

**THE CITY OF MCKINNEY, TEXAS  
AND  
MCINTYRE PHASE I OWNER, L.P.  
CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT**

**WHEREAS, *MCINTYRE PHASE I OWNER, L.P.***, a Delaware limited partnership (hereinafter “DEVELOPER”), is entering into this Chapter 380 Economic Development Agreement (this “Agreement”) with the **CITY OF MCKINNEY, TEXAS** (hereinafter “CITY”) pursuant to Chapter 380 of the Texas Local Government Code, for the primary purpose of constructing or causing the construction of three (3) or more industrial warehouse buildings containing a cumulative total of at least six hundred thousand (600,000) square feet of industrial ground floor space together with all necessary appurtenances thereto (collectively the “Industrial Warehouse Buildings”) on approximately 139.077 acres or 60,581,194 square feet of land, more or less, (the “Chi McIntyre Development”) located along the north side of future Wilmeth Road in an area between the east side of State Highway 5 (N. McDonald Street) and the east property line of the Dallas Area Rapid Transit (“DART”) Railroad right-of-way crossing (the “DART R-O-W”); 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 CITY’s Roadway Impact Fee Ordinance in Section 130-103, et seq., of the Code of Ordinances, City of McKinney, Texas (the “City Code”); and

**WHEREAS,** the DEVELOPER is responsible for dedicating to the CITY that portion of the necessary right-of-way for the northern one-half of Future Wilmeth Road along the frontage of the Chi McIntyre Development and for designing, constructing and conveying or causing the design, construction, and conveyance to CITY of the two (2) northern lanes of Future Wilmeth Road situated along said frontage in exchange for Roadway Impact Fee Credits under the CITY’s Roadway Impact Fee Ordinance pursuant to a separate agreement; and

**WHEREAS,** CITY is entering into a separate Roadway Impact Fee Credit Agreement (“RIFCA”) with DEVELOPER concurrently with this Agreement to compensate DEVELOPER in accordance with state law and the City Code for DEVELOPER’s dedication and construction of the northern one-half of Future Wilmeth Road situated adjacent to the frontage of the Chi McIntyre Development including the construction of approximately two thousand

seven hundred (2,700) linear feet of the two (2) northern lanes of Future Wilmeth Road and all related appurtenances; and

**WHEREAS,** CITY previously entered into an Escrow, Construction, and Roadway Impact Fee Credit Agreement on or about December 8, 2021, (the “Escrow Agreement”) with Sloan Creek, Ltd., and PLF, Ltd., (collectively “Sloan/PLF”) for the development of the land situated along the southern side of Future Wilmeth Road (the “Sloan/PLF Land”) through which Escrow Agreement the CITY is entitled to receive the dedication of the southern one-half of the Future Wilmeth Road right-of-way along and across approximately three thousand twenty (3,020) linear feet of the Sloan/PLF Land frontage when CITY provides Sloan/PLF the sixty percent (60%) approved plans for the construction of Future Wilmeth Road; and

**WHEREAS,** the CITY and DEVELOPER believe that both DEVELOPER’s Chi McIntyre Development, the existing development on a portion of the Sloan/PLF Land, additional development anticipated in the area, and the residents of the City of McKinney will benefit from DEVELOPER designing and constructing or causing the design and construction of the full width of Future Wilmeth Road earlier than currently planned in the CITY’s current Capital Improvements Plan (“CIP”); and

**WHEREAS,** the CITY has agreed to provide an economic development grant to DEVELOPER for DEVELOPER’s construction of or causing the construction of the off-site portions of Future Wilmeth Road based on the DEVELOPER’s capital investment in the Chi McIntyre Development and DEVELOPER’s timely completion of the first phase of the Chi McIntyre Development, which development is projected to create and provide future job opportunities and increased business and commercial activity within the CITY, including but not limited to the construction of certain building and site improvements and other economic development criteria to be funded by the CITY upon the performance of DEVELOPER under this Agreement; and

**WHEREAS,** the CITY has the authority under Chapter 380 of the Texas Local Government Code to make loans or grants of funds for the purposes of promoting local economic development and stimulating business and commercial activity within the City; and

**WHEREAS,** the CITY has determined the “Project,” defined herein below, to be an eligible project for a conditional grant to DEVELOPER of CITY funds, which grant shall serve the public purpose of promoting local economic development and enhancing business and commercial activity and creating and providing new jobs in the City of McKinney, Texas; and

**WHEREAS**, the CITY has concluded and hereby finds that this Agreement clearly promotes economic development in the City of McKinney and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code, and further, is in the best interests of the CITY and DEVELOPER; and

**WHEREAS**, the City Council has considered and approved this Agreement authorizing the CITY to award the Chapter 380 Grant described herein pursuant to applicable law; and

**NOW, THEREFORE**, for and in consideration of the agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CITY and DEVELOPER agree as follows:

### **SECTION 1. INCORPORATION OF RECITALS**

The Recitals set forth above are hereby approved and incorporated into the body of this Agreement as if copied in their entirety.

### **SECTION 2. TERM**

This Agreement shall be effective from the “Effective Date” until the latest to occur of (i) final acceptance by CITY of all of the “Public Infrastructure” (defined below); (ii) the CITY’s issuance of certificates of occupancy (“COs”) for all of the Industrial Warehouse Buildings situated within the Phase I Development; or (iii) DEVELOPER’s full and final satisfaction of all “Milestones” in accordance with Sections 5 through 7, below, and CITY’s full and final satisfaction of all reimbursement payment obligations to DEVELOPER up to the “Not-to-Exceed Grant Amount” identified under Sections 4 and 5 of this Agreement including any fully satisfied Milestones until reimbursement is made, unless this Agreement is terminated sooner under the provisions herein below.

### **SECTION 3. DEFINITIONS**

The following words shall have the following meanings when used in this Agreement.

- a. Agreement. The word “Agreement” means this Chapter 380 Economic Development Agreement, together with all exhibits and schedules attached to this Agreement and specifically incorporated herein.
- b. CITY. The word “CITY” means the City of McKinney, Texas. For purposes of this Agreement, CITY’s address is 401 E. Virginia Street, McKinney, Texas 75069.
- c. Force Majeure. For purposes of this Agreement, “Force Majeure” shall mean any contingency or cause beyond the reasonable control of DEVELOPER including acts of God or the public enemy, war, riot, civil

commotion, insurrection, governmental or de facto governmental action or inaction (unless caused by acts or omissions of DEVELOPER), fires, explosions or floods, strikes, and CITY’s inability to obtain possession of and deliver the right of access to the “Off-site Sliver Tract” (hereinafter defined) required for DEVELOPER’s construction of the Public Infrastructure under Section 5 of this Agreement to DEVELOPER within six (6) months after the Effective Date; however, specifically excluding normal weather delays. DEVELOPER shall promptly notify CITY of any Force Majeure event within no more than ten (10) days of the date DEVELOPER knew or reasonably should have known of the commencement of said Force Majeure event. As used in this definition, the following further definitions apply:

- 1) “Acts of God” means unusually severe weather conditions, including storms, flood, fire, or similar events that could not have been anticipated or guarded against and which materially affects the Property, including access or egress thereto;
- 2) “Public Enemy,” “War,” “Riot,” “Civil Commotion,” “Insurrection,” and/or “Explosion” means a situation occurring on or about the Property or actually involving the Property or actually preventing the DEVELOPER or DEVELOPER’s contractors and representatives from working on and about the Property, but not including any situation involving suppliers off-site other than those essential suppliers as identified by DEVELOPER in writing to CITY at least ninety (90) days in advance of the commencement of any Force Majeure event.
- 3) “Strike” means an unanticipated strike involving the DEVELOPER’s forces actually working on the Project or involving the employees of those essential off-site suppliers identified in subparagraph 2) above, but no other labor stoppage.
- 4) “Normal Weather Delays” means the historical average number of bad weather days within a specific month. The historical number of weather days per calendar month is as follows, based upon regional weather data from the National Weather Service (Dallas / Fort Worth, TX Weather Forecast Office):

Average Weather Days per Month

|      |      |      |      |     |      |      |      |       |      |      |      |
|------|------|------|------|-----|------|------|------|-------|------|------|------|
| Jan. | Feb. | Mar. | Apr. | May | Jun. | Jul. | Aug. | Sept. | Oct. | Nov. | Dec. |
| 8    | 7    | 8    | 7    | 9   | 7    | 4    | 5    | 6     | 7    | 7    | 7    |

The occurrence of a Force Majeure event may entitle the DEVELOPER to an extension of the time period within which to perform its obligations under this Agreement by an amount of time equal to the time period

DEVELOPER was delayed subject to DEVELOPER timely providing CITY notice of such Force Majeure event. In no event shall any adjustment be made to the amount of the Grant or the payment to be made to DEVELOPER under this Agreement as a result of any Force Majeure event, and the DEVELOPER shall not be entitled to claim or receive any additional compensation as a result of or arising out of any delay resulting in the adjustment of the time for completion of any component of this Agreement.

- d. Grant. The word "Grant" means a dollar amount not to exceed Eight Million Two Hundred Thousand Dollars (\$8,200,000.00) made by the CITY to DEVELOPER, the payment of which funds is conditioned upon DEVELOPER's completion of the Project and DEVELOPER's satisfaction of the individual "Milestones" (hereinafter defined) and is further capped or limited to the cumulative amount of the verified, actual construction costs and design costs of the "CITY Funded Infrastructure" (defined herein below) and the construction management costs actually incurred by DEVELOPER in managing the construction of the CITY Funded Infrastructure up to the not to exceed dollar amount of the Grant.
- e. DEVELOPER. The word "DEVELOPER" means MCINTYRE PHASE I OWNER, L.P., a Delaware limited partnership, having a registered office address of 3819 Maple Avenue, Dallas, Texas 75219.
- f. Private Development. The words "Private Development" mean DEVELOPER's future construction of Phase I of the Chi McIntyre Development as generally illustrated on Exhibit "A" together with the following required DEVELOPER improvements illustrated in red on Exhibit "B" and identified as the "DEVELOPER COST RESPONSIBILITY" on the face of Exhibit "B," which Exhibits "A" and "B" are attached hereto and incorporated herein by reference for all purposes allowed by law:
  - 1) Phase I of the Chi McIntyre Development shall provide a capital investment by DEVELOPER in an amount of at least Seventy-Five Million Dollars (\$75,000,000) to construct three (3) or more industrial warehouse buildings containing a cumulative total of at least 600,000 square feet of industrial ground floor space together with all necessary appurtenances thereto within Phase I of the Chi McIntyre Development located along the northern boundary of Future Wilmeth Road (the "Phase I Development") as generally depicted on Exhibit "A"; and
  - 2) The Phase I Development will be completed within twenty-four (24) months of DEVELOPER's receipt of the first building permit for any industrial warehouse building situated within the Property, subject to any event of Force Majeure and save, except, and unless an

impasse has occurred under Section 5.c, below, in which event this Agreement shall be deemed terminated due to impossibility of performance; and

- 3) Construction of all required turn lanes, deceleration lanes, curb openings, and left turn lanes necessary to provide ingress and egress to the Chi McIntyre Development as generally depicted 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".
  - 4) DEVELOPER may further refine the locations and alignment of the Private Development improvements as shown on Exhibit "A," Exhibit "B," and Exhibit "B-1," respectively, and such minor amendments will not trigger an amendment to this Agreement or require further approval by the City Council.
- g. Property. The word "Property" means the 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, and is more particularly described in Exhibit "C" attached hereto and incorporated herein by reference for all purposes allowed by law.
- h. Public Infrastructure. The words "Public Infrastructure" as used in this Agreement mean and include both the "DEVELOPER Required Public Infrastructure" and the "CITY Funded Infrastructure."
- 1) DEVELOPER Required Public Infrastructure. The words "DEVELOPER Required Public Infrastructure" as used in this Agreement mean and include 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:

- (1) Connection of the On-Site Segment with the segment of the two northbound 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 is identified as a part of the "City Funded Infrastructure" (defined hereinbelow); and
  - (2) Design and construction of all required turn lanes, deceleration lanes, curb openings, and left turn lanes necessary to provide ingress and egress to the Chi McIntyre Development and as generally depicted 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"; and
  - (3) 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 (collectively the "DEVELOPER Roadway Improvements").
- 2) CITY Funded Infrastructure. The words "CITY Funded Infrastructure" as used in this Agreement mean and include the following "CITY Roadway Improvements," defined herein below, and related appurtenances 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" 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, and including the following:

- a) Design and construction of the Roadway Improvements for the southern one-half of Future Wilmeth Road including the construction of approximately three thousand three hundred twenty (3,320) linear feet of the two (2) southern 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 DART R-O-W situated adjacent to the frontage of the Sloan/PLF Land (the “Southern Half”); and,
- b) Design and construction of the Roadway Improvements for the northern one-half of Future Wilmeth Road including right-turn and left-turn lanes extending between the western boundary of the Property and the east side of State Highway 5 (N. McDonald Street) to tie in with the two northern lanes along the frontage of the Chi McIntyre Development (the “Northern Gap”), which Southern Half and Northern Gap are hereinafter referred to collectively as the “Off-Site Segment,” together with all related appurtenances thereto, and including the following:
  - (1) Connection of the Off-Site Segment with the On-Site Segment; and
  - (2) Design and construction of any and all required turn lanes, deceleration lanes, curb openings, and left turn lanes, and traffic signal improvements necessary to provide ingress and egress between State Highway 5 (N. McDonald Street) and Future Wilmeth Road; and
  - (3) Design and construction of multiple reinforced bridge-class concrete box culverts conveying a tributary to the East Fork of the Trinity River including any headwalls, aprons, riprap, and grading necessary to convey stormwater under Future Wilmeth Road (the “Culvert”); and
  - (4) Design and construction of a transition from the two (2) southern lanes running along the frontage of the

Sloan/PLF Land to one southern lane as Future Wilmeth Road approaches the eastern boundary of the Property and the Sloan/PLF Land to tie into the one southern 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 Engineer for a completed roadway section (collectively the "CITY Roadway Improvements").

- 3) Notwithstanding anything to the contrary herein, DEVELOPER may further refine the locations and alignment of the Public Infrastructure as shown on Exhibit "A", 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.
- 4) Notwithstanding anything to the contrary herein, the Public Infrastructure described in this Agreement constitutes the full and complete extent of any DEVELOPER Roadway Improvements and CITY Roadway Improvements required of DEVELOPER in connection with the Project for purposes of this Agreement and the Grant. Except as expressly set forth in this Agreement or required by generally applicable development regulations in effect on the Effective Date, no additional DEVELOPER Roadway Improvements and CITY Roadway Improvements shall be required of DEVELOPER as a condition to receipt of the Grant or completion of the Project.
  - i. Project. The word "Project" means the design, construction, permitting, and operation of the Private Development on the Property by or on behalf of DEVELOPER together with the design, construction, permitting, and final acceptance by the CITY of the Public Infrastructure all as explained in this Agreement.
  - j. Roadway Improvements. The words "Roadway Improvements" mean the design, right-of-way preparation, paving excavation, construction of concrete paving, curbs, signage, roadway transitions, turn lanes, pavement markings, sidewalks, irrigation, landscaping, lighting, drainage systems and any other improvements necessary for a complete roadway system in the area generally depicted on Exhibit "B," attached hereto,

using those materials that meet the minimum requirements of the City's Subdivision Ordinance and Engineering Design Manual, and all engineering, surveying, inspection and permit fees for the Public Infrastructure containing the full width four-lane intersection of Wilmeth Road on the east side of its intersection with State Highway 5 (N. McDonald Street) and extending in an easterly / southeasterly direction across a four-lane wide Culvert to be constructed over a tributary to the East Fork of the Trinity River an overall distance of approximately three thousand three hundred twenty (3,320) linear feet in length to the western boundary of the DART R-O-W.

#### **SECTION 4. GRANT FUNDING OBLIGATION**

- a. CITY shall fund a Grant in an amount equal to Eight Million Two Hundred Thousand Dollars (\$ 8,200,000.00) (the "Not-to-Exceed Grant Amount" or "Grant Amount") contemporaneously with or prior to CITY's approval of this Agreement by and through its City Council. Notwithstanding anything to the contrary in this Agreement, CITY shall in no event be obligated or required to pay DEVELOPER any amounts in excess of the Not-to-Exceed Grant Amount or to pay any costs or expenses for work attributable to anything other than the verified, actual construction costs and design costs of the CITY Funded Infrastructure and the construction management costs actually incurred by DEVELOPER in managing the construction of the CITY Funded Infrastructure up to the not to exceed dollar amount of the Grant.
- b. The Grant Amount less any unexpended or unearned amounts shall be payable to DEVELOPER in accordance with the process and timing established by and through the "Schedule of Milestones" defined and explained in Section 5.c. through Section 5.k. of this Agreement.
- c. In the event the total costs of the CITY Funded Infrastructure are less than the Grant Amount, the balance of the Grant Amount will be returned to the CITY's general fund.

#### **SECTION 5. OTHER OBLIGATIONS OF CITY**

- a. CITY shall use its eminent domain authority to the extent permitted by law to condemn and acquire the approximately 0.46 tract of land outside of the Property which is required for the Public Infrastructure (the "Off-site Sliver Tract") for a fair and equitable purchase price in such amount that is supported by a lawful appraisal and approved by CITY's governing body or as awarded by and through a Special Commissioners' Hearing and/or the judgment of the trial court following the conclusion of eminent domain proceedings. It is understood and agreed that the amount of the Grant may be reduced by the actual costs and expenses incurred by CITY associated with said exercise of eminent domain proceeding up to a not to exceed amount of One Hundred Fifty Thousand Dollars

(\$150,000.00). Upon CITY's acquisition of the Off-site Sliver Tract or CITY's payment of the condemnation award into the registry of the Court thereby obtaining the right of possession, or CITY's receipt of a right-of-entry or right of possession from the presumptive property owners, CITY shall promptly grant to DEVELOPER such rights of access as are reasonably necessary for DEVELOPER to construct, connect to and complete the Public Infrastructure upon, over, under, and across the Off-site Sliver Tract. Notwithstanding the foregoing, the CITY's inability to obtain possession of and deliver the right of access to the Off-site Sliver Tract within six (6) months after the Effective Date shall not delay the permitting necessary for DEVELOPER's commencement, prosecution or completion of construction of the Private Development.

- b. CITY has submitted the sixty percent plans for the construction of the Public Infrastructure that have previously been approved by CITY, on file with the CITY's Department of Engineering, (the "60% Plans") to Sloan/PLF necessary to obtain the dedication or conveyance to the CITY of the southern one-half of the Future Wilmeth Road right-of-way along and across approximately three thousand twenty (3,020) linear feet of the Sloan/PLF Land frontage for the construction of the Future Wilmeth Road from Sloan/PLF (the "Sloan/PLF Tract"). Upon acquisition of the Sloan/PLF Tract, CITY shall promptly grant to DEVELOPER such rights of access as are reasonably necessary for DEVELOPER to construct, connect to and complete the Public Infrastructure upon, over, under, and across the Sloan/PLF Tract (the "Off-site Sloan/PLF Land" together with "Off-site Sliver Tract" provide the area for the construction of the "Off-Site Segment" and are referred to collectively as the "Off-Site Tracts").
- c. CITY will allow DEVELOPER to commence site work, including grading, and construction of the On-Site Segment prior to CITY obtaining all of the Off-Site Tracts and providing the right of access thereto to DEVELOPER. Similarly, CITY will allow DEVELOPER to commence site work, including grading, and construction of both the On-Site Segment and the Off-Site Segment of the Roadway Improvements save and except the Off-site Sliver Tract until such time as CITY receives the right of possession to the Off-site Sliver Tract.
  - 1) In the event CITY is unable to acquire the Off-Site Sliver Tract, CITY and DEVELOPER shall cooperate in good faith to try to identify a viable alternative public roadway improvement or access solution that provides vehicular access to the Phase I Development (the "Substitute Roadway Option"). In the event a Substitute Roadway Option is agreed upon as being viable, CITY and DEVELOPER shall cooperate in good faith to modify both the Milestones identified herein and any Reimbursement amounts to be paid to DEVELOPER attributable to the original Off-Site Segment and the Substitute Roadway Option.
  - 2) Thereafter DEVELOPER shall design and construct or cause the design and construction of the Substitute Roadway Option in accordance with

plans approved by CITY's Director of Engineering, and CITY's obligation to disburse Grant funds shall survive and remain in full force and effect as modified, and all design, preconstruction, and construction costs incurred by DEVELOPER in connection with the original Off-Site Segment prior to such date together with the agreed upon verified costs of designing and constructing the Substitute Roadway Option shall constitute eligible costs for reimbursement under the Grant as modified by the Agreement of CITY and DEVELOPER subject to the Not-to-Exceed Grant Amount.

- 3) If, however, CITY is unable to acquire the Off-Site Sliver Tract and CITY and DEVELOPER are unable to identify and agree upon a Substitute Roadway Option that satisfies the requirements of the City Code, this Agreement shall be deemed to have reached an impasse due to impossibility of performance. Upon the occurrence of such impossibility of performance DEVELOPER shall promptly: (i) terminate the design contracts for the Wilmeth Road Public Infrastructure Project, (ii) cause the Awarded Contractor to cease working on the construction of the Public Infrastructure and to work instead on securing the Property and all areas within which work has been performed to a condition that is generally safe for the public, (iii) cause the Awarded Contractor to cancel or terminate all outstanding contracts and orders for materials and supplies and return any unused materials and supplies for a refund or credit, (iv) cause the Awarded Contractor to cancel or terminate all outstanding contracts and subcontracts for the performance of any additional work on and about the Project, (v) wrap all other components and provisions of the Project, and submit a closing payment request to the CITY for the as yet unpaid costs and expenses attributable to the partial construction of the Public Infrastructure, and (vi) cease performing any other or additional work within and about the Property and the Phase I Development.
- 4) In addition, upon the occurrence of such impossibility of performance CITY shall work with DEVELOPER and the Awarded Contractor to identify activities required to close out the incomplete work on and about the Public Infrastructure. CITY shall also reimburse DEVELOPER for any verified actual construction costs and design costs incurred by DEVELOPER for work performed and accepted by DEVELOPER for the CITY Funded Infrastructure and the construction management costs actually incurred by DEVELOPER in managing the construction of the CITY Funded Infrastructure through the conclusion of the Awarded Contractor's work on the Wilmeth Road Public Infrastructure Project notwithstanding DEVELOPER's completion of each Milestone otherwise required for such reimbursement based on the doctrine of impossibility of performance.
- 5) Upon completion of their respective obligations identified in Sections 5.c.3) and 4), this Agreement shall be deemed fully performed and terminated

due to the doctrine of impossibility of performance. In addition, both DEVELOPER and CITY shall be relieved of any additional obligations and performance under this Agreement and have no further rights, duties, obligations, responsibilities, or liabilities under this Agreement. Further, DEVELOPER and CITY shall have no right or cause of action against the other party for any unreimbursed or unrecovered costs and expenses arising out of their respective efforts to fully perform this Agreement prior to reaching the impasse of impossibility of performance.

- d. To facilitate DEVELOPER's economic development Project and encourage satisfactory performance, construction, completion, and final acceptance of the component parts of the Public Infrastructure, CITY shall reimburse DEVELOPER for a percentage of the verified actual construction costs and design costs incurred by DEVELOPER for work performed and accepted by DEVELOPER for the CITY Funded Infrastructure and the construction management costs actually incurred by DEVELOPER in managing the construction of the CITY Funded Infrastructure based on the timing of DEVELOPER's completion of the individual milestones identified in the following table containing the "Schedule of Milestones" that are tied to DEVELOPER's progress in the delivery of the Private Development with each accomplishment being a "Milestone" toward increasing the CITY's economic development.
- e. It shall be DEVELOPER's obligation to provide CITY with documentation confirming DEVELOPER's completion of each Milestone identified in the Schedule of Milestones as well as the specific purposes and the dollar amounts expended by DEVELOPER for the design and construction of the CITY Funded Infrastructure for which the DEVELOPER seeks recovery through the Grant for the design and construction of the CITY Funded Infrastructure.
- f. CITY shall be the sole judge responsible for determining, in good faith, when a particular Milestone identified below has been reached and satisfied by DEVELOPER.

*[Remainder of page intentionally left blank.]*

g. Schedule of Milestones.

|    | <b>Milestone</b>   | <b>Reimbursement Percentage</b>   |
|----|--|---|
| 1. | Building Permits Issued for All of the Industrial Warehouse Buildings and Necessary Appurtenances Thereto Within the Phase I Development   | Up to 20% of the cumulative amounts paid for the CITY Funded Infrastructure work accepted by DEVELOPER and approved by CITY prior to Completion of this Milestone                         |
| 2. | <p>a. Completion of All Grading for All Public Infrastructure; and</p> <p>b. Relocation and Construction and Substantial Completion of All Underground Utilities for the Phase I Development; and</p> <p>c. Construction and Substantial Completion of the Fire Lanes for the Entirety of Phase I of the Private Development</p> | Up to 40% of the cumulative amounts paid for the CITY Funded Infrastructure work accepted by DEVELOPER and approved by CITY prior to completion of this Milestone and previous Milestones |
| 3. | Top Out/Frame Inspections Passed and Green Tags Issued for Said Inspections for All of the Industrial Warehouse Buildings situated within the Phase I Development  | Up to 60% of the cumulative amounts paid for the CITY Funded Infrastructure work accepted by DEVELOPER and approved by CITY prior to completion of this Milestone and previous Milestones |
| 4. | All Public Infrastructure Completed by DEVELOPER and Final Accepted by CITY (contemporaneous with completion of the Phase I Development) and DEVELOPER's delivery to CITY of requirements set out in Paragraphs 7.n., 7.o., and 7.p. of this Agreement;  | Up to 80% of the cumulative amounts paid for the CITY Funded Infrastructure work accepted by DEVELOPER and approved by CITY prior to completion of this Milestone and previous Milestones |

|    | <b>Milestone</b>   | <b>Reimbursement Percentage</b>   |
|----|--|---|
| 5. | Certificates of Occupancy Issued for All of the Industrial Warehouse Buildings situated within the Phase I Development | Final Payment of up to 100% of the lesser of:<br><br>a. the cumulative amounts paid for the CITY Funded Infrastructure work accepted by DEVELOPER and approved by CITY prior to completion of all Milestones; or<br><br>b. The Grant Amount |

- h. Prior to the end of each month during which this Agreement is in effect, DEVELOPER shall provide CITY with such information and documents as CITY may require to confirm the amount of money DEVELOPER has paid to its contractors, suppliers and materialmen for work actually performed on the CITY Funded Infrastructure to allow CITY to confirm that work is progressing toward completion of the Public Infrastructure. The Grant Amount payable to DEVELOPER for reimbursement of the costs associated with the design and construction of the CITY Funded Infrastructure shall be capped at the lesser of the Not-to-Exceed Grant Amount or the verified, actual construction costs and design costs of the CITY Funded Infrastructure together with the construction management costs actually incurred by DEVELOPER in managing the construction of the CITY Funded Infrastructure as further limited by the applicable Reimbursement Percentage.
- i. CITY shall evaluate any payment applications or invoices and supporting documentation provided by DEVELOPER and/or required by CITY to validate that the expenditures submitted by DEVELOPER for reimbursement upon the accomplishment of a Milestone are limited to the satisfactory design and construction of CITY Funded Infrastructure including the construction management costs actually incurred by DEVELOPER in managing the construction of the CITY Funded Infrastructure.
- j. At such time as DEVELOPER notifies CITY that DEVELOPER has completed and achieved a Milestone identified in the Schedule of Milestones, DEVELOPER shall provide CITY with documentation that identifies the Milestone accomplished and the various costs and expenses for the design and construction of the CITY Funded Infrastructure, including payment applications, contractual documents, and lien releases as well as certification by DEVELOPER regarding the calculation of the eligible percentage payable amount identified in the Schedule

of Milestones (collectively a "Milestone Payment Request") to enable CITY to confirm the Milestone Payment Request relates only to the City Funded Infrastructure.

- k. CITY shall have the right to verify that each Milestone Payment Request submitted to the CITY for payment relates only to the CITY Funded Infrastructure and otherwise conforms to the conditions set forth in this Agreement, and CITY agrees to give written itemized notice of any objections thereto to DEVELOPER, and pay the amount of the approved Milestone Payment Request to DEVELOPER in accordance with the requirements of the Texas Prompt Payment Act, Tex. Gov't Code Chapter 2251, and as the response times thereunder are modified by this Agreement (each payment being a "Grant Milestone Payment"). In no event shall CITY be obligated to pay for any work that does not generally conform to the final approved design plans for the Public Infrastructure or is otherwise unsatisfactory and has been rejected by CITY or is not substantially complete.

## **SECTION 6. OBLIGATIONS OF DEVELOPER**

While this Agreement is in effect, DEVELOPER shall comply with the following terms and conditions to be eligible for any Grant(s) and the payments thereof, as such conditions are described or may apply:

- a. DEVELOPER shall acquire, where necessary, and convey or cause to be conveyed to the CITY all on-site rights-of-way or road easements and infrastructure easements necessary for the construction of the On-Site Segment of the Public Infrastructure and shall convey or cause said on-site rights-of-way and infrastructure easements to be conveyed to the CITY in fee simple by plat dedication or separate instrument in a form that is acceptable to the CITY (the "R-O-W Conveyances"). All conveyances from DEVELOPER to CITY shall be at no cost to the CITY. DEVELOPER understands and acknowledges that additional right-of-way and easements from the Property may be required at the time of platting of tracts situated adjacent to the properties conveyed hereunder.
- b. The rights-of-way and infrastructure easements conveyed, dedicated or granted to the CITY shall be free and clear of all encumbrances, unless expressly permitted in writing by the CITY, which condition of title shall be approved by the CITY prior to the conveyance or dedication. Upon ten (10) days' written notice to DEVELOPER, the CITY shall have the right to terminate this Agreement if the on-site rights-of-way and infrastructure easements have not been acquired and conveyed or caused to be conveyed by DEVELOPER to CITY in accordance with this Section 6 and all obligations between the parties shall terminate. CITY understands and agrees that DEVELOPER's compliance with this provision may be delayed for up to one hundred twenty (120) days following the Effective Date or

overridden by Section 13(e) of this Agreement. Notwithstanding the foregoing and subject to Force Majeure, DEVELOPER shall dedicate all on-site rights-of-way and easements necessary for the construction of the Public Infrastructure to CITY at no cost to CITY on the earlier to occur of either (i) the date of recording of a final plat for all or a portion of the Property in the Real Property Records of Collin County, Texas or (ii) April 30, 2028, save, except, and unless an impasse has occurred under Section 5.c., above, in which event this Agreement shall be deemed terminated due to impossibility of performance.

- c. CITY agrees that DEVELOPER shall not be required to record a final plat for all or any portion of the Property as a condition to: (i) commencing site work, including grading, and construction of the horizontal components of the Private Development or Public Infrastructure or; (ii) the issuance of any development permits or building permits for any Roadway Improvements situated within the Phase I Development; or (iii) the disbursement of any Grant Milestone Payment under this Agreement. CITY also agrees that after the final plat for the Phase I Development has been approved or approved with conditions, and before recording with Collin County, the DEVELOPER may apply for and, subject to compliance with the City Code, be issued building permits by the CITY that will allow DEVELOPER to commence vertical construction of the Industrial Warehouse Buildings within the Phase I Development. DEVELOPER may elect, in its sole discretion, to file a final plat for all or any portion of the Property at any time, and such filing shall not accelerate any obligation of DEVELOPER under this Agreement and neither shall the existence of this Agreement relieve DEVELOPER from fully complying with any requirements of the Unified Development Code in conjunction with the filing or recording of such plat.

## **SECTION 7. BIDDING AND CONSTRUCTION OF THE PUBLIC INFRASTRUCTURE**

- a. DEVELOPER has previously investigated the cost of designing and constructing the Public Infrastructure and obtained bids or quotes or estimates related to the construction and installation of the Public Infrastructure (collectively "Original Proposals"). If those Original Proposals are still available to DEVELOPER, then DEVELOPER shall be allowed to proceed under the Original Proposals subject to CITY's approval of the general contractor selected by DEVELOPER (the "Awarded Contractor") and DEVELOPER's compliance with all other provisions set out in this Section 7 save and except competitively bidding the construction of the Public Infrastructure. If, however, the Original Proposals are no longer available to DEVELOPER, the DEVELOPER shall seek and obtain new bids or quotes or estimates related to the construction and installation of the Public Infrastructure ("New Proposals"), then DEVELOPER shall be allowed to proceed under the New Proposals

subject to CITY's approval of the general contractor selected by DEVELOPER (again being the "Awarded Contractor") and DEVELOPER's compliance with all other provisions set out in this Section 7 save and except competitively bidding the construction of the Public Infrastructure.

- b. At its cost (although subject to reimbursement under the Grant), DEVELOPER shall prepare City-approved plans and specifications for the competitive bidding and construction of the Public Infrastructure in one bid document and one contract utilizing the format for the Contract Documents and bond documents used by the CITY for competitively bidding CITY's infrastructure projects. The pricing for the DEVELOPER Required Public Infrastructure and the pricing for the City Funded Infrastructure shall be set out in two separate bid schedules or segments to be completed by the bidders that will allow CITY and DEVELOPER the opportunity to distinguish between the two components of the Public Infrastructure and related funding mechanisms while at the same time gaining the benefit of economies of scale attributable to merging and completing the two infrastructure projects as one Public Infrastructure project under one construction contract with one contractor.
- c. DEVELOPER shall bid the construction of the Public Infrastructure under the Project name of the "Wilmeth Road Public Infrastructure Project."
- d. CITY and DEVELOPER will work together to identify any relevant criteria that should be listed in the request for bids and the relative importance that should be accorded to price and other evaluation factors that will be considered in determining which bidder provides the services at the best value. The following items may be considered in determining the best value:
  - 1) the purchase price;
  - 2) the reputation of the bidder and of the bidder's goods or services;
  - 3) the quality of the bidder's goods or services;
  - 4) the extent to which the goods or services meet the CITY's and DEVELOPER's needs;
  - 5) the bidder's past relationship with the CITY and/or DEVELOPER; and
  - 6) any other relevant criteria.
- e. DEVELOPER shall provide CITY with a copy of the competitive bids received in response to the Wilmeth Road Public Infrastructure Project Bid

Specifications for CITY's review and consent to the selection of the bidder who provides the services for the entirety of the Wilmeth Road Public Infrastructure Project at the best value, which consent shall not be unreasonably withheld or delayed.

- f. The CITY and DEVELOPER agree the construction contract for the Wilmeth Road Public Infrastructure Project should be awarded to the bidder who provides the services for the entirety of the Wilmeth Road Public Infrastructure Project at the best value for the CITY and DEVELOPER. Notwithstanding anything to the contrary, DEVELOPER shall be considered the "Owner" for the construction of the Wilmeth Road Public Infrastructure Project.
- g. The bid solicitation and Contract Documents for the Wilmeth Road Public Infrastructure Project shall specify that the Awarded Contractor is required to agree to "substantially complete," as that term is defined in the Contract Documents, the Wilmeth Road Public Infrastructure Project within twenty-four (24) months after CITY has provided DEVELOPER with the development permit necessary for DEVELOPER's construction of the Wilmeth Road Public Infrastructure Project (the "Substantial Completion Date") subject to DEVELOPER's receipt of access to the Off-Site Sliver Tract and DEVELOPER's advance written request for extensions of time based on one or more Force Majeure events, with a liquidated damages clause of \$2,000 per day payable for each day past the Substantial Completion Date that completion of the Wilmeth Road Public Infrastructure Project is delayed. The bid solicitation and Contract Documents for the Wilmeth Road Public Infrastructure Project shall also provide the successful bidder with an additional thirty (30) days after reaching Substantial Completion to achieve Final Completion of all outstanding punch list items, with a second lesser liquidated damages clause of \$1,000 per day payable for each day past the Final Completion Date that Final Completion of the Wilmeth Road Public Infrastructure Project is delayed.
- h. CITY and DEVELOPER agree that all liquidated damages assessed against the successful bidder for its failure to timely achieve Substantial Completion and/or Final Completion in accordance with the Contract Documents for the Wilmeth Road Public Infrastructure Project, if any, shall be shared equally by CITY and DEVELOPER to offset their respective costs, expenses and inconvenience arising out of and attributable to the successful bidder's delays in completing the Wilmeth Road Public Infrastructure Project.
- i. Change Orders. If changes in plans or specifications are necessary after the performance of the Wilmeth Road Public Infrastructure Project is begun or if it is necessary to decrease or increase the quantity of work to

be performed or of materials, equipment, or supplies to be furnished, the CITY and DEVELOPER will work together to approve change orders making the changes subject to the following limitations:

