

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF BOERNE AND BOERNEBAK, LLC**

This First Amendment ("this Amendment") to the Development Agreement described below is entered into by and between BOERNEBAK, LLC, , a Texas limited liability company, BOERNEBAK II, LLC, , a Texas limited liability company (collectively referred to herein as "the Owner"), their successors, transferees, and assigns, and the CITY OF BOERNE, TEXAS ("the City").

WHEREAS, the Owner and the City entered into that certain Development Agreement ("the Development Agreement"), effective November 26, 2019 ("the Original Effective Date"), related to the development of Kendall County Water Control and Improvement District No. 3A ("WCID#3A") ("the Development"); and

WHEREAS, due to unforeseen circumstances, work on the Development has been delayed; and

WHEREAS, the Owner has requested the City agree to an amendment to a section of the Development Agreement extending the deadlines for Payment in Lieu of Impact Fees with the understanding that the amounts of the payments will be increased to account for interest and/or late fees on the delayed payments;

NOW, THEREFORE, for and in consideration of the mutual covenants of the Parties set forth in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are acknowledged and agreed by the Parties, the Parties agree that Article IV "DEVELOPMENT CHARGES", Section 4.4 "Payment in Lieu of Impact Fees", Subsection (b) of the Development Agreement is amended to read as follows:

(b) The Owner has voluntarily requested the City to provide wholesale wastewater treatment service to serve the Property, and as a condition of providing 1600 LUEs of permanent wholesale wastewater treatment service for the District, the City, the Owner, the District or their assignees agree to assess and collect the Payment in Lieu of Impact Fees as follows:

(i) ~~\$1,250,000~~1,268,750 due and payable within ~~12~~18 months of the Effective Date; and

(ii) ~~\$1,250,000~~1,268,750 due and payable within ~~24~~30 months of the Effective Date;  
and

(iii) ~~\$1,250,000~~1,268,750 due and payable within ~~36~~42 months of the Effective Date;  
and

(iv) ~~\$1,250,000~~1,268,750 due and payable within ~~48~~54 months of the Effective Date; and

(v) ~~\$1,250,000~~1,268,750 due and payable within ~~60~~66 months of the Effective Date; and

(vi) ~~\$643,000~~652,645 due and payable in full at the time of plat recordation of the first commercial or multi-family lot or tract; and

(vii) ~~\$1,500,000~~1,522,500 due and payable within ~~96~~102 months from the Effective Date.

The Effective Date referred to in the above amendment language is the Original Effective Date.

This Amendment shall be executed in duplicate originals, each of which shall have the full force and effect of an original.

Executed and effective on this the \_\_\_\_ day of September 2020.

CITY:

**CITY OF BOERNE**

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

Ben Thatcher, City Manager

ATTEST: \_\_\_\_\_

Lori Carroll, City Secretary

OWNER:

BOERNEBAK, LLC

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

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

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