

THIRD AMENDMENT TO
AD VALOREM TAX REBATE AGREEMENT
BETWEEN
THE CITY OF PORT LAVACA, TEXAS
AND
HO ENTERPRISES, LLC

This Third Amendment to the Ad Valorem Tax Rebate Agreement (“Amendment”) is entered into between the City of Port Lavaca, Texas, a home rule Texas municipality located in Calhoun County, Texas (“City”) and Ho Enterprises, LLC, a Texas limited liability company (“Developer”). City and Developer are individually referred to as “Party” and collectively referred to as “Parties.”

RECITALS

WHEREAS, on July 11, 2018, City and Developer entered into a Chapter 380 Agreement titled Ad Valorem Tax Rebate Agreement, as subsequently amended on [REDACTED], 2020 and May 09, 2022 (as amended, “Agreement”), in which the City provides incentives to the Developer for the development of Property (as defined in the Agreement) as a residential subdivision in substantial conformity to the City’s Code of Ordinances; and

WHEREAS, the Final plat for the Property was filed on July 7, 2020 and is recorded under Slide 635 A&B, Plat Records of Calhoun County, Texas (“Plat”); and

WHEREAS, Section 6.5.5 of the Agreement presently provides that the Developer may specifically appear before City Council at least one (1) year following the filing of the Final Plat to request the replat of any such lot designated for a duplex unit to a single family unit lot; and

WHEREAS, the Developer has marketed the duplex units to public sector employees; and

WHEREAS, the Developer appeared before City Council on June 13, 2022 and demonstrated to the satisfaction of Council that the market for a single family home is more marketable; and

WHEREAS, the Parties desire to amend certain provisions in the Agreement;

NOW, THEREFORE, in consideration of the mutual benefits described in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer agree to this Second Amendment as follows:

1. The Parties hereby acknowledge and ratify the Recitals herein and in the Agreement. For purposes of this Amendment, any capitalized terms which are not otherwise defined herein, shall have the same meaning as set forth in the Agreement.

2. The City hereby approves for the Developer to move forward, in compliance with the Subdivision Ordinance, with replating Duplex Unit Lots 1 through 16 and Duplex Unit Lots 63 through 76 (30 lots) such that these will be designated for single family homes. Said replat will comply with all building setback requirements for single family homes per the Subdivision Ordinance.

3. The City hereby waives any requirement with respect to sales prices for the single-family residential units and instead established the following requirements:

a) at least 15 of Lots 1 through 16 and Lots 63 through 76 shall be homes built by Century Complete Homes with a square footage of no more than 1430;

b) no more than 15 of Lots 1 through 16 and Lots 63 through 76 shall be homes built by Century Complete Homes with a square footage of no more than 1815;

4. Except as otherwise amended herein, the remaining provisions in the Agreement remain unmodified and in full force and effect. If any term or provision of the Agreement is contradictory to, or inconsistent with, any term or provision of this Amendment, then the terms and provisions of this Amendment shall in all events control, and such contradictory or inconsistent term or provision of the Agreement shall be null and void.

4. This Amendment may be executed in multiple counterparts, each of which shall be deemed to be an original. This Amendment may be executed via facsimile or electronic mail and the facsimile signature or electronic delivery of such signature of any party shall be considered valid, binding and effective for all purposes.

[Signature and Notary Page to Follow]

EXECUTED to be effective _____, 2022.

DEVELOPER:

CITY:

Ho Enterprises, LLC

City of Port Lavaca, Texas

By: _____
Eric Ho, President

By: _____
Jack Whitlow, Mayor

STATE OF TEXAS §
 §
COUNTY OF CALHOUN §

Before me, the undersigned authority, on this day personally appeared Eric Ho, President of Ho Enterprises, LLC, who is personally known to me (or proved to me on the oath of _____ or through _____) to be the person whose name is subscribed to the foregoing instrument, and who has acknowledged to me that he executed the instrument for the purposes and consideration therein expressed.

Given under my hand and seal of office this ____ day of _____, 2022.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF CALHOUN §

Before me, the undersigned authority, on this day personally appeared Jack Whitlow, Mayor of the City of Port Lavaca, Texas, who is personally known to me (or proved to me on the oath of _____ or through _____) to be the person whose name is subscribed to the foregoing instrument, and who has acknowledged to me that he executed the instrument for the purposes and consideration therein expressed.

Given under my hand and seal of office this ____ day of _____, 2022.

Notary Public, State of Texas