



**NOTICE OF
CITY COUNCIL REGULAR MEETING
CELINA COUNCIL CHAMBERS 112 N. COLORADO ST., CELINA, TX 75009
Tuesday, December 11, 2018 AT 5:00 PM**

AGENDA

I. CALL TO ORDER AND ANNOUNCE A QUORUM PRESENT:

II. PLEDGE OF ALLEGIANCE/INVOCATION:

III. PROCLAMATIONS/PRESENTATIONS/OATHS OF OFFICE:

IV. OPEN FORUM:

Open Forum is for information only. If you wish to speak, please sign the "Speaker List" with the City Secretary. Speakers are limited to three (3) minutes. The Council can take no action. No charges and/or complaints will be heard against any elected official or employee of the city.

Please note Anyone wishing to furnish the City Council with copies/handouts regarding their item of interest must provide 9 copies and present them to the City Secretary for distribution to the City Council.

V. WORKSESSION/COMMITTEE REPORTS/STAFF REPORTS:

- A. New employee introductions. (Metdker, McAfee)
- B. Downtown Plan update. (Jackson)
- C. Parvin Road proposed alignment and scope of work. (Brawner)
- D. Discussion regarding any and/or all agenda items.

VI. EXECUTIVE SESSION:

The Celina City Council will convene into Executive Session pursuant to Texas Government Code 551.071, Consultation with Attorney, on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Chapter.

- A. Discussion regarding an agreement related to Celina Parkway in the Old Celina MMD.

Reconvene Into Open Session

- B. Consider and act upon any items discussed in executive session.

VII. CONSENT AGENDA: Items are considered self-explanatory and will be enacted with one motion. No separate discussion of these items will occur unless so requested by at least one member of the City Council.

A. Minutes Approval:

1. City Council - Regular Meeting - Nov 13, 2018 5:00 PM
2. City Council - Special Meeting - Nov 20, 2018 5:00 PM

- B. Consider and act upon a resolution of the City Council of the City of Celina, Texas, accepting the 2018 Certified Tax Roll for the City of Celina. (Toutouchian)
- C. Consider and act upon a resolution accepting a petition from All Storage Celina, LLC for the voluntary annexation of an approximately 7.426 acre tract of land situated in the Collin County School Land Survey #14, Abstract No. 167, Collin County, Texas and setting two public hearing dates for January 8, 2019 at 5:00 p.m. and February 12, 2019 at 5:00 p.m. at 112 N. Colorado Street, Celina, Texas. The property is generally located on the north side of Frontier Parkway and approximately 900 feet east of Prairie Crossing. (All Storage Annexation Resolution) (McAfee)
- D. Consider and act upon a contract by and between the City of Celina and D&S Engineering Labs in the amount of \$58,312.00 for Engineering and Material Testing Services for the Wastewater Treatment Plant. (Brawner)
- E. Consider and act upon a modification to the Master Services Agreement (MSA) by and between the City of Celina and EST for Engineering and Surveying Services. (Brawner)
- F. Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina and G Bar 7, Ltd. and 7G Management, LLC for a 0.124 acre wastewater transmission pipeline easement. (Laumer)
- G. Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina and G Bar 7, Ltd. and 7G Management, LLC for a 0.663 acre water transmission pipeline easement. (Laumer)
- H. Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina and G Bar 7, Ltd. and 7G Management, LLC for a 0.009 acre wastewater transmission pipeline easement. (Laumer)

VIII. PUBLIC HEARING/ACTION:

- A. The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance amending Ordinance No. 2006-57, as heretofore amended, the same being the Comprehensive Zoning Ordinance, and amending the official zoning map of the City by amending an approximately 12.854 acre tract of land zoned Planned Development No. 34, which has an underlying zoning designation of C-1, Retail, and is situated in the Jonathan Westover Survey, Abstract No. 1030, Collin County, Texas, by adding a new land use to the allowed uses. The property is generally located on the northwest corner of Frontier Parkway and Coit Road, within the City of Celina. (Brazos Electric) (McAfee)

- B. The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance amending Ordinance No. 2006-57, as heretofore amended, the same being the Comprehensive Zoning Ordinance, and amending the official zoning map of the City by amending an approximately 6.268 acre tract of land zoned C-2, General Commercial, situated in the Collin County School Land Survey #14, Abstract No. 167, Collin County, Texas, to grant a Conditional Use Permit (CUP) allowing a self-storage land use. The property is generally located on the north side of Frontier Parkway, approximately 750 feet west of Preston Road, and east of BNSF Railroad, within the City of Celina. (Celina 15 Self-Storage) (McAfee)
- C. The Celina City Council will conduct a public hearing to consider testimony and act upon a Pre-annexation Development Agreement by and between the City of Celina, Texas and G&N Estates, LLC. The property is an approximately 40.279 acre tract of land situated in the Coleman Watson Survey, Abstract No. 495, Collin County, Texas, and generally located on the north side of Choate Parkway, approximately 1,600 feet west of Custer Road, and is located within the City of Celina's ETJ. (Celina 40) (McAfee)
- D. The Celina City Council will conduct a public hearing to consider testimony and act upon a Pre-Annexation Development Agreement by and between the City of Celina, Texas and Trico Development and Land Company. The property is an approximately 50.363 acre tract of land situated within the Ousley and Ford Survey, Abstract No. 490, Collin County, Texas, and is located within the extraterritorial jurisdiction of the City of Celina, generally west of N. Louisiana Street and south of CR 994. (The Cottages) (McAfee)
- E. The Celina City Council will conduct a public hearing to consider testimony and act upon a Pre-annexation Development Agreement by and between the City of Celina, Texas and Trico Development and Land Company. The property is an approximately 25.436 acre tract of land situated in the Hugh C. Routh Survey, Abstract No. 765, the J.K. Rice Survey, Abstract No. 767, and the Collin County Land Survey, Abstract No. 170, Collin County, Texas, located within the extraterritorial jurisdiction of the City of Celina, and generally located on the north side of FM 455, approximately 2,600 feet east of Preston Road. (Crosswood Creek) (McAfee)

IX. ACTION ITEM:

X. ADJOURNMENT:

City Council Chambers is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf, or hearing impaired, or readers of large print, are requested to contact the City Secretary's Office at 972-382-2682, or fax 972-382-3736 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

The City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Chapter 551. "I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board at City Hall of the City of Celina, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: _____ at ____ p.m. and remained so posted continuously for at least 72 hours prior to the scheduled time of said meeting."



Vicki Faulkner, TRMC
City Secretary, City of Celina, TX

Date Notice Removed



**NOTICE OF
CITY COUNCIL REGULAR MEETING
CELINA COUNCIL CHAMBERS 112 N. COLORADO ST., CELINA, TX 75009
Tuesday, November 13, 2018 AT 5:00 PM**

MINUTES

I. CALL TO ORDER AND ANNOUNCE A QUORUM PRESENT:

Attendee Name	Organization	Title	Status	Arrived
Bill Webber	City of Celina	Place 1	Present	
Wayne Nabors	City of Celina	Place 2	Absent	
Andy Hopkins	City of Celina	Place 3	Present	
Carmen Roberts	City of Celina	Place 4	Absent	
Mindy Koehne	City of Celina	Place 5	Present	
Chad Anderson	City of Celina	Place 6	Present	
Sean Terry	City of Celina	Mayor	Present	

Mayor Sean Terry called the meeting to order at 5:00 p.m.

II. PLEDGE OF ALLEGIANCE/INVOCATION:

Mayor Terry led the pledges of allegiance. Pastor Chris Carter of Movement Church gave the invocation.

III. PROCLAMATIONS/PRESENTATIONS/OATHS OF OFFICE:

IV. OPEN FORUM:

No public comment was received.

V. WORKSESSION/COMMITTEE REPORTS/STAFF REPORTS:

A. Preliminary FY 2018 Budget vs. Actual Report. (Toutounchian)

Director of Finance Jay Toutounchian gave a preliminary report on numbers for the fiscal year end.

B. Discussion regarding any and/or all agenda items.

No other items were discussed.

VI. EXECUTIVE SESSION:

The Celina City Council adjourned into Executive Session at 5:08 p.m. with City Attorney Lance Vanzant and City Manager Jason Laumer.

Minutes Acceptance: Minutes of Nov 13, 2018 5:00 PM (Minutes Approval)

- A. Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina and Celina Real Estate, L.P. and Celina Realty, L.P. for Chapter 380 program economic incentives. (Jackson)

RESULT: ADOPTED [UNANIMOUS]
MOVER: Andy Hopkins, Place 3
SECONDER: Bill Webber, Place 1
AYES: Webber, Hopkins, Koehne, Anderson
ABSENT: Nabors, Roberts

- B. 2018-40R Consider and act on a resolution authorizing the use of eminent domain to condemn Rights of way, public water line easements and temporary construction easements in real properties as portions of tracts of land generally described as being located in the Celina original donation Survey, in the Collin County School lane #14 Survey Abstract number A1067, in the Collin County School lane #16 survey Abstract number A1068, in the George Wiley Survey, Abstract A0988, in the S. McCullough

Councilman Hopkins moved to authorize the use of eminent domain to condemn rights of way, public water line easements and temporary construction easements in real properties as portions of tracts of land generally described as being located in the Celina Original Donation Survey, in the Collin County School Land #14 Survey, Abstract Number A1067, in the Collin County School Land #16 Survey, Abstract Number A1068, in the George Wiley Survey, Abstract A0988, in the S. McCullogh Survey.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Andy Hopkins, Place 3
SECONDER: Chad Anderson, Place 6
AYES: Webber, Hopkins, Koehne, Anderson
ABSENT: Nabors, Roberts

- C. Consider and act to authorize the City Manager to execute documents to acquire the property of interest reflected in the exhibits for drainage improvements. (Brawner)

(2018-45R)

RESULT: ADOPTED [UNANIMOUS]
MOVER: Andy Hopkins, Place 3
SECONDER: Chad Anderson, Place 6
AYES: Webber, Hopkins, Koehne, Anderson
ABSENT: Nabors, Roberts

- D. 2018-41R Consider and act to approve a resolution for the Purchase of Real Properties, Easements and Right of Way (ROW) for the Water Transmission Line Project (Brawner)

No action taken on item D.

RESULT: WITHDRAWN [UNANIMOUS]
AYES: Webber, Hopkins, Koehne, Anderson
ABSENT: Nabors, Roberts

Reconvene Into Open Session

The Celina City Council reconvened into open session at 5:36 p.m.

Minutes Acceptance: Minutes of Nov 13, 2018 5:00 PM (Minutes Approval)

- E. Consider and act upon any items discussed in executive session.

VII. CONSENT AGENDA:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bill Webber, Place 1
SECONDER:	Chad Anderson, Place 6
AYES:	Webber, Hopkins, Koehne, Anderson
ABSENT:	Nabors, Roberts

A. Minutes Approval:

1. City Council - Regular Meeting - Oct 9, 2018 5:00 PM

- B. **2018-42R** - Consider and act upon a resolution of the City Council of the City of Celina Texas, authorizing creation of an employee benefits trust; designating members of said trust; and authorizing the trust to purchase various forms of insurance for the benefit of city officers, employees, qualified retirees, and their dependents. (Hall)
- C. **2018 - 57** - Consider and act upon an ordinance amending the Fiscal Year 2018-2019 Budget. (Toutounchian)
- D. **2018 - 58** - Consider and act upon an ordinance approving and authorizing the issuance and sale of the City of Celina, Texas, special assessment revenue bonds, Series 2018 (Glen Crossing Public Improvement District Phase #1B Project); approving and authorizing related agreements, and providing for an effective date. (DeBuff)
- E. **2018 - 59** - Consider and act upon an ordinance approving and authorizing the issuance and sale of the City of Celina, Texas special assessment revenue bonds, Series 2018 (Glen Crossing Public Improvement District Phase #2 Project); approving and authorizing related agreements, and providing for an effective date. (DeBuff)
- F. Consider and act to authorize the City Manager to execute a contract between the City of Celina and Dickerson Construction Co. Inc. in the amount of \$2,705,440.50 for the Southeast Sector Sewer Line 5B (Brawner)
- G. Consider and act to authorize the City Manager to execute an amendment to the Construction Manager at Risk Agreement to Establish the Guaranteed Maximum Price for Phase 1 of Fire Station #2 by and between the City of Celina and Hangartner, LLC in the amount of \$2,968,594.00 (Brawner)
- H. Consider and act to authorize the City Manager to execute a contract between the City of Celina and KS State Bank in the amount of \$340,818.00 for purchase of a modular building. (Brawner)
- (2018-44R)
- I. Consider and act to authorize the City Manager to execute a contract between the City of Celina and ANA Construction in the amount of \$123,998.75 (includes 15% contingency) for the decommission of an existing lift station in downtown behind Lucy's restaurant. (Brawner)

Minutes Acceptance: Minutes of Nov 13, 2018 5:00 PM (Minutes Approval)

- J. Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and Celina Real Estate, L.P. for a facilities agreement regarding use of property for parking during construction. (Brawner)
- K. **2018 - 60** - Consider and act to authorize the City Manager to execute an agreement by and between the City of Celina and Thomas F. Yenny for an annexation deferment and subsequently consider and act upon an ordinance of the City of Celina, Texas, repealing ordinance No. 2017-112, annexing certain territories contiguous to and adjoining the City of Celina, Texas, to wit being an approximately 2.015 acre tract of land generally located on the east side of Prairie Meadow Lane and north of CR 101; and being more particularly described by metes and bounds in Exhibit "A" and graphically depicted in Exhibit "B" attached hereto and incorporated herein. (Thomas F. Yenny Disannexation) (McAfee)
- L. Consider and act upon an agreement by and between the City of Celina and Denton County for Fire and Emergency Medical Services. (Metdker)

VIII. PUBLIC HEARING/ACTION:

- A. **2018 - 61** - The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance of the City Council of the City of Celina, Texas, approving an amended Final Project and Reinvestment Zone Financing Plan for Reinvestment Zone Number Six, City of Celina, Texas including a percent of participation, update to projects, and a change in boundaries of the Zone. (Glen Crossing) (DeBuff)

Item A was taken before the Consent Agenda. Mayor Terry opened the hearing at 5:38 p.m. No public comment was received. The hearing was closed at 5:39 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bill Webber, Place 1
SECONDER:	Chad Anderson, Place 6
AYES:	Webber, Hopkins, Koehne, Anderson
ABSENT:	Nabors, Roberts

- B. **2018 - 62** - The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance of the City Council of the City of Celina, Texas accepting and approving a Service and Assessment Plan and Phase #2 assessment roll for the Glen Crossing Public Improvement District; making a finding of special benefit to the property in Phase #2 of the District; levying special assessments against property within the District and establishing a lien on such property; providing for the method of assessment and the payment of the Phase #2 assessments in accordance with Chapter 372, Texas Local Government Code, as amended, providing penalties and interest on delinquent assessments, providing for severability, and providing an effective date. (DeBuff)

Item B was taken before the Consent Agenda. Mayor Terry opened the hearing at 5:39 p.m. Corey Admire with Shupe, Ventura of Dallas, Texas, representing the applicant spoke in favor of the ordinance. The hearing was closed at 5:41 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Andy Hopkins, Place 3
SECONDER:	Mindy Koehne, Place 5
AYES:	Webber, Hopkins, Koehne, Anderson
ABSENT:	Nabors, Roberts

- C. **2018 - 63** - The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance amending Ordinance No. 2006-57, as heretofore amended, the same being the Comprehensive Zoning Ordinance, Chapter 14: Zoning, by adding a new Article 14.03.032 DNTD, Dallas North Tollway Overlay District. (Dallas North Tollway Overlay District) (McAfee)

Mayor Terry opened the hearing at 5:42 p.m. No public comment was received. The hearing was closed at 5:47 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bill Webber, Place 1
SECONDER:	Chad Anderson, Place 6
AYES:	Webber, Hopkins, Koehne, Anderson
ABSENT:	Nabors, Roberts

- D. **2018 - 64** - The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance amending Ordinance No. 2006-57, as heretofore amended, the same being the Comprehensive Zoning Ordinance, Chapter 14: Zoning, Section 14.04.002, Accessory Buildings and Use Regulations. (Accessory Buildings and Use Regulations) McAfee

Mayor Terry opened the hearing at 5:48 p.m. No public comment was received. The hearing was closed at 5:49 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bill Webber, Place 1
SECONDER:	Chad Anderson, Place 6
AYES:	Webber, Hopkins, Koehne, Anderson
ABSENT:	Nabors, Roberts

- E. **2018 - 65** - The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance amending Ordinance No. 2006-57, as heretofore amended, the same being the Comprehensive Zoning Ordinance, Chapter 14: Zoning, Article 14.05, Division 5, Exterior Construction and Design Requirements and replacing it in its entirety with Article 14.05, Division 5, Architectural Design Standards. (Architectural Design Standards) (McAfee)

Mayor Terry opened the public hearing at 5:50 p.m. No public comment was received. The hearing was closed at 5:55 p.m.

RESULT: APPROVED [UNANIMOUS]
MOVER: Bill Webber, Place 1
SECONDER: Chad Anderson, Place 6
AYES: Webber, Hopkins, Koehne, Anderson
ABSENT: Nabors, Roberts

IX. ACTION ITEM:

- A. Consider and act upon an Extraterritorial Jurisdiction Development Agreement by and between the City of Celina, Texas and Chapel Creek Partners, LP. The subject property is an approximately 72.260 acre tract of land generally located on the southwest corner of CR-90 (future Glendenning Parkway) and CR 87 (Coit Road) within the extraterritorial jurisdiction of the City of Celina, Collin County, Texas. (Central Park Villas Development Agreement) (DeBuff)

Larry Beck with Chapel Creek Partners spoke about the project being proposed.

RESULT: APPROVED [UNANIMOUS]
MOVER: Bill Webber, Place 1
SECONDER: Chad Anderson, Place 6
AYES: Webber, Hopkins, Koehne, Anderson
ABSENT: Nabors, Roberts

- B. **2018-43R** - Consider and act upon a resolution of the City Council of the City of Celina, Texas, confirming support for the proposed Palladium Celina Senior Living Development located on the south side of E. Sunset Blvd and west of County Road 89. (Palladium Celina Senior Living) (DeBuff)

Councilwoman Koehne recused herself at 6:05 p.m. from the discussion on item B. Tom Huth and Kim Schwimmer from Palladium USA International gave a quick presentation on the project. Councilwoman Koehne returned to the dais at 6:10 p.m.

RESULT: APPROVED [UNANIMOUS]
MOVER: Bill Webber, Place 1
SECONDER: Andy Hopkins, Place 3
AYES: Webber, Hopkins, Koehne, Anderson
ABSENT: Nabors, Roberts

- C. **2018 - 66** - Consider and act upon an ordinance of the City Council of the City of Celina, Texas, amending the City's Code of Ordinances, Appendix A: Fee Schedule, Utility Rates. (DeBuff)

Dan Jackson with WilDan Financial Services presented the recommended rates and options. Councilwoman Koehne moved to approve item C with Alternative 2.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mindy Koehne, Place 5
SECONDER:	Andy Hopkins, Place 3
AYES:	Webber, Hopkins, Koehne, Anderson
ABSENT:	Nabors, Roberts

X. ADJOURNMENT:

There being no further comment Mayor Terry adjourned the meeting at 6:30 p.m.

Sean Terry, Mayor

Vicki Faulkner, TRMC
City Secretary, City of Celina, Texas

Date Minutes Approved

Minutes Acceptance: Minutes of Nov 13, 2018 5:00 PM (Minutes Approval)



**NOTICE OF
CITY COUNCIL SPECIAL MEETING
CELINA COUNCIL CHAMBERS 112 N. COLORADO ST., CELINA, TX 75009
Tuesday, November 20, 2018 AT 5:00 PM**

MINUTES

I. CALL TO ORDER:

Attendee Name	Organization	Title	Status	Arrived
Bill Webber	City of Celina	Place 1	Present	
Wayne Nabors	City of Celina	Place 2	Present	
Andy Hopkins	City of Celina	Place 3	Present	
Carmen Roberts	City of Celina	Place 4	Present	
Mindy Koehne	City of Celina	Place 5	Present	
Chad Anderson	City of Celina	Place 6	Absent	
Sean Terry	City of Celina	Mayor	Absent	

Deputy Mayor Pro Tem Wayne Nabors called the meeting to order at 5:06 p.m.

II. CONSENT AGENDA:

1. Consider and act on a resolution authorizing the use of eminent domain to condemn Rights of way, public water line easements and temporary construction easements in real properties as portions of tracts of land generally described as being located in the Celina original donation Survey, in the Collin County School lane #14 Survey Abstract number A1067, in the Collin County School lane #16 survey Abstract number A1068, in the George Wiley Survey, Abstract A0988, in the S. McCullough Survey, Abstract A0593, in the BBB & C Ry Co Survey, Abstract A0132, in the JNO Willock survey, Abstract A0975, in the Business 289 Addition Blk 56r, Collin County, Texas, generally located on the north and western sides of 428, on the south side of W. Sunset blvd, on the west and east sides of the BNSF railroad track, on the south side of Ash Street between the BNSF railroad tracks and Preston road (SH 289), on the east side of Preston and on the north of E. Sunset blvd (Brawner)

(2018-40R) Councilman Hopkins moved to approve a resolution authorizing the use of eminent domain to condemn rights of way, public water line easements and temporary construction easements in real properties as portions of tracts of land generally described as being located in the Celina Original Donation Survey, in the Collin County School land #14 Survey Abstract number A1067, in the Collin County School Land #16 Survey Abstract number A1068, in the George Wiley Survey, Abstract A0988, in the S. McCullough Survey, Abstract A0593, in the BBB & C Ry Co Survey, Abstract A0132, in the JNO Willock Survey, Abstract A0975, in the Business 289 Addition Blk 56R, Collin County, Texas, generally located on the north and western sides of FM 428, on the south side of W. Sunset Blvd, on the west and east sides of the BNSF railroad track, on the south side of Ash Street between the BNSF railroad tracks and Preston Road (SH 289), on the east side of Preston and on the north side of E. Sunset Blvd.

Minutes Acceptance: Minutes of Nov 20, 2018 5:00 PM (Minutes Approval)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Andy Hopkins, Place 3
SECONDER:	Bill Webber, Place 1
AYES:	Webber, Nabors, Hopkins, Roberts, Koehne
ABSENT:	Anderson

III. ADJOURNMENT:

There being no further comment Mayor Pro Tem Nabors adjourned the meeting at 5:09 p.m.

Sean Terry, Mayor

Vicki Faulkner, TRMC
City Secretary, City of Celina, Texas

Date Minutes Approved

Minutes Acceptance: Minutes of Nov 20, 2018 5:00 PM (Minutes Approval)



City Secretary
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Vicki Faulkner, City Secretary
CC: Jason Laumer, City Manager
Date: December 11, 2018
Re: 2018 Certified Tax Roll

Action Requested:

Consider and act upon a resolution of the City Council of the City of Celina, Texas, accepting the 2018 Certified Tax Roll for the City of Celina. (Toutounchian)

Background Information:

This annually occurring action approves the 2018 Certified Tax Roll as required by Texas Tax Code.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

N/A

Supporting Documents:

Resolution
2018 Certified Tax Roll

Staff Recommendation:

Run Date: September 24, 2018

Collin County Tax Office

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2018 TAX ROLL SUMMARY

133
09 - CELINA CITY

	Amount	Count
NUMBER OF ACCOUNTS		7,074
MARKET VALUES		
ROLLCODE: PERSONAL		
Personal	\$54,603,704	
ROLLCODE: REAL		
Agriculture	\$765,215,912	
Improvement	\$859,886,901	
Improvement Non-Home Site	\$128,562,053	
Land	\$371,490,109	
Land Ag Land	\$2,026,774	
Land Non-Home Site	\$255,539,806	
TOTAL MARKET VALUE	\$2,437,325,259	
DEFERRALS		
Ag	\$762,475,466	383
TOTAL DEFERRALS	\$762,475,466	
EXEMPTIONS		
Absolute Exemption	\$236,342	1
Absolute Exemption , XN , XN	\$29,600	1
Autos , XO , PPV , XO , PPV	\$9,221,373	41
Cap Adjustment , XT , XT	\$24,834,923	937
Disabled	\$885,000	33
Disabled Veteran	\$11,176,907	110
Economic Development , XL , XL	\$1,500	1
Energy , XR , XR	\$1,385,060	3
Historic Site	\$0	8
Low Income Housing , XD , XA , XD , XA	\$30,000	2
Miscellaneous , XV , XV	\$158,884,872	210
Nominal Value	\$7,279	29
Over 65	\$12,376,774	430
Pollution Control	\$118,052	4
TOTAL EXEMPTIONS	\$219,187,682	
GRAND TOTAL FOR DEFERRALS AND EXEMPTIONS	\$981,663,148	
TOTAL MARKET VALUE	\$2,437,325,259	
TAXABLE VALUE	\$1,455,662,111	
TAX RATE	0.645	
ROLLCODE: PERSONAL		
Levy	\$290,515.08	385
ROLLCODE: REAL		
Levy	\$9,098,506.00	6,689
TOTAL LEVY	\$9,389,021.08	
LEVY LOST DUE TO FROZEN	\$0.00	
OTHER LOST LEVY	\$0.00	
TOTAL LOST LEVY	\$0.00	

Attachment: 2018 Tax Roll Summary (Tax Roll)

Run Date: September 24, 2018

Collin County Tax Office

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2018 TAX ROLL SUMMARY

133
09 - CELINA CITY

Calculation Analysis							
	Calc Levy	- Tax Amount	=	Diff.	Market Value	Exemption	Taxable Value
Frozen	0.00	0.00		0.00	0	0	
DV100 (Excl. Frozen)	2,467.99	2,467.99		0.00	11,155,379	10,457,407	697,972
Prorated (Excl. Frozen)	0.00	0.00		0.00	0	0	
Other	9,386,553.09	9,386,553.09		0.00	2,426,169,880	971,205,741	1,454,964,139
Total	9,389,021.08	9,389,021.08		0.00	2,437,325,259	981,663,148	1,455,662,111
DV100 (Incl. Frozen)	0.00	0.00		0.00	0	0	
Prorated (Incl. Frozen)	0.00	0.00		0.00	0	0	

Attachment: 2018 Tax Roll Summary (Tax Roll)

**CITY OF CELINA
RESOLUTION NO. 2018- R**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS,
ACCEPTING THE 2018 CERTIFIED TAX ROLL FOR THE CITY OF CELINA;
AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Celina, Texas (the “City”) is a Home Rule Municipality located in Collin County and Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the City of Celina Home Rule Charter; and

WHEREAS, the City Council has received and reviewed the 2018 certified property tax rolls submitted by the Collin County Appraisal District, attached hereto as exhibit “A”; and

WHEREAS, a budget appropriating revenues generated by the collection of ad valorem taxes for the use and support of the municipal government of the City of Celina has been approved and adopted by the City Council as required by Title Four (4), Section 102.009 of the Texas Local Government Code.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, THAT:

Section 1. The certified tax roll prepared and submitted by the Chief Appraiser for the Collin County Appraisal District, reflecting an adjusted property tax base of \$1,455,662,111.00 is hereby accepted by the Celina City Council.

Section 2. This Resolution shall take effect from and after its date of passage in accordance with law, and it is accordingly so resolved.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, this 11th day of December, 2018.

Sean Terry, Mayor

Vicki Faulkner, City Secretary

City Attorney

Attachment: 2018- 2018 Certified Tax Roll Resolution (Tax Roll)



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Brooks Wilson, Planning Consultant
 CC: Jason Laumer, City Manager
 Date: December 11, 2018
 Re: All Storage Annexation Petition

Action Requested:

Consider and act upon a resolution accepting a petition from All Storage Celina, LLC for the voluntary annexation of an approximately 7.426 acre tract of land situated in the Collin County School Land Survey #14, Abstract No. 167, Collin County, Texas and setting two public hearing dates for January 8, 2019 at 5:00 p.m. and February 12, 2019 at 5:00 p.m. at 112 N. Colorado Street, Celina, Texas. The property is generally located on the north side of Frontier Parkway and approximately 900 feet east of Prairie Crossing. (All Storage Annexation Resolution) (McAfee)

Applicant:

All Storage Celina, LLC
 82 W. Armstrong Drive
 Mustang, OK 73064

Background Information:

Below is the anticipated annexation schedule for the property:

December 11, 2018 - City Council acts on a resolution to set the public hearing dates.

January 8, 2019 - First Public Hearing to be held.

February 12, 2019 - Second Public Hearing to be held.

February 12, 2019 - City Council acts on an ordinance annexing the property.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

N/A

Supporting Documents:

Location Map

Annexation Resolution

Staff Recommendation:
Staff recommends approval.



Attachment: All Storage Location Map (All Storage Annexation Petition)



All Storage Location Map

Date: 11/26/2018

Legend

- Roads
- AllStorage
- City Limits
- Parcels

North arrow and scale bar (0, 150, 300 Feet).

