STATE OF TEXAS  

COUNTY OF COMAL  

CITY OF NEW BRAUNFELS  

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF NEW BRAUNFELS AND WORD BORCHERS RANCH JOINT VENTURE FOR PROPOSED MIXED USE DEVELOPMENT  

THIS FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT (the “First Amendment”) effective as of January 27, 2014 (the “Effective Date”), is entered into by and between The City of New Braunfels, a Texas Home Rule Municipal Corporation (the “City”), and Word-Borchers Ranch Joint Venture, a Texas general partnership (the “Owner”).  

RECITALS  


B. The City and the Owner now desire to amend the Development Agreement to extend the Third Approval Period (as defined therein) by two weeks.  

AGREEMENT  

NOW THEREFORE, in consideration of the promises and mutual agreements set forth herein, the City and Owner hereby agree as follows:  

1. Extension of Third Approval Period. Section 2.146 of the Development Agreement is hereby amended by deleting the phrase “(b) that date that is five (5) months after the expiration of the Owner Submittal Period” and inserting in lieu thereof, the phrase “(b) that date that is five (5) months and two (2) weeks after the expiration of the Owner Submittal Period, which is February 10, 2014.”  

2. Ratification and Defined Terms. Except as expressly modified by this First Amendment, the Development Agreement remains unchanged and in full force and effect. All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them in the Development Agreement.  

3. Counterparts. This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original.  

[Execution Page Follows]
This First Amendment was executed on the dates set forth below to be effective as of the Effective Date.

CITY OF NEW BRAUNFELS

By: ____________________________  
Printed Name: Robert Comerode  
Title: City Manager  
Date: 7/22/15

WORD-BORCHERS RANCH JOINT VENTURE

By: ASA Properties LLC,

Its: Manager

By: ASA Properties Holding Co. LLC, a Texas liability company, its sole manager

By: ____________________________  
Peter James, Manager
STATE OF TEXAS §  
COUNTY OF COMAL §  

CORPORATE ACKNOWLEDGMENT

This instrument was acknowledged before me on this the 23rd day of July, 2014, by Robert Cameron, a person known to me in his or her capacity as City Manager of the City of New Braunfels, on behalf of the City of New Braunfels.

C. Wilke
Notary Public, in and for the State of Texas

STATE OF TEXAS §  
COUNTY OF COMAL §  

CORPORATE ACKNOWLEDGMENT

This instrument was acknowledged before me on this the 13th day of February, 2014, by Peter James, a person known to me in his capacity as manager of ASA Properties Holding Co. LLC, the sole manager of ASA PROPERTIES, L.L.C., on behalf of Word-Borchers Ranch Joint Venture.

Pamela Bennett
Notary Public, in and for the State of Texas
SECOND AMENDMENT TO
DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF NEW
BRAUNFELS AND WORD BORCHERS
RANCH JOINT VENTURE FOR
PROPOSED MIXED USE
DEVELOPMENT

THIS SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT (the “Second Amendment”) effective as of February 14, 2014 (the “Effective Date”), is entered into by and between The City of New Braunfels, a Texas Home Rule Municipal Corporation (the “City”), and Word-Borchers Ranch Joint Venture, a Texas general partnership (the “Owner”).

RECITALS

A. The City and the Owner entered into the Development Agreement Between the City of New Braunfels and Word Borchers Ranch Joint Venture for Proposed Mixed Use Development dated February 25, 2013, as amended by the First Amendment to the Development Agreement dated January 27, 2014 (together, the “Development Agreement”).

B. The City and the Owner now desire to amend the Development Agreement to extend the period of time the Owner has for recording the Development Agreement by nine (9) months.

AGREEMENT

NOW THEREFORE, in consideration of the promises and mutual agreements set forth herein, the City and Owner hereby agree as follows:

1. **Extension of Third Approval Period.** Section 23.15 of the Development Agreement is hereby amended by deleting the phrase “In the event the Owner fails to record this Agreement in the real property records of the County within one (1) year following approval of this Agreement by the City Council...” and inserting in lieu thereof, the phrase “In the event the Owner fails to record this Agreement in the real property records of the County within one (1) year and nine (9) months following approval of this Agreement by the City Council...” For purposes of clarity, the parties agree that November 25, 2014 is the date that is one year and nine months following the City’s Council’s approval of the Development Agreement.

2. **Ratification and Defined Terms.** Except as expressly modified by this Second Amendment, the Development Agreement remains unchanged and in full force and effect. All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them in the Development Agreement.

3. **Counterparts.** This Second Amendment may be executed in multiple counterparts, each of which shall be deemed an original.
This Second Amendment was executed on the dates set forth below to be effective as of the Effective Date.

CITY OF NEW BRAUNFELS
By: 
Printed Name: Robert Camarena
Title: City Manager
Date: 07/23/15

WORD-BORCHERS RANCH JOINT VENTURE
By: ASA Properties LLC,
Its: Manager

By: ASA Properties Holding Co. LLC, a Texas liability company, its sole manager

By: Peter James, Manager
STATE OF TEXAS  §  CORPORATE ACKNOWLEDGMENT

COUNTY OF COMAL  §

This instrument was acknowledged before me on this the 23rd day of July 2014 by Robert Camarero, a person known to me in his or her capacity as City Manager of the City of New Braunfels, on behalf of the City of New Braunfels.

C. Wilke
Notary Public, in and for the State of Texas

STATE OF TEXAS  §  CORPORATE ACKNOWLEDGMENT

COUNTY OF COMAL  §

This instrument was acknowledged before me on this the 13th day of February 2014, by Peter James, a person known to me in his capacity as manager of ASA Properties Holding Co. LLC, the sole manager of ASA PROPERTIES, L.L.C., on behalf of Word-Borchers Ranch Joint Venture.

Pamela Bennett
Notary Public, in and for the State of Texas
STATE OF TEXAS §
COUNTY OF COMAL §
CITY OF NEW BRAUNFELS §

THIRD AMENDMENT TO
DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF NEW
BRAUNFELS AND WORD BORCHERS
RANCH JOINT VENTURE FOR
PROPOSED MIXED USE
DEVELOPMENT

THIS THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT (the “Third Amendment”) effective as of November 24, 2014 (the “Effective Date”), is entered into by and between The City of New Braunfels, a Texas Home Rule Municipal Corporation (the “City”), and Word-Borchers Ranch Joint Venture, a Texas general partnership (the “Owner”).

RECITALS

A. The City and the Owner entered into the Development Agreement Between the City of New Braunfels and Word Borchers Ranch Joint Venture for Proposed Mixed Use Development dated February 25, 2013, as amended by the First Amendment to the Development Agreement dated January 27, 2014 and Second Amendment to the Development Agreement dated February 14, 2014 (together, the “Development Agreement”).

B. The City and the Owner now desire to amend the Development Agreement to extend the period of time the Owner has for recording the Development Agreement by an additional five (5) months.

AGREEMENT

NOW THEREFORE, in consideration of the promises and mutual agreements set forth herein, the City and Owner hereby agree as follows:

1. Extension of Third Approval Period. Section 23.15 of the Development Agreement is hereby amended by deleting the phrase “In the event the Owner fails to record this Agreement in the real property records of the County within one (1) year following approval of this Agreement by the City Council...” and inserting in lieu thereof, the phrase “In the event the Owner fails to record this Agreement in the real property records of the County within two (2) years, two (2) months and three (3) days following approval of this Agreement by the City Council...”. For purposes of clarity, the parties agree that April 28, 2015 is the date that is two years, two (2) months and three (3) days following the City’s Council’s approval of the Development Agreement.

2. Ratification and Defined Terms. Except as expressly modified by this Third Amendment, the Development Agreement remains unchanged and in full force and effect. All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them in the Development Agreement.

3. Counterparts. This Third Amendment may be executed in multiple counterparts, each of which shall be deemed an original.
This Third Amendment was executed on the dates set forth below to be effective as of the Effective Date.

CITY OF NEW BRAUNFELS
By: [Signature]
Printed Name: Robert Camarreno
Title: City Manager
Date: 07/23/15

WORD-BORCHERS RANCH JOINT VENTURE
By: ASA Properties LLC,
Its: Manager

By: ASA Properties Holding Co. LLC, a Texas liability company, its sole manager

By: [Signature]
Mitch Nielsen, Manager
STATE OF TEXAS §
COUNTY OF COMAL §

CORPORATE ACKNOWLEDGMENT

This instrument was acknowledged before me on this the 23 day of July 2015, by Robert Cameron, a person known to me in his or her capacity as City Manager of the City of New Braunfels, on behalf of the City of New Braunfels.

C. Wilke
Notary Public, in and for the State of Texas

STATE OF TEXAS §
COUNTY OF COMAL §

CORPORATE ACKNOWLEDGMENT

This instrument was acknowledged before me on this the 25th day of November 2014, by Mitch Nielsen, a person known to me in his capacity as manager of ASA Properties Holding Co. LLC, the sole manager of ASA PROPERTIES, L.L.C., on behalf of Word-Borchers Ranch Joint Venture.

Rosalinda Arias
Notary Public, in and for the State of Texas
STATE OF TEXAS § FOURTH AMENDMENT TO
§ DEVELOPMENT AGREEMENT
§ BETWEEN THE CITY OF NEW
§ BRAUNFELS AND WORD BORCHERS
§ RANCH JOINT VENTURE FOR
§ PROPOSED MIXED USE
§ DEVELOPMENT

CITY OF NEW BRAUNFELS §

THIS FOURTH AMENDMENT TO THE DEVELOPMENT AGREEMENT (this
"Fourth Amendment") is effective as of April 6, 2015 (the "Effective Date") and is entered
into by and between The City of New Braunfels, a Texas Home Rule Municipal Corporation (the
"City"), and Word-Borchers Ranch Joint Venture, a Texas general partnership (the "Owner").

RECITALS

A. The City and the Owner entered into the Development Agreement Between the
City of New Braunfels and Word Borchers Ranch Joint Venture for Proposed Mixed Use
Development dated February 25, 2013, as amended by the First Amendment to the Development
Agreement dated January 27, 2014, the Second Amendment to the Development Agreement
dated February 14, 2014, and the Third Amendment to the Development Agreement dated
November 24, 2014 (together, the "Development Agreement").

B. The City and the Owner now desire to amend the Development Agreement to
extend the period of time the Owner has for recording the Development Agreement by an
additional ninety (90) days.

AGREEMENT

NOW THEREFORE, in consideration of the promises and mutual agreements set forth
herein, the City and Owner hereby agree as follows:

1. Extension of Fourth Approval Period. Section 23.15 of the Development
Agreement is hereby amended by deleting the phrase "In the event the Owner fails to record this
Agreement in the real property records of the County within one (1) year following approval of
this Agreement by the City Council..." and inserting in lieu thereof, the phrase "In the event the
Owner fails to record this Agreement in the real property records of the County within two (2)
years, five (5) months and two (2) days following approval of this Agreement by the City
Council...." For purposes of clarity, the parties agree that July 27, 2015 is the date that is two
(2) years, five (5) months and two (2) days following the City's Council's approval of the
Development Agreement.

2. Ratification and Defined Terms. Except as expressly modified by this Fourth
Amendment, the Development Agreement remains unchanged and in full force and effect. All
capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to
them in the Development Agreement.

3. Counterparts. This Fourth Amendment may be executed in multiple
counterparts, each of which shall be deemed an original.
This Fourth Amendment was executed on the dates set forth below to be effective as of the Effective Date.

CITY OF NEW BRAUNFELS

By: Robert Camarenos, City Manager

Date: April 23, 2015

WORD-BORCHERS RANCH JOINT VENTURE

By: ASA Properties LLC, a Texas limited liability company, its Manager

By: ASA Properties Holding Co. LLC, a Texas limited liability company, its sole manager

By: Mitch Nielsen, Manager

Date: April 23, 2015
STATE OF TEXAS

COUNTY OF COMAL

CORPORATE ACKNOWLEDGMENT

This instrument was acknowledged before me on this the 23rd day of April 2015, by Robert Camarena, a person known to me in his or her capacity as City Manager of the City of New Braunfels, on behalf of the City of New Braunfels.

C. Wilke
Notary Public, in and for the State of Texas

STATE OF TEXAS

COUNTY OF COMAL

CORPORATE ACKNOWLEDGMENT

This instrument was acknowledged before me on this the 24th day of April 2015, by Mitch Nielsen, a person known to me in his capacity as manager of ASA Properties Holding Co. LLC, the sole manager of ASA Properties, LLC, on behalf of Word-Borchers Ranch Joint Venture.

Vicki Abshier
Notary Public, in and for the State of Texas
STATE OF TEXAS

COUNTY OF COMAL

CITY OF NEW BRAUNFELS

§

FIFTH AMENDMENT TO
DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF NEW
BRAUNFELS AND WORD BORCHERS
RANCH JOINT VENTURE FOR
PROPOSED MIXED USE
DEVELOPMENT

THIS FIFTH AMENDMENT TO THE DEVELOPMENT AGREEMENT (this “Fifth Amendment”) is entered into as of July 13, 2015 (the “Amendment Date”) and is entered into by and between The City of New Braunfels, a Texas Home Rule Municipal Corporation (the “City”), and Word-Borchers Ranch Joint Venture, a Texas general partnership (the “Owner”).

RECITALS


B. The City and the Owner now desire to amend the Development Agreement as set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the promises and mutual agreements set forth herein, the City and Owner hereby agree as follows:

1. Amendment to Definition of Temporary Regional Stormwater Facility. Section 2.144 of the Agreement (“Temporary Regional Stormwater Facility”) is hereby amended by replacing it in its entirety with the following:

2.144. Temporary Regional Stormwater Facility - Phase 1 of the Regional Stormwater Facility, which may be constructed at the location depicted on Exhibit J, as described in the Stormwater Management Report; provided, however, (a) the location of the Temporary Regional Stormwater Facility may be adjusted slightly from the location depicted on Exhibit J to accommodate final civil engineering of the Temporary Regional Stormwater Facility if such adjustment is approved by the City Engineer, and (b) an alternate temporary improvement (other than that currently depicted in Exhibit J) may serve as the Temporary Regional Stormwater Facility if such alternative temporary improvement is approved by the City Engineer in a written document that specifically identifies the alternate temporary improvement as a substitute for the facility currently depicted in Exhibit J.
2. **New Defined Terms.** Section 2 of the Agreement ("Definitions") is hereby amended to include the following:

2.154. **Construction Cost Index** – The "Construction Costs" index published by Engineering News-Record and currently available at: http://enr.construction.com/economics/, or a successor index reasonably approved by the City and Owner.

2.155. **SH Loop 337 Local Match** – An amount paid by the City to TXDOT as a contribution to partially fund the construction of the 4-lane expansion improvements to SH Loop 337 as identified in the Alamo Area MPO Metropolitan Transportation Plan ‘Mobility 2040’ (December 8, 2014) as Project No. 9111.1 (0216-01-036) and 9111.2 (0216-01-915).

2.156. **Owners Local Match Contribution** – An amount paid by the Owner to the City that is equal to the lesser of (a) fifty percent (50%) of the SH Loop 337 Local Match or (b) Two Million Five Hundred Thousand Dollars ($2,500,000). Upon payment of the Owners Local Match Contribution, pursuant to Section 6.1.1 Owner shall be deemed to have paid fifty percent (50%) of the cost for External Traffic Improvements constructed by third parties for Improvements Ref. IX and X as identified in Exhibit T. The portion of the Owners Local Match Contribution allocated to completion of the Exhibit T Improvements is referred to herein as the “Original Exhibit T Third Party Improvements Obligations”

2.157. **RP1 Development Area** – The delineated land area identified as “RP1 Development Area” on the Master Framework Plan.

2.158. **RP2 Development Area** – The delineated land area identified as “RP2 Development Area” on the Master Framework Plan.

3. **Adjustment to Timing of Payment of Stormwater Mitigation Project Fee.** Section 5.16.2 of the Agreement ("Timing of Payment of Stormwater Mitigation Project Fee and Possible “True Up” Based on Actual Costs") is hereby amended by replacing it in its entirety with the following:

5.16.2. **Timing of Payment of Stormwater Mitigation Project Fee and Possible “True Up” Based on Actual Costs.** The Stormwater Mitigation Project Fee shall be due on the later of (a) fifteen (15) years from the Effective Date or (b) one hundred twenty (120) days after the Stormwater Mitigation Project Commencement Notice. The sole remedy of the City in the event the Owner fails to meet this requirement is that the Owner will not be permitted to extend this Agreement for any additional period of time under Section 18. The Stormwater Mitigation Project Commencement Notice shall include the City Engineer’s sealed estimate of the cost to complete the Stormwater Mitigation Project, which shall be used to calculate the Stormwater Mitigation Project Fee payable by the City or the District, provided that upon completion of the construction of the Stormwater Mitigation Project, the Stormwater Mitigation Project Fee shall be re-calculated based on actual construction costs and any over or under payment shall be reimbursed or paid, as
applicable, within one hundred twenty (120) days after the City Engineer delivers to the District and the Owner a sealed notice of the City's actual costs to construct with Stormwater Mitigation Project, with appropriate back-up documents. The City agrees to deliver its calculation of the final costs to construct the Stormwater Mitigation Project, with appropriate back-up documents, no later than one hundred twenty (120) days following completion of construction.

5.16.2.1. Stormwater Mitigation Project Fee Escalator. If the Stormwater Mitigation Project Fee has not been paid on or before February 24, 2024, an escalator rate based on the Construction Cost Index shall be applied to the Stormwater Mitigation Project Fee and calculated from February 25, 2024.

4. Amendment to Section 6.19. Section 6.19 of the Agreement ("Third Party SH Loop 337 Improvements") is hereby amended to include the following:

6.19.5. SH Loop 337 Owners Local Match Contribution. Notwithstanding Section 6.19.3, the Owner shall pay to the City the Owner’s Local Match Contribution within thirty (30) days after Owner has received notice from the City stating that sixty (60) or fewer days remain before the letting date approved by TXDOT for the release of bid documents in connection with the selection of a contractor for the construction phase of all or substantially all of the Third Party SH Loop 337 Improvement. The City agrees to pay the Owner’s Local Match Contribution to TXDOT as part of the SH Loop 337 Local Contribution. In the event TXDOT has not commenced construction of the Third Party Loop 337 Improvements on or before December 31, 2018, the obligations of the Owner under this Section 6.19.5 shall expire. If the Owner’s Local Match Contribution has been paid to the City by Owner but TXDOT has not commenced construction of the Third Party Loop 337 Improvements on or before December 31, 2018, then the City shall be required to reimburse the Owner the Owner’s Local Match Contribution (less the Original Exhibit T Third Party Improvements Obligations and any additional amounts due from Owner under Section 6.11.1 with respect to External Traffic Improvements constructed by third parties) within sixty (60) days of written request by the Owner. By accepting receipt of the Owner’s Local Match Contribution, the City agrees that the final design of the Third Party SH Loop 337 Improvements shall be subject to mutual agreement by the City, TXDOT and the Owner to ensure that the Third Party SH Loop 337 Improvements are compatible with the Owner SH Loop 337 Improvements; provided, however, it is understood that the cost of the Owner SH Loop 337 Improvements shall be the responsibility of the Owner.

5. Section 7.1.1 of the Agreement ("RP1") shall be amended by replacing it in its entirety with the following:

7.1.1. RP1. RP1 shall be deeded to the District as a Regional Park within five (5) years after the Effective Date. RP1 shall be open to the public with the improvements to the Regional Park substantially completed by the earlier of (a) the expiration of five (5) years after the completion of the construction of the Regional Stormwater Facility or (b) upon the occurrence of both of the following: (i) two (2) years since the completion of the
construction of the Regional Stormwater Facility and (ii) at least thirty percent (30%) of the RP1 Development Area became subject to an Approved Final Plat. The deed from the Owner to the District shall contain no restrictions or conditions that are inconsistent with the full and perpetual use of such land for public park purposes, provided that the foregoing shall not prohibit the use of any portion of RP1 for Stormwater Management consistent with the terms of this Agreement. The improvements in RP1 shall meet the specifications set forth in the Development Standards.

6. **Section 7.1.2 of the Agreement** ("RP2") shall be amended by replacing it in its entirety with the following:

7.1.2. **RP2.** Within fifteen (15) years from the Effective Date, the Owner shall have either (a) deeded RP2 to the District subject to deed restrictions requiring the land to be used for public purposes or (2) delivered to the City the RP2 Option Agreement. The sole remedy of the City in the event the Owner fails to meet this requirement is that the Owner will not be permitted to extend this Agreement for any additional period of time under Section 18. The deed from the Owner to the District shall contain no restrictions or conditions that are inconsistent with the full and perpetual use of such land for public park purposes, provided that the foregoing shall not prohibit the use of RP2 for Stormwater Management as shall be approved by the City. RP2 shall be open to the public with the improvements to the Regional Park substantially completed by the earlier of (a) the expiration of five (5) years from the date it is deeded to the District or (b) upon the occurrence of both of the following: (i) two (2) years since the date it is deeded to the District and (ii) at least thirty percent (30%) of the RP2 Development Area became subject to an Approved Final Plat. The improvements in RP2 shall meet the specifications set forth in the Development Standards, as well as the requirements of the City Council specified during the approval of the Sector Plan containing RP2. The RP2 Option Agreement shall contain customary terms and conditions in relation to a ninety (90) day period for the City to enter onto the land that will be RP2 to conduct inspections and due diligence prior to acquiring title of the land.

7. **Section 19.3 of the Agreement** ("Limitations on City Remedies") shall be amended by replacing it in its entirety with the following:

19.3. **Limitations on City Remedies.** Notwithstanding the foregoing or anything to the contrary in this Agreement:

19.3.1. the City may not exercise the remedies specified in Sections 19.2.5, 19.2.6, 19.2.7 and 19.2.8, if the Event of Default arises from a breach of Section 5.4.1;

19.3.2. the City may not exercise the remedies specified in Section 19.2.6 (refuse to accept or process Applications) or Section 19.2.7 (early annexation) and the limitations contained in Sections 19.4.1 and 19.4.2 shall not apply with respect to (a) lot(s) contained in an Approved Final Plat that are owned by an End User, or (b) lot(s) contained in an Approved Final Plat that are owned by an individual or entity who does not qualify as an End User of
such lot(s), but only if the Event of Default does not arise from the failure to perform an obligation reflected on the Approved Final Plat;

19.3.3. the City may not exercise the remedy specified in Section 19.2.8, or enforce the limitation on the Owner and the District described in Section 19.4.3, for any unsold or unissued bonds that relate to improvements that have been completed as of the date of the Event of Default unless the Event of Default relates to (a) the improvements or other matters that are the subject of such proposed bonds, (b) the obligations of the District and the Owner pursuant to Section 5.2, Section 5.3 or Section 5.16, or (c) the obligations of the District and the Owner pursuant to Section 7.1. Nothing herein shall restrict the City in the exercise of the remedy specified in Section 19.2.8, or the limitation on the Owner and the District in Section 19.4.3, for any unsold or unissued bonds that relate to improvements that have not been completed as of the date of the Event of Default; and

19.3.4. the City may not exercise any remedy of specific enforcement against Owner with respect to any obligation described in Sections 5.1 or 5.2 of this Agreement, including without limitation any obligation to construct or pay for the construction of the Regional Stormwater Facility or a Temporary Regional Stormwater Facility, and in the event of a breach by Owner of any obligation contained in Sections 5.1 or 5.2 that is not cured within the Cure Period, the sole and exclusive remedy of the City shall be to terminate this Agreement and, in accordance with the terms of the RSF Escrow Agreement, obtain the RSF Easement.

8. Amendment to RSF Easement, Exhibit K.

8.1 Amendment to Section 2 of RSF Easement. Section 2 of the RSF Easement (“Easement Purposes”) shall be amended by adding the following:

2e(i). Delivery of RP1 by City. In the event the City records the RSF Easement, the City shall not open RP1 to the public until the earlier of (a) July 26, 2030 or (b) the date that thirty percent (30%) of the land within one quarter (¼) mile of RP1 has been final platted.

8.2 Amendment to Section 5 of RSF Easement. Section 5 of the RSF Easement (“Access”) shall be amended by adding the following:

5a. If, as a result of the orderly sequence of development or as otherwise agreed to by the City and the Landowner, a more suitable access route to the Easement Property becomes available, either through the provision of an alternate access easement or dedicated ROW, the City and the Landowner may mutually agree to forfeit the Access Easement Area in favor of the alternate route provided that such agreement is reflected in a written amendment to this Agreement.

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9. **Ratification and Defined Terms.** Except as expressly modified by this Fifth Amendment, the Development Agreement remains unchanged and in full force and effect. All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them in the Development Agreement.

10. **Counterparts.** This Fifth Amendment may be executed in multiple counterparts, each of which shall be deemed an original.

This Fifth Amendment was executed on the dates set forth below to be effective as of the Effective Date, as set forth in the Development Agreement.

**CITY OF NEW BRAUNFELS**

By: [Signature]

Robert Camarena, City Manager

Date: **July 29, 2015**

**WORD-BORCHERS RANCH JOINT VENTURE**

By: **ASA Properties LLC**, a Texas limited liability company, its Manager

By: **ASA Properties Holding Co. LLC**, a Texas limited liability company, its sole manager

By: [Signature]

Tiffany Lacey, Vice President of Design and Approvals

Date: **July 16, 2015**
STATE OF TEXAS § CORPORATE ACKNOWLEDGMENT

COUNTY OF COMAL §

This instrument was acknowledged before me on this the 26th day of July, 2015, by Robert Camarena, a person known to me in his or her capacity as City Manager of the City of New Braunfels, on behalf of the City of New Braunfels.

C. Wilke
Notary Public, in and for the State of Texas

STATE OF TEXAS § CORPORATE ACKNOWLEDGMENT

COUNTY OF COMAL §

This instrument was acknowledged before me on this the 16th day of July, 2015, by Tiffany Lacey, a person known to me in her capacity as Vice President of Design and Approvals of ASA Properties Holding Co. LLC, the sole manager of ASA Properties, LLC, on behalf of Word-Borchers Ranch Joint Venture.

Carolyn Dorothy Osborne
Notary Public, in and for the State of Texas