

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF A TEMPORARY CONSTRUCTION EASEMENT (139 SQUARE FEET) LOCATED IN THE JOHN T. NELMS SURVEY, ABSTRACT NO. 1095, CITY OF MESQUITE, DALLAS COUNTY, TEXAS, LOT 1A, BLOCK A, TREASURY ADDITION AS DESCRIBED IN VOLUME 80222, PAGE 1271 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 a temporary construction easement on certain real property for the construction of roadway/drainage improvements; and

WHEREAS, the property in which the temporary construction easement (139 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 1A, Block A, Treasury Addition as described in Volume 80222, Page 1271 for roadway and drainage 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 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, Beil Enterprisers, L.P., on May 4, 2005 in the amount of Five Thousand Seven Hundred and Fifty Dollars and No/100 Cents (\$5,754.00).

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.

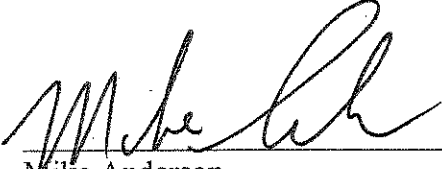
SECTION 3. That the City Attorney or his designee is hereby authorized to file or cause to be filed against the owners and against all others holding an interest in the Property, proceedings in eminent domain to acquire the temporary construction easement to the Property described herein for the purposes 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 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 16th day of May, 2005.



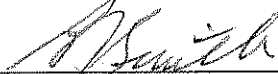
Mike Anderson
Mayor

ATTEST:



Judy Womack
City Secretary

APPROVED:



B. J. Smith
City Attorney

EXHIBIT "A"

COUNTY: DALLAS
HIGHWAY: Interstate Highway 635
PROJECT LIMITS

Page 1 of 4
April 7, 2004

From: Interstate Highway 30
To: U.S. 80

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

Field Note Description for Parcel 7TE

BEING a 139 square feet tract of land in the John T. Neims Survey, Abstract No. 1095, City of Mesquite, Dallas County, Texas, and being part of LOT 1A, BLOCK A, TREASURY ADDITION, an addition to the City of Mesquite, recorded in Volume 80222, Page 1271, Deed Records of Dallas County, Texas, and also being part of that certain tract of land as described in a deed to Bell Enterprises L.P., as recorded in Volume 95087, Page 1320, of said Deed Records (Bell tract) and being more particularly described by metes and bounds as follows:

COMMENCING at a one-half inch steel rebar found (a controlling monument) for the northeast corner of that certain tract of land described in a deed to Bob-Dan of Texas, Inc., as recorded in Volume 2003180, Page 5220, of said Deed Records (Bob-Dan tract) and the most easterly southeast corner of LOT 1, BLOCK D, TOWN CROSSING ADDITION, an addition to the City of Mesquite, recorded in Volume 83086, Page 0844, of said Deed Records, said LOT 1, BLOCK D also being that certain tract of land as described in a deed to Michael Lee Malamut as recorded in Volume 94042, Page 2553, of said Deed Records (Malamut tract) said corner being on the existing west right of way line of Interstate Highway 635 (Lyndon B. Johnson Freeway, a variable width right of way), also being an existing Control of Access Line, from which a 60d nail found (a controlling monument) bears North 60 degrees 12 minutes 31 seconds West at a distance of 113.37 feet for the common north corner of said Bob-Dan tract and the interior ell corner of said Malamut tract; **

THENCE South 03 degrees 22 minutes 08 seconds East, along said existing west right of way line of Interstate Highway 635 and also being an existing Control of Access Line, a distance of 9.00 feet to a point for corner;

THENCE South 07 degrees 58 minutes 42 seconds East, continuing along said existing west right of way line of Interstate Highway 635 also being an existing Control of Access Line, a distance of 218.00 feet to the intersection of said existing west right of way line of said Interstate Highway 635 and the existing northeast right of way line of Town East Boulevard (a variable width right of way) from which an "X" cut in concrete found bears North 27 degrees 01 minutes 45 seconds East at a distance of 1.55 feet, said intersection being the end of said existing Control of Access Line;

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COUNTY: DALLAS
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tangent curve to the left, from which an "X" cut in concrete found bears North 02 degrees 25 minutes 01 seconds East at a distance of 1.04 feet;

THENCE Northwesterly, continuing along said existing northeast right of way line of Town East Boulevard and said non-tangent curve to the left, through a central angle of 03 degrees 34 minutes 07 seconds, a radius of 1,472.40 feet and an arc distance of 91.71 feet, having a chord bearing of North 62 degrees 35 minutes 42 seconds West and a chord distance of 91.69 feet to the common west corner of said Malamut tract and south corner said Beil tract and the POINT OF BEGINNING;

- (1.) THENCE Northwesterly, continuing along said existing northeast right of way line of Town East Boulevard and along said curve to the left, through a central angle of 00 degrees 16 minutes 42 seconds, a radius of 1,472.40 feet and an arc distance of 7.15 feet, having a chord bearing of North 64 degrees 31 minutes 06 seconds West and a chord distance of 7.15 feet to the end of said curve;
- (2.) THENCE North 25 degrees 20 minutes 33 seconds East, departing said existing northeast right of way line of Town East Boulevard, a distance of 15.00 feet to the beginning of a non-tangent curve to the right;
- (3.) THENCE Southeasterly, along said curve to the right, through a central angle of 00 degrees 26 minutes 17 seconds, a radius of 1,487.40 feet and an arc distance of 11.37 feet, having a chord bearing of South 64 degrees 26 minutes 19 seconds East and a chord distance of 11.37 feet to a point for corner on the common east line of said Beil tract and west line of said Malamut tract;
- (4.) THENCE South 41 degrees 03 minutes 37 seconds West, along the said common east line of said Beil tract and west line of said Malamut tract, a distance of 15.56 feet to the POINT OF BEGINNING and containing 139 square feet of land, more or less.

** The monument described as set or found in this call, if destroyed during construction, may be replaced with a TxDOT Type II Right of Way Marker upon the completion of the highway construction project under the supervision of a Registered Professional Land Surveyor, either employed or retained by TxDOT.

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HIGHWAY: Interstate Highway 635
PROJECT LIMITS

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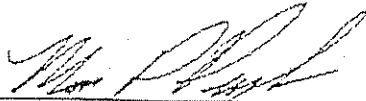
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Field Note Description for Parcel 7TE

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

APRIL 8, 2004
Date

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



EXHIBIT "A"

ISHAM THOMAS SURVEY
ABSTRACT NO. 1501

BEIL ENTERPRISES, L.P.
VOL. 95087, PG. 1320
D.R.D.C.T.

LOT 1A, BLOCK A
TREASURY ADDITION
VOL. 80222, PG. 1271
D.R.D.C.T.

LOT 1, BLOCK D
TOWNE CROSSING
ADDITION
VOL. 83086,
PG. 0844
D.R.D.C.T.

MICHAEL LEE MALAMUT
VOL. 94042, PG. 2553
D.R.D.C.T.

10' WATER MAIN
EASEMENT
VOL. 70241,
PG. 2071
D.R.D.C.T.

EXISTING
RIGHT OF WAY LINE/
CONTROL OF
ACCESS LINE

INTERSTATE
HIGHWAY 635
(LYNDON B. JOHNSON
FREEWAY)
VARIABLE WIDTH ROW

SRT
P.O.C.

$\Delta = 00^{\circ}25'17''$ (RT)
R = 1,487.40'
L = 11.37'
CB = $S 64^{\circ}26'19''$ E
CD = 11.37'

$503^{\circ}22'08''$ E
9.00'

N $25^{\circ}20'33''$ E
15.00'

S $41^{\circ}03'37''$ W
15.56'

JOHN T. NELMS SURVEY
ABSTRACT NO. 1095

$\Delta = 03^{\circ}34'07''$ (LT)
R = 1,472.40'
L = 91.71'
CB = N $62^{\circ}35'42''$ W
CD = 91.69'

"X" CUT IN CONC.
FND. BEARS
N $02^{\circ}25'01''$ E 1.04'

BOB-DAN OF TEXAS, INC.
VOL. 2003180, PG. 05220
D.R.D.C.T.

STATE OF TEXAS
VOL. 58034, PG. 0872
D.R.D.C.T.

15' TEMPORARY
EASEMENT
139 S.F.

$\Delta = 00^{\circ}16'42''$ (LT)
R = 1,472.40'
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CB = N $64^{\circ}31'06''$ W
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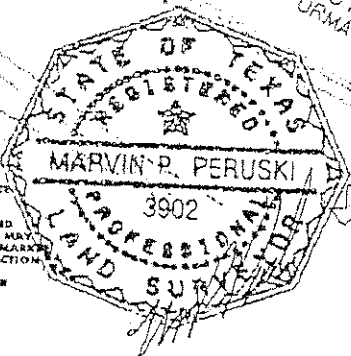
TOWN EAST BOULEVARD
(VARIABLE WIDTH ROW,
NO RECORDING INFORMATION FOUND)
N $60^{\circ}46'12''$ W
268.89'

CITY OF MESQUITE

EXISTING
RIGHT OF WAY
LINE

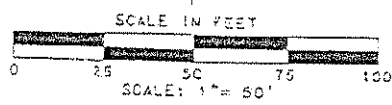
"X" CUT IN CONC.
FND. BEARS
N $07^{\circ}01'46''$ E 1.05'

- NOTE:
1. BEARINGS ARE BASED ON PROJECT COORDINATES FOR INTERSTATE HIGHWAY 635 (LAW FREEWAY) MESQUITE SECTION.
 2. MONUMENTS USED FOR BOUNDARY SOLUTIONS ARE NOTED AS CM FOR CONTROLLING MONUMENT.
 3. A FIELD NOTE DESCRIPTION OF EVERY SURVEY DATA HEREWITH ACCOMPANIES THIS PLAT.
 4. IF THE MONUMENT DESCRIBED AS SET OR FOUND IN THIS CALL IS DESTROYED DURING CONSTRUCTION, MAY BE REPLACED WITH A "DOT" TYPE RIGHT OF WAY MARKER UPON THE COMPLETION OF THE HIGHWAY CONSTRUCTION PROJECT UNDER THE SUPERVISION OF A REGISTERED PROFESSIONAL LAND SURVEYOR, EITHER EMPLOYED OR RETAINED BY TADOT.



LEGEND

- EXISTING RIGHT OF WAY LINE
- PROPERTY LINE
- COUNTY LINE
- CONTROL OF ACCESS LINE
- SURVEY LINE
- FENCE LINE
- CITY LIMITS
- EASEMENTS
- RAILROAD
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A PLAT OF A SURVEY OF A
15' TEMPORARY EASEMENT
139 S.F. TRACT OF LAND
IN THE JOHN T. NELMS SURVEY
ABSTRACT NUMBER 1095
CITY OF MESQUITE
DALLAS COUNTY, TEXAS

APRIL 8, 2004
DATE

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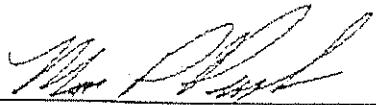
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FIELD NOTES PREPARED FROM FIELDWORK PERFORMED IN 2001, 2002 and 2003.



Marvin P. Peruski
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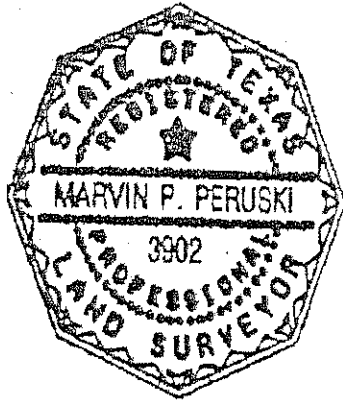


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EXISTING
RIGHT OF WAY LINE/
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INTERSTATE
HIGHWAY 635
(LYNDON B. JOHNSON
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VARIABLE WIDTH ROW

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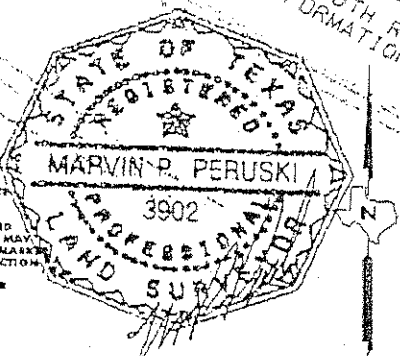
S 07°58'42" E
218.00'

265.89'

EXISTING
RIGHT OF WAY
LINE

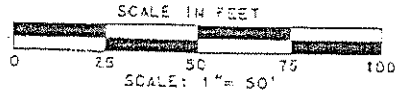
"X" CUT IN CONC.
FND. BEARS
N 27°01'45" E 1.55'

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LEGEND

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PROPERTY LINE	---
COUNTY LINE	---
CONTROL OF ACCESS LINE	---
SURVEY LINE	---
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CITY LIMITS	---
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APRIL 7, 2004 PAGE 4 OF 4