

RESOLUTION NO. 2022-08-\_\_\_\_ (R)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A FACILITIES AGREEMENT FOR CALVIN BOLES ESTATES, LOTS 1-3, BLOCK A, LOCATED IN THE ETJ OF MCKINNEY ON THE WEST SIDE OF COUNTY ROAD 318 AND APPROXIMATELY 3,500' SOUTH OF FARM-TO-MARKET ROAD 546**

- WHEREAS**, the Subdivision Regulations of the City of McKinney, Texas contained in Chapter 142 of the Code of the City of McKinney, Texas (the "Subdivision Regulations") establish procedures and standards for the development and subdivision of real estate and for the surveying and platting thereof, requiring the installation of adequate public facilities to serve the subject property and providing penalties for violations, among other things; and
- WHEREAS**, Section 142-4(b) of the Subdivision Regulations extends the application of the Subdivision Regulations to all of the area outside of the corporate limits of the CITY, but within the extra-territorial jurisdiction of the CITY ("ETJ"); and
- WHEREAS**, Section 142-76(b)(10) of the Subdivision Regulations requires the execution of a Facilities Agreement prior to the issuance of a Development Permit for the clearing, grading, filling, dredging, or construction of public streets, utilities, or drainage, or other improvements which may affect adjacent or surrounding properties in certain circumstances described in Section 142-37 of the Subdivision Regulations, as amended; and
- WHEREAS**, the development of the three-lot subdivision to be known as the ***Calvin Boles Estates, Lots 1-3, Block A***, which subdivision is situated in the ETJ of the City of McKinney, involves certain pro rata payments, city participation in cost, escrow deposits or other future considerations, and/or other nonstandard development regulations, that trigger the requirement for a Facilities Agreement by and between the CITY and the LANDOWNERS in accordance with Section 142-37 of the Subdivision Regulations, as amended; and
- WHEREAS**, the Subdivision Regulations also prohibit recording the Record Plat of a subdivision within the incorporated area of the City until the LANDOWNERS have completed all of the public facilities required to serve the property being developed that must be dedicated to the City ("Public Improvements") or have entered into a Facilities Agreement and guaranteed to the satisfaction of the CITY such improvements will be installed; and
- WHEREAS**, LANDOWNERS have appealed, or requested a waiver or variance, from the requirements that the Public Improvements identified in Paragraph D of the Facilities Agreement (the "Appealed Improvements") must be designed and constructed before the recording of the Record Plat of the two-lot subdivision in the ETJ, to be known as the ***Calvin Boles Estates, Lots 1-3, Block A***, (the "Plat") because the required design and construction of those Appealed Improvements is not roughly proportionate to the impact generated by the development proposed to be constructed on the "Property," defined below, as required by Texas Local Government Code § 212.904; and
- WHEREAS**, CITY concurs that the construction of three lots designed for one single-family dwelling unit on each such lot on the Property that is being platted as the ***Calvin Boles Estates, Lots 1-3, Block A***, does not generate impacts roughly proportionate to require the design and construction of the Appealed Improvements but cannot unilaterally enforce the City's zoning ordinance in the ETJ to restrict the use of the Property; and
- WHEREAS**, CITY and LANDOWNERS desire to enter into a Facilities Agreement through a Development Agreement authorized by Section 212.172 of the Texas Local

Government Code that will allow for the conditional deferral of the design and construction of the Appealed Improvements, specify the uses that can be made of the Property, and require that the Appealed Improvements be designed and constructed prior to any change or modification in the use presently proposed for the Property all as provided hereinafter below.

**WHEREAS,** The City Council of the City of McKinney concurs that the agreement is in the best interests of both the City and the Developer, and it is deemed mutually beneficial to each that the construction of the Project proceed.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

Section 1. The City Council of the City of McKinney, Texas hereby authorizes the City Manager to enter into a Facilities Agreement for Calvin Boles Estates, Lots 1-3, Block A.

Section 2. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 2<sup>ND</sup> DAY OF AUGUST, 2022.**

CITY OF MCKINNEY, TEXAS

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GEORGE C. FULLER  
Mayor

ATTEST:

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EMPRESS DRANE  
City Secretary  
JOSHUA STEVENSON  
Deputy City Secretary

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney