ORDINANCE NO. 20081120-034

AN ORDINANCE ANNEXING, FOR FULL PURPOSES, ADDITIONAL TERRITORY ADJACENT TO THE CITY LIMITS OF THE CITY OF AUSTIN REFERRED TO AS THE "SHADY HOLLOW GARDENS ANNEXATION AREA", CONSISTING OF APPROXIMATELY 40 ACRES OF LAND OUT OF THE WALKER WILSON SURVEY NO. 2, ABSTRACT NO. 27 IN TRAVIS COUNTY, TEXAS; AND APPROVING A SERVICE PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Council finds that:

(A) Notice of the two public hearings concerning annexation of the territory described in Exhibit A was published in a newspaper of general circulation in the City of Austin and in the area to be annexed, and on the City of Austin internet website.

(B) The public hearings were held on October 16, 2008 and October 23, 2008 at the Austin City Hall, 301 West 2nd Street, Austin, Texas.

(C) The public hearings were concluded after providing an opportunity for all persons present to be heard with respect to the proposed annexation. A proposed Service Plan was made available and explained at the public hearings required by state law.

(D) The annexation, for full purposes, of the territory described in Exhibit A serves the interest of the current and future residents of the City of Austin.

(E) All procedural requirements imposed by state law for the full purpose annexation of the territory described in Exhibit A have been met.

PART 2. The present boundary limits of the City are amended to include the following territory which is within the extraterritorial jurisdiction and adjacent to the city limits of the City of Austin in Travis County, Texas, and which is annexed into the City for the full purposes:

Two tracts of land containing 40 acres of land, more or less, the tract hereinafter described as Tract One containing approximately 35.552 acres of land out of the Walker Wilson Survey No. 2, Abstract No. 27 in Travis County, Texas; and the tract hereinafter described as Tract Two containing approximately 4 acres of land out of the Walker Wilson Survey No. 2, Abstract No. 27 in Travis County, Texas; said 40 acres of land, more or less, being more particularly described in Exhibit A.

PART 3. The Service Plan attached as Exhibit B is approved as the Service Plan for the area.

PART 4. The City Council declares that its purpose is to annex to the City of Austin each part of the area described in Exhibit A as provided in this ordinance, whether any other part of the described area is effectively annexed to the City. If this ordinance is held invalid as to any part of the area annexed to the City of Austin, that invalidity does not affect the effectiveness of this ordinance as to the remainder of the area.

If any area or lands included within the description of the area set out in Exhibit A are: (1) presently part of and included within the general limits of the City of Austin; (2) presently part of and included within the limits of any other city, town, or village; or (3) are not within the jurisdiction or power of the City of Austin to annex, then that area is excluded and excepted from the area annexed.

PART 5. This ordinance takes effect on December 31, 2008.

PASSED AND APPROVED

§
§
November 20, 2008 §

Will Wynn
Mayor

APPROVED:

David Allan Smith
City Attorney

ATTEST:

Shirley A. Gentry
City Clerk

EXHIBIT A

C7a-08-021
Area to be annexed.
Approximately 40 acres out of the Walker Wilson Survey No. 2, Abstract No. 27 in Travis County, Texas.
(Shady Hollow Gardens)
(Portion of Frate Barker Road)

LEGAL DESCRIPTION

LEGAL DESCRIPTION OF TWO TRACTS OF LAND CONTAINING APPROXIMATELY 40 ACRES OF LAND OUT OF THE WALKER WILSON SURVEY NO. 2, ABSTRACT NO. 27 IN TRAVIS COUNTY, TEXAS, THE TRACT HEREINAFTER DESCRIBED AS TRACT ONE CONTAINING APPROXIMATELY 35.552 ACRES OUT OF THE WALKER WILSON SURVEY NO. 2, ABSTRACT NO. 27 IN TRAVIS COUNTY, TEXAS, AND THE TRACT HEREINAFTER DESCRIBED AS TRACT TWO CONTAINING APPROXIMATELY 4 ACRES OUT OF THE WALKER WILSON SURVEY NO. 2, ABSTRACT NO. 27 IN TRAVIS COUNTY, TEXAS; OF WHICH APPROXIMATELY 40 ACRES OF LAND ARE TO BE TAKEN INTO AND MADE A PART OF THE CITY OF AUSTIN, SAID APPROXIMATELY 40 ACRES BEING MADE UP OF TWO TRACTS OF LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Tract One:

Being all of that certain called 35.552 acre tract of land platted as Shady Hollow Gardens, a subdivision of record in Document No. 200600356 of the Official Public Records of Travis County, Texas.

Tract Two:

Being that portion of Frate Barker Road bounded on the west by a line running perpendicularly from the northwest corner of said Shady Hollow Gardens Subdivision described as "Tract One" above to the present corporate limit line of the City of Austin as adopted by Ordinance No. 971218-G (Case No. C7a-97-012), bounded on the east by a line being the northerly prolongation of the east line of said Shady Hollow Gardens Subdivision described as "Tract One" above to the present corporate limit line of the City of Austin as adopted by Ordinance No. 011101-40 (Case No. C7a-01-007) and bounded on the north by the present corporate limit line of the City of Austin as adopted by Ordinance No. 971218-G (Case No. C7a-97-012) and by Ordinance No. 011101-40 (Case No. C7a-01-007).

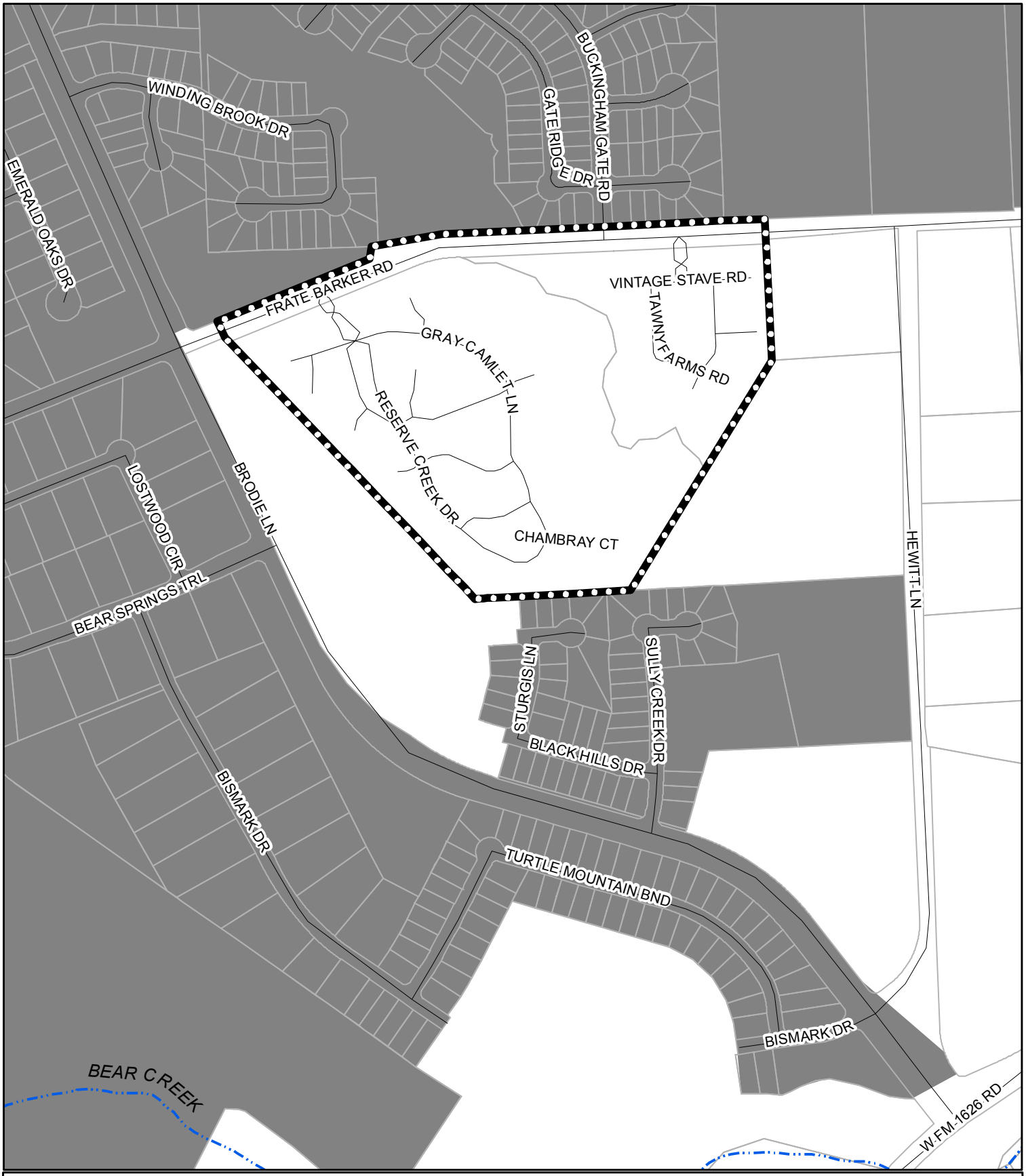
"This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared".

LEGAL DESCRIPTION: Mary P. Hawkins
11-03-2008

11-3-2008

APPROVED: John E. Moore, RPLS NO. 4520
Engineering Services Division
Department of Public Works
City of Austin

REFERENCES
TCAD MAP 4-3830, 4-3828, 4-4028 & 4-4030
Austin Grid D-12



Shady Hollow Gardens Annexation Area

0 500 1,000 Feet

Legend

Annexation Area

Current Jurisdiction

- Austin Full Purpose
- Austin Limited Purpose
- Austin ETJ

- Lot Line
- Street
- Creek

N

City of Austin NPZD
J. Chuter
October 24, 2008

EXHIBIT B

CITY OF AUSTIN

ANNEXATION SERVICE PLAN

Case Name: Shady Hollow Gardens Annexation Area
Case Number: C7a-08-021
Date: October 3, 2008

INTRODUCTION

This Service Plan ("Plan") is made by the City of Austin, Texas ("City") pursuant to Chapter 43 of the Texas Local Government Code. This Plan relates to the annexation to the City of land ("annexation area") known as the Shady Hollow Gardens Annexation Area. The annexation area includes approximately 40 acres located in Travis County south of Frate Barker Road approximately 160 feet east of the intersection of Frate Barker Road and Brodie Lane. This area is in the City's extraterritorial jurisdiction ("ETJ") and is adjacent to the city's full purpose jurisdiction on the north side.

The Shady Hollow Gardens area is currently undeveloped and a site plan has been approved for this area that includes a proposed 144 unit single-family residential town home development. The annexation area is described by metes and bounds in Exhibit A, which is attached to the annexation ordinance of which this Plan is a part. The annexation area is also shown on the map in Exhibit A.

EFFECTIVE TERM

This Plan shall be in effect for a ten-year period commencing on the effective date of the annexation, unless otherwise stated in this Plan. Renewal of the Plan shall be at the option of the City. Such option may be exercised by the adoption of an ordinance by the City Council, which refers to this Plan and specifically renews this Plan for a stated period of time.

INTENT

It is the intent of the City of Austin that services under this Plan shall provide full municipal services as required and defined by the Texas Local Government Code.

The City reserves the right guaranteed to it by the Texas Local Government Code, to amend this Plan if the City Council determines that changed conditions or subsequent occurrence or any other legally sufficient circumstances exist under the Local Government Code, or other Texas laws to make this Plan unworkable or obsolete or unlawful.

SERVICE COMPONENTS

In General. This Plan includes three service components: (1) the Early Action Program, (2) Additional Services, and (3) a Capital Improvement Program.

As used in this Plan, providing services includes having services provided by any method or means by which the City extends municipal services to any other area of the City. This may include causing or allowing private utilities, governmental entities and other public service organizations to provide such services by contract, in whole or in part. It may also include separate agreements with associations or similar entities.

1. EARLY ACTION PROGRAM

The following services will be provided in the annexation area commencing on the effective date of the annexation, unless otherwise noted.

a. Police Protection. The Austin Police Department ("APD") will provide protection and law enforcement services in the annexation area. These services include:
- normal patrols and responses;
- handling of complaints and incident reports; and
- special units, such as, traffic enforcement, criminal investigations, narcotics, gang suppression, and special weapons and tactics team.

b. Fire Protection. The Austin Fire Department ("AFD") will provide emergency and fire prevention services in the annexation area. These services include:
- Fire suppression and rescue;
- Emergency medical services first response for Austin Emergency Medical Services Department on life threatening medical emergencies;
- Hazardous materials mitigation and regulation;
- Emergency prevention and public education efforts;
- Dive rescue;
- Technical rescue;
- Aircraft/rescue/firefighting;
- Construction plan review;
- Inspections; and
- Rescue/hazardous materials unit.

AFD serves as the first responder on life threatening emergencies for Austin EMS. All AFD personnel are certified at an Emergency Medical Technician ("EMT") level or higher. All engines (pumpers), ladder trucks, and rescue units carry Automatic External Defibrillators for use with heart attack victims.

c. Emergency Medical Service The City of Austin/Travis County Emergency Medical Services ("EMS") Department will provide emergency medical services in the annexation area.

Austin/Travis County EMS will provide the following emergency and safety services to the annexation area:

- Emergency dispatch, pre-arrival First Aid instructions and coordination of other public safety support agencies;
- Emergency paramedic ambulance response; and
- Medical rescue services.

Austin/Travis County EMS is a mobile service provider, with units constantly moving throughout the system area. An ambulance is frequently dispatched from a location outside the station.

The Austin Fire Department will provide emergency medical first response to all patients in a life-threatening situation. All Austin Fire Department personnel are certified at the Emergency Medical Technician (EMT) level or higher and assist EMS personnel providing patient care.

d. Solid Waste Collection. The Austin Solid Waste Services Department will provide services in the area. Services will be provided by City personnel or by solid waste service providers under contract with the City. Services currently provided in the City for single family residences, including duplex, triplex and fourplex dwelling units, include:

- garbage collection – scheduled cart collection in accordance with City Pay-As-You-Throw guidelines;
- recycling collection – scheduled curbside collection , materials collected include newspaper, magazines, catalogs, junk mail, corrugated cardboard, boxboard, aerosol, tin, steel and aluminum cans, glass bottles and jars, plastic bottles (#1 through #7); and
- yard trimmings collection – scheduled residential collection in paper bags or reusable containers.

Commercial garbage collection service for businesses is available on a subscription basis from the City or private service providers.

At this time there are no residential customers in the annexation area.

e. Maintenance of Water and Wastewater Facilities. Water and wastewater service will be provided to areas that are not within the certificated service area of another utility through existing facilities located within or adjacent to the area. The facilities will be maintained and operated by the City's Austin Water Utility as governed by standard policies and procedures, and under the provisions of the attached City service extension policy.

f. Maintenance of Roads and Streets, Including Street Lighting. The Street and Bridge Division of the Transportation and Public Works Department will maintain public streets over which the City has jurisdiction. These services include:

- Emergency pavement repair;
- Ice and snow monitoring of major thoroughfares;
- Street maintenance. Maintenance activities include crack seal, sealcoat, slurry seal, and PM overlay.
- Repair maintenance of public streets on an as-needed basis. Repair maintenance operations include pothole repair, filling depressions (level up), spot surface

replacement, spot full-depth repair, and utility cut repairs.

As streets in the area are dedicated and accepted for maintenance they will be included in the city's preventative maintenance program. Preventative maintenance projects are prioritized on a City-wide basis and scheduled based on a variety of factors, including surface condition (distresses), rideability (smoothness), age, traffic volume, functional classification, and available funding.

If necessary, the Transportation Division of the Transportation and Public Works Department will also provide regulatory signage services in the annexation area. Traffic signal, stop, and all other regulatory studies are conducted in conjunction with growth of traffic volumes. All regulatory signs and signals are installed when warranted following an engineering study. Faded, vandalized, or missing signs are replaced as needed. "CALL BACK" service provided 24 hours a day, 365 days a year for emergency repair of critical regulatory signs.

Street lighting will be maintained in accordance with state law.

g. Maintenance of Parks, Playgrounds, and Swimming Pools. At this time there are no public recreation facilities in the area.

Recreational facilities and area amenities, including parks, pools, and medians, that are privately owned, maintained, or operated will be unaffected by the annexation.

h. Maintenance of Any Other Publicly-Owned Facility, Building, or Service. Should the City acquire any other facilities, buildings, or services necessary for municipal services located within the annexation area, an appropriate City department will provide maintenance services for them.

2. ADDITIONAL SERVICES

Certain services, in addition to the above services, will be provided within the annexation area. They are as follows:

a. Watershed Protection and Development Review Department. The City of Austin's Watershed Protection and Development Review Department will provide drainage maintenance services in the Annexation area. Drainage planning and maintenance are fee-based services. Services currently provided by the department, in accordance with and as limited by applicable codes, laws, ordinances and special agreements, include:

- Water Quality Protection: Environmental Impact Assessments; Aquatic Endangered Species Protection; City Compliance with State and Federal Water Quality Regulations; Pollution Detection, Tracking and Forecasting; Stormwater Quality Education; Stormwater Treatment; Water Quality Education; Pollution Prevention and Reduction.
- Watershed Protection Master Planning for Flood Hazard Mitigation, Streambank Restoration and Erosion Control, and Water Quality Protection
- Land Development Review and Inspection: Land Development Review and Assistance; Environmental Inspection.

- Building Development Regulations: Commercial Building Plan Review; Permit Center; Permit Inspections.
- Flood Hazard Mitigation: Voluntary Floodplain Home Buyout Program; Regional Stormwater Management Evaluation; Creek Flood Hazard Mitigation; Localized Flood Hazard Mitigation; Flood Early Warning System; Floodplain Management.
- Streambank Restoration and Erosion Management: Streambank Restoration and Erosion Management Services.
- Infrastructure and Waterway Maintenance: Creek Vegetation Control; Erosion Repair; Open Waterway Maintenance; Pond Inspection and Maintenance; Storm Drain Cleaning; Storm Drain Rehabilitation; Town Lake Cleanup.

b. Library. Upon annexation residents may utilize all Austin Public Library facilities.

c. Austin Health and Human Services Department/Travis County Health Department. Upon annexation, the following services will be available from the Department.
- investigation of public health related complaints including foodborne illness, recreational water quality and public swimming pools and spas,
- enforcement of the City's smoking in public places ordinance and the minor's access to tobacco ordinance;
- inspection of food establishments, child care facilities;
- investigation of reported elevated blood lead levels in children;
- animal services including leash law, pet licensing and rabies control; and
- rodent and vector control consultation.

d. Austin Energy. Austin Energy will continue to provide electric utility service to all areas which the City is authorized to serve by the Public Utility Commission of Texas.

e. Anti-litter Services. The Austin Solid Waste Services Department will provide anti-litter services in the annexed area. Anti-litter is a fee-based service. Services currently provided in the City include:
- bulky item collection – twice per year; a notice to customers is provided in advance of the pickup date;
- large brush collection – twice per year; a notice to customers is provided in advance of the pickup date;
- street sweeping service – approximately six (6) times per year for streets with curb and gutter;
- dead animal collection – dead animals are removed from roadways upon request;
- household hazardous waste drop-off facility – use of facility on regularly scheduled days of operation; and
- tall weed and grass and litter abatement programs.

f. Other Services. All other City Departments with jurisdiction in the area will provide services according to City policy and procedure.

3. CAPITAL IMPROVEMENTS PROGRAM

The City will initiate the construction of capital improvements necessary for providing municipal services for the annexation area as necessary.

Each component of the Capital Improvement Program is subject to the City providing the related service directly. In the event that the related service is provided through a contract service provider, the capital improvement may not be constructed or acquired by the City but may be provided by the contract provider. The City may also lease buildings in lieu of construction of any necessary buildings.

a. Police Protection. No capital improvements are necessary at this time to provide police services.

b. Fire Protection. No capital improvements are necessary at this time to provide fire services.

c. Emergency Medical Service. No capital improvements are necessary at this time to provide EMS services.

d. Solid Waste Collection. No capital improvements are necessary at this time to provide solid waste collection services.

e. Water and Wastewater Facilities. No capital improvements are necessary at this time to provide water and wastewater services.

Water and wastewater services to new development and subdivisions will be provided according to the standard policies and procedures of the Austin Water Utility, which may require the developer of a new subdivision or site plan to install water and wastewater lines. The extension of water and sewer service will be provided in accordance with the attached water and wastewater service extension policy.

f. Roads and Streets. No road or street related capital improvements are necessary at this time.

g. Parks, Playgrounds and Swimming Pools. No capital improvements are necessary at this time to provide services.

h. Watershed Protection and Development Review Department. No capital improvements are necessary at this time to provide services.

i. Street Lighting. No capital improvements are necessary at this time to provide services. Street lighting in new and existing subdivisions will be installed and maintained in accordance with the applicable standard policies and procedures.

j. Other Publicly Owned Facilities, Building or Services: Additional Services. In general, other City functions and services, and the additional services described above can be

provided for the annexation area by using existing capital improvements. Additional capital improvements are not necessary to provide City services.

k. Capital Improvements Planning. The annexation area will be included with other territory in connection with planning for new or expanded facilities, functions, and services.

AMENDMENT: GOVERNING LAW

This Plan may not be amended or repealed except as provided by the Texas Local Government Code or other controlling law. Neither changes in the methods or means of implementing any part of the service programs nor changes in the responsibilities of the various departments of the City shall constitute amendments to this Plan, and the City reserves the right to make such changes. This Plan is subject to and shall be interpreted in accordance with the Constitution and laws of the United States of America and the State of Texas, the Texas Local Government Code, and the orders, rules and regulations of governmental bodies and officers having jurisdiction.

FORCE MAJEURE

In case of an emergency, such as force majeure as that term is defined in this Plan, in which the City is forced to temporarily divert its personnel and resources away from the annexation area for humanitarian purposes or protection of the general public, the City obligates itself to take all reasonable measures to restore services to the annexation area of the level described in this Plan as soon as possible. Force majeure shall include, but not be limited to, acts of God, acts of the public enemy, war, blockages, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrest and restraint of government, explosions, collisions and other inability of the City, whether similar to those enumerated or otherwise, which is not within the control of the City. Unavailability or shortage of funds shall not constitute force majeure for purposes of this Plan.

SUMMARY OF THE WATER AND WASTEWATER UTILITY SERVICE EXTENSION POLICY

The following information is a summary of the Austin Water Utility Service Extension Policy, Chapters 25-1 through 25-5 and 25-9 of the 2006 Austin Code of Ordinances, in conformance with the Texas Local Government Code requirement that the Plan have a summary of the service extension policy.

Water and wastewater service is only provided to lots that have been properly subdivided and platted or are a legal lot. For property that is required by subdivision regulations to construct water or wastewater facilities connecting to the City system, funding and construction of those facilities will remain the responsibility of the developer. If the specific undeveloped property does not have City water or wastewater service fronting the property, the owner may make an application for an extension of service to the Director of the Austin Water Utility for review. If the Director determines that adequate capacity is available, or will be, and if the project does not include City cost participation or reimbursement, and if the proposed facilities are a logical extension of the City's water and wastewater system and the requested extension otherwise meets the requirements of Chapter 25-9, the extension size, capacity, and routing may be approved by the Director for funding and construction by the developer.

Depending on the size of the new facilities and other conditions, with City Council approval, the City may reimburse the developer for part of the cost of constructing certain facilities. With City Council approval, the City may cost participate by reimbursing costs associated with the oversize capacity of wastewater mains larger than 8 inches but less than 18 inches in diameter, and of water mains greater than 12 inches but less than 24 inches in diameter. With City Council approval, the City may reimburse to the developer the construction cost of the full capacity of wastewater facilities 18 inches in diameter or larger, and water facilities 24 inches in diameter or larger, as well as other facilities such as reservoirs or pumps. The actual calculation of the cost participation and reimbursement amounts, including limits and the schedules for the payments, are included in the Land Development Code.

For lots that have water or wastewater lines in the street fronting the lot, the owner may receive water or wastewater service by applying for a tap permit and paying any required fees. The new customers will be required to pay the impact fees and all connection fees. However, if the tap is purchased within two years of the completion of the line by the City, the impact fee will be waived.

As long as a property is using a septic system, the property owner remains responsible for the operation and maintenance of the septic system. If the septic system fails before the City sewer service is extended to the property, the property owner must repair the system. Under certain circumstances the Austin/Travis County Health and Human Services Department may require connection to the City sewer facilities.

This policy is set by the City Council and can be amended in the future by ordinance.