

The City of Durant encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged in order to make the necessary accommodations. The City of Durant may waive the 48-hour rule if interpreters for the deaf (signing) or translation services for limited English proficient (LEP) individuals are not the necessary accommodation.

## **DURANT CITY COUNCIL**

**9:00 AM**

**Roscoe J. Hatfield  
Council Chambers, 300  
West Evergreen, Durant,  
Oklahoma  
SPECIAL AGENDA**

**March 23, 2017**

### **CALL TO ORDER**

### **ROLL CALL**

### **ORDER OF BUSINESS**

1. Consider Approval of Retail Incentive Agreement Between Provident Realty Advisors, Inc. and City of Durant (C-2017-11)

### **ADJOURNMENT**

#### **CERTIFICATE**

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 16th day of March, 2017 and that an agenda of said meeting was posted at the place of such meeting at 8:40 a.m. on the 22nd day of March, 2017.

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Cynthia J. Price, City of Durant



# The City of Durant

## Office of City Clerk

### Memorandum

**Date:** 3/22/2017  
**To:** Mayor and City Council  
**From:** Tim Rundel, City Manager  
**Re:** Consider Approval of Retail Incentive Agreement Between Provident Realty Advisors, Inc. and City of Durant (C-2017-11)

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**BACKGROUND:** Representatives recently met with City Manager Tim Rundel and Durant Industrial Authority Director Tommy Kramer. Provident is interested in locating on the available corner of Main and 21<sup>st</sup> St. (the old Hoyte Buick Dealership) and building an Albertson's grocery store along with 2 outparcels for potential new restaurants.

Provident Realty Advisors met with staff and informed us that developers representing Albertson's were looking at multiple locations in Oklahoma and had received incentives from other communities for locating stores there because the inventory created a "destination retail opportunity." Albertsons Companies is one of the largest food and drug retailers in the United States, with both a strong local presence and national scale. The company operates stores, manufacturing plants and distribution centers across 35 states and the District of Columbia under 19 well-known banners including Albertsons, Safeway, Vons, Jewel-Osco, Shaw's, Acme, Tom Thumb, Randalls, United Supermarkets, Pavilions, Star Market, Haggen and Carrs.

When AB Acquisition LLC and Safeway Inc. joined forces on January 30, 2015, the combined company included 2,230 stores and a team of 250,000 people. The 19-banner company is now 26,000 people stronger, with a total workforce of 276,000 team members. Moreover, many of their employees have spent their entire careers with Albertsons, Safeway or one of the other Albertsons Companies banners. At the end of 2016, nearly 47,000 team members had 20 or more years of service.

When exploring the possibility of creating a retail development incentive agreement, I discovered that the cities of Ardmore, Oklahoma City, Broken Arrow, Tulsa, Owasso, Chickasha, Moore, Midwest City, Yukon, Elk City, Piedmont, and Lawton have entered into retail incentive development agreements (or commonly referred to as a Sales Tax Rebate Program). Many of these agreements simply allow for a percentage or dollar amount to be rebated back to the developer in order to make significant infrastructure improvements for the proposed commercial retail developments.

During the evaluation of a possible retail incentive process, the City of Durant determined that proposed development meets the goals listed below:

- Increase the tax base, including City sales taxes, real estate taxes, personal property taxes, payroll or earnings taxes, and utility revenue.
- Provide a better quality of life for citizens, including enhanced offerings in retail goods and services.
- Attract other types of development, including other retail businesses, office and residential projects.
- Significantly reduce the loss of sales and revenue from Durant residents who drive to an adjacent community to purchase or consume like goods and services (Denison and Sherman TX currently each have an Albertson's and a Kroger's Grocery Store). Currently, we have millions of dollars in potential sales tax revenue being pumped into the Denison and Sherman local economies.

During the evaluation of this proposal, the City fiscal impact analysis the City of Durant considered the following issues regarding the proposed project in order to show the public benefits to the City will be positive within a projected time frame:

- Cost of city services such as police and fire.
- Wear and tear on city streets and roads.
- Increased burden on water, sewer and drainage systems.
- Increase of jobs as a result of the development (75-100 FTE's)
- Increased annual collection of **property taxes** (ad valorem) as a result of this project (based upon an assessed value of approximately \$25,000,000 when the building is complete):
  - o Durant Public Schools: approximately \$145,000
  - o Bryan County: approximately \$43,000
  - o Bryan County EMS: approximately \$7,675
  - o Technology Center: approximately \$30,650
- Increase of **sales tax** as a result of the Albertson's development (based on approximately \$25,000,000 in annual sales) at 4.375%

Years 1-6 at 50% to the developer (approximately \$546,875) and 50% to the City (approximately \$546,875 per year) breakdown:

- General Fund (2%): approximately \$250,000 per year
- Capital Improvement Projects (1%): approximately \$125,000 per year
- Economic Development Fund (.25%): approximately \$31,250 per year
- SOSU-DCFA Fund (.25%): approximately \$31,250 per year
- DCFA – Sports Complex (.25%): approximately \$31,250 per year
- Durant Public Schools Fund (New High School) (5/8 of a penny): approximately \$78,125 per year.

After Year 6 the City will collect 100% of the sales tax (approximately \$1,093,000 + per year) and it will be distributed as follows:

- General Fund (2%): approximately \$500,000 per year
- Capital Improvement Projects (1%): approximately \$250,000 per year
- Economic Development Fund (.25%): approximately \$62,500 per year
- SOSU-DCFA Fund (.25%): approximately \$62,500 per year
- DCFA – Sports Complex (.25%): approximately \$62,500 per year
- Durant Public Schools Fund (New High School) (5/8 of a penny): approximately \$156,250 per year.

The proposed Retail Incentive Agreement is based upon a sales tax rebate over an 8-year term with a cap of \$3,000,000 (whichever comes first). The City of Durant is not obligated to pay the sales tax rebate to the developer until the "Condition for Eligibility" have been met and the business(es) are open for business. The funds rebated will used for infrastructure improvements (water, sanitary sewer, paving, landscaping, drainage, grading, etc.) for the project. It is important to note that the City of Durant will not be fronting the costs of these improvements for this development. The rebate monies will be paid out over the terms of the agreement after the store(s) are open for business.

## Council Information / Action Requested

Approve Retail Incentive Agreement Between Provident Realty Advisors, Inc. and City of Durant (C-2017-11)

## City Staff Information / Action Follow-up, if Council authorizes this action:

City Clerk - Obtain required signatures and place of record.

## ATTACHMENTS:

Description	Type	Upload Date
Retail Incentive Agreement between Provident Realty Advisors, Inc.	Exhibit	3/22/2017



## RETAIL INCENTIVE AGREEMENT

This RETAIL INCENTIVE AGREEMENT (this "Agreement") is entered into effective as of the date set forth on the signature page of this Agreement (the "Effective Date") between the CITY OF DURANT, OKLAHOMA, a municipal corporation of Bryan County, Oklahoma, ("City"), whose principal office is located at 300 W. Evergreen Street, Durant, OK 74701 and PROVIDENT REALTY ADVISORS, INC, a Texas corporation ("Developer"), whose principal office is located at 10210 N. Central Expressway, Suite 300, Dallas, TX 75231.

A. Developer intends to acquire the land described on Exhibit A attached to and made part of this Agreement (the "Land"), to demolish existing buildings on the Land, and to construct or to cause to be constructed new retail buildings and other improvements on the Land containing a minimum of fifty thousand (50,000) square feet of space in one or more buildings (the "Improvements").

B. The Improvements contemplated by Developer are expected to promote economic development, stimulate business and commerce, create additional employment opportunities, offer retail opportunities not now available, and generate substantial sales tax revenue for the City of Durant. After the completion of the project, the assessed value of the property will generate much needed additional ad valorem revenue for the Durant School District, Bryan County, Bryan County EMS and the Kiamichi Technology Center.

C. Developer has advised City that a contributing factor that would induce Developer to acquire the Land and develop the Improvements is an agreement by City to provide economic development incentives in the form of a Sales Tax Rebate to defray a portion of the costs to be incurred in, developing, and constructing infrastructure Improvements on the Land.

D. City is authorized under the laws of the State of Oklahoma, including Article 10 Section 14 of the Oklahoma Constitution, to establish economic development programs and to provide sales tax increments for development as part of its economic development plan and for its public purpose as defined in Article 10 Section 14.

E. In connection with the furtherance of public purposes and the economic development goals of City, City has determined that the development of the Land and the Improvements are in compliance with State of Oklahoma and City incentive guidelines and criteria.

F. The city council of the City (the "City Council") has approved the execution of this Agreement between City and Developer.

NOW THEREFORE, City and Developer, for good and valuable consideration, agree as follows:

1. **Definitions.** The following terms shall have the meanings indicated.

**"Condition for Eligibility"** means that one or more retail business(es) containing, in the aggregate, a minimum of fifty thousand (50,000) square feet of space, in one or more buildings, are open for business and operating within the Project.

**"Occupant"** means an occupant of the Project that is operating a business within the Project, whether as an tenant, ground lessee, owner or otherwise.

**"Payment Request"** means a notice from Developer to the City for each month of each Rebate Year during the Sales Tax Rebate Period which includes (a) a roster of Occupants of the Project for such month and

(b) such information as may be available to Developer regarding the Project Sales Tax Receipts for each Occupant for such month.

**"Project"** means the Land and the Improvements to be constructed on the Land, which Improvements will include (a) a grocery store operated by (i) Albertson's, Tom Thumb, Kroger, Brookshires, H-E-B, Sprouts, Homeland, Natural Grocers, Jumbo, United, or their affiliates or (ii) another regional or national grocery store operator or specialty grocery store operator reasonably acceptable to the City and (b) either (i) two outparcels which will be used separately or in combination for restaurant or other retail shopping center uses or (ii) if approved by the City pursuant to the platting process for the Project, one outparcel which will be used for restaurant or other retail shopping center uses.

**"Project Sales Tax Receipts"** means sales taxes actually received by the City pursuant to the Oklahoma Tax Code (including but not limited to all applicable statutes, regulations and agency rules of the Oklahoma Tax Commission) and which were generated by any business operated within the Project.

**"Rebate Year"** means each 365-day period during the Sales Tax Rebate Period, commencing on the date of first reported sales from the Project.

**"Sales Tax Rebate"** means the reimbursements to be paid to the Developer pursuant to the terms of this Agreement.

**"Sales Tax Rebate Cap"** means the sum of \$3,000,000.00.

**"Sales Tax Rebate Period"** means, subject to Section 3(e) of this Agreement, the period beginning on the date of the first reported sales from the Project and ending on the earlier of (a) 8<sup>th</sup> anniversary of such date, or (b) the date that this Agreement is sooner terminated pursuant to the express terms of this Agreement.

2. **Ownership Interest in Project.** Each party acknowledges and agrees that the Project is located entirely within the city limits of City, is not located in an improvement project financed by tax increment bonds, and does not include any property that is owned or leased by a member of City Council or by a member of City Planning Commission (herein so called) of the City. Developer represents and warrants to City that Developer (or its affiliate, successors or assigns) is or will be the owner of the Land and holds fee simple title to the Land, subject to all matters of record in the county in which the Land is located. If the Developer (or its affiliate, successors or assigns) does not acquire the Land by December 31, 2018, then (a) Developer, its successors and assigns, its successors and assigns will not be entitled to receive any Sales Tax Rebate from the City pursuant to this Agreement and (b) this Agreement will automatically terminate.

3. **Sales Tax Rebate.** For each month of each Rebate Year during the Sales Tax Rebate Period, the City will pay to Developer a Sales Tax Rebate from the Project up to but not in excess of the Sales Tax Rebate Cap. The amount of Sales Tax Rebate to be paid to Developer will be based on the following:

- (a) The City is not obligated to pay the Sales Tax Rebate to Developer until the Condition for Eligibility is first met.
- (b) The Sales Tax Rebate is equal to 50% of the Project Sales Tax Receipts, up to but not in excess of the Sales Tax Rebate Cap.
- (c) Notwithstanding anything contained herein to the contrary, in no event shall the Sales Tax Rebate owed to Developer by the City pursuant to this Agreement exceed the Sales Tax Rebate Cap. Accordingly, notwithstanding any other provision of this Agreement, once the aggregate payments by the City to Developer of sales tax rebates pursuant to this Agreement reaches the

Sales Tax Rebate Cap, then Developer shall not be entitled to any further Sales Tax Rebate payments from the City pursuant to this Agreement.

- (d) The actual amount of the Sales Tax Rebate will vary depending on actual sales reported from the Project and the actual Project Sales Tax Receipts.
- (e) The City and Developer anticipate that during the term of this Agreement the sales taxes assessed by the City on sales within the Project will be not less than 4.375% of such sales. For each year during the term of this Agreement that the sales taxes assessed by the City on sales within the Project are less than 4.375% on sales within the Project but not less than 3.375% on sales within the Project, then the term of this Agreement shall be extended by six months. For each year during the term of this Agreement that the sales taxes assessed by the City on sales within the Project are less than 3.375% on sales within the Project, the term of this Agreement shall be extended by one year.
- (f) It is understood and agreed by Developer that the City will only pay to Developer a Sales Tax Rebate based on the amount of Project Sales Tax Receipts received by the City.

4. **Payment of Sales Tax Rebates to Developer.** The City will pay the Sales Tax Rebate to Developer for each month of each Rebate Year during the Sales Tax Rebate Period in accordance with the following procedure:

- (a) On or before the 1<sup>st</sup> day of each month of each Rebate Year during the Sales Tax Rebate Period, Developer shall deliver a Payment Request to the City for the preceding month of each Rebate Year.
- (b) Within 10 days after receipt of the Payment Request for each month of each Rebate Year during the Sales Tax Rebate Period, the City will notify the Developer of the Project Sales Tax Receipts for each Occupant for each month of each Rebate Year, as determined by the Oklahoma Tax Commission.
- (c) Within 15 days after receipt of the Payment Request for each month of each Rebate Year during the Sales Tax Rebate Period, the City will pay to Developer the Sales Tax Rebate due to Developer for each month of each Rebate Year and will include with such payment the sales, Project Sales Tax Receipts, sales tax rate, and other information used to calculate the Sales Tax Rebate due to Developer for each month of each Rebate Year. All payments made to Developer pursuant to this Agreement shall be delivered to the notice address set forth in this Agreement or to such other address as Developer may from time to time designate by written notice to the City.
- (d) The City shall have the right, upon reasonable prior written notice to Developer, to inspect and audit the books and records of Developer regarding the total amount of Project Sales Tax Receipts and sales attributable to the Project, such right to be reasonably exercised by the City.
- (e) Developer shall use reasonable efforts to cause all leases of the Project and other contracts with Occupants relating to occupancy of the Project that are executed after the date of this Agreement to include provisions in which the Occupant agrees that the City will have the right, upon reasonable prior written notice to the Occupant and to Developer, to inspect and audit the books and records of such Occupant to confirm the total amount of sales taxes generated from the business of such Occupant at the Project, such right to be reasonably exercised by the City.

- (f) The City will use reasonable efforts to maintain the confidentiality of the Project Sales Receipts and any other information obtained by the City from any Occupant or Developer regarding sales, sales taxes, Project Sales Tax Receipts, and related information attributable to the Project, subject to any laws that may require the City to disclose such information. Unless otherwise determined by legislative, administrative, or judicial action, any information received relating to the Project Sales Receipts shall be considered confidential proprietary financial information not subject to immediate release to the public. The City shall seek a written opinion from the Oklahoma Attorney General raising any applicable exception to release prior to any release of such information to a third-party.
- (g) The City and Developer will reasonably cooperate with each other to determine sales, sales taxes, Project Sales Tax Receipts, and Sales Tax Rebate due to Developer attributable to the Project. If Developer and the City have any dispute regarding the Sales Tax Rebate due to Developer for any period of time, Developer and the City will in good faith and with due diligence endeavor to resolve such dispute.

5. **Validity of Incentives; Correction of Payments to Developer.**

- (a) It is understood and expressly agreed by Developer that City does not warrant or guarantee that the grant of tax rebates as provided for in this Agreement will be upheld as valid lawful, enforceable or constitutional in the event the statutory authority for same or City's use of this Agreement is challenged by court action. However, the City does represent and warrant that (i) this Agreement has been approved by the City Council, (ii) such approval is final, is unconditional, and is not subject to any appeal, and (iii) this Agreement has been duly authorized, executed and delivered by the City.
- (b) In the event of any legislative, administrative, or judicial action that limits or restricts City's ability to pay the sales taxes rebates to Developer as provided in this Agreement, then effective as of the date of such action or decision, the City will have no further obligation to pay a Sales Tax Rebate to Developer pursuant to this Agreement; provided, However, in such event, the City and Developer will in good faith endeavor to modify this Agreement to the extent permitted by such legislative, administrative, or judicial action and to the fullest extent then authorized under applicable law in order to legally accomplish the intent of this Agreement to pay a Sales Tax Rebate to Developer based on sales taxes generated from the Project, up to but not in excess of the Sales Tax Rebate Cap.
- (c) In the event the Oklahoma Tax Commission determines, for any reason, that any sales taxes were erroneously paid to City and the City shall be required to rebate or repay any portion of such taxes, then if the City has made Sales Tax Rebate payments to Developer pursuant to this Agreement for such rebated or repaid sales taxes, then the amount of such rebated or repaid sales taxes shall be deducted from the calculation of the subsequent sales taxes in determining the Sales Tax Rebate to be paid to Developer on such subsequent sales taxes.
- (d) If the calculation of sales taxes for a Rebate Year shall reflect an overpayment of the Sales Tax Rebate payments by City to Developer pursuant to this Agreement for such year, then Developer agrees to reimburse City the amount of such overpayment, through an adjustment from the next payment due in the next Rebate Year or promptly following the expiration of the Sales Tax Rebate Period should the overpayment occur in the final year of the Sales Tax Rebate Period. Notification of any such required adjustment will be provided to Developer at the earliest practical date.



- (e) If the calculation of sales taxes for a Rebate Year shall reflect an underpayment of the Sales Tax Rebate payments by City to Developer pursuant to this Agreement for such year, then the City agrees to pay to Developer the amount of such underpayment, through an adjustment to the next payment due in the next Rebate Year or promptly following the expiration of the Sales Tax Rebate Period should the overpayment occur in the final year of the Sales Tax Rebate Period. Notification of any such required adjustment will be provided to Developer at the earliest practical date.

6. **Waiver of Fees and Other Matters.** With respect to the Project, the City waives rezoning and platting application fees; the public improvement inspection fees, the detention fees; and the building permit fees. However, Developer will be required to pay all permit fees related to construction of the Project, such as plumbing, mechanical, and electrical permits, and for water meters and sewer taps.

7. **Default and Remedies; Limited Waiver of Sovereign Immunity.**

- (a) With respect to any failure of a the City or Developer to punctually and properly perform, observe or comply with any obligation contained in this Agreement, (each a "alleged default"), such party shall not be in default under this Agreement unless such party does not cure such failure within thirty (30) calendar days following written notice of such failure from the other party to this Agreement; provided, if the alleged default cannot reasonably be cured within said initial cure period, the aforesaid cure period will automatically be extended for an additional period of time as may be reasonably under the circumstances if the allegedly defaulting party commences to cure such alleged default within the initial cure period and thereafter diligently pursues the cure of such alleged default.
- (b) With respect to the remedies of Developer under this Agreement, the City expressly waives both its sovereign and its governmental immunity with respect to (i) actions to enforce specific performance of the City's obligations under this Agreement and (ii) writs of mandamus with respect to the performance of the City's obligations under this Agreement. The City acknowledges and agrees that the foregoing waiver may result in a judgment or writ compelling the City to pay funds to Developer in accordance with this Agreement, and the foregoing waiver of sovereign and governmental immunity shall apply with respect to the payment of such funds.
- (c) In no event shall the City or Developer be entitled to recover any punitive, consequential, speculative or any damages other than actual damages in connecting with any breach of this Agreement.
- (d) Neither delay in exercise nor partial exercise of any of party's remedies or rights hereunder or at law shall waive further exercise of those remedies or rights. A party's failure to exercise remedies or rights does not waive subsequent exercise of those remedies or rights. A party's waiver of any default does not waive further default. A party's waiver of any right in this Agreement or of any default is binding only if it is in writing. A party may remedy any default without waiving it.
- (e) Notwithstanding anything to the contrary contained in this Agreement, none of the directors, officers, employees, shareholders, members, managers, or partners of any party to this Agreement nor any other person, partnership, corporation or trust, as principal of any party to this Agreement, whether disclosed or undisclosed (each, an "Exculpated Party") shall have any personal obligation or liability hereunder, and the parties to this Agreement and their successors and assigns shall not seek to assert any claim or enforce any of its rights hereunder against any Exculpated Party.

9. **Assignment.** Developer and its successors and assigns may, from time to time, assign this Agreement without the prior written consent of City; provided, upon any assignment of this Agreement by Developer or its successors or assigns, the assigning party will promptly notify the City. Upon any such assignment, the City may require the execution and delivery by the assignee of an instrument, reasonably satisfactory to City in form and substance, in which the assignee assumes the obligations of Developer under this Agreement and agrees to be bound by the provisions of this Agreement during the remaining term of this Agreement as if such assignee had been the original Developer under this Agreement.

10. **Term.** The term of this Agreement shall expire upon the end of the Sales Tax Rebate Period. Any obligations of the parties, as well as any rights and benefits of the parties, which by the express terms of this Agreement or of necessity pertain to a period of time following the termination of this Agreement, shall survive termination.

11. **Notices.** Any notice required by this Agreement shall be deemed to be properly served if deposited in the U.S. mail by certified letter, return receipt requested, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just describes:

If intended for City, to:

City of Durant  
City Clerk  
City Manager  
300 W. Evergreen  
Durant, OK 74701

If intended for the Developer, to:

Provident Realty Advisors, Inc.  
10210 N. Central Expressway, Suite 300  
Dallas, Texas 75231  
Attn: Julian Hawes, Jr. and Jeff Johnston

12. **Miscellaneous.**

- (a) **Venue.** The obligations of the parties to this Agreement are performable in the county in which the Land is located, and if legal action is necessary to enforce same, exclusive venue shall lie in such county.
- (b) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Oklahoma.
- (c) **Legal Construction.** In case any 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 of this Agreement, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision to be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.
- (d) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

- (e) **Entire Agreement.** This Agreement embodies the complete agreement of the parties to this Agreement, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.
- (f) **Memorandum of Agreement.** The Parties agree to sign and record in the real property records of the county in which the Land is located a memorandum of this Agreement in a form reasonably acceptable to the parties to provide notice of the existence of this Agreement to subsequent bona fide purchasers of the Project and its binding effect on successors in interest to title to the Property or the Project.
- (g) **Amendment.** This Agreement may only be amended by the written agreement of the City and the Developer.
- (h) **No Third Party Beneficiaries.** This Agreement is for the benefit of the Parties and in no way creates a right or cause of action for the benefit of any third party.
- (i) **Authorization.** Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted or assumed under this Agreement.
- (j) **No Joint Venture or Partnership.** It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create a partnership or joint venture among the parties.
- (k) **Time for Performance.** All deadlines in this Agreement expire at 5:00 p.m. Central Standard Time (or Central Daylight Standard Time, if applicable) on the date on which the deadline occurs. If a deadline falls on a Saturday, Sunday, or federal or local holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or federal or local holiday.

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EXECUTED to be effective as this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

CITY:  
City of Durant, Oklahoma,  
a Municipal Corporation

ATTEST:

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

\_\_\_\_\_  
CYNTHIA PRICE, City Clerk

Name: \_\_\_\_\_

Title: \_\_\_\_\_

DEVELOPER:  
PROVIDENT REALITY ADVISORS, INC.,  
a Texas corporation

By: \_\_\_\_\_  
Julian Hawes, Jr., Vice President

**EXHIBIT A TO RETAIL INCENTIVE AGREEMENT  
LEGAL DESCRIPTION OF THE LAND**

**Parcel 1:**

A part of the Northeast Quarter of the Northwest Quarter (NE/4 NW/4) of Section 31, Township 6 South, Range 9 East of the Indian Base and Meridian, Bryan County, State of Oklahoma, according to the United States government survey thereof, being more particularly described as follows:

Beginning at the Southeast corner of Lot 1 in Block 10 of Sunset Heights Addition to the City of Durant, Bryan County, Oklahoma, according to the corrected amended plat thereof; thence South 16°59' West 20 feet for the point of beginning; thence South 16°59' West 221.8 feet to a point on the North right of way line of the St. Louis & San Francisco Railroad; thence South 73°01' East 286 feet along said right of way; thence North 16°59' East 200 feet (which point is 20 feet in a Southwesterly direction from the Southeast corner of Lot 7 in Block 9 in Sunset Heights addition); thence North 73°01' West 286 feet to the point of beginning.

**Parcel 2:**

All of Lot 1 and Lot 2 and the East 60 feet of Lot 3 in Block 10 in Sunset Heights Addition to the City of Durant, Bryan County, State of Oklahoma, according to the recorded plat thereof.

**Parcel 3:**

A part of the Northeast Quarter of the Northwest Quarter (NE/4 NW/4) of Section 31, Township 6 South, Range 9 East of the Indian Base and Meridian, Bryan County, State of Oklahoma, according to the United States government survey thereof, being more particularly described as follows:

Commencing at the Southwest corner of Lot 3 in Block 10 in Sunset Heights Addition to the City of Durant, Bryan County, Oklahoma; thence South 73°01' East 15 feet; thence South 16°59' West 20 feet for the true point of beginning; thence South 16°59' West 221.8 feet; thence South 73°01' East 210 feet; thence North 16°59' East 221.8 feet; thence North 73°01' West 210 feet to the point of beginning.

**Parcel 4:**

A part of the Northeast Quarter of the Northwest Quarter (NE/4 NW/4) of Section 31, Township 6 South, Range 9 East of the Indian Base and Meridian, Bryan County, State of Oklahoma, according to the United States government survey thereof, being more particularly described as follows:

Beginning at a point 15.0 feet East of the Northwest corner of Lot 3 in Block 10 of Sunset Heights Addition to Durant; thence North 73°01' West 15.0 feet; thence South 16°59' West 6.0 feet; thence North 73°01' West 4.20 feet; thence Northwesterly on a curve to the left having a radius of 3789.70 feet a distance of 80.55 feet; thence South 61°59'13" West 21.56 feet; thence South 16°59' West 182.22 feet; thence South 05°52'16" West 3.50 feet; thence South 75°14'12" East 114.20 feet; thence North 16°59' East 202.50 feet to the point of beginning.

**Parcel 5:**

Lots 8 and 9, Block 9, Sunset Heights Addition to the City of Durant, according to the plat recorded in Book 265, Page 57.

**Parcel 6:**

A part of the Northeast Quarter of the Northwest Quarter (NE/4 NW/4) and the Northwest Quarter of the Northeast Quarter (NW/4 NE/4) of Section 31, Township 6 South, Range 9 East, Bryan County, State of Oklahoma, according to the United States government survey thereof, being more particularly described as follows: Beginning at a point on the extension of the West boundary of Lot 6 in Block 9 in Sunset Heights Addition to the City of Durant, Oklahoma, which is 20 feet in a Southwesterly direction from the Southwest corner of said lot; thence Southwesterly along said extension a distance of 200 feet to a point on the North right of way line of the St. Louis and San Francisco Railroad, thence Southeasterly along said right of way a distance of 75 feet; thence Northeasterly a distance of 200 feet along the extension of the East boundary of said Lot 6 in Block 9; thence Northeasterly a distance of 75 feet to the point of beginning.

**Parcel 7:**

Lot 7, Block 9, Sunset Heights Addition to the City of Durant, Bryan County, State of Oklahoma, according to the plat recorded in Book 265, Page 57.

**Parcel 8:**

The East 62.5 feet of Lot 2, and the West Half (W/2) of Lot 3, Block 9, Sunset Heights Addition to the City of Durant, Bryan County, State of Oklahoma, according to the plat recorded in Book 265, Page 57; and

A tract of land situated in the Southwest Quarter of the Northwest Quarter of the Northeast Quarter (SW/4 NW/4 NE/4) of Section 31, Township 6 South, Range 9 East of the Indian Base and Meridian, Bryan County, State of Oklahoma, according to the United States government survey thereof, more particularly described as follows:

Commencing at the Southwest corner of Lot 4 in Block 9 in Sunset Heights Addition to the City of Durant, Oklahoma, according to the amended plat thereof, thence 20 feet South of said Southwest corner of said Lot 4 in said Block 9, if extended to a point on the South alley line in rear of said Block 9; thence Easterly along the South alley line for a distance of 112.5 feet, which is the point of beginning of this tract; thence continuing Southerly on a line parallel with the West line of Lot 2 in Block 9 in Sunset Heights Addition to the City of Durant, Oklahoma, to the North line of the right of way of the St. L. & S. F. Railway; thence South 72 degrees 36 minutes East and parallel with the alley in Block 9, for a distance of 100 feet; thence Northerly and parallel with the West line of this tract to the South line of the alley in the rear of said Block 9; thence Northwesterly along the South line of said alley for a distance of 100 feet to the place of beginning.

**Parcel 9:**

A part of the Southwest Quarter of the Northwest Quarter of the Northeast Quarter (SW/4 NW/4 NE/4) of Section 31, Township 6 South, Range 9 East of the Indian Base and Meridian, Bryan County, State of Oklahoma, according to the United States government survey thereof, being more particularly described as follows:

Beginning 20 feet South of the West line of Lot 4, Block 9, Sunset Heights Addition, if extended to a point on the South alley line of rear of Block 9 for point of beginning, thence continuing extended to

North right of way line of railroad, thence South 72 degrees 36 minutes East 112.5 feet, thence Northerly parallel with West line of said tract to South line of alley in rear of Block 9, thence Northwesterly along South line of alley 112.5 feet to the point of beginning.

**Parcel 10:**

Beginning 20' S of W line Lot 4 Blk 9 Sunset Hghts Addn if extended to pt on S Alley line of rear Blk 9 for POB; continuing extended to N ROW line RR, S72 degrees 26 minutes East 112.5', NLY parallel with W line of said tract to S line Alley in rear Blk 9 Nwly along S line of Alley 112.5' POB. Beginning at a point on the extension of the West Boundary of Lot 5 in Block 9 in Sunset Heights Addition to the City of Durant, Bryan County, Oklahoma, which is 20 feet in a Southwesterly direction from the Southwest Corner of said lot; Thence Southwesterly along said extension a distance of 2010 feet to a point on the North right-of-way line of the St. Louis and San Francisco Railroad; Thence Southeasterly along said right-of-way a distance of 75 feet; Thence Northeasterly a distance of 200 feet along the extension of the East boundary of said Lot 5 and Block 9; Thence Northwesterly a distance of 75 feet to the point of beginning. (210x187.51) pt SWNWNE Sec 31-6S-9E