

**RESOLUTION NO. 12-01-2020C**

**A RESOLUTION MAKING FINDINGS AND APPROVING AN AGREEMENT BY AND BETWEEN THE CITY OF GAINESVILLE, TEXAS, AND IFS; PROVIDING FOR AD VALOREM TAX ABATEMENT FOR SAID BUSINESS WITHIN REINVESTMENT ZONE 21 OF THE CITY OF GAINESVILLE, TEXAS; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT FOR AND ON BEHALF OF THE CITY, FOR THE CONSIDERATION AND ON THE TERMS AND CONDITIONS STATED THEREIN.**

**WHEREAS, IFS, has requested that the City of Gainesville, North Central Texas College, North Texas Medical Center, Gainesville Independent School District, and the County of Cooke, enter an agreement for abatement of ad valorem taxes in an area designated by the State of Texas as Reinvestment Zone Twenty-one (21) of the City of Gainesville, Texas; and**

**WHEREAS, said tax abatement will have no adverse effect on the City of Gainesville's ability to provide public services or on its tax base nor will the planned use of the property constitute any hazard to the public's health, safety, or morals; and**

**WHEREAS, upon full review and consideration of the Agreement, and all matters related thereto, the City Council is of the opinion that the terms and conditions of the agreement should be approved and the Mayor should be authorized to execute it on behalf of the City of Gainesville.**

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, MEETING IN REGULAR SESSION ON DECEMBER 1, 2020**

***Section 1. Name of Resolution.***

This Resolution shall be known as the "IFS Tax Abatement Agreement Resolution of 2020".

***Section 2. Findings.***

The City Council hereby makes the following findings concerning the Agreement with IFS which is the subject of this Resolution:

1. All required notices have been given to the taxing units to be included in the agreement;
2. The City of Gainesville has elected to become eligible to participate in tax abatements;
3. The terms and conditions of the Agreement, a copy of which is attached as Exhibit "A" and incorporated herein for all purposes, comply with requirements of the City of Gainesville Guidelines and Criteria for Tax

Abatement and the Property Redevelopment and Tax Abatement Act, Chapter 312, Tex. Tax Code, (“the Act”);

4. The real property to be included in the tax abatement agreement, which is described in Exhibit “A” of the Tax Abatement Agreement attached to this Resolution, is entirely within an area previously designated as Reinvestment Zone 21 in the City of Gainesville;

**Section 3. Authorization of Execution.**

The Mayor is hereby authorized, for and on behalf of the City of Gainesville, Texas, to execute the Tax Abatement Agreement with IFS on the terms and conditions for the consideration stated therein.

**Section 4. General Authorization.**

The City Manager, or his designee, is authorized to take all necessary action to carry out the terms of the Agreement.

**PASSED AND APPROVED THIS 1<sup>st</sup> DAY OF DECEMBER 2020 BY THE FOLLOWING VOTES:**

6 AYES, 0 NAYS, 1 ABSENT, 0 ABSTENTIONS

  
\_\_\_\_\_  
JIM GOLDSWORTHY, MAYOR

ATTEST:

  
\_\_\_\_\_  
DIANA ALCALA, CITY SECRETARY



**AGREEMENT FOR DEVELOPMENT AND TAX ABATEMENT  
IN REINVESTMENT ZONE NUMBER 21 FOR COMMERCIAL-INDUSTRIAL TAX  
ABATEMENT BETWEEN THE CITY OF GAINESVILLE AND OTHER TAXING  
UNITS AND IFS COATINGS, INC.**

STATE OF TEXAS           §  
  §  
COUNTY OF COOKE       §

This Agreement (“Agreement”), dated as of December 3, 2020 is entered into by and among the **CITY OF GAINESVILLE, TEXAS**, a home rule municipal corporation, Cooke County, Texas, duly acting herein by and through its Mayor, hereinafter referred to as **City**; and **North Texas Medical Center**, duly acting herein by and through its Chairman of the Board of Directors, whose agreement is signified by the signature of each entity’s duly authorized representative below, hereinafter collectively referred to as the **Taxing Units**, and **IFS Coatings, Inc.**, hereinafter referred to as **Owner**, acting herein by and through its duly authorized officer.

**WITNESSETH:**

**WHEREAS**, the **Taxing Units** are authorized and empowered under applicable Texas law to aid in the development of industrial enterprises within their respective geographic boundaries by offering economic and other incentives to prospective new, developing, and expanding businesses; and

**WHEREAS**, the City Council of the City of Gainesville, Texas (the “Council”), on August 20, 2019, adopted Resolution Number 08-20-2019 B, establishing guidelines and criteria for granting tax abatement in a reinvestment zone created within the City of Gainesville. The Council has adopted and passed a resolution electing to become eligible to participate in tax abatement. Subsequently, the Council, by ordinance, established Reinvestment Zone Number 21 for Commercial-Industrial Tax Abatement, City of Gainesville, Texas (the “Reinvestment Zone”) as authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312, V.T.C.A, TAX CODE, (the “Act”), and the legal description of the Reinvestment Zone is attached hereto as **Exhibit A** and incorporated herein by reference for all purposes; and

**WHEREAS**, Cooke County, Texas, North Central Texas College and North Texas Medical Center are taxing units who, in accordance with the Act, have each established guidelines and criteria for granting tax abatement and have each passed a resolution electing to become eligible to participate in tax abatement; and

**WHEREAS**, prior to executing this Agreement, the governing body of each of the **Taxing Units** has found that the terms of this Agreement and the property subject to this Agreement meet the applicable guidelines and criteria adopted by such governing body; and

**WHEREAS**, **Owner** owns an approximately 10.727-acre parcel of land described in **Exhibit B** attached hereto (the “Land”), which parcel is improved with an existing

**WHEREAS, Owner** owns an approximately 10.727-acre parcel of land described in **Exhibit B** attached hereto (the “Land”), which parcel is improved with an existing manufacturing facility having an address of 3601 North I-35, Gainesville, Texas 76240 (the “Existing Facility”); and

**WHEREAS,** the Land is located within Reinvestment Zone 21; and

**WHEREAS, Owner** intends to construct new manufacturing facilities on the Land as well as renovate the existing facility; and

**WHEREAS,** the **Taxing Units** desire to stimulate investment and economic development within the Reinvestment Zone in accordance with the above-referenced ordinances, statutes, and resolutions;

**NOW, THEREFORE,** for and in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. **Definitions.** For the purposes of this Agreement, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. The words “shall” and “will” are mandatory and the word “may” is permissive. Words not defined in this Agreement shall be given their common and ordinary meaning. The following words shall be given the meanings designated:

**Additional Taxable Value** means an increase from the Base Year Value to the taxable value during the Abatement Period resulting from any of the following:

- a) modernization or renovation of a facility of any type herein defined;
- b) construction of a new facility of any type herein defined; or
- c) expansion of a facility of any type herein defined.

**Base Year Value** means the assessed value (as established by the Cooke County Appraisal District) for the Project Facility as of January 1, 2020.

**Code** means the Texas Tax Code, as amended.

**Eligible Personal Property** means all tangible personal property, including, but not limited to, machinery, equipment, furniture and computers, bought or leased for use in the operations of the New Facility, but excluding any tangible personal property that (i) is Ineligible Property, or (ii) was located on the Land before the execution of this Agreement.

**Existing Improvements** means the buildings, structures, fixtures and improvements located on the Land on January 1, 2020, including, but not limited to, the Existing Facility.

**Force Majeure** means a failure caused by (a) provisions of law, or the operation or effect of rules, regulations or orders promulgated by any governmental authority having jurisdiction over **Owner**, the Project Facility or the Existing Improvements or any upstream, intermediate or downstream equipment or support facilities as are necessary to the operation of the Project

Facility or the Existing Improvements; (b) any demand or requisition, arrest, order, request, directive, restraint or requirement of any government or governmental agency whether federal, state, military, local or otherwise; (c) the action, judgment or decree of any court; (d) floods, tornadoes, hailstorms, hurricanes, evacuation due to threats of hurricanes, lightning, earthquakes, washouts, high water, fires, acts of God or public enemies, wars (declared or undeclared), blockades, epidemics, riots or civil disturbances, insurrections, strikes, labor disputes (it being understood that nothing contained in this Agreement shall require **Owner** to settle any such strike or labor dispute), explosions, breakdown or failure of plant, machinery, equipment, lines of pipe or electric power lines (or unplanned or forced outages or shutdowns of the foregoing for inspections, repairs or maintenance), inability to obtain, renew or extend franchises, licenses or permits, loss, interruption, curtailment or failure to obtain electricity, gas, steam, water, wastewater disposal, waste disposal or other utilities or utility services, inability to obtain or failure of suppliers to deliver feedstock, raw materials, equipment, parts or materials, or inability of **Owner** to ship, or failure of carriers to transport to or from **Owner's** facilities, products (finished or otherwise), feedstock, raw materials, equipment, parts or material; or (e) any other cause (except financial), whether similar or dissimilar, over which **Owner** has no reasonable control and which forbids or prevents performance.

***Full-time Employees*** shall mean any employee (excluding temporary or seasonal employees) on the payroll and having an official scheduled work week (ignoring, for this purpose, any period during which such employee is absent from work due to vacation, illness or incapacity, any federal, state, local or other holiday, or plant maintenance) of not less than thirty (30) hours and that according to company policy is entitled to full benefits.

***Full-time Equivalent Employees*** shall mean the number of forty (40) hours per week schedules on payroll, and is comprised of Full-time Employees and Part-time Employees. For example, a twenty (20) hours per week Part-time Employee is equal to a [0.5] Full-time Equivalent Employee. A twenty-four (24) hours per week Part-time Employee is equal to a [0.6] Full-time Equivalent Employee. Together, these two employees represent [1.1] Full-time Equivalent Employees.

***Ineligible Property*** shall mean:

- (a) land;
- (b) inventories or supplies;
- (c) tools;
- (d) vehicles;
- (e) aircraft;
- (f) housing;
- (g) boats;
- (h) hotel accommodations;
- (i) motel accommodations;
- (j) property owned by the State of Texas or any state agency; and
- (k) property owned or leased by a member of any of the **Taxing Units** governing bodies.

**New Facility** means the manufacturing facility and related buildings, structures, fixtures and improvements to be constructed, erected and/or installed on the Land by **Owner**, but excluding (i) any Ineligible Property, and (ii) the Existing Improvements.

**Renovation of Existing Facility** means the structural addition or modernization of a facility.

**Part-time Employees** shall mean any employee (excluding temporary or seasonal employees) on the payroll and having an official scheduled work week (ignoring, for this purpose, any period during which such employee is absent from work due to vacation, illness or incapacity, any federal, state, local or other holiday, or plant maintenance) of less than thirty (30) hours and that according to company policy is entitled to limited or no benefits.

**Project Facility** means the New Facility, Existing Improvements, and the Eligible Personal Property.

2. **Grant of Tax Abatement.** In consideration of **Owner's** construction, erection and/or installation of the Project Facility as well as Renovation of Existing Facility as outlined in Section 10 for a total investment cost upon completion of at least \$6,500,000, and with the expectation of the creation and retention of jobs as detailed in Section 8, the **Taxing Units** agree, subject to the terms and conditions contained herein, that the Project Facility shall be entitled to a seventy percent (70%) exemption and abatement of the "Additional Taxable Value" of the Project Facility from real and personal property taxation for a period of ten (10) years (the "Abatement Period") which Abatement Period shall have a commencement date (the "Abatement Commencement Date") of January 1, 2022 and an expiration date of December 31, 2031. **Owner** acknowledges and agrees that the purpose of this Agreement is to encourage development of the Land and the Reinvestment Zone.

3. **Compliance with Law.** **Owner** agrees to construct, erect and/or install the Project Facility in material compliance with all applicable laws, ordinances, codes, rules, requirements, or regulations, of the City of Gainesville, Cooke County, the State of Texas, and Federal Law, and any subdivision, agency, or authority thereof.

4. **Relationship of the Parties.** The relationship between the **Taxing Units** and **Owner** at all times shall not be deemed a partnership or joint venture for purposes of this Agreement.

5. **Indemnification.** **Owner** agrees to and shall indemnify and hold harmless and defend the **Taxing Units**, and their respective officers, directors, agents and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all reasonable expenses of litigation, court costs, and reasonable attorney's fees, arising from (i) injury to or death of any person at the Project Facility or damage to the Project Facility, on or after the Acquisition Date, except for and to the extent any such injury, death or damage caused by any of the **Taxing Units** or their respective officers, directors, agents or employees, (ii) any material breach of the terms of this Agreement by **Owner**, or (iii) **Owner's** failure to abide by all environmental laws, rules, and regulations applicable to **Owner's** construction and operation of the Project Facility, except to the extent that any release of hazardous substances on or about the

Premises or any violation of any such environmental law, rules or regulations is caused by any of the **Taxing Units** or their respective officers, directors, agents or employees.

6. **Taxing Units' Right of Inspection.** Appropriate employees and/or designated representatives of the **Taxing Units** will have reasonable access to the Reinvestment Zone during the term of this Agreement to inspect the Project Facility to determine if the terms and conditions of this Agreement are being met. All inspections will be made only after giving at least five (5) days' prior written notice to **Owner** and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Project Facility. All inspections will be made with one or more representatives of **Owner** and in accordance with the **Owner's** safety standards for the Project Facility. The provisions of this section shall not apply to any inspections by the City pursuant to any of its municipal codes, including, without limitation, its building code, property maintenance code and fire code.

7. **Payment of Taxes and Assessments.** **Owner** agrees to pay all ad valorem taxes and assessments that may be owed to the **Taxing Units** by **Owner** prior to such taxes and/or assessments becoming delinquent; provided, however, that **Owner** shall have the right to protest and/or appeal (including, but not limited to, under Chapters 41 and 42 of the Code), or otherwise contest in good faith, the validity or application of any such tax or assessment and shall not be considered in default hereunder so long as such protest, appeal or contest is diligently pursued to completion. In the event **Owner** does protest, appeal or otherwise contest any such tax or assessment, **Owner** shall, nevertheless, promptly pay to the **Taxing Units** prior to their becoming delinquent the amount of such taxes or assessments required by Section 42.08(b) of the Code. Upon completion of any such protest, appeal or other contest, **Owner** shall promptly pay the **Taxing Units** any taxes, penalties, and/or interest resulting therefrom (including, but not limited to, under Section 42.42 of the Code) or **Taxing Units** shall promptly pay **Owner** any refund required by the Code.

8. **Adjustment of Abatement Under Certain Circumstances.**

8.1 Except as otherwise provided in Section 8.4, upon the execution of this agreement until December 31, 2021 the **Owner** shall maintain at the Project Facility at least, at **Owner's** option, either (i) one hundred and forty (140) Full-time Employees, or (ii) one hundred and forty (140) Full-time Equivalent Employees, based on the average jobs during each calendar year. Except as otherwise provided in Section 8.4, **Owner** shall add at the Project Facility in the Reinvestment Zone new jobs equal to, at **Owner's** option, either (i) twenty (20) Full-time Employees, or (ii) twenty (20) Full-time Equivalent Employees by January 1, 2024.

8.2 Except as otherwise provided in Section 8.4, during the eight (8) year period commencing on January 1, 2024, **Owner** will maintain at the Project Facility jobs equal to, at **Owner's** option, either (i) one hundred and sixty (160) Full-time Employees, or (ii) approximately one hundred and sixty (160) Full-time Equivalent Employees, based on the average number of jobs during each calendar year during such eight (8) year period.

8.3 In the event that:

- (a) **Owner** fails to satisfy its obligations under Section 8.1 or 8.2 with respect to any portion of any applicable calendar year during the Abatement Period for any reason other than Force Majeure, or
- (b) the Project Facility is completed and begins producing product or service, but subsequently discontinues producing all product or service for any reason (other than under the circumstances described in Section 10.1(c)) for a period of more than 365 consecutive days during the Abatement Period,

then each of the **Taxing Units** may, at its election and upon written notice to **Owner**, suspend the tax abatement provided for in Section 2 for the next occurring calendar year during the Abatement Period.

8.4 For the avoidance of doubt, and notwithstanding anything contained in this Agreement to the contrary, the parties hereto agree that any failure of **Owner** to satisfy its obligations under Section 8.1 or Section 8.2, and any discontinuance described in Section 8.3(b), shall not constitute a breach of, or a default under, this Agreement (including, but not limited to, under Section 10) and shall not give any of the **Taxing Units** any right to (i) recapture any taxes previously abated, or (ii) terminate this Agreement; provided, however, that the **Taxing Units** at their option may elect to suspend the abatement in accordance with the terms of and for the period specified in Section 8.3.

## 9. **Compliance Information; Confidential Information; Force Majeure Notice.**

9.1 On or before each March 31st immediately following December 31<sup>st</sup> of each year during the ten-year period commencing with the Abatement Commencement Date, **Owner** shall submit to the **Taxing Units** a statement of compliance with this Agreement for such prior year. Such statement shall be verified by an appropriate officer of **Owner**. In addition, within thirty (30) days following receipt of a written request from the **Taxing Units**, **Owner** will furnish or make available for inspection such information, documents or records reasonably necessary for the **Taxing Units** to evaluate **Owner's** compliance with the terms and conditions of this Agreement.

9.2 Because of the highly competitive nature of the industry in which **Owner** does business, each of the **Taxing Units** agrees that the information, documents and records which **Owner** submits or makes available to any of the **Taxing Units** may contain information which **Owner** considers to be proprietary information. Accordingly, the **Taxing Units** agree to keep any and all information, documents and records provided by **Owner** as confidential information to the extent the documents are not public information under the Public Information Act, Chapter 552, TEXAS GOVERNMENT CODE, as amended.

9.3 In the event of any Force Majeure, **Owner** shall give notice thereof to the City within thirty (30) days after the occurrence thereof.

## 10. **Default.**

10.1 **Events of Default.** The **Taxing Units** may, at the **Taxing Units'** sole option, declare a default hereunder by **Owner** upon the occurrence of any one (or more) of the following circumstances or events (each, a "Default"):

- (a) **Owner** fails to substantially complete construction of a New Facility, Renovations of the Existing Facility and addition of Eligible Personal Property (with a total investment cost upon completion of at least \$6,500,000) on or before December 31, 2022;
- (b) **Owner** fails to comply in any material way with any of its obligations under Section 7; or
- (c) The Project Facility is completed and begins producing product or service, but thereafter during the Abatement Period **Owner** (i) permanently closes, and cease all operations at, the Project Facility, and (ii) sells, disposes, or otherwise removes or transfers from the Project Facility, tangible personal property representing forty percent (40%) or more of the invested cost including all tangible personal property located at the Project Facility.

10.2 **Notice of Default; Cure Period.** In the event the **Taxing Units** determine **Owner** is in Default, as defined in Section 10.1 above, the **Taxing Units** shall notify **Owner** in writing of the circumstance or event constituting such Default and the **Taxing Units** may terminate this Agreement if such Default is not cured within sixty (60) days of such notice (the "Cure Period"); provided that with respect to Section 10.1(b) above, payment of the amount due during the Cure Period removes such an event as an event of Default; provided further, however, that in the case of a Default described in Section 10.1(a) or (c) above that is caused by Force Majeure and which cannot with due diligence be cured by commercially reasonable efforts within such sixty-day period, the Cure Period shall be deemed extended if: (i) the **Owner** promptly advises the **Taxing Units** of **Owner's** intention to institute all steps reasonably necessary to cure such Default, and (ii) **Owner** institutes, and thereafter prosecutes to completion with reasonable dispatch, all commercially reasonable efforts necessary to cure such Default.

## 11. **Payment of Taxes after Default.**

11.1 If this Agreement is terminated by the **Taxing Units** under Section 10, the **Taxing Units** shall be entitled to recapture any property taxes which have previously been abated as a result of this Agreement and except as otherwise provided in Section 11.2 below, such taxes must be paid to the **Taxing Units** within sixty (60) days after the date the **Taxing Units** provide **Owner** with written notice of termination; provided, however, that in the case of a Default described in Section 10.1(a) or (c) above that is caused by Force Majeure, and notwithstanding anything contained in this Agreement to the contrary, the **Taxing Units** shall not be entitled to recapture any property taxes which have been abated as a result of this Agreement prior to delivery of such written notice of termination.

11.2 If **Owner** believes that such termination is improper and/or the calculation of recaptured property taxes which have previously been abated is in error, **Owner** may file suit in the Cooke County district courts appealing such termination within sixty (60) days after the written notice of the termination by the **Taxing Units**. If an appeal suit is filed, **Owner** shall remit to the **Taxing Units**, within such sixty (60) days after the notice of termination, any additional and/or recaptured taxes as may be payable during the pendency of the litigation pursuant to Sections 10 and 11.1 of this Agreement and the payment provisions of Section 42.08 of the Code. If the final determination of the appeal increases **Owner's** tax liability above the amount of tax paid, **Owner** shall remit the additional tax to the **Taxing Units** pursuant to Section 42.42 of the Code. If the final determination of the appeal decreases **Owner's** tax liability, the **Taxing Units** shall refund to **Owner** the difference between the amount of tax paid and the amount of tax for which the **Owner** is liable pursuant to Section 42.43 of the Code.

12. **Determining Taxable Value.** The Chief Appraiser of the Cooke County Appraisal District (the "Chief Appraiser") shall determine (i) the taxable value of the real and tangible personal property comprising the Project Facility taking into consideration the abatement provided by this Agreement, and (ii) the full taxable value without abatement of the real and tangible personal property comprising the Project Facility. The Chief Appraiser shall record both the abated taxable value and the full taxable value in the appraisal records of the Cooke County Appraisal District. The full taxable value listed in such appraisal records shall be used to compute the amount of abated taxes that are required to be recaptured and paid in the event this Agreement is terminated in a manner that results in recapture. Each year the **Owner** shall furnish the Chief Appraiser with such information outlined in Chapter 22 of the Code as may be necessary for the administration of this Agreement.

