

00141

RESOLUTION NO. 43-89

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE CITY OF MESQUITE, TEXAS, THE MESQUITE INDEPENDENT SCHOOL DISTRICT, THE DALLAS COUNTY COMMUNITY COLLEGE DISTRICT, THE DALLAS COUNTY HOSPITAL DISTRICT, AND AT & T, AND AUTHORIZING ITS EXECUTION BY THE MAYOR; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City Council has been presented a proposed Agreement by and between the City of Mesquite, Texas, the Mesquite Independent School District, the Dallas County Community College District, the Dallas County Hospital District and AT & T, establishing a Reinvestment Zone in the City of Mesquite, Texas, and entering into a commercial/industrial tax abatement agreement with AT & T, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); 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 Mayor, shall be authorized to execute it on behalf of the City of Mesquite;

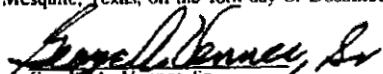
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

**SECTION 1.** The terms and conditions of the Agreement having been reviewed by the City Council of the City of Mesquite and found to be acceptable and in the best interests of the City of Mesquite and its citizens, are hereby in all things approved.

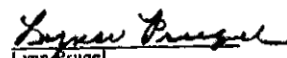
**SECTION 2.** The Mayor is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Mesquite, substantially according to the terms and conditions set forth in the Agreement.

**SECTION 3.** That this resolution shall take effect from and after its passage, as in the Charter in such cases is made and provided.

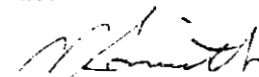
DULY PASSED by the City Council of the City of Mesquite, Texas, on the 18th day of December, 1989.

  
George A. Verner, Sr.  
Mayor

ATTEST:

  
Lynn Prugel  
City Secretary

APPROVED:

  
B.J. Smith  
City Attorney

00142

THE STATE OF TEXAS  
COUNTY OF DALLAS

### AGREEMENT

This Agreement is entered into by and between the City of Mesquite, Texas, a home rule city and municipal corporation of Dallas County, Texas, duly acting herein by and through its Mayor (hereinafter referred to as City); Mesquite Independent School District duly acting herein by and through its Board President, Dallas County Community College duly acting herein by and through its Chairman of the Board, Dallas County Hospital District duly acting herein by and through its Chairman of the Board of Managers, (hereinafter referred to collectively as TAXING UNITS); and AT & T, duly acting by and through its Chief Executive Officer (hereinafter referred to as OWNER).

#### WITNESSETH:

WHEREAS, on the 20th day of November, 1989, the City Council of the City of Mesquite, Texas, passed Ordinance No. 2643 establishing Reinvestment Zone No. Three, City of Mesquite, Texas for commercial/industrial tax abatement, hereinafter referred to as the ORDINANCE, as authorized by Chapter 312, Texas Property Tax Code, as amended, hereinafter referred to as STATUTE; and

WHEREAS, the CITY has adopted by Resolution (No. 7-88), Criteria and Guidelines governing tax abatement reinvestment zones and agreements (the "CRITERIA"); and

WHEREAS, the CRITERIA constitutes appropriate guidelines and criteria governing tax abatement agreements to be entered into by the CITY as contemplated by the STATUTE; and

WHEREAS, the CITY has adopted a resolution (Resolution No. 9-88) stating that it elects to be eligible to participate in tax abatement; and

WHEREAS, the CITY desires to participate in tax abatement to maintain and/or enhance the commercial/industrial economic and employment base of the Mesquite area to the long term interest and benefit of the CITY and TAXING UNITS, in accordance with said ORDINANCE and STATUTE; and

WHEREAS, the contemplated use of the PREMISES, as hereinafter defined, the contemplated improvements to the PREMISES in the amount as set forth in this Agreement, and the other terms hereof are consistent with encouraging development of said Reinvestment Zone No. Three in accordance with the purposes for its creation and are in compliance with the CRITERIA and the ORDINANCE and similar guidelines and

00144

criteria adopted by the CITY and all applicable law;

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. The property to be the subject of this Agreement shall be that property described by metes and bounds and map attached hereto as EXHIBITS "A" and "B" and made a part hereof and shall be hereinafter referred to as PREMISES.

2. The OWNER shall complete its expansion and modernization project on the PREMISES (hereinafter referred to as IMPROVEMENTS) with a total investment of eighteen million, one hundred thousand dollars (\$18,100,000), and a net increase of five million, four seventy seven thousand three hundred sixty (\$5,477,360) in taxable value and substantially complete same on or about June 1990; provided, that OWNER shall have such additional time to complete the IMPROVEMENTS as may be required in the event of a "force majeure" if OWNER is diligently and faithfully pursuing completion of the IMPROVEMENTS. For this purpose, "force majeure" shall mean any contingency or cause beyond the reasonable control of OWNER including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, governmental or de facto governmental action (unless caused by acts or omission of OWNER), fire, explosions or floods, and strikes. The date of completion of the IMPROVEMENTS shall be defined as the date a Certificate of Occupancy is issued by the City of Mesquite.

3. The OWNER agrees and covenants that it will diligently and faithfully in a good and workmanlike manner pursue the completion of the IMPROVEMENTS as a good and valuable consideration of this AGREEMENT. OWNER further covenants and agrees that all construction of the IMPROVEMENTS will be in accordance with all applicable state and local laws and regulations or valid waiver thereof. In further consideration, OWNER shall thereafter, from the date a Certificate of Occupancy is issued until the expiration of the Agreement, continuously operate and maintain the PREMISES as AT & T Dallas Works.

4. In the event that: (1) the IMPROVEMENTS for which an abatement has been granted are not completed in accordance with this Agreement; or (2) OWNER allows its ad valorem taxes owed the CITY and TAXING UNITS to become delinquent and fails to timely and properly follow the legal procedures for protest

and/or contest of any such ad valorem taxes; or (3) OWNER breaches any of the terms or conditions of this Agreement, then this Agreement shall be default. In the event that the OWNER defaults in its performance of (1), (2) or (3) above, then the CITY or TAXING UNITS shall give the OWNER written notice of such default and if the OWNER has not cured such default within thirty (30) days of said written notice, or, if such default cannot be cured by the payment of money and cannot with due diligence be cured within a 90-day period owing to causes beyond the control of the OWNER, this Agreement may be terminated by the CITY or TAXING UNITS. Notice shall be in writing and shall be delivered by personal delivery or certified mail to the AT & T Manufacturing Vice President, 3000 Skyline Drive, Mesquite, Texas. As liquidated damages in the event of default, all taxes which otherwise would have been paid to the CITY and TAXING UNITS without the benefit of abatement (but without the addition of penalty; interest will be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Property Tax Code of the State of Texas) will become a debt to the CITY and TAXING UNITS and shall be due, owing and paid to the CITY and TAXING UNITS within sixty (60) days of the expiration of the above-mentioned applicable cure period.

5. The CITY and the TAXING UNITS each represent and warrant that the PREMISES do not include any property that is owned by a member of their respective councils or boards, agencies, commissions, or other governmental bodies approving, or having responsibility for the approval of, this Agreement.

6. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement cannot be assigned by OWNER other than to wholly-owned subsidiary of OWNER unless written permission is first granted by the CITY and TAXING UNITS, which permission shall be at the sole discretion of the CITY and TAXING UNITS.

7. It is understood and agreed between the parties that the OWNER, in performing its obligations hereunder, is acting independently, and the CITY and TAXING UNITS assume no responsibilities or liabilities in connection therewith to third parties and OWNER agrees to indemnify and hold harmless therefrom.

8. The OWNER further agrees that the CITY and TAXING UNITS, their agents and employees, shall have reasonable right of access to the PREMISES to inspect the IMPROVEMENTS in order to insure that the construction of the IMPROVEMENTS are in accordance with this Agreement and all applicable state and

00146

local laws and regulations or valid waiver thereof. After completion of the IMPROVEMENTS, the CITY and TAXING UNITS shall have the continuing right to inspect the PREMISES to insure that the PREMISES are thereafter maintained and operated in accordance with this Agreement.

9. Subject to the terms and conditions of this Agreement, and subject to the rights and holders of any outstanding bonds of the CITY and TAXING UNITS, a portion of ad valorem real property taxes from the PREMISES otherwise owed to the CITY and TAXING UNITS shall be abated. Said abatement shall be an amount equal to thirty percent (30%) of the taxes assessed upon the increased value of the IMPROVEMENTS over the value in the year in which this Agreement is executed and in accordance with the terms of this Agreement and all applicable state and local regulations or valid waiver thereof; provided that the OWNER shall have the right to protest and/or contest any assessment of the PREMISES and said abatement shall be applied to the amount of taxes finally determined to be due as a result of any such protest and/or contest. Said abatement shall extend for a period of six (6) years beginning January 1, 1990.

10. This Agreement was authorized by Resolution No. 43-89 of the City Council at its meeting on the 18th day of December, 1989, authorizing the Mayor to execute the Agreement on behalf of the City.

11. This Agreement was authorized by the Board Minutes of the Mesquite Independent School District at its Board of Trustees meeting on the 15th day of NOVEMBER, 1989, whereupon it was duly determined that the Board President would execute the Agreement on behalf of the Mesquite Independent School District, a copy of said authorization is attached as Exhibit "C".

12. This Agreement was entered into by the Chairman of the Board of Dallas County Community College District pursuant to authority granted by its Board of Trustees on the \_\_\_\_ day of \_\_\_\_\_, a copy of said authorization is attached hereto as EXHIBIT "D".

13. This Agreement was entered into by the Chairman of the Board of Managers, Dallas County Hospital District to authority granted by its Board of Managers on the \_\_\_\_ day of \_\_\_\_\_, on behalf of Dallas County Community College District, a copy of said authorization is attached hereto as EXHIBIT "E".

00147

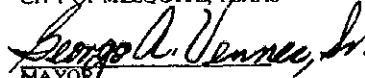
14. This shall constitute a valid and binding Agreement between the CITY and AT & T, when executed in accordance herewith, regardless of whether any other TAXING UNIT executes this Agreement. If a TAXING UNIT executes this Agreement, this shall constitute a valid and binding Agreement between such TAXING UNIT and AT & T, when executed on behalf of said parties, for the abatement of such TAXING UNIT'S taxes in accordance therewith.

The Agreement is performable in Dallas County, Texas, witness our hands this 18<sup>th</sup> day of DECEMBER, 1989.


ATTEST:

  
CITY SECRETARY

CITY OF MESQUITE, TEXAS

  
MAYOR

APPROVED AS TO FORM:

  
CITY ATTORNEY

00148

ATTEST:

Martha Beckett

MESQUITE INDEPENDENT SCHOOL  
DISTRICT

M. O'Neil

President

APPROVED AS TO FORM:

\_\_\_\_\_  
ATTORNEY FOR  
MESQUITE INDEPENDENT  
SCHOOL DISTRICT

Tax Abatement Agreement  
AT & T  
Page 6



00149

ATTEST:

DALLAS COUNTY COMMUNITY  
COLLEGE DISTRICT

\_\_\_\_\_  
CHAIRMAN OF THE BOARD

APPROVED AS TO FORM:

\_\_\_\_\_  
ATTORNEY FOR DALLAS COUNTY  
COMMUNITY COLLEGE DISTRICT

Tax Abatement Agreement  
AT & T  
Page 7

00150

ATTEST:

DALLAS COUNTY HOSPITAL  
DISTRICT

\_\_\_\_\_

CHAIRMAN OF THE BOARD OF  
MANAGERS

APPROVED AS TO FORM:

\_\_\_\_\_  
ATTORNEY FOR DALLAS COUNTY  
HOSPITAL DISTRICT

Tax Abatement Agreement  
AT & T  
Page 8

00151

ATTEST:

AT & T

L. W. Swabner 12/29/89

Walt Boyko 12/21/89

VICE PRESIDENT MANUFACTURING

Tax Abatement Agreement  
AT & T  
Page 9

00152

EXHIBIT "A"

BEING a tract of land situated in the Daniel Tanner League, Abstract No. 1462, City of Mesquite, Dallas County, Texas, and being part of a 739.218 acre tract described as Tract No. 1 in Deed dated May 29, 1959 from W. P. Luse to Caroline Hunt Trust Estate, recorded in Volume 5122, Page 195 Dallas County Deed Records, and being more particularly described as follows:

BEGINNING at the northeast corner of the intersection of Town East Boulevard (a 100' R.O.W.), and the Texas and Pacific Railroad (a 200' R.O.W.), an iron stake set for corner;

THENCE N11°13'E with the easterly line of said Town East Boulevard, 1094.88' to the beginning of a curve to the left, having a radius of 700.0' and a central angle of 24°44', an iron stake set for corner;

THENCE in a northerly direction with the easterly line of Town East Boulevard and around said curve, 302.17' to the end of said curve, said point being on the southerly line of Skyline Drive (a 120' R.O.W.), an iron stake set for corner;

THENCE N71°40'E with the southerly line of said Skyline Drive, 206.42' to the beginning of a curve to the right, having a radius of 540.0' and a central angle of 32°07', and iron stake set for corner;

THENCE in an easterly direction with the southerly line of Skyline Drive and around said curve, 302.69' to the end of said curve, and iron stake set for corner;

THENCE S76°13'E with the southerly line of Skyline Drive, existing and proposed, passing the existing east end of the present dedicated Skyline Drive at 1397.0' and continuing along the southerly line of Skyline Drive as proposed, a total distance of 2150.72' to a point for a corner;

THENCE S11°13'W, 1462.50' to a point in the northerly line of the aforementioned Texas and Pacific Railroad (a 200' R.O.W.), for a corner;

THENCE N78°47'W and continuing along the northerly line of said Railroad Right-of-Way, 2554.42' to the place of beginning and containing 88.8 acres of land.

EXHIBIT "B"

