

MEMORANDUM

DATE: August 19, 2021

TO: Mayor & City Council

CC: Mercy Rushing, City Manager

FROM: David Madsen

SUBJECT: **Council Meeting Agenda Item:** Termination of Annexation Development Agreement

Background Information: In 2011, the City of Mineola went into an agreement with Margret Peacock Steele in exchange for an easement on her property for a sewer line project. The agreement is known as an Annexation Development Agreement. In exchange for the easement, the City agreed to never annex the property unless requested by the owner, and if it was annexed, it would be restricted to AG zoning with limited structures. Mrs. Steele's daughters who currently own the property are trying to sell it and didn't realize that this agreement existed. This agreement has greatly hindered the sale of the property and no longer benefits the owners. Due to new annexation laws, the City would only be able to annex the property if requested by the owner whether we have infrastructure there or not. The owners have requested that the City terminated this agreement. The easement will still be in effect and only the Annexation Development Agreement will be terminated.

Recommendation: The staff recommends approval.

Final Disposition:

DO NOT REMOVE THIS PAGE – IT IS A PART OF THIS INSTRUMENT

AGREEMENT

13 Pages

Parties: CITY MINEOLA TEXAS
to
STEELE MARGARET PEACOCK

FILED AND RECORDED – REAL RECORDS	CLERKS NOTES
<p>On: 08/23/2011 at 10:57 AM</p> <p>Document Number: <u>2011-00010185</u></p> <p>Receipt No: <u>188344</u></p> <p>Amount: \$ <u>60.00</u></p>	
<p>Kelley Price, County Clerk Wood County, Texas</p>	



STATE OF TEXAS
COUNTY OF WOOD

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the named records of Wood County, Texas.

Kelley Price, County Clerk

Recorded By: Raegan Whittington, Deputy

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

Record and Return To:

CITY OF MINEOLA
PO BOX 179

MINEOLA, TX 75773





City of Mineola

**City Secretary Certification of Original Document
Development Agreement
Margaret Peacock Steele and City of Mineola**

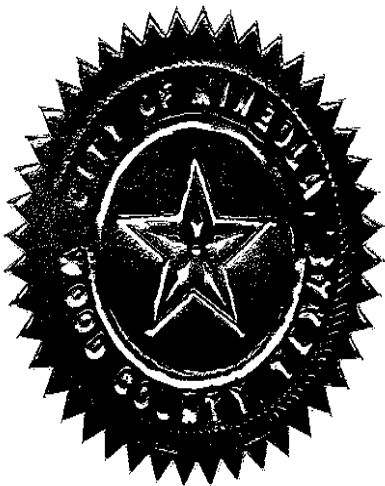
I, David W. Stevenson, being the duly appointed City Secretary, of the City of Mineola, Wood County, Texas do hereby certify by my affixed signature and seal of the city, that the attached development agreement, is a true and exact record as agreed by the City of Mineola and Margaret Peacock Steele and as maintained in the official records of the City of Mineola and as duly authorized by the City Council of Mineola, Texas.

Affirmed this 10th day of August, 2011

A handwritten signature in cursive script that reads "David W. Stevenson".

David W. Stevenson, City Secretary
City of Mineola, Wood County, Texas

Seal



**STATE OF TEXAS
COUNTY OF WOOD**

**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 Mineola, Texas (the "City") Margaret Peacock Steele (the "Owner"). The term "Owner" includes all owners of the Property.

WHEREAS, the Owner owns a parcel of real property (the "Property") in Wood County, Texas, which is more particularly and separately described in the attached Exhibit "A"; and

WHEREAS, the City has begun negotiating for utility right of way easement agreements on portions of Owner's Property and has negotiated with the Owner in May and December, 2010; and

WHEREAS, the Owner desires to have the Property remain outside the City limits, 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 Wood 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 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. This agreement shall not include any property owned by the property owner which is currently located within the corporate limits of the City of Mineola.

Section 2. (a) 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 single-family residential purposes consistent with agricultural use, existing animal kennels, or agriculture-related out buildings related to the agricultural use of the property, without the prior written consent of the City.

(b) Except as provided in paragraph (e) of this Section, the Owner covenants and agrees that the Owner will not file any type of subdivision plat or related development document for the Property with Wood County or the City until the Property has been annexed into, and zoned by, the City.

(c) Except as provided in paragraph (e) of this Section, 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 AG—Agricultural District zoning requirements apply to the Property, and that the Property shall be used only for AG—Agricultural District zoning uses, unless otherwise provided in this Agreement. The Owner also agrees that any structures constructed pursuant to Subsection (e) of this Section shall be subject to, and constructed in compliance with, all applicable City ordinances and codes.

(d) The Owner acknowledges that each and every owner of the Property must sign this Agreement in order for the Agreement to take full effect.

- (e) Notwithstanding the other provisions of this Section, the City hereby consents to:
- (1) the subdivision of the Property into no more than three total tracts of no less than 40 acres;
 - (2) the construction of no more than one single family residence on any tract;
 - (3) the construction of an accessory structure to a single family dwelling; or
 - (4) the construction of a barn or out building constructed exclusively for agriculture purposes.

Section 3. (a) The Owner acknowledges that if any plat or related development document is filed in violation of this Agreement, or if the Owner commences development of the Property in violation 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 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.

(b) 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 under an annexation plan.

(c) 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.

(d) If the Property has been divided into separate tracts pursuant to Subsection 2(e) of this Agreement, any plat, development, or subdivision of a separate tract shall constitute consent to the annexation of only that tract that is being developed. If a separate tract continues to comply with the restrictions in Section 2, the owner of that tract shall retain the protections of this Agreement.

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 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.

Section 5. (a) The term of this Agreement (the "Term") is fifteen (15) years from the date that the City Administrator's signature is affixed to this Agreement and is acknowledged by a notary Public.

(b) The Term may be extended for two (2) additional fifteen (15) year periods for which written application must be received by the City of Mineola thirty (30) days prior to the original or subsequent renewal term. In no manner may this Agreement extend beyond forty-five (45) years.

(c) 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.

Section 6. Property annexed pursuant to this Agreement will initially be zoned AG-Agricultural pursuant to the City's Code of Ordinances, pending determination of the property's permanent zoning in accordance with the provisions of applicable law and the City's Code of Ordinances.

Section 7. (a) 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.

(b) 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 Mineola
Attn: City Administrator
300 Greenville Avenue
Mineola, Texas 75773

(c) Provided, however, that the failure of the owner of the Property to fail to give notice of a conveyance under this Section shall not be deemed to have waived the protections of this Agreement.

Section 8. This Agreement shall run with the Property and be recorded in the real property records of Wood County, Texas.

Section 9. 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.

Section 10. 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 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. Venue for this Agreement shall be in Wood County, Texas.

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 3, 4, and 5 herein.

Entered into this 10 day of August, 2011.

Margaret Peacock Stele by Ann S. Roth
Owner

Printed Name: Margaret Peacock Stele

Owner

Printed Name: _____

Owner

Printed Name: _____

Owner

Printed Name: _____

David W. Stevenson

David W. Stevenson
City Administrator, City of Mineola, Texas



EXHIBIT "A" Page 1 of 2

CITY OF MINEOLA, TEXAS
Margaret Peacock Steele
Charles E. Rivers Survey, A-495
Wood County, Texas
Benham Interceptor

Called 174.8 Acres

CENTERLINE DESCRIPTION FOR PROPOSED 20-FOOT WIDE EASEMENT

BEING a centerline description of a 20-foot wide easement, situated in the Charles E. Rivers Survey, A-495, Wood County, Texas, over and across a called 174.8 acre tract of land described in a deed to Margaret Peacock Steele as recorded in Volume 555, Page 521 of the Deed Records of Wood County, Texas.

Said easement being 10 feet each side of said of the following described centerline,
the limits of which shall extend to their points of intersection:

BEGINNING at a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set for the beginning of the herein described easement in County Road No. 2724 and the South boundary line of said called 174.8 acre tract of land from which a 1/2" iron rod found for reference in the East boundary line of same, bears South 61 degrees 49 minutes 58 seconds East, a distance of 405.80 feet;

THENCE North 39 degrees 14 minutes 18 seconds East, a distance of 51.75 feet along the centerline of said herein described easement to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

THENCE North 03 degrees 01 minute 02 seconds West, a distance of 458.13 feet along the centerline of said herein described easement to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set;

THENCE North 16 degrees 20 minutes 16 seconds West, a distance of 319.87 feet along the centerline of said herein described easement to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set, being 10.00 feet perpendicular distance from the South right-of-way line of Loop 564;

THENCE North 49 degrees 22 minutes 25 seconds East, a distance of 521.20 feet along the centerline of said herein described easement, being 10.00 feet perpendicular distance from and running parallel to the South right-of-way line of said Loop 564 to a 1/2" iron rod with plastic cap stamped K.L.K. #4687 set for the **end of same** in the East boundary line of said 174.8 acre tract of land from which a 1/2" iron rod found in the East boundary line of same, bears South 01 degree 52 minutes 00 seconds East, a distance of 250.95 feet and a 1/2" iron rod with plastic cap stamped WARREN RPLS 4038 found in said South right-of-way line of Loop 564

EXHIBIT "A" Page 2 of 2

bears North 01 degree 52 minutes 00 seconds West, a distance of 12.82 feet and North 49 degrees 22 minutes 25 seconds East, a distance of 65.32 feet;

Bearing basis is the Texas State Plane Coordinate System, Grid North Central Zone, NAD 83 (Feet) (1993 adjustment of NAD 83 System).

I, Roland Navarro, Registered Professional Land Surveyor No. 5876, Texas, do hereby certify that the above field note description was prepared from an actual on-the-ground survey made under my direction and supervision during the month of April, 2010.

GIVEN UNDER MY HAND AND SEAL this 10th day of May, 2010.

Roland Navarro

Roland Navarro
Registered Professional Land Surveyor
State of Texas No. 5876



Prepared by:
K. L. KILGORE & COMPANY, INC.
6712 PALUXY DRIVE
TYLER, TX. 75703 PH. (903) 581-7800

201010ESMT_STEELE_175AC.doc

K.K. K.L. KILGORE & CO., INC.

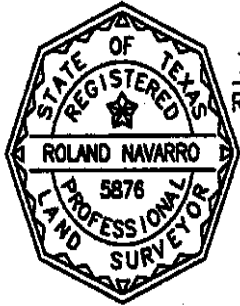
Surveying, Planning, Mapping

6712 Paluxy Drive
Tyler, Texas 75703

(903)681-7800
Fax (903)681-3758

I, ROLAND NAVARRO, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5876, DO HEREBY CERTIFY THAT THE PLAT SHOWN HEREON WAS PREPARED FROM AN ACTUAL SURVEY MADE UNDER MY DIRECTION AND SUPERVISION ON THE GROUND DURING THE MONTH OF APRIL, 2010.

GIVEN UNDER MY HAND AND SEAL THIS 8TH DAY OF JULY, 2011.



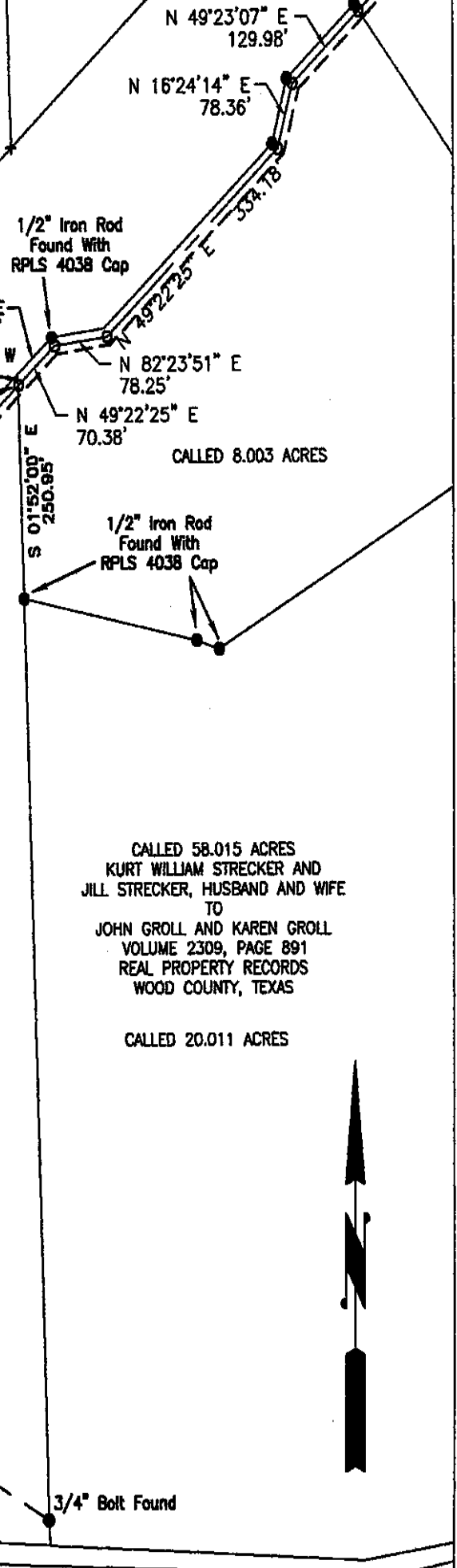
Roland Navarro
ROLAND NAVARRO, R.P.L.S. NO. 5876

LOOP 564

CALLLED 174.8 ACRES
MARY PEACOCK SIMMS, ET AL
TO
MARGARET PEACOCK STEELE
VOLUME 555, PAGE 521
DEED RECORDS
WOOD COUNTY, TEXAS

CALLLED 2921.684 ACRES
ESTATE OF W. W. CARUTH, JR.
TO
THE CITY OF MINEOLA
VOLUME 1601, PAGE 421
REAL PROPERTY RECORDS
WOOD COUNTY, TEXAS

201010SPEACOCK-STEEL.DWG



N 49°23'07" E
129.98'
N 16°24'14" E
78.36'

N 49°22'25" E
65.32'
N 01°52'00" W
12.82'
N 82°23'51" E
78.25'
N 49°22'25" E
70.38'

1/2" Iron Rod
Found With
RPLS 4038 Cap

1/2" Iron
Rod Set

1/2" Iron Rod
Found With
RPLS 4038 Cap

1/2" Iron Rod Set

1/2" Iron Rod Set

1/2" Iron Rod Set

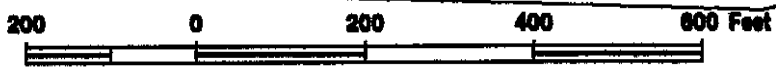
1/2" Iron Rod Set

1/2" Iron Rod Set

3/4" Bolt Found

CALLLED 58.015 ACRES
KURT WILLIAM STRECKER AND
JILL STRECKER, HUSBAND AND WIFE
TO
JOHN GROLL AND KAREN GROLL
VOLUME 2309, PAGE 891
REAL PROPERTY RECORDS
WOOD COUNTY, TEXAS

CALLLED 20.011 ACRES



STATUTORY DURABLE POWER OF ATTORNEY

(General Power of Attorney)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, CHAPTER XII, TEXAS PROBATE CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, MARGARETT PEACOCK STEELE, with an address of 373 CR 2724, Mineola, Texas 75773, appoint my daughter, MARGARET JANE CURTIS, with an address of 1526 Robin Street, Mineola, Texas 75773, as my agent to act for me in any lawful way with respect to all of the following powers except for a power that I have crossed out below. If MARGARET JANE CURTIS dies, becomes legally disabled, resigns, or ceases to act, I appoint my daughter, LOU ELLEN STEELE, with an address of P.O. Box 580, Mineola, Texas 75773, as my agent. If LOU ELLEN STEELE dies, becomes legally disabled, resigns, or ceases to act, I appoint my daughter, MARY ANN ALOTTO, with an address of 373 CR 2724, Mineola, Texas 75773, as my agent.

TO WITHHOLD A POWER, YOU MUST CROSS OUT EACH POWER WITHHELD.

Real property transactions;

Tangible personal property transactions;

Stock and bond transactions;

Commodity and option transactions;

Banking and other financial institution transactions;

Business operating transactions;

Insurance and annuity transactions;

Estate, trust and other beneficiary transactions;

Claims and litigation;

Personal and family maintenance;

Benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;

Retirement plan transactions;

Tax matters.

IF NO POWER LISTED ABOVE IS CROSSED OUT, THIS DOCUMENT SHALL BE CONSTRUED AND INTERPRETED AS A GENERAL POWER OF ATTORNEY, AND MY

AGENT (ATTORNEY IN FACT) SHALL HAVE THE POWER AND AUTHORITY TO PERFORM OR UNDERTAKE ANY ACTION I COULD PERFORM OR UNDERTAKE IF I WERE PERSONALLY PRESENT.

SPECIAL INSTRUCTIONS

GIFTS: Special instructions applicable to gifts (initial in front of the following sentence to have it apply):

_____ I grant my agent the power to apply my property to make gifts, except that the amount of a gift to an individual may not exceed the amount of annual exclusions allowed from the federal gift tax for the calendar year of the gift.

LIMITATIONS: Notwithstanding any provision herein to the contrary, any authority granted to my agent shall be limited so as to prevent this power of attorney from causing my agent to be taxed on my income and from causing my assets to be subject to a general power of appointment by my agent, as that term is defined in Section 2041 of the Internal Revenue Code of 1986, as amended.

ADDITIONAL POWERS: ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

In addition to the powers granted above, I grant to my agent all of the following powers:

This power of attorney is effective immediately and is not affected by my subsequent disability or incapacity.

I agree that any third party who receives a copy of this document may act under it. Revocation of the durable power of attorney is not effective as to a third party until the third party receives actual notice of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

I agree that any third party dealing with any alternate agent or agents named hereunder may rely on a written and acknowledged affidavit signed by such alternate agent or agents stating that all prior agents have died, become legally disabled, resigned or refused to serve, and no third party shall be required to investigate as to whether such affidavit is correct. Such affidavit need not state specific details regarding the reasons why the prior agents are not able to serve, but instead, such affidavit may simply state that such death, disability, resignation or refusal to act has occurred. I

agree to indemnify the third party for any claims that arise against the third party because of reliance on such affidavit.

Signed on the 17th day of August, 2009.

Margaret P. Steele

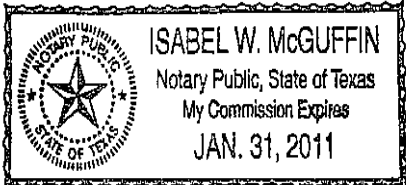
MARGARETT PEACOCK STEELE, Principal

THE STATE OF TEXAS §

§

COUNTY OF WOOD §

This instrument was acknowledged before me on the 17th day of August, 2009, by MARGARETT PEACOCK STEELE.



Isabel W. McGuffin
Notary Public, State of Texas

FILED AND RECORDED Instrument# 2011-00010185
08/23/2011 10:57:16 AM Pages: 13
Kelley Price-County Clerk
By: raeganw, Wood County, TX

TERMINATION OF ANNEXATION DEVELOPMENT AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF WOOD §

This Termination of Annexation Development Agreement (“Agreement”) is entered into by and between the City of Mineola, Texas (“City”) and Lou Ellen Steele, Mary Ann Alotto and Margaret Jane Curtis (“Steele, Alotto and Curtis”).

WHEREAS, the City and Margaret Peacock Steele entered into a Chapter 43 Texas Local Government Code Development Agreement, more commonly referred to as an Annexation Development Agreement, on August 10, 2011. The Annexation Development Agreement was subsequently recorded in the Real Property Records of Wood County, Texas on August 23, 2011 and designated as Document No. 2011-00010185. The Annexation Development Agreement and all associated documents are attached hereto as **Exhibit “A”**; and

WHEREAS, subsequent to the Annexation Development Agreement referenced above, the property the subject of the Annexation Development Agreement was conveyed, in fee simple, from Margaret Peacock Steele to Steele, Alotto and Curtis; and

WHEREAS, the City and Steele, Alotto and Curtis desire to terminate the Annexation Development Agreement between the City and Margaret Peacock Steele.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Steele, Alotto and Curtis agree as follows:

1. The Annexation Development Agreement entered into between the City and Margaret Peacock Steele previously referenced herein is terminated in its entirety and is of no further force or effect.
2. This Termination Agreement shall be binding upon and will inure to the benefit of the parties hereto and their respective representatives, successors and assigns.
3. The City Secretary is hereby directed to file this Termination of Annexation Development Agreement in the Real Property Records of Wood County, Texas subsequent to its full execution by the parties.

Approved by the parties as indicated below:

CITY OF MINEOLA

By: Jayne Lankford, Mayor

STATE OF TEXAS §
 §
COUNTY OF WOOD §

This instrument was acknowledged before me on _____, 2021 by Jayne Lankford, as Mayor of the City of Mineola, Texas.

Notary Public, State of Texas

LOU ELLEN STEELE

STATE OF TEXAS §
 §
COUNTY OF WOOD §

This instrument was acknowledged before me on _____, 2021 by Lou Ellen Steele.

Notary Public, State of Texas

MARY ANN ALOTTO

STATE OF TEXAS §
 §
COUNTY OF WOOD §

This instrument was acknowledged before me on _____, 2021 by
Mary Ann Alotto.

Notary Public, State of Texas

MARGARET JANE CURTIS

STATE OF TEXAS §
 §
COUNTY OF WOOD §

This instrument was acknowledged before me on _____, 2021 by
Margaret Jane Curtis.

Notary Public, State of Texas