



Travis County Commissioners Court Agenda Request

Meeting Date: July 23, 2013

Prepared By: Keith Coburn **Phone #:** (512) 854-5866

Division Director/Manager: Charles Bergh/ Division Director-Parks

Department Head/Title: Steven M. Manilla, P.E., County Executive-TNR

Sponsoring Court Member: Commissioner Gomez, Precinct Four

AGENDA LANGUAGE:

Consider and take appropriate action on the following requests in Precinct Four:

- A) Approve a license agreement with 973 Materials, LLC to restore a former soil excavation pit in the Onion Creek Greenway;
- B) Authorize TNR's County Executive to sign a letter to the City of Austin regarding the requirement for fiscal security for re-vegetation and post-mining reclamation; and
- C) Authorize TNR's County Executive to submit to the City of Austin a Declaration of Drainage Area acknowledging the legal restrictions against development of the land.

BACKGROUND/SUMMARY OF REQUEST:

On June 30, 2011, Travis County purchased approximately 120 acres of actively mined land in southeastern Travis County for inclusion in the Onion Creek Greenway bond project. The property is located at 5305 FM 973 South and was owned by the Steger family. The Stegers had an agreement with 973 Materials, LLC for the excavation of earthen material. As part of the Purchase Contract approved by the Commissioners Court, the Stegers required that the county enter into a "License Agreement for Temporary Construction Easement" with 973 Materials, LLC to allow excavation of earthen material from the site to continue (see Exhibit D of attached contract). Neither agreement required 973 Materials, LLC to restore the site to its natural land surface elevation.

Mining operations have now been completed and a 43 acre pit exists on the site. TNR Parks would like to use the property in the future as a park facility; 973 Materials, LLC is now in need of a site to dispose of earthen materials from its other operations. The license agreement would allow the pit to be partially refilled with these materials. Once the pit has been partially refilled TNR Parks will develop it for open space and/or recreational purposes. It is also desirable to backfill the pit to eliminate the occurrence of standing water which, on a large scale, could create operational problems for the nearby airport if birds are attracted. Toward that end, a License Agreement is proposed between Travis County and 973 Materials, LLC to restore the site. The terms of the proposed agreement include: (1) filling the existing

43 acre pit with uncontaminated earthen fill material (2) providing all required administrative and technical information necessary in order to obtain approval or clearance for a City of Austin site development plan and county development permit (3) future issuance of site plan and development permits, with the surface land area to be filled to a level of at least two feet above the seasonal high groundwater table to eliminate standing water, and (4) requirement that the pit be filled to within 5 feet of the natural ground elevation in the area within 200 feet of FM 973 and to within 10 feet of the natural ground elevation in the remainder area of the pit. Furthermore, the proposed agreement stipulates that top soil be used as the final layer of fill, with placement of such to ensure that the contour and slope the final surface will facilitate drainage so that water will not pond. Finally, the area is to be covered with coastal Bermuda vegetation after placement of the top soil. Approval of the license would also require 973 Materials, LLC to come into and maintain compliance with all regulatory requirements.

STAFF RECOMMENDATIONS:

- 1) Staff recommends the Court approve the License Agreement with Mr. Walter Biel to restore the site for the future use as part of the Onion Creek Greenway.
- 2) Staff recommends authorizing TNR's County Executive to sign the attached letter to the City of Austin regarding the requirement for fiscal security for re-vegetation and post-mining reclamation.
- 3) Staff recommends authorizing TNR's County Executive to submit to the City of Austin the attached Declaration of Drainage Area acknowledging the legal restrictions against development of the land.

ISSUES AND OPPORTUNITIES:

The pit on the site might not be brought back to its original land surface elevation or be satisfactorily reclaimed and stabilized for many years to come. The License Agreement under 2.0 Terms of License stipulates a five-year agreement to complete restoration of the land area. If completion has not occurred by the fifth year anniversary of the effective date, the agreement shall remain in effect for consecutive terms of one (1) year each until completion, or until either party elects to terminate the agreement, or until restoration is completed before the end of the fifth year. Once the planned restoration of the 43 acre site is complete, the 120 acres are expected to become an integral section of the Onion Creek Greenway in southeast Travis County.

The City of Austin and Travis County each exercise permitting authority over water quality aspects of development in the ETJ and as such site plan approvals for this project are required from each. Typical requirements for site plan approval include (1) the dedication of a drainage easement for the 100-year floodplain area, and (2) the posting of fiscal security to ensure implementation of stormwater control

measures. However, in this case, City staff have agreed (1) to accept in lieu of a drainage easement the attached Declaration of Drainage Area acknowledging the legal restrictions against development of the land, and (2) waive the fiscal posting based on the attached letter stating that the county will require 973 Materials, LLC to implement the stormwater control measures for the site in the event the backfilling project is indefinitely halted. Since this is county land, Travis County ultimately will be responsible for implementing these controls itself if 973 Materials, LLC defaults under the License Agreement. If this occurs, TNR's Parks Division will provide funding if needed to work with the Road & Bridge and the Natural Resources and Environmental Quality (NREQ) Divisions to properly close the site to eliminate ponding, erosion, and sedimentation.

The pit is the result of the excavation of materials located within floodplain. Under normal development procedures the alteration of floodplain cannot increase flows upon neighboring properties; if it does, a Flood Insurance Rate Map revision is required. In this case, the excavation of mined materials has allowed for more temporary storage of stormwater, in effect temporarily reducing the limits of the pre-mining 100-year floodplain. Filling the pit to pre-mining levels will bring the floodplain back to original limits.

FISCAL IMPACT AND SOURCE OF FUNDING:

If 973 Materials, LLC cannot complete the backfilling task, the operation will be discontinued; in which case the License Agreement requires 973 Materials, LLC to grade the site to drain and to re-vegetate it. The cost to the county to close the site properly ranges from \$0.00, if 973 Materials, LLC completes all of the work required under the License Agreement, up to approximately \$621,483 if the county cannot enforce the License Agreement against 973 Materials, LLC. Any funding needed will be provided by TNR's Parks Division budget and some or all of the work will be performed by TNR's Road & Bridge if necessary.

The pit can be used by TNR's Road & Bridge for a spoils site for disposing of clean fill material it obtains from a variety of excavation operations; which will save in haul costs.

EXHIBITS/ATTACHMENTS:

Original Purchase Contract Excerpts
License Agreement to Backfill Pit
Fiscal Waiver Letter to COA
Declaration of Drainage Area
Site Location Map

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	(512) 854-4239
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Steven M. Manilla	County Executive	TNR	(512) 854-9429
Charles Bergh	Division Director	Parks	(512) 854-9408
Anna Bowlin	Division Director	Development Services & Long Range Planning	(512) 854-7561
Stacey Scheffel	Permit Program Manager	Development Services & Long Range Planning	(512) 854-7565
Tom Nuckols	Assistant County Attorney	County Attorney's Office	(512) 854-9262

CC:

Greg Chico	Program Manager	Real Estate	(512) 854-4659
Jon White	Division Director	NREQ	(512) 854-7212
Tom Weber	Division Manager	NREQ	(512) 854-4629
Keith Coburn	Environmental Project Manager	NREQ	(512) 854-5866
Dave Fowler	Environmental Project Manager	NREQ	(512) 854-7590
Robert Armistead	Division Manager	Parks	(512) 854-9831

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4501 - Parks Svs-

Attachment #1

(Excerpts from the Original Purchase Contract)

TRAVIS COUNTY
PURCHASE CONTRACT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

THIS CONTRACT OF SALE (this "Contract") is made by and between Leslie Ray Steger, Jo Anna Steger Williams, and Gary Gene Steger, hereinafter referred to as SELLER, and TRAVIS COUNTY, TEXAS, hereinafter referred to as BUYER, for the consideration and upon and subject to the terms, provisions, and conditions hereinafter set forth.

SECTION I - PURCHASE AND SALE

The SELLER hereby agrees to sell and convey to BUYER and BUYER agrees to purchase that interest in real property situated in Travis County, Texas, together with all improvements and fixtures, privileges, and appurtenances pertaining thereto, hereinafter collectively called PROPERTY, described as follows:

Approximately 120 acres, more or less, out of the J. A. Navarro Survey, Abstract 18, Travis County, Texas, and as described in Exhibit "A", which is attached hereto and incorporated herein as if set out at length.

SECTION II - CONSIDERATION

BUYER agrees to buy and SELLER agrees to sell the PROPERTY for One Million, Five Hundred Thousand and No/100 DOLLARS (\$1,500,000.00) and other good and valuable consideration. If, after survey of the PROPERTY has been completed, it is determined that the total land area of the PROPERTY is more than 120 acres, the purchase price and consideration stipulated herein shall be increased at a pro-rate rate of \$12,500 per acre for each acre, or part thereof, greater than 120 acres. If, after survey of the PROPERTY has been completed, it is determined that the total land area of the PROPERTY is less than 120 acres, the consideration and purchase price outlined herein shall be decreased at a pro-rate rate of \$12,500 per acre for each acre, or part thereof, less than 120 acres.

SECTION III - COMMITMENT FOR TITLE INSURANCE AND SURVEY

BUYER may obtain a Commitment for Title Insurance (the "Commitment") and legible copies of all recorded instruments affecting the property and recited as exceptions in the Commitment. SELLER will obtain at SELLER'S sole cost, a survey of the PROPERTY

("Survey") and deliver 5 original copies of the survey to BUYER no later than 30 days after the effective date. If BUYER has an objection to items disclosed in such Commitment or Survey, SELLER shall cure the same by date of closing. BUYER may waive any item in the Commitment or Survey and complete the purchase.

The SELLER shall perform, observe, and comply with all of the covenants, agreements, and conditions required by this agreement prior to or as of the closing.

SECTION IV - REPRESENTATIONS AND WARRANTIES OF SELLER

The SELLER hereby represents and warrants to BUYER now, through closing and surviving closing, the following:

- A. No one resides on or uses any portion of the PROPERTY as lessees, tenants at sufferance, or trespassers;
- B. SELLER is the fee simple owner of the title to the PROPERTY and is duly authorized and empowered to sell said PROPERTY;
- C. SELLER has paid all taxes, charges, debts, and other assessments due by the SELLER with respect to the PROPERTY;
- D. There will be no unrecorded liens, mortgages, loans, Uniform Commercial Code liens, or other encumbrances against any of the PROPERTY which will not be satisfied out of the Sales Price; and
- E. SELLER shall not further encumber, or allow the encumbrance of, the title to the PROPERTY or modify the terms or conditions of any existing encumbrances, if any, without written consent of BUYER.
- F. As of the Closing Date, SELLER has terminated any agreement with Walter Biel or 973 Materials, LLC or both Walter Biel and 973 Materials, LLC relating to the PROPERTY.

If any representation above is untrue, SELLER shall remedy the deficiency prior to closing. Should SELLER not remedy the deficiency prior to closing, the SELLER shall be in default.

SECTION V - CLOSING

The parties will finalize the transaction by closing on or before 60 days after the date of this Contract, which date is hereinafter referred to as the Closing Date. This date may be extended upon confirmation by the parties.

- A. At the closing, SELLER shall deliver to BUYER the following:

1. A duly executed and acknowledged General Warranty Deed in a form and substance as the Deed attached as Exhibit "B" and incorporated herein as if set out at length, conveying good and indefeasible title in fee simple to all of the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, reservations and restrictions, except as permitted herein below and/or approved by BUYER in writing prior to closing.
 2. An Owner's Policy of Title Insurance (the "Title Policy"), with premium cost to be paid by the SELLER, issued by Independence Title Insurance Company (Laura Brookshire, escrow officer, Arboretum Office) in the full amount of the Sales Price, dated as of the closing, insuring BUYER'S contractual interest to the PROPERTY to be good and indefeasible subject only to those title exceptions contained in the standard, printed form allowed by the State Department of Insurance, however;
 - a. the exception as to restrictive covenants shall be endorsed "None of Record," unless waived by BUYER before closing.
 - b. the exception as to the lien for taxes shall be limited to the year of closing and shall be endorsed "Not Yet Due and Payable".
 3. Evidence of its capacity and authority for the closing of this transaction.
 4. All signed releases, affidavits, and other necessary documents to close this transaction.
 5. Possession of the PROPERTY.
 6. Evidence that all general real estate taxes for the then current year relating to the Property (if purchased in fee) and interest on any existing indebtedness prorated to the day of closing have been paid.
 7. Evidence that all special taxes or assessments to the Closing Date shall be paid by Seller.
- B. The SELLER shall pay all cost of releasing existing loans, liens or other encumbrances, title insurance premium, his attorney's fees and all other expenses stipulated to be paid by the SELLER under other provisions of this Contract.
- C. At the closing, BUYER shall perform the following:
1. Pay, by check, the purchase price.
 2. Sign any documents a buyer would normally sign to close a similar transaction.

SECTION VI - BREACH BY SELLER

In the event that the SELLER shall fail to fully and timely perform any of its obligations hereunder or shall fail to consummate the sale of the property for any reason, except the BUYER'S default, the BUYER may enforce specific performance of this Contract, bring suit for damages against the SELLER, or seek any other remedy provided by law.

SECTION VII - BREACH BY BUYER

In the event that the BUYER should fail to consummate the purchase of the property, leaving the BUYER in default and the SELLER not being in default hereunder, the SELLER shall have the right to bring suit for damages against the BUYER.

SECTION VIII - MEDIATION

When mediation is acceptable to both parties in resolving a dispute arising under this Contract, the parties agree to use the Dispute Resolution Center of Austin, Texas as the provider of mediators for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

SECTION IX - MISCELLANEOUS

1. Survival of Covenants. Any of the representations, warranties, covenants, and agreements of the parties pertaining to a period of time following the closing of the transactions contemplated hereby shall survive the closing and shall not be merged therein.
2. Notice. Any notice to be given hereunder by either party to the other shall be in writing and may be effected by personal delivery or registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

SELLER: Leslie Ray Steger, Jo Anna Steger Williams, and Gary Gene Steger
c/o Mr. Gary Steger
15054 CR 443
Sommerville, Texas 77879

BUYER: Travis County, Texas
c/o County Executive
Transportation and Natural Resources
attn.: Greg Chico
P. O. Box 1748
Austin, Texas 78767

COPY TO: The Honorable David Escamilla (or his successor in office)
Travis County Attorney
P. O. Box 1748
Austin, Texas 78767

3. Texas Law to Apply. This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Travis County, Texas.
4. Parties Bound. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, and assigns where permitted by this Contract.
5. Legal Construction. In case any one or more of the provisions contained in this Contract shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.
6. Entire Agreement
 - A. This Contract supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter thereof and contains all of the covenants and agreements between the parties with respect to said matter.
 - B. No modification concerning this instrument shall be of any force or effect, excepting a subsequent modification in writing signed by the party to be charged. No official, representative, agent, or employee of Travis County, Texas, has any authority to modify this Contract except pursuant to express authority to do so granted by the Commissioners Court of Travis County, Texas.
7. Time of Essence. Time is of the essence of this Contract.
8. Gender. Words of any gender used in this Contract shall be held and construed to include any other gender and words in the singular number shall be held to include the plural and vice versa, unless the Contract requires otherwise.

IN WITNESS WHEREOF, the Parties hereunto, acting by and through their duly authorized officers or on their own behalf have caused this Contract to be signed on the day and year below written. The later day and year below written will be the effective date upon which all duties under this Contract shall begin.

SELLER: Leslie Ray Steger, Jo Anna Steger Williams, and Gary Gene Steger

Date: 4-18-2011 By: Leslie Ray Steger
Signature
Printed Name: Leslie Ray Steger

Date: April 18, 2011 By: Jo Anna Steger Williams
Signature
Printed Name: JO ANNA STEGER WILLIAMS

Date: 4/18/2011 By: Gary Gene Steger
Signature
Printed Name: GARY GENE STEGER

BUYER: TRAVIS COUNTY, TEXAS

Date: 4-29-11 (cc) By: Samuel T. Biscoe
Samuel T. Biscoe, Travis County Judge

Exhibit “C”

ADDITIONAL PROVISIONS

I. IMPROVEMENTS CONVEYED

SELLER agrees that at closing of the contemplated real estate transaction, all improvements located on the PROPERTY being conveyed from SELLER to BUYER, shall become the sole property of the BUYER, and that SELLER is being fully compensated by BUYER, as part of the consideration shown in Section II of this Purchase Contract, for any improvements located on the PROPERTY.

II. BUYER TO GRANT TEMPORARY CONSTRUCTION EASEMENT

BUYER agrees that at closing of the contemplated real estate transaction, BUYER shall provide a duly executed and acknowledged Easement, in a form and substance as the License Agreement attached hereto as Exhibit “D” and incorporated herein as if set out at length, conveying access and construction rights to a portion of the PROPERTY to licensee, to allow for licensee’s removal of earthen fill from a portion of the PROPERTY, as described in such License Agreement. SELLER agrees that this Contract is contingent on the licensee signing Exhibit “D” on or before closing.

Exhibit "D"

LICENSE AGREEMENT
FOR
TEMPORARY CONSTRUCTION AREA

STATE OF TEXAS

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§
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COUNTY OF TRAVIS

WHEREAS TRAVIS COUNTY, hereinafter called LICENSOR, whether one or more, who is the owner of approximately 120 acres, more or less, out of the J. A. Navarro Survey, Abstract 18, Travis County, Texas, and as described in Exhibit "A", which is attached hereto and incorporated herein as if set out at length, hereinafter referred to as the PROPERTY;

WHEREAS, the LICENSOR is aware that excavation and earth work is required by Walter Biel and 973 Materials, LLC hereinafter called LICENSEE, and that the improvements will require entering onto the PROPERTY for the purpose of removal of earthen fill material and grading; and

WHEREAS, LICENSEE represents to LICENSOR that any agreement with Walter Biel or 973 Materials, LLC or both Walter Biel and 973 Materials, LLC relating to the PROPERTY has been terminated;

NOW, THEREFORE, the LICENSOR grants the following:

1. GRANT OF LICENSE.

LICENSOR does hereby grant and demise unto the LICENSEE and its contractors the right to enter the PROPERTY for the purpose of removal of earthen fill material, without fee to LICENSOR, subject to the conditions as set out below in Section III.

2. TEMPORARY CONSTRUCTION AREA.

LICENSEE agrees to limit its construction activities to the area as shown on Exhibit "B" attached hereto and made a part hereof, and otherwise described as the southernmost portion of the PROPERTY, bounded on the west by the easterly right-of-way line of F.M. 973, on the south by the southern boundary line of the PROPERTY, on the east by the westerly right-of-way line for State Highway 130, and on the north by a boundary line between S.H. 130 and F.M 973, running parallel to and One Thousand feet (1,000') north of the southern boundary of the PROPERTY.

3. CONDITIONS.

In consideration for the above mentioned grant of license, LICENSEE agrees to do the following:

- 3.1 No tree within the Temporary Construction Area may be removed or disturbed without prior approval of the LICENSOR.

- 3.2 Other than changes to topography and elevation, the Temporary Construction Area will be restored to substantially the same condition which existed prior to the construction activities, to include grading and contour of land areas.
- 3.3 Provide reclamation of disturbed land areas, to include installation of a topsoil cover in locations of excavation, and seeding of native grasses in such areas of topsoil.
- 3.4 Without in any way limiting the liability of LICENSEE or its obligations under this License, LICENSEE agrees to maintain during the term of this License Commercial General Liability Insurance in the amounts as may be requested in written notice by LICENSOR from time to time during the term of this License.

4. TERMINATION.

This License shall terminate on March 1, 2012.

5. INDEMNIFICATION

LICENSEE AGREES TO AND SHALL INDEMNIFY, SAVE AND HOLD HARMLESS, AND DEFEND LICENSOR, ITS AGENTS, OFFICIALS AND EMPLOYEES FROM ANY AND ALL NEGLIGENCE, LIABILITY, LOSS, COSTS, CLAIMS, INCLUDING ATTORNEYS FEES, OR EXPENSES OF WHATEVER TYPE OR NATURE FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, ARISING IN WHOLE OR IN PART OUT OF ANY AND ALL ACTS OF COMMISSION OR OMISSION OF LICENSEE, ITS AGENTS OR EMPLOYEES, ARISING OUT OF IN CONNECTION WITH THIS LICENSE AGREEMENT OR LICENSEE'S USE OF THE PROPERTY FOR WHICH A CLAIM, INCLUDING ATTORNEYS FEES, DEMAND, SUIT OR OTHER ACTION IS MADE OR BROUGHT BY ANY PERSON, FIRM, CORPORATION, OR OTHER ENTITY AGAINST LICENSEE OR LICENSOR.

6. NON-ASSIGNMENT OF RIGHTS

LICENSEE may not assign this License Agreement or any portion or right thereof without the prior written consent of LICENSOR.

7. AMENDMENTS

This License Agreement may be amended only by written instrument signed by both LICENSOR and LICENSEE. IT IS EXPRESSLY ACKNOWLEDGED BY LICENSEE THAT NO OFFICER, AGENT, REPRESENTATIVE OR EMPLOYEE OF LICENSOR HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO MODIFY OR AMEND THE TERMS OF THIS LICENSE AGREEMENT UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT OF TRAVIS COUNTY.

8. NON-WAIVER AND RESERVATION OF RIGHTS

- 8.1 No act or omission by LICENSOR may constitute or be construed as a waiver of any breach or default of LICENSEE which then exists or may subsequently exist. The failure of either party to exercise any right or privilege granted in this License Agreement shall not be construed as a waiver of that right or privilege.
- 8.2 All rights of LICENSOR under this License Agreement are specifically reserved and any act or omission shall not impair or prejudice any remedy or right of LICENSOR under it. Any right or remedy stated in this License Agreement shall not preclude the exercise of any other right or remedy under this License Agreement, at law or at equity, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

9. VENUE AND CHOICE OF LAW

The obligations and undertakings of each of the parties to this License Agreement are performable in Travis County, Texas, and this License Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any dispute arising out of this License Agreement will lie in the appropriate court of Travis County, Texas.

10. NOTICES

- 10.1 Any notice required or permitted to be given under this License Agreement by one Party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the Party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the Party at the address hereinafter specified.

- 10.2 The address of LICENSEE for all purposes under this License Agreement shall be:

- 10.3 The address of LICENSOR for all purposes and all notices under this License Agreement shall be:

Honorable Samuel T. Biscoe (or successor in office)
Travis County Judge
P.O. Box 1748
Austin, Texas 78767

With copies to:

Travis County Transportation and Natural Resources Dept.
P.O. Box 1748
Austin, Texas 78767

And

Honorable David Escamilla (or successor)
Travis County Attorney
P.O. Box 1748
Austin, Texas 78767
Attn: File No. 163.1530

10.4 Each Party may change the address for notice to it by giving notice of the change in compliance with this Section.

11. MEDIATION

When mediation is acceptable to both parties in resolving a dispute arising under this License Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in § 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

12. SEVERABILITY

If any portion or portions of this License Agreement are ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

13. ENTIRETY OF AGREEMENT

This License Agreement represents the sole, entire and integrated Agreement between LICENSOR and LICENSEE with respect to the subject matter herein and supersedes all prior negotiations, representatives, or agreements either oral or written.

EXECUTED this ____ day of _____, 2011.

LICENSOR:

TRAVIS COUNTY, TEXAS

By: _____
Samuel T. Biscoe, County Judge

Date: _____

LICENSEE:

973 Materials, LLC

By: _____
Name:
Title:

Date: _____

Name: Walter Biel

Date: _____

Attachment #2

(License Agreement to Backfill Pit)

LICENSE AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This License Agreement ("Agreement") is made and entered into by and between Travis County, Texas, a political subdivision of the State of Texas ("County") and 973 Materials, LLC ("Licensee").

1.0 GRANT AND TERMS OF LICENSE

1.1 County hereby grants a License to Licensee, its employees, agents, and independent contractors, to enter and use the 120.725 acre tract described in the deed to the County recorded at Document Number 2011095081, Travis County Real Property Records ("the Property") for the purpose of placing uncontaminated earthen fill material in the existing pit on an approximately 43 acre site adjacent to the southwest boundary of the Property, as provided in this Agreement. Fill material shall not include garbage, new asphalt, weathered asphalt, concrete or other rubble, or soils containing non-weathered asphalt residue, or waste. All fill material must be inert and essentially insoluble.

1.2 The Licensee shall, at the earliest feasible date, obtain a City of Austin site plan and County development permit authorizing fill in compliance with the terms of this Agreement.

1.3 Upon issuance of the site plan and development permits, the Licensee shall:

a. within 30 days fill the pit to a level of at least two feet (2') above the seasonally high groundwater table and contour and slope the surface to facilitate drainage to ensure that water will not pond; and

b. thereafter fill the pit to return the ground elevation to five feet (5') below the natural grade adjacent to the pit for any part of the pit within two hundred feet (200') of a public road, and for the remainder of the pit, to ten feet (10') below the natural grade adjacent to the pit (or any other elevation agreed to in writing by the County), place top soil as the final layer of fill, contour and slope the final surface to facilitate drainage to ensure that water will not pond, and establish coastal Bermuda as final cover (collectively, "Completion"). The Licensee's obligation to place top soil as the final layer of fill is limited to placing the soil contained in the existing berms on the site. At the County's cost, the County may require the Licensee to place additional top soil as part of the final layer.

1.4 For each load of fill material is placed on the site, the Licensee shall obtain, maintain, and upon request allow the County to inspect and copy written certification of the source and content of that material. The Licensee shall also maintain and upon request allow the County to inspect and copy a plan of the site indicating the general location where each load is placed. The County may inspect the site and Licensee's records to determine compliance with this Agreement. If the County has cause to believe Licensee has placed unacceptable materials on the site, the County may require the Licensee to conduct or pay for a certification from a NELAC-certified laboratory that the fill material meets the foregoing requirements.

1.5 The Licensee shall at all times establish and maintain positive drainage so as to prevent ponding of water on the site until the pit is completely filled. If positive drainage cannot be achieved, the Licensee shall use sump pumps or other methods approved by County to remove standing water from any source.

1.6 The Licensee shall provide and maintain (i) temporary erosion and sedimentation controls for the pit until Completion, and (ii) permanent erosion and sedimentation controls at all points where storm water leaves the site. Unless otherwise approved by the County in writing, broadcasted seeding shall not be used for establishing vegetation as it may attract birds.

1.7 The County reserves the right to place or to authorize the placement of fill material on the Property meeting the requirements of Section 1.1. The County and the Licensee shall agree on the general location where each load is placed. The County shall provide for a contour and slope to facilitate drainage to ensure that water will not pond. The County shall obtain and maintain written certification of the source and content of the material. If the County authorizes a third party to place fill material on the Property, the third party shall be responsible for placement and grading unless the third party agrees to pay the Licensee for placement and grading.

1.8 Licensee agrees to make no changes to or use of the Property other than those provided in this Agreement.

1.9 Licensee acknowledges and agrees that Licensee shall be solely responsible at all times for the actions and the safety of those persons utilizing the Property under this Agreement, including, without limitation, protecting such persons from injury or death and protecting County's property and the property of such persons from loss or damage.

2.0 TERM OF LICENSE

2.1 This Agreement shall terminate upon the earlier to occur of Completion of the fifth anniversary of the Effective Date. If Completion has not occurred by the fifth

anniversary of the Effective Date, this Agreement shall remain in effect for consecutive terms of one (1) year each until Completion occurs or unless either party elects to terminate this agreement by sending written notice to the other party at least thirty (30) days before expiration of the then-current term.

2.2 If the agreement is terminated before Completion, the Licensee shall grade and contour the pit to restore it to a level of at least to five feet (5') below the natural grade adjacent to the pit for any part of the pit within two hundred feet (200') of a public road, grade the pit to achieve a slope of 3:1, or complete any other action agreed to in writing by the County that achieves compliance with 43 Texas Administrative Code Chapter 21, including establishing and maintaining vegetative cover and positive drainage so as to prevent erosion and ponding of water.

3.0 CONSIDERATION

3.1 The consideration for this Agreement, the adequacy of which the Parties acknowledge, is the mutual benefits to the Parties from the Licensee's placement of earthen fill material on the Property.

4.0 PERMITS

4.1 Before placing earthen fill material on the Property, the Licensee shall obtain all federal, state, city, and County permits required for Licensee's activities. Thereafter, the Licensee shall comply with all related regulatory requirements.

4.2 Without limiting Section 4.1, the Licensee shall implement all measures necessary to ensure the site's compliance with 43 Texas Administrative Code Chapter 21, including installing and maintaining any barriers required under §21.706 and providing a copy of the safety certificate required under, and eliminating any part of the pit violating, §21.708.

