

REIMBURSEMENT AGREEMENT

CARROLLTON CASTLE HILLS PUBLIC IMPROVEMENT DISTRICT

NO. 2

This Reimbursement Agreement (this "Agreement") is entered into by CH PH 12, LLC, a Texas limited liability company (the "Developer") and the CITY OF CARROLLTON, TEXAS (the "City"), to be effective the 4th day of April, 2017 (the "Effective Date"). The Developer and the City are individually referred to as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, on February 28, 2017, the City Council passed and approved Resolution No. 4043 (the "PID Authorization Resolution") authorizing the creation of Carrollton Castle Hills Public Improvement District No. 2 (the "PID") pursuant to the authority of Chapter 372, Texas Local Government Code, as amended (the "Act"), covering approximately 144.130 contiguous acres within the corporate limits of the City, which land is described in the PID Authorization Resolution and Exhibit "A" attached hereto and made a part hereof (the "Property");

WHEREAS, Developer is the owner of the Property;

WHEREAS, the Property will be subdivided into single-family residential lots as well as a multi-family residential lot (individually a "Lot" and collectively the "Lots") as shown on the Final Plat of the Property (the "Final Plat");

WHEREAS, on April 4, 2017, the City Council passed and approved Ordinance No. ____ (the "Assessment Ordinance" adopted on the "Assessment Date");

WHEREAS, the Assessment Ordinance approved the Carrollton Castle Hills Public Improvement District No. 2 Service and Assessment Plan and Assessment Roll for the Property (the "Assessment Plan");

WHEREAS, the Assessment Plan identifies public improvements authorized by the Act ("Public Improvements") to be designed, constructed, and installed by or on behalf of the Developer that confer a special benefit on the Property;

WHEREAS, the Assessment Plan estimates the Total Cost of the Public Improvements;

WHEREAS, the Assessment Plan determines the portion of the Total Cost (the "Public Improvements Cost") that is apportioned to the Property, which Public Improvements Cost represents the special benefit that the Public Improvements confer upon the Property;

WHEREAS, the Assessment Plan apportions the Public Improvements Cost to each Lot in the amounts set forth on the Assessment Roll, which amounts represent the special benefit that the Public Improvements confer on the Lots;

WHEREAS, the Assessment Ordinance levies the Public Improvements Cost as Assessments against the Lots in the amounts set forth on the Assessment Roll;

WHEREAS, Assessments are due and payable in full, without interest, within 30 days after the Assessment Date;

WHEREAS, if an Assessment is not paid in full within 30 days after the Assessment Date, the Assessment will not be in default and the owner of the Lot will be deemed to have elected to pay the assessment in Annual Installments, subject to the right of the owner to prepay the Assessment at any time as provided by the Act;

WHEREAS, if an Assessment is not paid in full within 30 days after the Assessment Date, interest on the Assessment begins to accrue on the first September 30th to occur after the Improvements Completion Date (the "Interest Accrual Date");

WHEREAS, if an Assessment is not paid in full within 30 days after the Assessment Date, the first Annual Installment of the Assessment shall be due and payable on or before the first January 31st to occur after the Interest Accrual Date and shall be delinquent on the next February 1st;

WHEREAS, Annual Installments shall be billed and collected by the City;

WHEREAS, Assessment Revenue from the collection of Assessments and Annual Installments shall be deposited into the PID Project Fund and the Administrative Fund;

WHEREAS, the PID Project Fund shall only be used to pay the Public Improvements Cost;

NOW THEREFORE, for and in consideration of the mutual obligations of the Parties set forth in this Agreement, the Parties agree as follows:

I.

PURPOSE AND EFFECT OF AGREEMENT, DEFINITIONS

1.1 Purpose and Effect of Agreement.

1.1.1 This Agreement is executed by the Parties hereto to provide for (i) the financing of the costs of the Public Improvements, and (ii) the development of the Development by the Developer as provided herein.

1.1.2 The Developer acknowledges and agrees that it is assuming significant financial risks in undertaking the Development Projects, and that all risks of cost overruns, labor difficulties, and land acquisition, that are integral to making the Development Projects a financial success after fulfillment of the other Parties' respective obligations hereunder are the sole responsibilities of the Developer.

1.2 Definitions. Unless the context requires otherwise, the following terms shall have the meanings hereinafter set forth: Administrative Fund – means an account created and held by the City to hold Collection Expenses and Delinquent Collection Costs and used as directed solely for the purposes set forth in the Assessment Plan.

Agreement – means this Reimbursement Agreement.

Assessment – means the assessment levied against a Lot(s) imposed pursuant to the Assessment Ordinance and the provisions herein, as shown on the Assessment Roll, subject to reallocation upon the subdivision of such Lot created by such subdivision or reduction according to the provisions hereof, the Assessment Plan and the Act.

Assessment Date – means April 4, 2017, the date the Assessment Ordinance was adopted by the City Council.

Assessment Ordinance – means Ordinance No. _____ passed and approved by the City Council.

Assessment Plan – means Carrollton Castle Hills Public Improvement District No. 2 Service and Assessment Plan for the Property, as amended, supplemented or updated pursuant to the Act.

Assessment Roll – means, as applicable, the Assessment Roll or any other Assessment Roll included in an amendment or supplement to the Assessment Plan or in an Annual Service Plan Update for the PID.

City – means the City of Carrollton, Texas.

City Council – means the duly elected governing body of the City.

Developer – means CH PH 12, LLC, a Texas limited liability company.

PID – means Carrollton Castle Hills Public Improvement District.

PID Authorization Resolution – means Resolution No. 4043 authorizing the creation of Carrollton Castle Hills Public Improvement District No. 2.

Final Plat – means Final Plat of the Property.

Improvements Completion Date – the date of final completion of each phase of the Public Improvements.

Interest Accrual Date – means interest on the assessment which begins to accrue on the first September 30th to occur after the Improvements Completion Date.

Lot(s) – mean single-family residential lots located within the Property.

Maturity Date – means April 4, 2047.

Parties – means the City and the Developer.

Property – means the 144.130 contiguous acres within the corporate limits of the City, described on Exhibit “A” to this Agreement.

Public Improvements – means the public improvements to be designed, constructed, and installed by or on behalf of the Developer and acquired by the City that confer a special benefit on the Property.

Public Improvements Cost – the portion of the Total Cost for the Public Improvement Project as defined in the Assessment Plan that is apportioned to the Property, representing the special benefit that the Public Improvements confer upon the Property.

Reimbursement Agreement Balance – means the unpaid principal balance, together with accrued but unpaid interest.

II.

PUBLIC IMPROVEMENTS

2.1 Dedication of Right-of-Way and Easement for Public Improvements. At the time Developer plats a portion of the Property, Developer shall dedicate by plat at no cost to the City street right-of-way and utility easements within the portion of the Property being platted, subject to the reimbursement obligation created by this Agreement for the payment of the costs of Public Improvements.

2.2 Construction of Public Improvements. At the time Developer develops a portion of the Property, Developer shall construct or cause to be constructed the Public Improvements within the portion

of the Property being developed, subject to the reimbursement obligation created by this Agreement for the payment of the costs of Public Improvements.

III.

REIMBURSEMENT FOR PUBLIC IMPROVEMENTS

3.1 PID Project Fund. The City shall bill, collect, and, upon receipt, immediately deposit into the PID Project Fund Assessment Revenue consisting of: (1) revenue collected from the payment of Assessments (including Annual Installments, pre-payments and amounts received from the foreclosure of liens but excluding costs and expenses related to collection); (2) interest included in the payment of Annual Installments (excluding Collection Expenses and Delinquent Collection Costs, as defined in the Assessment Plan); and (3) any other revenue authorized by the Act and approved by the City Council. Collection Expenses and Delinquent Collection Costs shall be collected with and deducted from the Assessment Revenue, and deposited into the Administrative Fund as set forth in Section 3.3 of this Agreement, prior to deposit of the Assessment Revenue into the PID Project Fund. Annual Installments shall be billed and collected by the City (or by any other person, entity, or governmental agency permitted by law, including the Denton County Tax Assessor/Collector) in the same manner and at the same time as City ad valorem taxes are billed and collected. Funds in the PID Project Fund shall only be used to pay the Public Improvements Cost in accordance with this Agreement.

3.2 Payment of Reimbursement Agreement Balance. The City agrees to pay to the Developer, solely from the PID Project Fund, and the Developer shall be entitled to receive payments from the PID Project Fund via the City, until April 4, 2047 (the "Maturity Date"), the principal amount of Seventeen Million One Hundred Ninety-Seven Thousand One Hundred Ninety-Two and No/100 DOLLARS (\$17,197,192.00) (which amount equals the Public Improvements Cost apportioned to and assessed against the Lots by the Assessment Plan and the Assessment Ordinance), or other amount equaling the Public Improvements Cost apportioned to and assessed against the Lots by any future Assessment Plan and Assessment Ordinance adopted by the City ("Principal Balance"). In addition, the City shall remit, if interest accrues and is collected by the City through Assessments or Annual Installments on the Principal Balance : (1) simple interest on the unpaid principal balance at the rate of eight percent (8.0%) for years one through five beginning on the Interest Accrual Date; and (2) simple interest on the unpaid principal balance at the rate of eight percent (8.0%) for years six through twenty thereafter (the unpaid Principal Balance, together with accrued but unpaid interest, if any, is referred to as the "Reimbursement Agreement Balance"). The obligation of the City to pay the Reimbursement Agreement Balance is secured by and payable solely from Annual Installments, prepayments, or foreclosures on liens made to or collected by the City from the PID Project Fund beginning on the first March 1st to occur after the first Annual Installment

