RESOLUTION NO. 59-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A PROGRAM TO PROMOTE LOCAL ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN THE CITY; AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE AN ECONOMIC DEVELOPMENT PROGRAM CHAPTER 380 AGREEMENT WITH TDI VALLEYBROOKE LLC, FOR THE CONSTRUCTION AND DEVELOPMENT OF THE PROPERTY LOCATED AT 2400, 2402, 2404, AND 2800 MESQUITE VALLEY ROAD IN THE CITY OF MESQUITE, TEXAS; AND AUTHORIZING THE CITY MANAGER TO FINALIZE, EXECUTE, AND ADMINISTER THE AGREEMENT ON BEHALF OF THE CITY.

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

WHEREAS, Taylor-Duncan Interests, LLC, was awarded RFP #2021-079 for the purchase of 2800 Mesquite Valley Road, a 19.984-acre tract currently owned by the City; and

WHEREAS, Taylor-Duncan Interests, LLC, and/or its affiliate have the adjacent 31.66-acres located at 2400, 2402, and 2404 Mesquite Valley Road, Mesquite, Texas, under contract with plans to combine all of the tracts to construct a master-planned, low density, single-family residential development; and

WHEREAS, these tracts are more particularly described and/or depicted in Exhibits A through D to the Agreement as defined below (the **"Property"**); and

WHEREAS, the 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 property taxes and sales taxes to be collected by the City; and

WHEREAS, the City Council has been presented with a proposed agreement providing economic incentives to TDI Valleybrooke LLC, an affiliate of Taylor-Duncan Interests, LLC (the **"Company"**), for the proposed construction and development of the Property by the Company, a copy of said agreement being attached hereto as Exhibit 1 and incorporated herein by reference (the **"Agreement"**); and

WHEREAS, after holding a public hearing and upon full review and consideration of the Agreement and all matters related thereto, the City Council finds that the 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. That the City Council finds that the terms of the proposed Agreement, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference, will benefit the City and its citizens 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 2. That the City Council hereby adopts an economic development program whereby, subject to the terms and conditions of the Agreement, the City will provide economic development incentives to the Company as more fully set forth in the Agreement.

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

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

SECTION 5. That the City Manager is further hereby authorized to administer the Agreement on behalf of the City including, without limitation, the City Manager shall have the authority to: (i) provide any notices required or permitted by the Agreement; (ii) approve amendments to the Agreement provided such amendments, together with all previous amendments approved by the City Manager, do not increase City expenditures under the Agreement in excess of $50,000; (iii) approve or deny any matter in the 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 Agreement; (iv) approve or deny the waiver of performance of any covenant, duty, agreement, term, or condition of the Agreement; (v) exercise any rights and remedies available to the City under the Agreement; and (vi) execute any notices, amendments, approvals, consents, denials, and waivers authorized by this Section 5 provided, however, notwithstanding anything contained herein to the contrary, the authority of the City Manager pursuant to this Section 5 shall not include the authority to take any action than cannot be delegated by the City Council or that is within the City Council's legislative functions.

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

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 20th day of September 2021.

Bruce Archer
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:

David L. Paschall
City Attorney

EXHIBIT 1

CHAPTER 380 AGREEMENT BETWEEN

THE CITY OF MESQUITE, TEXAS, AND

TDI VALLEYBROOKE LLC

APPROVED BY CITY COUNCIL
DATE 9.20.2021
AGENDA ITEM NO. 24

DEVELOPMENT AGREEMENT
AND
CHAPTER 380 AGREEMENT
(Taylor Duncan/Valley Brooke)

This Development Agreement and Chapter 380 Agreement (this **"Agreement"**), dated as of September 20, 2021 (the **"Effective Date"**), is entered into by and between TDI Valleybrooke LLC, a Texas limited liability company (the **"Developer"**) and the City of Mesquite, a Texas home rule municipality (the **"City"**). The Developer and the City are hereinafter sometimes individually referred to as a **"Party"** and sometimes collectively referred to as the **"Parties."**

RECITALS:

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

WHEREAS, all exhibits referred to in this Agreement are incorporated herein and made a part of this Agreement for all purposes; and

WHEREAS, the City desires to transfer by deed without warranty the City's right, title and interest in and to an approximately 19.984 acre tract of land commonly known as 2800 Mesquite Valley Road, Mesquite, Texas and being more particularly described as being all that certain lot, tract, or parcel of land located in the JOHN ANDERSEN SURVEY, Abstract No. 1, City of Mesquite, Dallas County, Texas, and being the same called 20 acre tract of land described in deed to Esta Ruth Copeland, recorded in Volume 97124, Page 2892, Deed Records, Dallas County, Texas, and being more particularly described in Exhibit A and depicted in Exhibit B (the **"City Tract"**); and

WHEREAS, the City's right, title and interest, if any, in and to the City Tract is hereinafter referred to as the "**City's Interest**"; and

WHEREAS, the City Tract is undeveloped; and

WHEREAS, on or about March 18, 2021 the City issued a request for proposal for bids to purchase the City's Interest and develop the City Tract **("RFP No. 2021-079")**; and

WHEREAS, Taylor-Duncan Interests, LLC, a Texas limited liability company timely responded to RFP No. 2021-079 by filing a proposal to purchase the City's Interest and develop the City Tract through an affiliate (the **"Proposal"**); and

WHEREAS, the Developer is an affiliate of Taylor-Duncan Interests, LLC; and

WHEREAS, the Developer is under contract to purchase the property adjacent to the City Tract located at 2400, 2402 and 2404 Mesquite Valley Road, Mesquite, Texas consisting of approximately 31.66 acres and being more particularly described in Exhibit C and depicted in Exhibit D (the **"Adjacent Tract"**); and

WHEREAS, the City Tract and the Adjacent Tract are hereinafter sometimes collectively referred to as the **"Property"**; and

WHEREAS, the Proposal includes the development of the City Tract together with the Adjacent Tract, to reclaim floodplain, install public infrastructure, and create a master-planned, low density, single-family residential development with deed restrictions and design guidelines to ensure that high quality building standards are met and to provide for open spaces, trails, and amenities, with all common areas to be owned and perpetually maintained by a professionally managed homeowner's association (the **"Project"**); and

WHEREAS, the Developer will be investing a minimum of TWELVE MILLION AND NO/100 DOLLARS ($12,000,000) in connection with the Project including, without limitation, a minimum of TWO HUNDRED SEVENTY ONE THOUSAND AND NO/100 DOLLARS ($271,000.00) in connection with the construction and installation of Amenities, Entry Features, Trails and public improvements; and

WHEREAS, the Property, if built-out to its maximum potential, is anticipated to result in the addition of approximately FIFTY MILLION AND NO/100 DOLLARS ($50,000,000.00) of taxable value of improvements on the Property adding value to the City's tax rolls and substantially increasing the ad valorem real property taxes to be collected by the City; and

WHEREAS, the development of the Property including, without limitation, the construction of homes, trails, amenities, and other improvements on the Property is anticipated to create employment opportunities in the City; and

WHEREAS, it is well established and the City Council finds that the availability of quality housing stock encourages the relocation of businesses, growth of existing businesses and attracts new business enterprises, which in turn stimulates growth, creates jobs and increases property and sales tax revenues; and

WHEREAS, to maximize the Project's economic development impact on the City, it is essential that the Property be developed in compliance with the PD and the Architectural Standards; and

WHEREAS, the development of the Property in compliance with the PD and the Architectural Standards including the open spaces, trails, amenities, and other improvements to be constructed by the Developer as more fully set forth herein will set the Project apart from other nearby residential developments and will attract homebuilders and residential buyers to the Property; and

WHEREAS, the Developer has agreed to develop the Property in compliance with the PD and the Architectural Standards; and

WHEREAS, the Developer's agreement to develop the Property in compliance with the PD and the Architectural Standards is a material consideration for the City's agreement to grant the Economic Development Incentive under the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, the Developer has represented to the City that the Developer will develop the Property sooner if the City provides the Economic Development Incentive to the Developer under the terms and subject to the conditions more fully set forth in this Agreement; and

WHEREAS, the City recognizes the positive impact that the Project will bring to the City and realizes the importance of the use of economic development incentives as a tool to attract new development and to bring employment opportunities to the City; and

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

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

WHEREAS, to incentivize the development of the Property, to encourage and support economic development within the City, and to promote employment, the City desires to facilitate the development of the Property through providing the Economic Development Incentive, upon the terms and subject to the conditions more fully set forth herein; and

WHEREAS, the City Council finds and determines that the investment of public funds in the Project will secure, among other public benefits, the public purpose of promoting state and local economic development and stimulating business and commercial activity in the City and will result in the development and diversification of the economy of the State of Texas and the development and expansion of commerce in the State of Texas; and

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

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

ARTICLE I

INCORPORATION OF RECITALS

The foregoing recitals ("**Recitals**") are incorporated as part of this Agreement, are true and correct, constitute legislative findings of the City, form the basis upon which the Parties have entered into this Agreement and establish the intent of the Parties in entering into this Agreement.

ARTICLE II

DEFINITIONS

Unless the context clearly requires otherwise, the following terms as used in this Agreement shall have the following meanings, to-wit:

"Act" shall have the meaning set forth in Section 5.05 of this Agreement.

"Additional Entry Features" shall have the meaning set forth in Section 5.08(B)(ii).

"Adjacent Tract" shall have the meaning set forth in the Recitals of this Agreement.

"Agreement" has the meaning stated in the first paragraph of this Agreement.

"Amenities" shall have the meaning set forth in Section 5.08 of this Agreement.

"Applicable Law" means any applicable statute, law, treaty, rule, code, ordinance, regulation, permit, interpretation, certificate or order of all Governmental Authorities, or any judgment, decision, decree, injunction, writ, order or like action of any court, arbitrator or other Governmental Authorities applicable to the Property or the Project. Applicable Law includes, but shall not be limited to, the City Regulations.

"Architectural Standards" shall have the meaning set forth in Section 5.03 and shall mean those architectural standards, exterior finish standards, and building façade/elevation standards set forth in Exhibit E.

"Bonds" shall have the meaning set forth in Section 8.01(A) of this Agreement.

"Building Official" shall mean the "Building Official" of the City as defined in Section 202, "Definitions," of Chapter 2, "Definitions," of the International Building Code, 2018 Edition, a publication of the International Code Council, adopted and designated as the official building code of the City, as amended or replaced.

"Building Permit" shall mean a written authorization issued, after review and verification of code compliance, by the Building Official, or the Building Official's designee, to the Developer or a Homebuilder allowing the Developer or Homebuilder to proceed with construction of the Amenities, Trails, Homes, or any other buildings, improvements or facilities of any kind whatsoever on the Property in connection with the Project, and includes any construction-related permit required under Section 105, "Permits," of Part 2, "Administration and Enforcement," of Chapter 1, "Scope and Administration," of the International Building Code, 2018 Edition, a publication of the International Code Council, adopted and designated as the official building code of the City, as amended or replaced.

"CC&Rs" shall mean the declaration of covenants, conditions and restrictions to be imposed by the Developer on the Property as more fully set forth in Section 5.04 and Section 5.10 of this Agreement, which at a minimum shall require that the landscaping installed and the

improvements constructed on the Property shall comply with the PD and the Architectural Standards.

"Certificate of Compliance" means a certificate in such form as is reasonably acceptable to the City executed on behalf of the Developer by a Person duly authorized to act on behalf of the Developer certifying to the City: (i) that all Conditions Precedent have been satisfied; and (ii) that no Developer Default then exists under the terms of this Agreement and that no event exists which, but for notice, the lapse of time, or both, would constitute a Developer Default under the terms of this Agreement.

"City" means the City of Mesquite, Texas.

"City Council" means the City Council of the City.

"City Default" shall have the meaning set forth in Section 11.02 of this Agreement.

"City Engineer" means the person appointed to the position of City Engineer by the City Manager of the City.

"City Manager" means the City Manager of the City.

"City Regulations" 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 PD all of which shall be applied to the development of the Property.

"City Related Party" means City's employees, officers, elected officials, agents, representatives, attorneys, and insurers.

"City Representative" means the City Manager or the City Manager's designee which may include a third-party inspector or representative.

"City Tract" shall have the meaning set forth in the Recitals of this Agreement.

"City Tract Contract for Sale" shall have the meaning set forth in Article IV of this Agreement and shall be in the form attached hereto as Exhibit F.

"City Tract Closing Date" shall mean the Closing Date included in the City Tract Contract of Sale.

"City Tract Purchase Price" shall have the meaning set forth in Article IV of this Agreement.

"City's Interest" shall have the meaning set forth in the Recitals of this Agreement.

"CLOMR" shall have the meaning set forth in Section 5.11 of this Agreement.

"Commence Construction" and **"Commencement of Construction"** with respect to an improvement shall mean that (i) the Plans and Specifications for such improvement have been prepared and all approvals thereof required by applicable Governmental Authorities have been obtained for the construction of such improvement; (ii) all necessary permits for the initiation of construction of such improvement pursuant to the respective Plans and Specifications therefore have been issued by all applicable Governmental Authorities; (iii) the Grading Permit necessary for the initiation of construction of such improvement has been issued by the City; and (iv) grading for the construction of such improvement has commenced.

"Commencement Deadline Date" shall mean the date that is one (1) year after the Effective Date for public improvements, two (2) years after the Effective Date for amenities and trails, and three (3) years after the Effective Date for the first Home.

"Complete Construction" and **"Completion of Construction"** with respect to an improvement shall mean that (i) the Building Official, or the Building Official's designee, has conducted an inspection of such improvement and the Building Official, or the Building Official's designee, has confirmed in writing that the construction of such improvement complies with (a) the Building Permit issued by the City in connection with the construction of such improvement; (b) all City Regulations; (c) the Architectural Standards; and (d) with respect to all buildings constructed on the Property, such building is in a condition suitable for occupancy; and (ii) in addition to subsection (i) above, with respect to the Trails: (a) the Trails and any easements or rights of way associated with the Trails have been dedicated to the City; and (b) the City has accepted the Trails in writing as evidenced by a letter of acceptance issued by the City.

"Completion Deadline Date" shall mean the date that is three (3) years after the Effective Date for all required improvements other than Homes and ten (10) years after the Effective Date for Homes.

"Conditions Precedent" shall have the meaning set forth in Section 6.01 of this Agreement.

"Copeland Park" is the City park located to the northeast of the Property.

"Developer" means TDI Valleybrooke LLC, its successors and assigns only as permitted pursuant to Section 12.03.

"Developer Default" shall have the meaning set forth in Section 11.01 of this Agreement.

"**Developer Related Party**" means the Developer, its officers, employees, agents, representatives, contractors, subcontractors, contractors' and subcontractors' employees, agents and representatives.

"Economic Development Incentive" shall mean the economic development incentive described in Article VI of this Agreement.

"Effective Date" means the date set forth in the first paragraph of this Agreement.

"Entry Features" shall have the meaning set forth in Section 5.08(B)(iii) of this Agreement.

"Entry Monument Signs" shall have the meaning set forth in Section 5.08(A) of this Agreement.

"Environmental Laws" means all applicable environmental laws, rules and regulations with respect to health, the environment, and endangered species and wetlands including, without limitation, (a) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9601, et. seq.), as amended; (b) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901, et. seq.), as amended; (c) the Endangered Species Act (16 U.S.C. §1531, et seq.), as amended; (d) the Hazardous Materials Transportation Act (49 U.S.C. § 5101, et. seq.), as amended; (e) the Clean Air Act of 1974 (42 U.S.C. § 7401, et. seq.), as amended; (f) the Clean Water Act, (33 U.S.C. §1251, et. seq.), as amended; (g) the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.), as amended; (h) Chapter 361 of the Texas Health & Safety Code, as amended; (i) the Texas Water Code, as amended; (j) the Texas Natural Resource Code, as amended; (k) the Texas Solid Waste Disposal Act, as amended; and (l) all other federal, state and local laws, statutes, ordinances, rules, and regulations now existing and those promulgated in the future, as amended, that regulate the use, storage, treatment, generation, disposal, transportation, discharge, release, threatened release and/or remediation of Hazardous Substances.

"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.

"FEMA" shall mean the Federal Emergency Management Agency, and its successor or replacement agency.

"Force Majeure" means a major unforeseeable act or event that: (i) materially and adversely affects the affected Party's ability to timely perform the relevant obligation under this Agreement; (ii) is beyond the reasonable control of the affected Party; (iii) is not caused by any act or omission on the part of the affected Party or the affected Party's officers, employees, agents, servants, contractors, subcontractors, or any Person entering the Property under the express or implied invitation of the affected Party; and (iv) could not have been prevented or avoided by the Party who suffers it by the exercise of commercially reasonable efforts. **"Force Majeure"** must satisfy each of the above requirements and shall include: (a) natural phenomena and acts of God such as lightning, floods, hurricanes, tornadoes and earthquakes; (b) explosions; (c) fires; (d) wars, civil disturbances and terrorism; (e) strikes or other labor disputes that are not due to the breach of any labor agreement by the affected Party; and (f) pandemics and epidemics in which a governmental entity issues a stop work order with respect to residential construction within the Property and prevents the City from issuing permits or other required approvals for residential construction within the Property provided, however, that in no event will **"Force Majeure"**

include: (1) a governmental order that prevents Developer, or its contractors or subcontractors, from proceeding with the construction of any improvements on the Property as a result of the Developer's, or its contractors' or subcontractors' failure to comply with Applicable Law; (2) any financial or economic hardship; (3) insufficiency of funds; (4) changes in market or economic conditions; (5) any strike or labor dispute involving the employees of the Developer, other than industry or nationwide strikes or labor disputes; (6) weather conditions which could reasonably be anticipated by experienced contractors operating at the Property; (7) the occurrence of any manpower, material or equipment shortages; or (8) any delay, default or failure (financial or otherwise) of the general contractor or any subcontractor, vendor or supplier of the affected Party.

"Form 1295 Certificate" shall have the meaning set forth in Section 12.23 of this Agreement.

"Governmental Authorities" means all federal, state, and local governmental entities (including any taxing authority), and agencies, courts, tribunals, regulatory commissions or other bodies, whether legislative, judicial or executive (or a combination or permutation thereof), and any arbitrator to whom a dispute has been presented under Applicable Law, pursuant to the terms of this Agreement, or by agreement of the Parties.

"Grading Permit" shall mean a written authorization for the "Release of Infrastructure Improvements" issued by the City upon issuance of release stamped construction plans, after review and verification of code compliance, by the City Engineer, or the City Engineer's designee, to the Developer allowing the Developer to proceed with the fill, grading, excavation or otherwise disturb the surface on the Property. The infrastructure improvements shall include, but not be limited to, water, sanitary sewer, storm sewer, and drainage improvements.

"Hazardous Substances" means (i) petroleum and petroleum products; (ii) asbestos and asbestos-containing materials in any form, whether friable or non-friable; (iii) polychlorinated biphenyls; (iv) radon gas; (v) flammables, explosives, radioactive substances; (vi) all substances and materials (whether solid, liquid, or gas) that are classified, defined, or listed as hazardous wastes, hazardous substances or hazardous materials in the Environmental Laws; (vii) pollutants; (viii) toxic materials, toxic substances, toxic waste; and (ix) all other substances, materials and wastes that are now or hereafter prohibited or regulated by the Environmental Laws.

"HOA" shall have the meaning set forth in Section 5.10(A).

"HOA Maintenance Agreement" shall mean a maintenance agreement between the HOA and the City containing such terms and provisions as are acceptable to the City in the City's reasonable discretion identifying standards for maintenance of the improvements being maintained by the HOA.

"HOA Maintained Improvements" shall have the meaning set forth in Section 5.10(A).

"Homebuilder" means a merchant homebuilder that purchases all or a portion of the Property from the Developer for the purpose of constructing homes on the lots within the Property.

"Homes" shall have the meaning set forth in Section 5.09 of this Agreement.

