

CONSENT AGENDA
ITEM NO. 20

**CITY OF SAN ANTONIO
ECONOMIC DEVELOPMENT DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Sheryl Sculley, City Manager

FROM: Ramiro A. Cavazos, Director of Economic Development and Shawn P. Eddy,
Interim Director of Asset Management

SUBJECT: Agreement with the U.S. Army Corps of Engineers to Vacate and Abandon the
City's Rights-of-Way (ROW) on Fort Sam Houston

DATE: March 2, 2006

SUMMARY AND RECOMMENDATIONS

This Ordinance will authorize an agreement between the United States of America (U.S. Army Corps of Engineers) and the City of San Antonio that facilitates the vacation and abandonment of a portion of North New Braunfels Avenue, located between East Grayson Street and Eleanor Avenue, and Old Austin Road, located between Austin Road and Harry Wurzbach Highway, which are located entirely within Fort Sam Houston Army Base in Council District 2.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

Following the events of September 11, 2001, the military commander of Fort Sam Houston implemented security measures to restrict public access to Fort Sam Houston to ensure the protection of both personnel and facilities on the installation. Prior to "9-11," there were 20 unrestricted public access points onto the installation. Today there are nine access points with access strictly controlled and limited to those with authorized vehicle passes and proper personal identification.

These mandated security measures also resulted in the closure of two roads that had previously served as City thoroughfares across the installation – North New Braunfels and Old Austin Road. Old Austin Road, which runs in front of the former Brooke Army Medical Center onto Wurzbach Road, remains open but has controlled access points on both ends. North New Braunfels is closed at the north end of the installation and is open for limited exit-only traffic during peak hours (11:00 a.m. – 1:00 p.m. and 4:00 – 6:00 p.m.) on Monday through Friday.

The City of San Antonio owns a right-of-way for those portions of North New Braunfels (.8 miles) and Old Austin Road (.6 miles) that pass through Fort Sam Houston (see attached map). In December 2002, the U.S. Army Corps of Engineers (COE) requested that the City relinquish and abandon its rights-of-way. It is the contention of the federal authorities that despite the City's ownership of the rights-of-way, the security of the area has remained under federal jurisdiction. Furthermore, the City has not expended funds to maintain these roads that are on federal property.

The City of San Antonio has been working with the COE since December 2002 to reach an Agreement on the City's abandonment of its rights-of-way. During this period, staff has met and discussed the progress of these negotiations with the Military Affairs Committee. Staff and elected officials have also had numerous meetings with citizens affected by the closure of North New Braunfels, particularly with the retail businesses located in the Gateway Business Area outside the south exit of North New Braunfels to IH-35.

Staff has done a number of things to help minimize the impact of the North New Braunfels closure upon the business owners' Gateway Business Area. This area has been targeted for revitalization and assistance since 1999, when the Fort Sam Houston Gateway Association became a Neighborhood Commercial Revitalization Program. The City of San Antonio and the San Antonio Development Agency (SADA) have invested \$3 million in parking, pedestrian, and street improvements in the Gateway area, with a project initiated in September 2000 and completed in March 2002. In March 2002, a festival was held to promote Government Hill. The Economic Development Department (EDD) has also provided two South Texas Business Fund (STBF) loans to local businesses (Two Peppers and Anointed Hands).

In exchange for the City's agreement to abandon its ROWs, the COE agrees to the following: (1) continue exit-only traffic at the South Gate of North New Braunfels during peak hours, subject to the installation commander's security obligations; (2) consult with the City before undertaking any significant, permanent or semi-permanent improvements or changes along North New Braunfels; (3) the COE will accept affected roadways "as is, where is" and in their present condition; (4) allow the City to reacquire the rights-of-way at no cost in the event the property is ever declared excess to the needs of the Army; (5) allow the City access to all existing drainage areas on the installation for maintenance and improvement purposes, upon reasonable notice; and (6) allow continued use of all existing public utilities within the rights-of-way with any relocation of utilities at the expense of the Army. Furthermore, the City would agree that these considerations constitute full, just, and complete compensation for the acquisition by the federal Government of the City's rights and property.

As a further condition of this Agreement, the Army must still complete its obligations under an earlier agreement made on December 18, 2003, whereby the City granted the Army a perpetual non-exclusive use road easement over an improved portion of Old Austin Road, in exchange for the future conveyance to the City of a portion of federal property that contains a portion of public right-of-way. Therefore, as a consideration to the approval of this agreement, the Military Affairs Committee recommended that this Agreement be made contingent upon the Army completing its previous commitment regarding the conveyance.

POLICY ANALYSIS

Fort Sam Houston currently provides over 25,000 jobs in the community with an annual economic impact of \$2 billion. As a result of the on-going transformation of the Army and the results of the 2005 round of the Base Realignment and Closure (BRAC) process, Fort Sam Houston expects to gain an additional 13, 575 jobs over the next 3-5 years and invest approximately \$2 billion in new and renovated facilities. This Agreement demonstrates the City's continued support for the Army's plans for growth and expansion of new missions, jobs and facilities.

The City's ROWs along these two roads remain under federal jurisdiction. Therefore, regardless of this Agreement, the City cannot require the Army to return these roads to public access as they existed prior to "9-11." If the City does not relinquish its ROWs on Fort Sam Houston, the Army will likely seek to reclaim the ROWs through condemnation proceedings in federal court. Based upon a line of federal cases, the COE believes the City's rights-of-way on Fort Sam Houston are of nominal value. If the federal court were to follow the precedents cited by the COE, it would not be liable to compensate the City for the fair market value of the property.

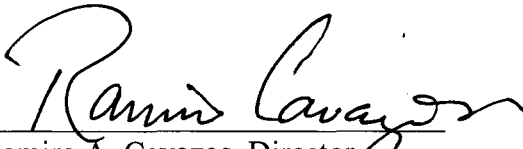
FISCAL IMPACT

There is no fiscal impact to the City of San Antonio for approval of this agreement.

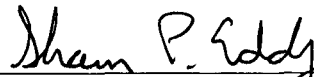
COORDINATION

The Economic Development Department staff has coordinated this action with the City Attorney's Office, Department of Public Works, and the Department of Asset Management.

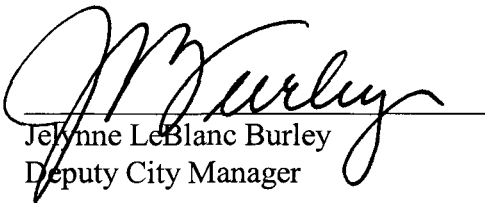
The Military Affairs Committee considered this Agreement on January 4, 2006 and recommended approval and presentation to City Council. The Planning Commission also considered this Agreement on February 8, 2006 and recommended approval.



Ramiro A. Cavazos, Director
Department of Economic Development



Shawn P. Eddy, Interim Director
Department of Asset Management



Jelynn LeBlanc Burley
Deputy City Manager



Erik J. Walsh
Assistant City Manager

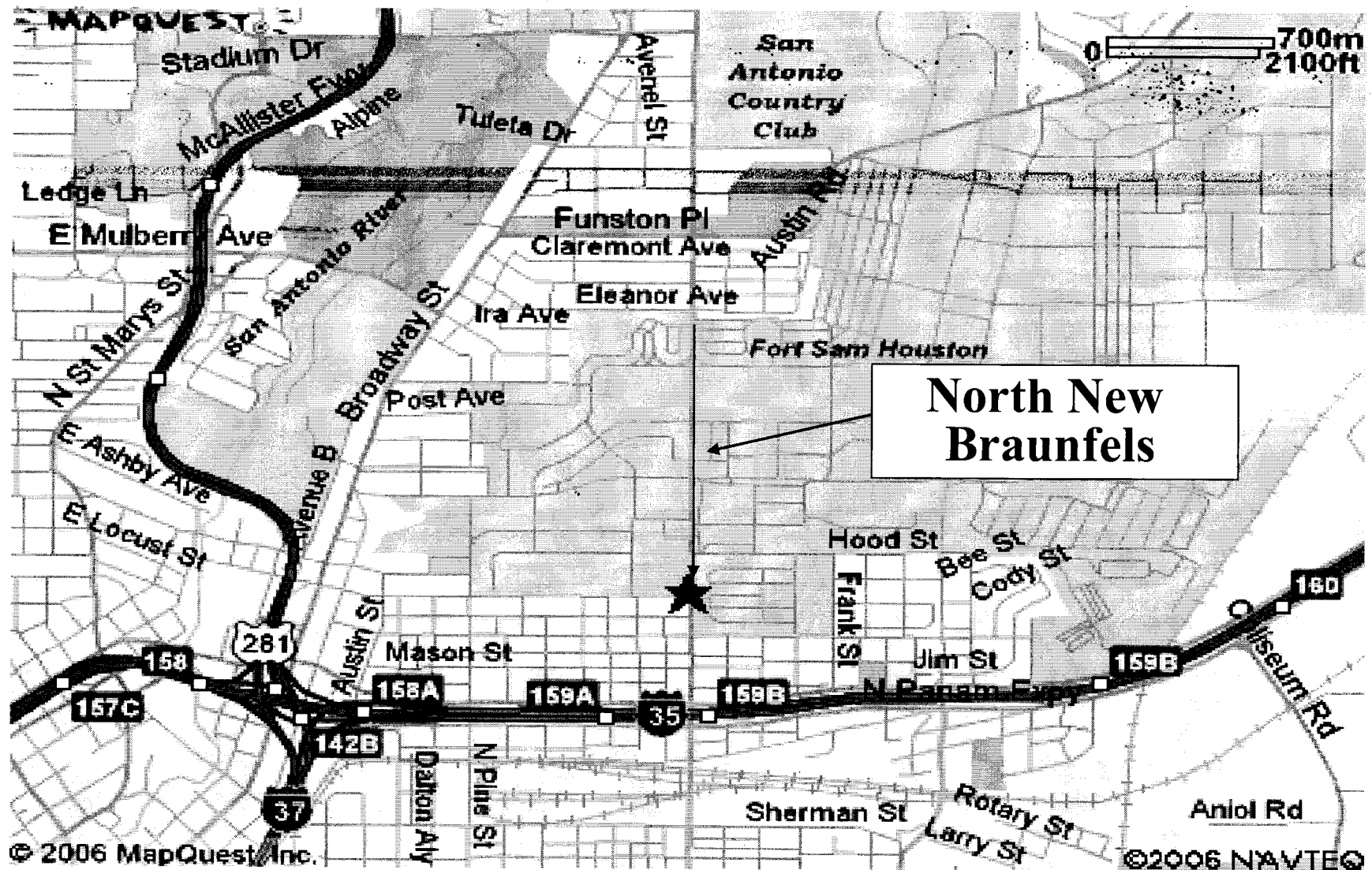
Approved for Council Consideration:



Sheryl Sculley
City Manager

Attachment

NORTH NEW BRAUNFELS AVENUE



DRAFT

City Council Item #____

**Vacation and Abandonment of the City's
Rights-of-Way Along Portions of North
New Braunfels and Old Austin Road
Located Within Fort Sam Houston**

March 2, 2006

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PURPOSE

- **This ordinance authorizes the City Manager to execute an Agreement with the United States Army Corps of Engineers to vacate and abandon two rights-of-way along portions of North New Braunfels and Old Austin Road located entirely within Fort Sam Houston.**

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BACKGROUND

- Following the events of September 11, 2001, the military commander of Fort Sam Houston implemented security measures to restrict public access to Fort Sam Houston to ensure the protection of both personnel and facilities on the installation.
- Prior to "9-11," there were 20 unrestricted public access points onto the installation.
- Today, there are nine access points with access strictly controlled and limited to those with authorized vehicle passes and proper personal identification.

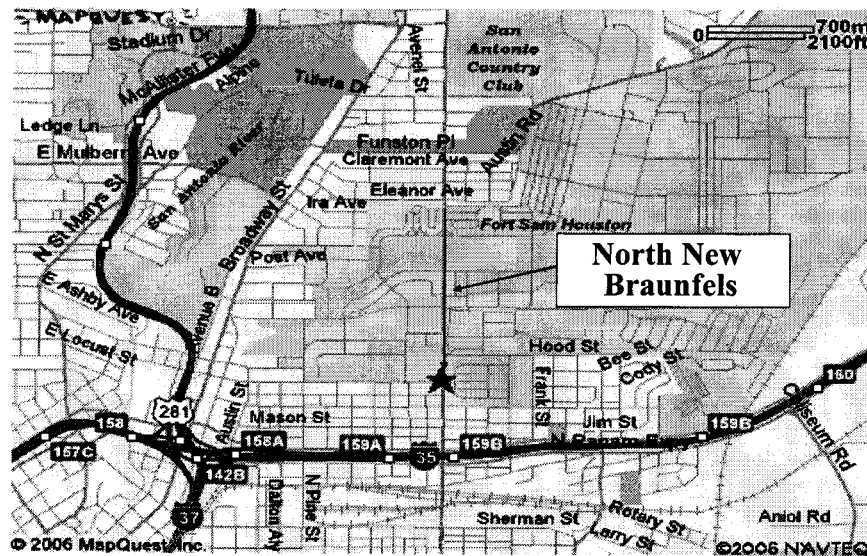
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ROW BACKGROUND (Cont.)

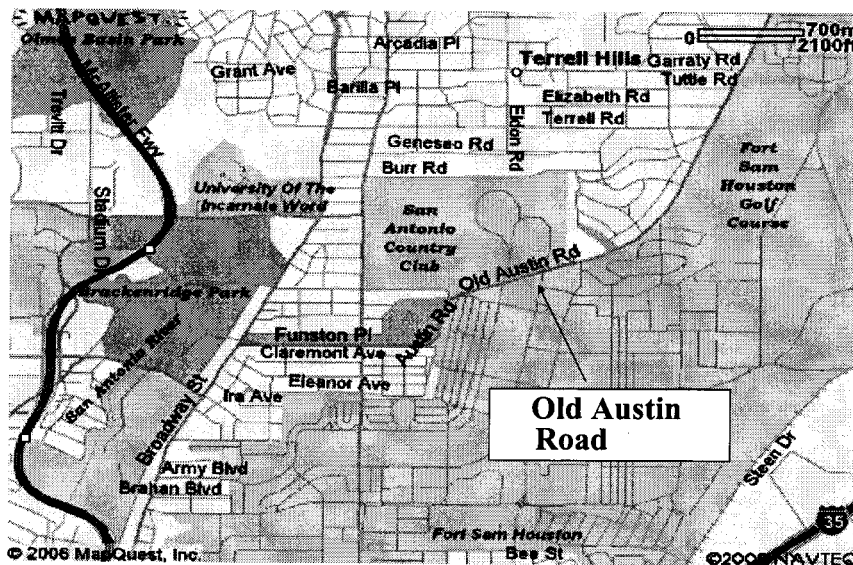
- These mandated security measures also resulted in the closure of two roads that cross the installation.
 - Old Austin Road, located between Austin Road and Harry Wurzbach Highway, remains open but has controlled access points on both ends.
 - North New Braunfels Avenue, located between East Grayson Street and Eleanor Avenue, is closed at the intersection with Eleanor Avenue, but open for limited exit-only traffic during peak hours (11:00 a.m. – 1:00 p.m. and 4-6 p.m.) on Monday through Friday at the Grayson Street intersection.

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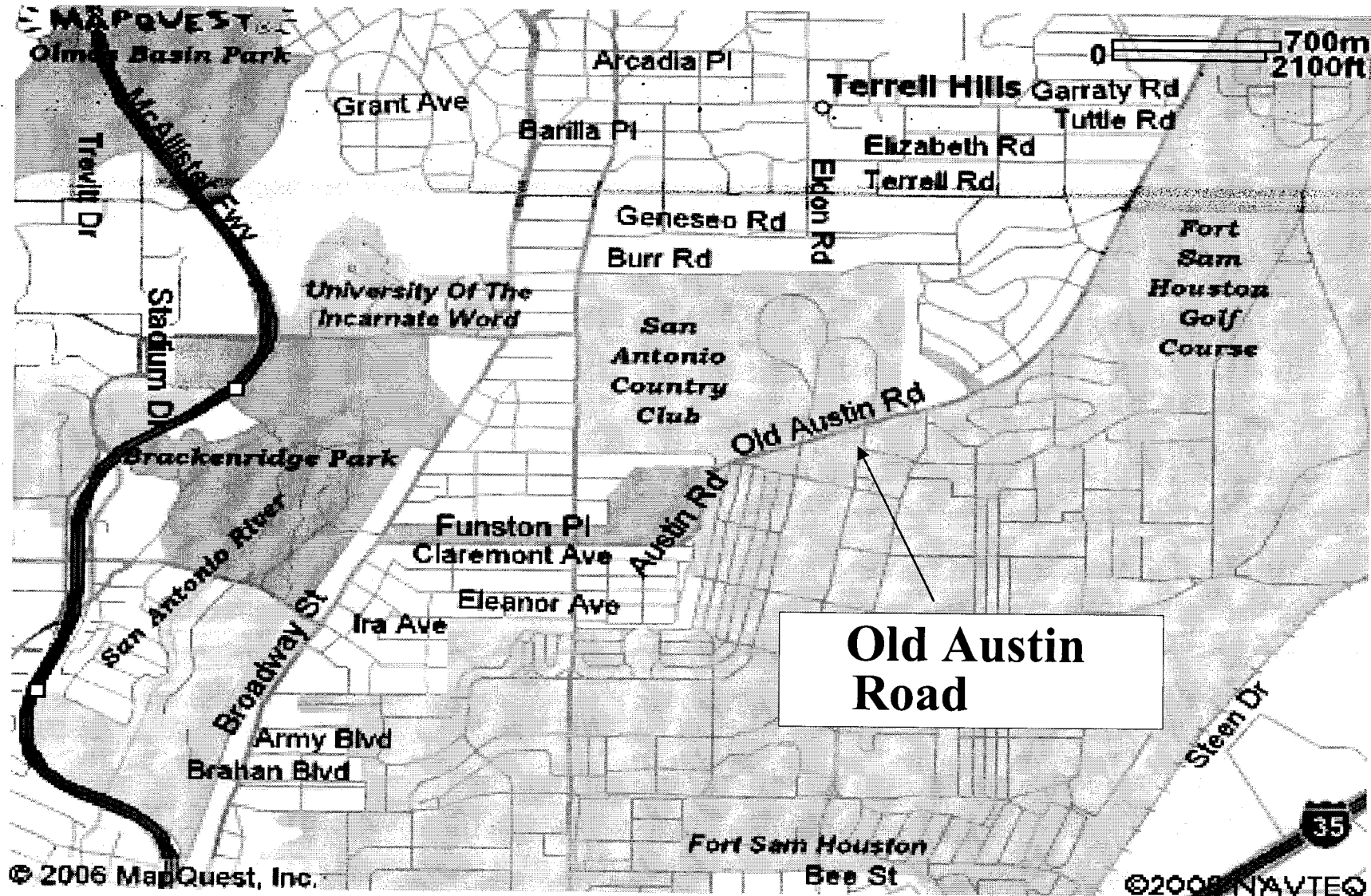
NORTH NEW BRAUNFELS AVENUE



OLD AUSTIN ROAD



OLD AUSTIN ROAD



ROW BACKGROUND (Cont.)

- **The City owns a right-of-way for those portions of North New Braunfels Avenue (.8 miles) and Old Austin Road (.6 miles) that pass through Fort Sam Houston.**
- **In December 2002, the U.S. Army Corps of Engineers (COE) requested that the City abandon its rights-of-way.**
- **Previously, the Army had allowed these roads to be used as public transportation, but did not relinquish control of the property to the City.**
- **These roads remain within federal jurisdiction, therefore, the City cannot demand that these roads be reopened for unlimited public access.**

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ROW BACKGROUND (Cont.)

- **The City has not maintained these roads on federal property, and the Army believes the City's rights-of-way are of nominal value.**
- **The City has been working with the Army since December 2002 to reach an Agreement on the abandonment of its rights-of-way.**
 - **Staff has kept the Military Affairs Committee informed of the progress of these negotiations.**
 - **Numerous meetings were held with citizens most affected by the closure of the roads, particularly those retail businesses located in Gateway Business Area near I-35.**

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COMMUNITY ASSISTANCE

- **The City has initiated a number of actions to minimize the impact of the closure upon the Gateway Business Area to include:**
 - **City targeted the Gateway area for revitalization and assistance in 1999, when the Fort Sam Houston Gateway Association became a Neighborhood Commercial Revitalization (NCR) Program.**

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GATEWAY ASSISTANCE (Cont.)

- **City and the San Antonio Development Agency (SADA) invested \$3 million in parking, pedestrian, and street improvements in the Gateway area with a project initiated in September 2000 and completed in March 2002.**
- **The Economic Development Department (EDD) has also provided two South Texas Business Fund (STBF) loans to local businesses (Two Peppers and Anointed Hands).**

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ROW AGREEMENT TERMS

- **In exchange for the City's agreement to abandon its ROWs, the Army agrees to the following:**
 - **Continue exit-only traffic at the South Gate of North New Braunfels during peak hours, subject to the installation commander's security obligations;**
 - **Consult with the City before undertaking any significant permanent or semi-permanent improvements or changes along these roads;**
 - **The Army will accept the affected roadways "as is, where is" and in their present condition;**

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ROW AGREEMENT TERMS (Cont.)

- **Allow the City to reacquire the rights-of-way at no cost in the event the property is ever declared excess to the needs of the Army;**
- **Allow the City access to all existing drainage areas on the installation for maintenance and improvement purposes, upon reasonable notice;**
- **Allow continued use of all existing public utilities within the rights of way with any relocation of utilities at the expense of the Army.**

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ROW AGREEMENT TERMS (Cont.)

- **As a further condition of this Agreement, the Army must still complete its obligations under an earlier agreement made on December 18, 2003, whereby the City granted the Army a perpetual non-exclusive use road easement over an improved portion of Old Austin Road, in exchange for the future conveyance to the City of a portion of federal property that contains a portion of public right of way.**

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POLICY ANALYSIS

- **Fort Sam Houston currently provides over 25,000 jobs in the community with an annual economic impact of \$2 billion.**
- **Fort Sam Houston expects to gain an additional 13,575 jobs over the next 3-5 years and invest approximately \$2 billion in new and renovated facilities.**
- **This Agreement demonstrates the City's continued support for the Army's plans for economic growth with the planned expansion of new missions, jobs and facilities.**

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POLICY ANALYSIS CONT.

- **The City's ROWs along these two roads remain under federal jurisdiction, therefore, regardless of this Agreement, the City cannot require the Army to return these roads to public access as they existed prior to "9-11."**
- **The Military Affairs Committee considered this Agreement on January 4, 2006 and recommended approval and presentation to City Council.**
- **The Planning Commission also considered this Agreement on February 8, 2006 and recommended approval.**

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FISCAL IMPACT

There is no fiscal impact to the City of San Antonio for approval of this agreement.

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COORDINATION and RECOMMENDATION

- **This item has been coordinated with:**
 - **City Attorney's Office**
 - **Department of Public Works**
 - **Department of Asset Management**
- **Staff recommends approval of this ordinance.**

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