

City of San Antonio
DRAFT Service Agreement for the
Falcon International Bank Voluntary Annexation

INTRODUCTION

The City of San Antonio, Texas, Texas municipal corporation in Bexar County, Texas (hereinafter, referred to as “City”) and the current property owner, Falcon International Bank (hereinafter, referred to as “Owner”) are entering into this Service Agreement (“Agreement”) pursuant to Section 43.067 of the Texas Local Government Code (the City and Owner, collectively, hereinafter referred to as “Parties” or in the singular as “Party”). This Agreement relates to the annexation by the City of an area consisting of approximately 11.48 acres located in West/Southwest Bexar County. The Owner has requested annexation of the 11.48 acres by the City and proposes to develop the property for multi-family use, with approximately 310 units. In consideration of the mutual promises, covenants, obligations, and benefits contained in this Agreement, the City and Owner hereby agree as follows:

ARTICLE 1. SCHEDULE AND EFFECTIVE TERM

This Agreement will be in effect for a ten-year period commencing on the effective date of the annexation unless otherwise stated in this Agreement. Renewal of the Agreement shall be at the option of the City. Such option may be exercised by the adoption of an ordinance of the City Council which refers to this agreement and specifically renews this agreement for a stated period of time. The Owners may request an extension of the agreement. The Owner and/or any of the then current property owners may request an extension of the Agreement at any time, as provided herein and in accordance with the Texas Local Government Code. The Agreement may be extended upon the mutual written consent of the City and the owner or the then current property owner(s).

ARTICLE 2. INTENT

It is the intent of the Parties that the City will provide full municipal services as required and defined by the Texas Local Government Code. Except as otherwise provided herein, and as provided by the Texas Local Government Code, the City reserves the right to amend this Agreement upon a 30-day prior written notice to the then current property owner(s) affected by such amendment. If the City Council determines that changed conditions or subsequent occurrence or any other legally sufficient circumstances exist under the Local Government Code, or other Texas laws to make this Agreement unworkable or obsolete or unlawful.

ARTICLE 3. SERVICE AGREEMENT

In general this Agreement includes three service components: *(1) Annexation Service Requirements, (2) Additional Services and (3) a Capital Improvement Program.* As used in this Agreement, providing services includes having services provided by any method or means by which the City extends full municipal services to any other area of the City. This may include causing or allowing private utilities, governmental entities and other public and private non-profit

service organizations to provide such services by contract in whole or in part. It may also include separate agreements with associations or similar entities. Services are provided and fees are assessed in accordance with City of San Antonio Municipal Code, as may be amended. Notwithstanding any provision herein to the contrary, municipal services will be provided to the requirement of the Texas Local Government Code Chapter 43.056(g).

1. Annexation Service Requirements – The following services shall be provided in the Annexation Area commencing on the effective date of the annexation for full purposes, unless otherwise noted.

A. Police Protection – The San Antonio Police Department (SAPD) will provide protection and law enforcement services in the newly annexed area upon the effective date of annexation pursuant to the requirement of the Texas Local Government Code Chapter 43.056(g). These services include:

- Routine patrols and responses;
- Handling of complaints and incident reports;
- Special units, such as traffic enforcement, criminal investigations, covert operations, K-9 Unit, Family Assistance Crisis Teams, Bomb Squad, and Special Weapons and Tactics Team (SWAT); and
- Any other services or programs provided to the citizens of San Antonio at the time of annexation.

The newly annexed area will become part of an existing patrol district based upon factors such as the size of the area, population, and the expected number of calls for service. These factors will also determine the need for hiring additional patrol officers to ensure all patrol districts are adequately staffed 24 hours a day, seven days a week, and to maintain an average pursuant to the requirement of the Texas Local Government Code Chapter 43.056(g). SAPD San Antonio Fear Free Environment Unit (SAFFE) officers will be available to meet as requested to discuss police issues.

The City currently has six Police Substations. Each Substation is responsible for a Patrol "Service Area," under the command of a Captain. These Service Areas are divided into Patrol Sections. The Patrol Sections, with supervisory responsibilities assigned to Sergeants, are divided into "Patrol Districts." The "Patrol Districts" are geographically defined areas established for several reasons, including but not limited to:

- Serving as a manpower distribution tool based on call volume, population, area size, and geographic variables;
- Providing a means of establishing primary responsibility to individual officers, during their tour of duty, for various activities within a specific geographic area; and
- Providing an efficient and effective means of assigning, identifying, and locating officers, within a generalized area, using currently available technology.

The Annexation Area will be served by the West Patrol District, located at 7000 Culebra Road, San Antonio TX, 78238. There is no specific number of officers that can be assigned to a patrol district. Patrol districts are staffed with at least one officer, 24 hours a day, 7 days a week. Many times multiple officers are assigned to single districts.

Police services are initiated by on-sight officer activity, citizen requests, and any other means available. The most common means by which officers receive their assignments is through direct

supervisory command and radio/computer transmissions by police dispatchers.

B. Fire Protection and Emergency Medical Service (EMS) – The San Antonio Fire Department (SAFD) will provide fire protection services and EMS service as provided by the requirements of Texas Local Government Code Chapter 43.056(g). Service will be provided through the use of fire engines, ladder trucks, full-time and peak period EMS ambulances, Medical Officers and Chief Officers. SAFD will be providing fire protection and EMS from Fire Station #45 located at 3415 Rogers Rd, San Antonio, TX 78251.

C. Solid Waste Collection Services – Solid Waste Services are provided and fees are assessed in accordance with Chapter 14 of the City Municipal Code, as may be amended. Fees for services are assessed monthly on CPS Energy Utility bills.

Commercial Solid Waste Services – The City’s Commercial collection for garbage are available on a case by case basis for qualifying businesses in a manner similar to residential services. Bulky item, brush and bagged leaf collections are not provided to businesses. If City-provided commercial service is not desired, businesses may utilize private service providers.

D. Operation and Maintenance of Water and Wastewater Facilities – San Antonio Water System (SAWS) will maintain and operate the public water and wastewater facilities that are within its certified service area. Routine standard maintenance of the facilities is performed on a scheduled basis. Emergency maintenance and repairs receive immediate attention, and are available 24 hours a day, 7 days a week. The facilities will be maintained and operated in accordance with standard SAWS policies and procedures, and under the provisions of the SAWS Utility Service Regulations for the extension of facilities.

SAWS Monthly Rates – The SAWS rate structure is designed to provide balance between residential and business rates and to encourage conservation with rates that increase at higher levels of consumption. SAWS customers, after annexation, will pay the lower Inside City Limit rate as opposed to the Outside City Limit rate.

SAWS Water Conservation Programs and Rebates – SAWS water conservation education programs and rebates are available to SAWS customers. With commercial customers accounting for 6.0% of the customer base and 35.1% of SAWS' annual water sales, there is great potential for water savings through commercial conservation programs. Commercial customers also have access to water conservation education and incentives. There are programs to make irrigation systems more efficient and customer rebates for big projects that address operational efficiencies. Detailed information on these and other programs can be found on the SAWS website at www.saws.org.

Water service and wastewater service will be provided to the Annexation Area. Notwithstanding any provision herein to the contrary, this Agreement will not terminate, reduce, or otherwise affect any approved Equivalent Dwelling Units (“EDUs”) allocated to the Annexation Area or any Utility Service Agreement (“USA”) applicable to the Annexation Area.

E. Operation and Maintenance of Roads and Streets, including Street Lighting – The Transportation and Capital Improvements Department (TCI) is responsible for the maintenance and repair of streets, bridges, alleys and related infrastructure within the City’s jurisdiction. Curbs, sidewalks, driveway approaches, curb ramps, and other street infrastructures are

constructed in accordance with the City and the Americans with Disability Act (ADA) standards. Service requests or community concerns for TCI's response, such as pothole and base and pavement repairs are initiated through the City's 311 call center or online services. These services include:

- Emergency Pavement Repair
- Street Base and Pavement Repair
- Preventative Street Maintenance
- Guard Post and Guard Rail Maintenance
- De-icing and Snow Removal Services
- Neighborhood Access and Mobility Program (NAMP)
- Emergency Street Closure Services
- Street Re-striping and Marking Services

Infrastructure Management Program (IMP) is a five-year rolling program which focuses on the maintenance of City infrastructure. Service needs are identified city-wide and are scheduled for street maintenance, alley maintenance, drainage maintenance, sidewalks, traffic signals, pavement marking and Advance Transportation District (ATD) projects. The IMP provides the City a structured program schedule, potential for additional multiple year contract awards and improved utility coordination. During the budget process for each City fiscal year, the IMP is presented to City Council for approval. Amendments may occur throughout the year due to coordination with utilities or unforeseen conditions, such as inclement weather. The goal of the IMP is to provide the best possible maintenance for the City.

Transportation Systems Management & Operations If necessary TCI will provide regulatory signage services. Traffic signal, stop and all other regulatory studies are conducted in conjunction with growth of traffic volumes. Traffic signs, signals, and markings are installed in conformance with the Texas Manual on Uniform Traffic Control Devices. Faded, vandalized, or missing signs are replaced as needed. "Call back" service is provided 24 hours a day, 365 days a year for emergency repair of critical regulatory signs. Requests for signage should be called into the City's 311 Call Center.

Storm Water Utility – The Storm Water Utility is housed within the TCI Department. The Storm Water Utility is responsible for drainage services as well as the installation, operation, and maintenance of drainage infrastructure throughout San Antonio, including the Annexation Area.

The Storm Water Utility Fee is intended to cover capital and maintenance expenses associated with drainage projects and fund operational services related to the Municipal Separate Storm Sewer System (MS4) Permit as required by Federal regulations. More information about the storm water rate plan is available at <http://www.sanantonio.gov/TCI/Projects/Storm-Water-Fee>

The storm water utility fee is billed by SAWS on behalf of the City. Services are currently provided by the SAWS, in accordance with the SAWS's approved business plan and as limited by applicable codes, laws, ordinances and special agreements. Storm Water Fees will be assessed for the subject property.

Street lighting – The planning of public street lights is coordinated by the City's Development Services Department (DSD). CPS Energy will maintain public street lighting in accordance with Sec. 43.056(b) (6) of the Texas Local Government Code and the City's policies. The City assumes the cost of electricity for public street lights.

F. Operation and Maintenance of Parks, Playgrounds and Swimming Pools – Maintenance responsibilities for municipally owned parks in annexed area are the responsibility of the City. Any proposed or existing privately owned parks, playgrounds, swimming pools, recreational facilities and common spaces in the Annexation Area are the responsibility of the property owner(s).

G. Operation and Maintenance of Any Other Publicly Owned Facility, Building, or Service – Should the City acquire any other facilities, buildings, or services necessary for municipal services for the subject property, an appropriate City department will provide maintenance services for them.

2. Additional Services – Certain services, in addition to the above services, will be provided within the Annexation Area. They are as follows:

A. Code Compliance – The Code Compliance Division of DSD enforces City codes and regulations to protect the health, safety and general welfare of the community. Current enforcement is provided to the following and is not limited to:

- Vacant dangerous premises and structures,
- Junked vehicles,
- Weeded vacant lots,
- Zoning (Unified Development Code),
- Property maintenance,
- Minimum housing, including unsanitary premises,
- Front yard parking,
- Alley and right-of-way violations,
- Monthly inspections of salvage/junk yards,
- Monitoring and enforcing materials received at salvage/junk yards, and
- Enforcement of garage sale permits
- The Code and ordinances enforced by DSD are subject to changes by the City Council

B. Zoning – The Owner will initiate the zoning process for a permanent zoning classification of “MF-33” (Multi-family Residential Zoning District). The Zoning Commission will conduct at least one public hearing and make a recommendation to the City Council regarding the proposed zoning. The City Council will consider the proposed zoning district concurrently with the annexation of the area at a public hearing. Zoning will be effective upon the effective date of annexation. New Development must comply with all requirements of the Unified Development Code.

C. Building and Other Permits – Incomplete construction must obtain building permits from DSD in accordance with City codes. Incomplete construction implies that final inspections have not been conducted and approved. Any required permits, including, but not limited to, building, trade, and sign permits may be applied for at the Cliff Morton Development and Business Services Center located at 1901 South Alamo Street, San Antonio, TX. In addition, as part of the permitting process, applicant will be required to adhere to the City’s Tree and Landscape requirements. A one-stop development service counter has been created to assist the public with

any development questions that relate to building, planning and TCI issues.

D. Certificate of Occupancy – New and existing businesses must obtain a Certificate of Occupancy and related inspections required by City code from DSD and the San Antonio Metropolitan Health District, and/or City Tax Office. In accordance with the adopted Building Code, no person may occupy a building or a space without first obtaining a Certificate of Occupancy. Certificates of Occupancy may be applied for at the Cliff Morton Development and Business Services Center located at 1901 South Alamo Street, San Antonio, TX.

E. Library Services – The nearest library to the Annexation Area is the Great Northwest Library branch located at 9050 Wellwood Street, San Antonio, TX 78250.

The San Antonio Public Library locations provide the following services:

- Library materials for adults, young adults and children including books, periodicals, compact disks, DVD, videos, audio books, and electronic books;
- Programming for adults, young adults and children such as regularly scheduled story time;
- Book discussion groups and other topics of interest to the community; and
- Access to the website, databases and other computer programs, is available seven days a week through the web address www.mysapl.org/digital.

Professional staff is available to assist library customers with reference and reader's advisory questions and public meeting room space are available. More information is available at the San Antonio Public Library Website: www.mysapl.org.

F. Health Department Services – The San Antonio Metropolitan Health District (SAMHD) currently provides certain public health services, including dental screening and treatment, communicable disease control, emergency preparedness and response, and health education to persons residing in the Annexation Area through an interlocal agreement with Bexar County-University Health Systems. Upon full purpose annexation the following additional services will become available:

- Investigation of public health related complaints including food borne illness, recreational water quality, and public swimming pools and spas, and investigation of toxic exposures;
- Permitting and routine sanitation inspections of food establishments, schools, day cares, swimming pools and mobile living parks;
- Enforcement of the City's smoking ordinance in public places;
- Investigation of reported elevated Blood Lead Levels (BLL) in children;
- Access to community health clinics; and
- Medical Assistance Program benefits

SAMHD will provide additional services for oversight of day care centers, semi-public swimming pools, air quality permits and livestock issues.

G. Animal Care Services – The subject area will receive the same level of service as within the current San Antonio City Limits. These services include, but may not be limited to, animal enforcement and control, educational and public outreach, low cost animal related resources such as microchips and spay/neuter services, and community cat program services.

H. Other Services – City Departments with jurisdiction in the subject area will provide services according to City policy and procedures.

3. Capital Improvements Program – The City will initiate the construction of capital improvements as may be necessary for providing municipal services. The timing for the construction of capital projects that may be necessary for the delivery of municipal services will be done in accordance with the requirements of Subchapter C of Chapter 43, Local Government Code.

Each component of the Capital Improvement Program is subject to the City providing the related service directly. In the event that the related service is provided through a contract service provider, the capital improvement may not be constructed or acquired by the City but may be provided by the contract provider. The City may also lease buildings in lieu of construction of any necessary buildings.

A. Police Protection – No capital improvements are necessary at this time to provide police services.

B. Fire Protection – No capital improvements are necessary to provide fire services.

C. Emergency Medical Service – No capital improvements are necessary at this time to provide EMS services.

D. Solid Waste Collection – No capital improvements are necessary at this time to provide solid waste collection services.

E. Roads and Streets – No newly constructed road or street related capital improvements are necessary at this time to provide services. The City will assume maintenance responsibilities for all public streets.

F. Parks, Playgrounds and Swimming Pools – No capital improvements are necessary at this time to provide parks and recreation services.

G. Library Services – No capital improvements are necessary at this time.

H. Capital Improvements Planning – The Annexation Area will be included with other territory within the municipality in connection with planning for new or expanded facilities and/or services. All other capital improvements will be considered through the 6-Year Capital Budget that represents the City's long-range physical infrastructure development and improve plan. Major funding sources are General Obligation Bonds, Certificates of Obligation, Storm Water Revenue Bonds, and Community Development Block Grants as applicable. Capital projects are placed in inventory by the City Council representative through input from community and neighborhood associations, other public processes, and comprehensive planning processes.

ARTICLE 4. BILLING AND PAYMENT

Billing and payment for each of the services described in this Agreement shall be made in accordance with the correct normal course of business of the City and as described elsewhere in this Agreement.

ARTICLE 5. AMENDMENT: GOVERNING LAW

This Agreement may not be amended or repealed except as provided herein and as provided by the Texas Local Government Code or other controlling law. Neither changes in the methods or means of implementing any part of the service programs nor changes in the responsibilities of the various departments of the City will constitute amendments to this Agreement, and the City

reserves the right to make such changes. This Agreement is subject to and will be interpreted in accordance with the Constitution and laws of the United States of America and the State of Texas, the Texas Local Government Code, and the orders, rules and regulations of governmental bodies and officers having jurisdiction.

ARTICLE 6. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the charter, code, or ordinances of City, then and in that event it is the intent of Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein. It is also the intent of Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

ARTICLE 7. RECORDATION

This Agreement, and the corresponding City annexation ordinance for the Annexation Area (attached hereto as **Exhibit** “_____”), shall be recorded in the Real Property Records of Bexar County, Texas, as a covenant to title of the parcels more specifically described in **Exhibit** “_____” attached hereto. Such exhibits are incorporated herein for all purposes.

ARTICLE 8. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three(3) days after depositing same in the U.S. mail, first class, with proper postage, prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designated in writing:

City:

City of San Antonio, Texas

Email: _____

Owner: Falcon International Bank, Inc.

Email: _____

Applicant: Pedcor Investments, LLC

Email: _____

Each Party may change its address by written notice in accordance with this Article. Any communication so delivered in person will be deemed received when receipted for by or actually received by an officer of the Party to whom the communication is properly addressed.

ARTICLE 9. PARTIES' REPRESENTATIONS

This Agreement has been jointly negotiated by City and Owner and will not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

ARTICLE 10. COUNTERPARTS

This Agreement may be executed in counterparts. Each of the counterparts will be deemed an original instrument, but all of the counterparts will constitute one and the same instrument. This Agreement may be executed in any number of counterparts and by different Parties in separate counterparts, each of which when so executed and delivered, will be deemed an original, and all of which, when taken together, will constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by electronic mail will be as effective as delivery of a manually executed counterpart of this Agreement, except that any Party delivering an executed counterpart of this Agreement by electronic mail also must deliver a manually executed counterpart of this Agreement.

ARTICLE 11. CAPTIONS

All captions used herein are only for the convenience of reference and will not be construed to have any effect or meaning as to the Agreement between Parties hereto.

ARTICLE 12. NON-WAIVER

No course of dealing on the part of City or Owner nor any failure or delay by City or Owner in

exercising any right, power, or privilege under this Agreement will operate as a waiver of any right, power or privilege owing under this Agreement.

ARTICLE 13. LEGAL AUTHORITY

The person executing this Agreement on behalf of City and Owner, represent, warrant, assure and guarantee that they have full legal authority to (i) execute this Agreement on behalf of City and/or Owner, respectively, and (ii) to bind City and/or Owner to all of the terms, conditions, provisions, and obligations herein contained.

ARTICLE 14. VENUE

Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement will be heard and determined in Bexar County, Texas.

ARTICLE 15. FORCE MAJEURE

In case of an emergency, such as Force Majeure as that term is defined in this Agreement, in which the City is forced to temporarily divert its personnel and resources away from the Annexation Area for humanitarian purposes or protection of the general public, the City obligates itself to take all reasonable measures to restore services to the Annexation Area of the level described in this Agreement as soon as possible. Force Majeure will include, but not be limited to, acts of God, acts of the public enemy, war, blockages, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrest and restraint of government, explosions, collisions and other inability of the City, whether similar to those enumerated or otherwise, which is not within the control of the City. Unavailability or shortage of funds will not constitute Force Majeure for purposes of this Agreement.

ARTICLE 16. SUMMARY OF THE WATER AND WASTE WATER UTILITY SERVICE REGULATIONS

The following information is a summary of the SAWS Utility Service Regulations for the extension of water and/or waste water facilities as incorporated by reference in the latest version of the Unified Development Code, in conformance with the Texas Local Government Code requirement that the Agreement have a summary of the service extension policy.

Water and waste water service is only provided to lots that have been properly subdivided and platted or are a legal lot. For property that is required by subdivision regulations to construct water or waste water facilities connecting to the SAWS system, funding and construction of those facilities will remain the responsibility of the developer. If the specific undeveloped property does not have SAWS water or wastewater service fronting the property, the owner may make an application for an extension of service to SAWS Director of Infrastructure Development Department for review. If the Director determines that adequate capacity is available, or will be

and if the project does not include SAWS cost participation or reimbursement, and if the proposed facilities are a logical extension of SAWS water and/or wastewater system and the requested extension meets the requirements of SAWS Utility Service Regulations, the extension size, capacity, and routing may be approved by the Director. Funding and construction of the facilities will be the responsibility of the developer.

Depending on the size of the new facilities and other conditions, with SAWS Board of Trustees approval, SAWS may reimburse the developer for a portion of the cost of constructing certain facilities. With Board approval, SAWS may reimburse costs associated with the oversize capacity of water and wastewater mains. The actual calculation of the cost participation and reimbursement amounts, including limits and the schedules for the payments, are included in SAWS Utility Service Regulations as incorporated by reference in the UDC.

For lots that have water or wastewater lines in the street fronting the lot, the owner may receive water or wastewater service by applying for a tap permit and paying any required fees. The new customers will be required to pay the impact fees and all connection fees. If the property does not have an existing water and/or sewer service line, the customer will need to hire a contractor to install any mains and service lines between the property and the available SAWS main.

For property(s) served by a septic system, the property owner(s) remains responsible for the operation and maintenance of the septic system. If the septic system fails, the property owner must repair the system or pay to extend SAWS wastewater facilities to the property, if available. Under certain circumstances the City Health Department and/or applicable regulatory agency for septic tanks may require the property owner to connect to SAWS public waste water facilities.

This policy is set by the City Council and can be amended in the future by ordinance.

THEREFORE, IN WITNESS WHEREOF, the Parties have executed this Service Agreement this _____ day of _____, 2018.

CITY OF SAN ANTONIO

BY: _____

Name: _____

Title: _____

**REPRESENTATIVES OF THE
Falcon International Bank**

State of Texas §

§

County of Bexar §

This instrument was acknowledge before me on this ____ day of _____, 2018 by _____, with a title of _____ for the City of San Antonio, Texas municipal Corporation, on behalf of said corporation.

Date: _____

Notary Public, State of Texas

My Commission expires:_____

DRAFT