

City of Houston, Texas, Ordinance No. 2008-741

AN ORDINANCE AMENDING SECTION 47-164 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO DEVELOPER PARTICIPATION CONTRACTS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING FOR SEVERABILITY, AND DECLARING AN EMERGENCY.

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WHEREAS, development in the City of Houston has been slowed by the current condition of the market real estate market; and

WHEREAS, developers who have executed developer participation contracts are requesting that the terms of their contracts be extended so that they have time to complete the requirements of the contracts; and

WHEREAS, the City Council desires to amend Section 47-164 of the Code of Ordinances to allow the Director of Public Works and Engineering to extend developer participation contracts, including contracts executed prior to the effective date of this Ordinance; **NOW THEREFORE**,

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

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this ordinance.

Section 2. That Subsection 47-164(4) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“(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 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 percent of the number of housing units required by a 70 percent developer reimbursement contract) within three years of the date the developer commences construction.

The director may extend the contract term, including the time limits set out in (b) and (c) if the developer can show good cause for its delay. Provided, however, the director may not extend either of the time periods described in items (b) and (c). by more than one year.

In no case shall the city reimburse the contractor for an amount in excess of the amount set out in the developer contract, which must not ever exceed \$1,000,000.00 per contract.”

Section 2. This ordinance shall be given both prospective and retroactive effect.

Section 3. All ordinances in conflict herewith are hereby repealed to the extent of conflict only.

Section 4. If any portion of this Ordinance, or the application thereof to any person or set or circumstances, is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or their application shall not be affected thereby.

Section 5. 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 immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this

Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 20th day of August, 2008.

APPROVED this 20th day of August, 2008.

Bill White
 Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

 City Secretary

Prepared by Legal Dept. To Wright
 Senior Assistant City Attorney
 EWB:jdw
 Requested by Michael S. Marcotte, P.E., Director, Public Wor
 L.D. File No.

AYE	NO	
✓		MAYOR WHITE
••••	••••	COUNCIL MEMBERS
✓		LAWRENCE
✓		JOHNSON
✓		CLUTTERBUCK
✓		ADAMS
✓		SULLIVAN
✓		KHAN
✓		HOLM
✓		GARCIA
✓		RODRIGUEZ
ABSENT OUT OF CITY		BROWN
✓		LOVELL
✓		NORIEGA
✓		GREEN
✓		JONES
CAPTION	ADOPTED	

**CAPTION PUBLISHED IN DAILY COURT
 REVIEW
 DATE: AUG 26 2008**