

**ADDENDUM NUMBER FOUR TO AGREEMENT BY AND BETWEEN
THE CITY OF KYLE AND MOUNTAIN PLUM, LTD AND PLUM CREEK
DEVELOPMENT PARTNERS, LTD.**

THIS Addendum Number Four (“Addendum Number Four”) is agreed upon entered into this 17th day of October, 2017, by and between the CITY OF KYLE, TEXAS (“the City”), MOUNTAIN PLUM, LTD (“Mountain Plum”) and PLUM CREEK DEVELOPMENT PARTNERS, LTD (“Plum Creek Partners”) (Mountain Plum and Plum Creek Partners hereinafter collectively referred to as “the Owners”), for the development and annexation of the Plum Creek Ranch property as described in the Development Agreement.

RECITALS

1. The “Development Agreement” shall consist of and refer to the Agreement between the City of Kyle, Plum Creek Development Partners, Ltd. and William Negley, Trustee for the Development and Annexation of Phase I of the Plum Creek Ranch Property, effective April 15, 1997.
2. The Development Agreement has been amended and modified pursuant to Addendum Number One, effective March 20, 2003 (“Addendum Number One”), Addendum Number Two, effective September 7, 2004 (“Addendum Number Two”), and Addendum No. 3, effective August 5, 2014 (“Addendum Number Three”).
3. Except as otherwise provided herein, each, every, and all of the terms, provisions, and conditions of the Development Agreement, as amended or modified by Addendum Number One, Addendum Number Two, and Addendum Number Three, shall be and remain in full force and effect.
4. The Owners are the owners of approximately 694.957 acres of land within the Plum Creek Ranch Property, said land being more particularly described in Exhibit A, attached hereto and incorporated herein (“the Property”).
5. The parties to this Addendum Number Four (hereinafter “the Parties”) desire to acknowledge the expiration of Phase I of the Plum Creek Ranch Property, subject to certain terms and conditions which survive the expiration of Phase I of the Plum Creek Ranch Property.
6. Under the current Development Agreement, it is anticipated that the City’s obligations total approximately \$9,000,000, where \$1,886,608 in impact fee credits are due over-time as a result of the Water and Wastewater Facilities constructed by Plum Creek in Phase I since 1997, and approximately \$7,000,000 will be due for Water and Wastewater Facilities that Plum Creek will construct in Phase II in the future.

7. The Parties desire to acknowledge the expiration date for Phase II of the Plum Creek Ranch Property and amend certain terms and conditions related to Phase II of the Plum Creek Ranch Property, including, but not limited to, (a) the City's obligation to credit the Owners for Water and Wastewater Facilities Costs incurred by the Owners, and (b) the Owners' obligation to convey land within Phase II to the City for public facilities.

AGREEMENT

1. **Consideration.** In consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the parties contract and agree to the following terms, conditions and provisions of this Addendum Number Four, as set forth below.

2. **Purpose.** The purpose of Addendum Number Four is:
 - a. To acknowledge the expiration of Phase I of the Plum Creek Ranch Property, subject to the survival of certain terms and conditions as provided in the Development Agreement;

 - b. To acknowledge the expiration date of Phase II of the Plum Creek Ranch Property;

 - c. To amend the Development Agreement to eliminate the City's obligation to credit the Owners for Water and Wastewater Facilities Costs incurred by the Owners for the Uptown and Areas 6 and 10 portions of Phase II of the Plum Creek Ranch Property; and

 - d. To replace the Owners' obligation to convey land within Phase II to the City for locations of public facilities with an obligation to 1) dedicate the lesser of approximately 15.25 acres of land or equivalent acreage of land valued at \$2.50psf (\$108,900/acre) in 2017 dollars, such location of the dedication to be approved by Owners and City; and 2) reserve approximately 1.75 acres of land within the Uptown portion of Phase II for the City's acquisition and development of a government office building, upon certain terms and conditions.

 - e. To acknowledge the Special Fee of \$500 per LUE applicable to building permits within Phase II.

3. **Expiration of Phase I/Survival of Certain Terms and Conditions.** The Parties acknowledge and confirm that Phase I of the Plum Creek Ranch Property (defined in Section 1.26 of the Development Agreement and depicted in Exhibit "A" thereto) expired on April 17, 2017, pursuant to Section 8.17 of the Development Agreement.

- a. Notwithstanding the expiration of Phase I, the Parties acknowledge and confirm, pursuant to Section 8.17 of the Development Agreement, that the Owners' right pursuant to Article V of the Development Agreement to receive a deduction or offset for Water and Wastewater Facilities Costs incurred or Impact Fees prepaid for Phase I from Impact Fees subsequently assessed by the City survives the expiration of Phase I.
 - b. Notwithstanding the expiration of Phase I, the Parties acknowledge and confirm, pursuant to Section 2.06 of the Development Agreement and pursuant to Chapter 245 of the Texas Local Government Code, that all City approvals required for the completion of development within Phase I shall be governed by the Plum Creek Zoning Ordinance, the Plum Creek Subdivision Ordinance, the Plum Creek Phase I PUD Master Plan (as such Ordinances and Master Plan are defined in the Development Agreement) and all applicable City Ordinances that are not inconsistent with said Ordinances and Master Plan or inconsistent with Chapter 245 of the Texas Local Government Code.
4. **Expiration Date for Phase II.** The Parties acknowledge and confirm that Phase II of the Plum Creek Ranch Property, as defined in Exhibit "A" of Addendum Number One, shall, pursuant to Section 7 of Addendum Number Two, expire on September 7, 2034, provided that: (a) If the full build out of Phase II has not been completed by September 7, 2034, then Phase II is automatically extended for subsequent five (5) year periods until full build out of Phase II has been completed ; or (b) if the complete buildout of Phase II and the issuance of building permits for all buildings and development planned to be constructed within Phase II occurs earlier than September 7, 2034, then Phase II shall expire on said earlier date.
5. **Elimination of City Obligation to Credit/Offset For the Uptown and Areas 6 and 10 portions of Phase II.** Pursuant to Section 2.09 of the Development Agreement, Phase II is entitled to all rights under the Development Agreement, including the right to credit/offset of subdivision Impact Fees for Water and Wastewater Facilities Costs incurred by the Owners for Phase II. As part of the consideration for this Addendum Number Four, the Parties hereby acknowledge and agree that Section 2.09 of the Development Agreement is hereby amended to eliminate the City's obligation to credit/offset subdivision Impact Fees for Water and Wastewater Facilities Costs incurred by the Owners for the Uptown and Areas 6 and 10 portions of Phase II, said Uptown and Areas 6 and 10 portions of Phase II being more particularly described by metes and bounds in Exhibit B attached hereto and incorporated herein. The current Development Plan (attached hereto as Exhibit D) estimates that the current value of \$7,000,000 would be reimbursable to the Owners for these Water and Wastewater Facilities in the described areas of Uptown and Areas 6 and 10. The Owners acknowledge waiving their rights to these reimbursements.

6. Amendment of Public Land Conveyance Obligation. Section 2 (a) (i) of the Addendum Number Two requires the conveyance of approximately twenty-four (24) acres of land within Phase II of the Plum Creek Ranch Property to the City for the purpose of providing locations for public facilities and related amenities. Pursuant to that certain Site Development Agreement between Lennar Homes of Texas Land and Construction, Inc. and Mountain Plum Ltd, dated August 25, 2016, the Owners are responsible for conveyance of approximately seventeen (17) of the twenty-four (24) acres to be conveyed to the City for said location of public facilities and related amenities. Section 2 (a) (i) of Addendum Number Two is hereby amended to eliminate and replace the Owners` obligation to convey seventeen (17) acres of land within Phase II to the City and to require the Owners to instead 1) dedicate the lesser of approximately 15.25 acres of land or equivalent acreage of land valued at \$2.50psf (\$108,900/acre) in 2017 dollars, such location of the dedication to be approved by Owners and City; and 2) reserve approximately 1.75 acres of land within the future Uptown development within Phase II, as defined in Exhibit C attached hereto (said 1.75 acre parcel of land is hereinafter “the Government Facility Parcel”) for future conveyance to the City pursuant to the following terms and conditions:

- (a) The Owners shall designate the location of and reserve the 1.75 acre Government Facility Parcel for the benefit of the City for a period of 5 years from the Effective Date of Addendum Number Four (“the Reserve Period”). The Parties may mutually agree to extend the timeframe of the Reserve Period.
- (b) The Owners shall deliver utilities to the Government Facility Parcel. The current value of these utilities and access roads is approximately \$1,900,000.
- (c) In the event the City elects to acquire and develop the Government Facility Parcel, the City shall provide written notification to the Owners prior to the expiration of the Reserve Period. Upon receipt of such written notification, the Owners shall convey the Government Facility Parcel to the City in fee simple at no cost to the City, subject to reverter back to the Owners as described below.
- (d) If the City does not begin construction of a government facility building on the Government Facility Parcel within 36 months of acquisition, ownership of the Government Facility Parcel shall revert back to the Owners. In the event that the Government Facility Parcel reverts back to the Owners, the Owners shall waive their rights to any remaining prepaid Impact Fees due for Water and Wastewater Facilities Costs constructed in Phase I (currently \$1,886,608 remaining as of the date of this Amendment Number 4). The Parties may mutually agree to extend the timeframe for commencement of construction.
- (e) At the time that the City commences construction of a government facility building on the Government Facility Parcel, the Owners shall waive their rights to any remaining prepaid Impact Fees due for Water and Wastewater Facilities

