

ORDINANCE NO. 4745

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 2, SECTION 2-5 OF THE MESQUITE CITY CODE, AS AMENDED, BY DELETING SUBSECTION 2-5(a)(3) IN ITS ENTIRETY AND ADDING NEW SUBSECTIONS 2-5(a)(3) AND 2-5(f); CLARIFYING THAT THE CITY MANAGER IS AUTHORIZED TO APPROVE AND SIGN CONTRACTS FOR THE SALE AND PURCHASE OF REAL AND PERSONAL PROPERTY PROVIDED THE CONTRACT PRICE DOES NOT EXCEED \$50,000.00, PLUS CLOSING COSTS; AUTHORIZING THE CITY MANAGER TO SIGN DONATION AGREEMENTS AND ACCEPT DONATIONS OF REAL AND PERSONAL PROPERTY INCLUDING, WITHOUT LIMITATION, MONETARY DONATIONS, WITH A VALUE OF \$50,000.00 OR LESS; DELEGATING THE AUTHORITY TO THE CITY MANAGER TO RELEASE AND ABANDON CERTAIN EASEMENTS PREVIOUSLY CONVEYED AND/OR DEDICATED TO THE CITY BY PLAT OR SEPARATE INSTRUMENT; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the development or redevelopment of property within the City of Mesquite (“**City**”) often requires the platting or replatting of land that is subject to public utility, drainage, fire lane, mutual access, and/or other easements (each a “**City Easement**”) that have been conveyed and/or dedicated to the City by plat or separate instrument; and

WHEREAS, from time to time, the location of City Easements interferes or conflicts with the proposed design or redesign of property, which conflicts may only be resolved by abandoning and releasing some or all of a City Easement; and

WHEREAS, the City Council presently has sole authority to approve the abandonment and release of an interest in real property unless such authority is delegated by the City Council; and

WHEREAS, the release of a City Easement in some circumstances raises no issues and is uncomplicated; and

WHEREAS, in order to avoid unnecessary delays in the development of property within the City and its extraterritorial jurisdiction, the City Council finds it to be in the public interest to delegate its authority to abandon and release certain City Easements to the City Manager; and

WHEREAS, the City Council desires to clarify that the City Manager has the authority to approve and sign contracts and other closing documents for the sale of City real and personal property and for the purchase by the City of real and personal property when the contract price for the sale or purchase does not exceed fifty thousand dollars (\$50,000.00), plus closing costs; and

WHEREAS, the City Council further desires to authorize the City Manager to accept donations of real and personal property including, without limitation, monetary donations, on behalf of the City and to sign donation agreements and other closing documents in connection therewith when the value of the donation does not exceed fifty thousand dollars (\$50,000.00).

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

SECTION 1. That Chapter 2 of the Mesquite City Code, as amended, is amended by deleting Subsection 2-5(a)(3) in its entirety and adding new Subsections 2-5(a)(3) and 2-5(f) to read as follows, in all other respects said Code, Chapter and Section to remain in full force and effect:

1. *Sec. 2-5.* Amend Section 2-5 by deleting Subsection 2-5(a)(3) in its entirety and adding a new Subsection 2-5(a)(3) to read as follows:
 - (a) *Signing contracts, donation agreements, closing documents, easements, licenses and releases of liens.*
 - (3) The City Manager is authorized to:
 - a. Approve and sign contracts for the sale of City personal and real property or for the purchase by the City of real and personal property without obtaining City Council approval of the contract provided the sale or purchase advances a public purpose and the contract price for the sale or purchase does not exceed fifty thousand dollars (\$50,000.00), plus closing costs, provided however nothing contained herein shall prevent the City Manager, in the City Manager's discretion, from seeking City Council approval of a contract for the sale or purchase of real or personal property with a value of fifty thousand dollars (\$50,000.00) or less;
 - b. Accept donations of real and personal property including, without limitation, monetary donations, on behalf of the City, and approve and sign agreements for the donation of such property to the City without obtaining City Council approval of the donation or the donation agreement provided: (i) the ownership or acceptance of such property by the City advances a public purpose; (ii) the City Council has not otherwise delegated the authority to accept the donation of such property; and (iii) the value of the property being donated does not exceed fifty thousand dollars (\$50,000.00), provided, however, nothing contained herein shall require the City Manager to accept any donation or shall prevent the City Manager, in the City Manager's discretion, from seeking City Council

approval of a donation of property with a value of fifty thousand dollars (\$50,000.00) or less. In the case of real property, the value of the property being donated shall be determined according to: (1) the Dallas Central Appraisal District, or its successor, if the property is located in Dallas County, Texas; or (2) the Kaufman County Appraisal District, or its successor, if the property is located in Kaufman County;

