

AN ORDINANCE AMENDING SECTION 47-164 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO CONSTRUCTION OF WATER AND WASTEWATER MAINS BY DEVELOPERS UNDER DEVELOPER CONTRACTS; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That Section 47-164 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 47-164 Construction by developers under developer contract.

Subject to the availability of funds allocated for that purpose by city council, the city may share in the expense of construction of the main and other eligible costs by any of the following methods, as applicable, at the option of the developer:

(1) 50 percent reimbursement: Reimbursement to the developer in the amount of 50 percent of the construction cost for the main plus the balance of over sizing costs plus design costs for a total reimbursement that does not to exceed the maximum contract amount not requiring council approval under the Houston city charter; or

(2) 30 percent reimbursement: Reimbursement to the developer for 30 percent of the construction cost for the main plus the balance of over sizing costs; or

(3) 70 percent reimbursement:

For new low or moderate cost single family homes (single family residences located within the city limits having initial purchase prices as certified by the developer that do not exceed the latest available 12-month listing for median price single family housing in the city as published by the Real Estate Center at Texas A&M University), reimbursement to the developer for the following eligible costs:

- a. 70 percent of water and sanitary sewer main construction costs,
- b. 100 percent of related design cost,
- c. all over sizing costs not reimbursed under subsection "a" above,
- d. up to a \$3,000 per lot reimbursement of storm sewer drainage cost, and
- e. the developer's interest cost up to the market interest rate the city's financial advisor determines the city would pay if it issued bonds on the city's water

and sewer system on the date the developer contract is countersigned by the city controller.

For all other new single-family homes, reimbursement to the developer for the following eligible costs:

- a. 70 percent of water and sanitary sewer main construction costs,
- b. 100 percent of related design costs,
- c. all over sizing construction costs not reimbursed under subsection "a" above, and
- d. the developer's interest cost up to the market interest rate the city's financial advisor determines the city would pay if it issued bonds on the city's water and sewer system on the date the developer contract is countersigned by the city controller.

Under this option, the developer must furnish bid documents for the project in a form acceptable to the director. The city shall take bids at its own cost, award the construction contract, and then assign it to the developer upon verification that the developer has secured financing to pay contract amount in a form acceptable to the director.

The city shall reimburse the developer for eligible costs upon the completion of at least 25 percent of the total number of housing units required under the terms of the developer contract.

(4) A developer shall not be reimbursed for any eligible costs, including interest, and shall waive any right to claim such reimbursement if the developer fails to:

- a. Obtain a fully executed developer contract, including city council approval where necessary, prior to beginning construction of the facilities.
- b. Begin actual construction of the facilities described in the developer contract within 18 months after the date of countersignature of the developer contract by the city controller, or
- c. Complete construction of 100 percent of the facilities described in the developer contract (and 25 per cent of the number of housing units required by a 70 percent developer reimbursement contract) within 3 years of the date the developer commences construction.

In no case shall the city reimburse the contractor for an amount in excess of the amount set out in the developer reimbursement contract, which must not ever exceed \$500,000 per contract.

(5) To the extent permitted by law, and contingent upon city council's having appropriated sufficient funds to pay for such contracts, city council authorizes the director

to execute developer contracts under subsections (1) and (2) above in standard forms approved by the city attorney on behalf of the mayor without prior submission to city council.

(6) In the event construction costs not reimbursed by the city are \$5,000 or more, such unreimbursed cost shall be subject to pro-rata reimbursement as provided in sections 47-168 through 47-170.

(7) In the case of construction of water main, the department shall be responsible for chlorination required by state law prior to use by the city.”

Section 2. That the provisions of the ordinance as amended shall apply to all developer participation projects commenced after the effective date. For purposes of this Ordinance, a project is “commenced” on the date the city council or the director, as applicable, approves a developer contract. The provisions of Section 47-164 of the Code of Ordinances as they read prior to their amendment by this Ordinance are saved from repeal for the limited purpose of and shall remain in effect and govern all developer participation projects commenced before the effective date of this Ordinance.

Section 3. That if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionally, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 4. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect on the 30th day following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this ____ day of _____, 2000.

Mayor of the City of Houston

Prepared by Legal Dept. _____
PEH:peh 12/19/00 Assistant City Attorney
Requested by Thomas J. Rolen, Director, Public Works and Engineering Department
L.D. File No. _____

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