

**RESOLUTION NO. \_\_\_\_\_**

**RECOMMENDING THE CITY OF SAN ANTONIO GRANT ITS CONSENT TO THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT TO BE CALLED “GRACE GARDENS SPECIAL IMPROVEMENT DISTRICT” BY BEXAR COUNTY; AND TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN ANTONIO AND SA KOSTA BROWNE, LTD, OWNERS OF THE APPROXIMATELY 456.651 ACRE PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF HILDEBRANDT ROAD AND SOUTH WW WHITE ROAD IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY SAN ANTONIO, BEXAR COUNTY, TEXAS.**

**WHEREAS**, the Texas Local Government Code Chapters 382 allows a county to create a Public Improvement Districts (PID) pursuant to Section 52, Article III, and Section 59, Article XVI of the Texas Constitution and for the purposes of creating a program to engage in economic development projects as provided in Section 52-a, Article III, Texas Constitution; and

**WHEREAS**, the Texas Local Government Code provides that if one purpose of a political subdivision, which includes a PID, is to supply fresh water for domestic or commercial use or to furnishing sanitary sewer services, roadways, or drainage, a municipality in whose extraterritorial jurisdiction (ETJ) the subdivision is located must give its written consent by ordinance or resolution in order for the subdivision to be created; and

**WHEREAS**, SA Kosta Browne, Ltd. (Owners) own approximately 456.651 acres of land generally located southeast of the intersection of Hildebrandt Road and South WW White Road within the City of San Antonio’s ETJ (the “Property”), more particularly described and depicted in the PID Petition attached as **ATTACHMENT “A,”**; and

**WHEREAS**, the Owners propose to develop the Property to consist of approximately 2,000 single family units, 315 multi-family units, and 8.2 acres of commercial space. The project will also include on-site improvements including individual lot improvements, streets, utilities, drainage, grading, sidewalk, amenity. Off-site improvements will include traffic/turn lane, offsite utilities, offsite drainage, lift station. Said improvements are depicted in the PID Summary and Master Development Plan (MDP) included in **ATTACHMENT “A”**. Costs for the improvements specified herein are to be paid for through reimbursements by the PID once it has been created; and

**WHEREAS**, on October 5, 2021, the Owners filed a petition with Bexar County (County) requesting that the County create the Grace Gardens Special Improvement District under Chapter 382 of the Local Government Code, authorize the PID to impose certain taxes within the PID, and delegate the powers of a road district and the powers to construct water, wastewater and drainage facilities to the PID; and

**WHEREAS**, on October 18, 2021 Owner submitted a petition to the City requesting the City’s consent to the creation of the PID by the County in accordance with Section 382.101 of the Local Government Code; and

**WHEREAS** on December 7, 2021, the County Commissioners Court approved a resolution stating their intent to create the PID; and

**WHEREAS**, in consideration of the City’s consent to the creation of the PID by the County, the

Owners have agreed to enter into a 30-year Development Agreement, enclosed 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 District Property upon expiration of the term of the Agreement; and

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

**WHEREAS,** the Owners will pay an application fee in the amount of \$7,500.00 and will pay an Operations Assessment Fee in the amount of \$175.00 per residential lot and multifamily unit, which in the Owners’ estimation amounts to approximately Four hundred five thousand, one hundred twenty-five and No/100 (\$405,125) U.S. dollars, 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.

**WHEREAS,** the San Antonio Planning Commission held a public hearing on March 23, 2022 and at the conclusion thereof, determined that, subject to the conditions set forth herein, the City should grant its consent to the creation of the PID.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The San Antonio Planning Commission recommends that the City of San Antonio grant its consent to the creation by Bexar County of the Grace Gardens Special Improvement District (“PID”) as detailed in the Owner’s petition attached as **ATTACHMENT “A”** facilities in accordance with Section 382.101 of the Local Government Code and to the County’s delegation to the District the powers granted by Section 52, Article III of the Texas Constitution, the powers and duties of a road district and the power or to construct water, wastewater and drainage. The Planning Commission does not recommend that the City’s consent include the powers to exercise eminent domain, annexation, expansion, division, or exclusion of property from the District.

**SECTION 2.** The San Antonio Planning Commission further recommends that the City Council approve a 30-year Development Agreement, attached in substantially final form as **ATTACHMENT “B”** between the City and SA Kosta Browne, Ltd., Owners of the PID property, which includes provisions for the voluntary annexation of the property upon expiration of the term of the Agreement and that establishes services and terms for future annexation of the PID property.

**PASSED AND APPROVED ON THIS 23<sup>rd</sup> DAY OF MARCH 2022.**

Attest:

Approved:

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Executive Secretary  
San Antonio Planning Commission

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Matthew Proffitt, Chair  
San Antonio Planning Commission

**ATTACHMENT A – PETITION**

KENNETH W. BROWN, AICP  
DANIEL ORTIZ  
JAMES MCKNIGHT

**BROWN & ORTIZ, P.C.**  
ATTORNEYS AT LAW

CAROLINE McDONALD  
KEVIN DEANDA

PAUL M. JUAREZ  
OF COUNSEL

112 E. PECAN STREET  
SUITE 1360  
SAN ANTONIO, TEXAS 78205  
TELEPHONE: 210.299.3704  
FAX: 210.299.4731

October 18, 2021

Bridget White  
Planning Department Director  
City of San Antonio  
111 Soledad, Suite 650  
San Antonio, Texas 78205

**VIA EMAIL**

RE: Petition for Consent to the Creation of the Grace Gardens Special Improvement District, in accordance with Chapter 382 of the Texas Local Government Code, to Include Property Generally Located Southwest of the Intersection of Hildebrandt Road and S. WW White Road, in the Extraterritorial Jurisdiction ("ETJ") of the City of San Antonio Bexar County, Texas (the "Subject Property"); *Our File No. 9583.028*.

Dear Ms. White:

On behalf of SA Kosta Browne, Ltd. (the "Petitioner") we respectfully submit the enclosed Petition to the City of San Antonio Planning Department. Included with this correspondence are documents and exhibits related to the request for consent to creation of the Grace Gardens Special Improvement District and the inclusion of the Subject Property therein, all as further described in the attached Petition and exhibits. Please find enclosed:

1. A signed First Amended Petition submitted to Bexar County and the City of San Antonio City Clerk Requesting Consent to Creation of the Grace Gardens Special Improvement District (**Exhibit "1"**);
2. Grace Gardens Special Improvement District Layout (**Exhibit "2"**);
3. Grace Gardens Special Improvement District Summary and Timeline (**Exhibit "3"**);
4. Grace Gardens Special Improvement District Financial Projections (**Exhibit "4"**);
5. Grace Gardens Special Improvement District Field Notes and Survey (**Exhibit "5"**);
6. Grace Gardens Special Improvement District Draft Development Agreement Provision Matrix with the City of San Antonio (**Exhibit "6"**);
7. Signed Form 1295 and Contracts Disclosure Forms Related to the Grace Gardens Special Improvement District (**Exhibit "7"**); and
8. Property Deeds Reflecting Current Ownership of the Subject Property (**Exhibit "8"**).

Please do not hesitate to contact our office should you have any questions or need any additional information in connection with this Petition.

Thank you,

**BROWN & ORTIZ, P.C.**

BY:

  
Daniel Ortiz

**EXHIBIT "1"**  
**PETITION SUBMITTED TO BEXAR COUNTY AND THE CITY OF SAN ANTONIO CITY**  
**CLERK REQUESTING CONSENT TO CREATION OF THE GRACE GARDENS PID**

KENNETH W. BROWN, AICP  
DANIEL ORTIZ  
JAMES MCKNIGHT

**BROWN & ORTIZ, P.C.**  
ATTORNEYS AT LAW

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FAX: 210.299.4731

October 5, 2021

Honorable Lucy Adame-Clark  
Bexar County Clerk  
Office of the Bexar County Clerk  
100 Dolorosa, Suite 104  
San Antonio, Texas 78205

RE: First Amended Petition for the Creation of a Public Improvement District, in accordance with Chapter 382 of the Texas Local Government Code, for Property Generally Located Southwest of the Intersection of Hildebrandt Road and S WW White Road, in the Extraterritorial Jurisdiction ("ETJ") of the City of San Antonio, Bexar County, Texas (the "Subject Property"); *Our File No. 9583.028*.

Honorable Adame-Clark:

On behalf of SA Kosta Browne, Ltd. (the "Petitioner") we respectfully submit the enclosed First Amended Petition to the Commissioners Court of Bexar County and request the creation of a public improvement district, to be named the "Grace Gardens Special Improvement District," and the inclusion of the Subject Property therein, all as further described in the attached Petition. Please find enclosed:

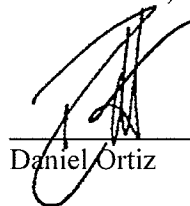
1. A signed First Amended Petition;
2. An exhibit showing the boundaries of the proposed Grace Gardens Special Improvement District (**Exhibit "A"**); and
3. A signed affidavit by the Petitioners (**Exhibit "B"**).

Please do not hesitate to contact our office should you have any questions or need any additional information in connection with this Petition.

Thank you,

**BROWN & ORTIZ, P.C.**

BY:

  
Daniel Ortiz

Enclosures: As Stated

CC: The Honorable County Judge and Commissioners Court of Bexar County, Texas  
Office of the City Clerk of the City of San Antonio, Texas  
City Council of the City of San Antonio, Texas

**FIRST AMENDMENT TO THE PETITION FOR THE CREATION OF A PUBLIC  
IMPROVEMENT DISTRICT TO BE NAMED THE GRACE GARDENS SPECIAL  
IMPROVEMENT DISTRICT**

STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

**TO: THE HONORABLE COMMISSIONERS COURT OF BEXAR COUNTY, TEXAS**

This First Amended Petition for Creation of the Grace Gardens Special Improvement District (the “First Amended Petition”) is submitted by SA Kosta Browne, Ltd., a Texas limited partnership (hereafter referred to as “Petitioner”). On June 10, 2021, SA Kosta Browne, Ltd. Submitted a petition, which is recorded as Document No. 20210159108 in the Real Property Records of Bexar County, Texas (the “Original Petition”), to the Bexar County Clerk’s Office. The Original Petition requested Bexar County’s creation of the Grace Gardens Special Improvement District (the “District”) and requested that approximately 278.730 acres be included within the boundaries of the District. This First Amended Petition is submitted to include approximately 177.921 acres of land currently owned by SA Kosta Browne, Ltd., a Texas limited partnership.

The undersigned petitioners (“Petitioners”) acting pursuant to the provisions of Chapter 382 of the Texas Local Government Code, as amended (the “Code”), submit this petition (“Petition”) to the Commissioners Court of Bexar County, Texas, to request the creation of a public improvement district, within the extraterritorial jurisdiction (“ETJ”) of the City of San Antonio (“City”), Bexar County, Texas (“County”). Specifically, the Petitioners request that the County create a public improvement district and include the property described in **Exhibit “A”** attached hereto (“Subject Property”) within such public improvement district. In support of this Petition, the Petitioners present the following:

**I. PETITIONERS**

In compliance with the requirements of the Code, and as determined by the current tax roll of the Bexar County Appraisal District, the Petitioners constitute: the owner representing more than fifty-percent (50%) of the appraised value of taxable real property proposed to be included within the public improvement district proposed in this Petition.

Attached to this Petition is a sworn statement, affirming the Petitioners are the holder of fee simple title to more than fifty-percent (50%) of the appraised value of taxable real property proposed to be included within the District (as defined below) and are the owners representing more than fifty-percent (50%) of all record owners of property within the proposed District. Petitioners request, and consents to, the creation of the District, as set forth in this Petition. The

sworn statement of the Petitioners is attached hereto as **Exhibit “B”** and incorporated herein for all purposes.

## **II. NAME**

A public improvement district is being requested, which will be named the “Grace Gardens Special Improvement District” (referred to herein as the “District”).

## **III. BOUNDARIES**

The proposed boundaries of the District shall include the Subject Property, more particularly described in **Exhibit “A”** attached hereto and incorporated herein for all purposes. The total acreage of the District is approximately 456.651 acres total. None of the land to be included in the District is within the corporate boundaries of any municipality and all of the land proposed to be included in the District is in the extraterritorial jurisdiction of the City and in the County.

## **IV. GENERAL NATURE OF THE PROPOSED PUBLIC IMPROVEMENTS**

The Petitioners request that the County create a public improvement district and authorize it to engage in economic development projects and grant to the District the powers requested in this Petition. The District proposes to enter into development agreements as are deemed advisable to promote state and local economic development and to stimulate residential and commercial activity in the District. The general nature of the work proposed to be done may include, but is not limited to: onsite roads (including, but not limited to, a collector road); offsite roads; offsite utility extension; onsite public improvements for residential lots (sewer, water, streets, and drainage); the improvement and construction of water, sanitary sewer, dry utilities (gas and electric) detention ponds, storm sewer, impact fees for capacity, road, landscaping in public right of ways, or sidewalks; right of way acquisition costs; easement acquisition costs; appraisal costs; geotechnical engineering costs; environmental inspection/testing and remediation costs; well plugging costs; demolition costs; water and sewer impact fees; floodplain reclamation costs; tree mitigation costs; park/entry/amenity improvement costs; including any cost or expense of purchasing, constructing, maintaining, acquiring, owning, operating, repairing, leasing, improving, extending, or paying for inside (i.e. onsite) and outside (i.e. offsite) the district boundaries flood plains and wetlands regulation and endangered species permits, stormwater permits, including mitigation; and all works, improvements, facilities, plants, equipment, appliances, interest in property, and contract rights needed thereof, and administrative facilities needed in connection therewith, related surveying, engineering, and legal fees, costs and expenses, and all rights of way and other interests in land necessary or convenient in connection therewith, as well as reasonable contingencies, associated with the costs of public improvements. Further, the public improvements financed by

the District may include any public improvements in compliance with Chapter 382 of the Code, as amended, and in accordance with the governing laws.

## **V. ESTIMATED COSTS OF THE PROPOSED CONSTRUCTION OF THE PUBLIC IMPROVEMENTS**

The total estimated capital cost for the District's public improvements is approximately \$83,485,600. Such costs can be partially offset with the imposition of taxes and the issuance of bonds by the District, as further described herein.

## **VI. NATURE OF THE DISTRICT AND AUTHORITY**

The District is expressly requested pursuant to Chapter 382 of the Code. The District shall be created for the purposes of a district created and organized under Section 52, Article III, and Section 59, Article XVI of the Texas Constitution, Chapters 380, 381, 382, and 383 of the Code, and for the purpose of creating a program for economic development as provided in Section 52, Article III of the Texas Constitution, and for any other lawful purpose authorized by the governing laws.

The Petitioners specifically request that:

- (1) the County authorize the District to exercise the powers granted under Chapter 382 of the Code;
- (2) the County delegate to the District all powers that the County is granted pursuant to Chapter 382; and
- (3) the County authorize the District to engage in economic development projects, as the District may enter into development agreements which are deemed advisable to promote state and local economic development and to stimulate business and commercial activity in the District.

## **VII. ROAD IMPROVEMENTS**

The Petitioners request that pursuant to Section 382.109 of the Code the County designate and approve the proposed onsite and offsite road improvements as a "Road Improvement Project" and designate and approve such Road Improvement Project as a targeted economic development project, which is of an economic benefit to the District, to the Subject Property within the District, and to the County.

## **VIII. ADVISORY BOARD**

As authorized by the Code, an advisory body may be established by the County to develop and recommend an improvement plan. However, an improvement plan is not necessary or applicable, as the Petitioners do not propose that the District be granted with the power to impose assessments.

## **IX. MANAGEMENT OF THE DISTRICT AND BOARD OF DIRECTORS**

The Petitioners specifically request the County appoint a seven (7) member Board of Directors to govern the District and approve their respective terms in accordance with Section 382.051 of the Code, as the population of the District is less than 1,000 persons. The Petitioners also request that the County delegate to the District's Board of Directors the County's powers and duties provided by Chapter 382 of the Code, in order for the Board of Directors to oversee, manage, and govern the District to the fullest extent authorized by the Code.

## **X. TAXES AND BONDS**

The Petitioners request that the County authorize the District to accomplish its purposes and the costs of services and improvements by imposing an ad valorem tax, a sales and use tax, and a hotel occupancy tax. The District shall also have the authority to issue bonds, negotiate promissory notes, and other District obligations, as further described herein.

The Petitioners specifically request that:

- (1) the District's proposed improvements be financed and paid for with taxes authorized by Chapter 382 of the Code instead of assessments;
- (2) the County grant the District authority to impose an ad valorem tax, a sales and use tax, and a hotel occupancy tax to accomplish the economic development purposes prescribed by Section 52a, Article III, of the Texas Constitution;
- (3) the County grant the District authority, in accordance with Section 382.152 of the Code, to issue bonds, negotiable promissory notes and other District obligations, which may be secured by District revenue or any type of District taxes, or any combination of taxes and revenue pledged to the payment of bonds; and
- (4) the County grant the District authority as provided in Sections 382.158 and 382.159 of the Code, regarding borrowing and repayment of costs, respectively.

In regards to the proposed tax rates, the Petitioners specifically request that the County authorize the District to:

- (1) impose an ad valorem tax not to exceed the City's tax rate;
- (2) impose a sales and use tax with a rate not to exceed two-percent (2%); and

- (3) impose a hotel occupancy tax with a rate the greater of nine-percent (9%) or the rate imposed by the City.

#### **XI. METHOD OF ASSESSMENT**

The Petitioners do not propose that the District be granted the power to impose assessments, and accordingly, the Petitioners are not required to present a Service Plan, an Assessment Plan (including method of assessment), or to prepare an Assessment Roll. As stated above, the Petitioners request that the District's proposed improvements be financed and paid for with taxes authorized by Chapter 382 of the Code instead of assessments.

#### **XII. APPORTIONMENT OF COST BETWEEN COUNTY AND THE DISTRICT**

Approval and creation of District will not obligate the County to provide any funds to finance the proposed public improvements. All costs of the District shall be paid by and apportioned to the District, and not to the County, as a whole.

#### **XIII. ADVISABILITY AND FEASIBILITY OF THE DISTRICT AND BEST INTERESTS OF THE COUNTY**

The District and its proposed improvements and economic development projects appear feasible and are necessary and advisable for the economy of the District and the County. Additionally, the County may create a public improvement district if the County determines it is in the best interest of the County. The area comprising the District is not presently developed, and therefore, the proposed District is necessary to pay for or finance public improvements and economic development within the District. Furthermore, the District will serve the public purpose of promoting and encouraging new residential development in the District and the County, which will encourage employment and economic activity within the District and the County. As such, the County's creation of the District is in the best interest of the County, as the District and the proposed improvements confer a special benefit on the District, the Subject Property within the District, and the County.

#### **XIV. FILING WITH THE COUNTY CLERK**

This Petition will be filed with the County Clerk in support of the creation of the District, as described herein.

#### **XV. PRAYER**

This Petition requests that the County create the District, include the Subject Property therein, and grant to the District the powers requested in the Petition. The Petitioners pray that this Petition be heard and the Commissioners Court set a hearing date, publish notice of, conduct a

hearing, make certain findings, and enter an Order creating the District in a manner authorized under Chapter 382 of the Code and as described herein.

*Signature(s) on the Following Page(s)*

Wherefore, this Petition satisfies all of the requirements of the Code for the creation of the District, and the Petitioner respectfully request the County create the District and include the Subject Property within such District, as described herein.

Respectfully submitted, this 23<sup>rd</sup> day of May, 2021.

**PETITIONER:**

**SA KOSTA BROWNE, LTD.,**  
a Texas limited partnership

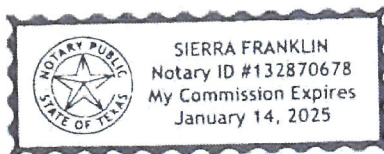
By: \_\_\_\_\_

T. Blake Yantis  
Member

**ACKNOWLEDGEMENT**

STATE OF TEXAS       §  
                                  §  
COUNTY OF BEXAR   §

The foregoing instrument was acknowledged before me on the 24 day of May, 2021, by T. Blake Yantis, as Member of SA KOSTA BROWNE, LTD., a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes therein expressed, on behalf of said company, in the capacity therein stated.



\_\_\_\_\_  
Notary Public State of Texas  
Printed Name of Notary: Sierra Franklin  
Commission Expiration: 1/14/2025

**EXHIBIT "A"**  
**FIELD NOTES AND SURVEY OF THE SUBJECT PROPERTY**





## METES AND BOUNDS DESCRIPTION FOR

A 278.730 acre tract of land out of the Juan Montes Survey No. 6, Abstract 11, County Block 4007, Bexar County, Texas, same being all of the remaining portion of a 139.65 acre tract of land conveyed unto Katie Strunk by deed executed November 3, 1924 and recorded in Volume 797, Page 165, Deed Records of Bexar County, Texas, save and except a 0.07 of an acre tract of land conveyed unto the County of Bexar by deed executed May 30, 1964 and recorded in Volume 5185, Page 856, said Deed Records, together with all of the remaining portion of a 139.65 acre tract conveyed unto Caroline Janszen Pfeifer, et al. by deed executed May 27, 1986 and recorded in Volume 3761, Page 1412, Official Public Records of Bexar County, Texas. In all, said 278.730 acre tract being more particularly described as follows, with bearings based on the Texas Coordinate System established for the South Central Zone from the North American Datum of 1983 NAD 83 (NA2011) epoch 2010.00:

COMMENCING: at a 6" wood post found at the southwest cut-back corner at the intersection of the southeast line of W.W. White Road, a variable width public right of way as shown by Bexar County ROW Map B-910-1 and B-329-3, and the southwest line of Hildebrant Road, a 70 foot wide public right of way, same being a north exterior corner of the remaining portion of a 279.5 acre tract conveyed unto Arlene Witzel, et al. by deed executed January 14, 2015 and recorded in Volume 17049, Page 830, said Official Public Records;

THENCE: with and along the southeast line of said W.W. White Road, South 35° 34' 01" West, 1,584.67 feet to a ½" iron rod set with plastic cap marked "Pape Dawson" at the common west corner of said remaining portion of a 279.5 acre tract and the north corner of the remainder of said Katie Strunk tract for the north corner and POINT OF BEGINNING of this tract;

THENCE: departing said southeast line, South 53° 51' 21" East, 7,126.00 feet to a 1" iron pipe found on the northwest line of a 99.28 acre tract of land conveyed unto CNG Land Partners, LLC by deed executed November 30, 2017 and recorded in Volume 18873, Page 2382, said Official Public Records, same being the common south corner of said 279.5 acre tract and the east corner of said Katie Strunk tract for the east corner this tract;

THENCE: with and along said northwest line, South 35° 52' 15" West, 1,692.00 feet to a ½" iron rod found on the northeast line of a 13.32 acre tract of land conveyed unto Lawrence Henri Key, et ux. by deed executed July 15, 2002 and recorded in Volume 9471, Page 580, said Official Public Records, same being the common west corner of said 99.28

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TBPE Firm Registration #470 | TBPLS Firm Registration #10028800

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2000 NW Loop 410, San Antonio, TX 78213 T: 210.375.9000 www.Pape-Dawson.com

*Handwritten signature*

acre tract and the south corner of said Caroline Janszen Pfeifer tract for the south corner of this tract;

THENCE: with and along the northeast lines of said 13.32 acre tract, a 97.909 acre tract conveyed unto NAJDS Property Investments, Inc. by deed executed November 7, 2017 and recorded in Volume 18835, Page 2035, said Official Public Records, and a 177.8073 acre tract conveyed unto Boralis USA, INC by deed executed August 20, 2019 and recorded in Doc No. 20190165095, said Official Public Records, North 53° 59' 32" West, 7,137.17 feet to a ½" iron rod found on the southeast line of said W.W. White Road, same being the common north corner of said 177.8073 acre tract and the west corner of the remainder of said Caroline Janszen Pfeifer tract for the west corner of this tract;

THENCE: with and along said southeast line the following courses:

North 35° 34' 01" East, 1,540.37 feet to a ½" iron rod set with plastic cap marked "Pape Dawson";

North 57° 40' 01" East, 53.96 feet to a Mag nail set with washer stamped "Pape Dawson";

And North 35° 34' 01" East, 118.47 feet to the POINT OF BEGINNING, and CONTAINING 278.730 acres, or 12,141,497 square feet of land more or less. Said tract being described in conjunction with a survey made on the ground and a graphic depiction thereof prepared under job number 9056-20 by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.  
DATE: April 16, 2020  
JOB NO. 9056-20  
DOC. ID. N:\Survey20\20-9000\9056-20\Word\9059-20 FN 278.730 AC.docx



### FIELD NOTE DESCRIPTION

**BEING** A TRACT OF LAND CONTAINING 135.893 ACRES (5,919,478 SQFT), BEING OUT OF A REMAINDER OF A CALLED 177.81 ACRES COMPOSED OF A CALLED 128 ACRE PARCEL DESCRIBED IN VOLUME 1593, PAGE 570, THE DEED RECORDS OF BEXAR COUNTY, TEXAS (D.R.B.C.TX.), A CALLED 24.83 ACRE PARCEL DESCRIBED IN VOLUME 7055, PAGE 621, (D.R.B.C.TX.), A CALLED 21.83 ACRE PARCEL CONVEYED TO BORALIS USA, INC., DESCRIBED IN VOLUME 7055, PAGE 618, (D.R.B.C.TX.), BEING SITUATED IN THE JUAN MONTEZ SURVEY NO. 6, ABSTRACT NO. 11, AND BEING MORE PARTICULARLY DESCRIBED IN THE FIELD NOTE DESCRIPTION THAT FOLLOWS (ALL BEARINGS ARE BASED UPON THE STATE PLANE COORDINATE SYSTEM NAD 83, TEXAS SOUTH CENTRAL ZONE (4204):

**BEGINNING** AT A FOUND 5/8-INCH IRON ROD FOUND, HAVING A GRID COORDINATE VALUE OF NORTHING: 13,667,209.01 AND AN EASTING: 2,159,761.31 FOR THE SOUTHWEST CORNER OF HEREIN DESCRIBED 135.893 ACRE TRACT, ALSO BEING THE SOUTHWEST CORNER OF SAID REMAINDER OF 177.81 ACRE TRACT, ALSO BEING THE NORTHWEST CORNER OF A CALLED 165.835 ACRE TRACT OF LAND, DESCRIBED IN A DEED TO TEDDIE W. KOEPP, IN DOCUMENT NUMBER 20210065948 OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS (O.P.R.B.C.TX) , ALSO BEING ON THE EASTERLY RIGHT-OF-WAY (R.O.W.) LINE OF W.W. WHITE ROAD (VARIABLE WIDTH PUBLIC R.O.W.);

**THENCE** NORTH 02° 50' 49" WEST, ALONG THE EAST R.O.W. LINE OF W.W. WHITE ROAD, A DISTANCE OF 51.26 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER OF HEREIN DESCRIBED 135.893 ACRE TRACT;

**THENCE** , DEPARTING SAID W. W. WHITE R.O.W., AND CONTINUING OVER AND ACROSS THE REMAINDER OF SAID 177.81 ACRES THE FOLLOWING FIVE (5) COURSES AND DISTANCES:

1. NORTH 74° 23' 22" EAST, A DISTANCE OF 1,639.39 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER;
2. NORTH 16° 07' 28" WEST, A DISTANCE OF 595.86 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER;
3. NORTH 17° 46' 34" WEST, A DISTANCE OF 705.62 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR AN ANGLE POINT;
4. NORTH 35° 30' 03" EAST, A DISTANCE OF 270.72 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER;
5. NORTH 54° 29' 57" WEST, A DISTANCE OF 359.30 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR THE NORTHWEST CORNER OF HEREIN DESCRIBED 135.893 ACRE TRACT, ON THE EAST R.O.W. LINE OF W. W. WHITE ROAD;

**THENCE** NORTH 35° 30' 03" EAST, CONTINUING ALONG THE EAST R.O.W. LINE OF W. W. WHITE ROAD, A DISTANCE OF 692.99 FEET, TO A 1/2-INCH IRON ROD FOUND, FOR THE NORTH CORNER OF HEREIN DESCRIBED 135.893 ACRE TRACT, ALSO BEING THE WEST CORNER OF A CALLED 139.197 ACRE TRACT OF LAND, DESCRIBED IN A DEED TO SA KOSTA BROWNE, LTD., A TEXAS LIMITED PARTNERSHIP, IN DOCUMENT NUMBER 20200153938 (D.R.B.C.TX.);

**THENCE** SOUTH 53° 59' 48" EAST, ALONG THE NORTH LINE OF SAID 177.81 ACRE TRACT, A DISTANCE OF 5,379.09 FEET, TO A FOUND 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET FOR THE EAST CORNER OF THE HEREIN DESCRIBED TRACT, ALSO BEING THE NORTH CORNER OF A CALLED 97.909 ACRE TRACT OF LAND, DESCRIBED IN A DEED TO NAJDS PROPERTY INVESTMENTS, INC., A TEXAS CORPORATION, IN DOCUMENT NUMBER 20170220960 (D.R.B.C.TX.);

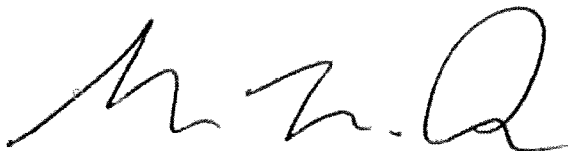
**THENCE** SOUTH 74° 24' 41" WEST, ALONG THE SOUTH LINE OF SAID 177.81 ACRE TRACT, A DISTANCE OF 1,453.10 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET FOR THE SOUTH CORNER OF THE HEREIN DESCRIBED TRACT, ALSO BEING ON THE NORTH LINE OF A CALLED 77.847 ACRE TRACT OF LAND, DESCRIBED IN A DEED TO NAJDS PROPERTY INVESTMENTS, INC., A TEXAS CORPORATION, IN DOCUMENT NUMBER 20180172644 (D.R.B.C.TX.);

**THENCE** NORTH 53° 51' 44" WEST, ALONG THE EAST LINE OF SAID 165.835 ACRE TRACT OF LAND, A DISTANCE OF 2,521.51 FEET, TO A 1-1/2-INCH IRON PIPE FOUND BEING AN ANGLE POINT OF HEREIN DESCRIBED 135.893 ACRE TRACT OF LAND, ALSO BEING THE NORTH CORNER OF SAID 165.835 ACRE TRACT;

**THENCE** SOUTH 74° 24' 11" WEST, ALONG THE NORTH LINE OF SAID 165.835 ACRE TRACT, A DISTANCE OF 179.49 FEET, TO A 1-1/2-INCH IRON PIPE FOUND BEING AN ANGLE POINT OF HEREIN DESCRIBED 135.893 ACRE TRACT OF LAND;

**THENCE** SOUTH 74° 23' 22" WEST, A DISTANCE OF 2,289.75 FEET, TO THE **POINT OF BEGINNING**, CONTAINING 135.893 ACRES OF LAND (5,919,478 SQFT), MORE OR LESS.

BEARING BASIS: GRID NORTH, TEXAS STATE PLANE COORDINATES, SOUTH CENTRAL ZONE, NAD83 (NAD83 (2011) EPOCH 2018). ALL DISTANCES ARE SURFACE VALUES, TO OBTAIN GRID VALUES MULTIPLY SURFACE DISTANCES BY A COMBINED SCALED FACTOR OF 0.999870017. ALL DISTANCES ARE U.S. SURVEY FEET.



Gordon N. Anderson  
Registered Professional Land Surveyor No. 6617  
LJA Surveying, Inc.  
1100 NE Interstate 410 Loop Suite 850  
San Antonio, TX 78209  
(512) 767-7398  
TBPLS No. 10194533

August 30, 2021

5 \Sectors\Survey\Projects\LJAS173 (Mosaic Land Development)\2101\_Boralis 177 Acre Project\06 CAD\Working Files\Boundary\2001-Boralis-Bndy\_135ac-Parcel.dwg 8/30/2021

### FIELD NOTE DESCRIPTION

**BEING**, A TRACT OF LAND CONTAINING 42.028 ACRES (1,830,734 SQFT), BEING OUT OF A REMAINDER OF A CALLED 177.81 ACRES COMPOSED OF A CALLED 128 ACRE PARCEL DESCRIBED IN VOLUME 1593, PAGE 570, THE DEED RECORDS OF BEXAR COUNTY, TEXAS (D.R.B.C.TX.), A CALLED 24.83 ACRE PARCEL DESCRIBED IN VOLUME 7055, PAGE 621, (D.R.B.C.TX.), A CALLED 21.83 ACRE PARCEL CONVEYED TO BORALIS USA, INC., DESCRIBED IN VOLUME 7055, PAGE 618, (D.R.B.C.TX.), BEING SITUATED IN THE JUAN MONTEZ SURVEY NO. 6, ABSTRACT NO. 11, AND BEING MORE PARTICULARLY DESCRIBED IN THE FIELD NOTE DESCRIPTION THAT FOLLOWS (ALL BEARINGS ARE BASED UPON THE STATE PLANE COORDINATE SYSTEM NAD 83, TEXAS SOUTH CENTRAL ZONE (4204):

**COMMENCING**, AT A FOUND 5/8-INCH IRON ROD FOUND, FOR THE SOUTHWEST CORNER OF SAID REMAINDER OF 177.81 ACRE TRACT, ALSO BEING THE NORTHWEST CORNER OF A CALLED 165.835 ACRE TRACT OF LAND, DESCRIBED IN A DEED TO TEDDIE W. KOEPP, IN DOCUMENT NUMBER 20210065948 OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS (O.P.R.B.C.TX) , ALSO BEING ON THE EASTERLY RIGHT-OF-WAY (R.O.W.) LINE OF W.W. WHITE ROAD (VARIABLE WIDTH PUBLIC R.O.W.);

**THENCE**, NORTH 02° 50' 49" WEST, ALONG THE EAST R.O.W. LINE OF W.W. WHITE ROAD, A DISTANCE OF 51.26 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR THE **POINT OF BEGINNING**, OF HEREIN DESCRIBED 42.028 ACRE TRACT, HAVING A SURFACE COORDINATE VALUE: N= 13,669,036.94, E=2,160,039.53;

**THENCE**, NORTH 02° 50' 49" WEST, CONTINUING ALONG THE EAST R.O.W. LINE OF W.W. WHITE ROAD, A DISTANCE OF 398.58 FEET, TO A 1-1/2-INCH IRON PIPE FOUND, FOR THE BEGINNING OF A CURVE TO THE RIGHT;

**THENCE**, ALONG SAID CURVE TO THE RIGHT, WITH A RADIUS OF 543.69 FEET, ARC LENGTH OF 363.61 FEET, A DELTA ANGLE OF 38° 19' 06", AND A CHORD BEARING AND DISTANCE OF, NORTH 16° 18' 28" EAST, 356.87 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER OF HEREIN DESCRIBE TRACT;

**THENCE**, NORTH 35° 35' 09" EAST, CONTINUING ALONG THE EAST R.O.W. LINE OF W.W. WHITE ROAD, A DISTANCE OF 218.08 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER OF HEREIN DESCRIBED TRACT;

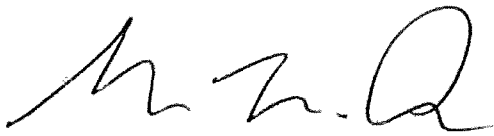
**THENCE**, NORTH 35° 35' 04" EAST, CONTINUING ALONG THE EAST R.O.W. LINE OF W.W. WHITE ROAD, A DISTANCE OF 1031.52 FEET, TO A FOUND 1-1/2-INCH IRON PIPE;

**THENCE**, NORTH 35° 30' 03" EAST, CONTINUING ALONG THE EAST R.O.W. LINE OF W.W. WHITE ROAD, A DISTANCE OF 439.38 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR THE NORTHWESTERLY CORNER OF HEREIN DESCRIBED TRACT;

**THENCE**, DEPARTING SAID W. W. WHITE R.O.W. AND CONTINUING OVER AND ACROSS THE REMAINDER OF SAID 177.81 ACRES THE FOLLOWING FIVE (5) COURSES:

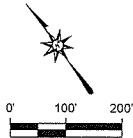
1. SOUTH 54° 29' 57" EAST, A DISTANCE OF 359.30 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER;
2. SOUTH 35° 30' 03" WEST, A DISTANCE OF 270.72 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER;
3. SOUTH 17° 46' 34" EAST, A DISTANCE OF 705.62 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER;
4. SOUTH 16° 07' 28" EAST, A DISTANCE OF 595.86 FEET, TO A 5/8-INCH IRON ROD WITH CAP STAMPED "LJA SURVEYING" SET, FOR A CORNER;
5. SOUTH 74° 23' 22" WEST, A DISTANCE OF 1639.39 FEET, TO THE **POINT OF BEGINNING**, CONTAINING 42.028 ACRES OF LAND (1,830,734 SQFT), MORE OR LESS.

BEARING BASIS: GRID NORTH, TEXAS STATE PLANE COORDINATES, SOUTH CENTRAL ZONE, NAD83 (NAD83 (2011) EPOCH 2018). ALL DISTANCES ARE SURFACE VALUES, TO OBTAIN GRID VALUES MULTIPLY SURFACE DISTANCES BY A COMBINED SCALED FACTOR OF 0.999870017. ALL DISTANCES ARE U.S. SURVEY FEET.

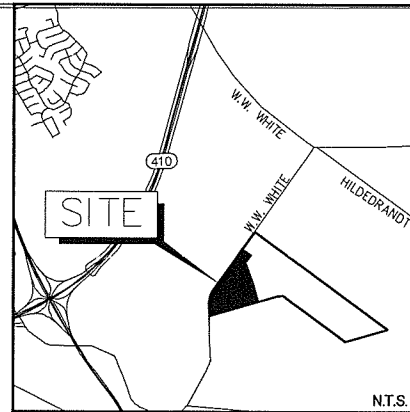


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TBPLS No. 10194533

August 30, 2021



JUAN MONTEZ SURVEY, ABSTRACT 11  
BEXAR COUNTY, TEXAS



NOTE :

1. ALL BEARINGS AND COORDINATES ARE BASED UPON TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (US SURVEY FOOT). ALL COORDINATES, DISTANCES, AND ACREAGE SHOWN ARE SURFACE. TO OBTAIN GRID VALUES MULTIPLY SURFACE DISTANCES BY A COMBINED SCALE FACTOR OF 0.999870017.
2. THIS PLAT IS BEING SUBMITTED ALONG WITH A SURVEYOR'S FIELD NOTE DESCRIPTION OF THE HEREON DESCRIBED TRACT.

W.W. WHITE ROAD  
(VARIABLE WIDTH R.O.W.)  
N 35°35'04" E 1031.52'

SUBJECT TRACT  
42.028 ACRES  
(1,830,734 SQ. FT.)

BORALIS USA, INC.  
177.8073 ACRES  
VOL. 1593, PG. 570  
VOL. 7055, PG. 621  
VOL. 7055 PG. 618  
D.R.B.C.TX.

BORALIS USA, INC.  
177.8073 ACRES  
VOL. 1593, PG. 570  
VOL. 7055, PG. 621  
VOL. 7055 PG. 618  
D.R.B.C.TX.

D=38° 19' 06"  
R=543.69'  
L=363.61'  
CH=N16°18'28"E  
356.87'

LINE TABLE		
LINE	BEARING	LENGTH
L1	N02°50'49"W	51.26'
L2	N35°35'09"E	218.08'
L3	N35°30'03"E	439.38'
L4	S54°29'57"E	359.30'
L5	S35°30'03"W	270.72'

P.O.B.  
X=2,160,039.54  
Y=13,669,036.94

P.O.C.

TEDDIE W. KOEPP  
165.835 ACRES  
DOC. NO. 20210065948  
D.R.B.C.TX.

- 5/8" IRON ROD FOUND (UNLESS NOTED)
- 5/8" IRON ROD SET W/ "LJA SURVEYING" CAP (UNLESS NOTED)
- ⊙ 1-1/2" IRON PIPE FOUND

TEDDIE W. KOEPP  
165.835 ACRES  
DOC. NO. 20210065948  
D.R.B.C.TX.

SHEET  
3  
OF 3

Scale: 1"=200' Date: 08/30/2021  
Drawn by: PM  
Approved by: GNA  
Project No.: LJA5173-2101

MOSAIC LAND  
DEVELOPMENT  
EXHIBIT OF  
BORALIS 42.028 ACRES

LJA Surveying, Inc.

1100 NE LOOP 410  
SUITE 850  
SAN ANTONIO, TEXAS 78735

PHONE 210.503.2700

T.B.P.L.S. FIRM No. 10194382

**EXHIBIT "B"**  
**PETITIONERS SWORN STATEMENT**

**SWORN AFFIDAVIT OF FEE SIMPLE OWNER OF REAL PROPERTY REQUESTING  
CREATION OF, AND CONSENTING TO INCLUSION IN, THE GRACE GARDENS SPECIAL  
IMPROVEMENT DISTRICT**

SA Kosta Browne, Ltd., a Texas limited partnership (hereinafter "Owner") hereby affirms that they are the fee simple owner of real property located in Bexar County. Owner requests the creation of the Grace Gardens Special Improvement District (the "District") and consents to the inclusion of said real property within its boundaries. The description of the real property owned by Owner, and which Owner wishes to include within the proposed District is attached as **Exhibit "A"** to the Petition for the creation of the Grace Gardens Special Improvement District.

By the signatures below, Owner verifies, for purposes of Chapter 382 of the Texas Local Government Code that they are the owners of taxable real property described in **Exhibit "A"** below, representing more than fifty-percent (50%) of the appraised value of taxable real property within the proposed District, and that they constitute more than fifty-percent (50%) of all record owners of property within the proposed District or that they own taxable real property that constitutes more than fifty-percent (50%) of the area of all taxable real property within the proposed District.

*-Signature(s) on the Following Page(s)-*

OWNER:

SA KOSTA BROWNE, LTD.,  
a Texas limited partnership

By:

T. Blake Yantis  
Member

ACKNOWLEDGEMENT

STATE OF TEXAS

§

COUNTY OF BEXAR

§

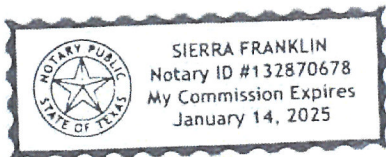
§

The foregoing instrument was acknowledged before me on the 24 day of May, 2021, by T. Blake Yantis, on behalf of SA KOSTA BROWNE, LTD., a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes therein expressed, on behalf of said company, in the capacity therein stated.

  
Notary Public State of Texas

Printed Name of Notary: Sierra Franklin

Commission Expiration: 1/14/2025



**ATTACHMENT B – DEVELOPMENT AGREEMENT**

## **GRACE GARDENS SPECIAL IMPROVEMENT DISTRICT DEVELOPMENT AGREEMENT**

This Development Agreement (this “Agreement”) is entered into between the **City of San Antonio**, a Texas home-rule municipal corporation located within Bexar County, Texas (hereinafter, referred to as “City”) and **SA Kosta Browne, Ltd.**, a Texas limited partnership (hereinafter referred to as “Owner”). City and Owner shall hereafter collectively be referred to as “Parties” or in the singular as “Party”.

### **RECITALS**

**WHEREAS**, on June 10, 2021, Owner submitted a petition (the “Original Petition”) to Bexar County, Texas (the “County”), recorded under Document No. 20210159108 in the County official public records, and requested the creation of a public improvement district to be named the Grace Gardens Special Improvement District (the “District”) and inclusion of 278.730 acres of land within the District’s boundaries; and

**WHEREAS**, on October 15, 2021, Owner submitted a first amendment to the Original Petition (the “First Amended Petition”) to the County, recorded under Document No. 20210290005 in the County official public records, and requested inclusion of an additional 177.921 acres of land to be included within the District’s boundaries; and

**WHEREAS**, the District Property (as defined herein) specifically consists of approximately 456.651 acres of land, as more particularly described in **Exhibit “A”** and **Exhibit “B”**, which are attached hereto and fully incorporated herein; and

**WHEREAS**, Owner owns or controls the District Property, and upon the County’s creation of the District, Owner intends to develop the “Project” (as further defined and described herein);

**WHEREAS**, the Parties acknowledge that the Master Development Plan exhibit attached to this Agreement is preliminary in nature and subject to change as planning for the Project develops;

**WHEREAS**, in order to provide for the development of the District Property in a manner that promotes uniform, controlled, and sustainable growth and protects the general health, safety, and welfare of persons residing in and adjacent to the City, the Parties desire to enter into this Agreement pursuant to Subchapter G of Chapter 212 of the Code, Section 212.172, et. sec., to reflect that in consideration of Owner’s agreement to abide by and comply with the terms of this Agreement and the conditions stated herein, City agrees to consent to: (1) the establishment of the District within the City’s extraterritorial jurisdiction (“ETJ”) and the inclusion of the District Property therein, (2) the County’s delegation to the District the powers granted by Article III, Section 52, and Article XVI, Section 59 of the Texas Constitution and the powers and duties of a road district in accordance with Section 382.101 of the Code, and (3) the County’s delegation to the District the power to provide water, wastewater, and drainage facilities in accordance with

Section 382.101 of the Code; however the City's consent does not include the powers to exercise eminent domain, annexation, or exclusion of property from the District; and

**WHEREAS**, it is the Parties' intent that the City enter into a Strategic Partnership Agreement ("SPA") with the District pursuant to Section 43.0751 of the Code, which, in addition to the terms of this Agreement regarding annexation, will govern the terms of limited and full purpose annexation of the District Property as well as sales and use taxes to be imposed by the City, a percentage of which will be shared with the District according to the terms of the SPA.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties now wish to enter into this Agreement and agree as follows:

### **I. DEFINITIONS**

1.1 "Agreement" shall mean this document executed by the City and Owner which may be amended from time to time, pursuant to the provisions contained herein and shall constitute a "contract" for purposes of Chapter 212 of the Local Government Code.

1.2 "Annexation Area" shall mean the area that the City determines in its sole discretion to annex in accordance with this Agreement up to and including the District Property.

1.3 "City" shall have the meaning specified above.

1.4 "City Code" shall mean the City of San Antonio's Code of Ordinances.

1.5 "City Council" shall mean the City Council of the City of San Antonio, Texas.

1.6 "Code" shall mean the Texas Local Government Code, as amended.

1.7 "County" shall have the meaning specified above.

1.8 "Director" shall mean the Director of the City's Department of Planning.

1.9 "District" shall mean the public improvement district proposed in Owners' Original Petition, filed with the County on June 10, 2021, and the First Amended Petition, filed with the County on October 15, 2021, for the creation of the Grace Gardens Special Improvement District, which wholly includes the District Property.

1.10 "District Property" shall mean the real property contained within the District as described and depicted in Exhibits "A-C" attached hereto and incorporated herein for all purposes.

1.11 "Effective Date" shall mean the effective date of the County's order creating the District.

1.12 “Owner” shall have the meaning specified above and include any heirs, successors and assigns.

1.13 “Preliminary Master Development Plan” (“Preliminary MDP”) is the proposed plan of development for the Project, as depicted in **Exhibit “C”** attached hereto and incorporated herein for all purposes.

1.14 “Project” shall have the meaning specified in Section 3.1 of this Agreement, which may be amended from time to time in accordance with Section 3.2 of this Agreement.

1.15 “Strategic Partnership Agreement” (“SPA”) is the proposed agreement in substantial form between the City and the District, attached hereto as **Exhibit “D”**, entered into pursuant to Section 43.0751 of the Code which will govern the terms of limited and full purpose annexation of the District Property and as detailed in Section 4.4 of this Agreement.

1.16 “Unified Development Code” (“UDC”) shall mean the City’s Unified Development Code, codified as Chapter 35 of the City Code.

Singular and Plural: Words used herein in the singular, where the context so permits, also includes the plural and vice versa, unless otherwise specified.

## **II. REPRESENTATIONS AND ACKNOWLEDGEMENTS**

2.1 The recitals set forth hereinabove are included here as if set out in full and are part of the conditions of this Agreement and binding on the Parties.

2.2 Owner represents to City that they are the owner of the proposed District Property and have the legal capacity and authority to enter into this Agreement and to perform the requirements of this Agreement.

2.3 Owner acknowledges that any improvements or contributions made to the proposed District Property in anticipation of payment or reimbursement from the District shall not be, nor construed to be, financial obligations of the City and the City is not involved in the creation of the District or is in any other way required or obligated to perform any actions, contribute any funds or resources or otherwise participate in the establishment of the District, except as provided in this Agreement.

2.4 Owner acknowledges that the City’s consent, described in Section 4.1 below, is for the boundaries of the District, as described and depicted in **Exhibit “A”** and **Exhibit “B”** that are attached hereto and for the Project.

2.5 Owner acknowledges that they have been provided the Notice Required by Section 212.172 (b-1) of the Code attached hereto as **Exhibit “E”**.

### **III. THE PROJECT & PUBLIC INFRASTRUCTURE**

3.1 The Project consists of certain proposed public infrastructure on the District Property, as further described in the Proposed Infrastructure Improvements Summary and the Preliminary MDP, collectively attached hereto as **Exhibit “C”**.

3.2 The Project may be amended from time to time through any applicable master development plan (“MDP”) process currently outlined in the City’s UDC with review and approval by the Director of the Development Services Department who reserves the right to exercise discretion with respect to any MDP review and approvals afforded under the UDC.

### **IV. CONSIDERATION AND TERMS**

4.1 In exchange for the Owner’s agreement to be bound by the terms of this Agreement, the City consents to: (i) the establishment of the District within the City’s ETJ and the inclusion of the District Property therein; (ii) the District’s exercise of the powers granted by Article III, Section 52 of the Texas Constitution and the powers and duties of a road district in accordance with Section 382.101 of the Code; and (iii) the power to provide water, wastewater, and drainage facilities in accordance with Section 382.101, but the City’s consent does not include the powers to exercise eminent domain, annexation or exclusion of property from the District.

4.2 The Parties agree that Owner shall pay the following in consideration of the City's consent to the creation of the District:

4.2.1 a PID application fee in the amount of \$7,500.00.

4.2.2 a Special District Operations Assessment (“Assessment”).

4.2.3 The Assessment is due within thirty (30) days of the date of the annual report required in Section 5.4 of this Agreement. The Assessment will be calculated based on the number of residential and multifamily units (“Units”) completed the previous year as reflected in the annual report. Staff may verify the number of Units by using resources such as Bexar County Appraisal District parcel information, field inspections, site inspections, or other available means, for each phase of the Project. The amount of the Assessment may be modified based on the final number of Units that have been completed and verified by staff. The final Assessment will be payable to the City within thirty (30) days of the date the annual report is due, and all Units have been verified by staff.

4.2.4 Owner currently estimates the Assessment for the District will be Four Hundred Five Thousand One Hundred Twenty-Five and No/100 (\$405,125.00) U.S. dollars.

4.2.5 The Assessment is based on the amount of One Hundred Seventy-Five Dollars and No/100 (\$175.00) per Unit.

4.2.6 Owner shall reimburse the City for all costs paid by City for recording of this Agreement and related documents in the Bexar County property records.

4.3 The Parties agree that upon creation of the District and subject to approval of qualified voters in the District, the taxes hereby authorized to be levied and imposed within the District and the rates at which they are authorized to be imposed on all property owners within the District are as follows:

Ad Valorem Tax	Not to exceed the City of San Antonio's ad valorem tax rate assessed by the City within the City's municipal boundaries
Hotel Occupancy Tax	9% or not to exceed the City's Hotel Occupancy Tax assessed within the City's municipal boundaries
Sales and Use Tax	Not to exceed 2%

4.4 Strategic Partnership Agreement. The Parties agree and acknowledge that Owner will cause the District to enter into a SPA for the purpose of providing terms for limited and full purpose annexation and imposing and collecting sales and use taxes within commercial use areas of the District, such SPA is attached to this Agreement in substantial form as **Exhibit "D"**. In the event the District fails to enter into the SPA within eighteen (18) months of execution of this Agreement, Owner agrees that the Owner and/or developer of the District Property will not be entitled to reimbursement by the District for the construction of improvements necessary for the exercise of the District's powers and duties of a road district and the power to provide water, wastewater or drainage facilities conferred under Chapter 382 of the Code and the County order creating the District.

4.4.1 If the SPA is approved, Owner agrees that the District will reimburse the City for costs associated with the limited purpose annexation ("LPA") and implementing the SPA; including recording the SPA in the Real Property Records of Bexar County, publications of public hearings, annexation ordinance, polling location notices for voters in LPA areas; and plan amendment and zoning fees for annexed land.

4.5 Non-annexation. The Parties agree that in exchange for the Owner's agreement to comply with the terms of this Agreement, for the entire term of this Agreement, the City will continue the ETJ status of the District Property and defer annexation of the District Property for the term of this Agreement, which shall not exceed thirty (30) years from the Effective Date of this Agreement.

4.6 Voluntary Petition for Annexation. The Parties agree that this Agreement constitutes a voluntary petition to the City for annexation of the District Property for full purposes under the provisions of Subchapter C-3 of Chapter 43 of the Code which shall be deemed submitted

to the City on the Effective Date of this Agreement. Subject to Section 4.4 above, the City may exercise its right to annex the District Property or any portion thereof (the “Annexation Area”) in its sole discretion upon default of this Agreement by the Owner, subject to the provisions of Section 7.3 and Section 7.4 of this Agreement, or at the end of the term of this Agreement. The Parties further agree that this Agreement does not obligate the City to annex the entire District Property for limited or full purposes at any time.

4.6.1 The Parties agree and acknowledge that Section 4.6 of this Agreement applies only (i) at the end of the term or expiration of this Agreement and (ii) if no SPA covers all or a part of the District Property and the City opts to annex any portion of the proposed District Property pursuant to this Agreement. Section 4.6 shall not apply to any portion of the District Property which is encumbered by a SPA and no voluntary petition for annexation shall extend to such District Property as long as a SPA exists for such property.

4.7 Owner agrees that this voluntary petition and consent to annexation of the District Property may not be revoked and is intended to be and shall be binding upon the Owner as well as their successors and assigns in ownership of any right, title or interest in and to the District Property or any part thereof. Owner further agrees that the City has the authority to annex the District Property under Chapter 212 of the Code independently of Chapter 43 of the Code and that such authority may be exercised regardless of the procedural requirements of Chapter 43 of the Code.

4.8 Waiver. To the extent authorized by state and local laws, the Parties agree that the City is only obligated to perform those tasks set forth in Subchapter C-3 of Chapter 43 of the Code that are required when annexing property under that subchapter. Owner agrees not to oppose any action taken by the City to annex the Annexation Area under this Agreement or under Subchapter C-3 of Chapter 43 of the Code.

4.9 All covenants, agreements and terms contained herein obligating Owner shall run with the land and shall hereafter bind their successors and assigns and all future owners of properties located within the District Property contained therein, including all parts of the Annexation Area.

4.10 The following language shall be included in each deed or lease of any real property located within the District Property, or by separate document that is recorded, which is executed after the Effective Date of this Agreement:

“This (conveyance or lease, as applicable) is made and accepted subject to that certain voluntary petition for annexation, provided in Section 4.6 of the Grace Gardens Special Improvement District Development Agreement, executed on \_\_\_\_\_ and recorded in the Real Property records of Bexar County under Bexar County Document No. [\_\_\_\_\_] which permits the City of San Antonio to annex the herein described property upon the terms and conditions set forth therein. Acceptance of this conveyance or lease, as applicable, shall evidence your

consent and agreement to such annexation by the City and may be relied upon by the City as a beneficiary of your consent and agreement.

Further, this (conveyance or lease, as applicable) is made an accepted subject to the development rules, regulations and ordinances of the City of San Antonio applicable to properties in the City's extraterritorial jurisdiction as described in the Grace Gardens Special Improvement District Development Agreement. Acceptance of this conveyance or lease, as applicable, shall evidence consent and agreement to such developmental standards, rules and regulations which may be relied upon by the City as a beneficiary of your consent and agreement."

4.11 Subject to Section 5.1 of this Agreement, or unless provided for otherwise in this Agreement, Owner agrees that they will comply with all applicable municipal rules, regulations, orders, ordinances, and other local laws applicable to all properties within the City's ETJ, during all phases of development and construction of the Project during the term of this Agreement.

4.12 As applicable, and subject to Section 5.3 herein, Owner shall comply with the requirements of Section 382.109 of the Code regarding road projects on the District Property, as described by Section 382.109 of the Code to the extent such requirements apply to properties located in the City's ETJ.

4.13 Owner shall provide the City with the proposed language to be placed on the ballot for any election to be held pertaining to the creation or confirmation of the District and the imposition of any taxes to be assessed within the District within ninety (90) days from the date of the election.

## **V. DEVELOPMENT STANDARDS**

5.1 Owner agrees to comply with the development standards on the District Property as follows:

5.1.1 UDC: Except as otherwise provided herein, Owner agrees to comply with the provisions of the UDC applicable to properties in the ETJ, excluding any provisions or building standards triggered by the City's zoning regulations, including but not limited to setbacks, buffers, and parking requirements.

5.1.2 Building Permits: Notwithstanding any provision herein to the contrary, the Parties agree and acknowledge that City building permit applications, fees, and inspections shall not be required for any single-family residential lots within the District Property. In the event of a change in law that provides the City with the right to require building permits, fees, and inspections for properties in the City's ETJ, this section shall no longer apply as of the effective date of that change in law.

5.1.3 Connectivity: Single-family residential subdivisions developed within the District Property will comply with the street connectivity ratio as outlined in the UDC.

5.1.4 Solid Waste Infrastructure Standards: Owner agrees to construct, as applicable, infrastructure within the District Property pursuant to Chapters 14 and 35 of the City Code, including the City's Solid Waste Management Department standards as stated in Development Services Department Informational Bulletin 576. Subject to the provisions herein in Article VI – Written Agreement Regarding Services pertaining to properties in the Annexation Area, nothing in this Agreement shall require Owner to enter into a contract with the City to provide solid waste collection services.

5.1.5 Major Thoroughfare: As per the UDC, Owner may design/construct (or cause to be designed/constructed) roads and rights-of-way shown on the City's Major Thoroughfare Plan ("MTP"). Owner reserves the right to re-configure, or cause the re-configuration of, roadway alignments as required to develop the District Property, which will be administered through MDP amendment(s) in accordance with Section 3.2 and/or through the City's process for amending the MTP, as applicable.

5.1.6 2010 Tree Ordinance: The requirements of the City's 2010 Tree Ordinance will apply to the development of the District Property.

5.2 Waiver of Vested Right: The Parties agree and acknowledge that this Agreement shall extinguish any vested right acquired prior to the Effective Date of this Agreement, as applicable to the District Property; however, this Agreement shall not adversely affect, alter, or extinguish any vested right that Owner, or Owners' successors and/or assigns, may acquire with respect to the District Property subsequent to the Effective Date of this Agreement, nor shall this Agreement limit the prospective use of any vested right acquired subsequent to the Effective Date of this Agreement.

5.3 Chapter 245 Permit: Notwithstanding any provisions herein to the contrary, and pursuant to Section 5.2, the Parties agree and acknowledge that, in accordance with Section 212.172(g) of the Code, this Development Agreement constitutes a permit under Chapter 245 of the Code.

5.4 Project Annual Update: Owner shall provide annual reports on the progress of the Project no later than January 30<sup>th</sup> of each year. The updates shall include development activity within the District Property and, if applicable, include the following:

- a. Plat applications for all subdivisions submitted during the previous calendar year;
- b. Development documents and permits required by the UDC;
- c. Built-out percentages for single-family, multifamily, and commercial areas and any recalculations of build-out expectations;
- d. Construction updates (noting percentage completion of infrastructure and improvements);

- e. Number of residential units built to date;
- f. Annual District revenue and expenditures;
- g. All outstanding financial obligations, liabilities and assets.

5.5 Military Protection Areas. For all properties within five (5) miles of a military installation, and if applicable to the District Property as of the Effective Date of this Agreement, Owner shall comply with the UDC regulations for Military Protection Areas.

5.6 If applicable to the District Property as of the Effective Date of this Agreement, Owner shall comply with the uses permitted in the Edwards Recharge Zone District as referenced in Chapter 35 of the City Code.

5.7 If applicable to the District Property as of the Effective Date of this Agreement, Owner shall comply with the San Antonio Recommended Plant List - All Suited to Xeriscape Planting Methods of UDC Appendix E.

5.8 If applicable to the District Property as of the Effective Date of this Agreement, Owner shall comply with the park dedication requirements as set out in the UDC.

5.9 If applicable to the District Property as of the Effective Date of this Agreement, Owner shall protect and preserve any existing historical or archeological buildings, structures, sites, features or places.

5.10 Owner shall comply with Chapter 28 of the City Code – Signs.

5.11 If applicable to the District Property as of the Effective Date of this Agreement, Owner shall comply with Chapter 34 of the City Code, Water & Sewers.

5.12 Owner shall comply with the same streetlight standards applicable to all subdivisions within the City that are listed in Section 35-506(i) of the UDC.

5.13 All public infrastructure, improvements and facilities provided by the District shall be constructed, maintained and operated according to City and SAWS, standards, throughout the term of the Agreement and in accordance with applicable utility service agreements.

5.14 As of the Effective Date of this Agreement, Owner shall comply with the Military Lighting Overlay District regulations set forth in the UDC for all property within the District.

5.15 If applicable to the District Property as of the Effective Date of this Agreement, Owner shall comply with the standards set forth in UDC Chapter VI for Historic Preservation.

## **VI. WRITTEN AGREEMENT REGARDING SERVICES**

6.1 In the event the City annexes the Annexation Area pursuant to the terms of Section 5.3, the Parties agree that this Article VI of this Agreement, shall constitute a Written Agreement Regarding Services required under Chapter 43, section 43.0672 of the Code; shall run with the Development Agreement v1.0  
Grace Gardens

land; and shall govern all municipal services to be provided to the Annexation Area. The City shall be under no further obligation to negotiate services with any subsequent owners of any property located or developed within the Annexation Area other than the services set forth herein, provided that upon annexation of the Annexation Area, if the municipal services have changed or otherwise include additional services not referenced herein, the City will provide all municipal services to the Annexation Area that apply to other properties located within the City limits within three (3) years after the date of annexation. The Agreement Regarding Services shall survive termination of this Agreement only to the extent the City annexes the Annexation Area pursuant to this Agreement.

In general, this Agreement Regarding Services includes three service components: **(1) Annexation Service Requirements, (2) Additional Services, and (3) a Capital Improvement Program.** The Parties agree that providing services includes having services provided by any method or means by which the City extends municipal services to any other area of the City. This may include causing or allowing private utilities, governmental entities and other public and private non-profit service organizations to provide such services by contract in whole or in part. It may also include separate agreements with associations or similar entities. Services shall be provided, and fees shall be assessed in accordance with the City's Code of Ordinances, as may be amended.

**6.2 Annexation Service Requirements.** The following services will be provided in the Annexation Area commencing on the effective date of the annexation for full purposes, unless otherwise noted.

**6.2.1 Police Protection.** The San Antonio Police Department ("SAPD") will provide protection and law enforcement services in the Annexation Area within the time frame established in section 6.1.

These services include:

- Routine patrols and responses;
- Handling of complaints and incident reports;
- Special units, such as traffic enforcement, criminal investigations, covert operations, K-9 Unit, Family Assistance Crisis Teams, Bomb Squad, and Special Weapons and Tactics Team; and
- Any other services or programs provided to the citizens of San Antonio at the time of annexation.

The Annexation Area will become part of an existing patrol district based upon factors such as the size of the area, population, and the expected number of calls for service. These factors will also determine the need for hiring additional patrol officers to ensure all patrol districts are adequately staffed twenty-four (24) hours a day, seven (7) days a week, and to maintain an average response time. SAPD San Antonio Fear Free Environment Unit officers will be available to meet as requested to discuss police issues.

Police Substations are responsible for a Patrol "Service Area," under the command of a Captain. These Service Areas are divided into Patrol Sections. The Patrol Sections,

with supervisory responsibilities assigned to Sergeants, are divided into “Patrol Districts.” The “Patrol Districts” are geographically defined areas established for several reasons, including but not limited to:

- Serving as a manpower distribution tool based on call volume, population, area size, and geographic variables;
- Providing a means of establishing primary responsibility to individual officers, during their tour of duty, for various activities within a specific geographic area; and
- Providing an efficient and effective means of assigning, identifying, and locating officers, within a generalized area, using currently available technology.

The Annexation Area will be served by the substation assigned to that geographic area. There is no specific number of officers that can be assigned to a patrol district. Patrol districts are staffed with at least one officer, twenty-four (24) hours a day, seven (7) days a week. Many times, multiple officers are assigned to single districts.