- c. Administer the sale and purchase contracts and the donation agreements referred to in Subsections 2-5(a)(3)(a) and 2-5(a)(3)(b) above on behalf of the City including, without limitation, the City Manager shall have the authority to take all actions and execute all notices, communications and documents on behalf of the City permitted or contemplated by such contracts and donation agreements;
- d. Take all actions and execute all deeds, bills of sale, and other closing documents necessary or advisable to consummate the sale, purchase and donation transactions contemplated by the sale and purchase contracts and donation agreements referred to in Subsections 2-5(a)(3)(a) and 2-5(a)(3)(b) above including, without limitation, the City Manager shall have the authority to approve and pay all closing costs in connection with such transactions;
- e. Obtain, grant and execute utility, drainage, access and other easements, licenses or rights-of-way acquisitions necessary in connection with budgeted City projects or to advance public purposes provided any expenditure does not exceed fifty thousand dollars (\$50,000.00); and
- f. Execute and release liens on behalf of the City, and may assign this duty to a designee if authorized by state law.

2. *Sec. 2-5.* Amend Section 2-5 by adding a new Subsection 2-5(f) to read as follows:

- (f) *Release and abandonment of certain easements.* Upon request of a property owner burdened by an easement owned by the City, the City Manager, acting on behalf of the City, is authorized to release and abandon a public water, sanitary sewer, drainage, fire lane, and/or mutual access easement, or portions thereof, that was previously conveyed and/or dedicated to the City by plat or separate instrument subject to the following conditions:
 - (1) Except as provided in Paragraph (2), the easement must contain no facilities owned by the City or any other party with the right to place facilities in the easement;

- (2) If the easement contains facilities owned by the City and/or a third party with the right to locate facilities in the easement, the City Manager may proceed to abandon and release the easement provided the owner of such facilities has either (i) agreed to abandon the facilities in place without a requirement to relocate the facilities or (ii) reached agreement with the owner of the property seeking abandonment of the easement to relocate the facilities to another easement dedicated for such purpose, in which case, unless otherwise agreed by the owner of the facilities, the abandonment of the easement shall not be effective unless and until the new easement has been conveyed and/or dedicated and the newly relocated facilities have been constructed and accepted by the owner of the facilities;
- (3) The Director of Public Works and the Director of Planning and Development Services have reviewed the request to abandon and release the subject easement, found that the easement is no longer required for public use, and recommend approval of the abandonment and release;
- (4) All entities with the right to use the easement to be abandoned either by virtue of a franchise granted by the City or by operation of state law shall have (i) confirmed in writing that they own no facilities in the easement or portions thereof to be abandoned and (ii) have no objection to the abandonment;
- (5) If the easement was conveyed or dedicated to the City by separate instrument, the abandonment shall be accomplished by separate instrument on a form approved by the City Attorney. In this event, the party requesting the abandonment of the easement shall provide the City with a surveyed boundary description and survey plat of the easement or portion thereof to be abandoned that is satisfactory to the Director of Public Works and the City Attorney;
- (6) The party requesting the abandonment and release shall be responsible for payment of all recording fees relating to filing the release in the real property records of the county where the property is located; and
- (7) If the easement was conveyed or dedicated to the City by plat or appears on a plat, the abandonment of the easement shall be effective only upon approval of a replat of the property burdened by the easement. The replat shall contain a note signed by the City Manager or any assistant City manager that reads as follows:

The abandonment and release of the easement(s) owned by the City of Mesquite that are shown hereon as being “Abandoned by this Plat” has been reviewed and approved

by the City Manager under the authority granted by City of Mesquite Ordinance No. (insert the number of this ordinance).”

SECTION 2. That the Mesquite City Code, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. 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 4. This ordinance shall become effective from and after its passage.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 16th day of December 2019.



Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney