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A RESOLUTION

authorizing Dan Summers and Sylvia Greer to pursue access to sanitary sewer services through an annexation agreement for contiguous property located at the terminus of Cherry Bark Court and south of Old Ridge Road (3805 Cherry Bark Court).

WHEREAS, Dan Summers and Sylvia Greer ("Owners") own Lot 10 in Country Woods Subdivision Plat 1 ("Property"); and

WHEREAS, the Property is the last undeveloped lot in Country Woods Subdivision Plat 1 and is contiguous to the City of Columbia, Missouri ("City") corporate limits; and

WHEREAS, there is a City of Columbia sanitary sewer main ("City sewer main") running along Cherry Bark Court within approximately forty-five (45) feet of the Property; and

WHEREAS, the existing City sewer main serves approximately 100 homes across three subdivisions including all properties within Country Woods Subdivision Plat 1 and Plat 2; and

WHEREAS, there is one lot within Country Woods Subdivision Plat 2 that is within the City corporate limits and one lot subject to an annexation agreement; and

WHEREAS, the Owners want to develop the Property and connect it to the adjoining City sewer main; and

WHEREAS, such City sewer main has the capacity to provide service to the Property; and

WHEREAS, Policy Resolution No. R115-97A, adopted by the City Council on August 18, 1997, requires parcels pursuing connection to City sanitary service to either annex (for contiguous parcels) or enter into an annexation agreement (non-contiguous parcels); and

WHEREAS, the Property cannot receive a County building permit until it has access to a City sewer main or authorization to install an on-site sanitary system; and

WHEREAS, the Property cannot receive a City building permit and develop until after being annexed and being compliant with the City's Code of Ordinances; and

WHEREAS, City's Code requires the Property to be served by a water main with a flow of eight hundred (800) gallons per minute (GPM) with fire hydrants within five hundred (500) feet of the Property; and

WHEREAS, the Property is currently served by a Consolidated Water District No. 1 2-inch water main capable of supporting domestic water service only which is consistent with other lots within the Country Woods Subdivision Plats 1 and 2 that are located off cul-de-sac streets; and

WHEREAS, the remainder of the lots within the Country Woods Subdivision not located on cul-de-sac streets are served via a 4-inch water main with a flow of approximately two hundred fifty (250) gallons per minute (GPM); and

WHEREAS, the Property is currently within the Boone County Fire Protection District service area and will remain in the Boone County Fire Protection District service area after annexation in addition to being provided fire service by the City; and

WHEREAS, the Boone County Fire Protection District requires water mains with a flow of five hundred (500) gallons per minute (GPM) for newly platted developments; and

WHEREAS, Country Woods Subdivision Plat 1 was approved in December 1976 and recorded in January 1977 prior to the Boone County Fire Protection District's current water main flow requirements; and

WHEREAS, Boone County Fire Protection District has tanker vehicles for fire response specifically designed to compensate for less water flow; and

WHEREAS, City's Fire Department does not possess vehicles specifically designed to compensate for less water flow; and

WHEREAS, City's Fire Code does not account for fire suppression capacity of Boone County Fire Protection District and requires that the existing water main be expanded to meet the increased water flow required for fire suppression prior to the issuance of a building permit for improvements on the Property; and

WHEREAS, the Property would be the only property in Country Woods Subdivision Plat 1 to bear the cost of increasing the water main to meet City's Code; and

WHEREAS, it is not feasible for the Property Owners to bear the cost of increasing the water mains to meet City's Code and have sought to develop the Property under Boone County regulations without accessing City sewer; and

WHEREAS, the Boone County Health Department has conditionally approved the Owner's request for an on-site sanitary system if it complies with other County regulations; and

WHEREAS, the Owners seek to connect to City sewer services, develop the Property under County regulations, and then annex into the City; and

WHEREAS, the Owners seek to access City sewer services under an annexation agreement instead of through a direct annexation as required by Policy Resolution No. R115-97A; and

WHEREAS, the Property is a unique situation that could pose a public health risk if allowed to install an on-site sanitary system because of its proximity to fully developed subdivisions already connected to City's sanitary sewer system; and

WHEREAS, the Property is capable of receiving a Boone County building permit allowing it to connect to City's sewer irrespective of its insufficient water flow due to it being part of a subdivision plat approved prior to the existing Boone County Fire Protection District requirements; and

WHEREAS, City does not consider the increased water flow to be necessary for the health and safety of the Property because it remains within the Boone County Fire Protection District service area and would be served by both the Boone County Fire Protection District and the City; and

WHEREAS, City finds it to be in the best interest of the City to allow annexation following construction so that Owners may utilize Boone County building permitting authority for construction of a single family residence on the Property which will be connected to City's sewer system.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Dan Summers and Sylvia Greer are hereby authorized to pursue access to City of Columbia sanitary sewer services through an annexation agreement as authorized by Policy Resolution No. R115-97A and adopted by the City Council on August 18, 1997. The form and content of the annexation agreement shall be substantially as set forth in "Attachment A" attached hereto and made a part hereof.

ADOPTED this 2nd day of March, 2020.

ATTEST:




City Clerk



Mayor and Presiding Officer

APPROVED AS TO FORM:



City Counselor

ANNEXATION AGREEMENT

This Agreement between the City of Columbia, Missouri, a municipal corporation (hereinafter "City") and Danny R Summers and Sylvia M Greer, a married couple, (hereinafter "Owner") is entered into as of the last date of all of the parties to execute the Agreement (the "Effective Date"). In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Owner hereby represents that Owner is the sole legal owner of the following described real estate located in Boone County, Missouri and has the capacity to enter into this Agreement:

LOT TEN (10) OF COUNTRY WOODS SUBDIVISION PLAT NO.1 AS SHOWN BY THE PLAT RECORDED IN PLAT BOOK 11, PAGE 247, RECORDS OF BOONE COUNTY, MISSOURI.

Subject to easements, restrictions, reservations and covenants of record, if any.

(hereinafter the "Property").

2. City agrees to allow Owner to connect sanitary sewer lines serving the Property to the City's sanitary sewer system as set forth herein. Owner shall make the connection to the City's sanitary sewer system at Owner's sole cost and expense. Owner shall obtain all necessary permits for the sewer construction and connection and shall pay all fees required to connect to the City's sewer system. Following connection to the City's sanitary sewer system, Owner shall become a sewer customer of the City and subject to payment of all monthly fees and charges as set forth in the city code.

3. All sewer lines and appurtenances serving the Property shall be located within standard sewer or utility easements dedicated to the public use and constructed in compliance with City regulations and standards. Construction of the sewer lines and appurtenances shall be inspected by the City as though the property were within the City limits and shall be subject to City approval. The sewer lines and appurtenances shall be conveyed to the City following construction and approval.

4. The sewer lines constructed by Owner to serve the Property shall not be connected to any other property or sewer lines without the express written consent of the City.

5. Development and construction on the Property by Owner shall conform to all Boone County ordinances and standards, including but not limited to stormwater management, for the duration the property remains outside the city limits. Once annexed into the City, development and construction on the Property shall conform to all City standards, including, but not limited to, the Unified Development Code. Notwithstanding the foregoing, any phase of development under construction at the time of annexation may be completed under Boone County requirements and inspections provided the construction is completed within three (3) years following the date of annexation. Any construction activities occurring more than three (3) years following the date of annexation shall conform to all City standards and be inspected by the City. Following construction, all sanitary sewers, storm sewers, streets and sidewalks shall be forever dedicated to the public use.

6. So long as the Property remains outside the City limits, any subdivision of the Property shall be prepared in accordance with the applicable requirements of Boone County. The City shall be provided written notice of the subdivision of the property, but there shall be no requirement that the City approve any plat prior to any action taken on a plat by the Boone County Commission.

7. Prior to annexation, if any irreconcilable conflict exists between a County regulation and a City regulation, the Owner, to the extent required by law, shall follow the County regulation including County storm water standards.

8. The City address numbering plan shall be complied with in connection with the development of the Property.

9. To the extent allowed by law, within sixty (60) calendar days following the issuance of a certificate of occupancy by Boone County for a single-family dwelling on the Property, City may, but shall not be obligated to, annex the Property into the City, without further action of the Owner. The City in its sole discretion may, but shall not be required to, delay annexation of the Property until such time as the City reasonably and solely determines to be appropriate to annex the Property and provide available municipal services to the Property.

10. Owner irrevocably appoints the City Manager of Columbia, Missouri, as its attorney-in-fact for the sole purpose of presenting a verified petition requesting annexation of the Property to the City Council of Columbia, Missouri. The City Manager may exercise this power of attorney at any time after the Property becomes contiguous to the corporate limits of the City. Any delay in filing such petition shall not be deemed a waiver of any right of the City to file such petition at such time in the future, in the sole discretion of the City, the filing of such petition is deemed advisable.

11. In lieu of the power of attorney granted to the City Manager herein, the City Manager may request the Owner to submit a verified petition requesting annexation. In such event, Owner shall,

within such time as specified by the City Manager, submit a verified petition requesting annexation of the Property to the Director of Community Development for presentation to the City Council of Columbia, Missouri. The City Manager may request Owner to present an annexation petition at any time after the Property becomes contiguous to the corporate limits of the City. The provisions of this paragraph shall be enforceable by specific performance.

12. The petition for annexation may request that the Property be placed in Zoning District R-1, or equivalent, upon annexation. If the proposed ordinance annexing the Property does not place the Property in the zoning district specified herein, Owner may withdraw the petition for annexation. Such withdrawal shall not affect the parties' obligations under this Agreement, including City's obligation to provide sewer service.

13. Except as expressly set forth in paragraph 12 hereof, Owner agrees not to take any action to oppose any annexation initiated by the City which includes the Property. Owner further agrees not to take any action to oppose any annexation initiated by the City or by any property owner which includes any property lying between the Property and the City limits.

14. Owner shall give a copy of this Agreement to each person who buys all or a portion of the Property.

15. If Owner fails to comply with any of the provisions of this Agreement, City may terminate sewer service to the Property and disconnect the sewer lines serving the Property from the City's sanitary sewer system. City shall give Owner one hundred eighty (180) days prior written notice of its intent to terminate sewer service.

16. This Agreement is not intended to confer any rights or remedies on any person other than the parties.

17. The benefits and burdens of this Agreement are intended to attach to and run with the land and shall be binding on and inure to the benefit of the parties and their respective legal representatives, successors, heirs and assigns. All persons claiming under the parties shall conform to and observe the provisions of this Agreement.

18. Owner, at Owner's sole cost and expense, hereby agrees to indemnify, protect, release, defend (with counsel acceptable to the City) and hold harmless the City, its municipal officials, elected officials, boards, commissions, officers, employees, attorneys, and agents from and against any and all causes of action, claims, demands, contractual damages and losses, economic damages and losses, any and all other damages and losses, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and expenses of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, out of either Owner's breach of this Agreement or any action or inaction of Owner, its agents, representatives, employees, contractors, subcontractors or any other person for whose acts Owner may be liable,

occurring during the construction of public improvements related to Owner's development which results in injury to any third party, except to the extent such injury arises from or is caused by the sole or gross negligence or willful misconduct of the City, its elected officials, officers, employees, agents or contractors. The indemnification, duty to defend and hold harmless obligations set forth in this paragraph shall survive for a period of five (5) years from the date of the later of City's acceptance of public improvements or the last day of any warranty work relating to such public improvements.

19. This Agreement shall be construed according to the laws of the State of Missouri. The parties shall comply with all local, state, and federal laws and regulations relating to the performance of this Agreement.

20. Any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Boone County, Missouri.

21. This Agreement contains the entire and complete agreement between the City and the Owner. The parties agree that this Agreement constitutes a lawful contract between the parties and the Owner hereby acknowledge and agree that this Agreement and the City's ordinances and regulations applicable to this Agreement constitute lawful exercises of the City's authority and police power.

22. The City shall record this Agreement in the office of the Boone County Recorder of Deeds.

[SIGNATURES ON FOLLOWING PAGES.]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day set forth below each of their signatures.

CITY OF COLUMBIA, MISSOURI

By: _____
John Glascock, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor

STATE OF MISSOURI)
) ss
COUNTY OF BOONE)

On this ____ day of _____, 2020, before me appeared John Glascock, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the City of Columbia, Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of the City and that this instrument was signed and sealed on behalf of the City by authority of its City Council and the City Manager acknowledged this instrument to be the free act and deed of the City.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal, at my office in Columbia, Boone County, Missouri, the day and year last above written.

Notary Public

My commission expires: _____.

