

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ANNEXING APPROXIMATELY 51.48 ACRES OF LAND LOCATED IN HAYS COUNTY, TEXAS ALL OF WHICH ARE LYING WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION AND TO INCORPORATE SUCH PROPERTY INTO THE CITY OF KYLE, AS SHOWN IN THE ATTACHED EXHIBIT; MAKING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR OPEN MEETINGS AND OTHER RELATED MATTERS.**

**WHEREAS**, the City of Kyle, Texas, (herein the "City") is a home rule municipality authorized by State law and the City Charter to annex territory lying adjacent and contiguous to the City; and

**WHEREAS**, the property owner (herein the "Petitioner"), being the owner of approximately 51.48 acres of land located within Hays County, Texas have petitioned the City for annexation of said tract into the city limits; and

**WHEREAS**, the property is adjacent and contiguous to the present city limits and within the City's extraterritorial jurisdiction; and

**WHEREAS**, the City Council heard and has decided to grant the owners requests that the City annex said properties; and

**WHEREAS**, two separate public hearings were conducted prior to consideration of this Ordinance in accordance with §43.063 of the *Tex. Loc. Gov't. Code*; and

**WHEREAS**, the hearings were conducted and held not more than forty (40) nor less than twenty (20) days prior to the institution of annexation proceedings; and

**WHEREAS**, notice of the public hearings was published in a newspaper of general circulation in the City and the territory proposed to be annexed not more than twenty (20) nor less than ten (10) days prior to the public hearings; and

**WHEREAS**, the Petitioner has agreed and consented to the negotiated municipal service plan, attached hereto as Exhibit 'C' and the annexation of the property by the City and further agreed to be bound by all acts, ordinances, and all other legal action now in force and effect within the corporate limits of the City and all those which may be hereafter adopted; and

**WHEREAS**, the City intends to provide services to the property to be annexed according to the Service Plan attached hereto as Exhibit "C".

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS:**

**SECTION 1.** That all of the above premises and findings of fact are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.** That the following described property (hereinafter referred to as the “Annexed Property”), is hereby annexed into the corporate limits of the City of Kyle:

All those certain tracts or parcels being approximately 51.48 acres of land, located in Hays County, Texas, and being more particularly described in Exhibit “A” and shown in Exhibit “B”, attached hereto and incorporated herein for all purposes.

**SECTION 3.** That the Service Plan submitted herewith is hereby approved as part of this Ordinance, made a part hereof and attached hereto as Exhibit “C”.

**SECTION 4.** That the future owners and inhabitants of the Annexed Properties shall be entitled to all of the rights and privileges of the City as set forth in the Service Plan attached hereto as Exhibit “C”, and are further bound by all acts, ordinances, and all other legal action now in full force and effect and all those which may be hereafter adopted.

**SECTION 5.** That the official map and boundaries of the City, heretofore adopted and amended, be hereby amended so as to include the Annexed Property as part of the City.

**SECTION 6.** That the Annexed Property shall be temporarily zoned Agricultural District “AG” as provided in the City Zoning Ordinance, as amended, until permanent zoning is established therefore.

**SECTION 7.** That the Annexed Property shall be assigned to Council District No. 4.

**SECTION 8.** That if any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 9.** That this Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

**SECTION 10.** That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

**PASSED AND APPROVED** on First Reading the \_\_\_\_\_ day of November, 2016.

**FINALLY PASSED AND APPROVED** on Second Reading this \_\_\_\_ day of December, 2016.

**ATTEST:**

**CITY OF KYLE, TEXAS**

\_\_\_\_\_  
Jennifer Vetrano, City Secretary

\_\_\_\_\_  
R. Todd Webster, Mayor

## **EXHIBIT “A”**

### **Property Descriptions**



### FIELD NOTES DESCRIPTION

DESCRIPTION OF 51.48 ACRES OF LAND IN THE M.M. MCCARVER LEAGUE NUMBER 4, A-10, HAYS COUNTY, TEXAS; BEING A PORTION OF THE REMAINDER OF A CERTAIN 983.99 ACRE TRACT DESIGNATED AS TRACT 2 OF EXHIBIT "A" AND DESCRIBED IN THE DEED WITHOUT WARRANTY TO MOUNTAIN PLUM, LTD. OF RECORD IN VOLUME 2297, PAGE 139, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 51.48 ACRES OF LAND AS SURVEYED BY BOWMAN CONSULTING GROUP, LTD. BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a calculated point in the east right-of-way line of R.M. 2770 (Old Austin-San Marcos Road), a variable width right-of-way, for the northwest corner of the said 983.99 acre tract and for the west corner of a certain tract of land described in a deed to Texas-Lehigh Cement Company of record in Volume 609, Page 843, Real Property Records of Hays County, Texas, from which a 1/2-inch iron rod found bears N 88°07'40" E, a distance of 0.90 feet;

