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RESOLUTION NO. 48-94

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, DETERMINING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF EASEMENTS FOR THE CONSTRUCTION AND IMPROVEMENT OF SOUTH MESQUITE CREEK AND THE IMPROVEMENT AND LOCATION OF UTILITIES INCIDENT THERETO BETWEEN OATES DRIVE AND MOON DRIVE; AUTHORIZING THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS; 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 easements in certain real property for channel improvements to South Mesquite Creek including relocation and improvement of utilities incident thereto.

WHEREAS, the property in which the easements are to be acquired for such purposes is located between Oates Drive and Moon Drive west of Gus Thomasson Road located in the J. Hardin Survey Abstract No. 545 in the City of Mesquite, Dallas County, Texas, said easements being a 0.2171 Acre utility easement and a 1.6959 Acre drainage and utility easement for the channel improvements more particularly described in Exhibit "A" attached hereto and made a part hereof by reference.

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

SECTION 1. That the City Council of the City of Mesquite, Texas has 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 and drainage and utility easement described in the preamble of this Ordinance, which is adopted and made a part of the body of this Ordinance, and more particularly described in Exhibit "A" (the "Easements") and made a part hereof, in connection with the construction and improvement, maintenance, operation and all lawful purposes incident thereto of channel improvements to South Mesquite Creek.

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 easements by competent and qualified appraisers, to acquire the easements, and such offer was transmitted via certified mail to the property owner, Mrs. Mary Pool Thomas, on September 21, 1994 in the amount of SIXTEEN THOUSAND NINE HUNDRED TWELVE DOLLARS AND NO /100 (\$16, 912.00.), 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 easements.

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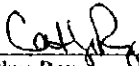
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SECTION 3. That the City Attorney or his designee is hereby authorized to file or cause to be filed, against the owner and against all others holding an interest in the property, proceedings in eminent domain to acquire the Easements described herein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

SECTION 4. It is the intent of the City Council that this Resolution 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 Resolution authorizing the condemnation of the corrected or revised property.

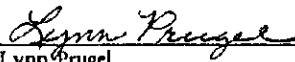
SECTION 2. That this Resolution shall become effective immediately from and after its passage.

DULY RESOLVED and passed by the City Council of the City of Mesquite, Texas on the 5th day of December, 1994.



Cathye Ray
Mayor

ATTEST:



Lynn Prugel
City Secretary

APPROVED:



B.J. Smith
City Attorney

DESCRIPTION
DRAINAGE AND UTILITY EASEMENT NO. 15
Mary Poole Thomas & H.T. Thomas Tract

BEING a part of a Drainage and Utility Easement in the J. Hardin Survey Abstract No. 545, in the City of Mesquite, Dallas County, Texas; said easement being a part of that certain tract conveyed to Mary Poole Thomas & H.T. Thomas as recorded in Volume 87122 Page 1760 Deed Records Dallas County, Texas (DRDCT); and being more particularly described as follows:

BEGINNING at 1/2" iron rod found for corner in the Southeast line of Oates Drive (100 ft. ROW); said point North 51°08'29" East a distance of 65.44 ft. from a pk nail found at an interior Southwest corner of a tract conveyed to L.L. Wood, Trustee as recorded in Volume 83002 Page 4753 DRDCT;

THENCE North 51°08'29" East, along said Southeast line of Oates Drive, for a distance of 140.98 ft. to a point for corner, said point being the Northwest corner of a tract conveyed to Clyde W. Tullis as recorded in Volume 92247 Page 4377 DRDCT;

THENCE South 45°25'51" East, departing said Southeast line and along the Southwest line of said Tullis tract, for a distance of 21.36 ft. to a point for corner;

THENCE South 27°20'50" East, departing said Southwest line, for a distance of 29.60 ft. to a point for corner;

THENCE South 38°35'46" East, for a distance of 126.70 ft. to a point for the beginning of a circular curve to the left;

THENCE along said circular curve to the left having a central angle of 11°00'42", a radius of 850.00 ft., and a tangent length of 72.29 ft., for an arc length of 144.14 ft. to a point of reverse curvature to the right;

THENCE along said reverse curve to the right having a central angle of 7°10'45", a radius of 850.00 ft., and a tangent length of 53.32 ft., for an arc length of 106.51 ft. to a point of tangency for corner;

THENCE South 42°25'43" East, for a distance of 161.00 ft. to a point for corner;

THENCE South 59°07'10" East, for a distance of 52.23 ft. to a point for corner on the Northwest line of Moon drive (50 ft. ROW), said point being South 47°35'41" West a distance of 158.93 ft. from an "x" found cut in concrete at the Southeast corner of said Thomas tract;

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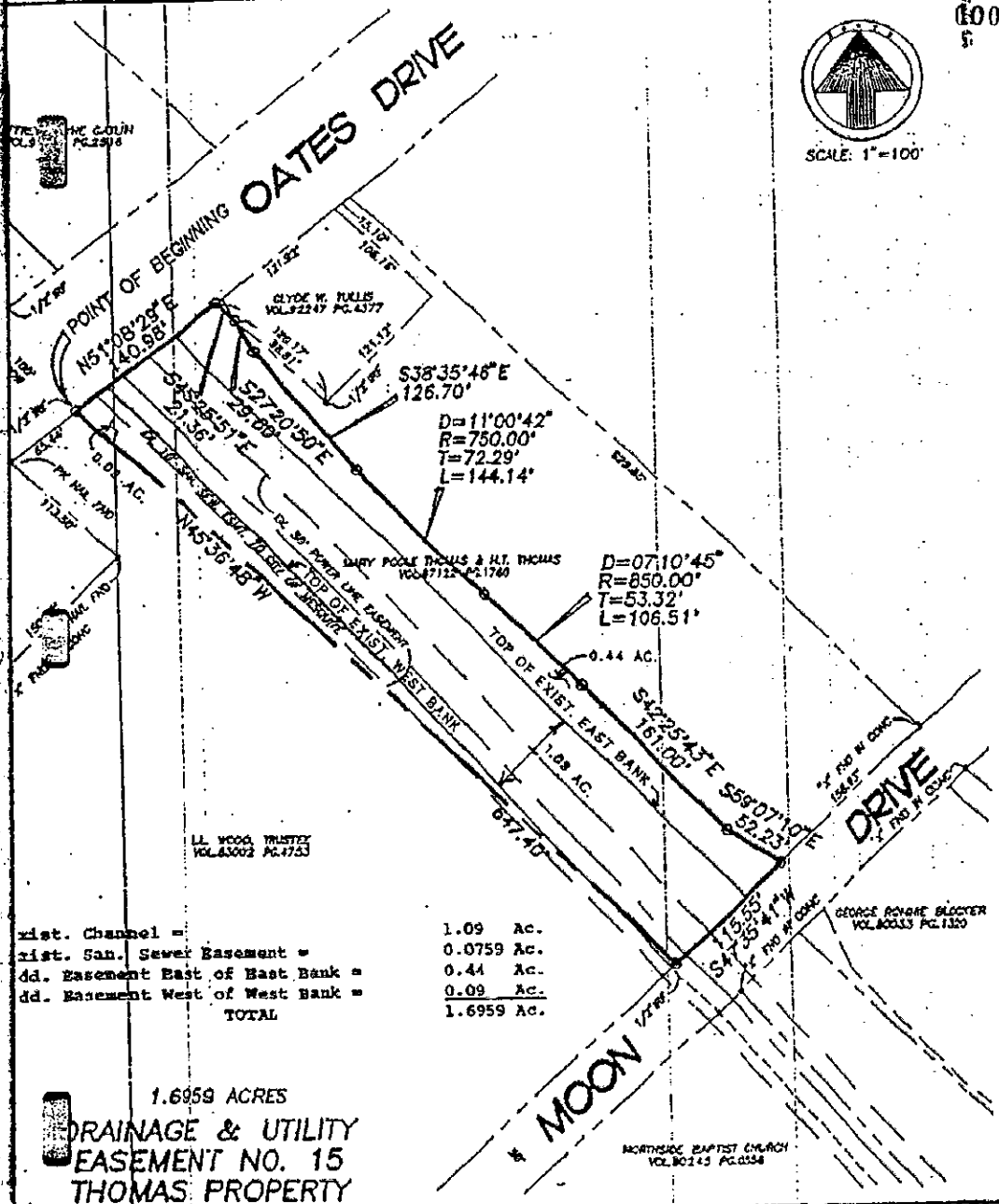
THENCE South 47°35'41" West, along said Northwest line, for a distance of 115.55 ft. to a 1/2" iron rod found for corner; said point being the Southwest corner of said Thomas tract and the Southeast corner of said Wood tract;

THENCE North 45°36'48" West, along the Northeast line of said Wood tract, for a distance of 647.40 ft. to the POINT OF BEGINNING and containing 1.6959 Acres or 73,873 sq. ft. of land.

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SCALE: 1"=100'



Dist. Channel =	1.09 Ac.
Dist. San. Sewer Easement =	0.0759 Ac.
dd. Easement East of East Bank =	0.44 Ac.
dd. Easement West of West Bank =	0.09 Ac.
TOTAL	1.6959 Ac.

1.6959 ACRES
**DRAINAGE & UTILITY
 EASEMENT NO. 15
 THOMAS PROPERTY**

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NATHAN D. MAIER CONSULTING ENGINEERS, INC.
 Three Northpark / 8800 N. Central Expy. / Suite 300
 Dallas, Texas 75231 / Ph. (214) 739-4741

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DESCRIPTION
15 FT. WIDE UTILITY EASEMENT
Mary Poole Thomas & H.T. Thomas Tract

BEING a 15' wide Utility Easement out of a tract of land situated in the J. Hardin Survey Abstract No. 545, in the City of Mesquite, Dallas County, Texas; said easement being a part of that certain tract conveyed to Mary Poole Thomas & H.T. Thomas as recorded in Volume 87122 Page 1760 Deed Records Dallas County, Texas (DRDCT); and being more particularly described as follows:

BEGINNING at an "x" found cut in concrete in the northwest line of Moon Drive (50 ft. ROW), said "x" also being the southeast corner of said Thomas tract;

THENCE South 47°35'41" West, along said northwest line, for a distance of 15.02 ft. to a point for corner, said point being North 47°35'41" East a distance of 259.46 ft. from a 1/2" iron rod found at the southwest corner of said Thomas tract;

THENCE North 45°25'51" West, departing said northwest line, along a line at all times 15.00 ft. west of and parallel to the northeast line of said Thomas tract, at 524.63 ft. passing the southeast corner of a tract conveyed to Clyde W. Tullis as recorded in Volume 92247 Page 4377 DRDCT, in all a distance of 630.79 ft. to a point for corner on the southeast line of Oates Drive (100 ft. ROW), said point being North 51°08'29" East a distance of 262.90 ft. from a 1/2" iron rod found at the northwest corner of said Thomas tract;

