CITY OF FRISCO, TEXAS
AND
HALL OFFICE PARK BUILDING 17, L.P.
CHAPTER 380 ECONOMIC DEVELOPMENT
PROGRAM AND AGREEMENT

WHEREAS, Hall (defined below) is entering into this Chapter 380 Economic Development Program and Agreement (hereinafter "Agreement") pursuant to a program initiated by the City (defined below) under the authority of Chapter 380 of the Texas Local Government Code, whereby Hall desires to develop a twelve (12) story Class A office building containing a minimum of 298,000 square feet of leasable space with a five-level parking garage containing a minimum of 1,100 parking spaces within the Hall Office Park development located at 3201 Dallas Parkway in the City (collectively, the "Office Project"); and

WHEREAS, Hall will construct, or cause to be constructed, the Office Project with a development budget of approximately Eighty-Two Million Dollars ($82,000,000.00); and

WHEREAS, the Office Project will increase the taxable value of property in the City in advance of current development rates and will enhance the economic development of the City through the payment of ad valorem taxes to the City and through retail sales taxes collected by the State Comptroller; and

WHEREAS, Hall acknowledges and agrees that the 2016 assessed value of the lot on which the Office Project will be constructed (the "Building Lot") is $2,402,334 as determined by the Collin County Central Appraisal District (the "Base Year Value") and that all City grants under this Agreement relating to ad valorem tax rebates will be computed on the basis of increases in the annual assessed value of the Building Lot and Improvements above the Base Year Value; and

WHEREAS, the additional assessed taxable value resulting from the Office Project will achieve the public purpose of promoting economic development and diversity, increasing employment, reducing unemployment and underemployment, expanding commerce and stimulating business and commercial activity in the State and in the City; and

WHEREAS, the City has agreed to make a series of economic development Grants (defined below) to Hall on the terms and conditions set forth herein; and

WHEREAS, the City has the authority under Chapter 380 of the Texas Local Government Code to make grants of public funds for the purposes of

promoting local economic development and stimulating business and commercial activity within the City; and

WHEREAS, the City has determined that the Grants to Hall will serve the public purpose of promoting local economic development and enhancing business and commercial activity in the City; and

WHEREAS, the City has concluded and hereby finds that this Agreement clearly promotes economic development in the City of Frisco and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and further, is in the best interests of the City and Hall.

NOW, THEREFORE, for and in consideration of the agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Hall agree as follows:

SECTION 1. TERM.

This Agreement shall be effective from the Effective Date (as such term is defined in Section 8 [i] below) and shall continue until the earlier of December 31, 2041, or the date on which the aggregate amount of rebates of ad valorem taxes paid by the City and sales tax reimbursements paid by the City under this Agreement equals Eleven Million Dollars ($11,000,000.00), unless terminated sooner as provided herein.

SECTION 2. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

a. Agreement. The word "Agreement" means this Chapter 380 Economic Development Program and Agreement, together with all exhibits and schedules attached to this Agreement, if any.

b. Hall. The word "Hall" means Hall Office Park Building 17, L.P., a Texas limited partnership, or an affiliate. For purposes of this Agreement, Hall's address is 6801 Gaylord Parkway, Suite 100, Frisco, TX 75034.

c. City. The word "City" means the City of Frisco, Texas. For purposes of this Agreement, City's address is 6101 Frisco Square Boulevard, 5th Floor, Frisco, Texas 75034.

d. Grant. The word "Grant" or "Grants" means an annual or quarterly payment by City to Hall determined in accordance with the provisions of Section 3 of this Agreement.

e. Building Lot. The word "Building Lot" means Phase T Lot 2 of Block A of the Hall Office Park Addition, an addition to the City of Frisco, Texas, according to the plat thereof recorded in Volume 2012 Page 474 as in the Real Property Records of Collin County, Texas, and being 3201 Dallas Parkway, Frisco, Texas.

f. Improvements. The word "Improvements" means a twelve-story Class A office building containing a minimum of 298,000 leasable square feet, with a five-level parking garage containing no less than 1,100 parking spaces, the estimated development costs of which shall be approximately $82,000,000.00.

g. Office Project. The word "Office Project" means the Building Lot and Improvements.

h. Tax Year. The words "Tax Year" mean a year beginning on January 1 whereupon the ad valorem taxes are assessed and thereafter such assessed taxes are delinquent on January 31 of the following year.

SECTION 3. FRISCO ECONOMIC ASSISTANCE.

Tax Rebate. Subject to the terms and conditions of this Agreement, a portion of the building materials sales taxes and ad valorem taxes assessed upon the Project and otherwise owed to the City shall be rebated in the form of an economic development grant as follows:

a. Term. The term of this Agreement shall expire on the earlier of December 31, 2041, or the date on which the aggregate amount of rebates of ad valorem taxes paid by the City and sales tax reimbursements paid by the City under this Agreement equals Eleven Million Dollars ($11,000,000.00).

b. Ad Valorem Tax Rebate. Subject to the terms and conditions of this Agreement and provided that Hall is not in default, a portion of ad valorem taxes assessed upon the Project and paid to the City shall be rebated to Hall in the form of an economic development grant for the period commencing January 1, 2018. The City shall pay to Hall the Grants on an annual basis as set forth herein an amount equal to fifty percent (50%) of the ad valorem taxes actually collected by the City that are directly associated with the increase in value of the Office Project in excess of the Base Year Value. Subject to having met the criteria to qualify as set forth in this Agreement, the City shall pay Hall the Grants in annual installments on the last day of February of each year following the year in which Hall paid its ad valorem taxes through the end of the period of the term. **The foregoing notwithstanding, in no event shall the aggregate amount of**

Grants paid ever exceed the product of $10,000.00 multiplied by the number of structured parking spaces.

c. Building Materials Sales Tax Grant. Subject to the terms of this Agreement, the City will provide Hall economic assistance in the form of quarterly performance reimbursement incentives equal to one percent (1%) of the sales and use tax paid on building materials purchased for the initial construction of the Office Project and paid at the job site, which are subsequently remitted by the State Comptroller to the City, up to a maximum of Two Hundred Thousand Dollars ($200,000.00), with the first quarterly period beginning January 1, 2017 and the last quarterly period ending on December 31, 2018. Payments shall be made to Hall by City within forty-five (45) days following the end of each quarter of the calendar year, or within thirty (30) days of Hall providing City with a sales tax report from the Texas State Comptroller of the sales tax receipts generated from the building materials purchased for the Project for the previous ending calendar quarter period, together with such supporting documentation required herein, and as City may reasonably request.

SECTION 4. OBLIGATIONS OF HALL.

During the term of this Agreement and so long as an event of default has not occurred and is continuing, Hall shall comply with the following terms and conditions:

a. Hall shall commence or cause the commencement of construction of the Improvements on or before September 30, 2016 (subject to Force Majeure), and shall complete the Improvements on or before the eighteen (18) month anniversary date of this Agreement (subject to Force Majeure).

b. On or before March 31 of each calendar year, Hall shall deliver to the City a certificate executed by an authorized representative of Hall which includes a statement from the applicable taxing authorities detailing the appraised value of Building Lot and Improvements for the previous calendar year.

c. Hall hereby covenants and agrees that any and all contracts for the construction of the Improvements on the Building Lot in the case where Hall is an owner, will (i) separately identify labor and materials components for purposes of determining sales and use tax pursuant to Section 151.056(b) of the Texas Tax Code resulting in the value of the materials being separately identified from other costs and (ii) state that the situs of any sales and use tax paid and related thereto will be Frisco, Texas. The City's remedy for a violation of this section is for Hall to pay the sales and use taxes that would otherwise be collected by the City in accordance with this section. The City shall have the right from time to time to require Hall to deliver copies of all construction contracts related to the

Improvements in the case where Hall is an owner, to City within 15 days after receipt of such written request from City.

SECTION 5. EVENTS OF DEFAULT.

Each of the following shall constitute an "event of default" under this Agreement:

a. Upon the expiration of the notice and cure period set forth in the first sentence of Section 6 below, City's failure to comply with its obligations under this Agreement.

b. Upon the expiration of the notice and cure period set forth in the first sentence of Section 6 below, Hall's failure to comply with its obligations under this Agreement.

SECTION 6. EFFECT OF AN EVENT OF DEFAULT.

In the event of the occurrence of a default described under Section 5 above, the non-defaulting party shall give written notice to the defaulting party of such default, and the defaulting party shall have thirty (30) days thereafter to cure said default. Upon an event of default by City, Hall shall have the right to enforce the City's obligation to make a Grant payment under the terms of this Agreement. Upon an event of default by Hall, City shall have the right to terminate this Agreement and its obligation to make Grant payments to Hall shall cease. No action shall lie for damages by either party, including punitive damages, and no special or consequential, incidental, indirect, special, or exemplary damages of any kind (including, but not limited to, lost profits, loss of business, loss of use of data, interruption of business) arising from, relating to, or in connection with this Agreement shall be recovered by any party, even if such party has been advised of the possibility of or could have foreseen such damages.

SECTION 7. TERMINATION OF AGREEMENT BY CITY WITHOUT DEFAULT.

City may terminate this Agreement without an event of default by Hall and effective immediately if any state or federal statute, regulation, or case law specifically renders this Agreement ineffectual or illegal, including case law holding that a Chapter 380 Economic Development Agreement such as this Agreement is an unconstitutional debt. Termination of this Agreement by City under this Section 7 shall render this Agreement null and void from that point forward with each party having no further rights against each other under this Agreement or at law; provided, however, that the City and Hall agree to negotiate in good faith a remedy that preserves the intent of the parties hereunder as much as reasonably possible including, without limitation, the creation of an interest and sinking fund.

SECTION 8. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

a. **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by all of the parties hereto.

b. **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Collin County, Texas.

c. **Assignment.** Hall may not assign or otherwise transfer this Agreement or any right hereunder without the consent of the City, which consent may not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary set forth herein, Hall shall have the right to assign, transfer or otherwise convey any of its rights or obligations under this Agreement, at any time, without the consent of the City to (i) an entity owned or controlled by, or under common control with, Hall, (ii) a successor-in-ownership by merger, consolidation or acquisition to all, or substantially all, of the assets of Hall or (iii) a lender providing a loan for the Office Project, with the understanding that the assigning party shall provide written notice to the City within thirty (30) calendar days thereafter of the name of such party and the name and telephone number of a contact person affiliated with such party if the party is not an individual. Any lawful assignee or successor in interest of Hall under this Agreement shall be deemed "Hall," as applicable, for all purposes under this Agreement.

d. **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. City warrants and represents that the individual executing this Agreement on behalf of City has full authority to execute this Agreement and bind City to the same. Hall warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.

e **No Waiver; Enforcement under Section 271.151, et seq. of the Texas Local Government Code**. Neither any failure nor any delay on the part of either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or of any other right, power

or privilege. Either party shall be entitled to enforce the terms of this Agreement in accordance with, and under the authority of, Section 271.151, et. seq. of the Texas Local Government Code, as amended. The parties agree that this Agreement is a "Contract subject to this subchapter" as defined in Section 271.151(2) of the Texas Local Government Code.

f. **Execution of Agreement.** The City's Council has authorized the City Manager to execute this Agreement on behalf of City.

g. **Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force and effect, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be invalid or unenforceable, a provision be added to this Agreement which is valid and enforceable and is as similar in terms as possible to the provision found to be invalid or unenforceable.

h. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, certified mail, return receipt requested, addressed to the party to whom the notice is to be given at the addresses shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, each party agrees to keep the other informed at all times of its current address.

i. **Effective Date.** The effective date (the "Effective Date") of this Agreement shall be the date of the later to execute this Agreement by Hall and the City.

j. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

k. **Force Majeure.** The parties' obligations hereunder except payment obligations may be postponed for items of force majeure (accident, casualty, act of God, inclement weather, war or civil commotion, strike, labor, or other trouble beyond the reasonable control of the party, including, but not limited to, government preemption in connection with a national emergency, or by reason of government laws or action, or any rule, order or regulation of any department or subdivision thereof or any

governmental agency, or by reason of the conditions of supply and demand which have been or are affected by war or other emergency).

l. **Time of the Essence.** Time is of the essence with respect to each and every term and condition of this Agreement. If the time period by which any right, obligation or election must be exercised or performed expires on a weekend or legal holiday, then such time period shall automatically be extended through the close of business on the next regularly scheduled business day.

m. **Attorney's Fees.** Pursuant to Section 271.159 of the Texas Local Government Code, as amended, if Hall retains counsel and/or institutes any suit against the City for violation of or to enforce any of the covenants or conditions of this Agreement, or should the City retain counsel and/or institute any action against Hall for violation of any covenants or conditions of this Agreement, or should either party intervene in any suit in which the other is a party, to enforce or protect its interests or rights hereunder, the prevailing party in any such suit shall be entitled to all its costs, expenses and Attorney's Fees in connection therewith. All references in this Agreement to "**Attorneys' Fees**" shall mean reasonable attorneys' fees and costs actually incurred on an hourly basis and not as a percentage of any debt.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

HALL OFFICE PARK BUILDING 17, L.P.,
a Texas limited partnership

By: HALL OFFICE PARK GP, LLC, a
Texas limited liability company, its
General Partner

By: _____

Name: _____

Title: _____

Date:_____

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2012, by _____, _____ of HALL OFFICE PARK GP, LLC, a Texas limited liability company, General Partner of HALL OFFICE PARK BUILDING 17, L.P., a Texas limited partnership, on behalf of said limited liability company and limited partnership.

_____
NOTARY PUBLIC - STATE OF TEXAS

CITY OF FRISCO

By:_____
GEORGE PUREFOY
City Manager

Date:_____

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2016 by George Purefoy, City Manager of CITY OF FRISCO, TEXAS, on behalf of said municipality.

_____
NOTARY PUBLIC - STATE OF TEXAS

ATTEST:

_____
City Secretary

APPROVED AS TO FORM:

_____
City Attorney