

OFFICIAL RECORD

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

The Second Amendment to Brownstones at Town Square, Phase I Commercial Developer Agreement (“Amendment”) is entered into as of the 7th day of February, 2006, by and between The City of Southlake, a 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. (“Cooper & Stebbins”).

RECITALS

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

WHEREAS, construction on the Addition has proceeded to the stage where certain of the residential units are complete and ready for occupancy by purchasers even though all of the required public infrastructure improvements are not complete; and

WHEREAS, the residential units that are now complete are adjacent to and supported by appropriate public works infrastructure such as completed streets, street lights, utilities, fire hydrants and other appropriate public works amenities designated for development in the documents approved for the Addition; and

WHEREAS, the Agreement provides that Certificates of Occupancy will not be issued until all public works and park improvements provided for and approved in the planned instruments had been completed and accepted by the City; and

WHEREAS, the Developer and Cooper & Stebbins have requested that the Agreement be amended to permit the issuance of Certificates of Occupancy for a certain number of dwelling units in increments as construction is completed in order to allow persons who have purchased units to commence occupancy at the earliest possible date; and

WHEREAS, the City Council after due and careful consideration has determined that sufficient safeguards can be placed in effect to ensure that Certificates of Occupancy are not issued for dwelling units until the necessary and appropriate public works infrastructure is in place to allow the safe occupancy and use of the structure; and

WHEREAS, the City Council has further determined that reasonable safeguards can be put

in place to ensure the timely completion of all remaining public works improvements and park improvements required by the documents approving the original development plan; and

WHEREAS, the City Council, the Developer and Cooper & Stebbins have jointly agreed that this Second Amendment to the Agreement is necessary and appropriate to allow the reasonable use of the structures now reaching completion and fully meets the needs of all parties to this agreement.

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

1. The attached Exhibit "1", incorporated herein for all purposes, identifies areas as follows:
 - a. the 10 lots in Block 24 which front on Summit Street and are designated as "E";
 - b. the 5 lots in Block 25 which front on Main Street commencing at the intersection of Summit Street and Main Street and are designated as "G"; and
 - c. the 3 lots in Block 21 of the Addition which front on Main Street and are designated as "I."
2. Provided all applicable codes are met, the City will issue a certificate of occupancy for each dwelling unit in the areas designated as "E" and "I" when:
 - a. all public works infrastructure required by the Agreement is installed in the Addition, including, but not limited to, those improvements required to be constructed within the areas designated as "A", "C" and "F", with the exception of the public works infrastructure located within the sidewalk section identified as the area designated as "C" in Exhibit 1; and
 - b. the City has accepted such improvements (other than those specifically excepted in subsection a. above); and
 - c. the maintenance bond for such improvements is furnished by the Developer and accepted by the City.
3. Provided all applicable codes are met, the City will issue a certificate of occupancy for each dwelling unit in the areas designated as "G" when all of the following conditions have been met:
 - a. all public works infrastructure required by the Agreement is installed in the

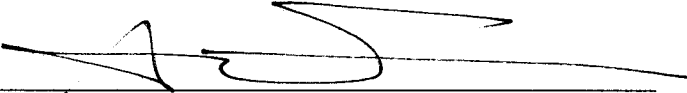
Addition, including, but not limited to, those improvements required to be constructed within the areas designated as “A”, “C”, “F” and “G”, with the exception of the public works infrastructure located within the sidewalk section identified as the area designated as “C” in Exhibit 1; and

- b. the City has accepted such improvements (other than those specifically excepted in subsection a. above); and
 - c. the maintenance bond for such improvements is furnished by the Developer and accepted by the City.
4. The Developer shall install required street trees and irrigation within each area to the satisfaction of and approval of the Director of Public Works before Certificates of Occupancy may be issued within each area.
 5. As the City’s agreement to authorize the issuance of Certificates of Occupancy prior to completion and acceptance of all public infrastructure creates the possibility that damage might occur to public works and/or landscaping improvements installed in a newly opened section of the project, Developer agrees to repair and indemnify and hold harmless the City from and against any damage to the public works or landscaping infrastructure identified by the City and attributable to activity resulting from or arising from the issuance of Certificates of Occupancy as directed by the City’s Director of Public Works. This indemnification includes property damage, damages resulting from bodily injury, and any other claim or liability arising from the issuance of certificates of occupancy, including damages arising from the acts of third parties, such as moving vans. Specifically, the indemnification provision, Section III of the Agreement, shall apply to all acts or omissions of Developer and the City, its officers, agents and employees, arising out of this Agreement, whether or not caused by or attributable to the actions or omissions of the City, its employees or officers.
 6. The Developer and Cooper & Stebbins will continue to utilize vigorous efforts to screen areas under construction in those sections of the Addition not yet released for Certificates of Occupancy. It is the intent of the parties that the areas designated as G and I along Main Street be screened by the same means and to the same standards that the Developer has maintained throughout the construction with screening designed and intended to separate the property described in the Section G and I areas from the property described in the Section E area.
 7. Developer and Cooper & Stebbins agree that the City’s requirement to complete tree mitigation (one hundred eighty days) for the Addition shall commence upon the issuance of the first Certificate of Occupancy for the Addition notwithstanding the fact that the City is permitting the issuance of certificates in phases.

8. In the event the City determines that Developer is not in compliance with the terms of this Amendment or the Agreement, the City may withhold issuance of further certificates of occupancy until it determines that the Developer is in compliance with this Amendment and the Agreement.
9. Except as specifically modified by this Amendment, in all other respects, the terms and conditions of this Agreement shall remain the same and continue in full force and effect, and all parties to this Amendment hereby ratify and confirm the Agreement, as modified by this Amendment, and agree to be bound by the terms thereof, as amended. In the event of a conflict between Exhibit 1 and this Amendment, the Amendment shall be controlling.

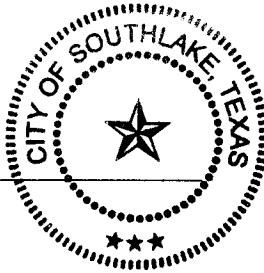
SIGNED AND EFFECTIVE on the date last set forth below.

CITY OF SOUTHLAKE, TEXAS

By: 
Andy Wambsganss, Mayor

ATTEST:


Lori Farwell, City Secretary



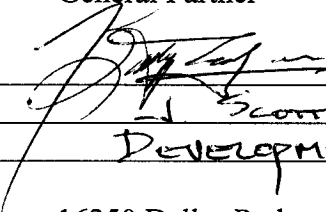
Date: 2/28/06

BROWNSTONES AT TOWN SQUARE, L.P., DEVELOPER

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

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

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



By: 
Name: SCOTT REDWERS
Title: DEVELOPMENT PARTNER

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: 
Name: BRIAN R. STEBBINS 
Title: PRESIDENT

Address: 1256 Main Street
Suite 240
Southlake, Texas 76092

COOPER & STEBBINS, L.P.
a Texas Limited Partnership

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

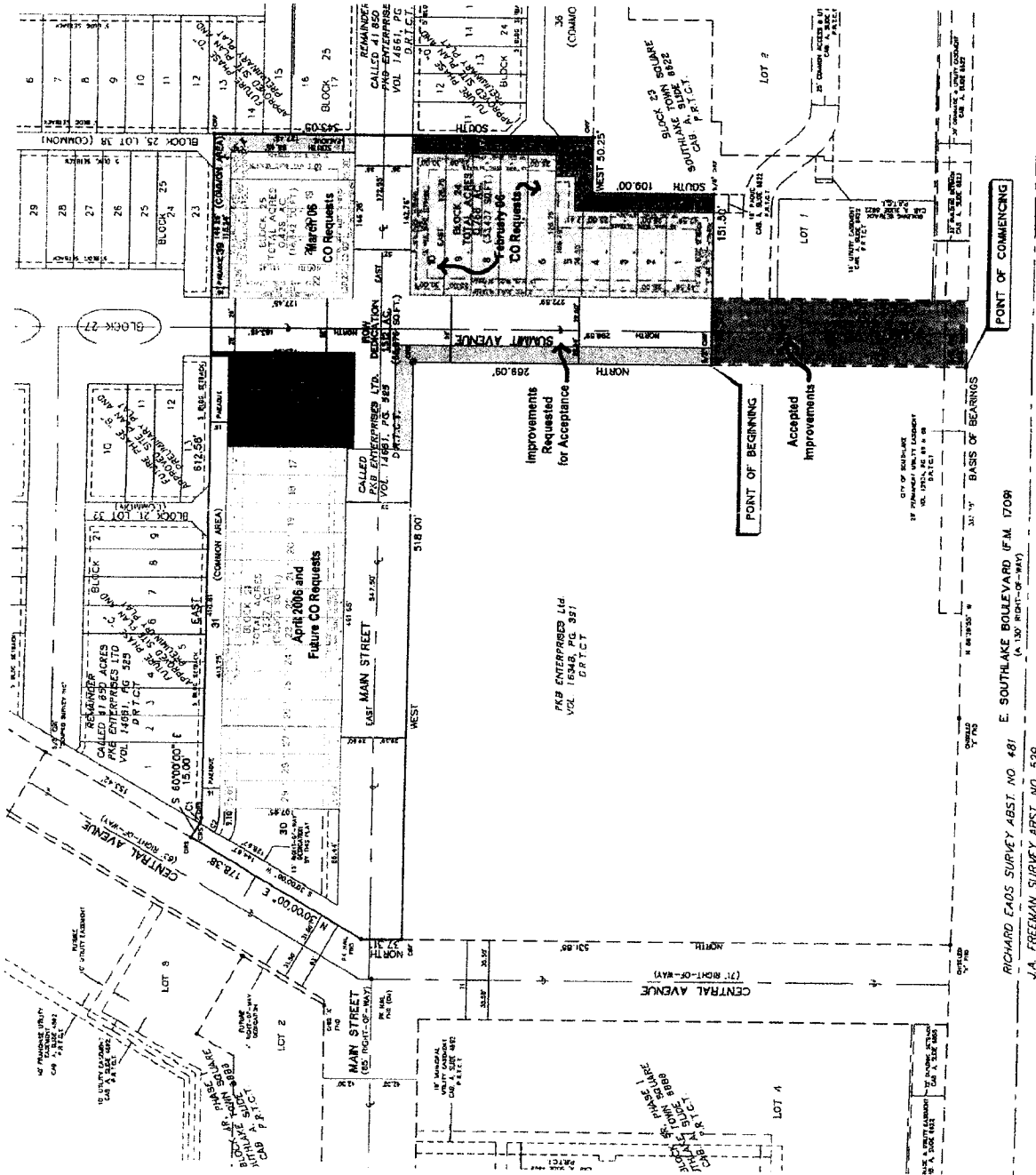
By: 

Brian R. Stebbins, Member 

Address: 1256 Main Street
Suite 240
Southlake, Texas 76092

Exhibit "1"

EXHIBIT 1 TO SECOND AMENDMENT TO DEVELOPER AGREEMENT



- A "Stage 1" Public Works to be completed within public right-of-way prior to issuance of first Certificate of Occupancy ("CO")
- B Public Works to be completed within public right-of-way as part of Summit Park Improvements (not required for COs)
- C Public sidewalk to be completed within public right-of-way prior to issuance of COs for Block 21
- D "Stage 1" right-of-way to be accessible for construction traffic following acceptance by City, subject to Developer's obligation to repair and maintain in a timely manner as necessary
- E Block 24 COs to be progressively issued following completion of applicable Stage 1 Public Improvements
- F Block 24 Public Infrastructure to be completed within private access drainage and utility easement ("PADUE") prior to issuance of first CO in Block 24
- G Block 25 COs to be progressively issued following completion of applicable Stage 1 Public Improvements
- H Block 25 Public Infrastructure to be completed within "PADUE" prior to issuance of first CO in Block 25
- I Block 21 COs to be progressively issued following completion of applicable Stage 1 Public Improvements

RICHARD EADS SURVEY ABST. NO. 481 E. SOUTHLAKE BOULEVARD (F.M. 1709)
(A 130' RIGHT-OF-WAY)
J.A. FREEMAN SURVEY ABST. NO. 529