

RESOLUTION NO. 76-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING A DEVELOPMENT AGREEMENT BETWEEN CITY OF ABILENE AND RED DIRT HOLDINGS INC FOR THE ELM CREEK AT WYLIE DEVELOPMENT

WHEREAS, the City of Abilene (City) has a policy governing the use of its pro-rata program to promote and encourage the development of residential subdivisions; and

WHEREAS, Red Dirt Holdings, Inc. (Developer) plans to develop the Elm Creek at Wylie residential subdivision (Subdivision) located near Antilley Road and Twin Oaks Boulevard which is anticipated to contain approximately 400 residential lots at complete build-out; and

WHEREAS, the Developer plans to build-out the subdivision in four phases, with the first phase containing 53 lots; and

WHEREAS, the Developer is required to construct approximately 3,900 linear feet of offsite sewer extension of sufficient depth to serve the entire subdivision with gravity flow sanitary sewer and is responsible for all costs associated with such extension; and

WHEREAS, the construction of the sewer extension to the specifications required to create a gravity flow system rather than the use of a lift station will be beneficial to the City because it will reduce long term maintenance costs to the City which would be required to maintain a lift station; and

WHEREAS, the City maintains a pro rata sewer account to receive all money received for pro rata payments of sewer extensions; and

WHEREAS, the City and its Director of Water Utilities have determined that it is in the best interest of the City to initially contribute costs associated with the extension of the sewer main line to the subdivision, with reimbursement of total costs of such extension to be made by Developer to City; and

WHEREAS, the Developer has agreed to pay upfront, as described in the Development Agreement, the cost equaling one-fourth of the total estimated cost of the sewer extension, and thereafter pay on a pro rata basis the remaining three-fourths of the actual costs of the sewer extension in three equal payments as phases 2, 3 and 4 of the subdivision are each substantially built-out; and

WHEREAS, the Development Agreement requires that the Developer provide a security bond or other similar means which shall secure payment for a minimum of sixty-nine (69) months to assure the repayment of the City's initial investment in the sewer main extension; and

WHEREAS, the Development Agreement shall be filed in the official public records of Taylor County, Texas whereby those obligations shall run with the subdivision property, and any

subsequent owner, successor or assignee of the subdivision property, excluding the individual lot owners, shall be responsible for any unpaid reimbursement payments at the time of transfer of ownership; and

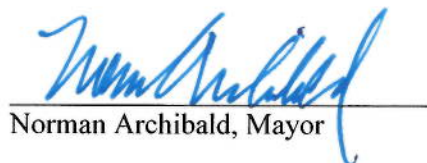
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

The Abilene City Manager, or his designee, is authorized to execute the Development Agreement between the City of Abilene and Red Dirt Holdings Inc. for the Elm Creek at Wylie residential development offsite sewer main extension, which establishes the terms and conditions for the City of Abilene to construct the offsite sewer main extension utilizing Pro Rata funds, and for Red Dirt Holdings, Inc. to reimburse the City of Abilene for the full cost of installing the offsite sanitary sewer facilities by making an initial upfront payment and three additional equal payments as each of phases 2, 3, and 4 are substantially built-out.

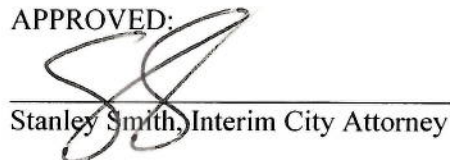
ADOPTED this 9th day of June, 2016.

ATTEST:


Danette Dunlap, City Secretary


Norman Archibald, Mayor

APPROVED:


Stanley Smith, Interim City Attorney