

RESOLUTION NO. 2019-12-03-_____

**MODIFICATION TO AN APPROVED ANNEXATION DEVELOPMENT AGREEMENT
THROUGH RESOLUTION 2015-08-04-09 OF THE CITY COUNCIL OF CITY OF ELGIN,
TEXAS,**

WHEREAS, Roger & Suzanne Mogonye are the owners of that certain 139.723-acre tract of land described as A20 Christian, Thomas, and more particularly described in Exhibit “A” to the Annexation Development Agreement; and

WHEREAS, the City of Elgin (“City”) intends to annex the Properties; and

WHEREAS, the City approved an annexation development agreement for this tract through Resolution 2015-08-04-09; and

WHEREAS, the property owners’ desires change to the approved annexation development agreement through Resolution 2015-08-04-09; and

WHEREAS, pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code, the City and the Owner desire to enter into a modified Agreement regarding the annexation of the Property into the city limits; Now Therefore

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ELGIN, TEXAS,

That the City hereby approves and agrees to accept all Agreements, copies of same being attached hereto as Exhibit “A” and incorporated herein for all purposes.

The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

RESOLVED this 3rd day of December, 2019.

Chris Cannon, City Mayor

ATTEST:

Lucretia Alvarez, City Secretary

STATE OF TEXAS
COUNTY OF BASTROP

§ ANNEXATION DEVELOPMENT
§ AGREEMENT WITH
§ Roger & Suzanne Mogonye

This is an ANNEXATION DEVELOPMENT AGREEMENT by and between THE CITY OF ELGIN, TEXAS ("City") and Roger & Suzanne Mogonye ("Owner", whether one or more).

WHEREAS, Owner is owner of that certain 139.723 acre tract of land more particularly described in Exhibit "A", attached hereto (the "Property"), and;

WHEREAS, the City intends to annex the property, and;

WHEREAS, pursuant to Sections 43.035 and 212.172 of the Texas Local Government Code, the City and the Owner desire to enter into this Annexation Development Agreement (the "Agreement"); 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, and;

WHEREAS, this Development Agreement is to be recorded in the Official Records of Bastrop County, Texas

NOW THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the City and Owner hereby agree as follows:

A. PURPOSE

The purpose of this Agreement is to comply with all requirements of Sections 43.035 and 212.172 of the Texas Local Government Code pertaining to the annexation of property into the Elgin city limits (or extraterritorial jurisdiction).

B. GENERAL TERMS AND CONDITIONS

1. Both parties agree that in consideration of the mutual promises stated herein, that the Property will not be annexed by the City of Elgin so long as 1) the Property continues to receive an agricultural exemption from the Bastrop County Central Appraisal District, except for existing single-family residential use, and up to a maximum of three (3) future single family residential uses for the owner(s), their successors, and their family members only for their enjoyment. and 2) no action is taken by the Owner or his assigns to file a subdivision plat or any related development document regarding the Property. If one or more of the above circumstances occur, the City is authorized to commence proceedings to annex all or some of the Property.

2. As consideration for the City foregoing annexation proceedings as described above, the Owner hereby authorizes the City to enforce all regulations and planning authority

of the City, except for any regulations which interfere with Owner's use of the Property for agricultural purposes, wildlife management or timber production.

3. The Owner agrees that the City's single-family residential use requirements apply to the Property, and that the Property shall only be used for single-family residential zoning uses.

4. The Owner acknowledges that if Owner or any successor or assign violates any condition of this Agreement, 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 direction of the Council. The Owner and any successors or assigns 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, his successors or assigns. Provided the owner(s) or any successor and their family will be allowed to have single family residential uses and not be subject to the voluntary annexation provided there is no subdivision of the property in accordance with City and/or County standards. As set forth herein, the City acknowledges that the owner shall have the right to convey portions of said Property to a family member for single family residential use and not be subject to voluntary annexation."

5. Both parties agree that upon annexation of the Property by the City, the City shall, within 30 days of the effective date of the annexation, initiate an initial zoning of the Property conforming to the land use designation for the Property as shown on the most recent amendment of City's Comprehensive Plan.

C. MISCELLANEOUS PROVISIONS

1. Actions Performable. The City and the Owner agree that all actions to be performed under this Agreement are performable in Bastrop County, Texas.

2. Governing Law. The City and Owner agree that this Agreement has been made under the laws of the State of Texas in effect on this date, and that any interpretation of this Agreement at a future date shall be made under the laws of the State of Texas.

3. Severability. If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void; but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

4. Complete Agreement. This Agreement represents a complete agreement of the parties and supersedes all prior written and oral matters related to this agreement. Any amendment to this Agreement must be in writing and signed by all parties. This Agreement runs with the land and shall bind the Property for a term of fifteen years, unless amended by the parties.

5. Exhibits. All exhibits attached to this Agreement are incorporated by reference and expressly made part of this Agreement as if copied verbatim.

6. Notice. All notices, requests or other communications required or permitted by this Agreement shall be in writing and shall be sent by (i) telecopy, with the original delivered by hand or overnight carrier, (ii) by overnight courier or hand delivery, or (iii)

certified mail, postage prepaid, return receipt requested, and addressed to the parties at the following addresses:

City of Elgin

Thomas Mattis, City Manager

P.O. Box 591

Elgin, TX 78621

Bastrop County

Property Owner:

Roger & Suzanne Mogonye

P.O. Box 132

Elgin, TX 78621

7. Force Majeure. Owner and the City agree that the obligations of each party shall be subject to force majeure events such as natural calamity, fire or strike or inclement weather.

8. Conveyance of Property. 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.

9. Continuity. This Agreement shall run with the Property and be binding on all successors and grantees of Owner.

10. Survival after Termination. This Agreement shall survive termination to the extent necessary to allow the City to implement the provisions of Section 4, above.

11. Signature Warranty Clause. The signatories to this Agreement represent and warrant that they have the authority to execute this Agreement on behalf of the City and Owner, respectively.

SIGNED as of this ____ day of _____, 2019.

CITY OF ELGIN, TEXAS

Tom Mattis

City Manager, City of Elgin, Texas

THE STATE OF TEXAS }

COUNTY OF BASTROP }

This instrument was acknowledged before me on the _____ day of _____, 20____
by _____, _____, City of Elgin, Texas.

Notary Public, State of Texas

Owner(s)

Roger Mogonye

Suzanne Mogonye

THE STATE OF TEXAS }

COUNTY OF BASTROP }

This instrument was acknowledged before me on the _____ day of _____, 20____
by _____, _____, City of Elgin, Texas.

Notary Public, State of Texas