

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN TRAVIS COUNTY AND
APPLE INC.

This Economic Development Agreement ("**Agreement**") is entered into by and between Travis County, Texas, a political subdivision of the State of Texas ("**County**"), and Apple Inc., a California corporation qualified to do business in Texas, its successors and assigns ("**Company**"), the owner of the taxable real property in Travis County, Texas.

RECITALS

WHEREAS, Travis County is authorized to enter into this Agreement under Chapter 381 of the *Texas Local Government Code* ("**Chapter 381**"); Subsection 381.004(b), authorizing counties to develop and administer community and economic development program(s) to stimulate business and commercial activity in a county; and Subsection 381.004(h), authorizing counties to develop and administer a program under Subsection 381.004(b) for making loans and grants of public money; and counties are authorized to pursue economic development under other statutes.

WHEREAS, it is the intent of Travis County and the Company that, as a result of the Company's development under this Agreement, business and commercial activity in Travis County will be stimulated, and commercial activity will be encouraged, developed and stimulated, producing additional tax revenue, job opportunities, and small business opportunities for Travis County.

WHEREAS, the Company has stated that the Project described in this Agreement would not be completed as set forth without the herein granted County assistance.

WHEREAS, the Company intends to develop a new Americas Operations Center ("**Americas Operations Center**," or "**Center**"), with up to 200,000 square feet in Phase I and up to 800,000 square feet in Phase II, to be located at West Parmer Lane and Delcour Drive in Austin, Texas, which will contribute to the general economy of Travis County, Texas; make significant capital investments, thus increasing the tax base for Travis County; and create new full time jobs which will benefit the job force of Travis County.

WHEREAS, the investment by the Company is estimated to be approximately \$282,500,000.

WHEREAS, the Commissioners Court finds that the development set forth in this Agreement will result in substantial immediate and long-term benefit to Travis County and significant financial benefit to other taxing entities within Travis County and will promote state and local economic development, all furthering a public purpose.

NOW, THEREFORE, in consideration of the hereinafter set forth agreements, covenants, reimbursements and payments, the amount and sufficiency of which are acknowledged, the County and the Company agree to the terms and conditions stated in this Agreement.

1.0 DEFINITIONS. In this Agreement,

1.1 **"Ad Valorem Taxes"** means those property taxes assessed by the County on real and personal property located within Travis County.

1.2 **"Affiliate"** means all companies under common control with, controlled by, or controlling the Company. For purposes of this definition, "control" means 50% or more of the ownership determined by either value or vote.

1.3 **"Agreement Funds"** means all money paid to the Company pursuant to this Agreement.

1.4 **"Agreement Term"** means that time period commencing on the Effective Date of this Agreement, and continuing through December 31, 2030.

1.5 **"Base Year"** means calendar year 2012.

1.6 **"Base Year Value"** means the taxable value assessed by the County for the purpose of the payment of Travis County Ad Valorem Taxes on the Eligible Property on January 1, 2012, as set forth on the certified tax rolls of the County.

1.7 **"City Agreement"** means the Economic Development Agreement between the Company and the City of Austin, a copy of which is attached to this Agreement and marked Attachment D.

1.8 **"Commissioners Court"** means the Travis County Commissioners Court.

1.9 **"Completion Date"** references construction, and means the date of issuance of the Certificate of Occupancy for the Project. The Parties agree that the Completion Dates will be as follows:

1.9.1 Phase I Completion Date: on or before December 31, 2015

1.9.2 Phase II Completion Date: on or before December 31, 2021

1.10 **"Construction Delay"** means a material delay in the construction of the New Improvements for the Project that affects the Construction Timetable and is the result of (i) force majeure as described in Section 14.6, or (ii) the inability of the Company, through no fault of its own, to obtain the necessary permits and approvals of the City of Austin, or other governmental entity, in a timely manner.

1.11 **"Construction Timetable"** means the timetable for the commencement and completion of construction of the various buildings comprising the New Improvements that will be needed to enable the Company to provide the Required Number of Jobs in accordance with the Employment Schedule.

1.12 **"Contract Employees"** means, collectively, Employees of the Company, or persons hired by an employment agency or other company, to perform Contract Jobs.

1.13 **"Contract Jobs"** mean those jobs performed by Employees of the Company or by persons hired by an employment agency or other company on behalf of the company.

1.14 **"County Auditor"** means Susan Spataro, the Travis County Auditor, or her successor.

1.15 **"Effective Date"** for purposes of the Agreement Term, will be May 1, 2012, upon execution of the Agreement by both Parties.

1.16 **"Employees"** means, collectively, employees of the Company performing existing Full-time Jobs or New Full-time Jobs.

1.17 **"Employment Year"** means each of the ten (10) years referenced in paragraph (b) of Section 5.1.2

1.18 **"Employment Schedule"** means the schedule in paragraph (b) of Section 5.1.2 for the Company to provide the Required Number of Jobs.

1.19 **"Existing Full-time Jobs"** are full-time jobs held by employees of the Company or independent contractors or employees of independent contractors that are employed at an existing Company facility in Austin prior to the Effective Date, excluding employees of the Company's retail stores.

1.20 **"Eligible Property"** means New Improvements and New Machinery and Equipment.

1.21 **"Is doing business"** and **"has done business"** mean:

1.21.1 Paying or receiving any money or other valuable thing in exchange for personal services or for purchase or use of any property interest, either real or personal, either legal or equitable; or

1.21.2 Loaning or receiving a loan of money, services, or goods or otherwise creating or having in existence any legal obligation or debt;

but does not include:

1.21.3 Any payments, receipts, loans, or receipts of a loan which are less than \$250.00 per calendar year in the aggregate; or

1.21.4 Any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public.

1.22 **"Key Contracting Person"** means any person or business listed in Exhibit A to the Ethics Affidavit attached to this Agreement and marked Attachment B.

1.23 **"New Full Time Jobs"** are full-time jobs created after the Effective Date and held by employees of the Company or independent contractors or employees of independent contractors that are employed at the Project.

1.24 **"New Improvements"** means that development done by the Company as part of the Project to be constructed, expanded and renovated as set forth in this Agreement. A list of the proposed New Improvements is set forth on Attachment A hereto and made a part hereof.

1.25 **"New Machinery and Equipment"** means machinery, equipment, and other items treated as personal property by the relevant taxing authorities, and purchased after the Effective Date, and installed and used at the Project for the purpose of supporting the operations of the Company.

1.26 **"Parties"** and **"Party"** means the County and/or the Company.

1.27 **"Payment Term"** means that time period beginning on January 1, 2016, and ending on December 31, 2030, unless earlier terminated pursuant to the terms of this Agreement. Each calendar year within the Payment Term is designated as a Payment Year.

1.28 **"Payment Year Value"** means the taxable value of new improvements on the Property determined by TCAD for the purpose of the payment of Travis County Ad Valorem Taxes on the Eligible Property for any tax year included in the Payment Term of this Agreement as set forth on the certified tax rolls of the County.

1.29 **"PBO"** means Travis County Planning and Budget Office.

1.30 **"Project"** means the proposed development, as described herein, of the new Americas Operations Center of the Company, as more fully described in Attachment A.

1.31 **"Property"** means the land (real property) on which the Project will be developed as further described in Attachment A.

1.32 **"Rebate"** means grant funds paid by the County to the Company (pursuant to *Texas Local Government Code*, Chapter 381, Subsection 381.004(h) and other statutes) as a result of performance of obligations under this Agreement, the amount of which is based on a percentage of specified Ad Valorem Taxes paid by the Company on the Eligible Property.

1.33 **"Rebate Percentage"** means the percentages referenced in Section 4.1.1 to be used to calculate the Rebate paid to the Company pursuant to this Agreement.

1.34 **"Required Annual Compensation"** means the average annual compensation, excluding health insurance and retirement benefits.

1.35 **"Required Number of Jobs"** means, for any calendar year during the Agreement Term, the minimum number of Existing Full-time Jobs and New Full-time Jobs the Company is required to either create or maintain during that calendar year as stated in Section 5.1.2.

1.36 **"Subcontract"** means any agreement between the Company and another party to fulfill, either directly or indirectly, any of the requirements of this Agreement, in whole or in part.

1.37 **"Subcontractor"** means any party providing services required under this Agreement pursuant to an agreement between the Company and that party, including contractor(s), subcontractor(s), and other subrecipient(s) of the Company; and any party or parties providing services for the Company which are required under the terms of this Agreement.

1.38 **"TCAD"** means the Travis Central Appraisal District.

1.39 **"Termination Date"** means the earlier to occur of

(a) December 31, 2030, or

(b) the date on which this Agreement Term is terminated pursuant to the other provisions of this Agreement.

2.0 GENERAL TERMS

2.1 **Authority; Statutory Authorization.** The County is authorized to enter into this Agreement under the *Texas Local Government Code*, Chapter 381, Subsection 381.004 (and other applicable provisions of the *Texas Local Government Code*, Chapter 381, and other applicable statutes), in order to stimulate business and commercial activity in Travis County, Texas.

2.2 **Purpose.** The purpose of this Agreement is to grant benefits to the Company in order to stimulate and encourage business and commercial activity in Travis County, to create more job opportunities, build the sales and property tax base and promote a partnership relationship with the private sector businesses that will bring capital intensive projects to Travis County.

2.3 Terms.

2.3.1. **Agreement Term.** The County and the Company acknowledge and agree that, unless earlier terminated by the Parties pursuant to the terms of this Agreement, this Agreement shall be effective commencing on May 1, 2012 (the Effective Date, as defined herein), and continuing through December 31, 2030, unless earlier terminated pursuant to the terms of the Agreement.

2.3.2. **Payment Term.** The payment of the Agreement Funds will take place upon compliance with all terms of this Agreement beginning on the first year of the Payment Term which begins January 1, 2016, and continues through December 31, 2030 (unless earlier terminated pursuant to the terms of this Agreement), as defined in this Agreement; provided, however, in recognition of the fact that Agreement Funds will be calculated and paid after taxes have been assessed and paid to the County, and therefore always in arrears, the Agreement Term shall be deemed to include the time necessary for the payment of any Agreement Funds to the Company which extend beyond the period of time defined as the Agreement Term in Section 1.4.

2.4 **Administration of Agreement.** This Agreement shall be administered for the County by the Travis County Planning and Budget Office (PBO). The Company shall provide the County through PBO with all information required for the County to determine and ensure compliance with every term of this Agreement, including those forms attached hereto.

3.0 ENTIRE AGREEMENT

3.1 **All Agreements.** All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement, including the applicable terms of the Agreement, have been reduced to writing and are contained in this Agreement.

3.2 **Attachments.** The attachments enumerated and denominated below are hereby made a part of this Agreement, and constitute promised performances by the Company in accordance with all terms of this Agreement.

- 3.2.1. Attachment A - Description of Property and Project
- 3.2.2. Attachment B - Ethics Affidavit
- 3.2.3. Attachment C – Annual Report Form
- 3.2.4. Attachment D - City of Austin Agreement

4.0 **AGREEMENT FUNDS**

4.1 **Agreement Funds.**

4.1.1. **Rebate Basis.** Subject to the terms and conditions set forth in this Agreement, in consideration of full and satisfactory performance of the requirements and obligations under this Agreement, the County hereby grants the Company a Rebate as follows:

(a) **Initial Ten Year Payment Period.** For the Initial Ten Year Payment Term (defined as January 1, 2016 – December 31, 2025), the Rebate shall be computed as an amount equal to sixty percent (60%) of the excess of the Payment Year Ad Valorem Taxes paid on Eligible Property over the Base Year Ad Valorem Taxes paid on Eligible Property. Said Rebate shall be computed as follows:

(Payment Year Ad Valorem Taxes Paid – Base Year Ad Valorem Taxes Paid) X .60 = Annual Reimbursement/Rebate by County

(b) **Subsequent Five Year Payment Period.** For the Subsequent Five Year Period (defined as the five-year period following the Initial Ten Year Period, or January 1, 2026 – December 31, 2030), the Rebate shall be computed as an amount equal to forty percent (40%) of the excess of the Payment Year Ad Valorem Taxes paid on Eligible Property over the Base Year Ad Valorem Taxes paid on Eligible Property. Said Rebate shall be computed as follows:

(Payment Year Ad Valorem Taxes Paid - Base Year Ad Valorem Taxes Paid) X .40 = Annual Reimbursement/Rebate by County

The above Rebate Percentages are subject to adjustment as provided in Section 5.2 and Section 8.4.

4.1.2. **Rebate Due Date.** Until the Termination Date, County shall reimburse the Company annually the amount due under this Agreement with respect to a tax year according to the schedule set forth in Section 4.2.1.

4.1.3. **New Improvements and New Machinery and Equipment.** The incentives provided under this Agreement shall be granted for the New Improvements and New Machinery and Equipment for the Project described in Attachment A.

4.1.4. **Continuing Taxation.** During the Agreement Term, the Company shall be subject to all County taxation not rebated under this Agreement, and to all other applicable taxation. Ad Valorem Taxes shall be payable in full on the Company's taxable property, with rebate to be paid by the County pursuant to this Agreement as follows:

(a) The taxable value of ineligible property (property not included under the definition of Eligible Property) shall be fully taxable, with no rebate.

(b) The Base Year Value of the properties of the Company shall be fully taxable, with no Rebate.

(c) The value of Eligible Property shall be fully taxable with rebate by the County to Company of sixty percent (60%) of that payment (if attributable to the Initial Ten Year Payment Period) or forty percent (40%) of that payment (if attributable to the Subsequent Five-Year Payment Period) as set forth in this Agreement.

4.2 **Determination and Payment of Agreement Funds.**

4.2.1. **Reporting/Completion/Payment Dates.** The following dates will guide performance, reporting and payment under the terms of the Agreement. The Parties agree that, at any time, reporting, compliance determination and monitoring may allow for payment on an earlier schedule or may require payment on a later schedule, and the Parties will both cooperate to meet all Agreement requirements and provide for payment as expeditiously as possible. However, the following guidelines will be utilized to direct reporting, monitoring and payment to the best abilities of the Parties:

(a)	1/1/12 – 12/31/12	Base Year Value determined by TCAD (tax bill for 2012)
(b)	5/1/12	Effective Date (upon execution by both Parties)
(c)	5/1/12 – 12/31/30	Agreement Term
(d)	12/31/15	Completion of Phase I \$56,500,000 Investment
(e)	1/1/16	Payment Term begins (Payment made in 2016 will be based on 2015 performance)
*(f)	3/31/16	Annual Report due as to performance for 2015
*(g)	4/30/16	County response due on Annual Report (as applicable)
*(h)	9/1/16 – 9/30/16	County budget process for FY '17
*(i)	10/31/16	County payment due (if full compliance confirmed)
(j)	12/31/16	300 New Full-time Jobs Created
(k)	1/1/17	Second Payment Year begins
*(l)	3/31/17	Annual Report due as to performance for 2016
*(m)	9/1/17 – 9/30/17	County budget process for FY '18
*(n)	10/31/17	County payment due (if full compliance confirmed)
(o)	12/31/17	Additional 300 New Full-time Jobs Created (600 total)
(p)	12/31/18	Additional 50 New Full-time Jobs Created (650 total)
(q)	12/31/21	Completion of Phase II
(r)	12/31/25	End of Initial Ten Year Payment Period Additional 2,985 New Full-time Jobs Created (3,635 total)
(s)	12/31/30	End of Subsequent Five Year Payment Period End of 15 year payment period

* Report/Payment process repeats each year of 15 year Payment Term.

All above dates are subject to adjustment pursuant to the provisions of this Agreement.

4.2.2. **Annual Report.** For each tax year during the Payment Term of this Agreement, subject to performance by the Company of its obligations hereunder, the County shall rebate and pay to the Company by check or wire transfer the amount to be rebated from Ad Valorem Taxes paid by Company for said tax year according to the following procedure:

(a) **Annual Report Form.** On or before March 31 of each year during the Payment Term (beginning as shown in Section 4.2.1 above), the Company shall notify TCAD, Travis County Tax-Assessor Collector and PBO in writing of its calculation of the Agreement Funds due to the Company by the County for the immediately preceding tax year using the format of the Annual Report Form attached to this Agreement as Attachment C. The Annual Report Form will show the amount of Ad Valorem Taxes paid on Eligible Property by the Company for said tax year that are attributable to the Base Year Value and the amount of Ad Valorem Taxes paid on Eligible Property by the Company that are attributable to the Payment Year Value for that tax year, and will include a completed Annual Report Form, a copy of the tax bill and a copy of the evidence of payment issued by the Company in payment of that bill (and a copy of any other documentation required by the County pursuant to this Agreement). Initial submission of the Annual Report and Payment shall proceed as set forth in Section 4.2.1.

(b) **Certification of Compliance.**

(i) **Annual Certification.** The Annual Report will also include the Company's signature certifying that the Company warrants to the County that it is in full compliance with each of its obligations under this Agreement, including the number of Existing and New Full-time Jobs maintained by the Company for the preceding year. The Company shall provide such Annual Reports, and shall certify annually to the County that the Company is in compliance with all applicable terms of this Agreement.

(ii) **Inability to Comply.** If the Company cannot certify complete compliance with the terms of the Agreement, the Company shall include a full and complete explanation of the reasons for the failure to comply along with the Company's plans to achieve compliance or reasons that compliance cannot be achieved. Upon receipt of such explanation, the Commissioners Court of the County may, at its sole discretion, agree to work with the Company to develop a mutually agreeable amendment to this Agreement with which the Company can comply, or terminate the Agreement by written notice given to the Company within ninety (90) days after the Annual Report including the notice of inability to comply is given to the County.

(c) **Access, Monitoring and Inspections.**

(i) **Access.** The Company shall provide access to and authorizes monitoring visits of the Project as necessary to determine compliance with this Agreement.

(ii) **Inspection.** The County has the right to inspect the Project (see Sections 5.3.2 and 5.8.2) and pertinent records of the Company as necessary to verify compliance. Inspections shall be preceded by at least seventy-two (72) hours' notice by telephone to the head of the Center or other person designated by the Company, and may be attended by the Company representatives. Visits and inspections shall be conducted so as not to interfere with the business operations of the Company and shall comply with the Company's safety standards. The County acknowledges and agrees that the work of constructing

and installing the Project is of highly sensitive nature and, therefore, the County agrees that it will not make any type of recording or photographic record of the interior of the facility and agrees to keep all information relating to its contents confidential to the maximum extent allowed by law. Inspections/monitoring visits will be made by the County Executive of PBO (or her designee, with the Company's approval) and staff, and will be limited to review of those reports and information necessary to verify the Company's compliance with the requirements of this Agreement.

(iii) **Monitoring.** In order to verify compliance with employment requirements, the County will be provided access on site to those original reports submitted by the Company to the Texas Workforce Commission and any and all other data used by the Company as the basis for certification of the number of FTE's, the average salary, and the investment made pursuant to the requirements of the Agreement. Supporting documentation will be made available at the Company's Austin location in a format that allows for easy review by the County (magnetic tapes will not be considered acceptable format). The Company acknowledges and agrees that the County may make ongoing inspections/monitoring visits under these same conditions as specified in this Agreement throughout the Agreement Term to ensure ongoing compliance with the terms of this Agreement. Any additional review will be as mutually agreed to by the County and the Company, and strictly limited to that information necessary to confirm Agreement compliance. If the County determines that the documentation provided is insufficient to adequately document the accuracy of the information or disputes the accuracy of the information, the County reserves the right to require additional information as reasonably necessary to complete the final review and approval of the information submitted and to withhold approval of the Annual Report until such additional information is made available pursuant to this Section 4.2.2.

(iv) **Personal Data.** In the course of verifying, the Company's compliance with the requirements of this Agreement, the County and the County's employees, agents, consultants and contractors assigned to perform any portion of the review and inspection may obtain certain information relating to identified or identifiable individuals ("**Personal Data**"). The County acknowledges that it shall have no right, title or interest in any Personal Data obtained by it as a result of this Agreement, and will not use the Personal Data for any purpose other than verification of the Company's compliance with the requirements of this Agreement. The County shall take appropriate legal, organizational and technical measures to ensure the confidentiality of Personal Data, and protect Confidential Data against unauthorized disclosure or access, and against all other unlawful forms of processing, keeping in mind the nature of such data. In the event the County collects Personal Data, the County shall at all times comply with the Company's lawful instructions regarding the Personal Data, as well as all applicable laws, regulations, and international accords or treaties.

(v) **County Coordination With City of Austin.** The Parties agree that the County may designate individuals from the City of Austin ("City") or a designated outside consultant of the County or the City to assist in accessing, inspecting, monitoring and evaluating the Company's performance under this

Agreement, and the Company agrees to cooperate with the City representatives (or consultant) in such instances.

4.2.3. **Rebate Amount.** Upon verification by the County of the amount shown in the Annual Report and other reporting information provided by the Company to the County under this Agreement, the County shall grant and pay to the Company the Agreement Funds calculated in accordance with Section 4.1.1.

4.2.4. **Material Issues in Agreement Funds Notice.** If the County identifies any material issues in the Annual Report, the County will advise the Company of such material issues that are identified in the verification process within 30 days of receipt of the Annual Report and other reporting information to allow the Company to correct/complete such Annual Report. Should the Company and the County be unable to agree to the completion/correction of the Annual Report within thirty (30) days of receipt of the notice by the Company of material issues, the matters will be addressed as provided in Section 8 of this Agreement.

4.2.5. **Final Rebate.** The final grant of Agreement Funds by the County to the Company pursuant to this Agreement shall be based on the Annual Report relevant to the last year of the Agreement Term. Upon the County's paying of said final payment as described in this Section 4.2.5, this Agreement shall terminate.

5.0 COMPANY PERFORMANCE

5.1 **Requirements for Rebate.** The Company agrees to do the following to receive and retain the 60% Rebate during the Initial Ten Year Term and the 40% Rebate during the Subsequent Five Year Period, as described in Section 4.1.1:

5.1.1. **Construction and Operation of Project.** The Project, as described in Attachment A, must meet the following requirements regarding the construction and operation of the Project:

(a) **Location.** The Project will be located at West Parmer Lane and Delcour Drive in Austin, Texas, or other location within the City of Austin's Desired Development Zone (as defined in Section 25-1-21 of the *Austin City Code*).

(b) **Ownership and Use.** The Property on which the current Project is located must be owned by the Company or its Affiliate, and the Project will be used for the Company's Americas Operations Center, as more particularly described in Attachment A. Any additional land utilized under this Agreement will be owned by the Company or its Affiliate and subject to the requirements of this Section 5.1.1. The Company agrees that the Project is not located in an improvement project financed by tax increment bonds and does not include any property that is owned or leased by a member of the Commissioners Court.

(c) **Phased Construction and Required Investment.** The Project will be constructed in two phases. Phase I will have approximately 200,000 square feet of space in two buildings, and the Company will invest a minimum of \$56,500,000 for New Improvements and New Machinery and Equipment for Phase I by no later than December 31, 2015. Phase II will have approximately 800,000 square feet in several buildings, and the Company will invest a minimum of \$226,000,000 for New Improvements and New Machinery and Equipment for Phase II by no later than December 31, 2021. In the event that the Company exceeds the minimum Phase I investment, the value of such excess may be applied toward the minimum Phase II

investment. Investments will be as documented by the Company in its rendition to TCAD for each year of the Agreement Term.

(d) **Minority and Women-Owned Business Enterprises.** The Company will use good faith efforts and will encourage its agents and contractors to use good faith efforts, to ensure that Minority and Women-Owned Business Enterprises and Historically Underutilized Businesses have the opportunity to participate in the design, construction and operation of the Project. The Company will comply with the conditions and requirements of Section 1.04 of the City Agreement regarding the opportunity for Minority and Women-Owned Business Enterprises to participate in the design and construction of the Project and as suppliers for materials and services for the operation of the Project, and such compliance will be deemed to be compliance with the above provisions in this paragraph (d).

(e) **Construction Laws.** In the execution of the construction contracts for Phase I and Phase II, the Company will comply with all applicable state and federal laws relating to construction, including laws related to labor, equal employment opportunity, safety, and minimum wage. The Company agrees to make commercially reasonable efforts to work with the Workers Defense Project in an effort to meet this obligation.

5.1.2. **Employment.** The Company must meet the following employment requirements:

(a) **Required Number of Jobs.** In addition to retaining 3,100 Existing Full-time Jobs, the Company shall create at least 3,635 New Full-time Jobs by December 31, 2025. If there is a shortfall during any year of the Agreement Term regarding the Company's retention of 3,100 Existing Full-time Employees, such shortfall shall be offset to the extent that the actual cumulative total of New Full-time Jobs exceeds the specified cumulative total of New Full-time Jobs for such year as stated the following Employment Schedule. Contract Jobs shall not exceed 25% of the total of Existing Full-time Jobs and New Full-time Jobs at any time during the Agreement Term.

(b) **Employment Schedule.** The 3,635 New Full-time Jobs shall be added by the Company in accordance with the following Employment Schedule:

Employment Year One: 300 New Full-time Jobs by December 31, 2016.

Employment Year Two: 300 additional New Full-time Jobs by December 31, 2017, for a cumulative total of 600 New Full-time Jobs.

Employment Year Three: 50 additional New Full-time Jobs by December 31, 2018, for a cumulative total of 650 New Full-time Jobs.

Employment Year Four: 150 additional New Full-time Jobs by December 31, 2019, for a cumulative total of 800 New Full-time Jobs.

Employment Year Five: 350 additional New Full-time Jobs by December 31, 2020, for a cumulative total of 1,150 New Full-time Jobs.

Employment Year Six: 420 additional New Full-time Jobs by December 31, 2021, for a cumulative total of 1,570 New Full-time Jobs.

Employment Year Seven: 450 additional New Full-time Jobs by December 31, 2022, for a cumulative total of 2,020 New Full-time Jobs.

Employment Year Eight: 450 additional New Full-time Jobs by December 31, 2023, for a cumulative total of 2,470 New Full-time Jobs.

Employment Year Nine: 525 additional New Full-time Jobs by December 31, 2024, for a cumulative total of 2,995 New Full-time Jobs.

Employment Year Ten: 640 additional New Full-time Jobs by December 31, 2025, for a cumulative total of 3,635 New Full-time Jobs.

(i) Ongoing Employment Obligations. During each year of the remainder of the Agreement Term after December 31, 2025, the Company shall continue to have not less 3,100 Existing Full-time Jobs and 3,635 New Full-time Jobs.

(ii) Excess Credits. If the cumulative total of New Full-time Jobs during any Employment Year exceeds the required number for such Employment Year, the excess number shall be credited against any shortfall in the required number of New Full-time Jobs during any subsequent Employment Year.

(iii) Construction Delay Impact – Construction Timetable and Employment Schedule. The County acknowledges that the foregoing Employment Schedule is based on the Company's ability to construct the buildings and other facilities that will be needed to accommodate 3,635 New Full-time Employees in accordance with its Construction Timetable for Phase I and Phase II of the Project. If there is a Construction Delay that will materially affect the Construction Timetable, the Company will give written notice to the County. The County Executive shall thereafter have the authority to extend the deadlines for completing the construction of the Phase I and Phase II Improvements and to modify the Employment Schedule in an equitable manner, if the County Executive reasonably determines that a Construction Delay has occurred and that such Construction Delay will materially affect the Construction Timetable. In no event, however, shall the December 31, 2025 deadline for the Company to create 3,635 of New Full-time Jobs be extended by the County Executive.

(c) **Required Annual Compensation.** The Required Annual Compensation for all New Full-time Jobs, excluding Contract Jobs, must not be less than the following amounts at the end of each Employment Year:

<u>Employment Year</u>	<u>Required Annual Compensation</u>
One	\$ 54,000
Two	\$ 56,000
Three	\$ 58,000
Four	\$ 61,000
Five	\$ 63,000
Six	\$ 65,000
Seven	\$ 67,000
Eight	\$ 70,000
Nine	\$ 72,000
Ten	\$ 73,500

During each year of the remainder of the Agreement Term after December 31, 2025, the Required Annual Compensation shall not be less than \$73,500.

(d) **Recruitment.** The Company will comply with the conditions and requirements of Section 1.03 of the City Agreement regarding the recruitment of Employees for New Full-time Jobs.

(e) **Company Health Benefits.** For Employees who are hired to provide the Required Number of Jobs pursuant to this Agreement, the Company must provide, and ensure that Employees who perform Contract Jobs are provided, health benefits as follows:

- (i) the health benefits must be provided to the Employees and their family members and domestic partners; and
- (ii) meet all applicable federal requirements for benefits provided;
- (iii) with the Company or other provider contributing to such health benefits.

(f) **Livable Wage.** During the Payment Term, the average of the annual wages paid to the lowest paid 10% of the Company's Employees that are included as part of the Required Number of Jobs must be greater than \$35,000, and hourly wages paid to Contract Employees that are included as part of the Required Number of Jobs must be greater than the County's livable, minimum wage of \$11.00 per hour.

(g) **Opportunity To Correct Deficiency.** If the Company has not satisfied the requirements and conditions described in paragraphs (a), (b), (c), (d), (e), and (f) above at the end of any year during the Payment Term, the Company shall have a period of ninety (90) days after the end of the applicable year to correct such deficiency, but the County shall not have any obligation to give the Company notice concerning such deficiency pursuant to Sections 8.3 and 8.5. If the Company fails to correct the deficiency within such 90-day period, the Company shall be not be entitled to receive the applicable Agreement Funds for such year.

5.1.3. **Employee Transportation.**

(a) **Transportation Program.** The Company has an existing Transportation Program at its current facilities in the Riata Vista Office Park to encourage its employees to use public transportation services, reduce traffic congestion and promote cycling and other transportation options, which include the following features: (i) free shuttle service is provided to nearby Capital Metro Transit Stations and Express Bus routes; (ii) monthly subsidy for employees using public transportation; (iii) online carpool matching service to connect employees with similar commuting routes; (iv) online bicycle route matching service to connect employee cyclists; (v) monthly subsidy to promote cycling; (vi) onsite showers, lockers and racks for cyclists; (vii) taxi vouchers for employees who use public transportation, carpool or bicycle in the event of a personal or family emergency; and (viii) free onsite shuttle service around the Company's campus. During the Agreement Term, the Company shall continue to maintain a Transportation Program for the employees at the Project with substantially similar features.

(b) **Lone Star Rail District.** The County and the Company agree that convenient access to public transportation is important to the region and to the Project, and the County and the Company support the efforts of the Lone Star Rail District to convert the existing Union Pacific rail line to commuter rail service between the Austin and San Antonio metropolitan areas, and to include one or more transit stations near the Project. The Company agrees to participate in discussions with representatives of the Lone Star Rail District, other governmental entities and other area landowners regarding the proposed location of nearby transit stations and possible sources of financing that may include participation by the Company and other area landowners.

5.2 **Requirements for Additional Rebate and Goal Components.** The 60% Rebate during the Initial Ten Year Period and the 40% Rebate during the Subsequent Five Year Period, as described in Section 4.1.1, shall be increased by the following additional Rebate Percentages if the Company performs the following obligations:

5.2.1 **LEED Certification.** The Company shall be entitled to receive five percent (5%) additional rebate percentage if the Company achieves LEED Certification from the U.S. Green Building Council for building or buildings to be constructed on the Property. The additional Rebate Percentage shall not be applicable until the Company has provided the County with the appropriate documentation concerning the LEED Certification for such buildings.

5.2.2 **Travis County Residents.** If the Company provides written certification to the County that 50% or more of the cumulative total of New Full-time Jobs for any Employment Year, or any year thereafter during the Agreement Term, are held by residents of Travis County, the Rebate Percentage for that year shall be increased by an additional 5%.

5.2.3 **Project Goals.** The following components of the Project are goals which the Company agrees to make a good faith effort to attain:

(i) **Environmental.** The Project will be completed and maintained in a manner which preserves and respects the natural environment by maintaining green space as set forth in the plan of development presented to and approved by the City of Austin, as evidenced by certificates of occupancy from the City of Austin. The Company shall not violate any federal, state or local legislation and/or regulation(s) which prohibit or regulate deleterious effects on the environment within the Project. This Property may not be located over an environmentally sensitive aquifer or contributing zone, and the Company hereby certifies that the Property is not located over an environmentally sensitive aquifer or contributing zone.

(ii) **Parking.** Development will be completed in a manner which includes adequate parking.

(iii) **Community Improvement.** The County acknowledges the active participation by the Company in community development activities which contributes to the development and improvement of Travis County in areas beyond those directly related to business and the economy. The Company agrees to make commercially reasonable efforts to continue such participation related to local education, job training and job mobility through activities such as financial contributions to local schools and volunteer work within the community.

5.3 **Reports.**

5.3.1. **Annual Report.**

(a) **Annual Report Filing.** Beginning the end of the first year of the Payment Term, the Company shall provide the Annual Report (and/or other reports as reasonably requested by County) reflecting the fulfillment of all requirements of this Agreement. The Company shall provide the Chief Appraiser of TCAD ("**Appraiser**"), the Travis County Tax Assessor-Collector and PBO any and all information necessary for administration of this Agreement, including the Annual Report within a reasonable time after the end of each calendar year in the Payment Term, allowing adequate time for the Company to collect the data and submit to the County the resulting report which will reflect information related to the previous 12-month period (or other time period as specified). The Company acknowledges and agrees that the Annual Report is a document that will be available to the public. The Company considers any other information provided to the County and the other governmental entities referenced above to be proprietary and confidential, and such documents and information will not be disclosed by the County except as required under the Texas Public Information Act.

(b) **Other Information.** The Annual Report shall include the information necessary to meet applicable requirements under the *Texas Tax Code*. The Appraiser of TCAD shall annually determine (i) the taxable value pursuant to the terms of this Agreement and (ii) full value without rebate under this Agreement. The Appraiser shall record both the rebated taxable value and the full taxable value in the appraisal records. The full taxable value figure listed in the appraisal record shall be used to compute the amount of rebated taxes that are required to be recaptured and paid in the event this Agreement is terminated in a manner that provides for recapture under this Agreement. Each year, the Company shall furnish the Appraiser with such information outlined in the *Texas Tax Code*, Chapter 22, as may be necessary for the administration of the rebate specified herein. The Company shall be entitled to appeal any determination of the Appraiser in accordance with the provisions of the *Texas Tax Code*.

5.3.2. **County Monitoring of Reports.** The County retains the right to monitor and audit the findings in all reports provided or made available to the County under this Agreement as necessary to confirm compliance with the terms of this Agreement (see Section 5.8.2). The Company shall retain all reports made by third parties related to this Agreement and allow the County reasonable access to such reports if County requests the opportunity to review such reports. The County will only request such review upon reasonable cause to question the accuracy of the Annual Report submitted by the Company to the County.

5.3.3. **Annual Report Information.** The following general information, as applicable for each year in a reporting period will be included:

- (a) documentation to show commencement date and completion date (as applicable);
- (b) total value of completed Project (as certified by TCAD for Travis County Ad Valorem Taxation);
- (c) total number of Existing Full-time Jobs and total number of New Full-time Jobs and date of hire for each;
- (d) average salary of New Full-time Jobs, excluding Contract Jobs;
- (e) information showing the amount of County Ad Valorem Taxes paid by the Company and the amount of Agreement Funds reimbursed by the County to date;

(f) other information as necessary to support compliance with terms of this Agreement, including Section 5.1.1(d); and
(g) certification as to accuracy of report and compliance with the terms of the Agreement.

5.3.4. **Job Data.** The Reporting Form shall also include data showing the number of Existing and New Full-time Jobs created and maintained as a result of the Project and the average salary for those jobs, including that information specifically set forth in the Annual Report (Attachment C). The Company shall create and maintain such records as necessary for the County to audit performance under this requirement, including documentation which supports that information shown in the Annual Report and any other information reasonably necessary to calculate FTEs as related to performance under this Agreement. As provided in Section 5.8.2, the County may require such other documentation as reasonably deemed necessary to support reported employment efforts of the Company as required under this Agreement.

5.3.5. **Ad Valorem Taxes.** The Annual Report shall include information showing the amount of Travis County Ad Valorem Taxes due for payment by the Company, the amount by which the Ad Valorem taxes would be rebated as a result of compliance with the applicable terms of this Agreement and other information as specified in the form attached as Attachment C.

5.4 **Company Authority.** The Company warrants that the Company has the authority to enter into this Agreement and that the person signing this Agreement on behalf of the Company is duly authorized to do so.

5.5 **Accuracy of Information.** The Company will use commercially reasonable efforts to ensure that all reports, data and information submitted to the County will be accurate, reliable and verifiable according to the terms of this Agreement. Approval by the County of such information shall not constitute nor be deemed a release of the responsibility and liability of the Company, its employees, agents or associates for the accuracy and competency of their reports, information documents, or services, nor shall approval be deemed to be the assumption of such responsibility by the County for any defect, error, omission, act or negligence or bad faith by the Company, its employees, agents, or associates.

5.6 **W-9 Taxpayer Identification Form.** The Company shall provide the County with an Internal Revenue Service Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations, and a statement of entity status in a form satisfactory to the County Auditor before any Agreement Funds may be paid to the Company.

5.7 **Indemnification and Claims.**

5.7.1. **INDEMNIFICATION.** The Company agrees to and shall indemnify and hold harmless the County, its officers, agents, and employees, from and against any and all claims, losses, damages, negligence, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees ("Claim"), for injury to or death of any person, for any act or omission by the Company, or for damage to any property, arising out of or in connection with the work done by the Company under this Agreement, whether such injuries, death or damages are caused by the Company's sole negligence or the joint negligence of the Company and any other third party.

5.7.2. **Claims Notification.** If any claim, or other action, including proceedings before an administrative agency is made or brought by any person, firm, corporation, or other entity against the Company or the County relating to the enforcement of this Agreement, the Party with notice of the Claim shall give written notice to the other Party of the Claim, or other action within three (3) working days after being notified of it or the threat of it; the name and address of the person, firm, corporation or other entity that made or threatened to make a Claim, or that instituted or threatened to institute any type of action or proceeding; the basis of the Claim, action or proceeding; the court or administrative tribunal, if any, where the Claim, action or proceeding was instituted; and the name or names of any person against whom this Claim is being made or threatened. This written notice shall be given in the manner provided in the "Notice" provision of this Agreement. Except as otherwise directed, the Party with notice of the Claim shall furnish to the other Party copies of all pertinent papers received by that Party with respect to these Claims or actions.

5.8 **Miscellaneous Responsibilities.**

5.8.1. **Change in Project.** The Company shall notify the County immediately and in advance where possible, of any significant change relating to the Project that may affect the Company's performance under this Agreement, including any change in the Company's name or identity.

5.8.2. **Employment Records and Investment Certification.** In order to verify compliance with employment, salary and investment requirements, the Company will provide the County with an annual written certification (attached to the Reporting Form) by an authorized representative of the Company of the following:

- (i) Number of Existing and New Full-time Jobs
- (ii) Average Salary of New Full-time Jobs
- (iii) Amount of investment pursuant to this Agreement

The Company agrees to provide the County access at the Company's Austin location at the time of submission of the certification and as needed to any and all supporting documentation which was utilized in making the determinations reported in the certification as to the number of FTE's, the average salary and the amount of investment by the Chief Financial Officer. This supporting documentation will be made available at the Company's Austin location in a format that allows for easy review by the County.

If the County determines that the documentation provided is insufficient to adequately document the accuracy of the information or disputes the accuracy of the information, the County reserves the right to require additional information as necessary to complete the final review and approval of the information submitted and to withhold approval of the Agreement Funds Notice until such additional information is made available pursuant to this Section 5.8.2.

5.8.3. **Record Maintenance.** The Company shall maintain all records and reports required under this Agreement for a period of three years after the termination date, or until all evaluations, audits and other reviews have been completed and all questions or issues, including litigation, are resolved satisfactorily, whichever occurs later.

6.0 AMENDMENTS

6.1. **Written Amendments Only.** Unless specifically provided otherwise in this Agreement, any change to the terms of this Agreement or any attachments to it shall be made in writing and signed by both Parties. An amendment may only be approved by the Parties if the terms and provisions of the amendment reflect provisions which could have been included in the original Agreement.

6.2. **Acknowledgments as to Amendments.** It is acknowledged by the Company that no officer, agent, employee or representative of the County has any authority to change the terms of this Agreement or any attachments to it unless expressly granted that authority by the Commissioners Court under a specific provision of this Agreement or by separate action by the Commissioners Court. Verbal discussion or other indications of changes to this Agreement will not be effective.

6.3. **Submission.** The Company shall submit all requests for all changes, alterations, additions or deletions of the terms of this Agreement or any attachment to it to PBO , Attention: Leslie Browder, County Executive (or her successor in office) with a copy to the County Judge, Samuel T. Biscoe, or his successor in office. This Agreement shall be administered by PBO, and all information provided by the Company to the County shall be provided through PBO.

7.0 COMPLIANCE

7.1. **Federal, State and Local Laws.** The Company shall provide all services and activities performed under the terms of this Agreement in compliance with the Constitutions of the United States and Texas and with all applicable federal, state, and local orders, laws, regulations, rules, policies, and certifications governing any activities undertaken during the performance of this Agreement. The Company shall meet all applicable requirements of the County and the City codes and ordinances, rules and regulations and permit requirements, and all necessary inspections will take place in a timely manner. The Company will make all hiring decisions in compliance with the Civil Rights Act of 1964 and the Americans With Disabilities Act of 1990 and will not discriminate against any employee or applicant for employment on the basis of race, religion, color, national origin, age or handicapping condition in accordance with the Company's policies.

7.2. **Law and Venue.** This Agreement is governed by the laws of the State of Texas and all obligations under this Agreement shall be performable in the City of Austin, Texas or in Travis County, Texas. It is expressly understood that any lawsuit, litigation, or dispute arising out of or relating to this Agreement will take place in State Court in Travis County and the City of Austin. The Parties acknowledge and agree that each Party shall be responsible for any attorneys' fees incurred by that Party relating to this Agreement.

7.3. **Immunity or Defense.** Section 7.2 notwithstanding, the Company expressly understands and agrees that, neither the execution of this Agreement nor the conduct of any representative of the County shall be considered to be a waiver of, nor shall it be deemed to have waived, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its governmental powers and functions, nor shall it be considered a waiver of sovereign immunity to suit. The Company and the County shall have all remedies and defenses allowed by law.

7.4. **Failure to Comply.** The Commissioners Court may cancel or modify this Agreement, as set forth herein, if the Company fails to comply with the Agreement.

8.0 **TERMINATION AND DEFAULT**

8.1. **Termination.** This Agreement may be terminated in the following circumstances:

8.1.1. **Election Not to Proceed Prior to Rebate.** In the event the Company elects not to proceed with the Project as contemplated by this Agreement prior to the first receipt by the Company of the Agreement Funds, the Company shall notify County in writing, and this Agreement and the obligations on the part of both Parties shall be deemed terminated and of no further force or effect.

8.1.2. **Successful Completion.** This Agreement will terminate upon completion of the performance of the respective terms and conditions of the Agreement by both Parties or upon termination pursuant to the terms of this Agreement.

8.1.3. **Failure to Comply.**

(a) **Termination by County.** After notice of default and opportunity to cure pursuant to Section 8.5, this Agreement may be terminated, at the election of the County, if the Company fails to comply with the following conditions and requirements as set forth herein (each referred to herein as a "Termination Event"):

(i) The Company fails to comply with the requirement in paragraphs (a) or (b) of Section 5.1.1 regarding the location of the Project and the ownership and use of the Property.

(ii) The Company fails to complete the construction of Phase I and invest a minimum of \$56,500,000 by December 31, 2015 (or any extended deadline as the result of a Construction Delay), or fails to complete the construction of Phase II and invest a minimum additional amount of \$226,000,000 by December 31, 2021 (or any extended deadline as the result of a Construction Delay, as more particularly described in paragraph (c) of Section 5.1.2.

(iii) The Company fails to retain 3,100 Existing Full-time Jobs and create at least 3,635 New Full-time Jobs by December 31, 2025 (or any extended deadline as the result of a Construction Delay), as provided in paragraph (a) of Section 5.1.2.

(iv) The Company allows its Ad Valorem Taxes to the County, the City of Austin, Round Rock Independent School District, Austin Community College District, Central Health District, or other local taxing entity to become delinquent and fails to timely and properly follow the legal procedure for their protest and/or contest.

In the event this Agreement is terminated by the County pursuant to this paragraph (a), the County shall have the right to recapture all of the Agreement Funds paid to the Company for the two (2) previous years pursuant to paragraph (a) of Section 8.2; no further Agreement Funds shall be payable by the County to the Company; and this Agreement shall be of no further force or effect.

(b) **Termination by Company.** After notice of default and opportunity to cure pursuant to Section 8.5, this Agreement may be terminated by the Company without prejudice to any other right or remedy which the Company or the County may possess, if the County fails to comply with its obligations under this Agreement.

8.1.4. Judicial Finding. This Agreement may be terminated by either the County or the Company if the Rebate agreed to be made by the County herein is found to be invalid or illegal by a court of competent jurisdiction and said judicial decision is not overturned on appeal or is no longer subject to appeal. In the event that this Agreement is terminated under this Section 8.1.4, the County shall have the right to recapture all of the money rebated to the Company under this Agreement to the extent but only to the extent that said judicial decision specifically requires said Rebate to be refunded to the County, and there is no other lawful manner by which the County can reimburse, pay or credit the Company with the amount of said Rebate that is refunded as a result of said judicial decision.

8.2. Recapture of Agreement Funds. After notice of default and opportunity to cure pursuant to Section 8.5, the County shall have the right to recapture Agreement Funds previously paid to the Company in the following circumstances:

(a) If the Agreement is terminated because of an uncured Termination Event pursuant to paragraph (a) of Section 8.1.3, the County has the right to recapture an amount equal to all of the Agreement Funds paid to the Company for the two (2) previous years.

(b) If the Company fails to meet the following requirements as of December 31, 2030, the County has the right to recapture an amount equal to all of the Agreement Funds paid by the County for the five (5) year period prior to December 31, 2030:

(i)	Total retained Existing Full-Time Jobs:	3,100
(ii)	Total New Full-time Jobs:	3,635
(iii)	Total Investment:	\$282,500,000

8.3. Right to Withhold Agreement Funds. In addition to the rights granted to the County to terminate this Agreement because of a Termination Event pursuant to paragraph (a) of Section 8.1.3, and/or to recapture Agreement Funds previously paid to the Company pursuant to Section 8.2, the County shall have the right to withhold any unpaid Agreement Funds in the following circumstances:

(a) As provided in paragraph (g) of Section 5.1.2, the County may withhold Agreement Funds for any year in which the Company fails to comply with the requirements of paragraphs (b), (c), (d), (e), and (f) of Section 5.1.2; or

(b) If the Company is in default with respect to any of its obligations under this Agreement, the County shall have the right to withhold the payment of any Agreement Funds the Company would otherwise be entitled to receive until such default has been cured.

8.4. Reduction of Rebate Percentage. The Company's Contract Jobs exceed 25% of the total Existing Full-time Jobs and New Full-time Jobs during any year of the Payment Term, the Rebate Percentage for the year in which such non-compliance occurred shall be decreased by 5%.

8.5. Notice and Opportunity to Cure. If either Party is in default with respect to such Party's obligations under this Agreement, the non-defaulting Party shall give written notice of such default to the defaulting Party pursuant to the notice provisions in Section 10. The defaulting Party shall then have a period of ninety (90) days the receipt of such notice to cure such default. If the defaulting Party fails to cure such default within such 90-day period, the non-defaulting Party shall have the right to exercise the right and remedies provided for in this Agreement; provided, however, the County shall have the right to withhold the payment of Agreement Funds to the Company pursuant to Section 8.3, until the default is cured by the Company.

9.0 MISCELLANEOUS PROVISIONS

9.1. **Independent Contractor.** The parties expressly acknowledge and agree that the Company is an independent contractor and assumes all of the rights, obligations and liabilities applicable to it as an independent contractor. No employee of the Company shall be considered an employee of the County or gain any rights against the County pursuant to the County's personnel policies. This Agreement is not intended to confer any rights, privileges or causes of action upon any third party. The relationship of the County and the Company under this Agreement is not and shall not be construed or interpreted to be a partnership, joint venture or agency. The relationship of the Parties shall be an independent contractor relationship. Neither Party shall have the authority to make any statements, representations or commitments of any kind, or to take any action which shall be binding on the other Party.

9.2. **Agreement Limitation.** This Agreement sets out the agreements and obligations between the County and the Company only, and does not obligate the County in any way nor create any third party beneficiary rights as between the County and any of the Company's subcontractors, nor to any other third party. The County shall not under any circumstances be liable to the Company's creditors or subcontractors for any reimbursements under this Agreement.

9.3. **Representations and Warranties.** The County represents and warrants to the Company that this Agreement is within its authority, and that it is duly authorized and empowered to enter into this Agreement unless otherwise ordered by a court of competent jurisdiction. The Company represents and warrants to the County that it has the requisite authority to enter into this Agreement.

10.0 NOTICES

10.1. **Requirements.** Except as otherwise specifically noted herein, any notice required or permitted to be given under this Agreement by one party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the address hereinafter specified.

10.2. **County Address.** The address of the County for all purposes under this Agreement shall be:

Honorable Samuel T. Biscoe (or his successor in office)
County Judge
P.O. Box 1748
Austin, Texas 78767

With copies to (registered or certified mail with return receipt is not required):

Honorable David Escamilla (or his successor in office)
Travis County Attorney
P.O. Box 1748
Austin, Texas 78767
ATTENTION: Civil Transactions

and

Cyd Grimes, Purchasing Agent (or her successor)
Travis County Purchasing
P. O. Box 1748
Austin, Texas 78767

10.3. **Company Address.** The address of the Company for all purposes under this Agreement and for all notices hereunder shall be:

Apple Inc.
c/o Dana Pesce, Director of Real Estate Development
1 Infinite Loop, MS 47-2RE
Cupertino, CA 95014

With a copy to (registered or certified mail with return receipt is not required)

Apple Inc.
c/o Real Estate Counsel
1 Infinite Loop, MS 4-DLAW
Cupertino, CA 95014

10.4 **Change of Address.** Each party may change the address for notice to it by giving notice of the change in compliance with Section 10.0. Any change in the address shall be reported to the County within fifteen (15) days of the change.

10.5 **Change of Name.** If a change of name is required by the Company, in addition to the requirements of Section 5.8.1, the Company shall notify the County in writing immediately pursuant to this Section 10.0.

11.0 PROHIBITIONS

11.1. **County Forfeiture of Agreement.** As to payment of Agreement Funds, if the Company has done business with a Key Contracting Person as listed in Exhibit "A" to Attachment B to this Agreement during the 365 day period immediately prior to the date of execution of this Agreement by the Company or does business with any Key Contracting Person at any time after the date of execution of this Agreement by the Company and prior to full performance of this Agreement, the Company shall forfeit all County benefits of this Agreement and the County shall retain all performance by the Company and recover all considerations, or the value of all consideration, granted to the Company pursuant to this Agreement.

11.2. **Conflict of Interest.** The Company shall ensure that the Company will not take any action that would result in any person who is an employee, agent, consultant, officer, or elected or appointed official of the County who exercises or has exercised any functions or responsibilities with respect to activities performed pursuant to this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect to it, or the proceeds under it, either for him or herself or those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

11.3. **Solicitation.** The Company warrants that no persons or selling agency was or has been retained to solicit this Agreement upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by the Company to secure business. For breach or violation of this warranty, the County shall have the right to terminate this Agreement without liability, or, in its discretion to, as applicable, add to or deduct from the consideration, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

11.4. **Gratuities.** The County may cancel this Agreement if it is found that gratuities in the form of entertainment, gifts, or otherwise were knowingly offered or given by the Company or any agent or representative to any County official or employee with a view toward securing favorable treatment with respect to the performing of this Agreement. In the event this Agreement is cancelled by the County pursuant to this provision, the County shall be entitled, in addition to any other rights and remedies, to recover from the Company a sum equal in amount to the cost incurred by the Company in providing such gratuities.

11.5. **Limitation.** The Parties understand and agree that the above prohibitions do not apply to any ceremonial gift which might be offered by the Company and accepted by the County or a County representative in an open and public event to commemorate the decision to locate the Project on the Property to commence construction of the Project so long as such offering and acceptance does not violate applicable law.

12.0 ASSIGNABILITY

12.1. **Assignment.** This Agreement may not be assigned to a new company without prior written approval of the Commissioners Court of the County; provided, however, the Company may assign to an Affiliate of the Company without approval of the Commissioners Court of the County, so long as the Company shall remain responsible and obligated to the County for the performance of its obligations under the Agreement. Written notice of such assignment shall be provided to the County prior to the assignment. No assignment shall be approved if the assignor or assignee are indebted to the County for Ad Valorem Taxes or other obligations.

12.2. **Binding Agreement.** Subject to Section 12.1, this Agreement shall be binding upon the successors, assigns, administrators, and legal representatives of the parties to this Agreement.

13.0 INTERPRETATIONAL GUIDELINES

13.1. **Computation of Time.** When any period of time is stated in this Agreement, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday or a day that County has declared a holiday for its employees these days shall be omitted from the computation.

13.2. **Numbers and Gender.** Words of any gender in this Agreement shall be construed to include any other gender and words in either number shall be construed to include the other unless the context in the Agreement clearly requires otherwise.

13.3. **Headings.** The headings at the beginning of the various provisions of this Agreement have been included only to make it easier to locate the subject matter covered by that section or subsection, and are not to be used in construing this Agreement.

14.0 **OTHER PROVISIONS**

14.1. **Survival of Conditions.** Applicable provisions of this Agreement shall survive beyond termination or expiration of this Agreement until full and complete compliance with all aspects of these provisions has been achieved where the parties have expressly agreed that those provisions should survive any such termination.

14.2. **Non-Waiver of Default.** One or more acts of forbearance by any Party to enforce any provision of this Agreement or any reimbursement, payment, act or omission by any Party shall not constitute or be construed as a waiver of any breach or default of any other Party which then exists or may subsequently exist.

14.3. **Reservation of Rights.** If any Party to this Agreement breaches this Agreement, the other Party(ies) shall be entitled to any and all rights and remedies provided for by the Texas law and any applicable Federal laws or regulations. All rights of either Party under this Agreement are specifically reserved and any payment, reimbursement, act or omission shall not impair or prejudice any remedy or right to said Party under it. The exercise of or failure to exercise any right or remedy in this Agreement or in accordance with law upon the other Party's breach of the terms, covenants, and conditions of this Agreement, or the failure to demand the prompt performance of any obligation under this Agreement shall not preclude the exercise of any other right or remedy under this Agreement or under any law, nor shall any action taken or not taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

14.4. **Severability.** Subject to Section 8.1.5, if any portion of this Agreement is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision thereof and the remainder of it shall remain valid and binding and as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

14.5. **Dispute Resolution.** When mediation is acceptable to all Parties in resolving a dispute arising under this Agreement, as a condition precedent to filing any lawsuit, the Parties agree to mediate said dispute with the Dispute Resolution Center of Austin, Texas, as the provider of mediators for mediation as described in *Texas Civil Remedies and Practice Code*, Section 154.023. Unless all Parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in *Texas Civil Remedies and Practice Code*, Section 154.073, unless all Parties agree, in writing, to waive said confidentiality.

14.6. **Force Majeure.** Neither Party shall be financially liable to the other Party for delays in performance or failures to perform under this Agreement caused by force majeure (i.e. those causes generally recognized under Texas law as constituting impossible conditions). Such delays or failures to perform shall extend the period of performance until these exigencies have been removed. The Party seeking to avail itself of this clause shall notify the other Party within ten (10) business days or otherwise waive the right as a defense, unless notification is impractical under the circumstances, in which case notification shall be done in as timely a manner as possible.

14.7. **Multiple Originals.** This Agreement may be executed by the parties in multiple counterparts, each one being considered an original for any purpose.

TRAVIS COUNTY

By: Samuel T. Biscoe
Samuel T. Biscoe
County Judge
Date: May 1, 2012

APPLE INC.

By: PK
Name: Peter Dappenhuis
Title: CEO
Date: May 25, 2012

ATTACHMENT A

DESCRIPTION OF PROPERTY AND PROJECT

LEGAL DESCRIPTION OF PROPERTY

Tract 1: Lots 1, 2, 3 and 4, Block "C", Milwood Section 20, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 85, Page 129D of the Plat Records of Travis County, Texas.

Tract 2: Lots 1, 2, 4, 5 and 6, Block "A", Milwood Section 20, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume 85, Page 129D of the Plat Records of Travis County, Texas.

Tract 3: Lot 3-A, Block "A", Amended Plat of Lot 3, Block A, Milwood Section 20, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded under Document No. 200800185 of the Official Public Records of Travis County, Texas.

DESCRIPTION OF PROJECT

The Project will be the Company's Americas Operations Center, which will be the operational center of the Company for the Americas region outside of the Company's global offices in Cupertino, California. The Company requires an operational center to centralize various functions, such as accounting, human resources and finance. The Project will be constructed in two phases. Phase I will be up to 200,000 square feet in two buildings to be located on Tract 1, and Phase II will be up to 800,000 square feet in several buildings to be constructed on Tracts 2 and 3, which are referred to in the foregoing Agreement as the New Improvements. The Project will also include the necessary New Machinery and Equipment (as defined in the Agreement) for the operation of the Americas Operations Center.

ATTACHMENT B
ETHICS AFFIDAVIT

Date: _____
Name of Affiant: _____
Title of Affiant: _____
Business Name of Company: _____
County of Company: _____

Affiant on oath swears that the following statements are true:

1. Affiant is authorized by the Company to make this affidavit for the Company.
2. Affiant is fully aware of the facts stated in this affidavit.
3. Affiant has read and fully understands the agreement and this affidavit.
4. The Company has received the list of key contracting persons associated with this Agreement which is attached to this affidavit as Exhibit "A".
5. Affiant has personally read Exhibit "A" to this Affidavit.
6. Affiant has no knowledge of any key contracting person on Exhibit "A" with whom the Company is doing business or has done business during the 365 day period immediately before the date of this affidavit whose name is not disclosed in the Invitation for Bids.

Signature of Affiant

Address: _____

SUBSCRIBED AND SWORN TO before me by _____ on _____, 2012.

Notary Public, State of Texas

Typed or printed name of notary: _____

My commission expires: _____

EXHIBIT A TO ATTACHMENT B
LIST OF KEY CONTRACTING PERSONS

March 27, 2012

CURRENT

Position Held	Name of Individual Holding Office/Position	Name of Business Individual is Associated
County Judge	Samuel T. Biscoe	
County Judge (Spouse)	Donalyn Thompson-Biscoe	
Executive Assistant	Cheryl Brown	
Executive Assistant.....	Melissa Velasquez	
Executive Assistant.....	Josie Z. Zavala	
Executive Assistant.....	Cheryl Aker	
Commissioner, Precinct 1	Ron Davis	
Commissioner, Precinct 1 (Spouse).....	Annie Davis	Seton Hospital
Executive Assistant.....	Deone Wilhite	
Executive Assistant.....	Felicitas Chavez	
Commissioner, Precinct 2	Sarah Eckhardt	
Commissioner, Precinct 2 (Spouse)	Kurt Sauer	Daffer McDaniel, LLP
Executive Assistant	Loretta Farb	
Executive Assistant	Joe Hon	
Executive Assistant	Peter Einhorn	
Commissioner, Precinct 3	Karen Huber	
Commissioner, Precinct 3 (Spouse).....	Leonard Huber	Retired
Executive Assistant.....	Garry Brown	
Executive Assistant.....	Lori Duarte	
Executive Assistant.....	Jacob Cottingham	
Commissioner, Precinct 4	Margaret Gomez	
Executive Assistant.....	Edith Moreida	
Executive Assistant.....	Norma Guerra	
County Treasurer	Dolores Ortega-Carter	
County Auditor	Susan Spataro, CPA	
County Executive, Administrative.....	Vacant	
County Executive, Planning & Budget.....	Leslie Browder*	
County Executive, Emergency Services	Danny Hobby	
County Executive, Health/Human Services.....	Sherri E. Fleming	
County Executive, TNR	Steven M. Manilla, P.E.*	
County Executive, Justice & Public Safety	Roger Jefferies	
Director, Facilities Management.....	Roger El Khoury, M.S., P.E.	
Chief Information Officer	Joe Harlow	
Director, Records Mgmt & Communications	Steven Broberg	
Travis County Attorney	David Escamilla	

First Assistant County AttorneySteve Capelle
 Executive Assistant, County AttorneyJames Collins
 Director, Land Use DivisionTom Nuckols
 Attorney, Land Use DivisionJulie Joe
 Attorney, Land Use DivisionChristopher Gilmore
 Director, Transactions DivisionJohn Hille
 Attorney, Transactions DivisionTamara Armstrong
 Attorney, Transactions DivisionDaniel Bradford
 Attorney, Transactions DivisionMary Etta Gerhardt
 Attorney, Transactions DivisionBarbara Wilson
 Attorney, Transactions DivisionJim Connolly
 Attorney, Transactions DivisionTenley Aldredge
 Director, Health Services DivisionVacant
 Attorney, Health Services DivisionPrema Gregerson
 Purchasing AgentCyd Grimes, C.P.M., CPPO
 Assistant Purchasing AgentMarvin Brice, CPPB
 Assistant Purchasing AgentBonnie Floyd, CPPO, CPPB, CTPM
 Purchasing Agent Assistant IVVacant
 Purchasing Agent Assistant IVLee Perry
 Purchasing Agent Assistant IVJason Walker
 Purchasing Agent Assistant IVRichard Villareal
 Purchasing Agent Assistant IVPatrick Strittmatter*
 Purchasing Agent Assistant IVLori Clyde, CPPO, CPPB
 Purchasing Agent Assistant IVScott Wilson, CPPB
 Purchasing Agent Assistant IVJorge Talavera, CPPO, CPPB
 Purchasing Agent Assistant IVGeorge R. Monnat, C.P.M., A.P.P.
 Purchasing Agent Assistant IVJohn E. Pena, CTPM
 Purchasing Agent Assistant IVRosalinda Garcia
 Purchasing Agent Assistant IIIShannon Pleasant, CTPM*
 Purchasing Agent Assistant IIIDavid Walch
 Purchasing Agent Assistant IIIMichael Long, CPPB
 Purchasing Agent Assistant IIIVacant
 Purchasing Agent Assistant IIILoren Breland, CPPB
 Purchasing Agent Assistant IIINancy Barchus, CPPB
 Purchasing Agent Assistant IIIJesse Herrera, CTP, CTPM, CTCM*
 Purchasing Agent Assistant IIIC.W. Bruner, CTP
 HUB CoordinatorSylvia Lopez
 HUB SpecialistBetty Chapa
 HUB SpecialistJerome Guerrero
 Purchasing Business AnalystScott Worthington
 Purchasing Business AnalystJennifer Francis

FORMER EMPLOYEES

<u>Position Held</u>	<u>Name of Individual Holding Office/Position</u>	<u>Date of Expiration</u>
Purchasing Agent Assistant IV	Oralia Jones, CPPB.....	07/31/12
County Executive, Planning & Budget.....	Rodney Rhoades	8/19/12
Purchasing Agent Assistant IV	Diana Gonzalez.....	12/16/12
Director, Health Services Division	Beth Devery	03/09/13
Purchasing Agent Assistant III	Elizabeth Corey, C.P.M.	03/14/13

* - Identifies employees who have been in that position less than a year.

CURRENT - continued

<u>Position Held</u>	<u>Name of Individual Holding Office/Position</u>	<u>Name of Business Individual is Associated</u>
Purchasing Agent Assistant III	Oralia Jones, CPPB	
Purchasing Agent Assistant III	Lori Clyde, CPPB	
Purchasing Agent Assistant III	Rosalinda Garcia	
Purchasing Agent Assistant III	Loren Breland	
Purchasing Agent Assistant III	Jorge Talavera*	
Purchasing Agent Assistant II	Donald E. Rollack	
Purchasing Agent Assistant II	Vacant	
Purchasing Agent Assistant II	Nancy Barchus*	
HUB Coordinator	Sylvia Lopez	
HUB Specialist	Betty Chapa	
HUB Specialist	Jerome Guerrero*	
Business Analyst II.....	Scott Worthington	

FORMER EMPLOYEES

<u>Position Held</u>	<u>Name of Individual Holding Office/Position</u>	<u>Date of Expiration</u>
Purchasing Agent Assistant III..	Jimmy Ramirez, CPPB.	01/21/06
Purchasing Agent Assistant IV..	Jerry Raisch, CPPB	03/04/06
Executive Assistant	Barbara Cilley	05/02/06
Executive Assistant	Cheryl Aker	07/27/06
Purchasing Agent Assistant II	Manuel Perez...	07/29/06
Purchasing Agent Assistant IV	Sylvia Gonzalez	08/12/06

* - Identifies employees who have been in that position less than a year.

ATTACHMENT C- ANNUAL REPORT FORM
TRAVIS COUNTY ECONOMIC DEVELOPMENT PROGRAM

REPORTING YEAR: _____

(YEAR _____ OUT OF 15)

Company shall complete the following pursuant to the applicable terms of the Agreement.

1. CONSTRUCTION COMMENCEMENT AND COMPLETION

A. Date construction on Project commenced:

B. Date Certificate of Occupancy Issued (*Please attach Certificate of Occupancy*):

C. Date of LEED Certification? (*Complete this section if Company is requesting additional 5% incentive outlined in Sec. 5.2.1*):

2. VALUE OF NEW IMPROVEMENTS AND NEW MACHINERY AND EQUIPMENT

A. Total value of Eligible Property (amount subject to Travis County Ad Valorem Taxation):
\$ _____

This amount must equal at least the amount specified in Section 5.1.1(c) for Company to receive benefits under the Agreement. Please attach a list of Eligible Property equal to the investment amount above and rendered to the Travis Central Appraisal District.

3. EMPLOYEES

A. Total Number of Existing Full-time Jobs for the reporting year
[Must equal the numbers specified in Section 5.1.2]

B. Total Number of New Full-time Jobs for the reporting year (Sec. 5.1.2 (b))

i. How many of the above Employees are Contract Employees?

C. Average Salary for New Full-time Jobs (excluding Contract Jobs)
[Must equal at least the amount specified in Section 5.1.2(c)]

\$ _____

i. Are Contract Employees meeting salary and benefits requirements outlined in 5.1.2 (f)?

C. How many Full-time Employees are residents of Travis County? *(Complete this section if Company is requesting additional 5% incentive outlined in Sec. 5.2.2)*

All employment figures must be collected and maintained by Company, certified as accurate by Company as specified in this Agreement and supported by documentation as set forth in Section 5.8.2. In addition, Travis County will need evidence that Company and Contract Employees have been eligible for health benefits, including domestic partner benefits.

4. AGREEMENT BENEFITS

A. Travis County Ad Valorem Taxes paid on Eligible Property for this Reporting Year:

\$ _____

B. Base Year Travis County Ad Valorem Taxes Paid on Eligible Property:

\$ _____

C. Incremental Travis County Ad Valorem Taxes paid
(Difference between "A" and "B")

\$ _____

D. Agreement Benefits Claimed by Company

_____% Rebate \$ _____

Please attach receipt of County taxes paid

I, Company's authorized representative, hereby certify that the above information is correct and accurate pursuant to the terms of this Agreement:

Printed Name: _____

Title: _____ Date: _____