

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> June 24, 2014		<b>DATE SUBMITTED:</b> June 4, 2014	
<b>DEPARTMENT OF ORIGIN:</b> Water Services		<b>SUBMITTED BY:</b> J. Barfknecht	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input checked="" type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consider approving a resolution consenting to the addition of certain land located within the City's Extraterritorial Jurisdiction (ETJ) into the boundaries of the Wellborn Special Utility District.			
<b>SUMMARY STATEMENT:</b> Wellborn Special Utility District is requesting City Council to provide written consent to the addition of land located in the ETJ of the City into Wellborn Special Utility District by annexation pursuant to the provisions of Chapter 49, Texas Water Code. The petition and location of the territory can be found in the attachments. In general, the area is located north and west of Bryan.			
<p>If Bryan does not pass a resolution or ordinance granting consent within 90 days after receipt of Wellborn's request, landowners in the proposed ETJ area can petition Bryan to extend water and/or wastewater service. If consent is not granted and the landowners petition Bryan to provide services, a contract for such services must be executed within 120 days following receipt of the petition. If no contract is executed, Bryan's consent is legally presumed. The City of Bryan currently does not have the Certificate of Convenience and Necessity (CCN) for this area. Therefore being able to provide service to the landowner's petition would be difficult.</p>			
<p>The Resolution consenting to the addition of certain land has two conditions given by the City pursuant to Section 42.0425, Texas Local Government Code, and Section 54.016(e), Texas Water Code, the District shall be subject to the following terms and provisions:</p>			
<p>(a) That the District shall construct all facilities in accordance with plans and specifications which have been approved by the City.</p>			
<p>(b) That the City shall have the right to inspect all facilities being constructed by the District.</p>			
<p>The City of Bryan, through Chapter 110 – Subdivisions in the Code of Ordinances, requires water distribution lines in the ETJ to be constructed in accordance with City standards. This resolution would expand the requirement (not including fire flow) to areas that do not require the subdivision of land.</p>			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> Water Services respectfully requests City Council approve the resolution to consent to the addition of land located within the ETJ of the City of Bryan into the Wellborn Special Utility District.			

**OPTIONS (In Suggested Order of Staff Preference):**

1. Approve the resolution.
2. Do not approve the resolution.
3. Do not approve resolution and provide direction to staff.

**ATTACHMENTS:**

1. Resolution (doc)
2. Petition (pdf)

**FUNDING SOURCE:** N/A

**APPROVALS:** Jayson E. Barfknecht 06/06/14; Hugh R. Walker, 06/06/2014

**APPROVED FOR SUBMITTAL:** Kean Register, 06-06-2014

**APPROVED FOR SUBMITTAL:** Janis K. Hampton, 06-12-2014

Revised 05/2013

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, CONSENTING TO THE ADDITION OF CERTAIN LAND LOCATED WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION INTO THE BOUNDARIES OF THE WELLBORN SPECIAL UTILITY DISTRICT; AND PROVIDING AN EFFECTIVE DATE.**

**Recitals**

**WHEREAS**, the City of Bryan (the "City") is a duly created home rule municipality located within Brazos County; and

**WHEREAS**, the City has received a petition for its consent to the annexation of certain land to the Wellborn Special Utility District, consisting of approximately 160 square miles (the "Land"), more particularly described in Exhibit "A" attached hereto; and

**WHEREAS**, a portion of the Annexation Tract is located within the ETJ of the City; and

**WHEREAS**, Section 42.0425, Local Government Code, provides that the District may not add land that is located in the ETJ of a municipality unless the governing body of the municipality gives its consent by written ordinance or resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRYAN THAT:**

**Section 1.** The recitals set forth above are true and correct in all material respects.

**Section 2.** That as a condition of the consent given by the City pursuant to Section 42.0425, Texas Local Government Code, and Section 54.016(e), Texas Water Code, the District shall be subject to the following terms and provisions:

- (a) That the District shall construct all facilities in accordance with plans and specifications which have been approved by the City.
- (b) That the City shall have the right to inspect all facilities being constructed by the District.
- (c) That the City shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling or requiring the District and its officials to observe and comply with the terms and provisions prescribed by this resolution.

**Section 3.** That the City Council of the City of Bryan further states that it has not relinquished any rights, duties or powers relating to the inclusion of the District within its ETJ and that while the City consents to the creation of the District, it does not release the area within the District from its ETJ.

**Section 4.** That the City Council of the City of Bryan hereby notifies the District, its residents and property owners that the Texas Local Government Code allows the City to annex any portion of the District located within the City's extraterritorial jurisdiction, and the City hereby requires that the District

include a statement in the form required under Section 49.455, Texas Water Code, reflecting the possibility of annexation by the City.

**Section 5.** This resolution shall be effective immediately upon its passage and adoption.

**PASSED AND APPROVED** this 24<sup>th</sup> day of June, 2014.

ATTEST:

CITY OF BRYAN:

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

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Jason P. Bienski, Mayor

APPROVED AS TO FORM:

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Janis K. Hampton, City Attorney