

STATE OF TEXAS

KNOW ALL MEN BY

COUNTY OF ROCKWALL

THESE PRESENTS

CHAPTER 212 LOCAL GOVERNMENT CODE
DEVELOPMENT AGREEMENT

This Development Agreement is entered into pursuant to Section 212.172 Texas Local Government Code by and between the City of Rockwall, Texas (“City”) and Jack H. Hittson and Elizabeth W. Hittson (“Owners”) the property owners of the hereinafter described property (“Owners’ Property”) in Rockwall County, Texas, and being within the extraterritorial jurisdiction of the City:

Being a portion of that property described in a deed from J. T. Roan and Pearl E. Roan, husband and wife and Bobby R. Roan and Margaret Jo Roan, husband and wife, to Jack Homer Hittson and wife Elizabeth W. Hittson, dated March 29, 1960, and recorded at vol. 61 page 123 of the Real Property Records of Rockwall County, Texas

That property described in a deed from Montis Phillips and wife, Adelene Phillips, to J. H. Hittson, dated November 3, 1962, and recorded at vol. 64 page 484 of the Real Property Records of Rockwall County, Texas.

That property described in a deed from Clarence Noel, Jr. and wife, Pauline Noel, to Jack H. Hittson dated November 3, 1962 and recorded at vol. 66 page 330 of the Real Property Records of Rockwall County, Texas.

The term Owners includes their heirs successors, and assigns:

WHEREAS, the City has begun the process required by Chapter 43, Tex. Local Govt. Code to institute annexation proceedings on portions of Owners’ Property, and has held public hearings on September 20, 2004;

WHEREAS, the Owners have requested that Owners’ Property be deleted from annexation, for which this Agreement has been proposed in accordance with Texas Local Government Code Section 212.172;

WHEREAS, the Owners and the City acknowledge that this Agreement between them is binding upon the City and the Owner and their respective successors and assigns for the term of the Agreement, per Texas Local Government Code Section 212.172(f), which provides that the agreement between the governing body of the municipality and the landowner is binding on the municipality and the landowner and on their respective successors and assigns for the term of the agreement;

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

WHEREAS, both the City and the Owners agree that entering into this Agreement addresses the goals and objectives of both parties.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

Section 1. The above mentioned Owners agree to petition the City for annexation, upon execution of this Agreement, of a certain parcel of land (the “Annexed Block Portion”) being a part of Owners’ Property, which is more particularly described by said petition (the “Annexation Petition”) which is attached hereto as Exhibit A. The City agrees that the land so annexed shall carry the AG – Agricultural District designation under the City’s Comprehensive Zoning Ordinance, and that within the Annexed Block Portion farming-related and ranching-related activities and accessory uses, including a single family dwelling(s) for the Annexed Block Portion or subdivided parts thereof, shall be allowed.

Section 2. For purposes of this Agreement the term the “Subject Property” shall apply to that portion of Owners’ Property that is not described in the Annexation Petition and which lies within the Extraterritorial Jurisdiction of the City.

Section 3. The City guarantees the continuation of the extraterritorial status of the Subject Property and its immunity from annexation by the City for the term of this Agreement and any subsequent renewals of said term as permitted under law.

Section 4. The Owners covenant and agree that, except as otherwise provided herein, they will not file for plat approval for the Subject Property with Rockwall County or the City, until such property has been annexed into the City and zoned pursuant to applicable state law, said zoning to be at the sole discretion of the City Council; provided, however, that the City waives any requirement for plat approval for subdivision(s) of the Subject Property where such subdivision(s) are in parts being greater than or equal to five (5) acres having adequate public street access and facilities where no new street or public facilities are required to be provided by the City. Owners may file a subdivision plat for approval if such plat contains residential lot sizes of not less than five (5) acres each.

The parties acknowledge and understand that plat approval is not required for subdivision(s) under State law for tracts greater than or equal to five (5) acres, wherein each tract has access and no public improvements are being dedicated. Any conveyance pursuant to a subdivision plat for residential lots of not less than five (5) acres each, as permitted above, shall contain a deed restriction prohibiting the placement of a manufactured home (as defined in Texas Occupation Code section 1201.003) on the property conveyed at least effective until the expiration of ten years following the end of the term of this Agreement.

Section 5. If either of the Owners commences development of the Subject Property by filing a subdivision plat showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys and easements drawn to scale, for residential lot sizes of less than five (5) acres each or for any non residential use, such act shall be deemed a petition request for voluntary annexation by the Owners, and the Subject Property shall, at the discretion of the City

Council, be subject to annexation. The parties agree that such annexation shall be voluntary and the Owners hereby consent to such annexation as though a petition for such annexation had been tendered. In that regard, should annexation proceedings begin pursuant to this Section, the Owners acknowledge that such a petition serves as an exception to Local Government Code Section 43.052, requiring a municipality to use certain statutory procedures under an annexation plan, and hereby waive any and all vested rights and claims that they may have under Section 43.002(a)(2) and Chapter 245 Tex Local Govt. Code related to uses of their property prior to annexation. Any annexation proceeding pursuant to this section shall be initiated within 180 days after the City knows of the action by Owner that results in the City's right to annex.

Section 6. During the term or term renewal(s) of this Agreement, the City's Park Master Plan or subsequent modifications, revisions or versions thereof, shall not be applicable to Owners' Property so that the City will not seek to acquire any of the Owners' Property, by agreement or otherwise, as may be shown on said Plan, unless annexation proceedings are initiated pursuant to Section 5 herein.

Section 7. In reliance on the petition of the Owners to annex the property as described herein, the City agrees not to annex the Subject Property, agrees not to initiate annexation of the Subject Property, and further agrees not to include the Subject Property in a statutory annexation plan for the term or term renewal(s) of this Agreement. The City's agreement herein is declared to be severable.

Section 8. The Service Plan, substantially in the form as set forth in Exhibit B to the Annexation Petition of Exhibit A, for the property to be annexed by petition shall contain a provision that the area to be annexed is so narrow or comprises such a small area that it cannot be used independently under any of the City's development control ordinances, or other regulatory ordinances, so that such ordinances shall not be enforced in said area, except for those expressly stated in said Service Plan.

Section 9. Any person who sells or conveys any portion of the Subject Property shall, prior to such sale or conveyance, give thirty (30) days written notice of this Agreement to the prospective purchaser or grantee. A copy of said notice shall be forwarded to the City at the following address:

City of Rockwall
385 S. Goliad
Rockwall, Texas 75087
Attn: City Manager

Section 10. This Agreement is to run with the Subject Property and be recorded in the Real Property Records, Rockwall County, Texas.

Section 11. Invalidation of any provision of this Agreement by judgment or court order shall not invalidate any of the remaining provisions, which shall remain in full force and effect.

Section 12. This Agreement may be enforced by either Owner or by the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

Section 13. No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement or the City's ability to annex the properties covered herein.

Section 14. Venue for this Agreement shall be in Rockwall County, Texas.

Section 15. This Agreement may be separately executed in individual counterparts, and upon execution, shall constitute one and same instrument.

Section 16. The initial term of this Agreement shall be ten (10) years from January 18, 2005 (hereinafter referred to as the "Initial Term"). If the Owners desire to extend the operation of this Agreement beyond the Initial Term, or beyond any Subsequent Term, then the Owners, at least 180 days prior to the end of that Initial Term or a Subsequent Term, shall submit a written request to the City for such an extension (hereinafter referred to as an "Extension Request"). The City, at least ninety (90) days prior to the end of that Initial Term or a Subsequent Term, shall notify the Owner in writing, delivered by certified mail, with respect to its decision to extend this Agreement for an additional five (5) year term (hereinafter referred to as "Subsequent Term"). In the event such written notice from the City of its decision is not received by the Owners at least 90 days prior to the end of that Initial Term or a Subsequent term, such Extension Request is deemed granted and this Agreement continues for another Subsequent term; provided, however, that Subsequent Terms may be requested by the Owner as stated herein, but in no event to extend beyond a total of forty-five (45) years or as otherwise permitted under Law.

Section 17. If the Owners do not provide an Extension Request pursuant to Section 16, or upon a written decision by the City to not extend the term of this Agreement for a Subsequent Term following the Initial Term or for an additional Subsequent Term, such termination is construed as a petition request for voluntary annexation by the Owners. If the decision of the City is to not extend this Agreement, the City shall also include in the written notice informing Owners of its decision to not renew whether the City intends to accept the petition request for voluntary annexation by the Owners. Any annexation proceedings pursuant to the termination of this Agreement shall be commenced within ninety (90) days of such termination.

Section 18. Upon termination of this Agreement, and decision of the City to accept the petition request for voluntary annexation by the Owners, as provided in Section 5 or Section 17, the City and the Owners shall enter into good faith negotiations regarding the terms of such annexation, and of the service plan to be implemented; provided that, unless the parties agree otherwise, such Service Plan for the Owners' Property shall conform to, and be implemented in accordance with, no less than the City's then existing adopted comprehensive and utility master plans. The zoning of the Owners' Property shall be Agricultural District, unless otherwise agreed in writing by the parties. The Owners hereby waive any and all vested rights and claims that they may have had under Section 43.002(a)(2) and Chapter 245 Texas Local Government Code related to uses of the Owners' Property by virtue of any actions Owners may have taken

between the termination of this Agreement and the initiation of annexation proceedings, if any, by the City.

Section 19. Notwithstanding any termination or expiry of this Agreement, the provisions of Section 17 and Section 18, and all rights and obligations thereto, shall survive the termination or expiry of this Agreement.

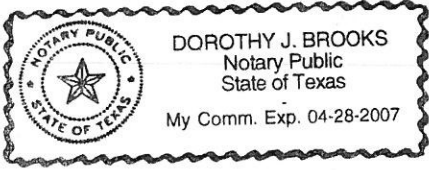
The parties hereto have executed this agreement January 18, 2005.

OWNERS:
Jack H Hittson
Jack H Hittson
Elizabeth W. Hittson
Elizabeth W. Hittson

CITY OF ROCKWALL, TEXAS:
By: [Signature]
Julie Couch
(printed)
Its: City Manager

THE STATE OF TEXAS §
§
COUNTY OF ROCKWALL §

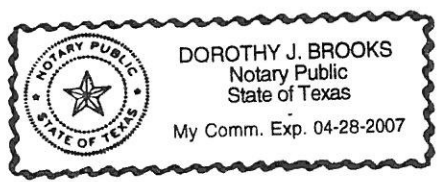
This instrument was acknowledged before me on the 18th day of January 2005, by Jack H. Hittson and Elizabeth W. Hittson.



Dorothy J Brooks
Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF ROCKWALL §

This instrument was acknowledged before me on the 8th day of ~~January~~ February 2005, by Julie Couch on behalf of the City of Rockwall, Texas.



Dorothy J Brooks
Notary Public, State of Texas

Exhibit A to Development Agreement

STATE OF TEXAS

COUNTY OF ROCKWALL

ANNEXATION PETITION

We, Jack H. Hittson and wife Elizabeth W. Hittson (“Owners”), do hereby petition the City of Rockwall, Texas, to institute annexation proceedings pursuant to Chapter 43, Texas Local Government Code on a tract of land as more particularly described by the hereto attached Exhibit A. This petition is presented as an accommodation to the City of Rockwall in order that the City may extend its extraterritorial jurisdiction, and is further presented based on the following:

Section 1. That contemporaneously with the filing of this petition that the owners and the City will enter into the Development Agreement with Owners pursuant to Chapter 212 Tex. Local Govt. Code regarding the remainder of Owners’ property, to which this petition will be attached as an exhibit.

