

**380 AND DEVELOPMENT AGREEMENT FOR PUBLIC AND PRIVATE
IMPROVEMENTS IN REINVESTMENT ZONE NUMBER TWO,
CITY OF BURLESON, BETWEEN THE CITY OF BURLESON AND
DEPOT ON MAIN HOLDINGS, LLC**

This Second Amendment to 380 and Development Agreement for Public and Private Improvements in Reinvestment Zone Number Two, City of Burleson, between the City of Burleson and Depot on Main Holdings, LLC (the "Second Amendment") is made and entered into by and between City of Burleson, a Texas municipal corporation of Tarrant and Johnson Counties, Texas (the "City"), acting by and through its City Manager; the Board of Directors of the Tax Increment Financing Reinvestment Zone Number Two, City of Burleson, Texas (the "Board"), acting by and through its Board President; and Depot on Main Holdings, LLC, a Texas limited liability company ("Depot").

RECITALS

WHEREAS, on or about November 14, 2016, the City, the Board and Realty Capital Management, LLC ("RCM") entered into a "380 and Development Agreement for Public and Private Improvements in Reinvestment Zone Number Two, City of Burleson, between the City of Burleson and Realty Capital Management, LLC" (the "Agreement"), which is incorporated into this Second Amendment as if fully set forth herein; and

WHEREAS, the Agreement was amended by that First Amendment to the Agreement (the "First Amendment"), which became effective on September 9, 2020, and which is incorporated into this Second Amendment as if fully set forth herein; and

WHEREAS, all rights, title, interest, responsibilities, and obligations in and to the Agreement and the First Amendment were assigned to Depot (an Affiliate of RCM) pursuant to Article 12 of the Agreement by that written "Notice of Assignment" dated January 29, 2024; and

WHEREAS, Union Pacific Railroad has denied approval of the hike and bike trail and low water crossing shown in the approved site plan for the Project, and the City and Depot desire to provide for alternative access and associated changes to the dog park, which includes, but is not limited to, the construction of a pedestrian bridge over the existing drainage channel; and

WHEREAS, the parties desire to amend the Agreement, as amended by the First Amendment, by executing this Second Amendment as set forth below, with all other terms of the Agreement and the First Amendment to remain unchanged, except as specifically amended by this Second Amendment.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Program Grant. A new Section 5.06 is hereby added to the Agreement, as amended by the First Amendment, as follows:

“5.06 The City shall make Grant Payments to Depot from the Available TIF Revenue for the additional costs of construction of a pedestrian bridge and associated changes (the “Dog Park Public Improvements”) as shown on Exhibit A-1 and more specifically detailed on Exhibit B, which are attached and incorporated into this Second Amendment. Grant Payments pursuant to this Section 5.06 shall be made within sixty (60) days following Depot's submittal or completion of the applicable matter hereunder. For purposes of this Section 5.06, City and Depot acknowledge and agree that each "Fiscal Year" shall commence on October 1st of a calendar year and end on September 30th of the following calendar year.

- i. Fiscal Year 2025. Depot shall apply to the City for an amended site plan showing the Dog Park Public Improvements identified in the attached Exhibit A-1 by December 1st, 2025, which shall be subject only to administrative approval by the City in accordance with the City's Ordinances. Upon Depot's submittal of the amended site plan, the City shall make a Grant Payment to Depot in the amount of **Two-Hundred and Fifty Thousand Dollars and no/cents (\$250,000)**. Administrative approval of the amended site plan shall be considered an amendment to this Agreement, and Exhibit A, which is attached hereto shall be automatically replaced without the need for further written amendment to this Agreement, as previously amended. Thereafter, the City shall make a Grant Payment to Depot in the amount of **One-Hundred and Twenty-Five Thousand Dollars and no/cents (\$125,000)**, if Depot obtains a building permit and commences construction of Dog Park Public Improvements by December 31st, 2025, which shall be extended on a day-for-day basis on account of any delays by the City or other delays which are outside the control of Depot (including, but without limitation, events of force majeure).
- ii. Fiscal year 2026. Depot shall construct all flat work for the Dog Park Public Improvements, which shall be ready for inspection and written acceptance by the City by March 31st, 2026, subject to any delays by the City which are outside the control of Depot. Upon inspection and written acceptance of the flatwork, the City shall make a Grant Payment to Depot in the amount of **One-Hundred Thousand Dollars and no/cents (\$100,000)**. In accordance with applicable City Ordinances, the City shall grant temporary occupancy of the dog park after the flatwork is inspected and accepted. Thereafter, the City shall make a Grant Payment to Depot in the amount of **One-Hundred and Fifty Thousand Dollars and no/cents (\$150,000)**, if the pedestrian bridge and the dog park shade structure are inspected and written acceptance is made by the City by September 30th, 2026, which shall be extended on a day-for-day basis on account of any delays by the City or other delays which are outside the control of Depot (including, but without limitation, events of force majeure).

- iii. **Fiscal year 2027.** Depot shall complete construction of all Dog Park Public Improvements by September 30th, 2027, which shall be extended on a day-for-day basis on account of any delays by the City or other delays which are outside the control of Depot (including, but without limitation, events of force majeure). Upon final inspection and written acceptance of all Dog Park Public Improvements by the City, the City shall make a Grant Payment to Depot in the amount of **Seventy-Five Thousand Dollars (\$75,000)**.
- iv. Each deadline required by this Section 5.06 shall be subject to Section 7.01 of the Agreement. In the event Depot is diligently pursuing the performance measures in good faith, but fails to meet any of the deadlines required by this Section 5.06, the Available TIF Revenue related to the missed performance measures shall be rolled over to the following fiscal year and may be funded upon completion of the performance measure for a period not to exceed five (5) fiscal years. In the event any of the deadlines required by this Section 5.06 is extended on account of any delays by the City or other delays which are outside the control of Depot (including, but without limitation, events of force majeure), each subsequent deadline shall be extended by the applicable number of days the previous deadline was so extended.

2. **Exhibits.** The following Exhibits to the Agreement, as amended by the First Amendment, are hereby amended by this Second Amendment as follows:

- (i) **Exhibit B** to the First Amendment (“Conceptual Site Plan of Development”) is hereby replaced in its entirety with **Exhibit A** to this Second Amendment (“Current Site Plan of Development”) which was approved by the Burluson City Council on June 7th, 2021; and
- (ii) **Exhibit A-1** (“Pedestrian Bridge and Dog Park Improvements”) is hereby added to the Agreement, as amended by the First Amendment and this Second Amendment; and
- (iii) **Exhibit C** to the First Amendment (“Project Costs and Improvements”) is hereby amended by **Exhibit B** to this Second Amendment to include the additional project costs and improvements for the pedestrian bridge and dog park (“Additional Project Costs and Improvements”). For avoidance of doubt, **Exhibit B** to this Second Amendment shall supplement, not replace, **Exhibit C** to the First Amendment.

3. **Effect of Amendment.** All other terms, definitions, and conditions of the Agreement and the First Amendment, with the exception of the terms, definitions, and conditions modified by this Second Amendment, shall remain in full force and effect.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed and effective as of the date of the last signature below.

**THE CITY OF BURLESON,
a Texas municipal corporation**

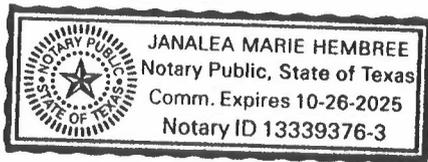
By: [Signature]
Name: Tommy Ludwig
Title: City Manager

STATE OF TEXAS
COUNTY OF JOHNSON

This instrument was acknowledged before me on Oct 10, 2025 by Tommy Ludwig, known personally by me to be the City Manager of the City of Burleson, on behalf of said City.

[Notary Seal]

[Signature]
Notary Public, State of Texas

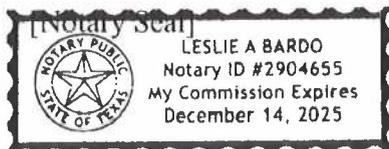


**DEPOT ON MAIN HOLDINGS, LLC, A TEXAS
LIMITED LIABILITY COMPANY**

By: [Signature]
Name: Alexander Brown
Title: Authorized Representative
Date: 10/6/2025

STATE OF TEXAS
COUNTY OF TARRANT

This instrument was acknowledged before me on Oct. 6th, 2025 by Alexander Brown, known personally by me to be the AUTHORIZED REPRESENTATIVE Depot on Main Holdings, LLC, a Texas limited liability company, on behalf of said company.



[Signature]
Notary Public, State of Texas

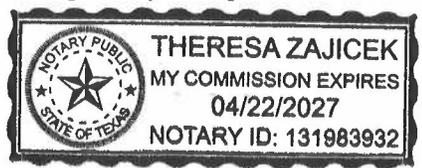
**Tax Increment Financing
Reinvestment Zone Number Two,
City of Burleson, Texas**

By: [Signature]
Name: Dan McClendon
Title: President

STATE OF TEXAS
COUNTY OF JOHNSON

This instrument was acknowledged before me on 10/22 2025 by Dan McClendon, known personally by me to be the President of Tax Increment Financing Reinvestment Zone Number Two, City of Burleson, Texas, on behalf of said entity.

[Notary Seal]



[Signature]
Notary Public, State of Texas

Exhibit A Current Site Plan of Development

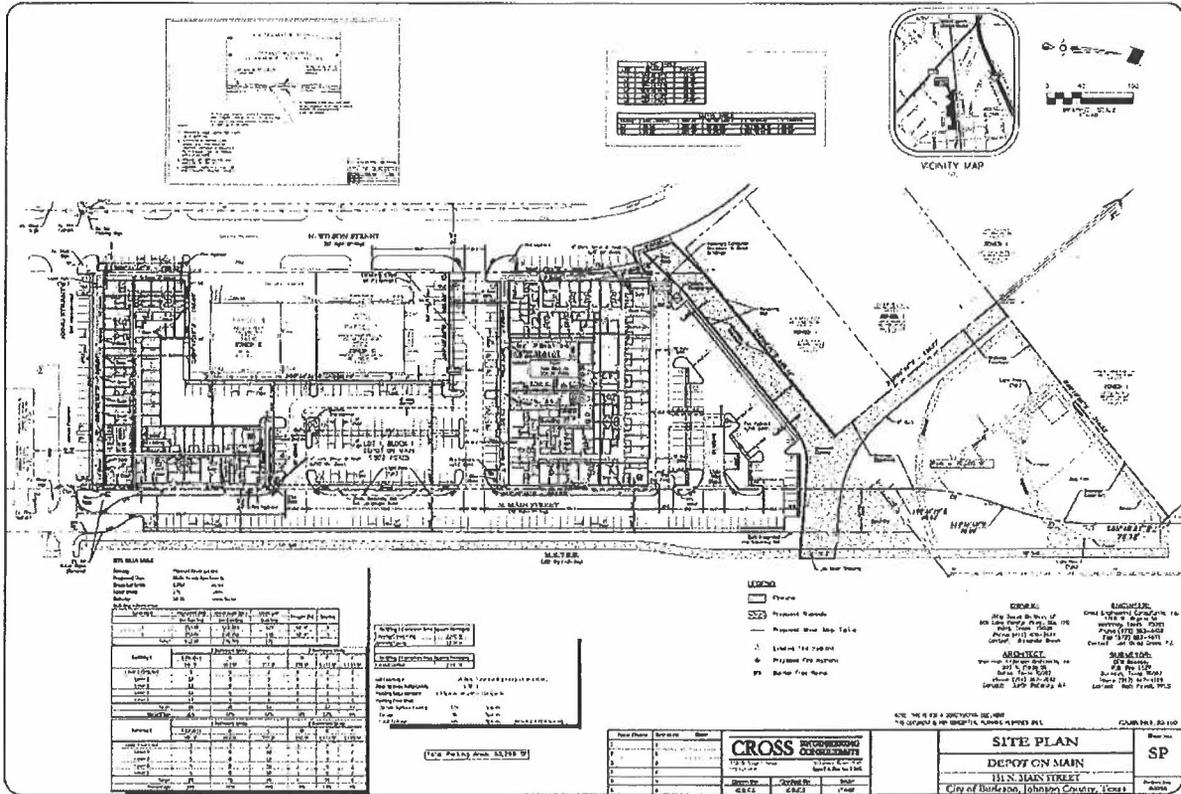
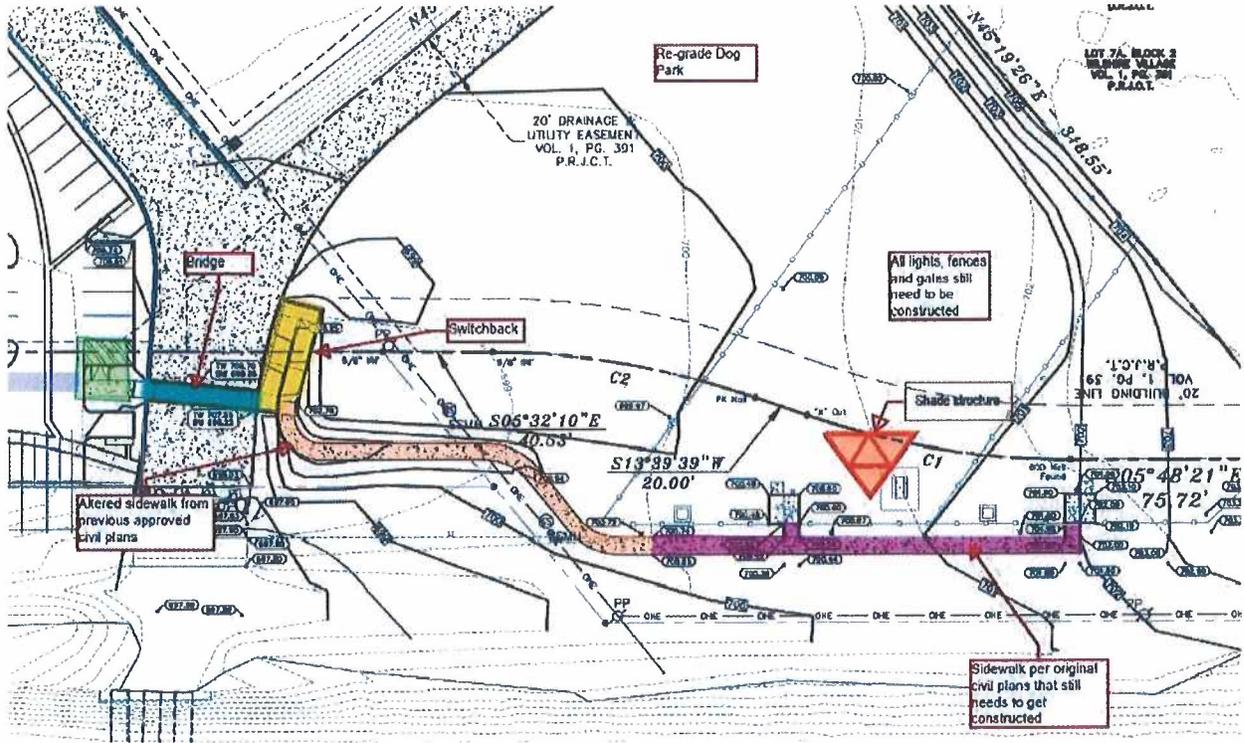


Exhibit A-1
Pedestrian Bridge and Dog Park Improvements



THIS EXHIBIT A-1 IS SUBJECT TO FINAL APPROVAL BY THE CITY OF AN AMENDED SITE PLAN FOR THIS PROJECT.

Exhibit B
Additional Project Costs and Improvements

Depot on Main 380 Payment for Park and Access - Exhibit "A"		
Line Item	Total Cost	Notes
Engineering Costs (estimated)		
Civil	\$ 23,760.00	Fees for amended site plan, construction documents, and amended flood study.
Structural	\$ 9,300.00	Fees for structural engineering of bridge.
Survey	\$ 800.00	Survey of existing paving to verify ADA path to bridge.
Subtotal:	\$ 33,860.00	
Construction Costs (estimated)		
Construction Costs	\$ 613,085.16	Construction costs per conceptual site plan.
Shade Structure	\$ 22,000.00	See concept image in Exhibit "B".
Subtotal:	\$ 635,085.16	
Past Invoices		
Past Invoices	\$ 42,484.07	Invoices for engineering exploration performed to date.
Subtotal:	\$ 42,484.07	
Total Public Improvement Costs	\$ 611,419.23	
Anticipated Contingency Required	\$ 89,586.77	
Total Reimbursement Request	\$ 700,000.00	

FIRST AMENDMENT TO

**380 AND DEVELOPMENT AGREEMENT FOR PUBLIC AND PRIVATE
IMPROVEMENTS IN REINVESTMENT ZONE NUMBER TWO,
CITY OF BURLESON BETWEEN THE CITY OF BURLESON AND
REALTY CAPITAL MANAGEMENT, LLC**

This First Amendment to 380 and Development Agreement for Public and Private Improvements in Reinvestment Zone Number Two, City of Burleson between the City of Burleson and Realty Capital Management, LLC ("Amendment") is made and entered into by and between City of Burleson, a Texas municipal corporation of Tarrant and Johnson Counties, Texas (hereinafter called "City"), acting by and through its City Manager; the Board of Directors of the Tax Increment Financing Reinvestment Zone Number Two, City of Burleson, Texas (hereinafter called "Board"), acting by and through its Board President; and Realty Capital Management, LLC ("RCM"), a Texas limited liability company, by and through its Managing Director, Tim Coltart.

RECITALS:

WHEREAS, on or about November 14, 2016, the City, the Board and RCM entered into that 380 and Development Agreement for Public and Private Improvements in Reinvestment Zone Number Two, City of Burleson between the City of Burleson and Realty Capital Management, LLC (the "Agreement" as attached hereto as Exhibit A); and

WHEREAS, the parties desire to amend the Agreement by revising it to read as set forth below, with all other terms to remain unchanged.

NOW THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Term.** Section 3.01 of the Agreement is hereby amended to read as follows:

3.01 The term of this Agreement shall commence on the Effective Date and will terminate twenty years following the Opening Date (the "Term").

2. **Conditions of Grant Payment Regarding RCM Development Operations.** Section 4.01(C) of the Agreement is hereby amended to read as follows:

(C) Obtain a building permit for the Development no later than May 31, 2021.

3. **Conditions of Grant Payment Regarding RCM Development Operations.** Section 4.01(K) of the Agreement is hereby amended to read as follows:

(K) Cause the Development to have a minimum cumulative value of twenty million dollars (\$20,000,000) on the Johnson County Tax

Appraisal District rolls beginning the tax year following the Opening Date and continuing for the Term.

4. **Program Grant.** Section 5.02a) of the Agreement is hereby amended to read as follows:

5.02 a) Annual installments should vary based on appraisal value. At a minimum of \$20,000,000 appraised value, the annual installment shall be equal to 75% of Available TIF Revenue for the prior calendar year of the operation of the Development. For every \$1,000,000 of appraisal value higher than \$20,000,000 and every amount in-between calculated proportionally, the annual installment shall increase by 1% of Available TIF Revenue for the prior calendar year of the operation of the Development up to a maximum reimbursement percentage of 80%. Reimbursements shall begin on or before March 1st of the year following the year the City accepts the Public Improvements and receives acceptable documentation of the Capital Investment expended during the construction of the Public Improvements and/or Project Costs. The City agrees to act reasonably and diligently in determining whether the Public Improvements are acceptable. Throughout the term of this Agreement, the annual reimbursement paid to RCM shall not exceed the Available TIF Revenue.

5. **Default and Remedies.** Section 7.01(C) of the Agreement is hereby amended to read as follows:

(C) In the event RCM has not commenced rough grading for the foundation of the Development by July 31, 2021, or thereafter fails to diligently pursue completion of construction of the Development, then upon written demand from the City at any time prior to the date rough grading has commenced or RCM has resumed completion of construction of the Development, as the case may be, RCM shall convey the Property back to the City by special warranty deed in its then existing condition (and subject to all matters then of record) within 90 days of RCM's receipt of such notice, and City shall refund to RCM the entire purchase price paid to City at the original closing of the Property. City agrees not to unreasonably refuse to issue building permits for the Development to RCM.

6. **Recitals.** Third recital of the Agreement is hereby amended to read as follows:

WHEREAS, RCM seeks to acquire and develop a mixed-use facility at the northern limits of Main Street addressed as 133 N. Main Street and certain surrounding parcels labeled on Exhibit D attached hereto as parcels 3, 5, 6, 8, 10 ('Velma' tract) and 11 (collectively, the "Property"); and

7. **Exhibits.** Exhibit A to the Agreement is hereby replaced in its entirety with Exhibit D to this Amendment. Exhibit B to the Agreement is hereby replaced in its entirety with Exhibit B to

this Amendment. Exhibit C to the Agreement is hereby replaced in its entirety with Exhibit C to this Amendment.

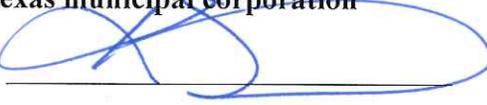
8. **Effect of Amendment.** All other terms and conditions of the Agreement, with the exception of the terms modified by this Amendment, shall remain in full force and effect.

APPROVED AS TO FORM AND LEGALITY:



City Attorney
BY: MATT RIBITZKI, DEPUTY CITY ATTORNEY

**THE CITY OF BURLESON,
a Texas municipal corporation**

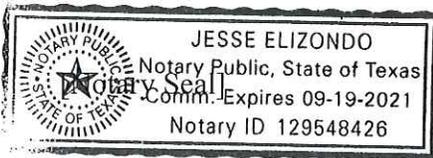
By: 

Name: KEN SHETTER

Title: MAYOR

STATE OF TEXAS
COUNTY OF JOHNSON

This instrument was acknowledged before me on Sept. 8, 2020 by KEN SHETTER, known personally by me to be the Mayor of the City of Burleson, on behalf of said City.





Notary Public, State of Texas

**Reality Capital Management, LLC,
a Texas limited liability company**

By: _____
Name: Tim Coltart
Title: Managing Director
Date: _____

this Amendment. Exhibit C to the Agreement is hereby replaced in its entirety with Exhibit C to this Amendment.

8. **Effect of Amendment.** All other terms and conditions of the Agreement, with the exception of the terms modified by this Amendment, shall remain in full force and effect.

APPROVED AS TO FORM AND LEGALITY:

City Attorney

**THE CITY OF BURLESON,
a Texas municipal corporation**

By: _____

Name: _____

Title: _____

STATE OF TEXAS
COUNTY OF JOHNSON

This instrument was acknowledged before me on _____, 2020 by _____, known personally by me to be the _____ of the City of Burleson, on behalf of said City.

[Notary Seal]

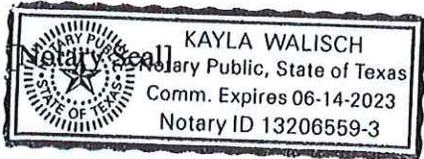
Notary Public, State of Texas

**Reality Capital Management, LLC,
a Texas limited liability company**

By:  _____
Name: Tim Coltart
Title: Managing Director
Date: 9/9/20

STATE OF TEXAS
COUNTY OF Dallas

This instrument was acknowledged before me on September 9th, 2020 by Tim Coltart, known personally by me to be the Managing Director of Realty Capital Management, LLC, on behalf of said company.



K Walisch
Notary Public, State of Texas

**Tax Increment Financing
Reinvestment Zone Number Two,
City of Burleson, Texas**

By: _____
Name: _____
Title: _____

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on _____, 2020 by _____, known personally by me to be the _____ of Tax Increment Financing Reinvestment Zone Number Two, City of Burleson, Texas, on behalf of said entity.

[Notary Seal]

Notary Public, State of Texas

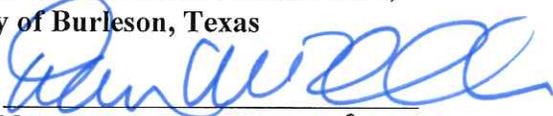
STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on _____, 2020 by Tim Coltart, known personally by me to be the Managing Director of Realty Capital Management, LLC, on behalf of said company.

[Notary Seal]

Notary Public, State of Texas

**Tax Increment Financing
Reinvestment Zone Number Two,
City of Burleson, Texas**

By: 
Name: DAN McCLEENDON
Title: CHAIRMAN

STATE OF TEXAS
COUNTY OF TARRANT/Johnson

This instrument was acknowledged before me on Sept. 8, 2020 by DAN McCLEENDON, known personally by me to be the CHAIRMAN of Tax Increment Financing Reinvestment Zone Number Two, City of Burleson, Texas, on behalf of said entity.

[Notary Seal]


Notary Public, State of Texas JESSE ELIZONDO

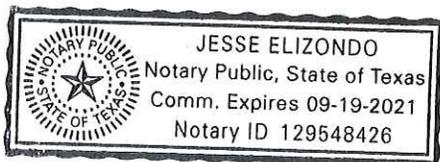


Exhibit A

The Agreement

**380 AND DEVELOPMENT AGREEMENT
FOR PUBLIC AND PRIVATE IMPROVEMENTS IN
REINVESTMENT ZONE NUMBER TWO, CITY OF BURLESON
BETWEEN THE CITY OF BURLESON AND REALTY CAPITAL MANAGEMENT, LLC**

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered as of November 14, 2016 (the "Effective Date") into by and among the City of Burleson, a Texas municipal corporation of Tarrant and Johnson Counties, Texas (hereinafter called "City"), acting by and through its City Manager; the Board of Directors of the Tax Increment Financing Reinvestment Zone Number Two, City of Burleson, Texas (hereinafter called "Board"), acting by and through its Board President; and RCM Depot on Main, L.P. ("RCM"), a Texas limited partnership, by and through its General Partner, RCM Portfolio Genpar, LLC, a Texas limited liability company.

WITNESSETH:

WHEREAS, the City recognizes the importance of its continued role in local economic development; and

WHEREAS, in accordance with the provisions of the Tax Increment Financing Act, V.T.C.A. Tax Code, Chapter 311 (the "Act"), on December 15, 2005, the Burleson City Council approved Ordinance No. C-592, creating, establishing and designating "Tax Increment Financing Reinvestment Zone Number Two, City of Burleson" (hereinafter called the "TIF District" or "District"); and

WHEREAS, RCM seeks to acquire and develop a mixed-use facility at the northern limits of Main Street addressed as 133 N. Main Street and certain surrounding parcels labeled on Exhibit A attached hereto as parcels 3, 5, 6, 8 and 11 (collectively, the "Property"); and

WHEREAS, the Act authorizes the expenditure of funds derived within a reinvestment zone, whether from bond proceeds or other funds, for the payment of expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by a municipality consistent with the project plan of the reinvestment zone, which expenditures and monetary obligations constitute project costs, as defined in the Act; and

WHEREAS, on September 22, 2005, after approval of the Board, the Burleson City Council approved the Tax Increment Reinvestment Zone Financing and Project Plan (herein so called), and the Financing Plan (herein so called); and

WHEREAS, the Board authorized the execution of this Agreement, for the construction of Public and Private Improvements in accordance with the approved Project Plan and Financing Plan, and authorizing reimbursement to RCM from the Tax

Increment Fund for the construction of the Public Improvements and Private Improvements under the conditions set forth herein; and

TIF 2 - 11/1/16 - DEPT

WHEREAS, pursuant to Resolution No. [REDACTED], the City Council authorized the execution of this Agreement, for the construction of the Public Improvements to facilitate development of the Property and the Development in accordance with the approved Project Plan and Financing Plan, and authorizing reimbursement to RCM from the Tax Increment Fund for the construction of the Public Improvements and the Development under the conditions set forth herein; and

WHEREAS, the Public Improvements constructed within the TIF District boundaries, as set forth in this Agreement, are consistent with encouraging development of the TIF District in accordance with the purposes for its creation and are in compliance with the ordinance creating the TIF District adopted by the City and all applicable laws; and

WHEREAS, the City and Board agree to reimburse funds advanced by RCM for the cost of making certain Public Improvements and Private Improvements as contemplated herein and as contemplated by the Act and as is consistent with the Project Plan and Financing Plan; and

WHEREAS, the City is authorized by Article 52 of the Texas Constitution and Section 380.001 Texas Local Government Code to provide economic development grants to promote local economic development and stimulate business and commercial activities in the City; and

WHEREAS, the City Council has determined that quality mixed use residential and commercial developments in urban settings stimulate commercial activity; and

WHEREAS, on May 27, 1993, the City adopted Resolution No. 583 establishing an Economic Development Program (the "Program") pursuant to Section 380.001 of the Local Government Code (Section 380.001); and

WHEREAS, the City Council finds that the Development will promote local economic development and stimulate commercial and business activity;

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

ARTICLE 1.
AUTHORIZATION

The City Council finds and determines that this Agreement is authorized by Chapter 311 of the Texas Tax Code and by Section 380.001 of the Texas Local Government Code.

**ARTICLE 2.
DEFINITIONS**

In this Agreement, the following words shall have the meanings ascribed to them:

- 2.01 "Available TIF Revenue" means the TIF Revenue attributable to the Property, less the portion of the TIF Revenue attributable to the Base Year Value.
- 2.02 "Base Year Value" means the value of the Property as established by the Johnson County Appraisal District, as of January 1, 2016.
- 2.03 "Capital Investment" means and shall include all costs incurred relating to the improvement of the Property, including the purchase price of the building and actual construction costs including soft costs of all buildings, structures, infrastructure, utilities, landscaping and other onsite improvements, including all labor and materials.
- 2.04 "Certificate of Occupancy" means the certificate issued by the City evidencing that the Development is in compliance with applicable development regulations and in satisfactory condition to be occupied by private residential users.
- 2.05 "Development" or "Private Improvements" mean the construction of a mixed-use building(s) on the Property to contain multi-family housing and associated amenities and providing for potential live/work locations and substantially similar to one of the two conceptual site plans attached hereto as **Exhibit B**.
- 2.06 "Effective Date" means the date first set forth above.
- 2.07 "Event of Bankruptcy or Insolvency" means the dissolution or termination of RCM's existence as a going business, insolvency, appointment of receiver for any part of RCM's property and such appointment is not terminated within 60 days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against RCM and such proceeding is not dismissed within 60 days after the filing thereof.
- 2.08 "Grant Payments" mean the payments made to RCM pursuant to Section 5 of this Agreement, to be paid exclusively from Available TIF Revenues.
- 2.09 "Opening Date" means the date RCM receives a Certificate of Occupancy for the Development, provided, however, if more than one Certificate of Occupancy is issued for the Development, the Opening Date shall mean the date RCM receives the last Certificate of Occupancy for the Development.

- 2.010 "Project Costs" means those costs associated with the construction of Public Improvements as set forth on **Exhibit C**, subject to reallocation as set forth therein.
- 2.011 "Property" is defined in the Recitals above.
- 2.012 "Public Improvements" means those items set forth on **Exhibit C**.
- 2.013 "Substantial Completion" or "Substantially Complete" means with regard to the Public Improvements, the date the City issues a Letter of Acceptance.
- 2.014 "Tax Increment Fund" means the Tax Increment Fund of Burleson Tax Increment Financing Reinvestment Zone No. Two.
- 2.015 "TIF District" means the district created by Ordinance No. C-592 of which the Property is a part.
- 2.016 "TIF Taxing Units" means those political subdivisions who by contract have agreed to contribute Available TIF Revenue to the TIF District.
- 2.017 "TIF Revenue" means the total revenue collected from the TIF Taxing Units and required by the Act to be deposited into the Tax Increment Fund each calendar year.
- 2.018 "City-Owned Property" means those tracts labeled as parcels 3, 5, 6 and 8 on **Exhibit A**.

ARTICLE 3.
TERM

- 3.01 The term of this Agreement shall commence on the Effective Date and will terminate fifteen years following the Opening Date (the "Term").

ARTICLE 4.
CONDITIONS OF GRANT PAYMENT

- 4.01 Conditions of Grant Payment Regarding RCM Development and Operations. In consideration of City agreeing to pay RCM the Grant Payments in accordance with the terms, provisions and conditions of this Agreement, RCM agrees to the following, which are not obligations of RCM, but are conditions that must be fulfilled in order to receive Grant Payments:
- (A) Intentionally Deleted.
 - (B) Design, construct and operate the Development in conformance with the criteria and development standards set forth in the ordinances of the City

of Burleson and applicable state and federal laws, subject to approval and variances granted by the Burleson Old Town Design Standards Review Committee and the Burleson City Council.

- (C) Obtain a building permit for the Development no later than three (3) years after the Effective Date.
- (D) Obtain a Certificate of Occupancy for the Development within two years of the issuance of the building permit.
- (E) Substantially complete the Public Improvements no later than six (6) months after the Opening Date.
- (F) Grant Payments shall be used only for Project Costs and associated public infrastructure improvements generally outlined and shown herein as **Exhibit C**.
- (G) The Development will incorporate through public art the historical significance of the MKT Railroad Depot that was built in 1914 as mutually and reasonably determined by RCM and the City.
- (H) Present zoning request of PD – Planned Development for the Property within three (3) months from the Effective Date of this Agreement.
- (I) Enter into a land sale contract with the City of Burleson for the purchase of the City-Owned Property and complete the purchase in accordance with such contract.
- (J) Complete purchase of the tract identified as parcel #11 on **Exhibit A** no later than 90 days after zoning approval from City Council.
- (K) Cause the Development to have a minimum cumulative value of twenty five million dollars (\$25,000,000) on the Johnson County Tax Appraisal District rolls beginning the tax year following the Opening Date and continuing for the Term
- (L) Submit reasonably satisfactory written evidence within 60 days of the Opening Date showing the Capital Investment expended during the construction of Public Improvements and indicating the validity of the expenses as Project Costs as generally outlined on **Exhibit C**.
- (M) Subject to Article 12 below, RCM shall operate the Development for the Term subject to (i) Force Majeure, (ii) casualty and condemnation, and (iii) temporary closings of the Development for repair, renovations and/or alterations not to exceed 90 days. Notwithstanding the previous sentence, RCM shall have the right to sell the Property to a third party after the Opening Date, in which event RCM may assign all of its rights, title and

interests in this Agreement to RCM's successor, provided such successor assumes all of RCM's duties hereunder.

- (N) RCM shall remain current and paid on all City property taxes, subject to appeal rights in accordance with law and subject to a right to cure any delinquency as set out in Section 7.01 (a).

**ARTICLE 5.
PROGRAM GRANT**

- 5.01 Subject to RCM complying with its duties and obligations under this Agreement, the City agrees that, subject to the terms and conditions contained herein, RCM shall be entitled to receive Grant Payments and benefits according to the schedule set forth in this Article.
- 5.02 The City shall make Grant Payments to RCM from the Available TIF Revenue for the Term of this Agreement based on the following conditions:
 - a) Annual installments shall be equal to 80% of Available TIF Revenue for the prior calendar year of the operation of the Development. Reimbursements shall begin on or before March 1st of the year following the year the City accepts the Public Improvements and receives acceptable documentation of the Capital Investment expended during the construction of the Public Improvements and/or Project Costs. The City agrees to act reasonably and diligently in determining whether the Public Improvements are acceptable. Throughout the term of this Agreement, the annual reimbursement paid to RCM shall not exceed the Available TIF Revenue.
 - b) Payments will cease upon the end of the Term of the Agreement or when Grant Payments equal \$2,000,000, whichever comes first.
 - c) RCM shall be responsible for the invoicing and tracking of payments and may submit information to the City on or after March 1st of each year, providing at least 60 days for the City to submit the Grant Payment.
 - d) In addition to the Grant Payment the City agrees to waive all permitting and inspection fees relating to the development, excluding impact fees.
- 5.03 The City will perform and deliver a Phase 1 and Phase 2 environmental survey on the City-Owned Property as well as lot #11 simultaneously or in conjunction with one another.
- 5.04 City will cause a Renfro Street crossing at Main Street that provides for pedestrian access from the Development to activity south of Renfro Street, the cost of which shall not be part of Available TIF Revenues. Improvements to establish a pedestrian crossing will be completed by March 31, 2018. City may

elect to partner with RCM in the construction of improvements subject to acceptance by RCM.

- 5.05 City will make improvements to Renfro Street near Main Street to incorporate walkable elements and new urbanism design by March 31, 2019, the cost of which shall not be part of Available TIF Revenues. City may elect to partner with RCM in its construction of improvements subject to acceptance by RCM.

ARTICLE 6.

AUTHORITY; COMPLIANCE WITH LAW

- 6.01 RCM hereby represents and warrants to the City that it has full lawful right, power and authority to execute and deliver and perform the terms and obligations of this Agreement and that the execution and delivery of this Agreement has been duly authorized by all necessary action by RCM and this Agreement constitutes the legal, valid and binding obligation of RCM, and is enforceable in accordance with its terms and provisions.
- 6.02 Notwithstanding any other provision of this Agreement, RCM shall comply with all federal, state, and local laws.
- 6.03 During the term of this Agreement, RCM agrees not to knowingly employ any undocumented workers at the Development, and if convicted of a violation under 8 U.S.C. Section 1324a(f), RCM shall repay the amount of the Grant Payments received by RCM as of the date of such violation within 120 business days after the date RCM is notified by the City of such violation, plus interest at the rate Burleson is paying on the most recent issuance of bonded indebtedness prior to RCM's violation of this section. The Parties agree that the provision of this Section 6.03 shall not apply to the employees, agents and workers of any contractor or subcontractor hired by RCM in the construction or operation of the Development.

ARTICLE 7.

DEFAULT AND REMEDIES

- 7.01 Default by RCM.
- (A) In the event: (i) the conditions under Article 4 of this Agreement have not been timely performed; (ii) RCM has delinquent ad valorem or sales taxes owed to the City (provided that RCM retains the right to timely and properly protest and/or contest any such taxes); or (iii) RCM materially breaches any of the material terms and conditions of this Agreement, then RCM after the expiration of the notice and cure periods described herein, shall be in default of this Agreement. In the event of such a default, City shall give RCM written notice of such breach and/or default, and if RCM has not cured such breach or default within 90 days after receipt of such

notice, the City may terminate this Agreement by written notice to RCM, and the City shall have no further obligation to RCM and payments previously received by RCM shall be retained by RCM.

- (B) In the event any condition is not timely performed under Section 4.01 and the Development closes or ceases operation prior to the end of the Term of this Agreement, RCM shall not be entitled to any additional Grant Payments from City.
- (C) In the event RCM has not commenced rough grading for the foundation of the Development within four years after the date RCM acquires the Property, or thereafter fails to diligently pursue completion of construction of the Development, then upon written demand from the City at any time prior to the date rough grading has commenced or RCM has resumed completion of construction of the Development, as the case may be, RCM shall convey the Property back to the City by special warranty deed in its then existing condition (and subject to all matters then of record) within 90 days of RCM's receipt of such notice, and City shall refund to RCM the entire purchase price paid to City at the original closing of the Property. City agrees not to unreasonably refuse to issue building permits for the Development to RCM.

7.02 No waiver or any breach of any term or condition of this Agreement shall be construed to waive any subsequent breach of the same or any other term or condition of this Agreement. Any waiver of any term or condition of this Agreement must be in writing and approved by the City Council of Burleson.

**ARTICLE 8.
RIGHT OF OFFSET**

RCM agrees that, subject to the provision of Notice by City and 60-day period following receipt of Notice in which RCM may respond or act, City may offset the amount of Grant Payments installment due to RCM for any calendar year under this Agreement against any amount which is: (i) lawfully due to City from RCM, and (ii) not subject to challenge by RCM in a court of competent jurisdiction by RCM.

**ARTICLE 9.
VENUE AND GOVERNING LAW**

This Agreement is performable in Johnson County, Texas and venue of any action arising out of this Agreement shall be exclusively in Johnson County, Texas. This Agreement shall be governed and construed in accordance with the Charter, ordinances, and resolutions of the City of Burleson, applicable federal and state laws, violation of which shall constitute a default of this Agreement. To the extent permitted by law, the laws of the State of Texas shall apply without regard to applicable principles

of conflicts of law, and the parties submit to the jurisdiction of the state and federal courts in Burleson, Johnson County, Texas.

**ARTICLE 10.
FORCE MAJEURE**

Performance of RCM's obligations under this Agreement shall be subject to extension due to delay by reason of events of force majeure, and RCM's obligations shall be abated during any period of force majeure. Force majeure shall include, without limitation, damage or destruction by fire or other casualty, condemnation, strike, lockout, civil disorder, war, issuance of any permit and/or legal authorization (including engineering approvals by any governmental entity), governmental approvals and permits, shortage or delay in shipment of materials or fuel occasioned by any event referenced herein, acts of God, unusually adverse weather or wet soil conditions or other causes beyond the parties' reasonable control, including but not limited to, any court or judgment resulting from any litigation affecting the Property or this Agreement. City agrees it shall not condemn any portion of the Development.

**ARTICLE 11.
GIFT TO PUBLIC SERVANT OR TO RCM REPRESENTATIVE**

- 11.01 No Benefit. Each party hereto represents to the other that it has not offered, conferred, or agreed to confer and that it will not offer, confer or agree to confer in the future any benefit upon an employee or official of the other party. For purposes of this section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.
- 11.02 Right of Reimbursement. Notwithstanding any other legal remedies, City may obtain reimbursement for any expenditure made to RCM as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

**ARTICLE 12.
ASSIGNMENT**

RCM shall have the right to assign this agreement to an affiliated or related party under control by, or under common control with RCM (an "Affiliate"). Any assignment to a third party other than an Affiliate shall require the consent of the City Council, which consent shall not be unreasonably withheld. In the event the City Council fails to reply to a written request for consent to an assignment within 30 days, such consent shall be deemed given.

**ARTICLE 13.
INDEMNIFICATION**

- 13.01 RCM EXPRESSLY AGREES TO FULLY AND COMPLETELY DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, AND ITS OFFICERS, AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS, LAWSUITS, LIABILITIES, JUDGMENTS, COSTS, AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, DAMAGES OR LIABILITY FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ANY NEGLIGENT, GROSSLY NEGLIGENT, WRONGFUL, OR STRICTLY LIABLE ACT OR OMISSION OF RCM OR ITS AGENTS, EMPLOYEES, OR CONTRACTORS, ARISING OUT OF THE PERFORMANCE OF THIS CONTRACT. Nothing in this paragraph may be construed as waiving any governmental immunity available to the City under state law. This provision is solely for the benefit of RCM and the City and is not intended to create or grant any rights, contractual or otherwise, in or to any other person.
- 13.02 It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties. The City (including its past, present and future officers, elected officials, directors, employees and agents of the City) does not assume any responsibility to any third party in connection with RCM's construction of the Development.

ARTICLE 14.
MISCELLANEOUS MATTERS

- 14.01 Time is of Essence. Time is of the essence in this Agreement. The parties hereto will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.
- 14.02 Agreement Subject to Law. This Agreement is made subject to and in accordance with the Burleson Home Rule Charter and ordinances of City, as amended, and all applicable State and federal laws.
- 14.03 Interpretation. Each of the Parties have been represented by counsel of their choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any Party based on draftsmanship.
- 14.04 Counterparts Deemed Original. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

- 14.05 Captions. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
- 14.06 Complete Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in the Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached and made a part of this Agreement.
- 14.07 Notice. Any notice to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be (i) delivered personally, with a receipt requested therefore; or (ii) sent by a nationally recognized overnight courier service; or (iii) delivered by United States certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the respective party at its address set forth below, and shall be effective (a) upon receipt or refusal if delivered personally; (b) one business day after depositing, with such an overnight courier service or (c) two business days after deposit in the United States mails, if mailed. Any party hereto may change its address for receipt of notices by service of a notice of such change in accordance with this subsection.

RCM:

RCM Depot on Main, L.P.
909 Lake Carolyn Parkway
Suite 150
Irving, TX 75039
Attn: Tim Coltart

With a copy to:

Andy Rogers
Kelly Hart and Hallman
201 MAIN STREET, SUITE 2500
FORT WORTH, TEXAS 76102
TELEPHONE (817) 878-3546
FAX (817) 878-9746
andy.rogers@kellyhart.com

City:

City Manager
City of Burleson, Texas
141 West Renfro
Burleson, Texas 76028

With a copy to:

Betsy Elam
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.

6000 Western Place
Suite 200
Fort Worth, Texas 76107

- 14.08 Amendment. This Agreement may only be amended by the mutual written agreement of the parties.
- 14.09 Severability. In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word herein is held invalid, illegal, or unenforceable, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In the event there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal and enforceable.

ARTICLE 15.
PUBLIC-PRIVATE PARTNERSHIP

- 15.01 This Agreement shall serve as the Comprehensive Agreement for the City-Owned Property in conformance with the P3 Guidelines adopted by the City Council on August 5, 2013, and the Interim Agreement adopted by the City Council on May 16, 2016.
- 15.02 The rights and obligations that shall exist between the City and RCM, the designated Private Partner as listed in the P3 Guidelines, are included in this Agreement in prior articles.
- 15.03 The City has complied with all posting and hearing requirements in conjunction with the P3 Guidelines.
- 15.04 RCM is hereby awarded the rights and responsibilities to construct and operate the Development subject to the terms provided in this Agreement.

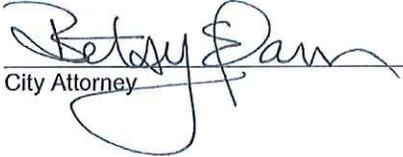
ARTICLE 16.
PURCHASE OF CITY-OWNED PROPERTY

- 16.01 RCM shall enter into a real estate contract with the City for the City-Owned Property that shall be in substantial conformance with the proposal attached herein as **Exhibit D**.
- 16.02 The City Council authorizes the City Manager or his designee to sign the associated documents required to complete the transaction with RCM for the City-Owned Property subject to the requirements of this article.

[Signature pages to follow]

EXECUTED on the respective dates of acknowledgement, to be effective as of the Effective Date.

APPROVED AS TO FORM AND LEGALITY:


City Attorney

**THE CITY OF BURLESON,
a Texas municipal corporation**

By: 

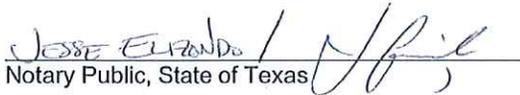
Name: Ken Shetter

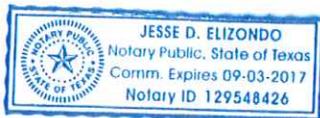
Title: Mayor

STATE OF TEXAS
COUNTY OF JOHNSON

This instrument was acknowledged before me on November 14, 2016 by Ken Shetter, known personally by me to be the Mayor of the City of Burleson, on behalf of said City.

[Notary Seal]


Notary Public, State of Texas



RCM Depot on Main, L.P.,
a Texas limited partnership

By: RCM Portfolio Genpar, LLC,
A Texas limited liability company,
Its General Partner

By: [Signature]
Name: Tim Coltart
Title: Director
Date: 11/14/14

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on November 14, 2016 by Tim Coltart, known personally by me to be the Director of RCM Portfolio Genpar, LLC, a Texas limited liability company, general partner of RCM Depot on Main, L.P., a Texas limited partnership, on behalf of said entities.



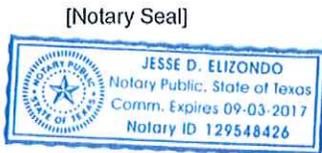
Jesse Elizondo
Notary Public, State of Texas

**Tax Increment Financing
Reinvestment Zone Number Two,
City of Burleson, Texas**

By: [Signature]
Name: Dan McClendon
Title: President

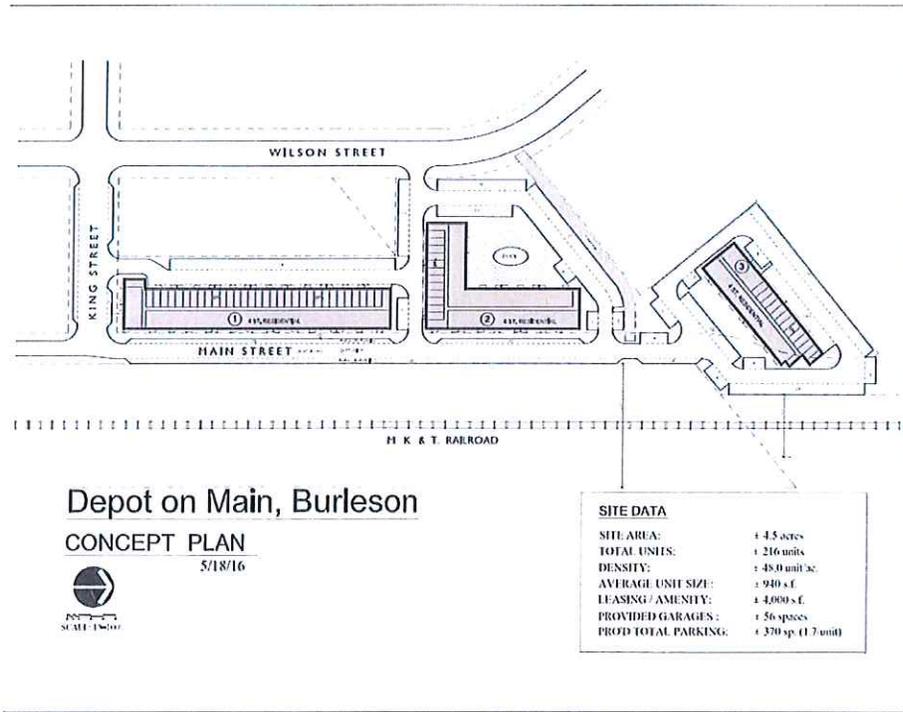
STATE OF TEXAS
COUNTY OF _____

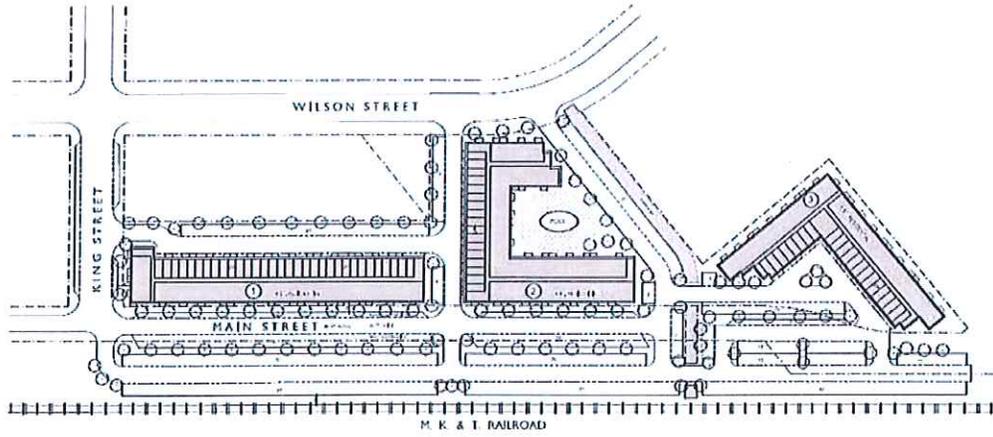
This instrument was acknowledged before me on November 14, 2016 by - Dan McClendon, known personally by me to be the Chairman of Tax Increment Financing Reinvestment Zone Number Two, City of Burleson, Texas, on behalf of said entity.



Jesse Elizondo
Notary Public, State of Texas

Exhibit B
Conceptual Site Plan of Development





Depot on Main, Burleson

CONCEPT PLAN



SITE DATA

SITE AREA:	± 4.5 acres
TOTAL UNITS (4 STORY):	± 284 units
DENSITY:	± 63 D units/ac
AVERAGE UNIT SIZE:	± 910 sq ft
LEASING: AMENITY:	± 5,500 sq ft
PROVIDED GARAGES:	± 66 spaces
PROV'D TOTAL PARKING:	± 535 spaces

**Exhibit C
Project Costs and Improvements**

The Depot on Main Detailed Cost Estimates - 380 Agreement					
Line Item	Cost/Item	Quantity	Unit	Total Cost	Notes
On Site and Off Site Utilities					
Rebate/ bury Overhead Electrical lines	\$ 450,000	1	EA	\$ 450,000	Exact estimate - cost/linear foot to bury overhead lines (\$ 450,000)
Chol Work associated with burial of Electrical lines	\$ 25,000	1	EA	\$ 25,000	Ditches, conduits, pads, street lights and pull boxes
				\$ 475,000	
Streetscape Amenities - Site					
Benches	\$ 1,472	10	EA	\$ 14,720	Flara six foot bench in Mineral Bronze
Recycle Bins	\$ 145	6	EA	\$ 870	Medallion Bike Rack with powder-coated bronze
Tooth Reciprocates	\$ 715	10	EA	\$ 7,250	Horizon 40 Gallon Reciprocates in bronze
Water Drinking Fountains	\$ 3,800	5	EA	\$ 19,000	MOF Model 2005SM Drinking Fountains
Street Lights	\$ 5,300	15	EA	\$ 89,500	
Dog Bag Dispensers	\$ 84	6	EA	\$ 504	Dogmat Junior Bag Dispenser
Installation	\$ 1,500	1	EA	\$ 1,500	Installation at the site
				\$ 177,644	
Connection between King St. to Rooftop Improvements (A on Map)					
Street Improvements	\$ 12	7,200	SF	\$ 86,400	Cost to rebuild the road (100 LF)
Sidewalk and Pavers	\$ 12	1,500	SF	\$ 18,000	Decorative pavers required per "Commercial Character Street" specifications
Street Striping	\$ 4	435	LF	\$ 1,740	
Parking Space Striping	\$ 150	7	EA	\$ 1,050	7 Parking Spaces
Street Trees	\$ 1,000	16	EA	\$ 16,000	
ROW Landscaping	\$ 50,000	1	LS	\$ 50,000	Includes irrigation, shrubs and flowers, and planters
				\$ 172,840	
King St. ROW Improvements (B on Map)					
Street Improvements	\$ 12	7,778	SF	\$ 93,736	Cost to rebuild the road (122 LF)
Sidewalk and Pavers	\$ 12	1,500	SF	\$ 18,000	Decorative pavers required per "Commercial Character Street" specifications
Public Sidewalks	\$ 10	2,576	SF	\$ 24,472	8' wide concrete
Street Striping	\$ 4	435	LF	\$ 1,740	
Parking Space Striping	\$ 100	7	EA	\$ 700	7 Parking Spaces
Street Trees	\$ 1,000	16	EA	\$ 16,000	
ROW Landscaping	\$ 50,000	1	LS	\$ 50,000	Includes irrigation, shrubs and flowers, and planters
				\$ 201,148	
Main St. and Wilson Street Connection (C on Map)					
Public Sidewalks	\$ 10	2,576	SF	\$ 24,472	8' wide concrete
Street Striping	\$ 4	2,400	LF	\$ 9,600	
Parking Space Striping	\$ 100	266	EA	\$ 28,600	266 Spaces
Street Trees	\$ 1,000	14	EA	\$ 14,000	
ROW Landscaping	\$ 100,000	1	LS	\$ 100,000	Includes irrigation, shrubs and flowers, and planters
Sidewalk and Pavers	\$ 12	1,500	SF	\$ 18,000	
New Road Construction	\$ 40	11,672	SF	\$ 466,880	Main St. - Wilson Street connection in the middle of property (322 LF)
				\$ 701,552	
Main St. ROW Improvements (D on Map)					
Street Improvements	\$ 12	17,672	SF	\$ 152,064	Cost to rebuild the road (1,096 LF)
Public Sidewalks	\$ 10	3,200	SF	\$ 39,500	8' wide concrete
Street Striping	\$ 4	2,400	LF	\$ 9,600	
Parking Space Striping	\$ 100	83	EA	\$ 8,800	374 Spaces
Street Trees	\$ 1,000	25	EA	\$ 25,000	
ROW Landscaping	\$ 150,000	1	LS	\$ 150,000	Includes irrigation, shrubs and flowers, and planters
Sidewalk and Pavers	\$ 12	3,200	SF	\$ 38,400	
Extension of Main Street	\$ 40	10,000	SF	\$ 400,000	Extension of Main Street to Northern portion of Development
				\$ 818,264	
Screening/Channelization/Drainage Culvert					
Channelization of creek/ditch	\$ 20,000	1	EA	\$ 20,000	Clean up creek/ditch to help water flow to culverts
Culverts in Creek	\$ 100,000	1	EA	\$ 100,000	One Culvert in creek between two sites
Large Screening	\$ 150	1,500	LF	\$ 225,000	Defer noise and provide a better view for residents of "The Depot"
				\$ 345,000	
Demolition of Improvements on Site					
Lot 3 Ditch & Demolition	\$ 91,330	1	EA	\$ 91,330	Labor and Demolition of said property
Removal of Lot 11	\$ 8,400	1	EA	\$ 8,400	Labor and Demolition of said property
				\$ 99,730	
Gathering Area and Enhanced Facade					
Center Plaza Hardscape	\$ 14	1,640	SF	\$ 22,960	Includes decorative pavers and stained concrete
12' Walk Along Main Street	\$ 6	4,000	SF	\$ 24,000	Includes 12' wide, 4" thick run concrete walk
Ghost Lettering and enhanced Facade	\$ 15	1,500	SF	\$ 22,500	
6' Walk Along King St	\$ 6	2,000	SF	\$ 12,000	Includes 6' wide, 4" thick run concrete walk
				\$ 81,460	
Subtotal to Improve Site					
				\$ 3,217,218	
Contingency					
		10% of Subtotal		\$ 321,722	
Total Cost to Improve Site					
				\$ 3,538,940	

*The amounts set forth above are estimates of probable costs. Actual costs may vary and may be reallocated among the authorized FID improvements.

Exhibit C Project Costs and Improvements

The Depot on Main Detailed Cost Estimates - 380 Agreement					
Line Item	Cost/Item	Quantity	Unit	Total Cost	Notes
On-Site and Off-Site Utilities					
Relocate/Bury Overhead Electrical Lines	\$ 450,000	1	EA	\$ 450,000	Oncor estimate - cost/linear foot to bury overhead lines (\$300/LF)
Civil Work associated with Burial of Electrical Lines	\$ 25,000	1	EA	\$ 25,000	Ditches, conduits, pads, street lights and pull boxes
				Subtotal:	
				\$ 475,000	
Streetscape Amenities - Site					
Benches	\$ 2,063	8	EA	\$ 16,500	6' bench in Mineral Bronze
Bicycle Racks	\$ 145	4	EA	\$ 580	Medallion Bike Rack with powder-coated bronze
Trash Receptacles	\$ 725	10	EA	\$ 7,250	Horizon 40-Gallon Receptacle in bronze
Water Drinking Fountains	\$ 3,460	2	EA	\$ 6,920	MDF Model 2008SM Drinking Fountain
Street Lights	\$ 6,500	15	EA	\$ 97,500	PD Compliant Street Lights plus light pole bases
Site Electrical Work	\$ 50,000	1	LS	\$ 50,000	Install Site Lighting
Dog Bag Dispensers	\$ 850	2	EA	\$ 1,700	Dogipot Junior Bag Dispenser
Installation	\$ 1,500	1	LS	\$ 1,500	install amenities at the site
				Subtotal:	
				\$ 181,950	
King St. ROW Improvements					
Street Improvements	\$ 11	7,728	SF	\$ 85,008	Cost to rebuild and stripe the road (322 LF)
Sidewalk and Pavers	\$ 10	1,500	SF	\$ 15,000	Decorative pavers required per "Commercial Character Street" specifications
Public Sidewalks	\$ 10	2,576	SF	\$ 25,760	8' wide concrete
Street Trees	\$ 1,000	16	EA	\$ 16,000	
ROW Landscaping	\$ 50,000	1	LS	\$ 50,000	includes irrigation, shrubs and flowers, and planters
				Subtotal:	
				\$ 191,768	
Main St. and Wilson Street Connection					
New Road Construction	\$ 20	12,672	SF	\$ 253,440	Main St. - Wilson Street connection in the middle of property (322 LF)
Sidewalk and Pavers	\$ 10	1,500	SF	\$ 15,000	
Public Sidewalks	\$ 10	2,576	SF	\$ 25,760	8' wide concrete
Street Trees	\$ 1,000	14	EA	\$ 14,000	
ROW Landscaping	\$ 100,000	1	LS	\$ 100,000	includes irrigation, shrubs and flowers, and planters
				Subtotal:	
				\$ 408,200	
Main St. ROW Improvements					
Extension of Main Street	\$ 20	10,250	SF	\$ 205,000	Extension of Main Street to Northern portion of Development (205 LF)
Street Improvements	\$ 11	12,672	SF	\$ 139,392	Cost to rebuild the road and stripe (1,056 LF)
Public Sidewalks	\$ 10	3,200	SF	\$ 32,000	8' wide concrete
Sidewalk and Pavers	\$ 10	3,200	SF	\$ 32,000	
Street Trees	\$ 1,000	25	EA	\$ 25,000	
ROW Landscaping	\$ 150,000	1	LS	\$ 150,000	includes irrigation, shrubs and flowers, and planters
				Subtotal:	
				\$ 583,392	
Drainage Culvert					
Channelization of creek/ditch	\$ 50,000	1	EA	\$ 50,000	Clean up creek/ditch to help water flow to culverts and headwall at railroad
Culverts in Creek	\$ 750,000	1	EA	\$ 750,000	420 feet, 2, 5x10 Box Culverts
				Subtotal:	
				\$ 800,000	
Demolition of Improvements on Site					
Lots 3 through 8 Demolition	\$ 91,330	1	EA	\$ 91,330	Labor and Demolition of said property
Demolition of Lot 11	\$ 8,400	1	EA	\$ 8,400	Labor and Demolition of said property
Demolition of Lot 12	\$ 10,000	1	EA	\$ 10,000	Labor and Demolition of said property
				Subtotal:	
				\$ 109,730	
Gathering Area and Enhanced Façade					
Corner Plaza Hardscape	\$ 16	1,610	SF	\$ 25,760	Includes decorative pavers and stained concrete.
12' Walk Along Main Street	\$ 10	4,000	SF	\$ 40,000	Includes 12' wide, patterned, 4" thick min. concrete walk
Ghost lettering and enhanced façade	\$ 250,000	1	LS	\$ 250,000	
6' Walk Along King St.	\$ 9	2,000	SF	\$ 18,000	Includes 6' wide, 4" thick min. concrete walk
				Subtotal:	
				\$ 333,760	
Subtotal to Improve Site				\$ 3,083,800	
Contingency				\$ 308,380	10% of Subtotal
Total Cost to Improve Site				\$ 3,392,180	

*The amounts set forth above are estimates of probable costs. Actual costs may vary and may be reallocated among the authorized PID Improvements.

The Depot on Main - Main St Detailed Cost Estimates					
Line Item	Cost/Item	Quantity	Unit	Total Cost	Notes
Main St. Improvements					
Extension of Main Street	\$ 20	10,250	SF	\$ 205,000	Extension of Main Street to Northern portion of Development (205 LF)
Street Improvements	\$ 11	12,672	SF	\$ 139,392	Cost to rebuild the road and stripe (1,056 LF)
				Subtotal:	
				\$ 344,392	
Drainage Culvert					
Channelization of creek/ditch	\$ 50,000	1	EA	\$ 50,000	Clean up creek/ditch to help water flow to culverts and headwall at railroad
Culverts in Creek	\$ 150,000	1	EA	\$ 150,000	2, 5x10 Box Culverts under Main St Ext
				Subtotal:	
				\$ 200,000	
Subtotal to Improve Site				\$ 544,392	
Contingency				\$ 54,439	10% of Subtotal
Total Cost to Improve Site				\$ 598,831	

*The amounts set forth above are estimates of probable costs. Actual costs may vary and may be reallocated.

Exhibit D
Property



380 AND DEVELOPMENT AGREEMENT
FOR PUBLIC AND PRIVATE IMPROVEMENTS IN
REINVESTMENT ZONE NUMBER TWO, CITY OF BURLESON
BETWEEN THE CITY OF BURLESON AND REALTY CAPITAL MANAGEMENT, LLC

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered as of November 14, 2016 (the "Effective Date") into by and among the City of Burleson, a Texas municipal corporation of Tarrant and Johnson Counties, Texas (hereinafter called "City"), acting by and through its City Manager; the Board of Directors of the Tax Increment Financing Reinvestment Zone Number Two, City of Burleson, Texas (hereinafter called "Board"), acting by and through its Board President; and RCM Depot on Main, L.P. ("RCM"), a Texas limited partnership, by and through its General Partner, RCM Portfolio Genpar, LLC, a Texas limited liability company.

WITNESSETH:

WHEREAS, the City recognizes the importance of its continued role in local economic development; and

WHEREAS, in accordance with the provisions of the Tax Increment Financing Act, V.T.C.A. Tax Code, Chapter 311 (the "Act"), on December 15, 2005, the Burleson City Council approved Ordinance No. C-592, creating, establishing and designating "Tax Increment Financing Reinvestment Zone Number Two, City of Burleson" (hereinafter called the "TIF District" or "District"); and

WHEREAS, RCM seeks to acquire and develop a mixed-use facility at the northern limits of Main Street addressed as 133 N. Main Street and certain surrounding parcels labeled on **Exhibit A** attached hereto as parcels 3, 5, 6, 8 and 11 (collectively, the "Property"); and

WHEREAS, the Act authorizes the expenditure of funds derived within a reinvestment zone, whether from bond proceeds or other funds, for the payment of expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by a municipality consistent with the project plan of the reinvestment zone, which expenditures and monetary obligations constitute project costs, as defined in the Act; and

WHEREAS, on September 22, 2005, after approval of the Board, the Burleson City Council approved the Tax Increment Reinvestment Zone Financing and Project Plan (herein so called), and the Financing Plan (herein so called); and

WHEREAS, the Board authorized the execution of this Agreement, for the construction of Public and Private Improvements in accordance with the approved Project Plan and Financing Plan, and authorizing reimbursement to RCM from the Tax

Increment Fund for the construction of the Public Improvements and Private Improvements under the conditions set forth herein; and

TIF2 - 111416 - DEPOT

WHEREAS, pursuant to Resolution No. [REDACTED], the City Council authorized the execution of this Agreement, for the construction of the Public Improvements to facilitate development of the Property and the Development in accordance with the approved Project Plan and Financing Plan, and authorizing reimbursement to RCM from the Tax Increment Fund for the construction of the Public Improvements and the Development under the conditions set forth herein; and

WHEREAS, the Public Improvements constructed within the TIF District boundaries, as set forth in this Agreement, are consistent with encouraging development of the TIF District in accordance with the purposes for its creation and are in compliance with the ordinance creating the TIF District adopted by the City and all applicable laws; and

WHEREAS, the City and Board agree to reimburse funds advanced by RCM for the cost of making certain Public Improvements and Private Improvements as contemplated herein and as contemplated by the Act and as is consistent with the Project Plan and Financing Plan; and

WHEREAS, the City is authorized by Article 52 of the Texas Constitution and Section 380.001 Texas Local Government Code to provide economic development grants to promote local economic development and stimulate business and commercial activities in the City; and

WHEREAS, the City Council has determined that quality mixed use residential and commercial developments in urban settings stimulate commercial activity; and

WHEREAS, on May 27, 1993, the City adopted Resolution No. 583 establishing an Economic Development Program (the "Program") pursuant to Section 380.001 of the Local Government Code (Section 380.001); and

WHEREAS, the City Council finds that the Development will promote local economic development and stimulate commercial and business activity;

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

ARTICLE 1.
AUTHORIZATION

The City Council finds and determines that this Agreement is authorized by Chapter 311 of the Texas Tax Code and by Section 380.001 of the Texas Local Government Code.

ARTICLE 2.
DEFINITIONS

In this Agreement, the following words shall have the meanings ascribed to them:

- 2.01 “Available TIF Revenue” means the TIF Revenue attributable to the Property, less the portion of the TIF Revenue attributable to the Base Year Value.
- 2.02 “Base Year Value” means the value of the Property as established by the Johnson County Appraisal District, as of January 1, 2016.
- 2.03 “Capital Investment” means and shall include all costs incurred relating to the improvement of the Property, including the purchase price of the building and actual construction costs including soft costs of all buildings, structures, infrastructure, utilities, landscaping and other onsite improvements, including all labor and materials.
- 2.04 “Certificate of Occupancy” means the certificate issued by the City evidencing that the Development is in compliance with applicable development regulations and in satisfactory condition to be occupied by private residential users.
- 2.05 “Development” or “Private Improvements” mean the construction of a mixed-use building(s) on the Property to contain multi-family housing and associated amenities and providing for potential live/work locations and substantially similar to one of the two conceptual site plans attached hereto as **Exhibit B**.
- 2.06 “Effective Date” means the date first set forth above.
- 2.07 “Event of Bankruptcy or Insolvency” means the dissolution or termination of RCM’s existence as a going business, insolvency, appointment of receiver for any part of RCM’s property and such appointment is not terminated within 60 days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against RCM and such proceeding is not dismissed within 60 days after the filing thereof.
- 2.08 “Grant Payments” mean the payments made to RCM pursuant to Section 5 of this Agreement, to be paid exclusively from Available TIF Revenues.
- 2.09 “Opening Date” means the date RCM receives a Certificate of Occupancy for the Development, provided, however, if more than one Certificate of Occupancy is issued for the Development, the Opening Date shall mean the date RCM receives the last Certificate of Occupancy for the Development.

- 2.010 "Project Costs" means those costs associated with the construction of Public Improvements as set forth on **Exhibit C**, subject to reallocation as set forth therein.
- 2.011 "Property" is defined in the Recitals above.
- 2.012 "Public Improvements" means those items set forth on **Exhibit C**.
- 2.013 "Substantial Completion" or "Substantially Complete" means with regard to the Public Improvements, the date the City issues a Letter of Acceptance.
- 2.014 "Tax Increment Fund" means the Tax Increment Fund of Burleson Tax Increment Financing Reinvestment Zone No. Two.
- 2.015 "TIF District" means the district created by Ordinance No. C-592 of which the Property is a part.
- 2.016 "TIF Taxing Units" means those political subdivisions who by contract have agreed to contribute Available TIF Revenue to the TIF District.
- 2.017 "TIF Revenue" means the total revenue collected from the TIF Taxing Units and required by the Act to be deposited into the Tax Increment Fund each calendar year.
- 2.018 "City-Owned Property" means those tracts labeled as parcels 3, 5, 6 and 8 on **Exhibit A**.

ARTICLE 3. **TERM**

- 3.01 The term of this Agreement shall commence on the Effective Date and will terminate fifteen years following the Opening Date (the "Term").

ARTICLE 4. **CONDITIONS OF GRANT PAYMENT**

- 4.01 Conditions of Grant Payment Regarding RCM Development and Operations. In consideration of City agreeing to pay RCM the Grant Payments in accordance with the terms, provisions and conditions of this Agreement, RCM agrees to the following, which are not obligations of RCM, but are conditions that must be fulfilled in order to receive Grant Payments:
- (A) Intentionally Deleted.
 - (B) Design, construct and operate the Development in conformance with the criteria and development standards set forth in the ordinances of the City

of Burleson and applicable state and federal laws, subject to approval and variances granted by the Burleson Old Town Design Standards Review Committee and the Burleson City Council.

- (C) Obtain a building permit for the Development no later than three (3) years after the Effective Date.
- (D) Obtain a Certificate of Occupancy for the Development within two years of the issuance of the building permit.
- (E) Substantially complete the Public Improvements no later than six (6) months after the Opening Date.
- (F) Grant Payments shall be used only for Project Costs and associated public infrastructure improvements generally outlined and shown herein as **Exhibit C**.
- (G) The Development will incorporate through public art the historical significance of the MKT Railroad Depot that was built in 1914 as mutually and reasonably determined by RCM and the City.
- (H) Present zoning request of PD – Planned Development for the Property within three (3) months from the Effective Date of this Agreement.
- (I) Enter into a land sale contract with the City of Burleson for the purchase of the City-Owned Property and complete the purchase in accordance with such contract.
- (J) Complete purchase of the tract identified as parcel #11 on **Exhibit A** no later than 90 days after zoning approval from City Council.
- (K) Cause the Development to have a minimum cumulative value of twenty five million dollars (\$25,000,000) on the Johnson County Tax Appraisal District rolls beginning the tax year following the Opening Date and continuing for the Term
- (L) Submit reasonably satisfactory written evidence within 60 days of the Opening Date showing the Capital Investment expended during the construction of Public Improvements and indicating the validity of the expenses as Project Costs as generally outlined on **Exhibit C**.
- (M) Subject to Article 12 below, RCM shall operate the Development for the Term subject to (i) Force Majeure, (ii) casualty and condemnation, and (iii) temporary closings of the Development for repair, renovations and/or alterations not to exceed 90 days. Notwithstanding the previous sentence, RCM shall have the right to sell the Property to a third party after the Opening Date, in which event RCM may assign all of its rights, title and

interests in this Agreement to RCM's successor, provided such successor assumes all of RCM's duties hereunder.

- (N) RCM shall remain current and paid on all City property taxes, subject to appeal rights in accordance with law and subject to a right to cure any delinquency as set out in Section 7.01 (a).

ARTICLE 5.
PROGRAM GRANT

- 5.01 Subject to RCM complying with its duties and obligations under this Agreement, the City agrees that, subject to the terms and conditions contained herein, RCM shall be entitled to receive Grant Payments and benefits according to the schedule set forth in this Article.
- 5.02 The City shall make Grant Payments to RCM from the Available TIF Revenue for the Term of this Agreement based on the following conditions:
 - a) Annual installments shall be equal to 80% of Available TIF Revenue for the prior calendar year of the operation of the Development. Reimbursements shall begin on or before March 1st of the year following the year the City accepts the Public Improvements and receives acceptable documentation of the Capital Investment expended during the construction of the Public Improvements and/or Project Costs. The City agrees to act reasonably and diligently in determining whether the Public Improvements are acceptable. Throughout the term of this Agreement, the annual reimbursement paid to RCM shall not exceed the Available TIF Revenue.
 - b) Payments will cease upon the end of the Term of the Agreement or when Grant Payments equal \$2,000,000, whichever comes first.
 - c) RCM shall be responsible for the invoicing and tracking of payments and may submit information to the City on or after March 1st of each year, providing at least 60 days for the City to submit the Grant Payment.
 - d) In addition to the Grant Payment the City agrees to waive all permitting and inspection fees relating to the development, excluding impact fees.
- 5.03 The City will perform and deliver a Phase 1 and Phase 2 environmental survey on the City-Owned Property as well as lot #11 simultaneously or in conjunction with one another.
- 5.04 City will cause a Renfro Street crossing at Main Street that provides for pedestrian access from the Development to activity south of Renfro Street, the cost of which shall not be part of Available TIF Revenues. Improvements to establish a pedestrian crossing will be completed by March 31, 2018. City may

elect to partner with RCM in the construction of improvements subject to acceptance by RCM.

- 5.05 City will make improvements to Renfro Street near Main Street to incorporate walkable elements and new urbanism design by March 31, 2019, the cost of which shall not be part of Available TIF Revenues. City may elect to partner with RCM in its construction of improvements subject to acceptance by RCM.

ARTICLE 6.
AUTHORITY; COMPLIANCE WITH LAW

- 6.01 RCM hereby represents and warrants to the City that it has full lawful right, power and authority to execute and deliver and perform the terms and obligations of this Agreement and that the execution and delivery of this Agreement has been duly authorized by all necessary action by RCM and this Agreement constitutes the legal, valid and binding obligation of RCM, and is enforceable in accordance with its terms and provisions.
- 6.02 Notwithstanding any other provision of this Agreement, RCM shall comply with all federal, state, and local laws.
- 6.03 During the term of this Agreement, RCM agrees not to knowingly employ any undocumented workers at the Development, and if convicted of a violation under 8 U.S.C. Section 1324a(f), RCM shall repay the amount of the Grant Payments received by RCM as of the date of such violation within 120 business days after the date RCM is notified by the City of such violation, plus interest at the rate Burleson is paying on the most recent issuance of bonded indebtedness prior to RCM's violation of this section. The Parties agree that the provision of this Section 6.03 shall not apply to the employees, agents and workers of any contractor or subcontractor hired by RCM in the construction or operation of the Development.

ARTICLE 7.
DEFAULT AND REMEDIES

7.01 Default by RCM.

- (A) In the event: (i) the conditions under Article 4 of this Agreement have not been timely performed; (ii) RCM has delinquent ad valorem or sales taxes owed to the City (provided that RCM retains the right to timely and properly protest and/or contest any such taxes); or (iii) RCM materially breaches any of the material terms and conditions of this Agreement, then RCM after the expiration of the notice and cure periods described herein, shall be in default of this Agreement. In the event of such a default, City shall give RCM written notice of such breach and/or default, and if RCM has not cured such breach or default within 90 days after receipt of such

notice, the City may terminate this Agreement by written notice to RCM, and the City shall have no further obligation to RCM and payments previously received by RCM shall be retained by RCM.

- (B) In the event any condition is not timely performed under Section 4.01 and the Development closes or ceases operation prior to the end of the Term of this Agreement, RCM shall not be entitled to any additional Grant Payments from City.
- (C) In the event RCM has not commenced rough grading for the foundation of the Development within four years after the date RCM acquires the Property, or thereafter fails to diligently pursue completion of construction of the Development, then upon written demand from the City at any time prior to the date rough grading has commenced or RCM has resumed completion of construction of the Development, as the case may be, RCM shall convey the Property back to the City by special warranty deed in its then existing condition (and subject to all matters then of record) within 90 days of RCM's receipt of such notice, and City shall refund to RCM the entire purchase price paid to City at the original closing of the Property. City agrees not to unreasonably refuse to issue building permits for the Development to RCM.

7.02 No waiver or any breach of any term or condition of this Agreement shall be construed to waive any subsequent breach of the same or any other term or condition of this Agreement. Any waiver of any term or condition of this Agreement must be in writing and approved by the City Council of Burleson.

ARTICLE 8. RIGHT OF OFFSET

RCM agrees that, subject to the provision of Notice by City and 60-day period following receipt of Notice in which RCM may respond or act, City may offset the amount of Grant Payments installment due to RCM for any calendar year under this Agreement against any amount which is: (i) lawfully due to City from RCM, and (ii) not subject to challenge by RCM in a court of competent jurisdiction by RCM.

ARTICLE 9. VENUE AND GOVERNING LAW

This Agreement is performable in Johnson County, Texas and venue of any action arising out of this Agreement shall be exclusively in Johnson County, Texas. This Agreement shall be governed and construed in accordance with the Charter, ordinances, and resolutions of the City of Burleson, applicable federal and state laws, violation of which shall constitute a default of this Agreement. To the extent permitted by law, the laws of the State of Texas shall apply without regard to applicable principles

of conflicts of law, and the parties submit to the jurisdiction of the state and federal courts in Burleson, Johnson County, Texas.

ARTICLE 10.
FORCE MAJEURE

Performance of RCM's obligations under this Agreement shall be subject to extension due to delay by reason of events of force majeure, and RCM's obligations shall be abated during any period of force majeure. Force majeure shall include, without limitation, damage or destruction by fire or other casualty, condemnation, strike, lockout, civil disorder, war, issuance of any permit and/or legal authorization (including engineering approvals by any governmental entity), governmental approvals and permits, shortage or delay in shipment of materials or fuel occasioned by any event referenced herein, acts of God, unusually adverse weather or wet soil conditions or other causes beyond the parties' reasonable control, including but not limited to, any court or judgment resulting from any litigation affecting the Property or this Agreement. City agrees it shall not condemn any portion of the Development.

ARTICLE 11.
GIFT TO PUBLIC SERVANT OR TO RCM REPRESENTATIVE

- 11.01 No Benefit. Each party hereto represents to the other that it has not offered, conferred, or agreed to confer and that it will not offer, confer or agree to confer in the future any benefit upon an employee or official of the other party. For purposes of this section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.
- 11.02 Right of Reimbursement. Notwithstanding any other legal remedies, City may obtain reimbursement for any expenditure made to RCM as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

ARTICLE 12.
ASSIGNMENT

RCM shall have the right to assign this agreement to an affiliated or related party under control by, or under common control with RCM (an "Affiliate"). Any assignment to a third party other than an Affiliate shall require the consent of the City Council, which consent shall not be unreasonably withheld. In the event the City Council fails to reply to a written request for consent to an assignment within 30 days, such consent shall be deemed given.

ARTICLE 13.
INDEMNIFICATION

- 13.01 **RCM EXPRESSLY AGREES TO FULLY AND COMPLETELY DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, AND ITS OFFICERS, AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS, LAWSUITS, LIABILITIES, JUDGMENTS, COSTS, AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, DAMAGES OR LIABILITY FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ANY NEGLIGENT, GROSSLY NEGLIGENT, WRONGFUL, OR STRICTLY LIABLE ACT OR OMISSION OF RCM OR ITS AGENTS, EMPLOYEES, OR CONTRACTORS, ARISING OUT OF THE PERFORMANCE OF THIS CONTRACT.** Nothing in this paragraph may be construed as waiving any governmental immunity available to the City under state law. This provision is solely for the benefit of RCM and the City and is not intended to create or grant any rights, contractual or otherwise, in or to any other person.
- 13.02 It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties. The City (including its past, present and future officers, elected officials, directors, employees and agents of the City) does not assume any responsibility to any third party in connection with RCM's construction of the Development.

ARTICLE 14.
MISCELLANEOUS MATTERS

- 14.01 Time is of Essence. Time is of the essence in this Agreement. The parties hereto will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.
- 14.02 Agreement Subject to Law. This Agreement is made subject to and in accordance with the Burlison Home Rule Charter and ordinances of City, as amended, and all applicable State and federal laws.
- 14.03 Interpretation. Each of the Parties have been represented by counsel of their choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any Party based on draftsmanship.
- 14.04 Counterparts Deemed Original. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

- 14.05 Captions. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
- 14.06 Complete Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in the Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached and made a part of this Agreement.
- 14.07 Notice. Any notice to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be (i) delivered personally, with a receipt requested therefore; or (ii) sent by a nationally recognized overnight courier service; or (iii) delivered by United States certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the respective party at its address set forth below, and shall be effective (a) upon receipt or refusal if delivered personally; (b) one business day after depositing, with such an overnight courier service or (c) two business days after deposit in the United States mails, if mailed. Any party hereto may change its address for receipt of notices by service of a notice of such change in accordance with this subsection.

RCM:

RCM Depot on Main, L.P.
909 Lake Carolyn Parkway
Suite 150
Irving, TX 75039
Attn: Tim Coltart

With a copy to:

Andy Rogers
Kelly Hart and Hallman
201 MAIN STREET, SUITE 2500
FORT WORTH, TEXAS 76102
TELEPHONE (817) 878-3546
FAX (817) 878-9746
andy.rogers@kellyhart.com

City:

City Manager
City of Burleson, Texas
141 West Renfro
Burleson, Texas 76028

With a copy to:

Betsy Elam
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.

6000 Western Place
Suite 200
Fort Worth, Texas 76107

- 14.08 Amendment. This Agreement may only be amended by the mutual written agreement of the parties.
- 14.09 Severability. In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word herein is held invalid, illegal, or unenforceable, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In the event there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal and enforceable.

ARTICLE 15.
PUBLIC-PRIVATE PARTNERSHIP

- 15.01 This Agreement shall serve as the Comprehensive Agreement for the City-Owned Property in conformance with the P3 Guidelines adopted by the City Council on August 5, 2013, and the Interim Agreement adopted by the City Council on May 16, 2016.
- 15.02 The rights and obligations that shall exist between the City and RCM, the designated Private Partner as listed in the P3 Guidelines, are included in this Agreement in prior articles.
- 15.03 The City has complied with all posting and hearing requirements in conjunction with the P3 Guidelines.
- 15.04 RCM is hereby awarded the rights and responsibilities to construct and operate the Development subject to the terms provided in this Agreement.

ARTICLE 16.
PURCHASE OF CITY-OWNED PROPERTY

- 16.01 RCM shall enter into a real estate contract with the City for the City-Owned Property that shall be in substantial conformance with the proposal attached herein as **Exhibit D.**
- 16.02 The City Council authorizes the City Manager or his designee to sign the associated documents required to complete the transaction with RCM for the City-Owned Property subject to the requirements of this article.

[Signature pages to follow]

EXECUTED on the respective dates of acknowledgement, to be effective as of the Effective Date.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

**THE CITY OF BURLESON,
a Texas municipal corporation**

By: _____

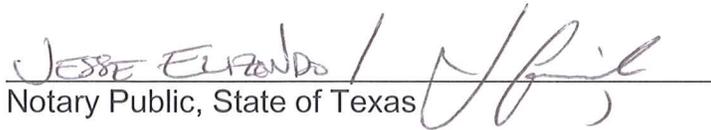
Name: Ken Shetter_____

Title: Mayor_____

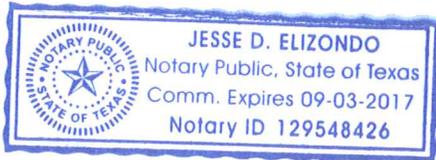
STATE OF TEXAS
COUNTY OF JOHNSON

This instrument was acknowledged before me on November 14, 2016 by Ken Shetter, known personally by me to be the Mayor of the City of Burleson, on behalf of said City.

[Notary Seal]



Notary Public, State of Texas



RCM Depot on Main, L.P.,
a Texas limited partnership

By: RCM Portfolio Genpar, LLC,
A Texas limited liability company,
Its General Partner

By: [Signature]

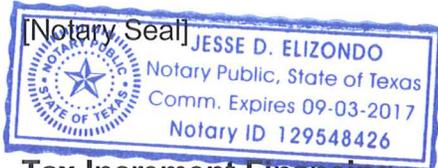
Name: Tim Coltart

Title: Director

Date: 11/14/14

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on November 14, 2016 by Tim Coltart, known personally by me to be the Director of RCM Portfolio Genpar, LLC, a Texas limited liability company, general partner of RCM Depot on Main, L.P., a Texas limited partnership, on behalf of said entities.



Jesse Elizondo
Notary Public, State of Texas

**Tax Increment Financing
Reinvestment Zone Number Two,
City of Burleson, Texas**

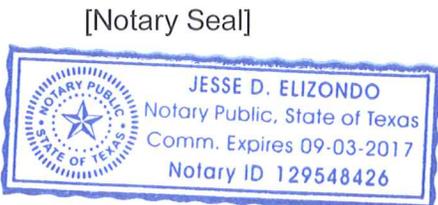
By: [Signature]

Name: Dan McClendon

Title: President

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on November 14, 2016 by - Dan McClendon, known personally by me to be the Chairman of Tax Increment Financing Reinvestment Zone Number Two, City of Burleson, Texas, on behalf of said entity.

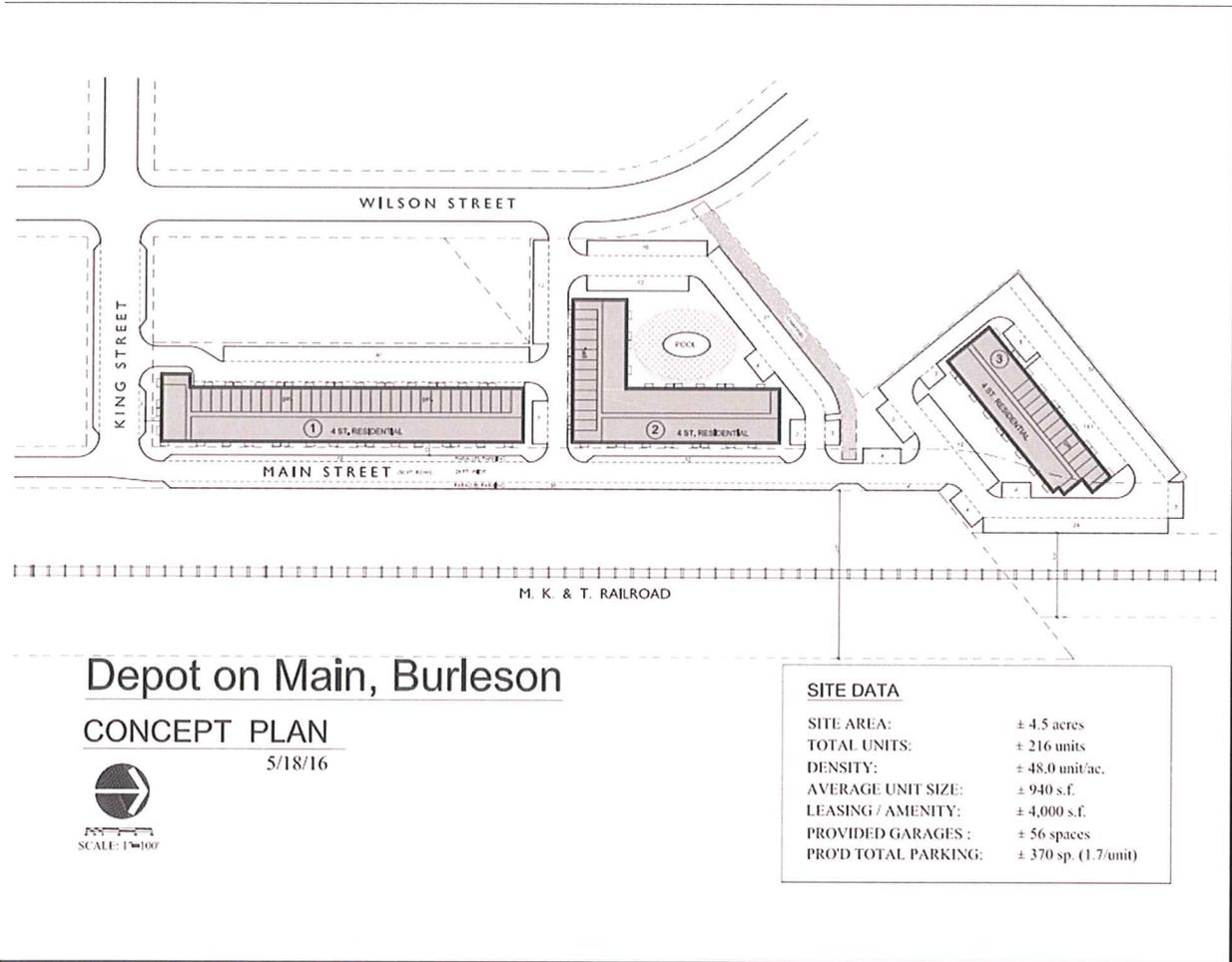


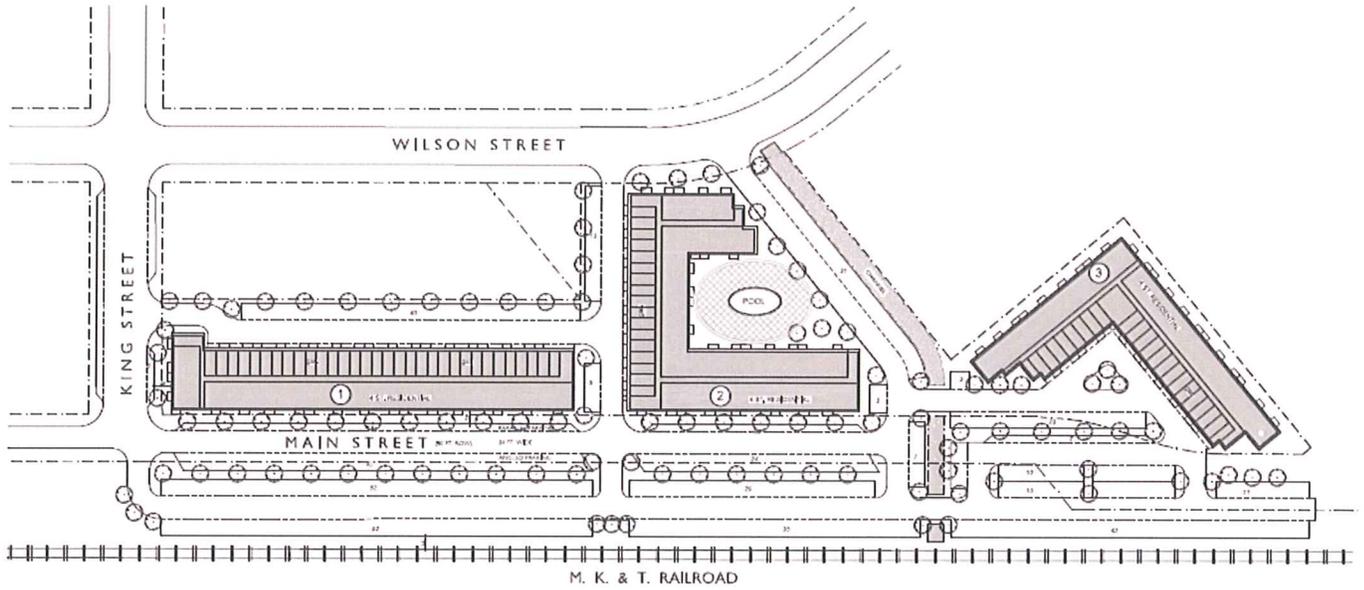
Jesse Elizondo
Notary Public, State of Texas

Exhibit A
Property



Exhibit B Conceptual Site Plan of Development





Depot on Main, Burleson

CONCEPT PLAN



SCALE: 1"=100'

SITE DATA

SITE AREA:	± 4.5 acres
TOTAL UNITS: (4 STORY)	± 284 units
DENSITY:	± 63.0 unit/ac.
AVERAGE UNIT SIZE:	± 940 s.f.
LEASING / AMENITY:	± 5,500 s.f.
PROVIDED GARAGES :	± 66 spaces
PRO'D TOTAL PARKING:	± 535 spaces

Exhibit C Project Costs and Improvements

The Depot on Main Detailed Cost Estimates - 380 Agreement					
Line Item	Cost/Item	Quantity	Unit	Total Cost	Notes
On-Site and Off-Site Utilities					
Relocate/Bury Overhead Electrical Lines	\$ 450,000	1	EA	\$ 450,000	Oncor estimate - cost/linear foot to bury overhead lines (\$300/LF)
Civil Work associated with Burial of Electrical Lines	\$ 25,000	1	EA	\$ 25,000	Ditches, conduits, pads, street lights and pull boxes
Subtotal:				\$ 475,000	
Streetscape Amenities - Site					
Benches	\$ 1,472	10	EA	\$ 14,720	Plaza six-foot bench in Mineral Bronze
Bicycle Racks	\$ 145	6	EA	\$ 870	Medallion Bike Rack with powder-coated bronze
Trash Receptacles	\$ 725	10	EA	\$ 7,250	Horizon 40-Gallon Receptacle in bronze
Water Drinking Fountains	\$ 3,460	5	EA	\$ 17,300	MDF Model 2008SM Drinking Fountain
Street Lights	\$ 5,700	15	EA	\$ 85,500	
Dog Bag Dispensers	\$ 84	6	EA	\$ 504	Dog pot Junior Bag Dispenser
Installation	\$ 1,500	1	EA	\$ 1,500	Install amenities at the site
Subtotal:				\$ 127,644	
Connection between King St. to Renfro Improvements (A on Map)					
Street Improvements	\$ 12	7,200	SF	\$ 86,400	Cost to rebuild the road (300 LF)
Sidewalk and Pavers	\$ 12	1,500	SF	\$ 18,000	Decorative pavers required per "Commercial Character Street" specifications
Street Striping	\$ 4	435	LF	\$ 1,740	
Parking Space Striping	\$ 100	2	EA	\$ 200	2 Parking Spaces
Street Trees	\$ 1,000	16	EA	\$ 16,000	
ROW Landscaping	\$ 50,000	1	LS	\$ 50,000	Includes irrigation, shrubs and flowers, and planters
Subtotal:				\$ 172,340	
King St. ROW Improvements (B on Map)					
Street Improvements	\$ 12	7,728	SF	\$ 92,736	Cost to rebuild the road (322 LF)
Sidewalk and Pavers	\$ 12	1,500	SF	\$ 18,000	Decorative pavers required per "Commercial Character Street" specifications
Public Sidewalks	\$ 10	2,576	SF	\$ 24,472	8' wide concrete
Street Striping	\$ 4	435	LF	\$ 1,740	
Parking Space Striping	\$ 100	2	EA	\$ 200	2 Parking Spaces
Street Trees	\$ 1,000	16	EA	\$ 16,000	
ROW Landscaping	\$ 50,000	1	LS	\$ 50,000	Includes irrigation, shrubs and flowers, and planters
Subtotal:				\$ 203,148	
Main St. and Wilson Street Connection (C on Map)					
Public Sidewalks	\$ 10	2,576	SF	\$ 24,472	8' wide concrete
Street Striping	\$ 4	2,400	LF	\$ 9,600	
Parking Space Striping	\$ 100	286	EA	\$ 28,600	286 Spaces
Street Trees	\$ 1,000	14	EA	\$ 14,000	
ROW Landscaping	\$ 100,000	1	LS	\$ 100,000	Includes irrigation, shrubs and flowers, and planters
Sidewalk and Pavers	\$ 12	1,500	SF	\$ 18,000	
New Road Construction	\$ 40	12,672	SF	\$ 506,880	Main St. - Wilson Street connection in the middle of property (322 LF)
Subtotal:				\$ 701,552	
Main St. ROW Improvements (D on Map)					
Street Improvements	\$ 12	12,672	SF	\$ 152,064	Cost to rebuild the road (1,056 LF)
Public Sidewalks	\$ 10	3,200	SF	\$ 30,400	8' wide concrete
Street Striping	\$ 4	2,400	LF	\$ 9,600	
Parking Space Striping	\$ 100	88	EA	\$ 8,800	374 Spaces
Street Trees	\$ 1,000	25	EA	\$ 25,000	
ROW Landscaping	\$ 150,000	1	LS	\$ 150,000	Includes irrigation, shrubs and flowers, and planters
Sidewalk and Pavers	\$ 12	3,200	SF	\$ 38,400	
Extension of Main Street.	\$ 40	10,000	SF	\$ 400,000	Extension of Main Street to Northern portion of Development
Subtotal:				\$ 814,264	
Screening/Channelization/Drainage Culvert					
Channelization of creek/ditch	\$ 20,000	1	EA	\$ 20,000	Clean-up creek/ditch to help water flow to culverts
Culverts in Creek	\$ 100,000	1	EA	\$ 100,000	Box Culvert in creek between two sites
Large Screening	\$ 150	1,500	LF	\$ 225,000	Defer noise and provide a better view for residents of "The Depot"
Subtotal:				\$ 345,000	
Demolition of Improvements on Site					
Lots 3 through 8 Demolition	\$ 91,330	1	EA	\$ 91,330	Labor and Demolition of said property
Demolition of Lot 11	\$ 8,400	1	EA	\$ 8,400	Labor and Demolition of said property
Subtotal:				\$ 99,730	
Gathering Area and Enhanced Façade					
Corner Plaza Hardscape	\$ 14	1,610	SF	\$ 22,540	Includes decorative pavers and stained concrete.
12' Walk Along Main Street	\$ 6	4,000	SF	\$ 24,000	Includes 12' wide, 4" thick min. concrete walk
Ghost lettering and enhanced façade			LS	\$ 250,000	
6' Walk Along King St.	\$ 6	2,000	SF	\$ 12,000	Includes 6' wide, 4" thick min. concrete walk
Subtotal:				\$ 308,540	
Subtotal to Improve Site				\$ 3,247,218	
Contingency		10% of Subtotal		\$ 324,722	
Total Cost to Improve Site				\$ 3,571,940	

*The amounts set forth above are estimates of probable costs. Actual costs may vary and may be reallocated among the authorized PID improvements.