

ORDINANCE NO. 2518

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, ANNEXING 13.44 ACRES OF VACANT LAND OUT OF THE ZENO PHILLIPS LEAGUE, ABSTRACT NO. 45, LOCATED ON THE NORTHEAST SIDE OF CHICK LANE APPROXIMATELY 150 FEET SOUTHEAST OF ITS INTERSECTION WITH CAMBRIA DRIVE AND CURRENTLY ADDRESSED AS 6717 AND 6721 CHICK LANE IN BRYAN'S EXTRATERRITORIAL JURISDICTION (ETJ) IN BRAZOS COUNTY, TEXAS, LYING ADJACENT AND CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF BRYAN; FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; DESCRIBING THE TERRITORY ANNEXED AND PROVIDING A SERVICE PLAN THEREFORE; OBLIGATING THE PROPERTY SITUATED THEREIN TO BEAR ITS PRO RATA PART OF TAXES LEVIED; PROVIDING RIGHTS AND PRIVILEGES AS WELL AS DUTIES AND RESPONSIBILITIES OF INHABITANTS AND OWNERS OF SAID TERRITORY; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bryan, Texas is a home-rule municipality authorized by State law and the City Charter to annex territory lying adjacent and contiguous to the corporate limits of said City of Bryan, Texas; and

WHEREAS, on September 14, 2021, the Bryan City Council approved Council Resolution No. 3944 directing city staff to initiate municipal annexation proceedings for 13.44 acres of vacant land out of the Zeno Phillips League, Abstract No. 45, located on the northeast side of Chick Lane approximately 150 feet southeast of its intersection with Cambria Drive and currently addressed as 6717 and 6721 Chick Lane in Bryan's extraterritorial jurisdiction (ETJ) in Brazos County, Texas; and

WHEREAS, one public hearing has been held during a regular meeting on November 9, 2021, and as required by law, in the Council Chambers of Bryan's Municipal Office Building located at 300 South Texas Avenue, Bryan, Texas, where all interested persons were provided an opportunity to be heard on the requested annexation of property and territory hereinafter described; and

WHEREAS, all notices of such public hearings have been issued as required by law and all hearings held within the time required by law; and

WHEREAS, a service plan has been prepared that provides for the extension of appropriate municipal services into the area hereinafter described, which plan is attached hereto, and the City of Bryan is able to provide such services; and

WHEREAS, the hereinafter described property and territory is not within the boundaries of any other municipality, lies within the extraterritorial jurisdiction of the City of Bryan, Texas, and lies adjacent to and adjoins the present boundaries of said City of Bryan.

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

1.

That all of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

2.

That the property depicted on Exhibit “A” and described more particularly by metes-and-bounds on Exhibit “A-1” which are attached hereto and incorporated herein for all purposes, said territory lying adjacent to and adjoining the present boundaries of the City of Bryan, Texas, be and is hereby added and annexed to the City of Bryan, and said territory hereinafter described shall hereafter be included within the corporate limits of the City of Bryan, and the present boundary lines of said City are altered and amended so as to include said area within the corporate limits of the City of Bryan.

3.

That the municipal service plan attached hereto as Exhibit “B” is hereby approved and is incorporated into this ordinance as if it were recited herein.

4.

That the annexed territory described above is a part of the City of Bryan for all purposes, and the property situated therein shall bear its pro rata part of taxes levied by the City of Bryan, and shall be entitled to the same rights and privileges, bound by the same duties and responsibilities as other property within the corporate limits.

5.

That the inhabitants residing and owners of property within the confines of the annexed territory shall be entitled to all the rights and privileges of all the other citizens and property owners of Bryan and shall be bound by the Charter, Ordinances, Resolutions and other regulations of the City of Bryan.

6.

That the official map and boundaries of the City of Bryan, Texas, heretofore adopted and amended, shall be and are hereby amended so as to include the aforementioned territory as part of the City of Bryan, Texas.

7.

That Chapter 130 of the City of Bryan Code of Ordinances shall be and is hereby amended so as to zone the aforementioned territory Residential District – 5000 (RD-5) upon annexation.

8.

That if any portion, provision, section, subsection, sentence, clause or phrase of this ordinance (or the application of same to any person or set of circumstances) is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this ordinance (or their application to other persons or sets of circumstances) shall not be affected thereby, it being the intent of City Council in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

9.

That this ordinance shall take effect immediately upon its final reading and passage.

PASSED, ADOPTED, AND APPROVED on the 9th day of November 2021, at a regular meeting of the City Council of the City of Bryan, Texas, by a vote of 6 yeses and 0 noes.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Andrew Nelson, Mayor

APPROVED AS TO FORM:

Thomas A. Leeper, Interim City Attorney

Exhibit "A":

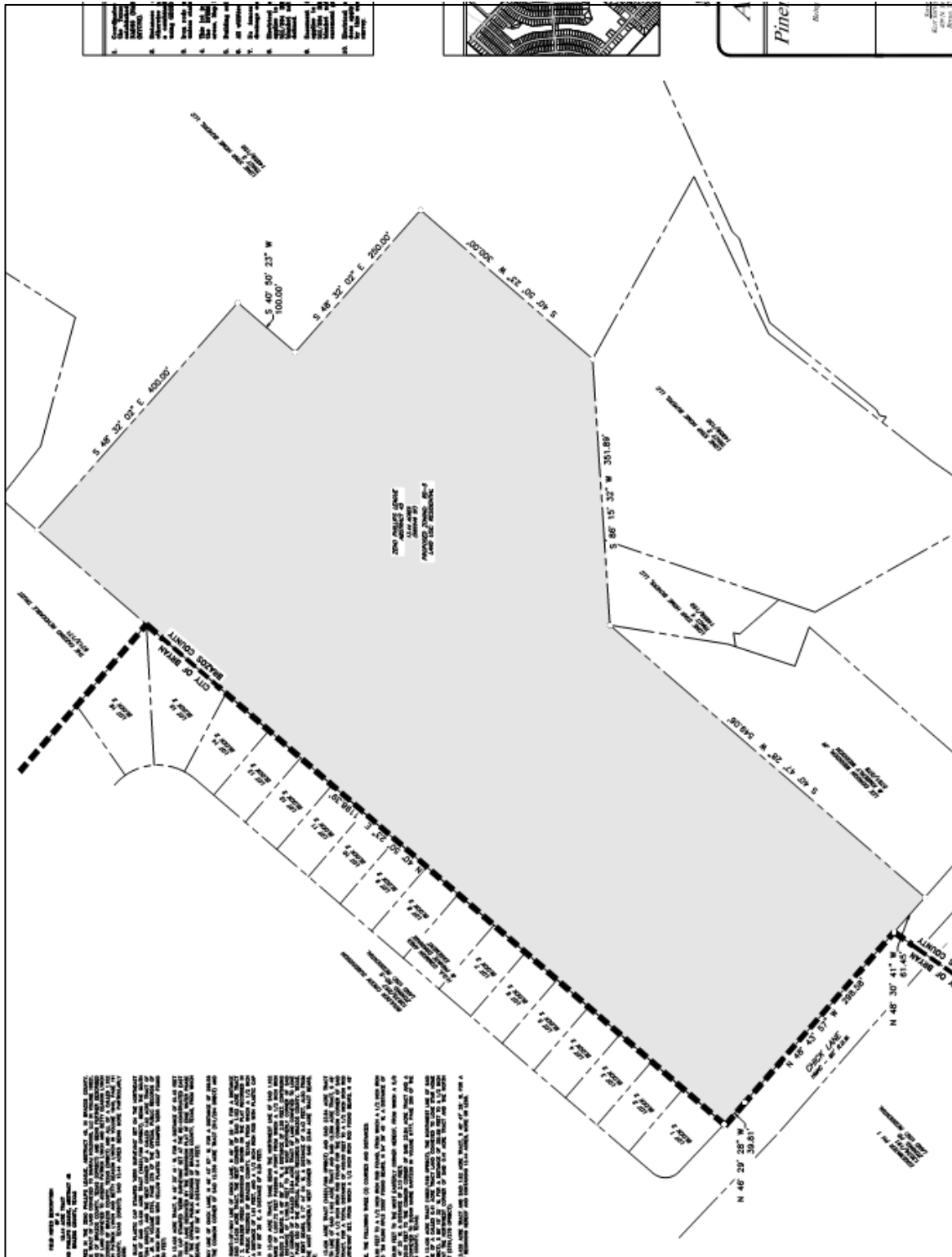


Exhibit "A-1":

**FIELD NOTES DESCRIPTION
OF A
13.44 ACRE TRACT
ZENO PHILLIPS LEAGUE, ABSTRACT 45
BRAZOS COUNTY, TEXAS**

A FIELD NOTES DESCRIPTION OF 13.44 ACRES IN THE ZENO PHILLIPS LEAGUE, ABSTRACT 45, IN BRAZOS COUNTY, TEXAS, BEING ALL OF A CALLED 13.426 ACRE TRACT OF LAND CONVEYED TO SHARAJ HOLDINGS, LLC IN VOLUME 16821, PAGE 199 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT) AND BEING FURTHER DESCRIBED AS ALL OF A CALLED 12.356 ACRE TRACT OF LAND CONVEYED TO JOSEPH PATRICK LYNCH AND BETTY DEASON LYNCH IN VOLUME 511, PAGE 294 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT) AND ALL OF A CALLED 1.102 ACRE TRACT OF LAND CONVEYED TO JOSEPH PATRICK LYNCH AND BETTY DEASON LYNCH IN VOLUME 1940, PAGE 111 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS (ORBCT); SAID 13.44 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod with blue plastic cap stamped 'KERR SURVEYING' set on the northeast side of Chick Lane at the south corner of said 13.426 acre tract (16821/199 OPRBCT), being the south corner of said 12.356 acre tract (511/294 DRBCT), and the west corner of a called 1.62 acre tract of land conveyed to Lee Gordon Widdison, Jr. in volume 5791, page 278 of the Official Public Records of Brazos County, Texas, from which a 5/8 inch iron rod with yellow plastic cap stamped 'KERR 4502' found bears, S 40° 47' 28" W, a distance of 1.50 feet;

THENCE, with the southwest line of said 13.426 acre tract, N 48° 30' 41" W, for a distance of **61.45 feet** to a 1/2 inch iron rod with blue plastic cap stamped 'KERR SURVEYING' set at the re-constructed east corner of a 60' wide right-of-way for Chick Lane dedicated by the subdivision plat of Edge Water Phase 1 recorded in volume 13034, page 190 of the Official Public Records of Brazos County, Texas, from which a disturbed concrete monument found bears, N 53° 58' W, a distance of 0.4 feet;

THENCE, with the northeast right-of-way line of Chick Lane, N 48° 43' 57" W, for a distance of **298.58 feet** to a 1/2 inch iron rod found at the common corner of said 12.356 acre tract (511/294 DRBCT) and said 1.102 acre tract (1940/111 ORBCT);

THENCE, continuing with the northeast right-of-way line of Chick Lane, N 46° 29' 28" W, for a distance of **39.81 feet** for the west corner of said 13.426 acre tract, the west corner of said 1.102 acre tract and the south corner of Lot 1, Block 2, Boulder Creek Subdivision as shown on the plat recorded in volume 15975, page 257 of the Official Public Records of Brazos County, Texas, from which a 1/2 inch iron rod found bears S 40° 50' 23" W, a distance of 1.61 feet, and a 1/2 inch iron rod with plastic cap stamped 'MCCLURE BROWNE' found bears, N 19° 55' 35" E, a distance of 0.29 feet;

THENCE, with the northwest line of said 13.426 acre tract, same being the northwest line of said 1.102 acre tract, N 40° 50' 23" E, at a distance of 1,007.72 feet passing a point from which a 1/2 inch iron rod found at the east corner of said Block 2 bears, N 49° 09' 37" W, a distance of 2.55 feet, continuing with said northwest line for a total distance of **1,198.39 feet** to the most northerly corner of said 13.426 acre

tract and the most westerly corner of a called 23.84 acre tract of land conveyed to Lone Star Home Buyers, LLC in volume 14859, Page 150 of the Official Public Records of Brazos County, Texas, from which a 1/2 inch iron rod found bent bears, S 17° 44' 04" W, a distance of 0.43 feet, also from which a 1/2 inch iron rod found at the most northerly west corner of said 23.84 acre tract bears, N 40° 50' 23" E, a distance of 64.27 feet;

THENCE, with the common line of said 13.426 acre tract (16821/199 OPRBCT) and said 23.84 acre tract (14859/150 OPRBCT), same being the north line of said 1.102 acre tract and said 12.356 acre tract, **S 48° 32' 02" E**, at a distance of 40.00 feet passing a 1/2 inch iron rod found for the common corner of said 1.102 acre tract and said 12.356 acre tract, for a total distance of **400.00 feet** to a 1/2 inch iron rod with plastic blue cap stamped 'KERR SURVEYING' set, from which a 1/2 inch iron rod found bears, N 48° 32' 02" W, a distance of 1.77 feet;

THENCE, continuing with said common line, the following three (3) courses and distances:

- 1) **S 40° 50' 23" W**, a distance of **100.00 feet** to a 1/2 inch iron rod found, from which a 1/2 inch iron rod with red plastic cap stamped 'SM KLING RPLS 2003' found bears, N 54° 39' 45" W, a distance of 1.88 feet;
- 2) **S 48° 32' 02" E**, a distance of **250.00 feet** to the most easterly corner hereof, from which a 5/8 inch iron rod found bears, N 53° 41' 25" W, a distance of 2.13 feet;
- 3) **S 40° 50' 23" W**, a distance of **300.00 feet** to the common corner of said 23.84 acre tract and a called 3.44 acre tract of land conveyed to Susan Marie Hartzog in volume 6777, page 250 of the Official Public Records of Brazos County, Texas;

THENCE, with the southeast line of said 13.426 acre tract (16821/199 OPRBCT), the northwest line of said 3.44 acre tract and the northwest line of a called 0.41 acre tract land conveyed to Lone Star Home Buyers, LLC in said deed (14859/150 OPRBCT), **S 86° 15' 32" W**, for a distance of **351.89 feet** to a 1/2 inch iron rod with red plastic cap found at the northwest corner of said 0.41 acre tract and the north corner of said Widdison 1.62 acre tract (5791/278 OPRBCT);

THENCE, with the common line of said 13.426 acre tract and said 1.62 acre tract, **S 40° 47' 28" W**, for a distance of **549.06 feet** to the **POINT OF BEGINNING** hereof and containing 13.44 acres, more or less.

Surveyed on the ground June 2021 under my supervision. See plat prepared June 2021 for other information. The bearing basis for this survey is based on the Texas State Plane Coordinate System of 1983 (NAD83), Central Zone, Grid North as established from GPS observation using the Leica Smartnet NAD83 (NA2011) Epoch 2010 Multi-year CORS Solution 2 (MYCS2). Distances described herein are surface distances. To obtain grid distances (not grid areas) multiply by a combined scale factor of 1.00010789610567 (calculated using GEOID12B).

Exhibit “B”:

**MUNICIPAL SERVICE PLAN FOR TERRITORY
ANNEXED TO THE CITY OF BRYAN, TEXAS ON NOVEMBER 9, 2021**

A. SERVICES PROVIDED UPON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

The City of Bryan, Texas and its Police Department will provide police protection to the newly annexed territory at the same or similar service now being provided to other areas of the City of Bryan, Texas which exhibit land use and population densities similar to that of the newly annexed area. The City’s adopted ordinances extend to the newly annexed area and are applied equally to all areas of the City based on the policy and wording of such ordinances. The average dispatch and delivery time, equipment dedication to service areas, and staffing requirements are comparable to the average provided to other areas of the City of Bryan, Texas which exhibit land use and population densities similar to that of the newly annexed area.

2. FIRE PROTECTION AND EMERGENCY MEDICAL SERVICE

The City of Bryan, Texas and its Fire Department will provide fire protection and ambulance service to the newly annexed territory at the same or similar level of service now being provided to other areas of the City of Bryan, Texas which exhibit land use and population densities similar to that of the newly annexed area. Furthermore, the City of Bryan Fire Department will respond to all dispatched calls (including emergency medical services) and other requests for service or assistance within the newly annexed area, the same as it would within other areas inside the City limits of Bryan. The City’s adopted Fire Code shall extend to the newly annexed area and is equally applicable to all areas of the City.

3. SOLID WASTE COLLECTION

The City of Bryan, Texas and its Environmental Services Department will provide solid waste collection and disposal service to the newly annexed territory at the same or similar level of service now being provided to other areas of the City of Bryan, Texas which exhibit land use and population densities similar to that of the newly annexed area. As a fee-for-service the providing of this service shall be applied to the newly annexed area on an equal basis to that provided to the average and typical comparable area of the City of Bryan, Texas which exhibit land use and population densities similar to that of the newly annexed area.

4. WATER DISTRIBUTION SERVICE

The City of Bryan, Texas and its Water Services Department will provide water distribution service to the newly annexed territory at the same or similar level of service now being provided to other areas of the City of Bryan, Texas, which exhibit land use and population densities similar to that of the newly annexed area.

Existing City of Bryan water mains will be available for point-of-use extension based on applicable utility extension polices and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended. Residents and businesses in the newly annexed area will be subject to the same service policies and procedures as apply to other areas of the City of Bryan. As applied to all

properties within the City, the owner(s) of the newly annexed property will be responsible for costs to install water service to their property. All such water service facilities under the City of Bryan's direct jurisdiction, including new facilities which may be installed by developers of land within this newly annexed territory, will be operated, maintained, monitored and inspected in accordance with established policies and procedures. The comparable nature of any areas are at the discretion of the City of Bryan but are evaluated based on the characteristics of the newly annexed area on the date of annexation.

5. WASTEWATER SERVICE

The City of Bryan, Texas and its Water Services Department will provide wastewater service to the newly annexed territory at the same or similar level of service now being provided to other areas of the City of Bryan, Texas which exhibit land use and population densities similar to that of the newly annexed area. The comparable nature of any areas are at the discretion of the City of Bryan but are evaluated based on the characteristics of the newly annexed area on the date of annexation.

Existing City of Bryan sewer mains at their present locations shall be available for point-of-use connections, based on applicable utility extension polices and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended. The City of Bryan will assess the adequacy of existing septic systems for accommodating raw sewage in less developed areas and will determine the need to provide centralized wastewater collection and treatment service to particular areas, along with lift stations or any other necessary capital improvements, pursuant to applicable policies and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended. As applied to all properties within the City, residents and/or developers will be responsible for costs to install sewer service to their property.

All sewer service facilities that may come under the City of Bryan's direct jurisdiction in the future, including new facilities which may be installed by developers of land within this newly annexed territory, will be operated, maintained, monitored and inspected pursuant to applicable policies and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended.

6. STORM WATER MANAGEMENT

City of Bryan regulations concerning storm water management will extend to the newly annexed territory, pursuant to applicable policies and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended, and in accordance with similarly situated properties within the City.

7. BUILDING SERVICES

The Development Services Department's responsibility for regulating building construction will extend to the newly annexed territory, pursuant to applicable policies and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended. This includes issuing building, electrical and plumbing permits for any new construction and remodeling, and enforcing all other applicable codes which regulate building construction within the City of Bryan.

8. PLANNING AND DEVELOPMENT

The Development Services Department's responsibility for regulating development and land use through the administration of the City of Bryan Zoning Ordinance, Land and Site Development Ordinance and all other development-related ordinances will extend to the newly annexed territory. The newly annexed

area will also continue to be regulated under the requirements of the City of Bryan Subdivision Ordinance.

9. ELECTRICITY SERVICE

Bryan Texas Utilities (BTU), a municipal electric utility, will provide electricity service to the newly annexed territory at the same or similar level of service now being provided to other areas of the City of Bryan, Texas which exhibit land use and population densities similar to that of the newly annexed area. As a fee-for-service the providing of this service shall be applied to the newly annexed area on an equal basis to that provided to the average and typical comparable area of the City of Bryan, Texas which exhibit land use and population densities similar to that of the newly annexed area.

10. ROADS, STREETS, ALLEYWAYS AND TRAFFIC ENGINEERING

Any and all roads, streets or alleyways in the newly annexed territory which have been dedicated to the public shall be maintained to the same degree and extent that other roads, streets and alleyways are maintained in areas of the City of Bryan, Texas with similar land use, population density and topography. Construction of new roads and streets is the responsibility of the developer or property owner desiring them and must be designed and built in accordance with applicable City of Bryan codes and standards.

Municipal maintenance of properly dedicated roads, streets and alleyways (which may be installed by developers of land within this newly annexed territory) will be consistent with such maintenance provided by the City of Bryan to other roads, streets and alleyways in areas exhibiting land use, population densities and topography similar to that of the newly annexed area.

The City of Bryan Public Works Department will install traffic signs, street markings and other traffic control devices in the newly annexed area as the need is established by appropriate study, pursuant to applicable policies and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended.

The City of Bryan Public Works Department will install street name signs in the newly annexed area. Under current City of Bryan ordinances, developers are responsible for the cost of street name signs for new public and private streets.

Bryan Texas Utilities (BTU), a municipal electric utility, will install streetlights in accordance with the utility standards of BTU, pursuant to applicable policies and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended. Under current City of Bryan ordinances, developers are responsible for the cost of streetlights in new subdivisions.

11. PARKS AND RECREATION

The newly annexed territory does not include any known existing public parks, playgrounds or swimming pools which would come under the City of Bryan's jurisdiction as a result of annexation. Residents of the newly annexed territory may use any and all existing City of Bryan parks, playgrounds and recreational facilities and participate in any and all programs, events, activities and services of the City of Bryan Parks and Recreation Department. Expansion of recreational facilities and programs to the newly annexed territory would be governed by applicable policies and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended.