13. **Representation.** **Owner** represents and warrants that to **Owner's** actual knowledge as of the date hereof (i) no member of the Gainesville City Council, the Gainesville Planning and Zoning Commission, the Gainesville Economic Development Corporation, the Cooke County Commissioners Court, the County Judge, the North Central Texas College Board, or the North Texas Medical Center Board has an interest in the Land or the Project Facility, and (ii) none of the Land or the Project Facility is owned or leased by any member of the Gainesville City Council, the Gainesville Planning and Zoning Commission, the Gainesville Economic Development Corporation, the Cooke County Commissioners Court, County Judge, North Central Texas College Board, or the North Texas Medical Center Board. **Owner** further represents that to **Owner's** actual knowledge as of the date hereof no member of the Gainesville City Council is under contract, either directly or indirectly, with **Owner**, **Owner's** agents, contractors, or subcontractor.

14. **Miscellaneous.**

14.1 **Attorney's Fees.** Each of the parties hereto shall pay its own costs and expenses relating to this Agreement, including, but not limited to, its costs and expenses of the negotiations leading up to this Agreement, and of its performance and compliance with this Agreement. In the event of a dispute between or among any of the parties in connection with this Agreement, the prevailing party or parties in the resolution of any such dispute, by litigation, shall be entitled to full recovery of all attorneys' fees, costs and expenses incurred in connection therewith, including costs of court, from the non-prevailing party or parties.

14.2 **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected thereby; and in lieu of such deleted provision, there shall be added automatically as part of this Agreement a provision that is as similar in terms and substance to such deleted provision as may be possible and yet be legal, valid, and enforceable. The failure of one or more of the **Taxing Units** to approve this Agreement does not affect the legality, validity or enforceability of this Agreement for the agreeing **Taxing Units** and **Owner**.

14.3 **Texas Law to Apply.** This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Cooke County, Texas. In the event of litigation, jurisdiction shall lie in Cooke County, Texas.

14.4 **Prior Agreements Superseded.** This Agreement constitutes the sole and only agreement of the parties hereto regarding the subject matter hereof, and all prior negotiations, discussions, correspondence, and preliminary understandings among such parties and others relating hereto are superseded by this Agreement.

14.5 **Amendments.** No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

14.6 **Rights and Remedies Cumulative.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party hereto shall not preclude or waive such party's right to use any or all of their remedies. Said rights and remedies are given in addition to any other rights and remedies any party hereto may have according to law, statute, ordinance or otherwise.

14.7 **No Waiver.** No waiver by any party to this Agreement in any event of default, or breach of any covenant, condition or stipulation herein contained shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition, or stipulation herein.

14.8 **Assignment.** **Owner** may not assign this Agreement, either in whole or in part, without the prior written consent of the **Taxing Units**, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that **Owner** may assign this Agreement, in whole or in part, to (i) an Affiliate (as hereinafter defined) that is an owner or lessee of the Project Facility, or a portion thereof, upon written notice to the **Taxing Units**, but without the requirement of prior consent, or (ii) a third party that is not an Affiliate and which acquires all or substantially all of the assets of, or membership or other ownership interests in, **Owner**, upon written notice to the **Taxing Units**, but without the requirement of prior consent, so long as such third party (A) has a net worth equal to or greater than that of **Owner** as of the date of this Agreement (based on Owner's internal financial statements as of June 30, 2020 and that third party's financial statements as of its most recently-completed fiscal quarter or other reasonable

evidence), and (B) irrevocably and unconditionally assumes all the duties and obligations of the assignor upon the same terms and conditions as set out in this Agreement. A change in ownership in a single transaction of fifty-one (51%) of the stock of **Owner**, or the transfer of ownership of **Owner** to a third party other than as specified above, shall be considered an assignment for purposes of this Section 14.8. An assignment as prohibited above shall cause this Agreement to terminate immediately and the exemption from taxation as provided herein shall cease, but shall not be considered a violation of this Agreement as to require the recapture of any taxes previously abated hereunder. For purposes hereof, an "Affiliate" shall mean any person or entity controlling, controlled by or under common control with **Owner**.

14.9 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

14.10 **Authority to Act.** Each of the parties to this Agreement represents and warrants that its undersigned representative has been expressly authorized to execute this Agreement for and on behalf of such party.

14.11 **Notices.** All notices required by this Agreement (i) shall be in writing, (ii) shall be addressed to the parties as set forth below unless notified in writing of a change in address, and (iii) shall be deemed to have been delivered either when personally delivered or, if sent by mail, in which event it shall be sent by registered or certified mail, return receipt requested, three (3) business days after mailing. The addresses of the parties are as follows:

To Owner: IFS Coatings, Inc.  
3601 N I-35  
Gainesville, Texas 76240  
Attn: Kevin Keene,  
Chief Financial Officer

To City: City of Gainesville  
200 S. Rusk  
Gainesville, TX 76240  
Attn: City Manager

To County: Cooke County, Texas  
Cooke County Courthouse  
Gainesville, TX 76240  
Attn: Cooke County Judge

To Hospital: North Texas Medical Center  
1900 Hospital Blvd  
Gainesville, TX 76240  
Attn: Hospital Administrator

To College: North Central Texas College  
1525 W. California  
Gainesville, TX 76240  
Attn: College President

14.12 **Counterparts.** The parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in multiple counterparts, each of equal dignity.

[SIGNATURE PAGES FOLLOW]

IFS Coatings, Inc.

By: [Signature]  
Kevin Keene, Chief Financial Officer

Date: 2/22/2021

ATTEST:

\_\_\_\_\_

STATE OF TEXAS §

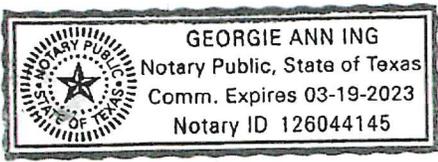
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ACKNOWLEDGEMENT

COUNTY OF COOKE

Before me, the undersigned authority, on this day personally appeared Kevin Keene, who is the Chief Financial Officers of IFS Coatings, Inc., on behalf of said corporation, known to me to be the other person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed.

Given under my hand seal of office on this 22<sup>nd</sup> day of February 20<sup>21</sup> 21 21



[Signature]  
Notary Public in and for the State of Texas

CITY OF GAINESVILLE

By: *Tommy Moore*  
Tommy Moore, Mayor

Date: 9/7/2021

ATTEST:

*Diana Alcala*  
Diana Alcala, City Secretary

APPROVED:

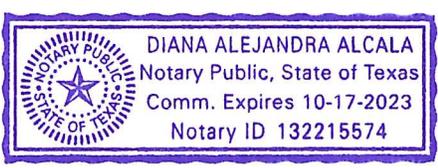
*Belvin Harris*  
Belvin Harris, City Attorney

STATE OF TEXAS           §  
  §       ACKNOWLEDGEMENT  
COUNTY OF COOKE       §

Before me, the undersigned authority, on this day personally appeared Tommy Moore, as Mayor of the City of Gainesville, a Texas home-rule municipal corporation, on behalf of said municipality, known to me to be the other person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed.

Given under my hand seal of office on this 7<sup>th</sup> day of September 2021.

*Diana Alcala*  
Notary Public in and for the State of Texas



NORTH TEXAS MEDICAL CENTER

By:   
~~Andrew Anderson~~ Jeff Isbell  
President, Board of Directors

Date: 3/29/2021

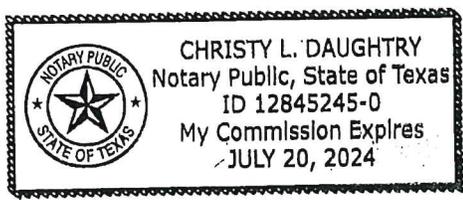
ATTEST:   
Secretary

STATE OF TEXAS           §  
  §           ACKNOWLEDGEMENT  
COUNTY OF COOKE       §

Before me, the undersigned authority, on this day personally appeared ~~Andrew Anderson~~ <sup>Jeff Isbell</sup>, as President of the Board of Directors of the North Texas Medical Center, on behalf of said hospital, known to me to be the other person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed.

Given under my hand seal of office on this 29 day of March ~~2020~~ <sup>2021</sup>.

Christy L. Daughtry  
Notary Public in and for the State of Texas



**EXHIBIT "A"**

**LEGAL DESCRIPTIONS OF LAND INCLUDED IN REINVESTMENT ZONE NO. 21**

10.7270 ACRES

Sarah E. Smith SURVEY, A-913

COOKE COUNTY, TEXAS

Being a 10.7270 acre tract of land situated in the Sarah E. Smith Survey, Abstract Number 913, Cooke County, Texas, and being all of Tract Six (6), Corporate Square Industrial Park, an industrial subdivision to the City of Gainesville, Cooke County, Texas, as shown by the map of plat thereof, recorded in Cabinet A Slide 328-T, of the Plat Records of Cooke County, Texas, and being more particularly described as follows:

Beginning at a 5/8 inch iron rod found for the common corner of said Tract 6, and Tract 1, of National Industrial Center, as shown on the plat recorded in Cabinet A Slide 85, Plat Records of Cooke County, Texas, said point of being on the west right-of-way line of Interstate Highway 35 (a variable width public right-of-way);

Thence N 89°05'46" W, with the south line of said Tract 6, and the north line of Tracts 1, 2, and 3 of said Tract 3, and the southeast corner of said Tract 6, and being in the east line of Tract 5 of said National Industrial Center;

Thence N 01°19'32" E, with the west line of said Tract 6, and the east line of said Tract 5, a distance of 486.74 feet to a ½ inch iron rod found for the northwest corner of said Tract 6, and the northeast corner of said Tract 5, said point being in the south right-of-way of Corporate Drive (A variable width public right-of-way);

Thence with the north line of said Tract 6, and the south right-of-way line of said Corporate Drive, and along a curve to the right, having a delta angle of 08°00'03", a radius of 300.96 feet, an arc length of 42.03 feet, and a chord of N 83°31'05" E, 41.99 feet to a ½ inch iron rod found for corner;

Thence N 87°31'00" E, with the north line of said Tract 6, and the south right-of-way line of said Corporate Drive, a distance of 40.11 feet to a ½ inch iron rod set for corner;

Thence N 02°41'46" W, with the north line of said tract 6, and the south right-of-way line of said Corporate Drive, a distance of 798.60 feet to an "C" cut in concrete found for the northeast corner of said Tract 6, and being the southwest intersection of said Corporate Drive, and Interstate Highway 35;

Thence S 02°41'46" E, with the east line of said Tract 6, and the west right-of-way line of said Interstate Highway 35, a distance of 547.75 feet to the POINT OF BEGINNING and containing 467,270 square feet or 10.7270 acres land more or less.

## EXHIBIT "B"

10.7270 ACRES  
Sarah E. Smith SURVEY, A-913  
COOKE COUNTY, TEXAS

Being a 10.7270 acre tract of land situated in the Sarah E. Smith Survey, Abstract Number 913, Cooke County, Texas, and being all of Tract Six (6), Corporate Square Industrial Park, an industrial subdivision to the City of Gainesville, Cooke County, Texas, as shown by the map of plat thereof, recorded in Cabinet A Slide 328-T, of the Plat Records of Cooke County, Texas, and being more particularly described as follows:

Beginning at a 5/8 inch iron rod found for the common corner of said Tract 6, and Tract 1, of National Industrial Center, as shown on the plat recorded in Cabinet A Slide 85, Plat Records of Cooke County, Texas, said point of being on the west right-of-way line of Interstate Highway 35 (a variable width public right-of-way);

Thence N 89°05'46" W, with the south line of said Tract 6, and the north line of Tracts 1, 2, and 3 of said Tract 3, and the southeast corner of said Tract 6, and being in the east line of Tract 5 of said National Industrial Center;

Thence N 01°19'32" E, with the west line of said Tract 6, and the east line of said Tract 5, a distance of 486.74 feet to a ½ inch iron rod found for the northwest corner of said Tract 6, and the northeast corner of said Tract 5, said point being in the south right-of-way of Corporate Drive (A variable width public right-of-way);

Thence with the north line of said Tract 6, and the south right-of-way line of said Corporate Drive, and along a curve to the right, having a delta angle of 08°00'03", a radius of 300.96 feet, an arc length of 42.03 feet, and a chord of N 83°31'05" E, 41.99 feet to a ½ inch iron rod found for corner;

Thence N 87°31'00" E, with the north line of said Tract 6, and the south right-of-way line of said Corporate Drive, a distance of 40.11 feet to a ½ inch iron rod set for corner;

Thence N 02°41'46" W, with the north line of said tract 6, and the south right-of-way line of said Corporate Drive, a distance of 798.60 feet to an "C" cut in concrete found for the northeast corner of said Tract 6, and being the southwest intersection of said Corporate Drive, and Interstate Highway 35;

Thence S 02°41'46" E, with the east line of said Tract 6, and the west right-of-way line of said Interstate Highway 35, a distance of 547.75 feet to the POINT OF BEGINNING and containing 467,270 square feet or 10.7270 acres land more or less.