

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, DELEGATING THE AUTHORITY TO RELEASE AND ABANDON CERTAIN EASEMENTS PREVIOUSLY CONVEYED AND/OR DEDICATED TO THE CITY BY PLAT OR SEPARATE INSTRUMENT UNDER CERTAIN CONDITIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the development or redevelopment of property within the City of Allen 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 such City Easements interfere or conflict with the proposed design or redesign of such 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, because the Allen Land Development Code provides that the Planning and Zoning Commission and, in some instances, the City Manager, has the authority to approve final plats (including replats) relating to the subdivision of land within the City and its extraterritorial jurisdiction; and,

WHEREAS, the platting or replatting of land that requires the relocation or release of an existing City Easement can be delayed while awaiting City Council approval for the abandonment of the City Easement in question; and,

WHEREAS, in order to avoid such 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.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. Upon request of the owner of the property burdened by an easement owned by the City, the City Manager, acting on behalf of the City, is hereby authorized to release and abandon a public water, sanitary sewer, drainage, fire lane, and/or mutual access easement, or portions thereof, that has previously been conveyed and/or dedicated to the City of Allen by plat or separate instrument subject to the following conditions:

- A. Except as provided in Paragraph B, below, the easement must contain no facilities owned by the City of Allen or any other party that has the right to place their facilities within the area of the easement;
- B. If the easement contains facilities owned by the City of Allen and/or a third party that has the right to locate facilities within the easement to be abandoned, the City Manager may proceed to abandon and release the easement provided the owner of such facilities has either (1) agreed to abandon the facilities in place without a requirement to relocate such facilities or (2) 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;

- C. The Director of Engineering and the Director of Community Development have reviewed the request to abandon and release the subject easement, found that such easement is no longer required for public use, and recommend approval of the abandonment and release;
- D. All entities that have 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 within the easement or portion thereof to be abandoned and (ii) have no objection to the said abandonment;
- E. The party requesting the abandonment of the easement provides 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 Engineering and the City Attorney; provided, however, no separate description is required if the abandonment is to be affected by plat;
- F. If the abandonment of the easement is to be effective upon approval of a plat of the property burdened by the easement, the plat 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 Allen 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 Allen Resolution No. (insert the number of this resolution)."

- G. If the release and abandonment of the easement is to be granted by separate instrument, the form of such instrument must be approved by the City Attorney prior to the City Manager signing such instrument; and
- H. The party requesting the abandonment and release of the instrument shall be responsible for payment of all recording fees relating to filing the release in the Real Property Records of Collin County.

SECTION 2. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 28TH DAY OF FEBRUARY 2017.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY
(kbl:2/16/17:83859)