



**NOTICE OF SPECIAL MEETING AGENDA
LANCASTER ECONOMIC DEVELOPMENT CORPORATION, TYPE A
MUNICIPAL CENTER CITY COUNCIL CHAMBERS
211 N. HENRY STREET, LANCASTER, TEXAS**



Thursday, December 12, 2019 - 7:00 PM

CALL TO ORDER

PUBLIC TESTIMONY:

At this time citizens who have pre-registered before the call to order will be allowed to speak on consent or action item on the agenda, with the exception of public hearings, for a length of time not to exceed three minutes. Anyone desiring to speak on an item scheduled for a public hearing is requested to hold their comments until the public hearing on that item.

CONSENT AGENDA:

Items listed under the consent agenda are considered routine and are generally enacted in one motion. The exception to this rule is that a Boards and Commissions Member may request one or more items to be removed from the consent agenda for separate discussion and action.

1. Consider approval of minutes from the Lancaster Economic Development Corporation Special Meeting held on January 10, 2019 and Joint Special Meeting held on March 26, 2019.

ACTION:

2. Discuss and consider a resolution to execute an economic development agreement by and between the Lancaster Economic Development Corporation and DSV Real Estate Dallas, Inc.

ADJOURNMENT

EXECUTIVE SESSION: The Boards and Commissions reserves the right to convene into executive session on any posted agenda item pursuant to Section 551.071(2) of the Texas Government Code to seek legal advice concerning such subject.

ACCESSIBILITY STATEMENT: Meetings of the Boards and Commissions are held in municipal facilities are wheelchair-accessible. For sign interpretive services, call the City Secretary's office, 972-218-1311, or TDD 1-800-735-2989, at least 72 hours prior to the meeting. Reasonable accommodation will be made to assist your needs.

PURSUANT TO SECTION 30.06 PENAL CODE (TRESPASS BY HOLDER WITH A CONCEALED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A CONCEALED HANDGUN.

CONFORME A LA SECCION 30.06 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO 411, CODIGO DEL GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO OCULTADA.

PURSUANT TO SECTION 30.07 PENAL CODE (TRESPASS BY HOLDER WITH AN OPENLY CARRIED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A HANDGUN THAT IS CARRIED OPENLY.

CONFORME A LA SECCION 30.07 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO AL AIRE LIBRE CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO H, CAPITULO 411, CODIGO DE GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO AL AIRE LIBRE.

Certificate

I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on December 9, 2019 @ 5:00 p.m. and copies thereof were provided to the Lancaster Economic Development Corporation board members.



Shane Shepard, Economic Development Director

CITY OF LANCASTER'S BOARDS AND COMMISSIONS

Lancaster Economic Development Corporation

1.

Meeting Date: 12/12/2019

Policy Statement: This request supports the City Council 2019-2020 Policy Agenda

Goal(s): Financially Sound City Government

Submitted by: Shane Shepard, Director of Economic Development

Agenda Caption:

Consider approval of minutes from the Lancaster Economic Development Corporation Special Meeting held on January 10, 2019 and Joint Special Meeting held on March 26, 2019.

Background:

Attached for your review and consideration are minutes from the LEDC Special Meeting held on January 10, 2019, and Joint Special Meeting held on March 26, 2019.

Attachments

January 10, 2019 Minutes

March 26, 2019 Minutes

MINUTES

LANCASTER ECONOMIC DEVELOPMENT CORPORATION BOARD MEETING OF JANUARY 10, 2019

The Lancaster Economic Development Corporation board members of the City of Lancaster, Texas, met in a called Special Session in the Conference Room of City Hall on January 10, 2019 at 7:00 p.m. with a quorum present to-wit:

Board Members Present:

Ted Burk, President
Ellen Clark, Vice President
Sandi Collier, Board member

Board Members Absent:

Octavia Giadolor, Board member

City Staff Present:

Rona Stringfellow, Deputy City Manager
Shane Shepard, Director of Economic Development
Mayra A. Ortiz, Board Secretary

Call to Order

President Burk called the meeting to order at 7:00 p.m. on January 10, 2019.

1. **Consider approval of minutes from the Lancaster Economic Development Corporation (LEDC) Regular Meeting held on November 1, 2018.**

MOTION: Boardmember Collier made a motion, seconded by Vice President Clark, to approve consent item 1. The vote was cast 3 for, 0 against [Giadolor absent].

2. **The Lancaster Economic Development Corporation Board shall convene into closed executive session pursuant to Section 551.072, Texas Government Code to deliberate the purchase, exchange, lease, or value of real property on the position of the governmental body in negotiations with a third person.**
3. **Reconvene into open session. Consider and take appropriate action(s), if any, on closed/executive session matters.**

The Lancaster Economic Development Corporation Board recessed for Executive Session at 7:01 p.m. and reconvened into open session at 7:14 p.m.

MOTION: Boardmember Collier made a motion, seconded by Vice President Clark, to recommend to the City Council the approval of the agreement as written that was discussed in executive session and the preparing and purchasing a property located at 2751 West Pleasant Run Road for an amount of up to \$30,000.00, utilizing Economic Development proceeds. The vote was cast 3 for, 0 against [Giadolor absent].

MOTION: Vice President Clark made a motion, seconded by Boardmember Collier, to adjourn. The vote was cast 3 for, 0 against [Giadolor absent].

Meeting was adjourned at 7:15 p.m.

ATTEST:

APPROVED:

Shane Shepard, Economic Development Director

Ted Burk, President

MINUTES

LANCASTER ECONOMIC DEVELOPMENT CORPORATION JOINT SPECIAL MEETING OF MARCH 26, 2019

The Lancaster Economic Development Corporation of the City of Lancaster, Texas, met in a called Joint Special Session in the Lancaster Recreation Center, 1700 Veterans Memorial Parkway on March 26, 2019 at 6:30 p.m. with a quorum present to-wit:

Boardmembers Present:

Ted Burk, President
Ellen Clark, Vice President
Octavia Giadolor, Board member
Sandi Collier, Board member
Adrienne Davis, Board member

City Staff Present:

Opal Mauldin-Jones, City Manager
Rona Stringfellow, Deputy City Manager
Fabrice Kabona, Assistant City Manager
Dori Lee, Director of Human Resources
Sean Johnson, Director of Quality of Life and Cultural Services
Jermaine Sapp, Equipment Services & Facilities Director
Shane Shepard, Director of Economic Development
Kenneth Johnson, Fire Chief
Terry Capehart, Director of Development Services
Andrew Waits, Interim Assistant Public Works Director
Kellen Benbrook, Airport Manager
Kaylon Jackson, Administrative Secretary
Bester Munyaradzi, Senior Planner
Emma Chetuya, Planner
Rashad Jackson-Stegall, Recreation Supervisor
Jessica Duran, Assistant Library Manager
Kevin Wiley, Parks Superintendent
Anita Skipper, Recreation Superintendent
Jonathan Harris, Animal Control Officer
Jasmine Carr, Community Programs Coordinator
Dale Jackson, Chief Building Official
Cheryl Womble, Administrative & Community Relations Supervisor
Delajer Walker, E.C. Superintendent
David T. Ritter, City Attorney
John Martin, Records Supervisor
Mayra A. Ortiz, Board Secretary / Deputy City Secretary
Sorangel O. Arenas, City Secretary

Call to Order:

President Burk called the meeting to order at 6:45 p.m. on March 26, 2019.

1. Welcome.

Mayor Hairston welcomed all Boards, Commissions, and Committees to the training.

2. State mandated Texas Open Meetings Act Training conducted by Brown & Hofmeister, L.L.P.

City Attorney Ritter led the training.

3. Receive an update on City projects from City Manager.

City Manager Mauldin-Jones provided an update.

MOTION: Boardmember Collier made a motion, seconded by Vice President Clark, to adjourn. The vote was cast 5 for, 0 against.

The meeting was adjourned at 7:57 p.m.

ATTEST:

APPROVED:

Shane Shepard, Economic Development Director

Ted Burk, President

CITY OF LANCASTER'S BOARDS AND COMMISSIONS

Lancaster Economic Development Corporation

2.

Meeting Date: 12/12/2019

Policy Statement: This request supports the City Council 2019-2020 Policy Agenda

Goal(s): Quality Development

Submitted by: Shane Shepard, Director of Economic Development

Agenda Caption:

Discuss and consider a resolution to execute an economic development agreement by and between the Lancaster Economic Development Corporation and DSV Real Estate Dallas, Inc.

Background:

DSV Real Estate Dallas, Inc. (DSV) has entered into an agreement to purchase approximately 55.627 acres on the west side of Dallas Avenue north of Telephone Road to construct a facility totaling approximately one million (1,000,000) square feet for operations as a regional office and distribution facility. The business will employ 450 full-time workers within the first five years of operations. 200 workers will receive an average wage of \$29,900. 250 workers will receive an average wage of \$76,000.

The company estimates approximately \$72,000,000 in value added capital investment at their site in Lancaster in real property and an additional \$8,000,000 in business personal property. The company is requesting a grant for the following:

1. \$125,000 for job credits. Each credit will be \$500 for up to 250 jobs. Jobs must employ a Lancaster resident for a year and pay a minimum of \$65,000 annually. The amount must be collected within three years from the date of the Certificate of Occupancy;
2. \$25,000 for skill development training. Training may be in-house or by an accredited educational institution. Jobs trained for must pay at least \$29,900; and
3. \$25,000 to assist in development costs including permitting and impact fees.

Operational Considerations:

DSV will submit to the LEDC copies of the City issued Certificate of Occupancy, an annual detailed verification of the incentivized jobs and payrolls, and annual job training assistance incentive report and receipts in order to exercise the grant. Within 60 days of verification of terms, the Lancaster Economic Development Corporation will remit payments.

Legal Considerations:

The City Attorney as reviewed and approved the resolution and agreement as to form.

Public Information Considerations:

This item if being considered at a meeting of the Lancaster Economic Development Corporation and is noticed and held in accordance with the Texas Open Meetings Act.

Fiscal Impact:

The total incentive cost will not exceed \$175,000 over three years and is within the LEDC incentive fund.

Options/Alternatives:

1. The Lancaster Economic Development Corporation may approve the resolution, as presented.
2. The Lancaster Economic Development Corporation may deny the resolution.

Recommendation:

Staff recommends approval of the resolution and agreement.

Attachments

Resolution

Agreement

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION (LEDC) OF LANCASTER, TEXAS, IN SUPPORT OF A GRANT TO DSV REAL ESTATE DALLAS, INC. A DELAWARE CORPORATION, FROM FUNDS COLLECTED FROM ONE QUARTER (¼) OF ONE (1) PERCENT SALES AND USE TAX FOR THE PROMOTION AND DEVELOPMENT OF NEW AND EXPANDED BUSINESS ENTERPRISES, AS AUTHORIZED BY STATE LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, DSV Real Estate Dallas, Inc., a Delaware corporation has selected Lancaster as the location of their office and distribution combined facilities; and

WHEREAS, the Lancaster Economic Development Corporation (LEDC) recognizes how important business and community development is to the vitality and growth of Lancaster; and

WHEREAS, the Lancaster Economic Development Corporation (LEDC) is authorized by state law to issue certain grants in order to promote local economic development utilizing funds from funds collected from one quarter (1/4) of one percent (1%) sales and use tax in order to stimulate the economy; and

WHEREAS, the Lancaster Economic Development Corporation (LEDC) is responsible for recommending Type A Incentive Grants to the Lancaster City Council for review and approval; and

WHEREAS, the Lancaster Economic Development Corporation (LEDC) has determined that the award of the grants to DSV Real Estate Dallas, Inc. is in the best interest of the City of Lancaster.

NOW, THEREFORE, BE IT RESOLVED BY THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION (LEDC) OF THE CITY OF LANCASTER, TEXAS:

SECTION 1. The Board of Directors of the Lancaster Economic Development Corporation (LEDC) approves this resolution and desires to enter into an Economic Development Incentive Agreement to provide economic development grants to DSV Real Estate Dallas, Inc. specifically attributed to LEDC herein.

SECTION 2. The Board of Directors of the Lancaster Economic Development Corporation (LEDC) authorizes the Board President or other authorized representatives to execute the Agreement subject to ratification and approval by the City Council of the City of Lancaster.

SECTION 3. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

DULY PASSED and approved by the Lancaster Economic Development Corporation (LEDC) of the City of Lancaster, Texas, on this the 12th day of December, 2019.

ATTEST:

APPROVED:

Shane Shepard, Economic Development Director

Ted Burk, President

APPROVED AS TO FORM:

David T. Ritter, City Attorney

ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

This **ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT** by and between *DSV REAL ESTATE DALLAS, INC.* a Delaware corporation, (hereinafter referred to as “Developer”), and the *LANCASTER ECONOMIC DEVELOPMENT CORPORATION*, a Texas non-profit corporation (hereinafter referred to as the “LEDC”), is made and executed on the following recitals, terms and conditions.

WHEREAS, LEDC is a Type A economic development corporation operating pursuant to Chapter 504 of the Texas Local Government Code, as amended (also referred to as the “Act”), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, Section 501.101 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are: (1) for the creation or retention of primary jobs; and (2) found by the board of directors to be required or suitable for the development, retention, or expansion of: (A) manufacturing and industrial facilities; (B) research and development facilities; (C) military facilities, including closed or realigned military bases; . . . (F) recycling facilities; . . . (I) distribution centers; (J) small warehouse facilities capable of serving as decentralized storage and distribution centers; (K) primary job training facilities for use by institutions of higher education; or (L) regional or national corporate headquarters facilities”; and

WHEREAS, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . .”; and

WHEREAS, Section 501.158 of the Texas Local Government Code prohibits the provision of a direct incentive unless LEDC enters into an Agreement with Developer providing at a minimum a schedule of additional payroll or jobs to be created or retained by LEDC’s investment; a schedule of capital investments to be made as consideration for any direct incentives provided by LEDC to Developer; and a provision specifying the terms and conditions upon which repayment must be made should Developer fail to meet the agreed to performance requirements specified in this Agreement; and

WHEREAS, Developer has applied to LEDC for financial assistance necessary occupy and commence operations at its spec building to be constructed within the city limits of the City of Lancaster, Texas; (“the Facility”) on real property owned by the Developer (“the Property”) and

WHEREAS, the LEDC’s Board of Directors have determined the financial assistance provided to Developer for Facility operations located on the Property is consistent with and meets the definition of “project” as that term is defined in Sections 501.101 and 501.103 of the Texas

Local Government Code; and the definition of “cost” as that term is defined by Section 501.152 of the Texas Local Government Code; and

WHEREAS, Developer agrees and understands that Section 501.073(a) of the Texas Local Government Code requires the City Council of the City of Lancaster, Texas, to approve all programs and expenditures of LEDC, and accordingly this Agreement is not effective until City Council has approved this Agreement at a City Council meeting called and held for that purpose.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LEDC and Developer agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. TERM.

This Agreement shall be effective as of the Effective Date, as defined herein, and shall continue thereafter until **December 31, 2032**, unless terminated sooner under the provisions hereof.

SECTION 3. DEFINITIONS.

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

- (a) **Act.** The word “Act” means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word “Agreement” means this Performance Agreement, together with all exhibits and schedules attached to this Performance Agreement from time to time, if any.
- (c) **Certificate of Occupancy.** The words “Certificate of Occupancy” mean a certificate of occupancy (or its local equivalent) for the Facility.
- (d) **City.** The word “City” means the City of Lancaster, Texas, a Texas home-rule municipality, whose address for the purposes of this Agreement is 211 N. Henry Street, Lancaster, Texas 75146.
- (e) **Developer.** During the development and construction phase of the Facility construction, the word “Developer” means DSV Real Estate Dallas, Inc., whose address for the purposes of this Agreement is 100 Walnut Ave. Suite 400 Clark 07066 New Jersey]. After the completion of the Facility, and the issuance of a Certificate of Occupancy for the Facility, the tenant/operator will be DSV Solutions, LLC., an affiliate of DSV Real Estate Dallas,

Inc. within the DSV Panalpina Group and wholly-owned subsidiary of DSV Panalpina A/S, and the term “Developer” will mean DSV Solutions, LLC..

- (f) **DSV Panalpina Group.** The words “DSV Panalpina Group” mean any and all companies or entities under direct or indirect ownership or control of DSV Panalpina A/S, a company incorporated under the laws of Denmark, with registered office in Hovedgaden 630, DK-2640 Hedehusene, company reg. no. 58233528.
- (f) **Effective Date.** The words “Effective Date” mean the date of the latter to execute this Agreement by and between the Developer and LEDC, following approval by their respective governing body (for Developer) and Council and Board (for LEDC).
- (g) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (h) **Facility.** The word Facility means the building to be constructed on the Property. The Facility shall be a minimum 950,000 square feet warehouse, distribution and regional headquarter for DSV operations. Warehouse building is estimated to 995,260 square feet, main office 49,000 square feet in three-story building, three satellite warehouse offices (one-story) of 9,900 square feet located on the Property, as described and/or depicted in *Exhibit B* of this Agreement, which is attached hereto and incorporated herein for all purposes. In order to qualify as the “Facility” under this Agreement, the facility must meet all of the following criteria: (1) be located within the City; and (2) construction of the Facility must be completed and a Certificate of Occupancy obtained within two (2) years from the Effective Date of the Agreement.
- (i) **Full Time Equivalent Employment Positions.** The words “Full Time Equivalent Employment Positions” are up to two hundred and fifty (250) newly-created jobs for new employees located at the Facility and who are residents of the City, which new employees have been hired from the Effective Date until the third (3rd) anniversary of obtaining a Certificate of Occupancy for the Facility, and for which the annual Salary is not less than \$65,000.
- (j) **LEDC.** The word “LEDC” means the Lancaster Economic Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is P.O. Box 940, Lancaster, Texas 75146.
- (k) **Property.** The word “Property” means the approximately 55.627 acre tract or tracts of land in the Smith Elkins Survey, Abstract No. 430, City of Lancaster, Dallas County, Texas, as generally described and/or depicted in *Exhibit A* of this Agreement, which is attached hereto and incorporated herein for all purposes, together with any other adjacent land owned or hereafter acquired by Developer
- (l) **Salary.** The word “Salary” means the annual, W-2 wages of any new employee, exclusive of benefits, employer-paid taxes, health insurance, bonus, car allowance and related employee perquisites.

- (m) **Term.** The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.

SECTION 4. AFFIRMATIVE COVENANTS OF DEVELOPER.

Developer covenants and agrees with LEDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Occupation of Facility.** Developer covenants and agrees to occupy the Facility within two (2) years of the Effective Date of this Agreement.
- (b) **Certificate of Occupancy.** Developer covenants and agrees to obtain or cause to be obtained a Certificate of Occupancy from the City for the Facility located on the Property within two (2) years of the Effective Date of this Agreement.
- (c) **Operation of Facility.** Developer covenants and agrees to maintain and actively operate the Facility located on the Property beginning two (2) years of the Effective Date of this Agreement and during the remainder of the Term of this Agreement.
- (d) **Definition of and Documentation of Development Costs.** Developer covenants and agrees to obtain accurate invoices, receipts, and other written documentation regarding the amount of development costs actually incurred and paid for the development of the Property and construction of the Facility. The term “development costs,” shall be broadly construed and includes permitting fees, impact fees, and any other fees or costs associated with development of the Facility. Further Developer covenants and agrees to submit to the LEDC invoices, receipts, or other documentation indicating the amount of development costs paid for the development of the Facility in a reimbursable amount (as defined below in Section 5(a) not to exceed **Twenty Five Thousand and no/100 Dollars (\$25,000.00)**, within three (3) years of the Effective Date of this Agreement.
- (e) **Job Reporting.** Developer covenants and agrees beginning by **March 1, 2022**, for a reporting period of **January 1, 2021 to December 31, 2021**, and for each subsequent calendar year during the Term of this Agreement, Developer shall deliver to LEDC an annual compliance verification signed by a duly authorized representative of Developer that shall certify the number of Full-Time Equivalent Employment Positions, and shall disclose and certify the average wage for all Full-Time Equivalent Employment Positions (the “Annual Compliance Verification”). The Developer covenants and agrees by **March 1, 2021**, and annually thereafter during the Term of this Agreement, there will be a total of ten (10) Annual Compliance Verifications due and submitted to the LEDC covering the Full-Time Equivalent Employment Positions created and maintained during the Term of this Agreement. All Annual Compliance Verifications shall include quarterly IRS 941 returns, or Texas Workforce Commission Employer Quarterly Reports.
- (f) **Performance.** Developer agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and

between Developer and LEDC.

SECTION 5. AFFIRMATIVE COVENANTS OF LEDC.

LEDC covenants and agrees with the Developer that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) Reimbursement for Payment of Development Costs.** LEDC covenants and agrees within sixty (60) days of receipt of Developer's invoices, receipts, and other documentation indicating the amount of development costs paid in accordance with Section 4(d) of this Agreement and submitted no later than three (3) years after the Effective Date of this Agreement, that LEDC will reimburse Developer for one hundred (100%) of the cost of development costs actually incurred and paid, up to a maximum amount of **Twenty-Five Thousand and No/100 Dollars (\$25,000.00)**.
- (b) Fund Grant for Qualified Expenditures.** Upon execution and Effective Date of this Agreement, Developer shall be entitled to a grant from LEDC for Qualified Expenditures in the amount not to exceed **Twenty-Five Thousand and No/100 Dollars (\$25,000.00)** for use in labor skills development, either on-site or in partnership with Cedar Valley College or another accredited educational institution. The jobs trained-for in must pay at least \$29,990 annually. Developer covenants and agrees to submit to LEDC invoices, receipts, or other documentation of the Qualified Expenditures in a form acceptable to LEDC within three (3) years of the Effective Date of this Agreement.
- (c) Job Credit.**

The LEDC covenants and agrees to provide a financial incentive to Developer in the amount of **Five Hundred and No/100 Dollars (\$500.00)** for each Full-Time Equivalent Employment Position created by Developer up to a maximum of two hundred fifty (250) jobs, provided said Full-Time Equivalent Employment Position employee resides within the City of Lancaster, Texas, and works at the Property for the period of **January 1st** through **December 31st** of the applicable one-year reporting period for which the credit is claimed.

- (2) Developer covenants and agrees to report said Full-Time Equivalent Employment Positions by March 1st of each year from March 1, 2022 to March 1, 2025. Consistent with Section 4(d) of this Agreement, the first report shall be for the reporting period of **January 1, 2021**, to **December 31, 2021**, and shall be reported to the LEDC by **March 1, 2022**. Said reports shall be due annually thereafter. All incentives under this Section (5)(c) must be claimed no later than **March 1, 2024**.
- (3) The financial incentive provided pursuant to this Section 5(c) of this Agreement excludes any Full-Time Equivalent Employment Positions provided to the LEDC in a prior reporting year during the Term of this Agreement. LEDC covenants and agrees to provide to Developer said financial incentive in up to three payments, at Developer's option, within sixty (60) days of receipt of said documentation from

Developer indicating the Full-Time Equivalent Employment Positions who reside within the City of Lancaster, Texas, and are working at the Property during the applicable annual reporting period, but all job credit financial incentives must be claimed by Developer no later than the third anniversary after the Certificate of Occupancy is first obtained for the Facility. Further, the aggregate payments by the LEDC to Developer pursuant to this Section 5(c) of this Agreement shall not exceed **One Hundred Twenty-Five Thousand and No/100 Dollars (\$125,000.00)**.

- (d) **Maximum LEDC Payment under this Agreement.** The Parties agree that, notwithstanding anything to the contrary in this Agreement or any other Agreement involving the Facility and/or Property, LEDC's maximum payment to Developer (provided all conditions precedent to payment set forth herein are met) shall be **One Hundred Seventy-Five Thousand and no/100 Dollars. (\$175,000.00)**.

SECTION 6. CESSATION OF ADVANCES.

If LEDC has made any commitment to make any advance of financial assistance to Developer, whether under this Agreement or under any other agreement, LEDC shall have no obligation to advance or disburse any financial assistance if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default occurs and is not cured within the time period provided in Section 8.

SECTION 7. EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default under this Agreement:

- (a) **General Event of Default.** Failure of Developer or LEDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Developer or LEDC to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between Developer and LEDC is an Event of Default.
- (b) **False Statements.** Any warranty, representation, or statement made or furnished to the LEDC by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.
- (c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment 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 is an Event of Default.
- (d) **Ad Valorem Taxes.** Developer allows its ad valorem taxes owed to the City to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure within thirty (30) days after written notice thereof

from LEDC and/or Dallas County Central Appraisal District is an Event of Default.

SECTION 8. EFFECT OF AN EVENT OF DEFAULT.

In the event of default under Section 7 of this Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure a monetary default and ninety (90) days to cure a non-monetary default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default. In the event, Developer defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts provided by LEDC to Developer pursuant to Section 5 of this Agreement shall become immediately due and payable by Developer to the LEDC.

SECTION 9. INDEMNIFICATION.

TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMAND, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Dallas County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts or federal courts for Dallas County, Texas.
- (c) **Assignment.** This Agreement may be assigned by Developer to: (1) DSV Solutions, LLC or any other affiliate within DSV Panalpina Group; or (2) to a third-party business entity

Attn: Shane Shepard

- (i) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- (j) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (k) **Undocumented Workers.** Developer certifies that the Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of six percent (6%), not later than the 120th day after the date LEDC notifies Developer of the violation.
- (l) In accordance with Section 2270.002 of the Texas Government Code (as amended by Tex. H.B. 793, 86th Leg., R.S. (2019)), the Developer verifies that it does not boycott Israel and will not boycott Israel during the Term of this Agreement.
- (m) In accordance with Section 2252.152 of the Texas Government Code (as added by Tex. S.B. 252, 85th Leg., R.S. (2017)), the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
- (n) **Estoppel Certificate.** Upon written request by Developer to LEDC, LEDC will provide Developer with a certificate stating, as of the date of the certificate, (i) whether this Agreement is in full force and effect and, if Developer is in breach of this Agreement, the nature of the breach, and (ii) a statement as to whether this Agreement has been amended and, if so, the identity and substance of each amendment.

[The Remainder of this Page Intentionally Left Blank]

DEVELOPER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS PERFORMANCE AGREEMENT, AND DEVELOPER AGREES TO ITS TERMS. THIS PERFORMANCE AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.

DEVELOPER:

DSV REAL ESTATE DALLAS, INC.

a Delaware corporation ,

By: _____

Name: Brian Winther Almind

President

Date Signed: _____

STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on the _____ day of December, 2019, by Brian Winther Almind, President of DSV Real Estate Dallas, Inc., a Delaware corporation, on behalf of said corporation.

Notary Public, State of Texas

LEDC:

***LANCASTER ECONOMIC
DEVELOPMENT CORPORATION,***
a Texas non-profit corporation

By: _____

Ted Burk
President

Date Signed: _____

ATTEST:

Secretary

STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

This instrument was acknowledged before me on the _____ day of December, 2019, by Ted Burk, President of the Lancaster Economic Development Corporation, a Texas non-profit corporation, on behalf of said Texas corporation.

Notary Public, State of Texas

Exhibit A

[Legal Description and/or Depiction of Property]

55.627 ACRE TRACT

Part of White Company No. 2, LTD
Smith Elkins Survey, Abstract No. 430
City of Lancaster, Dallas County, Texas

DESCRIPTION, of a 55.627 acre (2,423,098 square foot) tract of land situated in the Smith Elkins Survey, Abstract No. 430, City of Lancaster, Dallas County, Texas; said tract being part of that certain tract of land described in General Warranty Deed with Vendor's Lien to the White Property Company No. 2, LTD, recorded in Instrument No. 200600115504 and part of that certain tract land described in General Warranty Deed with Vendor's Lien to White Property Company No. 2, LTD, recorded in Instrument No. 200900115506 both of the Official Public Records of Dallas County, Texas; said 55.627 acre (2,423,098 square foot) tract being more particularly described as follows (bearing system for this survey is based on the State Plane Coordinate System, North American Datum of 1983 (2011), Texas North Central Zone 4202. Distances shown have been scaled by applying the Dallas County TxDOT surface adjustment factor of 1.000136506):

BEGINNING, at a 5/8-inch iron rod with "PACHECO KOCH" cap found at the southernmost southwest corner of Midpoint Drive (a variable width right-of-way) as dedicated by Midpoint Logistics Center, Midpoint Drive, an addition to the city of Lancaster, Texas according to the plat recorded in Instrument No. 20180013745 of the said official public records; said point also being the northeast corner of the first referenced White Property tract and the southeast corner of that certain tract of land described in Special Warranty Deed to White Tract II, LLC, recorded in Instrument No. 201700237585 of the said Official Public Records with Correction Instrument as to a Recorded Original Instrument to White Tract II, LLC recorded in Instrument No. 201700247870 of said Official Public Records;

THENCE, into and across the first and second referenced White Property tract the following two (2) calls:

South 30 degrees, 35 minutes, 57 seconds East, at a distance of 141.36 feet passing the south line of the first referenced White Property tract and the north line of the second referenced White Property tract continuing in a total distance of 681.50 feet to a point for corner;

North 58 degrees, 57 minutes, 44 seconds East, a distance of 95.60 feet to a point for corner on the east line of the second referenced White Property tract and on the west line of that certain tract of land described in Special Warranty Deed with Vendor's Lien to White Property Company No. 2 recorded in Instrument No. 200600115509 of the said Official Public records;

THENCE, South 31 degrees, 45 minutes, 33 seconds East, along the said east line of the second referenced White Property tract and the west line of the third referenced White Property tract a distance of 430.00 feet to a point for corner at the southeast corner of the second referenced White Property tract and the southwest corner of the third referenced White Property tract; said point also being the northwest corner of that certain tract of land described in Warranty Deed to City of Dallas, recorded in Instrument No. 201400075340 and the northeast corner of that certain tract of land described to City of Dallas, recorded in Instrument No. 201400075339 both of the said Official Public Records;

THENCE, South 58 degrees, 17 minutes, 21 seconds West, along the south line of the second referenced White Property tract and the north line of the second referenced City of Dallas tract, a distance of 2,215.72 feet to a point for corner on the west line of the second referenced White Property tract and the east right-of-way line of Dizzy Dean Drive (a variable width right-of-way); said point being the southwest corner of the second referenced White Property Tract and the northwest corner of the second referenced City of Dallas tract

THENCE, North 31 degrees, 02 minutes, 16 seconds West, along the said east line of Dizzy Dean Drive and the west line of the second referenced White Property tract at a distance of 1,001.48 passing the said north line of second referenced White Property tract and the said south line of second referenced tract, continuing in a total distance of 1,137.48 feet to a point for corner; said point also being the northwest corner of the first referenced tract and the southwest corner of the said White Tract II;

THENCE, North 58 degrees, 57 minutes, 44 seconds East, departing the said east line of Dizzy Dean Drive and along the north line of the first referenced White Property tract and the south line of said White Tract II, a distance of 2,119.77 feet to the **POINT OF BEGINNING**;

CONTAINING: 2,423,098 square feet or 55.627 acres of land, more or less.

Exhibit B

[Facility – Site Plan]

[Facility – Site Plan]

