



# City of San Antonio

## Agenda Memorandum

**File Number:**17-1664

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**Agenda Item Number:** 14.

**Agenda Date:** 3/2/2017

**In Control:** City Council A Session

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**DEPARTMENT:** Planning

**DEPARTMENT HEAD:** Bridgett White, AICP

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

Non-annexation Agreement for the US 281 North Residential Area

**SUMMARY:**

An ordinance authorizing a non annexation agreement between the City of San Antonio and Ryan Clark, Jean Dailey, David Diharce, Michael Soulek and Raymond Wilkinson as representatives of the US 281 North Residential Annexation Area, appointed by the Bexar County Commissioners Court.

**BACKGROUND INFORMATION:**

On June 15, 2016 at a City Council “B” Session, City staff presented an alternate scenario for the annexation of the US 281 North area that entailed annexing the commercial corridor for full purposes and placing the remaining residential area in a three-year municipal annexation plan. On December 1, 2016, City Council approved annexation of the U.S. 281 North commercial corridor with the effective date of December 31, 2016. On September 8, 2016, the US 281 North residential area was identified in the City’s three year municipal annexation plan. The adoption of the municipal annexation plan allowed the City to develop a non-annexation agreement postponing annexation to correspond with the expiration of the Lumbermen’s Investment Corporation and Timberwood Park non-annexation agreements.

The annexation area is adjacent to two existing long-term non-annexation agreements with both Timberwood Park and Lumbermen’s Investment Corporation. The Timberwood Park non-annexation agreement covers 4,345 acres around the annexation area, from Camp Bullis along Borgfeld Road to Bulverde Road. This non-annexation agreement expires in 2033. The Lumbermen’s non-annexation area extends from Bulverde Road around Fossil Ridge Master Development Plan (MDP), around the Tournament Player Club San Antonio golf course, and to the north of the Indian Springs subdivision. Lumbermen’s Investment Corporation consented to voluntary annexation upon the expiration of the non-annexation agreement in January 16, 2034.

The annexation area consists of approximately 11.02 square miles generally located to the east and west of the U.S. Highway 281 North. The area is contiguous to the City limits of San Antonio and within the City’s Extraterritorial Jurisdiction (ETJ). The Annexation Area contains primarily residential and vacant properties.

A municipal action plan requires certain procedures to negotiate a non-annexation agreement, called a “Services in Lieu of Annexation” Agreement. Written notification was provided to the property owners and public entities on September 9, 2016. Current public services provided to the area were inventoried. The City prepared a Service Plan for the U.S. 281 North Residential Area, and published its availability, and presented it at the City Council public hearing as a requirement of the Texas Local Government Code.

Two public hearings were held on January 11 and February 1, 2017. The public hearing notices were published in the *San Antonio Express News* on December 22, 2016 and January 13, 2017.

On January 10, 2017, the Bexar County Commissioners Court appointed five representatives from the US 281 North Residential Annexation Area to negotiate the terms of the agreement. The City's negotiating team met with the five County appointed representative during the week of February 13, 2017 to negotiate the proposed non-annexation agreement.

#### **ISSUE:**

An ordinance authorizing a non-annexation agreement until December 31, 2033 with subsequent voluntary annexation effective on that date between the City of San Antonio and the representatives of the US 281 North Residential Annexation Area, appointed by the Bexar County Commissioners Court.

The term of the agreement is 17 years, authorizing COSA to initiate consensual annexation proceedings with the effective date of voluntary annexation no sooner than December 31, 2033.

The non annexation agreement considerations include:

- Application of City Codes of the City of San Antonio to all properties, with the exception of: a) any existing structures on a platted lot with a completed single-family residence existing on the lot as of the Effective Date of this Agreement; b) new structures smaller than five hundred (500) square feet intended for accessory uses permitted by Chapter 35, Section 35-370 and constructed after the Effective Date of this Agreement; and c) any structure legally under construction as of the Effective Date of this Agreement provided that the construction is complete within two (2) years of the Effective Date of this Agreement:
  - Chapter 35, Unified Development Code (UDC) of the City of San Antonio Code including, but not limited to, all subsequent amendments, replacement ordinances, and related technical and illustrative manuals to these ordinances
  - Chapter 6 - Buildings Code
  - Chapter 10 - Building Related Codes
  - Articles II and III of Chapter 11- Fire Prevention Code including references to Chapter 16 (Licenses and Business Regulations) pertaining to Hazardous Materials Permits
  - Article VII-Used Automotive Parts Recyclers and Metal Recycling Entities of Chapter 16- Licenses and Business Regulations
  - Chapter 28-Signs
  - Chapter 34-Water and Sewers
- Property owners shall pay City of San Antonio all application development, plan review, and construction permitting fees
- Military Lighting Overlay District standards
- Prohibited uses not permitted over the Edwards Aquifer Recharge Zone
- Agreement to not initiate incorporation

Should the City Council approve the non-annexation agreement, a service plan will be developed prior to annexation on December 31, 2033. State laws would require the publication of a service plan prior to the annexation public hearings.

#### **ALTERNATIVES:**

City Council may approve, modify or deny the agreement. Should the agreement be denied, the City Council may consider full purpose annexation of all or parts of the US 281 North Residential area by October 7, 2019 in accordance with the three-year municipal annexation plan procedures.

#### **FISCAL IMPACT:**

The City of San Antonio will not assess City property or sales taxes to the properties within the non-annexation area. San Antonio's Development Services Department will collect development and construction fees including for applications, plan review, subdivision plats, building permits MDPs, rights determinations processed for properties assessed to properties within the non-annexation area. SAWS and CPS Energy fees will continue to be assessed to all properties.

#### **RECOMMENDATION:**

Staff recommends approval of the non-annexation agreement.

On February 22, 2017, the Planning Commission recommended approval on the agreement

**FISCAL ORDINANCE LANGUAGE:**

No fiscal ordinance language required.