



line of the Dallas Area Rapid Transit (“DART”) Railroad right-of-way crossing (the “DART R-O-W”); and

WHEREAS, the Ordinance requires Developer to pay “Roadway Impact Fees,” defined below, to offset the impacts generated by such new development; and

WHEREAS, the segment of future Wilmeth Road extending in an easterly direction from State Highway 5 (N. McDonald Street) an overall distance of approximately three thousand three hundred twenty (3,320) linear feet to the western boundary of the DART R-O-W is a planned one hundred twenty-four foot (124’) wide four-lane divided roadway (“Future Wilmeth Road”) that is currently identified on the CITY’s Impact Fee Roadway Improvement Plan (“IFRIP”) which IFRIP is a part of the Ordinance; and

WHEREAS, Future Wilmeth Road is an arterial roadway that will serve Developer’s property known as the **Chi McIntyre Development** (the “Subdivision”), which Subdivision is located on the north side of Future Wilmeth Road and approximately 1,780 feet east of the intersection of State Highway 5 (N. McDonald Street) and Future Wilmeth Road in the City of McKinney, Collin County, Texas (the “Property”); and

WHEREAS, Developer plans to dedicate or cause the dedication of the right-of-way for and construct or cause the construction of the Roadway Improvements for approximately two thousand seven hundred (2,700) linear feet of the two (2) northern lanes of Future Wilmeth Road and all related appurtenances situated adjacent to the frontage of the Property, more particularly identified and defined as the “On-Site Segment” hereinbelow, under this Agreement, which Right-of-Way Dedication and Roadway Improvements are eligible for “Roadway Impact Fee Credits” (hereinafter defined) that shall be applied to development on the Property; and

WHEREAS, City and Developer are entering into a separate Chapter 380 Economic Development Agreement (“380 Agreement”) concurrently with this Agreement to compensate Developer for the design and construction or causing the design and construction of the balance of the Future Wilmeth Road that is not adjacent to the Property, more particularly identified as the “Off-Site Segment” hereinbelow, in accordance with the 380 Agreement; and

WHEREAS, for constructing or causing the construction of the “Roadway Project,” defined below, Developer shall receive Roadway Impact Fee Credits calculated in accordance with the Ordinance which credits or reimbursements shall attach to the Property.

**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 Developer agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

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

1. *City* means the City of McKinney, a Texas home-rule city and municipal corporation situated in Collin County, Texas.
2. *Developer* means McIntyre Phase I Owner, L.P., a Delaware limited partnership.
3. *Effective Date* means the date on which this Agreement is signed by the last Party to sign it.
4. *Impact Fee* or *Roadway Impact Fee* means a charge or assessment imposed by the City, pursuant to the Ordinance, against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. "Impact fees" or "roadway impact fees" do not include dedication of rights-of-way or easements or construction or dedication of drainage facilities, streets, sidewalks, or curbs if the dedication or construction is required by the City's Subdivision Regulations or the Unified Development Code and is necessitated by and attributable to the new development.
5. *Impact Fee Credits* or *Roadway Impact Fee Credits* mean a reduction in the amount of Impact Fees or Roadway Impact Fees that are provided to a developer to fairly reflect the value of any construction of, contributions to, or dedications of a roadway system facility agreed to or required by the City as a condition of development approval, established pursuant to the Ordinance that are credited on a vehicle mile basis against Roadway Impact Fees otherwise due from a development.
6. *Notice* means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.
7. *Off-Site Segment* means and includes the following Roadway Improvements illustrated in blue on Exhibit "B" and identified as the "MCKINNEY COST RESPONSIBILITY" on the face of Exhibit "B," as generally depicted on Exhibit "B." The definition of "Off-Site Segment" and references to the "Off-Site Segment" are included only for purposes of a

broader understanding of the relationship and connectivity between the Off-site Segment and this Roadway Project. The requirements regarding the "Off-Site Segment" are the subject of the 380 Agreement and do not impact this Agreement.

8. *On-Site Segment* means and includes the following "Roadway Improvements," defined herein below, and related appurtenances illustrated in red on Exhibit "B" and identified as the "DEVELOPER COST RESPONSIBILITY" on the face of Exhibit "B," as generally depicted on Exhibit "B" and detailed further in the "60% Plans" (hereinafter defined) and reflected on the Overall Project Control Page from the Approved 60% Civil Construction Plans for the Wilmeth Road Extension attached hereto as Exhibit "B-1," which Exhibit "B-1" is also attached hereto and incorporated herein by reference for all purposes allowed by law:

(a) Design and construction of the Roadway Improvements for the northern one-half of Future Wilmeth Road including the construction of approximately two thousand seven hundred (2,700) linear feet of the two (2) northern lanes of Future Wilmeth Road situated adjacent to the frontage of the Chi McIntyre Development (the "On-Site Segment") together with all related appurtenances thereto, and including the following:

(i) Connection of the On-Site Segment with the segment of the two northern lanes of Future Wilmeth Road extending in an easterly direction from the east side of State Highway 5 (N. McDonald Street) to the western boundary of the Property that are a part of the Off-Site Segment; and

(ii) Design and construction of any and all required turn lanes, deceleration lanes, curb openings, and left turn lanes necessary to provide ingress and egress to the Chi McIntyre Development; and

(iii) Design and construction of a transition from the two (2) northern lanes running along the frontage of the Chi McIntyre Development to one northern lane as Future Wilmeth Road approaches the eastern boundary of the Property to tie into the one northern lane that continues across the DART R-O-W

together with all related appurtenances including, by way of illustration and not limitation, transitions, intersection signalization, street lighting, curb and gutter, sidewalks, crosswalks, and drainage systems as required by the City's Master Thoroughfare Plan, Engineering Design Manual, and as determined or approved by the City's Director of Engineering for a completed roadway section.

It is specifically understood and agreed that the final location and alignment of the On-Site Segment may be altered from the location generally shown on Exhibit "B", and Exhibit "B-1", respectively conditioned upon the express advance written approval of the City's Director of Engineering or his designee, and such minor amendments will not trigger an amendment to this Agreement or require further approval by the City Council.

Notwithstanding anything to the contrary herein, the On-Site Segment described in this Agreement constitutes the full and complete extent of any on-site master plan roadway improvements that must be constructed by Developer in connection with the Subdivision as the Subdivision is currently proposed for development and depicted in Exhibit "C," attached hereto and incorporated herein by reference. Except as expressly set forth in this Agreement or required by generally applicable development regulations in effect on the Effective Date, the City shall not require Developer, as a condition to the issuance of or receipt of the Roadway Impact Fee Credits under this Agreement, to construct, dedicate or fund any other impact fee eligible roadway improvements.

9. *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 (the "McKinney Code") and as it may be further amended, including any schedules or exhibits attached thereto.
10. *Parties* means the City and Developer collectively, and *Party* shall mean either City or Developer individually.
11. *Property* means Developer's property known as the Chi McIntyre Development containing approximately 139.077 acres or 60,581,194 square feet of land, more or less, under contract to and proposed for development by Developer along the northern boundary of Future Wilmeth Road that is situated in the John Duncan Survey, Abstract No. 259 and the J. B. Wilmeth Survey, Abstract No. 984, City of McKinney, Collin County, Texas, which property is more particularly described and depicted in Exhibit "A" attached hereto and incorporated herein by reference for all purposes allowed by law.
12. *Right-of-Way Dedication* means the conveyance of the full width of the right-of-way and median, as required by the McKinney Code for a Major Arterial (M6D) with a 124' wide right-of-way in the John Duncan Survey, Abstract No. 259 and the J. B. Wilmeth Survey, Abstract No. 984, City of McKinney, Collin County, Texas, to the City of McKinney, Texas, by Right of Way Warranty Deed and/or Record Plat of the two (2) northern lanes of Future

Wilmeth Road within the On-Site Segment at no cost or expense to City as required by the McKinney Code.

13. *Roadway Improvements* means the 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 necessary for a complete roadway system in the area generally illustrated in red as on Exhibit "B" and identified as the "DEVELOPER COST RESPONSIBILITY" on the face of Exhibit "B," which Exhibit "B" is attached hereto and incorporated herein by reference for all purposes allowed by law, using those materials that meet the minimum requirements of the City's Subdivision Regulations contained in the Unified Development Code (the "UDC"), Chapter 150 of the Code of Ordinances, City of McKinney, Texas ("McKinney Code") and the City's Engineering Design Manual, and all engineering, surveying, inspection and permit fees for the Roadway Project being constructed for the benefit of the Chi McIntyre Development that is the subject of this Agreement.
14. *Roadway Project* as used in this Agreement means the construction of the On-Site Segment of Future Wilmeth Road and its connection to and with the Off-Site Segment into which traffic upon and across the On-Site Segment will ultimately travel.
15. *Service Unit* means one vehicle mile of travel in the afternoon peak hour of traffic and is also referred to as a "vehicle mile" in the Ordinance. The impact fees per service unit are as set forth in Impact Fee Schedule 1 and its various equivalency tables attached to Ordinance No. 2020-12-091 - as Impact Fee Schedule 1 and its various equivalency tables may be amended from time to time - and serve as the standardized measure of consumption or use of roadway facilities attributable to new development.

**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;
3. References to any document mean that document as amended or as supplemented from time to time; and
4. References to any party means that party, its successors, and assigns.

## **ARTICLE II**

### **DEVELOPER CONTRIBUTION OF RIGHT-OF-WAY DEDICATION AND ROADWAY IMPROVEMENTS**

#### **A. Right-of-Way Dedication**

Developer shall, as a condition to receiving Impact Fee Credits under this Agreement, make all necessary Right-of-Way Dedications to support the construction of all Roadway Improvements appurtenant to the Roadway Project depicted on the attached Exhibit “B” and as further detailed on Exhibit “B-1.”

#### **B. Roadway Improvements**

1. At this time, the Roadway Project is included in the City’s Impact Fee Roadway Improvement Plan (“IFRIP”). The Roadway Project is therefore eligible for Roadway Impact Fee Credits as calculated under the Ordinance.
2. Developer shall, as a condition to receiving Impact Fee Credits under this Agreement, construct or cause to be constructed the Roadway Project described in this Agreement and depicted on the attached Exhibits B and B-1. Developer shall, as a condition to receiving Impact Fee Credits under this Agreement, also construct or cause to be constructed all Roadway Improvements appurtenant to the Roadway Project.
3. City agrees to grant Developer Roadway Impact Fee Credits in conjunction with the City’s final acceptance of the Roadway Project constructed by or caused to be constructed by Developer.
  - (a) The Roadway Impact Fee Credits for the On-Site Segment shall vest and attach to the Property at the time the City final accepts the On-Site Segment.
  - (b) Developer shall not be entitled to receive any Roadway Impact Fee Credits for the Off-Site Segment or any other facilities save and except the On-Site Segment pursuant to this Agreement.
4. The Roadway Impact Fee Credits that attach to the Property for the completion of the On-Site Segment and all related appurtenances thereto under this Agreement are **620,9649 Service Units** of Roadway Impact Fee Credits that will satisfy the Roadway Impact Fee requirements for **620,965 square feet of industrial warehousing**. The Roadway Impact Fee Credits identified in this paragraph shall be available for Developer’s use to reduce impact fees imposed on new developments contained within the Property following the City’s final acceptance of the construction of the On-Site Segment.

## **ARTICLE III**

### **IMPACT FEE CREDITS**

#### **A. Assignment and Expiration of Roadway Impact Fee Credits**

The Roadway Impact Fee Credits granted under this agreement shall only be assigned with the City's consent pursuant to Section 130-111 of the Ordinance. The Impact Fee Credits shall have no expiration; but in any event, the Impact Fee Credits shall only be applied to the Property. Application of the Impact Fee Credits to future developed lots and any reimbursement for unused Impact Fee Credits shall be governed by the Ordinance. In no event shall the offsets provided for in this Agreement be transferred to any development outside of the Property that is specifically associated with such offsets or to a lot or parcel or tract of land situated in a different roadway area.

#### **B. Value of Roadway Improvements**

Developer and City agree that the value of the Roadway Improvements shall be expressed in Service Units.

#### **C. Use of Impact Fee Credits and Reimbursements**

1. Roadway Impact Fee Credits shall be used as development occurs on the Property. Service Unit calculations for proposed uses on the Property shall be performed in accordance with the then existing tables of the Ordinance.
2. If Developer has started construction of the Roadway Project or caused construction of the Roadway Project to begin but the Roadway Project has not yet been completed and accepted by the City at the time Developer applies for and is issued one or more building permits for vertical development on the Property, the City shall calculate the number of Service Units due and compute the amount of Impact Fees to be collected for each building permit applied for by Developer and issued by City.
3. Developer shall pay the Roadway Impact Fees then due to City for each building permit requested and issued by City.
4. City shall hold the amount paid by Developer for Roadway Impact Fees in escrow to allow Developer to complete or cause the completion of the construction of the Roadway Project and obtain the City's final acceptance of the Roadway Project.
5. Within ten (10) business days after City's final acceptance of the Roadway Project constructed or caused to be constructed by Developer, City shall

refund to Developer the amount of Roadway Impact Fees paid by Developer to City for each building permit issued by City for vertical development on the Property up to the maximum amount of Service Units earned by Developer as Roadway Impact Fee Credits under this Agreement. City shall be entitled to retain any amount of Roadway Impact Fees paid by Developer in excess of the number of Service Units earned by Developer as Roadway Impact Fee Credits for the construction of the Roadway Project.

6. Unused Roadway Impact Fee Credits shall not be transferable and cannot be applied to other fees, converted to cash, or used on other property; however, Roadway Impact Fee Credits shall be subject to any reimbursements in accordance with Section 130-111(b)(4) of the McKinney Code. Upon the exhaustion of the Roadway Impact Fee Credits by Developer on the Property, any additional development on the Property (such as the construction of additional square footage of warehousing) shall pay then existing Roadway Impact Fees or receive credits for construction of additional roadway improvements under then existing ordinances.

***D. Developer's Responsibilities under Development Ordinances***

Nothing herein shall relieve the Developer from its responsibilities for construction of public improvements under the UDC and the Engineering Design Manual upon development of the Property.

**ARTICLE IV**

**AGREEMENT MAY NOT BE PLEDGED AS COLLATERAL**

Developer may not pledge this Agreement, or any Service Units or Roadway Impact Fee Credits granted hereunder, as collateral for purposes of securing financing for development of the Property or any other purpose.

**ARTICLE V**

**CONFLICT OF INTEREST**

- A. Developer covenants and agrees that Developer and its associates and employees shall have no interest, and shall acquire no interest, either direct or indirect, which shall conflict in any manner with the performance of the services called for under this Agreement. All activities, investigations and other efforts made by Developer pursuant to this Agreement shall be conducted by employees, associates or subcontractors of Developer.
- B. In addition, Developer shall comply with the requirements of Texas Government Code § 2252.908 by completing and submitting Form 1295 to the Texas Ethics

Commission (“Commission”) at the time Developer submits this signed Agreement to City, and as follows:

Form 1295 Filing Process: The Commission has made available on its website a new filing application that must be used to file Form 1295. Developer must use the application to enter the required information on Form 1295 and print a copy of the completed form, which shall include a certification of filing that shall contain a unique certification number. An authorized agent of Developer must sign the printed copy of the form and complete the “unsworn declaration” which includes, among other things, the date of birth and address of the authorized representative signing the form. The completed Form 1295 with the certification of filing must be filed with the City.

The City must notify the Commission, using the Commission’s filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the Agreement binds all parties to the Agreement. The Commission will post the completed Form 1295 to its website within seven business days after receiving notice from the CITY.

Form 1295 Availability: Certificate of Interested Parties Form is available from the Texas Ethics Commission website at the following address:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

For questions regarding and assistance in filling out Form 1295, please contact the Texas Ethics Commission at 512-463-5800.

## **ARTICLE VI**

### **REQUIRED ANTI-BOYCOTTING AND ANTI-DISCRIMINATION PROVISIONS**

#### **A. Prohibition on Contracts with Companies Boycotting Israel**

In accordance with Tex. Gov’t Code § 2271.002 a Texas governmental entity may not enter into an agreement with a company for the provision of goods or services unless the agreement contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.

Tex. Gov’t Code § 2271.002 does not apply to: (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless DEVELOPER is not subject to Tex. Gov’t Code Chapter 2271 for the reasons stated herein, the signatory executing this Agreement on behalf of DEVELOPER verifies by its signature on this Agreement that

DEVELOPER does not boycott Israel and will not boycott Israel during the term of this Agreement.

**B. *Prohibition on Contracts with Companies Boycotting Energy Companies***

In accordance with Tex. Gov't Code Chapter 2276, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

Chapter 2276 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless DEVELOPER is not subject to Chapter 2276 for the reasons stated herein, the signatory executing this Agreement on behalf of DEVELOPER verifies by its signature on this Agreement that DEVELOPER does not boycott energy companies and will not boycott energy companies during the term of this Agreement.

**C. *Prohibition on Contracts with Companies Boycotting any Firearm Entity or Firearm Trade Association***

In accordance with Tex. Gov't Code Chapter 2274, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against any firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against any firearm entity or firearm trade association.

Chapter 2274 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). In addition, this provision does not apply to: (1) a contract with a sole-source provider; or (2) a contract for which the governmental entity did not receive any bids from a company that is able to provide the required written verification. Unless DEVELOPER is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of DEVELOPER verifies by its signature on this Agreement that DEVELOPER does not boycott any firearm entity or firearm trade association and will not boycott any firearm entity or firearm trade association during the term of this Agreement.

*[Remainder of page intentionally left blank.]*

## **ARTICLE VII**

### **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 Developer under this Agreement should Developer fail to comply with the City's Subdivision Regulations 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:

**DEVELOPER:**

McIntyre Phase I Owner, L.P.  
Attn: John B. Cooper  
3819 Maple Avenue  
Dallas, Texas 75219  
Email: bcooper@crowholdings.com

**CITY OF MCKINNEY:**

Office of the City Manager  
P.O. Box 517  
401 E. Virginia Street  
McKinney, Texas 75069  
E-mail: citymgr@mckinneytexas.org

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 Developer under applicable ordinances, including but not limited to the Subdivision Regulations, the City’s Engineering Design Manual, the McKinney Utility Impact Fees Article, or the McKinney Impact Fee Article – Roadways.

**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 Developer without the prior written consent of the City, which such consent will not be unreasonably withheld, conditioned, or delayed. However, in no event shall the Roadway Impact Fee Credits provided for in this Agreement be transferred to any development not situated within the Property that is the subject of this Agreement.

**O. Binding Obligation**

This Agreement shall become a binding obligation on the Parties subject to and conditioned on Developer acquiring fee simple title in and to the Property on or within one hundred twenty (120) days after the Effective Date, unless such period is extended by mutual agreement of the parties. Once this Agreement becomes binding, it shall inure to the benefit of the Parties and their representatives, successors, and assigns.

**P. Waiver of Claims.**

Developer has voluntarily agreed to undertake the construction of the Roadway Improvements for the Roadway Project in exchange for Roadway Impact Fee Credits to be applied to the Property. The construction of the Roadway Project is not a condition of approval or acceptance the development of the Property. **Developer 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. Developer further releases City from any and all claims based on excessive or illegal exactions. Developer acknowledges the receipt of good and valuable consideration for the release and waiver of such claims. Developer shall indemnify and hold harmless City from any claims and suits of third parties, including but not limited to Developer's successors, assigns, grantees, vendors, trustees or representatives, brought pursuant to this Agreement or the claims or types of claims described in this paragraph.**

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

**CITY OF MCKINNEY**

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

ATTEST:

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

APPROVED AS TO FORM:

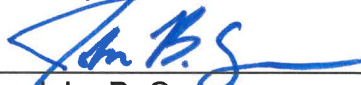
\_\_\_\_\_  
MARK S. HOUSER  
City Attorney

**MCINTYRE PHASE I OWNER, L.P.,**  
a Delaware limited partnership

By: MCINTYRE PHASE I GP, L.L.C.,  
a Delaware limited liability company  
its general partner

By: MCINTYRE PHASE I, L.P.  
a Delaware limited partnership  
its sole managing member

By: CHI LTH GP, L.L.C.,  
a Delaware limited liability company,  
its general partner

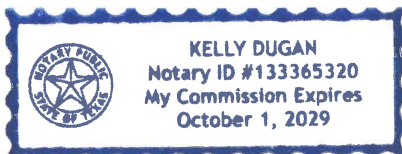
By:   
Name: John B. Cooper  
Title: Vice President


Date Signed: 4/9/2026

THE STATE OF TEXAS,  
COUNTY OF DALLAS

This instrument was acknowledged before me on the 9<sup>th</sup> day of April, 2026, by John B. Cooper, in his capacity as a Vice President of CHI LTH GP, L.L.C, a Delaware limited liability company, the general partner of MCINTYRE PHASE I, L.P., a Delaware limited partnership, which is the sole managing member of MCINTYRE PHASE I GP, L.L.C., the general partner of MCINTYRE PHASE I OWNER, L.P., a Delaware limited partnership, on behalf of said limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of said limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 9<sup>th</sup> DAY OF April, 2026.



  
Notary Public Dallas County, Texas  
My commission expires 10/01/2029

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**

### **Metes and Bounds Description of the Property**

*[See following six (6) pages.]*

**BEING** a tract of land situated in the John Duncan Survey, Abstract No. 259 and the J. B. Wilmeth Survey, Abstract No. 984, City of McKinney, Collin County, Texas, and being a portion of a called 141.692-acre tract of land, described in a Special Warranty Deed to Sloan Creek, Ltd., and PLF, Ltd., as recorded in Instrument No. 20070621000853510, a portion of a called 12.134-acre tract of land, described in a Special Warranty Deed to Sloan Creek, Ltd., and PLF, Ltd., as recorded in Instrument No. 20070402000441420, a portion of a called 8.315-acre tract of land, described in a Special Warranty Deed to Sloan Creek, Ltd., and PLF, Ltd., as recorded in Instrument No. 20170207000168580, 50% interest conveyed in a Special Warranty Deed to Rose Petefish, as recorded in Instrument No. 2022000175992, all of the Official Public Records of Collin County, Texas, and being more particularly described as follows:

**COMMENCING** at a 5/8-inch iron rod found in an asphalt road known as McIntyre Road (County Road 274) for the southeast corner of said 141.692-acre tract, same being on the west line of the Dallas Area Rapid Transit (D.A.R.T.) right of way as described in Volume 4951, Page 819 of the Land Records of Collin County, Texas, same also being on the north line of a 60' wide right of way dedication for said McIntyre Road (County Road 274) as depicted in McKinney/Highway 5 Industrial Park, an addition to the City of McKinney, according to the plat thereof recorded in Volume J, Page 851 of the Plat Records of Collin County, Texas;

**THENCE** North 15°59'29" East, along the east line of said 141.692-acre tract and the west line of said Dallas Area Rapid Transit (D.A.R.T.) right of way, a distance of 66.37 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for the **POINT OF BEGINNING** of the herein described tract;

**THENCE** North 89°33'58" West, departing the east line of said 141.692-acre tract and the west line of said Dallas Area Rapid Transit (D.A.R.T.) right of way, crossing said 141.692-acre tract, a distance of 1,027.80 feet to a point at the beginning of a tangent curve to the right with a radius of 763.00 feet, a central angle of 36°52'07", and a chord bearing and distance of North 71°07'54" West, 482.55 feet;

**THENCE** in a westerly direction, continuing across said 141.692-acre tract, with said tangent curve to the right, an arc distance of 490.98 feet to a point for corner;

**THENCE** North 52°41'50" West, continuing across said 141.692-acre tract, passing the westerly line of said 141.692-acre tract and the east line of aforesaid 8.315-acre tract, crossing said 8.315-acre tract, passing the west line of said 8.315-acre tract and the east line of aforesaid 12.134-acre tract, continuing across said 12.134-acre tract, a total distance of 1,063.00 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner;

**THENCE** North 49°37'11" West, continuing across said 12.134-acre tract, a distance of 120.51 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner on the north line of said 12.134-acre tract;

**THENCE** North 89°40'58" East, along the north line of said 12.134-acre tract, a distance of 214.30 feet to the northeast corner of said 12.134-acre tract, same being on the westerly line of aforesaid 8.315-acre tract, from which, a found 3/8-inch iron rod bears South 89°40'58" West, 1.73 feet;

**THENCE** North 00°46'18" East, along the westerly line of said 8.315-acre tract, a distance of 41.46 feet to a 1/2-inch iron rod found on the easterly line of Lot 1, Block A of Creek Point Addition,

an addition to the City of McKinney, according to the plat thereof recorded in Volume M, Page 576 of the Plat Records of Collin County, Texas;

**THENCE** North 03°14'26" East, continuing along the westerly line of said 8.315-acre tract and the easterly line of said Lot 1, Block 1, a distance of 90.09 feet to a point for corner;

**THENCE** North 01°51'26" East, continuing along the westerly line of said 8.315-acre tract and the easterly line of said Lot 1, Block 1, a distance of 99.60 feet to a point for corner;

**THENCE** North 00°42'07" East, continuing along the westerly line of said 8.315-acre tract and the easterly line of said Lot 1, Block 1, a distance of 82.61 feet to a 1/2-inch iron rod with a plastic cap, stamped "WIER & ASSOC" found for the northwest corner of said 8.315-acre tract, same being an inner ell corner of said Lot 1, Block 1;

**THENCE** South 88°30'37" East, continuing along the easterly line of said Lot 1, Block 1 and along the north line of said 8.315-acre tract, a distance of 145.13 feet to the southerly southwest corner of a called 12.596-acre tract of land, described in a deed to 3352 McDonald ST Owner LLC, as recorded in Instrument No. 20220401000530720 of the Official Public Records of Collin County, Texas;

**THENCE** South 89°44'10" East, along the southernmost, south line of said 12.596-acre tract and continuing along the north line of said 8.315-acre tract, a distance of 174.42 feet to a metal corner post in concrete found for the northeast corner of said 8.315-acre tract, same being on the westerly line of aforesaid 141.692-acre tract;

**THENCE** South 88°51'13" East, continuing along the south line of said 12.596-acre tract and the westerly line of said 141.692-acre tract, a distance of 35.60 feet to the southeast corner of said 12.596-acre tract, same being in a creek;

**THENCE** in a northerly direction, along the westerly line of said 141.692-acre tract and the easterly line of said 12.596-acre tract, and along the meanders of said creek, the following:

North 34°56'11" East, a distance of 41.02 feet to a point for corner;

North 54°19'54" East, a distance of 51.50 feet to a point for corner;

North 19°56'21" East, a distance of 88.76 feet to a point for corner;

South 78°14'34" East, a distance of 73.66 feet to a point for corner;

North 40°03'03" East, a distance of 36.34 feet to a point for corner;

North 14°34'03" East, a distance of 83.16 feet to a point for corner;

North 54°23'37" East, a distance of 100.20 feet to a point for corner;

North 19°53'51" East, a distance of 26.46 feet to a point for corner;

North 00°19'55" East, a distance of 38.30 feet to a point for corner;

North 37°03'47" West, a distance of 75.35 feet to a point for corner;  
North 35°45'27" East, a distance of 66.12 feet to a point for corner;  
North 67°23'39" East, a distance of 124.24 feet to a point for corner;  
North 05°54'59" East, a distance of 107.39 feet to a point for corner;  
North 11°45'17" East, a distance of 55.55 feet to a point for corner;  
North 49°09'02" East, a distance of 62.47 feet to a point for corner;  
North 85°42'27" East, a distance of 59.24 feet to a point for corner;  
North 48°54'20" East, a distance of 48.41 feet to a point for corner;  
North 79°10'25" East, a distance of 48.58 feet to a point for corner;  
South 71°14'34" East, a distance of 50.44 feet to a point for corner;  
North 61°33'36" East, a distance of 48.65 feet to a point for corner;  
North 67°02'13" East, a distance of 62.71 feet to a point for corner;  
  
North 45°56'27" East, a distance of 87.70 feet to the easternmost, northeast corner of said 12.596-acre tract;

**THENCE** North 60°49'19" West, continuing along the westerly line of said 141.692-acre tract and along the northerly line of said 12.596-acre tract, and continuing along said creek, a distance of 3.96 feet to the southeast corner of a called 6.81-acre tract of land, described in a deed to the City of McKinney, as recorded in Volume 5149, Page 642 of the Land Records of Collin County, Texas;

**THENCE** in a northerly direction, along the westerly line of said 141.692-acre tract and the easterly line of said 6.81-acre tract, and continuing along the meanders of said creek, the following:

North 39°27'07" East, a distance of 52.49 feet to a point for corner;  
North 26°44'28" East, a distance of 38.87 feet to a point for corner;  
North 46°54'48" East, a distance of 23.81 feet to a point for corner;  
South 84°18'46" East, a distance of 29.84 feet to a point for corner;  
South 68°06'33" East, a distance of 32.04 feet to a point for corner;  
North 78°34'44" East, a distance of 31.52 feet to a point for corner;  
  
North 57°56'38" East, a distance of 61.42 feet to a point for corner;

North 10°12'45" West, a distance of 41.51 feet to a point for corner;  
North 49°18'10" West, a distance of 62.38 feet to a point for corner;  
North 37°51'04" West, a distance of 20.85 feet to a point for corner;  
North 17°44'10" East, a distance of 24.01 feet to a point for corner;  
North 72°44'02" East, a distance of 46.77 feet to a point for corner;  
South 82°18'24" East, a distance of 64.87 feet to a point for corner;  
North 87°05'37" East, a distance of 26.06 feet to a point for corner;  
North 19°23'37" East, a distance of 179.78 feet to a point for corner;  
North 05°32'28" East, a distance of 44.12 feet to a point for corner;  
North 25°34'09" West, a distance of 29.63 feet to a point for corner;  
North 17°22'54" West, a distance of 37.51 feet to a point for corner;  
North 39°02'48" East, a distance of 56.33 feet to a point for corner;  
North 15°44'20" West, a distance of 33.28 feet to a point for corner;  
North 38°04'58" West, a distance of 72.80 feet to a point for corner;  
North 11°15'05" West, a distance of 17.20 feet to a point for corner;  
North 08°36'01" East, a distance of 37.17 feet to a point for corner;  
North 37°57'37" West, a distance of 54.54 feet to a point for corner;  
North 10°50'20" East, a distance of 18.46 feet to a point for corner;  
North 34°01'44" East, a distance of 48.46 feet to a point for corner;  
North 04°10'42" East, a distance of 18.13 feet to a point for corner;  
North 09°09'28" West, a distance of 61.75 feet to a point for corner;  
North 05°15'45" West, a distance of 32.87 feet to a point for corner;  
North 08°40'23" East, a distance of 37.94 feet to a point for corner;  
North 25°23'20" West, a distance of 79.64 feet to a point for corner;  
North 35°26'29" West, a distance of 23.68 feet to a point for corner;

North 56°49'41" West, a distance of 57.16 feet to a point for corner;

North 73°08'49" West, a distance of 78.98 feet to a point for corner;

North 57°55'12" West, a distance of 38.07 feet to a point for corner;

North 12°56'22" East, a distance of 38.56 feet to a point for corner;

North 59°40'06" East, a distance of 41.46 feet to a point for corner;

North 69°44'56" East, a distance of 124.15 feet to a point for corner;

North 36°48'43" West, a distance of 9.05 feet to a 5/8-inch iron rod with a plastic cap, stamped "BURNS SURVEYING" found for the northeast corner of said 6.81-acre tract and the westerly, northwest corner of said 141.692-acre tract, same being on the south line of a called 27.26-acre tract of land, described in a deed to Trinity Events, LLC, as recorded in Instrument No. 20210302000400740 of the Official Public Records of Collin County, Texas;

**THENCE** South 88°39'31" East, departing said creek, along the south line of said 27.26-acre tract and continuing along the westerly line of said 141.692-acre tract, a distance of 190.69 feet to a disturbed 1/2-inch iron rod found for the southeast corner of said 27.26-acre tract;

**THENCE** North 02°00'41" East, along the east line of said 27.26-acre tract and continuing along the westerly line of said 141.692-acre tract, a distance of 416.28 feet to a steel I-beam found for an inner ell corner of said 27.26-acre tract and the northwest corner of said 141.692-acre tract;

**THENCE** South 89°07'23" East, along a south line of said 27.26-acre tract and the northerly line of said 141.692-acre tract, a distance of 668.16 feet to a point for corner in center of the East Fork of the Trinity River, same being on the southerly line of Tract 1 (called 189.07-acres), described in a deed to Lacore Agriculture, LLC, as recorded in Instrument No. 20141017001138080 of the Official Public Records of Collin County, Texas;

**THENCE** in in a southerly and easterly direction, along the northerly line of said 141.692-acre tract, the southerly line of said Tract 1 (called 189.07-acres), and along the meanders of said East Fork of the Trinity River, the following:

South 40°49'58" West, a distance of 65.49 feet to a point for corner;

South 56°13'19" West, a distance of 102.62 feet to a point for corner;

South 71°17'38" West, a distance of 127.04 feet to a point for corner;

South 67°45'27" West, a distance of 156.07 feet to a point for corner;

South 23°57'02" West, a distance of 85.39 feet to a point for corner;

South 05°43'57" West, a distance of 80.19 feet to a point for corner;

South 27°55'54" East, a distance of 77.11 feet to a point for corner;  
South 55°12'14" East, a distance of 215.45 feet to a point for corner;  
South 77°41'37" East, a distance of 80.78 feet to a point for corner;  
North 72°31'36" East, a distance of 184.58 feet to a point for corner;  
North 48°05'49" East, a distance of 162.55 feet to a point for corner;  
North 58°52'53" East, a distance of 62.08 feet to a point for corner;  
South 58°26'30" East, a distance of 29.83 feet to a point for corner;  
South 02°50'41" West, a distance of 133.93 feet to a point for corner;  
South 20°02'01" East, a distance of 81.44 feet to a point for corner;  
South 53°09'06" East, a distance of 113.71 feet to a point for corner;  
North 70°48'51" East, a distance of 124.35 feet to a point for corner;  
South 89°23'42" East, a distance of 256.70 feet to a point for corner;

North 73°10'41" East, a distance of 50.40 feet to the easterly, northeast corner of said 141.692-acre tract, and the southeast corner of said Tract 1 (called 189.07-acres), same being on the west line of aforesaid Dallas Area Rapid Transit (D.A.R.T.) right of way;

**THENCE** South 15°59'29" West, along the east line of said 141.692-acre tract and the west line of said Dallas Area Rapid Transit (D.A.R.T.) right of way, a distance of 3,198.57 feet to the **POINT OF BEGINNING** and containing 139.077 acres (60,58,190 square feet) of land, more or less

**Exhibit “B”**

Wilmeth Road Project Layout

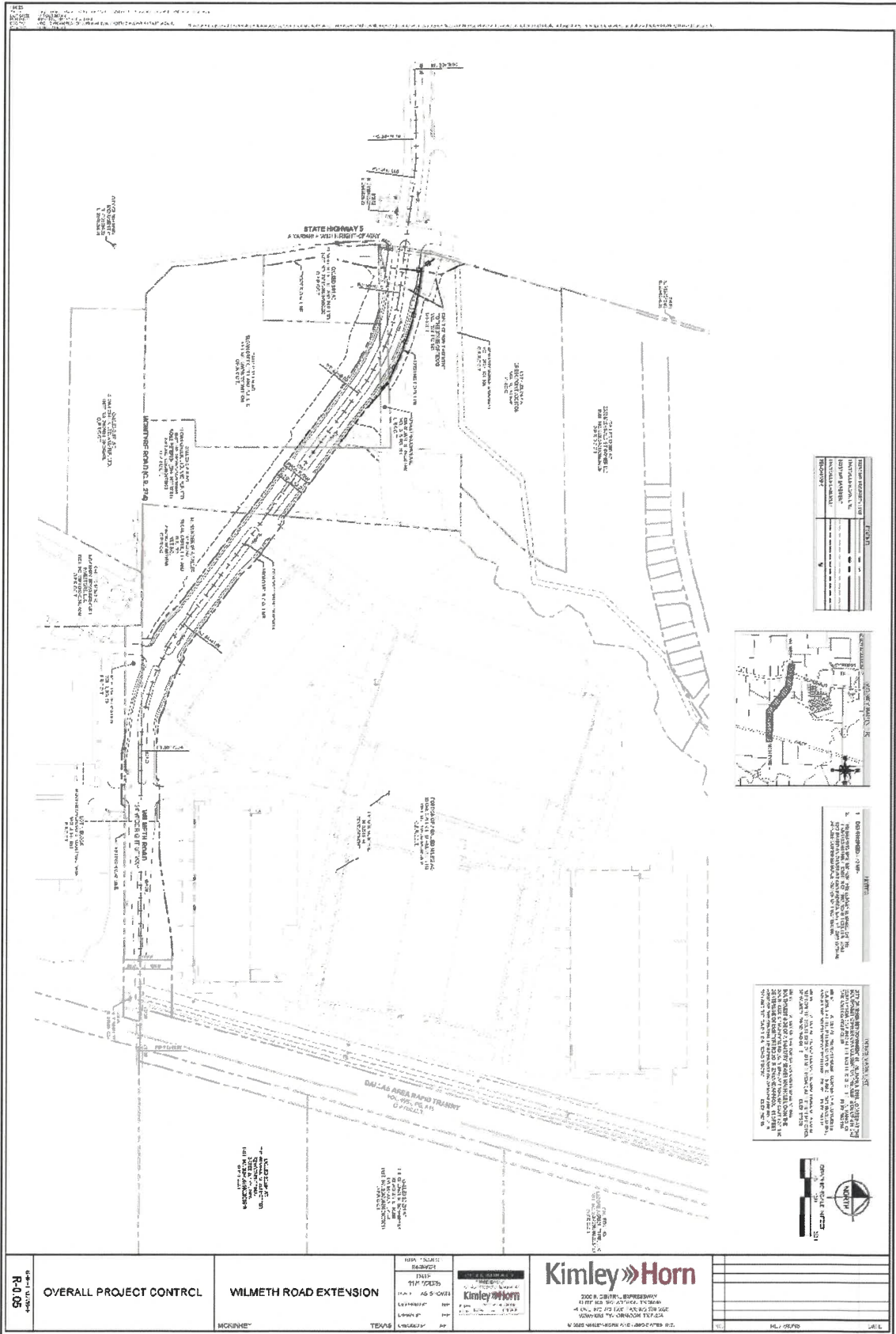
*[See following single page.]*



**Exhibit "B-1"**

Overall Project Control Page from  
the Approved 60% Civil Construction Plans  
for the Wilmeth Road Extension

*[See following single page.]*



**EXHIBIT “C”**

Currently Proposed Subdivision  
(Misabeled – for purposes of this Agreement - as “EXHIBIT A”)

*[See following single page.]*

EXHIBIT A



**CHI McINTYRE INDUSTRIAL**

Overall Site Plan

