



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**CITY OF FATE, TEXAS
RESOLUTION NO. R-1445**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FATE, TEXAS, APPROVING A CHAPTER 43 TEXAS LOCAL GOVERNMENT CODE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FATE, TEXAS AND THE PEGGY V. ROWAN LIFE ESTATE, CHARLES MASK, REBECCA TOMMEY AND ANDREW MASK, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about May 5, 2017, The Peggy V. Rowan Life Estate, Charles Mask, Rebecca Tommey and Andrew Mask or their authorized representatives, the owners of an area of land described herein below (the "Property") executed a Chapter 43 Texas Local Government Code Development Agreement (the "Agreement") with the City of Fate, Texas (the "City"); and

WHEREAS, the City Council of the City ("City Council") has found and determined that the Agreement is appropriate and that it is in the best interest of the City, to grant the Agreement.

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

SECTION 1. The recitals and findings set forth above are true and correct and are incorporated into the body of this resolution as if fully set forth herein.

SECTION 2. The Agreement provides that as long as no development occurs, the following described the property will remain in the City's extraterritorial jurisdiction and will not be annexed into the city limits:

RCAD IDs 12203 and 11315 generally located south of I-30, west of FM 548, east of Blackland Road and north of Linda Lane; and being an approximate 144 acre tract of land situated in the J S Price Survey, Abstract 179, Tract 6 and in the Johnson Survey, Abstract 129, Tract 5, Rockwall County, Texas, and being more particularly described and depicted in Exhibit "A" and Exhibit "B" of the Agreement attached hereto and made a part hereof.

SECTION 3. The City Manager is authorized to execute the Agreement attached hereto as Exhibit A.

SECTION 4. The City Council hereby finds, determines and declares that the meeting, at which this resolution is passed, approved and adopted, was open to the public, and that the public notice of time, place and subject matter to be considered was posted as required by law.

SECTION 5. That this Resolution shall be effective from and after the date of passage as provided by law.

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**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FATE,
TEXAS, this 15th day of May, 2017.**



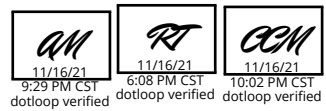
Lorne Megyesi
Lorne Megyesi, Mayor

ATTEST:

Vickey Raduechel
Vickey Raduechel, City Secretary

APPROVED AS TO FORM:

Brenda N. McDonald
Brenda N. McDonald, City Attorney



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NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**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 Fate, Texas (the "City") and The Peggy V. Rowan Life Estate, Charles Mask, Rebecca Toomey and Andrew Mask (the "Owner"). The term "Owner" includes all owners of the Property.

WHEREAS, the Owner owns a parcel of real property (the "Property") in Rockwall County, Texas, that is located in the City of Fate's extraterritorial jurisdiction, identified as RCAD IDs 12203 and 11315 generally located south of I-30, west of FM 548, east of Blackland Road and north of Linda Lane; and being an approximate 144 acre tract of land situated in the J S Price Survey, Abstract 179, Tract 6 and in the Johnson Survey, Abstract 129, Tract 5, Rockwall County, Texas, more particularly described in the attached Exhibit "A" and depicted in Exhibit "B"; and

WHEREAS, the City intends to begin the process to institute annexation proceedings on all or portions of Owner's Property in the near future; 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

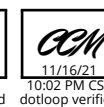
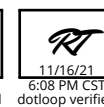
WHEREAS, this Agreement is entered into pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code, in order to address the desires of the Owner and the procedures of the City; and

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

WHEREAS, this Development 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. The City guarantees the continuation of the extraterritorial status of the Owner's Property, its immunity from annexation by the City, and will not be subject to 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. For the term of this Agreement, the Owner covenants and agrees not to use the Property for any use other than for agriculture, wildlife management, and/or timber land consistent with Chapter 23 of the Texas Tax Code, except for any existing single-family residential use of the property, without the prior written authority of the City Council.

For the term of this Agreement, the Owner covenants and agrees that the Owner will not file any type of subdivision plat or related development document for the Property, which includes but is not limited to seeking to create or expand or be annexed by any special district (including but not limited to a Municipal Utility District, Fresh Water Supply District, Water Control and Improvement District, Municipal Management District, Public Improvement District, or any similar special district) within any part of the Property within the City's extraterritorial jurisdiction ("ETJ") including by seeking to file, or filing any legislation or application with the Texas Commission on Environmental Quality ("TCEQ") to create any such special district (a "Development Document"), until after the Property has been annexed into, and zoned by, the City.

The Owner may, with approval by the City, construct or allow to be constructed, any buildings or structures that are associated with agriculture, wildlife management, and/or timber land use of the Property. For the term of this Agreement, the Owner covenants and agrees not to construct, or allow to be constructed, any building or structures on the Property that are not related to agriculture, wildlife management, or timber land use until the Property has been annexed into, and zoned by, the City. For the term of this Agreement, the Owner also covenants and agrees that the City's A - Agricultural Zoning District requirements apply to the Property and that the Property shall be used only for A - Agricultural Zoning District uses that exist on that Property at the time of the execution of this Agreement, unless otherwise provided in this Agreement. However, the Owner may construct an accessory structure to an existing single family dwelling if it does not change the use of the property and if it is in compliance with all applicable City ordinances and codes.

The Owner represents, certifies and warrants that the individual(s) executing this Development Agreement on behalf of the Owner is duly authorized and has full authority to execute this Development Agreement and bind Owner to same.

Section 3. The Owner acknowledges and stipulates that if any Development Document is filed in violation of this Agreement, or if the Owner commences any development of the Property in violation of this Agreement, such act will constitute an irrevocable petition requesting voluntary annexation by the Owner, and the Property will be subject to annexation at the discretion of the City Council. The Owner agrees and stipulates that such annexation shall be voluntary and the Owner hereby consents to such annexation as though a petition requesting such annexation had been tendered by the Owner to the City.

At such time as Owner develops the Property, such development shall comply with all subdivision regulations and national codes adopted by the City in effect at the time of development.

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 Property for agriculture, wildlife management, or timber.

Section 5. The term of this Agreement (the "Term") is ten (10) years from the date that the City Manager's signature to this Agreement is acknowledged by a public notary, with successive five (5)-year terms with written authorization by the City exercised in its sole discretion, not to exceed a total term of forty five (45) years.



The Owner, and all of the Owner's heirs, successors and assigns shall be deemed to have filed a petition for voluntary annexation before the end of the Term, for annexation of the Property to be completed on or after the end of the Term and the City may commence the voluntary annexation of the Property prior to the end of the Term.

Section 6. Any person who sells or conveys any portion of the Property shall, no later than 14 days 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 Owner and the Owner's heirs, successor, and assigns shall give the City written notice within 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 Fate
Attn: City Manager
P.O. Box 159
Fate, Texas 75132

With a copy to:
Brenda McDonald
Messer, Rockefeller & Fort, PLLC
6371 Preston Rd., Suite 200
Frisco, Texas 75034

Section 7. A certified copy of this Agreement shall be recorded in the real property records of Rockwall County, Texas, and this Agreement shall constitute a covenant that runs with the Property.

Section 8. If a court of competent jurisdiction determines that any covenant of this Agreement is void or unenforceable, including the covenants regarding involuntary annexation, then the remainder of this Agreement shall remain in full force and effect. In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall be enforceable and shall be enforced as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

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. Notwithstanding the preceding terms of this section, the City does not waive immunity from suit.

Section 10. Authorized Representative. Each signatory on behalf of a party to this Agreement represents and warrants that he or she is a duly authorized representative of that party, with full power and authority to agree to this Agreement and all the terms herein on behalf of that party, which party shall be bound by such signature. In addition, Owner represents that it is in fact the owner of the Property.

Section 11. 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 12. The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall only be in Rockwall County, Texas.

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Section 13. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 14. This Agreement shall survive its termination to the extent necessary for the implementation of the provisions of Sections 2, 3, and 4 herein.

Section 15. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements between the parties and relating to the matters in this Agreement and, except as otherwise provided herein, cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

Section 16. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.

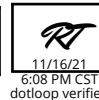
Section 17. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 18. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

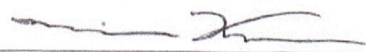
Section 19. City represents, certifies and warrants that execution of this Agreement by the City has been duly authorized.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement as of the effective date of May 5, 2017.

[The remainder of this page is left blank intentionally]



CITY OF FATE, TEXAS:

BY: 
Michael Kovacs, City Manager

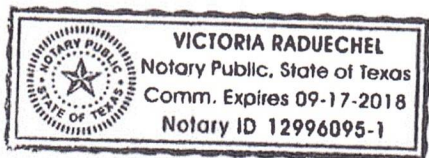
CITY'S ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF ROCKWALL §

This instrument was acknowledged before me on the 19 day of May, 2017, by **Michael Kovacs, City Manager** of the **City of Fate, Texas**, on behalf of the **City of Fate, Texas**.

Victoria Raduechel
Notary Public in and for the State of Texas

My commission expires: 09-17-2018



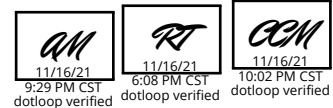


EXHIBIT "A"

All that certain lot, tract or parcel of land situated in Rockwall County, Texas, and in the R.E. Johnson and the J. S. Price Surveys, about 7 1/4 miles S 81° E. from the town of Rockwall. This tract is the South one-half of a 292 acre (deeded as 308 acres) tract conveyed by L.M. Harvey and wife to C. L. Jones in 1889, Recorded in Vol. 6, pages 548-550 Deed Records of Rockwall County.

BEGINNING at the N. E. Corner of the J. Merriman Survey it being an inside or ell corner of said Johnson Survey, and in the middle of the Royse and Chisholm highway:

THENCE N 89° 3/4 W with private road and survey line 1082 feet to corner.

THENCE N 1/8° W with old fence line 1060 feet to old corner;

THENCE N 89° 30' W with old line 1643 feet to corner of fence:

THENCE N 8° 40' E with old line at 1881 ft. pass corner post at end of fence at 2026 feet in all to corner:

THENCE East 2435 feet to corner in middle of public road;

THENCE S 1/2° W with middle of road at 317 1/2 feet to angle in road on top of hill:

THENCE S 1° E with middle of road 750 feet to angle in road;

THENCE S 3/4° W with middle of road 2010 feet to the place of beginning, containing 146 acres, of which 104 acres are in the R. E. Johnson Survey, and 42 acres are in the J. S. Price Survey. Surveyed by John S. Mason 7-18-1935.

SAVE AND EXCEPT

All that certain lot, tract or parcel of land situated in the R.E. Johnson Survey, Abstract No. 129, Rockwall County, Texas, and being a part of a 146 acre tract of land described in a Warranty Deed from Peggy Jo Van Cleave Mask, Executrix, to Peggy Jo Mask, and being recorded in Volume 778, Page 74 of the Deed Records of Rockwall County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod found for corner in the West right-of-way line of FM Highway No. 548, at the Northeast corner of a 2.00 acre tract of land described in a Warranty Deed from Peggy Jo Mask and husband, Charles R. Mask to Charles Clifton Mask, and being recorded in Volume 193, Page 13 of the Deed Records of Rockwall County, Texas;

THENCE N. 89 deg. 45' 00" W (reference bearing) along the North boundary line of said 2.00 acre tract a distance of 286.58 feet to a 1/2" iron rod set for corner;

THENCE N. 00 deg. 10' 15" E, a distance of 304.00 feet to a 1/2" iron rod set for corner;

THENCE S. 89 deg. 45' 00" E, a distance of 286.58 feet to a 1/2" iron rod set for corner in the West right-of-way line of FM Highway No. 548;

THENCE S. 00 deg. 16' 15" W, along said right-of-way a distance of 304.00 feet to the point of beginning and containing 2.00 acres of land, more or less.