

ORDINANCE NUMBER 08-17

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS ABANDONING ALLEYWAY PROPERTY IN THE CITY OF DE LEON BEING OUT OF BLOCK 12 OF THE ORIGINAL ADDITION TO THE CITY OF DE LEON, TEXAS AND LYING BETWEEN ALMANTE AVENUE ON THE SOUTH, TRAVIS STREET ON THE WEST, BIVAR AVENUE ON THE NORTH, AND MCKINNEY STREET ON THE EAST; FINDING THAT THE DESCRIBED ALLEYWAY PROPERTIES ARE NO LONGER NECESSARY FOR USE AS PUBLIC THOROUGHFARES; RELEASING ANY AND ALL PUBLIC RIGHTS TO USE THE TRACTS AS PUBLIC RIGHT-OF-WAYS; AUTHORIZING AND DIRECTING THE CONVEYANCE OF THE ALLEYWAY PROPERTY TO THE ADJACENT PROPERTY OWNERS BY DEED WITHOUT WARRANTY; AND PROVIDING FOR A SEVERABILITY CLAUSE.

WHEREAS, pursuant to Chapter 311 of the Texas Transportation Code, the City of De Leon has exclusive control over the highways, streets, and alleys of the City and has the authority to vacate, abandon, or close a street or alley;

WHEREAS, the City of De Leon is the owner of alleyway property located in Block 12 of the Original Addition of the City of De Leon, Texas and lying between Almante Avenue on the South, Travis Street on the West, Bivar Avenue on the North, and McKinney Street on the East, as shown on the Plat recorded in Cabinet A at Slide 37, Plat Records of Comanche County, Texas;

WHEREAS, the owners of all of the property adjacent to the alleys to be abandoned herein, Richard and Kelley Mohon and De Leon SG Nut Company, LLC, have requested that the City of De Leon abandon the right-of-ways and convey the alleyway properties to them;

WHEREAS, the City Council of the City of De Leon, Texas has determined that the specified portions of the right-of-ways are no longer necessary for public use as thoroughfares and that there are no other owners of property abutting these right-of-ways;

WHEREAS, Chapter 272 of the Texas Local Government Code authorizes political subdivisions to sell and convey abandoned public right-of-ways to abutting owners at fair market value and the City has established the fair market value of the above described street as being \$1.00 per running foot along any abutting property;

WHEREAS, the City Council of the City of De Leon, Texas wishes to abandon the use of these tracts of property as part of the public right-of-way and to convey the tracts to the Mohons and De Leon SG Nut Company, LLC, in proportion to their respective ownership interests, and Richard Mohon, on behalf of the Mohons, and Randy Stephens, on behalf of De Leon SG Nut Company, LLC, have agreed, in writing, that the distribution included in this Ordinance is fair and equitable;

WHEREAS, the City Council approved an Ordinance abandoning the use of these tracts of property as part of the public right-of-way and conveying the property to Richard and Kelley Mohon and De Leon SG Nut Company, LLC, in proportion to their respective ownership interests, on February 8, 2016, but no executed original of said Ordinance could be found, nor was either Deed Without Warranty conveying the properties executed by the City at that time; and

WHEREAS, the City Council wishes to take official action again to ensure that proper records of the abandonment and conveyance authorized by this Ordinance are maintained by the City and filed with the Clerk of Comanche County, Texas;

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

1. **FINDINGS OF FACT**: The foregoing recitals are hereby found to be true and correct and are incorporated into this Ordinance by reference as findings of fact as if set forth herein at length.
2. **RIGHT-OF-WAYS CLOSURE**: The City Council hereby vacates, abandons, and closes the following tracts as public thoroughfares.
 - a. **Alley A**: A 20 foot alley lying to the East of Lots 8 and 9 of Zone A of Block 12 of the Original Addition to the City of De Leon, Texas, as shown on the Plat recorded in Cabinet A at Slide 37, Plat Records of Comanche County, Texas, as marked in yellow on the Plat attached hereto as Exhibit "A".
 - b. **Alley B**: A 20 foot alley lying to the North of Lots 1, 2, 3, 4, and 5 of Block 12 of the Original Addition to the City of De Leon, Texas, as shown on the Plat recorded in Cabinet A at Slide 37, Plat Records of Comanche County, Texas, as marked in green on the Plat attached hereto as Exhibit "A".
3. **ABANDONMENT OF RIGHTS**: The City Council of the City of De Leon, Texas hereby abandons any and all public rights and interest, if any, to the utilization of the described tracts as public right-of-ways across the surface.
4. **CONVEYANCE OF PROPERTY INTEREST**: The Mayor and the City Secretary are hereby authorized, empowered, instructed and directed to execute two deeds without warranty conveying the rights and interests of the City in this alleyway property to Richard and Kelley Mohon and to De Leon SG Nut Company, LLC, as follows:
 - a. The Mohons will receive the 10 feet of Alley A adjacent to Lots 8 and 9 in Zone A of Block 12 on the East, the 10 feet of Alley B adjacent to Lot 8 in Zone A of Block 12 on the South, and an additional portion of Alley B sufficient to connect the Mohons' interests in Alley A and Alley B.
 - b. De Leon SG Nut Company, LLC will receive the 10 feet of Alley A adjacent to Lots 6 and 7 of Block 12 on the West, the 10 feet of Alley B adjacent to Lots 1, 2, and 3 on the

North, and the portion of Alley B lying between Lots 3, 4, 5, and 6 in Block 12, excepting a portion sufficient to connect the Mohons' interests in Alley A and Alley B.

The purchase price to be paid for such property shall be \$1.00 per running foot along the abutting properties. Upon payment of the purchase price and execution of such deeds, the deeds shall be and become valid and binding actions of the City.

5. **SEVERABILITY:** If any word, article, phrase, paragraph, sentence, clause or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

6. **PROPER NOTICE & OPEN MEETING:** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

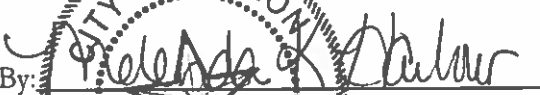
PASSED AND APPROVED on first reading on this the 27th day of March, 2017 by the City Council of the City of De Leon, Texas.

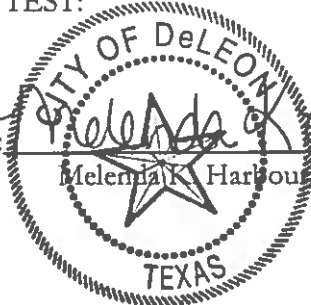
PASSED AND APPROVED on second reading on this the 10th day of April, 2017, by the City Council of the City of De Leon, Texas.

CITY OF DE LEON

By: 
Michael Reyna, Mayor

ATTEST:

By: 
Melinda K. Harbourn, City Secretary



The seal of the City of De Leon, Texas, is circular with a double-line border. The outer ring contains the text 'CITY OF DeLEON' at the top and 'TEXAS' at the bottom. The inner circle features a five-pointed star in the center. The signature of Melinda K. Harbourn is written across the seal.

