

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

**FOURTH AMENDMENT TO
DEVELOPMENT AGREEMENT FOR
THE SHADOWGLEN SUBDIVISION**

THIS FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT FOR THE SHADOWGLEN SUBDIVISION (this “Fourth Amendment”) is dated effective this ____ day of _____, 2023 and is entered into between THE CITY OF MANOR, TEXAS, a Texas home-rule municipal corporation (“City”); and COTTONWOOD HOLDINGS, LTD., a Texas limited partnership (“Cottonwood”).

RECITALS

A. The City, Cottonwood, 2010 SHADOWGLEN, LLC, a Texas limited liability company (“2010 ShadowGlen”), TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2, a Texas political subdivision governed by Chapters 49 and 54 of the Texas Water Code (“Travis County MUD No. 2”); WILBARGER CREEK MUNICIPAL UTILITY DISTRICT NO. 1, a Texas political subdivision governed by Chapters 49 and 54 of the Texas Water Code (“Wilbarger Creek MUD No. 1”); and WILBARGER CREEK MUNICIPAL UTILITY DISTRICT NO. 2, a Texas political subdivision governed by Chapters 49 and 54 of the Texas Water Code (“Wilbarger Creek MUD No. 2”) previously entered into that certain Development Agreement for the ShadowGlen Subdivision (the “Development Agreement”) dated effective January 10, 2011 (as between the City and the Developer) and a Memorandum of Agreement was recorded as Document No. 2012158027 in the Official Public Records of Travis County, Texas giving notice of the Development Agreement and its terms.

B. Pursuant to that certain Assignment and Assumption of Development Agreement dated December 21, 2012, 2010 ShadowGlen, assigned its interest in the Development Agreement to SG LAND HOLDINGS LLC, a Delaware limited liability company (“SGLH”) (the “SGLH Assignment”).

C. Pursuant to that certain Addendum to Development Agreement for the ShadowGlen Subdivision dated May 21, 2014 by and between the City and Cottonwood (the “ROW Addendum”), the Development Agreement was supplemented to provide for certain provisions related to the dedication of right-of-way and construction of an extension of Hill Lane to Lexington Street.

D. Pursuant to that certain Addendum to Development Agreement for the ShadowGlen Subdivision (Phase 3 Property) dated March 7, 2018 by and between the City and SGLH and recorded as Document No. 2018046212 in the Official Public Records of Travis County, Texas (the “Phase 3 Addendum”), the Development Agreement was modified to amend certain development and parkland dedication requirements with respect to the “Phase 3 Property”, as defined in the Phase 3 Addendum, and to update the Approved Land Use Chart accordingly.

E. The Development Agreement was subsequently amended by that certain First Amendment to the Development Agreement for the ShadowGlen Subdivision dated effective March 4, 2020 and recorded as Document No. 2020135290 in the Official Public Records of Travis County, Texas (the “First Amendment”), that certain Second Amendment to the Development Agreement for the ShadowGlen Subdivision dated effective July 2, 2020 and recorded as Document No. 2020244905 in the Official Public Records of Travis County, Texas (the “Second Amendment”), and that certain Third Amendment to the Development Agreement for the ShadowGlen Subdivision dated effective July 7, 2021 recorded as Document No. 2021267279 in the Official Public Records of Travis County, Texas (the “Third Amendment”).

F. Pursuant to that certain Partial Assignment and Assumption of Development Agreement dated August 14, 2020 which was recorded as Document No. 2020155115 in the Official Public Records of Travis County, Texas, SGLH assigned a portion of its interest in the Development Agreement to MERITAGE HOMES OF TEXAS, LLC, an Arizona limited liability company (“Meritage”) (the “Meritage Assignment”). The Development Agreement, as assigned and modified by the SGLH Assignment, the ROW Addendum, the Phase 3 Addendum, the Meritage Assignment, the First Amendment, the Second Amendment, and the Third Amendment is referred to in this Fourth Amendment as the “Agreement”.

G. As provided for in the Third Amendment, if an amendment pertains to less than all of the Developer parties and does not modify the obligations in the Agreement as to the remaining Developer parties, then the Agreement may be modified or amended by joint action of only (a) the City, (b) the MUDs, and (c) the Developer parties subject to the modification or amendment at the time of such modification or amendment (as defined in the Third Amendment).

H. Cottonwood, as the sole owner of Parcel W-13A (the “NB 13A Parcel”) and Parcel W-13B Parcel (“Multifamily 13B Parcel”) (collectively, the “Cottonwood 13 Parcels”) hereby desires to modify and amend the Agreement solely with respect to the Cottonwood 13 Parcels, as more particularly set forth in this Fourth Amendment. The Cottonwood 13 Parcels are not included within Travis County MUD No.2, Wilbarger Creek MUD No.1, or Wilbarger Creek MUD No.2 (collectively, the “MUDs”).

J. The Cottonwood 13 Parcels are considered a portion of the PUD Property.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are incorporated herein and made a part of this Fourth Amendment to the same extent as if set forth herein in full.
2. **Capitalized Terms.** All capitalized terms in this Fourth Amendment shall have the same meanings as in the Agreement unless expressly provided otherwise herein.
3. **Agreements as to the Cottonwood 13 Parcels.** To honor the intent of the Development Agreement, Cottonwood hereby agrees to include no less than 7,000 square feet of

space designated for Neighborhood Business on the ground floor of the building(s) constructed on the Cottonwood 13 Parcels (“NB Square Footage Requirement”). It is currently intended that the neighborhood business use will be located along Lexington within the NB 13A Parcel; provided, however until the building(s) are designed and constructed, it is unknown if any of the neighborhood business use will carry over to the Multifamily 13B Parcel. As a result, the Parties hereby agree as follows:

- (a) Cottonwood’s satisfaction of the NB Square Footage Requirement shall satisfy the intent of the Development Agreement that the NB-13A Parcel is used for Neighborhood Business regardless of the exact location of neighborhood business use within the Cottonwood 13 Parcels.
- (b) All development within the Multifamily 13B Parcel shall comply with the “MF-2” requirements established in the City of Manor Code of Ordinances, including but not limited to, the right to have density of up to 25 units an acre.
- (c) The Cottonwood 13 Parcels shall be deemed one parcel for purposes of calculating density of the multifamily use within the Cottonwood 13 Parcels. For example, if 150 units would be allowed within the NB 13A Parcel and 100 multifamily units would be allowed within the Multifamily 13B Parcel, Cottonwood shall be allowed 250 units within the Cottonwood 13 Parcels, so long as the NB Square Footage Requirement has been satisfied.

4. **Ratification of Agreement/Conflict**. All terms and conditions of the Agreement are hereby ratified and affirmed, as modified by this Fourth Amendment. To the extent there is any inconsistency between the Agreement and this Fourth Amendment, the provisions of this Fourth Amendment shall control.

5. **No Waiver**. No Party’s execution of this Fourth Amendment shall (a) constitute a waiver of any of its rights and remedies under the Agreement or at law with respect to any other Party’s obligations under the Agreement or (b) be construed as a bar to any subsequent enforcement of any of its rights or remedies against any other Party.

6. **Governing Law**. This Fourth Amendment shall be construed and enforced in accordance with the laws of the State of Texas.

7. **Entire Agreement; Binding Effect**. This Fourth Amendment sets forth the entire understanding of the Parties and supersedes all prior agreements and understandings, whether written or oral, with respect to the subject matter hereof. The Parties hereto agree and understand that this Fourth Amendment shall be binding on them and their successors and permitted assigns.

8. **Counterparts**. This Fourth Amendment may be executed in multiple counterparts, each of which will be deemed an original, and all of which will constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Fourth Amendment to be effective as of the date first written above.

[SIGNATURE PAGES FOLLOW]

DRAFT

**COUNTERPART SIGNATURE PAGE TO
FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT FOR THE
SHADOWGLEN SUBDIVISION**

CITY:

CITY OF MANOR, TEXAS, a Texas home-rule
municipal corporation

By: _____
Dr. Christopher Harvey, Mayor

Attest:

By: _____
Lluvia T. Almaraz, City Secretary

Approved as to form:

By: _____
Veronica Rivera, Assistant City Attorney

STATE OF TEXAS

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COUNTY OF TRAVIS

This instrument was acknowledged before me on the _____ day of _____, 2023, by Dr. Christopher Harvey, Mayor of THE CITY OF MANOR, TEXAS, a Texas home-rule municipal corporation, on behalf of said municipal corporation.

[S E A L]

Notary Public, State of Texas

**COUNTERPART SIGNATURE PAGE TO
FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT FOR THE
SHADOWGLEN SUBDIVISION**

COTTONWOOD:

COTTONWOOD HOLDINGS LTD., a Texas limited partnership

By: Cottonwood General Partner, L.C., a Texas limited liability company, its General Partner

By: _____
Name: _____
Title: _____

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This instrument was acknowledged before me on the _____ day of _____, 2023, by _____, _____ of Cottonwood General Partner, L.C., a Texas limited liability company, General Partner of Cottonwood Holdings, Ltd., a Texas limited partnership, on behalf of said limited liability company and limited partnership.

[S E A L]

Notary Public, State of Texas