

ORDINANCE 2020-12-03-0860

**AUTHORIZING THE CITY OF SAN ANTONIO'S EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND VEP LEMON CREEK LP, OWNER OF THE APPROXIMATELY 117.837 ACRES OF LAND, GENERALLY LOCATED NORTHEAST OF IH-10 WEST, NORTH OF DIETZ ELKHORN ROAD AND WEST OF OLD FREDERICKSBURG ROAD, IN THE EXTRATERRITORIAL JURISDICTION ("ETJ") OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.**

\* \* \* \* \*

**WHEREAS**, VEP Lemon Creek, (Owner) own approximately 117.837 acres of land, also referred to as the Lemon Creek Property, generally located northeast of IH-10 west, north of Dietz Elkhorn Road and west of Old Fredericksburg Road, within the far northwest ETJ of the City of San Antonio (City), more particularly described and depicted in **Exhibits "A" and "B" to Attachment "A"**, which is attached hereto and incorporated herein for all purpose; and

**WHEREAS**, on November 4, 2019 Owner filed a petition with Bexar County ("County") to create a Public Improvement District ("PID") to be named the Lemon Creek Special Improvement District ("District") under Chapter 382 of the Local Government Code and on September 8, 2020 Owner submitted a petition to the City requesting the City's consent to the creation of the District, and the County's delegation of certain powers and duties with respect thereto, which the City granted by resolution on December 3, 2020. Owner amended the petition to the County on November 9, 2019; and

**WHEREAS**, in order to protect the City's planning goals and infrastructural interests in the ETJ, as a condition of the City's consent to the County's creation of the PID, the City Council determined that it is prudent to require the Owner to enter into a Development Agreement ("Agreement") containing mutually agreeable terms relating to the development of the District property, assessment of taxes within the District, voluntary annexation at the end of the term of the Agreement; municipal services to be provided by the City within the District in the event of annexation; and a Strategic Partnership Agreement ("SPA") for limited purpose annexation and revenue sharing by City of sales and use taxes imposed within commercial areas of the District pursuant to Chapters 43 and 212 of the Local Government Code; and

**WHEREAS**, Owner has and/or will remit payment to the City of a PID application fee in the amount of \$7,500.00; a Special District Operations Assessment in the amount of \$92,225.00 and reimburse all costs paid by the City for the recording of the Development Agreement in the property records of Bexar County; **NOW THEREFORE:**



**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

0080-30-51-0505  
**SECTION 1.** The City Manager, or his designee, is authorized to execute a Development Agreement ("Agreement") between the City of San Antonio and VEP Lemon Creek LP ("Owner") containing the terms and conditions governing the development of the Lemon Creek Special Improvement District ("District" or "PID") property, preserving the extraterritorial status of the District property during the term of the Agreement, establishing the Agreement as a voluntary petition for annexation providing the City with the option of annexing the District property in the event of default of the Agreement by the Owner, a subsequent owner or end-buyers of properties developed within the District or upon the termination date of the Agreement; agreeing to the assessment of taxes within the District, providing for municipal services to be provided to the District property in the event of annexation; and providing for a Strategic Partnership Agreement for limited purpose annexation and revenue sharing by City of sales and use taxes imposed within commercial areas of the District, which will be attached in substantial form to the Agreement; and all other terms and conditions the City Manager finds to be in the City's best interest. A copy of said Agreement is attached hereto as **Attachment "A"**.

**SECTION 2.** The City Council of the City of San Antonio ordains that its consent to the County's creation of the Lemon Creek District will remain in effect so long as the Owner complies with the terms of the Development Agreement.

**SECTION 3.** The City Council authorizes the assessment and collection of a PID application fee in the amount of \$7,500.00; a Special District Operations Assessment in the amount of \$92,225.00 and the reimbursement by Owner of all costs paid by the City for the recording of the Development Agreement in the property records of Bexar County.

**SECTION 4.** Fund 11001000 and Internal Order 250-022 and General Ledger #4406758 are designated for the Application Fee in the accounting for the fiscal transaction in authorization of this agreement.


**SECTION 5.** Fund 11001000 and Internal Order 223-260 and General Ledger #4401844 are designated for the Special District Operations Assessment in the accounting for the fiscal transaction in authorization of this agreement.

**SECTION 6.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary for the purpose of this Ordinance.

**SECTION 7.** This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

JYW  
12/03/2020  
Item No. 29B

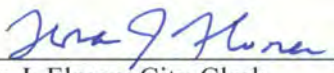
**PASSED AND APPROVED on this 3<sup>rd</sup> day of December 2020.**



**M A Y O R**  
**Ron Nirenberg**

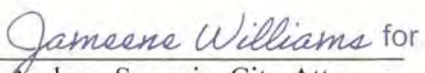
**ATTEST:**

**APPROVED AS TO FORM**



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Tina J. Flores, City Clerk



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Jameene Williams for  
Andrew Segovia, City Attorney



## City of San Antonio

### City Council

December 03, 2020

**Item: 29B**

**File Number: 20-7050**

**Enactment Number:**

**2020-12-03-0860**

Ordinance approving a Development Agreement with VEP Lemon Creek LP setting forth terms and conditions to the City of San Antonio's Consent to the Creation of the Lemon Creek Special Improvement District

Councilmember John Courage made a motion to approve. Councilmember Clayton H. Perry seconded the motion. The motion passed by the following vote:

**Aye:** 11 Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage and Perry



JYW  
12/03/2020  
Item No. 29B

**ATTACHMENT "A"**

Lemon Creek Special Improvement District  
Development Agreement

**LEMON CREEK SPECIAL PUBLIC IMPROVEMENT DISTRICT  
DEVELOPMENT AGREEMENT**

This Development Agreement (this "Agreement") is entered by and between the **City of San Antonio**, a Texas home-rule municipal corporation located within Bexar County, Texas (hereinafter, referred to as "City"); and **VEP Lemon Creek, LP**, the owner of the proposed District Property (as defined herein and hereafter referred to as "Owner"). City and Owner shall hereafter collectively be referred to as "Parties" or in the singular as "Party."

**RECITALS**

**WHEREAS**, Owner has submitted a petition to Bexar County, Texas (the "County") which was filed in the Bexar County official public records on November 6, 2019 and amended on September 9, 2020, to create a public improvement district to be named the Lemon Creek Special Improvement District (the "District") pursuant to Chapter 382 of the Texas Local Government Code, as amended (the "Code"); and

**WHEREAS**, the District Property (as defined herein) specifically consists of approximately 117.837 acres of land, as more particularly described in **Exhibit "A"** and **Exhibit "B"**, which are attached hereto and fully incorporated herein; and

**WHEREAS**, following the County's creation of the District, Owner (including its successors and assigns) intends to develop the "Project", as further defined and described herein; and

**WHEREAS**, the Parties desire to enter into this Agreement pursuant to Subchapter G of Chapter 212 of the Texas Local Government Code, § 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 will agree 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) to the County's delegation to the District the powers granted by Section 52, Article III 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 power to construct or cause to be constructed water, wastewater, and drainage facilities in accordance with Section 382.101 of the Code; but the City's consent does not include the powers to exercise eminent domain, annexation or exclusion of property from the District.

**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 Parties, which may be amended from time to time, pursuant to the provisions contained herein.



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 entire District Property.

1.3 “Director” shall mean the Director of the City’s Department of Planning.

1.4 “City” and “County” shall have the meanings specified above.

1.5 “City Code” shall mean City Code of Ordinances.

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

1.7 “District” shall mean the public improvement district proposed in Owner’s petition for the creation of the Lemon Creek Special Improvement District filed with the County on November 6, 2019 which includes the District Property.

1.8 “District Property” shall refer to approximately 117.837 acres of property. The District Property is more particularly described and illustrated in **Exhibits “A” and “B”** which are incorporated herein for all purposes.

1.9 “Effective Date” shall mean the effective date of the County’s order creating the District.

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

1.11 “Owner” shall have the meaning specified above and shall include any successors and assigns to VEP Lemon Creek, LP.

1.12 “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.

1.13 “UDC” means the City’s Unified Development Code located in Chapter 35 of the City’s Code of Ordinances.

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 ACKNOWLEDGMENTS**

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 Parties.

2.2 Owner represents to the City that it is the owner of the proposed District Property and has 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 **Exhibits "A" and "B"** that are attached hereto and for the Project.

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

3.1 The Project consists of certain proposed public infrastructure on and within the District Property, as further described in the Proposed Infrastructure Improvements summary and the Preliminary Project Plan, collectively attached hereto as **Exhibit "C"**.

3.2 The Project may be amended from time to time. If required under the City's UDC, such changes shall comply with any applicable master development plan ("MDP") and/or platting process currently outlined in the UDC with review and approval of the City's Director of the Department of Planning and the Director of the Development Services Department each of whom reserves the right to exercise discretion with respect to any MDP review and approvals as afforded them under the UDC.

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

4.1 In exchange for Owner's agreement to be bound by the terms of this Agreement, City consents to (1) the establishment of the District within the City's extraterritorial jurisdiction ("ETJ") and the inclusion of the District Property therein, (2) to the County's delegation to the District the powers granted by Section 52, Article III 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 power to construct or cause to be constructed 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 Within 5 (five) years after the date of submittal of the first plat application, Owner shall pay a Special District Operations Assessment in the amount of One Hundred Seventy Five Dollars and No/100 (\$175.00) per residential unit. In Owner's estimation this should be approximately Ninety Two Thousand, Two Hundred Twenty Five Dollars and No/100 (\$92,225.00). Owner further agrees to pay all PID consent application fees and reimbursement costs to the City for recording this Agreement with the Bexar County Real Property records as required by the City.

4.3 The Parties agree that once created, the District will assess the following taxes as applicable within the District:



Ad Valorem Tax	\$1.0/\$100 assessed value or no more than the amount of ad valorem tax 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%, notwithstanding the provisions of the Strategic Partnership Agreement

4.4 **Strategic Partnership Agreement.** The Parties agree that the District shall enter into a strategic partnership agreement ("SPA") containing the terms set forth therein, a copy of which is attached to this Agreement in substantial form as **Exhibit "D"**. In the event the District fails to enter into the SPA within 12 months of the Effective Date, Owner agrees that the Owner and/or developer of the Property will not be entitled to reimbursement by 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 Counties order creating the District.

4.41 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 of the SPA with the Real Property Records of Bexar County, publications of public hearings, annexation ordinance, polling location notices for voters in LPA areas; and plan amendments and zoning for annexed land.

4.5 **Non-annexation.** The Parties agree that in exchange for Owner's agreement to comply with the terms of this Agreement for the entire term of the Agreement, 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 Agreement's effective date, subject to the terms of Article XXII.

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 4.2 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 Owners, subject to the provisions of Sections 6.3 and 6.4 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. This section 4.6 applies notwithstanding the provisions of the SPA.



4.7 Owner agrees that this voluntary petition and consent to annexation of the Property may not be revoked and is intended to be and shall be binding upon the Owner as well as Owner's 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 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 Texas Local Government Code that are required when annexing property under that subchapter. Owner agrees that the Owner shall not 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 his 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 4.3 of the Development Agreement, executed on \_\_\_\_\_, 2020, and recorded in the deed records of Bexar County under Bexar County Document No. [\_\_\_\_\_] which permits the City of San Antonio ("City") 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 and 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 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 Unless provided for otherwise in this Agreement, Owner agrees that it will comply with all City rules, regulations, orders, ordinances and other City laws applicable to all properties within the City's ETJ, during all phases of development and construction of the Project and during the term of this Agreement. Additionally, Owner agrees to specifically comply with the following provisions:

- a. Comply with Chapter 28 of the City Code of Ordinances – Signs.
- b. Comply with Chapter 34 of the City Code of Ordinances – Water & Sewers, including compliance with Category 3 pollution prevention criteria, where applicable.



- c. Comply with the same streetlight standards applicable to all subdivisions within the city that are listed in Section 35-506 (i) of Chapter 35 of the City's Code (UDC).
- d. 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.
- e. Comply with Chapter 14 and Chapter 35 of the City Code's infrastructure standards and requirements for the Solid Waste Management Department as outlined in Development Service Department Information Bulletin No. 576.
- f. Comply with UDC Military Protection Area regulations.
- g. Comply with UDC Military Lighting Overlay District regulations.
- h. Comply with the proposed alignments, road width and right-of-way required in the City's Major Thoroughfare Plan.
- i. For the portion of the District Property located within the Edwards Aquifer Recharge Zone, comply with the uses permitted in the Edwards Recharge Zone District as referenced in the UDC.
- j. Comply with the San Antonio Recommended Plant List - All Suited to Xeriscape Planting Methods of the UDC.
- k. Comply with park dedication requirements set out in the UDC,
- l. Comply with UDC Article VI standards regarding Historic Preservation.

4.12 As applicable, and subject to Section 4.13 below, 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 Notwithstanding any provision herein to the contrary, the Parties agree and acknowledge that, in accordance with Code Section 212.172(g), this Agreement constitutes a permit under Chapter 245 of the Code.

4.14 The Parties agree and acknowledge that Section 382.201 of the Code, as it exists on the Effective Date of this Agreement, shall apply to this Agreement.

4.15 Owner shall provide annual updates on the progress of the Project. The annual update will be due January 30<sup>th</sup> for the previous calendar year. The updates shall include the following:

- a. Plat activity within the District Property;
- b. Project permitting activity in accordance with the City Code;
- c. Built-out percentages for single family, multifamily, commercial areas and any recalculations of build-out expectations;
- d. Provide construction update by noting percentage completion of infrastructure and improvements;
- e. Annual PID revenue and expenditures;
- f. All outstanding financial obligations, liabilities and assets related to the Project.



## V. WRITTEN AGREEMENT REGARDING SERVICES

5.1 In the event the City annexes the Annexation Area pursuant to this Agreement, the Parties agree that this Section V shall constitute a Written Agreement Regarding Services required under Chapter 43, section 43.0672 of the Code, shall run with the 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 no more than three (3) years from 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 (3) service components: *(1) Annexation Service Requirements, (2) Additional Services and (3) a Capital Improvement Program.* 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 are provided and fees are assessed in accordance with the City's Code of Ordinances, as may be amended.

**1. 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.

**A. Police Protection** – The San Antonio Police Department (SAPD) will provide protection and law enforcement services in the Annexation Area.

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 (SWAT); 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 24 hours a day, seven days a week, and to maintain an average response time. SAPD San Antonio Fear Free Environment Unit (SAFFE) 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, 24 hours a day, seven 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.

**B. 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.

**C. 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.

*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.

**D. Operation and Maintenance of Water and Wastewater Facilities** – *Water and Wastewater Service* – unless as otherwise provided by law, 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.



### **E. Operation and Maintenance of Roads and Streets, including Street Lighting –**

The City's Public Works Department ("PWD") 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 (ADA) standards. Service requests or community concerns for PWD'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 (NAMP)
- Emergency Street Closure Services
- Street Re-stripping and Marking Services

*Infrastructure Management Program (IMP)* is a five-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.

*Transportation Systems Management & Operations* – If necessary, PWD 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 24 hours a day, 365 days a year for emergency repair of critical regulatory signs. Requests for signage should be called into the City's 311 Call Center.

*Storm Water Utility* – The Storm Water Utility is housed within the PWD 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. More information about the storm water rate plan is available at <http://www.sanantonio.gov/TCI/Projects/Storm-Water-Fee>.

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 fees will be assessed for the subject property.

*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.

**F. 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).

**G. 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.

**2. 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:

**A. 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,
- 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, and
- Enforcement of garage sale permits
- The City Code of Ordinances, including the UDC, are enforced by DSD, and are subject to changes by the City Council.

**B. 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, TX. 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 PWD issues.

**C. 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 City 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, TX.

**D. Library Services** – The nearest library services to the Annexation Area can be identified through the web address [www.mysapl.org/digital](http://www.mysapl.org/digital).

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).

**E. 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 (BLL) 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.



**F. 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.

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

**3. 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, Local Government 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.

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

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

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

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

**E. 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.

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

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

**H. 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.

- I. This Article 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.

## **VI. DEFAULT**

6.1 Subject to Sections 6.3 and 6.4 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.

6.2 Subject to Sections 6.3 and 6.4 below, a Party shall be declared in "Default" if a material breach occurs of any covenant, obligation, or provision of this Agreement.

6.3 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 noticed default (the "Cure Period"). The Cure Period may be extended by written agreement of the Parties and shall be subject to approval of the City Council.

6.4 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, but not limited to, reason of strikes, civil riots, war, invasion, fire or other casualty, pandemic, or Acts of God.

## **VII. REMEDIES**

7.1 Upon the occurrence of Default by the Owner, the defaulting party shall be subject to the enforcement provisions set forth in Chapter 35, Article IV – Procedures, Division 11. – Enforcement, Sec. 35-491, as amended, of the UDC.

7.2 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 Owners (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.

7.3 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.

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

#### **VIII. NON-WAIVER**

No course of dealing on the part 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.

#### **IX. ASSIGNMENT**

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

9.2 This Agreement (including the duties, rights and obligations set forth herein) may not be assigned by Owner except for assignments to any related or successor entities, and as described in section 9.3 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 an Owners, except for assignments described in section 9.3 below, shall only be done with the written consent of the City as evidenced by action of the City Council by ordinance.

9.3 Notwithstanding Section 9.2, without prior written consent of the City and approval by City Council, (i) 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; if Owner possesses or acquires 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 (ii) Owner may collaterally assign its rights and obligations hereunder to any lender to which such party has granted a lien encumbering all or part of such Property.

#### **X. ENTIRE AGREEMENT**

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

10.2 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 exhibits shall not constitute a binding commitment regarding the final improvements and infrastructure and the location of such improvements and boundaries, such may be amended from time to time by the Parties.



## **XI. AMENDMENTS**

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.

## **XII. SEVERABILITY**

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.

## **XIII. INDEPENDENT CONTRACTORS**

Owner covenants and agrees that it is an independent contractor and is 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 "respondeat 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 Owners under this Agreement and that the Owners have no authority to bind the City.

## **XIV. LEGAL AUTHORITY**

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

## **XV. VENUE AND GOVERNING LAW**

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



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

## **XVI. PARTIES' REPRESENTATIONS**

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.

## **XVII. NOTICE**

17.1 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 (a) overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) 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, (c) personal delivery, in which case notice shall be deemed delivered upon receipt or refusal of delivery, or (d) 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  
Attn: Bridgett White or Director of the Department of Planning  
P.O. Box 839966  
San Antonio, Texas 78283-3966

**Owner:** VEP Lemon Creek, LP  
Attn: Charlie Malmberg  
1723 N. Loop 1604 E, Suite 204  
San Antonio, Texas 78232

**With a copy to:** Killen, Griffin & Farrimond, PLLC  
Attn.: Rob Killen  
100 NE Loop 410, Suite 650  
San Antonio, Texas 78216

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

## **XVIII. CAPTIONS**

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.

#### **XIX. UNINTENDED OMISSION**

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.

#### **XX. COUNTERPARTS**

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.

#### **XXI. RECORDATION**

This Agreement shall be recorded in the Real Property Records of Bexar County, Texas.

#### **XXII. TERM**

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. 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.

*Signatures Pages to Follow*



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

**CITY:**

**CITY OF SAN ANTONIO, TEXAS**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**ATTEST/SEAL:**

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

Name: \_\_\_\_\_

Title: City Clerk

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

**APPROVED AS TO LEGAL FORM:**

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

Name: \_\_\_\_\_

Title: Assistant City Attorney

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



**ACKNOWLEDGEMENT**

State of Texas §

§

County of Bexar §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_, \_\_\_\_\_ of the City of San Antonio, a Texas home rule municipality, on behalf of said municipality.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission expires: \_\_\_\_\_

***OWNER SIGNATURE PAGE TO FOLLOW***

**OWNER:**

**VEP Lemon Creek, LP,**  
a Texas limited partnership

By: VEP Lemon Creek GP, LLC,  
a Texas limited liability company  
Its General Partner

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

Name: Charles Malmberg

Title: Manager

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

**ACKNOWLEDGEMENT**

**State of Texas**                   §

**County of Bexar**               §

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2020 by **Charles Malmberg**.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission expires: \_\_\_\_\_



**EXHIBIT "A"**

Field Notes and Survey Maps

Exhibit A-1

DESCRIPTION OF THE PROPERTY

82.266 ACRES OUT OF THE JOSE RAMON AROCHA SURVEY NUMBER 171, ABSTRACT NUMBER 24, COUNTY BLOCK 4708, BEXAR COUNTY, TEXAS, BEING THAT SAME CERTAIN TRACT RECORDED IN VOLUME 10722, PAGE 2165 OF THE REAL PROPERTY RECORDS OF BEXAR COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

- BEGINNING: At a found  $\frac{1}{2}$ " iron rod on the east right of way line of old Fredericksburg Road (60' wide public right of way) having Texas State Plain grid coordinates of N=13,814,478.21 and E=2,072,078.31, South Central Zone, the northeast corner of Lot 1, Block 5, C.B. 4708, MESSIAH LUTHERAN CHURCH I, as recorded in Volume 9655, Page 7 of the Deed and Plat Records of Bexar County, Texas, the east corner of this tract;
- THENCE: North  $89^{\circ}44'48''$  West (bearings are based on GPS observations, datum is NAD '83) 645.51' with a wire fence to a found  $\frac{1}{2}$ " iron rod, the northwest corner of Lot 1, a re-entry corner hereof;
- THENCE: South  $00^{\circ}11'09''$  West 320.67' to a found  $\frac{1}{2}$ " iron rod an angle point;
- THENCE: South  $00^{\circ}10'41''$  West 594.79' to a set  $\frac{1}{2}$ " iron rod stamped "GIBBONS", on the north right of way line of Dietz-Elkhorn Road (60' wide public right of way), the southwest corner of said Lot 1, the southeast corner hereof;
- THENCE: South  $89^{\circ}40'53''$  West 60.00' with the north right of way line of Dietz-Elkhorn Road to a found  $\frac{1}{2}$ " iron rod, the southeast corner of Lot 2, Block 5, C.B. 4708, BARNEY CARROLL SUBDIVISION as recorded in Volume 9722, Page 134 of the Deed and Plat records of Bexar County, Texas;
- THENCE: North  $00^{\circ}10'29''$  East 596.42' to a found  $\frac{1}{2}$ " iron rod, the northeast corner of Lot 2, a re-entry corner hereof;
- THENCE: North  $89^{\circ}40'31''$  West 402.59' to a found  $\frac{1}{2}$ " iron rod stamped "Ford", the northwest corner of said Lot 2, the northeast corner of a 6.09 acre tract in the name of Investo, LP and recorded in Volume 9220, Page 103 of the Real Property Records of Bexar County, Texas, an angle point hereof;
- THENCE: North  $75^{\circ}22'51''$  West 7.66' with the Investo tract to a found  $\frac{1}{2}$ " iron rod, an angle point hereof;
- THENCE: South  $66^{\circ}49'23''$  West 195.26' to a found  $\frac{1}{2}$ " iron rod stamped "Ford", the east corner of a 4.82 acre tract in the name of Investo, LP and recorded in Volume 11639, Page 1507 of the Real Property Records of Bexar County, Texas, an angle point hereof;



THENCE: With the north line of the Investo 4.82 acre tract, the following:  
 North 35°53'37" West 447.73' to a found 1/4" iron rod, an angle point hereof  
 North 79°59'50" West 87.94' to a found 1/2" iron rod, an angle point hereof;  
 South 15°40'59" West 187.46' to a found 1/4" iron rod, an angle point hereof;  
 South 63°18'48" West 367.97' to a found 1/2" iron rod, an angle point hereof;  
 South 46°56'51" West 16.77' to a found 1/2" iron rod on the northeast right of way line of Interstate Highway 10 (300' wide public right of way), the west corner of the Investo tract;

THENCE: North 44°17'10" West 65.40' with the northeast right of way line of I.H. 10 to set 1/2" iron rod stamped "GIBBONS", the south corner of a 30.00 acre tract in the name of Del Baker Family Partnership, Ltd. and recorded in Volume 16357, Page 521 of the Real Property Records of Bexar County, Texas, an angle point hereof;

THENCE: With the east line of the Baker tract, the following:  
 North 41°21'01" East 674.65' to a found 1/2" iron rod, the east corner of the Baker tract, a re-entry corner hereof;  
 North 40°52'31" West 1390.33' to a set 1/2" iron rod stamped "GIBBONS", an angle point hereof;  
 North 77°32'30" West 6.98' to a set 1/2" iron rod stamped "GIBBONS", an angle point hereof;  
 North 78°49'09" West 542.30' to a set 1/2" iron rod stamped "GIBBONS", an angle point hereof;  
 South 70°54'35" West 162.45' to a set 1/2" iron rod stamped "GIBBONS", the east corner of Lot 1, Block 1, C.B. 4708, ALL ABOUT STORAGE as recorded in Volume 9550, Page 11 of the Deed and Plat Records of Bexar County, Texas, an angle point hereof;

THENCE: North 22°19'08" West at 350.63' pass the northeast corner of said Lot 1 and continuing for a total distance of 762.56' to a point in the approximate center of the Balcones Creek, the north corner of a 1.572 acre tract in the name of Boerne Self Storage and recorded in Volume 12460, Page 1797 of the Real Property Records of Bexar County, Texas, the south line of a tract in the name of Joy Pipe and recorded in Volume 474, Page 453 of the Kendall County Official Records, the west corner of this tract;

THENCE: With a meander line marking the approximate center of the Balcones Creek, with the south line of the Pipe tract and the south line of a tract in the name of Elmer Raymond Blsworth and recorded in Volume 352, Page 165 of the Kendall County Official Records, the north line of Bexar County, the south line of Kendall County, the following:  
 North 88°19'24" East 618.47', an angle point;  
 South 55°22'01" East 276.43', an angle point;  
 South 40°25'14" East 295.14', an angle point;  
 South 70°32'58" East 413.81', an angle point;  
 South 80°51'21" East 747.72', an angle point;  
 South 76°01'01" East 285.15', an angle point;  
 South 83°23'14" East 240.02', an angle point;  
 North 69°42'14" East 203.50', an angle point;  
 North 40°17'14" East 140.43' to a point on the aforementioned west right of way line of



old Fredericksburg Road, the north corner hereof;

THENCE: With the west right of way line of old Fredericksburg Road, the following:

South 56°16'07" East 46.42', an angle point hereof;

South 40°54'46" East 49.86' to a found ½" iron rod, an angle point hereof;

South 23°32'18" East 127.48' to a found ½" iron rod, an angle point hereof;

South 21°44'36" East 565.89' to a found ½" iron rod, an angle point hereof;

South 21°45'19" East 181.86' to a found ½" iron rod, an angle point hereof;

South 17°10'00" East 163.03' to a found ½" iron rod, an angle point hereof;

South 17°28'07" East 52.57' to a found ½" iron rod, an angle point hereof;

South 15°23'18" East 389.17' to the POINT OF BEGINNING of this 82.266 acres (3,583,519 square feet) tract in Bexar County, Texas.



Exhibit A-2

FIELD NOTES OF A 29.98 ACRE TRACT OF LAND OUT OF THE JOSE RAMON AROCHA SURVEY NO. 171, ABSTRACT NO. 24, BEXAR COUNTY, TEXAS, BEING THAT SAME 30 ACRE TRACT DESCRIBED IN DEED TO DEL D. BAKER, JR. FAMILY PARTNERSHIP, LTD., OF RECORD IN DOCUMENT NO. 20130200517, OFFICIAL PUBLIC RECORDS, BEXAR COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: NOTE: (BASIS OF BEARING IS TEXAS SOUTH CENTRAL ZONE, NAD83.)

BEGINNING: At a 1/2" iron rod found with cap stamped "Schwarz" found in the northeast right of way line of Interstate Highway 10 (300 Foot Right of Way), for the south corner of Lot 1, Block 1, County Block 4708, All About Storage Subdivision, according to plat recorded in Volume 9550, Page 11, Deed and Plat Records, Bexar County, Texas, the west corner of This Tract and the POINT OF BEGINNING;

THENCE: N 44°10'59" E, departing the northeast right of way of Interstate 10 with the southeast line of Lot 1 and the northwest line of This Tract, a distance of 298.68 feet to a 1/2" iron rod found for the east corner of Lot 1, a west corner of an 82.23 Acre Tract described in deed to Eggleston Family Trust Declaration of record in Volume 14959, Page 1276, Official Public Records, Bexar County, Texas, and a northwest corner of This Tract:

THENCE: With the southwest line of the 82.23 Acre Tract and the northeast line of This Tract, the following calls and distances:

N 71°13'54" E, a distance of 163.34 feet to a fence post found for an angle point;

S 78°48'41" E, a distance of 542.00 feet to a fence post found for an angle point;

S 77°32'02" E, a distance of 6.98 feet to a fence post found for an angle point;

S 40°51'29" E, a distance of 1389.77 feet to a fence post found for a reentrant corner of the 82.23 Acre Tract and the east corner of This Tract;

THENCE: S 41°20'59" W, a distance of 674.74 feet to a fence post found in the northeast right of way line of Interstate 10, for a west corner of the 82.23 Acre Tract and the south corner of This Tract;

THENCE: N 44°19'08" W, with the northeast right of way line of Interstate Highway 10 and the southwest line of this Tract, a distance of 1953.39 feet to the POINT OF BEGINNING and containing 29.98 acres of land in Bexar County, Texas, according to a survey on the ground on October 26, 2018, by Rickman Land Surveying.

AC L.P.R.

Exhibit A-3

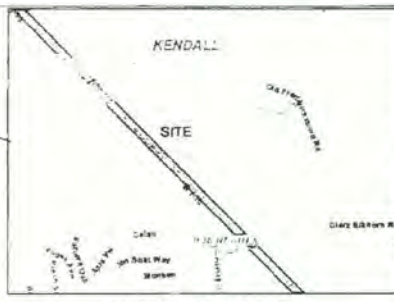
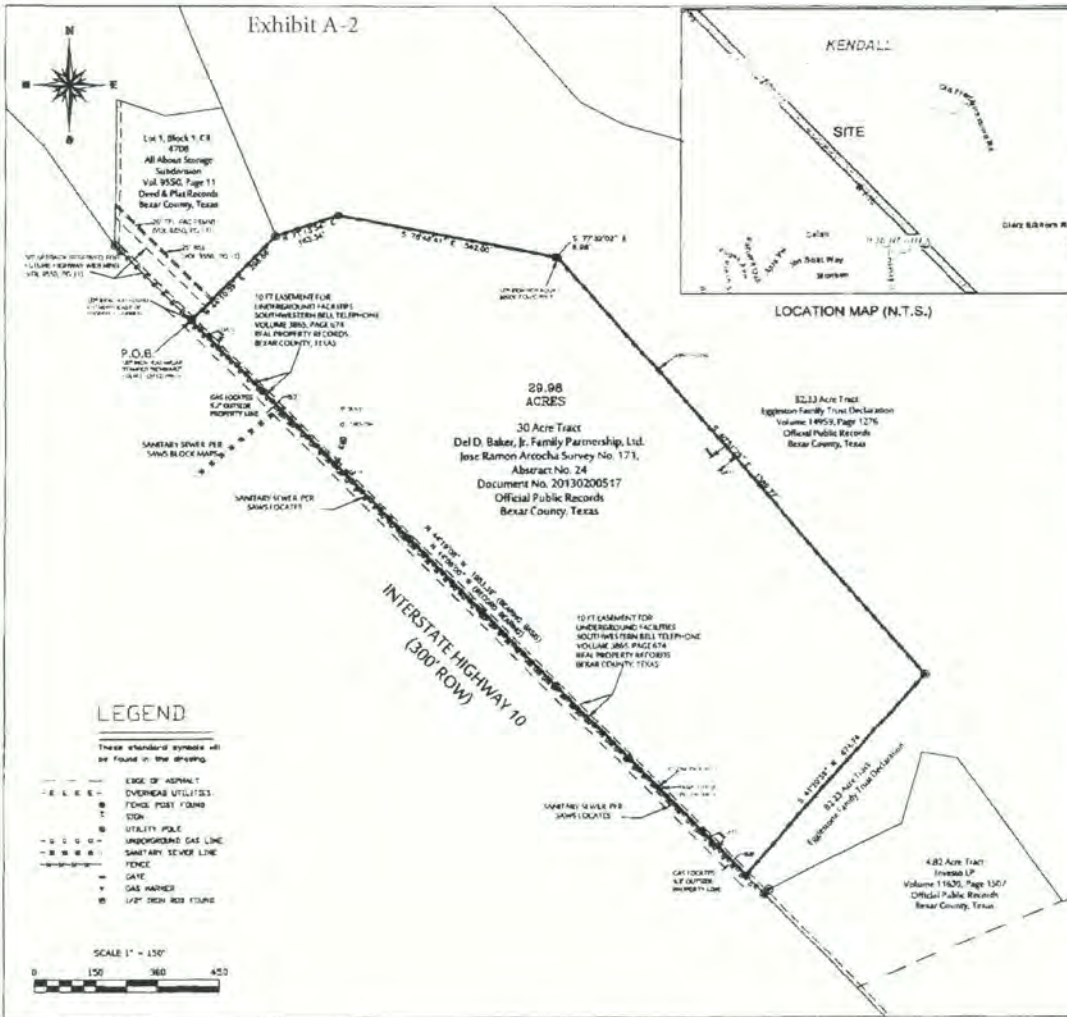
**DESCRIPTION OF THE PROPERTY**

Lot 2, Block 5, County Block 4708, of BARNEY CARROLL SUBDIVISION, a Subdivision in Bexar County, Texas, according to the map or plat thereof recorded in Volume 9722, Page 134, of the Deed and Plat Records of Bexar County, Texas.





Exhibit A-2



ALTA/NPS LAND TITLE SURVEY OF A 29.98 ACRE TRACT OF LAND OUT OF THE JOSE RAMON AROCHA SURVEY NO. 171, ABSTRACT NO. 24, BEXAR COUNTY, TEXAS, BEING THAT SAME 30 ACRE TRACT DESCRIBED IN DEED TO DEL D. BAKER, JR. FAMILY PARTNERSHIP, LTD., OF RECORD IN DOCUMENT NO. 20130200517, OFFICIAL PUBLIC RECORDS, BEXAR COUNTY, TEXAS.

COMMITMENT FOR TITLE INSURANCE  
CHICAGO TITLE INSURANCE COMPANY OF MO. (CIT-1400001000014)  
EFFECTIVE DATE: OCTOBER 9, 2018 ISSUED: OCTOBER 11, 2018

Map No. 181 has been used for Underground Facilities, Southwestern Bell Telephone Company, Volume 3865, Page 474, Best Property Records, Bexar County, Texas, which are to remain in force and effect as they appear. City of San Antonio, Volume 1717, Page 73, Best Property Records, Bexar County, Texas, shall apply, not attached.  
Map No. 181 has been used for this Agreement City of San Antonio Volume 2017, Page 176, Best Property Records, Bexar County, Texas, shall apply, not attached.

Survey Name:  
1. Survey Name as per NPS: Tract 29.98 Acre Parcel 14201.

TABLE A ITEMS:  
1. Measurements shown on the survey are as shown on the survey.  
2. Address according to these Approved Ordinances is 14201 S. 14th Street, Texas.  
3. According to the Flood Insurance Rate Map (FIRM) No. 48060C0200P dated November 20, 2015, this property is located in Zone X-1, Area of Moderate Flood Hazard.  
4. Check Land Area is 29.98 Acres (1,366,912 Square Feet), more or less.  
5. All substantial easements shown during the process of this survey are shown on the survey.  
6. Location of underground utility lines is based on information shown on Texas 211 maps, subject to verification. All utility records are as noted on the record by October 26, 2018, and other records.  
7. There is no evidence of record with respect to, building construction, or building additions, shown in the process of recording the hereof.  
8. Surveyor submitted the Texas Department of Transportation San Antonio District Office for a file and has not received a response. There will be no reliance of record unless a release of construction is upon completion of the process of conducting the hereof.

To: Chicago Title Insurance Company, VEP Lamon Creek, LP, Vast Properties, LLC, a Texas limited liability company, and assignee; and Del D. Baker, Jr. Family Partnership, L.P., a Texas limited partnership.

This is to certify that this map or plan and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NPS Land Title Surveys, jointly established and adopted by ALTA and NPS, and includes Items 1, 6, 11, 16 and 17 of Table A thereof. The Surveyor was completed on October 26, 2018. Date of Plot or Map November 2, 2018.  
Reviewed November 5, 2018, in charge who survey is certified to Reviewer December 7, 2018, to add review fee per SAWS block maps and license, and to change who surveys is certified to:

*David M. Baker, Jr.*  
David M. Baker, Jr.  
Registered Professional Land Surveyor



**Rickman Land Surveying**  
412 1/2 Hwy 281, Canyon Lake, Texas 78133 Phone (855) 836-2497  
www.rickmanlandsurveying.com TRPLS File No. 131818-002



**EXHIBIT "B"**

Boundary Maps of the District

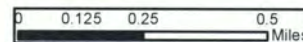
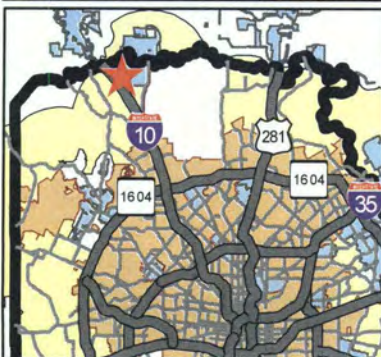
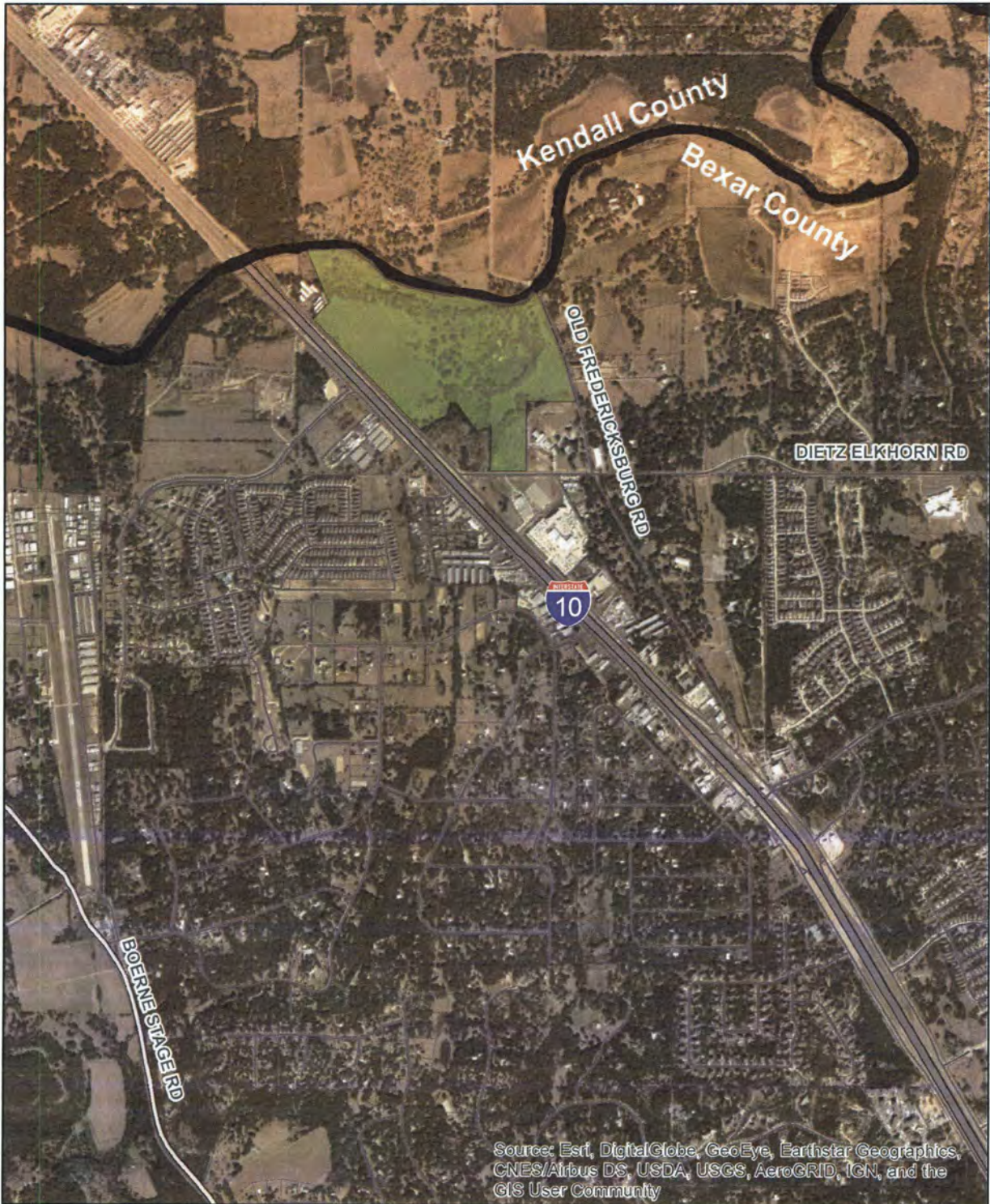


**Kimley**  **Horn**






LEMON CREEK RANCH  
AERIAL EXHIBIT



# Exhibit A - Lemon Creek PID - DRAFT



**Legend**

 Lemon Creek Bndry	 Streets
 Major Highways	 BCAD Parcels 2018
 Minor Highways	

**EXHIBIT "C"**

Proposed Infrastructure Improvements and  
Preliminary Project Plan





KILLEN, GRIFFIN  
& FARRIMOND

ATTORNEYS AT LAW

ROB KILLEN  
JAMES B. GRIFFIN  
ASHLEY FARRIMOND

## Lemon Creek Special Improvement District Project Summary & Term Sheet

### Project Summary

The proposed Lemon Creek Special Improvement District (“LCSID”) would be a district created pursuant to Chapter 382 of the Texas Local Government Code. The LCSID would be responsible for financing the costs of, and maintaining, public improvements for the Lemon Creek development (“Project”). The Project will be primarily commercial in nature, with retail and office use, but will also include single family and multi-family housing opportunities. The creation of the LCSID will allow for the development of a connector road between IH-10 and Old Fredericksburg Road, the preservation of open space and the protection of creeks on the property. Through a Strategic Partnership Agreement with the City of San Antonio (“City”), the LCSID would be able to share sales tax revenues with the City. Through a Development Agreement with the City, the City would be able to extend land use controls and provide for future annexation. The Project is within the Camp Bullis Military Protection Area (“MPA”) and is consistent with the MPA.

#### 1. Special Improvement District

- a. Name: Lemon Creek Special Improvement District
- b. Property Owner/Developer: VEP Lemon Creek, LP
- c. Jurisdiction: Bexar County (City of San Antonio’s Extraterritorial Jurisdiction)
- d. Approximately 117.837 Acres

#### 2. Statutory Authority and Tax

The LCSID would be a public improvement district created by Bexar County pursuant to Chapter 382 of the Texas Local Government Code with the power to assess sales and ad valorem and hotel occupancy tax. LCSID would share 75% of the sales tax revenues with the City. The LCSID sales tax shall not exceed 2%. The LCSID ad valorem tax shall not exceed the City’s tax rate. The LCSID hotel occupancy tax would not exceed 9% or the City’s rate.

#### 3. Project

- a. The anticipated land uses are retail, general commercial, office, residential and green space/parkland as identified on the Lemon Creek Master Development Plan.
- b. Proposed Improvements include road construction, sewer, parkland and creek improvements with a total cost of \$20-24 million.

#### 4. Development Agreement

- a. Consent to annexation after thirty (30) years
- b. Waive current vested rights

- c. Payment of Operations Fee to City in the amount of \$175 per residential unit within five (5) years of plat application
- d. Compliance with current City Code, including Unified Development Code
- e. Compliance with all military protection ordinances (dark sky, compatible land use, etc.)
- f. Compliance with Water Quality Ordinance
- g. Protection of archeological and historical resources

**5. Proposed Timeline**

- a. Petition Submitted to City of San Antonio: September 8, 2020
- b. County Resolution of Intent: October 6, 2020
- c. City Planning Commission: October 20, 2020
- d. City Consent: November 5, 2020
  - Consent for the creation of the District *and* the inclusion of the property in the District
  - Consent for the County to delegate to the District (i) the powers granted by Section 52, Article III of the TX Constitution; (ii) the powers and duties of a road district; and (iii) the power to provide water, wastewater, and drainage facilities for the purpose of financing the construction of such facilities
  - Approval of Development Agreement
- e. County Creation and appointment of LCSID Board: December 1, 2020

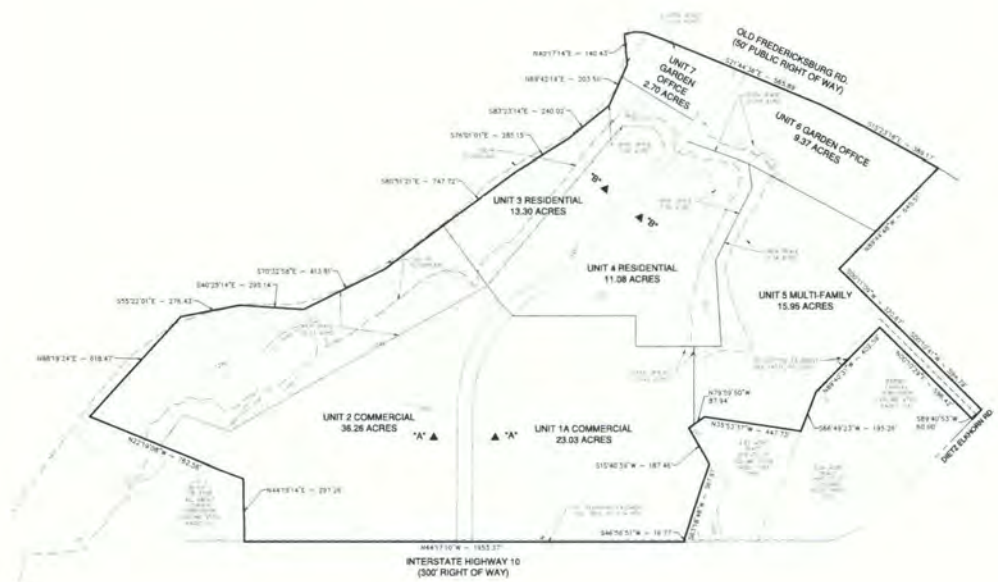


**GENERAL NOTES**

1. THE PROPERTY IS LOCATED WITHIN THE CITY LIMITS OF THE CITY OF SAN ANTONIO.
2. THE PROPERTY IS WITHIN THE ZONING DISTRICT OF THE CITY OF SAN ANTONIO.
3. THE ZONING DISTRICT FOR THIS PROPERTY IS BASED ON THE MAPS AND ORDINANCES OF THE CITY OF SAN ANTONIO.
4. THE PROPERTY IS ZONED AS [ZONING DISTRICT].
5. THE PROPERTY IS ZONED AS [ZONING DISTRICT].
6. THE PROPERTY IS ZONED AS [ZONING DISTRICT].
7. THE PROPERTY IS ZONED AS [ZONING DISTRICT].
8. THE PROPERTY IS ZONED AS [ZONING DISTRICT].
9. THE PROPERTY IS ZONED AS [ZONING DISTRICT].
10. THE PROPERTY IS ZONED AS [ZONING DISTRICT].
11. THE PROPERTY IS ZONED AS [ZONING DISTRICT].
12. THE PROPERTY IS ZONED AS [ZONING DISTRICT].



UNIT	ZONING	LAND USAGE	ACREAGE (GROSS)	OPEN SPACE	ACREAGE (NET)	DEVELOPMENT DENSITY	DWELLING UNITS
1	NA	COMMERCIAL	36.26	0.00	36.26	NA	NA
2	NA	COMMERCIAL	23.03	0.00	23.03	NA	NA
3	NA	RESIDENTIAL	13.30	0.00	13.30	NA	NA
4	NA	RESIDENTIAL	11.08	0.00	11.08	NA	NA
5	NA	MULTI-FAMILY	15.99	0.00	15.99	NA	NA
6	NA	GARDEN OFFICE	2.70	0.00	2.70	NA	NA
7	NA	GARDEN OFFICE	9.37	0.00	9.37	NA	NA
<b>TOTALS</b>			<b>137.83</b>	<b>0.00</b>	<b>137.83</b>	<b>NA</b>	<b>000</b>



**LEGAL DESCRIPTION**

DATE OF PREPARATION:  
April 26, 2019

**C.O.S.A.**  
 CITY OF SAN ANTONIO  
 P.O. BOX 579968  
 SAN ANTONIO, TEXAS 78258  
**ENGINEER**  
 PAPE-DAWSON ENGINEERS, INC.  
 2000 W. LOOP 810  
 SAN ANTONIO, TEXAS 78213  
 PHONE: (214) 375-0000  
 FAX: (214) 375-0010  
**OWNER / DEVELOPER**  
 UNLOR COMMERCIAL REAL ESTATE  
 1723 W. LOOP 1828 E. SUITE 204  
 SAN ANTONIO, TEXAS 78232  
 PHONE: (214) 828-4242

**PAPE-DAWSON ENGINEERS**  
 2000 W. LOOP 810  
 SAN ANTONIO, TEXAS 78213  
 PHONE: (214) 375-0000  
 FAX: (214) 375-0010

**LEMON CREEK RANCH**  
 SAN ANTONIO, TEXAS  
 MASTER DEVELOPMENT PLAN

**C1.00**

**EXHIBIT "D"**

Strategic Partnership Agreement



STRATEGIC PARTNERSHIP AGREEMENT  
BETWEEN THE CITY OF SANANTONIO, TEXAS AND  
PUBLIC IMPROVEMENT DISTRICT NO. \_\_\_\_\_

STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

This Strategic Partnership Agreement (this “Agreement”) is entered into by and between the City of San Antonio, Texas (the “City”) and \_\_\_\_\_ Public Improvement District No. \_\_\_\_ (the “District”).

**RECITALS**

**WHEREAS**, the City is a home-rule municipal corporation created and existing under the laws of the State of Texas and situated primarily in Bexar County, Texas; and

**WHEREAS**, the District is a public improvement district created under and subject to the authority, conditions, and restrictions of Section 52, Article III, and Section 59, Article XVI, of the Texas Constitution and Chapter 382 of the Texas Local Government Code, as amended, and operating under Chapter 49 of the Texas Water Code, as amended; and

**WHEREAS**, the City and the District are individually referred to as a “Party” and collectively as the “Parties”; and

**WHEREAS**, Section 43.0751 of the Texas Local Government Code (the “Act”) authorizes the City and the District to negotiate and enter this Agreement; and

**WHEREAS**, the District encompasses approximately \_\_\_\_\_ acres, more or less, located within the extraterritorial jurisdiction of the City as depicted on **Exhibit A** and more fully described on **Exhibit B** attached to this Agreement (the “Development”); and

**WHEREAS**, the City and the District are authorized and desire to enter into this Agreement to establish the terms and conditions upon which (i) the City will annex the land within the District for limited and full purposes, and (ii) limitations on the District’s ability to incur debt, liabilities, or obligations without prior approval of the municipality; and

**WHEREAS**, certain areas within the Development may be developed for commercial uses; and

**WHEREAS**, the City desires to annex the commercial use areas of the Development for the purpose of imposing and collecting sales and use taxes within such areas; and

**WHEREAS**, subject to the terms and conditions of this Agreement, the District consents to the City’s limited purpose annexation of the commercial use areas of the Development for the purpose of imposing and collecting sales and use taxes within such areas; and



**WHEREAS**, the District provided notice of two public hearings in accordance with all applicable laws; and

**WHEREAS**, the board of directors of the District (the “Board”) conducted two public hearings in accordance with all applicable laws at which members of the public who wished to present testimony or evidence regarding this Agreement were given the opportunity to do so; and

**WHEREAS**, the Board has obtained all necessary consent required from the Bexar County to allow the District to adopt this Agreement; and

**WHEREAS**, the Board approved and adopted this Agreement on \_\_\_\_\_, 20\_\_\_, in open session at a meeting held in accordance with all applicable laws; and

**WHEREAS**, the City provided notice of two public hearings in accordance with all applicable laws; including Section 43.0751 and Section 43.9051(c) of the Texas Local Government Code.

**WHEREAS**, the City Council of the City (the “City Council”) conducted two public hearings in accordance with all applicable laws at which members of the public who wished to present testimony or evidence were given the opportunity to do so; and

**WHEREAS**, the City Council approved and adopted this Agreement on \_\_\_\_\_, 20 \_\_, in open session in accordance with all applicable laws, which approval and adoption occurred after the Board approved and adopted this Agreement; and

**WHEREAS**, all notices, hearings and other procedural requirements imposed by law for the adoption of this Agreement have been met; and

**WHEREAS**, in accordance with the requirements of Subsection (p)(1) of the Act, this Agreement does not require the District to provide revenue to the City solely for the purpose of obtaining an agreement with the City to forego annexation of the District; and

**NOW THEREFORE**, for and in consideration of the mutual agreements contained in this Agreement, and for the good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the District and the City agree as follows:

#### **ARTICLE I. RECITALS AND DEFINITIONS**

Section 1.1 The recitals set forth above are true and correct and are incorporated herein and made a part hereof as findings for all purposes;

Section 1.2 In addition to the terms defined elsewhere in this Agreement, when used in this Agreement, each of the following terms will have the meaning indicated below:

Agreement means this Strategic Partnership Agreement between the City and the District.



Board means the Board of Directors of the District or, after the Conversion Date.

City Council means the City Council of the City.

City Manager means the City Manager of the City or designee

Conversion Date means the date upon which the City Council adopts an ordinance that includes the Land within the full-purpose boundary limits of the City.

Director means the City's Director of Planning or successor.

District means \_\_\_\_\_ Public Improvement District No.     .

Drainage Facilities means any drainage improvements designed and constructed to serve the Project, or that naturally receive and convey drainage through the Project, including water quality and flood mitigation facilities, storm drain systems, drainage ditches, open waterways, and other related facilities that convey or receive drainage.

Effective Date means the date the City ordinance approving this Agreement is effective, which date is \_\_\_\_\_, 202-.

Full Purpose Annexation Date means the Conversion Date.

Land means the land within the District's boundaries, as those boundaries may be modified from time to time with the consent of the City.

Limited Purpose Annexation means annexation by the City for the limited purposes of planning and zoning, as authorized by Article I, Section 7 of the City's Charter, and for the purpose of imposing and collecting sales and use taxes within such areas in accordance with the Act.

Original Limited Purpose Property means that Land designated as commercial on Master Development Plan # and depicted on **Exhibit C** and more fully described on **Exhibit D** attached to this Agreement.

Service Plan means the service plan attached as **Exhibit E** which specifies the municipal services to be provided by the City after the City's full annexation of land within the District.

## ARTICLE II. ADOPTION OF AGREEMENT AND LIMITED PURPOSE ANNEXATION OF PROPERTY

Section 2.1 Public Hearings. The Parties acknowledge and agree that prior to the execution of this Agreement, the Board and the City Council conducted public hearings to consider the adoption of this Agreement and that such hearings were noticed and conducted in accordance with all applicable laws.



Section 2.2 Effective Date. The effective date of this Agreement (the "Effective Date") is the date it is approved and adopted by the City Council.

Section 2.3 Filing in Property Records. This Agreement shall be filed in the Real Property Records of Bexar County, Texas.

Section 2.4 Limited Purpose Annexation of Original Limited Purpose Property. The Parties agree that the City may annex the Original Limited Purpose Property for the sole and limited purpose of collecting sales and use taxes authorized by Chapter 321 of the Texas Tax Code (the "Tax Code") to be imposed by the City on sales consummated within the Original Limited Purpose Property. The District acknowledges and agrees that the City Council may adopt a limited purpose annexation ordinance applicable to the Original Limited Purpose Property at a meeting conducted in accordance with Chapter 551 of the Texas Government Code and that no further notices, hearings, or other procedures shall be required to adopt such limited purpose annexation ordinance. The City may commence limited purpose annexation of the Original Limited Purpose Property following the first plat application for property within the area identified as commercial on **Exhibit C**.

Section 2.5 Limited Purpose Annexation of Additional Commercial Property. If in the future any non-commercial land within the District as of the Effective Date is converted to any commercial use that contains eligible commercial activities for purposes of imposing sales and use taxes as allowed by the Tax Code, the Parties agree that the City may annex such additional commercial land (the "Additional Limited Purpose Property") for the sole and exclusive purpose of imposing sales and use taxes pursuant to the Agreement. The District acknowledges and agrees that the City Council may adopt a limited purpose annexation ordinance applicable to the Additional Limited Purpose Property at a meeting conducted in accordance with Chapter 551 of the Texas Government Code and that no further notices, hearings, or other procedures shall be required to adopt such limited purpose annexation ordinance. The District shall notify the Director within 10 days of amending **Exhibit C**.

Section 2.6 Limited Purpose Property and Sales and Use Tax Revenues. For purposes of this Agreement, the Original Limited Purpose Property and Additional Limited Purpose Property, shall collectively be referred to as the "Limited Purpose Property"; and the sales and use taxes collected within the Limited Purpose Property shall be referred to as the "Sales and Use Tax Revenues").

Section 2.7 Consent to Limited Purpose Annexation. The District hereby requests that the City annex the Limited Purpose Property solely for the purposes provided in this agreement. The District consents to such annexations, from time to time, and to the collection of sales and use tax revenues by the City within the Limited Purpose Property. Such consent shall bind the District.

Section 2.8 Voting. Pursuant to Section 43.130(a) of the Texas Local Government Code, the qualified voters of an area annexed for limited purposes are entitled to vote in municipal elections regarding the election or recall of members of the governing body of the municipality, the election or recall of the controller, if the office of controller is an elective position of the



municipality, and the amendment of the municipal charter. The voters may not vote in any municipal bond election.

### **ARTICLE III. TAXATION**

Section 3.1 Collection of Sales and Use Tax Revenues. The City may impose a sales and use tax within the Limited Purpose Property pursuant to Subsection (k) of the Act. The sales and use tax may be imposed on all eligible commercial activities at the rate allowed under the Tax Code. Collection of Sales and Use Tax Revenues shall take effect on the date described in Section 321.102 of the Tax Code. The District agrees not to impose a sales and use tax within the Limited Purpose Property.

Section 3.2 Payment of Sales and Use Tax. The City shall pay to the District an amount equal to 25% of the Sales and Use Tax Revenues collected within the Limited Purpose Property (the "District Share") commencing upon the effective date of the limited purpose annexation of the Limited Purpose Property and terminating upon the full purpose annexation or disannexation of the Limited Purpose Property. The City shall pay the District Share within 30 days after the City receives the sales tax report reflecting such revenues from the Comptroller of Public Accounts of the State of Texas (the "Comptroller"). Any payment of the District Share not made within such 30-day period shall bear interest calculated in accordance with Section 2251.025 of the Texas Government Code. The City shall retain all Sales and Use Tax Revenues that do not constitute the District Share (the "City Share").

Section 3.3 Use of the Sales and Use Tax Revenues. The District may use the District Share for the following purposes and in the following order of priority: (i) FIRST, to pay for police, fire, and EMS services within the District; (ii) SECOND, to reimburse owners and developers of land within the District for the cost to design and construct improvements that are otherwise eligible for reimbursement through the issuance of District bonds ("Infrastructure"); (iii) THIRD, to pay for the operation, maintenance, repair, and replacement of Infrastructure; and (iv) LAST, for the retirement of District bonds after the 10th anniversary of issuance. The City may use the City share for any lawful purpose.

Section 3.4 Delivery of Sales Tax Reports to District. The City shall include with each payment of the District Share a condensed version of each sales tax report provided by the Comptroller relating to Sales and Use Tax Revenues within 30 days of the City's receipt of such sales tax report.

Section 3.5 Notification of Comptroller. The City shall send notice of this Agreement, together with other required documentation, to the Comptroller in the manner provided by Tax Code, Section 321.102, after the City Council annexes the Limited Purpose Property for limited purposes.

Section 3.6 Termination of Sales and Use Tax Sharing. Upon termination of this Agreement, the City shall have no further financial obligation to the District pursuant to this Agreement, and all Sales and Use Tax Revenues shall be retained by the City.



Section 3.7 City Records and District Audit Rights. The District may audit the Sales and Use Tax Revenues to determine whether the District Share has been paid in accordance with this Agreement. The City shall provide reasonable accommodations for the District to perform the audit. Any audit shall be made at the District's sole cost and expense and may be performed at any time during the City's regular business hours on 30 days Notice. For purposes of any such audits, the City shall maintain and make available to the District's representatives all books, records, documents and other evidence of accounting procedures or practices to reflect the amount of Sales and Use Tax Revenues received by the City from within the Limited Purpose Property.

#### **ARTICLE IV. FULL PURPOSE ANNEXATION**

Section 4.1 The City agrees that it will not annex or attempt to annex the District property for full purposes until on or after December 31, 2049. When the land located within the District is annexed for full purpose annexation status in accordance with this Agreement and as provided by 43.0751 of the Texas Local Government Code, the conversion may be effected by City Council adoption of an ordinance incorporating the Land within full purpose city limits. Except as set out in this Agreement, no additional procedural or substantive requirements of State or local annexation law will apply to such annexation or to the annexation ordinance.

Section 4.2 The District acknowledges that the City may annex the District property for full purposes on or after the Full Purpose Annexation Date pursuant to the terms of the Agreement without the need for further action by the governing body of the municipality, including the procedures prescribed by Subchapters C-3, C-4, and C-5 of Chapter 43 of the Texas Local Government Code.

Section 4.3 The District consents to noncontiguous annexation of the District property by the City.

Section 4.4 Conversion Date-Full Purpose Annexation. Pursuant to Subsection (h) of the Act, the Limited Purpose Property shall be deemed to be within the full-purpose boundary limits of the City upon the Conversion Date without any further action by the City Council. For purposes of this Section 4.4, the Conversion Date is the date upon which the City Council adopts an ordinance that annexes for full purpose the Land within the District, including the Limited Purpose Property. 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 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 or any part of the District Property or Annexation Area for limited or full purposes at any time.

Section 4.5 Service Plan. Following the Conversion Date, the City will provide additional municipal services within the District in accordance with the Service Plan attached in Exhibit E which will be the Service Plan for the District. The District affirms that the Service Plan is sufficient, and no further negotiations or public hearings are required for the adoption of the Service Plan. The District agrees that it will not contest the Service Plan.



**Section 4.6** Authority of the City Upon Full Purpose Annexation. Upon the Conversion Date, the City will have all of the authority and power within the Land that the City has in all other areas within the City's incorporated city limits, including the power to levy and collect ad valorem property taxes and sales taxes.

**Section 4.7** Rights of District Residents upon Full Purpose Annexation. Following the Conversion Date, the residents of the Land will be citizens of the City for all purposes and will have all of the rights, privileges, and responsibilities accorded to citizens residing in all other areas within the City's incorporated city limits.

## **ARTICLE V. TERM**

**Section 5.1** This Agreement commences and binds the Parties on the Effective Date and continues until such time the City has annexed the Land for full purposes and the District is dissolved in accordance with Section 382.201(b) of the Local Government Code; or the City may unilaterally terminate this Agreement for convenience, with 90 days' notice to the District.

**Section 5.2** On the Effective Date, the City will record this Agreement in the Official Public Records of Bexar County, Texas, and the terms of this Agreement will constitute covenants running with the land comprising the Land and will become binding on each current and future owner of any land included within the Land. If, in the future, additional property is annexed to the District, then, upon the effective date of such annexation, the terms of this Agreement will become applicable to that additional property in the same manner and to the same extent as if the additional property had originally been included within the Land.

## **ARTICLE VI. DISTRICT ASSETS, LIABILITIES, AND OBLIGATIONS**

**Section 6.1.** Upon the Conversion Date the City shall assume all of the District's assets, but the City will not be liable for the District's debt or other obligations pursuant to Section 382.201(a) of the Texas Local Government Code.

**Section 6.2.** Transfer of Certain Easements and Real Property to City. Within 90 days after the Conversion Date, the District will convey to the City, at no cost to the City, any real property and/or easements owned or held by the District. All conveyances will be by appropriate instrument, acceptable in form and substance to the City and the District. If any necessary transfer of title is not accomplished, for any reason, by the Conversion Date, the District agrees that the City will be authorized to finalize such conveyances as the District's successor-in-interest.

**Section 6.3** Limitation on Debt. The District may not incur any debt, liability, or other obligation that extends past December 31, 2049, or sell or otherwise transfer property, without the prior approval of the City.



**ARTICLE VII.  
BREACH, NOTICE AND REMEDIES**

Section 7.1 Notification of Breach. If either Party commits a breach of this Agreement, the non-breaching Party shall give Notice to the breaching Party that describes the breach in reasonable detail.

Section 7.2 Cure of Breach. The breaching Party shall commence curing the breach within 15 calendar days after receipt of the Notice of the breach and shall complete the cure within 30 days from the date of commencement of the cure; however, if the breach is not reasonably susceptible to cure within such 30-day period, the non-breaching Party shall not bring any action so long as the breaching Party has commenced to cure within such 30-day period and diligently completes the work within a reasonable time without unreasonable cessation.

Section 7.3 Remedies for Breach. If the breaching Party does not substantially cure the breach within the stated period of time, the non-breaching Party may, in its sole discretion, and without prejudice to any other right under this Agreement, law, or equity, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance, mandamus and injunctive relief; provided, however, that the non-breaching Party shall not be entitled to terminate this Agreement. The Parties specifically waive any right that they have or in the future may have to terminate this Agreement. Damages, if any, to which any non-breaching Party may be entitled shall be limited to actual damages and shall not include special or consequential damages.

**ARTICLE VIII.  
ADDITIONAL PROVISIONS**

Section 8.2 Notices. Any notices, certifications, approvals, or other communications (a "Notice") required to be given by one Party to another under this Agreement shall be given in writing addressed to the Party to be notified at the address set forth below and shall be deemed given: (i) when the Notice is delivered in person to the person to whose attention the Notice is addressed; (ii) 10 business days after the Notice is deposited in the United States Mail, certified or registered mail, return receipt requested, postage prepaid; (iii) when the Notice is delivered by Federal Express, UPS, or another nationally recognized courier service with evidence of delivery signed by any person at the delivery address; or (iv) 10 business days after the Notice is sent by FAX (with electronic confirmation by the sending FAX machine) with a confirming copy sent by United States mail within 48 hours after the FAX is sent. If any date or period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the Notice shall be extended to the first business day following the Saturday, Sunday, or legal holiday. For the purpose of giving any Notice, the addresses of the Parties are set forth below. The Parties may change the information set forth below by sending Notice of such change to the other Party as provided in this Section 8.2.

To the City: City of San Antonio  
Attn: Director of the Department of Planning



P.O. Box 839966  
San Antonio, Texas 78283-3966

To the District: \_\_\_\_\_

Attn: \_\_\_\_\_

Section 8.3 No Waiver. Any failure by a Party to insist upon strict performance by the other Party of any provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purpose for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

Section 8.4 Governing Law and Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas, as they apply to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The Parties acknowledge that this Agreement is performable in Bexar County, Texas and hereby submit to the jurisdiction of the courts of Bexar County, Texas and hereby agree that any such court shall be a proper forum for the determination of any dispute arising hereunder.

Section 8.5 Authority to Execute. The City represents and warrants to the District that the execution of this Agreement has been duly authorized by the City Council and that the person executing this Agreement on behalf of the City has been duly authorized to do so by the City Council. The District represents and warrants to the City that the execution of this Agreement has been duly authorized by the Board and that the person executing this Agreement on behalf of the District has been duly authorized to do so by the Board.

Section 8.6 Severability. The provisions of this Agreement are severable and, in the event any word, phrase, clause, sentence, paragraph, section, or other provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held or determined to be invalid, illegal, or unenforceable for any reason, and the extent of such invalidity or unenforceability does not cause substantial deviation from the underlying intent of the Parties as expressed in this Agreement, then such provision shall be deemed severed from this Agreement with respect to such person, entity or circumstance, without invalidating the remainder of this Agreement or the application of such provision to other persons, entities or circumstances, and a new provision shall be deemed substituted in lieu of the provision so severed which new provision shall, to the extent possible, accomplish the intent of the Parties as evidenced by the provision so severed.

Section 8.7 Changes in State or Federal Laws. If any state or federal law changes so as to make it impossible for the City or the District to perform its obligations under this Agreement, the parties will cooperate to amend this Agreement in such a manner that is most consistent with the original intent of this Agreement as legally possible.



Section 8.8 Additional Documents and Acts. The Parties agree that at any time after execution of this Agreement, they will, upon request of the other Party, execute and/or exchange any other documents necessary to effectuate the terms of this Agreement and perform any further acts or things as the other Party may reasonably request to effectuate the terms of this Agreement.

Section 8.9 Assignment. This Agreement shall not be assignable without the other Party's written consent. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, successors, and assigns as permitted by this Agreement.

Section 8.10 Amendment. This Agreement may be amended only with the written consent of the Parties and with approval of the governing bodies of the City and the District.

Section 8.11 Interpretation. This Agreement has been negotiated by the Parties, each of which has been represented by counsel; consequently, the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

Section 8.12 No Third Party Beneficiaries. This Agreement is solely for the benefit of the City and the District, and neither the City nor the District intends by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit or enforceable rights under this Agreement or otherwise upon anyone other than the City and the District.

Section 8.13 Governmental Powers. Neither Party waives or surrenders any of its respective governmental powers, immunities or rights, except as specifically waived pursuant in this Section 9.13. Each Party waives its respective governmental immunity from suit and liability only as to any action brought by the other party to pursue the remedies available under this Agreement. Nothing in this Section 9.13 shall waive any claims, defenses, or immunities that either Party has with respect to suits against them by persons or entities not a party to this Agreement.

Section 8.14 Incorporation of Exhibits by References. All exhibits attached to this Agreement are incorporated into this Agreement by reference for the purposes set forth herein, as follows:

Exhibit A	Depiction of the Development
Exhibit B	Legal Description of the Development
Exhibit C	Depiction of the Limited Purpose Property
Exhibit D	Legal Description of the Limited Purpose Property
Exhibit E	Service Plan

Section 8.15 Counterpart Originals. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.



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DRAFT

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF THE CITY OF SAN ANTONIO ON \_\_\_\_\_, 20\_\_.

ATTEST:

CITY OF SAN ANTONIO

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
City Attorney

APPROVED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE \_\_\_\_\_ DISTRICT ON \_\_\_\_\_, 20\_\_.

[DISTRICT]

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: President, Board of Directors

STATE OF TEXAS       §  
                                  §  
COUNTY OF BEXAR   §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of the City of \_\_\_\_\_, Texas on behalf of the city.

\_\_\_\_\_  
Notary Public, State of Texas



STATE OF TEXAS       §  
                                  §  
COUNTY OF BEXAR    §

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the President, Board of Directors of the [DISTRICT] on behalf of the district.

\_\_\_\_\_  
Notary Public, State of Texas

DRAFT

**Exhibit A to Strategic Partnership Agreement**

**Depiction of the Development**

DRAFT



DRAFT

**Exhibit B to Strategic Partnership Agreement**

**Legal Description of the Development**

DRAFT



DRAFT

**Exhibit C to Strategic Partnership Agreement**

**Depiction of the Limited Purpose Property**

DRAFT



Exhibit C to Strategic Partnership Agreement Depiction of the Limited and Full Purpose  
Property– Page 1

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**Exhibit D to Strategic Partnership Agreement**

**Legal Description of the Limited Purpose Property**

DRAFT



Exhibit D to Strategic Partnership Agreement Legal Description of the  
Limited Purpose Property– Page 1

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**Exhibit E to Strategic Partnership Agreement**

**Service Plan**

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