

**ORDINANCE NO. 20150611-005**

**AN ORDINANCE TERMINATING THE HELEN BOOTHE ET AL ANNEXATION AND DEVELOPMENT AGREEMENT AND ANNEXING, FOR FULL PURPOSES, ADDITIONAL TERRITORY ADJACENT TO THE CITY LIMITS OF THE CITY OF AUSTIN REFERRED TO AS THE "LES BURLESON" ANNEXATION AREA, CONSISTING OF APPROXIMATELY 13.2 ACRES OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT, ABSTRACT NO. 24 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 May 7, 2015, and May 21, 2015, at the Austin City Hall, 301 West 2<sup>nd</sup> 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.
- (F) The LES Burleson property owners and the City have terminated the Helen Boothe et al Annexation and Development Agreement.

**PART 2.** The termination of the Helen Boothe et al Annexation and Development Agreement regarding annexation and development of the LES Burleson tract attached as Exhibit A is approved.

**PART 3.** 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 full purposes:

13.172 acres of land, more or less, out of the Santiago Del Valle Survey, Abstract No. 24 in Travis County, Texas; said 130 acres of land, more or less, being more particularly described in Exhibit B.

**PART 4.** The Service Plan attached as Exhibit C is approved as the Service Plan for the area.

**PART 5.** 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.

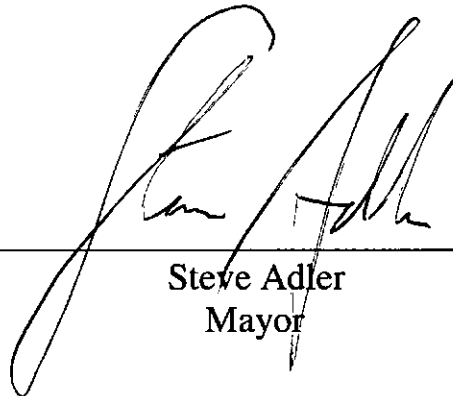
If any area or lands included within the description of the area set out in Exhibit A are: (1) presently part of and included within the general limits of the City of Austin; (2) presently part of and included within the limits of any other city, town, or village; or (3) are not within the jurisdiction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

**PART 6.** This ordinance takes effect on June 22, 2015.

**PASSED AND APPROVED**

\_\_\_\_\_, June 11, 2015

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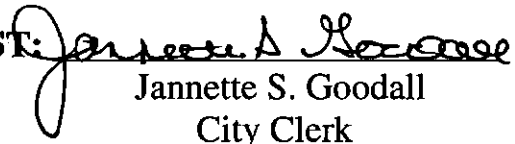
Steve Adler  
Mayor

**APPROVED:**



Anne L. Morgan  
Interim City Attorney

**ATTEST:**



Jannette S. Goodall  
City Clerk

## Exhibit A

### **TERMINATION OF HELEN BOOTHE ET AL ANNEXATION AND DEVELOPMENT AGREEMENT**

Owner: BUR13 LTD, a Texas limited partnership

Address: 12535 W Highway 71, Bee Cave, Travis County, Texas 78738

City: The City of Austin, a home-rule municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the Owner to the City of Austin, the receipt and sufficiency of which is acknowledged.

#### **Recitals:**

1. BUR 13 LTD, a Texas limited partnership as owner ("Owner") of the property described in the Helen Boothe, ET AL Annexation and Development Agreement regarding annexation and development of the Helen Boothe ET AL Tract ("Original Agreement"), in Travis County, Texas, consisting of approximately 13.2 acres of land out of the Santiago Del Valle Survey, Abstract No. 24 in Travis County, Texas (the "Property"). The area is described by metes and bounds description that is attached.
2. Because the Owner is requesting full purpose annexation in advance of the date permitted by the Original Agreement, the Owner and the City desire to terminate the Original Agreement.
3. The City and the Owner agree the Original Agreement should be terminated.

#### **Agreement:**

City of Austin and the Owner, agree as follows:

1. The Original Agreement is terminated and each term, condition, and provision will have no effect after the effective date of this Termination of the Original Agreement.

2. This Termination is subject to approval of the Austin City Council annexation of the Helen Boothe ET AL Tract, also known as the LES Burleson annexation area, on or before June 22, 2015.

Owner agrees as follows:

1. Owner has full power and authority to conduct business as it is now being conducted, to own or use the properties and assets that he purports to own or use, and to perform all his obligations under this Agreement.
2. This Agreement constitutes a legal, valid and binding obligation of Owner, enforceable against Owner in accordance with its terms. Owner has the absolute and unrestricted right, power, authority, and capacity to execute and deliver this Agreement and to perform his obligations under this Agreement.

EXECUTED in multiple counterparts, each of which shall constitute an original, to be effective as of the Effective Date, June 22, 2015.

CITY:

City of Austin, Texas

APPROVED AS TO FORM:

Maria Sanchez  
Maria Sanchez  
Assistant City Attorney

By: Sue Edwards  
Sue Edwards, Assistant City Manager

Date: June 18, 2015

THE STATE OF TEXAS  
COUNTY OF TRAVIS

THIS INSTRUMENT is acknowledged before me on this 18 day, June 2015, by Sue Edwards, Assistant City Manager, of the City of Austin, Texas, a municipal corporation, on behalf of said municipal corporation.

[SEAL]



Notary Public, State of Texas  
Jessica Bluebird  
My Commission Expires: 2-3-2019

OWNER:

BUR13 LTD a Texas limited partnership

BUR13 GP, LLC, a Texas limited liability company, its general partner

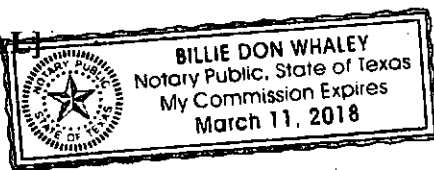
By: Terry Boothe  
Terry Boothe, Member

Date: 6-4-15

THE STATE OF TEXAS  
COUNTY OF TRAVIS

THIS INSTRUMENT is acknowledged before me on this 4<sup>th</sup> day of June, 2015, by Terry Boothe, the member of BUR 13 GP, LTD, a Texas limited liability company, general partner of BUR13 LTD, a Texas limited partnership, on behalf of said partnership.

[SEAL]



Billie D. Whaley  
Notary Public, State of Texas

My Commission Expires: 3-11-2018

## EXHIBIT B

C7a-2015-0004

Area to be annexed.

(Approximately 13.172 acres of  
land out of the Santiago Del  
Valle Survey, Abstract No. 24 in  
Travis County, Texas)  
(Unplatted Land)

### LEGAL DESCRIPTION

LEGAL DESCRIPTION FOR A TRACT OF LAND CONTAINING  
APPROXIMATELY 13.172 ACRES OF LAND OUT OF THE  
SANTIAGO DEL VALLE SURVEY, ABSTRACT NO. 24 IN  
TRAVIS COUNTY, TEXAS; OF WHICH APPROXIMATELY  
13.172 ACRES OF LAND ARE TO BE MADE PART OF THE  
CITY OF AUSTIN. SAID APPROXIMATELY 13.172 ACRES  
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING all of that called 11.172 acre tract of land and all that  
called 2.000 acre tract of land conveyed to BUR13, Ltd. by  
Special Warranty Deed recorded in Document No. 2011191372 of the  
Official Public Records of Travis County, Texas.

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".

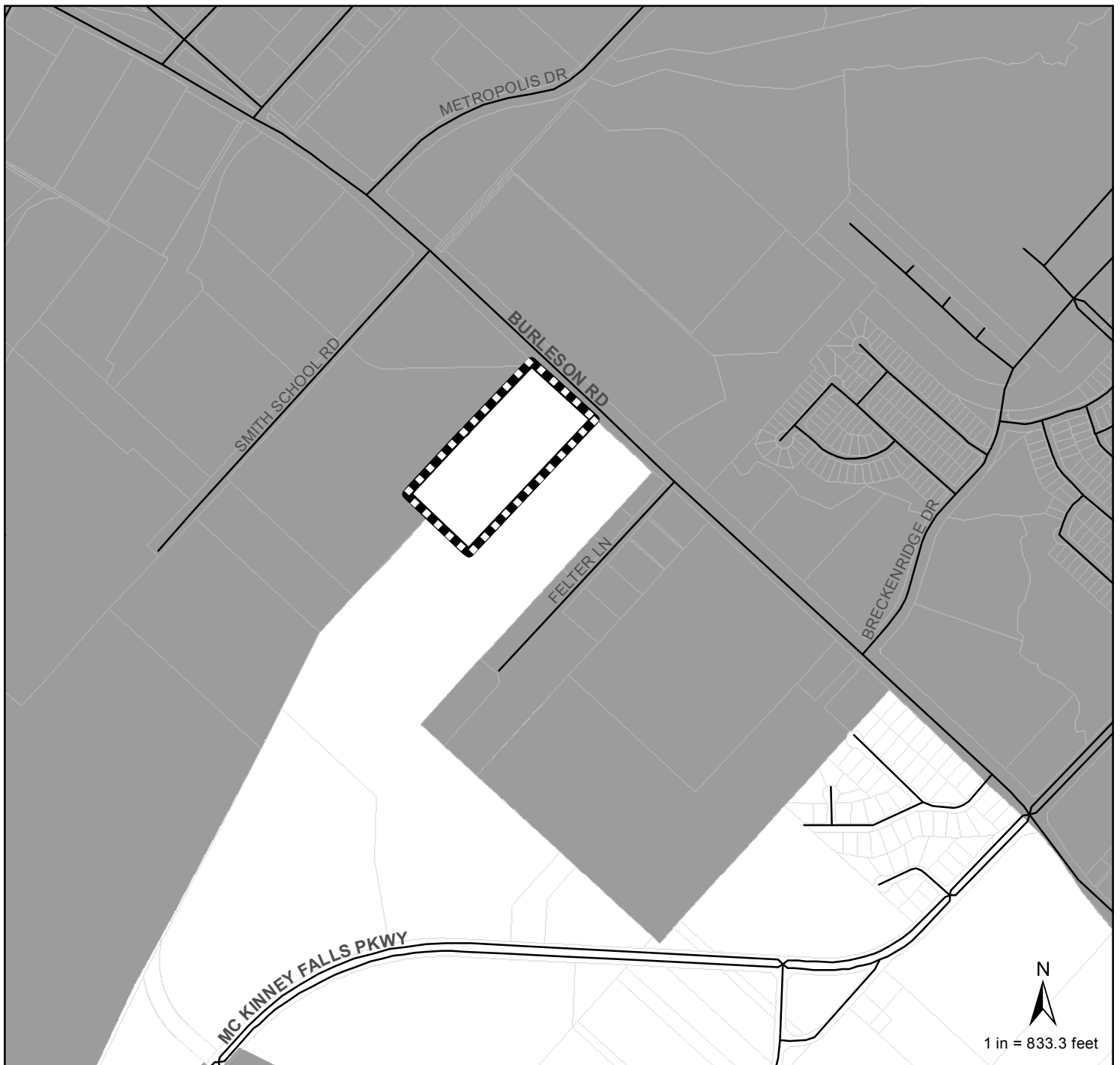
LEGAL DESCRIPTION: Mary P. Hawkins  
03-23-2015

*Mary P. Hawkins 3-23-2015*


APPROVED: Mary P. Hawkins, RPLS No. 4433  
Quality Management Division  
Department of Public Works  
City of Austin

### REFERENCES


Austin Grid K-16, L-16  
TCAD MAP 3-2013



## LES Burleson Annexation Area

 LES Burleson Annexation Area

 Parcels

 Streets

### Austin Jurisdiction

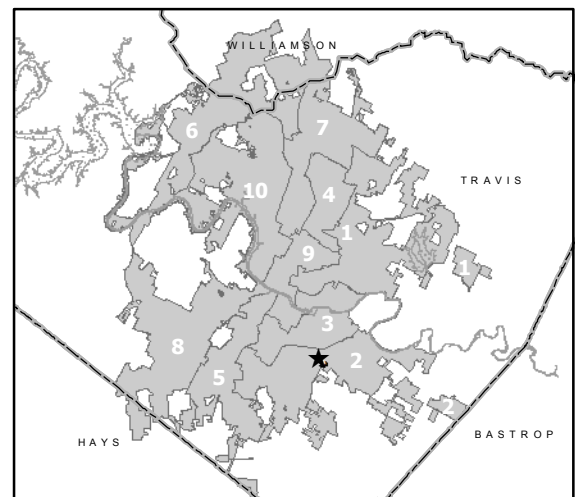
 Austin Full Purpose

 Austin Limited Purpose

 Austin ETJ

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness. All data by City of Austin except where otherwise indicated.

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



**LES Burleson Tract in Relation to  
2015 Austin City Council Districts**



City of Austin  
Planning and Development Review Department  
April 2, 2015



## **EXHIBIT C**



### **CITY OF AUSTIN ANNEXATION SERVICE PLAN**

**Case Name:** LES Burleson Annexation area

**Case Number:** C7a-2015-0004

**Date:** March 26, 2015

#### **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 LES Burleson annexation area. The annexation area includes approximately 13.2 acres in southern Travis County south of Burleson Road approximately 870 feet east of the intersection of Burleson Road and Smith School Road. This area is currently in the City's extraterritorial jurisdiction and is adjacent to the City's full purpose jurisdiction on the north and west sides of the tract. This area is undeveloped and contains no residents. The owner requested annexation and applied for city utility service and zoning with plans to develop a portion of the tract with uses related to the storage or manufacturing of products used to process and transport grease trap waste.

The annexation area is described by metes and bounds in Exhibit B, 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 B.

#### **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, as allowed by law. 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/Travis County 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/Travis County 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:

- medical 911 communications including dispatch, pre-arrival first aid instructions and coordination of other public safety support agencies;
- emergency Advanced Life Support (ALS) ambulance response, treatment and transport;
- medical rescue services; and
- medical support during large scale emergency events.

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 AFD will provide emergency medical first response to all patients in a life-threatening situation. All AFD 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 Resource Recovery Department will provide services in the annexation 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 paper, boxboard and cardboard, aluminum and metal cans, glass bottles and jars, plastic bottles (#1 through #7), hard plastics; 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, near, 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 enclosed City service extension policy.
- f. Maintenance of Roads and Streets, Including Street Lighting. The 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 activities including crack seal, sealcoat, slurry seal, and preventative maintenance overlay; and
  - repair maintenance operations of public streets on an as-needed basis including 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 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 the City of Austin ordinances, Austin Energy criteria and state law.

- g. Maintenance of Parks, Playgrounds, and Swimming Pools. At this time there are no public recreation facilities in the annexation 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. The Watershed Protection 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;
  - watershed protection master planning for flood hazard mitigation, streambank restoration and erosion control, and water quality protection;
  - flood hazard mitigation;
  - streambank restoration and erosion management; and
  - infrastructure and waterway maintenance.
- b. Planning and Development Review. The Planning and Development Review Department will provide comprehensive planning, land development and building review and inspection services in accordance with and as limited by applicable codes, laws, ordinances and special agreements.
- c. Code Compliance. In order to attain compliance with City codes regarding land use regulations and the maintenance of structures, the City's Code Compliance Department will provide education, cooperation, enforcement and abatement relating to code violations.
- d. Library. Upon annexation residents may utilize all Austin Public Library facilities.
- e. Public Health, Social, and Environmental Health Services. Upon annexation, the following services will be available from the Austin/Travis County Health and Human Services 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 and rabies control; and
  - rodent and vector control consultation.
- f. 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.

- g. Clean Community Services. The Austin Resource Recovery Department will provide clean community services in the annexed area. Clean community is a fee-based service. Services currently provided in the City include:
- bulk and brush collection;
  - street and boulevard sweeping;
  - litter collection and abatement;
  - household hazardous waste collection;
  - Austin Resource Recovery Center;
  - Austin reuse and recycling centers;
  - dead animal collection; and
  - zero waste program development.
- h. 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 new water and wastewater infrastructure or replace existing water and wastewater infrastructure. The

extension of water and sewer service will be provided in accordance with the enclosed water and wastewater service extension policy.

- f. Roads and Streets. No road or street related capital improvements are necessary at this time. In general, the City will acquire control of all public roads and jurisdiction in, over and under all public roads and public streets within the annexation area upon annexation. Future extensions of roads or streets and future installation of related facilities, such as traffic control devices, will be governed by the City's standard policies and procedures.
- g. Parks, Playgrounds and Swimming Pools. No capital improvements are necessary at this time to provide services.
- h. Watershed Protection. 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 Service Extension Policy, as set out in Chapters 25-1 through 25-5 and 25-9 of the Austin City Code, 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 Austin Water for review. If the Director determines that adequate capacity is available, or will be, and if the project does not include City cost participation, 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.

If the City requires oversizing of the proposed facilities, with City Council approval, the City may reimburse the developer for the City's proportionate share of the cost of constructing certain facilities. The actual calculation of the cost participation amounts, including limits and the schedules for the payments, are included in the Land Development Code.

For lots served by an existing well or septic system that have water or wastewater lines within 100 feet of the lot at the time of annexation, the owner will not be required to pay the impact fees if a tap permit is obtained by the property owner on or before the second anniversary of the date of annexation. For lots served by an existing well or septic system that do not have water or wastewater lines within 100 feet of the lot, the owner will not be required to pay the impact fees if a tap permit is obtained by the property owner on or before the second anniversary of the date of acceptance of the water or sewer line to within 100 feet of their lot. In either case the owner will still be required to pay other applicable connection fees.

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.