

ORDINANCE NO. 3201

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF A UTILITY EASEMENT TO APPROXIMATELY 13,280.0 SQUARE FEET OF LAND LOCATED WITHIN A TRACT OF LAND IN THE S.H. MILLER SURVEY, ABSTRACT NO. 974, AS DESCRIBED IN VOLUME 77217, PAGE 0661 FOR THE CONSTRUCTION OF A SANITARY SEWER LINE; 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 utility easements on certain real property for the construction of a sanitary sewer line;

WHEREAS, the property in which the utility easement is to be acquired for such purposes is located within a tract of land in the S. H. Miller Survey No. 974, described in Volume 77217, Page 0661 in the City of Mesquite, Dallas County, Texas and being a 13,280.0 square foot parcel for the sanitary sewer 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 utility easement on 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 sanitary sewer 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 Burl Swafford and the Robert W. Hollin Profit Sharing Plan on December 19, 1997, in the amount of Thirteen Thousand Two Hundred Eighty and No/100 (\$13,280.00) Dollars 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 utility easement.

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 utility easement 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 5th day of January, 1998.



Mike Anderson  
Mayor

ATTEST:

APPROVED:



Ellen Williams  
City Secretary



B.J. Smith  
City Attorney

MILITARY PARKWAY

UTILITY EASEMENT  
EXHIBIT "A"

S 87°16'59" E  
27.01'

0.305 ACRES  
13280 S.F.



SCALE : 1" = 50'

I. H.  
635

N 14°31'24" W

S 14°17'39" E

535.65'

537.88'

ROBERT W. HOLLIN  
VOL. 77217, PG. 0881 - BRACKET  
EURL SWAFFORD &  
BURL PROFIT SHARING PLAN

LBJ  
FRWY.

EXISTING 15' UTIL. ESMT.  
VOL. 867, PG. 1340

BASIS OF BEARINGS  
The Bearings shown and recited hereon are related to the  
1983 State Plane Coordinate System, Lambert Projections,  
North Central Zone, Per N.G.S. Triangulation Stations  
"Garland NE Base", "Buckner", and "Grove RM 1".



*John L. Melton*

P.O.B. N 14°31'24" W 23.11' S 89°11'20" W -24.35'  
P.O.C. N 14°15'44" W 458.82'

# UTILITY EASEMENT EXHIBIT "A"

## LEGAL DESCRIPTION

Being a portion of that certain tract or parcel of land described by deed from the State of Texas to Burl Swafford and Robert W. Hollin Profit Sharing Plan, recorded in Volume 77217, Page 0661, Deed Records, Dallas County, Texas, being situated in the S. H. Miller Survey, Abstract Number 974, in the City of Mesquite, Dallas County, Texas, and being more particularly described as follows;

COMMENCING at a 3/4" iron rod found for the most southerly corner of the aforementioned Burl Swafford and Robert W. Hollin tract, said iron rod being at an angle point in the easterly right-of-way of I.H. Hwy. No. 635, a variable width right-of-way; THENCE N 14°15'44" W, continuing with said right-of-way, a distance of 458.82 feet; THENCE N 14°31'24" W, continuing with said right-of-way, 23.11 feet to the POINT OF BEGINNING;

THENCE N 14°31'24" W, 537.88 feet to a point for corner, said point being in the southerly right-of-way of Military Parkway;

THENCE S 87°16'59" E, continuing with said south right-of-way, 27.01 feet to a point for corner, said point being at the northwest corner of an existing 15' Utility Easement as recorded in Volume 867, Page 1340, Deed Records, Dallas County, Texas;

THENCE S 14°17'39" E, departing the south right-of-way of said Military Parkway, and continuing with the west line of said Utility Easement, 535.65 feet to a point for corner;

THENCE S 89°11'20" W, with said Utility Easement, 24.35 feet to the POINT OF BEGINNING and containing 0.305 Acres, (13,280 S.F.) of land, more or less.

### BASIS OF BEARINGS

The Bearings shown and recited hereon are related to the 1983 State Plane Coordinate System, Lambert Projections, North Central Zone, Per N.G.S. Triangulation Stations "Garland NE Base", "Buckner", and "Grove RM 1".

For Nathan D. Maier Consulting Engineers, Inc.

*John L. Melton* 10/10/97  
 John L. Melton  
 Registered Professional Land Surveyor #4268

