

THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.

RESOLUTION

PROVIDING THE CITY OF SAN ANTONIO'S CONSENT TO AN AMENDEMENT TO THE ESPADA SPECIAL IMPROVEMENT DISTRICT NO. 1 BOUNDARIES, GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH LOOP 410 AND HIGHWAY 281 SOUTH IN THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS; AND ESTABLISHING CONDITIONS WITH RESPECT THERETO.

* * * * *

WHEREAS, on October 2, 2007, ESA Residential Development, Inc., E-TM Land Investment, LTD., and Terramark Communities, Ltd., the owners of approximately 1,840 acres of land, referred to as the Espada property, generally located southeast of the intersection of South Loop 410 and Highway 281 South in the San Antonio Extraterritorial Jurisdiction (ETJ), petitioned Bexar County (County) for the creation of up to three Public Improvement Districts (PIDs), and the City of San Antonio (City) for its consent to the PID creation in its ETJ; and

WHEREAS, on December 13, 2007, the City granted a six-month conditional consent to the creation by Bexar County (County), of three Espada PIDs under the provisions of Chapter 372, Texas Local Government Code (Code) by (*Resolution No. 2007-12-13-0026R*); and

WHEREAS, on May 27, 2008, the County approved a resolution with the intent to create the three Espada PIDs and added a three-month extension to the creation deadline; and, on June 12, 2008, the City extended its conditional consent to the PID creation, (*Resolution No. 2008-06-12-0030R*); and

WHEREAS, on October 21, 2008, the County updated its Espada PIDs creation order by delegating road district powers to the PIDs, which include the powers to construct water, wastewater, and drainage facilities, and established the respective three PIDs' boundaries and their activation periods; and on October 7, 2009, the County amended the Espada PID No. 1's boundaries from approximately 471.91 acres to approximately 494.976 acres; and

WHEREAS, on March 18, 2010, the City consented to the modification of the Espada PID No. 1 to approve the county's delegation of road district powers and entered into an Agreement for Services in Lieu of Annexation with the owners of the property at the time, (*Ordinance 2010-03-08-0224*). No development has occurred on the property located within the Espada PID No. 1; and

WHEREAS, on January 25, 2024, the County renewed its creation order and appointed new members of the Espada PID No. 1's Board of Directors (Board); and

WHEREAS, currently, Marmaxx Operating Corp. (Marmaxx) and Lennar Homes of Texas Land and Construction, Ltd (Lennar) own approximately 426.794 acres within the Espada PID No. 1, and have petitioned the Board of the Espada PID No.1 to reduce the boundaries of the Espada PID No. 1 by 68.182 acres to encompass a single-family residential development to be constructed by Lennar Homes; and

WHEREAS, on February 12, 2024, the Board authorized the amendment to the PID's boundaries to encompass the Lennar Homes residential development and reduce the existing PID area (494.794 acres) by 68.182 acres, establishing a new boundary of approximately 426.794 acres, subject to the consent from both the County and the City; and

WHEREAS, on February 21, 2024, the Board formally requested the City to consent to the PID No. 1 boundary amendment described and depicted in the field notes and survey attached in the Petition which is attached hereto as **ATTACHMENT "A"**; and

WHEREAS, in consideration of the City's consent to the amended Espada No. 1 PID boundaries, the Owners have agreed to enter into a 30-year Development Agreement, attached in substantially final form as **ATTACHMENT "B,"** which will set forth the conditions of the City's consent, including the City's authority to enforce development regulations and city ordinances applicable to other land within the City's ETJ, and will provide terms for the voluntary annexation of the property within the Espada No.1 PID upon expiration of the term of the Agreement or violation of the Development Agreement by the Owners, their successors and/or assigns; and

WHEREAS, the Development Agreement will also include a proposed Strategic Partnership Agreement (SPA), attached in substantial form as an exhibit to the Development Agreement, attached hereto as **ATTACHMENT "B,"** to be entered into with the PID, which sets out the terms for limited purpose annexation by the City of commercial property in the PID and revenue sharing of the sales and use taxes collected within the PID; and

WHEREAS, the Owners agree to pay a Special District Application Fee in the amount of \$7,500.00 and will pay a Special District Operations Assessment in the amount of \$175.00 per residential lot, which in the Owners' estimation amounts to Three Hundred and Fifty thousand, Eight Hundred and Seventy-Five and 00/100 (\$350,875.00), and which shall be paid annually based on the number of units built within the PID reflected in an annual report provided by the Owners and as verified by staff; and shall reimburse the City for all costs paid by City for the recording of this Agreement and related documents in the Bexar County property records; and

WHEREAS, the Planning Commission held a public hearing and adopted a resolution recommending that the City Council consent to the amendment of the boundaries of the Espada PID No. 1 and to the County's delegation to the PID the powers granted by Section 52, Article III of the Texas Constitution; the power and duties of a road district and the power to provide water, wastewater and drainage facilities in accordance with Section 382.101 of the Local Government Code, as requested in the Owners' petition, on May 22, 2024.

NOW, THEREFORE:

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council of San Antonio hereby consents (1) to the amendment to the Espada Special Improvement District No. 1, consisting of 426.794 acres, generally located southeast of the intersection of

South Loop 410 and Highway 281 South in the Extraterritorial Jurisdiction (ETJ) of the City of San Antonio as described and depicted in to **Attachment "A"** hereto by Bexar County; and (2) to the County's delegation to the PID the powers granted by Section 52, Article III of the Texas Constitution; the power and duties of a road district and the power to provide water, wastewater and drainage facilities in accordance with Section 382.101 of the Local Government Code; but the City's consent does not include the powers to exercise eminent domain, annexation, expansion, division, and exclusion of property from the PID.

SECTION 2. The City Council of San Antonio resolves that its consent to the amendment of the PID is conditioned upon the Owners' execution of a Development Agreement with the City providing terms and conditions of the City's consent to the amendment of the PID and that said consent to the County's creation of the PID shall remain in effect so long as the Owners execute and comply with the above-described Development Agreement.

PASSED AND APPROVED on this 20th day of June 2024.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM

Debbie Racca-Sittre, City Clerk

Andrew Segovia, City Attorney