- 1) The CITY's responsibility for any changes in the total contract price for the Wilmeth Road Public Infrastructure Project may not be increased because of the changes unless funding remains available in the Grant Amount or DEVELOPER agrees in advance in writing to be responsible for such increased costs.
  - 2) DEVELOPER shall have the right and ability to unilaterally accept and approve change orders for original contract price set out in the DEVELOPER Required Public Infrastructure bid schedule according to DEVELOPER's guidelines and the requirements of the contract documents for the Wilmeth Road Public Infrastructure Project.
- j. Performance and Payment Bonds Required. DEVELOPER shall require the successful bidder, or the Awarded Contractor, to provide a performance bond in the amount of one hundred percent (100%) of the total contract price for the benefit of the CITY and DEVELOPER for the construction of the Wilmeth Road Public Infrastructure Project to ensure the completion of the project. DEVELOPER shall also require the successful bidder, or the Awarded Contractor, to provide a payment bond in the amount of one hundred percent (100%) of the total contract price for the benefit of payment bond beneficiaries who have a direct contractual relationship with the successful bidder or Awarded Contractor and/or the successful bidder's or Awarded Contractor's contractors and subcontractors to provide labor or material for the construction of the Wilmeth Road Public Infrastructure Project. DEVELOPER shall cause the CITY to be identified as a "Beneficiary" on the Performance Bond and as an "Owner" on the Payment Bond. The bonds must be executed by a corporate surety in accordance with Chapter 2253, Texas Government Code, in the form acceptable to the CITY attached hereto as Exhibits "E" and "F."
- k. Maintenance Bond Required. DEVELOPER shall require the successful bidder, or the Awarded Contractor, to furnish to CITY a good and sufficient maintenance bond in the amount of one hundred percent (100%) of the total contract price of the Wilmeth Road Public Infrastructure Project improvements, with a reputable and solvent corporate surety, in favor of the CITY to indemnify the CITY against any repairs arising from defective workmanship or materials used in any part of the construction of the Wilmeth Road Public Infrastructure Project improvements, for a period of two (2) years from the date of final acceptance of such improvements, in the form acceptable to the CITY attached hereto as Exhibit "G."

DEVELOPER shall cause the CITY to be identified as an "Owner" on the Maintenance Bond.

I. Insurance Required. DEVELOPER shall require the Awarded Contractor, to provide the following insurance coverage in the manner and in the types and minimum amounts as identified herein below for the protection of the CITY and DEVELOPER, which coverages may be increased, and additional insureds added at the discretion of DEVELOPER.

1) Before commencing work, the Awarded Contractor shall, at its own expense, procure, pay for, and maintain the following insurance written by companies approved by the State of Texas and acceptable to the CITY. DEVELOPER shall obtain from the Awarded Contractor and furnish to the City of McKinney Purchasing Manager certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

City of McKinney  
c/o Purchasing  
P. O. Box 517  
McKinney, TX 75070

- a) Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum limits of \$2,000,000 per-occurrence and \$4,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.
- b) Workers' Compensation insurance with Texas statutory limits; and Employer's Liability coverage with minimum limits for bodily injury: a) by accident, \$1,000,000 each accident, b) by disease, \$1,000,000 per employee with a per policy aggregate of \$1,000,000.
- c) Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined single limit of \$1,000,000.

2) With reference to the foregoing required insurance, the Awarded Contractor shall agree to include the following:

- a) A waiver of subrogation in favor of City of McKinney and DEVELOPER and their respective officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.
  - b) The City of McKinney, DEVELOPER, Sloan Creek, Ltd., and PLF, Ltd., and their respective officials, employees and officers shall be covered as additional insureds on the Commercial General Liability and Business Automobile Liability policies.
  - c) Policies of insurance shall not be cancelled non-renewed, terminated, or materially changed unless and until thirty (30) days' notice has been given to the City of McKinney and DEVELOPER.
- 3) The total limits required may be satisfied by any combination of primary, excess or umbrella liability insurance provided all policies comply with all requirements. The Awarded Contractor may maintain reasonable deductibles, subject to approval by the City of McKinney
  - 4) All insurance shall be purchased from insurance companies that meet a financial rating of A-VI or better as assigned by A.M. Best Company or equivalent.
  - 5) The Awarded Contractor shall require any sub-contractors and other persons doing business with or for the Awarded Contractor related to the work to maintain at least the insurance as required, or their liability shall be covered by the Awarded Contractor.
  - 6) The Awarded Contractor shall also agree to comply with all applicable provisions of Texas Administrative Code regarding building or construction contracts with governmental entities and the contractual requirements.
  - 7) Certain language must be included in the Construction Agreement and in the Awarded Contractor's contracts with subcontractors and others relating to the work including:
    - a) the Awarded Contractor, is required to submit to the DEVELOPER and City certificates of coverage for its employees and for all others providing services relating to the work until all project work is completed; and

- b) the Awarded Contractor, is required to post certain notices at job sites including, but not necessarily limited to, language regarding Workers' Compensation insurance. The Awarded Contractor also agrees to comply with all applicable provisions of 28 Tex. Admin Code § 110.110, "Reporting Requirements for Building or Construction Projects for Governmental Entities," as such provision may be amended.
  
- m. At its cost and subject to DEVELOPER's receipt of all Off-Site Tracts, DEVELOPER shall design and construct or cause the design and construction of the aforementioned Public Infrastructure, pursuant to and in strict accordance with CITY's Subdivision Regulations, Engineering Design Manual and the approval of the CITY's Director of Engineering, in the area as generally depicted on Exhibit "B", subject to minor refinements to the location and alignment of the Roadway Improvements provided that said Roadway Improvements remain within the existing boundaries of the rights-of-way and easements acquired by the CITY or DEVELOPER and any refinements are approved in writing in advance by the CITY's Director of Engineering. Save and except for the occurrence of an impasse for impossibility of performance as recognized in Section 5.c., above, it is agreed that subject to Force Majeure and DEVELOPER's receipt of the Off-Site Sliver Tract, all construction shall be completed (to a condition which would satisfy all requisites for final acceptance by the CITY if such acceptance has not actually occurred) on or before the later of (i) April 30, 2028, or (ii) twenty-four (24) months after CITY has provided DEVELOPER with the development permit necessary for DEVELOPER's construction of the Wilmeth Road Public Infrastructure Project and access to the Off-Site Sliver Tract, or (iii) such later date as is mutually agreed to in writing by the parties. All Public Infrastructure contemplated by this Agreement shall be subject to CITY's inspection and approval upon completion.
  
- n. As a condition to DEVELOPER's receipt of the Milestone 4 payment and the final Milestone payment, DEVELOPER shall provide the following compliance certificates to CITY: compliance certificates specifying the as-built, actual costs of the construction (including any documentation of contractor payments incident thereto), and that construction of the Public Infrastructure has been completed and accepted by CITY in accordance with the terms and conditions of this Agreement and all CITY codes, ordinances and regulations, in effect on the Effective Date, and as verified by CITY, such verification not to be unreasonably withheld or delayed. DEVELOPER shall not be eligible for the final Milestone payment of the Grant Amount until the final completion and acceptance of the CITY Funded Public Infrastructure has occurred, and DEVELOPER has submitted any required lien releases, bills paid affidavits, and a two-year

Maintenance Bond in the amount of at least fifteen percent (15%) of the cost of the Public Infrastructure.

- o. As an additional condition to DEVELOPER's receipt of the Milestone 4 payment and the final Milestone payment, DEVELOPER shall be responsible for obtaining and submitting (i) a "Bills Paid Affidavit", as shown on Exhibit "H," satisfactory to the CITY, covering all Pay Apps for the Project; and (ii) any other cost and payment documentation reasonably requested by CITY for the Project. The CITY, or its designee, may verify that the expenditures were made in such amounts prior to the disbursement of the final Milestone payment of the Grant Amount.
- p. As an additional condition to DEVELOPER's receipt of the Milestone 4 payment and the final Milestone payment, DEVELOPER shall promptly following the CITY's final acceptance of the Public Infrastructure and DEVELOPER's final payment to the Awarded Contractor for the construction of the Public Infrastructure assign all rights of DEVELOPER in, to, and under the Contract Documents with the Awarded Contractor including the Performance Bond, Payment Bond, and Maintenance Bond to CITY and DEVELOPER shall be relieved from any further obligations regarding any maintenance or repairs arising out of defects in materials or workmanship in the construction of the Public Infrastructure by the Awarded Contractor. Notwithstanding the foregoing, DEVELOPER will remain responsible for any maintenance or repairs required to the Public Infrastructure that is caused by or arises out of any wrongful intentional conduct, grossly negligent conduct, or negligent conduct on the part of DEVELOPER.
- q. DEVELOPER shall comply with all Applicable Ordinances as well as any state and federal laws that may be applicable to the Project.

## **SECTION 8. EVENTS OF DEFAULT.**

Subject to Force Majeure or advance written agreement of the parties, each of the following shall constitute an event of default under this Agreement:

- a. CITY's failure to perform or observe any covenant, condition or obligation required of City by this Agreement.
- b. DEVELOPER's failure to perform or observe any covenant, condition or obligation required of DEVELOPER by this Agreement.

