

TEXAS TRANSPORTATION COMMISSION

HAYS County

MINUTE ORDER

Page 1 of 2

AUSTIN District

In the city of Kyle, HAYS COUNTY, on INTERSTATE HIGHWAY 35, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 176, Page 399, Deed Records of Hays County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

Comal County Metro Investments, Ltd., a Texas limited partnership (owner), has conveyed to the state land needed for a state highway purpose (new land), described in Exhibit B, and desires to make a partial donation to the state of the cash difference in value between the new land and the surplus land.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (department) to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the Texas Transportation Commission (commission) to accept by majority vote at an open meeting any gift or donation valued at over \$500, and the commission hereby finds that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by the owner and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter G, since the new land provided by the owner is valued at \$203,703 and exceeds the value of the surplus land at \$196,560.

The owner has executed and delivered a conveyance document under the terms of the donation agreement to convey the new land to the state and has requested that the state's rights, title and interest in the surplus land be conveyed to the owner.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission may recommend the exchange of surplus land as partial or full consideration for other land needed for a state highway purpose.

It is the opinion of the commission that it is proper and correct that the state convey its rights, title and interest in the surplus land to the owner in exchange and as consideration for the partial cash donation and the conveyance of the new land to the state.

TEXAS TRANSPORTATION COMMISSION

HAYS County

MINUTE ORDER

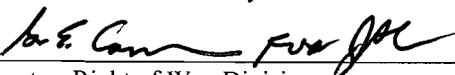
Page 2 of 2

AUSTIN District

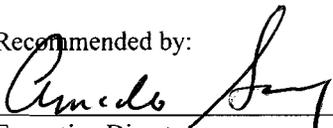
IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to accept the partial donation of the new land and that the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the owner, in accordance with Title 43, Texas Administrative Code, Chapter 1, Subchapter G.

FURTHER, in consideration of the foregoing premises and in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the owner in exchange and as consideration for the conveyance of the new land to the state and partial cash donation to the state of the difference in value.

Submitted and reviewed by:

  
\_\_\_\_\_  
Director, Right of Way Division

Recommended by:

  
\_\_\_\_\_  
Executive Director

**112738 JUN 30 11**

Minute      Date  
Number      Passed

EXHIBIT A

County: Hays  
Tract No: 100  
Highway: IH 35

Property Description for Tract 100

FIELDNOTE DESCRIPTION OF A 0.301 ACRE (13,104 SQUARE FEET) TRACT OF LAND IN THE ALEXANDER McKOWNE SURVEY NO. 16, ABSTRACT NO. 327 AND THE THOMAS G. ALLEN SURVEY, ABSTRACT NO. 26, HAYS COUNTY, TEXAS AND BEING A PART OF THE EXISTING RIGHT-OF-WAY OF INTERSTATE HIGHWAY 35 AS SHOWN ON TXDOT RIGHT-OF-WAY MAP CSJ 16-2-23, DATED APRIL, 1958, SAID EXISTING RIGHT-OF-WAY IS FURTHER DESCRIBED AS BEING A PORTION OF THAT 6.678 ACRE TRACT OF LAND CONVEYED TO THE STATE OF TEXAS BY DEED FROM HENRY C. FERGUSON AND WIFE REA JANE FERGUSON, RECORDED IN VOLUME 176, PAGE 399 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 0.301 ACRE TRACT OF LAND IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS, AND SHOWN ON THE ACCOMPANYING SKETCH, AS FOLLOWS:

BEGINNING at a ½" iron rod with TxDOT aluminum cap set (\*\*) on the existing westerly right-of-way line of Interstate Highway 35 (IH 35), 250.79 feet right of IH 35 centerline station 249+04.03, for the most southerly corner of that 1.295 acre tract conveyed to CMA Holdings, Inc. by deed recorded in Volume 2490, Page 505 of the Official Public Records of Hays County, and being an angle point in the easterly line of that 5.468 acre tract conveyed to Comal County Metro Investments, Ltd. by deed recorded in Volume 3464, Page 467 of the Official Public Records of Hays County, Texas, from which a found Type I highway monument bears N50°25'04"E, 1.68 feet (IH 35 centerline Station 249+02.54, 250.00 RT) and S63°02'37"E, 0.2 feet;

- 1) THENCE, S21°51'30"W, leaving the easterly line of said 5.468 acre tract, with the proposed westerly right-of-way line of IH 35, for a distance of 153.29 feet to a ½" iron rod with TxDOT aluminum cap set for an angle point (\*\*), being 248.69 feet right of IH 35 centerline station 250+57.30;
- 2) THENCE, S54°09'40"W, continuing with the proposed westerly right-of-way line of IH 35, for a distance of 70.62 feet to a ½" iron rod with TxDOT aluminum cap set for an angle point (\*\*), being 285.61 feet right of IH 35 centerline station 251+17.50;
- 3) THENCE, S87°03'50"W, continuing with the proposed westerly right-of-way line of IH35, for a distance of 115.05 feet to a ½" iron rod with TxDOT

EXHIBIT A

aluminum cap set (\*\*) on the common existing westerly right-of-way line of IH 35 and easterly line of said 5.468 acre tract, being 389.39 feet right of IH 35 centerline station 251+67.17, from which a TxDOT Type I highway monument found 426.96 feet right of IH 35 centerline Station 252+38.48, bears S50°25'04"W, 80.61 feet;

- 4) THENCE, N50°25'04"E, with the common existing, westerly right-of-way line of IH 35 and easterly line of said 5.468 acre tract, a distance of 297.41 feet to the POINT OF BEGINNING, containing within these metes and bounds 0.301 acre (13,104 square feet) of land area, more or less.

(\*\*) The monument described and set in this call may be replaced with a TxDOT Type II Right-of-Way Marker upon the completion of the highway construction project under the supervision of a Registered Professional Surveyor, either employed or retained by TxDOT.

Bearings and coordinates are based on the Texas State Plane Coordinate System, NAD 83 (93) HARN, South Central Zone. All coordinates and distances shown hereon are project surface values. The project grid-to-surface scale factor is 1.00011 exactly.

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

I, George E. Hopkins, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 3<sup>rd</sup> day of August, 2010.



A handwritten signature in cursive script that reads "George E. Hopkins".

Capital Surveying Company, Inc.  
1101 Capital of Texas Highway S. Bldg. D  
Austin, Texas 78746

George E. Hopkins  
Registered Professional Land Surveyor  
No. 4685 - State of Texas



1101 Capital of Texas Highway South  
Austin, Texas 78746

FAX (512) 327-2947

CAPITAL SURVEYING COMPANY INCORPORATED  
Building C, Suite 100  
(512) 327-4006

SCALE: 1" = 100'

MAHENDRA PATEL  
5.04 AC.  
DOC.# 200006298  
O.P.R.H.C.

20' WIDE  
SANITARY SEWER  
EASEMENT  
V. 3242, P. 271  
O.P.R.H.C.

40' WIDE  
ACCESS EASEMENT  
V. 1646, P. 156  
O.P.R.H.C.

ALEXANDER McKOWNE  
SURVEY No. 16  
ABSTRACT No. 327

50' WIDE  
ACCESS EASEMENT  
V. 2490, P. 515  
O.P.R.H.C.

EASTBOURNE HAYS, LP.  
101.803 AC.  
V. 2821, P. 270  
O.P.R.H.C.

CMA HOLDINGS, INC.  
1.2956 AC.  
V. 2490, P. 505  
H.C.D.R.

N = 13,927,726.17  
E = 2,333,918.88

P.O.B.  
TRACT 1

COMAL COUNTY METRO  
INVESTMENTS, LTD.  
5.468 ACRES.  
V. 3464, P. 467  
O.P.R.H.C.

EXISTING  
RIGHT-OF-WAY

SEE DETAIL  
SHEET 4 of 4

APPROX. LOCATION OF SURVEY LINE

THOMAS G. ALLEN SURVEY  
ABSTRACT No. 26

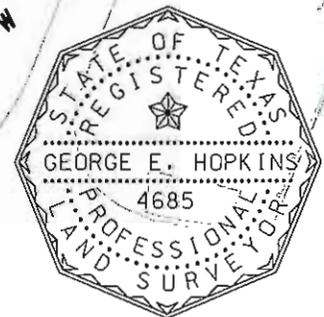
EXISTING  
RIGHT-OF-WAY  
CITY OF KYLE  
0.929 AC. R.O.W.  
DEDICATION  
V. 2792, P. 456  
H.C.D.R.

PROPOSED  
RIGHT-OF-WAY

0.301 AC.  
PARCEL 18

1550°51'26" W 318.21'  
N50°25'04"E 297.41'  
0.301 AC.

S85°47'20"E 264.54'  
S87°03'50"W 115.05'  
S54°09'40"W 70.62'  
S50°25'04"W 80.61'



C.R. 210 - DRY HOLE ROAD  
(R.O.W. VARIES)

SHEET 3 OF 4

EXISTING  
RIGHT-OF-WAY

I HEREBY CERTIFY THAT THIS SKETCH AND ACCOMPANYING  
FIELDNOTE DESCRIPTION REPRESENT THE RESULTS OF A  
RIGHT OF WAY SURVEY MADE ON THE GROUND UNDER MY  
DIRECTION AND SUPERVISION AND IS TRUE AND CORRECT.

*George E. Hopkins* 8/3/10

GEORGE E. HOPKINS  
REGISTERED PROFESSIONAL LAND SURVEYOR  
NO. 4685, STATE OF TEXAS

DISTRICT AUS	RIGHT OF WAY SKETCH SHOWING PROPERTY OF: TRACT 1	COUNTY HAYS
REV. NO. 1	CSJ NO. 0016-02-125 I.H. 35	SURVEY DATE AUG. 3 2010
ROW SURPLUS 0.301 ACRE		

NOTES:

BEARINGS AND COORDINATES ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83 (93) HARN. ALL COORDINATES AND DISTANCES SHOWN HEREON ARE PROJECT SURFACE VALUES. THE PROJECT GRID-TO-SURFACE SCALE FACTOR IS 1.00011 EXACTLY.

