

## A RESOLUTION

**A RESOLUTION OF THE CITY OF FAIR OAKS RANCH CITY COUNCIL AUTHORIZING A FIRST AMENDMENT TO THE 2008 WATER SUPPLY AGREEMENT ("AGREEMENT") BETWEEN THE CITY OF FAIR OAKS RANCH ("CITY") AND MARK J. MINIHAN, SR. AND BRENDA S. MINAHAN (collectively, "OWNER") FOR THE RESERVATION OF WATER AND OTHER RELATED MATTERS, AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT, PROVIDING A SEVERABILITY AND REPEAL CLAUSE, AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, the Owner owns a certain 40+/- acre tract of real property ("Property") in the City of Fair Oaks Ranch more fully described as Exhibit A of the 2008 Water Supply Agreement; and,

**WHEREAS**, on September 22, 2008, the City and Owner entered into an Agreement (**Attachment 1**) memorializing certain agreements and commitments by each party with respect to the Owners planned development of its Property, including the provision of water services; and,

**WHEREAS**, the Agreement between the City and Owner expires on September 22, 2023; and,

**WHEREAS**, on August 17, 2023, the City Council passed and approved Resolution 2023-20 supporting the extension, by six months of the remaining 2008 Water Supply Agreements to secure long-term extensions; and,

**WHEREAS**, no development has occurred on the Property; and,

**WHEREAS**, no water line has been constructed to the Property; and,

**WHEREAS**, the Owner requested an amendment relative to terms to the Agreement; and,

**WHEREAS**, the City Council of the City of Fair Oaks Ranch has determined that an Amendment to the 2008 Water Supply Agreement is in the best interest of the customers of Fair Oaks Utilities.

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

- Section 1.** *A First Amendment* to the 2008 Water Supply Agreement for the reservation of water and other related matters to the Owner's 40+/- acre tract of real property as further described in **Attachment 2** of the 2008 Water Supply Agreement, upon execution, is hereby approved.
- Section 2.** The City Manager is hereby authorized, on behalf of the City, to execute the Amendment in substantial form as **Attachment 2**, and such other ancillary instruments and documents as may be reasonably necessary to effectuate the intent of this Resolution.
- 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 21<sup>st</sup> day of September 2023.

ATTEST:

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Gregory C. Maxton, Mayor

APPROVED AS TO FORM:

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Christina Picioccio, TRMC, City Secretary

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