

ORDINANCE NO. 4963

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THE NECESSITY OF ACQUIRING REAL PROPERTY FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF A WATER PIPELINE AND RELATED FACILITIES ON PROPERTY LOCATED AT 4600 LAWSON ROAD; AUTHORIZING APPROPRIATION OF THE REAL PROPERTY AND/OR THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE THE REAL PROPERTY FOR PUBLIC USE; AND DELEGATING AUTHORITY TO INITIATE CONDEMNATION PROCEEDINGS TO THE CITY MANAGER.

WHEREAS, the City Council of the City of Mesquite, Texas (the “**City Council**”), unanimously authorized the engineering and design of the Shannon Road to Lawson Road Water Line Project necessary to improve the water system for the area south of IH-20 (the “**Project**”); and

WHEREAS, the Project will require the acquisition of a 0.0317-acre tract of land; and

WHEREAS, upon consideration of this matter and for construction, operation, and maintenance of the Project, the City Council has determined that there is a public need and necessity for the health, safety, and welfare of the City of Mesquite (the “**City**”) and the public at large (the “**Public Uses**”) to acquire permanent easement rights (the “**Real Property Interests**”) to, on, and across the property as described and depicted in Exhibit A attached hereto and incorporated herein by reference (the “**Property**”); and

WHEREAS, the City Council has investigated and determined that the Project constitutes a public use for a public purpose; and

WHEREAS, the City Council finds that the descriptions of the Real Property Interests for acquisition on and across the Property by eminent domain for the Project complies with applicable law in that the same identifies the Property that will be used by the City for the Project in a way that provides the property owner reasonable notice that the owners’ property may be subject to condemnation proceedings during the planning or construction of the Project; and

WHEREAS, the City is required to make a bona fide offer, as defined by and in compliance with Texas Property Code § 21.0113, to acquire the Real Property Interests on and across the Property for the Public Use, voluntarily, from the subject landowners prior to moving forward with the acquisition by eminent domain; and

WHEREAS, the City Council deems it necessary to authorize the City Manager or his designee (hereinafter collectively referred to as the “**City Manager**”) to comply with all statutory requirements necessary to initiate condemnation proceedings, and to initiate said proceedings, in order to acquire the necessary Real Property Interests in the event negotiations are unsuccessful.

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

SECTION 1. The City Council hereby finds and determines that the recitals made in the preamble of this ordinance are true and correct, and incorporates such recitals in the body of this ordinance as if copied in their entirety.

SECTION 2. The City Council hereby finds and determines that a public use and necessity exists for the Public Uses and authorizes acquisition of the necessary Real Property Interests on and across the Property for such purposes, as allowed by law, together with all necessary appurtenances, additions, and improvements on, over, under, and through that certain lot, tract, or parcel of land.

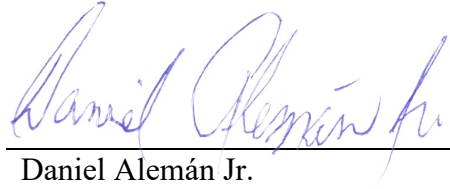
SECTION 3. The City Council authorizes the City Manager to negotiate for and to acquire the required Real Property Interests on and across the Property for the City, and to acquire said rights in compliance with State and any other applicable law, including Chapter 21 of the Texas Property Code. Moreover, the City Manager is specifically authorized and directed to do each and every act necessary to acquire the needed Real Property Interests on and across the Property including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser to determine the just compensation for the acquisition of the Real Property Interests on and across the Property being acquired, as well as any other experts or consultants the City Manager deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

SECTION 4. The City Manager is appointed as negotiator for the acquisition of the needed Real Property Interests and, as such, the City Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the City Council for such purpose. Additionally, if the City Manager determines that an agreement as to damages or compensation cannot be reached after making a bona fide offer, then the City Attorney is hereby authorized and directed to file or cause to be filed, against the owner(s) and interested parties of the needed Real Property Interests on and across the Property, proceedings in eminent domain to acquire the above-stated Real Property Interests on and across the Property.

SECTION 5. 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. This ordinance shall take effect immediately from and after its passage, and it is accordingly so passed and approved.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,
on the 5th day of July 2022.



Daniel Alemán Jr.
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT "A"
CITY OF MESQUITE
MESQUITE SHANNON ROAD TO LAWSON ROAD WATERLINE

PARCEL NO. 6
OWNER: PORTER TRAVIS BENNETT AND ANNA LILLIAN JERGER
20' PERMANENT WATERLINE EASEMENT
SAMUEL A. HAUGHT SURVEY, ABSTRACT NO. 567
CITY OF MESQUITE, DALLAS COUNTY, TEXAS

Being a 20' permanent waterline easement situated in the Samuel A. Haught Survey, Abstract No. 567, City of Mesquite, Dallas County, Texas, and being a portion of a tract of land described in the Warranty Deed to Porter Travis Bennett and Anna Lillian Jerger recorded in Volume 3896, Page 231 of the Deed Records of Dallas County, Texas, said 20' permanent waterline easement being more particularly described by metes and bounds as follows:

BEGINNING at a 3-1/4 inch aluminum disk stamped "ROW 2609" found for a common salient corner of said Bennett and Jerger tract of land and the northwest corner of a called 11.415 acre tract of land described in deed to CSN Family Limited Partnership recorded in Document No. 201100233471 of the Official Public Records of Dallas County, Texas, said 3-1/4 inch aluminum disk stamped "ROW 2609" being in the south right-of-way line of Interstate Highway 20 (variable width right-of-way);

THENCE South 23 degrees 24 minutes 04 seconds East, with the common northeasterly line of said Bennett and Jerger tract of land and the southwesterly line of said 11.415 acre tract of land, a distance of 22.38 feet to a 1/2 inch iron rod with cap stamped "BOWMAN EASEMENT" set for corner;

THENCE North 86 degrees 45 minutes 00 seconds West, a distance of 89.96 feet to a 1/2 inch iron rod with cap stamped "BOWMAN EASEMENT" set for corner in the common northwesterly line of said Bennett and Jerger tract of land and the southeasterly right-of-way line of Old Lawson Road (variable width right-of-way);

THENCE North 61 degrees 08 minutes 45 seconds East, with the common northwesterly line of said Bennett and Jerger tract of land and the southeasterly right-of-way line of said Old Lawson Road, a distance of 37.63 feet to a TxDOT Type I Monument (broken concrete monument) found for a salient corner of said Bennett and Jerger tract of land, said TxDOT Type I Monument being the intersection of the southeasterly right-of-way line of said Old Lawson Road with the south right-of-way line of said Interstate Highway 20;

THENCE South 86 degrees 45 minutes 00 seconds East, with the common north line of said Bennett and Jerger tract of land and south right-of-way line of said Interstate Highway 20, a distance of 48.04 feet the **POINT OF BEGINNING** and containing 1,380 square feet or 0.0317 acres of land.

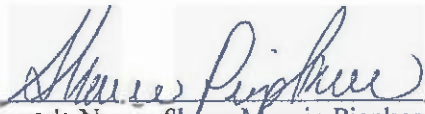
NOTES:

1. Bearings and coordinates are based on the Texas State Plane Coordinate System, North American Datum of 1983, North Central Zone (4202).
2. A plat of same date accompanies this legal description.
3. This survey was performed without the benefit of a title report. There may be easements and/or covenants affecting this property not shown hereon.

*** SURVEYOR'S CERTIFICATE***

TO ALL PARTIES INTERESTED IN TITLE TO THE PREMISES SURVEYED, I DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED FROM PUBLIC RECORDS AND FROM AN ACTUAL AND ACCURATE SURVEY UPON THE GROUND AND THAT SAME IS TRUE AND CORRECT.

Company Name: **Bowman Consulting Group, Ltd.**

By: 
Surveyor's Name: Shaun Marvin Piepkorn
Registered Professional Land Surveyor
Texas No. 6432
Date of Survey: February 22, 2022
Parcel No. 06
Texas Firm No. 10120600



(Exhibit "A") Page 2 of 3

PLAT OF EXHIBIT "A"

OLD LAWSON ROAD
(VARIABLE WIDTH RIGHT-OF-WAY)

INTERSTATE HIGHWAY 20
(VARIABLE WIDTH RIGHT-OF-WAY)

P.O.B.
FOUND 3-1/4"
ALUMINUM DISK
STAMPED "ROW 2609"

FOUND TXDOT
TYPE I MONUMENT
(BROKEN)

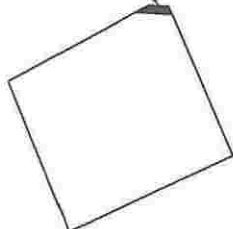
20' PERMANENT WATERLINE
EASEMENT AREA
1,380 SQ. FT. OR
0.0317 ACRES

CALLED 11.415 ACRES
CSN FAMILY LIMITED PARTNERSHIP
DOCUMENT NO. 201100233471
O.P.R.D.C.T.

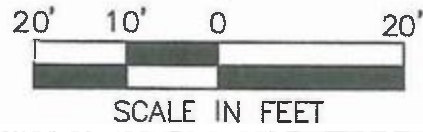
PORTER TRAVIS BENNETT
AND ANNA LILLIAN JERGER
VOLUME 3896, PAGE 231
D.R.D.C.T.

SAMUEL A. HAUGHT SURVEY
ABSTRACT NO. 567

EASEMENT
LOCATION



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 23°24'04" E	22.38'



LEGEND	
●	SET 1/2" IRON ROD WITH CAP STAMPED "BOWMAN EASEMENT" UNLESS NOTED OTHERWISE
○	CALCULATED POINT
---	EASEMENT LINE
----	PROPERTY LINE
D.R.D.C.T.	DEED RECORDS DALLAS COUNTY TEXAS
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS DALLAS COUNTY TEXAS
P.R.D.C.T.	PLAT RECORDS DALLAS COUNTY TEXAS

- NOTES:
- (1) BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983, NORTH CENTRAL ZONE (4202).
 - (2) A LEGAL DESCRIPTION OF SAME DATE ACCOMPANIES THIS PLAT.
 - (3) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, THERE MAY BE EASEMENTS AND/OR COVENANTS AFFECTING THIS PROPERTY NOT SHOWN HEREON.

MESQUITE
T E X A S
Real. Texas. Service.
757 NORTH GALLOWAY AVENUE
MESQUITE, TEXAS 75149

PARCEL NO. 6		
PROJECT: MESQUITE SHANNON ROAD TO LAWSON ROAD WATERLINE		
SAMUEL A. HAUGHT SURVEY, ABSTRACT NO. 567		
CITY OF MESQUITE, DALLAS COUNTY, TEXAS		PAGE 3 OF 3
JOB NO. 10186	DRAWN BY: MAP	CAD FILE: PARCEL 6.DWG
DATE: 02/22/2022	CHK. BY: SMP	SCALE: 1" = 20'

SHAUN MARVIN PIEPKORN
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 6432 TEXAS FIRM NO. 10120600