

ORDINANCE NO. 2010-12-14-001

AN ORDINANCE OF THE CITY OF KEMPNER, TEXAS ANNEXING 15.21 ACRES, MORE OR LESS, INCLUDING THE ABUTTING STREETS, ROADWAYS, AND RIGHTS-OF-WAY, INTO THE CORPORATE LIMITS OF THE CITY AT THE REQUEST OF THE PROPERTY OWNER; APPROVING A SERVICE PLAN FOR THE ANNEXED AREA; MAKING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kempner, Texas, is a general law municipality authorized by State law to annex territory lying adjacent and contiguous to the City;

WHEREAS, the owners of the property, as hereinafter described, made written request for the City to annex such property in compliance with the *Tex. Loc. Gov't. Code*;

WHEREAS, the property is adjacent and contiguous to the present city limits;

WHEREAS, the City Council heard and has decided to grant the owner's request that the City annex said property;

WHEREAS, two separate public hearings were conducted prior to consideration of this Ordinance in accordance with §43.063 of the *Tex. Loc. Gov't. Code*;

WHEREAS, the hearings were conducted and held not more than forty (40) nor less than twenty (20) days prior to the institution of annexation proceedings;

WHEREAS, notice of the public hearings was published in a newspaper of general circulation in the City and the territory proposed to be annexed not more than twenty (20) nor less than ten (10) days prior to the public hearings;

WHEREAS, the City intends to provide services to the property to be annexed according to the Service Plan attached hereto as Exhibit "B".

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

SECTION 1. That all of the above premises and findings of fact are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. That the following described property, including the abutting roadways and rights-of-way (hereinafter referred to as the "Annexed Property"), is hereby annexed into the corporate limits of the City of Kempner:

All that certain tract or parcel of land, being 15.21 acres, more or less, located in Lampasas County, Texas, recorded in Volume 394, Page 784 of the Deed Records of Lampasas County, Texas and being more particularly described and shown in Exhibit "A" attached hereto and incorporated herein for all purposes.

SECTION 3. That the Service Plan submitted herewith is hereby approved as part of this Ordinance, made a part hereof and attached hereto as Exhibit "B".

SECTION 4. That the future owners and inhabitants of the Annexed Property shall be entitled to all of the rights and privileges of the City as set forth in the Service Plan attached hereto as Exhibit "B", and are further bound by all acts, ordinances, and all other legal action now in full force and effect and all those which may be hereafter adopted.

SECTION 5. That the official map and boundaries of the City, heretofore adopted and amended be and hereby are amended so as to include the Annexed Property as part of the City of Kempner.

SECTION 6. That if any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 7. That this Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

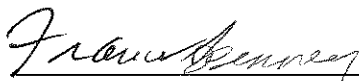
SECTION 8. That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on First Reading on the 23rd day of Nov., 2010.


FINALLY PASSED AND APPROVED on this 14th day of Dec., 2010.

ATTEST:

CITY OF KEMPNER, TEXAS



Frances Spinney, City Secretary



Gene Isenhour, Mayor

Exhibit "B"

NEGOTIATED MUNICIPAL SERVICES PLAN FOR PROPERTY TO BE ANNEXED INTO THE CITY OF KEMPNER

WHEREAS, the City of Kempner, Texas (the "City") intends to institute annexation proceedings for tracts of land described more fully hereinafter (referred to herein as the "subject property");

WHEREAS, *Section 43.056, Loc. Gov't. Code*, requires a service plan be adopted with the annexation ordinance;

WHEREAS, the owner(s) of the subject property and the City have negotiated the terms of municipal services to be provided to the property;

WHEREAS, the owner(s) of the subject property agree the infrastructure provided for herein and existing infrastructure are sufficient to service the subject property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City;

WHEREAS, the owner(s) of the subject property agree they will benefit from the City's development restrictions and zoning requirements, as well as other municipal services provided by the City, which are good and valuable consideration for this service plan; and

WHEREAS, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapt. 43, Loc. Gov't. Code*, to annex the subject property into the City.

NOW, THEREFORE, the City agrees to provide the following services for the subject property on the effective date of annexation:

(1) **General Municipal Services.** The subject property is located within the City's extraterritorial jurisdiction and is more particularly described in the Resolution or Ordinance to which this service plan is attached. Pursuant to this Plan, the following services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City.

B. Fire protection and Emergency Medical Services as follows:

Fire protection by agreement between the City and the ESD's present personnel and equipment of the ESD fire fighting force and the volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the present contract personnel and equipment of the ESD.

C. Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities.

G. Maintenance of other City facilities, buildings and service.

H. Land use regulation as follows:

On the effective date of annexation, the regulatory and zoning jurisdiction of the City shall be extended to include the annexed area.

(2) **Scheduled Municipal Services.** Depending on the subject property plans and planned development of the subject property or redevelopment of the subject property, the following municipal services will be provided on a schedule and at increasing levels of service as requested in compliance with applicable City ordinances, rules and regulations for providing such services:

A. Water service and maintenance of water facilities as follows:

(i) Inspection of water distribution lines as provided by statutes of the State of Texas.

(ii) In accordance with the rules and regulations for water service extension, water service will be provided by the utility holding a water certificate of convenience and necessity ("CCN") for the subject property (the "CCN holder"), or absent a utility holding a CCN, in whose jurisdiction the subject property is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City's system, the subject property owner shall construct the internal water lines and pay all costs associated with line extension and necessary facilities to service the subject property as required in City ordinances at the time of the request and in conjunction with Chapter 395 of the Local Gov't Code. As the subject property develops and water services are sought from the CCN holder or from the utility that has jurisdiction over the subject property, the City's ordinances, policies, or agreements between the City and the subject property owner shall govern the extension of water services to the subject property and the City shall have no obligation to service in another CCN, except as provided by agreement between the City and the CCN holder.

B. Wastewater service and maintenance of wastewater service as follows:

(i) Inspection of sewer lines or onsite sewage facilities as provided by statutes of the State of Texas and applicable agreements with Lampasas County.

(ii) Sewer service will be provided by the owner of the subject property, subject to the all the

ordinances, regulations and policies of the City and State of Texas in effect from time to time.

C. Maintenance of streets and rights-of-way as appropriate as follows:

(i) Provide maintenance services on streets off-site of the subject property that are finally accepted by the City. The maintenance of the streets and roads will be limited to public roadways as follows:

(A) Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.;

(B) Routine maintenance as presently performed by the City; and

(C) The subject property owners will be required to develop any roadways required as a result of property owner's subdivision or other development of the property.

(ii) Following installation of the roadways and acceptance of the improvements by the City, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain the public streets, roadways and rights-of-way within the boundaries of the subject property, as follows:

(A) As provided in C(i)(A)&(B) above;

(B) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;

(C) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(D) Installation and maintenance of street lighting in accordance with established policies of the City;

(3) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the effective date of the annexation: None. Upon development of the subject property or redevelopment, the landowner(s) will be responsible for the development costs the same as a developer in a similarly situated area under the ordinances in effect at the time of development or redevelopment. No additional capital improvements are necessary at this time to service the subject property.

(4) **Term.** If not previously expired, this service plan expires at the end of ten (10) years.

(5) **Property Description.** The legal description of the subject property is as set forth in the Resolution or Ordinance and any exhibits thereto to which this Service Plan is attached.