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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

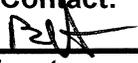
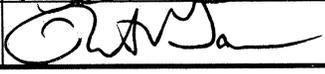
Item # 7 Ordinance/Resolution# 11-167 Council District: 5

For Meeting of February 7, 2011
 (Adoption Date)

TITLE:

A RESOLUTION APPROVING THE VACATION OF A 0.193 ACRE PARCEL OF REMNANT RIGHT OF WAY LOCATED AT THE CORNER OF MOHEGAN DRIVE AND ELKS DRIVE AND TRANSFERRING OWNERSHIP OF THE REMNANT RIGHT OF WAY PARCEL TO AED, INC., FOR PAYMENT IN THE AMOUNT OF \$2,185.00.

PURPOSE(S) OF ACTION: Vacate City Owned remnant Right of Way and transfer it to the adjoining property owner.

Drafter and Staff Contact: Bill Hamm 		Department: Public Works		Phone: (575) 528-3121	
Department	Signature	Phone	Department	Signature	Phone
Department Director		528-3333	Budget		541-2107
Other			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: The City of Las Cruces occasionally receives requests to vacate portions of City right of way that no longer serve their intended purpose. The City absorbs a cost to maintain these parcels that have no real benefit to the general public.

In January 1993, the City Council approved the Elks Drive Realignment Project. In order to complete the project, the City approved Resolution 94-125, which acquired a parcel of land at the intersection of Elks Drive and Mohegan Drive from Nemesh and Sons, Inc. totaling 0.36 acres (15,870 square feet), to accommodate the right of way expansion of Elks Drive. The amount paid was \$4,150.00, or \$0.26 per square foot. In 2008, Elks Drive was built-out to its final full width at this location, to a total of 85 feet, including curb, gutter, and sidewalk. After construction was completed, 0.193 acres (8,407 square foot) of the original parcel was left over and sits as excess right of way that serves no further public purpose and creates a maintenance liability for the City.

A request to vacate the 0.193 acre remnant parcel of right of way was received from Arlon L. Parrish on behalf of Arrowhead Estates (AED, Inc.), which is the property owner adjacent to the east of the subject remnant parcel. AED, Inc. is currently in the process of developing the adjoining property and has a strong desire to not have a vacant "no man's land" at the entrance to the new development and would like to utilize the remnant parcel by incorporating it into the adjoining tract to the east as part of the proposed development.

Requests to recommend approval or denial of the right of way were sent to the City Departments and Utility Companies. Recommendations of approval were received from all Departments and Utility Companies responding to the request. Upon further review by City staff, the City has no foreseeable use or need for the property. As such, the property serves no continued public purpose and presents an unnecessary maintenance and liability burden for the City. Also, the 0.193 acre parcel does not meet the minimum depth requirements to be a physically or legally developable parcel on its own. As such, the property is not independently developable or marketable and the only realistic use of the property is for incorporation into the adjoining property owned by AED, Inc.

Per Resolution 04-033, adopted July 21, 2003, City Staff recommended that remnant parcels which serve no public purpose and create a liability for the City in maintaining the land, be sold at a nominal cost that would compensate the City for staff time and other resources required to process the sale. A related resolution, Resolution 04-034 established processing fees for land related agreements, and the fee for right-of-way vacations is \$750.00.

In addition to the vacation processing fee of \$750.00, AED, Inc. offered to pay the City a sum of \$2,185.00 (\$0.26 per square foot), due to their strong motivation and desire to ensure the appearance and appeal of the entrance to their new development. The price per square foot offered is equal to what the City originally acquired the property for.

To address concerns from City staff of the remote possibility that the City may need a portion of the property in the future to further expand Elks Drive, AED Inc. agreed to take title to the property subject to a reversionary clause. Should the City ever need the westerly 12 feet of the property for transportation related purposes, such as future expansion of Elks Drive, all or a portion of the 12 feet would revert back to the City, at no cost.

City staff thoroughly analyzed a possible expansion scenario and determined that 12 feet of width would accommodate any possible expansion scenario to the Elks right of way at this location, or would accommodate any other transportation related purpose, such as a bus shelter. As such, the City may reacquire up to and including the westerly 12 feet of the property, at no cost and at any time should the need ever arise to expand Elks Drive. This condition is incorporated as part of the quit claim deed to AED, Inc., as a legally binding condition.

Vacating the parcel would free the City of liability, ownership, and maintenance obligations and the property would be put into private productive use and placed on the tax rolls. AED, Inc. would then be allowed to construct a compliant rock wall to enclose the property, as well as to landscape and maintain it.

