ORDINANCE NO. <u>4785</u> File No. Z0420-0134

AN ORDINANCE AMENDING THE MESQUITE ZONING ORDINANCE BY APPROVING A CHANGE OF ZONING FROM AGRICULTURE TO PLANNED DEVELOPMENT – INDUSTRIAL ON PROPERTY LOCATED AT 12955 FM 2932 TO ALLOW FOR AN INDUSTRIAL BUSINESS PARK SUBJECT TO CERTAIN STIPULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the City Council, in compliance with the Charter of the City of Mesquite, state laws and the zoning ordinance, have given the required notices and held the required public hearings regarding the rezoning of the subject property; and

WHEREAS, the City Council finds that it is in the public interest to grant this change in zoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. The subject property is approximately 284 acres of land situated in the John Moore Survey, Abstract Number 309, in the City of Mesquite, Kaufman County, Texas, more particularly described in Exhibit A attached hereto, and located at 12955 FM 2932 (collectively the "**Property**").

SECTION 2. The Mesquite Zoning Ordinance is amended by approving a change of zoning for the Property from Agriculture to Planned Development – Industrial, to allow for an industrial business park subject to the Planned Development Standards and the Concept Plan, attached hereto as Exhibits B and C respectively and incorporated herein by reference, and also subject to the following stipulation:

- A street interior to the Planned Development shall be installed to City of Mesquite specifications for a collector street with the exception that the concrete depth shall be the greater of ten (10) inches or a depth determined to be necessary by a geotechnical study.
- SECTION 3. All ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed; otherwise, they shall remain in full force and effect.
- SECTION 4. The Property shall be used only in the manner and for the purposes provided for by the Mesquite Zoning Ordinance, as amended.

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SECTION 5. Should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

Any person (as defined in Chapter 1, Section 1-2 of the Code of the SECTION 6. City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed \$2,000.00 for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

This ordinance shall take effect and be in force from and after five SECTION 7. days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 15th day of June 2020.

Bruce Archer

Mayor

ATTEST:

City Secretary

APPROVED AS TO LEGAL FORM:

David L. Paschall City Attorney

LEGAL DESCRIPTION

BEING, all of that 283.517 acre (12,350,020 square foot) tract of land situated in the John Moore Survey, Abstract Number 309, in the City of Mesquite, Kaufman County, Texas; being parts of those tracts of land described as Exhibit A, Tract 2 and Exhibit B, Tract 2 in Partnership Distribution and Partition Deed to Carolyn Crockett West, et al as recorded in Volume 1636, Page 43 of the Official Public Records of Kaufman County, Texas; said 283.517 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING, at a 1/2-inch iron rod with "DAA" cap found at the most northerly northwest corner of that tract of land described as Tract 4 in Special Warranty Deed to HW Heartland, L.P. as recorded in Volume 3119, Page 158 of the Official Public Records of Kaufman County, Texas; said point being an angle point in the southeast line of that called 41.500 acre tract of land described in Special Warranty Deed to D.R. Horton - Texas, Ltd. as recorded in Volume 5763, Page 43 of the Official Public Records of Kaufman County, Texas; said point being the west corner of said Exhibit A, Tract 2;

THENCE, North 44° 45' 38" East, at a distance of 668.48 feet passing a 5/8-inch iron rod with "PETITT RPLS 4087" cap found at the east corner of said 41.500 acre tract; said point being the south corner of that called 10.312 acre tract of land described in Special Warranty Deed to D.R. Horton - Texas, Ltd. as recorded in Volume 5853, Page 97 of the Official Public Records of Kaufman County, Texas; at distance of 1,898.52 feet passing a 3/4-inch iron pipe found at the east corner of said 10.312 acre tract; said point being an ell corner in the northwest line of said Exhibit A, Tract 2; continuing in all a total distance of 3,003.41 feet to a 5/8-inch iron rod with "BGE" cap set for corner;

THENCE, South 45° 14' 22" East, a distance of 1,234.92 feet to a 5/8-inch iron rod with "BGE" cap set for corner;

THENCE, North 08° 54' 23" East, a distance of 861.67 feet to a 5/8-inch iron rod with "BGE" cap set for corner in the southwest line of Farm-to-Market Highway No. 2932 (a 100-foot wide right-of-way);

THENCE, South 46° 07' 04" East, with the southwest line of said Farm-to-Market Highway No. 2932, a distance of 2,777.43 feet to a 5/8-inch iron rod with "BGE" cap set for corner;

THENCE, South 43° 52' 56" West, departing the southwest line of said Farm-to-Market Highway No. 2932, and partially along Griffin Lane (a generally recognized public road, no record of dedication found), a distance of 3,680.96 feet to a point for corner;

THENCE, North 46° 15' 57" West, at a distance of 44.21 feet passing a 1/2-inch iron rod with "DAA" cap found at the east corner of said Tract 4; said point being in the southwest line of said Exhibit B, Tract 2; continuing with the northeast line of said Tract 4 and the southwest lines of said Exhibit B, Tract 2 and said Exhibit A, Tract 2 in all a total distance of 3,564.33 feet to the POINT OF BEGINNING and containing an area of 283.517 acres or 12,350,020 square feet of land, more or less.