12. MAINTAINING OTHER PUBLICLY-OWNED FACILITIES OR BUILDINGS

The City of Bryan, Texas is not aware of the existence of any publicly-owned facility or building now located in the newly annexed territory. In the event any such publicly-owned facility or building does exist and are public facilities or buildings, the City of Bryan shall maintain such facilities or buildings to the same extent and degree that it maintains similar municipal facilities and buildings now incorporated in the City of Bryan, Texas.

B. CONSTRUCTION OF CAPITAL IMPROVEMENTS TO BEGIN WITHIN 2½ YEARS FOLLOWING THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION, FIRE PROTECTION AND SOLID WASTE COLLECTION

The City Council of the City of Bryan, Texas finds and determines it to be unnecessary to acquire or construct any capital improvement within 2½ years following the effective date of annexing the subject territory, for the purpose of providing police and fire protection, emergency medical services and solid waste collection. The City Council finds and determines that it has at the present time adequate facilities to provide comparable levels of protection and service to what is presently being provided to other areas already incorporated in the City of Bryan, Texas, having the same or similar land use, population density and topography as that of the newly annexed territory. The City of Bryan finds that the current level of services and facilities can sufficiently provide comparable services to the newly annexed area without reducing the fire, police, and emergency medical services currently provided to areas already within the municipal boundaries of the City of Bryan.

2. WATER AND WASTEWATER FACILITIES

The City Council of the City of Bryan, Texas finds and determines it to be unnecessary to acquire or construct any capital improvement within 2½ years following the effective date of annexing the subject territory, for the purpose of providing water and wastewater service.

During the next 2½ years, the City Council of the City of Bryan, Texas believes that adequate capacity and municipal water and sewer mains exist for point-of-use connections and serviceable extensions, to provide water and/or sewer service within the newly annexed territory, pursuant to applicable utility extension policies and/or ordinances of the City of Bryan, now existing or as such policies and/or ordinances may be amended. The development and expansion of facilities as the City grows are expected to use the City's Master Plan and/or Comprehensive Plan, as they are amended from time to time, as a guide to know when expansion facilities become necessary.

As applied to all properties within the City, residents and/or developers will be responsible for costs to install and/or connect water and/or sewer service to their property.

The area to be annexed is currently under City of Bryan wastewater CCN. Extension of existing wastewater mains to the property may be done at the developer's cost. The comparable nature of any areas are at the discretion of the City of Bryan.

As applied to all properties within the City, residents and/or developers will be responsible for costs to install water and/or sewer service to their property.

3. ROADS AND STREETS

Developers of land within the newly annexed territory will be required to provide internal streets (and to improve peripheral or boundary streets) in accordance with applicable ordinances of the City of Bryan,

and such street improvements shall comply with specifications required by the City of Bryan, for properly dedicated streets.

4. PARKS, PLAYGROUNDS AND SWIMMING POOLS, AS WELL AS OTHER PUBLIC FACILITIES OR BUILDINGS

To the extent that it becomes necessary because of development demands, population growth and bona fide needs, the City Council of the City of Bryan, Texas will undertake to provide any such facility which it deems necessary to adequately provide for the health and safety of citizens in the newly annexed territory, based upon standard considerations of land use, population density and topography.

C. SPECIFIC FINDINGS

The City Council of the City of Bryan, Texas finds and determines that this Municipal Service Plan will not provide any fewer services nor will it provide a lower level of service, in the newly annexed territory, than were in existence at the time immediately preceding this territory's annexation to the City of Bryan, Texas.

As the development and growth of a municipality is not known but only anticipated conditions and subsequent occurrences may change making the current service plan unworkable or obsolete. In such a case, the City Council may amend the service plan to conform to the changed conditions and/or occurrences. Such amendments will be in conformity with state law.

Texas law does not require a uniform level of municipal services to an area if different characteristics of topography, land use, and population density constitute a sufficient basis for providing a different level of services. As a result, the levels of services provided in this plan are all linked to comparable services of areas similar in characteristic, topography, land use, and population density as the newly annexed area. For areas where no comparable location exists, the City Council finds that City staff utilized its best efforts to calculate a comparable level of serviced based on the known characteristics and incorporated such into this plan based on the characteristics of the newly annexed territory on the date of annexation.