

**D.J.R. INVESTMENTS LLC LEASE AGREEMENT**

This Lease Agreement ("Lease") is made and entered into by and between D.J.R. INVESTMENTS LLC ("Landlord") and the City of Pflugerville, a political subdivision of the State of Texas and home-rule municipality operating under the laws of the State of Texas ("Tenant"), and is as follows:

**ARTICLE ONE: BASIC TERMS**

This Article One contains the basic terms (the "Basic Terms") of this Lease. Other Articles, Sections, and Paragraphs of the Lease referred to in this Article One explain and define the Basic Terms and are to be read in conjunction with the Basic Terms.

Section 1.01 Effective Date. The date upon which this Lease has been fully executed by Landlord and Tenant, that being the date of signing or acceptance by each party.

Section 1.02 Rent Commencement Date. The "Rent Commencement Date" shall be **October 30, 2019**.

Section 1.03 Lease Term. The "Lease Term" shall commence on **October 1, 2019 and shall expire on September 30, 2024**, unless renewed per Section 1.04.

Section 1.04 Renewal Option. Tenant shall have the right to renew and extend the Lease Term for five (5) one-year periods ("Extended Term(s)") upon providing ninety (90) days advanced written notice to Landlord prior to the expiration of the Lease Term or Extended Term, as applicable. Unless otherwise agreed by the parties in writing, the renewal will be on the same terms as set forth in the Lease, except that the Rent may be adjusted to the fair rental value of the Leased Premises for each of the successive one-year periods. Landlord shall provide written notice of any adjustment in the Rent to Tenant at least four (4) months prior to the end of the Lease Term, or prior to the expiration of any Extended Term, as applicable.

Section 1.05 Holdover. Tenant shall vacate the Leased Premises upon the expiration of the Lease Term or earlier termination of this Lease. Tenant shall reimburse Landlord for all damages which Landlord incurs from Tenant's delay in vacating the Leased Premises. If Tenant does not vacate the Leased Premises upon the expiration of the Lease Term or earlier termination of the Lease and Landlord thereafter accepts rent from Tenant, Tenant's occupancy of the Leased Premises shall be a "month-to-month" tenancy, subject to all of the terms of this Lease applicable to a month-to-month tenancy, except that the Base Rent then in effect shall be increased by twenty-percent (20%).

Section 1.06 Leased Premises. The Leased Premises comprises the entirety of the property and all associated structures, fixtures, other improvements and appurtenances located at **103 N. Railroad Avenue, Pflugerville, TX 78660** being more specifically described on **Exhibit A** attached hereto and incorporated herein for all purposes.

Section 1.07 Rentable Area. Landlord and Tenant agree and stipulate that, for all purposes under this Lease, the "Rentable Area" of the Leased Premises shall be deemed and considered to be 4,390 square feet ("SF"). Landlord and Tenant agree that the Base Rent and the Additional Rent will be calculated based upon the foregoing stipulated number of square feet of Rentable Area and that neither the Base Rent nor the Additional Rent will be adjusted based on any re-measurement of the Leased Premises or on any re-calculation of the Rentable Area of the Leased Premises.

Section 1.08 Rent. For purposes of this Lease, the term "Rent" shall mean and include the "Base Rent" (as defined below in this Section 1.08), the "Additional Rent" (as defined below in this Section 1.08), and all other charges payable by Tenant under this Lease.

(a) **BASE RENT.** For purposes of this Lease, the term "Base Rent" shall mean annual installments of rent which will be payable at the rate or rates for the applicable years of the Lease Term specified in the "Lease Years" column herein below. The Base Rent will be determined by multiplying the applicable dollar amounts set out in the "Rate/SF" column below by the number of square feet of Rentable Area of the Leased Premises. The Base Rent will be payable in ANNUAL installments in the amounts set out in the "Annual Installments" column below.

LEASE YEARS	RATE/SF	ANNUAL INSTALLMENTS
<u>5</u>	\$1.25 per square foot/month	\$65,850.00
<u>6-10</u>	To be determined	<u>\$To Be Determined</u>

(b) **ADDITIONAL RENT.** As used in this Lease, the term "Additional Rent" shall have the meaning which is given to such term in Section 2.02 of this Lease.

(c) **PAYMENT OF RENT.** Tenant shall pay to Landlord Base Rent according to the schedule above with the first payment due on **October 30, 2019.**

Section 1.09 Security Deposit. As used in this Lease, the term "Security Deposit" shall mean the sum of \$5,482.50.

Section 1.10 Addresses.

Landlord's Address:  
DJR Investments, LLC  
601 Olympic Drive  
Pflugerville, Texas 78691  
Attn: David Garlick

Tenant's Address:  
City of Pflugerville  
P.O. Box 589  
Pflugerville, Texas 78691  
Attn: City Manager

Landlord and Tenant, by written notice to the others, may change the foregoing addresses from time to time.

Section 1.11 Permitted Uses. The Tenant's "Permitted Uses" as used in this Lease shall mean standard office uses typically found in business, governmental, administrative, and professional offices. Tenant acknowledges and agrees that it shall be the sole responsibility of Tenant to

ensure that any modifications made to the Leased Premises by Tenant meet all applicable standards, regulations and requirements, including the terms of this Lease.

Section 1.12 Tenant Parties. As used in this Lease, the term "Tenant Parties" shall mean and include Tenant and all of Tenant's elected officials, managers, directors, supervisors, representatives, employees, agents, consultants, contractors, subcontractors, laborers, materialmen, invitees, and licensees.

## ARTICLE TWO: RENT

Section 2.01 Time and Manner of Payment. The Base Rent is payable by Tenant to Landlord in annual installments beginning on the Rent Commencement Date and continuing thereafter throughout the entire remainder of the Lease Term. The first installment of Base Rent is due on the Rent Commencement Date. After the Rent Commencement Date, Tenant shall pay the Base Rent on the anniversary thereof for each subsequent year. All payments of Base Rent under this Lease shall be made in advance, without offset, deduction or prior demand. All of the Rent shall be payable at Landlord's address or at such other place as Landlord may designate in writing.

Section 2.02 Definitions Related to Additional Rent. As used in this Lease, the following items shall have the meanings which are given to such terms herein below:

- (a) The term "Additional Rent" shall mean the "Operating Costs" as hereinafter defined.
- (b) The term "Operating Costs" shall have the following meaning:

It is the intention of the parties and they hereby agree that this shall be a triple net Lease, and the Landlord shall have no obligation to provide any services, perform any acts or pay any expenses, charges, obligations or costs of any kind whatsoever with respect to the Premises, and Tenant hereby agrees to pay one hundred percent (100%) of any and all Operating Expenses as hereafter defined for the entire term of the Lease and any extensions thereof in accordance with specific provisions hereinafter set forth. The term Operating expenses shall include all costs to Landlord of operating and maintaining the Property and related parking areas, and shall include, without limitation, real estate and personal property taxes and assessments, management fee, heating, electricity, water, waste disposal, sewage, operating materials and supplies, service agreements and charges, lawn care, snow removal, restriping, repairs, repaving, cleaning and custodial, security, insurance, the cost of contesting the validity or applicability of any governmental acts which may affect operating expenses, and all other direct operating costs of operating and maintaining the Property and related parking areas, unless expressly excluded from operating expenses. Operating Expenses for any fractional calendar year during the term hereof shall be prorated. Notwithstanding the foregoing, Operating Expenses (and Tenant's obligations in relation thereto) shall not include: (i) any expense chargeable to a capital account or capital improvement, ground leases; principal or interest payments on any mortgage or deed of trust on the premises; (ii) any amount for which Landlord is reimbursed through insurance or by third persons, (iii) repair costs occasioned by fire, windstorm or other casualty, and not caused by tenant or its invitees (iv) any construction, repair or maintenance expenses or obligations that are the sole responsibility of Landlord (not to be reimbursed by Tenant), and not caused by tenant or

its invitees (v) leasing commissions and other expenses incurred in connection with leasing any other area located on the premises to any other party, (vi) any expense representing an amount paid to an affiliate or subsidiary of Landlord which is in excess of the amount which would be paid in the absence of such relationship, and (vii) costs of items and services for which Tenant reimburses Landlord or pays third persons directly.

Section 2.03 Additional Rent. Landlord will invoice Tenant for the Additional Rent on a monthly basis, and Tenant agrees to pay the Additional Rent invoiced within thirty (30) days of receipt of the invoice from Landlord.

Section 2.04 Security Deposit. With prior written notice to Tenant, Landlord may apply all or part of the Security Deposit to any unpaid Rent or other charges due from Tenant or to cure any other defaults of Tenant. If Landlord uses any part of the Security Deposit, Tenant shall restore the Security Deposit to its full amount within thirty (30) days after Landlord's written request. Tenant's failure to do so shall be a material default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts. If Tenant terminates this agreement for any reason, including non-appropriation, before September 30, 2024, Landlord may keep the full amount of Tenant's Security Deposit as consideration for Tenant's early termination.

Section 2.05 Interest on Past Due Obligations. Interest shall accrue on undisputed amounts not paid when due at the rate and in accordance with the provisions of Chapter 2251.021 et seq. of the Texas Government Code.

### ARTICLE THREE: UTILITIES AND SERVICES; INSURANCE; COMMON AREAS; PARKING

Section 3.01 Utilities and Services. Tenant shall be responsible for all utilities and services, as contemplated under Section 2.02 herein, and shall establish, maintain and directly pay all third-party providers of such utilities and services for the duration of this Lease.

Section 3.02 Insurance Requirements.

(a) Insurance. Beginning on the date of occupancy by Tenant of all or a portion of the Leased Premises, and continuing through the Lease Term, Tenant shall maintain at Tenant's sole cost and expense fire and extended coverage casualty insurance for the building and other improvements on the Leased Premises, with such comprehensive or so called "all risk" endorsements covering the buildings and other structures in the full replacement value of the same and General Liability Insurance with a combined personal injury and property damage limit of \$1,000,000 per occurrence and \$1,000,000 aggregate, and shall show the Tenant and the Landlord, and Landlord's lender, if any, as the insured thereon. Tenant shall at all times keep such insurance in force and provide Landlord with copies of said policies or certificates evidencing said coverage. The policies shall be in form and content reasonably required by Landlord and shall be issued by an insurance company approved by Landlord and shall contain a clause that the insurer will not cancel, materially modify or fail to renew the insurance without first giving Landlord thirty (30) days prior written notice. If Tenant fails to keep said insurance

in effect, Tenant shall be in default hereunder and Landlord may, at its option, immediately obtain insurance coverage as provided for herein and charge Tenant for the cost thereof.

Tenant shall produce for Landlord's inspection an actual certificate of insurance prior to August 1, 2019.

Tenant shall produce evidence of its requirements to be imposed on all general contractors, subcontractors and suppliers to the site of their insurance and public works bonds specific to construction, renovation and repair of a public works project.

Tenant acknowledges that property casualty insurance typically carried by an owner or large tenant of this nature expressly excludes all construction, repair and maintenance related activities and will obtain special coverage for all risks arising out of the acts of its employees or agents and any general contractors, subcontractors suppliers or other agents arising out of any construction, repair, maintenance or similar activity not covered under its property casualty insurance. Such policies shall name D.J.R Investments LLC as an additional named insured.

(b) Landlord Insurance. Landlord, in Landlord's sole discretion, may maintain such additional insurance coverage as Landlord deems necessary to protect its interest in the Leased Premises.

(c) Waiver of Subrogation. Landlord and Tenant shall each have included in all policies of fire, extended coverage, business interruption and loss of rents insurance respectively obtained by them covering the Leased Premises, including the building, structures and contents therein, a waiver by the insurer of all right of subrogation against the other party hereto, and its officers, directors, shareholder, partners, members, and employees in connection with any liability, risk, peril, loss or damage thereby insured against. Any additional premium for such waiver shall be paid by the named insured. To the full extent permitted by law, Landlord and Tenant each (each respectively a "releasing party") waive all right of recovery against the other, and each party's successors and assigns, such person's respective officers, directors, employees, shareholders and partners, and Tenant's permitted sub-lessees (the "released persons"), for, and agrees to release the other from liability for, loss or damage to the extent (a) of insurance proceeds actually received by the releasing party or paid for its benefit on policies of fire, extended coverage, business interruption and loss of rents insurance and (b) such loss or damage which would have been covered by policies of fire, extended coverage, business interruption and loss of rents insurance required to be maintained under this Lease by the party seeking recovery had it maintained the insurance but did not, and in either case even though such loss or damage arises, in whole or in part, out of the negligence or strict liability of the released persons. The forgoing waiver of recovery does not waive either party's rights against the other for the portion of the covered loss that is within the amount of the deductible or any self-insured retention or self-insurance. If by reason of the foregoing waiver, either party shall be unable to obtain any such insurance, such waiver shall be deemed not to have been made by such party. Each party represents that its current insurance policies allow such waiver.

Section 3.03 Common Areas. There are no Common Areas associated with the Leased Premises.

Section 3.04 Parking. Tenant shall have the exclusive right to use the parking lots included within the Leased Premises.

#### ARTICLE FOUR: USE OF LEASED PREMISES

Section 4.01 Permitted Uses. Tenant may use the Leased Premises only for the Permitted Uses set forth in the Basic Terms.

Section 4.02 Manner of Use. Tenant shall not cause or permit the Leased Premises to be used in any way which constitutes a violation of any law, ordinance, governmental regulation or order, or which constitutes a nuisance or waste. Tenant shall neither permit any waste to be on the Leased Premises, nor allow the Leased Premises to be used in any way which would, in the opinion of Landlord, be extra hazardous on account of fire or which would in any way increase or render void the fire insurance on the Leased Premises. Tenant shall obtain and pay for all permits, including a certificate of occupancy, required for Tenant's occupancy of the Leased Premises and shall promptly take all actions necessary to comply with all applicable statutes, ordinances, rules, regulations, orders and requirements regulating the use by Tenant of the Leased Premises, including the Occupational Safety and Health Act, and the Americans With Disabilities Act.

Section 4.03 Hazardous Materials. Throughout the Lease Term, Tenant shall prevent the presence, use, generation, release, discharge, storage, disposal, or transportation of any Hazardous Materials (as hereinafter defined) on, under, in, above, to, or from the Leased Premises other than in strict compliance with all applicable federal, state, and local laws, rules, regulations, and orders. For purposes of this provision, the term "Hazardous Materials" shall mean and refer to any wastes, materials, or other substances of any kind or character that are or become regulated as hazardous or toxic waste or substances, or which require special handling or treatment, under any applicable local, state, or federal law, rule, regulation, or order.

Section 4.04 Signs. Tenant may place signs within the Leased Premises, including upon the exterior of any building or structures located thereon in accordance with any applicable local regulations.

Section 4.05 Landlord's Access. Landlord or its agents may enter the Leased Premises at reasonable times by providing at least twenty-four (24) hours advanced notice, except in the case of an emergency, to Tenant and be accompanied by a Tenant Representative to show the Leased Premises to potential buyers, investors or other parties; to do any other act or to inspect and conduct tests in order to monitor Tenant's compliance with all applicable environmental laws and all laws governing the presence and use of Hazardous Material; or to do any other acts necessary or desirable to fulfill the Landlord's duties or to exercise the Landlord's rights herein provided. Landlord may also place customary "For Sale" or "For Lease" signs on the Leased Premises.

Section 4.06 Quiet Possession. Landlord agrees, so long as Tenant fully complies with all of the terms, covenants and conditions herein contained on Tenant's part to be kept and performed, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the Term aforesaid, it being expressly understood and agreed that the aforesaid covenant of quiet

enjoyment shall be binding upon Landlord, its heirs, successors or assigns, but only during such party's ownership of the Premises. Landlord and Tenant further covenant and represent that each has full right, title, power and authority to make, execute and deliver this Lease.

#### ARTICLE FIVE: CONDITION OF LEASED PREMISES; MAINTENANCE, REPAIRS AND ALTERATIONS

Section 5.01 Existing Conditions. Tenant accepts the Leased Premises in its condition as of the date upon which Tenant occupies all or any portion of the Leased Premises, subject to all recorded matters, laws, ordinances, and governmental regulations and orders. Except as provided herein, Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation as to the condition of the Leased Premises or the suitability of the Leased Premises for Tenant's intended use. Tenant represents and warrants that Tenant has made its own inspection of and inquiry regarding the condition of the Leased Premises and is not relying on any representations of Landlord or any broker or any other party acting for or on behalf of Landlord with respect thereto.

#### Section 5.02 Tenant's Obligations.

(a) Tenant shall keep the Leased Premises in good order, condition and repair. In this regard, Tenant will repair and maintain all plumbing, electrical and heating, ventilating and air conditioning equipment serving the Leased Premises, and repaint, re-carpet and refinish the interior of the Leased Premises periodically, as needed. It is the intention of Landlord and Tenant that at all times Tenant shall maintain the Leased Premises in an attractive and fully operative condition.

(b) Tenant shall fulfill all of Tenant's obligations under this Section 5.02 at Tenant's sole expense. If Tenant fails to maintain the Leased Premises as required by this Section 5.02, Landlord may, upon thirty (30) days' prior notice to Tenant (except that no notice shall be required in the case of an emergency) enter the Leased Premises with a representative of Tenant and perform such maintenance on behalf of Tenant. In such case, Tenant shall reimburse Landlord for all reasonable costs incurred in performing such maintenance or repair immediately upon demand.

(c) Notwithstanding any provision in this Lease to the contrary, it is agreed and understood that Tenant's maintenance obligations are subject to and modified by the provisions set forth in Article Six (Damage or Destruction) and Article Seven (Condemnation).

#### Section 5.03 Alterations, Additions, and Improvements.

(a) Tenant and Landlord agree that Tenant shall be and is hereby authorized to make all alterations, additions and improvements identified on **Exhibit B** attached hereto. As necessary and in consideration of said Tenant improvements, Landlord authorizes Tenant to access and occupy the Leased Premises starting on August 1, 2019 until September 30, 2019 to make such improvements, during which period Tenant shall not be assessed nor be obligated to pay any Rent whatsoever.

(b) With the exception of the foregoing, Tenant shall not make any alterations, additions, or improvements to the Leased Premises without Landlord's prior written consent (which shall not be unreasonably delayed, withheld or conditioned). Landlord may require Tenant to provide demolition and/or lien and completion bonds in form and amount reasonably satisfactory to Landlord. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this Section 5.03(a) upon Landlord's written request. All alterations, additions, and improvements shall be done in a good and workmanlike manner, in conformity with all applicable laws and regulations. Upon completion of any such work, Tenant shall provide Landlord with "as built" plans, copies of all construction contracts, and proof of payment for all labor and materials.

(c) Tenant shall pay when due all claims for labor and material furnished to the Leased Premises. Tenant shall give Landlord at least twenty (20) days' prior written notice of the commencement of any work on the Leased Premises, regardless of whether Landlord's consent to such work is required. Landlord may elect to record and post notices of non-responsibility on the Leased Premises. Tenant shall not allow any liens to attach to the Leased Premises. If any liens are filed against the Leased Premises as a result of any work by Tenant, Tenant shall immediately cause all such liens to be released.

Section 5.04 Condition upon Termination. Upon the termination of the Lease, Tenant shall surrender the Leased Premises to Landlord, broom clean and in the same condition as received except for fire, casualty, and ordinary wear and tear which Tenant was not otherwise obligated to remedy under any provision of this Lease. However, Tenant shall not be obligated to repair any damage which Landlord is required to repair under Article Six (Damage or Destruction). In addition, Landlord may require Tenant to remove any alterations, additions or improvements, except those provided in **Exhibit B**, prior to the expiration of the Lease and to restore the Leased Premises to its prior condition, all at Tenant's expense. All alterations, additions and improvements that Landlord has not required Tenant to remove shall become Landlord's property and shall be surrendered to Landlord upon the expiration or earlier termination of the Lease, except that Tenant may remove any of Tenant's machinery or equipment which can be removed without material damage to the Leased Premises. Tenant shall repair, at Tenant's expense, any damage to the Leased Premises caused by the removal of any such machinery or equipment. In no event, however, shall Tenant remove any of the following materials or equipment (which shall be deemed Landlord's property) without Landlord's prior written consent: any power wiring or power panels; lighting or lighting fixtures; wall coverings; drapes, blinds or other window coverings; carpets or other floor coverings; heaters, air conditioners or any other heating or air conditioning equipment; fencing or security gates; or other similar building operating equipment.

## ARTICLE SIX: DAMAGE OR DESTRUCTION

Section 6.01 Partial Damage to Leased Premises. Tenant shall notify Landlord in writing immediately upon the occurrence of any damage to the Leased Premises. If, during the Term or previous thereto, the Leased Premises shall be destroyed or so damaged by fire or other casualty as to become untenable, then in such event, at the option of Landlord, this Lease shall



terminate from the date of such damage or destruction. Landlord shall exercise this option to so terminate this Lease by notice in writing delivered to Tenant within thirty (30) days after such damage or destruction. Upon such notice, Tenant shall immediately surrender said Leased Premises and all interest therein to Landlord, and Tenant shall pay rent only to the time of such damage or destruction. If Landlord does not elect to terminate this Lease, this Lease shall continue in full force and effect, and Landlord shall expeditiously repair the Leased Premises, placing the same in as good a condition as they were at the time of the damage or destruction, and for that purpose, may enter said Leased Premises. In that event rent shall abate in proportion to the extent and duration of untenability. In either event, Tenant shall remove all rubbish, debris, merchandise, furniture, equipment and its other personal property within ten (10) days after the request by Landlord. If the Premises shall be slightly damaged by fire or other casualty, so as not to render the same or a significant portion thereof untenable, then Landlord shall expeditiously repair the same and in that case the rent shall not abate. Except for rent abatement as herein provided, no compensation or claim shall be made by or allowed to Tenant by reason of any inconvenience or loss of business arising from the necessity of repairing any portion of the building or the Premises.

#### ARTICLE SEVEN: CONDEMNATION

Section 7.01 Condemnation. Should all of the Leased Premises be taken under the power of eminent domain or a conveyance in lieu thereof by any authority having the right of condemnation, or if a portion thereof is taken so that the Premises are unsuitable, in Tenant's reasonable opinion, for Tenant's use, then the term of this Lease shall terminate as of the date that title shall vest in the acquiring authority and the rent and other charges shall be adjusted as of the date of such taking. In such case, Landlord shall be entitled to the proceeds of the condemnation award made to Landlord. Nothing herein shall be construed to prevent Tenant from separately pursuing a claim against the condemning authority for its independent loss or damages to the extent available, provided, however, that no award made to or on behalf of Tenant shall reduce, limit, or restrict the award to Landlord, and no allocation of Landlord's award in condemnation shall occur. Tenant shall have no claim against Landlord for the value of the unexpired term of this Lease. Should any part of the Leased Premises be taken in the exercise of eminent domain or a conveyance in lieu thereof or in connection therewith, but not such as to render the Leased Premises unsuitable for the operation of its business, this Lease shall continue on the same terms and conditions except that the description of the Leased Premises or the real estate taken by right of eminent domain or a conveyance in lieu thereof or in connection therewith shall be modified to reflect such taking. In the event this Lease does not terminate by reason of such taking, the condemnation proceeds from the Demised Premises will first be used to restore the Leased Premises to a position of occupancy by the Tenant. The balance of such condemnation proceeds from the Demised Premises, if any, shall belong to Landlord.

#### ARTICLE EIGHT: ASSIGNMENT

Section 8.01 Assignment of Lease. Tenant shall not assign this Lease or Tenant's interest in and to the Leased Premises without obtaining the prior written consent of Landlord, in Landlord's

sole and absolute discretion. Any attempted assignment without such consent shall be void and shall constitute a default by Tenant under this Lease. For purposes of this Article, the terms "assign" and "assignment" shall include: (a) any act attempting to, or document purporting to, assign, transfer, mortgage or hypothecate any interest in or to this Lease or the Leased Premises or any portion thereof; and (b) any change in the ownership of the Tenant or the power to control Tenant.

Section 8.02 No Release of Tenant. No assignment shall release Tenant from any of Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the Rent and perform the other obligations of Tenant under this Lease. The acceptance of Rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision hereof. In the event of default by any assignee of Tenant or any successor Tenant, in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such assignee. Landlord may consent to subsequent assignments of this Lease or amendments or modifications to this Lease with assignees of Tenant, upon notice to Tenant, or any successor of Tenant, and after obtaining Tenant's or such successor's consent thereto, and such action shall not relieve Tenant of liability under this Lease.

Section 8.03: Assignment of Lease by owner: Upon the giving of thirty (30) days' notice, Landlord may assign this lease all or in part to another party, including parties to perform services as a landlord or property manager.

## ARTICLE NINE: DEFAULTS AND REMEDIES

Section 9.01 Default by Tenant. The following shall be deemed to be events of default by Tenant under this Lease: (a) Tenant shall fail to pay when due any installment of Rent or any other payment required pursuant to this Lease (provided, however, that if Tenant has not been late in making any required payment of Rent or other sum of money due hereunder on more than two (2) occasions during the immediately preceding twelve-month period, then Landlord will provide to Tenant written notice of the required payment and no event of default will be deemed to have occurred if Tenant delivers the required payment to Landlord within ten (10) days after the date of such notice); (b) Tenant or any guarantor of Tenant's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations hereunder and the same is not dismissed within sixty (60) days; (c) Tenant or any guarantor of Tenant's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors; (d) Tenant shall do or permit to be done any act which results in a lien being filed against the Leased Premises, and the same is not released or bonded around in manner satisfactory to Landlord within thirty (30) days; (e) the liquidation, termination, dissolution or (if the Tenant is a natural person) the death of Tenant or any guarantor of Tenant's obligations hereunder; or (f) Tenant shall be in default of any other term, provision or covenant of this Lease, other than those specified in subparts (a) through (e), above, and such default is not cured within thirty (30) days after written notice thereof to Tenant.

Section 9.02 Remedies for Tenant's Default. Upon the occurrence of any event of default set forth in this Lease, Landlord shall have the option to pursue any one or more of the remedies established under applicable law without any additional notice or demand.

Section 9.03 Default by Landlord. Landlord shall not be in default in the performance of any obligation required to be performed by Landlord under this Lease unless Landlord has failed to perform such obligation within thirty (30) days after the receipt of written notice to Landlord from Tenant specifying in detail Landlord's failure to perform; provided however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be deemed in default if it commences such performance within such thirty (30) day period and thereafter diligently pursues the same to completion. Upon any such uncured default by Landlord, Tenant may exercise any of its rights provided under applicable law or at equity.

Section 9.04 Mitigation of Damages. Landlord and Tenant shall each use commercially reasonable efforts to mitigate any damages resulting from a default of the other party under this Lease.

#### ARTICLE TEN: PROVISIONS RELATING TO FINANCING OR SALE OF THE PROJECT

Section 10.01 Subordination. Landlord shall have the right to subordinate this Lease to any ground lease, deed of trust or mortgage encumbering the Leased Premises, any advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded. Tenant shall cooperate with Landlord and any lender which is acquiring a security interest in the Leased Premises or the Lease. Tenant shall execute such further documents and assurances as such lender may require, provided that Tenant's obligations under this Lease shall not be increased in any material way (the performance of ministerial acts shall not be deemed material), and Tenant shall not be deprived of its rights under this Lease. Tenant's right to quiet possession of the Leased Premises during the Lease Term shall not be disturbed if Tenant pays the Rent and performs all of Tenant's obligations under this Lease and is not otherwise in default. If any ground lessor, beneficiary or mortgagee elects to have this Lease prior to the lien of its ground lease, deed of trust or mortgage and gives written notice thereof to Tenant, this Lease shall be deemed prior to such ground lease, deed of trust or mortgage whether this Lease is dated prior or subsequent to the date of said ground lease, deed of trust or mortgage or the date of recording thereof.

Section 10.02 Attornment. If Landlord's interest in the Leased Premises is acquired by any ground lessor, beneficiary under a deed of trust, mortgagee, or purchaser at a foreclosure sale, Tenant shall attorn to the transferee of or successor to Landlord's interest in the Leased Premises and recognize such transferee or successor as Landlord under this Lease.

Section 10.03 Estoppel Certificates. Tenant shall, from time to time, upon Landlord's written request, execute, acknowledge and deliver to Landlord written estoppel certificates in the form reasonably acceptable to Landlord (with such changes and additions as are necessary to complete the form and such qualifications and revisions as may be necessary to make all statements

therein factually accurate). Tenant shall deliver each requested certificate to Landlord within ten (10) days after Landlord's request for same. If Tenant does not deliver any requested certificate to Landlord within such ten-day period, Landlord and any prospective purchaser or encumbrancer may conclusively presume that the matters stated in the requested certificate are true and correct.

## ARTICLE ELEVEN: MISCELLANEOUS PROVISIONS

Section 11.01 Severability. A determination by a court of competent jurisdiction that any provision of this Lease or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision or this Lease, which shall remain in full force and effect.

Section 11.02 Interpretation. The captions of the Articles or Sections of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other. In any provision relating to the conduct, acts or omissions of Tenant, the term "Tenant" shall include Tenant's agents, employees, contractors, invitees, successors or others using the Leased Premises with Tenant's expressed or implied permission.

Section 11.03 Incorporation of Prior Agreements; Modifications. This Lease is the only agreement between the parties pertaining to the lease of the Leased Premises and no other agreements are effective. All amendments to this Lease shall be in writing and signed by all parties. Any other attempted amendment shall be void.

Section 11.04 Notices. All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested and postage prepaid. Notices to Tenant shall be delivered to the address specified in the Basic Terms. Notices to Landlord shall be delivered to the address specified in the Basic Terms. All notices shall be effective upon delivery. Either party may change its notice address upon written notice to the other party.

Section 11.05 Waivers. All waivers must be in writing and signed by the waiving party. A party's failure to enforce any provision of this Lease shall not be a waiver and shall not prevent the party from enforcing that provision or any other provision of this Lease in the future.

Section 11.06 Binding Effect; Choice of Law/Venue. This Lease binds any party who legally acquires any rights or interest in this Lease from Landlord or Tenant. However, Landlord shall have no obligation to Tenant's successor unless the rights or interests of Tenant's successor are acquired in accordance with the terms of this Lease. The laws of the State of Texas shall govern this Lease and venue for any claim or dispute arising hereunder shall be in Travis County, Texas.

Section 11.07 Force Majeure. If either party cannot perform any of its obligations due to events beyond such party's reasonable control, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond a party's

control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction and weather conditions.

Section 11.08 Execution of Lease. This Lease may be executed in counterparts and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument. Landlord's delivery of this Lease to Tenant shall not be deemed to be an offer to lease and shall not be binding upon either party until executed and delivered by both parties.

Section 11.09 Non-Appropriation. Notwithstanding anything herein to the contrary, Landlord agrees that Tenant has the right to terminate this Lease by providing written notice to Landlord within thirty (30) days after Tenant adoption of an annual budget for its upcoming fiscal year in which funds for this Lease are not appropriated by Tenant's governing body. In such case of termination for non-appropriation, Tenant shall, on the last day of the fiscal period for which appropriations were received, without any penalty to Tenant excepting forfeiture of the Security Deposit, if such forfeiture is applicable, remove Tenant's property from the Leased Premises and return the Leased Premises to Landlord in accordance with this Lease.

## ARTICLE TWELVE: SPECIAL PROVISIONS

Section 12.01 Right of First Refusal. If at any time after the Effective Date, Landlord receives an offer or letter of intent from any person or entity to purchase fee title, an easement, a lease, a license, or any other interest in the Leased Premises or any portion thereof or to acquire any interest in this Lease, or an option for any of the foregoing, and such offer or letter of intent contains terms and conditions which are acceptable to Landlord, in Landlord's sole discretion regarding its acceptable nature, Landlord shall provide written notice to Tenant of said offer ("Landlord's Notice"). Landlord's Notice shall include the prospective buyer's name, the purchase price being offered, any other consideration being offered, the other terms and conditions of the offer, a description of the portion of and interest in the Leased Premises or this Lease which will be conveyed in the proposed transaction, and a copy of any letters of intent or form agreements presented to Landlord by the third party offeror. Tenant shall have the right of first refusal to meet on the terms and conditions of such offer. If Tenant fails to provide written notice to Landlord that Tenant intends to meet such bona fide offer within thirty (30) days after receipt of Landlord's Notice, Landlord may proceed with the proposed transaction in accordance with the terms and conditions of such third party offer, in which event this Lease shall continue in full force and effect and the right of first refusal described in this Section 12.01 shall survive any such conveyance to a third party for the unexpired term of this lease. If Tenant provides Landlord with notice of Tenant's intention to meet the third party offer within thirty (30) days after receipt of Landlord's Notice, Tenant may require a reasonable period of time to conduct due diligence and effectuate the closing of a transaction on substantially equivalent financial terms of the third-party offer. This term shall not exceed sixty (60) days unless additional time is agreed to in writing by Landlord. For purposes of this Section 12.01, any transfer, bequest or devise of Landlord's interest in the Leased Premises as a result of the death of Landlord, whether by will or intestate succession, or any conveyance to Landlord's family members by direct conveyance or by conveyance to a trust for the benefit of family members shall not be considered a sale for which Tenant has any right of first refusal.

Section 12.02 City of Pflugerville Certification. Landlord acknowledges that Landlord has fully read and understood the terms and conditions for eligibility to enter into an agreement with the City pursuant to Chapter 38 of the City's Ordinances and certifies that Landlord is in compliance with these local requirements. Landlord further certifies and agrees that this Agreement is subject to said terms and conditions, which are incorporated herein by reference for all purposes.

Section 12.03 Recordation. Following execution of, or any subsequent modification or amendment to this Lease, Tenant may file and record a memorandum of Lease in the Official Public Records of Travis County that documents the existence and general import of this Lease and any amendment hereto. Following recordation, Tenant will provide a copy to the Landlord.

**EXECUTED and AGREED** to as of the dates indicated below.

**CITY OF  
PFLUGERVILLE**



(Signature)

Printed Name: Sereniah Breland

Title: City Manager

Date: 5/10/19

**DJR INVESTMENTS, LLC**



(Signature)

Printed Name: David Garlick

Title: Managing Member

Date: 4/19/2019

APPROVED AS TO FORM:



Charles E. Zech, City Attorney  
DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.

for

# EXHIBIT A

## Property Description

Travis CAD Map Search
<http://propaccess.traviscad.org/mapSearch/propertyPrint.html?cid=1&p...>

Property Identification #: 274597	Property Information: 2018	Owner Identification #: 247003
Geo ID: 0270400402	Legal: ABS 021 SUR 5 PARISH C S ACR	Name: DJR INVESTMENTS L L C
Slus Address:	Description: 538	Exemptions:
Property Type: Real	Abstract: A0821	DBA: CUSTOM PICTURE FRAMING
State Code: F1	Neighborhood: SMALL STORE PFLUG/FNE	
	Appraised Value: \$742,881.00	
	Jurisdictions: 0B, 0A, 2J, 18, 20, 03	

Travis CAD Map Search

This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. The Travis County Appraisal District expressly disclaims any and all liability in connection herewith.

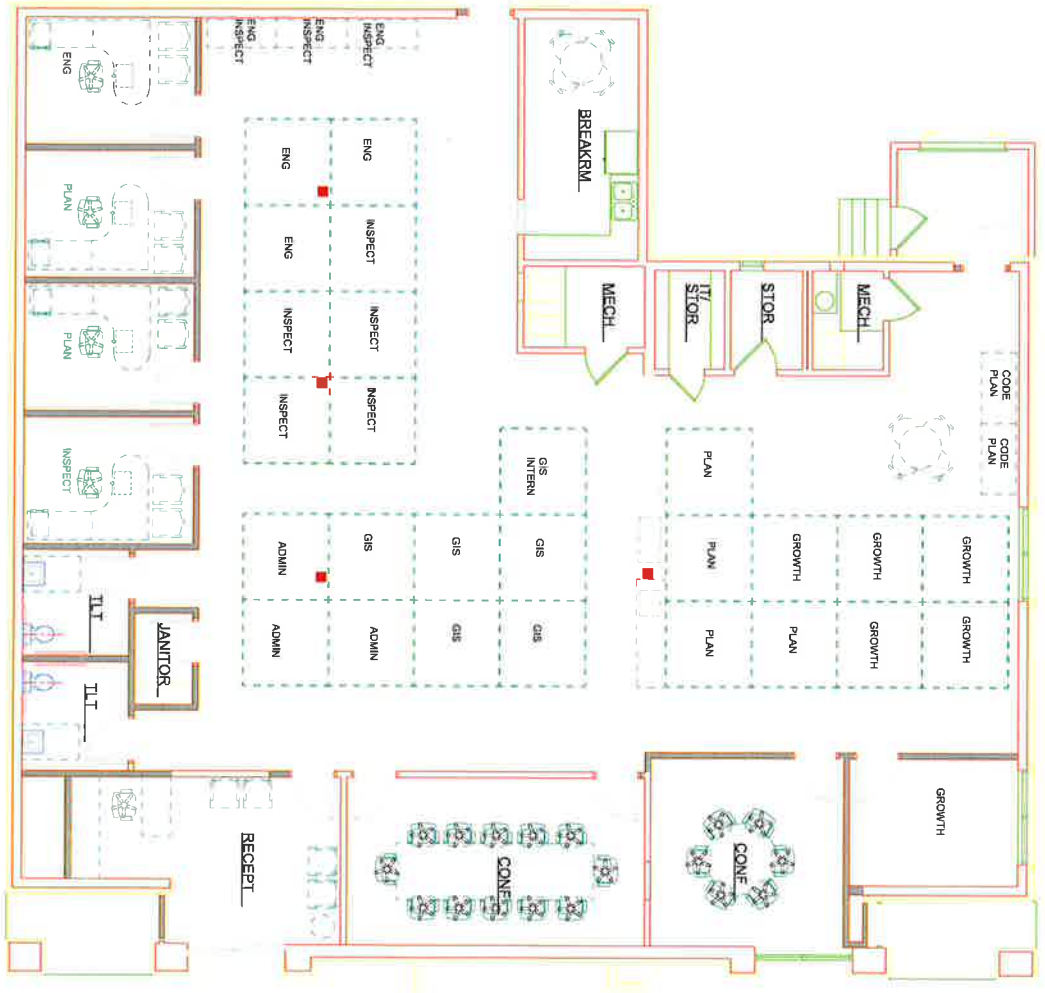
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**EXHIBIT B**

**Description of Improvements**



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01 CONSTRUCTION PLAN 1ST FLOOR

**DRAWING LEGEND**

- NEW DOOR
- EXISTING DOOR
- NEW WALL
- EXISTING WALL

11100 METRIC BLVD  
 BLDG 7 SUITE 450  
 AUSTIN, TX 78758  
 (512) 371-1232

PRELIMINARY DESIGN DOCUMENT

This document is not for regulatory use. It is intended for informational purposes only. It is released under the authority of the Registrant's Name, Mosaic, L.L.C. Registration No. 50123. Date: 06/20/2023

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