

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this "Agreement"), dated the 9th day of March, 2021 (the "Effective Date"), is entered into by, between, among and for the benefit of the City of Bastrop, Texas, a home rule city (the "City"), and Continental Homes of Texas, L.P., a Texas limited partnership (the "Developer").

WHEREAS, the Developer desires that the City enter into negotiations related to a new development of an area located within the City's jurisdiction (the "Project"); and

WHEREAS, the Developer desires that a public improvement district ("PID") be created to help finance certain public improvements necessary to provide water, wastewater, drainage and roadway facilities and development amenities for the Property more particularly depicted in EXHIBIT A attached hereto (the "Property"); and

WHEREAS, a petition to create a PID on the Property pursuant to Chapter 372 of the Texas Local Government Code has been submitted to the City; and

WHEREAS, the City and the Developer desire to negotiate a development agreement to provide for terms and conditions related to the Project (the "Development Agreement"); and

WHEREAS, the City and the Developer recognize and agree that the City will incur fees and associated expenses and costs for professional services for work to negotiate, develop, draft, and consider various concepts and documents in connection with its consideration of the PID and Development Agreement, including but not limited to the following: appraisal, legal publications, notices, public hearing expenses, attorney's fees, assessment administrator fees and special consultant fees (collectively, the "Professional Services"); and

WHEREAS, the City and the Developer recognize and agree that the fees anticipated to be incurred by the City for Professional Services directly related to the Project cannot be recouped by the City through standard administrative or permit fees; and

WHEREAS, the City's engagement of professionals to perform the Professional Services and its participation in the undertakings described above are voluntary and of value to the Developer and the Developer desires to reimburse the City's fees and expenses related to the Professional Services.

NOW THEREFORE, in consideration of the mutual promises set forth in this Agreement, the City and the Developer agree as follows:

1. Recitals. The representations, covenants and recitations set forth in the foregoing recitals and in this Agreement are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this paragraph.

2. Developer Payment.

- (a) Delivery. Developer shall deliver, or shall have delivered, to the City the sum of \$26,000.00 upon the effective date of this Agreement, and shall deliver to the City an additional sum of \$100,000.00 upon the formation of the PID (the "**Developer Payment**") to pay for the Professional Services and the related expenses incurred by the City.
- (b) Invoices. Fees for all Professional Services to be covered by the Developer Payment shall be evidenced by monthly invoices that describe the work performed by date and time entries (copies of which invoices shall be provided to Developer at least 10 days before they are paid).
- (c) Segregation of Funds. The Developer Payment shall be deposited in a segregated account and not be commingled with any other City funds.
- (d) Replenishment of Funds. If the cost of Professional Services exceed the Developer Payment, the City shall notify the Developer in writing and the Developer may elect to: (i) make one or more additional payment(s) of \$20,000.00 each within thirty (30) days of such written request and such additional payment will be deposited by the City and utilized in the same manner described above, or (ii) negotiate in good faith to amend this Agreement to provide for a reasonable amount of additional payment by Developer.
- (e) Non-contingent. The payment(s) made by the Developer under this Agreement are not contingent upon any outcome of the negotiations between the City and the Developer.
- (f) Non-inclusivity. The Developer Payment is in addition to, not instead of, standard, generally-applicable administrative or permit fees required by ordinance for City consideration and approval of development approvals. Nothing herein relieves the Developer from the obligation to remit payment of applicable administrative and permit fees for authorizations sought from the City.

3. Termination.

- (a) Means. This Agreement may be terminated by either party with or without cause upon delivering to the other party written notice of termination. Unless earlier terminated by Developer or the City, this Agreement shall automatically terminate when the City has created the PID and the initial series of PID Bonds have been issued by the entity designated to issue such bonds.

(b) Stop Work. Upon termination of this Agreement for any reason, the City shall take all reasonable steps necessary to terminate the accrual of costs to the Developer.

(c) Refund. Upon termination of this Agreement for any reason, any balance of the Developer Payment and any balance of any additional payment(s) made by Developer under this Agreement that exceed the City's fees, costs and expenses incurred as of termination shall be returned to Developer.

4. Relationship. Nothing in this Agreement creates a relationship between the Developer and the City's Professional Services providers. Furthermore, this Agreement does not grant the Developer access to any privileged or confidential data provided to the City by the City's Professional Services providers.

5. Entire Agreement. This Agreement constitutes the entire agreement between the Parties regarding Professional Services.

6. Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed given upon delivery by a nationally recognized private service (e.g., FedEx or UPS) to the following respective addresses of the parties:

To the City: City of Bastrop
 Bastrop City Hall
 1311 Chestnut Street
 Bastrop, TX 78602

With a copy to: Alan Bojorquez
 Bojorquez Law Firm, PC
 11675 Jollyville Rd., Ste 300
 Austin, TX 78759
 Alan@TexasMunicipalLawyers.com

To the Developer: Continental Homes of Texas, L.P.
 Attn: Adib Khoury
 10700 Pecan Park Blvd, 4th Floor
 Austin, TX 78750
 ARKhoury@drhorton.com

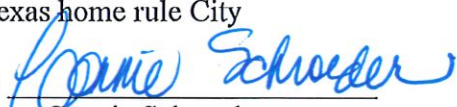
With a copy to:

Talley J. Williams
221 W. 6th Street, Ste 1300
Austin, Texas 78751
TWilliams@mwswtexas.com

EXECUTED in multiple counterparts, each of which shall constitute an original, to be effective upon the date of execution by both parties.


CITY:

CITY OF BASTROP,
a Texas home rule City

By: 
Name: Connie Schroeder
Its: Mayor

Date: 03/24/2021

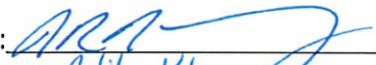
ATTEST:

By: 
VP Ann Franklin, City Secretary VP
Victoria Bencik Deputy

OWNER:

Continental Homes of Texas, L.P.,
a Texas limited partnership

By: CHTEX of Texas, Inc.,
a Delaware corporation
Its General Partner

By: 
Name: Adib Khayyat
Title: Assistant Secretary

Date: March 1st, 2020

EXHIBIT A
PROPERTY

