

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: August 12, 2014		DATE SUBMITTED: July 22, 2014	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Martin Zimmermann	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<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 checked="" type="checkbox"/> QUALITY OF LIFE
AGENDA ITEM DESCRIPTION: Consideration of a resolution directing City staff to initiate annexation procedures for approximately 302 acres of land extending generally northwest from the current City limits along the southwest side of Texas State Highway 6, to within approximately 100 feet from the pavement on Mikulin Road, adopting a timetable for completing annexation, and directing City staff to prepare a municipal service plan for the area to be annexed, in accordance with Texas State law.			
SUMMARY STATEMENT: Gunler Paper, Inc., Gunler Foods, Inc., and Gunler Real Estate, Inc., (collectively "Gunler") entered into a non-annexation agreement with the City of Bryan on August 20, 2012, which outlined specific terms for the development of a 25-acre property in the Texas Triangle Park in Bryan's extraterritorial jurisdiction (ETJ). The agreement provided for the Gunler property to remain outside of Bryan's City limits for a period of up to ten (10) years, provided that Gunler met certain economic development benchmarks and complied with City building and development codes. Additionally, the City agreed to provide police and fire protection to the property in exchange for Gunler's payment in lieu of taxes, which was an annual payment equal to a portion of what Gunler would have paid in property taxes were the property in the City limits. Earlier this year, it was determined that Gunler is in breach of the agreement, specifically for failure to meet benchmarks and failure to provide the payment in lieu of taxation. Therefore the agreement was terminated and according to agreement terms, termination of the agreement is considered a request for annexation, thus allowing the City to begin annexation proceedings.			
<p>The 25-acre Gunler property is located approximately 3,900 feet to 4,400 feet northwest from the current City limits at State Highway 6/F.M. 2818 (Harvey Mitchell Parkway). State law restricts unilateral annexation of property. One of those limitations is that the area to be unilaterally annexed cannot be less than 1,000 feet in width. The result of this annexation complies with the 1,000-foot requirement. The 302-acre area proposed to be annexed includes seven (7) tracts, two (2) of which are part of the Texas Triangle Park and are owned by the City of Bryan and Brazos County Economic Development Foundation, Inc. Three (3) of the tracts proposed to be annexed are already partially located within Bryan's city limits. According to the Brazos County Appraisal District, none of the properties under consideration are currently appraised for ad valorem tax purposes as agricultural, wildlife management, or timber land, which means that the City is not required to offer a development agreement for any of these properties in lieu of annexation, in accordance with State law.</p>			
<p>On July 8, 2014, City Council directed staff to prepare the attached draft resolution for consideration during the August 12, 2014, Council meeting. This resolution, if adopted, directs staff to initiate annexation procedures for this 302-acre area, in accordance with Texas State law requirements, and contains a general timetable. Adopting this resolution does not commit the City Council to someday approve the annexation. <i>Adopting this resolution simply initiates a series of procedures which might eventually lead to the annexation of all or parts of the identified area.</i> The Bryan Code of Ordinances requires the Planning and Zoning Commission to review and make recommendations concerning annexations. The Commission is tentatively scheduled to consider this annexation during its regular meeting on September 4, 2014.</p>			

STAFF ANALYSIS AND RECOMMENDATION: Initiating annexation proceedings will allow for a detailed examination of the identified area's suitability for future city growth. If City Council desires to initiate the annexation of these approximately 302 acres, then staff recommends adopting the resolution.

OPTIONS (In Suggested Order of Staff Preference):

1. adopt resolution;
2. adopt resolution, with modifications (which might require consideration at a future City Council meeting);
or
3. postpone adopting a resolution that initiates annexation procedures.

ATTACHMENTS:

1. map and aerial photograph of proposed annexation area; and
2. draft resolution with exhibits.

FUNDING SOURCE:

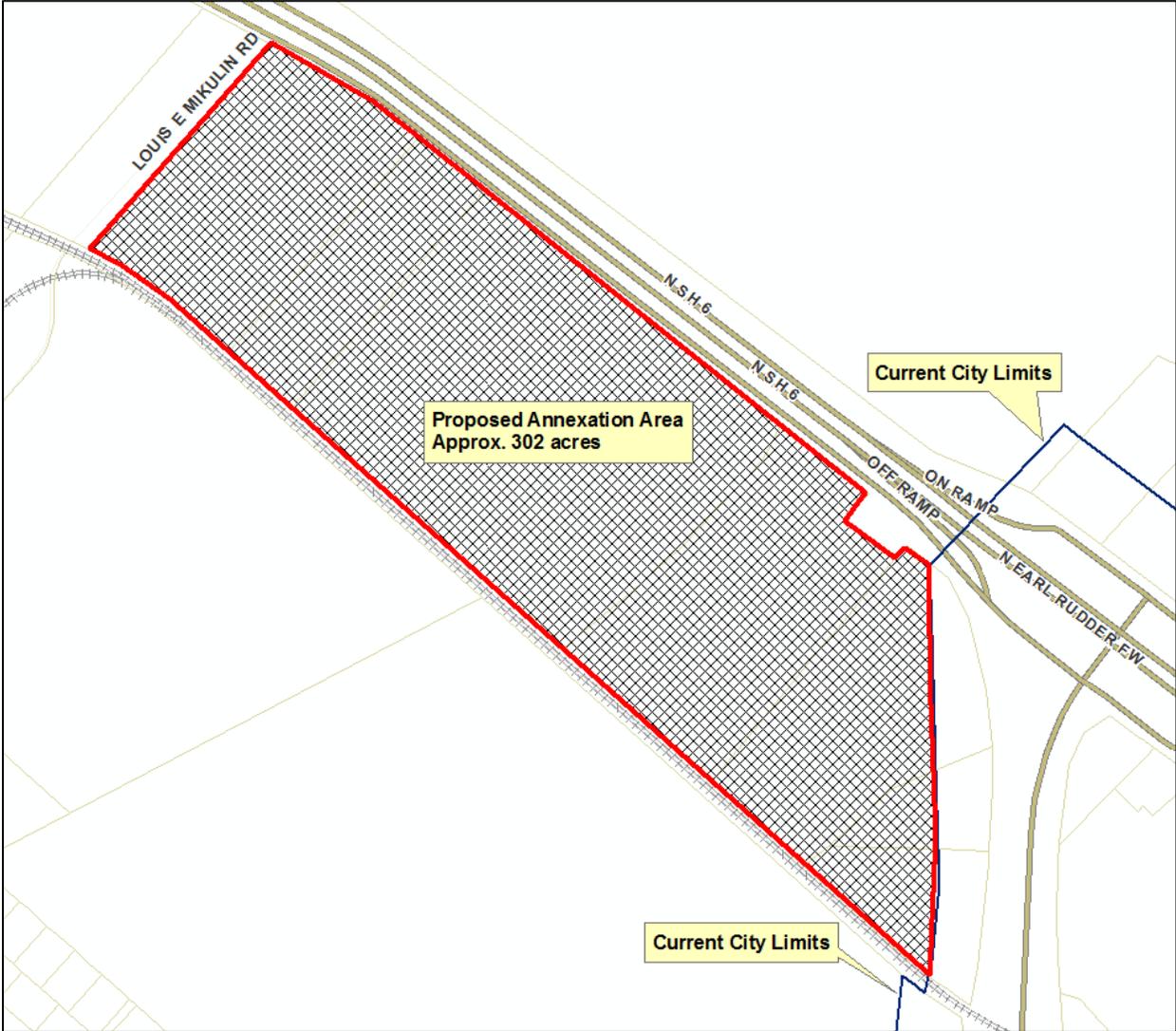
APPROVALS: Kevin Russell, 7-22-14; Joey Dunn, 7-25-14; Hugh R. Walker, 07/30/2014

APPROVED FOR SUBMITTAL: CITY MANAGER

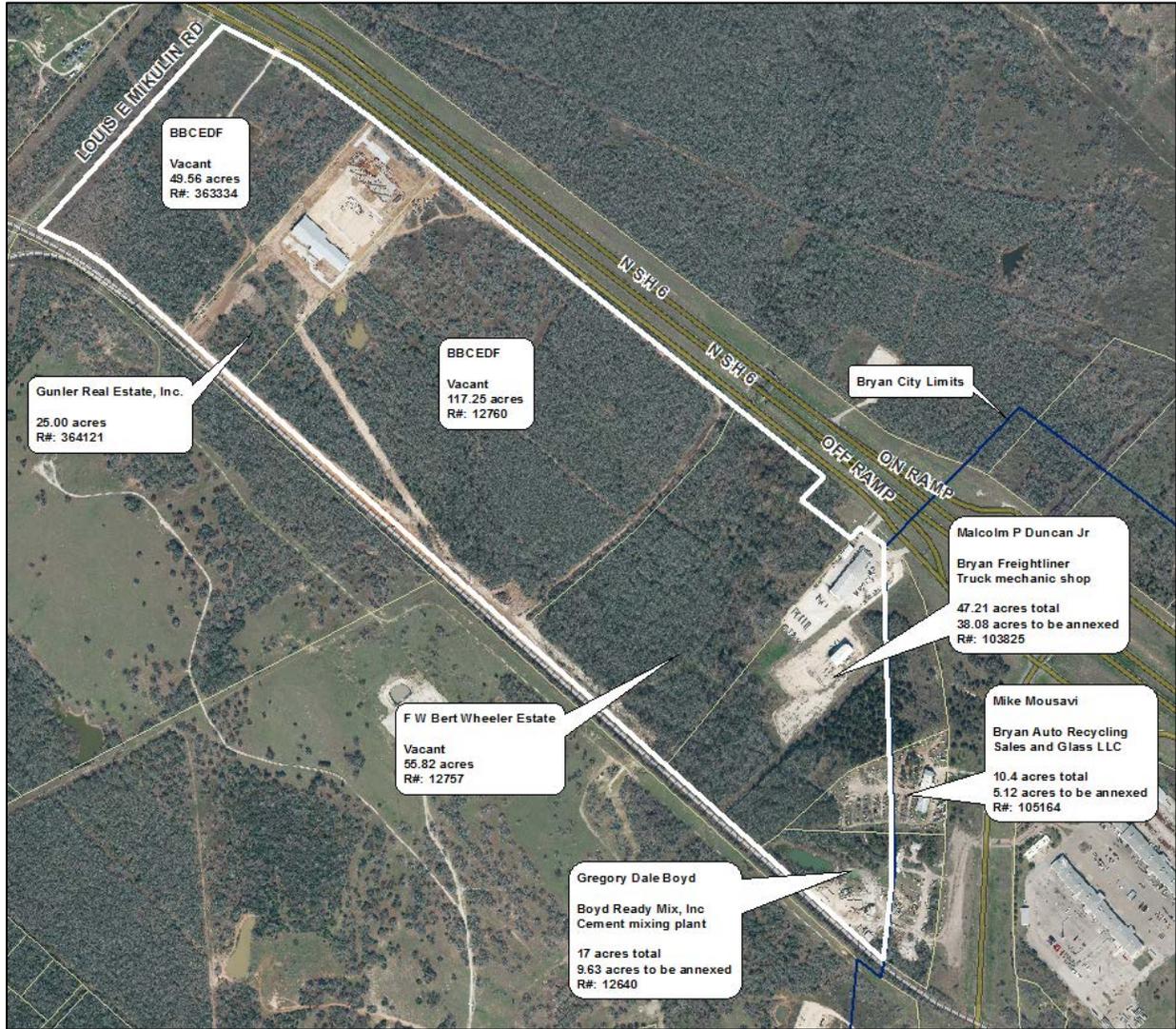
APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 08-04-2014

Revised 04/2013

Map of Proposed Annexation Area



Aerial Photograph of Proposed Annexation Area



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, DIRECTING CITY STAFF TO INITIATE ANNEXATION PROCEDURES IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE CHAPTER 43 FOR APPROXIMATELY 302 ACRES OF LAND EXTENDING GENERALLY NORTHWEST FROM THE CURRENT CITY LIMITS ALONG THE SOUTHWEST SIDE OF TEXAS STATE HIGHWAY 6, TO WITHIN APPROXIMATELY 100 FEET FROM THE PAVEMENT OF LOUIS E. MIKULIN ROAD IN BRAZOS COUNTY, TEXAS, AND LYING ADJACENT AND CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF BRYAN; ADOPTING A TIMETABLE FOR COMPLETING ANNEXATION; AND DIRECTING CITY STAFF TO PREPARE A SERVICE PLAN THAT PROVIDES FOR THE EXTENSION OF FULL MUNICIPAL SERVICES TO THE AREA TO BE ANNEXED IN ACCORDANCE WITH STATE LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bryan, Texas is a home-rule municipality authorized by State law and the City Charter to annex territory lying adjacent and contiguous to the corporate limits of the City of Bryan, Texas; and

WHEREAS, the City Council of the City of Bryan desires to promote the city's orderly growth by facilitating long-range planning for the provision of municipal services and by applying appropriate land use regulations, development standards, fire codes, construction codes and environmental regulations; and

WHEREAS, the City Council of the City of Bryan believes that, in order to achieve the aforementioned objectives, it is in the best interest of the city to annex approximately 302 acres of land lying adjacent and contiguous to the present city limits of the City of Bryan in Brazos County, Texas, and located within the city's extraterritorial jurisdiction; and

WHEREAS, Section 43.052 of the Texas Local Government Code authorizes a home-rule municipality to annex certain areas not specifically included in the municipality's annexation plan; and

WHEREAS, Section 43.063 of the Texas Local Government Code requires that before a municipality may institute annexation proceedings, the governing body must conduct two public hearings at which all persons interested in the annexation of the proposed areas are given the opportunity to be heard; and

WHEREAS, Section 43.065 of the Texas Local Government Code requires that before the publication of the notice of the first hearing required under Section 43.063 of the Texas Local Government Code, the governing body of the municipality shall direct its planning department or other appropriate municipal department to prepare a service plan that provides for the extension of full municipal services to the area to be annexed.

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

1.

That the City of Bryan hereby directs city staff to initiate annexation procedures in accordance with Texas Local Government Code Chapter 43 for 302 acres of land extending generally northwest from

the current City limits along the southwest side of Texas State Highway 6, to within approximately 100 feet from the pavement of Louis E Mikulin Road, being an area lying adjacent and contiguous to the present corporate limits of the City of Bryan, said area being described in attached Exhibit "A" and depicted on attached Exhibit "B".

2.

That the City of Bryan hereby adopts a general timetable for completing annexation of the above-described property, providing for all public hearings to be held within the time required by State law and the City's Code of Ordinances, said timetable being described on attached Exhibit "C".

3.

That the City of Bryan Development Services Department is hereby directed to prepare a service plan that provides for the extension of municipal services to the area proposed to be annexed to the city, as required by Texas Local Government Code Chapter 43.

4.

That this Resolution shall be effective immediately upon its passage and approval.

APPROVED AND ADOPTED at a Regular City Council Meeting, this 12th day of August, 2014.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney

EXHIBIT "A"
FIELD NOTES
APPROXIMATELY 302 ACRES
FM 2818 TO CITY OF BRYAN 20.391 ACRES
AT STATE HIGHWAY 6
L. McLAUGHLIN SURVEY, A – 38 &
W. S. MARTIN SURVEY, A - 35
BRAZOS COUNTY, TEXAS
JULY 18, 2014

All that certain tract of land being approximately 302 acres situated in the L. McLAUGHLIN SURVEY, Abstract No. 38 and the W. S. MARTIN SURVEY, Abstract No. 35, Brazos County, Texas, and being all or a part of the following tracts of land: 1) Being a part of a Called 17.00 acre tract as described in deed from Boyd Ready Mix, Inc. to Gregory D. Boyd of record in Volume 6872, Page 175; 2) Being a part of that certain Called 10.40 acre tract as described in deed from Terry J. Venable et ux to Mohamad Mosavi of record in Volume 4427, Page 7; 3) Being a part of that certain Called 23.50 acre tract as described in Deed of Trust from Malcolm P. Duncan, Jr. of record in Volume 3566, Page 232; 4) Being a part of a Called 23.81 acre tract as described in deed from Mae Dean Wheeler, Successor Trustee to Malcolm P. Duncan, Jr. of record in Volume 3297, Page 95; 5) Being a part of that certain Called 65.82 acre tract as described in deed from W. Maurice Rush et ux to F. W. Bert Wheeler of record in Volume 565, Page 20; 6) Being a part of that certain Called 191.81 acre tract as described in deed from M. D. Wheeler, Ltd. To the City of Bryan and Brazos County Economic Development Foundation, Inc. of record in Volume 9045, Page 76; and, 7) Being all of a Called 25.00 acre tract described as the Gunler Addition of record in Volume 10935, Page 261, all being Deed / Official Records of Brazos County, Texas, said approximately 302 acre tract being more generally described as follows;

Beginning at a point at the intersection of the West line of The City of Bryan City Limits as described in Annexation Field Notes Area 3 as per City of Bryan Ordinance No. 1175, adopted on July 27, 1999 and the northeast right-of-way line the Union Pacific Railroad;

THENCE in a northwesterly direction along the northeast right-of-way line of said railroad and the southwest line of said Called 17.00 acre tract around a curve in a clockwise direction an approximate distance of 110 feet to the point of tangency of said railroad right-of-way;

THENCE in a northwesterly direction continuing along the northeast right-of-way line of said railroad and the southwest line of said Called 17.00 acre tract an approximate distance of 1011.65 feet as per deed calls to the most westerly corner of said Called 17.00 acre tract, said corner also being the most southerly corner of said Called 23.50 acre tract;

THENCE in a northwesterly direction continuing along the northeast right-of-way line of said railroad and the southwest line of said Called 23.50 acre tract an approximate distance of 389.5 feet as per deed calls to the most westerly corner of said Called 23.50 acre tract and the most southerly corner of said Called 23.81 acre tract;

THENCE in a northwesterly direction continuing along the northeast right-of-way line of said railroad and the southwest line of said Called 23.81 acre tract an approximate distance of 500 feet as per deed calls to the most westerly corner of said Called 23.81 acre tract and the most southerly corner of said Called 65.82 acre tract;

THENCE in a northwesterly direction continuing along the northeast right-of-way line of said railroad and the southwest line of said Called 65.82 acre tract an approximate distance of 1295.2 feet as per deed

calls to the most westerly corner of said Called 65.82 acre tract and the most southerly corner of said Called 191.81 acre tract;

THENCE in a northwesterly direction continuing along the northeast right-of-way line of said Southern Pacific Railroad and the southwest line of said Called 191.81 acre tract an approximate distance of 2410 feet to the most the most southerly corner of said Gunler Addition;

THENCE in a northwesterly direction continuing along the northeast right-of-way line of said railroad and the southwest line of said Gunler Addition an approximate distance of 563.95 feet as per deed calls to the most westerly corner of said Gunler Addition, said corner being location in the southwest line of said Called 191.81 acre tract;

THENCE in a northwesterly direction continuing along the northeast right-of-way line of said railroad and the southwest line of said Called 191.81 acre tract an approximate distance of 415 feet to the point of curvature of said railroad right-of-way;

THENCE in a northwesterly direction continuing along the southwest line of said Called 191.81 acre tract and northeast right-of-way line of said railroad around a curve in a counterclockwise direction an approximate arc distance of 764.89 feet as per deed calls to the most westerly corner of said Called 191.81 acre tract and the most southerly corner of the City of Bryan Called 20.391 acre tract as described in Volume 312, Page 66;

THENCE in a northeasterly direction along the northwest line of said Called 191.81 acre tract and southeast line of said Called 20.391 an approximate distance of 1836.03 feet as per deed calls to the most northerly corner of said Called 191.81 acre tract and the most easterly corner of said Called 20.391 acre tract, same being located in the southwest right-of-way line of said State Highway No. 6;

THENCE in a southeasterly direction along the northeast line of said Called 191.81 acre tract and the southwest right-of-way line of said State Highway No. 6 an approximate distance of 421.82 feet as per deed calls to the beginning of a curve;

THENCE in a southeasterly direction around a curve in the clockwise direction along the northeast line of said Called 191.81 acre tract and the southwest right-of-way line of said State Highway No. 6 an approximate arc distance of 469.17 feet as per deed calls to the point of tangency of said curve;

THENCE in a southeasterly direction along the northeast line of said Called 191.81 acre tract and the southwest right-of-way line of said State Highway No. 6 an approximate distance of 281 feet to the most northerly corner of said Gunler Addition;

THENCE in a southeasterly direction along the northeast line of said Gunler Addition and the southwest right-of-way line of said State Highway No. 6 an approximate distance of 565.08 feet as per deed calls to the most easterly corner of said Gunler Addition;

THENCE in a southeasterly direction along the northeast line of said 191.81 acre tract and the southwest right-of-way line of said State Highway No. 6 an approximate distance of 2085 feet to an easterly corner of said 191.81 acre tract;

THENCE in a southwesterly direction an approximate distance of 15 feet as per deed calls to an angle point;

THENCE in a southeasterly direction along the northeast line of said 191.81 acre tract and the southwest right-of-way line of said State Highway No. 6 an approximate distance of 416.05 feet as per deed calls to the most easterly corner of said 191.81 acre tract and the most northerly corner of said Called 65.82 acre tract;

THENCE in a southeasterly direction along the northeast line of said 65.82 acre tract and the southwest right-of-way line of said State Highway No. 6 an approximate distance of 765.16 feet as per deed calls to an easterly corner of said 65.82 acre tract;

THENCE in a southwesterly direction along a southeast line of said Called 65.82 acre tract an approximate distance of 200 feet as per deed calls to an interior corner;

THENCE in a southeasterly direction along the northeast line of said Called 65.82 acre tract an approximate distance of 442 feet to the most easterly corner of said Called 65.82 acre tract;

THENCE in a northeasterly direction along the northwest line of said Called 23.81 acre tract an approximate distance of 116.45 feet as per deed calls to the most northerly corner of said Called 23.81 acre tract and the southwest right-of-way line of said State highway No. 6;

THENCE in a southeasterly direction along the northeast line of said Called 23.81 acre tract and the southwest right-of-way line of said Called State Highway No. 6 an approximate distance of 120 feet to a point for the intersection of the northeast line of said Called 23.81 acre tract and the most westerly line of said City of Bryan City Limits as described in Annexation Field Notes Area 3;

THENCE in a southerly direction across the said Malcolm P. Duncan, Jr. Called 23.81 acre tract with the existing west line of said City Limits Area No. 3 an approximate distance of 515 feet to a point in the southeast line of said Called 23.81 acre tract and the northwest line of said Called 23.50 acre tract;

THENCE in a southerly direction across the said Malcolm P. Duncan, Jr. Called 23.50 acre tract with the existing west line of said City Limits Area No. 3 an approximate distance of 885 feet to a point in the southeasterly line of said Called 23.50 acre tract and the northwesterly line of said Called 10.40 acre tract;

THENCE in a southerly direction 300 feet west of and parallel to the west right-of-way line of FM 2818 across the said Called 10.40 acre tract with the existing west line of said City Limits Area No. 3 an approximate distance of 535 feet to a point in the south line of said Called 10.4 acre tract and the north line of said Called 17.00 acre tract;

THENCE in a southerly direction 300 feet west of and parallel to the west right-of-way line of FM 2818 across the said Called 17.00 acre tract with the west line of said existing City Limits Area No. 3 an approximate distance of 870 feet to the PLACE OF BEGINNING AND CONTAINING AN APPROXIMATE AREA OF 302 ACRES OF LAND MORE OR LESS. This document was prepared by H. Curtis Strong, Registered Professional Land Surveyor No. 4961 working under Firm No. 10093500 and has been prepared under 22 TAC §663.21. This description does not reflect the results of a complete on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Exhibit "C":

GENERAL TIMETABLE FOR COMPLETING THE CITY-INITIATED ANNEXATION OF APPROXIMATELY 302 ACRES OF LAND EXTENDING GENERALLY NORTHWEST FROM THE CURRENT CITY LIMITS ALONG THE SOUTHWEST SIDE OF TEXAS STATE HIGHWAY 6, TO WITHIN APPROXIMATELY 100 FEET FROM THE PAVEMENT OF LOUISE MIKULIN ROAD IN BRAZOS COUNTY, TEXAS

- September/October 2014: hold public hearings at which all persons interested in the annexation are given the opportunity to be heard before the Planning and Zoning Commission and City Council, in accordance with State law and City Charter; and
- November/December 2014: introduction/adoption of annexation ordinances by City Council.

City staff shall schedule special meetings of the City Council when necessary to comply with this general timetable to complete annexation proceedings.