

AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF CLEVELAND, TEXAS, TO EMBRACE AND INCLUDE ALL OF THE TERRITORY WITHIN CERTAIN LIMITS AND BOUNDARIES AND ANNEXING TO THE CITY OF CLEVELAND, TEXAS, ALL OF THE TERRITORY WITHIN SUCH BOUNDARIES; APPROVING A SERVICE PLAN FOR ALL OF THE AREA WITHIN SUCH TERRITORY; MAKING FINDINGS; AND CONTAINING OTHER PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, the City Council of the City of Cleveland, Texas (the "City") finds, determines and declares that the territory hereinafter described in Exhibit "A," attached hereto and made a part hereof, (the "Territory") is adjacent and contiguous to the present city limits of the City; that said Territory lies within the exclusive extraterritorial jurisdiction of the City; and that the annexation of said Territory to the City will promote the general health, safety and welfare of persons residing within the City and within said Territory, if any; and

WHEREAS, the City Council of the City has heretofore, on October 14, 2008, directed the staff to prepare a Service Plan that provides for the extension of municipal services to the area within the Territory; and

WHEREAS, two public hearings were held on November 17, 2008 and November 18, 2008, in the City Council Chambers, City Hall, 907 East Houston, Cleveland, Texas, at which public hearings all interested parties were given an opportunity to be heard and the proposed Service Plan was made available for public inspection. Notice of such public hearings was given by publication in the *Cleveland Advocate* on October 22, 2008, said newspaper having general circulation within the City and within the Territory. Such notices and hearings were all in conformity with the Municipal Annexation Act, codified as Chapter 43, Texas Local Government Code, as amended; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The boundary limits of the City of Cleveland, Texas, are hereby extended to embrace and include all of the Territory more particularly described by metes and bounds in Exhibit "A" attached hereto, and such Territory is hereby annexed to and made a part of the City for general purposes.

Section 3. The plan for extension of municipal services into the Territory annexed to the City by the provisions of this Ordinance is set forth in the "Municipal Service Plan" attached hereto as Exhibit "B" and made a part hereof for all purposes. Such Municipal Service Plan is hereby approved.

Section 4. The City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place, and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered, and formally acted upon. The City Council further ratifies, approves, and confirms such written notice and the contents and posting thereof.


Section 5. If any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application thereof ineffective or inapplicable as to any territory, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no wise affect, impair, or invalidate the remaining portion or portions thereof, but as to such remaining

portion or portions, the same shall be and remain in full force and effect; and should this Ordinance for any reason be ineffective as to any part of the Territory hereby annexed to the City of Cleveland, such ineffectiveness of this Ordinance as to any such part or parts of any such Territory shall not affect the effectiveness of this Ordinance as to all of the remainder of such Territory or area, and the City Council hereby declares it to be its purpose to annex to the City of Cleveland every part of the Territory described in Section 2 of this Ordinance, regardless of whether any other part of such described Territory is hereby effectively annexed to the City. Provided, further, if there is included in the general description of the Territory set out in Section 2 of this Ordinance to be hereby annexed to the City of Cleveland any territory which is already a part of and included within the general limits of the City of Cleveland, or which is presently part of and included in the limits or extraterritorial jurisdiction of any other city, town, or village, or which is not within the City of Cleveland's jurisdiction to annex, the same is hereby excluded and excepted from the Territory to be annexed hereby as fully as if such excluded and excepted territory were especially and specifically described herein.

PASSED, APPROVED, AND ADOPTED this 9 day of December, 2008.