The City will retain a utility easement within the westerly 12 feet of the property to accommodate any future City utility installations that may be necessary.

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution. This action will vacate excess right of way along Elks Drive at the intersection of Mohegan Drive and will allow AED, Inc. to landscape and maintain the subject area.
2. Vote "No"; this will deny the Resolution. This action will not allow the vacation of the excess right of way and the City will continue to own the land and maintain the subject property.
3. Vote to "Amend" the Resolution and modify the vacation and instruct staff to seek alternative direction.
4. Vote to "Table" the Resolution for consideration at a later date.

REFERENCE INFORMATION

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Resolution No. 94-125, 04-033, and 04-034

RESOLUTION NO. 11-167

A RESOLUTION APPROVING THE VACATION OF A 0.193 ACRE PARCEL OF REMNANT RIGHT OF WAY LOCATED AT THE CORNER OF MOHEGAN DRIVE AND ELKS DRIVE AND TRANSFERRING OWNERSHIP OF THE REMNANT RIGHT OF WAY PARCEL TO AED, INC., FOR PAYMENT IN THE AMOUNT OF \$2,185.00.

The City Council of the City of Las Cruces is informed that:

WHEREAS, the City of Las Cruces owns a 0.193 acre parcel of excess right of way located along Elks Drive at the corner of Mohegan Drive within Las Cruces, Dona Ana County, New Mexico; and

WHEREAS, Arlon Parrish, on behalf of AED, Inc., who owns the adjacent property known as Arrowhead Estates, has submitted a request to the City of Las Cruces to vacate the excess right of way; and

WHEREAS, City staff recommends that the remnant parcel, which serves no public purpose, be vacated and that ownership be transferred to the adjoining property owner at a nominal cost of \$2,185.00 that would compensate the City for staff time; and

WHEREAS, the utility companies have approved the requested vacation with the condition that the utility companies receive an easement over the vacated area for their lines to allow the utility companies the right to enter the property to service, maintain or upgrade their lines; and

WHEREAS, the City will also include a reversionary clause on the quitclaim deed for 12 feet along the City roadway. Should the City need this 12 feet for transportation related purposes, the City would exercise its right to acquire the property back from the property owner at no cost to the City; and

WHEREAS, under Section 3-20-12, NMSA 1978, City Council is authorized to approve a partial vacation of a duly recorded plat of subdivision provided that:

Resolution No. 11-167
Page 2

1. The owners of the land in the territory proposed to be vacated sign a statement,
duly acknowledged, declaring the plat or a portion of the plat to be duly vacated; and,
2. The vacation of said portion of the plat will not adversely affect the interests or
rights of persons in contiguous territory or within the subdivision being vacated; and

WHEREAS, under Section 3-20-13, NMSA 1978, the right of any utility already existing shall not be affected by any vacation or partial vacation of a plat; and

WHEREAS, after due consideration, City Council finds that the proposed vacation of excess right of way on said plat will not adversely affect the rights or interests of persons in contiguous territory or within the subdivision being vacated.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the 0.193 acre parcel of excess right of way located along Elks Drive at the intersection of Mohegan Drive in the City of Las Cruces, Dona Ana County, New Mexico is hereby vacated.

(II)

THAT the Mayor of the City of Las Cruces is hereby authorized to approve the attached Statement of Vacation.

(III)

THAT subsequent to the approval of the City Council, the duly approved Statement of Vacation shall be filed in the office of the Clerk of Dona Ana County, New Mexico, and that the Clerk is required by Section 3-20-12, NMSA 1978, to mark the word "vacate" across the vacated 0.193 acre parcel along Elks Drive at the intersection of Mohegan Drive and refer on the Plat to the volume and page on which the Statement of Vacation is recorded.

(IV)

THAT City Staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2011.

APPROVED:

Mayor

ATTEST:

CITY CLERK

(SEAL)

VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

STATEMENT OF VACATION

A RESOLUTION APPROVING A VACATION OF A 0.193 ACRE PARCEL REMNANT RIGHT OF WAY LOCATED AT THE CORNER OF MOHEGAN DRIVE AND ELKS DRIVE AND TRANSFERING OWNERSHIP OF THE REMNANT RIGHT OF WAY PARCEL TO AED, INC., FOR PAYMENT IN THE AMOUNT OF \$2,185.00.

The City of Las Cruces, owner of the excess right of way described as follows:

A 0.193 acre parcel located along Elks Drive and the intersection of Mohegan Drive in Section 31, Township 22 South, Range 2 East of the City of Las Cruces, and of the records of Dona Ana County and depicted on Exhibit "A" which is attached hereto and made a part hereon, does hereby state and declare, in accordance with Section 3-20-12 NMSA 1978 Comp., such excess right of way to be vacated. As grounds, therefore, it further states that said excess right of way area no longer functions as originally intended, and the vacation will not adversely affect the interest or rights of any of the owners in the property contiguous to said street.

Approved as to Form:

Mayor Ken Miyagishima
City of Las Cruces

City Attorney

State of New Mexico)
)ss.
County of Dona Ana)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by Ken Miyagishima, Mayor of the City of Las Cruces, a New Mexico municipal corporation.

My Commission Expires:

Notary Public

QUITCLAIM DEED

CITY OF LAS CRUCES, A New Mexico municipal corporation, for valuable consideration, quitclaims to **AED, INC.**, a New Mexico corporation whose address is P.O. Box 1704, Las Cruces, New Mexico 88004 the following described real estate in Doña Ana County, New Mexico:

A parcel of land being within the corporate limits of the City of Las Cruces, Dona Ana County, New Mexico, in Section 31, T.22 S., R2E., N.M.P.M. of the U.S.R.S. Surveys, being located along Elks Drive at the intersection of Mohegan Drive of the records of Dona Ana County, New Mexico, and more particularly described and depicted on Exhibit "A" attached hereto and made a part hereof:

This conveyance is made to grantee with the express condition and understanding that the westerly 12 feet of the property herein conveyed shall be used by the AED, its successors or assigns solely for "nonpermanent" vertical structure. In any event, if the City of Las Cruces requires additional right of way for transportation related purposes, a portion, up to the referred 12 feet in width shall revert to the City of Las Cruces, on whose behalf this conveyance is made without compensation to AED, its successors and assigns.

WITNESS its hand and seal this _____ day of _____, 2011.

Approved as to Form: _____ CITY OF LAS CRUCES _____

By: _____ By: _____
_____, City Attorney

ACKNOWLEDGMENT FOR CORPORATION

STATE OF NEW MEXICO)
) ss.
COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011 by _____ as _____, for the City of Las Cruces, a New Mexico municipal corporation on behalf of said corporation.

My Commission Expires: _____
(Seal) _____ Notary Public



BLACKHAM, ROMAN, GREINER
AND ASSOCIATES, INC.
ENGINEERING - PLANNING - SURVEYING

November 12, 2010

DESCRIPTION OF A 0.193 ACRE TRACT

A tract of land situate within the Corporate Limits of The City of Las Cruces, Dona Ana County, New Mexico located in Section 31, T.22S., R.2E. N.M.P.M. of the U.S.G.L.O. surveys and being more particularly described as follows, to wit;

BEGINNING at a ½" iron rod set on the south right of way line of Mohegan Trail (60' R.O.W.) for the northeast corner of this tract; Whence the Southwest corner of Arrowhead Estates bears S. 19°53'11" E., 26.00 feet.

THENCE from the point of beginning along the existing east right of way line of Elks Drive the following two courses and distances:

Around the arc of a curve to the left having a radius of 1340.00 feet, an arc length of 143.57 feet, through a central angle of 6°08'19" and whose long chord bears S.22°24'00"E., a distance of 143.50 feet to a ½" iron rod found at a point of tangency;

THENCE S.25°28'09"E., 132.05 feet to a ½" iron rod found for the southeast corner of this tract;

THENCE leaving said right of way S.64°53'11"W., 38.49 feet to a ½" iron rod set at the back of sidewalk for the southwest corner of this tract;

THENCE along the back of a sidewalk the following five courses and distances:

THENCE N.24°48'01"W., 41.30 feet to a ½" iron rod set with identification #9761 at a point of curvature;

THENCE around the arc of a curve to the right having a radius of 324.76 feet, an arc length of 28.28 feet, through a central angle of 4°59'24" and whose long chord bears N.22°18'19"W., a distance of 28.27 feet to a ½" iron rod set at a point of tangency;

THENCE N.19°48'37"W., 204.14 feet to a ½" iron rod set for a corner of this tract;

THENCE N.62°29'57"E., 0.41 feet to a ½" iron rod set at a point of curvature;

(Description continued)

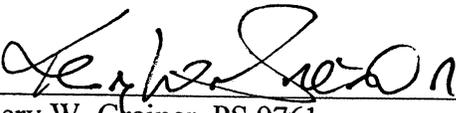
Exhibit "B" con't

BRG BLACKHAM, ROMAN, GREINER
AND ASSOCIATES, INC.
ENGINEERING - PLANNING - SURVEYING

THENCE around the arc of a curve to the right having a radius of 9.83 feet, an arc length of 7.73 feet, through a central angle of $45^{\circ}02'38''$ and whose long chord bears $N.08^{\circ}56'42''E.$, a distance of 7.53 feet to a $\frac{1}{2}$ " iron rod set on the south right of way line of Mohegan Trail for a corner of this tract;

THENCE along said right of way line $N.75^{\circ}39'26''E.$, 19.70 feet to the point of beginning containing 0.193 acres of land more or less. Subject to a 10' Wide Mountain States & El Paso Electric Easement recorded on February 6, 1959 in Misc. Book: 38, Page: 54. Also, subject to easements and reservations of record.

Description prepared by Kery W. Greiner, PS 9761.


Kery W. Greiner, PS 9761

11-12-10
Date

09-92des.doc



Exhibit "B" con't

PLAT OF SURVEY OF A 0.193 ACRE TRACT OF LAND AND A 12' WIDE UTILITY EASEMENT
 LOCATED IN SECTION 31, T.22S., R.2E., N.M.P.M. OF THE U.S.G.L.O. SURVEYS
 CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO
 SCALE: 1"=40' NOVEMBER 12, 2010

R=9.83
 L=7.73
 $\Delta=45^{\circ}02'38''$
 CH=N 08°56'42" E
 7.53'
 IRON ROD SET WITH IDENTIFICATION #9761
 N 62°29'57" E
 0.41'
 IRON ROD SET WITH IDENTIFICATION #9761

MOHEGAN TRAIL (60' R.O.W.)

LINE TABLE		
LINE	BEARING	LENGTH
L1	N75°39'26"E	19.70'
L2	S75°39'26"W	11.65'

CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	312.76'	27.24'	27.23'	S22°18'19"E	4°59'24"
C2	1340.00'	12.05'	12.05'	S19°35'17"E	0°30'55"

R=1340.00
 L=143.57
 $\Delta=6^{\circ}08'19''$
 CH=S 22°24'00" E
 143.50'

AED, INC.
 CLERK'S BOOK: 268, PAGES: 165-166
 DATE: MAY 9, 2001

PLAT NOTES:

1. NO DISCREPANCIES FOUND BETWEEN THE FIELD SURVEY AND THE DEED OF RECORD.
2. SUBJECT PROPERTY CONTAINS 0.193 ACRES OF WHICH 0.080 ACRES IS A 12' WIDE UTILITY EASEMENT.
3. BASIS OF BEARING WAS ESTABLISHED USING IRON RODS FOUND ON THE WESTERLY RIGHT OF WAY LINE OF NEMESH DRIVE AS SHOWN ON ARROWHEAD ESTATES, AS RECORDED JULY 19, 2000 IN PLAT BOOK 19, PAGES 468-469 OF THE DONA ANA COUNTY RECORDS.

* N 25°27'41" W, 224.87'

10' WIDE MOUNTAIN STATES & EL PASO ELECTRIC EASEMENT
 MISC. BOOK: 38, PAGE: 54
 DATE: FEBRUARY 6, 1959

LEGEND

- = 1/2" IRON ROD SET WITH PLASTIC IDENTIFICATION CAP #9761
- = 1/2" IRON ROD FOUND
- ⊙ = FIRE HYDRANT
- ⊕ = POWER POLE
- ☐ = TELEPHONE BOX
- ⊛ = LIGHT POLE

R=324.76
 L=28.28
 $\Delta=4^{\circ}59'24''$
 CH=N 22°18'19" W
 28.27'

N 24°48'01" W
 41.30'

ROCKWALL
 S 64°53'11" W
 38.49'

SURVEYOR'S CERTIFICATION

I, KERY W. GREINER, A NEW MEXICO PROFESSIONAL SURVEYOR, CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THIS SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO.

Kery W. Greiner
 KERY W. GREINER, PS 9761
 DATE: 11-12-10

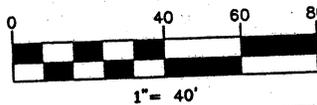


Exhibit "B" con't

BRG BLACKHAM, ROMAN, GREINER AND ASSOCIATES, INC.
 ENGINEERING - PLANNING - SURVEYING
 1203 MEDPARK DR. - LAS CRUCES, NM 88005 - (575)525-2278 - (575)523-9518 (FAX)
 PROJECT: 10-92

C:\DWG-PLATS\2009\09-87 ARLON PARISH\DWG\09-87 ARLON PARISH.dwg LAYOUT: 8.5 X 14 EXHIBIT 11/12/2010

ARROWHEAD ESTATES

aparish1@comcast.net

AED, INC.
PO BOX 2338
LC, NM 88004
575-650-4586

October 14, 2009

Public Works
Mike Johnson
Bill Hamm
Las Cruces, NM 88004RE: Vacation of Elks Drive right of way
At Mohegan Trail

Mike:

Bill:

We have discussed again the status of the excess right of way at Elks Drive & Mohegan Trail. After the most recent meeting with you we agreed that AED, INC. would put in writing what would be its "final offer". That offer follows with a good amount of explanation as to why we have taken the position that we have.

The City purchased this property in 1994 for 26 cents per square foot. The purpose of the purchase was to allow for the eventual widening of Elks Drive to a four lane drive configuration with turning lanes. Much more right of way was purchased than was and will ever be required. The right of way south of this location is up to 40 feet narrower. The roadway profile in this general intersection location now consists of four driving lanes and two turning lanes.

There are three or four issues that affect what we can or are willing to offer. First of all, we do not really desire to own more property. We have as much or more than we can service in this location at the present time. All that we want to avoid is waking up and discovering that the City is unable or unwilling to properly maintain this up to 38+ x 280+ square feet of excess right of way after we spend substantial investment on vertical improvement on the primary property with apartments, condos or townhouses.

The likelihood of Elks Drive ever being widened in this location is zero.

Attachment "A"

IF we were to develop the existing two acres in its current size and shape, we would leave the El Paso Electric easement as it is currently. We would design around the minor easement intrusion into the south west corner of the AED, INC. property with parking, a dumpster, ponding, landscaping, etc.

If we were to acquire by vacation the excess right of way, we would of necessity need to solve two very costly facilities problems. With the expansion of property in this corner, the electric easement would of necessity be abandoned and replaced with an easement around the perimeter of the south west corner. That realignment would cost as much as \$18,000 to \$20,000. We have that estimate from El Paso Electric based on a per pole cost of \$3500+@. See plat copy.

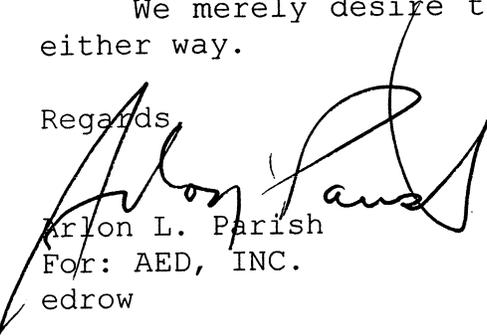
There is also a riser on the existing electric pole that feeds the ARROWHEAD ESTATES area to the north. That facility would need to be relocated underground along the new property line along Elks Drive. The total cost of both of these two relocations could well be at or above \$30,000 total cost. That puts our out of pocket cost at \$4.00 per square foot for the privilege.....

An attempt to equate the value of the few thousand square feet and its value of this excess right of way to those properties lying to the south is not possible. When the City was "forced" to pay several dollars per square foot for those required acquisitions, most of the payments made related to the devaluation of the remaining property and not to the value of that property "taken".

In light of the above clarification(s), we really think that relieving the City of its duty to maintain this excess right of way and the fact that we must expend a substantial dollar amount in order to relocate the electric facilities dictates a simple vacation at little or nominal payment by AED, INC. to the City of Las Cruces.

We merely desire to allow the City to have an option to go either way.

Regards,


Arlon L. Parish
For: AED, INC.
edrow

RESOLUTION NO. 94-125**A RESOLUTION APPROVING THE PURCHASE OF A 15,870 SQUARE FOOT PARCEL OF LAND LOCATED EAST OF ELKS DRIVE AND NORTH OF LANTANA AVENUE IN THE CITY OF LAS CRUCES, IN DONA ANA COUNTY, NEW MEXICO.**

The City Council is informed that:

At a Work Session held on January 11, 1993, the City Council approved the Elks Drive Realignment Project to improve safety and traffic flow on this congested part of Elks Drive.

In order to complete the project, the City is required to acquire a parcel of land in Fee Simple Purchase on the Nemesh and Sons Inc. Property located on the east side of Elks Drive and north of Lantana Avenue. According to the Final Right-of-Way Map for the Elks Drive Realignment Project, there is a need to purchase a 15,870 square foot parcel in Fee Simple.

