

First Amendment to Development Agreement

This First Amendment to Development Agreement (this "First Amendment") is executed between the City of McKinney, Texas (the "City") and McKinney Partners 306, LP ("Owner") to be effective October __, 2016 (the "Effective Date"). The City and Owner are individually referred to as a "Party" and collectively as the "Parties."

1. RECITALS

1.1 WHEREAS, the City and PCB Properties, LLC entered into that certain *City of McKinney, Texas DEVELOPMENT AGREEMENT for The Estates of Willow Wood* covering approximately 306.591 acres (the "Property") effective May 7, 2013 (the "Development Agreement"); and

1.2 WHEREAS, Owner is the successor in interest to the rights and obligations of PCB Properties, LLC pursuant to that certain "Assignment and Assumption Agreement" effective August 29, 2013 (the delivery and receipt of which agreement was acknowledged by the City Manager of the City on September 9, 2013); and

1.3 WHEREAS, Owner proposes to develop the Property in seven (7) Phases as shown on **Exhibit A** attached hereto (the "Phasing Plan"); and

1.4 WHEREAS, Section J.2.c of the Development Agreement establishes "DEVELOPMENT REQUIREMENTS" for "Roadway Construction" (the "Roadway Requirements"); and

1.5 WHEREAS, the Parties desire to amend the Roadway Requirements to more clearly define the obligations of Owner with respect to the phased construction of the Future Arterial; and

1.6 WHEREAS, Section J.2.f of the Development Agreement establishes "DEVELOPMENT REQUIREMENTS" for "Utility Construction" (the "Utility Requirements"); and

1.7 WHEREAS, the Parties desire to amend the Utility Requirements to more clearly define the obligations of Owner with respect to the construction of the 24-Inch Water Line Extension and the 36-Inch Water Line Extension; and

1.8 WHEREAS, the Parties desire to acknowledge that the water and sewer infrastructure currently capable of serving 653 single-family connections within the Property south of the Future Arterial has been constructed sufficient to merit acceptance by the City, upon proper submittal under the Governing Regulations, and which includes the existing 12" waterline installed by NTMWD to serve the City of Melissa, Texas.

2. DEFINITIONS

Unless otherwise defined in the body of this First Amendment, terms used in this First Amendment that have their initial letter capitalized shall have the following meanings:

2.1 "12-Inch On-Site Looped Water Line" means the 12-inch water line commencing at the connection of the 12-inch water line with the 36-inch water line at the intersection of SH 5 and Willow Wood Boulevard; which 12-inch water line connects to the North Texas Municipal Water District 12-inch line near the southern-most corner of the Property as illustrated on Exhibit 1 to the Second Birkhoff Analysis.

2.2 "24-Inch Water Line Extension" means a 24-inch water line within the Future Arterial as shown on **Exhibit B**: (i) a distance of approximately 2,990 feet commencing at the intersection of the Future Arterial and SH 5 and terminating at the eastern boundary of the Property; and (ii) continuing from the eastern boundary of the Property a distance of approximately 1,147 feet to a connection with the North Texas Municipal Water District 12-inch line located outside the Property.

2.3 "36-Inch Water Line Extension" means the 36-inch water line shown on **Exhibit B** commencing: (i) at the terminus of the existing 36-inch water line at the intersection of SH 5 and Willow Wood Boulevard; and (ii) extending northerly along SH 5 a distance of approximately 1,473 feet.

2.4 "12-Inch Off-Site Sewer Line" means the approximately 1,545 feet of the "yet to-be-completed" off-site sewer main shown on **Exhibit B**.

2.5 "Future Arterial" means the future, six-lane un-named arterial labeled "M6D" on **Exhibit B** commencing at the intersection of the un-named arterial and SH 5 and extending to the eastern boundary of the Property.

2.6 "Governing Regulations" means the Governing Regulations as defined in the Development Agreement, as amended by this First Amendment including, but not limited to, the revised Master General Development Plan attached as **Exhibit B**.

2.7 "Phase" means a "Phase" of development of the Property as shown on the Phasing Plan attached as Exhibit A to this First Amendment.

2.8 "Second Birkhoff Analysis" means that certain written analysis regarding *Willow Wood Estates Water Analysis Impact to NTMWD Supply to City of Melissa* dated August 4, 2014, prepared by Birkhoff, Hendricks & Carter, L.L.P., Professional Engineers, and addressed to Petsche & Associates, Inc.

3. AGREEMENTS

3.1 Master General Development Plan. The Master General Development Plan attached as Exhibit A-1 to the Development Agreement is replaced in its entirety by the Master General Development Plan attached as **Exhibit B** to this First Amendment. All references in the Development Agreement to the "GDP" shall be a reference to **Exhibit B** to this First Amendment.

3.2 Utility Requirements. Section J.2.f of the Development Agreement is revised in its entirety to read as follows. Unless otherwise specified, defined terms shall have the meanings given to them in the Development Agreement.

"The OWNER shall construct, at its sole cost, all necessary utility lines in accordance with the applicable Governing Regulations. No septic systems shall be permitted.

The 24-Inch Water Line Extension [as defined in this First Amendment] from SH 5 to Parkdale Drive shall be constructed and accepted by the City on or prior to the earlier to occur of (1) November 1, 2019, or (2) the time of a request for plat recordation for any portion of Phases 5, 6, or 7 [as depicted in the Phasing Plan attached as Exhibit A to this First Amendment]. No building permits shall be issued for any structure in Phases 5, 6, or 7 until such portion of the 24-Inch Water Line Extension has been constructed and accepted by the City.

The 24-Inch Water Line Extension from Parkdale Drive to the connection with the North Texas Municipal Water District line off-site of the Property shall be constructed and accepted by the City on or prior to the earlier to occur of (1) November 1, 2020, or (2) the time of a request for plat recordation for any portion of Phases 6 or 7 [as depicted in the Phasing Plan attached as Exhibit A to this First Amendment]. No building permits shall be issued for any structure in Phases 6 or 7 until such portion of the 24-Inch Water Line Extension has been constructed and accepted by the City.

Notwithstanding the phased construction of the 24-Inch Water Line Extension, Owner shall provide a continuous, looped waterline system once the 24-Inch Water Line Extension is tapped or utilized for any Phase of development such that there are no "dead end" waterlines in the development.

3.3 Water and Sewer Service; Building Permits. The City acknowledges and agrees that as of the Effective Date of this First Amendment the existing sewer lines within and outside the Property as shown on **Exhibit B**, together with the existing 12-Inch On-Site Looped Water Line have been constructed sufficient to merit acceptance by the City, upon proper submittal under the Governing Regulations. Subject to Developer's strict compliance with Section 3.2 above, the City further acknowledges and agrees that from and after the Effective Date of this First Amendment the City shall issue building permits for up to 653 lots within Phases 1, 2A, 2B, 3, 4 and 5 within the Property and south of the Future Arterial in accordance with the applicable Governing Regulations. The City, as its sole and exclusive remedy, may suspend the issuance of building permits at any time Developer is in non-compliance with this First Amendment until such non-compliance is cured.

3.4 Construction of the Future Arterial. The Roadway Requirements are amended to reflect the following with respect to the construction of the Future Arterial.

3.4.1 The full four (4) lanes of the Future Arterial from SH 5 to the eastern terminus of the full intersection of Parkdale Drive shall be constructed and accepted by the City on the earlier to occur of the following: (1) at the time of a request for plat recordation in any Phase adjacent to such four-lane portion, or (2) November 1, 2019.

3.4.2 The southern two (2) lanes of the Future Arterial from the eastern terminus of the full intersection of Parkdale Drive to the eastern boundary of the Property shall be constructed and accepted by the City on the earlier to occur of the following: (1) at the time of a request for plat recordation in any Phase adjacent to such two-lane portion, or (2) November 1, 2020.

3.4.3 The northern two (2) lanes of the Future Arterial from the eastern terminus of the full intersection of Parkdale Drive to the eastern boundary of the Property shall be constructed and accepted by the City at the time of a request for plat recordation in any Phase adjacent to such two-lane portion.

3.5 Construction of the 24-Inch Water Line Extension. The 24-Inch Water Line Extension must be constructed and accepted in accordance with Section 3.2 above.

3.6 Construction of the 36-Inch Water Line Extension. The 36-Inch Water Line Extension shall be constructed concurrently with the construction of the first segment of the 24-Inch Water Line Extension.

3.7 Construction of the 12-Inch Off-Site Sewer Line. The 12-Inch Off-Site Sewer Line shall be constructed and accepted as a condition to final plat approval of Phase 6 or any portion thereof or Phase 7 or any portion thereof.

3.8 Full Force and Effect; Conflicts. Except as amended by this First Amendment, the remainder of the Development Agreement shall remain in full force and effect. In the event of a conflict between this First Amendment and the Development Agreement, the provisions of this First Amendment shall control.

3.9 Easement Acquisition by City. If Owner has submitted fully-engineered plans to City by March 15, 2017 and a right-of-entry or executed easement has not been obtained by the City on or before October 1, 2018 for the construction of any segment of the 36-Inch Water Line Extension or the 24-Inch Water Line Extension under Paragraph 13(e)(1) of the Development Agreement, the completion dates for construction of Utilities in Section 3.2 or the Future Arterial in Sections 3.4.1 and 3.4.2 shall be extended by the number of days after October 1, 2018 necessary to obtain such right-of-entry or executed easement (either of which shall be sufficient), but not otherwise.

CITY OF MCKINNEY, TEXAS

By: _____

Paul G. Grimes

City Manager

Date Signed: _____

ATTEST:

City Secretary

Assistant City Secretary

McKINNEY PARTNERS 306, LP

a Delaware limited partnership

By: TA GP, LLC
a Delaware limited liability company,
its general partner

By: _____
John D. Hutchinson, President

Date Signed: _____

Exhibit A Phasing Plan



PHASE	50's	% 50's	60's	% 60's	65's	% 65's	TOTAL LOTS
1	146	77%	44	23%	0	0%	190
2A	0	0%	48	100%	0	0%	48
2B	99	60%	62	37%	5	3%	166
3	42	42%	54	53%	5	5%	101
4	54	75%	0	0%	18	25%	72
5	24	32%	39	52%	12	16%	75
6			109	100%			109
7			95	100%			95
TOTAL	365	43%	451	52%	40	5%	856



Willow Wood

MASTER PHASING PLAN

Exhibit B Master General Development Plan

