

**THE STATE OF TEXAS** §  
§  
**COUNTY OF TARRANT** §

**DEVELOPMENT AGREEMENT WITH GLADE 121, L.P.**

This Development Agreement (“Agreement”) is made and entered into effective the \_\_\_\_ day of \_\_\_\_\_, 2011 by and between GLADE 121, L.P. (“Developer”), a Texas limited partnership, and the CITY OF EULESS, TEXAS (“City”), a home rule municipality organized and existing under the constitution and laws of the State of Texas, for the purposes and considerations stated below.

**WHEREAS**, Developer desires to undertake a project to improve and develop a site of approximately 193 acres within the City of Euless as a regional mixed use development (the “Development”) creating multiple new employment opportunities, shopping opportunities, and additional revenue to City and other taxing jurisdictions in accordance with the Glade Parks Planned Development District #10-04-PD (the “Glade Parks PD”) approved by City Ordinance No. 1898; and

**WHEREAS**, City has determined that such project will promote local economic development and stimulate business and commercial activity as well as provide for additional residential opportunities for citizens within the municipality; and

**WHEREAS**, as an inducement to Developer, City has agreed to create Tax Increment Reinvestment Zone Number Three (the “TIRZ”) and to contribute proceeds from the TIRZ to cover certain public improvement costs associated with the Development.

**NOW, THEREFORE**, for and in consideration of the premises above stated and hereinafter set forth, the parties agree as follows:

**Section 1. City Obligations**

- a) City agrees to take the necessary actions to create the TIRZ.
- b) City agrees to construct certain public improvements as set forth in the TIRZ Project and Financing Plan and as detailed in Sections 1(e)-(j) below, not to exceed \$12,100,604, including administrative costs.
- c) City will issue bonds sufficient to cover the cost of the public improvements as outlined in Section 1(b) above. The bonds will be issued and the projects will be constructed in multiple phases in the sole discretion of City.
- d) City agrees to create the Glade Parks Public Improvement District pursuant to Developer’s request for the purpose of levying an assessment for any shortfall between

the annual debt payment associated with the public improvements constructed in accordance with Section 1(b) above and any revenues generated from the TIRZ.

- e) City will construct or pay for public improvements consisting of Rio Grande Boulevard, entrances depicted in Exhibit A on Page 12 of the Glade Parks PD including Loving Trail, Chisholm Trail, Goodnight Trail, Brazos Boulevard, Neches Dr, Red River Dr, Sabine Dr, Heritage Avenue (to a point approximately 1,700 linear feet south of Glade Road), acceleration and deceleration lanes required by the State for State Highway 121 southbound frontage road, and the Little Bear Creek Bridge, as depicted in Exhibit B-4 on Page 17 of the Glade Parks PD, including any required public sidewalks, city utilities (sanitary sewer, storm sewer, and water service), franchise utilities (electric, natural gas, and telephone services), pavement, excavation, landscaping, general conditions, inspection fees, wetland mitigation work, and other miscellaneous costs related to and necessary for the completion of these public improvements.
- f) City will construct or reimburse Developer for construction of one Main Entry Feature, excluding any tenant signage, as depicted in Exhibit B-1 on Page 14 of the Glade Parks PD and will construct or reimburse Developer for four (4) Branding Element signs as depicted in Exhibit B-2 on Page 15 of the Glade Parks PD. The City will construct or reimburse the Developer for one (1) Secondary Entry Feature at Cheek Sparger Road as depicted on Exhibit B-3 on page 16 of the Glade Parks PD. The construction or reimbursement costs for these improvements shall not exceed Developer's estimate of \$377,175, subject to City approval. City may, in its sole discretion, approve expenditures in excess of this estimate provided the overall maximum project cost set forth in Section 1(b) is not exceeded.
- g) City will construct the 12' Regional Trail as indicated on Exhibit FF, Page 79 of the Glade Parks PD at a cost not to exceed Developer's estimate of \$68,000, subject to City approval. City may, in its sole discretion, approve expenditures in excess of this estimate provided the overall maximum project cost set forth in Section 1(b) is not exceeded.
- h) City will construct or reimburse Developer for improvements as depicted in Exhibit Q on Page 58 and Exhibit R on Page 59 of the Glade Parks PD should the final approved land use necessitate the improvements. The construction or reimbursement costs for these improvements shall not exceed Developer's estimate of \$587,248, subject to City approval. City may, in its sole discretion, approve expenditures in excess of this estimate provided the overall maximum project cost set forth in Section 1(b) is not exceeded.
- i) City will install a traffic signal and related road work required at the intersection of Rio Grande Boulevard and Cheek Sparger Road.
- j) City will pay up to \$52,000 of engineering fees to Mycoskie, McInnis & Associates for the work they performed to create bid documents for construction of public streets within the first phase of the Development as depicted in Exhibit A. Bid document development in future phases will be through direct engagement of an engineering/architectural firm by the City of Eules.

## **Section 2. Developer Obligations**

Developer agrees as follows:

- a) Developer shall meet or exceed all requirements contained in the Glade Parks PD and will secure all applicable platting and site plan approvals.
- b) Developer shall construct all public improvements set forth in the Glade Parks PD that are in excess of the City's \$12,100,604 costs under the TIRZ Project and Financing Plan as set forth in Section 1(b) above.
- c) Developer shall be responsible for any and all obligations to tenants or owner occupants of the Development pursuant to separate lease and/or sale agreements.
- d) Developer will provide for a perpetual maintenance agreement for the maintenance of all common areas, signage and landscaping within the Development, including within the right of way. This shall not obligate Developer to maintain any public roadway surface within the right of way.
- e) Developer will convey the necessary rights-of-way, construction easements, access easements and utility easements for the construction of all public improvements prior to the commencement of construction, at no cost to City.
- f) Developer will construct all streets, alleys and drives not specifically mentioned in Section 1(e) above.
- g) Developer will construct the Clock Tower feature, as depicted in Exhibit S on Page 60, in the area depicted in Exhibit P on Page 57 of the Glade Parks PD.
- h) Developer will implement the Lifestyle Area Specialty Paving Plan as depicted in Exhibit Z on Page 69 of the Glade Parks PD.
- i) Developer will consult with City regarding the design and final specifications for the improvements described in Section 1(f) above. Developer will provide at no cost the necessary construction easements for such improvements.
- j) All improvements constructed by Developer for which Developer seeks reimbursement under this Agreement must be competitively bid pursuant to Chapter 252 of the Texas Local Government Code. Developer shall coordinate with City to assure compliance with statutory competitive bidding requirements.
- k) This Agreement is applicable to the Glade Parks PD and its current ownership and will remain in full effect in the event of a change in project ownership.
- l) Developer shall not be delinquent in ad valorem taxes, PID assessments, or any other tax payments due City or other taxing entities.

- m) The terms and provisions of this Agreement are subject to changes in applicable state legislation.

### **Section 3. Limitations on City Participation; Default**

- a) City shall not be obligated to reimburse Developer for costs of any improvements under Section 1 unless Developer has complied with the competitive bidding requirements of Chapter 252 of the Texas Local Government Code.
- b) The parties understand and agree that City's participation in the construction of improvements or payment of monies under this Agreement shall be performed in phases and the timing of such participation shall be within the sole discretion of City based on City's determination of the sufficiency of the taxable value of on the ground improvements and sales tax value from the Development to pay the projected debt service on City issued bonds for construction of the improvements. City shall have no obligation pursuant to this Agreement to fund additional phases of construction after the first phase, as depicted in **Exhibit A**, if the City determines that the value of improvements within the Development is insufficient to fund the debt service obligations of City related to the Development.
- c) Should Developer choose to construct any improvements in advance of City performing its obligations under Section 1, City may, in its sole discretion, choose to enter into a separate developer agreement establishing conditions by which City will reimburse Developer or any other entity for completion of specified public improvements contained within the scope of the work described herein. City will have no responsibility to reimburse Developer or any other entity for public improvements constructed outside the terms of a developer agreement
- d) City shall have no obligation pursuant to this Agreement if Developer fails to comply with the obligations set forth in Section 2. In the event that City determines Developer has failed to meet any of its material obligations, City will notify Developer of such default. Developer will be given notice of the default and a reasonable timeline to remedy the default, not to be less than thirty (30) days, except in the event public safety is at risk. If such default is not remedied within the specified timeline, City's obligation under this Agreement shall terminate.

### **Section 4. Mutual Assistance**

City and Developer shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out the terms and provisions of this Agreement.

### **Section 5. Representations by City**

City represents that:

- a) City is a home rule Texas municipal corporation and has the power to enter into and has taken all actions to date required to authorize this Agreement and to carry out its obligations hereunder;
- b) City knows of no litigation, proceedings, initiative, referendum, investigation or threat of any of the same contesting the powers of City or its officials with respect to this Agreement that has not been disclosed in writing to Developer;
- c) City knows of no law, order, rule or regulation applicable to City that would be contravened by, or conflict with the execution and delivery of this Agreement.
- d) This Agreement constitutes a valid and binding obligation of City, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity. City will defend the validity of this Agreement in the event of any litigation arising hereunder that names City as a party or which challenges the authority of City to enter into or perform its obligations hereunder.

#### **Section 6. Representations and Warranties by Developer**

Developer recognizes that City intends to commence construction and expend substantial monies in reliance upon the accuracy of the representations and warranties of Developer as set forth in this Section 6. Developer represents that:

- a) Developer is a Texas limited partnership duly organized and validly existing under the laws of the State of Texas and is, or will prior to the effective date of this Agreement, be qualified to do business in the State of Texas, and has the legal capacity and the authority to enter into and perform its obligations under this Agreement;
- b) The execution and delivery of this Agreement and the performance and observance of its terms, conditions and obligations have been duly and validly authorized by all necessary action on Developer's part to make this Agreement;
- c) Developer knows of no litigation, proceeding, initiative, referendum, or investigation or threat of the same contesting the powers of Developer or any of its principals or officials with respect to this Agreement that has not been disclosed in writing to City; and
- d) Developer has the necessary legal ability to perform its obligations under this Agreement and has the necessary financial ability to meet its obligations. This Agreement constitutes a valid and binding obligation of Developer, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

## **Section 7. Rights of Lenders and Interested Parties**

City is aware that financing for acquisition, development and/or construction of certain public improvements may be provided, in whole or in part, from time to time, by one or more third parties, including, without limitation, lenders, major tenants, equity partners and purchasers or developers of portions of the Development (collectively, "Interested Parties"). In the event of default by Developer, City shall provide notice of such event of default at the same time notice is provided to Developer, to any Interested Parties previously identified to City. If any Interested Parties are permitted under the terms of its agreement with Developer, to cure the event of default and/or to assume Developer's position with respect to this Agreement, City agrees to recognize such rights of any Interested Parties and to otherwise permit such Interested Parties to assume all of the rights and obligations of Developer under this Agreement. City shall, at any time upon reasonable request by Developer, provide to any Interested Party an estoppel certificate or other document evidencing whether this Agreement is in full force and effect and whether any event of default by Developer exists hereunder (or, if appropriate, specifying the nature and duration of any existing event of default). Upon request by any Interested Party, City will enter into a separate assumption or similar agreement with such Interested Party, consistent with the provisions of this Section 7.

## **Section 8. Changes and Amendments**

Except as specifically provided otherwise in this Agreement, any alterations or deletions to the terms of this Agreement shall be by written amendment executed by both parties to this Agreement. Notwithstanding any other provision contained herein, City reserves the right in its sole discretion to construct any of the public infrastructure set forth in the TIRZ Project and Financing Plan in advance of the proposed phasing or in excess of the individual cost estimates for such infrastructure.

## **Section 9. Successors and Assigns**

This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. Developer may assign all or part of its rights and/or obligations hereunder upon written notice to City of such assignment.

## **Section 10. Notice**

Any notice and/or statement required or permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing:

If to Developer:	Glade 121 L.P. 4949 Harrison Avenue, Suite 200 Rockford, IL 61108 Attn: Mark A. Robinson
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If to City:

City Manager  
City of Euless  
201 N. Ector Dr. – City Hall  
Euless, Texas 76039

and to:

Taylor Olson Adkins Sralla Elam, LLP  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654  
Attn: Wayne Olson

### **Section 11. Venue**

The obligations of the parties to this Agreement are performable in Tarrant County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Tarrant County, Texas.

### **Section 12. Applicable Laws**

This Agreement is made subject to the provisions of the Charter and ordinances of City, as amended, and all applicable State and Federal laws.

### **Section 13. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

### **Section 14. Legal Construction/Partial Invalidity of Agreement**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

EXECUTED and effective as of the \_\_\_\_ day of \_\_\_\_\_, 2011.

CITY OF EULESS, TEXAS

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Gary L. McKamie, City Manager

DEVELOPER:

GLADE 121, L.P. a Texas limited partnership

By: Glade 121, G.P., L.L.C. a Texas limited liability company, its sole General Partner

By: \_\_\_\_\_  
MARK ROBINSON, Manager

**ACKNOWLEDGMENTS**

**STATE OF TEXAS** §  
§  
**COUNTY OF TARRANT** §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2011, by Gary L. McKamie, City Manager of the City of Euless, Texas, on behalf of said city.

\_\_\_\_\_  
Notary Public, in and for the State of Texas  
My Commission expires: \_\_\_\_\_

**STATE OF ILLINOIS** §  
§  
**COUNTY OF \_\_\_\_\_** §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2011, by Mark Robinson, as manager for Glade 121 GP, LLC, a Texas limited liability company, as general partner of Glade 121, L.P., a Texas limited partnership, on behalf of said limited partnership.

\_\_\_\_\_  
Notary Public, in and for the State of Illinois  
My Commission expires: \_\_\_\_\_