

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, RATIFYING AND INCORPORATING THE ADOPTION OF AMENDMENTS TO THE HOME RULE CHARTER APPROVED BY THE QUALIFIED VOTERS OF THE CITY OF MESQUITE, TEXAS, AT A SPECIAL CHARTER AMENDMENT ELECTION HELD ON MAY 5, 2018; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Mesquite, Texas (“City Council”) ordered that a special election be held in the City of Mesquite, Texas (the “City”), on Saturday, May 5, 2018, for the purpose of submitting to the qualified voters of the City several propositions on whether the home rule Charter of the City should be amended; and

WHEREAS, the presiding judges and other election officials holding said election made their returns and results thereof to the City Council in the time and manner provided by law; and

WHEREAS, the majority of the votes cast at said election were in favor of the adoption of Proposition Nos. A, B, C, D, E, F, G and H stated in Section 1 below, amending the home rule Charter of the City as more fully set forth below; and

WHEREAS, the City Council has canvassed the results of the election held on May 5, 2018, at a Special City Council meeting held on May 15, 2018.

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

**SECTION 1.** That Proposition Nos. A, B, C, D, E, F, G and H amending the home rule Charter of the City, approved and adopted by the qualified voters of the City in an election held for that purpose on May 5, 2018, are hereby declared to be amendments to the home rule Charter of the City, to take effect immediately from or after the passage of City Resolution No. 28-2018, approved at the May 15, 2018, Special City Council meeting. That Proposition Nos. A through H, inclusive, read as follows:

**CITY OF MESQUITE PROPOSITION A**

**Establishing a Maximum Number of Terms for City Councilmembers and the Mayor**

Shall Section 9 of Article IV of the Mesquite City Charter be amended to provide that: no person may serve more than four (4) consecutive two-year terms as a city councilmember without a two-year break in service; no person may serve more than four (4) consecutive two-year terms as mayor without a two-year break in service; no person may serve more than four (4) consecutive two-year terms as a city councilmember and four (4) consecutive two-year terms as mayor, for a total of eight (8) consecutive two-year terms combined, without a two-year break in service; a term includes any period of service during a term; and term limits are to be applied retroactively?

## **CITY OF MESQUITE PROPOSITION B**

### **City Council Structure**

Shall Sections 2, 4, 4a, 4b, 5 and 10 of Article IV of the Mesquite City Charter be amended and a new Section 9b of that article be added to provide for the composition of the city council to consist of seven (7) members, with six (6) members elected by qualified voters of particular districts and one member as mayor elected by all qualified voters of the city; to create six (6) single member districts, of substantially equal total population; to provide for the review of the council district boundaries each ten years as census data is available; to provide residency requirements for city council candidates; and to provide implementation and transitional provisions?

## **CITY OF MESQUITE PROPOSITION C**

### **Date of City Council Election**

Shall Sections 7 and 9a of Article IV of the Mesquite City Charter be amended and a new Section 9b be added to that article to: require the regular municipal election to be held on the uniform election date, as provided by the general election laws of the State of Texas, in the month of November of odd-numbered years; to eliminate the staggering of city council terms; and to provide implementation and transitional provisions?

## **CITY OF MESQUITE PROPOSITION D**

### **Minimum Staffing Level in Police Department**

Shall Section 24a of Article III of the Mesquite City Charter be amended to increase the minimum staffing level in the police department from a minimum of one and five tenths (1.5) full-time, sworn police officers per every 1,000 population to a minimum of one and six tenths (1.6)?

## **CITY OF MESQUITE PROPOSITION E**

### **Establishing a City Attorney's Office**

Shall Article IV of the Mesquite City Charter be amended to add a Section 35 to provide for the establishment of the office of the city attorney and assistants to the city attorney, as needed and budgeted by the city council, and amending Section 3 of Article VIII of the Mesquite City Charter to clarify that the city attorney shall exercise control over the City Attorney's Office?

## **CITY OF MESQUITE PROPOSITION F**

### **Deletion of the One-Year Contract Period Limitation**

Shall Section 26(b) of Article III of the Mesquite City Charter be amended to delete the one-year limitation on any contract for goods, materials, services, or supplies for the current use of any department of the city?

## **CITY OF MESQUITE PROPOSITION G**

### **Amendments to Conform to Actual/Current Practices**

Shall the following sections of the Mesquite City Charter be amended to match actual practices: Section 28, "Additional Enumerated Powers; Penalties for Violations of Ordinances," of Article III, "Corporate Powers"; Section 17, "Legislative Procedure," and Section 27, "Creation and Jurisdiction of Corporation Court; Fines," of Article IV, "Officers and Elections"; and Section 2, "Personnel Board," of Article IX-A, "Civil Service?"

## **CITY OF MESQUITE PROPOSITION H**

### **Technical Amendments to Conform to State Law and City Code; to Correct Terms; to Correct Spelling; to Clarify Language; to Provide Gender-Neutral References; and to make other Technical Amendments**

Shall the following sections of the Mesquite City Charter be amended to conform to state law and the city code, correct terms, correct spelling, clarify language, provide gender-neutral references, and make other technical amendments: Section 3, "Platting of Property," of Article II, "Municipal Boundaries"; Section 8, "Liability for Negligence," Section 12, "Street Improvements and Assessments therefor," Section 15, "Regulation of Privately Owned Public Utilities," Section 16, "City Owned Public Utilities," Section 24, "Police Department," Section 26, "Contracts Generally," and Section 27, "Zoning," of Article III, "Corporate Powers"; Section 1, "Governing Body," Section 2, "Elective Officers," Section 3, "Qualifications and Nomination of Mayor and Councilmen; Official Ballot," Section 3a, "Holding other Office," Section 4c, "Nominations," Section 5, "How Candidates Elected," Section 6, "Judge of Election; Canvass of Returns," Section 7, "Date of Election," Section 9, "Term of Office of Incumbent Mayor and Councilmen," Section 9a, "Terms of Mayor and Councilmen to be Staggered," Section 10, "Vacancies in Office," Section 11, "Mayor Pro Tem," Section 12, "Compensation of Mayor and Councilmen," Section 13, "Duties of Mayor," Section 22, "Depository for City Funds," Section 25, "City Secretary," Section 26, "City Treasurer," Section 27, "Creation and Jurisdiction of Corporation Court; Fines," Section 28, "Title of Code of Criminal Procedure Controlling," and Section 34, "Personal Financial Interest," of Article IV, "Officers and Elections"; Section 2, "Tax Levies," Section 7, "Payment of Taxes," and Section 8, "Delinquent Taxes," of Article V, "Taxes and Taxation"; Section 1, "Generally," of Article VI, "Recall"; Section 3, "Powers and Duties," and Section 6, "Absence," of Article VIII, "City Manager"; Section 2, "Jurors, etc. Not Incompetent," and Section 6, "Amendments to Charter," of Article IX, "General Provisions"; Section 3, "Personnel Director," Section 6, "Civil Service Rules," and Section 8, "Trial Board," of Article IX-A, "Civil Service?"

**SECTION 2.** That in accordance with Section 1 of this Ordinance, the Articles, Sections, Subsections and Paragraphs of the home rule Charter of the City more fully set forth below are amended to read as follows:

- (1) *Article II, Section 3.* Article II, Section 3 "*Platting of property*" is amended to read as follows:

**"Sec. 3. Platting of property.**

Should any property situated within the city limits, as herein established or as may hereafter be established, or within the extraterritorial jurisdiction of the City of Mesquite, be hereafter platted into blocks and lots, the owner or owners of said property shall comply with the applicable provisions of state law, as amended."

- (2) *Article III, Subsection 8(c).* Subsection (c) of Article III, Section 8 "*Liability for negligence*" is amended to read as follows:

"(c) Before the City of Mesquite shall be liable for damages for personal injuries of any kind or for injuries to or destruction of or damage to property of any kind, the person injured or the owner of the property so injured, damaged or destroyed or someone on the person or owner's behalf, shall give the mayor and city council notice in writing of such injury, damage or destruction, within thirty (30) days after the same has been sustained, stating in such written notice when, where and how the injury, damage or destruction occurred, the apparent extent thereof, the amount of damage sustained, the amount for which the claimant will settle, the street and residence number of the claimant at the time and date the claim was presented and the actual residence of such claimant for the six (6) months immediately preceding the occurrence of such injuries, damage or destruction, and the names and addresses of the witnesses upon whom the claimant relies to establish his or her claim; and a failure so to notify the mayor and city council within the time and manner provided herein shall exonerate, excuse and exempt the city from any liability whatsoever."

- (3) *Article III, Section 12.* Article III, Section 12 "*Street improvements and assessments therefor*" is amended to read as follows:

**"Sec. 12. Street improvements and assessments therefor.**

V.T.C.A., Transportation Code, Chapter 313, as amended, is hereby embraced in and made a part of this charter."

- (4) *Article III, Subsection 15(b).* Subsection (b) of Article III, Section 15 "*Regulation of privately owned public utilities*" is amended to read as follows:

"(b) Any company, corporation or person who may be engaged in furnishing to the inhabitants of the City of Mesquite any light, power or gas, or telephone service shall file with the mayor of the City of Mesquite such reports in the time and manner required by state law; it being the intention of this section to require said company, corporation or person to file such reports pertaining to their operations insofar as same pertain to their operations within the city limits of the City of Mesquite."

- (5) *Article III, Section 16.* Article III, Section 16 “*City owned public utilities*” is amended to read as follows:

**“Sec. 16. City owned public utilities.**

The city shall have the power to build, construct, purchase, own, lease, maintain and operate, within or without the city limits, light and power systems, water systems, a sewer system or sanitary disposal equipment and appliances, natural gas systems, parks and swimming pools, fertilizer plants, abattoirs, and any other public service or utility; power to mortgage and encumber such system or systems in the manner provided by any applicable law of the State of Texas, as amended; and all the powers which the city might exercise in connection with such public utilities and public services under state law, as amended, including the power to demand and receive compensation for service furnished for private purposes, or otherwise, and with full and complete power and right of eminent domain proper and necessary to carry out efficiently said objects.”

- (6) *Article III, Sections 24 and 24a.* Article III, Section 24 “*Police department*” and Article III, Section 24a “*Ratio of police officers to population*” are amended to read as follows:

**“Sec. 24. Police department.**

The City of Mesquite shall have the power, by ordinance, to establish and maintain a police department and to prescribe the duties of the members of said department, and to regulate their conduct and their salaries. The head of the police department of said city shall be known and designated as "chief of police," and the other members thereof shall be known as "police officers." Said officer or officers shall have power to arrest.”

**“Sec. 24a. Ratio of police officers to population.**

The minimum staffing level for the Mesquite police department shall equal or surpass one and six-tenths (1.6) full-time and fully paid commissioned sworn civil service police officers per every one thousand (1,000) population of the City of Mesquite; such population to be officially determined annually by the City of Mesquite.”

- (7) *Article III, Section 26.* Article III, Section 26 “*Contracts generally*” is amended by deleting Article III, Subsections 26(a) and 26(c) in their entirety. Article III, Section 26 is amended to read in its entirety as follows:

**“Sec. 26. Contracts generally.**

No contract shall ever be made which binds the city to pay for personal services to be rendered for any stated period of time; but all contracts for personal service shall be restricted to the doing of some particular act or thing, and upon its completion no further liability shall exist on the part of the city, with the exception of officers and heads of departments specifically mentioned herein.“

- (8) *Article III, Section 27.* Article III, Section 27 “Zoning” is amended to read as follows:

**“Sec. 27. Zoning.**

The city council shall have full power and authority to zone the City of Mesquite and to pass all necessary ordinances, rules and regulations governing the same pursuant to the authority provided by state law, as amended.”

- (9) *Article III, Section 28.* Article III, Section 28 “Additional enumerated powers; penalties for violations of ordinances” is amended to read as follows:

**“Sec. 28. Additional enumerated powers; penalties for violations of ordinances.**

In addition to the powers hereinbefore specifically enumerated, the city council of the City of Mesquite shall have the power to license any lawful business, occupation or calling that is susceptible to the control of the police power; to license, regulate, control, or prohibit the erection of signs or billboards within the corporate limits of said city; to provide for a public library and the maintenance thereof; to provide for the regulation and control of electricians, plumbers and gas fitters and electrical and plumbing works, and to require efficiency in the same; to provide for the inspection of weights, measures and meters and fix a standard of such weights, measures and meters, and to require conformity to such standards and to provide penalties for failure to use or conform to the same; to provide for the issuance of permits for erecting all buildings, for the inspection of the construction of buildings in respect to proper wiring for electric lights and other electrical appliances, piping for gas, flues, chimneys, plumbing, and sewer connections; and to enforce proper regulations in regard thereto; to require the construction of fire escapes for all public buildings, and to determine the sufficiency and regulate the safety of all exits and fire escapes provided for public buildings, of every kind and character; to provide for license, permit and inspection fees; and to provide for the enforcement of all ordinances enacted by the city by a fine not to exceed the maximum amount authorized by state law; provided, that no ordinance shall prescribe a greater or less penalty than is prescribed for a like offense by the laws of this state.”

- (10) *Article IV, Section 1.* Article IV, Section 1 “Governing body” is amended to read as follows:

**“Sec. 1. Governing body.**

The governing and lawmaking body of the City of Mesquite shall consist of six (6) councilmembers and the mayor, and said body shall be known as the "City Council of the City of Mesquite.””

- (11) *Article IV, Section 2.* Article IV, Section 2 “*Elective officers*” is amended to read as follows:

**“Sec. 2. Elective officers.**

The members of the City Council of the City of Mesquite, which includes six (6) councilmembers and the mayor, shall be the only elective officers of the city, and they shall be elected and hold office and be compensated as herein provided. The mayor shall be elected from the city at large.”

- (12) *Article IV, Sections 3 and 3a.* Article IV, Section 3 “*Qualifications and nomination of mayor and councilmen; official ballot*” and Article IV, Section 3a “*Holding other office*” are amended to read as follows:

**“Sec. 3. Qualifications and nomination of mayor and councilmembers; official ballot.**

No person shall be a candidate for the office of mayor or councilmember unless the person is a qualified voter of the City of Mesquite as of the time of filing of petition, and shall not serve as mayor or councilmember unless he or she is a qualified voter of the City of Mesquite at the time of election. The names of candidates for councilmember and for mayor shall be placed on the official ballot upon the sworn application of the candidate filed in the office of the city secretary at such time as to comply with the filing requirements of the election laws of the State of Texas as they currently exist or are hereafter amended, stating the office for which he or she is a candidate, and if for councilmember, the place for which he or she is running, and stating that the candidate has resided in the City of Mesquite for at least one (1) year next prior to the election, and thereupon the names of such candidates shall be printed upon the official ballot. The order in which the names of the candidates for each place shall appear on the ballot shall be determined by lot, in a drawing held under the supervision of the city secretary.”

**“Sec. 3a. Holding other office.**

If a member of the council shall become a candidate for any place on the city council other than the specific place then held, the councilmember shall forfeit his or her place on the council as of the date of the next regular municipal election. No person elected to the city council shall, during the term for which that person is elected to the council, be appointed to any office, position, or employment in the service of the city, and no former member of the city council shall hold any compensated, appointive city office or employment until one (1) year after the expiration of the term for which he or she is elected to the city council. If any member of the city council shall become a candidate for election to any public office except for a place as councilmember or mayor, he or she shall immediately upon becoming a candidate forfeit his or her place on the council. If any member of a board or commission appointed by the city council shall become a candidate for election to any public office, he or she shall immediately upon becoming a candidate forfeit his or her place as a member of such board or commission. Appointive officers of

the city who shall become a candidate for election to any public office shall immediately upon becoming a candidate forfeit the office held with the city.”

- (13) *Article IV, Sections 4, 4a, 4b and 4c.* Article IV, Section 4 “*Candidates to run for places,*” Article IV, Section 4a “*Division of city into districts,*” Article IV, Section 4b “*Residence requirements for candidates,*” and Article IV, Section 4c “*Nominations*” are amended to read as follows:

**“Sec. 4. Candidates to run for places.**

Candidates for the city council shall run for Place 1, Place 2, Place 3, Place 4, Place 5 or Place 6 or for mayor. All qualified voters of the city shall be entitled to vote for mayor. The qualified voters of the respective districts shall be entitled to vote for one candidate from Place 1, 2, 3, 4, 5 or 6, corresponding to the district of which the voter is a resident.”

**“Sec. 4a. Division of city into districts.**

The city shall, by ordinance, be divided into six (6) districts of relatively equal total population to be known as District 1, District 2, District 3, District 4, District 5 and District 6. Persons serving in a councilmember place shall reside in the district corresponding to that councilmember place. The initial division of the city into council districts shall be made on the basis of population reported in the 2010 federal decennial census. Commencing with the year 2020 and every ten (10) years thereafter as census data is available and at least one hundred twenty (120) days prior to the general municipal election, the governing body shall review, and where necessary and permissible, alter or change the boundaries of the existing city council districts for the purpose of preserving and maintaining the equal apportionment of inhabitants in each such district.”

**“Sec. 4b. Residence requirements for candidates.**

No person shall be eligible as a candidate for member of the city council in Place 1, Place 2, Place 3, Place 4, Place 5 or Place 6 unless the person has been, for a period of not less than one hundred twenty (120) days prior to any city council election, and is at the time of such election, a bona fide resident of the district in which he or she seeks election.

A candidate for mayor may reside in any portion of the city.”

**“Sec. 4c. Nominations.**

Any person, having the qualifications required by this charter, may be nominated for the city council by a petition, compliant with state law, containing valid signatures in the number and meeting the requirements of state law, who shall be designated as the candidate’s sponsors. A person may not sign the petition of more than one candidate for the same office or place in the same election, and should a person do so, his or her signature shall be invalid except as to the petition first filed. With each signature shall be included the information required by state law. Persons signing a petition for nomination shall, at the time of signing the petition, be a registered voter of the territory from which the office

sought is elected or have been issued a registration certificate for a registration that will become effective in that territory on or before the date of the applicable election. The nominating petition shall be filed in the office of the city secretary at such time as to comply with the election laws of the State of Texas as they currently exist or are hereafter amended. Nominations shall be accepted in writing by the nominees, and shall be acknowledged by such nominee before the city secretary or other person authorized to administer oaths under the laws of the State of Texas. The nominating petition filed by a candidate for mayor or councilmember shall conform to the requirements prescribed by the state law for such nominating petitions.”

- (14) *Article IV, Section 5.* Article IV, Section 5 “*How candidates elected*” is amended to read as follows:

**“Sec. 5. How candidates elected.**

(a) The candidate receiving the majority number of qualified votes cast for the place which the candidate seeks shall be elected to the respective office for which he or she was a candidate.

(b) Should any candidate running for mayor or councilmember fail to receive a majority vote of all votes cast for that office in said election, then in that event it shall be the duty of the mayor to order a second election for the candidate or candidates failing to receive a majority vote, said election to be held in accordance with state law.

(c) In said second election only those can run who were candidates in the first election and they shall run for the place for which they ran in the first election, and the two (2) candidates receiving the highest vote where no one received a majority vote shall be candidates against each other. Should the candidate receiving the second highest number of votes for the place sought, die or refuse to have his or her name placed on the ballot, in said second election, then in that event the candidate receiving the next highest number of votes shall be entitled to be a candidate against the person receiving the highest number of votes. Should all the candidates die or refuse to run in said second election, the city council may declare a vacancy and appoint a successor to fill such vacancy until the next regular election.”

- (15) *Article IV, Section 6.* Article IV, Section 6 “*Judge of election; canvass of returns*” is amended to read as follows:

**“Sec. 6. Judge of election; canvass of returns.**

The city council shall be the judge of the election and qualification of its own members and of the mayor, subject to review of the courts in case of contest. The city council shall, as soon as practicable after a regular or special election, either at a meeting called for that purpose or at the next regular meeting of said council, canvass the return and declare the results of such election. The return is to be canvassed and the results declared in accordance with state law. All officers elected at an election shall take office as soon as practicable following such election.”

- (16) *Article IV, Section 7.* Article IV, Section 7 “*Date of election*” is amended to read as follows:

**“Sec. 7. Date of election.**

The regular municipal election for the City of Mesquite shall be held on the uniform election date in November, as provided by the general election laws of the State of Texas, in odd-numbered years, and the same shall be conducted and the results canvassed and announced by the election authorities prescribed by said general election laws, which shall control all municipal elections as otherwise herein provided.”

- (17) *Article IV, Sections 9, 9a and the addition of a new Section 9b.* Article IV, Section 9 “*Term of office of incumbent mayor and councilmen,*” and Article IV, Section 9a “*Terms of mayor and councilmen to be staggered*” are amended to read as follows. Article IV is further amended by adding a new Section 9b “*Transition period pursuant to adoption of Charter amendments in the May 2018 special election*” to read as follows:

**“Sec. 9. Limitation of terms.**

(a) No person may serve more than four (4) consecutive two-year terms as a city councilmember without a two-year break in service; no person may serve more than four (4) consecutive two-year terms as mayor without a two-year break in service; and no person may serve more than four (4) consecutive two-year terms as a city councilmember and four (4) consecutive two-year terms as mayor, for a total of eight (8) consecutive two-year terms combined, without a two-year break in service.

(b) A “term” as used in Subsection (a) shall include any period of service during a term.

(c) The term limitation requirements of this section shall apply retroactively. For purposes of qualification for re-election in the first election after adoption of this limitation of terms, all past consecutive service of members of the city council and the mayor shall apply in the calculation of terms served.”

**“Sec. 9a. Reserved.”**

**“Sec. 9b. Transition period pursuant to adoption of Charter amendments in the May 2018 special election.**

(a) This subsection provides for a transition from six (6) councilmembers elected at large to six (6) councilmembers elected by district, as provided by Sections 4 and 4a of Article IV of this Charter. Except as provided in this section, and after the transition as prescribed in this section, the mayor and councilmembers shall serve two (2) year terms.

(b) On the adoption of this Charter amendment, and not later than December 31, 2018, the city council shall establish Single Member Districts 1, 2, 3, 4, 5, and 6, as provided by Section 4a of Article IV of this Charter.

(c) The three (3) councilmembers elected at-large in the May 2018 general election shall serve one and one-half (1.5) year terms. The mayor and three (3) councilmembers that were elected at-large in the May 2017 general election shall serve two and one-half (2.5)-year terms.

(d) A general election shall be held for the council in November 2019, at which the mayor and the six (6) councilmembers elected from council districts shall be elected for two (2) year terms, marking the end of the transition period.”

(18) *Article IV, Section 10.* Article IV, Section 10 “*Vacancies in office*” is amended to read as follows:

**“Sec. 10. Vacancies in office.**

(a) In the event of a vacancy existing on the city council from any cause whatsoever, the remaining members of the city council shall by a majority vote thereof at a regular meeting elect a member or members to fill the vacancy or vacancies thus existing; and such member or members so elected by the city council shall serve in such position until the next municipal election, at which time the candidate then elected shall serve for the remaining term of office or for the succeeding term of office. Where any member of the city council shall be absent for three (3) regular consecutive meetings of the council, without first having obtained leave of absence at a regular meeting, the city council may, by a majority vote of the entire council, declare the office vacant and proceed to fill such vacancy in the same manner as other vacancies in said council.

(b) Should any councilmember elected to Place 1, Place 2, Place 3, Place 4, Place 5 or Place 6 move from the boundaries of such district during the term of office for which such councilmember was elected, such relocation shall create a vacancy of that place on the council.

(c) When the office of mayor or councilmember shall be for a term exceeding two (2) years, all vacancies of office shall be filled by a majority vote of the qualified voters at a special election called for such purpose within one hundred twenty (120) days after such vacancy or vacancies occur.

(d) Any member or members so elected by the council to fill vacancy or vacancies existing in Place 1, Place 2, Place 3, Place 4, Place 5 or Place 6 must fulfill all of the residency requirements provided for in this charter.”

- (19) *Article IV, Section 11.* Article IV, Section 11 “*Mayor pro tem*” is amended to read as follows:

**“Sec. 11. Mayor pro tem.**

The mayor pro tem shall be selected from among the members of the council and shall perform all mayoral duties in the absence or disability of the mayor. The mayor pro tem shall serve for a term of one (1) year.”

- (20) *Article IV, Section 12.* Article IV, Section 12 “*Compensation of mayor and councilmen*” is amended to read as follows:

**“Sec. 12. Compensation of mayor and councilmembers.**

(a) The mayor may receive a salary in an amount to be fixed by the city council, but which amount shall in no event be more than one hundred dollars (\$100.00) per month.

(b) Each councilmember may receive a sum of not more than ten dollars (\$10.00) for each city council meeting attended by the councilmember, the amount to be fixed by the city council; provided, that no councilmember shall receive a greater compensation than fifty dollars (\$50.00) per month.”

- (21) *Article IV, Section 13.* Article IV, Section 13 “*Duties of mayor*” is amended to read as follows:

**“Sec. 13. Duties of mayor.**

The mayor of the City of Mesquite shall preside at meetings of the council, and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties. The mayor shall perform such other duties consistent with the office as may be imposed by this charter and the ordinances and resolutions passed in pursuance hereof. The mayor may participate in the discussion of all matters coming before the council and shall be entitled to vote as a member thereof on all legislative and other matters, but shall have no veto power. The mayor shall sign all contracts and conveyances made or entered into by the city, unless another party is authorized by the city council, and all bonds issued under the provisions of this charter, and shall be recognized as the official head of the city by the courts for the purpose of serving civil process. In time of danger or emergency, the mayor may with the consent of the council take command of the police and govern the city by proclamation and maintain order and enforce all laws.”

- (22) *Article IV, Section 17.* Article IV, Section 17 “*Legislative procedure*” is amended to read as follows:

**“Sec. 17. Legislative procedure.**

A majority of the city council shall constitute a quorum to do business, and the affirmative vote of at least four (4) of those attending any meeting at which there is a quorum present shall be necessary to adopt any ordinance or resolution unless otherwise provided by state law. All meetings of the city council shall comply with the Texas Open Meetings Act, and minutes of all proceedings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the city. The vote upon the passage of all ordinances and resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the person performing the duties of city secretary.”

- (23) *Article IV, Section 22.* Article IV, Section 22 “*Depository for city funds*” is amended to read as follows:

**“Sec. 22. Depository for city funds.**

The city council is authorized to select a depository for city funds in accordance with and in the manner provided by state law, as amended.”

- (24) *Article IV, Section 25.* Article IV, Section 25 “*City secretary*” is amended to read as follows:

**“Sec. 25. City secretary.**

The city council shall appoint a city secretary, who shall be a qualified voter residing in the city for at least one (1) year next preceding his or her appointment. The city secretary shall receive such compensation as the city council may fix. Unless excused by the city council for good cause, the city secretary shall attend all meetings of the city council, keep accurate minutes of its proceedings; and preserve and keep in order all books, papers, documents, records and files of the city council and of the executive departments. The city secretary shall keep a record of all commissions and licenses issued and shall countersign the same, and shall have custody of the seal of the city and shall affix same to such documents and obligations only of the city as he or she may be legally authorized so to do.”

- (25) *Article IV, Section 26.* Article IV, Section 26 “*City treasurer*” is amended to read as follows:

**“Sec. 26. City treasurer.**

The city finance director or such person acting in such capacity shall serve as city treasurer and shall be appointed by the city manager or person acting in such capacity. The residency requirements for city treasurer shall be the same but not greater than those for finance director or such person acting in such capacity. The city treasurer shall sign all checks or vouchers given by said city and perform any other duties required by the general laws of the State of Texas.”

- (26) *Article IV, Section 27.* Article IV, Section 27 “*Creation and jurisdiction of corporation court; fines*” is amended to read as follows:

**“Sec. 27. Creation and jurisdiction of municipal court; fines.**

There is hereby created and established the municipal court of the City of Mesquite, which court shall have all jurisdiction authorized by state law over criminal cases arising under the ordinances of the city and under state law, and shall have concurrent jurisdiction with the justice of the peace of the precinct in which the city is or may be situated as provided by state law. Punishment of criminal offenses is by fine only and the maximum of said fine may not exceed the maximum amount authorized by state law. Said court shall have no civil jurisdiction, except for the forfeiture and collection of bonds given in proceedings therein and other jurisdiction authorized by state law. The municipal court’s jurisdiction of violations of ordinances of the city include but are not limited to those enacted for the preservation of its water system, watersheds of the city’s water supply and the purity of the water supply, its sewage disposal plant and its garbage dumping grounds, whether such offenses are committed inside or outside of the corporate limits of the City of Mesquite, and the commission of any nuisance within five thousand (5,000) feet of the corporate limits of the city, outside of the city limits.

(a) The municipal court shall be presided over by a judge, who shall be known as the city judge. The municipal court may also be presided over by alternate judges as may be appointed by the city council.

(b) The judge of said municipal court, regardless of what his or her title may be, shall have power to punish for contempt to the same extent and under the same circumstances as the justice of the peace may punish for contempt of criminal cases.

(c) The judge and alternate judges of said court shall be qualified voters of the city, shall be appointed by the city council, and shall hold office at the pleasure of the city council.

(d) There shall be a clerk and deputy clerk of said court, which clerks shall be appointed by the city manager. The city manager may require such clerk or deputies to perform such other duties, in addition to the duties of clerk or deputy clerk, as may be

prescribed, or may provide that some other employee or employees of the city, in addition to their duties, may perform the duties of such clerk or deputy clerk without extra compensation.

(e) The clerk of said court and the clerk's deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally do and perform any and all acts usual and necessary by clerks of courts in issuing process of said courts and conducting the business thereof."

- (27) *Article IV, Section 28.* Article IV, Section 28 "*Title of Code of Criminal Procedure controlling*" is amended to read as follows:

**"Sec. 28. Title of Code of Criminal Procedure controlling.**

All complaints, prosecutions, the service of process, commitment of those convicted of offenses, the collection and payment of fines, the attendance and service of witnesses and juries, punishment for contempt, bail and the taking of bonds shall be governed by applicable provisions of the Code of Criminal Procedure of the State of Texas, as amended."

- (28) *Article IV, Section 34.* Article IV, Section 34 "*Personal financial interest*" is amended to read as follows:

**"Sec. 34. Personal financial interest.**

No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, or be financially interested, directly or indirectly, in any contract with the city, or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies, or services, or to a contractor supplying the city, except on behalf of the city as an officer or employee. However, the phrase "financially interested in any contract with the city" and "financially interested in the sale to the city of any land" shall not be deemed to preclude donations to the city of right-of-way, easements or other thing of value without payment or other consideration from the city. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his or her office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the governing body of the city shall render the contract involved voidable by the city manager or governing body.

Provided, however, that city employees, excluding the city manager, the city secretary and the city purchasing agent, may purchase unclaimed and surplus items sold at city auction where the sale is advertised by publication as provided by law and the sale is by open competitive bidding.

No member of the city council shall be excused from voting except on matters where the member's financial interests are involved, or where otherwise prohibited by state law."

- (29) *Article IV, Section 35.* Article IV is amended by adding a new Section 35 “*Office of the city attorney*” to read as follows:

**“Sec. 35. Office of the city attorney.**

(a) **City attorney.** The city council shall appoint an attorney, licensed by the State of Texas, to be the city attorney. The city attorney shall be entitled to compensation for services as established by the city council and shall serve at the pleasure of the council. The city attorney shall draft or approve as to legal form every ordinance proposed by the city council and shall review all contracts and other documents in which the city has an interest. The city attorney shall be the legal advisor to the city and counsel for the city and all its officers and departments in the conduct of city business.

(b) **Assistant city attorneys.** The city attorney shall appoint assistant city attorneys, who shall receive such compensation as may be fixed by the city council. All powers and duties imposed on the city attorney may be exercised and performed by any assistant city attorney under the direction of the city attorney. Any assistant city attorney may be discharged at any time by the city attorney in accordance with the City of Mesquite policies and procedures for general government employees.”

- (30) *Article V, Section 2.* Article V, Section 2 “*Tax levies*” is amended to read as follows:

**“Sec. 2. Tax levies.**

(a) The city council shall have the power and is hereby authorized and made its duty to levy, assess, and collect annually for general purposes authorized by laws and for the purpose of paying the interest and providing the sinking fund on the bonded indebtedness of the City of Mesquite now in existence or which may hereafter be created an ad valorem tax on real, personal or mixed property in such amounts and at such rates as shall be determined by the city council subject to applicable limitations and prohibitions now or hereafter contained in the Constitution of the State of Texas. If for any cause the city council shall fail, neglect or refuse to pass a tax ordinance for any one (1) year levying taxes for that year, then in that event the tax levying ordinance last passed shall and will be considered in force and effect as the tax levying ordinance for the year for which the city council failed, neglected or refused to pass such ordinance, and the failure so to pass such ordinance for any year shall not invalidate the tax collections for that year.

(b) The city council shall determine and provide when taxes shall be due and payable. It shall have the right to fix the time and terms of payments of taxes, prescribe penalties for the nonpayment thereof upon the expiration of the time fixed by the city council, and may provide discounts for advance payments of taxes.

(c) The city council or any other officer of the city shall not extend the time for payment of taxes or remit, discount or compromise any tax legally due the city, nor waive the penalty that may be due thereon by any person, but the city council may by ordinance provide for the remission, discount, compromise or waiver of penalty to all persons

legally owing any taxes where such remission, discount, compromise or waiver of penalty is for any particular and specified year or years and applies equally to all persons, firms or corporations owing taxes to the city for such year or years; provided, however, that this provision shall not prevent the compromise of any tax suit.”

- (31) *Article V, Section 7.* Article V, Section 7 “*Payment of taxes*” is amended to read as follows:

**“Sec. 7. Payment of taxes.**

All ad valorem taxes due or to become due upon real, personal or mixed property or upon franchises granted by the City of Mesquite to individuals or corporations and all license taxes, occupation taxes, permit fees, fines, forfeitures, penalties and other amounts of taxes accruing to the City of Mesquite shall be collectable and payable as provided by state law.”

- (32) *Article V, Section 8.* Article V, Section 8 “*Delinquent taxes*” is amended to read as follows:

**“Sec. 8. Delinquent taxes.**

(a) All ad valorem taxes due or to become due to the City of Mesquite that are not paid within the time specified by the city council in the ordinance providing the date of payment of said taxes shall be declared delinquent and shall be subject to the penalties prescribed by ordinance from time to time and may be collected by suits from delinquents, and foreclosure of the lien thereon may be had in any court having jurisdiction of the same, and any person who shall purchase or shall have purchased property encumbered by a lien for taxes or upon which taxes are due shall be deemed as to such taxes a delinquent taxpayer and such purchaser take the property charged with lien, and the purchaser cannot interpose any defense which the person or corporation owning the property at the time of the assessment of said taxes so delinquent might not have interposed had the person or corporation continued to be the owner, except that no personal judgment shall be rendered for same against said purchaser.

(b) All suits for delinquent taxes owing to the City of Mesquite shall be brought in accordance with the applicable provisions of V.T.C.A., Tax Code, as amended, relative to the collection of delinquent state and county ad valorem taxes.”

