

FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT
(Butler/East Hwy 290 & 13100 N. FM 973)

This FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT (the "Fourth Amendment"), is entered into as of the ____ day of _____, 2024 (the "Fourth Amendment Effective Date"), by and between **13100 FM 973, INC.**, a Texas corporation ("Owner") and the **CITY OF MANOR, TEXAS**, a home rule municipality located in Travis County, Texas (the "City"). The City and Owner are herein sometimes referred to individually as a "Party" and collectively as the "Parties". Capitalized terms used herein and not otherwise defined herein shall have those meanings ascribed to them in the Agreement (defined below).

RECITALS

A. WHEREAS, the City, Butler Family Partnership, a Texas limited partnership ("Butler") and Owner entered into that certain Development Agreement dated June 15, 2022 and, that certain First Amendment to Development Agreement dated April 19, 2023, relating to the development and improvement of certain parcels of land located within the municipal boundaries of the City consisting of approximately 95.16 acres (the "Property") as a mixed-use project, as more particularly described therein.

B. WHEREAS, the portion of the Property owned by Butler and defined as "Parcel A" in the Agreement was conveyed to GCP XXXI, LTD., a Texas limited partnership and GCP XXXII, LTD., a Texas limited partnership (together, "Gencap").

C. WHEREAS, the City, Butler, Gencap and Owner entered into that certain Second Amendment to Development Agreement dated June 7, 2023.

D. WHEREAS, the City and Owner entered into that certain Third Amendment to Development Agreement to Development Agreement dated December 20, 2023 (the Development Agreement, as amended as described herein is hereinafter referred to as the "Agreement").

E. WHEREAS, Section 7.6(b) of the Agreement provides that to the extent a Party requests that the Agreement be further amended and such amendment pertains to less than all of the current landowners of the Property and does not modify the obligations in the Agreement as to the remaining landowners of the Property, then the Agreement may be modified or amended by joint action of only (a) the City, and (b) the landowners expressly subject to the modification or amendment at the time of such modification or amendment.

F. WHEREAS, Owner is the owner in fee simple of all of the Property, save and except Parcel A, which is owned by Gencap (the "Shopping Center").

G. WHEREAS, pursuant to the rights set forth in Section 7.6(b) of the Agreement, the Parties now desire to amend certain provisions of the Agreement with respect to the Shopping Center as more particularly set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and the City 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. Exhibit C – Code Modifications. Exhibit "C" to the Agreement is hereby amended as to the Shopping Center (and portions thereof) to incorporate the additional Code Modifications described in Exhibit "C" attached hereto.

3. Exhibit D – Conceptual Lot Layout. Exhibit "D" attached hereto is hereby added to the Agreement.

4. No Parking. No parking shall be allowed along the Fire Service/Access Drive or Access Drives A-F, which drives are illustrated on Exhibit "D" attached hereto. Furthermore, the curbs on the above-referenced drives shall be painted to indicate that no parking is allowed. In addition, no parking will be permitted on Manor Crossing Boulevard and Manor Commerce Boulevard.

5. No Connectivity Required. Unless mutually agreed to by the applicable owners, the City shall not require additional connectivity (i) between Lots 9-13 since Access Drive E along the west side of Lots 9-13 has been constructed or (ii) between Lots 3-8 since Access Drive F along the north side of Lots 3-8 has been constructed.

6. Miscellaneous.

(a) 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 provisions of this Fourth Amendment shall control.

(b) This Fourth Amendment (i) shall be governed by, construed under and enforced in accordance with the laws of the State of Texas; (ii) constitutes a covenant that runs with the Property and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns; (iii) may be modified or amended only in writing by each Party hereto; and (iv) embodies the entire Fourth Amendment and understanding between the Parties with respect to the subject matter hereof and supersedes all prior agreements relating to such subject matter.

(c) This Fourth Amendment may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

7. No Waiver. Neither City's nor Owner'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.

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

9. Signatory Warranty. The signatories to this Fourth Amendment warrant that each has the authority to enter into this Fourth Amendment on behalf of the organization for which such signatory has executed this Fourth Amendment.

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.

11. 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. The Parties hereto agree and understand that no oral agreements or understandings shall be binding unless reduced to a writing which is signed by the Parties and dated subsequent to the date hereof. The Parties hereto agree and understand that this Fourth Amendment shall be binding on them, their personal representatives, heirs, successors and assigns.

12. 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 Third Amendment.

13. Severability. If any provision of this Third 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 Third Amendment as so invalidated would be unreasonable or grossly inequitable under the circumstances or would frustrate the purpose of this Third Amendment.

14. Anti-Boycott Verification. To the extent this Third Amendment constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Owner represents that neither Owner nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Owner (i) boycotts Israel, or (ii) will boycott Israel through the term of this Third Amendment. The terms "boycotts Israel" or "boycott Israel" as used in this paragraph shall have the meanings ascribed to the "boycott Israel" in Section 808.001 of the Texas Government Code, as amended.

15. Iran, Sudan and Foreign Terrorist Organizations. To the extent this Third Amendment constitutes 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 law, Owner represents that neither Owner nor any wholly owned subsidiary, majority-owned subsidiary, parent

company or affiliate of Owner is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201 or 2252.153 of the Texas Government Code.

16. Anti-Boycott Verification – Energy Companies. Owner 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 Third 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 or state law; or (B) does business with a company described in the preceding statement in (A).

17. Anti-Discrimination Verification – Firearm Entities and Firearm Trade Associations. Owner 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 Third 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 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, 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.

[Signature page(s) to 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 home-rule municipal corporation

By: _____
Name: Dr. Christopher Harvey
Title: Mayor

Attest:

Lluvia Almarez, City Secretary

STATE OF TEXAS §
COUNTY OF TRAVIS §

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

Notary Public, State of Texas

My Commission Expires: _____

[NOTARIAL SEAL]

OWNER:

13100 FM 973, INC.,
a Texas corporation

By: _____
Edward S. Butler, President

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the _____ day of _____, 2024, by Edward S. Butler, the President of 13100 FM 973, Inc., a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

My Commission Expires: _____

[NOTARIAL SEAL]

Exhibit C

*Code Modifications applicable to Lots 3-8
and HEB frontage along HWY 290 (Lot 1, Block B)*

- **Landscape Buffer and Sidewalk:**
 - Landscape buffer shall be 8' from HWY 290 right of way. A 5' sidewalk shall be located immediately adjacent to the landscape buffer.

Exhibit D