5.0 USE AND REPAIRS

5.1 Licensee shall not use the Property for any purpose other than that set forth herein. Further, Licensee shall repair or replace any damage to the Property caused by Licensee.

5.2 LICENSEE ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY PRIOR TO EXECUTION OF THIS AGREEMENT, LICENSEE IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY LICENSOR. LICENSEE AGREES TO ACCEPT THE PROPERTY "AS-IS" AND WITH ALL FAULTS AND WAIVES ALL OBJECTIONS OR CLAIMS IN THIS REGARD AGAINST LICENSOR (INCLUDING BUT NOT LIMITED TO ANY RIGHT OR CLAIM OF

CONTRIBUTION) ARISING FROM OR RELATED TO THE PROPERTY OR TO ANY HAZARDOUS MATERIALS ON THE PROPERTY. LICENSOR WILL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON. LICENSEE FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE USE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS-IS" CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE CONSIDERATION FOR THE USE OF THE PROPERTY HAS BEEN NEGOTIATED TO REFLECT THAT ALL OF THE PROPERTY IS LICENSED BY LICENSOR AND ACCEPTED BY LICENSEE IN THE "AS-IS" CONDITION. THIS ACCEPTANCE BY THE LICENSEE SHALL BE AN ACKNOWLEDGMENT THAT THERE IS NO LANDLORD/TENANT RELATIONSHIP ESTABLISHED BETWEEN LICENSOR AND LICENSEE. LICENSEE HAS NO EXPECTATION OF WARRANTIES AS TO USE OR HABITABILITY OF THE PROPERTY.

6.0 CONTROL OF TRAVIS COUNTY

6.1 The County retains the right to possession and use of the Property for any purpose that does not prevent reasonable exercise of the license granted to the Licensee by this Agreement.

7.0 INDEMNIFICATION

7.1 LICENSEE AGREES TO AND SHALL INDEMNIFY, SAVE AND HOLD HARMLESS, AND DEFEND COUNTY, ITS AGENTS, OFFICIALS AND EMPLOYEES FROM ANY AND ALL NEGLIGENCE, LIABILITY, LOSS, COSTS, CLAIMS, INCLUDING ATTORNEYS FEES, OR EXPENSES OF WHATEVER TYPE OR NATURE FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, ARISING IN WHOLE OR IN PART OUT OF ANY AND ALL ACTS OF COMMISSION OR OMISSION OF LICENSEE, ITS AGENTS OR EMPLOYEES, ARISING OUT OF IN CONNECTION WITH THIS AGREEMENT OR LICENSEE'S USE OF THE PROPERTY FOR WHICH A CLAIM, INCLUDING ATTORNEYS FEES, DEMAND, SUIT OR OTHER ACTION IS MADE OR BROUGHT BY ANY PERSON, FIRM, CORPORATION, OR OTHER ENTITY AGAINST LICENSEE OR COUNTY.

7.2 Licensee shall not discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any material into the atmosphere, ground, sewer system, or any body of water, if that material (as is reasonably determined by the Licensor, or any governmental authority) does or may pollute or contaminate the same, or may adversely affect (i) health, welfare, or safety of persons, whether located on the Premises or elsewhere, or (ii) the condition, use or enjoyment of the building or any other real or personal property. Licensee shall immediately notify Licensor of any release of any Hazardous Material on or near the Premises whether or not such release is in a quantity that would otherwise be reportable to a public agency and shall also

comply with the notification requirements of any applicable state, local, or federal law or regulation.

8.0 INSURANCE

8.1 Without in any way limiting the liability of Licensee or its obligations under this Agreement, Licensee agrees to maintain during the term of the License commercial general liability insurance policy with a licensed carrier with combined minimum bodily injury and property damage limits of \$600,000.00 per occurrence and \$1,000,000 in the aggregate. Travis County shall be named as named as an additional insured and the policy shall include a waiver of subrogation in favor of the County.

8.2 Licensee shall not cause any insurance to be canceled nor permit any insurance to lapse. ALL INSURANCE CERTIFICATES SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

8.3 Licensee shall deliver to County an original, signed certificate of insurance meeting the requirements of this section before placing earthen fill material on the Property and on each anniversary of the Effective Date during the term of this Agreement.

9.0 NON-ASSIGNMENT OF RIGHTS

9.1 Licensee may not assign, sublet or transfer its interest in this Agreement or any portion or right thereof without the prior written consent of County; provided, however, Licensee shall have the right to grant, assign and transfer all or any part of its right, title and interest in any copyrights, rights of publicity, trademarks and all other legal interests and rights acquired by Licensee in connection with the Event.

10.0 AMENDMENTS

10.1 This Agreement may be amended only by written instrument signed by both County and Licensee. IT IS EXPRESSLY ACKNOWLEDGED BY LICENSEE THAT NO OFFICER, AGENT, REPRESENTATIVE OR EMPLOYEE OF TRAVIS COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO MODIFY OR AMEND THE TERMS OF THIS AGREEMENT UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT OF TRAVIS COUNTY.

11.0 SAFETY

11.1 County reserves the right to prohibit persons from driving on, entering or otherwise using the Property at any time safety may be a concern.

12.0 NON-WAIVER AND RESERVATION OF RIGHTS

12.1 No act or omission by Licensor may constitute or be construed as a waiver of any breach or default of Licensee which then exists or may subsequently exist. The failure of either party to exercise any right or privilege granted in this Agreement shall not be construed as a waiver of that right or privilege.

12.2 All rights of Licensor under this Agreement are specifically reserved and any act or omission shall not impair or prejudice any remedy or right of Licensor under it. Any right or remedy stated in this Agreement shall not preclude the exercise of any other right or remedy under this Agreement, the law or at equity, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

13.0 VENUE AND CHOICE OF LAW

13.1 The obligations and undertakings of each of the parties to this Agreement are performable in Travis County, Texas, and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any dispute arising out of this Agreement will lie in the appropriate court of Travis County, Texas.

14.0 NOTICES

14.1 Written Notice. Any notice required or permitted to be given under this Agreement by one Party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the Party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the Party at the address hereinafter specified.

14.2 Licensee Address. The address of Licensee for all purposes under this Agreement shall be:

973 Materials, LLC
c/o Walter Biel
P.O. Box 17665
Austin, Texas 78760

14.3 Licensor Address. The address of Licensor for all purposes and all notices under this Agreement shall be:

Steve Manilla (or successor)
County Executive, Transportation and Natural Resources

P.O. Box 1748
Austin, Texas 78767

With copy to:

David Escamilla (or successor in office)
Travis County Attorney
P.O. Box 1748
Austin, Texas 78767
Attention: File 163.2272

14.4 Change of Address. Each Party may change the address for notice to it by giving notice of the change in compliance with this Section.

15.0 RELATIONSHIP OF PARTIES

15.1 This Agreement creates no relationship between the Parties other than that of licensor and licensee.

16.0 TAXES, LIENS, OR OTHER CHARGES

16.1 Licensee shall pay in full any taxes or assessments levied on the Property by virtue of, as well as all persons who perform labor in connection with, the Licensee's use of the Property. Licensee will not allow any liens to be filed or enforced against the Property by virtue of the Licensee's use of the Property. If any such taxes, charges, or liens are filed thereon, Licensee agrees to remove the same at Licensee's own cost and expense and to pay any judgment which may be entered thereon or there under, without regard to their legal enforceability; provided, however, that Licensee may protest or challenge the enforceability, amount, and any other aspect of any such claimed tax, charge, or lien, and Licensee's obligation to pay to remove the lien or to pay any judgment entered thereon shall not arise unless and until such protest or challenge has failed and the amount become due. Should Licensee fail, neglect or refuse to do so, Owner shall have the right to pay any amount required for release, or to defend any action brought thereon, and to pay any judgment entered therein, and Licensee shall be liable to the same for all costs, damages and reasonable attorneys fees, and any amounts expended in defending any proceedings or in the payment of any of said taxes, charges, or liens or any judgment obtained therefore.

17.0 DEFAULT AND REMEDIES

17.2 If either Party defaults in the performance of any provision of this Agreement, the other Party shall give written notice of the default. The Party notified shall have thirty (30) days in which to cure default. If the default is not cured within that time, the Party who sent the notice shall have the right to seek specific performance of this Agreement, terminate this Agreement, or any other remedy allowed by law.

18.0 SEVERABILITY

18.1 If any portion or portions of this Agreement are ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

19.0 ENTIRETY OF AGREEMENT

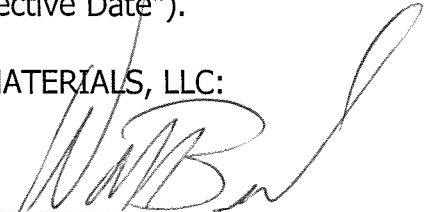
19.1 This Agreement represents the sole, entire and integrated Agreement between County and Licensee with respect to the subject matter herein and supersedes all prior negotiations, representatives, or agreements either oral or written.

IN WITNESS WHEREOF, Licensor and Licensee have duly executed this Agreement effective as of the later date set forth below (the "Effective Date").

TRAVIS COUNTY, TEXAS

973 MATERIALS, LLC:

By: _____

By:  _____

Samuel T. Biscoe
Travis County Judge

Walter Biel
Director

Date: _____

Date: 7-15-2013

STATE OF TEXAS §
 §
COUNTY OF TRAVIS§

This instrument was acknowledged before me on the _____ day of _____, 2013, by Samuel T. Biscoe, Travis County Judge.

Notary Public, State of Texas

STATE OF TEXAS

§
§

COUNTY OF TRAVIS§

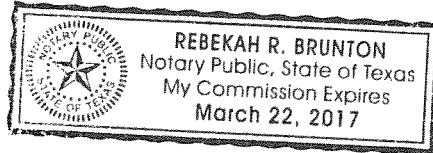
This instrument was acknowledged before me on the 15th day of July, 2013, by Walter Biel, Director, 973 Materials LLC, a limited liability company, on behalf of said company.

Rebekah R. Brunton

Notary Public, State of Texas

After recording, return to:

Steve Manilla
County Executive, Transportation and Natural Resources
P.O. Box 1748
Austin, Texas 78767



Attachment #3

(Fiscal Waiver Letter to COA)

TRANSPORTATION AND NATURAL RESOURCES

STEVEN M. MANILLA, P.E., COUNTY EXECUTIVE



700 Lavaca 5th Floor
Travis County Administration Building
PO Box 1748
Austin, Texas 78767
Phone: (512) 854-9383
Fax: (512) 854-4697

July 16, 2013, 20013

Mr. Antonio Gonzales
City of Austin Development Review and Inspection Department
Development Intake Center
301 West 2nd Street, First Floor
Austin, Texas 78701

RE: Travis County 5305 FM 973 Development Permit – Fiscal Surety for Temporary and Permanent Erosion and Sedimentation Controls and Post-Mine Reclamation

Dear Mr. Gonzales:

This letter will notify the City of Austin of Travis County's intention to complete a mine reclamation project at a closed borrow-pit on County property located at 5305 FM 973 South. This is a public project to restore the site so that it can be a functional component of the County Onion Creek Green Way facility. The work will be performed through a License Agreement with 973 Materials LLC but may be partially performed by TNR's Road&Bridge forces. This letter states our intent to construct the improvements, including all erosion and water pollution control requirements per the approved plans, in leau of a Letter of Credit. This procedure has been accepted in the past between our agencies (e.g. the U.S. 183 Landfill Remediation Project, permitted and constructed in 1994-95 (SP-94-0074D).

Erosion/sedimentation controls will be installed per the approved plans where needed due to construction activity, as well as revegetation for permanent stabilization. The quantities of temporary and permanent erosion control that are included in the project are described on the attached estimate provided by City staff.

Sincerely,

Steve Manilla, P.E.,
County Executive-TNR

Attachment #4

(Declaration of Drainage Area)

DECLARATION OF DRAINAGE AREA

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

By this Declaration, Travis County hereby declares and acknowledges the location of open space parkland and drainage area over and across that certain 110.61 acre tract of land situated in Travis County, the exact location of which is described on **EXHIBIT "A"**, attached and incorporated herein for all purposes (the "Property").

Travis County acquired the Property with proceeds from the issuance of bonds approved by the voters of Travis County as Proposition No. 2, Onion Creek Open Space Parkland, on November 8, 2005. Use of the bond proceeds is legally restricted to the acquisition of land for the protection or restoration of greenways, including but not limited to land in floodplains, which must be left substantially undeveloped and in its natural state, including drainage flows. This Declaration runs with the land and is a restrictive covenant binding all present and future owners of the fee interest in and to the land.

EXECUTED on this day ____ of _____, 2013.

TRAVIS COUNTY, TEXAS

Steve Manilla
County Executive
Transportation & Natural Resources

APPROVED AS TO FORM:
CITY OF AUSTIN, TEXAS
LAW DEPARTMENT
DEPARTMENT

REVIEWED:
CITY OF AUSTIN, TEXAS
PLANNING AND DEVELOPMENT REVIEW

By: _____
Name: _____
Title: Assistant City Attorney

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

This instrument was acknowledged before me on this ____ day of _____, 2013, by Steve Manilla, County Executive, Transportation & Natural Resources, on behalf of Travis County.