is due and payable and continuing each calendar quarter thereafter until the Maturity Date or until the Reimbursement Agreement Balance is paid in full, whichever is first. Payments from the PID Project Fund shall first be applied to accrued and unpaid interest. Each annual payment from the PID Project Fund shall be accompanied by an accounting that certifies the Reimbursement Agreement Balance as of the date of the payment and that itemizes all deposits to and disbursements from the fund since the last annual payment. If there is a dispute over the amount of any annual payment, the City shall nevertheless pay the undisputed amount, and the Parties shall use all reasonable efforts to resolve the disputed amount before the next annual payment is due; however, if the Parties are unable to resolve the disputed amount, then the City's determination of the disputed amount (as approved by the City Council) shall control.

3.3 Administrative Fund. The City shall deposit or cause to be deposited Collection Expenses and Delinquent Collection Costs to an account created and held by the City (the "Administrative Fund"). Moneys in the Administrative Fund shall be held by the City and administered hereunder and used as directed solely for the purposes set forth in the Assessment Plan. The City may draw monies from this Administrative Fund to pay organization, administrative, maintenance and operation expenses of the PID and the other Administrative Expenses (as defined in the Service and Assessment Plan).

3.4 Obligations Limited. The obligations of the City under this Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or a debt or other obligation of the City payable from any source other than the PID Project Fund. No other City funds, revenues, taxes, or income of any kind shall be used to pay the Reimbursement Agreement Balance even if the Reimbursement Agreement Balance is not paid in full on or before the Maturity Date. The PID is created to provide for reimbursement or payment of the Public Improvement Costs for the PID; no alternate financing is approved through the approval of the Service and Assessment Plan. The City assumes no financial obligation whatsoever in the event of default or foreclosure of any portion or phase of the development projects within the PID. None of the City or any of its elected or appointed officials or any of its officers or employees shall incur any liability hereunder to the Developer or any other party in their individual capacities by reason of this Agreement or their acts or omissions under this Agreement.

3.5 Obligations Unconditional. The obligations of the City under Section 2.2 are expressly conditioned upon, and do not arise until, the Improvements Completion Date. From and after the Improvements Completion Date, however, the obligations of the City under Section 3.2 are unconditional (even if the Developer is in Default) and shall continue until the Maturity Date or until the Reimbursement Agreement Balance has been paid in full. From and after the Improvements Completion Date there shall be no conditions, defenses, or rights of offset to the obligation of the City to make annual payments to the Developer from the PID Project Fund in accordance with Section 3.2.

IV.
ADDITIONAL PROVISIONS

4.1 Term. The term of this Agreement shall begin on the Effective Date and shall continue until the earlier to occur of the Maturity Date or the date on which the Reimbursement Agreement Balance is paid in full.

4.2 Transfers. The Developer has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part without the consent of (but with notice to) the City, the Developer's right, title, or interest under this Agreement including, but not limited to, any right, title, or interest of the Developer in and to payments of the Reimbursement Agreement Balance, whether such payments are from the PID Project Fund in accordance with Section 3.2 (any of the foregoing, a "Transfer," and the person or entity to whom the transfer is made, a "Transferee"). Notwithstanding the foregoing, no Transfer shall be effective until notice of the Transfer is given to the City. The City may rely on notice of a Transfer received from the Developer without obligation to investigate or confirm the validity of the Transfer. The Developer waives all rights or claims against the City for any funds paid to a third party as a result of a Transfer for which the City has received notice.

4.3 Venue. This Agreement is being executed and delivered and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply, the substantive laws of the State of Texas shall govern the interpretation and enforcement of this Agreement. In the event of a dispute involving this Agreement, venue shall lie in any court of competent jurisdiction in Denton County, Texas.

4.4 Notice. Any notice required by this Agreement must be in writing and shall be deemed given at the addresses shown below: (1) when delivered by a nationally recognized delivery service such as FedEx or UPS with evidence of delivery signed by any person at the delivery address regardless of whether such person is the named addressee; or (2) 72 hours after deposited with the United States Postal Service, Certified Mail, Return Receipt Requested.

If to the City:

City of Carrollton, Texas
1945 E. Jackson Road
Carrollton, Texas 75006
Attn: City Manager

If to the Developer:

CH PH 12, LLC, a Texas limited liability company
2520 King Arthur Blvd, Suite 200

Lewisville, Texas 75056
Attn: Eric Stanley

With a copy to:

Winstead PC
500 Winstead Building
2728 N. Harwood
Dallas, Texas 75201
Attn: Ross Martin

Any Party may change its address by delivering notice of the change in accordance with this section.

4.5 Default/Remedies.

4.5.1 If either Party fails to perform an obligation imposed on such Party by this Agreement (a "Failure") and such Failure is not cured after notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a "Default." If a Failure is monetary, the non-performing Party shall have 10 days within which to cure. If the Failure is non-monetary, the non-performing Party shall have 30 days within which to cure

4.5.2 If the Developer is in Default, the City's sole and exclusive remedies shall be to compel performance through injunctive relief or specific performance. No default by the Developer shall entitle the City to terminate this Agreement. No Default by the Developer after the Improvements Completion Date shall entitle the City to withhold annual payments to the Developer from the PID Project Fund in accordance with Section 3.2.

4.5.3 If the City is in Default, the Developer's sole and exclusive remedies shall be to: (1) compel performance through injunctive relief or specific performance; and/or (2) pursue the Local Government Code remedies described in this section. No default by the City shall entitle the Developer to terminate this Agreement. This Agreement is a contract for goods and services within the meaning of Section 271.151, Texas Local Government Code, as amended, and the Reimbursement Agreement Balance is the balance due and owed by the City to the Developer within the meaning of Section 271.153, Texas Local Government Code, as amended. Except as provided in this section, the City does not waive or surrender any of its governmental powers, immunities, or rights.

4.5.4 The City shall give notice of any alleged Failure by the Developer to each Transferee identified in any notice from the Developer, and such Transferees shall have the right, but not the obligation, to cure the alleged Failure within the same cure periods that are provided to the Developer. The election by a Transferee to cure a Failure by the Developer shall constitute a cure by the Developer

but shall not obligate the Transferee to be bound by this Agreement unless the Transferee agrees in writing to be bound.

4.6 Entire Agreement; Amendment. This Agreement supersedes all prior agreements (whether written or oral) between the Parties regarding the subject matter hereof and constitutes the only agreement between the Parties with regard to the subject matter hereof. In the event of any conflict between this Agreement and any other instrument, document, or agreement by which either Party is bound, the provisions and intent of this Agreement shall control. This Agreement may only be amended by written agreement of the Parties.

4.7 Severability. If any provision of this Agreement is held invalid by any court, such holding shall not affect the validity of the remaining provisions.

4.8 Non-Waiver. The failure by a Party to insist upon the strict performance of any provision of this Agreement by the other Party, or the failure by a Party to exercise its rights upon a Default by the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by such other Party with the provisions of this Agreement.

4.9 Third Party Beneficiaries. Nothing in this Agreement is intended to or shall be construed to confer upon or give to any person or entity other than the City, the Developer, and Transferees any rights, remedies, or claims under or by reason of this Agreement, and all covenants, conditions, promises, and agreements in this Agreement shall be for the sole and exclusive benefit of the City, the Developer, and Transferees.

4.10 Counterparts. This Agreement may be executed in multiple counterparts, which, when taken together, shall be deemed one original.

4.11 Interpretations. Capitalized terms used in this Agreement shall have the meanings given to them in this Agreement. Unless otherwise defined: (1) all references to "sections" shall mean sections of this Agreement; (2) all references to "exhibits" shall mean exhibits to this Agreement which are incorporated as part of this Agreement for all purposes; and (3) all references to "ordinances" or "resolutions" shall mean ordinances or resolutions adopted by the governing body (the "City Council") of the City;

4.12 Recitals. The foregoing Recitals: (1) are part of this Agreement for all purposes; (2) are true and correct; and (3) constitute representations, warranties, and covenants that each Party has relied upon in entering into this Agreement; and

4.13 Recordation of Agreement. This Agreement shall be filed by Developer in the Deed Records of Denton County to evidence the rights and obligations contained herein.

CITY OF CARROLLTON, TEXAS

By: _____

Title: _____

Name: _____

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

STATE OF TEXAS §

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COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2017, by _____, the _____ of City of Carrollton, Texas, on behalf of said City.

Notary Public - State of Texas

My Commission Expires:

CH PH 12, LLC, a Texas limited liability company

By: BRECO Development Manager, LLC

Its Manager

By: _____

Name: _____

Title: _____

STATE OF TEXAS

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COUNTY OF DENTON

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This instrument was acknowledged before me on the ____ day of _____, 2017, by _____, _____ of BRECO Development Manager, LLC, Manager of CH PH 12, LLC, a Texas limited liability company, on behalf of said entity.

Notary Public – State of Texas

My Commission Expires: