

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS, AMENDING ORDINANCE NO. 821-06-03-14 OF THE CITY OF PFLUGERVILLE, TEXAS, AS AMENDED IN ORDINANCE NO. 999-09-04-28, BY REVISING TABLE SHC2, PERMITTED USES, TO ALLOW FOR A CONVENIENCE STORE WITH GAS PUMPS, MEDICAL FACILITY, HOSPITAL, MEDICAL OFFICE, AND TRADITIONAL OFFICE USES WITHOUT SQUARE FOOTAGE LIMITATIONS, WITHIN NEIGHBORHOOD THREE-WEST WITHIN FALCON POINTE ALUR-2 SOUTH PLANNED UNIT DEVELOPMENT (PUD), A 148.55-ACRE TRACT OF LAND OUT OF THE JOHN DAVIS SURVEY NO. 13, ABSTRACT NO. 231, PFLUGERVILLE, TRAVIS COUNTY, TEXAS, GENERALLY LOCATED AT THE NORTHEAST CORNER OF SH 130 AND E. PFLUGERVILLE PARKWAY; TO BE KNOWN AS THE SECOND AMENDMENT TO THE FALCON POINTE ALUR-2 SOUTH REZONING (REZ1606-03), AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, under the authority of Chapter 211 of the Texas Local Government, the City of Pflugerville (City) adopts regulations and establishes zoning to control the use of land within the corporate limits of the City; and

**WHEREAS**, Terrabrook Falcon Pointe, LLC (Owner) is the owner of the land defined and described in the Falcon Pointe ALUR-2 South as “Neighborhood Three-West”, a subdivision in Travis County, Texas, according to the map or plat thereof recorded under Document No. 201500083 of the Official Public Records of Travis County, Texas; and

**WHEREAS**, the City and Owner have entered into an Amended and Restated Falcon Pointe: ALUR 2-South Alternative Land Use Regulation District Agreement and Restrictive Covenant attached as Exhibit C to Ordinance No. 821-06-03-14 recorded under Document No. 2006184514 in the Official Public Records of Travis County, Texas, which has been amended by an Amended and Restated Falcon Pointe: ALUR 2-South attached as Exhibit B to Ordinance No. 999-09-04-28 (said Amended and Restated Falcon Pointe: ALUR 2-South, as amended, is hereafter referred to as the “Falcon Pointe ALUR 2-South”), and which is the current and only zoning district and alternative land use regulation district and restrictive covenant applicable to approximately 148.55 acres of land described in **Exhibit “A”**; and

**WHEREAS**, the City and Owner desire to further amend the Falcon Pointe ALUR-2 South to revise the Table of Permitted Uses and the applicable development codes with respect to Neighborhood Three-West, attached as **Exhibit “B”** to revise Table SHC2, Permitted Uses, to allow for a convenience store with gas pumps, medical facility,

hospital, medical office, and traditional office uses without square footage limitations;  
and

**WHEREAS**, the Planning and Zoning Commission held public hearings on August 1, 2016 and September 19, 2016 and voted to revise Table SHC2, Permitted Uses, to allow for a convenience store with gas pumps, medical facility, hospital, medical office and traditional office uses without square footage limitations within neighborhood Three-West within the Falcon Pointe ALUR-2 South Planned Unit Development (PUD) with a vote of 7-0; and

**WHEREAS**, the City has complied with all conditions precedent necessary to take this action and has properly noticed and conducted all public hearings and public meetings pursuant to the Texas Local Government Code and Texas Government Code, as applicable.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:**

**SECTION 1.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**SECTION 2.** The City Council finds:

THAT, the amendment to Falcon Pointe ALUR 2-South is in accordance with the City's Comprehensive Plan for the purpose of promoting the health, safety, morals, and general welfare of the City, and is in accordance with the following purposes: 1) lessen congestion in the street; 2) secure safety from fire, panic and other dangers; 3) promote the general health and welfare; 4) provide adequate air and light; 5) prevent undue overcrowding of land; 6) avoid undue concentration of population; and 7) facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements.

**SECTION 3.** City Council amends Falcon Pointe ALUR-2 South Planned Unit Development (PUD) of the City of Pflugerville, Texas adopted in Ordinance No. 821-06-03-14, further amended by Ordinance No. 999-09-04-28, to allow for a convenience store with gas pumps land use with limitations and medical facility, hospital, medical office, and traditional office uses without square footage limitations for Neighborhood Three-West as reflected in the Map in **Exhibit "B"**.

**SECTION 4.** This Ordinance shall be cumulative of all other ordinances of the City, and this Ordinance shall not operate to repeal or affect any other ordinances of the City except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

**SECTION 5.** The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

**SECTION 6.** That this Ordinance will become effective on its adoption and passage by the City Council in accordance with Section 3.15(d) of the City Charter.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF PFLUGERVILLE, TEXAS

by: \_\_\_\_\_  
JEFF COLEMAN, Mayor

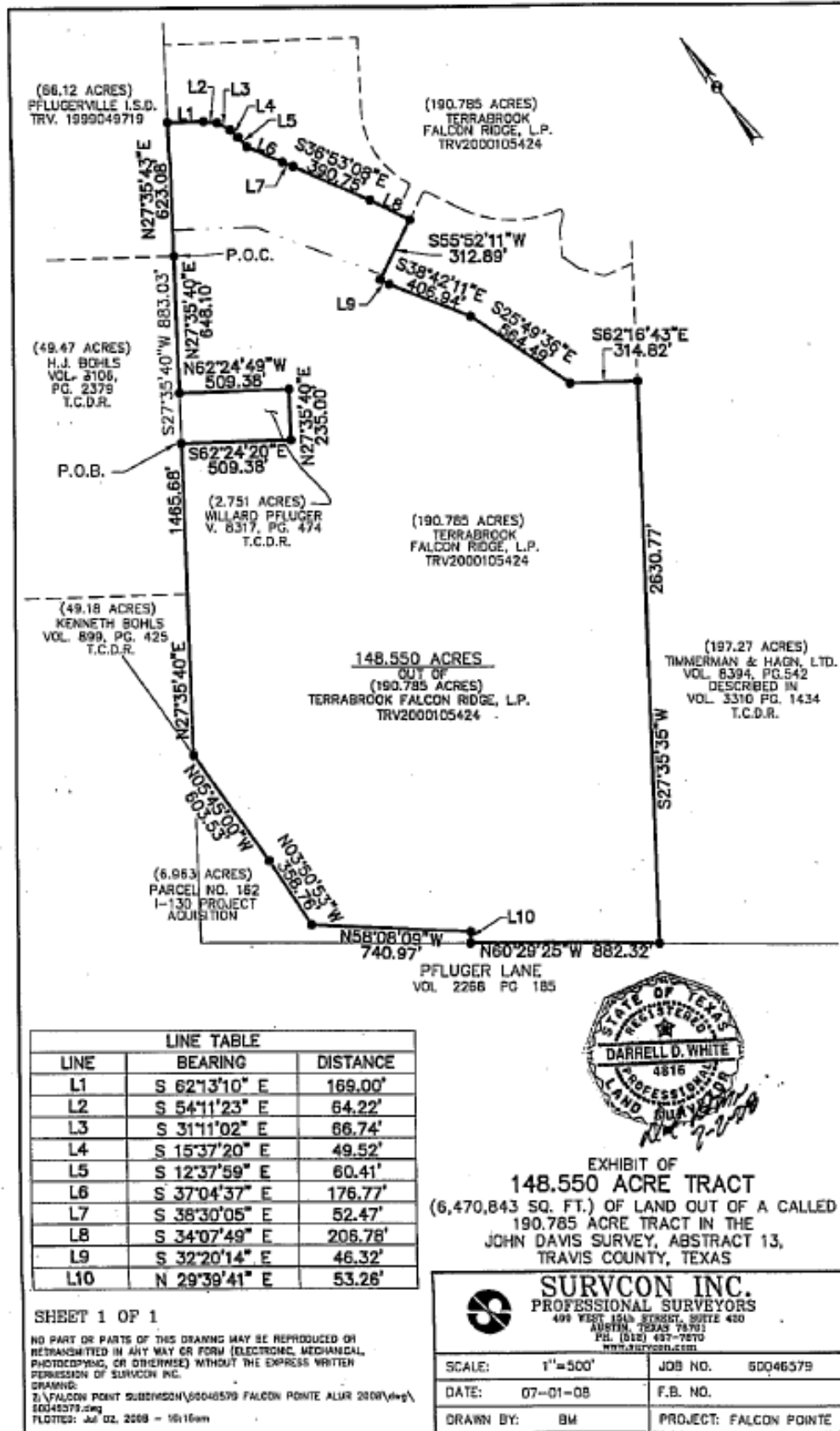
ATTEST:

\_\_\_\_\_  
KAREN THOMPSON, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
GEORGE E. HYDE, City Attorney  
DENTON NAVARRO ROCHA BERNAL HYDE & ZECH, P.C.

# EXHIBIT "A"



**METES AND BOUNDS DESCRIPTION**  
**148.550 ACRES**  
**JOHN DAVIS SURVEY, ABSTRACT NO. 13**  
**TRAVIS COUNTY, TEXAS**

Being a tract containing 148.550 acres (6,470,843 square feet) of land situated in the John Davis Survey, Abstract No. 13, Travis County, Texas and being out of a called 190.785 acre tract conveyed to Terrabrook Falcon Ridge, L.P. as recorded in Travis County Document Number TRV 2000105424 of the Official Public Records of Travis County, Texas. Said 148.550 acre tract being more particularly described by metes and bounds as follows with all bearings being referenced to Texas State Plane Coordinate System, NAD 83, Central Zone, with all distances adjusted to surface by using a combined surface adjustment factor of 1.00012

**COMMENCING** at a 1/2-inch iron rod found for in the west line of said 190.785 acre Terrabrook Falcon Ridge, L.P. tract, being the east-northeast corner of a called 49.47 acre tract conveyed to H.J. Bohls by deed recorded in Volume 3106, Page 2379 of the Travis County Deed Records, also being the south corner of a called 66.12 acre tract conveyed to Pflugerville Independent School District by deed recorded in Travis County Document Number TRV 1999049719 of the Official Public Records of Travis County, Texas;

THENCE, South 27°35'40" West, 883.03 feet, along the common line of said 190.785 acre and said 49.47 acre tract as generally fenced and used upon the ground, to the **POINT OF BEGINNING**, being a 1/2-inch iron rod with yellow plastic cap stamped "SURVCON INC." found for the southwest corner of a called 2.751 acre tract conveyed to Willard Pfluger et ux as described in Volume 8317, Page 474 of the Travis County Deed Records;

THENCE, South 62°24'20" East, along the south line of said 2.751 acre tract, a distance of 509.38 feet, to a 1/2-inch iron rod with yellow plastic cap stamped "SURVCON INC." found for the southeast corner of said 2.751 acre tract;

THENCE, North 27°35'40" East, a distance of 235.00 feet to a 1/2-inch iron rod found for corner;

THENCE, North 62°24'49" West, a distance of 509.38 feet to a 1/2-inch iron rod found for corner;

THENCE, North 27°35'40" East, a distance of 648.10 feet to a 1/2-inch iron rod found for corner;

THENCE, North 27°35'43" East, a distance of 623.08 feet to a 1/2-inch iron rod found for corner;

THENCE, South 62°13'10" East, a distance of 169.00 feet to a 1/2-inch iron rod found for corner;

THENCE, South 54°11'23" East, a distance of 64.22 feet to a 1/2-inch iron rod found for corner;

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THENCE, South 31°11'02" East, a distance of 66.74 feet to a 1/2-inch iron rod found for corner;

THENCE, South 15°37'20" East, a distance of 49.52 feet to a 1/2-inch iron rod found for corner;

THENCE, South 12°37'59" East, a distance of 60.41 feet to a 1/2-inch iron rod found for corner;

THENCE, South 37°04'37" East, a distance of 176.77 feet to a 1/2-inch iron rod found for corner;

THENCE, South 38°30'05" East, a distance of 52.47 feet to a 1/2-inch iron rod found for corner;

THENCE, South 36°53'08" East, a distance of 390.75 feet to a 1/2-inch iron rod found for corner;

THENCE, South 34°07'49" East, a distance of 206.78 feet to a point for corner;

THENCE, South 55°52'11" West, a distance of 312.89 feet to a 1/2-inch iron rod found for corner;

THENCE, South 32°20'14" East, a distance of 46.32 feet to a 1/2-inch iron rod found for corner;

THENCE, South 38°42'11" East, a distance of 406.94 feet to a 1/2-inch iron rod found for corner;

THENCE, South 25°49'36" East, a distance of 564.49 feet to a 1/2-inch iron rod found for corner;

THENCE, South 62°16'43" East, a distance of 314.82 feet to a 1/2-inch iron rod found for corner;

THENCE, South 27°35'35" West, a distance of 2630.77 feet to a 1/2-inch iron rod found for corner and being in the north right-of-way line of Pfluger Lane (width varies);

THENCE along the north right-of-way line of said Pfluger Lane (width varies) the following three (3) courses and distances:

1. North 60°29'25" West, a distance of 882.32 feet to a 1/2-inch iron rod with TxDOT Aluminum cap found for corner;
2. North 29°39'41" East, a distance of 53.26 feet to a 1/2-inch iron rod found for corner;
3. North 58°08'09" West, a distance of 740.97 feet to a iron rod found marking the intersection of said north right-of-way line of Pfluger Lane with the northeasterly right-of-way line of a called 6.963 acre tract to be acquired for widening purposes for SH 130;

THENCE along the northeasterly right-of-way line of said 6.963 acre tract the following two (2) courses and distances:

1. North 03°50'53" West, a distance of 358.76 feet along the northeasterly right-of-way line of said 6.963 acre tract to a 1/2-inch iron rod found for corner;
2. North 05°45'00" West, a distance of 603.53 feet a 1/2-inch iron rod with TxDOT aluminum cap found in the west line of the aforementioned 190.785 acre tract, same being the east line of a called 49.18 acre tract conveyed to Kenneth Bohls by deed recorded in Volume 899, Page 425 of the Travis County Deed Records, and being the west right-of-way line of SH 130;

THENCE, North 27°35'40" East, a distance of 1465.68 feet along the common lines to the **POINT OF BEGINNING** and containing a computed area of 148.550 acres (6,470,843 square feet) of land.

Note: This is a preliminary description prepared for document review only and should not be used to convey property.



Darrell D. White  
Registered Professional Land Surveyor  
Texas Registration Number 4816

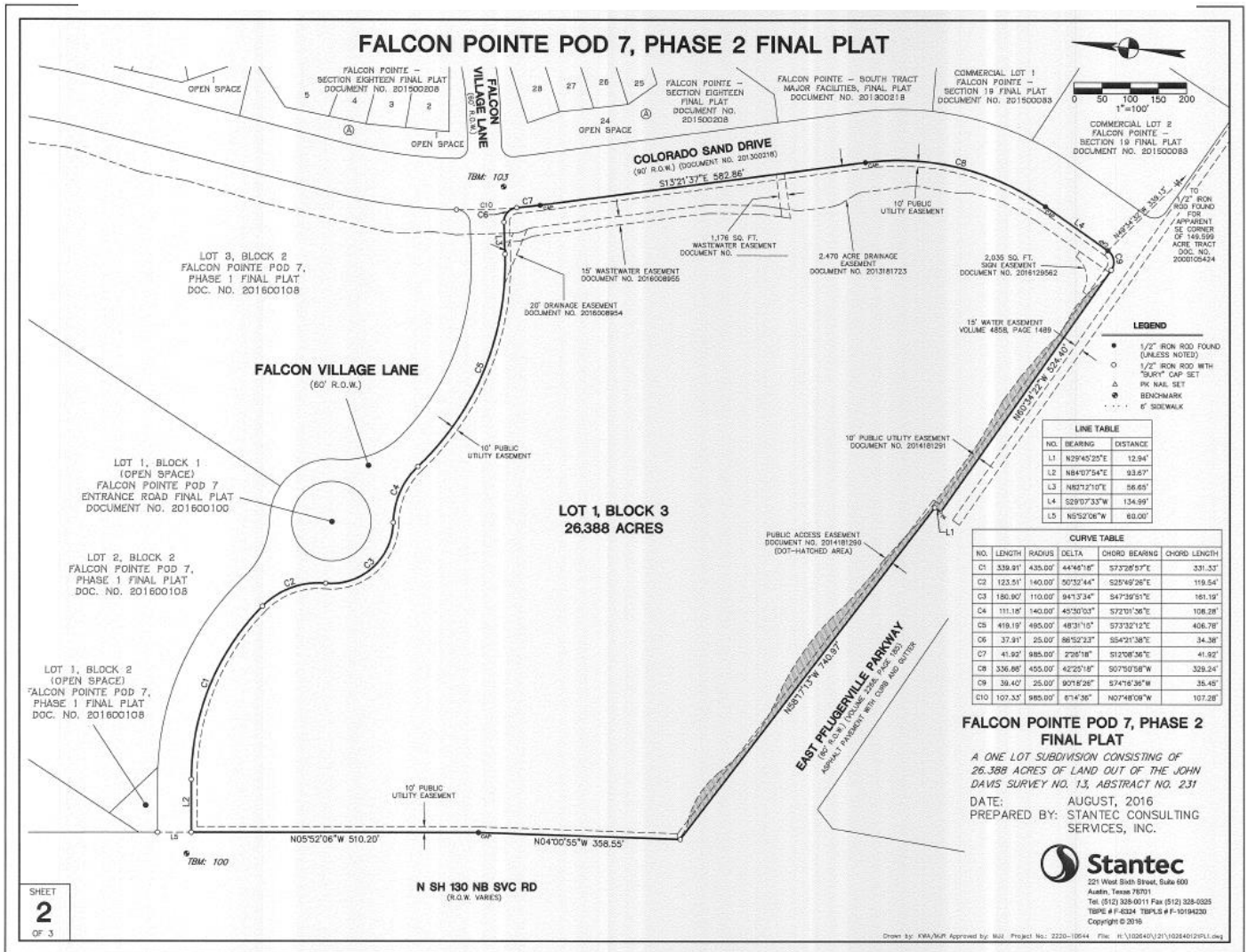
Date: 7-2-08

Prepared by:  
SURVCON INC.  
400 West 15<sup>th</sup> Street, Suite 430  
Austin, Texas 78701  
Job. No. 60046579-74



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# **EXHIBIT "B"** **Neighborhood Three-West** **(Affected Area – Lot 1, Block 3 – 26.388 Acres)**





**EXHIBIT “C”**  
**SECOND AMENDMENT TO FALCON POINTE: ALUR-2 SOUTH ALTERNATIVE**  
**LAND USE REGULATION DISTRICT AGREEMENTS AND RESTRICTIVE**  
**COVENANT**

**SECOND AMENDMENT TO  
FALCON POINTE: ALUR-2 SOUTH  
ALTERNATIVE LAND USE REGULATION DISTRICT  
AGREEMENTS AND RESTRICTIVE COVENANT**

STATE OF TEXAS                   §  
  §                   KNOW ALL BY THESE PRESENTS:  
COUNTY OF TRAVIS           §

This Second Amendment to FALCON POINTE: ALUR-2 SOUTH Alternative Land Use Regulation District Agreements and Restrictive Covenant (this “**Second Amendment**”) is made to be effective the date set forth below by the CITY OF PFLUGERVILLE, a home rule city and political subdivision of the State of Texas (the “**City**”) and TERRABROOK FALCON POINTE, LLC, a Delaware limited liability company formerly known as Terrabrook Falcon Pointe, L.P., a Delaware limited partnership (“**Owner**”).

**RECITALS:**

A. The City and Owner have entered into an Amended and Restated Falcon Pointe: ALUR 2-South Alternative Land Use Regulation District Agreement and Restrictive Covenant attached as Exhibit C to Ordinance No. 821-06-03-14 recorded under Document No. 2006184514 in the Official Public Records of Travis County, Texas, which has been amended by an Amended and Restated Falcon Pointe: ALUR 2-South attached as Exhibit B to Ordinance No. 999-09-04-28 (said Amended and Restated Falcon Pointe: ALUR 2-South, as amended, is hereafter referred to as the “**Falcon Pointe ALUR 2-South**”), and which is the current and only zoning district and alternative land use regulation district and restrictive covenant applicable to the approximately 148.55 acres of land more particularly described therein as confirmed by Release of Alternative Land Use Regulation District Agreement and Restrictive Covenant recorded under Document No. 2013071580 in the Official Public Records of Travis County, Texas, as corrected by Non-Material Correction Affidavit under Sec. 5.0128, Texas Property Code, recorded under Document No. 2013075617 in the Official Public Records of Travis County, Texas.

B. The Falcon Pointe ALUR 2-South provides that it may be amended and modified only by joint action of both (1) the City Council of the City, and (2) the owners of the Lot(s) out of the Land affected by such amendment and modification.

C. Owner is the owner of the portion of the Land defined and described in the Falcon Pointe ALUR-2 South as “Neighborhood Three-West” in Pflugerville, Travis County, Texas.

D. The City and Owner desire to further amend the Falcon Pointe ALUR-2 South to change the Table of Permitted Uses and the applicable development codes with respect to Neighborhood Three-West, depicted in Exhibit "A", as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Owner do hereby confirm, covenant and agree that Table SHC2, Permitted Uses set forth in Article II, Section 157.542 SH 130 and SH45 Corridor Districts, (O) Land Use of the Falcon Pointe ALUR-2 South is hereby amended and modified with respect to Neighborhood Three-West and Commercial Lot 2 only (and not with respect to any other portion of the Land) to add the following:

1. Convenience Store with Gas Pumps is added as a permitted commercial use; provided, such use is permitted on a maximum of two corners of an intersection; a maximum of twelve pump hoses is permitted on any one site; and canopy support columns must be encased in complimentary brick and/or stone. A car wash is permitted as an optional accessory use for a Convenience Store with Gas Pumps.
2. Medical Facility, Hospital, Medical Office and/or Traditional Office are permitted without any building or facility square foot limitation.

The City and Owner confirm and agree that Convenience Store with Gas Pumps shall be a permitted use within Neighborhood Three-West and on Commercial Lot 2, subject to the foregoing restrictions, and that the building or facility square foot limitations that would otherwise apply to Medical Facility, Hospital, Medical Office and/or Traditional Office uses shall not apply within Neighborhood Three-West.

The City and Owner confirm and agree that all provisions of the City of Pflugerville Zoning Ordinance, as currently adopted on the date of this Amendment, and other related sections of the zoning ordinance, apply to the development within Neighborhood Three-West except as specifically provided in this Amendment and previous Falcon Pointe: ALUR 2-South Alternative Land Use Regulation as outlined in the Recitals herein.

This Second Amendment may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together shall constitute one and the same instrument.

EXECUTED by the City and Owner on the dates of the acknowledgements below to be effective the date of the last such acknowledgment.

**[signature pages follow]**

**THE CITY:**

THE CITY OF PFLUGERVILLE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS           §

§

COUNTY OF TRAVIS       §

          This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, as the \_\_\_\_\_ of the CITY OF PFLUGERVILLE, a home rule city and political subdivision of the State of Texas, on behalf of said city.

\_\_\_\_\_  
Notary Public, State of Texas

**OWNER:**

TERRABROOK FALCON POINTE, LLC

By: \_\_\_\_\_  
E. William Meyer,  
Senior Vice President

THE STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2016, by E. William Meyer, as Senior Vice President of TERRABROOK FALCON POINTE, LLC, a Delaware limited liability company, on behalf of said limited liability company.

\_\_\_\_\_  
Notary Public, State of Texas  
Print Name: \_\_\_\_\_

**AFTER RECORDING, PLEASE RETURN TO:**

## 26.388 Acres – Lot 1, Block 3