Notary Public, State of Texas

AFTER RECORDING, PLEASE RETURN TO:

City of Austin
Planning and Development Review Department P.O. Box 1088 Austin, Texas 78767

PROJECT INFORMATION:

Project Name: 5305 FM 973
Project Case Manager: Beth Robinson
Site Plan No.: SP-2012-0204D

Drainage Area

**FIELD NOTE DESCRIPTION
OF A 110.61 ACRE TRACT,
SITUATED IN THE NOEL M. BAIN SURVEY NO. 1
AND THE JOSE ANTONIO NAVARRO SURVEY,
TRAVIS COUNTY, TEXAS**

Being a 110.61 acre, more or less, tract or parcel of land, situated in the Noel M. Bain Survey No. 1 and the Jose Antonio Navarro Survey, Travis County, Texas, being a portion of that certain tract of land called 120.725 acres, as described in a deed to Travis County, recorded in Document No. 2011095081 of the Official Public Records of Travis County, Texas, and being more particularly described as follows:

BEGINNING at a point in the south corner of a called 25.00 acre tract, described in a deed to Delma Spell, recorded in Volume 6184, Page 1772 of the Deed Records of Travis County, Texas, for the most southerly southwest corner of the said 120.725 acre tract, for the most southerly southwest corner hereof;

THENCE, with an east line of the said 120.725 acre tract, the following three (3) courses:

N 48° 23' 39" E, 629.09 feet to point;

N 48° 06' 14" E, 298.05 feet to a point;

N 48° 23' 02" E, 835.56 feet to a point for an interior corner of the said 120.725 acre tract and an interior corner hereof;

THENCE, with the south line of the said 120.725 acre tract, N 41° 57' 14" W, 2040.77 feet to a point on the southwest right-of-way of F.M. 973, for the most northerly southwest corner of the said 120.725 acre tract and the most northerly southwest corner hereof;

THENCE, with the northwest line of the said 120.725 acre tract and the southeast line of F.M. 973, the following four (4) courses:

N 32° 58' 02" E, 717.63 feet to point at the beginning of a curve to the left;

With said curve, having a radius of 3869.72 feet, a chord bearing N 25° 46' 02" E, 970.01 feet, for an arc distance of 972.57 feet to a point for the end of said curve;

N 18° 32' 44" E, 326.93 feet to a point;

N 65° 47' 29" E, 27.76 feet to a point on the south right-of-way of Pearce Lane, for the most northerly corner of the said 120.725 acre tract and the most northerly corner hereof;

THENCE, with the north line of the said 120.725 acre tract and the south right-of-way of Pearce Lane, S 62° 05' 35" E, 854.63 feet to a point for an ell corner of the said 120.725 acre tract and an ell corner hereof;

FIELD NOTE DESCRIPTION
OF A 110.61 ACRE TRACT,
SITUATED IN THE NOEL M. BAIN SURVEY NO. 1
AND THE JOSE ANTONIO NAVARRO SURVEY,
TRAVIS COUNTY, TEXAS

THENCE, with the north of the said 120.725 acre tract, the following three (3) courses:

S 27° 54' 00" W, 700.52 feet to point;

S 61° 58' 18" E, 1199.90 feet to a point;

N 27° 54' 00" E, 701.92 feet to a point on the south right-of-way of Pearce Lane, for an ell corner of the said 120.725 acre tract and an ell corner hereof;

THENCE, with the north line of the said 120.725 acre tract and the south right-of-way of Pearce Lane, the following three (3) courses:

S 62° 08' 21" E, 207.99 feet to point;

S 27° 53' 42" W, 38.44 feet to a point;

S 59° 30' 38" E, 605.65 feet to a point on the west right-of-way of State Highway 130, for the most northerly northeast corner of the said 120.725 acre tract and the most northerly northeast corner hereof;

THENCE, with the west right-of-way of State Highway 130, and the northeast line of the said 120.725 acre tract, S 00° 38' 34" W, 132.65 feet to a point for the most easterly northeast corner of the said 120.725 acre tract and the most easterly northeast corner hereof;

THENCE, crossing the said 120.725 acre tract, the following seven (7) courses:

S 76° 00' 19" W, 353.15 feet to point;

S 75° 00' 45" W, 155.40 feet to a point;

S 71° 20' 56" W, 396.40 feet to point;

S 13° 44' 58" W, 329.47 feet to a point;

S 45° 23' 11" W, 371.94 feet to point;

S 34° 25' 10" W, 225.32 feet to a point;

S 01° 35' 56" W, 309.87 feet to a point on the west right-of-way of State Highway 130 and the east line of the said 120.725 acre tract, for a corner hereof;

THENCE, with the west right-of-way of State Highway 130, and the east line of the said 120.725 acre tract, the following three (3) courses:

S 80° 47' 20" W, 245.86 feet to point;

S 47° 49' 24" W, 2102.55 feet to a point;

S 36° 10' 47" W, 306.38 feet to point for the southeast corner of the said 120.725 acre tract and the southeast corner hereof;

FIELD NOTE DESCRIPTION
OF A 110.61 ACRE TRACT,
SITUATED IN THE NOEL M. BAIN SURVEY NO. 1
AND THE JOSE ANTONIO NAVARRO SURVEY,
TRAVIS COUNTY, TEXAS

THENCE, with the southwest line of the said 120.725 acre tract, N 41° 30' 19" W, 100.06 feet to the Place of BEGINNING and containing 110.61 acres of land, more or less.

This description is accompanied by a sketch of even date.

This description and accompanying sketch do not represent an on the ground survey, and were compiled from a survey of the 120.725 acre tract by Claude F. Hinkle, Jr., dated June 3, 2011, of record in Document No. 2011095081 of the Official Public Records of Travis County, Texas, and from an examination of FEMA Flood Insurance Rate Map Number 48453C0620H, for Travis County, Texas, revised Date September 26, 2008.


