

AN ORDINANCE 2013-12-05-0877

AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO THE “AGREEMENT FOR SERVICES IN LIEU OF ANNEXATION BETWEEN THE CITY OF SAN ANTONIO AND CUMBERLAND POTRANCO JOINT VENTURE, CUMBERLAND 211, LTD., NAVIGATORS STEVENS RANCH L.P., KD CIRI I, L.L.C., CIRI LAND DEVELOPMENT COMPANY AND CUMBERLAND 90, LTD.,” FOR THE WESTSIDE 211 SPECIAL IMPROVEMENT DISTRICT LOCATED IN THE CITY’S EXTRATERRITORIAL JURISDICTION.

* * * * *

WHEREAS, on September 20, 2007, the City Council authorized an agreement with Cumberland Potranco Joint Venture, Cumberland 211, LTD., Navigators Stevens Ranch L.P., KD CIRI I, L.L.C., CIRI Land Development Company And Cumberland 90, LTD (the “Property Owners”) for an “Agreement for Services in Lieu of Annexation”; and

WHEREAS, the Property Owners now request to amend the “Agreement for Services in Lieu of Annexation” by extending the term of the agreement five years to December 30, 2042 and removing Navigators Stevens Ranch L.P as a Property Owner; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

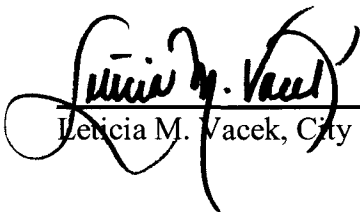
SECTION 1. City Council authorizes the City Manager or her designee to execute the first amendment to the “Agreement for Services in Lieu of Annexation” with Cumberland Potranco Joint Venture, Cumberland 211, LTD., Navigators Stevens Ranch L.P., KD CIRI I, L.L.C., CIRI Land Development Company and Cumberland 90, LTD. The Agreement in substantially final form is set out in “Attachment I”.

SECTION 2. This Ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.


PASSED AND APPROVED this 5th day of December, 2013.


M A Y O R
Julián Castro

ATTEST:


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:


For Michael D. Bernard, City Attorney

Agenda Item:	45 (in consent vote: 44, 45, 46, Z-2, Z-3, Z-5, Z-7, Z-8, Z-9, Z-11, Z-12, P-5, Z-14, Z-16)
Date:	12/05/2013
Time:	02:31:09 PM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the First Amendment to the September 2007 Agreement with Cumberland Potranco Joint Venture, Cumberland 211, Ltd., Navigators Stevens Ranch L.P., KD CIRI I, L.L.C., CIRI Land Development Company and Cumberland 90, Ltd. [Peter Zanoni, Deputy City Manager; John Dugan, Director, Planning and Community Development]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7	x					
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Carlton Soules	District 10		x			x	

**FIRST AMENDMENT TO
AGREEMENT FOR SERVICES IN LIEU OF ANNEXATION
BETWEEN THE CITY OF SAN ANTONIO
AND
CUMBERLAND POTRANCO JOINT VENTURE, CUMBERLAND 211, LTD.,
NAVIGATORS STEVENS RANCH, L.P., KD CIRI I, L.L.C., CIRI LAND
DEVELOPMENT COMPANY, AND CUMBERLAND 90, LTD.**

**STATE OF TEXAS §
 §
COUNTY OF BEXAR §**

This First Amendment (“Amendment”) to the Agreement For Services in Lieu of Annexation dated to be effective September 20, 2007 (“Agreement”), authorized by Ordinance Number 2007-0920-1026 by City Council on September 20, 2007, is entered into by and between the City of San Antonio, a Texas home-rule municipality, (“City”), and Cumberland Potranco Joint Venture, Cumberland 211, Ltd., Potranco 2013 Land, Ltd., Potranco 211 Land Partners, Ltd., Dorothy Doss 2002 Grantor Trust No. 1, Cumberland Pod 1 Stevens Residential, Ltd., Ladera I, LLC, CIRI Land Development Company, and Cumberland 90, Ltd., (“Owners”) this ___ day of ___, 2013. Owners are the signatories, or the successor in interest to the signatories, of the Agreement.

WHEREAS, the Owners own approximately 3,576 acres (“Property”) generally located in far west Bexar County, Texas and within the City’s Extraterritorial Jurisdiction (“ETJ”), generally along State Highway 211, north of Highway 90; and

WHEREAS, the Owners petitioned Bexar County (“County”) to create, and on August 30, 2007, the County did create, a Public Improvement District (“PID”), named the Westside 211 Special Improvement District, under Chapter 372, Subchapter C, of the Texas Local Government Code (currently codified as Chapter 382) for the purposes of financing the costs of public improvements within the Property; and

WHEREAS, the County required the Owners to enter into a non-annexation agreement with the City as part of the Public Improvement District creation process; and

WHEREAS, the City and Owners (collectively, the “Parties”) entered into the Agreement to provide for the provision of services to the Property and the funding of services to the Property in lieu of annexation, to establish permissible land uses, to require compliance with certain municipal ordinances in lieu of annexation, and to consent to annexation of the Property upon the termination of this Agreement; and

WHEREAS, the Parties now desire to amend the Agreement in accordance with Section 4.3 as provided for therein.

NOW THEREFORE, in consideration of the terms and conditions described herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Owners agree as follows:

1. Amendment to Section 1.2 of the Agreement. Section 1.2 of the Agreement is amended and restated in its entirety to read:

1.2 Term. For the consideration above, and subject to the terms and conditions of this Agreement, the City agrees to continue the extraterritorial status of the Property and defer annexation of the Property until December 30, 2042, in accordance with the provisions of Section 43.0563 of the Texas Local Government Code.

2. Amendment to Section 1.3.1 of the Agreement. Section 1.3.1 of the Agreement is amended and restated in its entirety to read:

1.3.1. Voluntary petition for annexation. The Owners hereby agree that this Agreement constitutes a voluntary petition to the City, acting in the City's sole discretion, for annexation of the Property for full purposes under the provisions of Section 43.052(h) of the Texas Local Government Code on or after December 31, 2042. The City is not obligated to annex the Property for full purposes on December 31, 2042 or at any other time.

To accomplish such annexation, the City will not need to take the following actions, all of which are waived by the Owners:

- (a) adopt or amend an annexation plan to include the Property;
- (b) give notice to any service providers in the area of the Property;
- (c) compile an inventory of services provided to the area by both public and private entities prior to the City's annexation or make such inventory available for public inspection;
- (d) complete a service plan that provides for the extension of full municipal services to the Property, other than the Service Plan;
- (e) hold any public hearings; and
- (f) undertake any negotiations for provision of services to the Property.

The Owners confirm and agree that, as the Owners are the sole owners of the Property as of the Effective Date, such voluntary petition may not be revoked by the Owners except as provided by this Consent, and is intended to be and shall be binding upon the Owners and their successors in interest in ownership of any right, title or interest in and to the Property or any part thereof.

3. Change of Addresses. In Section 4.9 of the Agreement, the address of each party shall be inserted as follows:

Cumberland 211, Ltd.
c/o Fieldco, LLC
100 Crescent Court, Suite 210
Dallas, TX 75201

Potranco 211 Land Partners, Ltd.
c/o Fieldco, LLC
100 Crescent Court, Suite 210
Dallas, TX 75201

Bill F. Knight, Trustee of the Dorothy Doss 2002 Grantor Trust No. 1
c/o Fieldco, LLC
100 Crescent Court, Suite 210
Dallas, TX 75201

Potranco 2013 Land Partners, Ltd.
c/o Fieldco, LLC
100 Crescent Court, Suite 210
Dallas, TX 75201

Cumberland Pod 1 Stevens Residential, Ltd.
c/o Fieldco, LLC
100 Crescent Court, Suite 210
Dallas, TX 75201

Cumberland 90, Ltd.
c/o Fieldco, LLC
100 Crescent Court, Suite 210
Dallas, TX 75201

CIRI Land Development Company
Attn.: David Pfeiffer, President
2525 C Street, Suite 500
Anchorage, AK 99503

Ladera I, LLC
Attn.: David Pfeiffer, President
2525 C Street, Suite 500
Anchorage, AK 99503

Cumberland Potranco Joint Venture
c/o Weingarten Realty Investors
2600 Citadel Plaza Drive, Suite 125
Houston, TX 77008

4. Ratification. Except as provided by this Amendment, the Agreement is ratified and confirmed, and remains in full force and effect. No party to the Agreement is in material default of any provision of the Agreement as of the effective date hereof. All other terms, conditions, covenants and provisions of the Agreement, not specifically mentioned herein and revised by this Amendment, are hereby retained in their entirety, unchanged, and shall remain in full force in effect for the duration of said Agreement, and any renewals thereof.

[Signature Pages to Follow]

This First Amendment to the Agreement For Services in Lieu of Annexation is **EXECUTED** as of the dates set forth beneath the signatures of each party below, to be effective, however, as of the date first set forth above.

**City of San Antonio,
a Texas municipal corporation**

Cumberland Potranco Joint Venture, a Texas joint venture,

By: WRI Cumberland, LP, a Texas limited partnership, its Manager,

By: WRI Cumberland GP, LLC, a Texas limited liability company, its General Partner

By: Weingarten Realty Investors, its Manager

By: _____

By: _____

Name: Sheryl Sculley
Title: City Manager
Date:

Name: Steven C. Richter
Title: Executive Vice President
Date: _____

The State of Texas

The State of Texas

County of Bexar

County of Harris

This instrument was acknowledged before me on _____, 2013, by _____, City Manager of the City of San Antonio, Texas, a Municipal Corporation.

This instrument was acknowledged before me on _____, 2013, by Steven C. Richter, Executive Vice President, Weingarten Realty Investors, Member of WRI Cumberland GP, LLC, a Texas limited liability company, General Partner of WRI Cumberland, LP, a Texas limited partnership, Manager of Cumberland Potranco Joint Venture, a Texas joint venture, property owner within the District.

Notary Public, State of Texas
(PERSONALIZED SEAL)

Notary Public, State of Texas
(PERSONALIZED SEAL)

(Print name of Notary Public here)

(Print name of Notary Public here)

My commission expires the _____ day of _____, _____.

My commission expires the _____ day of _____, _____.

**Cumberland 211, Ltd.,
a Texas limited partnership
By: Cumberland 211 GP, L.L.C.,
a Texas limited liability company, its General Partner**

By: _____
Name: George A. Field, III
Title: Manager
Date:

The State of Texas

County of Dallas

This instrument was acknowledged before me on _____, 2013, by George A Field, III, Manager Cumberland 211 GP, LLC, a Texas limited liability company, general partner of Cumberland 211, Ltd., a Texas Limited Partnership, property owner within the District.

Notary Public, State of Texas
(PERSONALIZED
SEAL)

(Print name of Notary Public here)

My commission expires the _____ day of _____, _____.

**(partial successor to Cumberland 211, Ltd.)
Potranco 211 Land Partners, Ltd.,
a Texas limited partnership,
By: Potranco 211 Land Partners GP, LLC,
A Texas limited liability company,
its General Partner**

By: _____
Name: George A. Field, III
Title: Manager
Date:

The State of Texas

County of Dallas

This instrument was acknowledged before me on _____, 2013, by George A. Field, Manager of Potranco 211 Land Partners GP, LLC, a Texas limited liability company, General Partner of Potranco 211 Land Partners, Ltd., a Texas limited partnership, property owner within the District.

Notary Public, State of Texas
(PERSONALIZED
SEAL)

(Print name of Notary Public here)

My commission expires the _____ day
of _____, _____.

**(partial successor to Cumberland 211, Ltd.)
Dorothy Doss 2002 Grantor Trust No. 1
By: Bill F. Knight, Trustee**

By: _____
Name: Bill F. Knight
Title: Trustee
Date:

The State of Texas

County of _____

This instrument was acknowledged before me on _____, 2013, by Bill Knight, Trustee for the Dorothy Doss 2002 Grantor Trust No. 1, property owner within the District.

Notary Public, State of Texas
(PERSONALIZED
SEAL)

(Print name of Notary Public here)

My commission expires the _____ day of
_____, _____.

**(partial successor to Navigators Stevens Ranch, LP)
Cumberland Pod 1 Stevens Residential, Ltd.
a Texas limited partnership
By: Cumberland Pod 1 Stevens Residential GP, LLC
a Texas limited liability company, its General Partner**

By: _____
Name: George A. Field, III
Title: Manager
Date:

The State of Texas

County of Dallas

This instrument was acknowledged before me on _____, 2013, by George A Field, III, Manager of Cumberland Pod 1 Stevens Residential GP, LLC, a Texas limited liability company, general partner of Cumberland Pod 1 Stevens Residential, Ltd., a Texas Limited Partnership, property owner within the District.

Notary Public, State of Texas
(PERSONALIZED
SEAL)

(Print name of Notary Public here)

My commission expires the _____ day of _____, _____.

**(partial successor to Navigators Stevens Ranch, LP)
Potranco 2013 Land, Ltd., a Texas limited partnership
By: Potranco 2013 Land GP, LLC,
a Texas limited liability company,
its General Partner**

By: _____
Name: George A. Field, III
Title: Manager
Date:

The State of Texas

County of Dallas

This instrument was acknowledged before me on _____, 2013, by George A Field, III, Manager, Cumberland 90 GP, LLC, a Texas limited liability company, general partner of Cumberland 90, Ltd., a Texas limited partnership, property owner within the District.

Notary Public, State of Texas
(PERSONALIZED
SEAL)

(Print name of Notary Public here)

My commission expires the _____ day of _____, _____.

**(successor to KD CIRI I, LLC)
Ladera I, LLC, a Texas limited liability company**

**CIRI Land Development Company,
an Alaska corporation**

By: _____
Name: David Pfeiffer
Title: President
Date:

By: _____
Name: David Pfeiffer
Title: President
Date:

The State of Alaska

The State of Alaska

This instrument was acknowledged before me on _____, 2013, by David Pfeiffer, President of Ladera I, LLC, a Texas limited liability company, property owner within the District.

This instrument was acknowledged before me on _____, 2013, by David Pfeiffer, President, CIRI Land Development Company, an Alaska corporation, property owner within the District.

Notary Public, State of Alaska
(PERSONALIZED
SEAL)

Notary Public, State of Alaska
(PERSONALIZED
SEAL)

(Print name of Notary Public here)

(Print name of Notary Public here)

My commission expires the _____ day
of _____, _____.

My commission expires the _____ day
of _____, _____.

Cumberland 90, Ltd., a Texas limited partnership
By: Cumberland 90 GP, LLC, a Texas limited
liability company, its General Partner

Attest:

By: _____
Name: George A. Field, III
Title: Manager
Date:

By: _____
Name: Leticia M. Vacek
Title: City Clerk
Date:

The State of Texas

Approved as to Form:

County of Dallas

By: _____
Title: City Attorney
Date:

This instrument was acknowledged before me on _____, 2013, by George A Field, III, Manager, Cumberland 90 GP, LLC, a Texas limited liability company, general partner of Cumberland 90, Ltd., a Texas limited partnership, property owner within the District.

Notary Public, State of Texas
(PERSONALIZED
SEAL)

(Print name of Notary Public here)

My commission expires the _____ day
of _____ 2013