

ROADWAY IMPACT FEE REIMBURSEMENT AGREEMENT
(EASTGROUP PROPERTIES, L.P.)

Construction of Collin McKinney Parkway and Hardin Boulevard Turn Lanes
(McKinney 121 – Phases 1 & 2)

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 **EASTGROUP PROPERTIES, L.P.** ("Developer"), 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, **Collin McKinney Parkway** and **Hardin Boulevard** are arterials that will serve Developer's property known as **McKinney 121 – Phases 1 & 2**, which property is located on the northwest corner of Collin McKinney Parkway and Hardin Boulevard (the "Property"); and

WHEREAS, Developer has dedicated to the City the necessary right-of-way and completed construction of approximately nine hundred eighty-four linear feet (984') of two westbound lanes and two hundred seventy-five linear feet (275') of two eastbound lanes of **Collin McKinney Parkway** located adjacent to the Property; and

WHEREAS, Developer has also dedicated to the City the necessary right-of-way and completed construction of approximately two hundred fifty-three linear feet (253') of one southbound right turn lane and three hundred forty-seven linear feet (347') of one northbound left turn lane of **Hardin Boulevard** located adjacent to the Property; and

WHEREAS, City has previously identified the portions of **Collin McKinney Parkway** and **Hardin Boulevard** Developer has constructed 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, Developer previously paid to the City roadway impact fees for **McKinney 121 – Phases 1 & 2** in the amount of Four Hundred Fifty-Three Thousand Seven Hundred Fifty-Eight and No/100^{ths} Dollars (\$453,758.00), and has since spent One Million One Hundred Sixty-Seven Thousand Seven Hundred Ninety-One and Zero/100^{ths} Dollars (\$1,167,791.00) in constructing the Roadway Improvements; and

WHEREAS, the Maximum Assessable Impact Fee for the Roadway Improvements is One Million Two Hundred Eighty-Six Thousand Six Hundred Thirty-Six and Zero/100^{ths} Dollars (\$1,286,636.00); and

WHEREAS, Developer has requested and the City has agreed to reimburse Developer for the amounts paid by Developer over and above the Maximum Assessable Impact Fee, totaling Three Hundred Thirty-Four Thousand Nine Hundred Thirteen and No/100^{ths} Dollars (\$334,913.00).

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, and includes its representatives, agents, assigns, inspectors, contractors, employees and consultants.
2. *Developer* means EastGroup Properties, L.P., its representatives, agents, contractors, employees, and consultants.
3. *Effective Date* means the date on which this Agreement is signed by the last Party to sign it and the Escrow Amount, if any, has been paid to the City.
4. *Maximum Assessable Impact Fee* means that amount determined by the Ordinance assigned to the Roadway Improvements, totaling One Million Two Hundred Eighty-Six Thousand Six Hundred Thirty-Six and Zero/100^{ths} Dollars (\$1,286,636.00).
5. *Notice* means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.
6. *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.
7. *Parties* means the City and Developer.

8. *Property* means Developer's property known as McKinney 121, Phases 1 & 2, a description of which property is attached hereto as Exhibit A.
9. *Reimbursement Amount* means that amount to be reimbursed to Developer upon execution of this Agreement, totaling Three Hundred Thirty-Four Thousand Nine Hundred Thirteen and Zero/100^{ths} Dollars (\$334,913.00), said amount being equal to the difference between the Roadway Project Expenditures and the Maximum Assessable Impact Fee.
10. *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 necessary for a complete roadway system in the area generally depicted on Exhibit C, attached hereto, using those materials that meet the minimum requirements of the City's Subdivision Regulations and Engineering Design Manual, and all engineering, surveying, inspection and permit fees for the Roadway Project containing the necessary lanes of **Collin McKinney Parkway** and **Hardin Boulevard**, that is the subject of this Agreement.
11. *Roadway Project* means the Roadway Improvements of **Collin McKinney Parkway** and **Hardin Boulevard** situated along the eastern and southern boundaries of McKinney 121, Phases 1 and 2, as generally depicted on Exhibit C attached hereto, and as follows:
 - a. Construction of two (2) westbound lanes of **Collin McKinney Parkway** extending in an east-west direction a distance of approximately nine hundred eighty-four linear feet (984') in length;
 - b. Construction of two (2) eastbound lanes of **Collin McKinney Parkway** extending in an east-west direction a distance of approximately two hundred seventy-five linear feet (275') in length;
 - c. Construction of one (1) southbound right turn lane of **Hardin Boulevard** extending in a north-south direction a distance of approximately two hundred fifty-three linear feet (253') in length; and
 - d. Construction of one (1) northbound left turn lane of **Hardin Boulevard** extending in a north-south direction a distance of approximately three hundred forty-seven linear feet (347') in length.
12. *Roadway Project Expenditures* shall mean the amount spent by Developer in constructing the Roadway Project, totaling One Million Six Hundred Twenty-One Thousand Five Hundred Forty-Nine and Zero/100^{ths} Dollars (\$1,621,549.00), said amount including the construction costs documented in Exhibit B, attached hereto, and the Roadway Impact Fees paid to City.

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

**DEVELOPER CONTRIBUTION
TO ROADWAY IMPROVEMENTS**

A. Roadway Improvements

Developer has completed construction of the Roadway Project, and all Roadway Improvements appurtenant to the Roadway Project, depicted on the attached Exhibit C. At the time of construction, the Roadway Project was included in the City's Impact Fee Roadway Improvement Plan ("IFRIP").

B. Reimbursement of Previously Paid Roadway Impact Fees

Within thirty (30) days after the execution of this Agreement, City shall make payment to Developer the Reimbursement Amount, totaling **Three Hundred Thirty-Four Thousand Nine Hundred Thirteen and Zero/100^{ths} Dollars (\$334,913.00)**, said amount being equal to the difference between the Roadway Project Expenditures and the Maximum Assessable Impact Fee.

C. Developer Responsibilities under Development Ordinances

Nothing herein shall relieve the Developer from its responsibilities for construction of public improvements under applicable development ordinances upon development of the Property.

ARTICLE III

AGREEMENT MAY NOT BE PLEDGED AS COLLATERAL

Developer 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 Developer under this Agreement, should Developer 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:

DEVELOPER:

EastGroup Properties, L.P.
400 W. Parkway Place, Suite 100
Ridgeland, Mississippi 39157

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 Developer 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 Developer without the prior written consent of the City.

ATTEST:


EMPRESS DRANE
City Secretary

APPROVED AS TO FORM:


MARK S. HOUSER
City Attorney

EASTGROUP PROPERTIES, L.P.,
a Delaware limited partnership

By EastGroup Properties General Partners, Inc.,
a Delaware corporation, its sole general partner

By: _____
TARA WARREN
Construction Manager

Date Signed: 11/7/2023

By: _____
REID DUNBAR
Senior Vice President

Date Signed: 11/7/23

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 _____

THE STATE OF TEXAS,
COUNTY OF Dallas

This instrument was acknowledged before me on the 7th day of November, 2023, by TARA WARREN, in her capacity as Construction Manager of **EASTGROUP PROPERTIES GENERAL PARTNERS, INC.**, a Delaware corporation, being the sole general partner of **EASTGROUP PROPERTIES, L.P.**, a Delaware limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same on behalf of and as the act of the entity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE seventh DAY OF November, 2023.

Lisa Gajewski

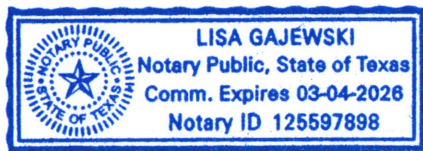
Notary Public Dallas County, Texas
My commission expires 3/4/2026



THE STATE OF TEXAS,
COUNTY OF Dallas

This instrument was acknowledged before me on the 7th day of November, 2023, by REID DUNBAR, in her capacity as Construction Manager of *EASTGROUP PROPERTIES GENERAL PARTNERS, INC.*, a Delaware corporation, being the sole general partner of *EASTGROUP PROPERTIES, L.P.*, a Delaware limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same on behalf of and as the act of the entity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE seventh DAY OF November, 2023.



Lisa Gajewski
Notary Public Dallas County, Texas
My commission expires 3/4/2026

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

PROPERTY DESCRIPTION

PHASE 1:

OWNER'S CERTIFICATE

STATE OF TEXAS
COUNTY OF COLLIN

WHEREAS EASTGROUP PROPERTIES, L.P. is the owner of a 13.94 acre tract of land situated in the Esom Harris Survey, Abstract Number 400, City of McKinney, Collin County, Texas, and being part a called 40.070 acre tract of land described in Special Warranty Deed to Eastgroup Properties, L.P., as recorded in Instrument Number 20201215002253600 of the Official Public Records of Collin County, Texas (O.P.R.C.C.T.), and being more particularly described as follows:

BEGINNING at a set mag nail with washer stamped "HALFF" for corner on the east line of said 40.070 acre tract, said point being on the west right-of-way line of Hardin Boulevard (a variable width right-of-way), as described in deed to the City of McKinney, recorded in Volume 4816, Page 1144, D.R.C.C.T., said point being the southeast corner of a called 12.42 acre tract of land described in Warranty Deed to Eastgroup TRS, Inc., as recorded in Instrument Number 20210108000044450, O.P.R.C.C.T.;

THENCE South 00 degrees 27 minutes 44 seconds West, with the east line of said 40.070 acre tract and west right-of-way line of Hardin Boulevard, a distance of 648.57 feet to a set "X" cut for corner;

THENCE North 90 degrees 00 minutes 00 seconds West, departing said east and west lines and over and across said 40.070 acre tract, a distance of 929.70 feet to a 1/2-inch set iron rod with a yellow plastic cap stamped "HALFF" for corner on the west line of said 40.070 acre tract, said point also being on the east line of Lot 9, Block A of Horseshoe Bend Estates, an addition to the City of McKinney, Collin County, Texas, as recorded in Cabinet B, Page 246 of the Plat Records of Collin County, Texas (P.R.C.C.T.);

THENCE North 00 degrees 42 minutes 08 seconds West, with the west line of said 40.070 acre tract and the east line of said Horseshoe Bend Estates addition, a distance of 648.60 feet to a 1/2-inch set iron rod with a yellow plastic cap stamped "HALFF" for corner, said point being the southwest corner of the aforementioned 12.42 acre tract;

THENCE South 90 degrees 00 minutes 00 seconds East, departing said east and west lines and with the south line of said 12.42 acre tract, a distance of 942.88 feet to the **POINT OF BEGINNING AND CONTAINING** 13.94 acres or 607,229 square feet of land, more or less.

PHASE 2:

OWNER'S CERTIFICATE

STATE OF TEXAS
COUNTY OF COLLIN

WHEREAS EASTGROUP PROPERTIES, L.P. is the owner of a 13.700 acre tract of land situated in the Esom Harris Survey, Abstract Number 400, City of McKinney, Collin County, Texas, and being part of a called 40.070 acre tract of land described in Special Warranty Deed to Eastgroup Properties, L.P., as recorded in Instrument Number 20201215002253600 of the Official Public Records of Collin County, Texas (O.P.R.C.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2-inch found iron rod with a blue plastic cap stamped "HALFF ESMT" for the southeast corner of said 40.070 acre tract, said point being on the east line of the remainder of a called 62.70 acre tract of land described in Quitclaim Deed to Wilcox Family Partners, Ltd., as described in Instrument Number 20190103000007690, O.P.R.C.C.T., and on the west right-of-way line of Hardin Boulevard (a variable width right-of-way), as described in deed to the City of McKinney, recorded in Volume 4816, Page 1144, D.R.C.C.T.;

THENCE with the south line of said 40.070 acre tract, the following bearings and distances:

North 89 degrees 33 minutes 36 seconds West, departing said east and west lines, a distance of 371.05 feet to a 1/2-inch set iron rod with a yellow plastic cap stamped "HALFF" (hereinafter referred to as "with HALFF cap") for the beginning of a curve to the left, having a radius of 1,200.00 feet, whose chord bears South 77 degrees 41 minutes 49 seconds West, a distance of 529.55 feet;

Westerly, with said curve, through a central angle of 25 degrees 29 minutes 39 seconds, an arc distance of 533.95 feet to a 1/2-inch set iron rod with HALFF cap for corner;

South 64 degrees 57 minutes 00 seconds West, a distance of 29.88 feet to a 1/2-inch set iron rod with HALFF cap for the southwest corner of said 40.070 acre tract and the northeast corner of a called 21.923 acre tract of land described as "Tract Two" in Special Warranty Deed to Roanoke Manor, L.L.C., as recorded in Volume 5711, Page 1135 of the Deed Records of Collin County, Texas (D.R.C.C.T.), and the easterly southeast corner of Avalon Phase Two, an addition to the City of McKinney, Collin County, Texas, as recorded in Cabinet O, Page 379 of the Plat Records of Collin County, Texas (P.R.C.C.T.), said corner being the southeast corner of the easterly terminus of existing Collin McKinney Parkway (a 60-foot wide right-of-way), as dedicated by said Avalon Phase Two addition;

THENCE North 00 degrees 42 minutes 08 seconds West, with the west line of said 40.070 acre tract and along the terminus of said Collin McKinney Parkway, passing at a distance

of 65.66 feet the north right-of-way line of said Collin McKinney Parkway, and continuing with said west line and said east line of said Avalon Phase Two addition, passing at a distance of 93.03 feet the southeast corner of Lot 11, Block A of Horseshoe Bend Estates, an addition to the City of McKinney, Collin County, Texas, as recorded in Cabinet B, Page 246, P.R.C.C.T., and continuing with said west line and the east line of said Horseshoe Bend Estates, in all a total distance of 747.38 feet to a 1/2-inch found iron rod with HALFF cap for corner;

THENCE South 90 degrees 00 minutes 00 seconds East, departing said east and west lines, and over and across said 40.070 acre tract, a distance of 929.70 feet to a found "X" cut for corner on the east line of said 40.070 acre tract and the west right-of-way line of S. Hardin Boulevard (a variable width right-of-way);

THENCE South 00 degrees 27 minutes 44 seconds West, with the east line of said 40.070 acre tract and west right-of-way line of Hardin Boulevard, a distance of 624.70 feet to the **POINT OF BEGINNING AND CONTAINING** 13.700 acres or 596,761 square feet of land, more or less.

Exhibit B

CONSTRUCTION COSTS

EXHIBIT A

Project: Collin McKinney Extension
 Location: McKinney, TX

Project Type: Offsite/Public
 Owner/Client: Eastgroup Properties, L.P



P&P Bond: No
 Date: 2.22.2023
 Sch(mths): 5

Detailed Cost Breakdown				
Phase	Description	Site	Total	% / Cost
01-00	General Conditions	57,500	57,500	6.01%
00-30	S.W.P.P.P. - Erosion Control	10,435	10,435	1.09%
31-00	Excavation/Stabilization	146,504	146,504	15.31%
32-12	Paving/Flatwork	742,735	742,735	77.60%
	Sub Total	957,174	957,174	100.00%
	GL/BR Insurance	4,155	4,155	
	RCC Fee - 2.50%	24,033	24,033	
	Hard Cost Sub Total	985,362	985,362	
	Engineering/Survey/Testing - 15%	150,461	150,461	
	Inspection Fees	31,968	31,968	
	Grand Total	1,167,791	1,167,791	

Exhibit C

ROADWAY PROJECT PLAN

