

AGENDA ITEM NO. 18

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
DEVELOPMENT SERVICES DEPARTMENT**

TO: Mayor and City Council

FROM: Florencio Peña, III, Director, Development Services

THROUGH: Terry M. Brechtel, City Manager

COPIES: Andrew Martin, City Attorney; Roderick J. Sanchez, AICP Assistant Development Services Director; File

SUBJECT: Brooks City Base Memo of Understanding Regarding Development Fees & Permits

DATE: April 1, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance adopts a Memo of Understanding (MOU) between the City of San Antonio and Brooks Development Authority (BDA) regarding development permits, inspections and fees relative to the redevelopment of Brooks City Base (BCB).

Staff recommends approval.

BACKGROUND INFORMATION

The Unified Development Code (UDC) provides the process and requirements for obtaining permits prior to the development or redevelopment of real property within the city limits of San Antonio and its Extra Territorial Jurisdiction (ETJ). The Brooks Development Authority is in the process of planning and implementing the redevelopment of the former Brooks Air Base in an effort to retain a federal military and research presence on BCB and at the same time encourage private sector employment generators to locate on the remaining portions of the base proposed for private sector use.

BDA Board of Directors has passed a resolution accepting this Memorandum of Understanding with the City of San Antonio in December 2003.

POLICY ANALYSIS

The key points of the policy analysis indicate the following:

1. BDA will not be required to upgrade buildings to existing code standards.
2. Major renovations (those in excess of 25% of the value of the existing facility) and new construction will be built to current code standards
3. BDA will comply with permit and inspection requirements for all new construction and major renovations (those in excess of 25% of the value of the existing facility) excluding normal maintenance.
4. Construction of new streets including sidewalks by BDA shall be to COSA standards.
5. COSA will provide at no cost to BDA plan reviews, critiques, associated field inspection, building and demolition permits and certificates of occupancy for improvements consisting of less than 25% of the value of the facility.

6. BDA will comply with the City's storm water and flood plain ordinances.
7. Federal government renovations and new construction built upon behalf of the United States Government deemed as of "National Security" shall be certified by a BDA engineer's certificate of compliance with applicable building codes. Only facilities deemed "National Security" by the BDA Executive Director shall not be reviewed or inspected by COSA nor issued Certificates of Occupancy.
8. BDA will reimburse COSA for services rendered pursuant to building permits, inspections and issuance of Certificates of Occupancy in accordance with UDC guidelines for projects in excess of 25% of the value of existing facilities.
9. BDA will coordinate routine inspection of U.S. Air Force facilities for on-site COSA inspection within the limits of this agreement with 72 hours of advanced notice.
10. COSA will not require platting as a condition of issuing permits and Certificates of Occupancy. Platting deferral is temporary and expires January 1, 2008, however platting shall be required prior to the subdivision and transfer of property to parties other than BDA.

Kelly USA has a similar Memorandum of Understanding with the City of San Antonio regarding development permits, inspections and fees to allow for redevelopment efforts on the former Kelly Air Force Base.


FISCAL IMPACT

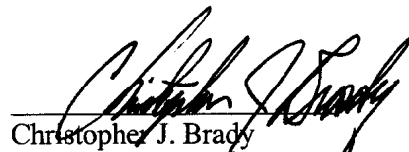
Improvements consisting of less than 25% of an existing facility will require construction trade inspections to be provided by the City at no cost to BDA. The City also is waving platting requirements, platting fees, plan review fees and Certificate of Occupancy fees for such projects.

Improvements of 26% or more of an existing facility and/or new facility construction will require the payment of plan review fees, Certificate of Occupancy fees and platting fees (if platting is a requirement).

COORDINATION

This ordinance was coordinated with the City Attorney's Office and the BDA Board of Directors.


Florencio Peña, III
Director, Development Services


Christopher J. Brady
Assistant City Manager

Approved:


Terry M. Brechtel
City Manager

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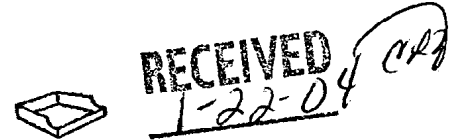
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FRANK J. GARZA
OF COUNSEL

* AUSTIN OFFICE

January 21, 2004

Jim Campbell
External Relations Director
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283



Re: Brooks Development Authority Memorandum of Understanding


Dear Jim:

Enclosed hereto, please find a copy of the "Memorandum of Understanding" approved by the Board of Directors of the Brooks Development Authority (BDA) on December 9, 2003. Pursuant to the direction I received from the City's Department of Development Services, I am hereby requesting your assistance in placing an item on the City Council Agenda approving the attached Memorandum of Understanding (MOU). This MOU is similar to one adopted by the City Council for GKDA about five years ago. The MOU covers BDA's platting, zoning and inspection requirements for future construction at Brooks. BDA would like to have this item approved by Council in February. This MOU was negotiated for approximately six months between city staff and the BDA. City involvement included Tom Shute from the City Attorney's Office, Michael Clack, Roderick Sanchez from the City's Department of Development Services and many more.

Please advise as to what steps BDA must take in order to get this item placed on an upcoming Council Agenda.

Should you have any questions, or if I can be of any assistance, please feel free to contact me at your convenience.

Respectfully,


FRANK J. GARZA
For the Firm

c: Tom Rumora, BDA Executive Director

Enclosure as indicated.

DEVELOPMENT SERVICES
JAN 22 11 PM '04

MEMORANDUM OF UNDERSTANDING
Platting/Zoning • Permitting • Code Compliance

This Memorandum of Understanding ("MOU") is entered into on this _____ day of _____, 2004, by and between the City of San Antonio, Texas ("COSA"), a municipal corporation, and the Brooks Development Authority ("BDA"), a political subdivision of the State of Texas, created by COSA pursuant to Ordinance No. 2001-36-39, under the provisions of Chapter 378, Subtitle A, Title 12 of the Texas Local Government Code. Both entities are referred to herein as the "Parties."

BDA is organized for the purposes of formulating, adopting and implementing objectives associated with the conversion and redevelopment of the property formerly known as Brooks Air Force Base ("BAFB"). The purpose of the conversion and redevelopment is to promote and encourage the retention of U.S. Air Force missions, local employment opportunities and economic revitalization of BAFB as well as developing the facility as a multi-use commercial, business and technology center known as Brooks City-Base ("Brooks City-Base").

The Parties agree and acknowledge that the area formerly known as BAFB was annexed by COSA on July 31, 1952, and that the United States Government transferred fee simple title ownership of 1,310 acres of BAFB to BDA on July 22, 2002. Prior to this recent transfer, COSA zoning regulations, platting rules, as well as building code requirements did not apply to buildings, other structures, or land under the previous ownership, control, administration or jurisdiction of the United States Government and its military departments. Currently, the U.S. Air Force is leasing most of the facilities at Brooks City-Base.

Many of the existing Brooks City-Base buildings, infrastructure and land uses are not in conformance with COSA and national code standards and zoning, as is generally typical of many military installations exempt from such standards.

It is the intent of BDA, through its redevelopment efforts, to voluntarily and gradually upgrade buildings, structures, facilities, infrastructure and land uses at Brooks City-Base, toward meeting applicable COSA and national code standards and applicable zoning. This effort will be accomplished through a combination of publicly and privately financed construction renovations, upgrades, capital improvements, tenant improvements and BDA "build-outs."

Therefore, BDA and COSA agree, as follows:

1. BDA will not be required to upgrade current buildings, structures, facilities, infrastructure and land use to meet applicable COSA code standards and zoning. Construction of new buildings, facilities or structures, as well as any major renovations to existing buildings, structures or facilities must be constructed in accordance to COSA code standards effective at the time of construction. BDA must also comply with the permit and inspection requirements of COSA for any new buildings, facilities or structures, as well as any major renovations to existing building, structure or facility. For the purposes of this part, major renovations to existing

buildings structures or facilities is defined as any renovation that is valued at twenty-five percent (25%) or more of the fair market value of the building, structure or facility being renovated. Major renovations do not include normal maintenance, re-roofing, painting, wallpapering, asbestos removal, or changes to mechanical and electrical systems.

