

A U S T I N C I T Y C O U N C I L  
**AGENDA**

Thursday, December 14, 2006

+ Back Print

**Public Works  
RECOMMENDATION FOR COUNCIL ACTION****ITEM No. 21**

**Subject:** Authorize the negotiation and execution of a partition agreement of a tract of land being approximately 47.533 acres located just east of Ferguson Cut-off along U.S. Hwy 290 East owned as tenants in common by the City of Austin and Jimmy Nassour, d/b/a Herby's Joint Venture.

**Fiscal Note:** There is no unanticipated fiscal impact. A fiscal note is not required.

**Additional Backup Material**

(click to open)

☐ **FIELD NOTES**☐ **MAP**

**For More Information:** Junie Marie Plummer 974-7085, Laura Bohl 974-7064

The City of Austin (City) purchased an undivided 82.6% interest in 47.533 acres of land on September 21, 1993 in an auction conducted by the Federal Deposit Insurance Corporation (FDIC) in the amount of \$60,000. On January 29, 1999, Herby's Joint Venture (Nassour) acquired the remaining undivided 17.4% interest from the original owner, Dr. George Shannon, after unsuccessful efforts by the City to acquire that interest. This tract is located in the area known as Big Walnut Creek Preserve which connects to other parkland that runs along Walnut Creek.

The Texas Department of Transportation (TxDOT) contacted both the City and Nassour about the expansion of U.S. Hwy 290 East and has determined that a portion of the 47.533 acre tract is required for the new U.S. Hwy 290 East right-of-way. The portion of right-of-way consisting of 8.3436 acres will be partitioned as Nassour's percentage interest of the 47.533 acre tract and the remaining 39.6084 acres will remain with City parkland property.

The Partition Agreement authorizes the City to partition the interest of the 8.3436 acres to Nassour. TxDOT will then negotiate with Nassour for the right-of-way. In addition, as part of this project TxDOT intends to provide a hike and bike trail to the City that will provide access under the U.S. Hwy 290 East Bridge on the North side of Walnut Creek.

## DESCRIPTION

DESCRIPTION OF 39 6084 ACRES OF LAND, MORE OR LESS, OUT OF THE H.T DAVIS SURVEY NO. 30, SAME BEING A PORTION OF THAT TRACT DESCRIBED AS 47.533 ACRES IN DEEDS TO THE CITY OF AUSTIN, OF RECORD IN VOLUME 12033, PAGE 1550. FOR 82 6% UNDIVIDED INTEREST, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS, AND TO HERBY'S JOINT VENTURE, OF RECORD IN VOLUME 13361, PAGE 393, AND VOLUME 13361, PAGE 398. REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS: SAID 39.6084 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod set with plastic cap stamped "MCGRAY MCGRAY" at the northwest corner of this tract. in the west line of said City of Austin - Herby tract, same being the east line of Ferguson Lane, from said point the northeast corner of said City of Austin - Herby tract, the southwest corner of that tract described as 3.511 acres in a deed to the State of Texas, of record in Volume 3100, Page 868, Deed Records, Travis County, Texas. and being the point of intersection of U.S 290 and Ferguson Lane, bears N10°28'31"W 212 46 feet, said point of beginning having Texas State Plane coordinate (Texas Central Zone NAD83 (93 HARN), U.S. feet. adjustment factor of 1.00011) grid values of N=10,093,212.71, E=3,141,994 22;

THENCE, with the north line of this tract, crossing said City of Austin - Herby tract, N84°02'02"E, at 1558.07 feet passing a 1/2" iron rod set with plastic cap stamped MCGRAY MCGRAY, in all a total distance of 1658.07 feet to a point in the center of Walnut Creek, at the northeast corner of this tract, in the east line of said City of Austin - Herby tract and the west line of that tract described as 64.94 acres in a deed to Texas Commerce Bank-Austin, Independent Executor of the Estate of Estelle Morse, of record in Volume 11109, Page 573, Real Property Records, Travis County, Texas;

THENCE, with the east line of this tract and said City of Austin - Herby tract, and the west line of said Texas Commerce Bank tract, with the centerline of said Walnut Creek, the following thirty courses numbered 1 through 30:

- 1) S23°55'52"W 1.77 feet to an angle point;
- 2) S19°27'55"E 100.43 feet to an angle point;
- 3) S12°12'00"E 152.00 feet to an angle point,

- 4) S00°01'33"E 80.83 feet to an angle point,
- 5) S24°57'22"W 27.60 feet to an angle point,
- 6) S41°17'19"W 26.22 feet to an angle point;
- 7) S80°41'33"W 71.55 feet to an angle point;
- 8) N83°32'40"W 70.24 feet to an angle point.
- 9) N61°48'26"W 102.84 feet to an angle point,
- 10) N11°11'43"W 34.22 feet to an angle point,
- 11) N09°28'18"E 182.04 feet to an angle point;
- 12) N32°36'55"W 41.62 feet to an angle point,
- 13) S83°47'42"W 37.62 feet to an angle point,
- 14) S64°04'40"W 200.02 feet to an angle point,
- 15) S86°17'21"W 95.29 feet to an angle point;
- 16) S58°55'20"W 49.23 feet to an angle point;
- 17) S09°33'13"W 38.57 feet to an angle point;
- 18) S49°01'45"E 199.54 feet to an angle point;
- 19) S30°37'28"E 45.76 feet to an angle point;
- 20) S00°58'10"W 67.59 feet to an angle point;
- 21) S21°13'34"W 104.63 feet to an angle point;
- 22) S13°57'30"E 252.28 feet to an angle point;
- 23) S34°19'45"W 30.88 feet to an angle point,
- 24) S65°42'40"W 110.61 feet to an angle point;
- 25) S33°08'17"W 95.46 feet to an angle point,
- 26) S10°17'33"E 151.60 feet to an angle point;
- 27) S14°15'22"W 282.02 feet to an angle point;
- 28) S30°03'38"E 138.16 feet to an angle point,
- 29) S00°50'18"W 163.62 feet to an angle point; and
- 30) S20°22'26"W 213.90 feet to a point at the southeast corner of this tract and the southeast corner of said City of Austin - Herby tract, same being the northeast corner of that tract described as 6.18 acres in a deed to Kenneth A. McClure, of record in Volume 13313, Page 394, Real Property Records, Travis County, Texas;

THENCE, with the south line of this tract, and of said City of Austin - Herby tract and the north line of said McClure tract the following two courses numbered 1 through 2

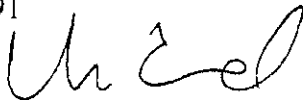
- 1) N57°03'42"W 164.83 feet to a 1/2" iron rod found at an angle point; and
- 2) N78°05'00"W 581.05 feet to a 1/2" iron rod found at the southwest corner of this tract, and of said City of Austin - Herby tract, the northwest corner of said McClure tract, same being an angle point in the east line of Ferguson Lane.

THENCE, with the west line of this tract, and of said City of Austin - Herby tract and the east line of Ferguson Lane, the following four courses numbered 1 through 4

- 1) N03°11'48"W 175.73 feet to a 60d nail found at an angle point,
- 2) N15°25'51"W 151.32 feet to a 1/2" iron rod found at an angle point
- 3) N17°00'47"W 825.68 feet to a 1/2" iron rod found at an angle point. and
- 4) N10°28'31"W 389.42 feet to the POINT OF BEGINNING and containing 39.6084 acres within these metes and bounds

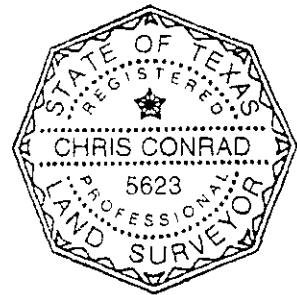
All bearings are based on the Texas State Plane Coordinate System, Central Zone, NAD83(93) HARN All distances and coordinates were adjusted to surface using a combined scale factor of 1 00011

SURVEYED BY  
**McGRAY & McGRAY LAND SURVEYORS, INC.**  
3301 Hancock Drive, Suite 6 Austin, Texas 78731  
(512) 451-8591



1/11/06

Chris I. Conrad, Reg. Professional Land Surveyor No. 5623 Date  
Note: There is a plat to accompany this description. De39.6084



P.O.B.  
GRID COORDINATES  
N=10,093,212.71  
E=3,141,994.22

STATE OF TEXAS  
VOL. 663, PG. 35  
(4.288 AC.)

U.S. 290  
(R.O.W. VARIES)

STATE OF TEXAS  
VOL. 3100, PG. 868  
(3.511 AC.)

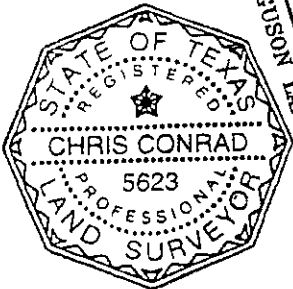
STATE OF TEXAS  
VOL. 3152, PG. 783  
(1.005 AC.)

SCOTT  
MORSE AND  
FREDERICK C  
MORSE, III  
VOL. 9328,  
PG. 297  
(0.383 AC.)

WILLIAM K  
REAGAN  
VOL. 11278,  
PG. 166  
(4.00 AC.)

#### ACREAGE TABLE

8.3436 AC.  
+39.6084 AC.  
=47.9520 AC

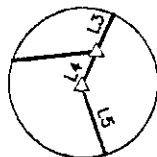


#### LEGEND

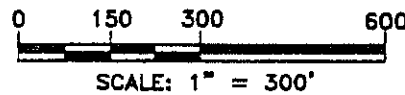
- TXDOT TYPE I CONCRETE MONUMENT FOUND
- 1/2" IRON ROD SET STAMPED "MCGRAY MCGRAY"
- 1/2" IRON ROD FOUND (UNLESS NOTED)
- ▲ 60D NAIL FOUND
- △ CALCULATED POINT
- N.T.S. NOT TO SCALE
- (XXX) RECORD INFORMATION
- P.O.B. POINT OF BEGINNING

CITY OF AUSTIN  
VOL. 12033, PG. 1550  
(82.6% UNDIVIDED INTEREST IN 47.533 AC.)  
HERBY'S JOINT VENTURE  
VOL. 13361, PG. 393  
(5.6% UNDIVIDED INTEREST IN 47.533 AC.)  
HERBY'S JOINT VENTURE  
VOL. 13361, PG. 398  
(11.8% UNDIVIDED INTEREST IN 47.533 AC.)

H.T. DAVIS SURVEY NO. 30



DETAIL A  
N.T.S.



(N75°29'06"W 580.43')  
(N78°05'00"W 581.05')  
(N75°47'W 580.2')

KENNETH A. McCURE  
VOL. 13313, PG. 394  
(6.18 AC.)

8.3436 ACRES

39.6084 ACRES

(CENTERLINE OF WALNUT CREEK)

TEXAS COMMERCE BANK-AUSTIN  
INDEPENDENT EXECUTOR OF THE  
ESTATE OF ESTELLE MORSE  
VOL. 11109, PG. 573  
(84.94 AC.)

#### LINE TABLE

LINE	BEARING	LENGTH
L1	S05°42'02"E	46.26
L2	S06°58'41"W	67.45
L3	S23°55'52"W	115.14
L4	S23°55'52"W	1.77
L5	S19°27'55"E	100.43
L6	S12°12'00"E	152.00
L7	S00°01'33"E	80.83
L8	S24°57'22"W	27.60
L9	S41°17'19"W	26.22
L10	S80°41'33"W	71.55
L11	N83°32'40"W	70.24
L12	N61°48'26"W	102.84
L13	N11°11'43"W	34.22
L14	N09°28'18"E	182.04
L15	N32°36'55"W	41.62
L16	S83°47'42"W	37.62
L17	S64°04'40"W	200.02
L18	S86°17'21"W	95.29
L19	S58°55'20"W	49.23
L20	S09°33'13"W	38.57
L21	S49°01'45"E	199.54
L22	S30°37'28"E	45.76
L23	S00°58'10"W	67.59
L24	S21°13'34"W	104.63
L25	S13°57'30"E	252.28
L26	S34°19'45"W	30.88
L27	S65°42'40"W	110.61
L28	S33°08'17"W	95.46
L29	S10°17'33"E	151.60
L30	S14°15'22"W	282.02
L31	S30°03'38"E	138.16
L32	S00°50'18"W	163.62
L33	S20°22'26"W	213.90
L34	N57°03'42"W	164.83
(L34)	(N54°27'06"W)	(167.06)
L35	N03°11'48"W	175.73
L36	N15°25'51"W	151.32
L37	N84°02'02"E	112.65
(L37)	(N67°10'00"E)	(113.22)

SURVEYED BY: MCGRAY & MCGRAY LAND SURVEYORS, INC.  
3301 HANCOCK DR., STE 6, AUSTIN, TX 78731 512/451-8591

#### NOTES:

- 1) BEARINGS AND COORDINATES ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD83 (93HARN) ALL DISTANCES AND COORDINATES WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.00011.
- 2) SEE PAGES 1 & 2 OF 3 FOR DESCRIPTION OF THIS PARCEL
- 3) THIS SURVEY WAS DONE WITHOUT A TITLE REPORT OR EASEMENT SEARCH.

CHRIS CONRAD, REG. PROF. LAND SURVEYOR NO. 5623 DATE 1/11/06  
SURVEYED ON GROUND UNDER MY DIRECT SUPERVISION

**McGRAY & McGRAY**  
LAND SURVEYORS, INC.  
3301 HANCOCK DRIVE #6  
AUSTIN, TEXAS 78731  
(512) 451-8591

PLAT OF 39.6084 AC. OF LAND OUT OF THE H.T. DAVIS SURVEY NO. 30, SAME BEING 82.6% OF THAT TRACT DESCRIBED IN DEEDS TO CITY OF AUSTIN, OF RECORD IN VOLUME 12033, PAGE 1550, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS, AND TO HERBY'S JOINT VENTURE, OF RECORD IN VOLUME 13361, PAGE 393 AND VOLUME 13361, PAGE 398, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS

## DESCRIPTION

DESCRIPTION OF 8.3436 ACRES OF LAND, MORE OR LESS, OUT OF THE H.T DAVIS SURVEY NO 30, SAME BEING A PORTION OF THAT TRACT DESCRIBED AS 47.533 ACRES IN DEEDS TO THE CITY OF AUSTIN, OF RECORD IN VOLUME 12033, PAGE 1550, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS, AND TO HERBY'S JOINT VENTURE, OF RECORD IN VOLUME 13361, PAGE 393, FOR 5.6% UNDIVIDED INTEREST, AND VOLUME 13361, PAGE 398, FOR 11.8% UNDIVIDED INTEREST, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS; SAID 8.3436 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found at the northwest corner of this tract and said City of Austin - Herby tract, same being the southwest corner of that tract described as 3 511 acres in a deed to the State of Texas, of record in Volume 3100, Page 868, Deed Records, Travis County, Texas, and being the point of intersection of U.S. 290 and Ferguson Lane, said point of beginning having Texas State Plane coordinate (Texas Central Zone NAD83 (93 HARN), U S. feet, adjustment factor of 1.00011) grid values of N=10,093,421.60, E=3,141,955.59;

