

RESOLUTION NO. 27-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A PROGRAM TO PROMOTE LOCAL ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN THE CITY OF MESQUITE; AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE AN ECONOMIC DEVELOPMENT PROGRAM AGREEMENT (CHAPTER 380 AGREEMENT) FOR SUCH PURPOSES WITH NOTAIN REALTY (MESQUITE AIRPORT LOGISTICS CENTER) LIMITED PARTNERSHIP, FOR THE DEVELOPMENT OF APPROXIMATELY 38.138 ACRES OF REAL PROPERTY LOCATED AT 4180 AND 1262 EAST SCYENE ROAD IN THE CITY AND THE SALE OF A PORTION AND OPTION TO PURCHASE THE REMAINDER OF APPROXIMATELY 50 ACRES OF CITY-OWNED PROPERTY FOR DEVELOPMENT LOCATED AT 1900 AIRPORT BOULEVARD IN THE CITY; AND AUTHORIZING THE CITY MANAGER TO ADMINISTER THE AGREEMENT ON BEHALF OF THE CITY.

WHEREAS, Chapter 380 of the Texas Local Government Code authorizes the City of Mesquite, Texas (the "**City**"), and other municipalities to establish and provide for the administration of programs that promote local economic development and stimulate business and commercial activity; and

WHEREAS, the City owns and operates the Mesquite Metro Airport located at 1340 Airport Boulevard, Mesquite, Texas 75181 ("**Airport**"), and promotes development of the surrounding area; and

WHEREAS, the City owns a certain tract of real property located adjacent to the Airport consisting of approximately 50 acres commonly known as 1900 Airport Boulevard, Mesquite, Texas 75181, and being more particularly described in the Agreement referenced below (the "**City's Land**"); and

WHEREAS, Notain Realty (Mesquite Airport Logistics Center) Limited Partnership (the "**Company**"), owns two tracts of real property consisting of approximately 38.138 acres located adjacent to the Airport and the City's Land being commonly known as 4180 and 1262 East Scyene Road, Mesquite, Texas 75181, and being more particularly described in the Agreement referenced below (the "**Company's Land**"); and

WHEREAS, Company has agreed to purchase approximately 15 acres of the City's Land from the City, said approximately 15 acres being more particularly described in the Agreement referenced below (the "**Conveyance Land**"); and

WHEREAS, Company has agreed to construct two industrial buildings on Company's Land and the Conveyance Land, the first building being at least 350,000 square feet and entirely

on the Company's Land and the second building being at least 600,000 square feet and being in part on the Company's Land and in part on the Conveyance Land, in addition to making improvements to Airport Boulevard and reimbursing the City for the cost for improvements to an Airport radar tower necessitated by the development; and

WHEREAS, the City Council has been presented with a proposed agreement providing economic development incentives to Company for the development of the Company's Land and Conveyance Land, including an option to purchase the remainder of the City's Land, a copy of said Agreement being in substantially final form and attached hereto as Exhibit A and incorporated herein by reference (the "**Agreement**"); and

WHEREAS, after holding a public hearing and upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the Agreement will assist in implementing a program whereby local economic development will be promoted, and business and commercial activity will be stimulated in the City.

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

SECTION 1. That the City Council finds that the terms of the proposed Agreement by and between the City and the Company, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, will benefit the City and its citizens and will accomplish the public purpose of promoting local economic development and stimulating business and commercial activity in the City in accordance with Section 380.001 of the Texas Local Government Code.

SECTION 2. That the City Council hereby adopts an economic development program whereby, subject to the terms and conditions of the Agreement, the City will provide economic development incentives to the Company and take other specified actions as more fully set forth in the Agreement in accordance with the terms and subject to the conditions outlined in the Agreement.

SECTION 3. That the terms and conditions of the Agreement, having been reviewed by the City Council and found to be acceptable and in the best interest of the City and its citizens, are hereby approved.

SECTION 4. That the City Manager is hereby authorized to finalize and execute the Agreement and all other documents necessary to consummate the transactions contemplated by the Agreement.

SECTION 5. That the City Manager is further hereby authorized to administer the Agreement on behalf of the City including, without limitation, the City Manager shall have the authority to: (i) provide any notices required or permitted by the Agreement; (ii) approve amendments to the Agreement provided such amendments, together with all previous amendments approved by the City Manager, do not increase City expenditures under the Agreement in excess of \$50,000.00; (iii) approve or deny any matter in the Agreement that requires the consent of the City with the exception of any assignment of the Agreement that requires the consent of the City

pursuant to the terms of the Agreement shall require City Council approval; (iv) approve or deny the waiver of performance of any covenant, duty, agreement, term or condition of the Agreement; (v) exercise any rights and remedies available to the City under the Agreement; and (vi) execute any notices, amendments, approvals, consents, denials and waivers authorized by this Section 5 provided, however, notwithstanding anything contained herein to the contrary, the authority of the City Manager pursuant to this Section 5 shall not include the authority to take any action that cannot be delegated by the City Council or that is within the City Council's legislative functions.

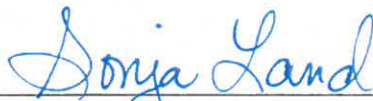
SECTION 6. That the sections, paragraphs, sentences, clauses and phrases of this resolution are severable and, if any phrase, clause, sentence, paragraph or section of this resolution should be declared invalid, illegal or unenforceable by the final judgment or decree of any court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of any of the remaining phrases, clauses, sentences, paragraphs and sections of this resolution and such remaining provisions shall remain in full force and effect and shall be construed and enforced as if the invalid, illegal or unenforceable provision had never been included in this resolution.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 3rd day of May 2021.



Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT A

**CHAPTER 380 AGREEMENT BETWEEN
THE CITY OF MESQUITE AND
NOTAIN REALTY (MESQUITE AIRPORT LOGISTICS CENTER) LIMITED
PARTNERSHIP**

ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

(Chapter 380 Agreement)

This Economic Development Program Agreement (“**Agreement**”) is made and entered into by and between the City of Mesquite, a Texas home rule municipality (“**City**”), and Notain Realty (Mesquite Airport Logistics Center) Limited Partnership (“**Company**”). City and the Company shall be referred to herein individually from time to time as a “**Party**” and collectively as the “**Parties**”

W I T N E S S E T H:

WHEREAS, all capitalized terms used herein shall have the meanings set forth in this Agreement; and

WHEREAS, the City owns and operates the Mesquite Metro Airport located at 1340 Airport Boulevard, Mesquite, Texas 75181 (“**Airport**”) and promotes development of the surrounding area; and

WHEREAS, the City owns a certain tract of real property located adjacent to the Airport consisting of approximately fifty (50) acres and being commonly known as **1900 Airport Blvd., Mesquite, Texas 75181** and being more particularly described in **Exhibit A** attached hereto and made a part hereof for all purposes (the “**City’s Land**”); and

WHEREAS, Company owns a certain tract of real property located adjacent to the Airport and the Land consisting of approximately 39.1376 acres and being commonly known as **4180 and 1262 E. Scyene Rd., Mesquite, Texas 75181** and being more particularly described in **Exhibit B** attached hereto and made a part hereof for all purposes (the “**Company’s Land**”); and

WHEREAS, the City created Reinvestment Zone Number Twelve, City of Mesquite, Texas (IH-20 Business Park) (the “**Zone**”) by Ordinance No. 4579 approved by the City Council of the Mesquite (“**City Council**”) on July 2, 2018, to promote development or redevelopment in the Zone, in accordance with the Tax Increment Financing Act, V.T.C.A, Tax Code, Chapter 311 and the City intends to expand the geographic area of the Zone to include City’s Land and Company’s Land; and

WHEREAS, Company has agreed to purchase approximately fifteen (15) acres the City’s Land from the City for the Fair Market Value, based on an independent appraisal, of SEVEN HUNDRED TWENTY THOUSAND AND 00/100 DOLLARS (\$720,000.00) (“**Fair Market Value**”) and in accordance with the terms and conditions herein contained, said approximately fifteen (15) acres being more particularly described in **Exhibit C** attached hereto and made a part hereof for all purposes (the “**Conveyance Land**”); and

WHEREAS, Company has agreed to construct two industrial buildings on Company’s Land and the Conveyance Land, the first building being at least 350,000 square feet and entirely on the Company’s Land (“**Building 1**”) and the second building being at least 600,000 square feet and being in part on the Company’s Land and in part on the Conveyance Land (“**Building 2**”) (Building 1 and Building 2 are collectively referenced herein as the “**Building Improvements**”); and

WHEREAS, Company will be making at least THIRTY-FIVE MILLION and 00/100 DOLLARS (\$35,000,000.00) of capital improvements to the Company's Land and the Conveyance Land in connection with the construction of the Building Improvements and exclusive of land values; and

WHEREAS, the Improvements will substantially increase the taxable value by adding improvements on the Company's Land and the Conveyance Land thereby adding value to the City's tax rolls and increasing the ad valorem real property taxes to be collected by the City; and

WHEREAS, the Company's Land, the Conveyance Land and the Building Improvements are hereinafter sometimes collectively referred to as the "**Mesquite Facility**"; and

WHEREAS, Company has requested that, after acquiring the Conveyance Land, it have an option and right of first refusal to purchase the remainder of the City's Land for construction of additional industrial building improvements and the City desires to grant the request under the term and conditions of this Agreement (said remainder hereinafter called the "**Remainder Land**" and being more particularly described in **Exhibit D** attached hereto and made a part hereof for all purposes); and

WHEREAS, Company has further agreed to make improvements to Airport Boulevard in accordance with the specifications, terms and conditions provided herein which shall include providing access to the Remainder Land and the City will abandon its now existing access easement across the Company's Land; and

WHEREAS, Company has further agreed to reimburse the City for costs incurred in increasing the height of a weather radar beacon tower on Airport property necessitated by construction of the Building Improvements; and

WHEREAS, the Parties expect the development of the Mesquite Facility will attract manufacturing, storage and/or distribution operations to the City resulting in creation of employment opportunities in the City and increasing the real property taxes to be collected by the City and the taxable value of business personal property installed and/or located at the Mesquite Facility thereby adding value to the City's tax rolls and increasing the ad valorem business personal property taxes to be collected by the City; and

WHEREAS, Company has advised the City that Company will purchase the Conveyance Land, make improvements to Airport Blvd., reimburse the City for costs incurred in increasing the height of a weather radar beacon tower on Airport property and construct the Building Improvements at the Mesquite Facility if the City provides the Incentive Grants, as defined herein, to Company under the terms and subject to the conditions more fully set forth in this Agreement; and

WHEREAS, the Parties expect the construction of the Mesquite Facility, sale of the Conveyance Land for Fair Market Value, construction of improvements to Airport Blvd., granting Company a purchase option on the Remainder Land and investment of public resources in the Airport area are for a public purpose and will promote local economic development in the City, stimulate business and commercial activity in the City, increase employment opportunities and benefit the City and its citizens; and

WHEREAS, the Parties expect the construction of the Mesquite Facility and improvements

to Airport Blvd. will benefit the Zone by promoting local economic development and stimulate business and commercial activity in the Zone and will further a purpose of the Zone, which is to promote development and redevelopment of property within the Zone; and

WHEREAS, the City has established an Economic Development Incentive Program pursuant to § 380.001 of the Texas Local Government Code (the “**Program**”) and authorizes this Agreement as part of the Program; and

WHEREAS, Company desires to participate in the Program by entering into this Agreement; and

WHEREAS, the City Council finds and determines that this Agreement will effectuate the purposes set forth in the Program and that the Company’s performance of its obligations set forth in this Agreement will promote local economic development in the City, stimulate business and commercial activity in the City and benefit the City and its residents.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the Parties agree as follows:

ARTICLE I Incorporation of Recitals

The foregoing recitals (“**Recitals**”) are incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the Parties.

ARTICLE II Definitions

As used herein, the following terms shall have the following meanings, to-wit:

“Agreement” shall mean this agreement together with all exhibits attached hereto.

“Airport” shall have the meaning set forth in the Recitals.

“Building 1” shall have the meaning set forth in the Recitals.

“Building 2” shall have the meaning set forth in the Recitals.

“Building 1 Capital Investment” shall have the meaning set forth in Article XII of this Agreement and shall include only expenditures, excluding land costs, capitalized as capital assets on the books of Company in accordance with generally accepted accounting principles.

“Building 2 Capital Investment” shall have the meaning set forth in Article XII of this Agreement and shall include only expenditures, excluding land costs, capitalized as capital assets on the books of Company in accordance with generally accepted accounting principles.

“Building Improvements” shall have the meaning set forth in the Recitals.

“Building 1 Incentive Grant” shall have the meaning set forth in Article XIII of this Agreement.

“Building 2 Incentive Grant” shall have the meaning set forth in Article XIII of this Agreement.

“Building 1 Incentive Grant Conditions Precedent” shall have the meaning set forth in Article XIII of this Agreement.

“Building 2 Incentive Grant Conditions Precedent” shall have the meaning set forth in Article XIII of this Agreement.

“Capital Investment Certificate” shall have the meaning set forth in Article XIII of this Agreement.

“Certificate of Compliance” shall mean a certificate in such form as is reasonably acceptable to the City executed on behalf of the Company by a duly authorized Company Representative certifying to the City: (i) that all applicable Conditions Precedent have been satisfied and are then continuing; and (ii) that no Company Default (as hereinafter defined) then exists under the terms of this Agreement and that no event exists which, but for notice, the lapse of time, or both, would constitute a Company Default under the terms of this Agreement.

“Certificate of Occupancy” or “CO” shall mean a final certificate of occupancy issued by the City to the Company after the construction of Building 1 or Building 2, as applicable, has been completed in compliance with the City’s building, health, safety, fire and other codes and authorizing Company to occupy, lease and operate a businesses from the applicable Building Improvements.

“City” shall mean the City of Mesquite, a Texas home rule municipality.

“City Council” shall mean the governing body of the City.

“City Default” shall have the meaning set forth in Article XIV of this Agreement.

“City Regulations” mean all ordinances, rules, regulations and zoning of the City, as may be amended from time to time, including, without limitation, City codes, design standards, engineering standards, engineering design manual, drainage requirements, uniform and international building and construction codes duly adopted by the City, all of which shall be applied to development of the Mesquite Facility.

“City’s Land” shall have the meaning set forth in the Recitals to this Agreement.

“Commencement of Construction” shall mean that (i) the plans have been prepared and all approvals required by applicable governmental authorities have been obtained for construction of the applicable improvement; (ii) all necessary permits for initiation of construction of the improvement pursuant to the respective plans have been issued by all applicable governmental authorities; and (iii) grading of the property for the construction of the applicable improvement has commenced.

“Commencement of Vertical Construction” with respect to the Building Improvements shall mean: (i) the plans for the improvement have been prepared and approved by all applicable governmental authorities; (ii) Company has obtained all City approvals and the permits required in connection with the construction of the improvement; (iii) the foundation of such improvement has been poured; and (iv) framing of the improvement has commenced.

“Company” shall mean Notain Realty (Mesquite Airport Logistics Center) Limited Partnership, its successors and assigns only as permitted by this Agreement.

“Company Default” shall have the meaning set forth in Article XIV of this Agreement.

“Company Representative” shall mean any duly authorized officer of Company.

“Company’s Land” shall have the meaning set forth in the Recitals to this Agreement.

“Completion of Construction” shall mean that that (i) the construction of the applicable public improvement has been substantially completed pursuant to the City's determination; and (ii) the City has accepted the public improvement.

“Concept Plan” shall mean the concept plan attached hereto as **Exhibit E** and incorporated herein by reference. Any changes to the Concept Plan require the written consent of both Parties.

“Conditions Precedent” shall mean the General Conditions Precedent and applicable Conveyance Land Incentive Grant Conditions Precedent, Building 1 Incentive Grant Conditions Precedent and Building 2 Incentive Grant Conditions Precedent.

“Conveyance Land” shall have the meaning set forth in the Recitals.

“Conveyance Land Incentive Grant” shall have the meaning set forth in Article XIII of this Agreement.

“Conveyance Land Incentive Grant Conditions Precedent” shall have the meaning set forth in Article XII of this Agreement.

“Dalfen Affiliate” shall mean any limited partnership entity in which a fund or other entity sponsored by Dalfen Industrial LLC (or its principals or affiliates) owns an interest, so long as the day-to-day decision making for such entity is directly or indirectly controlled by either Sean Dalfen, or Murray Dalfen.

“Development Fees” shall mean all City required plan review fees, plat review fees, permit fees, inspection fees, development fees and Water, Wastewater and Roadway impact fees.

“Development Standards” shall mean the development standards for the Mesquite Facility attached hereto as **Exhibit F** and incorporated herein by reference. Any changes to the Development Standards require the written consent of both Parties.

“Effective Date” shall mean the date the Parties execute this Agreement if the Parties all execute this Agreement on the same date. If the Parties execute this Agreement on different dates,

any reference to the “Effective Date” shall mean the date this Agreement is executed by the last Party.

“Event of Bankruptcy or Insolvency” shall mean the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of a receiver for any part of such Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, the voluntary commencement of any proceeding under any bankruptcy or insolvency laws by any Party, or the involuntary commencement of any proceeding against any Party under any bankruptcy or insolvency laws and such involuntary proceeding is not dismissed within ninety (90) days after the filing thereof.

“Exterior Finish Plan” shall mean the exterior finish description for the Building Improvements attached hereto as **Exhibit G** and incorporated herein by reference. Any changes to the Exterior Finish Plan require the written consent of both Parties.

“Fair Market Value” shall have the meaning set forth in the Recitals to this Agreement.

“Force Majeure Delay” shall mean any act of God (including weather delays beyond historic weather patterns, earthquake, fire, disease and the like), labor strike or work stoppage or slowdown (including failure of building inspectors to reasonably process approvals that cause work stoppage), material shortages, sabotage, war, riot, pandemic (including the COVID-19 pandemic, to the extent of any delays resulting from the same that were not reasonably foreseeable as of the date hereof), moratorium, or governmental action or inaction that reasonably prevents or delays an action from being taken through no fault of Company; provided, however, that under no circumstances shall Force Majeure Delay include any of the following events: economic hardship; changes in market condition; any strike or labor dispute involving the employees of Company or any affiliate of Company, other than industry or nationwide strikes or labor disputes; weather conditions which could reasonably be anticipated by experienced contractors operating in the relevant location; the occurrence of any manpower or equipment shortages; any delay, default or failure (financial or otherwise) of the general contractor or any subcontractor, vendor or supplier of the Company, or any construction contracts for the Mesquite Facility.

“General Conditions Precedent” shall have the meaning set forth in Article XIII of this Agreement.

“Incentive Grants” shall mean the Conveyance Land Incentive Grant, the Building 1 Incentive Grant and the Building 2 Incentive Grant, collectively.

“Landscape Plan” shall mean the concept plan attached hereto as **Exhibit H** and incorporated herein by reference. Any changes to the Landscape Plan require the written consent of both Parties.

“Maximum Lawful Rate” shall mean the maximum lawful rate of non-usurious interest that may be contracted for, charged, taken, received or reserved by the City in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that such law permits the City to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law).

“Mesquite Facility” shall have the meaning set forth in the Recitals to this Agreement and as depicted in the Concept Plan.

“Party” shall mean either Company or the City.

“Parties” shall mean Company and the City.

“Payment Request” shall mean the written request executed by Company and delivered to City as provided in Article XIII of this Agreement requesting payment of all or any portion of the Incentive Grants.

“Person” or “Persons” shall mean one or more individual(s) or corporation(s), general or limited partnership(s), limited liability company(s), trust(s), estate(s), unincorporated business(es), organization(s), association(s) or any other entity(s) of any kind.

“Program” shall have the meaning set forth in the Recitals to this Agreement.

“Project Plan” shall have the meaning set forth in Texas Tax Code § 311.002(2), as may be amended.

“Recitals” shall have the meaning set forth in Article I of this Agreement.

“Remainder Land” shall have the meaning set forth in the Recitals.

“Term” shall have the meaning set forth in Article IV of this Agreement.

“Undocumented Workers” shall mean: (i) individuals who, at the time of employment with Company, are not lawfully admitted for permanent residence to the United States or are not authorized under law to be employed in that manner in the United States; and (ii) such other persons as are included within the definition of “Undocumented worker” pursuant to V.T.C.A., Government Code § 2264.001(4), as hereafter amended or replaced.

“Water, Wastewater, and Roadway Impact Fees” shall mean water, wastewater and roadway impact fees imposed by the City pursuant to Texas Local Government Code Chapter 395 and the City Regulations, both as may be hereafter amended or replaced, to generate revenue to fund or recoup all or part of the costs of capital improvements or facility expansion necessitated by and attributable to the Improvements provided, however, in no event shall Water, Wastewater and Roadway Impact Fees include the dedication of rights-of-way or easements for such facilities, or the construction of such improvements imposed pursuant to the City Regulations.

“Zone” shall have the meaning set forth in the Recitals.

ARTICLE III Authority for Agreement

This Agreement is authorized by Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code. The City Council finds and determines that this Agreement will effectuate the purposes set forth in the Program and that Company’s performance of its obligations herein will: (i) increase the amount of real and business personal property ad valorem taxes assessed and collected by the City; (ii) result in employment opportunities being created in the City; (iii) be a catalyst to revitalize and redevelop in the Airport

area and within the Zone (iv) promote local economic development in the City, stimulate business and commercial activity in the City; and (v) benefit the City and its citizens.

ARTICLE IV

Term

The Term of this Agreement shall commence on the Effective Date and shall continue until the earlier of: (i) sixty (60) months from the Effective Date; or (ii) the date this Agreement is terminated by any Party pursuant to a right to terminate as expressly provided herein (the “**Term**”).

ARTICLE V

Company’s Covenant Not to Employ Undocumented Workers

1. Covenant Not to Employ Undocumented Workers. Company hereby certifies that the Company and each branch, division, and department of Company does not employ any Undocumented Workers and the Company hereby covenants and agrees that Company and each branch, division and department of Company will not knowingly employ any Undocumented Workers during the Term of this Agreement.

2. Covenant to Notify City of Conviction for Undocumented Workers. Company further hereby covenants and agrees to provide the City with written notice of any conviction of the Company, or any branch, division or department of Company, of a violation under 8 U.S.C. § 1324a (f) within thirty (30) days from the date of such conviction.

3. Repayment of Incentive Grants in Event of Conviction for Employing Undocumented Workers. If, after receiving any Incentive Grant under the terms of this Agreement, Company, or a branch, division or department of Company, is convicted of a violation under 8 U.S.C. §1324a (f), Company shall pay to the City, not later than the 120th day after the date the City notifies Company of the violation, an amount equal to the total Incentive Grants previously paid by the City to Company under the terms of this Agreement plus interest at the rate equal to the *lesser* of: (i) the Maximum Lawful Rate; or (ii) five percent (5%) per annum, such interest rate to be calculated on the amount of each Incentive Grant being recaptured from the date each Incentive Grant was paid by the City to Company until the date repaid by Company to the City and such interest rate shall adjust periodically as of the date of any change in the Maximum Lawful Rate.

4. Limitation on Incentive Grant. The City shall have no obligation to pay any Incentive Grant to Company if Company, or any branch, division or department of Company is convicted of a violation under 8 U.S.C. §1324a (f).

5. Remedies. The City shall have the right to exercise all remedies available by law to collect any sums due by Company to the City pursuant to this Article including, without limitation, all remedies available pursuant to Chapter 2264 of the Texas Government Code.

6. Limitation. The Company is not liable for a violation of this Article by a subsidiary, affiliate, or franchisee of the Company, or by a person with whom the Company contracts.

7. Survival. The terms, provisions, covenants, agreements and obligations of the Company and the rights and remedies of the City set forth in this Article shall expressly survive the expiration or termination of this Agreement.

ARTICLE VI
Tax Increment Reinvestment Zone

1. Tax Increment Reinvestment Zone. As referenced in the Recitals, the City has created the Zone and intends (upon satisfaction of the conditions and in accordance with the terms of this Agreement) to expand the Zone to include the City's Land and Company's Land, and to approve a Zone Project Plan providing for the development of the City's Land and Company's Land in accordance with the terms of this Agreement, all upon the terms and subject to the conditions set forth herein, it being anticipated that the development of the Mesquite Facility as more fully set forth herein is necessary to implement the Zone Project Plan.

2. Legislative Discretion. The approval of a Project Plan for the Zone is a discretionary, legislative function of the City Council and is subject to future action and determination by the City Council in its sole discretion. The Parties agree that by execution of this Agreement, the City does not waive or surrender any of its governmental powers, immunities or rights and, notwithstanding any other provision of this Agreement, this Agreement does not control, waive, limit or supplant the legislative authority or discretion of the City Council.

3. Condition Precedent to Agreement. The approval of a final Project Plan for the Zone that provides for the development of the City's Land and Company's Land in accordance with this Agreement is a condition precedent to the obligations of the Parties pursuant to this Agreement. The Parties agree that either Party may terminate this Agreement by written notice to the other Party on or before the date the City Council approves a final Project Plan for the Zone.

ARTICLE VII
Airport Blvd. and Airport Weather Radar Beacon Tower

In consideration of the City's agreement to grant the Incentive Grants to Company upon the terms and conditions more fully set forth herein, Company represents, covenants and agrees to each and all of the following:

1. Improvements to Airport Blvd.

1.1 The Mesquite Facility will be accessed using Airport Blvd. from Scyene Road. The Parties agree that due to the increased volume and weight of truck traffic to be generated by the Mesquite Facility that the Mesquite Facility will materially impact Airport Blvd., Scyene Road and surrounding roadways. In recognition of this impact and to maximize development potential for the Mesquite Facility, for the other consideration recited herein, Company shall widen and reconstruct Airport Blvd. consistent with the plans attached hereto as **Exhibit I** and incorporated herein by reference and to the applicable City Regulations, including but not limited to the City of Mesquite Engineering Design Manual, all as approved by City staff in writing. Said improvements shall include construction of access to the Remainder Land as detailed in **Exhibit I**. Commencement of Construction of these improvements shall occur on or before twelve (12) months from the Effective Date, and Completion of Construction of these improvements shall occur on or before twelve (12) months after Commencement of Construction.

1.2 Prior to Commencement of Construction of any Airport Blvd. improvements, Company shall make, or cause to be made, application for any necessary permits and approvals

required by the City and any other applicable Governmental Authorities to be issued for the construction of the improvements and shall obligate each general contractor, architect, and consultants performing work in connection with such improvements to obtain all applicable permits, licenses or approvals as required by City Regulations. Company shall require or cause the design, inspection, and supervision of the construction of the improvements to be undertaken in accordance with all City Regulations.

1.3 Prior to Commencement of Construction of the improvements, Company shall cause the contractors and subcontractors performing work in connection with the construction of such improvements to purchase and maintain payment, performance and two-year maintenance bonds (the “**Bonds**”) in the penal sum of 100% of the amount set forth in each construction contract for the improvements. The Bonds shall be written on forms approved for use by the City and satisfactory to the City Attorney. Any surety company through which a bond is written shall be a surety company duly authorized to conduct an insurance business in the State of Texas and licensed to issue surety bonds in the State of Texas, provided that the City Attorney has the right to reject any surety company regardless of such company’s authorization to do business in Texas. Should it appear to the City that, at any time during the existence of this Agreement, the surety on the Bonds has become insolvent, bankrupt, or otherwise financially unable to perform its obligations under the Bonds, the City may demand that Company furnish additional or substitute surety through an approved surety company satisfactory to the City Attorney; the act of the City with reference to demanding additional or substitute surety shall never be construed to relieve the original surety of its obligations under the Bonds. The Bonds issued with respect to the construction of the improvements shall be delivered to the City prior to the commencement of construction of the improvements.

1.4 Company shall design and construct or cause the design and construction of the improvements, together with and including the acquisition, at its sole cost, of any and all easements or fee simple title to land necessary to provide for and accommodate the improvements that are not to be constructed on land owned by the City.

1.5 Company shall comply, or shall use commercially reasonable efforts to cause its contractors to comply, with all state and federal laws and City Regulations regarding the design and construction of the improvements.

1.6 The following requirements apply to construction contracts for the improvements:

- (a) All plans and specifications for the improvements shall comply with all City Regulations and shall be subject to the review and approval of the City prior to the issuance of any permits; and
- (b) Each construction contract shall provide that the contractor is an independent contractor, independent of and not the agent of the City, and that the contractor is responsible for retaining, and shall retain, the services of necessary and appropriate architects and engineers; and
- (c) Each construction contract shall provide that the contractor shall indemnify the City and City related parties for any costs or liabilities thereunder and for the negligent acts or omissions of the contractor and the contractor’s agents.

1.7 Company shall ensure at all times during construction that access to and from the Airport using Airport Blvd. to and from Scyene Road is maintained for the public and emergency responders and that such access complies with all City Regulations and applicable state and federal laws and regulations.

1.8 Upon completion of construction of the improvements, Company shall provide the City with a final cost summary of the improvements project costs incurred and paid in connection with the construction of the improvements and provide proof that all amounts owing to contractors and subcontractors have been paid in full evidenced by "all bills paid" affidavits executed by Company and/or its contractors with regard to the improvements.

1.9 Company shall provide the City with reasonable advance notice of any regularly-scheduled construction meetings regarding the improvements, and shall permit the City to attend and observe such meetings as the City so chooses in order to monitor the project, and shall provide the City with copies of any construction schedules as are discussed and reviewed at any such regularly-scheduled construction meeting.

1.10 Unless otherwise approved in writing by the City, all improvements shall be constructed and dedicated to the City in accordance with City Regulations. Company agrees the improvements shall not have a lien or cloud on title upon their dedication and acceptance by the City.

1.11 To the extent fee title is owned by Company, Company shall dedicate or convey by final plat or separate instrument, without cost to the City and in accordance with City Regulations, the rights-of-way and easements necessary for the construction, operation, and maintenance of the road, water, drainage and sewer improvements constructed by Company at the completion of construction of such improvements and upon acceptance by the City. To the extent fee title is owned by the City or any other third party, Company will reasonably cooperate in causing the foregoing to occur.

1.12 It is understood and agreed by and among the Parties that Company is acting independently in the design, construction and development of the improvements and the City assumes no responsibility or liability to any third parties or Company in connection with Company's obligations hereunder. Company shall cause all of its contractors, architects, engineers, and consultants to agree in writing that they will look solely to Company, not to the City, for payment of all costs and claims associated with construction of the improvements.

2. Release of easement across Company's Land. Upon completion of reconstruction of Airport Blvd. as required herein and acceptance of said improvements by the City, the City Manager shall execute and deliver to Company a release in recordable form of the City easement now existing on Company's Land and that currently provides access to City's Land.

3. Grant of easement to Atmos Energy Corporation across City land. For the purpose of facilitating natural gas service to the Remainder Land and the Mesquite Facility, the City Manager shall execute and deliver to Atmos Energy Corporation a permanent easement for the construction, maintenance and operation of a gas line in and upon City-owned land substantially in the form attached hereto as Exhibit J and incorporated herein by reference.

4. Improvements to Airport Weather Radar Beacon Tower. On Airport property east of the proposed Improvements, the City owns and operates a weather radar beacon tower. The Parties

agree that the height of the Building Improvements will interfere with the proper operation of the weather radar beacon tower, impacting Airport operations and the safety of aircraft utilizing the Airport. In recognition of this impact and for other consideration recited herein, Company agrees it shall reimburse City for the costs incurred by City to increase the height of the weather radar beacon tower. Within forty-five (45) days of City providing an invoice to Company with supporting documentation for such costs, Company shall pay City the sum identified in the invoice.

5. V.T.C.A., Local Government Code, § 212.904 and V.T.C.A., Local Government Code § 395.023 Not Applicable. The Parties agree that the Company covenants contained in this Article were not a condition of approval of the Mesquite Facility but are only condition precedents to the payment of the Incentive Grants and accordingly V.T.C.A., Local Government Code § 212.904 and V.T.C.A., Local Government Code § 395.023 do not apply provided, however, in the event a court of competent jurisdiction determines that V.T.C.A., Local Government Code § 212.904 and/or V.T.C.A. Local Government Code § 395.023 apply, the Parties agree that payment by the City to the Company of the Incentive Grants shall satisfy all requirements under V.T.C.A., Local Government Code § 212.904 and V.T.C.A., Local Government Code § 395.023.

ARTICLE VIII Conveyance Land

1. Purchase and Sale. To incentivize Company to enter into this Agreement, construct the Mesquite Facility and perform its covenants herein, and subject to the terms and conditions set forth herein, and provided (a) Company has timely performed its covenants and obligations under this Agreement, (b) no Company Default then exists, or no event exists which, but for notice the lapse of time or both, would constitute a Company Default, (c) this Agreement is not terminated pursuant to a right herein, (d) the Zone is expanded to include the Company Land and City Land and (e) the sale of the Conveyance Land to Company is reasonably necessary to implement the Zone's Project Plan, the City agrees to sell the Conveyance Land to the Company and Company agrees to purchase the Conveyance Land from the City for Fair Market Value, which sale and purchase shall be pursuant to V.T.C.A., Local Government Code § 272.001(b)(6), and pursuant to the terms herein.

2. Survey and Title Policy. Company shall at its option and at its sole expense obtain a survey and title policy in connection with the closing of the purchase of the Conveyance Land.

3. Closing and Closing Costs. Unless this Agreement is sooner terminated as provided herein, the closing of the purchase of the Conveyance Lane shall take place at the offices of the City or at a title company mutually acceptable to City and Company at 10:00 a.m., local time, on the date that is ninety (90) days after the date the City Council adopts an ordinance approving a Project Plan for the Zone that provides for the development and sale of the Conveyance Land to the Developer under the terms of this Agreement, or such earlier or later time and date as the Parties may mutually agree. At the closing, Company shall deliver the Fair Market Value to the City in immediately available funds and the City shall deliver a Deed Without Warranty to Company transferring the Conveyance Land to Company, subject to the terms and conditions provided herein. City and Company shall each be responsible for all costs and expenses incurred by or on behalf of such Party in connection with the sale and purchase of the Conveyance Land, including such Party's attorney's fees. City and Company represent and warrant to each other that they have not and will not work with any broker relative to the sale and purchase of the Conveyance Land and that no brokerage commission is or will be due and payable in connection with the sale and purchase of the Conveyance Land by the City to Company.

4. Easement Agreement. As a condition to closing, the Parties shall agree upon and enter into an Easement Agreement providing a permanent easement for access for the benefit of the Conveyance Land and Remainder Land for utilities, drainage, fire protection, and government and emergency vehicle access in locations agreeable to Company and City. The easement agreement shall be in recordable form and recorded in the Dallas County real property records as a part of the closing. In the event Company purchases the Remainder Land, the Parties agree to terminate the Easement Agreement and enter into a new agreement as necessary.

5. Deed. Pursuant to the execution and approval of appropriate sale and title transfer documents, the City will transfer the Conveyance Land contemporaneously with payment of the Fair Market Value. The purpose of the conveyance is to facilitate and incentivize the construction of the Mesquite Facility and such transfer documents shall contain such terms, provisions and conditions as are acceptable to the City including, without limitation, the conveyance by the City to Company shall be “AS IS, WHERE IS” and “WITH ALL FAULTS,” contain such disclaimers of representations and warranties, express and implied, as the City deems advisable, and include the reservation of easements and rights of way at no cost to the City for the benefit of the City and all public utilities over such portions of the Conveyance Land as the City deems necessary and in locations agreeable to Company (the “Easement Tracts”) containing such terms as are acceptable to the City for access, ingress and egress to, from and upon the Easement Tracts for such purposes as the City deems advisable including, without limitation, constructing, reconstructing, inspecting, patrolling, maintaining, adding to, and removing public improvements.

6. Disclaimer of Representations and Warranties; Release; Waiver, Covenants and Agreements.

6.1 Disclaimer of Representations and Warranties. City makes no representation or warranty, express or implied, or arising by operation of law or otherwise, with respect to any matter concerning the Conveyance Land, including, without limitation, the following: (i) title; (ii) habitability, marketability, merchantability, or suitability or fitness for a particular purpose or use; (iii) the nature and condition of the land including, without limitation, water, drainage and grading, soil and geology, zoning, annexation, extraterritorial jurisdiction and other zoning and jurisdictional issues, location of cemeteries, utility availability or hook-up, easement rights, flood plains (or portions of the land in a flood plain) and the costs and requirements of same, access to streets, costs of utilities, location of curb cuts and median breaks in streets, sewage facilities (including, without limitation, availability or non-availability of appropriate water and sewer capacity) or other governmental rights or obligations; (iv) the completeness, accuracy or approval of permits, surveys, plats, preliminary plats, pollution abatement plans, subdivision plans or reports; (v) tax consequences; (vi) the compliance of all or any part of the land with applicable Environmental Laws; (vii) the existence of asbestos, oil, arsenic, petroleum or chemical liquids or solids, liquid or gaseous products or Hazardous Substances as those terms and similar terms are defined or used in applicable Environmental Laws; (viii) the nature and extent of access to rights-of-way or utilities, availability of permits to access rights-of-way or utilities on the land, other property owned by City, or any land owned by third parties; (ix) easements, mineral interests, encumbrances, licenses, reservations, conditions or other similar matters; (x) compliance with any law, ordinance or regulation of any governmental entity or body; and/or (xi) claims, demands, or other matters relating to

any restrictive covenants encumbering the land. The Parties agree the sale will be made on an “AS IS, WHERE IS” and “WITH ALL FAULTS” basis. The Parties agree the warranties and covenants set forth in § 5.023 of the Texas Property Code do not apply to the sale and purchase and that any warranties arising at common law or implied as a result of § 5.023 of the Texas Property Code, as amended, or any successor statute, shall be excluded and excepted from the deed. Company represents, covenants and agrees that prior to the execution of this Agreement that Company has performed, or has had performed on Company’s behalf, all surveys, engineering reports, geotechnical studies, soils tests, environmental tests, and all other studies, tests, inspections and investigations of the land as Company has determined was necessary or desirable in order for Company to make its decision whether to purchase the Conveyance Land. Company acknowledges that Company has had the full, complete and unfettered right to inspect the land to Company’s satisfaction and that the purchase price is in part based upon the fact that the sale of the land by the City to Company shall be without warranty or representation. Company agrees to rely only upon the Company’s own investigations, assessments and inspections as to the condition of the land, or Company’s own decision not to inspect any matter and Company agrees that it is not relying on any representation, warranty, statement or non-assertion of City or City’s officers, agents, representatives, employees, consultants, or independent contractors in making Company’s decision to purchase the land. COMPANY ACKNOWLEDGES THAT THE CITY HAS NOT MADE AND IS EXPRESSLY DISCLAIMING ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE TITLE, CONDITION, HABITABILITY, MARKETABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OF THE CONVEYANCE LAND.

6.2 Release. CITY SHALL NOT BE LIABLE TO COMPANY FOR ANY LATENT OR PATENT DEFECTS OF THE LAND OR FOR ANY ERRORS, OMISSIONS, OR ON ACCOUNT OF ANY OTHER CONDITION AFFECTING THE LAND INCLUDING, BUT NOT LIMITED TO, THOSE MATTERS DESCRIBED IN THIS SECTION 6, AND COMPANY, AND ANYONE CLAIMING BY, THROUGH OR UNDER COMPANY, HEREBY FULLY RELEASES CITY AND EACH CITY RELATED PARTY FROM ANY AND ALL CLAIMS AGAINST CITY AND EACH CITY RELATED PARTY FOR ANY COSTS, LOSSES, LIABILITIES, DAMAGES, EXPENSES, DEMANDS, ACTIONS OR CAUSES OF ACTION (INCLUDING, WITHOUT LIMITATION, ANY RIGHTS OF CONTRIBUTION) ARISING FROM OR RELATED TO ANY LATENT OR PATENT DEFECTS OF THE LAND OR FOR ANY ERRORS, OMISSIONS, OR OTHER CONDITIONS AFFECTING THE LAND, INCLUDING, BUT NOT LIMITED TO, THOSE MATTERS DESCRIBED IN THIS SECTION 6 AND ANY ALLEGED NEGLIGENCE OF CITY OR ANY CITY RELATED PARTY. THIS COVENANT RELEASING CITY AND EACH CITY RELATED PARTY SHALL BE SET FORTH IN THE DEED AS A COVENANT RUNNING WITH THE LAND AND SHALL BE BINDING UPON COMPANY, COMPANY’S SUCCESSORS AND ASSIGNS, AND ALL FUTURE OWNERS OF ALL OR ANY PORTION OF THE LAND.

6.3 Waiver. AFTER CONSULTATION WITH AN ATTORNEY OF COMPANY’S OWN SELECTION AND WITH RESPECT TO THE SALE AND PURCHASE OF THE LAND, COMPANY HEREBY VOLUNTARILY WAIVES COMPANY’S RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES - CONSUMER

PROTECTION ACT, § 17.41 ET. SEQ., BUSINESS AND COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS.

7. Covenant and Agreement of Company. Company represents and warrants to City that Company is acquiring the Conveyance Land for investment, has knowledge and experience in financial and business real estate matters that enable Company to evaluate the merits and risks of the transactions herein contemplated, and has bargained for and obtained a purchase price and agreement terms which make the limitations of Company's recourse against City acceptable. Company acknowledges that the limitations of Company's recourse against City as set forth herein is a material part of the consideration for the execution and delivery of the Conveyance Land deed by the City and is an integral part of the basis of the bargain between the City and Company relating to the sale by the City and the purchase by the Developer of the Conveyance Land.

8. Taxes. Company shall be responsible for and shall pay all taxes assessed against the Conveyance Land from and after the date of closing on the purchase of the Conveyance Land. This provision shall expressly survive the closing of the purchase of the Conveyance Land.

9. Failure to Purchase Land. If Company does not purchase the Conveyance Land in accordance with the terms and conditions set forth herein, then Company's right to purchase the Conveyance Land will automatically and immediately terminate without notice.

10. Time of the Essence. Time is of the essence with respect to the purchase of the Conveyance Land.

ARTICLE IX

Purchase Option and Right of First Refusal for Remainder Land

1. Grant of Purchase Option. To incentivize Company to enter into this Agreement, construct the Mesquite Facility and perform its covenants herein, and subject to the terms and conditions provided herein, and further provided (a) Company has timely performed its covenants and obligations under this Agreement, (b) no Company Default then exists, or no event exists which, but for notice the lapse of time or both, would constitute a Company Default, (c) this Agreement is not terminated pursuant to a right herein, (d) the Zone is expanded to include the Company's Land and City's Land and (e) the sale of the Remainder Land as provided herein is reasonably necessary to implement the Zone's Project Plan, the City agrees to grant Company an option to purchase the Remainder Land on the following terms and conditions:

- (a) The term of the option to purchase is from the Effective Date and expires twenty-four (24) months from the Effective Date (the "**Option Term**").
- (b) If at any time during the Option Term, the Company elects to acquire the Remainder Land, Company shall provide written notice of the same delivered to City on or before the expiration of the Option Term.
- (c) If Company timely exercises the option to purchase the Remainder Land, City shall sell the Remainder Land to Company, and Company shall purchase the Remainder Land from City at a price equal to the fair market value as determined by an independent appraisal obtained by the City, but in no event shall Company be required to close the purchase of the Remainder Land sooner than sixty (60)

days after Company notifies City of Company's exercise of the option to purchase the Remainder Land. The Parties agree to use the per acre fair market value listed in the Conveyance Land appraisal to determine the purchase price of the Remainder Land so long as such appraisal was performed within 30 months of the date Company exercises its option to purchase the Remainder Land. Any such sale and purchase shall be pursuant to V.T.C.A., Local Government Code § 272.001(b)(6), and pursuant to the terms herein. The deed requirements, disclaimers, releases, waivers, covenants and agreements provided in Article VIII, sections 5, 6, 6.1, 6.2, 6.3, 7 and 8 are incorporated herein by reference and shall apply to conveyance of the Remainder Land.

- (d) Upon request of either Party, the Parties shall execute a purchase and sale contract reflecting the above, except that the (i) date of the contract shall be the date Company exercises its option to purchase the Remainder Land and (ii) closing date of the contract shall not be earlier than sixty (60) days after Company notifies City of Company's exercise of the option.
- (e) If Company fails to timely exercise its option to purchase the Remainder Land by timely written irrevocable notice to City as described herein, or if Company timely exercises Company's option to purchase the Remainder Land but for any reason, other than City's default, the contract is terminated or Company's purchase of the Remainder Land does not close, Company's option to purchase the Remainder Land shall terminate and shall be void in its entirety.

2. Grant of Right of First Refusal. To incentivize Company to enter into this Agreement, construct the Mesquite Facility and perform its covenants herein, and subject to the terms and conditions provided herein, and further provided (a) Company has timely performed its covenants and obligations under this Agreement, (b) no Company Default then exists, or no event exists which, but for notice the lapse of time or both, would constitute a Company Default, (c) this Agreement is not terminated pursuant to a right herein, (d) the Zone is expanded to include the Company's Land and City's Land and (e) the sale of the Remainder Land as provided herein is necessary to implement the Zone's Project Plan, the City agrees to grant Company a right of first refusal to purchase the Remainder Land on the following terms and conditions:

- (a) The term of the right of first refusal commences twenty-four (24) months after the Effective Date and expires sixty (60) months from the Effective Date.
- (b) If during the term of the right of first refusal City receives an offer to purchase the Remainder Land and desires to sell pursuant to such offer, City shall notify Company of the identity of the offeror, the amount and method of payment of the purchase price and all other terms and conditions of the offer (the "**Third Party Offer**")
- (c) Company shall have the option, exercisable by written irrevocable notice delivered to City within ten (10) days after the date the notice is given by City, to purchase the Remainder Land at the price and on the terms and conditions set forth in the Third Party Offer.
- (d) If Company timely exercises the right of first refusal to purchase the

Remainder Land, City shall sell the Remainder Land to Company, and Company shall purchase the Remainder Land from City on the terms and conditions set forth in the Third Party Offer, but in no event shall Company be required to close the purchase of the Remainder Land sooner than sixty (60) days after Company notifies City of Company's exercise of the right of first refusal to purchase the Remainder Land. Any such sale and purchase shall be pursuant to V.T.C.A., Local Government Code § 272.001(b)(6), and pursuant to the terms herein.

(e) Upon request of either Party, the Parties shall execute a purchase and sale contract with substantially similar terms and conditions as the Third Party Offer, except that the (i) date of the contract shall be the date Company exercises its option to purchase the Remainder Land and (ii) closing date of the contract shall not be earlier than sixty (60) days after Company notifies City of Company's exercise of the option.

(f) If Company fails to timely exercise its right of first refusal to purchase the Remainder Land by timely written irrevocable notice to City as described herein, or if Company timely exercises Company's right of first refusal to purchase the Remainder Land but for any reason, other than City's default, the contract is terminated or Company's purchase of the Remainder Land does not close, Company's right of first refusal and any right to purchase the Remainder Land shall terminate and shall be void in its entirety.

3. No Assignment. The foregoing option to purchase and right of first refusal are personal to Company and Dalfen Affiliates and may not be assigned by Company to any successor, assign or third party other than a Dalfen Affiliate.

4. Recording. Company may record in the real property records of Dallas County a memorandum of the foregoing option and right of first refusal in a form reasonably acceptable to the City.

5. Time of the Essence. Time is of the essence with respect to the provisions of this Article.

ARTICLE X

Construction of Building Improvements

In consideration of the City's agreement to grant the Incentive Grants to Company upon the terms and conditions more fully set forth herein, Company represents, covenants and agrees to each and all of the following:

1. Building 1 on Company's Land. Commencement of Vertical Construction of the industrial building on Company's Land shall occur no later than March 1, 2022. The building shall consist of a minimum of 350,000 square feet. On or before June 30, 2023, Company shall have completed construction of the building and a certificate of occupancy shall have been issued for such building.

2. Building 2 on Company's Land and the Conveyance Land. Commencement of Vertical Construction of the industrial building on Company's Land and the Conveyance Land shall occur no later than May 1, 2022, subject to a day-for-day extension for Force Majeure Delay.

The building shall consist of a minimum of 600,000 square feet. On or before June 30, 2024, Company shall have completed construction of the building and a certificate of occupancy shall have been issued for such building.

3. Compliance with Standards for Improvements. The Building Improvements shall be constructed in compliance with the Development Standards, Exterior Finish Plan, Landscape Plan and City Regulations as evidenced by the issuance by the City of a final inspection, final green tag, certificate of completion, or other equivalent, confirming completion of the requirements of the building permit issued by the City in connection with the construction of the Improvements.

ARTICLE XI

Company's Additional Covenants

In consideration of the City's agreement to grant the Incentive Grants to Company upon the terms and conditions more fully set forth herein, Company represents, covenants and agrees to each and all of the following:

1. Timely Payment of Development Fees. Company shall timely pay to the City all Development Fees in connection with the Mesquite Facility.

2. Records and Reports. During the Term of this Agreement and during the time any provision of this Agreement survives the Term, Company shall deliver to the City within forty-five (45) days after written request such documentation as the City may reasonably request to confirm compliance by Company with the representations, covenants and agreements set forth in this Agreement.

3. Inspection. Company shall provide the City, its agents and employees with access to the Mesquite Facility at such times as the City may reasonably request during the Term of this Agreement, but no more often than two (2) times per calendar year, to conduct such inspections as the City deems reasonably necessary in order to confirm compliance by Company with the representations, covenants and agreements of Company as set forth in this Agreement provided the City has given Company at least seventy-two (72) hours prior written notice of such inspection. Such inspections shall be made during usual business hours and at such times so as to not interfere with the operations of Company or any tenant. Once the City has confirmed compliance with representations, covenants and agreements of Company as set forth in this Agreement that are not of an ongoing nature, City shall no longer have continuing inspection rights hereunder for the same.

4. Representative of Company to Accompany Inspections. Company shall provide a representative of Company to accompany the City during all inspections of the Mesquite Facility conducted by the City.

5. Timely Payment of Taxes. Company shall timely pay all ad valorem taxes assessed against the Mesquite Facility during the Term of this Agreement and during the time any provision of this Agreement survives the Term prior to the date such taxes become delinquent.

6. Maintenance Obligations. Company shall comply with all building codes, zoning ordinances and all other codes, ordinances and City Regulations at all times during the Term of this Agreement and during the time any provision of this Agreement survives the Term and shall, at Company's sole cost and expense, maintain the Mesquite Facility in good repair at all times during

the Term of this Agreement.

7. Compliance with Laws. Company shall comply with all federal, state and local laws, ordinances and regulations relating to the ownership and operation of the Mesquite Facility during the Term of this Agreement and during the time any provision of this Agreement survives the Term.

8. Performance of Agreement. Company shall timely keep and perform all terms, provisions, agreements, covenants, conditions and obligations to be kept or performed by Company under the terms of this Agreement.

9. Performance of Other Agreements. Company shall timely keep and perform all terms, provisions, agreements, covenants, conditions and obligations to be kept or performed by Company under the terms of all other agreements now or hereafter existing between Company and the City, if any, during the Term of this Agreement and during the time any provision of this Agreement survives the Term. Notwithstanding the provisions of such other agreements, Company will be deemed to be in compliance with all terms, provisions, agreements, covenants, conditions and obligations of such other agreement and will not be in default under this Agreement unless Company fails to cure any default under any other agreement within 30 days after receipt of written notice from the City of such default.

10. No Goods or Services. Company agrees the performance of any or all obligations of Company under the terms of this Agreement does not constitute the provision of goods or services to the City.

ARTICLE XII

Conditions Precedent to Payment of the Incentive Grants

1. General Conditions Precedent to Payment of Each and Any Incentive Grant. Company and the City hereby expressly acknowledge and agree that the City's obligation to pay each and any Incentive Grant shall expressly be conditioned upon the satisfaction of the following conditions precedent (individually a "**General Condition Precedent**" and collectively the "**General Conditions Precedent**"):

- a. Payment of Fees. Company shall have timely paid to the City all impact fees, permit fees, development fees, review fees and inspection fees in connection with the Mesquite Facility including, without limitation, all Water, Wastewater and Roadway Impact Fees and the City shall have confirmed receipt of all such impact fees, permit fees, development fees, review fees and inspection fees.
- b. Records and Reports. Company shall have delivered to the City copies of such invoices, paid receipts, payment records and such other documentation as the City may reasonably request to confirm compliance by Company with the Conditions Precedent and Company's obligations in this Agreement.
- c. Taxes. Company shall have timely paid all ad valorem taxes assessed against the Mesquite Facility and business personal property located at the Mesquite Facility as of the date of any Payment Request.

- d. Performance of this Agreement. Company shall have timely kept and performed all terms, provisions, agreements, covenants, conditions and obligations to be kept or performed by Company under the terms of this Agreement and no Company Default shall then exist and no event shall exist which, but for notice, the lapse of time, or both, would constitute a Company Default under the terms of this Agreement.
- e. Performance by Company of other Agreements. Company shall have timely kept and performed all terms, provisions, agreements, covenants, conditions and obligations to be kept or performed by Company under the terms of all other agreement(s) now and hereafter existing between Company and the City, if any, and no default shall then exist under the terms of such agreement(s) and no event shall exist which, but for notice, the lapse of time, or both, would constitute a default by Company under the terms of such agreement(s). Notwithstanding the provisions of such other agreements, Company will be deemed to be in compliance with all terms, provisions, agreements, covenants, conditions and obligations of such other agreement and will not be in default under this Agreement unless Company fails to cure any default under any other agreement within 30 days after receipt of written notice from the City of such default.

2. Conditions Precedent to Conveyance Land Incentive Grant. Company and the City hereby expressly acknowledge and agree that the City's obligation to pay the Conveyance Land Incentive Grant to Company shall expressly be conditioned upon the satisfaction of each and every one of the following conditions precedent (the "**Conveyance Land Incentive Grant Conditions Precedent**") in addition to the General Conditions Precedent stated above:

- a. Company shall have timely completed construction of the Airport Blvd. improvements and City shall have accepted said improvements; and
- b. Company shall have reimbursed the City for the costs incurred by City to increase the height of the weather radar beacon tower; and
- c. Company shall have achieved Commencement of Vertical Construction for Building 2.

3. Conditions Precedent to Building 1 Incentive Grant. Company and the City hereby expressly acknowledge and agree that the City's obligation to pay the Building 1 Incentive Grant to Company shall expressly be conditioned upon the satisfaction of each and every one of the following conditions precedent (the "**Building 1 Incentive Grant Conditions Precedent**") in addition to the General Conditions Precedent stated above:

- a. Commencement of Vertical Construction with respect to Building 1 has occurred.
- b. Company shall have made expenditures in the collective amount of at least THIRTEEN MILLION AND 00/100 DOLLARS (\$13,000,000.00), exclusive of land costs, in connection with the Building 1 Improvements (the "**Building**

1 Capital Investment”). When calculating such expenditures, the Parties agree that no expenditure shall be included as part of the Building 1 Capital Investment unless the expenditure is capitalized as a capital asset on the books of Company in accordance with generally accepted accounting principles.

- c. Company shall have submitted to the City a certificate in such form as is reasonably acceptable to the City executed by a Company Representative certifying the amount of expenditures made by Company in connection with the construction of the Building 1 Improvements (the “**Capital Investment Certificate**”) and such Capital Investment Certificate shall confirm that Company has satisfied the Building 1 Capital Investment requirement set forth in this Section.
- d. At the option of the City, the City shall have inspected Building 1 to confirm Company’s compliance with the terms and provisions of this Agreement.
- e. Company shall complete performance of its covenants under Article VII and the City shall have accepted the Airport Blvd. improvements and received payment from Company for costs incurred by City to increase the height of the weather radar beacon tower;

4. Conditions Precedent to Building 2 Incentive Grant. Company and the City hereby expressly acknowledge and agree that the City’s obligation to pay the Building 2 Incentive Grant to Company shall expressly be conditioned upon the satisfaction of each and every one of the following conditions precedent (the “**Building 2 Incentive Grant Conditions Precedent**”) in addition to the General Conditions Precedent stated above:

- a. Commencement of Vertical Construction with respect to Building 2 has occurred.
- b. Company shall have made expenditures in the collective amount of at least NINETEEN MILLION AND 00/100 DOLLARS (\$19,000,000.00) in connection with the Building 2 Improvements, exclusive of land costs (the “**Building 2 Capital Investment**”). When calculating such expenditures, the Parties agree that no expenditure shall be included as part of the Building 2 Capital Investment unless the expenditure is capitalized as a capital asset on the books of Company in accordance with generally accepted accounting principles.
- c. Company shall have submitted to the City a certificate in such form as is reasonably acceptable to the City executed by a Company Representative certifying the amount of expenditures made by Company in connection with the construction of the Building 2 Improvements (the “**Capital Investment Certificate**”) and such Capital Investment Certificate shall confirm that Company has satisfied the Building 2 Capital Investment requirement set forth in this Section.
- d. At the option of the City, the City shall have inspected Building 2 to confirm Company’s compliance with the terms and provisions of this Agreement.

- e. Company shall complete performance of its covenants under Article VII and the City shall have accepted the Airport Blvd. improvements and received payment from Company for costs incurred by City to increase the height of the weather radar beacon tower;

ARTICLE XIII Incentive Grants

1. Conveyance Land Incentive Grant. The City hereby approves, subject to satisfaction of the General Conditions Precedent and Conveyance Land Incentive Grant Conditions Precedent and the covenants and limitations set forth in this Agreement, an economic development grant to the Company in an amount equal to SEVEN HUNDRED TWENTY THOUSAND AND 00/100 DOLLARS (\$720,000.00) (the “**Conveyance Land Incentive Grant**”). This Incentive Grant shall be paid by City to Company upon satisfaction of all applicable conditions precedent and within forty-five (45) days of Company submitting to City a Payment Request in compliance with this Article.

2. Building 1 Incentive Grant. The City hereby approves, subject to satisfaction of the General Conditions Precedent and Building 1 Incentive Grant Conditions Precedent and the covenants and limitations set forth in this Agreement, an economic development grant to the Company in an amount equal to all Water, Wastewater and Roadway Impact Fees imposed by the City in connection with construction of Building 1 (the “**Building 1 Incentive Grant**”). This Incentive Grant shall be paid by City to Company upon satisfaction of all applicable conditions precedent and within forty-five (45) days of Company submitting to City a Payment Request in compliance with this Article.

3. Building 2 Incentive Grant. The City hereby approves, subject to satisfaction of the General Conditions Precedent and Building 2 Incentive Grant Conditions Precedent and the covenants and limitations set forth in this Agreement, an economic development grant to the Company in an amount equal to all Water, Wastewater and Roadway impact fees imposed by the City in connection with construction of Building 2 (the “**Building 2 Incentive Grant**”). This Incentive Grant shall be paid by City to Company upon satisfaction of all applicable conditions precedent and within forty-five (45) days of Company submitting to City a Payment Request in compliance with this Article.

4. Payment Request. Company shall submit a Payment Request for each Incentive Grant to the City accompanied by any required documentation, and as of the date of such Payment Request, all terms of this Agreement, including applicable conditions precedent set forth herein, shall have been satisfied and are then continuing. A Payment Request shall be submitted to the City’s Finance Director at 757 N. Galloway, Mesquite, Texas 75149 within thirty (30) days of Company’s entitlement to an Incentive Grant earned herein.

5. Supporting Documentation Submitted with Payment Request. In addition to any other requirements in this Agreement, each such Payment Request shall be accompanied by a Certificate of Compliance dated effective as of the date of the Payment Request. Additionally, Company shall submit in support of its Payment Request any information reasonably requested by the City to verify compliance of Company with this Agreement.

6. Payment of a Payment Request. The City shall issue each payment within thirty (30) days of the Payment Request if the Payment Request was in full compliance with this Agreement and timely received and Company is then in compliance with all terms and conditions of this Agreement. If Company submits a Payment Request more than one year after the applicable Incentive Grant is earned by Company, Company agrees it is an irrevocable waiver of Company's right to request said payment and the City shall not be obligated to pay the Payment Request. Any obligation of City to pay a timely submitted and valid Payment Request shall expressly survive the Term of this Agreement

7. Funds Available for Payment of Incentive Grants. The Incentive Grants payable by the City to Company as more fully set forth in this Agreement are not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the City. All Incentive Grant payments payable hereunder shall be paid only from funds of the City authorized by Article, Section 52-a, of the Texas Constitution and Texas Local Government Code Chapter 380. Each Incentive Grant payment shall be subject to the City's appropriation of funds for such purpose to be paid in the budget year for which the Incentive Grant payment is to be made. Under no circumstances shall the City's obligations under this Article be deemed to create any debt within the meaning of any constitutional or statutory provision.

8. All terms, provisions, agreements, covenants, conditions, obligations, rights and remedies of each Party pursuant to this Article shall expressly survive the expiration or termination of this Agreement.

ARTICLE XIV Defaults and Remedies

1. Company Default. Company shall all be in default of this Agreement: (i) in the event that Company fails to purchase the Land in accordance with this Agreement; (ii) upon the occurrence of an Event of Bankruptcy or Insolvency of Company; (iii) upon any assignment of this Agreement by Company in violation of this Agreement; or (iv) if Company fails to timely keep or perform any term, provision, agreement, covenant, condition or obligation to be kept or performed by Company under the terms of this Agreement and such failure continues for sixty (60) days after written notice by the City to Company (each a "**Company Default**").

2. City Remedies. In the event of a Company Default, the City shall have no obligation to pay the Incentive Grants to Company and, in addition to the recapture remedy provided below in this Article, the City shall have the right to: (i) terminate this Agreement immediately by written notice to the Company; and (ii) exercise any and/or all other rights and/or remedies available to the City under this Agreement and/or pursuant to the laws of the State of Texas.

3. City Default. The City shall be in default of this Agreement: (i) upon the occurrence of an Event of Bankruptcy or Insolvency of the City; or (ii) if the City fails to timely keep or perform any term, provision, agreement, covenant, condition or obligation to be kept or performed by the City under the terms of this Agreement and such failure continues for sixty (60) days after written notice by a Party to the City (a "**City Default**").

4. Company Remedies. Upon the occurrence of a City Default, Company shall have

the right to terminate this Agreement by written notice to the City or seek specific performance with respect to agreements concerning real property. The City and Company acknowledge and agree that this Agreement is not a contract for goods or services and the City's immunity from suit is not waived pursuant to Subchapter I of Chapter 271, V.T.C.A., Local Government Code, as amended. Alternatively, if and only in the event a court of competent jurisdiction determines the City's immunity from suit is waived under Subchapter I of Chapter 271, V.T.C.A., Local Government Code, the Parties hereby acknowledge and agree that in a suit against the City for breach of this Agreement:

- (a) the total amount of damages, if any, awarded against the City shall be limited to actual damages in an amount not to exceed FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00); and
- (b) the recovery of damages against the City shall not include consequential, punitive, exemplary, or speculative damages.

5. Recapture of Incentive Grants. In the event of a Company Default, Company shall immediately pay to the City, at the City's address set forth in this Agreement, the amount equal to the Building 1 Incentive Grant and Building 2 Incentive Grant previously paid by the City to the Developer under the terms of this Agreement plus interest at the rate equal to the lesser of: (a) the Maximum Lawful Rate; or (b) three percent (3%) per annum, such interest rate to be calculated on each Incentive Grant being recaptured from the date such Incentive Grant was paid by the City until the date repaid by the Developer to the City and such interest rate shall adjust periodically as of the date of any change in the Maximum Lawful Rate.

6. Attorney's Fees. Neither Party hereto shall be entitled to seek or recover attorney's fees (except in the event of the exercise by the City of the remedies set forth in Chapter 2264 of the Texas Government Code).

7. Survival. All terms, provisions, agreements, covenants, conditions, obligations, rights and remedies of each Party pursuant to this Article shall expressly survive the expiration or termination of this Agreement.

ARTICLE XV Miscellaneous Provisions

1. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their respective successors and permitted assigns provided, however, notwithstanding anything contained herein to the contrary, this Agreement and the rights and obligations of Company may not be assigned or transferred by Company except to a Dalfen Affiliate without the prior written consent of the City, which may be withheld in the City's sole discretion. In the event Company is a real estate investment trust, a corporation or limited liability company, the sale, transfer or assignment of a controlling interest in the real estate investment trust, or the sale, transfer or assignment of a controlling interest in the shares of the applicable company, or the sale, transfer or assignment of a controlling interest in the membership interests of the applicable company shall constitute an assignment of this Agreement and the failure of Company to obtain the prior written consent of the City prior to such sale, transfer or assignment unless to a Dalfen Affiliate shall be an attempted assignment of this Agreement in violation of this Agreement and shall constitute a breach of this Agreement by Company. In the event Company

is a partnership, the sale, transfer or assignment of a controlling interest in the shares of a corporation or the membership interests of a limited liability company or the partnership interests of a partnership that is Company's general or managing partner shall constitute an assignment of this Agreement and the failure of Company to obtain the prior written consent of the City prior to such sale, transfer or assignment of such shares, membership interests or partnership interests unless to a Dalfen Affiliate shall be an attempted assignment of this Agreement in violation of this Agreement and shall constitute a breach of this Agreement by Company. Furthermore, neither Company nor any approved assignee or their legal representatives or successors in interest shall, by operation of law or otherwise, collaterally assign, mortgage, pledge, encumber or otherwise transfer any interest in any receivables under this Agreement or any part hereof, or the interest of Company or any approved assignee under this Agreement, without obtaining the City's prior written consent, which may be withheld in the City's sole discretion. Any consent by the City to any assignment of this Agreement shall be held to apply only to the specific transaction thereby authorized and shall not constitute a waiver of the necessity for such consent to any subsequent assignment. No assignment of this Agreement shall contain any terms in contravention of any provisions of this Agreement. No assignment of this Agreement shall be effective unless: (i) the assignment is in writing signed by the assignor and the assignee; (ii) the assignee assumes the assignor's obligation to timely keep and perform all terms, provisions, agreements, covenants, conditions and obligations of the assignor under the terms of this Agreement; (iii) a true and correct copy of such assignment has been provided to the City; and (iv) the City has approved such assignment in writing. Every assignee shall be subject to and bound by all the provisions, covenants, and conditions of this Agreement and shall be required to obtain the prior written consent of the City with respect to any future or further assignment. Any attempted assignment in violation of the terms and provisions of this Agreement shall be void and shall constitute a material breach of this Agreement by Company and in the event Company attempts to assign this Agreement in violation of this Article, the City shall have the right to terminate this Agreement with Company by written notice to Company.

2. Notices. Any notice and/or certificate or statement required or permitted to be given to any Party under the terms of this Agreement shall be in writing and shall be deemed properly given if sent by United States electronically tracked certified mail, return receipt requested, in a postage paid envelope addressed to the respective Party at the following addresses or by delivery of the notice in person to the intended addressee by hand delivery or by a nationally recognized courier service having the ability to track shipping and delivery of notices including but not limited to services such as Federal Express or United Parcel Service (UPS). Notices mailed by certified mail as set forth above shall be effective and deemed delivered, whether actually received or not, three (3) business days after deposit in the United States mail. Notices sent by a nationally recognized courier service as set forth above shall be effective and deemed delivered, whether actually received or not, one (1) business day after deposit with the nationally recognized courier service. Notices given in any other manner shall be effective and deemed delivered only if and when received by the addressee. For purposes of notice, the addresses of the Parties shall be as set forth below; provided, however, that any Party shall have the right to change such Party's address for notice purposes by giving the other Party at least thirty (30) days prior written notice of such change of address in the manner set forth herein:

DALFEN:	c/o Dalfen Industrial LLC 17304 Preston Road, Suite 550 Dallas, Texas 75252 Attention: Tyler McElroy and Joseph Walker
---------	---

Email: tmcelroy@dalfen.com , jwalker@dalfen.com

With a copy to: Greenberg Traurig, LLP
77 West Wacker Drive, Suite 3100
Chicago, Illinois 60601
Attention: Milos Markovic and Joseph Rudas
Email: markovicm@gtlaw.com, rudasj@gtlaw.com

CITY: City Manager
City of Mesquite
1515 N. Galloway Avenue
Mesquite, TX 75149

With a copy to: Director of Economic Development
City of Mesquite
1515 N. Galloway Ave.
Mesquite, Texas 75149

With a copy to: City Attorney
City of Mesquite
1515 N. Galloway Ave.
Mesquite, Texas 75149

3. Right to Offset. The City shall have the right to offset any amounts due and payable by the City under this Agreement against any debt (including taxes) lawfully due and owing by Company to the City, regardless of whether the amount due arises pursuant to the terms of this Agreement or otherwise, and regardless of whether or not the debt has been reduced to judgment by a court.

4. Remedies Cumulative. The Parties hereby agree that each right and remedy of the Parties provided for in this Agreement shall be cumulative.

5. Captions. The descriptive captions of this Agreement are for convenience of reference only and shall in no way define, describe, limit, expand or affect the scope, terms, conditions, or intent of this Agreement.

6. Modification. This Agreement may only be revised, modified or amended by a written document signed by all Parties to this Agreement. Oral revisions, modifications or amendments are not permitted.

7. Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for nor against any Party.

8. Waivers. All waivers, to be effective, must be in writing and signed by the waiving Party. No failure by any Party to insist upon the strict or timely performance of any covenant, duty, agreement, term or condition of this Agreement shall constitute a waiver of any such covenant, duty, agreement, term or condition. No delay or omission in the exercise of any right or remedy accruing to any Party shall impair such right or remedy or be construed as a waiver of any

such breach or a waiver of any breach theretofore or thereafter occurring. This Agreement is expressly made subject to City's governmental immunity, including but not limited to the Texas Civil Remedies Code and all applicable state and federal law. The Parties expressly agree that no provision of the Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability that the City has by operation of law.

9. Governing Law; Venue. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Texas (without giving effect to any conflict of law principles that would result in the application of the laws of any state other than Texas). The Parties agree that venue of any suit to construe or enforce this Agreement shall lie exclusively in state courts in Dallas County, Texas and agree to submit to the personal and subject matter jurisdiction of such courts.

10. **WAIVER OF CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECULATIVE DAMAGES.** COMPANY AGREES THAT, IN CONNECTION WITH ANY ACTION, SUIT OR PROCEEDING ARISING FROM OR RELATING TO THIS AGREEMENT, COMPANY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY CLAIM FOR CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECULATIVE DAMAGES INCLUDING BUT NOT LIMITED TO LOST PROFITS.

11. Severability. The sections, paragraphs, sentences, clauses, and phrases of this Agreement are severable and, if any phrase, clause, sentence, paragraph, or section of this Agreement should be declared invalid, illegal or unenforceable by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect the validity or enforceability of any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Agreement and such remaining provisions shall remain in full force and effect and shall be construed and enforced as if the invalid provision had never been included in the Agreement.

12. No Partnership or Joint Venture. Nothing contained in this Agreement shall be deemed or construed by the Parties hereto, nor by any third party, as creating the relationship of partnership or joint venture between the Parties.

13. No Third-Party Beneficiaries. The Parties to this Agreement do not intend to create any third-party beneficiaries of the contract rights contained herein. This Agreement shall not create any rights in any individual or entity that is not a signatory hereto. No Person who is not a party to this Agreement may bring a cause of action pursuant to this Agreement as a third-party beneficiary.

14. Number and Gender. Whenever used herein, unless the context otherwise provides, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all other genders.

15. Counterparts. This Agreement may be executed in any number of original, facsimile or electronically scanned counterparts, each of which shall be considered an original and all of which shall be considered one and the same instrument.

16. Entire Agreement. This Agreement together with the referenced exhibits, sets forth the entire agreement between the Parties with respect to the subject matter hereof, and all prior discussions, representations, proposals, offers, and oral or written communications of any nature

are entirely superseded hereby and extinguished by the execution of this Agreement. There are no oral agreements between the Parties.

17. Authority. Company represents 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. Company represents that it has the full power and authority to enter into and fulfill its obligations under this Agreement and that the Person signing this Agreement on behalf of Company has the authority to sign this Agreement on behalf of Company.

18. Anti-Boycott Verification. If Texas Government Code Chapter 2271 is applicable to this Agreement, by signing below, Company hereby represent, verify, and warrant that their company does not boycott Israel and will not boycott Israel during the term of the Agreement.

19. Iran, Sudan and Foreign Terrorist Organizations. If § 2252.153 of the Texas Government Code is applicable to this Agreement, by signing below Company hereby represents, verifies, and warrants that (i) it does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under § 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a “foreign terrorist organization” as defined in § 2252.151 of the Texas Government Code.

20. City Council Authorization. This Agreement was authorized by resolution of the City Council approved at a duly noticed City Council meeting.

21. Usury Savings Clause. Company and the City intend to conform strictly to all applicable usury laws. All agreements of the Parties are hereby limited by the provisions of this Article XV, Section 21 which shall override and control all such agreements, whether now existing or hereafter arising and whether written or oral. In no event shall any interest contracted for, charged, received, paid or collected under the terms of this Agreement exceed the Maximum Lawful Rate or amount of non-usurious interest that may be contracted for, taken, reserved, charged, or received under applicable law. If, from any possible development of any document, interest would otherwise be payable to City in excess of the Maximum Lawful Rate, any such construction shall be subject to the provisions of this Article XV, Section 21 and such document shall be automatically reformed and the interest payable to the City shall be automatically reduced to the Maximum Lawful Rate, without the necessity of execution of any amendment or new document. If the City shall ever receive anything of value which is characterized as interest under applicable law and which would apart from this provision be in excess of the Maximum Lawful Rate, an amount equal to the amount which would have been excessive interest shall at the option of the City be refunded to Company or applied to the reduction of the principal amount owing under this Agreement or such document in the inverse order of its maturity and not to the payment of interest. The right to accelerate any indebtedness does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and City does not intend to charge or receive any unearned interest in the event of acceleration. All interest paid or agreed to be paid to the City shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full stated term (including any renewal or extension) of such indebtedness so that the amount of interest on account of such indebtedness does not exceed the Maximum Lawful Rate.

22. Non-Collusion. Company represents and warrants that neither Company nor anyone on any Company’s behalf has given, made, promised or paid, nor offered to give, make,

promise or pay any gift, bonus, commission, money or other consideration to any employee, agent, representative or official of the City as an inducement to or in order to obtain the benefits to be provided by the City under this Agreement.

23. Form 1295 Certificate. Company agrees to comply with Texas Government Code, § 2252.908 and in connection therewith, Company agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, § 2252.908 and the rules of the Texas Ethics Commission and provide to the City, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.

24. Development Standards and Exterior Finish Plan. The Parties acknowledge that effective September 1, 2019, the Legislature of the State of Texas enacted HB 2439, codified at V.T.C.A., Government Code, Title 10, Subtitle Z “*Miscellaneous Provisions Prohibiting Certain Government Actions*”, Chapter 3000 “*Governmental Action Affecting Residential and Commercial Construction*, regarding the regulation by municipalities of building products, materials, and aesthetic methods for residential and commercial buildings (the “**Act**”). Specifically, § 3000.002 of the Act prohibits cities from adopting or enforcing a rule, charter provision, ordinance, order, building code or other regulation that prohibits or limits the use or installation of certain building products or materials or that establishes certain standards for building products, materials or aesthetic methods. Company acknowledges that, notwithstanding the Act, in consideration of the agreement of the City to pay the Incentive Grants to Company under the terms and subject to the conditions set forth in this Agreement, Company is contractually agreeing to construct the façade and elevations of all of the Improvements to conform to the Development Standards and Exterior Finish Plan. The Parties acknowledge that the provisions of this Section are material to the City’s agreement to grant the Incentive Grants and is a bargained for consideration between the Parties.

25. Execution of Agreement by Parties. If this Agreement is not executed by Company and the City on or before **July 2, 2021**, this Agreement will be null and void and of no force or effect.

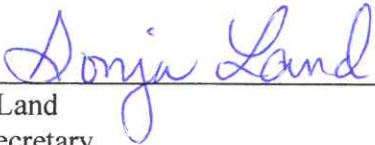
26. Time is of the Essence. THE PARTIES SPECIFICALLY AGREE THAT TIME IS OF THE ESSENCE OF EACH AND EVERY PROVISION OF THIS AGREEMENT AND EACH PARTY HEREBY WAIVES ANY RULE OF LAW OR EQUITY WHICH WOULD OTHERWISE GOVERN TIME OF PERFORMANCE.


[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized agents, officers and/or officials on the dates set forth below.

ATTEST:

**CITY OF MESQUITE,
a Texas home rule municipality**

By: 
Sonja Land
City Secretary

By: 
Name: Cliff Kenaley
Title: City Manager

Date: 6.9.2021

Date: 6.9.2021

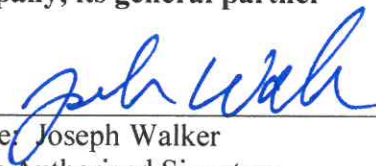
APPROVED AS TO FORM:

By: 
David L. Paschall, City Attorney

COMPANY:

**NOTAIN REALTY (MESQUITE
AIRPORT LOGISTICS CENTER)
LIMITED PARTNERSHIP,
a Delaware limited partnership**

By: **Mesquite Airport Logistics Center
GP LLC, a Delaware limited liability
company, its general partner**

By: 
Name: Joseph Walker
Title: Authorized Signatory

Date: May 28, 2021

**EXHIBIT A
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Legal Description and Depiction of City's Land

[Attached]

Legal Description

BEING a 50.00 acre tract of land situated in the McKinney & Williams Survey, Abstract No. 1026 and the W. S. Robinson Survey, Abstract No. 1262 in the City of Mesquite, and being part of a 211 acre tract of land conveyed to Phil L. Hudson by deed filed in Volume 1952, Page 100, Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at an iron rod in the West line of said 211 acre tract of land; said point being South 00 degrees 20 minutes 00 seconds West, 2262.78 feet from the Southerly ROW line of Scyene Road;

THENCE South 89 degrees 40 minutes 00 seconds East, 833.45 feet to an iron rod in the West line of a 120.966 acre tract of land recorded in Volume 77025, Page 1400, Deed Records of Dallas County, Texas;

THENCE South 00 degrees 20 minutes 00 seconds West, 2610.62 feet along the West line of said 120.966 acre tract of land to an iron rod found for corner in the South line of said 211 acre tract of land;

THENCE South 89 degrees 58 minutes 44 seconds West, 833.47 feet along the South line of said 211 acre tract of land to an iron rod found for corner being in the West line of said 211 acre tract of land;

THENCE North 00 degrees 20 minutes 00 seconds East, 2615.78 feet along the West line of said 211 acre tract of land to the PLACE OF BEGINNING and containing 50.000 acres of land, more or less;

TOGETHER WITH AN INGRESS AND EGRESS EASEMENT AS FOLLOWS:

BEING a 3.103 acre tract of land situated in the McKinney & Williams Survey, Abstract No. 1026 and the W. S. Robinson Survey, Abstract No. 1262 in the City of Mesquite, and being part of a 211 acre tract of land conveyed to Phil L. Hudson by deed filed in Volume 1952, Page 100, Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at an iron rod in the West line of said 211 acre tract of land said point being in the Southerly ROW line of Scyene Road;

THENCE South 71 degrees 44 minutes 56 seconds East, 63.06 feet along the Southerly ROW line of Scylene Road;

THENCE South 00 degrees 20 minutes 00 seconds West, 2243.38 feet to a point for corner;

THENCE North 89 degrees 40 minutes 00 seconds West, 60.00 feet to a point for corner being in the West line of said 211 acre tract of land;

THENCE North 00 degrees 20 minutes 00 seconds East, 2262.78 feet to a point for corner being the PLACE OF BEGINNING and containing 3.103 acres of land, more or less.

SAVE AND EXCEPT that portion of said easement that was conveyed to the County of Dallas in deed recorded June 9, 1975 in Volume 75112, Page 1271, Deed Records, Dallas County, Texas.

**EXHIBIT B
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Legal Description and Depiction of Company's Land

[Attached]

**EXHIBIT C
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Legal Description and Depiction of Conveyance Land

[Attached]

LEGAL DESCRIPTION

15.5637 ACRE TRACT

BEING a 15.5637 acre (677,955 square foot) tract of land situated in the William S Robinson Survey, Abstract No. 1262, City of Mesquite, Dallas County, Texas; said tract being part of that called 50.00 acre tract of land described in General Warranty Deed to the City of Mesquite recorded in Volume 95083, Page 253 of the Deed Records of Dallas County, Texas; said tract being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod found for the northeast corner of said 50.00 acre tract; said point being the southeast corner of a called 22.58 acre tract of land described in Warranty Deed with Vendor's Lien to Haverwood Investments, Inc. recorded in Instrument No. 202000178513 of the Official Public Records of Dallas County, Texas; said point also being in the west line of a 117.62 acre tract of land described in Warranty Deed to the City of Mesquite recorded in Volume 82007, Page 1782 of said Deed Records;

THENCE South 0°17'42" East, along the said west line of the 117.62 acre tract, a distance of 837.66 feet to a 5/8-inch iron rod with "KHA" cap set for corner; from said point a 1/2-inch iron rod with "RPLS 3691" cap found for the southeast corner of said 50.00 acre tract bears South 0°17'42" East, a distance of 1772.96 feet;

THENCE South 89°51'01" West, departing the said west line of the 117.62 acre tract, a distance of 807.33 feet to a 5/8-inch iron rod with "KHA" cap set for corner in the east line of Lot 1, Block A, Ashley Furniture Addition, an addition to the City of Mesquite according to the plat recorded in Instrument No. 201900260315 of said Official Public Records; from said point a 1/2-inch iron rod with "RPLS 5129" cap found for the southwest corner of said 50.00 acre tract bears South 0°43'13" East, a distance of 1776.63 feet;


THENCE North 0°43'13" West, along the said east line of Lot 1, a distance of 835.45 feet to a 5/8-inch iron rod with "KHA" cap set for corner; said point being the southwest corner of said 22.58 acre tract;

THENCE North 89°41'32" East, departing the said east line of Lot 1 and along the south line of said 22.58 acre tract, a distance of 813.53 feet to the **POINT OF BEGINNING** and containing 15.5637 acres or 677,955 square feet of land, more or less.

NOTES

Bearing system based on the Texas Coordinate System of 1983(2011 adjustment), North Central Zone (4202). A survey plat of even survey date herewith accompanies this metes & bounds description.

The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the subject tract.


MICHAEL C. BILLINGSLEY
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6558
801 CHERRY STREET,
UNIT 11 SUITE 1300
FORT WORTH, TEXAS 76102
PH. 817-335-6511
michael.billingsley@kimley-horn.com



BOUNDARY SURVEY
15.5637 ACRE TRACT
WILLIAM S ROBINSON SURVEY,
ABSTRACT NO. 1262
CITY OF MESQUITE
DALLAS COUNTY, TEXAS

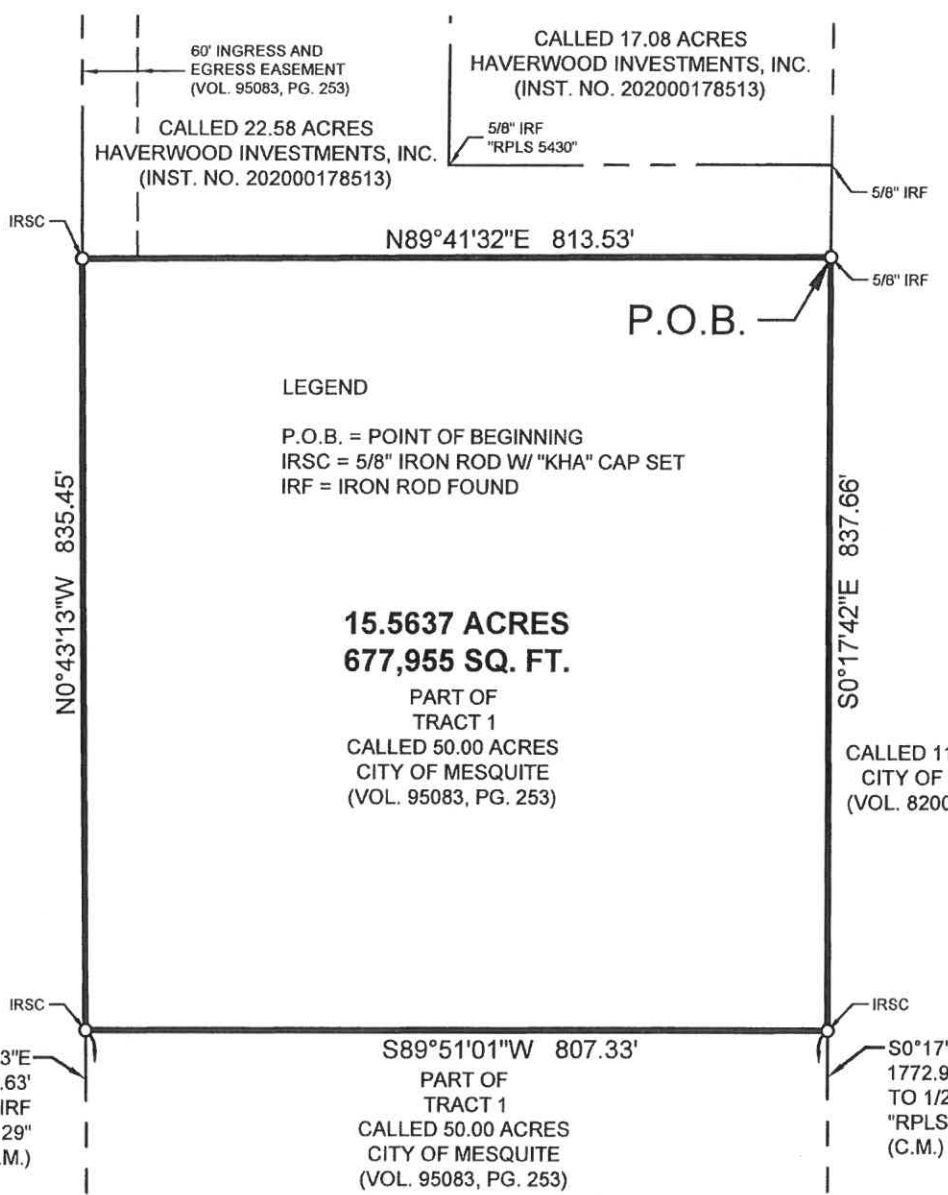
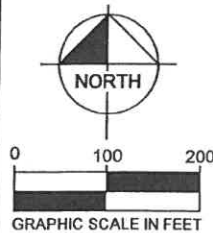
Kimley»Horn

801 Cherry Street, Unit 11, # 1300
Fort Worth, Texas 76102

FIRM # 10194040

Tel. No. (817) 335-6511
www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MCB	JDW	1/14/2021	061311400	1 OF 2



LEGEND

P.O.B. = POINT OF BEGINNING
 IRSC = 5/8" IRON ROD W/ "KHA" CAP SET
 IRF = IRON ROD FOUND

**15.5637 ACRES
 677,955 SQ. FT.**

PART OF
 TRACT 1
 CALLED 50.00 ACRES
 CITY OF MESQUITE
 (VOL. 95083, PG. 253)

CALLED 117.62 ACRES
 CITY OF MESQUITE
 (VOL. 82007, PG. 1782)

LOT 1, BLOCK A
 ASHLEY FURNITURE ADDITION
 (INST. NO. 201900260315)

NOTES

S0°43'13"E
 1776.63'
 TO 1/2" IRF
 "RPLS 5129"
 (C.M.)

S89°51'01"W 807.33'
 PART OF
 TRACT 1
 CALLED 50.00 ACRES
 CITY OF MESQUITE
 (VOL. 95083, PG. 253)

S0°17'42"E
 1772.96'
 TO 1/2" IRF
 "RPLS 3691"
 (C.M.)

Bearing system based on the Texas Coordinate System of 1983(2011 adjustment), North Central Zone (4202). A metes & bounds description of even survey date herewith accompanies this survey plat.

The undersigned, Registered Professional Land Surveyor, hereby certifies that this plat of survey accurately sets out the metes and bounds of the subject tract.

**BOUNDARY SURVEY
 15.5637 ACRE TRACT
 WILLIAM S ROBINSON SURVEY,
 ABSTRACT NO. 1262
 CITY OF MESQUITE
 DALLAS COUNTY, TEXAS**

[Signature] 1/14/21
MICHAEL C. BILLINGSLEY
 REGISTERED PROFESSIONAL
 LAND SURVEYOR NO. 6558
 801 CHERRY STREET,
 UNIT 11 SUITE 1300
 FORT WORTH, TEXAS 76102
 PH. 817-335-6511
 michael.billingsley@kimley-horn.com



Kimley»Horn
 801 Cherry Street, Unit 11, # 1300 Fort Worth, Texas 76102 FIRM # 10194040 Tel. No. (817) 335-6511 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 200'	MCB	JDW	1/14/2021	061311400	2 OF 2

**EXHIBIT D
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Legal Description and Depiction of Remainder Land

[Attached]

LEGAL DESCRIPTION

32.6243 ACRE TRACT

BEING a 32.6243 acre (1,421,113 square foot) tract of land situated in the William S Robinson Survey, Abstract No. 1262 and the Sam Houston Survey, Abstract No. 657, City of Mesquite, Dallas County, Texas; said tract being part of that called 50.00 acre tract of land described in General Warranty Deed to the City of Mesquite recorded in Volume 95083, Page 253 of the Deed Records of Dallas County, Texas; said tract being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found for the southeast corner of Lot 1, Block A, Ashley Furniture Addition, an addition to the City of Mesquite according to the plat recorded in Instrument No. 20170087295 of the Official Public Records of Dallas County, Texas;

THENCE North 0°43'13" West, along the east line of said Lot 1, a distance of 1776.63 feet to a 5/8-inch iron rod with "KHA" cap set for corner;

THENCE North 89°51'01" East, departing the said east line of Lot 1, a distance of 807.33 feet to a 5/8-inch iron rod with "KHA" cap set for corner in the west line of that tract of land described in Warranty Deed to the City of Mesquite recorded in Volume 82007, Page 1782 of said Deed Records;

THENCE South 0°17'42" East, along the said west line of the City of Mesquite tract, a distance of 1772.96 feet to a point for corner in the north line of that tract of land described as Tract 1B in Dallas County Comissioners Court order no. CC#84-6727-B;


THENCE South 89°35'29" West, along the said north line of Tract 1B, a distance of 794.14 feet to the **POINT OF BEGINNING** and containing 32.6243 acres or 1,421,113 square feet of land, more or less.

NOTES

Bearing system based on the Texas Coordinate System of 1983(2011 adjustment), North Central Zone (4202). A survey plat of even survey date herewith accompanies this metes & bounds description.

The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the subject tract.

BOUNDARY SURVEY
32.6243 ACRE TRACT
WILLIAM S ROBINSON SURVEY,
ABST. NO. 1262 & SAM HOUSTON
SURVEY, ABST. NO. 657
CITY OF MESQUITE
DALLAS COUNTY, TEXAS


MICHAEL C. BILLINGSLEY
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6558
801 CHERRY STREET,
UNIT 11 SUITE 1300
FORT WORTH, TEXAS 76102
PH. 817-335-6511
michael.billingsley@kimley-horn.com



Kimley»Horn
801 Cherry Street, Unit 11, # 1300 Fort Worth, Texas 76102 FIRM # 10194040 Tel. No. (817) 335-6511 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MCB	JDW	5/6/2021	061311400	1 OF 2

MATCH LINE (SEE SHEET 3)

LOT 1, BLOCK A
ASHLEY
FURNITURE
ADDITION
(INST. NO.
201900260315)

TRACT 3
ASHLEY FURNITURE
INDUSTRIES, INC.
(INST. NO.
201700087295)

PART OF
TRACT 1
CALLED 50.00 ACRES
CITY OF MESQUITE
(VOL. 95083, PG. 253)

32.6243 ACRES
1,421,113 SQ. FT.

CALLED 117.62 ACRES
CITY OF MESQUITE
(VOL. 82007, PG. 1782)

NO°43'13"W 1776.63'

SO°17'42"E 1772.96'

WILLIAM S. ROBINSON SURVEY,
ABST. NO. 1262

SAM HOUSTON SURVEY,
ABST. NO. 657

1/2" IRF
"RPLS 3691"

S89°35'29"W 794.14'

1/2" IRF

P.O.B.

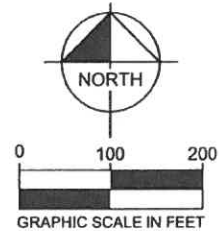
LEGEND

P.O.B. = POINT OF BEGINNING
IRSC = 5/8" IRON ROD W/ "KHA" CAP SET
IRF = IRON ROD FOUND

JOHN PIKE SURVEY,
ABST. NO. 1174

TRACT 1B
CITY OF MESQUITE
(CC#84-6727-B)

GCP BERRY, LLC
(INST. NO. 201800177948)



NOTES

Bearing system based on the Texas Coordinate System of 1983(2011 adjustment), North Central Zone (4202). A metes & bounds description of even survey date herewith accompanies this survey plat.

The undersigned, Registered Professional Land Surveyor, hereby certifies that this plat of survey accurately sets out the metes and bounds of the subject tract.

BOUNDARY SURVEY
32.6243 ACRE TRACT
WILLIAM S ROBINSON SURVEY,
ABST. NO. 1262 & SAM HOUSTON
SURVEY, ABST. NO. 657
CITY OF MESQUITE
DALLAS COUNTY, TEXAS

Michael C. Billingsley 5/6/21
MICHAEL C. BILLINGSLEY
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6558
801 CHERRY STREET,
UNIT 11 SUITE 1300
FORT WORTH, TEXAS 76102
PH. 817-335-6511
michael.billingsley@kimley-horn.com

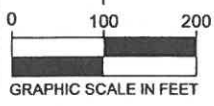


Kimley»Horn

801 Cherry Street, Unit 11, # 1300
Fort Worth, Texas 76102 FIRM # 10194040

Tel. No. (817) 335-6511
www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 200'	MCB	JDW	5/6/2021	061311400	2 OF 3



PART OF
TRACT 1
CALLED 50.00 ACRES
CITY OF MESQUITE
(VOL. 95083, PG. 253)

N89°51'01"E 807.33'

IRSC

IRSC

LEGEND

P.O.B. = POINT OF BEGINNING
IRSC = 5/8" IRON ROD W/ "KHA" CAP SET
IRF = IRON ROD FOUND

LOT 1, BLOCK A
ASHLEY
FURNITURE
ADDITION
(INST. NO.
201900260315)

TRACT 3
ASHLEY FURNITURE
INDUSTRIES, INC.
(INST. NO.
201700087295)

PART OF
TRACT 1
CALLED 50.00 ACRES
CITY OF MESQUITE
(VOL. 95083, PG. 253)

32.6243 ACRES
1,421,113 SQ. FT.

CALLLED 117.62 ACRES
CITY OF MESQUITE
(VOL. 82007, PG. 1782)

N0°43'13"W 1776.63'

S0°17'42"E 1772.96'

LEGEND

P.O.B. = POINT OF BEGINNING
IRSC = 5/8" IRON ROD W/ "KHA" CAP SET
IRF = IRON ROD FOUND
IPF = IRON PIPE FOUND



MATCH LINE (SEE SHEET 2)

BOUNDARY SURVEY
32.6243 ACRE TRACT
WILLIAM S ROBINSON SURVEY,
ABST. NO. 1262 & SAM HOUSTON
SURVEY, ABST. NO. 657
CITY OF MESQUITE
DALLAS COUNTY, TEXAS

LEGEND

P.O.B. = POINT OF BEGINNING
IRSC = 5/8" IRON ROD W/ "KHA" CAP SET
IRF = IRON ROD FOUND

Kimley»Horn

801 Cherry Street, Unit 11, # 1300 Fort Worth, Texas 76102 FIRM # 10194040 Tel. No. (817) 335-6511 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 200'	MCB	JDW	5/6/2021	061311400	3 OF 3

**EXHIBIT E
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Concept Plan

[Attached]

SITE PLAN

MESQUITE AIRPORT
CITY OF MESQUITE
LOGISTICS CENTER

DALLAS COUNTY, TEXAS

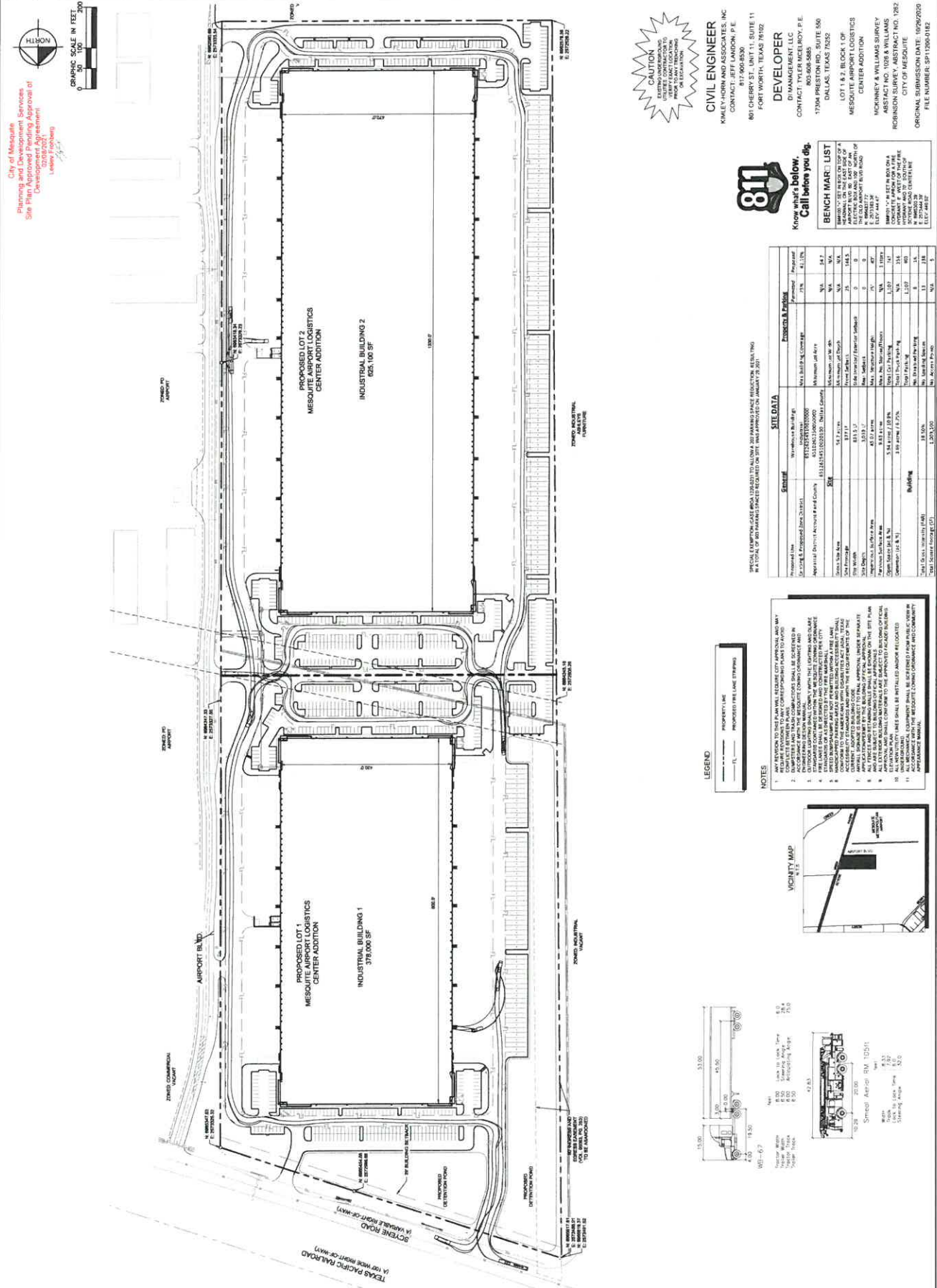
PROJECT No. 191114
DATE: MAY 25, 2021
SCALE: AS SHOWN
DESIGNED BY: KHA
CHECKED BY: KHA



Kimley-Horn

807 CHERRY ST. UNIT 11, SUITE 100 FORT WORTH, TX 76102
PHONE: 817-338-8174 FAX: 817-338-8175
TEKAS REGISTERED ENGINEERING FIRM # 328

NO.	REVISIONS	DATE	BY



City of Mesquite
Planning and Development Services
Site Plan Approved Pending Approval of
Development Agreement
Leeway Footing



Know what's below.
Call before you dig.

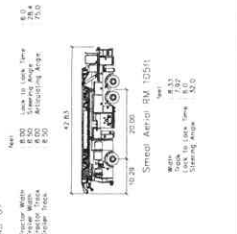
BENCH MAR: LIST

NO.	DESCRIPTION	DEPTH	DATE	BY
1	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA
2	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA
3	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA
4	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA
5	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA
6	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA
7	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA
8	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA
9	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA
10	PERMANENT BENCHMARK ON EAST SIDE OF AIRPORT BLVD. (EAST SIDE OF AIRPORT BLVD AND 100' NORTH OF ELECTRIC ROAD)	3.00	05/25/21	KHA

SITE DATA

PROPERTY	DESCRIPTION	UNIT	VALUE	UNIT	VALUE
Prepared by:	Kimley-Horn & Associates, Inc.	Author	05/25/21	Author	05/25/21
Project No.:	191114	Project No.	191114	Project No.	191114
Client:	CITY OF MESQUITE	Client:	CITY OF MESQUITE	Client:	CITY OF MESQUITE
Address:	807 CHERRY ST. UNIT 11, SUITE 100 FORT WORTH, TX 76102	Address:	807 CHERRY ST. UNIT 11, SUITE 100 FORT WORTH, TX 76102	Address:	807 CHERRY ST. UNIT 11, SUITE 100 FORT WORTH, TX 76102
Site Area:	1,200,000	Site Area:	1,200,000	Site Area:	1,200,000
Site Area:	1,200,000	Site Area:	1,200,000	Site Area:	1,200,000
Site Area:	1,200,000	Site Area:	1,200,000	Site Area:	1,200,000
Site Area:	1,200,000	Site Area:	1,200,000	Site Area:	1,200,000
Site Area:	1,200,000	Site Area:	1,200,000	Site Area:	1,200,000

- NOTES**
- ANY REVISION TO THIS PLAN WILL REQUIRE CITY APPROVAL AND MAY BE SUBJECT TO THE CITY'S REVIEW AND COMMENT.
 - ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.
 - ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.
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 - ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.
 - ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.



LEGEND

SYMBOL	DESCRIPTION
—	PROPERTY LINE
---	PROPOSED LANE STRIPING

CAUTION
EXISTING UNDERGROUND UTILITIES MAY BE ENCOUNTERED AT ANY LOCATION. VERIFY LOCATION AND DEPTH BEFORE EXCAVATION.

CIVIL ENGINEER
KIMLEY-HORN AND ASSOCIATES, INC.
CONTRACT # 191114
807 CHERRY ST., UNIT 11, SUITE 11
FORT WORTH, TEXAS 76102

DEVELOPER
CITY OF MESQUITE
CONTACT: TYLER KELSO, P.E.
803-608-5865
1704 PRESTON RD., SUITE 500
DALLAS, TEXAS 75232

LOT 1 & 2, BLOCK 1 OF
MESQUITE AIRPORT LOGISTICS
CENTER ADDITION

MCKINNEY & WILLIAMS SURVEY
ABSTRACT NO. 1028 & WILLIAMS
ROBINSON SURVEY, ABSTRACT NO. 1022
CITY OF MESQUITE
ORIGINAL SUBMISSION DATE: 10/09/2009
FILE NUMBER: 0173200-012

**EXHIBIT F
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Development Standards

[Attached]

1. Except as provided herein, the site plan for the Mesquite Facility shall conform substantially to the Concept Plan attached to the Agreement as Exhibit E. The orientation and location of structures, driveways and parking areas shown on Exhibit E may be modified to avoid conflict with utilities, floodplain and/or wetlands provided that parking and other development standards are met.
2. The façade of all buildings shall conform substantially to the elevations and exterior finish plans attached hereto as Exhibit G. The City Manager may approve modifications to the elevations and exterior finish plans necessitated by application of building codes.
3. Except for the restrictions provided in this paragraph, to which the Parties agree, neither the Agreement nor this Exhibit purports to modify the requirements or allowances of the Mesquite Zoning Ordinance, Appendix C to the Mesquite City Code (“**MZO**”), in any manner. As an inducement for the City to enter into the Agreement, Company agrees the following uses are prohibited within the Mesquite Facility:

178	Well Water Drilling
40	Railroad Passenger Terminal
5194	Tobacco, Tobacco Products
554	Limited Fuel Sales
593	Used Merchandise
5947	Gift, Novelty Stores
5993	Tobacco Stores
61	Nondepository Institutions, including Alternative Financial Institutions
72	Personal Services
738(c)	Bail Bond Services
7992	Golf Course
7997(b)	Country Clubs
842	Arboreta, Botanical Gardens
MZO 3-511	Paraphernalia Shop

4. Outdoor storage as defined in MZO Section 3-600 shall be prohibited unless approved by CUP.
5. Development of the Mesquite Facility shall comply with the adopted City of Mesquite Engineering Design Manual.
6. No Certificate of Occupancy shall be issued for a multi-tenant industrial business park in the Mesquite Facility until Company has complied with Article VII of the Agreement.
7. No owner of a premises, or operator or manager-on-duty of any use within the Mesquite Facility, shall allow any unmounted trailer to be parked or stored on the premises, or suffer or permit the owner or driver of a heavy load vehicle to park or store an unmounted trailer on the

premises, unless the parking or storage of unmounted vehicles is expressly authorized on the certificate of occupancy and the parking or storage is in compliance with any conditions therein, or unless the parking or storage is incidental to a use authorized on the certificate of occupancy.

8. Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards.
 - a. Light sources shall be concealed or shielded with luminaries with shielding, skirts or cut-offs with an angle not exceeding ninety (90) degrees to minimize the potential for glare and unnecessary diffusion on adjacent properties. For purposes of this provision, "cut-off angle" is defined as the angle formed by a line drawn from the direction of light rays at the light source or reflector, and a line perpendicular to the ground from the light source above from which no light is emitted.
 - b. In no case shall exterior lighting add more than one (1) footcandle to illumination levels at any point off-site.
 - c. All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.
 - d. Light fixtures used to illuminate flags, statutes or any other objects mounted on a pole, pedestal or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.
 - e. For upward-directed architectural, landscape and decorative lighting, direct light emissions shall not be visible above the building roof line.
 - f. No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.
 - g. Lighting shall conform to all applicable Federal Aviation Administration requirements, if any, including but not limited to FAA Advisory Circular AC 70/7460-1M Obstruction Marking and Lighting.

**EXHIBIT G
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Exterior Finish Plan

[Attached]

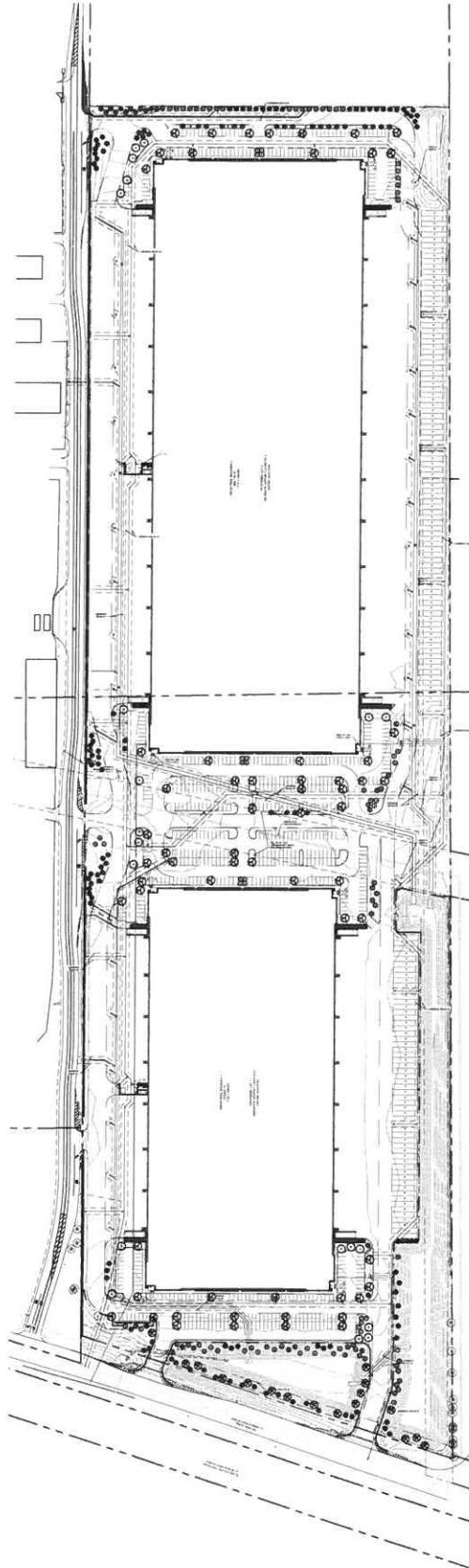




**EXHIBIT H
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Landscape Plan

[Attached]



PLANT LIST

SYMBOL	BOTANICAL NAME	COMMON NAME	QTY.	SIZE	REMARKS
①	Arctostaphylos	Arctostaphylos	57	6" H	65% or container grass, full to bare, 3' spread
②	Alnus	Alnus	57	6" H	65% or container grass, full to bare, 3' spread
③	Prunella	Prunella	17	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
④	Ligustrum	Ligustrum	20	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑤	Palmetto	Palmetto	20	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
⑥	Chamaecyparis	Chamaecyparis	28	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑦	Larix	Larix	55	6" H	65% or container grass, full to bare, 3' spread
⑧	Lonicera	Lonicera	63	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
⑨	Chamaecyparis	Chamaecyparis	63	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑩	Arctostaphylos	Arctostaphylos	172	5 gal	container full, 20" spread, 30" H
⑪	Arctostaphylos	Arctostaphylos	104	5 gal	container full, 24" spread, 30" H
⑫	Arctostaphylos	Arctostaphylos	10	1 gal	container full, 24" H, 6" S.C.
⑬	Arctostaphylos	Arctostaphylos	28	7 gal	container full to bare, 20" H, 30" S.C.
⑭	Arctostaphylos	Arctostaphylos	235	5 gal	container full, 20" spread, 30" H

HYDROMULCH NOTES

- CONTRACTOR SHALL SCALPIFY, RIP AND LOOSEN ALL AREAS TO BE HYDROMULCHED TO A MINIMUM DEPTH OF 4" TO 6" BELOW FINISHED GRADE. HYDROMULCH INSTALLATION TO TOPSOIL AND HYDROMULCH.
- REMOVAL OF EXISTING GRASS SHALL BE EXTRA HALLED AND HYDROMULCH SHALL BE APPLIED TO THE ENTIRE SITE IN ITS ORIGINAL UNDISTURBED CONDITION AND SHALL MEET STATE LAW REQUIREMENTS.
- FIBER SHALL BE ONE HUNDRED PERCENT 100% HYDROMULCH. HYDROMULCH SHALL BE MANUFACTURED TO CONFORM TO LOCAL MANUFACTURING STANDARDS AND SHALL BE MANUFACTURED BY A MANUFACTURER WHO HAS BEEN APPROVED BY THE CITY OF DALLAS.
- HYDROMULCH WITH REMAINS SHALL BE AT A RATE OF TWO (2) POUNDS PER ONE THOUSAND (1000) SQUARE FEET.
- HYDROMULCH SHALL BE APPLIED AGAINST ALL RED AREAS.
- HYDROMULCH SHALL BE APPLIED AGAINST ALL RED AREAS. HYDROMULCH SHALL BE APPLIED AGAINST ALL RED AREAS. HYDROMULCH SHALL BE APPLIED AGAINST ALL RED AREAS.

GENERAL LAWN NOTES

- CONTRACTOR SHALL COORDINATE OPERATIONS AND CONSTRUCTION MANAGEMENT WITH THE CITY OF DALLAS.
- FINAL FINISHED GRADE PRIOR TO TOPSOIL INSTALLATION.
- CONTRACTOR SHALL LEAVE LAWN AREAS 1" BELOW FINISHED GRADE. LAWN AREAS SHALL BE MAINTAINED AT ALL TIMES. LAWN AREAS SHALL BE MAINTAINED AT ALL TIMES. LAWN AREAS SHALL BE MAINTAINED AT ALL TIMES.
- ALL LAWN AREAS SHALL BE FINE GRADED, IRRIGATED, AND WATERED. LAWN AREAS SHALL BE MAINTAINED AT ALL TIMES. LAWN AREAS SHALL BE MAINTAINED AT ALL TIMES.
- CONTRACTOR SHALL REMOVE ALL ROCKS, STICKS, CHARACTERS, AND LITTER, DIRT, CLODS, STICKS, AND LITTER FROM LAWN AREAS.
- CONTRACTOR SHALL MAINTAIN ALL LAWN AREAS WITH FINAL ACCEPTANCE. THIS SHALL INCLUDE BUT NOT BE LIMITED TO: LAWN AREAS SHALL BE MAINTAINED AT ALL TIMES. LAWN AREAS SHALL BE MAINTAINED AT ALL TIMES.

LANDSCAPE NOTES

- CONTRACTOR SHALL VERIFY ALL EXISTING AND PROPOSED PLANTING MATERIAL IS AVAILABLE AND OF EXISTING CONDITIONS WAS SUPPLIED BY OTHERS.
- CONTRACTOR SHALL LOCATE ALL EXISTING AND PROPOSED PLANTING MATERIAL IN THE VICINITY OF PROPOSED PLANTING MATERIAL.
- CONTRACTOR SHALL PROVIDE A MINIMUM 7% SLOPE AWAY FROM ALL STRUCTURES.
- CONTRACTOR SHALL FINE GRADE AREAS TO ACHIEVE A MINIMUM 1" BELOW FINISHED GRADE IN LAWN AREAS.
- ALL PLANTING BEGS AND LAWN AREAS SHALL BE SPARKED BY STEEL EDGING AND STEEL EDGING SHALL BE INSTALLED AT ALL TIMES.
- CONTRACTOR SHALL PROVIDE A MINIMUM 10" DEPTH OF TOPSOIL AND COMPOST.
- ALL LAWN AREAS SHALL BE SOLID SOED REMAINS, UNLESS OTHERWISE NOTED ON THE DRAWINGS.
- ALL PROPOSED LANDSCAPE AREAS SHALL BE PROVIDED WITH AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM (AUS) WITH CONTROLLERS AND SACS IRRIGATION SYSTEM SHALL BE INSTALLED BY A LICENSED IRRIGATOR. CONTROLLER AND SACS SHALL BE INSTALLED BY A LICENSED IRRIGATOR.
- CONTRACTOR SHALL PROVIDE BID PROPOSAL LISTING UNIT PRICES FOR ALL MATERIAL PROVIDED.
- ALL PROPOSED LANDSCAPE AND IRRIGATION SHALL BE INSTALLED BY A LICENSED IRRIGATOR.

MAINTENANCE NOTES

- THE OWNER, TENANT AND THEIR AGENT IF ANY SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE MAINTENANCE OF ALL LANDSCAPE.
- ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS COMMON TO LANDSCAPE MAINTENANCE.
- ALL PLANT MATERIAL SHALL BE KEPT FREE OF DISEASE AND PESTS. SUCH MATERIAL OR PLANTS NOT PART OF THE PLAN.
- ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS COMMON TO LANDSCAPE MAINTENANCE.
- ALL PLANT MATERIAL SHALL BE KEPT FREE OF DISEASE AND PESTS. SUCH MATERIAL OR PLANTS NOT PART OF THE PLAN.
- ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS COMMON TO LANDSCAPE MAINTENANCE.

LANDSCAPE TABULATIONS

SYMBOL	QTY.	SIZE	REMARKS
①	57	6" H	65% or container grass, full to bare, 3' spread
②	57	6" H	65% or container grass, full to bare, 3' spread
③	17	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
④	20	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑤	20	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
⑥	28	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑦	55	6" H	65% or container grass, full to bare, 3' spread
⑧	63	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
⑨	63	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑩	172	5 gal	container full, 20" spread, 30" H
⑪	104	5 gal	container full, 24" spread, 30" H
⑫	10	1 gal	container full, 24" H, 6" S.C.
⑬	28	7 gal	container full to bare, 20" H, 30" S.C.
⑭	235	5 gal	container full, 20" spread, 30" H

HYDROMULCH TABULATIONS

SYMBOL	QTY.	SIZE	REMARKS
①	57	6" H	65% or container grass, full to bare, 3' spread
②	57	6" H	65% or container grass, full to bare, 3' spread
③	17	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
④	20	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑤	20	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
⑥	28	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑦	55	6" H	65% or container grass, full to bare, 3' spread
⑧	63	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
⑨	63	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading

GENERAL LAWN TABULATIONS

SYMBOL	QTY.	SIZE	REMARKS
①	57	6" H	65% or container grass, full to bare, 3' spread
②	57	6" H	65% or container grass, full to bare, 3' spread
③	17	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
④	20	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑤	20	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
⑥	28	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading
⑦	55	6" H	65% or container grass, full to bare, 3' spread
⑧	63	3" H	container grass, 12" H, 4" spread, 4" branching H, spreading
⑨	63	30 gal	container grass, 15' tall, no stress, 4" H, 4" spread, spreading

LANDSCAPE NOTES

- CONTRACTOR SHALL VERIFY ALL EXISTING AND PROPOSED PLANTING MATERIAL IS AVAILABLE AND OF EXISTING CONDITIONS WAS SUPPLIED BY OTHERS.
- CONTRACTOR SHALL LOCATE ALL EXISTING AND PROPOSED PLANTING MATERIAL IN THE VICINITY OF PROPOSED PLANTING MATERIAL.
- CONTRACTOR SHALL PROVIDE A MINIMUM 7% SLOPE AWAY FROM ALL STRUCTURES.
- CONTRACTOR SHALL FINE GRADE AREAS TO ACHIEVE A MINIMUM 1" BELOW FINISHED GRADE IN LAWN AREAS.
- ALL PLANTING BEGS AND LAWN AREAS SHALL BE SPARKED BY STEEL EDGING AND STEEL EDGING SHALL BE INSTALLED AT ALL TIMES.
- CONTRACTOR SHALL PROVIDE A MINIMUM 10" DEPTH OF TOPSOIL AND COMPOST.
- ALL LAWN AREAS SHALL BE SOLID SOED REMAINS, UNLESS OTHERWISE NOTED ON THE DRAWINGS.
- ALL PROPOSED LANDSCAPE AREAS SHALL BE PROVIDED WITH AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM (AUS) WITH CONTROLLERS AND SACS IRRIGATION SYSTEM SHALL BE INSTALLED BY A LICENSED IRRIGATOR. CONTROLLER AND SACS SHALL BE INSTALLED BY A LICENSED IRRIGATOR.
- CONTRACTOR SHALL PROVIDE BID PROPOSAL LISTING UNIT PRICES FOR ALL MATERIAL PROVIDED.
- ALL PROPOSED LANDSCAPE AND IRRIGATION SHALL BE INSTALLED BY A LICENSED IRRIGATOR.

MAINTENANCE NOTES

- THE OWNER, TENANT AND THEIR AGENT IF ANY SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE MAINTENANCE OF ALL LANDSCAPE.
- ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS COMMON TO LANDSCAPE MAINTENANCE.
- ALL PLANT MATERIAL SHALL BE KEPT FREE OF DISEASE AND PESTS. SUCH MATERIAL OR PLANTS NOT PART OF THE PLAN.
- ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS COMMON TO LANDSCAPE MAINTENANCE.
- ALL PLANT MATERIAL SHALL BE KEPT FREE OF DISEASE AND PESTS. SUCH MATERIAL OR PLANTS NOT PART OF THE PLAN.
- ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS COMMON TO LANDSCAPE MAINTENANCE.





4245 North Central Expwy
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03/18/21

DALFEN - MESQUITE INDUSTRIAL - BUILDING 1 and 2

Soyene Road and Airport Boulevard Mesquite, Texas

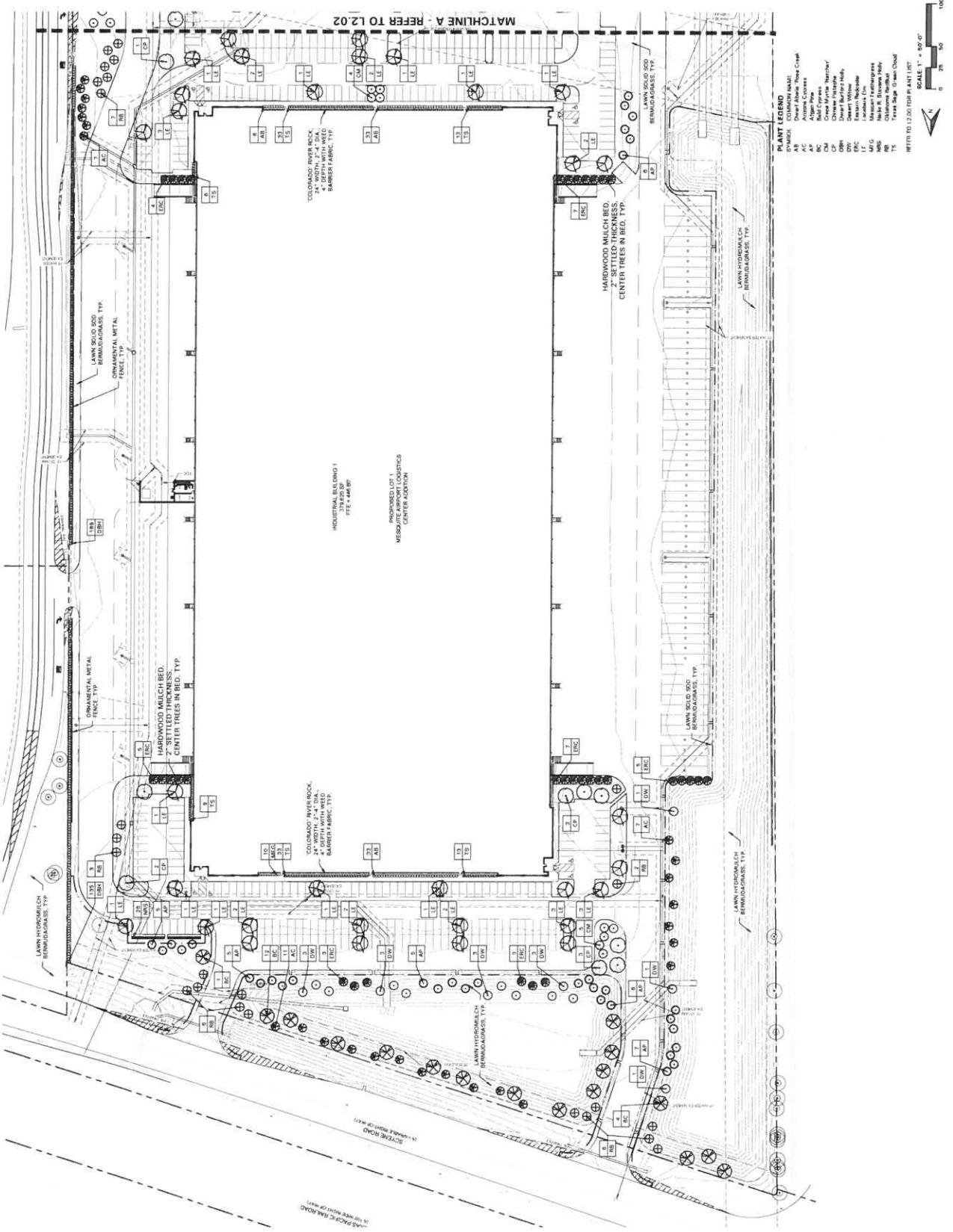


Project Number: 20100
Issue Date: 01/06/21
Drawn By: KAH
Checked By: KAH

Revisions	No.	Date	Detail
	1	01/06/21	Coordination
	2	01/25/21	CD Comments
	3	02/17/21	Comments
	4	03/18/21	Issue for Plans

LANDSCAPE PLAN

Sheet Title
Sheet Number:
L2.01



PLANT LEGEND

SYMBOL	COLUMN NAME
AC	Over 2' above Rose Creek
AP	Aspen
AR	Arbutus
AS	Aspen Pine
BA	Bald Cypress
CB	Crepe Myrtle 'Hatchery'
CH	Chinese Pistache
CP	Chinese Elm
DW	Downy Woodpecker
EW	Eastern White
FL	Flame Tree
FR	Fraxinus
GL	Green Leafy Branch
MG	Magnolia
MS	Manzanita
OB	Osage
OR	Orchard
TS	Tree Spig

REFER TO L2.00 FOR PLANT LIST





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03/19/21

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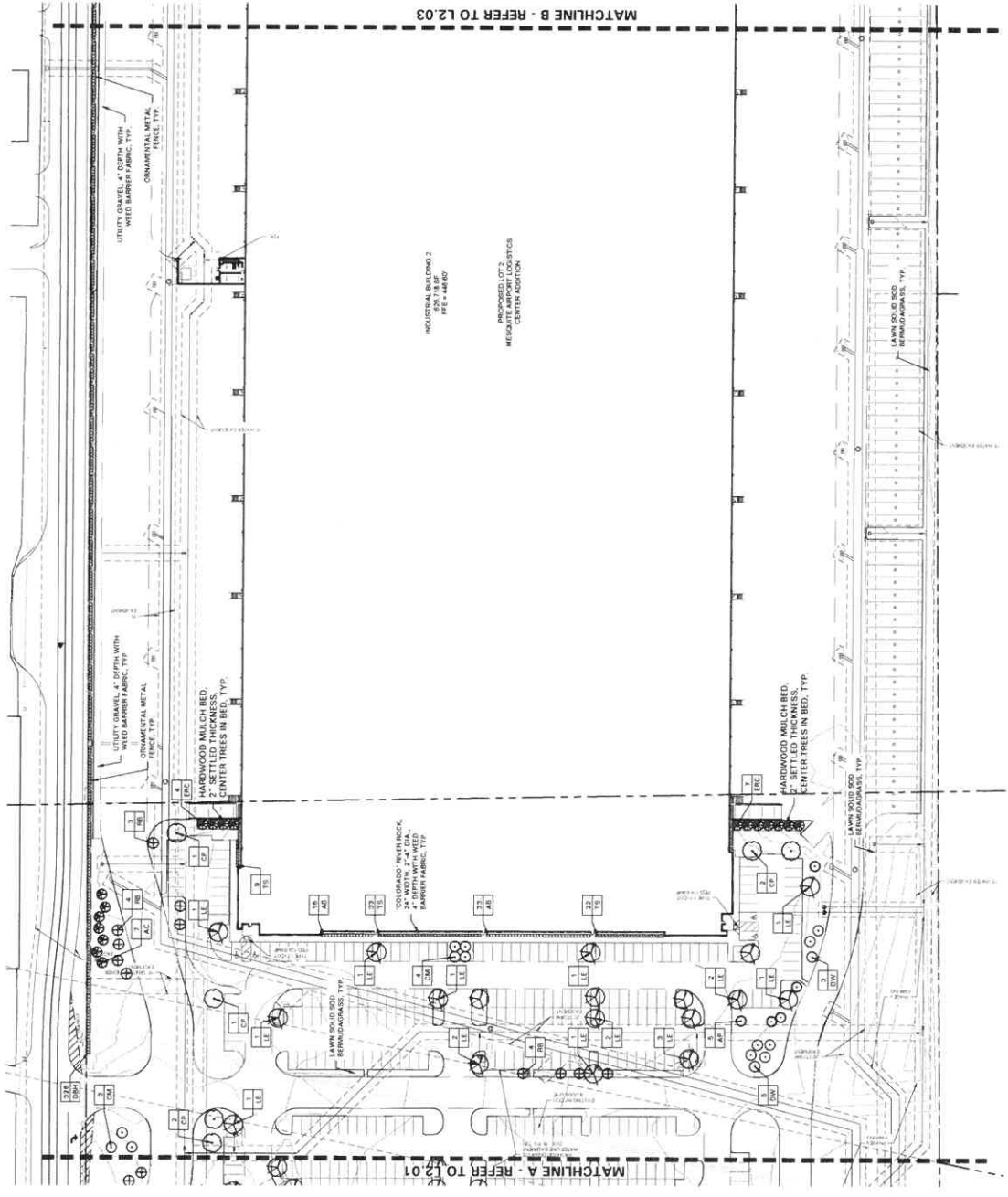


Project Number: 20100
Issue Date: 01.08.2021
Drawn By: KAH
Checked By: KAH

Revisions	No.	Date	Detail
	1	01/08/21	Coordination
	2	01/25/21	City Coordination
	3	02/17/21	Coordination
	4	03/19/21	Issue for Permit

Sheet Title
LANDSCAPE PLAN

Sheet Number:
L2.02



PLANT LEGEND

SYMBOL	COMMON NAME
AB	Downy Woodpecker
AC	Downy Woodpecker
AD	Downy Woodpecker
AE	Downy Woodpecker
AF	Downy Woodpecker
AG	Downy Woodpecker
AH	Downy Woodpecker
AI	Downy Woodpecker
AJ	Downy Woodpecker
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WORTHINGTON ASSOCIATES, INC.



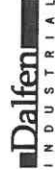
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214.865.7192 office



01/19/21

**DALFEN - MESQUITE
INDUSTRIAL -
BUILDING
1 and 2**

Soyene Road
and
Airport Boulevard
Mesquite, Texas



Project Number: 20100
Issue Date: 01/08/2021
Drawn By: KAH
Checked By: KAH

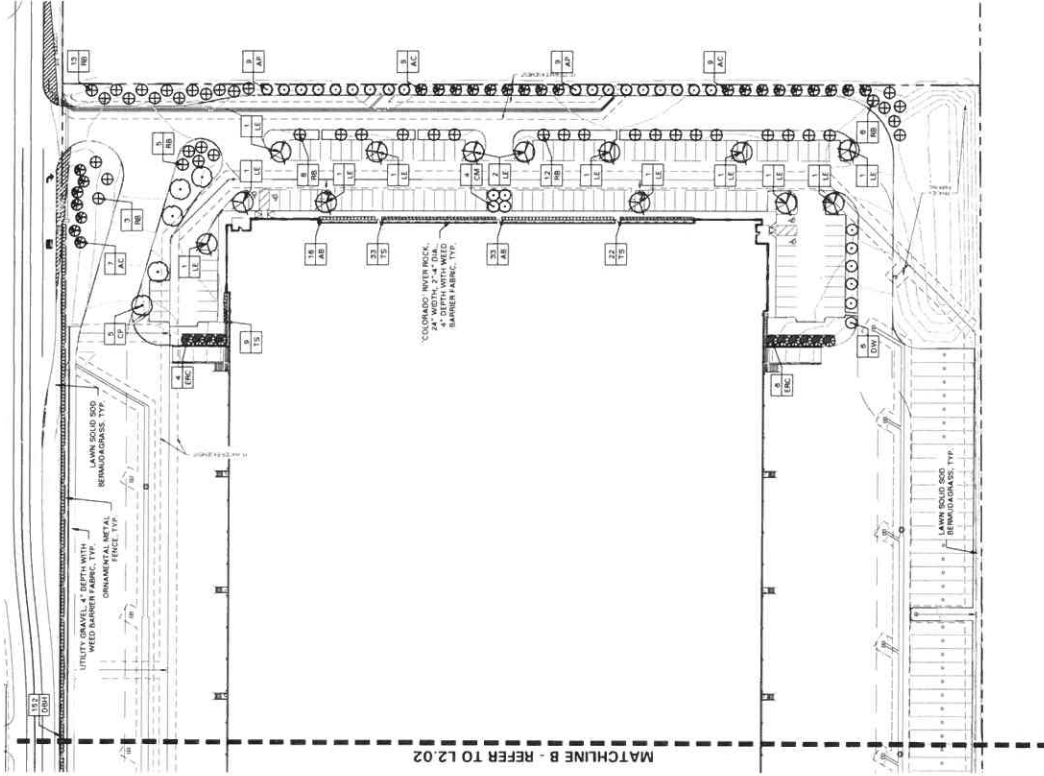
Revision	No.	Date	Detail
1	01/08/21	Coordination	
2	01/29/21	City Comments	
3	02/17/21	Coordination	
4	03/19/21	Issue for Permit	

Sheet Title:

**LANDSCAPE
PLAN**

Sheet Number:

L2.03



PLANT LEGEND

AB DREWYI
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ZW DREWYI
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ZZ DREWYI



REFER TO L2.02 FOR PLANT LIST

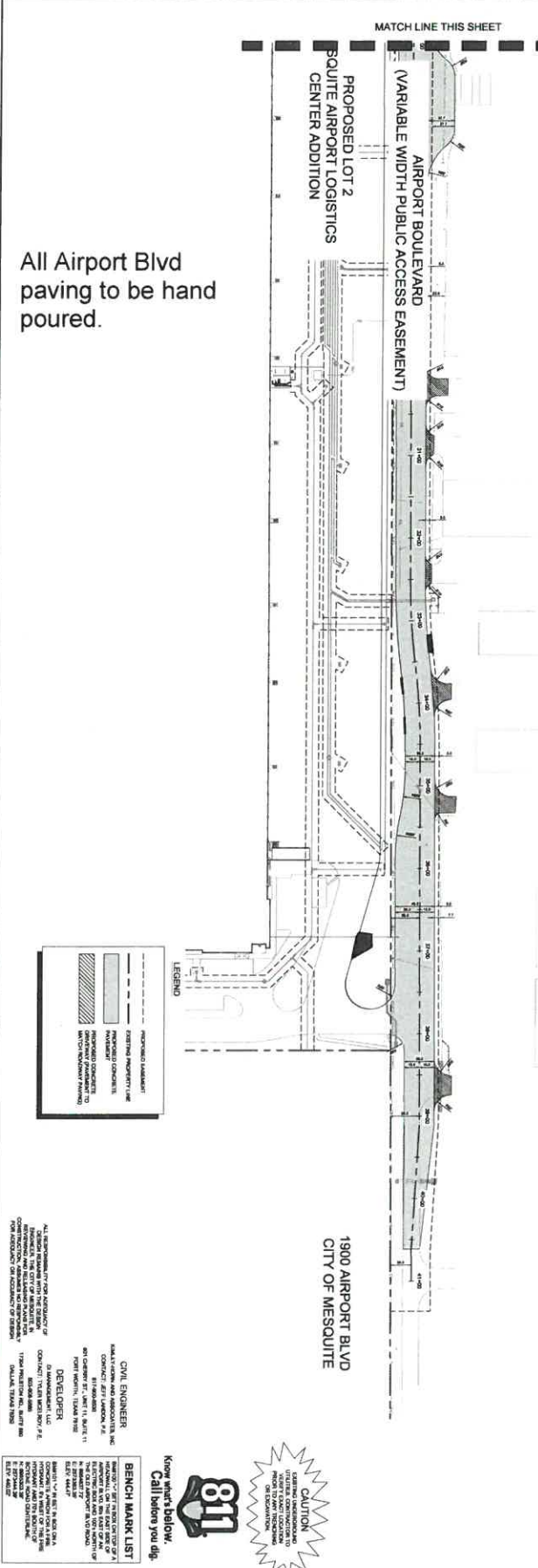


**EXHIBIT I
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

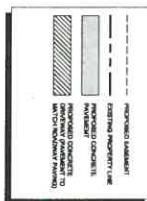
Airport Blvd. Reconstruction Plans

[Attached]

DRAWN BY: LAM
 CHECKED BY: JHL
 DATE: 08/22/21
 SCALE: AS SHOWN
 DESIGNED BY: LAM
 DRAWN BY: LAM
 CHECKED BY: JHL



All Airport Blvd paving to be hand poured.



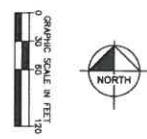
CIVIL ENGINEER
 KIMLEY-HORN AND ASSOCIATES, INC.
 801 CHERRY ST., SUITE 1100, FORT WORTH, TEXAS 76102
 TEL: 817-339-8511 FAX: 817-339-8513
 WWW.KIMLEY-HORN.COM

DEVELOPER
 1900 AIRPORT BLVD
 CITY OF MESQUITE

BENCH MARK LIST
 ALL BENCHMARKS ARE TO BE PROTECTED AND MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. ANY DAMAGE TO BENCHMARKS SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE.

CAUTION
 EXISTING UNDERGROUND UTILITIES ARE SHOWN FOR INFORMATION ONLY. VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.

Know what's below. Call before you dig.



**AIRPORT BOULEVARD
 PLAN & PROFILE**
 SHEET NUMBER
 C-700

**MESQUITE AIRPORT
 LOGISTICS CENTER**
 CITY OF MESQUITE
 DALLAS COUNTY, TEXAS

PROJECT NO: 06111400
 DATE: 08/22/21
 SCALE: AS SHOWN
 DESIGNED BY: LAM
 DRAWN BY: LAM
 CHECKED BY: JHL

Kimley-Horn
 801 CHERRY ST., UNIT 11, SITE 1300, FORT WORTH, TX 76102
 PHONE: 817-339-8511 FAX: 817-339-8513
 TEXAS REGISTERED ENGINEERING FIRM F-628

No.	REVISIONS	DATE	BY

**EXHIBIT J
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Atmos Energy Corporation Easement

[To Be Attached]



VG-364-2021-202100235619

Dallas County
John F. Warren
Dallas County Clerk

Instrument Number: 202100235619 ✓

Real Property Recordings

Recorded On: August 06, 2021 03:52 PM

Number of Pages: 11

" Examined and Charged as Follows: "

Total Recording: \$62.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 202100235619
Receipt Number: 20210806001148
Recorded Date/Time: August 06, 2021 03:52 PM
User: Daniel M
Station: CC46

Record and Return To:

CITY SECRETARY - CITY OF MESQUITE
PO BOX 850137

MESQUITE TX 75185



STATE OF TEXAS
Dallas County

I hereby certify that this Instrument was filed in the File Number sequence on the date/time printed hereon, and was duly recorded in the Official Records of Dallas County, Texas

John F. Warren
Dallas County Clerk
Dallas County, TX

PRIVATE UTILITY AND ACCESS EASEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF DALLAS §

That the City of Mesquite, Texas, a home rule municipality of the State of Texas, hereinafter called "Grantor," whether one or more, for and in consideration of Ten and No/100 Dollars (\$10.00) and other valuable consideration to Grantor in hand paid by **ATMOS ENERGY CORPORATION**, a Texas corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, hereinafter referred to collectively as "Grantee", has granted, sold, and conveyed and by these presents does grant, sell, and convey unto said Grantee, their successors and assigns, a private utility and access easement for gas supply, one (1) underground gas pipeline not to exceed six inches (6") in nominal pipe diameter, cathodic protection equipment, aerial markers, and all necessary or desirable underground appurtenances under, through, across, and upon Grantor's land described as follows:

See Exhibit "A" attached hereto and made a part hereof for all purposes.

Notwithstanding anything herein to the contrary, the pipeline to be constructed and buried within the easement shall be buried to a depth of not less than five feet (5') from the existing surface of the property.

Together with the right of ingress and egress along and upon the permanent easement described and depicted in Exhibit "A" hereto for the purpose of and with the right to construct, inspect, maintain, operate, repair, remove, replace, reconstruct, and to change the size and capacity of said pipeline subject to the limitations set forth herein; the right to relocate said pipeline within the permanent easement described and depicted in Exhibit "A"; the right to prevent excavation within the easement area; the right to prevent construction within the easement area of any and all buildings, structures, or other obstructions which may endanger or unreasonably interfere with the efficiency, safety, and/or convenient operation of said pipeline and its appurtenances, and the right to trim or remove trees or shrubbery within, but limited to, said easement area, to the extent in the sole judgment of Grantee, as may be necessary to prevent unreasonable interference with the operation of the pipeline or to remove possible hazard thereto. Grantor shall not make changes in grade, elevation, or contour of the land or impound water within the easement area as described above without prior written consent of Grantee.

Grantee shall commence initial construction of the pipeline within six (6) months from the date of this easement agreement, and said construction shall be completed within twelve (12) months from the date Grantee or its employees, agents, representatives, subcontractors, or contractors first enter the property. Grantee shall provide Grantor at least

forty-eight (48) hours advanced notice prior to commencement of initial construction.

Upon completion of any construction activity on the property, Grantee shall restore the surface of the easement area to its pre-existing condition. Grantee shall also remove from such areas any construction spoils and any other trash or debris from construction, including rocks two inches (2") in diameter or greater remaining on the surface of the easement. The pipeline and its appurtenances shall be designed, constructed, installed, and maintained in accordance with all applicable laws and regulations and according to industry standards.

Grantor may use the easement area for any and all purposes not inconsistent with the purposes set forth in this easement agreement. Grantor's uses may include but shall not be limited to using the easement property for agricultural, open space, set-back, density, street, and roadway purposes. Grantor is permitted, after review by Grantee, to construct any and all streets and roadways, at any angle of not less than forty-five (45) degrees to the pipeline, across the easement area which do not damage, destroy or alter the operation of the pipeline and its appurtenant facilities. Grantor may also construct and/or install water, sewer, gas, electric, cable TV, telephone, or other utility lines across the easement area at any angle of not less than forty-five (45) degrees to the pipeline. The use of the easement area by Grantor shall be regulated by all appropriate ordinances, regulations, resolutions or laws of the governmental entity with authority over the easement area.

TO HAVE AND TO HOLD the above described easement unto the said Grantee, its successors and assigns, until all of such pipeline shall be abandoned and removed, and in that event said easement shall cease and all rights herein granted shall terminate and revert to Grantor or Grantor's successors, legal representatives and assigns.

EXECUTED this 4th day of August, A.D. 2021.

GRANTOR (LANDOWNER): City of Mesquite Texas

By: 
Cliff Keheley
Its: City Manager

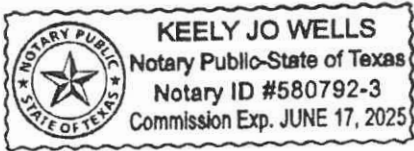
STATE OF TEXAS

§
§
§

COUNTY OF DALLAS

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Cliff Keheley, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed for and on behalf of Grantor.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this the 4th day of August, A. D. 2021.



Keely Jo Wells
Notary Public in and for the State of Texas
My Commission Expires: 6/17/2025
Print Name: Keely Jo wells

EXHIBIT "A" TO PRIVATE UTILITY AND ACCESS EASEMENT

LEGAL DESCRIPTION
15-FOOT WIDE UTILITY EASEMENT

BEING a 0.6118 acre tract of land situated in the William S. Robinson Survey, Abstract No. 1262 and Sam Houston Survey, Abstract No. 657, City of Mesquite, Dallas County, Texas; said tract being part of that tract of land described as "Tract 1" in General Warranty Deed to the City of Mesquite recorded in Volume 95083, Page 253 of the Deed Records of Dallas County, Texas; said tract being more particularly described as follows:

COMMENCING at a 5/8-inch iron rod with cap stamped "KHA" found for the northwest corner of said "Tract 1";

THENCE South 00°43'13" East, along the west line of said "Tract 1", a distance of 835.45 feet to a 5/8-inch iron rod with cap stamped "KHA" found for the **POINT OF BEGINNING**;

THENCE North 89°16'47" East, departing the said west line of "Tract 1", a distance of 15.00 feet to a point for corner;

THENCE South 0°43'13" East, a distance of 1776.72 feet to a point for corner in the south line of said "Tract 1";

THENCE South 89°35'29" West, along the said south line of "Tract 1", a distance of 15.00 feet to a 1/2-inch iron rod found for corner; said point being the southwest corner of said "Tract 1";


THENCE North 0°43'13" West, along the west line of said "Tract 1", a distance of 1776.63 feet to the **POINT OF BEGINNING** and containing 26,650 square feet or 0.6118 acres of land, more or less.

NOTES

Bearing system based on the Texas Coordinate System of 1983(2011 adjustment), North Central Zone (4202). A survey plat of even survey date herewith accompanies this metes & bounds description.

The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the easement tract described.

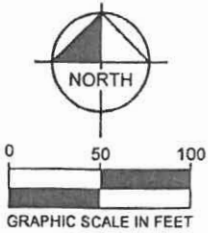
15-FOOT WIDE
 UTILITY EASEMENT
 WILLIAM S. ROBINSON SURVEY,
 ABSTRACT NO. 1262
 SAM HOUSTON SURVEY,
 ABSTRACT NO. 657
 CITY OF MESQUITE
 DALLAS COUNTY, TEXAS


 MICHAEL C. BILLINGSLEY
 REGISTERED PROFESSIONAL
 LAND SURVEYOR NO. 6558
 801 CHERRY STREET,
 UNIT 11 SUITE 1300
 FORT WORTH, TEXAS 76102
 PH. 817-335-6511
 michael.billingsley@kimley-horn.com



Kimley»Horn
 801 Cherry Street, Unit 11, # 1300 Fort Worth, Texas 76102 FIRM # 10194040 Tel. No. (817) 335-6511 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	CDP	MCB	7/7/2021	061311400	1 OF 4



P.O.C.

NOTAIN REALTY LP
(INST. NO. 202000343740)

5/8" IRFC
"KHA" (C.M.)

LOT 1, BLOCK A
ASHLEY FURNITURE ADDITION
(INST. NO. 201900260315)

TRACT 3
ASHLEY FURNITURE
INDUSTRIES, INC.
(INST. NO. 201700087295)

TRACT 1
CALLED 50.00 ACRES
CITY OF MESQUITE
(VOL. 95083, PG. 253)

S0°43'13"E 835.45'

5/8" IRFC
"KHA" (C.M.)

P.O.B.

UTILITY EASEMENT
0.6118 ACRES
26.650 SQ. FT.

MATCHLINE (SEE SHEET 3)

LEGEND

IRFC = IRON ROD WITH CAP FOUND
P.O.C. = POINT OF COMMENCING
P.O.B. = POINT OF BEGINNING
C.M. = CONTROLLING MONUMENT

NOTES

Bearing system based on the Texas Coordinate System of 1983(2011 adjustment), North Central Zone (4202). A metes & bounds description of even survey date herewith accompanies this survey plat.

The undersigned, Registered Professional Land Surveyor, hereby certifies that the plat of survey accurately sets out the metes and bounds of the easement tract.

15-FOOT WIDE
UTILITY EASEMENT
WILLIAM S. ROBINSON SURVEY,
ABSTRACT NO. 1262
SAM HOUSTON SURVEY,
ABSTRACT NO. 657
CITY OF MESQUITE
DALLAS COUNTY, TEXAS

[Signature] 7/7/21

MICHAEL C. BILLINGSLEY
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6558
801 CHERRY STREET,
UNIT 11 SUITE 1300
FORT WORTH, TEXAS 76102
PH. 817-335-6511
michael.billingsley@kimley-horn.com

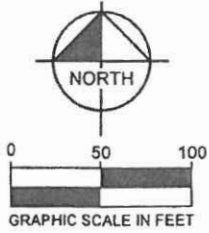


Kimley»Horn

801 Cherry Street, Unit 11, # 1300 Fort Worth, Texas 76102 FIRM # 10194040 Tel. No. (817) 335-6511 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 100'	CDP	MCB	7/7/2021	061311400	2 OF 4

MATCHLINE (SEE SHEET 2)



LOT 1, BLOCK A
 ASHLEY FURNITURE ADDITION
 (INST. NO. 201900260315)

TRACT 3
 ASHLEY FURNITURE
 INDUSTRIES, INC.
 (INST. NO. 201700087295)

UTILITY EASEMENT
 0.6118 ACRES
 26,650 SQ. FT.

LEGEND

IRFC = IRON ROD WITH CAP FOUND
 P.O.C. = POINT OF COMMENCING
 P.O.B. = POINT OF BEGINNING
 C.M. = CONTROLLING MONUMENT

L4
 L2

TRACT 1
 CALLED 50.00 ACRES
 CITY OF MESQUITE
 (VOL. 95083, PG. 253)

15-FOOT WIDE
 UTILITY EASEMENT
 WILLIAM S. ROBINSON SURVEY,
 ABSTRACT NO. 1262
 SAM HOUSTON SURVEY,
 ABSTRACT NO. 657
 CITY OF MESQUITE
 DALLAS COUNTY, TEXAS

MATCHLINE (SEE SHEET 4)

Kimley»Horn

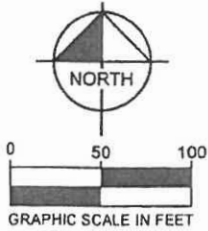
801 Cherry Street, Unit 11, # 1300
 Fort Worth, Texas 76102

FIRM # 10194040

Tel. No. (817) 335-6511
 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 100'	CDP	MCB	7/7/2021	061311400	3 OF 4

MATCHLINE (SEE SHEET 3)



LINE TABLE		
NO.	BEARING	LENGTH
L1	N89°16'47"E	15.00'
L2	S00°43'13"E	1776.72'
L3	S89°35'29"W	15.00'
L4	N00°43'13"W	1776.63'

LOT 1, BLOCK A
ASHLEY FURNITURE ADDITION
(INST. NO. 201900260315)

TRACT 3
ASHLEY FURNITURE
INDUSTRIES, INC.
(INST. NO. 201700087295)

TRACT 1
CALLED 50.00 ACRES
CITY OF MESQUITE
(VOL. 95083, PG. 253)

UTILITY EASEMENT
0.6118 ACRES
26,650 SQ. FT.

LEGEND

IRFC = IRON ROD WITH CAP FOUND
P.O.C. = POINT OF COMMENCING
P.O.B. = POINT OF BEGINNING
C.M. = CONTROLLING MONUMENT

WILLIAM S. ROBINSON SURVEY,
ABST. NO. 1262
SAM HOUSTON SURVEY,
ABST. NO. 657

CITY OF MESQUITE
(RECORDING
INFORMATION
UNKNOWN)

15-FOOT WIDE
UTILITY EASEMENT
WILLIAM S. ROBINSON SURVEY,
ABSTRACT NO. 1262
SAM HOUSTON SURVEY,
ABSTRACT NO. 657
CITY OF MESQUITE
DALLAS COUNTY, TEXAS

Kimley»Horn

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Fort Worth, Texas 76102 FIRM # 10194040

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 100'	CDP	MCB	7/7/2021	061311400	4 OF 4

LEGAL DESCRIPTION
15-FOOT WIDE UTILITY EASEMENT

BEING a 0.0848 acre tract of land situated in the John Pike Survey, Abstract No. 1174, City of Mesquite, Dallas County, Texas; said tract being part of that tract of land described as Tract 1B in Dallas County Commissioners Court order no. CC-84-6727-b to the City of Mesquite; said tract being more particularly described as follows:

COMMENCING at a 1/2-inch iron rod with cap stamped "HALFF" found in the south line of Lot 1, Block A, Ashley Furniture Addition, an addition to the City of Mesquite according to the plat recorded in Instrument No. 201900260315 of said Official Public Records;

THENCE North 89°21'21" East, along the said south line of Lot 1, a distance of 119.80 feet the **POINT OF BEGINNING**;

THENCE North 89°21'21" East, continuing along the said south line of Lot 1, a distance of 243.56 feet to a 1/2-inch iron rod with cap stamped "C.L.S. RPLS 5129" found for corner; said point being the southeast corner of said Lot 1; said point also being the southwest corner of a tract of land described as "Tract 1" in deed to the City of Mesquite recorded in Volume 95083, Page 253 of the said Deed Records of Dallas County, Texas;

THENCE North 89°35'29" East, along the south line of said Tract 1, a distance of 10.00 feet to a point for corner;

THENCE South 0°24'31" East, departing the said south line of Tract 1, a distance of 15.00 feet to a point for corner;

THENCE South 89°35'29" West, a distance of 9.97 feet to a point for corner;

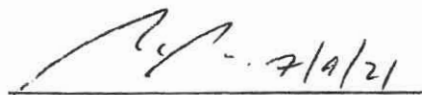
THENCE South 89°21'21" West, a distance of 228.79 feet to a point for corner;

THENCE North 45°07'52" West, a distance of 21.03 feet to the **POINT OF BEGINNING** and containing 3,692 square feet or 0.0848 acres of land, more or less.

NOTES

Bearing system based on the Texas Coordinate System of 1983(2011 adjustment), North Central Zone (4202). A survey plat of even survey date herewith accompanies this metes & bounds description.

The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the easement tract described.



MICHAEL C. BILLINGSLEY
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6558
801 CHERRY STREET,
UNIT 11 SUITE 1300
FORT WORTH, TEXAS 76102
PH. 817-335-6511
michael.billingsley@kimley-horn.com

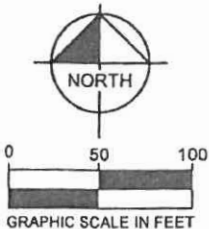


15-FOOT WIDE
UTILITY EASEMENT
JOHN PIKE SURVEY,
ABSTRACT NO. 1174
CITY OF MESQUITE
DALLAS COUNTY, TEXAS

Kimley»Horn

801 Cherry Street, Unit 11, # 1300
Fort Worth, Texas 76102 FIRM # 10194040 Tel. No. (817) 335-6511
www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	CDP	MCB	7/7/2021	061311400	1 OF 2



LOT 1, BLOCK A
ASHLEY FURNITURE ADDITION
(INST. NO. 201900260315)

TRACT 3
ASHLEY FURNITURE
INDUSTRIES, INC.
(INST. NO. 201700087295)

TRACT 1
CALLED 50.00 ACRES
CITY OF MESQUITE
(VOL. 95083, PG. 253)

WILLIAM S. ROBINSON SURVEY,
ABST. NO. 1262

1/2" IRFC
"C.L.S. RPLS 5129"
(C.M.)

1/2" IRFC
"HALFF" (C.M.)

N89°21'21"E 119.80'

SAM HOUSTON SURVEY,
ABST. NO. 657

P.O.B.

L1

L2

P.O.C.

TRACT 1B
CITY OF MESQUITE
(CC#84-6727-B)

UTILITY EASEMENT
0.0848 ACRES
3,692 SQ. FT.

JOHN PIKE SURVEY,
ABST. NO. 1174

GCP BERRY, LLC
(INST. NO. 201800177948)

LINE TABLE		
NO.	BEARING	LENGTH
L1	N89°21'21"E	243.56'
L2	N89°35'29"E	10.00'
L3	S00°24'31"E	15.00'
L4	S89°35'29"W	9.97'
L5	S89°21'21"W	228.79'
L6	N45°07'52"W	21.03'

LEGEND

IRFC = IRON ROD WITH CAP FOUND
P.O.C. = POINT OF COMMENCING
P.O.B. = POINT OF BEGINNING
C.M. = CONTROLLING MONUMENT

NOTES

Bearing system based on the Texas Coordinate System of 1983(2011 adjustment), North Central Zone (4202). A metes & bounds description of even survey date herewith accompanies this survey plat.

The undersigned, Registered Professional Land Surveyor, hereby certifies that the plat of survey accurately sets out the metes and bounds of the easement tract.

15-FOOT WIDE
UTILITY EASEMENT
JOHN PIKE SURVEY,
ABSTRACT NO. 1174
CITY OF MESQUITE
DALLAS COUNTY, TEXAS

[Signature] 7/19/21

MICHAEL C. BILLINGSLEY
REGISTERED PROFESSIONAL
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UNIT 11 SUITE 1300
FORT WORTH, TEXAS 76102
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1" = 100'	CDP	MCB	7/7/2021	061311400	2 OF 2