

RESOLUTION NO. 11-2026

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING THE TERMINATION OF AN ECONOMIC DEVELOPMENT PROGRAM CHAPTER 380 AGREEMENT BETWEEN THE CITY AND SRB MESQUITE, LLC, DATED EFFECTIVE JANUARY 1, 2025, AND APPROVING THE TERMS AND CONDITIONS OF AN AMENDED AND RESTATED CHAPTER 380 ECONOMIC DEVELOPMENT AND PERFORMANCE AGREEMENT (“NEW AGREEMENT”) BETWEEN THE CITY AND SRB MESQUITE, LLC, TO PROMOTE ECONOMIC DEVELOPMENT AND TO INCENTIVIZE SRB MESQUITE, LLC, TO CONTINUE REDEVELOPING AN EXISTING BUILDING AND SURROUNDING AREA LOCATED AT 1738 NORTH TOWN EAST BOULEVARD IN THE CITY OF MESQUITE, TEXAS; AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE THE NEW AGREEMENT AND ADMINISTER THE NEW 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, pursuant to Resolution No. 44-2025 that was approved by City Council on October 6, 2025, the City entered into an Economic Development Program Chapter 380 Agreement with SRB Mesquite, LLC (“Company”), for the commercial development of an 18.6513-acre parcel of land and redevelopment of an existing building at 1738 North Town East Boulevard, as part of the Town East Mall area formerly occupied by Sears (“Original Agreement”); and

WHEREAS, the Original Agreement required the Company to construct a 58,000-square-foot “Main Event” brand family entertainment business within the former Sears building, opening by December 31, 2026, and with a 10-year lease, along with related development of the surrounding area; and

WHEREAS, due to changing market conditions, the parent owner of Main Event constricted national store expansions; and

WHEREAS, since the Company is unable to satisfy the Original Agreement, they have requested that the Original Agreement be terminated and replaced with an Amended and Restated Chapter 380 Economic Development and Performance Agreement, a copy of said agreement being attached hereto as **EXHIBIT 1** and incorporated herein by reference (the “New Agreement”); and

WHEREAS, the New Agreement requires the Company to enter into a ten (10) year lease with an entertainment and restaurant venue branded as “Round One Bowling and Arcade” to operate a business in a minimum of 85,000 square feet of the Sears building starting on or before December 31, 2027, along with related development of the surrounding area; and

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WHEREAS, the New Agreement requires the Company to make a minimum capital investment of \$25 million with a completion requirement and Certificate of Occupancy by December 31, 2027; and

WHEREAS, in exchange for the timely performance of the New Agreement by the Company, including meeting minimum sales tax generation bench marks, the City grants the Company a ten (10) year sales tax incentive generally equal to one-half of the sales taxes the City collects from taxable sales occurring on the subject property plus an additional capital investment reimbursement incentive of one-half of the Company's finish-out costs up to a maximum of \$500,000 for the Company causing the opening of a minimum 6,000 square foot Vidorra restaurant on the subject property on or before December 30, 2027, with a minimum five year lease; and

WHEREAS, after holding a public hearing and upon full review and consideration of the New Agreement and all matters attendant and related thereto, the City Council is of the opinion that the Original Agreement should be terminated, that the New 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, and that the New Agreement should be approved.

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

SECTION 1. That the City Council approves the termination of the Original Agreement between the City of Mesquite and SRB Mesquite, LLC, dated effective January 1, 2025, and authorizes the City Manager to execute all documents and undertake all actions necessary to terminate said Original Agreement.

SECTION 2. That the City Council finds that the terms of the proposed New Agreement by and between the City and the Company, a copy of which is attached hereto as **EXHIBIT 1** and incorporated herein by reference, will benefit the City 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 3. That the City Council hereby adopts an economic development program whereby, subject to the terms and conditions of the New Agreement, the City will provide economic development incentives to the Company and take other specified actions as more fully set forth in the New Agreement in accordance with the terms and subject to the conditions outlined in the New Agreement.

SECTION 4. That the terms and conditions of the New 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 5. That the City Manager is hereby authorized to finalize and execute the New Agreement and all other documents necessary to consummate the transactions contemplated by the New Agreement.

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SECTION 6. That the City Manager is further hereby authorized to administer the New 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 New Agreement; (ii) approve amendments to the New Agreement provided such amendments, together with all previous amendments approved by the City Manager, do not increase City expenditures under the New Agreement in excess of \$100,000; (iii) approve or deny any matter in the New Agreement that requires the consent of the City provided, however, notwithstanding the foregoing, any assignment of the New Agreement that requires the consent of the City pursuant to the terms of the New Agreement shall require the approval of the City Council; (iv) approve or deny the waiver of performance of any covenant, duty, agreement, term or condition of the New Agreement; (v) exercise any rights and remedies available to the City under the New Agreement; and (vi) execute any notices, amendments, approvals, consents, denials and waivers authorized by this Section 6 provided, however, notwithstanding anything contained herein to the contrary, the authority of the City Manager pursuant to this Section 6 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 7. 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 20th day of April 2026.

Signed by:  
*Daniel Alemán, Jr.*  
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Daniel Alemán, Jr.  
Mayor

ATTEST:

DocuSigned by:  
*Sonja Land*  
C2518095973F46A...

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Sonja Land  
City Secretary

APPROVED AS TO LEGAL FORM:

Signed by:  
*David Paschall*  
666E18891208434...

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David L. Paschall  
City Attorney

**EXHIBIT 1**

**AMENDED AND RESTATED CHAPTER 380  
ECONOMIC DEVELOPMENT AND  
PERFORMANCE AGREEMENT**

**BETWEEN**

**CITY OF MESQUITE**

**AND**

**SRB MESQUITE, LLC**

**AMENDED AND RESTATED CHAPTER 380 ECONOMIC DEVELOPMENT &  
PERFORMANCE AGREEMENT**

This Amended and Restated Chapter 380 Economic Development & Performance Agreement (“**Agreement**”) is made and entered into by and between the City of Mesquite, a Texas home rule municipality (“**City**”), and SRB Mesquite, LLC, a Texas limited liability company (“**Company**”), for the purposes and considerations stated below:

**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 and the Company may each hereafter be referred to as a “**Party**,” and may collectively be referred to as the “**Parties**” to this Agreement; and

**WHEREAS**, the City Council of the City of Mesquite, Texas (“**City Council**”) has investigated and determined that it is in the best interest of the City and its citizens to encourage economic development programs, including programs for making loans and grants of public money, to promote local economic development and stimulate business and commercial activity in the City pursuant to Chapter 380, Texas Local Government Code, as amended (“**Chapter 380**”); and

**WHEREAS**, Texas Local Government Code Section 380.001 and Article III, Section 52-a, of the Texas Constitution authorizes the City to establish an economic development program and the City hereby establishes such a program whereby, in exchange for Company’s performance of obligations as further described in this Agreement, the City agrees to grant public monies to Company in the form of incentives to advance the public purposes of stimulating business and commercial activity in the City, developing and diversifying the City’s economy, reducing City and State unemployment or underemployment by creating employment opportunities, adding taxable improvements to real property in the City, and expanding commerce to and through the City; and

**WHEREAS**, Company currently owns an approximately 18.6513 acre parcel of land and improvements situated thereon constituting a part of Town East Mall, an indoor retail mall, located at 1738 N. Town East Blvd., Mesquite, Texas 75150, and being more particularly described and depicted in **Exhibit A** attached hereto and incorporated herein by reference (“**Property**”); and

**WHEREAS**, the Property includes the former Sears store anchor building; Sears is now out of business and the building has been vacant for the past few years; and

**WHEREAS**, a major renovation and redevelopment of the Property consisting of substantial improvements and upgrades and additional pad sites is necessary in order to make the Property attractive to new retail and restaurant tenants resulting in increased property values and sales taxes and to improve the overall performance of Town East Mall; and

**WHEREAS**, the Company is considering making a major renovation and redevelopment of the Property and intends to materially remodel the Sears Building and create new pad sites for additional development on the Property as more particularly described herein; and

**WHEREAS**, to facilitate the foregoing development, the Parties entered into that certain Chapter 380 Economic Development Program Agreement dated effective January 1, 2025, for the development of the Property, as approved by Resolution No. 44-2025 approved by the City Council on October 6, 2025 (“**Original Agreement**”) and incorporated herein by reference; and

**WHEREAS**, the Original Agreement required Company to enter into a ten (10) year lease with an entertainment and restaurant venue branded as “Main Event” to operate a business in a minimum of 58,000 square feet of the Sears Building (as defined herein) starting on or before December 31, 2026; and

**WHEREAS**, Company is unable to satisfy the foregoing covenant and proposes instead that the Parties agree for Company to enter into a ten (10) year lease with an entertainment and restaurant venue branded as “Round One Bowling and Arcade” to operate a business in a minimum of 85,000 square feet of the Sears Building starting on or before December 31, 2027; and

**WHEREAS**, the Parties further desire to increase the Minimum Net City Sales Taxes (as defined herein) as provided herein; and

**WHEREAS**, Company has requested that the City terminate the Original Agreement and approve and replace it with this Amended and Restated Chapter 380 Economic Development & Performance Agreement in order to facilitate the foregoing modifications; and

**WHEREAS**, on April 20, 2026 and by Resolution No. 11-2026, the City Council approved termination of the Original Agreement and replacement of same with this Agreement; and

**WHEREAS**, the Company has advised the City that a contributing factor inducing the Company to make the improvements provided herein is the agreement by the City to provide economic development incentives to the Company under the terms and conditions more fully set forth in this Agreement; and

**WHEREAS**, a major renovation and redevelopment of the Property will substantially increase the taxable value of the Property thereby adding value to the City’s tax rolls and increasing the ad valorem real property taxes and sales taxes to be collected by the City, along with increasing employment opportunities in the City and improving the overall performance of Town East Mall; and

**WHEREAS**, the City Council has investigated and determined that the Company’s project qualifies for economic development incentives and grants under the Chapter 380 Program established by the City in this Agreement (“**Program**”); and

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

**WHEREAS**, the City Council finds and determines that the renovation and redevelopment of the Property will benefit the City and its citizens and advance a public purpose of the City because, *inter alia*, the renovation and redevelopment of Town East Mall will: (i) promote local economic development and stimulate business and commercial activity in the City; (ii) result in substantial visual improvements to a high profile intersection in the City; (iii) increase the productive life and the taxable value of the building and improvements constituting the Property thereby adding value to the City's tax rolls and increasing the ad valorem taxes to be collected by the City; and (iv) maintain and attract new retail tenants to the Property and Town East Mall which will: (a) increase the taxable value of inventory and business personal property at the Property thereby adding further value to the City's tax rolls and increasing the ad valorem personal property taxes to be collected by the City; (b) increase the sales taxes collected by the City; and (c) create new employment opportunities in the City; and

**WHEREAS**, the City Council finds and determines that this Agreement will effectuate the purposes set forth in the Program and that the granting of the economic development incentives more fully set forth herein on the terms and subject to the conditions more fully set forth herein will benefit the City and will accomplish the public purpose of promoting local economic development and stimulating business and commercial activity in the City.

**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, the Parties agree as follows:

#### **ARTICLE I Incorporation of Recitals**

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered a 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:

**“Additional Municipal Sales Taxes”** means all sales taxes now and hereafter authorized, adopted, imposed or collected by or on behalf of the City pursuant to § 321.101(b) of the Texas Tax Code, as amended or replaced, and shall specifically include all Type B Sales Taxes, Property Tax Relief Taxes and all sales taxes now and hereafter prohibited by law from being used for payment or granting of economic development incentives.

**“Agreement”** shall mean this agreement together with all exhibits attached hereto and incorporated herein by reference.

**“Capital Improvements”** shall mean any redevelopment, renovations, replacements, upgrades and other alterations, changes, modifications, additions and/or physical improvements to the Property

commenced after the Effective Date and completed on or before December 31, 2030, including, without limitation, the items more particularly described in **Exhibit B** attached hereto. The term Capital Improvements will not include (1) routine maintenance, costing less than \$10,000.00, and performed as part of a single project, (2) land acquisition costs, or (3) business personal property including, but not limited to, furniture, fixtures and equipment. The term Capital Improvements will include any such Capital Improvements made by or on behalf of any Tenants.

“Capital Investment” shall mean expenditures that are capital in nature and made on Capital Improvements by or on behalf of the Company or Tenants. The term Capital Investment excludes any sums expended by Company in connection with (a) the development and construction of a hotel and/or parking garage on the Property, and (b) development and construction of any City-affiliated uses on the Property. The term Capital Investment also excludes the amount of capital expenditures made by Company for improving the Vidorra lease space for which Company receives the Capital Investment Reimbursement paid by the City to Company.

“Capital Investment Certificate” shall mean a report and certificate in such forms as is reasonably acceptable to the City executed on behalf of the Company by a duly authorized Company Representative certifying to the City the amount of the Capital Investment made by or on behalf of the Company or any Tenants.

“Capital Investment Reimbursement” shall mean the incentive, if any, paid by the City to Company equal to one-half (1/2) of Company’s cost to finish-out the lease space occupied by Vidorra, said incentive amount not to exceed Five Hundred Thousand and 00/100 Dollars (\$500,000) under any circumstances and regardless of whether Company’s costs exceed One Million and 00/100 Dollars (\$1,000,000.00).

“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 to the knowledge of the Company all applicable Conditions Precedent at the time of presentation of the Certificate of Compliance, have been satisfied and are continuing and (ii) that to the knowledge of the Company no default then exists by the Company under the terms of this Agreement and that no event exists which, but for notice, the lapse of time, or both, would constitute a default by the Company under the terms of this Agreement. As used in this paragraph the terms “knowledge” or “knowingly” means the actual, then-current knowledge of any officer or employee of the Company.

“Certificate of Occupancy” or “CO” shall mean a certificate of occupancy (either temporary or final) issued by the City to the applicable company in compliance with the City’s building, health, safety, fire and other codes authorizing the applicable company to occupy and operate a business from the applicable location at the Property.

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

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

“City Manager” shall mean the City Manager of the City.

“City Sales Tax” and “City Sales Taxes” shall mean the municipal sales taxes collected by or on behalf of the City for general fund uses authorized pursuant to § 321.101(a) of the Texas Tax Code, as amended and/or replaced, and currently at the rate of one percent (1.0%) pursuant to § 321.103(a) of the Texas Tax Code and specifically not including (a) the State of Texas Sales Taxes, and (b) any Additional Municipal Sales Taxes.

“Company” shall mean SRB Mesquite, LLC, a Texas limited liability company, its successors and assigns only as permitted by this Agreement.

“Company Representative” shall mean the Chief Executive Officer, Chief Financial Officer, President or any other authorized manager, member, or officer of the Company.

“Conditions Precedent” shall have the meanings set forth in Article VI of this Agreement.

“Disclosure Statute” shall mean § 321.3022 of the Texas Tax Code, as amended and/or replaced.

“Effective Date” January 1, 2026.

“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.

“Event of Force Majeure” shall mean a major unforeseeable act or event that: (a) prevents a Party from performing its obligations under this Agreement; (b) is beyond the control of the Party; (c) is not caused by any act or omission on the part of the Party; and (d) could not have been prevented or avoided by the exercise by the Party of such diligence and reasonable care as would be exercised by a prudent person under similar circumstance. An Event of Force Majeure must satisfy each of the above requirements and includes but is not limited to lightning, floods, ice storms, hurricanes, tornadoes, earthquakes, natural disasters, acts of God, explosions, fires, war, terrorism, and civil disturbance. Notwithstanding the foregoing, an Event of Force Majeure does not include any financial or economic hardships, changes in market or economic conditions, or insufficiency of funds. This Event of Force Majeure clause does not excuse the performance by the Company if the Company could have prevented or avoided the event or impact on this Agreement, or if the Company contributed to or caused the event by any act or omission.

“Excused Round One Vacancy” shall have the meaning ascribed in Section 6.6 hereof.

“Excused Vidorra Vacancy” shall have the meaning ascribed in Section 8.5 hereof.

“Incentive Payment” shall mean the actual payment of any Sales Tax Incentive or Capital Investment Reimbursement by the City to the Company as set forth in this Agreement.

“Incentive Tax Period” shall mean the following periods of time during the Term: (a) the period of time occurring between and including the date Round One is first Open for Business to and including the date that is 364 days thereafter; and (b) each of the nine (9) year periods thereafter, each starting on and including the first day following the end of the period described in subsection (a) of this definition and ending on and including the day that is 364 days (or 365 days during a leap year) thereafter. For clarity, there are ten (10) Incentive Tax Periods that run consecutively for a total of ten (10) years, each Incentive Tax Period consisting of 365 days (or 366 days during a leap year). The first Incentive Tax Period starts the day Round One is first Open for Business and the last Incentive Tax Period will end on the day that is ten (10) years after the first day of the first Incentive Tax Period.

“Round One” shall mean an entertainment and restaurant venue branded as “Round One Bowling and Arcade” (or such other trade name then being used by the Tenant from time to time) being Open for Business and occupying a minimum of 85,000 square feet of the first floor of the Sears Building under a lease with Company with a minimum term of ten (10) years.

“Round One Vacancy” shall mean any period Round One is not Open for Business in the Sears Building, excluding (i) temporary closures of the Round One space during any construction, reconstruction, remodeling and the like of any of the Round One improvements to the extent it is not commercially practicable for Round One to be Open for Business; or (ii) an Excused Round One Vacancy.

“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).

“Minimum Capital Investment” shall have the meaning provided in Section 6.1 of this Agreement.

“Minimum Net City Sales Taxes” means: (a) \$150,000 for the first Incentive Tax Period; (b) \$200,000 for the second Incentive Tax Period; and (c) \$250,000 for each of the remaining eight (8) Incentive Tax Periods.

“Net City Sales Taxes” means the City Sales Taxes collected by or on behalf of the City arising from sales of Taxable Items at or from or on the Property less the collection fee retained by the State Comptroller (currently two percent (2%)) and less any credits for returned items (it being expressly understood that the Net City’s Sales Taxes is being used only as a measurement for the City’s participation through the use of lawfully available funds). “Net City Sales Taxes” must arise from uses that began initial operations on the Property under a Certificate of Occupancy issued by the City on or after January 1, 2026, and on or before December 31, 2030 in compliance with this Agreement. “Net City Sales Taxes” exclude any Sales Tax Collections resulting from (a) operation of a hotel and/or parking garage on the Property, or (b) operation of any City-affiliated uses on the Property.

“Open for Business” shall mean the business is fully operating with a valid CO, open to the public during its normal business hours, and serving customers at the Property except (i) during Federal Holidays, (ii) during construction, reconstruction, remodeling and the like of any improvements, and (iii) during an Excused Round One Vacancy.

“Party” and “Parties” shall have the meanings set forth in the Recitals to this Agreement.

“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.

“Primary Use” shall mean goods sold or services provided by a Tenant of leased space on the Property that generate more than forty percent (40%) of the total sales of such Tenant on an annual basis.

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

“Property” shall mean the real property and improvements described and depicted in **Exhibit A** attached hereto and made a part hereof for all purposes.

“Property Tax Relief Taxes” means the municipal sales taxes authorized, adopted, imposed and/or collected by or on behalf of the City pursuant to § 321.101(b) of the Texas Tax Code, as amended and/or replaced, currently at the rate of one-half of one percent (0.5%) to be used to reduce the property tax rate of the City.

“Request for Payment” means written correspondence addressed to the City at the notice address provided herein identifying the Incentive Payment requested and the Tax Incentive Year.

“Sales Tax Collections” means the amount of Net City Sales Taxes the City actually recovers from the Texas Comptroller of Public Accounts, generated by Tenants on the Property during any Incentive Tax Period as provided in this Agreement.

“Sales Tax Incentive” means the City’s qualifying Incentive Payment to Company for the amount of Sales Tax Collections occurring during an Incentive Tax Period as provided in this Agreement.

“Sears Building” means the currently vacant two-story building on the Property and connected to Town East Mall.

“State of Texas Sales Taxes” means the State of Texas sales taxes, currently at the rate of six and one-quarter percent (6.25%), authorized, adopted, imposed and/or collected pursuant to § 151.051 of the Texas Tax Code, as amended or replaced, and all other sales taxes now and hereafter authorized, adopted, imposed and/or collected by or on behalf of the State of Texas.

“Suitable Replacement Tenant” shall mean (a) with respect Round One a national and/or regional tenant(s), (1) occupying and operating as a single user within a minimum of 85,000 square feet of the first floor in the Sears Building, and (2) for a use that is consistent with uses found at other

first-class shopping centers in Texas, including, but not limited to, retail sale of hard and soft goods, entertainment uses, health clubs and fitness uses, recreational uses, and restaurants and food uses, but excluding all other service providers, and (b) with respect to Vidorra a table service restaurant (i.e., not fast food nor fast casual, but instead a restaurant where patrons are seated, provided a menu, orders are made from where the patrons are seated and food is delivered to the patron's seating area) occupying and operating as a single user within a minimum of 6,000 square feet on the second floor in the Sears Building.

“Taxable Item” shall have the same meaning assigned by § 151.010 and § 151.0101 of the Texas Tax Code, as may be amended.

“Tenants” shall mean any tenants or other owners/occupants on the Property under lease, license, deed, or other written agreement.

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

“Termination Agreement” shall mean the Termination Agreement attached to this Agreement as **Exhibit E** and incorporated herein by reference.

“Texas Comptroller” or “CPA” means the comptroller of public accounts of the State of Texas whose duties include the collection and disbursement of sales and use taxes in accordance with Ch. 403 of the Texas Government Code.

“Type B Sales Taxes” means the municipal sales taxes authorized, adopted, imposed or collected by or on behalf of the City pursuant to § 321.101(b) of the Texas Tax Code, as amended or replaced, currently at the rate of one-half of one percent (0.5%), for use by the Mesquite Quality of Life Corporation, a Type B economic development corporation, operating pursuant to Chapter 505 of the Texas Local Government Code, as amended or replaced, and shall also include any other sales taxes now or hereafter authorized, adopted, imposed or collected by or on behalf of the City for use by any other Type B economic development corporation hereafter created by the City.

“Undocumented Workers” shall mean individuals who, at the time of employment with the Company, are not: (i) 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 workers pursuant to 8 U.S.C. § 1324a (f) and/or any other applicable state and/or federal law or regulation.

“Vidorra” shall mean a restaurant branded as “Vidorra” being Open for Business on or before December 31, 2027 and occupying a minimum of 6,000 square feet of the second floor of the Sears Building under a lease with Company with a minimum term of five (5) years. For illustration purposes only, Vidorra's current business operations are described in more detail on its website: <https://vidorracocina.com/>.

“Vidorra Vacancy” shall mean any period Vidorra is not Open for Business in the Sears Building, excluding (i) temporary closures of the Vidorra space during any construction, reconstruction, remodeling and the like of any of the Vidorra improvements to the extent it is not commercially

practicable for Vidorra to be Open for Business; or (ii) an Excused Vidorra Vacancy.

### **ARTICLE III**

#### **Authority for Agreement and Available Funds**

3.1 Authority. 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 substantial economic benefit will accrue to the City as a result of the renovation and redevelopment of the Property because, among other things, such renovation and redevelopment will: (i) promote local economic development and stimulate business and commercial activity in the City; (ii) result in substantial visual improvements to a high profile restaurant and retail area in the City; (iii) increase the productive life and the taxable value of the Sears Building thereby adding value to the City's tax rolls and increasing the ad valorem taxes to be collected by the City; and (iv) attract new tenants to the Property and Town East Mall which will: (a) increase the taxable value of inventory and business personal property at the Property and Town East Mall thereby adding value to the City's tax rolls and increasing the ad valorem personal property taxes to be collected by the City; (b) increase the sales taxes collected by the City; and (c) create new employment opportunities in the City, and accordingly, the value of the benefits of this Agreement to the City outweigh the amount of incentives to be paid by the City under this Agreement.

3.2 Funds Available for Incentive Payment. The Incentive Payments payable by the City to the 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. Any Incentive Payment payable hereunder shall be paid only from funds of the City authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380. Each Incentive 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 Payment(s) is to be made.

### **ARTICLE IV**

#### **Term**

The Term of this Agreement shall commence on the Effective Date and shall continue until the earlier of: (i) ten (10) years after the date Round One is first Open for Business; (ii) the date of the City's payment of the final Incentive Payment owed to Company under this Agreement; or (iii) the date this Agreement is terminated by the City or the Company pursuant to a right to terminate as expressly provided herein ("**Term**"). Notwithstanding the foregoing, in the event this Agreement is not fully executed within sixty (60) days after approval by the City Council, then this Agreement shall be null and void and shall have no effect on either Party. This Agreement may be terminated by the City if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement, or any material part thereof, invalid, illegal or unenforceable. Company shall notify City in writing of the date Round One is first Open for Business.

Notwithstanding anything else in this Agreement, the Parties agree the effectiveness of this Agreement is conditioned on the full and complete execution by the Parties of the Termination

Agreement attached hereto as **Exhibit E** and incorporated herein by reference. Without such execution of the Termination Agreement, this Agreement is void and without effect.

## **ARTICLE V**

### **Company's Covenants Regarding Undocumented Workers**

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

5.2 Covenant to Notify City of Conviction for Undocumented Workers. The 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 the Company, of a knowing violation under 8 U.S.C. § 1324a (f) within thirty (30) days from the date of such conviction.

5.3 Repayment of Incentive Payments in Event of Conviction for Employing Undocumented Workers. If, after receiving any Incentive Payment under the terms of this Agreement, the Company, or a branch, division or department of the Company, is convicted of a violation under 8 U.S.C. § 1324a (f), the Company shall pay to the City, not later than the 120<sup>th</sup> day after the date the City notifies the Company of the violation, an amount equal to the total amount of all Incentive Payment payments paid by the City to the 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 each such Incentive Payment from the date each such Incentive Payment was paid by the City to the Company until the date repaid by the Company to the City and such interest rate shall adjust periodically as of the date of any change in the Maximum Lawful Rate.

5.4 Limitation on Incentive Payment Payments. The City shall have no obligation to make any Incentive Payment payments to the Company if the Company, or any branch, division or department of the Company, is convicted of a violation under 8 U.S.C. § 1324a (f).

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

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

## ARTICLE VI

### Conditions Precedent to Payment of Sales Tax Incentive

The City and Company each agree that as a condition precedent to the receipt by Company of any Sales Tax Incentive pledged by the City, Company covenants, warrants and agrees that each and every of the following performance requirements and conditions which represent material obligations of this Agreement must have timely occurred and, if applicable, be then existing (each a “**Condition Precedent**” and collectively the “**Conditions Precedent**”):

6.1 Minimum Capital Investment. “**Minimum Capital Investment**” shall mean that on or before December 31, 2027, Company shall have made or cause to be made at least a Twenty-Five Million and No/100 Dollars (\$25,000,000.00) Capital Investment in the Capital Improvements. Thereafter, Company shall file a Capital Investment Certificate with the City demonstrating that it made or caused to be made the Minimum Capital Investment. Failure of the Company to make or cause to be made the Minimum Capital Investment on or before December 31, 2027 will result in automatic termination of this Agreement and forfeiture by Company of any further Incentive Payment under this Agreement.

6.2 Completion of the Capital Improvements. Notwithstanding the immediately preceding Section 6.1, Company shall complete the Capital Improvements described in **Exhibit B** by the applicable deadlines provided for each Capital Improvement in **Exhibit B**. Capital Improvements shall be considered completed when evidenced by the issuance by the City of a final inspection, final green tag, certificate of completion, CO, or other equivalent, confirming completion of the Capital Improvements and the requirements of the building permit issued by the City in connection with the construction of the Capital Improvements. If constructed, the Capital Improvements must be constructed in substantial conformity and compliance with the building standards provided in **Exhibit C** hereto and incorporated herein for all purposes, the City’s Code of Ordinances and other applicable laws, and zoning for the Property as shown in Ordinance No. 5205 attached hereto as **Exhibit D** and incorporated herein for all purposes, and as may be amended. Failure of the Company to make or cause to be made the Capital Improvements described in **Exhibit B** by the applicable deadlines provided for each Capital Improvement in **Exhibit B** will result in automatic termination of this Agreement and forfeiture by Company of any further Incentive Payment under this Agreement.

6.3 Minimum Net City Sales Taxes. Company covenants, warrants and agrees that a Condition Precedent to City’s payment of an Incentive Payment to Company is that the Minimum Net City Sales Taxes for the corresponding Incentive Tax Period must be collected by the City. In the event that the Minimum Net City Sales Taxes is not generated for a particular Incentive Tax Period, then this Agreement shall continue in full force and effect, but Company shall not earn an Incentive Payment for that particular Incentive Tax Period. The Company may continue earning future Incentive Payments during the Term provided all applicable Conditions Precedent are met, including, but not limited to, the City’s collection of the Minimum Net City Sales Taxes for the Incentive Tax Period for which an Incentive Payment is sought by Company. For clarity, nothing in this Agreement extends an Incentive Tax Period nor allows a future recovery of a potential Incentive Payment not earned due to the Minimum Net City Sales Tax not being met for an Incentive Tax Period.

6.4 Round One Lease. Company covenants, warrants and agrees that Company shall use commercially reasonable efforts to enter into at least a ten (10) year lease with Round One to occupy and conduct its business in a minimum of 85,000 square feet of the first floor of the Sears Building on or before December 31, 2027. Following execution, Company shall provide City with a copy of said lease, redacted if necessary to remove proprietary or confidential information. Failure of Company to enter into said lease with Round One by December 31, 2027 will result in automatic termination of this Agreement and forfeiture by Company of any further Incentive Payment under this Agreement.

6.5 Issuance of Certificate of Occupancy for Round One. Subject to an Event of Force Majeure and any Tenant delays, Company covenants, warrants and agrees that Company shall use commercially reasonable efforts to complete or cause to be completed finish out of a minimum of 85,000 square feet of the first floor of the Sears Building for occupation by Round One and obtain from the City a Certificate of Occupancy for occupancy of said space and operation of its business by Round One by December 31, 2027. Failure of Company to complete finish out of the Tenant Round One space or Tenant Round One to obtain a Certificate of Occupancy by December 31, 2027, subject in all events to an Event of Force Majeure and any Tenant delays, will result in automatic termination of this Agreement and forfeiture by Company of any further Incentive Payment under this Agreement.

6.6 Continuous Operation of Round One. Round One shall remain fully Open for Business from the time after it is first Open for Business until the date the City issues the final Incentive Payment due under this Agreement unless caused by a permitted Round One Vacancy. Further, a vacancy by Round One shall be permitted if the Company notifies the City in writing within seven (7) business days of the first day of the occurrence of such vacancy and within 365 calendar days of the Company providing the City with the aforementioned written notice, the Company provides evidence to the City's reasonable satisfaction that either: (i) Round One has resumed operations and is Open for Business in the Sears Building, or (ii) a Suitable Replacement Tenant is Open for Business in the Sears Building (collectively, an "**Excused Round One Vacancy**"). The Parties hereby agree that an Excused Round One Vacancy shall not be a default by the Company under this Agreement, but that during an Excused Round One Vacancy the City shall have no obligation to pay any Incentive Payment hereunder; provided, however, the Sales Tax Incentive shall continue to accrue hereunder and all such accrued Incentive Payments shall be made to the Company once the Excused Round One Vacancy ceases to exist. A Round One Vacancy that is not caused by a permitted Round One Vacancy (including, without limitation, an Excused Round One Vacancy) is subject to Section 9.1 of this Agreement; provided, however, City's sole and exclusive remedy for any such default shall be as set forth in Section 9.3 below.

6.7 Minimum Net City Sales Taxes. The Minimum Net City Sales Taxes shall have been generated and collected by the City for the applicable Incentive Tax Period. The City shall have obtained from the Texas Comptroller a confidential information report confirming at a minimum the total amount of sales and use taxes paid by the Tenants at the Property to the Texas Comptroller relating only to taxable sales from such Tenants' locations at the Property during the previous Incentive Tax Period (which report the City agrees to use diligent, good faith efforts to timely obtain), and the City shall have verified that it has received payment in full of all City Sales Taxes

payable by the Tenants relating to taxable sales from the Tenants' locations at the Property for the Incentive Tax Period for which the Request for Payment is submitted, and the City agrees to use diligent, good faith efforts to promptly verify such information. Notwithstanding the foregoing pursuant to the Disclosure Statute, the State Comptroller is to disclose the sales taxes paid during the current or prior year without disclosing individual sales tax account information. However, if there are fewer than three (3) sales tax accounts at the Property, the State Comptroller will not disclose information regarding the actual sales taxes paid by Tenants without permission of those persons doing business on the Property. As such, the Company covenants and agrees to use good faith, commercially reasonable efforts to include as a condition in its future leases or lease renewals or amendments at the Property language that requires the Company and future lessees to provide a release to the City that will allow the Texas Comptroller, if so required by the Disclosure Statute, to disclose to the City aggregated sales tax information relating to any business generating sales tax at the Property for any Incentive Tax Period during the Term. The Parties agree that no Sales Tax Incentive payment shall be due or payable for any Incentive Tax Period during the Term if the Company fails to provide written permission from the Company and each Tenant allowing the State Comptroller to provide the City with applicable information relating to the amount of City Sales Taxes paid by such Tenants to the City during such Incentive Tax Period and such information is not separately made available to the City by the State Comptroller.

6.8 Annual Filings for Payment of Sales Tax Incentives. The Company shall have submitted to the City the following documents in connection with each and every request to the City for an Incentive Payment: (a) a written Request for Payment; (b) a Certificate of Compliance; and (c) a list of current Tenants. If Company submits a Request for Payment more than one (1) year after the applicable Sales Tax Incentive is earned by Company, Company agrees it is an irrevocable waiver of Company's right to request said Sales Tax Incentive and the City shall not be obligated to pay the Request for Payment. Any obligation of City to pay a timely submitted and valid Request for Payment shall expressly survive the Term.

6.9 Documentation. Company shall use commercially reasonable efforts to deliver to the City within thirty (30) days after written request, copies of such invoices, payment records and other documentation as the City may reasonably request to confirm compliance by the Company with its covenants in this Article.

6.10 Ongoing Operation. Company shall operate the Property exclusively for only the uses permitted under the current zoning applicable to the Property during the Term of this Agreement. Notwithstanding the foregoing, the Company covenants and agrees that during the Term of this Agreement, the Company will not enter into any oral and/or written leases or otherwise knowingly permit the use of all or any portion of the Property for any one or more of the following uses as a Primary Use:

- (a) stores selling electronic cigarettes or other oral devices that allow users to inhale a vapor of liquid nicotine or other substances including, without limitation, e-cigarettes, e-cigars, e-pipes, e-hookahs, and/or vape pipes;
- (b) tobacco stores (and specifically excluding the ancillary sale thereof in any pharmacy, grocery or convenience store located at the Property). The Company further

covenants and agrees that during the Term of this Agreement, the Company will not enter into any oral and/or written leases or otherwise knowingly permit the use of all or any portion of the Property for any one or more of the following uses as a Primary Use:

- (c) steam or Turkish baths, massage parlors that exist for reasons beyond therapeutic massage (i.e., lascivious purposes), and tattoo and/or piercing parlors (excluding retailers of goods that offer as an accessory use piercing services such as Claire's);
- (d) bars and restaurants operated for members of civic and social organizations, alumni associations, granges, automobile clubs (except travel), parent-teacher associations, booster clubs, scouting organizations, ethnic associations, social clubs, fraternal lodges and veterans' membership organizations;
- (e) churches, religious shrines, monasteries (except schools), synagogues, religious mosques and religious temples;
- (f) gifts, novelty or souvenir stores that as a Primary Use sell items of a sexually lewd or offensive nature, or of paraphernalia intended to be used with illegal drugs;
- (g) pawn shops; and
- (h) consignment, second-hand and vintage stores.

Notwithstanding the foregoing, a violation of the foregoing uses shall only exist if the Certificate of Occupancy issued for the applicable premises specifically permits one or more of the prohibited uses listed above by name, and not for example by a description such as "retail store".

6.11 Inspections. Company shall provide the City, its agents and employees with access to the Property at such times as the City may reasonably request to conduct such inspections as the City reasonably deems necessary in order to confirm compliance by the Company with the terms and provisions of this Agreement, subject to the rights of Tenants.

6.12 Company Representative. Company shall provide a representative of the Company to accompany the City during all inspections of the Property conducted by the City.

6.13 Payment of Taxes. Subject to the Company's and/or Tenant's right to file a protest and contest ad valorem taxes, all ad valorem taxes assessed against the Property actually owned and controlled by Company during the Term of this Agreement shall be paid prior to the date such taxes become delinquent regardless of whether owed or paid by Company, Tenants or others. If any ad valorem taxes assessed against portions of the Property not actually owned and controlled by Company shall not be paid prior to the date such taxes become delinquent during the Term of this Agreement, then the Sales Tax Collections generated from such unowned and controlled portions of the Property shall not be included in the calculation of the Sales Tax Incentive owed to Company during such period of delinquency.

6.14 Compliance with Applicable Laws. To maintain the Property in good repair and condition

at all times, which at a minimum shall mean meeting or exceeding all Federal, State and Local laws and regulations, including, but not limited to, the City's Code of Ordinances and terms of this Agreement, applicable to the Property and the activities thereon.

6.15 Other Agreements. Company shall keep and perform all terms, provisions, agreements, covenants, conditions and obligations to be kept or performed by the Company under the terms of this Agreement and all other agreements now or hereafter existing between the Company and the City.

6.16 Identification of Tax Situs. Company agrees to identify Town East as the tax situs for all construction materials for construction on the Property.

## **ARTICLE VII City's Financial Obligations For Sales Tax Incentives**

7.1. Economic Development Incentives. Provided all applicable Conditions Precedent have been satisfied and are then continuing and Company has complied with all obligations under this Agreement, then for each Incentive Tax Period during the Term, the City agrees to provide Company with an annual Sales Tax Incentive that pays to Company an amount equal to the Net City Sales Taxes generated by the Tenants for the respective Incentive Tax Period.

7.2 Sales Tax Incentive Payment. Provided all applicable Conditions Precedent have been satisfied and are then continuing and subject to Company's compliance with all obligations under this Agreement, the City shall, following the end of each Incentive Tax Period and within thirty (30) days after receiving a Request for Payment from Company, make a request to the State Comptroller pursuant to Subsection (b) of the Disclosure Statute, and will use diligent, good faith efforts to cause the State Comptroller to promptly provide the City Sales Tax information, and within seventy-five (75) days after receiving such information will calculate and, provided all Conditions Precedent are satisfied, pay to the Company the Sales Tax Incentive payment for such Incentive Tax Period.

7.3 Verification of City Sales Tax. The City and the Company agree that reports received by the City from the Texas Comptroller, if requested, reflecting City Sales Taxes paid by Tenants relating to taxable sales made from the Tenants' locations are accurate and definitive for purposes of this Agreement, and the City shall have no right to review or audit records of the Company or its successors, assigns or Tenants. The Company acknowledges that sales tax information, records and reports are confidential under the laws of the State of Texas and accordingly, the Company agrees that it shall have no right to review or audit any sales tax information, records or reports in the possession of the City including, without limitation, any confidential information reports obtained by the City pursuant to this Agreement and the Disclosure Statute. In the event the Disclosure Statute is hereafter amended or a new law is enacted requiring additional consents and/or information to obtain any information necessary for the City to calculate the amount of any Sales Tax Incentive payment payable pursuant to Section 7.2 of this Agreement, no sums payable pursuant Section 7.2 of this Agreement shall be due or payable unless and until the Company provides the City with such additional consents and/or information; provided, (a) that the City will

pay such amounts as it may be able to determine from the information so provided, with the balance to be paid in accordance with this Agreement when such additional consents and/or information is provided, and (b) any change in law shall not impact the City's obligation to make payment of any Sales Tax Incentive payments previously earned and owed by the City to the extent not prohibited by applicable law.

Notwithstanding anything contained herein to the contrary, the Parties acknowledge that the City's obligation to pay any Sales Tax Incentive payment due under the terms of Section 7.2 of this Agreement shall be deferred if the Texas Comptroller fails, after written request by the City, to provide the City with the information necessary to: (i) verify the amount of sales taxes paid by the Tenants relating to taxable sales made from such Tenants' locations; and (ii) calculate the amount of such Sales Tax Incentive payment; provided, that (A) the City will continue to use diligent, good faith efforts to cause the Texas Comptroller to provide the City the necessary information, (B) the City will provide updates to the Company upon request of the status of obtaining the necessary information, (C) the City will pay any portion of the applicable Sales Tax Incentive payment for which it has received the necessary information and (D) the due date for payment to the Company of the applicable Incentive Payment (or the balance thereof if a portion has been paid under the previously clause (C)) shall be extended until such time as the necessary information is received by the City, at which point the payment will be made in accordance with the other terms of this Agreement, and this obligation shall survive the expiration of this Agreement.

7.4 Accrued Sales Tax Incentive Survival. Except as otherwise provided herein, including, without limitation, the survival of the City's obligation to pay Company any Sales Tax Incentive earned by Company and owed by City but not yet paid by City, the City's obligation to provide the Sales Tax Incentive to Company shall terminate on the expiration of the Term.

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

## **ARTICLE VIII**

### **City's Financial Obligation For Capital Investment Reimbursement**

8.1. Conditional Nature of the Parties' Obligations. The purpose of the Capital Investment Reimbursement is for the City to incentivize the opening of Vidorra. This Agreement does not obligate Company, and Company does not agree, to take any actions to cause the opening of Vidorra or otherwise comply with the provisions of this Article VIII. In the event that Company does cause the opening of Vidorra as provided herein, then Company will earn and be paid by the City the Capital Investment Reimbursement. If the Company earns and the City pays the Capital Investment Reimbursement, then Company agrees the provisions of sections 8.3, 8.4 and 8.5 become obligations of Company subject to Article IX of this Agreement. For clarity, if Vidorra does open on the Property on or before December 31, 2030, then the Net City Sales Taxes generated by Vidorra qualify for the Sales Tax Incentive.

8.2 Economic Development Incentive. Provided (a) Conditions Precedent 6.1, 6.2, 6.4, 6.5,

6.6, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15 and 6.16 have been satisfied and are then continuing, and (b) Company has provided City with a Capital Investment Certificate and Certificate of Compliance, and (c) Company has satisfied the then applicable conditions provided in sections 8.3, 8.4 and 8.5 below, and (d) Company has complied with all then applicable obligations under this Agreement, then the City agrees to pay Company the Capital Investment Reimbursement to be paid within thirty (30) days of Company's satisfaction of the foregoing conditions.

8.3 Vidorra Lease. Company shall enter into at least a five (5) year lease with Vidorra to occupy and conduct its business in a minimum of 6,000 square feet of the second floor of the Sears Building on or before December 31, 2027. Following execution, Company shall provide City with a copy of said lease, redacted if necessary to remove proprietary or confidential information.

8.4 Issuance of Certificate of Occupancy for Vidorra. Company shall cause to be completed finish out of a minimum of 6,000 square feet of the second floor of the Sears Building for occupation by Vidorra and obtain from the City a Certificate of Occupancy for occupancy of said space and operation of its business by December 31, 2027.

8.5 Continuous Operation of Vidorra. Vidorra shall remain fully Open for Business for a period of five (5) years from the time after it is first Open for Business unless caused by a permitted Vidorra Vacancy. Further, a vacancy by Vidorra shall be permitted if the Company notifies the City in writing within seven (7) business days of the first day of the occurrence of such vacancy and within 365 calendar days of the Company providing the City with the aforementioned written notice, the Company provides evidence to the City's reasonable satisfaction that either: (i) Vidorra has resumed operations and is Open for Business in the Sears Building, or (ii) a Vidorra Suitable Replacement Tenant is Open for Business in the Sears Building (collectively, an "**Excused Vidorra Vacancy**"). The Parties hereby agree that an Excused Vidorra Vacancy shall not be a default by the Company under this Agreement. A Vidorra Vacancy that is not caused by a permitted Vidorra Vacancy (including, without limitation, an Excused Vidorra Vacancy) is subject to Section 9.1 of this Agreement; provided, however, City's sole and exclusive remedy for any such default shall be as set forth in Section 8.6 below.

8.6 Recapture of Portion of Capital Investment Reimbursement. In the event of a Company default under this Article VIII that has continued uncured beyond any applicable grace or cure period, the Company shall immediately pay to the City the sum equal to fifty percent (50%) of the Capital Investment Reimbursement paid by the City to the 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 to be calculated from the date such Capital Investment Reimbursement was paid by the City to the Company until the date the said sum is repaid by the Company to the City and such interest rate shall adjust periodically as of the date of any change in the Maximum Lawful Rate.

## **ARTICLE IX Defaults and Remedies**

9.1 Company Default. The Company shall be in default of this Agreement: (i) upon the occurrence of an Event of Bankruptcy or Insolvency of the Company; (ii) upon the failure of the

Company 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 thirty (30) days after written notice by the City to the Company, provided that no default may be found to have occurred if performance has commenced to the reasonable satisfaction of City within thirty (30) days of the receipt of such notice, and is being diligently pursued using commercially reasonable efforts to complete performance; or (iii) upon failure of the Company to maintain or cause to be maintained the Property and improvements thereon in good repair and condition at all times as determined by the City (effects of casualty, periods of construction of the Capital Improvements and normal wear and tear excepted), which at a minimum shall mean meeting or exceeding all Federal, State and Local laws and regulations, including but not limited to the City's Code of Ordinances and terms of this Agreement, applicable to the Property and the activities thereon and such failure continues for thirty (30) days after written notice by the City to the Company, provided that no default may be found to have occurred if performance has commenced to the reasonable satisfaction of City within thirty (30) days of the receipt of such notice, and is being diligently pursued using commercially reasonable efforts to complete performance.

9.2 City Default. The City shall be in default of this Agreement upon the failure of the City 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 thirty (30) days after written notice by the Company to the City, provided that no default may be found to have occurred if performance has commenced to the reasonable satisfaction of the Company within thirty (30) days of the receipt of such notice, and is being diligently pursued using commercially reasonable efforts to complete performance. Notwithstanding the foregoing, in the event the City fails to timely pay any Incentive Payment, the Company shall provide written notice of such failure to the City and the City shall have thirty (30) days to make such Incentive Payment before a City default exists.

9.3 City Remedies. In the event of a Company default that has continued uncured beyond any applicable grace or cure period, the City shall have no obligation to pay any then-owed or future Incentive Payment to the Company and the City shall have the right as its sole and exclusive remedies to: (i) recapture a portion of the individual Incentive Payment most recently paid by the City to the Company as more fully set forth in Section 9.4 below; and (ii) terminate this Agreement by written notice to the Company in which event neither Party hereto shall have any further rights or obligations hereunder except for those that expressly survive the termination of this Agreement. Notwithstanding anything to the contrary contained herein, in no event will the City be entitled to the recovery of any damages at law or in equity, attorneys' fees (except in the event of the exercise of the City of the remedies set forth in Chapter 2264 of the Texas Government Code) or consequential, punitive, exemplary or speculative damages.

9.4 Recapture of Incentive Payment(s). In the event of a Company default that has continued uncured beyond any applicable grace or cure period, the City shall have no obligation to make any then-owed or future Incentive Payment to the Company, and the Company shall immediately pay to the City the sum equal to fifty percent (50%) of the most recent individual Incentive Payment paid by the City to the 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

to be calculated from the date such Incentive Payment was paid by the City to the Company until the date the said sum is repaid by the Company to the City and such interest rate shall adjust periodically as of the date of any change in the Maximum Lawful Rate.

9.5 Company Remedies. Upon the occurrence of a City default that has continued uncured beyond any applicable grace or cure period, the Company shall have the right as its sole remedies to (a) terminate this Agreement by written notice to the City in which event neither Party hereto shall have any further rights or obligations hereunder except for those that expressly survive the termination of this Agreement, and (b) recover from the City the amount of any Incentive Payment then earned and owed by the City as damages in accordance with the following provisions. The City and the 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, or otherwise, the Parties hereby acknowledge and agree that in a suit against the City for breach of this Agreement or otherwise to recover damages:

1. the total amount of damages, if any, awarded against the City shall be limited to actual damages in an amount of the Incentive Payment then earned by the Company and due and payable by the City under this Agreement, but no other actual damages at law or in equity;
2. any Incentive Payment past due and not paid following the required notice and cure period shall accrue interest at the lesser of: (i) the Maximum Lawful Rate; or (ii) five percent (5%) per annum beginning the day after expiration of the cure period until paid, and such interest rate shall adjust periodically as of the date of any change in the Maximum Lawful Rate; and
3. the recovery of damages against the City shall not include attorneys' fees or consequential, punitive, exemplary, or speculative damages including, but not limited to, lost profits, and shall not include any Incentive Payment not earned by the Company and not owed by the City to the Company at the time an action is filed.

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

## **ARTICLE X Miscellaneous Provisions**

10.1 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors and permitted assigns; provided, however, this Agreement and the rights and obligations of the Parties hereunder may not be assigned or transferred to any Person without the prior written consent of the other Party, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, (i) Company may assign its

rights and obligations hereunder to any Person which is related or affiliated with or a subsidiary of the Company without City consent and (ii) the City hereby consents to the Company's collateral assignment to a lending institution of all of the Company's rights and obligations hereunder as security for repayment of one or more loans to finance the construction of improvements and/or ownership of the Property from time to time. Any assignment requiring the consent of a Party shall require the assigning Party and each assignee(s) to be jointly and severally liable with the assigning Party for all agreements, covenants, obligations and liabilities of the assigning Party under this Agreement. Any consent by a Party to an assignment of this Agreement shall apply only to the specific transaction authorized and shall not constitute a waiver of the consent for any subsequent assignment. Any purported assignment in violation of this Agreement shall be void and of no force or effect.

10.2 Notices. Any notice and/or certificate or statement required or permitted to be given under the terms of this Agreement shall be in writing and shall be considered properly given if mailed by United States mail, certified mail, return receipt requested, in a postage paid envelope addressed to the Party at the address set forth below, or by delivering same in person to the intended addressee by hand delivery or by a nationally recognized courier service such as Federal Express or United Postal Service. Notices mailed by certified mail as set forth above shall be effective upon deposit in the United States mail. Notice given in any other manner shall be effective 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:

COMPANY: SRB Mesquite, LLC  
c/o Elm Creek Real Estate  
5473 Blair Road, Suite 100  
PMB 91303  
Dallas TX 75231

With a copy to: Greenberg Traurig, LLP  
2200 Ross Avenue, Suite 5200  
Dallas, Texas 75201  
Attention: Ashley Aten

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

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

10.3 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 the 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.

10.4 Remedies Cumulative. Except as expressly limited herein, each right and remedy of the Parties provided for in this Agreement or now or hereafter existing pursuant to the laws of the State of Texas shall be cumulative and concurrent and shall be in addition to every other right or remedy provided for in this Agreement or now or hereafter existing pursuant to the laws of the State of Texas.

10.5 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.

10.6 Modification. This Agreement may only be revised, modified or amended by a written document signed by the City and the Company. Oral revisions, modifications or amendments are not permitted.

10.7 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.

10.8 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 upon a default of this Agreement 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.

10.9 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.

10.10 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.

10.11 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.

10.12 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.

10.13 No Acceleration. All amounts due pursuant to this Agreement and any remedies under this Agreement are not subject to acceleration.

10.14 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.

10.15 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.

10.16 Entire Agreement. This Agreement 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.

10.17 Authority. The Company represents that 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. Each Party represents and warrants to each other Party that this Agreement has been duly authorized by such Party and that each Party has the full power and authority to enter into and fulfill its obligations under this Agreement. Each Person signing this Agreement represents that such Person has the authority to sign this Agreement on behalf of the Party indicated.

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

10.19 Usury Savings Clause. The Company and City intend to conform strictly to all applicable usury laws. All agreements of the City and the Company are hereby limited by the provisions of this Section 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 Section 9.19 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.

10.20 Non-Collusion. The Company represents and warrants that neither Company nor anyone on the 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.

10.21 Ethics Disclosure. Company represents that it has completed a Texas Ethics Commission ("TEC") Form 1295 ("**Form 1295**") generated by the TEC's electronic filing application in accordance with the provisions of Texas Government Code 2252.908 and the rules promulgated by the TEC. The Parties agree that, with the exception of the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295. The information contained in Form 1295 has been provided solely by the Company and the City has not verified such information. City agrees to acknowledge receipt of Form 1295 on the Texas Ethics Commission website within 30 days of receipt of Form 1295 from Company.

10.22 Reservation of Legislative Authority. Notwithstanding any provision in this Agreement, this Agreement does not control, waive, limit or supplant the City Council's legislative authority or discretion.

10.23 Development Standards. The Parties acknowledge that in the last legislative session, the Texas Legislature passed HB 2439, to be codified in V.T.C.A., Texas Government Code, 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 Company acknowledges and agrees that, notwithstanding V.T.C.A., Texas Government Code, Chapter 3000, to construct the Capital Improvements in accordance with the standards provided herein and/or as may be agreed upon in writing. The Parties acknowledge that such agreement is material to the City's agreement to grant the economic development incentives provided herein and is a bargained for consideration between the Parties. The Parties further acknowledge and agree that the terms, provisions, covenants, and agreements contained in this Agreement regarding construction of the Capital Improvements are covenants that touch and concern the Property and that it is the intent of the Parties that such terms, provisions, covenants, and agreements shall run with the Property and shall be binding upon the

Parties hereto, their successors and assigns, and all subsequent owners of the Property.

10.24 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.

10.25 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

**10.26 INDEMNITY. COMPANY AGREES THAT THE CITY AND ANY OFFICER, OFFICIAL, EMPLOYEE, OR AGENT SHALL NOT BE LIABLE FOR ANY INJURY TO PERSONS OR PROPERTY OCCASIONED BY REASON OF THE ACTS OR OMISSIONS OF COMPANY, ITS AGENTS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS IN THE CONSTRUCTION ON OR IMPROVEMENTS OF THE PROPERTY. COMPANY FURTHER AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY AND ITS OFFICERS, OFFICIALS, BOARDS AND COMMISSIONS, AND MEMBERS THEREOF, AGENTS AND EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS FOR ALL CLAIMS, DEMANDS, CAUSES OF ACTIONS, LIABILITY, OR LOSS BECAUSE OF, OR ARISING OUT OF, IN WHOLE OR IN PART, PERTAINING TO INJURY TO PERSON OR DAMAGE TO PROPERTY DUE TO THE DESIGN OR CONSTRUCTION ON OR IMPROVEMENTS OF THE PROPERTY BY OR FOR COMPANY, BUT NOT FOR SUCH CLAIMS, DEMAND, CAUSES OF ACTION, LIABILITY, OR LOSS ARISING OUT OF THE NEGLIGENCE OF THE CITY AND ITS OFFICIALS, BOARDS, COMMISSIONS, THE MEMBERS THEREOF, AGENTS, AND EMPLOYEES.**

10.27 Dispute Resolution. Any controversy or claim arising from or relating to this Agreement, or a breach thereof shall be subject to non-binding mediation, as a condition precedent to the institution of legal or equitable proceedings by any Party unless the institution of such legal or equitable proceeding is necessary to avoid the running of an applicable statute of limitation. The Parties shall endeavor to resolve their claims by non-binding mediation for a period not to exceed sixty (60) days from the date of the claim. City and Company shall share the costs of mediation equally. The mediation shall be held in Dallas County, Texas, unless another location is mutually agreed upon.

10.28 No Permit. This Agreement does not constitute a permit pursuant to Chapter 245 of the Texas Local Government Code and or any City code or regulation and does not vest any rights to the Company pursuant thereto. The City does not, by entering into this Agreement, concede or agree that there are any developer rights or obligations arising under Chapter 245 of the Texas Local Government Code and the City reserves all rights and defenses against any such assertion.

10.29 Statutory Verifications. Company makes the following representation and covenants to enable the City to comply with Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the “**Government Code**”), in entering into this Agreement. As used in

such verifications, “affiliate” means an entity that controls, is controlled by, or is under common control with the Company within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the Term of this Agreement shall survive until barred by the applicable statute of limitations and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

a. Not a Sanctioned Company. Company represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes the Company and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanction’s regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

b. No Boycott of Israel. Company hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, “boycott Israel” has the meaning provided in Section 2271.001, Government Code.

c. No Discrimination Against Firearm Entities. Company hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” has the meaning provided in Section 2274.001(3), Government Code.

d. No Boycott of Energy Companies. Company hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, “boycott energy companies” has the meaning provided in Section 2276.001(1), Government Code.

10.30 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same, including:

Exhibit A:	Description and Depiction of Property
Exhibit B:	Capital Improvements
Exhibit C:	Building Standards
Exhibit D:	Zoning Ordinance
Exhibit E:	Termination Agreement

**10.31 WAIVER OF CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECULATIVE DAMAGES. THE COMPANY AND THE CITY AGREE THAT, IN CONNECTION WITH ANY ACTION, SUIT OR PROCEEDING ARISING FROM OR RELATING TO THIS AGREEMENT, EACH PARTY MUTUALLY 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. THIS SUBSECTION SHALL EXPRESSLY SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.**

10.32 Report Agreement to Comptroller's Office. City agrees to report this Agreement to the Texas State Comptroller's office within fourteen (14) days of the Effective Date of this Agreement, in accordance with § 380.004 of the Texas Government Code, as added by Texas House Bill 2404, 87th Tex. Reg. Session (2021) (effective September 1, 2021).

10.33 Sovereign Immunity. No Party hereto waives any statutory or common law right to sovereign or governmental immunity by virtue of its execution hereof.

10.34 Date for Performance. If a deadline or date falls on a Saturday, Sunday, legal or City holiday, then such time period shall be automatically extended through the close of the next business day.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURES ON FOLLOWING PAGE]*

**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: \_\_\_\_\_

Name: Sonja Land

Title: City Secretary

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Cliff Keheley

Title: City Manager

Date: \_\_\_\_\_

**APPROVED AS TO LEGAL FORM:**

David L. Paschall, City Attorney

By: \_\_\_\_\_

City Attorney

**COMPANY:**

**SRB Mesquite, LLC**  
a Texas limited liability company

By: SRB Holdings, LLC  
a Delaware limited liability company,  
its sole Member

By: ECRE Holdings, LLC  
a Texas limited liability company  
its sole Member

By: \_\_\_\_\_  
Name: Karl Williams  
Title: Manager  
Date: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on \_\_\_\_\_, 2026 by Karl Williams, Managing Member of ECRE Holdings, LLC, a Texas limited liability company, sole Member of SRB Holdings, LLC, a Delaware limited liability company, sole Member of SRB Mesquite, LLC, a Texas limited liability company, on behalf of the said limited liability company.

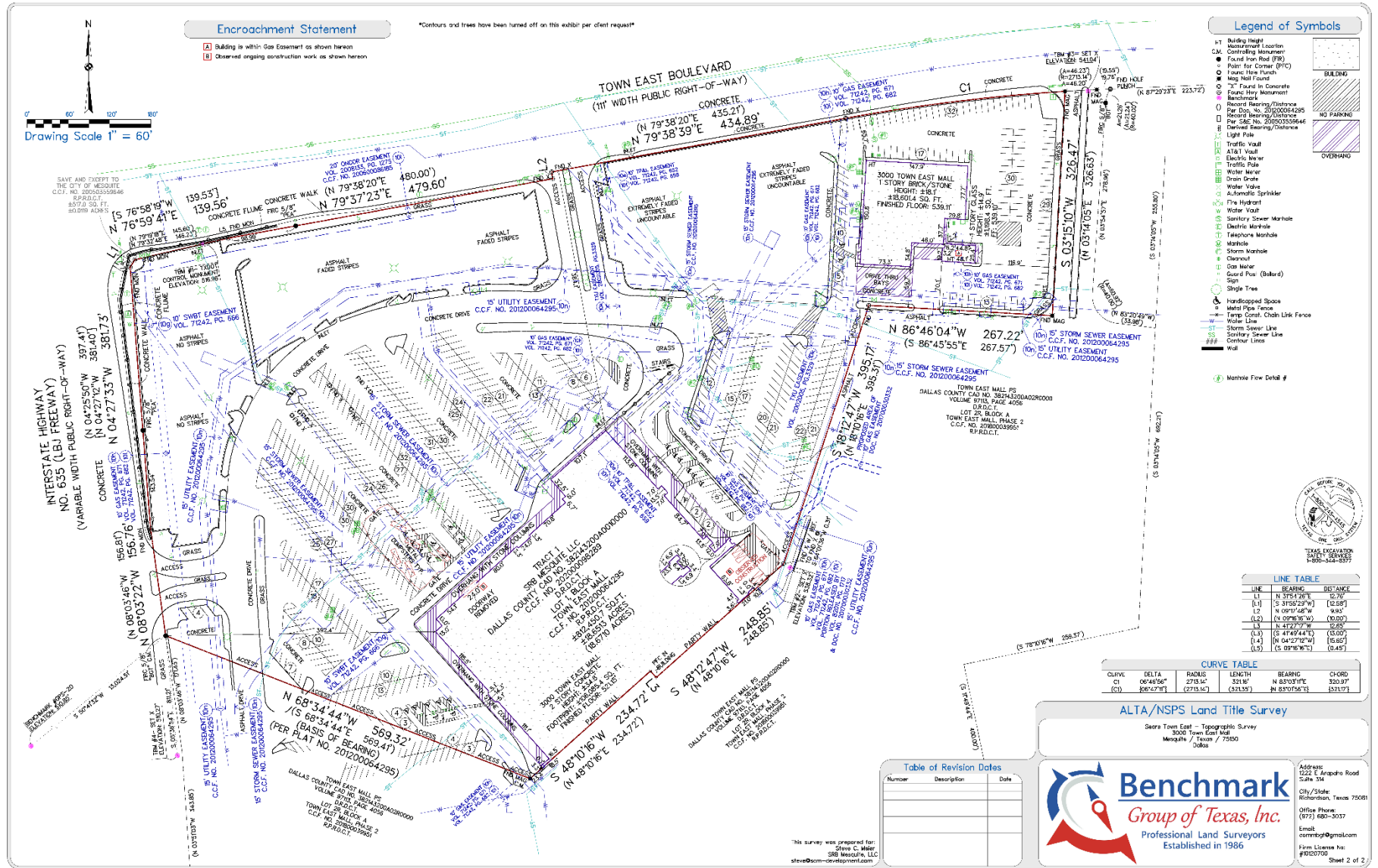
\_\_\_\_\_  
Notary Public, State of Texas

**EXHIBIT A  
TO  
CHAPTER 380 ECONOMIC DEVELOPMENT & PERFORMANCE AGREEMENT**

**Description and Depiction of Property**

**TRACT 1:**

Lot 1, Block A, of Town East Mall, an addition to the City of Mesquite, Dallas County, Texas, according to the Plat thereof recorded under Clerk's file No. 201200064295, Real Property Records, Dallas County, Texas, and Correction recorded as Clerk's File No. 201400082891, Real Property Records, Dallas County, Texas; SAVE AND EXCEPT all that certain land conveyed to the City of Mesquite by deed recorded under Clerk's File No. 200503559646, Real Property Records, Dallas County, Texas.



**EXHIBIT B  
TO  
CHAPTER 380 ECONOMIC DEVELOPMENT & PERFORMANCE AGREEMENT**

**Capital Improvements**

Capital Improvement Description
1. Remodel, redevelop, and enhance a minimum of 85,000 sq. ft. of the first floor of the Sears Building to make ready for occupancy and use by Tenant Round One to be completed on or before December 31, 2027.
2. Exterior work on both floors of the Sears Building to be completed on or before December 31, 2027.
3. All site work to the parking lot and ring road on the Property to be completed on or before December 31, 2026.
4. Landscaping required by the Zoning Ordinance, Ex. B., section 2(a)(ii) to be completed as provided therein; all remaining landscaping enhancements on the Property to be completed on or before July 1, 2027.
5. Make ready at least three (3) additional pad sites on the Property to be completed on or before July 1, 2027.

**EXHIBIT C  
TO  
CHAPTER 380 ECONOMIC DEVELOPMENT & PERFORMANCE AGREEMENT**

**Building Standards for Capital Improvements**



The information set forth on this page is for illustration purposes only and is subject to change by the applicable outparcel occupant during its final design review and approval. However, each outparcel occupant will initially build a Class A, current brand prototype/design or new/first type prototype design.



The information set forth on this page is for illustration purposes only and is subject to change by the applicable outparcel occupant during its final design review and approval. However, each outparcel occupant will initially build a Class A, current brand prototype/design or new/first type prototype design.





The information set forth on this page is for illustration purposes only and is subject to change by the applicable outparcel occupant during its final design review and approval. However, each outparcel occupant will initially build a Class A, current brand prototype/design or new/first type prototype design.

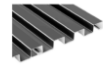
KX FINISHES- EXTERIOR

EXTERIOR WALL



**EXT-1**  
James Hardie Arlon Square Channel Siding, Flat Finish, Smooth Color  
(Siding, lower half of building)

EXTERIOR WALL



**EXT-2**  
Flat-Color Box Rib 1-24 ga steel Matte Black  
(Upper half of building)

PAINT



**P-2**  
000 0000 Cavalor

POWDERCOAT

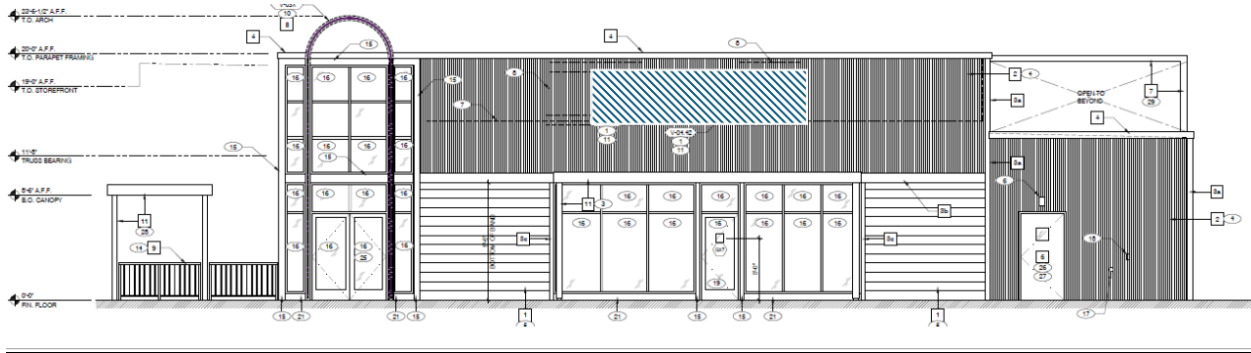


**PC-1**  
Tige Strips  
000 Black  
(Furniture and Signage)

POWDERCOAT

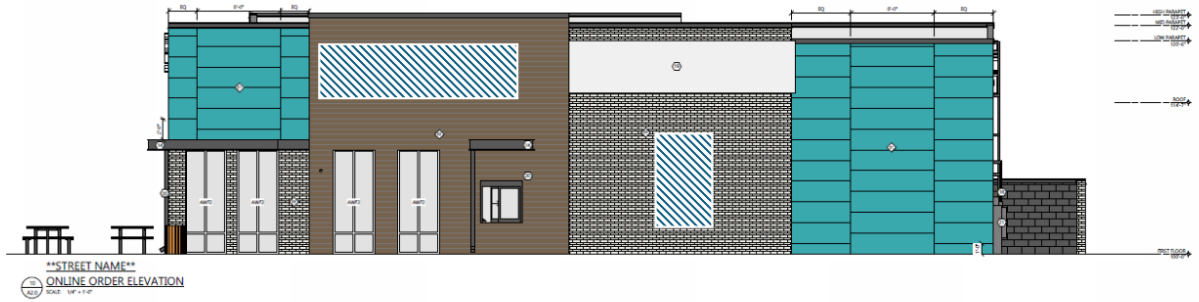


**PC-2**  
Custom Purple  
(Furniture and MOPU)

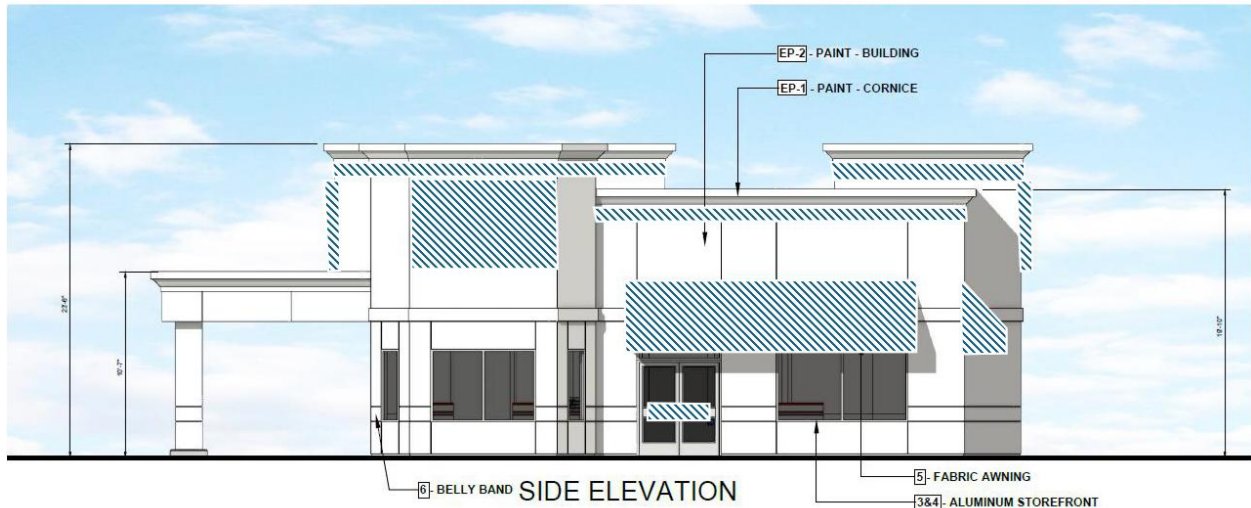


The information set forth on this page is for illustration purposes only and is subject to change by the applicable outparcel occupant during its final design review and approval. However, each outparcel occupant will initially build a Class A, current brand prototype/design or new/first type prototype design.

EXTERIOR MATERIAL KEY	
	<b>GRID PATTERN</b> GRID PATTERN COLOR: WHITE (DEFAULT COLOR IS 6.91)
	<b>WOOD GRAIN</b> WOOD GRAIN COLOR: BROWN (DEFAULT COLOR IS 6.91)
	<b>TEAL</b> TEAL COLOR: TEAL (DEFAULT COLOR IS 6.91)
	<b>DARK GREY</b> DARK GREY COLOR: DARK GREY (DEFAULT COLOR IS 6.91)
	<b>LIGHT GREY</b> LIGHT GREY COLOR: LIGHT GREY (DEFAULT COLOR IS 6.91)
	<b>WHITE</b> WHITE COLOR: WHITE (DEFAULT COLOR IS 6.91)
	<b>DARK GREY</b> DARK GREY COLOR: DARK GREY (DEFAULT COLOR IS 6.91)







The information set forth on this page is for illustration purposes only and is subject to change by the applicable outparcel occupant during its final design review and approval. However, each outparcel occupant will initially build a Class A, current brand prototype/design or new/first type prototype design.

**EXHIBIT D**  
**TO**  
**CHAPTER 380 ECONOMIC DEVELOPMENT & PERFORMANCE AGREEMENT**  
**Zoning Ordinance Applicable to the Property**

ORDINANCE NO. 5205  
File No. Z0925-0416

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE BY APPROVING A CHANGE OF ZONING FROM COMMERCIAL WITHIN THE TOWN EAST RETAIL AND RESTAURANT AREA ("TERRA") OVERLAY DISTRICT WITH A CONDITIONAL USE PERMIT ("CUP") TO ALLOW A FAMILY ENTERTAINMENT CENTER AND RELATED USES ORDINANCE NO. 5162 TO PLANNED DEVELOPMENT - COMMERCIAL WITHIN THE TERRA OVERLAY DISTRICT WITH A CUP TO ALLOW A FAMILY ENTERTAINMENT CENTER AND RELATED USES ORDINANCE NO. 5162 AND A CUP TO ALLOW CONFERENCE CENTERS, MAJOR RECEPTION FACILITIES, HOTELS, PARKING GARAGES, GOVERNMENTAL OR MUNICIPAL SPONSORED USES, AND USES PERMITTED BY RIGHT IN THE COMMERCIAL ZONING DISTRICT WITH MODIFIED DEVELOPMENT STANDARDS ON PROPERTY LOCATED AT 1738 NORTH TOWN EAST BOULEVARD (ALSO ADDRESSED AS 3000 TOWN EAST MALL); REPEALING ALL OTHER ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

SECTION 1. The subject property is approximately 18.66 acres, platted as Town East Mall Phase 2, Block A, Lot 1, and located in the former Sears building at 1738 North Town East Boulevard (also addressed as 3000 Town East Mall) (the "**Property**").

SECTION 2. The Mesquite Zoning Ordinance ("**MZO**") is amended by approving a change of zoning from Commercial within the Town East Retail and Restaurant Area ("**TERRA**") Overlay District with a Conditional Use Permit ("**CUP**") to allow a family entertainment center and related uses Ordinance No. 5162 to Planned Development - Commercial within the TERRA Overlay District with a CUP to allow a family entertainment center and related uses Ordinance No. 5162 and a CUP to allow conference centers, major reception facilities, hotels,

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Zoning / File No. Z0925-0416 / Commercial w-CUP Ordinance No. 5162 within TERRA Overlay District to PD-Commercial w-CUP Ordinance No. 5162 within TERRA Overlay District  
October 6, 2025  
Page 2 of 2

parking garages, governmental or municipal sponsored uses, and uses permitted by right in the Commercial Zoning District on the Property subject to **EXHIBIT A** (Development Standards), **EXHIBIT B** (Concept Plan), and **EXHIBIT C** (Sign Concepts), attached hereto and incorporated herein by reference and made a part hereof.

**SECTION 3.** All ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed; otherwise, they shall remain in full force and effect.

**SECTION 4.** The Property described in Section 1 of this ordinance shall be used only in the manner and for the purposes provided for by the Mesquite Zoning Ordinance, as amended.

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

**SECTION 6.** Any violation of the provisions or terms of this Ordinance by any "person," as defined in Mesquite City Code, Chapter 1, [Section 1-2](#), shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine, or any other general penalties, as provided in Mesquite Zoning Ordinance, Part 5, 5-100, [Section 5-103](#) (General Penalties), or successor and as amended.

**SECTION 7.** This Ordinance shall be published in the City's official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

**SECTION 8.** This Ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 6th day of October 2025.

Signed by:  
*Daniel Alemán, Jr.*  
0990585317D142B...  
\_\_\_\_\_  
Daniel Alemán, Jr.  
Mayor

ATTEST:

DocuSigned by:  
*Sonja Land*  
C25F8056073F46A...  
\_\_\_\_\_  
Sonja Land  
City Secretary

APPROVED AS TO LEGAL FORM:

Signed by:  
*David L. Paschall*  
056E18801208436...  
\_\_\_\_\_  
David L. Paschall  
City Attorney

**FILE NO.: Z0925-0416**  
**EXHIBIT A – PD STANDARDS**

This Planned Development - Commercial (“**PD-C**”) district within the Town East Restaurant Retail (“**TERRA**”) Overlay District must adhere to all conditions of the City of Mesquite, Texas, Mesquite City Code, including but not limited to the Mesquite Zoning Ordinance (“**MZO**”), as amended, and adopts Commercial (“**C**”) District base standards consistent with the Concept Plan for the PD-C district property attached hereto and incorporated herein as **EXHIBIT “B” (“Concept Plan”)**, and the standards identified below, which apply to this PD-C district. Where these regulations conflict with or overlap another ordinance, the regulations contained in the standards identified below will control.

1. **Land Uses.** The permitted uses on the PD-C district property include the permitted uses in the C District classification and TERRA Overlay District, as set out in the MZO, and those permitted uses on the PD-C district property are subject to the same requirements as set out in the MZO. Prohibited uses on the PD-C district property are identified in subsection 1.b. below.
  - a. Any land use requiring a Conditional Use Permit (“**CUP**”) in the C Zoning District or TERRA Overlay District, as amended, is only allowed if a CUP is issued for the use unless permitted in subsection 1.c. below. The following uses will require a CUP within this PD-C district:
    - i. Beauty Salons
    - ii. Barber Salons
    - iii. General Service Hotel
    - iv. Limited Service Hotel
  - b. Any land use prohibited in the C Zoning District and TERRA Overlay District, as amended, is also prohibited unless permitted in subsection 1.c. below. The following uses are also prohibited:
    - i. SIC Code 40: Railroad Passenger Terminal
    - ii. SIC Code 61: Alternative Financial Institutions
    - iii. SIC Code 593: Used Merchandise
    - iv. SIC Code 593a: Pawnshops
    - v. SIC Code 5947: Gift, Novelty, Souvenir Shops
    - vi. SIC Code 5993: Tobacco Stores
    - vii. SIC Code 5999g: Paraphernalia Shops
    - viii. SIC Code 753 Auto Repair Shops
    - ix. SIC Code 754 Auto Services
  - c. The following uses are permitted on the PD-C district property:
    - i. SIC Code 6512: Conference Center (Limited to Parcel 1)
    - ii. Reception Facility b. Major Reception Facilities within a Conference Center and/or Hotel (Limited to Parcel 1)
    - ii. Multilevel parking garage
    - iii. Any governmentally and/or municipally sponsored uses



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**FILE NO.: Z0925-0416**  
**EXHIBIT A – PD STANDARDS**

- iv. Drive through lanes and related equipment and outdoor seating areas associated with any restaurant as an accessory use.
2. **Development Standards.** In addition to the requirements of the MZO, the planned development is subject to the following:
- a. **Site Plan.** The site plan shall comply with the Concept Plan in all material respects. Material deviations from the Concept Plan (such as building placement and lot sizes) may be permitted to ensure compliance with the Mesquite Engineering Design Manual, as well as Building and Fire Codes, as amended, provided that the development continues to meet all requirements of this ordinance. The following items shall be completed prior to issuance of a Certificate of Occupancy for any occupant for any purpose in the former Sears building on Parcel 1: (i) sidewalk connections shown on the Exhibit "B" Concept Plan; (ii) landscaping as required under subsection 2.g.ii.; and (iii) the public gathering space in the approximate location and of the size shown on the Exhibit "B" Concept Plan with the final design elements being subject to the reasonable approval by the City Manager or their designee.
  - b. **Cross Access.** A cross access easement shall be provided between abutting lots within the PD-C district property. Cross access easements are not required to be platted and may be dedicated via separate instrument.
  - c. **Parking.** The minimum number of off-street parking spaces shall be provided as required by Section 3-400 of the MZO with the following modifications:
    - i. For all the outparcels 1-7, as shown on the Concept Plan, one (1) parking space for each 250 square feet of gross floor area shall be provided for retail, restaurant, and service uses.
    - ii. The maximum number of parking spaces required for the gross floor area within the existing building improvements (i.e. former Sears building identified as Parcel 1 on the Concept Plan) existing as of the date hereof within the PD-C district property shall be 400 parking spaces without regard to the uses being conducted within such existing gross floor area. The following uses shall provide additional parking beyond the 400 parking spaces:
      - 1. A conference center shall have at least 100 additional parking spaces.
      - 2. The minimum parking requirement for a hotel shall be 0.5 parking spaces for each hotel room.
      - 3. The required parking for the conference center and hotel shall be provided through a multilevel parking garage.
    - iii. Off-site parking. Required parking for a use may be provided on a separate lot not within the PD-C district property; provided, an easement over the off-site parking facilities in favor of the premises to be benefited thereby shall be granted and recorded in Dallas County records as a condition of such use.



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- iv. The entire PD-C district property is considered one lot for purposes of required parking, and uses with compatibly overlapping or mutually exclusive hours may share parking spaces.
  - v. Reduction in the foregoing parking requirements may be provided as authorized by Section 3-403 of the MZO, or by receiving a Special Exception from the Board of Adjustment.
- d. **Signage.** All signage shall comply with the Mesquite Sign Ordinance except as modified below:
- i. One (1) monument sign with a 5' maximum height and maximum of 100 square feet of face area (on each face) is permitted on each lot contemplated by the Concept Plan.
  - ii. Two (2) new multi-tenant Pylon Signs with a 35-foot maximum height and a maximum of 250 square feet of face area (on each face) are allowed at the existing Main Mall Entrance Drives from Town East Blvd. & the IH-635 Frontage Road. Signs permitted by this subsection may advertise any business located within the PD-C district, regardless of individual lot lines, without being considered off-premises (billboard) signage.
  - iii. One (1) single user Pylon Sign with a 25' maximum height and a maximum of 100 square feet of face area (on each face) is permitted on the street frontage of each lot contemplated by the Concept Plan.
  - iv. One (1) "Welcome" sign shall be installed by the developer located at southeast corner of Town East Blvd. & the IH-635 Frontage Road. The sign shall have an architectural design and material consistent with the freestanding sign permitted in this ordinance. After installation and acceptance, the City of Mesquite will maintain the Welcome sign pursuant to a maintenance easement between the developer and the City of Mesquite.
  - v. An assortment of Directional Signs are permitted on each lot contemplated by the Concept Plan to direct traffic flow.
  - vi. Free standing signs shall be consistent with the designs as shown in **Exhibit "C"**.
- e. **Screening.**
- i. Screening for roof-mounted units shall be incorporated with the building facade.
  - ii. Drive-through lanes located between the building and the right-of-way will need to be screened from the right-of-way by a 4-foot evergreen hedge row.
- f. **Building Height.** Maximum building height for a hotel is nine (9) stories or 135 feet.
- g. **Landscaping.** The landscaping shall comply with the following stipulations:
- i. The Outparcels 1-7, as shown on the Concept Plan, shall comply with Section 1A of the MZO.

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- ii. Parcel 1, as shown on the Concept Plan, shall comply with Section 1A of the MZO, except that the minimum required landscaping shall be 5% of the lot. The minimum size at installation for all required landscape trees for Parcel 1 shall be 4-inch caliper.
- iii. The development will have cohesive landscaping to create a harmonious streetscape edge that will contain native plant materials and drought-tolerant shrubs and trees. A variety of species shall be required such that no single species shall exceed 25% of the total number of trees.

Common Name	Scientific Name
Texas Walnut	Juglans microcarpa
Pecan	Carya illinoensis
Caddo Maple	Acer saccharum var. caddo
Cedar Elm	Ulmus crassifolia
Chinquapin Oak	Quercus muhlenbergii
Live Oak	Quercus virginiana
Texas Red Oak	Quercus texana
Shantung Maple	Acer truncatum
Lacebark Elm	Ulmus parvifolia

3. **Amenities.** A minimum of three (3) amenities from the list below must be installed within the PD-C district. To obtain credit, all standards must be met. All proposed amenities shall be identified on the final Site Plan for the PD-C district property. All amenities may be installed in phases in conjunction with the phased development of the PD-C district property.

a. Bicycle parking.

- (1) A minimum of two (2) bicycle parking spaces or 5% of the required off-street parking spaces shall be provided, whichever is greater, up to a maximum of ten (10);
- (2) Each bicycle parking space shall include a minimum area of 72 inches in length and 24 inches in width that is clear of obstructions;
- (3) Bicycle parking shall consist of either a lockable enclosure (locker) in which the bicycle is stored or a rack to which the bicycle can be locked;
- (4) Lockers and racks shall be securely anchored to the pavement or a structure;
- (5) Racks shall be designed and installed to support the bicycle upright by its frame in a manner that will not cause damage to the wheels and to permit the frame and one or both wheels to be secure;
- (6) Areas containing bicycle parking shall be surfaced with impervious surface;
- (7) When located within a parking area: curbs, fences, planter areas, bumpers, or similar barriers shall be installed and maintained for the mutual protection of bikes, motor vehicles, and pedestrians, unless determined by the Director of Planning and Development to be unnecessary; and



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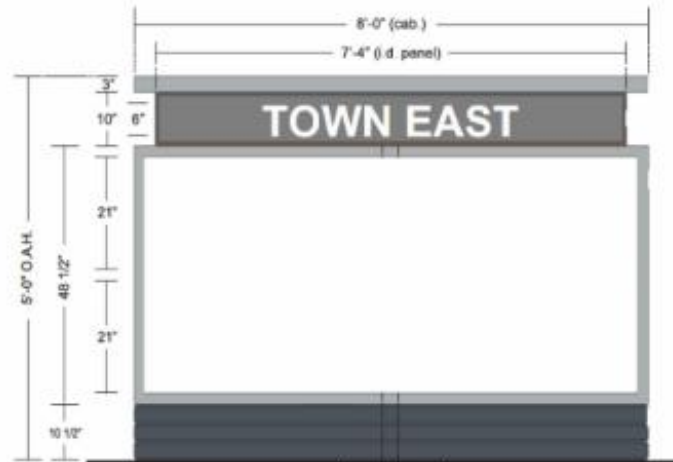
- (8) Bicycle parking shall be placed in a convenient, highly visible, active, and well-lit location not more than 300 feet walking distance from the main entrance, but shall not interfere with pedestrian movements or accessible routes.
- b. Pedestrian Seating.
    - (1) A minimum of one permanent pedestrian seating feature (such as a bench) shall be provided for each 500 linear feet of sidewalk/trail, or a fraction thereof; Pedestrian seating which is provided at building entrances do not count towards fulfilling this requirement;
    - (2) Each pedestrian seating feature shall provide a minimum of three (3) seats and shall not interfere with pedestrian movements;
    - (3) All pedestrian seating used should be selected from the same or a similar design "family" as other site furnishings (such as benches, bollards, bike racks, etc.) and should be finished or painted to complement other site furnishings;
    - (4) All pedestrian seating shall be maintained by the property owner; and
    - (5) All pedestrian seating shall be made of a minimal maintenance material such as stone or a concrete product.
  - c. Enhanced pavement materials. Enhanced pavement materials shall be provided at all vehicular access points from public right-of-ways into the PD-C district property and at all pedestrian crossing locations on the interior of the PD-C district property. Enhanced pavement may be in the form of brick pavers, stamped and stained concrete with the appearance of hand laid units, or other material as approved by the Director of Planning and Development.
  - d. Outdoor dining area.
    - (1) An outdoor dining area, including dining tables and seating, located mostly or completely outside shall be provided. The total outdoor dining area shall not be less than 10% of the gross floor area of the applicable business; and
    - (2) Curbs, fences, planter areas, bumpers, or similar barriers shall be installed and maintained for the mutual protection of motor vehicles and pedestrians, unless determined by the Director of Planning and Development to be unnecessary.
  - e. Art feature.
    - (1) An art feature may include a monument, sculpture, mural, or any artistic display. The art feature must have clear identification indicating its status as art (creator, dedication, year, materials, etc.);
    - (2) The art feature shall be located where it is highly visible and accessible to the public; and
    - (3) The art shall be maintained in good order for the life of the principal structure.
  - f. Other. Other amenities may be allowed as approved by the Director of Planning and Development.



**Zoning File No. Z0925-0416  
Exhibit "C" Sign Concept**



25' Single Tenant Pylon Sign Concept



5' Single Tenant Monument Sign Concept

**EXHIBIT E**  
**TO**  
**CHAPTER 380 ECONOMIC DEVELOPMENT & PERFORMANCE AGREEMENT**  
**Termination Agreement**

## TERMINATION AGREEMENT

This Termination Agreement (“**Termination**”) is made and entered into as of April \_\_\_\_, 2026, by and between the CITY OF MESQUITE, a Texas home rule municipality (“**City**”), and SRB MESQUITE, LLC, a Texas limited liability company (“**Company**”). City and Company may collectively be referred to herein as the “**Parties**.”

### WITNESSETH:

**WHEREAS**, the City and Company entered into that certain Chapter 380 Economic Development & Performance Agreement dated effective January 1, 2025, as approved by Resolution No. 44-2025 approved by the City Council of the City on October 6, 2025 (“**Agreement**”); and

**WHEREAS**, the Parties have determined and agreed to terminate the Agreement and enter into an Amended and Restated Chapter 380 Economic Development & Performance Agreement for the reasons stated in such new agreement, being primarily the substitution of Round One Bowling and Arcade for Main Event.

**NOW, THEREFORE**, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the Parties agree as follows:

1. Recitals. The Parties represent, warrant, and covenant that the above recitals in this Termination are true, complete, and correct in all respects and are incorporated herein and made a part hereof for all purposes.

2. Termination. The Parties hereby agree (i) to terminate the Agreement and (ii) that none of the provisions thereof shall survive the termination of the Agreement notwithstanding anything to the contrary contained in the Agreement.

3. No Payment Owed. Company acknowledges and agrees that it is not owed any payment or other remuneration under the Agreement and that Company hereby releases any and all claims against City for any payment or remuneration it can now or could in the future claim against the City under the Agreement.

4. No Assignment. Each party represents to the other party that they have not assigned their interest in the Agreement to any other person or entity.

5. Counterparts. This Termination may be executed in multiple counterparts with the same effect as if all Parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof, it shall only be necessary to produce one such counterpart. Facsimile or other electronic signatures on any counterpart of this Termination shall be deemed effective as the original signature of such party to this Termination.

6. Severability. If any term or provision of this Termination 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 any of the remaining terms or provisions of this Termination 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 Termination.

7. Entire Agreement. This Termination sets forth the entire agreement between the Parties with respect to the subject matter hereof. There are no oral agreements between the Parties.

8. Binding Effect. This Termination shall inure to the benefit of, and shall be binding upon, the Parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Termination as of the dates set forth below.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURES ON FOLLOWING PAGE]*

**ATTEST:**

By: \_\_\_\_\_  
Name: Sonja Land  
Title: City Secretary  
Date: \_\_\_\_\_

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

By: \_\_\_\_\_  
Name: Cliff Keheley  
Title: City Manager  
Date: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
David L. Paschall, City Attorney

By: \_\_\_\_\_  
City Attorney

**COMPANY:**

**SRB Mesquite, LLC**  
a Texas limited liability company

By: SRB Holdings, LLC  
a Delaware limited liability company,  
its sole Member

By: ECRE Holdings, LLC  
a Texas limited liability company  
its sole Member

By: \_\_\_\_\_  
Name: Karl Williams  
Title: Manager  
Date: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on \_\_\_\_\_, 2026 by Karl Williams, Managing Member of ECRE Holdings, LLC, a Texas limited liability company, sole Member of SRB Holdings, LLC, a Delaware limited liability company, sole Member of SRB Mesquite, LLC, a Texas limited liability company, on behalf of the said limited liability company.

\_\_\_\_\_  
Notary Public, State of Texas