

FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT

This Fourth Amendment to Development Agreement under Section 43.035, Texas Local Government Code (“**Fourth Amendment**”) is dated effective _____, 2024 (the “**Fourth Amendment Effective Date**”) and is entered into by and between the **CITY OF MANOR, TEXAS**, a Texas home rule municipal corporation (the “**City**”) and **JEFFERSON TRIANGLE MARINE, LP**, a Texas limited partnership (the “**Developer**”). The City and the Developer are sometimes referred to herein as a “**Party**” and collectively as the “**Parties.**”

RECITALS:

WHEREAS, the City and Developer previously entered into that certain Development Agreement Under Section 43.035, Texas Local Government Code dated effective September 20, 2017 and recorded as Document No. 2017197857 of the Official Public Records of Travis County, Texas (the “**Original Agreement**”) for that certain Property (as defined therein) located in the City of Manor, Travis County, Texas, as more particularly described in the Agreement; that First Amendment to Development Agreement Under Section 43.035, Texas Local Government Code dated effective December 16, 2020 and recorded as Document No. 2020247239 of the Official Public Records of Travis County, Texas (the “**First Amendment**”); that Second Amendment to Development Agreement Under Section 43.035, Texas Local Government Code dated effective August 3, 2022 and recorded as Document No. 2023027571 of the Official Public Records of Travis County, Texas (the “**Second Amendment**”); and that Third Amendment to Development Agreement Under Section 43.035, Texas Local Government Code dated effective September 6, 2023 and recorded as Document No. 2023104207 of the Official Public Records of Travis County, Texas (the “**Third Amendment**”) (collectively, the “**Agreement**”);

WHEREAS, the Developer is seeking reimbursement from the City for the offsite waterline Developer is constructing if oversizing of the offsite waterline is requested by the City; and

WHEREAS, the Developer and the City desire to modify and amend the Agreement in certain respects as more particularly set forth in this Fourth Amendment including providing for the possible oversizing of the offsite waterline.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer agree as follows:

AGREEMENT:

Section 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 fully set forth herein.

Section 2. Capitalized Terms. All capitalized terms in this Fourth Amendment shall have the same meanings as in the Agreement unless expressly provided otherwise herein.

Section 3. Oversizing of Waterline.

(a) City, at its discretion, may require the oversizing of the offsite waterline to serve the Property, which will include related facilities and infrastructure for the City to serve the Property with water when developed (the “Waterline Project”). City must exercise this right during or before plan review. The City may exercise this right before or after the Developer has submitted design plans for the Waterline Project if such request by the City does not materially impact Developer’s construction schedule and costs. Developer will be responsible for the costs associated with providing the appropriately sized waterline to the Property consisting of a twelve-inch (12”) waterline and City will be responsible for the costs associated with any oversizing required by the City up to a sixteen-inch (16”) waterline. The City shall reimburse Developer for the oversizing cost by paying Developer a lump sum cost within thirty (30) days after the completion and acceptance of the Waterline Project.

(b) If the City requires the Waterline Project to be oversized, the construction contract for the Waterline Project will be bid (publicly or privately, as appropriate) with alternate bids being required for a waterline sized to serve the Property as required by the City’s Code of Ordinances and applicable regulations (“Alternate #1”) and the larger-sized waterline required by the City (“Alternate #2”), together with all equipment and related facilities and structures shown on the City approved plans and specifications for the Waterline Project. Prior to bidding, the Developer must provide the City Engineer with a copy of the documents soliciting the bids. Within fifteen (15) business days, the City Engineer will review the description of the utility infrastructure for compliance with this Agreement and notify the Developer’s Engineer of any corrections to be made.

(c) After bids are received, the Developer’s engineer, (the “Developer’s Engineer”) will provide the City Engineer and the City’s purchasing agent with copies of the bids. Within ten (10) business days of receipt of the bids, the City Engineer shall evaluate the alternate bids to determine whether the bids are fair and balanced and will notify the Developer’s Engineer and the purchasing agent that (i) the bids are approved; or (ii) the bids are rejected due to being unbalanced or skewed. If the City Engineer rejects the bids, the Developer’s Engineer will cause the bids to be corrected and resubmitted to the City Engineer. The City Engineer will review the corrected bids and either approve the bids or reject the bids and seek additional corrections in accordance with the procedures set forth in this Section 3, or submit the bid to the City Council for approval.

(d) The Oversizing Costs will be the difference between the dollar amount of the approved bid for Alternate #1 and the dollar amount of the approved bid for Alternate #2; provided that all such sums and amounts have been paid by Developer and are reasonable, necessary and documented to and approved by the City Engineer.

(e) Any change orders related to the oversizing of the Waterline Project will be subject to approval by the City and the Developer before work contemplated by the change order begins unless the change order is required by an emergency. Neither the City nor the Developer will unreasonably condition, withhold or delay its approval of any proposed change order. If any change order changes the contract price, the Developer Engineer will promptly update the budget and provide a copy of the update to the City and the Developer. The City shall be responsible for its pro rata share of the increase in contract price caused by an approved change order that impacts

the oversizing of the Waterline Project and shall include in the lump sum amount the City pays the Developer within thirty (30) days after the completion and acceptance of the Waterline Project.

Section 4. Ratification of Agreement/Conflict. Except as expressly amended hereby, the Agreement and all rights and obligations created thereby or thereunder are in all respects ratified and confirmed and remain in full force and effect. Where any section, subsection or clause of the Agreement is modified or deleted by this Fourth Amendment, any unaltered provision of such section, subsection or clause of the Agreement shall remain in full force and effect. However, where any provision of this Fourth Amendment conflicts or is inconsistent with the Agreement, the provision of this Fourth Amendment shall control.

Section 5. No Waiver. Neither City's nor Developer'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 the 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 the other party.

Section 6. Governing Law. This Fourth Amendment shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Travis County, Texas. Venue shall lie exclusively in Travis County, Texas.

Section 7. Entire Agreement. This Fourth Amendment, together with any exhibits attached hereto, and the Agreement, as amended by this Fourth Amendment, constitute the entire agreement between the Parties with respect to the subject matter stated therein, supersedes all prior agreements relating to such subject matter and may not be amended except by a writing signed by the Parties and dated subsequent to the date hereof. The Parties hereto agree and understand that this Fourth Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, heirs, successors and assigns.

Section 8. Covenant Running with the Land. The Agreement, as amended by this Fourth Amendment, shall continue to constitute a binding covenant on the Property (as defined and detailed in the Agreement) and shall run with the land. A copy of this Fourth Amendment shall be recorded in the Official Public Records of Travis County, Texas. The Owner and the City acknowledge and agree that this Fourth Amendment is binding upon the City and the Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Fourth Amendment.

Section 9. Captions. The captions preceding the text of each section and paragraph hereof, if any, are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Fourth Amendment.

Section 10. Interpretation. This Fourth Amendment has been jointly negotiated by the Parties and shall not be construed against a party because that Party may have primarily assumed responsibility for the drafting of this Fourth Amendment.

Section 11. Authority. Each party hereto warrants that each has the full legal authority to execute and deliver this Fourth Amendment. In addition, the individual who executes this Fourth

Amendment on behalf of each party hereto is authorized to act for and on behalf of such party and to bind such party to the terms and provisions hereof.

Section 12. Severability. If any provision of this Fourth Amendment shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable, unless enforcement of this Fourth Amendment as so invalidated would be unreasonable or grossly inequitable under the circumstances or would frustrate the purpose of this Fourth Amendment.

Section 13. Anti-Boycott Verification. To the extent this Fourth Amendment constitutes a contract for goods or services within the meaning of Section 2271.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2271 of the Texas Government Code, and subject to applicable Federal law, Developer represents that neither Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer (i) boycotts Israel or (ii) will boycott Israel through the term of this Fourth Amendment. The terms “boycotts Israel” and “boycott Israel” as used in this paragraph have the meanings assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code, as amended.

Section 14. Iran, Sudan and Foreign Terrorist Organizations. To the extent this Fourth Amendment constitute a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Developer represents that Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

Section 15. Anti-Boycott Verification – Energy Companies. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Fourth Amendment. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, and to the extent such Section is not inconsistent with a governmental entity’s constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds. As used in the foregoing verification, “boycott energy company” means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by the preceding statement in (A).

Section 16. Anti-Discrimination Verification – Firearm Entities and Firearm Trade Associations. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association

during the term of this Fourth Amendment. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” means: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; but does not include (a) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; or (b) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Section 17. Counterparts. This Fourth Amendment may be executed in multiple counterparts, each of which will be deemed original, and all of which will constitute one and the same agreement. Each such executed copy shall have the full force and effect of an original executed instrument.

[signature pages follow]

EXECUTED in multiple originals, and in full force and effect as of the Fourth Amendment Effective Date.

CITY:

CITY OF MANOR, TEXAS,
a Texas municipal corporation

By: _____
Dr. Christopher Harvey, Mayor

Attest:

By: _____
Lluvia T. Almaraz, City Secretary

Approved as to form:

By: _____
Name: Veronica Rivera
Title: Assistant City Attorney

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this ____ day of _____, 2024, by Dr. Christopher Harvey, Mayor of the City of Manor, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

Notary Public, State of Texas

[signatures continue on next page]

DEVELOPER:
Jefferson Triangle Marine, LP
a Texas limited partnership

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this ____ day of _____, 2024,
by _____, _____ of Jefferson Triangle Marine, LP, a
Texas limited partnership, on behalf of said partnership.

(SEAL)

Notary Public, State of Texas

AFTER RECORDING RETURN TO:

City of Manor, Texas
Attn: City Secretary
105 E. Eggleston Street
Manor, Texas 78653