Section 2. That petitioners be able to use, and continue to use, the land annexed by this petition in the same manner as the remainder of the land is used, which is primarily for agricultural, residential, and recreational purposes, and that petitioners have engaged in and expect to continue to engage in farm-related and ranch-related activities. Further, the City recognizes and agrees that these uses, as to the property to be annexed do not constitute or present the danger of the imminent destruction of property or injury to persons, do not constitute public nuisances, do not involve the storage or use of hazardous substances, and do not require modification for the prevention of flooding.

Section 3. That the land will be zoned AG – Agricultural District upon annexation and will remain so zoned during the term of the aforesaid Development Agreement.

Section 4. That the Service Plan attached as Exhibit B to this Petition will be adopted by the City as to this annexation and will be continued in effect during the term of the Development Agreement.

Section 5. During the term of the Service Plan petitioners will not demand the provision of water or sewer service on the property to be annexed.

Signed this _____ day of January 2005.

OWNERS:

Jack H Hittson

Elizabeth W. Hittson

Exhibit A to Annexation Petition

Boundary Description Tract C Annexation

BEING a 24.147 acre tract of land situated in the J. Simmon Survey, Abstract No. 190, the J. Strickland Survey, Abstract No. 187, J.E. Sherwood Survey, Abstract No. 206, M. Simmons Survey, Abstract No. 197 and the J. Smith Survey, Abstract No. 191 in the County of Rockwall, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a point for a corner at the Northwesterly most corner of Tract 3, a 47.31 acre tract of land owned by William H. Eidt, said point also being on the South line of Tract 3-1, a 17.61 acre tract of land owned by Steve Rinner;

THENCE S87°16'30"W, along the South line of said Tract 3-1 for a distance of 318.92 feet to a point for a corner at the Southwesterly most corner of said Tract 3-1, said point also being in the East line of Anna Cade Road;

THENCE N00°55'01"W, along the said East line of Anna Cade Road and the West line of said Tract 3-1 and the West line of Tract 38, a 10.0 acre tract of land owned by Henry Rohrbacker for a distance of 1305.33 feet to a point for a corner at the Northwesterly most corner of said Tract 38;

THENCE N88°40'06"E, along the North line of said Tract 38 and crossing the Northeasterly most corner of said Tract 38 for a distance of 634.44 feet to a point for a corner at the Southwesterly most corner of Tract 5, a 50.077 acre tract of land owned by Lloyd Acker Family, LTD;

THENCE N0°41'34"W, along the West line of said Tract 5 for a distance of 1309.20 feet to a point for a corner at the Northwesterly most corner of said Tract 5;

THENCE N89°49'18"E, along the North line of said Tract 5 for a distance of 1931.15 feet to a point for a corner at the Northeasterly most corner of said Tract 5;

THENCE N0°39'30"W, along the West line of Tract 2, a 24.378 acre tract of land as owned by Carl Glaze, Et Ux for a distance of 101.56 feet to a point for a corner at the Northwesterly most corner of said Tract 2;

THENCE N89°20'30"E, along the North line of said Tract 2, the North line of Tract 1-01, an 18.498 acre tract of land owned by Carl Glaze, Et Ux and the North line of Tract 2-1, an 18.830 acre tract of land owned by Beth & Randy Talley for a distance of 1992.11 feet to a point for a corner at the Southwesterly most corner of Tract 7, a 91.10 acre tract of land owned by Jack H. & Elizabeth Hittson, said point also being in the East line of Old Millwood Road;

THENCE N04°50'24"E, along the said East line of Old Millwood and following along the West line of said Tract 7 for a distance of 2000.50 feet to a point for a corner at the Northwesterly most corner of said Tract 7 said point also being in the County Line of Rockwall County and Collin County;

THENCE East, along the said County Line and the North line of said Tract 7 for a distance of 1775.29 feet to a point for a corner at the Northeasterly most corner of said Tract 7; THENCE S0°10'35"W, along the East line of said Tract 7 for a distance of 1000.00 feet to a point for a corner;

THENCE West, departing the said East line of Tract 7 for a distance of 1000.00 feet to a point for a corner;

THENCE N0°10'35"E, for a distance of 995.00 feet to a point for a corner;

THENCE West, along a line that is 5.0 feet South of and parallel to the said County Line and the said North line of Tract 7 for a distance of 770.62 feet to a point for a corner;

THENCE S04°50'24"W, along a line that is 5.0 feet from and parallel to the said East line of Old Millwood for a distance of 2000.29 feet to a point for a corner;

THENCE S89°20'30"W along a line that is 5.0 feet South of and parallel to the said North line of Tract 2-1, Tract 1-01, and Tract 2 for a distance of 1991.65 feet to a point for a corner;

THENCE S0°39'30"E for a distance of 101.60 feet to a point for a corner;

THENCE S89°49'18"W, for a distance of 1926.15 feet to a point for a corner;

THENCE S0°41'34"E, along a line that is 5.0 feet from and running parallel to the said West line of Tract 5 for a distance of 1309.10 feet to a point for a corner;

THENCE S88°40'06"W, along a line that is 5.0 feet from and running parallel to the said North line of Tract 38 and 38-1 for a distance of 634.42 feet to a point for a corner;

THENCE S0°55'01"E, along a line that is 5.0 feet from and running parallel to the said West line of Tract 38 and Tract 3-1 for a distance of 1295.21 feet to a point for a corner;

THENCE N87°16'30"E, along a line that is 5.0 feet from and running parallel to the said South line of Tract 3-1 for a distance of 314.0 feet to a point for a corner;

THENCE S0°00'32"E, for a distance of 5.01 feet to the Point of Beginning and containing 24.147 acres (1,051,843 square feet) of land more or less.

Exhibit B to Annexation Petition

AMENDED SERVICE PLAN FOR ANNEXED AREA

Annexation Case No. A2005-001

City and County of Rockwall, Texas

ACREAGE ANNEXED:

Tract C = 24.649 acres

SURVEY ABSTRACT AND COUNTY:

Tract C

BEING a 24.649 acre tract of land situated in the J. Strickland Survey, Abstract No. 187, the J. Smith Survey, Abstract No. 191, the M. Simmons Survey, Abstract No. 194, the M. Simmons Survey, Abstract 197, and the J.E. Sherwood Survey, Abstract No. 206 in the County of Rockwall, Texas and being more particularly described by metes and bounds as attached:

DATE OF ADOPTION OF ANNEXATION ORDINANCE:

_____, 2005
(month, day, year)

Municipal services to the acreage described above shall be furnished by or on behalf of the City of Rockwall, Texas, however due to the limitations of serving the narrow strip annexation area and that the strip area is not considered a viable economic unit, any portion of that area will not receive City services at this time, including ordinance and code enforcement; the remaining area of annexation (1,000 foot block) will receive the following levels of service and in accordance with the following schedule:

A. Police Services:

1. Patrolling, responses to calls, and other routine police services will be provided on the effective date of annexation.
2. As development and construction commence within this area, sufficient police personnel and equipment will be provided to continue to furnish this area the level of police services consistent with police services available in other parts of the City with land uses and population densities similar to those projected in the annexed area.

B. Fire Services

1. Fire protection by the present personnel and the present equipment of the fire Department will be provided to this area on the effective date of annexation.

2. As development and construction commences within this area, sufficient fire personnel and equipment will be provided to continue to furnish this area the level of fire services consistent with fire service available in other parts of the City with land uses and population densities similar to those projected in the annexed area.

C. Health and Code Compliance Services

1. Enforcement of the City's health ordinances and regulations including, but not limited to, weed and brush ordinances, junked and abandoned vehicle ordinances, food handlers ordinances and animal control ordinances, shall be provided within this area on the effective date of the annexation ordinance. These ordinances and regulations will be enforced through the use of existing personnel.

Complaints of ordinance or regulation violations within this area will be responded and investigated by existing personnel beginning with the effective date of the annexation ordinance on a call in basis only until the remainder of the tract is annexed.

2. The City's building, plumbing, electrical, gas heating, air conditioning and all other construction codes will be enforced within this area beginning with the effective date of the annexation ordinance. Existing personnel will be used to provide these services.
3. The City's zoning, subdivision, and other ordinances shall be enforced in this area beginning on the effective date of the annexation ordinance.
4. All inspection services furnished by the City of Rockwall, but not mentioned above, will be provided to this area beginning on the effective date of the annexation ordinance. Any property owner or his/her assigns who in good faith has a new building or structure, as defined in the Comprehensive Zoning Ordinance, under construction on the effective date of annexation shall be exempted from these inspections for that building or structure under construction for a period of one year from the effective date of annexation. For the purpose of this ordinance "under construction" shall mean any work that requires a building permit from the City of Rockwall.
5. As development and construction commence within this area, sufficient personnel will be provided to continue to furnish this area the same level of Health and Code compliance services as are furnished throughout the City.

D. Planning and Zoning Services

1. The planning and zoning jurisdiction of the City will extend to this area on the effective date of the annexation ordinance. City planning will thereafter encompass this property, and it shall be entitled to consideration

for zoning in accordance with the City's Comprehensive Plan, Zoning Ordinance, Landscape Ordinance and Code of Ordinances.

E. Recreation and Leisure Services

1. Residents of this property may utilize all existing recreational and leisure services facilities and sites throughout the City beginning with the effective date of the annexation ordinance.
2. Existing parks, playgrounds, swimming pools and other recreation and leisure facilities within this property shall, upon dedication to and acceptance by the City, be maintained and operated by the City of Rockwall.

F. Solid Waste Collection

1. Solid waste collection shall be provided to the property owner in accordance with existing City policies as to frequency and charges, beginning on the effective date of annexation except for properties that are served by a privately owned solid waste management service provider. Such properties will be allowed to continue private service for a period of two years from the effective date of annexation at which time the property will be required to begin service with a franchised solid waste contractor within the City of Rockwall.

G. Streets

1. The City of Rockwall's existing policies with regard to street maintenance, applicable throughout the entire City, shall apply to this property beginning within 60 days of the effective date of the annexation ordinance.
2. As development, improvements or construction of streets to the City standards commence within this property, the policies of the City of Rockwall with regard to impact fees and participation in the cost thereof, acceptance upon completion, and maintenance after completion, shall apply.
3. The same level of maintenance shall be provided to streets within this property that have been accepted by the City of Rockwall as is provided to like City streets throughout the City.

H. Water Services

1. Mutual agreements between the City of Rockwall and the current property owners within the area of annexation have suspended the requirements for water service to the affected area.

I. Sanitary Sewer Services

1. Mutual agreements between the City of Rockwall and the current property owners within the area of annexation have suspended the requirements for sewer service to the affected area.

J. Public Utilities

1. Other public utilities will be provided by the City's franchisee or a provider holding a certificate of convenience issued by the state to serve that area.

K. Miscellaneous

1. General municipal administration services of the City shall be available to the annexed area beginning with the effective date of the annexation ordinance.

L. Duration

1. This Service Plan will remain in effect for the term of the Development Agreement between Owners and the City entered into contemporaneously with the filing to this Annexation Petition pursuant to which the Annexed Property is being annexed.

The originally signed Annexation Petition was given to Michael Hampton on 2/23/05 for Planning & Zoning Department files.