

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DETERMINING THE NECESSITY OF ACQUIRING REAL PROPERTY FOR CONSTRUCTION OF A PUBLIC PARK ON PROPERTY LOCATED AT 1100 NORTH BRYAN-BELTLINE ROAD; AUTHORIZING APPROPRIATION OF THE REAL PROPERTY AND/OR THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE THE REAL PROPERTY FOR PUBLIC USE; AND DELEGATING AUTHORITY TO INITIATE CONDEMNATION PROCEEDINGS TO THE CITY MANAGER.

WHEREAS, the City Council of the City of Mesquite, Texas (the “**City Council**”), authorized the engineering and design of a public park to be located at 1100 North Bryan Street, Mesquite, Texas 75149 (the “**Project**”); and

WHEREAS, the Project will require the acquisition of a 0.5-acre tract of land; and

WHEREAS, upon consideration of this matter and for construction, operation, and maintenance of the Project, the City Council has determined that there is a public need and necessity for the health, safety and welfare of the City of Mesquite (“**City**”) and the public at large (the “**Public Uses**”) to acquire fee simple title (the “**Real Property Interests**”) on and across the property as described and depicted in Exhibit A attached hereto and incorporated herein by reference, (the “**Property**”); and

WHEREAS, the City Council has investigated and determined that the Project constitutes a public use for a public purpose; and

WHEREAS, the City Council finds that the descriptions of the Real Property Interests for acquisition on and across the Property by eminent domain for the Project complies with applicable law in that the same identifies the Property that will be used by the City for the Project in a way that provides the property owner reasonable notice that the owners’ property may be subject to condemnation proceedings during the planning or construction of the Project; and

WHEREAS, the City is required to make a bona fide offer, as defined by and in compliance with Texas Property Code § 21.0113, to acquire the Real Property Interests on and across the Property for the Public Use, voluntarily, from the subject landowners prior to moving forward with the acquisition by eminent domain; and

WHEREAS, the City Council now deems it necessary to authorize the City Manager or his designee (hereinafter collectively referred to as the “**City Manager**”) to initiate condemnation proceedings in order to acquire the necessary Real Property Interests in the event negotiations are unsuccessful.

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

SECTION 1. The City Council hereby finds and determines that the recitals made in the preamble of this ordinance are true and correct, and incorporates such recitals in the body of this ordinance as if copied in their entirety.

SECTION 2. The City Council hereby finds and determines that a public use and necessity exists for the Public Uses and authorizes acquisition of the necessary Real Property Interests on and across the Property for such purposes, as allowed by law, together with all necessary appurtenances, additions, and improvements on, over, under and through that certain lot, tract, or parcel of land.

SECTION 3. The City Council authorizes the City Manager to negotiate for and to acquire the required Real Property Interests on and across the Property for the City, and to acquire said rights in compliance with State and any other applicable law, including Chapter 21 of the Texas Property Code. Moreover, the City Manager is specifically authorized and directed to do each and every act necessary to acquire the needed Real Property Interests on and across the Property including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser to determine the just compensation for the acquisition of the Real Property Interests on and across the Property being acquired, as well as any other experts or consultants the City Manager deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

SECTION 4. The City Manager is appointed as negotiator for the acquisition of the needed Property Interests and, as such, the City Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the City Council for such purpose. Additionally, if the City Manager determines that an agreement as to damages or compensation cannot be reached after making a bona fide offer, then the City Attorney is hereby authorized and directed to file or cause to be filed, against the owner(s) and interested parties of the needed Real Property Interests on and across the Property, proceedings in eminent domain to acquire the above-stated Real Property Interests on and across the Property.

SECTION 5. 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 remain in full force and effect.

SECTION 6. This ordinance shall take effect immediately from and after its passage, and it is accordingly so passed and approved.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 17th day of May 2021.

Bruce Archer
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary



David L. Paschall
City Attorney

EXHIBIT "A"

1100 N. Bryan – Beltline Road, Mesquite



Being approximately 0.500 acres of vacant land out of an approximately 1.000 acre tract described as Lot 3, Block A, out of the Park Place Commercial Addition, an addition to the City of Mesquite, Dallas County, Texas.