

AFTER RECORDING, RETURN TO:

City Secretary  
City of McKinney  
P.O. Box 517  
222 N. Tennessee Street  
McKinney, Texas 75069

**STATE OF TEXAS           §**  
**§**  
**COUNTY OF COLLIN       §**

**DEVELOPMENT AGREEMENT**

This Development Agreement ("Agreement") is made and entered into as of November 15, 2017, by and between the City of McKinney, Texas, (the "City") and the owner of property in the City's extraterritorial jurisdiction identified on the signature page of this Agreement (whether one or more, "Owner") on the terms and conditions hereinafter set forth to be effective on the date designated by Owner on the signature page of this Agreement (the "Effective Date").

**WHEREAS**, Owner owns certain "Property" defined herein-below that is situated in the extra-territorial jurisdiction of the City ("ETJ"); and

**WHEREAS**, the City desires to involuntarily annex the Property and certain other land areas, all of which land areas have been generally identified in the annexation case assigned Case No. 17-249A by the City Secretary's Office (the "Annexation Case"), into the City's corporate limits; and

**WHEREAS**, after discussions with certain owners of property intended to be annexed by City and/or their legal counsel or representatives, which discussions may have included Owner and/or Owner's legal counsel or representative, the City offers this Agreement; and

**WHEREAS**, Owner objects to involuntary annexation by the City and desires to have the Property remain in the City's extraterritorial jurisdiction as well as to continue using the Property for its current lawful use as described more fully herein below, in consideration for which Owner agrees to enter into this Agreement; and

**WHEREAS**, the City does not make any guarantee as to the Property retaining any specific tax status or classification, whether agriculture, wildlife management, timber land or otherwise, as such tax classifications are determined by the Central Appraisal District of Collin County and not by the City; and

**WHEREAS**, this Agreement is entered into pursuant to Section 212.172 of the Texas Local Government Code, in order to address the desires of Owner and the City; and

**WHEREAS**, this Agreement is entered into pursuant to Section 43.035 of the Texas Local Government Code with respect to that portion of the Property appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that Chapter, in order that such property is considered adjacent or contiguous to the City as contemplated by Section 43.035(c) of the Texas Local Government Code, but not for the purpose of waiving vested rights; and

**WHEREAS**, Owner and the City acknowledge that this Agreement is binding upon the City and Owner and their respective successors and assigns for the Term (as defined in Section 7 herein below) of this Agreement; and

**WHEREAS**, this Development Agreement is to be recorded in the Real Property Records of Collin County;

**NOW, THEREFORE**, in consideration of the mutual benefits and premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Owner agree as follows:

**1. Land Subject to Agreement.** The land owned by Owner in the City's extraterritorial jurisdiction that is subject to the Annexation Case is each and every lot, parcel or tract of land that is identified in Paragraphs a and b of this Section 1 and more particularly described in the exhibits described below which exhibits are attached hereto and incorporated herein by reference for all purposes allowed by law (collectively the "Property"). The Property is comprised of the following lots, parcels and/or tracts of land having the following identified ad valorem tax exemption status and/or the following lawful uses as marked in the boxes and more particularly described in Paragraphs a or b, below.

*Please select the applicable box and complete the related blanks below.*

☐ a. **The land is subject to an agricultural, wildlife management, or timber land ad valorem tax exemption** and the Owner plans to continue using the land in the same manner. The land is more particularly described and depicted in Exhibit "A-1," attached hereto and incorporated herein for all purposes allowed by law. In addition, the land is currently being used for other lawful uses such as a single-family home, which use(s) are described in the attached Exhibit "B" (the "Ag-Exempt Tract").

OR

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b. **The land is currently being used for certain lawful land uses such as a single-family residential home, a business or other commercial use, or any other non-Ag-Exempt purpose** and the Owner plans to continue using the land in the same manner in accordance with Texas Local Government Code § 43.002(a). The land is more particularly described and depicted in Exhibit "A-2," attached hereto and incorporated herein for all purposes allowed by law. More particularly, the land is currently being used for the lawful land use(s) that are described in the attached Exhibit "C" (the "43.002(a) Use Tract").

Owner hereby verifies that the Property, whether an Ag-Exempt Tract or a 43.002(a) Use Tract, is currently being used for the lawful uses described in Exhibit B or Exhibit C, respectively (the "Lawful Uses") and the City acknowledges Owner's right to continue using the Property for the Lawful Uses in accordance with Texas Local Government Code § 43.002. City may require the Owner to provide further verification regarding the Lawful Uses identified in Exhibit B or Exhibit C attached hereto.

**2. Continuation of Extraterritorial Status.** The City guarantees and agrees to the continuation of the extraterritorial status of the Property, its immunity from annexation by the City, and its immunity from City property taxes, for the term of this Agreement, subject to the provisions of this Agreement. The unilateral annexation by City of all or a portion of the Property in violation of this Agreement shall be void and of no force or effect.

**3. Limitations on Use and Development of the Property.**

a. The Ag-Exempt Tract of the Property shall not be used for any use other than for: (i) agricultural, wildlife management, or timber land management uses, including the raising of livestock and crops, wildlife management, and/or timber land consistent with Chapter 23 of the Texas Tax Code, including any associated agricultural structures such as barns, chicken coops and corrals, and (ii) one single-family dwelling together with any accessory residential structures such as a barn, residential storage shed, arbor, gazebo, or swimming pool, without the prior written consent of the City.

b. The 43.002(a) Use Tract of the Property shall not be used for any use other than for the current Lawful Uses as specified in Paragraph b of Section 1, above, and for no other uses without the prior written consent of the City.

c. In the event of loss or destruction, structures and other man-made improvements may be restored or reconstructed in keeping with the Lawful Uses. If the Lawful Uses include a single-family residential home, such home may be remodeled or repaired in the same manner and following the same regulations as permitted on the Effective Date. If the Lawful Uses include a single-family residential home, Owner may construct one additional home for a family member on the same tract.

d. Owner hereby agrees that Owner will not file any type of subdivision plat or permit associated with the Property for any use that is different from the Lawful Uses specified in Section 1, above, with Collin County or the City until Owner submits to the City a request for voluntary annexation of the Property. Owner agrees not to construct, or allow to be constructed, any buildings or structures on the Property that are not specifically allowed in this Section 3 in keeping with the Lawful Uses identified in Section 1.

e. Notwithstanding the limitations and restrictions set forth in this Section 3, Owner and City may mutually agree in writing in advance to allow exceptions and expansion to the uses and structures allowed on the Property without waiving any other provisions of this Agreement.

f. Owner agrees to obtain permits from the City, and pay all related fees therefore, when constructing or allowing the construction, on the Property, of buildings that are otherwise allowed pursuant to this Section 3 save and except to the extent provided otherwise by Section 122-4 of the Code of Ordinances, City of McKinney, and as amended.

**4. Agreement to be Signed by All Parties.** Owner warrants and represents to City that Owner has the full right, power and authority to execute and deliver this Agreement without obtaining any further consents and approvals from, or the taking of any other actions with respect to any third-parties regarding the execution of this Agreement. Upon approval or ratification by the City Council, the City Manager shall sign this Agreement on behalf of the City. Each party has read and fully understands this Agreement and its effects and that it is a binding contract.

**5. City Regulation of Use and Development.** The use and development of the Property before annexation shall conform to the Lawful Uses identified in Sections 1 and 3 of this Agreement, the City's Subdivision Ordinance, and only those other state and City regulations that affect critical life, health and safety interests in the City's extraterritorial jurisdiction.

**6. Annexation and Zoning.** The City will not annex the Property during the term of this Agreement unless requested to do so by Owner, provided that Owner complies with the terms and conditions of this Agreement. Simultaneously with the termination of this Agreement, whether by the passage of time or Owner's material breach (if any) of this Agreement, the City and Owner agree that Owner consents to the immediate annexation of the Property (the "Annexation").

**7. Term.** This Agreement is an agreement authorized by Section 212.172 of the Texas Local Government Code. This Agreement is effective on the Effective Date. The term of this Agreement (the "Term") is forty-five (45) years from the Effective Date.

**8. Default.** If any party breaches any of the terms of this Agreement, then that party shall be in default ("Defaulting Party") of this Agreement ("Event of Default"). If an Event of Default occurs, the non-defaulting party shall give the Defaulting Party written notice of such Event of Default, and if the Defaulting Party has not cured such Event of Default within thirty (30) days of said written notice, this Agreement is breached. Each party is entitled to all remedies available to it at law or in equity.

Upon the occurrence of any Event of Default by Owner that Owner fails or refuses to timely cure, Owner hereby agrees that any provision of this Agreement which restricts or otherwise limits the City's ability to annex the Property or any portion thereof is void and Owner specifically consents to City's annexation of the Property upon Owner's failure or refusal to comply with the terms of this Agreement. In addition, Owner also agrees that City shall have the right and authority in the discretion of the City Council to (i) disapprove any plat or related development document that is filed in violation of this Agreement, (ii) annex the Property into the City's corporate limits, (iii) adopt zoning for the Property, (iv) and seek such other equitable remedies available to the City as may be required to maintain the status quo, it being understood and agreed that any failure to comply with the terms of this Agreement by Owner shall constitute a petition for voluntary annexation by Owner.

**9. Notice.** Any notice required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States Mail, postage pre-paid, certified mail, return receipt requested, addressed to either party, as the case may be, at the addresses contained below:

City: City of McKinney  
P.O. Box 517  
222 N. Tennessee Street  
McKinney, Texas 75069  
Attn: City Manager

With copy to: Mark S. Houser, City Attorney  
Brown & Hofmeister, L.L.P.  
740 E. Campbell Road  
Suite 800  
Richardson, Texas 75081

Owner: Owner's name and address for Notice purposes under this Section is contained in the signature page signed by Owner.

**10. Agreement Runs with the Property.** This Agreement shall be recorded in the real property records of Collin County, Texas, shall be a covenant running with the Property and shall be binding on and inure to the benefit of Owner's successors and assigns. Owner's successors and assigns shall be considered the "Owner" for the purposes of a portion of the Property owned by such successors or assigns.

**11. Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the mutual written agreement of the parties hereto save and except for the termination right described above in Section 8.

**12. Venue.** This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Collin County, Texas. Exclusive venue shall be in Collin County, Texas.

**13. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

**14. Savings/Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**15. Construction.** This Agreement shall be construed fairly and simply, and not strictly for or against any party. Headings used throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be interpreted or held to explain, restrict, modify, amplify or aid in the interpretation or construction of the meaning of the provisions of this Agreement. The exhibits described in this Agreement are attached hereto and incorporated herein by reference for all purposes allowed by law. Unless indicated otherwise, a section reference described in this Agreement is a reference to a section of this Agreement.

**16. Multiple Counterparts.** This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties have executed this Agreement and caused this Agreement to be effective on the latest date as reflected by the signatures below.

***CITY OF McKINNEY***

By: \_\_\_\_\_  
PAUL G. GRIMES  
City Manager

Date Signed: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
SANDY HART, TRMC, MMC  
City Secretary  
DENISE VICE, TRMC  
Assistant City Secretary

THE STATE OF TEXAS  
COUNTY OF COLLIN

§  
§

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared **PAUL G. GRIMES**, City Manager of the City of McKinney, a Texas Municipal Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on City's behalf.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public in and for the State of Texas



**OWNER:**

Owner Signature: \_\_\_\_\_

Owner Printed Name: \_\_\_\_\_

The Effective Date:

☐

a. The Effective Date is November 15, 2017.

OR

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b. The Effective Date is the date the City Council annexes all or any portion of the land described in the Annexation Case. This Agreement is null and void if the City Council elects not to annex any land described in the Annexation Case.

The Property described in Section 1: The Property contains approximately \_\_\_\_\_ acres of land, more or less, as is more particularly described and depicted in Exhibit A. The portion of the Property identified by Collin Central Appraisal District ("Collin CAD") as Property ID No. \_\_\_\_\_ is subject to an agricultural, wildlife management, or timber land ad valorem tax exemption (the "Ag-Exempt Tract"). The portion of the Property identified by Collin CAD as Property ID No. \_\_\_\_\_ is subject to a homestead ad valorem tax exemption (the "Homestead Tract"). The Property is the same property described in the deed recorded in Collin County at \_\_\_\_\_.

Notice Address described in Section 9: Owner's address for Notice purposes under Section 9 of the Agreement is:

*Mailing Address:* \_\_\_\_\_

*City, State and Zip Code:* \_\_\_\_\_

THE STATE OF TEXAS           §  
COUNTY OF COLLIN           §

This instrument was acknowledged before me on this day by \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes set forth therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public in and for the State of Texas



**Exhibit “A-1”**  
Description and Depiction of the Ag-Exempt Tract of the Property  
*[If selected in Section 1.]*

TEMPLATE

**Exhibit “A-2”**

Description and Depiction of the 43.002(a) Use Tract of the Property  
*[If selected in Section 1.]*

TEMPLATE

**Exhibit “B”**  
Description of Current Uses on the Ag-Exempt Tract

TEMPLATE

**Exhibit “C”**

Description of Current Lawful Land Uses on the 43.002(a) Use Tract

TEMPLATE