**THENCE** N 88°07'40" E, leaving the east right-of-way line of said R.M. 2770 (Old Austin-San Marcos Road), with the north line of the said 983.99 acre tract and a south line of the said Texas-Lehigh Cement Company tract, a distance of 551.74 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" set for the northwest corner and **POINT OF BEGINNING** of the tract described herein;

**THENCE** N 88°07'40" E, continuing with north line of the said 983.99 acre tract and the south line of the said Texas-Lehigh Cement Company tract, with the north line of the tract described herein, at a distance of 622.93 feet, passing a 1/2-inch iron rod found, and continuing for a total distance of 645.48 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" set for the northerly northeast corner of the said 983.99 acre tract and for a re-entrant corner in the west line of the said Texas-Lehigh Cement Company tract, for the northeast corner of the tract described herein;

**THENCE** S 01°48'26" E, with the east line of the said 983.99 acre tract and the west line of the said Texas-Lehigh Cement Company tract, with the east line of the tract described herein, a distance of 869.97 feet to a 1/2-inch iron rod found at a re-entrant corner in the east line of the said 983.99 acre tract being the southwest corner of the said Texas-Lehigh Cement Company tract for a point-on-line in the east line of the tract described herein, from which a calculated point in the curving west right-of-way line of F.M. 1626, being a certain called 28.91 acre tract described in a deed to the City of Kyle, Texas, of record in Volume 1871, Page 236, Official Public Records of Hays County, Texas bears N 88°09'34" E, a distance of 1016.39 feet, and from said calculated point, a Texas Department of Transportation (TXDOT) Type 2 right-of-way marker found bears N 03°01'08" E, a distance of 0.55 feet;

**THENCE** crossing the said 983.99 acre tract, with the east, south, and west lines of the tract described herein, the following five (5) courses and distances:

1. S 01°48'26" E, a distance of 922.01 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" set for the southeast corner of the tract described herein,
2. S 88°07'40" W, a distance of 1618.53 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" set for the southwest corner of the tract described herein,
3. N 17°04'43" E a distance of 1116.23 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" set for a point of curvature,
4. with the arc of a curve to the right, having a radius of 695.92 feet, an arc distance of 299.41 feet, and a chord which bears N 29°24'58" E, a distance of 297.11 feet to a 1/2-inch iron rod with a plastic cap stamped "BCG" set for a point of tangency, and
5. N 41°39'39" E, a distance of 665.35 feet to the **POINT OF BEGINNING** and containing 51.48 acres of land, more or less.

51.48-Ac.  
M.M. McCarver Sur. No. 4, A-10,  
Hays County, Texas

Job No. 5549-01-001  
FN1627(en)  
Page 2 of 2

BEARING BASIS: Texas Coordinate System, South Central Zone, NAD83, Grid.

BOWMAN WORD FILE: FN1627(en)  
H:\Survey\\_FieldNotes\FN-1600s\FN1627(en).doc

THE STATE OF TEXAS       §  
                                     §       KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF TRAVIS       §

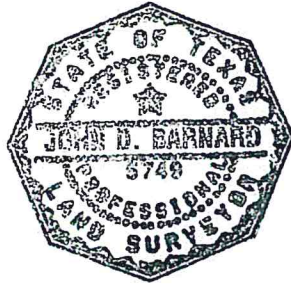
That I, John D. Barnard, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a series of surveys made on the ground during the month of July 2014, under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, on this 31<sup>st</sup> day of July 2014 A.D.

Bowman Consulting Group, Ltd.  
Austin, Texas 78746



John D. Barnard  
Registered Professional Land Surveyor  
No. 5749 – State of Texas

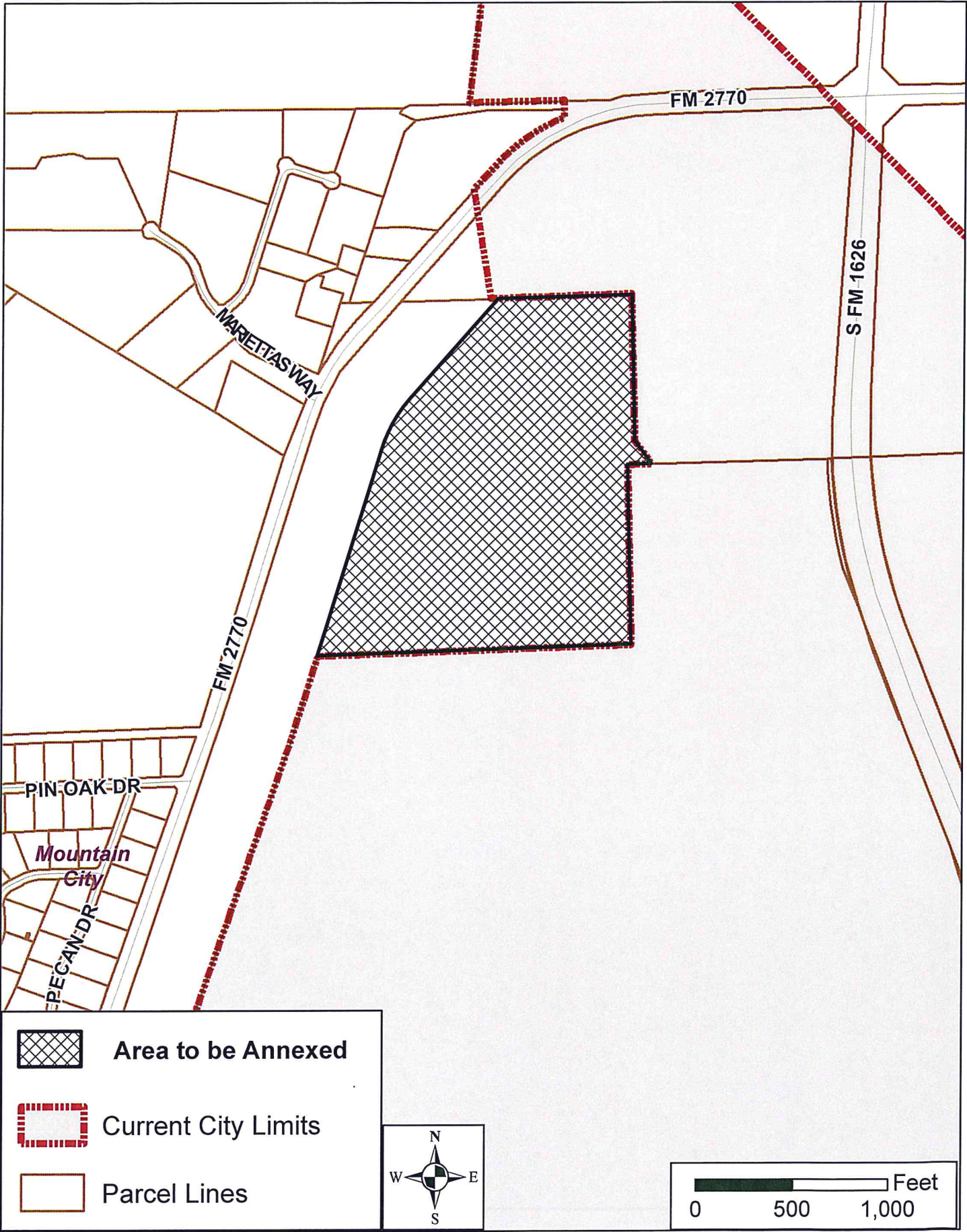


**EXHIBIT "B"**

**Property Description – Maps: +/- 51.48 acres**



# Exhibit B



## **EXHIBIT “C”**

### **MUNICIPAL SERVICES PLAN FOR PROPERTY TO BE ANNEXED TO THE CITY OF KYLE**

**WHEREAS**, the City of Kyle, Texas (the “City”) intends to institute annexation proceedings for a tract of land described more fully hereinafter (referred to herein as the “Property”);

**WHEREAS**, *Section 43.056, Loc. Gov’t. Code*, requires a municipal service plan be adopted with the annexation ordinance;

**WHEREAS**, the Property is not included in the municipal annexation plan and is exempt from the requirements thereof;

**WHEREAS**, infrastructure provided for herein and that are existing are sufficient to service the Property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements by the City are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City;

**WHEREAS**, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapt. 43, Loc. Gov’t. Code*, to annex the Property into the City; and

**WHEREAS**, the Property will benefit from the City’s development restrictions and zoning requirements, as well as other municipal services provided by the City, which are good and valuable consideration for this service plan

**NOW, THEREFORE**, the City agrees to provide the following municipal services for the Property on the effective date of annexation:

(1) **General Municipal Services.** Pursuant to this Plan, the following municipal services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City.

B. Fire protection and Emergency Medical Services as follows:

Fire protection by the present personnel and equipment of the City volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the personnel serving the area and equipment.

C. Solid waste collection services as follows:



Solid waste collection and services as now being offered to the citizens of the City.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities.

G. Maintenance of other City facilities, buildings and service.

H. Land use regulation as follows:

On the effective date of annexation, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned Agricultural District "A" with the intent to rezone the Property upon request of the landowner(s) or city staff. The Planning & Zoning Commission and the City Council will consider rezoning the Property at future times in response to requests submitted by the landowner(s) or requested by city staff.

(2) **Scheduled Municipal Services.** Depending upon the Property owner's plans and schedule for the development of the Property or redevelopment of the Property, the following municipal services will be provided on a schedule and at increasing levels of service as provided in this Plan:

A. Water service and maintenance of water facilities as follows:

(i) Inspection of water distribution lines or wells as provided by statutes of the State of Texas.

(ii) In accordance with the rules and regulations for water service extension, water service will be provided by the utility holding a water certificate of convenience and necessity ("CCN") for the Property, or absent a utility holding a CCN, in whose jurisdiction the Property is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City's system, the Property owner(s) shall construct the internal water lines and pay the costs of water line extension and necessary facilities to service the Property as required in City ordinances at the time of the request. The Property owner(s) agree the Property in its current state has adequate water service and no capital improvements by the City are required. The Property owner(s) agree as the Property develops and water services are sought from the utility holding the CCN for the Property that the City's ordinances, policies, or agreements between the City and the Property owner(s) shall govern the extension

of water services to the Property and the City shall have no obligation to service in another CCN.

B. Wastewater service and maintenance of wastewater service as follows:

(i) Inspection of sewer lines or septic systems as provided by statutes of the State of Texas.

(ii) The Property owner(s) shall construct the internal and off-site sewer lines and facilities (the "Sewer System") and pay the costs of line extension and facilities as required in City ordinances. Upon acceptance of the Sewer System, sewer service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to all the ordinances, regulations and policies of the City in effect from time to time. The Sewer System will be accepted and maintained by the City in accordance with its usual policies. Requests for new sewer extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The City ordinances, policies, and agreements between the City and the Property owner(s) in effect at the time a request for additional service is submitted shall govern the costs and request for service.

C. Maintenance of public streets and rights-of-way as appropriate as follows:

(i) Provide maintenance services on public streets within the Property that are dedicated and finally accepted by the City. The maintenance of such public streets and roads will be limited as follows:

(A) Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.;

(B) Routine maintenance as presently performed by the City;  
and

(C) The Property owner(s) have specifically agreed that maintenance services will be of little benefit and will not be required or needed on the Property, prior to the Property owner(s), its grantees, successors and assigns completing the construction and dedication of streets to the City in compliance with City subdivision regulations.

(ii) Following installation of the roadways, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain the public streets, roadways and rights-of-way within the boundaries of the Property if dedicated and accepted, as follows:

(A) As provided in C (i)(A)&(B) above;



(B) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;

(C) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(D) Installation and maintenance of street lighting in accordance with established policies of the City;

(iii) The outer boundaries of the Property abut existing roadways. The Property owner(s) agree that no City improvements are required on such roadways to service the Property. If the owner(s) develop the Property so as to impact abutting roadways pursuant to the City's subdivision regulation, the owner(s) agree to comply with such ordinances.

(3) **Special Services and Actions.** Although the City reserves all its governmental authority, powers and discretion, if the City shall unreasonably refuse to grant the permits and approvals above provided in (2)(A), (B) & (C), then in that event the owner(s) may request and obtain disannexation of the Property pursuant to this service plan; provided that if the City shall, in the exercise of its discretion and authority, approve the permits and events set forth in (2)(A), (B) & (C) above, the Property shall be and remain within the corporate limits of the City.

(4) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the effective date of the annexation: None. Upon development of the Property or redevelopment, the landowner(s) will be responsible for the development costs the same as a developer or landowner in a similarly situated area under the ordinances in effect at the time of development or redevelopment. No additional capital improvements are necessary at this time to service the Property. The Property owner(s) for itself, its grantees, successors, and assigns agree that no capital improvements are required to service the Property the same as similarly situated properties already within the City.

(5) **Term.** If not previously expired, this service plan expires at the end of ten (10) years.

(6) **Property Description.** The legal description and map of the Property are as set forth in Exhibits "A" and "B" that are attached to the Ordinance to which this negotiated municipal service plan is attached as Exhibit "C".