The Fee Simple Purchase has been appraised for the Elks Drive Realignment Project by a qualified appraiser. The appraisal value for the Fee Simple Purchase is \$4,150.00 for a total compensation of \$4,150.00. As the proposed purchase is less than \$150,000, only one appraisal opinion is required by City Code. John A. Nemesh for Nemesh and Sons Inc. has agreed to sell the Fee Simple Purchase for the appraised value of \$4,150.00 which is attached hereto and made a part of this resolution as Exhibit "1".

Therefore, the City Council of the City of Las Cruces, New Mexico resolves and directs as follows:

(1)

That the City of Las Cruces hereby approves the purchase of the Fee Simple Purchase as described in Exhibit "A", which is attached hereto and made a part of this resolution, with the total compensation for the Fee Simple Purchase to be the sum of Four Thousand One Hundred and Fifty Dollars (\$4,150.00), subject to the conditions and terms in Exhibit "1", Agreement for Purchase of Real Estate which is attached hereto and made a part of this resolution.

A RESOLUTION APPROVING THE PURCHASE OF A 15,870 SQUARE FOOT PARCEL OF LAND LOCATED EAST OF ELKS DRIVE AND NORTH OF LANTANA AVENUE IN THE CITY OF LAS CRUCES, IN DONA ANA COUNTY, NEW MEXICO. PAGE 2.

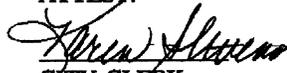
(2)

That City Staff and officials are hereby authorized and directed to do all acts and deeds necessary in the accomplishment of the above.

DONE AND APPROVED this 1 day of Nov, 1993


MAYOR

ATTEST:


CITY CLERK

VOTE:

(SEAL)

Mayor Smith: Aye
Councillor Ferralez: Aye
Councillor Kennon: Aye
Councillor Valencia: Aye
Councillor Benavidez: Aye
Councillor Tomlin: Aye
Councillor Haltom: Aye

Moved by: Tomlin

Seconded by: Haltom

APPROVED AS TO FORM:

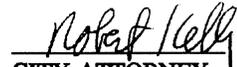
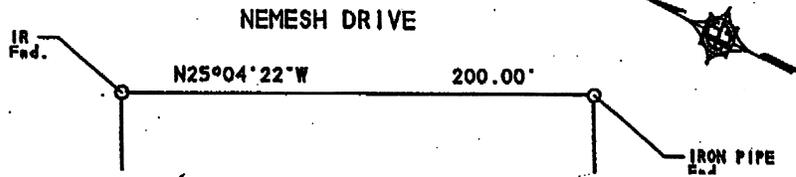

CITY ATTORNEY

EXHIBIT "A"

PLAT OF SURVEY SHOWING RIGHT OF WAY TAKE
FOR A PROPERTY ON ELKS ROAD



THE **A.E.S.** GROUP

ASSOCIATED ENGINEERS & SURVEYORS

EXHIBIT "A"

141 LORETTO TOWNE CENTRE
P.O. DRAWER 1210
LAS CRUCES, NEW MEXICO 88004
Telephone (505) 523-7596
Fax (505) 523-4433

NEMESH & SONS, INC.-1 RIGHT-OF-WAY - ELKS

A tract of land located in Section 31, Township 22 south, Range 2 east, within the limits of the City of Las Cruces, Dona Ana County, New Mexico, and being more particularly described as follows:

COMMENCE at an iron rod marking the southeast corner of Lot 1, Block 1, of LANTANA ESTATES, a subdivision recorded in plat record 13, pages 352 and 353, in the records of Dona Ana County, New Mexico, said rod also being on the existing westerly right-of-way of Elks Road,

Thence, run north 23 degrees 50 minutes 19 seconds east, a distance of 76.99 feet to the POINT OF BEGINNING of this tract,
Thence, north 64 degrees 58 minutes 01 second east, a distance of 61.94 feet,

Thence, north 25 degrees 06 minutes 58 seconds west, a distance of 82.53 feet to a point of curve to the right,

Thence, along a curve to the right having a radius of 1,340.00 feet through a central angle of 05 degrees 01 minutes 37 seconds, and an arc distance of 117.56 feet (chord bears north 22 degrees 36 minutes 10 seconds west, a distance of 117.53 feet),

Thence, south 64 degrees 57 minutes 31 seconds west, a distance of 109.87 feet to a curve to the right along the existing right-of-way line of Elks Drive,

Thence, along a curve to the right having a radius of 719.33 feet through a central angle of 16 degrees 20 minutes 47 seconds, and an arc distance of 205.22 feet (chord bears south 37 degrees 11 minutes 26 seconds east, a distance of 204.53 feet) to the POINT OF BEGINNING, and containing 15,870 square feet, more or less.

Subject to restrictions, easements, and reservations of record.

Approved As Correct:

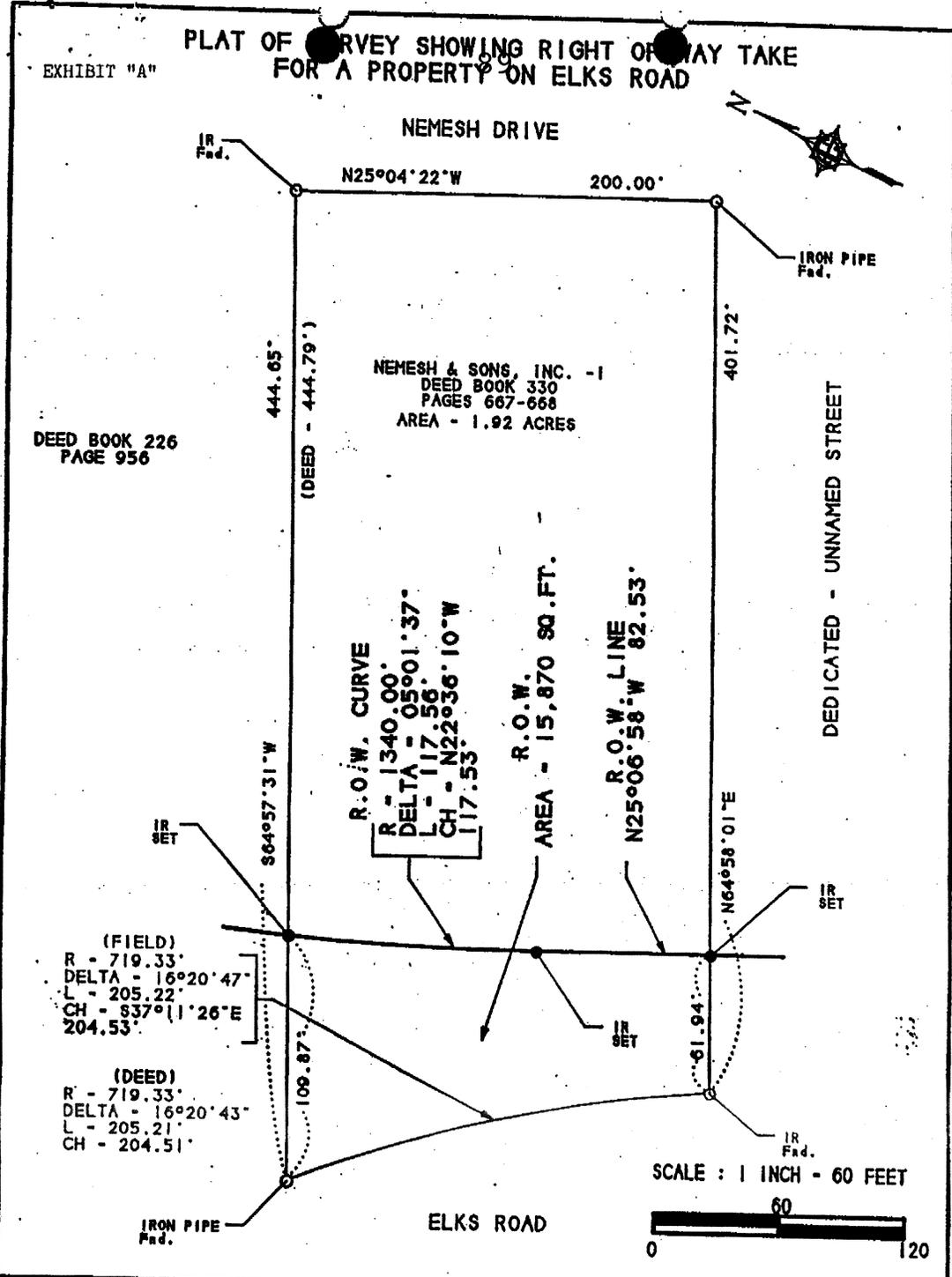
David F. Blanchard
N.M.P.S. No. 7964
April 26, 1993
A.E.S. Project No. 01592-2

Attachment "B" con't

DATE: <u>9-27-93</u> NOT VALID UNLESS IMPRESSION SEALED	RESERVATIONS OF RECORD. AES PROJECT - 01592-2 AES DRAWING - 130228A1 DRAWING DATE - 04/26/93 DRAWING BY - D.F.B.
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EXHIBIT "A"

PLAT OF SURVEY SHOWING RIGHT OF WAY TAKE FOR A PROPERTY ON ELKS ROAD



DEED BOOK 226
PAGE 956

NEMESH & SONS, INC. - I
DEED BOOK 330
PAGES 667-668
AREA - 1.92 ACRES

(FIELD)
R - 719.33'
DELTA - 16°20'47"
L - 205.22'
CH - 837°11'26"E
204.53'

(DEED)
R - 719.33'
DELTA - 16°20'43"
L - 205.21'
CH - 204.51'

SCALE : 1 INCH = 60 FEET



THE A.E.S. GROUP

ASSOCIATED ENGINEERS & SURVEYORS

141 LORETTO TOWNE CENTRE
P.O. DRAWER 1210
LAS CRUCES, NEW MEXICO 88004
Telephone 505-523-7598
Fax 505-523-4453

APPROVED AS CORRECT BY:

DAVID F. BLANCHARD

N.M.P.S. No 7984

DATE: 7-27-93

NOT VALID UNLESS IMPRESSION SEALED

NOTES

1. BEARINGS BASED ON INFORMATION FURNISHED BY THE CITY OF LAS CRUCES. COORDINATES ARE ON THE NEW MEXICO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE.
2. SURVEY DATE - MARCH, 1993
3. SURVEY MEETS OR EXCEEDS THE MINIMUM STANDARDS FOR LAND SURVEYING IN NEW MEXICO AS ADOPTED BY THE NEW MEXICO BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS.
4. IMPROVEMENTS NOT LOCATED.
5. SUBJECT TO RESTRICTIONS, EASEMENTS, AND RESERVATIONS OF RECORD.

Attachment "B" con't

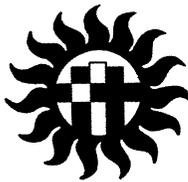
AES PROJECT - 01592-2
AES DRAWING - 150228A1
DRAWING DATE - 04/28/93
DRAWING BY - R.W.P.

Vicinity Map



Vacated Area

Attachment "C"



91

City of Las Cruces[®]

PEOPLE HELPING PEOPLE

TO: Robert Garza, PE, City Manager

THRU: Michael D. Johnson, PE, Public Works Director

FROM: Bill Hamm, Land Manager

DATE: 1-21-11

File no: PW 11-32

SUBJECT: Statement of Value - Excess Right of Way vacation / sale

On February 7, 2011, the City Council will consider a proposal to vacate 0.193 acres (8,407 square feet) of excess right of way along Elks Drive at the intersection of Mohegan Drive. Section 2-1313 of the Las Cruces Municipal Code allows that, if the sale price of municipally owned land is \$10,000.00 or less, no formal appraisal shall be required. In this situation, a written opinion from staff as to the estimated value of the property must be incorporated as part of the resolution. This memo represents that required written opinion.

The subject property consists of 0.193 (8,407 square feet) of excess right of way at the intersection of Elks Drive and Mohegan Drive. This parcel is a remnant of a larger tract purchased in 1994, to facilitate the Elks Drive Realignment and Widening project. In 2008, Phase 2 of the project was completed and Elks Drive was fully built out at this location with curb gutter and sidewalk. The 0.193 acre remnant parcel is what was left over out of the original parcel purchased in 1994. As such, the 0.193 acre remnant right of way no longer serves any public purpose. The property is not independently developable and as such, its best use of for incorporation into the adjoining property.

A request to vacate the 0.193 acre remnant parcel of right of way was received from Arlon L. Parrish on behalf of Arrowhead Estates (AED, Inc.), which is the property owner of the 2 acre tract adjacent to the east of the subject remnant parcel. AED, Inc. offered to pay the City a sum of \$2,185.00 (\$0.26 per square foot). The price per square foot offered is equal to what the City originally acquired the property for in 1994.

Dona Ana County tax assessor values for tracts over 1 acre in the surrounding area range from \$0.20 to \$1.00 per square foot. The AED, Inc. Property, which is adjacent to this land is assessed at \$0.60 per square foot. If the excess right of way were to be combined with the Church property, it would be worth an estimated \$0.60 per square foot or \$5,044.00. Given that the only viable user of this property is the adjoining AED, Inc. tract, City staff recommends the vacation and sale of this property at the offered price of \$0.26 per square foot, or \$2,185.00. Transferring ownership of the remnant tract will place the property onto the tax rolls, will allow the property to be developed as an asset to the neighborhood, and will eliminate City responsibility and maintenance liability for the property.

Attachment "D"