

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (this "**MOA**") is entered into by and between THOMAS M. FRIS and LISA PRICE FRIS (referred to collectively herein as the "**Landowner**"), Sunflower Bank, N.A. d/b/a Guardian Mortgage, a Division of Sunflower Bank, N.A. (the "**Bank**") and COLLIN COUNTY, TEXAS (the "**County**"), a duly organized governmental subdivision of the State of Texas.

RECITAL

A. The County has determined that current County needs necessitate the acquisition of right-of-way for the purpose of constructing, improving, widening and maintaining a highway system known as the Collin County Outer Loop, in Collin County, Texas (the "**Project**").

B. In furtherance of the Project, the County has filed an eminent domain proceeding, numbered 006-03917-2021, and styled *Collin County, Texas v. Thomas M. Fris, Lisa Price Fris, et al.*, in County Court at Law No. 6 of Collin County, Texas (the "**Condemnation Proceeding**"). The Condemnation Proceeding was filed by the County to acquire: (1) fee simple title to approximately 9.540 acres of land, more or less, being more fully described in and depicted on Exhibit "A" attached hereto (the "**Property**"). The County caused a Lis Pendens Notice (herein so called) to be filed in the Real Property Records of Collin County Texas, as Instrument No. 20211018002122140.

C. On March 30, 2022, the County caused the total sum of SEVEN HUNDRED SEVENTY-TWO THOUSAND SEVEN HUNDRED FORTY AND 00/100 DOLLARS (\$772,740.00) (the "**Deposit**") to be deposited, for the benefit of the Landowner, in the registry of the Collin County Court at Law in the Condemnation Proceeding.

D. The Bank has caused one or more Deeds of Trust to be filed encumbering the Property (the "**Deeds of Trust**").

E. In lieu of continued litigation in the Condemnation Proceeding, the Landowner desires to sell the Property to the County and the County desires to purchase the Property from the Landowner pursuant to the terms and provisions of this MOA.

Now, therefore, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, do hereby agree as follows:

AGREEMENT

1. The parties agree that the total value of the compensation to the Landowner for the market value of the Property and damages, if any, to the remaining property of the Landowner shall be EIGHT HUNDRED EIGHT THOUSAND SEVEN HUNDRED FORTY AND 00/100 DOLLARS (\$808,740.00) (the "**Purchase Price**"). SEVEN HUNDRED SEVENTY-TWO THOUSAND SEVEN HUNDRED FORTY AND 00/100 DOLLARS (\$772,740.00) of the

Purchase Price has already been paid by the County by virtue of the Deposit. The balance of the Purchase Price, THIRTY-SIX THOUSAND AND 00/100 DOLLARS (the "Purchase Price Balance"), shall be payable by the County at closing. The Purchase Price shall constitute full payment to be made by the County for the Property Interests and shall be considered full compensation for the Property Interests and for any severance damages, or any damages in the nature of damages to the remainder, or diminution in the value of, other lands belonging to the Landowner, that may be claimed or asserted by virtue of such acquisition and use of the Property Interests by the County.

2. The County shall allow a minimum of one (1) access point from the Landowner's remaining property to the access road of the Outer Loop adjacent to Landowner's remainder property. The final location of such access point(s) shall be subject to such regulation as shall, from time-to-time, be determined by the appropriate entity exercising jurisdiction or control over said access road, to be necessary or in the interests of public safety, and in compliance with approved engineering principles and practices including, without limitation, permitted points of ingress and egress, and shall also be subject to compliance with any applicable local municipal or county zoning, platting and/or permitting requirements. Provided, however, under no circumstances shall Landowner be denied a minimum of one (1) access point from Landowner's remaining property to the access road of the Outer Loop adjacent to Landowner's remainder property. If requested or required, the County agrees to approve a variance request or application by Landowner to obtain a minimum of one (1) access point to the Outer Loop access road adjacent to Landowner's remainder property and satisfy the requirements of this agreement. The provisions of this Paragraph 2 shall survive closing and shall be included in the Special Warranty Deed as a reservation of rights

3. The County shall also allow a water line and sewer line to cross the Project's right-of-way for purposes of providing utility service to the Landowner's remainder property. The final location of such crossing shall be subject to such regulation as shall, from time-to-time, be determined by the appropriate entity exercising jurisdiction or control over said right-of-way, to be necessary or in the interests of public safety, and in compliance with approved engineering principles and practices, and shall also be subject to compliance with any applicable local municipal or county zoning, platting and/or permitting requirements. The County agrees to approve a variance request or application by Landowner to cross the Project with a water and sewer pipelines if a variance is necessary to serve Landowner's remainder property with water and sewer services. The provisions of this Paragraph 3 shall survive closing and shall be included in the Special Warranty Deed as a reservation of rights.

4. Upon the parties' execution of this MOA, the County will open escrow with Sendera Title, 12400 Preston Road, Suite 120, Frisco, Texas 75033 (the "**Escrow Agent**") to facilitate delivery and disbursement of the Purchase Price, the Deed (as hereinafter defined), a release of the Lis Pendens Notice, and any other documents and instruments reasonably required in order to close the transaction contemplated by this MOA.

5. The closing shall be held in the offices of the Escrow Agent; provided, that the parties agree that the closing may be a "mail away" closing in which neither party is required to appear in person and all necessary closing documents and funds are delivered to the Escrow Agent

in escrow on or before the Closing Date (as hereinafter defined). The Closing Date shall be such date as is mutually agreeable to the parties, but in any event no later than the earlier to occur of the date that is (i) five (5) business days following delivery of the Purchase Price by the County into escrow, and (ii) ninety (90) days after the Landowner's acceptance of this MOA (the "**Closing Date**").

7. Real estate taxes relating to the Property Interests shall be prorated as of the date the County deposited the award of the special commissioners in the registry of the court and took possession of the Property. Any unpaid taxes will be paid by Landowner upon withdrawal of the money on deposit with the registry of the Court. Except as expressly set forth in this MOA, the County will pay all other closing costs associated with the transaction, including the cost of recording all instruments conveying title to the County.

8. On or prior to the Closing Date, the following shall occur:

(a) The Landowner shall execute and deliver to the Escrow Agent (i) a special warranty deed substantially in the form attached hereto as Exhibit "B" (the "**Deed**") conveying the Property to the County; and (ii) a non-foreign affidavit in a form reasonably acceptable to the County.

(b) The Bank shall execute and deliver a release of the Deed of Trust related to the Property Interests in a recordable form acceptable to the Title Company (the "**Release**");

(c) The County shall deliver to the Escrow Agent (i) the Purchase Price Balance; (ii) any additional necessary closing funds for account of the County; and (iii) a release of the Lis Pendens Notice in recordable form.

(d) Each party shall execute and deliver to the Escrow Agent a closing statement (which shall be prepared by the Escrow Agent).

(e) Each party shall execute and deliver to the Escrow Agent such other documents as are reasonably necessary to consummate the closing.

9. Upon the Escrow Agent's receipt of all necessary closing documents and funds, the parties shall instruct Escrow Agent to close the transaction and record the Deed, the Release and the Release of the Lis Pendens. The Escrow Agent shall then close the transaction, shall distribute documents to the appropriate parties.

10. Notwithstanding any of the foregoing provisions, it is understood that the closing will not occur, and payment of the Purchase Price by the County will not be made unless and until the Landowner causes all mechanics' liens, mortgages, deeds of trust and other monetary liens, if any, to be satisfied and released of record as they relate to the Property Interests.

11. Until the transaction closes, title to the Property Interests remains with the Landowner subject to County's right of possession pursuant to the County's Deposit in the Condemnation Proceeding.

12. Following closing, the Parties will submit an Agreed Order of Dismissal in a form substantially similar to Exhibit "C" attached hereto, to the Court in the Condemnation Proceeding dismissing the Condemnation Proceeding and instructing the Clerk of the Court to distribute the Deposit to the Landowner. The parties agree that, except as set forth herein, each party shall bear its own costs related to the Condemnation Proceeding (if any), including attorneys' fees and any other expenses related to the litigation, and the Landowner and Bank hereby waive any right to recover any fees and expenses in connection with the dismissal of the Condemnation Proceeding that might otherwise be available pursuant to Texas Property Code Section 21.019.