Costs constructed in Phase I (currently \$1,886,608 remaining as of the date of this Amendment Number 4). Until such time that the City commences construction of a government facility building on the Government Facility Parcel, the Owners shall be entitled to the prepaid Impact Fees currently due for Water and Wastewater Facilities Costs constructed in Phase I.

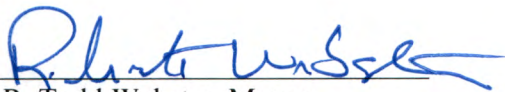
- (f) The Owners acknowledge that an approximately 2.75 acre central park is currently being planned for development adjacent to the Government Office Parcel. The central park is planned to be privately owned, constructed and maintained but will be open to the public for public park use.

In addition to all rights the City has under the Development Agreement and Addendum Numbers One, Two and Three, the Owners hereby agree that in the event the remaining seven (7) acres of land of within Phase II required to be conveyed to the City for public facilities and related amenities pursuant to Section 2 (a) (i) of Addendum Number Two has not been conveyed to the City on or before September 7, 2020 (or such later date as may be mutually agreed to by the City and Plum Creek pursuant to Paragraph 5 of Addendum No. 3), the City may require the Owners to convey the remaining seven (7) acres of land within Phase II to the City. City agrees to give the Owners at least 180 days prior written notice of City's intent to require the Owners to convey the remaining seven (7) acres of land to the City. In such event, the City and the Owners may also mutually agree to an alternative form of satisfaction of the obligation to convey the remaining seven (7) acres of land.

- 7. **Addendum Number Four Does Not Affect Lennar Tract.** This Addendum Number 4 does not apply to or otherwise affect that certain parcel of land within the Plum Creek Ranch Property known as the "Lennar Tract", said Lennar Tract being more particularly described by metes and bounds in Exhibit D, attached hereto. All of the applicable provisions of the Development Agreement, Addendum Number One, Addendum Number Two and Addendum Number Three shall continue to apply to the Lennar Tract.
- 8. **Entire Agreement.** This Addendum represents the entire agreement between the Parties concerning the terms, conditions and provisions in this Addendum Number Four. All provisions in the Development Agreement, Addendum Number One, Addendum Number Two, and Addendum Number Three not in conflict with this Addendum shall still be in effect and represents the Entire Agreement.

AGREED upon and entered into this 17th day of October, 2017.

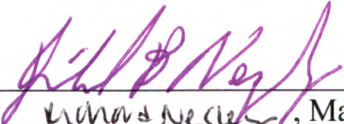
CITY OF KYLE, TEXAS

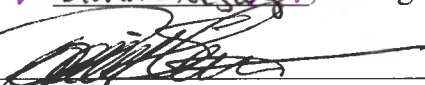
By: 
R. Todd Webster, Mayor

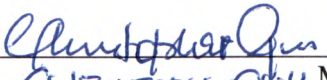
THE OWNERS:

MOUNTAIN PLUM, LTD.,
a Texas limited partnership

By: MP General, L.L.C.,
a Texas limited liability company,
its general partner

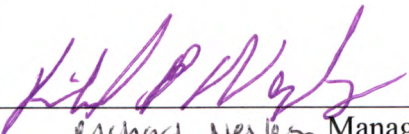
By: 
Richard Wesley, Manager

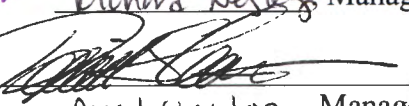
By: 
David Sheldon, Manager

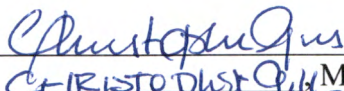
By: 
CHRISTOPHER GIUS, Manager of
Mountain City Land, LLC, a Texas
limited liability company, Manager

PLUM CREEK DEVELOPMENT PARTNERS, LTD.,
a Texas limited partnership

By: PCDP General Partner, L.L.C.,
a Texas limited liability company,
its general partner

By: 
Richard Wesley, Manager

By: 
David Sheldon, Manager

By: 
CHRISTOPHER GIUS, Manager of
Mountain City Land, LLC, a Texas
limited liability company, Manager