

ECONOMIC DEVELOPMENT AGREEMENT

NACK DEVELOPMENT

This Economic Development Agreement (“**Agreement**”) is made and entered into by and between the City of Mansfield, Texas, a Texas home rule municipal corporation of the State of Texas (the “**City**”), the Mansfield Economic Development Corporation (“**MEDC**”), a nonprofit Corporation organized under Title 12, Subtitle C1, of the Texas Local Government Code (“**Act**”), the Board of Directors (the “**Board**”) of Reinvestment Zone Number Two, City of Mansfield (the “**Zone**”), (City, MEDC, and Board are collectively referred to as **Public Parties**), and Nack Development, LLC, a Texas Limited Liability Company (“**Company**”). City, MEDC, Board, and Company may sometimes hereafter be referred to individually as a “party” or collectively as the “parties.”

RECITALS:

WHEREAS, City owns approximately 4 acres of land as more particularly described on the attached **Exhibit A** (the “**Property**”); and

WHEREAS, pursuant to the Contract of Sale (as defined below), Company will acquire fee title to all of the Property from the City in two separate phases; and

WHEREAS, Company’s obligations to perform under this Agreement will be secured by a deed of trust on the Property, which City and MEDC agrees to subordinate to any third-party construction financing obtained by Company for development of the Project, to the extent authorized by Texas law, and in accordance with the Contract of Sale (as defined below); and

WHEREAS, Company intends to develop the Property in phases for a mixed-use project consisting of approximately 79,000 square feet of Retail, Restaurant or Professional Office space, and no less than 20 townhomes and 102 multifamily homes, together with structured parking, plazas, green areas, and decorative alleys for the enjoyment of the public (collectively the “**Project**”); and

WHEREAS, Company has advised the City that a contributing factor that would induce the Company to construct the Project would be an agreement by Public Parties to provide economic development grants to the Company as set forth herein; and

WHEREAS, Public Parties have determined that the Grants (as defined below) to be made hereunder are required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises and constitute a “project”, as that term is defined in the Act; and

WHEREAS, Public Parties have further determined that expenditures, including conveyance of the Property, from City under this Agreement are for the creation or retention of primary jobs and are required or suitable for the development, retention, or expansion of primary job training facilities, retail, or restaurants; and

WHEREAS, Public Parties have determined that making the Grants and expenditures in accordance with this Agreement will further the objectives of the City, will benefit City and City's inhabitants, and will promote local economic development and stimulate business and commercial activity in City; and

WHEREAS, the Property is located within the Zone and the Board and City find that selling the Property in accordance with the terms and conditions of this Agreement is advisable to implement the project plan for the Zone, and the City finds that the Property may be sold for economic development purposes in accordance with Texas Local Gov't Code Ch. 253; and

WHEREAS, the Board also desires to provide incentive payments to Company to offset the difference between the market rental rates of the buildings within the Project and the rates sufficient to pay off Company's debt in constructing the Project, as further provided and defined in Article 5 below; and

WHEREAS, in accordance with Section 311.010(h) of the Act, the City Council of City and the Board, as necessary or convenient to implement the adopted project and finance plan, and achieve its purposes, may establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the Zone, eliminating unemployment and underemployment in the Zone, and developing or expanding transportation, business, and commercial activity in the Zone, including programs to make grants and loans from the Property TIRZ Fund of the Zone; and

WHEREAS, by approval of the City Council, the Board has all the powers of a municipality under Chapter 380, Texas Local Government Code; and

WHEREAS, in accordance with the adopted project and finance plan, the City and Board find that payments to Company under this Agreement are in compliance with the Tax Increment Financing Act, Chapter 311, Texas Tax Code, and will be made in furtherance of economic development programs authorized under Chapter 380, Texas Local Government Code, and the Project to be built by Company is one which contains businesses that will result in investments that support the placemaking goals of the project and finance plan, and is a project that offers a high likelihood of repayment to encourage the regeneration of public funds; and

WHEREAS, the MEDC and Board find that the payments from the Property TIRZ Fund utilized under this Agreement are for the public purposes of: (i) developing and diversifying the economy of the Zone and the state; (ii) eliminating unemployment and underemployment in the state and Zone; (iii) developing and expanding commerce in the state; (iv) stimulating business and commerce within the Zone; and (v) promoting development and redevelopment within the Zone; and

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein and other valuable consideration the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1

DEFINITIONS

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Article have the meanings assigned to them in the Recitals or this Article, and all such terms include the plural as well as the singular.

“Acquisition Grants” shall have the meaning outlined in Article 5 of the Agreement.

“Affiliate” of Company means any other person directly controlling, or directly controlled by or under direct common control with the Company. As used in this definition, the term “control,” “controlling” or “controlled by” shall mean the possession, directly, of the power either to (a) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of the Company, or (b) direct or cause the direction of management or policies of the Company, whether through the ownership of voting securities or interests, by contract or otherwise, excluding in each case, any lender of the Company or any affiliate of such lender.

“Approved Plans” means the plans and specifications relating to the design and construction of the Improvements, inclusive of any change orders thereto, which are in compliance with all City rules and regulations, and approved by the City.

“Building Final” means the approval of the final inspection issued by the City certifying a building’s compliance with applicable building codes and other laws, and indicating it to be in condition suitable for further construction of interior finish out for a specific tenant(s).

“Capital Investment” means Company’s capitalized costs for the design and construction of Phase 1 of the Project (inclusive of all hard and soft costs). Capital Investment does not include the cost of the land or rights-of-way.

“Captured Appraised Value” means the total appraised value of all real property taxable by the City and located in the Zone for the calendar year less the Tax Increment Base.

“Certificate of Occupancy” means the document issued by the City certifying that a building is in compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupation.

“City” means the City of Mansfield, Texas.

“City Council” means the city council of City.

“City Manager” means city manager of city, or his or her authorized designee.

“Commencement of Construction” means (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of Phase 1; (ii) all necessary permits for the construction of Phase 1, have been issued by the applicable governmental authorities; and (iii) construction of the foundations for buildings within Phase 1 has commenced.

“Contract of Sale” means the contract of sale attached hereto as **Exhibit C**, which shall be made in compliance with Texas Local Gov’t Code Ch. 380 and Ch. 253, which requires granting the City sufficient control to ensure that the public purpose of this Agreement is accomplished and the City receives the return benefit, and Texas Tax Code Ch. 311, as applicable.

“Director” means the City’s Executive Director of Economic Development or his authorized designee.

“Effective Date” means the date this Agreement is fully executed by the parties.

“Eligible Costs” means with respect to the Improvements, the costs incurred and paid by Company for the design, permitting and construction of the Improvements, not including costs for legal fees, permit fees, the costs of the land, interest, finance, the cost of financing, management fees, right-of-way, or easements.

“Event of Bankruptcy or Insolvency” means the dissolution or termination of a party’s existence as a going business, insolvency, appointment of receiver for any part of such party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Force Majeure” means any act that (i) materially and adversely affects the affected party’s ability to perform the relevant obligations under this Agreement or delays such affected party’s ability to do so, (ii) is beyond the reasonable control of the affected party, (iii) is not due to the affected party’s fault or negligence, and (iv) could not be avoided, by the party who suffers it, by the exercise of commercially reasonable efforts. “Force Majeure” shall include: (a) natural phenomena, such as storms, floods, lightning and earthquakes, and inclement construction weather (except as provided below); (b) wars, civil disturbances, revolts, insurrections, terrorism, sabotage and threats of sabotage or terrorism; (c) transportation disasters, whether by ocean, rail, land or air; (d) strikes or other labor disputes that are not due to the breach of any labor agreement by the affected party, shortages in labor or materials; (e) fires; (f) epidemics or pandemics where shut-down of commercial construction or the manufacturing of supplies relating thereto has been ordered by a governmental authority; and (g) actions or omissions of a governmental authority (including the actions of the City in its capacity as a governmental authority) that were not voluntarily induced or promoted by the affected party, or brought about by the breach of its obligations under this Agreement or any applicable law or failure to comply with City regulations; provided, however, that under no circumstances shall Force Majeure include any of the following events: (h) economic hardship; (i) changes in market condition; (j) any strike or labor dispute involving the employees of the Company or any Affiliate of the Company, other than industry or nationwide strikes or labor disputes; (k) during construction, weather conditions which could reasonably be anticipated by experienced contractors operating the relevant location; or (l) any delay, default or failure (financial or otherwise) of the general contractor or any subcontractor, vendor or supplier of the Company, or any construction contracts for the Infrastructure or the Project.

“Impositions” mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Company or the Property, or any property or any business owned by Company or within the City.

“Improvements” means the combination of Phase 1 Improvements and Phase 2 Improvements, hereinafter defined.

“Master Lease Payments” has the meaning described in Section 5.2 of the Agreement.

“Maximum Improvement Grant” means the lesser of MEDC grants for (i) the Eligible Costs; or (ii) \$3,000,000.

“Grants” mean the economic development payments to be paid to Company in the amount equal to the costs incurred and paid by Company for Eligible Costs for Improvements not to exceed the Maximum Improvement Grant, as verified by MEDC, to be paid in installments as set forth herein. Each individual payment is considered individually as a “Grant.”

“Payment Request” means a written request from Company to Director for payment of the applicable installment of the Grants, accompanied by the applicable written application for payment, copies of invoices, bills, receipts, and such other information, as may reasonably be requested by the Director, evidencing the Eligible Costs incurred and paid by Company for the Infrastructure and Company’s continued satisfaction of the terms and conditions of this Agreement.

“Phase 1 Improvements” that portion of the Project consisting of Building 1, Building 2, Building 3, and the pedestrian plaza, as further shown on **Exhibit B**. Each building shall be at least two (2) stories in height and collectively containing a minimum of 36,000 square feet of gross rentable office and retail space, and associated parking and landscaping to be constructed on the Property, as shown on **Exhibit B**.

“Phase 2 Improvements” shall mean Building 4, Building 5, Building 6, and a stand-alone parking structure, containing a minimum of 36,000 square feet of gross rentable retail or restaurant space and 20 townhomes and 102 multifamily homes, to be constructed on the Property as shown on the attached **Exhibit B**.

“Property TIRZ Fund” means a sub-account within the TIRZ Fund consisting of Tax Increment contributed by the City on that portion of Captured Appraised Value solely attributable to the Property.

“Tax Increment” means the total amount of property taxes levied and collected by the City for a calendar year on the Captured Appraised Value of real property taxable by the City and located in the Zone. The amount of Tax Increment contributed by the City shall be limited to any maximum amount or other terms set forth in the participation amount established by ordinance.

“Tax Increment Base” means the total appraised value of all real property taxable by the City and located in the Zone for the calendar year in which the Zone was designated by the City.

“TIRZ Fund” means the funds deposited by the City in the Tax Increment fund for the Zone.

“Term” means the term of this Agreement as described in Article 2 of this Agreement.

ARTICLE 2 TERM

The Term of this Agreement shall commence on the Effective Date and shall continue until the parties have fully satisfied all terms and conditions of this Agreement unless sooner terminated as provided herein.

ARTICLE 3 COMPANY OBLIGATIONS

3.1 Contract of Sale. Within thirty (30) days of the Effective Date, Company must execute the Contract of Sale and any exhibits of the Contract of Sale requiring Company’s execution.

(a) At the time determined in the Contract of Sale, Company shall purchase that portion of the Property needed for Phase 1 Improvements in an amount of \$2,659,200; and

(b) At the time determined in the Contract of Sale, Company shall purchase that portion of the Property needed for Phase 2 Improvements in an amount of \$2,840,358.

3.2 Compliance with Laws. Construction of the Project must be done in accordance with all applicable federal, state and local laws, codes, and regulations.

3.3 Regulations Regarding Building Products, Materials, or Methods. The parties find that the Property constitutes an area of architectural importance and significance and the City Council of City hereby designates it as an area of architectural importance and significance for purposes of Chapter 3000 of the Texas Gov’t Code (the “**Code**”). In consideration for the mutual covenants and conditions contained herein and pursuant to §3000.002(d) of the Code, Company voluntarily consents to the application of all City rules, charter provisions, ordinances, orders, building codes, and other regulations existing as of the Effective Date, including the Zoning District (the “**Regulations**”) that govern the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building on the Property, regardless of whether a different building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. In addition, Company voluntarily consents to the application of the Regulations that establish a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building, regardless of whether the standard is more stringent than

a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. The parties agree that: (a) the City will not issue any permits for the Property in violation of this section; (b) the covenants contained within this section constitute a material term of this Agreement; (c) Company's voluntary consent to the application of the Regulations to the Property, as described in this section, constitutes a material inducement for the City, MEDC, and Board to authorize the payments to Company described herein; (d) the covenants contained herein shall run with the land and shall bind Company and all successors and assigns; and (e) this section shall survive termination or expiration of this Agreement.

3.4 Commencement of Construction. Company must achieve Commencement of Construction for Phase 1 Improvements no later than December 31, 2024; provided, however, the City Manager may extend, in his or her sole discretion, such date one time for up to one hundred eighty (180) days in the event Company is diligently pursuing the platting, permitting and development of Phase 1 Improvements.

3.5 Phase 1 Building Final. No later than December 31, 2025, Company must receive a Building Final for Phase 1 Improvements; provided, however, City Manager may extend, in his or her sole discretion, such date one time for up to one hundred eighty (180) days in the event Company is diligently pursuing the construction of Phase 1 Improvements. All dates provided herein are subject to delays for Force Majeure or unreasonable delays by City (or applicable City official) in providing responses, inspections or issuing certificates.

3.6 Phase 2 Commencement. No later than one hundred eighty (180) days of the City demolishing the Fire Station #1 property, Company must achieve Commencement of Construction for Phase 2 Improvements.

3.7 Property Maintenance.

(a) Company agrees to create a property owner's association, or other appropriate entity ("**Association**"), to assume and be responsible for the continuous and perpetual operation, maintenance, and supervision of structures, parks, landscaping systems or landscape elements or features, landscape irrigation systems, screening walls, living screens, buffering systems, entryway features, including monuments or other signage, or other physical facilities or grounds held in common and necessary or desirable for the welfare of the Property, or that are of common use or benefit and that are not or cannot be satisfactorily maintained by the City. A copy of the agreements, covenants and restrictions establishing and creating the Association must be approved by the city attorney and City Council of City prior to the approval of the record plat of the subdivision for the Property and must be filed of record with such record plat in the map and plat records of the county.

(b) At a minimum, the agreements, covenants and restrictions establishing and creating the Association must contain or provide for the following:

(1) Definitions of terms contained therein;

(2) Provisions acceptable to the City for the establishment and organization of the Association and the adoption of bylaws for such Association, including provisions requiring that the owner of any lot within the applicable subdivision and any successive buyer shall automatically and mandatorily become a member of the Association. Company shall have the right (but not the obligation) to be the sole controlling member of the Association during such periods that Company owns any portion of the Property;

(3) The initial term of the agreements, covenants and restrictions establishing and creating the Association shall be for a 25-year period and shall automatically renew for successive ten-year periods, and the Association may not be dissolved without the prior written consent of the City;

(4) Provisions acceptable to the City to ensure the continuous and perpetual use, operation, maintenance, and/or supervision of all facilities, structures, improvements, systems, areas or grounds that are the responsibility of the Association and which may establish a reserve fund for such purposes;

(5) Provisions prohibiting the amendment of any portion of the Association's agreements, covenants or restrictions pertaining to the use, operation, maintenance and/or supervision of any facilities, structures, improvements, systems, areas or grounds that are the responsibility of the Association without the prior written consent of the City;

(6) The right and ability of the City or its lawful agents, after due notice to the Association, to perform the responsibilities of the Association if the Association fails to do so in compliance with any provisions of the agreements, covenants or restrictions of the Association or of any applicable City codes or regulations; to assess the Association for all costs incurred by the City in performing such responsibilities if the Association fails to do so; and/or to avail itself of any other enforcement actions available to the City pursuant to state law or City codes or regulations; and

(7) Provisions indemnifying and holding the City harmless from any and all costs, expenses, suits, demands, liabilities or damages, including attorney's fees and costs of suit, incurred or resulting from the City's performance of the operation, maintenance or supervision responsibilities of the Association due to the Association's failure to perform such responsibilities, except for the negligence or willful misconduct of City.

3.8 Capital Investment and Jobs. The minimum Capital Investment for Phase 1 Improvements of the Project shall be \$10,000,000.00 as of the date Phase 1 Improvements of the Project receives a Building Final. Company shall, within thirty (30) days after receiving a Building Final of Phase 1 Improvements of the Project deliver to the Director copies of invoices, bills, receipts and such other information as may be reasonably requested by City to document compliance with the required Capital Investment for Phase 1 Improvements of the Project. A

minimum of thirty (30) people shall be employed in the construction of the Phase 1 Improvements of the Project, which satisfies the public purposes of this Agreement and the performance obligations required for compliance with Texas Local Gov't Code Sec. 501.158.

3.9 Mansfield Pays it Forward Grant Program. Company shall provide the City with a minimum annual contribution to the community activity fund on an annual basis at the conclusion of each year for the duration of time that the Company (which is the “development partner” for purposes of the grant program) is receiving incentives. The amount is determined based on the level of incentives provided by the City for each twelve-month period for the Term of this Agreement, as provided in the schedule attached as Exhibit E.

ARTICLE 4 GRANTS

4.1 Grants.

(a) Within 30 days of Company’s completion of a schematic design of Phase 1 Improvements of the Project, City’s approval of the schematic design, and the Director’s receipt of a Payment Request, MEDC will pay Company a Grant in an amount up to \$1,500,000, as a direct incentive and for Eligible Costs.

(c) Within 30 days of Commencement of Construction for Phase 1 Improvements of the Project and the Director’s receipt of a Payment Request, MEDC will pay Company a Grant in an amount up to \$750,000, as a direct incentive and for Eligible Costs.

(d) Within 30 days of the Building Final for Phase 1 Improvements of the Project and the Director’s receipt of a Payment Request, MEDC will pay Company a Grant in an amount up to \$750,000, as a direct incentive and for Eligible Costs.

(e) Within 30 days of the Building Final for all Phase 2 Improvements of the Project and the Director’s receipt of a Payment Request, MEDC will pay Company a Grant in an amount up to \$380,000, as a direct incentive and for Eligible Costs.

4.2 Maximum Improvement Grant. The Grants paid to Company in accordance with this Article may not exceed the Maximum Improvement Grant.

4.3 Proof of Grants. The City agrees to maintain a separate account containing an amount equal to the outstanding balance of the Maximum Improvement Grant at all times during the Term of this Agreement. Within thirty (30) days of written request by Company, City shall deliver to Company reasonable evidence of compliance with this provision.

4.4 Grant & Payment Schedule. The City anticipates a grant and payment schedule as illustrated in Exhibit D.

ARTICLE 5 ACQUISITION GRANTS & MASTER LEASE PAYMENTS

5.1 Acquisition Grants.

(a) Within 10 days of commencement of demolition for Phase 1 Improvements of the Project by Company and the Director's receipt of a Payment Request, City will pay Company a Grant in the amount of \$2,659,200, pursuant to Texas Local Gov't Code Ch. 380.

(b) Within 30 days of Commencement of Construction for Phase 2 Improvements of the Project and the Director's receipt of a Payment Request, City will pay Company a Grant in the amount of \$2,840,358, pursuant to Texas Local Gov't Code Ch. 380.

5.2 Master Lease Payments. Beginning within 30 days after a Certificate of Occupancy of Phase 1 has been issued and each year thereafter, for a period of five (5) years, payments shall be delivered to Company in an amount equal to \$1,794,000 per year, as illustrated in **Exhibit D**. As additional consideration and to ensure that the public purposes of this Agreement, the project and finance plan for the Zone, and Texas Local Gov't Code Ch. 380 are satisfied, the City Manager, in his or her reasonable discretion, shall approve any retail/restaurant tenants prior to a lease being signed during this five (5) year period.

ARTICLE 6
TERMINATION, OFFSET, AND REPAYMENT

6.1 Termination. This Agreement may be terminated upon any one or more of the following:

- (a) by mutual written agreement of the parties;
- (b) upon written notice by Public Parties, if:
 - (i) Company fails to execute the Contract of Sale in accordance with Section 3.1 of this Agreement
 - (ii) upon written notice by MEDC, if the Contract of Sale is terminated or the conveyance of the Property to Company otherwise fails to close (except due to a seller default thereunder); or
- (c) upon written notice by any party, if another party defaults or breaches any of the other terms or conditions of this Agreement and such default or breach is not cured within sixty (60) days after written notice thereof;
- (d) upon written notice by MEDC, if Company suffers an Event of Bankruptcy or Insolvency and such filing is not dismissed or withdrawn within ninety (90) days after the filing thereof;

- (e) upon written notice by MEDC, if any Impositions owed to City become delinquent and such delinquency has not been cured within ninety (90) days after written notice thereof; or
- (f) upon written notice by any party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction renders this Agreement invalid, illegal, or unenforceable.

6.2 Offset. The Public Parties may at their individual option, and after delivering written notice to Company of the intent to do so, offset any amounts due and payable under this Agreement against any delinquent debt (including taxes) lawfully due to any of the Public Parties, regardless of whether or not the debt due to that Public Party has been reduced to judgment by a court.

6.3 Repayment. In the event the Building Final for Phase 1 Improvements has not issued on time in accordance with Section 3.5 of this Agreement, and this Agreement is terminated by Public Parties, Company shall immediately refund to MEDC an amount equal to the amount of the Grants that have been provided by MEDC to Company prior to the date of such termination, plus interest at the rate of interest periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by MEDC) as its prime or base commercial lending rate, which shall accrue from the Effective Date until paid.

ARTICLE 7 INDEMNIFICATION

CITY, MEDC, AND THE BOARD SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE ACTS OR OMISSIONS OF THE COMPANY OR ITS CONTRACTORS PURSUANT TO THIS AGREEMENT. COMPANY HEREBY WAIVES ALL CLAIMS AGAINST CITY, MEDC, AND THE BOARD, THEIR COUNCIL, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO AS THE “CITY REPRESENTATIVES”) FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE (OTHER THAN THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL ACT OF THE CITY REPRESENTATIVES) ARISING FROM THE ACTS OR OMISSIONS OF THE COMPANY OR ITS CONTRACTORS PURSUANT TO THIS AGREEMENT. COMPANY DOES HEREBY INDEMNIFY AND SAVE HARMLESS THE CITY REPRESENTATIVES FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON, OR DAMAGE TO OR LOSS OF PROPERTY ARISING FROM COMPANY’S BREACH OF ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF COMPANY, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUB-

CONTRACTOR(S), LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS IN THE PERFORMANCE OF THIS AGREEMENT (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL ACT OF THE CITY REPRESENTATIVES). NOTWITHSTANDING THE FOREGOING IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF BOTH THE CITY REPRESENTATIVES AND COMPANY, THE RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY REPRESENTATIVES AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS AND PERMITTED ASSIGNS AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. THE COMPANY'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY COMPANY UNDER THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, THE RELEASES AND INDEMNIFICATIONS CONTAINED HEREIN SHALL NOT EXTEND TO THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY, MEDC OR BOARD OR THEIR RESPECTIVE EMPLOYEES, AGENTS OR CONTRACTORS. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

**ARTICLE 8
ACCESS TO INFORMATION**

Notwithstanding any other provision to the contrary in this Agreement, all information, documents, and communications relating to this Agreement may be subject to the Texas Public Information Act and any opinion of the Texas Attorney General or a court of competent jurisdiction relating to the Texas Public Information Act. In addition to the foregoing sentence, the City shall submit to the comptroller the information as required by Texas Local Gov't Code Sec. 380.004, and any other information the comptroller considers necessary to operate and update the database described by Section 403.0246, Government Code. Upon the City's or MEDC's written request, Company agrees to provide the City or MEDC, within thirty (30) days of the Company's receipt of such request, access to contract documents, invoices, receipts, records, and reports to verify Company's compliance with this Agreement.

**ARTICLE 9
GOVERNMENTAL FUNCTIONS AND IMMUNITY**

The parties hereby acknowledge and agree that the City is entering into this Agreement pursuant to its governmental functions and that nothing contained in this Agreement shall be construed as constituting a waiver of the City's police power, legislative power, or governmental immunity from suit or liability, which are expressly reserved to the extent allowed by law. The parties agree that this is not an Agreement for goods or services to the City. To the extent a Court

of competent jurisdiction determines that the City's governmental immunity from suit or liability is waived in any manner, or that this Agreement is subject to the provisions of Chapter 271 of the Texas Local Gov't Code, as amended, the City's immunity from suit may be waived only as set forth in Subchapter I of Chapter 271, Texas Local Gov't Code. Further, the parties agree that this Agreement is made subject to all applicable provisions of the Texas Civil Practice and Remedies Code, including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

ARTICLE 10 GENERAL PROVISIONS

10.1 Mutual Assistance. The parties shall do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

10.2 Representations and Warranties. Company represents and warrants to the Public Parties that it has the requisite authority to enter into this Agreement. Company represents and warrants to the Public Parties that it will not violate any federal, state or local laws in constructing or operating the Project, and that the Project and Infrastructure shall conform to the applicable building codes, zoning ordinances, and all other ordinances and regulations of the City of Mansfield.

10.3 Section or Other Headings. Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

10.4 Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the transaction contemplated herein.

10.5 Amendment. This Agreement may only be amended, altered, or revoked by written instrument signed by the parties.

10.6 Successors and Assigns.

- (a) Assignment. This Agreement shall be binding on and insure to the benefit of the parties, their respective successors and assigns. Company may assign all or part of their rights and obligations hereunder only upon prior written approval of the MEDC and City; provided, however, Company shall not be required to obtain MEDC's or City's consent to an assignment of this Agreement to an Affiliate of Company.
- (b) Collateral Assignment. Company shall have the right to collaterally assign, pledge, or encumber, in whole or in part, to any lender as security for any loan in connection with construction of the Project and Infrastructure, all rights, title, and interests of Company to receive the grants or other payments under this Agreement. Such collateral assignments: (i) shall require the prior written consent of the MEDC or

City, which shall not be unreasonably delayed or withheld, and MEDC and City agrees to execute such reasonable consent forms as may be required to evidence such consent; (ii) shall require notice to the MEDC and City together with full contact information for such lenders, (iii) shall not create any liability for any lender under this Agreement by reason of such collateral assignment unless the lender agrees, in writing, to be bound by this Agreement; (iv) may give lenders the right, but not the obligation, to cure any failure of Company to perform under this Agreement; and (v) to the extent allowed by Texas law, MEDC and City agree to subordinate its lien on the Property (if any) to any such third-party financing in accordance and consistent with the terms of the Contract of Sale and related deed of trust. No collateral assignment may relieve Company from any obligations or liabilities under this Agreement. The Director has the authority to give the written consent under this subsection after review and consultation with the MEDC's legal counsel; provided, however, the Director may, in his or her sole discretion, present the assignment request to the MEDC's board of directors for approval.

10.7 Notice. Any notices or other communications required or permitted by this Agreement shall be in writing and delivered personally, or by messenger or a nationally recognized overnight courier service, or alternatively, shall be sent by United States certified mail, return receipt requested. The effective date of any notice shall be (i) if by personal delivery, messenger or courier service, the date of delivery of the notice, or (ii) if mailed, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as undeliverable, as the case may be. The parties hereby designate the addresses set forth below as their respective notice addresses under this Agreement.

COMPANY: Nack Development LLC
 XXXXXXXXXXXX
 Frisco, Texas
 Attn: Donny Churchman

With a copy to: Attorney for Developer
 XXXXXX
 XXXXXX
 Attn: XXXXX

MEDC: Mansfield Economic Development MEDC
 301 South Main Street
 Mansfield, Texas 76063
 Attn: Director

With a copy to: Mansfield Economic Development MEDC Attorney
 Taylor, Olson, Adkins, Sralla & Elam, LLP
 6000 Western Place, Suite 200
 Fort Worth, Texas 76107

City: City of Mansfield, Texas
Attn: City Manager
1200 E. Broad Street
Mansfield, Texas 76063

10.8 Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.

10.9 Applicable Law/Venue. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Mandatory and exclusive venue for any action arising out of, or relating to, this Agreement must be in a court of competent jurisdiction in Tarrant County, Texas.

10.10 Severability. In the event any provision of this Agreement is ruled illegal, invalid, or unenforceable by any court of proper jurisdiction, under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

10.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

10.12 No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.

10.13 Force Majeure. If any party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder (other than the payment of money) by reason of Force Majeure, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided that the foregoing shall not be applicable to any payment obligation of any party under this Agreement.

10.14 Attorney's Fees. If either party employs an attorney or attorneys to enforce any of the provisions hereof, or to recover damages for the breach of this Agreement, the non-prevailing party in any final judgment or award agrees to pay the other party all reasonable costs, charges and expenses, including reasonable attorneys' fees and costs of court, expended or incurred in connection therewith.

10.15 Limitation of Liability. The parties further agree that no party will be liable to any other party under this Agreement for special, consequential (including lost profits), or exemplary damages.

10.16 Undocumented Workers. Company covenants and certifies that it does not and will not knowingly employ an undocumented worker as that term is defined by Section 2264.001(4) of the Texas Government Code. In accordance with Section 2264.052 of the Texas Government Code, if Company is convicted of a violation under 8 U.S.C. Section 1324a (f), Company shall repay to the MEDC or City the full amount of all payments made under this Agreement, plus ten percent (10%) interest per annum from the date such payment was made until the date of full repayment. Repayment shall be paid within one hundred twenty (120) days after the date Company receives a notice of violation from the MEDC or City.

10.17 City Council Approval. This Agreement is not valid unless first approved by the City Council of the City of Mansfield.

10.18 Full Execution Required. This Agreement will not be binding on any party unless fully executed by all parties.

10.19 Gift to Public Servant. The Public Parties may terminate the Agreement immediately if the Company has offered or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

10.20 Texas Boycott Prohibitions. To the extent required by Texas law, Company verifies that: (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of this Agreement discriminate against a firearm entity or firearm trade association; (2) it does not “boycott Israel” as that term is defined in Texas Government Code § 808.001 and it will not boycott Israel during the term of this Agreement; and (3) it does not “boycott energy companies,” as those terms are defined in Texas Government Code §§ 809.001 and 2274.001, and it will not boycott energy companies during the term of this Agreement.

10.21 380 Grant Limitations. Under no circumstances shall the obligations of the City hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision; provided, however, the City agrees during the term of this Agreement to appropriate funds to pay the grant for this Agreement. Further, City shall not be obligated to pay any lienholder, commercial bank, lender, or similar Person or financial institution for any loan or credit agreement made by the Company.

{Signatures on following page}

**MANSFIELD ECONOMIC
DEVELOPMENT CORPORATION,**
a Texas non-profit corporation

By: _____

Name: David Godin

Title: Board President

Date: _____

ATTEST:

Board Secretary

NACK DEVELOPMENT LLC,
a Texas limited liability company


By:  _____

Name: Donny Churchman

Title: Manager

Date: 10/18/23


CITY OF MANSFIELD, TEXAS



Joe Smolinski, City Manager, or designee Jason Moore

Date: 10/18/23

ATTEST:



Susana Marin, City Secretary

**MANSFIELD ECONOMIC
DEVELOPMENT CORPORATION,**
a Texas non-profit corporation

By: 

Name: David Godin

Title: Board President

Date: 10/23/2023

ATTEST:


Board Secretary

NACK DEVELOPMENT LLC,
a Texas limited liability company

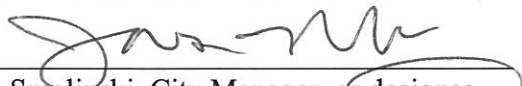
By: _____

Name: _____

Title: _____


Date: _____

CITY OF MANSFIELD, TEXAS

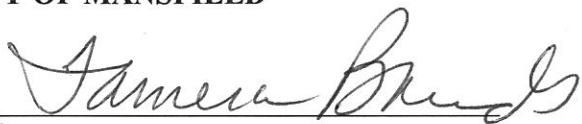

Joe Smolinski, City Manager, or designee Jason Moore

Date: 10/18/23

ATTEST:


Susana Marin, City Secretary

**BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER ONE,
CITY OF MANSFIELD**



Chairman

Date: 10/23/2025

EXHIBIT A

The Property

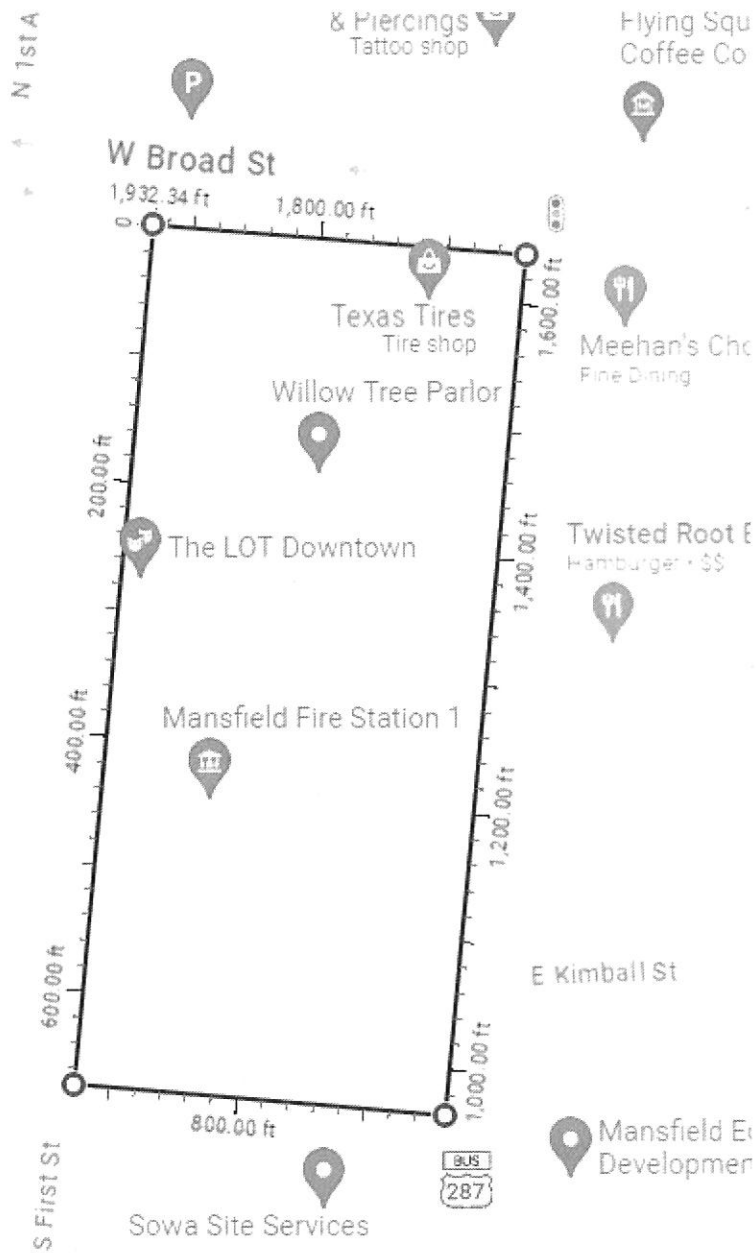


EXHIBIT B

The Project and Phase 1 & 2 Improvements

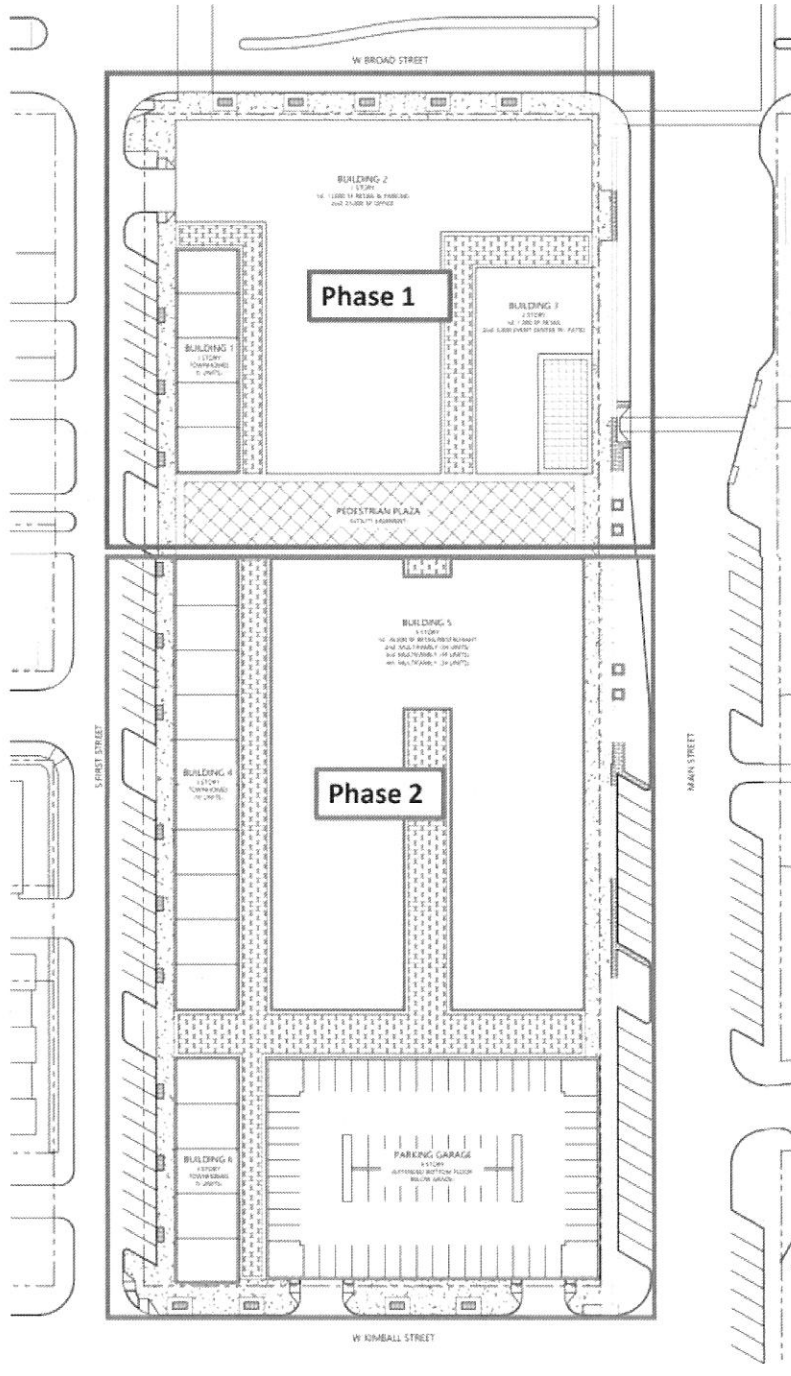


EXHIBIT C

Contract of Sale

To be finalized and negotiated by the Parties within 30 days of the Effective Date

EXHIBIT D

Grant and Payment Schedule

Date	Milestone	Cash to City	380 Grant to Developer	MEDC Grant
Nov-23	Schematic Design (full site)			\$1,500,000
Apr-24	Land Acquisition PH 1	\$2,659,200		
Apr-24	Demo PH 1		\$2,659,200	
Dec-24	Commencement of Construction PH 1			\$750,000
Nov-25	Land Acquisition PH 2	\$2,840,358		
Nov-25	Demo PH 2		\$2,840,358	
Dec-25	Building Final PH 1			\$750,000
Feb-26	Destination Restaurant/Retail Tenant CO			
Feb-26	Commencement of Construction PH 2			
Jun-27	Building Final PH 2			\$380,000
	TOTALS	\$5,499,558.00	\$5,499,558.00	\$3,380,000.00

Lease Schedule	
Date	Master Lease PMT by City/MEDC/TIRZ
Feb-26	\$1,794,000
Feb-27	\$1,794,000
Feb-28	\$1,794,000
Feb-29	\$1,794,000
Feb-30	\$1,794,000
TOTAL	\$8,970,000.00

EXHIBIT “E”

Mansfield Pays it Forward Grant Program

Mansfield’s recently adopted Incentive Policy requires development partners to contribute a certain amount of funds back into the community and Mansfield’s built environment on an annual basis at the conclusion of each year for the duration of time that the development partner is receiving incentives. The amounts expected to be contributed will depend on the total amount of incentives received by the development partner over the course of a year:

Incentives Received Annually Range Between:	Amount to be Contributed Annually:
\$11,000 - less than \$30,000	\$500
\$30,000 - less than \$80,000	\$1,000
\$80,000 - less than \$150,000	\$5,000
\$150,000 - less than \$250,000	\$10,000
\$250,000+	\$15,000