

**ORDINANCE NO. 2004- 16**

**An ordinance declaring a public necessity for the acquisition of property rights in tracts of land under and across a total of approximately 1.095 acres in the James Reed Survey, Abstract 286, and in the J. Pointevent Survey No. 3, Abstract 280, Victoria County, Texas, for the public purposes of providing underground utility access and public access to areas annexed by the City of Victoria, authorizing all appropriate action of the City of Victoria in the institution and prosecution of condemnation proceedings to acquire this needed property, authorizing the City Manager to execute offers and contracts for the purchase of property interests from the owners thereof, authorizing the acceptance of deeds and other instruments, authorizing the joinder of all persons with rights in the aforementioned property, authorizing all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to survey, test, specify, define and secure the necessary property rights, declaring the sections of the ordinance to be severable one from the other in the event any section of this ordinance is determined to be invalid, and declaring an effective date.**

The City Council of the City of Victoria finds that the acquisition of the property described in Section 1 of this ordinance is necessary and desirable for the public purposes of providing underground utility access and public access to areas annexed by the City of Victoria (also known as the Highway 59 Business Utilities Access Project), and has previously budgeted funds to be expended for these purposes, an adequate part of which remains on hand for such purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA:

1.

Public necessity requires that the City acquire the property rights described in the attached “**Grant of Subsurface Utility Easements and Access Easements (subject to superior right to operate railroad on surface of easement area)**” and other general subsurface utility easements and access easements in the areas described in the exhibits to said grant, either through purchase or by the process of eminent domain, and to take all other lawful action necessary or incidental to such acquisitions or eminent domain proceedings to survey, test, specify, define and secure the necessary property rights. The property rights to be acquired pursuant to this ordinance are, without restriction to the aforementioned property rights, to be utilized for the public purposes of providing underground utility access and public access to areas annexed by the City of Victoria (referred to in previous actions as the Highway 59 Business Utilities Access Project).

2.

The City, acting by and through its retained attorneys, is hereby directed and authorized to institute and prosecute to conclusion all necessary actions and proceedings to condemn the property interests described in Section 1 of this ordinance, to acquire such interests in land as the City is unable to acquire through negotiation by reason of its inability to agree with the owners of the land as to the value of the property interests in the land, and to take any other legal action necessary or incidental to such acquisitions or eminent domain proceedings to survey, specify, define and secure the necessary property rights.

3.

The City Manager is authorized to execute offers and contracts, in a form to be approved by the City Attorney, for the purchase of the aforementioned property and easements related thereto from the owners of the aforementioned property in amounts not to exceed a total of **\$4,435.00**. All necessary parties and lienholders may be joined in the aforementioned transactions. Deeds and other instruments conveying interests in this property may be accepted by the City Manager in a form to be approved by the City Attorney. All acts and proceedings done or initiated by the employees, agents and attorneys of the City for the acquisition of such property interests are hereby authorized, ratified, approved, confirmed, validated, and declared to be valid in all respects as of the respective dates of such acts and proceedings, with and in regard to the owners from whom such rights have been or are being purchased or acquired.

4.

If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof, or provisions or regulation contained herein shall become inoperative or fail by reason

of any unconstitutionality or invalidity of any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

5.

This ordinance shall be effective on final passage and approval.

PASSED FIRST READING, this the 19TH day of OCTOBER, 2004.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

PASSED SECOND READING, this the 2ND day of NOVEMBER, 2004.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

PASSED THIRD READING, this the 2ND day of NOVEMBER, 2004.

AYES: 7

NAYS: 0

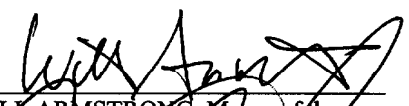
ABSTENTIONS: 0

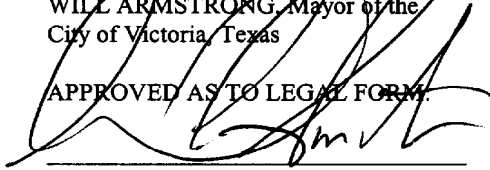
APPROVED AND ADOPTED, this the 2ND day of NOVEMBER, 2004.

ATTEST:

  
SCARLET SWOBODA, City Secretary



  
WILL ARMSTRONG, Mayor of the  
City of Victoria, Texas

  
APPROVED AS TO LEGAL FORM.

DAVID ATMAR SMITH, City Attorney

Distribution: Legal Department  
City Manager  
Department of Utilities

Copies Sent: NOVEMBER 3, 2004

**Grant of Subsurface Utility Easements and Access Easements  
(subject to superior right to operate railroad on surface of easement area)**

State of Texas                    §  
County of Victoria            §

\_\_\_\_\_ (hereinafter described as "Grantor"), as the owner of tracts of land situated in the James Reed Survey, Abstract 286, and in the J. Pointevent Survey No.3. Abstract 280, Victoria County, Texas, (hereinafter described as the "Property"), grants to the **City of Victoria, a Texas municipal corporation** (hereinafter described as "Grantee"), and its successors and assigns the below-described rights and easements in the Property. The Grantee's mailing address is: the City of Victoria, Attn: Legal Department, P. O. Box 1758, Victoria, Texas 77902-1758.

**1. Location:** This document grants Subsurface Utility Easements under areas depicted in **Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E, Exhibit F, Exhibit G, Exhibit H, and Exhibit I**, as described in **Exhibit A-1, Exhibit B-1, Exhibit C-1, Exhibit D-1, Exhibit E-1, Exhibit F-1, Exhibit G-1, Exhibit H-1, and Exhibit I-1**, which are attached hereto and incorporated herein. This document also grants Access Easements across areas depicted in **Exhibit B, Exhibit C, Exhibit D, Exhibit E, Exhibit F, and Exhibit H**, and described in **Exhibit B-1, Exhibit C-1, Exhibit D-1, Exhibit E-1, Exhibit F-1, and Exhibit H-1**, which are attached hereto and incorporated herein. These easements are located upon and across the Property.

**2. Character and Consideration:** The Subsurface Utility Easements and Access Easements are in gross and are granted for \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged. Grantee may assign any of the rights granted under the Subsurface Utility Easements to any party that operates a water or sewer system in Victoria County, Texas.

**3. Purpose and Scope of Easements:**

**a. Subsurface Utility Easements---**Grantor grants to Grantee and Grantee's successors and assigns Subsurface Utility Easements to place, construct, operate, inspect, repair, maintain, replace, relocate, and remove subsurface utility lines on the Property that lie within the bounds of the Subsurface Utility Easements established by this instrument. This grant includes the following rights within the bounds of the Subsurface Utility Easements:

- (1) The right to excavate for, inspect, install, replace, maintain, and use subsurface utility lines;
- (2) The right to inspect, install, maintain, use, and replace all parts, fixtures and equipment that are reasonably necessary in connection with facilitating the ongoing use of the utility lines;
- (3) The right of pedestrians, vehicles, and equipment to enter and travel along the surface of the Subsurface Utility Easements for the purposes described in a.(1) and b.(2) of this subsection; and
- (4) The right to cut and trim trees, shrubbery, and other vegetation that may encroach on the surface of the Subsurface Utility Easements.

**b. Access Easements---**Grantor grants to Grantee and Grantee's successors and assigns Access Easements to construct, reconstruct, maintain, operate, repair, improve, travel on, and use roads within the boundaries of the Access Easements established by this instrument. This grant includes the following rights within the bounds of the Access Easements:

- (1) the right to excavate for, inspect, install, replace, maintain and use roads across the Access Easements;
- (2) the right of the public to travel upon the Access Easements;
- (3) the right to install drainage inlets, manholes, pipes, and ditches across and under the Access Easements in a manner that does not interfere with the Grantor's use of the Property for railroad purposes; and
- (4) The right to cut and trim trees, shrubbery, and other vegetation that may encroach on the surface of the Access Easements.

**4. Limitations on Use of the Easement area:** Grantor may continue to use the surface of the easements granted by this document in any manner that (1) does not conflict with the rights granted by this Easement in accordance with the limitations described in this instrument and (2) does not damage the utility lines to be constructed in this Easement. In further limitation of the rights granted to the Grantee pursuant to this Easement:

- a. Grantee shall only be permitted to perform operations with respect to its utility lines in the easements granted by this document in a manner that will allow railroad and other utility and pipeline operations on this Easement;
- b. Grantor will not be responsible for any damage that occurs to Grantee's utility lines as a result of railroad operations on the surface of the easements granted by this document;
- c. Grantee shall conduct its operations in the easements granted by this document only in a manner that does not interfere with any utilities currently in these easements whose presence has been permitted by Grantor; and
- d. Grantor shall be permitted to grant other easements or install such pipelines and other utilities in the easements granted by this document as long as the installation of those other utility lines do not interfere with Grantee's utility services.

**If railroad lines are installed on the surface of this Easement area, Grantee's operations hereunder will be prohibited from interfering with the continuous and uninterrupted use of any railroad lines on the Property, and Grantee will be required to (1) backfill and support any excavations in the Easement area to avoid loss of support for the overlying railroad lines and (2) ensure Grantee's subsurface utility operations within 20 feet of any railroad lines do not disturb the surface of the Property.**

**5. Miscellaneous**

- a. This document shall be binding upon Grantor and its respective heirs and legal representatives, successors and assigns and shall be governed by and construed in accordance with the laws of the State of Texas and of the United States of America.
- b. This document may be executed in several counterparts, and each counterpart, when so executed and delivered shall constitute an original easement, and all such separate counterparts shall constitute but one and the same easement, and
- c. The exhibits appended to this document are incorporated in and made a part of this easement, the same as if copied and set forth at length. The captions in this easement agreement are for convenience only, and shall be accorded no substantive meaning in the interpretation hereof. When the context requires, singular nouns and pronouns shall include the plural.

Executed this \_\_\_ day of \_\_\_\_\_, 200\_\_.

Grantor: \_\_\_\_\_

by: \_\_\_\_\_ (signature)  
\_\_\_\_\_ (typed or printed name and title)

**Acknowledgment**

State of Texas §  
County of Victoria §

This instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_\_, 200\_\_ by \_\_\_\_\_ (if corporation, the \_\_\_\_\_, of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of said corporation).

\_\_\_\_\_  
Notary Public (seal)

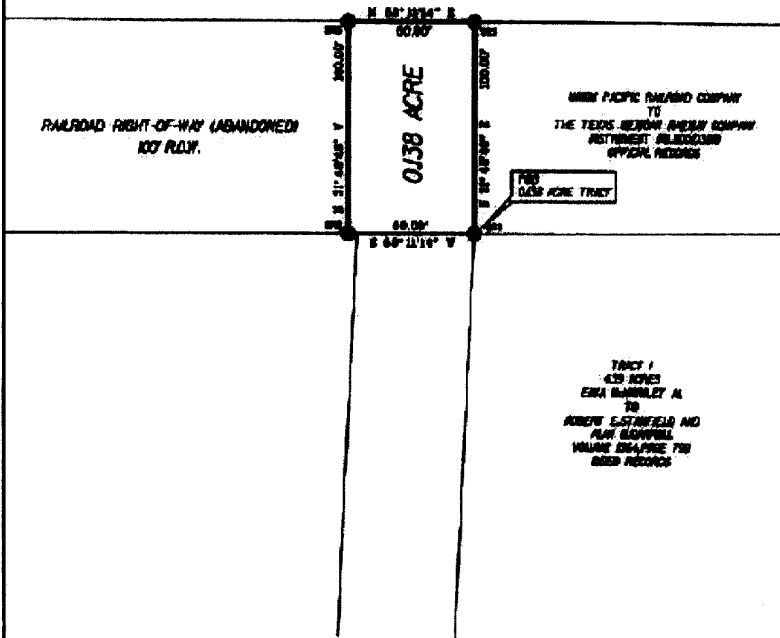
### EXHIBIT A

SHOWING A 0.138 ACRE TRACT OF LAND SITUATED IN THE JAMES REED SURVEY, ABSTRACT 286, VICTORIA COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED FROM UNION PACIFIC RAILROAD COMPANY TO THE TEXAS MEXICAN RAILWAY COMPANY ACCORDING TO INSTRUMENT NO. 200189270 OF THE OFFICIAL RECORDS OF VICTORIA COUNTY, TEXAS.



## JAMES REED SURVEY, ABSTRACT 286

U.S. HIGHWAY NO. 59  
EAST ROAD



SIP - 5/8" STEEL IRONIN POUND  
 SPI - 5/8" STEEL IRONIN SET WITH YELLOW CAP STAMPED SPI SPLS 4943  
 BEARINGS DETERMINED BY GLOBAL POSITIONING SYSTEM AND BS,  
 TEXAS SOUTH CENTRAL ZONE.  
 REFERENCE IS MADE TO THESE LEGAL DESCRIPTIONS ACCOMPANYING  
 THIS PLAT.

THE ABOVE PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION IN DECEMBER, 2003.

*Terry Y. Riddick*  
 LURAN SURVEYING, INC.  
 BY: TERRY Y. RIDDICK 12/16/03  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 TEXAS NO. 4943



SCALE: 1" = 60'  
JOB NO. 032000A

EXHIBIT   A

**0.138 ACRES  
(6000 SQUARE FEET)**

**THE STATE OF TEXAS  
THE COUNTY OF VICTORIA)**

**BEING** a 0.138 acre tract of land situated in the James Reed Survey, Abstract 286, Victoria County, Texas and being a portion of that 100 foot wide railroad right-of-way (no longer in use) as conveyed from Union Pacific Railroad Company to The Texas Mexican Railway Company according to Instrument No. 200102819 of the Official Records of said County, said 0.138 acre tract of land being more fully described by metes and bounds as follows:

**BEGINNING** at a 5/8 inch diameter steel rebar set (with yellow plastic cap stamped "URBAN SURVEYING, INC.") in the southerly right-of-way line of said railroad to stick the southeast corner of the herein described tract, said steel rebar marking the northeast corner of that certain 4.39 acre tract of land described as Tract 1 as conveyed from Elva Madling, et al to Robert E. Stanfield and Alan B. Curvell according to instrument recorded in Volume 1364, Page 799 of the Deed Records of said County;

**THENCE**, South 38 deg. 11' 14" West, along said railroad right-of-way line, a distance of 60.00 feet to a 5/8 inch diameter steel rebar set for the southwest corner of the herein described tract;

**THENCE**, North 31 deg. 48' 46" West, crossing said railroad right-of-way, a distance of 100.00 feet to a 5/8 inch diameter steel rebar set (with yellow plastic cap) in the current southerly right-of-way line of U. S. Highway 59 (Business) for the northwest corner of the herein described tract;

**THENCE**, North 58 deg. 11' 14" East, along said highway right-of-way line, a distance of 60.00 feet to a 5/8" diameter steel rebar set (with yellow plastic cap) for the northeast corner of the herein described tract;

**THENCE**, South 31 deg. 48' 46" East, crossing said railroad right-of-way, a distance of 100.00 feet to the **POINT OF BEGINNING**, CONTAINING within these metes and bounds a 0.138 acre (6000 square feet) tract of land, more or less.

Bearings are based on Global Positioning System, NAD 83, Texas South Central Zone.

The foregoing legal description and accompanying survey plat were prepared from an actual survey made on the ground under my supervision in December, 2003 and are true and correct to the best of my knowledge and belief.

*Terry T. Radlick*  
Urban Surveying, Inc.  
By: Terry T. Radlick 12/15/03  
Registered Professional Land Surveyor  
Texas No. 4943



S13529-A  
TRACT A

**EXHIBIT**

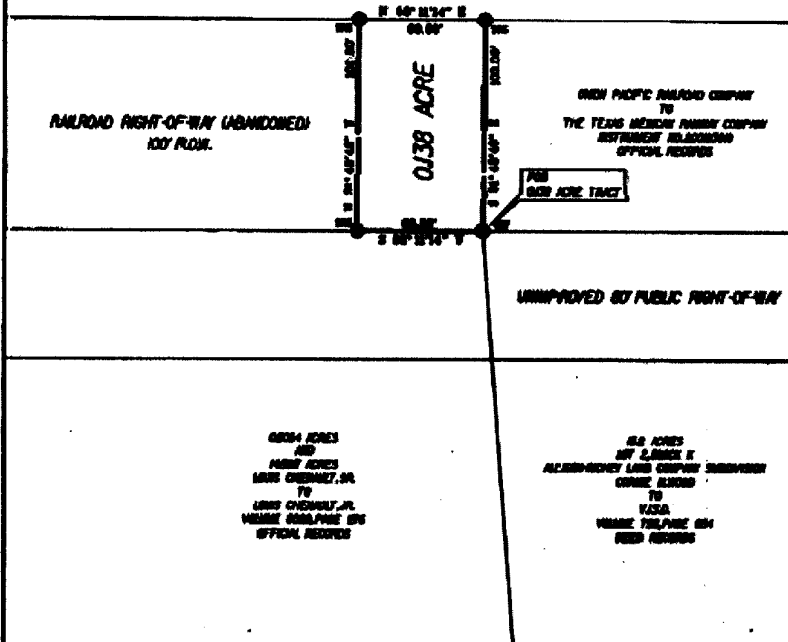
### EXHIBIT B

SHOWING A 0.138 ACRE TRACT OF LAND SITUATED IN THE J. POINTEVENT SURVEY NO. 3, ABSTRACT 286, VICTORIA COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED FROM UNION PACIFIC RAILROAD COMPANY TO THE TEXAS MEXICAN RAILWAY COMPANY ACCORDING TO INSTRUMENT NO. 208103819 OF THE OFFICIAL RECORDS OF VICTORIA COUNTY, TEXAS.



## J. POINTEVENT SURVEY NO. 3, ABSTRACT 280

U.S. HIGHWAY NO. 59



8/8\"/>

THE ABOVE PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION IN DECEMBER, 2003.

*Terry T. Ruddick*  
 URBAN SURVEYING, INC.  
 BY: TERRY T. RUDDICK 12/03  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 TEXAS NO. 4943



SCALE: 1" = 60'  
 JOB NO. 1203-3

EXHIBIT B

**0.138 ACRES  
(6000 SQUARE FEET)**

**THE STATE OF TEXAS)  
THE COUNTY OF VICTORIA)**

BEING a 0.138 acre tract of land situated in the J. Pointstout Survey No. 3, Abstract 280, Victoria County, Texas and being a portion of that 100 foot wide railroad right-of-way (no longer in use) as conveyed from Union Pacific Railroad Company to The Texas Mexican Railway Company according to Instrument No. 200103819 of the Official Records of said County, said 0.138 acre tract of land being more fully described by metes and bounds as follows:

**BEGINNING** at a 5/8 inch diameter steel rebar found in the southerly right-of-way line of said railroad to mark the southeast corner of the herein described tract, said steel rebar marking the northeast corner of that certain 0.9064 acre tract of land as conveyed from Louis Cheanuk, Sr. to Louis Cheanuk, Jr. according to instrument recorded in Volume 0020, Page 276 of the Official Records of said County;

**THENCE**, South 58 deg. 11' 14" West, along said railroad right-of-way line, a distance of 60.00 feet to a 5/8 inch diameter steel rebar set (with yellow plastic cap stamped "URBAN SURVEYING, INC.") for the southwest corner of the herein described tract;


**THENCE**, North 31 deg. 48' 46" West, crossing said railroad right-of-way, a distance of 100.00 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) in the current southerly right-of-way line of U. S. Highway 39 (Business) for the northwest corner of the herein described tract;

**THENCE**, North 58 deg. 11' 14" East, along said highway right-of-way line, a distance of 60.00 feet to a 5/8" diameter steel rod set (with yellow plastic cap) for the northeast corner of the herein described tract;

**THENCE**, South 31 deg. 48' 46" East, crossing said railroad right-of-way, a distance of 100.00 feet to the **POINT OF BEGINNING, CONTAINING** within these metes and bounds a 0.138 acre (6000 square feet) tract of land, more or less.

Bearings are based on Global Positioning System, NAD 83, Texas South Central Zone.

The foregoing legal description and accompanying survey plat were prepared from an actual survey made on the ground under my supervision in December, 2003 and are true and correct to the best of my knowledge and belief.

  
Urban Surveying, Inc.  
By: Terry T. Riddick *TTR*  
Registered Professional Land Surveyor  
Texas No. 4943



**S13529-B  
TRACT B**

**EXHIBIT B-1**

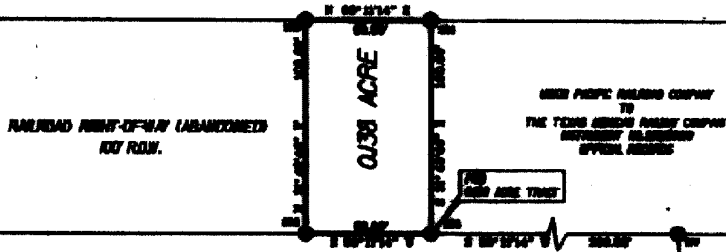
### EXHIBIT C

SHOWING A 0.130 ACRE TRACT OF LAND SITUATED IN THE J. POINTEVENT SURVEY NO. 3, COUNTY OF VICTORIA, TEXAS AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED FROM URBAN PACIFIC RAILROAD COMPANY TO THE TEXAS MEXICAN RAILWAY COMPANY ACCORDING TO INSTRUMENT NO. 2001403019 OF THE OFFICIAL RECORDS OF VICTORIA COUNTY, TEXAS.



### J. POINTEVENT SURVEY NO. 3, ABSTRACT 280

U.S. HIGHWAY NO. 59  
R/W F.O.W.



UNIMPROVED BY PUBLIC RIGHT-OF-WAY

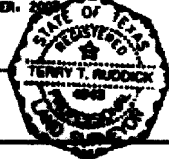
UNIMPROVED BY PUBLIC RIGHT-OF-WAY

ALL CORNERS  
OF BLOCK 1  
ALABAMA-NICHOLSON LAND COMPANY SUBDIVISION  
CORNER MARKED  
TO  
VICTORIA  
COUNTY RECORDS

ONE - 1/2" STEEL REBAR FOUND  
ONE - 1/2" STEEL REBAR SET WITH YELLOW CAP STAMPED W&S WPLS 4043  
BEARINGS DETERMINED BY GLOBAL POSITIONING SYSTEM, MAG 03,  
TEXAS STATE COORDINATE ZONE.  
REFERENCE IS MADE TO THESE LEGAL DESCRIPTIONS ACCOMPANYING  
THIS PLAT.

THE ABOVE PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON  
THE GROUND UNDER MY SUPERVISION IN DECEMBER, 2003.

*Terry T. Ruzdick*  
BY: TERRY T. RUZDICK 12/15/03  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS NO. 4943



SCALE: 1" = 80'  
NO. NO. 12/15/03

EXHIBIT C

**0.138 ACRES  
(6000 SQUARE FEET)**

**THE STATE OF TEXAS)  
THE COUNTY OF VICTORIA)**

BEING a 0.138 acre tract of land situated in the J. Pointevert Survey No. 3, Abstract 288, Victoria County, Texas and being a portion of that 100 foot wide railroad right-of-way (no longer in use) as conveyed from Union Pacific Railroad Company to The Texas Mexican Railway Company according to Instrument No. 280100819 of the Official Records of said County, said 0.138 acre tract of land being more fully described by metes and bounds as follows:

**BEGINNING** at a 5/8 inch diameter steel rebar (with yellow plastic cap stamped "UHI EPLS 4843") set in the southerly right-of-way line of said railroad to mark the southeast corner of the herein described tract, said steel rebar bears South 58 deg. 11' 14" West, a distance of 360.02 feet from a 5/8 inch diameter steel rebar found marking the northwest corner of an unimproved 40 foot wide public right-of-way, said right-of-way being located between Lot 2, Block K and Lot 1, Block F of Allison-Richey Land Company Subdivision as recorded in Volume 1, Page 12 of the Plat Records of said County;

**THENCE**, South 58 deg. 11' 14" West, along said railroad right-of-way line, a distance of 60.00 feet to a 5/8 inch diameter steel rebar set for the southwest corner of the herein described tract;

**THENCE**, North 31 deg. 48' 46" West, crossing said railroad right-of-way, a distance of 100.00 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) in the current southerly right-of-way line of U. S. Highway 59 (Business) for the northwest corner of the herein described tract;

**THENCE**, North 58 deg. 11' 14" East, along said highway right-of-way line, a distance of 60.00 feet to a 5/8" diameter steel rod set (with yellow plastic cap) for the northeast corner of the herein described tract;

**THENCE**, South 31 deg. 48' 46" East, crossing said railroad right-of-way, a distance of 100.00 feet to the **POINT OF BEGINNING**, **CONTAINING** within these metes and bounds a 0.138 acre (6000 square feet) tract of land, more or less.

Bearings are based on Global Positioning System, NAD 83, Texas South Central Zone.

The foregoing legal description and accompanying survey plat were prepared from an actual survey made on the ground under my supervision in December, 2003 and are true and correct to the best of my knowledge and belief.

*Terry T. Fiedrick*  
Ulman Surveying, Inc.  
By: Terry T. Fiedrick 12/6/03  
Registered Professional Land Surveyor  
Texas No. 4943



**SIMOS-C  
TRACT C**

### EXHIBIT D

SHOWING A 0.138 ACRE TRACT OF LAND SITUATED IN THE J. POINTEVENT SURVEY NO. 3, ABSTRACT 280, VICTORIA COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED FROM UNION PACIFIC RAILROAD COMPANY TO THE TEXAS MEXICAN RAILWAY COMPANY ACCORDING TO INSTRUMENT NO. 20040301-0 OF THE OFFICIAL RECORDS OF VICTORIA COUNTY, TEXAS.

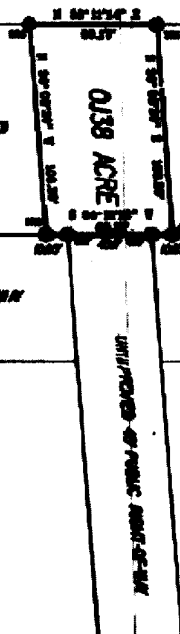


## J. POINTEVENT SURVEY NO. 3, ABSTRACT 280

U.S. HIGHWAY 90  
100' R.O.W.

RAILROAD RIGHT-OF-WAY (AS SHOWN)  
100' R.O.W.

UNION PACIFIC RAILROAD COMPANY  
TO  
THE TEXAS MEXICAN RAILWAY COMPANY  
ACCORDING TO INSTRUMENT NO. 20040301-0  
OFFICIAL RECORDS



UNIMPROVED OR PUBLIC RIGHT-OF-WAY

TRACT GRANTED TO  
MAY 23 1852  
TO  
MAY 1 1854  
BY ACT OF LEGISLATURE  
WHERE GRANTED BY  
OFFICIAL RECORDS

84 ACRES  
BY LEGISLATION  
ALLEN-PACIFIC LAND COMPANY SHOWING  
THE ORIGINAL  
TO  
MAY 1 1854  
BY ACT OF LEGISLATURE  
WHERE GRANTED BY  
OFFICIAL RECORDS

TRACT GRANTED TO  
MAY 23 1852  
BY LEGISLATION  
ALLEN-PACIFIC LAND COMPANY SHOWING  
THE ORIGINAL  
TO  
MAY 1 1854  
BY ACT OF LEGISLATURE  
WHERE GRANTED BY  
OFFICIAL RECORDS

3/4" = 1.0" PNEUMATIC HOLES  
3/8" = 1.0" STEEL REBAR SET WITH YELLOW CAP STAMPED UST NPL 1040  
READINGS OBTAINED BY GLOBAL POSITIONING SYSTEM AND GS-  
TEXAS STATE SURVEYING BOARD.  
REFERENCE IS MADE TO THE LOCAL DESCRIPTIONS ACCOMPANYING  
THIS PLAN.

THIS ABOVE PLAN WAS PREPARED FROM AN ACTUAL SURVEY MADE ON  
THE GROUND UNDER MY SUPERVISION IN DECEMBER, 2004.

*Terry T. Burdick*  
BY: TERRY T. BURDICK 12/5/04  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS NO. 4943



SCALE: 1" = 40'  
JOB NO. 040001

EXHIBIT D

**0.138 ACRES  
(6017 SQUARE FEET)**

**THE STATE OF TEXAS;  
THE COUNTY OF VICTORIA;**

BEING a 0.138 acre tract of land situated in the J. Pointsvest Survey No. 3, Akinest 290, Victoria County, Texas and being a portion of that 100 foot wide railroad right-of-way (no longer in use) as conveyed from Union Pacific Railroad Company to The Texas Mexican Railway Company according to Instrument No. 200103619 of the Official Records of said County, said 0.138 acre tract of land being more fully described by metes and bounds as follows:

BEGINNING at a 5/8 inch diameter steel rebar (with yellow plastic cap stamped "L&H RPLS 4943") set in the southerly right-of-way line of said railroad to mark the southeast corner of the herein described tract, said steel rebar bears North 58 deg. 11' 14" East, a distance of 10.03 feet from a 5/8 inch diameter steel rebar found marking the northwest corner of that certain 0.9973 acre tract of land described as Tract Number Two as conveyed from Tom O'Connor, Jr. to Adept A Pat of Victoria, Inc. according to instrument recorded in Volume 121, Page 674 of the Official Records of said County;

THENCE, South 58 deg. 11' 14" West, along said railroad right-of-way line, passing at 10.03 feet the said 5/8 inch diameter steel rebar found marking the northwest corner of said 0.9973 acre tract, same being the northwest corner of a 40 foot wide unimproved public right-of-way, passing at 52.14 feet a 5/8 inch diameter steel rebar found marking the northwest corner of said 40 foot wide unimproved right-of-way and continuing for an overall distance of 60.17 feet to a 5/8 inch diameter steel rebar set for the southwest corner of the herein described tract;

THENCE, North 36 deg. 08' 20" West, crossing said railroad right-of-way, a distance of 100.29 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) in the current southerly right-of-way line of U. S. Highway 59 (Business) for the northwest corner of the herein described tract;

THENCE, North 58 deg. 11' 14" East, along said highway right-of-way line, a distance of 60.17 feet to a 5/8" diameter steel rod set (with yellow plastic cap) for the northeast corner of the herein described tract;

THENCE, South 36 deg. 08' 20" East, crossing said railroad right-of-way, a distance of 100.29 feet to the POINT OF BEGINNING, CONTAINING within these metes and bounds a 0.138 acre (6017 square feet) tract of land, more or less.

Bearings are based on Global Positioning System, NAD 83, Texas South Central Zone.

The foregoing legal description and accompanying survey plat were prepared from an actual survey made on the ground under my supervision in December, 2003 and are true and correct to the best of my knowledge and belief.

*Terry T. Ruddick*  
Union Surveying, Inc.  
By: Terry T. Ruddick 12/5/03  
Registered Professional Land Surveyor  
Texas No. 4943



§13529-D  
TRACT D

**EXHIBIT D-1**

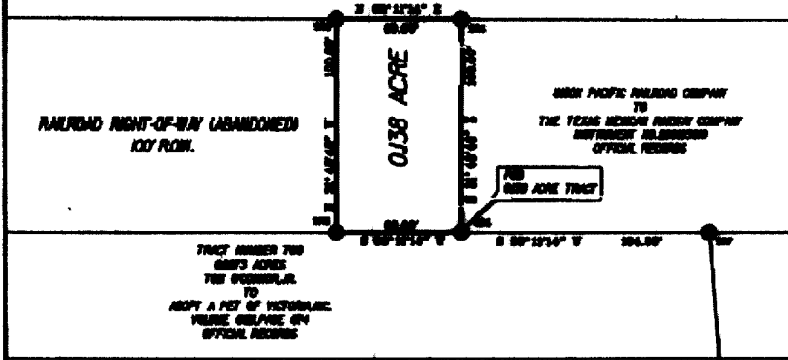
**EXHIBIT E**

SHOWING A 0.138 ACRE TRACT OF LAND SITUATED IN THE J. POINTEVENT SURVEY NO. 3, ABSTRACT 280, VICTORIA COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED FROM UNION PACIFIC RAILROAD COMPANY TO THE TEXAS MEXICAN RAILWAY COMPANY ACCORDING TO INSTRUMENT NO. 200406619 OF THE OFFICIAL RECORDS OF VICTORIA COUNTY, TEXAS.



**J. POINTEVENT SURVEY NO. 3, ABSTRACT 280**

U.S. HIGHWAY NO. 29



RAILROAD RIGHT-OF-WAY (ABANDONED)  
100' R.O.W.

UNION PACIFIC RAILROAD COMPANY  
TO  
THE TEXAS MEXICAN RAILWAY COMPANY  
INSTRUMENT NO. 200406619  
OFFICIAL RECORDS

0.138 ACRE TRACT

TRACT NUMBER TWO  
0.0175 ACRES  
700' PERMANENT  
TO  
ADOPT A SET OF METEOROLOGICAL  
PLANS AND SPECIFICATIONS ON  
OFFICIAL RECORDS

TRACT NUMBER ONE  
0.0175 ACRES  
700' PERMANENT  
TO  
ADOPT A SET OF METEOROLOGICAL  
PLANS AND SPECIFICATIONS ON  
OFFICIAL RECORDS

5/8\" - 5/8\" STEEL REBAR FOUND  
1/2\" - 5/8\" STEEL REBAR SET WITH YELLOW CAP STAMPED W&L 4043  
BEARINGS DETERMINED BY GLOBAL POSITIONING SYSTEM AND GS-  
TEXAS SURVEY GENERAL 2004.  
REFERENCE IS MADE TO THESE LEGAL DESCRIPTIONS ACCOMPANYING  
THIS PLAT.

THE ABOVE PLAT WAS PREPARED FROM AN AERIAL SURVEY MADE ON  
THE GROUND UNDER MY SUPERVISION IN DECEMBER, 2004.

*Terry T. Ruediger*  
URBAN SURVEYING, INC.  
BY: **TERRY T. RUEDIGER** *TR/603*  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS NO. 4043



SCALE: 1\" - 50'  
JOB NO. 2004-1

**EXHIBIT E**

**0.138 ACRES  
(6000 SQUARE FEET)**

**THE STATE OF TEXAS)  
THE COUNTY OF VICTORIA)**

**BEING** a 0.138 acre tract of land situated in the J. Pointsvest Survey No. 3, Abstract 290, Victoria County, Texas and being a portion of that 100 foot wide railroad right-of-way (no longer in use) as conveyed from Union Pacific Railroad Company to The Texas Mexican Railway Company according to Instrument No. 200103619 of the Official Records of said County, said 0.138 acre tract of land being more fully described by notes and bounds as follows:

**BEGINNING** at a 5/8 inch diameter steel rebar (with yellow plastic cap stamped "URBAN SURVEYING, INC.") set in the southerly right-of-way line of said railroad to mark the southwest corner of the herein described tract, said steel rebar bears South 55 deg. 11' 14" West, a distance of 194.00 feet from a 5/8 inch diameter steel rebar found marking the southeast corner of (and contain 0.9973 acre tract of land described as Tract Number Two as conveyed from Tom O'Connor, Jr. to Adapt A Pat of Victoria, Inc. according to instrument recorded in Volume 121, Page 674 of the Official Records of said County;

**THENCE**, South 58 deg. 11' 14" West, along said railroad right-of-way line, a distance of 60.00 feet to a 5/8 inch diameter steel rebar set (with yellow plastic cap) for the southwest corner of the herein described tract;

**THENCE**, North 31 deg. 48' 48" West, crossing said railroad right-of-way, a distance of 100.00 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) in the current southerly right-of-way line of U. S. Highway 59 (Boulevard) for the northwest corner of the herein described tract;

**THENCE**, North 58 deg. 11' 14" East, along said highway right-of-way line, a distance of 60.00 feet to a 5/8" diameter steel rod set (with yellow plastic cap) for the northeast corner of the herein described tract;

**THENCE**, South 31 deg. 48' 48" East, crossing said railroad right-of-way, a distance of 100.00 feet to the **POINT OF BEGINNING**, CONTAINING within these notes and bounds a 0.138 acre (6000 square feet) tract of land, more or less.

