



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		05/26/15		
Department:		Economic Development		
Department Head		Sally Bane		
Agenda Coordinator (include phone #): Toshia Kimball X7479				
CAPTION				
A Resolution of the City of Plano, Texas, approving the terms and conditions of an Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas and Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2016-17 through 2026-27	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget	0	34,843,220	0	34,843,220
Encumbered/Expended Amount	0	-10,555,555	-15,055,800	-25,611,355
This Item	0	-150,000	0	-150,000
BALANCE	0	24,137,665	-15,055,800	9,081,865
FUND(S): ECONOMIC DEVELOPMENT INCENTIVE FUND				
COMMENTS: Strategic Plan Goal: Providing economic development incentives relates to the City's goal of Strong Local Economy.				
SUMMARY OF ITEM				
A request from Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, for an Amended and Restated Economic Development Incentive Agreement to expand its business and commercial activities in the City, thereby generating additional local sales tax revenues and increasing ad valorem tax values for the City. Pizza Hut of America, LLC agrees to occupy, at minimum, an additional 60,000 square feet of office space and training facilities and transfer or create up to 150 additional Job Equivalents by 12/31/19. http://goo.gl/maps/RzvpC				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Resolution Amended and Restated Economic Development Incentive Agreement				

A Resolution of the City of Plano, Texas, approving the terms and conditions of an Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas and Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed Amended and Restated Economic Development Incentive Agreement by and between the City of Plano, Texas ("City"), and Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation ("Company"), a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, City and Company entered into the initial Economic Development Incentive Agreement on November 23, 2009 (hereinafter "Initial Agreement") to reflect incentives for the Company's relocation of office space and workforce to the City; and

WHEREAS, the Company has complied with the terms of the Initial Agreement and now desires to expand its business in the City by constructing additional office space and training facilities and transferring or creating additional Job Equivalents; and the parties desire to amend said Initial Agreement to provide additional incentives to facilitate the expansion; and

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his authorized designee shall be authorized to execute it on behalf of the City of Plano.

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

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens are hereby in all things approved.

Section II. The City Manager or his authorized designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 26th day of May, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

**AMENDED AND RESTATED
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**

This Amended and Restated Economic Development Incentive Agreement (“Agreement”) is made by and between the City of Plano, Texas (“City”), and Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation (“Company”), acting by and through their respective authorized officers and representatives.

WITNESSETH:

WHEREAS, Company and its affiliates operate and franchise more than 10,000 restaurants in hundreds of countries; and

WHEREAS, the City and Company entered into an initial Economic Development Incentive Agreement (“Initial Agreement”) approved by the City Council in Resolution No. 2009-11-18(R) on November 23, 2009 wherein Company agreed to construct and occupy a minimum 160,000 square-foot office complex on 20.54 acres fronting Corporate Drive and approximately ¼ mile south of Legacy Drive, Plano, Texas, now known as 7100 Corporate Drive, Plano, Texas 75024; construct Real Property improvements with a minimum Taxable Value of Ten Million Dollars (\$10,000,000); add Business Personal Property (“BPP”) to the Property with a minimum Taxable Value of not less than Five Million Dollars (\$5,000,000); transfer or create at least 450 Baseline Job Equivalents on the Property; and maintain occupancy of the Property and the Job Equivalents for the remainder of the Term of the Agreement; and

WHEREAS, the Company has complied with the terms of the Initial Agreement and now desires to expand its business in the City by constructing and improving additional office space and training facilities and transferring or creating additional Job Equivalents; and

WHEREAS, the Company has advised the City that a contributing factor that would induce the Company to maintain and expand its business and commercial activities in the City, thereby generating additional local sales tax revenues and increasing ad valorem tax values for the City, would be an agreement by the City to provide an additional economic development grant to the Company; and

WHEREAS, the Company desires to add Five Million Dollars (\$5,000,000) of Real Property improvements and Two Million Dollars (\$2,000,000) of BPP and maintain its current BPP Taxable Value of Five Million Dollars (\$5,000,000); and

