

ORDINANCE NO. _____

1 **AN ORDINANCE ANNEXING, FOR FULL PURPOSES, APPROXIMATELY 11.9**
2 **ACRES LOCATED AT 10701 DESSAU ROAD IN TRAVIS COUNTY, TEXAS;**
3 **AND APPROVING EXECUTION OF A WRITTEN SERVICES AGREEMENT**
4 **WITH THE OWNER.**

5
6 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

7
8 **PART 1.** The Council finds that:

- 9
10 (A) The landowner of the territory of approximately 11.9 acres at 10701 Dessau
11 Road, near the intersection of Dessau Road and Wandering Way, being more
12 particularly described in **Exhibit “A,”** has requested the territory to be annexed
13 by the City of Austin for full purposes.
14
15 (B) Notice of the public hearing concerning the voluntary annexation of the
16 territory, attached as **Exhibit “B,”** was published in a newspaper of general
17 circulation on May 2, 2023, in the City of Austin and in the area to be annexed,
18 and on the City of Austin website.
19
20 (C) The public hearing was held on May 18, 2023, at the Austin City Hall, 301
21 West 2nd Street, Austin, Texas, and via videoconference.
22
23 (D) The public hearing was concluded after providing an opportunity for all persons
24 present to be heard with respect to the proposed annexation.
25
26 (E) The annexation, for full purposes, of the territory described in **Exhibit “A”**
27 serves the interest of the current and future residents of the City of Austin.
28
29 (F) All procedural requirements imposed by state law for the full purpose
30 annexation of the territory described in **Exhibit “A”** have been met.
31

32 **PART 2.** The present boundary limits of the City of Austin are amended to include the
33 following territory, which is within the limited purpose jurisdiction and adjacent to the city
34 limits of the City of Austin in Travis County, Texas, and which is annexed into the City for
35 full purposes:

36
37 Approximately 11.9 acres of land located at 10701 Dessau Road in Travis County
38 near the intersection of Dessau Road and Wandering Way, this area being more
39 particularly described in **Exhibit “A”**.

PART 3. The City Council declares that its purpose is to annex to the City of Austin each part of the area described in **Exhibit “A”** as provided in this ordinance. If this ordinance is held invalid as to part of the area annexed to the City of Austin, the invalidity does not affect the effectiveness of this ordinance as to the remainder of the area.

If any area or lands included within the description of the area set out in **Exhibit “A”** are: (1) presently part of and included within the general limits of the City of Austin; (2) presently part of and included within the limits of any other city, town, or village; or (3) are not within the jurisdiction of the City of Austin to annex, then that area is excluded and excepted from the area annexed.

PART 4. The City Council authorizes the execution of the written services agreement with the owner for the territory attached as **Exhibit “C”**.

PART 5. This ordinance takes effect on _____, 2023.

PASSED AND APPROVED

_____, 2023

§
§
§

Kirk Watson
Mayor

APPROVED:

Anne L. Morgan
City Attorney

ATTEST:

Myrna Rios
City Clerk

EXHIBIT "A"

C7a-2022-0012

Area to be annexed.

(Approximately 11.909 acres of
land out of the James D. Rice
Survey No. 31, Abstract No. 675
in Travis County, Texas)
(Unplatted Land)

LEGAL DESCRIPTION

**LEGAL DESCRIPTION FOR A TRACT OF LAND
CONTAINING APPROXIMATELY 11.909 ACRES OF LAND
OUT OF THE JAMES D. RICE SURVEY NO. 31,
ABSTRACT NO. 675 IN TRAVIS COUNTY, TEXAS. SAID
APPROXIMATELY 11.909 ACRES BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:**

BEING all of that certain called 11.909 acre tract of land
conveyed to Frances D. Mertz and Nancy H. T. Mertz, Trustee of the
Golden Ember Trust dated July 5, 2012 by Correction Affidavit as
to General Warranty Deed recorded in Document No. 2022140821 of
the Official Public Records of Travis County, Texas.

"This document was prepared under 22 TAC 663.21, does not reflect
the results of an 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".

LEGAL DESCRIPTION: Mary P. Hawkins
03-09-2023

Mary P. Hawkins 3/9/23

APPROVED: Mary P. Hawkins, RPLS No. 4433
Quality Management Division
Department of Public Works
City of Austin

REFERENCES

Austin Grid M-30, M-31, N-30, N-31
TCAD ID 0243260526

LOCALiQ

Austin
American-Statesman

PO Box 631667 Cincinnati, OH 45263-1667

PROOF OF PUBLICATION

Austin Planning & Zoning Dept,
HPD Finance, Street Jones
City of Austin, Housing Department
Po Box 1088
Austin TX 78767-1088

STATE OF TEXAS, COUNTIES OF BASTROP, BELL, BLANCO,
BURNET, CALDWELL, COMAL, CORYELL, FAYETTE,
GILLESPIE, GUADALUPE, HAYS, KERR, LAMPASAS, LEE,
LLANO, MILAM, TRAVIS & WILLIAMSON

The Austin American Statesman, a newspaper that is generally
circulated in the counties of Bastrop, Bell, Blanco, Burnet,
Caldwell, Comal, Coryell, Fayette, Gillespie, Guadalupe, Hays,
Kerr, Lampasas, Lee, Llano, Milam, Travis and Williamson, State
of Texas, printed and published and personal knowledge of the
facts herein state and that the notice hereto annexed was
Published in said newspapers in the issues dated on:

ACO American Statesman 05/02/2023

and that the fees charged are legal.
Sworn to and subscribed before on 05/02/2023

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$528.00

Order No: 8759756

of Copies:

Customer No: 743197

1

PO #: Nicole Corona

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

NOTICE OF PUBLIC HEARING ON FULL PURPOSE ANNEXATION INTO AUSTIN

A public hearing will be held
by the City Council of Austin,
Texas, for the 10701 Dessau
Rd annexation area. At the
hearing, City Council will
hear and consider comments
on issues related to the full
purpose annexation of land
in Travis County.

Hearing date and location:
May 18, 2023, meeting
convenes at 10:00 AM at 301
W. 2nd St., Austin, TX 78701.
All speakers must register in
advance. Instructions for
speaker registration and
participation are available at
the Austin City Council Meet-
ing Information Center
website at
[https://www.austintexas.gov/
council](https://www.austintexas.gov/council).

Case C7a-2022-0012, 10701
Dessau Road annexation
area (approximately 11.9
acres), is in Travis County
near the intersection of
Dessau Road and Wandering
Way. Full purpose annexa-
tion into Austin's city limits
has been requested for this
property by its owner. The
area is currently in Austin
limited purpose jurisdiction
within City Council District 1
and is privately owned. The
proposed annexation is asso-
ciated with zoning case C14-
2022-0133 for high density
multi-family housing (MF-4).
The current use of the area
is low density single family
residential. Annexation of
this parcel is not expected to
affect the boundaries of
Austin's Extraterritorial
Jurisdiction.

Additional information
regarding this case is avail-
able on the City's website at
[https://www.austintexas.gov/
annexation](https://www.austintexas.gov/annexation). For further
information, contact Andrei
Lubomudrov at (512) 974-
7659.

05-02/2023

KATHLEEN ALLEN
Notary Public
State of Wisconsin

EXHIBIT "C"

10701 DESSAU RD ANNEXATION AREA **WRITTEN AGREEMENT** **REGARDING SERVICES**

THE STATE OF TEXAS

§

§

COUNTY OF TRAVIS

§

This **WRITTEN AGREEMENT REGARDING SERVICES** (the “**Agreement**”) is made and entered into by and among the **CITY OF AUSTIN, TEXAS**, a municipal corporation acting by and through its duly authorized City Manager (the “**City**”), and **Golden Ember Trust, Kimberly M Henze, Trustee**, as Owner of the Property located at approximately **10701 Dessau Road, Travis Central Appraisal District Property ID #442801**, including without limitation its successors, assigns, agents, and affiliated entities (“**Owner**”). By the signatures below, Owner warrants and represents that there are no other fee-simple owners of any portion of the Property and no other third parties holding a fee simple ownership interest therein.

RECITALS

- A. Owner owns approximately 11.9 acres of land located entirely in Travis County, Texas described in the attached Exhibit “A” (the “**Property**”).
- B. Owner requests to have the Property annexed into the City’s full-purpose jurisdiction; Owner agrees to voluntarily enter into this Agreement.
- C. This Agreement is entered into pursuant to Chapter 43 of the Texas Local Government Code to address Owner’s request and the City’s provision of services.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained in this Agreement, and other good and valuable consideration, the City and Owner agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Terms Defined in this Agreement. In this Agreement, each of the following terms shall have the meanings indicated:

“**City Code**” means the City Code of Austin, together with all its related administrative rules and technical criteria manuals.

“**City Council**” means the City Council of the City or any other successor governing body.

“Effective Date” means the effective date of annexation.

“Ordinances” shall mean the ordinances of the City.

“Term” and similar references mean that this Agreement shall be in effect for a period of time commencing on the Effective Date and until City services are available in accordance with this Agreement.

Section 1.02 Other Definitions. All capitalized terms used but not defined in this Agreement shall have the meaning given to them in the City Code.

ARTICLE II

APPLICABLE ORDINANCES

Section 2.01 Applicable Requirements. Subject to and except as provided in Section 43.002 and Chapter 245 of the Texas Local Government Code, after the Effective Date, all of the City’s laws, ordinances, manuals, and administrative rules, including but not limited to the Land Development Code, regarding land development, as amended from time to time, shall apply to subdivisions within the Property.

ARTICLE III

ANNEXATION

Section 3.01 Annexation.

- A. Owner and City agree that the Property will be annexed for full purposes pursuant to the terms of this Agreement. If the Property is annexed pursuant to the terms of this Agreement, the City shall provide services to the Property pursuant to Chapter 43 of the Texas Local Government Code. Property voluntarily annexed pursuant to this Agreement may require infrastructure improvements to facilitate development, including but not limited to streets and roads, street and road drainage, land drainage, and water, wastewater, and other utility systems. Owner hereby acknowledges the provision of infrastructure improvements necessitated by proposed future development shall be the sole responsibility of the Owner and may be subject to City Council approval to the extent required by applicable provisions of the City Code.
- B. After full purpose annexation, all City ordinances, regulations, and requirements applicable in the City’s full-purpose jurisdiction, including City taxation, shall apply to the Property.

ARTICLE IV

LIST OF SERVICES

Section 4.01 Services the City Will Provide On and After the Effective Date of Annexation and Pursuant to Chapter 43 of the Texas Local Government Code. All City Departments with jurisdiction in the area will provide services commencing on the Effective Date of annexation unless otherwise noted according to City policy and procedure.

- A. **Police Protection.** The Austin Police Department will provide protection and law enforcement services.
- B. **Fire Protection.** The Austin Fire Department will provide emergency and fire prevention services.
- C. **Emergency Medical Service.** The City of Austin/Travis County Emergency Medical Services Department will provide emergency medical services.
- D. **Solid Waste Collection.** Services will be provided pursuant to Chapter 43 of the Texas Local Government Code.
- E. **Operation and Maintenance of Water and Wastewater Facilities.** The City shall provide retail water service and wastewater service to areas that are not within the certificated service area of another utility. The facilities will be maintained and operated by Austin Water as governed by standard policies and procedures.
- F. **Operation and Maintenance of Roads and Streets, Including Street Lighting.** The Public Works Department will maintain public streets over which the City has jurisdiction. If necessary, the Transportation Department will also provide regulatory signage services. Street lighting will be maintained in accordance with the City of Austin ordinances, Austin Energy criteria, and state law.
- G. **Operation and Maintenance of Parks, Playgrounds, and Swimming Pools.** The Parks and Recreation Department, or successor department, will operate and maintain public parks, playgrounds, and swimming pools in accordance with the City Code and operating procedures.
- H. **Operation and Maintenance of any Other Publicly Owned Facility, Building, or Service.** Applicable City departments will operate and maintain other publicly owned facilities, buildings, and services in accordance with the City Code and operating procedures.
- I. **Watershed Protection.** The Watershed Protection Department, or successor department, will provide drainage planning and maintenance services in the annexation area.
- J. **Planning and Development Review.** The Housing and Planning Department and the Development Services Department (or successor departments) will provide comprehensive planning, land development, and building review and inspection

services in accordance with and as limited by applicable codes, laws, ordinances and special agreements.

- K. **Code Compliance.** In order to comply with City codes regarding land use regulations and the maintenance of structures, the Austin Code Department, or successor department, will provide education, cooperation, enforcement, and abatement relating to code violations.
- L. **Library.** Upon annexation residents may utilize all Austin Public Library facilities and services.
- M. **Public Health, Social, and Environmental Services.** Upon annexation the Austin/Travis County Health and Human Services Department will provide services.
- N. **Electric Utility Service.** Austin Energy will continue to provide electric utility service to all areas which the City is authorized to serve by the Public Utility Commission of Texas.
- O. **Clean Community Services.** Austin Resource Recovery will provide clean community services.
- P. **Capital Improvements Planning.** The annexation area will be included with other territory in connection with planning for new or expanded facilities, functions, and services

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Section 5.01 Representations and Warranties of Owner.

- A. **Organization and Good Standing.** Owner has full power and authority to conduct business as it is now being conducted, to own or use the properties and assets that it purports to own or use, and to perform all of its obligations under this Agreement.
- B. **Authority; No Conflict.** This Agreement constitutes a legal, valid, and binding obligation of Owner, enforceable against Owner in accordance with its terms. Owner has the absolute and unrestricted right, power, authority, and capacity to execute and deliver this Agreement and to perform its obligations under this Agreement.

Section 5.02 Representations and Warranties of the City.

- A. **Organization and Good Standing.** The City is a duly organized and validly existing municipal corporation in good standing under the laws of the State of Texas, with full power and authority to conduct its business as it is now being

conducted, to own or use the properties and assets that it purports to own or use, and to perform all its obligations under this Agreement.

- B. **Authority; No Conflict.** This Agreement constitutes a legal, valid, and binding obligation of the City, enforceable against the City in accordance with its terms. The City has the absolute and unrestricted right, power, authority, and capacity to execute and deliver this Agreement and to perform its obligations under this Agreement.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01 Amendments to Agreement. This Agreement may be amended only by a written agreement signed by the City and Owner.

Section 6.02 Agreement Binds Successors and Runs with the Land. This Agreement shall bind and inure to the benefit of the parties, their successors, and assigns. The terms of this Agreement shall constitute covenants running with the land comprising the Property and shall be binding on Owner.

Section 6.03 Severability. If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the parties that the remainder of this Agreement shall not be affected.

Section 6.04 Waiver. Any failure by a party to insist upon strict performance by the other party of any material provision of this Agreement shall not be deemed a waiver of such provision or of any other provision of this Agreement, and such party shall have the right at any time(s) thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

Section 6.05 Applicable Law and Venue. The construction and validity of this Agreement shall be governed by the laws of the State of Texas (without regard to conflicts of law principles). Venue for any dispute arising from or related to this Agreement shall be in Texas state district court and shall be in accordance with the Texas Civil Practice and Remedies Code.

Section 6.06 Reservation of Rights. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws.

Section 6.07 Counterparts. This Agreement may be executed in multiple counterparts which shall be construed together as a single original instrument as though all parties had signed one instrument, and, when executed, each counterpart shall be binding upon and inure to the benefit of each of the parties executing the instrument whether or not all other parties have executed same.

Section 6.08 Exhibits.

Exhibit "A" Description of the Property

[Signature and Acknowledgment Pages Follow]

EXECUTED in multiple counterparts, each of which shall constitute an original, to be effective as of the Effective Date.

CITY:

CITY OF AUSTIN,

A home rule city and Texas municipal corporation

By:

_____, Assistant City Manager

Date:_____

Acknowledgement

THE STATE OF TEXAS
COUNTY OF TRAVIS

THIS INSTRUMENT was acknowledged before me on the _____ day of _____, 2023, by _____, _____ of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

[SEAL]

Notary Public, State of Texas

APPROVED AS TO FORM:

City of Austin
Law Department

CHRISSY MANN, Assistant City Attorney

OWNER:

**Golden Ember Trust,
Kimberly M Henze, Trustee**

By: _____

Name: _____

Title: _____

Date: _____

Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Texas)

County of _____)

On _____, before me, _____, a Notary Public, personally appeared Kimberly M Henze, Trustee Golden Ember Trust, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

AFTER SIGNING, PLEASE RETURN TO:

Nicole Corona
City of Austin
Housing and Planning Department
PO Box 1088
Austin, TX 78767