

Notice of Hearing: N/A
Date of Hearing: 02/18/14
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RESOLUTION NO. 16-14

A RESOLUTION OF THE CITY OF SIOUX FALLS, SD, TO ESTABLISH A PREANNEXATION AGREEMENT WITH THE CACTUS HEIGHTS IMPROVEMENT ASSOCIATION, INC. AND ITS RESIDENTS.

WHEREAS, the City of Sioux Falls, SD, is authorized pursuant to SDCL 9-4-1.1 to establish an agreement with any landowner specifying the conditions under which the landowner's property may be annexed; and

WHEREAS, Cactus Heights Improvement Association, Inc. (CHIA) and its residents own the property shown on Exhibit A which does not currently meet Sioux Falls infrastructure standards for water, sewer, and streets, but is within the Sioux Falls 2035 Growth Area as designated by the Sioux Falls 2035 Shape Sioux Falls Comprehensive Plan; and

WHEREAS, the City of Sioux Falls and the CHIA and its residents agree to the terms of the Preannexation Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SIOUX FALLS, SD:

Section 1. CHIA is willing to enter into the Preannexation Agreement provided that future annexation will not occur before January 1, 2025, or unless a valid petition for annexation as required by law is presented to the City.

Section 2. Upon eventual annexation, the real property commonly known as Cactus Heights South, as described in Exhibit A, shall be zoned consistent with the future land use of single-family residential as recommended with the Shape Sioux Falls 2035 Comprehensive Plan. The rezoning process shall be completed pursuant to the City of Sioux Falls Zoning Ordinance.

Section 3. Upon eventual annexation, the real property commonly known as Cactus Heights South, as described in Exhibit A, shall comply with adopted City Engineering Design Standards and state law referencing the use of municipal utilities.

Section 4. CHIA properties shall have access to City water and sewer once engineering plans are approved by the City of Sioux Falls Engineering Office as required by the standards in Exhibit B.

Section 5. CHIA properties shall improve all street, sewer, water, and drainage services to adopted City Engineering Design Standards before annexation is allowable as required by Exhibits B and C.

Section 6. The City shall publish the resolution without attachment, after its passage. The attachment is on file and available for inspection in the office of the City Clerk.

Date adopted: 02/18/14 .

Mike T. Huether
Mayor

ATTEST:
Lorie Hogstad
City Clerk

**Exhibit A
Petition for Pre-Annexation Agreement
Cactus Heights Improvement Association, Inc.**

We the undersigned landowners of the Cactus Heights Improvement Association, Inc. (CHIA) do agree to enter into a pre-annexation agreement resolution with the City of Sioux Falls including this Exhibit A and Exhibits B and C contained as a part of this resolution. All legal descriptions are within the Cactus Heights Townsite, 12-101-4, Sioux Falls Township, Minnehaha County, South Dakota.

Map#	Legal Description	Name	Signature
1	Lot 17	Halleen, Owen P & Sherry A	
2	Lot 16	Gaster, James L & Rita L	
3	Lot 15	Markie, Kenneth & Heidi	
4	Lot 1, Block 1	Westman, Thomas J	
5	Lot 2, Block 1	Monson, Michael W	
5	Lot 3, Block 1	Engelsman, Danny & Cathy	
7	NE 36' Lot 5 & all Lot 4 Block 1	Johnson, Ruby J	
8&9	Lot 5 Block 1 (Ex NE 36') & Lot 6 Block 1	Skallerud, Richard & Carol	
10&11	Tract 6 and Lot 7	Husby, David M & Sarah J	
12	Lot 8, Block 1 - Condo unit 1	Beech, Gerald J & Cassie	
13	Lot 9, Block 1	Roth, John B & Joan R	
14	Lot 10, Block 1	Starnes, Greg and Jennifer	
15	Tract 1, Unit 1 - Condo Unit 1 Condo Unit 2 Condo Unit 3 Condo Unit 4 Condo Unit 5	Boer, David, A & Cheryl, L Marek, Mary Fischer, Sharon Ann Esse Chadman, Boese	
16	Tract D - Condo Unit 6	Boese, Chadman Et. Al. John & Deb Behrend	
17, 18, & 19	Lot 21, Lot 22, and Lot 23	Syverson, Dave	
20	Lot 23A	Stamp, Brian & Kaufman, Ashley Natalie - Matthew Rigge Rigge	
21	Lot 49	Kirstein, Jeff & Meendering, Nancy	
22	Lot 48	Peterson, Mark A	
23&24	Lot 25 and Lot 26	Peterson, Patricia L c/o Merton Peterson	
25	Lot 27	Norberg, Naomi D	
26	Lot 28	Masek, Brian & Michelle	
27	Lot 29	Smit, Scott, A	

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Exhibit B
City Services Allowable Before Annexation Under This Agreement

1. **Water Services.** This agreement shall allow CHIA residents to connect to the City water distribution system(s) prior to annexation at the “out of city” rate as defined by Section 51.047 of the most current edition of the Code of Ordinances of Sioux Falls, SD, and contingent upon the following:
 - a. Construction plan(s) have been approved by the City of Sioux Falls Engineering Office per City Engineering Design Standards.
 - b. Construction of City water distribution systems as shown on the approved construction drawings have been completed.

2. **Sewer Services.** This agreement shall allow CHIA residents to connect to the City sewer system prior to annexation at the rate as defined by the current edition of the Code of Ordinances of Sioux Falls, SD, and contingent upon the following:
 - a. Construction plan(s) have been approved by the City of Sioux Falls Engineering Office per City Engineering Design Standards.
 - b. Construction of City sewer system as shown on the approved construction drawings has been completed.
 - c. All costs associated with the design and installation of the service line or lateral and abatement of the existing septic system will be borne exclusively by the petitioning homeowner(s).
 - d. Applicable connection fees per the current City of Sioux Falls Engineering Design Standards and Code of Ordinances of Sioux Falls, SD, shall be paid in full by the petitioning homeowner(s) prior to connection.
 - e. The City reserves the right, as a part of a contract with a CHIA homeowner, to place a lien on any property with delinquent sewer service payments.

Exhibit C
Infrastructure Required Before Annexation Is Allowed Under This Agreement

1. **Intent.** The CHIA area has large areas of undeveloped property weaving around CHIA properties. This land was once the Cactus Heights golf course. Because of the large areas of undeveloped property, the CHIA area is not viable to provide infrastructure in an efficient and economical manner. It is planned that annexation will occur in the future when the old Cactus Heights golf course land develops to residential lots or land uses with similar intensities.
2. **Development of Old Cactus Height Golf Course.** The previous Cactus Heights golf course land shall annex, zone, and develop according to all City zoning, subdivision, and engineering design ordinances and standards. The development of the old Cactus Heights golf course shall include infrastructure and subdivision of land through the City's subdivision review process. This subdivision review process shall include the CHIA properties and the process shall encourage CHIA and one or more private developers to install City infrastructure concurrently. The development review process of the previous Cactus Heights golf course shall then also include the review and approval of infrastructure within the CHIA area that is on the same infrastructure lines or streets.
3. **Water Services.** City-maintained water distribution systems shall be constructed by CHIA before annexation is allowed. Water systems shall be designed in accordance with the current edition of the City's Engineering Design Standards and City ordinance. City Engineering shall approve all water system construction drawings prior to any such facilities being constructed. Service from the existing rural water system will not be allowed under this agreement since the existing water infrastructure cannot provide adequate fire flows that must be available in Sioux Falls incorporated areas.
4. **Sewer Services.** City-maintained sewer systems shall be constructed by CHIA before annexation is allowed. Septic system replacement will not be allowed after annexation is effective. CHIA residents may connect earlier to City sanitary sewer services once available based upon Exhibit B standards. CHIA residents will need to pay for lateral and private sewer connections and abatement of the septic tank. CHIA shall connect to City sanitary sewer by contracting to have utility infrastructure designed and installed with an individual prime contractor. Said sewer systems shall be designed in accordance with the current edition of the City's Engineering Design Standards and City ordinance. Applicable connection fees per the current City of Sioux Falls Engineering Design Standards and ordinances shall be paid in full by the petitioning homeowner(s) prior to connection.
5. **Storm Water Drainage Services.** Before annexation is allowed, all CHIA streets will require an evaluation of storm water drainage.
 - a. The CHIA streets must meet all Engineering Design Standards for conveyance of storm water runoff. This includes standards for both the 5-year and 100-year storm events.
 - b. All property annexed into the city is subject to an annual drainage fee. This fee is based on current land use and lot square footage and is assessed on your county property taxes.
6. **Sidewalks.** Sidewalks are not required before annexation is allowed unless necessitated by a complaint through the federal Americans with Disabilities Act.
7. **Street Services.** Once CHIA is annexed into the city of Sioux Falls and the storm drainage evaluation is completed, CHIA neighborhood streets may continue to be privately maintained, except all private streets will be required to be improved in accordance with the most current edition of the City's Engineering Design Standards. A rural section private street without curb and gutter or sidewalks will be allowed as long as adequate drainage can be maintained. As an alternative, CHIA may develop public streets if all right-of-way is acquired that is necessary and the street meets the standard for a

local street as required within the Engineering Design Standards and designed in accordance with the most current edition of the City's Engineering Design Standards and City ordinance.

8. **Future Street Development.** Developers of property within the CHIA neighborhood would be required to bear all costs associated with future infrastructure connection and construction. Also, the City of Sioux Falls will not approve any subdivision plan that routes future streets from Rice Street, Bahnsen Avenue, Sycamore Avenue, or future arterial streets through CHIA to Dubuque Avenue. Staff would be receptive to reviewing street vacation requests from 100 percent of the adjacent landowners. Said future streets shall be designed in accordance with the most current edition of the City's Engineering Design Standards and City ordinance.
9. **Street Naming.** Street names shall remain the same at annexation. Street addresses will need to be consistent with Engineering Design Standards after annexation.
10. **Streetlights.** To maintain rural character, no new streetlights will be installed, other than those already in existence or requested by 100 percent of the adjacent property owners. The costs of such installation will be borne exclusively by the petitioning homeowners.
11. **Utilities.** Utilities need to be installed within public utility easements.
12. **Zoning.** The landowners have requested densities to maintain rural character. Once the annexation is effective, the City will work with the neighborhood to zone properties to an appropriate low density residential district.
13. **Future Annexation Stipulations and Costs—Annual Fees.** Once annexed, annual fees levied against property within the city of Sioux Falls will also be levied against property within CHIA.
 - a. Once a property is annexed in the city, the City has fees for drainage and street maintenance front foot assessments to help cover operation and maintenance. These fees are paid annually with the county property taxes.
14. **Other.**
 - a. Existing liens or assessments. Any existing liens or delayed assessments that conflict with the above policies should be changed to accurately reflect the CHIA Preannexation Agreement.