

ORDINANCE NO. O-2017-4845

AN ORDINANCE PROVIDING FOR THE DISANNEXATION FROM THE CORPORATE BOUNDARIES OF THE CITY OF ROUND ROCK, TEXAS, SEVERAL TRACTS OF LAND; CONTAINING CERTAIN FINDINGS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Auspro Enterprise, LP (the “Owner”) owns a parcel of real property (the “Property”) in Travis County, Texas, which is more particularly described and shown on Exhibits “A” and “B” attached hereto; and

WHEREAS, the Property was part of a 14.78 acre Annexation into the full purpose corporate limits of the City of Round Rock on January 24, 2013 by Ordinance No. A-13-01-10-G4; and

WHEREAS, a portion of said 14.78 acre annexation property was subsequently sold by Owner to Whittlesey Landscape Supplies & Recycling, Inc. The Property described in Exhibits “A” and “B” is the remainder of the 14.78 acres which is currently owned by Owner; and

WHEREAS, the City has filed a lawsuit for damages for nonpayment by Owner of Municipal drainage utility charges in Cause No. C-1-CV-16-004038 and styled City of Round Rock, Texas, Plaintiff vs. Auspro Enterprises, LP, Defendant, in the County Court of Law Number 2, in and for Travis County, Texas (the “Lawsuit”); and

WHEREAS, the Owner has counter claimed against the City in the Lawsuit for taking of property owned by Owner for Greenlawn Boulevard without compensation in violation of Texas Constitution Article I, Section 17 and for breach of the City’s Covenant of the Service Plan adopted in the Ordinance of Annexation A-13-01-10-G4; and

WHEREAS, Texas Local Government Code Section 43.142 provides that a home-rule municipality may disannex an area in the municipality according to the rules as may

be provided by the charter of the municipality and not inconsistent with the procedural rules prescribed by Chapter 43; and

WHEREAS, the City and Owner have reached an agreement settling the Lawsuit which will be recorded in a form substantially similar to the form attached hereto as Exhibit “C;” and

WHEREAS, Section 1.04 of the City Charter provides that the City may disannex uninhabited territory by ordinance; and

WHEREAS, the territory to be disannexed is described in Exhibits “A” and “B” which are attached hereto and incorporated herein for all purposes, save and except any portion of the described property in the right-of-way of Greenlawn Boulevard; and

WHEREAS, the City Council finds and determines that all the requisites for disannexation pursuant to the applicable provisions of the Texas Local Government Code and the Home Rule Charter of the City of Round Rock have been followed; and

WHEREAS, Owner acknowledges and City Council finds that the City shall not be required to refund any taxes or fees to Owner; and

WHEREAS, the City Council finds that the territory described in Exhibits “A” and “B” is not suitable or necessary for City purposes; and

WHEREAS, the City Council finds that the territory to be disannexed does not include the disannexation of a road or highway, including the right-of-way of Greenlawn Boulevard; and

WHEREAS, the City Council finds and determines that the disannexation of the territory described in Exhibits “A” and “B” is necessary and appropriate and in the best interests of the City, Now Therefore

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK,
TEXAS, THAT:**

I.

SECTION 1. The above findings are hereby incorporated for all purposes as if each word was set out herein, including all exhibits.

SECTION 2. As of the effective date of this Ordinance, the land and territory shown on Exhibits "A" and "B" save and except any described property located in the Greenlawn Boulevard right-of-way is hereby disannexed from the corporate limits of the City of Round Rock, Texas, and said territory as described shall hereafter be removed from the boundary limits of said City, and the present boundary limits of said City are altered and amended so as to remove the territory from the corporate limits of the City of Round Rock, Texas.

SECTION 3. As of the effective date of this Ordinance, the land and territory so described and so amended shall no longer be part of the City of Round Rock, Texas, and the land and territory shall no longer bear any of the taxes levied by the City of Round Rock, Texas, and the future inhabitants thereof shall no longer be entitled to any rights or privileges as citizens. The City shall not refund any taxes or fees to Owner.

SECTION 4. The land and territory shown on Exhibits "A" and "B" shall remain in the extraterritorial jurisdiction of the City of Round Rock and shall be subject to all ordinances and statutes that apply in the extraterritorial jurisdiction of the City. Additionally, the said land and territory are subject to the covenants, restrictions, regulations and land uses set forth in the Development Agreement attached hereto as Exhibit "C."

SECTION 5. The City Clerk is hereby authorized and directed to cause a certified copy of this Ordinance to be delivered to the County Clerk of Travis County, Texas, as required by Section 41.0015 of the Texas Local Government Code.

SECTION 6. This Ordinance shall be effective immediately from and after passage.

II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this Ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Alternative 1.

By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on first reading this ____ day of _____, 2017.

Alternative 2.

READ and **APPROVED** on first reading this the _____ day of _____, 2017.

READ, APPROVED and **ADOPTED** on second reading this the _____ day of _____, 2017.

CRAIG MORGAN, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk