

## **Table of Contents**

### **2015 ANNEXATION STUDY**

INTRODUCTION AND BASIS FOR THE STUDY.....PAGE 1-9

#### **Exhibit A**

Existing Base Map.....PAGE 10

#### **Exhibit B**

Cleveland, Houston, Splendor Overview.....PAGE 11

#### **Exhibit C**

Proposed North Industrial Area.....PAGE 12

#### **Exhibit D**

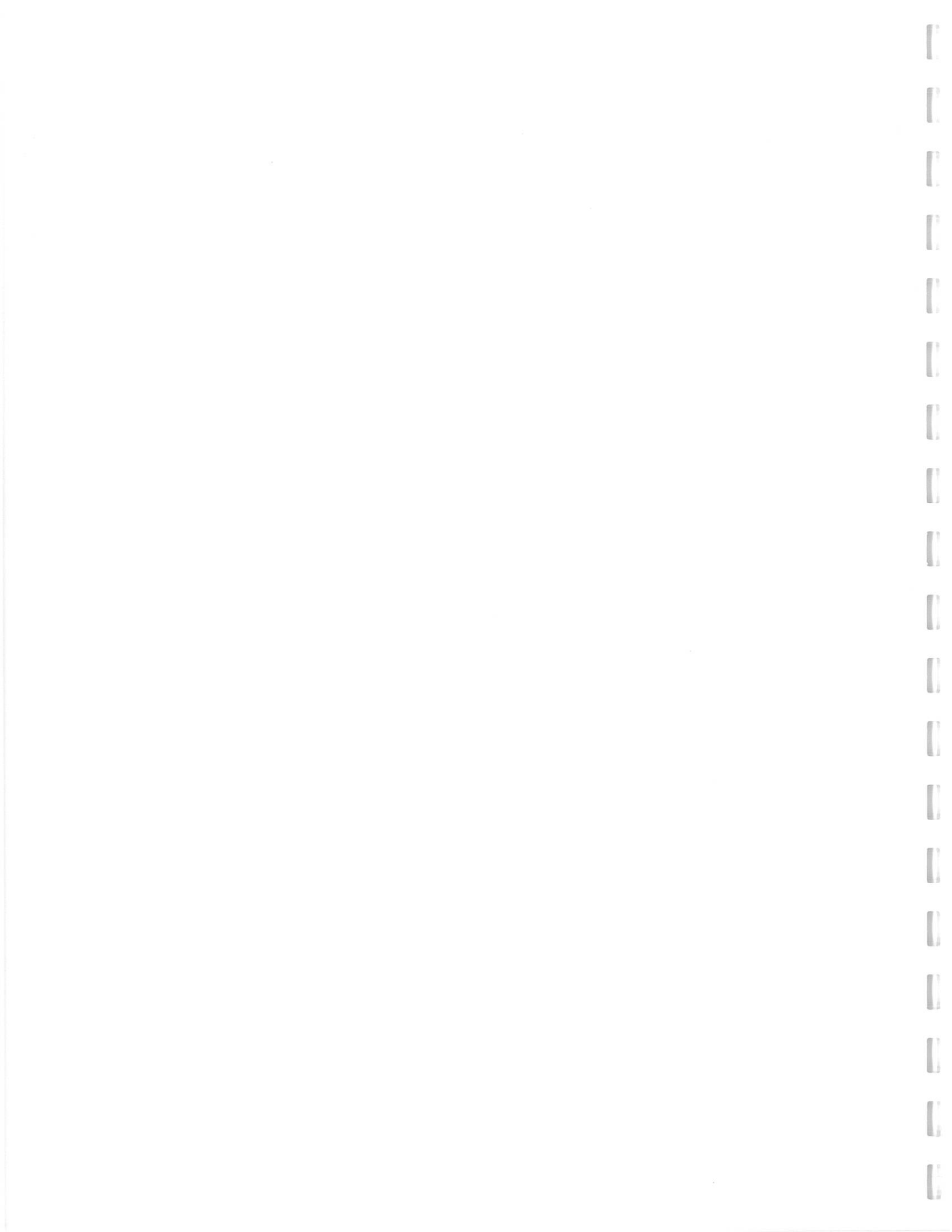
Cleveland Annexation Areas - 2015.....PAGE 13

#### **Exhibit E**

Cleveland Annexation Areas and PILOT areas- 2015.....PAGE 14

### **APPENDIX I**

LOCAL GOVERNMENT CODE – ANNEXATION LAW.....PAGE 15-116



# **City of Cleveland, Texas**

## **2015 Annexation Study**

### **Introduction and Basis for the Study**

In 2008, the City of Cleveland proceeded with an aggressive annexation policy over a period of about two years. Since that time, there has been no significant annexation of property into the City limits. Recently, community leaders in Cleveland have sensed a need to pursue annexation once again for economic and community growth purposes. Discussions among City staff, the Cleveland City Council and the Cleveland Economic Development Corporation (Cleveland EDC) centered on developable land and jurisdictional issues. The Cleveland EDC, jointly with the City Council, had concluded that the City could not expand its tax base nor grow its economy without more developable land in its jurisdiction. City Staff and the City Council also concluded that jurisdictional issues such as code enforcement are necessary in outlying areas to protect property values and foster economic growth. Finally, community leaders were concerned that other municipalities, especially to the south, could annex high economic growth areas available to the City of Cleveland at this time.

With these broad parameters of economic and community growth in mind, the Cleveland City Council engaged the planning firm of Public Management, Inc. on May 12, 2015 to facilitate an annexation study that would present an annexation strategy to the City Council. The City Manager and selected City Staff met with J. Andrew Rice, President of Public Management, Inc. on several occasions and this annexation study group has developed an annexation strategy

which will enhance the tax base of the City of Cleveland, give community development regulatory powers to the City for outlying areas and insure protection from encroachment by other municipalities. The remainder of this document will give specific details on how to accomplish this strategy and the reasoning behind it.

### **Annexation Law**

Annexation law is complicated in Texas. Specific annexation issues must have very detailed responses from municipalities. Cleveland, as a home rule municipality, has the ability to annex property without the property owner's permission but specific actions and future plans must be provided to that property owner in a public hearing before annexation. **Appendix I, on pages 15-116**, is a copy of the local government code as it applies to municipal annexation. For the sake of brevity, a few relevant parts of the code as they relate to the annexation strategy are given below:

1. The City has a one-mile extraterritorial jurisdiction (ETJ) outside its city limits.
2. The City can only annex property in its ETJ.
3. The City must annex property with a minimum 1,000 linear feet width.
4. The City must have an annexation plan to provide relevant services to the property within a three year time period.
5. The City can only annex ten percent of its current area in a one year period with the exception of accumulating annexation percentages from continuous non-annexing years up to an amount of thirty percent of its current area.

6. Only involuntary annexation is included with the aforementioned ten percent rule.

Voluntary annexations are not included in the ten percent rule and can be unlimited.

### **Economic Development**

Like all other Texas cities, Cleveland relies on property taxes and sales taxes to provide the bulk of its income for the general fund. The enterprise fund, consisting of primarily water and sewer utility revenue, is self sustaining and profitable. The general fund mostly provides services that are not fee based such as police, fire and emergency medical services. Therefore, an ever-expanding tax base is desirable to keep up with the services needed by population growth.

Generally, residential properties, through property taxes, do not provide a revenue stream sufficient to pay for services from the general fund. Therefore, it is not usually in a municipality's best interest to annex residential properties that will not pay their way. There is an exception to this rule of thumb, and that is when the value of the property is high enough to pay for the services needed by property. This is generally an exclusive high income subdivision with limited needs for services but with the ability to generate high amounts of property taxes.

For the aforementioned reasons, the annexation study group looked at annexing properties which would exponentially grow the tax base in the future by the very nature of their prime location for commercial businesses and industry. Existing dense residential areas, such as the Tarkington area along State Highway 321, would probably have a negative effect on the revenue/cost of services bottom line if annexed by the City. Taking annexation law into consideration, providing services, such as police and fire, along with the tremendous capital costs

of water and sewer services, would ultimately be cost prohibitive to the City due to the fact that not enough revenue would be generated by these properties to pay back the costs.

Therefore, the study group looked at developable properties with economic wealth potential that were mostly out of the floodplain, had transportation access and/or had potential for future infrastructure development such as water and sewer services. Of course, the floodplain surrounds Cleveland on three sides. Hence the study group used a strategy to move annexation beyond the floodplain so that economic development potential would be maximized. It also took into consideration the total amount of acreage eligible for annexation and identified enough viable areas for annexation to meet that total acreage. Long term economic development, especially industrial, was considered and the study group developed a strategy for high potential industrial development areas including a long-used policy in Texas called Payment in Lieu of Taxes (PILOT) to incentivize industrial investment and the creation of high paying jobs for the Cleveland area.

### **Threats to Area-wide Jurisdiction**

The study group realized the significance of a threat to the City's influence and jurisdiction by the consistent march northward of the City of Houston. **See Exhibit B on page 11.** By virtue of its five-mile ETJ, the City of Houston ETJ line is now only seven miles from the Cleveland ETJ line. Every time that Houston does an annexation, it extends its ETJ by five miles. With that in mind, Houston's jurisdictional control could virtually be on Cleveland's doorstep within two years.

In between the City of Houston and Cleveland is the City of Splendor. It is a general law City with a one-half mile ETJ. In Splendor, annexation can only be done with the permission of the property owner. Although it does not have the power to do involuntary annexation, as does Houston, property owners who may not want to be in the City of Cleveland could petition for annexation to Splendor before Cleveland extends its ETJ to Splendor's ETJ.

With these two aforementioned scenarios presenting themselves in the near future, the study group looked at ways to annex property toward Houston and Splendor that would not require water and sewer services for a number of years. By annexing one thousand feet strips of property in a manner that would extend the Cleveland ETJ south along U. S. Highway 59 and east beyond Fostoria road, the study group felt that this would protect the City's future influence and jurisdiction as well as protect important economic development areas for enhancing the tax base.

Such a strategy also prevents the establishment of special districts for utilities and development that may impede the community and economic growth of the City. By having these areas in its ETJ, the City not only protects its future tax base but also controls jurisdiction over the development of utilities and other infrastructure. Special districts would have to get permission from the City to go into business and at the same time, the City could demand pre-development agreements from them so that it would have control over the developed infrastructure at a future date.

## **Control of Community Development**

It is no secret that in the triangle of Texas constituting Houston—Dallas-Ft. Worth—Austin-San Antonio, that population growth have been exponential over the last several years. It is expected to continue. Cleveland is in on the edge of this triangle. With that population growth has and will come community development pressures i.e. people need places to live. Orderly development of places to live enhances the quality of life for all persons and protects communities from crime, disease, and general sociological breakdown. However, orderly development is elusive outside municipalities in Texas. Most Texas counties have minimum development standards and environmental protection. Conversely, most municipalities are much stricter with enforcement of development through subdivision ordinances, building codes, environmental codes and zoning.

The study group saw this disparity and thought it was in the best interests of the City to extend its influence into a large ETJ where at least the City's subdivision ordinance would be enforced by City Staff. There has been recognition by City Staff over the last several years that enforcement of development; building and environmental codes have a positive effect on the future of the community. With the ability to extend its enforcement powers through annexation, the City could eliminate poorly developed subdivisions, shoddy building practices, dangerous and dilapidated mobile homes, junk cars, piled up debris, and environmental hazards. The study group sees that beyond economic development and threats to area-wide jurisdiction, annexation will have long term incremental enhancement to the quality of life in Cleveland.

## **Industrial Development Areas**

### **Payment in Lieu of Taxes (PILOT) Policy**

One of the Cleveland area's development assets is vacant land (with utilities) and raw land (without utilities and sometimes access). Many of these areas are primed for industrial development especially north of Cleveland along Interstate 69 and along FM 787. Both of these areas are served by good roads and rail. Because of Cleveland's proximity to the Houston area and the presence of reasonably priced vacant and raw land, the possibility of industrial development is quite high. The Cleveland Economic Development Corporation and the City Council have already reviewed the industrial development possibilities in **Exhibit C on page 12** and know of the possibilities in the area at and around the Airport Industrial Park.

For many years, the State of Texas has had a Payment in Lieu of Taxes (PILOT) policy in the Texas Property Tax Code, which allows municipalities to not tax high value industrial property at the regular property tax rate paid by residential and commercial properties. Such taxes would be cost prohibitive for these industrial businesses and they would never invest in the community or would leave because of the impact on their net income. The PILOT policy allows the municipality to enter into an agreement with the industrial business for a period of time where payments are made to the municipality for services but are much less than the payments which would be made for applicable property taxes on the property. This keeps the business in the community creating investment and high paying jobs, which generate higher sales tax revenues and more investment in the community. It also allows the municipality to negotiate these agreements with businesses wanting to locate in the community, giving them incentive to make their investment and create jobs.

With that in mind, Mayor Niki Coats and J. Andrew Rice visited with the principal owners of Paver's Supply, key figures for allowing transportation access in **Exhibit C**. They are amenable to the idea of assisting with industrial development of this area in exchange for a PILOT policy on their properties. Having this key property available for providing road and rail access will open up approximately 700 acres for industrial development, which will have Interstate 69 access and north/south, east/west rail access. Such an area for industrial development is rarely seen in Texas. Opening up this area has limitless possibilities, especially if it is covered with a PILOT policy. The annexation study group agreed that this potential area for development should have the PILOT policy and should be followed with infrastructure development to create investment and jobs. Additionally, the study group recommended the same PILOT policy for the areas at and around the Airport Industrial Park.

### **Recommendations**

Using the ideas and logic previously mentioned, the study group has developed several specific recommendations and timetables for annexation. The study group believes that these recommendations can be acted upon with a minimum cost to the City. **Exhibit D on page 13** shows the actual recommended annexations. The study group recommends the following:

- That the City Council annex the properties shown in **Exhibit D on page 13** into the City before December 31, 2015.
- That the Council revisit annexation possibilities in April, 2016 and continue annexing vacant property to the south, specifically to protect from City of Houston encroachment

and to protect development in this area of the County before December, 2016. The Council should consider similar annexations in each ensuing year after 2016.

- That the Council officially endorse an economic development PILOT policy for the areas shown on **Exhibit E on page 14** and direct the Cleveland Economic Development Corporation to use the policy as an incentive for industrial businesses and associated infrastructure development into currently inaccessible but high potential industrial areas.

### **Conclusion**

With growth and jurisdictional issues ever present in the greater Cleveland area, this aggressive annexation plan will assist the City in controlling its destiny over the next several years. However, such issues are fluid, and the dynamics change over time. The City government must be vigilant about its borders and protect its economic and community development by monitoring development patterns. Such an approach will make Cleveland a viable community for years to work, play and live.

