

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) memorializes a mutual understanding and agreement, including certain binding and non-binding provisions, and a desire to explore entering into subsequently legal binding definitive agreements by and between an entity to be jointly formed (“Devco”; provided, however, prior to the formation of Devco, “Devco” shall mean KDC), by and among KDC Real Estate Development & Investments LLC (“KDC”), a Texas limited liability company; Columbus Realty Partners, Ltd., a Texas limited partnership; and M & R Investors, LLC, a Texas Limited Liability Company, (d/b/a ATR Corinth), and the City of McKinney and the McKinney Economic Development Corporation (“MEDC”) (the “City Parties”) concerning the development of the land owned by the City Parties at the Northeast corner of Central Expressway and the Sam Rayburn Tollway in McKinney, Texas, consisting of approximately 57 acres of land (the “Gateway Project”) to potentially be developed for a combination of Class A office, retail, entertainment/restaurant and urban residential use.

Section 1. Design Phase.

- A. Upon the execution hereof, and for up to ninety (90) days thereafter (the “Design Phase”) Devco shall have responsibility to develop alternative land use plans for the Gateway Project, including the configuration and use of constituent parcels of the Gateway Project and additional infrastructure installations needed or desired, together with a marketing program to present the Gateway Project to potential end users (collectively, the “Gateway Implementation Plan”). If the parties are unable to agree on the final Gateway Implementation Plan, either party may terminate this MOU at the end of the Design Phase if notice is given to the other party within 5 business days after the end of the Design Phase.
- B. The MEDC shall reimburse Devco for fifty percent (50%) of the cost of developing the alternative land use plans and marketing program up to a maximum expenditure by the MEDC in the amount of \$100,000.00 within ten (10) days after receipt of an invoice therefor.
- C. During the Design Phase, Devco shall have the exclusive right to market the Gateway Project to end users.
- D. During the Design Phase and concurrently with the development of the Gateway Implementation Plan, the parties agree to initially prepare and begin negotiation of the terms of a Master Development Agreement governing the overall development of the Gateway Project, including the rights and obligations of the parties in the Initial Development Phase and the Subsequent Development Phase, as described below.
- E. The provisions of this Section 1 shall be binding on the parties.

Section 2. Master Development Agreement and Initial Development Phase.

- A. If this MOU has not been terminated under Section 1.A. above, the Gateway Project shall automatically extend into the Initial Development Phase, and Devco shall retain the

exclusive right to market and negotiate sales of parcels in the Gateway Project on behalf of the City Parties to end users for the Initial Development Phase, a period of two (2) years and nine (9) months from the end of the Design Phase; however, Devco and any end user transaction shall be expressly subject to satisfying the Initial Development Phase project milestones set forth on Exhibit A hereto and further be subject to the terms of the Master Development Agreement described in Sections 1.D above and 2.B below.

- B. During the Initial Development Phase, the City Parties shall commit to sell land within the Gateway Project to end users for uses consistent with the land plans developed during the Design Phase and in accordance with the Master Development Agreement which agreement shall be considered and executed by the parties within one hundred twenty (120) days from the commencement of the Initial Development Phase. If a Master Development Agreement is not fully executed within the referenced period, this MOU shall terminate, and the parties shall have no further obligations to each other unless the parties mutually agree in writing to extend the period for execution, but in no event shall such extension exceed thirty (30) days.
- C. The City Parties may, in their discretion, offer economic incentive packages to such end users, including but not limited to, those authorized by Chapters 380, 501 and 504 of the Texas Local Government Code and Chapters 311 and 312 of the Texas Tax Code.
- D. The provisions of this Section 2 shall be non-binding on the parties, pending the parties' execution of a binding Master Development Agreement governing the Initial Development Phase and the Subsequent Development Phase.

Section 3. Subsequent Development Phase.

- A. If Devco causes one or more end users to purchase portions of the Gateway Project in accordance with the provisions of the Master Development Agreement and within the term of the Initial Development Period, the Initial Development Phase shall extend into the Subsequent Development Phase.
- B. The Subsequent Development Phase shall continue for one (1) year following the Initial Development Phase, and Devco shall have the exclusive right to market and negotiate sales of parcels in the Gateway Project on behalf of the City Parties to end users during the Subsequent Development Phase.
- C. The provisions of this Section 3 shall be non-binding on the parties, pending the parties' execution of a binding Master Development Agreement governing the Subsequent Development Phase.

Section 4. City Zoning and Permits.

The City Parties shall facilitate and expedite rezoning and building permit requests which are consistent with the land use plans developed and approved during the Initial Development Phase on behalf of end users introduced to the Gateway Project by Devco.

Section 5. Miscellaneous.

- A. Except where prohibited by law or contract, the City Parties shall provide to Devco complete access to the Gateway Project and any information and records pertaining to the Gateway Project and shall cause the directors, employees, accountants and other agents and representatives (collectively “representatives”) of the City Parties to cooperate fully with Devco in connection with Devco’s due diligence investigation and predevelopment of the Gateway Project during the Design Phase.
- B. Devco agrees that all information concerning the Gateway Project furnished, or to be furnished to Devco or developed by Devco in connection with its activities hereunder (collectively the “Information”), will be used solely for the purpose of evaluating the Gateway Project, and will be kept confidential by Devco and its representatives, agents and advisors; provided that (a) any such Information may be disclosed to representatives, agents, independent contractors, potential lenders, partners, venturers, and advisors of Devco and the need to know such Information for the purpose of evaluating the transaction; (b) any disclosure of such Information may be made to person to which the City Parties consent in writing; and (c) such Information may be disclosed if so required by law. Notwithstanding the foregoing, the term “Information” shall not include information which Devco can demonstrate (x) as generally available to or known by the public other than as a result of improper disclosure by Devco or (y) as obtained by Devco from a source other than the City Parties, provided that such source was not bound by a duty of confidentiality to the City Parties or another party with respect to such Information. If the Master Development Agreement is not consummated, Devco will return to the City Parties all material containing or reflecting the Information and will not retain any copies, extracts or other reproductions thereof.
- C. For a period (“Exclusive Negotiation Period”) commencing on the date hereof and continuing through the Design Phase and for one hundred twenty (120) thereafter, the City Parties shall not, directly or indirectly to any representative or otherwise, solicit or entertain offers from, negotiate with or in any manner encourage, discuss, accept or consider any proposal of any other person relating to the Gateway Project.
- D. Except as and to the extent required by law, without the prior written consent of the City Parties, Devco shall not, and shall direct its representatives not to, directly or indirectly, make any public comments, statement, or communication with respect to, or otherwise disclose or permit the disclosure of the existence of discussions regarding the terms of a possible Master Development Agreement between the parties or any of the terms, conditions or other aspects of the transactions contemplated by this MOU.
- E. Save and except the period comprising the Design Phase, the City Parties and Devco shall bear their respective costs and expenses, including consultant fees and attorney’s fees.
- F. This MOU, as of the date of its execution, contains the entire understanding of the parties relating to the proposed transaction.

- G. This MOU's purpose is to provide an outline of subsequent, anticipated transactions.
- H. The parties intend to negotiate and execute binding, definitive agreements as described hereinabove.
- I. Except for those obligations arising in the Design Phase, until such time as binding, definitive agreements are executed by the parties, none of the parties shall have any obligation to the other with respect to the proposed transactions.

EXECUTED this ___ day of April, 2017.

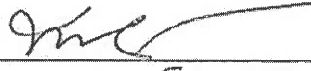
**THE CITY OF MCKINNEY, TEXAS,
a municipal corporation**

By: _____
Paul G. Grimes, City Manager

**MCKINNEY ECONOMIC DEVELOPMENT
CORPORATION,
A Texas non-profit corporation**

By: _____
Name: _____
Its: _____

**KDC REAL ESTATE DEVELOPMENT &
INVESTMENTS, LLC,
a Texas limited liability company**

By: 
Name: M. SCOTT O'ZUNG
Its: VP

**COLUMBUS REALTY PARTNERS, LTD.,
a Texas limited partnership**

By: Columbus G.P., LLC,
a Texas limited liability company,
its general partner

By: 
Robert Shaw, President

ATR CORINTH PARTNERS, LLC
a TEXAS LIMITED LIABILITY
COMPANY


By: 
Name: FRANK M. LORAS
Its: Manager

Exhibit A

- a. Execute MOU: April 2017
- b. Execute Master Development Agreement: by October 2017
- c. Devco Marketing/Development Sign Erected: April 2017
- d. Complete Design Phase marketing materials: June 2017
- e. Land Use Entitlements: July - Oct 2017
 - 1. Property Rezoning (if needed)
 - 2. Amend CCR's (if needed)
 - 3. Platting and Site Plan revision (if needed)
- f. Commence Infrastructure Construction, only if required by Master Development Agreement: November 2017