RESOLUTION NO. 2022 - 18

A RESOLUTION AUTHORIZING THE EXECUTION OF A CHAPTER 380 PROGRAM AGREEMENT FOR ECONOMIC DEVELOPMENT INCENTIVES BY AND BETWEEN KENNEDY DURI AND THE CITY OF COMMERCE, TEXAS RELATIVE TO THE CONSTRUCTION OF A NEW BUILD IN COMMERCE, TEXAS LOCATED AT 900 SYCAMORE (PROPERTY ID #70067)

A regular meeting of the City Council of the City of Commerce, Texas, was held in Commerce, Texas, at City Hall, on the 19th day of April 2022, at 6:00 p.m.; a majority of council members being present and constituting a quorum, the following resolution was adopted:

WHEREAS, The City of Commerce (hereinafter referred to as "CITY" has found that providing a Neighborhood Empowerment Zone program consisting of tax abatement or rebate, lien waivers, and permit and tap fee waivers to Kennedy Duri (hereinafter referred to as "OWNER") in exchange for OWNER'S completion of the project proposed by OWNER will promote local economic development and stimulate the residential propertytax base within the City of Commerce (hereafter referred to as "PROJECT"); and

WHEREAS, CITY has determined that the PROJECT will directly establish a public purpose and that all transactions involving the use of public funds and resourcesin the establishment and administration of the PROGRAM contain controls likely to ensurethat the public purpose is accomplished; and

WHEREAS, Chapter 380 of the Local Government Code provides statutory authority for establishing and administering the PROJECT provided herein; and,

WHEREAS, Chapter 378 of the Local Government Code provides statutory authority for establishing and administering the Neighborhood Empowerment Zone; and

WHEREAS, the City of Commerce established designated Neighborhood Empowerment Zone No. 1 by resolution and in accordance with statutory processes; and

WHEREAS, the Commerce City Council has elected to participate in economic development incentives in accordance with V.T.C.A. Local Government Code, Chapter 380, and has adopted policy statements, guidelines, criteria and procedures for evaluating and considering applications and agreements for such incentives;

NOW THEREFORE, BE IT RESOLVED, that all of the recitals contained in the preamble of this resolution are found to be true and are adopted as findings of fact by this governing body and as part of its official record; and

BE IT FURTHER RESOLVED That the City Manager or his designee is authorized to execute a Chapter 380 Program Agreement for Economic Development Incentives with OWNER to provide certain economic incentives associated with the construction of a new home on the property located at Property ID 70067, Legal Description: S4380 ORIG TOWN OF COMMERCE BLK 59 LOT 7A ACRES .1374, 900 Sycamore Street, in Commerce, TX 75428; and

BE IT FURTHER RESOLVED In authorizing the execution of and in executing the referenced agreement, the City of Commerce, Texas, through its City Council and City officials, hereby exercises a governmental function in accordance with but not limited to Section 101.0215 of the Texas Civil Practices and Remedies Code;

BE IT FURTHER RESOLVED A substantial copy of the Neighborhood Empowerment Zone Agreement for Economic Development Incentives is attached hereto as Exhibit "A" and incorporated herein for all intents and purposes; and

BE IT FURTHER RESOLVED that the Mayor of the City of Commerce, Texas, Wyman Williams, be authorized and he is authorized to affix his signature to this resolution.

BE IT FURTHER RESOLVED that the City Secretary be authorized and she is hereby authorized to attest to the signature of the Mayor to this Resolution.

PASSED BY THE GOVERNING BODY of the City of Commerce, Texas, at a regular meeting of the City Council of Commerce, Texas, on the 19th day of April 2022.

ATTEST:

Molly Jacobsen, City Secretary

CITY OF COMMERCE

Wyman Williams, Mayor

(Seal)

APPROVED AS TO FORM:

Charles Anderson, City Attorney

I, Molly Jacobsen, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of a resolution, and that the same has not been repealed and is in full force and effect.

(Seal)

Molly Jacobsen, City Secretary
City of Commerce

CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT

THIS CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT ("Agreement") is entered into as of the **19th day of April, 2022**, by and between THE CITY OF COMMERCE, TEXAS, a Texas home rule municipal corporation (the "City"), whose address is 1119 Alamo Street, Commerce, Texas 75428, and **Kennedy Duri** (the "Developer"), whose address is **900 Sycamore St. Commerce, Texas 75428** (the City and Developer shall be collectively referred to herein as the "Parties").

RECITALS

WHEREAS, Developer owns certain real property located in the City, being more particularly described in Exhibit A attached hereto and made a part hereof (the "Property"); and

WHEREAS, Developer intends and proposes to construct or renovate improvements on the Property (the "Project"); and

WHEREAS, the City has established a program in accordance with Chapter 378, Texas Local Government Code, Article III, Chapter 52-a of the Texas Constitution, and Chapter 380 of the Texas Local Government Code, under which the City has the authority to make grants of public funds for the public purposes of promoting local economic development and stimulating business and commercial activity within the City, including fulfilling a critical need for all types of housing within the City; and

WHEREAS, the City Council of the City of Commerce adopted Resolution No. 19-37 on August 20, 2019, authorizing a program for renovation incentives to promote local economic development and to stimulate businesses and commercial activity under Chapters 378 and 380 of the Texas Local Government Code; and

WHEREAS, the City Council established and set boundaries in said Resolution No. 19-37 for the Neighborhood Empowerment Zone under Chapter 378 of the Texas Local Government Code, and the Property is located in that zone; and

WHEREAS, consistent with Article III, Chapter 52-a of the Texas Constitution, Chapter 378 and Chapter 380 of the Texas Local Government Code, the City has made specific proposals to Developer for the purposes of inducing the Developer to advance the public purposes of developing and diversifying the economy; and

WHEREAS, to ensure that the benefits the City provides under this Agreement are utilized in a manner consistent with Article III, Chapter 52-a of the Texas Constitution, Chapter 378 and Chapter 380 of the Texas Local Government Code, the Developer has agreed to comply with certain conditions for receiving those benefits, including the design and construction of the Project in accordance with the City's building code; and

WHEREAS, City has concluded and hereby finds that this Agreement embodies an eligible program and clearly promotes economic development in the City and, as such, meets the requisites under Chapters 378 and 380 of the Texas Local Government Code and further, is in the best interests of the City and Developer; and

WHEREAS, City has concluded and hereby finds that this Agreement embodies an eligible program and clearly promotes economic development in the City and, as such, meets the requisites under Chapters 378 and 380 of the Texas Local Government Code and further, is in the best interests of the City and Developer; and

WHEREAS, in consideration of the design and timely construction of the Project by Developer, which will bring additional sales tax and ad valorem tax revenues to the City and additional jobs resulting from the construction and renovation of the Properties, the City desires to make a grant to the Developer as provided in this Agreement; and

WHEREAS, the Parties desire to enter into an agreement to provide the terms and conditions by which the Project can be renovated; and

WHEREAS, the City will use available revenues calculated based on the increase in ad valorem taxes generated from the Project to provide the Cash Rebate Incentive (as defined below), to the Developer as provided in this Agreement; and

WHEREAS, Developer understands and agrees that: (a) in agreeing to future Cash Rebate Incentive and to receipt of other benefits pursuant to the Incentive Program, City is relying upon Developer's representations, warranties and agreements, as set forth and provided for in this Agreement; and (b) Developer shall be and shall remain subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

ARTICLE I

DEFINITIONS. The following words shall have the following meanings when used in this Agreement.

a. Ad Valorem Taxes. "Ad Valorem Taxes" means the amount of City of Commerce ad valorem real property taxes timely paid by Developer or the subsequent owner on the Project for any tax year for which Cash Rebate Incentive is to be paid under this Agreement. For the purpose of this Agreement, "Ad Valorem Taxes" does not include taxes levied by the Hunt County, Hunt County Medical District, Commerce Independent School District, or any other taxing entity.

b. Affiliate. "Affiliate" means (i) all persons, corporations or other entities, if any, controlled by Developer; (ii) all persons, corporations or other entities, if any, which control Developer ("Parent"); and (iii) all persons, corporations, or other entities controlled by a Parent. As used in this definition of Affiliate, control means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities or partnership interests, by contract, or otherwise.

c. Cash Rebate Incentive ("CRI"). "Cash Rebate Incentive" means a grant from any source of revenue available to the City for a qualifying Project as defined herein, however, the amount of such payments shall be limited solely to the amount of increased City property taxes assessed and paid as a result of the new assessed taxable value created by the Project for the year for which the increase in Ad Valorem Tax is assessed, paid in the following tax year after improvements are completed. Qualifying residential property shall be eligible for the CRI for one (1) year, unless the residential is owner-occupied single family, in which case the CRI shall be paid for three (years) following completion.

d. City. "City" means the CITY OF COMMERCE, TEXAS. For purposes of this Agreement, City's address is 1119 Alamo, Commerce, Texas 75428.

e. Developer. "Developer" means **Kennedy Duri**, whose address is 900 Sycamore Street in Commerce, Texas 75428.

f. ________________________, its successors and assigns.

g. Effective Date. "Effective Date" means the date upon which this Agreement has been fully executed by all signatories hereto.

h. Ineligible Improvements. "Ineligible Improvements" are determined by the City in its sole discretion and include, but are not limited to:

a. New pools, hot tubs, spas or water features:
b. Irrigation systems;
c. Detached accessory buildings;
d. Garage enclosures;
e. Carports;
f. Solar panels; and
g. Landscaping features.
h. Office, retail stores, restaurants or other commercial or industrial use.

i. Project. "Project" means Developer's construction or remodel of improvements on residential real property in the City of Commerce.

j. Property(ies). "Property" or "Properties" means certain real property owned by Developer, and more particularly described in Exhibit A, attached hereto and incorporated herein for all purposes.

k. Property Revenue. "Property Revenue" means the amount of City ad valorem taxes generated from the Property and collected by the City from one hundred percent (100%)

of the portion of the City's taxes levied and collected by the City on the Property during the term of this Agreement.

l. Related Documents. "Related Documents" means and include without limitation all ancillary agreements and all other instruments and documents relating to the subject matter of this Agreement, whether now or hereafter existing, executed in connection with Developer's or Affiliate's obligations to City.

m. Term of Agreement. "Term of Agreement" shall mean four (4) years or until such earlier mutual termination as such is described herein.

ARTICLE II
CONSTRUCTION OF THE PROJECT

2.1 The Project. The Project, as defined herein, is located on the Property listed on Exhibit A, within the City. The Project may include the construction or renovation of one or more structures and related infrastructure. The Project for purposes of this Agreement may not include Ineligible Improvements, although such improvements may be placed on the Property if otherwise allowed under City ordinances or state statutes.

2.2 Construction and Design of the Project. The Developer shall perform, or cause to be performed the design, site work and related improvements necessary for the construction or renovation of the Project. The Developer shall perform all work on the Project in a good and workmanlike manner and shall be subject to all development and construction standards and ordinances promulgated by the City or other governmental authorities.

2.3 Government Requirements and Approvals. Developer will apply for and use its best efforts to obtain, at its own expense, any and all necessary subdivision plats, permits, licenses, variances, and approvals that are necessary to construct the Project, including any environmental controls. Developer shall satisfy all permitting requirements, including but not limited to building permitting requirements.

2.4 Performance and Completion of Construction. Developer shall construct the Project in accordance with this Agreement. The Project may include construction of one or more single family detached residential structures and related infrastructure or other residential use.

Developer shall be subject to audit (by the City or its designee) for the term of this Agreement.

2.6. Indemnity and Insurance.

TO THE EXTENT ALLOWED BY APPLICABLE LAW, EACH PARTY HERETO SHALL INDEMNIFY, SAVE AND HOLD HARMLESS THE OTHER PARTY, ITS ELECTED OFFICIALS, OFFICERS, AGENTS, ATTORNEYS AND EMPLOYEES, AS WELL AS THE DIRECTORS, OFFICERS, AGENTS, AND ATTORNEYS (COLLECTIVELY, THE "INDEMNITEES") FROM AND

AGAINST: (I) ANY AND ALL CLAIMS, DEMANDS, ACTIONS OR CAUSES OF ACTION THAT ARE ASSERTED AGAINST ANY INDEMNITEE BY A THIRD-PARTY RELATING TO THE OTHER INDEMNITEE'S RESPONSIBILITIES OR OBLIGATIONS UNDER THIS AGREEMENT (II) ANY ADMINISTRATIVE OR INVESTIGATIVE PROCEEDING BY ANY GOVERNMENTAL AUTHORITY AGAINST AN INDEMNITEE DIRECTLY OR INDIRECTLY RELATED, TO A CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, ARISING FROM THE OTHER INDEMNITEE'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER; AND (III) ANY AND ALL LIABILITIES, LOSSES, COSTS OR EXPENSES (INCLUDING ATTORNEYS' FEES AND DISBURSEMENTS) THAT ANY INDEMNITEE SUFFERS OR INCURS AS A RESULT OF ANY OF THE FOREGOING. IF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS ASSERTED AGAINST ANY INDEMNITEE, SUCH INDEMNITEE SHALL PROMPTLY NOTIFY THE OTHER INDEMNITEE, BUT THE FAILURE TO SO PROMPTLY NOTIFY SUCH OTHER INDEMNITEE SHALL NOT AFFECT SUCH INDEMNITEE'S OBLIGATIONS UNDER THIS PARAGRAPH UNLESS SUCH FAILURE MATERIALLY PREJUDICES SUCH INDEMNITEE'S RIGHT TO PARTICIPATE IN THE CONTEST OF SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, AS HEREINAFTER PROVIDED. IF REQUESTED BY THE INDEMNITEE HAVING THE OBLIGATION TO INDEMNIFY IN WRITING, SO LONG AS NO DEFAULT OR EVENT OF DEFAULT SHALL HAVE OCCURRED AND BE CONTINUING, SUCH INDEMNITEE SHALL IN GOOD FAITH CONTEST THE VALIDITY, APPLICABILITY AND AMOUNT OF SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION AND SHALL PERMIT THE INDEMNIFYING PARTY TO PARTICIPATE IN SUCH CONTEST. ANY INDEMNITEE THAT PROPOSES TO SETTLE OR COMPROMISE ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING FOR WHICH THE OTHER INDEMNITEE MAY BE LIABLE FOR PAYMENT OF INDEMNITY HEREUNDER SHALL GIVE SUCH INDEMNITEE WRITTEN NOTICE OF THE TERMS OF SUCH PROPOSED SETTLEMENT OR COMPROMISE REASONABLY IN ADVANCE OF SETTLING OR COMPROMISING SUCH CLAIM OR PROCEEDING AND SHALL OBTAIN SUCH INDEMNITEE'S CONCURRENCE THERETO.

ARTICLE III
INCENTIVES and REQUIREMENTS

3.1 Sales Tax Refund. City shall refund the amount of municipal sales tax received from sales on the Property within a Project for a period of ten (10) years.

3.2 Property Tax. Municipal Property Taxes on the Property are hereby rebated as Cash Rebate Incentives.

3.3 Single Family Incentives. In the case of single-family development, the following incentives are authorized:

a. Water and Sewer tap fees are waived if there is no utility cut required;

b. Alternative off-street parking requirements shall be:----------------------------------
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- 3.4 Alternative Materials and Methodologies. Alternative construction methodologies and alternative building materials are authorized as follows:_All newly constructed residential buildings and structures shall be of standard masonry construction having at least 80 percent of the total exterior walls above grade level, excluding doors, windows, and any gabled roof ends. Such materials shall be brick, stone, cementitious composition fiberboard, stucco, glass block, or materials of equal characteristics. Hollow clay tile, or exposed lightweight block shall not be considered masonry construction. Improved Parking Surface: Improved surface means a driveway, parking space, or area constructed on private property with concrete, and which is intended to be used for the parking or storing of vehicles. An improved surface shall mean a single, continuous slab of Portland cement concrete poured to a depth of not less than four inches, with a minimum of 3,000 psi compressive strength, reinforced with No. 3 reinforcing bar at 18 inches on center, each way.

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3.5 Fees. Fees related to the construction of buildings are amended as follows:
Not Applicable ☐ or Specific Fees Waived: all associated permit fees, water tap fees, and sewer tap fees.

3.6 Requirements: baseline performance standards for the Project include the following: ---
Energy Star ☐______________________________
LEED Certified ☐______________________________
Other: ☐______________________________
Not Applicable ☐______________________________

ARTICLE IV
REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

4.1 Representations, Warranties and Obligations of Developer. Developer covenants and agrees that, while this Agreement is in effect, Developer shall comply with the following terms, conditions and agreements:

a. Developer agrees to make, execute and deliver to City such other documents and agreements as City or its attorneys may reasonably request relating to the subject matter hereof.

b. As a further condition to the receipt of any incentive, Developer shall certify that Developer is not in default of any provision of this Agreement. Developer shall not be entitled to a rebate or abatement if an event of default exists; however, upon timely curing any default, payment shall issue.

c. Developer agrees to perform and comply in all material respects with all terms, conditions, and provisions set forth in this Agreement and Related Documents between Developer and City.

d. Developer shall at all times comply with all federal, state, and local laws, ordinances, rules, regulations and orders governing the applicable duties of Developer under this Agreement.

e. Developer shall not be delinquent in the payment of any taxes to any city, county, school district, state, federal or any other taxing jurisdiction.

f. Developer shall not have any active and/or open cases with the Building Standards Commission. Any unresolved case with the Commission will void the agreement.

g. Developer, its subsidiary, affiliate and parent companies shall forebear in instituting any suit, claim or legal action of any kind or nature against City, its officials, officers, employees, agents or elected officials as a named party, and shall not be a party to any litigation wherein City, its officials, officers, employees, agents or elected officials are a named party and its position in such litigation is contrary to the position of the City, its officials, officers, employees, agents or elected officials.

4.2 Representations, Warranties and Obligations of City.

a. City shall fund all requests so long as Developer (i) shall not be in default of any provision of this Agreement or any Related Document; (ii) upon the express condition that Developer shall have completed all real property improvements represented and contemplated in Developer's original application ; and (iii) Taxes and fees were timely paid (by January 31st) for the annual period.

ARTICLE V
DEFAULT

5.1 Events of Default by Developer. Each of the following shall constitute an Event of Default by Developer under this Agreement:

a. A violation, failure to perform, or breach by the Developer of any covenant, warranty, duty, indemnity, or obligation of the Developer under this Agreement which has not been cured within thirty (30) days of written notice by City to Developer.

b. Any warranty, representation or statement made or furnished to City by or on behalf of Developer under this Agreement or the Related Documents which was false or misleading in any material respect, either now, in the future, or at the time made or furnished, and Developer fails to cure same within thirty (30) days after written notice from City describing the violation, or if such violation cannot be cured within such 30-day period in the exercise of all due diligence, then if Developer fails to commence such cure within such 30-day period or fails to continuously thereafter diligently prosecute the cure of such violation; or if Developer learns that any such warranty, representation or statement has become false or misleading at the time that it was made, and Developer fails to provide written notice to City of the false and misleading nature of such warranty, representation or statement within ten (10) days after Developer learns of its false or misleading nature.

c. The dissolution or termination of Developer's existence as a going business, Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment of all or substantially all of the assets of Developer for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer unless, in the case of involuntary proceedings, such proceedings are discharged within sixty (60) days after filing, any of which occur prior to the completion of the Eligible Project.

d. Failure of Developer or Affiliate to comply with or to perform any other term, obligation, covenant or condition contained in Related Documents or any other written agreement affecting the obligations of Developer in this Agreement, and Developer or Affiliate, as the case dictates, fails to cure such failure within thirty (30) days after written notice from City describing such failure, or if such failure cannot be cured within such 30-day period in the exercise of all due diligence, then if Developer or Affiliate fails to commence such cure within such 30-day period or fails to continuously thereafter diligently prosecute the cure of such failure.

5.2 Events of Default by City. The failure of City to remit CRI payment to Developer, after performance by Developer, within the time prescribed herein shall constitute default.

5.3 Remedies. If any Event of Default by Developer shall occur and shall not be cured within the time period prescribed, all commitments of City under this Agreement immediately will terminate (including any obligation to make further CRI payments regardless of the date of default), all without further notice to Developer (except as may otherwise be required by specific provision hereunder), at the option of City, except for an Event of Default described in the subsection 5.1. c., above, in which case such termination shall be automatic and not optional. If any Event of Default by City shall occur and shall not be cured within the time period prescribed, Developer may terminate this Agreement and seek damages for such default based solely on the amount of any payments owing by City, as such payments may accrue.

ARTICLE VI
MISCELLANEOUS PROVISIONS

6.1 Immunity. The Parties agree that the City of Commerce has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

6.2. Assignment/Non-Transferable. The Parties agree that neither this Agreement nor the work to be performed or goods/services provided hereunder will be assigned or transferred without the prior written consent of the City of Commerce.

6.3 Successors and Assigns. The Parties, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

6.4 Execution and Consideration. This Agreement is executed by the Parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.

6.5 Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand–delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

To City of Commerce:

City of Commerce
Attn: City Manager
1119 Alamo
Commerce, TX 75428

With Copy to:

Mr. Charles Anderson
Messer, Fort & McDonald, PLLC
6371 Preston Road, Suite 200
Frisco, TX 75034

To Developer:

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____
____

6.6 Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative, and none shall exclude any other right or remedy provided by law, or by any other provisions of the Agreement. All such rights and remedies may be exercised and enforced concurrently and whenever, and as often, as occasion for their exercise arises.

6.7 Waiver of Breach. A waiver by either Party of a breach of the Agreement by the other Party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.

6.8 Parties Bound. The Agreement shall be binding upon, and inure to the benefit of, the Parties to the Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.

6.9 No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

6.10 Incorporation of Recitals. The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of the Parties.

6.11 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contained herein and may not be modified, amended or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto. The subject matter of this Agreement is for the Project only and not any other matters that may exist between the Parties past, present or future.

6.12 Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Hunt County, Texas.

6.13 Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

6.14 Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

6.15 Authority to Execute. The individuals executing this Agreement on behalf of the respective Parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the Party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the Party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

6.16 Force Majeure. Neither Developer nor the City shall be required to perform any term, condition, or covenant in the Agreement so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of the Party and which by the exercise of due diligence the Party is unable, wholly or in part, to prevent or overcome.

6.17 Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

6.18 Savings/Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

6.19 Representations. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had an opportunity to confer with its legal counsel.

EXECUTED this the 19th day of April 2022.

DEVELOPER:

____

THE CITY OF COMMERCE, TEXAS

By: ______________________________
WYMAN WILLIAMS, MAYOR

ATTEST:

____
Molly Jacobsen, City Secretary

EXHIBIT A
Legal Description of the Property

900 SYCAMORE STREET; OTHERWISE KNOWN AS PROPERTY ID #70067; LEGAL DESCRIPTION: S4380 ORIG TOWN OF COMMERCE BLK 59 LOT 7A ACRES .1374