

STATE OF TEXAS
COUNTY OF AUSTIN

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**CHAPTER 43 TEXAS LOCAL GOVERNMENT CODE
DEVELOPMENT AGREEMENT**

This Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code by and between the City of Sealy, Texas, a municipal corporation acting by and through its duly authorized City Manager (the "City") and the undersigned property owner(s) (the "Owner"). The term "Owner" includes all owners of the Property. By the signatures below, Owner warrants and represents that there are no other owners of any portion of the Property and no other third-parties holding an interest therein.

WHEREAS, the Owner owns a parcel of real property (the "Property") located entirely in Austin County, Texas, which is more particularly and separately described in the attached Exhibit "A". Property is located in the City's extraterritorial jurisdiction, but not within its corporate limits; and

WHEREAS, the Owner desires to have the Property remain in the City's extraterritorial jurisdiction, in consideration for which the Owner agrees to enter into this Agreement; and

WHEREAS, this Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code, in order to address the desires of the Owner and the procedures of the City; and

WHEREAS, the Owner acknowledges that this Agreement runs with the land and is binding upon the City and the Owner and their respective successors and assigns for the term as defined below of this Agreement; and

WHEREAS, this Development Agreement is to be recorded in the Real Property Records of Austin County, Texas.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the City and Owner hereto agree as follows:

Section 1. The City guarantees the continuation of the extraterritorial status of the Owner's 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. Except as provided in this Agreement, the City agrees not to annex the Property, agrees not to involuntarily institute proceedings to annex the Property, and further agrees not to include the Property in a statutory annexation plan for the term of this Agreement.

Section 2. The Owner covenants and agrees not to use the property for any use other than for agriculture, wildlife management, and/or timber management consistent with Chapter 23 of the Texas Tax Code, except for any now-existing single-family residential use of the property, without the prior written consent of the City.

The Owner covenants and agrees that the Owner will not file any type of subdivision plat or related development document for the Property with Austin County or the City until the Property has been annexed into the City.

During the duration of this Agreement, the Owner covenants and agrees not to construct, or allow to be constructed, any buildings on the Property that would require a building permit if the Property were in the City limits, subject to the exceptions set forth herein. The Owner reserves the

right to construct, repair, or renovate buildings currently on the Property that are consistent with its agricultural use without obtaining a building permit or triggering annexation.

The Owner acknowledges that each and every Owner of the Property must sign this Agreement in order for the Agreement to take full effect, and the Owners who sign this Agreement covenants and agrees, jointly and severably, to indemnify, hold harmless, and defend the City against any and all legal claims, by any person claiming an ownership interest in the Property who has not signed the Agreement, arising in any way from the City's reliance on this Agreement.

Section 3. The Owner acknowledges that if any plat or related development document is filed in violation of this Agreement, and/or if the Owner commences development of the Property in violation of this Agreement, and/or if the use of the property is for any use other than for agriculture, wildlife management, and/or timber management, then in addition to the City's other remedies, such act will constitute a petition for voluntary annexation by the Owner, and the Property will be subject to annexation at the discretion of the City Council. The Owner agrees that such annexation shall be voluntary and the Owner hereby consents to such annexation as though a petition for such annexation had been tendered by the Owner.

If annexation proceedings begin pursuant to this Section, the Owner acknowledges that this Agreement serves as an exception to Local Government Code Section 43.052, requiring a municipality to use certain statutory procedures, including notices and hearings under an annexation plan. Furthermore, the Owner hereby waives any and all vested rights and claims that they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any actions Owner has taken in violation of Section 2 herein.

Section 4. Pursuant to Sections 43.035(b)(1)(B) of the Texas Local Government Code, the City is authorized to enforce all of the City's regulations and planning authority that do not interfere with the use of the area for agriculture, wildlife management, or timber. The City states and specifically reserves its authority pursuant to Chapter 251 of the Texas Local Government Code to exercise eminent domain over property that is subject to a Chapter 43 and/or Chapter 212 development agreement.

Section 5. In accordance with Texas Local Government Code 212.172(d), the initial term of this Agreement (the "Initial Term") is ten (10) years from the date that the City Manager's signature to this Agreement is acknowledged by a public notary; the total duration of this Agreement and any successive renewals or extensions may not exceed forty-five (45) years. Unless each party agrees to a subsequent term, the City will commence the annexation of the Property at the end of the Initial Term. In connection with annexation pursuant to this Section, the Owners hereby waive any vested rights they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any plat or construction any of the Owners may initiate during the time between the expiration of this Agreement and the institution of annexation proceedings by the City.

Section 6. Any person who sells or conveys any portion of the Property shall, prior to such sale or conveyance, give written notice of this Agreement to the prospective purchaser or grantee, and shall give written notice of the sale or conveyance to the City. Furthermore, the Owners and the Owners' heirs, successors, and assigns shall give the City written notice within fourteen (14) days of any change in the agricultural exemption status of the Property. A copy of either notice required by this Section shall be forwarded to the City at the following address:

City of Sealy
Attn: City Manager
P.O. Box 517
Sealy, Texas 77474

Section 7. This Agreement shall run with the Property and be recorded in the Real Property Records of Austin County, Texas.

Section 8. If a court of competent jurisdiction determines that any provision or covenant of this Agreement is void or unenforceable, including the provisions or covenants regarding involuntary annexation, then the remainder of this Agreement shall remain in full force and effect.

Section 9. This Agreement may be enforced by any Owner 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.

Section 10. 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 the terms of this Agreement.

Section 11. Venue for this Agreement shall be in Austin County, Texas.

Section 12. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 13. This Agreement shall survive its termination to the extent necessary for the implementation of the provisions of Sections 3, 4, and 5 herein.

In witness whereof, the above and foregoing provisions are hereby agreed to, and accepted and approved by the parties.

"OWNER"

By: [Signature]

Printed: James Creekmore

Date: 5-10-2017

THE STATE OF TEXAS §

COUNTY OF AUSTIN §

This instrument was acknowledged before me on the 10 day of May 2017, by James Creekmore, being known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

[Signature]

Notary Public, State of Texas



~~OWNER~~

~~By: _____
Printed: _____
Date: _____~~

THE STATE OF TEXAS §
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This instrument was acknowledged before me on the _____ day of _____ 2017, by _____ being known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

~~Notary Public, State of Texas~~

(NOTARY SEAL)

"CITY"
City of Sealy, Texas

By: *Lloyd Merrell*
Printed: ~~Larry Kuciemba~~ Lloyd Merrell
Title: City Manager
Date: 3/19/18

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This instrument was acknowledged before me on the 19 day of March 2018 by Larry Kuciemba, as City Manager of the City of Sealy, Texas, 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 and consideration therein expressed.

Brooke Christopherson
Notary Public, State of Texas



Instrument # 181066
3/21/2018 9:26 am

STATE OF TEXAS COUNTY OF AUSTIN
I certify that this instrument was filed on the
date and time stamped by me and was recorded in the
Official Public Records of Austin County, Texas.

Carrie Greaser, County Clerk
Austin County, Texas

By: 