

**PRE-ANNEXATION AGREEMENT BETWEEN THE CITY OF KYLE, TEXAS
AND _____ RELATED TO RECEIVING CITY UTILITIES**

THIS PRE-ANNEXATION AGREEMENT, made and entered into as of the ____ day of _____, 2016 by and between the City of Kyle, Texas, a Texas municipal corporation, hereinafter referred to as the “City” and _____, the property owner hereinafter referred to as “Petitioner,” is for the purpose of setting forth the terms regarding the receiving of city utilities (i.e. water, waste water, solid waste water services, storm drain utility and whatever existing or future utilities may be appropriate for property) in exchange for annexation of property into the corporate limits of Kyle.

WHEREAS, Petitioner owns a parcel of real property in Hays County, Texas, which is more particularly and separately described in the attached “*Exhibit “A”*”; and

WHEREAS, City of Kyle, is willing to establish city utilities (i.e. water, waste water, solid waste water services, storm drain utility and whatever existing or future utilities may be appropriate for property), for the use of the Petitioner; and,

WHEREAS, the City of Kyle requires full annexation to receive city utility service;

NOW THEREFORE, for and in consideration of the mutual promises and benefits to be derived by the parties herein contained, the City and Petitioner agree as follows:

Section I. Obligations of Petitioner

Petitioner will:

1. Voluntarily request full annexation into the corporate limits of the City for the areas to be served by the City.
2. Donate to the City required or existing right of way and/or utility easements for the city utilities needed to serve the property without cost to the City as required.
3. Furnish design and engineering specifications for the construction of the city utilities as may be required.
4. Construct utilities in accordance with the plans and specifications as required by City ordinances and approved by the City, and dedicate at no cost to the City such improvements upon completion and acceptance by the City. Prior to dedication and acceptance by the City of such utilities, Petitioner shall be responsible for maintenance of such utilities.

Section II. Obligations of the City

The City will:

1. Consider and take action on the Petitioner’s request for voluntary annexation

2. Review and approve design plans and specifications for City utilities caused to be prepared by the Petitioner in accordance with City construction standards and requirements as determined by the City Engineer.
3. Provide construction inspection of the City utilities to be constructed and to be dedicated to the City.

Section III. Payment Terms and Conditions

1. Petitioner shall be responsible for the costs of extending utilities to serve their tract(s) including construction inspection fees, and shall pay all user costs or fees of the City utilities once provided.

Section IV. Standard Terms and Conditions

1. Once annexation proceedings begin pursuant to this Agreement, the Petitioner acknowledges that the City is required use certain statutory procedures in accordance with Chapter 43 of the Local Government Code. Furthermore, Petitioner acknowledges vested rights as of the date of this Agreement and waives any claims that they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code.
2. This Agreement may be modified only by a written amendment executed by the parties hereto.
3. The parties hereto, in the performance of this Agreement, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent entities and that nothing in this Agreement shall be construed to create an employer/employee relationship.
4. 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.
5. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for this Agreement shall be in Hays County, Texas.
6. Petitioner or the City may enforce this Agreement 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.
7. No subsequent change in 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 V. Notices

1. Prior to Petitioner sells or conveys any portion of the Property, they 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.
2. No Party shall be deemed to be in default hereunder until i) receipt from another party of a written notice of breach that specifies the nature of the breach, including the provision of the Agreement that has been breached ("**Notice of Breach**"); and ii) the passage of thirty (30) days after receipt of the Notice of Breach without cure of the breach. If the cure of the breach requires more than thirty (30) days and the breaching Party has begun to cure the breach, then the breaching party shall be deemed to have cured the breach so long as the breaching party diligently, continuously and timely cures said breach. Upon the passage of thirty (30) days without cure of the breach, such Party shall be deemed to have defaulted for purposes of this Agreement and the non-defaulting Party may pursue all remedies available under the law.
3. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and delivered in person or sent via first class mail to the respective party noted below or to such other party or address as may be hereafter specified by written notice.

The City:

City Manager
City of Kyle, Texas
100 W. Center Street
Kyle, Texas 78640

Petitioner:

(Name) _____
(Address) _____
(Address) _____

IN WITNESS WHEREOF, the parties have duly executed this agreement as of the day and year first written.

CITY OF KYLE, TEXAS

PETITIONER

By: _____
Mayor Todd Webster

By: _____

Approved as to Form and Legality
this ____ Day of _____ 2016

City Attorney