

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

AFTER RECORDING, RETURN TO:

City Secretary
City of McKinney
P.O. Box 517
McKinney, Texas 75069

**DEVELOPMENT AGREEMENT
Airport-Elm Addition
(Bumpas Street – Gerrish Street)**

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

The **CITY OF MCKINNEY** ("City"), a home rule city and municipal corporation situated in Collin County, Texas, and **ENCORE WIRE CORPORATION**, a Delaware corporation ("Encore") make and enter this Agreement ("Agreement").

RECITALS

WHEREAS, Encore has acquired certain property (the "Property") over and across which property the City possesses an unimproved right-of-way for the extension of Bumpas Street within, under and along which right-of-way the City also possesses an easement for water, drainage and/or sanitary sewer lines and all related appurtenances between Elm Street on the south and Bumpas Street on the north as depicted more fully in the Preliminary-Final Plat for the Airport-Elm Addition (the "Plat"), attached hereto as Exhibit A and incorporated herein by reference for all purposes allowed by law; and

WHEREAS, Encore desires to acquire the unimproved Bumpas Street right-of-way upon, over and across the Property (the "Bumpas Right-of-Way") that is depicted in Exhibit A and more particularly described in Exhibit B attached hereto and incorporated herein by reference for all purposes allowed by law; and

WHEREAS, City desires to retain its easement only for sanitary sewer lines and all related appurtenances situated along and within the Bumpas Right-of-Way for the

purpose of operating, maintaining, constructing, and re-constructing said sanitary sewer lines and all related appurtenances; and

WHEREAS, City is willing to abandon the Bumpas Right-of-Way for roadway purposes, only, provided that another means of connectivity and emergency access is provided between Gerrish Street and Bumpas Street; and

WHEREAS, Encore desires to convey to the City the necessary right-of-way and construct the roadway connecting Gerrish Street and Bumpas Street ("Gerrish Street Extension") in connection with development of the Property as the Gerrish Street Extension is depicted in Exhibit A and more particularly described in Exhibit C, attached hereto and incorporated herein by reference for all purposes allowed by law, in exchange for City's release and abandonment of the Bumpas Right-of-Way it also being understood and agreed that the City shall reserve unto itself an easement for utilities along and within the full length and breadth of the Bumpas Right-of-Way.

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 is hereby acknowledged, the City and Encore agree as follows:

ARTICLE I DEFINITIONS

Section A. Definitions.

1. *City* means the *City of McKinney*, a home rule city and municipal corporation situated in Collin Texas, together with its successors and assigns.
2. *Encore* means Encore Wire Corporation, a Delaware corporation, together with its successors and assigns.
3. *Notice* means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.
4. *Parties* means the City and Encore.

Section 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

ENCORE CONVEYANCE AND CONSTRUCTION

Section A. Conveyance and Construction of Gerrish Street Extension Extension.

Encore shall file the Plat with the City and pay all fees related to the filing of said Plat. Encore shall request and City will process a variance to extend the expiration date of the Plat from its initial six-month expiration period to a fifteen-year expiration period. Encore shall dedicate the right-of-way, design, and construct Gerrish Street and all related appurtenances thereto (the "Encore Construction") within the Gerrish Street Extension at its sole cost in accordance with the minimum standards for such construction as prescribed by the City's then applicable development ordinances and subject to the approval of the plans therefore and acceptance of Gerrish Street by the City Engineer.

The design and construction of the Encore Construction will be based on a timetable determined by Encore in its sole and absolute discretion; provided however, the Encore Construction shall be completed and accepted by the City Engineer prior to the filing of a record plat with Collin County for any part or portion of the Property and the issuance of a certificate of occupancy for any structure or use on the Property. Encore will have the right to select all contractors in connection with the design and construction of the Encore Construction. In connection with the design and construction of the Encore Construction, City will only have a right to review and approve such work in its capacity as a governmental entity (i.e., City will not have a separate review and approval right).

Section B. Modification of Gerrish Street Extension Alignment

Notwithstanding the provisions of Article II, Section A, above, if the Parties agree at the time of development of the Property that the alignment of Proposed Gerrish Street reflected in the Plat (1) fails to provide connectivity and emergency access between Gerrish Street and Bumpas Street and/or (2) frustrates or interferes with development of the Property, the Parties may consider alternative alignments of Proposed Gerrish Street. If the Parties agree upon a better

alignment of Proposed Gerrish Street and such other roadways as may be necessary to provide connectivity and emergency access between Gerrish Street and Bumpas Street that also facilitates development of the Property and conforms to the City's then-applicable ordinances, Encore may revise and re-submit the Plat to remove the Proposed Gerrish Street alignment from the Plat entirely or relocate the Proposed Gerrish Street alignment to a new alignment subject to City's approval of the revised Plat and Encore's dedication of all necessary rights-of-way together with Encore's design and construction of all such roadways including the realigned Gerrish Street in accordance with then-applicable City ordinances at no cost, expense and/or liability to the City.

ARTICLE III CITY CONVEYANCE

Section A. Conveyance of Bumpas Street Right-of-Way (with Reservation).

City shall, after Encore's submission of the Plat and payment of all related fees therefore, convey its interest in the Bumpas Street Right-of-Way for roadway purposes only, to Encore by way of a quitclaim deed at or about the time the City considers approval of the Plat and the variance extending the expiration date of the Plat to fifteen (15) years. Such quitclaim deed shall specifically reserve to the City a fifteen foot (15') wide easement for the continued right to access, use, operate, maintain, construct and reconstruct sanitary sewer lines and all related appurtenances along and about the Bumpas Right-of-Way centered over and around the location of the existing sanitary sewer lines and related appurtenances and such easement will allow the construction of a parking lot, parking/traffic control devices and related appurtenances on top of the easement to the extent only that Encore's use thereof is compatible with the City's continuing rights in and use of said easement.

ARTICLE IV GENERAL PROVISIONS

Section A. Notice of Default; Opportunity to Cure and 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.

Section B. Interpretation of this Agreement, and Entire 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.

Section 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.

Section 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.

Section 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.

Section F. No Third Party Beneficiaries.

Except as expressly provided herein, nothing contained in this Agreement shall be construed to confer upon any person not a party to this Agreement any rights, benefits or remedies under or because of this Agreement.

Section G. Applicable Law.

This Agreement will be construed under and according to the laws of the State of Texas.

Section H. Severability.

The provisions of this Agreement are severable, and if any court will 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.

Section I. Personal Jurisdiction and Venue.

Personal jurisdiction and venue for any suit arising hereunder shall be in Collin County, Texas.

Section J. Counterparts.

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

Section K. Notices.

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

Encore Wire Corporation
1329 Millwood Road
McKinney Texas 75069
Attn: Office of the President

City of McKinney
Office of the City Manager
P.O. Box 517
McKinney Texas 75070-8013

The Parties will have the right from time to time to change their respective addresses upon written Notice to the other Party given as provided above. Formal notices, demands and communications between the parties shall be given in writing, sent by (a) personal delivery, or (b) expedited delivery service with proof of delivery, or (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, addressed as provided above. Any such notice or communication shall be deemed to have been given and received either at the time of personal delivery or, in the case of delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein. 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.

Section L. No Waiver.

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 Encore under applicable ordinances, including but not limited to the subdivision ordinance, the sewer and water impact fee ordinance, or the roadway impact fee ordinance.

Section M. 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.

Section N. Governmental Authority.

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

Section O. Assignability.

This Agreement shall not be assignable to anyone without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

Section P. Continuity.

This Agreement shall be a covenant running with the land and be binding upon Encore its successors and assigns as well as all others holding any interest in the Property now or in the future.

Section Q. Rough Proportionality and Waiver of Claims.

Encore has been represented by legal counsel in the negotiation of this Agreement and been advised, or has had the opportunity to have legal counsel review this Agreement and advise Encore, regarding Encore's rights under Texas and federal law. Encore hereby waives any requirement that the City retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the City as a condition of approval for the development of this Property are roughly proportional or roughly proportionate to the proposed development's anticipated impact. (These exactions may include but are not limited to the making of dedications or reservations of land, the payment of fees, the construction of facilities, and the payment of construction costs for public facilities.) Encore specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with Tex. Loc. Gov't Code § 212.904. However, notwithstanding the foregoing, Developer hereby releases the City from any and all liability under Tex. Loc. Gov't Code § 212.904 regarding or related to the cost of those municipal infrastructure improvements required for the development of the Property.

It is the intent of this Agreement that the provision for roadway and utility improvements made herein constitutes a proportional allocation of Encore's responsibility for roadway and utility improvements for the Property. Encore hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution and Chapter 395 of the Tex. Loc. Gov't. Code. Encore further releases City from any and all claims based on excessive or illegal exactions; it being agreed that Encore's infrastructure contribution(s) (after receiving all contractual offsets, credits and reimbursements) is roughly proportional or roughly proportionate to the demand that is placed on the roadway and utility systems by Encore's Property. Encore further acknowledges that the benefits of zoning and platting have been accepted

with full knowledge of potential claims and causes of action which may be raised now and in the future, and Encore acknowledges the receipt of good and valuable consideration for the release and waiver of such claims. **Encore shall indemnify and hold harmless City from any claims and suits of third parties, including but not limited to Encore's successors, assigns, grantees, vendors, trustees or representatives, brought pursuant to this Agreement or the claims or types of claims described in this paragraph.**

CITY OF MCKINNEY

By: _____
RICK CHAFFIN
Interim City Manager

Date Signed: _____

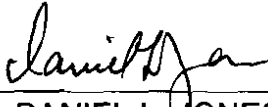
ATTEST:

SANDY HART, MMC, TRMC
City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

ENCORE WIRE CORPORATION

By:  _____
DANIEL L. JONES
President

Date Signed: 10/04/10

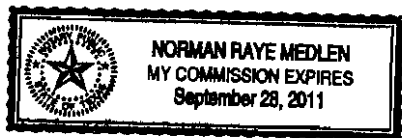
STATE OF TEXAS §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by RICK CHAFFIN, Interim City Manager of the **CITY OF MCKINNEY**, a Texas municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the 4th day of October, 2010, by, DANIEL L. JONES, President, **ENCORE WIRE CORPORATION**, on behalf of said corporation.



Notary Public, State of Texas

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

List of Exhibits:

Exhibit A: Preliminary-Final Plat for the Airport-Elm Addition
Exhibit B: Bumpas Right-of-Way (and Easement) Description
Exhibit B: Gerrish Street Extension (Gerrish Street Extension) Description

**Preliminary-Final Plat for the
Airport-Elm Addition**

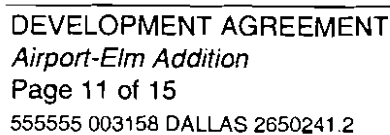


EXHIBIT B

Bumpas Right-of-Way (and Easement) Description

DESCRIPTION, of a 0.9097 acre tract of land situated in the G. A. Wilson Survey, Abstract No. 1000 and in the Mary Standifer Survey, Abstract No. 811, Collin County, Texas; said tract being part of Bumpas Street (a variable width right-of-way); said 0.9097 acre tract being more particularly described as follows:

BEGINNING, at a 5/8-inch iron rod found for corner at the south end of a right-of-way corner clip at the intersection of the east right-of-way line of said Bumpas Street and the north right-of-way line of Elm Street (an 80-foot wide right-of-way);

THENCE, North 89 degrees, 57 minutes, 28 seconds West, along the projected north right-of-way line of Elm Street, a distance of 90.01 feet to a point for corner at the intersection of the west right-of-way line of said Bumpas Street and the said north line of Elm Street;

THENCE, along the said west line of Bumpas Street, the following three (3) calls:

North 44 degrees, 27 minutes, 42 seconds East, a distance of 21.00 feet to an angle point;

South 89 degrees, 57 minutes, 28 seconds East, a distance of 31.22 feet to an angle point;

North 01 degrees, 13 minutes, 29 seconds West, a distance of 1299.52 feet to a point for corner;

THENCE, North 89 degrees, 42 minutes, 14 seconds East, departing the said west line of Bumpas Street, a distance of 30.23 feet to a point for corner in the said east line of Bumpas Street;

THENCE, South 01 degrees, 10 minutes, 18 seconds East, along the said east line of Bumpas Street, a distance of 1299.90 feet to a 5/8-inch iron rod found for corner; said point also being at the north end of said right-of-way corner clip;

THENCE, South 45 degrees, 32 minutes, 18 seconds East, departing the said east line of Bumpas Street and along the said right-of-way corner clip, a distance of 21.09 feet to the POINT OF BEGINNING;

CONTAINING, 39,626 square feet or 0.9097 acres of land, more or less.

EXHIBIT C

Gerrish Street Extension (Gerrish Street Extension) Description

DESCRIPTION, of a 1.3034 acre tract of land situated in the Mary Standifer Survey, Abstract No. 811, Collin County, Texas; said tract being part of that certain tract of land described as Tract 2 in Special Warranty Deed to Encore Wire Corporation recorded in County Clerk's File No. 20100416000373460 of the Deed Records of Collin County, Texas; said 1.3034 acre tract being more particularly described as follows:

BEGINNING, at a point for corner at an angle point in the west right-of-way line of Bumpas Street (a variable width right-of-way) and the northeast corner of said Tract 2; said point also being North 84 degrees, 12 minutes West, a distance of 1.2 feet from a "PK" nail found;

THENCE, along the said west line of Bumpas Street and the east line of said Tract 2, the following two (2) calls:

South 02 degrees, 00 minutes, 13 seconds East, a distance of 33.64 feet to a 5/8-inch iron rod found at an angle point;

South 01 degrees, 13 minutes, 29 seconds East, a distance of 16.38 feet to a point for corner;

THENCE, South 89 degrees, 42 minutes, 14 seconds West, a distance of 196.97 feet to a point at the beginning of a tangent curve to the left;

THENCE, in a southwesterly direction, along said curve to the left, having a central angle of 90 degrees, 45 minutes, 53 seconds, a radius of 30.00 feet, a chord bearing and distance of South 44 degrees, 19 minutes, 17 seconds West, 42.71 feet, an arc distance of 47.52 feet to a point at the end of said curve;

THENCE, South 01 degrees, 03 minutes, 39 seconds East, a distance of 400.06 feet to a point at the beginning of a non-tangent curve to the left;

THENCE, in a southeasterly direction, along said curve to the left, having a central angle of 28 degrees, 14 minutes, 36 seconds, a radius of 20.00 feet, a chord bearing and distance of South 15 degrees, 10 minutes, 54 seconds East, 9.76 feet, an arc distance of 9.86 feet to a point at the end of said curve; said also point being the beginning of a reverse curve to the right;

THENCE, in a southerly direction, along said curve to the right, having a central angle of 28 degrees, 14 minutes, 33 seconds, a radius of 64.00 feet, a chord bearing and

distance of South 15 degrees, 10 minutes, 56 seconds East, 31.23 feet, an arc distance of 31.55 feet to a point at the end of said curve; said point also being the beginning of a compound curve to the right;

THENCE, in a southwesterly direction, along said curve to the right, having a central angle of 84 degrees, 08 minutes, 48 seconds, a radius of 90.00 feet, a chord bearing and distance of South 41 degrees, 00 minutes, 45 seconds West, 120.61 feet, an arc distance of 132.18 feet to a point at the end of said curve; said point also being the beginning of a compound curve to the right;

THENCE, in a westerly direction, along said curve to the right, having a central angle of 28 degrees, 14 minutes, 33 seconds, a radius of 64.00 feet, a chord bearing and distance of North 82 degrees, 47 minutes, 34 seconds West, 31.23 feet, an arc distance of 31.55 feet to a point at the end of said curve; said point being the beginning of a reverse curve to the left;

THENCE, in a westerly direction, along said curve to the left, having a central angle of 28 degrees, 14 minutes, 33 seconds, a radius of 20.00 feet, a chord bearing and distance of North 82 degrees, 47 minutes, 34 seconds West, 9.76 feet, an arc distance of 9.86 feet to a point at the end of said curve;

THENCE, South 83 degrees, 05 minutes, 09 seconds West, a distance of 175.50 feet to a point at the beginning of a tangent curve to the right;

THENCE, in a westerly direction, along said curve to the right, having a central angle of 06 degrees, 03 minutes, 51 seconds, a radius of 90.00 feet, a chord bearing and distance of South 86 degrees, 07 minutes, 05 seconds West, 9.52 feet, an arc distance of 9.53 feet to a point at the end of said curve;

THENCE, South 89 degrees, 09 minutes, 00 seconds West, a distance of 46.56 feet to a point for corner;

THENCE, North 00 degrees, 51 minutes, 00 seconds West, at a distance of 1.76 feet passing a 5/8-inch iron rod found at the south end of the east terminus of Gerrish Street, continuing along the said east terminus of Gerrish Street and a west line of said Tract 2, at a distance of 48.79 feet passing the north end of said east terminus of Gerrish Street, continuing along the said west line of Tract 2, in all a total distance of 50.00 feet to a point for corner;

THENCE, North 89 degrees, 09 minutes, 00 seconds East, departing the said west line of Tract 2, a distance of 46.56 feet to a point at the beginning of a tangent curve to the left;

THENCE, in a northeasterly direction, along said curve to the left, having a central angle of 06 degrees, 03 minutes, 51 seconds, a radius of 40.00 feet, a chord bearing and distance of North 86 degrees, 07 minutes, 05 seconds East, 4.23 feet, an arc distance of 4.23 feet to a point at the end of said curve;

THENCE, North 83 degrees, 05 minutes, 09 seconds East, a distance of 215.25 feet to a point at the beginning of a tangent curve to the left;

THENCE, in a northeasterly direction, along said curve to the left, having a central angle of 84 degrees, 08 minutes, 48 seconds, a radius of 30.00 feet, a chord bearing and distance of North 41 degrees, 00 minutes, 45 seconds East, 40.20 feet, an arc distance of 44.06 feet to a point at the end of said curve;

THENCE, North 01 degrees, 03 minutes, 39 seconds West, at a distance of 33.18 feet passing a 5/8-inch iron rod found at re-entrant corner of said Tract 2 and the southeast corner of North Texas Municipal Water District, Final Judgment No. 11,276 Minutes of the county Court of Collin County, Texas, continuing along a west line of said Tract 2 and the east line of said North Texas Municipal Water District, in all a total distance of 520.89 feet to a point for corner; said point also being the most northerly northwest corner of said Tract 2 and the southwest corner of McKinney East Estates, an addition to the City of McKinney, Texas according to the plat recorded in Volume 6, Page 46 of the Plat Records of Collin County, Texas;

THENCE, North 89 degrees, 42 minutes, 14 seconds East, departing the said west line of Tract 2 and said east line of North Texas Municipal Water District and along the common line between said Tract 2 and said McKinney East Estates, at a distance of 247.51 feet passing the southeast corner of said McKinney East Estates and an angle point in the said west line of Bumpas Street, continuing along the said west line of Bumpas Street and said north line of Tract 2, a distance of 276.78 feet to the POINT OF BEGINNING;

CONTAINING, 56,776 square feet or 1.3034 acres of land, more or less.