

Code of the City of Mesquite
Chapter 16, Article II, Sections 16-31 to 16-47

- v Policies Concerning Extension of Water and Sanitary Sewer Mains**
- v Water and Sanitary Sewer Connection Fees**
- v Water and Sanitary Sewer Pro-Rata Fees**

Effective: June 19, 2000
Modified: November 17, 2008

**CITY OF MESQUITE
ENGINEERING DIVISION
1515 N. Galloway Avenue
Mesquite, Texas 75149**

ARTICLE II.

PRO RATA FEES, EXTENSION OF FACILITIES AND WATER AND SEWER CONNECTION FEES

DIVISION 1.

GENERAL PROVISIONS

Sec. 16-31. Definitions.

For the purposes of this article the following words, terms and phrases shall have the meaning given herein.

City means the City of Mesquite, Texas.

Consumer means the residents and/or businesses utilizing and paying the city for water and wastewater services.

Developer means the person, business, partnership, corporation or association responsible for the development of a subdivision or lot and includes the property owner or subdivider.

Development means any man made change to improved or unimproved real estate, including but not limited to construction of buildings or other structures, which results in demand for water or wastewater facilities and which requires connection to the city's water or wastewater system.

General design standards means the design specifications designated by the City of Mesquite as standards for construction on all public infrastructure constructed in the city including the General Design Standards Book, City Standard Construction Details, City Standard Specification for Public Works Construction and the City of Mesquite Special Provisions.

Lot means a tract, plot or portion of a subdivision, addition or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or possession, or for development.

Oversize main means a water or wastewater main required to interconnect property being developed with the existing water or wastewater system which exceeds twelve (12) inches in diameter.

Pro rata means a charge made against an existing lot abutting a water or wastewater main that is the average per foot cost of the line, multiplied by the front footage of the land, and that is imposed to reimburse the original developer his cost of installing or paying for the main.

Property owner means the record titleholder of a premises connected to the city's water or wastewater system.

Subdivider has the meaning given that term in the city's subdivision regulations.

Subdivision has the meaning given that term in the city's subdivision regulations.
(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-32. Enforcing payment of pro rata costs.

The city shall have the authority to enforce payment of costs by all legal means available including the disconnection of water and sanitary sewer service to a development or lot. Nothing in this article shall be deemed in any way to be an exclusive method of enforcing the payment of the pro rata cost against the consumers and property owners, and this article shall not be deemed in any manner to be a waiver of the city's right to assess the property owners and/or consumers concerned for cost of the installation of water and wastewater mains and to fix and enforce liens against such property, all of which may be done as provided by ordinance in the manner prescribed by law.
(Ord. No. 3372, § 1, 6-19-00)

DIVISION 2.

WATER AND WASTEWATER MAIN EXTENSIONS

Sec. 16-33. Basic policy.

(a) *Connection to water and wastewater systems.* All subdivisions and each lot to be developed within the City of Mesquite shall be served by an approved water supply and distribution system and by an approved sewage collection and disposal system. No development shall be approved unless adequate assurances are provided that such development will be connected with the city's water supply and distribution system and with the city's wastewater system. No building permits shall be issued until satisfactory evidence of such connection has been provided.

(b) *Responsibility for installation and extensions.* The developer shall install all water and wastewater facilities needed to serve the development and shall extend all water and wastewater mains and appurtenances necessary to connect the development with the city's water supply and distribution system and with the city's wastewater system. All initial costs of installation shall be borne by the developer subject to city participation in oversize costs pursuant to section 16-35 and subject to reimbursement from proceeds of pro rata fees pursuant to section 16-38. Requests for city extension of water and wastewater mains shall be as provided for in section 16-36.

(c) *Condition of granting main extension.* Authority to extend water and wastewater mains to serve a proposed development shall be granted by the city only upon a determination by the city engineer that all facilities necessary to adequately serve the development are in place or will be in place prior to the issuance of building permits for structures developed on such land.

(d) *Location of facilities.* The location of all water and wastewater mains necessary to serve a proposed development shall be in accordance with the city's master plan(s) for water and wastewater facilities and in accordance with the city's subdivision regulations and general design standards.

(e) *Construction standards.* All water and wastewater facilities required by these

regulations shall be designed and constructed in accordance with the requirements and specifications contained in the City of Mesquite General Design Standards.

(f) *Permanent lift stations.* Should a lift station be required by the city engineer to provide wastewater service to a subdivision or development that by reason of topography cannot be served by a gravity sanitary sewer system to the City of Mesquite Wastewater Treatment Plant, the developer shall design and construct a permanent lift station and all appurtenances thereto at the developer's expense subject to reimbursement of pro rata fees pursuant to division 3. The lift station shall be designed and constructed for the entire drainage area as approved by the city engineer. Once the permanent lift station is constructed and operational and accepted by the City of Mesquite Engineering Division, the city shall take ownership and operation as described in the city subdivision ordinance.

(g) *Pro rata fees for adjacent mains.* When an existing water or wastewater main lies in a street, alley or easement in or adjacent to an area or tract of land to be subdivided, the developer shall pay all applicable pro rata fees pursuant to division 3 for the water main or wastewater main prior to release of the engineering plans for the subdivision. When the proposed development is to be served by a lift station required under subsection (f), the developer shall pay all applicable pro rata fees for the station pursuant to division 3 prior to release of the engineering plans.
(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-34. Extension of water and wastewater mains for development.

Developers shall extend water and wastewater mains to and through the property that is to be subdivided or developed in accordance with the following procedures and minimum standards:

- (a) *Size of mains.* Water and wastewater mains shall be sized and designed in accordance with the City's Water Distribution Master Plan and Sanitary Sewer Master Plan.
- (b) *Extensions with property to be developed.* All water and wastewater mains shall be extended through and/or across the frontage of the property to be developed in streets, alleys, or in easements to the tract or addition in order to provide service to adjacent property where applicable.
- (c) *Acquisition of easements.* The developer must obtain all offsite easements which are necessary for extending water and wastewater mains to the property being developed. A metes and bounds description of the easements and a drawing of the easements must be submitted to the city engineer along with the proper legal documentation creating the easement. After approval of the metes and bounds description by the city engineer, the document will be returned to the developer for acquisition of the required signatures. The executed document and filing fees will be returned to the city engineer for filing with the county clerk.
- (d) *Agreement required.* Prior to extension of any facility for which there will be a city reimbursement, the developer shall execute an improvement agreement with the city that clearly defines the scope and details of the proposed extension and which contains the developer's agreement to abide by all regulations of the city and to deliver to the city

clear and unencumbered title to all proposed improvements prior to the time of acceptance by the city. The agreement shall provide for security in a form of a payment bond by the developer or his contractor for proposed work and will require a release of liens prior to final acceptance by the city.

(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-35. Participation and reimbursement by city in the cost of oversize water and wastewater mains.

(a) *City participation policy.* The city may participate in the reasonable construction costs of oversize water or wastewater mains and appurtenances thereto that exceed twelve (12) inches in diameter. The developer initially shall be responsible for the entire cost of the oversize main.

(b) *No funds available.* In no event will the city be required to participate in the costs of oversize mains pursuant to this section if there are no funds available for such purposes.

(c) *Participation and reimbursement requests.* A request for city participation authorized by subsection (a) and (b) hereof shall be initiated through the submission of an application for participation by the developer prior to the initiation of construction. The application shall be accompanied by engineering drawings approved by the city engineering division showing the reimbursable items, a copy of estimated costs for construction, final quantities, oversize calculations for all reimbursable items, performance bond and a project location map.

(d) *City reimbursement.* If the request for city participation is approved by the city council following dedication and acceptance of a facility or appurtenances in which it has agreed to participate, the city shall refund the costs of oversizing such facility in accordance with the following procedures and standards.

- (1) *Oversizing standards.* The following standards apply to the determination of the costs of oversizing water and/or wastewater mains:
 - a. Where the size of the water or wastewater main needed exceeds that of a 12-inch diameter water or wastewater main, the size of the main to be installed shall be determined by the city engineer whose decision shall be final.
 - b. The amount of the city's participation shall be determined by the city council and shall not exceed the difference in cost between a 12-inch diameter main with appurtenances and the oversized main with appurtenances as required by the city engineer.
- (2) *Oversize cost determination.* The extent of the city's participation in the costs of oversized mains shall be determined by comparing costs computed by the following two (2) methods:
 - a. *Method 1.* The developer shall take at least three (3) bids on installation of a system using a 12-inch diameter main and the larger size that will actually be

installed. Copies of the bids, tabulations and figures shall be submitted to the city engineer. Calculations shall delineate the total cost for installation of the oversize mains with appurtenances, along with the cost for installing 12-inch diameter mains with appurtenances, with the differences noted as participation by the city.

- b. *Method 2.* The city engineer shall establish unit prices for similar types of construction done in the previous twelve (12) months. These unit prices shall establish costs based upon estimates obtained on similar projects within the last twelve (12) months or base unit costs used to determine the maximum difference in cost between the 12-inch diameter main size and the cost of oversize mains to be installed. The unit prices shall be incorporated into this section as if fully set forth herein and shall be used to determine the city's participation.
- c. *City engineer's option.* The city engineer shall have the option to establish the method in subsection b. whenever he considers the results of the method in subsection a. to be unreasonable or whenever the developer fails to submit the proper information as required.
- d. *Engineering costs.* The city shall pay a maximum of six (6) percent of the city's cost for engineering fees that includes surveying, construction staking and supervision.
- e. *Street rights-of-way.* A development shall be responsible for the full cost of utilities which cross street right-of-way up to a maximum width of one hundred sixty (160) feet. If required street right-of-way exceeds one hundred sixty (160) feet, the city will assume the cost of the excess length of the utility line as oversize participation.

