ORDINANCE NO. 041028-9

AN ORDINANCE ANNEXING, FOR FULL PURPOSES, ADDITIONAL TERRITORY ADJACENT TO THE CITY LIMITS OF THE CITY OF AUSTIN REFERRED TO AS THE "CANYON CREEK WEST 50 FOOT STRIP" AREA, CONSISTING OF APPROXIMATELY ONE ACRE OF LAND OUT OF THE A. E. LIVINGSTON SURVEY NO. 455 LOCATED IN TRAVIS COUNTY, TEXAS; APPROVING A SERVICE PLAN; AND WAIVING CERTAIN FEES.

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

PART 1. The Council finds that:

(A) Notice of 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 Thursday, September 30, 2004 at 6:00 p.m. and Thursday, October 7, 2004 at 6:00 p.m. at the Lower Colorado River Authority, Hancock Building, 3700 Lake Austin Boulevard, 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 as 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 land is annexed into the City for full purposes:

One acre of land, more or less, out of the A. E. Livingston Survey No. 455 in Travis County, Texas; the one acre 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. Zoning application fees are waived for property within the annexed area for a period of one year from the effective date of annexation.

PART 6. This ordinance takes effect on November 8, 2004.

PASSED AND APPROVED

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§
§

October 28, 2004

Will Wynn
Mayor

APPROVED:

David Allan Smith
City Attorney

ATTEST:

Shirley A. Brown
City Clerk

EXHIBIT A

C7a-04-013
Area to be Annexed.
(Approximately 1 acre of land out of the A.E. Livingston Survey No. 455 in Travis County, Texas).
(Portion of Lot 2, Block A, Canyon Creek West Section Two)

LEGAL DESCRIPTION

LEGAL DESCRIPTION FOR APPROXIMATELY 1 ACRE OF LAND OUT OF THE A.E. LIVINGSTON SURVEY NO. 455 IN TRAVIS COUNTY, TEXAS; OF WHICH APPROXIMATELY 1 ACRE OF LAND IS TO BE TAKEN INTO AND MADE A PART OF THE CITY OF AUSTIN, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Being that portion of Lot 2, Block A Canyon Creek West Section Two, a subdivision of record in Document No. 200100167 of The Official Public Records of Travis County, Texas lying northwest of the present corporate limit line of the City of Austin as adopted by ordinance 031106-37 (Case No. C7a-03-011), and further described as being that portion of said Lot 2, Block A lying north of that certain called 8.04 acre tract of land conveyed to Dan W. Fischer and Georgeanna A. Fischer by deed recorded in Volume 11699 at Page 1208 of the Real Property Records of Travis County, Texas and lying west of the northerly prolongation of the east line of the said Fischer 8.04 acre tract and containing approximately 1 acre of land more or less out of the A.E. Livingston Survey No. 455 in Travis County, Texas.

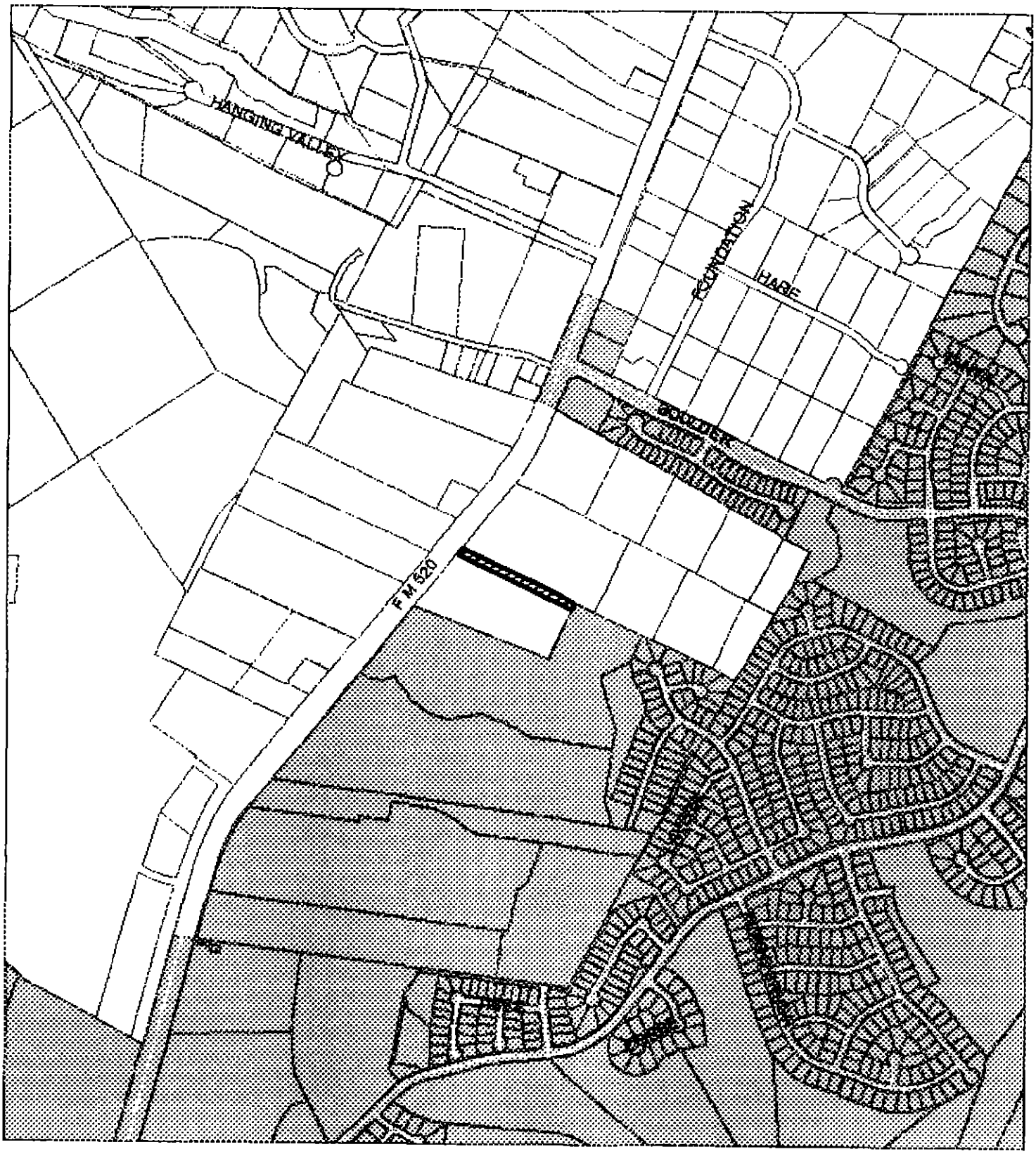
"This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political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

LEGAL DESCRIPTION: John E. Moore
10-21-2004



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

REFERENCES
TCAD MAP NO. 1-7025
Austin Grid D-37 & E-37



Canyon Creek West 50 foot strip Area
C7a-04-013

City of Austin
Transportation, Planning & Sustainability Dept
August 27, 2004

Proposed Annexation Area
City of Austin Full Purpose
City of Austin Limited Purpose
City of Austin ETJ

N

0.4 0.2 0 0.4 Miles

EXHIBIT B

CITY OF AUSTIN

ANNEXATION SERVICE PLAN

Case Name: Canyon Creek West
50 Foot Strip Area
Case Number: C7a-04-013
Date: September 13, 2004

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 a tract of land ("annexation area") known as the Canyon Creek West 50 Foot Strip area. The annexation area includes approximately 1 acre in Travis County on the east side of FM 620 approximately 1,400 feet south of the intersection of Boulder Lane and FM 620.

The annexation area is a 50 foot wide driveway for emergency vehicles. The area is located in Travis County, Texas. The annexation area is described by metes and bounds in Exhibit A, which is attached to this Plan and 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 – once per week cart collection in accordance with City Pay-As-You-Throw guidelines;
- recycling collection – once per week curbside collection , materials collected include newspaper, magazines, catalogs, junk mail, corrugated cardboard; tin, steel and aluminum cans, glass bottles and jars, plastic bottles (#1 and #2); and
- yard trimmings collection – once per week 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.

There are no residents or businesses in the annexation area.

e. Maintenance of Water and Wastewater Facilities. Water and wastewater services will be provided through facilities located within or adjacent to the area. The facilities in the area will be maintained and operated by the City's Water and Wastewater 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.

The annexation area is a private driveway and will not be maintained by the City.

Street lighting will be maintained by the Electric Utility in accordance with Sec. 43.056 (b) (6) and the City's policies.

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. There are no residents or businesses in the area.

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, on-site sewage facility (OSSF) systems, 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, OSSF systems;
- investigation of reported elevated blood lead levels in children;
- animal services including leash law, pet licensing and rabies control;
- access to community health clinics;
- Medical Assistance Program benefits; and
- rodent and vector control consultation.

d. Electric Utility Department. The Electric Utility Department 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. 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 or wastewater services.

Water and wastewater services to new development and subdivisions will be provided according to the standard policies and procedures of the Water and Wastewater Utility, which may require the developer of a new subdivision 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 City 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.

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 (1997)

The following information is a summary of the Water and Wastewater Utility Service Extension Policy, Chapters 25-1 through 25-5 and 25-9 of the 1999 Austin Code of Ordinances Volume II, 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 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 in diameter but less than 18 inches, 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 Health and Human Services Department/Travis County Health 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.