

## FIRST AMENDMENT TO BROWNSTONES AT TOWN SQUARE, PHASE I COMMERCIAL DEVELOPER AGREEMENT

This First Amendment to Brownstones at Town Square, Phase I Commercial Developer Agreement (“Amendment”) is entered into as of the 7<sup>th</sup> day of February, 2006, by and between **THE CITY OF SOUTHLAKE**, a Texas municipal corporation of Tarrant County and Denton County, Texas (“City”); and the undersigned Developer, hereinafter referred to as the “Developer”, of Brownstones at Town Square Phase I, hereinafter referred to as “Addition” to the City of Southlake, Tarrant County, Texas, and Cooper & Stebbins, L.P. (for the limited purposes set forth herein) (“Cooper & Stebbins”).

### RECITALS

**WHEREAS**, the City, Developer, and Cooper & Stebbins have entered into a Commercial Developer Agreement (the “Developer Agreement”) for the installation of certain community facilities located within the Addition (and to the off-site improvements necessary to support the Addition), and to provide city services thereto);

**WHEREAS**, Developer and Cooper & Stebbins are contributing a combined 2.054 acres of adjoining park land to the City, being that certain real property described on **EXHIBIT “A-1”** attached hereto and herein referred to as the “Park Property;”

**WHEREAS**, pursuant to the Developer Agreement, the Developer shall provide to the City a detailed plan of Park Property improvements (the “Park Improvements”), which the City must approve prior to construction of the Park Improvements;

**WHEREAS**, the Developer’s plan of Park Improvements was approved by the City pursuant to action of the City Council of December 6, 2005;

**WHEREAS**, the City has already paid Cooper & Stebbins \$150,000, pursuant to action of the City Council of February 4, 2003;

**WHEREAS**, Cooper & Stebbins has agreed that this sum shall be credited towards the Park Improvements, and to pay Developer an amount equal to the funds shown on Exhibit A to the Developer Agreement for such Improvements;

**WHEREAS**, the City has no obligation to reimburse Developer for Park Improvements, and any such Improvements installed by the Developer over the sum provided above to Developer by Cooper & Stebbins shall be at Developer’s sole cost and expense;

**WHEREAS**, the City shall have the right to inspect any and all records relating to expenses paid as reflected on Exhibit A to the Developer Agreement and shall have the right to require Developer to submit any necessary information, documents, invoices, receipts or other records relating to costs of the Park Improvements;

**WHEREAS**, Developer now wishes to dedicate and convey the Park Property to City, and to complete the Park Improvements approved by City following such conveyance, using Developer’s own funds along with sums paid to Developer by Cooper & Stebbins, and without contribution from the City;

**WHEREAS**, pursuant to the Developer Agreement, until the City accepts the Park Improvements, the City shall have no liability or responsibility in connection with any such facilities; and

**WHEREAS**, City, Developer and Cooper & Stebbins desire to clarify the rights and obligations of the parties from the date of conveyance of the Park Property to City until the date upon which City accepts the Park Improvements to be made by Developer;

**NOW, THEREFORE**, for good and valuable consideration, which the parties acknowledge receiving, the City, Developer, and Cooper & Stebbins agree as follows:

1. Cooper & Stebbins shall cause the Park Property to be conveyed to the City prior to the commencement of construction activities. As a condition to City's acceptance of that conveyance, Developer will present to the City a cash escrow ("Escrow") guaranteeing and agreeing to pay an amount equal to 100% of the value of the construction cost of all the public facilities to be constructed by the Developer, as more particularly set forth in Exhibit 1 hereto, and providing for payment to the City of such amounts, up to the total remaining amounts required for the completion of the public facilities if the Developer fails to complete the work on or before December 31, 2006. Developer shall have the right to draw against the Escrow for the payment of qualifying costs shown on Exhibit 1, upon presentation to the City of documentation supporting the work in place.

2. From and after conveyance of the Park Property to City, City hereby grants to Developer and its contractors, subcontractors, employees, successors, and assigns a temporary construction easement (the "Construction Easement") over, across, and under the Park Property for the purposes of (i) construction staging for the Park Improvements; (ii) pedestrian and vehicular ingress and egress during the construction of the Park Improvements; and (iii) performing all work necessary to complete the Park Improvements; and (iv) erecting, maintaining, repairing, and replacing appropriate construction fencing for the Park Improvements.

3. The Construction Easement is not a dedication of the Park Property to the public.

4. The Construction Easement is made subject to any and all restrictions, covenants, easements, tenancies and other encumbrances of whatsoever nature, if any, relating to the Park Property, and to all zoning laws, regulations and ordinances of municipal and other governmental authorities, if any, relating to the Park Property.

5. The Construction Easement will automatically terminate upon the earlier to occur of: (a) the termination of the Developer Agreement; (b) City's acceptance of the Park Improvements; and (c) three (3) years from the Effective Date of this Construction Easement, without the necessity of any further action from any party. If City desires to file an instrument evidencing the termination of this Construction Easement, however, Developer shall cooperate with City to execute such an instrument.

6. Developer shall keep the Park Property and any adjoining property owned by City free and clear of all mechanics' or materialman's liens arising out of any work performed by Developer or its contractors, subcontractors, agents, representatives, or employees. In the event any such lien is filed, Developer shall cause the lien to be released or bonded around in accordance with the Texas Property Code on or before thirty (30) days after it receives written notice of the filing of such lien.

7. Developer's indemnity and insurance obligations under the Developer Agreement shall continue to apply to the Park Property until City's acceptance of the Park Improvements.

8. If any provision of this instrument is found to be invalid, the remaining provisions must be construed insofar as possible to be valid.

9. The Construction Easement is intended by the parties to run with the land, and all of the terms, covenants, and provisions hereof shall inure to the benefit of and be binding upon each of the parties hereto and their respective successors and assigns.

10. The Construction Easement may be executed in any number of counterparts, each of which will be an original and all of which -- when taken together -- will constitute a single instrument.

11. All provisions of the Developer Agreement unaffected by this Amendment shall remain in full force and effect. To the extent that the specific provisions of this Amendment conflict with those of the Developer Agreement, this Amendment shall prevail.

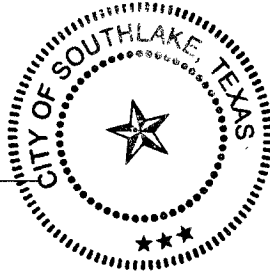
*(signature blocks on following pages)*

SIGNED AND EFFECTIVE on the date last set forth below.

**CITY OF SOUTHLAKE, TEXAS**

By: [Signature]  
Andy Wambsganss, Mayor

ATTEST:  
[Signature]  
Lori Farwell, City Secretary  
Payne



Date: December 6, 2007

**DEVELOPER: Brownstones at Town Square, L.P.**

**By: Brownstone GP, LLC**  
a Texas Limited Liability Company, General Partner

By: CLB Management, Ltd.  
a Texas Limited Partnership, Member

By: CLB Holdings, LLC  
a Texas Limited Liability Company, General Partner

By: [Signature]  
Name: Will Cureton  
Title: Manager

Address: 16250 Dallas Parkway  
Suite 201  
Dallas, Texas 75248

**By: SLTS Brownstones, L.P.**  
a Texas Limited Partnership, Member

By: SLTS Brownstones Genpar, LLC  
a Texas Limited Liability Company, General Partner

By: Cooper & Stebbins, L.P.  
a Texas Limited Partnership, Member

By: [Signature]  
Name: BRIAN R STEBBINS  
Title: PRESIDENT



Address: 1256 Main Street

Suite 240  
Southlake, Texas 76092

*\*See Notary Attachment for above signature.*

Cooper & Stebbins, L.P. joins in this agreement for purposes of indicating its acceptance and agreement to be bound by the provisions of Article IV.C and IV.E. of this Developer's Agreement, as amended herein.

Cooper & Stebbins, L.P.  
a Texas Limited Partnership

By: CS Town Centers, LLC,  
a Texas Limited Liability Company General Partner

By: *BR Stebbins*  
Brian R. Stebbins, Member

Address: 1256 Main Street  
Suite 256  
Southlake, Texas 76092

STATE OF TEXAS

COUNTY OF TARRANT

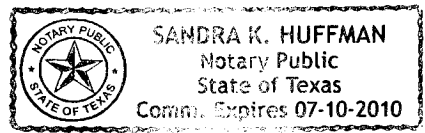
On November 20, 2007 before me, Sandra K. Huffman, Notary Public, personally appeared Brian R. Stebbins, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

*Sandra K. Huffman*  
WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(SEAL)



STATE OF TEXAS

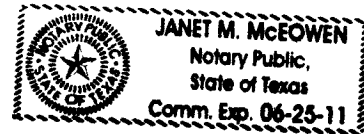
COUNTY OF DALLAS

On November 29, 2007, before me, Janet M. McEowen, Notary Public, personally appeared Will Cureton, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

Janet M. McEowen  
WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)



My commission expires: \_\_\_\_\_

STATE OF TEXAS

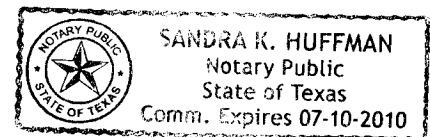
COUNTY OF TARRANT

On November 20, 2007, before me, Sandra K Huffman, Notary Public, personally appeared Brian R. Stebbins, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

Sandra K. Huffman  
WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)



My commission expires: \_\_\_\_\_