- (3) *Exception to city participation.* The city will not participate in the cost of an oversized main if the development requires a main equal to the line constructed to serve the development.

(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-36. Extension of mains by city.

(a) *Extension to serve development.* The city may, but shall not be required to, extend a water or wastewater main to serve a development in lieu of installation by the developer subject to the following standards and procedures:

- (1) *Request by developer.* The developer may petition the city to extend a water or wastewater main to serve the development in lieu of the developer constructing the facilities.
- (2) *Criteria.* If the city agrees to extend the water or wastewater main, the city's procedures for competitive bidding and award of contract must be followed. The developer shall

execute an improvement agreement with the city prior to the initiation of construction.

- (3) *Condition of extension.* As a condition of granting the developer's request to extend a water or wastewater main, the developer shall deposit cash in an amount equal to one hundred (100) percent of the projected costs of the extension, less the cost of the city's oversize participation if applicable, together with easements required by subsection 16-34(c). Such deposit shall not constitute a waiver of, or otherwise affect the obligation of the developer to pay, impact fees for water or wastewater facilities; provided, however, that the city may credit deposits by the developer under this section which exceed the cost of a 12-inch diameter main against impact fees due for water or wastewater facilities in the manner prescribed in section 7.5-22.
- (4) *Reimbursement from pro rata fees.* The developer shall be entitled to reimbursement from the proceeds of pro rata fees established for the main or mains serving the development pursuant to division 3.

(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-37. Health and safety extensions to serve individual lots.

For paramount purposes of health and safety, the city may extend a water or wastewater main to individual residential lots. In such cases, each individual lot owner shall be responsible for a pro rata share of the cost of such main abutting the lot, as determined by the city council.

(Ord. No. 3372, § 1, 6-19-00)

DIVISION 3.

PRO RATA FEES

Sec. 16-38. Pro rata fees to be established.

(a) *Nature of fee.* A charge known as a "pro rata fee" shall be imposed against all undeveloped property abutting an existing water or wastewater main or for undeveloped property within the drainage area of a permanent lift station or sanitary sewer trunk main for which such fee has been established pursuant to this division, as a condition of connection to such main or lift station, for the purpose of reimbursing the developer who previously installed or paid for the main or lift station.

(b) *Amount of fee.* The pro rata fee shall be established for each side of the main to which connections are to be made. The fee for each side shall be equivalent to one-half (1/2) the average cost of a 12-inch diameter main, together with all appurtenances, based upon the verified costs pursuant to section 16-39 for that length of the main abutting the property being charged. In the case of mains for which connections can be made from one (1) side only, the fee shall be equivalent to the total average cost of a 12-inch diameter main, together with all appurtenances, for that length of the main abutting the property being charged.

(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-39. Procedure for establishing pro rata fees.

(a) *Request for pro rata fees.* Prior to final acceptance of water or wastewater main improvements by a developer, the developer shall submit a written request to the city engineer stating whether a pro rata fee will or will not be requested to be established for the main that the developer installed.

(b) *Submittal requirements.* The request to establish a pro rata fee shall be on a pro rata contract form provided by the city. The request shall include a copy of the actual contract with unit prices. The request must identify the cost of the main including fire hydrants, valves, fittings, manholes and other appurtenances which are determined necessary for the construction of the line.

(c) *Verification of costs by city engineer.* The city engineer shall verify the developer's calculations for the pro rata reimbursement. In the event of a discrepancy, the city engineer shall establish the cost per foot for the pro rata fee based upon verifiable costs.

(d) *Reimbursement amount.* The maximum amount for which a developer may be reimbursed from the proceeds of pro rata fees for the main installed shall not exceed the costs determined by the city engineer under subsection (c) plus engineering fees, calculated at the rate of six (6) percent of the verified construction cost.

(e) *Pro rata for permanent lift station or sanitary sewer trunk main.* In the event a permanent lift station or sanitary sewer trunk main that exceeds the area necessary to serve a development is required pursuant to section 16-33 and section 16-34, the developer must submit a written request for establishment of a pro rata fee for the permanent lift station or sanitary sewer trunk main which shall be on a cost per acre basis to be eligible for pro rata. The costs eligible for reimbursement shall include the lift station, force main and other appurtenances or sanitary sewer trunk main, and other items included in subsection (b). The city engineer shall be responsible for approving the cost per acre submitted by the developer for the drainage area served by the facility, as provided in subsection (c).

(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-40. Payment of pro rata fees.

(a) *Obligation to pay fee.* The pro rata fee shall become payable prior to the issuance of a building permit except that for a single family residential development the pro rata fee shall become payable prior to approval of engineering plans.

(b) *Calculation of fee.* The amount of the pro rata fee shall be calculated by multiplying the unit cost determined in section 16-39 by the number of linear feet of that portion of the property boundary of a lot which abuts a street, alley or easement containing a water or wastewater main for which pro rata fees have been established, or the per acre fee multiplied by the number of acres in the development.

(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-41. Pro rata fee account.

A pro rata fee account is hereby established. The city shall deposit all pro rata fees collected pursuant to section 16-39 and section 16-40 into such account. Expenditures from such account shall be earmarked solely for reimbursement of developers for the reasonable costs of installing water mains or wastewater mains for which pro rata fees have been established pursuant to section 16-39 and section 16-40.
(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-42. Reimbursement for water and wastewater main extensions.

(a) *Reimbursement time limit.* For a period of ten (10) years after dedication to and acceptance by the city of the completed facility, the developer shall be entitled to reimbursement from the proceeds of the pro rata fees established pursuant to section 16-39 up to the total cost of the extensions. Payment shall be from the pro rata fee account. The city shall make reimbursements within one hundred eighty (180) days after receipt of the pro rata fee.

(b) *Unclaimed funds.* If the city is unable to reimburse the developer who installed the main following reasonable attempts to locate such developer, the city shall refund all fees which remain unclaimed ten (10) years following the date of acceptance of the water or wastewater main, together with interest accrued, to the depositor of the fee. If such depositor cannot be located, the pro rata fees shall be transferred to the city water and sewer fund for expenditure.

Sec. 16-43. City collection fee.

On all pro rata fees reimbursed to the developer, the city shall deduct two (2) percent of the amount collected plus one hundred dollars (\$100.00) as a collection fee. The city shall deposit collection fees into the city water and sewer fund for expenditure.

DIVISION 4.

SERVICE CONNECTION

Sec. 16-44. Water.

(a) *Installation of service connections.* The developer shall be responsible for the installation of all water service connections in the streets, alleys and easements for new residential and all nonresidential properties. The developer responsible for a structure on a lot shall be responsible for installation and final location of the water meter and box required to be purchased from the city. The city shall install water service connections in existing residential developments. For all such connections, the city shall charge a sum sufficient to cover the cost of the connection. Such sum shall be determined and collected by the utilities division based on the average actual cost thereof and shall be at the following rates:

Size	Service	Price	Additional Charges
3/4"	Meter and box only	\$ 75.00	
3/4"	Tap, meter and box	\$580.00	Plus concrete @ \$5.00/s.f.

3/4"	Bore, tap, meter and box	\$620.00	Plus concrete, plus \$6.50/l.f.*
1"	Meter and box only	\$175.00	
1"	Tap, meter and box	\$695.00	Plus concrete @ \$5.00/s.f.
1"	Bore, tap, meter and box	\$755.00	Plus concrete, plus \$6.50 l.f.*
1 1/2"	Meter and box only	\$285.00	
1 1/2"	Tap, meter and box	\$840.00	Plus concrete @ \$5.00/s.f.
1 1/2"	Bore, tap, meter and box	\$900.00	Plus concrete, plus \$7.00/l.f.*
2"	Meter and box only	\$330.00	
2"	Tap, meter and box	\$920	Plus concrete @ \$5.00/s.f.
2"	Bore, tap, meter and box	\$985	Plus concrete, plus \$8.75/l.f.*
2" +	Meters larger than 2" quoted as needed		

* On-site estimate required.

Service lines that require boring will be subject to a charge of six dollars and fifty cents (\$6.50) for each linear foot of a three-quarter-inch and one-inch bore; seven dollars (\$7.00) for each linear foot of a one and one-half-inch bore; and eight dollars and seventy-five cents (\$8.75) for each linear foot of a two-inch bore. For a service that requires a utility cut, a charge of five dollars (\$5.00) per square foot of cut will be charged. There will be a minimum charge of fifty dollars (\$50.00) for any utility cut or bore. The decision of a bore or cut is to be made by the utilities division. An estimate of the cost of all connections will be provided by the utilities division of the public services department and a deposit of the estimated amount will be required before work is started on the installation of such connection. Should the final cost of the work be less than the amount of deposit, a refund of overpayment will be made to the person from whom the deposit was received. Should the final cost of the work exceed the amount of deposit, billing will be immediately made to the person from whom the deposit was received.

(b) *Rate reduction.* Where service lines have been installed by a developer, the water service connection rate shall be reduced by the amount of the tap charge as shown for related sizes.

(c) *Metering.* All water services for construction purposes shall be metered and subject to the same regulations and billings as permanent water accounts.

(d) *Changes outside city.* Water service connection charges for property outside the corporate limits of the city shall be determined and set forth in a specific agreement with the municipality or other governmental entity involved.

(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-45. Sanitary sewer.

(a) *Installation of sanitary sewer taps.* The developer shall install all sanitary sewer taps in

the streets, alleys and easements for new residential and all nonresidential properties. Such taps shall be installed from the main to the property line when the sewer main is located in an alley or street right-of-way; if the sewer main is in an easement, the service connection shall be installed from the sewer main to the easement boundary line. The developer responsible for a structure on a lot shall make final connection from the yard line to the service line. The city shall be responsible for the installation of sanitary sewer service connections in all existing residential developments. In cases where the city makes the tap, the city shall charge for each sewer tap the following rates:

Size	Service	Price	Additional Charges
4"	Tap, cleanout and box	\$ 500.00	Plus concrete @ \$5.00/s.f.
4"	Bore, tap, cleanout and box	1,040.00	Plus concrete, plus \$8.00/l.f.*
6"	Tap, cleanout and box	625.00	Plus concrete @ \$5.00/s.f.
6"	Bore, tap, cleanout and box	1,200.00	Plus concrete, plus \$8.00/l.f.
8" or larger	Total job cost to be set by utilities divisions		

* Estimate required on all sewer taps.

Service lines that require the cutting or boring of paved streets or alleys will be subject to a charge of eight dollars (\$8.00) for each linear foot of bore or five dollars (\$5.00) per square foot of street or alley pavement cut necessary for installation. There will be a minimum charge of fifty dollars (\$50.00) for any utility cut or bore. The decision of a bore or utility cut will be made by the utilities division of the public services department.

(b) *Service line.* The property owner shall install a service line at his expense to the city's lateral in accordance with regulations and subject to the inspection of the city and shall thereafter be responsible for normal maintenance of said service line from the house or building to the property line.

(c) *Separate connections required.* Each house or building within the city shall be served by a separate and independent sanitary sewer connection. Where the service laterals have been installed by a developer to serve a lot or tract of land, said lot or tract of land shall be exempt from a connection charge.

(d) *Charges outside the city.* Water service connection charges for property outside the corporate limits of the city shall be determined and set forth in a specific agreement with the municipality or other governmental entity involved.

(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-46. Refunding procedure.

All refunds provided for in this division shall be made within one hundred eighty (180) days of determination. The city shall not be liable for payment of interest on any deposits or refunds provided for in this division.

(Ord. No. 3372, § 1, 6-19-00)

Sec. 16-47. Variance and Appeal Procedures

- (a) *Variances.* Variances to sections 16-33 to 16-37 for the extension of water mains for developments that abut more than one public street shall be submitted to the city engineer. Variances will only be considered if the development meets all of the following criteria:
- (1) The development is proposed as one platted lot.
 - (2) The development has frontage on two parallel public streets and one of the public streets is classified as a local or residential street.
 - (3) The development is not a corner lot.
 - (4) The lot depth is less than five hundred (500) feet.
 - (5) All water quality and fire protection requirements are met.
 - (6) A water line per the city's water master plan exists or is proposed for extension along the entire frontage of the arterial or collector streets.
 - (7) A water line is proposed to be run through the property between both public streets with a fire hydrant installed along the local or residential street.

A request for variance shall be in writing and shall be accompanied by a fee to defray the administrative cost of processing the request for variance in the amount shown in the current fee schedule as adopted by city council.

The city engineer shall review the request for variance and issue a report summarizing his findings and recommendations, to include any conditions, to the city manager or his designee. The city manager shall review the city engineer's report, recommendations, and conditions, hear other evidence or testimony as he deems pertinent, and approve the variance with conditions or deny the request for variance. The decision of the city manager shall be provided in writing to the applicant requesting the variance.

- (b) *Appeals.* The decision of the city manager may be appealed to the city council. The city council shall have the authority to sustain, reverse, or modify the decision of the city manager. The decision of the city council shall be final and recorded in the minutes of the city council meeting.
- (c) *Time Limits.* A variance granted pursuant to this section shall expire one (1) year from the date of the granting of the variance if a permit is not approved and issued and work begun within that time. Should a building permit be issued and diligent work ceases for a period of more than ninety (90) days, the variance approval shall lapse and be deemed void.

(Ord. No. 4006, § 11-17-2008)

**AGREEMENT
FOR REIMBURSEMENT OF COSTS FOR THE OVERSIZING OF
WATER/WASTEWATER MAIN IMPROVEMENTS**

THE STATE OF TEXAS §
COUNTY OF DALLAS §

THIS AGREEMENT, made in compliance with the requirements of Chapter 16 of the Code of the City of Mesquite and entered into this ___ day of ____, **2008**, by and between CITY OF MESQUITE, TEXAS, of the County of Dallas and State of Texas, acting through **Ted Barron**, City Manager, hereinafter referred to as **CITY** and _____ (*name of developer's company*) of _____ County of _____ and State of **Texas** (*fill in County, State of developer's company incorporation*), hereinafter referred to as **DEVELOPER**.

WITNESSETH:

WHEREAS, **DEVELOPER** proposes to construct a **water/sanitary sewer main** (*strike inapplicable item*) connecting to an existing **water/sanitary sewer main** (*strike inapplicable item*) owned by the **CITY** to serve property owned by the **DEVELOPER**; and

WHEREAS, **CITY** desires to set forth the manner in which **DEVELOPER** may obtain reimbursement of construction costs for that portion of the **water/ sanitary sewer main** (*strike inapplicable item*) greater than twelve inches diameter:

NOW, THEREFORE, for and in consideration of all of the premises and other good and valuable consideration, the parties MUTUALLY AGREE:

I.

The **DEVELOPER** shall construct a ___ inch diameter **water/sanitary sewer main** (*strike inapplicable item*) (*include description of the proposed main*) hereinafter referred to as **MAIN**, at his/her own expense across the tract of land for which service is proposed and/or from a point of connection to an existing **water/sanitary sewer system** (*strike inapplicable item*) to the

tract of land to be developed. Attached and marked Exhibit "A" is a drawing showing the route of the proposed **MAIN** with reference points relating to the approved engineering plans and showing with clarity the land to be developed. Exhibit "A" to which further reference is made herein shall be part of this agreement for all purposes. The **MAIN** is further described as follows:

II.

By the execution of this agreement, it is expressly understood that the **CITY** does not assume any obligations which may arise under any terms of an agreement and/or contract, heretofore or hereafter entered into by the **DEVELOPER** with a third party for the construction of subject **MAIN**.

III.

The subject **MAIN** shall upon completion of all or any portion thereof become the property of the **CITY** and subject to its jurisdiction and control.

IV.

Pursuant to City of Mesquite Code Section 16-35, the **CITY** in consideration of the **DEVELOPER** constructing the larger diameter **MAIN** at his own expense agrees to pay to the **DEVELOPER** after completion of the **MAIN**, a sum equal to but not exceeding the actual difference in the construction cost of the oversize **MAIN** and the cost of a main twelve inches in diameter. The total oversize construction cost based upon the below required submittal and the provision of City of Mesquite Code Section 16-35 is estimated to be:

_____ (\$ _____),
see exhibit "B"

The **DEVELOPER** will submit with the approved engineering plans, a statement of reimbursable items, proposed quantities, oversize calculations for all reimbursable items, performance bond, a project location map and other information as required by Section 16-35 of the Code of the City of Mesquite.

V.

The **DEVELOPER** agrees to obtain and make available any necessary easements, permits and rights of way, together with necessary working space as may be required to construct subject **MAIN** wherever the **MAIN** crosses private property. The **CITY** hereby grants **DEVELOPER** permission to install or construct subject **MAIN** wherever this **MAIN** crosses or parallels any public easement, street or property owned or controlled by the **CITY**.

VI.

The **MAIN** shall be installed in accordance with current City standards and specifications. The City Engineer or his/her representative will determine that subject **MAIN** is constructed in accordance with approved engineering plans and specifications and upon completion this **MAIN** shall become the property of the **CITY** and an integral part of the **CITY's** system and subject to maintenance, jurisdiction and control of the **CITY**. If for any reason this main should be commenced but not completed, that portion having been constructed shall become the property of the **CITY** and subject to maintenance, jurisdiction and control of the **CITY**.

VII.

No ad valorem tax, revenue or income is or shall ever be encumbered by the terms of this agreement, and no appropriation by the **CITY** is required therefrom when this agreement is authorized and executed and this agreement shall in no manner be construed to create a debt against the **CITY** or charge against any of its revenues from whatever source derived.

VIII.

