

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY OF PFLUGERVILLE APPROVING THE AMENDMENT TO THE AMENDED AND RESTATED COMPREHENSIVE DEVELOPMENT AGREEMENT FOR LAKESIDE MUNICIPAL UTILITY DISTRICT NO. 5.**

**WHEREAS**, pursuant to Texas Local Government Code, Chapter 42, Texas Water Code, Chapters 49 and 54 and the Texas Constitution, Article XVI, Section 59, the City is empowered to condition or deny its consent to the creation of a municipal utility district (MUD) within the corporate limits of the City and the City's Extra-Territorial Jurisdiction (ETJ); and

**WHEREAS**, the City of Pflugerville holds the Certificate of Convenience and Necessity (CCN) in accordance with Texas Water Code, Chapter 13 providing the City the exclusive right to provide retail wastewater utility service to an extensive portion of land located within the City's ETJ and, therefore, has a substantial interest in managing land development and growth within the City's ETJ; and

**WHEREAS**, Rowe Lane Development, Ltd., Robert M. Tiemann, and Carrie P. Tiemann, Tiemann Legacy, LP as a successor to Robert M. Tiemann and Carrie P. Tiemann, (collectively the "Developer") and the City of Pflugerville, Texas (the "City") have previously entered into that certain Comprehensive Development and Consent Agreement for Lakeside WCID No. 5 dated November 22, 2004, as amended by that certain First Amendment to Comprehensive Development and Consent Agreement for Lakeside WCID No. 5 dated July 3, 2006, and by that certain Second Amendment to the Comprehensive Development Agreement dated October 14, 2011 (collectively referred to as the "Consent Agreement") and Lakeside Municipal Utility District No. 5 has been created pursuant to the Consent Agreement; and

**WHEREAS**, on May 28, 2019 the City Council approved that Amended and Restated Comprehensive Development Agreement for Lakeside MUD No. 5 recorded in Document No. 2019089789 of the Official Public Records of Travis County, Texas (the "Development Agreement") which updated the development plans for land within the District and to state the City's consent to the inclusion of up to 782 additional acres of land into the District or into no more than four future districts; and

**WHEREAS**, the Development Agreement included non-residential tracts in the Conceptual Land Use Plan that are subject to the Neighborhood Services (NS) or Retail (R) zoning district requirements of the Unified Development Code (UDC) as amended, and the Developer has proposed an amendment to address development standards that deviate from the Unified Development Code on the tracts identified as "Retail" on the Conceptual Land Use Plan as specifically identified in Exhibit A; and

**WHEREAS**, Section 3.14 of the City of Pflugerville City Charter requires general legislative acts to be adopted by Resolution or Ordinance; and

**WHEREAS**, Section 12.4(3) provides that the Development Agreement may be amended by a writing signed by both Parties; and

**WHEREAS**, the Parties desire to amend Section 5.5 of the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE:

Pursuant to the authority of Sections 42.042 and 212.172 of the Texas Local Government Code, and in consideration of the mutual agreements herein set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City agrees to the Amendment to the Amended and Restated Comprehensive Development Agreement (Lakeside MUD No. 5) as outlined in Exhibit A.

PASSED AND APPROVED this \_\_\_ day of \_\_\_\_\_, 2023.

CITY OF PFLUGERVILLE, TEXAS

By: \_\_\_\_\_  
VICTOR GONZALES, Mayor

ATTEST:

\_\_\_\_\_  
TRISTA EVANS, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
CHARLES E. ZECH, City Attorney  
Denton Navarro Rocha Bernal & Zech, PC

## EXHIBIT "A"

1. Section 5.5(g) of the Development Agreement is amended to read as follows:

(g) All non-residential tracts as identified on the Conceptual Land Use Plan shall be subject to the Neighborhood Services (NS) or Retail (R) zoning district requirements of the Unified Development Code (UDC), as amended, as it pertains to land use, bulk standards, buffer yard, architectural, landscaping, lighting, and all other site design requirements with the exception of Travis County driveway spacing regulations in lieu of the driveway spacing regulations per the UDC and other exceptions as stated in this Amendment. On the 4.4-acre tract located at Hodde Lane and Speidel Drive marked "Retail" on the Conceptual Land Use Plan the City agrees to allow the following: i) a single drive-thru location; ii) a parking ratio of 1 parking space per 90 square feet for all restaurant and patio space; iii) the installation of permanently attached synthetic lawn with bedding and a drainage system similar in quality to that used at Alliance Children's Garden located at 1000 Barton Springs Rd, Austin, TX 78704; and iv) a minimum roof pitch of 2:12 for all pitched roofs and roof overhangs in primary and secondary structures, attached or detached, asymmetrical roof pitches for all roofs complying with the 2:12 minimum pitch, and no required minimum pitch for awnings above entries and storefronts. The Developer agrees to not construct a gas station on any tract marked "Retail" on the Conceptual Land Use Plan. Additionally, the City agrees to allow a single drive-thru location on the tracts marked "Retail" on the Conceptual Land Use Plan located on Cele Road. The two potential drive-thru locations will be subject to all relevant drive-thru requirements of the UDC, including but not limited to Section 4.4.3, 9.4.3(F), 9.4.3(G), and 10.6.2(A). Upon the effective date of annexation of the "Retail" marked tracts on the Conceptual Land Use Plan located on Cele Road by the City, these tracts shall automatically be zoned "Retail (R)" and such zoning classification shall be expressly stated in the annexation ordinance. Additionally, these tracts shall be granted all zoning variances agreed to in this Amendment automatically on the effective date of the annexation which shall be expressly stated in the annexation ordinance.

2. Effect of Amendment. Except as specifically amended by the provisions of this Amendment, the terms and provisions stated in the Development Agreement shall continue to govern the rights and obligations of the parties thereunder, and all provisions and covenants of the Development Agreement, as amended hereby, shall remain in full force and effect. The terms and provisions of the Development Agreement, as amended by this Amendment, are hereby ratified and confirmed, and this Amendment and the Development Agreement shall be construed as one instrument. In that regard, this Amendment and the Development Agreement, including all exhibits to such documents, constitute the entire agreement between the parties relative to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings of the parties in connection therewith. In the event of any inconsistency, the terms and provisions of this Amendment shall control over and modify the terms and provisions of the Development Agreement.

3. Execution. To facilitate execution, this Amendment may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of all parties be contained in any one counterpart hereof. Additionally, the parties hereby covenant and agree that, for purposes of facilitating the execution of this Amendment: (a) the signature pages taken from separate individually executed counterparts of this Amendment may be combined to form multiple fully executed counterparts; and (b) a facsimile signature or a signature delivered by electronic mail shall be deemed to be an original signature for all purposes. All executed counterparts of this Amendment shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same agreement.

*[signature pages to follow]*

EXECUTED to be effective as of the later date set forth below.

**City of Pflugerville, Texas**

By: \_\_\_\_\_  
Sereniah Breland, City Manager

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

**Rowe Lane Development, Ltd.**

By: Tiemann Land and Cattle Development, Inc.,  
its general partner

By: \_\_\_\_\_  
Matthew R. Tiemann, President

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

**Landowner**

\_\_\_\_\_  
Carrie P. Tiemann

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

\_\_\_\_\_  
Robert M. Tiemann

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

**Tiemann Legacy, LP**

By: RT3 Management, LLC,  
its general partner

By: \_\_\_\_\_  
Robert M. Tiemann, President

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

ACKNOWLEDGEMENTS

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on the day of \_\_\_\_\_, 2023, by Sereniah Breland, City Manager of Pflugerville, Texas, a Texas home rule city, on behalf of said city.

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires:  
\_\_\_\_\_  
(Printed Name of Notary)

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on the day of \_\_\_\_\_, 2023, by Matthew R. Tiemann, President of Tiemann Land and Cattle Development, Inc., a Texas corporation, general partner of Rowe Lane Development, Ltd., a Texas limited partnership, on behalf of said corporation and limited partnership.

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires:  
\_\_\_\_\_  
(Printed Name of Notary)

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on the day of \_\_\_\_\_,  
2023, by Robert M. Tiemann and Carrie P. Tiemann.

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires:  
\_\_\_\_\_  
(Printed Name of Notary)

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on the day of \_\_\_\_\_,  
2023, by Robert M. Tiemann, President of RT3 Management, LLC, a Texas limited liability company,  
general partner of Tiemann Legacy, LP, a Texas limited partnership, on behalf of said company and  
limited partnership.

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires:  
\_\_\_\_\_  
(Printed Name of Notary)

After Recording Return To:  
Planning & Development Services  
C/O Jeremy Frazzell  
PO Box 589  
Pflugerville, TX 78691