

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

Recipient: ***GLOBAL FULFILLMENT SOLUTIONS, LTD.***
5055 Keller Springs Road, Suite 300
Addison, TX 75001

Grantors: ***LANCASTER ECONOMIC DEVELOPMENT CORPORATION***
P.O. Box 940
Lancaster, TX 75146

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT ("Agreement") between ***GLOBAL FULFILLMENT SOLUTIONS, LTD.*** a Texas limited partnership ("Recipient"); the ***LANCASTER ECONOMIC DEVELOPMENT CORPORATION***, a Texas non-profit corporation; ("LEDC"), or ("Grantor") is made and executed on the following recitals, terms and conditions.

WHEREAS, Recipient is a provider of comprehensive eCommerce fulfillment and distribution solutions; and

WHEREAS, Recipient has applied to Grantor for financial accommodations to enable it to locate a fulfillment center in the City of Lancaster, Texas, including those incentives which are described in this Agreement and those which may be described on any exhibit or schedule attached to this Agreement; and

WHEREAS, the City of Lancaster is authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City, and LEDC operates under authority of the City to accomplish and further these economic development activities; and

WHEREAS, LEDC approved certain financial incentives to Recipient at its March 22, 2018 Board meeting, and City approved certain financial incentives to Recipient at its March 26, 2018 City Council meeting which would allow Recipient to locate its fulfillment center in the City of Lancaster, Texas and to expand operation accordingly; and

WHEREAS, Recipient understands and agrees that: (a) in granting, renewing, or extending any financial incentives, Grantor is relying upon Recipient's representations, warranties, and agreements, as set forth and provided for in this Agreement; (b) the granting, renewing, or extending of any incentive by Grantor at all times shall be subject to Grantor's sole judgment and discretion; and (c) all such incentives shall be and shall remain subject to the terms and conditions as set forth in this Agreement.

SECTION 1. TERM.

This Economic Development Incentive Agreement shall be effective as of March 26, 2018 (the "Effective Date") and shall continue thereafter until all obligations of Recipient to Grantor have been performed in full and the parties terminate this Agreement in writing, or on September 1, 2024, unless terminated sooner under the provisions hereof. **This Agreement will terminate if not executed by all parties within fourteen (14) days of the approval of the Agreement by the latter of the City Council and the LEDC Board.**

SECTION 2. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement. Terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Texas Uniform Commercial Code.

- a. **Agreement.** The word "Agreement" means this Economic Development Incentive Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any.
- b. **City.** The word "City" means the City of Lancaster, Dallas County, Texas.
- c. **C.O. Date.** The words "C.O. Date" mean the date that Recipient or Recipient's landlord (Global Longhorn Center, L.P.) receives a Certificate of Occupancy for the Facility from City. **The latest qualifying date under this Agreement is September 1, 2019.**
- d. **Effective Date.** The words "Effective Date" mean March 26, 2018.
- e. **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."
- f. **Facility.** The word "Facility" means the new fulfillment center, to be constructed by Global Longhorn Center, L.P. on a ± 22 acre site located at 3201 N. Houston School Road within the City limits of Lancaster, Texas, **and of which at least 250,000 sq. ft. must be leased, used, or occupied by Recipient as its fulfillment center.** In order to qualify as the "Facility" under this Agreement, the facility must meet all of the following criteria: (1) **when completed, have an ad valorem real property value of not less than \$15,000,000 on the Dallas Central Appraisal District tax rolls;** (2) **be approximately (±10%) 400,000 sq. ft. in total under-roof size;** and (3) construction on Facility must commence no later than nine (9) months from the Effective Date of this Agreement.

- g. **Incentive Payment.** The words "Incentive Payment" mean any financial payment, benefit, reimbursement, or refund made by City or LEDC to Recipient under this Agreement.
- h. **Incentivized Jobs.** The words "Incentivized Jobs" mean up to sixty (60) newly-created jobs for New Employees situated at the Facility and who are residents of the City, which New Employees have been hired on or between the C.O. Date and the 2nd anniversary of the C.O. Date.
- i. **Grantor.** The word "Grantor" means the **LANCASTER ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation,
- j. **LEDC.** The word "LEDC" means Lancaster Economic Development Corporation, a non-profit corporation formed for the purpose of advancing economic development in the City of Lancaster, Texas.
- k. **New Employee.** The words "New Employee" means a full-time, direct employee of Recipient, working a minimum of thirty-two (32) hours per week, who shall be employed in a position physically based at the Facility. New Employee shall not include employees of Recipient's subcontractors or vendors, whether working at the Facility or otherwise.
- l. **Recipient.** The word "Recipient" means **GLOBAL FULFILLMENT SOLUTIONS, LTD.**, a Texas limited partnership, or a wholly-owned affiliate of Recipient approved in advance by Grantor.
- m. **Salary.** The word "Salary" shall mean the annual, W-2 wages of any New Employee, exclusive of benefits, employer-paid taxes, health insurance, bonus, car allowance and related employee perquisites.

SECTION 3. INCENTIVE PAYMENTS.

The following Incentive Payments shall be available to Recipient under the following conditions and the Recipient Obligations set forth below:

- a. **Incentivized Job Incentive Payments.** On or before the second anniversary of the C.O. Date, Recipient may create up to sixty (60) Incentivized Jobs which are eligible for Incentive Payments, and each Incentivized Job shall be maintained at the Facility for not less than one (1) year from the date of any Incentive Payment disbursed for New Employees. The Incentivized Job payment shall be made in two (2) annual installments, within thirty (30) days of first and second anniversaries of the C.O. Date, provided LEDC has received Recipient's certification of the Incentivized Jobs at the Facility as the first and second anniversaries of the C.O. Date. Upon verification of the data in the certification, LEDC will make an Incentive Payment to Recipient equal to either: (a) four hundred

and no/100 dollars (\$400.00) for each net New Employee hired, if the aggregate average salary of the Incentivized jobs is more than thirty-thousand and no/100 dollars (\$30,000) per annum, or (b) three hundred and no/100 dollars (\$300.00) for each net New Employee hired, if the aggregate average salary of the Incentivized jobs is less than thirty-thousand and no/100 dollars (\$30,000) per annum; up to a maximum aggregate amount of **twenty-four thousand and no/100 dollars, (\$24,000.00) or eighteen thousand and no/100 dollars, (\$18,000.00) as applicable**. It is expressly agreed that LEDC will make payment for each incremental, or net, New Employee only once. Any reduction in New Employees (by layoff, termination or otherwise) which have previously received an incentive payment shall be disclosed to Grantor and adjusted for, including repayment for any overpayments.

- (1) If within one (1) year after any New Employee Incentive Payment has been made, Recipient has received Incentive Payments in excess of the net New Employees that were employed for one (1) full year, Recipient shall immediately refund the appropriate amount of Incentive Payments received relating to such Incentivized Jobs that failed to be maintained by such net, New Employees. For example only, if Recipient created fifty (50) net, New Employees in the first two (2) years following the C.O. Date (in the aggregate) and received \$20,000 in Incentive Payments (at the \$400/job rate); and thereafter, ten (10) net, New Employee failed to be employed for one (1) full year, Recipient would be obligated to pay LEDC \$4,000.00 (representing ten (10) unearned Incentive Payments x \$400/New Employee) within twenty (20) days of receiving written notice that such net, New Employees failed to qualify for the applicable Incentive Payments received by Recipient.
 - (2) For each year from the first anniversary to the third anniversary of the C.O. Date, Recipient shall provide Grantor with a detailed report of the status of New Employees and Incentivized Jobs.
- b. **Job Training Assistance Incentive Payment.** LEDC shall make available to Recipient an Incentive Payment in the amount of up to **ten-thousand and no/100 dollars (\$10,000.00)**, payable in two (2) installments for the purpose of job training education for Recipient's employees located at the Facility. Such funds shall be used to reimburse Recipient for job training at Cedar Valley College for Recipient's Facility employees and all courses and training must be completed on or before the second anniversary of the C.O. Date. Recipient shall provide LEDC with a report of costs incurred, courses taken, employee name and dates of attendance, and any certificate or degree obtained on the first and second anniversary of the C.O. Date. LEDC will issue payment within thirty (30) days of receipt of the report.

- c. **Development Costs and Fees Incentive Payment.** LEDC shall make an Incentive Payment to reimburse the development costs and fees incidental to the planning, surveying, architectural, engineering, permitting and construction of the Facility (regardless of whether the costs are actually borne by Recipient or by Global Longhorn Center, L.P.). The payment shall be a one-time payment of **either twenty-five thousand and no/100 dollars (\$25,000.00) if the aggregate average wage of the Incentivized Jobs is less than thirty-thousand dollars per annum, or thirty-five thousand and no/100 dollars (\$35,000.00) if the aggregate average wage of the Incentivized Jobs is greater than thirty-thousand and no/100 dollars.** The payment shall be made after a Certificate of Occupancy (C.O.) is obtained for the facility, and Recipient shall certify in writing whether its average wage will exceed or be less than thirty-thousand dollars per annum. Recipient shall provide LEDC with an annual report demonstrating the average wage of the Incentivized Jobs on each of the first three (3) anniversaries of the C.O. Date. If Recipient has been paid the \$35,000 amount, but can demonstrate an average wage of the Incentivized Jobs that is less than thirty-thousand, the additional ten-thousand dollars shall be immediately reimbursable to LEDC.

SECTION 4. RECIPIENT OBLIGATIONS

- a. Recipient shall comply with the following terms and satisfy the following obligations to be eligible for the Incentive Payments above:
- (1) **Facility.** Recipient shall occupy and operate no less than 250,000 sq. ft. of the Facility as a fulfillment center for no less than sixty (60) continuous months after a Certificate of Occupancy is obtained for the Facility.
 - (2) **Certificate of Occupancy.** Recipient shall obtain a Certificate of Occupancy for the Facility on or before September 1, 2019.
 - (3) **Incentivized Jobs.** The Incentivized Jobs for which Incentive Payments are provided pursuant to Section 3.(a), *supra* shall be maintained for a period of not less than one (1) year from the date any Incentive Payment is made.
- b. **Compliance Certificates and Reports.** Recipient shall provide Grantor with compliance certificates when requested or required hereunder, such certificates or reports specifying or reflecting:
- (1) an existing and valid Certificate of Occupancy for the Facility (subject to the provisions of Section 4.(a)(2)), *supra*;

- (2) an annual, detailed verification of the Incentivized Jobs, indicating the position created, the classification of the job, the W-2 wages/salary, the date the job is filled, and the benefits/perquisites of the job.
 - (3) an annual, detailed verification of Job Training Assistance Incentive report including the information set forth in Section 3.(b), *supra*.
- c. **Performance.** Recipient agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other future agreements between Recipient and Grantor.

SECTION 5. CESSATION OF INCENTIVE PAYMENTS.

If Grantor has made any commitment to make any Incentive Payment to Recipient, whether under this Agreement or under any future agreement, Grantor shall have no obligation to advance or disburse Incentive Payment funds if:

- a. Recipient becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or
- b. during the pendency of an Event of Default.

SECTION 6. EVENTS OF DEFAULT.

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

- a. **Certificate of Occupancy.** Failure of Recipient to complete any of the following: (1) failure of Global Longhorn Center, LP to construct the Facility in accordance with the specifications set forth in Section 2.(f), *supra*, or (2) failure to obtain a Certificate of Occupancy in accordance with Section 4.(a)(2), *supra*.
- b. **False Statements.** Any warranty, representation or statement made or furnished to Grantor by Recipient under this Agreement or any future agreement (including but not limit to any applications for economic development funds) that is false or misleading in any material respect, either now or at the time made or furnished.
- c. **Insolvency.** Recipient's insolvency, appointment of receiver for any part of Recipient's property, any assignment for the benefit of creditors of Recipient, any type of creditor workout for Recipient, or the commencement of any proceeding under any bankruptcy or insolvency laws by Recipient or against Recipient and not dismissed within sixty (60) days of filing thereof.

- d. **Ad Valorem Taxes.** Failure of Recipient to pay, prior to delinquency, all taxes and assessments levied or assessed upon Recipient's real property improvements or business personal property.
- e. **Undocumented workers.** Recipient certifies that Recipient 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, Recipient is convicted of a violation under 8 U.S.C. § 1324a(f), Recipient shall be in default hereunder.
- f. **Other Defaults.** Failure of Recipient after written notice and thirty (30) days opportunity to cure, to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of future agreement between Recipient and Grantor, and specifically, should Recipient sublet or assign any of its interest in any portion of the Facility to any unrelated or unaffiliated entity without Grantor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 7. EFFECT OF AN EVENT OF DEFAULT.

If any Event of Default shall occur and, upon thirty (30) days written notice and opportunity to cure, Recipient has not cured such Event of Default within 30 days of written notice, then after such thirty (30-day) cure period Grantor shall have the option to terminate this Agreement by providing written notice to Recipient and, thereafter, all commitments of Grantor under this Agreement shall terminate immediately (including any obligation to make future Incentive Payments), and **all Incentive Payments previously paid to Recipient under this Agreement that is not otherwise forgiven by action of the LEDC Board or City Council, as applicable, will become immediately due and payable without notice of any kind to Recipient.** The 30-day cure period shall not apply to any default of Recipient under Section 6.C. herein. Any Event of Default which may be cured by the payment of money shall not extend beyond the 30-day period referenced herein.

SECTION 8. INDEMNIFICATION.

RECIPIENT SHALL INDEMNIFY, SAVE, AND HOLD HARMLESS GRANTOR, ITS DIRECTORS, OFFICERS, AGENTS, ATTORNEYS, AND EMPLOYEES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST:

- A. **ANY AND ALL CLAIMS, DEMANDS, ACTIONS OR CAUSES OF ACTION THAT ARE ASSERTED AGAINST ANY INDEMNITEE IF THE CLAIM, DEMAND, ACTION OR CAUSE OF ACTION RELATES TO TORTIOUS INTERFERENCE WITH CONTRACT OR BUSINESS INTERFERENCE, OR WRONGFUL OR NEGLIGENT USE OF GRANTOR'S INCENTIVE PAYMENTS BY RECIPIENT OR ITS AGENTS AND EMPLOYEES;**

- B. ANY ADMINISTRATIVE OR INVESTIGATIVE PROCEEDING BY ANY GOVERNMENTAL AUTHORITY RELATED TO A CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IN WHICH GRANTOR IS A DISINTERESTED PARTY THAT IS CAUSED BY (OR RESULTS FROM) AN EVENT OF DEFAULT AND/OR THE ACTIONS OR NEGLIGENCE OF RECIPIENT;**
- C. ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION WHICH CONTESTS OR CHALLENGES THE LEGAL AUTHORITY OF GRANTOR OR RECIPIENT TO ENTER INTO THIS AGREEMENT; AND**
- D. ANY AND ALL LIABILITIES, LOSSES, COSTS, OR EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND DISBURSEMENTS) THAT ANY INDEMNITEE SUFFERS OR INCURS AS A RESULT OF ANY OF THE FOREGOING; PROVIDED, HOWEVER, THAT RECIPIENT SHALL HAVE NO OBLIGATION UNDER THIS SECTION TO GRANTOR WITH RESPECT TO ANY OF THE FOREGOING TO THE EXTENT THAT SUCH CLAIMS OR LIABILITIES ARISE OUT OF THE NEGLIGENCE OR WILLFUL MISCONDUCT OF GRANTOR OR THE BREACH BY GRANTOR OF THIS AGREEMENT.**

IF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS ASSERTED AGAINST ANY INDEMNITEE, SUCH INDEMNITEE SHALL PROMPTLY NOTIFY RECIPIENT, BUT THE FAILURE TO SO PROMPTLY NOTIFY RECIPIENT SHALL NOT AFFECT RECIPIENT'S OBLIGATIONS UNDER THIS SECTION UNLESS SUCH FAILURE MATERIALLY PREJUDICES RECIPIENT'S RIGHT TO PARTICIPATE IN THE CONTEST OF SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, AS HEREINAFTER PROVIDED. IF REQUESTED BY RECIPIENT IN WRITING, AS 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 RECIPIENT TO PARTICIPATE IN SUCH CONTEST. ANY INDEMNITEE THAT PROPOSES TO SETTLE OR COMPROMISE ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING FOR WHICH RECIPIENT MAY BE LIABLE FOR PAYMENT OF INDEMNITY HEREUNDER SHALL GIVE RECIPIENT 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 RECIPIENT'S CONCURRENCE THERETO.

SECTION 9. RECIPIENT'S REPRESENTATIONS.

By execution hereof, the signatories warrant and represent that they have the requisite authority to execute this Agreement and that the representations made herein are true and accurate in all respects. LEDC warrants and represents that it is a duly created and existing Texas non-profit corporation and that the economic development incentives listed herein have been duly authorized and made in conformance with the Texas Open Meetings Act and other applicable Texas law.

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 has been delivered to Grantor and accepted by Grantor in the State of Texas. Recipient agrees to submit to the jurisdiction of the courts of Dallas County, State of Texas, and that venue is proper in said County. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and applicable federal laws.
- c. **Employee Hiring, Materials and Supplies Purchase.** Although not an Event of Default or a condition to any disbursement or advance of any Incentive Payment discussed herein, Grantor requests that Recipient use good faith efforts to satisfy its need for all additional employees from City residents and purchase all materials, supplies and services necessary to affect the construction and subsequent occupancy of the Property from City merchants and businesses.
- d. **Community Involvement.** Although not an Event of Default or a condition to any disbursement or advance or advance of any Incentive Payment discussed herein, Recipient agrees to use good faith efforts to actively participate in community and charitable organizations and/or activities, the purpose of which are to improve the quality of life in City, and to actively encourage its employees to be involved in such organizations and/or activities.
- e. **Recipient Audit.** Recipient agrees to allow Grantor, at a time mutually acceptable to Grantor and Recipient, to audit at Grantor's expense all of Recipient's records, documents, agreements and other instruments in furtherance of the following purposes: (i) to ensure Recipient's compliance with the affirmative covenants and duties set forth in Sections 3 and 4

herein; (ii) to determine the existence of an Event of Default set forth in Section 6 herein; and (iii) to ensure compliance with any other term or condition of this Agreement.

- f. **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- g. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Recipient agrees to keep Grantor informed at all times of Recipient's current address.
- h. **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.
- i. **Survival.** All warranties, representations, and covenants made by Recipient in this Agreement or in any certificate or other instrument delivered by Recipient to Grantor under this Agreement shall be considered to have been relied upon by Grantor and will survive the payment of any Incentive Payments under this Agreement regardless of any investigation made by Grantor or on Grantor's behalf.
- j. **Attorneys' Fees and Costs.** In the event of any action at law or in equity between the parties to enforce any of the provisions hereof, to the extent allowed by law any unsuccessful party to such litigation shall pay to the successful party all costs and expenses, including reasonable attorneys' fees (including costs and expenses incurred in connection with all appeals) incurred by the successful party, and these costs, expenses and attorneys' fees may be included in and as part of the judgment. A successful party shall be any party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment.
- k. **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

- l. **Counterparts.** This Agreement may be executed in counterparts, and such counterparts together shall constitute but one original of the Agreement. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.
- m. **Waiver.** No failure or delay by a party to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power or remedy hereunder shall constitute a waiver of the same or any other term of this Agreement or preclude such party from enforcing or exercising the same or any such other term, conditions, covenant, right, power or remedy at any later time.
- n. **No Interpretation Against Drafter.** Recipient and Grantor have participated in negotiating and drafting this Agreement, and agree that the Agreement is to be construed as if drafted jointly. The parties agree that the Agreement will not be interpreted or construed against either party should a need for interpretation or resolution of any ambiguity arise.
- o. **Assignment.** Assignment of any benefit or obligation under this Agreement may not be made without prior written consent of the City.

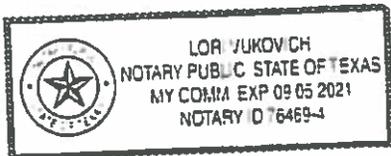
RECIPIENT ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS AGREEMENT, AND RECIPIENT AGREES TO ITS TERMS.

THIS AGREEMENT SHALL BE EFFECTIVE AS OF MARCH 26, 2018.

RECIPIENT:

GLOBAL FULFILLMENT SOLUTIONS, LTD.,
a Texas limited partnership

By: THC Opportunities, Inc.,
a Texas corporation,
its general partner



Lori Vukovich

By: 
R. HOLT LUNSFORD
Manager

Date Signed: 3-26-18

GRANTOR:

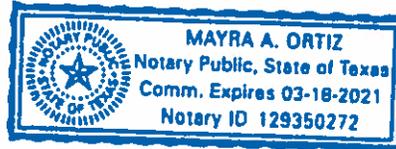
LANCASTER ECONOMIC DEVELOPMENT CORPORATION,
a Texas Non-Profit Corporation,

By: *Sandi Collier*
SANDI COLLIER
Vice President

Date Signed: March 22, 2018

PREPARED IN THE OFFICES OF:

BROWN & HOFMEISTER, L.L.P.
740 E. Campbell Road, Suite 800
Richardson, Texas 75081
214/747-6100
214/747-6111 Fax



Mayra A. Ortiz
3-22-18

RESOLUTION NO. 2018-03-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING A CHAPTER 380 AGREEMENT BY AND BETWEEN THE CITY OF LANCASTER, TEXAS AND GLOBAL LONGHORN CENTER, L.P., AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster ("City") recognizes how important business and community development is to the vitality and growth of Lancaster; and

WHEREAS, the City desires to grant certain incentives to Global Longhorn Center, L.P., a limited Texas partnership, for the purpose of constructing a comprehensive eCommerce fulfillment and distribution facility within the City of Lancaster; and

WHEREAS, the City has adopted programs for promoting economic development, and an Economic Development Agreement and the economic development incentives set forth herein are given and provided by the City pursuant to and in accordance with those programs; and

WHEREAS, the City is authorized by Chapter 380 of the Texas Local Government Code to issue grants in order to promote local economic development by stimulating the local economy; and

WHEREAS, the Agreement containing the terms of the grant of incentives from the City is appropriate.

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

SECTION 1. The City Council of the City of Lancaster, Texas approves a Chapter 380 Economic Development Incentive Agreement by and between the City of Lancaster and Global Longhorn Center, LP.

SECTION 2. The City Council authorizes the City Manager to execute the Economic Development Incentive Agreement between the City of Lancaster and Global Longhorn Center, LP.

SECTION 3. This Resolution shall take effect immediately from and after the date of passage and is provided by law.

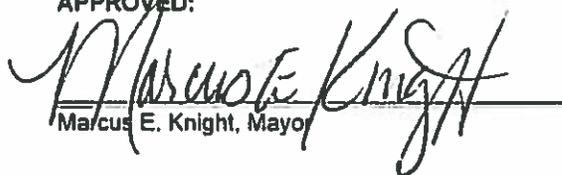
DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 26th day of March, 2018.

ATTEST:



Sorangel O. Arenas, City Secretary

APPROVED:



Marcus E. Knight, Mayor

APPROVED AS TO FORM:



David T. Ritter, City Attorney

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

Recipient: **GLOBAL LONGHORN CENTER, L.P.**
5055 Keller Springs Road, Suite 300
Addison, TX 75001

Grantors: **CITY OF LANCASTER, TEXAS**
211 N. Henry Street
Lancaster, TX 75146

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WHEREAS, Recipient is a developer of comprehensive eCommerce fulfillment and distribution facilities; and

WHEREAS, Recipient has applied to Grantor for financial accommodations to enable it to locate a fulfillment center in the City of Lancaster, Texas, including those incentives which are described in this Agreement and those which may be described on any exhibit or schedule attached to this Agreement; and

WHEREAS, the City of Lancaster is authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City,

WHEREAS, LEDC approved certain financial incentives to Recipient at its March 22, 2018 Board meeting, and City approved certain financial incentives to Recipient at its March 26, 2018 City Council meeting which would allow Recipient to locate its fulfillment center in the City of Lancaster, Texas and to expand operations accordingly; and

WHEREAS, Recipient understands and agrees that: (a) in granting, renewing, or extending any financial incentives, Grantor is relying upon Recipient's representations, warranties, and agreements, as set forth and provided for in this Agreement; (b) the granting, renewing, or extending of any incentive by Grantor at all times shall be subject to Grantor's sole judgment and discretion; and (c) all such incentives shall be and shall remain subject to the terms and conditions as set forth in this Agreement.

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- e. **Facility.** The word "Facility" means Recipient's new fulfillment center, to be constructed on a \pm 22 acre site located at 3201 N. Houston School Road within the City limits of Lancaster, Texas, of which at least 250,000 sq. ft is leased to, or otherwise used as fulfillment center by Global Fulfillment Solutions, Ltd. In order to qualify as the "Facility" under this Agreement, the facility must meet all of the following criteria: (1) when completed, have an ad valorem real property value of not less than \$15,000,000 on the Dallas Central Appraisal District tax rolls; (2) be approximately (\pm 10%) 400,000 sq. ft. in total under-roof size; and (3) construction of Facility must commence no later than nine (9) months from the Effective Date of this Agreement.
- f. **Incentive Payment.** The words "Incentive Payment" mean any financial payment, benefit, reimbursement, or refund made by City or LEDC to Recipient under this Agreement.
- g. **Grantor.** The word "Grantor" means the **CITY OF LANCASTER, TEXAS**, a Texas municipal corporation,

- h. **Real Property Taxes.** The words "Real Property Taxes" shall mean all real estate ad valorem taxes assessed and levied by the City and paid by Recipient on the Facility after completion.
- i. **Recipient.** The word "Recipient" means *GLOBAL LONGHORN CENTER, L.P.*, a Texas limited partnership, or a wholly-owned affiliate of Recipient approved in advance by Grantor.

SECTION 3. INCENTIVE PAYMENTS.

- a. **Real Property Tax Reimbursement Incentive Payment.** The City shall make an Incentive Payment to reimburse Recipient for Real Property Tax paid by Recipient and attributable to the Facility for up to ten (10) years as more specifically set forth hereinafter. The first Incentive Payment shall be made after the calculation, submission and confirmation of the Real Property tax paid for the first full calendar year after completion of the Facility's construction and occupancy by Global Fulfillment Solutions, Ltd. The Incentive Payments shall be based the following criteria:

Real Property Tax Assessed Value	Years of Eligibility	Percentage of Sales Taxes Reimbursed
\$75 million +	10	65%
\$50 million+ to \$75 million	8	60%
\$35 million + to \$50 million	7	50%
\$20 million+ to \$35 million	5	45%
\$10 million + to \$20 million	5	40%
\$5 million+ to \$10 million	3	30%

It is understood that the amount of the Incentive Payment may vary from year to year based on the amount of the Real Property Tax Assessed Value and tax actually paid by Recipient for the Facility. It is also understood that if the Real Property Tax Assessed Value drops to a level for which the number of years of eligibility have already been exhausted, no payment may be received that year – for example, if Real Property Tax Assessed Value has been at the \$50 million + to \$75 million level for six years, and in year seven, the Real Property Tax Assessed Value drops to \$45 million, no incentive payment would be due that year, as the \$35 million+ to \$50 million level has only five years of eligibility. If Real Property Tax Assessed Value returned to the \$50 million + level the next year, a payment would be due, as that level has a total of seven years of eligibility. Real Property Tax Incentive Payments shall be available only for up to the first ten (10) years following the payment of Real Property tax for the first full calendar year after completion of the Facility's construction and occupancy by Global Fulfillment Solutions, Ltd.

Notwithstanding the foregoing, the City shall have no obligation to pay Recipient any Incentive Payment until receipt of the Real Property Tax Report described in Section 4.(b)(2) of this Agreement. The City agrees to provide the Incentive Payment to Recipient within thirty (30) days following receipt and acceptance of the Real Property Tax Report.

SECTION 4. RECIPIENT OBLIGATIONS

- a. Recipient shall comply with the following terms and satisfy the following obligations to be eligible for the Incentive Payments above:
 - (1) **Lease or Letters of Intent.** Recipient shall construct the Facility and lease (or otherwise allow) Global Fulfillment Solutions, Ltd. to use a minimum of 250,000 sq. ft. for a term of at least sixty (60) consecutive months and shall provide Grantor with either: (1) a fully executed copy of the Lease, or (2) a letter from Global Fulfillment Solutions, Ltd. evidencing intent to occupy no less than 250,000 sq. ft. of the Facility upon completion of construction and a letter from Recipient indicating intent to lease or otherwise permit Global Fulfillment Solutions, Ltd. granting Global Fulfillment Solutions, Ltd. the right to occupy no less than 250,000 sq. ft. of the Facility upon completion of construction. The lease or letters of intent must be provided to City within fourteen (14) days of execution.
 - (2) **Certificate of Occupancy.** Recipient shall obtain a Certificate of Occupancy for the Facility on or before September 1, 2019.
- b. **Compliance Certificates and Reports.** Recipient shall provide Grantor with compliance certificates when requested or required hereunder, such certificates or reports specifying or reflecting:
 - (1) an existing and valid Certificate of Occupancy for the Facility (subject to the provisions of Section 4.(a)(2)), *supra*;
 - (2) an annual, detailed verification of the Real Property Tax report including certification by Recipient of Real Property Tax paid to each taxing entity.
- c. **Performance.** Recipient agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other future agreements between Recipient and Grantor.

SECTION 5. CESSATION OF INCENTIVE PAYMENTS.

if Grantor has made any commitment to make any Incentive Payment to Recipient, whether under this Agreement or under any future agreement, Grantor shall have no obligation to advance or disburse Incentive Payment funds if:

- a. Recipient becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or
- b. during the pendency of an Event of Default.

SECTION 6. EVENTS OF DEFAULT.

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

- a. **Certificate of Occupancy.** Failure of Recipient to complete any of the following: (1) execution and delivery of the Lease described in Section 4.(a)(1), *supra*; (2) failure to construct the Facility in accordance with the specifications set forth in Section 2.(e), *supra*, or (3) failure to obtain a Certificate of Occupancy in accordance with Section 4.(a)(2), *supra*.
- b. **False Statements.** Any warranty, representation or statement made or furnished to Grantor by Recipient under this Agreement or any future agreement (including but not limit to any applications for economic development funds) that is false or misleading in any material respect, either now or at the time made or furnished.
- c. **Insolvency.** Recipient's insolvency, appointment of receiver for any part of Recipient's property, any assignment for the benefit of creditors of Recipient, any type of creditor workout for Recipient, or the commencement of any proceeding under any bankruptcy or insolvency laws by Recipient or against Recipient and not dismissed within sixty (60) days of filing thereof.
- d. **Ad Valorem Taxes.** Failure of Recipient to pay, prior to delinquency, all taxes and assessments levied or assessed upon Recipient's real property improvements or business personal property.
- e. **Undocumented workers.** Recipient certifies that Recipient 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, Recipient is convicted of a violation under 8 U.S.C. § 1324a(f), Recipient shall be in default hereunder.
- f. **Other Defaults.** Failure of Recipient after written notice and thirty (30) days opportunity to cure, to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of future agreement between Recipient and Grantor, and specifically, should Recipient sublet or assign any of its interest in any portion of the Facility to

any unrelated or unaffiliated entity without Grantor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 7. EFFECT OF AN EVENT OF DEFAULT.

If any Event of Default shall occur and, upon thirty (30) days written notice and opportunity to cure, Recipient has not cured such Event of Default within 30 days of written notice, then after such thirty (30-day) cure period Grantor shall have the option to terminate this Agreement by providing written notice to Recipient and, thereafter, all commitments of Grantor under this Agreement shall terminate immediately (including any obligation to make future Incentive Payments) without notice of any kind to Recipient. The 30-day cure period shall not apply to any default of Recipient under Section 6.C. herein. Any Event of Default which may be cured by the payment of money shall not extend beyond the 30-day period referenced herein.

SECTION 8. INDEMNIFICATION.

RECIPIENT SHALL INDEMNIFY, SAVE, AND HOLD HARMLESS GRANTOR, ITS DIRECTORS, OFFICERS, AGENTS, ATTORNEYS, AND EMPLOYEES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST:

- A. ANY AND ALL CLAIMS, DEMANDS, ACTIONS OR CAUSES OF ACTION THAT ARE ASSERTED AGAINST ANY INDEMNITEE IF THE CLAIM, DEMAND, ACTION OR CAUSE OF ACTION RELATES TO TORTIOUS INTERFERENCE WITH CONTRACT OR BUSINESS INTERFERENCE, OR WRONGFUL OR NEGLIGENT USE OF GRANTOR'S INCENTIVE PAYMENTS BY RECIPIENT OR ITS AGENTS AND EMPLOYEES;**
- B. ANY ADMINISTRATIVE OR INVESTIGATIVE PROCEEDING BY ANY GOVERNMENTAL AUTHORITY RELATED TO A CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IN WHICH GRANTOR IS A DISINTERESTED PARTY THAT IS CAUSED BY (OR RESULTS FROM) AN EVENT OF DEFAULT AND/OR THE ACTIONS OR NEGLIGENCE OF RECIPIENT;**
- C. ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION WHICH CONTESTS OR CHALLENGES THE LEGAL AUTHORITY OF GRANTOR OR RECIPIENT TO ENTER INTO THIS AGREEMENT; AND**
- D. ANY AND ALL LIABILITIES, LOSSES, COSTS, OR EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND DISBURSEMENTS) THAT ANY INDEMNITEE SUFFERS OR INCURS AS A RESULT OF ANY OF THE FOREGOING; PROVIDED, HOWEVER, THAT RECIPIENT SHALL HAVE NO OBLIGATION UNDER THIS SECTION TO GRANTOR WITH**

RESPECT TO ANY OF THE FOREGOING TO THE EXTENT THAT SUCH CLAIMS OR LIABILITIES ARISE OUT OF THE NEGLIGENCE OR WILLFUL MISCONDUCT OF GRANTOR OR THE BREACH BY GRANTOR OF THIS AGREEMENT.

IF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS ASSERTED AGAINST ANY INDEMNITEE, SUCH INDEMNITEE SHALL PROMPTLY NOTIFY RECIPIENT, BUT THE FAILURE TO SO PROMPTLY NOTIFY RECIPIENT SHALL NOT AFFECT RECIPIENT'S OBLIGATIONS UNDER THIS SECTION UNLESS SUCH FAILURE MATERIALLY PREJUDICES RECIPIENT'S RIGHT TO PARTICIPATE IN THE CONTEST OF SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, AS HEREINAFTER PROVIDED. IF REQUESTED BY RECIPIENT IN WRITING, AS 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 RECIPIENT TO PARTICIPATE IN SUCH CONTEST. ANY INDEMNITEE THAT PROPOSES TO SETTLE OR COMPROMISE ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING FOR WHICH RECIPIENT MAY BE LIABLE FOR PAYMENT OF INDEMNITY HEREUNDER SHALL GIVE RECIPIENT 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 RECIPIENT'S CONCURRENCE THERETO.

SECTION 9. RECIPIENT'S REPRESENTATIONS.

By execution hereof, the signatories warrant and represent that they have the requisite authority to execute this Agreement and that the representations made herein are true and accurate in all respects. City warrants and represents that it is a duly created and existing Texas municipal corporation and that the economic development incentives listed herein have been duly authorized and made in conformance with the Texas Open Meetings Act and other applicable Texas law.

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 has been delivered to Grantor and accepted by Grantor in the State of Texas. Recipient agrees to submit to the jurisdiction of the courts of Dallas County, State of Texas,

and that venue is proper in said County. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and applicable federal laws.

- c. **Employee Hiring, Materials and Supplies Purchase.** Although not an Event of Default or a condition to any disbursement or advance of any Incentive Payment discussed herein, Grantor requests that Recipient use good faith efforts to satisfy its need for all additional employees from City residents and purchase all materials, supplies and services necessary to affect the construction and subsequent occupancy of the Property from City merchants and businesses.
- d. **Community Involvement.** Although not an Event of Default or a condition to any disbursement or advance of any Incentive Payment discussed herein, Recipient agrees to use good faith efforts to actively participate in community and charitable organizations and/or activities, the purpose of which are to improve the quality of life in City, and to actively encourage its employees to be involved in such organizations and/or activities.
- e. **Recipient Audit.** Recipient agrees to allow Grantor, at a time mutually acceptable to Grantor and Recipient, to audit at Grantor's expense all of Recipient's records, documents, agreements and other instruments in furtherance of the following purposes: (i) to ensure Recipient's compliance with the affirmative covenants and duties set forth in Sections 3 and 4 herein; (ii) to determine the existence of an Event of Default set forth in Section 6 herein; and (iii) to ensure compliance with any other term or condition of this Agreement.
- f. **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- g. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Recipient agrees to keep Grantor informed at all times of Recipient's current address.
- h. **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.

- i. **Survival.** All warranties, representations, and covenants made by Recipient in this Agreement or in any certificate or other instrument delivered by Recipient to Grantor under this Agreement shall be considered to have been relied upon by Grantor and will survive the payment of any Incentive Payments under this Agreement regardless of any investigation made by Grantor or on Grantor's behalf.
- j. **Attorneys' Fees and Costs.** In the event of any action at law or in equity between the parties to enforce any of the provisions hereof, to the extent allowed by law any unsuccessful party to such litigation shall pay to the successful party all costs and expenses, including reasonable attorneys' fees (including costs and expenses incurred in connection with all appeals) incurred by the successful party, and these costs, expenses and attorneys' fees may be included in and as part of the judgment. A successful party shall be any party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment.
- k. **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- l. **Counterparts.** This Agreement may be executed in counterparts, and such counterparts together shall constitute but one original of the Agreement. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.
- m. **Waiver.** No failure or delay by a party to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power or remedy hereunder shall constitute a waiver of the same or any other term of this Agreement or preclude such party from enforcing or exercising the same or any such other term, conditions, covenant, right, power or remedy at any later time.
- n. **No Interpretation Against Drafter.** Recipient and Grantor have participated in negotiating and drafting this Agreement, and agree that the Agreement is to be construed as if drafted jointly. The parties agree that the Agreement will not be interpreted or construed against either party should a need for interpretation or resolution of any ambiguity arise.
- o. **Assignment.** Assignment of any benefit or obligation under this Agreement may not be made without prior written consent of the City.

RECIPIENT ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS

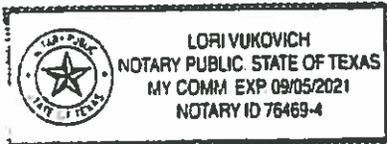
AGREEMENT, AND RECIPIENT AGREES TO ITS TERMS.

THIS AGREEMENT SHALL BE EFFECTIVE AS OF March 26, 2018.

RECIPIENT:

GLOBAL LONGHORN CENTER, L.P.,
a Texas limited partnership

By: Global Longhorn GP Series,
a series of FE Investment Series, LLC,
a Texas series limited liability company,
its general partner



Lori Vukovich

By: _____

[Signature]
R. HOLT LUNSFORD
Manager

Date Signed: _____

3/26/18

GRANTOR:

CITY OF LANCASTER, TEXAS a Texas
municipal corporation,

By: _____

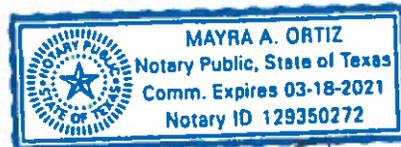
[Signature]
OPAL MAULDIN-JONES
City Manager

Date Signed: _____

04/02/2018

PREPARED IN THE OFFICES OF:

BROWN & HOFMEISTER, L.L.P.
740 E. Campbell Road, Suite 800
Richardson, Texas 75081
214/747-6100
214/747-6111 Fax



Mayra A Ortiz

Global

RESOLUTION NO. 2018-03-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, APPROVING A CHAPTER 380 AGREEMENT BY AND BETWEEN THE CITY OF LANCASTER, TEXAS AND GLOBAL LONGHORN CENTER, L.P., AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lancaster ("City") recognizes how important business and community development is to the vitality and growth of Lancaster; and

WHEREAS, the City desires to grant certain incentives to Global Longhorn Center, L.P., a limited Texas partnership, for the purpose of constructing a comprehensive eCommerce fulfillment and distribution facility within the City of Lancaster; and

WHEREAS, the City has adopted programs for promoting economic development, and an Economic Development Agreement and the economic development incentives set forth herein are given and provided by the City pursuant to and in accordance with those programs; and

WHEREAS, the City is authorized by Chapter 380 of the Texas Local Government Code to issue grants in order to promote local economic development by stimulating the local economy; and

WHEREAS, the Agreement containing the terms of the grant of incentives from the City is appropriate.

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

SECTION 1. The City Council of the City of Lancaster, Texas approves a Chapter 380 Economic Development Incentive Agreement by and between the City of Lancaster and Global Longhorn Center, LP.

SECTION 2. The City Council authorizes the City Manager to execute the Economic Development Incentive Agreement between the City of Lancaster and Global Longhorn Center, LP.

SECTION 3. This Resolution shall take effect immediately from and after the date of passage and is provided by law.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 26th day of March, 2018.

ATTEST:



Sorangel O. Arenas, City Secretary

APPROVED:



Marcus E. Knight, Mayor

APPROVED AS TO FORM:



David T. Ritter, City Attorney

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

Recipient: **GLOBAL LONGHORN CENTER, L.P.**
5055 Keller Springs Road, Suite 300
Addison, TX 75001

Grantors: **CITY OF LANCASTER, TEXAS**
211 N. Henry Street
Lancaster, TX 75146

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT ("Agreement") between **GLOBAL LONGHORN CENTER, L.P.**, a Texas limited partnership ("Recipient"); and **CITY OF LANCASTER, TEXAS**, a Texas municipal corporation ("City") or ("Grantor") is made and executed on the following recitals, terms and conditions.

WHEREAS, Recipient is a developer of comprehensive eCommerce fulfillment and distribution facilities; and

WHEREAS, Recipient has applied to Grantor for financial accommodations to enable it to locate a fulfillment center in the City of Lancaster, Texas, including those incentives which are described in this Agreement and those which may be described on any exhibit or schedule attached to this Agreement; and

WHEREAS, the City of Lancaster is authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City,

WHEREAS, LEDC approved certain financial incentives to Recipient at its March 22, 2018 Board meeting, and City approved certain financial incentives to Recipient at its March 26, 2018 City Council meeting which would allow Recipient to locate its fulfillment center in the City of Lancaster, Texas and to expand operations accordingly; and

WHEREAS, Recipient understands and agrees that: (a) in granting, renewing, or extending any financial incentives, Grantor is relying upon Recipient's representations, warranties, and agreements, as set forth and provided for in this Agreement; (b) the granting, renewing, or extending of any incentive by Grantor at all times shall be subject to Grantor's sole judgment and discretion; and (c) all such incentives shall be and shall remain subject to the terms and conditions as set forth in this Agreement.

SECTION 1. TERM.

This Economic Development Incentive Agreement shall be effective as of March 26, 2018 (the "Effective Date") and shall continue thereafter until all obligations of Recipient to Grantor have been performed in full and the parties terminate this Agreement in writing, or on September 1, 2024, unless terminated sooner under the provisions hereof. This Agreement will terminate if not executed by all parties within fourteen (14) days of the approval of the Agreement by the City Council.

SECTION 2. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement. Terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Texas Uniform Commercial Code.

- a. **Agreement.** The word "Agreement" means this Economic Development Incentive Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any.
- b. **City.** The word "City" means the City of Lancaster, Dallas County, Texas.
- c. **Effective Date.** The words "Effective Date" mean March 26, 2018.
- d. **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."
- e. **Facility.** The word "Facility" means Recipient's new fulfillment center, to be constructed on a ± 22 acre site located at 3201 N. Houston School Road within the City limits of Lancaster, Texas, of which at least 250,000 sq. ft is leased to, or otherwise used as fulfillment center by Global Fulfillment Solutions, Ltd. In order to qualify as the "Facility" under this Agreement, the facility must meet all of the following criteria: (1) when completed, have an ad valorem real property value of not less than \$15,000,000 on the Dallas Central Appraisal District tax rolls; (2) be approximately (±10%) 400,000 sq. ft. in total under-roof size; and (3) construction of Facility must commence no later than nine (9) months from the Effective Date of this Agreement.
- f. **Incentive Payment.** The words "Incentive Payment" mean any financial payment, benefit, reimbursement, or refund made by City or LEDC to Recipient under this Agreement.
- g. **Grantor.** The word "Grantor" means the **CITY OF LANCASTER, TEXAS**, a Texas municipal corporation,

- h. **Real Property Taxes.** The words "Real Property Taxes" shall mean all real estate ad valorem taxes assessed and levied by the City and paid by Recipient on the Facility after completion.
- i. **Recipient.** The word "Recipient" means **GLOBAL LONGHORN CENTER, L.P.**, a Texas limited partnership, or a wholly-owned affiliate of Recipient approved in advance by Grantor.

SECTION 3. INCENTIVE PAYMENTS.

- a. **Real Property Tax Reimbursement Incentive Payment.** The City shall make an Incentive Payment to reimburse Recipient for Real Property Tax paid by Recipient and attributable to the Facility for up to ten (10) years as more specifically set forth hereinafter. The first Incentive Payment shall be made after the calculation, submission and confirmation of the Real Property tax paid for the first full calendar year after completion of the Facility's construction and occupancy by Global Fulfillment Solutions, Ltd. The Incentive Payments shall be based the following criteria:

Real Property Tax Assessed Value	Years of Eligibility	Percentage of Sales Taxes Reimbursed
\$75 million +	10	65%
\$50 million+ to \$75 million	8	60%
\$35 million + to \$50 million	7	50%
\$20 million+ to \$35 million	5	45%
\$10 million + to \$20 million	5	40%
\$5 million+ to \$10 million	3	30%

It is understood that the amount of the Incentive Payment may vary from year to year based on the amount of the Real Property Tax Assessed Value and tax actually paid by Recipient for the Facility. It is also understood that if the Real Property Tax Assessed Value drops to a level for which the number of years of eligibility have already been exhausted, no payment may be received that year – for example, if Real Property Tax Assessed Value has been at the \$50 million + to \$75 million level for six years, and in year seven, the Real Property Tax Assessed Value drops to \$45 million, no incentive payment would be due that year, as the \$35 million+ to \$50 million level has only five years of eligibility. If Real Property Tax Assessed Value returned to the \$50 million + level the next year, a payment would be due, as that level has a total of seven years of eligibility. Real Property Tax Incentive Payments shall be available only for up to the first ten (10) years following the payment of Real Property tax for the first full calendar year after completion of the Facility's construction and occupancy by Global Fulfillment Solutions, Ltd.

Notwithstanding the foregoing, the City shall have no obligation to pay Recipient any Incentive Payment until receipt of the Real Property Tax Report described in Section 4.(b)(2) of this Agreement. The City agrees to provide the Incentive Payment to Recipient within thirty (30) days following receipt and acceptance of the Real Property Tax Report.

SECTION 4. RECIPIENT OBLIGATIONS

- a. Recipient shall comply with the following terms and satisfy the following obligations to be eligible for the Incentive Payments above:
 - (1) **Lease or Letters of Intent.** Recipient shall construct the Facility and lease (or otherwise allow) Global Fulfillment Solutions, Ltd. to use a minimum of 250,000 sq. ft. for a term of at least sixty (60) consecutive months and shall provide Grantor with either: (1) a fully executed copy of the Lease, or (2) a letter from Global Fulfillment Solutions, Ltd. evidencing intent to occupy no less than 250,000 sq. ft. of the Facility upon completion of construction and a letter from Recipient indicating intent to lease or otherwise permit Global Fulfillment Solutions, Ltd. granting Global Fulfillment Solutions, Ltd. the right to occupy no less than 250,000 sq. ft. of the Facility upon completion of construction. The lease or letters of intent must be provided to City within fourteen (14) days of execution.
 - (2) **Certificate of Occupancy.** Recipient shall obtain a Certificate of Occupancy for the Facility on or before September 1, 2019.
- b. **Compliance Certificates and Reports.** Recipient shall provide Grantor with compliance certificates when requested or required hereunder, such certificates or reports specifying or reflecting:
 - (1) an existing and valid Certificate of Occupancy for the Facility (subject to the provisions of Section 4.(a)(2)), *supra*;
 - (2) an annual, detailed verification of the Real Property Tax report including certification by Recipient of Real Property Tax paid to each taxing entity.
- c. **Performance.** Recipient agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other future agreements between Recipient and Grantor.

SECTION 5. CESSATION OF INCENTIVE PAYMENTS.

If Grantor has made any commitment to make any Incentive Payment to Recipient, whether under this Agreement or under any future agreement, Grantor shall have no obligation to advance or disburse Incentive Payment funds if:

- a. Recipient becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or
- b. during the pendency of an Event of Default.

SECTION 6. EVENTS OF DEFAULT.

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

- a. **Certificate of Occupancy.** Failure of Recipient to complete any of the following: (1) execution and delivery of the Lease described in Section 4.(a)(1), *supra*; (2) failure to construct the Facility in accordance with the specifications set forth in Section 2.(e), *supra*, or (3) failure to obtain a Certificate of Occupancy in accordance with Section 4.(a)(2), *supra*.
- b. **False Statements.** Any warranty, representation or statement made or furnished to Grantor by Recipient under this Agreement or any future agreement (including but not limit to any applications for economic development funds) that is false or misleading in any material respect, either now or at the time made or furnished.
- c. **Insolvency.** Recipient's insolvency, appointment of receiver for any part of Recipient's property, any assignment for the benefit of creditors of Recipient, any type of creditor workout for Recipient, or the commencement of any proceeding under any bankruptcy or insolvency laws by Recipient or against Recipient and not dismissed within sixty (60) days of filing thereof.
- d. **Ad Valorem Taxes.** Failure of Recipient to pay, prior to delinquency, all taxes and assessments levied or assessed upon Recipient's real property improvements or business personal property.
- e. **Undocumented workers.** Recipient certifies that Recipient 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, Recipient is convicted of a violation under 8 U.S.C. § 1324a(f), Recipient shall be in default hereunder.
- f. **Other Defaults.** Failure of Recipient after written notice and thirty (30) days opportunity to cure, to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of future agreement between Recipient and Grantor, and specifically, should Recipient sublet or assign any of its interest in any portion of the Facility to

any unrelated or unaffiliated entity without Grantor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 7. EFFECT OF AN EVENT OF DEFAULT.

If any Event of Default shall occur and, upon thirty (30) days written notice and opportunity to cure, Recipient has not cured such Event of Default within 30 days of written notice, then after such thirty (30-day) cure period Grantor shall have the option to terminate this Agreement by providing written notice to Recipient and, thereafter, all commitments of Grantor under this Agreement shall terminate immediately (including any obligation to make future Incentive Payments) without notice of any kind to Recipient. The 30-day cure period shall not apply to any default of Recipient under Section 6.C. herein. Any Event of Default which may be cured by the payment of money shall not extend beyond the 30-day period referenced herein.

SECTION 8. INDEMNIFICATION.

RECIPIENT SHALL INDEMNIFY, SAVE, AND HOLD HARMLESS GRANTOR, ITS DIRECTORS, OFFICERS, AGENTS, ATTORNEYS, AND EMPLOYEES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST:

- A. ANY AND ALL CLAIMS, DEMANDS, ACTIONS OR CAUSES OF ACTION THAT ARE ASSERTED AGAINST ANY INDEMNITEE IF THE CLAIM, DEMAND, ACTION OR CAUSE OF ACTION RELATES TO TORTIOUS INTERFERENCE WITH CONTRACT OR BUSINESS INTERFERENCE, OR WRONGFUL OR NEGLIGENT USE OF GRANTOR'S INCENTIVE PAYMENTS BY RECIPIENT OR ITS AGENTS AND EMPLOYEES;**
- B. ANY ADMINISTRATIVE OR INVESTIGATIVE PROCEEDING BY ANY GOVERNMENTAL AUTHORITY RELATED TO A CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IN WHICH GRANTOR IS A DISINTERESTED PARTY THAT IS CAUSED BY (OR RESULTS FROM) AN EVENT OF DEFAULT AND/OR THE ACTIONS OR NEGLIGENCE OF RECIPIENT;**
- C. ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION WHICH CONTESTS OR CHALLENGES THE LEGAL AUTHORITY OF GRANTOR OR RECIPIENT TO ENTER INTO THIS AGREEMENT; AND**
- D. ANY AND ALL LIABILITIES, LOSSES, COSTS, OR EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND DISBURSEMENTS) THAT ANY INDEMNITEE SUFFERS OR INCURS AS A RESULT OF ANY OF THE FOREGOING; PROVIDED, HOWEVER, THAT RECIPIENT SHALL HAVE NO OBLIGATION UNDER THIS SECTION TO GRANTOR WITH**

RESPECT TO ANY OF THE FOREGOING TO THE EXTENT THAT SUCH CLAIMS OR LIABILITIES ARISE OUT OF THE NEGLIGENCE OR WILLFUL MISCONDUCT OF GRANTOR OR THE BREACH BY GRANTOR OF THIS AGREEMENT.

IF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS ASSERTED AGAINST ANY INDEMNITEE, SUCH INDEMNITEE SHALL PROMPTLY NOTIFY RECIPIENT, BUT THE FAILURE TO SO PROMPTLY NOTIFY RECIPIENT SHALL NOT AFFECT RECIPIENT'S OBLIGATIONS UNDER THIS SECTION UNLESS SUCH FAILURE MATERIALLY PREJUDICES RECIPIENT'S RIGHT TO PARTICIPATE IN THE CONTEST OF SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, AS HEREINAFTER PROVIDED. IF REQUESTED BY RECIPIENT IN WRITING, AS 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 RECIPIENT TO PARTICIPATE IN SUCH CONTEST. ANY INDEMNITEE THAT PROPOSES TO SETTLE OR COMPROMISE ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING FOR WHICH RECIPIENT MAY BE LIABLE FOR PAYMENT OF INDEMNITY HEREUNDER SHALL GIVE RECIPIENT 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 RECIPIENT'S CONCURRENCE THERETO.

SECTION 9. RECIPIENT'S REPRESENTATIONS.

By execution hereof, the signatories warrant and represent that they have the requisite authority to execute this Agreement and that the representations made herein are true and accurate in all respects. City warrants and represents that it is a duly created and existing Texas municipal corporation and that the economic development incentives listed herein have been duly authorized and made in conformance with the Texas Open Meetings Act and other applicable Texas law.

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 has been delivered to Grantor and accepted by Grantor in the State of Texas. Recipient agrees to submit to the jurisdiction of the courts of Dallas County, State of Texas,

and that venue is proper in said County. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and applicable federal laws.

- c. **Employee Hiring, Materials and Supplies Purchase.** Although not an Event of Default or a condition to any disbursement or advance of any Incentive Payment discussed herein, Grantor requests that Recipient use good faith efforts to satisfy its need for all additional employees from City residents and purchase all materials, supplies and services necessary to affect the construction and subsequent occupancy of the Property from City merchants and businesses.
- d. **Community Involvement.** Although not an Event of Default or a condition to any disbursement or advance of any Incentive Payment discussed herein, Recipient agrees to use good faith efforts to actively participate in community and charitable organizations and/or activities, the purpose of which are to improve the quality of life in City, and to actively encourage its employees to be involved in such organizations and/or activities.
- e. **Recipient Audit.** Recipient agrees to allow Grantor, at a time mutually acceptable to Grantor and Recipient, to audit at Grantor's expense all of Recipient's records, documents, agreements and other instruments in furtherance of the following purposes: (i) to ensure Recipient's compliance with the affirmative covenants and duties set forth in Sections 3 and 4 herein; (ii) to determine the existence of an Event of Default set forth in Section 6 herein; and (iii) to ensure compliance with any other term or condition of this Agreement.
- f. **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- g. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Recipient agrees to keep Grantor informed at all times of Recipient's current address.
- h. **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.

- i. **Survival.** All warranties, representations, and covenants made by Recipient in this Agreement or in any certificate or other instrument delivered by Recipient to Grantor under this Agreement shall be considered to have been relied upon by Grantor and will survive the payment of any Incentive Payments under this Agreement regardless of any investigation made by Grantor or on Grantor's behalf.
- j. **Attorneys' Fees and Costs.** In the event of any action at law or in equity between the parties to enforce any of the provisions hereof, to the extent allowed by law any unsuccessful party to such litigation shall pay to the successful party all costs and expenses, including reasonable attorneys' fees (including costs and expenses incurred in connection with all appeals) incurred by the successful party, and these costs, expenses and attorneys' fees may be included in and as part of the judgment. A successful party shall be any party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment.
- k. **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- l. **Counterparts.** This Agreement may be executed in counterparts, and such counterparts together shall constitute but one original of the Agreement. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.
- m. **Waiver.** No failure or delay by a party to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power or remedy hereunder shall constitute a waiver of the same or any other term of this Agreement or preclude such party from enforcing or exercising the same or any such other term, conditions, covenant, right, power or remedy at any later time.
- n. **No Interpretation Against Drafter.** Recipient and Grantor have participated in negotiating and drafting this Agreement, and agree that the Agreement is to be construed as if drafted jointly. The parties agree that the Agreement will not be interpreted or construed against either party should a need for interpretation or resolution of any ambiguity arise.
- o. **Assignment.** Assignment of any benefit or obligation under this Agreement may not be made without prior written consent of the City.

RECIPIENT ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS

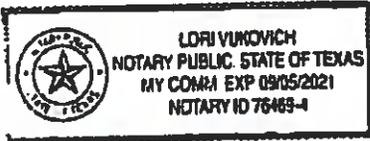
AGREEMENT, AND RECIPIENT AGREES TO ITS TERMS.

THIS AGREEMENT SHALL BE EFFECTIVE AS OF March 26, 2018.

RECIPIENT:

GLOBAL LONGHORN CENTER, L.P.,
a Texas limited partnership

By: Global Longhorn GP Series,
a series of FE Investment Series, LLC,
a Texas series limited liability company,
its general partner



Lori Vukovich

By: 

R. HOLT LUNSFORD
Manager

Date Signed: 3/26/18

GRANTOR:

CITY OF LANCASTER, TEXAS a Texas
municipal corporation,

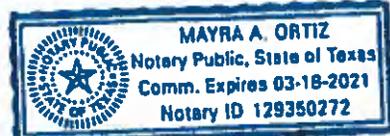
By: 

OPAL MAULDIN-JONES
City Manager

Date Signed: 04/02/2018

PREPARED IN THE OFFICES OF:

BROWN & HOFMEISTER, L.L.P.
740 E. Campbell Road, Suite 800
Richardson, Texas 75081
214/747-6100
214/747-6111 Fax



Mayra A Ortiz

RESOLUTION NO. 2018-03-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, RATIFYING THE TERMS AND CONDITIONS OF AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BY AND BETWEEN THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION (LEDC) AND GLOBAL FULFILLMENT SOLUTIONS, LTD., AND AUTHORIZING THE LEDC TO ENTER INTO A FORMAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Global Fulfillment Solutions, LTD has submitted a Letter of Intent to Global Longhorn Center, LP for the purpose of locating a comprehensive eCommerce fulfillment and distribution facility within the City of Lancaster, Texas; and

WHEREAS, pursuant to Lancaster Economic Development Corporation (hereinafter "LEDC") Resolution 2018-01 which was passed and approved on the 22th of March, 2018 by the Board of Directors of the LEDC, offering an incentive grant to Global Fulfillment Solutions, LTD; and

WHEREAS, the City of Lancaster and LEDC recognize the importance of their continued role in economic development in the community of Lancaster, and

WHEREAS, the City of Lancaster and LEDC are authorized by state law to issue grants in order to promote local economic development by stimulating the local economy; and

WHEREAS, An Economic Development Incentive Agreement containing the terms of the grant of incentives from the LEDC is appropriate.

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

SECTION 1. The City Council of the City of Lancaster, Texas ratifies the March 22, 2018 actions of the Board of Directors of the LEDC approving an incentive grant to Global Fulfillment Solutions, LTD.

SECTION 2. The City Council authorizes the LEDC to enter into an incentive agreement with Global Fulfillment Solutions, LTD.

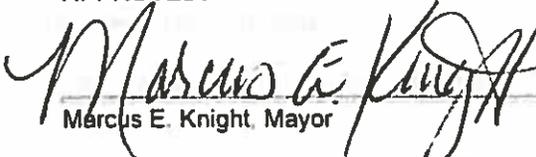
SECTION 3. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 26th day of March, 2018.

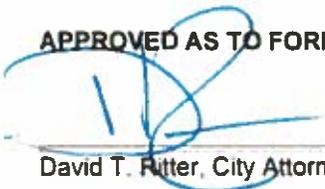
ATTEST:


Sorangel O. Arenas, City Secretary

APPROVED:


Marcus E. Knight, Mayor

APPROVED AS TO FORM:


David T. Rutter, City Attorney

RESOLUTION NO. 2018-01

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION (LEDC) OF LANCASTER, TEXAS, IN SUPPORT OF A GRANT TO GLOBAL FULFILLMENT SOLUTIONS, LTD., A TEXAS LIMITED PARTNERSHIP 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, Global Fulfillment Solutions, LTD, a Texas limited partnership has selected Lancaster as the location of their eCommerce fulfillment and distribution facility and has submitted a Letter of Intent to Global Longhorn Center, LP; 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 Global Fulfillment Solutions, LTD 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 Global Fulfillment Solutions, LTD 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 22nd day of March, 2018.

ATTEST:

APPROVED:



Mayra A. Ortiz, Board Secretary



Sandi Collier, Vice President

APPROVED AS TO FORM:



David T. Ritter, City Attorney

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

Recipient: ***GLOBAL FULFILLMENT SOLUTIONS, LTD.***
5055 Keller Springs Road, Suite 300
Addison, TX 75001

Grantors: ***LANCASTER ECONOMIC DEVELOPMENT CORPORATION***
P.O. Box 940
Lancaster, TX 75146

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT ("Agreement") between ***GLOBAL FULFILLMENT SOLUTIONS, LTD.*** a Texas limited partnership ("Recipient"); the ***LANCASTER ECONOMIC DEVELOPMENT CORPORATION***, a Texas non-profit corporation; ("LEDC"), or ("Grantor") is made and executed on the following recitals, terms and conditions.

WHEREAS, Recipient is a provider of comprehensive eCommerce fulfillment and distribution solutions; and

WHEREAS, Recipient has applied to Grantor for financial accommodations to enable it to locate a fulfillment center in the City of Lancaster, Texas, including those incentives which are described in this Agreement and those which may be described on any exhibit or schedule attached to this Agreement; and

WHEREAS, the City of Lancaster is authorized by Article III, Section 52-a of the Texas Constitution and Texas Local Government Code Chapter 380 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City, and LEDC operates under authority of the City to accomplish and further these economic development activities; and

WHEREAS, LEDC approved certain financial incentives to Recipient at its March 22, 2018 Board meeting, and City approved certain financial incentives to Recipient at its March 26, 2018 City Council meeting which would allow Recipient to locate its fulfillment center in the City of Lancaster, Texas and to expand operation accordingly; and

WHEREAS, Recipient understands and agrees that: (a) in granting, renewing, or extending any financial incentives, Grantor is relying upon Recipient's representations, warranties, and agreements, as set forth and provided for in this Agreement; (b) the granting, renewing, or extending of any incentive by Grantor at all times shall be subject to Grantor's sole judgment and discretion; and (c) all such incentives shall be and shall remain subject to the terms and conditions as set forth in this Agreement.

SECTION 1. TERM.

This Economic Development Incentive Agreement shall be effective as of March 26, 2018 (the "Effective Date") and shall continue thereafter until all obligations of Recipient to Grantor have been performed in full and the parties terminate this Agreement in writing, or on September 1, 2024, unless terminated sooner under the provisions hereof. **This Agreement will terminate if not executed by all parties within fourteen (14) days of the approval of the Agreement by the latter of the City Council and the LEDC Board.**

SECTION 2. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement. Terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Texas Uniform Commercial Code.

- a. **Agreement.** The word "Agreement" means this Economic Development Incentive Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any.
- b. **City.** The word "City" means the City of Lancaster, Dallas County, Texas.
- c. **C.O. Date.** The words "C.O. Date" mean the date that Recipient or Recipient's landlord (Global Longhorn Center, L.P.) receives a Certificate of Occupancy for the Facility from City. The latest qualifying date under this Agreement is September 1, 2019.
- d. **Effective Date.** The words "Effective Date" mean March 26, 2018.
- e. **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."
- f. **Facility.** The word "Facility" means the new fulfillment center, to be constructed by Global Longhorn Center, L.P. on a ± 22 acre site located at 3201 N. Houston School Road within the City limits of Lancaster, Texas, and of which at least 250,000 sq. ft. must be leased, used, or occupied by Recipient as its fulfillment center. In order to qualify as the "Facility" under this Agreement, the facility must meet all of the following criteria: (1) when completed, have an ad valorem real property value of not less than \$15,000,000 on the Dallas Central Appraisal District tax rolls; (2) be approximately (±10%) 400,000 sq. ft. in total under-roof size; and (3) construction on Facility must commence no later than nine (9) months from the Effective Date of this Agreement.

- g. **Incentive Payment.** The words "Incentive Payment" mean any financial payment, benefit, reimbursement, or refund made by City or LEDC to Recipient under this Agreement.
- h. **Incentivized Jobs.** The words "Incentivized Jobs" mean up to sixty (60) newly-created jobs for New Employees situated at the Facility and who are residents of the City, which New Employees have been hired on or between the C.O. Date and the 2nd anniversary of the C.O. Date.
- i. **Grantor.** The word "Grantor" means the **LANCASTER ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation,
- j. **LEDC.** The word "LEDC" means Lancaster Economic Development Corporation, a non-profit corporation formed for the purpose of advancing economic development in the City of Lancaster, Texas.
- k. **New Employee.** The words "New Employee" means a full-time, direct employee of Recipient, working a minimum of thirty-two (32) hours per week, who shall be employed in a position physically based at the Facility. New Employee shall not include employees of Recipient's subcontractors or vendors, whether working at the Facility or otherwise.
- l. **Recipient.** The word "Recipient" means **GLOBAL FULFILLMENT SOLUTIONS, LTD.**, a Texas limited partnership, or a wholly-owned affiliate of Recipient approved in advance by Grantor.
- m. **Salary.** The word "Salary" shall mean the annual, W-2 wages of any New Employee, exclusive of benefits, employer-paid taxes, health insurance, bonus, car allowance and related employee perquisites.

SECTION 3. INCENTIVE PAYMENTS.

The following Incentive Payments shall be available to Recipient under the following conditions and the Recipient Obligations set forth below:

- a. **Incentivized Job Incentive Payments.** On or before the second anniversary of the C.O. Date, Recipient may create up to sixty (60) Incentivized Jobs which are eligible for Incentive Payments, and each Incentivized Job shall be maintained at the Facility for not less than one (1) year from the date of any Incentive Payment disbursed for New Employees. The Incentivized Job payment shall be made in two (2) annual installments, within thirty (30) days of first and second anniversaries of the C.O. Date, provided LEDC has received Recipient's certification of the Incentivized Jobs at the Facility as the first and second anniversaries of the C.O. Date. Upon verification of the data in the certification, LEDC will make an Incentive Payment to Recipient equal to either: (a) four hundred

and no/100 dollars (\$400.00) for each net New Employee hired, if the aggregate average salary of the Incentivized jobs is more than thirty-thousand and no/100 dollars (\$30,000) per annum, or (b) three hundred and no/100 dollars (\$300.00) for each net New Employee hired, if the aggregate average salary of the Incentivized jobs is less than thirty-thousand and no/100 dollars (\$30,000) per annum; up to a maximum aggregate amount of **twenty-four thousand and no/100 dollars, (\$24,000.00) or eighteen thousand and no/100 dollars, (\$18,000.00) as applicable**. It is expressly agreed that LEDC will make payment for each incremental, or net, New Employee only once. Any reduction in New Employees (by layoff, termination or otherwise) which have previously received an incentive payment shall be disclosed to Grantor and adjusted for, including repayment for any overpayments.

- (1) If within one (1) year after any New Employee Incentive Payment has been made, Recipient has received Incentive Payments in excess of the net New Employees that were employed for one (1) full year, Recipient shall immediately refund the appropriate amount of Incentive Payments received relating to such Incentivized Jobs that failed to be maintained by such net, New Employees. For example only, if Recipient created fifty (50) net, New Employees in the first two (2) years following the C.O. Date (in the aggregate) and received \$20,000 in Incentive Payments (at the \$400/job rate); and thereafter, ten (10) net, New Employee failed to be employed for one (1) full year, Recipient would be obligated to pay LEDC \$4,000.00 (representing ten (10) unearned Incentive Payments x \$400/New Employee) within twenty (20) days of receiving written notice that such net, New Employees failed to qualify for the applicable Incentive Payments received by Recipient.
- (2) For each year from the first anniversary to the third anniversary of the C.O. Date, Recipient shall provide Grantor with a detailed report of the status of New Employees and Incentivized Jobs.

- b. **Job Training Assistance Incentive Payment.** LEDC shall make available to Recipient an Incentive Payment in the amount of up to **ten-thousand and no/100 dollars (\$10,000.00)**, payable in two (2) installments for the purpose of job training education for Recipient's employees located at the Facility. Such funds shall be used to reimburse Recipient for job training at Cedar Valley College for Recipient's Facility employees and all courses and training must be completed on or before the second anniversary of the C.O. Date. Recipient shall provide LEDC with a report of costs incurred, courses taken, employee name and dates of attendance, and any certificate or degree obtained on the first and second anniversary of the C.O. Date. LEDC will issue payment within thirty (30) days of receipt of the report.

- c. **Development Costs and Fees Incentive Payment.** LEDC shall make an Incentive Payment to reimburse the development costs and fees incidental to the planning, surveying, architectural, engineering, permitting and construction of the Facility (regardless of whether the costs are actually borne by Recipient or by Global Longhorn Center, L.P.). The payment shall be a one-time payment of **twenty-five thousand and no/100 dollars (\$25,000.00)**. If the aggregate average wage of the Incentivized Jobs is more than **thirty-thousand dollars per annum**, the Recipient is eligible for an additional **ten thousand dollars (\$10,000.00)** payment. The first payment of twenty-five thousand dollars (\$25,000) shall be made after a Certificate of Occupancy (C.O.) is obtained for the facility, and Recipient shall certify in writing whether its average wage will exceed or be less than thirty-thousand dollars per annum. Recipient shall provide LEDC with an annual report demonstrating the average wage of the Incentivized Jobs on each of the first three (3) anniversaries of the C.O. Date. If Recipient has been paid the \$25,000 amount and can demonstrate an average wage of the Incentivized Jobs that is more than thirty-thousand, the additional ten-thousand dollars shall be disbursed after the third anniversary of the C.O. Date.

SECTION 4. RECIPIENT OBLIGATIONS

- a. Recipient shall comply with the following terms and satisfy the following obligations to be eligible for the Incentive Payments above:
- (1) **Facility.** Recipient shall occupy and operate no less than 250,000 sq. ft. of the Facility as a fulfillment center for no less than sixty (60) continuous months after a Certificate of Occupancy is obtained for the Facility.
 - (2) **Certificate of Occupancy.** Recipient shall obtain a Certificate of Occupancy for the Facility on or before September 1, 2019.
 - (3) **Incentivized Jobs.** The Incentivized Jobs for which Incentive Payments are provided pursuant to Section 3.(a), *supra* shall be maintained for a period of not less than one (1) year from the date any Incentive Payment is made.
- b. **Compliance Certificates and Reports.** Recipient shall provide Grantor with compliance certificates when requested or required hereunder, such certificates or reports specifying or reflecting:
- (1) an existing and valid Certificate of Occupancy for the Facility (subject to the provisions of Section 4.(a)(2)), *supra*;

- (2) an annual, detailed verification of the Incentivized Jobs, indicating the position created, the classification of the job, the W-2 wages/salary, the date the job is filled, and the benefits/perquisites of the job.
 - (3) an annual, detailed verification of Job Training Assistance Incentive report including the information set forth in Section 3.(b), *supra*.
- c. **Performance.** Recipient agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other future agreements between Recipient and Grantor.

SECTION 5. CESSATION OF INCENTIVE PAYMENTS.

If Grantor has made any commitment to make any Incentive Payment to Recipient, whether under this Agreement or under any future agreement, Grantor shall have no obligation to advance or disburse Incentive Payment funds if:

- a. Recipient becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or
- b. during the pendency of an Event of Default.

SECTION 6. EVENTS OF DEFAULT.

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

- a. **Certificate of Occupancy.** Failure of Recipient to complete any of the following: (1) failure of Global Longhorn Center, LP to construct the Facility in accordance with the specifications set forth in Section 2.(f), *supra*, or (2) failure to obtain a Certificate of Occupancy in accordance with Section 4.(a)(2), *supra*.
- b. **False Statements.** Any warranty, representation or statement made or furnished to Grantor by Recipient under this Agreement or any future agreement (including but not limit to any applications for economic development funds) that is false or misleading in any material respect, either now or at the time made or furnished.
- c. **Insolvency.** Recipient's insolvency, appointment of receiver for any part of Recipient's property, any assignment for the benefit of creditors of Recipient, any type of creditor workout for Recipient, or the commencement of any proceeding under any bankruptcy or insolvency laws by Recipient or against Recipient and not dismissed within sixty (60) days of filing thereof.

- d. **Ad Valorem Taxes.** Failure of Recipient to pay, prior to delinquency, all taxes and assessments levied or assessed upon Recipient's real property improvements or business personal property.
- e. **Undocumented workers.** Recipient certifies that Recipient 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, Recipient is convicted of a violation under 8 U.S.C. § 1324a(f), Recipient shall be in default hereunder.
- f. **Other Defaults.** Failure of Recipient after written notice and thirty (30) days opportunity to cure, to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of future agreement between Recipient and Grantor, and specifically, should Recipient sublet or assign any of its interest in any portion of the Facility to any unrelated or unaffiliated entity without Grantor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 7. EFFECT OF AN EVENT OF DEFAULT.

If any Event of Default shall occur and, upon thirty (30) days written notice and opportunity to cure, Recipient has not cured such Event of Default within 30 days of written notice, then after such thirty (30-day) cure period Grantor shall have the option to terminate this Agreement by providing written notice to Recipient and, thereafter, all commitments of Grantor under this Agreement shall terminate immediately (including any obligation to make future Incentive Payments), **and all Incentive Payments previously paid to Recipient under this Agreement that is not otherwise forgiven by action of the LEDC Board or City Council, as applicable, will become immediately due and payable** without notice of any kind to Recipient. The 30-day cure period shall not apply to any default of Recipient under Section 6.C. herein. Any Event of Default which may be cured by the payment of money shall not extend beyond the 30-day period referenced herein.

SECTION 8. INDEMNIFICATION.

RECIPIENT SHALL INDEMNIFY, SAVE, AND HOLD HARMLESS GRANTOR, ITS DIRECTORS, OFFICERS, AGENTS, ATTORNEYS, AND EMPLOYEES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST:

- A. **ANY AND ALL CLAIMS, DEMANDS, ACTIONS OR CAUSES OF ACTION THAT ARE ASSERTED AGAINST ANY INDEMNITEE IF THE CLAIM, DEMAND, ACTION OR CAUSE OF ACTION RELATES TO TORTIOUS INTERFERENCE WITH CONTRACT OR BUSINESS INTERFERENCE, OR WRONGFUL OR NEGLIGENT USE OF GRANTOR'S INCENTIVE PAYMENTS BY RECIPIENT OR ITS AGENTS AND EMPLOYEES;**

- B. ANY ADMINISTRATIVE OR INVESTIGATIVE PROCEEDING BY ANY GOVERNMENTAL AUTHORITY RELATED TO A CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IN WHICH GRANTOR IS A DISINTERESTED PARTY THAT IS CAUSED BY (OR RESULTS FROM) AN EVENT OF DEFAULT AND/OR THE ACTIONS OR NEGLIGENCE OF RECIPIENT;**
- C. ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION WHICH CONTESTS OR CHALLENGES THE LEGAL AUTHORITY OF GRANTOR OR RECIPIENT TO ENTER INTO THIS AGREEMENT; AND**
- D. ANY AND ALL LIABILITIES, LOSSES, COSTS, OR EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND DISBURSEMENTS) THAT ANY INDEMNITEE SUFFERS OR INCURS AS A RESULT OF ANY OF THE FOREGOING; PROVIDED, HOWEVER, THAT RECIPIENT SHALL HAVE NO OBLIGATION UNDER THIS SECTION TO GRANTOR WITH RESPECT TO ANY OF THE FOREGOING TO THE EXTENT THAT SUCH CLAIMS OR LIABILITIES ARISE OUT OF THE NEGLIGENCE OR WILLFUL MISCONDUCT OF GRANTOR OR THE BREACH BY GRANTOR OF THIS AGREEMENT.**

IF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS ASSERTED AGAINST ANY INDEMNITEE, SUCH INDEMNITEE SHALL PROMPTLY NOTIFY RECIPIENT, BUT THE FAILURE TO SO PROMPTLY NOTIFY RECIPIENT SHALL NOT AFFECT RECIPIENT'S OBLIGATIONS UNDER THIS SECTION UNLESS SUCH FAILURE MATERIALLY PREJUDICES RECIPIENT'S RIGHT TO PARTICIPATE IN THE CONTEST OF SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, AS HEREINAFTER PROVIDED. IF REQUESTED BY RECIPIENT IN WRITING, AS 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 RECIPIENT TO PARTICIPATE IN SUCH CONTEST. ANY INDEMNITEE THAT PROPOSES TO SETTLE OR COMPROMISE ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING FOR WHICH RECIPIENT MAY BE LIABLE FOR PAYMENT OF INDEMNITY HEREUNDER SHALL GIVE RECIPIENT 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 RECIPIENT'S CONCURRENCE THERETO.

SECTION 9. RECIPIENT'S REPRESENTATIONS.

By execution hereof, the signatories warrant and represent that they have the requisite authority to execute this Agreement and that the representations made herein are true and accurate in all respects. LEDC warrants and represents that it is a duly created and existing Texas non-profit corporation and that the economic development incentives listed herein have been duly authorized and made in conformance with the Texas Open Meetings Act and other applicable Texas law.

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 has been delivered to Grantor and accepted by Grantor in the State of Texas. Recipient agrees to submit to the jurisdiction of the courts of Dallas County, State of Texas, and that venue is proper in said County. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and applicable federal laws.
- c. **Employee Hiring, Materials and Supplies Purchase.** Although not an Event of Default or a condition to any disbursement or advance of any Incentive Payment discussed herein, Grantor requests that Recipient use good faith efforts to satisfy its need for all additional employees from City residents and purchase all materials, supplies and services necessary to affect the construction and subsequent occupancy of the Property from City merchants and businesses.
- d. **Community Involvement.** Although not an Event of Default or a condition to any disbursement or advance or advance of any Incentive Payment discussed herein, Recipient agrees to use good faith efforts to actively participate in community and charitable organizations and/or activities, the purpose of which are to improve the quality of life in City, and to actively encourage its employees to be involved in such organizations and/or activities.
- e. **Recipient Audit.** Recipient agrees to allow Grantor, at a time mutually acceptable to Grantor and Recipient, to audit at Grantor's expense all of Recipient's records, documents, agreements and other instruments in furtherance of the following purposes: (i) to ensure Recipient's compliance with the affirmative covenants and duties set forth in Sections 3 and 4

herein; (ii) to determine the existence of an Event of Default set forth in Section 6 herein; and (iii) to ensure compliance with any other term or condition of this Agreement.

- f. **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- g. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Recipient agrees to keep Grantor informed at all times of Recipient's current address.
- h. **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.
- i. **Survival.** All warranties, representations, and covenants made by Recipient in this Agreement or in any certificate or other instrument delivered by Recipient to Grantor under this Agreement shall be considered to have been relied upon by Grantor and will survive the payment of any Incentive Payments under this Agreement regardless of any investigation made by Grantor or on Grantor's behalf.
- j. **Attorneys' Fees and Costs.** In the event of any action at law or in equity between the parties to enforce any of the provisions hereof, to the extent allowed by law any unsuccessful party to such litigation shall pay to the successful party all costs and expenses, including reasonable attorneys' fees (including costs and expenses incurred in connection with all appeals) incurred by the successful party, and these costs, expenses and attorneys' fees may be included in and as part of the judgment. A successful party shall be any party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment.
- k. **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

- l. **Counterparts.** This Agreement may be executed in counterparts, and such counterparts together shall constitute but one original of the Agreement. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.
- m. **Waiver.** No failure or delay by a party to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power or remedy hereunder shall constitute a waiver of the same or any other term of this Agreement or preclude such party from enforcing or exercising the same or any such other term, conditions, covenant, right, power or remedy at any later time.
- n. **No Interpretation Against Drafter.** Recipient and Grantor have participated in negotiating and drafting this Agreement, and agree that the Agreement is to be construed as if drafted jointly. The parties agree that the Agreement will not be interpreted or construed against either party should a need for interpretation or resolution of any ambiguity arise.
- o. **Assignment.** Assignment of any benefit or obligation under this Agreement may not be made without prior written consent of the City.

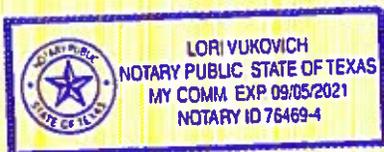
RECIPIENT ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS AGREEMENT, AND RECIPIENT AGREES TO ITS TERMS.

THIS AGREEMENT SHALL BE EFFECTIVE AS OF MARCH 26, 2018.

RECIPIENT:

GLOBAL FULFILLMENT SOLUTIONS, LTD.,
a Texas limited partnership

By: **THC Opportunities, Inc.,**
a Texas corporation,
its general partner



Lori Vukovich

By: 

R. HOLT LUNSFORD
Manager

Date Signed: 3-26-18

GRANTOR:

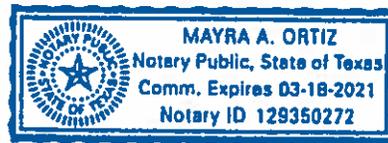
LANCASTER ECONOMIC DEVELOPMENT CORPORATION,
a Texas Non-Profit Corporation,

By: *Sandi Collier*
SANDI COLLIER
Vice President

Date Signed: March 22, 2018

PREPARED IN THE OFFICES OF:

BROWN & HOFMEISTER, L.L.P.
740 E. Campbell Road, Suite 800
Richardson, Texas 75081
214/747-6100
214/747-6111 Fax



Mayra Ortiz
3/22/18

ELECTRONICALLY RECORDED 201900178932
07/11/2019 10:38:54 AM RESOLUTION 1/14

RESOLUTION NO. 2019-06-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, ACCEPTING THE DEDICATION OF A 29,131 SQUARE FEET OR 0.67 ACRE SEWER EASEMENT FROM GLOBAL LONGHORN CENTER, L.P., GRANTOR, TO THE CITY OF LANCASTER FOR THE CONSTRUCTION, MAINTENANCE, OPERATION, REPAIR AND UPGRADING OF A WATERLINE AND ALL NECESSARY OR DESIRABLE STRUCTURES, FACILITIES AND APPURTENANCES NECESSARY TO PROVIDE A CONNECTION TO THE CITY SEWER SYSTEM; ESTABLISHING CONDITIONS, PROVIDING FOR THE FURNISHING OF A CERTIFIED COPY OF THIS RESOLUTION FOR RECORDING IN THE REAL PROPERTY RECORDS OF DALLAS COUNTY, TEXAS AS A DEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Global Longhorn Center L.P., ("Grantor") is the owner of the property located within the City of Lancaster; and,

WHEREAS, the City of Lancaster ("City") requires an easement for the construction, repair, maintenance, operation and upgrade of a sewerline and all incidental improvements and for making of connections to the city's sewer system; and

WHEREAS, the Grantor desires to dedicate to the City such Sewer Easements ("Easements") as provided in Exhibit "1" and the attachments thereto; and

WHEREAS, the City finds that such easement, as depicted on the attached Exhibit "1" and the attachments thereto, is for a public purpose and hereby accepts the Easement from the Grantor under the terms and condition provided in Exhibit "1".

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

SECTION 1. That the City of Lancaster hereby finds and determines that it is in the best interest of the public health, safety and welfare to accept the public utility easements from Global Longhorn Center L.P., which is described in Exhibit "1" attached hereto and incorporated herein.

SECTION 2. That the City Secretary is directed to file said easement for recording in the real property records of Dallas County, Texas, as a deed.

SECTION 3. That this Resolution shall take effect immediately from and after its adoption and execution.

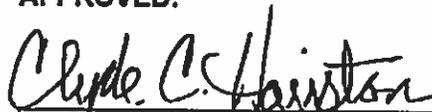
DULY PASSED and approved by the City Council of the City of Lancaster, Texas, on this the 10th day of June, 2019.

ATTEST:



Sorangel O. Arenas, City Secretary

APPROVED:



Clyde C. Hairston, Mayor

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to be 'DR', written over a horizontal line.

David T. Ritter, City Attorney

After recording, return to:
Global Longhorn Center, L.P.
5950 Berkshire Lane, Suite 900
Dallas, Texas 75225
Attention: Douglas A. Lucders

SANITARY SEWER EASEMENT

This Sanitary Sewer Easement (this "Easement") is made as of June 10, 2019, by and between GLOBAL LONGHORN CENTER, L.P., a Texas limited partnership ("Grantor"), whose address is 5950 Berkshire Lane, Suite 900, and the CITY OF LANCASTER, TEXAS, a municipality in the State of Texas ("Grantee"), whose address is 211 N. Henry Street, Lancaster, Texas 75146.

RECITALS

Whereas, Grantor is the fee simple owner of that certain parcel of real property located in the City of Lancaster, Dallas County, Texas, containing approximately 22.14 acres, more or less, being more particularly described on Exhibit A attached hereto (the "Property"); and

Whereas, Grantee has requested Grantor to grant to Grantee a permanent and perpetual easement for the purpose of installing, repairing, maintaining and altering underground sanitary sewer lines and related facilities in, over and across that certain portion of the Property more particularly described and depicted on Exhibit B attached hereto (the "Easement Property"), and Grantor has agreed to grant to Grantee such easement.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. **Easement.** Grantor hereby grants and conveys to Grantee, its successors and assigns, a permanent and perpetual easement in, over and across the Easement Property for the sole purposes of construction, maintenance and operation of underground sanitary sewer lines, related facilities, and any appurtenances related thereto (collectively, the "Sanitary Sewer Facilities"). The Easement granted herein shall include the right to access the Easement Property for the purposes of constructing, maintaining and operating the Sanitary Sewer Facilities. Except for the addition of the Sanitary Sewer Facilities, Grantee agrees to restore the Easement Property to its pre-existing condition following any such construction, reconstruction or maintenance of the Sanitary Sewer Facilities. Furthermore, Grantee shall promptly repair any damage to the Easement Property or any other property owned by Grantor adjacent to the Easement Property while exercising such access rights, provided Grantor gives written notice thereof to Grantee within ninety (90) days after such damage occurs.

2. **Grantor's Use of Easement Property.** Grantor hereby reserves the right to use and enjoy the Easement Property for any and all purposes Grantor desires, including the right to construct, install and maintain utilities, driveways, parking areas, lighting, landscaping and other

improvements on the Easement Property, subject only to the limitation that such use and enjoyment will not damage or unreasonably interfere with Grantee's permitted uses as described herein.

3. **Attorneys' Fees and Costs.** If any legal or other proceeding is instituted to enforce any term of this Easement, the party prevailing in any such proceeding shall be paid all of the legal costs, expenses and fees, including reasonable attorneys' fees, incurred by the other party, and if any judgment is secured by such prevailing party, all such legal costs, expenses and fees shall be included in any such judgment.

4. **Authority.** Grantor and Grantee each hereby represents that it has the legal authority to enter into and execute this Easement and to perform all of the obligations and duties herein.

5. **Governing Law.** This Easement shall be governed and interpreted in accordance with the laws of the State of Texas, and any action regarding this Easement shall be brought in a court of competent jurisdiction in Dallas County, Texas.

6. **Reversion.** The easement granted by this Easement is intended to be a permanent easement unless abandoned and permanently ceased to be used for the purposes granted herein, in which event all rights herein granted shall cease and revert to Grantor, or Grantor's heirs, successors or assigns.

7. **Counterparts.** This Easement may be executed in one or more counterparts. When this Easement has been properly executed by each of Grantor and Grantee, it shall constitute a valid agreement though each of the signatories may have executed separate counterparts hereof.

8. **Headings.** The headings contained in this Easement are for reference purposes only and will not in any way affect the meaning or interpretation hereof.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Easement on the respective dates set forth in the respective acknowledgement below, to be effective as of the date appearing in the acknowledgement below of the last party to sign this Easement.

GRANTOR

GLOBAL LONGHORN CENTER, L.P.,
a Texas limited partnership

By: Global Longhorn GP Series,
a series of FE Investment Series, LLC,
a Texas series limited liability company,
its general partner

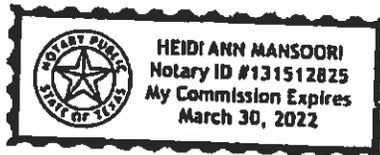
By: 
Name: R. Holt Lunsford
Title: President

STATE OF TEXAS

§
§
§

COUNTY OF DALLAS

This instrument was acknowledged before me on the 27th day of June, 2019, by R. Holt Lunsford, President of Global Longhorn GP Series, a series of FE Investment Series, LLC, a Texas series limited liability company, general partner of Global Longhorn Center, L.P., a Texas limited partnership, on behalf of said entities.




NOTARY PUBLIC, STATE OF TEXAS

GRANTEE

CITY OF LANCASTER, TEXAS

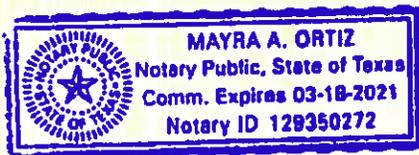
By: *Opal Mauldin-Jones*
Name: OPAL MAULDIN-JONES
Title: CITY MANAGER

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 10th day of June, 2019, by Opal Mauldin-Jones (personally known to me or proved to me through identification), City Manager of the City of Lancaster, Texas, a municipality in the State of Texas, in the capacity therein stated, for and on behalf of said municipality.

Given under my hand and seal of office this 10th day of June, 2019.

Mayra A. Ortiz
NOTARY PUBLIC, STATE OF TEXAS



Mayra A. Ortiz
Printed/Typed Name

EXHIBIT A

Legal Description of the Property

Being a 22.14 acre (964,613 square feet) tract of land situated in the William Howerton Survey, Abstract Number 559, City of Lancaster, Dallas County, Texas, and being part of a called 44.298 acre tract, described in deed to Denton Town Center Partners, LP, as recorded in Instrument Number 201400139842, of the Official Public Records of Dallas County, Texas (O.P.R.D.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for the northwest corner of said 44.298 acre tract, said corner being on the northeast corner of a called 1.334 acre tract of land described in deed to the City of Lancaster, Texas, as recorded in Instrument Number 200302670541, O.P.R.D.C.T., said corner being on south line of a called 24.075 acre tract of land described in deed to Swift Transportation, Inc., as recorded in Instrument Number 201100074981, O.P.R.D.C.T., and on the east right-of-way line of Houston School Road (a variable width right-of-way);

THENCE North 88 degrees 40 minutes 34 seconds East, with the north line of said 44.298 acre tract and the south line of said 24.075 acre tract, a distance of 1,334.92 feet to a 1/2-inch found iron rod with cap for the northwest corner of Lot 2, Block A of Park 20 Addition, an addition to the City of Lancaster, Texas, as recorded in Instrument Number 201600131565, O.P.R.D.C.T.;

THENCE South 01 degree 19 minutes 26 seconds East, departing the north line of said 44.298 acre tract and the south line of said 24.075 acre tract and with the west line of said Lot 2, a distance of 719.59 feet to a found "X" cut for an "ell" corner of said Lot 2, said corner being on the south line of said 44.298 acre tract;

THENCE South 88 degrees 29 minutes 11 seconds West, with the north line of said 44.298 acre tract and the westerly north line of said Lot 2, a distance of 586.64 feet to a 3/8-inch found iron rod for the westerly northwest corner of said Lot 2 and the northeast corner of a called 62.8104 acre tract of land described in deed to Houston School/Wintergreen Partners, LTD., as recorded in Instrument Number 20080403503, O.P.R.D.C.T.;

THENCE South 88 degrees 19 minutes 44 seconds West, continuing with a southerly line of said 44.298 acre tract and the north line of said 62.8104 acre tract, a distance of 749.11 feet to a 1/2-inch found iron rod with cap for the southwest corner of said 44.298 acre tract, the southeast corner of said 1.334 acre tract and the northeast corner of a called 0.981 acre tract of land described in deed to the City of Lancaster, Texas, as recorded in Volume 2004073, Page 2349 of the Deed Records of Dallas County, Texas (D.R.D.C.T.), said corner being on the east right-of-way line of said Houston School Road;

THENCE North 01 degree 15 minutes 35 seconds West, with the west line of said 44.298 acre tract and the east line of said 1.334 acre tract, a distance of 726.07 feet to the **POINT OF BEGINNING AND CONTAINING 22.14 acres (964,613 square feet) of land, more or less.**

Description and Depiction of the Easement Property

**20-FOOT WIDE
SANITARY SEWER EASEMENT**
Part of Global Longhorn Center, L.P. tract,
William Howerton Survey, Abstract No. 559,
City of Lancaster, Dallas County, Texas

DESCRIPTION, of a 29,131 square foot (0.669 acre) tract of land situated in the William Howerton Survey, Abstract No. 559, City of Lancaster, Dallas County, Texas, said tract being part of that certain tract of land described as "Tract 1" in Special Warranty Deed to Global Longhorn Center, L.P., recorded in Instrument No. 201800054436 of the Official Public Records of Dallas County, Texas; said 29,131 square foot (0.669 acre) 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 1.000138506):

COMMENCING, at a 1/2-inch iron rod with "HALFF" cap found at the southeast corner of said Global Longhorn tract, said point also being an ell corner of Lot 2, Block A of Park 20, an addition to the City of Lancaster, Texas according to the plat recorded in Instrument No. 201600131565 of the said Official Public Records.

THENCE, along the south line of said Global Longhorn tract and a north line of said Lot 2, the following two (2) calls;

South 88 degrees, 29 minutes, 23 seconds West, a distance of 571.65 feet to the **POINT OF BEGINNING**,

South 88 degrees, 29 minutes, 23 seconds West, a distance of 14.99 feet to a 3/8-inch iron rod found for corner; said point being the westernmost northwest corner of said Lot 2 and the northeast corner of that certain tract of land described in Special Warranty Deed to PME Oakmont Lancaster, LLC, recorded in Instrument No. 201800168864 of the said Official Public Records,

THENCE, South 88 degrees, 19 minutes, 05 seconds West, continuing along the said south line of Global Longhorn tract and the north line of said PME tract, a distance of 5.01 feet to a point for corner;

THENCE, departing the said south line of Global Longhorn tract, the said north line of PME tract and into and across said south line of Global Longhorn tract, the following (5) five calls,

North 01 degrees, 30 minutes, 38 seconds West, a distance of 41.28 feet to a point for corner;

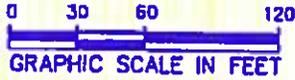
North 74 degrees, 52 minutes, 29 seconds East, a distance of 521.37 feet to a point for corner;

North 01 degrees, 20 minutes, 36 seconds West, a distance of 397.32 feet to a point for corner;

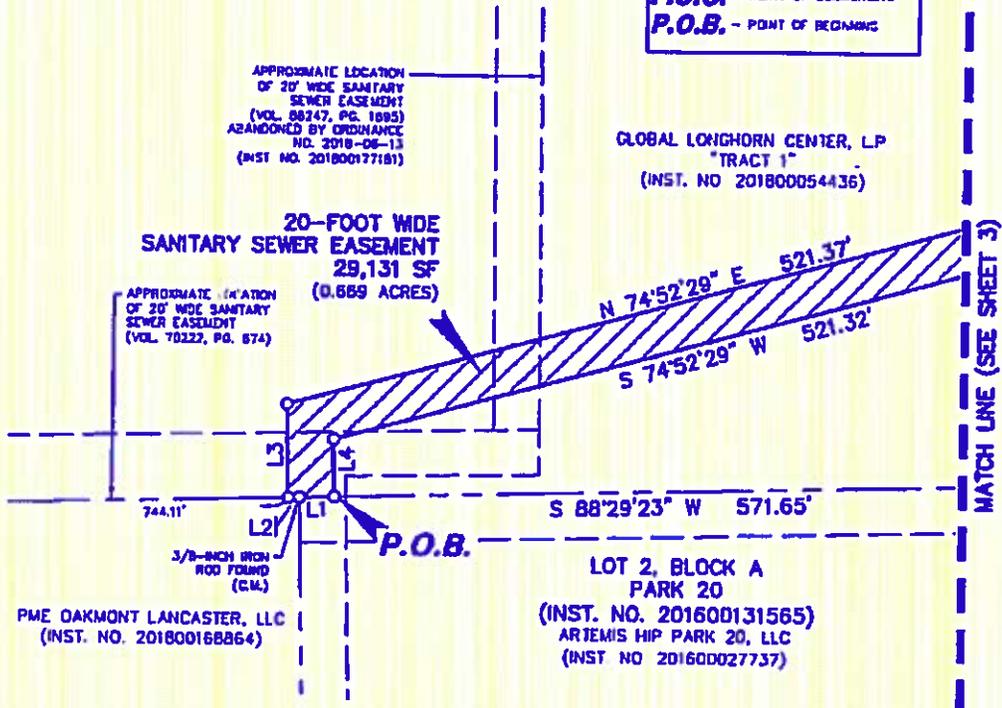
North 80 degrees, 51 minutes, 13 seconds West, a distance of 413.27 feet to a point for corner;

Sheet 1 of 6

Exhibit A to
Sanitary Sewer Easement



LEGEND	
---	PROPERTY LINE
---	PROPOSED EASEMENT LINE
---	EXISTING EASEMENT LINE
○	POINT FOR CORNER (UNLESS OTHERWISE NOTED)
(C.M.)	- CONTROLLING MONUMENT
P.O.C.	- POINT OF COMMENCING
P.O.B.	- POINT OF BEGINNING



3/7/2019 1:12 PM
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 LORRAINE

LINE TABLE

LINE	BEARING	LENGTH
L1	S 88°29'23" W	14.99'
L2	S 88°19'05" W	5.01'
L3	N 01°30'38" W	41.28'
L4	S 01°30'38" E	25.53'

NOTES:

1. A metes and bounds description of even survey date herewith accompanies this plat of survey.
2. 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 reported have been scaled by applying the Dallas County TxDOT surface adjustment factor of 1.000136508.

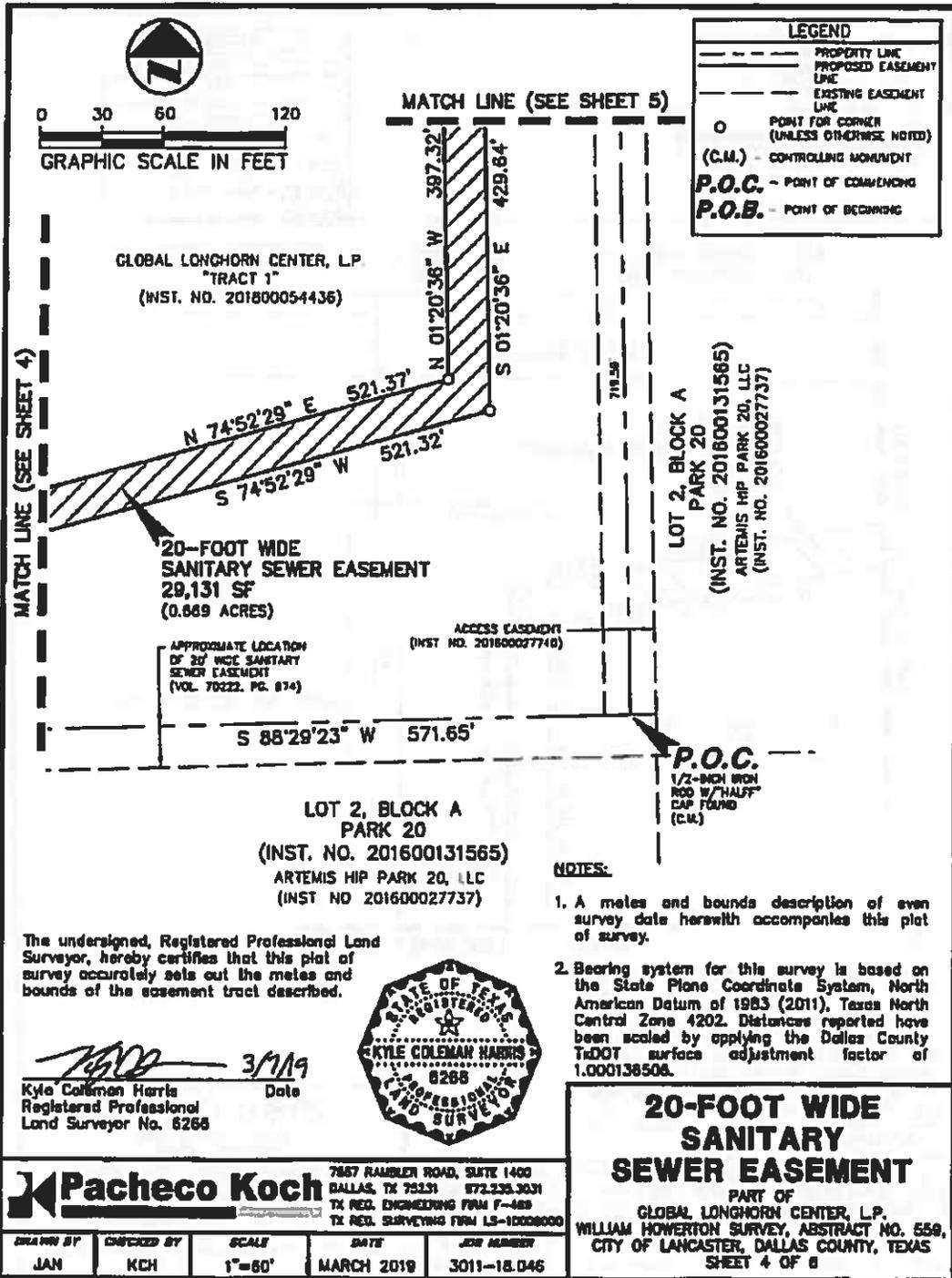
20-FOOT WIDE SANITARY SEWER EASEMENT

PART OF
 GLOBAL LONGHORN CENTER, L.P.
 WILLIAM HOWERTON SURVEY, ABSTRACT NO. 559,
 CITY OF LANCASTER, DALLAS COUNTY, TEXAS
 SHEET 3 OF 6

Pacheco Koch 7357 RAMBLER ROAD, SUITE 1400
 DALLAS, TX 75231 972.236.3031
 TX REG. ENGINEERING FIRM F-489
 TX REG. SURVEYING FIRM LS-10008000

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NUMBER
JAN	KCH	1"=60'	MARCH 2019	3011-18.046

Exhibit A to
 Sanitary Sewer Easement



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 14: V:\116-30\3011-18.046\Survey CS0 2018\3011-18.046\01.dwg

The undersigned, Registered Professional Land Surveyor, hereby certifies that this plat of survey accurately sets out the metes and bounds of the easement tract described.


 Kyle Coleman Harris
 Registered Professional
 Land Surveyor No. 8268
 Date 3/1/19



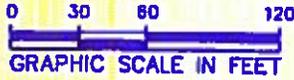
Pacheco Koch
 7867 RAMBLER ROAD, SUITE 1400
 DALLAS, TX 75231 972.233.3031
 TX REG. ENGINEERING FIRM F-488
 TX REG. SURVEYING FIRM LS-10008000

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NUMBER
JAN	KCH	1"=60'	MARCH 2019	3011-18.046

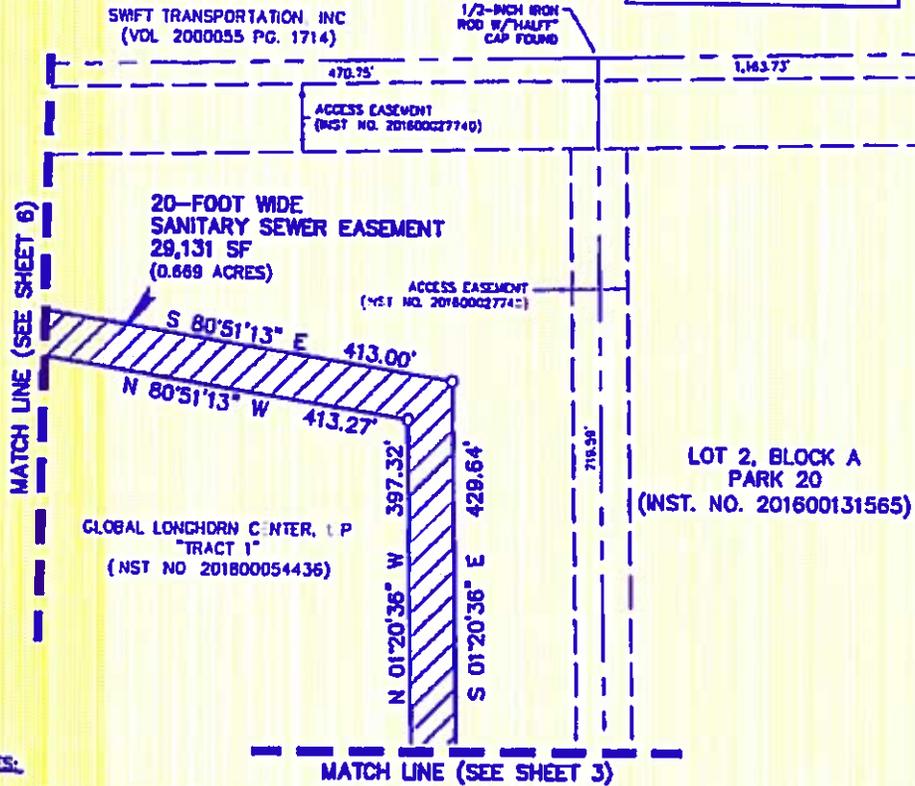
- NOTES:**
1. A metes and bounds description of even survey date herewith accompanies this plat of survey.
 2. Bearing system for this survey is based on the State Plane Coordinate System, North American Datum of 1983 (2011), Texas North Central Zone 4202. Distances reported have been scaled by applying the Dallas County TxDOT surface adjustment factor of 1.000138506.

**20-FOOT WIDE
 SANITARY
 SEWER EASEMENT**
 PART OF
 GLOBAL LONGHORN CENTER, L.P.
 WILLIAM HOWERTON SURVEY, ABSTRACT NO. 559,
 CITY OF LANCASTER, DALLAS COUNTY, TEXAS
 SHEET 4 OF 8

Exhibit A to
 Sanitary Sewer Easement



LEGEND	
---	PROPERTY LINE
---	PROPOSED EASEMENT LINE
---	EXISTING EASEMENT LINE
○	POINT FOR CORNER (UNLESS OTHERWISE NOTED)
(C.M.)	CONTROLLING MONUMENT
P.O.C.	POINT OF COMMENCING
P.O.B.	POINT OF BEGINNING



NOTES:

1. A metes and bounds description of every survey date herewith accompanies this plat of survey.
2. 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 reported have been scaled by applying the Dallas County TxDOT surface adjustment factor of 1.000136506.

**20-FOOT WIDE
SANITARY
SEWER EASEMENT**

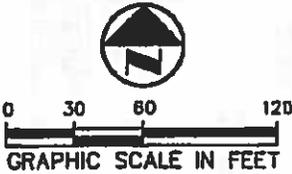
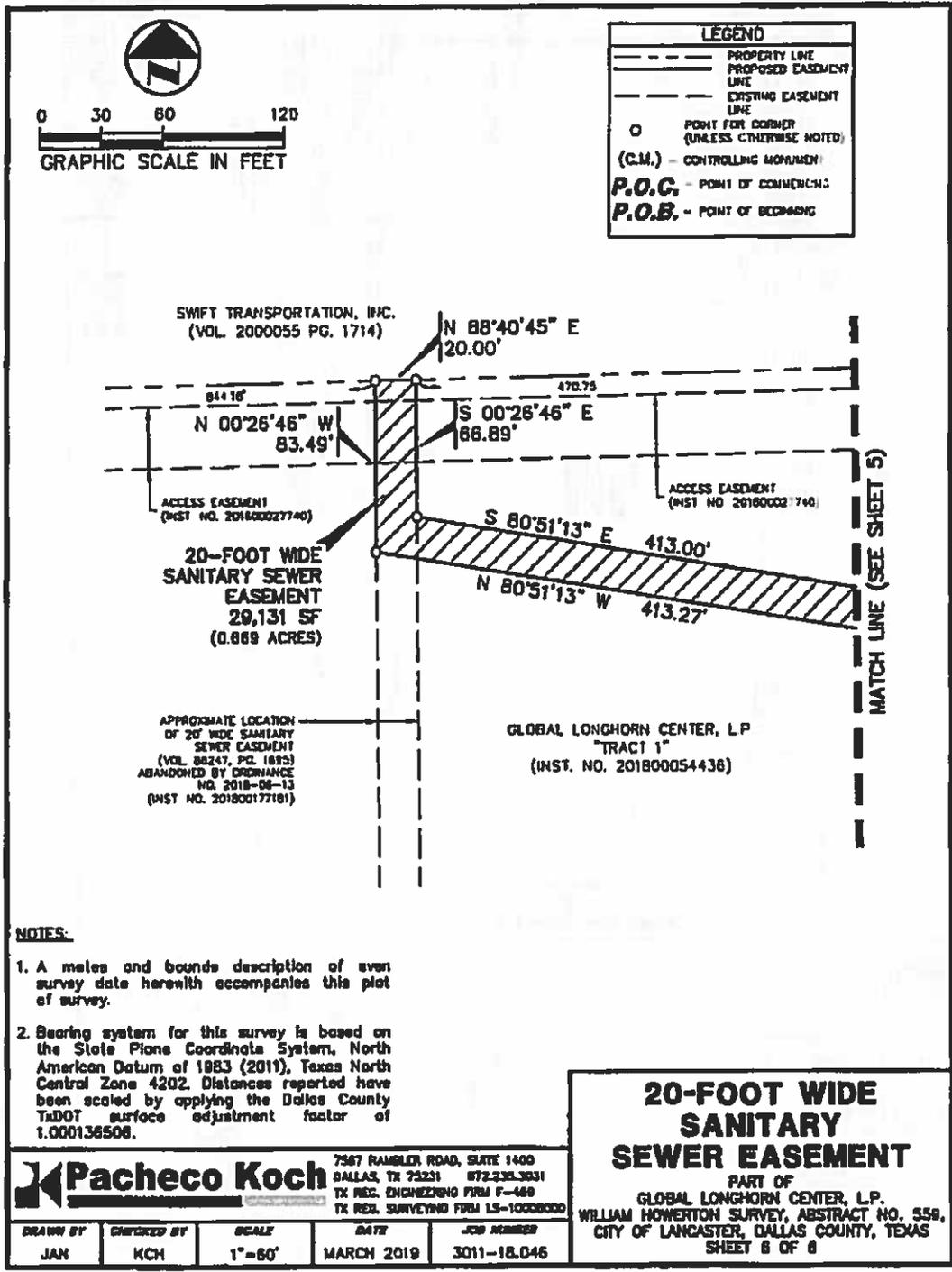
PART OF
GLOBAL LONGHORN CENTER, L.P.
WILLIAM HOWERTON SURVEY, ABSTRACT NO. 559,
CITY OF LANCASTER, DALLAS COUNTY, TEXAS
SHEET 5 OF 6

Pacheco Koch 7587 RAMBLER ROAD, SUITE 1400
DALLAS, TX 75231 972.235.3031
TX REG. ENGINEERING FIRM F-449
TX REG. SURVEYING FIRM LS-10008000

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NUMBER
JAN	KCH	1"=60'	MARCH 2019	3011-18.046

LORD/ALZ 3/7/2019 1:12 PM 18-046-2019-18-046\met\survey\cso 2019\3011-18-046.dwg

Exhibit A to
Sanitary Sewer Easement



LEGEND	
---	PROPERTY LINE
---	PROPOSED EASEMENT LINE
---	EXISTING EASEMENT LINE
O	POINT FOR CORNER (UNLESS OTHERWISE NOTED)
(C.M.)	CONTROLLING MONUMENT
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING

3/7/2019 1:12 PM
 3011-18.046 SURVEY CSD 2019\3011-18.046.DWG
 3011-18.046

- NOTES:**
1. A metes and bounds description of even survey date herewith accompanies this plat of survey.
 2. 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 reported have been scaled by applying the Dallas County TxDOT surface adjustment factor of 1.000136506.

**20-FOOT WIDE
 SANITARY
 SEWER EASEMENT**
 PART OF
 GLOBAL LONGHORN CENTER, L.P.
 WILLIAM HOWERTON SURVEY, ABSTRACT NO. 558,
 CITY OF LANCASTER, DALLAS COUNTY, TEXAS
 SHEET 6 OF 8

Pacheco Koch 7587 RAMBLER ROAD, SUITE 1400
 DALLAS, TX 75231 872-236-3031
 TX REG. ENGINEERING FIRM F-469
 TX REG. SURVEYING FIRM LS-10000000

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NUMBER
JAN	KCH	1"=60'	MARCH 2019	3011-18.046

Exhibit A to
 Sanitary Sewer Easement

