

FIRST READING 5/31/11
SECOND READING 6-7-11
INDEX NO. _____

ORDINANCE NO. 12514

AN ORDINANCE AMENDING ORDINANCE NO. 12313 EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO CHANGE THE EFFECTIVE DATE OF ANNEXATION OF CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY, TO INCLUDE CERTAIN PARCELS, KNOWN AS AREA 6B, ADJACENT TO THE WESTERN RIGHT-OF-WAY OF HIGHWAY 58 AND ADJACENT TO THE RIGHT-OF-WAY FOR HICKORY VALLEY ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP.

WHEREAS, the City Council previously passed an annexation Ordinance No. 12313 extending the corporate limits of the City of Chattanooga to annex certain territory contiguous to the corporate limits of the City, to include certain parcels, known as Area 6B, adjacent to the western right-of-way of Highway 58 and adjacent to the right-of-way for Hickory Valley Road, within the Urban Growth Boundary of the City of Chattanooga in Hamilton County, Tennessee, which is shown by the attached ordinance and map; and

WHEREAS, the Plan of Services which was attached to Ordinance No. 12313 was submitted to the Chattanooga-Hamilton County Regional Planning Commission on August 27, 2009, and a written report was prepared and approved unanimously by the Chattanooga-Hamilton County Regional Planning Commission on September 14, 2009, as required by Tennessee law; and

WHEREAS, after approval and passage of Ordinance No. 12313, the City of Chattanooga was sued in a *quo warranto* action by certain residents of Area 6B in 2009 and following lengthy litigation of this matter all parties have agreed to compromise and dismiss this

12514

6/7/11

action if the City of Chattanooga agrees to amend the effective date of this annexation ordinance until December 31, 2012 and the named plaintiffs in this litigation agree to pay municipal taxes for services provided by the City of Chattanooga in tax year 2013 for municipal services of the City set forth in Ordinance No. 12313 which shall begin on December 31, 2012; and

WHEREAS, this amendment to the effective date of Ordinance No. 12313 and the revised date for services by the City under its plan of services adopted by Ordinance No. 12313 is determined to be in the best interests of the city and the annexation of the hereinafter described territory is deemed necessary for the health, welfare and safety of the residents and property owners thereof, as well as of the City of Chattanooga as a whole;

NOW, THEREFORE,

Section 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That under the authority conferred by Chapter 113, Public Acts of 1955, and the amendments thereto (T.C.A. § 6-51-101, et seq.), that Ordinance No. 12313 be and hereby is amended to annex to the City of Chattanooga, Tennessee, certain property known as Area 6B, adjacent to the western right-of-way of Highway 58 and adjacent to the right-of-way of Hickory Valley Road, within the Urban Growth Boundary of the City of Chattanooga, which is more fully described as follows with an effective date of annexation to be on December 31, 2012 by the agreement and approval of all named Plaintiffs in the action styled *State of Tennessee, ex rel, Bobby Woods(Wood) v. The City of Chattanooga*, Hamilton County Chancery Court, Consolidated Case No. 09-0950, Part 2:

IN THE SECOND CIVIL DISTRICT OF HAMILTON COUNTY,
TENNESSEE:

Beginning at a point in the current boundary of the City of Chattanooga along the right-of-way for Highway 58 and the southeastern corner of property now or formerly owned by Avondale Baptist Church TRS (120E-B-019); thence

proceeding a distance of 4,744 feet, more or less, following the property line of Avondale Baptist Church TRS to the intersection of a point on the southern line of property now or formerly owned by Avondale Baptist Church TRS (120E-B-019) and the northeastern corner of property now or formerly owned by B & R Development Company (120E-B-002.07); thence proceeding southwesterly a distance of 234 feet, more or less, to the northeastern corner of property now or formerly owned by B & R Development Company (120E-B-002.06); thence proceeding southwesterly a distance of 1,316 feet, more or less, to the intersection of the northwestern corner of property now or formerly owned by B & R Development Company (120E-B-002.06) and the eastern line of property now or formerly owned by MAPCO Express Incorporated (120E-B-001); thence proceeding a distance of 570 feet, more or less, following the property line of MAPCO Express Incorporated (120E-B-001) to the southwestern corner of property now or formerly owned by MAPCO Express Incorporated (120E-B-001) along the Highway 58 right-of-way and the current boundary of the City of Chattanooga near the intersection with Hickory Valley Road; thence proceeding northeasterly a distance of 2,358 feet, more or less, along the right-of-way of Highway 58 and the current boundary of the City of Chattanooga, to the point of beginning. Included in this annexation are all tax parcel numbers and road right of ways on the accompanying attached map for Annexation Zone 6 B. All of this property lies within the Urban Growth Boundary of the City of Chattanooga as provided in the Master Interlocal Agreement between all municipalities within Hamilton County effective May 23, 2001. References to parcel numbers in parenthesis above are based upon official Geographic Information System maps maintained by the Hamilton County GIS Department.

Section 2. BE IT FURTHER ORDAINED, That residents of and persons owning property in the above-described territory shall be entitled to all the rights and privileges of citizenship in accordance with the provisions of the Charter of the City of Chattanooga, Tennessee, immediately upon annexation on December 31, 2012 as though the above-described territory annexed has always been part of said City of Chattanooga, Tennessee and the Agreed Order of Compromise and Dismissal entered **May 26, 2011** in the case styled *State of Tennessee, ex rel, Bobby Woods (Wood) v. The City of Chattanooga*, Hamilton County Chancery Court, Consolidated Case No. 09-0950, Part 2, is ratified and adopted by the Chattanooga City Council.

Section 3. BE IT FURTHER ORDAINED, That the Plan of Services attached hereto which was submitted to the Chattanooga-Hamilton County Regional Planning Commission and the written report which was approved by the Chattanooga-Hamilton County Regional Planning Commission on September 14, 2009, is adopted as the Plan of Services for this annexation area and shall be implemented in accordance with the terms and methods of services contained therein and the agreement of the named parties in the above styled litigation on or before December 31, 2012.

Section 4. BE IT FURTHER ORDAINED, That this Ordinance shall become operative thirty (30) days from and after its passage, or as otherwise provided by the provisions of T.C.A. § 6-51-102(a).

Section 5. BE IT FURTHER ORDAINED that this Ordinance shall take effect as distinguished from becoming operative, on December 31, 2012, the public welfare requiring it.

PASSED on Second and Final Reading

_____ June 7 _____, 2011.



CHAIRPERSON

APPROVED: DISAPPROVED: _____

DATE: 6/13 _____, 2011



MAYOR

PAN/kac

1st READING 10-27-09
2ND READING 11-3-09
INDEX NO _____

ORDINANCE NO. 12313

AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 6B, WHICH INCLUDES CERTAIN PROPERTIES ADJACENT TO THE WESTERN RIGHT-OF-WAY OF HIGHWAY 58 AND ADJACENT TO THE RIGHT-OF-WAY FOR HICKORY VALLEY ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP.

WHEREAS, pursuant to T.C.A. § 6-51-102, as amended by Public Chapter 1101 of 1998, it is necessary to submit a plan of services to the Chattanooga Hamilton County Regional Planning Commission; and

WHEREAS, the Plan of Services, which is attached to this Ordinance and incorporated herein by reference, was submitted to the Chattanooga Hamilton County Regional Planning Commission on August 27, 2009, and a written report was prepared and approved unanimously by the Chattanooga Hamilton County Regional Planning Commission on September 14, 2009, as required by law; and

WHEREAS, the Clerk of the City Council was authorized to give notice of a public hearing on the Plan of Services on September 15, 2009, with reference to the herein described annexation Plan of Services which was noticed on October 5, 2009, which was fifteen (15) days prior to the public hearing which was held on October 20, 2009, at 6:45 p.m.; and

WHEREAS, the Clerk of the City Council gave notice by publication in the daily newspaper of Chattanooga, Tennessee on October 16, 2009, which was more than seven (7) days before October 27, 2009, that a public hearing on an annexation ordinance for Area 6B would be held October 27, 2009 at 6:00 p.m.; and

WHEREAS, after a public hearing on the Plan of Services held on October 20, 2009, a public hearing on the annexation ordinance held on October 27, 2009, and due consideration by the City Council, it now appears that the prosperity of the City of Chattanooga and of the territory herein described and as described in said notice will be materially retarded, and the safety and welfare of the inhabitants and property of the City of Chattanooga and the herein described territory endangered if such territory is not annexed; and

WHEREAS, the Plan of Services is adopted and the annexation of the hereinafter described territory is deemed necessary for the health, welfare, and safety of the residents and property owners thereof, as well as of the City of Chattanooga as a whole;

NOW, THEREFORE,

Section 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That under the authority conferred by Chapter 113, Public Acts of 1955, and the amendments thereto (T.C.A. § 6-51-101, *et seq.*), that there be and hereby is annexed to the City of Chattanooga, Tennessee, and included within the corporate boundaries of said City, which includes certain properties adjacent to the western right-of-way of Highway 58 and adjacent to the right-of-way for Hickory Valley Road known as Area 6B, in Hamilton County, contiguous to the corporate boundaries of said City, which is more fully described below and shown on the map attached hereto and made a part hereof by reference.

IN THE SECOND CIVIL DISTRICT OF HAMILTON COUNTY,
TENNESSEE:

Beginning at a point in the current boundary of the City of Chattanooga along the right-of-way for Highway 58 and the southeastern corner of property now or formerly owned by Avondale Baptist Church TRS (120E-B-019); thence proceeding a distance of 4,744 feet, more or less, following the property line of Avondale Baptist Church TRS to the intersection of a point on the southern line of property now or formerly owned by Avondale Baptist Church TRS (120E-B-019) and the northeastern corner of property now or formerly owned by B & R Development Company (120E-B-002.07); thence proceeding southwesterly a

distance of 234 feet, more or less, to the northeastern corner of property now or formerly owned by B & R Development Company (120E-B-002.06); thence proceeding southwesterly a distance of 1,316 feet, more or less, to the intersection of the northwestern corner of property now or formerly owned by B & R Development Company (120E-B-002.06) and the eastern line of property now or formerly owned by MAPCO Express Incorporated (120E-B-001); thence proceeding a distance of 570 feet, more or less, following the property line of MAPCO Express Incorporated (120E-B-001) to the southwestern corner of property now or formerly owned by MAPCO Express Incorporated (120E-B-001) along the Highway 58 right-of-way and the current boundary of the City of Chattanooga near the intersection with Hickory Valley Road; thence proceeding northeasterly a distance of 2,358 feet, more or less, along the right-of-way of Highway 58 and the current boundary of the City of Chattanooga, to the point of beginning. References to parcel numbers in parenthesis above are based upon official Geographic Information System maps maintained by the Hamilton County GIS Department. All of this property lies within the Urban Growth Boundary of the City of Chattanooga as provided in the Master Interlocal Agreement between municipalities within Hamilton County effective May 23, 2001. Included in this annexation are all tax parcels listed below and as shown on the attached map for Annexation Area 6B.

120E B 002.05
120E B 002.06
120E B 002.07
120E B 002
120E B 019
120E B 001

Section 2. BE IT FURTHER ORDAINED, That residents of and persons owning property in the above-described territory shall be entitled to all the rights and privileges of citizenship in accordance with the provisions of the Charter of the City of Chattanooga, Tennessee, immediately upon annexation as though the above-described territory annexed has always been part of said City of Chattanooga, Tennessee.

Section 3. BE IT FURTHER ORDAINED, That the Plan of Services attached hereto and incorporated herein by reference, which was submitted to the Chattanooga Hamilton County Regional Planning Commission and upon the written report dated August 31, 2009 which was approved by the Chattanooga Hamilton County Regional Planning Commission on September

14, 2009, is adopted as the Plan of Services for this annexation and shall be implemented in accordance with the terms and methods of services contained therein.

Section 4. BE IT FURTHER ORDAINED, That this Ordinance shall become operative thirty (30) days from and after its passage, or as otherwise provided by the provisions of T.C.A. § 6-51-102(a).

Section 5. BE IT FURTHER ORDAINED, That this Ordinance shall take effect, as distinguished from becoming operative, immediately from and after its passage, the public welfare requiring it.

PASSED on Second and Final Reading

November 3, 2009.

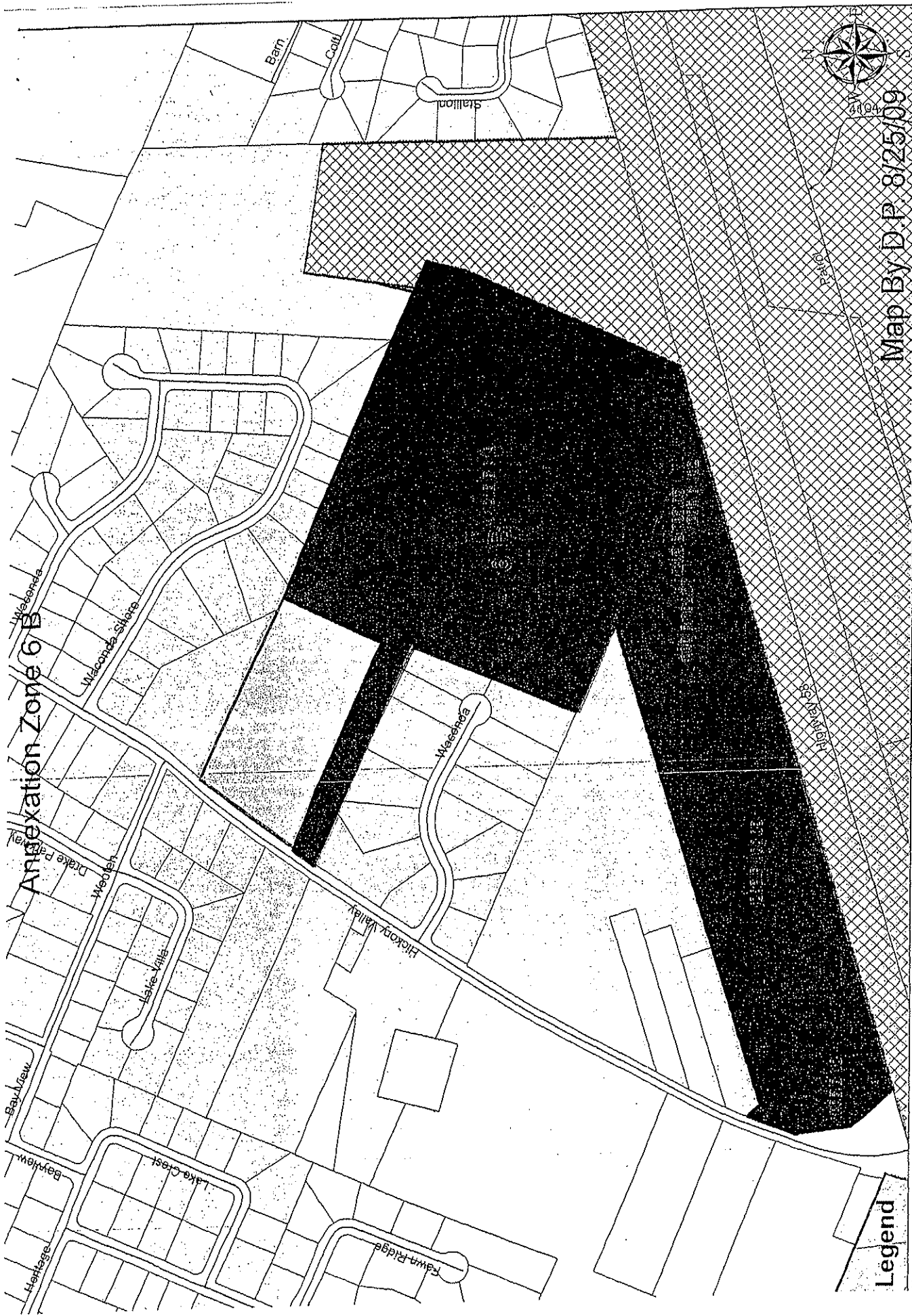
W. Jack Benson
CHAIRPERSON

APPROVED: DISAPPROVED:

DATE: 11-6, 2009.

[Signature]
MAYOR

/add



Map By D.P. 8/25/09

- Legend**
-  ChattanoogaUGB
 -  Chattanooga
 -  Zone 6 B parcels
 -  area6B
 -  roads
 -  Parcels



PROPOSED PLAN OF SERVICES FOR AREA 6B
IN ACCORDANCE WITH
TENNESSEE CODE ANNOTATED § 6-51-102

The City Council of the City of Chattanooga, Tennessee hereby proposes the following Plan for Provision of Services for certain properties lying contiguous to the present corporate limits of the City of Chattanooga, Tennessee, on the north side of Highway 58, which are shown on the attached map for Area 6B and described as follows:

There are no roads or accepted right of ways other than Highway 58, which are shown on the attached map for Area 6B:

IN THE SECOND CIVIL DISTRICT OF HAMILTON COUNTY,
TENNESSEE:

Beginning at a point in the current boundary of the City of Chattanooga along the right-of-way for Highway 58 and the southeastern corner of property now or formerly owned by Avondale Baptist Church TRS (120E-B-019); thence proceeding a distance of 4,744 feet, more or less, following the property line of Avondale Baptist Church TRS to the intersection of a point on the southern line of property now or formerly owned by Avondale Baptist Church TRS (120E-B-019) and the northeastern corner of property now or formerly owned by B & R Development Company (120E-B-002.07); thence proceeding southwesterly a distance of 234 feet, more or less, to the northeastern corner of property now or formerly owned by B & R Development Company (120E-B-002.06); thence proceeding southwesterly a distance of 1,316 feet, more or less, to the intersection of the northwestern corner of property now or formerly owned by B & R Development Company (120E-B-002.06) and the eastern line of property now or formerly owned by MAPCO Express Incorporated (120E-B-001); thence proceeding a distance of 570 feet, more or less, following the property line of MAPCO Express Incorporated (120E-B-001) to the southwestern corner of property now or formerly owned by MAPCO Express Incorporated (120E-B-001) along the Highway 58 right-of-way and the current boundary of the City of Chattanooga near the intersection with Hickory Valley Road; thence proceeding northeasterly a distance of 2,358 feet, more or less, along the right-of-way of Highway 58 and the current boundary of the City of Chattanooga, to the point of beginning. Included in this annexation are all tax parcel numbers and road right of ways on the accompanying attached map for Annexation Zone 6 B. All of this property lies within the Urban Growth Boundary of the City of Chattanooga as provided in the Master Interlocal Agreement between all municipalities within Hamilton County effective May 23, 2001. References to parcel numbers in

parenthesis above are based upon official Geographic Information System maps maintained by the Hamilton County GIS Department.

A. POLICE

Patrolling, radio directed response to calls for assistance, crime prevention services, traffic control and accident prevention services and other police protection and support using present personnel and equipment will be provided on the effective date of annexation. A study will be conducted within ninety (90) days of the effective date of annexation to consider the need for additional police personnel and equipment.

B. TRAFFIC ENGINEERING

Traffic Engineering and installation of signs and other traffic control devices to be installed as required throughout the annexation area, when the need is established by appropriate traffic studies. A study will be conducted within ninety (90) days of the effective date of annexation to consider the need for additional signs or other traffic control devices within the annexation area.

C. FIRE

1. Fire protection by present personnel and the equipment of the fire fighting force within the limitations of available water and distance from fire stations will be provided on the effective date of annexation.

2. Additional fire services such as those made available through the City of Chattanooga's fire prevention staff and arson investigation will be made available on the effective date of annexation.

3. Within six (6) months after annexation, the need for additional fire hydrants shall be determined. Within eighteen (18) months needed additional hydrants shall be installed in those areas where water mains of adequate size are available. Placement of hydrants

will be on the basis of nationally-accepted standards defined by adopted codes for the City of Chattanooga. As additional water lines of adequate size are extended into the annexation area by Eastside Utility District, if not presently served, fire hydrants shall be installed as required by the above-mentioned standard when the population density or need for hydrant services is sufficient to cost effectively extend hydrant services to the annexed property as determined by the Fire Chief, subject to appropriation of required funds.

4. Fire coverage shall be provided by existing and planned stations and present and planned personnel.

D. REFUSE COLLECTION

Chattanooga currently provides its residents with certain refuse collection established under Chattanooga City Code § 18-101 et seq. The services currently provided by the City will be extended to the annexed area within ninety (90) days after the effective date of annexation.

E. ROAD AND STREET CONSTRUCTION AND REPAIR; SIGNS AND LIGHTING, AND STORMWATER AND DRAINAGE

1. Emergency maintenance of streets (repair of hazardous chuck holes, measures necessary to maintain normal traffic flow), removal of snow and/or sanding of streets during icing conditions will begin on the effective date of annexation.

2. Routine maintenance, on the same basis as in the present City of Chattanooga, will begin in the annexed area on the effective date of annexation.

3. Within six (6) months of the effective date of annexation, street name signs will be installed as needed in all substantially developed areas.

4. Street lights will be installed under the same standards as now prevail in the City of Chattanooga. A study will be conducted within six (6) months of the effective date of annexation to consider the need for any additional street lights within the annexed area.

5. Stormwater and drainage services for all streets within the annexed area will be studied within six (6) months of the effective date of annexation for the need of any additional stormwater and drainage services. Erosion and drainage services currently provided to all streets within the City of Chattanooga shall be provided to the annexed area immediately following the effective date of annexation.

F. PLANNING AND ZONING

The planning and zoning jurisdiction of the City will be extended to the annexed area of the effective date of annexation. Chattanooga-Hamilton County Regional Planning Agency and the Chattanooga-Hamilton County Regional Planning Commission will thereafter encompass the annexed area. Pending a review of the zoning by the Chattanooga-Hamilton County Regional Planning Commission and the City Council, the property shall be reclassified to a temporary classification which shall be rezoned in accordance with the City's Zoning Ordinances.

G. RECREATION FACILITIES AND PROGRAMS

1. All of the recreational areas and programs provided for the present City residents will be made available immediately to all residents of the annexed area in the same manner as current citizens of the City of Chattanooga.

2. Recreation programs such as swimming, summer camps, baseball, flag football, basketball, tennis will be made available to all residents of the annexed area in the same manner as the current residents of the City of Chattanooga.

H. WATER SYSTEM

Water for all annexed properties will continue to be provided in the same manner as it is currently provided by the Eastside Utility District.

I. ELECTRICAL SERVICE

Electricity will continue to be provided to residents of the newly annexed area by the Electric Power Board of Chattanooga.

J. SEWER SYSTEM

The City of Chattanooga will provide sewer services to the annexed area within three (3) years of the effective date of annexation, as provided in Paragraph 6(C) of the Master Interlocal Agreement approved by the City of Chattanooga dated May 23, 2001, if the Hamilton County Water and Wastewater Treatment Authority, (hereinafter "WWTA"), cedes its service area to the City within thirty (30) days of the date of annexation. If sewer services for properties within the annexed area are not ceded to the City of Chattanooga or allowed to be provided by the City of Chattanooga because this area is retained by the WWTA, such services will be provided to the residents and commercial properties of the newly annexed area by the WWTA to the extent that lines are available within the annexed area and density of development makes new sewer lines feasible and funds for construction of necessary sewer lines are available as determined by the WWTA Board.

K. INSPECTION/CODE ENFORCEMENT

The Public Works Department of the City now provides inspection and code enforcement services (building, electrical, plumbing, gas, and unsafe building services) to all areas of the City of Chattanooga. These same services will be provided to the newly annexed area when it becomes a part of the City of Chattanooga.

L. ANIMAL CONTROL

The McKamey Animal Care and Adoption Center currently provides the services of animal control by contract with the City and enforces the City's leash laws and other animal control ordinances. This service will be available in the new area when the annexation becomes effective.