THIRD AMENDMENT TO THE
CONTRACT BETWEEN THE CITY OF NEW BRAUNFELS AND HD SUPPLY FACILITIES MAINTENANCE, LTD.

This Third Amendment is made by and between the City of New Braunfels, a home-rule City and a municipal corporation of the State of Texas, hereinafter referred to "CITY", and HD Supply Facilities Maintenance, Ltd., a division of The Home Depot, duly authorized to transact business in Texas ("Company"), acting by and through its officers:

W I T N E S S E T H:

WHEREAS, on January 31, 2005, The Home Depot Supply, Inc. entered into a Performance Agreement with the NBEDC (formerly the NBIDC) that promised creation of 120 jobs in the first year of operation of its facility in New Braunfels at 1511 E. Common St., and 343 jobs by the end of the tenth year of operation (Exhibit A); and

WHEREAS, on December 5, 2006, the Contract was amended to increase the number of jobs from 343 to 390, it included the Extended Rebate Period provision, and changed the name of the Company from The Home Depot Supply, Inc. to HD Supply Facilities Maintenance, Ltd. (Exhibit B); and

WHEREAS, on December 4, 2006, the City of New Braunfels entered into a Chapter 380 Agreement ("Contract") with the Company that reflected the same 390 job commitment, and other similar obligations as those contained in the Performance Agreement with the NBEDC; and

WHEREAS, the Contract was automatically renewed by its terms from December 5, 2016 for an additional ten years with the City continuing to rebate to the Company its share of sales tax until December 5, 2026; and

WHEREAS, by the First Amendment executed in 2020 (Exhibit C), the New Braunfels Economic Development Corporation assumed a portion of the City's obligation to Company under the original contract so that the City of New Braunfels could launch and fund a COVID-19 Small Business Resource Grant Program, as a source of capital for New Braunfels small businesses that experienced significant business interruptions due to the COVID-19 pandemic; and

WHEREAS, the Second Amendment to the Contract executed in 2021 (Exhibit D), resulted from business process changes that no longer allowed for intrastate sales to be sourced to the New Braunfels customer contact center, abated certain obligations of the parties until the agreement terminates by its terms on December 5, 2026, or the parties mutually agree in writing to cease the abatement, whichever occurs first.

WHEREAS, the parties have each fully performed all of their respective obligations pursuant to the Contract, as amended, through the date of this Second Amendment; and

WHEREAS, the Company has now implemented additional changes that will allow a

majority of the Company's intrastate sales to be sourced to the New Braunfels customer control center once again; and

WHERAS, the Company has requested to terminate the abatement in accordance with the Second Amendment to the Contract, that the parties resume their obligations to each other pursuant to the Contract, as amended, and additionally the parties have agreed to an extension of the contract for an additional ten-year period, expiring on December 5, 2036, subject to further extension by agreement; and

WHEREAS, the CITY has also proposed that the EDC assume a portion of the City's obligation, which will result in additional sales tax proceeds for the City's General Fund to be reinvested back into the community for enhancing CITY services.

NOW, THEREFORE, in consideration of the payment of $10.00 and other good and valuable consideration including without limitation the foregoing recitals and of their respective covenants and agreements set forth herein, the receipt and sufficiency of which is hereby acknowledged by the parties, CITY and Company agree as follows:

THIRD AMENDMENT:

1. The following amendments are incorporated into and made part of the original agreement (Exhibit A) and all amendments thereto. By this amendment, the parties agree to terminate the abatement which went into effect on December 1, 2021, and resume their obligations to each other pursuant to the Contract, as previously amended, including but not limited to the following additional terms:

    - The Terms section of the document, item (4) recognizes the updated expiration date of December 5, 2036 as described above.

    - The Terms section of the Contract, item (3) will be amended to reduce the CITY rebate from 50% to 33.3%, with the EDC supporting the reduced contribution by the CITY.

2. Except as modified by this amendment, the Contract, as previously amended, and previously extended through December 5, 2026, all other terms, covenants, conditions, and agreements contained therein not modified above shall in all respects remain unchanged and continue in full force and effect.

3. This contract will not take effect until the NBEDC agreement is executed by the NBEDC and approved by the City Council.

4. To the extent there exists a conflict or ambiguity among the provisions of the Third Amendment and the provisions of the original contract, First Amendment and Second Amendment, the provisions of the Third Amendment shall control.

IN WITNESS WHEREOF, this amendment is executed in multiple original counterparts, but being one and the same instrument, effective as of the 28th day of July, 2025.

CITY OF NEW BRAUNFELS

By: _____
Robert Camareno, *City Manager*

APPROVED AS TO FORM:

Valeria Acevedo
Valeria Acevedo, *City Attorney*

HD SUPPLY FACILITIES
MAINTENANCE, LTD.,

By: _____

Name: SCOTT BOHRER

Title: CHIEF FINANCIAL OFFICER

Before me, Tamara A. Dowell, on this day personally appeared Scott D. Bohrer, known to be to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that Scott D. Bohrer executed the same as the act of the HD SUPPLY FACILITIES MAINTENANCE, LTD., for the purposes and consideration therein expressed.

Subscribed and sworn to me before this 4 day of August, 2025.

Tamara A. Dowell
Notary Public

Commission expires: 4/27/2026

Tamara A Dowell
Notary Public
Henry County, Georgia
My Commission Expires April 27, 2026

Exhibit A

STATE OF TEXAS §
COUNTY OF COMAL §

AGREEMENT BY AND BETWEEN THE NEW BRAUNFELS INDUSTRIAL DEVELOPMENT CORPORATION AND THE HOME DEPOT SUPPLY, INC.

Authority

This Agreement is made under the authority of TX CIV ST Art. 5190.6.

Parties

This Agreement is made and entered into by and between The Home Depot Supply, Inc., a Texas Corporation, duly authorized to transact business in Texas ("Home Depot") and the New Braunfels Industrial Development Corporation, a Non-Profit Corporation of the State of Texas, ("IDC") , and shall be effective when duly executed by signature of the authorized representatives of both Home Depot and IDC ("Effective Date")

Preamble

WHEREAS, City of New Braunfels has previously determined that the creation of a Neighborhood Empowerment Zone would promote an increase in economic development in the zone; and

WHEREAS, the City of New Braunfels by Resolution No.2004-R73 has designated a certain area within the City's jurisdiction as Neighborhood Empowerment Zone ("NEZ") as authorized by the Texas Local Government Code, Chapter 378, section 378.002 and represents to Home Depot that its proposed customer contact center will be located in the NEZ: and

WHEREAS, the City of New Braunfels has previously found that the creation of the Neighborhood Empowerment Zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons of the City of New Braunfels:

WHEREAS, the parties agree that each will benefit by Home Depot's customer contact center being located the previously created Neighborhood Empowerment Zone; and

WHEREAS, IDC believes that The Home Depot Supply, Inc. will have a positive economic effect on the City of New Braunfels;

NOW THEREFORE, in view of the above and foregoing, and in consideration of the mutual agreements herein contained, Home Depot and IDC hereby agree as follows

Terms

In consideration for the mutual promises and covenants given and the mutual benefits received, which is hereby acknowledged by the Parties, the Parties agree as follows:

1. Home Depot agrees to establish a customer contact center located at 1511 E. Common Street, New Braunfels, Texas 78133, as more particularly described on Exhibit "A" attached hereto ("Project Location") that will employ 120 people by the end of the first year of operation and will employ at least 343 people by the end of the tenth year of operation.

2. Home Depot agrees that it will provide IDC , on a monthly basis, a copy of any financial report that Home Depot will submit to the Comptroller of the State of Texas ("Comptroller") relating to Home Depot's remission of sales taxes collected in the City of New Braunfels as a result of the operation of the customer contact center described in Paragraph 1. above (the "Report"). Additionally, Home Depot hereby consents to the State of Texas releasing these monthly reported figures along with any State audit adjustments to IDC , and IDC hereby consents to keep this information "Confidential" in accordance with the Texas Tax Code, including. without limitation, Section 151.027 and to the extent allowed by law.

3. IDC agrees that it will rebate, on a monthly basis and after receiving the Report, confirmation from the State and any State audit adjustments, fifty percent (50%) of the sales tax revenue received by the City of New Braunfels from the Comptroller which is verifiably connected to Home Depot's business activities within the City of New Braunfels described in Paragraph 1 above (the "Rebate").

4. IDC agrees that it will continue the Rebate for a period of ten years ("Rebate Period"), commencing on the date IDC first receives sales tax revenue from the Comptroller relating to the activities covered by this Agreement, or on April 1, 2006. whichever occurs earlier ("Commencement Date").

5. Default and Recapture:

   a. This Agreement may be terminated if Home Depot refuses, fails or neglects to substantially comply with any of the terms of this Agreement or. if any representation made by Home Depot is false or misleading in

any material aspect. Termination of this Agreement may be effected if any such default is not cured within sixty (60) days after written notice by IDC to Home Depot.

b. If IDC terminates this Agreement as a result of Home Depot's default as set out in Paragraph 5a. above, the Rebate will be immediately abolished and sales tax will be due for the entire tax year in which termination occurred and no rebate shall accrue for all tax years thereafter.

c. If during the term of this Agreement, Home Depot should discontinue substantially all of its customer contact center operations described in Paragraph 1 above, then IDC shall have the right to recapture sales taxes for the entire tax year in which such discontinuance occurs and terminate this Agreement.

d. In the event of termination, a bill for the total amounts due will be sent to Home Depot, and Home Depot agrees to pay the total amounts due within sixty (60) days after receipt of the bill. Statutory penalty and interest will accrue if Home Depot fails to timely pay the bill. Nothing in this Agreement shall preclude Home Depot from disputing the bill.

6. Miscellaneous

a. Assignment. Home Depot may assign this Agreement without IDC's written consent however any such assignment shall not relieve Home Depot of its obligations under this Agreement. IDC may only assign this Agreement with Home Depot's express written consent.

b Notice. Any notice required under the provisions of this Agreement shall be in writing and delivered in person, by fax or deposited in the United States Mail, registered or certified, return receipt requested. Any such notice must be addressed to IDC or Home Depot at the following addresses. Any notice shall be deemed received three days after the date of deposit in the United States Mail, unless proof is offered to the contrary. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

Home Depot: Mr. Ross Tanner
Director, Real Estate & Support Services
The Home Depot Supply, Inc.
10641 Scripps Summit Court
San Diego, California 92131

Fax: (858) 831-2458

With a copy to:

John S. Torigian, Esq.
Krell & Torigian
1600 Smith Street, Suite 3885
Houston, Texas 77002

Fax: (713) 951-7611

IDC

Mr. Matthew Harrison, President
New Braunfels Industrial Development Corporation
P.O. Box 311747
New Braunfels, Texas 78131-1747

Fax: (830) 608-2109

Either party may designate a different address or fax number by giving the other party written notice.

c. Binding Agreement. This Agreement has been duly executed and delivered by both parties and constitutes a legal, valid and binding obligation of the parties. Each person executing this Agreement on behalf of each party represents and warrants that they have full right and authority to enter into this Agreement.

d. Amendment. This Agreement may not be amended except in a written instrument specifically referring to this Agreement and signed by the parties hereto.

e. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The State of Texas shall have jurisdiction over this Agreement and the parties hereto, and venue of any legal action filed by either IDC or Home Depot shall be in Comal County, Texas.

f Severability. In the event that one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein, but shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

g. Execution. IDC executes this Agreement by and through its President, Matthew Harrison. Home Depot executes this Agreement by and through its President, Lewis Klessel. The parties further agree that this Agreement may be executed in multiple counterparts, each of which shall be considered an original.

NEW BRAUNFELS INDUSTRIAL DEVELOPMENT CORPORATION:

January 31, 2004/5
DATE

Matthew Harrison
PRESIDENT: MATTHEW HARRISON

ATTEST:

Michael A. Resendez
MICHAEL A. RESENDEZ
CITY SECRETARY

THE HOME DEPOT SUPPLY, INC:

March 25, 2004
DATE

PRESIDENT: LEWIS KLESSEL

EXHIBIT "A"

9.040 acres (393,780 sq. ft.) of land located in the City of New Braunfels, Comal County, Texas, and being out of the Henry Foster Survey No. 34, Abstract No. 154, Comal County, Texas, and being 7.616 acres out of a 31.695 acre tract of land as conveyed by Deed of Gift from Bruno Voges, ET UX to Mildred Bartels, ET AL., executed on April 1, 1982, and recorded in Volume 325, Pages 869-871 of the Deed Records of Comal County, Texas, and being 0.359 of an acre of land out of an 1.596 acre tract as conveyed by Deed of Gift from Bruno Voges ET UX to Mildred Voges Bartels executed on July 29, 1968 and recorded in Volume 164, Pages 464-465 of the Deed Records of Comal County, Texas, and being 0.638 of an acre of land out of a 2.128 acre tract as conveyed by Deed of Gift from Bruno Voges ET UX to Jerome B. Voges, executed on July 24, 1968 and recorded in Volume 164, Pages 570-571 of the Deed Records of Comal County, Texas, and also being 0.427 of an acre of land out of an 1.596 acre tract as conveyed by Deed of Gift from Bruno Voges ET UX to Jerald Dean Voges, executed on July 29, 1968 and recorded in Volume 164, Pages 527-528 of the Deed Records of Comal County, Texas, said 9.040 acres (393,780 sq. ft.) of land being more particularly described as follows

Beginning at a found 1/2" iron pin in the Northwest Right of Way Line of Common Street and being the Southernmost corner of a 1.254 acre tract as recorded in Document No. 9606013930 of the Official Public Records of Comal County, Texas, and being the following courses from a set 1/2" iron pin with plastic cap at the cutback point in the Northwest Right of Way Line of Common Street:

NORTH 51 deg. 17' 57" East, (all bearings in this description are referenced to Grid North of the Texas Coordinate System, Zone 4204, NAD 83 (93), a distance of 151.30 feet to a set 1/2" iron pin with plastic cap being an angle point, North 55 deg. 30' 21" East, a distance of 425.47 feet and North 56 deg. 16' 14" East, a distance of 21.28 feet to said ½" iron pin,

Thence, the following courses along the Southeast line of this parcel and the Northwest Right of Way Line of Common Street: (1) SOUTH 56 deg. 16' 14" West, a distance of 21.28 feet to a set 1/2" iron pin with plastic cap being an angle point; and (2) SOUTH 55 deg. 30' 21" West, a distance of 323.59 feet to a set

1/2" iron pin with plastic cap being the Southernmost corner of this parcel:

Thence,
(3) NORTH 33 deg. 49' 53" West, a distance of 757.79 feet along the Southwest line of this parcel to a set 1/2" iron pin with plastic cap being the Westernmost corner of this parcel;

Thence,
(4) NORTH 56 deg. 10' 07" East, a distance of 666.74 feet along the Northwest line of this parcel to a set 1/2" iron pin with plastic cap being the Northernmost corner of this parcel;

Thence,
(5) SOUTH 44 deg. 18' 03" East, a distance of 400.00 feet along the Northeast line of this parcel to a found 1/2" iron pin being the Easternmost corner of this parcel and being the Westernmost corner of LOT 1, NORTHEAST SUBDIVISION as recorded in Volume 11, Page 145 of the Map and Plat Records of Comal County, Texas;

Thence, the following courses along the Southeast line of this parcel and said 31.695 acre tract and the Northwest line of a 1.194 acre tract as recorded in Volume 941, Pages 481-483 of the Official Public Records of Comal County, Texas and TRACT ONE and TRACT TWO as recorded in Document No. 9606013930 of the Official Public Records of Comal County, Texas:

(6) SOUTH 59 deg. 34' 18" West, a distance of 41.13 feet to a set 1/2" iron pin with plastic cap being an angle point;
(7) SOUTH 58 deg. 52' 23" West, a distance of 224.48 feet to a set 1/2" iron pin with plastic cap being an angle point; and
(8) SOUTH 58 deg. 48' 44" West, a distance of 150.13 feet to a found 1/2" iron pin being the interior corner of this parcel and said 31.695 acre tract and the Westernmost corner of said TRACT ONE;

Thence,
(9) SOUTH 36 deg. 56' 25" East, a distance of 381.26 feet along the Northeast line of this parcel and said 31.695 acre tract and the Southwest line of said TRACT ONE to a found 1/2" iron pin being the POINT OF BEGINNING, and containing 9.040 acres (393.780 sq. ft.) of land.