THENCE, with the north line of this tract and said City of Austin - Herby tract, same being the south line of said State of Texas tract and of U.S 290, N84°02'02"E, at 1647.49 feet passing a 1/2" iron rod set with plastic cap stamped MCGRAY MCGRAY, in all a total distance of 1747.49 feet to a point in the center of Walnut Creek, at the northeast corner of this tract and said City of Austin - Herby tract and the southeast corner of said State of Texas tract, same being the southwest corner of that tract described as 1.005 acres in a deed to the State of Texas, of record in Volume 3152, Page 763, Deed Records, Travis County, Texas, the west corner of that tract described as 0.363 acres in a deed to Scott Morse and Frederick C. Morse, III, of record in Volume 9328, Page 297, Real Property Records, Travis County, Texas, and also being the northwest corner of that tract described as 64.94 acres in a deed to Texas Commerce Bank-Austin, Independent Executor of the Estate of Estelle Morse, of record in Volume 11109, Page 573, Real Property Records, Travis County, Texas, from which a 1/2" iron rod found at an angle point in the north line of said Morse tract, same being an angle point in the south line of said 1.005 acre State of Texas tract and U.S. 290, bears N84°02'02"E 112.65 feet;

THENCE, with the east line of this tract and said City of Austin - Herby tract, and the west line of said Texas Commerce Bank tract, with the centerline of said Walnut Creek, the following three courses numbered 1 through 3.

- 1) S05°42'02"E 46.26 feet to an angle point;
- 2) S06°58'41"W 67.45 feet to an angle point; and
- 3) S23°55'52"W 115.14 feet to a point at the southeast corner of this tract;

THENCE, with the south line of this tract, crossing said City of Austin - Herby tract, S84°02'02"W, at 100.00 feet passing a 1/2" iron rod set with plastic cap stamped MCGRAY MCGRAY, in all a total distance of 1658.07 feet to a 1/2" iron rod set with plastic cap stamped MCGRAY MCGRAY at the southwest corner of this tract, same being in the west line of said City of Austin - Herby tract and in the east line of said Ferguson Lane, from which a 1/2" iron rod found at an angle point in the west line of said City of Austin - Herby tract, same being an angle point in the east line of Ferguson Lane, bears S10°28'31"E 389.42 feet;

THENCE, with the west line of this tract and said City of Austin - Herby tract, and the east line of Ferguson Lane, N10°28'31"W 212.46 feet to the POINT OF BEGINNING and containing 8.3436 acres within these metes and bounds.

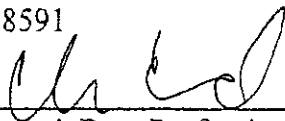
All bearings are based on the Texas State Plane Coordinate System, Central Zone, NAD83(93) HARN. All distances and coordinates were adjusted to surface using a combined scale factor of 1.00011.

SURVEYED BY:

**McGRAY & McGRAY LAND SURVEYORS, INC.**

3301 Hancock Drive, Suite 6 Austin, Texas 78731

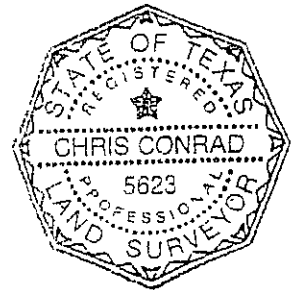
(512) 451-8591



1/11/06

Chris I. Conrad, Reg. Professional Land Surveyor No. 5623      Date

Note. There is a plat to accompany this description. De8 3436



P.O.B  
GRID COORDINATES  
N=10,093,421.60  
E=3,141,955.59

STATE OF TEXAS  
VOL 663, PG 35  
(4.288 AC.)

U.S. 290  
(ROW VARIES)

STATE OF TEXAS  
VOL 3100, PG 868  
(3.511 AC.)

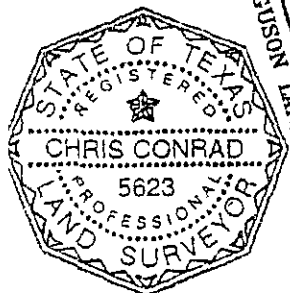
STATE OF TEXAS  
VOL 3152, PG 783  
(1.005 AC.)

SCOTT  
MORSE AND  
FREDERICK C  
MORSE, III  
VOL 9328,  
PG 297  
(0.363 AC.)

WILLIAM K  
REAGAN  
VOL 11278,  
PG 188  
(4.00 AC.)

#### ACREAGE TABLE

8.3436 AC.  
+39.6084 AC  
=47.9520 AC.



#### LEGEND

- TXDOT TYPE I CONCRETE MONUMENT FOUND
- 1/2" IRON ROD SET STAMPED "MCGRAY MCGRAY"
- 1/2" IRON ROD FOUND (UNLESS NOTED)
- ▲ 60D NAIL FOUND
- △ CALCULATED POINT
- N.T.S. NOT TO SCALE
- XXX) RECORD INFORMATION
- P.O.B POINT OF BEGINNING

SURVEYED BY MCGRAY & MCGRAY LAND SURVEYORS, INC  
3301 HANCOCK DR., STE 6, AUSTIN, TX 78731 512/451-8591

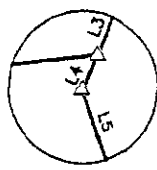
CHRIS CONRAD, REG. PROF. LAND SURVEYOR NO. 5623 DATE 11/11/06  
SURVEYED ON GROUND UNDER MY DIRECT SUPERVISION

McGRAY & McGRAY  
LAND SURVEYORS, INC.  
3301 HANCOCK DRIVE #6  
AUSTIN, TEXAS 78731  
(512) 451-8591

PLAT OF 8.3436 AC. OF LAND OUT OF THE H.T. DAVIS SURVEY NO. 30, SAME BEING 17.4% OF THAT TRACT DESCRIBED DEEDS TO CITY OF AUSTIN, OF RECORD IN VOLUME 12033, PAGE 1550, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS, AND TO HERBY'S JOINT VENTURE, OF RECORD IN VOLUME 13361, PAGE 393 AND VOLUME 13361, PAGE 398, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS

CITY OF AUSTIN  
VOL 12033, PG 1550  
(82.6% UNDIVIDED INTEREST IN 47.533 AC.)  
HERBY'S JOINT VENTURE  
VOL 13361, PG 393  
(5.6% UNDIVIDED INTEREST IN 47.533 AC.)  
HERBY'S JOINT VENTURE  
VOL 13361, PG. 398  
(11.8% UNDIVIDED INTEREST IN 47.533 AC.)

H.T. DAVIS SURVEY NO. 30



DETAIL A  
N.T.S.

0 150 300 600  
SCALE: 1" = 300'

KENNETH A. MCCLURE  
VOL 13313, PG. 394  
(8.18 AC.)

TEXAS COMMERCE BANK-AUSTIN  
INDEPENDENT EXECUTOR OF THE  
ESTATE OF ESTELLE MORSE  
VOL 11109, PG 573  
(64.94 AC.)

#### LINE TABLE

LINE	BEARING	LENGTH
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L7	S00°01'33"E	80.83
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L9	S41°17'19"W	26.22
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L11	N83°32'40"W	70.24
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L15	N32°36'55"W	41.62
L16	S83°47'42"W	37.62
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L18	S96°17'21"W	95.29
L19	S58°55'20"W	49.23
L20	S09°33'13"W	38.57
L21	S49°01'45"E	199.54
L22	S30°37'28"E	45.76
L23	S00°58'10"W	67.59
L24	S21°13'34"W	104.63
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L26	S34°19'45"W	30.88
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L34	N57°03'42"W	164.83
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(L37)	(N87°10'00"E)	(113.22)

#### NOTES.

- 1) BEARINGS AND COORDINATES ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD83 (93HARN) ALL DISTANCES AND COORDINATES WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.00011.
- 2) SEE PAGES 1 & 2 OF 3 FOR DESCRIPTION OF THIS PARCEL.
- 3) THIS SURVEY WAS DONE WITHOUT A TITLE REPORT OR EASEMENT SEARCH



