

RESOLUTION NO.
RECOMMENDATION APPROVING DEVELOPMENT AGREEMENTS
FOR PROPERTIES IN THE PROPOSED NEAL ROAD ANNEXATION
AREA GUARANTEEING CONTINUED EXTRATERRITORIAL STATUS
OF PROPERTIES WHICH ARE APPRAISED FOR AD VALOREM TAX
PURPOSES AS AGRICULTURAL, WILDLIFE MANAGEMENT OR
TIMBER USE FOR A PERIOD OF 10 YEARS.

WHEREAS, the City of San Antonio is considering the proposed Neal Road Annexation Area; and

WHEREAS, the Texas Local Government Code, Section 43.035, requires a development agreement be offered in lieu of annexation to owners of property in the proposed area that is appraised for ad valorem tax purposes as land for agriculture or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter; and

WHEREAS, the properties that meet the qualifications to be offered a development agreement are designated as agriculture or wildlife management use or as timber land and depicted in the map as Exhibit A and the individual properties are identified in Exhibit B. Exhibit A and Exhibit B are attached and incorporated herein for all purposes; and

WHEREAS, Section 123A of the Charter of the City of San Antonio requires that the Planning Commission shall make a recommendation to City Council on proposed annexation; and

WHEREAS, the San Antonio Planning Commission held a public hearing on May 24, 2017, regarding the Development Agreement, attached as Exhibit C and incorporated herein for all purposes, guaranteeing the continued extraterritorial status of such property; and

WHEREAS, the San Antonio Planning Commission has considered the effect of this agreement to the Master Plan and found the agreement to be consistent with City policies, plans and regulations; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:

SECTION 1: The San Antonio Planning Commission recommends to City Council approval of the Development Agreements guaranteeing the continued extraterritorial status of the properties that are appraised for ad valorem tax purposes as agricultural, wildlife management or timber use for a period of 10 years between the City of San Antonio and multiple property owners eligible to receive a development agreement for non-annexation.

PASSED AND APPROVED ON THIS 24th DAY OF May 2017.

Attest:

Approved:

Executive Secretary
San Antonio Planning Commission

George Peck, Chair
San Antonio Planning Commission

Exhibit A

Map of Properties

(to be provided prior to meeting)

Exhibit B

Development Agreements List of Properties

(to be provided prior to meeting)

Exhibit C

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE REAL PROPERTY RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

DEVELOPMENT AGREEMENT TEXAS LOCAL GOVERNMENT CODE §§ 43.035 & 212.172

THIS AGREEMENT is made and effective upon approval and passage of an Ordinance by City Council by and between the City of San Antonio, Texas, a home rule municipal corporation of the State of Texas located within Bexar County, Texas (hereinafter referred to as "City") and, _____ hereinafter called "the Owner(s)," whether one or more natural persons or other legal entities, and is as follows:

WHEREAS, the Owner's property, hereinafter called "the Property," is located within the extraterritorial jurisdiction of the City and is subject to municipal annexation; and

WHEREAS, the Property is appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter;

WHEREAS, the Texas Local Government Code § 43.035 provides that the City may not annex property appraised for such purposes unless it first offers to make a development agreement with the Owner pursuant to such section; and

WHEREAS, the City has notified the Owner of its intent to annex the Property and has offered to enter into an agreement guaranteeing the continued extraterritorial status of the Property upon the terms and conditions hereinafter provided; and

WHEREAS, the City requires that any development of the property be in conformance with the City's Comprehensive plan; and

WHEREAS, the Owner desires to enter into this Agreement to secure the continued extraterritorial status of the Property:

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

1. Identification of the Property. The Property, the subject of this agreement, is described as the property owned by the owner within the boundaries of the area, more particularly described as _____ which is appraised for ad valorem tax purposes as land for agricultural, wildlife management, or timber use.

2. Continuation of Extraterritorial Status. The Property shall not be annexed and shall remain in the extraterritorial jurisdiction of the City as long as this agreement is effective, the Property is not subdivided, the Property continues to be appraised for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter and the Owner is not in violation of this agreement. This provision does not prohibit annexation with the consent of the Owner.

3. Annexation Upon Subdivision or Change of Use. This agreement is void if the Owner fails to continue to use the Property solely for agricultural, wildlife management or timber use and/or subdivides or develops the Property in any manner that would require a plat of the subdivision or a related

development document including any permit required by Chapter 34 or Chapter 35 of the San Antonio City Code or any permit required by SAWS or CPS Energy to be filed with any governmental entity having jurisdiction over the Property.

Existing legal residential uses may continue. No new residential development shall be permitted, except for the addition of living space to an existing legal residence, the addition of accessory residential structures such as garages and carports where the total combined floor area of all accessory structures does not exceed 2,500 square feet, and an accessory dwelling (either attached or detached) that does not exceed 1,200 square feet in living area.

If the Property ceases to be appraised for agricultural, wildlife management or timber use or if the Owner subdivides the Property, then the City may annex the Property, either in whole or in part, and such annexation shall be deemed to be with the consent of the Owner. Any plat or related development document shall be consistent with the City of San Antonio's adopted Land Use Plan.

Owner agrees that any subdivision plat or related development document for the area filed with a governmental entity having jurisdiction over the property will be in conformance with the City's adopted Comprehensive Plan.

The Owner hereby waives any and all vested rights and claims that they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code that would otherwise exist by virtue of any actions the Owner has taken in the development of the property under the provisions of Chapter 212 of the Texas Local Government Code by virtue of any construction that would require a construction or a construction related permit under City Code Chapter 6 or Chapter 11 if that permit would be required within the municipal boundaries of the City of San Antonio, Bexar County, Texas.

4. Term. This Agreement shall terminate 10 years after the effective date of this Agreement or upon annexation of the Property in conformance with this agreement and/or Section 43.035 of the Texas Local Government Code, whichever comes first. Upon termination the City may annex the Property, either in whole or in part or for full or limited purposes, and such annexation shall be deemed to be with the consent of the Owner.

City and owner may extend the term of this agreement by mutual consent, in writing, and subject to approval by the City Council, as evidenced by passage of an ordinance.

5. Agreement a Covenant Running With the Land. This Agreement shall be recorded in the Real Property Records of the applicable county and shall be a covenant running with the land binding upon all parties having any right, title or interest in the Property or any part thereof, including their heirs, successors and assigns, and shall inure to the benefit of the owners of the Property and to the City. This Agreement may not be revised or amended without the written consent of both parties.

6. Notice of Sale of the Property. Prior to the sale or conveyance of any portion of the Property, the Owner shall give written notice and a copy of this Agreement to the prospective purchaser or grantee and shall provide a copy of such disclosure to the City.

7. Form and Delivery of Notice. Any notice required or permitted under this Agreement shall be in writing and shall be delivered by facsimile or by registered or certified US mail. Notice to the Owner may be addressed to Owner at the address indicated on the most recent applicable county property tax roll for the Property. If more than one entity is named in this Agreement, service of any notice on any one of the entities shall be deemed service on all entities. Any notice so given shall be deemed to have been received when deposited in the United States mail so addressed with postage prepaid:

CITY:

Bridgett White AICP, Director
Department of Planning & Community Development
City of San Antonio
PO Box 839966
San Antonio, Texas 78283-3966

OWNERS' CONTACT:

Print Name: _____

Address: _____

City/State/Zip Code: _____

Facsimile Number: _____

8. Enforcement. This Agreement may be enforced by Owner or City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the Agreement thereafter.

9. This Agreement is not a permit for purposes of Chapter 43.035 (e) or Chapter 245 of the Texas Local Government Code.

10. Provisions Severable. If any provision contained in this Agreement is held unconstitutional, invalid or unenforceable, then the remaining provisions shall be deemed severable and shall remain in full force and effect.

11. Governmental Powers. It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

12. Captions. Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

13. Modification of Agreement. **This Agreement cannot be modified or amended without the written consent of all the parties hereto and attached and made a part of this Agreement.**

14. Governing Law and Venue. Venue shall be in the state courts located in Bexar County, Texas and construed in conformity with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have signed and executed this Agreement effective as of the date first set forth above.

CITY OF SAN ANTONIO

By: _____

Date: _____

Name: Bridgett White AICP, Director
Dept. of Planning and Community Development

The Owner(s)

By: _____

(signature)

Print Name: _____

Title: _____

Date: _____

**State of Texas
County of Bexar**

This instrument was acknowledged before me on the _____ day of _____, by Bridgett White, Director, Department of Planning & Community Development with the City of San Antonio, a Texas municipal corporation, on behalf of said corporation.

Notary Public, State of Texas
Personalized Seal)

(Print Name of Notary Public here)

My commission expires the ____ day of ____, ____.

**State of Texas
County of _____**

This instrument was acknowledged before me on the _____ day of _____, _____, by _____, the Owner within the District.

Notary Public, State of Texas
Personalized Seal)

(Print Name of Notary Public here)

My commission expires the ____ day of ____, ____.

After Recording Return to:
Sidra Schimelpfening, Senior Planner
City of San Antonio
Department of Planning and Community Development
P.O. Box 839966
San Antonio, TX 78283-3966