

THE STATE OF TEXAS   §  
  §  
COUNTY OF JOHNSON   §

**AMENDED AND RESTATED**  
**380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT**

This AMENDED AND RESTATED 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT ("AGREEMENT") is entered into by and between the City of Mansfield, Texas a home rule municipality located in Tarrant, Johnson and Ellis Counties, Texas hereinafter referred to as the "City", acting by and through Clay Chandler, its duly authorized City Manager, and Zah Group, Inc., a Delaware Corporation, hereinafter referred to as "Zah Group", acting by and through its President, Thomas Klein.

**WITNESSETH:**

**WHEREAS**, the Zah Group owns and controls Klein Tools, a hand tool manufacturing company with worldwide presence; and

**WHEREAS**, on November 12, 2010, the City of Mansfield and Zah Group entered into a Term Sheet setting forth the terms under which the City would provide economic incentives to the Zah Group, which is attached hereto as Exhibit "A"; and

**WHEREAS**, on September 24, 2012, the City of Mansfield and the Zah Group entered into a one (1) year Tax Abatement Agreement, attached hereto as Exhibit "B," to satisfy the first year of the City's obligation to provide economic development incentives under the Term Sheet; and

**WHEREAS**, the Zah Group owns the Property as herein after defined, and intends to construct a manufacturing facility on the Property; and

**WHEREAS**, the City desires to enter into this Agreement in order to maintain and/or enhance the business, commercial and/or industrial economic and employment base of the City to the long-term interest and benefit of the City and in accordance with Chapter 380 of the Texas Local Government Code ("Chapter 380"); and

**WHEREAS**, on January 14, 2013, the City adopted Resolution No. RE-2872-13 establishing an Economic Development Program pursuant to Section 380.001 of Chapter 380 and authorizing this Agreement as part of the Economic Development Program; and

**WHEREAS**, the Zah Group participated in the Program by executing the 380 Economic Development Program Agreement ("Original Agreement") on February 6, 2013; and

**WHEREAS**, as a result of variables outside of Zah Group's control, the parties desire to amend the Original Agreement, and this Agreement is intended to amend, restate and replace the Original Agreement in its entirety; and

**WHEREAS**, the City Council of the City finds and determines that this Agreement will further effectuate the purposes set forth in the Program, and that the Zah Group's performance of its obligations herein will promote local economic development and stimulate business and commercial activity in the City; and

**NOW THEREFORE**, the City for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, which consideration includes the expansion of employment and the attraction of major investment in the City of Mansfield, which contributes to economic development in the City, and the Zah Group for good and valuable consideration, which consideration includes the Program Grants set forth herein below, as authorized by the Act, do hereby contract, covenant and agree as follows:

1. **Authorization.**

This Agreement is authorized by Chapter 380 of the Texas Local Government Code.

2. **Definitions.**

**AD VALOREM TAXES** means all ad valorem taxes payable to the City for the Property and Real Property Improvements to the Property.

**BUSINESS PERSONAL PROPERTY** means tangible personal property as defined by Section 1.04(6) of the Texas Tax Code that is used in connection with the operation of the Facility and is located on the Property.

**BUSINESS PERSONAL PROPERTY TAX** means all ad valorem taxes paid to the City for Business Personal Property owned by the Zah Group and located in Mansfield.

**CAPITAL INVESTMENT** means and shall include all costs incurred relating to the improvement of the Facilities located in Mansfield, which are owned or occupied by the Zah Group, including the actual construction costs and other costs of all buildings, structures, infrastructure, utilities, landscaping and other onsite and offsite improvements, including all labor and materials, engineering costs, surveying costs, fees of consultants, designers and other professionals, landscape design, platting fees, permit fees, geotechnical investigation, construction material testing, and inspection fees and purchase of Business Personal Property. It does not include any cost reimbursed by the City, acquisition costs of land, insurance costs, marketing costs, or any interest paid to finance the purchase of the Capital Investment.

**CITY** means the City of Mansfield, Texas.

**EMPLOYEE** means a full-time employee or full-time temporary worker in the City of Mansfield, Texas.

**FACILITY** means one or more industrial manufacturing, distribution and/or administrative complexes located on the Property.

IMPROVEMENTS mean the Facility and Business Personal Property located on the Property.

PROGRAM GRANT means the rebate of a percentage of all Ad Valorem Taxes and Business Personal Property Taxes according to the schedule set forth in Section 5, provided the Zah Group is in compliance with the covenants in Section 4 and benchmarks set forth in Section 5.

PROPERTY means that 99.763 acre tract located at 551 Easy Drive, Mansfield, Johnson County in Mansfield Industrial Park East and described and depicted on Exhibit "C" attached hereto, or any other real property acquired by Zah to operate the Facilities and operations of the Facilities, located within the City of Mansfield.

3. **Term.**

This Agreement shall be effective as of the date of execution of all parties. This Agreement will terminate December 31, 2028, or the date of the last Grant Payment due to the Zah Group under Section 5 of this Agreement, whichever occurs first.

4. **Covenants of Zah Group.**

a. In consideration of City agreeing to pay Zah Group monies in accordance with the terms and conditions of this Agreement, Zah Group will:

(1) Purchase the Property in Mansfield, Texas for the purpose of establishing an industrial manufacturing and distribution complex in the City by December 31, 2013.

(2) Make Capital investments and purchase real and business personal property and construct the Improvements in phases in substantial accordance with the schedule set forth in Section 5 of this Agreement;

(3) By December 31, 2020, create and retain at least five hundred eighty-five (585) Jobs at the Facility, according to the schedule set forth in Section 5;

(4) Purchase construction material for the Improvements from vendors within the City of Mansfield if available in Mansfield at a competitive price; and

(5) Operate the Facility for the Term of this Agreement as an industrial manufacturing and distribution complex, after a certificate of occupancy is issued by the City.

b. Provided the City has satisfied all financial and performance obligations in accordance with the schedule set forth in Section 5 of this Agreement, identify the Facility or other facility in Mansfield, Texas as the "USA Manufacturing Headquarters for Klein Tools" in nomenclature and documents no later than December 31, 2016.

c. Provided the City has satisfied all financial and performance obligations in accordance with the schedule set forth in Section 5 of this Agreement, identify Mansfield,

Texas on various Klein products manufactured and distributed from the Facility no later than December 31, 2012, if any.

d. Subject to the right to protest or contest any assessment, remain current on all ad valorem taxes owed to the City of Mansfield.

e. Zah Group covenants and certifies that it does not and will not knowingly employ an undocumented worker in Mansfield, Texas as that term is defined by Section 2264.01(4) of the Texas Government Code. In accordance with Section 2264.052 of the Texas Government Code, if Zah Group, or its branch, division or department is convicted of a violation under 8 U.S.C. Section 1324a(f), Zah Group shall repay the City the full amount of the Payment made under this agreement, plus 1% per annum from the date the Payment was made. Repayment shall be paid within one hundred twenty (120) days after the date Zah Group receives notice of violation from the City.

f. The parties acknowledge and agree that the covenants in Section 4(a) above are anticipated acts and if such acts are not met the incentives will be reduced proportionately, as set forth in Section 5.

## **5. Program Grant.**

a. **Performance Based Incentives.** In exchange for the Zah Groups completion and compliance with the covenants in Section 4 and the benchmarks set forth in this Section 5, the City will make Program Grants to the Zah Group based upon the annual Capital Investment and Employee creation by the Zah Group within the City as set forth below, beginning 12/31/2012. The Program Grants are performance based and failure to meet annual benchmarks will result in a pro rata non-performance deduction of annual Program Grants, which can be earned back if the benchmark is met within the following twenty-four (24) months. Provided however, if the Zah Group fails to meet more than two consecutive annual benchmarks, the missed annual Program Grants will not be earned back. Benchmarks met early will be carried over and counted towards benchmark compliance in subsequent years. The pro rata % deduct on the rebates set forth in the table below shall be calculated by taking the percentage of the non-performance of the number of Employees after adding in early benchmark surpluses and multiplying that by one-half (1/2) of the rebate amount and taking the percentage of the non-performance of the capital investment amount after adding in any early benchmark surpluses and multiplying that by one-half (1/2) of the rebate amount. The sum of those two numbers shall be the amount of the rebate. For clarity and for example only, if between January 1, 2014 and December 31, 2014, Zah Group invested \$6,000,000 but only employs an additional 384 employees instead of 426 employees, then Zah Group will only be entitled to 95% of the BPP and Real Property rebate. This amount is calculated as follows: Zah Group would be entitled to 100% of the 50% for the capital investment since it met the capital investment threshold. It would be entitled to only 90% ( $384 / 426 = 90\%$ ) of the 50% (45%) for the employee threshold. Thus  $50\% + 45\% = 95\%$ .

b. **Certification of Compliance.** Prior to being entitled to the payment, the Zah Group shall certify its compliance with the benchmarks and shall provide to the City reasonable documentation, as the City may require, in writing verifying compliance.

Reasonable documentation may be proof of capital expenditures and a copy of the verification of employment.

c. **Time of Grant Payment.** The City payments shall be made to Zah Group within thirty (30) days following receipt from the Zah Group of reasonable documentation showing compliance with the requirements of this Agreement. In the chart below, BPP means the Business Personal Property Tax amount, and REAL means the Ad Valorem Tax amounts paid to the City of Mansfield. The Zah Group performance benchmarks and the City payments are outlined below.

d. **Calculation of Grant Payment and Benchmarks.** Grant Payments shall be made commencing with taxes collected for the tax year beginning 2012, and ending 2027. The Grant Payment for Business Personal Property ("BPP" in the chart below) shall be an amount equal to the ad valorem taxes collected and received by the City of Mansfield for Business Personal Property in the year set forth on the chart. The Grant Payment for Real Property ("Real" in the chart below) shall be the amount equal to the ad valorem taxes collected and received by the City of Mansfield for the Property and Facility in the year set forth in the chart below.

<b>Date Of Performance</b>	<b>Company Performance Requirements</b>	<b>City Rebates Amounts</b>	<b>Non-Performance Deduction</b>
12-31-12	<ul style="list-style-type: none"> <li>• The Property Under Contract in Mansfield</li> <li>• 126 Employees</li> <li>• New Capital Investment of \$6M</li> </ul>	YR 1 BPP 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 126 Employees</li> </ul>
12-31-13	<ul style="list-style-type: none"> <li>• The Property Purchased in Mansfield</li> <li>• 30 Additional Employees</li> <li>• New Capital Investment of \$6M</li> </ul>	YR 2 BPP 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 156 Employees</li> </ul>
12-31-14	<ul style="list-style-type: none"> <li>• 50 Additional Employees</li> <li>• New Capital Investment of \$6M</li> </ul>	YR 3 BPP 100% YR 1 REAL 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 206 Employees</li> </ul>
12-31-15	<ul style="list-style-type: none"> <li>• 100 Additional Employees</li> <li>• New Capital Investment of \$6.5M</li> </ul>	YR 4 BPP 100% YR 2 REAL 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 306 Employees</li> </ul>

<b>Date Of Performance</b>	<b>Company Performance Requirements</b>	<b>City Rebates Amounts</b>	<b>Non-Performance Deduction</b>
12-31-16	<ul style="list-style-type: none"> <li>• 85 Additional Employees</li> <li>• New Capital Investment of \$7M</li> </ul>	YR 5 BPP 100% YR 3 REAL 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 391 Employees</li> </ul>
12-31-17	<ul style="list-style-type: none"> <li>• 100 Additional Employees</li> <li>• New Capital Investment of \$7M</li> </ul>	YR 6 BPP 100% YR 4 REAL 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 491 Employees</li> </ul>
12-31-18	<ul style="list-style-type: none"> <li>• Maintain 491 Employees</li> <li>• New Capital Investment of \$7M</li> </ul>	YR 7 BPP 100% YR 5 REAL 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 491 Employees</li> </ul>
12-31-19	<ul style="list-style-type: none"> <li>• 26 Additional Employees</li> <li>• New Capital Investment of \$7M</li> </ul>	YR 8 BPP 100% YR 6 REAL 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 517 Employees</li> </ul>
12-31-20	<ul style="list-style-type: none"> <li>• 68 Additional Employees</li> <li>• New Capital Investment of \$7M</li> </ul>	YR 9 BPP 100% YR 7 REAL 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 585 Employees</li> <li>•</li> </ul>
12-31-21	<ul style="list-style-type: none"> <li>• Maintain 585 Employees</li> </ul>	YR 10 BPP 100% YR 8 REAL 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less Investment, plus</li> <li>• Pro rata % Deduct on 50% of rebate for Less than 585 Employees</li> </ul>
12-31-22	<ul style="list-style-type: none"> <li>• Maintain 585 Employees</li> </ul>	YR 11 BPP 100% YR 9 REAL 100%	<ul style="list-style-type: none"> <li>• Pro rata % Deduct on 50% of rebate for Less than 585 Employees</li> </ul>

<b>Date Of Performance</b>	<b>Company Performance Requirements</b>	<b>City Rebates Amounts</b>	<b>Non-Performance Deduction</b>
12-31-23	<ul style="list-style-type: none"> <li>Maintain 585 Employees</li> </ul>	YR 12 BPP 100% YR 10 REAL 100%	<ul style="list-style-type: none"> <li>Pro rata % Deduct on 50% of rebate for Less than 585 Employees</li> </ul>
12-31-24	<ul style="list-style-type: none"> <li>Maintain 585 Employees</li> </ul>	YR 13 BPP 100%	<ul style="list-style-type: none"> <li>Pro rata % Deduct on 50% of rebate for Less than 585 Employees</li> </ul>
12-31-25	<ul style="list-style-type: none"> <li>Maintain 585 Employees</li> </ul>	YR 14 BPP 100%	<ul style="list-style-type: none"> <li>Pro rata % Deduct on 50% of rebate for Less than 585 Employees</li> </ul>
12-31-26	<ul style="list-style-type: none"> <li>Maintain 585 Employees</li> </ul>	YR 15 BPP 100%	<ul style="list-style-type: none"> <li>Pro rata % Deduct on 50% of rebate for Less than 585 Employees</li> </ul>

6. **Improvements.**

Zah Group shall be solely responsible for the design and construction of the Improvements and shall comply with all subdivision regulations, building codes and other ordinances of the City applicable to the Improvements.

7. **Sign.**

Zah Group agrees to permit the City to erect a sign at the Facility which may state that the City has provided funding for the Project, and to allow the Mansfield EDC to use the name The Zah Group and "Klein Tools", and representations of the Improvements and the Project in promotion of the City of Mansfield and the City. The use of Zah Group's and Klein Tools' name on a sign shall be subject to Zah Group and Klein Tools approval (Tom Klein), which shall not be unreasonably withheld, conditioned or delayed.

8. **Indemnification.**

ZAH GROUP IN PERFORMING ITS OBLIGATIONS UNDER THIS AGREEMENT IS ACTING INDEPENDENTLY, AND THE CITY ASSUMES NO RESPONSIBILITIES OR LIABILITIES TO THIRD PARTIES IN CONNECTION WITH THE PREMISES OR IMPROVEMENTS. ZAH GROUP AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES, AND VOLUNTEERS IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST CLAIMS, SUITS, DEMANDS, LOSSES, DAMAGES, CAUSES OF ACTION, AND LIABILITY FROM A SUIT BY A THIRD PARTY, INCLUDING, BUT NOT LIMITED TO, EXPENSES OF LITIGATION OR SETTLEMENT, COURT COSTS, AND ATTORNEYS FEES WHICH MAY ARISE DUE TO ANY DEATH OR INJURY TO A PERSON OR THE LOSS OF, LOSS OF USE, OR DAMAGE TO PROPERTY, ARISING OUT OF OR OCCURRING AS A CONSEQUENCE OF THE PERFORMANCE OF THIS AGREEMENT, INCLUDING ANY ERRORS OR OMISSIONS, OR NEGLIGENT ACT OR OMISSION OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES; EXCEPT THAT THE INDEMNITY

PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY OR THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OF BOTH ZAH GROUP AND THE CITY, 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 UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE TO ANY OTHER PERSON OR ENTITY.

9. **Access to Information.**

Zah Group agrees to provide the City access to information related to the acquisition or construction of the Improvements and Project during regular business hours upon reasonable notice, during the term of this Agreement. The City shall have the right to require Zah Group to submit any necessary information, documents, invoices, receipts or other records to verify costs of the Improvements and Capital Investment expenditures related to the duties under this Agreement provided, however, the City agrees it will not make such requests more than two (2) times in any twelve (12) consecutive month period.

10. **General Provisions.**

a. **Mutual Assistance.** Zah Group and the City shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out the terms and provisions.

b. **Representations and Warranties.** Zah Group represents and warrants to the City that it has the requisite authority to enter into this Agreement. Zah Group represents and warrants to the City that it will not violate any federal, state or local laws in operating the business, that all proposed Improvements shall conform to the applicable building codes, zoning ordinances and all other ordinances and regulations.

c. **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.

d. **Attorneys Fees.** In the event any legal action or process is commenced to enforce or interpret provisions of this Agreement, the prevailing party in any such legal action shall be entitled to recover its necessary and reasonable attorneys' fees and expenses incurred by reason of such action.

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

f. **Amendment.** This Agreement may only be amended, altered, or revoked by written instrument signed by Zah Group and the City.

g. **Successors and Assigns.** This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. Zah Group may assign all or part of its rights and obligations hereunder only upon prior written approval of the City, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, written approval of the City shall not be required for an assignment to an Affiliate of Zah Group or its lender. "Affiliate of Zah Group" as used herein, includes any parent, sister, partner, joint venturer, or subsidiary entity of Zah Group; any entity in which Zah Group is a major shareholder, owns an equity interest, or is a joint venturer or partner (whether general or limited).

h. **Notice.** Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing:

ZAH GROUP:                      Zah Group, Inc.  
   Attn: Thomas R. Klein  
   450 Bond Street  
   Lincolnshire, IL 60069

With a copy to:              Cantey Hanger, LLP  
   600 West Sixth Street, Suite 300  
   Fort Worth, TX 76102  
   Attn: Brian Newby

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

With a copy to:              Betsy Elam  
   Taylor, Olson, Adkins, Sralla & Elam, L.L.P.  
   6000 Western Place, Suite 200  
   Fort Worth, TX 76107

i. **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.

j. **Applicable Law.** This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas and venue shall lie in Tarrant County, Texas.

k. **Severability.** In the event any provision of this Agreement is illegal, invalid, or unenforceable 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.

l. **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.

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

n. **Default.** If a party should default (the "Defaulting Party") with respect to any of its obligations hereunder and should fail, within thirty (30) days after delivery of written notice of such default from another party (the "Complaining Party") to cure such default, the Complaining Party, by action or proceeding at law or in equity, may be awarded its damages and/or specific performance for such default.

o. **Covenant Running with the Land.** All rights, covenants, restrictions, burdens, privileges and charges, set forth in this Agreement shall exist at all times as long as this Agreement is in effect, among all parties having any right, title or interest in any portion or all of the Property.

p. **Force Majeure.** If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, inability to procure materials, failure of power, governmental moratorium or other governmental action or inaction (including, failure, refusal or delay in issuing permits, approvals or authorizations), injunction or court order, terrorist attacks, riots, insurrection, war, fire, earthquake, flood or other natural disaster or other reason of a like nature not the fault of the party delaying in performing work or doing acts required under the terms of this Agreement, 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.