2. At this time, the streets located on Brooks City-Base are private streets that are maintained by BDA. Many of the current streets do not meet COSA's street standards. Any new streets constructed or major renovations to existing streets by BDA will be constructed in compliance with COSA's street standards. Major renovations to existing streets are defined as removal and replacement of both the asphalt and the concrete layers. Major renovations to streets do not include the removal and replacement of only the asphalt layer and resurfacing of streets, which consists of placing a new layer of asphalt over the old asphalt.

3. BDA will make all buildings, structures, facilities, infrastructure and land uses available for inspection as needed by COSA to ensure the health, safety and general welfare of both BDA tenants and surrounding COSA residents. The scope of review will be limited to fire code and building code inspections that ensure the safety of the tenants. Any non-compliance issues found by the City will be communicated to BDA and addressed by BDA. This service will be provided at no cost to BDA.

4. In consideration of this voluntary good faith effort by BDA to pursue the redevelopment of BAFB and the upgrading of its facilities, prior to formal application of local regulations, COSA's Development Services Department, Planning Department, Public Works Department and other affected departments will implement an internal policy to provide no cost BDA plan reviews, critiques, associated field inspections, building and demolition permit approvals and certificates of occupancy to BDA and its tenants to facilitate essential utility connections and the general redevelopment effort.

5. BDA agrees that it will provide a sealed engineering certification in regard to the construction of new structures certifying that such site is developable and is not subject to flooding. New structures will be subject to all provisions of COSA's drainage ordinances. In some instances, if a new structure or major renovation is being built on behalf of the United States Government, and the detailed plans for the new structure or major renovation is a matter of "National Security" where the specifics of the plan can not be made public, the COSA will accept a letter from a certified engineer that the new structure or major renovations comply with all provisions of COSA's technical codes in effect at the time. In these instances of National Security, the BDA will not be required to provide the City with any copies of any detailed plans for the new structure or the major renovations. A determination of whether a new structure or major renovation is a matter of National Security will be the sole decision of the BDA Executive Director.

6. For all new structures and major renovations as defined in Paragraph 1, BDA or its tenants and contractors will reimburse COSA for such services rendered pursuant to the

standard COSA schedule of fees assessed for such services, as may be periodically amended by COSA. Fees include but are not limited to inspection and permitting fees.

7. Where needed, BDA agrees to coordinate routine inspections with the U.S. Air Force to facilitate on-site COSA field inspections to implement the intent of this MOU. The BDA and its agents are provided escorted access rights in the Air Force lease of the facilities, provided 72 hours notice is given, in non-emergency situations. BDA will establish a single point of contact at Brooks City-Base to expeditiously coordinate access by COSA personnel to conduct required field inspections. BDA's single point of contact will be the BDA Executive Director or his designee.

8. COSA development review services will be provided by COSA without requiring prerequisite platting of the redeveloping properties by either BDA or its tenants. This temporary deferral of platting recordation requirements by COSA will end January 31, 2008. During the interim period, BDA agrees to maintain at its cost an inventory of existing property conditions and "as built" modified property conditions altered during the redevelopment process

BDA and COSA have adopted this graduated development monitoring approach in recognition of continued U.S. Air Force presence at Brooks City-Base, realization of existing Brooks City-Base property conditions, the limited public and private financial resources available to gradually improve the current property conditions at Brooks City-Base, and the significant, primary, mutual goal of preserving and creating employment opportunities in the Brooks City-Base economic redevelopment area, while protecting the health, safety and general welfare of both BDA tenants and surrounding COSA residents.

EXECUTED this the _____ day of _____, 2004.

CITY OF SAN ANTONIO

By: _____
Name: _____
Title: _____

BROOKS DEVELOPMENT AUTHORITY

By: Thomas M. Rumora
Name: THOMAS M. RUMORA
Title: EXECUTIVE DIRECTOR