

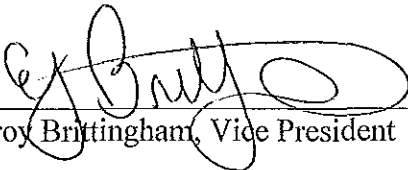
ANNEXATION RESOLUTION 2015-03

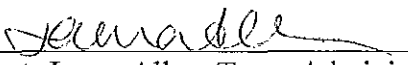
THIS ANNEXATION RESOLUTION, made this 11 day of May, 2015, by THE MAYOR & COUNCIL OF BERLIN, WITNESSETH:

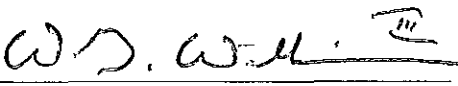
1. A Petition for Annexation has been received by the Town, executed by the authorized attorney for the sole property owners in the requested area, Steven and Karen Black.
2. The requested area to be annexed consists of Parcels 165 and 438 on Tax Map 25, totaling 15.212 acres of land, as shown on the Plat of the property which is duly recorded among the Worcester County Land Records in Plat Book R.H.O. 125, page 21. Said Plat has been submitted as Exhibit "A" to the Annexation Petition.
3. The property is contiguous to the Corporate Limits of the Town.
4. There was submitted with the Annexation Petition, a proposed Annexation Agreement, the terms of which are satisfactory to the Mayor & Council and will constitute the conditions of the annexation upon the property.
5. The property, upon annexation, shall be zoned "B-2 Shopping District".
6. Upon annexation the normal rates of municipal taxation shall be applicable to the property.

THEREFORE, Be it resolved, the above described property shall be added to the Town, subject to the provisions of the Berlin Municipal Charter and the conditions of the Annexation Agreement referred to herein.

PASSED this 11 day of May, 2015.


Elroy Brittingham, Vice President


Attest: Laura Allen, Town Administrator

By: 
Wm. Gee Williams, III, Mayor

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (hereinafter "Annexation Agreement"), is made on this 11 day of May, 2015 by the MAYOR AND COUNCIL OF BERLIN, a Maryland Municipal Corporation (hereinafter the "Town") and Steven Black and Karen Black, his wife (hereinafter jointly called "Owner").

RECITALS

The recitals set forth herein, to the extent that they set forth the intentions of, or commitments by the parties, are enforceable provisions of this contract.

A. The Town is a Municipal Corporation authorized to enter into this Annexation Agreement pursuant to the Charter and Code of the Town and of the Annotated Code of Maryland.

B. Owners are the fee simple owners of a certain tract or parcel of land (hereinafter the "annexation property") which is more particularly described as a tract of land on the northerly side of U.S. Route 50 and the westerly side of Maryland Route 452 (Friendship Road) designated on a certain plat entitled, "Reassembled Lands of Lester E. & Violet M. Black and Steve E. & Karen D. Black" prepared by L.B. Bunting Surveys which said Plat is recorded among the Land Records of Worcester County, Maryland in Plat Book 125, page 21 and which said property contains 15.212 acres of land more or less. The recorded Plat of said property is shown on Exhibit "A" attached hereto and incorporated herein by reference.

C. The annexation property is currently designated as a Growth Area within the Comprehensive Plan of the Town of Berlin, and is designated as "Existing Developed Area" on the Worcester County Comprehensive Land Use Map ("Map") and is contiguous to the Corporate Limits of the Town.

D. The Town desires that growth be in accordance with the goals and guiding principles outlined in the Town's Comprehensive Plan and the impact of such growth is managed for the benefit of the Town and its citizens.

E. The current wastewater treatment plant serving the Town was constructed in the early 1960's, upgraded periodically and significantly, including a substantial increase in capacity and has adequate capacity to serve the Annexation Property (the "Town's Plant").

F. Owner has requested annexation of the Annexation Property by the Town so long as certain matters pertaining to its future development are resolved, including without limitation, matters related to planning, zoning, and the future extension of public utilities and services;

G. The Town is willing to accomplish the annexation process, and to submit the Annexation Resolution to a vote by the Town's Council (the "Council"), and to a referendum of the Town's citizens, if requested, provided that the Owner agrees to adhere to the goals and

guiding principles of the Town's Comprehensive Plan, and all ordinances and regulations consistent therewith, including any and all agreements which will be required by the Town in connection with any proposed development;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby agree as follows:

1. Recitals. The preamble and introductory clauses prior hereto are incorporated into this Annexation Agreement is a part hereof, and such provisions accurately reflect the facts therein recited and the intention of the parties.

2. Definitions:

"Sewer EDU" shall mean the equivalent amount of wastewater treatment required to serve one (1) single family home, which is two hundred fifty (250) gpd.

"Water EDU" shall mean the equivalent amount of treated water to serve one (1) single family home, which is two hundred fifty (250) gpd.

"Owner" shall mean the fee simple owner of the Annexation Property, the contract purchaser of the Annexation Property and any of his or their successors, heirs or assigns.

"MGD" shall mean million gallons per day.

"WWTP" shall mean wastewater treatment plant.

"WTP" shall mean water treatment plant.

3. Petition. In order to effectuate the annexation of the Annexation Property, the Owner shall execute and submit to the Mayor of the Town Petition for the Annexation (Annexation Petition). The submission of a letter of request will qualify for such Petition. No persons who are eligible to sign a petition and to participate in a referendum election under the provisions of Md. Code Ann. Article 23A, § 19 live within the area to be annexed. Therefore, pursuant to Md. Code Ann. Article 23A, § 19(k), any person (including an association, the two or more joint owners of jointly-owned property, a firm or corporation) owning real property within the area to be annexed has a right equal to a natural person to sign the Annexation Petition. The Owner constitutes all the persons eligible to sign the Annexation Petition and is the owner of at least twenty-five percent (25%) of the assessed valuation of the property proposed for annexation. (The Owners own 100% of said assessed value.)

4. Annexation. Upon the presentation of a proper Annexation Petition, in the form of a submission letter, a satisfactory concept plan and the execution of this Annexation Agreement, the Town will introduce an Annexation Resolution for public hearing and consideration in accordance with the procedures required by the Annotated Code of Maryland and the Town Code.

5. Property. The property that is subject to this Annexation Agreement is identified on Exhibit "A" attached hereto and incorporated herein by reference.

6. Zoning Upon Annexation.

A. The Town agrees that with the approval of Worcester County Commissioners (the "Commissioners"), if required by statute, the property shall be designated as a B-2 Zoning District upon annexation. The parties agree that all existing land uses within the Annexation Property, whether permitted uses, accessory uses, non-conforming uses, or special exception uses, currently made in, or upon the Annexation Property, may continue subject to appropriate zoning regulations. (The property is presently zoned C-2 under the Worcester County Zoning Code.)

B. The Annexation Property shall be developed consistent with ordinances adopted by the Town.

7. Development Intentions.

A. Development of the Annexation Property shall be subject to any necessary approvals by the Town's Planning and Zoning Commission and the Mayor and Council as required by law.

B. The Town agrees that One Thousand Two Hundred and Fifty gallons per day (1,250 gpd) of treated water shall be reserved for the Annexation Property and the Owner shall be charged all ordinary and standard fees at such time as the reserved EDU shall be utilized.

C. The Town shall reserve One Thousand Two Hundred Fifty gallons per day (1,250 gpd) of treated effluent for the Annexation Property, and, the Owner shall pay "ready to serve fees" for five (5) EDU's.

D. In the event Owner requests allocation or reservation for any additional EDU's, Owner shall be entitled to pay "ready to serve fees" for any such additional EDU's as requested, until those additional EDU's, if any, shall be utilized for a future purpose on the annexed property.

E. Owner shall be entitled to pay "ready to serve fees" for any additional EDU's which they request, until the additional EDU's, if any, are requested by the Owner to be utilized for any purpose on the annexed property.

8. Public Works Agreements and Bonding. To the extent that Owner is required to construct any infrastructure to accommodate the development of the subject property, Owner shall utilize the Town of Berlin Public Works Agreement, a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference.

9. Further Conditions.

9.1. Sewer and Water Facilities for Commercial Development. The Owner intends to develop the Annexation Property with commercial uses. Owner recognizes that such development may necessitate some infrastructure improvements. It is anticipated, however, that such extensions or improvements will include such work as is required to construct a sewer and water extension under U.S. Route 50 from the existing facilities in order to reach the property and any lift stations or other facilities required by the Town:

(a) Sanitary Sewer. The Annexation Project shall be served with wastewater from the Town.

(b) Water. The Annexation Property shall be served with treated water from the Town.

9.2. User Fees. Owner shall be charged all ordinary and standard user fees for water, front foot assessments, garbage, impact fees and building permits, and shall be charged "ready to serve fees", if requested by Owner, pursuant to the provisions of Paragraph 7.E. hereof.

9.3 Except for the expense reimbursement provisions set forth below, this Annexation Agreement is contingent in its entirety upon the following conditions precedent:

(a) Submittal of a letter constituting an Annexation Petition and all supporting documents; and

(b) The successful and final annexation of the Annexation Property into the Town. The annexation will not become effective until the referendum periods have expired, and if applicable, all referenda have been resolved in favor of the annexation.

9.4. Either Owner or the Town may declare this Annexation Agreement null and void if the conditions in Paragraph 11.A. do not occur.

10. Mutual Assistance.

A. The parties shall do all things reasonably necessary or appropriate to carry out and to expedite the terms and provisions of this Annexation Agreement and to aid and assist each other in carrying out the terms and provisions of this Annexation Agreement and the intentions of the parties as reflected by said terms including, without limitation, the giving of such notices, the holding of such public hearings, the enactment by the Town of such resolutions and ordinances and the taking of such other actions as may be necessary to enable the parties' compliance with the terms and provisions of this Annexation Agreement and as may be necessary to give effect to the terms and objectives of this Annexation Agreement and the intentions of the parties as reflected by said terms.

B. The Owner and the Town agree to promptly execute all permit applications needed by either party for permits or approvals from the Maryland Department of the Environment, the Maryland State Highway Administration, Worcester County, and its various agencies and departments, or any other public or private agencies from whom a permit is required to develop the Annexation Property, provided that such permit applications are prepared in accordance with applicable rules, regulations, and laws, and the parties each further agree to cooperate in the securing of such permits or approvals from such agencies.

11. Termination of Annexation Agreement:

A. In the event Owner fails to: (i) secure Worcester County Commissioners approval of the requested zoning classification, if needed, (ii) secure Maryland Department of the Environment final approval of an amendment to the Worcester County Comprehensive Water and Sewer plan, if needed, then this Annexation Agreement may be terminated by either the Town or Owner, as the case may be, upon thirty (30) days notice. Notice of termination shall be sent as follows:

To the TOWN to:

Laura Allen, Administrative Director
Town of Berlin
10 William Street
Berlin, MD 21811

To Owner to:

Steven Black
10220 N Bunting Road
Bishopville, MD 21813

With Copy to:

Joseph E. Moore, Esquire
Williams, Moore, Shockley & Harrison, LLP
3509 Coastal Highway
Ocean City, MD 21842

B. The parties may extend any specified date by mutual agreement.

12. Enforcement:

A. Unless lawfully terminated or cancelled, the Annexation Agreement shall be enforceable by either party to the Annexation Agreement or any party's successors in interest, in any court of competent jurisdiction, by any appropriate action or suit at

law or in equity, to secure the performance of the covenants herein contained. The non-prevailing party shall reimburse the prevailing party in any such action any and all expenses incurred by the prevailing party, including but not limited to, reasonable attorneys fees and court costs, whether or not suit is filed in a court of law.

B. This Annexation Agreement and the rights and obligations of the parties hereunder shall be governed by the laws of the State of Maryland.

C. Any enforcement shall be subject to the indemnity provisions of this Annexation Agreement.

13. Prior Matters. This Annexation Agreement is the acknowledgment and ratification of negotiations and dealings between the parties initiated prior to the submission of a Petition for Annexation to be acted upon the Town.

14. Entire Agreement. This Annexation Agreement embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated herein, and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Annexation Agreement.

15. Modification.

A. Neither this Annexation Agreement nor any provisions hereof may be waived, modified, amended, discharged, or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

B. Amendments to this Annexation Agreement shall become effective immediately upon the written agreement of both parties.

16. Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Annexation Agreement.

17. Binding Effect.

A. The terms of this Annexation Agreement shall be binding upon and shall inure to the benefit of the parties, any successor municipal authorities of the Town, successor owners of record of the Annexation Property, and the successors and assigns of the Owner. It is expressly understood and agreed that the Owner may assign his benefits, rights, duties and obligations hereunder either as part of the conveyance of the Annexation Property as an entirety or severally as part of the conveyances of portions of the Annexation Property.

B. No provisions of this Annexation Agreement shall create any third party beneficiary rights or other rights in any person or entity not a party hereto.

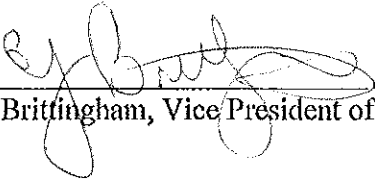
18. Recording. This Annexation Agreement may be recorded among the Land Records of Worcester County at the expense of the recording party.

19. Severability. Should a substantial and material provision of this Annexation Agreement be determined to be invalid by any Court of this State or in violation of any statute, law or ordinance, then either party may, at its discretion, void the remainder of this Annexation Agreement, with the exception of the duty of Owner to pay all expenses as herein provided.

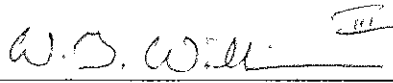
IN WITNESS WHEREOF, the parties have executed and sealed this Annexation Agreement as of the day and year first above written.

ATTEST:

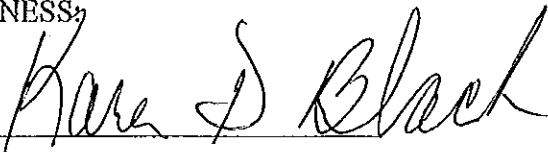
MAYOR AND COUNCIL OF BERLIN

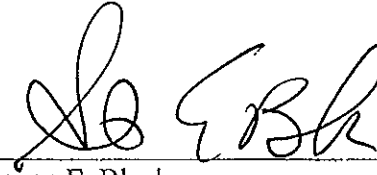

Elroy Brittingham, Vice President of Council

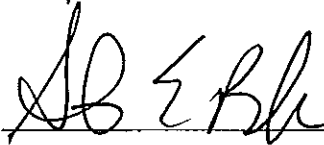
By:


W.G. Williams, III, Mayor

WITNESS:


Karen D. Black


Steven E. Black


Steven E. Black

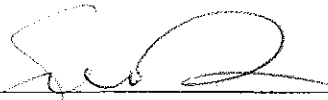

Karen D. Black

"OWNER"

STATE OF MARYLAND, WORCESTER COUNTY, TO WIT:

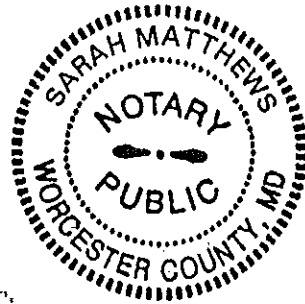
I HEREBY CERTIFY that on this 25th day of February, 2015, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Elroy Brittingham, Vice President of Council and W.G. Williams, III, Mayor of the Town of Berlin, Maryland, known to me (or satisfactorily proven) to be the person whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained and in the capacities therein stated.

AS WITNESS my hand and Official Seal.



Notary Public


My Commission Expires: 1/8/2019



STATE OF MARYLAND, WORCESTER COUNTY, TO WIT:

I HEREBY CERTIFY that on this 25th day of February, 2015, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Steven E. Black and Karen D. Black, his wife, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained and in the capacities therein stated.

AS WITNESS my hand and Official Seal.



Notary Public

My Commission Expires: 1/8/2019