Vin. M

René Silvas Registered Professional Land Surveyor No. 5921



NOTES

Bearings are based on the Texas State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, adjustment realization 2011.



BGE, Inc.

777 Main Street, Suite 1900, Fort Worth, TX 76102 Tel: 817-887-6130 • www.bgeinc.com TBPELS Registration No. 10194416

EXHIBIT B - PLANNED DEVELOPMENT STANDARDS

- 1. Except as provided herein, the site plan for the Property shall conform substantially to the Concept Plan, attached hereto as Exhibit "C". The number of lots and the Permissible Building Area ("PBA") sizes shown on Exhibit "C" may be modified provided that parking and other development standards are met. The orientation and location of structures, driveways and parking areas shown on Exhibit "C" may be modified to avoid conflict with utilities, floodplain and/or wetlands provided that parking and other development standards are met. However, in no case, shall screening and buffering requirements be modified. In the event of a conflict between the provisions of this ordinance and Exhibit "C", the provisions of this ordinance control.
- 2. All uses permitted in the Industrial District are allowed on the Property except as modified in Subsections "a", "b" and "c" of this paragraph. The uses permitted in the PD-I are subject to the same requirements applicable to the uses in the Industrial District, as set out in the Mesquite Zoning Ordinance. For example, a use permitted in the Industrial District only by conditional use permit ("CUP") is permitted in this District only by CUP.
 - a. The following uses are prohibited on the Property:

SIC Code 32a:

Concrete Batch Plants

SIC Code 40:

Railroad Passenger Terminal

SIC Code 61:

Alternative Financial Institutions

SIC Code 593:

Used Merchandise

SIC Code 593a:

Pawnshops

SIC Code 5993:

Tobacco Stores

SIC Code 7299a:

Massage Parlors, Turkish and Steam Baths

b. The following uses are allowed within the District:

Warehouse Distribution (as defined in Section 3)

c. The following uses are allowed only by CUP in this District:

SIC Code 20-399:

Manufacturing Uses, general

3. Warehouse Distribution Definition: Warehouse Distribution is defined as a building or facility used for the storage and distribution of items/products, which may include (a) receiving, storing, shipping, distributing, preparing, and selling items/products and serving as a pick-up/drop-off location for items/products; (b) the parking, storage, incidental maintenance, fueling and use (including driving into and through the building for loading and unloading and parking inside the building) of automobiles, trucks, machinery and trailers, including outdoor loading and unloading; (c) printing; (d) limited assembly as defined below; (e) warehouse and office use; (f) using, handling or storing materials in the ordinary course of business, including any packaged merchandise to be sold, handled, and/or held for shipment to customers, maintenance of trucks and machinery, and fuel (including liquefied hydrogen or other alternative fuels) or batteries for any trucks, generators or other machinery or the equipment described in this definition; (g) installing and operating rooftop equipment such as satellite dishes, cellular antenna, and renewable energy systems, including solar energy systems and hydrogen fuel cell tanks and related

equipment; (h) installing and operating battery storage systems, electrical generators, and fuel tanks; and (i) ancillary and related uses for any of the foregoing, all on a twenty-four-hour, seven-days-per-week, fifty-two-weeks-per-year basis.

Definition:

<u>Limited Assembly</u> - The assembly of finished products or parts, predominantly from previously prepared materials, but excluding basic industrial processing. Such operations shall be determined by Health, Fire, and Building officials not to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation.

- 4. Parking: Warehouse Distribution/Manufacturing Uses:
 - a. Shall be the lesser of the following:
 - i. one (1) space for each three hundred (300) square feet of office/display area plus one (1) space for each one thousand (1,000) square feet of storage/plant area
 - ii. one (1) space for each one (1) employee on duty at peak shifts.
- 5. The overnight parking of heavy load vehicles and/or unmounted trailers is permitted as defined in Section 3-600 of the Mesquite Zoning Ordinance in areas designated on the Concept Plan, if it is associated with tenant(s) or owners(s) of the Property.
- 6. The truck court (including heavy load vehicle parking, overhead doors or loading docks) shall not face the proposed 60-ft public right-of-way shown on Exhibit C without screening. Where not screened by a building, the truck court shall be screened pursuant to Section 1A-303.D and further defined below in 6(a). Wood or chain link screening is prohibited. Said screening shall be provided prior to the issuance of a Certificate of Occupancy.
 - a. Solid Landscape Hedge under Section 1A-303.D.1. shall consist of the following:
 - i. Evergreen Screen "Hedge", shall be installed to create a continuous evergreen screen a minimum of eight feet in height at time of planting. The evergreens can be either evergreen trees that are full to the ground or large evergreen shrubs. Evergreen trees shall be planted a maximum of eighteen feet (18') on center. Large evergreen shrubs shall be planted a maximum of eight feet (8') on center.
- 7. The screening and buffer zones for the Property identified on Exhibit C shall include the following:
 - a. Zone A: An 80-ft landscaped buffer shall be established as shown on Exhibit C that will include the following:
 - i. A six-foot-high wrought iron fence;
 - ii. Evergreen trees selected from Section 1A-500 (excluding pine trees) shall be installed to create an Evergreen Visual Screen and further defined below
 - Evergreen Visual Screen shall be installed to create a continuous evergreen screen a minimum of eight feet in height at time of planting. The evergreens can be either evergreen trees that are full to the ground or large evergreen shrubs. Evergreen trees shall be planted a

maximum of eighteen feet (18') on center. Large evergreen shrubs shall be planted a maximum of eight feet (8') on center.

- iii. Trees shall be planted within the Buffer Zone at the following rate: 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 500 square feet of Buffer Zone where parking areas or buildings are between 80-ft and 100-ft from the property line. Where parking areas or buildings are constructed more than one hundred fifty feet (150') off of the property line, trees shall be planted within the Buffer Zone at the following rate: 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 1,200 square feet of Buffer Zone.
- b. Zone B: An 80-ft landscaped buffer shall be established as shown on Exhibit C that will include the following:
 - i. A six-foot-high wrought iron fence;
 - ii. Evergreen trees selected from Section 1A-500 (excluding pine trees) shall be installed to create an Evergreen Visual Screen and further defined below.
 - Evergreen Visual Screen shall be installed to create a continuous evergreen screen a minimum of eight feet in height at time of planting. The evergreens can be either evergreen trees that are full to the ground or large evergreen shrubs. Evergreen trees shall be planted a maximum of eighteen feet (18') on center. Large evergreen shrubs shall be planted a maximum of eight feet (8') on center.
 - iii. Trees shall be planted within the Buffer Zone at the following rate: 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 500 square feet of Buffer Zone where parking areas or buildings are between 80-ft and 100-ft from the property line. Where parking areas or buildings are constructed more than one hundred feet (100') off of the property line, trees shall be planted within the Buffer Zone at the following rate: 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 1,200 square feet of Buffer Zone.
 - iv. Preserving the existing tree canopy within Zone B as shown on Exhibit C will exempt the above requirements i-iii.
- c. Zone C: An 80-ft landscape buffer shall be established as shown on Exhibit C that will include the following:
 - i. A six-foot-high wrought iron fence
 - Evergreen trees selected from Section 1A-500 (excluding pine trees) shall be installed to create an Evergreen Visual Screen and further defined below.
 - Evergreen Visual Screen shall be installed to create a continuous evergreen screen a minimum of eight feet in height at time of planting. The evergreens can be either evergreen trees that are full to the ground or large evergreen shrubs. Evergreen trees shall be planted a maximum of eighteen feet (18') on center. Large evergreen shrubs shall be planted a maximum of eight feet (8') on center.
 - iii. Trees shall be planted within the Buffer Zone at the following rate: 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 500 square feet of Buffer Zone where parking

areas or buildings are between 80-ft and 100-ft from the property line. Where parking areas or buildings are constructed more than one hundred feet (100') off of the property line, trees shall be planted within the Buffer Zone at the following rate: 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 1,200 square feet of Buffer Zone.

- iv. Preserving the existing tree canopy within Zone C will exempt the above requirements ii.-iii.
- d. Zone D: A 25-ft landscape buffer shall be established as shown on Exhibit C that will include the following:
 - i. A six-foot-high wrought iron fence.
 - ii. Evergreen trees selected from Section 1A-500 (excluding pine trees) shall be installed to create an Evergreen Visual Screen and further defined below.
 - 1. Evergreen Visual Screen shall be installed to create a continuous evergreen screen a minimum of eight feet in height at time of planting. The evergreens can be either evergreen trees that are full to the ground or large evergreen shrubs. Evergreen trees shall be planted a maximum of eighteen feet (18') on center. Large evergreen shrubs shall be planted a maximum of eight feet (8') on center.
 - iii. Trees shall be planted within the Buffer Zone at the following rate: One (1)-Shade Tree, 1-Evergreen Tree or 3-Ornamental trees (selected from Section 1A-500) shall be installed per 500 sf of Buffer Zone where parking areas or buildings are constructed within 80-ft and 100-ft of the property line. Where parking areas or buildings are constructed more than one hundred feet (100') off of the property line, trees shall be planted within the Buffer Zone at the following rate: One (1) -Shade Tree, one (1) Evergreen Tree or 3-Ornamental trees (selected from Section 1A-500) shall be installed for each 1,200-square feet of Buffer Zone.
 - iv. If the adjacent property is zoned agricultural or non-residential at the time the Property is developed, then the above requirement ii. will be exempt.
- e. Zone E: A 25-ft landscape buffer shall be established as shown on Exhibit C that will include the following:
 - i. A six-foot-high wrought iron fence.
 - ii. Evergreen trees selected from Section 1A-500 (excluding pine trees) shall be installed to create an Evergreen Visual Screen where truck courts are visible from the public right-of-way and further defined below.
 - Evergreen Visual Screen shall be installed to create a continuous evergreen screen a minimum of eight feet in height at time of planting. The evergreens can be either evergreen trees that are full to the ground or large evergreen shrubs. Evergreen trees shall be planted a maximum of eighteen feet (18') on center. Large evergreen shrubs shall be planted a maximum of eight feet (8') on center.
 - iii. 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 1,200 square feet of Buffer Zone.
 - iv. If a 14-ft tall wing wall is installed to cover the loading docks, then the planting of the evergreen trees in ii. will be exempt.

- f. Zone F: A 25-ft landscape buffer shall be established as shown on Exhibit C that will include the following:
 - Evergreen trees selected from Section 1A-500 (excluding pine trees) shall be installed to create an Evergreen Visual Screen where truck courts are visible from the public right-of-way and further defined below.
 - 1. Evergreen Visual Screen shall be installed to create a continuous evergreen screen a minimum of eight feet in height at time of planting. The evergreens can be either evergreen trees that are full to the ground or large evergreen shrubs. Evergreen trees shall be planted a maximum of eighteen feet (18') on center. Large evergreen shrubs shall be planted a maximum of eight feet (8') on center.
 - ii. 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 1,200 square feet of Buffer Zone.
- g. Zone G: A 25-ft landscape buffer shall be established as shown on Exhibit C that will include the following:
 - i. A six-foot-high wrought iron fence
 - ii. Evergreen trees selected from Section 1A-500 (excluding pine trees) shall be installed to create an Evergreen Visual Screen where truck courts are visible from the public right-of-way.
 - Evergreen Visual Screen shall be installed to create a continuous evergreen screen a minimum of eight feet in height at time of planting. The evergreens can be either evergreen trees that are full to the ground or large evergreen shrubs. Evergreen trees shall be planted a maximum of eighteen feet (18') on center. Large evergreen shrubs shall be planted a maximum of eight feet (8') on center.
 - iii. Trees shall be planted within the Buffer Zone at the following rate: 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 500 sf of Buffer Zone where parking areas or buildings are between 25-ft and 100-ft from the property line. Where parking areas or buildings are constructed more than one hundred feet (100') off the property line, 1-Shade Tree, 1-Evergreen Tree, or 3-Ornamental trees selected from Section 1A-500 shall be installed per 1,200 square feet of Buffer Zone.
- h. Trees and landscaping installed in the buffers may be used to fulfill the tree requirement in Section 1A-202.A.2.
- Trees in the buffer areas shall be planted in staggered rows over the entire length of the buffer.
- j. The quantities of trees required to meet the Landscape Ordinance are based on each tree having a minimum caliper-inch of 3-inches. As an option, the Property may reduce the total number of trees planted by increasing the tree caliper-inch, only if the total caliper-inches required are matched. For example, if 100 trees are required per ordinance (100 trees x 3-inches = 300 caliper-inches), the Property may elect to plant 75 trees if each tree is 4 caliper-inch (75 trees x 4 inches = 300 caliper-inches).
- 8. The minimum building size for a warehouse, distribution or manufacturing use shall be 75,000 square feet.

9. A Property Owner's Association (POA) shall be established to maintain commonly owned facilities, landscape, screening buffers and open space throughout the Property.



