

A RESOLUTION

A RESOLUTION OF THE CITY OF FAIR OAKS RANCH, TEXAS AUTHORIZING EXECUTION OF AN ADVANCE FUNDING AGREEMENT (AFA) FOR VOLUNTARY UTILITY RELOCATION AND STANDARD UTILITY AGREEMENT (SUA) WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE RELOCATION OF WATER LINES NEAR THE FM3351 CIBOLO CREEK BRIDGE AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL APPLICABLE DOCUMENTS.

WHEREAS, the City of Fair Oaks Ranch (the "City") and the Texas Department of Transportation (the "TxDOT") have deemed it necessary to make certain highway improvements to FM3351 at Cibolo Creek (the "Project"); and,

WHEREAS, this section of highway improvements will necessitate the relocation and adjustment of utilities within the Project limits; and,

WHEREAS, the City possesses utility infrastructure that is affected by the above-mentioned highway improvements, of which a portion is located within TxDOT right of way and a portion was located within utility easements prior to acquisition by TxDOT; and,

WHEREAS, the total estimated utility relocation cost, inclusive of engineering design, construction, inspection, and oversight, is \$614,370.70; and,

WHEREAS, the City is eligible for reimbursement for costs associated with relocation of the portion that was located within utility easements; and,

WHEREAS, the City and TxDOT have agreed to an eligibility ratio for reimbursement of 60.95%, and the City's cost-share to be 39.05%, of total relocation related cost; and,

WHEREAS, the City is responsible for all non-reimbursable costs and 100% of overruns, if any; and,

WHEREAS, the City and TxDOT agree that it is more economical and efficient for such relocation to be effected by inclusion in TxDOT's highway construction contract; and,

WHEREAS, the Governing Body of the City of Fair Oaks Ranch desires to reaffirm its support of the Project and authorize the execution of an AFA and SUA with TxDOT.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS THAT:

- Section 1.** The City Council hereby reaffirms its support of the Project and authorizes the execution of the AFA and SUA with TxDOT, and the expenditure of the required funds.
- Section 2.** The City Council hereby authorizes the City Manager to execute all applicable documents to effectuate this resolution and to expend required funds.
- Section 3.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

- Section 4.** All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this resolution are hereby repealed to the extent of such conflict, and the provision of this resolution shall be and remain controlling as to the matters resolved herein.
- Section 5.** This resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 6.** If any provision of this resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this resolution would have been enacted without such invalid provision.
- Section 7.** It is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and that public notice of the time, place and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required Chapter 551, Texas Government Code, as amended.
- Section 8.** This resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED, APPROVED, and ADOPTED on the 19th day of October 2023.

ATTEST:

Gregory C. Maxton, Mayor

APPROVED AS TO FORM:

Christina Picioccio, TRMC, City Secretary

Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney