

**ROADWAY IMPACT FEE REIMBURSEMENT AGREEMENT**  
(CHAN TRACT)

**F.M. 720 (McKinney Ranch Parkway) Improvements  
from Ridge Road to Hardin Boulevard**

STATE OF TEXAS                            §  
    §                            KNOW ALL BY THESE PRESENTS:  
COUNTY OF COLLIN                     §

The **CITY OF McKINNEY** ("City"), a home rule municipal corporation situated in Collin County, Texas, and **CHI CHU CHAN, TSUN HUEI CHAN AND YEN CHAU CHAN** (collectively, "Chan"), make and enter into this Roadway Impact Fee Reimbursement Agreement ("Agreement"), dated as of the date of execution and effective as of the Effective Date (defined herein).

**RECITALS**

WHEREAS, **F.M. 720 (McKinney Ranch Parkway)** is an arterial that serves Chan's property located on the south side of F.M. 720 west of Lake Forest Drive (the "Property"); and

WHEREAS, as a part of that Roadway Impact Fee Credit/Right-of-Way Dedication Agreement recorded in County Clerks Document No. 20040216000219730 of the Real Property Records of Collin County, Texas on or about February 16, 2004 (the "RIFCA"), Chan conveyed to the City the necessary right-of-way, slope easements, drainage easements, and temporary construction easements (the "ROW Parcel") for the construction of a portion of **F.M. 720 (McKinney Ranch Parkway)**, which the City had identified to be on the City's Impact Fee Roadway Improvement Plan (IFRIP), which IFRIP is a part of the City's Roadway Impact Fee Ordinance; and

WHEREAS, in exchange for conveying the ROW Parcel to the City, Chan was granted by City Roadway Impact Fee Credits valued at 308.50 Service Unit Equivalents; and

WHEREAS, pursuant to the terms of the RIFCA, Chan is now eligible for reimbursement of unused roadway impact fee credits, to be paid from those roadway impact fees collected within Service Area I, subject to availability of said funds; and

WHEREAS, Chan has requested and the City has agreed to reimburse Chan for the unused roadway impact fee credits as such funds become available.

**NOW THEREFORE**, in consideration of these premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which both Parties acknowledge, the City and Chan agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

#### **A. Definitions.**

1. *Chan* means Chi Chu Chan, Tsun Huei Chan, and Yen Chau Chan, their representatives, agents, contractors, employees, and consultants.
2. *City* means the City of McKinney, a Texas home-rule city and municipal corporation situated in Collin County, and includes its representatives, agents, assigns, inspectors, contractors, employees and consultants.
3. *Effective Date* means the date on which this Agreement is signed by the last Party to sign it.
4. *Notice* means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.
5. *Ordinance* means the "McKinney Impact Fees Article – Roadways" as set forth in Section 130-103, *et seq.*, of the Code of Ordinances, City of McKinney, Texas, and as it may further be amended, including any schedules or exhibits attached thereto.
6. *Parties* means the City and Chan.
7. *Property* means Chan's property located on the south side F.M. 720, west of Lake Forest Drive, a depiction of the remaining undeveloped portion of which is attached hereto as Exhibit A.
8. *RIFCA* means that Roadway Impact Fee Credit/Right-of-Way Dedication Agreement recorded in County Clerks Document No. 20040216000219730 of the Real Property Records of Collin County, Texas on or about February 16, 2004.
9. *Roadway Improvements* means right of way preparation, paving excavation, construction of concrete paving, curbs, signage, roadway transitions, turn lanes; pavement markings, sidewalks, irrigation, landscaping, lighting and any other improvements that were made to that portion of **F.M. 720 (McKinney Ranch Parkway)**, as described in the RIFCA.

10. *ROW Parcel* means the necessary right-of-way, slope easements, drainage easements, and temporary construction easements that were conveyed by Chan to the City to allow for the construction of the Roadway Improvements.
11. *Service Area I* means that geographic area within which roadway impact fees for the Roadway Improvements are to be collected by the City, as depicted on Exhibit B.
12. *Total Reimbursement Amount* means that amount to be reimbursed to Chan upon execution of this Agreement, totaling One Hundred Seventy-Four Thousand Three Hundred Sixty-Four and Twenty-Four/100<sup>ths</sup> Dollars (\$174,364.24).

**B. Interpretation of Terms and Incorporation of Exhibits.**

Except where the context otherwise clearly requires, in this Agreement:

1. words imparting the singular will include the plural and vice versa;
2. all exhibits attached to this Agreement are incorporated by reference for all pertinent purposes as though fully copied and set forth at length; and
3. references to any document means that document as amended or as supplemented from time to time; and references to any party means that party, its successors, and assigns.

**ARTICLE II**

**REIMBURSEMENT OF UNUSED  
ROADWAY IMPACT FEE CREDITS**

**A. Amount of Reimbursement**

Pursuant to the terms of the RIFCA, the Total Reimbursement Amount shall be equal to the number of unused roadway impact fee credits times the maximum impact fee per service units (as of the effective date of the RIFCA) to be collected times the fraction equal to the impact fee collected, (as set forth in the RIFCA) divided by the maximum impact fee per service unit (as of the effective date of the RIFCA). The Parties mutually agree that the Total Reimbursement Amount is **One Hundred Seventy-Four Thousand Three Hundred Sixty-Four and Twenty-Four/100<sup>ths</sup> Dollars (\$174,364.24)**.

**B. Timing of Reimbursement**

Pursuant to the terms of the RIFCA, City may make partial payments to Chan of the Total Reimbursement Amount as funds become available from the roadway

impact fees collected from Service Area I. The City agrees to make its first payment towards the Total Reimbursement Amount, in the amount of **One-Hundred Six Thousand Six Hundred Seventy-Five and Fifty-Two/100<sup>ths</sup> Dollars (\$106,675.52)**, within thirty (30) days after the execution of this Agreement. Chan shall be responsible for submitting any future reimbursement request(s) to City, at a rate of once every six months. As roadway impact fees are collected by City within Service Area I in the future, and said funds are available for payment to Chan, and Chan has submitted a timely reimbursement request to City, City shall make payments to Chan until payment of the Total Reimbursement Amount is complete. Such payments shall be made without interest.

**C. Termination of RIFCA**

The RIFCA shall terminate upon execution of this Agreement.

**ARTICLE III**

**AGREEMENT MAY NOT BE PLEDGED AS COLLATERAL**

Chan may not pledge this Agreement as collateral for purposes of securing financing for development of the Property.

**ARTICLE IV**

**GENERAL PROVISIONS**

**A. Notice of Default; Opportunity to Cure; Remedies**

1. Should any Party allege that the other has defaulted in the performance of any obligation hereunder, it will provide at least thirty (30) days written notice to the other Party specifying the nature of the alleged default and opportunity to cure the default before exercising any remedy related to the alleged default.
2. Upon the failure of either Party to comply with the provisions of this Agreement, which failure continues beyond the thirty (30) day notice and cure period provided above, the other Party shall have the right to enforce the terms and provisions of this Agreement by specific performance, or by such other legal or equitable relief to which the non-defaulting Party may be entitled.
3. Any remedy or relief described in this Agreement shall be cumulative of and in addition to any other remedies and relief available at law or in equity.
4. The foregoing notwithstanding, it is understood and agreed that in addition to any other remedy which the City may have upon default by Chan under

this Agreement, should Chan fail to comply with the Subdivision Ordinance or any City development regulation, the City may terminate this Agreement.

**B. *Entire Agreement; Interpretation of this Agreement***

1. This Agreement including any attached exhibits is the entire agreement between the Parties and supersedes all prior or contemporaneous understandings or representations, whether oral or written, respecting the subject matter herein. If there is a conflict between this Agreement and prior written or verbal representations, this Agreement shall control.
2. This Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strictly for or against either Party.

**C. *Amendment***

No amendment of this Agreement will be effective unless it is in writing and signed by the duly authorized representatives of the Parties hereto, which amendment will incorporate this Agreement in every particular not otherwise changed by the amendment.

**D. *No Amendment of Other Agreements***

Unless otherwise expressly stipulated herein, this Agreement is separate from and will not constitute an amendment or modification of any other agreement between the Parties.

**E. *Other Instruments; Actions***

The Parties hereto agree that they will take such further actions and execute and deliver such other and further consents, authorizations, instruments, or documents as are necessary or incidental to effectuate the purposes of this Agreement.

**F. *No Third Party Beneficiaries***

Except as expressly provided herein, nothing herein shall be construed to confer upon any person other than the Parties hereto any rights, benefits or remedies under or because of this Agreement.

**G. *Applicable Law; Venue***

This Agreement shall be construed under and according to the laws of the State of Texas. Personal jurisdiction and venue for any suit arising hereunder shall be in Collin County, Texas.

**H. Severability**

The provisions of this Agreement are severable, and if any court shall ever hold any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application of it to any person or circumstance of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances will not be affected by that and this Agreement will be construed as if it had never contained such invalid or unconstitutional portion therein.

**I. Counterparts**

The Parties may execute this Agreement in one or more duplicate originals each of equal dignity.

**J. Notices**

For the purposes of Notice, the addresses of the Parties will, until changed as provided below, be as follows:

**CHAN:**

Chi Chu Chan  
4120 Hampshire Street  
Plano, Texas 75093

**CITY OF MCKINNEY:**

Office of the City Manager  
222 N. Tennessee Street  
McKinney, Texas 75069

The Parties will have the right from time to time to change their respective addresses upon written notice to the other Party. If any date or notice period described in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period for calculating the Notice will be extended to the first business day following such Saturday, Sunday or legal holiday.

**K. No Waiver of Development Ordinances**

No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision or any other agreement between the Parties. No waiver of any provision of this Agreement will be deemed to constitute a continuing waiver unless expressly provided for by written amendment to this Agreement; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent defaults of the same type. Nothing herein shall waive any obligations of Chan under applicable ordinances, including but not limited to the subdivision ordinance, the sewer and water impact fee ordinance, or the roadway impact fee ordinance.

**L. Attorney's Fees**

Should either Party be required to resort to litigation to enforce the terms of this Agreement, the prevailing Party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other Party. If the court awards relief to both Parties, each will bear its own costs in their entirety except as otherwise specified by the court.

**M. Governmental Authority**

Nothing in this Agreement shall be construed to limit, restrict, modify, or abrogate the City's governmental authority or ordinances respecting the facilities and roadway improvements contemplated by the terms of this Agreement except as specifically waived or modified herein or by specific action of the City Council, nor the City's duty to provide for the public health, safety, and welfare in the construction or maintenance of the same.

**N. Assignability**

This Agreement shall not be assignable by Chan without the prior written consent of the City.

**O. Binding Obligation**

This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, successors, and assigns.

**P. Waiver of Claims.**

Chan voluntarily agreed to construct the Roadway Improvements for the Roadway Project. The construction of the Roadway Project is not a condition of approval or acceptance the development of the Property. **Chan waives any statutory or state constitutional takings claims under the Texas Constitution and Chapter 395 of the Tex. Loc. Gov't. Code and any federal constitutional claims. Chan further releases City from any and all claims based on excessive or illegal exactions. Chan acknowledges the receipt of good and valuable consideration for the release and waiver of such claims. Chan shall indemnify and hold harmless City from any claims and suits of third parties, including but not limited to Chan's successors, assigns, grantees, vendors, trustees or representatives, brought pursuant to this Agreement or the claims or types of claims described in this paragraph.**

**Q. Conflict of Interest.**

Intentionally Omitted.

IN WITNESS WHEREOF, CHAN and CITY have executed this Agreement as of the Effective Date.

**CITY OF MCKINNEY**

By: \_\_\_\_\_  
PAUL G. GRIMES  
City Manager

Date Signed: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
EMPRESS DRANE  
City Secretary  
TENITRUS BETHEL  
Deputy City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK S. HOUSER  
City Attorney

THE STATE OF TEXAS,  
COUNTY OF COLLIN

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared PAUL G. GRIMES, City Manager of the **CITY OF MCKINNEY**, a Texas Municipal Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on the City's behalf.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public \_\_\_\_\_ County, Texas  
My commission expires \_\_\_\_\_



**CHAN:**

By: Chi Chu Chan  
CHI CHU CHAN

Date Signed: Jan. 9, 2024

By: Tsun Huei Chan  
TSUN HUEI CHAN

Date Signed: Jan. 9, 2024

By: Yen Chau Chan  
YEN CHAU CHAN

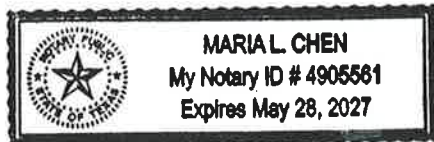
Date Signed: Jan. 9, 2024

THE STATE OF TEXAS,  
COUNTY OF Dallas

This instrument was acknowledged before me on the 9<sup>th</sup> day of January, 2024, by CHI CHU CHAN.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 9<sup>th</sup> DAY OF January, 2024.

Maria L. Chen  
Notary Public Dallas County, Texas  
My commission expires May 28, 2027

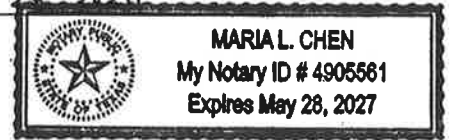


THE STATE OF TEXAS,  
COUNTY OF Dallas

This instrument was acknowledged before me on the 9th day of January, 2024, by TSUN HUEI CHAN.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 9th DAY OF January, 2024.

Maria L. Chen  
Notary Public Dallas County, Texas  
My commission expires May 28, 2027

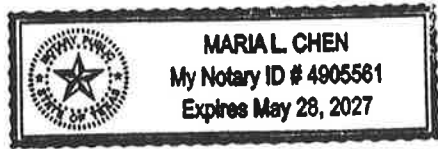


THE STATE OF TEXAS,  
COUNTY OF Dallas

This instrument was acknowledged before me on the 9th day of January, 2024, by YEN CHAU CHAN.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 9th DAY OF January, 2024.

Maria L. Chen  
Notary Public Dallas County, Texas  
My commission expires May 28, 2027



PREPARED IN THE OFFICES OF:

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

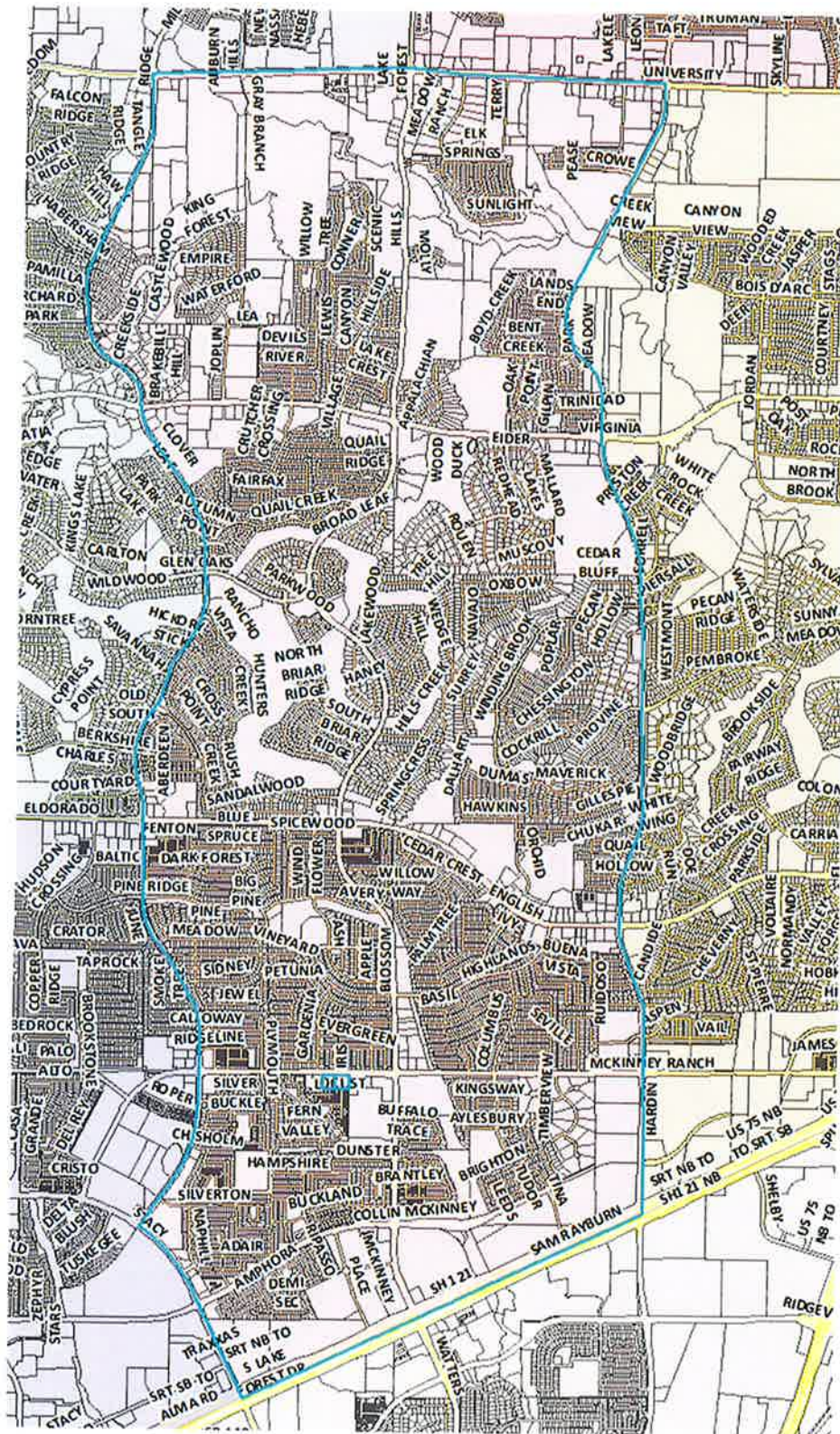
# Exhibit A

## DEPICTION OF REMAINING UNDEVELOPED CHAN PROPERTY



## Exhibit B

### DEPICTION OF SERVICE AREA I



Roadway Impact Fee Reimbursement Agreement –  
F.M. 720 (McKinney Ranch Parkway) Improvements  
CHAN TRACT