## **SECTION 9. EFFECT OF AN EVENT OF DEFAULT**

In the event of default under Section 8, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to

cure said default. Should said default remain uncured and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement.

Upon such termination, the parties shall have no further rights against the other party. So long as no default exists under Section 8.b, and without terminating the Agreement, DEVELOPER shall have the power to enforce specific performance to collect amounts owing upon CITY's default under Section 8.a. DEVELOPER shall further have the right to seek a judicial declaration of the appropriate amount of Grant Milestone Payment owing by CITY under Section 4 above. In the event of the occurrence of an Event of Default by DEVELOPER under Section 8.b above and prior to any termination by CITY, any Grant Milestone Payment otherwise due shall be waived by DEVELOPER until and unless cure is made. In the event DEVELOPER cures any Default under Section 8.b prior to CITY's termination, DEVELOPER shall be eligible for subsequent Grant Milestone Payments, if any. No action shall lie for damages by either party, including punitive damages, and no special or consequential, incidental, indirect, special, or exemplary damages of any kind (including, but not limited to, lost profits, loss of business, loss of use of data, interruption of business) arising from, relating to, or in connection with this Agreement shall be recovered by any party, even if such party has been advised of the possibility of or could have foreseen such damages.

#### **SECTION 10. TERMINATION OF AGREEMENT BY CITY WITHOUT DEFAULT.**

CITY may terminate this Agreement without an Event of Default by DEVELOPER and effective immediately if any state or federal statute, regulation, case law, or other law renders this Agreement ineffectual or illegal, including case law holding that a Chapter 380 Economic Development Agreement remitting general funds as such is contemplated by this Agreement is an unconstitutional debt.

Termination of this Agreement by CITY under this Section 10 shall render this Agreement null and void from that point forward with each party having no further rights against each other under this Agreement or at law; provided, however, that (i) DEVELOPER shall be entitled to receive from CITY any Grant Milestone Payment due DEVELOPER through the date of termination and (ii) the CITY and DEVELOPER agree to negotiate in good faith a remedy that preserves the intent of the parties hereunder, including DEVELOPER's reasonably expected receipt of all or a portion of the Grant Amount, as much as reasonably possible including, without limitation, the creation of an interest and sinking fund.

#### **SECTION 11. 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.

## **SECTION 12. 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.

### **SECTION 13. MISCELLANEOUS PROVISIONS**

The following miscellaneous provisions are a part of this Agreement:

- a. Amendments. This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by all of the parties hereto.
- b. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Collin County, Texas.
- c. Applicable Ordinances. All references to any provisions of the City Code including, but not limited to, the Unified Development Code, the Subdivision Ordinance or Subdivision Regulations, the Comprehensive Plan, the Engineering Design Manual, the Master Thoroughfare Plan, the Impact Fee Ordinance, and the Zoning Ordinance shall mean that Code, Ordinance, Manual, Plan, or other City of McKinney requirement as it is in effect on the Effective Date of this Agreement.
- d. Audit. DEVELOPER agrees to allow CITY, at its sole cost and expense, and upon reasonable advance written notice, to audit all of DEVELOPER's records, documents, agreements and other instruments related to the construction of the Public Infrastructure at the location where DEVELOPER maintains such items for a period of no more than two (2) years from the date of completion and CITY's final acceptance of the Public Infrastructure.
- e. Binding Obligation Conditioned Upon DEVELOPER's Acquisition of the Property Within One Hundred Twenty (120) Days After the Effective Date. 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. This Agreement shall be held in escrow until the date that DEVELOPER acquires fee simple title to the Property, at which time CITY shall file this Agreement in the Real Property Records of Collin County, Texas. If DEVELOPER does not acquire fee simple title to the Property within such one hundred twenty (120) day period (as may be extended), this Agreement shall automatically terminate and be of no further force or

effect. CITY warrants and represents that the individual executing this Agreement on behalf of CITY has full authority to execute this Agreement and bind CITY to the same. DEVELOPER warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.

- f. Private Development Conditions. All of the Private Development shall be consistent with all CITY codes and ordinances as well as any other regulations or plans related to the Property, including the CITY's Comprehensive Plan, Subdivision Regulations, Zoning Ordinance and all other applicable development regulations, in effect on the Effective Date. This Agreement does not constitute a waiver by CITY of any development ordinances or conditions. DEVELOPER acknowledges that by executing this Agreement, no entitlement or agreements concerning zoning or land use shall arise, either implied or otherwise, through or by virtue of this Agreement.
- g. No Waiver of Sovereign Immunity. The CITY shall not have waived any statutory or common law right to sovereign immunity by virtue of its execution hereof.
- h. Execution of Agreement. The CITY has authorized its City Manager to execute this Agreement on behalf of the CITY.
- i. Severability. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.
- j. Notices. Whenever a party to this Agreement is required or permitted under this Agreement to provide the other party with any notice, submittal, request, demand, consent, or approval ("Notice"), the Notice shall be given in writing and shall be delivered to the other party at the address or facsimile number set forth below: (a) personally; (b) by a reputable overnight courier service; (c) by certified mail, postage prepaid, return receipt requested; or (d) by e-mail or facsimile transmission. Either party may change its address for Notice by written notice to the other party delivered in the manner set forth above. Notice shall be deemed to have been duly given: (i) on the date personally delivered; (ii) one (1) business day after delivery to an overnight courier service with next-day service requested; (iii) on the third (3rd) business day after mailing, if mailed using certified mail; or (iv) on the date sent when delivered by facsimile or e-mail (so long as delivered on a business day and the sender receives electronic confirmation of delivery and a copy of the Notice is sent by one

of the other means permitted hereunder on or before the next business day).

If to DEVELOPER: McIntyre Phase I Owner, L.P.  
Attn: Brad Cooper  
3819 Maple Avenue  
Dallas, Texas 75219  
Email: bcooper@crowholdings.com

Copy to: Mallory Muse  
Winstead PC  
2728 North Harwood Street, Suite 500  
Dallas, Texas 75201  
Telephone: (214) 745-5689  
E-mail: mmuse@winstead.com

If to CITY: City of McKinney, Texas  
Attn: Paul G. Grimes, City Manager  
401 E. Virginia Street  
McKinney, TX 75069  
Telephone: (972) 547-7520  
Fax: (972) 547-2607  
E-mail: pgrimes@mckinneytexas.org

Copy to: Mark S. Houser  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081  
Telephone: (214) 747-6100  
Fax: (214) 747-6111  
E-mail: mhouser@bhlaw.net

- j. **Effective Date.** The effective date (the "Effective Date") of this Agreement shall be the latter of the dates on which DEVELOPER and CITY have each executed this Agreement.
- k. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

*[Signatures begin on following page.]*

**CITY OF MCKINNEY, TEXAS**

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

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

ATTEST:

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

APPROVED AS TO FORM:

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

THE STATE OF TEXAS §  
COUNTY OF COLLIN §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_\_\_.

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

**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: \_\_\_\_\_  
Title: Vice President

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

THE STATE OF TEXAS,  
COUNTY OF DALLAS

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2026, by \_\_\_\_\_, 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 \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2026.

\_\_\_\_\_  
Notary Public Dallas County, Texas

My commission expires \_\_\_\_\_

**EXHIBIT "A"**

Depiction of Phase I of the Chi McKinney Development and  
General Location and layout of Public Infrastructure and  
Proposed Industrial Warehouse Buildings

*[See following single page.]*

EXHIBIT A



CHI McINTYRE INDUSTRIAL

Overall Site Plan

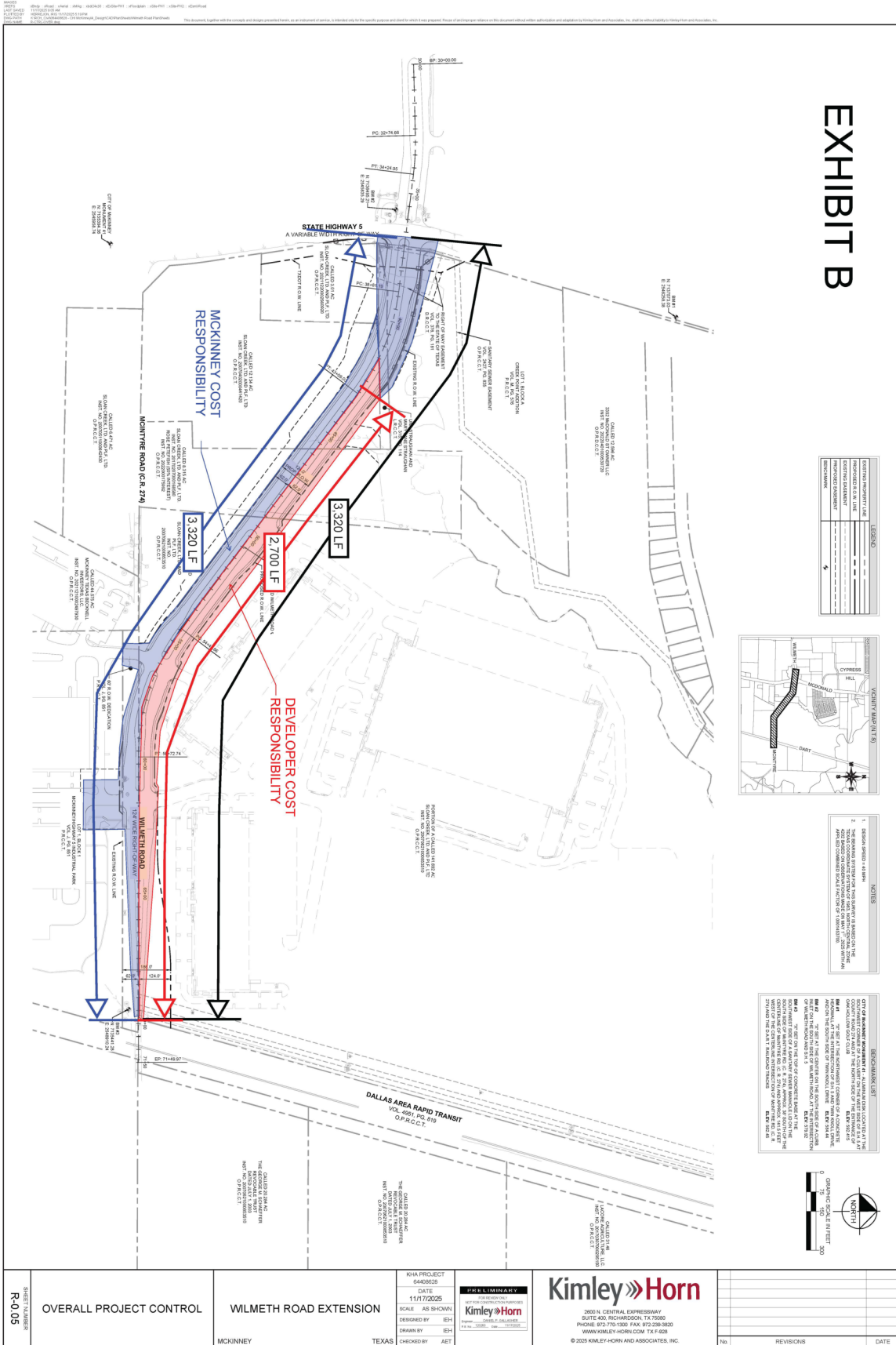


EXHIBIT "B"

Wilmeth Road Project Layout

*[See following single page.]*

# EXHIBIT B



OVERALL PROJECT CONTROL  
R-005

WILMETH ROAD EXTENSION  
MCKINNEY  
TEXAS

KHA PROJECT  
6409028  
DATE  
11/17/2025  
SCALE  
AS SHOWN  
DESIGNED BY  
EIH  
DRAWN BY  
EIH  
CHECKED BY  
AET

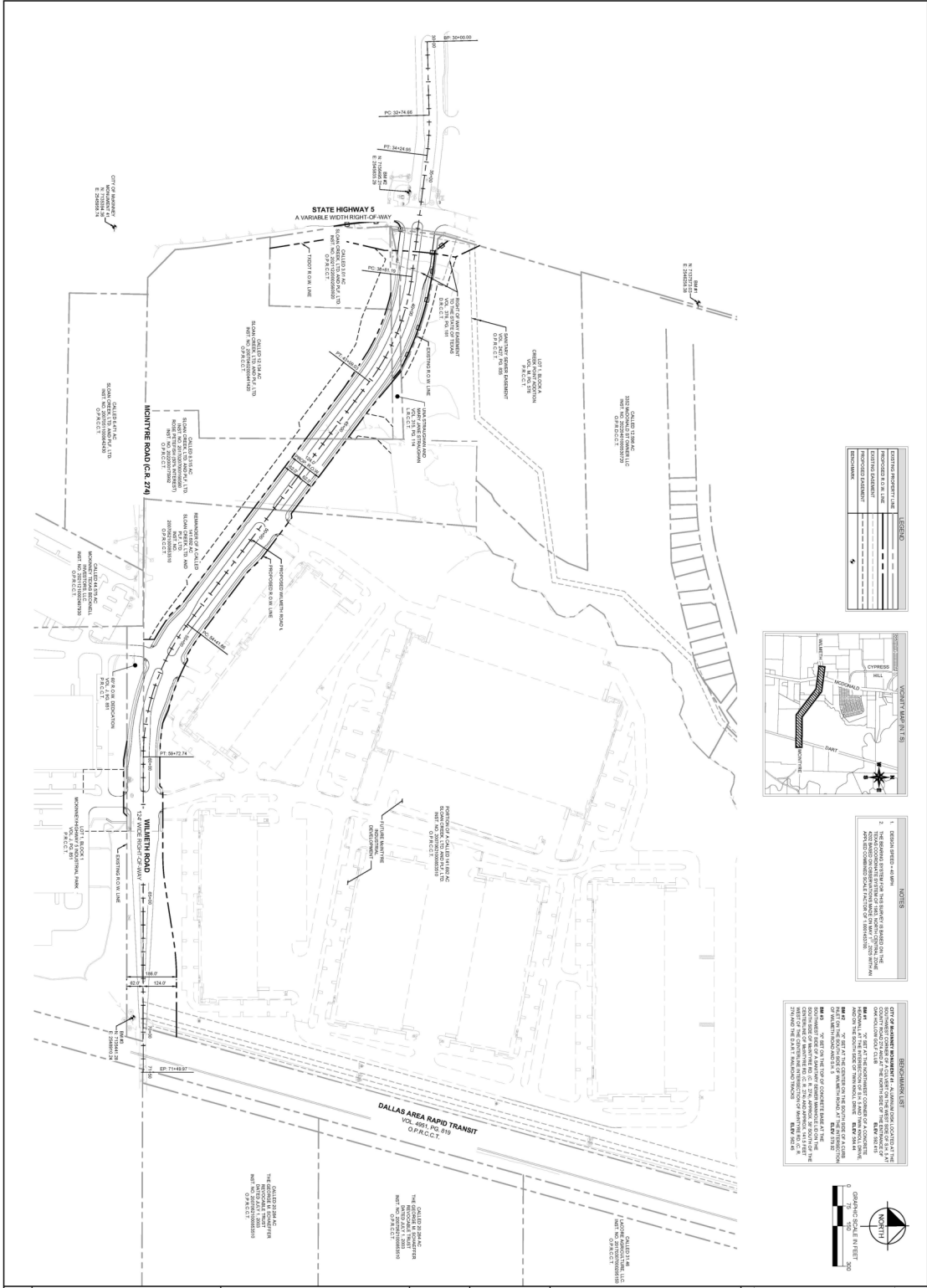
**Kimley Horn**  
2600 N. CENTRAL EXPRESSWAY  
SUITE 402, RICHARDSON, TX 75080  
PHONE: 972.770.1500 FAX: 972.770.2800  
WWW.KIMLEY-HORN.COM TX F-028  
© 2025 KIMLEY-HORN AND ASSOCIATES, INC.

| NO. | REVISIONS | DATE |
|-----|-----------|------|
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|     |           |      |
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Exhibit "B-1"

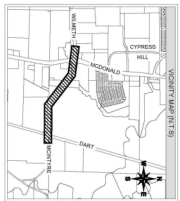
Overall Project Control Page from  
the Approved 60% Civil Construction Plans for  
the Wilmeth Road Extension

1. Title Block  
 2. Legend  
 3. Notes  
 4. Benchmarks  
 5. Scale  
 6. North Arrow  
 7. Project Information  
 8. Designer Information  
 9. Date  
 10. Revision Table



**LEGEND**

|                                     |                                     |
|-------------------------------------|-------------------------------------|
| EXISTING CENTERLINE                 | PROPOSED CENTERLINE                 |
| EXISTING EASEMENT                   | PROPOSED EASEMENT                   |
| EXISTING PROPERTY                   | PROPOSED PROPERTY                   |
| EXISTING ROAD                       | PROPOSED ROAD                       |
| EXISTING UTILITY                    | PROPOSED UTILITY                    |
| EXISTING CURB                       | PROPOSED CURB                       |
| EXISTING SIDEWALK                   | PROPOSED SIDEWALK                   |
| EXISTING DRIVEWAY                   | PROPOSED DRIVEWAY                   |
| EXISTING FENCE                      | PROPOSED FENCE                      |
| EXISTING SIGN                       | PROPOSED SIGN                       |
| EXISTING LIGHT                      | PROPOSED LIGHT                      |
| EXISTING TREE                       | PROPOSED TREE                       |
| EXISTING LANDSCAPE                  | PROPOSED LANDSCAPE                  |
| EXISTING GRADE                      | PROPOSED GRADE                      |
| EXISTING ELEVATION                  | PROPOSED ELEVATION                  |
| EXISTING DISTANCE                   | PROPOSED DISTANCE                   |
| EXISTING AREA                       | PROPOSED AREA                       |
| EXISTING VOLUME                     | PROPOSED VOLUME                     |
| EXISTING WEIGHT                     | PROPOSED WEIGHT                     |
| EXISTING LENGTH                     | PROPOSED LENGTH                     |
| EXISTING WIDTH                      | PROPOSED WIDTH                      |
| EXISTING HEIGHT                     | PROPOSED HEIGHT                     |
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| EXISTING FLEXURAL DAMPING           | PROPOSED FLEXURAL DAMPING           |
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| EXISTING AXIAL DAMPING              | PROPOSED AXIAL DAMPING              |
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| EXISTING FLEXURAL RELIABILITY       | PROPOSED FLEXURAL RELIABILITY       |
| EXISTING SHEAR RELIABILITY          | PROPOSED SHEAR RELIABILITY          |
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| EXISTING TORSIONAL SAFETY           | PROPOSED TORSIONAL SAFETY           |
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- NOTES**
1. DESIGNER'S RESPONSIBILITY IS LIMITED TO THE INFORMATION PROVIDED TO THE ENGINEER BY THE CLIENT. THE ENGINEER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE ENGINEER.
  2. THE ENGINEER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE ENGINEER.
  3. THE ENGINEER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE ENGINEER.

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Exhibit "C"

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 "D"

Intentionally Omitted

**EXHIBIT “E”**

Performance Bond

*[See following three pages.]*

**CONSTRUCTION PERFORMANCE BOND**

STATE OF TEXAS            )  
  )  
COUNTY OF COLLIN        )

**KNOW ALL MEN BY THESE PRESENTS:** That **[REPLACE W CONTRACTOR NAME]** whose address is [Replace w Street address], [Replace w City], [Replace w State], [Replace w Zip], hereinafter called Principal, and [Replace w Surety Name], a corporation organized and existing under the laws of the State of [Replace w Surety State], and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto **MCINTYRE PHASE I OWNER, L.P.**, a Delaware limited partnership, and the **CITY OF MCKINNEY**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Beneficiary" whether one or more, in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

**THE OBLIGATION TO PAY SAME** is conditioned as follows: Whereas, the Principal entered into a certain Contract with MCINTYRE PHASE I OWNER, L.P., or the City of McKinney, dated on or about the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

COMBINED WILMETH ROAD PROJECT

in the City of McKinney, Texas, as more particularly described and designated in the above-referenced contract such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word.

**NOW, THEREFORE**, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Beneficiary, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Owner; and, if the Principal shall fully indemnify and save harmless the Beneficiary from and against all costs and damages which Beneficiary may suffer by reason of failure to so perform herein and shall fully reimburse and repay Beneficiary all outlay and expense which the Beneficiary may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

**PROVIDED FURTHER**, that if any legal action were filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

**AND PROVIDED FURTHER**, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Plans, Specifications and Drawings, etc., accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in six copies, each one of which shall be deemed an original, this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

**PRINCIPAL:**

***[REPLACE W CONTRACTOR NAME]***

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

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

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

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City State Zip

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City State Zip

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Phone Fax

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Phone Fax

ATTEST:

SURETY:

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

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

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

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Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

\_\_\_\_\_  
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

**NOTE:** Date on **Page 1** of Performance Bond must be **same date as Contract**. Date on **Page 2** of Performance Bond must be **after date of Contract**. If Resident Agent is not a corporation, give a person's name.

**EXHIBIT "F"**

Payment Bond

*[See following three pages.]*

**CONSTRUCTION PAYMENT BOND**

STATE OF TEXAS            )  
  )  
COUNTY OF COLLIN        )

**KNOW ALL MEN BY THESE PRESENTS:** That **[REPLACE W CONTRACTOR NAME]** whose address is [Replace w Street address], [Replace w City], [Replace w State], [Replace w Zip], hereinafter called Principal, and [Replace w Surety Name], a corporation organized and existing under the laws of the State of [Replace w Surety State], as Surety, are held and firmly bound unto **MCINTYRE PHASE I OWNER, L.P.**, a Delaware limited partnership, and the **CITY OF MCKINNEY**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Owner" whether one or more, and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to in the penal sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

**THE OBLIGATION TO PAY SAME** is conditioned as follows: Whereas, the Principal entered into a certain Contract with MCINTYRE PHASE I OWNER, L.P., or the City of McKinney, dated on or about the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

COMBINED WILMETH ROAD PROJECT

**NOW THEREFORE**, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in the above-referenced Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

**PROVIDED FURTHER**, that if any legal action were filed on this Bond, exclusive venue shall lie in Collin County, Texas.

**AND PROVIDED FURTHER**, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

**IN WITNESS WHEREOF**, this instrument is executed in six copies, each one of which shall be deemed an original, this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST:

**PRINCIPAL:**

***[REPLACE W CONTRACTOR NAME]***

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

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

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Typed/Printed Name

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City State Zip

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Phone Fax

*[Signatures continued on following page.]*

ATTEST:

SURETY:

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

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

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

\_\_\_\_\_  
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

**NOTE:** Date on **Page 1** of Payment Bond must be **same date as Contract**. Date on **Page 2** of Payment Bond must be **after date of Contract**. If Resident Agent is not a corporation, give a person's name.

**EXHIBIT "G"**

Maintenance Bond

*[See following three pages.]*

**MAINTENANCE BOND**

STATE OF TEXAS            )  
  )  
COUNTY OF COLLIN        )

**KNOW ALL BY THESE PRESENTS:** [REPLACE W CONTRACTOR NAME] whose address is [Replace w Street address], [Replace w City], [Replace w State], [Replace w Zip], hereinafter called Principal, and [Replace w Surety Name], a corporation organized and existing under the laws of the State of [Replace w Surety State], as Surety, are held and firmly bound unto **MCINTYRE PHASE I OWNER, L.P.**, a Delaware limited partnership, and the **CITY OF MCKINNEY**, a Texas municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as "Owner" whether one or more, in the penal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) in lawful money of the United States to be paid to Owner, its successors and assigns, for the payment of which sum well and truly to be made, we bind ourselves, our successors, heirs, executors, administrators and successors and assigns, jointly and severally; and firmly by these presents, the condition of this obligation is such that: The penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal sum of this Bond.

**WHEREAS**, Principal entered into a certain written Contract with MCINTYRE PHASE I OWNER, L.P., or the City of McKinney, dated on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to furnish all permits, licenses, bonds, insurance, products, materials, equipment, labor, supervision, and other accessories necessary for the construction of:

COMBINED WILMETH ROAD PROJECT

in the City of McKinney, Texas, and the City of Frisco, Texas, as more particularly described and designated in the above-referenced contract, such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word:

**WHEREAS**, in said Contract, the Principal binds itself to use first class materials and workmanship and of such kind and quality that for a period of two (2) years from the completion and final acceptance of the improvements by Owner the said improvements shall require no repairs, the necessity for which shall be occasioned by defects in workmanship or materials and during the period of two (2) years following the date of final acceptance of the Work by Owner, Principal binds itself to repair or reconstruct said improvements in whole or in part at any time within said period of time from the date of such notice as the Director of Engineering, Director of Public Works or the Director of Community Services shall determine to be necessary for the preservation of the public health, safety or welfare. If Principal does not repair or reconstruct the improvements within the time period designated, Owner shall be entitled to have said repairs made and charge Principal and/or Surety the cost of same under the terms of this Maintenance Bond.

**NOW, THEREFORE**, if Principal will maintain and keep in good repair the Work herein contracted to be done and performed for a period of two (2) years from the date of final acceptance and do and perform all necessary work and repair any defective condition (it being

understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by Principal) then this obligation shall be void; otherwise it shall remain in full force and effect and Owner shall have and recover from Principal and its Surety damages in the premises as provided in the Plans and Specifications and Contract.

**PROVIDED, however, that Principal hereby holds harmless and indemnifies Owner from and against any claim or liability for personal injury or property damage caused by and occurring during the performance of said maintenance and repair operation.**

**PROVIDED, further, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.**

**AND PROVIDED FURTHER, Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc. accompanying same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder.**

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

IN WITNESS WHEREOF, this instrument is executed in two (2) copies, each one of which shall be deemed an original, on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

**PRINCIPAL:**

***[REPLACE W CONTRACTOR NAME]***

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

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

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

\_\_\_\_\_  
Phone Fax

*[Signatures continued on following page.]*

ATTEST:

SURETY:

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

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

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

\_\_\_\_\_  
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: \_\_\_\_\_  
STREET ADDRESS: \_\_\_\_\_  
CITY, STATE, ZIP: \_\_\_\_\_

**NOTE:** Date on **Page 1** of Maintenance Bond must be **same date as Contract**. Date on **Page 2** of Maintenance Bond must be **after date of Contract**. If Resident Agent is not a corporation, give a person's name.

**Exhibit “H”**

“Bills Paid Affidavit”

*[See following three pages.]*

**BILLS-PAID AFFIDAVIT**

**Date:** \_\_\_\_\_

**Project Name:**      **COMBINED WILMETH ROAD PROJECT**

**Owner Name:** \_\_\_\_\_

**Owner's Mailing Address:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Contractor Name(s):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Contractor's Mailing Address(es):**

\_\_\_\_\_                      \_\_\_\_\_  
\_\_\_\_\_                      \_\_\_\_\_  
\_\_\_\_\_                      \_\_\_\_\_  
\_\_\_\_\_                      \_\_\_\_\_

**Affiant's Name:** \_\_\_\_\_

**Affiant's Mailing Address:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Phase/Lots and Blocks:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Improvements:** \_\_\_\_\_



OWNER:

                    [INSERT OWNER'S NAME]  
a           [Insert type of business entity]

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

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

SUBSCRIBED AND SWORN TO before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, in his/her capacity as \_\_\_\_\_, of \_\_\_\_\_ a \_\_\_\_\_ (hereinafter called "Affiant").

\_\_\_\_\_  
Notary Public, State of Texas