



# City of San Antonio

## Agenda Memorandum

**File Number:**

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**Agenda Item Number:** 35

**Agenda Date:** November 21, 2024

**In Control:** City Council A Session

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**DEPARTMENT:** Planning Department

**DEPARTMENT HEAD:** Bridgett White

**COUNCIL DISTRICTS IMPACTED:** ETJ, District 2

**SUBJECT:**

An amendment to the Development Agreement between the City of San Antonio and Fair Oaks Mosaic TBY, LLC, SA Kosta Browne Ltd, SA Given To Fly, LP, SA Do the Evolution, LLC, and SA Eisele, LLC.

**SUMMARY:**

Ordinance authorizing an amendment to the Development Agreement between the City of San Antonio and Fair Oaks Mosaic TBY, LLC, SA Kosta Browne Ltd, SA Given To Fly, LP, SA Do the Evolution, LLC, and SA Eisele, LLC., the Owners, to include 146.153 acres of land in the Clearwater Creek Special Improvement District.

**BACKGROUND INFORMATION:**

On January 30, 2020, the City Council of San Antonio granted its consent to the creation of a public improvement district (PID), named the Clearwater Creek Special Improvement District by Bexar County (County); and approved a Development Agreement (Agreement) with Fair Oaks Mosaic TBY, LLC and SA Kosta Browne Ltd, the original Owners of the PID. The district was officially created by the County on February 11, 2020. The original PID consists of 226.544 acres, generally located north of Miller Road, east of Stapper Road, and west of FM 2538 in the ETJ of the City of San Antonio. Subsequently, SA Given To Fly, LP, SA Do the Evolution, LLC, SA

Eisele, LLC acquired 146.153 acres of land and petitioned the PID's Board of Directors (Board) to amend its boundaries by annexing the 146.53 acres of land.

On August 30, 2023, the Board approved the PID annexation and on January 31, 2024, the PID's board of directors (Board) petitioned the County to grant their consent to revise the existing PID's boundaries by including the 146.153-acre SA Given To Fly, LP, SA Do the Evolution, LLC, SA Eisele, LLC property. On August 15, 2024, the Board also petitioned the City to grant its consent to the annexation of the PID with road district powers in its ETJ as required by State law. As a condition of the City's consent, the Owner and the City will amend the original development agreement, which includes development and land use regulations, voluntary annexation for the PID extension land and the framework of a Strategic Partnership Agreement (SPA).

The proposed PID Annexation Property consists of three tracts, consisting of 146.153 acres of land, adjacent to the original PID boundaries, generally located northwest of FM 2538 and Miller Road. With the addition of the 146.153 acres, the acreage of the PID will increase to approximately 372.697 acres. The PID Annexation Property is located within the water and sewer Certificates of Convenience and Necessity (CCNs) of Green Valley Utility Service District. Furthermore, the PID annexation will be a residential development with 690 single-family residential units. This development has no proposed commercial use. The proposed individual lot improvements (onsite), collector roadway, drainage improvements, sanitary sewer collection system, and water distribution system are estimated to cost \$30.9 million. The proposed PID Annexation's revenue is estimated at \$20.2 million.

## **ISSUE:**

If approved, this ordinance authorizes an amendment to the Development Agreement between the City and Owners, Fair Oaks Mosaic TBY, LLC, SA Kosta Browne Ltd and SA Given To Fly, LP, SA Do the Evolution, LLC, and SA Eisele, LLC. to include the PID annexation of 146.153 acres, which will expand the PID's boundaries to 372.697 acres. The written consent of the City, which includes the delegation of the road district powers along with the powers to construct water, wastewater, and drainage facilities, is required by state law for this PID to exercise those powers. The terms of the City's consent are provided in the amended Development Agreement and will be extended to the PID's newly annexed area. The City's consent will not include the following:

- The power to exercise eminent domain by the PID; and
- The power to annex, expand or exclude land into the PID's existing boundaries.

The Agreement sets the conditions of the City's consent, as mentioned above, and includes the following terms and obligations between the City and the Owners with respect to the development of the PID property:

- The Owners will pay to the City a \$7,500 Special District application fee.
- The Owners will pay to the City an operations fee of \$175 per each built residential unit, totaling \$120,750.
- The proposed PID Annexation's tax rates shall not exceed the City's tax rates.
- The City will guarantee the continuation of the extraterritorial status of the PID annexation property for a period of 30 years.
- The Owners agree that the Agreement constitutes a petition consenting to annexation at the City's discretion at the end of the Agreement's term.

- The Agreement includes a Written Services Agreement between the Owners, subsequent Owners, and the City under Chapter 43 of the Local Government Code.
- The Owners agree to comply with all municipal regulations, ordinances, and other laws applicable to all properties located within the City's ETJ during all phases of development and construction of the PID Annexation Project and during the term of the Agreement.
- The Owners will reimburse the City for the recordings of the development agreement with Bexar County Real Property Records.
- The Agreement includes the proposed framework of a SPA between the City and the PID, which will include the following provisions:
  - The PID will pay for costs related to the SPA and limited purpose annexation and will reimburse the City for legal recordings of the SPA with Bexar County Real Property Records.
  - Commencing after the effective date of the limited purpose annexation of the commercial property, the City will remit to the PID an amount equal to 25% of the Sales Tax Revenues collected within the annexed commercial property.

The proposed timeline for the establishment of the proposed PID Annexation is as follows:

Dates	Schedule of Action
October 23, 2024	San Antonio Planning Commission public hearing and recommendation
November 21, 2024	City Council's consideration and action
TBD	County Commissioners Court consideration to expand the original PID

## **ALTERNATIVES:**

A denial of the ordinance would result in the PID's annexation not being approved by the County. This action may result in the project being delayed because the Owners would have to seek a different financing mechanism for the development of the PID project.

City Council may require staff to re-negotiate the terms of the amended Agreement, which would delay the activation of PID development.

## **FISCAL IMPACT:**

This item is to consider an ordinance amending the Development Agreement between the City and Fair Oaks Mosaic TBY, LLC, SA Kosta Browne Ltd., SA Given To Fly, LP, SA Do the Evolution, LLC, and SA Eisele, LLC, Owners of the PID property. This Ordinance enables the Owners to pay a Special District Operations Assessment estimated at \$120,750 (for a total of 690 residential units at \$175 per residential unit) and costs related to limited purpose annexation and reimburse the legal recordings of the amended development agreement with Bexar County Real Property Records to the City's General Fund. The City will pay to the PID an amount equal to 25% of the sales and use tax revenues collected within the Limited Purpose Annexation Property, commencing on the effective date of the Limited Purpose Annexation of the commercial land.

**RECOMMENDATION:**

Staff recommends approval of an ordinance authorizing an amendment to the Development Agreement between the City and the Owners, Fair Oaks Mosaic TBY, LLC, SA Kosta Browne Ltd, SA Given To Fly, LP, SA Do the Evolution, LLC, and SA Eisele, LLC.

On October 23, 2024, the Planning Commission recommended that City Council grant its consent to the annexation of 146.153 acres by the Clearwater Creek Special Improvement District subject to the amended Development Agreement between the City and the Owners.