

**ECONOMIC DEVELOPMENT AGREEMENT
COMPLETE ENERGY SYSTEMS, INC.
CITY OF PFLUGERVILLE, TEXAS**

THIS AGREEMENT by and between the City of Pflugerville, Texas, a home rule municipal corporation (City) and Complete Energy Systems, Inc., a Texas Corporation (CES), is entered into on this _____ day of _____, 2011.

WHEREAS, CES desires to relocate its corporate headquarters and manufacturing and assembly operation to the corporate limits of the City of Pflugerville; and

WHEREAS, the City has established policies to adopt reasonable measures, as are permitted by law, to attract and promote the development of new and expanded business enterprises within the City and thereby enhance the economic stability and growth of the City; and

WHEREAS, the City has agreed to provide incentives and financial assistance to CES to encourage and promote job growth and economic development; and

WHEREAS, CES has agreed, in exchange and as consideration for funding by the City to satisfy and comply with certain terms and conditions; and

WHEREAS, the City and CES agree that the provisions of this agreement substantially advance a legitimate interest of the City;

NOW THEREFORE, for and in consideration of the promises and the agreements set forth herein, the City and CES hereby agree as follows:

**I.
Performance**

1. CES hereby agrees to: (i) to lease and/or acquire at least 80,000 square feet of manufacturing/warehouse space in the Pflugerville Renewable Energy Park in Pflugerville, Texas (hereinafter referred to as Facility) as evidenced by obtaining a certificate of occupancy from the City of Pflugerville and (ii) hiring at least 200 full time employees with medical benefits by May 1, 2014.
2. CES hereby agrees to occupy Facility within 90 days after the building is leased and/or acquired and cleared for occupancy by the City of Pflugerville.
3. CES hereby agrees to maintain at least 200 full time positions with medical benefits at the Facility from May 1, 2014 through April 30, 2016.

II.
Economic Incentives

1. The City and CES agree that this Agreement establishes a program for economic development as required by Chapter 380 of the Texas Local Government Code and that any portion of the Reimbursement Amount may be paid to CES in the form of an Economic Development Grant pursuant to Chapter 380.
2. City agrees to grant CES an amount equal to 50% of the personal property taxes actually collected by the City at the Facility annually for up to 5 years. This amount shall be determined by the Travis Central Appraisal District. In the event that CES shall acquire the real property the City shall also grant CES an amount equal to 50% of the ad valorem taxes actually collected for the Facility by the City annually for up to 5 years.
3. Amounts due to CES under Article II Section 2, if any, shall be paid annually on January 15 beginning in 2013.
4. Notwithstanding anything to the contrary the total payment to CES under this agreement shall not exceed \$375,000.

III.
Non-Performance

City and CES agree that in the event CES fails to occupy the facilities and meet and maintain the employment required under Article I of this agreement the City may cease all reimbursement payments.

IV.
Miscellaneous

1. Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties. Neither party hereto may assign this Agreement without the prior written consent of the other party hereto.
2. Severability. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this Agreement shall be given the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision.

3. Governing Law. This Agreement shall be governed, construed, applied, and enforced in accordance with the laws of the State of Texas, and shall be performable with venue in Travis County, Texas.
4. Third Party Beneficiaries. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary.
5. Amendments. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.
6. Time. Time is of the essence in the performance of this Agreement.
7. Attorney Fees. Should any party employ attorneys to enforce any of the provisions hereof, the party losing in any final judgment agrees to pay the prevailing party all reasonable costs, charges and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.
8. Notices. All notices hereunder must be in writing and shall be deemed delivered on the day personally delivered or on the third day from the day sent by registered mail or certified mail, return receipt requested with the U.S. Postal Service, or on the day after the day sent by national overnight courier, to the parties at the following addresses, or at such other addresses as shall be specified by notice.

If to the City;

City of Pflugerville
Attention: City Manager
100 East Main Street
P.O. BOX 589
Pflugerville, Texas 78691

With copy to:
City Attorney
P. O. Box 589
Pflugerville, Texas 78691-0589

If to CES:

With copy to:

9. Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

10. Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute one Agreement.

11. Representations and Warranties by CES. If CES is a limited partnership, Contractor warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.

12. Payment of Debt or Delinquency to the State or Political Subdivision of the State. Pursuant to Chapter 38, *City of Pflugerville Code of Ordinances*, CES agrees that any payments owing to CES under the Agreement may be applied directly toward any debt or delinquency that CES owes the City of Pflugerville, State of Texas or any political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

13. Texas Family Code Child Support Certification. CES certifies that the limited partners are not delinquent in child support obligations and therefore is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

14. Eligibility Certification. CES certifies that the individual or business entity named in the Agreement is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.

Complete Energy Systems, Inc.

By: _____
Name: _____

Title: _____

Attested to: _____

City of Pflugerville
A Texas Home Rule Municipal Corporation

By: _____

Name: Brandon Wade

Title: City Manager

Attested to: _____

City Secretary