

STATE OF TEXAS §

COUNTY OF SAN PATRICIO §

**CITY OF PORTLAND
DEVELOPMENT AGREEMENT**

This Agreement is entered into pursuant to Sections 43.016 and 212.172 of the Texas Local Government Code and between the City of Portland, Texas (the “City”) and the undersigned property owner(s) (the “Owner”). The term “Owner” includes all owners of the property, including all of the Owner's heirs, successors and assigns.

WHEREAS, the Owner’s property (the “Property”) in San Patricio County, Texas, which is more particularly and separately described in the attached Exhibit “A” and Exhibit “B”; and

WHEREAS, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter; and

WHEREAS, this Agreement is entered into pursuant to Sections 43.016 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 City has begun the process to institute annexation proceedings on all or portions of the Owner’s Property and has held two public hearings, both on November 15, 2022; and

WHEREAS, the Owner desires to have the Property remain in the City’s Extraterritorial jurisdiction (“ETJ”), in consideration for which the Owner agrees to enter into this agreement; and

WHEREAS, the Owner and the City acknowledge that this Agreement runs with the land and is binding upon the City and the Owner and their responsive successors and assigns for the term of this Agreement; and

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

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

The Property is described as the property owned by the Owner within the boundaries of the area described in Exhibit “A” AND Exhibit “B”, attached hereto and incorporated herein by reference.

1. Continuation of Extraterritorial Status

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. However, if the Property is annexed pursuant to the terms of this Agreement, then the City shall provide services to the Property pursuant to Chapter 43 of the Texas Local Government Code.

2. Use for Agricultural Purposes Only

The Owner and all of the Owner's heirs, successors and assigns covenant and agree 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 existing single-family residential use of the property, without the prior written consent of the City.

The Owner and all of the Owner's heirs, successors and assigns covenant and agree that the Owner will not file any type of subdivision plat or related development document for the Property with San Patricio County or the City until the Property has been annexed into, and zoned by, the City. 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, until the Property has been annexed into, and zoned by, the City. The Owner also covenants and agrees that the City's R-2, Single-Family Residential District zoning requirements apply to the Property, and that the Property shall be used only for R-2, Single-Family Residential District zoning 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 one homesteaded single-family dwelling and an accessory structure to a single-family dwelling in compliance with all applicable City ordinances and codes. If a structure is constructed on the property and the agricultural exemption is removed on that part, the part of the property that loses its exemption is automatically annexed, but not the remainder of the property.

The Owner and all of the Owner's heirs, successors and assigns acknowledge that each and every owner of the Property must sign this Agreement in order for the Agreement to take full effect, and the Owner who signs this Agreement covenants and agrees, jointly and severally, 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.

3. Annexation upon Subdivision or Change of Use

The Owner and all of the Owner's heirs, successors and assigns acknowledge that if any plat or related development document is filed in violation of this Agreement, or if the Owner, or others listed above, commence development of the Property in violation of this Agreement or otherwise loses agriculture, wildlife management, and or timber exception, 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 or others listed above acknowledges that this Agreement serves as an exception to Local Government Code Section 43.052, requiring a municipality to use certain statutory procedures under an annexation plan.

Furthermore, the Owner or others listed above 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 this agreement.

4. Enforcement of Regulations

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 materially interfere with the use of the Property for agriculture, wildlife management, or timber, in the same manner the regulations are enforced within the City's boundaries. 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.

5. Term of Agreement

The term of this Agreement (the "Term") is fifteen (15) years from the date that the City Manager's signature to this Agreement is acknowledged by a public notary.

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. Prior to the end of the Term, the City may commence the voluntary annexation of the Property. 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.

6. Agreement Running with the Land

This Agreement shall be recorded in the Real Property Records of San Patricio County, Texas and shall be a covenant running with the land binding upon all parties having any right, title, or interest in the Property or any part thereof, including their heirs, successors, and assigns, and shall inure to the benefit of the owners of the Property and to the City. This Agreement may not be revised or amended without the written consent of both parties.

7. Sale of the Land

Any person who sells or conveys any portion of the Property or otherwise loses agriculture, wildlife management, and or timber exception, 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 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 Portland
Attention: City Manager
1900 Billy G. Webb
Portland, Texas 78374

8. Severability

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.

9. Enforcement

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

10. Venue

Venue for this Agreement shall be in San Patricio County, Texas. In any suit to enforce this Agreement, the City of Portland shall be entitled to collect reasonable attorney's fees if it prevails.

WITNESS OUR SIGNATURES this _____ day of _____, 2021.

CITY OF PORTLAND, TEXAS

By: _____
Randy Wright, City Manager

ATTEST:

Annette Hall, City Secretary

Form Approved:

Hal George, City Attorney

CORPORATE ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF SAN PATRICIO

This instrument was acknowledged before me by Randy Wright, City Manager for the City of Portland, a municipal corporation of the State of Texas, on behalf of said corporation, on this _____ day of _____, 2022.

Notary Public, State of Texas

PROPERTY OWNER:

Property Owner

ACKNOWLEDGEMENT

**STATE OF TEXAS
COUNTY OF SAN PATRICIO**

This instrument was acknowledged before me by _____ on this _____ day of _____, 2021.

Notary Public, State of Texas

After recording return to:

City of Portland
Attention: City Secretary
1900 Billy G. Webb Dr.
Portland, Texas 78374

Exhibit "A"

Owner Information:

Owner name

San Patricio Appraisal District Tax ID # XXXX-XXXX-XXXX-XXX

Property Legal Description:

Legal description and map

DRAFT