Richard Fink

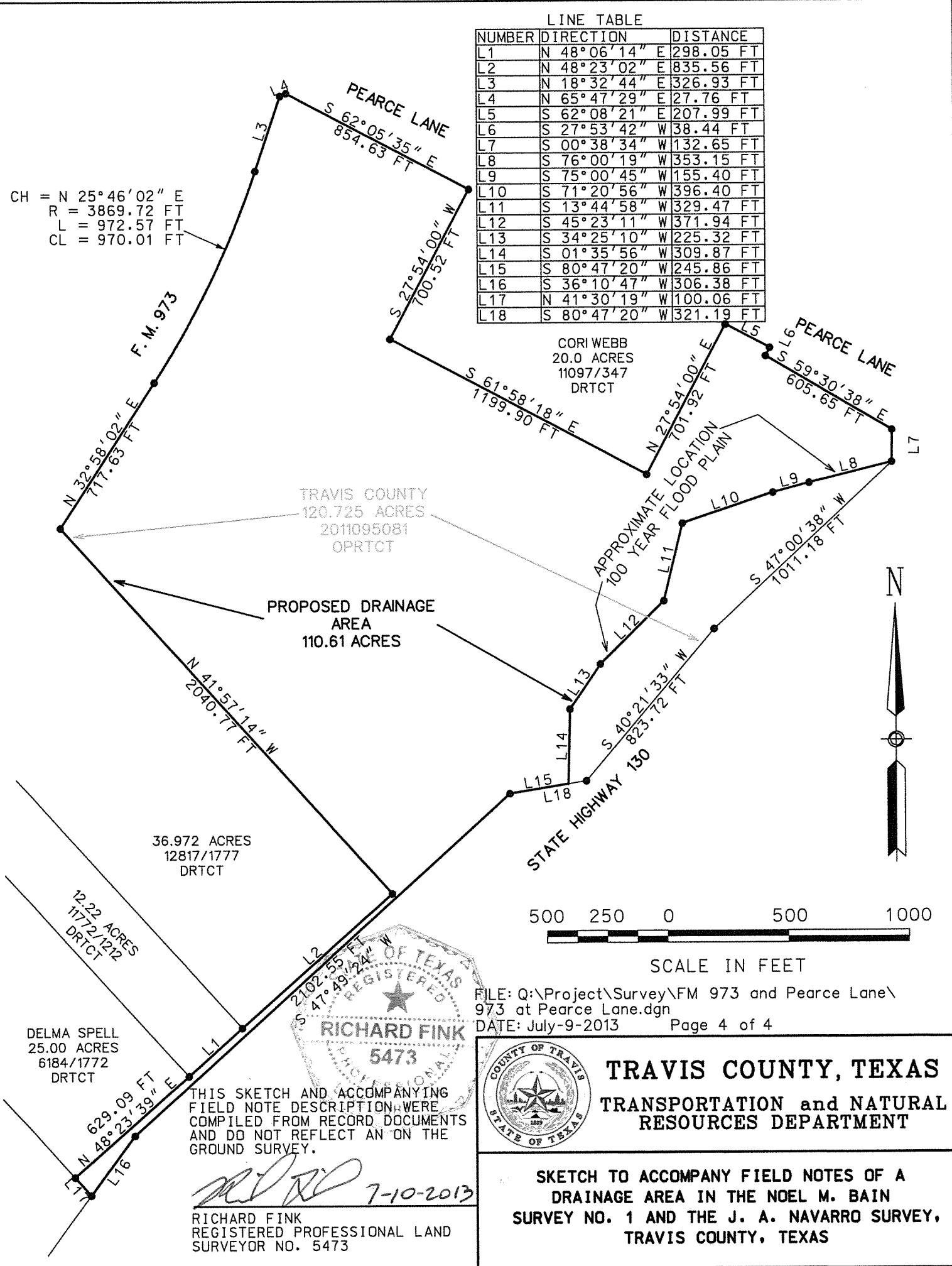
7-10-2013
R.P.L.S. No. 5473



LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N 48° 06' 14" E	298.05 FT
L2	N 48° 23' 02" E	835.56 FT
L3	N 18° 32' 44" E	326.93 FT
L4	N 65° 47' 29" E	27.76 FT
L5	S 62° 08' 21" E	207.99 FT
L6	S 27° 53' 42" W	38.44 FT
L7	S 00° 38' 34" W	132.65 FT
L8	S 76° 00' 19" W	353.15 FT
L9	S 75° 00' 45" W	155.40 FT
L10	S 71° 20' 56" W	396.40 FT
L11	S 13° 44' 58" W	329.47 FT
L12	S 45° 23' 11" W	371.94 FT
L13	S 34° 25' 10" W	225.32 FT
L14	S 01° 35' 56" W	309.87 FT
L15	S 80° 47' 20" W	245.86 FT
L16	S 36° 10' 47" W	306.38 FT
L17	N 41° 30' 19" W	100.06 FT
L18	S 80° 47' 20" W	321.19 FT

CH = N 25° 46' 02" E
 R = 3869.72 FT
 L = 972.57 FT
 CL = 970.01 FT



FILE: Q:\Project\Survey\FM 973 and Pearce Lane\
 973 at Pearce Lane.dgn
 DATE: July-9-2013 Page 4 of 4

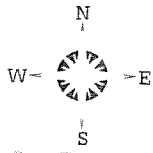
TRAVIS COUNTY, TEXAS
 TRANSPORTATION and NATURAL
 RESOURCES DEPARTMENT

SKETCH TO ACCOMPANY FIELD NOTES OF A
 DRAINAGE AREA IN THE NOEL M. BAIN
 SURVEY NO. 1 AND THE J. A. NAVARRO SURVEY,
 TRAVIS COUNTY, TEXAS

Attachment #5

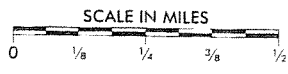
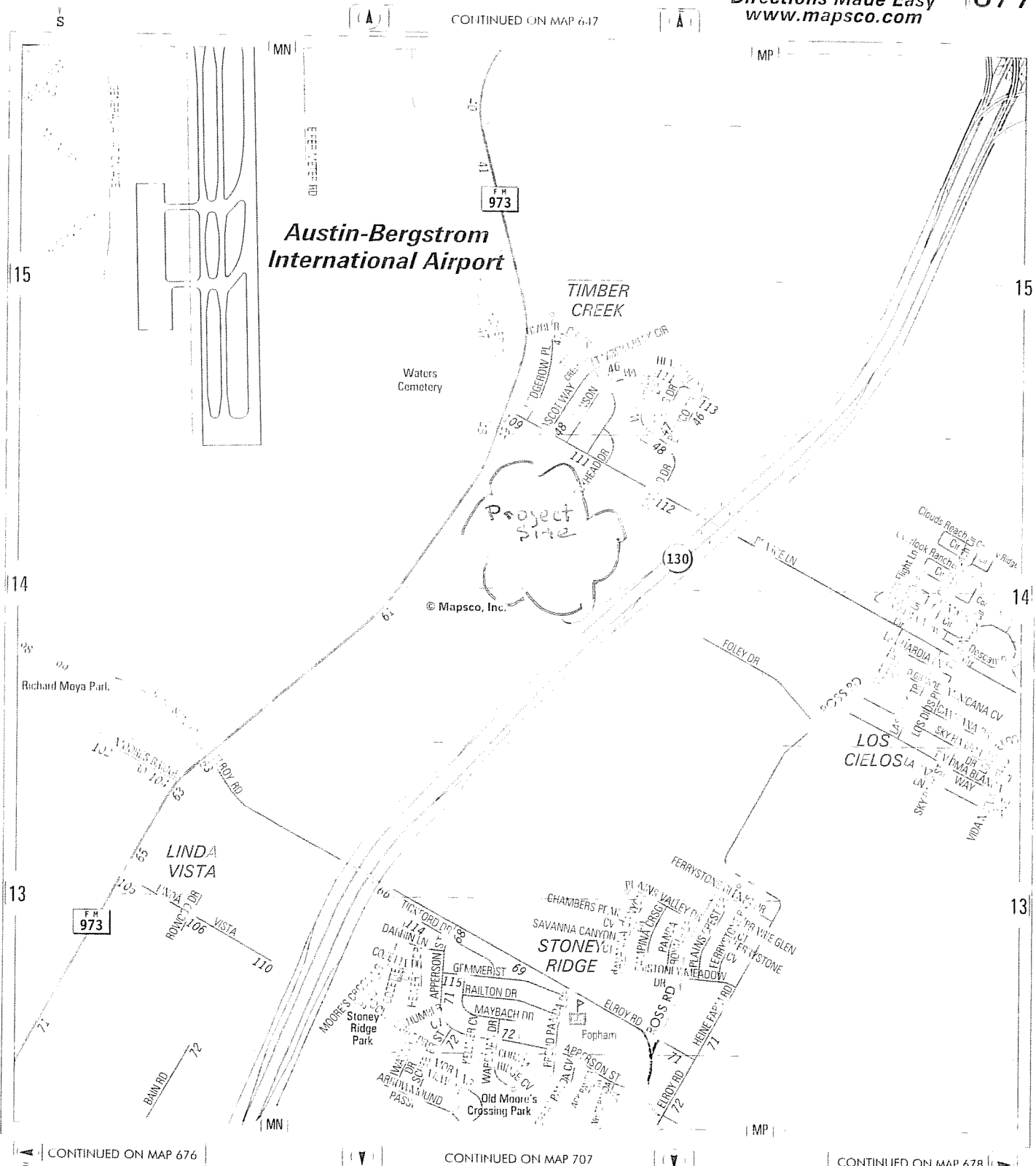
(Site location map)

7/16/13 VS
Item # 10



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