

## DEVELOPMENT AGREEMENT

This **DEVELOPMENT AGREEMENT** (“**Agreement**”) is entered into by and between the **CITY OF COPPELL, TEXAS** (“**City**”), a Texas home-rule municipality in Dallas County, Texas, and **COP Lovett 121 Logistics Park, LLC**, a Texas limited liability company (“**Developer**”), (City and Developer being referred to individually as a “**Party**” and collectively as the “**Parties**”), to be effective on the Effective Date.

### RECITALS

**WHEREAS**, Developer owns or intends to purchase approximately 17.69 acres of real property located in City’s corporate limits, described by metes and bounds in **Exhibit A** and depicted in **Exhibit B** (the “**Property**”); and

**WHEREAS**, the Developer intends to construct and develop on the Property a warehouse building of approximately 257,600 square feet of space, (the Development”) in accordance with the City Regulations; and

**WHEREAS**, Developer intends to design and construct an extension of the City water system (the “Authorized Improvements”) in accordance with the Plans and Specifications (hereinafter defined).; and

**WHEREAS**, Developer intends to make a Capital Investment (hereinafter defined) of at least Fifteen Million Dollars\_(\$15,000,000) in the construction of the Development; and

**WHEREAS**, Developer has advised City that a contributing factor that would induce Developer to undertake the design and construction of the Development (hereinafter defined) would be an agreement with the City pay for infrastructure of water and waste water improvement to serve this Developer and future developments; and, to create redundancy in the system beyond the requirements of this Developer to offset the costs for the design and construction of the Authorized Improvements; and

**WHEREAS**, CITY has adopted programs for promoting economic development; and

**WHEREAS**, the City is authorized to establish and provide for a contribution, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

**WHEREAS**, in consideration of Developer’s undertakings contained herein and the other documents described herein and the continuing benefits to be derived therefrom by City and the Authorized Improvements its citizens, City intends, to payment and credits City development fees on public infrastructure development and the on Authorized Improvements and to prove an as set forth herein; and

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the Parties hereby agree as follows:

## **ARTICLE I** **DEFINITIONS**

Unless the context requires otherwise, when used in this Agreement, the following words and phrases shall have the following meanings:

Authorized Improvements means those improvements set forth in **Exhibit C**.

Authorized Improvements Costs means the actual costs of the Authorized Improvements as supported by an Engineer's Report.

Capital Investment means the total construction hard costs incurred and paid by or on behalf of Developer for the design and construction of the Development.

City Code means, subject to the applicable provisions of Chapter 245 of the Texas Local Government Code, the Code of Ordinances, City of Coppell, Texas, as amended and/or recodified from time to time.

City Council means City's governing body.

City Manager means the current or acting City Manager of the City or a person designated to act on behalf of that individual in accordance with City's Charter or applicable ordinances.

City Regulations means, subject to the applicable provisions of Chapter 245 of the Texas Local Government Code, City's ordinances and regulations applicable to the development and use of the Property as amended and replaced from time to time, including without limitation, City Code provisions, ordinances, design standards, and other policies duly adopted by City, and the applicable zoning; provided, however, with respect to the Public Infrastructure for any given phase, the applicable construction standards (including, without limitation, uniform building codes) shall be those that City has duly adopted at the time of the filing of an application for a preliminary plat for the Property,

City's Engineer means one or more professional engineers licensed in the State and engaged by City as employees and/or independent contractors to perform the tasks identified in this Agreement as being performed by "City's Engineer."

Commencement of Construction means the date on which all of the following have occurred: (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the applicable Public Improvements, (ii) all necessary permits or consents for the construction of the specific Public Improvements have been issued by the applicable governmental authorities and (iii) work beyond the mere grading toward actual construction of the building elements of the applicable Public Improvements has commenced.

Effective Date means the effective date of this Agreement, which shall be the date upon which the authorized representatives of all Parties have signed this Agreement, regardless of whether such signatures appear on the same document or duplicate counterparts of this Agreement.

Engineer's Report means a final, stamped Engineer's opinion of costs, prepared by a licensed professional engineer that describes the Authorized Improvements including (i) Budgeted Costs for the Authorized Improvements and (ii) maps and diagrams showing the location of the Authorized Improvements identified in association with the Budgeted Costs.

Impact Fees means those fees assessed by City in accordance with Chapter 395, Texas Local Government Code, as amended, with respect to the development of property located within City's corporate limits and set forth in Article 10.03 of the City Code, as amended from time to time.

Mayor means the Mayor of the City.

Notice means any notice required or contemplated by this Agreement (or otherwise given in connection with this Agreement).

Payment means the cash sum due calculated subtracting the permit fees from the maximum amount of four hundred seventy two thousand dollars (\$472,000.00) as the attributable cost incurred to Authorized Improvement within this Agreement.

Permit Fees means all City fees associated with construction of the Development and the Authorized Improvements other than tree mitigation fees, including but not limited to, building permit fees, plan review fees, water and wastewater, Impact Fees, engineering review fees and inspection fees.

Public Infrastructure or Public Improvements means all public water, wastewater/sewer, drainage, roadway, parks, trails, and other infrastructure necessary to serve the full development of the Property to be constructed, dedicated, and conveyed to City (or, in the case of water system improvements, conveyed to the entity that holds the Certificate of Convenience and Necessity to provide water service to the Property if that entity is not City). The term includes the Authorized Improvements.

State means the State of Texas.

TXDOT means the State Department of Transportation.

## **ARTICLE II**

### **TERM**

The term of this Agreement shall begin on the Effective Date and continue until the full performance of the Parties hereunder, unless sooner terminated as provided herein.

**ARTICLE III.**  
**AUTHORIZED IMPROVEMENTS**

**Section III.1 Construction of the Authorized Improvements.**

(a) Construction Schedule. Developer shall, subject to events of Force Majeure, cause Commencement of Construction of the Authorized Improvements to occur on or before September 30, 2024, provided any necessary TXDOT approval have been obtained, and shall, subject to events of Force Majeure, cause Completion of Construction of the Authorized Improvements and the Infrastructure to occur 6 months thereafter.

(b) Right-of-Way. Developer shall, without additional cost to the City and prior to Commencement of Construction of the Authorized Improvements, dedicate, or cause the owner of the necessary property to dedicate, by plat or convey by separate instrument, in form reasonably acceptable to the City any right-of-way or easements not already in a public entity necessary for the installation, construction, use, maintenance and repair of the Authorized Improvements. City shall assist in obtaining any necessary authorization from the Texas Department of Transportation for the crossing of its right-of-way.

(c) Authorized Improvements Engineer. Developer shall within ninety (90) days after the Effective Date, contract with one or more licensed professional engineers (or firm) to prepare plans and specifications for the design and construction of the Authorized Improvements. Developer shall have sole right to choose engineer ("Authorized Improvements Engineer") Developer's contract with the Authorized Improvements Engineer shall provide that the Plans and Specifications for the Infrastructure are being prepared for the benefit of City and that City (its agents and contractors) may publish, reproduce, and use the Plans and Specifications for the Infrastructure.

(d) Plans and Specifications Approval. Developer shall cause the Authorized Improvements Engineer to submit the proposed plans and specifications for the Authorized Improvements to City for review and approval. City agrees to begin its review of the submitted plans immediately upon the submission of same and to work diligently to complete its review thereafter. City may require Developer to cause the revision and/or modification of the proposed plans and specifications for the Authorized Improvements to meet the City's design criteria as provided in its adopted ordinances . Developer shall cause Authorized Improvements Engineer to revise and/or modify and submit revised or modified plans and specifications for the Authorized Improvements to City as needed to meet City ordinance requirements.

(e) Submission of Permit Applications. Prior to Commencement of Construction of the Authorized Improvements, Developer shall make, or cause to be made, application for any necessary permits and approvals that are customarily required by City to be issued for the construction of the Authorized Improvements. City shall make the application to TXDOT for the utility crossing permit and any other required TXDOT permits or approvals.

(f) Compliance. Developer shall comply and cause its Contractor to comply with all local and state laws and regulations regarding the design and construction of the Authorized

Improvements in accordance with the Plans and Specifications, including but not limited to, any applicable requirement relating to payment, performance, and maintenance bonds.

(g) Authorized Improvements Inspection. City Engineer, or designee shall have the right to inspect the Authorized Improvements to determine whether the Authorized Improvements construction is in accordance with the requirements of Plans and Specifications, this Agreement as well as City standards, ordinances, and regulations pertaining to the construction of public improvements.

(h) Pre-Construction Conference. Prior to Commencement of Construction of the Authorized Improvements, if required by City, shall cause the Contractor and the Authorized Improvements Engineer to hold a pre-construction conference with the City-designated Engineering Inspector and the applicable private and public utility companies, as necessary.

(i) Bonds. Developer shall cause the Contractor to provide payment bonds and performance bonds for the construction of the Authorized Improvements to ensure completion thereof pursuant to Chapter 2253, Texas Government Code, as amended. Developer shall cause the Contractor to provide two-year period maintenance bonds for the Authorized Improvements in favor of City in accordance with City requirements and regulations pertaining to maintenance bonds for public improvements.

**Section III.2 Acceptance Procedures**. City acceptance of the Authorized Improvements or portion thereof shall require:

(i) Submittal of executed Developer's affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Authorized Improvements work have been fully paid or otherwise satisfied;

(ii) Submittal of executed Contractor's affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Authorized Improvements work have been fully paid or otherwise satisfied;

(iii) Submittal of Consent of Surety;

(iv) Submittal of one set of reproducible As-Built Record Drawings for the Authorized Improvements;

(v) Delivery of a bill of sale conveying the Authorized Improvements, or portion thereof to the City for which the Developer has submitted a Payment Request; and

(vi) Delivery of all assignable warranties or assignment of warranties for the Authorized Improvements, or portion thereof for which Developer has submitted a Payment Request.

**Section III.3 Access to Work and Inspections**. City, and its representatives, shall have access to the Authorized Improvements work at all times from Commencement of Construction through Completion of Construction. The Developer shall take whatever steps reasonably

necessary to provide such access when requested. When reasonably requested by the City based on substantiated need for confirmation, the Developer shall perform or cause to be performed such testing as may be reasonably necessary or reasonably appropriate to ensure suitability of the jobsite or compliance with the Plans and Specifications.

#### **ARTICLE IV CONSTRUCTION CONTRACTS**

##### **Section IV.1 Construction Standards and Ownership of Authorized Improvements.**

(a) **Construction Standards, Inspections and Fees.** City agrees to waive all Permit Fees for the construction of the Authorized Improvements, the other public infrastructure associated with the Development and the Development.

(b) **Contract Letting.** Before entering into any construction contract for the construction of all or any part of the Authorized Improvements, Developer's engineers shall prepare, or cause the preparation of, and submit to City all contract specifications and necessary related documents, including the contract proposal showing the negotiated total contract price and scope of work.

(c) **Ownership, Operation and Maintenance.** All of the Authorized Improvements and Public Infrastructure shall be owned, operated and maintained by City or a qualified management entity upon final inspection and acceptance of them by City.

#### **ARTICLE V CITY PAYMENT**

In consideration of Developer hereby agreeing to make a Capital Investment of \$15,000,000 by December 31, 2027, City agrees to pay the Developer a portion of the infrastructure improvement in an amount not to exceed four hundred seventy-two thousand (\$472,000.00) dollars payable as calculated as being difference between \$472,000.00 and the Permit Fees that would have been paid to the City but for this Agreement. The Payment shall be made to Developer by City within 14 business days of the City's acceptance of the Authorized Improvements and presentation of actual Authorized Improvement invoices. Developer agrees to repay the Payment at the end of the month period if the Capital Investment has not been timely made.

#### **ARTICLE VI ADDITIONAL TERMS**

**Conflicts.** When not in conflict with the terms and conditions of this Agreement, the development of the Property shall be subject to all applicable City Regulations, including, but not limited to, City's regulations and engineering design standards as described within the applicable zoning.

**Section VI.2 , INDEMNIFICATION AND HOLD HARMLESS.** DEVELOPER, INCLUDING ITS RESPECTIVE SUCCESSORS AND ASSIGNS, HEREBY COVENANTS AND AGREES TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY CITY AND

ITS OFFICERS, AGENTS, REPRESENTATIVES, SERVANTS AND EMPLOYEES (COLLECTIVELY, THE "RELEASED PARTIES"), FROM AND AGAINST ALL THIRD-PARTY CLAIMS, SUITS, JUDGMENTS, DAMAGES, AND DEMANDS (TOGETHER, "CLAIMS") AGAINST CITY OR ANY OF THE RELEASED PARTIES, WHETHER REAL OR ASSERTED INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEY'S FEES, RELATED EXPENSES, EXPERT WITNESS FEES, CONSULTANT FEES, AND OTHER COSTS ACTUALLY INCURRED, ARISING OUT OF THE NEGLIGENCE OR OTHER WRONGFUL CONDUCT OF DEVELOPER, INCLUDING THE NEGLIGENCE OF ITS RESPECTIVE EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, MATERIAL MEN, AND/OR AGENTS, IN CONNECTION WITH THE DESIGN OR CONSTRUCTION OF ANY PUBLIC INFRASTRUCTURE, STRUCTURES, OR OTHER FACILITIES OR IMPROVEMENTS THAT ARE REQUIRED OR PERMITTED UNDER THIS AGREEMENT AND/OR CITY REGULATIONS AND/OR ANY APPLICABLE DEVELOPMENT STANDARDS AND/OR ANY OTHER GOVERNING REGULATIONS. **DEVELOPER SHALL NOT, HOWEVER, BE REQUIRED TO INDEMNIFY CITY AGAINST CLAIMS CAUSED BY CITY'S SOLE NEGLIGENCE.** IF CITY INCURS CLAIMS THAT ARE CAUSED BY THE CONCURRENT NEGLIGENCE OF DEVELOPER AND CITY, DEVELOPER'S INDEMNITY OBLIGATION WILL BE LIMITED TO A FRACTION OF THE TOTAL CLAIMS EQUIVALENT TO DEVELOPER'S OWN PERCENTAGE OF RESPONSIBILITY. DEVELOPER, INCLUDING ITS RESPECTIVE SUCCESSORS AND ASSIGNS, FURTHER COVENANTS AND AGREES TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY, CITY AGAINST ANY AND ALL CLAIMS BY ANY PERSON CURRENTLY CLAIMING AN OWNERSHIP INTEREST IN THE PROPERTY WHO HAS NOT SIGNED THIS AGREEMENT IF SUCH CLAIMS RELATE IN ANY MANNER OR ARISE IN CONNECTION WITH: (1) CITY'S RELIANCE UPON DEVELOPER'S REPRESENTATIONS IN THIS AGREEMENT; (2) THIS AGREEMENT OR OWNERSHIP OF THE PROPERTY; OR (3) CITY'S APPROVAL OF ANY TYPE OF DEVELOPMENT APPLICATION OR SUBMISSION WITH RESPECT TO THE PROPERTY.

**Section VI.3 Vested Rights.** THIS AGREEMENT SHALL CONSTITUTE A "PERMIT" WITHIN THE MEANING OF CHAPTER 245, TEXAS LOCAL GOVERNMENT CODE. DEVELOPER WAIVES ALL CLAIMS THAT ANY OBLIGATION INCURRED BY DEVELOPER WITH RESPECT TO THE AUTHORIZED IMPROVEMENTS SET OUT IN THIS AGREEMENT CONSTITUTES A "TAKING", AN ILLEGAL EXACTION, OR INVERSE CONDEMNATION OF ALL OR ANY PORTION OF THE PROPERTY. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, DEVELOPER DOES NOT, BY ENTERING INTO THIS AGREEMENT, WAIVE (AND DEVELOPER EXPRESSLY RESERVES) ANY RIGHTS AND CLAIMS THAT DEVELOPER MAY HAVE ARISING FROM ANY ACTION BY CITY AFTER THE EFFECTIVE DATE. CITY SHALL NOT BE REQUIRED TO DETERMINE ROUGH PROPORTIONALITY OR NECESSITY AS PROVIDED FOR IN SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE FOR ANY DEDICATIONS OR IMPROVEMENTS REQUIRED UNDER THIS AGREEMENT, AS AMENDED OR OTHERWISE PROPOSED BY DEVELOPER.

## **ARTICLE VII**

### **EVENTS OF DEFAULT; REMEDIES**

**Section VII.1 Events of Default.** No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given in writing (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the alleged failure, but in no event more than thirty (30) days (or any longer time period to the extent expressly stated in this Agreement as relates to a specific failure to perform) after written notice of the alleged failure has been given. Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. Notwithstanding the foregoing, however, a Party shall be in default of its obligation to make any payment required under this Agreement if such payment is not made within twenty (20) business days after it is due.

**Section VII.2 Remedies.** As compensation for the other Party's default, an aggrieved Party is limited to seeking specific performance of the other Party's obligations under this Agreement and attorney's fees.

**Section VII.3 Performance Window; Election to Terminate.** . Notwithstanding any provision of this Agreement, if any of Developer's obligations set forth in this Agreement are not timely satisfied in accordance with this Agreement, City may elect to terminate this Agreement after a notice and cure period by providing Developer with written notice of such failure(s). If City provides such written notice, Developer shall have one hundred twenty (120) days from the date that City delivers said written notice in which to cure such failure(s), plus an additional time period equal to any delay caused by the failure(s), if any, of City to timely issue any approvals required under this Agreement or the City Regulations or meet its obligations under this Agreement. If Developer fails to timely cure such failure(s), then City shall be excused from its obligations under this Agreement.

## **ARTICLE VIII.**

### **ASSIGNMENT**

**Section VIII.1 Assignment to an Affiliate.** Developer has the right (from time to time, without the consent of City, but upon written notice to City) to assign in its entirety, all of Developer's right, title, and interest under this Agreement, to any person or entity that is controlled by or under common control of COP Lovett 121 Logistics Park, LLC ("**Affiliate**"). Each assignment shall be in writing executed by Developer and the Affiliate and shall obligate the Affiliate to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. A copy of each assignment shall be provided to City not later than thirty (30) days after execution. City shall not be bound by any assignment of this Agreement unless and until City has received a fully signed copy of the assignment. Developer shall maintain written records of all assignments made by Developer to an Affiliate, including a copy of each executed assignment and the Affiliate's Notice information as required by this Agreement, and, upon written request from any Continuing Party or Affiliate, shall provide a copy of such records to the requesting person or entity. Notwithstanding anything to the contrary

above, City shall be obligated to recognize and be obligated to no more than one entity or person that is the “Developer” as a party to this Agreement.

## ARTICLE IX

### GENERAL PROVISIONS

**Section IX.1 Recitals.** The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; and (c) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

**Section IX.2 Notices.** Any notice, submittal, payment or instrument required or permitted by this Agreement to be given or delivered to any Party shall be deemed to have been received when delivered personally or upon the expiration of 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To City: City of Coppell, Texas  
Attn: City Manager  
255 E. Parkway Blvd.  
Coppell, Texas 75019

With a copy to: Nichols Jackson Dillard Hager & Smith, LLP  
Attn: Robert E. Hager  
500 N. Akard Street, Suite 1800  
Dallas, Texas 75201

To Developer: COP Lovett 121 Logistics Park, LLC  
Attn:

With a copy to: Jackson Walker LLP  
Attn: \_\_\_\_\_  
2323 Ross Ave., Suite 600  
Dallas, Texas 75201

Any Party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other Party.

**Section IX.3 Payee Information.** With respect to any and every type of payment/remittance due to be paid at any time by City to Developer after the Effective Date under this Agreement, the name and delivery address of the payee for such payment shall be:

COP Lovett 121 Logistics Park, LLC

Attn: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Developer may change the name of the payee and/or address set forth above by delivering written notice to City designating a new payee and/or address or through an assignment of Developer's rights hereunder.

**Section IX.4 Interpretation.** The Parties acknowledge that each has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.

**Section IX.5 Time.** In this Agreement, time is of the essence and compliance with the times for performance herein is required.

**Section IX.6 Authority and Enforceability.** City represents and warrants that this Agreement has been approved by official action by the City Council in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of City has been duly authorized to do so. Developer represents and warrants that this Agreement has been approved by appropriate action of Developer, and that each individual executing this Agreement on behalf of Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions.

**Section IX.7 Insurance.**

(a) Developer shall cause each of Developer's contractors to obtain and maintain at their expense, the following policies of insurance and coverage:

(i) Commercial General Liability Policy Commercial general liability insurance on an occurrence basis protecting and indemnifying City against claims for injury to or death of persons, or damage to or destruction of property, such insurance to afford immediate protection to the limit of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate, with overlying umbrella liability insurance coverage of not less than \$2,000,000 as to both injury to or death of persons and damage to or destruction of property and will be endorsed specifically to include within its scope of coverage all liabilities and indemnities for which Developer is obligated and liable under the terms of

this Agreement; and with respect to the umbrella liability insurance coverage will not provide for a self-insured retention in excess of \$25,000;

(ii) Workers' Compensation/Employer's Liability Insurance Policy in full accordance with the statutory requirements of the State; and

(iii) Business auto liability insurance policy covering motor vehicles owned, not owned and hired by Developer and its contractors, protecting and indemnifying Developer and City against claims for injury to or death of persons, or damage to or destruction of property, such insurance to afford immediate protection to the limit of not less than \$1,000,000 combined single limit covering both injury to or death of persons and damage to or destruction of property.

(b) **Waiver of Subrogation Rights.** The Commercial General Liability, Worker's Compensation, Business Auto and Excess Liability Insurance required pursuant to this Agreement shall provide for waivers of all rights of subrogation against City.

(c) **Additional Insured Status.** With the exception of Worker's Compensation Insurance and any Professional Liability Insurance, all insurance required pursuant to this Agreement shall include and name City as additional insureds using Additional Insured Endorsements that provide the most comprehensive coverage to City under State law including products/completed operations.

(d) **Certificates of Insurance.**

(i) Certificates of Insurance and policy endorsements in a form satisfactory to City shall be delivered to City prior to the commencement of any work or services under this Agreement and annually for a minimum of four (4) years following termination of this Agreement, abandonment or completion of work on the Public Infrastructure. All required policies shall be endorsed to provide City with thirty (30) days' notice prior to cancellation or non-renewal of coverage. Developer shall provide thirty (30) days' written notice of any cancellation, non-renewal or material change in coverage for any of the required insurance in this Section.

(ii) On every date of renewal of the required insurance policies, Developer shall cause (and cause its contractors) a Certificate of Insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to City. In addition, Developer shall, within ten (10) business days after written request, provide City with Certificates of Insurance and policy endorsements for the insurance required herein (which request may include copies of such policies). The delivery of the Certificates of Insurance and the policy endorsements (including copies of such insurance policies) to City is a condition precedent to the payment of any amounts due to Developer by City. The failure to provide valid Certificates of Insurance and policy endorsements shall be deemed a breach of this Agreement.

(c) **Carriers.** All policies of insurance required to be obtained by Developer and its contractors pursuant to this Agreement shall be maintained with insurance carriers that are satisfactory to and as reasonably approved by City, and lawfully authorized to issue insurance in

the State for the types and amounts of insurance required herein. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service. All policies must be written on a primary basis, non-contributory with any other insurance coverage and/or self-insurance maintained by City. All insurance coverage required herein shall be evidenced by a certificate of insurance and policy endorsements submitted by Developer's and its contractors' insurer or broker. Certificates of endorsements received from any other source will be rejected.

**Section IX.8 Severability.** This Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

**Section IX.9 Applicable Law; Venue.** This Agreement is entered into pursuant to and is to be construed and enforced in accordance with, the laws of the State, and all obligations of the Parties are performable in Dallas County. Exclusive venue for any action related to, arising out of, or brought in connection with this Agreement shall be in the Dallas County District Court.

**Section IX.10 Non-Waiver.** Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

**Section IX.11 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

**Section IX.12 Exhibits.** The following exhibits are attached to this Agreement and are incorporated herein for all purposes:

Exhibit A	Metes and Bounds Description of the Property
Exhibit B	Depiction of the Property
Exhibit C	Authorized Improvements
Exhibit D	Certification Concerning Hiring of Undocumented Aliens

**Section IX.13 Force Majeure.** Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within thirty (30) business days after the occurrence of

a force majeure, the Party claiming the right to temporarily suspend its performance, shall give notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term “force majeure” shall include events or circumstances that are not within the reasonable control of the Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of good faith, due diligence and reasonable care.

**Section IX.14 Complete Agreement.** This Agreement embodies the entire Agreement between the Parties and cannot be varied or terminated except as set forth in this Agreement, or by written agreement of the Parties expressly amending the terms of this Agreement. By entering into this Agreement, the Parties understand and agree that any previous agreements or understanding between the Parties are null and void.

**Section IX.15 Consideration.** This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

**Section IX.16 No Third-Party Beneficiaries.** Except as otherwise provided in this section, the Agreement only inures to the benefit of, and may only be enforced by, the Parties. An End-Buyer shall be considered a third-party beneficiary of this Agreement, but only for the limited purposes for which an End-Buyer is bound by this Agreement. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

**Section IX.17 Employment of Undocumented Workers.** Developer has executed the certification attached hereto as **Exhibit D**. During the term of this Agreement, Developer agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. Section 1324a (f), Developer shall repay the amount of any Reimbursement Payment or other funds received by Developer from City from the date of this Agreement to the date of such violation within 120 days after the date Developer is notified by City of such violation, plus interest at the rate of 4% compounded annually from the date of violation until paid. Developer is not liable for a violation of this section by a subsidiary, affiliate, or franchisee of Developer or by a person with whom Developer contracts.

**Section IX.18 No Boycott of Israel.** To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2271.002, Texas Government Code, Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to enable compliance with such Section and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification, ‘boycott Israel,’ a term defined in Section 2271.001, Texas Government Code, by reference to Section 808.001(1), Texas Government Code, 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.

**Section IX.19 Iran, Sudan, and Foreign Terrorist Organizations.** Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

\_\_\_\_\_

\_\_\_\_\_

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 Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

**Section IX.20 No Discrimination Against Fossil Fuel Companies.** To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable City to comply with such Section and to the extent such Section does not contravene applicable Federal or State law. As used in the foregoing verification, "boycott energy companies," a term defined in Section 2274.001(1), Texas Government Code (as enacted by such Senate Bill) by reference to Section 809.001, Texas Government Code (also as enacted by such Senate Bill), shall mean, without an ordinary business purpose, 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 with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above.

**Section IX.21 No Discrimination Against Firearm Entities and Firearm Trade Associations.**

(a) To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to enable City to comply with such Section and to the extent such Section does not contravene applicable Federal or State law.

(b) As used in the foregoing verification and the following definitions,

(1) “discriminate against a firearm entity or firearm trade association,” a term defined in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association,

(2) ‘firearm entity,’ a term defined in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by such Senate Bill, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting), and

(3) ‘firearm trade association,’ a term defined in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

**Section XI.24 Form 1295.** Submitted herewith is a completed Form 1295 generated by the Texas Ethics Commission’s (the “TEC”) electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the

TEC (the “Form 1295”). The City hereby confirms receipt of the Form 1295 from the Developer, and the City agrees to acknowledge such form with the TEC through its electronic filing application not later than the thirtieth (30th) day after the receipt of such form. The Parties understand and agree that, with the exception of information identifying the City and the contract identification number, neither the City nor its consultants are responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by the Developer; and, neither the City nor its consultants have verified such information.

**Section VIII.22 Information to Comptroller.** a)Not later than the 14th day after the date of entering into, amending, or renewing an agreement authorized by this chapter, a municipality shall submit to the State Comptroller the information described by Section [403.0246\(c\)](#), Government Code, and any other information the State Comptroller considers necessary to operate and update the database described by that section.

[SIGNATURES PAGES AND EXHIBITS FOLLOW;  
REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Executed by the Parties to be effective on the Effective Date:

**CITY OF COPPELL, TEXAS**

By: \_\_\_\_\_  
Mike Land, City Manager

ATTEST:

\_\_\_\_\_  
Ashley Owens, City Secretary

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

APPROVED AS TO FORM

\_\_\_\_\_  
Robert E. Hager, City Attorney

STATE OF TEXAS                   §  
   §  
COUNTY OF DALLAS           §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2024, by Mike Land, City Manager of the City of Coppel, a Texas home rule municipality, for and on behalf of said municipality.

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

[SEAL]

**COP LOVETT 121 LOGISTICS PARK, LLC**, a  
Texas limited liability company

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

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, President

THE STATE OF TEXAS           §

§

COUNTY OF DALLAS           §

§

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
2024, by \_\_\_\_\_, President of \_\_\_\_\_, a Texas  
corporation, \_\_\_\_\_ of COP Lovett 121 Logistics Park, LLC, a Texas limited liability  
company on behalf of said limited liability company.

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

[SEAL]

**EXHIBIT A**  
**METES AND BOUNDS DESCRIPTION OF PROPERTY**

**EXHIBIT B**  
**DEPICTION OF PROPERTY**

**EXHIBIT C**  
**AUTHORIZED IMPROVEMENTS**