



**FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT
BY AND BETWEEN
CITY OF WESTON, AND
HONEY CREEK PARTNERS, L.P. AND WESTIN LAND LTD.**

**STATE OF TEXAS §
 §
COUNTY OF COLLIN §**

THIS FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT is made by and between the CITY OF WESTON, TEXAS a municipal corporation (the "Municipality") and HONEY CREEK PARTNERS, L.P. a Texas limited partnership, and WESTIN LAND LTD., a Texas limited partnership (collectively the "Owner") acting by and through their respective authorized representatives.

WITNESSETH:

WHEREAS, the Municipality and the Owner previously entered into that certain Development Agreement (the "original development Agreement") dated effective as of December 13, 2005, as amended by that certain First Amendment to Development Agreement (the "First Amendment") dated effective as of September 12, 2006, and that certain Second Amendment to Development Agreement (the "Second Amendment to Development Agreement") dated effective as of December 12, 2006 and that certain Third Amendment to Development Agreement (the Third Amendment to development Agreement") dated effective as of February 13, 2007 (with the original development Agreement as amended by the First, Second and Third Amendments to the Development Agreement being referred to herein as the "Agreement"); and

WHEREAS, the Municipality and Owner desire to amend certain of the terms and provisions of the Agreement as more particularly set forth herein;

NOW, THEREFORE, for and in consideration of the foregoing premises, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged to each and paid by the other the City and Owner mutually agree as follows:

1. Except to the extent otherwise expressly set forth herein, all capitalized terms shall have the identical meanings as those set forth in the Agreement.

2. Section 10.22 is hereby added to the Agreement to read as follows:

"Section 10.22. Wastewater Permit and Plant Construction.

(a) The Municipality agrees within thirty (30) business days after receipt a written request from the Owner to support in writing to the Texas Commission for

Environmental Quality ("TCEQ") the request of the Owner to obtain status in the pending wastewater permit hearing (State Office of Administrative Hearings ["SOAH"] Docket No. 582-06-2770/TCEQ Docket No. 2006-0199-MWD, Application for Wastewater Discharge Permit No. WQ0014602001). The Municipality further agrees not to oppose, either formally or informally, to the TCEQ and/or SOAH, any application of the Owner related to same.

(b) If the Owner obtains party status, the Owner, its affiliates, attorneys, officers, agents, employees and representatives shall not initiate any attacks against any protestants to the issuance of the wastewater permit but rather shall only provide necessary information in response to TCEQ inquiries.

(c) The Owner agrees to coordinate, or to cause its affiliates, attorneys, officers, agents, employees and representatives to coordinate, all of its activities regarding the wastewater permit and the proceedings before the TCEQ including any communications, with the designated legal counsel for the Municipality. The Municipality shall cause its legal counsel and representative to coordinate with and work with the Owner and its affiliates, attorneys, officers, agents, employees and representatives to complete the TCEQ proceeding in a timely manner.

(d) The parties agree that the Owner shall provide information and conduct any studies requested by TCEQ regarding the issuance of the wastewater permit at Owner's sole costs and expense, which shall be submitted to the designated Engineer of the Municipality (Helmberger or other engineer designated by the Municipality) (the "Designated Engineer") for review and approval (such review and approval subject to engineering industry standards) prior to submission by the Owner to the TCEQ. Such review by the Designated Engineer shall be completed, with written comments, and delivered to the Owner within ten (10) business days after receipt of such information and study from the Owner. In the event the Designated Engineer does not approve or concur with the information and/or study submitted by the Owner, the Owner shall cause such information and/or study to be revised to the reasonable satisfaction of the Designated Engineer. In the further event such information and/or study is not revised to the satisfaction of the Designated Engineer, the information and/or study shall not be submitted to the TCEQ. In that event, the Municipality shall cause a third engineer (the "Third Engineer") to review the submitted information and/or study and provide written comments to the Owner. If the Third Engineer does not approve or concur with the information and/or study as submitted by the Owner with or without revision, the Owner shall not submit such information and/or study to the TCEQ. The Owner shall pay the expense and cost of the Designated Engineer and the Third Engineer who perform such review using standard rates contained in the contract between the Municipality and such professional within ten (10) business days after receipt of an invoice for the same from the Municipality. In the event the Designated Engineer is an employee of the Municipality, the Owner shall reimburse the Municipality for the time and costs incurred by such person based on the compensation of such person.

(e) The Owner shall construct the wastewater plant in accordance with plans approved by the TCEQ (if approved), and the Municipality, which approval by the Municipality shall not unreasonably be withheld. The Municipality shall have the right to have such plans reviewed by its consultant(s), the cost of which shall be paid by the Owner within ten (10) business days after receipt of a written invoice for the same. The plans for the construction of the wastewater plant shall be submitted to the Municipality prior to commencement of the development of Phase I of the Parks of Honey Creek. The parties agree that the construction of the wastewater plant shall be concurrent with the development of Phase I of the Parks of Honey Creek. The parties further acknowledge and agree that the commencement of the development of Phase I of the Parks of Honey Creek shall be at the sole discretion of the Owner."

3. Article VIII Public Service Plan of the Development Agreement is hereby amended to add section 8.05 to read as follows:

"8.05 Plan for the Provision of Public Safety Services and City Administrative Costs.

(a) Notwithstanding anything to the contrary in this Agreement, the Owner shall pay the costs of a study to be prepared by a consultant (mutually approved by the parties) to determine the required fire-fighting services and the police and crime prevention and control services (the "Public Safety Services") originally contemplated by sections 8.02 and 8.03, but which shall also include the necessary personnel, equipment and facilities for Public Safety Services based on the projected growth of the Municipality. The Owner shall cause the study to be initiated by a consultant within thirty (30) business days after TCEQ approval of the permit for the wastewater treatment plant and completed within 120 days thereafter ("Public Safety Services Study"). The Owner may either pay the costs of such consultant directly to the consultant or reimburse the Municipality for such costs within ten (10) business days after receipt of an invoice for the same. In the event the parties are unable to mutually agree on such consultant, each party shall then select a consultant who will in turn select a third consultant to perform the study. All costs of such study and the selection of the consultants shall be paid by the Owner.

(b) The Municipality shall implement the Public Safety Services recommended by the Public Safety Services Study prior to the issuance of the first building permit for any residential dwelling within the Project. All costs of such Public Safety Services shall be paid by the Owner without reimbursement by the Municipality. The Public Safety Services shall include but shall not be limited to, the personnel; training of personnel; personnel compensation including overtime; equipment acquisition, repair and replacement; and land and building facilities acquisition, replacement and repair. The Owner shall pay such costs, including the annual costs of such services until such time as the Municipality takes assumes the Bonds or the Bonds are fully paid. The costs of such services to be paid by the Owner shall be reduced as the Municipality grows in areas beyond the Parks of Honey Creek so that the Owner shall only be obligated to pay its proportional share of such costs based on the area of development, population and demand for Public Safety Services.

(c) The Municipality shall provide such administrative services as necessary to conduct Municipality business. Owner agrees to reimburse the Municipality on a monthly basis for such administrative services in direct proportion to the impact of the development of the Property on such administrative services (*i.e.*, If the Municipality hires an employee to issue permits and twenty-five percent of said employee's time and responsibilities are reasonably related to the development, Owner shall reimburse the Municipality for twenty-five percent of the Municipality's cost in employing said employee). The Municipality shall provide Owner with documentation as requested to establish said proportion. In the event the parties are unable to agree on the reasonableness of said proportion, a mutually-agreed upon consultant shall audit the administrative services in question and make a recommendation. The Parties agree to abide by the consultant's recommendation. Owner agrees to pay the costs of such consultant."

4. Article VI of the Development Agreement is hereby amended by adding section 6.05 to read as follows:

"6.05 Connection to Regional Water System.

(a) In regard to sections 6.02(b) and section 6.03(b) and the agreement of the parties to "cooperate in securing a contract with NTMWD or an alternative source mutually agreeable to the Parties to secure treated water service and wastewater treatment services in amounts and at times currently anticipated to be necessary to meet the needs of the Project and the Municipality," the Owner agrees to pay the cost of buy-in or other fee charged for the Municipality to contract with and/or to join a regional water system including but not limited to North Texas Municipal Water District, the Collin/Grayson Municipal Water Alliance or other regional water system provider (the service provider to be mutually agreed to by the Parties or recommended by First Southwest or similar entity) that has the ability to provide long-term water and wastewater treatment needs for the Municipality, prior to the issuance of the first building permit for the first residential dwelling or structure within the Project (excluding the use of temporary structures as defined in the Development Agreement for the legal obligations associated with the operations of a Fresh Water Supply District or agricultural building but all other "for sale" structures would be included). The Owner and the Municipality shall jointly negotiate such contract prior to execution of a contract with the service provider.

(b) The Owner shall, at its cost, connect its water system (regardless of the type of water system) to the regional water system contracted with pursuant to section 6.05(a) above, on or before the earlier of: (i) issuance of a building permit for the 1,500th residential dwelling within the Project; or (ii) date of determination by the Municipality's engineer that the then-existing Municipality water system is inadequate to provide the water supply and meet the demands of the Municipality (whichever is earlier). Additional wells expanding the existing WWC. System are acceptable for system expansion to meet the needs of up to 1500 residential dwellings. Any dispute by the Owner with the determination of the Municipality's engineer shall be resolved with the following process: the parties will attempt to resolve the dispute by the mutual selection

of an engineer to resolve the dispute. If the parties are unable to agree on the selection of an engineer to resolve the dispute, then each party will appoint an engineer who will then mutually select a third engineer to resolve the dispute. All costs of such resolution process will be paid by the Owner.”

5. All signatories to this Fourth Amendment represent and warrant to the other signatories hereof but each is duly authorized and empowered to execute this Fourth Amendment on behalf of the entity that is a party to this Fourth Amendment.

6. This Fourth Amendment may be executed in any number of counterparts, each of which shall constitute one and the same instrument, and either party hereto may execute this Fourth Amendment by signing any such counterparts. In addition, each and all the parties hereto agree that facsimile signatures shall be sufficient to validly bind and obligate the parties hereunder.

EXECUTED on this 9th day of June, 2009.

CITY OF WESTON, TEXAS

By: [Signature]
J. Scott Morrissey, Mayor

APPROVED AS TO FORM:

By: [Signature]
City Attorney

STATE OF TEXAS §
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COUNTY OF COLLIN §

This instrument was acknowledged before me on June 9, 2009, by J. Scott Morrissey, Mayor of the City of Weston, a Texas municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, who acknowledged to me that he executed the same for the purposes and consideration and in the capacity therein expressed as the act and deed of said corporation.

[Signature]
Notary Public, State of Texas



EXECUTED the 18th day of June, 2009.

HONEY CREEK PARTNERS, L.P.,

a Texas limited partnership

By: Honey Creek Partners GP, Inc., general partner

By: _____

Jon Bayless
General Partner
President

STATE OF TEXAS

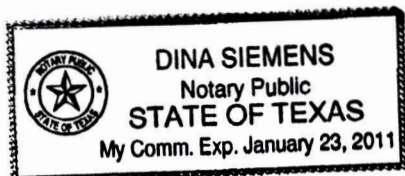
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COUNTY OF DALLAS

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as President of Honey Creek Partners GP, Inc., the
This instrument was acknowledged before me on June 18th, 2009, by Jon Bayless, General Partner of Honey Creek Partners, L.P., a Texas limited partnership, known to me to be the person and officer whose name is subscribed to the foregoing instrument, who acknowledged to me that he executed the same for the purposes and consideration and in the capacity therein expressed as the act and deed of said partnership. and corporation.



Dina Siemens

Notary Public, State of Texas

EXECUTED the 17th day of June, 2009.

WESTIN LAND LTD.

a Texas limited partnership

By: **Land Advisors, Ltd.**

a Texas limited partnership

Its General Partner

By: **Land Advisors Management, L.L.C.**

a Texas limited liability company

Its Sole General Partner

By: _____

~~D.O. Tomlin, III~~

v. President

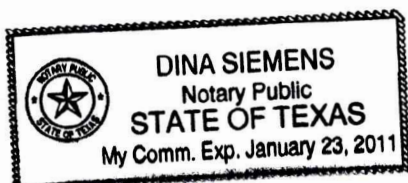
Roger Lindsey

STATE OF TEXAS

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COUNTY OF DALLAS

This instrument was acknowledged before me on June 17th, 2009, by Roger Lindsey, Vice ~~D.O. Tomlin, III~~, as President and Sole General Partner of Land Advisors Management, L.L.C., a Texas limited liability company, as General Partner of Land Advisors, Ltd., a Texas limited partnership, as General Partner of Westin land Ltd., a Texas limited partnership, on behalf of said partnership.



Dina Siemens
Notary Public, State of Texas

Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
08/13/2018 01:39:58 PM
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Stacey Kemp