



201600025417

ORD 1/4

ORDINANCE NO. 4406

RETURN TO: CITY SECRETARY
CITY OF MESQUITE
P.O. BOX 850137
MESQUITE, TX 75185-0137

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, PROVIDING FOR THE ABANDONMENT OF 10-FOOT WIDE UTILITY EASEMENTS LOCATED IN THE BIG TOWN ADDITION; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS, a representative of the FedEx Corporation requested abandonment of 10-foot wide utility easements at the previous site of Big Town Mall south of US80 and west of Big Town Boulevard; and

WHEREAS, the easements were dedicated by plat in July 1958 for the construction of water mains at the Big Town Mall during its initial construction; and

WHEREAS, the easements contain 8-inch diameter cast iron water mains that were installed in 1958 when Big Town Mall was originally developed and later abandoned by City crews when Big Town Mall was demolished in 2006; and

WHEREAS, the requested abandonment of the easements is conditional upon fee dedication of the Big Town Elevated Water Tank site and associated necessary easements for access and utility connections to the tank site and the City's release of engineering plans and the start of construction; and

WHEREAS, the consulting engineers for FedEx have confirmation letters from Oncor Electric Delivery, Atmos Energy, AT&T and Time Warner Cable indicating they have no active facilities in the subject easement and no objections to the abandonment.

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

SECTION 1. That the 10-foot wide utility easements located in the Big Town Addition, said easements more fully described in Exhibit "A" attached hereto and included herein for all purposes, are hereby abandoned conditional upon fee dedication of the Big Town Elevated Water Tank site and associated necessary easements for access and utility connections to the tank site and the City's release of engineering plans and the start of construction.

That this abandonment shall not be effective unless, within nine months after the effective date of this ordinance, these conditions have been met. Failure to timely comply with these conditions mentioned above shall render this ordinance null and void and of no further effect.

SECTION 2. That the abandonment provided for herein shall extend only to the public right, title, easement and interest, and shall be construed to extend only to that interest the Governing Body of the City of Mesquite may legally and lawfully abandon and vacate.

RETURN TO: CITY SECRETARY
CITY OF MESQUITE
P.O. BOX 850137
MESQUITE, TX 75185-0137

SECTION 3.

That the abandonment provided for herein is made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

SECTION 4.

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 5.

That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 6.

That the orderly development of the City of Mesquite requires the release and abandonment of the utility and drainage easements described herein, 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.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 7th day of December, 2015.

Stan Pickett
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED:

B. J. Smith
City Attorney

Filed and Recorded
Official Public Records
John F. Warren, County Clerk
Dallas County, TEXAS
02/01/2016 08:24:33 AM
\$34.00



A handwritten signature in black ink, appearing to be "JFW", is written to the right of the seal.

201600025417