## CITY OF MANSFIELD

By: \_\_\_\_\_  
Clayton Chandler, City Manager

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

ATTEST:

\_\_\_\_\_  
City Secretary

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
City Attorney

**ZAH GROUP, INC.**

By: \_\_\_\_\_  
Thomas R. Klein, President

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

STATE OF TEXAS       §  
                                  §  
COUNTY OF Tarrant   §

BEFORE ME, the undersigned authority in and for Tarrant County, Texas, on this day personally appeared Thomas R. Klein, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he is the President of Zah Group, Inc. and that he is authorized by said corporation to execute the foregoing instrument as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

{Seal}

\_\_\_\_\_  
Notary Public in and for the State of Texas

## **EXHIBIT A**

### Term Sheet

# TERM SHEET V10

## PROPOSED ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MANSFIELD, TEXAS ("CITY"), THE MANSFIELD ECONOMIC DEVELOPMENT CORPORATION ("MEDC") AND ZAH GROUP, INC. ("ZAH GROUP").

This Term Sheet sets forth proposed terms for a possible Economic Development Agreement to be entered into between the City, MEDC and Zah Group. The parties expressly represent that any transaction between the parties and the acceptance of these proposed terms is subject to the negotiation and execution of a definitive written contract. **Further, any transaction is subject to the Zah Group's obligations under the National Labor Relation Act and all other applicable laws.**

City represents it will provide economic incentives in the form of cash rebates per Chapter 380 of the Texas Local Government Code of real property taxes for a staggered period of ten (10) years and cash rebates of all business personal property taxes for a period of fifteen (15) years paid by the Zah Group in the City and MEDC represents it will provide twelve (12) annual cash grants of \$500,000 based upon the annual investment and job creation by Zah within the City. The proposed economic incentives are performance based and failure to meet annual benchmarks may result in a non-performance deduction of annual incentives granted, which can be earned back in subsequent years by means of catch up investment/employment. Over investment/employment in any given year(s) will be carried over as credit to subsequent years. The annual performance completion requirements and the non-performance deduction are outlined below.

DATE	COMPANY PERFORMANCE REQUIREMENTS	CITY REBATES	MEDC GRANTS	NON-PERFORMANCE DEDUCTION
12-31-10	<ul style="list-style-type: none"> <li>\$4.5M BLDG PURCHASE*</li> <li>\$6.0M EQUIPMENT PURCHASE*</li> </ul>	\$0.0	1 <sup>ST</sup> \$500K	<ul style="list-style-type: none"> <li>N/A</li> </ul>
12-31-11	<ul style="list-style-type: none"> <li>\$6.0M EQUIPMENT PURCHASE*</li> <li>ENGAGE DESIGN SERVICES</li> <li>26 EMPLOYEES</li> </ul>	\$0.0	2 <sup>ND</sup> \$500K	<ul style="list-style-type: none"> <li>% DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>% DEDUCT ON \$250K FOR LESS THAN 26 EMPLOYEES</li> </ul>
12-31-12	<ul style="list-style-type: none"> <li>60 ± ACRE PROPERTY UNDER CONTRACT IN MANSFIELD</li> <li>100 ADDITIONAL EMPLOYEES</li> <li>NEW INVESTMENT OF \$6M</li> </ul>	YR 1 BBP @ 100%	3 <sup>RD</sup> \$500K	<ul style="list-style-type: none"> <li>% DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>% DEDUCT ON \$250K FOR LESS THAN 100 EMPLOYEES</li> </ul>
12-31-13	<ul style="list-style-type: none"> <li>60 ± ACRE PROPERTY PURCHASE IN MANSFIELD</li> <li>200 ADDITIONAL EMPLOYEES</li> <li>NEW INVESTMENT OF \$6M</li> </ul>	YR 2 BBP @ 100%	4 <sup>TH</sup> \$500K	<ul style="list-style-type: none"> <li>% DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>% DEDUCT ON \$250K FOR LESS THAN 200 EMPLOYEES</li> </ul>
12-31-14	<ul style="list-style-type: none"> <li>100 ADDITIONAL EMPLOYEES</li> <li>NEW INVESTMENT OF \$6M</li> </ul>	YR 3 BBP @ 100% YR 1 REAL @ 100%	5 <sup>TH</sup> \$500K	<ul style="list-style-type: none"> <li>% DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>% DEDUCT ON \$250K FOR LESS THAN 100 EMPLOYEES</li> </ul>
12-31-15	<ul style="list-style-type: none"> <li>100 ADDITIONAL EMPLOYEES</li> <li>NEW INVESTMENT OF \$6.5M</li> </ul>	YR 4 BBP @ 100% YR 2 REAL @ 100%	6 <sup>TH</sup> \$500K	<ul style="list-style-type: none"> <li>% DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>% DEDUCT ON \$250K FOR LESS THAN 100 EMPLOYEES</li> </ul>
12-31-16	<ul style="list-style-type: none"> <li>35 ADDITIONAL EMPLOYEES</li> <li>NEW INVESTMENT OF \$7M</li> </ul>	YR 5 BBP @ 100% YR 3 REAL @ 100%	7 <sup>TH</sup> \$500K	<ul style="list-style-type: none"> <li>% DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>% DEDUCT ON \$250K FOR LESS THAN 35 EMPLOYEES</li> </ul>
12-31-17	<ul style="list-style-type: none"> <li>MAINTAIN 585 EMPLOYEES</li> <li>NEW INVESTMENT OF \$7M</li> </ul>	YR 6 BBP @ 100% YR 4 REAL @ 100%	8 <sup>TH</sup> \$500K	<ul style="list-style-type: none"> <li>% DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>% DEDUCT ON \$250K FOR LESS THAN 585 EMPLOYEES</li> </ul>

12-31-18	<ul style="list-style-type: none"> <li>• MAINTAIN 585 EMPLOYEES</li> <li>• NEW INVESTMENT OF \$7M</li> </ul>	YR 7 BBP @ 100% YR 5 REAL @ 100%	9 <sup>TH</sup> \$500K	<ul style="list-style-type: none"> <li>• % DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>• % DEDUCT ON \$250K FOR LESS THAN 585 EMPLOYEES</li> </ul>
12-31-19	<ul style="list-style-type: none"> <li>• MAINTAIN 585 EMPLOYEES</li> <li>• NEW INVESTMENT OF \$7M</li> </ul>	YR 8 BBP @ 100% YR 6 REAL @ 100%	10 <sup>TH</sup> \$500K	<ul style="list-style-type: none"> <li>• % DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>• % DEDUCT ON \$250K FOR LESS THAN 585 EMPLOYEES</li> </ul>
12-31-20	<ul style="list-style-type: none"> <li>• MAINTAIN 585 EMPLOYEES</li> <li>• NEW INVESTMENT OF \$7M</li> </ul>	YR 9 BBP @ 100% YR 7 REAL @ 100%	11 <sup>TH</sup> \$500K	<ul style="list-style-type: none"> <li>• % DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>• % DEDUCT ON \$250K FOR LESS THAN 585 EMPLOYEES</li> </ul>
12-31-21	<ul style="list-style-type: none"> <li>• MAINTAIN 585 EMPLOYEES</li> </ul>	YR 10 BBP @ 100% YR 8 REAL @ 100%	12 <sup>TH</sup> \$500K	<ul style="list-style-type: none"> <li>• % DEDUCT ON \$250K FOR LESS INVESTMENT</li> <li>• % DEDUCT ON \$250K FOR LESS THAN 585 EMPLOYEES</li> </ul>
12-31-22	<ul style="list-style-type: none"> <li>• MAINTAIN 585 EMPLOYEES</li> </ul>	YR 11 BBP @ 100% YR 9 REAL @ 100%		
12-31-23	<ul style="list-style-type: none"> <li>• MAINTAIN 585 EMPLOYEES</li> </ul>	YR 12 BBP @ 100% YR 10 REAL @ 100%		
12-31-24	<ul style="list-style-type: none"> <li>• MAINTAIN 585 EMPLOYEES</li> </ul>	YR 13 BBP @ 100%		
12-31-25	<ul style="list-style-type: none"> <li>• MAINTAIN 585 EMPLOYEES</li> </ul>	YR 14 BBP @ 100%		
12-31-26	<ul style="list-style-type: none"> <li>• MAINTAIN 585 EMPLOYEES</li> </ul>	YR 15 BBP @ 100%		

\*Total investment of \$76 million must be met by 12-31-2021.

In addition to the representations made above, the MEDC makes the following additional representations:


1. The MEDC has agreed to provide water and sewer infrastructure necessary for the development in an amount estimated at, but not to exceed, \$1.5 million dollars;
2. The MEDC has agreed to pay the cost of impact and building permit fees associated with the development during the first ten (10) years in an amount estimated at, but not to exceed, \$800,000; and
3. The MEDC has agreed to reimburse 1.5% (one and one half percent) of the sales price of any home purchased or built within the City of Mansfield by an employee of Zah Group, not to exceed \$3,750 (three thousand seven hundred fifty dollars) per home purchased, and not to exceed a cumulative total of \$125,000 (one hundred twenty five thousand dollars) for a period not to exceed ten (10) years from date of execution of the Agreement.

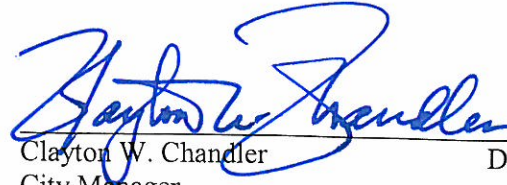
As long as all financial incentives and company performance requirements are met, Zah Group agrees to:

1. Identify the development as the "U.S.A. Manufacturing Headquarters for Klein Tools" located in the City of Mansfield, Texas in future nomenclature and documents no later than by December 31, 2016; and
2. Identify "Mansfield, Texas" on Klein products no later than by December 31, 2012.

Zah Group, Inc.

City of Mansfield

  
Tom Klein  
President Secretary & Treasurer  
11/12/10  
Date

  
Clayton W. Chandler  
City Manager  
11/15/10  
Date

  
Jerry Heftler  
President MEDC  
11/12/10  
Date

**EXHIBIT B**

Tax Abatement Agreement

THE STATE OF TEXAS   §  
  §  
COUNTY OF JOHNSON   §

**AGREEMENT**

This AGREEMENT ("AGREEMENT") is entered into by and between the City of Mansfield, Texas a home rule municipality located in Tarrant, Johnson and Ellis Counties, Texas hereinafter referred to as CITY, acting by and through Clayton Chandler, its duly authorized City Manager, and Zah Group, Inc., a Delaware Corporation, hereinafter referred to as OWNER and through it's President, Thomas Klein.

**WITNESSETH:**

**WHEREAS**, in accordance with the Property Redevelopment and Tax Abatement Act, codified in Chapter 312 of the Texas Tax Code (the "ACT"), the CITY has adopted the Guidelines and Criteria for the Economic Development Incentives Program (the "POLICY"); and

**WHEREAS**, the POLICY STATEMENT constitutes appropriate guidelines and criteria governing tax abatement Agreements to be entered into by the CITY as contemplated by Chapter 312 of the Tax Code; and

**WHEREAS**, the CITY has adopted Resolution No. 988 stating that it elects to be eligible to participate in tax abatement; and

**WHEREAS**, the PREMISES, as hereinafter defined, are wholly located within Reinvestment Zone Number 41("ZONE") created by Ordinance No. ~~OR-1841-12~~; and

**WHEREAS**, the CITY desires to enter into this AGREEMENT in order to maintain and or enhance the commercial and/or industrial economic and employment base of the City of Mansfield to the long term interest and benefit of the CITY in accordance with Ordinance No. ~~OR-1841-12~~ and Chapter 312 of the Code; and

**WHEREAS**, the contemplated use of the PREMISES, as hereinafter defined, the contemplated improvements to the PREMISES in the amount set forth in this AGREEMENT and the other terms hereof are consistent with encouraging development of Reinvestment Zone Number 41in accordance with the purposes and intent of the POLICY STATEMENT, and all applicable law; and

**WHEREAS**, a copy of this AGREEMENT has been furnished in the manner prescribed by the ACT to the presiding officers of the governing bodies of each of the taxing entities in the area in which the PREMISES is located.

**NOW THEREFORE**, the CITY for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, which consideration includes the expansion of employment and the attraction of major investment in the ZONE, which contributes to economic development in the CITY, and the OWNER for good and valuable consideration, which consideration includes the tax abatement set forth herein below, as authorized by the ACT, do hereby contract, covenant and agree as follows:

**A.  
DEFINITIONS**

1. The property which is the subject of this AGREEMENT is that property located in Johnson County in Mansfield Industrial Park East, Mansfield, Texas, and described in Exhibit "A" attached hereto and made a part hereof, and shall be hereinafter referred to as PREMISES.

2. The improvements to be constructed include an approximately 60,000 sq. ft. industrial building to be erected on, affixed to, or placed on the PREMISES, which shall be collectively referred to hereinafter as the IMPROVEMENTS. The kind, number and location of all proposed IMPROVEMENTS are more specifically described in Exhibit "B" attached hereto and made part of this AGREEMENT for all purposes.

**B,  
DUTIES OF OWNER**

1. The OWNER shall substantially complete or cause to be completed construction of the IMPROVEMENTS on the PREMISES that upon completion shall have a value appraised by Johnson County Appraisal District of not less than \$8,000,000 ("Dollar Amount") by December 31, 2013 ("Date"); provided that OWNER shall have such additional time to complete the IMPROVEMENTS as may be required if OWNER is diligently pursuing completion of the initial phase of the IMPROVEMENTS in the event of "force majeure", or if in the sole opinion of the CITY, the OWNER has made substantial progress toward completion of the initial phase of the IMPROVEMENTS. For this purpose, "force majeure" shall mean any contingency or cause beyond the reasonable control of OWNER including, without limitation, acts of God or the Public enemy, war, riot, civil commotion, insurrection, governmental or de facto governmental action (unless caused by acts or omissions of OWNER), fire, explosion or flood, and strikes. The date of substantial completion of the IMPROVEMENTS shall be defined as the date of Certificate of Occupancy is issued for the IMPROVEMENTS by the CITY.

2. The OWNER agrees and covenants that it will diligently and faithfully in a good and workmanlike manner pursue (or cause to be pursued) the completion of the IMPROVEMENTS as a good and valuable consideration of this AGREEMENT. OWNER further covenants and agrees that all construction and installation of the IMPROVEMENTS will be in accordance with all applicable state and local laws and

regulations or valid waiver thereof. In further consideration, from the date a Certificate of Occupancy is issued until the expiration of this AGREEMENT, OWNER covenants and agrees that the PREMISES will be continuously operated, maintained and occupied as a tool manufacturer.

3. The OWNER further agrees that the CITY and its agents and employees, shall have reasonable right of access to the PREMISES to inspect the IMPROVEMENTS in order to insure that the construction of the IMPROVEMENTS are in accordance with this AGREEMENT and all applicable state and local laws and regulation or valid waiver thereof; and subject to OWNER's reasonable security requirements, the continuing right to inspect PREMISES to insure that the PREMISES are thereafter maintained, operated and occupied in accordance with this AGREEMENT.

4. The OWNER agrees to exercise commercially reasonable efforts to purchase construction materials to construct the IMPROVEMENTS within the City of Mansfield if available at a competitive price.

5. The PREMISES shall at all times be used in a manner that is consistent with the general purpose of encouraging development within the ZONE.

6. Prior to October 1<sup>st</sup> of each year this AGREEMENT is in effect, OWNER shall certify to the governing body of the CITY that OWNER is in compliance with each applicable term of this AGREEMENT. OWNER agrees to provide the CITY any documentation the CITY may reasonably require to substantiate that he is in compliance with this AGREEMENT.

### **C. ABATEMENT ALLOWED**

1. Subject to the terms and conditions of this AGREEMENT, and subject to the rights of holders of any outstanding bonds of the CITY, a portion of ad valorem real and personal property taxes from the PREMISES otherwise owed to the CITY for the value of the IMPROVEMENTS shall be abated as provided herein. If the Johnson County appraisal of the PREMISES exceeds \$8,000,000 (Dollar Amount) in the aggregate as of January 1, 2014 said abatement shall be as set forth below on the ad valorem real and personal property taxes assessed upon the value of the IMPROVEMENTS in the year of abatement, to the extent that the value exceeds the value of the PREMISES and IMPROVEMENTS in the year in which this AGREEMENT is executed (the "BASE VALUE"), in accordance with the terms of this AGREEMENT and all applicable state and local regulation or a valid waiver thereof; provided that the OWNER shall have the right to protest and/or contest any assessment of the PREMISES and said abatement shall be applied to the amount of taxes finally determined to be due as a result of any ruling on such protest and/or contest. In accordance with these terms, the abatement granted shall be as follows, with "year one" beginning January 1, 2014.

<u>Year</u>	<u>Percent of Value of IMPROVEMENTS Exempted from Taxation</u>
1	100%

2. The BASE VALUE is that value established by the Johnson County Appraisal District for the PREMISES and Business Personal Property located on the PREMISES as of January 1, 2012.

#### **D. BREACH AND RECAPTURE**

1. In the event that (1) the IMPROVEMENTS for which abatement has been granted are not substantially completed in accordance with this AGREEMENT; or (2) OWNER fails to occupy the IMPROVEMENTS for the PURPOSES required by this AGREEMENT; or (3) OWNER breaches any of the terms or conditions of this AGREEMENT, then this AGREEMENT shall be in default. In the event that the OWNER defaults in its performance of (1), (2) or (3) above, then the CITY shall give the OWNER written notice of such default and if the OWNER has not cured such default, or obtained a waiver thereof from the appropriate authority, within (30) days of said written notice, or the OWNER does not commence to cure such default within said thirty day period and thereafter diligently proceed with its efforts to cure the same, this AGREEMENT may be terminated by the CITY. Notice shall be in writing as provided below. If the CITY terminates this AGREEMENT for default, OWNER shall pay to the CITY all taxes which otherwise would have been paid to the CITY without the benefit of abatement (but without the addition of penalty; interest will be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the CODE) within sixty days after the expiration of the above mentioned applicable cure period. After sixty days, if taxes owed remain unpaid by the OWNER, the penalties and interest will accrue as provided by law. The AGREEMENT may be terminated by the mutual consent of the parties in the same manner that the AGREEMENT was approved and executed. If the IMPROVEMENTS have not been completed at the time of termination, the CITY shall recapture any property tax revenue lost as a result of the AGREEMENT.

2. It is expressly agreed and acknowledged between the parties to the AGREEMENT that nothing in this AGREEMENT shall be deemed or construed to affect the ability of the CITY to place a lien for taxes against the property as established by Section 32.01 of the CODE. Such lien shall secure the payment of all taxes, penalties and interest ultimately imposed on the property, including any taxes abated and subject to recapture under this AGREEMENT. Any such lien may be fully enforced pursuant to the provisions of the CODE. For purposes of this subsection, "property" refers to the PREMISES and all IMPROVEMENTS described herein.

3. Following the expiration of the tax abatement period under this AGREEMENT, the property subject to this AGREEMENT shall become fully taxable subject to any lawful exemptions and special appraisal that may otherwise apply.

4. OWNER covenants and certifies that it does not and will not knowingly employ an undocumented worker as that term is defined by Section 2264.01 (4) of the Texas Government Code. In accordance with Section 2265.052 of the Texas Government Code, if OWNER or its branch, division, or department is convicted of a violation under 8 U.S.C. Section 1342a(f), OWNER shall repay to the CITY the full amount of the taxes abated under Section C.1. of this Agreement, plus ten percent (10%) per annum from the date the Payment was made. Repayment shall be paid within one hundred twenty (120) days after the date OWNER receives notice of violation from the Corporation.

#### **E.**

#### **DETERMINATION OF ROUGH PROPORTIONALITY**

As additional consideration for the tax abatement received by OWNER from the Corporation under this Agreement, OWNER hereby agrees that any land or property it donates to the City as part of the development of the Improvements for any public improvements is roughly proportional to the need for such land and OWNER hereby waives any claim therefore that it may have. OWNER further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the Improvements. OWNER waives and releases all claims they may have against the City related to any and all rough proportionality and individual determination requirements mandated by Subchapter Z of Chapter 212, Texas Local Government Code, as well as other requirements of a nexus between development conditions and the projected impact of the Improvements.

#### **F.**

#### **GENERAL PROVISIONS**

1. **Notice.** Notices required to be given to any party to this AGREEMENT shall be given personally or by registered or certified mail, return receipt requested, postage prepaid, addressed to the party at its address set forth below, and if given by mail, shall be deemed delivered as of the date deposited in the United States mail:

For City by notice to:

City of Mansfield  
Attention: Clay Chandler, City Manager  
1200 East Broad Street  
Mansfield, Texas 76063

For OWNER by notice to:

Zah Group, Inc.

Attn: Thomas Klein

1250 Heritage Pkwy

Mansfield, Texas 76063

Any party may change the address to which notices are to be sent by giving the other parties written notice in the manner provided in this paragraph.

2. **Indemnification.** OWNER in performing its obligations under this AGREEMENT is acting independently, and the CITY assumes no responsibilities or liabilities to third parties in connection with the PREMISES or IMPROVEMENTS. OWNER agrees to indemnify, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS AGENTS, EMPLOYEES, AND VOLUNTEERS IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST CLAIMS SUITS, DEMANDS, LOSSES, DAMAGES, CAUSES OF ACTION, AND LIABILITY OF EVERY KIND, INCLUDING, BUT NOT LIMITED TO , EXPENSES OF LITIGATION OR SETTLEMENT, COURT COSTS, AND ATTORNEYS FEES WHICH MAY ARISE DUE TO ANY DEATH OR INJURY TO A PERSON OR THE LOSS OF, LOSS OF USE OF, OR DAMAGE TO THE PROPERTY, ARISING OUT OF OR OCCURRING AS A CONSEQUENCE OF THE PERFORMANCE OF THIS AGREEMENT, SAVE AND EXCEPT FOR THE ACTUAL NEGLIGENCE OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES. OWNER INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEY FEES AND EXPENSES INCURRED BY THE CITY AND TAXING UNITS IN CONNECTION WITH THESE CLAIMS, SUITS OR CAUSES OF ACTION.

3. **No ownership by CITY officer.** It is the belief of both parties that the PREMISES do not include any property that is owned or leased by a member of the City Council or by a member of the Mansfield Planning and Zoning Commission or any other board or commission of the CITY having responsibility for approval of this AGREEMENT.

4. **Compliance with law.** OWNER shall comply with all applicable rules, regulations, ordinances, state and federal laws in the operation of the IMPROVEMENTS.

5. **Assignment.** The terms and conditions of this AGREEMENT are binding upon the successors and assigns of all parties hereto. This AGREEMENT cannot be assigned by OWNER unless written permission is first granted by the CITY, which permission shall be at the sole discretion of the CITY.

6. **Venue.** This AGREEMENT shall be construed under the laws of the State of Texas, and venue for any action arising under state law under this AGREEMENT shall be the State District Court of Johnson County, Texas. If not properly in state court,

venue for any cause of action arising under federal law shall be the Northern District of Texas.

7. **Severability.** In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word herein is held invalid, illegal, or unenforceable, the balance of this AGREEMENT shall stand, shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In the event there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal and enforceable.

8. **Independent Parties.** Nothing herein shall be construed as creating a partnership or joint enterprise between the city and owner. Furthermore, the parties hereto acknowledge and agree that the doctrine of respondent superior shall not apply between the city and owner, nor between the city and officer, director, member, agent, employee, contractor, subcontractor, licensee, or invitee of owner.

9. **Attorney's fees.** In the event any legal action or process is commenced to enforce or interpret provisions of this AGREEMENT, the prevailing party in any such legal action shall be entitled to recover its necessary and reasonable attorney's fees and expenses incurred by reason of such action. Provided, however, all reasonable attorneys' fees incurred by the CITY for preparation or review of any revision, modification or amendment of this AGREEMENT proposed by OWNER following the original execution of this AGREEMENT, and all reasonable attorneys' fees incurred for preparation or review of other OWNER-proposed additional or related documents shall be at OWNER's sole cost.

10. **Authority of CITY.** This AGREEMENT was authorized by Resolution of the City Council at its regular Council meeting on the 10<sup>th</sup> day of September, 2012, authorizing the City Manager to execute the AGREEMENT on behalf of the City.

11. **Authority of OWNER.** This AGREEMENT was entered into by Zah Group, Inc. where by Thomas Klein as authorized to execute this AGREEMENT on behalf of Zah Group, Inc.

12. **Effective date.** This AGREEMENT shall be effective on the latest date that one of the parties signs below.

SIGNATURES ON FOLLOWING PAGES

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST:

CITY OF MANSFIELD, TEXAS

\_\_\_\_\_  
Vicki Collins, CITY SECRETARY

\_\_\_\_\_  
Clay Chandler, CITY MANAGER

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Elizabeth Elam, CITY ATTORNEY

Zah Group, Inc.

\_\_\_\_\_  
Thomas Klein  
President

State of Texas

§

§

County of Johnson

§

BEFORE ME, the undersigned authority in and for Johnson County, Texas, on this day personally appeared Thomas Klein, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he is the President of Zah Group, Inc. and that he is authorized by said corporation to execute the foregoing instrument as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Type or Print Notary's Name

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

After recording return to:

City of Mansfield  
1200 East Broad Street  
Mansfield, Texas 76063

## EXHIBIT "A" LEGAL DESCRIPTION

BEING 99.763 acres of land located in the ELIZABETH McANIER SURVEY, ABSTRACT NO. 571, and the J.Q. WHEELER SURVEY, ABSTRACT NO. 903, Mansfield, Johnson County, Texas, being the same tract of land conveyed to George Ray Luttrell, Successor Trustee of the Luttrell Trust, Volume 4490, Page 725 of the Deed Records of Johnson County, Texas, and being described in the deed to James Luttrell, Trustee of the Luttrell Trust, recorded in Volume 1923, Page 435 of the Deed Records of Johnson County, Texas. Said 99.763 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at a ½" Iron rod found at the South corner of aforesaid McANIER SURVEY, lying in the East boundary line of the J.Q. WHEELER SURVEY, being the East boundary line of a tract of land designated as Tract One in the deed to James Neal Ratjen recorded in Instrument No. 30011 of the Deed Records of Johnson County, Texas;

THENCE along the West boundary line of said Luttrell Trust Tract and the East boundary line of said Tract One, as follows:

1. N 27° 36' 17" W 625.24 feet, to a ½" Iron rod found;
2. N 66° 52' 19" W 116.06 feet, to a ½" Iron rod found;
3. N 30° 27' 09" W 1695.71 feet, to a ½" Iron rod found;
4. N 58° 36' 51" E 419.53 feet, generally along a fence to a ½" Iron rod found;
5. N 28° 45' 20" W at 149.67 feet, passing a ½" Iron rod found and continuing in all 177.68 feet, to a ½" Iron rod marked "Brittain & Crawford", set in the Northwest boundary line of aforesaid McANIER SURVEY, being the Southeast boundary line of the THOMAS J. HANKS SURVEY, also lying within Easy Drive (County Road No. 526);

THENCE N 59° 02' 59" E 1294.71 feet, along the Northwest boundary line of said McANIER SURVEY, and the Southeast boundary line of said HANKS SURVEY, along Easy Drive, to a ½" Iron rod marked "Brittain & Crawford", set at the North corner of said Luttrell Trust Tract;

THENCE S 29° 58' 22" E at 27.99 feet, passing a ½" Iron rod found in the South line of said Easy Drive, continuing along the Northeast boundary line of said Luttrell Trust Tract, at 2506.83 feet, passing a ½" Iron rod found lying in the West right-of-way line of South 2nd Avenue (Farm-to-Market Road No. 917), and continuing in all 2624.78 feet, to a "PK" nail set lying within South 2nd Avenue;

THENCE S 60° 04' 49" W at 47.21 feet, passing a ½" Iron rod found lying in the West right-of-way line of aforesaid South 2nd Avenue, along the Southeast boundary line of said Luttrell Tract, and the Northwest boundary line of United Cooperative Services Inc. Tract, continuing in all 1659.65 feet, to the POINT OF BEGINNING containing 99.763 acres (4,345,660 square feet) of land.

EXHIBIT "B"  
PROPOSED IMPROVEMENTS

## **EXHIBIT C**

### Property Depiction

## EXHIBIT C

### Property Depiction

#### LEGAL DESCRIPTION

BEING 99.763 acres of land located in the ELIZABETH McANIER SURVEY, ABSTRACT NO. 571, and the J.Q. WHEELER SURVEY, ABSTRACT NO. 903, Mansfield, Johnson County, Texas, being the same tract of land conveyed to George Ray Luttrell, Successor Trustee of the Luttrell Trust, Volume 4490, Page 725 of the Deed Records of Johnson County, Texas, and being described in the deed to James Luttrell, Trustee of the Luttrell Trust, recorded in Volume 1923, Page 435 of the Deed Records of Johnson County, Texas. Said 99.763 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod found at the South corner of aforesaid McANIER SURVEY, lying in the East boundary line of the J.Q. WHEELER SURVEY, being the East boundary line of a tract of land designated as Tract One in the deed to James Neal Ratjen recorded in Instrument No. 30011 of the Deed Records of Johnson County, Texas;

THENCE along the West boundary line of said Luttrell Trust Tract and the East boundary line of said Tract One, as follows:

1. N 27° 36' 17" W 625.24 feet, to a ½" iron rod found;
2. N 66° 52' 19" W 116.06 feet, to a ½" iron rod found;
3. N 30° 27' 09" W 1695.71 feet, to a ½" iron rod found;
4. N 58° 36' 51" E 419.53 feet, generally along a fence to a ½" iron rod found;
5. N 28° 45' 20" W at 149.67 feet, passing a ½" iron rod found and continuing in all 177.68 feet, to a ½" iron rod marked "Brittain & Crawford", set in the Northwest boundary line of aforesaid McANIER SURVEY, being the Southeast boundary line of the THOMAS J. HANKS SURVEY, also lying within Easy Drive (County Road No. 526);

THENCE N 59° 02' 59" E 1294.71 feet, along the Northwest boundary line of said McANIER SURVEY, and the Southeast boundary line of said HANKS SURVEY, along Easy Drive, to a ½" iron rod marked "Brittain & Crawford", set at the North corner of said Luttrell Trust Tract;

THENCE S 29° 58' 22" E at 27.99 feet, passing a ½" iron rod found in the South line of said Easy Drive, continuing along the Northeast boundary line of said Luttrell Trust Tract, at 2506.83 feet, passing a ½" iron rod found lying in the West right-of-way line of South 2nd Avenue (Farm-to-Market Road No. 917), and continuing in all 2624.78 feet, to a "PK" nail set lying within South 2nd Avenue;

THENCE S 60° 04' 49" W at 47.21 feet, passing a ½" iron rod found lying in the West right-of-way line of aforesaid South 2nd Avenue, along the Southeast boundary line of said Luttrell Tract, and the Northwest boundary line of United Cooperative Services Inc. Tract, continuing in all 1659.65 feet, to the POINT OF BEGINNING containing 99.763 acres (4,345,660 square feet) of land.

