



CITY OF KILLEEN
OFFICE OF THE CITY ATTORNEY

August 22, 2006

Mr. Bill King
186 Lonely Oaks
Killeen, Texas 76542

Mr. Ben Wickersham
810 Llewellyn Lane
Killeen, Texas 76542

Mr. Ross Caviness
1075 Llewellyn Lane
Killeen, Texas 76542

Mr. Don Clay
3739 E. Stagecoach
Killeen, Texas 76542

Mr. Ray Boland
6509 Wagon Wheel
Killeen, Texas 76542

Dear Committee Members:

First, thank you all for your hard work and cooperation as we worked toward writing an acceptable Service Plan and Pre-Annexation Agreement. Enclosed, please find a copy of the Pre-Annexation Agreement, which has been completely executed. It also contains a copy of the Service Plan as an exhibit. There are two originals—one will be kept by the City Secretary and one has been provided to Mr. King, as he was designated as your spokesman in our first meeting in January.

It was a pleasure working with each of you in this endeavor. If there is anything I can do for any of you, please let me know.

Sincerely,

Kathryn H. Davis
City Attorney

Cc: Connie Green
Don Christian
Rana Lacer
Tom Dann

ORIGINAL

PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement (this "Agreement") is entered into by and between the City of Killeen, Texas ("City") and the Negotiating Committee ("Committee");

RECITALS

WHEREAS, in January of 2004, the City amended its annexation plan to include the property described in Exhibit A, which is scheduled to be annexed in 2008;

WHEREAS, pursuant to Texas Local Government Code sec. 43.0562(b), the Bell County Commissioners Court appointed Bill King, Don Clay, Ben Wickersham, Ray Boland and Ross Cavness (the "committee") to represent the interests of the residents of the area included in Exhibit A;

WHEREAS, the City and Committee negotiated in good faith the terms of the Annexation Service Plan, which was adopted by the City Council on June 27, 2006;

WHEREAS, the Committee desired that several aspects of the Annexation Service Plan be in effect for longer than the ten years mandated by Texas Local Government Code sec. 43.056(l);

WHEREAS, the City has agreed for the items in this agreement to be in effect for fifteen years, in exchange for the Committee's agreement not to request arbitration of the Annexation Service Plan under sec. 43.0564 of the Texas Local Government Code;

WHEREAS, the Committee and the City acknowledge that this Agreement between them is binding upon them and their respective successors and assigns for the term of the Agreement; and

WHEREAS, both the City and Owners agree that entering into this Agreement addresses the goals and objectives of both parties.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

Section 1. *Recitals.* The "Recitals" set forth in this Agreement are true and correct and form the basis upon which the parties have entered into this Agreement and are incorporated as part of this Agreement for all purposes.

Section 2. *Services.* Services shall be provided to the annexation area in accordance with the Service Plan attached hereto as Exhibit B.

Section 3. *Sewer Connection.* If an Owner's septic tank becomes inoperable, Owner may choose the most economical option to either tie into the City's sewer system, if available, or to repair/replace the septic system. The City will not impose any requirements or restrictions on a

resident's ability to install a septic system, other than those that may be required by either current or future state law.

Section 4. *Reconstruction of Streets.* The city is already contracting for the design and has appropriated funds to initiate the improvement of Trimmier Road. This improvement will include a sidewalk on at least one side of the road. The City will include Stagecoach and Onion Roads for improvement in the next bond program. This improvement will include a sidewalk on at least one side the length of the roads. If, during the life of this agreement, the City undertakes the reconstruction of Trimmier, Onion or Stagecoach Roads, the City will install sidewalks on at least one side of the street at the time and location of reconstruction.

Section 5. *Maintenance of Roads.* Public roads and streets in the annexation area 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, riding comfort, age, traffic volume, functional classification, and available funding. The Streets (Traffic) Division will also provide regulatory traffic signage. Residents in the Annexation Area have requested that, upon annexation, the City consider the reconstruction of Onion, Stagecoach and Trimmier Roads. The City is already contracting for the design and has appropriated funds to initiate the improvement of Trimmier Road. In addition, the City will include Stagecoach Road and Onion Road in the list of streets to be prioritized for improvement in the next bond program.

Section 6. *Legal Non-Conforming Land Uses.* Legal, non-conforming land uses in existence on the date of annexation may continue for the life of this agreement, provided the parameters in section 6 of the "Tax Based Services" section in the Annexation Service Agreement are followed. A landowner may document a legal, non-conforming land use through a Certificate of Occupancy inspection by the City of Killeen Building and Inspections Department, and the fee for such inspection will be waived.

Section 7. *Severability.* Invalidation of any provision of this Agreement, other than agreement to waive arbitration by the Committee, by judgment or court order shall not invalidate any of the remaining provisions which shall remain in full force and effect, unless such remaining provisions are an integral part of the invalid provisions or the invalid provision is necessary to give effect to the remaining provisions. However, if the Committee elects to enforce its right to arbitrate under sec. 43.0564 of the Local Government Code, or a judgment or court order invalidates the Committee's agreement to waive arbitration, it shall be deemed a failure of consideration and this agreement will become null and void immediately upon such action.

Section 8. *Enforcement.* This Agreement may be enforced by either the Committee or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

Section 9. *Applicable Law.* No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement or the City's ability to annex the properties covered herein.

Section 10. Venue. Venue for this Agreement shall be in Bell County, Texas.

Section 11. Execution. This Agreement will be executed in multiple originals, and upon execution, shall constitute one and the same instrument. This agreement shall be effective if executed by at least three of the five Committee members.

Section 12. Amendment. This Agreement may only be amended in writing upon mutual consent of the City and a majority of the property owners or successor to any property owner listed in Exhibit A .

Section 13. Term of Agreement. The term of this Agreement shall be fifteen years (15 years) from its effective date.

Section 14. Effective Date. This Agreement is effective on August 17, 2006.

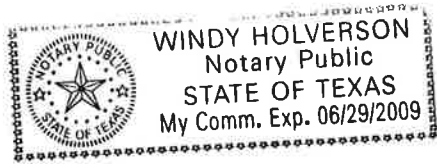
The City of Killeen, Texas

By: Connie Green
Connie Green, City Manager **KMD**

THE STATE OF TEXAS }

COUNTY OF }

This instrument was acknowledged before me on the 17th day of August, 2006 by Connie Green, City Manager, on behalf of the City of Killeen, Texas.



Windy Holverson
Notary Public, State of Texas

Negotiating Committee

By: Bill King
Bill King

THE STATE OF TEXAS }

COUNTY OF }

This instrument was acknowledged before me on the 15th day of August, 2006, by Bill King, Negotiating Committee member.



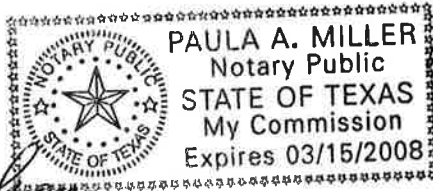
Linda S. Meads
Notary Public, State of Texas

By: Don Clay
Don Clay

THE STATE OF TEXAS }

COUNTY OF }

This instrument was acknowledged before me on the 15th day of August, 2006 by Don Clay, Negotiating Committee Member.



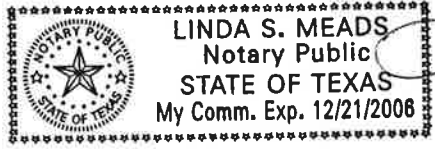
Paula A. Miller
Notary Public, State of Texas

By: Ben Wickersham
Ben Wickersham

THE STATE OF TEXAS }

COUNTY OF }

This instrument was acknowledged before me on the 10th day of August, 2006 by Ben Wickersham, Negotiating Committee Member.



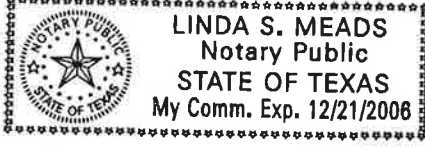
Linda S. Meads
Notary Public, State of Texas

By: Raymond A. Boland
Ray Boland

THE STATE OF TEXAS }

COUNTY OF }

This instrument was acknowledged before me on the 15th day of August, 2006 by Ray Boland, Negotiating Committee Member.

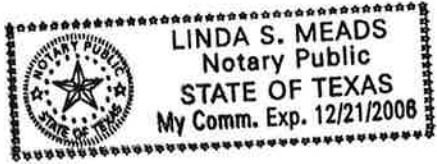


Linda S. Meads
Notary Public, State of Texas

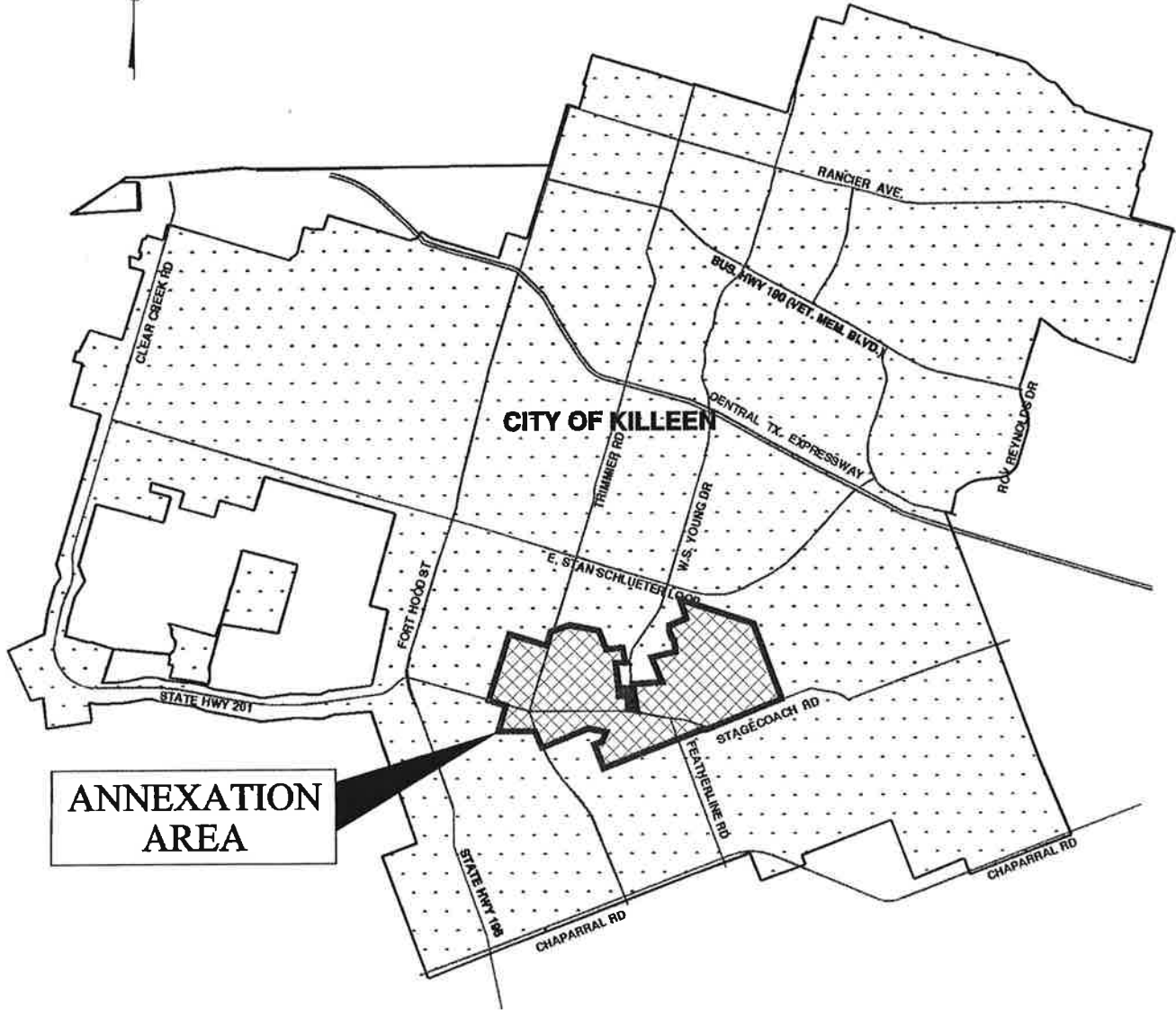
By: *Ross Cavness*
Ross Cavness

THE STATE OF TEXAS }
COUNTY OF }

This instrument was acknowledged before me on the 14th day of August, 2006 by Ross Cavness, Negotiating Committee Member.



Linda S. Meads
Notary Public, State of Texas



**ANNEXATION
AREA**

EXHIBIT A

DATE: 11/18/05

STAGECOACH REGION ANNEXATION



January 2008

Annexation Service Plan

INTRODUCTION

This Service Plan ("Plan") is made by the City of Killeen ("City") pursuant to Chapter 43 of the Texas Local Government Code. The Plan relates to the annexation to the City of approximately 1300 acres, which the City of Killeen intends to annex on or about January 11, 2008, the third anniversary of the amendment of Annexation Plan 2005 ("annexation area"). This acreage is located in the Robert Cunningham Survey, Abstract 963, and the Azra Webb Survey, Abstract 857, Bell County, Texas. It is generally described as the unincorporated area to the north and the south of Stagecoach Road and extending from approximately Cunningham Road on the east to the west boundary of the Stagecoach Road/Wagon Wheel Subdivisions on Stagecoach Road. This annexation will extend the district boundaries of Districts 3 and 4 to the south. A graphic depiction of the area to be annexed is attached at Exhibit A.

This plan is divided into two main parts; tax based services and rate based services. Tax based services are those services that are financed by tax revenues; such as police and fire protection. Rate based services are those services which citizens acquire by paying a fee; such as water, sanitary sewer and solid waste pick-up. The cost of rate based services is directly related to the cost of providing the service.

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 the Plan. The Plan represents the concept the City of Killeen will use to initially deliver services. It is subject to modification and its change and renewal 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. The City reserves the right guaranteed to it by Section 43.056 (h) Local Government Code, to amend this Plan if the City Council determines that changed conditions or subsequent occurrences or any other legally sufficient circumstances exist under the Local Government, or other Texas laws to make this Plan unworkable, obsolete or unlawful. The amended Service Plan must provide for services that are comparable to or better than those established in the Service Plan before amendment. Before any amendment is adopted, the City Council must provide an opportunity for interested persons to be heard at public hearings called and held in the manner provided by Section 43.0561 of the Texas Local Government Code.

TAX BASED SERVICE COMPONENTS

1. Public Safety:

a. Police Protection – The Killeen Police Department (KPD) will provide protection and law enforcement services in the annexation area, commencing on the effective date of annexation.

These Services include:

EXHIBIT B

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- normal patrols and responses;
- handling of complaints and incident reports;
- special units, such as traffic enforcement, criminal investigations, narcotics and gang suppression, and special weapons tactics team.
- Community programs, such as Neighborhood Watches, Citizen Police Academy, Killeen Citizens on Patrol (KCOP) and Community Forums.
- Animal control services
- Code Enforcement services

The City of Killeen will add at least four additional full-time police officers, required vehicles and other necessary equipment. These officers will be added in either the year prior to annexation or within one year after annexation. The annexation area will be incorporated into the Police Department routine patrol schedule upon the effective date of annexation and will receive the same level of patrol service as well as emergency response as other areas of the City.

The City of Killeen will add at least one additional Code Enforcement Officer, a support vehicle and necessary additional equipment. This position will be added either the year prior to annexation or within one year after the effective date of annexation. The Annexation area will be incorporated into the code enforcement routine patrol schedule and the response to specific code enforcement requests will be equal to other areas of the City.

The City of Killeen will add at least one additional Animal Control Officer, vehicle and necessary equipment. This position will be added either the year prior to annexation or within one year after the effective date of annexation. The Annexation area will be incorporated into the code enforcement routine patrol schedule and the response to specific code enforcement requests will be equal to other areas of the City.

b. Fire Protection – The Killeen Fire Department (KFD) will provide fire protection and prevention services in the annexation area, commencing on the effective date of the annexation. These services include:

- fire suppression and rescue;
- emergency medical services;
- hazardous materials mitigation and regulation;
- emergency prevention and public education services;
- construction plan review;
- inspections;
- emergency management planning;

These services are provided on a City – wide basis and Killeen Fire Department will provide fire protection and prevention services to the annexation area with the same level of service being provided to other comparable areas of the City. Currently, fire protection services and emergency medical service are provided to the annexation area through an interlocal agreement with Bell County. This service is provided from Fire Station No. 6 located on Elms Road. Fire Station No. 5, which is located on Jasper Road and Fire Station No. 3 on Twin Creek Road provides back-up

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support to Fire Station No. 6. The interlocal agreement provides for water tank trucks and this provision will be retained until no longer needed.

The City of Killeen will add at least six additional fire protection personnel either the year prior to annexation or within one year of the effective date of annexation. Additionally, the City of Killeen will place its next Fire Station in the vicinity of Stagecoach Road. This station will be equipped with all necessary fire and emergency medical response equipment.

2. Maintenance of Roads, Streets, and Lighting

The Street Division, 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;
- repair maintenance of public streets on an as-needed basis;
- street lighting (ONCOR/TXU);
- right-of-way maintenance.

Public roads and streets in the annexation area 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, riding comfort, age, traffic volume, functional classification, and available funding. The Streets (Traffic) Division will also provide regulatory traffic signage. Residents in the Annexation Area have requested that, upon annexation, the City consider the reconstruction of Onion, Stagecoach and Trimmier Roads. The City is already contracting for the design and has appropriated funds to initiate the improvement of Trimmier Road. In addition, the City will include Stagecoach Road and Onion Road in the list of streets to be prioritized for improvement in the next bond program.

The City only reconstructs streets when the normal street maintenance service will no longer sustain the street surface and reconstruction is determined to be necessary in the interest of public safety. When it is time to reconstruct the above-named streets, the City will add sidewalks on at least one side of the street at that time, as long as the City is the entity undertaking the reconstruction. However, if the residents in either the annexation area or any other section of the City desire to locally upgrade acceptable infrastructure to a higher locally desirable standard, the City can agree to employ the public improvement district provisions of the Local Government Code to provide this service. This process can be used to reconstruct streets and install curbs, gutters, a two-person sidewalk on both sides of the street and add bike lanes on designated streets. There are specific requirements for the filing of a petition for creation of such districts that include specific landowner participation requirements. A petition is required to be signed by the owners who represent more than 50% of the taxable value of the property in the proposed district as well as the record owners who constitute more than 50% of all of the owners. A public improvement district shall apportion the costs of the improvements to be recovered in an assessment against property in a district. Those landowners receiving the special benefits that inspired the creation of the improvement district are assessed the costs for those improvements.

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All signage shall be replaced with City of Killeen signage as soon as possible. The City's goal will be to accomplish this task within six (6) months of the effective date of the annexation.

Engineering studies to determine if traffic control devices are warranted will be conducted as needed, in conjunction with growth and increased traffic volumes. The requirement for the study and how it is conducted is determined by the Texas Manual on Uniform Traffic Control Devices. Within one (1) year of the effective date of the annexation, the City shall conduct traffic signal warrant studies at the intersection of Stagecoach and Trimmier Roads. Additional warrant studies will be performed at other intersections that appear to have a need for traffic control devices.

Anticipated future development within the annexation area will generate the requirement to construct streets in compliance with the City of Killeen development standards and requirements published in the Killeen Code of Ordinances and Public Works Department practices, as may be amended. The City of Killeen Thoroughfare Plan includes programmed collector and arterial streets to provide connectivity between the annexation area and the transportation network. Street lighting is routinely installed at intersections and will be installed at intersections in the Annexation Area. Street lighting is installed and maintained by Oncor/TXU. Within one month of the effective date of annexation, the City will request that Oncor/TXU install street lighting in the annexation area. That request will include the ten intersections along Stagecoach Road, Featherline, and Briarcroft Roads as proposed by the negotiating committee. After the street lights are installed the City will be responsible for the monthly energy cost.

3. Maintenance of Parks and Recreation Facilities

The City of Killeen is not aware of the existence of any public parks, play grounds, or recreational facilities in the annexation area. In the event any such public facilities do exist, the City of Killeen will maintain such areas to the same extent that it maintains similar recreational facilities located in other areas of the City. As the annexation area is developed current master plans for parks and recreational facilities will be reviewed and amended as appropriate to accommodate future growth and provide the same level of service as is provided in other areas of the city of comparable population density, land use and topography.

The City of Killeen has a Parks Master Plan, which sets the direction for all future park development. All areas, including newly annexed areas of town, will be included in this document to be considered for future park development. Additionally, the City policy is to enter into interlocal agreements with the Killeen Independent School District to provide joint use of any recreational facility that has been funded with public resources.

Already recognized as one of the premier youth sporting facilities in Texas, Lions Club Park will soon serve the recreational needs of a much broader population with the development of a Family Recreation Center and Senior Citizens Center Complex. Currently in the design phase, this facility will soon become the "Hub" for recreational services in Killeen. Some of the amenities within this facility include a double gymnasium, a fitness center, an indoor walking and jogging track, game rooms, arts and crafts rooms, exercise rooms, kitchen and dining facilities, a multi-purpose room and much more. The facility is scheduled to open in the fall of 2007.

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Recreational facilities and area amenities that are privately owned, maintained or operated will be unaffected by an annexation.

4. Maintenance of Publicly Owned Facilities or Buildings

The City of Killeen is not aware of the existence of any publicly owned facilities or buildings now located in the area proposed for annexation. In the event any such publicly owned facilities or buildings do exist, the City of Killeen will maintain such areas to the same extent and degree that it maintains other publicly owned facilities or buildings located in the City. Any such facilities developed in the future for dedication to and maintenance by the City will be constructed to City standards and maintained by the developer/builder for the required warranty period. Subsequent to the warranty period, the City of Killeen will maintain such facilities to the same extent and degree that it maintains other publicly owned facilities or buildings, located in other areas of the City.

5. Inspection Services

The City of Killeen and its Building and Inspections Department will provide inspection services to include building, electrical, plumbing, etc. The City of Killeen will add at least one additional full time Building Inspector, a support vehicle and necessary additional equipment. This position will be added either the year prior to annexation or within one year after the effective date of annexation. The Annexation area will be incorporated into the full range of building inspection services and will receive the response to specific inspection requests as other areas of the City.

6. Land Use Management

The City of Killeen Code of Ordinances mandates that all property annexed into the City be initially zoned Agriculture (A). This is the most restrictive zoning district contained in the Killeen Code of Ordinances Chapter 31, and will permit single family homes, livestock and the rural type of uses normally seen in agriculture areas. Furthermore, the City's current animal control ordinance provides protections for 4-H activities.

The City Planning and Zoning Commission will initiate a land use study of the Annexation Area. Within twelve months of the effective date of the annexation, a recommendation for more specific zoning of tracts and lots will be submitted to the City Council for consideration. Citizens owning property in the annexation area will be contacted and asked to present their desires for the zoning of their property in public hearing. This rezoning process will be conducted in strict compliance with notification and due process requirements of the Local Government Code and City of Killeen Code of Ordinances. During this process, newly annexed citizens owning property in the annexation area will be contacted and invited to public hearings to present their desires for the zoning of their property. In addition to determining the initial zoning, the City of Killeen will, based upon the pre-annexation request of the newly annexed residents, also complete a land use plan that will support the initial zoning and provide additional protection by assuring that future zonings will be consistent with the land use plan. Subsequent changes to zonings and land use plans can be initiated by the property owner. Such changes require formal application, justification based on changes in surrounding neighborhood conditions and public notifications and hearings before the Planning and Zoning Commission and the City Council.

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The lawful use of land or of a building existing upon the effective date of annexation may be continued at least through the term of this service plan and any extensions, and cannot be terminated by the City even if such use does not conform to the provisions of the City of Killeen Zoning Ordinance. The following provisions will be applied:

1. The use may be extended throughout such portions of the building as are arranged or designed for such use, provided no structural alterations are made therein, except for changes needed to maintain the structural or aesthetic integrity of the structure (such as new roof or air conditioning unit, or the replacement of wear items such as carpet, etc.).
2. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.
3. If a nonconforming building is voluntarily removed by the resident, the future use of such premises shall be in conformity with the provisions of the zoning ordinance. If the building is destroyed through fire or act of nature, the structure may be rebuilt in substantially the same form as existed before, and the non-conforming use may be continued.
4. In the event a nonconforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the provisions of the district in which it is located.
5. A nonconforming use, if changed to a conforming use or a more restricted nonconforming use, for a period of greater than one (1) year may not thereafter be changed back to a less restricted use than that to which it was changed.

The nonconforming use provisions of the Killeen Code of Ordinances are intended to provide a self cleansing process. However, the timing of when the conversion from nonconforming to conforming occurs is totally at the discretion of the resident. The owner should request a non-conforming Certificate of Occupancy inspection from the Building and Inspections Department to document the existence of a non-conforming land use. The fee for this inspection will be waived.

7. Other Services

The City of Killeen will provide other City Services to the annexation area, such as library, municipal court and general administration services at the same level of service now being provided to other areas of the City with similar population density, land use and topography. The requirement to register and license unneutered dogs and cats will be waived until the 1-year anniversary of the date of annexation. City Limit signs to encompass the new boundaries of the City as a result of the annexation will be installed within ninety (90) days of the effective date of the annexation. The City's authority to abate nuisances (fireworks, etc.) within five thousand (5000) feet of its boundary will provide protection to the annexation area.

RATE BASED SERVICE COMPONENTS

1. Solid Waste Services

Solid Waste services provided by the City of Killeen's Solid Waste Services Department are available immediately upon annexation. Residents and commercial activities must acquire an

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account. The normally required deposits will be waived for the annexation area. The solid waste collection and disposal services provided to the annexation area, will be equal to the service being provided to other areas of the City. The City of Killeen has a pay-as-you-throw policy. The rate a customer pays is based on the size of container the customer desires and individual special services the customer may request. If a customer requests a 96-gallon cart, it will be provided and the customer will be billed the prevailing in-city residential rate for servicing that cart. The City of Killeen has a fixed route schedule for those services provided in accordance with Chapter 24. The customers in the Annexation Area will be incorporated into that schedule, The City does not have a city-wide curbside recycling program in effect. The City is currently conducting a test in selected areas of the City to determine if such a program is economically feasible within a reasonable rate structure. If this test is successful and the program is determined to be feasible, the program will be expanded to include the entire City. In this event, the Annexation Area will be included in the program along with the rest of the City. All services will be available to the residents of the annexation area subject to the same conditions, fees, and restrictions imposed on other residents of the City. Commercial business will be provided with a commercial container, which is available in a variety of sizes and frequencies of collection, based on the waste type and volume generated. The Transfer Station and all its services will be available to the residents of the annexation area subject to the same conditions, fees, and restrictions imposed on other residents of the City.

Solid Waste services provided to residential and commercial customers include:

- garbage collection – in accordance with City of Killeen “pay-as-you-throw” guidelines and Chapter 24 of the Killeen Code of Ordinances;
- recycling – access to City of Killeen Recycling Center and inclusion in any future curbside recycling collection services;
- yard waste and brush collection;
- special collection services;
- commercial service is provided on subscription basis from the City.

For the first two years after the effective date of the annexation, residents and commercial businesses in the Annexation Area have the option of continuing with a private solid waste collection service. Those residents and businesses wishing to maintain their private solid waste collection service shall call the City at (254)-501-7785 and notify the City that they will continue with their private solid waste collection service. During the period of time that a resident or business in the Annexation Area utilizes a private solid waste collection service, the City of Killeen will not charge that resident for solid waste collection.

2. Maintenance of Water and Wastewater Services

The City of Killeen strives to provide comparable levels of service in all areas of the City, allowing for differences in population density, land use, and topography. In the annexation area the population density is low compared to other areas of the city.

The topography of the annexed area places it in the Stillhouse Hollow Lake drainage basin. Municipalities are restricted from introducing treatment plant effluent into Stillhouse Hollow Lake. The City’s Water and Waste Water Master Plan contains several major projects scheduled over the

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next three years to provide rate-based water and sanitary sewer municipal service to the annexed area. The water projects include the West Stagecoach Road Waterline, Trimmier Road Waterline, South Loop Waterline Phase I, Onion Road Waterline, East Stagecoach Road Waterline, Southeast Loop Waterline. The sanitary sewer projects include Highway 195 Wastewater Improvements, Lift Station #20 and Force Main, and Trimmier Creek Interceptor Phase III.

a. **Water Utilities** – It is the intention of the City of Killeen to provide water utility services to the annexation area in an expedient and orderly manner. This plan provides continued quality service while minimizing the utility rate impact to both the newly acquired citizens as well as the existing customers of the City's utility system.

Under this service plan concept, existing customers of the investor – owned West Bell Water Supply Corporation would initially remain West Bell customers pursuant to § 402.101 Texas Local Government Code. Thus, the annexation area will continue to receive equivalent service as they are now receiving. This service is comparable to other comparable areas of the City.

The City will request joint jurisdiction of West Bell Certificate of Convenience and Necessity (CCN) area. As with previous annexations, the City of Killeen will purchase existing West Bell water utility infrastructure/construct parallel infrastructure in the annexation area at a rate consistent with the City of Killeen Water Master Plan (as may be amended), the most recent amendment approved by the City of Killeen City Council on March 2004. As West Bell CCN area is acquired, West Bell purchased infrastructure or new parallel infrastructure constructed by the City will be inter-connected to the City's existing water system with a corresponding transfer of customers into the City's then existing rate structure. Existing water wells in the Annexation Area may be retained and used by the resident; however, if the resident connects to a public water system for potable water, the well water system must be disconnected to assure that water from the two systems cannot be mixed. By following this structured process, the Annexation Area will continue to receive water service that is at least equivalent to the service that they are now receiving.

b. The City of Killeen, in cooperation with Water Control and Improvement District #1, is in the process of planning, permitting and construction of a new wastewater treatment plant that is scheduled for completion in Fall 2006. The projects identified above are scheduled for completion prior to the opening of this new plant. These water and sewer service projects and time frames have been identified in the City of Killeen Water and Wastewater Master Plan approved (as may be amended).

The City of Killeen is in the process of constructing new water and sewer projects identified in the Water and Wastewater Master Plan to support the new Water Control and Improvement District #1 Wastewater Treatment Plant that is scheduled for completion in Fall 2006. The projects will be completed prior to the opening of this new plant. These water and sewer service projects and time frames have been identified in the City of Killeen Water and Wastewater Master Plan approved (as may be amended). The Master Plan sewer infrastructure is designed by consultant engineering firms to service specific sewer basins. This infrastructure that consists of sewer inceptor lines and lift stations to transport wastewater to a treatment plant is the skeletal structure of the complete sewer collection system and is the only component of the collection system funded by the City of

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Killeen with water and sewer capital improvement bonds. Property owners desiring to connect to the City's infrastructure are required to connect to the system and extend the infrastructure to their property. The City's utility extension policy was codified in 1995 and has been in effect throughout the City since that date. As sewer collection mains are extended, the City requires newly developed properties within 1,000 feet of the line to tie into the City's sewer system. Existing properties currently on septic tank can retain their septic tank for its usable life and not pay a fee. If the septic tank becomes inoperable, the resident may choose the most economical option to either tie into the City's sewer system or to repair/replace the septic system. The City will not impose any requirements or restrictions on a resident's ability to install a septic system. The Bell County Health Department is the entity that controls installation, maintenance and repair of septic systems within Bell County.

Additionally, the City of Killeen has a Septic Tank Elimination Program that seeks to extend sewer collection service to areas with on-site wastewater treatment facilities. The City will initially budget \$100,000 to fund the Septic Tank Elimination Fund for the Annexation Area. Citizens must make application for the program and projects that will accommodate multiple property owners generally score higher in the project rating process. An applicant must usually be a resident of Killeen for five years before applying for this program. However, this requirement will be waived for residents of this Annexation Area and the City will create a separate Septic Tank Elimination Program and fund for residents of this Annexation Area and the area annexed in May 2005, and residents of the Annexation Areas will be immediately eligible for this program as of the effective date of the annexation.

Individual residents in the Annexation Area can choose to extend either a water or sewer line to meet their individual needs as a pro rata extension. Under this process the resident will incur the initial cost for the extension; however, if any other resident elects at a later date to tie onto the extended line, that resident will be required to pay a pro rata cost.

An additional possibility open to the Annexation area is for the residents in the annexation area to request the creation of a public improvement district. Such districts are established to fund improvements that confer a special benefit to a definable portion of a municipality. Some of the types of public improvements for which a district may be created include acquiring, constructing, improving, widening, streets and sidewalks; and, the construction or improvement of water, wastewater, or drainage facilities or improvements. There are specific requirements for the filing of a petition for creation of such districts that include specific landowner participation requirements. A petition is required to be signed by the owners who represent more than 50% of the taxable value of the property in the proposed district as well as the record owners who constitute more than 50% of all of the owners. A public improvement district shall apportion the costs of the improvements to be recovered in an assessment against property in a district. Those landowners receiving the special benefits that inspired the creation of the improvement district are assessed the costs for those improvements.

Water and wastewater service availability is defined as the specific projects in the schedule provided for in the City of Killeen Water and Wastewater Master Plan. Developers of property in the annexation area will be required to extend necessary utilities to support their development in accordance with the Killeen Code of Ordinances and Public Works Department practices, as may

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be amended.

c. Drainage Services

The City of Killeen adopted a comprehensive Drainage Master Plan on September 13, 2005, that provides a process to evaluate existing drainage problems and to prioritize drainage system improvement projects. As problems are identified in the newly annexed area, such as the three areas along Onion Road subject to flooding, data will be collected to rank and prioritize potential projects. Projects that have life and safety issues will obviously rank at the top of the list. Drainage problems that are the result of drainage infrastructure inadequacies will be included in the Capital Improvements Program (CIP). Drainage problems included in the CIP require engineered solutions. Storm drains may or may not be an adequate solution. Routine drainage maintenance concerns (e.g., clearing of debris that may cause flooding from storm drains; repair of failed or failing drainage infrastructure; abatement of illegal or illicit storm drainage discharges) in the newly annexed area will be assessed and remedial actions will be performed on a priority-driven basis. The City of Killeen is currently developing a stand-alone Drainage Maintenance Program with the Drainage Utility. Upon annexation, and at such time as when residents become a City of Killeen water customer and commence paying the standard drainage utility fee, the resources of this program will be available to address ongoing drainage inspection, maintenance, and repair. Additionally, public improvement district provisions are available to address specific problems unique to a specific area.

d. The following is a summary of the City of Killeen Water and Wastewater Utility Service Extension Policy.

1. The intent and purpose of the water and wastewater extension policy is to provide equitable charges for water and sewer connections as a proportionate distribution of the cost of the water and sewer main extensions to serve property within the city.
2. If the existing city utility facilities are not within or adjacent to the development, the developer shall construct the necessary extension of water and sewer mains, force mains, and lift stations, including all valves, manholes, and piping necessary to serve any future development of abutting property.
3. The developer's engineer shall prepare a proposed plan of service for the subdivision and property along the extension, which shall be reviewed by the plat review committee. These facilities shall be constructed in accordance with the Water and Wastewater Master Plan (as amended).
4. It is the general policy of the city that water and sewer mains should be large enough to serve all the lots platted and, should the city determine oversizing is necessary, the city may participate in those lines greater than 8" for water and greater than 10" for sewer.
5. All utilities shall be required to extend across the full width of the last lot platted

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on each street proposed within the development, in such an alignment that it can be extended to the next property in accordance with the master sewer and water plans for the city, provided such plan(s) exist.

6. Properties already served by water and sewer shall not be required to install additional facilities unless, the current lines are not of adequate capacity to serve the proposed development; in which case the applicant will be required to install adequate facilities.
 7. Every lot of a plat shall have direct access to the water and sewer system. Utility service shall be from a water/sewer main located in an abutting right-of-way or through easements from the lot to a water/sewer main.
 8. The City provides a "pro rata" program that in some instances allows a person to recover some costs of extending a line from the point of availability to the person's property, thereby reducing the economic impact on the person constructing the line.
- e. Under limited circumstances, the City of Killeen Director, Public Works may allow the continued use of or the establishment of an on-site sewage facility in locations where sanitary sewer service is not readily available. Generally, sewer service shall be considered available when City owned infrastructure is located at a distance not to exceed 1000 feet that can accept gravity flow.

CAPITAL IMPROVEMENTS, AVAILABILITY AND LEVEL OF SERVICE

The City Council of the City of Killeen finds and determines it to be unnecessary to immediately acquire or construct any currently unscheduled Capital Improvements to provide the same type, kind and level of service which is presently being administered to other areas of the City with the same or similar topography, land use and population density. However, the annexation area has been included in the City of Killeen Water and Wastewater Master Plan, Transportation Thoroughfare Plan and into the City's capital improvements program (CIP) and comprehensive plans. Notwithstanding anything in this Service Plan, capital improvements in the Annexation Area shall be included with all other areas of the City for future planning for any new or expanded facilities, functions, and services to be funded by future capital improvements programs. The priorities assigned by these plans are driven by sound municipal planning principles and practices and a desire to maintain an equitable level of service to all areas of the City with the same population density, land use and topography characteristics.

Nothing in this plan shall require the City to provide a uniform level of municipal services to each area of the City, including annexed areas, if different characteristics of topography, land use, and population density are sufficiently distinct to justify a different level of service.

- Topography – The majority of the existing City of Killeen is located in the South Nolan Creek drainage basin. The City's sewer collection system transports wastewater to the Bell County WCID #1 Wastewater Treatment Plant located west of 38th Street on the north side of South Nolan Creek. The effluent from this plant is discharged into South Nolan Creek.

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The annexation area is primarily within the Lampasas River drainage basin. The Stillhouse Hollow Lake segment of the Lampasas River has historically experienced high water quality. The discharge of treated effluent into Stillhouse Hollow Lake would have a negative impact as documented by background studies. A wastewater treatment plant to the southeast with a discharge into the South Nolan Creek is currently under contract. The Water and Wastewater Master Plan provides a timeline detailing the process for engineering and construction of water and wastewater collection and transportation facilities.

The basis for the Rate Based Service Components portion of the Annexation Service plan is the Water Wastewater Master Plan and the City of Killeen utility extension policy documented in Chapter 26, City of Killeen Code of Ordinances.

- Land Use – The City is characterized by clusters of lot/block residential development and platted professional, retail, industrial, and commercial development. The urban nature of the land use is so prevalent the Texas Department of Transportation required the reduction of speed limits on U.S. Highway 190. The only areas within the current City limits that are comparable to the proposed annexation area are the areas between Elms Road and Stan Schlueter Loop annexed in 1986.

The land use in the annexation area is characterized by lower density rural residential development.

- Population Density – In December 2002, the City of Killeen documented its estimated population to be 100,976 (Resolution 02-129R). The average annual rate of growth for the City of Killeen exceeds .036 percent. Applying this growth rate the population of the City is expected to grow to 120,508 by December 2007. With a corporate area of 45.09 square miles, the City of Killeen population density is approximately 2673 people per square mile. The population density of the annexation area by comparison is approximately 555 people per square mile.

Areas in the city that are comparable to the annexation area would include those areas that were developed prior to annexation. In these comparable areas, land uses were not managed prior to annexation and the supporting infrastructure was not designed or installed to meet City of Killeen standards. The standards of infrastructure construction and materials used were not subjected to City inspection. Examples of these areas would include areas to the south of the annexation area and areas south of Stan Schlueter Loop that were developed prior to annexation.

The area south of the annexation area that was annexed in 2004 and the area south of Stan Schlueter Loop are of similar topography. Like the area to the south, the annexation area is located in the Stillhouse Hollow Lake basin and will be served by the same sanitary sewer infrastructure and treatment plant as the area to the south.

The annexation area is characterized by lower density rural residential development. While the average density of 555 people per square mile is much less than the City of Killeen density of 2,673 people per square mile, there are comparable regions. More rural regions in the annexation

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area compare to the similar agricultural areas to the south. The developed regions compare to the early phases of the Llewelyn Estates, Mary Ann subdivision, and Prairie View Estates.

Water and wastewater utility availability addresses the accessibility to a sufficient supply of water and the capacity of the wastewater system to accept and treat wastewater. The extension of utilities to any area of the City, to include the annexation area, is based on the Water and Wastewater Master Plan and the utility extension policy contained in Section 26-111 Division 3, Article IV Chapter 26 of the Killeen Code of Ordinances as amended.

The following projects were identified in the 2003 Water and Wastewater Master Plan as planned CIP Projects within the proposed annexation area, to be constructed through the issuance of 2010 Bonds.

Water CIP Program

- 2004 - West Stagecoach Road Waterline - Under Design
- 2007 - Trimmier Road Waterline
- 2007 - South Loop Waterline Phase I
- 2007 - Onion Road Waterline
- 2007 - East Stagecoach Road Waterline
- 2007 - Southeast Loop Waterline Phase II

Sewer CIP Program

- 2004 - Highway 195 Wastewater Improvements - Under Construction
- 2004 - Lift Station #20 & Force Main - Under Design
- 2010 - Trimmier Creek Interceptor Phase III

The sequencing of these projects is subject to change pending the next update of the Water and Sewer Master Plan, 2006.

Regular 6-27-06
Item # CA-18
CCM/R 06-125R

CITY COUNCIL MEMORANDUM

AGENDA ITEM

DISCUSS AND CONSIDER A SERVICE
PLAN FOR THE JANUARY 2008
ANNEXATION

ORIGINATING DEPARTMENT

PLANNING & ECONOMIC DEVELOPMENT

BACKGROUND INFORMATION

The Local Government Code requires a municipality to prepare an annexation plan for areas to be annexed beginning on the third anniversary of the date the annexation plan is adopted. Annexation areas that contain 100 or more separate tracts on which one or more residential dwellings are located require such a plan. The 1300 acre annexation located to the north and south of Stagecoach Road from Cunningham Road to Wagon Wheel Subdivision contains 520 parcels and 377 residences and is subject to the three-year plan timeline.

DISCUSSION/CONCLUSION

The Government Code requires the municipality to prepare a service plan that provides for the extension of municipal services to the area to be annexed. A draft annexation service plan was prepared and was provided to residents of the annexation area during the two public hearings conducted during November 2005. The Bell County Commissioners Court appointed five representatives to negotiate with the municipality for the provision of services to the area after annexation. Several negotiation sessions were held. The additional concessions approved by the City Council were incorporated in the revised draft annexation Service Plan and are annotated in red.

The Local Government Code three-year annexation timeline requires that a service plan be approved by the City Council by **June 30, 2006**. The Plan is a contractual obligation that is valid for a 10 year period. The approved plan become a part of and is required to be filed with the Annexation Ordinance.

FISCAL IMPACT

None

RECOMMENDATIONS

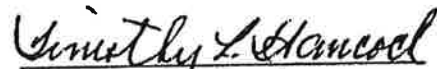
Staff recommends the City Council approve the Service Plan for the provision of municipal services to the 1300 acre annexation area.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:


That the above stated staff recommendation is hereby approved and authorized.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas this 27th day of June 2006, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

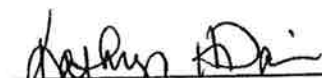
APPROVED


Timothy L. Hancock, MAYOR

ATTEST:


Paula A. Miller, CITY SECRETARY

APPROVED AS TO FORM:


Kathryn H. Davis, CITY ATTORNEY