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TO: Block House Municipal Utility District
FROM: Armbrust & Brown, PLLC
DATE: October 26, 2016
RE: Annexation Basics

INTRODUCTION¹

Annexation is the process by which a city extends its municipal services, regulations, voting privileges and taxing authority to new territory. A home rule city is a municipality with a population greater than 5,000 which has adopted a home rule charter. A home rule city may annex territory on a consensual basis or on a nonconsensual basis.

GENERAL PROCESS REQUIREMENTS

Municipal Annexation Plan

Section 43.052 of the Local Government Code requires all cities to adopt a municipal annexation plan (MAP) to annex an area that contains more than 99 residential tracts on a nonconsensual basis, and the area can only be annexed following the three-year MAP process. Virtually all developed water districts, including Block House MUD, meet the criteria for inclusion into a city's MAP prior to annexation.

Annexation of Water Districts

Chapter 43 includes a number of requirements regarding the annexation of water districts. Following annexation of the district, the district must be dissolved and the city must assume all of the district's debts and assets.

Service Plan Requirements

As part of the public hearing process for all annexations, the city must present a service plan for the area proposed for annexation. The service plan is essentially a contract between the city and the people being annexed and is valid for a period of ten years. Any person residing or owning property in an annexation area may enforce a service plan in court. Residents can also seek

¹ This memorandum summarizes the procedural steps required for a city to annex a MUD, and includes excerpts from two articles from A Guide to Urban Planning in Texas Communities, by Ben Luckens, for the American Planning Association.¹

arbitration to enforce service plan conditions. Failure to fulfill the service plan can result in disannexation, the refunding of taxes paid for services not received, and a civil penalty.

Prior to publication of the first annexation hearing notice, an annexation service plan meeting must be prepared. The service plan must provide for the extension of the following services immediately upon annexation if the city provides the services:

- Police protection;
- Fire protection;
- Solid waste collection (residents of annexation areas have the option of continuing to use private service providers for up to two years);
- Maintenance of public water and wastewater facilities;
- Maintenance of public roads and streets, including road and street lighting;
- Maintenance of public parks, playgrounds, and swimming pools; and,
- Maintenance of any other publicly owned facility, building, or service

Level of Service

The city must provide the annexation area with a level of services that is comparable to areas inside the city. The city, however, must continue to operate and maintain the existing public infrastructure and facilities at the higher pre-annexation level.

ANNEXATION PROCESSES

MAP Process

To annex an area such as Block House MUD, a city must first include the area in its municipal annexation plan (MAP). The MAP is a three-year process that begins on the effective date of plan adoption. Within 89 days of the effective date of plan adoption, the city must notify each property owner in the proposed annexation area and each of the public or private entities that provide municipal-type services to the proposed annexation area. In addition, the plan must be posted on the city's website.

Following notification, the city must prepare an inventory of services provided to the proposed annexation area including infrastructure (utilities, roads, drainage, etc.) and fire, police, and emergency medical services. MAP process steps include:

1. Notify
 - Property owners
 - Service providers
 - Railroad companies
 - School districts
 - Public
2. Inventory to form baseline for city service plan
 - Services
 - Engineering report and expenditures of areas infrastructure
 - First responders information needs
3. Make inventories public within 60 days of completion

4. First and second public hearing with preliminary service plan
6. Negotiations
7. Plan adoption
8. Final service plan complete within nine months of inventory completion and within 17 months of adoption of service plan
9. Annexation three years following adoption

If a district that has been added to the MAP requests a Strategic Partnership Agreement (SPA) the city must negotiate and enter into an SPA. A district must submit its request for an SPA within 61 days after second annexation public hearing. State law provides for an arbitration process if the city and the district cannot agree on the terms of the SPA. The city pays the cost of arbitration unless it can be shown the negotiators requested arbitration in bad faith or the request was groundless or for the purpose of harassment in which case the negotiators pay the costs.

The city and the district may also negotiate terms of a contract for the provision of services in lieu of annexation. The terms of this contract can be fairly broad and include permissible land uses, compliance with ordinances, the funding of services, and generally any other term which the parties agree will resolve the dispute, including limited purpose annexation and setting a date certain for future annexation.

The annexation itself cannot take place until three years after the effective date of plan adoption and must be completed within the month following the third anniversary of adoption of the plan. If the process is not completed within that time frame, the city may not annex the area for five years. For property to be on the tax rolls for the following year, it must be annexed by December 31.

A district with a SPA can also be converted to a Limited District following its full purpose annexation and continue to collect taxes and fees to maintain its parks, provide solid waste services, and enforce deed restrictions.

Limited Purpose Annexation

Chapter 43 authorizes cities with populations in excess of 225,000 to annex territory for the limited purposes of applying planning, zoning, health, and safety ordinances to the area. Areas annexed for limited purposes must be annexed for full purposes within three years unless this condition is waived by the landowner. Residents in a city's limited purpose jurisdiction may vote in municipal elections but do not pay city taxes.

Unless waived by the district, the annexing city must take specific steps leading to full purpose annexation in each of the years preceding full purpose including in Year 1) preparation a land use and intensity plan as a basis for services and capital improvements planning; Year 2) inclusion of the area in the city's long-range financial forecast capital improvements plan; and Year 3) addition of the projects necessary to serve the area into the city's capital improvements plan and identify potential funding sources. Failure to meet such milestones may result in a court order requiring either full purpose annexation or disannexation of the area. Following annexation at the end of the third year, the city has up to 4^{1/2} years in which to provide the necessary capital improvements.