

FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT

This FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT, dated as of the date on the City's signature page ("Effective Date"), is between THE CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado (the "City"), and COUNTRY CLUB GARDENS INVESTMENTS, LLC, a Colorado limited liability company ("Owner"), formerly known as COUNTRY CLUB GARDENS INVESTMENTS, LTD, a Colorado limited partnership ("Former Entity"), (this "Fourth Amendment").

RECITALS

This Fourth Amendment is made with respect to the following facts:

A. The City and Former Entity entered into that certain Development Agreement dated October 5, 2001 (the "Original Development Agreement").

B. The City and Former Entity entered into that certain First Amendment to Development Agreement dated December 16, 2008 (the "First Amendment"), modifying, among other things, the Development Area under the Original Development Agreement.

C. The City and Former Entity entered into that certain Second Amendment to Development Agreement dated August 4, 2009 (the "Second Amendment"), providing, among other things, for renovations to the Country Club Gardens Apartments and providing for extension of the term of vested development rights under the Original Development Agreement.

D. The City and Former Entity entered into that certain Third Amendment to Development Agreement dated August 8, 2014 (the "Third Amendment"), modifying the "Development Area" as such term was defined in the First Amendment.

E. The Original Development Agreement, the First Amendment, the Second Amendment, and the Third Amendment are collectively referred to herein as the "Development Agreement."

F. On December 21, 2018 a Statement of Conversion was filed with the Colorado Secretary of State indicating that Country Club Gardens Investments, LTD, a Colorado limited partnership, converted to Country Club Gardens Investment, LLC, a Colorado limited liability company.

G. Section 5.6 of the Development Agreement provides that the Development Agreement cannot be amended except through a written statement signed by each party and approved by City Council. This Fourth Amendment constitutes a written statement in compliance with such Section 5.6.

H. The City and Owner acknowledge that all required notices were provided in accordance with Section 5.7 of the Development Agreement.

I. The City and Owner now desire to amend the Development Agreement as more particularly described below.

AGREEMENT

In consideration of the facts set forth in the Recitals, the Development Agreement and the mutual agreements set forth below, the receipt and sufficiency of which is hereby acknowledged, the City and Owner hereby agree as follows:

1. Defined Terms. All capitalized terms used but not defined in this Fourth Amendment will have the meanings set forth for such terms in the Development Agreement. All terms that are defined in this Fourth Amendment and used in any provisions that are added to the Development Agreement pursuant to this Fourth Amendment have the meanings set forth for such terms in this Fourth Amendment.

2. Modification of Development Area. Section 2(d) of the Third Amendment is hereby modified and amended as follows:

(d) Section C.2.a of Exhibit C as attached to the Original Development Agreement, is hereby deleted in its entirety and replaced with the following language:

“New buildings shall be constructed only within the Development Area as shown on Exhibit C-3. New buildings shall not exceed 300 feet in height to top of roof slab as measured from Base Elevation. As stated in Former Chapter 59-2(52), unoccupied building features such as church spires, towers, flagpoles, antennas, chimneys, flues and vents, cooling towers, enclosures for tanks and elevator penthouses serving the roof including any vertical or sloped screen walls may extend a maximum of twenty-eight (28) feet above the permitted 300 feet of the building. Without limiting the generality of the foregoing, the following unoccupied features may be placed above the maximum building height: rooftop leveling pavers, perimeter guardrails, landscaping, acoustic walls, furniture, lighting, and audio/visual equipment. Elevator penthouses not serving the roof and other enclosed or unenclosed mechanical equipment including vertical or sloped screen walls for such equipment shall not exceed a height of twelve (12) feet above the permitted height of the building. Notwithstanding the foregoing, the following occupied building features may be constructed to a maximum height of eighteen (18) feet above the permitted 300-foot height of the building: enclosed gathering spaces, restrooms, and storage areas.”

3. Examination of Records and Audits. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City’s election in paper or electronic form, any pertinent books, documents, papers and records related to Owner’s performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Owner shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor

shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Owner to make disclosures in violation of state or federal privacy laws. Owner shall at all times comply with D.R.M.C. 20-276.

4. Ratification; Counterparts. Except as amended in this Fourth Amendment, the Development Agreement is affirmed and ratified in each and every particular. In the event of any inconsistency or conflict between this Fourth Amendment and the Development Agreement, the provisions of this Fourth Amendment shall control. This Fourth Amendment may be executed in counterparts, all such counterparts will constitute the same agreement and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart.

5. Electronic Signatures and Electronic Records: Owner agrees that the Development Agreement and any other documents requiring a signature hereunder may be signed electronically by the City in the manner specified by the City. The parties agree not to deny the legal effect or enforceability of the Development Agreement solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Development Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[Signature pages follow]

Contract Control Number: CPLAN-202055597-04 / Alfresco XC72155-04
Contractor Name: Country Club Gardens Investments, LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

CPLAN-202055597-04 / Alfresco XC72155-04
Country Club Gardens Investments, LLC

**COUNTRY CLUB GARDENS
INVESTMENTS, LLC,**
a Colorado limited liability company

By: _____
Name: Ronald J. Corsentino
Title: Manager

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by Ronald J. Corsentino, as Manager of COUNTRY CLUB GARDENS
INVESTMENTS, LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: _____

Notary Public

Address

Contract Control Number:
Contractor Name:

CPLAN-202055597-04 / Alfresco XC72155-04
Country Club Gardens Investments, LLC

**COUNTRY CLUB GARDENS
INVESTMENTS, LLC,**
a Colorado limited liability company

By: [Signature]
Name: Ronald J. Corsentino
Title: Manager

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 27 day of August,
2020, by Ronald J. Corsentino, as Manager of COUNTRY CLUB GARDENS
INVESTMENTS, LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: 02/22/2023

JESSICA RUSSELL
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194007617
MY COMMISSION EXPIRES 02/22/2023

[Signature]
Notary Public
214 Clayton St. Denver CO 80206
Address