

ORDINANCE NO. 3189

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF FEE SIMPLE TITLE TO APPROXIMATELY 345.0 SQUARE FEET OF LAND LOCATED WITHIN A TRACT OF LAND IN THE DANIEL TANNER SURVEY ABSTRACT NO. 1462, AS DESCRIBED IN VOLUME 83063, PAGE 624 FOR THE CONSTRUCTION OF IMPROVEMENTS AT THE INTERSECTION OF TOWN EAST BOULEVARD AND FORNEY ROAD; AUTHORIZING THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Mesquite has determined that a public necessity exists for the welfare of the citizens of the City of Mesquite and it is in the public interest to acquire necessary right-of-way in certain real property for street right of way to construct roadway and traffic signal improvements at the intersection of Town East Boulevard and Forney Road;

WHEREAS, the property in which the right-of-way is to be acquired for such purposes is located within a tract of land in the Daniel Tanner Survey, Abstract No. 1462, described in Volume 83063, Page 624 in the City of Mesquite, Dallas County, Texas and being a 345.0 square foot parcel for the street improvements more particularly described in Exhibit "A" attached hereto and made a part hereof by reference (the "property").

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS.

SECTION 1. That the City Council of the City of Mesquite, Texas, hereby finds and does deem it necessary and expedient for the welfare of the City and its citizens, and has determined that a public necessity exists for the acquisition of the fee simple title to the property described in the preamble of this Ordinance, which for all purposes is adopted and made a part of the body of this Ordinance, for right-of-way in connection with the construction and improvement, maintenance, operation and all lawful purposes incident thereto of street improvements.

SECTION 2. That it is hereby confirmed that the City Manager was authorized to and did make an offer, based upon value determined from appraisal of the property by competent and qualified appraisers, to acquire the property, and such offer was transmitted via certified mail to the property owner, Mr. and Mrs. Gary R. Timbes, on October 14, 1997, in the amount of One Thousand Five Hundred Forty-Two and 15/100 (\$1,542.15), and said offer was not accepted by the owner of the property and it has been determined that further negotiations

would be futile, agreement cannot be reached and the City will need to initiate eminent domain proceedings to acquire said property.

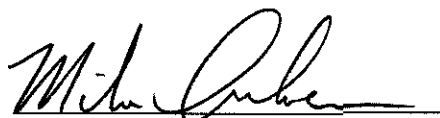
SECTION 3. That the City Attorney or his designee is hereby authorized to file or cause to be filed, against the owner and against all others holding an interest in the property, proceedings in eminent domain to acquire the fee simple title to the property described herein for the purposes described herein.

SECTION 4. It is the intent of the City Council that this Ordinance authorize the condemnation of all interest in property necessary to accomplish the purposes described herein, however, should any portion of the property described herein not be subject to legal condemnation by the City of Mesquite, such fact shall not prevent the City from condemning that portion of the described land which is subject to legal condemnation by the City, and it is the intention of the City Council to condemn only such property interest as may be legally condemned by the City within the limits of the land described herein. Further, if it is determined that there are any errors in the descriptions contained herein, the City Attorney, or his designee, is authorized to have such errors corrected or revisions made without the necessity of obtaining a new City Council Ordinance authorizing the condemnation of the corrected or revised property.

SECTION 5. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.


SECTION 6. That this Ordinance shall become effective immediately from and after its passage.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 3rd day of November, 1997.


Mike Anderson
Mayor

ATTEST:

APPROVED:


Ellen Williams
City Secretary


B.J. Smith
City Attorney

METES AND BOUNDS DESCRIPTION

Right-of-Way Dedication
345 Square Feet
Daniel Tanner Survey, A-1462
Mesquite, Dallas County, Texas

BEING a tract of land containing 345 square feet, located in the City of Mesquite, Dallas County, Texas, part of the Daniel Tanner Survey, Abstract No. 1462, being part of that same tract previously described in Volume 83063, Page 624, Deed Records of Dallas County, Texas (D.R.D.C.T.), and being more particularly described by metes and bounds as follows (bearings referenced to the right-of-way for Town East Boulevard as shown by Green Acres Industrial on Addition to the City of Mesquite recorded in Volume 95249, Page 637, D.R.D.C.T.):

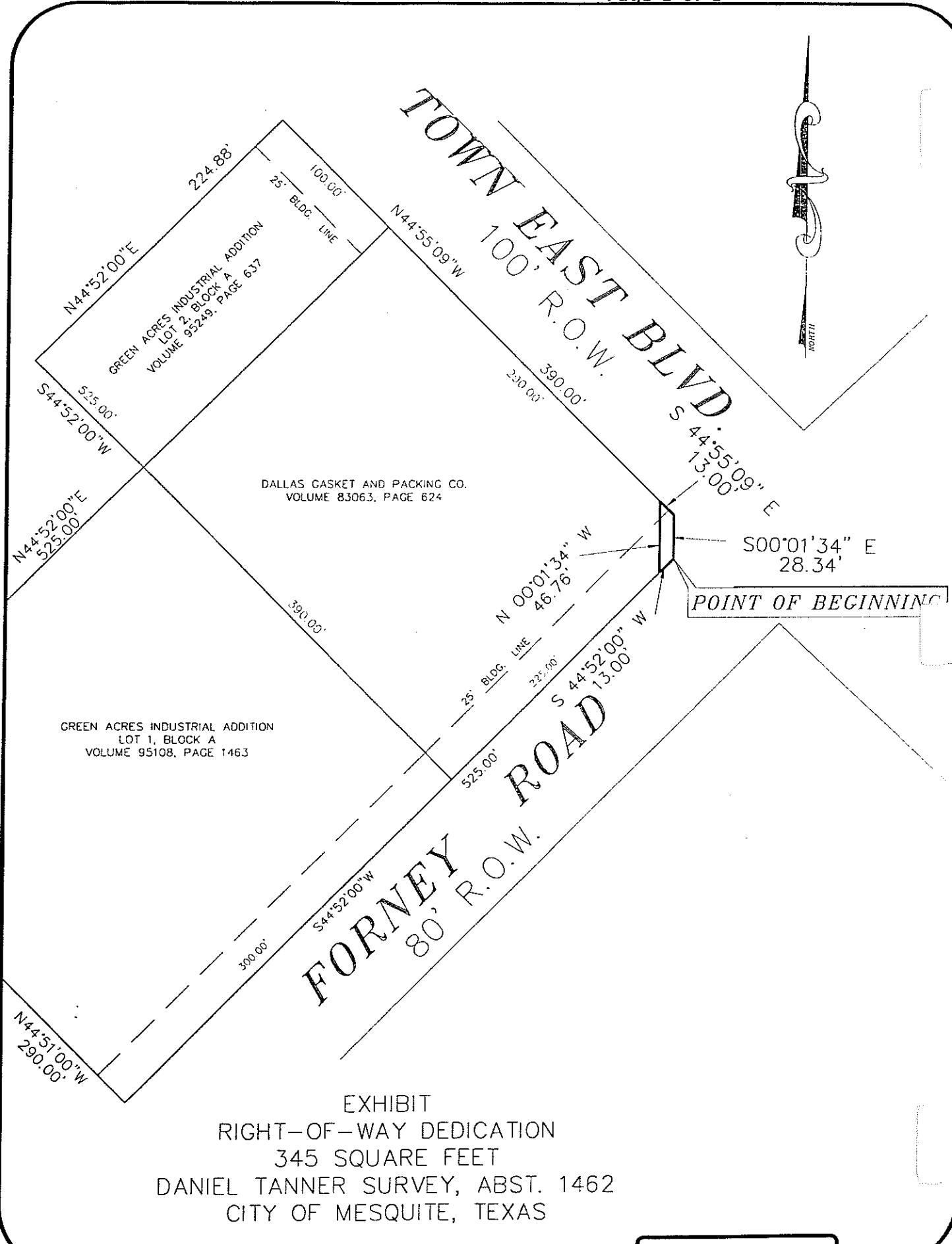
BEGINNING at a point for the most westerly northwest corner for the intersection of Town East Boulevard and Forney Avenue, same being the southeast corner of the herein described tract, and being the southwest corner of a right-of-way dedication described in Volume 93189, Page 3561 D.R.D.C.T.;

THENCE South $44^{\circ}52'00''$ West with the northerly line of Forney Avenue, a distance of 13.00 feet to a point for corner;

THENCE North $00^{\circ}01'34''$ West, a distance of 46.76 feet to a point for corner on the westerly line of Town East Boulevard;

THENCE South $44^{\circ}55'09''$ East with said westerly line, a distance of 13.00 feet to a point for the most northerly corner of the aforesaid right-of-way dedication;

THENCE South $00^{\circ}01'34''$ East, a distance of 28.34 feet to the POINT OF BEGINNING and containing 345 square feet.



GREEN ACRES INDUSTRIAL ADDITION
LOT 2, BLOCK A
VOLUME 95249, PAGE 637

DALLAS GASKET AND PACKING CO.
VOLUME 83063, PAGE 624

GREEN ACRES INDUSTRIAL ADDITION
LOT 1, BLOCK A
VOLUME 95108, PAGE 1463

TOWN EAST BLVD
100' R.O.W.

FORNEY ROAD
80' R.O.W.

POINT OF BEGINNING

EXHIBIT
RIGHT-OF-WAY DEDICATION
345 SQUARE FEET
DANIEL TANNER SURVEY, ABST. 1462
CITY OF MESQUITE, TEXAS

