

NO CONTEST ANNEXATION AGREEMENT

This No Contest Annexation Agreement (“Agreement”) is entered by and between the City of Terrell, Texas (“Terrell” or “City”), and the undersigned property owner(s) (“Owner”), collectively referred to as the “Parties.”

WHEREAS, on February 21, 2023, the City enacted Ordinance No. 2954 (the “Grandfathered Annexation Ordinance”), which Grandfathered Annexation Ordinance authorizes the City Manager to negotiate and enter into agreements, subject to the terms and conditions set forth in the Grandfathered Annexation Ordinance, with owners of properties that the City is authorized to annex without the landowner’s consent by City Resolution Nos. 927 and 928 (hereinafter referred to as “Grandfathered Annexation(s)”); and

WHEREAS, on April 18, 2023, the City amended the Grandfathered Annexation Ordinance through the enactment of Ordinance No. 2962 (the “Amended Grandfathered Annexation Ordinance”), which amendment increased the benefits provided to the owners of land who enter into agreements authorized by the Amended Grandfathered Annexation Ordinance; and

WHEREAS, the Amended Grandfathered Annexation Ordinance authorizes the City Manager to enter into a ten (10)-year agreement (the “No Contest Agreement”), which provides that a landowner, who does not institute or participate in any legal or administrative proceeding or process to challenge or contest Terrell’s Grandfathered Annexation of the landowner’s property during the term of the No Contest Agreement, shall be entitled to a yearly no-contest payment in a sum of money calculated by reference to the City’s annual maintenance and operations ad valorem property taxes paid to the City by the owner of the annexed property (“City Taxes”), with such payment being equal to (a) 100% of the City Taxes paid by such property owner to the City for Years 1 through 6 of the No Contest Agreement, (b) 80% of the City Taxes paid by such property owner to the City for Year 7 of the No Contest Agreement, (c) 60% of the City Taxes paid by such property owner to the City for Year 8 of the No Contest Agreement, (d) 40% of the City Taxes paid by such property owner to the City for Year 9 of the No Contest Agreement, and (e) 20% of the City Taxes paid by such property owner to the City for Year 10 of the No Contest Agreement; and

WHEREAS, Owner owns certain real property (“Property”) in Kaufman County, Texas, which Property is subject to annexation by the City as a Grandfathered Annexation authorized by Resolution Nos. 927 and 928, and which Property is particularly and separately described in the attached **Exhibit A**, which Exhibit is attached hereto and incorporated by reference herein; and

WHEREAS, the Property is contemplated by the City for annexation into Terrell’s corporate limits (the “Annexation Proceeding”); and

WHEREAS, to provide the City with certainty regarding the Annexation Proceeding should the City annex the Property, and pursuant to the authority granted by the Amended Grandfathered Annexation Ordinance, Owner and the City acknowledge that this Agreement between them is binding upon the City and Owner and their respective successors and assigns for

the term of this Agreement, and is entered into to address and compromise potential annexation challenges that Owner might assert to the City's annexation of the Property for the term of this Agreement; and

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

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

Section 1. **No Contest of Annexation.** In the event that the City annexes the Property on or before December 31, 2023, Owner agrees that it will not institute or participate in any legal or administrative proceeding, or any process, that seeks to challenge or contest the Annexation Proceeding, or participate in any efforts that seek to remove the Property from the City's corporate limits (hereinafter collectively referred to as an "**Annexation Challenge**"), at any time during the term of this Agreement. By entering into this Agreement, the Parties agree that Owner does not consent to the annexation of the Property by the City, and nothing in this Agreement shall be construed or interpreted to constitute permission, consent, or waiver by Owner to the City's Grandfathered Annexation of the Property. Rather, this is an Agreement by which Owner agrees not to challenge the Grandfathered Annexation of the Property through an Annexation Challenge for the term of this Agreement, in exchange for the payment of certain sums of money to Owner as set forth below.

Section 2. **Yearly No Contest Payment.** In consideration for Owner's agreement not to assert an Annexation Challenge to the Property for the term of this Agreement, the City agrees to make yearly payments to Owner for the term of this Agreement to be calculated as described below.

A. **Years 1 through 6.** For the first six (6) years of this Agreement, the payment shall be calculated as follows: For every tax year (January 1st through December 31st) in which Owner timely pays City Taxes (which is defined as the City's annual maintenance and operations ad valorem property taxes paid by the annexed landowner to the City) on the Property, the City shall determine the amount of such taxes upon receipt and shall calculate the no-contest payment for that tax year in an amount equal to **100%** of the amount of ad valorem maintenance and operations property taxes actually received by the City for that Property for that tax year.

B. **Year 7.** For the seventh year of this Agreement, the payment shall be calculated in the same manner as set forth in Section 2(A), above, but with the payout to be an amount equal to **80%** of the amount of ad valorem maintenance and operations property taxes actually received by the City for that Property for that tax year.

C. **Year 8.** For the eighth year of this Agreement, the payment shall be calculated as in the same manner as set forth in Section 2(A), above, but with the payout to be an amount equal to **60%** of the amount of ad valorem maintenance and operations property taxes actually received by the City for that Property for that tax year.

D. **Year 9.** For the ninth year of this Agreement, the payment shall be calculated as in the same manner as set forth in Section 2(A), above, but with the payout to be an amount equal to **40%** of the amount of ad valorem maintenance and operations property taxes actually received by the City for that Property for that tax year.

E. **Year 10.** For the tenth year of this Agreement, the payment shall be calculated as in the same manner as set forth in Section 2(A), above, but with the payout to be an amount equal to **20%** of the amount of ad valorem maintenance and operations property taxes actually received by the City for that Property for that tax year.

F. ***Limitation of Payments Due to Property Improvements.*** Notwithstanding any other provisions of this Agreement, any increase in the taxable value of the Property attributable to improvements made to the Property after the date of the annexation of the Property shall not be eligible for reimbursement under this Agreement. In the event that there is an increase in the taxable value of the Property attributable to improvements made to the Property after the date of the annexation of the Property, the City Manager shall, in his sole discretion, determine what portion of the increase in value is attributable to improvements made to the Property after the date of the annexation of the Property (which portion shall not be subject to reimbursement under this Agreement) and shall determine the base-line value of the Property to be used in the City's reimbursement calculations to Owner.

G. ***No Contest of Annexation.*** If Owner, during the term of this Agreement, has not asserted an Annexation Challenge to the Grandfathered Annexation of the Property during the tax year in which an ad valorem maintenance and operations property tax is paid to the City, the City shall, within 90 days of receipt of the tax payment by the City, pay to Owner the calculated no-contest payment amount for that tax year.

H. ***Example Calculations.*** By way of an example only, if property, subject to City Resolution Nos. 927 and 928, is annexed on April 18, 2023, during Year 1 of this Agreement, that property will be placed on the City's certified tax rolls on January 1, 2024. A tax bill will be issued in the Fall of 2024, with the maintenance and operations tax payment being due by January 31, 2025. If the maintenance and operations tax payment amount is \$700 (and no portion of that amount is attributable to improvements made to the Property post-annexation), and the \$700 in taxes is timely paid by the property owner and collected by the City, then the no-contest payment for the 2024 tax year would be \$700. If the property owner has not asserted an Annexation Challenge to the annexation of the property owner's property during 2024, then the City would pay to the property owner a sum of \$700 (*i.e.*, 100% within 90 days of receipt of the tax payment by the City). This process would be repeated for Year 2 of the Agreement provided that the Year 2 taxes (*i.e.*, 2025 taxes due in 2026) are timely paid by the property owner and collected by the City, and the property owner has not asserted an Annexation Challenge to the annexation of the property during Year 2 of this Agreement. Years 3 through 6 would follow the same process with 100% of the taxes paid; with Year 7 being paid at 80% of the taxes paid; Year 8 being paid at 60% of the taxes paid; Year 9 being paid at 40% of the taxes paid; and Year 10 being paid at 20% of the taxes paid.

Section 3. **Term of Agreement.** This Agreement shall become effective upon the date that it is signed and notarized by both Owner and the City. The Yearly No Contest Payments requirements set forth in Section 2 of this Agreement, however, shall not become operable unless and until the Property is annexed by the City. If the Property is annexed by the City on or before December 31, 2023, then the Yearly No Contest Payment requirements set forth in Section 2 of this Agreement shall become operable, and this Agreement will expire after ten (10) years of property tax reimbursement. All no-contest payments that are due and owing at the time of the termination of this Agreement, however, shall survive the termination of the Agreement and the City shall be obligated to pay such payments as though the Agreement remained in full force and effect. In the event that the City does not annex the Property on or before December 31, 2023, then this Agreement shall terminate at 11:59 p.m. on December 31, 2023.

Section 4. **Notice of Sale.** Any person who sells or conveys any portion of the 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 the notice shall be forwarded to the City at the following address:

City of Terrell
City Hall
201 East Nash
Terrell, Texas 75160
Attn: City Manager

Section 5. **Recording.** This Agreement shall run with the Property and be recorded in the Real Property Records, Kaufman County, Texas. The provision for Owner to not institute or participate in an Annexation Challenge shall survive the term of this Agreement and is a binding commitment on the Property.

Section 6. **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.

Section 7. **Remedies.** This Agreement may be enforced by either 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. Entry into this Agreement by Owner waives no rights as to matters not addressed in this Agreement.

Section 8. **Change in Law.** No subsequent change in the law regarding the matters contained in this Agreement shall affect the enforceability of this Agreement.

Section 9. **Venue.** Venue for this Agreement shall be exclusively in Kaufman County, Texas.

Section 10. **Execution in Multiple Copies.** This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and the same instrument.

The Parties have executed this Agreement as of this ____ day of _____, 2023.

OWNER

CITY OF TERRELL, TEXAS

By: _____
Mike Sims, City Manager

ATTEST:

Dawn Steil, City Secretary

STATE OF TEXAS

COUNTY OF KAUFMAN

This instrument was acknowledged before me on the _____ day of _____, 2023, by

Notary Public, State of Texas

STATE OF TEXAS

COUNTY OF KAUFMAN

This instrument was acknowledged before me on the _____ day of _____, 2023 by

Notary Public, State of Texas

STATE OF TEXAS

COUNTY OF KAUFMAN

This instrument was acknowledged before me on the ____ day of _____, 2023, by Mike Sims, City Manager on behalf of the City of Terrell, Texas.

Notary Public, State of Texas

Exhibit A to No Contest Annexation Agreement
(Legal description of Property)