

**FIRST AMENDMENT AND RESTATEMENT OF THE CHAPTER 380
ECONOMIC DEVELOPMENT AGREEMENT**

**BETWEEN
THE CITY OF PFLUGERVILLE, TEXAS
AND
LIVING SPACES FURNITURE, LLC**

This First Amendment and Restatement of the Chapter 380 Economic Development Agreement (this "*Amendment*") is entered into between **Living Spaces Furniture, LLC**, a Delaware limited liability company, its successors and assigns ("*Store*"), and **The City of Pflugerville, Texas**, a home rule city (the "*City*"). Store and City may be referred to jointly herein as "the Parties" and individually as a "Party."

RECITALS

WHEREAS, the City Council of the City of Pflugerville, Texas authorized certain economic development grants to Store in recognition of the positive economic benefits which will accrue to the City through the City's and Store's joint efforts to develop and operate a retail store and fulfillment center (the "*Project*") within the City of Pflugerville, as more specifically described in that certain Chapter 380 Economic Development Agreement entered into by and between the Parties on September 22, 2016 (the "*Agreement*"), which is attached hereto as **Exhibit A** and incorporated herein for all purposes; and,

WHEREAS, the City and Store wish to amend certain sections of the Agreement to adjust facility terms (Section 6) and provide for additional representations (Section 8).

NOW, THEREFORE, in consideration of the mutual benefits described in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Store agree as follows:

A. Amendments. Pursuant to Section 9, paragraph 14 of the Agreement, CITY and STORE agree to amend parts of Sections 6 and 8 of the Agreement to read as follows:

SECTION 6.
FACILITY TERMS

Section 6, paragraph 1 is hereby amended to read as follows:

1. Description of the Facility. The Facility referenced in Section 3 above shall consist of a retail store of 150,000 sq. ft. +/-10% and attached fulfillment center of 380,000 sq. ft. +/-10%. STORE shall invest a minimum of forty million United States Dollars (\$40,000,000.00) in the Facility, such amount to include, real property acquisition costs, design, engineering and construction of improvements costs, and personal property attached and fixed to the operation of such facilities, but not to include inventory. The

term fulfillment center means the location where incoming orders for STORE, including internet orders are received, processed, and filled.

SECTION 8.
REPRESENTATIONS.

Section 8, paragraph 2 is hereby amended to include the following sub-paragraph:

d. Certificate of Interested Parties (TEC Form 1295). STORE acknowledges that for contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the STORE a completed, signed, and notarized TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. STORE understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering into this Agreement. Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City.

B. Other. CITY and STORE agree that, with the exception of the changes herein indicated, the Agreement shall remain unchanged and all terms shall remain valid.

EXECUTED to be effective as of the _____ day of _____ 2017.

OWNER:

CITY:

LIVING SPACES FURNITURE, LLC

**THE CITY OF PFLUGERVILLE,
TEXAS**

By: _____
Name: _____
Title: _____

By: _____
Brandon Wade, City Manager

Attest:

Karen Thompson, City Secretary

Approved As To Form:

George Hyde, City Attorney

Acknowledgements

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____,
2017, by Brandon Wade, City Manager of the City of Pflugerville, Texas, a Texas home-
rule municipality, on behalf of said municipality.

Notary Public Signature

(seal)

THE STATE OF _____ §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____,
2017, by _____, _____ of the Living Spaces Furniture,
LLC, a Delaware Limited Liability Company, on behalf of said company.

Notary Public Signature

(seal)

EXHIBIT A

The “Agreement”

CITY OF PFLUGERVILLE, TEXAS

**CHAPTER 380
ECONOMIC DEVELOPMENT AGREEMENT
WITH LIVING SPACES FURNITURE, LLC**

THIS ECONOMIC DEVELOPMENT AGREEMENT ("Agreement") by and between the City of Pflugerville, Texas, a home rule municipal corporation (the "City") and Living Spaces Furniture, LLC, a Delaware limited liability company ("STORE"), each of which may be singularly referred to as "Party" and jointly referred to as "Parties," for the purposes and considerations stated below, and acting by and through their respective authorized representatives, is entered into on this 22 day of September, 2016.

WHEREAS, STORE desires to construct a retail store and fulfillment center in 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, STORE has advised the City that a contributing factor that would induce STORE to construct a retail store and fulfillment center in the corporate limits of the City of Pflugerville would be an agreement by the City to provide an economic development grant to STORE; and

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

WHEREAS, STORE has agreed, in exchange and as consideration for the incentives and financial assistance by the City to satisfy and comply with certain terms and conditions, and

WHEREAS, the City and STORE agree that the provisions of this Agreement substantially advance a legitimate interest of the City in development of economic growth, increase property value within the community, contribute to the commercial ad valorem tax base, generate local sales tax, foster new direct and indirect employment opportunities; improve the quality of life in the City and area by making products and services accessible to the local community and diversify the tax base supporting local government and public infrastructure;

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

SECTION 1.
DEFINITIONS

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

“Affiliate” of any specified person or entity means any other person or entity which, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under direct or indirect common control with such specified person or entity. For purposes of this definition “control” when used with respect to any person or entity means (i) the ownership, directly or indirectly, of fifty percent (50%) or more of the voting securities or membership interests of such person or entity, or (ii) the right to direct the management or operations of such person or entity, directly or indirectly, whether through the ownership (directly or indirectly) of securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Central Texas Region” means the area generally described as an area spanning a 100 mile radius from the Pflugerville City Hall’s location at 100 E. Main St., Pflugerville, TX 78660.

“City” means the City of Pflugerville, Texas.

“Effective Date” means the last date this Agreement is signed by either Party.

“Facility” has the meaning set forth in Section 6.1.

“Incentive Payment” has the meaning set forth in Section 4.2.

“Sales Tax” means the City’s municipal sales and use tax, currently at the rate of one percent (1.0%), pursuant to Section 321.103 of the Texas Tax Code, as amended, generated from the Facility and received by the City; provided, should the Texas Legislature amend the applicable tax code provision to increase or decrease the amount of allowed municipal sales and use tax, then, Sales Tax shall mean the actual amount of sales and use tax received by the City, as amended.

“Sales Taxes Paid” means the amount of Sales Tax attributable to the Facility collected by the State Comptroller and paid to and received by the City.

“State Comptroller” shall mean the Comptroller of Public Accounts for the State of Texas (or any similar or successor tax collection entity or agency of the State).

“STORE” means Living Spaces Furniture, LLC, a Delaware limited liability company and its Affiliates.

SECTION 2.

TERM

This Agreement shall be effective as of the Effective Date and shall terminate when all terms and conditions of this Agreement have been fulfilled, unless terminated earlier pursuant to the terms of this Agreement.

SECTION 3.

PERFORMANCE

1. STORE agrees to construct and operate the "Facility" as described in Section 6.1, located within the corporate limits of the City of Pflugerville, Texas, at the location depicted in **Exhibit "A"** (the Metes and Bounds description of the property) (the "Location").
2. STORE agrees that it will not construct any other Facility in the Central Texas Region and shall not operate or construct no more than one additional retail store location within Travis County and all counties adjacent to Travis County during the Term of this Agreement, without 90 days prior written notice to City. Nothing in this Agreement shall prevent STORE from opening additional retail store locations or fulfillment centers located outside of the Central Texas Region.
3. STORE hereby agrees to use the Facility as its sole "place of business", as defined under Comptroller Rule §3.334(a)(14), for both the sales and use tax from its retail portion of the Facility and for internet sales fulfilled by the Facility in the Central Texas Region during the Term of this Agreement.

SECTION 4.

ECONOMIC DEVELOPMENT GRANT

1. The City and STORE agree that this Agreement establishes a program for economic development as required by Chapter 380 of the Texas Local Government Code and that any incentive, financial assistance or other benefit, paid to STORE is made in the form of an Economic Development Grant pursuant to Chapter 380.
2. Economic Development Grant. Subject to the satisfaction of the terms and conditions of this Agreement by STORE, City agrees to pay STORE an incentive in an amount equal to 50% of the City's Sales Tax collected and remitted by STORE on its reported taxable sales from the Facility, and received by the City from the State (the "Incentive Payment").

- a. Incentive Payment Paid Annually. The City shall pay the Incentive Payment on an annual basis in arrears, beginning from the date City makes its first Incentive Payment and shall continue until for a period of 10 years or until the cumulative total amount of the Incentive Payments equals \$3,000,000, whichever occurs first. The Incentive Payment obligation shall survive the expiration of the term of this Agreement for the limited purpose to allow the last payment to occur. Any obligation of the City to pay the Incentive Payment to STORE for any purpose under this Agreement is limited in its entirety by the provisions of this Section, and is expressly conditioned on both timely payment and the City's receipt of the Ad Valorem and Personal Property Taxes for taxes actually paid in connection with the ownership and operation of the Facility and STORE's satisfaction of all the obligations within this Agreement.
- b. The amount of the Incentive Payment to be paid shall be determined based on the Sales Tax attributable to the Facility reported by STORE on the Annual Report and verified by the CITY based on Sales Tax information provided by STORE to the Texas Comptroller's Office. STORE shall execute the attached Exhibit permitting the City to obtain Sales Tax payment documentation from the State Comptroller's Office as necessary to carry out the terms of this Agreement as a condition precedent to eligibility for the Incentive Payment. Updates to the Exhibit shall be provided every three (3) years or as required by the Texas State Comptroller.
- c. The City will remit the Incentive Payment, if any, to STORE by February 28th of the each year following the end of the prior such calendar year. The Incentive Payment shall be pro-rated during the first and final year of this Agreement if the first and final years are not a full twelve calendar month period.

SECTION 5. **TERMINATION**

1. City and STORE agree that in the event STORE fails to comply with any obligation or term of this Agreement at any time, the City shall notify STORE in writing of such default, and if such default remains uncured for a period of thirty (30) days after notice thereof shall have been given, the City may unilaterally cancel and terminate this Agreement. Such termination shall not affect the obligation to pay any remaining Incentive Payment that remains unpaid at the time of cancelation.
2. At its option, STORE may provide written notice to City of its intent to unilaterally cancel and terminate this Agreement. Such termination shall

not affect the obligation to pay any remaining Incentive Payment that remains unpaid at the time of cancelation.

SECTION 6. **FACILITY TERMS**

1. Description of the Facility. The Facility referenced in Section 3 above shall consist of a retail store of 150,000 sq. ft. +/-10% and attached fulfillment center of 500,000 sq. ft. +/-10%. STORE shall invest a minimum of forty million United States Dollars (\$40,000,000.00) in the Facility, such amount to include, real property acquisition costs, design, engineering and construction of improvements costs, and personal property attached and fixed to the operation of such facilities, but not to include inventory. The term fulfillment center means the location where incoming orders for STORE, including internet orders are received, processed, and filled.
2. The Facility shall be completed in one phase, which shall be completed within eighteen (18) months of the close of escrow for the acquisition of the real property of the location. Completion of the Facility shall be achieved upon satisfactory proof determined by the City that the Facility constructed meets the description in this Section 6 as provided within this Agreement and that all improvements constructed on or installed within the Facility, including any landscaping are complete, are in full compliance with all applicable laws and the Facility is open for business and fully operational.
3. Real Property Acquisition. STORE shall close escrow for the acquisition of the real property of the Location within 280 days of the execution date for this Agreement.

SECTION 7. **CONFIDENTIAL REPORTING**

1. Annual Report. STORE shall deliver to the City the following report by January 30 of each year of the Agreement following the date the Facility is open for business and fully operational, which includes the following information:
 - a. The Sales Tax Paid to the City attributable to the Facility for the prior calendar year,
 - b. Annual certification of full compliance with all requirements of this Agreement.
2. Additional Information. Upon written request by the City, STORE shall use commercially reasonable efforts to provide to City within thirty (30) days of the request, additional information reasonably necessary to determine if

STORE is in compliance with this Agreement. All information required by this Agreement shall be submitted to the City Manager at the address specified for giving notice in this Agreement.

3. Confidentiality. All information provided by STORE to City under this Agreement shall be considered confidential proprietary information and maintained as confidential and shall not be provided to any person outside City government, and shall not be made available to the public in accordance with the Texas Public Information Act, unless the City is required to do so by Letter Ruling issued by the Attorney General of Texas. City will provide STORE with notice of any request and STORE may petition the Texas Attorney General to except the information from public disclosure, as provided by the Texas Public Information Act.

SECTION 8. **REPRESENTATIONS**

1. Representations of the City. The City hereby represents to STORE that as of the date hereof;
 - a. The City is a duly created and existing municipal corporation and home rule municipality of the State of Texas under the laws of the State of Texas and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement.
 - b. The City has the power, authority and legal right under the laws of the State of Texas to enter into and perform this Agreement and the execution, delivery and performance hereof (i) will not, to the best of its knowledge, violate any applicable judgment, order, law or regulation, and (ii) does not constitute a default under, or result in the creation of any lien, charge, encumbrance or security interest upon any assets of the City under any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.
 - c. This Agreement has been duly authorized, executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms except to the extent that (i) the enforceability of such instruments may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws of general application in effect from time to time relating to or affecting the enforcement of creditors' rights and (ii) certain equitable remedies including specific performance may be unavailable.

- d. The execution, delivery and performance of this Agreement by the City do not require the consent or approval of any person that has not been obtained.
2. Representation of STORE. STORE hereby represents to the City that as of the date hereof:
- a. STORE is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware, and authorized to do business in the State of Texas.
 - b. The business that STORE proposes to carry on at the Facility may lawfully be conducted by STORE.
 - c. No Pending Litigation. There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the current actual knowledge of STORE, threatened against or affecting STORE or any subsidiaries of STORE, questioning the validity or any action taken or to be taken by STORE in connection with the execution, delivery and performance by STORE of this Agreement or seeking to prohibit, restrain or enjoin the execution, delivery or performance by STORE hereof, wherein an unfavorable decision, ruling or finding, (i) would adversely affect the validity or enforceability of, or the authority or ability of STORE to perform, its obligations under this Agreement, or (ii) would have an adverse effect on the consolidated financial condition or results of operations of STORE or on the ability of STORE to conduct its business as presently conducted or as proposed or contemplated to be conducted (including the operation of the Facility).
3. Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement. The undersigned officers and/or agents of the Parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the Parties hereto.
4. No Consents. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party is required for the due execution, delivery and performance by the delivery of this Agreement or the consummation of the transactions contemplated hereby or thereby, other than the City whose authority and consent is herein granted.

SECTION 9.
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. Release and Indemnification. THE CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE ACTS OR OMISSIONS OF STORE PURSUANT TO THIS AGREEMENT. STORE HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY. STORE DOES HEREBY INDEMNIFY AND SAVE HARMLESS THE CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEY'S FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY ARISING FROM STORE'S BREACH OF ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF STORE, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, SUBCONTRACTORS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS IN THE PERFORMANCE OF THIS AGREEMENT (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE OF THE CITY). IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF BOTH THE CITY AND STORE, THE RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST CITY IN

CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, STORE SHALL BE REQUIRED, ON NOTICE FROM CITY, TO DEFEND SUCH ACTION OR PROCEEDINGS AT STORE'S EXPENSE, BY OR THROUGH ATTORNEY'S REASONABLY SATISFACTORY TO THE CITY. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

4. Force Majeure. All obligations of STORE and City shall be subject to events of "force majeure" which shall mean any contingency or cause beyond the reasonable control of a party, as applicable, including, without limitations, acts of God or the public enemy, war, riot, civil commotion, insurrection, adverse weather, government or de facto governmental action or inaction (unless caused by negligence or omissions of such party), fires, explosions, floods, strikes, slowdowns or work stoppages, shortage of materials and labor.
5. Locally Sourced Preference: STORE agrees to exercise commercially reasonable efforts to utilize and procure its Facility construction labor and/or materials from contractors and suppliers located in Pflugerville, Texas. This provision applies to all aspects of the Facility from site work, grading, earth moving, demolition, clearing and tree removal, transportation and hauling, dedicated public or private infrastructure and utility construction, concrete and concrete forming and pouring, parking areas, road, electrical, water and wastewater construction, landscaping, and use of the related trade industries including but not limited to carpentry, plumbing, electrical, masonry, painting, etc. However, nothing in this provision prohibits STORE from using or procuring Facility construction labor and/or materials located outside Pflugerville, Texas in the business judgment of STORE.
6. Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any Party based on draftsmanship.
7. Relationship of the Parties. This Agreement will not be construed as establishing a partnership or joint venture, joint enterprise, express or implied agency, or employer-employee relationship between the parties. Neither the City nor their past, present or future officers, elected officials, employees or agents, assume any responsibility or liability to any third party in connection with the development of the Facility or the design, construction or operation of any portion of the Facility.

8. Debt. Amounts payable under this Agreement constitute economic development funds under Art. III, Sec. 52-a, Texas Constitution, are not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of City, and therefore are not considered to be a constitutional debt of City.
9. Facility Operation. The Facility shall be operated, maintained and managed directly by STORE or any successor in a commercially reasonable manner, consistent with the operation and management for other similar facilities, and in compliance with all applicable laws, including by obtaining and keeping in effect all time all permits, licenses and contractual arrangements as may be necessary to meet the standard of operation described in the foregoing sentence.
10. Employment of Undocumented Workers. During the term of this Agreement, STORE agrees to not knowingly employ any undocumented workers, and, if convicted of a violation under 8 U.S.C. Section 1324a(1), STORE shall be in Default and repay the proportional amount of the Grants and any other funds received by STORE from the City as of the date of such violation within 60 days after the date STORE is notified by the City of such violation, plus interest at the rate of 6.00% compounded annually from the date of the violation until paid in full. STORE is not liable for an unknown violation of this Section by a subsidiary, Affiliate, or franchisee of STORE or by a person with whom STORE contracts provided however that identical federal law requirements provided for herein shall be included as part of any agreement or contract which STORE enters into with any subsidiary, assignee, affiliate, or franchisee for which Grants provided herein will be used.
11. Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of the Parties, enforceable against the Parties in accordance with its terms except as limited by applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.
12. No Defaults. STORE is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which STORE is a party or by which STORE or any of its property is bound that would have any material adverse effect on STORE's ability to perform under this Agreement.
13. Third Party Beneficiaries. This Agreement is not intended to give nor confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary.

14. Amendments. This Agreement may only be amended by the mutual written agreement of the Parties.
15. Time. Time is of the essence in the performance of this Agreement.
16. Governing Law. This Agreement is made, and will be construed and interpreted, under the laws of the State of Texas and venue will lie in Travis County, Texas. No Party to this Agreement waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, agents or representatives as a result of the approval or execution of this Agreement, and shall be performable with venue in Travis County, Texas.
17. Dispute Resolution. The Parties to this Agreement agree that should any controversy between the Parties to this Agreement involving the construction or applications of the terms, covenants, or conditions of the Agreement, the Parties will work in good faith to resolve such controversy, including resolution by alternative dispute resolution methods, such as by mediation.
18. Attorneys' 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.
19. 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, Suite 300
P.O. BOX 589
Pflugerville, Texas 78691

With copy to: City Attorney
2500 W. William Cannon Suite #609
Austin, Texas 78745

If to STORE:

Living Spaces Furniture, L.L.C.
Attn.: Jeff Seabrook
Executive Vice President of Real Estate Development
14501 Artesia Blvd.
La Mirada, Ca 90638

20. 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.
21. Payment of Debt or Delinquency to the State or Political Subdivision of the State. Pursuant to Chapter 38, City of Pflugerville Code of Ordinances, STORE agrees that any payments owing to STORE under the Agreement may be applied directly toward any debt or delinquency that STORE 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.
22. 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.

EXECUTED to be effective as of the 22 day of September, 2016.

LIVING SPACES FURNITURE, LLC Delaware limited liability company	THE CITY OF PFLUGERVILLE, TX a Home-Rule Municipal Corporation
By: <u>[Signature]</u>	By: <u>[Signature]</u>
Name: <u>Grover Geiselman</u>	Name: <u>Brandon Wade</u>
Title: <u>CEO + Manager</u>	Title: <u>City manager</u>
Date: <u>9/21/16</u>	Date: <u>9/22/2016</u>

STATE OF TEXAS

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§
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COUNTY OF TRAVIS

SUBSCRIBED AND SWORN TO BEFORE ME on this the 22 day of September, 2016, by Brandon Wade, City manager, City of Pflugerville and _____, Texas.



Karen S. Thompson
NOTARY PUBLIC
STATE OF TEXAS
My Commission Expires: 05-18-2019

Approved As To Form:

[Signature]

By: George Hyde, City Attorney
Denton, Navarro, Rocha, Bernal, Hyde & Zech, P.C.

Exhibit
AGREEMENT FOR DISCLOSURE OF CONFIDENTIAL
TAX INFORMATION

This agreement is entered into between the City of Pflugerville, Texas (hereafter the "City") and Living Spaces Furniture, LLC, a Delaware limited liability company (hereinafter the "Taxpayer") for the purposes indicated herein.

I, _____, _____ (title), and the duly authorized agent of Taxpayer, a vendor doing business at _____ Facility do hereby stipulate and agree as follows:

I hereby authorize the Texas Comptroller's Office to release and disclose the sales and use tax information relating to taxable sales located within the City from the above referenced taxpayer's business location to the City. I understand and agree that this release will be made by the Comptroller's Office to the City on an ongoing monthly basis beginning on the date this Agreement is executed. This Agreement waives any and all rights with respect to the parties regarding the confidentiality of tax information under Sections 111.006, 151.027, Tax Code, or other state law.

The City agrees that it will use the tax information disclosed by the Comptroller pursuant to this Agreement solely and exclusively for the purposes of calculating payments to be made pursuant to a Ch. 380 Economic Development Agreement between the City and STORE, dated effective _____, 201__

This Agreement is entered into in or with regard to property located in Pflugerville, Travis County, Texas and Texas law will apply to its interpretation and enforcement.

SIGNED AND AGREED TO on this the _____ day of _____, 2016.

Name:

City Manager
On Behalf of the "City"

Name:

Finance Director
On Behalf of the "City"

Name:

Title: _____
On behalf of the "Taxpayer"

Texas Taxpayer Identification No.

Outlet No. _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of LOS ANGELES

Subscribed and sworn to (or affirmed) before me on this 21
day of SEPTEMBER, 2016, by GROVER G.

GREISEMAN

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(Seal)

Signature

A handwritten signature in blue ink, appearing to be 'M. H.', written over a horizontal line.