

**RESOLUTION NO. 2018-04-XXX (R)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A UTILITY IMPACT FEE CREDIT, EASEMENT ACQUISITION AND PRO RATA AGREEMENT FOR THE CONSTRUCTION OF AN OVERSIZED SANITARY SEWER MAIN AND RELATED INFRASTRUCTURE IMPROVEMENTS, WITH MCKINNEY RANCH, LTD, BEING EXTENDED TO AN APPROXIMATELY 254 ACRE TRACT, GENERALLY LOCATED ON THE SOUTH SIDE OF F.M. 543 AND ON THE EAST SIDE OF C.R. 201**

**WHEREAS,** the City has discussed entering into a Utility Impact Fee Credit, Easement Acquisition, and Pro Rata Agreement with McKinney Ranch, LTD., (“Developer”) for the construction of an oversized sanitary sewer main, in order to serve an approximately 254 Acre Tract (“Property”) owned by Honey Creek Investments, LLC., an affiliate of the Developer, and;

**WHEREAS,** City has agreed that Developer shall construct the Oversize Line, within and about the flood plain situated along the south side of Honey Creek, required by the City’s Master Plan (the “Honey Creek Sanitary Sewer Line Project” or “Project”); and

**WHEREAS,** the City’s Wastewater Collection System Master Plan requires the extension of a thirty-six inch (36”) diameter sanitary sewer main that is larger than the City’s standard twelve-inch (12”) diameter sanitary sewer mains, and which is also larger than the sanitary sewer main required to serve the approximately 254 Acre Tract, in order to serve future development in the area specifically including around the Property, and;

**WHEREAS,** Developer has agreed to extend the oversized main and all necessary appurtenances related to the oversized main through the property in exchange for sewer impact fee credits and cash reimbursement for the difference in cost to construct the oversized main as compared to the cost to construct the City’s minimum standard twelve-inch (12”) diameter line, and;

**WHEREAS,** the cost of constructing the Oversized Line is eligible for construction costs reimbursement from sewer impact fees imposed by the City pursuant to the authority contained Chapter 395 of the Texas Local Government Code and the Code of Ordinances, City of McKinney, Texas (“McKinney Code”), as amended; and

**WHEREAS,** Developer has dedicated, or agreed to acquire and dedicate, to the City at no cost the necessary easements for the Project; and

**WHEREAS,** Developer has obtained the five (5) easements for the Project and requests the City’s assistance to obtain the one missing easement required for the Project; and

**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 Utility Impact Fee Credit, Easement Acquisition, and Pro Rata Agreement with McKinney Ranch, LTD.

Section 2. Following the City’s acceptance of the thirty-six inch (36”) sanitary sewer main, the City may reimburse the Developer for the difference in cost to

construct the oversized main as compared to the cost to construct the City's minimum standard twelve-inch (12") diameter line.

Section 3. The City Council hereby authorizes using funds from WW4354 (Undesignated Oversize Participation) and grant impact fee credits to fulfill the obligations of the oversize reimbursement in an amount not to exceed 6,282.18 Service Units Equivalent (current value of \$1,018,592.43) through a combination of sewer impact fee credits and \$300,000 cash reimbursement.

Section 4. The City will exercise its eminent domain authority, subject to the approval and finding of necessity by the City Council, to condemn a sanitary sewer easement across the Blake Property if the Developer is not able to finalize the acquisition and purchase of and close on the Blake Easement within forty-five (45) days of the effective date of the Agreement. The Developer will pay all costs associated with acquiring the Blake Easement.

Section 5. City agrees to collect any proportional pro rata fees due to Developer related to the construction of the sanitary sewer main from specific offsite properties identified in the agreement, during the period of ten (10) years after the date of execution of the agreement.

Section 6. 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 17<sup>th</sup> DAY OF APRIL, 2018.**

CITY OF MCKINNEY, TEXAS

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GEORGE C. FULLER  
Mayor

ATTEST:

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SANDY HART, TRMC, MMC  
City Secretary

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney