

Resolution # TC-17-11-[]

R3 US Highway 40 Craig East BPM Project, NHPP 0402-090, Project Code 20753

Authorizing the Chief Engineer to initiate and conduct condemnation proceedings pursuant to articles 1 to 7 of title 38, C.R.S. for the property owned by William H. Rose and referred to as Parcels PE-1 and TE-1.

Approved by the Transportation Commission on _____, 2017.

WHEREAS, pursuant to Colorado law at Section 43-1-208, C.R.S., the Colorado General Assembly has conferred the power of eminent domain upon the Transportation Commission to acquire private property necessary for state highways purposes; and

WHEREAS, on October 19, 2017 meeting, the Transportation Commission adopted Resolution TC 17-10-10, which directed the “Executive Director of the Department of Transportation or his delegatee, to handle on its behalf consistent with State and Federal Laws, both the approval for land acquisition actions and the tendering of payment to landowners for damages in connection with previously approved highway projects;” and

WHEREAS, on September 26, 2016 the Colorado Supreme Court announced its decision in *Department of Transportation v. Amerco Real Estate Company; U-Haul Company of Colorado; et al.*, 2016SA75; and

WHEREAS, the *Amerco Real Estate Company* opinion held that the Transportation Commission must decide that the public interest or convenience will be served by a proposed alteration of a state highway and that the Commission’s decision must be made in consideration of the portions of land of each landowner to be taken and an estimate of the damages and benefits accruing to each landowner prior to authorizing condemnation of property; and

WHEREAS, the *Amerco Real Estate Company* opinion also held that the Transportation Commission is authorized to either direct the Chief Engineer to make tender to a landowner or the Transportation Commission can proceed in the acquisition of private lands for state highway purposes, according to articles 1 to 7 of title 38, C.R.S., without tender to the landowner; and

WHEREAS, the *Amerco Real Estate* opinion further held that the Transportation Commission could delegate to the “legal staff or representatives of the commission or department” the “initiation and conduct of condemnation proceedings.” *Amerco Real Estate Company*, 2016SA75, ¶15; and

WHEREAS, on October 19, 2017, the Transportation Commission entered resolution TC-17-10-10 (“Resolution”) upon its minutes for the US Highway 40 Craig East Project, NHPP 0402-090, Project Code 20753; and

WHEREAS, the Resolution determined that the public interest or convenience will be served by the proposed alterations to U.S. Highway No. 40, approved the Chief Engineer's estimate of damages and benefits accruing to each landowner, and authorized the CDOT Chief Engineer to negotiate with landowners; and

WHEREAS, pursuant to the Resolution CDOT attempted to locate a landowner, however, after a good-faith and diligent search, CDOT was unable to locate any landowner to negotiate with; and

WHEREAS, the Property sought by CDOT may include buildings, structures, or other improvements on the real Property and may also include tenant-owned improvements, personal property, and other real estate; and

WHEREAS, CDOT has an immediate need for the Property and the inability to work on the Property will likely cause delay to the US Highway 40 Craig East BPM Project, NHPP 0402-090, Project Code 20753 ("Project"), resulting in significant monetary harm to CDOT; and

WHEREAS, the Transportation Commission acknowledges that it or its predecessors previously reviewed the written report of the Chief Engineer seeking approval to negotiate with landowners and has also reviewed the written report of the Chief Engineer seeking approval to initiate and conduct condemnation proceedings, and both reports included all information and documents required pursuant to Section 43-1-208(1), in relation to the Project and the Properties; and

NOW THEREFORE BE IT RESOLVED, the Transportation Commission authorizes CDOT to initiate and conduct condemnation proceedings for the following landowner. If CDOT and the landowner reach a settlement amount that requires approval by the Regional Transportation Director and the Chief Engineer, as set forth in the CDOT Right-Of-Way Manual, then the settlement amount is subject to Transportation Commission approval. If the condemnation matter is resolved through a certificate of ascertainment and assessment, or verdict, then the certificate of ascertainment and assessment, or verdict amount is subject to approval by the Transportation Commission. If acquisition of the Properties require acquisition of buildings, structures, or improvements on real property as well as acquisition of tenant-owned improvements both real and personal property, or other real estate, the Transportation Commission authorizes CDOT to acquire those items through eminent domain proceedings if necessary.

CDOT may initiate and conduct condemnation proceedings for the following landowners:

1. Landowner Name: William H. Rose
Address of Property: Vacant Land in the SW ¼ of Section 31, Township 7 North, Range 90 West, Moffat County
Parcel Required: PE-1, TE-1
Estimated Property Value, Damages and Benefits (if any): \$740

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date



COLORADO

Department of Transportation

Office of the Chief Engineer
4201 East Arkansas Ave, Suite 262
Denver, CO 80222

MEMORANDUM

TO: TRANSPORTATION COMMISSION

FROM: JOSH LAIPPLY, CHIEF ENGINEER *by P. H. H. For J. Laipply*

DATE: November 1, 2017

SUBJECT: REPORT PURSUANT TO COLORADO REVISED STATUTES, §43-1-208 REGARDING PROJECT NUMBER NHPP 0402-090, PROJECT CODE 20753, US HIGHWAY 40 CRAIG EAST BRIDGE PREVENTIVE MAINTENANCE (BPM), SEEKING APPROVAL TO INITIATE AND CONDUCT CONDEMNATION PROCEEDINGS

Background

This written report to the Transportation Commission is pursuant to Colorado Revised Statutes ("C.R.S."), Section 43-1-208(1). On October 19, 2017, the Transportation Commission entered Resolution No. TC 17-10-10 ("Resolution") upon its minutes, which determined that the US Highway 40 Craig East BPM, Project No. 0402-090, would serve the public interest and/or convenience of the traveling public. The Resolution also authorized CDOT to engage in negotiations with the landowners listed below.

Unfortunately, title to the Property listed below is undeterminable because the last owners of record are deceased, and the descendants of the last owners of record are also deceased. As a result, CDOT seeks Transportation Commission approval to initiate and conduct condemnation proceedings pursuant to Colorado Revised Statutes, Section 38-1-101 *et seq.* for the Property listed below.

The US Highway 40 Craig East BPM ("Project") is necessary for improving the bridge deck surfaces, installing new joints and approach slabs, and performing scour mitigation by installing rip-rap along creek banks. This will optimize the function of the existing roadway network, protect the integrity of the deck and abutments and is therefore, desirable.

Overview of Property Previously Approved for Negotiation

There is one permanent easement and one temporary easement acquisition previously approved for negotiation.

1. Resolution No. Approving Negotiation: October 19, 2017 meeting, TC 17-10-10
Address: No Address - Vacant Land in Craig, Colorado
Landowner's Name: William H. Rose.
Current Size of Property: 2500 square feet (0.057 acres)

Proposed Size of Acquisition: 820 square feet (0.018 acres)

Purpose of Parcels Necessary for Project:

- PE-1: 308 s.f. This is a permanent easement parcel required for the purpose of permanent access to construct and maintain highway structures and facilities.
- TE-1: 512 s.f. This is a temporary easement parcel required for the purpose of temporary access to construct highway structures and grading. The temporary easement duration is 18 months from the date of entry by the contractor for construction.

The subject Property is void of any improvements.

Estimated Property Value, Damages and Benefits (if any): \$740.00

Method to Determine Property Value, Damages and Benefits (if any): Value is based on comparable sales of similar properties near the location of the Property.

Date of Initial Offer: CDOT obtained an independent Title Commitment for the Property, and CDOT staff performed additional research in attempt to locate heirs to the last known owners of the Property. CDOT has concluded that title to the Property is undeterminable, and therefore CDOT staff have not been able to tender an offer.

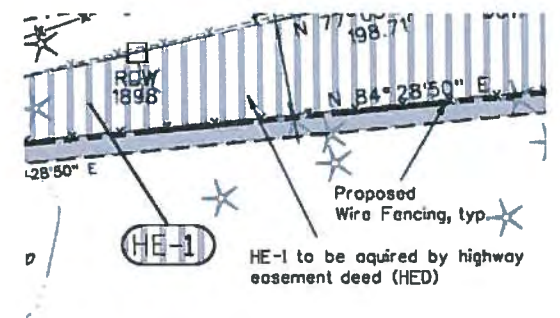
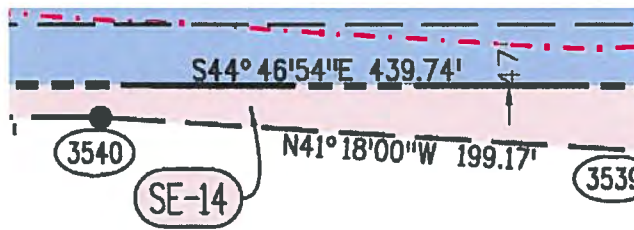
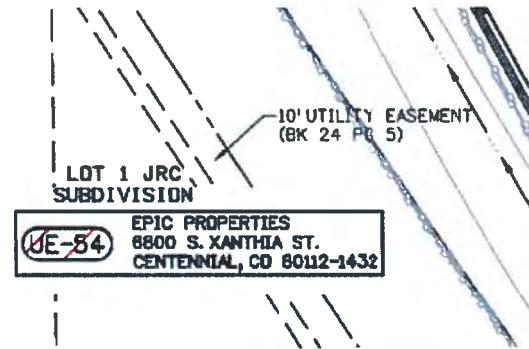
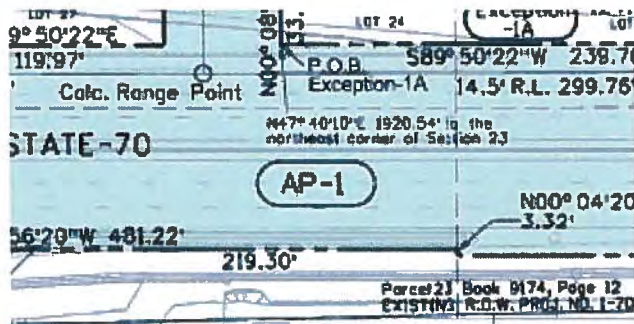
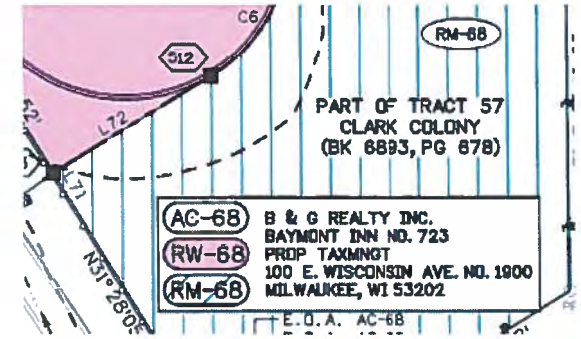
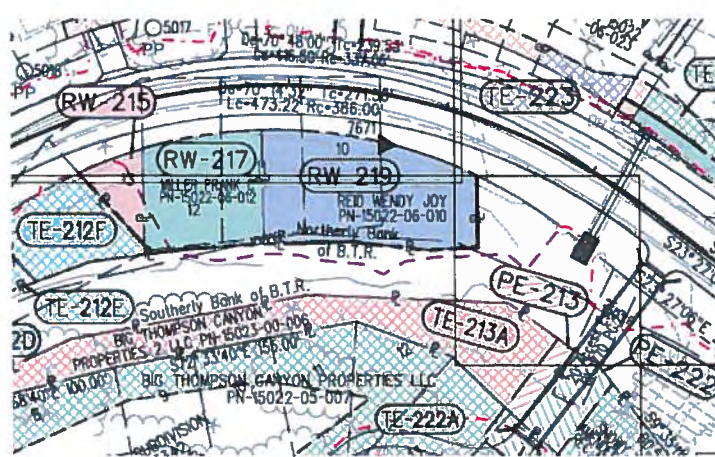
Summary of Counteroffers: N/A.

Attachments:

Proposed Resolution

Right Of Way Plan Key - Parcel Designations

RW - XXX	Partial or Complete Parcel Acquisition (Right of Way)
TE - XXX	Temporary Easement
PE - XXX	Permanent Easement
AC - XXX	Access Parcel
RM - XXX	Remnant Parcel
AP - XXX	Early Acquisition Parcel (Advance of Plans)
UE - XXX	Utility Easement
SE - XXX	Slope Easement
HE - XXX	Highway Easement



Tract D
Superior Town Center Filing No. 1B
Rec.#03367475, 02/25/2014

Sheet Revisions			Sheet Revisions			Sheet Revisions		
Date	Description	Initials	Date	Description	Initials	Date	Description	Initials

Right of Way Plans			
Title Sheet			
Project Number: NHPP 0402-090		Project Location: US 40 CRAIG EAST BPM	
Project Code: 20753	Last Mod. Date: 08-23-17	Subset: 1.01 to 1.01	Sheet No.: 1.01

DEPARTMENT OF TRANSPORTATION STATE OF COLORADO

RIGHT OF WAY PLANS OF PROPOSED STATE PROJECT NO. NHPP 0402-090 U.S. HIGHWAY NO. 40 MOFFAT COUNTY

SHEET NO.

INDEX OF SHEETS

- 1.01
- 2.01
- 3.01-3.0X
- 4.01-4.03
- 5.01
- 6.01-6.0X
- 7.01-7.02
- 8.01

- (1) Title Sheet
- (1) Tabulation of Properties
- (NA) Project Control Diagram - Provided by Others. See LSCD
- (3) Land Survey Control Diagram
- (1) Monumentation Sheet
- (NA) Tabulation of Road Approach Sheets
- (2) Plan Sheet
- (1) Ownership Map

Scales of Original 11"x17" Drawings
 Plan Sheets 1"=40'
 Ownership Map 1"=100'

Basis of Bearings: All bearings are based on the line connecting the Northwest Corner of Section 6, T.6N., R.90W., of the 6th P.M. (2-1/2" Brass Cap in Range Box, Mostly Illegible) and the Northeast Corner of Section 6, T.6N. R.90W., of the 6th P.M. (3-1/2" Brass Cap Stamped "U.S.G.L.D., 1908") having a grid bearing of S88°01'41"E. The survey data was obtained from a Global Positioning System (GPS) survey based on the Colorado High Accuracy Reference Network (CHARN).

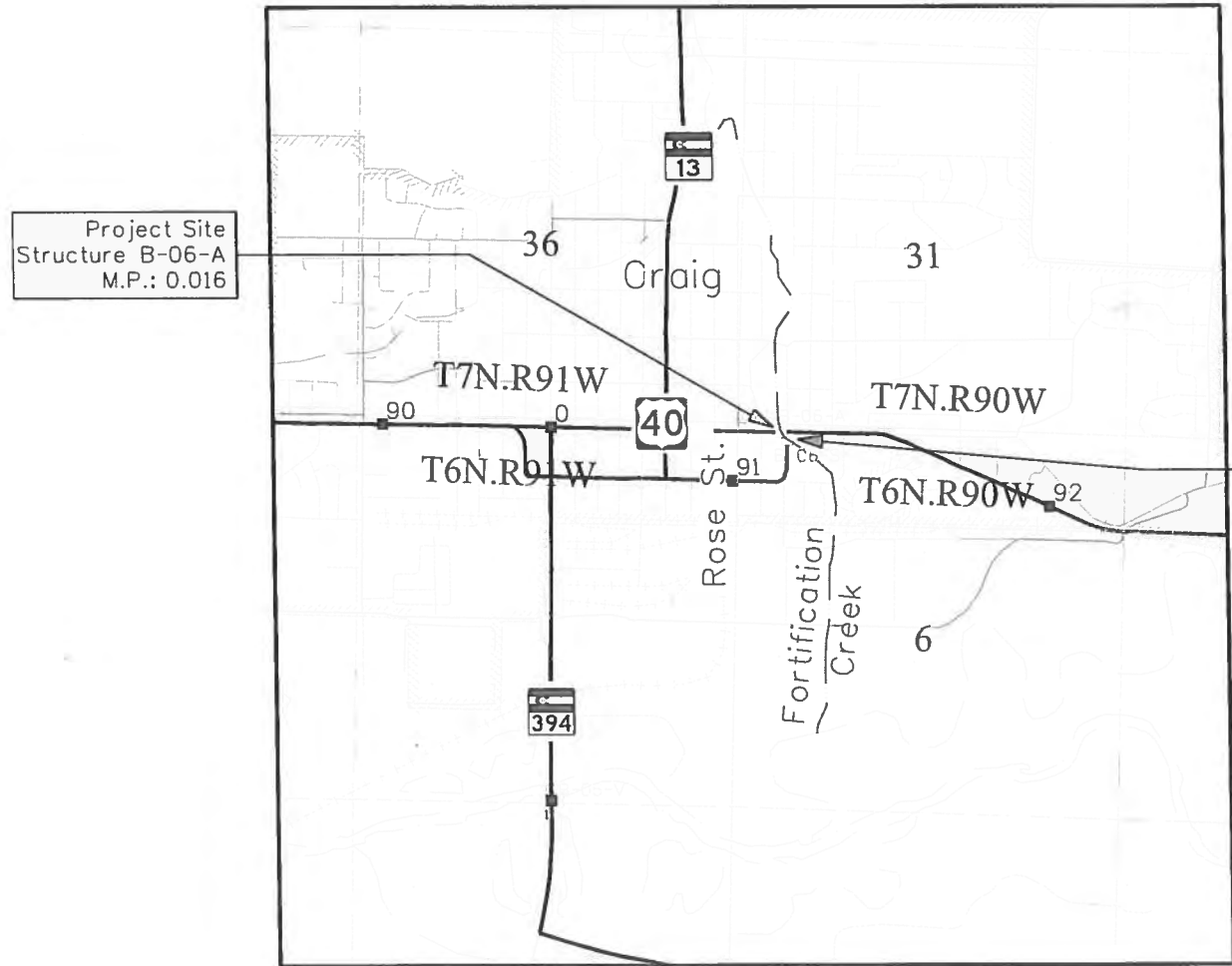
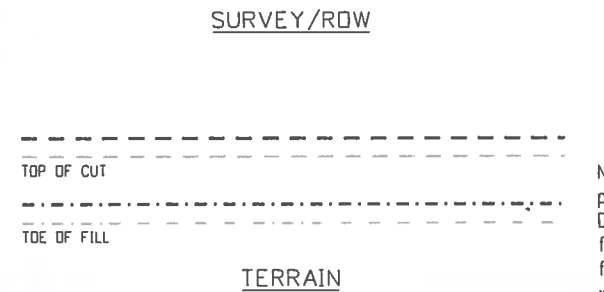
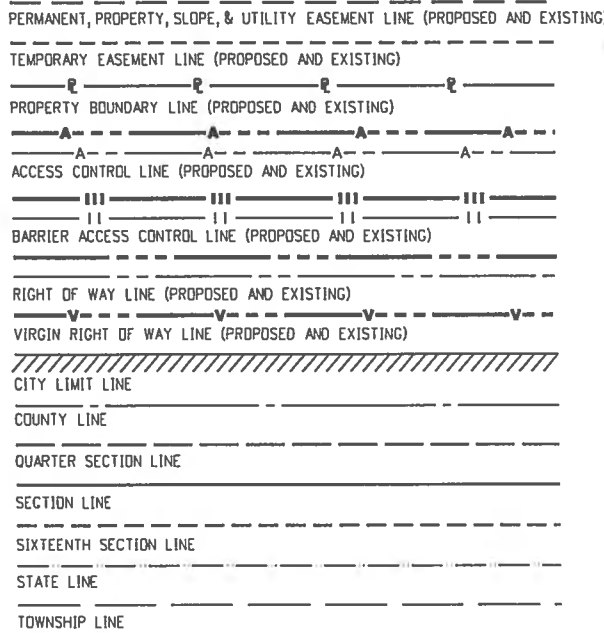
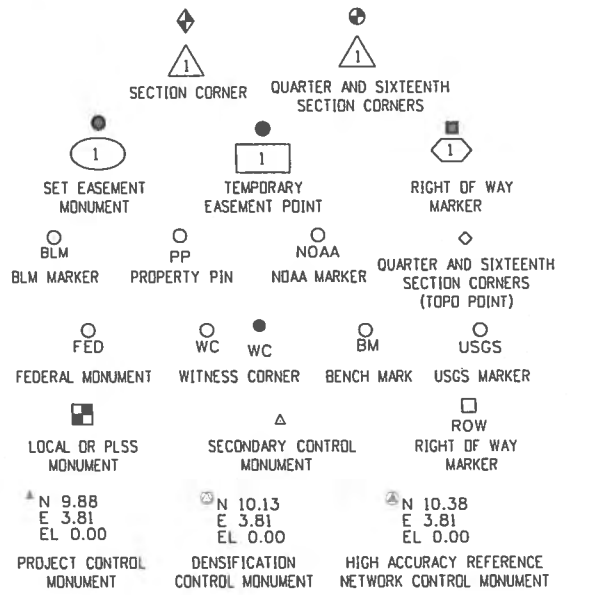
- This Right-of-Way Plan is not a boundary survey of the adjoining property and is prepared for the Colorado Department of Transportation purposes only.
- For title information, 105 West, Inc. relied on Title Commitments as shown on the Tabulation of Properties Sheet 2.01, issued by H.C. Peck & Associates, Inc. for Westcor Land Title Insurance Company.
- This plan set is subject to change and may not be the most current set. It is the user's responsibility to verify with CDOT that this set is the most current. The information contained on the attached drawing is not valid unless this copy bears an original signature of the Professional Land Surveyor hereon named.

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

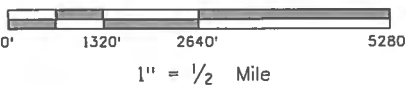
COLORADO DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY PROJECT

ROW PLANS AUTHORIZED: *[Signature]* 10-6-17
DATE

CDOT CHIEF ENGINEER



PROJECT LOCATION MAP



Note: For a complete listing of symbology used within this set of plans, please refer to the M-100-1 Standard Symbols of the Colorado Department of Transportation M&S Standards Publication. Existing topo features are shown as screened weight (gray scale). Proposed or new features are shown as full weight without screening, except as noted with the word (proposed).

SURVEYOR STATEMENT (ROW PLAN)

I, Richard D. Muntean, a professional land surveyor licensed in the State of Colorado, do hereby state to the Colorado Department of Transportation that based upon my knowledge, information and belief, research, calculations and evaluation of the survey evidence were performed and this Right-of-Way Plan was prepared under my responsible charge in accordance with applicable standards of practice defined by Colorado Department of Transportation publications. This statement is not a guaranty or warranty, either expressed or implied.

PLS No. 38189

9/14/2017 8:51:59 AM P:\105 West Projects\152-0011 - US 40 Craig BPM\ROW_Survey\Drawings\20753\ROW Title Sheet - State.dgn
 DEPT.
 SIGNED
 FILING CERTIFICATION: DEPOSITED THIS DAY OF AT .M., IN BOOK OF THE COUNTY LAND SURVEYS/RIGHT OF WAY SURVEYS AT PAGE . RECEPTION NUMBER .

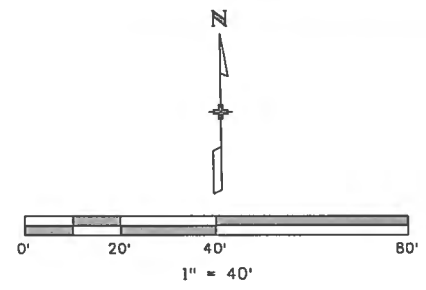
Sheet Revisions		
Date	Description	Initials

Sheet Revisions		
Date	Description	Initials

Sheet Revisions		
Date	Description	Initials

105WEST
 INCORPORATED
 4201 E. Yale Ave., Suite 230
 Denver, CO 80222
 303.859.4491

Right of Way Plans			
Plan Sheet			
Project Number: NHPP 0402-090			
Project Location: US 40 CRAIG EAST BPM			
Project Code:	Last Mod. Date:	Subset:	Sheet No.:
20753	08-23-17	7.01 to 7.02	7.01

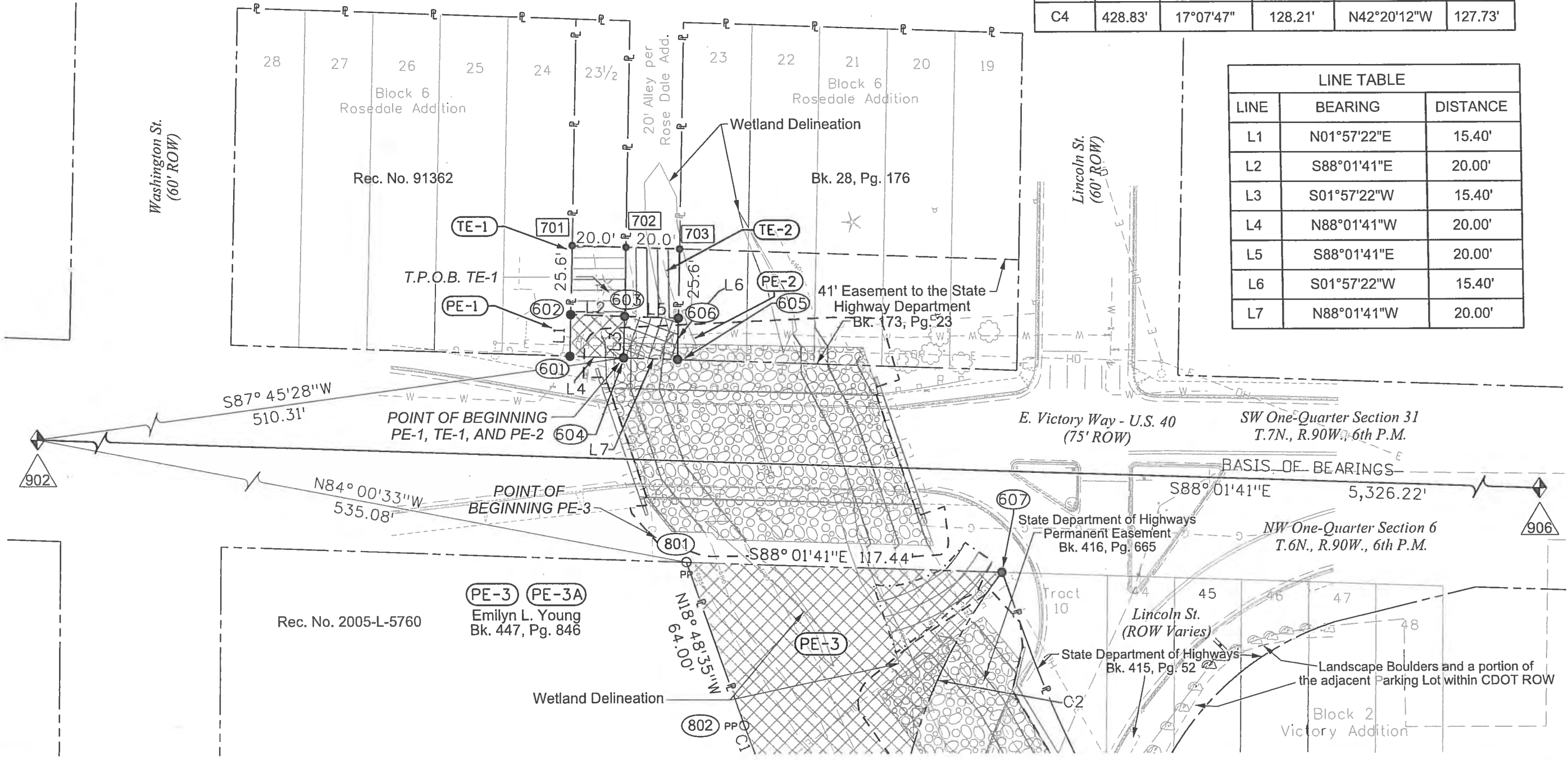


PE-1 TE-1
 William H. Rose
 Patent to W. H. Rose dated
 June 4, 1890, Certificate No. 89

PE-2 TE-2
 Town of Craig
 Rose Dale Addition
 to the Town of Craig

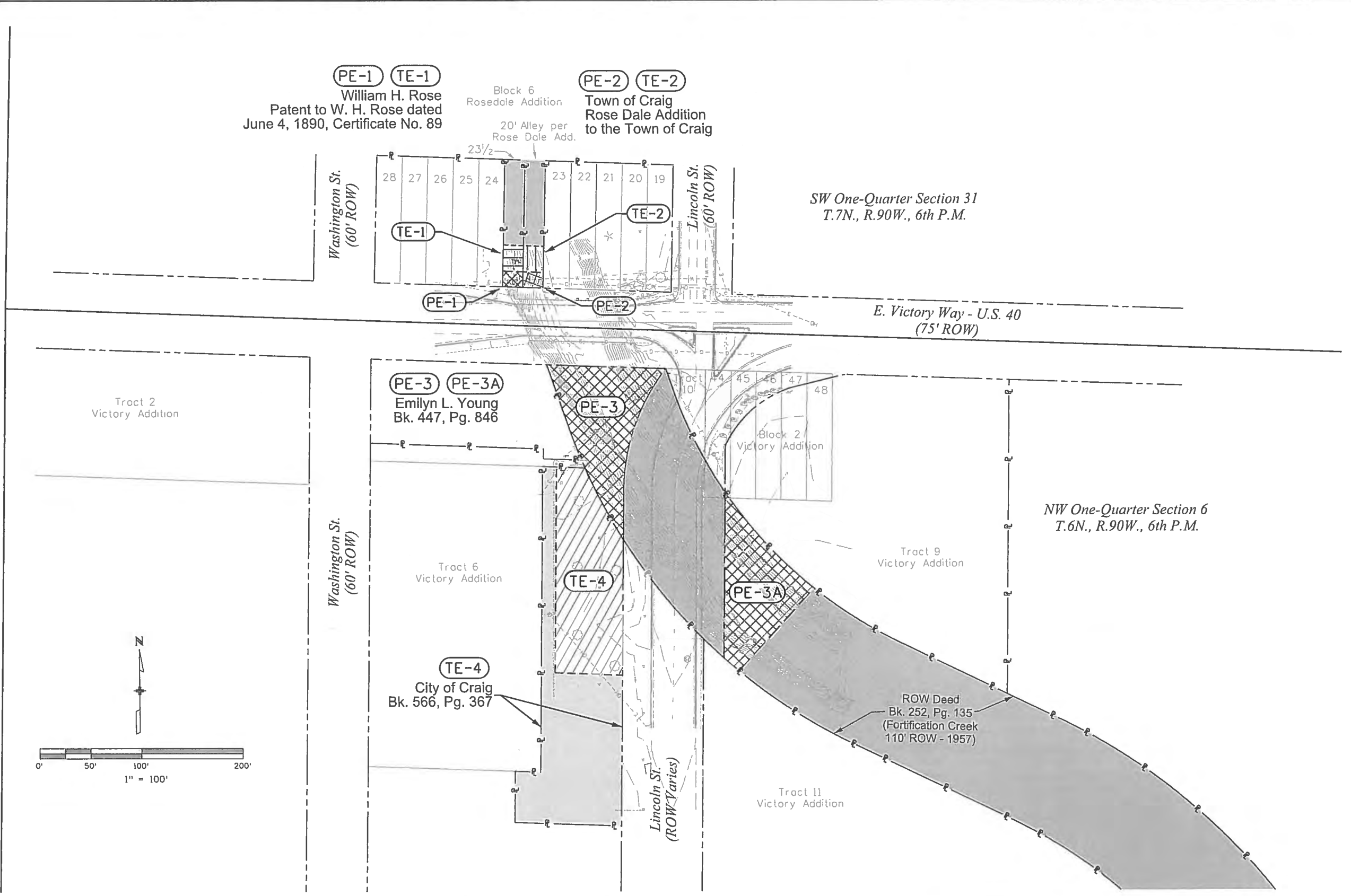
CURVE TABLE					
CURVE	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD
C1	538.83'	13°05'21"	123.10'	N25°21'16"W	122.83'
C2	200.00'	37°10'14"	129.75'	S19°46'47"W	127.49'
C3	538.83'	02°04'24"	19.50'	S49°08'06"E	19.50'
C4	428.83'	17°07'47"	128.21'	N42°20'12"W	127.73'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N01°57'22"E	15.40'
L2	S88°01'41"E	20.00'
L3	S01°57'22"W	15.40'
L4	N88°01'41"W	20.00'
L5	S88°01'41"E	20.00'
L6	S01°57'22"W	15.40'
L7	N88°01'41"W	20.00'



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Sheet Revisions			Sheet Revisions			Sheet Revisions		
Date	Description	Initials	Date	Description	Initials	Date	Description	Initials



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