WHEREAS, the Company agrees to occupy, at minimum, an additional 60,000 gross square feet of office space and training facilities and transfer or create up to 150 additional Job Equivalents to be located on the Real Property for the Term of this Agreement; and

WHEREAS, the City Council finds that the occupancy of, at minimum, an additional 60,000 gross square feet of office space and training facilities and the transfer or creation of up to 150 additional Job Equivalents within the City will promote economic development, stimulate commercial activity and enhance the tax base and economic vitality of the City; and

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

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

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

WHEREAS, the Agreement herein restating and further amending the terms and conditions between the parties are in all things approved by the City Council and this Agreement supersedes and replaces the Initial Agreement approved by the City Council in Resolution No. 2009-11-18(R).

NOW THEREFORE, in consideration of the foregoing and the promises, mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree that this Agreement restates, amends, supersedes and replaces all prior agreements signed by the parties as follows:

Article I Definitions

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

“Baseline Job Equivalents” shall mean Four Hundred Fifty (450) Job Equivalents for which the Company has received a grant payment pursuant to the Economic Development Agreement approved by the City Council in Resolution No. 2009-11-18(R). The Baseline Job Equivalents shall be used as a benchmark for calculating additional Job Equivalent requirements for purposes of the grant payments pursuant to Section 4.02 herein.

“Effective Date” shall mean the last date on which all of the parties hereto have executed this Agreement.

“Event of Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of the party), fires, explosions or floods, strikes, slowdowns or work stoppages any of which event(s) directly impact the Company's operations in the City. An economic downturn shall not constitute an Event of Force Majeure.

“Job Equivalent” shall mean one or more Company job positions located at the Property which individually or when combined total 2,080 hours (inclusive of holidays, vacation and sick leave) annually. This term is restricted to City based

employees and excludes remote employees or contract employees. For the purposes of this definition only, Company shall include Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, Restaurant Supply Chain Solutions, PepsiCo Inc., Pizza Hut Inc., Pizza Hut of North America, Inc., Pizza Hut Ltd. (a limited partnership), Yum Restaurants International Inc., Yum Brands Inc., Yum Restaurants Services Group, Inc., KFC and Taco Bell America.

“Real Property” or “Property” shall mean 7100 Corporate Drive, Plano, Texas 75024.

“Taxable Value” shall mean the assessed value of real and business personal property improvements for tax purposes as determined by the Collin County Appraisal District.

“Term” is defined in Article II.

Article II Term

The Term of this Agreement shall begin on the Effective Date and continue until December 31, 2026 unless sooner terminated as provided herein.

Article III Obligations of Company

In consideration for the grant of public funds as set forth in Section 4.01 below, the Company agrees to the following:

(a) Occupy (with affiliates and companies listed under the definition of Job Equivalent) an office complex of not less than 160,000 gross square feet on or before January 1, 2012 and maintain occupancy throughout the Term of this Agreement; and

(b) Transfer or create a minimum of 450 Baseline Job Equivalents on the Real Property on or before December 31, 2011 and maintain Baseline Job Equivalents throughout the Term of this Agreement; and

(c) By January 1, 2017, occupy the additional office space and training facilities on the Real Property and maintain occupancy throughout the Term of this Agreement; and

(d) By January 1, 2017, and subject to maintaining the required 450 Baseline Job Equivalents pursuant to Article III, Section (b) herein, transfer or create at least 75 additional Job Equivalents for a total of at least 525 combined Job Equivalents at the Real Property and maintain the Job Equivalents for a minimum of 180 days prior to any grant payment and continue to maintain those Job Equivalents on the Real Property throughout the Term of this Agreement; and

(e) By December 31, 2019, and subject to maintaining the required number of Baseline Job Equivalents and Job Equivalents pursuant to Article III, Sections (b) and (d) herein, Company may transfer or create up to 75 additional Job Equivalents for a combined total of up to 600 Job Equivalents and maintain those Job Equivalents on the Real Property throughout the Term of this Agreement; and

(f) Use reasonable efforts to place all Company-managed hotel room nights, related to the Company's business activities, at facilities located in the City of Plano.

Article IV Economic Development Grant

4.01 Grant.

(a) Pursuant to the Economic Development Incentive Agreement ("Initial Agreement") approved by the City Council on November 23, 2009 by Resolution No. 2009-11-18(R), City has provided Company a grant of Two Million Thirty-Seven Thousand One Hundred Sixty-Two Dollars and Ninety-Five Cents (\$2,037,162.95) in the following categories:

(i) The City agrees to provide the Company a cash grant of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) for the creation or transfer of 450 Job Equivalents to the Property; the construction and occupancy of a minimum 160,000 gross square feet office complex on the Property with a minimum Taxable Value of Ten Million Dollars (\$10,000,000); and the addition of business personal property of Taxable Value of not less than Five Million Dollars (\$5,000,000) to the Property, all in accordance with the provisions of Article III, Sections (a) and (b) above. The Company agrees to maintain the occupancy and transferred or created Job Equivalents on the Property throughout the Term of this Agreement as provided in Section 4.03 below; and

(ii) The City agrees to provide the Company a grant of up to Two Hundred and Fifty Thousand Dollars (\$250,000) for permit, building inspection, engineering and planning fees paid to the City by Company for the construction of real property improvements to the Property. Subsequently, Company received a reimbursement of One Hundred Eighty-Seven Thousand One Hundred Sixty-Two Dollars and Ninety-Five Cents (\$187,162.95) for this category; and

(iii) The City agrees to provide the Company a grant of Five Hundred Thousand Dollars (\$500,000) for relocation expenses and occupancy costs associated with relocating its headquarters to the Property.

(b) In consideration of the Company successfully fulfilling the obligations as set forth in Article III above, the City agrees to provide the Company an additional cash grant of up to One Hundred Fifty Thousand Dollars (\$150,000) as long as Company meets each of the obligations set out in Article III above and complies with the certification schedule and requirements set out in Section 4.02 below.

4.02 **Grant Payments.** Except as otherwise indicated, Company shall be entitled to the additional grant award in accordance with the following requirements and schedule:

(a) By January 1, 2017, Company shall occupy the additional office space and training facilities at the Real Property; and

(b) By January 1, 2017, Company shall transfer or create 75 Job Equivalents in addition to the Baseline Job Equivalents at the Real Property for a total minimum of 525 Job Equivalents to be eligible to receive an additional grant payment of Seventy-Five Thousand Dollars (\$75,000). The payment will not be pro-rated and will not be paid before July 1, 2017. **Company must submit the Initial Certification form attached hereto as Exhibit “A” certifying compliance with the obligations set forth in Article III, Sections (a), (b), (c) and (d) not earlier than July 1, 2017 and not later than October 1, 2017. A failure to provide this form by that date is an event of default and, if not cured, results in an immediate and complete forfeiture of the additional grant under Section 4.01(b).**

City will make the payment within thirty (30) days of the initial certification unless the City reasonably objects to the certification; and

(c) By December 31, 2019, and subject to the Company transferring, creating and maintaining the total minimum number of Baseline Job Equivalents and Job Equivalents required pursuant to Section 4.02(b) herein, Company may add up to an additional 75 Job Equivalents for a total maximum number of 600 Job Equivalents at the Real Property to be eligible to receive a second (2nd) grant payment of up to Seventy-Five Thousand Dollars (\$75,000) which may be pro-rated at One Thousand Dollars (\$1,000) for each Job Equivalent up to the maximum amount allowed herein. **Company must submit the Annual Certification form attached hereto as Exhibit “B” as required by Section 4.02(d) below certifying the number of Job Equivalents added pursuant to Article III, Section (e) and compliance with Article III, Sections (a), (b), (c) and (d) not later than January 31, 2020 to be eligible for the second (2nd) grant payment. A failure to provide this form by that date is an event of default and, if not cured, results in an immediate and complete forfeiture of the remaining grant.**

City will make the payment within thirty (30) days of receipt of the January 31, 2020 annual certification if Company qualifies for a second (2nd) grant payment pursuant to this Section 4.02(c), unless the City reasonably objects to the certification. In no event will the City make the second (2nd) grant payment prior to January 1, 2020; and

(d) Beginning January 31, 2016 or on the Effective Date of the Agreement, Company must submit an annual certification on the form attached hereto as Exhibit “B” not later than January 31 of each year for the duration of this Agreement certifying compliance with all of the obligations set out in Article III above. **A failure to file the annual certification by the January 31 deadline during the remaining years of the Agreement shall be an event of default and, if not cured, results in the City’s right to a full refund, including damages, as set out in 4.03; and**

(e) All certifications must be executed by the Company’s chief executive or financial officer.

4.03 Refund/Default. In the event the Company allows Job Equivalents at the Property to fall below the number of Job Equivalents for which it has received a grant payment for more than

one hundred eighty (180) consecutive days during the Term of this Agreement, not the result of an Event of Force Majeure, the Company shall refund to the City an amount equal to the amount paid for the lost Job Equivalent as follows:

(a) (i) If Company's Job Equivalents drop below the range of six hundred (600) down to four hundred fifty-one (451) Job Equivalents for more than 180 consecutive days during the Term of this Agreement, the Company shall refund to the City in an amount equal to One Thousand Dollars (\$1,000) for each lost Job Equivalent; and

(ii) If the Company's Baseline Job Equivalents drop below the range of four hundred fifty (450) to zero (0) Job Equivalents for more than 180 consecutive days during the Term of this Agreement, the Company shall refund to the City in an amount equal to Three Thousand Dollars (\$3,000) for each lost Job Equivalent.

For the purposes of determining whether the City is due a refund under this section, the Company shall certify to the City as set out in Section 4.02(d) above the actual number of Job Equivalents at the Real Property for the compliance period using the form attached as Exhibit "B". A failure to make the refund payment prior to or at the time of filing the certification shall constitute an event of default. If a refund has been paid for one or more Job Equivalent(s), Company is not entitled to any future payment for that lost Job Equivalent(s) notwithstanding that it subsequently complies with the Job Equivalent requirements of this Agreement at a later date. In no event shall Company be required to pay for a Job Equivalent for which it never received a grant payment.

(b) If the Company defaults on the payment of any refund or fails to timely provide any certification as required by Section 4.02, the full amount of the entire Grant paid shall be refunded by Company to the City. City may use any efforts to collect such sums owed and Company agrees to pay any and all interest, expenses, including attorney fees, and costs incurred by City. This obligation shall survive termination of this Agreement.

(c) If at any time during the Term of this Agreement the Company is convicted of a violation under 8 U.S.C. Section 1324a(f) regarding the unlawful employment of undocumented workers, it shall reimburse the City all grant funds paid pursuant to this Agreement together with interest charged from the date of payment of the funds at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code §33.01, but without the addition of penalty. Repayment of grant funds and interest shall be due not later than 120 days after the date the Company is convicted of the offense.

Article V Termination

5.01 **Events of Termination.** This Agreement terminates upon any one or more of the following:

- (a) By mutual written agreement of the parties; or
- (b) By expiration of the Term and where no defaults have occurred; or

(c) If a party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof by the non-defaulting party unless a longer period is provided. Any default under this provision and right to recover any claims, refunds, damages and/or expenses shall survive the termination of the Agreement; or

(d) By either party upon written notice to the other if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable, provided that such termination notice shall set forth an explanation of the terminating party's basis for termination under this Subsection (d).

The City Manager or his designee is authorized on behalf of the City to send notice of default and to terminate this Agreement for any default that is not cured.

5.02 **Effect of Termination/Survival of Obligations.** The rights, responsibilities and liabilities of the parties under this Agreement shall be extinguished upon the applicable effective date of termination of this Agreement, except for any obligations or default(s) that existed prior to such termination or as otherwise provided herein and those liabilities and obligations shall survive the termination of this Agreement, including the refund provision, maintenance of records, and access thereto.

Article VI Retention and Accessibility of Records

6.01 Company shall maintain the fiscal records and supporting documentation for expenditures of funds associated with this Agreement. Company shall retain such records, and any supporting documentation for the greater of:

- (a) Five (5) years from the end of the Agreement period; or
- (b) The period required by other applicable laws and regulations.

6.02 Company gives City, its designee, or any of their duly authorized representatives, access to and the right to examine relevant books, accounts, records, audit reports, reports, files, documents, written or photographic material, videotape and other papers, things, or personal and Real Property belonging to or in use by Company pertaining to the Economic Development Program Grant (the "Records") upon receipt of ten (10) business days written notice from the City. The City's access to Company's books and records will be limited to information needed to verify that Company is and has been complying with the terms of this Agreement. Any information that is not required by law to be made public shall be kept confidential by City. In no event shall City's access to Company's Records include any access to any personal and/or medical data of any employees of Company except to confirm payroll information compliance for Job Equivalents. Company shall not be required to disclose to the City any information that by law Company is required to keep confidential. Should any good faith dispute or question arise as to the validity of the data provided, the City reserves the right to require Company to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of

Company. The rights to access the Records shall terminate five (5) years after the termination or expiration of this Agreement. Failure to provide reasonable access to the Records to authorized City representatives shall give the City the right to suspend or terminate this Agreement as provided for in Section 5 above, or any portion thereof, for reason of default. All Records shall be retained by Company for a period of five (5) years after all performance requirements are achieved for audit purposes until such audits or other administrative, civil or criminal matters including, but not limited to, investigations, lawsuits, administrative inquiries and open record requests are completed. Company agrees to maintain the Records in an accessible location.

Article VII Assignment

This Agreement may not be assigned without the express written consent of the non-assigning party, except that the Company may assign this Agreement without obtaining the City's consent (a) to one of its wholly owned affiliates, or (b) to any person or entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or more than ninety (90) percent of the assets of the Company as long as the Company gives sixty (60) days prior written notice to the City and the assignee executes an agreement with the City to be bound to all the terms and conditions of this Agreement and be responsible for any default(s) that occurred prior to or after the assignment.

For any assignment not covered by (a) or (b) in the preceding paragraph, the Company must obtain the prior approval of the City through its City Manager and the assignee must agree to be bound to all the terms and conditions of this Agreement and to accept all liability for any default that occurred prior to and/or after the assignment.

Any assignment agreement must be furnished in a form acceptable to the City and be provided at least thirty (30) days prior to the effective assignment date. City agrees to notify the potential assignee of any known default, but such notification shall not excuse defaults that are not yet known to the City.

Article VIII Miscellaneous

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

8.02 **No Joint Venture.** It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create a partnership or joint venture among the parties. Neither party shall have any authority to act on behalf of the other party under any circumstances by virtue of this Agreement.

8.03 **Notice of Bankruptcy.** In the event Company files for bankruptcy, whether involuntarily or voluntary, Company shall provide written notice to the City within three (3) business days of such event.

8.04 **Authorization.** Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

8.05 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the City:
City of Plano, Texas
Attention: Mr. Bruce D. Glasscock
City Manager
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

With a copy to:
City of Plano, Texas
Attention: Ms. Paige Mims
City Attorney
1520 Avenue K
P. O. Box 860358
Plano, TX 75086-0358

If intended for the Company:
Pizza Hut of America, LLC
Attention: Mr. Al Litchenburg
Chief Development Officer
7100 Corporate Drive
Plano, TX 75024

8.06 **Entire Agreement.** This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

8.07 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without giving effect to any conflicts of law, rule or principle that might result in the application of the laws of another jurisdiction. Venue for any action concerning this Agreement, the transactions contemplated hereby or the liabilities or obligations imposed hereunder shall be in the State District Court of Collin County, Texas.

8.08 **Amendment.** This Agreement may only be amended by the mutual written agreement of the parties.

8.09 **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

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

8.11 **Authorized to Bind.** The persons who execute their signatures to this Agreement represent and agree that they are authorized to sign and bind their respective parties to all of the terms and conditions contained herein.

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

This Agreement shall be effective upon the last date on which all parties have executed this Agreement.

ATTEST:

CITY OF PLANO, TEXAS, a
home-rule municipal corporation

Lisa C. Henderson, CITY SECRETARY

Bruce D. Glasscock, CITY MANAGER

Date: _____

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

ATTEST:

PIZZA HUT OF AMERICA, LLC, a
Delaware limited liability company, f/k/a
PIZZA HUT OF AMERICA, INC., a
Delaware corporation

Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

EXHIBIT "A"

CERTIFICATE OF COMPLIANCE FOR GRANT PAYMENT

Please select one of the options below before signing and returning the certification:

_____ a. I hereby certify that Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, has occupied the Real Property including additional office space and training facilities and transferred or created at least an additional 75 Job Equivalent positions in addition to the required Baseline Job Equivalent positions at the Real Property by January 1, 2017, and is in compliance with all terms of the Agreement and is entitled to receive payment in accordance with Section 4.02(b) of that Agreement. The actual number of Job Equivalents is _____.

_____ b. I hereby certify that Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, has failed to occupy the Real Property including additional office space and training facilities and/or has failed to transfer or create at least an additional 75 Job Equivalent positions above the number of Baseline Job Equivalents at the Real Property by January 1, 2017, and is not in compliance with the Agreement and is not entitled to receive payment in accordance with Section 4.02(b) of that Agreement. The actual number of Job Equivalents is _____.

ATTEST:

PIZZA HUT OF AMERICA, LLC, a
Delaware limited liability company, f/k/a
PIZZA HUT OF AMERICA, INC., a
Delaware corporation

Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date

NOTE: This form is due not earlier than July 1, 2017 and not later than October 1, 2017.

This Certificate of Compliance should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, TX 75086-0358

EXHIBIT "B"

ANNUAL CERTIFICATION OF COMPLIANCE

Please select one of the options below before signing and returning the certification:

_____ a. I hereby certify that Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, is in compliance with each applicable term as set forth in the Agreement and the transferred or added number of Job Equivalents has not fallen below the number for which Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, has received a grant payment in accordance with the terms and conditions set out in Article IV. I further certify that as of December 31 of the prior year, the number of Job Equivalents was _____.

_____ b. I hereby certify that Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, is not in compliance with each applicable term as set forth in the Agreement and the transferred or added number of Job Equivalents has fallen below the number for which Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, has received a grant payment. I further certify that as of December 31 of the prior year, the number of Job Equivalents was _____ and that that the City of Plano has been refunded the appropriate amount as required by Article IV, Section 4.03 of the Agreement.

_____ c. **(FOR USE IN JANUARY 2020 ONLY IF APPLICABLE)** I hereby certify that Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, is in compliance with all terms and conditions of the Agreement and that as of December 31, 2019, Pizza Hut of America, LLC, a Delaware limited liability company, f/k/a Pizza Hut of America, Inc., a Delaware corporation, has added _____ total number of Job Equivalents (not to exceed 75), in addition to the 525 existing Job Equivalents, and is entitled to receive a second (2nd) grant payment in accordance with Section 4.02(c). I further certify that as of December 31 of the prior year, the total number of Job Equivalents was _____.

ATTEST:

PIZZA HUT OF AMERICA, LLC, a
Delaware limited liability company, f/k/a
PIZZA HUT OF AMERICA, INC., a
Delaware corporation

Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date

NOTE: This form is due by January 31 of each year beginning on January 31, 2016 and as long as this Agreement is in effect and should be mailed to:

This Certificate of Compliance should be mailed to:

City of Plano
Finance Department
P.O. Box 860358
Plano, TX 75086-0358