

AMENDMENT TO DEVELOPMENT AND TRANSFER AGREEMENT

This Amendment to Development and Transfer Agreement (this “*Amendment*”), is entered into on December 6, 2016, (the “*Amendment Effective Date*”), by and among City of Carrollton, Texas, a Texas home rule municipality (“*City*”), and Arthur James, Inc., a Texas corporation (“*AJI*”). City and AJI are individually referred to herein as a “*Party*” and collectively referred to herein as “*Parties*.”

RECITALS

A. City and AJI executed and delivered that certain Development and Transfer Agreement dated effective as of July 13, 2016 (the “*Agreement*”).

B. The Parties hereto desire to amend certain terms and provisions of the Agreement as provided in this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. Amendment to Effective Date. Notwithstanding anything to the contrary contained in the Agreement, the definition of “Effective Date” in the Agreement shall be amended to mean December 9, 2016.

2. Defined Terms. Capitalized terms used in this Amendment and not otherwise defined herein shall have the meaning assigned to such terms in the Agreement.

3. Effective Date. The amendments set forth in this Amendment shall be effective as of the Amendment Effective Date except for any amendment that specifies a different effective date.

4. Construction Easement on McInnish Park. Paragraph 8b. of the Agreement is replaced in its entirety to read as follows:

City hereby grants, bargains, sells and conveys unto Developer, a non-exclusive, perpetual temporary construction easement on, over, across, along, under and through McInnish Park to permit the construction and development of the Developer Tract, provided; however, that the use of this construction easement shall be kept to a minimum, shall not unreasonably interfere with City’s use of McInnish Park, and that such area shall be restored by Developer to its original condition at no expense to City. The construction easement shall be for ingress and egress only for persons, vehicles, materials, machinery and equipment in, over, on, across, under and through such portions of the construction easement as are, and only to the extent, reasonably necessary for Developer to grade McInnish Park. Developer may file a memorandum of the easement in the Denton County Real Property Records so that legal notice of the easement is provided to all persons. Furthermore, Developer may require City to execute the memorandum of the easement in a mutually-acceptable form. This temporary

construction easement shall expire upon one and one-half (1½) years after the final approval of the grading of the City Property by Developer. The terms of this Section 8 shall survive the termination of this Agreement.

5. Effect of Amendment. This Amendment shall be effective only for the specific purposes set forth herein, and, except as modified by this Amendment, the terms, covenants and provisions of the Agreement are hereby ratified and confirmed and shall continue in full force and effect. On and after the Amendment Effective Date, the term “Agreement,” “hereof,” “herein,” “hereunder,” and terms of like import when used in the Agreement shall, except where the context otherwise requires, refer to the Agreement as amended by this Amendment.

6. Interpretation; Governing Law. Headings contained in this Amendment are for reference purposes only and shall not affect in any way the meaning or interpretation of this Amendment. When used in this Amendment, the word “including” shall mean “including without limitation.” References in this Amendment to specific sections and exhibits refer to sections, exhibits, schedules and attachments to this Amendment unless otherwise stated. All exhibits to this Amendment are incorporated herein for all purposes unless otherwise stated. Each Party had the benefit of legal representation or the opportunity to be represented by legal counsel, and any rule of construction or interpretation requiring this Amendment to be construed or interpreted against any Party shall not apply to any construction or interpretation of this Amendment. This Amendment shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas applicable to contracts wholly negotiated, executed, delivered, and performed in such state.

7. Counterparts. This Amendment may be executed in multiple counterparts, and each fully executed counterpart shall, for all purposes, be deemed to be an original, but all of such fully executed counterparts shall constitute but one and the same agreement. A facsimile, scanned PDF, or other reproduction of this Amendment or any signature page for this Amendment may be executed by one or more Parties and may be delivered by facsimile or email, and such execution and delivery shall be considered valid, binding, and effective for all purposes.

8. Entire Agreement. The Agreement, as amended by this Amendment, constitutes and expresses the entire agreement and understanding between the Parties in reference to all of the matters referred to in the Agreement, as amended by this Amendment, and all discussions, promises, representations and understandings relative to such matters, if any, between the Parties are merged in and superseded by the Agreement as amended by this Amendment.

9. Modifications. This Amendment may not be modified or amended except by a written instrument signed by the Parties hereto and referring specifically to this Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF the Parties have executed this Amendment effective as of the date first set forth above.

CITY OF CARROLLTON, TEXAS,
a Texas home rule municipality

By: _____
Name: _____
Title: _____

ARTHUR JAMES, INC.,
a Texas corporation

By: _____
Name: _____
Title: _____