

EXHIBIT A
FIRST AMENDMENT TO MASTER DEVELOPMENT AGREEMENT
Cibolo Crossing Development Project

CITY OF UNIVERSAL CITY, TEXAS

This First Amendment to the Master Development Agreement is made by and between the City of Universal City, Texas (“City”) and UC40, LLC, Texas (“Developer”). City and Developer may be referred to herein singularly as “Party” or collectively as the “Parties.”

WHEREAS, the City and Developer executed that certain Master Development Agreement (“Agreement”) on the 17th day of March, 2021 for the Cibolo Crossing Development Project; and

WHEREAS, the City and Developer desire to enter into a First Amendment to that Agreement to allow for the amendment to and redesign of Kitty Hawk Road Improvements; and

WHEREAS, it has become necessary to amend the Agreement to modify the provisions for the Construction of Public Infrastructure; and

WHEREAS, it is necessary for the City to amend its agreements from time to time to comply with state law relating to contracts of municipalities.

NOW THEREFORE, premises considered, the City and Developer agree that said Agreement is amended as follows:

I.

Article III. Construction of Public Infrastructure is hereby replaced with the following:

III. CONSTRUCTION OF PUBLIC INFRASTRUCTURE.

- A. Emergency Service Access.** Developer shall construct, at its own expense and not subject to any reimbursement amount from the City under this Article, two emergency service access connections for the subdivision: (1) one access point at the Olympia Hills Golf Course (Lot # 907); and (2) one access point at the lift station (Lot # 906). The lift station, Lot # 906, shall also include an all-weather surfaced service road connecting to the internal

Initials: City: KM

Developer: 99B

road system for the subdivision. Both access points and the service road are outlined in **Exhibit "D"**, attached herein and incorporated fully.

B. Kitty Hawk Road Improvements. As shown in greater detail in **Exhibit "A"** improvements to Kitty Hawk Road shall include the following. The Construction Plans shall be the governing document.

- a. Road reconstruction, curb, and road widening. Developer shall reconstruct Kitty Hawk Road from Sunrise Canyon to the north side of the Silver Springs intersection. The pavement section from Sunrise Canyon (approx. Sta. 2 + 85) to Station 7+37 will be removed 2' in front of the existing curb and the street will be reconstructed with a 2" HMAC (Type "D") surface coat, and 4" HMAC (Type "B") with 6" flex base, 8" lime treated/stabilized of the subgrade, and geo-grid all per City of Universal City Public Works Specifications. This section will not include reconstruction of curbs, driveways, or sidewalks.

Kitty Hawk Road from Station 7+37 north through the intersection of Silver Springs (Station 16+75), will be reconstructed and widened from 22' to a 30' street section. The new street section will include concrete curbs, a 2" HMAC (Type "D") surface coat, and 4" HMAC (Type "B") with 6" flex base, 8" lime treated/stabilized of the subgrade, and geo-grid all per City of Universal City Public Works Specifications. A 4' concrete sidewalk will also be constructed along the north side of the street as described in paragraph d. Driveway and alley access in this section will be replaced with concrete pavement and existing yard landscaping disturbed by the street reconstruction will be replaced.

- b. Island Improvements. Developer, at Developer's expense, shall install a six-inch raised curb around the island located at the intersection of Sunrise Canyon and Kitty Hawk Road. Developer, at Developer's expense, shall bring electric and water to the Island using conduits and services installed by the City. Upon Developer's submittal to City of plans and drawings acceptable to the Public Works Director for the installation of the landscaping and irrigation, City shall install landscaping on the island, at the City's expense, which upon acceptance shall be maintained by City as a public amenity. Developer, at Developer's expense, shall provide drawings for the monument sign or sculpture and any electrical components and irrigation system of the sign and landscape area for City review and approval. Developer, at Developer's expense, shall install the monument sign or sculpture and sign lighting in the island. The monument sign or sculpture and sign lighting shall be maintained by the Homeowners Association for the Subdivision.

Initials: City: KMT

Developer: Q/B

Cibolo Crossing Development Project: Master Development Agreement, First Amendment

- c. **Installation of sidewalks.** Developer shall install a four-foot-wide sidewalk link along the north side of Kitty Hawk Road from the existing driveway (Station 11 + 05) north to the end of the street reconstruction (station 16+75) In the event the right-of-way for the property at 137 Kitty Hawk (BCAD Property ID 293447) has not been acquired or expropriated prior to the preliminary acceptance of public improvements for Phase 3, the Developer shall pay the City the unit costs of the sidewalk bid from Phase 3 improvements times the quantity of the sidewalk equal to a 4 foot wide walk along the complete length of frontage for the parcel referenced above. Such payment will constitute the end of the Developer's obligation regarding the northern sidewalk.
- d. **New Fencing.** City will seek to obtain approval from the affected landowners, the four (4) owners along Kitty Hawk, for the developer who will be responsible for all costs associated with the new fencing to be included in the Kitty Hawk Road improvements package.
1. **Contracts for Construction.** Developer shall obtain a minimum of three bids from contractors duly qualified to perform the required work in Universal City, Texas; and, select and contract with the most qualified bidder to construct the Kitty Hawk Road Improvements in accordance with the Construction Plans. The Public Works Director shall be provided copies of all contract documents prior to the award of the contract and shall approve the contract price. At least thirty days before the execution of any contract amendments, the Public Works Director shall be provided copies of such amendment and shall approve any adjusted contract price. The Approved Contract Price shall be the price by which the Reimbursement Amount shall be determined. In the event the Public Works Director does not approve the contract price proposed by Developer, the Public Works Director shall: (i) provide the amount of the contract price that is approved; and, (ii) provide a written explanation to Developer stating why the Approved Contract Price is less than the actual contract price.
2. **Improvements in accordance with the approved plans and specifications.** Except as provided herein, Developer shall be solely responsible for payment of the work as it is completed and shall make all payments in a timely manner to the Contractor, sub-contractors, and other parties involved in the construction of the Kitty Hawk Road Improvements. Developer covenants and agrees that the Kitty Hawk Road Improvements shall be made in substantial compliance with the Construction Plans. No change in the Construction Plans shall be made by Developer without the prior written consent of the Public Works Director.
7. **Inspection.** The Public Works Director, or his designee, shall periodically inspect the construction of the Kitty Hawk Road Improvements in the same manner, and shall possess the same authority, as is provided during the construction of subdivision

Initials: City: 

Developer: 

improvements pursuant to the City of Universal City Subdivision Regulations, as amended.

8. **Completion Date.** Subject to Force Majeure and Opportunity to Cure, Developer shall complete construction of the **Kitty Hawk Road Improvements component** of the Project within twenty-four (24) months of the Effective Date, unless, upon the written request of Developer, the Completion Date is extended by action of City Council.
9. **Acceptance.** Upon the Public Works Director's final inspection and approval of the work, and subject to Developer's warranty period, the Kitty Hawk Road Improvements shall be accepted by the City for public maintenance.
10. **Kitty Hawk Road Reimbursement Amount.** the Kitty Hawk Road Improvements Reimbursement Amount, as described herein, is authorized pursuant to Section 212.071 of the Texas Local Government Code Chapter 212, subchapter C DEVELOPER PARTICIPATION IN CONTRACT FOR PUBLIC IMPROVEMENTS and the City's participation in the cost shall not exceed thirty percent (30%) of the Total Approved Contract Amount for the Street Improvements as outlined in the Project Cost Summary-Public Improvements under **Exhibit "B"**, including reimbursement of one-half of engineering costs related to the Kitty Hawk Road Improvements. The total engineering costs, for which one-half may be reimbursed, shall not exceed thirteen percent (13%) of the Total Approved Contract Amount for Kitty Hawk Road Improvements
11. **Payment Procedures.** City shall deliver to Developer the Kitty Hawk Road Reimbursement Amount as provided in this section.
 - a. **Submittal and review.** Developer shall submit a completed Kitty Hawk Road Improvements Progress Payment Release Form (see Exhibit C) to the Public Works Director. Not more than one Kitty Hawk Road Improvements Progress Release Form may be submitted during any 15-day period. The Public Works Director shall review the Kitty Hawk Road Improvements Progress Payment Release Form, as well as such supporting documentation, as the Public Works Director shall reasonably require Developer to produce and inspect the work for which Developer is seeking partial reimbursement.
 - b. Upon the Public Works Director's reasonable satisfaction that the submitted documents, and inspected work, satisfactorily demonstrate Developer is entitled to reimbursement, the Public Works Director shall authorize the requested progress payment be made to Developer. The Public Works Director shall inform Developer of any deficiency in the documentation or work, within twenty-one (21) days of the date the Kitty Hawk Road Improvements Progress Release Form is received. No

Initials: City: SM

Developer: QJB

Cibolo Crossing Development Project: Master Development Agreement, First Amendment

payment shall be made until the deficiency in the documentation or work is cured. If the deficiency is not cured within the cure period Developer shall be in default. If no deficiency in the documentation or work is found the Public Works Director shall direct payment of Kitty Hawk Road Improvements Progress Release Form requested amount within twenty-one (21) days of City's receipt of the request.

- c. Retainage. City shall withhold an amount equal to ten (10) percent of the Approved Contract Price which shall not be released until after Final Inspection and Acceptance.
- d. Final Inspection. Upon Developer's completion of the work associated with the Kitty Hawk Road Improvements, Developer shall request a Final Inspection of the Work; and, the Public Works Director's shall make a final review of the documents and he shall conduct a final inspection on the Kitty Hawk Road Improvements, noting any required corrections or repairs, and make a recommendation to City Council on acceptance of the Improvements.
- e. Final Payment. Within thirty (30) days after City Council's acceptance of Kitty Hawk Road Improvements, and Developer's submittal of a final release of claims on behalf of itself, its subcontractors and material suppliers, City shall submit payment of the retainage.
- f. Approved Contract Amount. Under no circumstances may the amount reimbursed under this Section exceed the agreed percentage of the Total Approved Contract Amount.

II.

Except as amended hereby as indicated above, the remaining terms of the Agreement shall remain unchanged and in full force and effect.

This Amendment is legally effective and enforceable the last date of execution of this Agreement by the Parties.

DEVELOPER:

By:

Jeffrey J. Brown
Jeffrey J. Brown, Manager

Date:

5/11/22

Initials: City: KM

Developer: JJB

Cibolo Crossing Development Project: Master Development Agreement, First Amendment

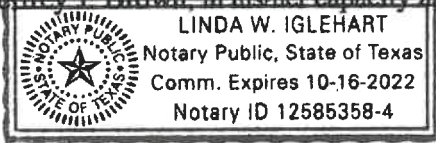
CITY OF UNIVERSAL CITY, TEXAS

By: Kim M. Turner
Kim M. Turner, City Manager

Date: April 11, 2022

THE STATE OF TEXAS §
 §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on May 11, 2022, by ~~Jeffrey J. Brown, in his capacity as~~ Manager, and on behalf, UC40, LLC.



Linda W. Iglehart
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on April 11, 2022, by Kim M. Turner, in her capacity as City Manager, and on behalf, of the City of Universal City, Texas.

Kristin Mueller
Notary Public in and for the State of Texas



Revised Exhibits:

Exhibit A: Kitty Hawk Road Construction Plan Sheets

Exhibit B: Project Cost Summary

Initials: City: KMT

Developer: JMB

FIRST AMENDMENT TO THE MDA

EXHIBIT B PROJECT COST SUMMARY - PUBLIC IMPROVEMENTS

Cibolo Crossing Subdivision
12/17/21

	STREETS	DRAINAGE	WATER	SANITARY SEWER	TOTAL
AMOUNT	\$ 1,298,000	\$ 373,000	\$ 549,000	\$ 753,000	\$ 2,973,000

KITTY HAWK ROADWAY RECONSTRUCTION IMPROVEMENTS - Street widening and reconstruction including the addition of new curbs and sidewalks where they do not currently exist.

City Participation in Cost Amount	hardcost	\$	422,600.71
City Participation in Engineering	engineering	\$	60,983.09
Total Amount of City Participation	total	\$	483,583.80

Percentage of City Participation (%) 16%
(Must be less than 30%)

