

RESOLUTION NO. _____

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 OF A GYMNASIUM FOR VANSTON MIDDLE SCHOOL ON PROPERTY COMMONLY KNOWN AS 2913 OATES DRIVE, MESQUITE, TEXAS, IN EXCHANGE FOR MISD LAND CONTAINING TENNIS COURTS ON PROPERTY COMMONLY KNOWN AS 3230 KARLA DRIVE, 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 Mesquite Independent School District ("MISD") owns an approximately 0.7297-acre tract of land generally described as located in the Theophalus Thomas Survey, Abstract No. 1461, Mesquite, Dallas County, Texas (the "MISD Tract"), said MISD 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 City of Mesquite (the "City") owns an approximately 0.7297-acre tract of land generally described as located in the Theophalus Thomas Survey, Abstract No. 1461, Mesquite, Dallas County, Texas (the "City Tract"), the City Tract being more particularly described in Exhibit "B" attached to the Exchange Agreement; and

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

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

WHEREAS, MISD presently operates the Vanston Middle School and uses the tennis courts located on the MISD Tract in connection with the operation of the Vanston Middle School and the City presently uses the City Tract as a park; and

WHEREAS, enrollment is increasing in the MISD and the MISD has determined that it is necessary to add a gymnasium to the Vanston Middle School complex ("the Project"); 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, which is improved with tennis courts that will enhance Vanston Park; and

WHEREAS, the gymnasium to be constructed by MISD on the City Tract will be jointly used by MISD and the City; 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 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 of the City of Mesquite, Texas (the "City Council"), hereby finds and determines that: (i) the Project requires the use or taking of the City Tract, which is currently being used as a City park; (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 7th day of January 2019.

Stan Pickett
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED:



David L. Paschall
City Attorney

EXHIBIT "1"
to the Resolution

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.

MISD owns fee simple title to the real property legally described in Exhibit "A" appended to this agreement.

City owns fee simple title to the real property legally described in Exhibit "B" appended to this agreement.

City desires to acquire fee simple title to the real property described in Exhibit "A" from MISD for the public purpose of maintaining and improving its Vanston Park. MISD desires to acquire fee simple title to the real property described in Exhibit "B" from City for the public purpose of constructing a gymnasium that will be jointly used by MISD and City in conjunction with the operation of MISD's Vanston Middle School and City's Vanston Park.

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

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 space requirements required to construct the gymnasium, 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. MISD agrees to transfer the real property described in Exhibit "A" to City.
3. City agrees to transfer the real property described in Exhibit "B" to MISD.
4. MISD warrants and represents to City that, at time of closing, it will convey good and indefeasible fee simple title to the real property described in Exhibit "A" to City subject to:
(i) any discrepancies, conflicts or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements; (ii) any leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges and immunities

relating thereto as the same appear of record in the public records of Dallas County, Texas; and (iii) any easements, reservations, conditions, agreements, instruments, covenants and restrictive covenants as the same appear of record in the public records of Dallas County, Texas, or which are visible or apparent on the real property described in Exhibit "A".

5. City warrants and represents to MISD that, at time of closing, it will convey good and indefeasible fee simple title to the real property described in Exhibit "B" to MISD subject to: (i) any discrepancies, conflicts or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements; (ii) any leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges and immunities relating thereto as the same appear of record in the public records of Dallas County, Texas; and (ii) any easements, reservations, conditions, agreements, instruments, covenants and restrictive covenants as the same appear of record in the public records of Dallas County, Texas, or which are visible or apparent on the real property described in Exhibit "B".

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 transferring the real property described in Exhibit "A" to the City subject to the matters set forth in Section 4 above; and, City shall deliver a Special Warranty Deed to MISD transferring the real property described in Exhibit "B" to MISD subject to the matters set forth in Section 5 above.

8. MISD agrees the real property described in Exhibit "B" shall be used for the public purpose of a gymnasium for the joint use and benefit of MISD and the City.

9. City agrees the real property described in Exhibit "A" shall be used for the public purpose of tennis courts and/or other recreational facilities for the joint use and benefit of MISD and the City.

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

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

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

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

14. 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.

