

City of Houston, Texas, Ordinance No. 2012-\_\_\_\_\_

AN ORDINANCE AMENDING ARTICLE VI OF CHAPTER 2 OF THE CODE OF ORDINANCES, CITY OF HOUSTON, TEXAS, BY ADDING A NEW SECTION 2-242 AUTHORIZING THE ABANDONMENT OF CERTAIN EASEMENTS FOR UTILITY PURPOSES OWNED BY THE CITY OF HOUSTON IN EXCHANGE FOR EASEMENTS FOR UTILITY PURPOSES OF EQUAL OR GREATER VALUE; AUTHORIZING THE DIRECTOR OF THE PUBLIC WORKS AND ENGINEERING DEPARTMENT TO EXECUTE AND RECEIVE DOCUMENTS IN ORDER TO EFFECT SUCH EXCHANGES; APPROVING A FORM OF QUITCLAIM DEED AND EASEMENT CONVEYANCE; CONTAINING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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**WHEREAS**, Texas Local Government Code Section 272.001(b)(3) provides that political subdivisions may exchange real property interests, including easements, for other land to be used for public purposes; and

**WHEREAS**, Section 2-238 of the Code of Ordinances, City of Houston, Texas (the "Code"), provides that the City of Houston (the "City") may abandon and sell easements to the abutting owner or owners upon the fulfillment of certain requirements, including payment of the appraised market value of the City's easement(s); and

**WHEREAS**, the Director of the Department of Public Works and Engineering has advised that a number of applications are made to the City that solely involve the abandonment of easements for utility purposes owned by the City in exchange for the applicant's conveying to the City one or more easements for utility purposes of equal to or greater monetary value, and that, as such exchanges do not involve appropriations of City funds or a diminution in the value of property owned by the City, it would be advisable for these exchanges to be processed administratively rather than being individually submitted to City Council; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That City Council hereby adopts the findings set out in the preamble hereof, and such findings are determined to be true and correct and are adopted as part of this Ordinance.

**Section 2.** That Chapter 2 of the Code of Ordinances of the City of Houston, Texas, is hereby amended by adding a new Section 2-242, which shall read as follows:

**"Sec. 2-242. Exchange of easements.**

(a) The director of the department of public works and engineering is hereby authorized to approve the exchange of easements for utility purposes between the city and another property owner, without further action of the city council, upon determining that the following conditions exist:

- (1) The easement to be conveyed to the city contains square footage equal to or greater than the easement to be abandoned by the city in exchange;
- (2) The market value of the easement to be conveyed to the city is equal to or greater than the market value of the easement that the city is to abandon;
- (3) The proposed transaction involves only the exchange of easements and does not involve the abandonment and sale or conveyance of other real property interests; and
- (4) The proposed easement to be conveyed to the city, in the sole opinion of the director of the department of public works and engineering, is necessary or appropriate for the operation of the city's public utility systems.

(b) The market value of the easement to be conveyed to the city shall be deemed to be equal to or greater than the market value of the easement that the city is to abandon, if:

- (1) The easement to be conveyed to the city contains total square footage equal to or greater than easement to be abandoned by the city, and
- (2) All easements involved in the exchange are within the same tract of land and are part of the same development project. In such cases, the square footage and location of the parcels shall be sufficient evidence of their comparative value.

(c) If the conditions in subsection (b) of this section are met, the director shall not be required to appraise the easements involved in the exchanges contemplated by this section, notwithstanding other provisions of this Code.

(d) Notwithstanding the foregoing, the director of the department of public works and engineering, in his discretion, may submit any proposed easement exchange to the city council for consideration."

**Section 3.** That the conveyances from the City to the applicant shall be effected by a Quitclaim Deed substantially in the form attached hereto as **Exhibit "A,"** and the conveyances from the applicant to City shall be effected by an Easement Conveyance substantially in the form attached hereto as **Exhibit "B."**

**Section 4.** That if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 5.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this the \_\_\_\_ day of \_\_\_\_\_, 2012.

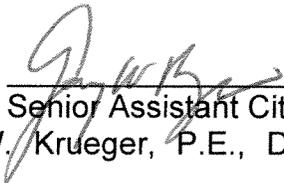
APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is \_\_\_\_\_.

\_\_\_\_\_  
City Secretary

(Prepared by Legal Dept.  
(GWD:gwd 03/21/2012])  
(Requested by Daniel W. Krueger, P.E., Director, Public Works and Engineering Department)

   
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Senior Assistant City Attorney

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