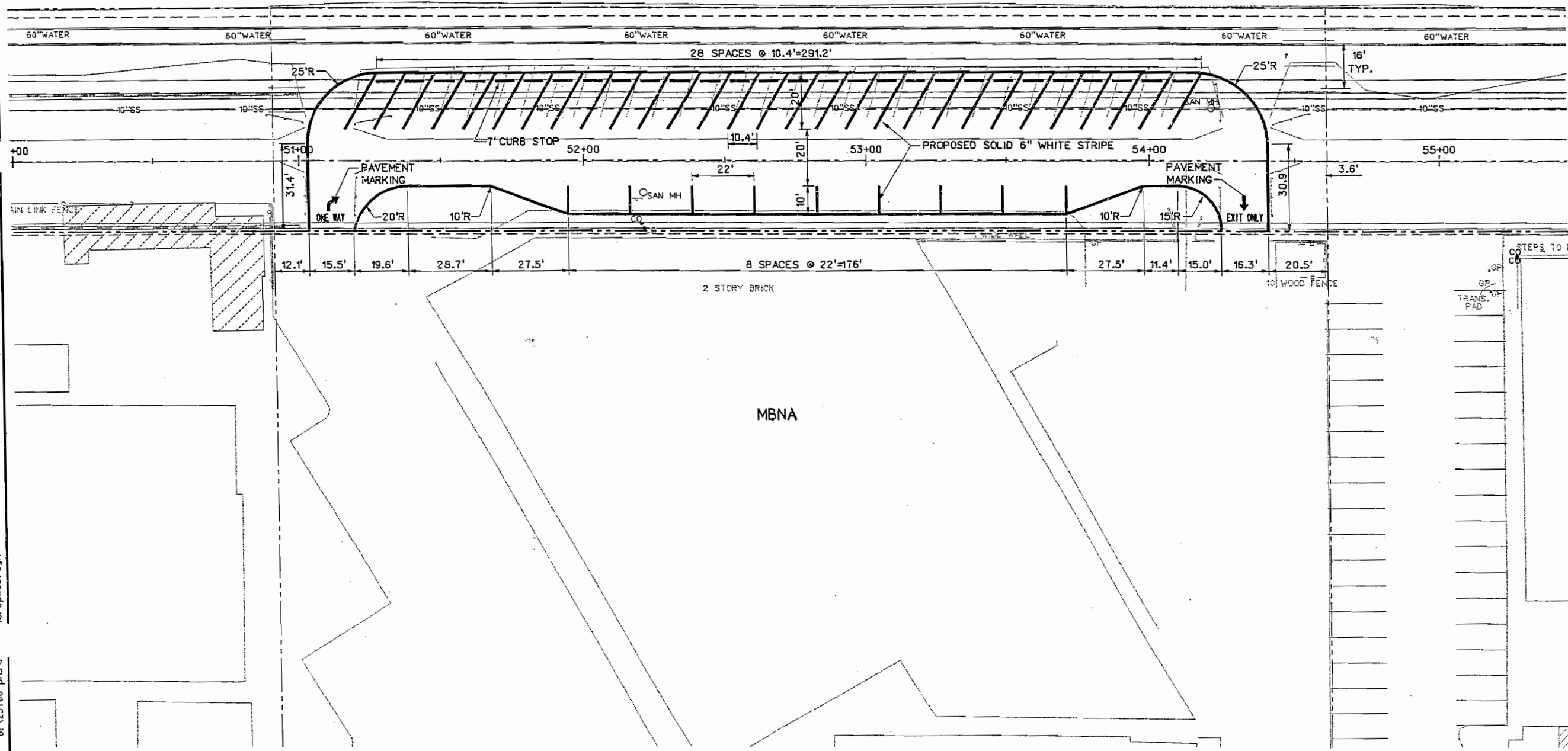
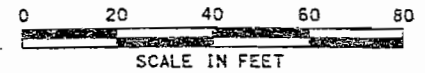
## Vibration Analysis, continued

- Rubber-tired vehicles: 68 VdB
- 40 mph travel speed: +2.5 VdB
- Elevated Structure: -10 VdB
- Limestone: +2 VdB
- Building: large masonry  
on piles: -10 VdB
- Potential amplification due  
to building resonance: +6 VdB
- **Total Predicted Vibration Level: 58.5 VdB**

# Vibration Analysis

- Used methodology from Federal Transit Administration's "Transit Noise and Vibration Impact Assessment" Handbook, April 1995.
- Vibration analysis deals primarily with root-mean-squared (RMS) velocity level in VdB re 1 micro inch/second





- LEGEND**
- REMOVE EXISTING PARKING STRIPE
  - PROPOSED SOLID 6" WHITE STRIPE

FOR INTERIM REVIEW ONLY  
 By JERRY D. HOLDER, JR., P.E. # 87171  
 HNTB CORPORATION  
 Date 26-JUN-2003  
 NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES

NO.	DATE	REVISION	APPROV.

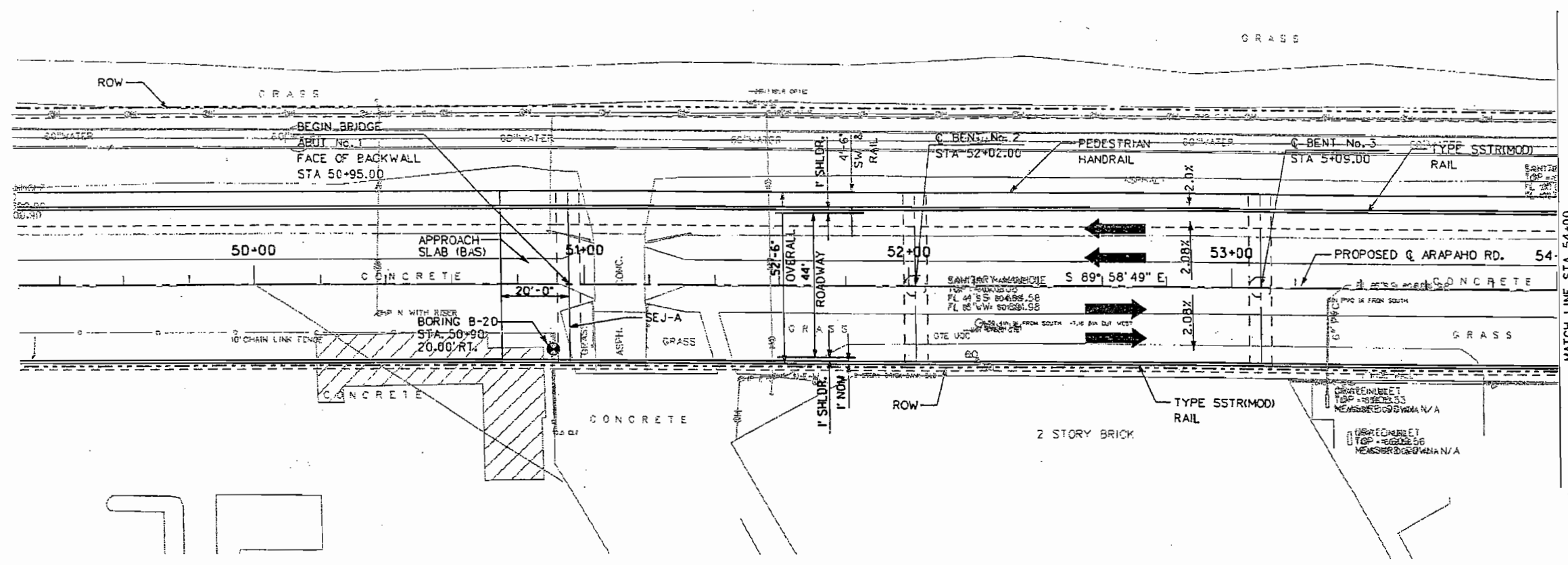
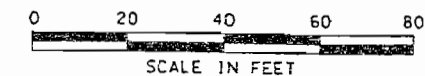
**HNTB** ARCHITECTS ENGINEERS PLANNERS  
*The HNTB Companies*

**ARAPAHO ROAD - PHASE III**  
 SURVEYOR BOULEVARD TO ADDISON ROAD  
 PARKING LAYOUT  
 MBNA

TOWN OF ADDISON, TEXAS

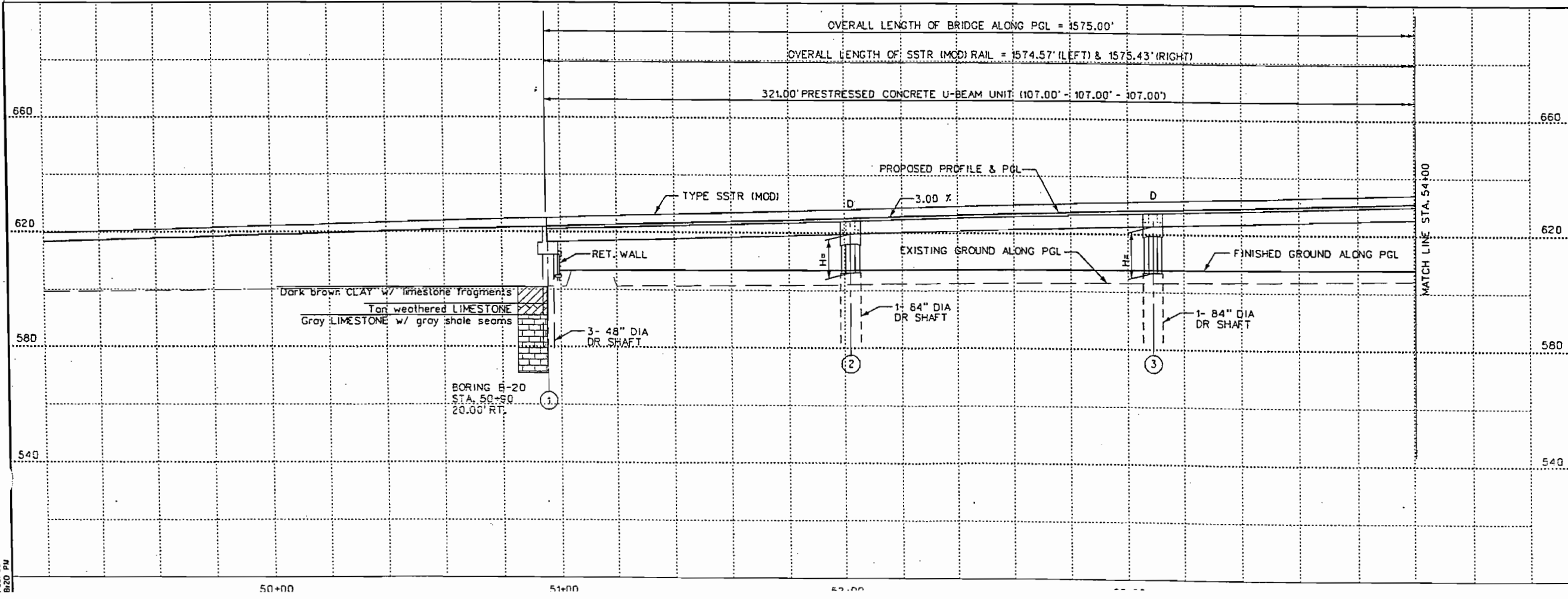
Design JSN Drawn GFS DATE SCALE PROJECT NO. SHEET NO.

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MATCH LINE STA. 54+00

- GENERAL NOTES:
1. DESIGNED IN ACCORDANCE WITH AASHTO "STANDARD SPECIFICATIONS FOR HIGHWAY BRIDGES" 17TH EDITION-2002, FOR HS20-44 LOADING.
  2. ALL DIMENSIONS ARE EITHER HORIZONTAL OR VERTICAL AND MUST BE CORRECTED FOR GRADE, CROWN, AND/OR SUPERELEVATION.
  3. ALL BENTS ARE RADIAL UNLESS NOTED OTHERWISE.

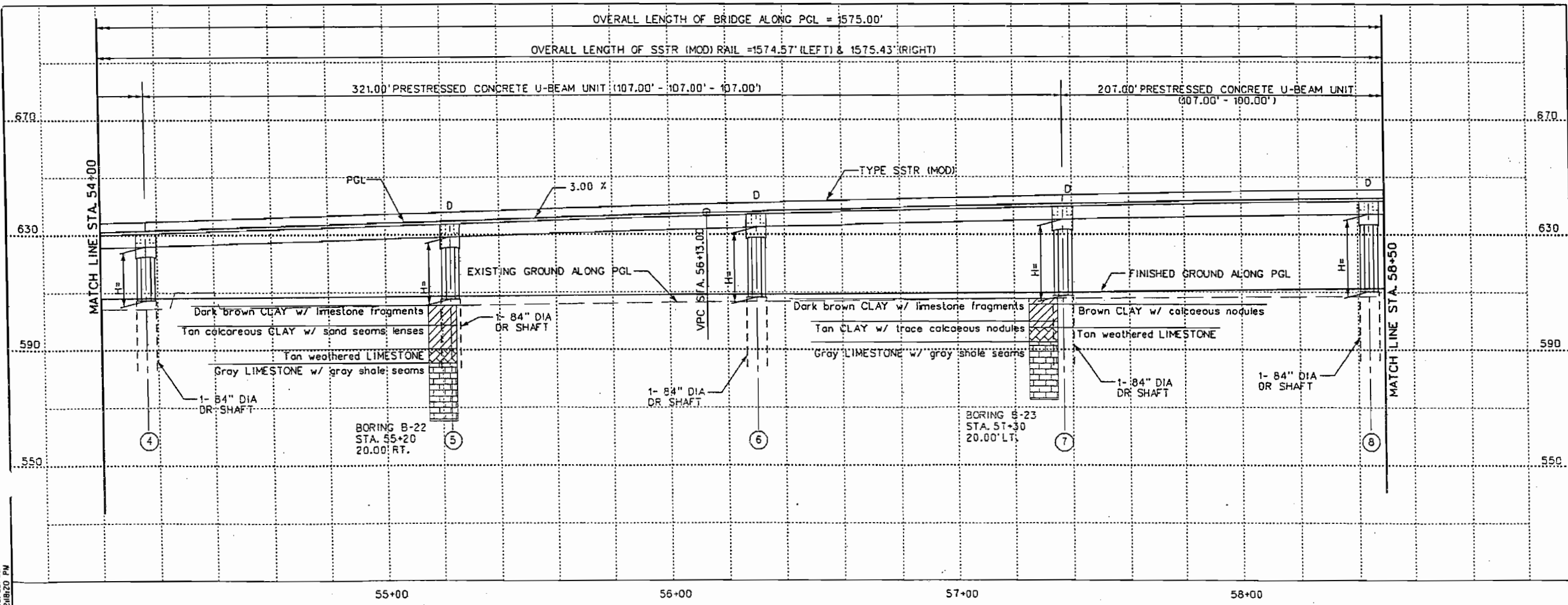
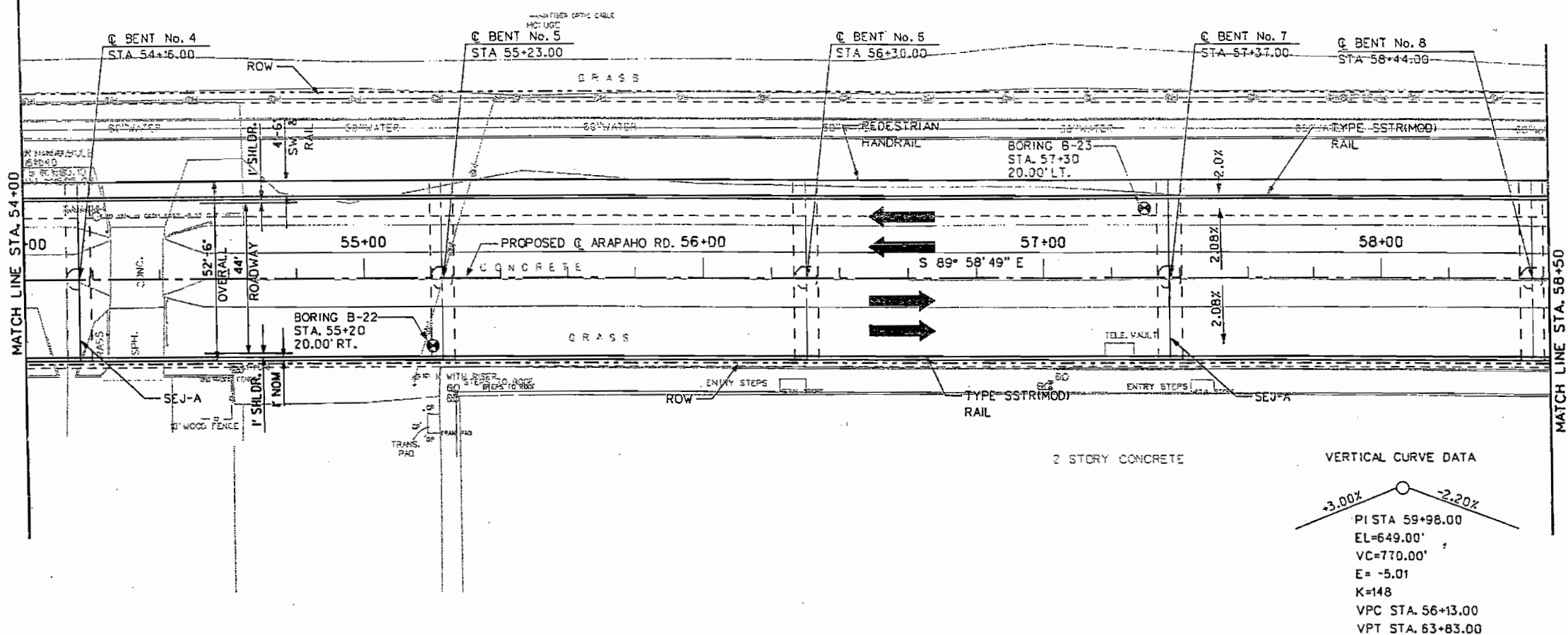
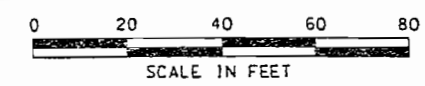


MATCH LINE STA. 54+00

FOR INTERIM REVIEW ONLY  
 By CLIFF R. HALL P.E. # 82211  
 URS CORPORATION  
 Date 6-25-03  
 NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES

NO.	DATE	REVISION	APPROV.
<b>URS</b>			
GREYSTONE CENTRE 3010 LBJ FREEWAY, SUITE 1200 DALLAS, TX 75234			
<b>ARAPAHO ROAD - PHASE III</b>			
SURVEYOR BOULEVARD TO ADDISON ROAD			
BRIDGE LAYOUT			
SHEET 1 OF 4			
TOWN OF ADDISON, TEXAS			

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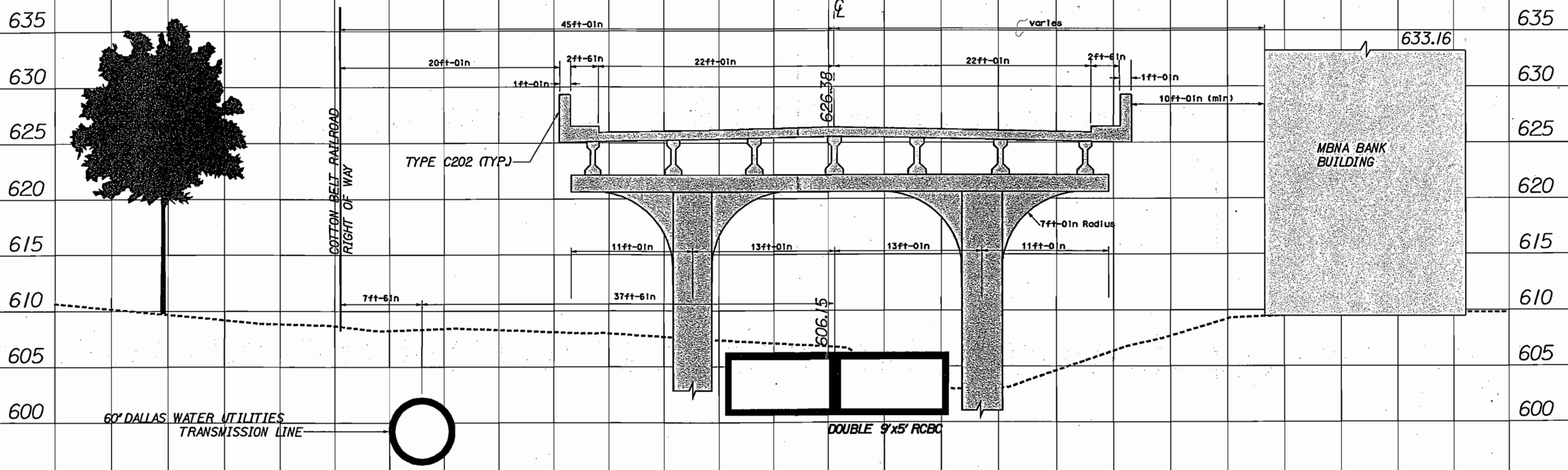


FOR INTERIM REVIEW ONLY  
 By CLIFF R. HALL, P.E. 82211  
 URS CORPORATION  
 Date 6-25-03  
 NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES

NO.   DATE	REVISION	APPROV.
<b>URS</b>		
GREYSTONE CENTRE 3010 LBJ FREEWAY, SUITE 1300 DALLAS, TX 75234		
<b>ARAPAHO ROAD - PHASE III</b>		
SURVEYOR BOULEVARD TO ADDISON ROAD		
BRIDGE LAYOUT		
SHEET 2 OF 4		
TOWN OF ADDISON, TEXAS		
Design: CRB	Drawn: RFB	DATE: 6-25-03
Scale: 1"=40'	PROJECT NO. 03-001	SHEET NO. 2 OF 4

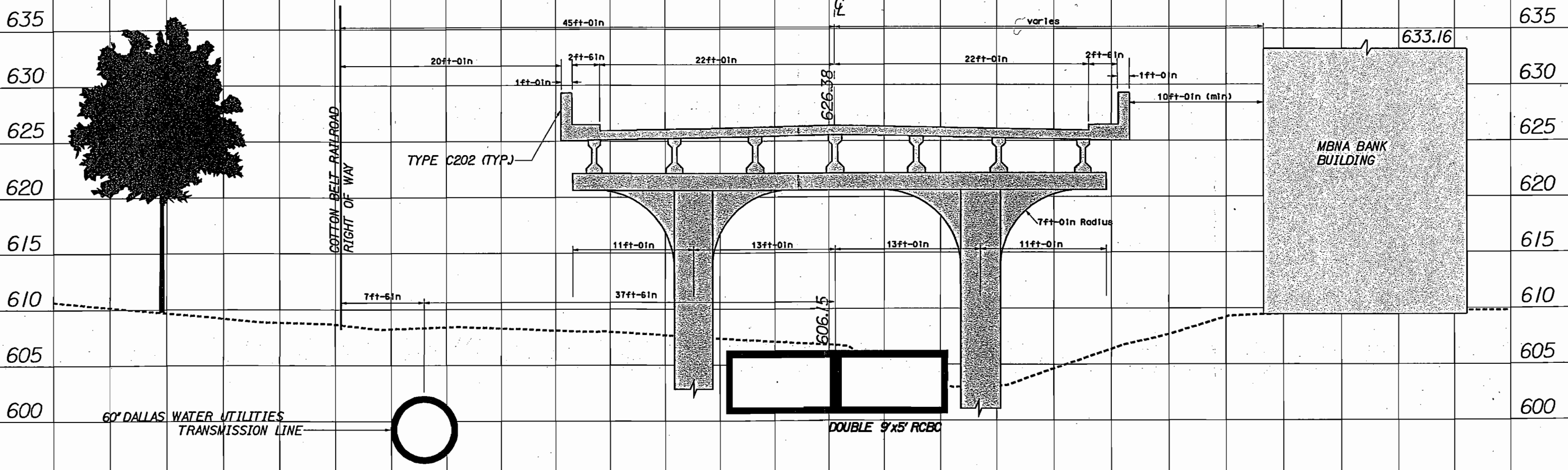
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*TYPICAL SECTION*  
*Elevated Structure - West of Midway*  
 STA 52+50

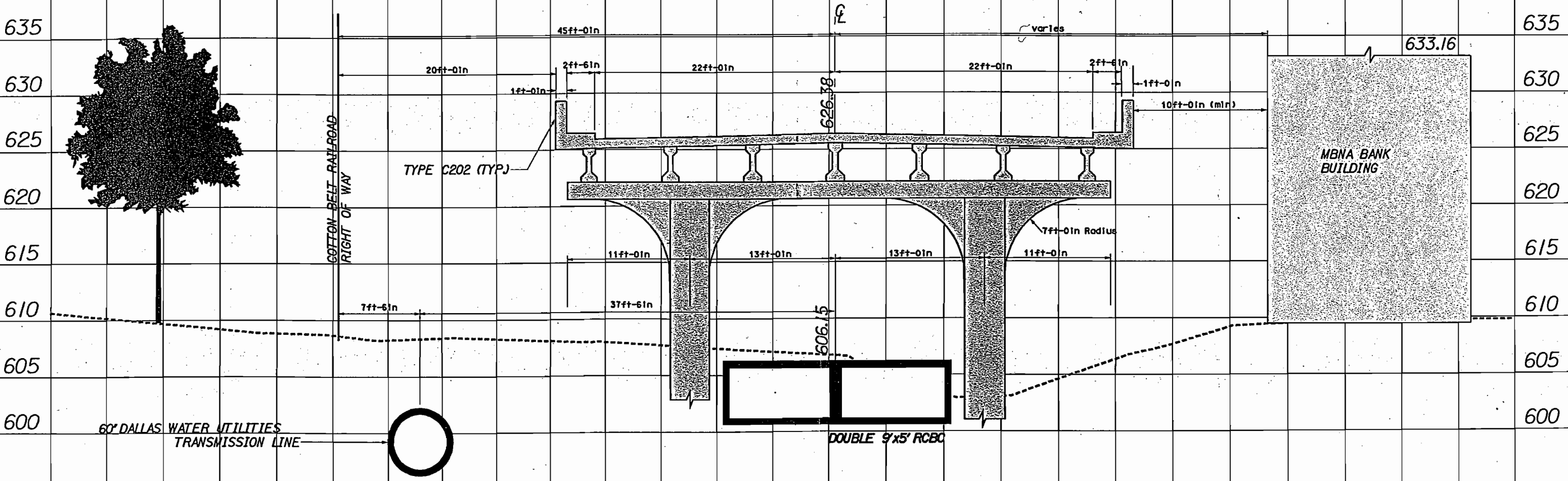




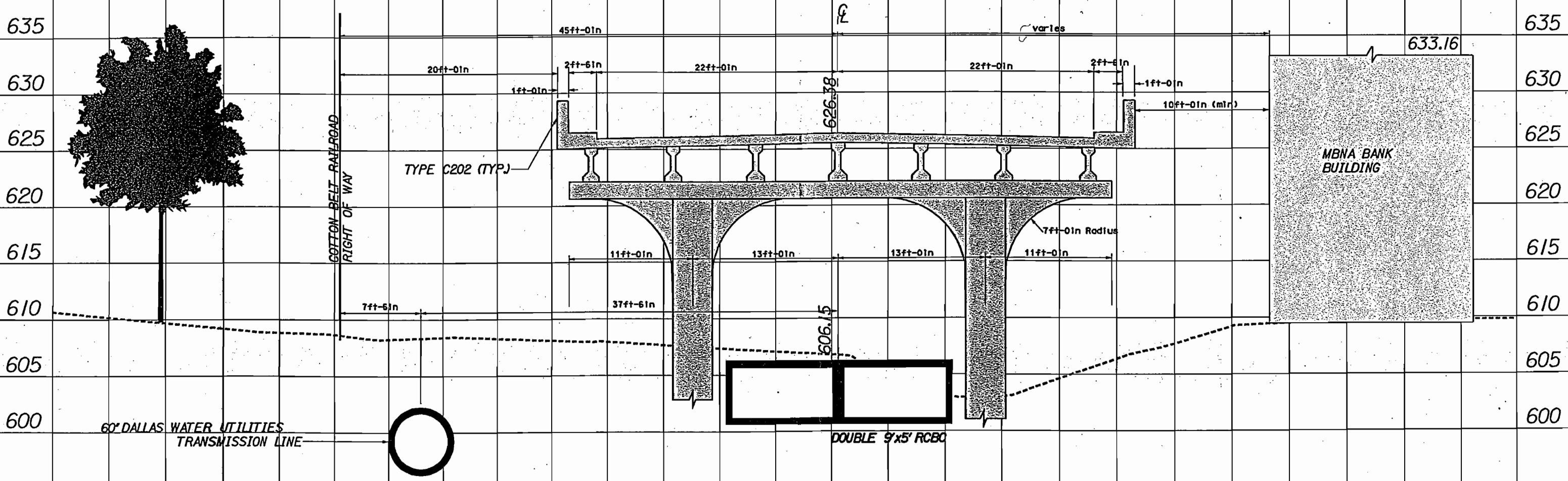
*TYPICAL SECTION*  
*Elevated Structure - West of Midway*  
*STA 52+50*



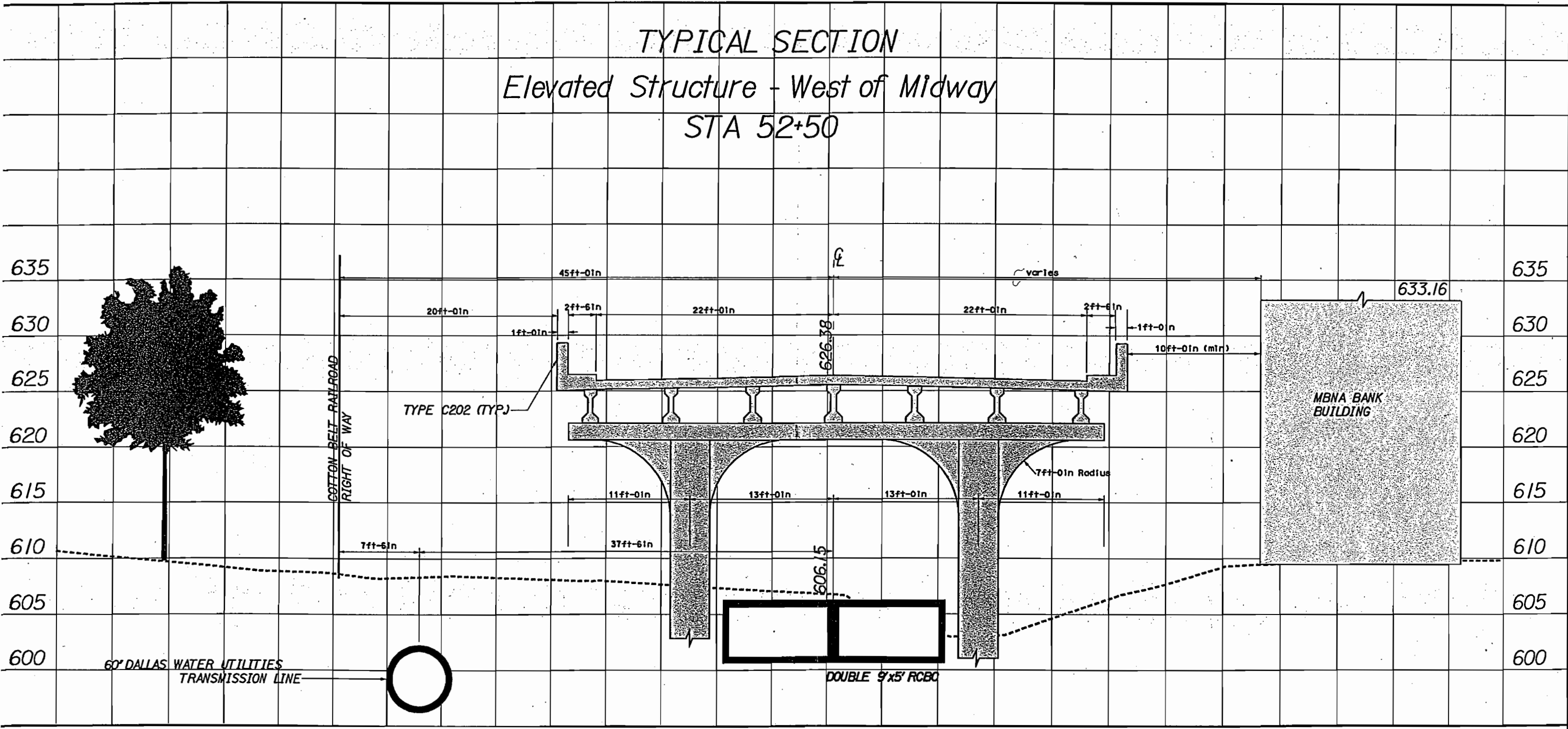
*TYPICAL SECTION*  
*Elevated Structure - West of Midway*  
*STA 52+50*



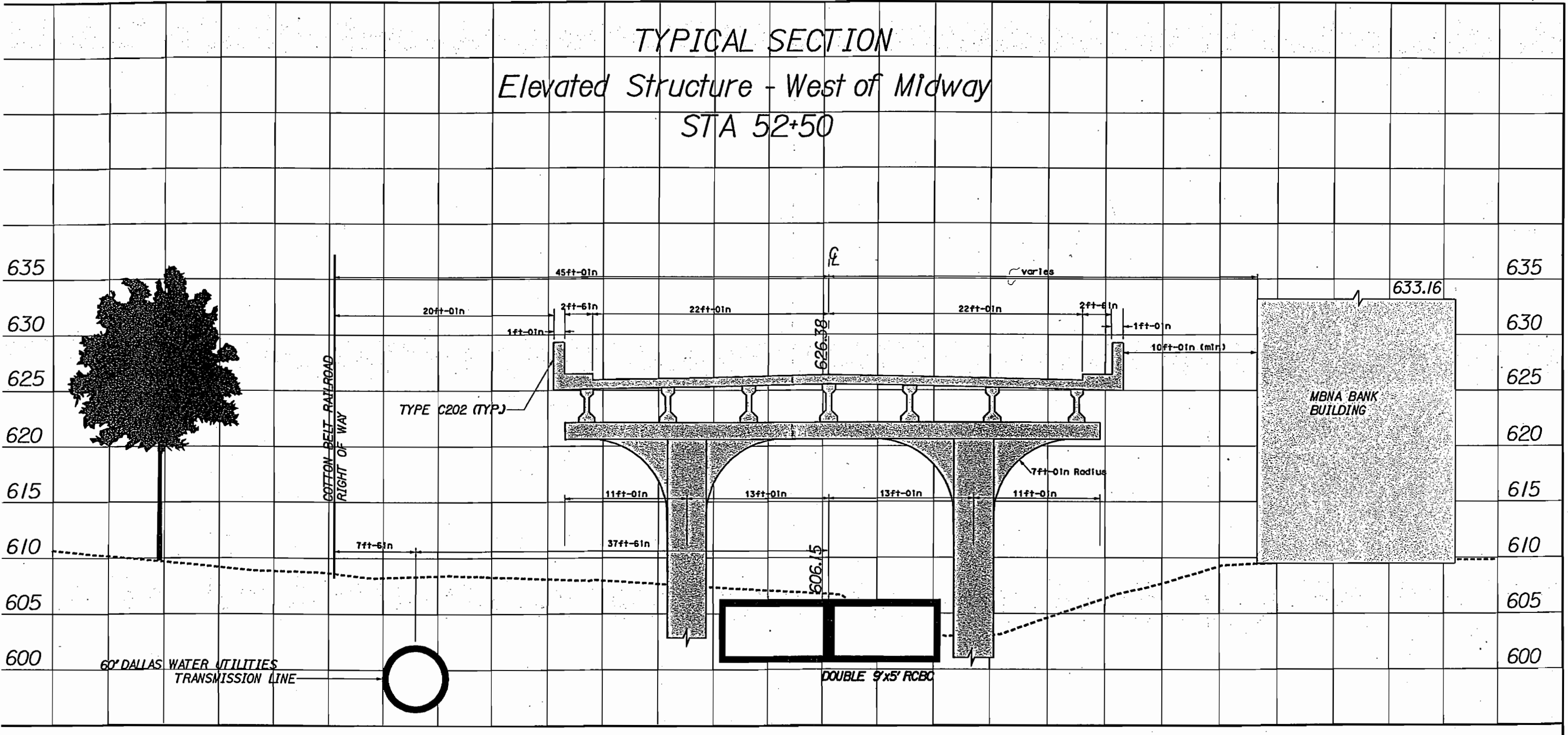
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*Elevated Structure - West of Midway*  
 STA 52+50



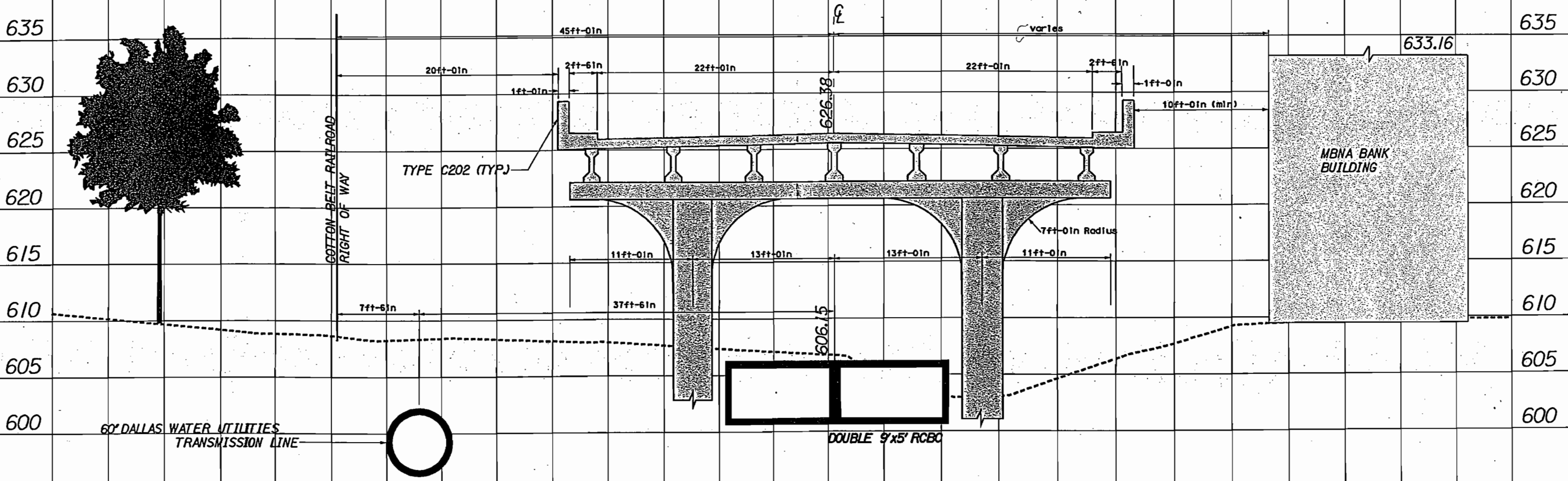
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*Elevated Structure - West of Midway*  
 STA 52+50



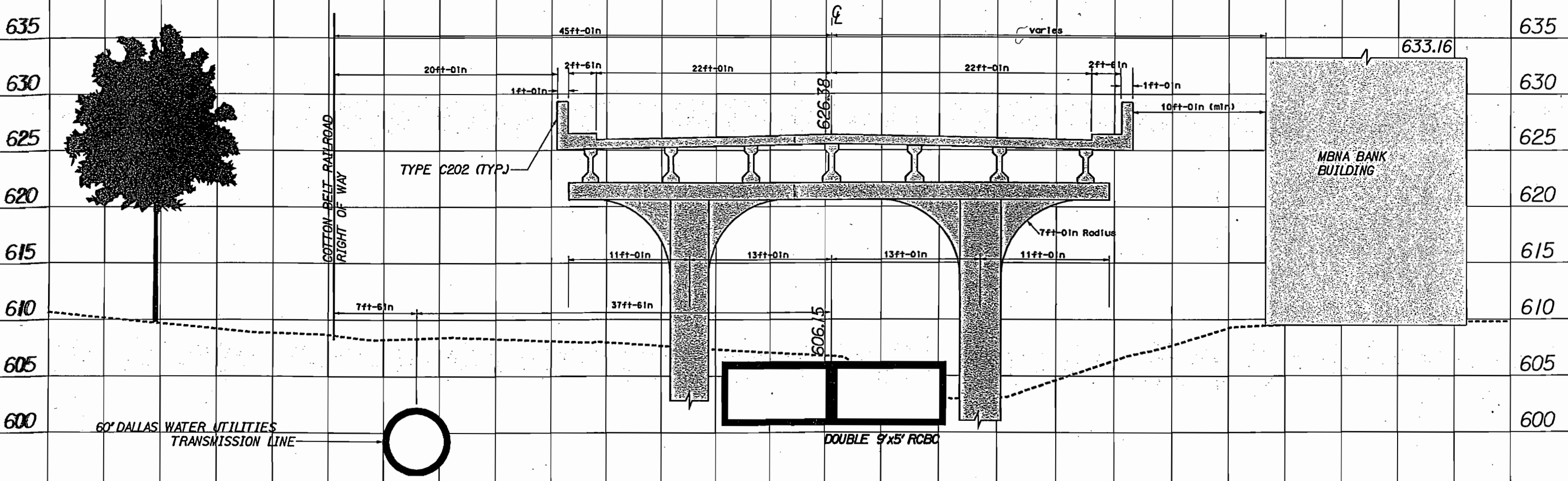
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*Elevated Structure - West of Midway*  
 STA 52+50



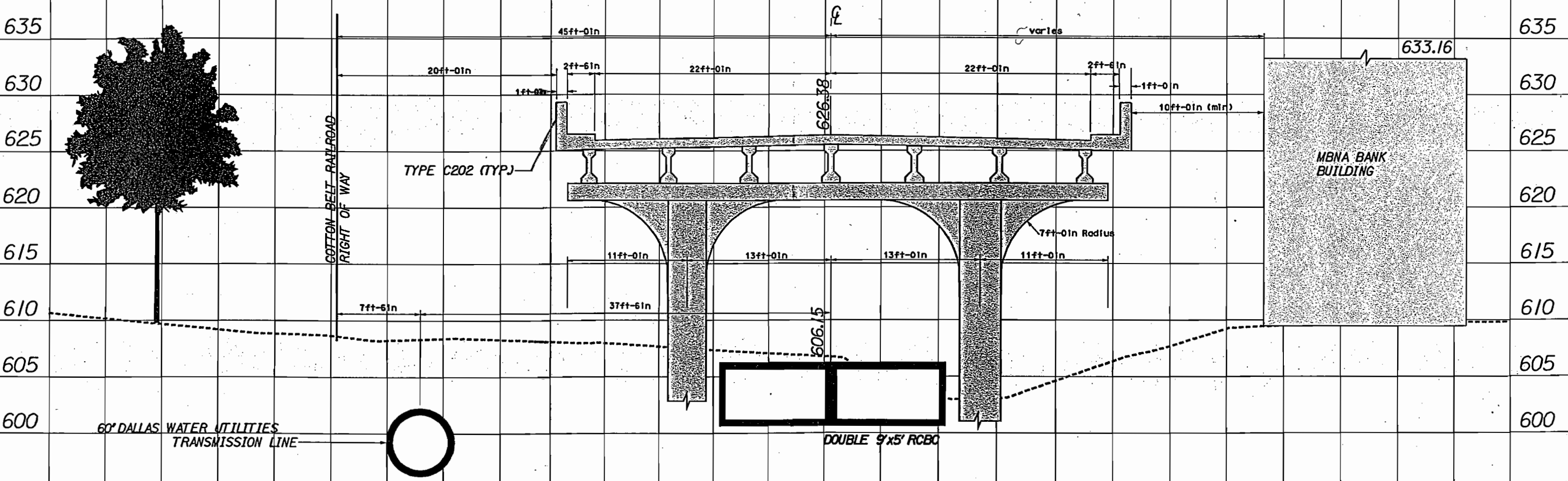
*TYPICAL SECTION*  
*Elevated Structure - West of Midway*  
*STA 52+50*



*TYPICAL SECTION*  
*Elevated Structure - West of Midway*  
*STA 52+50*

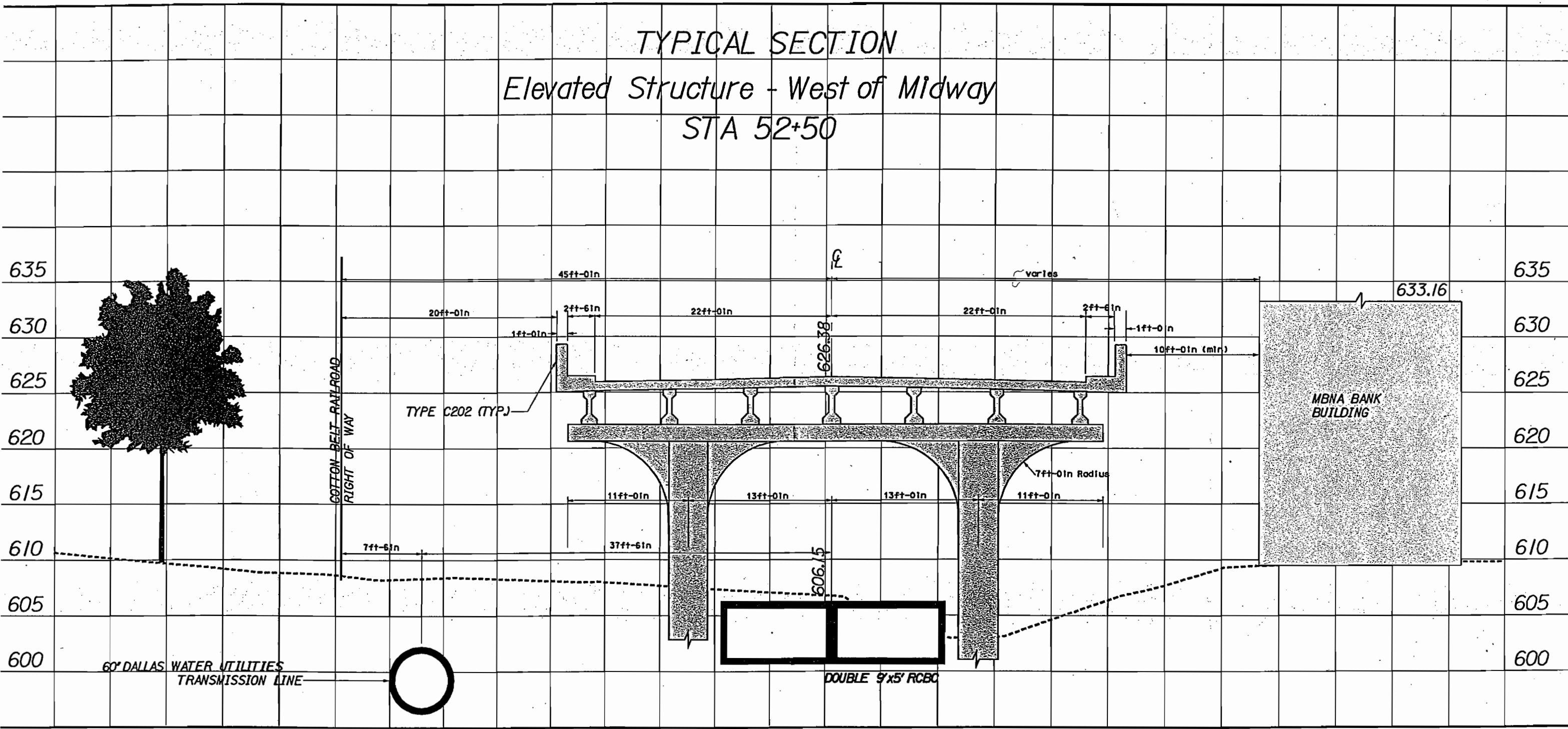


**TYPICAL SECTION**  
**Elevated Structure - West of Midway**  
**STA 52+50**

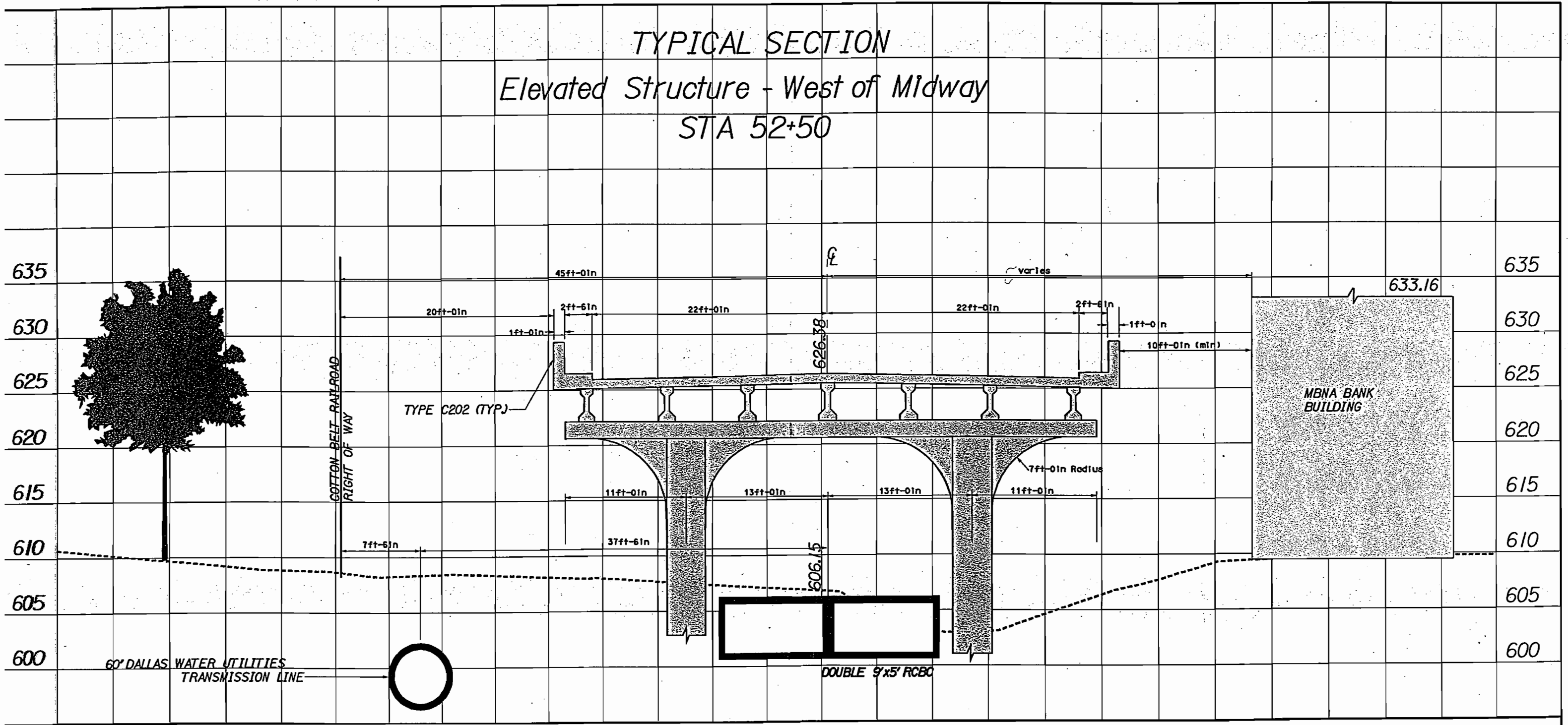




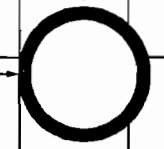
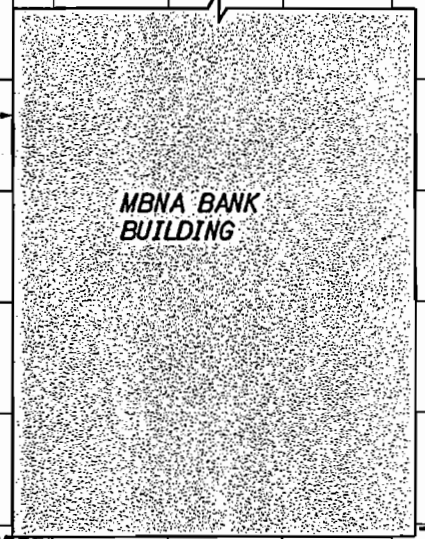
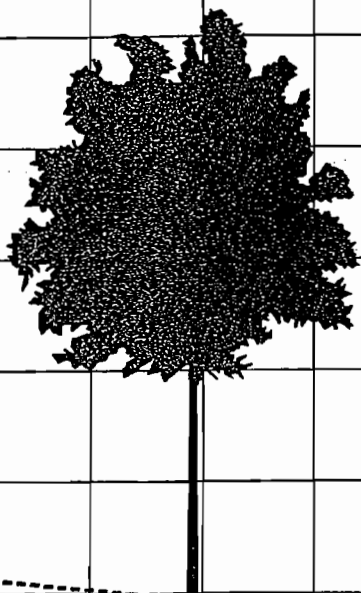
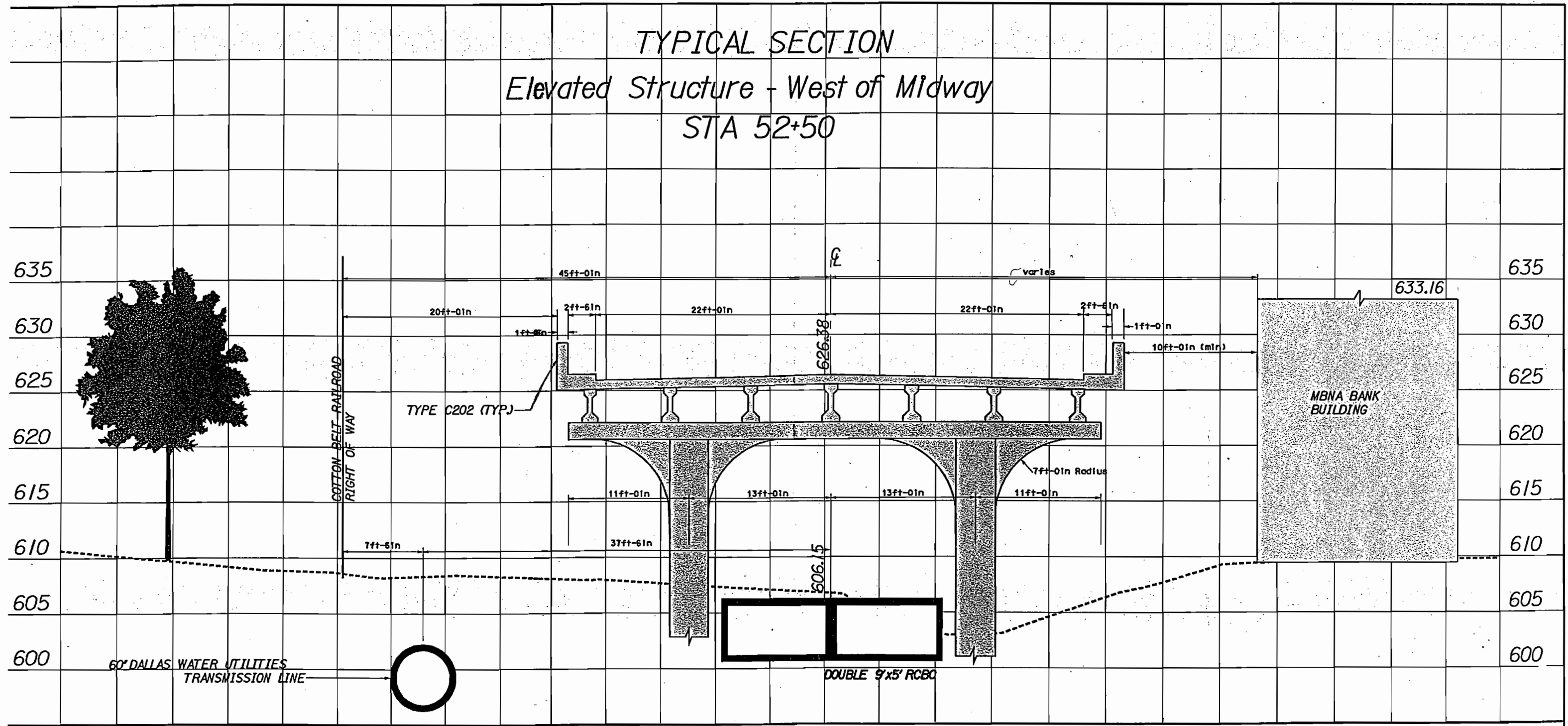
**TYPICAL SECTION**  
*Elevated Structure - West of Midway*  
 STA 52+50



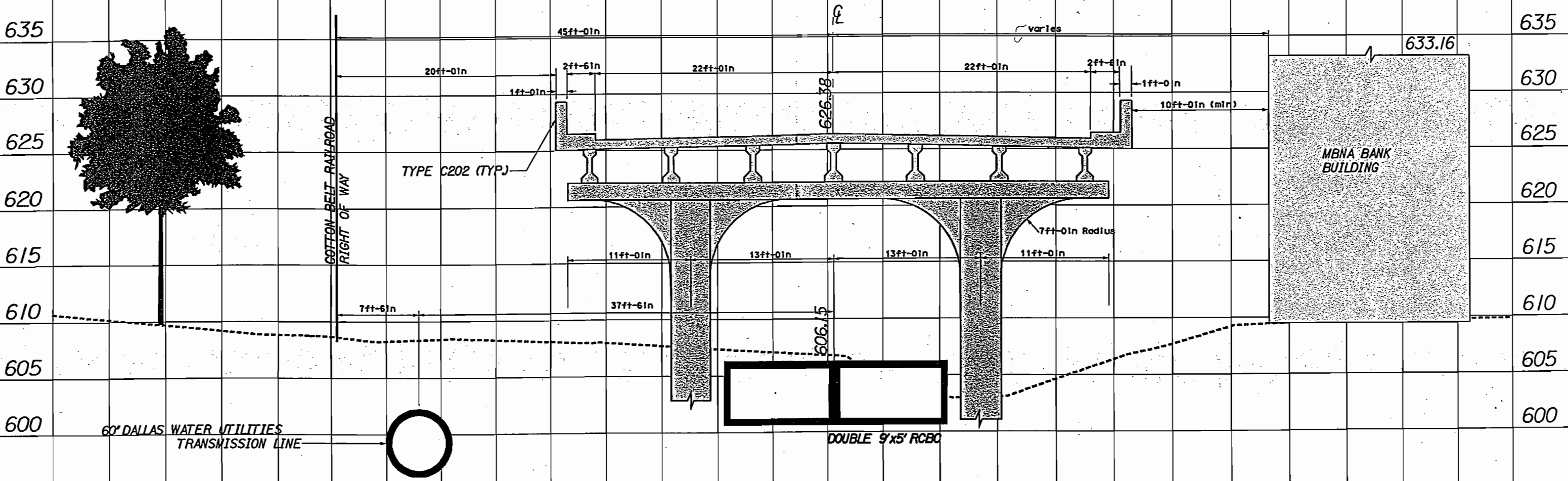
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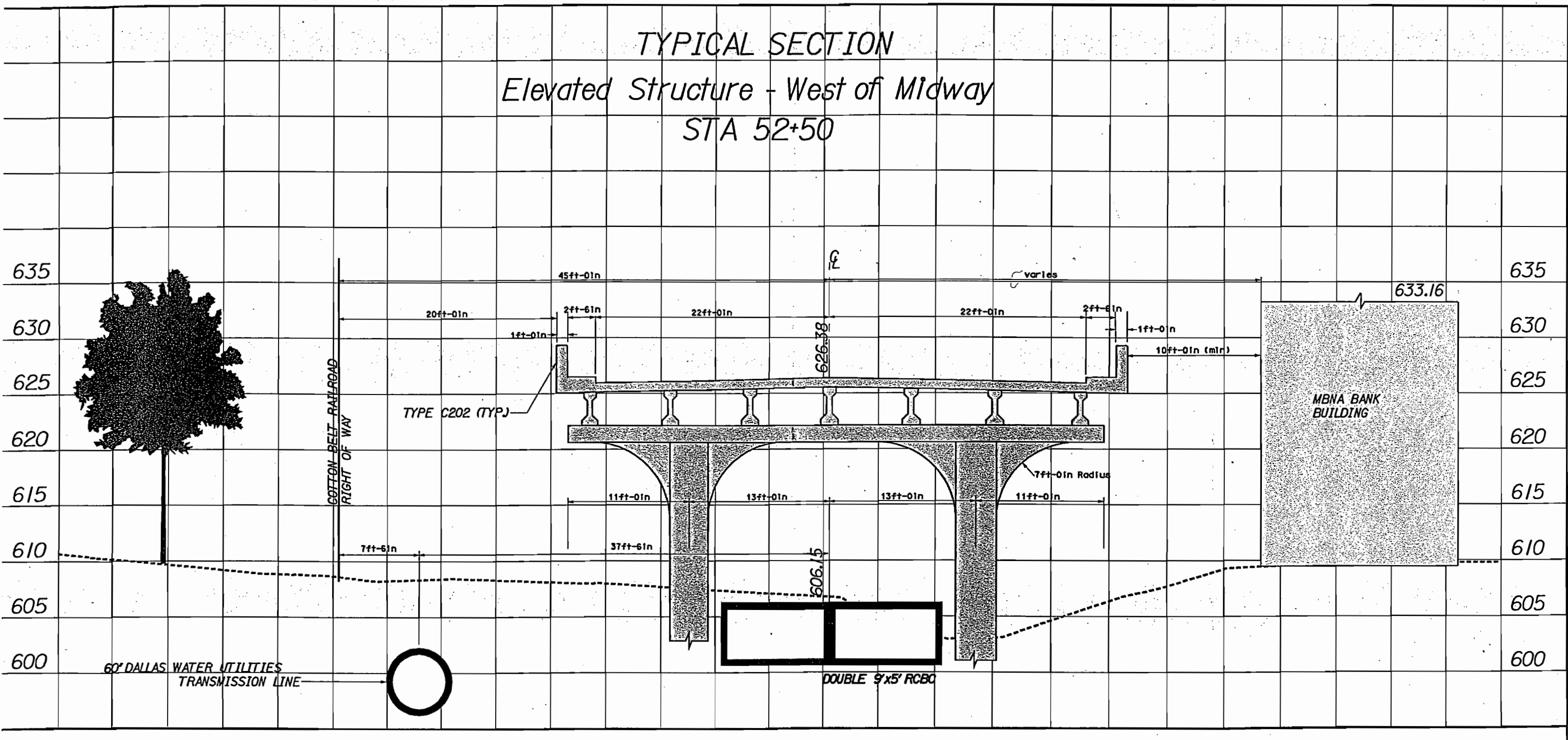
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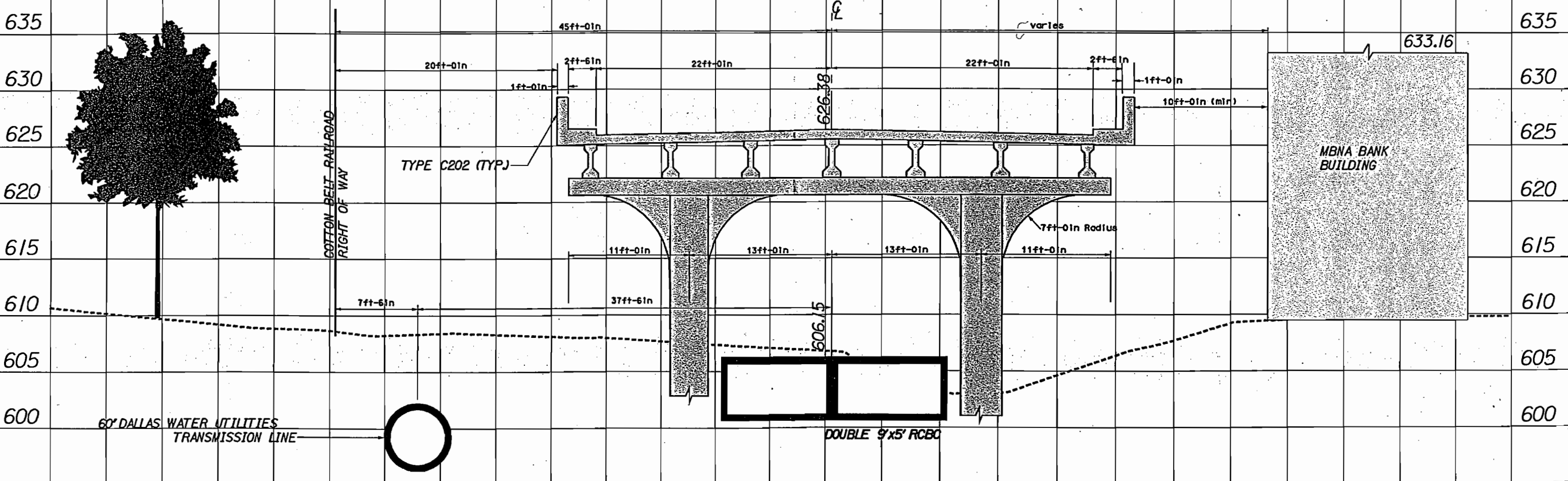
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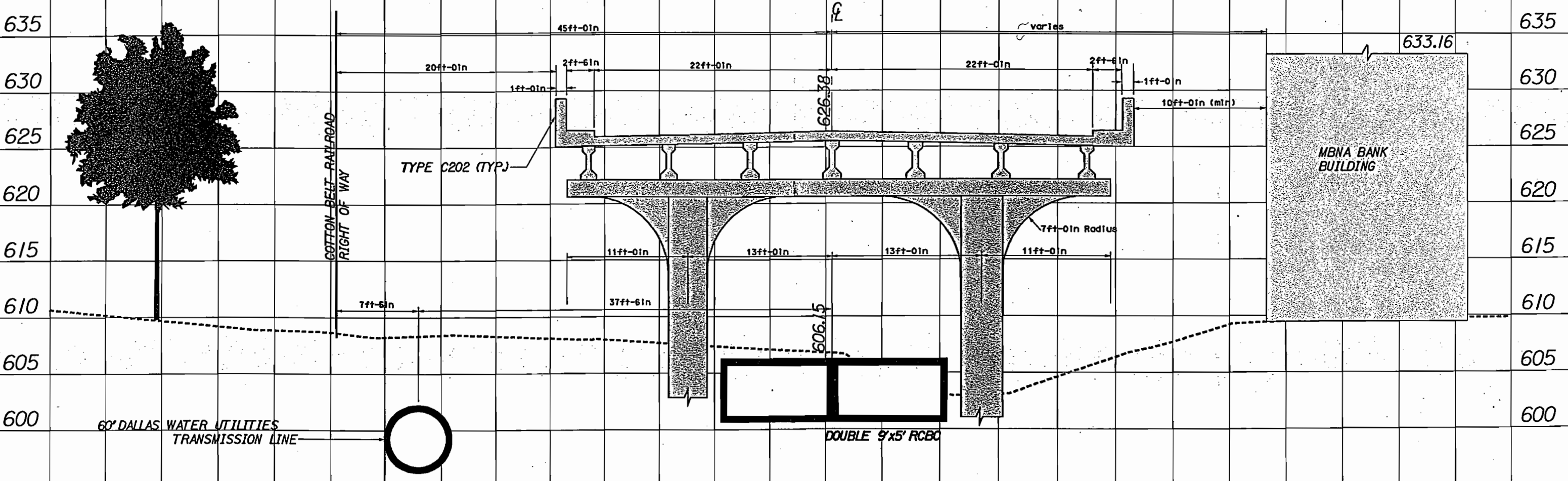
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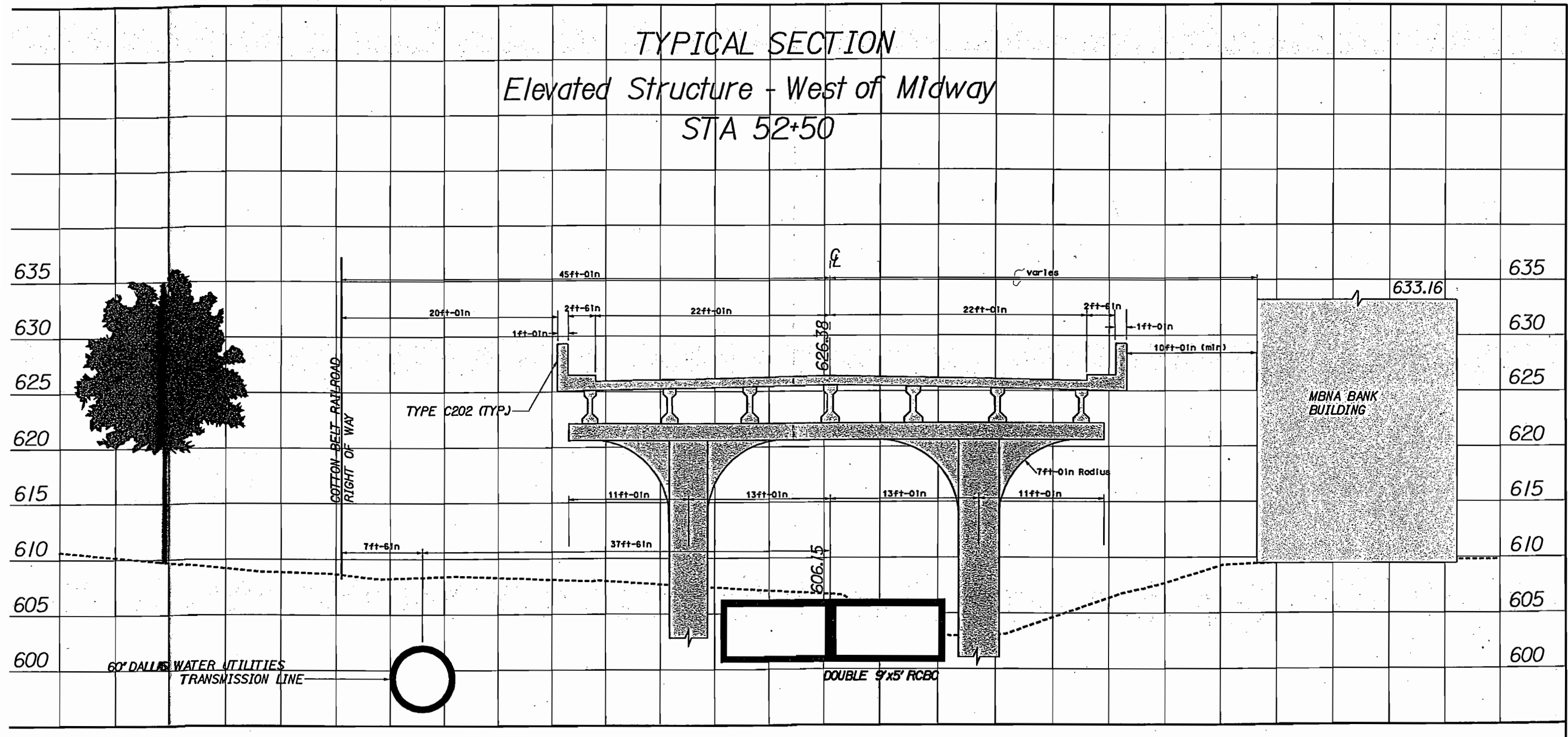
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ADR Partners  
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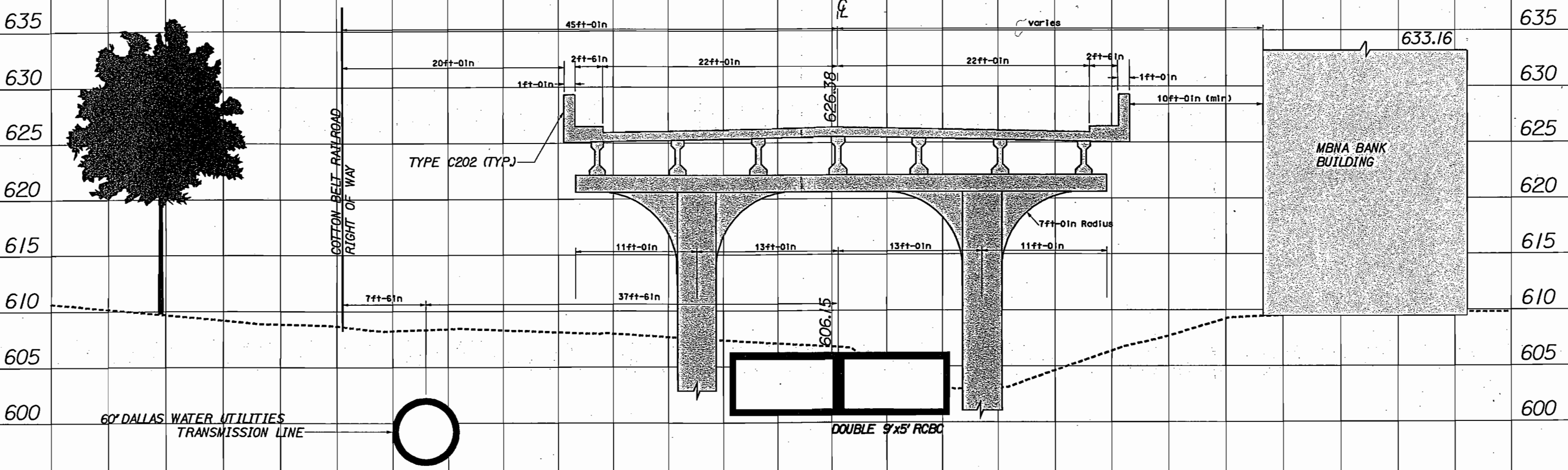
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**TYPICAL SECTION**  
*Elevated Structure - West of Midway*  
 STA 52+50



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We appreciated the opportunity to meet with you last week regarding the planned improvements to Arapaho Road and the acquisition by the Town of Addison of an interest in a portion (0.6709 acres out of the entire tract of 2.521 acres) of the property located at the rear of 4139 Centurion Way in connection with that project. You indicated during our meeting that you have several groups who are interested in purchasing or leasing that property, and that you would like us to address two items regarding the Town's acquisition so that you can proceed with your plans: (1) whether or not the parking which is currently in place at the rear of the building (approximately 36 parking spaces) will be available for use by the owner upon the completion of the improvements, and (2) whether or not the building will be able to be reconstructed in the event it is damaged by more than 50% of its replacement value.

With respect to the parking, if the 36 parking spaces in the rear of the property are removed, the property will continue to have adequate parking under the Town's current parking regulations. However, the Town will agree that, upon the completion of the Arapaho Road improvements, the owner of the property will have access to substitute parking (*the Town of Addison will construct no less than 36 spaces underneath the cover of the bridge with appropriate lighting*) at the rear of the property where parking is currently available.

With respect to the reconstruction of the building, the property at 4139 Centurion Way is currently zoned I-1 Industrial District. The I-1 District regulations provide that the rear yard setback requirements are the same as for the LR Local Retail District. In the LR District there is no rear yard depth requirement unless the District adjoins a single-family or apartment district, in which case a 10 foot rear yard is required. Therefore, the existing building will not be in violation of the current rear-yard setback requirements after the Town's acquisition of the property and construction of the improvements and will be able to be reconstructed in its current location if it is damaged.

As you know, we had previously provided to you an appraisal prepared by Evaluation Associates, which valued the portion of the property being acquired at \$62,381.00 and concluded that the remainder of the property would be damaged in the amount of \$162,619.00 as a result of the acquisition. Based on that appraisal, the Town had offered to pay \$225,000.00, which was not accepted. The damage to the property after the acquisition, however, was based upon an understanding that the building might not be able to be reconstructed if it was damaged by more than 50% of its replacement value. However, as indicated above, under current regulations the building would be able to be reconstructed in its current location, which eliminates the damages. Therefore, our offer is to acquire the 0.6709 acre tract for its appraised value at \$62,381.00 together with the right to have substitute parking in the rear of the property as described above.

We hope that this clarifies the issues which we have been discussing. Regarding the above offer, we request that you respond to the offer within thirty (30) days of the date of this letter. If we do not hear from you within that time period, we will consider the offer rejected.

Very truly yours,

Ron Whitehead

Mr. Gary Crouch  
ADR Partners  
4444 Westgrove, Suite 210  
Addison, Texas 75001

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Ron Whitehead

# 4139 CENTURION WAY

ADDISON, TX



## BUILDING FEATURES:

- One story, 30,287 sf., single or multi-tenant office building with 5,263 sf. warehouse completely air conditioned
- Two dock high doors, one grade level door
- 145 parking spaces
- Dual fiber optics with diverse routing
- Heavy power with three distribution points
- Conveniently located just north of Beltline Road on Midway



*“4139 Centurion Way is a prestigious North Dallas office/warehouse facility. Its contemporary architectural styling and unparalleled location in Addison make this a premier choice.”*

444 Westgrove, Suite 210  
Addison, TX 75001

**ADR Partners**

## LOCATION:

4139 Centurion Way is located one block north of Beltline Road and just west of Midway Road. In close proximity to The Galleria and "Restaurant Row," this building also benefits from access to the Dallas North Tollway and LBJ Freeway/

For office leasing contact:

**ADR Partners**

(972) 380-6752

