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6-24-04

EXHIBIT A TO COUNCIL ORDINANCE

CITY OF AUSTIN / SAMSUNG AUSTIN SEMICONDUCTOR, L.P.,

CHAPTER 380

ECONOMIC DEVELOPMENT AGREEMENT

This Chapter 380 Economic Development Agreement ("Agreement") is made and entered into by and between SAMSUNG AUSTIN SEMICONDUCTOR, L.P., a Delaware limited partnership, its successors and assigns ("Owner") and the CITY OF AUSTIN, TEXAS, a home rule city and municipal corporation ("City").

RECITALS

WHEREAS, the City has adopted Ordinance No. ____, attached as Exhibit "A" ("Ordinance"), establishing and authorizing the City Manager to make economic development grants to Owner in recognition of the positive economic benefits to the City through Owner's proposal to expand its facilities located at 12100 Samsung Boulevard, Austin, Texas 78754 (the "Facilities"), which expansion will create at least 240 permanent jobs over the next five years that will promote state and local economic development and stimulate business and commercial activity in Austin; and

WHEREAS, the proposed expansion would allow fabrication of semiconductors at Owner's Facilities to continue into the next decade and would increase Austin Energy's base revenues by approximately \$1.6 million annually; and

WHEREAS, the investment by Samsung is estimated to be \$500 million and the total economic impact to the Austin area is estimated to be \$750 million; and

WHEREAS, expansion of such Facilities will add new property to the City's tax base; and

WHEREAS, the City desires to offer incentives to Owner that will enable Owner to expand the Facilities in a manner proposed by Owner;

NOW, THEREFORE, in consideration of the mutual benefits and promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Owner agree as follows:

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1. Authority. The City's execution of this Agreement is authorized by Chapter 380 of the Texas Local Government Code and the Ordinance and constitutes a valid and binding obligation of the City. Owner's execution and performance of this Agreement constitutes a valid and binding obligation of Owner in the event Owner proceeds with the expansion of the Facilities. The City acknowledges that Owner is acting in reliance upon the City's performance of its obligations under this Agreement in making its decision to commit substantial resources and money to expand the Facilities.

2. Definitions.

"**Austin Energy**" is the Electric Utility Department of the City.

"**Chapter 380 Payment**" means the amount paid by the City to Owner under the Program (defined below).

"**Effective Date**" is the date this Agreement is signed by the City and Owner.

"**Expansion Project**" means new construction and semiconductor fabrication installations at the Facilities including expansion of Owner's existing 105,000 square foot fabrication (clean room) with a 34,000 square foot addition.

"**Facilities**" means Owner's existing offices, plant and equipment, property and buildings located at 12100 Samsung Boulevard, Austin, Texas 78754.

"**Program**" means the economic development program for this project established by the City pursuant to Texas Local Government Code Chapter 380 and under the Ordinance to promote local economic development and stimulate business and commercial activity within the City.

3. Term. This Agreement shall become enforceable upon execution by the City and Owner and shall be effective on the Effective Date. Owner and the City shall confirm the Effective Date in writing once it has occurred. This Agreement shall terminate on July 1, 2009, unless extended by mutual agreement of the parties.

4. Owner Obligations. In consideration of the City's participation in the Program, if Owner proceeds with the Expansion Project and accepts the Chapter 380 Payment from the City pursuant to this Agreement, Owner agrees that the following performance guidelines shall be met:

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a. Commencement of Expansion Project. Owner shall issue a notice to proceed to a contractor to commence construction of the Expansion Project no later than two (2) months after the Effective Date and shall diligently pursue such construction. In the event that Owner fails to commence the Expansion Project by September 1, 2004, Owner shall reimburse City for any Chapter 380 Payment received by Owner prior to such date, and this Agreement shall terminate and be of no further effect.

a. Owner Energy Infrastructure Improvements and Related Facilities. Owner will use the One Million Dollar (\$1,000,000) Chapter 380 Payment solely toward the costs and expenses of constructing, engineering and installing energy infrastructure improvements on Owner's side of the Austin Energy electric service meter as follows:

1) All feeder cable, cable rerouting and splicing beyond the metering point in the Austin Energy switchgear will be completed by and paid for by Owner.

2) Due to the network distribution configuration the fault current available at 12.47 kV is estimated to be 33 kA. Owner is responsible for all modifications necessary at its site to accommodate this level of available fault current.

3) It is the Owner's sole responsibility to modify their existing equipment by addition of control and protection devices such as network protectors to make it compatible with the proposed network distribution system.

4) All cost associated with the modification of Owner's existing or new equipment is Owner's sole responsibility. Owner will own, operate and maintain all of its facilities, including those described above, and Austin Energy will have no responsibility for them. Owner's construction activities on Owner's side of the Austin Energy meter may be monitored by the City Manager for compliance with the above.

b. Employment Opportunities. By July 1, 2009, at least two hundred forty (240) permanent jobs will have been created and added at the Facilities.

c. Austin Energy Sales. By July 1, 2009, Owner will increase by at least 60 million Kwh its annual energy consumption at the Facilities as modified by the Expansion Project.

d. Failure to Meet Obligations. In the event that Owner fails to fulfill its obligations under the performance guidelines in paragraphs 4.c and 4.d above, Owner shall reimburse the City for all costs and expenses, including overhead, and any Chapter 380 Payment, incurred or paid by the City for or relating to the Expansion Project, upon a written request by the City for reimbursement, no later than thirty (30) days after such request. Upon request of the Owner, the City will

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provide Owner a complete written accounting of all costs, expenses and overhead incurred by the City for or relating to the Expansion Project. During the term of this agreement, Owner shall make available to the City upon request records establishing the number of permanent employees employed at its Facilities.

5. City Obligations.

a. City Facilities. The City will install and energize new equipment in Austin Energy's Dessau Substation, as shown on Austin Energy's one-line drawing attached as Exhibit "B", to meet Owner's increased capacity needs as follows:

1) Total customer load after the Expansion Project is projected to be less than 50 MVA total, meaning that there will be adequate capacity available to operate the Facilities as modified by the Expansion Project in the event of a loss of a single transformer.

2) The improvements will include two new 50 MVA transformers, switchgear sets, circuit switchers and associated duct bank within Dessau Substation, as well as the engineering services, labor and auxiliary equipment needed to complete installation.

3) After construction is complete and new units are energized, the cables feeding the Facilities as modified by the Expansion Project will be rerouted and terminated at the new switchgear. The parties acknowledge and agree that feeder outages will be required to complete the relocation work and will be coordinated by the City with Owner. The City will make arrangements for the temporary power required to Expansion Project prior to the completion of this work.

4) New unit sub transformers will be operated in parallel with the high side of the transformers tied together through 138kV breakers, and the low side of the transformers will be tied through bus tie breakers at the 12.47 kV switchgear.

b. City Chapter 380 Payment to Owner. The City will pay Owner One Million Dollars (\$1,000,000) for Owner's use solely toward the costs and expenses of constructing, engineering and installing energy infrastructure improvements on Owner's side of the Austin Energy electric service meter as more fully described in paragraph 4.a above.

c. Payment Terms. The total direct Chapter 380 Payment under this Agreement to be paid to Owner shall not exceed One Million Dollars (\$1,000,000), to be paid out of Austin Energy funds on a mutually agreeable date no later than November 1, 2004.

d. Payments Subject to Future Appropriation. This Agreement shall not be construed as a commitment, issue or obligation of any specific taxes or tax revenues for payment to Owner. All payments made by the City under this

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Agreement are subject to the City's appropriation of funds for such payments to be made in the budget year for which they are made. The payments to be made to Owner, if paid, shall be made solely from annual appropriations from the general funds of the City or from such other funds of the City as may be legally set aside for the implementation of Article III, Section 52a of the Texas Constitution or Chapter 380 of the Local Government Code or any other economic development or financing program authorized by statute or home rule powers of the City under applicable Texas law, subject to any applicable limitations or procedural requirements. In the event the City does not appropriate funds in any fiscal year for payments due under this Agreement, the City shall not be liable to Owner for such payments, and the Owner shall have the right but not the obligation to rescind this Agreement. To the extent there is a conflict between this paragraph 5.d and any other language or covenant in this Agreement, this paragraph 5.d shall control.

6. Mutual Assistance. City and Owner will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement, and to aid and assist each other in carrying out such terms and provisions in order to put each other in the same economic condition contemplated by this Agreement regardless of any changes in public policy, the law or taxes or assessments attributable to the Facilities and the Expansion Project.

7. Permitting. As relates to the Expansion Project, the City shall (a) work with Owner to expeditiously review Owner's development plans and process permit applications, (b) provide on-site City inspectors, and (c) waive, by separate ordinance, City building review and permit fees and Austin Energy's usual dual feed service installation fees.

8. Representations and Warranties. The City represents and warrants to Owner that the Program and this Agreement are within its authority, and that it is duly authorized and empowered to establish the Program and enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. Owner represents and warrants to City that it has the requisite authority to enter into this Agreement.

9. Default. If either the City or Owner should default in the performance of any obligations of this Agreement, the other party shall provide such defaulting party written notice of the default, and a minimum period of thirty (30) days to cure such default, prior to instituting an action for breach or pursuing any other remedy for default.

10. Attorney's Fees. In the event any legal action or proceeding is commenced between the City and Owner to enforce provisions of this Agreement and recover damages for breach, the prevailing party in such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action, to the extent allowed by law.

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11. Entire Agreement. This Agreement contains the entire agreement between the parties. This Agreement may only be amended, altered or revoked by written instrument signed by the City and Owner.

12. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns.

13. Assignment. Except as provided, Owner may not assign all or part of its rights and obligations to a third party without prior written approval of the City, which approval shall not be unreasonably withheld or delayed. Notwithstanding anything to the contrary, Owner may assign all or part of its rights and obligations without the prior consent of the City to any party affiliated with Owner by reason of controlling, being controlled by, or being under common control, with Owner, or to a third party lender advancing funds for the acquisition, construction or operation of the Expansion Project.

14. Termination. In the event Owner elects not to proceed with the Expansion Project as contemplated by this Agreement, Owner shall notify the City 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, with the exception of reimbursements, if any, that may be due to the City under paragraph 4.d above.

15. Notice. Any notice and or statement required and permitted to be delivered shall be deemed delivered by actual delivery, facsimile with receipt of confirmation, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

Owner: Samsung Austin Semiconductor, L.P.
Attn: General Counsel
12100 Samsung Boulevard
Austin, Texas 78754
Ph: (512) 672-1000
Fx: (512) 672-1615
re: Economic Development Agreement

City: City Manager
124 West 8th Street
Austin, Texas 78701
(P.O. Box 1088, Austin, Texas 78767)
Ph: (512) 499-2200
Fx: (512) 499-2832

with copies to:

General Manager, Austin Energy
Town Lake Center, 721 Barton Springs Road
Austin, Texas 78704-1194
Ph: (512) 322-6002
Fx: (512) 322-6005

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City Attorney
114 West 7th Street, Fifth Floor
Austin, Texas 78701
(P.O. Box 1546, Austin, Texas 78767)
Ph: (512) 499-2175
Fx: (512) 499-2912

Either party may designate a different address at any time upon written notice to the other party.

16. Interpretation. Each of the parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any party.

17. Applicable Law. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in the State courts of Travis County, Texas.

18. Severability. In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of the parties that the remainder of this Agreement shall not be affected. It is also the intention of the parties of this Agreement that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

19. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

20. No Third Party Beneficiaries. This Agreement is not intended to confer any rights, privileges or causes of action upon any third party.

21. 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 any partnership or joint venture among the parties. The City, its past and future officers, elected officials, employees and agents do not assume any responsibilities or liabilities to any third party in connection with the Expansion Project or the design, construction or operation of any portion of the Facilities or the Expansion Project.

22. Exhibits. The following Exhibits "A" - "B" are attached and incorporated by reference for all purposes:

Exhibit "A": Ordinance No. _____

Exhibit "B": Austin Energy one-line drawing

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EXECUTED to be effective as of the ____ day of _____, 2004.

**SAMSUNG AUSTIN SEMICONDUCTOR,
L.P.**

a Delaware limited partnership

By: Samsung Austin General, L.P.,
its General Partner

By: _____

Printed Name: _____

Title: _____

Date: _____

CITY OF AUSTIN, TEXAS,
a home rule city and municipal corporation

By: _____

_____, City Manager,

APPROVED as to form:

_____, City Attorney