

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ADDISON AND AMLI RESIDENTIAL PARTNERS, LLC, ADOPTING GENERAL DEVELOPMENT TERMS FOR THE AMLI TREEHOUSE DEVELOPMENT PROJECT; PROVIDING FOR NEGOTIATION OF A DEVELOPMENT AGREEMENT THAT WILL SET FORTH THE SPECIFIC OBLIGATIONS OF THE PARTIES WITH REGARD TO THE PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FOREGOING MEMORANDUM OF UNDERSTANDING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, AMLI Residential Partners, LLC (“AMLI”) has submitted an application for the rezoning of certain real property consisting of approximately 13.78 acres of land generally located in the 14000 block of Midway Road (“Case 1851-Z”) in the Town of Addison (the “Town”) which AMLI intends to acquire and develop as a mixed-use project (the “Project”); and

WHEREAS, subject to final approval of Case 1851-Z, AMLI and the Town intend to establish specific development terms and conditions for the construction, completion, and ongoing operation of the Project; and

WHEREAS, the City Council therefore desires to authorize execution of a Memorandum of Understanding between the Town and AMLI (the “MOU”) establishing specific development terms and authorizing the City Manager to enter into negotiations with AMLI to finalize the development agreements necessary for the Project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. The City Council hereby approves the MOU between the Town and AMLI for the AMLI Treehouse Development Project, a copy of which is attached to this Resolution as **Exhibit A**. The City Manager is hereby authorized to execute the MOU.

SECTION 2. This Resolution shall take effect from and after its date of adoption.

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the **9TH** day of **AUGUST 2022**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

Exhibit A

MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF ADDISON AND AMLI RESIDENTIAL FOR THE AMLI TREEHOUSE PROJECT

This Memorandum of Understanding (“MOU”) is effective as of July __, 2022 (the “Effective Date”) between the Town of Addison, Texas (“City”), and AMLI RESIDENTIAL PARTNERS, LLC, a Delaware limited liability company (“AMLI”) (each a “party” and collectively the “parties”), acting by and through their authorized representatives.

RECITALS

WHEREAS, AMLI has submitted an application under Case No. 1851-Z for the rezoning of certain real property consisting of approximately 13.78 acres of land as more particularly described and depicted in the Conceptual Site Plan attached as Exhibit A to this MOU (the “Property”), which AMLI intends to acquire and develop as a mixed-use project, as more particularly described below (the “Project”); and

WHEREAS, the purpose of this MOU is to set forth the general understanding of the parties with regard to the Project and the terms and conditions of the Definitive Agreement that will ultimately govern the development of the Project.

NOW, THEREFORE, in consideration of the expressions of intent and representations set forth herein, the parties agree as follows:

1. **The Project.** The Project will be a mixed-use development to be developed in general conformance with the Exhibit A (the “Conceptual Site Plan”) and ultimately in accordance with a final Site Plan approved by the City during the civil engineering plan review process (the “Site Plan”). The Project is anticipated to include (i) a mixed-use multifamily and retail complex with leasing plaza and ground-floor retail facing Midway Road (referred to on the Conceptual Site Plan and herein as “Building 1”), (ii) one three-story apartment building with tuck-under garages; (iii) fourteen three-story townhome rental dwelling units, and (iv) thirty townhome lots to be developed for sale as individual three-story townhome units (referred to on the Conceptual Site Plan and herein as “Fee Simple Townhomes”), subject in each case to adjustment per the Site Plan.

2. **Retail Spaces.** As noted above and as set forth on the Conceptual Site Plan, the Project includes retail space within Building 1. Approximately 7,000 square feet of retail space will be located on the ground floor of Building 1, along the northern and southern ends of Building 1 facing Midway Road, with approximately 3,500 square feet of retail space along the northern end of Building 1 (the “North Retail Space”) and approximately 3,500 square feet along the southern end of Building 1 (the “South Retail Space”). To promote occupancy of these retail spaces, AMLI will employ a retail leasing and activation consultant to market the property and will construct all retail spaces to “white box” condition with all mechanical/electrical/plumbing, 14’ floor to floor height, and a minimum 10’ storefront height. The North Retail Space will be managed by AMLI as retail, office/coworking or meeting space acceptable for lease to the general public. The South Retail Space will be designed for a coffee shop, café, or similar operation, with a 50-gallon grease trap and a patio area developed for outdoor use; however, if the South Retail Space is not being operated for the intended use within eighteen (18) months after issuance of the final certificate of occupancy for Building 1, the South Retail Space may be used for retail, office/coworking or meeting space to be operated by AMLI in substantially the same manner as the North Retail Space. The formal process for permitting said conversion shall be defined in the Definitive Agreement.

Exhibit A

3. Trail Extension and Dog Park. Upon issuance of the final certificate of occupancy for Building 1, AMLI will dedicate approximately three (3) acres of public open space to the City for a trail extension and dog park enhancement (collectively, the "Park Space"), as shown on the Site Plan, and upon the City's acceptance of such dedication, AMLI will also provide ten (10) public parking spaces to be used in connection with the Park Space. Pursuant to the terms of an agreement between AMLI and the City (the "Dedication Agreement"), the City shall have the right to approve the civil and landscape plans for the Park Space, AMLI will perform the trail extension improvements (including benches, lighting, hardscape, and landscaping as designated on the Site Plan) as part of its development of the Project, and in addition, AMLI will contribute up to \$100,000.00 for improvements to the dog park, which funds may be used for turf, fencing, and/or shade structures, among other improvements to be mutually agreed upon between AMLI and the City. The dedication of the Park Space will be made by special warranty deed subject to all matters of record and subject to restrictive covenants which impose maintenance obligations on the City with respect to the Park Space and establish reasonable rules and regulation on the use of the Park Space, as well as reserve to AMLI and future owners of the Project such temporary construction easements upon the Park Space as may be necessary for the development of the Lots (collectively, the "Park Covenants"). The Park Covenants will be more specifically defined in the Dedication Agreement and imposed in the dedication deed or other instrument recorded simultaneously therewith. The Dedication Agreement will provide that AMLI will, to the extent assignable, assign to the City any existing warranties on improvements and landscaping constructed and/or installed by AMLI within the Park Space. Each party shall be solely responsible for its own costs in connection with dedication of the Park Space.

4. Fee Simple Townhomes. AMLI will complete the infrastructure and site work for thirty (30) Fee Simple Townhome lots, subject to adjustment per the Site Plan (the "Lots"), simultaneous with the construction of Building 1. The location of the Lots will be in the general conformance with buildings 3 through 7, as depicted on the Conceptual Site Plan. AMLI will engage an unaffiliated third-party developer ("Townhome Developer") to construct the Fee Simple Townhomes on the Lots in conformance with the approved Site Plan, which shall be developed for sale. Prior to issuance of buildings permits for the Lots, AMLI will record against the Lots restrictive covenants mutually agreeable to AMLI and the City (the "Townhome Covenants"). The Townhome Covenants will prohibit the construction of rental units on the Lots and will require the approval of each of AMLI and the City, not to be unreasonably withheld or delayed, of the architectural plans for the Fee Simple Townhomes.

5. City's Right of First Refusal. The Definitive Agreements will contain provisions granting and conveying to City the exclusive and irrevocable rights and options set forth in this section (the "ROFR"). Specifically, if a Townhome Developer has not obtained building permits for construction of the Fee Simple Townhomes within two (2) years after issuance of the final certificate of occupancy for Building 1, the City may, upon approval of the City Council, elect one or more of the following options:

- (a) purchase all or a portion of the undeveloped Lots from AMLI at a price of \$50,000.00 per Lot and select another developer to construct the Fee Simple Townhomes, subject to the adopted Townhome Covenants (if applicable);
- (b) Grant AMLI approval to construct additional rental townhomes on all or a portion of the Lots;
- (c) Grant AMLI one or more extensions to continue to market the Lots to a potential Townhome Developer; and/or
- (d) If and only if the City has granted AMLI one or more extensions to continue to market the Lots to a potential Townhome Developer as provided above and a Townhome Developer has not obtained building permits for the construction of Fee Simple Townhomes within the extended time period(s), require AMLI to dedicate the undeveloped Lots as additional open park/trail space in general conformance with provisions of Section 3 of this MOU; provided that the City will not construct any improvements within the additional open

Exhibit A

park/trail space that would unreasonably interfere with AMLI's development of the other portions of the Project.

The Townhome Covenants will set out the parties' respective obligations with respect to any conveyance necessitated by the City's election and any required modifications to the Townhome Covenants, Site Plan and/or approved zoning, as well as the formal process and timing for the ROFR. In addition, the Townhome Covenants will impose standard insurance, maintenance and other mutually beneficial restrictive covenants for architectural control and upkeep of exterior and common areas and establish an HOA for administration of the foregoing.

6. Construction Hours. AMLI agrees to impose upon the Project (including all contractors and subcontractors) the following construction hours on all site work and exterior construction activities:

- (a) Construction hours will be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday.
- (b) Excavation shall be prohibited daily before 8:00 a.m. and from 12:00 p.m. Friday until 8:00 a.m. Monday.
- (c) No construction shall be allowed on Sunday or City-observed holidays.
- (d) Any exceptions will require City review and approval, including outreach to the immediately adjacent residential property owners and HOA leadership, prior to obtaining written approval from the City.
- (e) Upon transition from site and exterior work to interior work, the City's standard construction hours will apply.

7. Building Material Standards. Each structure within the Property shall be designed and constructed with exterior facades that maintain an average composition of 90 percent masonry construction, excluding glazing and fenestration. Masonry materials include brick, stone, and cast stone.

8. Perimeter Fence Improvements. AMLI shall make a good faith effort to establish agreements with adjacent Homeowner's Associations and/or residential property owners for AMLI to assume full financial responsibility for perimeter fence improvements and associated perimeter fence improvement costs.

9. Mitigation Credit for Transplanting Trees. The Director of Parks and Recreation may approve alternative tree mitigation standards to account for transplanting of mature trees.

10. Sustainability. AMLI will achieve, at a minimum, LEED Silver Certification with respect to the Project. AMLI will construct the buildings with a minimum 30 electric vehicle charging stations and will utilize alternative power sources such as wind and solar energy in the common areas as and when available and feasible.

11. Addison Arbor Foundation Contribution. Upon commencement of construction of the Project, or at another mutually agreeable time, AMLI will contribute \$150,000.00 to the Addison Arbor Foundation to fund public art in the Park Space. Such contribution may be addressed in the Park Covenants or in a separate agreement.

12. Binding Definitive Agreements. Following the City's approval of the rezoning, the parties will negotiate in good faith to agree upon mutually satisfactory agreements evidencing their understanding with respect to each of the matters set forth herein (collectively, the "Definitive Agreements"), which Definitive Agreements will include, but may not be limited to, the Dedication Agreement, the Park Covenants, and the Townhome Covenants. This MOU is intended to establish a basic framework for such negotiation and to bind the parties to negotiate in good faith with respect to the form and content of the

Exhibit A

Definitive Agreements. The parties agree that execution of the Definitive Agreement(s) is subject to the City having approved the rezoning and AMLI having acquired fee simple title to the property covered thereby.

13. Term. This MOU shall become effective as of the Effective Date set forth above and shall terminate upon (i) the parties' final execution of the Definitive Agreement(s) concerning the subject matters set forth herein; or (ii) mutual written agreement of the parties. Prior to termination AMLI shall not have the right to assign this MOU without the prior written consent of City, which may be given or withheld in the City's sole discretion.

14. Costs and Expenses. Unless expressly provided otherwise herein, each party shall be responsible for all costs and expenses associated with the preparation of this MOU, the preparation and negotiation of the Definitive Agreements, and future actions related thereto.

15. Public Information Act. AMLI acknowledges that this MOU is subject to the legal requirements of the Texas Public Information Act and that City will have no obligation to protect or otherwise limit disclosure of any confidential or proprietary information received by City in connection with the same unless a party has previously notified City in writing that it considers the information to be confidential or proprietary trade secrets and has clearly marked all such information as "Confidential" and/or "Proprietary – Trade Secret" at the time it is delivered or made accessible to City (including City's officers, officials, employees, consultants, attorneys and/or other authorized representatives). In the event City delivers to AMLI information that it has expressly marked "Confidential" or has notified AMLI is confidential or is the proprietary information of a third-party, AMLI agrees its shall not disclose to anyone directly or indirectly during the term of this MOU or at any time thereafter, any such information, nor shall either use any such information for any purpose other than in connection with the Project contemplated in this MOU.

16. Certification of No Conflicts. AMLI hereby warrants to City that it has made full disclosure in writing of any existing or potential conflicts of interest related to the Project as contemplated in this MOU. In the event that any conflicts of interest arise after the Effective Date of this MOU, AMLI agrees to immediately disclose the same to City.

17. Notice. All notices required by this MOU shall be in writing and addressed to the parties at the addresses set forth on the signature page hereto (or to such other address that may be designated by the receiving party from time to time in accordance with this section). All notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or e-mail of a PDF document (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a notice is effective only (i) upon receipt by the receiving party, and (ii) if the party giving the notice has complied with the requirements of this section.

18. Governing Law. This MOU shall be construed and governed by the laws of the State of Texas; and venue for any action concerning this MOU shall be in the state district courts of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

19. No Joint Venture; Immunity. the parties that, in connection with the subject matters of this MOU, each party is acting independently, and that neither party shall assume the other's responsibility or liabilities to any third party in connection with the other's actions. Nothing herein shall be deemed to waive, modify, or amend any legal defense available at law or in equity to City, its past or present officials, officers,

Exhibit A

employees, or agents, and the City does not waive, modify or alter the availability of the defense of governmental immunity under the laws of the State of Texas and the United States.

20. Amendment. This MOU may only be amended by mutual written agreement executed by the parties.

21. Counterparts. This MOU may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

Exhibit A

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the Effective Date.

For City:

TOWN OF ADDISON, TEXAS

By: _____

Name: _____

Date: _____

NOTICE ADDRESS:

Town of Addison
Attn:
5300 Belt Line Rd.
Addison, Texas 75254
E:

For AMLI:

AML RESIDENTIAL PARTNERS, LLC
a Delaware limited liability company

By: _____

Taylor Bowen, Authorized Signatory

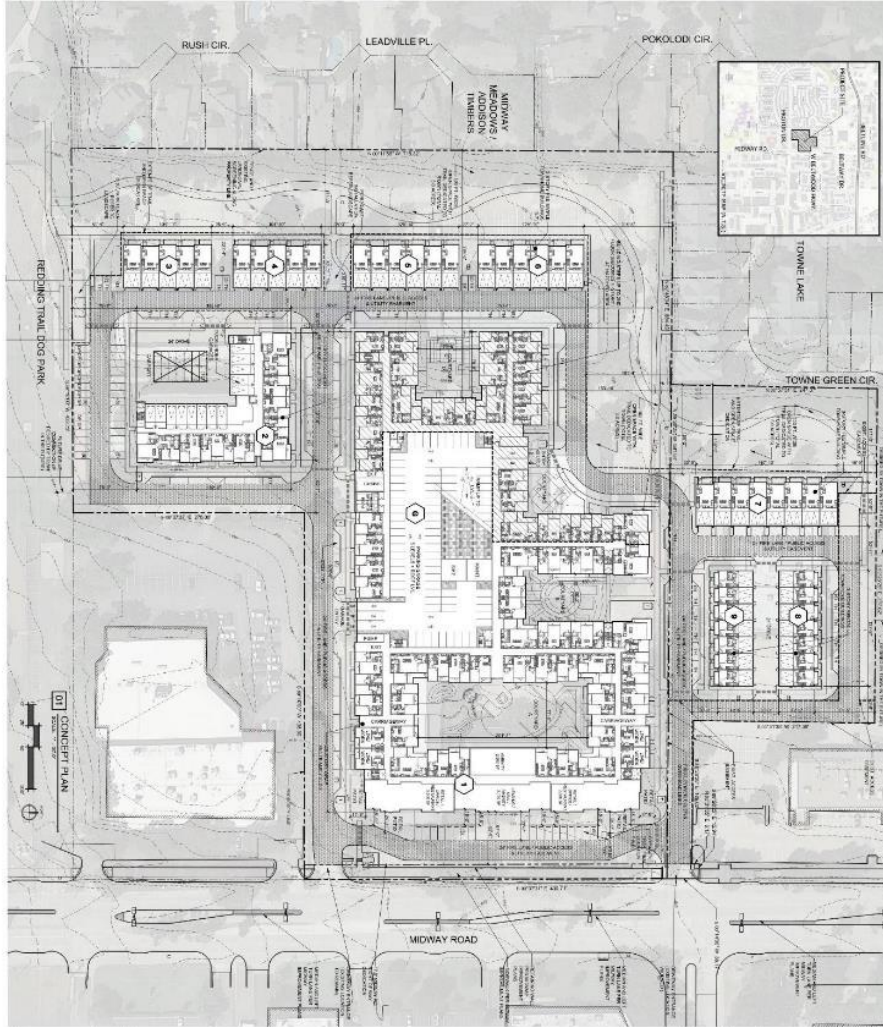
Date: _____

NOTICE ADDRESS:

AML Residential Partners, LLC
5057 Keller Springs Road, Suite 250
Addison, TX 75001
Attn: Taylor Bowen and Joe Bruce
E: TBowen@amli.com and JBruce@amli.com

Exhibit A

EXHIBIT A Concept Plan



01 CONCEPT PLAN	02 CONCEPT PLAN
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AMLI TREEHOUSE

20365

A001

CONCEPT PLAN

AMLI

TREEHOUSE

HLR

STRATEGIC