Exhibit B

STATE OF TEXAS §
COUNTY OF COMAL §

AGREEMENT BY AND BETWEEN
THE CITY OF NEW BRAUNFELS, TEXAS AND HD SUPPLY
FACILITIES MAINTENANCE, LTD.

Authority

This Agreement is made under the authority of Chapter 380 of the Local Government Code of the State of Texas.

Parties

This Agreement is made and entered into by and between HD Supply Facilities Maintenance, Ltd. (now known as Hughes MRO, Ltd.), a Florida limited partnership, duly authorized to transact business in Texas ("Home Depot") and the City of New Braunfels, a Municipal Corporation and a home-rule city in Comal and Guadalupe Counties, Texas ("City") , and shall be effective when duly executed by signature of the authorized representatives of both Home Depot and City ("Effective Date").

Preamble

WHEREAS, City has previously determined that the creation of a Neighborhood Empowerment Zone would promote an increase in economic development in the zone; and

WHEREAS, the City has authorized the City Manager to enter into an agreement with HD Supply Facilities Maintenance, Ltd. to increase an existing call center at the Project Location (described below), which new project it is estimated will create at least 47 new permanent jobs over and above the previous 343 jobs Home Depot committed when the facility is fully operational (the "Project"), and will promote state and local economic development and stimulate business and commercial activity in New Braunfels; and

WHEREAS, City believes that HD Supply Facilities Maintenance, Ltd. will have a positive economic effect on the City of New Braunfels;

NOW THEREFORE, in view of the above and foregoing, and in consideration of the

mutual agreements herein contained, Home Depot and City hereby agree as follows:

Terms

In consideration for the mutual promises and covenants given and the mutual benefits received, which is hereby acknowledged by the Parties, the Parties agree as follows:

1. Home Depot agrees to increase by 47 the number of permanent jobs at its customer contact center located at 1511 E. Common Street, New Braunfels, Texas 78133 ("Project Location") from the current commitment of 343 to a new commitment of at least 390 people by the end of the tenth year of operation.

2. Home Depot agrees that it will provide City, on a monthly basis, a copy of any financial report that Home Depot will submit to the Comptroller of the State of Texas ("Comptroller") relating to Home Depot's remission of sales taxes collected in the City of New Braunfels as a result of the operation of the customer contact center described in Paragraph 1. above (the "Report"). Additionally, Home Depot hereby consents to the State of Texas releasing these monthly reported figures along with any State audit adjustments to the City, and the City hereby consents to keep this information "Confidential" in accordance with the Texas Tax Code, including, without limitation, Section 151.027 and to the extent allowed by law.

3. The City agrees to pay Chapter 380 payments as follows: The City will rebate, on a monthly basis and after receiving the Report, confirmation from the State and any State audit adjustments, fifty percent (50%) of the sales tax revenue received by the City of New Braunfels from the Comptroller which is verifiably connected to Home Depot's business activities within the City of New Braunfels described in Paragraph 1 above (the "Rebate").

4. The City agrees that it will continue the Rebate for a period of ten years ("Rebate Period"), commencing on the date the City first receives sales tax revenue from the Comptroller relating to the activities covered by this Agreement, or on April 1, 2007, whichever occurs earlier ("Commencement Date"). Notwithstanding the foregoing, if the amount of sales tax revenue generated by this Agreement should exceed $10 million during the Rebate Period, such Rebate Period shall be automatically extended for an additional ten (10) year period without further action by either party ("Extended Rebate Period"). However, should the state legislature enact future legislation which would limit the duration of the Extended Rebate Period, then such Extended Rebate Period shall be automatically modified by such legislation as applicable without further action by either party. However, in no event shall the initial Rebate Period be subject to any such modification.

5. <u>Default and Recapture</u>:

a. This Agreement may be terminated if Home Depot refuses, fails or neglects to substantially comply with any of the terms of this Agreement or, if any representation made by Home Depot is false or misleading in any material aspect. Termination of this Agreement may be effected if any such default is not cured within sixty (60) days after written notice by the City to Home Depot.

b. If the City terminates this Agreement as a result of Home Depot's default as set out in Paragraph 5a. above, the Rebate will be immediately abolished and sales tax will be due for the entire tax year in which termination occurred and no rebate shall accrue for all tax years thereafter.

c. If during the term of this Agreement, Home Depot should discontinue substantially all of its customer contact center operations described in Paragraph 1 above, then theCity shall have the right to recapture sales taxes for the entire tax year in which such discontinuance occurs and terminate this Agreement.

d. In the event of termination, a bill for the total amounts due will be sent to Home Depot, and Home Depot agrees to pay the total amounts due within sixty (60) days after receipt of the bill. Statutory penalty and interest will accrue if Home Depot fails to timely pay the bill. Nothing in this Agreement shall preclude Home Depot from disputing the bill.

6. Miscellaneous

a. Assignment. Home Depot may assign this Agreement without the City's written consent however any such assignment shall not relieve Home Depot of its obligations under this Agreement. City may only assign this Agreement with Home Depot's express written consent.

b. Notice. Any notice required under the provisions of this Agreement shall be in writing and delivered in person, by fax or deposited in the United States Mail, registered or certified, return receipt requested. Any such notice must be addressed to the City or Home Depot at the following addresses. Any notice shall be deemed received three days after the date of deposit in the United States Mail, unless proof is offered to the contrary. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

Home Depot: Mr. Ross Tanner
Director, Real Estate & Support Services

HD Supply Facilities Maintenance, Ltd.
10641 Scripps Summit Court
San Diego, California 92131

Fax: (858) 831-2458

With a copy to:

John S. Torigian, Esq.
Krell & Torigian
1600 Smith Street, Suite 3885
Houston, Texas 77002

Fax: (713) 951-7611

City: City Manager
City of New Braunfels
P.O. Box 311747
New Braunfels, Texas 78131-1747

Fax: (830) 608-2109

Either party may designate a different address or fax number by giving the other party written notice.

c. Binding Agreement. This Agreement has been duly executed and delivered by both parties and constitutes a legal, valid and binding obligation of the parties. Each person executing this Agreement on behalf of each party represents and warrants that they have full right and authority to enter into this Agreement.

d. Amendment. This Agreement may not be amended except in a written instrument specifically referring to this Agreement and signed by the parties hereto.

e. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The State of Texas shall have jurisdiction over this Agreement and the parties hereto, and venue of any legal action filed by either the City or Home Depot shall be in Comal County, Texas.

f. Severability. In the event that one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed as if

such invalid, illegal, or unenforceable provision had never been contained herein, but shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

g. Execution. The City executes this Agreement by and through the City Manager acting under the Order and authorization of the City Council of the City of new Braunfels, Texas. Home Depot executes this Agreement by and through its Vice President of Facilities Maintenance/MRO, Brett A. Brown. The parties further agree that this Agreement may be executed in multiple counterparts, each of which shall be considered an original.

CITY OF NEW BRAUNFELS, TEXAS:

12/4, 2006
DATE

MICHAEL MORRISON, CITY MANAGER

ATTEST:

MICHAEL A. RESENDEZ
CITY SECRETARY

HD SUPPLY FACILITIES MAINTENANCE, LTD. (now known as Hughes MRO, Ltd.):

HUGHES MRO, LTD.:

By: HD Supply GP & Management, Inc., its General Partner

By:
Brett Brown
Vice President, Facilities Maintenance/MRO

Date: 12/5, **2006**

Exhibit C

FIRST AMENDMENT TO THE CONTRACT BETWEEN THE NEW BRAUNFELS ECONOMIC DEVELOPMENT CORPORATION AND HD SUPPLY FACILITIES MAINTENANCE, LTD.

This First Amendment is made by and between the New Braunfels Economic Development Corporation, a non-profit corporation of the State of Texas, formerly known as the New Braunfels Industrial Development Corporation, hereinafter referred to "EDC", and HD Supply Facilities Maintenance, Ltd., a Florida limited partnership, duly authorized to transact business in Texas ("Company"), acting by and through its officers:

WITNESSETH:

I.

WHEREAS, Texas Local Government Code §501.054 provides the EDC with the powers of non-profit corporations incorporated under the Texas Non-Profit Corporation Act, as amended, and Section Seven of the Bylaws of the EDC allows for the President and Secretary of the EDC to execute any contract which the Board has approved and authorized to be executed; and

WHEREAS, the global pandemic brought about by COVID-19 has resulted in federal, state and local emergency actions that have resulted in significant economic hardship for local businesses; and

WHEREAS, mandatory business closings, social distancing restrictions, and business occupancy restrictions have led to significant business interruptions and decreased revenue for local small businesses; and

WHEREAS, the original contract was entered into between the above named parties and executed on the 5th of December, 2006; and

WHEREAS, the original Contract was renewed for an additional ten years in 2015 and will continue to be in effect through December 2026; and

WHEREAS, by this Amendment to the original contract, the EDC will assume a portion of the obligation of the City of New Braunfels to Company under the original contract for fiscal years 2020 and 2021, and the EDC will enable the City of New Braunfels to fund the proposed COVID-19 Small Business Resource Grant Program; and

WHEREAS, the proposed COVID-19 Small Business Resource Grant Program will serve as a source of capital for New Braunfels small businesses that experienced significant business interruptions due to the COVID-19 pandemic.

NOW, THEREFORE, in consideration of the foregoing and of their respective covenants and agreements set forth herein, EDC and Company agree as follows:

AMENDMENT:

II.

1. Section 3 of the Contract is hereby deleted and replaced with the following:

For fiscal years 2020 and 2021, EDC agrees that it will rebate, on a monthly basis and after receiving the Report, confirmation from the State and any State audit adjustments, one-hundred percent (100%) of the sales tax revenue received by the EDC via the City of New Braunfels from the Comptroller which is verifiably connected to Company's business activities within the City of New Braunfels described in Paragraph 1 above (the "Rebate").

For fiscal years 2022 through the end of this Contract, EDC agrees that it will rebate, on a monthly basis and after receiving the Report, confirmation from the State and any State audit adjustments, fifty percent (50%) of the sales tax revenue received by the EDC via the City of New Braunfels from the Comptroller which is verifiably connected to Company's business activities within the City of New Braunfels described in Paragraph 1 above (the "Rebate").

2. All references to New Braunfels Industrial Development Corporation and IDC are hereby deleted and replaced with New Braunfels Economic Development Corporation and EDC respectively.

3. Except as modified by this Amendment, the Contract as previously extended through December 2026 and all terms, covenants, conditions and agreements contained therein are hereby in all respects ratified, confirmed and approved, and shall remain unchanged and continue in full force and effect.

IN WITNESS WHEREOF, this First Amendment is executed in multiple original counterparts, but being one and the same instrument, effective as of the 8 day of August 2021.

CITY OF NEW BRAUNFELS ECONOMIC DEVELOPMENT CORPORATION

By: Kathy A Meurin
Kathy A. Meurin (Aug 17, 2021 15:56 CDT)
~~Neal Linnartz~~, *President*
Kathy Meurin

ATTEST:

James B. Poage
James B. Poage (Aug 17, 2021 16:40 CDT)
Jim Poage, *Corporate Secretary*

APPROVED AS TO FORM:

Valeria M. Acevedo
Valeria Acevedo, *City Attorney*

HD Supply GP & Management, Inc.

By: _____
Chief Financial Officer

Exhibit D

SECOND AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF NEW BRAUNFELS AND HD SUPPLY FACILITIES MAINTENANCE, LTD.

This Second Amendment is made by and between the City of New Braunfels, a home-rule City and a municipal corporation of the State of Texas, hereinafter referred to "CITY", and HD Supply Facilities Maintenance, Ltd., a Florida limited partnership, duly authorized to transact business in Texas ("Company"), acting by and through its officers:

WITNESSETH:

WHEREAS, on January 31, 2005, The Home Depot Supply, Inc. entered into a Performance Agreement with the NBEDC (formerly the NBIDC) that promised creation of 120 jobs in the first year of operation of its facility in New Braunfels at 1511 E. Common St., and 343 jobs by the end of the tenth year of operation (Exhibit A); and

WHEREAS, on December 5, 2006, the Contract was amended to increase the number of jobs from 343 to 390, it included the Extended Rebate Period provision, and changed the name of the Company from The Home Depot Supply, Inc. to HD Supply Facilities Maintenance, Ltd. (Exhibit B); and

WHEREAS, on December 4, 2006, the City of New Braunfels entered into a Chapter 380 Agreement ("Contract") with the Company that reflected the same 390 job commitment, and other similar obligations as those contained in the Performance Agreement with the NBEDC; and

WHEREAS, the Contract was automatically renewed by its terms from December 5, 2016 for an additional ten years with the City continuing to rebate to the Company its share of sales tax until December 5, 2026; and

WHEREAS, by the First Amendment executed in 2020 (Exhibit C), the New Braunfels Economic Development Corporation assumed a portion of the City's obligation to Company under the original contract so that the City of New Braunfels could launch and fund a COVID-19 Small Business Resource Grant Program, as a source of capital for New Braunfels small businesses that experienced significant business interruptions due to the COVID-19 pandemic; and

WHEREAS, the parties have each fully performed all of their respective obligations pursuant to the Contract, as amended, through the date of this Second Amendment; and

WHEREAS, the Company has indicated that their business processes may change, effective February 1st, 2022, in such a way that intrastate sales may no longer be sourced to the New Braunfels customer control center; and

WHEREAS, given the Company's decision, the Company has offered to abate the sales tax sharing agreement effective December 1, 2021, for the CITY's financial benefit in advance of the Company's change in business process; and

WHEREAS, the parties now seek to enter into a Second Amendment to the Contract, as amended, which will abate certain obligations of the parties until the agreement terminates by its terms on December 5, 2026, or the parties mutually agree in writing to cease the abatement, whichever occurs first.

NOW, THEREFORE, in consideration of the payment of $10.00 and other good and valuable consideration including without limitation the foregoing recitals and of their respective covenants and agreements set forth herein, the receipt and sufficiency of which is hereby acknowledged by the parties, iCITY and Company agree as follows:

SECOND AMENDMENT:

1. The following amendments are incorporated into and made part of the original agreement (Exhibit A) and all amendments thereto. By this amendment, the parties agree to abate all the obligations by either party effective December 1, 2021, SAVE AND EXCEPT for the City's obligation to pay the Rebate to the Company earned through December 1, 2021, when it is received from the Comptroller subsequently. Without limiting the scope of the abatement, the parties agree to abate paragraphs 3 and 4 of the Contract until the Contract terminates on December 5, 2026, or until the parties mutually agree by written agreement to resume their respective obligations, whichever occurs sooner. All obligations by either party are hereby abated effective December 1, 2021, including, without limitation the following City obligations:

   3. City agrees to pay Chapter 380 payments as follows: The City will rebate, on a monthly basis and after receiving the Report, confirmation from the State and any State audit adjustments, fifty percent (50%) of the sales tax revenue received by the City of New Braunfels from the Comptroller which is verifiably connected to Home Depot's business activities within the City of New Braunfels described in Paragraph 1 above (the "Rebate").
   4. The City agrees that it will continue the Rebate for a period of ten years ("Rebate Period"), commencing on the date the City first receives sales tax revenue from the Comptroller relating to the activities covered by this Agreement, or on April 1, 2007, whichever occurs earlier (Commencement Date"). Notwithstanding the foregoing, if the amount of sales tax revenue generated by this Agreement should exceed $10 million during the Rebate Period, such Rebate Period shall be automatically extended for an additional ten (10) year period without further action by either party ("Extended Rebate Period"). However, should the state legislature enact future legislation which would limit the duration of the Extended Rebate Period, then such Extended Rebate Period shall be automatically modified by such legislation as applicable without further action by either party. However, in no event shall the initial Rebate Period be subject to any such modification.

2. Except as modified by this amendment, the Contract, as amended, and previously extended through December 5, 2026, and all other terms, covenants, conditions, and agreements contained therein not modified above shall in all respects remain unchanged and continue in full force and effect.

IN WITNESS WHEREOF, this amendment is executed in multiple original counterparts, but being one and the same instrument, effective as of the 1st day of December 2021.

CITY OF NEW BRAUNFELS

By: Robert Camareno
Robert Camareno (Mar 14, 2022 13:19 CDT)
Robert Camareno, City Manager

APPROVED AS TO FORM:

Valeria M. Acevedo

Valeria Acevedo, *City Attorney*

HD SUPPLY FACILITIES MAINTENANCE, LTD., a Florida limited partnership.

By: _____

Name: Brad Paulsen

Title: President