

**AGREEMENT BETWEEN CITY OF KYLE
AND CINESTARZ ENTERTAINMENT, LLC**

STATE OF TEXAS §
 §
COUNTY OF HAYS §

THIS AGREEMENT ("Agreement") is made and entered into by and between the CITY OF KYLE, TEXAS ("City") and CINESTARZ ENTERTAINMENT, LLC, ("Developer") to be effective on the 4th day of March, 2014.

RECITALS

WHEREAS, the Developer is the owner of certain real property located within the corporate limits of the City of Kyle, Texas, as described In Exhibit "A" hereto and incorporated herein by reference ("Property");

WHEREAS, Developer intends to construct on the Property retail development, specifically an entertainment center ("Development"), as further described in this Agreement;

WHEREAS, the successful retail and non-residential Development of the Property will enhance the City's ad valorem and sales tax bases, create new employment opportunities, and contribute to the overall economic development of the City; and,

WHEREAS, Developer and City estimate that the total cost for the Development will total \$15,096,140;

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth herein, the parties hereby agree as follows:

1. Definitions.

- (a) "Certificate of Occupancy" means that final document issued by the City entitled "Certificate of Occupancy" indicating that all building codes, regulations, and ordinances have been officially, unconditionally, and completely complied with in all respects and specifically shall not include any temporary, conditional occupancy.

- (b) "Construct" and "construction" mean construction in a good and workmanlike manner and in compliance with applicable state and local laws, codes, and regulations or valid waivers thereof or variances thereunder.

2. Economic Development Incentive.

- (a) City consideration. In consideration of the construction of the Development and Developer's compliance in all material respects with this Agreement, the City agrees to pay to Developer an economic development incentive which shall not exceed \$54,000.00 unless the City and Developer otherwise agree in writing and is approved by the governing body of the City.
- (b) Precondition of City consideration. In no event shall the City pay, or be liable to pay, Developer said economic development incentive unless and until Developer complies with its obligations set forth in this Agreement, including obtaining a certificate of occupancy issued by the City for the Development.

3. Developer Obligations.

- (a) Developer's consideration. In consideration of Developer being paid \$54,000 by the City, Developer shall provide a minimum of 70,000 square feet of new construction ("construction"), which said construction shall at least include : a movie theater with eleven (11) screens; a bowling alley with fourteen (14) lanes; game room/arcade; sports bar and grill; and party rooms (collectively referred to as "the Development").
- (b) Criteria and Standards compliance. For and in consideration of the incentive payment described herein, Developer or its successors and assigns agree to comply with the City's development criteria, standards and requirements.

4. Other Provisions.

(a) Representations and Warranties:

- i. by the City. The City represents and warrants that this Agreement is within the scope of its authority and that it is duly authorized and empowered to enter into this Agreement.
- ii. by Developer. Developer makes the following representations and warranties as applicable. Any false or substantially misleading statement contained herein shall make this Agreement void or voidable by either the City or Developer:
 - a. This Agreement is within the scope of its authority, and it has been duly authorized and empowered to enter into this Agreement.
 - b. Developer is authorized to do business, is in good standing in the State of Texas, and shall remain in good standing in the State of Texas during the term of this Agreement.

- c. No litigation or governmental proceeding is pending against or affecting Developer and to Developer's actual knowledge, such litigation of governmental proceeding is not expected or anticipated.
 - d. To Developer's actual knowledge, there are no bankruptcy proceedings, whether voluntary or involuntary, currently pending or contemplated involving Developer.
 - e. Developer is not currently in arrears on any payment of ad valorem taxes (or any other obligation) to the City, the Hays County Independent School District or Hays County.
- (b) Section or other headings. Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- (c) Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the transaction contemplated herein.
- (d) Amendment. This Agreement may only be amended, altered, or revoked by written instrument signed by the parties.
- (e) Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns; provided however, the benefits of this Agreement in favor of Developer may not be assigned to any party without the written consent of the City, which consent shall not be unduly withheld, provided that the City is satisfied that any remaining obligations under this Agreement will be met.
- (f) Applicable law and venue. This Agreement and all obligations arising hereunder shall be construed and interpreted under the laws of the State of Texas, and the venue from any action arising from this Agreement shall be Hays County, Texas.
- (g) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

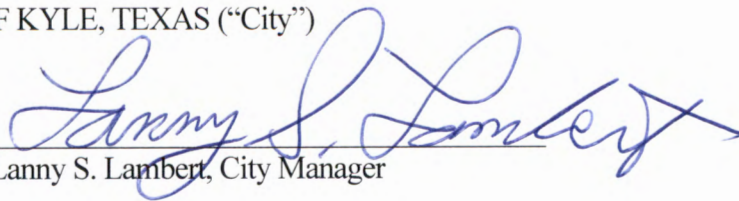
THIS AGREEMENT EXECUTED to be effective this 4th day of March, 2014.

CINESTARZ ENTERTAINMENT, LLC ("Developer")

By: David Kautz
 Title: MANAGER

CITY OF KYLE, TEXAS ("City")

By:


Lanny S. Lambert, City Manager

ATTEST:


Amelia Sanchez, City Secretary

APPROVED AS TO FORM:


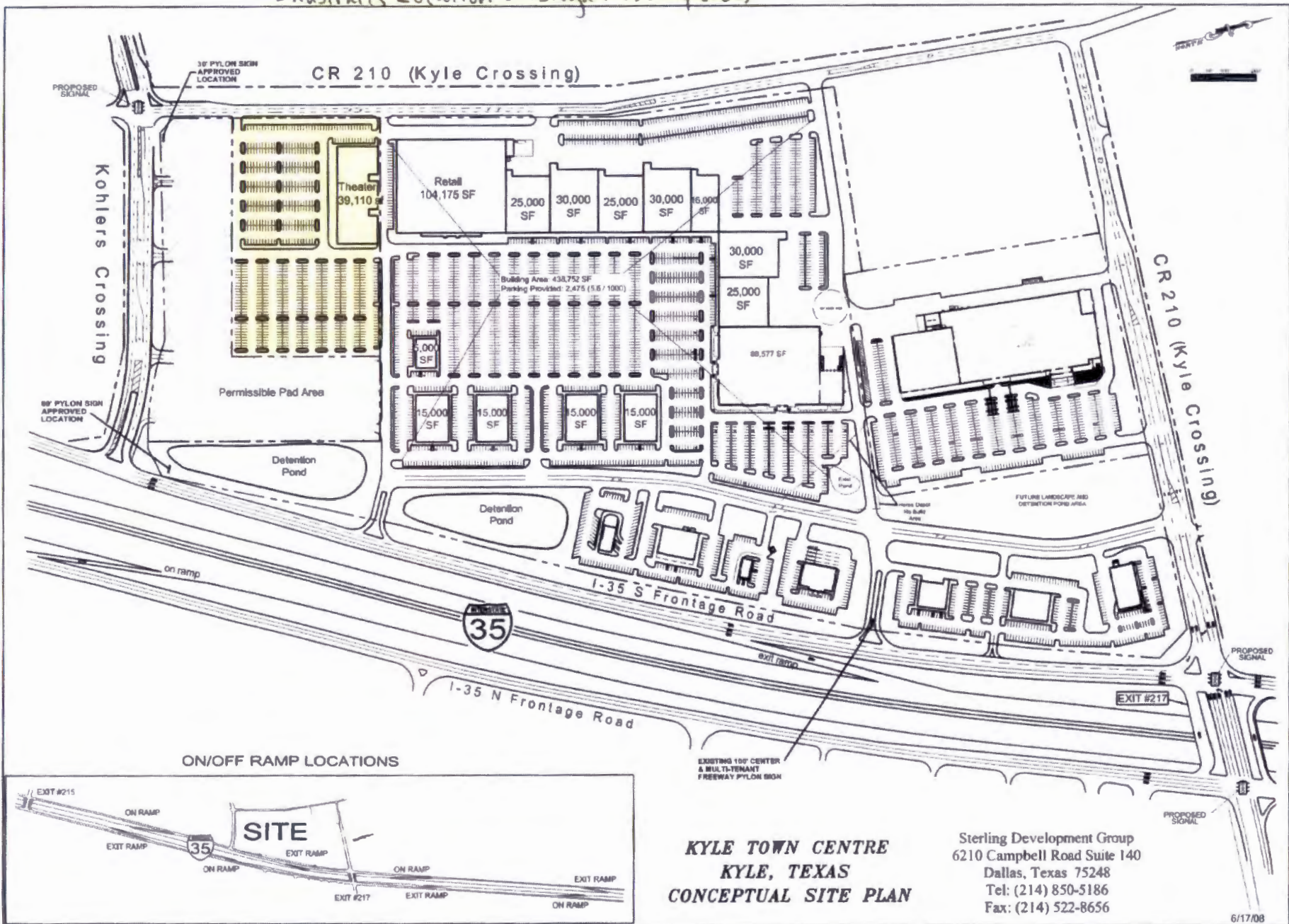

W. Ken Johnson, City Attorney

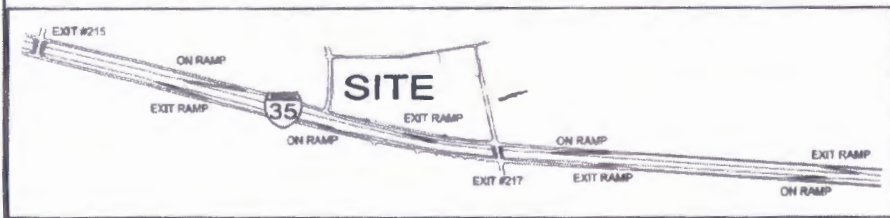
EXHIBIT "A"
LEGAL DESCRIPTION OF THE "PROPERTY"

SEE ATTACHED

*Illustrates Location (Disregard Facility Size)



ON/OFF RAMP LOCATIONS



**KYLE TOWN CENTRE
KYLE, TEXAS
CONCEPTUAL SITE PLAN**

Sterling Development Group
6210 Campbell Road Suite 140
Dallas, Texas 75248
Tel: (214) 850-5186
Fax: (214) 522-8656