13. If the public use for which the Property Interests were acquired is canceled before the Property Interests are used for that public purpose, no actual progress is made toward the public use within ten years or the Property Interests become unnecessary for public use within ten years, the Landowner may have the right to repurchase the Property Interests for the Purchase Price, or may request from the County information relating to the use of the Property Interests and any actual progress made toward that use, as set out more fully in Chapter 21, Subchapter E of the Texas Property Code.

14. This MOA embodies the entire agreement between the parties and cannot be varied except by the written agreement of the parties.

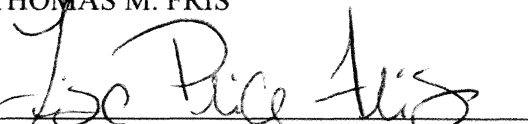
[Signatures Follow]

EXECUTED TO BE EFFECTIVE AS OF THE 25th DAY OF Aug, 2022.
2022.

LANDOWNER:



THOMAS M. FRIS



LISA PRICE FRIS

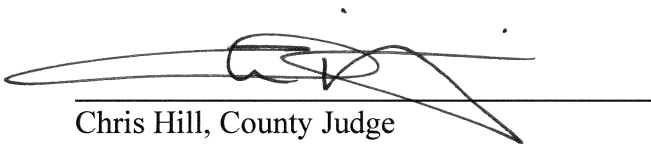
BANK:

SUNFLOWER BANK, N.A. d//b/a
GUARDIAN MORTGAGE, a division of
SUNFLOWER BANK, N.A.

By: _____
Its: _____

COUNTY:

COLLIN COUNTY, TEXAS



Chris Hill, County Judge

Exhibits:

- Exhibit "A" – Property Description
- Exhibit "B" – Deed
- Exhibit "C" – Order of Dismissal

EXHIBIT "A"

**FIELD NOTE DESCRIPTION FOR
PERMANENT RIGHT-OF -WAY**

**Chriswin Investment Properties, Ltd.
Document No. 20090130000096890**

BEING, all of that 35.837 acre (1,561,055 square foot) tract of land situated in the Coleman Watson Survey, Abstract Number 945, Collin County, Texas; being part of that tract of land described in Special Warranty Deed to Chriswin Investment Properties, Ltd. recorded in Document No. 20090130000096890 of the Official Public Records of Collin County, Texas; said 35.837 acre tract of land being more particularly described by metes and bounds as follows:

Permanent Right-of-Way

BEGINNING, at a 1/2-inch iron found at the northwest corner of said Chriswin tract; said point being the southwest corner of that tract of land described as First Tract in Special Warranty Deed to VSS Limited Partnership recorded in Volume 4070, Page 1005 of the Deed Records of Colin County, Texas; said point being in the east line of F.M. 2478 (a 100 foot wide right-of-way);

THENCE, North 89°38'26" East, departing the east line of said F.M. 2478, and with the north line of said Chriswin tract and south line of said VSS tract, a distance of 1,607.31 feet to a 5/8-inch iron rod with "BGE" cap set for corner; said point being the beginning of a non-tangent curve to the right;

THENCE, in a southeasterly direction, departing the north line of said Chriswin tract, along said curve to the right, an arc length of 1,496.94 feet, having a radius of 5,250.00 feet, a central angle of 16°20'12", and a chord which bears South 70° 24' 18" East, 1,491.87 feet to a 5/8-inch iron rod with "BGE" cap set for corner;

THENCE, South 62°14'11" East, a distance of 269.38 feet to a 5/8-inch iron rod with "BGE" cap set for corner in the east line of said Chriswin tract; said point being in the west line of that tract of land described in Warranty Deed to Paul Ray McKinzie and Sharon Cooper McKinzie recorded in Volume 4936, Page 1179 of said Deed Records; from said point 1/2-inch iron rod for at the northeast corner of said Chriswin tract bears North 01°29'02" West, a distance of 636.24 feet;

THENCE, South 01°29'02" East, a distance of 447.21 feet to an angle point in the east line of said Chriswin tract and the southwest corner of said McKinzie tract; said point being the northwest corner of that tract of land described in Special Warranty Deed with Vendor's Lien to CCR Equity Holdings Three, LLC recorded in Instrument No. 20180906001122610 of said Official Public Records;

THENCE, South 00°01'15" West, with the east line of said Chriswin and the west line of said CCR Equity Holdings Three tract, a distance of 124.06 feet to a 5/8-inch iron rod with "BGE" cap set for corner;

THENCE, North 62°14'11" West, departing the east line of said Chriswin and the west line of said CCR Equity Holdings Three tract, a distance of 545.63 feet to a 5/8-inch iron rod with "BGE" cap set for corner at the beginning of a tangent curve to the left;

THENCE, in a northwesterly direction, along said curve to the left, an arc length of 2,364.09 feet, having a radius of 4,750.00 feet, a central angle of 28°30'59", and a chord which bears North 76° 29' 41" West, 2,339.76 feet to a 5/8-inch iron rod with "BGE" cap set for corner;

THENCE, South 89° 14' 50" West, a distance of 500.28 feet to a 5/8-inch iron rod with "BGE" cap set for corner in the west line of said Chriswin tract and the east line of said F.M. 2478;

THENCE, North 00°39'46" West, with the west line of said Chriswin tract and the east line of said F.M. 2478, a distance of 392.86 feet to the POINT OF BEGINNING, and containing an area of 35.837 acres or 1,561,055 square feet of land, more or less.

Notes:

1. Bearing system for this survey is based on the Texas State Plane Coordinate System - NAD 83, North Central Zone 4202, based on observations made in March 2017 with applied Collin Scale factor of 1.00015271
2. Field Survey concluded on 12/16/2019
3. A plat of survey with even date shown hereon was prepared in conjunction with this legal description



12/26/2019

René Silvas
Registered Professional
Land Surveyor No. 5921

Date



EXHIBIT "A"

VSS LIMITED PARTNERSHIP
FIRST TRACT
(VOL. 4070, PG. 1005)
D.R.C.C.T.

VSS LIMITED PARTNERSHIP
THIRD TRACT
(VOL. 4070, PG. 1005)
D.R.C.C.T.

*John R. Barrows Survey/
Abstract No. 40*

PERMANENT
RIGHT-OF-WAY
35.837 ACRES
(1,561,055 SQ. FT.)

$\Delta=16^{\circ}20'12''$
 $R=5,250.00'$
 $L=1,496.94'$
 $T=753.58'$
 $CB=S 70^{\circ}24'18'' E$
 $CD=1,491.87'$

1/2-INCH IRON ROD
FOUND(BENT)(C.M.)

P.O.B.

N 89°38'26" E 1,607.31'

CIRS

MATCHLINE SHEET 4

PROP CENTERLINE
500' R.O.W.

N 00°39'46" W
392.86'

S 89°14'50" W
500.28'

CIRS

$\Delta=28^{\circ}30'59''$
 $R=4,750.00'$
 $L=2,364.09'$
 $T=1,207.07'$
 $CB=N 76^{\circ}29'41'' W$
 $CD=2,339.76'$

PERMANENT RIGHT-OF-WAY

BEING A PART OF CHRISWIN INVESTMENT

PROPERTIES, LTD.

AND BEING OUT OF THE

COLEMAN WATSON SURVEY, ABSTRACT NUMBER 945,

COLLIN COUNTY, TEXAS

MAY 18, 2018

*J. Wilmeth Survey
Abstract No. 983*

F.M. 2478

(A 100' WIDE R.O.W.)

CIRS

*Coleman Watson Survey
Abstract No. 945*

CHRISWIN INVESTMENT
PROPERTIES, LTD.
(DOC. NO. 20090130000096890)
O.P.R.C.C.T.



0 100 200
SCALE: 1" = 200'

LEGEND

- D.R.C.C.T. Deed Records of Collin County, Texas
- O.P.R.C.C.T. Official Public Records of Collin County, Texas
- P.R.C.C.T. Plat Records of Collin County, Texas
- P.O.B. Point of Beginning
- P.O.C. Point of Commencing
- CIRS 5/8-inch iron rod w/ "BGE" cap set
- Property Line
- - - Abstract Line



BGE, Inc.

777 Main Street, Suite 1900, Fort Worth, TX 76102

Tel: 817-887-6130 • www.bgeinc.com

TBPLS Registration No. 10194416

Copyright 2019

PARCEL NO. 47

JOB No. 4190-01 RS/JMH PAGE 3 OF 5

NOTES

1. Bearing system for this survey is based on the Texas State Plane Coordinate System - NAD 83, North Central Zone 4202, based on observations made in March 2017 with applied Collin Scale factor of 1.00015271
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EXHIBIT "A"

*John R. Barrows Survey
Abstract No. 40*

VSS LIMITED PARTNERSHIP
THIRD TRACT
(VOL. 4070, PG. 1005)
D.R.C.C.T.

VSS LIMITED PARTNERSHIP
FOURTH TRACT
(VOL. 4070, PG. 1005)
D.R.C.C.T.

MATCHLINE SHEET 3

$\Delta=16^{\circ}20'12''$
 $R=5,250.00'$
 $L=1,496.94'$
 $T=753.58'$
 $CB=S 70^{\circ}24'18'' E$
 $CD=1,491.87'$

CHRISWIN INVESTMENT
PROPERTIES, LTD.
(DOC. NO. 20090130000096890)
O.P.R.C.C.T.

PERMANENT
RIGHT-OF-WAY
35.837 ACRES
(1,561,055 SQ. FT.)

PROP CENTERLINE
500' R.O.W.

S 62°14'11" E
269.38'
CIRS

N 01°29'02" W 636.24'

1/2-INCH IRON ROD
FOUND (C.M.)

KELLY D. JUERGENS
(VOL. 4349, PG. 469)
D.R.C.C.T.

5/8 INCH IRON
ROD FOUND

PAUL RAY MCKINZIE &
SHARON COOPER MCKINZIE
(VOL. 4936, PG. 1179)
D.R.C.C.T.

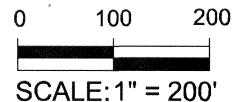
*Coleman Watson Survey
Abstract No. 945*

MATCHLINE SHEET 5

PERMANENT RIGHT-OF-WAY

BEING A PART OF CHRISWIN INVESTMENT
PROPERTIES, LTD.

AND BEING OUT OF THE
COLEMAN WATSON SURVEY, ABSTRACT NUMBER 945,
COLLIN COUNTY, TEXAS
MAY 18, 2018



LEGEND

- D.R.C.C.T. Deed Records of Collin County, Texas
- O.P.R.C.C.T. Official Public Records of Collin County, Texas
- P.R.C.C.T. Plat Records of Collin County, Texas
- P.O.B. Point of Beginning
- P.O.C. Point of Commencing
- CIRS 5/8-inch iron rod w/ "BGE" cap set
- Property Line
- - - Abstract Line



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TBPLS Registration No. 10194416

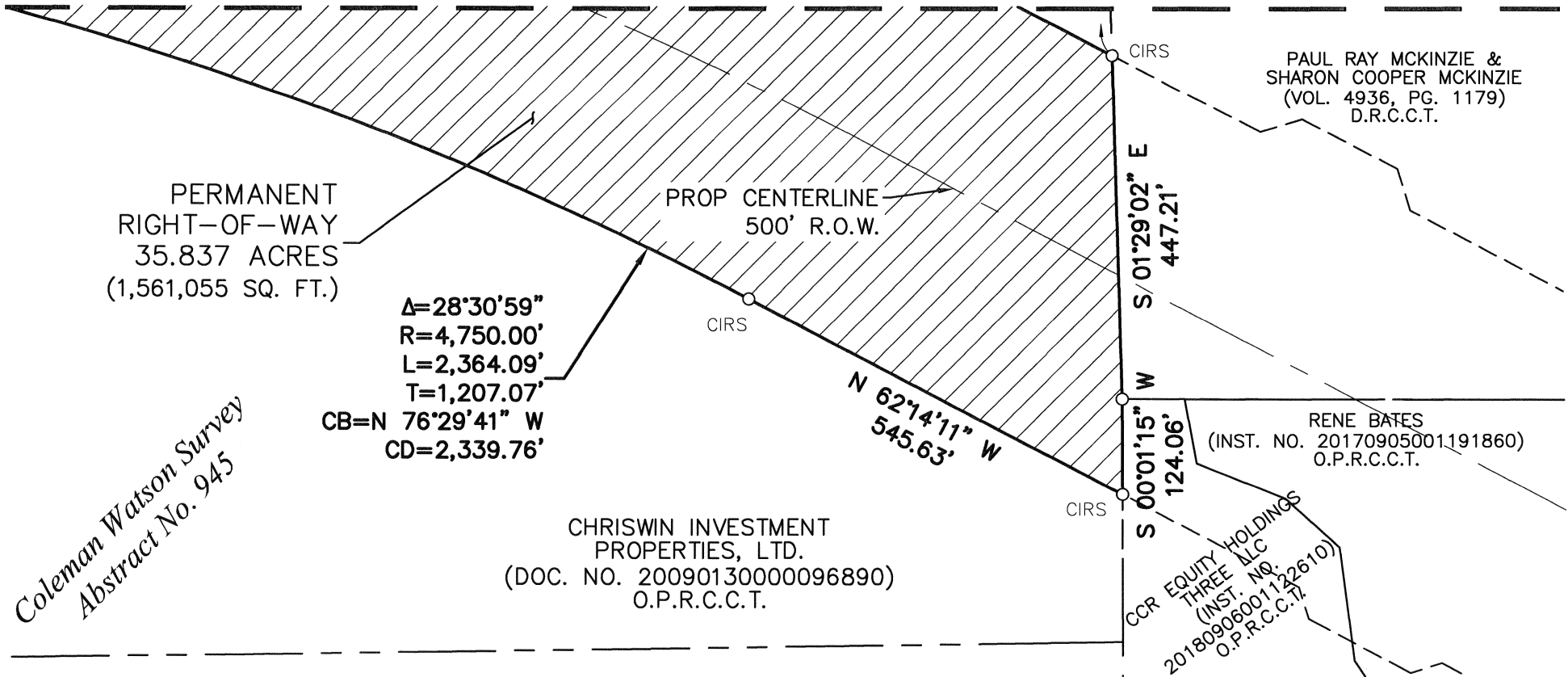
NOTES

1. Bearing system for this survey is based on the Texas State Plane Coordinate System - NAD 83, North Central Zone 4202, based on observations made in March 2017 with applied Collin Scale factor of 1.00015271
2. Field Survey concluded on 12/16/2019
3. A legal description with even date shown hereon was prepared in conjunction with this plat of survey

PARCEL NO. 47

EXHIBIT "A"

MATCHLINE SHEET 4



PERMANENT
RIGHT-OF-WAY
35.837 ACRES
(1,561,055 SQ. FT.)

$\Delta=28^{\circ}30'59''$
 $R=4,750.00'$
 $L=2,364.09'$
 $T=1,207.07'$
 $CB=N 76^{\circ}29'41'' W$
 $CD=2,339.76'$

*Coleman Watson Survey
Abstract No. 945*

CHRISWIN INVESTMENT
PROPERTIES, LTD.
(DOC. NO. 20090130000096890)
O.P.R.C.C.T.

PAUL RAY MCKINZIE &
SHARON COOPER MCKINZIE
(VOL. 4936, PG. 1179)
D.R.C.C.T.

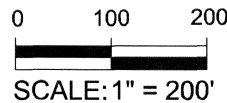
RENE BATES
(INST. NO. 20170905001191860)
O.P.R.C.C.T.

CCR EQUITY HOLDINGS
THREE LLC
(INST. NO. 20180906001122610)
O.P.R.C.C.T.

PERMANENT RIGHT-OF-WAY

BEING A PART OF CHRISWIN INVESTMENT
PROPERTIES, LTD.

AND BEING OUT OF THE
COLEMAN WATSON SURVEY, ABSTRACT NUMBER 945,
COLLIN COUNTY, TEXAS
MAY 18, 2018



NOTES

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LEGEND

D.R.C.C.T.	Deed Records of Collin County, Texas
O.P.R.C.C.T.	Official Public Records of Collin County, Texas
P.R.C.C.T.	Plat Records of Collin County, Texas
P.O.B.	Point of Beginning
P.O.C.	Point of Commencing
CIRS	5/8-inch iron rod w/ "BGE" cap set
---	Property Line
---	Abstract Line



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 777 Main Street, Suite 1900, Fort Worth, TX 76102
 Tel: 817-887-6130 • www.bgeinc.com
 TBPLS Registration No. 10194416

PARCEL NO. 47

EXHIBIT "B"

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

SPECIAL WARRANTY DEED

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

THAT, **THOMAS M. FRIS and LISA PRICE FRIS**, (collectively, "**Grantors**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to Grantors in hand paid by **COLLIN COUNTY, TEXAS**, a political subdivision of the State of Texas ("**Grantee**"), the receipt and sufficiency of which is hereby acknowledged and confessed, have GRANTED, SOLD, BARGAINED AND CONVEYED, and by these presents do GRANT, SELL, BARGAIN AND CONVEY, unto Grantee all of that certain lot, tract or parcel of land situated in Collin County, Texas, together with all improvements situated thereon and all rights, privileges and appurtenances thereto belonging (the "**Property**"), said lot, tract or parcel of land being more particularly described and/or depicted in Exhibit "A" attached hereto and made a part hereof.

SAVE AND EXCEPT all oil, gas and sulfur which can be removed from beneath said tract of land, without any right of ingress or egress to or from the surface of said land to explore, develop, drill, or mine the real property. Grantor retains and expressly reserves all rights, claims, and interests to access the public right of way to be constructed on the Property from Landowner's adjacent property. The final location of Grantor's access point(s) shall be subject to such regulation as shall, from time-to-time, be determined by the appropriate entity exercising jurisdiction or control over said access road, to be necessary or in the interests of public safety, and in compliance with approved engineering principles and practices including, without limitation, permitted points of ingress and egress, and shall also be subject to compliance with any applicable local municipal or county zoning, platting and/or permitting requirements. Provided, however, under no circumstances shall Grantor be denied a minimum of one (1) access point from Grantor's adjacent property to the public right of way to be constructed on the Property. Grantor further retains and expressly reserves all rights, claims and interests to construct, install and maintain water and sewer pipelines across the Property for purposes of providing utility service to Grantor's adjacent property. The final location of such utility pipeline crossings shall be subject to such regulation as shall, from time-to-time, be determined by the appropriate entity exercising jurisdiction or control over said right-of-way, to be necessary or in the interests of public safety,

and in compliance with approved engineering principles and practices, and shall also be subject to compliance with any applicable local municipal or county zoning, platting and/or permitting requirements.

This conveyance is made and accepted subject to all matters set out in Exhibit "B" attached hereto and made a part hereof the "**Permitted Encumbrances**").

TO HAVE AND TO HOLD the Property, together with all and singular the rights, privileges, and appurtenances thereto in anywise belonging, unto Grantee, its successors or assigns, forever; and Grantors do hereby bind themselves, their successors or assigns, to WARRANT AND FOREVER DEFEND all and singular the Property, subject to the Permitted Encumbrances, unto Grantee, its successors or assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantors, but not otherwise.

EXECUTED this _____ day of _____, 2022.

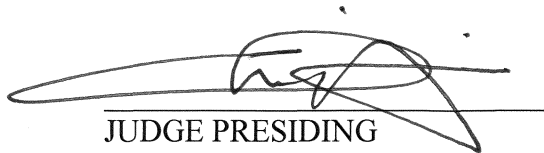
GRANTORS:

THOMAS M. FRIS

LISA PRICE FRIS

SO ORDERED.

Signed the th26 day of SEPTEMBER, 2022.



JUDGE PRESIDING

AGREED:

Baxter W. Banowsky
Counsel for Collin County, Texas

Josh Westrom
Counsel for Thomas M. Fris and Lori Price Fris

Scott A. Ritcheson
Counsel for Sunflower Bank, N.A.