Should any provision of this agreement be declared illegal by a court of competent jurisdiction, the other and remaining provisions of this agreement shall not in anyway be affected and all provisions of this agreement which are not declared to be illegal shall be binding upon the **CITY** and **DEVELOPER**. **DEVELOPER** agrees that in the event a court determines all or a portion of this agreement is unenforceable, **DEVELOPER** shall have the option to discontinue further work if the **MAIN** has not been completed and refuse to make any further expenditures in the way of furnishing labor, materials and supplies. It is specifically agreed, however, that any portion of this **MAIN** which may have been constructed shall become the property of the **CITY** for all purposes, and **DEVELOPER** agrees that the

CITY shall not be liable for any costs expended by **DEVELOPER** prior to the courts decision. Should **DEVELOPER** continue work after such court decision, he does so at his own cost and expense unless **CITY** and **DEVELOPER** agree otherwise in writing.

IX.

The **DEVELOPER** on behalf of itself, its contractors and its and their agents covenants and agrees to hold harmless and indemnify the **CITY** from and against any and all claims for personal injury (including death) or property damage which may arise from the **MAIN** construction operations performed under the terms of this agreement; and the **DEVELOPER** also agrees and does hereby agree to indemnify and save the **CITY** harmless from all claims growing out of the lawful demands of contractors, subcontractors, laborers, workmen, mechanics, material suppliers incurred in the performance of this agreement. The **DEVELOPER** will furnish to the **CITY** satisfactory evidence of the discharge of such claims prior to receiving payment hereunder from the **CITY**.

IN WITNESS THEREOF, the parties have executed this Agreement on this the _____ Day of _____, **2008**.

DEVELOPER:

By: _____

Notary Acknowledgement

CITY OF MESQUITE:

Ted Barron
City Manager

ATTEST:

Judy Womack
City Secretary

APPROVED AS TO FORM:

B. J. Smith
City Attorney

**PRO-RATA REIMBURSEMENT AGREEMENT
FOR
WATER and SANITARY SEWER IMPROVEMENTS**

THE STATE OF TEXAS §
COUNTY OF DALLAS §

THIS AGREEMENT, made in compliance with the requirements of Chapter 16 of the Code of the City of Mesquite and entered into this *(fill in day of agreement)* day of *(fill in month of agreement)*, **2008**, by and between CITY OF MESQUITE, TEXAS, of the County of Dallas and State of Texas, acting through **Ted Barron**, City Manager, hereinafter referred to as **CITY** and *(name of developer's company)* of the City of _____, County of _____ and State of **Texas** *(fill in City, County and State of developer's company incorporation)*, hereinafter referred to as **DEVELOPER**.

WITNESSETH:

WHEREAS, DEVELOPER proposes to construct a **water/sanitary sewer main** *(strike inapplicable item)* connecting to an existing water/sanitary sewer main *(strike inapplicable item)* owned by the **CITY** to serve property owned by the **DEVELOPER**; and

WHEREAS, **CITY** desires to set forth the manner in which **DEVELOPER** may obtain reimbursement of construction costs for that portion of the **water/ sanitary sewer main** *(strike inapplicable item)* that are totally outside the tract of land for which service is proposed or lying along one or more sides of a tract of land other than the property for which this extension is made, referred hereafter as offsite facilities:

NOW, THEREFORE, for and in consideration of all of the premises and other good and valuable consideration, the parties MUTUALLY AGREE:

I.

The **DEVELOPER** shall construct the **water/sanitary sewer main** *(strike inapplicable item and make sure listing is descriptive of work to be completed)* hereafter referred to as **MAIN** at his/her

own expense from the point of the connection to the existing water/sanitary sewer system (~~strike inapplicable item~~) to the tract of land to be developed. Attached and marked Exhibit "A" is a drawing showing the route of the proposed **MAIN** with reference points relating to the approved engineering plans. Exhibit "A" to which further reference is made herein shall be a part of this agreement for all purposes.

II.

By the execution of this agreement, it is expressly understood that the **CITY** does not assume any obligations which may arise under any terms of an agreement previously entered into or which may in the future be entered into by the **DEVELOPER** with a third party for the construction of the subject **MAIN**.

III.

The subject **MAIN** shall upon completion of all or any position thereof become the property of the **CITY** and subject to its jurisdiction and control.

IV.

The **CITY** in consideration of the **DEVELOPER** constructing the **MAIN** at their own expense agrees to reimburse the **DEVELOPER** from pro rata funds as may be collected pursuant to the provisions of this agreement, a sum equal to but not exceeding the actual construction cost of the offsite portion of the **MAIN**. The total construction cost eligible for pro-rata reimbursement is:

(\$_____).

The **DEVELOPER**, upon completion of the **MAIN** construction, will furnish the **CITY** a certified itemized list of quantities, materials and any related construction costs to the **DEVELOPER**, in accordance with Section 16-39 of the Code of the City of Mesquite. Such itemized list, after audit and approval by the **CITY**, will determine the actual total construction costs eligible for reimbursement by pro rata fees to the **DEVELOPER**.

V.

The **DEVELOPER** agrees to obtain and make available any necessary easements, permits and rights of way, together with necessary working space as required to construct the subject

MAIN wherever the **MAIN** crosses private property. The **CITY** grants the **DEVELOPER** permission to construct the subject **MAIN** wherever this **MAIN** crosses or parallels any public easement, street or property owned or controlled by the **CITY**.

VI.

The **MAIN** shall be installed in accordance with current City standards and specifications. The City Engineer or his/her representative will determine that subject **MAIN** is constructed in accordance with approved engineering plans and specifications and upon completion the **MAIN** shall become the property of the **CITY** and an integral part of the **CITY's** system and subject to maintenance, jurisdiction and control of the **CITY**. If for any reason this main should be commenced but not completed, that portion having been constructed shall become the property of the **CITY** and subject to maintenance, jurisdiction and control of the **CITY**.

VII.

No ad valorem tax, revenue or income is or shall ever be encumbered by the terms of this agreement, and no appropriation by the **CITY** is required therefrom when this agreement is authorized and executed and this agreement shall in no manner be construed to create a debt against the **CITY** or charge against any of its revenues from whatever source derived.

VIII.

Should any provision of this agreement be declared illegal by a court of competent jurisdiction, the other and remaining provisions of this agreement shall not in anyway be affected and all provisions of this agreement which are not declared to be illegal shall be binding upon the **CITY** and **DEVELOPER**; **DEVELOPER** agrees that in the event that a court determines all or a portion of this agreement is unenforceable, the **DEVELOPER** shall have the option to discontinue further work on the subject **MAIN** and if the **MAIN** has not been completed, refuse to make any further expenditures in the way of furnishing labor, materials and supplies. It is specifically agreed, however, that the portion of this main which may have been constructed shall become the property of the **CITY** for all purposes and **DEVELOPER** agrees that the **CITY** shall not be liable for any costs expended by **DEVELOPER** prior to the courts decision. Should **DEVELOPER** continue work after such court decision, he does so at this own cost and expense unless **CITY** and **DEVELOPER** agrees, otherwise in writing.

IX.

The **DEVELOPER** on behalf of itself, its contractors and its agents covenants and agrees to hold harmless and indemnify the **CITY** from and against any and all claims for personal injury (including death) or property damage which may arise from the **MAIN** construction operations performed under the terms of this agreement; and the **DEVELOPER** also agrees and does hereby agree to indemnify and save the **CITY** harmless from all claims growing out of the lawful demands of contractors, subcontractors, laborers, workmen, mechanics, material, men and suppliers incurred in the performance of this agreement. The **DEVELOPER** will furnish to the **CITY** satisfactory evidence of the discharge of such claims prior to receiving any reimbursement payment from the **CITY**.

X.

In accordance with City Code Chapter 16 Section 38-43, the **CITY** agrees to collect from each person, firm or corporation making a connection to the offsite portion of the **MAIN** constructed under this agreement as shown on Exhibit "A" the sum of \$(*insert calculated front foot cost confirm with City Engineer*) per front foot for the area, lot or tract of land seeking connection which abuts the offsite main as shown on Exhibit "A".

For a period of ten (10) years after dedication to and acceptance by the **CITY** of the completed **MAIN**, the **DEVELOPER** shall receive reimbursement from the proceeds of the pro rata fees collected pursuant to Mesquite City Code Chapter 16 Section 16-39, such reimbursement not to exceed an amount equal to the total cost of the extensions as stated in Paragraph IV herein. Payment shall be from the pro rata fee account. The **CITY** shall make reimbursements within one hundred eighty (180) days after receipt of the pro rata fee.

XI.

Pursuant to the provisions of Mesquite City Code Section 16-43, from all pro rata fee reimbursed to the **DEVELOPER**, the **CITY** shall deduct two percent (2%) of the amount collected plus \$100.00 as a collection fee. These funds shall be deposited into the **CITY** water and sewer fund for expenditure.

XII.

Upon receipt of pro rata collected in connection with the **MAIN** constructed herein, and if the **CITY** is unable to locate the **DEVELOPER** following reasonable attempts, the **CITY** shall retain the funds in the pro rata account. Fees that remain unclaimed ten years following the date of acceptance of the **MAIN** shall be returned to the depositor of the fee. If such depositor cannot be located, the pro rata fees and accrued interest shall be transferred to the **CITY** water and sewer fund for expenditure.

IN WITNESS WHEREOF, the parties have executed this Agreement on this the _____ Day of _____, **2000**.

DEVELOPER:

By: _____

Notary Acknowledgement

CITY OF MESQUITE:

Ted Barron
City Manager

ATTEST:

APPROVED AS TO FORM:

Ellen Williams
City Secretary

B. J. Smith
City Attorney