15. 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 not be entitled to recover from the other party reasonable attorney's fees and costs of litigation.

16. 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.

Dated: _____, 2019.

Attest:

Mesquite Independent School District

Secretary

By: _____
Board President

Attest:

City of Mesquite

City Secretary

By: _____
_____(Title)

EXHIBIT "A"

PROPERTY DESCRIPTION

BEING an 31,784 square foot (0.7297 acres) tract of land situated in the Theophilus Thomas Survey, Abstract No. 1461, in the City of Mesquite, Dallas County, Texas, and being a part of a tract of land conveyed to the Mesquite Independent School District (MISD) according to the Warranty Deed recorded in Volume 4489, Page 472 of the Deed Records of Dallas County, Texas (D.R.D.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod with plastic cap stamped "TX REG NO 100189-00" found (controlling monument) for the common east corner of the aforementioned MISD tract and the north corner of a called 5.55 acre tract of land conveyed to the City of Mesquite according to the Warranty Deed recorded in Volume 5295, Page 271, D.R.D.C.T, from which a 1/2 inch iron rod found bears South 88 degrees 47 minutes 02 seconds East, a distance of 5.20 feet;

THENCE South 44 degrees 08 minutes 39 seconds West, along the common southeast line of said MISD tract and the northwest line of said City of Mesquite tract, a distance of 187.70 feet to a 1/2 inch iron rod with plastic cap stamped "TX REG NO 100189-00" set for corner;

THENCE North 45 degrees 52 minutes 39 seconds West, departing said common line, a distance of 170.01 feet to a 1/2 inch iron rod with plastic cap stamped "TX REG NO 100189-00" set for corner;

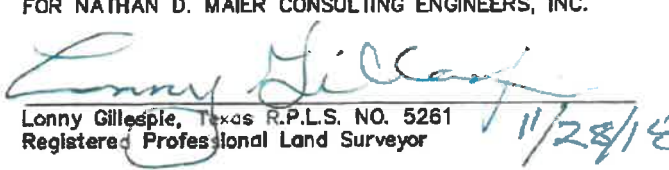
THENCE North 44 degrees 33 minutes 36 seconds East, a distance of 187.71 feet to a 1/2 inch iron rod with plastic cap stamped "TX REG NO 100189-00" set in the northeast line of said MISD tract for the common south corner of a tract of land conveyed to the Mesquite Independent School District (MISD) according to the Warranty Deed recorded in Volume 5293, Page 121, D.R.D.C.T. and the west corner of a tract of land conveyed to the City of Mesquite according to the Warranty Deed recorded in Volume 4864, Page 394, D.R.D.C.T., both tracts being a portion of Block 26 of Casa View Heights No. 1B, Second Installment, an addition to the City of Mesquite, Texas according to the plat thereof recorded in Volume 38, Page 29 of the Map Records of Dallas County, Texas (M.R.D.C.T.);

THENCE South 45 degrees 52 minutes 39 seconds East, along the common northeast line of said City of Mesquite tract recorded in Volume 4489, Page 472 and the southwest line of said City of Mesquite tract recorded in Volume 4864, Page 394, a distance of 168.64 feet to the POINT OF BEGINNING and containing 31,784 square feet or 0.7297 acres of land, more or less.

SURVEYOR'S CERTIFICATE

I, Lonny Gillespie, Registered Professional Land Surveyor, do hereby certify that I have made a careful and accurate survey of the above described property, and that the plat shown hereon is a true, correct and accurate representation of the property as determined by survey. There are no visible easements, encroachments, conflicts, or protrusions, except as shown. This survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Condition II, Category 1B (without Title Insurance) Survey.

FOR NATHAN D. MAIER CONSULTING ENGINEERS, INC.


Lonny Gillespie, Texas R.P.L.S. NO. 5261
Registered Professional Land Surveyor



NOTE:

The bearings for this survey are referenced to grid bearings & the Texas State Plane Coordinate System (NAD83), North Central Zone 4202 using the Western Data Systems, Inc. RTK Cooperative Network.

PAGE 1 OF 2

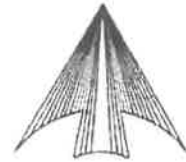
NATHAN D. MAIER CONSULTING ENGINEERS, INC.

