

CITY RESOLUTION NO. _____

PCDC RESOLUTION NO. _____

JOINT RESOLUTION OF THE CITY OF PFLUGERVILLE, TEXAS AND THE PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION APPROVING AMENDMENTS TO THE AMENDED AND RESTATED WATER AND ADVENTURE PARK GROUND LEASE AND OPERATING AGREEMENT.

WHEREAS, on December 28, 2016, the City of Pflugerville, Texas (City) and the Pflugerville Community Development Corporation (PCDC) approved a Joint Resolution approving the Amended and Restated Water and Adventure Park Ground Lease and Operating Agreement (Lease) with Typhoon Waterpark of Pflugerville, LLC (Typhoon), with conditions; and

WHEREAS, The conditions required by the City and PCDC required (1) revising Section 5.2 of the Lease to state the sales price will be calculated as the higher of the then existing balance of any debt of the PCDC supporting its original investment in the Water and Adventure Park or the Net Present Value of the remaining lease payments discounted by 4.5% and (2) inserting a provision requiring ticket sales to the Water and Adventure Park to occur at a situs within the City of Pflugerville, Texas in order for local sales taxes associated with tickets sales to be remitted to the City; and

WHEREAS, Typhoon agreed to the City and PCDC's condition requiring ticket sales to the Water and Adventure Park to occur at a situs within the City of Pflugerville, Texas; and

WHEREAS, the City, PCDC, and Typhoon engaged in additional negotiations regarding the condition related to Section 5.2 of the Lease; and

WHEREAS, the City, PCDC, and Typhoon have agreed to Section 5.2 of the Lease without the condition placed by the City and PCDC; agreed to the insertion of Section 6.5.1 in the Lease which requires Typhoon to sell tickets from a situs within the City of Pflugerville, and, in addition, agreed to a revised Exhibit C to the Lease; and

WHEREAS, The City and PCDC hereby approve the amendments to the Amended and Restated Water and Adventure Park Ground Lease and Operating Agreement.

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

- 1) The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and are made a part hereof for all purpose for finding of fact.

- 2) The City Council hereby approves the amendments to the Amended and Restated Water and Adventure Park Ground Lease and Operating Agreement with Typhoon Waterpark of Pflugerville, LLC.

NOW THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION THAT:

- 3) The foregoing recitals are hereby found to be true and correct and are hereby adopted by the PCDC and made a part hereof for all purpose for finding of fact.
- 4) The PCDC hereby approves the amendments to Amended and Restated Water and Adventure Park Ground Lease and Operating Agreement with Typhoon Waterpark of Pflugerville, LLC.

APPROVED this 3rd day of January 2017.

CITY OF PFLUGERVILLE, TEXAS

Victor Gonzales, Mayor

ATTEST:

Karen Thompson, City Secretary

APPROVED this 3rd day of January 2017.

PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION

Doug Weiss, Vice President

ATTEST:

Name: _____
Office: _____