

Rockwall County
Shelli Miller
Rockwall County Clerk
Rockwall, Texas 75087 (972) 204-6300



70 2011 00445926

Instrument Number: 2011-00445926

Recorded On: February 10, 2011

As
Recordings

Parties: CITY OF ROCKWALL

To WHITE TIMOTHY E

Billable Pages: 10

Number of Pages: 10

Comment: AGREEMENT

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Recordings	48.00
Total Recording:	48.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

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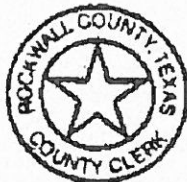
Record and Return To:

CITY OF ROCKWALL

385 S GOLIAD

ATTN KIM

Rockwall TX 75087



I hereby certify that this instrument was filed on the date and time stamped hereon and was duly recorded in the Volume and Page of the named records in Rockwall County, Texas

Any provision herein which restricts the sale, rental or use of the described Real Estate because of color or race is invalid and unenforceable under Federal law.

Shelli Miller
Shelli Miller
Rockwall County Clerk

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48

CHAPTER 212 TEXAS LOCAL GOVERNMENT CODE
DEVELOPMENT AGREEMENT

This Agreement is entered into pursuant to Section 212.172 Tex. Local Gov't Code by and between the City of Rockwall, Texas (the "City") and TIMOTHY E WHITE, the property owners of the hereinafter described property (the "Property") in Rockwall County, Texas, sometimes individually or collectively referred to as "Party" or "Parties":

That property described in a deed to TIMOTHY E WHITE which is recorded at Vol. _____ Page _____ of the Deed Records of Rockwall County, Texas, and commonly known as **Tax Parcel No. 0073-0000-0008-00-0R**, which is attached hereto as Exhibit A, consisting of approximately **2.77 acres of land**.

WHEREAS, Owners represent that the Property is within the City's existing extraterritorial jurisdiction, and to the extent that a portion of the Property lies outside the City's extraterritorial jurisdiction, Owners have voluntarily petitioned for inclusion of such land within the City's ETJ; and

WHEREAS, the City has initiated annexation proceedings for the Property in accordance with Tex. Loc. Gov't Code ch. 43; and

WHEREAS, Owners desire that the Property remain in the City's extraterritorial jurisdiction ("ETJ") for the term of this Agreement;

WHEREAS, Owners and the City acknowledge that this Agreement between them is binding upon the City and the Owners and their respective successors and assigns for the term of the Agreement;

WHEREAS, the Rockwall County Appraisal District records show that the Property currently is appraised for ad valorem tax purposes as land for agriculture use pursuant to Tex. Tax Code chapter 23.C; and

WHEREAS, OWNERS represent that it is their intention not to develop the Property during the term of this Agreement; and

WHEREAS, Tex. Loc. Gov't Code section 43.035 authorizes a property owner and a municipality to enter into an agreement pursuant to Tex. Loc. Gov't Code section 212.172 for purposes of retaining land in the municipality's ETJ in exchange for the property owner's covenant not to develop the property and to authorize the municipality to apply development regulations not inconsistent with agricultural use; and

WHEREAS, the Parties are desirous of entering into an agreement authorized under Tex. Loc. Gov't Code section 43.035; and

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

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

Section 1. Continuation of ETJ Status. The City guarantees the continuation of the extraterritorial status of the Property and agrees not to annex the Property for the term of this Agreement, as hereinafter defined, and any subsequent renewals as may be agreed upon by the Parties, subject, however, to the provisions of this Agreement.

Section 2. Development Plan. The Owners covenant and agree that use of the Property for the term of this Agreement and any extensions agreed to by the Parties shall be limited to farm-related and ranch-related uses and customary accessory uses, and single-family detached farm or ranch dwellings, provided that no single-family dwelling may be located or constructed on a lot smaller than five (5) acres, **and the continued use of a single existing structure as a fireworks sales business, at its current location, which shall be exempt from the City of Rockwall Code of Ordinances which specifically prohibits the sale of fireworks within five thousand (5,000) feet of the city limits boundary, provided that such business shall cease upon the termination of this Agreement with the inclusion of the property into the City of Rockwall.** The property owner may apply to the City for division of the land subject to this Agreement into parcels each of which is at least five (5) acres in size for the purposes set forth herein without being in violation of this Agreement. Such uses and activities constitute the development plan for the Property in satisfaction of Tex. Loc. Gov't Code section 212.172(b).

Section 3. Governing Regulations

(A) The following Rockwall regulations shall apply to any development of the Property, as may be amended from time to time, provided that the application of such regulations does not result in interference with the use of the land for agricultural purposes and does not prevent the continuation of a use established prior to the effective date of this Agreement and which remains lawful at the time the Agreement is executed:

- (1) The Rockwall Unified Development Code Ordinance, Ord. No. 04-38, as amended; for purposes of evaluating any proposed development of the Property under the Unified Development Code, the regulations of the lowest intensity single-family residential district shall be used.
- (2) The Subdivision Regulations, Chapter 24 of the Code of Ordinances and as amended, together with Standards of Design and Construction, City of Rockwall Texas, as supplemented by the North Central Texas Council of Governments Standard Specifications for Public Works Construction, North Central Texas, 3rd Ed. 1998 (NCTCOG Manual).
- (3) The Building Codes, Ord. No. 08-03, adopting:
 - a. International Building Code, 2006 Edition with regional amendments;

- b. International residential Code, 2006 Edition with regional amendments;
- c. The International Fire Code, 2006 Edition with regional amendments;
- d. International Plumbing Code, 2006 Edition with regional amendments;
- e. International Fuel Gas Code, 2006 Edition with regional amendments;
- f. Rockwall Code of Ordinances, Property Maintenance Code, with amendments;
- g. International Private Sewage Disposal Code, 2006 Edition with regional amendments;
- h. Uniform Swimming Pool Code, 2006 Edition with regional amendments; and
- i. International Energy Conservation Code, 2006 Edition with regional amendments.
- j. National Electric Code, 2005 Edition with regional amendments.
- k. Rockwall Code of Ordinances, Fences, with amendments;
- l. Rockwall Code of Ordinances, Dangerous Buildings, with amendments;
- m. Rockwall Code of Ordinances, Moving of Buildings, with amendments.

(4) The Sign Regulations, Section 1 (C); Section II, Section III (B) (2); (Ordinance 84-45).

(B) If, pursuant to this Agreement or following termination of the Agreement, portions of the Property are annexed to the City, the Parties further covenant and agree that the use and development of such land thereupon shall be subject to the regulations of the lowest intensity single-family residential district and the subdivision regulations then in effect. In the event any portion of the Property following annexation is rezoned consistent with the City's approved Comprehensive Plan, as may be amended from time to time, the use and development of such land shall be governed by the regulations of the zoning district to which the land is reclassified and the subdivision regulations in effect at the time of approval of such rezoning.

Section 4. Agreement Deemed Void in Part: Voluntary Annexation.

(A) If an Owner files any application for or otherwise commences development of any portion of the Property inconsistent with the development plan provided in Section 2, sections 1 and 3 of this Agreement shall become null and void, except as herein expressly provided for.

(B) Thereafter the City may initiate annexation of the Property pursuant to Tex. Loc. Gov't Code subchapter C-1, or other such other provisions governing voluntary annexation of land as may then exist. Owners expressly and irrevocably consent to annexation of the Property under such circumstances. The Owners further agree that such annexation by the City shall be deemed voluntary, and not subject to the requirements and procedures for an annexation plan, as required by Tex. Loc. Gov't Code section 43.052, or successor statute.

(C) Any development application that is submitted to the City for the Property during the term of this Agreement or during any extension, that is inconsistent with the development plan and governing regulations, shall be denied based upon such plan and governing regulations, which collectively shall constitute regulations in effect at the time such application is submitted. The Owners expressly waive any vested rights that might otherwise arise under Tex. Loc. Gov't Code section 43.002 or Chapter 245, or successor statute, from the submittal of such inconsistent development application. The Owners further agree that no use commenced or completed on the Property that is inconsistent with the development plan shall be considered established or in existence prior to the date that the City annexes the Property pursuant to this section.

(D) If the City's right to annex, as of the date of this Agreement, is in any way diminished by a subsequent act by the Legislature of the State of Texas during the one year period or any additional period, that this Agreement is in effect, then such act shall be considered as a voluntary petition to annex.

Section 5. Notice of Sale. Any person who sells or conveys any portion of the Property shall, prior to such sale or conveyance, give 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
City Hall
305 S. Goliad Street
Rockwall, Texas 75087
Attn: City Manager

Section 6. Recording. This Agreement is to run with the Property and be recorded in the real property records, Rockwall County, Texas.

Section 7. Severability. 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. It is the intent of the parties that, should it be determined that any portion of the Property was outside of the City's then existing ETJ at the time this Agreement took effect, the provisions of this Agreement shall apply to the remainder of the Property located within the City's extraterritorial jurisdiction.

Section 8. Remedies. This Agreement may be enforced by either Owners or 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. Entry into this Agreement by Owners waive no rights as to matters not addressed in this Agreement.

Section 9. Change in Law. 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 pursuant to Section 3.

Section 10. Venue. Venue for this Agreement shall be in Rockwall County, Texas.

Section 11. Execution in Multiple Copies. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 12. Term and Extension. The initial term of this Agreement shall be for a period of seven (7) years from the Effective Date (the "Term"). The Effective Date of the Agreement shall be the date the Agreement is executed by the City. Within 180 days prior to end of the Term of the Agreement, the City shall notify the Owners in writing that the Agreement is due to expire. If Owners desire to extend the operation of this Agreement beyond its Term, the Owners, at least 150 days prior to the end of the Term, shall submit a written request to the City for such an extension (an "Extension Request"). The City, at least 90 days prior to the end of the Term shall notify Owners in writing, delivered by certified mail, with respect to its decision whether to extend this Agreement for an additional seven (7) year term (referred to as a "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 Term such Extension Request is deemed granted and this Agreement continues for another Subsequent Term.

Section 13. Termination. If the Owners do not provide an Extension Request pursuant to Section 12, or upon a written decision by the City not to extend the term of this Agreement for a Subsequent Term following the Term, then Owners shall be deemed to have filed a petition for voluntary annexation as of the end of the Term of this Agreement. If Owners submitted an Extension Request, then a notice pursuant to Section 13 by the City that it has decided not to extend the Term of this Agreement shall also include a notification whether it intends, subject to the procedures required by law, to accept the petition for voluntary annexation. If Owners did not submit an Extension request then the City, at least 90 days prior to the end of the Initial Term, shall provide a written notification to Owners, by certified mail, whether it intends, subject to the procedures required by law, to accept the petition for voluntary annexation. Any annexation proceedings pursuant to this section shall be commenced within 180 days after the end of the Term.

Section 14. Negotiations. Upon termination of this Agreement and the decision by the City to accept the petition for voluntary annexation by the Owners, as provided in

Section 12 or Section 13, then Owners and the City will enter into good faith negotiations regarding the service plan to be implemented, provided that, unless the parties agree otherwise, the service plan for such land shall conform to, and be implemented in accordance with the City's then existing adopted comprehensive and utility master plans. Upon annexation the zoning shall initially be for the lowest intensity residential district, until an appropriate change in zoning is made pursuant to Chapter 211, Tex. Local Govt. Code or successor statute. In connection with annexation pursuant to this section, the Owners hereby waive any and all vested rights and claims that they may have under Section 43.002(a)(2) and Chapter 245 Texas Local Government Code that would otherwise exist by virtue of any actions Owners may take between the termination of this Agreement and the completion of annexation proceedings by the City. Unless the City declines to annex the land on the petition of the property owners, the development plan and governing regulations shall apply to any proposed development application prior to completion of annexation proceedings and the adoption of permanent zoning regulations for the Property, and the development plan and governing regulations shall be kept in effect for such purposes.

Section 15. Survival of Covenants. The covenants in Sections 2, 4, 14, and 15 shall survive termination of this Agreement, together with any other provisions, as may be necessary for the implementation of those sections.

The Parties hereto have executed this agreement as of November 29, 2010.

Owners:

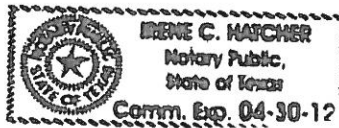
Timothy E. White

THE STATE OF TEXAS }

COUNTY OF }

This instrument was acknowledged before me on the 29th day of November 2010.

Irene C. Hatcher
Notary Public, State of Texas



THE STATE OF TEXAS }

COUNTY OF }

This instrument was acknowledged before me on the _____ day of _____, 2010.

Notary Public, State of Texas

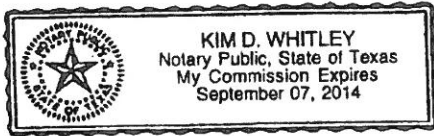
The City of Rockwall, Texas

By: [Signature]

THE STATE OF TEXAS }

COUNTY OF _____ }

This instrument was acknowledged before me on the 8th day of December 2010.



[Signature]

Exhibit "A" to Development Agreement

RCAD ACCT NO: 0073-0000-0008-00-0R

LEGAL DESCRIPTION: A0073 R DICKENS, TRACT 8, ACRES 2.77

OWNER: TIMOTHY E WHITE

Inst # 00445926

Filed for Record in: Rockwall County
On: Feb 10, 2011 at 08:32A