

RESOLUTION NO. 2021-12-XXX (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN ANNEXATION AND DEVELOPMENT AGREEMENT WITH THE ESTATE OF TOM B. WILSON, SR. AND THE HEFNER LIVING TRUST, GENERALLY TO ESTABLISH DEVELOPMENT STANDARDS, PARKLAND DEDICATION, INFRASTRUCTURE REQUIREMENTS, AND PROPORTIONALITY/IMPACT FEES FOR SINGLE FAMILY RESIDENTIAL USES PRIOR TO ANNEXATION OF THE PROPERTY, GENERALLY LOCATED SOUTH OF FM 543 AND EAST OF CR 202

WHEREAS, the OWNERS own certain real property located within the extraterritorial jurisdiction (“ETJ”) of the CITY that is more particularly described herein below and identified as the “Property”; and

WHEREAS, the Wilson Estate has voluntarily requested that the CITY acting by and through its City Council annex that portion of the Property owned by the Wilson Estate into the CITY’s corporate limits; and

WHEREAS, the Hefner Trust has voluntarily requested that the CITY acting by and through its City Council annex that portion of the Property owned by the Hefner Trust into the CITY’s corporate limits; and

WHEREAS, the CITY desires to annex the entirety of the Property into the CITY’s corporate limits but is currently unable to annex the Property because while the Property is within the CITY’s ETJ, the Property is not currently abutting and adjacent to the CITY’s corporate limits as required by Tex. Loc. Gov’t Code Chapter 43; and

WHEREAS, the Wilson Estate and the Hefner Trust understand that the:

- (1) the OWNERS are not required to enter into this Annexation Agreement; and
- (2) the CITY may only annex the Property in accordance with the requirements of Tex. Loc. Gov’t Code Chapter 43; and
- (3) CITY’s annexation of the Property requires the consent of the OWNERS; and
- (4) CITY waives its immunity to suit if the CITY fails to provide municipal services as required by the Service Plan between the OWNERS and CITY or otherwise breaches this Annexation Agreement; and

WHEREAS, the Wilson Estate and the Hefner Trust remain committed to annexing the entirety of the Property into the CITY’s corporate limits; and

WHEREAS, the OWNERS and CITY have entered into this Annexation Agreement pursuant to the authority provided by Chapter 43 and Section 212.172, *et seq.*, of the Texas Local Government Code, in order to address the desires of the OWNERS and the CITY and the procedures of the CITY; and

WHEREAS, the Wilson Estate and the Hefner Trust and the CITY have entered into this Annexation Agreement to allow the CITY to annex the Property into the CITY’s corporate limits as soon as allowed by Texas law; and

WHEREAS, the physical location of the Property and the lack of adequate roadway and utility facilities to serve the Property demonstrate that infrastructure improvements will likely be required as a condition to development in the future; and

WHEREAS, OWNERS understand that prior to record platting the Property the CITY's development standards and ordinances will require the then Owner(s) and/or any Developer(s) to fund and construct certain roadway and utility improvements, as set forth in the CITY's Subdivision Ordinance, that are necessitated by the development of the Property and a general statement of such required public improvements (based on existing conditions) is outlined herein; and

WHEREAS, a Construction Facilities Agreement specific to the then proposed use of the Property may be required at such time as development of the Property begins which may supersede or amend this Agreement by setting forth in detail the public improvements that will be required for the Property and until such occurrence all applicable ordinances and the terms of this Agreement shall govern the Property's development and provide notice to the OWNER of the CITY's development requirements; and

WHEREAS, the OWNERS, together with the OWNERS' respective grantees, assigns, successors, trustees and all others holding any interest now or in the future, agree and enter into this Agreement which shall operate as a covenant running with the land and be binding upon the OWNERS, their representatives, grantees, assigns, successors, trustees and all others holding any interest now or in the future; and

WHEREAS, The City Council of the City of McKinney concurs that the agreement is in the best interests of both the City and the Developer, and it is deemed mutually beneficial to each that the construction of the Project proceed.

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

- Section 1. The City Council of the City of McKinney, Texas hereby authorizes the City Manager to enter into an annexation and development agreement with the Estate of Tom B. Wilson, Sr. and the Hefner Living Trust.
- Section 2. The Property shall be annexed and zoned (totaling approximately 84 acres) at such time that any part or portion of the property is abutting and adjacent to the CITY's corporate limits.
- Section 3. The Owners shall develop the property for single family residential uses in accordance with Section 146-106, "SF5-Single Family Residential District" of the City of McKinney Code of Ordinances and dedicate parkland in accordance with Section 142-157 or pay money in lieu of dedicating land in accordance with Section 142-158 of the City of McKinney Code of Ordinances.
- Section 4. The Owners shall develop the property in accordance with the City's Zoning, Subdivision and land development ordinances.
- Section 5. Subsequent to building permit approval by Collin County, Owners shall submit to the City the approved site plan / plot plan meeting the setback requirements of the agreement in conjunction with the water meter request.
- Section 6. All public improvements necessary to serve the property shall be designed and constructed by the Owners at no cost to the City.
- Section 7. Owners shall dedicate a sixty-two-foot (62') wide right-of-way approximately 1,152 feet in length along and adjacent to the northern boundary of the property for the improvement of FM 543.
- Section 8. Owners shall dedicate a thirty-foot (30') wide right-of-way approximately 2,705 feet in length along and adjacent to the western boundary of the property for the improvement of CR 202.

Section 9. Owners shall pay a proportionality fee, representing a roughly proportional amount necessary to offset the roadway infrastructure needs of the property. This fee shall be the equivalent of the roadway impact fee assessed in the adjacent (abutting) roadway impact fee service area and paid at the time of any water meter request to the City. Owners shall be eligible to receive credits for the construction or right-of-way dedication of impact fee eligible system roadways or roadways which become impact fee eligible system roadways. Upon such time that the City's Impact Fee Capital Improvement Plan is updated, and the property is annexed into the City, Owners shall pay roadway impact fees rather than a proportionality fee.

Section 10. Owners shall pay utility impact fees in accordance with McKinney Ordinance No. 2020-12-092.

Section 11. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 7th DAY OF DECEMBER, 2021.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

ATTEST:

EMPRESS DRANE
City Secretary
JOSHUA STEVENSON
Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney