

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT WITH THE  
CITY OF SAN ANTONIO, TEXAS, MISSION DEL LAGO, LTD., AND  
THE BOARD OF DIRECTORS OF TAX INCREMENT REINVESTMENT ZONE  
NUMBER SIX, CITY OF SAN ANTONIO, TEXAS**

THIS FIRST AMENDMENT (“Amendment”) TO DEVELOPMENT AGREEMENT (“Development Agreement”) is entered into by and between the CITY OF SAN ANTONIO, a Texas municipal corporation in Bexar County, Texas (the “City”), MISSION DEL LAGO, LTD., a Texas limited partnership (the “Developer”), and BOARD OF DIRECTORS OF TAX INCREMENT REINVESTMENT ZONE NUMBER SIX, City of San Antonio, Texas, a tax increment reinvestment zone (the “Board”) (herein collectively referred to as the “Parties”); which Amendment is authorized pursuant to Ordinance 2014-05-01-0286 approved on the 1<sup>st</sup> day of May 2014, and approved by the Board on the 19th day of December, 2013. The Development Agreement, authorized pursuant to Ordinance No. 2006-06-29-0801, passed and approved by the City on the 29<sup>th</sup> day of June, 2006, and effective July 24, 2006, is hereby amended as follows:

WHEREAS, Developer, City, and Board have entered into a Settlement and Release Agreement effective May 9, 2014, authorized pursuant to Ordinance 2014-05-01-0286 approved on the 1<sup>st</sup> day of May, 2014 (hereinafter “Settlement Agreement”), and in accordance with the Settlement Agreement, the parties have agreed, among other things, to enter into this Amendment to the Development Agreement;

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual promises, covenants, obligations, and benefits contained in the Settlement Agreement, the Development Agreement and this Amendment, the City, Developer, and the Board hereby agree to amend the Development Agreement as set forth herein.

**Amendments to Section I. Definitions:**

A new Paragraph 1.24 is added as follows:

- 1.24** “Street Reconstruction Project” means the work to be performed for the Unit 8 street reconstruction/repair/crack seal as set forth in the Settlement Agreement and the Developer Participation Contract.

A new Paragraph 1.25 is added as follows:

- 1.25** “Developer Participation Contract” means the contract dated May 9, 2014, required under the Settlement Agreement and attached hereto as **Exhibit E**.



**Amendments to Section II. Representations:**

**Paragraph 2.1** is amended as follows:

- 2.1 NO TAX INCREMENT BONDS OR NOTES:** The City, the Board and the Developer represent that they understand and agree that neither the City nor the Board shall issue any bonds or notes to cover any costs directly or indirectly related to the Developer's improvements of the Zone under this Agreement. Notwithstanding the foregoing, in accordance with the Settlement Agreement, the City has agreed to issue a note in an amount not to exceed \$1.7 million plus interest to finance the Street Reconstruction Project, which note shall be re-paid from the City's tax increment applicable to the Zone.

**Amendments to Section III. The Project:**

**Paragraph 3.1** is amended to read as follows:

- 3.1 The Project.** The Project shall consist of the following public improvements and related capital costs: streets and approaches, sidewalks, drainage, water, sewer, utilities, street lights, on-site sewer outfall, Del Lago parkway, gas platting fees, drainage fees, sewer impact fees, engineering/surveying fees, performance of the Street Reconstruction Project in accordance with the terms of the Developer Participation Contract and park improvements to be constructed by the Developer on an approximately 812 acres out of the Mission Del Lago Subdivision, as set forth in the Project Plan and Financing Plan.

**Amendments to Section V. Duties and Obligations of Developer:**

**Paragraph 5.2.1** is hereby added in its entirety as follows:

- 5.2.1** In March 2014 Developer entered into an "Agreement for Sale and Purchase" with Southstar Development Partners, Inc., ("Southstar") for the purchase of the Developer's assets and an Operating Agreement delegating authority to Southstar to serve as their "Operating Agent". **Exhibit H** sets out the obligations of the Developer under this Development Agreement and who, between the Developer and the Operating Agent, shall be responsible for fulfilling the obligation. Notwithstanding anything set out in these Agreements between Developer and Southstar and **Exhibit H**, Developer shall continue to be subject to all of the rights and responsibilities under this Development Agreement.

**Paragraph 5.11 (SBEDA)** is hereby deleted in its entirety.

*(Handwritten initials)*

**Paragraph 5.17** is amended to read as follows:

**5.17** The Developer shall include requirements in its contracts requiring its contractors, future purchasers, successors, and permitted assigns to comply with the City's Universal Design Policy on all improvements installed as required by City Code, Chapter 6, Article XII. All such contracts shall contain provisions that require all future building permits and plans for single-family residences to be compliant with the City's Universal Design Policy and be clearly stamped or printed "Universal Design" by the builder and its architect. In addition, in accordance with the Settlement Agreement, Developer has executed a Restrictive Covenant in the form attached hereto as **Exhibit F**, which City shall cause to be recorded in the real property records of Bexar County, Texas, requiring Developer, Developer's purchasers, successors, and permitted assigns to comply with the City's Universal Design Policy. Notwithstanding the foregoing, as of the Effective Date of this Amendment, certain units in Phases 3, 4, 5, 6, 7A, 7B, and 8, which units are listed in **Exhibit G**, do not comply with the City's Universal Design Policy. In accordance with the Settlement Agreement, the City has agreed to waive compliance with the Universal Design Policy only as to those units listed in **Exhibit G**. If other units (other than those listed in **Exhibit G**) in the Project are found not to be constructed in compliance with the Universal Design requirements, the City may exercise all its legal options, including but not limited to terminating the Zone, enforcing the Restrictive Covenant in a court of competent jurisdiction, and/or removing any non-compliant parcels and their tax accounts from the boundaries of the Zone and the list of accounts generating revenue for the TIF Fund, which will then be reflected in an amended Finance Plan.

**Amendments to Section VI. Duties and Obligations of City and Board:**

**Paragraph 6.1** is amended to read as follows:

**6.1** Neither the City nor the Board shall sell or issue any bonds to pay or reimburse the Developer or any third party for any improvements to the Zone Property performed under the Project Plan, Financing Plan or this Agreement. Notwithstanding the foregoing, and in accordance with the Settlement Agreement, the City has agreed to issue a note to finance the Street Reconstruction Project in an amount not to exceed \$1.7 million, which note shall be re-paid from the City's tax increment applicable to the Zone.

**Paragraph 6.3** is amended to read as follows:

**6.3** The City and the Board hereby agree that all meetings of the Board shall be coordinated through and facilitated by the department of the City responsible for managing the TIF Program, and that all notices for meetings of the Board shall be drafted and posted by City staff, in accordance with Chapter 2, Article IX, of the City Code. City will post and facilitate the holding of at least one Board meeting per year and as otherwise needed.

**Amendments to Section XXI. Compliance with SBEDA and EEO Policies:**

**Paragraph 21.1** is amended to read as follows:

**21.1** ... Except for those Public Improvements commenced prior to the creation of the Zone, the Board and the Developer and the Operating Agent each understand and agree for itself to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein. ... *The remainder of Paragraph 21.1 shall remain unchanged.*

Except as modified or amended in this Amendment and the Settlement Agreement, the terms of which Settlement Agreement are incorporated herein by reference for all purposes, the recitals, provisions, conditions, obligations, and terms of the Development Agreement are hereby ratified and confirmed and shall remain in full force and effect as of the Effective Date hereof. To the extent language in the Settlement Agreement, the Developer Participation Agreement, and the Development Agreement are inconsistent, the language of the Development Agreement shall control. The Exhibits listed below are incorporated by reference herein for all purposes.

**Exhibits**

- A Public Improvements and Construction Schedule
- B Project Status Report
- E Developer Participation Contract
- F Restrictive Covenant – Universal Design Policy
- G List of Non-Compliant Universal Design Properties
- H Duties and Obligations Under the Development Agreement

**IN WITNESS THEREOF**, the Parties hereto have made and executed this First Amendment to Development Agreement, to be effective on the date of the last signature below (“Effective Date”).



CITY OF SAN ANTONIO

BOARD OF DIRECTORS  
TAX INCREMENT REINVESTMENT  
ZONE NUMBER SIX, CITY OF SAN  
ANTONIO, TEXAS

*Sheryl Sculley*  
Sheryl Sculley  
City Manager  
Date: 5-9-14

*Virginia Rogers*  
Title: Presiding Officer, Board of Directors  
Date: 5/7/14

ATTEST/SEAL:

*Leticia M. Vacek*  
Leticia M. Vacek  
City Clerk  
Date: 5-9-2014



APPROVED AS TO FORM:

*Veronica M. Zentgraf for*  
Robert F. Greenblum  
City Attorney  
Date: 5/7/14

DEVELOPER

MISSION DEL LAGO, LTD.,  
A Texas Limited Partnership,  
By and through its General Partner,  
MDL, Inc., a Texas Corporation

By: *Virginia Rogers*  
Signature

Printed Name: Virginia Rogers

Position: President  
Date: 5/7/14

*VR*

# **EXHIBIT A**

## **Public Improvements and Construction Schedule**

# Mission Del Lago Construction Schedule 5/01/2014

Project	Structure Type <sup>1</sup>	Projected Completion	Projected Number/ Square Feet	Number / Square Feet		
		Tax Year		Actual		
	Single Family Homes	1999			0	
	Single Family Homes	2000			0	
	Single Family Homes	2001			0	
	Single Family Homes	2002			0	
	Single Family Homes	2003			0	
	Single Family Homes	2004			64	
	Multi-Family Homes			280		
	Single Family Homes	2005			50	
	Single Family Homes	2006			52	
	Single Family Homes	2007			69	
	Single Family Homes	2008			41	
	Single Family Homes	2009			4	
	Single Family Homes	2010			32	
	Single Family Homes	2011			70	
	Single Family Homes	2012			51	
	Single Family Homes	2013			53	
	Single Family Homes	2014	115			
	Commercial		3,500			
	Multi-Family Homes		70			
	Single Family Homes	2015	150			
	Single Family Homes	2016	150			
	Commercial		48,000			
	Villa Espada Apartments		240			
	Single Family Homes	2017	160			
	Single Family Homes	2018	160			
	Commercial		53,000			
	Multi-Family Homes		280			
	Single Family Homes	2019	160			
	Commercial		10,600			
	Single Family Homes	2020	160			
	Commercial		75,000			
	Single Family Homes	2021	170			
	Commercial		7,500			
	Single Family Homes	2022	170			
	Commercial		40,000			
	Single Family Homes	2023	180			
	Commercial		30,000			
	Single Family Homes	2024	180			
	Commercial		20,000			
			<u>Projected</u>		<u>Actual</u>	<u>Total</u>
	Total Number of Single Family Homes		1,755		486	2,241
	Total Number of Multi-Family Homes		350		280	630
	Total Number of Villa Espada Apartments		240		0	240
	Total Square Feet of Commercial		287,600		0	287,600

<sup>1</sup> Single-Family Homes may include Garden Homes in FY 15, FY 16, and FY 18.

# **EXHIBIT B**

## **Project Status Report**





**CITY OF SAN ANTONIO**  
**TAX INCREMENT REINVESTMENT ZONE**  
**Project Status Report**

Pursuant to the Development Agreement, the DEVELOPER has agreed to provide periodic reports of construction to the CITY upon reasonable request. The City requests that the Developer submit a TIRZ project status report every quarter every year until the project is complete, due by:

- January 15<sup>th</sup>, for the first quarter,
- April 15<sup>th</sup>, for the second quarter,
- July 15<sup>th</sup>, for the third quarter and
- October 15<sup>th</sup>, for the fourth quarter.

At the completion of the project, the DEVELOPER shall submit a comprehensive final report.

Each quarterly report must include the following information:

- The number of Private Improvements completed (single-family and/or multi-family and commercial when applicable) and year in which they were completed
- The Public Improvements completed and costs incurred to date by year in which improvements were completed
- Indicate whether the construction is on track with the approved Final Project and Finance Plan
- If the project timeline has slipped, the Developer is to submit an updated project timeline
- The sale prices of the single-family homes completed (Please obtain and provide sales data for original sales price of every home sold.)
- Photos of: housing and commercial developments; before, during and after construction

In addition, for the City to monitor compliance with Sections 7.3 and 7.4 of the Development Agreement, the Developer must submit annually the Certificate of Insurance reflecting proof that:

- the City and its officers, employees and elected representatives are additional insureds as respects the operations and activities of, or on behalf of, the named insured contracting with the City, with the exception of the workers' compensation policy;
- the endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City of San Antonio is an additional insured shown on the policy;
- the Workers' Compensation and employers' liability policy provides a waiver of subrogation in favor of the City of San Antonio; and
- Notification to the City of any cancellation, non-renewal or material change in coverage was given not less than thirty (30) days prior to the change or ten (10) days prior to the cancellation due to non-payment of premiums, accompanied by a replacement Certificate of Insurance.

Attached is a form you may use to fulfill this reporting requirement.



KE

<b>TIRZ Project Progress Report (Construction)</b>	
<b>Name of Project:</b>	TIRZ #:
<b>Progress Report #:</b>	<b>TIRZ Term:</b>
	<b>From:</b> <b>To:</b>
<b>Period Covered by this Report:</b>	
<b>From:</b>	<b>To:</b>

The number of Private Improvements (single-family and/or multi-family and commercial if applicable) completed and year in which they were done

Phases (year)	start date	end date	Single-Family Units		Multi-family Units		Commercial Acres and Square Feet		Other Improvements (example: day care centers)	
			Proposed	Completed	Proposed	Completed	Proposed	Completed	Proposed	Completed
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										

VR

The Public Improvements completed and costs incurred to date by year (phase) in which improvements occurred

Phases (year)	start date	end date	Public Improvements														
			Sidewalks and Approaches <i>Linear Feet</i>	Streets <i>Li. Ft.</i>	Drainage <i>Li. Ft.</i>	Water <i>Li. Ft.</i>	Sewer <i>Li. Ft.</i>	Electrical (Line Extension) <i>Li. Ft.</i>	Gas <i>Li. Ft.</i>	Street Lights <i>Number</i>	Traffic Signal Light <i>Number/Location</i>	Landscaping <i>Li. Ft.</i>	Other				
1																	
2																	
3																	
4																	
5																	
6																	
7																	
8																	
9																	
10																	
TOTALS																	

➤ Is Construction on track with the approved Final Project and Finance Plan? If not, please submit an updated timeline with the actual construction and the projected buildout.

VA

Year	Original Project Plan			Actual/Projected		
	Single-Family	Multi -Family	Other	Single -Family	Multi -Family	Other
1999						
2000						
2001						
2002						
2003						
2004						
2005						
2006						
2007						
2008						

<b>Certification:</b> I certify, that to the best of my knowledge and belief, the data above is correct and that all outlays were made in accordance with the terms of the Development Agreement.	Signature of Certifying Individual:	Date:
	Type or printed Name and Title:	Telephone #: