

**DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PLANO, TEXAS AND  
METROPOLITAN INTERESTS CORPORATION FOR THE TOWNHOMES @  
10<sup>th</sup> STREET PROJECT**

This Development Agreement ("Agreement") is entered into by and between the City of Plano, a Texas municipal corporation (the "City"), acting by and through its duly authorized officers, and Metropolitan Interests Corporation, a Delaware Corporation ("Developer").

**RECITALS**

**WHEREAS**, the City is authorized pursuant to the laws of Texas and its Home Rule Charter to enter into agreements with persons or entities intending to undertake any development on real property for the purposes of providing supporting public facilities and services; and

**WHEREAS**, Developer desires to develop a site of approximately 0.86± acres located at the southeast corner of 10th Street and K Avenue (the "Property") and as shown in Exhibit "A" attached hereto; and

**WHEREAS**, Developer has proposed the development of eight (8) townhomes in substantial compliance with a Concept Plan prepared by Developer attached hereto as Exhibit "B" (the "Plan" or the "Development"); and

**WHEREAS**, Developer's proposed development is located in Tax Increment Financing District No. 2 ("TIF 2") and is in keeping with the intent of that reinvestment zone to promote sound growth; and

**WHEREAS**, the proposed public improvements (hereinafter defined as the "Public Improvements") shown in the Plan are to be funded through the revenue derived by TIF 2 in accordance with the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, to promote development and redevelopment in the area through the use of tax increment financing; and

**WHEREAS**, the TIF 2 Board of Directors recommended approval of a grant for the Development at a special called meeting on November 4, 2021: and

**WHEREAS**, the Public Improvements are funded under General Category Allocations (streets, utilities and landscaping) identified in the current *Project Plan and Financing Plan* for TIF 2, for which at least \$634,787.00 has been budgeted; and

**WHEREAS**, the termination date for TIF 2 is December 31, 2029; and

**WHEREAS**, Developer's proposed development is consistent with the goals and objectives as set forth in the Downtown Plano Vision and Strategy; and

**WHEREAS**, the development of the Property in accordance with the Plan by Developer will contribute important direct and indirect economic and social benefits to the City, including, but not limited to the creation of a pedestrian-oriented residential development near the 12<sup>th</sup> Street Silver Line DART rail station; and

**WHEREAS**, it is essential to the City's public health, safety and general welfare to assure that the Development is supported by adequate levels of public facilities and services.

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND OBLIGATIONS HEREIN, THE PARTIES AGREE AS FOLLOWS:**

**SECTION 1. DEVELOPER'S OBLIGATIONS**

A. Prior to receiving any funding from the City as authorized by this Agreement, Developer shall:

1. Obtain approval of a final site plan as required by the phasing to develop a minimum of 8 townhomes (the "Development");
2. Provide documentation to the reasonable satisfaction of the City of financial ability to complete the obligations under this Agreement in the form of a letter from lenders providing financing for the Development or proof of ownership of the Property and verification of construction financing;
3. Obtain all necessary City permits to begin construction of the Development's first phase and begin construction of the Development no later than July 1, 2022; Construction shall be deemed to have begun when Developer commences site work (i.e., grading, clearing or trenching) on the Property;
4. Complete the design, construction, and installation of the private improvements comprising the Development, at its sole cost and expense, and which when completed shall have a private investment value (land and improvements) of approximately Three Million, Five Hundred Thousand and No/Dollars (\$3,500,000) or greater amount;
5. Complete the design, construction, and installation of all public improvements described in Exhibit "C" attached hereto (the "Public Improvements.") The Public Improvements shall be designed, constructed and installed in a good and workmanlike manner in accordance with all applicable laws, statutes and ordinances, rules and regulations of the City and any other governmental authority having jurisdiction, including, without limitation, the City Right-of-Way Management Ordinance, the City Code of Ordinances and the City Zoning and Subdivision Ordinances. The Public Improvements shall be substantially completed on or before July 31, 2024;
6. Convey the Public Improvements and the property underlying the Public Improvements to the City, evidenced by the filing of the final plat for the Development with the Collin County Clerk's office and a letter indicating the acceptance of the Public Improvements by the Director of Engineering, and any other instrument which the City may reasonably request, and shall include, to the extent assignable, an assignment of all contractors' warranties, if any, and maintenance bonds; and
7. Request payment from the City in writing. Payments shall include all supporting documentation that may be reasonably requested by the City.

## **SECTION 2. CITY'S OBLIGATIONS**

### **A. The City shall perform the following obligations:**

1. Pay Developer reimbursement of Project Costs (as defined below) in the amount of Two Hundred and Twenty-Three Thousand, Two Hundred and Sixty-Three Dollars (\$223,263.00) upon Developer's completion of the requirements in Section 1(A) above and after receipt of Developer's written request for payment. Reimbursement to the Developer for eligible expenses for "Project Costs" (as defined hereinafter) will occur after final inspection and acceptance of the Public Improvements by the City in accordance with Section 1.A.5 and 1.A.6 above. At the discretion of the Director of Special Projects, and in consultation with the City Engineer, reimbursement may be paid in phases following the completion of the specified improvements. However, such reimbursement shall exclude "Overhead Costs" (as defined hereinafter).
2. "Project Costs" means actual construction and/or installation costs for Public Improvements, including but not limited to:
  - i. Construction of pavement, storm sewer, drainage, water utilities, paving, lighting, landscape, hardscape and other similar improvements required by the City, both on-site and off-site, that are described or specified on the project plans approved by the City in the not to exceed amount of \$ 223,263.00.
3. "Overhead Costs" means:
  - i. overhead and management fees of Developer;
  - ii. financing charges;
  - iii. marketing costs;
  - iv. legal fees; and
  - v. payments made to entities affiliated with or related to Developer to the extent such payments made to entities affiliated with or related to Developer do not exceed what is reasonable and customary for such services.

B. All payments for Public Improvement reimbursement to Developer under this subsection shall be payable solely from TIF 2 funds as provided by law and shall not be obligated for payment from the City's general fund or any other City fund unrelated to TIF 2 funds;

C. Reimburse the Developer for all development fees required to construct the improvement.

## **SECTION 3. DESIGN AND CONSTRUCTION**

A. Design management for the Public Improvements and the Development will be provided by Developer's designated licensed architect and/or a licensed civil engineer for the Development, or such other party as shall be mutually agreed to by the parties to this Agreement.

B. Developer shall obtain all required local, state and federal governmental approvals and permits required for construction of the Public Improvements.

- C. Developer shall require its general contractor to procure and maintain insurance coverage as set forth in Exhibit "D" for the duration of the construction of the Public Improvements at the Property. Developer shall provide their general contractor's signed insurance certificate to the City verifying that they have obtained the required insurance coverage prior to the commencement of construction of the Public Improvements and naming the City of Plano as additional insured.
- D. Developer shall procure and maintain insurance coverage as set forth in Exhibit "D" for the duration of this Agreement. Developer shall provide their signed insurance certificate to the City verifying that they have obtained the required insurance coverage prior to the commencement of construction of the Public Improvements and naming the City of Plano as additional insured.
- E. Developer shall provide a performance bond as provided in the form on the attached Exhibit "F" in an amount mutually and reasonably agreed between the City and Developer.
- F. Upon completion of the Public Improvements, Developer shall provide a maintenance bond and a payment bond as provided in the form on attached Exhibit "E" and Exhibit "G" respectively in an amount mutually and reasonably agreed between the City and Developer.
- G. Except as provided herein, all project designs, drawings, site plans and other documents produced by Developer in connection with the Development, including those attached to this Agreement, shall remain the property of Developer. In exchange for Developer's acceptance of the above-described reimbursement from the City, the portion of the plans created for the Public Improvements shall become the property of the City upon dedication and acceptance as required by Section 1.A.5. and 1.A.6. of this Agreement.

#### **SECTION 4. DAMAGE, DESTRUCTION, OR FAILURE OF PERFORMANCE**

Should Developer fail to complete installation of the Public Improvements by the date specified in Section 1.A.5. of this Agreement, the City shall have no obligation to expend funds to complete the Public Improvements.

#### **SECTION 5. FORCE MAJEURE**

It is expressly understood and agreed by the parties to this Agreement that if the commencement, progress and/or completion of the construction of the housing development contemplated hereunder is delayed by reason by war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences; delays caused by the franchise utilities; fire or other casualty; court injunction; necessary condemnation proceedings; or acts of the other party, its affiliates/related entities and/or their contractors, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

## **SECTION 6. TERM**

The term of this Agreement shall begin on the date of execution and end upon the complete performance of all obligations and conditions precedent by parties to this Agreement but in no event later than December 31, 2024. The City Manager or his designee shall have the authority to extend, in writing, the commencement and completion dates, and all other deadlines contained within the Agreement, including the term, for an additional period of one year.

## **SECTION 7. AUTHORITY OF DEVELOPER**

Developer represents and warrants to the City that Developer is duly formed, validly existing and in good standing under the laws of the State of Texas. Developer will provide a certificate of status from the Texas Secretary of State's office evidencing Developer's current legal status and authority to conduct business in Texas. Developer represents that it has full power, authority and legal right to execute and deliver this Agreement. This Agreement constitutes a legal, valid, and binding obligation of Developer, enforceable in accordance with its terms.

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

A default shall exist if any of the following occurs:

1. Either party fails to perform or observe any material covenant contained in this Agreement.
2. Developer becomes delinquent on ad valorem taxes owed to the City, or any other Collin County taxing unit, provided that Developer retains the right to timely and properly protest and/or contest any such taxes and during the pendency of such proceedings such taxes shall not be deemed delinquent.

A party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default by the defaulting party under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default.

## **SECTION 9. REMEDIES**

The defaulting party shall have thirty (30) days to cure after receiving written notice of default from a party. If a default shall continue after the thirty (30) days' notice to cure the default, the non-defaulting party may, at its option, terminate the Agreement and/or pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law without the necessity of further notice to or demand upon the defaulting party. However, the non-defaulting party may, at its option, provide written extension for additional time to cure if the defaulting party proceeds in good faith and with due diligence to remedy and correct the default, provided that the defaulting party has commenced to cure such default within 30 days following the original notice.

## **SECTION 10. BANKRUPTCY**

In the event Developer files for bankruptcy, whether involuntarily or voluntary, Developer shall provide written notice to the City within three (3) business days of such event. Bankruptcy shall place Developer in immediate default with the terms and conditions of this Agreement.

## **SECTION 11. INDEMNIFICATION**

**DEVELOPER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY DEVELOPER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF DEVELOPER, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH DEVELOPER IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. DEVELOPER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ITS OWN ENTIRE DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND DEVELOPER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.**

## **SECTION 12. AFFIDAVIT OF NO PROHIBITED INTEREST**

By signing this Agreement, Developer certifies the following:

Pursuant to Section 2271.002, Texas Government Code, if Developer employs ten (10) or more full-time employees and the Agreement has a value of \$100,000 or more, the Developer hereby (i) represents that it does not boycott Israel, and (ii) subject to or as otherwise required by applicable federal law, including without limitation 50 U.S.C. Section 4607, agrees it will not boycott Israel during the term of the Agreement. As used in the immediately preceding sentence, "boycott Israel" shall have the meaning given such term in Section 2271.001, Texas Government Code.

Developer further represents that (i) it does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have agreements with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, "foreign terrorist organization" shall have the meaning given such term in Section 2252.151, Texas Government Code.

Pursuant to Section 2274.002, Texas Government Code, if Developer employs ten (10) or more full-time employees and the Agreement has a value of \$100,000 or more, the Developer hereby (i) represents that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (ii) will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. As used in the immediately preceding sentence, "firearm entity", "firearm trade association", and "discriminate against a firearm entity or firearm trade association" shall have the meaning given such term in Section 2274.001, Texas Government Code.

Pursuant to Section 2274.0102, Texas Government Code, for agreements involving critical infrastructure, Developer hereby represents it is not (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (ii) headquartered in China, Iran, North Korea, Russia, or a designated country. As used in the immediately preceding sentence, "critical infrastructure" shall have the meaning given such term in Section 2274.0101, Texas Government Code.

Pursuant to Chapter 809, Texas Government Code, Developer hereby represents that the Developer is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of energy companies as defined by Section 809.001 of the Texas Government Code.

## **SECTION 13. NOTICES**

Any notice required by this Agreement shall be deemed to be properly served if deposited in the U.S. mail by certified letter, return receipt requested, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

If intended for City, to:

City of Plano  
Attention: City Manager  
PO Box 860358  
Plano, Texas 75086-0358

If intended for Developer, to:

Metropolitan Interests Corporation  
Attention: William L. Cravens, President  
3838 Oak Lawn Avenue  
Suite 1416  
Dallas, Texas, 75219

## **SECTION 14. WRITTEN NOTICES AND APPROVALS REQUIRED**

Whenever under the provisions of this Agreement and other related documents and instruments or any supplemental agreements, any request, demand, approval, notice or consent of the City or Developer is required, or whenever the City or Developer is required to agree or to take some action at the request of the other, such request, demand, approval, notice or consent, or agreement shall be in writing. Approval by City, unless otherwise provided herein, shall be by the City Manager or his designated representative and approval by Developer shall be by the CEO, CFO or Vice President or any officer of Developer so authorized (and, in any event, the officers executing this Agreement are so authorized); and either party hereto shall be authorized to act in reliance upon any such request, demand, approval, notice or consent, or agreement.

## **SECTION 15. GIFT TO PUBLIC SERVANT**

- A. City may terminate this Agreement immediately if Developer has knowingly offered, conferred, or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.
- B. For purposes of this section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.
- C. Notwithstanding any other legal remedies, City may require Developer to remove any employee of Developer from the development of the Public Improvements who has violated the restrictions of this section or any similar state or federal law, and City may obtain reimbursement for any expenditures made to Developer as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

## **SECTION 16. COMPLIANCE WITH EQUAL RIGHTS ORDINANCE**

Developer agrees to comply with Section 2-11(F) of the City Code of Ordinances, which reads as follows:

"It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
- (d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;

(e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;

(f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;

(g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;

(h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or

(i) for a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this subsection;

(j) for an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic in the admission to, or employment in, any program established to provide apprenticeship or other training;

(k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;

(l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or

(m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic.”

Developer also understands that it is entitled to apply to the City Manager for a waiver from the Equal Rights Ordinance’s application to its business if applying it would conflict with state or federal law. During the review of the waiver request, the Agreement will be placed on hold.

Having made reasonable inquiry, Developer affirms that its company, its directors, officers and employees agree to comply with Section 2-11(F); or Developer’s company is excluded from this Ordinance based on an exclusion identified in the City Code of Ordinances.

## **SECTION 17. APPLICABLE LAWS**

This Agreement is made subject to the provisions of the Charter and ordinances of City, as amended, and all applicable laws of the State of Texas and federal laws.

## **SECTION 18. VENUE AND GOVERNING LAW**

This Agreement is performable in Collin County, Texas and venue of any action arising out of this Agreement shall be exclusively in Collin County, Texas. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.

## **SECTION 19. LEGAL CONSTRUCTION**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

## **SECTION 20. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

## **SECTION 21. CAPTIONS**

The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

## **SECTION 22. SUCCESSORS AND ASSIGNS**

- A. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. Provided, however, this Agreement shall not be assigned without the prior consent of Developer and the City of Plano City Council, which approvals shall not be unreasonably withheld.
- B. An assignment or delegation of this Agreement to an Affiliate of Developer shall not require City Council approval and shall not result in a breach of the Agreement if the Affiliate of Developer expressly assumes all of the obligations of Developer under this Agreement for the balance of the term of this Agreement and provides evidence establishing the relationship between Developer and an Affiliate. Developer shall notify the City in writing, however, within 30 days of such assignment. "Affiliate", as used herein, includes any parent, sister, partner, joint venturer, equity investor or subsidiary entity of Developer; any entity in which Developer is a major shareholder, owns an equity interest or is a joint venturer or partner (whether general or limited). Upon such assignment, Developer shall be released from all liability hereunder. Additionally, collateral assignment of this Agreement by Developer in connection with its financing of the Development shall not require City Council approval and shall not result in a breach of this Agreement so long as all obligations of Developer herein are included in such assignment.

### SECTION 23. ENTIRE AGREEMENT

This Agreement embodies the complete agreement of the parties hereto with respect to the Property, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement. This Agreement is the complete and final understanding and agreement between Developer and the City with respect to the Property. Except as otherwise provided herein the agreement cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

### SECTION 24. INCORPORATION OF RECITALS

The recitals set forth herein are intended, and are hereby deemed to be a part of this Agreement.

**EXECUTED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by City, signing by and through its City Manager.

**CITY OF PLANO, TEXAS, a home rule municipal corporation**

By: \_\_\_\_\_  
Mark D. Israelson, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Paige Mims, City Attorney

### ACKNOWLEDGMENT

**STATE OF TEXAS**

**COUNTY OF COLLIN**

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Mark D. Israelson, City Manager, of **CITY OF PLANO, TEXAS**, a home rule municipal corporation.

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

My Commission Expires: \_\_\_\_\_

**By: Metropolitan Interests Corporation**  
**3838 Oak Lawn Avenue**  
**Suite 1416**  
**Dallas, Texas 75219**

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

William L Cravens, President

**ACKNOWLEDGMENT**

**STATE OF TEXAS**

**COUNTY OF DALLAS**

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by William P. Cravens, President of Metropolitan Interests Corporation, a Delaware Corporation.

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

My Commission Expires:\_\_\_\_\_

## EXHIBIT A

### Legal Description / PLAT

#### ZONING DESCRIPTION

**BEING** a tract of land situated in the Sanford Beck Survey, Abstract No.73, City of Plano, Collin County, Texas and being a portion of Lots 3-A, 4-A, & 4-B, Block 2, Vendome Place Addition, an addition to the City of Plano, Collin County, Texas, according to the Plat recorded in Volume 1, Page 31, Plat Records, Collin County, Texas, and being a portion of 10th Street (a 40-foot wide right-of-way) and Avenue K (a variable width right-of-way), and being all of a called 0.86 acre tract of land described in Special Warranty Deed to JBGL Chateau, LLC, recorded in Instrument No. 20180316000325930, Official Public Records, Collin County, Texas, and being more particularly described as follows:

**BEGINNING** at a 1/2-inch iron rod found in the south right-of-way line of said 10th Street for the northeast corner of said 0.86 acre tract;

**THENCE** with the east line of said 0.86 acre tract, South 0°22'24" West, a distance of 157.94 feet to a 1/2-inch iron rod with cap stamped "ROOME" found for the southeast corner of said called 0.86 acre tract;

**THENCE** with the south line of said 0.86 acre tract, South 89°46'09" West, passing at a distance of 242.03 feet, a 1/2-inch iron rod found for the southwest corner of said 0.86 acre tract, in the east right-of-way line of said Avenue K, continuing over and across said Avenue K for a total distance of 292.11 feet to a point for corner in the centerline of said Avenue K;

**THENCE** with said centerline of Avenue K, North 2°54'40" East, a distance of 178.20 feet to a point for corner at the centerline intersection of said Avenue K and 10th Street;

**THENCE** departing said centerline of Avenue K, with said centerline of 10th Street, North 89°46'09" East, a distance of 284.21 feet to a point for corner;

**THENCE** departing said centerline of 10th Street, South 0°22'24" West, a distance of 20.00 feet to the **POINT OF BEGINNING** and containing 1.1771 acres or 51,273 square feet of land.

## EXHIBIT B

### Concept Plan



## EXHIBIT C

### Description and Cost Estimates of Public Improvements

#### SUMMARY DESCRIPTION AND CONSTRUCTION COST ALLOWANCE OF PUBLIC IMPROVEMENTS

##### SUMMARY OF ESTIMATED PROJECT COSTS

DESCRIPTION	TOTAL COST
ROUGH GRADING	\$ 53,600
PAVEMENT	\$ 95,000
WATER	\$ 22,400
SANITARY SEWER	\$ 40,000
K AVENUE R.O.W. LANDSCAPE	\$ 12,263
Subtotal	\$ 223,263

## EXHIBIT D

### Contractor's and Developer's Insurance Requirements

#### CITY OF PLANO GENERAL CONTRACTUAL INSURANCE REQUIREMENTS

Developers/Contractors performing work on property that will become City of Plano property with city facilities shall provide the City a certificate of insurance evidencing the coverage's and coverage provisions identified herein. Developers/Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of insurance as required herein or that the subcontractors are included under the Developers/contractor's policy. The City, at its discretion, may require a certified copy of the policies, including all relevant endorsements.

**All insurance companies must be authorized by the Texas Department of Insurance to transact business in the State of Texas, must be acceptable to the City of Plano and be placed with an insurer possessing an A-VII A. M. Best rating or better.**

Listed below are the types and amounts of insurance required. The City reserves the right to amend or require additional types and higher limits of coverage or provisions depending on the nature of the work.

1. The following insurance requirements, coverage's and limits apply to most minor construction (Non-CIP), renovation, service provider, installation and maintenance services, work on City property and professional service contracts.
2. Purchases of non-hazardous commodities, equipment, materials and products from distributors and retailers do not require any specific insurance.
3. Purchases or contracts involving any hazardous activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, cyber-liability risks, environmental risks, special motorized equipment or property may require customized insurance requirements in addition to the general requirements listed.

**Commercial General Liability Insurance**—(Required for all minor construction, renovation, service provider contracts involving installation, maintenance or work on future City property)

Commercial general liability insurance shall be written on an ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-complete operations, personal and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The City, the City Council and its members, the City's agents, officers, directors and employees shall be included as an additional insured under the commercial general liability policy, including coverage for City with respect to liability arising out of the completed operations.

\$1,000,000 Limit per Occurrence/Aggregate

\$1,000,000 Limit for Personal/Advertising Injury and Products/Completed Operations

**Commercial Automobile Liability**—(Required for all contracts involving the use of developer/contractor owned, non-owned or hired automobiles)

Developer/contractor shall maintain business automobile liability insurance with a limit of not less than \$500,000 each accident or Combined Single Limit.

Such automobile liability insurance shall cover liability arising out of any auto (including owned, hired, and non-owned automobiles). Developer/contractor waives all rights against City and its agents, officers, directors and employees for recovery by the commercial automobile liability obtained by vendor/contractor pursuant to this section or under any applicable automobile physical damage coverage.

**Workers' Compensation & Employer Liability**—(Required for all Developers/contractors with employees who perform work or contract services on future City property)

Vendor/contractor shall maintain workers' compensation insurance in the amounts required by appropriate state workers compensation statutes. The employer's liability limit shall not be less than \$500,000.

Developer/contractor waives all rights against City, the City Council and its members, the City's agents, officers, directors and employees for recovery of damages under Developers/contractor's workers' compensation and employer's liability. Developer/contractor must cause a waiver of subrogation to be effected under its workers' compensation coverage.

Sole Proprietors and companies with no employees may be exempt from this requirement.

**Professional Liability (E&O) Insurance**--(Required for all Professional Service contracts including but not limited to: architects, engineers, consultants, counselors, medical professionals, attorneys, accountants, etc.)

Professional Liability Coverage (E&O) may be written on a claims made basis but must include an extended reporting period of at least three years after contract completion.

City, the City Council and its members, the City's agents, officers, directors and employees shall be included as an additional insured under the E&O policy, including coverage for City with respect to liability arising out of all errors and omissions of vendor/contractor.

Minimum Limit of \$1,000,000 Each Claim and \$1,000,000 Aggregate

EXHIBIT E

Maintenance Bond

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_, hereinafter called "**Principal**", and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ and licensed to transact business in the State of Texas, hereinafter called "**Surety**", are held and firmly bound unto the **CITY OF PLANO, TEXAS**, a home rule municipal corporation hereinafter called "Beneficiary", in the amount of \_\_\_\_\_ **DOLLARS** (\$ \_\_\_\_\_), in lawful money of the United States, to be paid in Plano, Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors and assigns, jointly and severally, and firmly by these presents. 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 written Contract with the Beneficiary, dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, A.D. which is made a part hereof by reference for the construction of certain public improvements that are generally described as follows:

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

**NOW, THEREFORE**, if Principal will maintain and keep in good repair the work herein contracted to be done for a period of one (1) year 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 in case Principal shall fail to do so it is agreed that the City may do such work and supply such materials and charge the same against Principal and Surety on this obligation.

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

**PROVIDED FURTHER**, that 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 on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**PRINCIPAL:** \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. No. \_\_\_\_\_

**ATTEST:**

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**SURETY:** \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. No. \_\_\_\_\_

**ATTEST:**

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

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: \_\_\_\_\_

For additional information on the above named Surety company you may contact the Texas Department of Insurance at (800)578-4677.

**NOTE:** Date on **Page 1** of Maintenance Bond must be **same date that City Council**

**awarded 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 F

Performance Bond

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

That \_\_\_\_\_ hereinafter called  
"Principal", and \_\_\_\_\_, a corporation  
organized and existing under the laws of the State of \_\_\_\_\_, and fully  
licensed to transact business in the State of Texas, hereinafter called "Surety", are held  
and firmly bound unto the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation,  
hereinafter called "Beneficiary", in the penal sum of  
\_\_\_\_\_ **DOLLARS**

(\$\_\_\_\_\_) plus fifteen percent (15%) of the stated penal sum as an additional  
sum of money representing additional court expenses, attorneys' fees, and liquidated  
damages arising out of or connected with the below identified Contract 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. 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 Plano  
City Council approved the expenditure for the Project described below on the \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_, A.D. The Principal will enter into a certain  
written Contract with the Beneficiary, which will be made a part hereof by reference, for  
the construction of certain public improvements that are generally described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**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 two (2) years from the

date of substantial completion in accordance with the Contract Documents in said Contract; and, if the Principal shall fully indemnify and save harmless the Beneficiary from 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 be filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

**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 Specifications 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 Texas Government Code Section 2253.001, et seq., and any other applicable statutes of the State of Texas.

The agent identified below is hereby designated by the Surety herein as the Resident Agent in Collin County or Denton County, Texas, or other Texas location as approved by Beneficiary, 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 Texas Insurance Code Section 3503.003.

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

**PRINCIPAL:** \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. No. \_\_\_\_\_

**ATTEST:** \_\_\_\_\_  
**BY:** \_\_\_\_\_  
**TITLE:** \_\_\_\_\_

**SURETY:** \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. No. \_\_\_\_\_

**ATTEST:** \_\_\_\_\_  
**BY:** \_\_\_\_\_  
**TITLE:** \_\_\_\_\_

The Resident Agent of the Surety in Collin County or Denton County, Texas, or other Texas location as approved by Beneficiary, for delivery of notice and service of process is:

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

For additional information on the above named Surety company you may contact the Texas Department of Insurance at (800)578-4677.

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

**EXHIBIT G**

**PAYMENT BOND**

<b>STATE OF TEXAS</b>	§	
	§	
<b>COUNTY OF COLLIN</b>	§	<b>KNOW ALL MEN BY THESE PRESENTS:</b>

That \_\_\_\_\_, hereinafter called "**Principal**", and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and fully licensed to transact business in the State of Texas, hereinafter "**Surety**", are held and firmly bound unto the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter called "**Beneficiary**", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements described below, 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. 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 Plano City Council approved the expenditure for the Project described below on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, A.D. The Principal will enter into a certain written Contract with the Beneficiary, which will be made a part hereof by reference, for the construction of certain public improvements that are generally described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**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 said 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 be 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 Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anyway 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 Texas Government Code Section 2253.001, et seq., and any other applicable statutes of the State of Texas.

The agent identified below is hereby designated by the Surety herein as the Resident Agent in Collin County or Denton County, Texas, or other Texas location as approved by Beneficiary, 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 Texas Insurance Code Article 3503.003.

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

**PRINCIPAL:** \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. No. \_\_\_\_\_

**ATTEST:**

**BY:** \_\_\_\_\_

\_\_\_\_\_  
**TITLE:** \_\_\_\_\_

**SURETY:** \_\_\_\_\_  
Address \_\_\_\_\_  
Tel. No. \_\_\_\_\_

**ATTEST:**

**BY:** \_\_\_\_\_

\_\_\_\_\_  
**TITLE:** \_\_\_\_\_

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

The Resident Agent of the Surety in Collin County or Denton County, Texas, or other Texas location as approved by Beneficiary, for delivery of notice and service of the process is:

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

For additional information on the above named Surety company you may contact the Texas Department of Insurance at (800)578-4677.

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