"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).

"North Mesquite Creek Open Space" shall have the meaning set forth in Section 5.10(A) of this Agreement.

"Open Space/Parkland" shall have the meaning set forth in Section 5.12 of this Agreement.

"Payment Request" shall mean a written request executed by the Developer and delivered to the City to the attention of the City's Director of Finance requesting the payment of the Economic Development Incentive.

"Parties" means the City and the Developer.

"Party" means either the City or the Developer.

"PD" means the Planned Development-Residential Zoning District Ordinance No. 4889 approved by the City Council on August 16, 2021, as amended.

"Person" or **"Persons"** shall mean one or more individual(s), 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.

"Plans and Specifications" with respect to any improvement means engineering and architectural drawings and schematic designs for the construction of such improvement.

"Program" shall have the meaning set forth in the Recitals of this Agreement.

"Project" shall have the meaning set forth in the Recitals of this Agreement.

"Property" shall have the meaning set forth in the Recitals of this Agreement.

"Public Trail Easement" shall have the meaning set forth in Section 5.07 of this Agreement and shall be substantially in the form attached hereto as Exhibit G.

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

"Trails" shall have the meaning set forth in Section 5.07(A) of this Agreement.

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

"Valley Brooke Community Master Plan" shall mean that certain master plan for the Valley Brooke Development attached hereto as Exhibit H.

"Valley Brooke Development" means that residential development to be developed and constructed on the Property as contemplated by the PD and this Agreement.

ARTICLE III

AUTHORITY FOR AGREEMENT

This Agreement is authorized by Article III, Section 52-a of the Texas Constitution and V.T.C.A., Local Government Code, Chapter 380. The City Council finds and determines that this Agreement will effectuate the purposes set forth in the Program and that the Developer's performance of its obligations herein will: (i) increase the amount of real property ad valorem taxes assessed and collected by the City; (ii) result in employment opportunities being created in the City; (iii) promote economic development in the State of Texas and result in the development and diversification of the economy of the State of Texas and the development and expansion of commerce in the State of Texas; (iv) promote local economic development in the City, stimulate business and commercial activity in the City; and (v) benefit the City and its citizens.

ARTICLE IV

CITY TRACT

Contemporaneously with the execution of this Agreement, the City and the Developer will execute an agreement for the City to transfer by deed without warranty to the Developer all of the City's Interest in and to the City Tract, and for the Developer to purchase the City's Interest from the City (the **"City Tract Contract for Sale"**) for the purchase price of TWO HUNDRED SEVENTY ONE THOUSAND AND NO/100 DOLLARS ($271,000.00) (the **"City Tract Purchase Price"**), upon the terms and subject to the conditions more fully set forth therein, a true and correct copy of the City Tract Contract for Sale being attached hereto as Exhibit F.

ARTICLE V

DEVELOPER COVENANTS

In consideration of the City's agreement to grant the Economic Development Incentive to the Developer upon the terms and subject to the conditions more fully set forth herein, and as an inducement to the City to enter into this Agreement, the Developer represents, covenants and agrees as follows, to-wit:

Section 5.01 Purchase of the City's Interest. The Developer will purchase the City's Interest for the City Tract Purchase Price on or before the City Tract Closing Date.

Section 5.02 Purchase of the Adjacent Tract. The Developer will purchase the Adjacent Tract on or before one (1) year after the Effective Date.

Section 5.03 Development of the Property. The Developer covenants and agrees to plan, design, construct, and complete, or cause the planning, design, construction, and completion of the Project in compliance with: (i) the applicable City Regulations in effect on the Effective Date including, without limitation, the PD; (ii) the Architectural Standards attached hereto as Exhibit E (the **"Architectural Standards"**); and (iii) the CC&Rs. The Developer covenants and agrees to obtain or cause others to obtain a Grading Permit for the Project within one (1) year after the Effective Date.

Section 5.04 CC&Rs.

A. CC&Rs Minimum Requirements. The CC&Rs at a minimum will require compliance with the PD and the Architectural Standards. The CC&Rs will recite that the City is a prior owner of a portion of the property subject to the restrictions, that the City has provided economic development incentives to the Developer to ensure that the property subject to the restrictions is developed in compliance with the Architectural Standards, and that the City has an interest in the development of the property subject to the restrictions. The CC&Rs shall provide that the CC&Rs touch and concern the land, are covenants running with the land, and shall provide that the City shall have the right to enforce the CC&Rs by proceedings at law or in equity.

B. Imposition and Recordation of CC&Rs. The Developer agrees to impose the CC&Rs on the Property and record the CC&Rs as covenants, conditions and restrictions against the Property in the Official Public Records of Dallas County, Texas, (i) within ten (10) days after recording a final plat for all or any portion of the Property. and (ii) prior to the conveyance by the Developer of all or any portion of the property to any Person including, without limitation, a Homebuilder. The Developer shall provide the City with a copy of the CC&Rs that have been recorded against the Property within ten (10) days after such CC&Rs have been recorded in the Official Public Records of Dallas County, Texas.

C. Modifications to the CC&Rs. Developer shall not make any changes to the Architectural Standards without the prior written consent of the City, which may be withheld in the City's discretion, and shall not release or make any modifications to the Architectural Standards included as part of the CC&Rs, without the prior written consent of the City, which may be withheld in the City's discretion. Developer shall cause each Homebuilder that purchases all or any portion of the Property to contractually agree: (i) to develop the portion of the Property purchased by such Homebuilder in compliance with the Architectural Standards, and the CC&Rs; and (ii) to not release or make any modifications to the Architectural Standards included as part of the CC&Rs without the prior written consent of the City, which may be withheld in the City's discretion. The Developer agrees to enforce any failure by any Homebuilder and/or any other Person that purchases all or any portion of the Property to develop the Property in compliance with the Architectural Standards and the CC&Rs.

Section 5.05 Building Materials and Aesthetics. The Parties acknowledge that effective September 1, 2019, the Legislature of the State of Texas enacted HB 2439, codified at V.T.C.A., Government Code, Title 10, Subtitle Z "*Miscellaneous Provisions Prohibiting Certain Government Actions*", Chapter 3000 "*Governmental Action Affecting Residential and Commercial Construction*, regarding the regulation by municipalities of building products, materials, and aesthetic methods for residential and commercial buildings (the **"Act"**). Specifically, §3000.002

of the Act prohibits cities from adopting or enforcing a rule, charter provision, ordinance, order, building code or other regulation that prohibits or limits the use or installation of certain building products or materials or that establishes certain standards for building products, materials or aesthetic methods. The Developer agrees that, notwithstanding the Act, in consideration of the agreement of the City to pay the Economic Development Incentive to the Developer under the terms and subject to the conditions set forth in this Agreement and to induce the City to enter into this Agreement, the Developer is contractually agreeing to plan, design, construct, and complete, or to cause the planning, design, construction, and completion, of the Amenities, Entry Features, Homes, and all other buildings, improvements and facilities constructed on the Property in compliance with the Architectural Standards. The Parties acknowledge that the provisions of this Section 5.05 are material to the City's agreement to grant the Economic Development Incentive 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 Amenities, Entry Features, Homes, and all other buildings, improvements and facilities constructed on the Property in compliance with the Architectural Standards are covenants that touch and concern the Property and that it is the intent of the Parties that such terms, provisions, covenants, conditions and agreements touch and concern the land, shall run with the land, and shall be binding upon the Developer, its successors and assigns, and all subsequent owners of the Property including, without limitation, the Homebuilders.

Section 5.07 Sidewalks/Trails.

A. Sidewalks/Trails to be Constructed by Developer. The Developer shall plan, design, construct, and complete the following sidewalks/trails on the Property generally in the location and as depicted in the PD (collectively the **"Trails"**):

(i) 6' sidewalk/trail generally meandering through the open space within the Valley Brooke Development along Mesquite Valley Road;

(ii) 6' sidewalk/trail generally meandering through the open space along the existing North Mesquite Creek on the east side of the Valley Brooke Development;

(iii) 5' sidewalks/trails through the open space in the interior block of the Valley Brooke Development; and

(iv) 5' sidewalks within the right-of-way adjacent to any open space within the Valley Brooke Development that does not include a sidewalk/trail noted in Sections 5.07(A)(i) through (iv) above; and

(v) trails and/or access easements shall also be provided by the Developer to allow sidewalk connection to the trail network for Copeland Park.

The Developer shall dedicate the Trails to the City by final plat or by separate instrument, as determined by the City, at no cost to the City upon completion of the Trails and acceptance of the Trails in writing by the City. Upon acceptance of the Trails in writing by the City, the City will own and maintain the Trails. If requested by the City as an alternative to a dedication by final plat, and upon the earlier of: (a) completion of the Trails; or (b) recording a final plat that includes the Trails, the Developer shall execute and deliver to the City, at no cost to the City, a public trail

easement in the form attached hereto as Exhibit G (the **"Public Trail Easement"**) with respect to all portions of the Trails that are located or to be located on property not owned by the City and for the portion of the nature trail to be constructed by the City on the northern portion of the City Tract generally in the location and as depicted on the Valley Brooke Community Master Plan attached hereto as Exhibit H. The legal description and a depiction of the portion of the Property to be subject to the Public Trail Easement shall be prepared at the cost and expense of the Developer but shall be subject to the review and approval of the City. To the extent there is a conflict between this Section 5.07 and Article VII below, Article VII will control.

B. Trails Design. The Trails shall connect with the trails constructed or to be constructed by the City to the north of the Property as indicated on the Valley Brooke Community Master Plan including, without limitation, the City trail system for Copeland Park. The Developer shall submit the design and construction plans for the Trails to the City Manager and receive written approval of such plans from the City Manager if such plans are in compliance with the PD and the Valley Brooke Community Master Plan prior to the Commencement of Construction of the Trails. **Compliance with this Section 5.07(D) shall be a condition precedent to the payment of the Economic Development Incentive and to the City's acceptance of the Trails and the failure of the Developer to obtain the City Manager's approval of the design and construction plans for the Trails prior to the Commencement of Construction of the Trails shall be a Developer Default under the terms of this Agreement.**

C. Construction of the Trails. The Developer will construct or cause others to construct the Trails in accordance with the design and construction plans approved by the City Manager pursuant to Section 5.07(D), the Plans and Specifications for the Trails approved in writing by the City, and in compliance with the PD and all City Regulations. The Developer will Commence Construction of the Trails on or before the Commencement Deadline Date and will Complete Construction of the Trails on or before the Completion Deadline Date.

D. Minimum Investment. The Developer will make expenditures of at least TWO HUNDRED SEVENTY ONE THOUSAND AND N0/100 DOLLARS ($271,000.00) in connection with the planning, design, construction, and completion of the Amenities, Entry Features, Trails and public improvements during the period commencing with the Effective Date and continuing thereafter until and including the Completion Deadline Date.

Section 5.08 Amenities and Entry Features..

A. Amenities. The Developer shall or shall cause others to plan, design, construct, and complete a minimum of four (4) of the following amenities within the Property generally in the location and as depicted in the PD (collectively the **"Amenities"**):

(i) Fire Pit;

(ii) Benches;

(iii) Pavilion consisting of a minimum of 600 square feet;

(iv) Open space consisting of a minimum of 8,000 square feet of continuous area; and

(v) Play structure.

The Amenities shall be owned and maintained by the HOA and shall not be paid for or reimbursed by the City. The Developer will Commence Construction of the Amenities on or before the Commencement Deadline Date and will Complete Construction of the Amenities on or before the Completion Deadline Date.

B. Entry Feature Requirements.

(i) The Developer shall plan, design, construct, and complete two (2) entry monuments, one (1) at the primary entrance to the Valley Brooke Development and one (1) at the secondary entrance to the Valley Brooke Development (collectively the **"Entry Monument Signs"**). The Entry Monument Signs shall be located generally as depicted in the PD and shall be constructed in compliance with the PD and the Architectural Standards.

(ii) The Developer shall plan, design, construct, and complete: (a) entry areas for the Valley Brooke Development that include some element of hardscape, such as horizontal or vertical structures, walls, raised planting beds, water features, or textured pavement, that compliments the screening, fencing, or landscaping along Mesquite Valley Road; and (b) an irrigated landscaped area consisting primarily of bushes, shrubs and ornamental grasses that is equal to or greater in size than the total surface area of the Entry Monument Signs and shall be installed around the base of the Entry Monument Signs (collectively the **"Additional Entry Features"**).

(iii) The Entry Monument Signs and the Additional Entry Features (collectively the **"Entry Features"**) shall be owned and maintained by the HOA and shall not be paid for or reimbursed by the City. The Developer will Commence Construction of the Entry Features on or before the Commencement Deadline Date and will Complete Construction of the Entry Features on or before the Completion Deadline Date.

D. Design of Amenities and Entry Features. The Developer shall submit the design and construction plans for the Amenities and Entry Features to the City Manager and receive written approval of such plans from the City Manager, if consistent with the PD and this Agreement prior to the Commencement of Construction of the Amenities and Entry Features. **Compliance with this Section 5.08(D) shall be a condition precedent to the payment of the Economic Development Incentive and the failure of the Developer to obtain the City Manager's approval of the design and construction plans for the Amenities and Entry Features, prior to the Commencement of Construction of the Amenities and Entry Features shall be a Developer Default under the terms of this Agreement.**

E. Construction of the Amenities and Entry Features. The Developer will construct the Amenities and Entry Features in accordance with Plans and Specifications approved in writing by the City and in compliance with the PD, the Architectural Standards, and all City Regulations.

Section 5.09 Construction of Homes. The Developer will plan, design, construct, and complete, or will cause Homebuilders to plan, design, construct, and complete a minimum of two hundred (200) single-family residential buildings on the Property (the **"Homes"**) in accordance with Plans and Specifications approved in writing by the City and in compliance with the PD, the Architectural Standards, the CC&Rs and all City Regulations. The Developer will Commence Construction of the Homes, or will cause the Homebuilders to Commence Construction of the Homes, on or before November 1, 2024, and will Complete Construction of a minimum of two hundred (200) Homes, or will cause the Homebuilders to Complete Construction of a minimum of two hundred (200) Homes, on or before the date that is ten (10) years after the Effective Date.

Section 5.10 Establish Mandatory Homeowners' Association.

A. Mandatory Homeowners' Association. The Developer will create a mandatory homeowners' association (**"HOA"**) covering the Property after recording the final plat for the Valley Brooke Development but before any lot is conveyed to a Homebuilder, which HOA, through the CC&Rs filed of record in the property records of Dallas County, Texas, will be required to assess and collect from property owners within the Valley Brooke Development annual fees in an amount calculated to maintain the Open Space/Parkland to be conveyed to the City but maintained by the HOA along the existing North Mesquite Creek on the east side of the Valley Brooke Development (the **"North Mesquite Creek Open Space"**), the Amenities, the Entry Monument Signs, all privately owned open spaces in the Valley Brooke Development including, without limitation, the open space along Mesquite Valley Road, all other areas to be maintained by the HOA set forth in Section 5.10(C) and Section 5.10(D), all common areas, right-of-way irrigation systems, raised medians and other right-of-way landscaping, detention areas, drainage areas, screening walls, parks, lawns, and all other common improvements or appurtenances identified as Amenities within the Valley Brooke Development (the **"HOA Maintained Improvements"**).

B. Maintenance By City. All public property dedicated to the City and accepted by the City in writing will be maintained by the City unless otherwise stated in this Section 5.10 or in an HOA Maintenance Agreement.

C. Maintenance by HOA. All property owned by the HOA will be maintained by the HOA.

D. Specific Maintenance Items.

(i) North Mesquite Creek Open Space. Pursuant to an HOA Maintenance Agreement, the HOA shall agree to maintain the North Mesquite Creek Open Space including, without limitation, the landscaping adjacent to the trail pavement in the North Mesquite Creek Open Space area consistent with the standards set forth herein and the final landscape design.

(ii) Major Trail Segment. Pursuant to an HOA Maintenance Agreement, the HOA shall agree to maintain landscaping adjacent to the Trail pavement in the open space area adjacent to Mesquite Valley Road consistent with the standards set forth herein and the final landscape design.

E. Maintenance Standards. Maintenance will be at "Class A" level where turf grass and other landscaping features are present as defined in the HOA Maintenance Agreement. Maintenance will be at a "Class B" level where natural features are present, as set forth in the HOA Maintenance Agreement.

(i) Maintenance at a "Class A" level will mean mowing (at least every two weeks) during the growing season or upon request by the City; trimming or edging of turf along pavement and landscape boarders; and maintenance of beds, shrubs, ground cover, trees, mulch, landscape borders, and other landscape design features.

(ii) Maintenance at a "Class B" level will mean mowing 10 feet along each side of trail pavement on a weekly or every other week schedule. Areas beyond ten feet from a trail area will be mowed on a four- week schedule. If wildflowers or natural landscape features are used, mowing can be adjusted to meet accepted maintenance standards.

(iii) Irrigation systems will be inspected monthly and maintained.

F. Maintenance by Developer. All property owned by the Developer will be maintained by the Developer. All improvements anticipated herein to be maintained by the HOA shall be maintained by the Developer until such time as the Developer transfer ownership of the improvement to the HOA.

G. Approval and Execution of HOA Maintenance Agreement. The HOA Maintenance Agreement must be approved and executed before the Grading Permit is issued by the City.

Section 5.11 CLOMR. The Developer will request a Conditional Letter of Map Revision (**"CLOMR"**) from FEMA to reclaim a portion of the City Tract from the floodplain and will conduct, or will have conducted on its behalf, all tests and studies necessary or requested in connection therewith, at the Developer's sole cost and expense. The Parties agree that any portion of the City Tract that is un-reclaimed from the floodplain after the issuance of the CLOMR will be dedicated by the Developer to the City by the final plat of the Property or by separate instrument free and clear of all liens and encumbrances and at no cost to the City. Contemporaneously with the dedication of such un-reclaimed property, if necessary for the City to access the un-reclaimed property, the Developer shall also grant to the City an easement over such portions of the City Tract as is reasonably necessary for the City to access and maintain the un-reclaimed property being dedicated to the City. The legal descriptions and depictions of the un-reclaimed property to be dedicated to the City and the portion of the City Tract to be subject to the access easement to maintain such un-reclaimed property shall be prepared at the sole cost and expense of the Developer but shall be subject to the review and approval of the City.

Section 5.12 Open Space/Parkland Dedication. The Developer will provide the open spaces and dedicate land to the City for parks in compliance with the PD. No additional open space, parkland dedication or fees-in-lieu of parkland dedication shall be required for the Valley Brooke Development. The open space/parkland described in Section 5.12 above (the **"Open Space/Parkland"**) shall be dedicated by the Developer to the City on or before the first anniversary of the Effective Date pursuant to a special warranty deed in form reasonably

acceptable to the City. Contemporaneously with the conveyance of the Open Space/Parkland to the City, the Developer shall provide to the City an owner's title policy covering the Open Space/Parkland issued by a title company reasonably acceptable to the City insuring fee simple title to the Open Space/Parkland in the City free and clear of all liens and encumbrances. The legal descriptions and depictions of the property to be dedicated to the City as Open Space/Parkland shall be prepared at the cost and expense of the Developer but shall be subject to the review and approval of the City.

Section 5.13 Miscellaneous Covenants.

A. Records and Reports. The Developer shall deliver to the City within thirty (30) days after written request, copies of such invoices, paid receipts, payment records, lien waivers, bills paid affidavits and such other documentation as the City may reasonably request to confirm the actual costs incurred in connection with the construction of the Amenities, Entry Features and Trails and to confirm compliance by the Developer with the representations, covenants, and agreements of the Developer set forth in this Agreement; and

B. Inspection. The Developer shall provide, and shall cause all Homebuilders to provide the City, its agents, representatives, employees, independent contractors, and consultants, with access to the Property at such times as the City may reasonably request to conduct such inspections as the City deems necessary in order to confirm compliance by the Developer with the representations, covenants, and agreements of the Developer set forth in this Agreement provided the City has given the Developer at least seventy-two (72) hours prior written notice of such inspection, provided however, this paragraph is not meant to alter or change the City's inspection procedures done through the permitting process; and

C. Representative of Developer to Accompany Inspections. The Developer shall provide a representative of the Developer to accompany the City during all inspections of the Property conducted by the City pursuant to Section 5.13(B) above; and

D. Timely Payment of Taxes. The Developer shall timely pay all ad valorem taxes assessed against all property owned by the Developer in the City prior to the date such taxes become delinquent; and

E. Maintenance Obligations. The Developer shall comply, and shall cause all Homebuilders to comply, with all City Regulations including, without limitation, all building codes, zoning ordinances and all other codes, ordinances and regulations of the City during the term of this Agreement; and

F. Compliance with Laws. The Developer shall comply with all federal, state, and local laws, ordinances and regulations relating to the ownership and operation of the Property during the Term of this Agreement and shall cause all Homebuilders that purchase all or any portion of the Property to comply with all federal, state, and local laws, ordinances and regulations relating to the ownership and operation of all portions of the Property owned by such Homebuilders during the Term of this Agreement; and

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

Section 5.14 Covenant Not to Employ Undocumented Workers.

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

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

C. Repayment of Economic Development Incentives in Event of Conviction for Employing Undocumented Workers. If, after receiving all or any portion of the Economic Development Incentive under the terms of this Agreement, the Developer, or a branch, division or department of the Developer, is convicted of a violation under 8 U.S.C. §1324a (f), the Developer shall pay to the City, not later than the 120th day after the date the City notifies the Developer of the violation, an amount equal to the Economic Development Incentive previously paid by the City to the Developer 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 Economic Development Incentive being recaptured from the date the Economic Development Incentive was paid by the City to the Developer until the date the Economic Development Incentive is repaid by the Developer to the City and such interest rate shall adjust periodically as of the date of any change in the Maximum Lawful Rate.

D. Limitation on Economic Development Incentives. The City shall have no obligation to pay any Economic Development Incentive to the Developer if the Developer, or any branch, division or department of the Developer is convicted of a violation under 8 U.S.C. §1324a (f).

E. Remedies. The City shall have the right to exercise all remedies available by law to collect any sums due by the Developer to the City pursuant to this Section 5.14 including, without limitation, all remedies available pursuant to Chapter 2264 of the Texas Government Code.

F. Limitation. The Developer is not liable for a violation of Section 5.14 of this Agreement by a subsidiary, affiliate, or franchisee of the Developer, or by a person with whom the Developer contracts.

Section 5.15 Survival. The terms, provisions, covenants, agreements, obligations and indemnities of the Developer and the rights and remedies of the City set forth in Article V of this Agreement shall survive the expiration or termination of this Agreement for ten (10) years.

ARTICLE VI

ECONOMIC DEVELOPMENT INCENTIVE

Section 6.01 Conditions Precedent to Economic Development Incentive. The Developer and the City hereby expressly acknowledge and agree that the payment of the Economic Development Incentive by the City to the Developer shall expressly be conditioned upon the satisfaction of the following conditions precedent: (i) as of the date of the Payment Request submitted in connection with such payment; and (ii) as of the date of such payment (the **"Conditions Precedent"**), to-wit:

A. Payment Request. The Developer shall have submitted to the City's Finance Director at 757 N. Galloway, Mesquite, Texas 75149, a Payment Request for the payment of the Economic Development Incentive accompanied by a Certificate of Compliance dated effective as of the date of such Payment Request; and

B. Closing on City's Interest. The transfer by deed without warranty from the City to the Developer of the City's right, title and interest, if any, in and to the City Tract shall have closed and funded on or before the City Tract Closing Date and good funds in the amount of the City Tract Purchase Price shall have been paid to and received by the City; and

C. Closing on the Adjacent Tract. The sale and purchase of the Adjacent Tract shall have closed and funded on or before one (1) year after the Effective Date, and Developer shall be the sole owner of the Adjacent Tract; and

D. CLOMR. The Developer has received the CLOMR from FEMA; and

E. Grading Permit. The Developer shall have obtained a Grading Permit for the Project on or before one (1) year after the Effective Date; and

F. Imposition and Recording of CC&Rs. The Developer shall have imposed the CC&Rs on the Property and timely recorded the CC&Rs as covenants, conditions and restrictions against the Property in the Official Public Records of Dallas County, Texas; and

G. Minimum Investment. Developer shall have made expenditures in the amount of at least TWO HUNDRED SEVENTY ONE THOUSAND AND NO/100 DOLLARS ($271,000.00) in connection with the planning, design, construction, and completion of the Amenities, Entry Features and Trails and shall have provided the City with documentation reasonably acceptable to the City to evidence such expenditures; and

H. Approval of Design and Plans for Trails, Amenities, and Entry Features. The City Manager shall have approved in writing the design and construction plans for the Trails, Amenities, and Entry Features; and

I. Open Space/Parkland. The Developer shall have timely conveyed the Open Space/Parkland to the City free and clear of all liens and encumbrances by special warranty deed in form reasonably acceptable to the City at no cost to the City; and

J. Final Plat for First Phase. A final plat for the first phase of the residential portion of the Project shall have been filed in the Official Public Records of Dallas County, Texas; and

K. Performance of this Agreement by Developer. The Developer shall have timely kept and performed all terms, provisions, agreements, covenants, conditions, and obligations to be kept or performed by the Developer under the terms of this Agreement and no Developer Default shall then exist and no event shall exist which, but for notice, the lapse of time, or both, would constitute a Developer Default under the terms of this Agreement; and

L. Records and Reports. The Developer 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 the Developer with the terms, provisions, agreements, covenants, and conditions of this Agreement; and

M. Inspection. The Developer shall have provided the City, its agents, representatives, employees, independent contractors, and consultants, with access to any portion of the Property then owned by Developer, and the Developer shall have caused all Homebuilders to provide the City, its agents, representatives, employees, independent contractors and consultants, with access to any portion of the Property then owned by all Homebuilders, at such times as the City may reasonably request to conduct such inspections as the City deems necessary in order to confirm compliance by the Developer with the terms, provisions, agreements, covenants and conditions of this Agreement provided the City has given the Developer at least seventy-two (72) hours prior written notice of such inspection, and the Developer shall have provided a representative of the Developer to accompany the City during such inspection; and

N. Payment of Taxes. The Developer shall have timely paid all ad valorem taxes then due and payable by the Developer to the City provided, however, that this provision shall not affect the right of the Developer to protest such taxes; and

O. No Conviction for Undocumented Workers. The Developer, and any branch, division, or department of the Developer shall not have been convicted by a court of competent jurisdiction of knowingly employing Undocumented Workers to work for the Developer, or any branch, division, or department of the Developer.

Section 6.02 Economic Development Incentive.

A. Economic Development Incentive. Subject to the annual appropriation of funds, and pursuant to the terms and subject to the conditions set forth in this Agreement including, without limitation, the timely satisfaction of the Conditions Precedent, the City hereby approves an economic development grant to the Developer in the amount equal to TWO HUNDRED SEVENTY ONE THOUSAND AND NO/100 DOLLARS ($271,000.00) (the **"Economic Development Incentive"**). The Economic Development Incentive is an incentive for the Developer to develop the Project and is not a reimbursement for any particular expenditure of the Developer.

B. Payment of the Economic Development Incentive. Subject to the annual appropriation of funds and provided all Conditions Precedent have been timely satisfied, the City

will pay the Economic Development Incentive to the Developer within sixty (60) days after all Conditions Precedent have been satisfied.

Section 6.03 Funds Available for Payment of the Economic Development Incentive. The Economic Development Incentive payable by the City to the Developer as more fully set forth in this Agreement is 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. The Economic Development Incentive shall be paid only from funds of the City authorized by Article III, Section 52-a, of the Texas Constitution and Chapter 380 of the Texas Local Government Code. The Parties agree no other source of funds of the City is subject to the payment of the Economic Development Incentive. The Economic Development Incentive is subject to the City's appropriation of funds for such purpose to be paid in the budget year for which the Economic Development Incentive is to be paid. In the event of any conflict between the terms and provisions of this Section 6.03 and any other term or provision of this Agreement, the terms and provisions of this Section 6.03 shall control. This Section 6.03 shall expressly survive the expiration or termination of this Agreement.

ARTICLE VII

TRAILS

Section 7.01 Construction of the Trails,

A. Prior to the Commencement of Construction of the Trails, Developer shall cause the contractors and subcontractors performing work in connection with the construction of the Trails to purchase and maintain payment, performance and maintenance bonds (singularly a **"Bond"** and collectively the **"Bonds"**) at the times and in the amounts required by City Regulations. Bonds issued with respect to the construction of the Trails shall be delivered to the City prior to the Commencement of Construction of the Trails if required by City Regulations at that time.

B. The Developer shall design and construct or cause the design and construction of the Trails, together with and including the acquisition, at Developer's sole cost, of any and all easements or fee simple title to land necessary to provide for and accommodate the Trails.

C. Developer shall comply, and shall cause Developer's contractors to comply, with all local and state laws and regulations regarding the design and construction of the Trails.

D. Upon Completion of Construction of the Trails, Developer shall provide the City with a final cost summary of the costs and expenses incurred and paid in connection with the construction of the Trails and provide proof that all amounts owing to contractors and subcontractors have been paid in full evidenced by "all bills paid" affidavits executed by Developer and/or its contractors.

E. The Trails shall be constructed, inspected and dedicated to the City in accordance with Applicable Law including, without limitation, all City Regulations. The Developer shall dedicate or convey the Trails and all rights-of-way and easements necessary for the operation, use, maintenance, repair, and replacement of the Trails, by final plat or separate instrument, without

cost to the City, at the Completion of Construction of the Trails and upon acceptance of the Trails in writing by the City.

F. It is understood and agreed by and among the Parties that the Developer is acting independently in the design, construction and development of the Trails and the City assumes no responsibility or liability to any third parties in connection with the Developer's obligations with respect to the design, construction and development of the Trails.

Section 7.02 Contracts for the Construction of the Trails.

A. The construction contract(s) for the Trails shall be let in the name of the Developer. The Developer's engineers shall prepare, or cause the preparation of, and provide all contract specifications and necessary related documents. The Developer shall provide all construction documents for the Trails and shall acknowledge that the City has no obligations and liabilities thereunder. The Developer shall include a provision in the construction documents for the Trails that the contractor will indemnify the City and the City Related Parties against any costs or liabilities thereunder. The Developer shall administer the construction contract(s) for the Trails.

B. The Developer shall pay, or cause to be paid, the costs and expenses incurred in connection with the construction of the Trails.

C. The following requirements apply to all construction contract(s) for the Trails:

(i) All Plans and Specifications for the Trails shall comply with all Applicable Laws and shall be subject to the review and approval of the City prior to the issuance of any permits; and

(ii) Each construction contract for the Trails shall provide that the contractor is an independent contractor, independent of and not the agent of the City and that the contractor is responsible for retaining, and shall retain, the services of necessary and appropriate architects and engineers; and

(iii) Each construction contract for the Trails shall provide that the contractor shall indemnify the City and the City Related Parties for any costs or liabilities thereunder and for the negligent acts or omissions of the contractor and the contractor's agents and employees.

D. The City shall have no responsibility for the costs of planning, design, engineering and construction of the Trails. The Developer will not hold the City responsible for any costs of the Trails. The City shall have no liability for any claims that may arise out of design or construction of the Trails, and the Developer shall cause its contractors, architects, engineers, and consultants to agree in writing that they will look solely to the Developer, not to the City, for payment of all costs and claims associated with construction of the Trails.

Section 7.03 City Not Responsible. By performing the functions described in this Article VIII, the City shall not, and shall not be deemed to, assume the obligations or responsibilities of the Developer relating to the construction of the Trails whose obligations under this Agreement and under Applicable Law shall not be affected by the City's exercise of the functions described in this Article VIII. The City's review of any Plans and Specifications is solely for the City's own

purposes, and the City does not make any representation or warranty concerning the appropriateness of any such Plans and Specifications for any purpose. The City's approval of (or failure to disapprove) any such Plans and Specifications, including any plans submitted with such Plans and Specifications and any revisions thereto, shall not render the City liable for same, and the Developer assumes and shall be responsible for any and all claims arising out of or from the use of such Plans and Specifications.

Section 7.04 Construction of Trails on City Property or Within Public Right-of-Way or Easements. The Trails will be installed on City owned property or within the public right-of-way or in easements granted to the City. Such easements on any portion of the property owned by the Developer may be granted at the time of final platting in the final plat or by separate instrument. The Developer will obtain, at the Developer's sole cost and expense, any easements necessary in connection with the Trails on any property not owned by the Developer and shall delivered such easements to the City prior to the Commencement of Construction of the Trails by separate instrument in recordable form acceptable to the City.

Section 7.05 Trails to be Owned by the City – Title Evidence. The Developer shall furnish to the City a preliminary title report for land with respect to the Trails, including any related rights-of-way, easements, and open spaces if any, to be acquired and accepted by the City from the Developer and not previously dedicated or otherwise conveyed to the City, for review and approval at least thirty (30) calendar days prior to the transfer of title of any Trails to the City, provided, however, that the preliminary title report and any transfer of title of any Trails to the City shall be subject to the approval of the City Representative. The City Representative shall approve the preliminary title report unless it reveals a matter which, in the reasonable judgment of the City, could materially affect the City's use and enjoyment of any part of the property or easement covered by the preliminary title report. In the event the City Representative does not approve the preliminary title report, the City shall not be obligated to accept title to the Trails until the Developer has cured such objections to title to the satisfaction of the City Representative.

Section 7.06 Trails Constructed on the Property. If any Trails are to be constructed on land owned by the City, the City hereby grants to the Developer, for use and benefit of the Developer, a temporary easement to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) of such Trails. If any trails to be constructed by the City as identified on the Valley Brooke Community Master Plan are to be constructed on land owned by the Developer, the HOA, or a Homebuilder, the Developer shall dedicate or cause the HOA or such Homebuilder to dedicate easements by plat or shall execute and deliver to the City or shall cause such HOA or Homebuilder to execute and deliver to the City such access and maintenance easements as the City may reasonably require in recordable form, and the Developer hereby grants to the City a permanent access and maintenance easement to enter upon such land for purposes related to inspection and maintenance of such trails. If any Trails are constructed on land owned by the Developer, the HOA, or a Homebuilder, the Developer shall obtain and deliver to the City at Developer's sole cost and expense, and prior to the Commencement of Construction of the Trails, such permanent access and maintenance easements to enter upon such land for purposes related to inspection and maintenance of such Trails as the City may reasonably require in recordable form containing such terms and provisions as are acceptable to the City. The grant of the permanent easements shall not relieve the Developer of any obligation to grant the City title to property and/or easements related to the Trails or to cause the HOA or any Homebuilder to grant

the City easements related to the Trails as required by this Agreement or as should in the City's reasonable judgment be granted to provide for convenient access to and routine and emergency maintenance of the Trails. The provisions for inspection and acceptance of the Trails otherwise provided herein shall apply.

Section 7.07 Ownership of Trails. All Trails constructed by the Developer shall become the sole property of the City upon Completion of Construction of the Trails in accordance with all City Regulations and the Plans and Specifications approved by the City and acceptance of the Trails by the City in writing. Upon final acceptance by the City in writing, the City shall take the Trails free from any liens and encumbrances thereon.

Section 7.08 Additional Requirements. In connection with the design and construction of the Trails, the Developer shall take or cause the following entities or persons to take the following actions and to undertake the following responsibilities:

A. The Developer shall provide to the City copies (both hard copy and electronic format, to the extent the Developer has both formats), of the Plans and Specifications for the Trails (including revisions) as such Plans and Specifications are currently in existence and as completed after the date hereof and shall provide the City one complete set of record drawings (hard copy and electronic format, to the extent the Developer has both formats) for the Trails, in accordance with Applicable Law; and

B. The Developer shall provide construction documents, including the Plans and Specifications to the City, signed and sealed by one or more registered professional architects or engineers licensed in the State of Texas at the time the construction documents are submitted to the City for approval; and

C. The Developer shall comply with and shall cause all contractors constructing the Trails, and such contractor's agents and subcontractors, to comply with all Environmental Laws; and

D. The Developer, or any general contractor shall notify and obtain the City's approval for all field changes that directly result in material changes to the portion of the Plans and Specifications for the Trails that describe the connection of the Trails with existing City trails; and

E. Upon notice from the City, the Developer shall promptly repair, restore or correct, or shall cause the general contractor constructing all or any portion of the Trails, to promptly repair, restore or correct, on a commercially reasonable basis, all damage caused by the general contractor or its subcontractors to property or facilities of the City during construction of the Trails and to reimburse the City for out-of-pocket costs actually incurred by the City that are directly related to the City's necessary emergency repairs of such damage; and

F. Upon notice from the City, the Developer shall promptly cause the correction of defective work relating to the Trails and shall cause such work to be corrected in accordance with the construction contract(s) for the Trails; and

G. If the Developer performs any soils, construction and materials testing during construction of the Trails, the Developer shall make available to the City copies of the results of all such tests; and

H. If any of the foregoing entities or persons shall fail in a material respect to perform any of its obligations described above (or elsewhere under this Agreement), the Developer shall use commercially reasonable efforts to enforce such obligations against such entities or persons; and

I. The Developer shall provide to the City any other information, documentation, or services required by the City Regulations or this Agreement; and

J. The Developer shall allow the City Representative to conduct a reasonable pre-final and final inspection of the Trails. Upon acceptance by the City of the Trails, the City shall become responsible for the maintenance of the Trails, unless otherwise specified in an HOA Maintenance Agreement.

Section 7.09. Title and Mechanic's Liens.

A. Title. The Developer agrees that the Trails shall not have a lien or cloud on title upon their dedication to and acceptance by the City.

B. Mechanic's Liens. Developer shall not create nor allow or permit any liens, encumbrances, or charges of any kind whatsoever against the Trails arising from any work performed by any contractor by or on behalf of the Developer. The Developer agrees that the Developer will not permit any claim of lien made by any mechanic, materialman, laborer, or other similar liens to stand against the Trails for work or materials furnished to the Developer in connection with any construction, improvements, renovation, maintenance or repair thereof made by the Developer or any contractor, agent or representative of the Developer. The Developer shall cause any such claim of lien to be fully discharged no later than thirty (30) days after the Developer's receipt of written notice of the filing thereof.

Section 7.10 Right of the City to Make Inspection.

A. At any time, the City shall have the right to enter the Property for the purpose of inspecting the progress of construction of the Trails; provided, however, that the City Representative shall comply with reasonable restrictions generally applicable to all visitors to any portion of the Property that is owned by Developer and that are imposed by the Developer or its general contractor or subcontractors.

B. Inspection of the construction of all Trails shall be by the City Representative or his/her designee and third-party inspectors chosen by the City. The Developer shall pay the City's costs for the retention of a third-party inspector for inspections of the Trails.

C. City may enter the Property in accordance with customary City procedures to make any repairs or perform any maintenance of the Trails which the City has accepted for maintenance. If the Developer is in default under this Agreement beyond any applicable cure period or in the event of an emergency which is not being timely addressed, the City may enter the Property to

make any repairs to the Trails that have not been accepted for maintenance by the City, of every kind or nature, which the Developer is obligated under this Agreement to repair or maintain but which the Developer has failed to perform after reasonable notice (other than in the case of an emergency in which notice is impossible or impractical). The Developer shall be obligated to reimburse the City the reasonable costs incurred by the City for any such repairs. Nothing contained in this paragraph shall be deemed to impose on the City any obligation to make repairs or alterations on behalf of the Developer.

D. City Inspections. The Developer acknowledges and agrees that all inspections of the Trails conducted by the City, the City's agents, representatives, employees, engineers and/or independent contractors, shall be for the sole benefit and protection of the City and shall not be for the benefit or protection of the Developer or any other Person. The Developer acknowledges that the Developer, or its duly authorized agents, will make their own inspections of the Trails and that the Developer will not rely on any inspections made by the City, the City's agents, representatives, employees, engineers and/or independent contractors. This Section 7.10 is not meant to alter or change the City's inspection procedures done through the permitting process

ARTICLE VIII - INTENTIONALLY DELETED

ARTICLE IX

INDEMNIFICATION

Section 9.01 RELEASE AND INDEMNIFICATION.

CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE ACTS OR OMISSIONS OF THE DEVELOPER OR ANY DEVELOPER RELATED PARTY PURSUANT TO THIS AGREEMENT. DEVELOPER HEREBY WAIVES AND RELEASES ALL CLAIMS AGAINST CITY AND EACH CITY RELATED PARTY FOR DAMAGES TO ANY PROPERTY OR INJURIES TO, OR DEATH OF, ANY PERSON ARISING OUT OF, SUSTAINED IN CONNECTION WITH, OR INCIDENTAL TO THE PERFORMANCE OF THIS AGREEMENT. THE DEVELOPER HEREBY INDEMNIFIES AND AGREES TO SAVE THE CITY HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF ANY PROPERTY ARISING FROM THE DEVELOPER'S BREACH OF ANY OF THE TERMS, COVENANTS AND CONDITIONS OF THIS AGREEMENT, OR BY REASON OF ANY ACT OR OMISSION OF THE DEVELOPER OR ANY DEVELOPER RELATED PARTY IN THE PERFORMANCE OF THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THE CONSTRUCTION OF THE TRAILS (EXCEPT WHEN SUCH LIABILITIES, CLAIMS, SUITS, COSTS, INJURIES, DEATH OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY OR A CITY RELATED PARTY). IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF BOTH CITY OR ANY CITY RELATED PARTY AND DEVELOPER OR ANY DEVELOPER RELATED PARTY, THE RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY

IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY AND ANY CITY RELATED PARTY AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. NOTHING CONTAINED IN THIS SECTION 9.01 SHALL CONSTITUTE A WAIVER OF ANY GOVERNMENTAL IMMUNITY OR DEFENSE AVAILABLE TO THE CITY OR ANY CITY RELATED PARTY UNDER TEXAS LAW. IF ANY ACTION OR PROCEEDING IS BROUGHT BY OR AGAINST CITY OR ANY CITY RELATED PARTY, DEVELOPER SHALL BE REQUIRED, ON NOTICE FROM CITY, TO DEFEND SUCH ACTION OR PROCEEDING AT DEVELOPER'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY. THE PROVISIONS OF THIS SECTION 9.09 ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON. IF ANY PART OF THIS INDEMNITY IS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, THE REMAINING PORTION OF THIS INDEMNITY SHALL CONTINUE IN FULL FORCE AND EFFECT. THE PROVISIONS OF THIS SECTION 9.01 SHALL EXPRESSLY SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

Section 9.02 Contractors' Release and Indemnities. Developer shall require all contractors and subcontractors constructing all or any portion of the Trails to include provisions in their construction contracts releasing and indemnifying the City in substantially the same form as Section 9.01 above.

ARTICLE X

TERM

This Agreement shall commence on the Effective Date and shall continue until the earlier of: (i) the date on which the City and the Developer have discharged all of their obligations under the terms of this Agreement; and (ii) the date this Agreement is terminated by the City or the Developer pursuant to a right to terminate expressly provided under the terms of this Agreement.

ARTICLE XI

DEFAULT AND REMEDIES

Section 11.01 Default by Developer. The Developer shall be in default of this Agreement upon the occurrence of any one of the following (each a **"Developer Default"**):

A. upon the occurrence of an Event of Bankruptcy or Insolvency of the Developer; or

B. upon any assignment of this Agreement by the Developer in violation of Section 12.03 of this Agreement; or

C. if any statement, warranty, or representation of Developer in this Agreement is materially false as of the date such statement, warranty or representation was made; or

D. if the Developer fails to timely pay any monetary sum to be paid by the Developer to the City under the terms of this Agreement as and when such sum becomes due and payable and such failure continues for thirty (30) days after written notice by the City to the Developer; or

E. if the Developer fails to obtain and maintain or cause others to obtain and maintain the Bonds; or

F. if the Developer fails to obtain the City Manager's approval of the design and construction plans for the Trails, Amenities, and Entry Features, prior to the Commencement of Construction of the Trails, Amenities, and Entry Features, respectively; or

G. if the Developer fails to timely pay any ad valorem or other taxes which are due and payable by the Developer to the City (provided, however, that nothing contained herein shall restrict or prohibit Developer from contesting or protesting any ad valorem taxes which are imposed on property owned by the Developer); or

H. if the Developer and/or any Homebuilder fails to comply with the PD, the Architectural Standards, and/or the CC&Rs in the construction of the Trails, Amenities, Entry Features, any Homes and/or any other improvements on the Property; or

I. if the Developer and/or the Homebuilders fail to construct a minimum of two hundred (200) Homes on the Property within ten (10) years after the Effective Date; or

J. if the Developer fails to timely keep or perform any other term, provision, agreement, covenant, condition or obligation to be kept or performed by the Developer under the terms of this Agreement and such failure continues for sixty (60) days after written notice by the City to the Developer; or

K. if the Developer fails to timely keep or perform any term, provision, agreement, covenant, condition or obligation to be kept or performed by the Developer under the terms of any other agreement between the Developer and the City and such failure continues past any applicable notice and cure period provided to the Developer pursuant to the terms of such agreement including, without limitation, the City Tract Contract for Sale.

Section 11.02 City Default. The City shall be in default of this Agreement upon the occurrence of any of the following (each a **"City Default"**):

A. if any statement, warranty, or representation of the City in this Agreement is materially false as of the date such statement, warranty or representation was made; or

B. if the City fails to timely pay any monetary sum to be paid by the City to the Developer under the terms of this Agreement as and when such sum shall become due and payable and such failure continues for thirty (30) days after written notice by the Developer to the City; or

C. if the City fails to timely keep or perform any other term, provision, agreement, covenant, condition or obligation to be kept or performed by the City under the terms of this Agreement and such failure continues for sixty (60) days after written notice by the Developer to the City.

Section 11.03 Force Majeure. Notwithstanding any provision in this Agreement to the contrary, if the performance of any covenant or obligation to be performed hereunder by any Party is delayed by Force Majeure, the time for performance of such covenant or obligation shall be extended by the number of days of any delay directly caused by and relating to such Force Majeure. The Party claiming delay of performance as a result of any event of Force Majeure shall deliver written notice of the commencement of any such delay resulting from such Force Majeure event and the length the Force Majeure event is reasonably expected to last not later than fifteen (15) business days after the claiming Party becomes aware of the same, and if the claiming Party fails to timely notify the other Party of the occurrence of a Force Majeure event causing such delay, the claiming Party shall not be entitled to avail itself of the provisions for the extension of performance contained in this Section 11.03. The number of days a Force Majeure event is in effect shall be determined by the City Manager based upon commercially reasonable standards.

Section 11.04 Maximum Days for Extension of Performance. The Parties agree that notwithstanding anything contained in this Agreement to the contrary including, without limitation, Section 11.03 of this Agreement, the performance by the Developer of any term, provision, covenant, condition, or obligation to be performed by the Developer pursuant to this Agreement shall not be extended (including any extension as a result of an event of Force Majeure pursuant to Section 11.03 of this Agreement) for more than thirty-six (36) months, collectively.

Section 11.05 Developer Remedies. Upon the occurrence of a City Default, the Developer 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 Economic Development Incentive payment then earned, owed and unpaid by the City as damages in accordance with the following provisions.

The City and the Developer 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 272, 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, the total amount of damages, if any, awarded against the City shall be limited to actual damages in the amount of the Economic Development Incentive earned by the Developer and owed and unpaid by the City, not to exceed the amount of TWO HUNDRED SEVENTY ONE THOUSAND AND NO/100 DOLLARS ($271,000.00). The Parties acknowledge and agree that the Economic Development Incentive shall not be considered earned by the Developer and owed by the City unless and until all Conditions Precedent have been timely satisfied and are continuing. The Parties agree any 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.

Section 11.06 City Remedies. In the event of a Developer Default, the City shall have no obligation to pay any unpaid Economic Development Incentive to the Developer and the City shall have the right to exercise any one or more of the following remedies as the City's sole and exclusive remedies, such remedies being expressly cumulative:

A. terminate this Agreement by written notice to the Developer; and

B. terminate the City Tract Contract for Sale by written notice to the Developer if the sale and purchase of the City Tract has not been closed and funded; and

C. recapture the Economic Development Incentive previously paid by the City to the Developer as more fully set forth in Section 11.07 below; and

D. exercise and enforce any and all rights and remedies with respect to the Bonds; and

D. specific performance (for any Developer Default unrelated to construction of Homes); and

E. injunctive relief and other equitable remedies to enforce construction of the Amenities, Entry Features, and Homes in compliance with the Architectural Standards and the CC&Rs; and

F. recover damages from the Developer in the amount equal to the costs and expenses reasonably necessary to plan, design, construct, and complete the Trails in compliance with Plans and Specifications for the Trails approved in writing by the City (if the Developer Default includes the failure of the Developer to timely construct the Trails).

Section 11.07 Recapture of Economic Development Incentives. In the event of a Developer Default, the Developer shall pay to the City, within thirty (30) days after written notice by the City, at the City's address set forth in Section 12.02 of this Agreement, or such other address as the City may hereafter notify the Developer in writing, the amount equal to the Economic Development Incentive previously paid by the City to the Developer under the terms of this Agreement plus interest at the rate equal to the lesser of: (a) the Maximum Lawful Rate; or (b) three percent (3%) per annum, such interest rate to be calculated on the amount of the Economic Development Incentive being recaptured from the date the Economic Development Incentive was paid by the City until the date repaid by the Developer to the City and such interest rate shall adjust periodically as of the date of any change in the Maximum Lawful Rate. In the event the Developer fails to timely pay any sums due by the Developer to the City pursuant to this Section 11.07, the Developer shall be in breach of this Agreement and the City shall have the right, without further demand or notice to the Developer, to exercise any and/or all rights and/or remedies available to the City pursuant to the laws of the State of Texas including, without limitation, institution of a suit in a court of competent jurisdiction, to collect such sums from the Developer.

Section 11.08 Attorney's Fees. No Party hereto shall be entitled to seek or recover attorney's fees from any other Party hereto (except in the event of the exercise by the City of the remedies set forth in Chapter 2264 of the Texas Government Code).

Section 11.09 **Waiver of Consequential, Punitive, Exemplary and Speculative Damages. The Parties agree that, in connection with any action, suit or proceeding arising from or relating to this Agreement and/or the City Tract Contract for Sale, each Party mutually waives to the fullest extent permitted by Applicable Law, all rights to sue the other Party for consequential, punitive, exemplary or speculative damages including, but not limited to, lost profits. The provisions of this Section 11.09 shall expressly survive the closing of the purchase of the City Tract and the expiration or termination of this Agreement.**

Section 11.10 Survival. All terms, provisions, agreements, covenants, conditions, obligations, rights, and remedies of each Party pursuant to this Article XI shall expressly survive the expiration or termination of this Agreement.

ARTICLE XII

GENERAL PROVISIONS

Section 12.01 Date for Performance. In computing the number of days for purposes of this Agreement, all days will be counted including Saturdays, Sundays and legal holidays, however, if the final day of any time period under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall automatically be extended through the close of business on the next regularly scheduled business day.

Section 12.02 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). Except as set forth herein: (i) notices mailed by certified mail as set forth above shall be effective and deemed delivered, whether actually received or not, one (1) day after deposit in the United States mail; (ii) 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) day after deposit with the nationally recognized courier service; and (iii) 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:

To the City:

City of Mesquite
PO Box 850137
Mesquite, TX 75185-0137
Attention: City Manager

With a copy to:	City of Mesquite PO Box 850137 Mesquite, TX 75185-0137 Attention: City Attorney
With a copy to:	City of Mesquite PO Box 850137 Mesquite, TX 75185-0137 Attention: Director of Economic Development
To the Developer:	TDI Valleybrooke LLC 15441 Knoll Trail Dr., Suite 150 Dallas, Texas 75248 Attention: Mr. Stephen M. Davis, Manager/Director of Development
With a copy to:	Misty Ventura Shupe Ventura, PLLC 9406 Biscayne Blvd. Dallas, Texas 75218

Section 12.03 Assignment.

A. Assignment of Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns provided, however, that notwithstanding anything contained herein to the contrary, this Agreement and the rights and obligations of the Developer under the terms of this Agreement including, without limitation, the obligations, requirements and covenants of the Developer to plan, design, construct, and complete the Trails and to plan, design, construct and complete, or to cause the planning, design, construction and completion, of the Amenities, Entry Features, and Homes as set forth in this Agreement shall not be assigned or transferred by the Developer without the prior written consent of the City, which may be withheld in the City's reasonable discretion. Furthermore, neither the Developer 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 including, without limitation, any receivables under the terms of this Agreement, without obtaining the City's prior written consent, which may be withed in the City's reasonable discretion, unless such assignment is a collateral assignment to a lender advancing funds for the Project which assignment requires no City consent. In the event the Developer is a corporation or limited liability company, the sale, transfer or assignment of a controlling interest in the shares of the Developer, or the sale, transfer or assignment of a controlling interest in the membership interests of the Developer, shall constitute an assignment of this Agreement and the failure of the Developer to obtain the prior written consent of the City prior to such sale, transfer or assignment of such shares or membership interests shall be an attempted assignment of this Agreement in violation of this Agreement and shall constitute a breach of this Agreement by the Developer. In the event the Developer is a partnership, the sale, transfer or

assignment of a controlling interest in the shares of a corporation or the membership interests of a limited liability company or the partnership interests of a partnership that is the Developer's general or managing partner shall constitute an assignment of this Agreement and the failure of the Developer to obtain the prior written consent of the City prior to such sale, transfer or assignment of such shares, membership interests or partnership interests shall be an attempted assignment of this Agreement in violation of this Agreement and shall constitute a breach of this Agreement by the Developer.

B. General Conditions to Assignment. 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 by Developer, or any approved assignee shall release Developer, or any approved assignee from any liability that resulted from an act or omission by Developer, or any approved assignee that occurred prior to the effective date of the assignment unless the City approves the release in writing. 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 consented to such assignment in writing. Each approved assignee shall be considered a **"Party"** and the **"Developer"** under the terms of this Agreement, 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 the Developer, or any approved assignee and in the event the Developer, or any approved assignee attempts to assign this Agreement in violation of Section 12.03 of this Agreement, the City shall have the right to terminate this Agreement by written notice to the Developer, or approved assignee.

Section 12.04 Right to Offset. The City shall have the right to offset any amounts due and payable by the City under this Agreement against any debt (including taxes) lawfully due and owing by the Developer 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.

Section 12.05 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes.

Section 12.06 No Acceleration. Any amounts due pursuant to this Agreement and any remedies under this Agreement are not subject to acceleration.

Section 12.07 Captions. The titles of the articles and the headings and 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.

Section 12.08 Modification. This Agreement may only be revised, modified, or amended by a written document signed by the City and the Developer. Oral revisions, modifications or amendments of this Agreement are not permitted.

Section 12.09 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 or against any Party.

Section 12.10 Waivers. All waivers, to be effective, must be in writing and signed by the waiving Party. No failure by any Party to insist upon the strict or timely performance of any covenant, duty, agreement, term, or condition of this Agreement shall constitute a waiver of any such covenant, duty, agreement, term, or condition. No delay or omission in the exercise of any right or remedy accruing to any Party shall impair such right or remedy or be construed as a waiver of any such breach or a waiver of any breach theretofore or thereafter occurring.

Section 12.11 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 the Parties agree to submit to the personal and subject matter jurisdiction of such courts.

Section 12.12 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, illegality, or unenforceability shall not affect the validity, legality, 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, illegal or unenforceable provision had never been included in the Agreement.

Section 12.13 No Partnership or Joint Venture. Nothing contained in this Agreement or any other agreement between the City and the Developer is intended by the Parties to create a partnership or joint venture between the Developer and the City. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint any Party as an agent of any other Party for any purpose whatsoever. This Agreement shall not 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.

Section 12.14 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.

Section 12.15 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.

Section 12.16 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.

Section 12.17 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.

Section 12.18 Authority. The Developer represents that: (i) it is duly formed, validly existing and in good standing under the laws of the State of its formation and is duly authorized to transact business in the State of Texas; (ii) it has the full power and authority to enter into this Agreement and to fulfill its obligations under this Agreement; (iii) all consents or approvals required to enter into this Agreement have been obtained by the Developer; (iv) the execution of this Agreement and the consummation by the Developer of the transactions contemplated hereby are not in violation of or in conflict with, or a default under, any term or provision of the organizational documents of the Developer, or any of the terms of any agreement or instrument to which the Developer is a party, or by which the Developer is bound; and (v) that the Person signing this Agreement on behalf of the Developer has the authority to sign this Agreement on behalf of the Developer. Each Person signing this Agreement represents that such Person has the authority to sign this Agreement on behalf of the Party indicated. The representations and warranties of the Developer set forth in this Section 12.18 shall expressly survive the expiration or termination of this Agreement.

Section 12.19 City Council Authorization. This Agreement was authorized by resolution of the City Council approved at a City Council meeting.

Section 12.20 Usury Savings Clause. The Developer and the City intend to conform strictly to all applicable usury laws. All agreements of the City and the Developer are hereby limited by the provisions of this Section 12.20 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 12.20 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 the Developer or applied to the

reduction of any amount owing by the Developer to the City under this Agreement 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.

Section 12.21 Anti-Boycott Verification. If Texas Government Code Chapter 2271 is applicable to this Agreement, by signing below, Developer represents, verifies, and warrants that the Developer and its parent company, wholly-or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, but only to the extent such section is applicable, and to the extent such section does not contravene applicable federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" as used in this Section 12.21 to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

Section 12.22 Iran, Sudan and Foreign Terrorist Organizations. If §2252.153 of the Texas Government Code is applicable to this Agreement, by signing below Developer hereby represents, verifies and warrants that the Developer, its parent company, wholly-or majority-owned subsidiaries, and other affiliates: (i) do not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) are 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 toa "foreign terrorist organization" as defined in §2252.151 of the Texas Government Code. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such section does not contravene applicable federal law and excludes the Developer and each of the Developer's parent company, wholly-or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" as used in this Section 12.22 to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

Section 12.23 Form 1295 Certificate. The Developer represents that it has complied with Texas Government Code, Section 2252.908 and in connection therewith, the Developer has completed a Texas Ethics Commission Form 1295 Certificate generated by the Texas Ethics Commission's electronic filing system and in accordance with the rules promulgated by the Texas Ethics Commission (the **"Form 1295 Certificate"**). The Developer further agrees to print the completed From 1295 Certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 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. The Parties agree that, except for the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295 Certificate completed by the Developer. The information contained in the Form 1295 Certificate completed by the Developer has been provided solely by the Developer and the City has not verified such information.

Section 12.24 Legislative Discretion. The Parties agree that by execution of this Agreement, the City does not waive or surrender any of its governmental powers, immunities or rights and, notwithstanding any provision of this Agreement, this Agreement does not control, waive, limit or supplant the legislative authority or discretion of the City Council.

Section 12.25 Execution of Agreement by Parties. If this Agreement is not executed by the Parties on or before November 30, 2021, this Agreement will be null and void and of no force or effect.

Section 12.26 Time is of the Essence. THE PARTIES SPECIFICALLY AGREE THAT TIME IS OF THE ESSENCE OF EACH AND EVERY PROVISION OF THIS AGREEMENT AND EACH PARTY HEREBY WAIVES ANY RULE OF LAW OR EQUITY WHICH WOULD OTHERWISE GOVERN TIME OF PERFORMANCE.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

City:

CITY OF MESQUITE,
a Texas home rule municipality

By: _____
Name: Cliff Keheley
Title: City Manager

Executed the 29 day of Sept 2021

ATTEST:

Sonja Land, City Secretary

APPROVED AS TO LEGAL FORM:

Name: David L. Paschall
Title: City Attorney

STATE OF TEXAS §

COUNTY OF DALLAS §

Before me, the undersigned officer, on this day personally appeared Cliff Keheley, City Manager of the City of Mesquite, a Texas home rule municipality, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 29 day of Sept. 2021.

SEAL

KEELY JO WELLS
Notary Public-State of Texas
Notary ID #580792-3
Commission Exp. JUNE 17, 2025

Notary Public In and for the State of Texas

[SIGNATURES CONTINUE ON NEXT PAGE]

Developer:

TDI VALLEYBROOKE LLC

a Texas limited liability company

By: Phillip W. Duncan, Manager

Executed the 24 day of September 2021

STATE OF TEXAS §

COUNTY OF DALLAS §

Before me, the undersigned officer, on this day personally appeared Phillip W. Duncan, Manager of TDI VALLEYBROOKE, a Texas limited liability company N/A of N/A, a N/A, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 24 day of September 2021.

SEAL

WENDY POWELL
Notary Public, State of Texas
Comm. Expires 04-13-2024
Notary ID 11439446

Notary Public In and for the State of Texas

EXHIBIT A

Legal Description of City Tract
LEGAL DESCRIPTION – 19.984 ACRES

BEING all that certain, lot, tract, or parcel located in the JOHN ANDERSEN SURVEY, Abstract No. 1, City of Mesquite, Dallas County, Texas, and being the same called 20 acre tract of land described in deed to Esta Ruth Copeland, recorded in Volume 97124, Page 2892, Deed Records, Dallas County, Texas, and being more particularly described as follows:

COMMENCING at a point in the Southeasterly line of Mesquite Valley Road, a variable width right-of-way, as established in deed to the City of Mesquite, recorded in Volume 2743, Page 383, Deed Records, Dallas County, Texas, said point being at the West corner of a tract of land described in deed to N. E. Tittle, recorded in Volume 99206, Page 2520, Deed Records, Dallas County, Texas;

THENCE South 45°50'24" East, passing at a distance of 1434.46 feet a 5/8-inch iron rod found for reference at the East corner of a CANTURA COVE ADDITION PHASE 3, an Addition to the City of Mesquite, Dallas County, Texas, according to the plat thereof recorded in Volume 2001100, Page 2739, Map Records, Dallas County, Texas, and being the North corner of a tract of land described in deed to D. R. Horton, Ltd., recorded in Volume 99039, Page 2574, Deed Records, Dallas County, Texas, continuing a total distance of 1555.25 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set at the South corner of said Tittle tract, and being the PLACE OF BEGINNING of the tract described herein;

THENCE North 47°10'38" East, passing at a distance of 455.32 feet the East corner of said Tittle tract, continuing a total distance of 873.24 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner in the Southwest line of a called 36 acre tract of land described in deed to Elouise Copeland, recorded in Volume 807, Page 389, Deed Records, Dallas County, Texas, at the East corner of a tract of land described in deed to W. K. Tittle, recorded in Volume 77168, Page 2172, Deed Records, Dallas County, Texas;

THENCE South 43°59'18" East, passing at a distance of 7.18 feet the Southerly corner of said 36 acre tract, same being the most Westerly corner of a tract of land described in deed to Ken Griffis and Ginger Griffis, recorded in Instrument No. 201300232101, Official Public Records, Dallas County, Texas, continuing a total distance of 250.17 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

THENCE South 63°34'52" East, a distance of 32.96 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

THENCE South 59°58'10" East, a distance of 50.10 feet a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner at the most Southwesterly corner of said Griffis tract, same being the most Westerly Northwest corner of CREEK CROSSING ESTATES NO. 4, PHASE A, an Addition to the City of Mesquite, Dallas County, Texas, according to the plat thereof recorded in Volume 94230, Page 1111, Map Records, Dallas County, Texas:

THENCE Southeasterly, along the meanders of a creek and the Southwesterly line of said CREEK CROSSING ESTATES NO. 4, PHASE A, the following five (5) courses and distances:

South 11°35'52" East, a distance of 194.62 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

South 82°43'25" East, a distance of 82.04 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

South 78°54'50" East, a distance of 187.87 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

South 64°49'58" East, passing at a distance of 160.00 feet a 1/2-inch iron rod with a yellow- plastic cap stamped "RPLS 5310" set for reference, continuing a total distance of 171.49 feet to a point for corner;

South 36°07'41" East, a distance of 92.10 feet to point at the most Northerly corner of CREEK CROSSING ESTATES NO. 7, PHASE II, an Addition to the City of Mesquite, Dallas County, Texas, according to the plat thereof recorded in Volume 96006, Page 4962, Map Records, Dallas County, Texas;

THENCE South 44°44'49" West, leaving said Creek, and along the Northwest line of said CREEK CROSSING ESTATES NO. 7, PHASE II, passing at a distance of 40.00 feet a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for reference, continuing a total distance of 968.80 feet to a wood post found at the South corner of said called 20 acre tract, same being the East corner of Lot 1, Block A, JUDGE FRANK BERRY MIDDLE SCHOOL ADDITION, an Addition to the City of Mesquite, Dallas County, Texas, according to the plat thereof recorded in Volume 200025, Page 56, Map Records, Dallas County, Texas;

THENCE North 45°50'24" West, passing at a distance of 847.30 feet the Easterly Northeast corner of said JUDGE FRANK BERRY MIDOLE SCHOOL ADDITION, same being the South corner of said D. R. HORTON, Ltd. tract, continuing a total distance of 1002.93 feet to the **PLACE OF BEGINNING** and containing 870,488 square feet or 19.984 acres of land.

EXHIBIT B

Depiction of City Tract

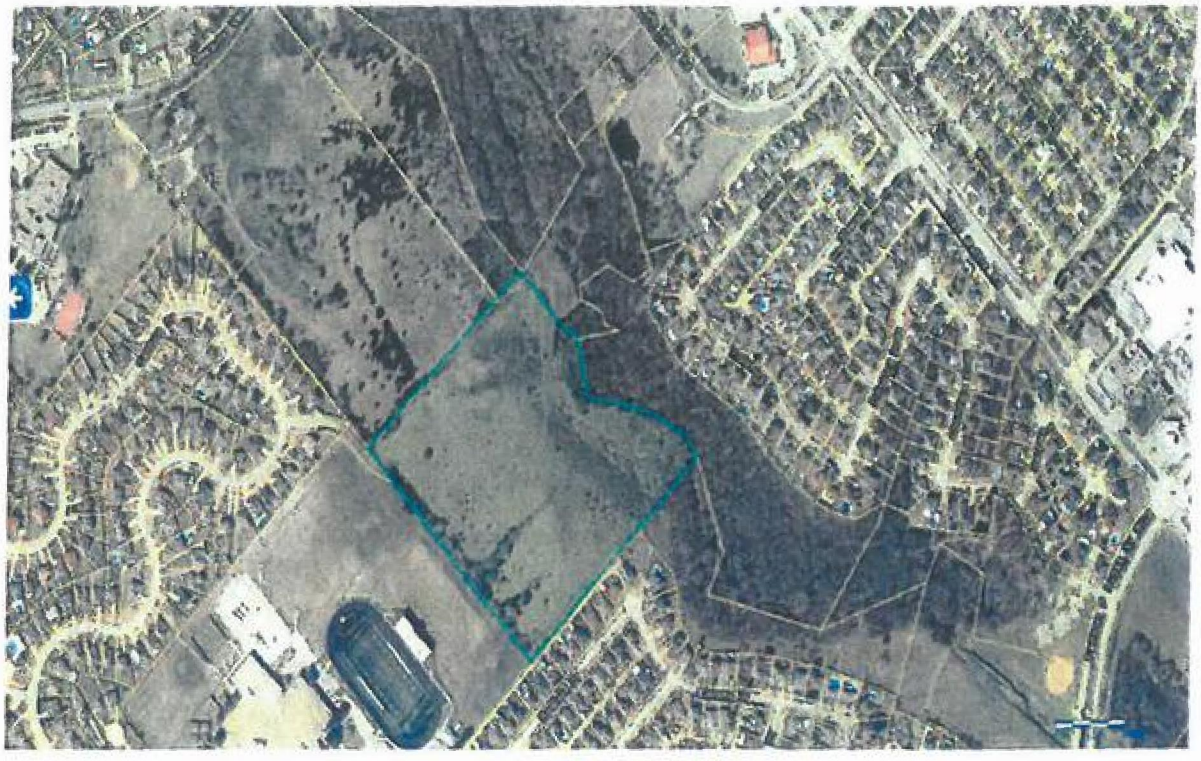

EXHIBIT C

Legal Description of Adjacent Tract

LEGAL DESCRIPTION - 31.6679 ACRES

BEING a tract of land situated in the John P. Anderson Survey, Abstract Number 1, City of Mesquite, Dallas County, Texas and being all that tract of land conveyed to N.E. Tittle, according to the document filed of record in Document Number 201500221896, Deed Record Dallas County, Texas (D.R.D.C.T.) said tract of land being more particularly described as follows:

BEGINNING at a 1/2" iron rod with plastic cap stamped "CLC SURVEYING" found in the southeasterly line of Mesquite Valley Road for the north corner of said Tittle tract, same being common with the west corner of that tract of land conveyed to The City of Mesquite, Texas according to the document filed of record in Document Number 201500001738 (D.R.D.C.T.) and being the common north corner of the tract described herein;

THENCE leaving said southeasterly line and with the common line of said Tittle and City of Mesquite tracts the following four (4) courses and distances;

South 14°26'52" East, a distance of 283.43 feet to a 1/2" iron rod with plastic cap stamped "CLC SURVEYING" found for a corner of this tract;

South 61°18'51" East, a distance of 406.77 feet to a 1/2" iron rod with plastic cap stamped "CLC SURVEYING" found for a corner of this tract;

South 26°50'33" East, a distance of 577.20 feet to a 1/2" iron rod with plastic cap stamped "CLC SURVEYING" found for a corner of this tract;

South 47°15'36" East, a distance of 215.34 feet to a 1/2" iron rod found for the east corner of said Tittle tract and this tract, same being common with the north corner of that tract of land conveyed to the City of Mesquite, Texas according to the document filed of record in Document Number 201500001691 (D.R.D.C.T.);

THENCE South 47°11'59" West, leaving said common corner and with the common line of said Tittle and City tract, a distance of 873.15 feet to a 1/2" iron rod with plastic cap stamped "CLC SURVEYING" found in the northeasterly line of that tract of land conveyed to the Mesquite I.S.D. according to the document filed of record in Volume 94101, Page 180 (D.R.D.C.T.) for the south corner of said Tittle tract and this tract;

THENCE North 45°53'16" West, with a portion of the northeast line of said I.S.D. tract, the northeast line of Cantura Cove Addition, an addition to the City of Mesquite, Dallas County, Texas according to the plat filed of record in Volume 2001100, Page 2739, Plat Records Dallas County, Texas, and the northeast line of that tract of land conveyed to Mesquite I.S.D. according to the document filed of record in Volume 93235, Page 2920 (D.R.D.C.T.) a distance of 1457.28 feet to a P/K Nail set in concrete for a common corner of said I.S.D. tract, Tittle tract and this

tract;

THENCE North 51°45'09" West, continuing with the common line of said I.S.D. tract recorded in Volume 93235, Tittle tract and this tract, a distance of 123.08 feet to a 1/2" iron rod with plastic cap stamped "CLC SURVEYING" found in the above-mentioned southeasterly line of Mesquite Valley Road for the common corner of said tracts;

THENCE with said southeasterly line the following six (6) courses and distances:

North 83°06'41" East, a distance of 16.20 feet to a P/K Nail found in asphalt for a corner of this tract;

South 45°37'55" East, a distance of 14.44 feet to a 5/8" iron rod with plastic cap stamped "KHA" set for a corner of this tract;

North 82°07'30" East, a distance of 47.54 feet to a 5/8" iron rod with plastic cap stamped "KHA" set for a corner of this tract, at the beginning of a tangent curve to the left having a central angle of 38°26'43", a radius of 756.77 feet, a chord bearing and distance of North 62°54'09" East, 498.32 feet;

With said curve to the left, an arc distance of 507.79 feet to a 1/2" iron rod with plastic cap stamped "CLC SURVEYING" found for a corner of this tract;

North 44°06'02" East, a distance of 393.49 feet to a 1/2" iron rod with plastic cap stamped "CLC SURVEYING" found for a corner of this tract, at the beginning of a non-tangent curve to the right having a central angle of 12°05'41", a radius of 915.37 feet, a chord bearing and distance of North 49°20'40" East, 192.87 feet;

With said curve to the right, an arc distance of 193.23 feet to the **POINT OF BEGINNING** and containing 31.6679 acres or 1,379,455 square feet of land, more or less.

EXHIBIT D

Depiction of Adjacent Tract

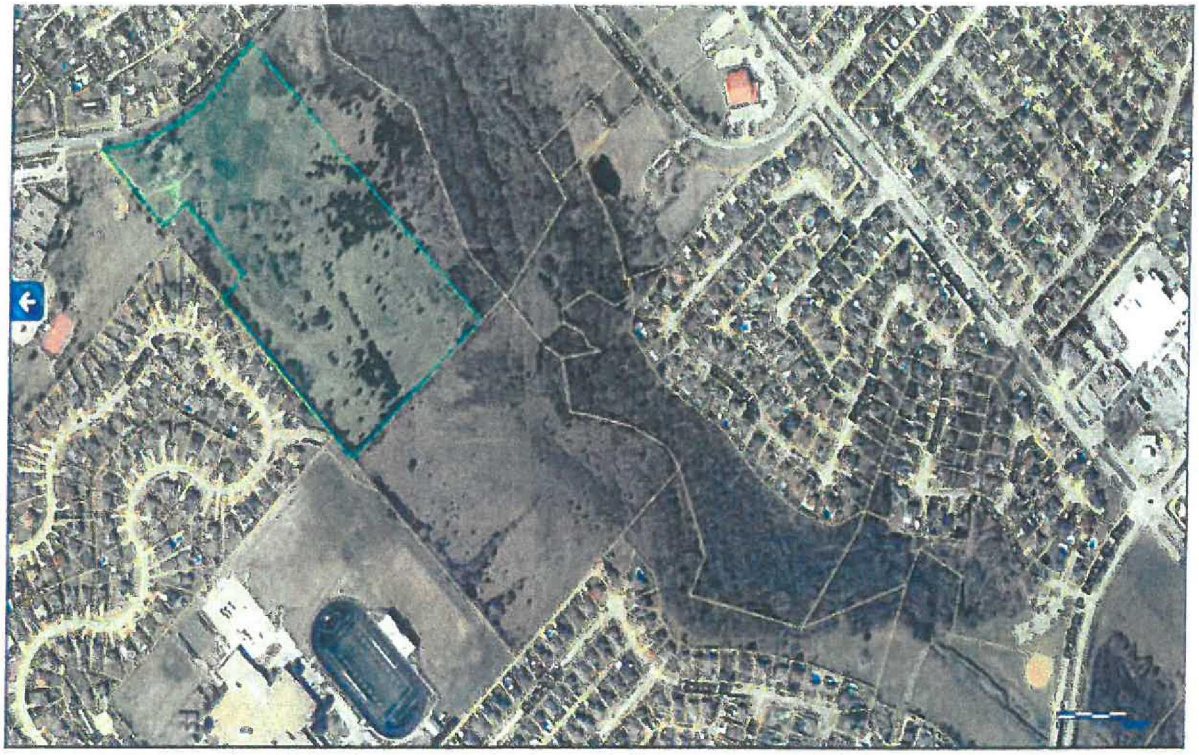

EXHIBIT E

Architectural Standards

1. All garage doors shall be faux wood doors, wood clad doors or raised panel metal doors.

2. Minimum masonry content for all front facades shall be 90%. Minimum masonry content for facades abutting Mesquite Valley Road shall be 90%. The masonry requirement for the entire house must be 70%. The minimum masonry requirement for facades other than the front facade is 50%. For purposes of calculating minimum masonry requirements, the calculation shall exclude upper gable areas and walls that would create a brick on wood condition only. Masonry shall be defined to include brick, stone (natural or manufactured), architectural concrete block, cementitious siding or any combination of these materials. Cementitious stucco or lap siding is not considered masonry.

3. Chimneys shall be 100% masonry when located on the exterior wall of the home; however, direct vent systems without a chimney stack are also permitted, whether located on the exterior wall or otherwise.

4. No front elevation of a single-family structure shall be repeated any more often than once every three lots.

EXHIBIT F

City Tract Contract For Sale

CONTRACT FOR SALE

This Contract for Sale (this "**Contract**"), is made by and between the City of Mesquite, a Texas home rule municipality (the "**City**") and TDI Valleybrooke LLC, a Texas limited liability company (the "**Developer**"). City and Developer are hereinafter sometimes individually referred to as a "**Party**" and sometimes collectively referred to as the "**Parties**".

WHEREAS, the City desires to convey via deed without warranty all of the City's right, title and interest, if any, in and to that certain approximately 19.984 acre tract of land commonly known as 2800 Mesquite Valley Road, Mesquite, Texas, and being more particularly described as BEING all of that certain lot, tract or parcel of land located in the JOHN ANDERSEN SURVEY, Abstract No. 1, City of Mesquite, Dallas County, Texas, and being the same called 20 acre tract of land described in deed to Esta Ruth Copeland, recorded in Volume 97124, Page 2892, Deed Records, Dallas County, Texas, and being more particularly described in Exhibit A and depicted in Exhibit B attached hereto and made a part hereof for all purposes (the "**Property**"); and

WHEREAS, the City's right, title and interest, if any, in and to the Property is hereinafter referred to as the "**City's Interest**"; and

WHEREAS, on or about March 18, 2021 the City issued a request for proposal for bids to purchase the City's Interest and develop the Property ("**RFP No. 2021-079**"); and

WHEREAS, Taylor-Duncan Interests, LLC, a Texas limited liability company timely responded to RFP No. 2021-079 by filing a proposal to purchase the City's Interest and develop the Property through an affiliate (the "**Proposal**"); and

WHEREAS, the Developer is an affiliate of Taylor-Duncan Interests, LLC; and

WHEREAS, the Developer currently has the adjacent property located at 2400, 2402 and 2404 Mesquite Valley Road, Mesquite, Texas consisting of approximately 31.66 acres (the "**Adjacent Tract**") under contract; and

WHEREAS, the Proposal includes the combination of the Property with the Adjacent Tract to create a master-planned, low density, single-family residential development with deed restrictions and design guidelines to ensure that high quality building standards are met and to provide for open spaces, trails and amenities, with all common areas conveyed to a professional managed homeowner's association for perpetual maintenance (the "**Project**"); and

WHEREAS, on or about May 3, 2021, the City Council accepted the Proposal to purchase the City's Interest and develop the Property; and

WHEREAS, the City's Interest is being purchased pursuant to V.T.C.A., Local Government Code, §272.001(a); and

WHEREAS, the Project is for the public purpose of increasing the City's tax base and will benefit the City and its citizens.

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 are hereby acknowledged, the Parties hereto agree as follows:

1. **Purchase and Sale.** Subject to the terms and conditions set forth herein, City agrees to convey a deed without warranty of the City's right, title and interest, if any, in and to the Property to Developer, and Developer agrees to purchase the City's Interest, if any, in and to the Property from the City.

2. **Purchase Price.** The purchase price to be paid by Developer to the City for the City's Interest shall be the sum of TWO HUNDRED SEVENTY-ONE THOUSAND AND NO/100 DOLLARS ($271,000.00) (the "**Purchase Price**"). The Purchase Price shall be payable in immediately available funds acceptable to the City and the Title Company (as hereinafter defined) at Closing (as hereinafter defined).

3. **Earnest Money and Independent Consideration.** Within three (3) business days after the Effective Date (as hereinafter defined), Developer shall deliver the sum of FIVE THOUSAND AND NO/100 DOLLARS ($5,000.00) in immediately available funds to Capital Title, Attn: Vicki Hoodwin, Telephone 214-219-7300, Facsimile 1-855-341-0644, E-mail: vhoodwin@ctot.com (the "**Escrow Agent**"), at Capital Title, 7001 Preston Road, Suite 120, Dallas, Texas 75025 (the "**Title Company**") to be held by the Title Company as earnest money for the purchase of the City's Interest (the "**Earnest Money**") pursuant to the terms of this Contract. TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS ($2,500.00) of the Earnest Money (the "**Independent Consideration**") has been bargained for and agreed to as consideration for Developer's option to purchase the City's Interest and for City providing the Inspection Period (as hereinafter defined) to Developer and, notwithstanding any provision in this Contract to the contrary, the Independent Consideration shall be nonrefundable to Developer in all circumstances and, at any time that this Contract provides that the Earnest Money shall be returned to Developer, the amount returned to Developer shall be net of the Independent Consideration and, at such time, the Independent Consideration shall be delivered to the City. At Closing (as hereinafter defined), the Earnest Money will be applied as a credit against the Purchase Price.

4. **Closing.** Unless this Contract is sooner terminated as provided herein, the closing ("**Closing**") of this Contract shall be held at the offices of the Title Company (via mail-in escrow) and occur simultaneously with the Adjacent Tract closing, which is anticipated to occur on or before November 15, 2021 (the "**Target Closing Date**"); provided, however, Developer may, in its sole discretion, extend the Target Closing Date for a period of no more than thirty (30) days by delivering to City written notice of Developer's election to extend the Target Closing Date not less than five (5) business days prior to the original Closing Date, which notice shall specify the extended date of Closing (the "**Final Closing Date**"). If either Party fails to close by the Target Closing Date or Final Closing Date, as applicable, the non-defaulting Party may exercise the remedies in Section 10 of this Contract.

5. **Closing Costs.** All closing costs (except attorney's fees incurred by the City) in connection with this transaction including, without limitation, the cost of tax certificates, Title Company escrow fees, recording fees, and the premium for the Title Policy and title policy endorsements covering the Property issued to Developer in the amount of the Purchase Price, shall be paid by Developer.

6. **Survey, Title Policy and Title Review Period.**

A. **Survey.**

City has provided Developer with a survey of the Property dated 12-30-2014 revised in office 01-05-2015 by A&W Surveyors, Inc., John S. Turner, RPLS No. 5310 (the "**Survey**").

B. **Title Policy.**

Developer shall request that the Title Company deliver or cause to be delivered to Developer and City, within ten (10) days after the Effective Date, the following items:

(1) A title commitment (the "**Title Commitment**") covering the Property, binding the Title Company to issue to Developer a Texas Owner's Policy of Title Insurance insuring Developer's fee simple title to the Property to be good and indefeasible, on the standard form of policy prescribed by the Texas Department of Insurance in the full amount of the Purchase Price, subject to the Exceptions (as hereinafter defined) (the "**Title Policy**"); and

(2) Copies of all instruments referred to in the Title Commitment as constituting exceptions or restrictions upon the title of City (to the extent legible copies of such instruments are available) (the **"Title Exception Documents"**).

C. **Title Review Period.**

Developer shall have ten (10) calendar days after the receipt of the Title Commitment and the Title Exception Documents to review such documents and to deliver in writing to City such objections as Developer may have to any matters contained in the Survey, the Title Commitment and the Title Exception Documents (the "**Title Review Period**"). Any item or matter shown on the Survey and/or the Title Commitment, to which Developer does not timely object, or to which Developer does not cure on before the expiration of the Inspection Period (as hereinafter defined), shall be deemed "**Exceptions**"; provided, however, the term Exceptions shall not include any exceptions for parties in possession on Schedule B of the Title Commitment. The standard title policy exceptions that the Title Company does not agree to delete and the lien for any taxes not due and payable at the time of Closing shall also be deemed Exceptions. City shall allow Developer fifteen (15) calendar days to, at its sole election, attempt to cure Developer's timely objections after City receives the objections (the "**Title Cure Period**"). City shall reasonably cooperate with Developer to take any actions, but not expend any funds to assist Developer with curing Developer's objections, but any failure by the City to assist Developer in curing Developer's objections shall not be a default of the City. If Developer is unable to cure Developer's objections by the end of the Title Cure Period, Developer may as its exclusive remedy either (i) waive such objections and proceed to Closing; or (ii) terminate this Contract by written notice to City, which written notice shall be delivered by Developer to City on or before the expiration of the Inspection Period. If Developer terminates this Contract pursuant to this Section 6(C), the Earnest Money, less the Independent Consideration, will be refunded to Developer and neither Party hereto shall have any further rights or obligations under this Contract except for those that expressly survive the termination of this Contract. In the event Developer fails to timely notify City of Developer's election to terminate as provided in this Section 6(C), Developer shall be deemed to have waived all uncured title objections to the Property, the Survey, the Title Commitment and the Title Exception Documents and all uncured title objections shall be deemed Exceptions.

7. **Inspection.**

A. **Inspection**. Developer shall have the right to enter on and inspect the Property from the Effective Date until the earlier termination of this Contract or Closing. Developer may perform, or have performed on Developer's behalf, such noninvasive tests, engineering reports, surveys, soils and other studies as Developer may determine in Developer's sole discretion (subject to Developer's indemnification and restoration obligations as set forth below). Notwithstanding the foregoing, Developer shall not conduct invasive testing without City's prior written consent. Before Developer, or its surveyors, engineers, consultants, representatives and agents (collectively "**Developer's Consultants**") enter the Property, Developer shall provide evidence to City of Developer's insurance policies and Developer's Consultants' insurance policies covering personal injury and property damage claims resulting from Developer's and/or Developer's Consultants' entry on or about the Property, which insurance shall be subject to approval by

the City. All such insurance policies shall be issued by insurance companies licensed in the State of Texas, shall provide coverage of not less than One Million Dollars ($1,000,000.00) per occurrence, and shall name City as an additional insured. Developer shall provide City with copies of all surveys, soils tests, geotechnical studies, and other environmental tests, studies and reports excluding any internal work product (collectively, "**Developer's Studies**") obtained or generated by Developer or Developer's Consultants in connection with its investigation of the Property; provided, however, Developer will not make any representations or warranties to City as to the accuracy or correctness of Developer's Studies. Should Developer determine for any reason whatsoever that it does not want to purchase the City's Interest, Developer shall have the right in Developer's sole discretion to terminate this Contract by providing written notice thereof to City on or before 5:00 p.m. central time on the date that is thirty (30) days after the Effective Date (the "**Inspection Period**"), whereupon the Earnest Money, less the Independent Consideration, shall be refunded to Developer, this Contract shall terminate, and neither Party shall have any further rights or obligations under this Contract except for those provisions hereof which expressly survive termination of this Contract. If Developer does not terminate this Contract by written notice on or before the expiration of the Inspection Period, then (i) it shall be deemed that Developer is satisfied with the City's Interest and the results of its inspections; (ii) this Contract shall remain and continue in full force and effect, and (iii) the Earnest Money shall be non-refundable to Developer except in the event of a default hereunder by City and Developer's resulting termination of this Contract due to such City default.

B. **Developer's Restoration Obligation. DEVELOPER AGREES TO DEFEND, INDEMNIFY, SAVE AND HOLD CITY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, SUITS, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND COURT COSTS) INCURRED OR SUSTAINED BY CITY ARISING FROM OR IN CONNECTION WITH DEVELOPER'S INSPECTION OF THE PROPERTY, ANY ENTRY ONTO THE PROPERTY BY DEVELOPER AND/OR DEVELOPER'S CONSULTANTS, AND/OR ANY TESTS OR STUDIES CONDUCTED BY DEVELOPER OR DEVELOPER'S CONSULTANTS ON THE PROPERTY, EXCEPT TO THE EXTENT OF CITY'S OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** In the event that Developer elects to terminate this Contract for any reason permitted in this Contract, or if Closing does not occur, Developer agrees to (i) restore the Property, at Developer's sole cost and expense, to substantially the same state and condition existing prior to the activities thereon of Developer and/or Developer's Consultants, and (ii) provide City, without representation or warranty, with a copy of all of Developer's Studies which have not theretofore been provided to City. Until Closing, Developer agrees to maintain in confidence the information discovered in any reports relating to the Property unless Developer is required by law to make any disclosures thereof; provided, however, Developer may disclose such information to Developer's lenders, investors, attorneys, consultants and other similar professional advisors who have a need to know such information. The portion of the Earnest Money to be returned to Developer pursuant to the terms of this Contract shall not be returned to Developer unless and until Developer has complied with the terms of (i) and (ii) set forth above in this Section 7(B). Notwithstanding anything to the contrary contained in this Contract, the provisions of this Section 7(B) shall prevail over all other terms and provisions of this Contract which may conflict herewith, and the provisions of this Section 7(B) shall survive Closing or any termination of this Contract for any reason.

8. **Closing Documents and Escrow.**

A. **City's Deliveries at Closing.** At the Closing, provided Developer fulfills its obligations under this Contract, the City shall deliver to Developer: (i) a deed without warranty containing the legal description of the Property reflected on the Survey, which deed without warranty shall be in the form attached hereto as Exhibit C and made a part hereof for all purposes (the "**Deed**"); (ii) a Non-Foreign Affidavit complying with Section 1445 of the Internal Revenue Code; and (iii) all notices, statements,

certificates, affidavits and other documents reasonably required by the Title Company or by law to issue the Title Policy and/or to consummate the transactions contemplated in this Contract.

B. **Developer's Deliveries at Closing.** At the Closing, provided the City fulfills its obligations under this Contract, Developer shall deliver to City: (i) the Purchase Price; and (ii) all notices, statements, certificates, affidavits and other documents reasonably required by the Title Company or by law to consummate the transactions contemplated in this Contract.

C. **Escrow.** If this Contract closes, the Earnest Money will be applied first to Developer's closing costs with any remainder to be applied to the Purchase Price. If this Contract does not close and either Party makes written demand for the Earnest Money, the Escrow Agent will provide a copy of the demand to the other Party by certified mail, return receipt requested, addressed to the other Party at the address set forth in Section 13 of this Contract. If the Escrow Agent does not receive written objection to the demand from the other Party within ten (10) calendar days, Escrow Agent may disburse the Earnest Money to the Party making the demand. If Escrow Agent complies with this Section 8(C), each Party hereby releases Escrow Agent from all claims relating to the disbursal of the Earnest Money.

9. **Disclaimer of Representations and Warranties; Release; Waiver, Covenants and Agreements of Developer.**

A. **Disclaimer of Representations and Warranties by City. City makes no representation or warranty, express or implied or arising by operation of law or otherwise with respect to any matter concerning the Property, including, without limitation, the following: (i) title to the Property; (ii) the habitability, marketability, merchantability, suitability or fitness of the Property for a particular purpose or use; (iii) the nature and condition of the Property including, without limitation, water, drainage and grading, soil and geology, zoning, annexation, extraterritorial jurisdiction and other zoning and jurisdictional issues, location of cemeteries, utility availability or hook-up, easement rights, flood plains (or portions of the Property in a flood plain) and the costs and requirements of same, access to streets, costs of utilities, location of curb cuts and median breaks in streets, sewage facilities (including, without limitation, availability or non-availability of appropriate water and sewer capacity) or other governmental rights or obligations; (iv) the completeness, accuracy or approval of permits, surveys, plats, preliminary plats, pollution abatement plans, subdivision plans or reports concerning the Property; (v) tax consequences; (vi) the compliance of all or any part of the Property with applicable environmental laws, rules or regulations with respect to health, the environment, and endangered species and wetlands (collectively, the "Environmental Laws") including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9601, et. seq.), as amended, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901, et. seq.), as amended, the Endangered Species Act (16 U.S.C. §1531, et seq.), as amended, the Hazardous Materials Transportation Act (49 U.S.C. § 5101, et. seq.), as amended; the Clean Air Act of 1974 (42 U.S.C. § 7401, et. seq.), as amended; the Clean Water Act, (33 U.S.C. §1251, et. seq.), as amended; the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.), as amended; Chapter 361 of the Texas Health & Safety Code, as amended; the Texas Water Code, as amended, the Texas Natural Resource Code, as amended, and all other federal, state and local laws, statutes, ordinances, rules and regulations, as amended, that regulate the use, storage, treatment, generation, disposal, transportation, discharge, release, threatened release and/or remediation of petroleum and petroleum products, asbestos and asbestos-containing materials in any form, whether friable or non-friable, polychlorinated biphenyls, radon gas, flammables, explosives, radioactive substances, and all other substances, materials and wastes (whether solid, liquid, or gas) that are now or hereafter classified, defined, or listed as hazardous wastes, hazardous materials, hazardous substances, pollutants, toxic waste, toxic materials and/or toxic substances; (vii) the existence of asbestos, oil, arsenic, petroleum or chemical liquids or solids, liquid or gaseous products**

or hazardous substances as those terms and similar terms are defined or used in applicable Environmental Laws; (viii) the nature and extent of access to rights-of-way or utilities, availability of permits to access rights-of-way or utilities on the Property, other property owned by City (if any), or any land owned by third parties; (ix) easements, mineral interests, encumbrances, licenses, reservations, conditions or other similar matters affecting the Property; (x) compliance with any law, ordinance or regulation of any governmental entity or body; and/or (xi) claims, demands, or other matters relating to any restrictive covenants encumbering the Property. The Parties agree the City's Interest will be made on an "AS IS, WHERE IS" and "WITH ALL FAULTS" basis. The Parties agree the warranties and covenants set forth in Section 5.023 of the Texas Property Code do not apply to this transaction and that any warranties arising at common law or implied as a result of Section 5.023 of the Texas Property Code, as amended, or any successor statute, shall be excluded and excepted from this transaction as more fully set forth in the Deed. Developer acknowledges that Developer has the full, complete and unfettered right to inspect the Property to Developer's satisfaction and that the Purchase Price is in part based upon the fact that the City's Interest by the City to Developer shall be without warranty or representation. Developer agrees to rely only upon Developer's own investigations, assessments and inspections as to the condition of the Property, or Developer's own decision not to inspect any matter and Developer agrees that it is not relying on any representation, warranty, statement or non-assertion of City or City's officers, agents, representatives, employees, consultants, or independent contractors in making Developer's decision to purchase the City's Interest. The Developer acknowledges that the City has not made and is expressly disclaiming any representations or warranties, express or implied or arising by operation of law, relating to the Property.

B. Release. CITY SHALL NOT BE LIABLE TO DEVELOPER FOR ANY LATENT OR PATENT DEFECTS OF THE PROPERTY OR FOR ANY ERRORS, OMISSIONS, OR ANY OTHER CONDITION AFFECTING THE PROPERTY INCLUDING, BUT NOT LIMITED TO, THOSE MATTERS DESCRIBED IN SECTION 9(A)(i) THROUGH AND INCLUDING SECTION 9(A)(xi) ABOVE, AND DEVELOPER, AND ANYONE CLAIMING BY, THROUGH OR UNDER DEVELOPER, HEREBY FULLY RELEASES CITY AND CITY'S EMPLOYEES, OFFICERS, ELECTED OFFICIALS, AGENTS, REPRESENTATIVES, ATTORNEYS AND INSURERS (EACH A "CITY RELATED PARTY") FROM ANY AND ALL CLAIMS AGAINST CITY AND EACH CITY RELATED PARTY FOR ANY COST, LOSS, LIABILITY, DAMAGE, EXPENSE, DEMAND, ACTION OR CAUSE OF ACTION (INCLUDING, WITHOUT LIMITATION, ANY RIGHTS OF CONTRIBUTION) ARISING FROM OR RELATED TO ANY LATENT OR PATENT DEFECTS OF THE PROPERTY OR FOR ANY ERRORS, OMISSIONS, OR OTHER CONDITIONS AFFECTING THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, THOSE MATTERS DESCRIBED IN SECTION 9(A)(i) THROUGH AND INCLUDING SECTION 9(A)(xi) ABOVE AND ANY ALLEGED NEGLIGENCE OF CITY OR ANY CITY RELATED PARTY. THIS COVENANT RELEASING CITY AND EACH CITY RELATED PARTY TOUCHES AND CONCERNS THE PROPERTY AND SHALL BE SET FORTH IN THE DEED AS A COVENANT RUNNING WITH THE LAND AND SHALL BE BINDING UPON DEVELOPER, DEVELOPER'S SUCCESSORS AND ASSIGNS, AND ALL FUTURE OWNERS OF ALL OR ANY PORTION OF THE PROPERTY.

C. Waiver. DEVELOPER HEREBY WAIVES DEVELOPER'S RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES - CONSUMER PROTECTION ACT, SECTION 17.41 ET. SEQ., BUSINESS AND COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF DEVELOPER'S OWN SELECTION, DEVELOPER VOLUNTARILY CONSENTS TO THIS WAIVER.

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

E. **Survival**. The provisions of this Section 9 shall be set forth in the Deed. The waivers, releases, disclaimers and other matters set forth in this Section 9 and all obligations of the Parties pursuant to this Section 9 shall survive Closing or any termination of this Agreement.

10. **Default, Remedies and Termination of Contract**.

A. **Developer's Default and City's Remedies.** In the event Developer fails to fulfill any of its obligations hereunder, except as a result of City's default hereunder or the termination of this Contract by Developer pursuant to any provision hereof giving Developer the right to terminate this Contract, City shall have the right, as City's exclusive remedies: (i) to terminate this Contract, in which event the Earnest Money shall be delivered to City and neither Party shall thereafter have any further rights, obligations or liabilities hereunder except for those that expressly survive the termination of this Contract; (ii) to terminate that certain Development Agreement and Chapter 380 Agreement effective of even date herewith between the City and the Developer relating to the development of the Property and economic development incentives in connection therewith (the **"Development Agreement"**); and (iii) the right to sue Developer for damages arising from (A) Developer's restoration obligations set forth in Section 7(B) herein, (B) Developer's agreement to indemnify, defend and hold City harmless pursuant to Section 7(B), and (C) any other provision of this Contract that expressly survives Closing or the termination of this Contract. The provisions of this Section 10(A) shall expressly survive the termination of this Contract.

B. **City's Default and Developer's Remedies.** In the event City fails to fulfill any of its obligations hereunder, except as a result of Developer's default hereunder or the termination of this Contract by City pursuant to any provision hereof giving City the right to terminate this Contract, Developer shall have the right, as Developer's exclusive remedy, to terminate this Contract, in which event the Earnest Money (less the Independent Consideration) shall be delivered to Developer and neither Party shall thereafter have any further rights, obligations or liabilities hereunder except for those that expressly survive the termination of this Contract. In this regard, the Parties agree that the Earnest Money (less the Independent Consideration) shall constitute agreed upon liquidated damages for any default by City under this Contract. The provisions of this Section 10(B) shall expressly survive the termination of this Contract.

C. **Waiver of Consequential, Punitive, Exemplary and Speculative Damages**. **The Parties agree that, in connection with any action, suit or proceeding arising from or relating to this Contract, each Party mutually waives to the fullest extent permitted by applicable law, all rights to sue the other Party for consequential, punitive, exemplary or speculative damages including, without limitation, lost profits. The provisions of this Section 10(C) shall expressly survive the Closing or termination of this Contract.**

D. **Notice and Opportunity to Cure.** City and Developer covenant and agree, each with the other, to give to the other written notice of any default occurring, and such Party in default shall have a period of thirty (30) days to cure such default prior to the exercise of any right or remedy provided in this Contract by the non-defaulting Party **provided, however,** notwithstanding the foregoing: (i) neither Party shall be required to notify the other Party to close this Contract on the Closing Date and in the event a Party

fails to close this Contract on the Closing Date, such Party shall not have any cure period within which to cure such default; and (ii) City shall not be required to notify Developer to deposit the Earnest Money and City may terminate this Contract if Developer fails to timely deposit the Earnest Money as required by this Contract.

E. Termination of Development Agreement. Any termination of this Contract by either Party hereto pursuant to any provision in this Contract giving such Party the right to terminate this Contract, shall automatically also terminate the Development Agreement.

11. **Possession.** City will deliver possession of the City's Interest to Developer upon closing and funding of the purchase of the City's Interest in the Property's present condition, ordinary wear and tear excepted, subject to the limitations set forth in the Deed including, without limitation, the Exceptions.

12. **Taxes.** The City is a tax-exempt entity and owes no taxes on the Property, thus Developer shall be responsible for all taxes for the Property due at Closing and from and after the Closing Date. The provisions of this Section 12 shall expressly survive Closing.

13. **Notices.** Any notice or communication required or permitted hereunder shall be in writing and shall be deemed to be delivered: (i) upon e-mail transmission addressed to the intended recipient at the e-mail address set forth below, (ii) whether actually received or not, on the date deposited in the United States mail, postage fully prepaid, certified mail, addressed to the intended recipient at the address set forth below, or (iii) when received via local hand courier service, or (iv) the next business day after deposit by the sender with a national delivery service such as Federal Express or United Parcel Service. Any address for notice may be changed by written notice delivered as provided herein.

If Intended for City:

City of Mesquite
Attention: Cliff Keheley, City Manager
1515 N. Galloway
Mesquite, Texas 75149
Email: ckeheley@cityofmesquite.com

With copies to:

City of Mesquite
Attention: Kim Buttram, Director of Economic Development
1515 N. Galloway
Mesquite, Texas 75149
Email: kbuttram@cityofmesquite.com

City of Mesquite
Attention: David Paschall, City Attorney
1515 N. Galloway
Mesquite, Texas 75149
Email: dpaschall@cityofmesquite.com

If intended for Developer:
TDI Valleybrooke LLC
15441 Knoll Trail Drive # 150
Dallas, Texas 75248

Attn: Stephen M. Davis, Manager/Director of Development

With a copy to:

Barnes & Thornburg LLP
2121 N. Pearl Street Suite 700
Dallas, Texas 75201
Attention: Will Russ
Phone: (214) 258-4141
Email: wruss@btlaw.com

14. **Applicable Law.** This Contract shall be construed in accordance with the laws of the State of Texas. Venue shall be in state courts of competent subject matter jurisdiction in Dallas County, Texas.

15. **Entire Agreement.** This Contract and all attached exhibits shall constitute the entire agreement between City and Developer relating to the purchase of the City's Interest and shall supersede any other written or oral agreements between City and Developer relating to the matters set forth herein. This Contract may be modified only in writing signed by City and Developer.

16. **Broker's Commission.** City and Developer both acknowledge and represent to the other that there are no brokers entitled to a commission in connection with this transaction.

17. **Effective Date.** Any reference to the "**Effective Date**" or the "**date of this Contract**" shall mean September 20, 2021.

18. **Date for Performance.** If the last day to perform under a provision of this Contract falls on a Saturday, Sunday or legal holiday, the time for performance shall be automatically extended through the close of business on the next regularly scheduled business day.

19. **Attorneys' Fees.** Each Party hereto shall pay their own attorney's fees in connection with the negotiation and consummation of the transactions contemplated herein. If either Party shall be required to employ an attorney to enforce or defend the rights of such Party hereunder, the prevailing party shall not be entitled to recover reasonable attorney's fees incurred in connection therewith. The provisions of this Section 19 shall survive the Closing or termination of this Contract.

20. **Severability.** The sections, paragraphs, sentences, clauses, and phrases of this Contract are severable and, if any phrase, clause, sentence, paragraph, or section of this Contract 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 Contract 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 the Contract.

21. **Captions.** The section captions herein are for reference purposes only and are not a part of this Contract and in no way define, describe, extend, or limit the scope or intent of this Contract.

22 **Counterparts.** This Contract may be executed in any number of original or electronically scanned counterparts, each of which shall be considered an original and all of which shall be considered one and the same instrument. This Contract, the closing documents and all transactions contemplated herein shall be subject to the Texas Uniform Electronic Transactions Act.

23. **Assignment.** Neither Party may assign this Contract without the prior written consent of the other Party which may be withheld in the sole discretion of the Party's whose consent is required.

24. **Waivers**. No failure by either Party to insist upon the strict, timely performance of any covenant or agreement of this Contract or failure to exercise any right or remedy upon a breach thereof shall constitute a waiver of such breach, right or remedy.

25. **Authority**. Developer 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. Developer represents that Developer has the full power and authority to enter into and fulfill Developer's obligations under this Contract and that the person signing this Contract on behalf of Developer has the authority to sign this Contract on behalf of Developer. City represents that the City has the full power and authority to enter into and fulfill the City's obligations under this Contract and that the person signing this Contract on behalf of the City has the authority to sign this Contract on behalf of the City. The provisions of this Section 25 shall expressly survive the Closing.

26. **Abstract or Title Policy**. Developer should have an abstract covering the Property examined by an attorney of Developer's selection, or Developer should be furnished with or obtain a title policy for the Property.

27. **Statutory Tax Districts.** If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires City to deliver and Developer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this Contract.

28. **Immunity**. The Parties agree that this is not a contract for goods and services. The Parties further agree that City does not waive or surrender any of its governmental powers, immunities or rights and, notwithstanding any provision of this Contract, this Contract does not control, waive, limit or supplant the legislative authority or discretion of the City Council of the City. The provisions of this Section 28 shall expressly survive the Closing or any termination of this Contract and in the event of any conflict between this provision and any other provision of this Contract, this Section 28 shall control.

29. **Form 1295 Certificate.** The Developer represents that it has complied with Texas Government Code, Section 2252.908 and in connection therewith, the Developer has completed a Texas Ethics Commission Form 1295 Certificate generated by the Texas Ethics Commission's electronic filing system and in accordance with the rules promulgated by the Texas Ethics Commission (the "**Form 1295 Certificate**"). The Developer further agrees to print the completed From 1295 Certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 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 Contract, a duly executed completed Form 1295 Certificate. The Parties agree that, except for the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295 Certificate completed by the Developer. The information contained in the Form 1295 Certificate completed by the Developer has been provided solely by the Developer and the City has not verified such information.

30. **Anti-Boycott Verification**. If Texas Government Code Chapter 2271 is applicable to this Contract, by signing below, Developer represents, verifies, and warrants that the Developer and its parent company, wholly-or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, but only to the extent such section is applicable, and to the extent such section does not contravene applicable federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with

Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" as used in this Section 30 to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

31. Iran, Sudan and Foreign Terrorist Organizations. If §2252.153 of the Texas Government Code is applicable to this Contract, by signing below Developer hereby represents, verifies and warrants that the Developer, its parent company, wholly-or majority-owned subsidiaries, and other affiliates: (i) do not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) are 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 toa "foreign terrorist organization" as defined in §2252.151 of the Texas Government Code. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such section does not contravene applicable federal law and excludes the Developer and each of the Developer's parent company, wholly-or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" as used in this Section 31 to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

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

[REST OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City and Developer have executed this Contract on the date(s) set forth below.

CITY OF MESQUITE,
a Texas home rule municipality

By: _____
Name: Cliff Keheley
Title: City Manager

Execution Date: 9. 29, 2021

ATTEST:

Sonja Land, City Secretary

Execution Date: 9. 29, 2020

APPROVED AS TO LEGAL FORM:

City Attorney or his Designee

DEVELOPER:

TDI VALLEYBROOKE LLC,
a Texas limited liability company

By _____
Name: Phillip W. Duncan
Title: Manager

Executed the 24 day of September 2021

ESCROW RECEIPT

The undersigned Title Company hereby acknowledges receipt of a fully executed copy (or executed counterparts) of the foregoing Contract on the date below and accepts the obligations of the Title Company as set forth in the foregoing Contract.

REUNION TITLE

By: _____
Name: Kathy Tarrant
Title: Escrow Agent

Date: _____, 2021

Title Company Address:

Reunion Title
129 N. Collins Road, Suite 2202
Sunnyvale, Texas 75182
Telephone 972-288-6435
Facsimile: 972-288-0584
E-mail: docs147@reuniontitle.com

EXHIBIT A

LEGAL DESCRIPTION – 19.984 ACRES

BEING all that certain, lot, tract, or parcel located in the JOHN ANDERSEN SURVEY, Abstract No. 1, City of Mesquite, Dallas County, Texas, and being the same called 20 acre tract of land described in deed to Esta Ruth Copeland, recorded in Volume 97124, Page 2892, Deed Records, Dallas County, Texas, and being more particularly described as follows:

COMMENCING at a point in the Southeasterly line of Mesquite Valley Road, a variable width right-of-way, as established in deed to the City of Mesquite, recorded in Volume 2743, Page 383, Deed Records, Dallas County, Texas, said point being at the West corner of a tract of land described in deed to N. E. Tittle, recorded in Volume 99206, Page 2520, Deed Records, Dallas County, Texas;

THENCE South 45°50'24" East, passing at a distance of 1434.46 feet a 5/8-inch iron rod found for reference at the East corner of a CANTURA COVE ADDITION PHASE 3, an Addition to the City of Mesquite, Dallas County, Texas, according to the plat thereof recorded in Volume 2001100, Page 2739, Map Records, Dallas County, Texas, and being the North corner of a tract of land described in deed to D. R. Horton, Ltd., recorded in Volume 99039, Page 2574, Deed Records, Dallas County, Texas, continuing a total distance of 1555.25 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set at the South corner of said Tittle tract, and being the PLACE OF BEGINNING of the tract described herein;

THENCE North 47°10'38" East, passing at a distance of 455.32 feet the East corner of said Tittle tract, continuing a total distance of 873.24 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner in the Southwest line of a called 36 acre tract of land described in deed to Elouise Copeland, recorded in Volume 807, Page 389, Deed Records, Dallas County, Texas, at the East corner of a tract of land described in deed to W. K. Tittle, recorded in Volume 77168, Page 2172, Deed Records, Dallas County, Texas;

THENCE South 43°59'18" East, passing at a distance of 7.18 feet the Southerly corner of said 36 acre tract, same being the most Westerly corner of a tract of land described in deed to Ken Griffis and Ginger Griffis, recorded in Instrument No. 201300232101, Official Public Records, Dallas County, Texas, continuing a total distance of 250.17 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

THENCE South 63°34'52" East, a distance of 32.96 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

THENCE South 59°58'10" East, a distance of 50.10 feet a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner at the most Southwesterly corner of said Griffis tract, same being the most Westerly Northwest corner of CREEK CROSSING ESTATES NO. 4, PHASE A, an Addition to the City of Mesquite, Dallas County, Texas, according to the plat thereof recorded in Volume 94230, Page 1111, Map Records, Dallas County, Texas:

THENCE Southeasterly, along the meanders of a creek and the Southwesterly line of said CREEK CROSSING ESTATES NO. 4, PHASE A, the following five (5) courses and distances:

South 11°35'52" East, a distance of 194.62 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

South 82°43'25" East, a distance of 82.04 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

South 78°54'50" East, a distance of 187.87 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for corner;

South 64°49'58" East, passing at a distance of 160.00 feet a 1/2-inch iron rod with a yellow- plastic cap stamped "RPLS 5310" set for reference, continuing a total distance of 171.49 feet to a point for corner;

South 36°07'41" East, a distance of 92.10 feet to point at the most Northerly corner of CREEK CROSSING ESTATES NO. 7, PHASE II, an Addition to the City of Mesquite, Dallas County, Texas, according to the plat thereof recorded in Volume 96006, Page 4962, Map Records, Dallas County, Texas;

THENCE South 44°44'49" West, leaving said Creek, and along the Northwest line of said CREEK CROSSING ESTATES NO. 7, PHASE II, passing at a distance of 40.00 feet a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 5310" set for reference, continuing a total distance of 968.80 feet to a wood post found at the South corner of said called 20 acre tract, same being the East corner of Lot 1, Block A, JUDGE FRANK BERRY MIDDLE SCHOOL ADDITION, an Addition to the City of Mesquite, Dallas County, Texas, according to the plat thereof recorded in Volume 200025, Page 56, Map Records, Dallas County, Texas;

THENCE North 45°50'24" West, passing at a distance of 847.30 feet the Easterly Northeast corner of said JUDGE FRANK BERRY MIDOLE SCHOOL ADDITION, same being the South corner of said D. R. HORTON, Ltd. tract, continuing a total distance of 1002.93 feet to the **PLACE OF BEGINNING** and containing 870,488 square feet or 19.984 acres of land.

Exhibit B

Depiction of the Property

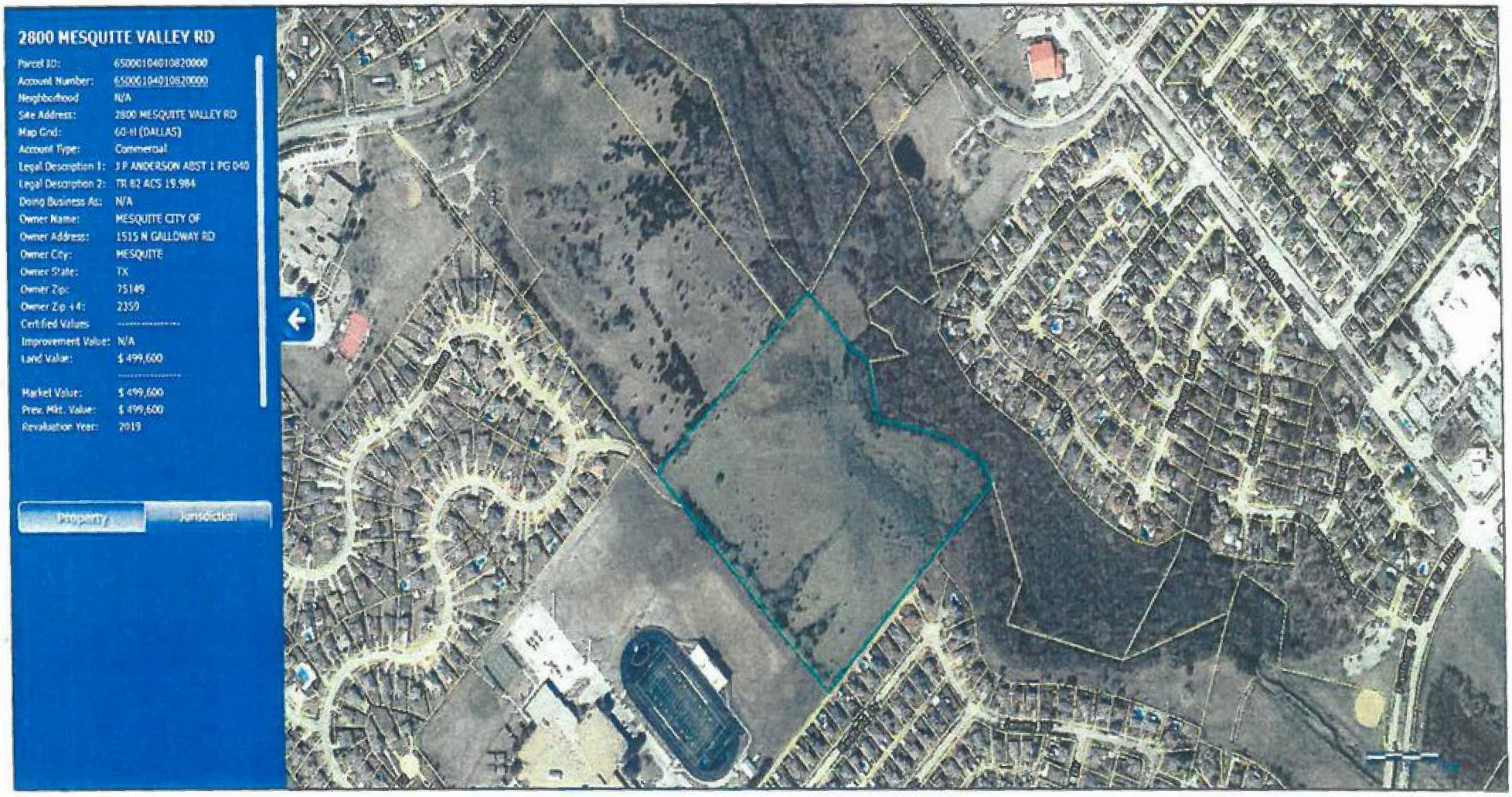
2800 MESQUITE VALLEY RD
Parcel ID: 65000104010820000
Account Number: 65000104010820000
Neighborhood N/A
Site Address: 2800 MESQUITE VALLEY RD
Map Grid: 60-H (DALLAS)
Account Type: Commercial
Legal Description 1: J P ANDERSON ABST 1 PG 040
Legal Description 2: TR 82 ACS 19.984
Doing Business As: N/A
Owner Name: MESQUITE CITY OF
Owner Address: 1515 N GALLOWAY RD
Owner City: MESQUITE
Owner State: TX
Owner Zip: 75149
Owner Zip +4: 2359
Certified Values
Improvement Value: N/A
Land Value: $ 499,600
Market Value: $ 499,600
Prev. Mkt. Value: $ 499,600
Revaluation Year: 2019
Property
Jurisdiction

EXHIBIT C

Form of Deed

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DEED WITHOUT WARRANTY

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

THAT, the City of Mesquite, a Texas home rule municipality ("**Grantor**"), 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, paid to Grantor by _____, having an address at _____ ("**Grantee**"), has GRANTED and by these presents does hereby GRANT unto Grantee, **WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW OR OTHERWISE**, (a) all of Grantor's right, title and interest, if any, in and to that certain land (the "**Land**") situated in Dallas County, Texas, more particularly described in **Exhibit A** attached hereto and incorporated herein by reference for all purposes, together with any improvements situated thereon, and (b) all of Grantor's right, title and interest, if any, in and to any minerals in, on or under the Land (Grantor's right, title and interest, if any, in and to the Land and improvements situated thereon together with Grantor's right, title and interest, if any, in and to any minerals in, on or under the Land are hereinafter collectively referred to as the "**Property**");

SUBJECT, HOWEVER, AND WITHOUT LIMITING THE FOREGOING DISCLAIMER OF WARRANTY, to those certain encumbrances, easements and other matters more particularly described in **Exhibit B** attached hereto and incorporated herein by reference (the "**Permitted Exceptions**"), but only to the extent that such Permitted Exceptions are valid, subsisting and, in fact, affect the Property;

AND FURTHER SUBJECT, HOWEVER, to taxes and assessments for the year 2021 and subsequent years, and by acceptance of this deed, Grantee assumes the obligation for payment of such taxes and assessments; and

GRANTOR MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW OR OTHERWISE WITH RESPECT TO ANY MATTER CONCERNING THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE FOLLOWING: (i) TITLE TO THE PROPERTY; (ii) THE HABITABILITY, MARKETABILITY, MERCHANTABILITY, OR SUITABILITY OR FITNESS OF THE PROPERTY FOR A PARTICULAR PURPOSE OR USE; (iii) THE NATURE AND CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, WATER, DRAINAGE AND GRADING, SOIL AND GEOLOGY, ZONING, ANNEXATION, EXTRATERRITORIAL JURISDICTION AND OTHER ZONING AND JURISDICTIONAL ISSUES, LOCATION OF CEMETERIES, UTILITY AVAILABILITY OR HOOK-

UP, EASEMENT RIGHTS, FLOOD PLAINS (OR PORTIONS OF THE PROPERTY IN A FLOOD PLAIN) AND THE COSTS AND REQUIREMENTS OF SAME, ACCESS TO STREETS, COSTS OF UTILITIES, LOCATION OF CURB CUTS AND MEDIAN BREAKS IN STREETS, SEWAGE FACILITIES (INCLUDING, WITHOUT LIMITATION, AVAILABILITY OR NON-AVAILABILITY OF APPROPRIATE WATER AND SEWER CAPACITY) OR OTHER GOVERNMENTAL RIGHTS OR OBLIGATIONS; (iv) THE COMPLETENESS, ACCURACY OR APPROVAL OF PERMITS, SURVEYS, PLATS, PRELIMINARY PLATS, POLLUTION ABATEMENT PLANS, SUBDIVISION PLANS OR REPORTS CONCERNING THE PROPERTY; (v) TAX CONSEQUENCES; (vi) THE COMPLIANCE OF ALL OR ANY PART OF THE PROPERTY WITH APPLICABLE ENVIRONMENTAL LAWS, RULES AND/OR REGULATIONS WITH RESPECT TO HEALTH, THE ENVIRONMENT, AND ENDANGERED SPECIES AND WETLANDS (COLLECTIVELY, THE **"ENVIRONMENTAL LAWS"**) INCLUDING, WITHOUT LIMITATION, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (42 U.S.C. §9601, ET. SEQ.), AS AMENDED, THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (42 U.S.C. §6901, ET. SEQ.), AS AMENDED, THE ENDANGERED SPECIES ACT (16 U.S.C. §1531, ET SEQ.), AS AMENDED, THE HAZARDOUS MATERIALS TRANSPORTATION ACT (49 U.S.C. § 5101, ET. SEQ.), AS AMENDED, THE CLEAN AIR ACT OF 1974 (42 U.S.C. § 7401, ET. SEQ.), AS AMENDED, THE CLEAN WATER ACT, (33 U.S.C. §1251, ET. SEQ.), AS AMENDED, THE TOXIC SUBSTANCES CONTROL ACT (15 U.S.C. § 2601, ET SEQ.), AS AMENDED, CHAPTER 361 OF THE TEXAS HEALTH & SAFETY CODE, AS AMENDED, THE TEXAS WATER CODE, AS AMENDED, THE TEXAS NATURAL RESOURCE CODE, AS AMENDED, THE TEXAS SOLID WASTE DISPOSAL ACT, AS AMENDED, AND **ALL OTHER FEDERAL, STATE AND LOCAL LAWS, STATUTES, ORDINANCES, RULES AND REGULATIONS, THAT REGULATE THE USE, STORAGE, TREATMENT, GENERATION, DISPOSAL, TRANSPORTATION, DISCHARGE, RELEASE, THREATENED RELEASE AND/OR REMEDIATION OF PETROLEUM AND PETROLEUM PRODUCTS, ASBESTOS AND ASBESTOS-CONTAINING MATERIALS IN ANY FORM, WHETHER FRIABLE OR NON-FRIABLE, POLYCHLORINATED BIPHENYLS, RADON GAS, FLAMMABLES, EXPLOSIVES, RADIOACTIVE SUBSTANCES, AND ALL OTHER SUBSTANCES, MATERIALS AND WASTES (WHETHER SOLID, LIQUID, OR GAS) THAT ARE NOW OR HEREAFTER CLASSIFIED, DEFINED, OR LISTED AS HAZARDOUS WASTES, HAZARDOUS MATERIALS, HAZARDOUS SUBSTANCES, POLLUTANTS, TOXIC WASTE, TOXIC MATERIALS AND/OR TOXIC SUBSTANCES;** ; (vii) THE EXISTENCE OF ASBESTOS, OIL, ARSENIC, PETROLEUM OR CHEMICAL LIQUIDS OR SOLIDS, LIQUID OR GASEOUS PRODUCTS OR HAZARDOUS SUBSTANCES AS THOSE TERMS AND SIMILAR TERMS ARE DEFINED OR USED IN APPLICABLE ENVIRONMENTAL LAWS; (viii) THE NATURE AND EXTENT OF ACCESS TO RIGHTS-OF-WAY OR UTILITIES, AVAILABILITY OF PERMITS TO ACCESS RIGHTS-OF-WAY OR UTILITIES ON THE PROPERTY, OTHER PROPERTY OWNED BY GRANTOR **(IF ANY),**, OR ANY LAND OWNED BY THIRD PARTIES; (ix) EASEMENTS, MINERAL INTERESTS, ENCUMBRANCES, LICENSES, RESERVATIONS, CONDITIONS OR OTHER SIMILAR MATTERS AFFECTING THE PROPERTY; (x) COMPLIANCE WITH ANY LAW, ORDINANCE OR REGULATION OF ANY GOVERNMENTAL ENTITY OR BODY; AND/OR (xi) CLAIMS, DEMANDS, OR OTHER MATTERS RELATING TO ANY RESTRICTIVE COVENANTS ENCUMBERING THE PROPERTY. THE SALE OF THE PROPERTY BY GRANTOR TO GRANTEE IS MADE ON AN **"AS IS, WHERE IS"** AND **"WITH ALL FAULTS"** BASIS. GRANTEE ACKNOWLEDGES THAT GRANTEE HAS HAD THE FULL, COMPLETE AND UNFETTERED RIGHT TO INSPECT THE PROPERTY TO GRANTEE'S SATISFACTION AND THAT THE PURCHASE PRICE PAID FOR THE PROPERTY WAS IN PART BASED UPON THE FACT THAT THE TRANSFER OF THE PROPERTY BY GRANTOR

TO GRANTEE IS WITHOUT WARRANTY OR REPRESENTATION. BY ACCEPTANCE OF THIS DEED, GRANTEE ACKNOWLEDGES THAT: (a) GRANTEE HAS RELIED ONLY UPON GRANTEE'S OWN INVESTIGATIONS, ASSESSMENTS AND INSPECTIONS AS TO THE CONDITION OF THE PROPERTY, OR GRANTEE'S OWN DECISION NOT TO INSPECT ANY MATTER; (b) AND GRANTEE ACKNOWLEDGES THAT GRANTEE DID NOT RELY ON ANY REPRESENTATION, WARRANTY, STATEMENT OR NON-ASSERTION OF GRANTOR OR GRANTOR'S OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, CONSULTANTS, OR INDEPENDENT CONTRACTORS IN MAKING GRANTEE'S DECISION TO PURCHASE THE **GRANTOR'S RIGHT, TITLE AND INTEREST, IF ANY, IN AND TO THE PROPERTY; AND (c) GRANTOR HAS NOT MADE AND HAS EXPRESSLY DISCLAIMED ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW, RELATING TO THE PROPERTY.**

IN ADDITION, BY ACCEPTANCE OF THIS DEED, GRANTEE AND ANYONE CLAIMING BY, THROUGH OR UNDER GRANTEE, HEREBY FULLY RELEASES GRANTOR, AND GRANTOR'S EMPLOYEES, OFFICERS, ELECTED OFFICIALS, AGENTS, REPRESENTATIVES, ATTORNEYS AND INSURERS (EACH A **"GRANTOR RELATED PARTY"**) FROM ANY AND ALL CLAIMS AGAINST GRANTOR AND EACH GRANTOR RELATED PARTY FOR ANY COSTS, LOSSES, LIABILITIES, DAMAGES, EXPENSES, DEMANDS, ACTIONS OR CAUSES OF ACTION (INCLUDING, WITHOUT LIMITATION, ANY RIGHTS OF CONTRIBUTION) ARISING FROM OR RELATED TO ANY LATENT OR PATENT DEFECTS OF THE PROPERTY OR FOR ANY ERRORS, OMISSIONS, OR OTHER CONDITIONS AFFECTING THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, THOSE MATTERS DESCRIBED IN CLAUSES (i) THROUGH (xi) ABOVE AND ANY ALLEGED NEGLIGENCE OF GRANTOR OR ANY GRANTOR RELATED PARTY. THIS COVENANT RELEASING GRANTOR AND EACH GRANTOR RELATED PARTY TOUCHES AND CONCERNS THE PROPERTY AND SHALL BE A COVENANT RUNNING WITH THE PROPERTY AND SHALL BE BINDING UPON GRANTEE, GRANTEE'S SUCCESSORS AND ASSIGNS, AND ALL FUTURE OWNERS OF ALL OR ANY PORTION OF THE PROPERTY.

BY ACCEPTANCE OF THIS DEED, THE GRANTEE ACKNOWLEDGES THAT THE GRANTOR HAS NOT MADE AND IS EXPRESSLY DISCLAIMING ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE TITLE, CONDITION, HABITABILITY, MARKETABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR USE OF THE PROPERTY.

BY ACCEPTANCE OF THIS DEED, GRANTEE ACKNOWLEDGES THAT ANY AND ALL WARRANTIES OF GRANTOR THAT MIGHT ARISE BY COMMON LAW OR OTHERWISE, AND THE IMPLIED COVENANTS OR WARRANTIES IN TEXAS PROPERTY CODE SECTION 5.023, AS NOW AND HEREAFTER AMENDED OR REPLACED, ARE EXCLUDED AND EXCEPTED FROM THIS DEED AND ARE FOREVER WAIVED AND RELINQUISHED BY GRANTEE.

TO HAVE AND TO HOLD the Property, subject to the foregoing, unto Grantee and Grantee's successors and assigns forever.

EXECUTED to be effective as of the ____ day of _____ 2021.

GRANTOR:

CITY OF MESQUITE,
a Texas home rule municipality

By: _____
Cliff Keheley
City Manager

STATE OF TEXAS §
§
COUNTY OF DALLAS §

Before me, the undersigned officer, on this day personally appeared Cliff Keheley, City Manager of the City of Mesquite, a Texas home rule municipality, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this ____ day of _____ 202__.

SEAL

_____
Notary Public In and for the State of Texas

[Grantee's acceptance on next page]

GRANTEE ACCEPTS THIS DEED WITHOUT WARRANTY:

GRANTEE:

TDI VALLEYBROOKE LLC,
a Texas limited liability company

By _____
Name: _____
Title: _____

STATE OF TEXAS §
§
COUNTY OF DALLAS §

Before me, the undersigned officer, on this day personally appeared _____, _____ of TDI Valleybrooke LLC, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this ____ day of _____ 2021.

SEAL

_____
Notary Public In and for the State of Texas

AFTER RECORDING, SEND TO:

[Insert Name and Address of Grantee]
_____
_____
_____
Attention: _____

SEND TAX NOTICES TO:

[Insert Name and Address of Grantee]
_____
_____
_____
Attention: _____

Exhibit A – Legal Description
Exhibit B – Permitted Exceptions

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT B

PERMITTED EXCEPTIONS

EXHIBIT G

Form of Public Trail Easement

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

PUBLIC TRAIL EASEMENT AGREEMENT

STATE OF TEXAS	§
	§
COUNTY OF DALLAS	§
DATE:	_____ _____, 2021
GRANTOR:	TDI Valleybrooke LLC
GRANTOR'S MAILING ADDRESS:	15441 Knoll Trail Drive # 150 Dallas, Texas 75248 Attn: Stephen M. Davis, Manager/Director of Development
GRANTOR'S LIENHOLDER:	None.
GRANTOR'S LIENHOLDER'S MAILING ADDRESS:	Not Applicable.
GRANTEE:	City of Mesquite, Texas
GRANTEE'S MAILING ADDRESS:	1515 N. Galloway Ave. Mesquite, Texas 75149 Attn: City Secretary
CONSIDERATION:	Ten Dollars ($10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.
EASEMENT PROPERTY:	See Exhibit "A" and Exhibit "A-1" attached hereto and incorporated herein by reference.
EASEMENT PURPOSE:	For recreational and athletic trail and related uses, including, without limitation, for pedestrian walking, running, bicycling, hiking, ingress and egress, and for the installation, construction, reconstruction, maintenance, replacement, repair, upgrading,

alteration, protection, inspection, operation, use, and removal of facilities, improvements, equipment, property, and materials in connection therewith, including, without limitation, improved surfaces, steps, railings, benches, connections, rest areas, canopies, statues, water fountains, landscaping, irrigation, signs, fencing, gates, barriers, and appurtenances thereto (collectively, the "Trail Facilities"), and customary uses attendant thereto.

RESERVATIONS FROM CONVEYANCE: None.

EXCEPTIONS TO WARRANTY: None.

Grantor, for the Consideration described above and subject to the Reservations from Conveyance and the Exceptions to Warranty, GRANTS, SELLS, and CONVEYS to Grantee and Grantee's heirs, successors, and assigns an easement and right-of-way in, on, over, under, through, and across the Easement Property for the Easement Purpose, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Trail Easement"), TO HAVE AND TO HOLD the Trail Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, successors and assigns to WARRANT AND FOREVER DEFEND the title to the Trail Easement in Grantee and Grantee's heirs, successors and assigns against every person whomsoever lawfully claiming or to claim the Trail Easement or any part of the Trail Easement, except as to the Reservations from Conveyance and the Exceptions to Warranty.

The following terms and conditions apply to the Trail Easement granted by this Agreement:

1. *Definitions.* The term "this Agreement" means this Trail Easement Agreement. The terms "Grantor", "Grantee", "Consideration", "Easement Property", "Easement Purpose", "Reservations from Conveyance", and "Exceptions to Warranty" in this Agreement are defined above. When the context requires, singular nouns and pronouns include the plural. When appropriate, the term "Grantee" includes the employees and authorized agents of Grantee.

2. *Character of Easement.* The Easement is exclusive, and is for the benefit of Grantee and Grantee's successors and assigns.

3. *Duration of Easement.* The duration of the Easement is perpetual, except however that it shall terminate in the event of future abandonment of the Trail Facilities by Grantee. For purposes hereof, and for so long as Grantee is the City of Mesquite, the Trail Facilities shall be deemed abandoned by Grantee solely upon Grantee's adoption and approval of an ordinance specifically abandoning the Trail Easement and the rights of Grantee set forth herein.

4. *Reservation of Rights.* Grantor reserves for Grantor and Grantor's heirs, successors and assigns the right to use all or part of the Easement Property (including, without limitation, the right to use the Trail Facilities in the same way that members of the public may use the Trail Facilities) in conjunction with Grantee as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with or interrupt the use or enjoyment of the

Easement and the Easement Property for the Easement Purpose by Grantee and Grantee's heirs, successors, and assigns.

5. *Secondary Easement.* Grantee has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Easement Property ("Adjacent Property") as may be reasonably necessary in connection with the Easement Property and the Easement Purpose. However, Grantee must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.

6. *Improvement and Maintenance of Easement Property.* Grantee has the right to eliminate any encroachments into the Easement Property, including, without limitation, the right to remove any and all fencing, paving, trees and undergrowth, and other obstructions that may injure or damage or tend to injure or damage the Trail Facilities, or interfere with the installation, construction, reconstruction, maintenance, replacement, repair, upgrading, alteration, protection, inspection, operation, use, or removal thereof. Grantor agrees, for the consideration set forth herein, not to construct or place within the Easement Property any buildings, structures, fences, property, or other improvements of any nature whatsoever, or any shrubs, trees or other growth of any kind, or otherwise interfere with the Trail Easement, without the prior written consent of Grantee. Grantee shall have the right to remove, and keep removed, all or parts of any building, structure, fence, property, or other improvement, or any shrub, tree, or other growth, of any character that is located within the Easement Property and which, in the judgment of Grantee, may endanger or in any way interfere with the construction, efficiency, or convenient and safe operation and maintenance of the Trial Facilities described herein or the exercise of Grantee's rights hereunder. Grantee shall at its sole cost and expense maintain and keep the Trail Facilities in good order, condition and repair.

8. *Restoration of Property to Pre-Construction Condition.* Grantee shall clean up and remove all trash and debris caused by Grantee's reconstruction, and maintenance of the Trail Facilities. After all such activities, Grantee shall return the surface of the Easement Property to its pre-reconstruction condition, excepting the Trial Facilities.

9. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunction (temporary or permanent) prohibiting interference and commanding compliance. Restraining order and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this Agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law, in equity, or otherwise.

10. *Attorney's Fees.* If either party retains an attorney to enforce this Agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

11. *Binding Effect.* This Agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.

12. *Choice of Law.* This Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.

13. *Counterparts.* This Agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

14. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Agreement does not preclude pursuit of other remedies in this Agreement or provided by law.

15. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this Agreement and all transactions contemplated by this Agreement.

16. *Indemnity.* To the extent allowed by law, each party agrees to indemnify, defend, and hold harmless the other party from any loss, attorney's fees, expenses, or claims attributable to breach or default of any provision of this Agreement by the indemnifying party.

17. *Entire Agreement.* This Agreement and any exhibits constitute the entire agreement of the parties concerning the grant of the Easement by Grantor to Grantee. There are no representations, agreements, warranties, or promises that are not expressly set forth in this Agreement and any exhibits.

18. *Legal Construction.* If any provision in this Agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this Agreement are for reference only and are not intended to restrict or define the test of any section. This Agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

19. *Liens and Encumbrances.* Grantor warrants that there are no liens, attachments, or other encumbrances that affect the title or right of Grantor to convey this Easement to Grantee for the purposes described herein except for those with a signature and acknowledgment included in and made a part of this document conveying the rights and privileges contained herein, and subordinating any such lien or encumbrance to the easement granted herein.

20. *Notices.* Any notice required or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier

delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein. As of the date of this Agreement and pending further notice, notices shall be sent to the following addresses identified above.

21. *Time.* Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.

GRANTOR:

TDI VALLEYBROOKE LLC,
a Texas limited liability company

By_____
Name: _____
Title: _____

STATE OF TEXAS §
§
COUNTY OF DALLAS §

Before me, the undersigned officer, on this day personally appeared _____, _____ of TDI Valleybrooke LLC, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this ____ day of _____ 2021.

SEAL

_____
Notary Public In and for the State of Texas

GRANTEE:

City of Mesquite,
a Texas home rule municipality

By: _____
Name: Cliff Keheley
Title: City Manager

STATE OF TEXAS

COUNTY OF DALLAS

Before me, the undersigned officer, on this day personally appeared Cliff Keheley, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act of the City of Mesquite, a Texas home rule municipality, as its City Manager, for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2021.

_____
Notary Public, In and for the State of Texas

Notary Seal

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "A-1"
(Not to scale)

EXHIBIT H

Valley Brooke
Community Master Plan


FUTURE PARK IMPROVEMENTS (BY CITY)
A. 12' CONCRETE HIKE / BIKE TRAIL (TYP.)
B. NATURE TRAIL (TYP.)
C. FUTURE PARK AMENITIES
PARK AND PRIVATE OPEN SPACE IMPROVEMENTS (BY DEVELOPER)
D. AMENITY CENTER
(PAVILION, FIREPIT, BENCHES, OPEN SPACE, ETC.)
E. ENTRY MONUMENT
F. 5' CONCRETE TRAIL
G. MASONRY FENCE OR WROUGHT IRON FENCE WITH LIVING SCREEN
H. 48" WROUGHT IRON FENCING WITH LANDSCAPING
I. POTENTIAL FLOODPLAIN EXCAVATION AREA
J. WROUGHT IRON OR WOOD FENCE
K. 6' WOOD FENCE
NOTE:
ALL OFFSITE TRAILS AND COPELAND PARK IMPROVEMENTS ARE FOR ILLUSTRATIVE PURPOSES ONLY AND ARE NOT INCLUDED IN THIS DEVELOPMENT. FUTURE IMPROVEMENTS ARE SUBJECT TO CHANGE BASED ON CITY OF MESQUITE FINAL TRAIL AND PARK DESIGN.
COPELAND PARK
VALLEYBROOKE
COMMUNITY MASTER PLAN
TAYLOR-DUNCAN
Kimley»Horn
MESQUITE, TEXAS JULY 12, 2021