

FIRST AMENDMENT TO THE WINFREY ESTATES DEVELOPMENT AGREEMENT

This First Amendment to the Winfrey Estates Development Agreement (this “First Amendment”) is entered into effective as of _____, 202_, by and between CHTA Development, Inc., a Texas corporation (the “Developer”) and the City of Tomball, Texas (the “City”), a municipal corporation of the State of Texas. The Developer and the City may be referred to collectively herein as the “Parties,” and each may be referred to individually as a “Party”.

RECITALS:

WHEREAS, on April 15, 2022, the City Council passed and approved a resolution creating the Winfrey Estates Public Improvement District (the “District”) covering approximately 34.4945 acres of land described by metes and bounds in said resolution (the “District Property”); and

WHEREAS, the District Property is being developed in accordance with that certain “Winfrey Estates Development Agreement,” executed by and between the Developer, and the City effective April 18, 2022 (the “Original Agreement”); and

WHEREAS, capitalized terms used in this First Amendment shall have the meanings given to them in this First Amendment or in the Original Agreement; and

WHEREAS, the Parties desire to amend the Original Agreement to allow consideration of the issuance and sale of PID Bonds upon completion of and issuance of Certificates of Occupancy for twenty (20) homes.

NOW THEREFORE, for and in consideration of the mutual promises, covenants, benefits, and obligations hereinafter set forth, the Parties hereby agree that the Original Agreement is amended as follows:

AGREEMENT:

1. Amendment: Section 3.02(c)(ix) is hereby amended and restated to read as follows:

“(ix) Twenty (20) homes must be completed and certificates of occupancy issued prior to the issuance of any PID Bonds.”

Sections 15.22, 15.23, 15.25, and 15.26 are hereby deleted and replaced with a new Section 15.22 as follows:

“15.22. Statutory Representations and Covenants. The Developer makes the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as amended (the ‘Government Code’). As used in such verifications, ‘affiliate’ means an entity that controls, is controlled by, or is under common control with the Developer within the meaning of Securities and Exchange Commission Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Notwithstanding anything contained herein, the representations and covenants contained in this Section shall survive termination of this Agreement until the statute of limitations has run.

“(a) Not a Sanctioned Company: The Developer represents that neither it nor any of its parent company, wholly-or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation

excludes the Developer and its respective parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

“(b) No Boycott of Israel: The Developer hereby verifies that it and its parent company, wholly-or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of the Agreement. As used in the foregoing verification, ‘boycott Israel’ has the meaning provided in Section 2271.001, Government Code.

“(c) No Discrimination Against Firearm Entities: 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 discriminate against a firearm entity or firearm trade association during the term of the Agreement. As used in the foregoing verification, ‘discriminate against a firearm entity or firearm trade association’ has the meaning provided in Section 2274.001(3), Government Code.

“(d) No Boycott of 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 the Agreement. As used in the foregoing verification, ‘boycott energy companies’ has the meaning provided in Section 2276.001(1), Government Code.”

2. Limited Amendment: Except as expressly amended by this First Amendment, all other terms and conditions of the Original Agreement shall remain in full force and effect. In the event of any inconsistency between any term or provision of the Original Agreement and any term or provision of this First Amendment, the terms and provisions of this First Amendment shall govern and control for all purposes and respects and the Original Agreement shall be deemed amended so as to be consistent herewith.

3. Capitalized Terms: Capitalized terms contained herein shall have the meanings given to them in the Original Agreement, unless otherwise specifically provided herein.

4. Counterparts: This First Amendment may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one instrument and agreement. A copy of an executed counterpart delivered by telecopy or PDF shall bind the Party executing that counterpart.

[Signature pages to follow]

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

THE DEVELOPER

CHTA Development, Inc.,
a Texas corporation

By: _____



Name: Eric Hymowitz

Title: President

[Signature page continues to the next page]

THE CITY

City of Tomball, Texas,
a municipal corporation

By: _____

Name: Lori Klein Quinn

Title: Mayor

ATTEST:

By: _____

Name: Tracy Garcia

Title: City Secretary