

ORDINANCE NO. 2015-14

AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2015-11 BY DIRECTING THE CITY SECRETARY TO FILE CERTIFIED COPIES OF THIS ORDINANCE AND ORDINANCE 2015-11, AS AMENDED WITH THE COUNTY CLERK OF BURNET COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE OF THE ANNEXATION AUTHORIZED THEREIN TO BE DECEMBER 31, 2015.

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

**SECTION 1: FILING AMENDED.** Section 4, of ORDINANCE NO. 2015-11 is hereby amended by replacing the existing language with the language that follows:

***“SECTION 6: Filing.** The City Secretary, upon the effective date of ORDINANCE NO. 2015-11, as herein amended, is hereby directed to file with the County Clerk of Burnet County, Texas Certified Copies of this Ordinance and said ORDINANCE NO. 2015-11.”*

**SECTION 2: EFFECTIVE DATE AMENDED.** Section 6, of ORDINANCE NO. 2015-11, is hereby amended by replacing the existing language with the language that follows:

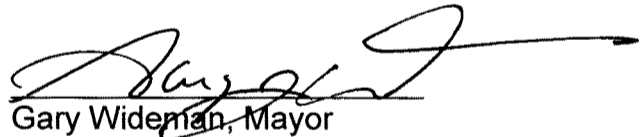
***“SECTION 6: Effective Date.** This ordinance shall become effective on December 31, 2015.”*

**SECTION 3: ALL OTHER SECTIONS NOT AMENDED.** All sections of ORDINANCE NO. 2015-11, a copy of which is attached hereto and incorporated for reference herein, not amended herein shall remain in full force and effect as was passed and approved on First Reading on the 26<sup>th</sup> day of May, 2015, and finally passed and approved on Second Reading on the 9<sup>th</sup> day of June, 2015.

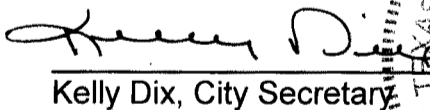
**SECTION 4.: Effective Date.** This ordinance becomes effective upon its approval by City Council at second and final reading.

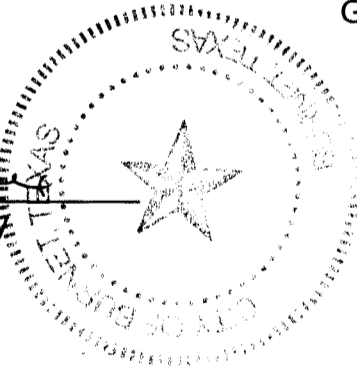
**PASSED AND APPROVED** on First Reading this the 23<sup>rd</sup> day of June, 2015

**FINALLY PASSED AND APPROVED** on this 14<sup>th</sup> day of July, 2015.

  
Gary Wideman, Mayor

ATTEST:

  
Kelly Dix, City Secretary



ORDINANCE NO. 2015-11

**AN ORDINANCE OF THE CITY OF BURNET, TEXAS, PROVIDING FOR THE EXTENSION OF THE CITY LIMITS BY VOLUNTARY ANNEXATION, REQUESTED BY HONEY ROCK, L.P., A TEXAS LIMITED PARTNERSHIP FOR THAT TRACT OF LAND DESCRIBED AS BEING 193.31-ACRES OUT OF THE SUSANO HERNANDEZ SURVEY NO. 40, ABSTRACT NO. 398 AND THE FRANCISCO YBARBO SURVEY NO. 39, ABSTRACT NO. 1018 IN BURNET COUNTY TEXAS AND GENERALLY LOCATED WITHIN THE CITY OF BURNET EXTRATERRITORIAL JURISDICTION (ETJ); DIRECTING THE CITY SECRETARY TO FILE THIS ORDINANCE WITH THE COUNTY CLERK OF THE COUNTY OF BURNET; ASSIGNING INTERIM ZONING; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Burnet, Texas received a petition requesting annexation from Honey Rock, L.P. the owner of 193.31-acres of land on which fewer than three qualified voters reside, and

WHEREAS, the Texas Local Government Code Section 43.028 authorizes the City of Burnet to annex sparsely occupied areas on petition of the area's landowners; and

WHEREAS, in accordance with state law, the above-described petition from Honey Rock, L.P. was filed with the City of Burnet on April 29, 2015; and

WHEREAS, the City Council of the City of Burnet, believing that the above-described petition was properly filed pursuant to Texas Local Government Code 43.028 and is in the best interest of the City of Burnet, accepted said petition on said 29<sup>th</sup> day of April, 2015; and

WHEREAS, the City Council held a public hearing regarding the annexation of the property on May 26, 2015, a date within 30-days of petition filing;

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

**SECTION 1: Petition Accepted.** The Development and Annexation Agreement between the City of Burnet and Honey Rock, LP, Sections 1.0 and 6.01 of which petition for voluntary annexation of the described, unpopulated tract, copies of which are attached hereto as Exhibit A and incorporated for reference for all purposes herein, is hereby accepted by the City Council.

**SECTION 2: Annexation.** The 193.31-acre tract of land and territory lying outside of, but adjacent to and adjoining the City of Burnet, Texas, more particularly described by field notes and graphic exhibit attached hereto as Exhibit "B" and incorporated by reference for all purposes herein, is hereby annexed to the City of Burnet, Burnet

reference for all purposes herein, is hereby annexed to the City of Burnet, Burnet County, Texas, and that the boundary limits of the City of Burnet, Texas, are hereby extended to include the above described territory within the Municipal Limits of the City of Burnet, Texas, and the same shall be inhabitants thereof shall hereafter be entitled to all rights and privileges of other citizens of the City of Burnet, Texas, and shall be bound by the acts, ordinances, resolutions and regulations of the City of Burnet.

**SECTION 3: Interim Zoning.** In accordance with the provisions of Code of Ordinances Chapter 118, Sec. 118-22—Zoning of annexed areas, the herein described tract is assigned interim Single-family residential 1—District R-1, zoning

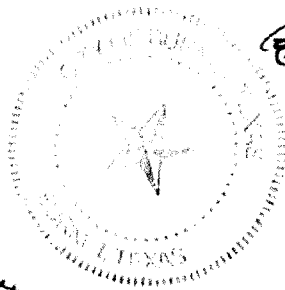
**SECTION 4: Filing** The City Secretary is hereby directed to file with the County Clerk of Burnet County, Texas, a certified copy of this Ordinance.

**SECTION 5: Severability.** If for any reason any section, paragraph, subdivision, clause, phrase, word, or other provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance, for it is the definite intent of this Council that every section, paragraph, subdivision, clause phrase, word, or provision hereof shall be given full force and effect for its purpose.

**SECTION 6: Effective Date.** This ordinance becomes effective upon its approval by City Council at second and final reading.

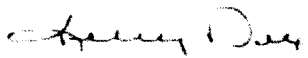
**PASSED AND APPROVED** on First Reading this the 26<sup>th</sup> day of May, 2015.

**FINALLY PASSED AND APPROVED** on this 9<sup>th</sup> day of June, 2015.



  
Gary Widenman, Mayor

ATTEST:

  
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Kelly Dix, City Secretary

**EXHIBIT A**  
**PAGE 1 of 8**

**COUNTY OF BURNET:**  
**STATE OF TEXAS:**

**FIELD NOTES** to accompany a survey plat of a 193.31 acre tract out of the Susano Hernandez Survey No. 40, Abstract No. 398 and the Francisco Ybarbo Survey No. 39, Abstract No. 1018 in Burnet County, Texas and being a portion of that certain 670.36 acre tract of land described in a Warranty Deed with Vendor's Lien dated August 16, 2006, from Cherry Stone McKinnon to Honey Rock, L.P., recorded in Volume 1458, Page 346 of the Official Public Records of Burnet County, Burnet County, Texas. Basis of bearings for this survey is the Texas Lambert Grid, Central Zone, Nad83. Said 193.31 acres being further described by metes and bounds as follows:

**BEGINNING** at a 3" metal fence corner post found at a reentrant corner of a 1 ft. wide strip of land, being a portion of that certain tract of land described as 666.23 acres in a Special Warranty Deed dated May 27, 1998, from Mark Fox and wife, Nona Fox to Billy Joe Fox and LaVonna Fox, recorded in Volume 798, Page 880 of the Official Public Records of Burnet County, Texas, and currently in the name of BJV Fox Holdings, LP, as described in a Warranty Deed dated August 16, 2013, of record in Document No. 201307253, Official Public Records of Burnet County, Texas, for the Northeast corner hereof,

**THENCE**, S15°28'43"E, a distance of 388.62 feet to a 12" cedar fence post found at a northwesterly corner of a tract of land called TRACT I and described as 68.30 acres in a Special Warranty Deed with Vendor's Lien dated February 16, 2012 from First National Bank to Stephen L. Cox, recorded in Document No. 201201534 of the Official Public Records of Burnet County, Texas, for an angle point in the southerly line of said 666.23 acre tract and an angle point hereof,

**THENCE**, with the west line of said Cox TRACT I, the west line of a 3.98 acre tract, called TRACT 3 in a Warranty Deed with Vendor's Lien dated January 16, 2009, from Black Wolf Partners, Ltd. to Black Wolf - Joseph, Ltd., recorded in Document No. 200900783 of the Official Public Records of Burnet County, Texas, the west line of a tract of land called TRACT II and described as 74.49 acres in a Special Warranty Deed with Vendor's Lien dated February 16, 2012 from First National Bank to Stephen L. Cox, recorded in Document No. 201201534, Official Public Records of Burnet County, Texas, the east line of said 670.36 acre tract and the east line hereof, with (6) courses and distances as follows:

- (1) S25°28'11"E, a distance of 19.05 feet to an 18" Live Oak tree, for angle point hereof;
- (2) S07°53'19"W, a distance of 1062.43 feet to a 1/2" iron rod found stamped BERGMAN, for an angle point hereof,
- (3) S27°48'25"W, a distance of 652.02 feet to a 1/2" iron rod found, for an angle point hereof,

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- (4) S27°58'29"W, a distance of 610.14 feet to a 1/2" iron rod found, for an angle point hereof;
- (5) S37°49'20"W, a distance of 527.33 feet to a fence post found, for an angle point hereof;
- (6) S39°50'19"W, a distance of 478.75 feet to a 1/2" iron rod found, for the southwest corner of said 74.49 acre tract, an angle point of said 670.36 acre tract and an angle point hereof;

THENCE, with the south line of said 74.49 acre tract, a northerly line of said 670.36 acre tract and a northerly line hereof, with (19) courses and distances as follows:

- (1) S70°43'37"E, a distance of 182.69 feet to a 15" oak tree found, for an angle point hereof;
- (2) S34°02'30"E, a distance of 438.63 feet to a fence post found, for an angle point hereof;
- (3) S17°05'35"E, a distance of 199.95 feet to a fence post found, for an angle point hereof;
- (4) S05°05'52"E, a distance of 43.76 feet to a fence post found, for an angle point hereof;
- (5) S04°49'02"W, a distance of 61.29 feet to a fence post found, for an angle point hereof;
- (6) S11°59'26"W, a distance of 223.60 feet to a 1/2" iron rod found, for an angle point hereof;
- (7) S09°23'19"E, a distance of 4.35 feet to a fence post found, for an angle point hereof;
- (8) S34°07'35"E, a distance of 24.37 feet to a fence post found, for an angle point hereof;
- (9) S54°19'54"E, a distance of 172.62 feet to a 18" oak tree found, for an angle point hereof;
- (10) S24°58'29"E, a distance of 38.33 feet to a 6" fence post found, for an angle point hereof;
- (11) N76°59'22"E, a distance of 19.00 feet to a 24" oak tree found, for an angle point hereof;

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- (12) N62°04'56"E, a distance of 265.94 feet to a 10" fence post found, for an angle point hereof;
- (13) N53°11'39"E, a distance of 147.39 feet to a 8" fence post found, for an angle point hereof;
- (14) N55°48'37"E, a distance of 99.34 feet to a 36" oak tree found, for an angle point hereof;
- (15) N81°51'56"E, a distance of 192.41 feet to a 8" fence post found, for an angle point hereof;
- (16) N83°55'38"E, a distance of 202.24 feet to a 4" fence post found, for an angle point hereof;
- (17) N84°36'40"E, a distance of 145.99 feet to a 27" oak tree found, for an angle point hereof;
- (18) N89°44'39"E, a distance of 167.74 feet to a 60d in a 12" fence post found for an angle point hereof;
- (19) S80°52'43"E, a distance of 117.07 feet to a computed point, being at or near the existing City Limit line for the City of Burnet, Texas and for the most southerly northeast corner hereof;

THENCE, S18°42'04"W with said existing City Limit line for the City of Burnet, Texas and the east line hereof, a distance of 1562.39 feet to a computed point in the north line of that certain 7.097 acre tract of land conveyed by William Travis Cozby and Jennifer Rae Cozby to Rose M. Woolsey and Michael D. Brasuel, Jr. in Document No. 201109883 of the Official Public Records of Burnet County, Texas and the south line of said 670.36 acre tract, for the southeast corner hereof;

THENCE, with the north line of said 7.097 acre tract, the north line of that certain 10.932 acre tract of land conveyed by Timothy Patrick Lewis and Tamara L. Lewis to Robert I. Caldwell and wife, Judith A. Caldwell in Volume 849, Page 322 of the Official Public Records of Burnet County, Texas, the south line of said 670.36 acre tract and the south line hereof, with (2) courses and distances as follows:

- (1) N79°48'41"W, a distance of 859.48 feet to a 1/2" iron rod found, for an angle point hereof;

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- (2) S89°29'37"W, a distance of 521.92 feet to a 60d nail found, for the northeast corner of that certain 13.174 acre tract of land, known as Tract II, conveyed by Pamela Susan Williams to Maryetta Williams in Document No. 201406904 of the Official Public Records of Burnet County, Texas, the northwest corner of said 10.932 acre tract and the southwest corner hereof;

THENCE, crossing said 670.36 acre tract with the west line hereof, with (38) courses and distances as follows:

- (1) N01°47'21"E, a distance of 149.61 feet to a computed point, for an angle point hereof;
- (2) N23°47'55"W, a distance of 379.06 feet to a computed point, for an angle point hereof;
- (3) N46°20'40"W, a distance of 181.72 feet to a computed point, for an angle point hereof;
- (4) N60°32'28"W, a distance of 277.37 feet to a computed point, for an angle point hereof;
- (5) N20°50'05"W, a distance of 232.45 feet to a computed point, for an angle point hereof;
- (6) N24°25'16"W, a distance of 314.10 feet to a computed point, for an angle point hereof;
- (7) N10°42'47"W, a distance of 175.49 feet to a computed point, for an angle point hereof;
- (8) N06°14'44"W, a distance of 224.87 feet to a computed point, for an angle point hereof;
- (9) N15°45'36"W, a distance of 141.54 feet to a computed point, for an angle point hereof;
- (10) N55°08'25"W, a distance of 140.55 feet to a computed point, for an angle point hereof;

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- (11) S89°14'12"W, a distance of 131.07 feet to a computed point, for an angle point hereof;
- (12) S68°40'28"W, a distance of 120.05 feet to a computed point, for an angle point hereof;
- (13) N26°29'20"W, a distance of 127.51 feet to a computed point, for an angle point hereof;
- (14) N03°23'06"W, a distance of 569.06 feet to a computed point, for an angle point hereof;
- (15) N33°05'10"E, a distance of 143.62 feet to a computed point, for an angle point hereof;
- (16) N09°18'55"W, a distance of 224.46 feet to a computed point, for an angle point hereof;
- (17) N02°44'29"E, a distance of 178.71 feet to a computed point, for an angle point hereof;
- (18) N10°05'22"E, a distance of 454.18 feet to a computed point, for an angle point hereof;
- (19) N28°11'32"E, a distance of 37.06 feet to a computed point, for an angle point hereof;
- (20) N52°36'41"E, a distance of 24.22 feet to a computed point, for an angle point hereof;
- (21) N87°18'33"E, a distance of 30.31 feet to a computed point, for an angle point hereof;
- (22) S56°51'10"E, a distance of 177.17 feet to a computed point, for an angle point hereof;
- (23) S83°45'02"E, a distance of 312.01 feet to a computed point, for an angle point hereof;
- (24) N77°38'25"E, a distance of 472.62 feet to a computed point, for an angle point hereof;
- (25) N43°22'49"E, a distance of 217.73 feet to a computed point, for an angle point hereof;



**EXHIBIT A**  
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- (26) N25°59'10"E, a distance of 225.46 feet to a computed point, for an angle point hereof;
  - (27) N03°47'32"E, a distance of 173.85 feet to a computed point, for an angle point hereof;
  - (28) N29°38'34"W, a distance of 189.29 feet to a computed point, for an angle point hereof;
  - (29) N39°35'21"W, a distance of 79.66 feet to a computed point, for an angle point hereof;
  
  - (30) N35°38'02"W, a distance of 126.06 feet to a computed point, for an angle point hereof
  - (31) N34°21'06"W, a distance of 201.82 feet to a computed point, for an angle point hereof;
  - (32) N26°03'32"W, a distance of 49.37 feet to a computed point, for an angle point hereof;
  - (33) N18°11'33"W, a distance of 127.23 feet to a computed point, for an angle point hereof;
  - (34) N20°14'22"W, a distance of 162.04 feet to a computed point, for an angle point hereof;
  - (35) N06°44'03"W, a distance of 127.99 feet to a computed point, for an angle point hereof;
  - (36) N24°21'50"W, a distance of 52.37 feet to a computed point, for an angle point hereof;
  - (37) N13°52'47"W, a distance of 50.00 feet to a computed point in the south line of that certain 75.009 acres as described in a Warranty Deed with Vendor's Lien dated July 13, 1989, from Billy Joe Fox and Mark Fox to Glen Morris and wife, Susan Morrey Morris, recorded in Volume 460, Page 712 of the Real Property Records of Burnet County, Texas, for the Northwest corner hereof;
- THENCE, with the south line of said 75.009 acre tract, the north line of said 670.36 acre tract and the north line hereof, the following (2) courses and distances:

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- (1) N76°07'13"E, a distance of 113.05 feet to a 1/2" iron rod found with plastic survey cap stamped RPLS 4452, for angle point hereof,
- (2) N76°36'00"E, a distance of 131.69 feet to a 1/2" iron rod found at the southeast corner of said 75.009 acre tract, the southwest corner of that certain Lot No. 8 as shown on the plat of A Short Form Plat of Lot 7 & 8, Delaware Springs, Section 15, Phase Three, recorded in Document No. 201405035, Official Public Records of Burnet County, Texas and the southwest corner of a 0.394 acre Easement tract described in a Non-Exclusive Utility Easement document dated May 9, 2011, from Billy Joe and LaVonna Fox to the City of Burnet, of record in Document No. 201103611, Official Public Records of Burnet County, Texas, for an angle point hereof.

THENCE, with the north line of said 670.36 acre tract and the north line hereof, the following (3) courses and distances

- (1) N76°37'11"E, with the south line of Lot No. 8 of said Delaware Springs, Section 15, Phase Three, a distance of 220.61 feet to a 1/2" iron rod capped RPLS 4452 found, for angle point hereof;
- (2) N76°43'55"E with the southern boundary line of said Delaware Springs, Section 15, Phase Three and a southerly line of said 666.23 acre tract, a distance of 848.03 feet to a 1/2" iron rod found, for angle point hereof;
- (3) N76°52'18"E, a distance of 380.01 feet to the POINT OF BEGINNING and calculated to contain 193.31 acres.



**EXHIBIT B**  
**PAGE 1 of 3**

THE STATE OF TEXAS     4  
                                          4  
COUNTY OF BURNET     4

**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN  
THE CITY OF BURNET AND HONEY ROCK, L.P.**

This Development and Annexation Agreement (the "Agreement") is made and entered into as of the 28<sup>th</sup> day of April, 2015 (the "Effective Date") by and between the CITY OF BURNET, TEXAS, a Texas home rule city and municipal corporation (the "City"), and HONEY ROCK, L.P., a Texas Limited Partnership (the "Developer"). The City and the Developer are sometimes referred to individually herein as "Party" or collectively as "Parties." For the consideration, mutual promises and other good and valuable consideration provided for herein, the Parties agree as follows:

I.

**Purposes, Terms and Consideration**

- 01 The property is approximately five hundred twenty-four (524) acres of land located in Burnet County, Texas, commonly referred to as "Honey Rock Ranch" ("Property") and is more particularly described in Exhibit "A" attached herein and incorporated herein for all purposes.
- 02 The Property is located within the City's extraterritorial jurisdiction ("ETJ") and is contiguous to the City.
- 03 Notwithstanding any provision to the contrary, the Parties acknowledge that the portion of the Property within the corporate limits of the City, approximately sixteen (16) acres, prior to the Effective Date of this Agreement, as shown on Exhibit "A", has been zoned Light Commercial "C-1", and any provision of this Agreement that addresses future zoning of the Property, or annexation, shall not apply to that portion of the Property.
- 04 The Developer is the owner of the Property and has agreed to voluntarily annexation of the Property in one or more phases, as provided for herein.
- 05 Under this Agreement, the Developer will benefit by consenting to annexation by the City, which will provide regulatory certainty and assurance concerning the conditions, terms, and restrictions applicable to the continued use and development of the Property.
- 06 The City will benefit from this Agreement by virtue of 1) the certainty that the Property will be annexed by the City without said annexation counting towards its statutory annual cap; 2) its control over the development standards for the Property through this Agreement, and 3) the increased ad valorem tax revenues accruing to the City from the annexation of the Property.
- 07 Among other benefits set forth in this Agreement, the City and the Developer will benefit from the construction of a road from the intersection of Windmill Way and Highway 281 South to Eva Crossing along Lot 9 of Section 15 of Delaware Springs Subdivision, as defined herein and more particularly shown in Exhibit "B" (the "Road"). The Road shall be

*[Handwritten Signature]*

**EXHIBIT B**  
**Page 2 of 3**

- 4.14 The Developer agrees that all lots within the Property adjacent to Delaware Springs Subdivision shall be platted to include a minimum fifty (50) foot building setback from any property line common with Delaware Springs Subdivision, as further shown on Exhibit "F". Such building setback shall restrict the placement of buildings within the fifty (50) foot setback. Said building setback shall not restrict the placement of accessory structures such as pools, gazebos and sheds, except that no structures, including pools, gazebos, sheds and other similar structures shall be placed within twenty (20) feet of any property line common with Delaware Springs Subdivision.
- 4.15 Upon Developer's completion of the construction of the Road, and the City's acceptance of same, the City shall, within ten (10) business days of receipt of documentation, pay to the Developer, in a single lump sum payment, an amount up to thirty (30%) percent of the cost (hard and soft costs) of the Road, not to exceed One Hundred and Fifty Thousand Dollars (\$150,000) as reimbursement for a portion of the costs associated with the construction of the Road. Developer shall submit such documentation as necessary to show compliance with this Section.
- 4.16 Walkways/bikeways shall be permitted to encroach in the public right-of-way located within the Property, as may be mutually agreed upon by the Parties. All walkways/bikeways shall be maintained by the Property's property owner's association.

**V.**  
**Land Use**

- 5.01 Phased Development. The Developer intends to develop the Project in phases. The Developer may change the phasing of development in accordance with City Code. Phases may be developed concurrently. City shall not lodge an objection should Developer declare to the Burnet Central Appraisal District that those portions of the Property not under active development are to remain as agricultural or ranching purposes and/or wildlife management.

**VI.**  
**Annexation and Zoning**

- 6.01 Annexation by City. The Developer agrees that this Agreement shall serve as a petition for voluntary full purpose annexation of the Property pursuant to Section 43.028 of the Texas Local Government Code (the "Petition") and the Petition shall be considered filed upon the Effective Date of this Agreement. After the fifth (5<sup>th</sup>) day, but before the thirtieth (30<sup>th</sup>) day, after the Petition is filed City Council shall consider the Petition in accordance with Section 43.028 of the Texas Local Government Code. In the event the City grants the Petition the City shall, by ordinance, annex for full purpose all of the Property identified in Exhibit "A" as "Area to be Annexed Effective 12/31/2015", being approximately one hundred ninety-two (192) acres of land. The annexation ordinance shall provide an effective date for the annexation of December 31, 2015. As for the remainder of the Property (which is neither already within the City's corporate limits nor subject to the ordinance annexing the approximately one hundred ninety-two (192) acres identified on Exhibit "A") City Council may instate annexation proceedings under the Petition to annex such acreage of said remaining

