

**RESOLUTION NO. 2024-01-XXX (R)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A FACILITIES AGREEMENT FOR JMT ACADEMY AT CUSTER ADDITION, LOT 1, BLOCK A, LOCATED IN THE ETJ OF MCKINNEY ON THE SOUTHEAST CORNER OF FARM TO MARKET ROAD 2478 APPROXIMATELY 5,000 LINEAR FEET EAST OF COUNTY ROAD 127**

**WHEREAS**, Article 3 of the Unified Development Code of the City of McKinney, Texas, contained in Chapter 150 of the City's Code of Ordinances (the "Subdivision Regulations"), establishes 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 301C 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 302B(1)(c) 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 302A of the Subdivision Regulations, as amended; and

**WHEREAS**, the development of the one lot subdivision to be known as ***JMT Academy at Custer Addition***, 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 LANDOWNER in accordance with Section 302A of the Subdivision Regulations, as amended; and

**WHEREAS**, the Subdivision Regulations also prohibit recording the Final Plat of a subdivision within the incorporated area of the City until the LANDOWNER has 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**, LANDOWNER has 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 Final Plat of the one lot addition in the ETJ, to be known as the ***JMT Academy at Custer Addition***, (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 the one lot subdivision to be known as the ***JMT Academy at Custer Addition*** 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 for one lot; and

**WHEREAS**, CITY and LANDOWNER 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 JMT Academy at Custer Addition, Lot 1, 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 16<sup>th</sup> DAY OF JANUARY, 2024.**

CITY OF MCKINNEY, TEXAS

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GEORGE C. FULLER  
Mayor

ATTEST:

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EMPRESS DRANE  
City Secretary  
TENITRUS BETHEL  
Deputy City Secretary

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney