



## MEMORANDUM

**TO:** Mayor and City Council

**FROM:** Jerry Rusthoven, Assistant Director/Interim Lead  
Planning and Zoning Department

**DATE:** April 17, 2020

**SUBJECT:** Explanation of Item #18 – 5200 McKinney Falls Annexation & Development Agreement

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This memo is to clarify a proposed amendment to the 5200 McKinney Falls Annexation and Development Agreement.

### **What is the annexation and development agreement?**

The 5200 McKinney Falls Annexation and Development Agreement (The Agreement) sets forth that the City of Austin will not annex the subject property provided an agricultural use is maintained. The Agreement, which sunsets in 2024, is one of several similar agreements that helped the City meet contiguity criteria needed for annexations. Such agreements are no longer considered by Texas cities since annexations now generally require owner consent. The agreement was first amended in 2017 to allow for a cell tower use on the property.

### **What is the request?**

The applicant has requested an amendment to The Agreement. The requested amendment would release one of two tracts (Tract 2 – 55 acres) included in the 2009 agreement. The tract would then be able to develop as a non-agricultural use subject to development rules that apply in the ETJ. The applicant is proposing to develop the tract as a light industrial use generally compatible with LI zoning under Title 25.

### **Is this a two-step process?**

The request could be a one-step or two-step process, depending on direction from Council.

***If Council were to approve the amendment releasing Tract 2***, as requested by the applicant, the amendment simply would release the tract from the agricultural use restriction. Once released, the property could fully develop under extraterritorial jurisdiction rules as provided by Title 30 without annexation.

***If Council were to decline to approve the amendment releasing Tract 2***, the owner could return with a request for annex the property to full purpose jurisdiction. The Agreement would then be amended at the same time as full purpose annexation. A zoning change would then be required to develop Tract 2 under the LI zoning or other type of zoning sought by the owner or their agent.

**Is this an annexation? Why not?**

Not at this time. Under current state law, annexation must be expressly requested by the property owner and would be done in conjunction with a signed service agreement with the City. This is not an annexation because the applicant has not requested an annexation at this time. At this time, the applicant is only requesting to be released from the agreement.

**When could this item come back as an annexation?**

As early as May 23, if requested by the property owner. Annexations now only require one public hearing before Council. One Council meeting would be required to set the public hearing and another meeting to hold the hearing. A zoning application could be filed at any time.

**What if the owner does not want to be annexed?**

The owner is under no obligation to seek an annexation. If Council declines to amend the agreement as presented, the owner would have a choice to wait until The Agreement sunsets in 2024 and develop under ETJ rules at that time.