

**MUNICIPAL SERVICES AGREEMENT
BETWEEN THE CITY OF KILLEEN, TEXAS AND
RAY FREAD**

This Municipal Services Agreement ("Agreement") is entered into on the 26th day of October, 2021, by and between the City of Killeen, Texas, a home-rule municipality of the State of Texas, ("City") and Ray Fread, ("Owner").

RECITALS

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement.

WHEREAS, Section 43.0671 of the LGC ("LGC") permits the City to annex an area if each owner of land in an area requests the annexation;

WHEREAS, where the City elects to annex such an area, the City is required to enter into a written agreement with the property owner(s) that sets forth the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, Owner owns certain parcels of land situated in Bell County, Texas, which consists of approximately 19.738 acres of land in the City's extraterritorial jurisdiction, such property being more particularly described and set forth in Exhibit A and Exhibit B attached and incorporated herein by reference ("Property");

WHEREAS, Owner has filed a written request with the City for full-purpose annexation of the Property, identified as Annexation Case No. VA-21-02 ("Annexation Case");

WHEREAS, City and Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, the Annexation Case and execution of this Agreement are subject to approval by the Killeen City Council; and

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

- 1. PROPERTY.** This Agreement is only applicable to the Property, which is the subject of the Annexation Case.
- 2. INTENT.** It is the intent of the City that this Agreement provide for the delivery of full, available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.

- 3. MUNICIPAL SERVICES.** Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, “providing services” includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances, rules, regulations, and policies.

Fire Protection – The City’s Fire Department will provide emergency and fire protection 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; and
- emergency management planning.

These services are provided on a citywide basis and the 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. The National Fire Protection Association creates and maintains private, copyrighted standards and codes for usage and adoption by local governments. Standards pertinent to the referenced annexations are as follows:

Standard 1710

5.2.4.1: Initial Arriving Company:

“The fire department’s fire suppression resources shall be deployed to provide for the arrival of an engine company within a 240-second travel time to 90 percent of the incidents as established in Chapter 4.”

5.2.4.2: Initial Full Alarm Assignment Capability:

“The fire department shall have the capability to deploy an initial full alarm assignment within a 480-second travel time to 90 percent of the incidents as established in Chapter 4.”

The annexation area will fall within the response area of Station 8 which is located at 7252 East Trimmier Road and houses one EMS unit, one paramedic equipped fire pumper and Battalion 2 Command unit. With response from a Station 8 unit, the estimated response time to the entry of the annexed property would be 4 minutes. Should an in-house unit be on another call, a secondary unit will be dispatched from another fire station with an average estimated arrival time of 2 minutes after dispatch from Harker Heights Station 2 in accordance with the signed Automatic Aid Agreement.

Police Protection – The City’s Police Department will provide protection and law enforcement services in the annexation area, commencing on the effective date of annexation. These services include:

- normal patrols and responses;
- handling of complaints and incident reports; and
- special units, such as traffic enforcement, criminal investigations, narcotics and gang suppression, and special weapons tactics team.

The City’s Police Department will provide service to the annexation area with the same level of service now being provided to other comparable areas of the City. The Department anticipates that there would be very minimal impact on patrol calls for service, criminal investigations, etc. During the building process, there would be a minor increase in patrols, a minimal increased use of fuel, and possibly calls for property crime investigations.

Planning and Development Services – The City’s Planning and Development Services Department will provide comprehensive planning, land use and development, building permit review and inspection services, and code enforcement services in accordance with all applicable laws, rules, and regulations.

Publicly Owned Parks, Facilities, and Buildings – Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities (including, community service facilities, libraries, swimming pools, etc.), and buildings throughout the City. Any private parks, facilities, and buildings will be unaffected by the annexation; provided, however, that the City will provide for maintenance and operation of the same upon acceptance of legal title thereto by the City and appropriations therefor. In the event the City acquires any other parks, facilities, or buildings necessary for City services within the Property, the appropriate City department will provide maintenance and operations of the same.

Drainage Utility Services – Drainage utility services provided by the City of Killeen’s Public Works Department will begin immediately upon annexation for developed parcels and after platting for undeveloped parcels. The drainage utility services provided to the annexation area will be equal to the service being provided to other areas of the City. The annexation area will be provided maintenance service for public rights of ways, public drainage easements and public drainage tracts at the same frequency of service as other areas of the City.

Drainage Utility services shall be provided in accordance with the City of Killeen Code of Ordinances, Chapter 32, for drainage utility customers:

- drainage maintenance – in accordance with City of Killeen’s Drainage Master Plan and Chapters 8 and 32 of the Killeen Code of Ordinances;
- inspection and permit previews – in accordance with City of Killeen’s Drainage Design Manual (DDM), Infrastructure Design and Development Standards Manual (IDDSM) and Chapters 26, 31, and 32 of the Killeen Code of Ordinances;

- public education and outreach – in accordance with the City of Killeen’s Municipal Separate Storm Sewer (MS4) Permit;
- emergency response – in accordance with City of Killeen’s Drainage Master Plan and Chapter 32 of the Killeen Code of Ordinances; and
- right-of-way (R-O-W) Maintenance to include Street Sweeping within public rights-of-way – in accordance with Chapter 8 of the Killeen Code of Ordinances and the City of Killeen’s MS4.

Street Services – The Street Operations Division of the Public Works Department will maintain public streets over which the City has jurisdiction. These services include:

- emergency pavement repair;
- ice and snow monitoring of major thoroughfares;
- repair maintenance of public streets on an as-needed basis;
- traffic control signals; and
- right-of-way maintenance.

Public roads and streets in the annexation area will be included in the City’s preventive maintenance program. Preventive maintenance projects are prioritized on a citywide basis and scheduled based on a variety of factors, including surface condition, age, traffic volume, functional classification, and available funding. The Streets Operations Division will also provide regulatory traffic signage. Engineering studies to determine if traffic control devices are warranted will be conducted as needed, in conjunction with growth and increased traffic volumes. 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. Street lighting will be installed by property developers as development in the area warrants. Upon development of the annexation area, street maintenance fees will be charged in accordance with City of Killeen Code of Ordinances Chapter 25.

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. The annexed area is vacant; however, depending on future zoning requests for the property, the development of the property may include single-family or two-family residential lots. As the population density increases and land use patterns change, the City will provide comparable water and sewer services as in other comparable areas of the City.

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 Chapter 26, Article IV, Division 3, Section 26-111, of the Killeen Code of Ordinances as amended. 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 be amended.

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 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.

Under limited circumstances, the City of Killeen Executive Director of 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. Such on-site sewage facilities must be permitted by the Bell County Health Department. Generally, sewer service shall be considered available when City owned infrastructure is located at a distance not to exceed 1,000 feet that can accept gravity flow.

Water Utilities – It is the intent 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.

There are three options for water to this site:

1. A 12-inch water main located approximately 200 feet to the north along Prewitt Ranch Road;
2. A 12-inch water main located approximately 1,070 feet to the east along Oliver Loving Dr.; or
3. A 16-inch water main located approximately 1,300 feet to the west along SH 201.

Each of these options can adequately serve this property. The annexed area is located in the Airport Pressure Plane, which has an overflow elevation of 1,165 feet.

Sewer Utilities – It is the intent of the City of Killeen to provide sewer 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.

There is a 12-inch sewer main approximately 1,000 feet to the southeast along Oliver Loving Dr. that can adequately serve this property.

Solid Waste Services – Solid Waste services provided by the City of Killeen’s Solid Waste Services Department will begin immediately upon annexation. 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 annexation area will be provided collection service at the same frequency of service as other areas of the City.

Services shall be provided in accordance with the City of Killeen Code of Ordinances, Chapter 24, for residential and commercial customers:

- 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;
- yard waste and brush collection;
- special collection services;
- commercial service is provided on subscription basis from the City.

Other Services – The City of Killeen will provide other City Services to the annexation area, such as animal services, 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 and land use. It is understood and agreed that the City is not required to provide a service that is not included in this Agreement. Owner understands and acknowledges that the City departments listed above may change names or be re-organized by the City Manager. Any reference to a specific department also includes any subsequent City department that will provide the same or similar services.

4. **AUTHORITY.** City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges that approval of the Annexation Case is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.
5. **SEVERABILITY.** If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
6. **INTERPRETATION.** The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.
7. **GOVERNING LAW AND VENUE.** Venue shall be in the state courts located in Bell County, Texas or the United States District Court for the Western District of Texas, Waco Division and construed in conformity with the provisions of Texas Local Government Code Chapter 43.
8. **NO WAIVER.** The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.
9. **GOVERNMENTAL POWERS.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.
10. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
11. **CAPTIONS.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
12. **AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND.** This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owner.
13. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between said parties. This Agreement shall not be amended unless executed in writing by both parties.

Executed as of the day and year first above written to be effective on the effective date of annexation of the Property.

CITY OF KILLEEN

RAY FREAD

By: _____
Jose L. Segarra
Mayor

By: _____

Approved as to Form:

Traci S. Briggs
City Attorney

Attest:

Lucy C. Aldrich
City Secretary

Ordinance No. _____

State of Texas §
County of Bell §

This instrument was acknowledged before me on the _____ day of _____, 2021,
by Jose L. Segarra, Mayor of the City of Killeen, a Texas municipal corporation, on behalf of
said corporation.

By: _____

Notary Public, State of Texas

State of Texas §
County of Bell §

This instrument was acknowledged before me on the _____ day of _____, 2021,
by _____, _____ of [Name of individual signing, title (if
any)] on behalf of said _____ [insert name of company or individual
where applicable].

By: _____

Notary Public, State of Texas

After Recording Return to:
City Secretary
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

EXHIBIT A

The Property includes Bell County Tax Parcel ID numbers 37763, 37764, and 37765, outlined below in blue.



EXHIBIT B

FIELD NOTES for a tract of land in Bell County, Texas, part of the T. Arnold Survey, Abstract No. 55, the J.W. Morton Survey, Abstract No. 587, and the J.H. Lewis Survey, Abstract No. 536, and the land herein described being part of those certain tracts described as First Tract and Third Tract in a Deed of Trust from L.W. Mitchell, et ux, to Neil Clinkenbeard, Trustee, said deed being of record in Volume 1070, Page 540, Deed of Trust Records of Bell County, Texas.

BEGINNING at an iron rod in the north line of said Third Tract that bears N. $71^{\circ} 13' 09''$ W., 872.54 feet from the northeast corner of said Third Tract for the northeast corner of this.

THENCE S. $18^{\circ} 58' 01''$ W., 1984.55 feet to an iron rod for the southeast corner of this.

THENCE N. $71^{\circ} 38' 10''$ W., 254.45 feet to an iron rod for an ell corner of this.

THENCE S. $69^{\circ} 13' 25''$ W., 73.99 feet to an iron rod for a corner of this.

THENCE N. $71^{\circ} 38' 10''$ W., 118.12 feet to an iron rod for the southwest corner of this.

THENCE N. $18^{\circ} 58' 01''$ E., 2034.38 feet to an iron rod in the north line of said Third Tract, for the northwest corner of this.

THENCE S. $71^{\circ} 13' 09''$ E., 429.45 feet with said north line to the place of beginning containing 19.738 acres of land.