Bearings are based on Global Positioning System, NAD 83, Texas South Central Zone.

The foregoing legal description and accompanying survey plat were prepared from an actual survey made on the ground under my supervision in December, 2003 and are true and correct to the best of my knowledge and belief.

*Terry T. Ruhlrick*  
Urban Surveying, Inc.  
By: Terry T. Ruhlrick 12/5/03  
Registered Professional Land Surveyor  
Texas No. 4945



§13329-B  
TRACT B

### EXHIBIT F

SHOWING A 0.138 ACRE TRACT OF LAND SITUATED IN THE J. POINTEVENT SURVEY NO. 3, ABSTRACT 280, VICTORIA COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED FROM UNION PACIFIC RAILROAD COMPANY TO THE TEXAS MEXICAN RAILWAY COMPANY ACCORDING TO INSTRUMENT NO. 200103019 OF THE OFFICIAL RECORDS OF VICTORIA COUNTY, TEXAS.



## J. POINTEVENT SURVEY NO. 3, ABSTRACT 280

U.S. HIGHWAY 80.50

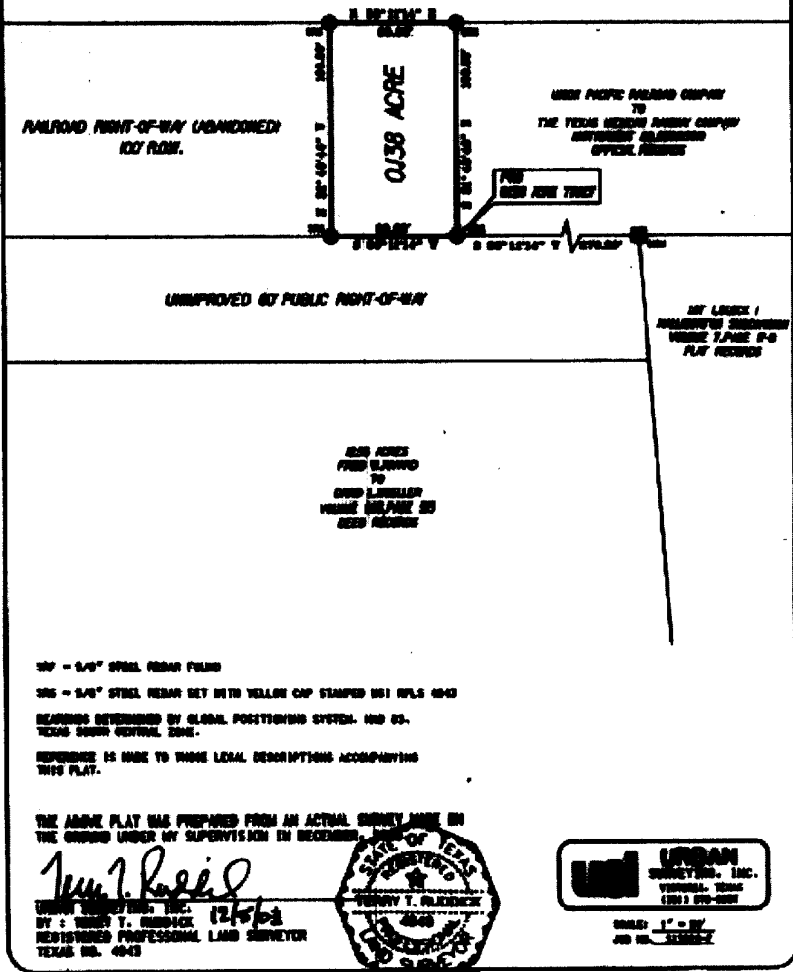


EXHIBIT F

**0.138 ACRES  
(6017 SQUARE FEET)**

**THE STATE OF TEXAS)  
THE COUNTY OF VICTORIA)**

BEING a 0.138 acre tract of land situated in the J. Pointstrent Survey No. 3, Abstract 288, Victoria County, Texas and being a portion of that 100 foot wide railroad right-of-way (no longer in use) as conveyed from Union Pacific Railroad Company to The Texas Mexican Railway Company according to Instrument No. 200163819 of the Official Records of said County, said 0.138 acre tract of land being more fully described by metes and bounds as follows:

**BEGINNING** at a 5/8 inch diameter steel rebar found in the southerly right-of-way line of said railroad to mark the southeast corner of the herein described tract, said steel rebar marking the northeast corner of the current Hick Road right-of-way (60' R.O.W.);

**THENCE**, South 58 deg. 11' 14" West, along said railroad right-of-way line, a distance of 60.17 feet to a concrete monument found marking the northwest corner of the said Hick Road right-of-way, said monument also marking the southeast corner of Lot 1, Block 1, Edilbertson Subdivision as recorded in Volume 7, Page 17-B of the Plat Records of said County and the southwest corner of the herein described tract;


**THENCE**, North 36 deg. 08' 29" West, crossing said railroad right-of-way, a distance of 100.29 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) in the current southerly right-of-way line of U. S. Highway 59 (Bovina) for the northeast corner of the herein described tract;

**THENCE**, South 58 deg. 11' 14" East, along said highway right-of-way line, a distance of 60.17 feet to a 5/8" diameter steel rod set (with yellow plastic cap) for the northeast corner of the herein described tract;

**THENCE**, South 36 deg. 08' 29" East, crossing said railroad right-of-way, a distance of 100.29 feet to the **POINT OF BEGINNING**, CONTAINING within these metes and bounds a 0.138 acre (6017 square feet) tract of land, more or less.

Bearings are based on Global Positioning System, NAD 83, Texas South Central Zone.

The foregoing legal description and accompanying survey plat were prepared from an actual survey made on the ground under my supervision in December, 2003 and are true and correct to the best of my knowledge and belief.

  
Terry T. Ruddick  
By: Terry T. Ruddick 12/5/03  
Registered Professional Land Surveyor  
Texas No. 4943



S13329-G  
TRACT G

EXHIBIT   F-1

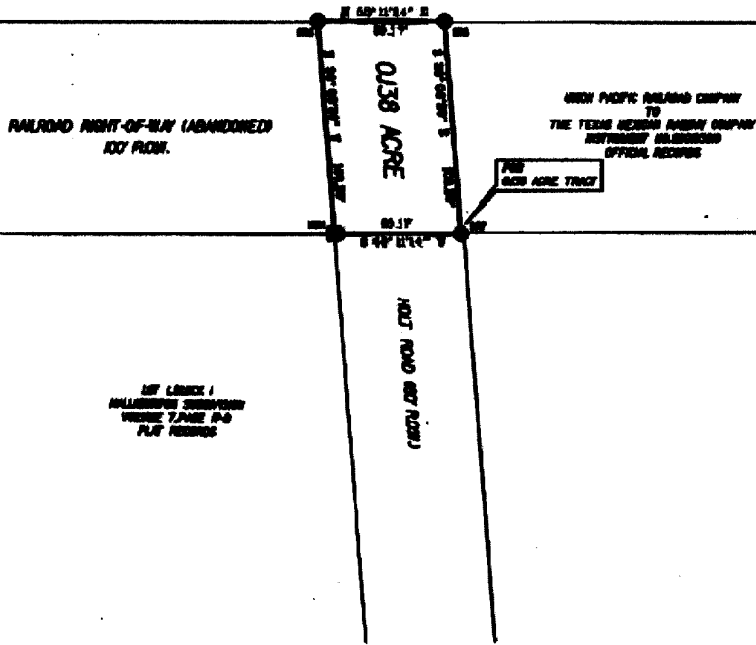
### EXHIBIT C

SHOWING A 0.138 ACRE TRACT OF LAND SITUATED IN THE J. POINTEVENT SURVEY NO. 3, ABSTRACT 280, VICTORIA COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED FROM UNION PACIFIC RAILROAD COMPANY TO THE TEXAS MEXICAN RAILWAY COMPANY ACCORDING TO INSTRUMENT NO. 200168049 OF THE OFFICIAL RECORDS OF VICTORIA COUNTY, TEXAS.



## J. POINTEVENT SURVEY NO. 3, ABSTRACT 280

U.S. HIGHWAY NO. 39



3/4" - 5/8" STEEL BEARER PINS  
 3/8" - 5/8" STEEL BEARER SET WITH YELLOW CAP STAMPED ULI RPLS 4943  
 BEARINGS DETERMINED BY GLOBAL POSITIONING SYSTEM AND 03-TEXAS NORTH CENTRAL ZONE.  
 REFERENCE IS MADE TO THREE LEGAL DESCRIPTIONS ACCOMPANYING THIS PLAT.

THE ABOVE PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION IN DECEMBER 2004.

*Terry T. Raddick*  
 URBAN SURVEYING, INC.  
 BY: TERRY T. RADDICK 12/15/04  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 TEXAS NO. 4943



SCALE: 1" = 80'  
 JOB NO. 03-0006

EXHIBIT   c

**0.138 ACRES  
(5917 SQUARE FEET)**

**THE STATE OF TEXAS  
THE COUNTY OF VICTORIA)**

**BEING** a 0.138 acre tract of land situated in the J. Pointsvest Survey No. 3, Abstract 280, Victoria County, Texas and being a portion of that 100 foot wide railroad right-of-way (no longer in use) as conveyed from Union Pacific Railroad Company to The Texas Mexican Railway Company according to Instrument No. 200103419 of the Official Records of said County, said 0.138 acre tract of land being more fully described by notes and bounds as follows:

**BEGINNING** at a 5/8 inch diameter steel rebar found in the westerly right-of-way line of said railroad to mark the southeast corner of the herein described tract, said steel rebar marking the northeast corner of the current Holt Road right-of-way (60' R.O.W.);

**THENCE**, South 58 deg. 11' 14" West, along said railroad right-of-way line, a distance of 60.17 feet to a concrete monument found marking the southwest corner of the said Holt Road right-of-way, said monument also marking the northeast corner of Lot 1, Block 1, Halliburton Subdivision as recorded in Volume 7, Page 17-B of the Plat Records of said County and the southwest corner of the herein described tract;

**THENCE**, North 36 deg. 08' 20" West, crossing said railroad right-of-way, a distance of 100.29 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) in the current westerly right-of-way line of U. S. Highway 59 (Business) for the northwest corner of the herein described tract;

**THENCE**, North 56 deg. 11' 14" East, along said highway right-of-way line, a distance of 60.17 feet to a 5/8" diameter steel rod set (with yellow plastic cap) for the northeast corner of the herein described tract;

**THENCE**, South 36 deg. 08' 20" East, crossing said railroad right-of-way, a distance of 100.29 feet to the **POINT OF BEGINNING**, **CONTAINING** within these notes and bounds a 0.138 acre (5917 square feet) tract of land, more or less.

Bearings are based on Global Positioning System, NAD 83, Texas South Central Zone.

The foregoing legal description and accompanying survey plat were prepared from an actual survey made on the ground under my supervision in December, 2005 and are true and correct to the best of my knowledge and belief.

*Terry T. Raddick*  
Urban Surveying, Inc.  
By: Terry T. Raddick *tr/5/05*  
Registered Professional Land Surveyor  
Texas No. 4943



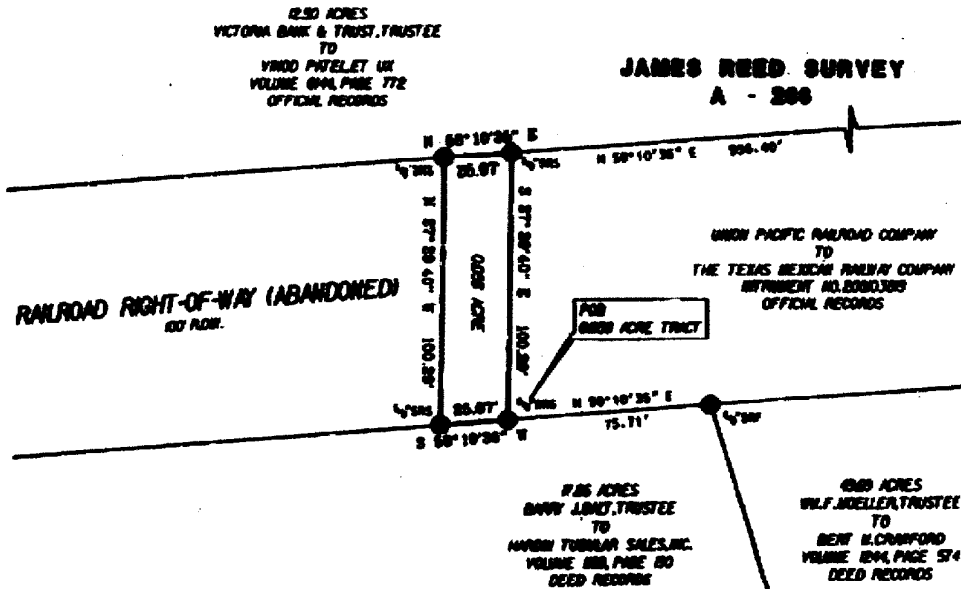
**S13529-G  
TRACT G**

**EXHIBIT G-1**

SHOWING A 0.066 ACRE TRACT OF LAND SITUATED IN THE JAMES REED SURVEY, ABSTRACT 206, VICTORIA COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED FROM UNION PACIFIC RAILROAD COMPANY TO THE TEXAS MEXICAN RAILWAY COMPANY ACCORDING TO INSTRUMENT NO. 200609880 OF THE OFFICIAL RECORDS OF SAID COUNTY.

(H)

U.S. HIGHWAY 59 BUSINESS  
HOUSTON HIGHWAY  
(NO FOR)



SRS = STEEL ROD SET WITH YELLOW CAP STAMPED US1 NPLS 4943  
BEARINGS ARE BASED ON CITY OF VICTORIA CONTROL MONUMENTS NO. 52 AND 53.  
REFERENCE IS MADE TO THOSE LEGAL DESCRIPTIONS ACCOMPANYING THIS PLAT.

**SURVEYOR'S CERTIFICATE**

THE ABOVE PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION IN DECEMBER 2002.

*Terry T. Ruddick*  
URBAN SURVEYING, INC.  
BY: TERRY T. RUDDICK 1/14/02  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS NO. 4943

**US1 URBAN SURVEYING, INC.**  
VICTORIA, TEXAS  
13611 570-0035

SCALE: 1" = 30'  
JOB NO. 212252.H

EXHIBIT

**LEGAL DESCRIPTION  
0.058 ACRES**

**THE STATE OF TEXAS)  
THE COUNTY OF VICTORIA)**

**BEING** a 0.058 acre tract of land situated in the James Road Survey, Abstract 286, Victoria, County, Texas, and being a portion of that certain tract of land as conveyed from Union Pacific Railroad Company to The Texas Mexican Railway Company according to Instrument No. 200103819 of the Official Records of Victoria County, Texas, said 0.058 acre tract of land being more fully described by metes and bounds as follows:

**BEGINNING** at a 5/8 inch diameter steel rod set (with yellow plastic cap stamped "USI RPLS 4943") in the common south line of the said railroad right-of-way (100' R.O.W.) and the north line of that certain 17.86 acre tract of land as conveyed from Barry J. Galt, Trustee to Hardin Tubular Sales, Inc. according to instrument recorded in Volume 1199, Page 190 of the Deed Records of said County, said steel rod marking the east corner of the herein described tract and bears South 58 deg. 10' 35" West, a distance of 75.71 feet from the north corner of said 17.86 acre tract;

**THENCE**, South 58 deg. 10' 35" West, with said common line, a distance of 25.07 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) for the south corner of the herein described;

**THENCE**, North 27 deg. 29' 40" West, a distance of 100.29 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) for the west corner of the herein described tract, same being in the common north line of said railroad right-of-way and the south line of that certain 12.50 acre tract of land as conveyed from Victoria Bank & Trust, Trustee to Vinod Patel, et ux according to instrument recorded in Volume 0144, Page 772 of the Official Records of said County;

**THENCE**, North 58 deg. 10' 35" East, with said common line, a distance of 25.07 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) for the north corner of the herein described tract;

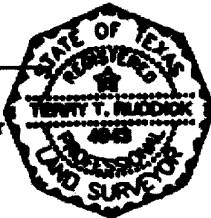
**THENCE**, South 27 deg. 29' 40" East, a distance of 100.29 feet to the **POINT OF BEGINNING**, **CONTAINING** within these metes and bounds a 0.058 acre tract of land, more or less.

Bearings are based on City of Victoria Control Monuments Number 52 and 53.

Reference is made to that Plat accompanying this legal description.

The above Legal Description was prepared from an actual survey made on the ground under my supervision in December, 2001.

*Terry T. Radtke*  
Urban Surveying, Inc.  
By: Terry T. Radtke 1/4/02  
Registered Professional Land Surveyor  
Texas No. 4943



**EXHIBIT   1**

S12252-H

### EXHIBIT I

SHOWING A 0.071 ACRE TRACT OF LAND SITUATED IN THE JAMES REED SURVEY, ABSTRACT 286, VICTORIA COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED FROM UNION PACIFIC RAILROAD COMPANY TO THE TEXAS MEXICAN RAILWAY COMPANY ACCORDING TO INSTRUMENT NO. 200160019 OF THE OFFICIAL RECORDS OF VICTORIA COUNTY, TEXAS.

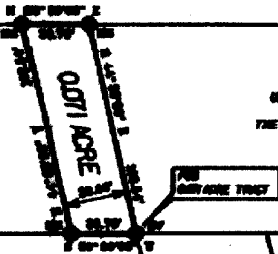


### JAMES REED SURVEY, ABSTRACT 286

U.S. HIGHWAY NO. 59  
100' R.O.W.

RAILROAD RIGHT-OF-WAY (ABANDONED)  
100' R.O.W.

UNION PACIFIC RAILROAD COMPANY  
TO  
THE TEXAS MEXICAN RAILWAY COMPANY  
INSTRUMENT 200160019  
OFFICIAL RECORDS



ADJACENT  
LOT FLOOR.

LOT LINDER 1  
AND SURVEYED ACCORDING  
TO THE 2, 3, 4 & 5  
PLAT RECORDS

LOT LINDER 2  
AND SURVEYED ACCORDING  
TO THE 2, 3, 4 & 5  
PLAT RECORDS

1/4" = 5/8" FROM CORNER POINT  
1/8" = 5/8" OVER CORNER SET WITH YELLOW CAP STAMPED "URBAN SURVEYING INC."

BOUNDARIES BASED ON RECORDS OF RECORD AS SHOWN ON THE PLAT  
OF THE SURVEYING INSTRUMENTS RECORDED IN VOLUME 2, PAGE 1  
48 & 5, PLAT RECORDS, VICTORIA COUNTY, TEXAS.

REFERENCE IS MADE TO THE LEGAL DESCRIPTION ACCOMPANYING  
THIS PLAT.

EXHIBIT I

THIS ABOVE PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON  
THE GROUND UNDER MY SUPERVISION IN JULY, 2004.

*Terry T. Fleedick*  
URBAN SURVEYING, INC.  
BY TERRY T. FLEEDICK *tsf*  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS NO. 4843



SCALE: 1" = 1/4"  
AND 1/8" = 1/8"

0.071 ACRES  
(3076 SQUARE FEET)

**THE STATE OF TEXAS  
THE COUNTY OF VICTORIA)**

BEING a 0.071 acre tract of land situated in the James Reed Survey, Abstract 286, Victoria County, Texas and being a portion of that 100 foot wide railroad right-of-way (no longer in use) as conveyed from Union Pacific Railroad Company to The Texas Mexican Railway Company according to Instrument No. 200103819 of the Official Records of said County, said 0.071 acre tract of land being more fully described by notes and bounds as follows:

**BEGINNING** at a 5/8 inch diameter steel rebar found in the southerly right-of-way line of said railroad, said rebar marking the north corner of Lot 1, Block 1 of VMW Industries Subdivision according to the established map or plat of said subdivision recorded in Volume 4, Page 4A & B of the Plat Records of said County, said rebar also marking the northwest corner of Brentwood Manor, according to the established map or plat of said subdivision recorded in Volume 3, Page 83 of the Plat Records of said County;

**THENCE**, South 39 deg. 00' 03" West, along said railroad right-of-way line, a distance of 30.76 feet to a 5/8 inch diameter steel rebar set (with yellow plastic cap stamped "URBAN SURVEYING INC.:" for the southwest corner of the herein described tract;

**THENCE**, North 44 deg. 35' 56" West, crossing said railroad right-of-way, a distance of 102.54 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) in the current southerly right-of-way line of U. S. Highway 59 (Business) for the northwest corner of the herein described tract;

**THENCE**, North 39 deg. 00' 03" East, along said highway right-of-way line, a distance of 30.76 feet to a 5/8" diameter steel rod set (with yellow plastic cap) for the north corner of the herein described tract;

**THENCE**, South 44 deg. 35' 56" East, crossing said railroad right-of-way, a distance of 102.54 feet to the **POINT OF BEGINNING**, CONTAINING within these notes and bounds a 0.071 acre (3076 square feet) tract of land, more or less.

Measurements are based on bearing of record in Volume 4, Page 4A & B, Plat Records, Victoria County, Texas.

The foregoing legal description and accompanying survey plat were prepared from an actual survey made on the ground under my supervision in July, 2004 and are true and correct to the best of my knowledge and belief.

*Terry T. Radcliff*  
Udden Surveying, Inc.  
By: Terry T. Radcliff  
Registered Professional Land Surveyor  
Texas No. 4943



S1329-H  
TRACT 1

**EXHIBIT**   1