TBPE FIRM REG. NO. F-356
TBPLS FIRM REG. NO. 100189-00
12377 Merit Drive / Suite 700
Dallas, Texas 75251 / Ph. (214) 739-4741

NOVEMBER, 2018
JOB NO. 18-09-058
18058-SWAP PARCEL EXH.dwg

NDM

**DRAWING OF
EXHIBIT "A"**



NORTH
SCALE: 1"=100'

ABBREVIATION LEGEND

D.R.D.C.T.	DEED RECORDS OF DALLAS COUNTY, TEXAS
M.R.D.C.T.	MAP RECORDS OF DALLAS COUNTY, TEXAS
VOL., PG.	VOLUME, PAGE
ESMT.	EASEMENT
R.O.W.	RIGHT-OF-WAY
SQ. FT.	SQUARE FEET
IRF	IRON ROD FOUND
IRS W/CAP	IRON ROD SET WITH PLASTIC CAP STAMPED "TX REG NO 100189-00"

MESQUITE INDEPENDENT
SCHOOL DISTRICT
VOL. 15293, PG. 121
D.R.D.C.T.
CALLED 0.15 ACRES

A PORTION OF BLOCK 26
CASA VIEW HEIGHTS NO. 18,
SECOND INSTALLMENT
VOL. 38, PG. 29
M.R.D.C.T.

THEOPHILUS THOMAS SURVEY
ABSTRACT NO. 1461

MESQUITE INDEPENDENT
SCHOOL DISTRICT
VOL. 4489, PG. 472
D.R.D.C.T.
REMAINDER OF, CALLED
14.85 ACRES

CITY OF MESQUITE, TEXAS
VOL. 4864, PG. 394
D.R.D.C.T.
REMAINDER OF CALLED 12.76 ACRES

A PORTION OF BLOCK 26
CASA VIEW HEIGHTS NO. 18, SECOND INSTALLMENT
VOL. 38, PG. 29
M.R.D.C.T.

**POINT OF
BEGINNING**

STATE PLANE COORDINATES
NORTHING: 8988714.968
EASTING: 2540530.112

**0.7297 ACRE
31,784 SQ. FT.**

CITY OF MESQUITE, TEXAS
VOL. 5295, PG. 271
D.R.D.C.T.
CALLED 5.55 ACRES

BASE OF BEARINGS:

The bearings for this survey are referenced to
grid bearings to the Texas State Plane Coordinate
System (NAD83), North Central Zone 4202 using
the Western Data Systems, Inc. RTK Cooperative
Network.

NATHAN D. MAIER CONSULTING ENGINEERS, INC.

TBPE FIRM REG. NO. F-358
TBPLS FIRM REG. NO. 100189-00
12377 Merit Drive / Suite 700
Dallas, Texas 75251 / Ph. (214) 739-4741

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NOVEMBER, 2018

JOB NO. 18-09-058

18058-SWAP PARCEL EXH.dwg

NDM

EXHIBIT "B"

PROPERTY DESCRIPTION

BEING an 31,786 square foot (0.7297 acres) tract of land situated in the Theophilus Thomas Survey, Abstract No. 1461, in the City of Mesquite, Dallas County, Texas, and being a part of a tract of land conveyed to the City of Mesquite according to the Warranty Deed recorded in Volume 4864, Page 394 of the Deed Records of Dallas County, Texas (D.R.D.C.T.), said tract being a portion of Block 26 of Casa View Heights No. 18, Second Installment, an addition to the City of Mesquite, Texas according to the plat thereof recorded in Volume 38, Page 29 of the Map Records of Dallas County, Texas (M.R.D.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod with plastic cap stamped "TX REG NO 100189-00" found (controlling monument) in the westerly right-of-way line of Sarazen Drive, a called 50 foot wide right-of-way, for the common north corner of the aforementioned City of Mesquite tract and the east corner of a called 5.55 acre tract of land conveyed to the Mesquite Independent School District (MISD) according to the Warranty Deed recorded in Volume 5293, Page 121, D.R.D.C.T., said common corner being the beginning of a non-tangent curve to the right having a central angle of 04 degrees 53 minutes 18 seconds, a radius of 1,720.20 feet and a chord which bears South 53 degrees 57 minutes 31 seconds East, a distance of 146.72 feet;

THENCE, In a southeasterly direction along the common westerly right-of-way line of said Sarazen Drive, the easterly line of said City of Mesquite tract, and with said non-tangent curve to the right, an arc length of 146.77 feet to a 1/2 inch iron rod with plastic cap stamped "TX REG NO 100189-00" set for corner;

THENCE South 37 degrees 14 minutes 39 seconds West, departing the common westerly right-of-way line of said Sarazen Drive and the easterly line of said City of Mesquite tract, a distance of 183.74 feet to a 1/2 inch iron rod with plastic cap stamped "TX REG NO 100189-00" set for corner;

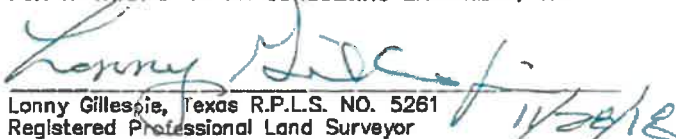
THENCE North 63 degrees 30 minutes 06 seconds West, a distance of 177.27 feet to a 1/2 inch iron rod with plastic cap stamped "TX REG NO 100189-00" set in the common northwest line of said City of Mesquite tract and the southeast line of said MISD tract;

THENCE North 44 degrees 34 minutes 05 seconds East, along said common line, a distance of 215.47 feet to the POINT OF BEGINNING and containing 31,786 square feet or 0.7297 acres of land, more or less.

SURVEYOR'S CERTIFICATE

I, Lonny Gillespie, Registered Professional Land Surveyor, do hereby certify that I have made a careful and accurate survey of the above described property, and that the plat shown hereon is a true, correct and accurate representation of the property as determined by survey. There are no visible easements, encroachments, conflicts, or protrusions, except as shown. This survey substantially conforms to the current Texas Society of Professional Surveyors Standards and Specifications for a Condition II, Category 1B (without Title Insurance) Survey.

FOR NATHAN D. MAIER CONSULTING ENGINEERS, INC.


Lonny Gillespie, Texas R.P.L.S. NO. 5261
Registered Professional Land Surveyor



NOTE:

The bearings for this survey are referenced to grid bearings & the Texas State Plane Coordinate System (NAD83), North Central Zone 4202 using the Western Data Systems, Inc. RTK Cooperative Network.

NDM

NATHAN D. MAIER CONSULTING ENGINEERS, INC.

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TBPLS FIRM REG. NO. 100189-00
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Dallas, Texas 75251 / Ph. (214) 739-4741

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NOVEMBER, 2018
JOB NO. 18-09-058
18058-SWAP PARCEL EXH.dwg

DRAWING OF
EXHIBIT "B"



NORTH
SCALE: 1"=100'

ABBREVIATION LEGEND

D.R.D.C.T.	DEED RECORDS OF DALLAS COUNTY, TEXAS
M.R.D.C.T.	MAP RECORDS OF DALLAS COUNTY, TEXAS
VOL., PG.	VOLUME, PAGE
ESMT.	EASEMENT
R.O.W.	RIGHT-OF-WAY
SQ. FT.	SQUARE FEET
IRF	IRON ROD FOUND
IRS W/CAP	IRON ROD SET WITH PLASTIC CAP STAMPED "TX REG NO 100189-00"

$R=1,720.20'$
 $\Delta=04^{\circ}53'18''$
 $L=146.77'$
 $CB-S 53^{\circ}57'31'' E$
 $CD=146.72'$

POINT OF BEGINNING

STATE PLANE COORDINATES
NORTHING: 8989148.340
EASTING: 2538514.058

**THEOPHALUS THOMAS SURVEY
ABSTRACT NO. 1461**

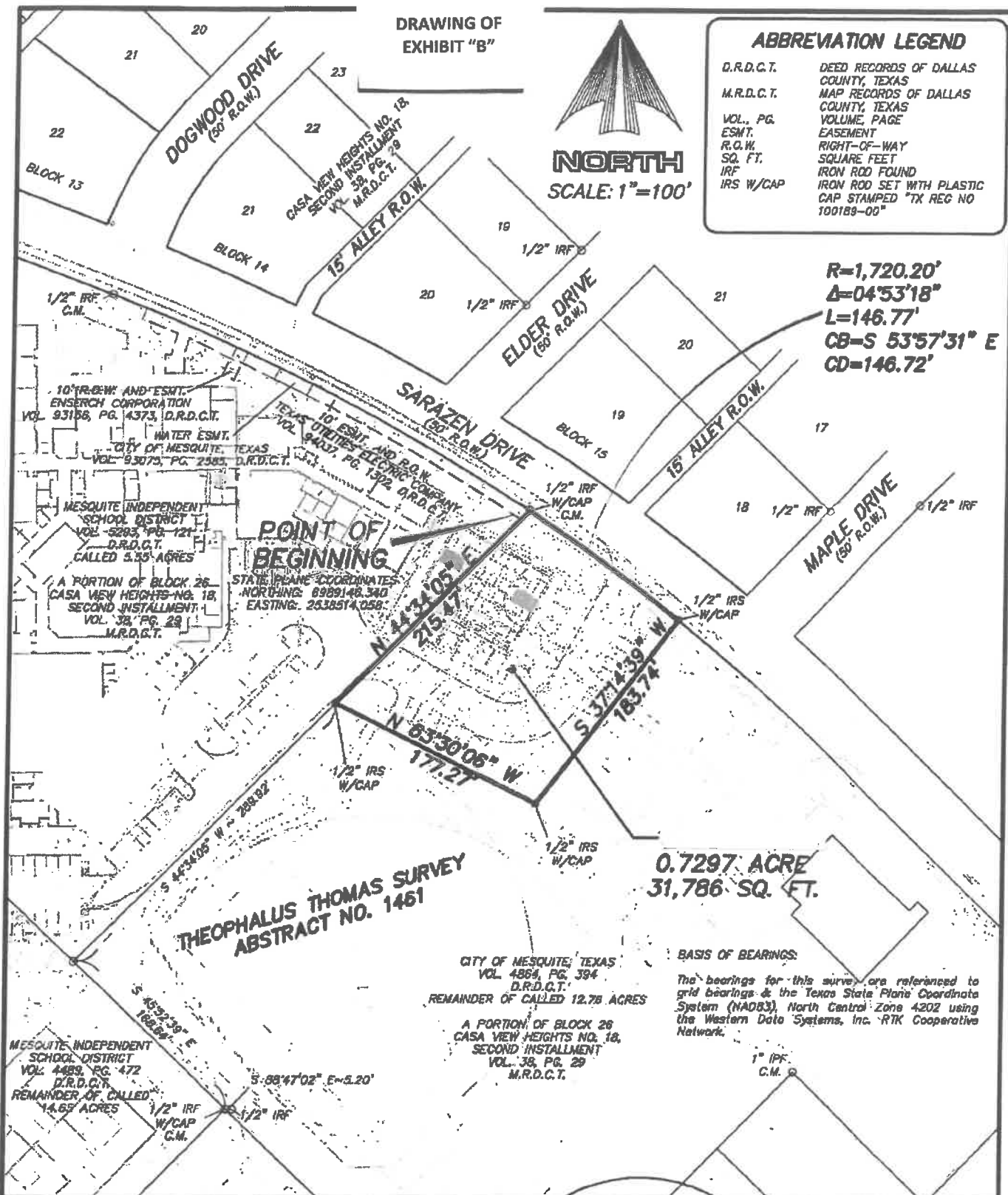
**0.7297 ACRE
31,786 SQ. FT.**

CITY OF MESQUITE, TEXAS
VOL. 4864, PG. 394
D.R.D.C.T.
REMAINDER OF CALLED 12.78 ACRES

A PORTION OF BLOCK 26
CASA VIEW HEIGHTS NO. 18,
SECOND INSTALLMENT
VOL. 38, PG. 29
M.R.D.C.T.

BASIS OF BEARINGS:

The bearings for this survey are referenced to grid bearings & the Texas State Plane Coordinate System (NAD83), North Central Zone 4202 using the Western Data Systems, Inc. RTK Cooperative Network.



NDM

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