

**ORDINANCE NO. 2008- 15**

**An ordinance providing for the extension of certain boundary limits of the City of Victoria, Texas and the annexation of certain territory consisting of approximately 60.86 acres of land, at the request of Ball Airport Road Development, LLC, adopting a service plan for the territory to be annexed, repealing all conflicting ordinances, providing for severability, providing for publication, and providing an effective date.**

On November 5, 2008, Ball Airport Road Development, LLC, submitted a written petition requesting voluntary annexation of approximately 60.86 acres of land, in accordance with Tex. Local Gov't Code § 43.028. The City Council granted this petition for voluntary annexation on December 2, 2008, and the City Council re-affirms the original findings of the resolution granting annexation, which is attached hereto as the "**Petition**".

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

The City Council finds all legal prerequisites to this annexation have been made, re-affirms all findings described above, and affirms and grants the aforementioned petition for annexation, which is attached hereto as the "**Petition**" and incorporated herein.

2.

The territory depicted and/or described as 60.86 acres of land in **Exhibit "A"** of the "**Petition**" attached hereto and made a part hereof, consisting of approximately 60.86 acres of land, is hereby added and annexed to the City of Victoria, Texas, and said territory shall hereinafter be included within the boundary limits of such city, and the various boundary points contiguous to such territory are altered and amended so as to include such territory within the corporate limits of the City of Victoria, Texas. The City of Victoria believes that the aforementioned approximately 60.86 acres of land is adjacent to the City limit; however, if any part of said tract is not adjacent to the territorial boundaries of the City of Victoria, then the area between such tract and the territorial boundary of the City of Victoria that is owned by Ball Airport Road Development, LLC, shall be considered annexed into the territorial boundary of the City of Victoria.

3.

The territory so annexed shall be a part of the City of Victoria, Texas, the property so added hereby shall bear its pro rata part of the taxes levied by the City of Victoria, Texas, and the inhabitants thereof shall be entitled to all of the rights and privileges of all citizens and be bound by the acts, ordinances, resolutions and regulations of the City of Victoria, Texas.

4.

The service plan described in **Exhibit "B"** attached hereto and made a part hereof, is hereby adopted as the plan for the provision of municipal services to the newly annexed territory.

5.

All ordinances or parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

6.

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this 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.

7.

The City Secretary shall publish the caption or a descriptive title of this ordinance one time within 10 days after final passage of the ordinance in a newspaper of general circulation in the City of Victoria in accordance with Article II, §10 of the City Charter.

8.

The provisions of this ordinance shall become effective immediately upon final passage and approval by the City Council of the City of Victoria, Texas.

PASSED FIRST READING, this the 16<sup>th</sup> day of December, 2008.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

PASSED SECOND READING, this the 6TH day of JANUARY, 2009

AYES: 7

NAYS: 0

ABSTENTIONS: 0

PASSED THIRD READING, this the 6TH day of JANUARY, 2009

AYES: 7

NAYS: 0

ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 6TH day of JANUARY, 2009



*Will Armstrong*

WILL ARMSTRONG, Mayor of the  
City of Victoria, Texas

ATTEST:

*Scarlet Swoboda*  
SCARLET SWOBODA, City Secretary

APPROVED AS TO LEGAL FORM:

*Miles K. Risley*  
MILES K. RISLEY, City Attorney

Distribution: Legal  
Development Services Department

Sent: JANUARY 7, 2009

November 5, 2008

City of Victoria and City Council  
c/o Mr. Charles Windwehen  
P.O. Box 1758  
Victoria, TX 77902-1758

RE: Annexation Petition  
Tuscany Subdivision

Dear Mr. Windwehen and Council Members,

In accordance with Section 43.028 of the Texas Local Government Code, Ball Airport Road Development, LLC, the owner of a 143.0 acre tract of land, as described by metes and bounds in attached Exhibit A, hereby request formal annexation to the City of Victoria.

Said 60.86 acre tract meets all criteria established by Section 43.028:

- (A)(1) The property is less than one-half mile in width.
- (A)(2) The property is contiguous to the annexing municipality, i.e., the City of Victoria.
- (A)(3) The property is vacant and without residents.

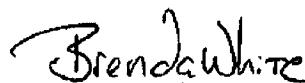
Sincerely,



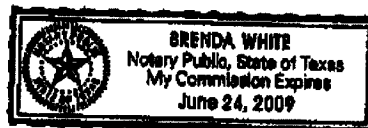
Ben Gonzales  
Member, Ball Airport Road Development, LLC

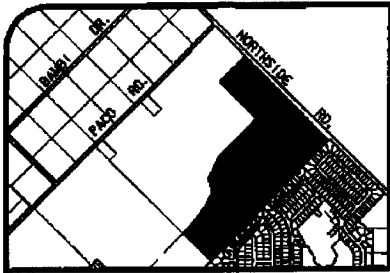
attachments

Subscribed before me, the undersigned authority on this the 5<sup>th</sup> day of November, 2008.



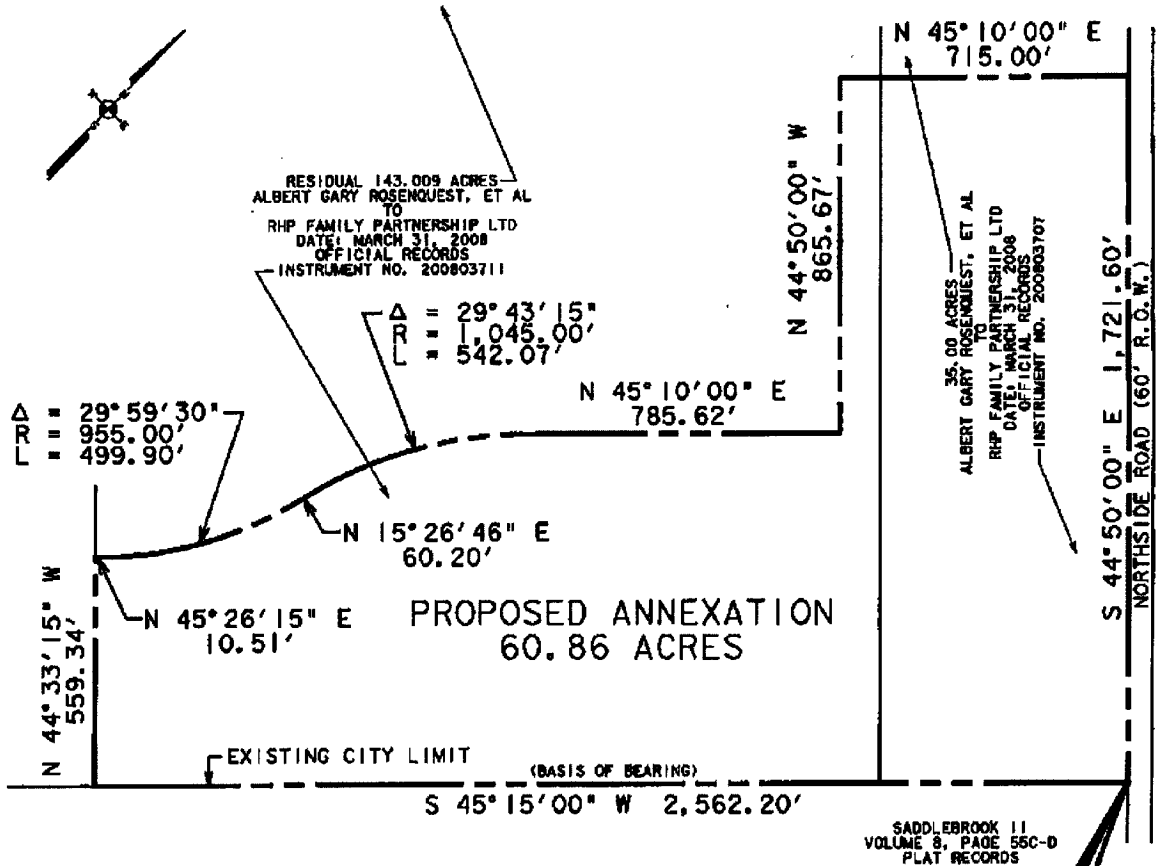
Notary Public in and for the State of Texas





LOCATION MAP

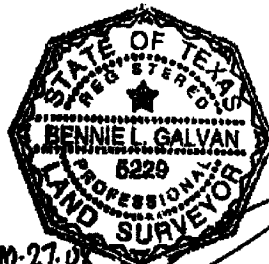
BEING A 60.86 ACRE TRACT OF LAND SITUATED IN THE S.A. & M.G.R.R. COMPANY SURVEY, ABSTRACT NO. 322, VICTORIA COUNTY, TEXAS, AND BEING A PORTION OF LOT ELEVEN (11) OF THE LEVI & COMPANY RANCH SUBDIVISION AS RECORDED IN VOLUME 1, PAGE 75 OF THE PLAT RECORDS OF VICTORIA COUNTY, TEXAS, SAID 60.86 ACRE TRACT ALSO BEING A PORTION OF A 35.00 ACRE TRACT OF LAND CONVEYED FROM ALBERT GARY ROSENQUEST, ET AL TO RHP FAMILY PARTNERSHIP LTD BY DEED DATED MARCH 31, 2008 AS RECORDED IN OFFICIAL RECORDS INSTRUMENT NO. 200803707 OF VICTORIA COUNTY, TEXAS, SAID 60.86 ACRE TRACT ALSO BEING A PORTION OF THE RESIDUAL 143.009 ACRE TRACT OF LAND CONVEYED FROM ALBERT GARY ROSENQUEST, ET AL TO RHP FAMILY PARTNERSHIP LTD BY DEED DATED MARCH 31, 2008 AS RECORDED IN OFFICIAL RECORDS INSTRUMENT NO. 200803711 OF VICTORIA COUNTY, TEXAS.



NOTE:

THE REFERENCED IS SUBJECT TO:

1. BASIS OF BEARING FROM THE SOUTHEAST LINE OF THE RESIDUAL 143.009 ACRE RHP FAMILY PARTNERSHIP LTD TRACT AS RECORDED IN OFFICIAL RECORDS INSTRUMENT NO. 200803711.
2. THESE FIELDNOTES WERE PREPARED UNDER 22 TAC 843.21, AND DO NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND ARE 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.
3. A LEGAL DESCRIPTION OF EVEN DATE HERewith ACCOMPANIES THIS SURVEY DRAWING.



SIGNED:

*Bennie L. Galvan*  
BENNIE L. GALVAN  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS No. 5229

FIELDNOTE POINT OF BEGINNING



**Civil Corp**  
ENGINEERS • SURVEYORS  
1801 E. WOODKIND BIRD, SUITE 406, VICTORIA, TEXAS 77904  
TEL: (361) 570-7800 FAX: (361) 570-7501

DRAWN BY: JLP  
JOB NO.: 0810461  
FLD. BK. NO.: NA

DATE: 10/24/08  
SCALE: 1" = 400'  
SHEET 1 OF 1

**THE STATE OF TEXAS}  
COUNTY OF VICTORIA}**

Being a 60.86 acre tract of land situated in the S. A. & M. G. RR. Company Survey, Abstract No. 322, Victoria County, Texas, and being a portion of Lot Eleven (11) of the A. Levi & Company Ranch Subdivision as recorded in Volume 1, Page 75 of the Plat Records of Victoria County, Texas, said 60.86 acre tract also being a portion of a 35.00 acre tract of land conveyed from Albert Gary Rosenquest, et al to RHP Family Partnership LTD by deed dated March 31, 2008 as recorded in Official Records Instrument No. 200803707 of Victoria County, Texas, said 60.86 acre tract also being a portion of the residual 143.009 acre tract of land conveyed from Albert Gary Rosenquest, et al to RHP Family Partnership LTD by deed dated March 31, 2008 as recorded in Official Records Instrument No. 200803711 of Victoria County, Texas, said 60.86 acre tract being more particularly described by metes and bounds as follows:

**BEGINNING** at a point for the East corner of the herein described tract, said point being the North corner of Saddlebrook II as recorded in Volume 8, Page 55C-D of the Plat Records of said county, said point also being in the southwest right-of-way line of Northside Road (60' R.O.W.) and in the existing city limit line;

**THENCE**, South 44°15'00" West, with the existing city limit line, the southeast line of the residual 143.009 acre RHP Family Partnership LTD tract, and the northwest line of Saddlebrook II, a distance of 2,562.20 feet to a point for the South corner of the herein described tract, said point also being the South corner of the residual 143.009 acre RHP Family Partnership LTD tract;

**THENCE**, North 44°33'15" West, with the southwest line of the residual 143.009 acre RHP Family Partnership LTD tract, a distance of 559.34 feet a point for the West corner of the herein described tract, said point also being in the proposed northwest right-of-way line of Ball Airport Road (90' R.O.W.);

**THENCE**, North 45°26'15" East, with the proposed northwest right-of-way line of Ball Airport Road and crossing the residual 143.009 acre RHP Family Partnership LTD tract, a distance of 10.51 feet to a point of curvature (PC) of a curve to the left;

**THENCE**, with the proposed northwest right-of-way line of Ball Airport Road and along said curve to the left with a central angle of 29°59'30", a radius of 955.00 feet, and an arc length of 499.90 feet to the point of tangency (PT);

**THENCE**, North 15°26'46" East, with the proposed northwest right-of-way line of Ball Airport Road and crossing the residual 143.009 acre RHP Family Partnership LTD tract, a distance of 60.20 feet to a PC for the beginning of a curve to the right;

**THENCE**, with the proposed northwest right-of-way line of Ball Airport Road along said curve to the right with a central angle of 29°43'15", a radius of 1,045.00 feet, and an arc length of 542.07 feet to the PT of said curve;

**THENCE**, North 45°10'00" East, with the proposed northwest right-of-way line of Ball Airport Road and crossing the residual 143.009 acre RHP Family Partnership LTD tract, a distance of 785.62 feet to a point for an interior corner of the herein described tract;

**THENCE**, North 44°50'00" West, crossing the residual 143.009 acre RHP Family Partnership LTD tract, a distance of 865.67 feet to a point for an exterior corner of the herein described tract;

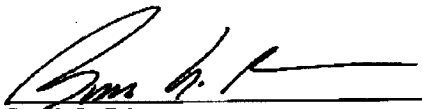
**THENCE**, North 45°10'00" East, crossing the residual 143.009 acre RHP Family Partnership LTD tract, a distance of 865.67 feet to a point for the North corner of the herein described tract, said point also being in the northeast line of the residual 143.009 RHP Family Partnership LTD tract and in the southwest right-of-way line of Northside Road;

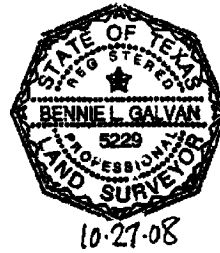
**THENCE**, South 44°50'00" East, with the northeast line of the residual 143.009 acre Rosenquest tract and the southwest right-of-way line of Northside Road, a distance of 1,721.60 feet to the **POINT OF BEGINNING**, CONTAINING within these metes and bounds 60.86 acres of land, more or less.

Basis of bearing from the southeast line of the residual 143.009 acre RHP Family Partnership LTD tract, as recorded in Official Records Instrument No. 200803711 of Victoria County, Texas.

These fieldnotes were prepared under 22 TAC 663.21, and do not reflect the results of an on the ground survey, and are 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.

A survey drawing of even date herewith accompanies this legal description.

  
Bennie L. Galvan  
Registered Professional Land Surveyor  
Texas No. 5229



## **TUSCANY SUBDIVISION, PHASE I ANNEXATION SERVICE PLAN**

### **INTRODUCTION**

This Service Plan ("plan") is made by the City of Victoria, Texas ("City") pursuant to Section 43.056 of the Texas Local Government Code. The plan addresses how the City will furnish municipal services to the area being annexed.

Services under this plan shall equal the number of services and the level of services that are available in other areas of the City. This plan will not provide any fewer services nor a lower level of services in the area to be annexed than were in existence in this area immediately prior to annexation. However, it is not the intent of this plan to require that uniform level of services be provided to all areas of the City where differing characteristics of topography, land utilization and population density are considered as a sufficient basis for providing differing service levels.

### **STATUTORY SERVICES**

The City is obligated by state statute to provide the following services to the annexed areas within sixty (60) days immediately after the effective date of annexation:

#### Police Protection

Police protection will be provided by the City of Victoria Police Department within 60 days of the annexation in accordance with standard policies and procedures.

#### Fire Protection

Fire protection will continue to be provided by the City of Victoria Fire Department. Staffing and equipment will be deployed based on the nature of the incident in accordance with standard policies and procedures.

#### Solid Waste Collection

Residential solid waste collections will be provided by the City of Victoria Solid Waste Department within 60 days of the annexation in accordance with applicable policies and ordinances. The City does not provide commercial solid waste service.

#### Maintenance of Water and Wastewater Facilities

Areas outside the existing city limits which already receive water and/or sanitary sewer services from the City of Victoria will continue to receive such services. All water and sanitary sewer service facilities will be operated, maintained, monitored and inspected in accordance with standard policies and procedures.

#### Maintenance of Roads and Streets

Within 60 days of the annexation, the City of Victoria Street Department will begin maintaining existing public roads and streets and related lighting and drainage infrastructure over which the City will have jurisdiction in accordance with standard City maintenance procedures. Emergency road repairs will begin on the effective date of annexation.

#### Maintenance of Park Facilities

There are no existing public park facilities within the annexation area.

#### Other Publicly Owned Facilities, Buildings or Services

There are no existing public buildings or facilities within the annexation area.

## **CAPITAL IMPROVEMENTS**

Since this area is being annexed by petition of the property owner, state statutes requiring the City to acquire or substantially complete construction of any additional capital improvements within two and one half (2½) years after the effective date of annexation are not applicable. The developer will provide the additional required levels of service in the annexed area as it is developed. The following general needs have been identified and will be further refined by the developer and the City through the subdivision development process.

### Police Protection

No capital improvements related to Police Department facilities are needed for the City to provide police protection services to the annexation area.

### Fire Protection

The City can provide fire protection services in the annexation area without any immediate capital improvements related to Fire Department facilities.

### Solid Waste Collection

No capital improvements are necessary for the City to provide residential solid waste collection services in the annexation area. The City does not provide commercial solid waste services.

### Water and Wastewater Facilities

The developer or property owner will provide water and sanitary sewer service to the annexed area in accordance with applicable city codes and ordinances.

### Roads and Streets

All proposed local streets necessary to serve the development will be constructed at the developer's expense in accordance with applicable city codes and ordinances.

### Maintenance of Park Facilities

There are no proposed public park facilities within the annexation area.

### Other Publicly Owned Facilities, Buildings or Services

There are no proposed public buildings or facilities within the annexation area.

### **Election Precincts and Districts**

The addition of annexed area to the appropriate City Councilmember Districts and Election Precinct(s) will be coordinated with the Elections Administrator.

### **Effective Term**

This plan shall be in effect for the term of ten (10) years commencing on the effective date of the annexation ordinance. Renewal of the service plan is at the discretion of the City.

ORDINANCE NO. 2008-15

An ordinance providing for the extension of certain boundary limits of the City of Victoria, Texas and the annexation of certain territory consisting of approximately 0.86 acres of land, at the request of Ball Airport Road Development, LLC, adopting a service plan for the territory to be annexed, repealing all conflicting ordinances, providing for the enforcement of the ordinance, providing an effective date of 01/09/09.

The State of Texas,  
County of Victoria

Before me, the undersigned authority, on this day personally appeared, Sandra Rodriguez who being by me duly sworn, states on oath that she is the Classified Bookkeeper of the Victoria Advocate, a newspaper published in Victoria, Victoria County, Texas and generally circulated in Bee, Calhoun, Colorado, Dewitt, Fayette, Goliad, Gonzales, Jackson, Karnes, Lavaca, Matagorda, Refugio, Wharton & Victoria Counties, that the attached printed notice in the case CITY OF VICTORIA

LEGAL#2009010

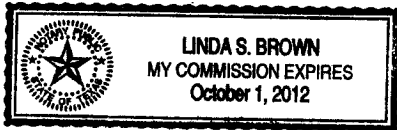
was published in the Victoria Advocate on the following dates:

JANUARY 9, 2009

*Sandra Rodriguez*

SANDRA RODRIGUEZ  
CLASSIFIED BOOKKEEPER

Sworn to and subscribed before me 13TH day of JANUARY, 2009



*Linda S. Brown*  
Notary Public in and for Victoria County, Texas



U.S. Department of Justice  
Civil Rights Division

2008-15  
RECEIVED  
02-17-09 ddc  
LEGAL DEPT

CC:MSR:AK:par  
DJ 166-012-3  
2009-0108

Voting Section - NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

February 12, 2009

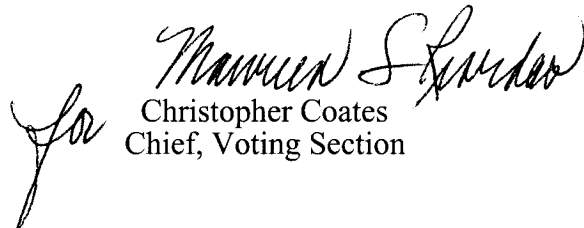
Miles K. Risley, Esq.  
City Attorney  
P.O. Box 1758  
Victoria, Texas 77902-1758

Dear Mr. Risley:

This refers to the annexation (Ordinance No. 2008-15) to the City of Victoria in Victoria County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on January 15, 2009.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Sincerely,

  
Christopher Coates  
Chief, Voting Section