

**SECOND AMENDMENT TO COMPREHENSIVE DEVELOPMENT  
AGREEMENT BETWEEN KM KELLY LANE, LTD. AND THE CITY OF  
PFLUGERVILLE, TEXAS INCLUDING CONSENT TO INCLUSION OF LAND  
IN WATER DISTRICTS AND THE DEVELOPMENT OF A 540 ACRE TRACT  
IN TRAVIS COUNTY, TEXAS**

This Second Amendment to Comprehensive Development Agreement between KM Kelly Lane, Ltd. and the City of Pflugerville, Texas Including Consent to Inclusion of Land in Water Districts and the Development of a 540 Acre Tract in Travis County, Texas (this "*Second Amendment*") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2012, between the **City of Pflugerville, Texas**, a home rule city located in Travis County, Texas (the "*City*"), and **KM Avalon, Ltd.**, a Texas limited partnership (the "*Developer*").

RECITALS

A. The City and KM Kelly Lane, Ltd., a Texas limited partnership ("*KM Kelly Lane*") previously entered into the "Comprehensive Development Agreement Between KM Kelly Lane, Ltd. and the City of Pflugerville, Texas Including Consent to Inclusion of Land in Water Districts and the Development of a 540 Acre Tract in Travis County, Texas" dated as of August 30, 2004 (the "*Original Consent Agreement*"), under which the City and the KM Kelly Lane agreed to certain terms and conditions relating to the creation of Kelly Lane Water Control & Improvement District No. 1 (the "*District*").

B. Effective as of October 18, 2005, KM Kelly Lane assigned its rights, duties and obligations under the Original Consent Agreement to the Developer and the Developer assumed and agreed to perform the assigned duties, and obligations.

C. The Original Consent Agreement was subsequently amended by "First Amendment to Comprehensive Development Agreement between KM Kelly Lane, Ltd. and the City of Pflugerville, Texas Including Consent to Inclusion of Land in Water Districts and the Development of a 540 Acre Tract in Travis County, Texas" dated May 10, 2006 (the "*First Amendment*").

D. The City and the Developer have agreed to certain modifications of the Original Consent Agreement (as amended by the First Amendment, the "*Consent Agreement*") and desire to set forth those agreements in this Second Amendment.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer agree as follows:

1. Defined Terms. All terms delineated with initial capital letters in this Second Amendment that are defined in the Consent Agreement have the same meanings in this Amendment as in the Consent Agreement. Other terms have the meanings commonly ascribed to them.

2. Amendment to Section 5.1; Replacement of Exhibit B. Exhibit B to the Consent Agreement, the Conceptual Land Plan for the Land, as referenced in Section 5.1 to the Consent Agreement, is deleted in its entirety and **Exhibit B** to this Amendment is substituted in its place. From the date of this Amendment, the Conceptual Land Development Plan attached to this Amendment as **Exhibit B** will be applicable to the development of the Land subject to the same requirements and with all of approvals, exemptions and variances specified in Section 5.1 of the Agreement.

3. Addition to Section 5.1. “Side setbacks adjacent to a secondary street must be a minimum of 15 feet. The front setback shall be a minimum of 25 feet, and rear setback must be a minimum of 20 feet.” Balconies, covered open patios, porches, accessory buildings and other building extensions may encroach up to 10 feet.

4. New Section 5.6. A new Section 5.6 is added to the Consent Agreement, as follows:

“Section 5.6. Due to the fact that the Land comprises a significant land area and its development will occur in phases over a number of years, modifications to the Conceptual Land Development Plan may become desirable due to changes in market conditions or other factors.

A. Minor Changes and Revisions. Minor changes, revisions, and modifications to and variations from the Conceptual Land Development Plan that do not increase the overall density of development of the Land above 1,500 single-family lots may be approved administratively by the City Manager or designee. Examples of minor changes, revisions, modifications, and variances include, but are not limited to, the following: lot lines, the designation of land for public or governmental uses, and changes in lot sizes that do not result in an increase in the overall density of development of the Land above 1,500 single-family lots (including any increase in lot sizes resulting in a decrease in the total number of lots) will not require a change to the Conceptual Land Development Plan, but associated preliminary plans shall be revised accordingly.

B. Major changes and Revisions. Major changes, amendments, and/or revisions to the Conceptual Land Development Plan, including changes that result in an increase in the overall density of development of the Land, will be subject to review and approval by the City Council.”

5. Effect of Amendment. Except as specifically provided in this Second Amendment, the terms of the Consent Agreement continue to govern the rights and obligations of the parties, and all terms of the Consent Agreement remain in full force

and effect. If there is any conflict or inconsistency between this Second Amendment and the Consent Agreement, this Second Amendment will control and modify the Consent Agreement.

IN WITNESS WHEREOF, the undersigned parties have executed this Second Amendment on the dates indicated below.

**CITY OF PFLUGERVILLE, TEXAS**

By: \_\_\_\_\_  
Brandon Wade, City Manager

Date: \_\_\_\_\_

KM AVALON, LTD., a Texas limited partnership

By: KM Avalon GP, Inc., a Texas corporation, its General Partner

By: \_\_\_\_\_  
Blake J. Magee, President

Date: \_\_\_\_\_

Exhibit B

