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Item – 59
January 15, 2019
Economic and Community Development

The Court hereby ordered and approved a motion approving a 381 Grant Agreement in the amount of $260,000 with MELA PHASE I, LTD for river improvements along Mission Road and approval of the associated budgetary transfer. (Record)

A motion was presented by County Commissioner Kevin A. Wolff, duly seconded by County Commissioner Sergio "Chico" Rodriguez, which motion was voted on as follows: Commissioners S. Rodriguez, J. Rodriguez, Wolff, Calvert, and Judge Wolff voting "Aye".

Item Number: 59
(for Comm Ct use only)

AGENDA COORDINATION FORM
Bexar County Commissioners Court

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Type of Agenda Item (Choose one): Ceremonial ☐ Special Presentation ☐ Time Certain ☐ Consent ☒ Individual ☐

Sponsoring Office/Department: Economic Development Recipient Agency / Individual Name:

Contact Person: Deborah Carter Phone Number: 335-7060 Court Date Requested: January 15, 2019

Presenter: David Marquez Phone Number: 335-7060 Deadline for Action: January 15, 2019

Audio / Visual Presentation: Y ☐ N ☒ PowerPoint? Y ☐ N ☒ ADA Assistance Required (type): No

Official/Department Head Signature:

Small, Minority, Women-owned Business Enterprise (SMWBE): Impact: Y ☐ N ☒

CAPTION:
Approval of a 381 Grant Agreement in the amount of $260,000 with MELA PHASE I, LTD for river improvements along Mission Road and approval of the associated budgetary transfer.

ESTIMATED PRESENTATION TIME: N/A

BACKGROUND:
At its September 15, 2015 meeting Commissioners Court directed staff to negotiate a tax abatement agreement with Mission Escondida, LLC a mid-rise, market-rate apartment community of 360 Class A multi-family rental units with public access to the San Antonio River, as well as public sidewalks and park-type space along Mission Road in Precinct 1 at 1515 Mission Road with capital investments totaling $45 million.

This project will construct a new east bank trail adjacent to the San Antonio River on the Property that will connect the existing pedestrian bridge to Mission Road with ADA and possibly non-ADA access, add 2 kiosk locations consisting of benches and cover on the new trail, add landscaping and irrigation to the improvements as permitted by reviewing governmental agencies, and construct a 4,000 sq. ft. public parking lot at Mission Road serving the new trail.

RECOMMENDED MOTION:
Approval of a 381 Grant Agreement in the amount of $260,000 with MELA PHASE I, LTD for river improvements along Mission Road, and approval of the associated budgetary transfer.

Item Number: _____
(For PRM use only)

FISCAL ASSESSMENT: APPLICABLE Yes ☒ No ☐ Fiscal Note ☐

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1	Is this a revenue or expense?	Revenue ☐	Expense ☒
2	Dollar amount of revenue or expense associated with item?	$ 260,000	
3	Is this a budgeted revenue or expense?	Yes ☐	No ☒
4	Does this item require additional staff?	Yes ☐	No ☒
5	Will this increase your current budget?	Yes ☒	No ☐
6	Impact on future Budget? If Yes, Explain in Comments.	Yes ☒	No ☐
7	Current End-of-Year Expenditure Estimate-for impacted Object Code(s)?	$7,136,763	
8	If an expense, what is the current Object Code budget amount?	$7,136,763	
9	If an expense, are sufficient funds currently budgeted in the Object Code?	Yes ☒	No ☐
10	If an expense, are sufficient funds currently budgeted in the Appropriation	Yes ☒	No ☐
11	List impacted offices or departments or note if countywide:	Public Works Department	
12	Company:	208 – Flood Control (M&O)	
13	Accounting Unit / Account Category:	5031 – 54014 – Flood Project	
14	Activity:	TBD	
15	If this is a grant, what is the estimated amount of program income?	N/A	
16	If this is a grant, what is the amount of Grantor funding?	N/A	
17	If this is a grant, what is the required County cash match?	N/A	
18	If this is a grant, what is the required County in-kind/allocation match?	N/A	
19	If this is a grant, was item approved by the Grant Review Committee?	Yes ☐	No ☐
20	Comments: This is a request for approval of a 381 grant agreement with the County and MELA PHASE I, LTD in the amount of $260,000 to provide construction services that will allow for the construction of a linear park adjacent to the San Antonio River Improvements will include the construction of a new east bank trail, connecting an existing pedestrian bridge to Mission Road, adding two kiosk locations with benches and cover, adding landscaping and irrigation improvements, and constructing a 4,000 square foot public parking lot at Mission Road. This 381 grant agreement is an unbudgeted expense and will require approval of a budgetary transfer in the amount of $260,000, which is attached to this item. Funding has been identified in the Flood Control M&O Fund's Appropriated Fund Balance. Upon approval and execution of the associated budgetary transfer, sufficient funding will exist for the approval of this item.		
21	Coordinated by: Monica Martinez	Verified By: Blake Meneley 1/2/2019	

Bexar County
REQUEST FOR BUDGET TRANSFER

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Initiating Department: Public Works Department **Request Number: BT 19-007**

This budgetary transfer provides funding in the amount of $260,000 for a 381 Grant Agreement between the County and MELA PHASE I, LTD. This funding will allow for the construction of a linear park adjacent to the San Antonio River that will serve as a local economic betterment to the associated property located along Mission Road and the San Antonio River.

The construction improvements will include the construction of a new east bank trail, connecting an existing pedestrian bridge to Mission Road with ADA access, adding two kiosk locations with benches and cover, adding landscaping and irrigation improvements, and constructing a 4,000 square foot public parking lot at Mission Road which will tie into the new public sidewalk along the river. These construction improvements will further enhance river improvements that the County has already funded and completed.

This 381 Grant Agreement is an unbudgeted expense in the FY 2018-19 Adopted Budget. Funding has been identified in Flood Control Maintenance & Operation (M&O) Fund. Upon approval, the funding identified in the Flood Control M&O Appropriated Fund Balance will be transferred to a newly created project activity within the Flood Control M&O Fund. After the approval and execution of this budget transfer, the Appropriated Fund Balance in the Flood Control M&O Fund will reflect a new balance of $4,026,657.

FROM:	Company	208	Flood Control M&O	
Accounting Unit	Account	Activity	Acct. Unit Description	Transfer Amount
9999	99940	N/A	Appropriated Fund Balance	$260,000
			TOTAL:	**$260,000**
TO:	Company	208	Flood Control M&O	
Accounting Unit	Account	Activity	Acct. Unit Description	Transfer Amount
5031	54014	TBD	Mission Road River Improvements	$260,000
			TOTAL:	**$260,000**

Completed by: Blake Meneley, Finance Analyst

Budget & Finance Director:

Commissioners Court Date: January 15, 2019

Company 0100 - Bexar County Inventory
Requesting Location HHA - COMMUNITY RESOURCES
Requisition 144278 - Unreleased
Purchase From
Buyer MRG - Mario Garza

Cost Default Vendor 24285 - MELA PHASE I HTD
Requisition Description MELA Phase I Ltd
Requester cmedel - CONNIE MEDEL
Deliver To Monica Martinez

Item	Item Type	Quantity Ordered	UOM	Unit Cost	Extended Cost	Distributions	Activity / Account Category	Distribution Allocation	Requested Delivery Date	Sourcing Event Required
GRANT AGREEMENT	AmountService	1.00	JA	260000.000	260000.000	5100-052166-0000	CIED19301 52070	100.0%		No

Grant Agreement between MELA P
Vendor : MELA PHASE I HTD
Anticipated Commissioners Court Date January 15, 2019
Grant Agreement between MELA Phase I Ltd and Bexar County

Totals: 1 Lines		**1.00**			**260000.00 USD**					

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STATE OF TEXAS	§	**GRANT AGREEMENT BETWEEN THE COUNTY OF BEXAR AND MELA PHASE I, LTD.**
COUNTY OF BEXAR	§	

THIS GRANT AGREEMENT ("***Agreement***") is entered into as of the date of the last signature set forth on the signature page below ("***Effective Date***") between the County of Bexar, a political subdivision of the State of Texas ("***COUNTY***"), duly acting herein by and through the Bexar County Commissioners Court ("***Commissioners Court***") for and on behalf of COUNTY and MELA PHASE I, LTD., a Texas limited partnership, validly existing, in good standing and authorized to do business under the laws of the State of Texas ("***DEVELOPER***"). The COUNTY and the DEVELOPER may be collectively referenced herein as the "Parties" or individually as a "Party".

RECITALS

WHEREAS, pursuant to the authority granted under Article 3, Section 52-a of the Texas Constitution, the Texas Legislature has determined through Section 381.004(b)(1) and (3) of the Texas Local Government Code ("***Code***") that a public purpose is served by a county stimulating business and commercial activity by developing and administering a program for: state and local economic development and for stimulating, encouraging and developing business location and commercial activity in a county, and a county commissioners court may grant public money towards such a program; and

WHEREAS, DEVELOPER will construct a new east bank trail adjacent to the San Antonio River ("***River***") on the Property further described in **Exhibit "A"** that will connect the existing pedestrian bridge to Mission Road with ADA, and possibly non-ADA access, add two (2) kiosk locations consisting of benches and cover on the new trail, add landscaping and irrigation to the improvements, as permitted by reviewing governmental agencies, and construct a 4000 square foot public parking lot at Mission Road serving the new trail (the "***Project***");

WHEREAS, the COUNTY has determined that making an economic development grant ("***Grant***") to DEVELOPER in an amount not to exceed **TWO HUNDRED SIXTY THOUSAND DOLLARS ($260,000.00)** in accordance with this Agreement will further the objectives of the COUNTY, benefit the COUNTY and its residents, and serve the broader purpose of stimulating and encouraging business and commercial activity in the COUNTY, retaining and expanding job opportunities and building the property tax base; and

WHEREAS, pursuant to Section 381.004(c)(1) of the Code, the COUNTY may contract with another entity, including a municipality, non-profit organization, or any other person, to administer a program for local economic development; and

WHEREAS, COUNTY, through approval and execution of this Agreement, hereby establishes a community and economic development program, pursuant to Section 381.004(b) and (h) of the Code, through a grant of public money to DEVELOPER.

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NOW, THEREFORE, upon and in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
PURPOSE

1.01 The COUNTY desires to provide funding to assist with the construction of the Project. The Project will serve the public purpose of promoting tourism and economic development along the River and in the COUNTY, as well as creating pedestrian access to the River.

1.02 The Recitals of this Agreement are incorporated herein for all purposes.

ARTICLE II
TERM

2.01 The term of this Agreement shall begin on the date of the last signatory to this Agreement and continue until the final completion date of Project ("***Term***"), unless terminated on an earlier date in accordance with the terms and conditions described herein.

ARTICLE III
DEVELOPER PROJECT

3.01 Project. DEVELOPER shall construct the Project on the Property, including a linear trail on the Property, two (2) covered kiosks with seating, landscaping, irrigation, and an approximately 4,000 square foot parking lot. DEVELOPER anticipates commencing construction on the Project no later than September 30, 2019 and completing the Project on or before March 30, 2019 ("Project Completion Date").

3.02 Project Budget. DEVELOPER'S budget for the Project ("***Project Budget***"), is attached hereto as **Exhibit "B"** and incorporated herein.

3.03 Project Schematic Design Plan. DEVELOPER shall construct the Project in substantial accordance with the Project Schematic Design Plan, attached hereto and incorporated herein as **Exhibit "C"**. The Project Schematic Design Plan is subject to approval by the City of San Antonio and the San Antonio River Authority (***"SARA"***) and may change if directed by either of these entities. DEVELOPER shall provide the COUNTY advanced written notice of any substantial changes to the Project Schematic Design Plan.

3.04 Maintenance. Upon completion of the Project, DEVELOPER shall be responsible for all maintenance and upkeep of the improvements, unless agreed otherwise with SARA or other governmental entity.

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ARTICLE IV
OBLIGATIONS OF DEVELOPER

4.01 Developer Obligations. Subject to the terms and conditions of this Agreement, DEVELOPER shall:

(i) undertake and assume responsibility for obtaining the permitting, design, and construction of all improvements comprising the Project. DEVELOPER shall obtain and provide to the appropriate governmental authorities all drawings, documents, information, consents and such other items necessary to secure the permits;

(ii) pay all costs and expenses in excess of the Grant in connection with the design and construction of the Project, including without limitation, amounts owing to architectural, engineering or other design consultants engaged by the DEVELOPER, and to the general contractor, subcontractors, suppliers, consultants, legal consultants or other persons engaged by the DEVELOPER for supervision, transportation, labor, materials or permits or other matters in connection with the Project which exceed the Grant; and

(iii) undertake the coordination and supervision of the work of all persons involved in the Project. DEVELOPER shall meet on a regular basis through Project completion with the architectural, engineering, general contractor and other persons providing the design and construction services to assure the performance of the work in accordance with the Project Schematic Design Plan.

(iv) use good faith and commercially reasonable efforts to obtain the best price and quality of goods and services in connection with construction of the Project;

(v) promptly furnish to the COUNTY, upon receipt by the DEVELOPER, copies of all legal notices received by the DEVELOPER that could result in: (i) a material delay or increase in the cost of construction of the Project; or (ii) a claim against the DEVELOPER and/or the COUNTY;

(vi) provide the COUNTY, as soon as reasonably practicable but in no event later than sixty (60) days after the Project Completion Date, with an electronic copy of "as-built" drawings substantially reflecting and depicting the Project, as constructed;

ARTICLE V
FUNDING OF THE PROJECT

Funding for the development and completion of the Project shall be provided by the COUNTY in accordance with the terms of this Agreement.

5.01 The County Contribution. Following completion of the Project, the County shall reimburse DEVELOPER for all costs as outlined in the Project Budget that are actually spent on the

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completion of the Project. The Grant shall be equal to actual Project costs, but shall not exceed TWO-HUNDRED SIXTY THOUSAND DOLLARS ($260,000.00) ("***Maximum Grant Amount***"). Any Project costs in excess of the Maximum Grant Amount or outside of the Project scope shall be the sole responsibility of DEVELOPER.

5.02 Funding Conditions. The COUNTY'S agreement to provide to DEVELOPER the Grant, or any part thereof, is subject to the following conditions:

(1) No event of Default has occurred at, or prior to, the time of any funding required to be provided by the COUNTY pursuant to this Agreement.

(2) The DEVELOPER has obtained all required permits from governmental authorities with authority over the Project.

(3) The DEVELOPER has substantially completed construction of the Project.

5.03 Reimbursement Grant.

A. After DEVELOPER has satisfied the Funding Conditions outlined in Section 5.02, DEVELOPER may submit a Reimbursement Request (defined below) to the COUNTY for actual costs incurred for the Project, not to exceed the Maximum Grant Amount. The Reimbursement Request shall be in the form of Exhibit "D" attached hereto ("Reimbursement Request"), and submitted to COUNTY Representative at the Office of the County Manager, Paul Elizondo Tower, 101 W. Nueva, 10th Floor, San Antonio, Texas 78205, and to the Bexar County Auditor, 101 W. Nueva, Suite 800, San Antonio, Texas 78205. The COUNTY will promptly begin to process the Reimbursement Request following receipt.

B. The COUNTY shall have the right, at the COUNTY'S option, to have a COUNTY employee or consultant inspect the work completed which is set out in the Reimbursement Request to ensure compliance with the Project Schematic Design Plan. The inspection shall not delay payment by the COUNTY unless such work does not comply with the Project Schematic Design Plan. If the COUNTY determines the work, or any portion of the work, set out in the Reimbursement Request is not in compliance, the COUNTY shall advise the DEVELOPER in writing of the work that is non-compliant, and will conduct a follow-up inspection within five (5) Business Days after receiving written notice from the DEVELOPER that the work is compliant with the Project Schematic Design Plan in order to confirm the work represented by the Project Schematic Design Plan is compliant.

5.04 Additional Costs Resulting from Changes in Applicable Law. Any additional costs for construction of the Project resulting from a change in applicable law by any Governmental Authority shall be made a part of the Project Budget, not to exceed the Maximum Grant Amount.

5.05 Limitation of Funding Obligations. Notwithstanding anything in this Agreement to the contrary:

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A. No claim for payment of any amount of the Grant shall be made, claimed or permitted against any properties, assets or the general credit of the COUNTY.

B. The COUNTY shall have no obligation to pay costs incurred in construction of the Project in excess of the Maximum Grant Amount.

ARTICLE VI
INSURANCE

6.01 At all times during the construction of the Project, the DEVELOPER shall require its general contractor to procure, pay for, and maintain with approved insurance carriers the minimum insurance requirements set forth below.

a. Commercial General Liability Insurance of ONE MILLION DOLLARS ($1,000,000.00), aggregate coverage, with FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) each occurrence. The DEVELOPER, and the COUNTY shall be named as an additional insureds on this policy.

b. Commercial Automobile Liability Insurance of ONE MILLION DOLLARS ($1,000,000.00), combined single limit, covering all owned/leased, hired, and non-owned autos. The DEVELOPER and the COUNTY shall be named as an additional insureds on this policy.

c. Statutory worker's compensation insurance for all employees of the general contractor with a waiver of subrogation in favor of the DEVELOPER and the COUNTY.

6.02 DEVELOPER shall obtain from the general contractor and provide the COUNTY with Certificates of Insurance and copies of endorsements within thirty (30) days following the Effective Date of this Agreement evidencing that the stated coverages have been obtained.

6.03 DEVELOPER is responsible for all premiums and deductibles under all of the insurance policies required by this section if the general contractor fails to pay those items.

6.04 If the DEVELOPER fails to require its general contractor to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, the COUNTY may obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under this Agreement; however, procuring of said insurance by the COUNTY is not an alternative to other remedies the COUNTY may have, and is not the exclusive remedy for the failure of the DEVELOPER to require said insurance or secure such endorsement from its general contractor. In addition to any other remedies the COUNTY may have upon the DEVELOPER'S failure to have its general contractor maintain any insurance or policy endorsements to the extent and within the time limits herein required, the COUNTY shall have the right to withhold any payment(s) which become due to the DEVELOPER hereunder until the DEVELOPER demonstrates its general contractor's compliance with the requirements hereof.

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6.05 When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by the COUNTY, DEVELOPER shall notify the COUNTY of such and shall give such notices not less than thirty (30) days prior to the change, if the DEVELOPER knows of said change in advance, or ten (10) days' notice after the change, if the DEVELOPER did not know of the change in advance. Such notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to the COUNTY at the following address with a copy of this Agreement:

Bexar County Risk Manager
101 W. Nueva Street, Suite 900
San Antonio, Texas 78205

ARTICLE VII
INDEMNIFICATION

7.01 **INDEMNIFICATION BY THE DEVELOPER. THE DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY, DEFEND AND HOLD HARMLESS THE COUNTY AND THEIR ELECTED OFFICIALS, AGENTS, EMPLOYEES, AND REPRESENTATIVES, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE (THE "CLAIMS"), DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO THE DEVELOPER'S OBLIGATIONS AND DUTIES UNDER THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF THE DEVELOPER, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE OR PERSONNEL, CONSULTANT, GENERAL CONTRACTOR, ARCHITECT, CONTRACTOR, SUBCONTRACTOR, AND SUPPLIER, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, PERSONNEL, DIRECTORS AND REPRESENTATIVES IN THE PERFORMANCE OF THEIR DUTIES ON THE PROJECT. THE DEVELOPER SHALL PROMPTLY ADVISE THE COUNTY IN WRITING OF ANY CLAIMS OR DEMAND AGAINST THE COUNTY KNOWN TO THE DEVELOPER RELATED TO OR ARISING OUT OF THE DEVELOPER'S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIMS OR DEMANDS AT THE DEVELOPER'S EXPENSE, PROVIDED THAT SUCH CLAIMS OR DEMANDS ARE NOT ATTRIBUTABLE TO THE COUNTY'S NEGLIGENCE OR WILLFUL ACTIONS.**

7.02 Indemnification Procedures. If the COUNTY shall discover or have actual notice of facts giving rise, or which may give rise, to a claim for indemnification under this Article or shall receive notice of any action, with respect to any matter for which indemnification may be claimed, the indemnitee shall, within twenty (20) days following service of process

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(or within such shorter time as may be necessary to give DEVELOPER a reasonable opportunity to respond to such service of process) or within twenty (20) days after any other such notice, notify the DEVELOPER in writing thereof together with a statement of such information respecting such matter as the COUNTY then has. It is understood and agreed by the Parties that any failure or delay of the COUNTY to so notify the DEVELOPER shall not relieve the DEVELOPER from liability hereunder except, and solely to the extent, that such failure or delay shall have adversely affected the DEVELOPER'S ability to defend against, settle, or satisfy any such action. Following such notice, the DEVELOPER shall have the right, at its sole cost and expense, to contest or defend such action through attorneys, accountants, and others of its own choosing (the choice of such attorneys, accountants, and others being subject to the approval of the COUNTY, such approval not to be unreasonably withheld) and in the event it elects to do so, it shall promptly notify the COUNTY of such intent to contest or defend such action. If within twenty (20) days following such notice from the Indemnitee (or within such shorter time as may be necessary to give the DEVELOPER a reasonable opportunity to respond to service of process or other judicial or administrative action), the COUNY have not received notice from the DEVELOPER that such action will be contested or defended by the DEVELOPER, the COUNTY shall have the right to: (i) authorize attorneys satisfactory to it to represent it in connection therewith; or (ii) subject to the approval of the DEVELOPER, which approval shall not be unreasonably withheld or delayed, at any time settle, compromise, or pay such action, in either of which events the COUNTY shall be entitled to indemnification therefor subject to this Section.

7.03 In the event and so long as the DEVELOPER is actively contesting or defending against an action as hereinabove provided, the COUNTY shall: (i) cooperate with the DEVELOPER and its counsel in such contest or defense; (ii) join in making any appropriate counterclaim or cross claim in connection with the action; and (iii) provide such access to the books and records of the COUNTY as shall be necessary in connection with such defense or contest, all at the sole cost and expense of the DEVELOPER. Notwithstanding that the DEVELOPER is actively conducting such defense or contest, any action may be settled, compromised or paid by the COUNTY without the consent of the DEVELOPER; provided, however, that if such action is taken without the DEVELOPER'S consent, its indemnification obligations in respect of such claim shall thereby be nullified. Any such action may be settled, compromised, or paid by the DEVELOPER without the COUNTY'S consent, so long as such settlement or compromise does not cause either Party to incur any present or future material cost, expense, obligation or liability of any kind or nature, or require any admission or action or forbearance from action by the COUNTY.

7.04 If a conflict of interest exists between the COUNTY and the DEVELOPER with respect to any action, the COUNTY shall have the right to participate in the defense of such action with separate counsel chosen by them, subject to the reasonable approval of the DEVELOPER, and paid by the DEVELOPER.

7.05 No Third Party Beneficiary. The provisions of this Article are solely for the benefit of the COUNTY and the DEVELOPER and are not intended to create or grant any rights, contractual or otherwise, to any other person.

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7.06 Waiver of Subrogation. With respect to any policies of insurance which may be required to be provided by the DEVELOPER in connection with this Agreement or required under a construction contract or other agreement related hereto, the DEVELOPER waives and shall require that the general contractor waive any subrogation rights against the COUNTY with respect to any claims or damages (including, but not limited to, claims for bodily injury and property damage).

ARTICLE VIII
COUNTY PLAQUE

8.01 The COUNTY will provide a plaque to the DEVELOPER recognizing the support of the members of the Bexar County Commissioners Court for the Project. The DEVELOPER shall pay out of the Project Budget up to NINE HUNDRED DOLLARS ($900.00) for the cost of purchasing the plaque. Subject to SARA'S approval, the DEVELOPER shall locate the plaque on or near one of the kiosks to be constructed, as further shown in the Project Schematic Plans.

ARTICLE IX
FISCAL MANAGEMENT AND RECORDS RETENTION

9.01 The DEVELOPER will properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the Grant funds provided hereunder, and will make such materials available to the COUNTY at its office and at a reasonable time if COUNTY deems necessary during the Term for purposes of inspection, examination, and making excerpts and/or copies of same by COUNTY or its authorized representatives.

9.02 The DEVELOPER must establish and use commercially reasonable internal accounting and administrative controls to preclude theft, embezzlement, improper inducement, obstruction of investigation or other criminal action and to prevent fraud or abuse.

9.03 The DEVELOPER acknowledges that the Grant funds provided pursuant to this Agreement are public funds and must be expended and accounted for in accordance with the laws of the State of Texas. Accordingly, the DEVELOPER agrees to keep a separate general ledger account for the Grant funds and to clearly document, by way of receipts, invoices, contracts or other similar documentation, all expenditures of Grant funds and to provide an accounting of those expenditures upon request of the COUNTY.

9.04 DEVELOPER agrees to abide by and adhere to applicable federal or state provisions regarding financial accounting.

9.05 DEVELOPER will retain all documents related to the Grant funds provided hereunder for a period of three (3) years from the date of termination or expiration of the Term. If however, at the end of retention period there is litigation involving or concerning the above documentation, the DEVELOPER will retain the records until the resolution of such litigation.

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ARTICLE X
EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

10.01 DEVELOPER will comply with all applicable local, state and federal equal employment opportunity and affirmative action rules, regulations and laws.

10.02 If DEVELOPER or its subcontractors fail to comply with local, state and federal equal employment opportunity and affirmative action rules, regulations and laws, DEVELOPER may be barred from further agreements with COUNTY.

ARTICLE XI
REPRESENTATIONS OF THE DEVELOPER

11.01 DEVELOPER represents that the execution and performance of this Agreement has been duly authorized by its governing authority and does not require the consent or approval of any other person or entity which has not been obtained. Additionally, the individual executing this Agreement on behalf of the DEVELOPER represents, warrants, assures and guarantees that he or she has full legal authority to execute this Agreement on behalf of the DEVELOPER and to bind the DEVELOPER to all terms, performances and provisions herein contained. In the event that a dispute arises as to the legal authority of either the DEVELOPER, or the person signing on behalf of the DEVELOPER, to enter into this Agreement, COUNTY shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement.

11.02 DEVELOPER represents that the Grant funds provided under this agreement will be utilized only for the purposes described in Article I, Paragraph 1.01. The DEVELOPER agrees that any change in use of funds must have the prior approval of the Commissioners Court, such approval not to be unreasonably withheld or delayed.

11.03 DEVELOPER represents that it will conduct its activities utilizing Grant funds in accordance with all applicable federal and state laws.

ARTICLE XII
DEFAULT & TERMINATION

12.01 During the Term should COUNTY determine that the DEVELOPER has failed to comply with any term or condition of this Agreement, or if any representation or warranty made by the DEVELOPER to COUNTY in this Agreement is false or misleading in any material respect (each, a "***Default***"), then COUNTY may declare such Default and terminate this Agreement in accordance with the procedure described herein. If COUNTY provides the DEVELOPER with written notice of a Default(s) ("***Default Notice***"), and the Default(s) as identified in the Default Notice is not cured within sixty (60) days from the date the Default Notice is sent ("***Cure Period***"), then this Agreement shall automatically terminate effective as of the date of the expiration of the Cure Period ("***Termination Date***"). COUNTY may, in its sole discretion, extend the Cure Period if the DEVELOPER commences the cure within the Cure Period and is diligently pursuing such cure.

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ARTICLE XIII
ASSIGNMENT

13.01 No legal or business entity other than the DEVELOPER shall be entitled to receive the benefit of the Grant provided under this Agreement, including any entity resulting from a merger, reorganization, or any other form of business combination involving the DEVELOPER, without the prior written consent of COUNTY, acting by and through the Commissioners Court (such consent not to be unreasonably withheld, conditioned, or delayed). In addition, this Agreement shall not be assigned by the DEVELOPER to any other legal entity without the prior written consent of COUNTY (such consent not to be unreasonably withheld or delayed). Any attempted transfer of the rights and responsibilities under this Agreement or the assignment of this Agreement without prior approval of COUNTY, acting by and through the Commissioners Court, shall be void and this Agreement shall terminate.

13.02 In the event of an assignment by the DEVELOPER to which COUNTY has consented in writing, the assignee, or the assignee's legal representative, shall agree in writing with COUNTY to assume, perform, and be bound by the covenants, obligations, and agreements contained in this Agreement.

ARTICLE XIV
NOTICES

14.01 All notices provided to be given under this Agreement must be in writing, and shall either be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid, and addressed to the proper Party at the address which appears below, or at such other address as the Parties hereto may hereafter designate in accordance herewith. All notices given by mail shall be deemed to have been given at the time of deposit in the United States mail and shall be effective from such date.

If to COUNTY:	County Judge 101 West Nueva, Suite 1019 San Antonio, Texas 78205-3482 Attn: 381 Grant
with a copy to:	Executive Director Economic Development Department 101 West Nueva, Suite 944 San Antonio, Texas 78205-3450
and,	Chief, Civil Section Bexar County District Attorney's Office 101 West Nueva, Suite 727 San Antonio, Texas 78205-3406
If to DEVELOPER:	MELA PHASE I, Ltd. Attn.: President, White-Conlee Builders

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4630 North Loop 1604 W., Suite 507
San Antonio, Texas 78249

ARTICLE XV
SEVERABILITY

15.01 In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word contained in this Agreement is held invalid, illegal, or unenforceable, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the Parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In such event, there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal, and enforceable to effectuate the purpose of this Agreement.

ARTICLE XVI
RELATIONSHIP OF PARTIES

16.01 Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third-party as creating the relationship of principal and agent, employer-employee, partners, joint ventures or any other similar such relationship between the Parties and the DEVELOPER has complete control of, and sole right to control, the performance of all work performed in connection with the business activities of the DEVELOPER.

ARTICLE XVII
APPLICABLE LAW

17.01 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of law principles that would require the application of the laws of any other state. Venue for any action brought hereunder (including any action in federal court) will be exclusively in Bexar County, Texas.

ARTICLE XVIII
AMENDMENT OF DOCUMENTS

18.01 No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the Parties hereto.

ARTICLE XIX
PRIOR AGREEMENTS SUPERSEDED

19.01 This Agreement constitutes the sole and only agreement of the Parties hereto and supersedes all prior understandings or written or oral agreements between the Parties respecting the subject matter within.

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ARTICLE XX
LEGAL EXPENSES

20.01 Each Party must bear its own costs, including, but not limited to, attorneys' fees, for any action at law or in equity brought to enforce or interpret any provision of this Agreement.

ARTICLE XXI
CERTIFICATION

21.01 The DEVELOPER, by execution of this Agreement and in accordance with Chapter 2264 of the Texas Government Code, agrees not to knowingly employ any undocumented workers at the Project site during the Term. If the DEVELOPER is convicted of a violation under 8 U.S.C. Section 1324a (f), then this Agreement shall terminate without necessity of the Cure Period, and the DEVELOPER shall repay the COUNTY all of the Grant funds the DEVELOPER has received under this Agreement. The COUNTY shall provide written notice to the DEVELOPER of such a breach ("***Violation Notice***") and within one hundred twenty (120) days after the Violation Notice is sent, the DEVELOPER shall repay the COUNTY all of the Grant funds the DEVELOPER has received under this Agreement with interest to be calculated in accordance with the money judgment rate set forth in Section 304.003 of the Texas Finance Code, as may be amended from time to time, from the date of the expiration of the one hundred twenty (120) day period following the Violation Notice referenced above until paid. The COUNTY, in its sole discretion, may extend the period for repayment set forth herein. In addition, the DEVELOPER agrees to pay all costs and expenses, including attorney's fees, incurred by the COUNTY in enforcing this provision.

ARTICLE XXII
COUNTERPARTS; DELIVERY BY FACSIMILE OR ELECTRONIC MAIL

22.01 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.

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ARTICLE XXIII
COMMISSIONERS COURT AUTHORIZATION

23.01 This Agreement was approved by Order of the Commissioners Court dated January 15, 2018 authorizing the County Judge to execute this Agreement on behalf of COUNTY. The Grant provided pursuant to this Agreement is expressly subject to the fulfillment by the DEVELOPER of all of the terms and conditions described herein.

IN WITNESS WHEREOF, this Agreement is executed in duplicate originals effective this 15 day of January, 2018.

COUNTY OF BEXAR

By: _____
NELSON W. WOLFF,
County Judge

ATTEST:

_____
LUCY ADAME-CLARK
County Clerk

MELA PHASE I, LTD.,
a Texas Limited Partnership

By: _____
JOHN C. WHITE
Title: Partner

Date: 11-28-18

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APPROVED AS TO LEGAL FORM:

Criminal District Attorney
County of Bexar, Texas

By: _____
GERARD A. CALDERON,
Assistant Criminal District Attorney
Civil Section

APPROVED AS TO FINANCIAL CONTENT:

_____
SUSAN YEATTS,
County Auditor

_____
DAVID SMITH,
County Manager

APPROVED:

_____
DAVID MARQUEZ,
Executive Director, Economic Development

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EXHIBIT "A"

THE PROPERTY

EXHIBIT "A"

MACINA • BOSE • COPELAND and ASSOCIATES, INC
CONSULTING ENGINEERS AND LAND SURVEYORS
1035 Central Parkway North, San Antonio, Texas 78232
(210) 545-1122 FAX (210) 545-9302
TBPE Firm Registration #784 | TBPLS Firm Registration #10011700 | SBE Certified #214046463
www.mbcengineers.com

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METES AND BOUNDS DESCRIPTION
0.645 ACRE – DEDICATION

BEING A 0.645 ACRE (28,106 SQUARE FEET) OF LAND, OUT OF A CALLED 20.763 ACRE TRACT AS DESCRIBED IN SPECIAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN VOLUME 16784, PAGE 2091, OF THE OFFICIAL PUBLIC RECORDS, OF BEXAR COUNTY TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2-inch Iron Rod with cap stamped "MBC" Found in the West right of way line of Mission Road (a variable width public right of way) and being on the North line of the San Antonio River and marking the southeast corner of said 20.763 Acre Tract;

THENCE departing the West Right-of-Way line of said Mission Road along and with the North curved line of said San Antonio River and with the South curved line of said 20.73 Acre Tract, a chord bearing of N 79°25'22" W and a chord distance of 106.52 feet, to a 1/2-inch Iron Rod with cap "MBC" Set for the **POINT OF BEGINNING;**

THENCE along said curve (to the right) and with the North line of said San Antonio River and the South line of said 20.763 Acre Tract having the following parameters: Radius = 1118.85 feet, Arc Length = 376.78 feet, Chord Bearing = N 67°02'49" W and a Chord distance = 375.00 feet to a 1/2-inch Iron Rod Found;

THENCE N 57°29'31" W a distance of 512.73 feet continuing along and with the North line of said San Antonio River and the South Line of said 20.763 Acre Tract to a 1/2-inch Iron Rod with cap stamped "MBC" Found and marking the Southernmost corner of Lot 51, New City Block A-20, Blessed Sacrament and Incarnate Word Subdivision, according the plat thereof recorded in Volume 9559, Page 59, of the Deed and Plat records of Bexar County, Texas and marking the Southwest corner of said 20.763 Acre Tract;

THENCE N 65°58'24" E a distance of 23.97 departing the North line of said San Antonio River along and with the Southeast line of said Lot 51, New City Block A-20, and the Northwest line of said 20.763 Acre Tract, to a 1/2-inch Iron Rod with cap stamped "MBC" Set and a 1/2-inch Iron Rod Found bears N 65°52'30" E a distance of 116.81 feet;

THENCE departing the Northeast line of said Lot 51, New City Block A-20, across and into said 20.763 Acre Tract the following courses and distances;
S 57°29'31" E a distance of 499.52 feet to a 1/2-inch Iron Rod with cap stamped "MBC" Set for the point of curvature of a curve to the left;

Along and with said curve to the left having the following parameters: Radius = 1098.84 feet, Arc length = 306.99 feet, Chord Bearing = S 65°24'08" E and a Chord distance = 305.99 feet to a 1/2-inch Iron Rod with cap stamped "MBC" Set;

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N 68°59'57" E a distance of 65.47 feet to a 1/2-inch Iron Rod with cap stamped "MBC" Set;

N 13°30'59" W a distance of 98.58 feet to a 1/2-inch Iron Rod with cap stamped "MBC" Set;

S 76°29'01" W a distance of 66.40 feet to a 1/2-inch Iron Rod with cap stamped "MBC" Set;

S 20°23'54" E a distance of 15.11 feet to a 1/2-inch Iron Rod with cap stamped "MBC" Set;

N 76°29'01" E a distance of 13.07 feet to a 1/2-inch Iron Rod with cap stamped "MBC" Set on the West Right-of-Way line of said Mission Road, and a 1/2-inch Iron Rod with cap "MBC" Found bears N 01°16'08" W a distance of 21.44 feet;

THENCE S 01°16'08" E a distance of 11.93 feet along and with the West Right-of-Way line of Mission Road and the East line of said 20.763 Acre Tract, to a 1/2-Inch Iron Rod Found;

THENCE S 13°30'59" E a distance of 91.84 feet continuing along and with the West Right-of-Way line of Mission Road and the East line of said 20.763 Acre Tract to a 1/2-inch Iron Rod with cap stamped "MBC" Set;

THENCE S 76°29'01" W a distance of 77.95 feet departing the West Right-of-Way line of Mission Road and across and into said 20.763 Acre Tract to a 1/2-inch Iron Rod with cap stamped "MBC" Set;

THENCE S 14°19'47" W a distance of 41.30 feet to the **POINT OF BEGINNING** and containing 0.645 Acre (28,106 square feet +/-) of land, more or less as surveyed by Macina, Bose, Copeland, and Associates, Inc. under the direct supervision of Joel Christian Johnson, R.P.L.S.;

Note: A Survey Sketch that is made a part hereof and shall accompany this instrument.

STATE OF TEXAS
REGISTERED
JOEL CHRISTIAN JOHNSON
5578
PROFESSIONAL
LAND SURVEYOR

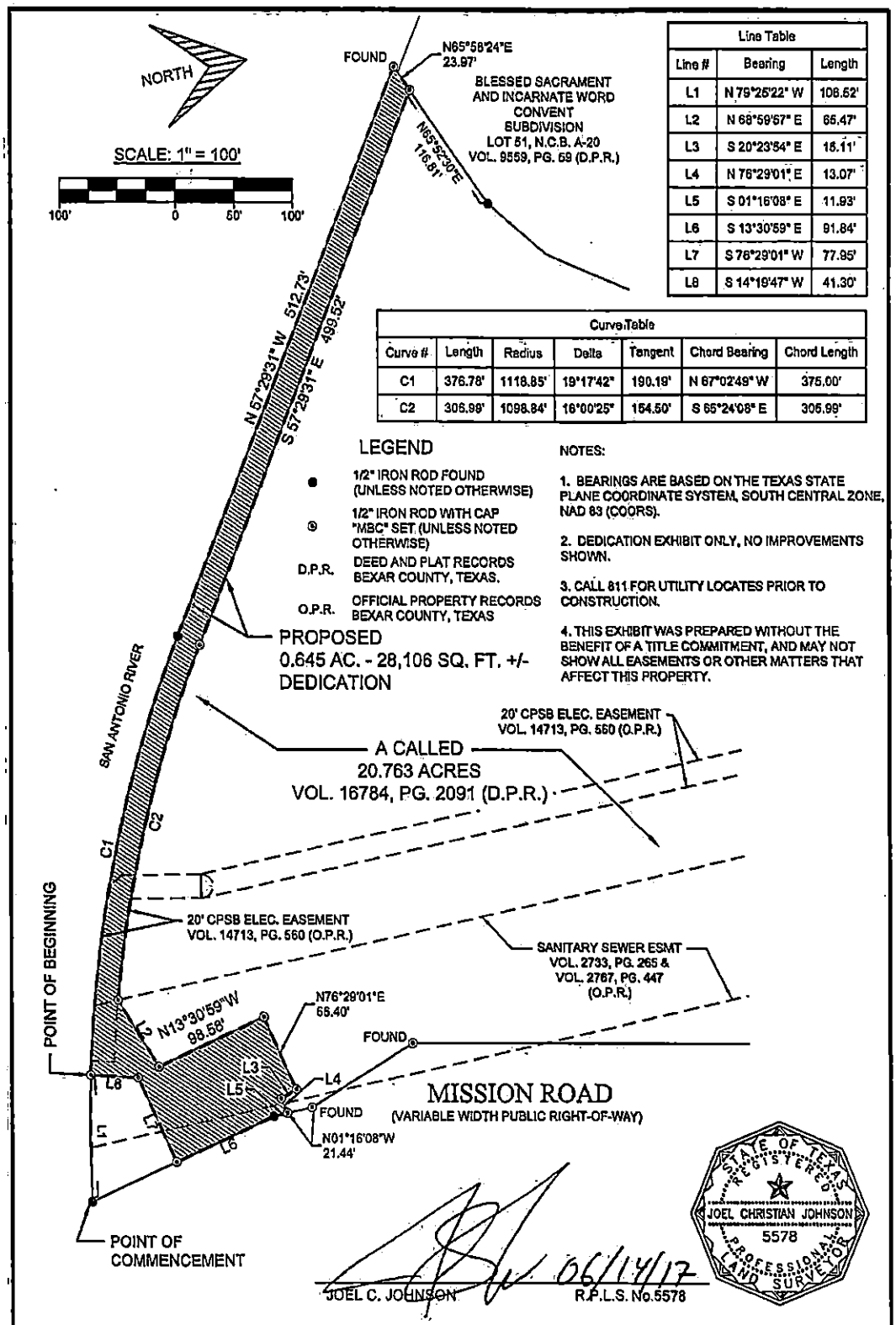
06/14/17

Joel Christian Johnson, R.P.L.S. No.5578
TBPLS FIRM REGISTRATION #10011700

30984-1368
June 14, 2017

mbc ENGINEERS

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Line Table		
Line #	Bearing	Length
L1	N 79°25'22" W	106.52'
L2	N 68°59'57" E	66.47'
L3	S 20°23'54" E	16.11'
L4	N 76°29'01" E	13.07'
L5	S 01°16'08" E	11.93'
L6	S 13°30'59" E	91.84'
L7	S 76°29'01" W	77.95'
L8	S 14°19'47" W	41.30'

Curve Table						
Curve #	Length	Radius	Delta	Tangent	Chord Bearing	Chord Length
C1	376.78'	1118.85'	19°17'42"	190.19'	N 67°02'49" W	375.00'
C2	306.99'	1098.84'	16°00'25"	154.50'	S 65°24'08" E	306.99'

LEGEND

- ● 1/2" IRON ROD FOUND (UNLESS NOTED OTHERWISE)
- ⊙ 1/2" IRON ROD WITH CAP "MBC" SET (UNLESS NOTED OTHERWISE)
- D.P.R. DEED AND PLAT RECORDS BEXAR COUNTY, TEXAS.
- O.P.R. OFFICIAL PROPERTY RECORDS BEXAR COUNTY, TEXAS

NOTES:

1. BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 83 (CORS).
2. DEDICATION EXHIBIT ONLY, NO IMPROVEMENTS SHOWN.
3. CALL 811 FOR UTILITY LOCATES PRIOR TO CONSTRUCTION.
4. THIS EXHIBIT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT, AND MAY NOT SHOW ALL EASEMENTS OR OTHER MATTERS THAT AFFECT THIS PROPERTY.

STATE OF TEXAS
REGISTERED
JOEL CHRISTIAN JOHNSON
5578
PROFESSIONAL
LAND SURVEYOR

06/14/17

JOEL C. JOHNSON R.P.L.S. No.5578

mbc ENGINEERS
1035 Central Parkway North
San Antonio, Texas 78232
(210) 545-1122 FAX (210) 545-9302
TEXAS REGISTERED ENGINEERING FIRM F-784

DEDICATION EXHIBIT OF:

A 0.645 ACRE (28,106 SQUARE FEET) OF LAND, OUT OF A CALLED 20.763 ACRE TRACT AS DESCRIBED IN SPECIAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN VOLUME 16784, PAGE 2091, OF THE OFFICIAL PUBLIC RECORDS, OF BEXAR COUNTY TEXAS.

DESIGN	TOO
DRAWN	JJA
CHECKED	JCJ
DATE	06-14-17
JOB NO.	30984-1368
PAGE	1 of 1

Date: Jun 14, 2017, 4:32pm User ID: jaranda Layout: Layout1
File: P:\1368\30984-Legacy Riverside Apts\design\Exhibit\Ex12b Parkland Dedication Exhibit\Ex12b dedication-30984.dwg Layout name: Layout1

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EXHIBIT "B"

PROJECT ~~SCHEDULE~~ BUDGET

EXHIBIT "B"
PROJECT BUDGET
MISSION ESCONDIDA LUXURY APARTMENTS
LINEAL PARK ON THE RIVER

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		LINEAL FT.	WIDTH	TOTAL S.F.	PRICE PER SF	TOTAL
I.	**WALKWAYS**					
	A. RIVER TO CORNER	1000	10	10000	$ 5.00	$ 50,000.00
	B. RIVER TIE-INS TO EXISTING					
	1. ADA ROUTE	500	10	5000	$ 10.00	$ 50,000.00
	2. NON ADA ROUTE	350	10	3500	$ 10.00	$ 35,000.00

II.	**KIOSK ALLOWANCE**			
	B. RIVER	2	$ 25,000.00	$ 50,000.00

TWO KIOSKS CONSISTING OF A BENCH AND COVERED STRUCTURE. DESIGN TO BE APPROVED BY SAN ANTONIO RIVER AUTHORITY. THESE ARE FOR PUBLIC USE ON THE NEW PUBLIC SIDEWALK.

III.	**LANDSCAPE ALLOWANCE**		
	B. RIVER	$	25,000.00
IV.	**IRRIGATION ALLOWANCE**		
	B. RIVER	$	10,000.00

		TOTAL SF	PRICE PER SF	TOTAL
V.	**PUBLIC PARKING AT MISSION ROAD**	4000	$ 10.00	$ 40,000.00

THIS PARKING LOT WILL BE LOCATED ON MISSION ROAD ON THE SOUTH END OF THE PROPERTY. IT WILL BE FOR PUBLIC USE AND WILL TIE INTO THE NEW PUBLIC SIDEWALK ALONG THE RIVER.

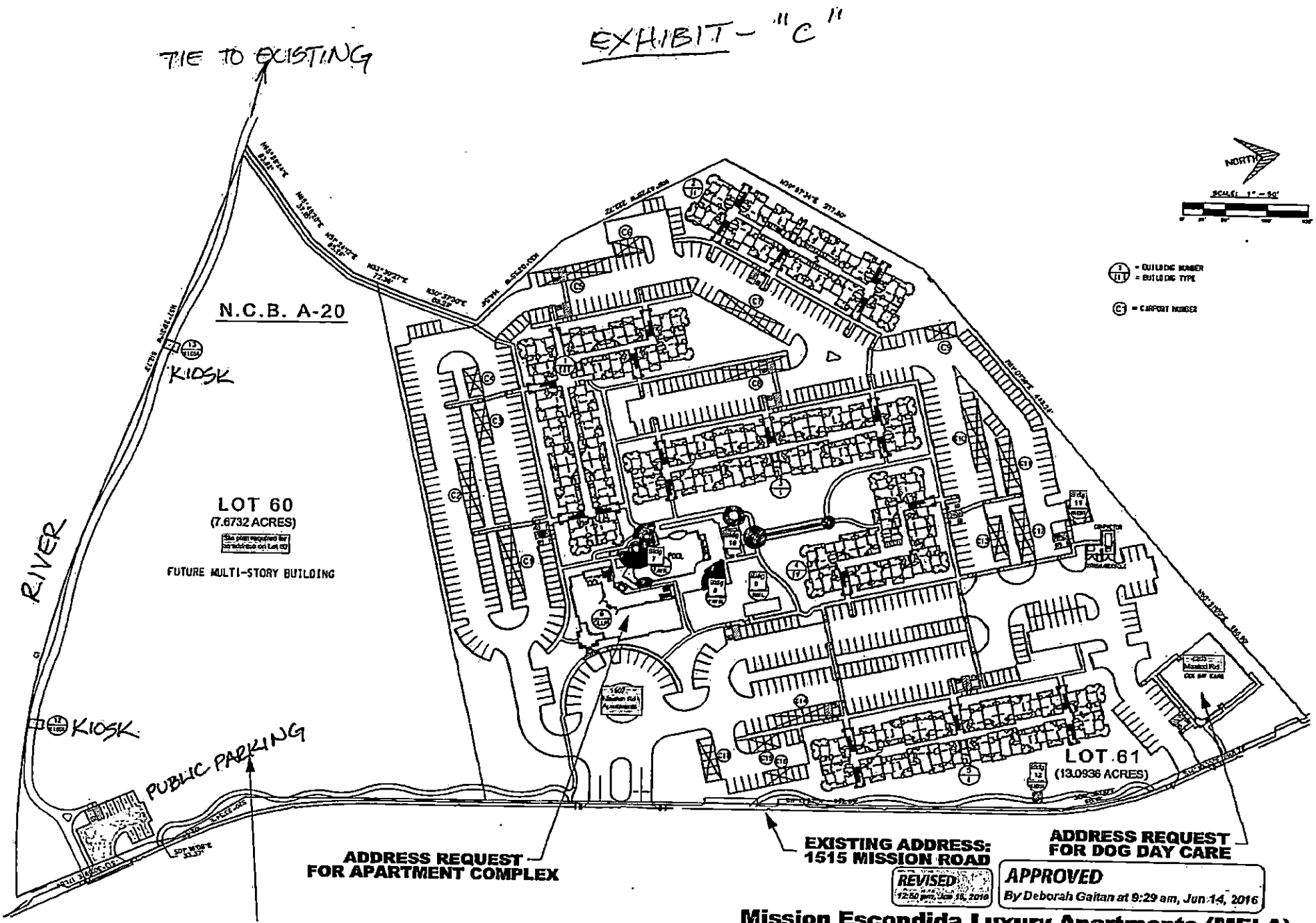
TOTAL COSTS	**$ 260,000.00**

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EXHIBIT "C"

PROJECT SCHEMATIC DESIGN PLAN

EXHIBIT - "C"



Mission Escondida Luxury Apartments (MELA)

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EXHIBIT "D"

DEVELOPMENT COST REIMBURSEMENT REQUEST
FORM OF DEVELOPMENT COST PAYMENT/REIMBURSEMENT REQUEST

Requisition No. _____

REQUISITION FOR DISBURSEMENT OF GRANT

1. All terms capitalized herein shall have the same meaning as in the Grant Agreement (the "Agreement") dated as of _____, 2018, between MELA PHASE I, LTD. ("DEVELOPER") and Bexar County, Texas ("COUNTY"). The sums requisitioned hereunder are for the payment of development costs of the Project, as further outlined in the Project Budget. The expenditures for which money is requested hereby have been, or will be, made and properly recorded on the undersigned's books. The DEVELOPER shall keep its books and records relating to amounts for which it seeks reimbursement or payment at its regular business office, which the COUNTY may examine and/or audit (at the COUNTY'S expense) at all reasonable times during normal business hours upon reasonable prior written notice to the DEVELOPER.

2. The DEVELOPER submits the following information for the following sums which are requisitioned for payment:

Item No.	Budgetary Category	Contract Amount	Payee's Invoice No.	Name, Address of Payee	Purpose	Invoice Total	% Completion

[ADD ADDITIONAL SHEETS AS NEEDED]

3. This Requisition is for Development Costs which have not been the basis of a prior or contemporaneous Requisition, or if previously requested, were not paid by the COUNTY.

4. The work, material, and equipment or other property covered by this Requisition have been performed for, or delivered to, the Project.

5. Attached are copies of all invoices for which reimbursement or payment is sought together with proof of payment therefore, if applicable.

6. The undersigned certifies that, with respect to all items covered by this Requisition, it has complied with the provisions of the Agreement. Submitted herewith are certificates or documents, if any, required to be submitted pursuant to the Agreement.

7. The schedules and attachments to this Requisition are true and correct to the best of the undersigned's knowledge.

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MELA PHASE I, LTD.

By: _____
Name: _____
Title: _____
Date: _____

APPROVED:
BEXAR COUNTY, TEXAS

By: Economic Development Department

By: _____
Name: _____
Title: _____
Date: _____

APPROVED:
BEXAR COUNTY, TEXAS AUDITOR'S OFFICE

By: _____
Name: _____
Title: _____
Date: _____