

THIRD SUPPLEMENT AND AMENDMENT
TO
ECONOMIC DEVELOPMENT AGREEMENT
STONE HILL TOWN CENTER
PFLUGERVILLE, TEXAS

THIS THIRD SUPPLEMENT AND AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT (STONE HILL TOWN CENTER-PFLUGERVILLE, TEXAS) (this "Amendment") is entered into by and between the CITY OF PFLUGERVILLE, TEXAS, a Texas home-rule municipal corporation ("City"), and A-S 93 SH 130-SH 45, L.P., a Texas limited partnership ("Developer"), effective as of this __ day of June, 2011 (the "Effective Date").

WHEREAS, on or about December 12, 2006, the City and the Developer entered into that certain "Economic Development Agreement" involving the Stone Hill Town Center in Pflugerville, Texas (as heretofore modified or amended, the "Original Agreement"); and

WHEREAS, by instrument entitled "First Supplement and Addendum to the Economic Development Agreement for Stone Hill Town Center in Pflugerville, Texas", and executed by the Developer and the City, the Original Agreement was modified, supplemented, and amended in certain respects; and

WHEREAS, by instrument entitled "Second Supplement and Addendum to the Economic Development Agreement for Stone Hill Town Center in Pflugerville, Texas", and executed by the Developer and the City, the Original Agreement was further modified, supplemented, and amended in certain respects; and

WHEREAS, the City and the Developer wish to further modify and amend the Original Agreement in certain respects.

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

1. **Amendments.** The Developer and the City have agreed that the configuration of the intersection of Stone Hill Drive and Limestone Commercial Drive to be constructed within the Project (as such term is defined in the Original Agreement), as well as associated modifications to the surrounding medians, shall be modified and amended from what was shown on Exhibit "A" attached to the Original Agreement. Therefore, the first page of Exhibit "A" attached to the Original Agreement (which is the Conceptual Site Plan, as such term is defined in the Original Agreement) is hereby deleted in its entirety and the revised

Conceptual Site Plan attached hereto as Exhibit "A" (which shows a revised configuration of the area around the intersection of Stone Hill Drive and Limestone Commercial Drive) is substituted therefor. In addition, the section of the Conceptual Site Plan in which the modifications are being made has been enlarged and is attached as an additional page behind the Conceptual Site Plan.

2. **Representations and Warranties by Developer.** If Developer is a corporation, partnership or a limited liability company, Developer warrants, represents, covenants, and agrees that it is duly organized, validly existing and, if applicable, in good standing under the laws of the state of its incorporation or organization and is duly authorized and, if applicable, 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 this Amendment, and the individual executing this Amendment on behalf of Developer has been duly authorized to act for and bind Developer.

3. **Franchise Tax Certification.** If Developer is a corporation or limited liability company, Developer certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the *Texas Tax Code*, or that it is exempt from the payment of such taxes, or that it is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

4. **Payment of Debt or Delinquency to the State or Political Subdivision of the State.** Pursuant to Chapter 38, *City of Pflugerville Code of Ordinances*, Developer agrees that any payments owing to Developer under the Original Agreement may be applied directly toward any debt or delinquency that Developer 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.

5. **Texas Family Code Child Support Certification.** Developer certifies that no officers of the Developer or its general partner are delinquent in child support obligations and therefore are not ineligible to receive the award of or payments under the Original Agreement, and acknowledges that the Original Agreement may be terminated and payment may be withheld if this certification is inaccurate.

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

7. **Counterparts.** This Amendment may be executed in several counterparts; each of which shall be deemed an original. The signatures to this Amendment may be executed and notarized on separate pages, and when attached to this Amendment shall constitute one (1) complete document.

8. **Effect of Amendment.** This Amendment shall modify and amend the Original Agreement to the extent, but only to the extent, of the terms and provisions contained herein. Except as modified and amended hereby, the Original Agreement remains unchanged and is hereby ratified and confirmed. This Amendment represents the complete agreement of the parties with respect to the subject matter hereof and supersedes all prior written and oral matters related to this Amendment.

9. **Exhibits.** All exhibits attached to this Amendment are incorporated herein reference and expressly made part of this Amendment as if copied verbatim.

10. **Binding Effect.** This Amendment shall be binding and take effect only upon all parties signatures hereto, attachment of all required exhibits, and receipt by the City of a fully executed copy hereof.

CITY:

CITY OF PFLUGERVILLE,
a Texas home-rule municipal corporation

By: _____
Jeff Coleman, Mayor

ATTEST:

Karen Thompson, City Secretary

DEVELOPER:

A-S 93 SH 130-SH 45, L.P.,
a Texas limited partnership

By: A-S 93, L.C., a Texas limited liability company,
General Partner

By: _____
Steven D. Alvis, Manager

EXHIBIT "A"

REVISED CONCEPTUAL SITE PLAN

[See attached page and additional page depicting modified area]