

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A PROGRAM TO PROMOTE LOCAL ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN THE CITY; AFFIRMING TERMINATION OF A PRIOR ECONOMIC DEVELOPMENT PROGRAM AGREEMENT (CHAPTER 380 AGREEMENT) WITH LF GATEWAY LP (“COMPANY”) FOR DEVELOPMENT OF THE PROPERTY LOCATED AT 3201 EAST CARTWRIGHT ROAD IN THE CITY OF MESQUITE, TEXAS (“PROPERTY”) AND WAIVING A \$100,000 PAYMENT OWED TO THE CITY BY THE COMPANY; AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE A NEW ECONOMIC DEVELOPMENT PROGRAM AGREEMENT (CHAPTER 380 AGREEMENT) WITH THE COMPANY, REGARDING DEVELOPMENT OF THE PROPERTY; AND AUTHORIZING THE CITY MANAGER TO FINALIZE, EXECUTE, AND ADMINISTER THE NEW CHAPTER 380 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, on July 6, 2021, and pursuant to Chapter 380 of the Texas Local Government Code, the City Council of the City (the “**City Council**”) approved Resolution No. 42-2021 approving a Chapter 380 Agreement and economic development program (the “**Program**”) between the City and **LF Gateway LP**, a Texas limited partnership (the “**Company**”), for the development of approximately 6.787 acres of unimproved land zoned Planned Development – General Retail pursuant to Ordinance No. 2399 and located at 3201 East Cartwright Road, Mesquite, Texas 75181 the “**Original Agreement**”); and

WHEREAS, the Original Agreement required, among other things, that Company complete the Phase 1 Improvements on the Property on or before December 31, 2023 and that the collective minimum square footage building requirement for improvements to the Property was 42,500 square feet; and

WHEREAS, Company failed to construct the Phase 1 Improvements prior to December 31, 2023 as required by the Original Agreement and requested that the City agree to: (a) extend the deadline in which Company had to construct the Phase 1 Improvements; (b) reduce the collective minimum building square footage requirement from 42,500 to 32,500 square feet; and (c) extend the Term of the Agreement by 6 months; and

WHEREAS, the Parties thereafter entered into that certain First Amendment to Economic Development Program Agreement (Chapter 380 Agreement) dated effective December 28, 2023,

as approved by Resolution 66-2023 approved by the City Council on December 18, 2023 (“**First Amendment**”) and incorporated herein by reference; and

WHEREAS, the First Amendment amended the Original Agreement by: (a) extending the deadline in which Company had to construct the Phase 1 Improvements from December 31, 2023 to June 30, 2024; (b) reducing the collective minimum square footage building requirement from 42,500 square feet to 32,500 square feet; and (c) extending the Term from July 31, 2031 to January 31, 2032; and

WHEREAS, the Original Agreement and First Amendment are collectively referenced herein as the “**First Agreement**”; and

WHEREAS, Company failed to construct the Phase I Improvements prior to the amended deadline of June 30, 2024 as required by the First Agreement; and

WHEREAS, the First Agreement provided in section 7.2.1. that: “If construction of the ... Phase 1 Improvements ... are not timely completed, this Agreement shall automatically terminate and the Parties shall have no further rights or obligations hereunder excepting those that survive termination of this Agreement”; and

WHEREAS, the First Agreement provided in section 9.4 that: “In the event this Agreement ... automatically terminates, ... the Company shall immediately pay to the City ... the sum equal to the greater of (A) \$100,000 or (B) one hundred percent (100%) of the last Incentive Grant payment paid by the City to the Company under the terms of this Agreement, minus any unpaid Incentive Grant payment then earned, owed and unpaid by the City, plus interest.... Notwithstanding the foregoing, Company shall not be required to reimburse the City for any portion of the first Incentive Grant payment for completion of the Off-Site Improvements except as required by Article V”; and

WHEREAS, the First Agreement automatically terminated due to Company failing to perform its obligations under the Agreement; and

WHEREAS, the amount owed to the City by Company under Section 9.4 of the First Agreement and that remains unpaid is \$100,000 plus interest; and

WHEREAS, the City and Company desire to affirm in writing that the First Agreement automatically terminated and that the Parties have no further rights or obligations under the Agreement excepting only those that survive termination of the Agreement, including the City’s waiver of the \$100,000 payment owed to the City by Company; and

WHEREAS, the Company has requested that the City to waive collection of the \$100,000 fee owed to the City by Company under the First Agreement and to enter into a new Economic Development Chapter 380 Agreement (“**Second Agreement**”), attached hereto as Exhibit 1 and incorporated herein by reference; and

WHEREAS, the Second Agreement provides the Developer with incentives not to exceed \$500,000 for development of the Property and an additional incentive of \$100,000 if development of the Property includes a fast casual restaurant or table service restaurant by December 31, 2026; and

WHEREAS, after holding a public hearing and upon full review and consideration of the Second Agreement, the City Council finds that the Second Agreement will assist in implementing a Program promoting local economic development, stimulating business and commercial activity in the City, and benefiting the City and its citizens.

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

SECTION 1. The facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct and are incorporated and adopted as part of this Resolution for all purposes.

SECTION 2. The City Council finds that the terms of the proposed Second Chapter 380 Agreement, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference, will benefit the City and will serve 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. The City Council hereby (a) affirms termination of the First Agreement and authorizes the City Manager to take such other actions as necessary to affirm termination of the First Agreement, (b) waives the \$100,000 payment currently owed to the City by Company under the First Agreement, including all interest owned thereon, and (c) approves the Second Agreement and authorizes the Second Agreement as part of the Program whereby, subject to the terms and conditions of the Second Agreement, the City will provide economic development incentives to the Company and take other specified actions as more fully set forth in the Second Agreement.

SECTION 4. The City Manager is hereby authorized to finalize and execute the Second Agreement and to take all actions necessary or advisable to complete the transactions contemplated by the Second Agreement.

SECTION 5. The City Manager is further hereby authorized to administer the Second Agreement on behalf of the City including, without limitation, the City Manager shall have the authority to: (i) provide any notices per the Second Agreement; (ii) approve amendments to the Second Agreement provided such amendments, together with all previous amendments approved by the City Manager, do not increase City expenditures under the Second Agreement in excess of \$100,000; (iii) approve or deny any matter in the Second Agreement requiring the consent of the City with the exception of any matter requiring the consent of the City Council pursuant to the terms of the Second Agreement; (iv) approve or deny the waiver of performance of any covenant, duty, agreement, term, or condition of the Second Agreement; (v) exercise any rights and remedies available to the City under the Second Agreement; and (vi) execute any notices, amendments, approvals, consents, denials, and waivers authorized by this Section 5 provided, however, notwithstanding anything contained herein to the contrary, the authority of the

City Manager pursuant to this Section 5 shall not include the authority to take any action than cannot be delegated by the City Council or that is within the City Council's legislative functions.

SECTION 6. 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 7th day of April 2025.

Daniel Alemán, Jr.
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary

David L. Paschall
City Attorney

EXHIBIT 1

A NEW ECONOMIC DEVELOPMENT

CHAPTER 380 PROGRAM AGREEMENT

BETWEEN

THE CITY OF MESQUITE

AND

LF GATEWAY LP

ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

(Chapter 380 Agreement)

This Economic Development Program Agreement (“**Agreement**”) is made and entered into by and between the City of Mesquite, a Texas home rule municipality (the “**City**”), and LF Gateway LP, a Texas limited partnership (“**Company**”).

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

WHEREAS, the Parties entered into that certain Economic Development Program Agreement (Chapter 380 Agreement) dated effective July 14, 2021, for the development of an approximately 6.787 acre unimproved tract of land located at 3201 East Cartwright Road, Mesquite, Texas 75181, owned by Company and more particularly described in **Exhibit A** attached hereto and incorporated herein by reference (“**Property**”), as approved by Resolution No. 42-2021 approved by the City Council of the City (“**City Council**”) on July 6, 2021 (“**Original Agreement**”) and incorporated herein by reference; and

WHEREAS, the Original Agreement required, among other things, that Company complete the Phase 1 Improvements on the Property on or before December 31, 2023 and that the collective minimum square footage building requirement for improvements to the Property was 42,500 square feet; and

WHEREAS, Company failed to construct the Phase 1 Improvements prior to December 31, 2023 as required by the Original Agreement and requested that the City agree to: (a) extend the deadline in which Company had to construct the Phase 1 Improvements; (b) reduce the collective minimum building square footage requirement from 42,500 to 32,500 square feet; and (c) extend the Term of the Agreement by 6 months; and

WHEREAS, the Parties thereafter entered into that certain First Amendment to Economic Development Program Agreement (Chapter 380 Agreement) dated effective December 28, 2023, as approved by Resolution 66-2023 approved by the City Council on December 18, 2023 (“**First Amendment**”) and incorporated herein by reference; and

WHEREAS, the First Amendment amended the Original Agreement by: (a) extending the deadline in which Company had to construct the Phase 1 Improvements from December 31, 2023 to June 30, 2024; (b) reducing the collective minimum square footage building requirement from 42,500 square feet to 32,500 square feet; and (c) extending the Term from July 31, 2031 to January 31, 2032; and

WHEREAS, the Original Agreement and First Amendment are collectively referenced herein as the “**First Agreement**”; and

WHEREAS, Company failed to construct the Phase I Improvements prior to the amended deadline of June 30, 2024 as required by the First Agreement; and

WHEREAS, the First Agreement provided in section 7.2.1. that: “If construction of the ... Phase 1 Improvements ... are not timely completed, this Agreement shall automatically terminate and the Parties shall have no further rights or obligations hereunder excepting those that survive termination of this Agreement”; and

WHEREAS, the First Agreement provided in section 9.4 that: “In the event this Agreement ... automatically terminates, ... the Company shall immediately pay to the City ... the sum equal to the greater of (A) \$100,000 or (B) one hundred percent (100%) of the last Incentive Grant payment paid by the City to the Company under the terms of this Agreement, minus any unpaid Incentive Grant payment then earned, owed and unpaid by the City, plus interest Notwithstanding the foregoing, Company shall not be required to reimburse the City for any portion of the first Incentive Grant payment for completion of the Off-Site Improvements except as required by Article V”; and

WHEREAS, the First Agreement automatically terminated due to Company failing to perform its obligations under the Agreement; and

WHEREAS, the amount owed to the City by Company under Section 9.4 of the First Agreement and that remains unpaid is \$100,000 plus interest; and

WHEREAS, the Parties desire to affirm in writing by execution of the Affirmation of Termination of First Agreement attached hereto as **Exhibit F** and incorporated herein by reference that the First Agreement automatically terminated and that the Parties have no further rights or obligations under the First Agreement excepting only those that survive termination of the First Agreement, including the City’s waiver of the \$100,000 payment owed to the City by Company, and that execution of the Affirmation of Termination of First Agreement is a condition precedent to the effectiveness of this Agreement; and

WHEREAS, the Property is located at a high profile intersection in the City in an area that is in need of development to serve the existing and near-term residences in the area of the Property; and

WHEREAS, Company is considering further developing the Property as more particularly described herein; and

WHEREAS, Company has advised the City that a contributing factor inducing Company to further develop the Property, with enhancements and restrictions desired by the City, is the agreement by the City to provide economic development incentives to Company under the terms and conditions more fully set forth in this Agreement; and

WHEREAS, development 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 providing much needed services to residents of the area; and

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

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

WHEREAS, the City Council finds and determines that development of the Property will benefit the City and its citizens because, *inter alia*, the development will: (i) promote local economic development and stimulate business and commercial activity in the City; (ii) bring much needed services to the residents of the surrounding area; (iii) add value to the City’s tax rolls and increasing the ad valorem taxes to be collected by the City; and (iv) attract restaurant and retail tenants to the Property which will: (a) increase the taxable value of inventory and business personal property at Property 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

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

ARTICLE II

Definitions

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

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

“Architectural and Development Standards” shall have the meaning set forth in Article VII.

“Certificate of Compliance” shall mean a certificate in such form as is reasonably acceptable to the City executed on behalf of the Company by a duly authorized Company Representative certifying to the City: (i) that all General Conditions Precedent and Payment Conditions Precedent, as applicable at the time of presentation of the Certificate of Compliance, have been satisfied and are continuing; (ii) that Company has complied with and is in compliance with Company’s Additional Covenants provided in Article VI; and (iii) that to the knowledge of Company no default then exists by 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 Company under the terms of this Agreement. In the event Company contends it is entitled to the increased Maximum Incentive Amount provided in Section 8.5 of this Agreement, the Certificate of Compliance shall also certify the conditions of Section 8.5 have been satisfied and are continuing.

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

“Company” shall mean LF Gateway LP, a Texas limited partnership, its successors and assigns only as permitted by this Agreement.

“Company Representative” shall mean the Chief Executive Officer, Chief Financial Officer, President, Manager or any other authorized officer of the Company, currently being Seth Grubstein.

“DCAD” shall mean the Dallas Central Appraisal District.

“Effective Date” shall mean the date the Company and the City execute this Agreement if both the Company and the City execute this Agreement on the same date. If the Company and the City execute this Agreement on different dates, any reference to the “Effective Date” shall mean the later of the two dates this Agreement is executed by the Company and the City.

“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.

“Fast Casual Restaurant” shall mean a restaurant with or without drive through that offers higher quality food than fast food restaurants, and that is owned, leased to or operated by or franchised by a national fast casual restaurant brand operating in the United States, including by way of example, but not limited to, national fast casual restaurant brands such as Panda Express, Panera Bread, Chipotle, Jimmy Johns, Five Guys, Starbucks, or Raising Canes.

“General Condition Precedent” and “General Conditions Precedent” shall have the meanings set forth in Article VII of this Agreement.

“Incentive Grant” shall have the meaning set forth in Article VIII.

“Additional Improvements” shall have the meaning set forth in Article VII and excludes the McDonald’s fast food restaurant currently existing on the Property.

“Maximum Incentive Amount” shall mean the maximum amount of economic development incentives payable under the terms of this Agreement. The Maximum Incentive Amount is the collective sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00), unless the conditions provided in Section 8.5 are satisfied and continue being satisfied, in which event the Maximum Incentive Amount is the collective sum of SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$600,000.00). Notwithstanding anything to the contrary contained herein, the Maximum Incentive Amount shall not include Roadway Impact Fees, which shall be reimbursable as provided in Article VIII.

“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).

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

“Payment Conditions Precedent” shall have the meaning set forth in Article VII.

“Payment Request” shall have the meaning set forth in Article VIII.

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

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

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

“Roadway Impact Fees” mean impact fees charged by the City to generate revenue to fund or recoup all or part of the cost of roadway capital improvements or roadway facility expansions necessitated by and attributable to new development projects pursuant to the City’s Impact Fee

Ordinance No. 4756, as now and hereafter amended. Although reimbursable as provide in Article VIII, Roadway Impact Fees are not included in the calculation of the Maximum Incentive Amount.

“Table Service Restaurant” shall mean a restaurant offering full table service in which a server takes the customer’s order at the table, sends the order to the kitchen, and serves the food to the customer at the table.

“Tax Year” shall mean a period consisting of three hundred and sixty five (365) calendar days [or three hundred and sixty six (366) calendar days for any calendar year that is a leap year] beginning on January 1st of each calendar year during the Term of this Agreement and continuing until and including December 31st of the same calendar year.

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

“Water and Wastewater Impact Fees” mean impact fees charged by the City to generate revenue to fund or recoup all or part of the cost of water and wastewater capital improvements or facility expansions necessitated by and attributable to new development projects pursuant to the City’s Impact Fee Ordinance No. 4756, as now and hereafter amended.

“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 or any other applicable state and/or federal law or regulation.

ARTICLE III

Authority for Agreement

This Agreement is authorized by Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code. The City Council finds and determines that this Agreement will effectuate the purposes set forth in the Program and that the Company’s performance of its obligations herein will increase the amount of ad valorem business personal property taxes assessed and collected by the City, result in employment opportunities being created and maintained in the City, promote local economic development in the City, stimulate business and commercial activity in the City, and benefit the City and its citizens.

ARTICLE IV

Term

The Term of this Agreement shall commence on the Effective Date and shall continue until the earlier of: (i) July 31, 2032; or (ii) the date this Agreement is terminated by the City or the Company pursuant to a right to terminate as expressly provided herein; or (iii) the City has paid Company the Maximum Incentive Amount (“**Term**”).

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

ARTICLE V

Company's Covenants Not to Employ Undocumented Workers

1. Covenant Not to Employ Undocumented Workers. Company hereby certifies that it and each of its branches, divisions, and departments do not employ any Undocumented Workers and hereby covenants and agrees that it and each of its branches, divisions and departments will not knowingly employ any Undocumented Workers during the Term of this Agreement.

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

3. Repayment of Economic Development Incentives in Event of Conviction for Employing Undocumented Workers. If, after receiving any Economic Development Incentive under the terms of this Agreement, Company, or a branch, division or department of Company, is convicted of a violation under 8 U.S.C. §1324a (f), Company shall pay to the City, not later than the 120th day after the date the City notifies the Company of the violation, an amount equal to the total Economic Development Incentives previously 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 the amount of each Economic Development Incentive being recaptured from the date each Economic Development Incentive 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.

4. Limitation on Economic Development Incentives. The City shall have no obligation to pay any Economic Development Incentives 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. 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.

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

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

ARTICLE VI

Company's Additional Covenants

6.1 Company's Additional Covenants. In consideration of the City's agreement to make the Incentive Grant payments to the Company as more fully set forth herein, Company covenants and agrees to comply with each and every one of the following covenants during the Term of this Agreement:

1. To complete or cause the completion of the construction of the Additional Improvements on or before the completion dates provided in Article VII;
2. 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;
3. Except as otherwise provided herein, to 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, Company covenants and agrees that during the Term of this Agreement, 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: (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) paraphernalia shops as defined in the Mesquite Zoning Ordinance; (c) tobacco stores; (d) pawn shops; (d) gifts, novelty or souvenir stores that sell items of a sexually lewd or offensive nature; (e) limited fuel sales; (f) passenger car rental or leasing; (g) car washes, vehicle detail shops or other automotive services; (h) non-depository institutions, including alternative financial institutions; and/or (i) industries, establishments, uses, stores and/or services included within the following industry classifications as established by the North American Industry Classification System (NAICS):
 - (i) Classification #812199 – Other Personal Care Services; this U.S. industry comprises establishments primarily engaged in providing personal care services (except hair, nail, facial, nonpermanent makeup or nonmedical diet and weight reducing services). Illustrative examples of establishments within NAICS Classification #812199 include, but are not limited to, depilatory or electrolysis (i.e. hair removal salons), saunas, ear piercing services, steam or Turkish baths, hair replacement (except by offices of physicians) or weaving services, tanning salons (save and except retail establishments such as “Palm Beach Tan”, etc.), massage parlors (save and except retail establishments such as “Massage Envy”, etc.), tattoo parlors and permanent makeup salons;

- (ii) Classification #813410 – Civic and Social Organizations; this industry comprises establishments primarily engaged in promoting the civic and social interests of their members. Illustrative examples of establishments within NAICS Classification #813410 include, but are not limited to, 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; and
 - (iii) Classification #813110 Religious Organizations; this industry comprises (1) establishments primarily engaged in operating religious organizations, such as churches, religious temples, and monasteries, and/or (2) establishments primarily engaged in administering an organized religion or promoting religions activities. Illustrative examples of establishments within NAICS Classification #813110 include, but are not limited to, churches, religious shrines, monasteries (except schools), synagogues, religious mosques and religious temples;
- 4. Covenant Not to Protest, Challenge or Appeal Property Valuations. Company acknowledges that a material consideration for the City's agreement to grant the economic development incentives as set forth herein is the understanding and agreement by Company that the taxable value of the Property as assessed by DCAD will increase over the Term. Company represents and covenants to the City that during the Term, Company shall be the sole Person with the right or option to protest, challenge or appeal property tax valuations with respect to the Property for any Tax Year during the Term. Company hereby covenants and agrees that Company and/or any Person acting on behalf of Company will not protest, challenge or appeal the taxable value of the Property as assessed by DCAD during the Term;
- 5. To provide the City, it's 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 upon no less than 48 hours' advance notice to the Company in order to confirm compliance by the Company with the terms and provisions of this Agreement; provided, however, and excepting inspections required by the City's Code of Ordinances, that the City shall not conduct inspections more than once per month;
- 6. To provide a representative of the Company to accompany the City during all inspections of the Property conducted by the City pursuant to this Article;
- 7. To timely pay all ad valorem taxes assessed against the Property during the Term of this Agreement prior to the date such taxes become delinquent;
- 8. 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;

9. To timely keep and perform all terms, provisions, agreements, covenants, conditions and obligations to be kept or performed by Company under the terms of this Agreement and all other agreements now or hereafter existing between Company and the City;
10. To comply with all applicable federal, state and local laws and regulations, including City Regulations, applicable to the Property; and
11. To own the Property from the Effective date and continuing thereafter until this Agreement is terminated.

ARTICLE VII

Conditions Precedent to Payment of Incentive Grant

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

1. Company shall be in compliance with all terms, provisions, agreements, covenants, conditions and obligations to be kept or performed by the Company pursuant to the terms of this Agreement, including but not limited to the Additional Covenants provided in Article VI, and no default by the Company shall then exist beyond any applicable grace or cure period;
2. Company shall have timely paid to the City all impact fees, permit fees, development fees, review fees and inspection fees arising during the Term in connection with the construction of any improvements to or upon the Property, including, without limitation, all Roadway Impact Fees and Water and Wastewater Impact Fees;
3. Company shall have delivered to the City within thirty (30) days after written request, copies of such documentation in Company's possession, custody or control as the City may reasonably request to confirm compliance by the Company with the Conditions Precedent set forth in this Agreement;
4. Company shall have delivered to the City copies of such invoices, paid receipts, payment records and such other documentation as the City may reasonably request to confirm compliance by Company with its obligations herein and all Conditions Precedent;

5. Company shall be in compliance with all terms, provisions, agreements, covenants, conditions and obligations to be kept or performed by the Company under the terms of all other agreement(s) now and hereafter existing between Company and the City, if any, and no default shall then exist under the terms of such agreement(s) beyond any applicable grace or cure period;
6. The Property and all improvements and activities thereon shall comply in all material respects with the City Regulations as of the date of any Payment Request and the improvements upon the Property shall be in good repair and condition;
7. At the option of the City, the City shall have inspected the Property to confirm Company's compliance with the terms and provisions of this Agreement; and
8. The amount of the Incentive Grant payment being requested, when added to all previous Incentive Grant payments paid pursuant to this Agreement, shall not exceed the Maximum Incentive Amount.

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

1. Construction and Completion of Additional Improvements. A McDonald's fast food restaurant is currently open and operating and is the only building improvement on the Property and is located at the northernmost part of the Property at the intersection of Cartwright Road and Faithon P. Lucas, Sr., Blvd. at 2700 Faithon P. Lucas Blvd. Construction of additional building improvements on the Property ("**Additional Improvements**") as generally depicted in **Exhibit D** shall be constructed hereafter as follows:
 - a. Square footage for the purposes of this section is the area contained within the space occupied by the user(s) of a building.
 - b. Completion of construction of any building included in the Additional Improvements shall be evidenced by the issuance by the City of a final inspection, final green tag, certificate of completion, or other equivalent, confirming completion of the requirements of the building permit(s) issued by the City in connection with the construction of any building included in the Additional Improvements.
 - c. All Additional Improvements shall be constructed in compliance with the Architectural and Development Standards attached hereto as **Exhibit B** and generally in appearance as depicted in **Exhibit E**.
 - d. Company shall have obtained from City on or before July 31, 2025 a building permit for construction of either Building I fronting Faithon P. Lucas, Sr., Blvd. (2750 Faithon P. Lucas Sr., Blvd.) or Building III fronting Cartwright Road (3220 E. Cartwright Road), as depicted in **Exhibit D**, having a minimum square footage of 7,250. The Company shall have submitted to the City a certificate confirming that the Company has complied with this subsection on or before July 31, 2025.

Compliance with this subsection is a condition precedent to Company submitting an Incentive Grant request and the City paying any such request. If a building permit for such a building is not timely obtained, this Agreement shall automatically terminate and the Parties shall have no further rights or obligations hereunder excepting those that survive termination of this Agreement.

- e. Company shall construct and complete on or before either December 31, 2026 Building I fronting Faithon P. Lucas, Sr., Blvd. (2750 Faithon P. Lucas, Sr., Blvd.) or Building III fronting Cartwright Road (3220 E. Cartwright Road), as depicted in **Exhibit D**, having a minimum square footage of 7,250. The Company shall have submitted to the City a certificate confirming that the Company has complied with this subsection on or before December 31, 2026. Compliance with this subsection is a condition precedent to Company submitting an Incentive Grant request for the 2026 Tax Year and the City paying any such request. If construction of such a building is not timely completed, this Agreement shall automatically terminate and the Parties shall have no further rights or obligations hereunder excepting those that survive termination of this Agreement.
- f. All of the remaining Additional Improvements shall be completed on or before December 31, 2031. The collective square footage of the Additional Improvements plus the square footage of the McDonald's fast food restaurant shall be a minimum of 32,500. This minimum square footage requirement is not a condition precedent to Company submitting an Incentive Grant request and the City paying any such request during the period from the Effective Date to December 31, 2031, but is a condition precedent to Company submitting an Incentive Grant request and the City paying any such request for any period subsequent to December 31, 2031. The Company shall have submitted to the City a certificate confirming that the Company has complied with this subsection on or before December 31, 2031. If construction of all remaining Additional Improvements is not timely completed, this Agreement shall automatically terminate and the Parties shall have no further rights or obligations hereunder excepting those that survive termination of this Agreement.
- g. Notwithstanding the foregoing, Company may request modification of the Additional Improvements. Any such request must be made in writing to the City Manager. The City Manager may, in the City Manager's sole discretion, approve in writing any such request provided the request does not result in (i) reduction of any area of landscaping, (ii) a change in signage requirements provided in this Agreement, (iii) reducing the quality of materials to be used in construction, and (iv) violation of any of the City Regulations. In the event the City Manager rejects any such request and upon thirty (30) days' written notice by Company to the City, Company may terminate this Agreement without penalty and may retain any incentive grant paid by the City to Company subject to Article V.

ARTICLE VIII

Incentive Grant and Payments

8.1 Incentive Grant. The City hereby approves, subject to satisfaction of the General Conditions Precedent and Payment Conditions Precedent and the covenants and limitations set

forth in this Agreement and the Maximum Incentive Amount, an economic development grant to be earned by Company in an amount equal to the following (the “**Incentive Grant**”):

1. One hundred percent (100%) of the sum paid by Company or other Persons to the City for ad valorem taxes assessed against the Property for the tax years of 2022 through and including 2031;
2. One hundred percent (100%) of the Water and Wastewater Impact Fees paid by Company or other Person to the City on or after January 1, 2023 for development of the Property;
3. One hundred percent (100%) of the Roadway Impact Fees paid by Company or other Person to the City for development of the Property from the January 1, 2023 to and including December 31, 2028; and
4. Fifty percent (50%) of the Roadway Impact Fees paid by Company or other Person to the City for development of the Property from and after January 1, 2029 for the remainder of the Term.

8.2 Payment Request. Company shall submit a Payment Request for each Incentive Grant payment owed to Company by the City accompanied by Company’s itemization and basis for each amount included in the Payment Request, along with any required documentation, and as of the date of such Payment Request, all terms of this Agreement, including applicable conditions precedent set forth herein, shall have been satisfied and are then continuing (the “**Payment Request**”). A Payment Request shall be submitted to the City’s Finance Director at 757 N. Galloway, Mesquite, Texas 75149 within thirty (30) days of Company’s entitlement to an Incentive Grant earned herein. The earliest date for submission of the first Payment Request is the date when section 7.2.1.d. of this Agreement is satisfied. Thereafter, Company may annually submit further Payment Requests and receive further Incentive Grant payments each Tax Year during the Term of this Agreement if in compliance with all conditions and obligations of this Agreement. Each subsequent Payment Request, if any, shall be submitted on or before July 31 and no earlier than June 1 of any year thereafter during the Term. Notwithstanding the foregoing: (a) a Payment Request for an Incentive Grant earned in Tax Year 2031 shall be submitted to the City’s Finance Director on or before January 31, 2032; and (b) a Payment Request cannot be submitted after expiration of the Term or termination of this Agreement

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

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

8.5 Maximum Incentive Amount. The Maximum Incentive Amount is the collective sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00), which amount expressly excludes any amount for Roadway Impact Fees. Provided the following conditions are satisfied, the Maximum Incentive Amount shall increase by ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) to the collective sum of SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$600,000.00). In the event the following conditions are satisfied but one or more such conditions should later cease to exist, the Maximum Incentive Amount shall return to the collective sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) provided, however, and subject to the recapture provisions in Sections 5.3 and 9.4 of this Agreement and the City remedies provided in Section 9.3 of this Agreement, that Company shall not be required to refund to the City any Incentive Grant payment received by Company. The following are the conditions for increasing the Maximum Incentive Amount to SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$600,000.00):

1. A Fast Casual Restaurant or Table Service Restaurant, approved in writing by the City Manager, is operating on the Property on or before December 31, 2026; and
2. The Fast Casual Restaurant or Table Service Restaurant has continuously operated on the Property for a period of no less than one hundred eighty (180) days.

8.6 Limitation on Incentive Grant payments. Notwithstanding anything contained herein to the contrary:

1. the collective amount of Incentive Grant payments payable under the terms of this Agreement shall not exceed the Maximum Incentive Amount plus the Roadway Impact Fees. If the collective amount of Incentive Grant payments equals the Maximum Incentive Amount plus the Roadway Impact Fees prior to the end of termination of this Agreement, no further Incentive Grant payments will be due or payable under this Agreement and this Agreement shall terminate (by way of example: (a) if Company has no qualifying restaurant on site in year 2029 and has been paid \$450,000 in Incentive Grant payments prior to 2029, then the maximum Incentive Grant that could be earned for year 2029 would be \$50,000 plus the Roadway Impact Fees; (b) if Company has a qualifying restaurant on site in year 2029, has been paid \$450,000 in Incentive Grant payments, then Company may continue earning and receiving Incentive Grant payments for the Term up to the amount of \$600,000 plus the Roadway Impact fees so long as the qualifying restaurant continues in operation; and (c) if Company has a qualifying restaurant on site in year 2029, has earned \$525,000 in Incentive Grant payments, but the qualifying restaurant ceases operation, then the Agreement will terminate, but Company will not have to repay the Incentive Grant amount above \$500,000 except as provided in Section 8.5;
2. no Incentive Grant payment shall be due and payable for any Tax Year prior to 2022;
3. no Incentive Grant payment shall be due and payable for any Tax Year after 2031; and

4. if there is any conflict between this Section 8.6 and any other term or provision of this Agreement, this Section 8.6 shall control.

8.7 Funds Available for Payment of Incentive Grants. The grants of economic development incentives 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. All Incentive Grant payments 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 Grant payment shall be subject to the City's appropriation of funds for such purpose to be paid in the budget year for which the Incentive Grant payment is to be made. Under no circumstances shall the City's obligations under this Article be deemed to create any debt within the meaning of any constitutional or statutory provision.

ARTICLE IX

Defaults Recapture of Incentives Remedies

9.1 Company Default. 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 Company.

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 Company to the City.

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 pending or future Incentive Grant payment to Company and the City shall have the right as its sole remedies to: (i) recapture the Incentive Grant payment last 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.

9.4 Recapture of Incentive Grant Payments. In the event this Agreement is terminated by the City or automatically terminates, the City shall have no obligation to make any further Incentive Grant payments to the Company and the Company shall immediately pay to the City, at the City's address set forth herein, or such other address as the City may hereafter notify the Company in writing, the sum equal to the greater of (A) \$100,000.00 or (B) one hundred percent (100%) of the last Incentive Grant payment paid by the City to the Company under the terms of this Agreement,

minus any unpaid Incentive Grant payment then earned, owed and unpaid by the City, 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 on the percentage of the Incentive Grant payment being recaptured from the date such Incentive Grant payment was paid by the City to Company until the date the said sum is repaid by Company to the City and such interest rate shall adjust periodically as of the date of any change in the Maximum Lawful Rate. Notwithstanding the foregoing, Company shall not be required to reimburse the City for any portion of the first Incentive Grant payment except as required by Article V.

9.5 Company Remedies. Upon the occurrence of a City default that has continued uncured beyond any applicable grace or cure period, 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 Grant payments then earned, owed and unpaid by the City as damages in accordance with the following provisions. The City and Company acknowledge and agree that this Agreement is not a contract for goods or services and the City's immunity from suit is not waived pursuant to Subchapter I of Chapter 271, V.T.C.A., Local Government Code, as amended. Alternatively, if and only in the event a court of competent jurisdiction determines the City's immunity from suit is waived under Subchapter I of Chapter 271, V.T.C.A., Local Government Code, the Parties hereby acknowledge and agree that in a suit against the City for breach of this Agreement 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 Grant earned by the Company and owed and unpaid by City, not to exceed the amount of the Maximum Incentive Amount;
2. any Incentive Grant 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.

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

9.7 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 hereto, their respective successors and permitted assigns provided, however, notwithstanding anything contained herein to the contrary, this Agreement and the rights and obligations of Company hereunder may not be assigned or transferred by Company without the prior written consent of the City, which may be withheld in the City's sole discretion. Furthermore, neither Company nor any approved assignee or their legal representatives or successors in interest shall, by operation of law or otherwise, assign, mortgage, pledge, encumber or otherwise transfer this Agreement or any part hereof, or the interest of Company or any approved assignee under this Agreement, without obtaining the City's prior written consent, which may be withheld in the City's sole discretion. Any consent by the City to any assignment of this Agreement shall be held to apply only to the specific transaction thereby authorized and shall not constitute a waiver of the necessity for such consent to any subsequent assignment. No assignment of this Agreement shall contain any terms in contravention of any provisions of this Agreement. No assignment of this Agreement shall be effective unless: (i) the assignment is in writing signed by the assignor and the assignee; (ii) the assignee assumes the assignor's obligation to timely keep and perform all terms, provisions, agreements, covenants, conditions and obligations of the assignor under the terms of this Agreement; (iii) a true and correct copy of such assignment has been provided to the City; and (iv) the City has approved such assignment in writing. Every assignee shall be subject to and bound by all the provisions, covenants, and conditions of this Agreement and shall be required to obtain the prior written consent of the City with respect to any future or further assignment. Any attempted assignment in violation of the terms and provisions of this Agreement shall be void and shall constitute a material breach of this Agreement by Company and in the event Company attempts to assign this Agreement in violation of this Article, the City shall have the right to terminate this Agreement with Company by written notice to Company.

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

COMPANY: LF Gateway, LP
5952 King William Drive
Plano, Texas 75093
Attention: Seth Grubstein

With a Copy to: Holmes Firm PC
14241 Dallas Parkway, Suite 800
Dallas, Texas 75254
Attention: Ron Holmes

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

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

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 and agree to submit to the personal and subject matter jurisdiction of such courts.

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

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

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

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

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

10.15 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.

10.16 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.

10.17 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.

10.18 Authority. 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.

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

10.20 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 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.

10.21 Non-Collusion. Company represents and warrants that neither Company nor anyone on 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.

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

10.23 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.

10.24 Anti-Boycott Verification. If Texas Government Code Chapter 2271 is applicable to this Agreement, by signing below, Company hereby represents, verifies, and warrants that Company does not boycott Israel and will not boycott Israel during the term of the Agreement.

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

10.26 Verification Regarding Firearm Entities or Trade Associations. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under § 2274.002 (b) TEX. GOV'T. CODE, (i) Company verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) Company will not discriminate during the term of the contract against a firearm entity or firearm trade association. The foregoing verification is made solely to comply with Chapter 2274, TEX. GOV'T. CODE, to the extent the applicable provision in Chapter 2274.002, TEX. GOV'T. CODE does not contravene applicable Texas or federal law. As used in the foregoing verification, "firearm entity or firearm trace association" shall have the meaning assigned to the terms in § 2274.001 (6), (7), TEX.GOV'T.CODE. ENGINEER understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Company and exists to make a profit.

10.27. Verification Regarding Energy Company Boycotts. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under §§ 2276.002(b)(1),(2) TEX. GOV'T. CODE, 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. The foregoing verification is made solely to comply with § 2274.002, TEX. GOV'T. CODE, as amended, to the extent § 2274.002, TEX. GOV'T. CODE does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in § 809.001, TEX.GOV'T.CODE. Company understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with Company and exists to make a profit.

10.28 Development Standards. The Parties acknowledge awareness and understanding of V.T.C.A., Texas Government Code, Chapter 3000, titled Governmental Action Affecting Residential and Commercial Construction, regarding the regulation by municipalities of building products, materials, and aesthetic methods for residential and commercial buildings. Company acknowledges and agrees that, notwithstanding V.T.C.A., Texas Government Code, Chapter 3000, to construct the Additional 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 Additional 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.

10.29 Time is of the Essence. The Parties agree that time is of the essence of this Agreement.

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.

*[Remainder of page intentionally left blank;
signatures on following pages]*

ATTEST:

CITY OF MESQUITE,
a Texas home rule municipality

By: _____
Sonja Land
City Secretary

By: _____
Name: Cliff Keheley
Title: City Manager

Date: _____

APPROVED AS TO LEGAL FORM:

City Attorney or his Designee

STATE OF TEXAS)
)
COUNTY OF DALLAS)

This instrument was acknowledged before me this ____ day of _____, 2025, by Cliff Keheley, as City Manager, on behalf of said City of Mesquite.

My Commission Expires:

Notary Public, State of Texas

Printed Name of Notary Public

LF GATEWAY LP,
a Texas limited partnership

By: LF Gateway GP LLC
a Texas limited liability company
Its: General Partner

By: _____
Seth Grubstein, Manager

Date: _____

STATE OF TEXAS)
)
COUNTY OF _____)

This instrument was acknowledged before me this ____ day of _____, 2025, by Seth Grubstein, as Manager of LF Gateway GP LLC, on behalf of said limited liability company.

My Commission Expires:

Notary Public, State of Texas

Printed Name of Notary Public

**EXHIBIT A
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Legal Description of Property

That certain property located at 3201 East Cartwright Road, Mesquite, Texas 75181, and being an approximately 6.787 acre tract more particularly described as follows:

BEING a 6.787 acre tract of land situated in the John P. Anderson Survey Abstract No. 1, City of Mesquite, Dallas County, Texas and being a portion of a tract of land described in a deed to Walmart Stores East Inc. recorded in Volume 2000066, Page 603, Official Public Records, Dallas County, Texas (OPRDCT) and being more particularly described as follows:

BEGINNING at a capped iron rod found for corner in the southeast line of Faithon P. Lucas Sr. Drive (Mercury Road) a variable width right of way and being the northerly corner of Lot 1, Block A of Dr. John D. Horn High School an addition to the City of Mesquite according to the plat recorded in Volume 2000213, Page 2399 (OPRDCT);

THENCE along the southeast line of said Faithon P. Lucas Sr. Drive (Mercury Road) as follows:

NORTH 44°38'10" EAST a distance of 235.93 feet to a point for corner and being the beginning of a curve to the right having a radius of 235.00 feet and a chord bearing of NORTH 49°31'30" EAST;

Along said curve through a central angle of 09°46'45" for an arc length of 40.11 feet to a point for corner and being the beginning of a reverse curve to the left having a radius of 265.00 feet and a chord bearing of NORTH 49°35'37" EAST;

Along said curve through a central angle of 09°38'27" for an arc length of 44.59 feet to a point for corner;

NORTH 44°46'21" EAST a distance of 80.66 feet to a point for corner and being the beginning of a non-tangent curve to the right having a radius of 165.00 feet and a chord bearing of NORTH 52°28'44" EAST;

THENCE along said curve through a central angle of 15°24'01" for an arc length of 44.35 feet to a point for corner in the southwest line of Cartwright Road a variable width right of way and being the beginning of a compound curve to the right having a radius of 50.00 feet and a chord bearing of NORTH 89°27'59" EAST;

THENCE along the southwest line of said Cartwright Road as follows:

Along said curve through a central angle of 58°35'26" for an arc length of 51.13 feet to a point for corner and being the beginning of a compound curve to the right having a radius of 165.00 feet and a chord bearing of SOUTH 53°32'26" EAST;

Along said curve through a central angle of 15°24'01" for an arc length of 44.35 feet to a point for corner;

SOUTH 46°02'46" EAST a distance of 523.57 feet to a point for corner at a northeast corner of said Lot 1, Block A;

THENCE along the northwest line of said Lot 1, Block A, SOUTH 44°37'55" WEST a distance of 484.58 feet to a capped iron rod found for corner at an interior ell corner of said Lot 1, Block A;

THENCE along the northeast line of said Lot 1, Block A, NORTH 46°02'45" WEST a distance of 615.36 feet to the POINT OF BEGINNING;

CONTAINING 6.787 acres or 295,642 square feet of land more or less.

SAVE AND EXCEPT THAT CERTAIN TRACT conveyed from Declarant, as grantor, to Mesquite Independent School District ("MISD"), as grantee, pursuant to that certain Special Warranty Deed, dated effective as of August 8, 2023, and recorded as Document Number 202300158911 of the Official Public Records of Dallas County, Texas, such tract more fully described as follows:

BEING ALL THAT CERTAIN LOT, TRACT OR PARCEL OF LAND SITUATED IN THE JOHN P. ANDERSON SURVEY, ABSTRACT NO. 1, CITY OF MESQUITE, DALLAS COUNTY, TEXAS AND BEING A PORTION OF A CALLED 6.787 ACRE TRACT OF LAND DESCRIBED IN A DEED TO LF GATEWAY LP RECORDED IN INSTRUMENT NUMBER 201700073153 OF THE OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A CAPPED IRON ROD FOUND FOR CORNER IN THE SOUTHEAST RIGHT-OF-WAY LINE OF FAITHON P. LUCAS SR. DRIVE (MERCURY ROAD — VARIABLE WIDTH RIGHT-OF-WAY), RIGHT-OF-WAY WIDENED BY DEED RECORDED IN VOLUME 2002233, PAGE 3181 OF THE DEED RECORDS OF DALLAS COUNTY, TEXAS, SAID POINT BEING THE NORTHERLY CORNER OF LOT 1, IN BLOCK A OF DR. JOHN D. HORN HIGH SCHOOL, AN ADDITION TO THE CITY OF MESQUITE, DALLAS COUNTY, TEXAS ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2000213, PAGE 2399 OF THE OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS, SAID POINT ALSO BEING THE WESTERLY CORNER OF AFORESAID 6.787 ACRE TRACT:

THENCE SOUTH 46° 02' 45" EAST AND DEPARTING THE SOUTHEAST RIGHT-OF-WAY LINE OF SAID FAITHON P. LUCAS SR. DRIVE (MERCURY ROAD) AND FOLLOWING ALONG THE COMMON LINE OF SAID LOT 1 AND SAID 6.787 ACRE TRACT FOR A DISTANCE OF 57.50 FEET TO A POINT ALONG THE SOUTHWEST LINE OF A 10 FOOT WIDE LANDSCAPE EASEMENT RECORDED IN INSTRUMENT NUMBER 202100211230, AND BEGINS THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 197.49 FEET WITH A CENTRAL ANGLE OF 09° 12' 01" AND A CHORD BEARING SOUTH 50° 06' 36" WEST AT A DISTANCE OF 31.68 FEET, AND BEING THE POINT OF BEGINNING;

THENCE SOUTHEASTERLY AND FOLLOWING ALONG SAID 10 FOOT LANDSCAPE EASEMENT, AND SAID CURVE TO THE RIGHT FOR AN ARC DISTANCE OF 31.71 FEET TO A POINT;

THENCE SOUTH 45° 57' 16" EAST AND CONTINUING ALONG SAID 10 FOOT LANDSCAPE EASEMENT FOR A DISTANCE OF 121.93 FEET TO A POINT FOR THE BEGINNING OF A CURVE TO THE LEFT, HAVING A RADIUS OF 7.08 FEET WITH A CENTRAL ANGLE OF 88° 07' 02" AND A CHORD BEARING NORTH 86° 11' 47" EAST AT A DISTANCE OF 9.05 FEET;

THENCE NORTHEASTERLY AND FOLLOWING ALONG SAID CURVE TO THE LEFT FOR AN ARC DISTANCE OF 10.80 FEET TO A POINT FOR CORNER;

THENCE SOUTH 47° 51' 44" EAST FOR A DISTANCE OF 1.00 FOOT TO A POINT FOR CORNER;

THENCE SOUTH 43° 57' 15" WEST FOR A DISTANCE OF 9.38 FEET TO A POINT FOR CORNER ON THE COMMON LINE OF AFORESAID LOT 1 AND AFORESAID 6.787 ACRE TRACT;

THENCE NORTH 46° 02' 45" WEST AND FOLLOWING ALONG THE COMMON LINE OF SAID LOT 1 AND SAID 6.787 ACRE TRACT FOR A DISTANCE OF 161.15 FEET TO THE POINT OF BEGINNING, AND CONTAINING 0.0079 ACRES (344 SQUARE FEET) OF LAND, MORE OR LESS.

**EXHIBIT B
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Architectural and Development Standards

The Additional Improvements shall be constructed in accordance with the following standards:

1. Except as provided in this section 1, drive through windows shall not face a public right-of-way. For the building to be located in the southwest corner of the Property, at the corner of Faithon P. Lucas Sr. Blvd. and Highschool Drive, one drive through window may face Highschool Drive.
2. Screening shall be provided in compliance with Stipulation No. 3. Building setbacks shall be provided as shown on the Concept Plan.
3. Landscaping shall be provided that creates a harmonious streetscape edge containing native plant materials and drought tolerant shrubs and trees and consistent with the Landscape Plan attached hereto as **Exhibit D**.
 - a. Along the shared property line with Horn High School on the southeastern side of the Property, (i) a wrought iron fence of six feet in height, (ii) 100 gallon live oak trees (or evergreen trees selected from Section 1A-500 of the Mesquite Zoning Ordinance) on the exterior of the fence and (iii) evergreen hedges (selected from Section 1A-500 of the Mesquite Zoning Ordinance) on the interior of the fence shall be installed on the Property to effectively create a visual screen. The installation of (i), (ii), and (iii) shall be prior to the completion of Building IV (as shown on **Exhibit D**).
 - b. Along the shared property line with Horn Highschool Drive on the southwestern side of the Property (e.g., adjacent to Buildings I and V, as shown on **Exhibit D**), (i) a wrought iron fence of six feet in height, (ii) 100 gallon live oak trees (or evergreen trees selected from Section 1A-500 of the Mesquite Zoning Ordinance) on the exterior of the fence adjacent to Building V and 65 gallon live oak trees (or evergreen trees selected from Section 1A-500 of the Mesquite Zoning Ordinance) on the exterior of the fence adjacent to Building I (as shown on **Exhibit D**), and (iii) evergreen hedges (selected from Section 1A-500 of the Mesquite Zoning Ordinance) on the interior of the fence to effectively create a visual screen. The installation of (i), (ii), and (iii) shall be prior to the completion of either Building I or V (as shown on **Exhibit D**).
4. A cross access easement shall be provided on each lot at the time of development. Cross access easements will assure cross access through all lots in the development and assure that all lots have access to the Highschool Drive main entrance and the entrance on Cartwright Road.
5. A Traffic Impact Analysis (“**TIA**”) is required. The TIA shall include recommended measures to minimize and/or mitigate the anticipated impacts and determine the adequacy of the development’s planned access points. Mitigation measures must be approved by the City Engineer

and may include, but are not limited to, the following: an access management plan; transportation demand management measures; street improvements on or off site; placement of pedestrian, bicycle or transit facilities on or off the site; or other capital improvements projects such as traffic calming infrastructure or capacity improvements. The developer is responsible for making improvements recommended by the TIA and approved by the City that are necessitated by and proportional to the development. Company has provided the required TIA.

6. Pole signs are prohibited. Multi-tenant monument signage is permitted in the locations shown on **Exhibit D** and described in **Exhibit C** and in accordance with the design specified in **Exhibit D**, or as otherwise approved.

7. Architectural Design Requirements.

a. Transparency. Ground level retail and restaurant shall incorporate transparent features over a minimum of 50 percent of one primary façade. Additional primary façades and secondary façades shall incorporate 20 percent transparency. One rear-facing secondary façade shall be allowed with no fenestration. Transparency, as defined in the Mesquite Community Appearance Manual, shall be measured within the first 10 feet of the building wall, measured vertically at street level. All ground level windows shall provide direct views to the building's interior or a lit display area extending a minimum of three feet behind the window.

b. Color and material. To provide unity throughout the development, the exterior of all buildings shall incorporate the brick and stone material and color as shown on the Material and Color Palette board attached as **Exhibit E** on 80 percent of the primary façades (excluding windows, doors, roofs and curtain walls). The remainder of the wall area shall incorporate other fire-resistive materials such as, but not limited to, stucco, EIFS and cement board provided that such materials are complimentary/compatible with materials and colors shown in **Exhibit E**. Additional accent materials or colors associated with established corporate identity are allowed on the remainder of the wall area.

c. Mechanical equipment. All mechanical equipment shall be screened from view at a point six feet above ground level at the property line. Screening for roof-mounted units shall be incorporated with the building façade.

**EXHIBIT C
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

Signage Design And Materials

DESIGN CONCEPT | street level view



PROPOSED MATERIALS LIST:

BRICK MIX:

to be similar in color pattern (combination using Rockwell, Brookstone & Old Savannah Clinker); to be approved

PAINTED STEEL MEMBERS:

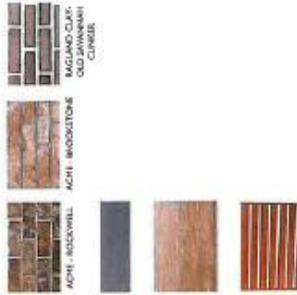
to be charcoal grey or comparable color; to be approved

BAND @ TOP:

Nichia Vintagewood or comparable material; to be approved

ALUMINUM GRILLE:

Aluminum grille or comparable material for slat wall with wood look; to be approved



**PLEASE NOTE:
MONUMENT SIGN
DRAWINGS ARE
CONCEPTUAL ONLY.
DESIGN CONCEPTS MAY
CHANGE. MATERIALS
USED WILL BE THOSE
SHOWN OR NEW
MATERIALS/PRODUCTS
MAY BE ADDED WITH
APPROVAL. DESIGNS ARE
SUBJECT TO APPROVAL.**



(2) MONUMENT SIGNS @ HARD CORNER
MAXIMUM 50 S.F. SIGN FACE; HEIGHT NOT TO EXCEED 10'-0"

(4) MONUMENT SIGNS OFF HARD CORNER
APPROX. 20 S.F. SIGN FACE



7800 Washington Avenue
Suite 100
Houston, Texas 77007
Phone 713 623 3600
www.laarch.com

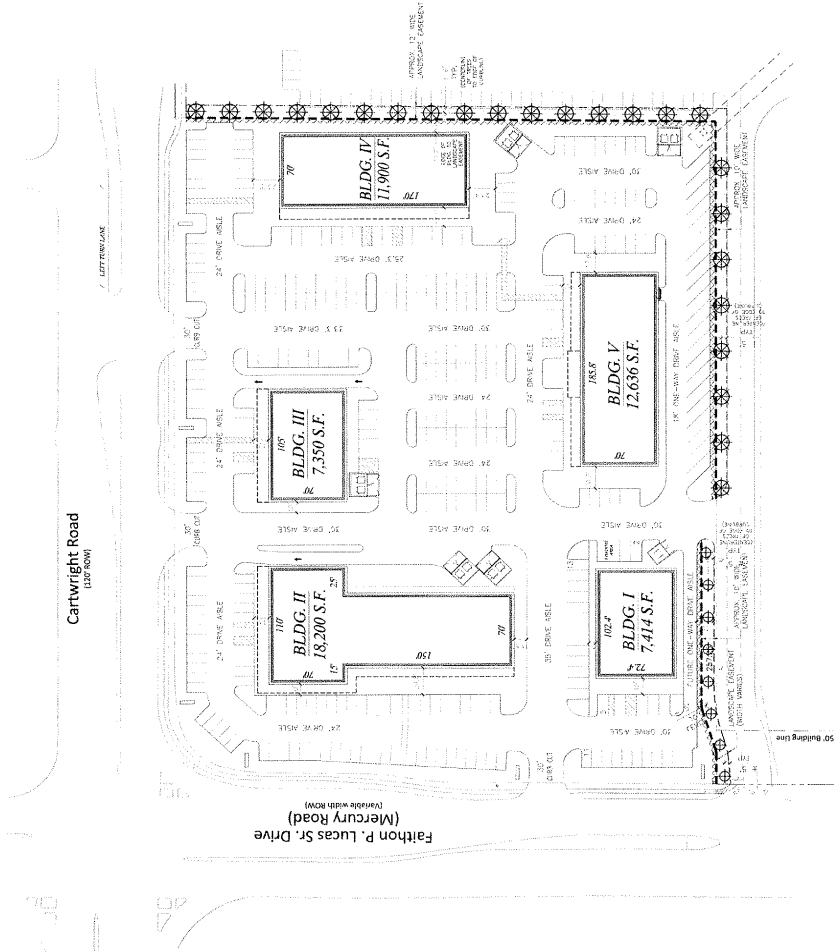
SHADOW CREEK CROSSING
CONCEPTUAL MONUMENT SIGN DESIGNS
E CARTWRIGHT RD. & FAITHON LUCAS BLVD, MESQUITE, TEXAS

Project Number: 2020-174.001
June 21, 2021

TRIA Ventures
5952 King William Drive
Plano, Texas 75093
(214) 558-0800

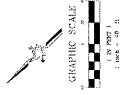
EXHIBIT D
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

Site and Landscape Plan



Gross Building Area: 57,500 S.F. Total Parking Provided: 352 spaces Parking Ratio Provided: 6.1 / 1000	
LANDSCAPE EASEMENT HEDGES (EVERGREEN SHRUB OR COMPARABLE PLANTING MAY BE APPROVED) FENCE LINE 65 GAL. TREE (LIVE OAK OR COMPARABLE EVERGREEN TREE MAY BE APPROVED) 100 GAL. TREE (LIVE OAK OR COMPARABLE EVERGREEN TREE MAY BE APPROVED) PROPOSED MULTI-TENANT MONUMENT SIGN (OR SINGLE-TENANT SIGN MAY BE APPROVED LATER)	[Symbol: Dashed rectangle] [Symbol: Wavy line] [Symbol: Dashed line] [Symbol: Circle with cross] [Symbol: Circle with cross and dot] [Symbol: Horizontal bar]

TRIA Ventures
 5952 King William Drive
 Plano, Texas 75093
 (214) 558-0800



PRELIMINARY SITEPLAN
E CARTWRIGHT RD. & FAITHON LUCAS BLVD
MESQUITE, TEXAS
 2020-174.001 SP34 JUNE 21, 2021

7800 Westinghouse Avenue
 Suite 600
 Houston, Texas 77007
 Main: 713.600.3600
 www.laarc.com

EXHIBIT E
TO
ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

Materials and Colors Palette

DESIGN CONCEPT | street level view



FRONT ELEVATION



SIDE ELEVATION

PROPOSED MATERIALS LIST:

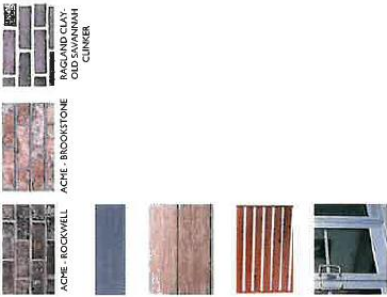
BRICK MIX (Sign Band, Pilasters & Tower Columns):
to be similar in color pattern (combination using Rockwell, Brookstone & Old Savannah Clinker); to be approved

PAINTED STEEL MEMBERS (at Towers):
to be charcoal gray or comparable color; to be approved

BAND @ TOP OF TOWERS:
Nichilha Vintagewood or comparable material; to be approved

ALUMINUM GRILLE @ CORNER TOWERS:
Aluminum Grille or comparable material for slat wall with wood look; to be approved

STOREFRONT SYSTEM:
Aluminum/glass or steel/glass storefront with tinted glass; to be charcoal gray or comparable color; to be approved



SHADOW CREEK CROSSING
CONCEPTUAL EXTERIOR ELEVATION DESIGN
E CARTWRIGHT RD. & FAITHON LUCAS BLVD, MESQUITE, TEXAS

Project Number: 2020-174.001
June 21 2021

TRIA Ventures
5952 King William Drive
Plano, Texas 75093
(214) 558-0800

LA ARCHITECTS
2800 Magnolia Avenue
Houston, Texas 77007
Main 713.603.3800
www.laac.com

EXHIBIT F

AFFIRMATION OF TERMINATION OF FIRST AGREEMENT

THIS AFFIRMATION OF TERMINATION OF FIRST AGREEMENT (“**Affirmation**”) is made and entered into by and between the CITY OF MESQUITE, a Texas home rule municipality (“**City**”), and LF GATEWAY LP, a Texas limited partnership (“**Company**”). The City and Company may collectively be referred to herein as the “**Parties.**”

WITNESSETH:

WHEREAS, the Parties entered into that certain Economic Development Program Agreement (Chapter 380 Agreement) dated effective July 14, 2021, for the development of property located at 3201 East Cartwright Road (“**Property**”), as approved by Resolution No. 42-2021 approved by the City Council of the City (“**City Council**”) on July 6, 2021 (“**Original Agreement**”) and incorporated herein by reference; and

WHEREAS, the Original Agreement required, among other things, that Company complete the Phase 1 Improvements on the Property on or before December 31, 2023 and that the collective minimum square footage building requirement for improvements to the Property was 42,500 square feet; and

WHEREAS, Company failed to construct the Phase 1 Improvements prior to December 31, 2023 as required by the Original Agreement and requested that the City agree to: (a) extend the deadline in which Company had to construct the Phase 1 Improvements; (b) reduce the collective minimum building square footage requirement from 42,500 to 32,500 square feet; and (c) extend the Term of the Agreement by 6 months; and

WHEREAS, the Parties thereafter entered into that certain First Amendment to Economic Development Program Agreement (Chapter 380 Agreement) dated effective December 28, 2023, as approved by Resolution 66-2023 approved by the City Council on December 18, 2023 (“**First Amendment**”) and incorporated herein by reference; and

WHEREAS, the First Amendment amended the Original Agreement by: (a) extending the deadline in which Company had to construct the Phase 1 Improvements from December 31, 2023 to June 30, 2024; (b) reducing the collective minimum square footage building requirement from 42,500 square feet to 32,500 square feet; and (c) extending the Term from July 31, 2031 to January 31, 2032; and

WHEREAS, the Original Agreement and First Amendment are collectively referenced herein as the “**First Agreement**”; and

WHEREAS, Company failed to construct the Phase I Improvements prior to the amended deadline of June 30, 2024 as required by the First Agreement; and

WHEREAS, the First Agreement provided in section 7.2.1. that: “If construction of the ... Phase 1 Improvements ... are not timely completed, this Agreement shall automatically terminate

and the Parties shall have no further rights or obligations hereunder excepting those that survive termination of this Agreement”; and

WHEREAS, the First Agreement provided in section 9.4 that: “In the event this Agreement ... automatically terminates, ... the Company shall immediately pay to the City ... the sum equal to the greater of (A) \$100,000 or (B) one hundred percent (100%) of the last Incentive Grant payment paid by the City to the Company under the terms of this Agreement, minus any unpaid Incentive Grant payment then earned, owed and unpaid by the City, plus interest Notwithstanding the foregoing, Company shall not be required to reimburse the City for any portion of the first Incentive Grant payment for completion of the Off-Site Improvements except as required by Article V”; and

WHEREAS, the First Agreement automatically terminated due to Company failing to perform its obligations under the First Agreement; and

WHEREAS, the amount owed to the City by Company under Section 9.4 of the First Agreement and that remains unpaid is \$100,000 plus interest; and

WHEREAS, the Parties desire to affirm in writing that the First Agreement automatically terminated and that the Parties have no further rights or obligations under the First Agreement excepting only those that survive termination of the First Agreement, including the City’s waiver of the \$100,000 payment owed to the City by Company; and

WHEREAS, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the First Agreement.

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 Affirmation are true, complete, and correct in all respects and are incorporated herein and made a part hereof for all purposes.

2. **COMPANY’S AFFIRMATION OF TERMINATION, RELEASE AND INDEMNIFICATION.** Company hereby affirms, without exception or reservation whatsoever, that the First Agreement terminated and is void and of no effect whatsoever as of July 1, 2024 due to Company failing to complete the Phase 1 Improvements prior to June 30, 2024. Company further affirms, without exception or reservation whatsoever, that (a) City has in no manner or way committed a breach or default of or under the First Agreement, (b) Company has no rights under the First Agreement, including but not limited to any rights that may have survived termination of the First Agreement which are hereby released and waived, and that no Payment Request is pending or otherwise owed under the First Agreement, (c) City does not now and will not in the future, under any circumstances whatsoever, owe to Company any sum of money under the First Agreement, and (d) City does not now and will not in the future, under any circumstances whatsoever, owe Company any duty under the First Agreement. **COMPANY HEREBY RELEASES AND DISCHARGES CITY FROM ANY AND ALL OBLIGATIONS OF CITY**

UNDER THE FIRST AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY OBLIGATIONS OF THE CITY THAT SURVIVE TERMINATION OF THE FIRST AGREEMENT, AND, TO THE FULLEST EXTENT ALLOWED BY LAW, AGREES TO DEFEND, HOLD HARMLESS AND INDEMNIFY THE CITY AGAINST ANY AND ALL CLAIMS BY ANY THIRD PARTY ARISING OUT OF THE CLAIMS RELEASED HEREIN BY COMPANY.

3. **CITY'S AFFIRMATION OF TERMINATION, RELEASE AND INDEMNIFICATION.** City hereby affirms, without exception or reservation whatsoever, that the First Agreement terminated and IS void and of no effect whatsoever as of July 1, 2024 due to Company failing to complete the Phase 1 Improvements prior to June 30, 2024. City further affirms, without exception or reservation whatsoever, that (a) City has no rights under the First Agreement, (b) City waives and discharges any amount allegedly owed by Company to City under the First Agreement resulting from the automatic termination of the First Agreement including but not limited to the \$100,000 payment plus interest currently due and owing to the City under section 9.4 of the First Agreement, (c) Company owes City no obligations under the First Agreement, including but not limited to any obligations that survive termination of the First Agreement, and (d) Company does not now and will not in the future, under any circumstances whatsoever, owe City any duty under the First Agreement. **CITY HEREBY RELEASES AND DISCHARGES COMPANY FROM ANY AND ALL OBLIGATIONS OF COMPANY UNDER THE FIRST AGREEMENT, INCLUDING BUT NOT LIMITED TO OBLIGATIONS THAT SURVIVE TERMINATION OF THE FIRST AGREEMENT, AND, TO THE FULLEST EXTENT ALLOWED BY LAW, AGREES TO DEFEND, HOLD HARMLESS AND INDEMNIFY COMPANY AGAINST ANY AND ALL CLAIMS BY ANY THIRD PARTY ARISING OUT OF THE CLAIMS RELEASED HEREIN BY CITY.**

4. **Counterparts.** This Affirmation 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 Affirmation shall be deemed effective as the original signature of such party to this Affirmation.

5. **Severability.** If any term or provision of this Affirmation 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 Affirmation 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 Affirmation.

6. **Entire Agreement.** This Affirmation sets forth the entire agreement between the Parties with respect to the subject matter hereof. There are no oral agreements between the Parties. Notwithstanding the foregoing, the City acknowledges and agrees it has represented to Company that the City intends to replace the First Agreement with a new Economic Development Program Agreement (Chapter 380 Agreement) between the City and Company.

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

8. Existing Easements. Nothing in this Affirmation terminates or otherwise affects any easements on the Property or off-site easements that are dedicated for the benefit of the Property. It is the intent of the Parties that all such easements continue in full force and effect notwithstanding anything contained in this Affirmation.

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

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

ATTEST:

CITY OF MESQUITE,
a Texas home rule municipality

By: _____
Sonja Land
City Secretary

By: _____
Name: Cliff Keheley
Title: City Manager

Date: _____

APPROVED AS TO LEGAL FORM:

City Attorney or his Designee

STATE OF TEXAS)
)
COUNTY OF DALLAS)

This instrument was acknowledged before me this ____ day of _____, 2025, by Cliff Keheley, as City Manager, on behalf of said City of Mesquite.

My Commission Expires:

Notary Public, State of Texas

Printed Name of Notary Public

LF GATEWAY LP,
a Texas limited partnership

By: LF Gateway GP LLC
a Texas limited liability company
Its: General Partner

By: _____
Seth Grubstein, Manager

Date: _____

STATE OF TEXAS)

COUNTY OF _____)

This instrument was acknowledged before me this ____ day of _____, 2025, by Seth Grubstein, as Manager of LF Gateway GP LLC, on behalf of said limited liability company.

My Commission Expires:

Notary Public, State of Texas

Printed Name of Notary Public