

RESOLUTION NO. 20-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, CONSENTING TO THE ASSIGNMENT BY SKYLINE COMMERCE CENTER OWNER, LP (“ASSIGNOR”), TO SKYLINE OWNER LLC (“ASSIGNEE”), OF ASSIGNOR’S INTEREST IN THAT CERTAIN ECONOMIC DEVELOPMENT PROGRAM AGREEMENT (CHAPTER 380 AGREEMENT) DATED EFFECTIVE OCTOBER 20, 2020, BETWEEN THE ASSIGNOR AND THE CITY OF MESQUITE, TEXAS, RELATING TO THE DEVELOPMENT OF TWO INDUSTRIAL BUILDINGS LOCATED AT THE SOUTHEAST CORNER OF BUCKNER BOULEVARD AND INTERSTATE HIGHWAY 30 IN MESQUITE; AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY IN CONNECTION THEREWITH.

WHEREAS, pursuant to City Resolution No. 54-2020, the City of Mesquite, Texas (“**City**”), and Skyline Commerce Center Owner, LP, a Delaware limited partnership (“**Assignor**”), entered into an Economic Development Program Agreement (Chapter 380 Agreement) dated effective October 20, 2020 (the “**EDPA**”), in connection with the development of two industrial buildings consisting of approximately 197,600 square feet to be located on approximately 12.38 acres of real property located at the southeast corner of Buckner Boulevard and Interstate Highway 30 in the City of Mesquite, Dallas County, Texas (the “**Property**”); and

WHEREAS, the Assignor has or intends to enter into a Purchase and Sale Agreement between the Assignor and Skyline Owner LLC (the “**Assignee**”), providing for the sale and purchase of the Property by the Assignor to the Assignee; and

WHEREAS, in connection with the sale and purchase of the Property, the Assignor desires to assign its interest in the EDPA to the Assignee and the Assignee desires to accept the assignment and assume the obligations of the Assignor under the terms of the EDPA, all as more fully set forth in the Assignment and Assumption of EDPA attached hereto as Exhibit 1 and made a part hereof for all purposes (the “**Assignment**”); and

WHEREAS, pursuant to Article X, Section 1 of the EDPA, the rights and obligations of the Assignor under the EDPA may not be assigned to the Assignee without the prior written consent of the City, which consent may be withheld in the City’s sole discretion; and

WHEREAS, Assignor has requested that the City consent to the assignment of its interest in the EDPA to the Assignee; and

WHEREAS, in connection with the Assignment, the Assignee has requested that the City execute an Estoppel and Agreement in the form attached hereto as Exhibit 2 and made a part hereof for all purposes (the “**Estoppel**”).

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

SECTION 1. That the City Council finds and determines that the consent by the City to the Assignment and the execution of the Estoppel is in the best interest of the City and its citizens.

SECTION 2. That the City Council consents to the assignment by Assignor to Assignee of Assignor's interest in the EDPA and to the assumption by Assignee of Assignor's obligations under the EDPA and hereby authorizes the City Manager to execute: (i) a consent to such assignment and assumption as more fully set forth in the Assignment attached hereto as Exhibit 1; (ii) the Estoppel attached hereto as Exhibit 2; and (iii) such other documents as necessary in connection therewith.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 19th day of April 2021.



Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David Paschall
City Attorney

ASSIGNMENT AND ASSUMPTION OF EDPA

THIS ASSIGNMENT AND ASSUMPTION OF ECONOMIC DEVELOPMENT PROGRAM AGREEMENT ("Assignment") is dated as of April 30, 2021, and is entered into by and between SKYLINE COMMERCE CENTER OWNER, LP, a Delaware limited partnership ("Assignor"), and SKYLINE OWNER LLC, a Delaware limited liability company ("Assignee").

RECITALS

A. Assignor and Assignee have entered into that certain Purchase and Sale Agreement ("Agreement") dated as of April 20, 2021 providing for the purchase by Assignee from Assignor of certain real property more particularly described on Exhibit 1 attached hereto (the "Property"). All capitalized terms not otherwise defined herein shall have the same meanings given to them in the Agreement.

B. Assignor and the City of Mesquite, a Texas home rule municipality (the "City") have previously entered into that certain Economic Development Program Agreement dated effective as of October 20, 2020 (the "EDPA").

C. This Assignment is executed in order to effectuate: (i) the transfer to Assignee of all of Assignor's rights, title and interest in and to the EDPA; and (ii) the assumption by Assignee of all of Assignor's obligations under the terms of the EDPA.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Assignor and Assignee agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all rights of Assignor in and to the EDPA.

2. Acceptance and Assumption. Assignee hereby: (i) accepts such assignment; and (ii) assumes and agrees to timely keep and perform all of the terms, provisions, agreements, covenants, conditions and obligations to be kept or performed by the Assignor under the terms of the EDPA.

3. Consent. Assignee agrees that the consent to this Assignment provided by the City as set forth below shall apply only to the assignment contemplated by this Assignment and shall not constitute a waiver of the necessity for the Assignee, or any subsequent assignee, to obtain the consent to any subsequent assignment of the EDPA.

4. Ratification. Assignee hereby ratifies the terms and provisions of the EDPA and hereby agrees that all terms, provisions, agreements, covenants, conditions and obligations of the Assignor under the terms of the EDPA shall remain in full force and effect and the consent of the City to this Assignment as set forth below shall not affect or impair any rights or remedies of the City pursuant to the EDPA.

5. Third Party Beneficiary. The Assignor and Assignee agree that the City is a third-party beneficiary of this Assignment.

6. Venue for EDPA. Assignee agrees that venue of any suit to construe or enforce the EDPA shall lie exclusively in state courts in Dallas County, Texas and Assignee hereby agrees to submit to the personal and subject matter jurisdiction of such courts. Assignee agrees to waive the right to challenge such venue or to seek the transfer of any suit, action or proceeding to a more convenient forum.

7. Assignor Authority. Assignor represents to the Assignee and to the City that: (i) it is duly formed, validly existing and in good standing under the laws of the state of its formation and is duly authorized to transact business in the State of Texas; (ii) all actions have been taken and all consents have been obtained authorizing the Assignor to enter into this Assignment; (iii) the Assignor has the full power and authority to enter into this Assignment and to fulfill its obligations under this Assignment; and (iv) each entity and person executing this Assignment on behalf of the Assignor has the authority to execute this Assignment on behalf of the Assignor.

8. Assignee Authority. Assignee represents to the Assignor and to the City that: (i) it is duly formed, validly existing and in good standing under the laws of the state of its formation and is duly authorized to transact business in the State of Texas; (ii) all actions have been taken and all consents have been obtained authorizing the Assignee to enter into this Assignment; (iii) the Assignee has the full power and authority to enter into this Assignment and to fulfill its obligations under this Assignment and the EDPA; and (iv) each entity and person executing this Assignment on behalf of the Assignee has the authority to execute this Assignment on behalf of the Assignee.

9. Miscellaneous. Assignor and Assignee each agrees to execute such other documents and perform such other acts as may be necessary or desirable to effectuate this Assignment. If either party brings any action or suit against the other arising from or interpreting this Assignment, the prevailing party in such action or suit shall, in addition to such other relief as may be granted, be entitled to recover its costs of suit and actual attorneys' fees, whether or not the same proceeds to final judgment. This Assignment shall be governed by and construed in accordance with the laws of the State of Texas and shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns. This Assignment may be executed in multiple counterparts, all of which shall be but one and the same instrument, binding on both parties when all separately executed copies have been fully delivered. The parties agree that electronically transmitted signatures shall constitute original signatures for all purposes.

IN WITNESS WHEREOF, the undersigned have executed this Assignment as of the date and year first above written.

· ASSIGNOR ·

SKYLINE COMMERCE CENTER OWNER, LP,
a Delaware limited partnership

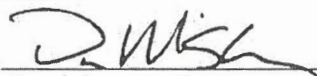
By: Skyline Commerce Center GP, LLC,
a Delaware limited liability company,
its general partner

By: Skyline Commerce Center, LLC,
a Delaware limited liability company,
its sole member

By: Conor Skyline Partner LLC,
a Delaware limited liability company,
its sole member

By: Conor Commercial Real Estate
LLC,
a Delaware limited liability
company,
its sole member

By: McShane Development
Holdings Corp, a Delaware
limited liability company, its
sole member

By: 
Daniel P. McShane,
Secretary

*** ASSIGNEE ***

SKYLINE OWNER LLC, a
Delaware limited liability company

By:  _____

Name: Ben Brudney

Title: Vice President

The City of Mesquite, a Texas home rule municipality, is executing this Assignment solely for the purpose of acknowledging its consent to this Assignment.

CITY OF MESQUITE

By:  _____

Name: Cliff Keheley

Title: City Manager

Date: April 26, 2021

ESTOPPEL AND AGREEMENT

Skyline Owner LLC (“**Skyline**”)
30 Hudson Yards
75th Floor
New York, NY 10001
Attn: Ben Brudney

Ladies & Gentlemen:

A. Reference is made to (i) that certain Economic Development Program Agreement (the “**EDPA**”) effective October 20, 2020, by and between the City of Mesquite, Texas, a Texas home rule municipality (the “**City**”), and Skyline Commerce Center Owner, LP, a Delaware limited partnership (“**Owner**”), which affects the property currently owned by Owner, consisting of approximately 12.38 acres located at the southeast corner of Buckner Boulevard and Interstate 30 in Mesquite, Texas (the “**Property**”). Capitalized terms used herein but not defined shall have the meanings ascribed to them in the EDPA.

B. The City hereby certifies to Skyline, any lender of Skyline, and any administrative agent on behalf of such lenders, and all of their respective successors, assigns and participants (as applicable), and First American Title Insurance Company that:

1. Owner has Completed Construction of both Buildings.
2. Owner installed the landscaping on the Land in compliance with the Landscape Plans.
3. Owner has timely paid all fees to the City in connection with the Project, and ad valorem taxes assessed by the City against the Mesquite Facility are current.

IN WITNESS WHEREOF the undersigned has executed this Estoppel this 26th day of April 2021.

CITY OF MESQUITE, TEXAS,
a Texas home rule municipality

By: _____

Name: Cliff Keheley

Title: City Manager