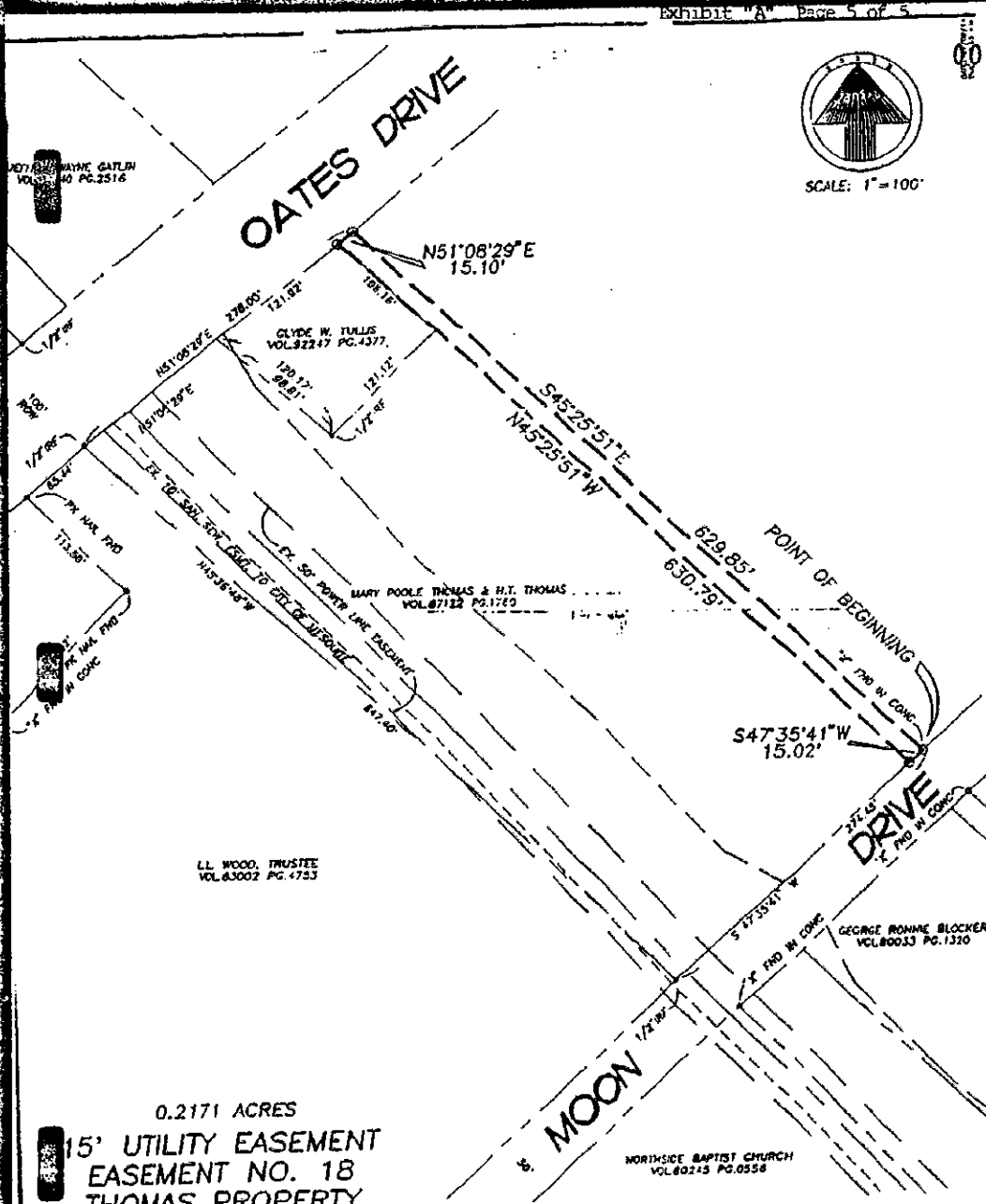
THENCE North 51°08'29" East, along said southeast line, for a distance of 15.10 ft. to a point for corner, said point being the northeast corner of said Thomas tract;

THENCE South 45°25'51" East, departing said southeast line and along the northeast line of said Thomas tract, for a distance of 629.85 ft. to the POINT OF BEGINNING and containing 0.2171 Acres or 9,545.8 sq. ft. of land.

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SCALE: 1"=100'



0.2171 ACRES
 15' UTILITY EASEMENT
 EASEMENT NO. 18
 THOMAS PROPERTY

NDM

NATHAN D. MAIER CONSULTING ENGINEERS, INC.
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