Police services are initiated by on-sight officer activity, citizen requests, and any other means available. The most common means by which officers receive their assignments is through direct supervisory command and radio/computer transmissions by police dispatchers.

**6.2.2 Fire Protection and Emergency Medical Service (“EMS”).** The San Antonio Fire Department (“SAFD”) will provide fire protection services and EMS service. Service will be provided through the use of fire engines, ladder trucks, full-time and peak period EMS ambulances, Medical Officers, and Chief Officers. SAFD will be providing fire protection and EMS from the station assigned to that geographic area.

**6.2.3 Solid Waste Collection Services.** Solid Waste Collection services are provided, and fees are assessed in accordance with Chapter 14 of the City’ Code of Ordinances, as may be amended. Fees for services are assessed monthly on CPS Energy Utility bills. If private collection services are used, the City solid waste fees will not be assessed.

**6.2.3.1 Commercial Solid Waste Services.** The City’s Commercial collection for garbage are available on a case by case basis for qualifying businesses in a manner similar to residential services. Bulky item, brush and bagged leaf collections are not provided to businesses. If the City-provided commercial service is not desired, businesses may utilize private service providers.

**6.2.4 Operation and Maintenance of Water and Wastewater Facilities.** If, at the time of annexation, the Annexation Area is not being provided with water and wastewater service, the San Antonio Water System (“SAWS”) will extend water and wastewater service to the Annexation Area at the request of a resident pursuant to SAWS policies regarding extensions of service. SAWS will provide water and wastewater service in accordance with standard SAWS policies and procedures.

**6.2.5 Operation and Maintenance of Roads and Streets, including Street Lighting.** The Transportation and Capital Improvements Department (“TCI”) is responsible for the maintenance and repair of streets, bridges, alleys, and related infrastructure within the City’s jurisdiction. Curbs, sidewalks, driveway approaches, curb ramps, and other street infrastructures are constructed in accordance with the City and the Americans with Disability Act standards. Service requests or community concerns for TCI’s response, such as pothole and base and pavement repairs are initiated through the City’s 311 call center or online services. These services include:

- Emergency Pavement Repair;
- Street Base and Pavement Repair;
- Preventative Street Maintenance;
- Guard Post and Guard Rail Maintenance;
- De-icing and Snow Removal Services;
- Neighborhood Access and Mobility Program;
- Emergency Street Closure Services; and
- Street Re-striping and Marking Services

Infrastructure Management Program (IMP) is a five (5) year rolling program, which focuses on the maintenance of the City infrastructure. Service needs are identified city-wide and are scheduled for street maintenance, alley maintenance, drainage maintenance, sidewalks, traffic signals, pavement marking, and Advance Transportation District (ATD) projects. The IMP provides the City a structured program schedule, potential for additional multiple year contract awards and improved utility coordination. During the budget process for each fiscal year of the City, the IMP is presented to City Council for approval. Amendments may occur throughout the year due to coordination with utilities or unforeseen conditions, such as inclement weather. The goal of the IMP is to provide the best possible maintenance for the City.

**6.2.6 Transportation Systems Management & Operations.** If necessary, TCI will provide regulatory signage services. Traffic signal stop and all other regulatory studies are conducted in conjunction with growth of traffic volumes. Traffic signs, signals, and markings are installed in conformance with the Texas Manual on Uniform Traffic Control Devices. Faded, vandalized, or missing signs are replaced as needed. “Call back” service is provided twenty-four (24) hours a day, three hundred sixty-five (365) days a year for emergency repair of critical regulatory signs. Requests for signage should be called into the City’s 311 Call Center.

**6.2.7 Storm Water Utility.** The Storm Water Utility is housed within the TCI Department. The Storm Water Utility is responsible for drainage services as well as the installation, operation, and maintenance of drainage infrastructure throughout San Antonio.

The Storm Water Utility Fee is intended to cover capital and maintenance expenses associated with drainage projects and fund operational services related to the Municipal Separate Storm Sewer System (MS4) Permit as required by Federal regulations.

The Storm Water Utility Fee is billed by SAWS on behalf of the City. Services are currently provided by the SAWS, in accordance with the SAWS's approved business plan and as limited by applicable codes, laws, ordinances, and special agreements. Storm Water Utility Fees will be assessed for the subject property.

**6.2.8 Street Lighting.** The planning of public streetlights is coordinated by the City's Development Services Department ("DSD"). CPS Energy will maintain public street lighting in accordance with City's policies. The City assumes the cost of electricity for public streetlights.

**6.2.9 Operation and Maintenance of Parks, Playgrounds and Swimming Pools.** Maintenance responsibilities for municipally owned parks, playgrounds, and swimming pools are the responsibility of the City. Any proposed or existing privately-owned parks, playgrounds, swimming pools, recreational facilities, and common spaces in the Annexation Area are the responsibility of the property owner(s).

**6.2.10 Operation and Maintenance of Any Other Publicly Owned Facility, Building, or Service.** Should the City acquire any other facilities, buildings, or services necessary for municipal services for the Annexation Area, an appropriate City department will provide maintenance services for them.

**6.3 Additional Services.** Certain services, in addition to the above services, will be provided within the Annexation Area commencing on the effective date of the annexation for full purposes, unless otherwise noted. They are as follows:

**6.3.1 Code Compliance.** The Code Compliance Division of DSD enforces the City codes and regulations to protect the health, safety and general welfare of the community. Current enforcement is provided to the following and is not limited to:

- Vacant dangerous premises and structures;
- Junked vehicles;
- Weeded vacant lots;
- Zoning UDC;
- Property maintenance;
- Minimum housing, including unsanitary premises;
- Front yard parking;
- Alley and right-of-way violations;
- Monthly inspections of salvage/junk yards;
- Monitoring and enforcing materials received at salvage/junk yards;
- Enforcement of garage sale permits; and
- The Code and ordinances enforced by DSD are subject to changes by the City Council.

**6.3.2 Building and Other Permits.** Incomplete construction must obtain building permits from DSD in accordance with the City codes. Incomplete construction implies that final inspections have not been conducted and approved. For new commercial construction, incomplete construction indicates approved final inspections for building, mechanical, plumbing, electric, fire, traffic, drainage, sidewalks, irrigation inspections have not been obtained. Other field inspections may be applicable for new commercial construction depending on the specific use and/or location of the Project. Any required permits, including, but not limited to, building, trade, and sign permits may be applied for at the Cliff Morton Development and Business Services Center located at 1901 South Alamo Street, San Antonio, Texas. In addition, as part of the permitting process, applicant will be required to adhere to the City's Tree and Landscape requirements. A one-stop development service counter has been created to assist the public with any development questions that relate to building, planning and TCI issues.

**6.3.3 Certificate of Occupancy.** New and existing businesses must obtain a Certificate of Occupancy and related inspections required by the City code from DSD and San Antonio Metropolitan Health District. In accordance with the adopted Building Code, no person may occupy a building or a space without first obtaining a Certificate of Occupancy. Certificates of Occupancy may be applied for at the Cliff Morton Development and Business Services Center located at 1901 South Alamo Street, San Antonio, Texas.

**6.3.4 Library Services.** The nearest library services to the Annexation Area can be identified through the City's Public Library website. The San Antonio Public Library locations provide the following services:

- Library materials for adults, young adults and children including books, periodicals, compact disks, DVD, videos, audio books, and electronic books;
- Programming for adults, young adults and children such as regularly scheduled story time;
- Book discussion groups and other topics of interest to the community; and
- Access to the website, databases and other computer programs, is available seven days a week through the web address [www.mysapl.org/digital](http://www.mysapl.org/digital).

Professional staff is available to assist library customers with reference and reader's advisory questions and public meeting room space are available. More information is available at the San Antonio Public Library Website: [www.mysapl.org](http://www.mysapl.org).

**6.3.5 Health Department Services.** The San Antonio Metropolitan Health District ("SAMHD") currently provides certain public health services, including dental screening and treatment, communicable disease control, emergency preparedness and response, and health education to persons residing in the Annexation Area through an inter-local agreement with Bexar County-University Health Systems. Upon full purpose annexation the following additional services will become available:

- Investigation of public health related complaints including food borne illness, recreational water quality, and public swimming pools and spas, and investigation of toxic exposures;

- Permitting and routine sanitation inspections of food establishments, schools, day cares, swimming pools and mobile living parks;
- Enforcement of the City's smoking ordinance in public places;
- Investigation of reported elevated Blood Lead Levels in children;
- Access to community health clinics; and
- Medical Assistance Program benefits.

SAMHD will provide additional services for oversight of day care centers, semi-public swimming pools, air quality permits, and livestock issues.

**6.3.6 Animal Care Services.** The Annexation Area will receive the same level of service as within the City Limits of the City. These services include, but may not be limited to, animal enforcement and control, educational and public outreach, low cost animal related resources such as microchips and spay/neuter services, and community cat program services.

**6.3.7 Other Services.** The City Departments with jurisdiction in the Annexation Area will provide services according to City policy and procedures.

**6.4 Capital Improvements Program.** The City will initiate the construction of capital improvements as may be necessary for providing municipal services. The timing for the construction of capital projects that may be necessary for the delivery of municipal services will be done in accordance with the requirements of Subchapter C of Chapter 43, of the Code.

Each component of the Capital Improvement Program is subject to the City providing the related service directly. In the event that the related service is provided through a contract service provider, the capital improvement may not be constructed or acquired by the City but may be provided by the contract provider. The City may also lease buildings in lieu of construction of any necessary buildings.

**6.4.1 Police Protection.** No capital improvements are necessary at this time to provide police services.

**6.4.2 Fire Protection.** No capital improvements are necessary at this time to provide fire services.

**6.4.3 Emergency Medical Service.** No capital improvements are necessary at this time to provide EMS services.

**6.4.4 Solid Waste Collection.** No capital improvements are necessary at this time to provide solid waste collection services.

**6.4.5 Roads and Streets.** No newly constructed road or street related capital improvements are necessary at this time to provide services. The City will assume maintenance responsibilities for all public streets.

**6.4.6 Parks, Playgrounds and Swimming Pools.** No capital improvements are necessary at this time to provide parks and recreation services.

**6.4.7 Library Services.** No capital improvements are necessary at this time.

**6.4.8 Capital Improvements Planning.** The Annexation Area will be included with other territory within the municipality in connection with planning for new or expanded facilities and/or services. All other capital improvements will be considered through the 6-Year Capital Budget that represents the City's long-range physical infrastructure development and improve plan. Major funding sources are General Obligation Bonds, Certificates of Obligation, Storm Water Revenue Bonds, and Community Development Block Grants as applicable. Capital projects are placed in inventory by the City Council representative through input from community and neighborhood associations, other public processes, and comprehensive planning processes.

**6.5** This Article VI in no way prohibits the City from amending any or modifying any of the above programs or services in accordance with the police, legislative, and regulatory power of the City. Any such changes in services that apply to all properties for which the above services are provided shall apply to all property annexed pursuant to this Agreement.

## **VII. DEFAULT**

**7.1** Subject to Sections 7.3 and 7.4 below, Owner shall be declared in "Default" of this Agreement if Owner violates or causes a violation of any rules, regulations, orders, ordinances, or other laws that are applicable to the District Property, as described herein, during the term of this Agreement.

**7.2** Subject to Section 7.3 and Section 7.4 below, a Party shall be declared in "Default" if a material breach occurs of any covenant, obligation, or provisions of this Agreement.

**7.3** Notwithstanding any provision to the contrary, no Party shall be declared in Default, under this Agreement and subject to the remedies available to the non-defaulting party, as set forth herein, until written notice of Default has been given to the defaulting Party (which notice shall set forth in reasonable detail the nature of the Default) and until such Party has been given, from and after the receipt of such written notice, ninety (90) calendar days to cure the Default (the "Cure Period"). Additionally, no Party shall be declared in Default, under this Agreement, if, within the Cure Period, the defaulting Party has commenced in a commercially reasonable manner to remove or cure such alleged default, provided that, in the event the alleged default cannot reasonably be removed or cured within the Cure Period, the defaulting Party shall provide the non-defaulting party a commercially reasonable written timeline for removing or curing such alleged default and the Parties shall thereafter enter into a written agreement extending the Cure Period to a timeframe consistent with such timeline; such written agreement shall be subject to the administrative approval of the City Manager's designee and shall not be unreasonably withheld, conditioned, or delayed by either Party. The Cure Period may be

additionally extended by written agreement of the Parties and shall be subject to approval of the City Council.

7.4 The duties of a Party to observe or perform any of the provisions of this Agreement, on its part to be performed or observed, shall be excused for a period equal to the period of prevention, delay, or stoppage due to causes beyond the control of the applicable Party, including reason of pandemic, epidemic, strikes, civil riots, war, invasion, fire or other casualty, or Acts of God.

## **VIII. REMEDIES**

8.1 Upon the occurrence of Default by Owner, the defaulting party shall be subject to the enforcement provisions set forth in UDC Section 35-491, as amended, of the City's Code as well as all civil remedies provided by law.

8.2 Upon the occurrence of Default by a Party, the non-defaulting Party may seek all remedies available to it at law or in equity, including, without limitation, termination, injunctive relief, mandamus, and specific performance. Additionally, upon the occurrence of Default by Owner (subject however to all notice and cure provisions provided herein), the City may proceed with voluntary annexation of the District Property as provided in this Agreement.

8.3 No remedy herein conferred upon or reserved to the Parties is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

8.4 The Parties hereto expressly agree that, in the event of litigation, each Party hereby waives its right to payment of attorneys' fees.

## **IX. NON-WAIVER**

9.1 No course of dealing on the of the Parties nor any failure or delay by the Parties in exercising any right, power, or privilege under this Agreement shall operate as a waiver of any right, power or, privilege owing under this Agreement.

## **X. ASSIGNMENT**

10.1 All covenants and agreements contained herein by the City shall bind its successors and assigns and shall inure to the benefit of Owner and their successors and assigns.

10.2 This Agreement (including the duties, rights and obligations set forth herein) may not be assigned by Owner except for assignments to (a) related entities and subsidiaries of Owner, (b) home builders and their related entities, (c) individual single lot owners, and (d) as described in section 10.3 below, without the prior written consent of City and subject to approval by the City Council, as evidenced by passage of an ordinance. Any subsequent assignment by Owner, except

for assignments to related entities and subsidiaries of Owner, home builders, individual single lot owners, and as described in section 10.3 below, shall only be done with the written consent of the City as evidenced by action of the City Council by ordinance.

10.3 Notwithstanding Section 10.2, after the Project has been completed and the District Property has been developed, without prior written consent of the City and approval by City Council, (a) all rights relating under this Agreement, including (without implied limitation) the right of non-annexation, shall run with the land and any subsequent owner, mortgagee, lessee or other party with an interest therein shall enjoy such rights; (b) if Owner possess or acquire any rights or entitlements with respect to the development of the Property and the construction of improvements thereon which run with all or a part the land, any subsequent owner, mortgagee, lessee, or other party with an interest therein shall automatically be a beneficiary of such rights and entitlements to the extent of such interest in such Property or portion thereof; and (c) Owner may collaterally assign their rights and obligations hereunder to any lender to which such party has granted a lien encumbering all or part of such Property.

## **XI. ENTIRE AGREEMENT**

11.1 This written Agreement embodies the final and entire agreement between the Parties hereto and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties.

11.2 The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein. Notwithstanding the foregoing however, the exhibits shall not constitute any binding commitment regarding, but not limited to, the final location of boundaries and improvements and infrastructure, such being of approximate location that may be amended from time to time by the Parties.

## **XII. AMENDMENTS**

12.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be affected only by amendment, in writing, executed by the Parties, and subject to approval by the City Council, as evidenced by passage of an ordinance.

## **XIII. SEVERABILITY**

13.1 If any clause or provision of this Agreement is held invalid, illegal, or unenforceable under present or future federal, state, or local laws, including but not limited to the charter, code, or, ordinances of the City, then and in that event it is the intent of Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal, or unenforceable clause or provision was never contained herein. It is also the intent of Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable,

there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

#### **XIV. INDEPENDENT CONTRACTORS**

14.1 Owner covenants and agrees that they are an independent contractor and are not an officer, agent, servant or employee of the City; that Owner shall have exclusive control of and exclusive rights to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of each party's officers, agents, employees, contractors, subcontractors, and consultants, except as where the City may enforce the provisions of the City's Code of Ordinances; that the doctrine of "respondent superior" shall not apply as between the City and Owner, all officers, agents, employees, contractors, subcontractors, and consultants of Owner, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners, or joint ventures between the City and Owner. The Parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the performance by Owner under this Agreement and that the Owner have no authority to bind the City.

#### **XV. LEGAL AUTHORITY**

15.1 The person(s) executing this Agreement on behalf of the respective Parties, represent, warrant, assure, and guarantee that they have full legal authority to (1) execute this Agreement on behalf of the respective Party, and (2) to bind the respective Party to all of the terms, conditions, provisions, and obligations herein contained.

#### **XVI. VENUE AND GOVERNING LAW**

16.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

16.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the County.

#### **XVII. PARTIES' REPRESENTATIONS**

17.1 This Agreement has been jointly negotiated between the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

#### **XVIII. NOTICE**

18.1 All notices, demands or other communications given in connection with or required under this Agreement must be in writing and delivered to the person to whom it is directed and may be given by (1) overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such courier; (2) sent

by email with a PDF attachment with an original copy thereof transmitted to the recipient by one of the means described in clauses (a), (c) or (d), in which case notice shall be deemed delivered on the date of transmittal of the email with PDF attachment; (3) personal delivery, in which case notice shall be deemed delivered upon receipt or refusal of delivery; or (4) United States certified mail, return receipt requested, postage prepaid, addressed to the addressee, in which case notice shall be deemed delivered three business after deposit of such notice, postage prepaid, in a mailbox under the care, custody or control of the United States Postal Service. All notices, demands, and other communications shall be given to the Parties at the addresses set forth below, or at any other addresses that they have theretofore specified by written notice delivered in accordance herewith:

**City:** City of San Antonio  
Attention: Bridgett White or  
Director of the Department of Planning  
P.O. Box 839966  
San Antonio, Texas 78283-3966

**Owner:** SA Kosta Browne, Ltd.  
Attention: Blake Yantis  
1802 Northwest Military Highway, Suite 100  
San Antonio, TX, 78213

**With copies to:** Brown & Ortiz, PC  
Attention: Daniel Ortiz  
112 E. Pecan Suite 1360  
San Antonio, Texas, 78205

18.2 Each Party may change its address by written notice in accordance with this Article.

### **XIX. CAPTIONS**

19.1 All captions used herein are only for the convenience of reference and shall not be construed to have any effect or meaning as to the Agreement between Parties hereto.

### **XX. UNINTENDED OMISSION**

20.1 If any punctuation, word, clause, sentence, or provisions necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision of this Agreement is omitted, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence, or provision shall be supplied by inference.

## **XXI. COUNTERPARTS**

21.1 This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument. This Agreement may be executed in any number of counterparts and by different Parties in separate counterparts, each of which when so executed and delivered, shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or electronic mail shall be as effective as delivery of a manually executed counterpart of this Agreement, except that any Party delivering an executed counterpart of this Agreement by facsimile or electronic mail also must deliver a manually executed counterpart of this Agreement. Notwithstanding the foregoing, failure to deliver a manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

## **XXII. RECORDATION**

22.1 This Agreement shall be recorded in the Real Property Records of the County.

## **XXIII. TERM**

23.1 The term of this Agreement shall commence on the Effective Date and terminate thirty (30) years from the Effective Date. The term may be extended upon mutual consent and written agreement between the Parties and subject to approval by the City Council, as evidenced by passage of an ordinance. The Parties agree to institute best efforts to renegotiate new provisions, as necessary, in the event the Agreement is extended beyond the initial thirty (30) year term. Notwithstanding any provision herein to the contrary, in the event the District is dissolved within one (1) year from the Effective Date, this Agreement automatically terminates upon the effective date of the District's dissolution, without any further action from the Parties and the Parties are relieved of any further rights and obligations under this Agreement.

## **XXIV. FORCE MAJEURE**

24.1 If either Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, then the obligations of either Party to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure", as used herein, shall include, without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy (including domestic and foreign terrorism), orders of any kind of the Government of the United States or of the State of Texas or any civil or military authority, insurrections, riots, epidemics, pandemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery pipelines or canals, partial or entire failure of water necessary for operation of the sewer system, or of the District to receive waste,

and any other inabilities of either Party, whether similar to those enumerated or otherwise, which are not within the control of either Party, which either Party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of either Party, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demand of the opposing Party or Parties when such settlement is unfavorable to it in the judgment of the affected Party.

***-Signatures on the Following Pages-***

**IN WITNESS THEREOF**, the Parties hereto have executed this Agreement to be effective as of the Effective Date.

**CITY:**

**CITY OF SAN ANTONIO, TEXAS**

**ATTEST/SEAL**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**APPROVED AS TO LEGAL FORM:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_ City Attorney  
Date: \_\_\_\_\_

**ACKNOWLEDGEMENT**

**STATE OF TEXAS       §**  
                                  **§**  
**COUNTY OF BEXAR   §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2022  
by \_\_\_\_\_ of the City of San Antonio, a Texas home  
rule municipality, on behalf of said municipality.

Date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public State of Texas  
My Commission Expires: \_\_\_\_\_

**OWNER:**

**SA KOSTA BROWNE, LTD.,**  
a Texas limited partnership

By: \_\_\_\_\_  
Blake Yantis  
Member

Date: \_\_\_\_\_

**ACKNOWLEDGEMENT**

**STATE OF TEXAS**

**COUNTY OF BEXAR**

§  
§  
§

The foregoing instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2022, by Blake Yantis, on behalf of SA Kosta Browne, Ltd., a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, on behalf of said company, in the capacity therein stated.

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires: \_\_\_\_\_

Development Agreement  
Grace Gardens