

RESOLUTION NO. 09-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE EXCHANGE OF PROPERTY WITH THE MESQUITE INDEPENDENT SCHOOL DISTRICT (“MISD”) FOR THE CONSTRUCTION AND MAINTENANCE OF A DETENTION POND AND A DRIVEWAY FOR VANGUARD HIGH SCHOOL ON PROPERTY LOCATED AT 1717 MCKENZIE ROAD, MESQUITE, TEXAS, IN EXCHANGE FOR MISD LAND ON PROPERTY LOCATED AT 4201 FAITHON P. LUCAS, SR. BOULEVARD, MESQUITE, TEXAS; FINDING THAT THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO MISD’S USE OF THE LAND, AND ALL REASONABLE PLANNING HAS BEEN DONE TO MINIMIZE HARM TO THE LAND AS A PARK; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE EXCHANGE AGREEMENT WITH MISD AND ALL DOCUMENTS NECESSARY TO CONSUMMATE THE TRANSACTIONS CONTEMPLATED IN THE EXCHANGE AGREEMENT.

WHEREAS, the City of Mesquite (the “**City**”) owns an approximately 1.501-acre tract of unimproved land dedicated for park use and generally described as located in the John P. Anderson Survey, Abstract No. 1, City of Mesquite, Dallas County, Texas (the “**City Tract**”), said City Tract being more particularly described in Exhibit A attached to the Agreement For Exchange of Real Property attached hereto as Exhibit 1 and made a part hereof for all purposes (the “**Exchange Agreement**”); and

WHEREAS, the Mesquite Independent School District (“**MISD**”) owns an approximately 1.501-acre tract of unimproved land generally described as located in the John P. Anderson Survey, Abstract No. 1, City of Mesquite, Dallas County, Texas (the “**MISD Tract**”), said MISD Tract being more particularly described in Exhibit B attached to the Exchange Agreement; and

WHEREAS, the City Tract and the MISD Tract are in close proximity to each other and are of equal size; and

WHEREAS, both City and MISD are governmental entities with the power of eminent domain; and

WHEREAS, MISD is constructing Vanguard High School and the City Tract is adjacent to both Vanguard High School and the existing City of Mesquite Girls’ Softball Complex; and

WHEREAS, MISD needs to accommodate a detention pond and a one-way driveway exit from Vanguard High School onto Faithon P. Lucas, Sr. Boulevard to improve the functional safety of school-related traffic (“**the Project**”); and

WHEREAS, the school use of the City Tract for the Project would be compatible and complimentary to the Girls’ Softball Complex; and

WHEREAS, no adequate alternative site is available to MISD for construction of the Project; and

WHEREAS, in exchange for the City Tract, MISD will convey the MISD Tract to the City for use as park property; and

WHEREAS, the exchange of the City Tract for the MISD Tract will result in no net loss of City park property and minimizes any harm to the City's park program and property; and

WHEREAS, following a public hearing, notice of which was properly posted, the City Council makes the findings and decisions more fully set forth herein.

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

SECTION 1. That all of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Mesquite, Texas (the "**City Council**"), and they are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION 2. That, after conducting a public hearing and reviewing the information provided by staff, the City Council hereby finds and determines that: (i) the Project requires the use or taking of the City Tract, which is adjacent to the Girls' Softball Complex; (ii) there is no feasible and prudent alternative to the use or taking of the City Tract; and (iii) the Project includes all reasonable planning to minimize harm to the City Tract as a park resulting from such use or taking.

SECTION 3. That the City Council approves the Project and the transfer of the City Tract to the MISD in exchange for the transfer of the MISD Tract to the City.

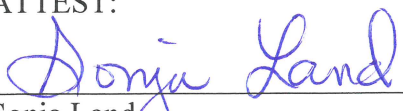
SECTION 4. That the City Council approves the terms and provisions of the Exchange Agreement attached hereto as Exhibit 1 and authorizes the City Manager to execute the Exchange Agreement and all documents necessary to consummate the transactions contemplated therein including, without limitation, all documents necessary to transfer the City Tract to the MISD in exchange for the transfer of the MISD Tract to the City.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 1st day of March 2021.

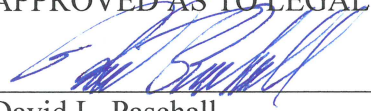


Robert Miklos  
Mayor Pro Tem

ATTEST:

  
\_\_\_\_\_  
Sonja Land  
City Secretary

APPROVED AS TO LEGAL FORM:

  
\_\_\_\_\_  
David L. Paschall  
City Attorney

THE STATE OF TEXAS     §  
  §  
COUNTY OF DALLAS     §

AGREEMENT FOR  
EXCHANGE OF REAL PROPERTY

This agreement for the exchange of real property is made by and between Mesquite Independent School District (“MISD”) and the City of Mesquite (“City”).

Recitals

MISD is an independent school district duly organized and existing under and by virtue of the laws of the State of Texas.

City is a Texas home rule municipality duly organized and existing under and by virtue of the laws of the State of Texas.

City owns fee simple title to the real property legally described in Exhibit “A” appended to this agreement.

MISD owns fee simple title to the real property legally described in Exhibit “B” appended to this agreement.

MISD desires to acquire fee simple title to the real property described in Exhibit “A” from City for the public purpose of constructing and maintaining a detention pond and one-way driveway exit from Vanguard High School onto Faithon P. Lucas, Sr. Boulevard. City desires to acquire fee simple title to the real property described in Exhibit “B” from MISD for the public purpose of park use.

The tracts of real property described in Exhibits “A” and “B” are located in close proximity to each other and are of equal size and value.

MISD and City have found and determined, and by this agreement find and determine, that the properties described in Exhibits “A” and “B” will carry out a purpose, when conveyed to the other, that benefits the public interest of each granting political subdivision.

MISD and City desire and intend to make an exchange of the properties described in Exhibits “A” and “B” pursuant to authority granted to City and MISD by Section 272.001(1) Texas Local Government Code.

Both MISD and City are governmental entities with the power of eminent domain to condemn each other’s lands for a paramount public use or need.

Due to the site requirements required to construct the exit driveway from Vanguard High School onto Faithon P. Lucas, Sr. Boulevard, there is no feasible alternative to the use of the tracts to be exchanged.

The exchange contemplated by this agreement includes all reasonable planning to minimize harm to the City’s land as a park resulting from the exchange.

Accordingly, for Ten Dollars (\$10.00) and other good and valuable consideration, MISD and City agree as follows:

Agreement, Terms and Conditions

1. The Recitals contained above are incorporated in this agreement for all purposes.
2. City agrees to transfer the real property described in Exhibit “A” to MISD.
3. MISD agrees to transfer the real property described in Exhibit “B” to City.
4. City warrants and represents to MISD that, at time of closing, it will convey good and marketable fee simple title to the real property described in Exhibit “A” to MISD subject to any restrictive covenants as the same appear of record in the public records of Dallas County, Texas including, but not limited to, the restriction that the property be used only for municipal and

public school use in perpetuity as provided in the Deed Without Warranty recorded in Volume 94131 Page 00491 of the Dallas County Recorder's Office on July 11, 1994.

5. MISD warrants and represents to City that, at time of closing, it will convey good and marketable fee simple title to the real property described in Exhibit "B" to City, free and clear of any encumbrances other than easements that will not interfere with City's use of the property.

6. The closing under this agreement shall take place within thirty (30) days of the enactment of resolutions of MISD's Board of Trustees and City's City Council approving this transaction.

7. At closing, MISD shall deliver a Special Warranty Deed to City; and, City shall deliver a Special Warranty Deed to MISD.

8. Exhibits "A" and "B" and the Recitals set out above are incorporated in this agreement by reference for all purposes.

9. All closing costs shall be paid equally by MISD and City.

10. This agreement contains the complete agreement between the parties and cannot be modified except through the written agreement of the parties.

11. The terms of this agreement shall survive closing and shall not merge with any deeds delivered by the parties.

12. This agreement shall be construed and interpreted under and in accordance with the laws of the State of Texas; and, is wholly performable in Dallas County, Texas.


13. Any party to this agreement who is a prevailing party in a legal proceeding against the other party brought under or in relation to this agreement shall be entitled to recover from the other party reasonable attorney's fees and costs of litigation.

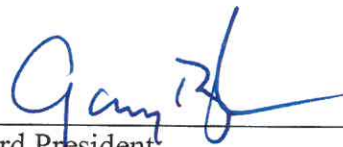
14. MISD and City agree that the title and right to possession of the real properties described in Exhibits "A" and "B" shall revert to the granting political subdivision if the acquiring political subdivision ceases to use the land in carrying out the public purpose set out and defined in this agreement. This provision shall survive closing.

Dated: April 12, 2021.

Attest:

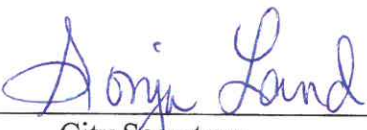
Mesquite Independent School District

  
\_\_\_\_\_  
Secretary

By:   
\_\_\_\_\_  
Board President

Attest:

City of Mesquite

  
\_\_\_\_\_  
City Secretary

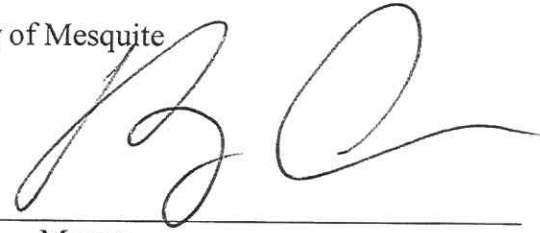
By:   
\_\_\_\_\_  
Mayor

EXHIBIT A



SCALE 1" = 30'

LEGEND

- CR - CONTROLLING CORNER
- DS - SAVED 1/2" PIN AND SET STAMP (MIS)
- RF - IRON ROD FOUND
- ST - STAKE FOUND
- - - - - SURVEY
- - - - - ROAD
- - - - - WATER MAIN
- - - - - WATER METER
- - - - - SHADOW MARKER
- - MARK
- - - - - MAIL BOX
- - STUMP MARKER
- - WATER METER
- - - - - FENCE MARK MARKER
- - - - - GAS SIGN
- - WATER PIPE

LEGAL DESCRIPTION

BEING a tract of land situated in the John P. Anderson Survey, Abstract No. 1, City of Mesquite, Dallas County, Texas, and of a acre tract conveyed to the City of Mesquite as recorded in Volume 94131, Page 471, Land Records of Dallas County, Texas, and being more particularly described by metes and bounds as follows:  
 BEGINNING at a 1/2" iron rod with yellow plastic cap stamped "5310" found for corner in the northeast Right Of Way line of Faithon P. Lucas Sr. Blvd. (120' ROW), said iron rod being at the south corner of a 44,027 acre tract conveyed to the Mesquite ISD as recorded in County Clerk's No. 201800314717, Land Records of Dallas County, Texas;  
 THENCE S 44°22'44" W following the northeast Right Of Way line of Faithon P. Lucas Sr. Blvd. a distance of 243.68' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner;  
 THENCE N 41°17'04" W a distance of 271.99' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner;  
 THENCE N 48°51'50" E a distance of 101.11' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner;  
 THENCE N 19°24'44" E a distance of 134.82' to a 1/2" iron rod with yellow plastic cap stamped "4613" set for corner;  
 THENCE S 45°30'17" E a distance of 320.21' to the POINT OF BEGINNING and containing 65,462 Square Feet or 1.501 Acres of land.

NOTES:

1. The original copy will have original signatures, stamp and an impression and
2. Copyright 2019, Surbukan Surveying, Inc.
3. This survey is being provided solely for the use of the current parties.
4. This survey is subject to all assessments of record.
5. The basis of bearings, horizontal and vertical positions are derived from Texas NAD 83 North, Texas State Plane Coordinate System, North Central Zone, and all (GDA83) Epoch 2002.0. Vertical position are referenced to NAVD83 using (GDA003).

SURVEYOR'S CERTIFICATE

The survey shown herein is a true representation of the property as determined by a survey made on the ground and under my personal supervision. All visible encroachments are as shown, except as shown. This survey conforms to the Texas Board of Professional Land Surveyors Minimum Standards of Practice as adopted by the Board effective September 1, 2017. The property is subject to all assessments of record.

*David J. Surbukan*  
 David J. Surbukan R.P.L.S. No. 4613



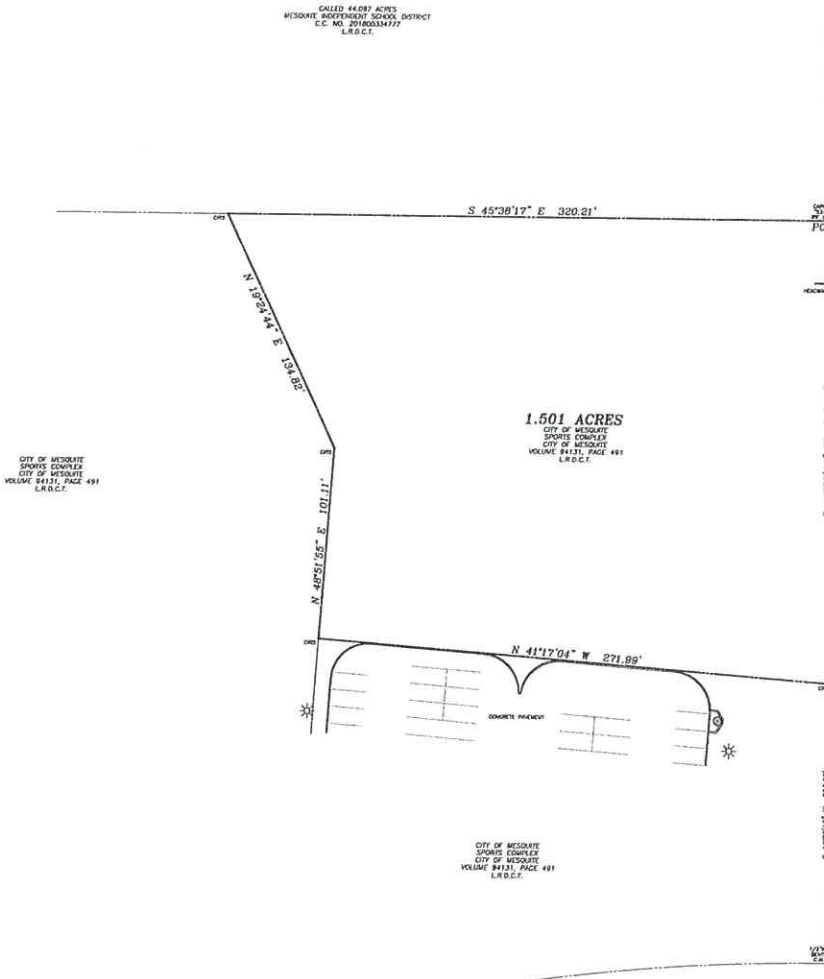
**BOUNDARY SURVEY**  
**1.501 ACRES**  
**JOHN P. ANDERSON SURVEY**  
**ABSTRACT NO. 1**  
**CITY OF MESQUITE**  
**DALLAS COUNTY, TEXAS**

**SURBUKAN SURVEYING, INC.**  
 P.O. BOX 126  
 ADDS, TEXAS 75002  
 (972) 924-4200  
 FIRM NO. 1069500

SCALE 1" = 30'

DATE: MAY 23, 2019

JOB No. 2019-09



CALLED 44.887 ACRES  
 MESQUITE INDEPENDENT SCHOOL DISTRICT  
 C.E. NO. 201800314717  
 L.R.O.C.T.

**1.501 ACRES**  
 CITY OF MESQUITE  
 SPORTS COMPLEX  
 CITY OF MESQUITE  
 VOLUME 94131, PAGE 491  
 L.R.O.C.T.

CITY OF MESQUITE  
 SPORTS COMPLEX  
 CITY OF MESQUITE  
 VOLUME 94131, PAGE 491  
 L.R.O.C.T.

CITY OF MESQUITE  
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 CITY OF MESQUITE  
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 L.R.O.C.T.

