

ORDINANCE NO. 28994

An ordinance providing for the closure of a portion of East Side Avenue located adjacent to City Blocks 2/819, 1/820, 16/827 and 17/827 in the City of Dallas and County of Dallas, Texas; providing for the terms, conditions, and future effective date of the closure authorized herein; providing for barricading; providing for the construction of street improvements by DART; and providing an effective date for this ordinance.

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WHEREAS, on August 13, 1983, Dallas Area Rapid Transit ("DART") was created as a regional transportation authority for the purpose of providing public transportation and general transportation services within the DART service area; and

WHEREAS, on October 11, 1989, the City Council by Resolution No. 89-3272 approved DART's system plan as adopted by the DART Board on June 27, 1989, and revised in July of 1989; and

WHEREAS, on February 28, 1990, the Dallas City Council by Resolution No. 90-0810, approved the Master Interlocal Agreement between the City of Dallas (the "City") and DART; and

WHEREAS, on July 25, 1990, the Dallas City Council by Resolution No. 90-2408 authorized Supplemental Agreement No. 1 to the Master Interlocal Agreement to address planning and development issues related to implementation of DART's transportation system; and

WHEREAS, on August 28, 1991, the Dallas City Council by Resolution No. 91-25666 authorized Supplemental Agreement No. 2 to the Master Interlocal Agreement to address design and construction issues related to implementation of DART's transportation system; and

WHEREAS, Supplemental Agreement Nos. 3, 4, 5 and 6 to the Master Interlocal Agreement have also been entered into between the City and DART to address various and assorted aspects of the ongoing relationship between the two entities pertaining to DART's transportation system; and

WHEREAS, certain of the Supplemental Agreements to the Master Interlocal Agreement have been amended from time to time as deemed appropriate, necessary and/or convenient by the parties thereto; and

WHEREAS, the Master Interlocal Agreement, all Supplemental Agreements and all amendments thereto, are hereinafter collectively referred to as the "Agreement"; and

WHEREAS, DART desires and has requested the City to close a portion of East Side Avenue as shown on Attachment B, attached hereto and made a part hereof for all purposes, to pedestrian and vehicular traffic as public right-of-way to facilitate its rail system; and

WHEREAS, DART has submitted to the City its Technical Justification for the Closure of a portion of East Side Avenue, which is contained in Attachment A and explains the justification for said closure to prevent vehicular and pedestrian traffic across the proposed SE-1 Light Rail Transit System; and

WHEREAS, the City Council of the City of Dallas (i) is of the opinion that the best interest and welfare of the public will be served by closing the portion of East Side Avenue described herein to vehicular and pedestrian traffic in connection with the construction, development and ongoing operation of DART's SE-1 Line Section of the Light Rail Build Transit System and (ii) acting pursuant to law and upon the request and petition of DART, deems it advisable to close the herein described portion of East Side Avenue, subject to the terms and conditions herein provided; **Now, Therefore,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That those certain provisions of Section 51A-8.506(b) of the Dallas Development Code regarding dead-end streets, to the extent not required by state law or City Charter, are hereby waived with respect to this ordinance.

SECTION 2. That the portion of East Side Avenue as shown and more fully described on Attachment B, attached hereto and made a part hereof for all purposes, be and the same is closed to vehicular and pedestrian traffic; subject, however, to the terms, conditions, considerations and future effective date hereinafter more fully set out.

SECTION 3. That the closure provided for herein is made subject to (i) all present zoning and deed restrictions, if the latter exist, (ii) all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise,

(iii) the rights of all franchised utilities and communication companies, and (iv) the City's continuing rights in and with respect to the closed portion of East Side Avenue.

SECTION 4. That the terms and conditions contained in this ordinance shall be binding upon DART, its successors and assigns.

SECTION 5. That as a condition of this closure and as a part of the consideration hereof, DART, its successors and assigns agree, to the extent allowable under Texas Law and in accordance with the Agreement, to indemnify, defend, release and hold whole and harmless the City of Dallas against any and all claims for damages, costs or expenses to persons or property that may arise out of, or be occasioned by or from the closing by the City of Dallas of the portion of East Side Avenue shown on Attachment B and DART's subsequent use and activity on said property.

SECTION 6. That this closure shall not become effective unless and until DART has:

- a) within one year following passage of this ordinance, submitted an official copy of a Dallas Area Rapid Transit Board Resolution accepting the terms, provisions and conditions of this ordinance and including within said resolution the name of the street being closed, the ordinance number and date of approval by Dallas City Council;
- b) designed and constructed the Proposed Paving Improvements as generally shown on Attachment C in accordance with plans and specifications submitted to and approved in advance in writing by the Director of Public Works and Transportation (the "Director") and the Agreement; and said construction, including any needed drainage alterations, accepted as complete by the Director;
- c) barricaded both sides of the street closure and placed signs, where needed, in accordance with plans and specifications approved in advance in writing by the Director of Public Works and Transportation and the Agreement.

SECTION 7. That the terms, provisions and conditions contained herein shall not amend, replace or modify the Agreement, or any part thereof, all of which shall remain in full force and effect.

SECTION 8. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction or designee.

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SECTION 9. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
City Attorney

THERESA O'DONNELL
Director of Department of
Sustainable Development and
Construction

BY



Assistant City Attorney

BY



Assistant Director

Passed

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**TECHNICAL JUSTIFICATION CLOSURE
OF
EAST SIDE AVENUE**

**DALLAS AREA RAPID TRANSIT LIGHT RAIL TRANSIT (LRT) SYSTEM
LINE SECTION SE-1**

The existing alignment of the SE-1 Light Rail Transit (LRT) facility included the closure of East Side Avenue to vehicular and pedestrian traffic at the DART LRT crossing located east of Main Street. The closure and consolidation of minor roadway at-grade rail crossings improve the safety of DART's passenger rail operations without significantly impacting traffic flow. The area of closure is depicted on the right-of-way map shown in Attachment B and the proposed pavement improvements are shown on Attachment C.

The DART LRT alignment consists of two tracks; one for each direction of travel. This LRT alignment alternative was chosen as the locally preferred alternative from multiple alternatives analyzed during the preparation of the Final Environmental Impact Statement for this corridor. Traffic studies indicated a very low traffic volume of demand for access and circulation for the street at this location. The traffic studies found that this crossing of East Side Avenue carried less than 100 cars per hour.

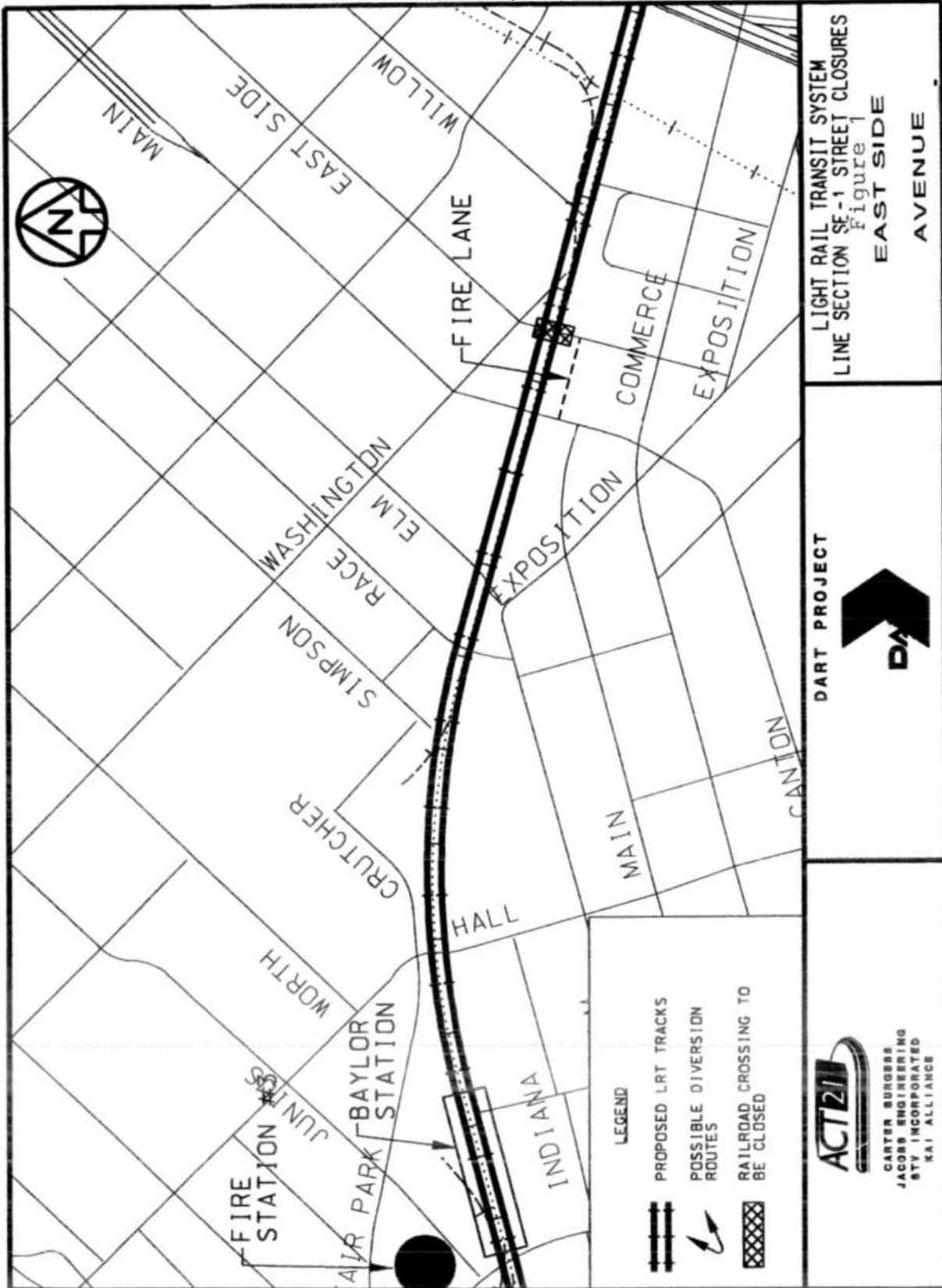
Closure at the LRT crossing has resulted in minimal diversion of through traffic and access to adjacent businesses has not been adversely affected.

At the direction of City staff and approval by the City Fire Department, a fire lane was constructed on the south side of DART's right-of-way. This fire lane is located within a Fire Lane Access Easement, which DART will assign to the City of Dallas.

This easement grants full, free and uninterrupted ingress by the City of Dallas Fire Department personnel and equipment and other emergency services without limitation.

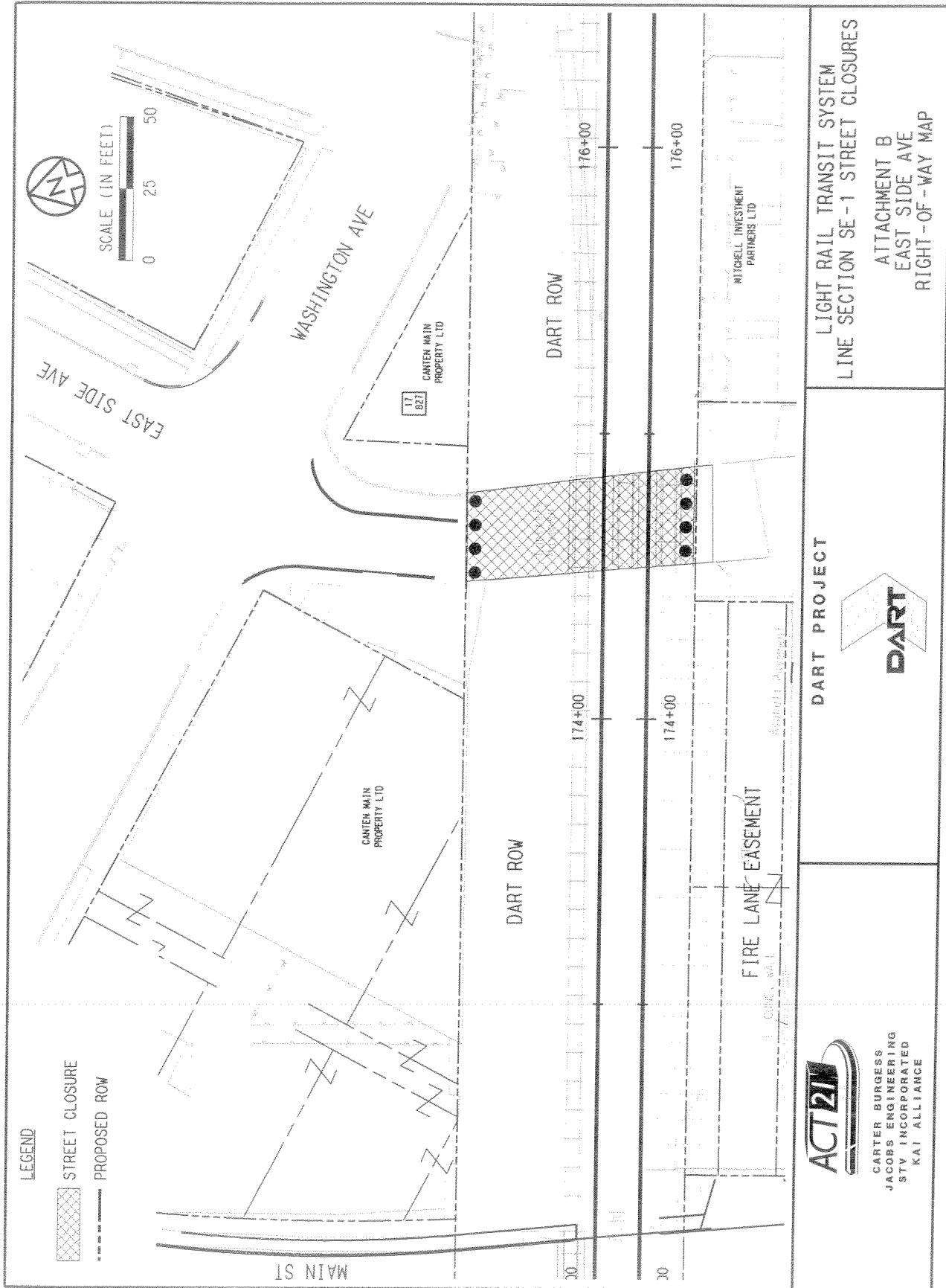
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