

STATE OF TEXAS §
CITY OF WHITE SETTLEMENT § **Economic Development Agreement**
COUNTY OF TARRANT §

This Economic Development Agreement (this “Agreement”) is made by and between the City of White Settlement (the “City”), and Faithbridge Development, LLC; a Texas limited liability company, its successors and/or assigns (the “Company”), acting by and through their respective authorized officers.

WITNESSETH:

WHEREAS, the Company is acquiring real property located in White Settlement, Texas, at the Southeast Corner of Loop 820 & Clifford Street, being more particularly described in Exhibit “A” (the “Property”), and intends to improve the existing improvements thereon; and

WHEREAS, the Company intends to allow the renovation the Property and construction of a new store for Chick-fil-a, Inc, a Georgia corporation (“Tenant”) on the Property (collectively, the “Project”); and

WHEREAS, the Company has advised the City that a contributing factor that would induce the Company to undertake the renovation and new construction would be an agreement by the City to provide an economic development grant to the Company to defray a portion of the cost of such development; and

WHEREAS, the City has adopted programs for promoting economic development; and

WHEREAS, the City is authorized by TEX. LOC. GOV’T CODE §380.001 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City has determined that making an economic development grant to the Company in accordance with this Agreement will further the objectives of the City, will benefit the City and the City’s inhabitants and will promote local economic development and stimulate business and commercial activity in the City.

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged the parties agree as follows;

Article I - Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“City” shall mean the City of White Settlement, Texas.

“Commencement Date” shall mean the later of the date (i) of issuance of the final certificate of occupancy by the City to the Tenant for the occupancy of approximately 4,900 square feet of new space situated on the Property (the “Improvements”) and (ii) the Tenant’s store is fully operational and open for business to the general public. The Tenant is the main tenant of the Project.

“Commencement of Construction” shall mean that (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained; and (ii) all necessary permits for construction of the Improvements pursuant to the respective plans therefore having been issued by all applicable governmental authorities.

“Completion of Construction” shall mean that (i) the Improvements have been substantially completed, (ii) a certificate of substantial completion has been issued by the general contractor(s) and architect(s) for the Improvements, and a copy of such certificate has been delivered to the City, (iii) a final, permanent certificate(s) of occupancy for the Improvements have been issued; and (iv) the Tenant’s store is fully operational and open for business to the general public.

“Consummated in the City” shall have the same meaning assigned by Tax Code, Section 321.203.

“Effective Date” shall mean the last date of execution hereof.

“Event of Bankruptcy or Insolvency” shall mean the dissolution or termination of a party’s existence as a going business, insolvency, appointment of receiver for any part of such party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Expiration Date” shall mean: the date all payments made equal the Maximum Grant Amount.

“Grant Period” shall mean a full calendar year ending December 31st of each calendar year beginning with the first full calendar year immediately following the Commencement Date,

except that the first Grant Period shall be from the Commencement Date through and including December 31st of the first full calendar year following the Commencement Date.

“Sales Tax Receipts” shall mean the City’s receipts from the State of Texas of monies reflecting Tenant’s collections of Sales and Use Tax for the applicable Grant Period for the sale of Taxable Items Consummated in the City at the Property.

“Sales and Use Tax” for the purposes of this Agreement shall mean seventy-five percent (75%) of all taxes which is collected by the City as imposed pursuant to Chapter 321 of the Texas Tax Code on the Sale of Taxable Items by the Tenant’s store consummated in the City at the Property (it is estimated that the 75% of all taxes collected will be a 1.5% sales tax and it is expressly understood that the City’s Sales and Use Tax is being used only as measurement for its participation through the use of general funds).

“State of Texas” shall mean the office of the Texas Comptroller of Public Accounts, or its successor.

“Taxable Items” shall have the same meaning assigned by Chapter 151, TEX. TAX CODE, as amended.

“Tenant” shall mean Chick-Fil-A, Inc., a Georgia corporation.

Article II - Term

This Agreement shall begin on the Effective Date and shall continue until the Expiration Date, unless sooner terminated as provided herein.

Article III - Economic Development Grant

3.1 **Economic Development Grants.** Subject to the Company’s continued satisfaction of all the terms and conditions of this Agreement, the City agrees to provide the Company with an Economic Development Grant (the “Grant”), totaling and not to exceed, Seven Hundred Fifty Thousand Dollars (\$750,000) (the “Maximum Grant Amount”) based on the Sales Tax Receipts received by the City from the State of Texas as a result of the Tenant’s sales and operations.

3.2 **Economic Development Grant Payment.** The Grant shall be paid to the Company every quarter until the Maximum Grant Amount has been met. The amount of the payment shall be equal to the Sales and Use Tax receipts received by the City as a result of the Tenant’s sales and operations for that quarter. The first payment shall be paid within ten (10) days after when the Sales and Use Tax Receipts are received by the City. If no Sales and Use Tax receipts are received for any quarter, no payment shall be due for that quarter.

3.3 **Amended Sales Tax Returns.** In the event that Tenant files an amended Sales and Use Tax return or report or if additional Sales and Use Tax is due and owing by Tenant

to the State of Texas, as determined by or as approved by the State of Texas, affecting Sales and Use Tax Receipts for a previous Grant Period, then the Grant payment for the Grant Period immediately following the City's receipt of Sales Tax Receipts from the State of Texas shall be adjusted accordingly.

3.4 **Confidentiality.** The City agrees, to the extent allowed by law, to keep all information and documentation received from the State of Texas pursuant to this Agreement hereof ("Confidential Tax Information") confidential. The City will only provide access to the Confidential Tax Information to its employees, independent contractors or agents on a "need-to-know" basis. The City will use the Confidential Tax Information solely for the purposes of determining the Company's entitlement to a Grant, a refund or to determine if any additional Sales and Use Tax is due. The City will not, without the Company's and Tenant's prior written authorization, directly or indirectly, intentionally or inadvertently: (a) disclose to any other person except as may be required by law (other than as expressly permitted above) the Confidential Tax Information; (b) copy, photograph, photocopy, reduce to writing or otherwise reproduce or duplicate the Confidential Tax Information in any form or medium, electronic or otherwise except in connected with the purposes provided herein. The Waiver of Sales Tax Confidentiality (as defined below) is solely for the limited purpose of allowing the City to confirm the Company's entitlement to Grants. In the event the City is requested or becomes legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Tax Information, the City shall provide Company and Tenant at the address stated on the Waiver with prompt written notice of such request or requirement so that the Company may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Section.

3.5 **Waiver of Sales Tax Confidentiality.** Prior to the issuance of the first payment under this Agreement, Company shall cause Tenant to provide the City, and maintain during the term of this Agreement a Waiver of Sales Tax Confidentiality which authorizes the State of Texas to release to the City the Sales and Use Tax information pertaining to the sale of Taxable Items by Tenant at the Property during the term of this Agreement substantially in the form attached hereto as Exhibit "B". Company shall cause Tenant to maintain an effective Waiver of Sales Tax Confidentiality during the term of this agreement. Failure to provide the executed Waiver shall prevent the issuance of the first payment under this Agreement and shall permit termination of this Agreement in accordance with Section 4.1.

3.6 **Pledge of Interest** The City shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by Company. None of the City's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution; provided, however, the Company shall have the right to collaterally assign its rights hereunder, to a lender holding a first lien mortgage on the Project.

Article IV - Termination

- 4.1 This Agreement shall terminate upon any one of the following:
- (a) by written agreement of the parties;
 - (b) on the Expiration Date; or
 - (c) by City, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

Article V - Miscellaneous

5.1 **Binding Agreement.** The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the parties hereto.

5.2 **Limitation on Liability.** It is understood and agreed between the parties that the Company and the City, in satisfying the conditions of this Agreement, have acted independently, and assume no responsibilities or liabilities to third parties in connection with these actions.

5.3 **No Joint Venture.** It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties.

5.4 **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 and to legally bind the entity for which each party executes this Agreement.

5.5 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received (i) three (3) days after deposit into the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below or (ii) on the day actually received if sent by courier or otherwise hand delivered.

If intended for City, to:

Attn: Jim Ryan, City Manager

City of White Settlement

214 Meadow Park Dr

White Settlement, TX 76108

If intended for the Company, to:

Attn: Kyle Gill

Faithbridge Development, LLC

108 S. Ranch House Rd, Suite 200

Willow Park, Texas 76108

5.6 **Entire Agreement.** This Agreement is the entire agreement between the parties with respect to the subject matter covered in this Agreement. No oral or written statements, conversations or understandings between the parties which are not contained in this written Agreement shall in any way alter the agreement of the parties as set forth herein.

5.7 **Governing Law.** The Agreement shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Tarrant County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

5.8 **Amendment.** This Agreement may only be amended by a written agreement executed by both parties.

5.9 **Legal Construction.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity and enforceability of other provisions, and the remaining provisions shall remain in full force and in effect as if the offending provision had not been included.

5.10 **Recitals.** The recitals to this Agreement are incorporated herein.

5.11 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

5.12 **Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

5.13 **Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

5.14 **Successors and Assigns.** This Agreement may be assigned without the City's prior consent upon written notice by the Company to the City of such assignment.

5.15 **Notice of Default and Opportunity to Cure.** If either party shall default in its obligations hereunder, the non-defaulting party shall declare an occurrence of an event of default and shall notify the defaulting party in writing of same, informing the defaulting party of its right to cure such default within thirty (30) business days after the receipt of such notice from the non-defaulting party. The defaulting party must provide the other party, within twenty (20) business days after receipt of the non-defaulting party's notice of its right to cure, a written explanation summarizing all actions the defaulting party shall have taken to cure the default in question, together with a summary of the additional acts the defaulting party will take in the future to prevent further default.

5.16 **Attorney's Fees.** In the event either party retains the services of an attorney to enforce its rights under this Agreement, the prevailing party shall collect its attorney's fees and all costs of litigation from the non-prevailing party.

[signature pages to follow]

EXECUTED on this 26th day of May, 2017.

CITY OF WHITE SETTLEMENT, TEXAS

By: Ronald A. White

Mayor

ATTEST:

By: Angie Arnold

City Secretary

APPROVED AS TO FORM:

By: [Signature]

City Attorney

EXECUTED the 30th day of MAY, 2017

FAITHBRIDGE DEVELOPMENT, LLC;
A Texas Limited Liability Company

By: [Signature]

Name: KYLE B GILL

Title: MANAGER

City's Acknowledgment

STATE OF TEXAS §

CITY OF WHITE SETTLEMENT §

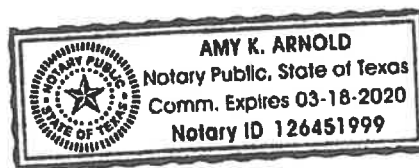
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 26th day of May, 2017, by Ronald A. White, being Mayor of the City of White Settlement, Texas, a Texas Municipality, on behalf of said municipality.



Notary Public, State of Texas

My Commission Expires:



Company's Acknowledgement

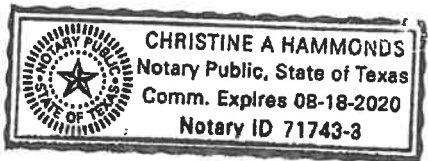
STATE OF TEXAS §

COUNTY OF TARRANT §

This instrument was acknowledged before me on the 30 day of May, 2017, by Kyle Gull, being the Manager of FAITHBRIDGE DEVELOPMENT, LLC; A Texas Limited Liability Company.

Christine A. Hammonds

Notary Public, State of Texas



My Commission expires: 8-18-2020

Exhibit "A"

Legal Description of the Property

Exhibit" B"

Waiver of Sales Tax Confidentiality

Date: _____

I authorize the Comptroller of Public Accounts to release sales tax information pertaining to the taxpayer indicated below to the City of White Settlement, Texas. This waiver applies only to our place of business located in White Settlement, Texas. This Waiver will remain in effect unless rescinded by taxpayer at which time taxpayer authorizes the Comptroller to notify the City of White Settlement, Texas of the rescission.

Name of Taxpayer as Shown on Texas Sales Tax Permit

Taxpayer Mailing Address

Physical Location of Business Permitted for Sales Tax in White Settlement, Texas

Texas Taxpayer ID Number

Tax Outlet Number

Authorized Signature

Printed Name

Position Title

Telephone Number

The authorized signature must be an owner, officer, director, partner, or agent authorized to sign a Texas Sales Tax Return. If you have any questions concerning this waiver of confidentiality, please contact the Texas Comptroller of Public Accounts at 800.531.5441