

ORDINANCE NO. 3419

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPER PARTICIPATION CONTRACT WITH CHRISTIAN CARE CENTER, INC., FOR THE INSTALLATION OF AN ENCLOSED STORM SEWER SYSTEM IN THE ENTRY ROAD INTO THE CITY OF MESQUITE GOLF COURSE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Mesquite finds that an enclosed storm sewer system is needed with the future construction of the new roadway adjacent to Christian Care Center, Inc., into the Mesquite Municipal Golf Course to allow access from Northwest Drive and has determined that the public safety, health and welfare require that a portion of the storm sewer system be installed with the current expansion of the Christian Care Center, Inc.; and

WHEREAS, it is in the best interest of the citizens of the City of Mesquite to expend public funds to participate in the placement of an enclosed storm sewer system in the existing entry way into the Mesquite Municipal Golf Course pursuant to the terms and conditions set forth in a developer participation contract, a copy of which is attached hereto as Exhibit A.

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

SECTION 1. That the City Manager of the City of Mesquite is hereby authorized to execute a developer participation contract with Christian Care Center, Inc., a copy of which is attached hereto as Exhibit A.

SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That 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 not be affected and shall remain in full force and effect.

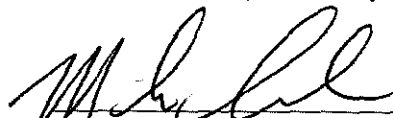
SECTION 4. That the need to approve the attached participation contract and the need to protect the public interest, comfort and general welfare of the City of Mesquite, creates an urgency and an emergency for the preservation of the public health, safety and welfare, and requires that this ordinance shall take effect immediately from and after its passage.

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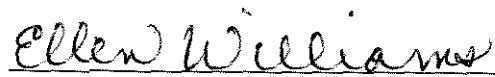
PS/Christian Care Center/March 5, 2001
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DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,
on the 5th day of March, 2001.



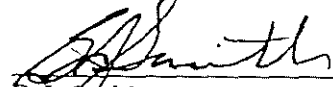
Mike Anderson
Mayor

ATTEST:



Ellen Williams
City Secretary

APPROVED:



B.J. Smith
City Attorney

STATE OF TEXAS §

COUNTY OF DALLAS §

DEVELOPER'S AGREEMENT

WHEREAS, Christian Care Center, Inc. a Texas corporation (hereinafter called "DEVELOPER"), and the City of Mesquite, Texas, a Texas Municipal corporation (hereinafter called "CITY"), has entered into an agreement for the placement of an enclosed storm sewer system (260 linear feet of storm sewer pipe, 10-foot inlet, junction box and headwall) in connection with the expansion construction of the Christian Care Center site at Northwest Drive and Interstate 30 (hereinafter called the "PROJECT"), and

WHEREAS, CITY desires to place the storm sewer system during the construction of the Christian Care Center Expansion during the construction of the PROJECT; and

WHEREAS, CITY is presently performing the engineering design for the entry road to the City of Mesquite Golf Course to allow access along the Christian Care Center from Northwest Drive and will be constructed in the near future; and

WHEREAS, the Texas Local Government Code, subchapter C, Section 212.071 et seq. allows a municipality to contract with a developer of a subdivision or land in the municipality to construct improvements and the municipality to participate in their cost, provided such cost does not exceed thirty percent (30%) of the total contract amount; and

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WHEREAS, it is in the public interest to install an enclosed storm sewer system with the expansion of the Christian Care Center facility; and

WHEREAS, it will be less expensive to place the enclosed storm sewer system at this time rather than during the construction of the access roadway from Northwest Drive across the Christian Care Center property; and

WHEREAS, CITY has the current revenues available to fund the PROJECT as herein agreed; and

WHEREAS, DEVELOPER has revenues available to fund the PROJECT as herein agreed;

NOW, THEREFORE, THIS AGREEMENT is hereby made and entered into by the DEVELOPER and CITY for the mutual considerations stated herein:

WITNESSETH

I.

DEVELOPER hereby agrees to assume all responsibilities for the PROJECT management and administration including but not limited to construction contract administration and materials testing except as otherwise provided for herein; and CITY hereby agrees to assume all responsibilities for construction inspection.

II.

CITY and DEVELOPER hereby agree that funding for the PROJECT shall be as follows:

CITY will pay the total cost of \$39,000.00 for installation of an enclosed storm sewer system for the entry road in the City of Mesquite Golf Course across the Christian Care Center property during the PROJECT.

III.

Utility relocations and adjustments will be in accordance with CITY'S utility franchises or agreements with the utility companies.

IV.

CITY will reimburse DEVELOPER for its appropriate share of the PROJECT within 30 days of the receipt from DEVELOPER of appropriate documentation delivered to the City Engineer. CITY will not reimburse DEVELOPER for the use of DEVELOPERS staff and equipment.

V.

DEVELOPER agrees to defend, indemnify and hold CITY, its officers, agents and employees harmless against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by any negligent act or omission of DEVELOPER, its officers, agents, employees or contractors, as a result of this Agreement; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of DEVELOPER and CITY, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, waiving any governmental immunity available to CITY and without waiving any defenses of the parties under Texas law. The provisions of this

paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

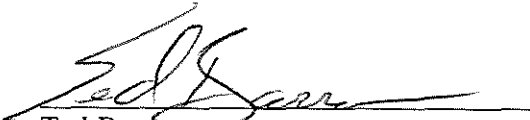
VI.

This agreement will terminate once the DEVELOPER has completed the construction of the PROJECT and it has been finally accepted by CITY.

Executed this _____ day of _____, 2001

CITY OF MESQUITE, TEXAS
"CITY"


CHRISTIAN CARE CENTER, INC.
"DEVELOPER"


Ted Barron
City Manager

John J. Losher, Ed.D.
President and CEO

By authority of Council action
dated March 5, 2001

Attest:

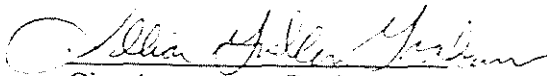

Ellen Williams
City Secretary

Acknowledgment

State of _____, County of _____:
Before me the undersigned authority on this day personally appeared _____, known to be the person whose name is subscribed to the fore Going document and known to me to be the _____ (title) of _____ (developer's name) and acknowledged to me that (s)he executed said document with full authority to do so and for the purposes and consideration expressed therein. Given under my hand and seal of office the _____ day of _____, 2____.

Notary Public, State of _____

APPROVED AS TO FORM:


City Attorney or Designee