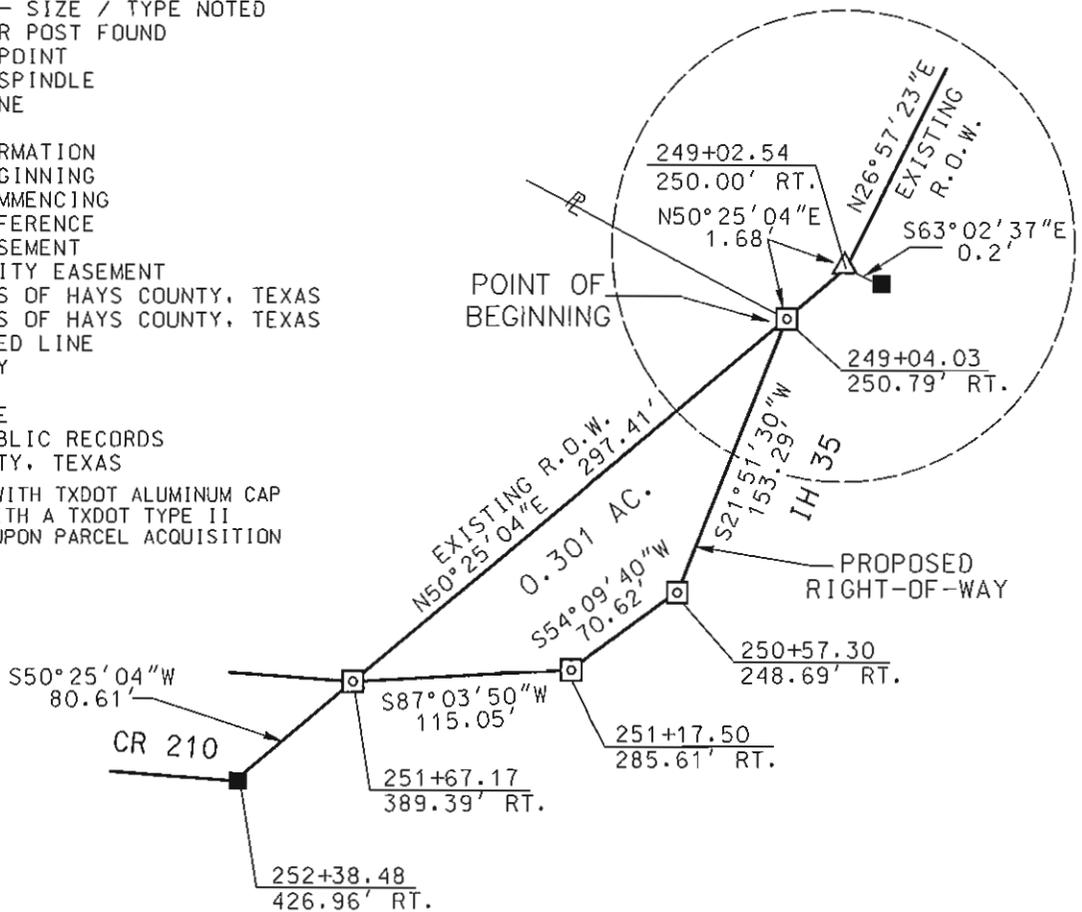
OWNERSHIP INFORMATION SHOWN ON THIS R.O.W. SURVEY WAS OBTAINED FROM PUBLIC RECORDS BY THE SURVEYOR WITHOUT THE BENEFIT OF TITLE REPORTS OR ABSTRACTING AND DOES NOT REFLECT ALL EASEMENTS OR OTHER INSTRUMENTS THAT AFFECT THE ADJOINING TRACTS.

IMPROVEMENTS AND TOPOGRAPHIC FEATURES SHOWN HEREON ARE FROM DIGITAL FILES PROVIDED BY TXDOT, BASED ON AERIAL MAPPING PERFORMED DURING 2004. IMPROVEMENTS AND TOPO FEATURES ADDED OR REMOVED SINCE AERIAL MAPPING WERE NOT LOCATED FOR THIS PROJECT.

LEGEND

- = TYPE I CONCRETE MONUMENT FOUND
  - = TYPE II MONUMENT FOUND
  - ⊠ = TYPE II MONUMENT SET-SEE NOTE
  - = CORNER SET - IRON ROD WITH TXDOT ALUMINUM CAP UNLESS NOTED
  - = IRON ROD FOUND - 1/2" UNLESS NOTED
  - ⊙ = IRON PIPE FOUND - SIZE NOTED
  - △ = NAIL FOUND - SIZE / TYPE NOTED
  - = FENCE CORNER POST FOUND
  - △ = CALCULATED POINT
  - ⊗ = COTTON GIN SPINDLE
  - ℙ = PROPERTY LINE
  - ℄ = CENTER LINE
  - ( ) = RECORD INFORMATION
  - P.O.B. = POINT OF BEGINNING
  - P.O.C. = POINT OF COMMENCING
  - P.O.R. = POINT OF REFERENCE
  - D.E. = DRAINAGE EASEMENT
  - P.U.E. = PUBLIC UTILITY EASEMENT
  - H.C.D.R. = DEED RECORDS OF HAYS COUNTY, TEXAS
  - H.C.P.R. = PLAT RECORDS OF HAYS COUNTY, TEXAS
  - ||| = ACCESS DENIED LINE
  - R.O.W. = RIGHT OF WAY
  - EASMT. = EASEMENT
  - N.T.S. = NOT TO SCALE
  - O.P.R.H.C. = OFFICIAL PUBLIC RECORDS HAYS COUNTY, TEXAS
- NOTE:  
 ⊠ = 1/2" IRON ROD SET WITH TXDOT ALUMINUM CAP TO BE REPLACED WITH A TXDOT TYPE II R.O.W. MONUMENT UPON PARCEL ACQUISITION

