

**SECOND AMENDMENT TO THE AMENDED AND RESTATED WINFREY ESTATES
PUBLIC IMPROVEMENT DISTRICT REIMBURSEMENT AGREEMENT**

This Second Amendment to the Amended and Restated Winfrey Estates Public Improvement District Reimbursement Agreement (this “Second Amendment”) is entered into effective as of _____, 2024, 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, the Developer and the City entered into that certain Winfrey Estates Public Improvement District Reimbursement Agreement, dated effective as of October 17, 2022 (“Original Agreement”); and

WHEREAS, the Developer and the City entered into that certain Amended and Restated Winfrey Estates Public Improvement District Reimbursement Agreement, dated effective as of July 17, 2023 amending, restating and replacing the Original Agreement (the “Amended and Restated Agreement”); and

WHEREAS, the Developer and the City entered into that certain First Amendment to the Amended and Restated Winfrey Estates Public Improvement District Reimbursement Agreement, approved by Resolution of the City on March 4, 2024, to allow payments of certain Assessments received by the City to be paid to reimburse Public Improvement Costs to the Developer (the “First Amendment”); and

WHEREAS, the Parties desire to amend the Amended and Restated Agreement to allow payments due pursuant to the Reimbursement Agreement to be paid after certificates of occupancy have been issued for twenty (20) single family residences withing the District Property.

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

AGREEMENT:

1. Amendment: Section 7 of the Amended and Restated Agreement, is hereby amended and restated as follows:

“After the date hereof, payment of amounts due pursuant to this Reimbursement Agreement shall be after the completion of and issuance of certificates of occupancy for twenty (20) single family residences within the District Property and submittal of sufficient documentation as reasonably determined by the City’s PID Administrator that reflect the Public Improvement Costs paid by Developer (a “Reimbursement Request”) in substantially the form attached hereto as Exhibit A as may be modified by the City’s PID administrator. Upon the issuance of Future Bonds, payment of the Public Improvement Costs shall be made pursuant to a Certificate for Payment as set forth in the applicable Indenture. Upon the issuance of Future Bonds, payment of the Public Improvement Costs shall be made pursuant to a Certificate for Payment as set forth in the applicable Indenture.”

Sections 30 through 34 of the Amended and Restated Agreement are hereby deleted and replaced with a new Section 30 as follows:

“30. 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 Second Amendment, all other terms and conditions of the Amended and Restated Agreement, as amended by the First Amendment, shall remain in full force and effect. In the event of any inconsistency between any term or provision of the Amended and Restated Agreement, as amended by the First Amendment, and any term or provision of this Second Amendment, the terms and provisions of this Second Amendment shall govern and control for all purposes and respects and the Amended and Restated Agreement, and First Amendment 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 Amended and Restated Agreement or in the Winfrey Estates Public Improvement District Service And Assessment Plan, unless otherwise specifically provided herein.

4. Counterparts: This Second 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 Second 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