

**ORDINANCE NO. 2024-12-XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, MAKING FINDINGS REQUIRED BY CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE REGARDING THE REQUEST BY 800 SOUTH KENTUCKY, LLC TO CONSTRUCT AND INSTALL A SINGLE EIGHT-INCH (8") DIAMETER SANITARY SEWER LINE BELOW GROUND LEVEL ALONG AND WITHIN FIFTEEN FEET (15') OF THE BOUNDARY OF CERTAIN PUBLIC PARK LAND OWNED BY THE CITY OF MCKINNEY THAT IS IDENTIFIED AS FINCH PARK; APPROVING THE GRANT OF A LICENSE FOR THE CONSTRUCTION AND INSTALLATION OF SAID SANITARY SEWER LINE UNDER AND ALONG AND WITHIN FIFTEEN FEET (15') OF A PORTION OF THE OUTER BOUNDARY OF FINCH PARK TO 800 SOUTH KENTUCKY, LLC IN EXCHANGE FOR THE PAYMENT OF FAIR MARKET VALUE FOR THE USE OF SAID PARKLAND; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE ON BEHALF OF THE CITY OF MCKINNEY, TEXAS ALL NECESSARY DOCUMENTS FOR THE CONVEYANCE OF SAID LICENSE FROM THE CITY OF MCKINNEY TO 800 SOUTH KENTUCKY, LLC; PROVIDING FOR SEVERABILITY; PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF**

**WHEREAS**, 800 South Kentucky, LLC ("Developer"), a Texas limited liability company, has requested permission to construct a single eight-inch (8") diameter sanitary sewer line below ground level within a fifteen-foot (15') wide area running along and within fifteen feet (15') of the outer boundary of certain public park land owned by the City of McKinney that is identified as Finch Park ("Finch Park") to facilitate the provision of sanitary sewer service to a proposed residential subdivision composed of 34 townhomes being developed by Developer; and

**WHEREAS**, Chapter 26 of the Texas Parks and Wildlife Code requires a public hearing regarding the use of public park land, after which public hearing the governing body must determine that:

- 1) No feasible and prudent alternative to the use of public park land exists; and
- 2) The proposed use includes all reasonable planning to minimize the harm to the land as a park resulting from the use proposed; and

**WHEREAS**, Notice of the Public Hearing was duly served and published in conformity to Chapter 26 of the Texas Parks and Wildlife Code; and

**WHEREAS**, the City Council held a public hearing on December 3, 2024, regarding Developer's request to construct a single eight-inch (8") diameter sanitary sewer line situated below ground level along and within fifteen feet (15') of the outer boundary of a portion of Finch Park during which all interested persons had the opportunity to testify and present relevant evidence before City Council.

**NOW THEREFORE BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS:**

**Section 1. FINDINGS**

All of the above premises are found to be true and correct legislative and factual determinations of the City Council of the City of McKinney and are

hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. **DETERMINED: THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO PROJECT**

The City Council of the City of McKinney, Texas, after public notice and public hearing as required by law, and upon due deliberation and consideration of all testimony and information submitted during said public hearing, has determined that there is no feasible and prudent alternative to the location of the proposed underground eight-inch (8") diameter sanitary sewer line running along and within a fifteen foot (15') wide area adjacent to the outer boundary of a portion of Finch Park in a manner consistent with Exhibit A, attached hereto, to serve the proposed residential subdivision sought to be developed by Developer.

Section 3. **DETERMINED: PROJECT INCLUDES ALL REASONABLE PLANNING TO MINIMIZE HARM**

The City Council of the City of McKinney, Texas has further determined that the proposed construction of a single eight-inch (8") diameter sanitary sewer line extending below ground level along and within a fifteen feet (15') of the outer boundary of a portion of Finch Park to serve the proposed residential subdivision sought to be developed by Developer includes all reasonable planning to minimize harm to the use of Finch Park as a park, which harm may result from such use.

Section 4. **APPROVAL TO ISSUE A LICENSE FOR THE CONSTRUCTION OF A SINGLE EIGHT-INCH (8") DIAMETER SEWER LINE**

The City Council of the City of McKinney hereby agrees to allow the issuance of a license to 800 South Kentucky, LLC for the construction and installation of a single eight-inch (8") diameter sanitary sewer line below ground level and within a fifteen-foot (15') wide area running along and adjacent to the outer boundary of a portion of Finch Park in a location consistent with Exhibit A conditioned upon City's receipt of fair market value payment therefor from 800 South Kentucky, LLC.

Section 5. **DIRECTION TO PREPARE AND EXECUTE A LICENSE**

The City Council of the City of McKinney authorizes the City Manager and the City Attorney to draft and execute a license allowing the construction and installation of a single eight-inch (8") diameter sanitary sewer line to be constructed below ground level within a fifteen-foot (15') wide area running along and within fifteen feet (15') of the outer boundary of a portion of Finch Park consistent with the location indicated on Exhibit A, attached hereto.

Section 6. **SEVERABILITY CLAUSE**

If any section, subsection, paragraph, sentence, phrase, or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section 7. **PENALTY CLAUSE**

It shall be unlawful for any person, firm or corporation to develop this property, or any portion thereof, in any manner other than is authorized by this Ordinance, and upon conviction therefore, shall be fined any sum not exceeding \$2,000.00, and each day that such violation shall continue shall

be considered a separate offense. These penal provisions shall not prevent an action on behalf of the City of McKinney to enjoin any violation or threatened violation of the terms of this Ordinance, or an action for mandatory injunction to remove any previous violation hereof.

Section 8. **NO VESTED INTERESTS**

That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The ordinance, and the subsequent site plans (if any) and regulations may be amended or repealed by the City Council of the City of McKinney, Texas, in the manner provided by law.

Section 9. **PUBLICATION AND EFFECTIVE DATE**

The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney and shall become effective upon such publication.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THIS 3rd DAY OF DECEMBER 202.**

**CITY OF MCKINNEY, TEXAS**

\_\_\_\_\_  
GEORGE C. FULLER, Mayor  
GERÉ FELTUS, Mayor Pro Tem

**CORRECTLY ENROLLED:**

\_\_\_\_\_  
EMPRESS DRANE, City Secretary  
TENITRUS BETHEL, Deputy City Secretary

DATE: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
MARK S. HOUSER, City Attorney  
ALAN LATHROM, Assistant City Attorney

