### ORDINANCE NO. 3724

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF A RIGHT-OF-WAY PARCEL (3,318 SQUARE FEET) AND A TEMPORARY CONSTRUCTION EASEMENT (3,032 SQUARE FEET) LOCATED IN THE JOHN T. NELMS SURVEY, ABSTRACT NO. 1095, CITY OF MESQUITE, DALLAS COUNTY, TEXAS, LOT 1, BLOCK A, CHEVRON ADDITION AS DESCRIBED IN VOLUME 98014, PAGE 0089 FOR THE CONSTRUCTION OF ROADWAY AND DRAINAGE IMPROVEMENTS FOR THE LBJ (MESQUITE SECTION) PHASE TWO PROJECT; AUTHORIZING THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR 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 and temporary construction easement on certain real property for the construction of roadway/drainage improvements; and

WHEREAS, the property in which the right-of-way (3,318 square feet) and temporary construction easement (3,032 square feet) is to be acquired for such purposes is located within a tract of land in the John T. Nelms Survey, Abstract No. 1095, City of Mesquite, Dallas County, Texas, Lot 1, Block A, Chevron Addition as described in Volume 98014, Page 0089 for roadway and drainage improvements more particularly described in Exhibits "A" and "B" 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 deems 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 right-of-way and temporary construction 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 roadway and drainage 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, DFW Convenience Stores, LP/TETCO Stores/Chevron USA, Inc., on February 25, 2005, in the amount of Two Hundred Twenty-Eight Thousand, Two Hundred and Seventy-Seven Dollars and No/100 Cents (\$228,277.00).

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That 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 right-of-way and temporary construction easement.

SECTION 3. That the City Attorney or his designee is hereby authorized to file or cause to be filed against the owners and against all others holding an interest in the Property, proceedings in eminent domain to acquire the right-of-way and temporary construction easement to the Property described herein and for the purposes described herein.

SECTION 4. That 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 are authorized to have such errors corrected or revisions made without the necessity of obtaining a new 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 4th day of April, 2005.

rike Anderson

Mayor

ATTEST:

APPROVED:

Judy Womack City Secretary

B. J. Smith City Attorney

COUNTY:

DALLAS

HIGHWAY:

Interstate Highway 635

**PROJECT LIMITS** 

March 10, 2003 Revised April 7, 2004

From: Interstate Highway 30

To: U.S. 80

CSJ: 2374-02-112 ACCT: 9118-01-007

Field Note Description for Parcel 2

**BEING** a 3,318 square feet tract of land in the John T. Nelms Survey, Abstract No. 1095, City of Mesquite, Dallas County, Texas, being part of LOT 1, BLOCK A, CHEVRON ADDITION, an addition to the City of Mesquite, as recorded in Volume 98014, Page 0089, Deed Records of Dallas County, Texas, being part of that certain tract of land described in a deed to Chevron USA, Inc., as recorded in Volume 85209, Page 2965, said Deed Records (Chevron tract), and being more particularly described by metes and bounds as follows:

**COMMENCING** at a 2-inch brass monument marked "GULF OIL CORP." found (a controlling monument) for the common southeast corner of both said addition and said Chevron tract and a northeast corner of the remainder of that certain called 7.192 acre tract of land, described as Second Tract in a deed to the Mesquite Independent School District as recorded in Volume 124, Page 1639 of said Deed Records (MISD tract), and being on the existing west right of way line of Interstate Highway 635 (Lyndon B. Johnson Freeway, a variable width right of way) from which a 2-inch brass monument marked "GULF OIL CORP." found (a controlling monument) for the common southwest corner of both said addition and said Chevron tract, and a northeast interior corner of said MISD tract bears South 81 degrees 50 minutes 09 seconds West, a distance of 145.00 feet;

**THENCE** North 08 degrees 09 minutes 49 seconds West, along the common said west right of way line of Interstate Highway 635 and the east line of both said addition and said Chevron tract, a distance of 127.32 feet to an "X" cut in concrete set for the POINT OF BEGINNING;

- (1.) THENCE South 78 degrees 27 minutes 36 seconds West, departing the common said west right of way line of Interstate Highway 635 and the east line of both said addition and said Chevron tract, a distance of 3.58 feet to an "X" cut in concrete set for corner in a non-tangent curve to the left;
- (2) THENCE Northwesterly, along said non-tangent curve to left, through a central angle of 30 degrees 12 minutes 57 seconds, a radius of 65.00 feet, and an arc distance of 34.28 feet, having a chord bearing of North 49 degrees 15 minutes 50 seconds West and a chord distance of 33.88 feet to an "X" cut in concrete set for the point of reverse curvature to the right;

COUNTY:

DALLAS

HIGHWAY:

Interstate Highway 635

**PROJECT LIMITS** 

March 10, 2003 Revised April 7, 2004

From: Interstate Highway 30

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## Field Note Description for Parcel 2

- (3.) THENCE Northwesterly, along said reverse curve to the right, through a central angle of 07 degrees 25 minutes 18 seconds, a radius of 1,032.43 feet, and an arc distance of 133.73 feet, having a chord bearing of North 60 degrees 39 minutes 41 seconds West and a chord distance of 133.64 feet to an "X" cut in concrete set for the end of curve:
- (4.) THENCE North 56 degrees 06 minutes 39 seconds West, a distance of 15.67 feet to a mag-nail set for corner in the common west line of both said addition and said Chevron tract, and the east line the remainder of that certain called 14.409 acre tract of land as described in a deed to said Mesquite Independent School District as recorded in Volume 124, Page 1643 of said Deed Records (School tract);
- (5.) THENCE North 07 degrees 48 minutes 49 seconds West, along said common west line of both said addition and said Chevron tract, and said east line of said School tract, a distance of 22.36 feet to an "X" cut in concrete found (a controlling monument) for the common north corner of both said addition and said Chevron tract, and the northeast corner of said School tract and being on the existing southwest right of way line of Town East Boulevard (a variable width right of way);
- (6.) THENCE South 59 degrees 40 minutes 35 seconds East, along said existing southwest right of way line of Town East Boulevard, a distance of 169.75 feet to a one-half inch steel rebar with yellow plastic cap marked "AZB" set for the north end of a corner clip between said existing southwest right of way line of Town East Boulevard and said existing west right of way line of Interstate Highway 635;
- (7.) THENCE South 29 degrees 40 minutes 34 seconds East, along said corner clip, a distance of 28.63 feet to a one-half inch steel rebar with yellow plastic cap marked "AZB", set for the south end of said corner clip on said existing west right of way line of Interstate Highway 635, said corner being in the common east line of both said addition and said Chevron tract;

Exhibit "A" Page 3 of 6

COUNTY:

DALLAS

HIGHWAY:

Interstate Highway 635

PROJECT LIMITS

March 10, 2003 Revised April 7, 2004

From: Interstate Highway 30

To: U.S. 80

CSJ: 2374-02-112 ACCT: 9118-01-007

Field Note Description for Parcel 2

(8.) THENCE South 08 degrees 09 minutes 49 seconds East, along said existing west right of way line of Interstate Highway 635 and the east line of both said addition and said Chevron tract, a distance of 7.26 feet to the POINT OF BEGINNING and containing 3,318 square feet of land, more or less.

This description accompanies parcel map of even date herewith.

All bearings are based on project coordinates for Interstate Highway 635 (LBJ Freeway) Mesquite Section.

Access is prohibited across the "Control of Access Line" to the transportation facility from the adjacent property.

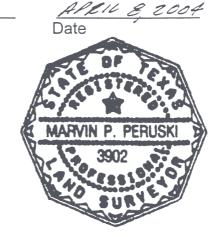
FIELD NOTES PREPARED FROM FIELDWORK PERFORMED IN 2001, 2002 and 2003.

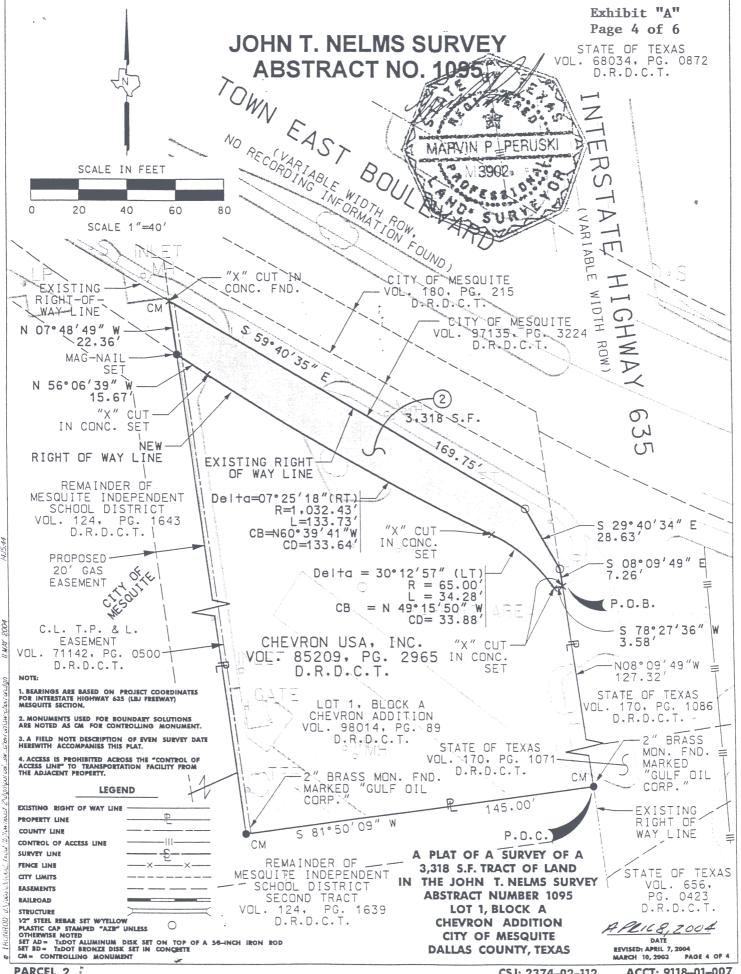
Marvin P. Peruski

Registered Professional Land Surveyor

Texas No. 3902

Arredondo, Zepeda & Brunz Inc. 11355 McCree Road Dallas, Texas 75238 (214) 341-9900 (214) 341-9925 - Fax





### MAP CHECK TRAVERSE/CLOSURE AND AREA

Tract name : PRCL\_2 Origin : Northing / Easting : 6,983,783.445 2,543,779.833 Course 1 : Southwest Azimuth/Distance : S 78° 27′ 36.0" W , 3.580′ Delta North/Delta East : -0.716 -3.508 Northing / Easting : 6,983,782.729 2,543,776.325 \*\* CURVE DATA \*\* Central angle: 30 degrees, 12 minutes, 57 seconds SF Course 2 : Northwest - CHORD Azimuth/Distance : N 49° 15′ 50.0" W , 33.883′ Delta North/Delta East : 22.111 -25.674 Northing / Easting : 6,983,804.840 2,543,750.651 \*\* CURVE DATA \*\* Central angle: 7 degrees, 25 minutes, 18 seconds Radius : 1,032.430 Chord length : 133.640 Tangent : 66.960 Arc length : 133.733 Area : 385.784 SF Course 3 : Northwest - CHORD Azimuth/Distance : N 60° 39′ 41.0" W , 133.640′ Delta North/Delta East : 65.480 -116.499 Northing / Easting : 6,983,870.320 2,543,634.152 Course 4 : Northwest Azimuth/Distance : N 56° 6′ 39.0" W , 15.670′ Delta North/Delta East : 8.737 -13.008 Northing / Easting : 6,983,879.057 2,543,621.144 Course 5 : Northwest Azimuth/Distance : N 7° 48′ 49.0" W , 22.360′ Delta North/Delta East : 22.152 -3.040 Northing / Easting : 6,983,901.209 2,543,618.104 Course 6 : Southeast Azimuth/Distance : S 59° 40′ 35.0" E , 169.750′ Delta North/Delta East : -85.704 146.526 Northing / Easting : 6,983,815.505 2,543,764.630

Azimuth/Distance : S 29° 40′ 34.0" E , 28.630′ Delta North/Delta East : -24.875 14.175 Northing / Easting : 6,983,790.631 2,543,778.805 Course 8 : Southeast Azimuth/Distance\* : S 8° 9′ 49.0" E , 7.260′

Course 7 : Southeast

Delta North/Delta East : -7.186 1.031 Exhibit "A" Northing / Easting : 6,983,783.444 2,543,779.836 Page 6 of 6 1.031 Exhibit "A"

TOTAL LENGTH OF TRAVERSE = 414.773 FEET CLOSURE : N 75° 41' 45.6" W , 0.003'

Ratio : 1 in 133,474

Parcel Area = 3,318.38 SQ. FT.

Parcel Area = 0.0762 ACRES

April 7, 2004

COUNTY:

DALLAS

HIGHWAY:

Interstate Highway 635

**PROJECT LIMITS** 

From: Interstate Highway 30

To: U.S. 80

CSJ: 2374-02-112 ACCT: 9118-01-007

Field Note Description for Parcel 2TE

**BEING** a 3,032 square feet tract of land in the John T. Nelms Survey, Abstract No. 1095, City of Mesquite, Dallas County, Texas, being part of LOT 1, BLOCK A, CHEVRON ADDITION, an addition to the City of Mesquite, as recorded in Volume 98014, Page 0089, Deed Records of Dallas County, Texas, being part of that certain tract of land described in a deed to Chevron USA, Inc., as recorded in Volume 85209, Page 2965 of said Deed Records (Chevron tract), and being more particularly described by metes and bounds as follows:

COMMENCING at a 2-inch brass monument marked "GULF OIL CORP." found (a controlling monument) for the common southeast corner of both said addition and said Chevron tract and a northeast corner of the remainder of that certain called 7.192 acre tract of land, described as Second Tract in a deed to the Mesquite Independent School District as recorded in Volume 124, Page 1639 of said Deed Records (MISD tract), and being on the existing west right of way line of Interstate Highway 635 (Lyndon B. Johnson Freeway, a variable width right of way) from which a 2-inch brass monument marked "GULF OIL CORP." found (a controlling monument) for the common southwest corner of both said addition and said Chevron tract, and a northeast interior corner of said MISD tract bears South 81 degrees 50 minutes 09 seconds West at a distance of 145.00 feet;

**THENCE** North 08 degrees 09 minutes 49 seconds West, along the common said west right of way line of Interstate Highway 635 and the east line of both said addition and said Chevron tract, a distance of 79.00 feet to the POINT OF BEGINNING;

- (1.) THENCE North 30 degrees 21 minutes 07 seconds West, departing said existing west right of way line of Interstate Highway 635, a distance of 41.59 feet to the beginning of a curve to the left;
- (2.) THENCE Northwesterly, along said curve to the left, through a central angle of 34 degrees 01 minutes 03 seconds, a radius of 50.00 feet, and an arc distance of 29.69 feet, having a chord bearing of North 47 degrees 21 minutes 49 seconds West and a chord distance of 29.25 feet to the point of reverse curvature to the right;

April 7, 2004

COUNTY:

DALLAS

HIGHWAY:

Interstate Highway 635

PROJECT LIMITS

From: Interstate Highway 30

To: U.S. 80

CSJ: 2374-02-112 ACCT: 9118-01-007

# Field Note Description for Parcel 2TE

- (3.) THENCE Northwesterly, along said reverse curve to the right, through a central angle of 07 degrees 26 minutes 01 seconds, a radius of 1,047.43 feet, and an arc distance of 135.90 feet, having a chord bearing of North 60 degrees 39 minutes 17 seconds West and a chord distance of 135.80 feet to the end of said reverse curve to the right;
- (4.) THENCE North 56 degrees 06 minutes 39 seconds West, a distance of 2.30 feet to the common west line of both said addition and said Chevron tract, and the east line of the remainder of that certain called 14.409 acre tract of land as described in a deed to said Mesquite Independent School District as recorded in Volume 124, Page 1643 of said Deed Records (School tract);
- (5.) THENCE North 07 degrees 48 minutes 49 seconds West, along said common east line of said School tract and the west line of both said addition and said Chevron tract, a distance of 20.09 feet to a mag nail set on the new southwest right of way line of Town East Boulevard (a variable width right of way);
- (6.) THENCE South 56 degrees 06 minutes 39 seconds East, along said new southwest right of way line of Town East Boulevard, a distance of 15.67 an "X" cut in concrete set for the beginning of a non-tangent curve to the left;
- (7.) THENCE Southeasterly, along said non-tangent curve to the left, through a central angle of 07 degrees 25 minutes 18 seconds, a radius of 1,032.43 feet, and an arc distance of 133.73 feet, having a chord bearing of South 60 degrees 39 minutes 41 seconds East and a chord distance of 133.64 feet to the point of reverse curvature to the right;
- (8.) THENCE Southeasterly, along said reverse curve to the right, through a central angle of 30 degrees 12 minutes 57 seconds, a radius of 65.00 feet, and an arc distance of 34.28 feet, having a chord bearing of South 49 degrees 15 minutes 50 seconds East and a chord distance of 33.88 feet to an "X" cut in concrete set for the end of said reverse curve to the right;

April 7, 2004

COUNTY:

DALLAS

HIGHWAY:

Interstate Highway 635

**PROJECT LIMITS** 

From: Interstate Highway 30

To: U.S. 80

CSJ: 2374-02-112 ACCT: 9118-01-007

## Field Note Description for Parcel 2TE

- (9.) THENCE North 78 degrees 27 minutes 36 seconds East, a distance of 3.58 an "X" cut in concrete set on said existing west right of way line of Interstate Highway 635 and the east line of both said addition and said Chevron tract;
- (10.) THENCE South 08 degrees 09 minutes 49 seconds East, along said existing west right of way line of Interstate Highway 635 and the east line of both said addition and said Chevron tract, a distance of 48.32 feet to the POINT OF BEGINNING and containing 3,032 square feet of land, more or less.

This description accompanies parcel map of even date herewith.

All bearings are based on project coordinates for Interstate Highway 635 (LBJ Freeway) Mesquite Section.

FIELD NOTES PREPARED FROM FIELDWORK PERFORMED IN 2001, 2002 and 2003.

Marvin P. Peruski

Registered Professional Land Surveyor

Texas No. 3902

Arredondo, Zepeda & Brunz Inc. 11355 McCree Road

Dallas, Texas 75238

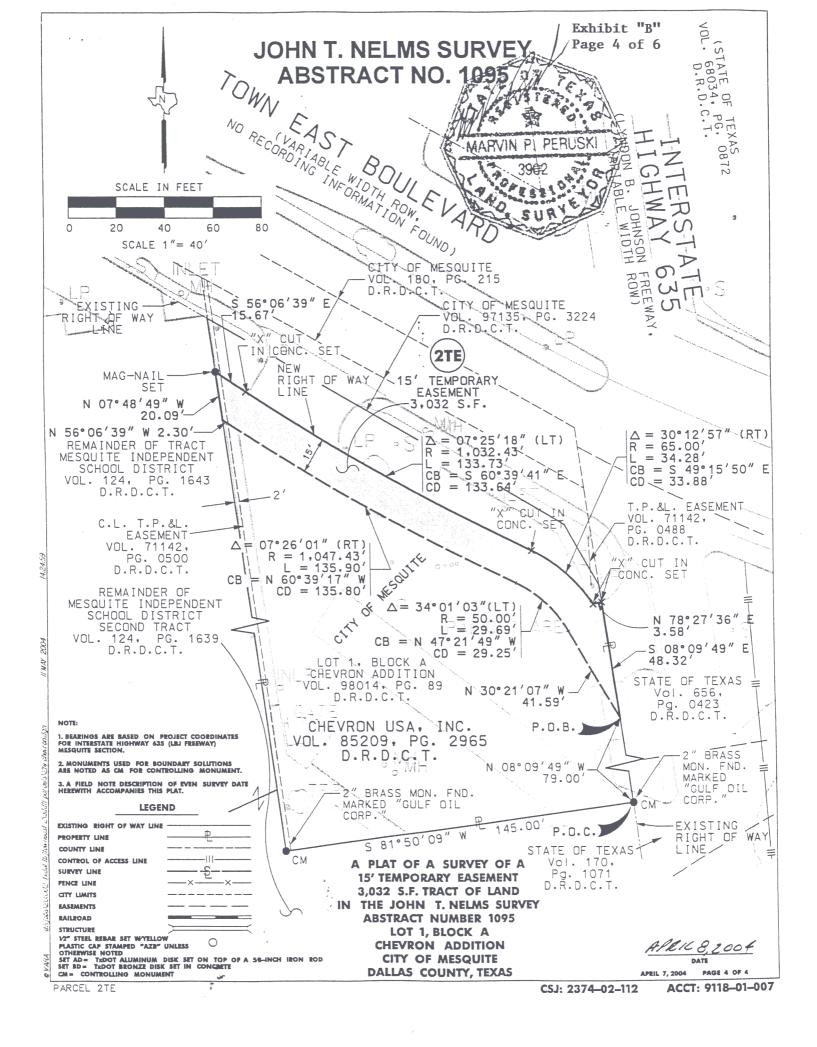
(214) 341-9900

(214) 341-9925 - Fax

APRIL 8,2004

Date





385.784

#### MAP CHECK TRAVERSE/CLOSURE AND AREA

Tract name : 2TE-LBJ

Origin :

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Northing / Easting : 6,983,735.612 2,543,786.695

Course 1 : Northwest

Azimuth/Distance : N 30° 21′ 7.0" W , 41.590′ Delta North/Delta East : 35.890 -21.016 Northing / Easting : 6,983,771.502 -2,543,765.679

\*\* CURVE DATA \*\*

Central angle: 34 degrees, 1 minutes, 3 seconds

85.678 85.678

SF

Course 2 : Northwest - CHORD

Azimuth/Distance : N 47° 21′ 49.0" W , 29.252′ Delta North/Delta East : 19.813 -21.520 Northing / Easting : 6,983,791.315 2,543,744.160

\*\* CURVE DATA \*\*

Central angle : 7 degrees, 26 minutes, 1 seconds

Radius : 1,047.430 Chord length : 135.800 Tangent : 68.043 Arc length : 135.895 Area : 398.999 398.999

SF

Course 3 : Northwest - CHORD

Azimuth/Distance : N 60° 39′ 17.0" W , 135.800′ Delta North/Delta East : 66.552 -118.374 Northing / Easting : 6,983,857.867 2,543,625.785

Course 4 : Northwest

Azimuth/Distance : N 56° 6′ 39.0" W , 2.300′ Delta North/Delta East : 1.282 -1.909 Northing / Easting : 6,983,859.149 2,543,623.876

Course 5 : Northwest
Azimuth/Distance : N 7° 48′ 49.0" W , 20.090′
Delta North/Delta East : 19.903 -2.731
Northing / Easting : 6,983,879.053 2,543,621.145

Course 6 : Southeast

Azimuth/Distance : S 56° 6′ 39.0" E , 15.670′ Delta North/Delta East : -8.737 13.008 Northing / Easting : 6,983,870.315 2,543,634.153

\*\* CURVE DATA \*\*
Central angle: 7 degrees, 25 minutes, 18 seconds

Radius : 1,032.430 Chord length : 133.640 Tangent : 66.960
Arc length : 133.733 Area : 385.784

TOTAL LENGTH OF TRAVERSE = 464.1247 FEET CLOSURE: N 4° 26' 26.6" E, 0.002' Ratio: 1 in 264,941

Ratio : 1 in 264,941

Parcel Area = 3,031.69 SQ. FT.

Parcel Area = 0.0696 ACRES

SF