- (33) *Article VI, Section 1.* Article VI, Section 1 “*Generally*” is amended to read as follows:

**“Sec. 1. Generally.**

(a) The mayor or any other member of the city council may be removed from office in the following manner:

Any qualified voter of the city may make and file with the city secretary an affidavit containing the name of any member of the city council whose removal is sought and a

statement of the grounds for removal. The secretary shall thereupon deliver to the voter making such affidavit copies of petition blanks for demanding such removal, printed forms of which the secretary shall keep on hand. Such blanks shall be issued by the secretary with his or her signature thereto attached, and they shall be dated and addressed to the city council, indicate the person to whom issued, and state the name of the member whose removal is sought. A copy of the petition shall be recorded in a record book for that purpose to be kept in the office of the secretary. A recall petition to be effective must be returned and filed with the secretary within thirty (30) days after the filing of the affidavit, must bear the signatures of qualified voters of the city equal in number to at least forty (40) percent of those who were qualified voters on the date of the last regular municipal election, and at least one-half of the qualified voters voting for the person to be recalled constituting such forty (40) percent signing the petition shall make affidavit, to be filed with the petition, to the effect that they voted for the person whose recall is sought at the election at which he or she was last chosen.

(b) Signatures to a recall petition need not all be appended to one (1) paper, but to each such petition paper there shall be attached an affidavit of the circulator thereof, stating that such signature thereto was made in his or her presence and is the genuine signature of the person whose name it purports to be. Each signer of a recall petition shall sign his or her name in ink or indelible pencil and shall place after his or her name the date when signed and his or her residence by street and number, or other description to identify the place. Recall petition papers provided by the city secretary shall be in form substantially as follows:

We, the undersigned qualified voters of the City of Mesquite, hereby demand that the question of removing \_\_\_\_\_ from the city council be submitted to a vote of the qualified voters.

NAME	ADDRESS	DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____

STATE OF TEXAS            )  
   )  
 COUNTY OF DALLAS        )

\_\_\_\_\_, being duly sworn, deposes and says that he or she is the circulator of the foregoing petition paper and that the signatures appended thereto were made in his or her presence and are genuine signatures of the persons whose names they purport to be.

Signed \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

The affidavits of signers of a recall petition who voted for the person whose recall is sought at the election at which he or she was last chosen shall be in the following form:

STATE OF TEXAS            )  
  )  
COUNTY OF DALLAS        )

\_\_\_\_\_, being duly sworn, deposes and says (or depose and say) that (he, she or they) voted for the said \_\_\_\_\_ at the election when that person was chosen for his or her present position.

Signed \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(c) All papers and affidavits comprising a recall petition shall be assembled and filed with the city secretary as one (1) instrument, with a statement attached thereto giving the names and addresses of three (3) qualified voters, who, as a committee of the petitioners, shall be officially regarded as filing the petition. Within ten (10) days of the date of filing a recall petition, the city secretary shall determine the sufficiency thereof and attach thereto a certificate showing the result of his or her examination. If the city secretary shall certify that the petition is insufficient, he or she shall set forth in the certificate findings stating why the petition is defective and shall at once notify the committee of the petitioners of those findings.

(d) A recall petition may be amended at any time within twenty (20) days after the making of the certificate of insufficiency by the city secretary by filing a supplementary petition upon additional papers issued, signed and filed as provided herein for an original petition. The city secretary shall within five (5) days after such an amendment is filed, make examination of the amended petition and, if the city secretary's certificate shall show the petition still to be insufficient, he or she shall file the petition in the Office of the City Secretary and notify the committee of the petitioners of his or her findings. The finding of the insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

(e) If a recall petition, or amended petition shall be certified by the city secretary to be sufficient he or she shall at once submit it to the city council with the certificate to that effect and shall notify the member whose removal is sought of such action. If the member whose removal is sought does not resign within five (5) days of such notice, the city council shall thereupon order and fix the date for holding a recall election. Any such election shall not be held less than forty (40) nor more than sixty (60) days after the

petition has been submitted to the city council, and it may be held at the same time as any other general or special election within such period; but, if no election is held within such period, the city council shall call a special recall election to be held within the time aforesaid.

(f) The question of recalling any number of members of said city council may be submitted at the same election, but as to each member whose removal is sought, a separate petition shall be filed and there shall be an entirely separate ballot. Candidates to succeed any members of the city council whose removal is sought shall be placed in nomination by petition signed, filed and verified as provided for nominating petitions for a regular municipal election; except that each petition paper shall specify that the candidate named therein is a candidate to succeed the particular member whose removal is sought.

(g) The ballots used in a recall election shall submit the two (2) following propositions in the order indicated:

"For the recall of (name of mayor or councilmember);"

"Against the recall of (name of mayor or councilmember);"

The voter, by striking out either of these propositions, may indicate his or her vote for the one not so stricken out. Under the propositions shall appear the word "candidates" and the direction "Vote for one," and beneath this, the names of the candidates nominated as hereinabove provided. The person whose recall is sought shall not have his or her name printed on the ballot as a candidate. Except that the space left for the names and dates shall be filled by the correct names and date, the ballots used in a recall election shall be in form substantially as follows:

#### RECALL ELECTION

City of Mesquite

\_\_\_\_\_ (Month and day of month) \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For the recall of \_\_\_\_\_

Against the recall of \_\_\_\_\_

CANDIDATES  
Vote for One

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Except as provided for in this section, ballots used in recall elections shall comply with the provisions of this charter regarding ballots for a regular municipal election.

(h) If a majority of the votes cast on the question of recalling the mayor or a city councilmember be against recall, he or she shall continue in office for the remainder of any unexpired term, but subject to recall as before. If a majority of such votes be for recall of the officer on the ballot, the officer shall, regardless of any defect in the recall petition, be deemed removed from office, the candidate to succeed such officer who receives the highest vote shall be declared elected to fill the unexpired term.

(i) If a mayor or councilmember in regard to whom a sufficient recall petition is submitted to the city council shall resign within five (5) days thereof, the place thus made vacant on the city council shall be filled by the appointment of an eligible person by a majority vote of the remaining members as hereinbefore provided for filling vacancies arising from other causes.

(j) No recall shall be filed against a mayor or councilmember within three (3) months after he or she takes office or, in the case of a mayor or councilmember subjected to a recall election and not removed thereby, until at least six (6) months after that election.“

(34) *Article VIII, Section 3.* Article VIII, Section 3 “*Powers and duties*” is amended to read as follows:

**“Sec. 3. Powers and duties.**

The city manager, if one is appointed, shall see that the laws and ordinances of the city are enforced. Except as otherwise provided in this section, the city manager shall appoint all appointive officers, or employees of the city (such appointments to be made upon merit and fitness alone), and may at will remove any officers or employees appointed by him or her. The city judge, city attorney, city secretary and city health officer shall be appointed and removed from office by the city council. Assistant city attorneys shall be appointed and removed from office by the city attorney. The city manager shall exercise control and supervision over all departments and offices that may be created by the council except for the office of the city attorney, and all officers and employees appointed by the city manager. The city manager shall attend all meetings of the council with the right to take part in the discussion, but having no vote, and shall recommend in writing to the council such measures as deemed necessary or expedient.

The city manager shall keep the council fully advised as to the financial condition and needs of the city, and perform such other duties as may be prescribed by this charter or which may be required by ordinance or resolution of the council.”

- (35) *Article VIII, Section 6.* Article VIII, Section 6 “*Absence*” is amended to read as follows:

**“Sec. 6. Absence.**

At the time of any temporary absence or disability, by letter filed with the city secretary, the city manager shall designate a qualified city administrative officer to exercise the power and perform the duties of city manager during a temporary absence or disability. In the event of the incapacity or failure of the city manager to make such an appointment, it may be made by the governing body. During such absence or disability the council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or the disability shall cease.

During any vacancy in the office of city manager, the governing body shall designate by letter filed with the city secretary a qualified administrative officer of the city to serve as acting city manager during the existence of such vacancy.”

- (36) *Article IX, Section 2.* Article IX, Section 2 “*Jurors, etc., not incompetent*” is amended to read as follows:

**“Sec. 2. Jurors, etc., not incompetent.**

In any action or proceeding in which the City of Mesquite may be a party at interest, no person shall be an incompetent judge, justice, witness or juror by reason of being an inhabitant, freeholder or taxpayer of the City of Mesquite.”

- (37) *Article IX, Section 6.* Article IX, Section 6 “*Amendments to Charter*” is amended to read as follows:

**“Sec. 6. Amendments to Charter.**

The charter may be amended at any time in accordance with the provisions of state law, as amended.”

- (38) *Article IX-A, Section 2.* Article IX-A, Section 2 “*Personnel board*” is amended to read as follows:

**“Sec. 2. Personnel board.**

There shall be a personnel board consisting of three (3) members appointed by the council for terms of three (3) years from among the qualified voters of the city. All such members of the board shall be of good moral character, resident citizens of the City of Mesquite and shall be more than twenty-five (25) years of age. Each member of the board shall be known to be in sympathy with the application of merit principles to public

employment and shall neither hold nor be a candidate for any other public office or position.”

- (39) *Article IX-A, Section 3.* Article IX-A, Section 3 “*Personnel director*” is amended to read as follows:

**“Sec. 3. Director of human resources.**

There shall be a director of human resources, who shall have had training and experience in personnel administration, appointed by the city manager, and who shall administer the personnel system for the city. The director of human resources or such other person as may be provided by the city council shall provide the necessary staff assistants for the personnel board.”

- (40) *Article IX-A, Section 6.* Article IX-A, Section 6 “*Civil service rules*” is amended to read as follows:

**“Sec. 6. Civil service rules.**

The director of human resources shall prepare the civil service rules and shall refer such proposed rules to the personnel board, which shall make its recommendations thereon. The city manager shall then present the civil service rules to the city council, and the council may by ordinance adopt them with or without amendments.”

- (41) *Article IX-A, Section 8.* Article IX-A, Section 8 “*Trial board*” is amended to read as follows:

**“Sec. 8. Trial board.**

There is hereby created for the purpose of hearing and determining charges made against any officer or employee of the city in the classified service, a board to be known as the trial board whose members shall be the members of the personnel board. The trial board shall have final jurisdiction to hear and decide all appeals made to them by any discharged, suspended or reduced officer or employee in the classified service, and the judgment or decision of a majority of said board shall be final. Any aggrieved officer or employee who desires to exercise the right to appeal to said board must do so promptly and within ten (10) days from the date of notification of dismissal or reduction. The officer or employee may be represented by counsel and shall have the right to an open hearing and to compel the attendance of witnesses. The appeal shall not suspend the execution of the order of dismissal or reduction pending the hearing. The trial board may either sustain or reverse the action of the city manager or the head of the department, as the case may be, or modify and amend the same as to them may seem just and equitable under all the facts and circumstances of the particular case.”

SECTION 3. That the City Secretary shall record in the Office of the City Secretary, the amendments to the home rule Charter of the City adopted by the qualified voters of the City; and the Mayor shall certify to the Secretary of State of the State of Texas, an authenticated copy of this Ordinance and the amendments to the home rule Charter of the City, under the seal of the City, showing the approval by the qualified voters of the City.

SECTION 4. That it is hereby declared to be the intent of the City Council that the words, phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any word, phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by a final judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this ordinance, the City Council hereby declaring that this ordinance would have been enacted by the City Council without the incorporation of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph or section.

SECTION 5. 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 21st day of May, 2018.

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Stan Pickett  
Mayor

ATTEST:

APPROVED:

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Sonja Land  
City Secretary

  
Paula Anderson  
Interim City Attorney

MAYOR'S CERTIFICATE OF AUTHENTICATION

Pursuant to V.T.C.A., Local Government Code §9.007, I, Stan Pickett, Mayor of the City of Mesquite, Texas, do hereby certify that the above and foregoing is a true and correct copy of the City of Mesquite Ordinance No. \_\_\_\_\_, adopted by the City Council of the City of Mesquite, Texas, on the 21<sup>st</sup> day of May, 2018, such ordinance including the amendments to the home rule Charter of the City of Mesquite, Texas, approved by the qualified voters of the City of Mesquite, Texas, at an election held for that purpose on May 5, 2018.

This certificate of authentication is executed this \_\_\_\_ day of May, 2018.

\_\_\_\_\_  
Stan Pickett, Mayor

ATTEST:

\_\_\_\_\_  
Sonja Land, City Secretary

Seal of the City of Mesquite, Texas