

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into by and between the City of Joshua, Texas (“City”) and Joshua Gardens, LLC (“Owner”) (individually, a “Party” and collectively, the “Parties”) to be effective (the “Effective Date”) on the latest date executed by a Party.

WHEREAS, the City is a home rule municipal corporation, located in Johnson County, Texas, organized and existing under the laws of the State of Texas; and

WHEREAS, Owner is a Texas limited liability company qualified to do business in the State of Texas; and

WHEREAS, Owner owns approximately 19.534 acres of land in Johnson County, more particularly described and depicted in Exhibit A, attached hereto and incorporated by reference (the “Land”); and

WHEREAS, Section 212.172 of the Texas Local Government Code (“§ 212.172”), as amended, in part, authorizes a municipality to enter into a written contract with an owner of land that is located within the extraterritorial jurisdiction (“ETJ”) of the municipality to, among other things: (i) guarantee the continuation of the ETJ status of the land and its immunity from annexation for certain time periods; (ii) authorize enforcement by the municipality of land use and development regulations as may be agreed to by the landowner and the municipality; and (iii) provide for infrastructure for the land; and

WHEREAS, the Parties intend that this Agreement be an agreement entered into pursuant to the authority contained in § 212.172; and

WHEREAS, Owner desires to develop the Land pursuant to land use and development regulations that are agreed upon between Owner and the City pursuant to this Agreement and that will remain in place throughout the development of the Land, will run with the Land, and will bind future owners of the Land.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

1. Use and Development Regulations for the Land.

A. Residential Single-Family Use Only. The Land shall be used only for the single family residential purposes. No other uses are or shall be permitted on the Land.

B. Maximum Lot Count and Lot Size. No more than twenty-four (24) single-family residential lots shall be developed or platted on the Land, and no lot shall be less than one-half (1/2) acre in size. For purposes of calculating lot size, drainage, utility and other easements (excluding easements granted for roads) shall be included in such lot size calculation.

C. Residential Subdivision. The Land shall be platted as one (1) residential subdivision (“Subdivision”), subject to a mandatory homeowners’ association established by Owner (the “HOA”) as referenced in the City’s subdivision ordinance.

D. Subdivision of Land. Owner has submitted a proposed preliminary plat for the Land to the City, a copy of which is attached hereto as Exhibit B. Any preliminary plat or final plat for the Land shall substantially conform to the proposed preliminary plat and shall be subject to City approval to ensure compliance with this Agreement and City Ordinances. The Parties acknowledge that the City Council shall not annex the Land unless the City Council has approved a preliminary plat for the Land.

E. Lot Dimensions. The minimum lot width of any lot shall be ninety feet (90’) at the front yard setback line. The minimum front yard setback for any lot shall be thirty feet (30’), the minimum side yard setback shall be ten feet (10’) and the minimum rear yard setback shall be fifteen feet (15’). The maximum height for any residential structure shall be no more than thirty-five feet (35’), measured from the top of slab to roof ridge.

F. Applicability of City Ordinances. Owner shall develop the Land, and construct all single-family residential dwellings, in accordance with all City ordinances (specifically including the City’s subdivision regulations) and building/construction codes adopted by the City.

G. Annexation of the Land. Subsequent to the City’s approval of any preliminary plat for the Land, Owner agrees and consents to the City’s annexation of the Land, pursuant to Subchapter C-3 of the Texas Local Government Code, as amended.

2. Reservation of Rights and Claims. This Agreement constitutes a “permit” (as defined in Chapter 245, Texas Local Government Code, as amended) that is deemed filed with the City on the Effective Date.

3. Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, including without limitation Chapter 245, Local Government Code, provided, however, in no event shall any Party be liable for consequential or punitive damages. If the City is in default under this Agreement, Owner may seek enforcement of this Agreement under any applicable waiver of immunity.

4. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Johnson County, Texas. Exclusive venue for any action arising under this Agreement shall lie in Johnson County, Texas.

5. **Notice.** Any notices required or permitted to be given hereunder (each, a “Notice”) shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the City: The City of Joshua, Texas
 101 S. Main Street
 Joshua, Texas 76058
 Attention: City Manager

If to Owner: Joshua Gardens, LLC
 6565 Hillcrest Avenue, Suite 215
 Dallas, Texas 75205
 Attention: Mr. Kyle Kruppa

6. **Prevailing Party.** In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney’s fees (including its reasonable costs and attorney’s fees on any appeal).

7. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto with respect to development of the Land and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

8. **Savings/Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

9. **Binding Agreement.** A telecopied facsimile of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein.

10. **Authority to Execute.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Both the City and Owner warrant and represent that the individuals executing this Agreement on behalf of the City and Owner, respectively, have full authority to execute this Agreement and bind them to the same. This Agreement is and shall be binding upon the Owner and its Assignees, as hereinafter defined. The City Council hereby authorizes the City Manager of the City to execute this Agreement on behalf of the City.

11. **Filing in Deed Records.** Pursuant to the requirements of Section 212.172(c)(4) of the Texas Local Government Code, this Agreement, and any and all subsequent amendments to this Agreement, shall be filed in the deed records of Johnson County, Texas.

12. **Mediation.** In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to nonbinding mediation.

13. **Notification of Sale or Transfer; Assignment of Agreement.** Owner shall notify the City in writing of any sale or transfer of all or any portion of the Land, within ten (10) business days of such sale or transfer, except sales to end-buyers of a fully developed and improved lot. Owner has the right (from time to time without the consent of the City, but upon written notice to the City) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Owner under this Agreement, to any person or entity (an "Assignee") that is or will become an owner of any portion of the Land or that is an entity that is controlled by or under common control with Owner. Each assignment shall be in writing executed by Owner and the Assignee and shall obligate the Assignee to be bound by this Agreement. A copy of each assignment shall be provided to the City within ten (10) business days after execution. Provided that the successor owner assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement, the assigning party will be released from any rights and obligations under this Agreement as to the Land that is the subject of such assignment, effective upon receipt of the assignment by the City. No assignment by Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment. Owner shall maintain true and correct copies of all assignments made by Owner to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

14. **Sovereign Immunity.** The Parties agree that the City has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement; however, for purposes of enforcement of this Agreement, the City agrees that its sovereign immunity from suit has been waived, and to that extent only.

15. **Effect of Recitals.** The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the City Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

16. **Consideration.** This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

17. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original.

18. Exactions/Infrastructure Costs. Owner has been represented by legal counsel in the negotiation of this Agreement and been advised, or has had the opportunity to have legal counsel review this Agreement and advise Owner, regarding Owner's rights under Texas and federal law. Owner hereby waives any requirement that the City retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the City in this Agreement are roughly proportional or roughly proportionate to the proposed development's anticipated impact. Owner specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code; however, notwithstanding the foregoing, Owner hereby releases the City from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements imposed by this Agreement.

19. Rough Proportionality. Owner hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution with respect to infrastructure requirements imposed by this Agreement. Owner and the City further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of this Agreement, with respect to infrastructure requirements imposed by this Agreement.

20. Applicability of Ordinances. Except as otherwise provided herein, the signatories hereto shall be subject to all applicable ordinances of the City, whether now existing or arising in the future.

21. Time. Time is of the essence in the performance by the Parties of their respective obligations under this Agreement.

22. Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third party beneficiaries by entering into this Agreement.

23. Amendment. This Agreement shall not be modified or amended except in writing signed by the Parties. A copy of each amendment to this Agreement, when fully executed and recorded, shall be provided to each Party, Assignee and successor owner of all or any part of the Land; however, the failure to provide such copies shall not affect the validity of any amendment.

24. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply.

25. Duration of this Agreement. This Agreement shall be in effect until the last single-family residential dwelling is constructed and approved for occupancy by the City, or ten (10) years from the Effective Date, whichever occurs first.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date referenced herein.

THE CITY OF JOSHUA, TEXAS

By: _____
Name: Mike Peacock
Title: City Manager, City of Joshua

STATE OF TEXAS)
)
COUNTY OF JOHNSON)

This instrument was acknowledged before me on the ___ day of _____, 2025, by Mike Peacock, City Manager of the City of Joshua, Texas, on behalf of the City of Joshua, Texas.

Notary Public, State of Texas

My Commission Expires:

OWNER:

JOJSHUA GARDENS, LLC,
a Texas limited liability company

By: _____
Kyle Kruppa

Its: _____

STATE OF TEXAS)
)
COUNTY OF DALLAS)

This instrument was acknowledged before me on the ___ day of _____, 2025, by Kyle Kruppa in his capacity as _____ of Joshua Gardens, LLC, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.

Notary Public, State of Texas

EXHIBIT A

(Legal Description of the Land)

EXHIBIT B

(Proposed Preliminary Plat)