

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THE NECESSITY OF ACQUIRING REAL PROPERTY FOR THE CONSTRUCTION OF ROADWAY AND INFRASTRUCTURE IMPROVEMENTS AT PROPERTY LOCATED AT 1717 SOUTH TOWN EAST BOULEVARD; 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**”), authorized the reconstruction of roadway and infrastructure improvements for Town East Boulevard from U.S. Highway 80 to Skyline Drive; and

WHEREAS, these improvements include (1) sidewalks and trails; (2) water, sanitary sewer and drainage improvements; (3) traffic signal improvements and appurtenances; and (4) roadway infrastructure improvements (the “**Project**”); and

WHEREAS, upon consideration of this matter and for construction, maintenance and operation 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 (“**City**”) and the public at large (the “**Public Uses**”) to acquire a right-of-way easement and a temporary construction easement on and across property located at 1717 South Town East Blvd., Mesquite, Texas 75149 (the “**Property**”), said right-of-way easement being approximately 0.0133 acres (580 square feet) of real property more particularly described and depicted in Exhibit “A” attached hereto and incorporated herein by reference, and said temporary construction easement being more particularly described and depicted in Exhibit “B” attached hereto and incorporated herein by reference, along with any such other easements on and across the Property necessary for the Project (the “**Easements**”); 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 description of the Easements to be acquired by eminent domain for the Project complies with applicable law in that the same provides the property owners in and around the area reasonable notice that the owner’s 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 Easements for the Public Use, voluntarily, from the subject landowner prior to moving forward with the acquisition by eminent domain; and

WHEREAS, the City Council now deems it necessary to authorize the City Manager or his designee (hereinafter collectively referred to as the “**City Manager**”) to initiate condemnation proceedings in order to acquire the necessary Easement 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 Easements for such purposes, as allowed by law, together with all necessary appurtenances, additions and improvements on, over, under and through those certain lots, tracts or parcels of lands comprising the Easement.

SECTION 3. The City Council authorizes the City Manager to negotiate for and to acquire the required Easements 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 Easements 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 Easements 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 Easements 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 Easements, proceedings in eminent domain to acquire the above-stated Easements.

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 3rd day of September 2019.

Stan Pickett
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

**Right-of-Way Easement
D. Tanner Survey, Abstract No. 1462
City of Mesquite, Dallas County, Texas**

BEING a 580 square foot (0.0133 acres) Easement situated in the D. Tanner Survey, Abstract No. 1462, in the City of Mesquite, Dallas County, Texas, and being part of a tract of land described in Warranty Deed to Gary R. Timbes and wife, Elizabeth S. Timbes, as recorded in Volume 83063, Page 624, of the Deed Records of Dallas County, Texas (D.R.D.C.T.), and being more particularly described as follows:

COMMENCING at the south corner of said Timbes tract and the east corner of Lot 1R, Block A of Green Acres Industrial Replat, as recorded in Volume 95139, Page 2479, D.R.D.C.T., being in the northwest line of Forney Road (60 foot width right-of-way);

THENCE North 44 degrees 17 minutes 08 seconds East, with the southeast line of said Timbes tract and the northwest line of said Forney Road, a distance of 175.35 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set at the **POINT OF BEGINNING**;


1. **THENCE** North 02 degrees 23 minutes 29 seconds East, departing the southeast line of said Timbes tract and the northwest line of said Forney Road, a distance of 67.39 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set in the northeast line of said Timbes tract, being in the southwest line of Town East Boulevard (100 foot right-of-way);
2. **THENCE** South 45 degrees 30 minutes 23 seconds East, with the northeast line of said Timbes tract and the southwest line of said Town East Boulevard, a distance of 12.00 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set at the northeast corner of said Timbes tract;
3. **THENCE** South 00 degrees 36 minutes 38 seconds East, with the east line of said Timbes tract, a distance of 46.75 feet to a 1/2-inch iron rod with red cap stamped "PJB SURVEYING" set;
4. **THENCE** South 44 degrees 17 minutes 08 seconds West, with the southeast line of said Timbes tract and the northwest line of said Forney Road, a distance of 17.00 feet to the **POINT OF BEGINNING** and containing 580 square feet (0.0133 acres) of land.

**Right-of-Way Easement
D. Tanner Survey, Abstract No. 1462
City of Mesquite, Dallas County, Texas**

A plat accompanies this legal description.

Bearings and coordinates used hereon are derived from the State Plane Coordinate System, Texas, North Central Zone 4202, American Datum 1983 (NAD83), adjustment realization 2011.

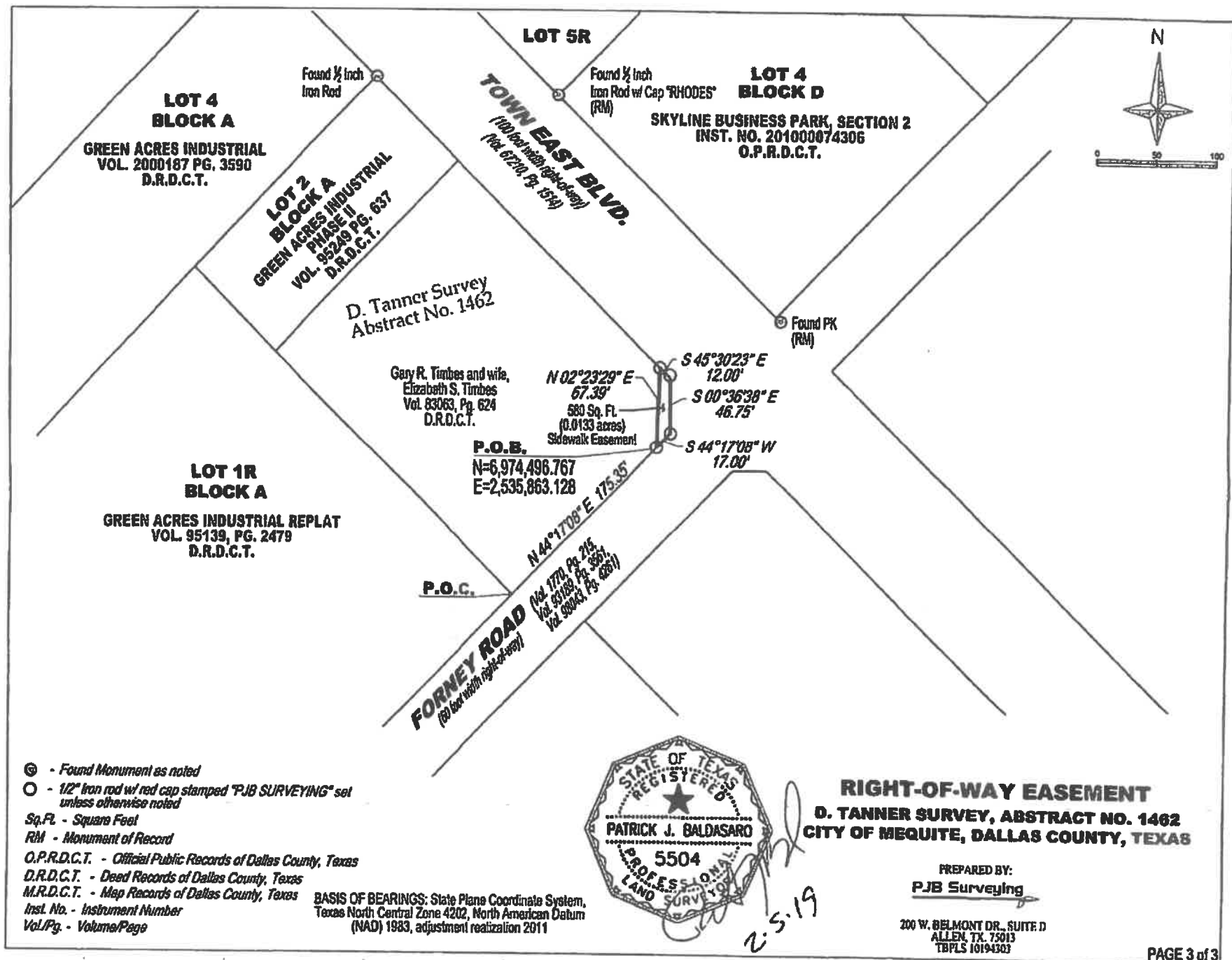
By: _____


Patrick J. Baldasaro
Registered Professional Land Surveyor
Texas No. 5504
PJB Surveying, LLC
TBPLS Firm No. 10194303

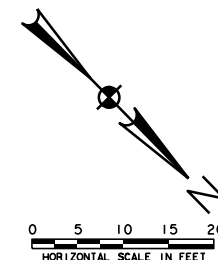
Date: _____

2-5-19





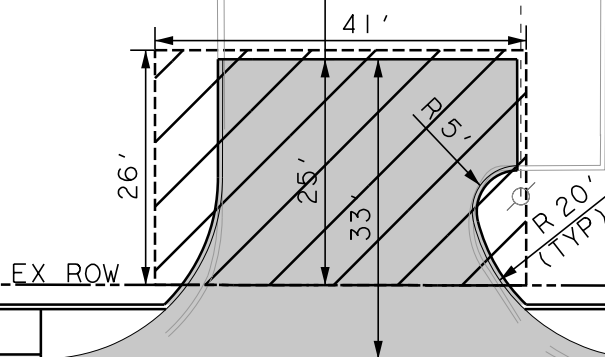
- ⊙ - Found Monument as noted
- - 1/2" iron rod w/ red cap stamped "PJB SURVEYING" set unless otherwise noted
- Sq.Ft. - Square Feet
- RM - Monument of Record
- O.P.R.D.C.T. - Official Public Records of Dallas County, Texas
- D.R.D.C.T. - Deed Records of Dallas County, Texas
- M.R.D.C.T. - Map Records of Dallas County, Texas
- Inst. No. - Instrument Number
- Vol./Pg. - Volume/Page



1717 S. TOWN EAST BLVD
MESQUITE, TX 75149
GARY R. TIMBES AND WIFE,
ELIZABETH S. TIMBES
VOL. 83063, PG. 624

STA 45+84.0
C 27.0' DRIVEWAY

TCE:
1,066 SF



TOWN EAST BLVD (SOUTHBOUND)

5+00

46+00

PROP BASELINE
TOWN EAST BLVD

WV

WV

47+00

TOWN EAST BLVD (NORTHBOUND)

LEGEND

- PROP CONCRETE PAVEMENT
- PROP CONCRETE DRIVEWAY
- PROP CONCRETE SIDEWALK
- EXISTING PAVEMENT
- PROPOSED PAVEMENT

TOWN EAST BOULEVARD
FROM SKYLINE DR. TO U.S. 80

1717 S. TOWN EAST BLVD.
GARY AND ELIZABETH TIMBES
DRIVEWAY EXHIBIT

SCALE:
1"=20' H

DATE
08/26/2019

CRIADO & ASSOCIATES, INC
FIRM No. F-4373

FOR INFORMATION
NOT FOR CONSTRUCTION
THIS DOCUMENT IS ISSUED FOR THE
PURPOSE OF INFORMATION ONLY
AND IS NOT INTENDED FOR BIDDING,
OR CONSTRUCTION PURPOSES.
PLANS PREPARED UNDER THE DIRECT
SUPERVISION OF KELLY C. MONGRIEF, PE
TEXAS REGISTRATION NO. 96712
DATE: AUGUST 26, 2019

MESQUITE
T E X A S
Real. Texas. Flavor.
CITY OF MESQUITE
1515 N. GALLOWAY
MESQUITE, TEXAS 75149

CRIADO

4100 SPRING VALLEY ROAD, SUITE 1001
DALLAS, TX 75244
O: 972-392-9092 F: 972-392-9192
FIRM NO. F-4373