

ORDINANCE # 2004-03

AN ORDINANCE OF THE CITY OF PENITAS, TEXAS ANNEXING ADJACENT AND CONTIGUOUS TERRITORY TO THE CITY; APPROVING A SERVICE PLAN FOR THE ANNEXED AREA; MAKING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City of Penitas, Texas is a General Law municipality authorized by State Law and Charter to annex territory lying adjacent and contiguous to the City; and

WHEREAS, the City Council heard and has decided to grant the request; and

WHEREAS, the owner of the property, as hereinafter described, made written request for the City to annex such property in compliance with § 43.021 of the Tex. Loc. Gov't. Code and the City Charter; and the appropriate Ordinance in accordance with § 43.063 of the Tex. Loc. Gov't. Code; and

WHEREAS, the property is adjacent to the present city limits; and

WHEREAS, two separate public hearings were conducted prior to consideration of this Ordinance; and

WHEREAS, the hearings were conducted and held not more than forty (40) nor less than 20 days from the date of initial action; and

WHEREAS, notice of the public hearings was published in a newspaper of general twenty (20) days prior to the institution of annexation proceedings; and circulation in the City and the territory proposed to be annexed not more than twenty (20) nor less than ten (10) days prior to the public hearings; and

WHEREAS, the City will require the owner of such property to complete certain public improvements; and

WHEREAS, the City intends to provide services to the property to be annexed according to (i) the Negotiated Municipal Service Plan (the "Service Plan") and (ii) the Development Agreement and Municipal Service Plan for the Bell Property Development (the "Development Agreement") attached hereto as Exhibits "B" and "C"; and improvements described in Exhibit D hereto;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PENITAS:

SECTION 1. All of the above premises and findings of fact are found to be true and correct and are incorporated into the body of this ordinance as if copied herein in their entirety.

SECTION 2. That the following described property (hereinafter referred to as the "Annexed Property") is hereby annexed into the corporate limits of the City of PENITAS:

All that certain tract, lot or parcel of land situated in Hidalgo County, Texas described in Exhibit "A" attached hereto and incorporated herein for all purposes (the "Annexed Property").

SECTION 3. That the Service Plan and the Development Agreement submitted herewith are hereby approved as part of this Ordinance, made a part hereof and attached hereto as Exhibits "B" and "C".

SECTION 4. That so long as the owner of the Annexed Property makes certain public improvements to the annexed property substantially within the time frames provided in Exhibit D hereto, the future owners and inhabitants of the Annexed Property shall be entitled to all of the rights and privileges of the City as set forth in the Service Plan and the Development Agreement, and are further bound by all acts, ordinances, and all other legal action now in full force and effect and all those which may be hereafter adopted.

SECTION 5. That the official map and boundaries of the City, heretofore adopted and amended be and hereby are amended so as to include the Annexed Property as part of the City of Penitas.

SECTION 6. That if any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 7. That the adoption of the Ordinance, and its application after the fact, is adopted in anticipation of the creation of a tax increment reinvestment zone over the area subject to annexation, and the adoption of a development reimbursement agreement for costs associated with the construction of public infrastructure in the reinvestment zone, and will be held invalid if either the reinvestment zone is not created, or the development reimbursement agreement is not approved for said infrastructure.

SECTION 7. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Tex. Gov't. Code.

PASSED AND APPROVED on first reading this the 23rd day of June 2004.

**PASSED AND APPROVED on second and final reading this the 30th
day of June 2004.**

CITY OF Peñitas: ATTEST



Servando Ramirez, Mayor



Dina Garcia, City Secretary