DETAIL:  
NOT TO SCALE



SHEET 4 OF 4

DISTRICT AUS	RIGHT OF WAY SKETCH SHOWING PROPERTY OF: TRACT 1	COUNTY HAYS
REV. NO. 1	CSJ NO. 0016-02-125 I.H. 35	SURVEY DATE AUG. 3 2010
ROW SURPLUS 0.301 ACRE		

**GSCI** CAPITAL SURVEYING COMPANY INCORPORATED  
 1101 Capital of Texas Highway South Austin, Texas 78746 FAX(512) 327-2947 Building C, Suite 100 (512) 327-4006

EXHIBIT B

County: Hays  
Parcel No: 18  
Highway: IH 35  
Limits: From FM 2001 to FM 1626 (Kyle Parkway)  
C.S.J.: 0016-02-125

Property Description for Parcel 18

DESCRIPTION OF A 0.301 ACRE (13,116 SQUARE FEET) TRACT OF LAND IN THE THOMAS G. ALLEN SURVEY, ABSTRACT NO. 26, HAYS COUNTY, TEXAS, AND BEING A PART OF THAT 5.468 ACRE TRACT OF LAND CONVEYED TO COMAL COUNTY METRO INVESTMENTS, LTD. BY DEED RECORDED IN VOLUME 3464, PAGE 467 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 0.301 ACRE TRACT, AS SHOWN ON THE ACCOMPANYING RIGHT-OF-WAY SKETCH PREPARED THIS DATE BY C.S.C.I. FOR THIS PARCEL, IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod with TXDOT aluminum cap set (\*\*) on the common westerly line of said 5.468 acre tract, and easterly line of that 101.803 acre tract conveyed to Eastbourne Hays, LP, by deed recorded in Volume 2821, Page 270 of the Official Public Records of Hays County, being on the proposed westerly right-of-way line of Interstate Highway 35 (IH 35) 640.36 feet right of IH 35 centerline station 252+50.80, from which, a ½" iron rod found for the northwest corner of said 5.468 acre tract bears N04°41'46"E, a distance of 700.74 feet;

- 1) THENCE, S85°47'20"E, across said 5.468 acre tract, a distance of 264.54 feet to a ½" iron rod with TXDOT aluminum cap set (\*\*) set for the northeast corner of the herein described tract on the common easterly line of the 5.468 acre tract and existing westerly right-of-way line of IH 35 (variable width R.O.W.), being 389.39 feet right of IH 35 centerline station 251+67.17, from which a cotton gin spindle found for an interior corner of the 5.468 acre tract bears N50°25'04"E, 297.41 feet and N62°23'05"W, 274.13 feet, and a found concrete right-of-way marker bears N50°25'04"E, 299.09 feet and S63°02'37"E, 0.2 feet;
- 2) THENCE, S50°25'04"W, with the common, existing westerly right-of-way line of IH 35 and easterly line of said 5.468 acre tract, at a distance of 35.94 feet pass an iron rod with cap found 0.10 feet west and continuing for a total distance of 80.61 feet to a concrete right-of-way marker found at the intersection with the existing northerly right-of-way line of Hays County Road 210 (Dry Hole Road - variable width R.O.W.), being the southeast corner of the 5.468 acre tract and the herein described tract;

EXHIBIT B

- 3) THENCE, N85°42'15"W, with the common, existing northerly right-of-way line of Hays County Road 210 and southerly line of said 5.468 acre tract, a distance of 206.82 feet to a calculated point for the common southeast corner of that 0.929 acre tract (Dedicated R.O.W.) conveyed to the City of Kyle by deed recorded in Volume 2792, Page 456 of the Deed Records of Hays County, and southwest corner of the 5.468 acre tract and the herein described tract;
- 4) THENCE, N04°41'46"E, leaving the existing northerly right-of-way line of Hays County Road 210, with the common easterly line of said 0.929 acre tract and westerly line of said 5.468 acre tract, at a distance of 30.62 feet pass a ½" iron rod with cap found for the common northeast corner of 0.929 acre tract and southeast corner of the aforesaid 101.803 acre tract, and continuing with the common easterly line of the 101.803 acre tract and westerly line of the 5.468 acre tract, for a total distance of 55.48 feet to the POINT OF BEGINNING, CONTAINING within these metes and bounds, 0.301 acre (13,116 square feet) of land area;

(\*\*) The monument described and set in this call may be replaced with a TxDOT Type II Right-of-Way Marker upon the completion of the highway construction project under the supervision of a Registered Professional Surveyor, either employed or retained by TxDOT.

Bearings and coordinates are based on the Texas State Plane Coordinate System, NAD 83 (93) HARN, South Central Zone. All coordinates and distances shown hereon are project surface values. The project grid-to-surface scale factor is 1.00011 exactly.

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

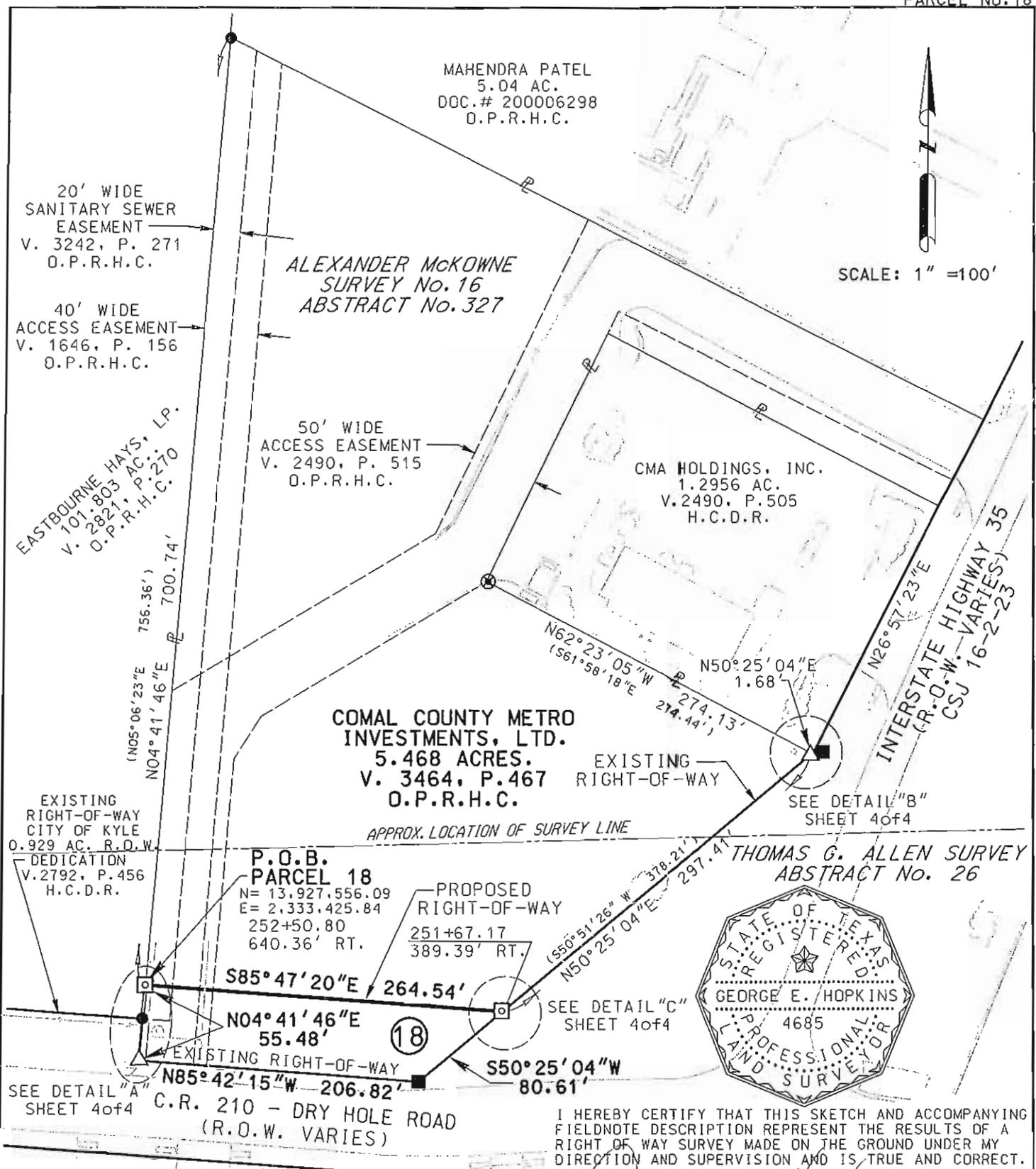
I, George E. Hopkins, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 3<sup>rd</sup> day of August, 2010.



Capital Surveying Company, Inc.  
1101 Capital of Texas Highway S. Bldg. D  
Austin, Texas 78746

  
George E. Hopkins  
Registered Professional Land Surveyor  
No. 4685 - State of Texas



MAHENDRA PATEL  
5.04 AC.  
DOC. # 200006298  
O.P.R.H.C.

ALEXANDER McKOWNE  
SURVEY No. 16  
ABSTRACT No. 327

50' WIDE  
ACCESS EASEMENT  
V. 2490, P. 515  
O.P.R.H.C.

CMA HOLDINGS, INC.  
1.2956 AC.  
V. 2490, P. 505  
H.C.D.R.

COMAL COUNTY METRO  
INVESTMENTS, LTD.  
5.468 ACRES.  
V. 3464, P. 467  
O.P.R.H.C.

20' WIDE  
SANITARY SEWER  
EASEMENT  
V. 3242, P. 271  
O.P.R.H.C.

40' WIDE  
ACCESS EASEMENT  
V. 1646, P. 156  
O.P.R.H.C.

EASTBOURNE HAYS, LP.  
101.803 AC.  
V. 2821, P. 270  
O.P.R.H.C.

EXISTING  
RIGHT-OF-WAY  
CITY OF KYLE  
0.929 AC. R.O.W.  
DEDICATION  
V. 2792, P. 456  
H.C.D.R.

P.O.B.  
PARCEL 18  
N = 13,927,556.09  
E = 2,333,425.84  
252+50.80  
640.36' RT.

PROPOSED  
RIGHT-OF-WAY  
251+67.17  
389.39' RT.



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*George E. Hopkins 8/3/10*

GEORGE E. HOPKINS  
REGISTERED PROFESSIONAL LAND SURVEYOR  
NO. 4685, STATE OF TEXAS

SHEET 3 OF 4 EXISTING RIGHT-OF-WAY

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ROW ACQUISITION 0.301 ACRE		

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1101 Capitol of Texas Highway South Austin, Texas 78746 FAX(512) 327-2947 Building C, Suite 100 15121 327-4005

NOTES:

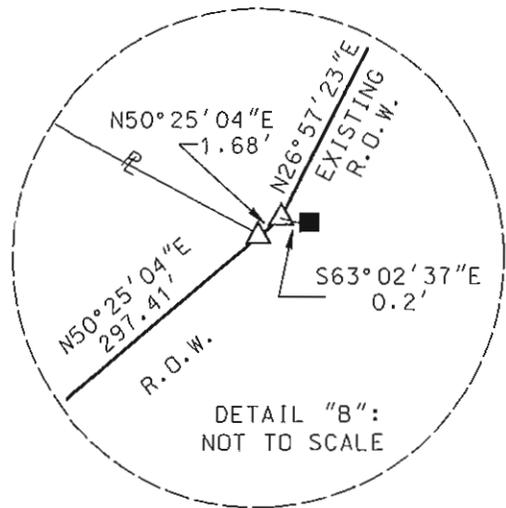
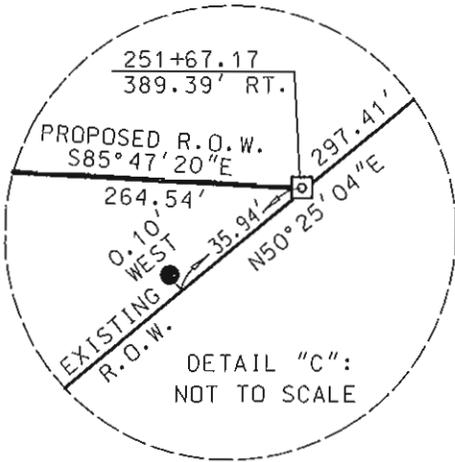
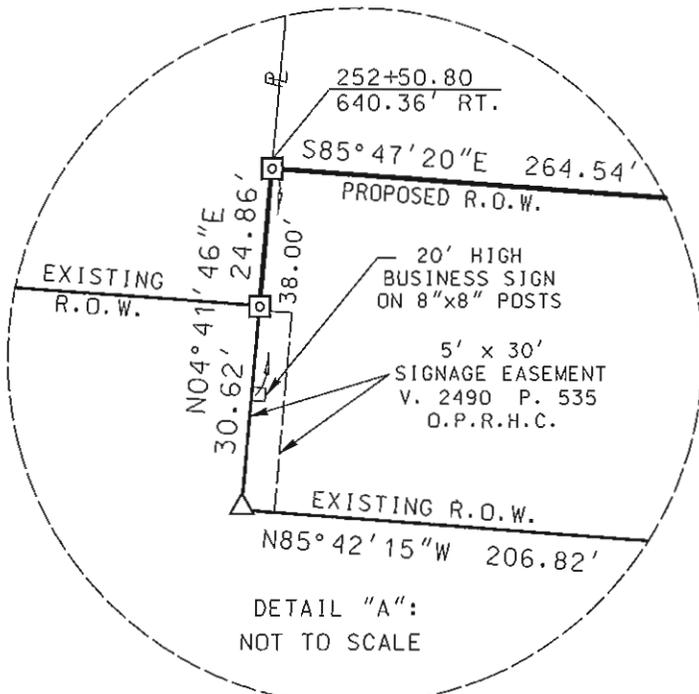
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  - = IRON ROD FOUND - 1/2" UNLESS NOTED
  - ⊙ = IRON PIPE FOUND - SIZE NOTED
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  - = FENCE CORNER POST FOUND
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  - N.T.S. = NOT TO SCALE
  - O.P.R.H.C. = OFFICIAL PUBLIC RECORDS HAYS COUNTY, TEXAS
- NOTE:  
 ⊠ = 1/2" IRON ROD SET WITH TXDOT ALUMINUM CAP TO BE REPLACED WITH A TXDOT TYPE II R.O.W. MONUMENT UPON PARCEL ACQUISITION



SHEET 4 OF 4

DISTRICT AUS	RIGHT OF WAY SKETCH SHOWING PROPERTY OF: PARCEL 18	COUNTY HAYS
REV. NO. 1	CSJ NO. 0016-02-125 I.H. 35	SURVEY DATE AUG. 3 2010
ROW ACQUISITION 0.301 ACRE		

**CSCI** CAPITAL SURVEYING COMPANY INCORPORATED  
 1101 Capital of Texas Highway South Austin, Texas 78746 FAX(512) 327-2947 Building C, Suite 100 (512) 327-4006