  
\_\_\_\_\_  
Jill Barnett Kirkonis, Mayor

ATTEST:

  
\_\_\_\_\_  
Kelly McDonald, City Secretary

# TRACT 2008-D

**PHASE IV**

ANNEXATION TRACT 2008-D 126 ACRES - U.S. HWY 59 SOUTH

BEING ALL THAT CERTAIN 126 ACRE TRACT OF LAND SITUATED IN THE L.A. HALPHEN SURVEY A-680, MONTGOMERY COUNTY TEXAS, AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING at the intersection of the west city limit line and the south right-of-way line of the Burlington Northern Santa Fe Railroad Company 100 foot wide track right-of-way as described in ORDINANCE NO. 825 Passed, Approved and Adopted on December 11, 2007 same being a corner of the tract described herein.

THENCE northwest along the existing city limit line of the City of Cleveland, Texas in the L.A. HALPHEN Survey A-680 for a distance of 214.45 lineal feet to a fence corner post found for a point for corner;

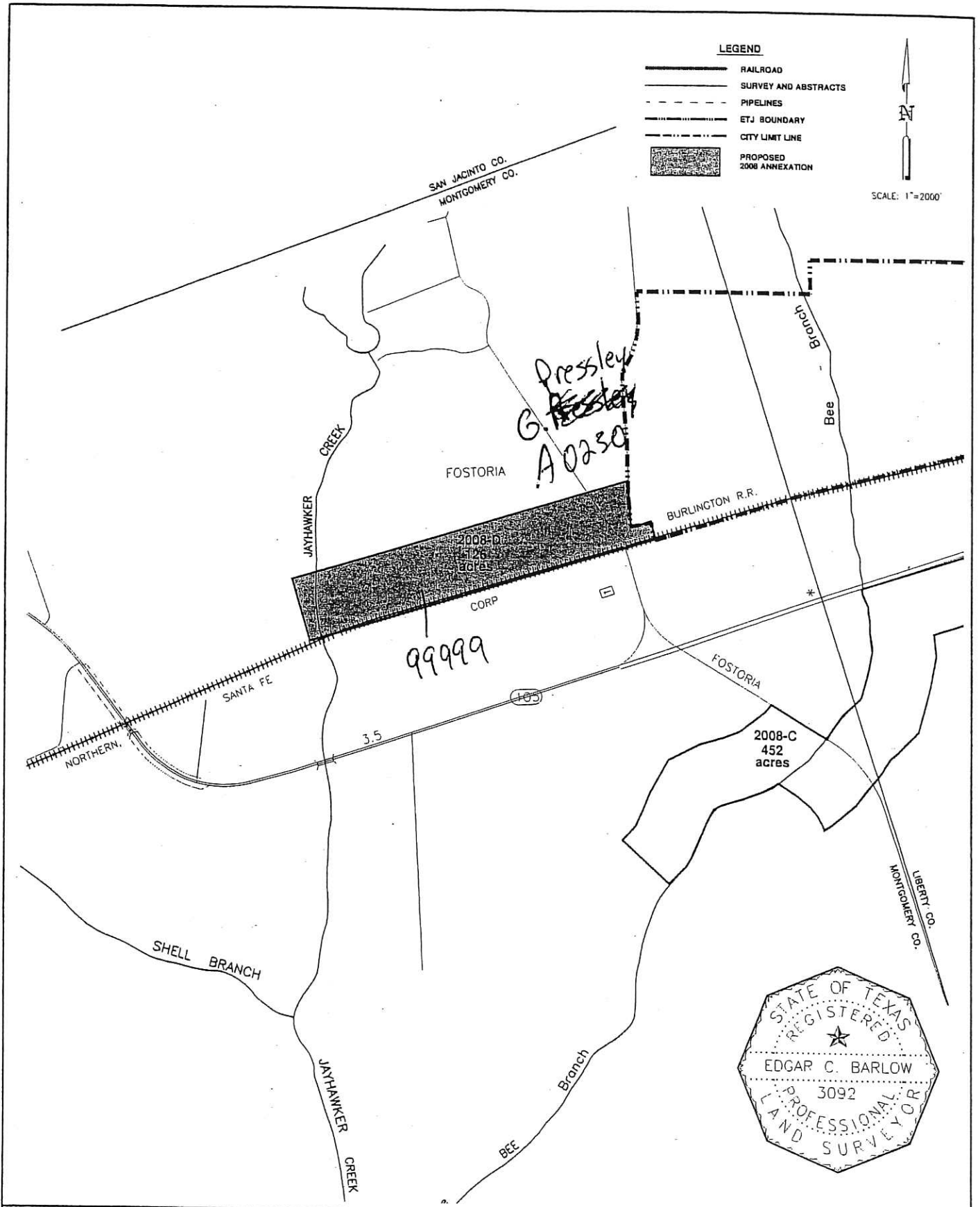
THENCE southwest a distance of 164.74 feet to a point for corner, same being in the east right-of-way line of Fostoria Road and a point for corner;

THENCE along a line 1,000 lineal feet perpendicular to the north right of way line of the Burlington Northern Santa Fe Railroad Company 100 foot wide track right-of-way to a point for corner;

THENCE southeast with a line perpendicular to the paralleling Burlington Northern Santa Fe Railroad Company 100 foot wide track right-of-way to a point for corner;

Thence northwest for parallel with the Burlington Northern Santa Fe Railroad Company 100 foot wide track right-of-way to the POINT OF BEGINNING and containing 126 acres of land more or less.

Exhibit 'A'



**SBB** SPARKS - BARLOW - BARNETT, INC.  
Consulting Engineers - Planners

FILENAME:

P:\CLEV\2008\CLEV\ANNEX2008-D.DWG

DATE:

SEP 2008

CITY OF CLEVELAND, TEXAS  
ANNEXATION OF 126 ACRE TRACT 2008-D

EXHIBIT B

CITY OF CLEVELAND, TEXAS  
ANNEXATION SERVICE PLAN

DATE:

ANNEXATION AREA:

Being all that certain tract or parcel of land as described in Exhibit A of this Ordinance.

PROVISION OF SERVICE:

The City of Cleveland, Texas will provide for the extension of municipal services into the territory to be annexed in compliance with Section 43.056 of the Local Government Code and in accordance with the following schedule:

1. POLICE PROTECTION: Provided immediately upon annexation. Service will be provided to all residents of the annexed area on the same basis as those residents currently living within the City limits.
2. FIRE PROTECTION: The existing level of service will continue to be provided to the annexed area.
3. EMERGENCY MEDICAL SERVICES: The existing level of service will continue to be provided to the annexed area.
4. SOLID WASTE COLLECTION: Immediately upon annexation, all residents/businesses within the annexed area will be provided with solid waste collection; cost to be at the prevailing rates of the City's franchise hauler.
5. WATER AND WASTEWATER SERVICE: Water and sanitary sewer service will be provided according to current policy, established by the City Council and applicable to all property presently within the corporate limits of the City, at the prevailing City rates. This policy basically provides for the extension of mains and/or lift stations from the existing systems by those requesting the service.
6. MAINTENANCE OF WATER AND WASTEWATER FACILITIES IN THE ANNEXED AREA: Will be provided to all residents of the annexed area on the same basis as those residents currently living within the City limits.
7. MAINTENANCE OF ROADS AND STREETS, INCLUDING ROAD AND STREET LIGHTING: Will be provided on all public streets in the annexed area on the effective date of the annexation ordinance.
8. PARKS, PLAYGROUNDS AND SWIMMING POOLS: The City park and all recreational facilities will be available for use by residents of the annexed area, beginning on the effective date of the annexation ordinance.
9. MAINTENANCE OF ANY OTHER PUBLICLY OWNED FACILITY, BUILDING OR SERVICE: Not applicable.

CITY OF CLEVELAND, TEXAS  
ANNEXATION SERVICE PLAN  
PAGE 2

10. CAPITAL IMPROVEMENTS REQUIRED FOR THE ACQUISITION OR CONSTRUCTION FOR THE PROVISION OF MUNICIPAL SERVICES ADEQUATE TO SERVE THE AREA: Not applicable.
11. PLANNING SERVICES: Planning services will be provided immediately upon annexation. These will include enforcement of subdivision regulations, and the processing of applications for subdivision and platting of site plans will be provided by existing City staff.
12. CODE ENFORCEMENT SERVICES:
  - a. Enforcement of the City's ordinances will be provided within the annexed area on the effective date of the annexation ordinance. These ordinances and other regulations will be enforced using existing personnel.
  - b. Complaints of ordinance violations or other code violations within the annexed area will be answered and investigated by existing personnel on the effective date of the annexation ordinance.
  - c. Animal Control services will be provided to those areas within the annexed area on the effective date of the annexation ordinance using existing personnel and equipment.
  - d. Vector control services will be provided to those areas within the annexed area on the effective date of the annexation ordinance using existing personnel and equipment.
13. MISCELLANEOUS: General municipal administration and administrative services of the City shall be available to the annexed area beginning with the effective date of the annexation ordinance.
14. LIBRARY SERVICES: The City Library and facilities will be available for use by residents of the annexed area, beginning on the effective date of the annexation ordinance.

**Sec. 118-179. Connections generally.**

All connections within the city limits or to individual users outside the city limits, except connections to mains extended, shall be made in the following manner:

- (1) A tap fee of \$400.00 for each individual four-inch connection to the sewerage system and actual cost for each individual six-inch connection or larger to the sewerage system is fixed.
  - a. If the property to be served is on a dedicated street and within 75 feet of a six-inch or larger city sewer main, the city, upon the payment by the applicant of the regular service charge, will, at its own cost and expense, construct such lines to the property line of the user to be served.
  - b. If the property to be served is on a dedicated street and more than 75 feet from a six-inch or larger city sewer main, the applicant for sewer service will be charged to the actual cost for such distance in excess of 75 feet from the existing main to the property line of the property to be served.
- (2) The users who have contributed funds for the construction of lines in excess of 75 feet as provided in subsection (1) of this section shall, for any additional service connections made within five years from the date of such payment and made to that particular portion of such line constructed by the city by reason of such contribution, receive a reimbursement of the tap fee paid by the person desiring the new service connection. Such reimbursement shall, however, never exceed the original contribution made by a user for the construction of such line.
- (3) All lines constructed under the provisions of this section shall become the property of the city, and the city shall have full control and jurisdiction over such lines.
- (4) All distances mentioned in this section shall be measured by the most direct, feasible route along the streets or alley of the city permitted by grade.
- (5) Extension of sewer service outside the city limits will be made only after application for extension is made and approved by the council. The council will decide the size of the extension and whether the city will participate in the cost of the extension with the individual.

(Code 1969, § 28-51; Ord. No. 763, § 2, 2-8-2005)

**Sec. 118-180. Sewer service charges.**

The monthly charge for sewer service in the city limits will be based on water usage as described hereinafter and shall be as follows: \$8.25 for the first 3,000 gallons of water used and an additional charge of \$2.10 per 1,000 gallons of water used shall be applied thereafter; provided that the maximum number of gallons used in calculating the sewer charge for a single-family residence shall be 15,000.

(Code 1969, § 28-51.1; Ord. No. 730, § 1, 1-13-2004; Ord. No. 757, § 1, 10-27-2004)

**Sec. 118-123. Management, control of laying pipes, mains.**

All pipes or mains for the extension of the waterworks system of the city shall be laid under the management and control of the superintendent of the city waterworks and the city engineer.

(Code 1969, § 28-67)

**Sec. 118-124. Quality, quantity of water furnished.**

In the sale of water by the city to any person within and without the city limits, and in the supply of water for municipal use for the protection of property against fires, the city does not agree, nor is the city bound, to furnish water of any special or specific analysis, or in any special or specified amount, but only undertakes to furnish such water in the amount of water that may be supplied from the wells of the city, or such other sources as the city may select, and in an amount within the capacity of the city's pumping plants.

(Code 1969, § 28-68)

**Sec. 118-125. Extension outside city limits.**

Extension of water mains outside the city limits will be made only after application for the extension is presented to the council. The council will decide the size of the extension and will also decide whether the city will participate in the cost of the line with the individual requesting the extension.

(Code 1969, § 28-70)

**Sec. 118-126. Sewer service prerequisite to connection.**

No permanent water connection shall be made under the provisions of this chapter until sewer service has first been installed, where sewer service is available.

(Code 1969, § 28-71)

**Sec. 118-127. Water connection fees.**

All connections within the city limits or to individual patrons outside the city limits, except connections to mains extended, shall be made in the following manner:

- (1) A tap fee of \$350.00 for each individual connection to the water system, two inches or smaller, and actual cost for each larger connection is fixed.
  - a. If the property to be served is on a dedicated street and within 100 feet of a two-inch or larger city water main, the city, upon the payment by the applicant of the regular service charge, will, at its own cost and expense, construct such lines to and including the meter that shall be necessary to serve such patron.
  - b. The tap fee will include the five-eighths-inch by three-fourths-inch water meter. Anyone desiring a larger meter shall pay the difference in cost.

- c. If the property to be served is on a dedicated street, and more than 100 feet from a two-inch city main, the city upon payment of the regular service charge and the payment of the actual cost will construct such line to and including the meter as shall be necessary to serve such patron.
- (2) Patrons who have contributed funds for the construction of lines in excess of 100 feet as provided in subsection (a) shall, for any additional service connections made to that portion of such line constructed by the city by reason of such contribution within five years from the date of such payment, receive a reimbursement of the tap fee paid by the person desiring the new service connection. Such reimbursement shall, however, never exceed the original contribution made by the patrons for the construction of such line.
- (3) All lines constructed and meters installed within the city under the provisions of this section shall become the property of the city, and the city shall have full control and jurisdiction over such lines and meters.
- (4) The location and size of all meters shall be designated by the city water superintendent, and all distances mentioned in this section shall be measured by the most direct route along the streets or alleys of the city.
- (Code 1969, § 28-72)

**Sec. 118-128. Proximity of connections to joints.**

All connections made to the water mains of the city shall be at least two feet from any joint in the water mains.

(Code 1969, § 28-73)

**Sec. 118-129. Cross connections prohibited.**

(a) Cross connection between piping receiving water from city mains and piping receiving water from any other source or storage is prohibited, and the city reserves the right when it discovers the existence of any such cross connection to immediately and without further notice disconnect the service connecting the piping with the city mains.

(b) Anyone desiring to use water from some other source in addition to the city connection may do so by using a storage tank and delivering the city water supply into the tank four inches above the overflow line and through a pipe having at least a four-inch air space between its discharge end and the surface of the water in the tank. The water from the other source may then be piped into the tank and the house service lines piped from the tank in any manner desired.

(c) If inflow from city water main to a swimming pool or other storage of water is below level, a cross connection exists.

OFFICIAL RECORDS  
LIBERTY COUNTY  
DELIA SELLERS  
COUNTY CLERK  
RECORDING FEE: \$51.00  
# 2008022885  
12/29/2008 03:17 PM 12 PGS  
KBEROTTE,DC Receipt #019658

STATE OF TEXAS }  
COUNTY OF LIBERTY }  
{ Delia Sellers, hereby certify that this instrument as FILED in the number  
sequence on the date and at the time stamped hereon by me, and was duly  
RECORDED in the volume and page of the OFFICIAL PUBLIC RECORDS  
of Liberty County, Texas, as Stamped hereon by me on

DEC 29 2008

*Delia Sellers*  
COUNTY CLERK  
LIBERTY COUNTY, TEXAS