



CITY COUNCIL CONSIDERATION ITEM

CITY OF FAIR OAKS RANCH, TEXAS

AGENDA TOPIC: Consideration and possible action approving a resolution repealing Resolutions 2024-60, 2024-61 and 2025-22, rescinding approval of the Utility Services Agreement between the City of Fair Oaks Ranch, Texas and AD Acquisitions, LLC regarding water and wastewater services for a 80.69-acre parcel of land at 29850 Ralph Fair Road, a portion of the Corley Tract, authorizing the City Manager to proceed with the Dietz Elkhorn (East) Reconstruction Project, and providing for an effective date

DATE: September 18, 2025

DEPARTMENT: Public Works

PRESENTED BY: Grant Watanabe, P.E., Director of Public Works and Engineering Services

INTRODUCTION/BACKGROUND:

The 80.69-acre parcel of land at 29580 Ralph Fair Road is a portion of a 160-acre undeveloped tract, known as the Corley Tract, within the City of Fair Oaks Ranch. The current zoning for this property includes Neighborhood Residential, Mixed Use Village, and Logistics. Importantly, this tract is not located within any entity's Certificate of Convenience and Necessity (CCN), which is also referred to as a certificated service area.

On August 30, 2024, Athena Domain, LLC, on behalf of owner Century Oaks, LLC, submitted a formal request for incorporation of the parcel into the City's Water and Wastewater CCN. Staff conducted an analysis of the developer's proposed Master Development Plan, which consists of 20 single-family residential units, 216 townhomes, and four Mixed Use Village lots, to calculate estimated water consumption and wastewater generation. The City currently contracts with the Guadalupe-Blanco River Authority (GBRA) to reserve 1,850 acre-feet of which 1,344 acre-feet is currently delivered to City water plants for distribution. The remaining reserved amount is adequate to serve the proposed development, fulfill existing Water Supply Agreement commitments, and other potential developments over the next decade and beyond. In addition, the wastewater treatment plant can serve the proposed development and other future developments without exceeding the TCEQ permitted capacity.

On October 17, 2024, the City Council approved resolutions 2024-60 (**Exhibit A**) and 2024-61 (**Exhibit B**) to incorporate the 80.69-acre parcel into the City's water and wastewater CCN, respectively, contingent on the approval of a Master Development Plan reflecting a maximum of 139 LUEs (water) and 137 LUEs (wastewater), in alignment with the City's Water, Wastewater and Reuse Master Plan.

On December 5, 2024, the City Council, upon recommendation from the Planning and Zoning Commission, approved the Master Development Plan with a condition that the developer enter into a Utility Service Agreement with the City to memorialize the number of units, LUEs, related fees and any cost-sharing arrangements for off-site infrastructure necessary to serve the development.

On May 1, 2025, the City Council approved Resolution 2025-22 (**Exhibit C**) which authorized the execution of a Utility Service Agreement (USA) between the City and AD Acquisitions, LLC. The USA is attached to the resolution and a summary of the terms and conditions is provided below:

- Term:
 - Seven (7) years, unless extended by mutual agreement between the City and Developer
 - If development starts within seven (7) years, the term automatically extends to 15 years or the date of conveyance of all lots, whichever occurs earlier
- Water Capacity
 - City shall provide water service for 139 LUEs
 - Builders shall pay a water capacity fee of \$8,670.33 per LUE at the time construction permits are pulled for each residential unit or commercial building (total of \$1,205,175.87)
 - Developer shall pay the City a one-time water replacement charge (\$57,475) at the time of Phase 1 Final Plat approval to offset the cost of obtaining future water supply
 - Developer shall pay a monthly water reservation fee if the Phase 1 Final Plat is not submitted within 18 months of the effective date of the agreement to cover the City's cost of reserving water from GBRA
 - Developer is responsible for costs associated with on-site water infrastructure
- Wastewater Capacity
 - City shall provide wastewater service for 137 LUEs
 - Builders shall pay a wastewater capacity fee of \$6,068.64 per LUE at the time construction permits are pulled for each residential unit or commercial building (total of \$831,403.68)
 - Developer is responsible for all costs associated with on-site wastewater infrastructure
- Off-site Infrastructure
 - Developer is responsible for all costs to extend the 8-inch water main and 8-inch sewer main from The Arbors to the development
 - Developer is responsible for all costs to upgrade the Cojak Circle manhole and install a new 12-inch sewer main between the manhole and WWTP
 - Developer and City to cost-share construction of a new 12-inch water main from the Elmo Davis water plant to the development (25% Developer and 75% City)
 - To the maximum extent possible, the Developer shall provide construction documents, including plans, specifications and estimates, for the water line to the City within 90 days of execution of the agreement

- To the maximum extent possible, the City and Developer shall coordinate the installation of the new water line in conjunction with the planned reconstruction of Dietz Elkhorn Road
- CCN Incorporation
 - Upon execution of the USA, the City shall complete all required steps to file with the Public Utility Commission of Texas to incorporate the parcel into its CCNs

The USA was expected to benefit both the City and Developer. For the Developer, it secures water and wastewater service for the proposed development since the parcel is not located in any entity's CCN. For the City, the full cost of the Cojak Circle manhole and sewer upgrade project, and a portion of the cost to extend water infrastructure to the eastern side of the City will be covered by the Developer. The City budgeted \$650,000 for the Cojak Circle project which has been redirected towards the large WWTP Phase 1 Expansion project. And, the 12-inch water main from the Elmo Davis water plant would increase system resiliency by looping the water system so that the Arbors and other nearby areas are served by at least two distribution lines and not subject to a single point of failure.

To date, the Developer has neither signed the USA nor closed on the property due to pending litigation over title to the property. The Developer and property owner have reported that several lis pendens hearings were held in July and August but the judge has not yet ruled on the case. This delay on the Developer's part has caused delay to the Dietz Elkhorn Road (East) Reconstruction project which the City planned to joint-bid with the water line project to ensure coordination of construction activities and avoid trenching through the new road to install the water line shortly after it is constructed.

This resolution repeals Resolutions 2024-60, 2024-61 and 2025-22, rescinds approval of the Utility Services Agreement between the City of Fair Oaks Ranch, Texas and AD Acquisitions, LLC regarding water and wastewater services for a 80.69-acre parcel of land at 29850 Ralph Fair Road, a portion of the Corley Tract, and authorizes the City Manager to proceed with the Dietz Elkhorn (East) Reconstruction Project.

The Developer has requested consideration for his situation and requests that the resolutions and USA not be rescinded while the lis pendens issues are adjudicated. The Developer has offered to cover any additional expenses related to installation of the water line or repair of the road if the City decides to move forward with the Dietz Elkhorn Reconstruction without the water line project.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

- Supports Priority 3.4 of the Strategic Action Plan to Enhance and Ensure Continuity of Reliable Roadway Improvement Initiatives
- Enables the Dietz Elkhorn (East) Reconstruction project to move forward without further delays by the developer.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

Should the resolutions be repealed and USA be rescinded, the development of the 80.69-acre parcel will likely be cancelled since there is no water or wastewater service provider. In the near term, the City will need to budget for the Cojak Circle Manhole and Sewer Upgrade project. Long-term impacts include loss of potential property and sales tax revenue, and expansion of the utility customer base.

LEGAL ANALYSIS:

The City Attorney has reviewed the resolution and approved it as to form.

RECOMMENDATION/PROPOSED MOTION:

I move to approve a resolution repealing Resolutions 2024-60, 2024-61 and 2025-22, rescinding approval of the Utility Services Agreement between the City of Fair Oaks Ranch, Texas and AD Acquisitions, LLC regarding water and wastewater services for a 80.69-acre parcel of land at 29850 Ralph Fair Road, a portion of the Corley Tract, authorizing the City Manager to proceed with the Dietz Elkhorn (East) Reconstruction Project, and providing for an effective date.