

- e. "Ineligible Property" means the Real Property, existing improvements, tangible personal property that the FBCAD classifies as inventory or supplies, the Real Property used primarily to provide retail sales or services to the public, the Real Property used for residential purposes, tangible personal property classified as furnishings, tangible personal property located in the reinvestment zone prior to the execution date of the tax abatement agreement, the Real Property with a productive life of less than 10 years, or any other property for which abatement is not allowed by state law.
- f. "Owner" means AX Park 8Ninety Castcom L.P., or its successors or assigns.
- g. "Lessee" means COMCAST OF HOUSTON, LLC, or its successors or assigns.
- h. "County" means the County of Fort Bend, Texas.
- i. "FBCAD" means Fort Bend Central Appraisal District.
- j. "Eligible Personal Property" means personal property, excluding inventory, supplies, and furnishings located on the Real Property and not defined as Ineligible Property.

3. Subject Property:

- a. The City of **MISSOURI CITY** Reinvestment Zone No. **16** is an area located in the District, being legally described in Exhibit B attached hereto and incorporated herein for all purposes.
- b. The FBCAD has established the base year values for the subject property as of January 1, 2017.

4. Responsibility of Owner and Lessee:

In consideration of receiving the tax abatement granted herein, Owner and/or Lessee (as applicable) represent and agree:

- a. That construction of the Improvements will commence without delay, subject to force majeure and other events beyond the reasonable control of Owner or Lessee.
- b. That construction of the Improvements shall be completed on or before **JULY 31, 2019.**
- c. That Owner shall provide the District's Tax Assessor/Collector a certified statement evidencing a minimum of \$4.5 million in project costs with respect to the design and construction of the Improvements within sixty (60) days after completion of the Improvements.
- d. That Owner shall provide the District's Tax Assessor/Collector with a copy of the Certificate of Occupancy for the Improvements on or before **JANUARY 1, 2020.** Owner's failure to present a copy of the Certificate of Occupancy to District may result in a forfeiture of the tax abatement of tax year 2020.
- e. That the Certified Appraised Value of the Improvements, Eligible Personal Property, and Inventory on January 1, 2020, and on each and every January 1 thereafter during the term of this Agreement must not be less than **\$4.5 MILLION, \$3 MILLION, AND \$4 MILLION RESPECTIVELY.** Owner may from time to time during the term of this Agreement install additional improvements,

and modify, remove or replace improvements as Owner may determine in its sole discretion. Failure to meet the requirements of this section will invalidate the tax abatement for the year this requirement was not satisfied, but will not be considered a default of this Agreement as long as Owner or Lessee (as applicable) notifies the District and does not receive the related tax abatement for such year.

- f. Lessee agrees to meet the following employee requirements: At least 255 Employees employed at the Improvements on January 1, 2020.
- g. Lessee shall annually furnish District with only those payroll records allowed by law and necessary for District to confirm Lessee's compliance with this Agreement (e.g. number of employees is appropriate; payroll dollars, taxes, benefits, and bonuses are not appropriate). Failure to meet the requirements of this section will invalidate the tax abatement for the year this requirement was not satisfied, but will not be considered a default of this Agreement as long as Lessee notifies the District and does not receive the related tax abatement for such year.
- h. That at a minimum, Lessee will participate in the continuing economic development process in Fort Bend District by extending their Trustee Membership (\$6,000/yr. dues) of the Greater Fort Bend Economic Development Council for a minimum period coinciding with the term of this Agreement.
- i. OWNER AND LESSEE SHALL BE RESPONSIBLE FOR NOTIFYING THE FBCAD OF THE ABATEMENT, INCLUDING FILING WITH THE FBCAD ANY APPLICATION OR OTHER FORMS NECESSARY TO QUALIFY FOR OR RECEIVE THE ABATEMENT GRANTED.
- j. OWNER SHALL BE RESPONSIBLE FOR REQUESTING AN ASSIGNMENT OF THIS AGREEMENT IN THE EVENT THE REAL PROPERTY THE SUBJECT OF THIS AGREEMENT IS SOLD, TRANSFERRED OR ASSIGNED. EXCEPT AS OTHERWISE PROVIDED HEREIN, ANY ASSIGNMENT IS NOT EFFECTIVE UNTIL APPROVED IN WRITING BY DISTRICT.
- k. That Owner and Lessee have, as of the effective date of this Agreement, the financial resources to implement the above representations.
- l. That Owner and Lessee shall ensure that taxes on all property owed in Fort Bend District are current. Delinquent taxes for any Fort Bend District Property is a default of Owner's obligations and will be grounds for termination regardless of whether the delinquent property is subject to an abatement.

5. Value and Term of Abatement:

- a. This Agreement shall be effective on the date executed by District and shall terminate (unless earlier terminated in accordance with the terms hereof) on December 31, 2028. In no event shall this Agreement extend beyond December 31, 2028.
- b. In each year that this Agreement is in effect, the amount of abatement shall be an amount equal to the percentage indicated below of the taxes assessed upon the Improvements and on the Eligible Personal Property.

- c. Subject to the limitations imposed by law and conditioned upon the representations outlined in Section 4 herein above, there shall be granted and allowed hereunder a property tax abatement for the following years and in the following amounts on the value of the Improvements and on the value of the Eligible Personal Property:

Tax Year	Percentage Abatement
2020	50%
2021	50%
2022	50%
2023	50%
2024	50%
2025	50%
2026	50%
2027	50%
2028	50%

- 1) The abatement granted shall not apply to the value of any Ineligible Property.
- 2) All Eligible Personal Property shall be placed and/or installed in accordance with applicable laws, ordinances, rules or regulations in effect at the time such Eligible Personal Property is placed and/or installed.
- 3) The FBCAD's determination of values shall be used to determine the value of the property subject to this Agreement. If Owner protests the FBCAD's valuation of the property, the valuation placed on the property after the protest is resolved under State law shall be used.
- 4) On or before September 1 of each year of this Agreement, Owner and Lessee shall each certify in writing to the Fort Bend District Tax Assessor/Collector their compliance with each term of this Agreement.
- 5) Owner may terminate this Agreement with thirty (30) days written notification to the District. Owner shall not be entitled to a tax abatement for the year in which such termination is made. If taxes for the year of termination have been abated, the Owner shall, with such notice, make payment to the District of any abated taxes for the year of termination only with appropriate interest and penalty as the District's sole and exclusive remedy.

6. Taxability:

During the period that this tax abatement is effective, taxes shall be payable by the Owner as follows:

- a. The value of Ineligible Property shall be fully taxable, and
- b. The value of existing improvements, if any, and any other existing Ineligible Property shall be determined in the base year by the FBCAD.

7. **Event of Default:**

- a. Subject to the notice and opportunity to cure provisions in Section 7(b) and except as otherwise set forth in this Agreement, District may declare Owner or Lessee in default of this Agreement if: (1) Owner or Lessee fail to comply with any term of this Agreement (beyond any applicable notice and cure period); or (2) Owner or Lessee allows District ad valorem taxes on any property owned in Fort Bend District to become delinquent, even if the delinquent taxes are for a property not subject to an abatement; or (3) Lessee (a) vacates the Real Property subject to this Agreement or ceases operations on the Real Property for a continuous period of one hundred eighty (180) days before the expiration of the term of the Abatement without the prior written consent of the District (which consent shall not be unreasonably withheld, conditioned or delayed), except that in the event of (i) a temporary shutdown of the facility, with assurance of the resumption of operations, for the purpose of facility modification, repair, restoration, expansion, improvement, retooling or similar purpose, (ii) the facility is being actively marketed, the District shall not unreasonably withhold consent to a reasonable extension to such period to permit the sale of the facility to another operator, (iii) the closure of the facility pending settlement of insurance, casualty or condemnation claims, or (iv) the closure of the facility due to inadequate or unacceptable raw water supply shall not constitute a vacating of or a cessation of operations on the Real Property under this Section, and (b) such parties are unable to lease or sublease the Real Property to a third party tenant within the twelve (12) months following such cessation. Such exceptions are subject to further extension for force majeure as defined in Section 11 herein and any other event or circumstance beyond the reasonable control of Owner or Lessee.
- b. District shall notify Owner or Lessee (as applicable) of any default in writing specifying the default. Owner or Lessee shall have sixty (60) days from the date of the notice to cure any default. If Owner or Lessee fails to cure the default within ninety (90) days from receipt of notice, District may terminate this Agreement by written notice.
- c. If this Agreement is terminated by District, as District's sole and exclusive remedy, Owner or Lessee (as applicable) agrees that they are liable for and will pay to District within thirty (30) days of the termination of this Agreement:
 - i. The amount of all taxes abated during the term of this Agreement; and
 - ii. Interest on the abated amount at the rate provided for in the Texas Tax Code for delinquent taxes.
 - iii. Penalties on the amount abated in the year of default, at the rate provided for in the Texas Tax Code for delinquent taxes.
- d. District shall have a lien against (i) if due to Owner's default, the Real Property, or (ii) if due to Lessee's default, the Eligible Personal Property for the taxes and interest owed because of the recapture of taxes under this paragraph during the time period beginning on the date such payment obligation accrues and continuing until the date paid.

- e. This paragraph is required by Chapter 2264, TEXAS GOVERNMENT CODE and governs over any conflicting provisions of this Agreement. Owner and any Lessee are prohibited from knowingly employing undocumented workers as that term is defined in Section 2264.001, TEXAS GOVERNMENT CODE. If Owner or Lessee is convicted of a violation under 8 U.S.C. Section 1324a(f), the conviction shall be considered default of this Agreement, from which no cure provisions shall apply. In such event, District shall provide written notice to Owner and Lessee of the default and this Agreement shall automatically terminate on the 30th day after the date of the notice of default from District to Owner or Lessee. In the event of termination under this paragraph, Owner shall repay to District the amount of all property taxes abated under this Agreement, plus interest on the abated amount at the rate provided for in the TEXAS TAX CODE for delinquent taxes.

8. Administration and Inspection

- a. This Agreement shall be administered on behalf of the Fort Bend District Tax Assessor/Collector or her designee. Owner and Lessee shall allow employees or other representatives of District who have been designated by the Tax Assessor/Collector to have access to the Real Property (during normal business hours) during the term of the Agreement. All regular inspections shall be made only after two (2) business days prior notice and will be conducted in such a manner as not to unreasonably interfere with the construction or operation of the facility. A representative of Owner or Lessee may accompany the inspector. District shall cause each of its employees and representatives who conduct such inspections to abide by all of Owner's or Lessee's security, safety and operational rules (as the same may be amended from time to time), copies of which have been made available to District.
- b. Upon completion of the placement and/or installation of the Eligible Personal Property, District shall annually evaluate the Improvements and any Eligible Personal Property to ensure compliance with the terms and provisions of this Agreement and shall report potential defaults to the Owner.
- c. The Chief Appraiser of the FBCAD shall annually determine (1) the taxable value under the terms of this abatement of the Improvements, and any Eligible Personal Property located on the Real Property and (2) the full taxable value without abatement of the Improvements, and any Eligible Personal Property located on the Real Property. The Chief Appraiser shall record both abatement taxable value and full taxable value in the appraisal records. The full taxable value figure listed in the appraisal records shall be used to compute the amount of abated taxes that is terminated in a manner that results in recapture of abated taxes.
- d. Owner and Lessee shall furnish the Chief Appraiser annually such information as provided for under Chapter 22 of the Texas Tax Code, including payroll records, as may be necessary for the administration of the this Agreement. Such information, including payroll records, shall also be provided annually to the District Tax Assessor/Collector in preparation of its annual evaluation for compliance with the terms and provisions of this Agreement.

9. **Assignment**

- a. Neither Owner or Lessee may assign this Agreement to any third party person or entity without the District's prior written consent (not to be unreasonably withheld, conditioned or delayed). No assignment shall be effective or approved if District has declared a default hereunder which has not been cured or the assignee is delinquent in the payment of any ad valorem taxes owed to District. District's consent shall not be required for any assignment of this Agreement to an affiliated person or entity.
- b. Any and all assignments shall contain the same terms and conditions as set out in this Agreement and shall be granted for the remaining term of the original Agreement only.
- c. Owner and Lessee shall provide notice to District within ninety (90) days of any sale or assignment of the Real Property subject to this Agreement.

10. **Indemnity**

It is understood and agreed between the parties that Owner and Lessee, in performing obligations hereunder, is acting independently, and District assumes no responsibilities or liabilities in connection therewith to third parties. **OWNER and LESSEE AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS DISTRICT AND THE FBCAD FROM ANY AND ALL CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF OWNER'S OR LESSEE 'S BREACH OF ITS OBLIGATIONS HEREUNDER EXCEPT THAT THE INDEMNITY SHALL NOT APPLY TO THAT PORTION OF RESPONSIBILITIES AND LIABILITIES RESULTING FROM THE FAULT OR NEGLIGENCE OF DISTRICT OR TAXING UNITS, THEIR RESPECTIVE OFFICERS, AGENTS OR EMPLOYEES. OWNER'S AND LESSEE'S INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEYS FEES AND EXPENSES INCURRED IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, AND CAUSES OF ACTION WHICH ARE NOT DUE TO DISTRICT'S, THE DISTRICT'S OR THEIR REPRESENTATIVES' INTENTIONAL CONDUCT OR NEGLIGENCE. OWNER AND LESSEE SHALL BE RESPONSIBLE FOR ALL FEES INCURRED BY DISTRICT IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION SO LONG AS DEFENSE COUNSEL AND COURSES OF ACTION ARE DETERMINED SOLELY BY OWNER OR LESSEE (AS APPLICABLE). NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT DISTRICT FROM INCURRING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF ACTION AND OWNER OR LESSEE (APPLICABLE) SHALL NOT BE RESPONSIBLE FOR ANY SUCH COSTS AND OR FEES SO INCURRED.**

11. **Force Majeure:**

If by reason of force majeure, Owner or Lessee are unable to perform any obligation of this Agreement, it shall give notice of the force majeure to District in writing within thirty (30) calendar days after Owner or Lessee first becomes aware or should have become aware of the occurrence relied upon. By doing so, the obligation of Owner or Lessee, to the extent and for the period of time affected by the force majeure, shall be suspended. Owner or Lessee shall endeavor to remove or overcome the inability with all reasonable

effort. For purposes of this provision, “force majeure” shall include, but not be limited to acts of God, landslides, lightning, earthquakes, hurricanes, storms, floods, or other natural occurrences; strikes, lockouts, insurrections, riots, wars or other civil or industrial disturbances; orders of any kind of the federal or state government or of any civil or military authority; explosions, fires, breakage or accidents to machinery, lines, or equipment, or the failure or lack of capacity of the wastewater system or water supply system; or any other cause not reasonably within the control of the Owner or Lessee.

12. District Approval:

This Agreement is conditioned entirely upon the approval of the District by the affirmative vote of a majority of the members present at a duly scheduled meeting of the Board.

13. Compliance with State and Local Regulations:

This Agreement shall not be construed to alter or affect the obligations of Owner or Lessee to comply with any city ordinance or federal or state law or regulation.

14. Changes in Laws/Vested Rights:

The tax abatement provided in this Agreement is conditioned upon and subject to any changes in the state tax laws during the term of this Agreement, but only the extent required by law to be enforceable and after giving Owner and Lessee all vesting, non-conforming and/or “grandfather” rights, contained in and applicable to this Agreement and allowed by law.

15. Miscellaneous:

- a. This Agreement and the rights and obligations of each party shall be construed and enforced under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.
- b. In the event of one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- c. The waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach.
- d. Any amendments of this Agreement shall be of no effect unless in writing and signed by both parties hereto.

16. Notices

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been hand delivered or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and certified, return receipt requested, in a United States Post Office, addressed to District, Owner and Lessee at the mailing address as hereinafter set out. If mailed, any notice of communication shall be deemed to be received three (3) business days after the date of deposit in the United States Mail.

- a. Unless otherwise provided in this Agreement, all notices shall be delivered to Owner or District at the following addresses:

To the **Tax Assessor/Collector**: The Honorable Patsy Schultz
Fort Bend County Tax Assessor-Collector
1317 Eugene Heimann Circle
Richmond, Texas 77469

To **District**: Fort Bend District
401 Jackson
Richmond, Texas 77469
Attention: County Judge

Copy to: Fort Bend County Attorney
401 Jackson
Richmond, Texas 77469

To **Owner**: AX Park 8Ninety Castcom L.P.
c/o Artis REIT
16220 N. Scottsdale Road
Suite 280
Scottsdale, Arizona 85254
Attention: Philip Martens

Copy to: Artis REIT
300-360 Main Street
Winnipeg, MB R3C 3Z3
Attention: Jim Green

To: Lessee COMCAST OF HOUSTON, LLC
Attn: director of government Affairs
8590 W. Tidwell Rd.
Houston, TX 77040

- b. Any party may designate a different address by giving the other parties ten (10) days prior written notice thereof. Failure of Owner or **Lessee** to provide District Tax Assessor/Collector thirty (30) days notice of a change of address may result in termination of this Agreement.

17. **Entire Agreement**

This Agreement contains the entire Agreement among the parties and supersedes all other negotiations and agreements, whether written or oral. This Agreement shall inure to the benefit of and be binding upon the parties hereto and each of their respective successors and assigns. Attached hereto are (a) Exhibit A – City of **MISSOURI CITY** Ordinance No. **O-17-43** designating Reinvestment Zone No. **16** (b) Exhibit B - legal description of Real Property which are made part of this Agreement.

18. **Execution**

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by District Owner and Lessee as of the dates below stated. All Parties warrant and represent that the individuals executing this agreement on behalf of each have full authority to execute this Agreement and bind each to the same.

“DISTRICT:”

FORT BEND DRAINAGE DISTRICT,

TEXAS

By: _____
Robert E. Hebert, District Judge

ATTEST:

Date: _____

Laura Richard, County Clerk

“OWNER”

**AX PARK 8NINETY CAST COM L.P., a
Delaware limited partnership**

**By: AX Park 8Ninety Castcom, LLC, a
Delaware limited liability company
Its General Partner**

By: _____
Printed Name: Philip Martens
Title: Executive Vice President

ATTEST:

Printed Name: JoAnn Lewis

Date: May 16, 2018

‘Lessee’

COMCAST OF HOUSTON, LLC

By: _____

Printed: Name: _____

Title: _____

ATTEST:

Date: _____

Printed Name: _____

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EXHIBIT A

CITY OF MISSOURI CITY ORDINANCE NO. 0-17-43

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ORDINANCE NO. O-17-43

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, CREATING REINVESTMENT ZONE NO. 16 ENCOMPASSING AN APPROXIMATE 6.13-ACRE TRACT OF LAND LOCATED NORTH OF BUFFALO RUN PARK, SOUTH OF U.S. HIGHWAY 90A, EAST OF CRAVENS ROAD, AND WEST OF THE SAM HOUSTON TOLLWAY IN THE CITY OF MISSOURI CITY, TEXAS; MAKING RELATED FINDINGS; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the City Council of the City of Missouri City has passed and approved Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones ("Guidelines") created in the City of Missouri City, Texas (the "City"); and

WHEREAS, pursuant to the Guidelines, the City has received a request for the creation of a reinvestment zone and tax abatement for the development of a distribution warehouse facility; and

WHEREAS, after proper notice, the City held a public hearing where all interested persons were given an opportunity to speak and present evidence for and against the creation of Reinvestment Zone No. 16; and

WHEREAS, written notice of the hearing was given to all taxing entities where the proposed zone is to be located; and

WHEREAS, the City Council has determined, based on evidence presented, that the improvements sought to be located in proposed Reinvestment Zone No. 16 are feasible and practical and would be a benefit to the land to be included in the Zone and to the City after the expiration of the tax abatement agreement; and

WHEREAS, the creation of Reinvestment Zone No. 16 will be reasonably likely, as a result of its creation, to attract major investment into the Zone that would be a benefit to the property located therein and that will contribute to the economic development of the City; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. That the facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct, and are made a part of this Ordinance for all purposes.

Section 2. The City Council of the City of Missouri City conducted the public hearing on the creation of Reinvestment Zone No. 16 and closed the public hearing prior to the final adoption of this Ordinance.

Section 3. That Reinvestment Zone No. 16 is hereby created for the purpose of encouraging economic development through tax abatement. Reinvestment Zone No. 16 can be described as being all 6.13 acres of Reserves 8 and 9 of the Park 8Ninety subdivision plat, filed under Instrument Number 20160020 of the real property records of Fort Bend County. A depiction of Reinvestment Zone No. 16 is attached hereto as Exhibit "A." The depiction is for reference purposes only. In the event the depiction conflicts with the recorded plat, the recorded plat shall prevail.

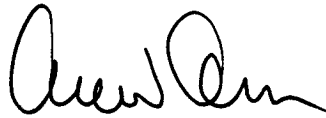
Section 4. This designation shall be effective for five (5) years from the date of final passage of this Ordinance and may be renewed for periods not to exceed five (5) years.

Section 5. *Repeal.* All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict only.

Section 6. *Severability.* In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED and APPROVED on first reading this 16th day of October, 2017.

PASSED, APPROVED and ADOPTED on ~~the~~ ^{Second} and final reading this 6th day of November, 2017.



Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

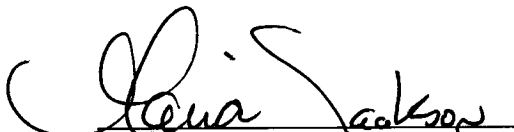
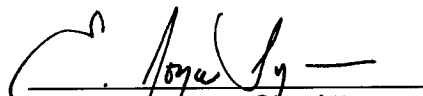

Maria Jackson, City Secretary
E. Joyce Lyamu, City Attorney

Exhibit "A"



Legend



Metes and Bounds

Map By:
GIS Division
October 2017



Reinvestment Zone #16



0 235 470 940 1,410 Feet

Geographic Coordinate System North American Datum 1983 (NAD83)

The information on this map is provided and maintained by various agencies, including county departments, municipal governments, state and federal agencies. No guarantee is given as to the accuracy or currency of any of the data. The map is designed to serve as a secondary representation of real property found within this jurisdiction, and is compiled from the recorded deeds, plats, and other public records, which are primary sources for this public information. Users of this map are hereby notified that these primary sources should be consulted for verification of the information presented here. The data layers do not take the place of a legal survey or other primary source documentation. The city and its vendors assume no legal responsibility for the information on this map.

EXHIBIT B

LEGAL DESCRIPTION

All 6.13 acres of Reserves 8 and 9 of the Park 8Ninety subdivision recorded under Fort Bend County Clerk's Instrument Number 20160020 of the Plat Records of Fort Bend County, Texas