Packet Pg. 19

**CITY OF CELINA
RESOLUTION NO. 2018-__**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, SETTING A DATE, TIME, AND PLACE FOR PUBLIC HEARINGS ON A PROPOSED ANNEXATION OF CERTAIN PROPERTIES BY THE CITY AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE OF SUCH PUBLIC HEARINGS AND AUTHORIZING CITY STAFF TO TAKE ALL NECESSARY ACTION TO FULFILL THE REQUIREMENTS OF THE MUNICIPAL ANNEXATION ACT.

WHEREAS, the City of Celina, Texas (the “City”) is a Home Rule municipality located in Collin County, Texas, and Denton County, Texas created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the Celina Home Rule Charter; and

WHEREAS, the City of Celina is provided the power to annex land under its Home Rule Charter and Section 43.021 of the Texas Local Government Code pursuant to the requirements and limitations set forth in state law; and

WHEREAS, the City of Celina has determined that it is in the best interest of the City and its citizens to consider the potential annexation of certain properties that are located within the City’s extraterritorial jurisdiction; and

WHEREAS, the City of Celina desires to start the process that will enable the City, should it so desire, to annex the properties referenced in Exhibits “A” & “B” into the City of Celina, call two public hearings, and set a proposed annexation proceedings schedule.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS;

- I. That on Tuesday, the 8th day of January, 2019 at 5:00 p.m. and on Tuesday, the 12th day February, 2019 at 5:00 p.m., at 112 N. Colorado, Celina, Texas 75009. The City Council will hold public hearings giving all interested persons the right to appear and be heard on the proposed annexations by the City of Celina of the properties more particularly described on the attached Exhibits “A” & “B”
- II. That the City Secretary is hereby authorized and directed to cause notice of each public hearing to be published once in a newspaper having general circulation in the City and in the territories described in Exhibits “A” & “B” not more than twenty (20) days, nor less than ten (10) days prior to the date of such public hearing, in accordance with the Municipal Annexation Act.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, this 11th day December, 2018.

SEAN TERRY, MAYOR

VICKI FAULKNER, CITY SECRETARY

EXHIBIT A Legal Description

BEING a tract of land situated in the Collin County Land Survey No. 14, Abstract No. 167, Collin County, Texas and being all of a called 7.438 acre tract of land described in Special Warranty Deed to All Storage Celina, LLC recorded in Instrument No. 20170817001100390, Official Public Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod with plastic cap stamped "KHA" found in the north right-of-way line of Frontier Parkway (60-foot wide right-of-way at this point), for the southwest corner of The Cypress Neighborhood, an addition to the City of Celina, Texas according to the plat thereof recorded in Cabinet 2015, Page 149, Map Records of Collin County, Texas;

THENCE with said north right-of-way line of Frontier Parkway, South 89°29'27" West, a distance of 480.98 feet to a point for corner; from said point a 1/2-inch iron rod found bears North 2°45'06" West, a distance of 0.65 feet;

THENCE departing said north right-of-way line of Frontier Parkway and with the east line of a called 9.507 acre tract of land described in Special Warranty Deed to Mahard Egg Farm, Inc. recorded in Instrument No. 92-0033239 of said Official Public Records, North 8°02'19" East, at a distance of 50.73 passing a 1/2-inch iron rod found, continuing with said east line at a distance of 849.06 passing a 1/2-inch iron rod found, in all a total distance of 956.12 feet to a point for corner in the centerline of a branch;

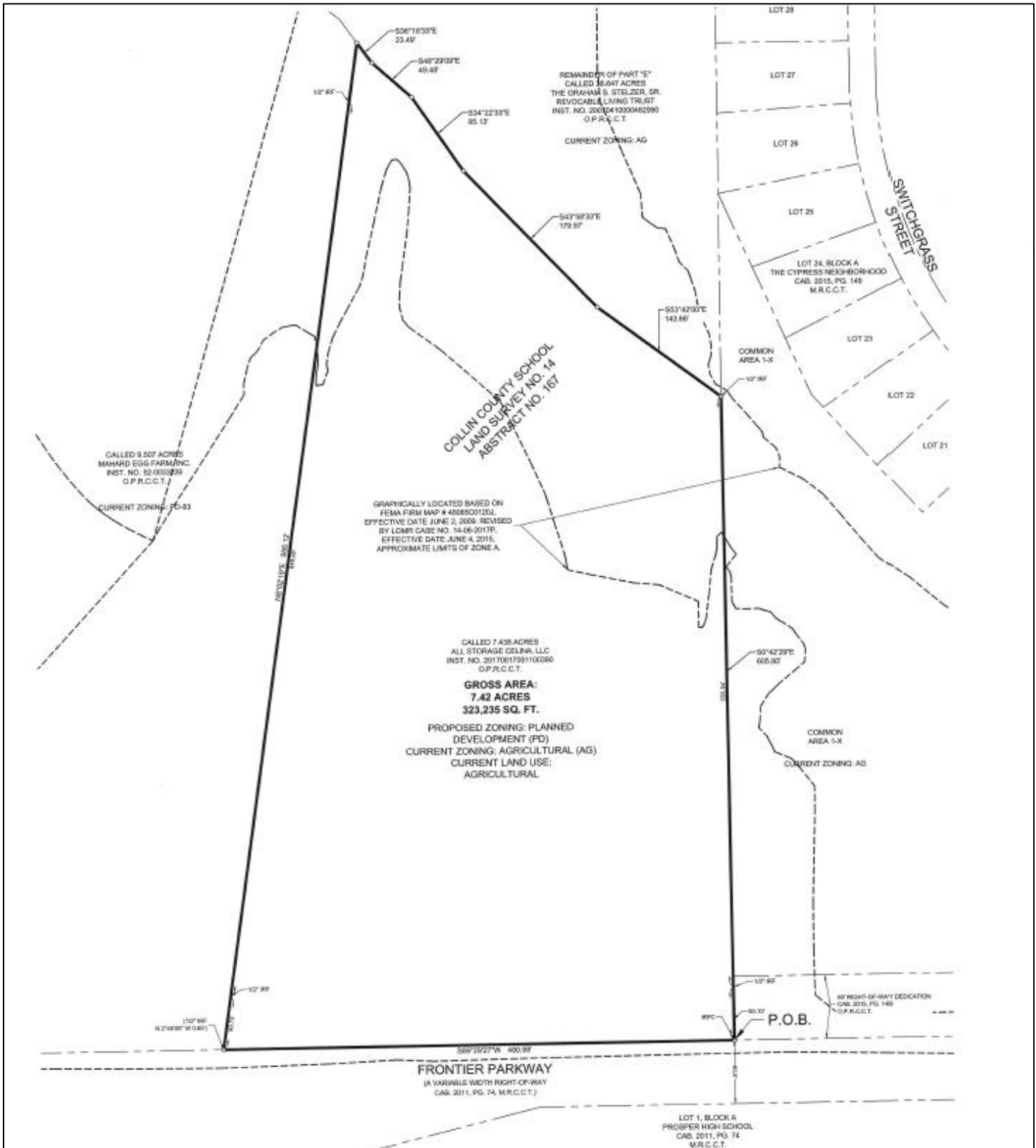
THENCE with the centerline of said branch, the following courses and distances to wit:

South 36°18'33" East, a distance of 23.49 feet to a point for corner;
 South 48°29'09" East, a distance of 49.48 feet to a point for corner;
 South 34°22'33" East, a distance of 85.13 feet to a point for corner;
 South 43°58'33" East, a distance of 179.97 feet to a point for corner;
 South 53°42'00" East, a distance of 143.66 feet to a 1/2-inch iron rod found for an angle point in the west line of said The Cypress Neighborhood Addition;

THENCE with the west line of said The Cypress Neighborhood Addition, South 0°42'29" East, at a distance of 555.84 a 1/2-inch iron rod found, in all a total distance of 605.95 feet to the **POINT OF BEGINNING** and containing 7.42 acres or 323, 235 square feet of land.

Attachment: All Storage Annexation Resolution (All Storage Annexation Petition)

EXHIBIT B Property Exhibit



Attachment: All Storage Annexation Resolution (All Storage Annexation Petition)



Engineering
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Andy Glasgow, Asst Director of Engineering
CC: Kim Brawner, Director of Engineering
Date: December 11, 2018
Re:

Action Requested:

Consider and act upon a contract by and between the City of Celina and D&S Engineering Labs in the amount of \$58,312.00 for Engineering and Material Testing Services for the Wastewater Treatment Plant. (Brawner)

Background Information:

The Wastewater Treatment Plant reconstruction is scheduled to begin construction on December 3, 2018. The City of Celina will have staff monitoring the construction; however, specialized testing is required.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

Funding for this task is provided within the existing construction budget.

Legal Review:

D&S executed a Master Services Agreement (MSA) with the City of Celina in May 2018. Task Order 6 is being completed under that MSA. No additional legal review is necessary.

Supporting Documents:

Contract

Staff Recommendation:

Approval of contract



November 19, 2018
 Proposal No.: P18.373

Mr. Andy Glasgow, P.E.
 City of Celina
 aglasgow@celina-tx.gov

**Subject: Construction Materials Testing Services
 Wastewater Treatment Plant Improvements
 Celina, Texas**

Dear Mr. Glasgow:

D&S Engineering Labs (D&S Engineering) is pleased to submit this proposal for construction materials testing for the above referenced project. We understand that the project is for improvements to the existing City of Celina's wastewater treatment plant located along the west side of N Florida Drive, approximately 2,650 linear feet north from its intersection with W Farm to Market Road in Celina, Texas.

PROJECT INFORMATION

Based on our review of the project plans and specifications, we understand that construction materials testing and observation for this project will be performed on the following improvements:

1. Site Civil (paving, sidewalks, flatwork, and yard piping);
2. North Aeration Basin, Anoxic Basin, and Aeration Blowers Facility;
3. Electrical Building;
4. Secondary Clarifier Splitter Box, Secondary Clarifiers, and RAS/WAS Secondary Effluent Pumping Slab;
5. UV Disinfection Structure;
6. Sludge Blowers Slab ;
7. Solids Transfer Station Manhole and Vaults;
8. Dewatering Facility and Plant Water Pump Station Structure; and
9. Vactor Receiving Station Slab and Vault.

Testing will be on the following:

1. Site Civil – 6-inch concrete paving on 6-inch compacted crushed stone base on compacted subgrade; 4-inch concrete sidewalks, mow strips, and flatwork on 2-inch compacted aggregate base on compacted native subgrade; and trench utility backfill.
2. Structures – Concrete foundation, walls, and slabs ; typical subgrade of 3-feet select fill on 2 feet-8 inches of moisture conditioned soil, and 4-inch mud slab on compacted native subgrade; structural steel and measurement of slab flatness and levelness where applicable.

SCOPE OF SERVICES

The following scope of services is based on our review of project documents and is limited to providing testing and/or observations for the previously mentioned construction. ***We do request that your construction representative provide us with a 24-hour notice for scheduling purposes.*** As such, we agree to provide the appropriate personnel to perform the below construction materials services.

Earthwork

- Obtain and perform laboratory moisture/density relations (ASTM D698) and soil classification tests (liquid limit, plastic limit and percent finer than no. 200 sieve analysis) for each soil type
- Perform in-place moisture/density tests at the proposed rate of 1/3,000 square feet for structures, 1/5,000 square feet for paving areas, and 1/200 linear feet for trench utility backfill per lift, with a minimum of 2 tests per lift

Reinforcing Steel

- Perform reinforcing steel observation which will include:
 - verify number and size of bars
 - verify clearance between bars and spacing
 - verify securing, tying and chairing of bars

Cast-In-Place Concrete

- Perform testing during concrete placements, which will include:
 - perform ambient and concrete temperature determinations
 - perform entrained air content determination
 - perform slump determination
- Cast site civil concrete test cylinders at the proposed rate of 5/100 cubic yards of concrete placed; 2 sets of 3 laboratory cured cylinders and 2 sets of 3 field cured cylinders for every 50 cubic yards of structure concrete, or fraction thereof placed per day
- Compressive strength determination of concrete test cylinders for site work concrete with one tested at 7 days, two tested at 28 days, and one held in reserve; 1 set of 3 lab cured cylinders at 7 days and 1 set of 3 lab cured cylinders at 28 days; 1 set of 2 field cured cylinders at 7 days and 1 set of 2 field cured cylinders at 28 days with 2 lab cured cylinders to be held in reserve
- Measure floor slab levelness and flatness where applicable

Structural Steel

- Perform visual observation on welded and bolted connections

Notes and Qualifications:

If a compliance letter, sealed by a professional engineer, is required at the end of the project, please let us know upfront. A compliance letter is not included in the above scope of services. If one is required, additional fees will be incurred.

This proposal and budget estimate does not include shrinkage tests on concrete, but may be included if required, to be performed by a third party testing agency.

The specifications include a Deductive Alternate Bid D for the Vactor Receiving Station, and a Deductive Alternate Bid E for the Storage Tank Blower Facilities and Sludge Pumping Facilities. Should the said Alternate Deductive Bids be implemented, deduct from the budget estimate \$2,320 for Deductive Alternate Bid D, and \$1,730 for Deductive Alternate Bid E.

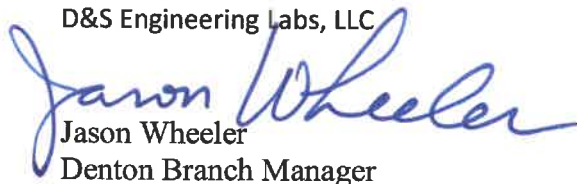
COMPENSATION

While testing is dependent on the construction sequence, contractor performance and efficiency, weather conditions, and the actual testing performed, we suggest an **estimated budget of \$58,312**. The invoicing for this project will use the attached Fee Schedule **and the actual quantity of work performed**. The estimated budget will not be exceeded without prior approval. Services provided by D&S Engineering will be consistent with the engineering standards prevailing at the time and in the area that the work is performed; no other warranty, express or implied, is intended.

A Letter of Agreement for your execution will be forwarded to your office upon your approval of this proposal.

We appreciate the opportunity to provide you with our services. Please call if you have any questions or wish to discuss any aspect of our proposal.

Sincerely,
D&S Engineering Labs, LLC



Jason Wheeler
Denton Branch Manager

Attachments: Budget Estimate

Attachment: P18-373 Proposal Celina WWTP (Material testing on WWTP)



D&S Engineering Labs
 1101 Shady Oaks Drive
 Denton, Texas 76205-7938
 Phone: 940.735.3733

**Budget Estimate for Construction Materials
 Testing & Observation Services
 Celina Waste Water Treatment Plant Improvements
 Celina, Texas
 Proposal No: P18.373**

Item	Quantity	Unit	Unit Rate	Total
Earthwork Observation & Testing Paving & Utilities				
Moisture Density Relations (ASTM D698 - Method A or B)	4	each	\$160.00	\$640.00
Moisture Density Relations (ASTM D698 - Method C)	1	each	\$170.00	\$170.00
Atterberg Limits	4	each	\$60.00	\$240.00
Minus 200 Sieve Analysis	4	each	\$40.00	\$160.00
Sieve Analysis	1	each	\$85.00	\$85.00
In-Place Moisture-Density Tests (Paving), Min 3 per trip	12	each	\$15.00	\$180.00
In-Place Moisture-Density Tests (Utilities), Min 3 per trip	84	each	\$15.00	\$1,260.00
Engineering Soils Technician - Paving (Min. 3 hrs. per trip)	13	hour	\$45.00	\$585.00
Engineering Soils Technician - Utilities (Min. 3 hrs. per trip)	45	hour	\$45.00	\$2,025.00
Trip Charge	18	trip	\$40.00	\$720.00
Estimated Total for Earthwork Services for Paving & Utilities:				\$6,065.00
Concrete Observation & Testing - Paving				
Concrete Test Cylinders (4 per set)	24	each	\$20.00	\$480.00
Engineering Concrete Technician (Min. 3 hrs. per trip) (Includes reinforcing observation & cylinder pick up)	26	hour	\$45.00	\$1,170.00
Trip Charge	8	trip	\$40.00	\$320.00
Estimated Total for Concrete Services for Paving:				\$1,970.00
Earthwork Observation & Testing for Structures				
Moisture Density Relations (ASTM D698 - Method A or B)	5	each	\$160.00	\$800.00
Atterberg Limits	5	each	\$60.00	\$300.00
Minus 200 Sieve Analysis	5	each	\$40.00	\$200.00
In-Place Moisture-Density Tests, Min 3 per trip	217	each	\$15.00	\$3,255.00
Engineering Soils Technician (Min. 3 hrs. per trip)	66	hour	\$45.00	\$2,970.00
Trip Charge	15	trip	\$40.00	\$600.00
Estimated Total for Earthwork Services for Structures:				\$8,125.00
Concrete Observation & Testing for Structures				
Concrete Test Cylinders (6 lab cured and 6 field cured per set)	696	each	\$20.00	\$13,920.00
Engineering Concrete Technician (Min. 3 hrs. per trip) (Includes reinforcing observation & cylinder pick up)	296	hour	\$45.00	\$13,320.00
Measure floor flatness and levelness	2	day	\$750.00	\$1,500.00
Trip Charge	87	trip	\$40.00	\$3,480.00
Estimated Total for Concrete Services:				\$32,220.00
Structural Steel Observation				
CWI Visual Observation (Min. 5 hrs. per trip)	28	hour	\$65.00	\$1,820.00
Trip Charge	5	trip	\$40.00	\$200.00
Estimated Total for Structural Steel Services:				\$2,020.00
Project Setup Fee	1	each	\$100.00	\$100.00
Sr. Project Manager, Site Visits, Report Review, etc.	28	hour	\$90.00	\$2,520.00
Project Administration, Typing Reports, etc.	n/a	%	10	\$5,292.00
Estimated Total for Project Manager/Administration Services:				\$7,912.00
Estimated Total for Above Services:				\$58,312.00
NOT INCLUDED IN REQUIREMENTS OR THE BUDGET				
Tests in excess of above stated quantities or additional tests not listed				
Retesting of any failed tests / observation				
Temporary site curing facility				
Project compliance letter				
The fees listed above for field and laboratory tests, include the equipment necessary to accomplish the task. Fees not listed above are available upon request. Overtime at 1.5 times the normal rate will be billed for time in excess of 8 hours per day and Saturdays, and for time worked before 7 a.m and after 6 p.m. Overtime at 2.0 times the normal rate will be billed for Sundays and holidays.				

Attachment: P18-373 Proposal Celina WWTP (Material testing on WWTP)



Engineering Department
City of Celina, Texas

MASTER SERVICE AGREEMENT (MSA) TASK ORDER

Work Authorization No. 06

Pursuant and subject to the above captioned MSA dated 5/11/2018 between the City of Celina, Texas and D&S Engineering Labs, LLC, the City of Celina hereby requests that CONSULTANT performs the work described below upon the terms set forth:

Work Site: Celina Wastewater Treatment Plant Improvements

Work to be performed: Material Testing. See proposal attached.

Date and Time to Commence: N/A

Date and Time to Complete: N/A

Invoice Mailing Instructions:

City of Celina
Attn: Kimberly Brawner, P.E.
Director of Engineering
142 N Ohio
Celina, TX 75009
kbrawner@celina-tx.gov

Other Requirements or Variance from MSA (if any):
N/A

CONSULTANT PROVIDED INFORMATION:

Compensation: \$58,312

ACCEPTANCE:

The foregoing TASK ORDER is accepted on the terms set forth as indicated by the signatures below.

Consultant:
Via attached contract

Amy Ann Brooker
Authorized representative

12/6/18
Date

City Representative:

Kimberly Brawner, P.E. PTOE
Director of Engineering

Date



Engineering
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Andy Glasgow, Asst Director of Engineering
Date: December 11, 2018
Re: Modification to EST MSA

Action Requested:

Consider and act upon a modification to the Master Services Agreement (MSA) by and between the City of Celina and EST for Engineering and Surveying Services. (Brawner)

Background Information:

The City of Celina entered into a Master Services Agreement (MSA) with EST Engineering Services (EST) in August 2018. City Staff has met with the management team at EST and EST is lowering hourly rates for some of their employees. The attached MSA amendment reflects the lower negotiated hourly rates.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

None

Legal Review:

The original MSA was reviewed and approved by the City's legal team. This amendment does not modify any contract language; therefore, no additional review is necessary.

Supporting Documents:

Addendum

Staff Recommendation:

Approval of MSA modification.



Comprehensive Engineering Services
3522 Sam Rayburn Hwy
Melissa, Texas 75454

Friday, November 30,

City of Celina
Attn: Kimberly Brawner, Director of Engineering
142 N. Ohio Street
Celina, TX 75009

Re: Master Services Agreement

Dear Mrs. Brawner;

EST, Inc. is pleased to submit our list of services and unit price schedule to the City of Celina. Our staff has expertise and successful experience on numerous projects for various cities, counties and other agencies. We are committed to providing our clients with efficient, accurate services as well as prompt and transparent communication.

EST is a comprehensive, professional engineering and testing firm providing specialized solutions to the complex issues that challenge communities. Our team provides value-based thinking by integrating talents and skills across the firm. Our firm has a multi-disciplinary group of professionals who work in the following areas:

- | | |
|--|------------------------|
| • Bridge Design | • Material Testing |
| • CADD Services | • Municipal |
| • Civil Site Work | • Roadway |
| • Coating Inspection | • Surveying |
| • Construction Management and Inspection | • Traffic |
| • Environmental | • Water and Wastewater |
| • Geotechnical | • Water Resources |

We appreciate the opportunity to provide our services to City of Celina. Please call or email if you have any questions.

Sincerely,

EST, Inc.

Kelly Selman, P.E.

Kelly Selman, PE
Texas Regional Manager
3522 Sam Rayburn Hwy.
Melissa, TX 75454
469-907-5515 office
903-815-7330 cell
KellyS@estinc.com
www.estinc.com

Colorado

Oklahoma

Texas

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

MASTER SERVICES AGREEMENT
Miscellaneous Professional Engineering Services

This agreement for Professional Consulting Services (the "Agreement"), made effective as of the date executed, is made between EST, Inc., a Texas corporation, (hereinafter referred to as "CONSULTANT") whose mailing address is 3522 Sam Rayburn Hwy Melissa Texas, 75454, and the **City of Celina, Texas**, a municipal corporation, (hereinafter referred to as "OWNER"), whose mailing address is 142 North Ohio Street, Celina, Texas 75009.

Recitals:

WHEREAS, OWNER desires to engage the services of CONSULTANT as an independent contractor and not as an employee in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, CONSULTANT desires to render miscellaneous professional engineering and related services for OWNER on an indefinite delivery, indefinite quantity ("IDIQ") basis and in accordance with the terms and conditions set forth in this Agreement;

NOW THEREFORE, in exchange for the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

Article 1
Scope of Services

- 1.1 In consideration of the mutual covenants contained herein, CONSULTANT shall perform Professional Engineering Services to OWNER on an as-needed, Project assignment basis. The specific scope of services, and basis for payment, for each Project assignment shall be determined by OWNER and defined in a Request for Proposal from OWNER TO CONSULTANT.
- 1.2 This Agreement shall also allow CONSULTANT to provide related professional services to OWNER as appropriate including, but not limited to, Land Surveying, Landscape Architecture, Land Planning, and CADD services.
- 1.3 All designs, drawings, specifications, documents, and other work products of CONSULTANT, whether in hard copy or in electronic form, are instruments of service for this Project, whether the Project is completed or not. Reuse, change, or alteration by the OWNER or by others acting through or on behalf of OWNER of any such instruments of service without the written permission of CONSULTANT will be at OWNER's sole risk. CONSULTANT shall own the final designs, drawings, specifications and documents.

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

Article 2 Term of Contract

- 2.1 The contract term shall commence on the date of execution by OWNER and shall extend for a period of five (5) years thereafter.
- 2.2 The contract term may be extended by mutual agreement of the parties.

Article 3 Compensation and Method of Payment

- 3.1 CONSULTANT will submit a written fee proposal to OWNER for each Project prior to starting work.
- 3.2 For each Project, OWNER shall compensate CONSULTANT for services on either (a) Time & Expense basis with a Not-to-Exceed Total Fee, or (b) on a Lump Sum basis, as directed by OWNER.
- 3.3 The unit prices to be used for Time & Expense basis shall be set forth in Exhibit "A", attached hereto, and made a part hereof for all purposes.
- 3.4 During the term, or any extension to the term, of this contract, the unit prices contained in Exhibit "A" shall remain the same unless revised per mutual agreement of the parties.
- 3.5 Unless otherwise provided herein, payment to CONSULTANT shall be monthly based on CONSULTANT's monthly invoice that shows the total amount of fees earned to date and the amount due and payable as of the current statement, in a form reasonably acceptable to OWNER.
- 3.6 Payment shall be made by OWNER within 30 days after receipt of the invoice.
- 3.7 OWNER shall provide written notification to CONSULTANT within 15 days of receipt of the invoice should OWNER object to all or any part of charges appearing on the invoice. The portion of the invoice that is not in dispute shall be paid by OWNER within 30 days of receipt of said invoice.

Article 4 Personnel and Equipment

- 4.1 To the extent reasonably necessary for CONSULTANT to perform the services under this Agreement, CONSULTANT shall be authorized to engage the services of any subcontractors, agents, assistants, persons, or corporations that CONSULTANT may deem proper to aid or assist in the performance of the services under this Agreement with the prior written approval of OWNER. The cost of such personnel and assistance shall be included in the compensation to CONSULTANT as described in Article 2.
- 4.2 CONSULTANT shall furnish the facilities, equipment, and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.
- 4.3 CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or disability.

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

Article 5

Delays and Termination

- 5.1 OWNER or CONSULTANT may terminate this Agreement upon thirty (30) days written notice to the other party. In the event of such termination, the CONSULTANT shall be entitled to compensation for any services completed to the reasonable satisfaction of OWNER in accordance with this Agreement prior to such termination.
- 5.2 If OWNER suspends the Project, CONSULTANT shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, CONSULTANT shall be compensated for expenses incurred in the interruption and resumption of CONSULTANT's services. CONSULTANT's fees for the remaining services and the time schedules shall be equitably adjusted.
- 5.3 OWNER's failure to make payment to CONSULTANT in accordance with the payment terms herein shall constitute a material breach of this Agreement and shall be cause for termination by CONSULTANT.

Article 6

Right of Entry

- 6.1 OWNER shall provide for CONSULTANT's right to enter from time to time, property owned by OWNER and/or others, the entry upon which is necessary for CONSULTANT to fulfill the scope of services included hereunder.
- 6.2 Should the project property not be owned by OWNER, OWNER shall obtain and provide written right of entry from the property owner(s) unless otherwise stated in Exhibit "A".

Article 7

Information Provided by Others

- 7.1 CONSULTANT shall indicate to OWNER the information needed for rendering of services hereunder, and OWNER shall provide to CONSULTANT such information as is available to OWNER. OWNER recognizes it is impossible for CONSULTANT to assure the sufficiency of such information, either because it is impossible to do so, or because of errors or omissions, which may have occurred in assembling the information. OWNER shall be responsible for, and CONSULTANT may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to CONSULTANT pursuant to this Agreement. CONSULTANT may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.
- 7.2 Subject to the standard of care set forth here within, CONSULTANT and its subconsultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

Article 8 Construction Activities

- 8.1 OWNER agrees that CONSULTANT shall not have any control over, nor shall it be responsible for, job site safety or for construction means, methods, sequence, techniques and procedures necessary for performing, superintending and/or coordination of all construction activities as such responsibilities are the sole responsibility of the general contractor or OWNER. Accordingly, OWNER warrants that this intent shall be made evident in OWNER's agreement with the general contractor.
- 8.2 CONSULTANT shall have no responsibility for discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

Article 9 Jurisdiction and Applicable Law

- 9.1 This Agreement is to be governed by the laws of the State of Texas.
- 9.2 In compliance with Sec. 29 of the Professional Land Surveying Act, as enacted by the Legislature of the State of Texas, CONSULTANT is required to inform OWNER that land surveying services in the State of Texas are under the jurisdiction of the Texas Board of Professional Land Surveying, 12100 Park 35 Circle, Bldg. A, Suite 156, MC-230, Austin, Texas 78753, (512) 239-5263. Complaints regarding surveying services rendered may be addressed to that agency. The firm registration number is TBPLS No. 10008000.

Article 10 Indemnification

- 10.1 **CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS OWNER FROM AND AGAINST LAWSUITS, CLAIMS, LIABILITIES, CAUSES OF ACTION, LOSSES, DAMAGES, FORFEITURES, PENALTIES, FINES, COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES AND EXPENSES, BY WHOMEVER ASSERTED, TO THE EXTENT THE SAME ARE CAUSED BY THE NEGLIGENT OR INTENTIONAL ACTS OF CONSULTANT OR ITS EMPLOYEES OR SUBCONSULTANTS IN THE PERFORMANCE OF THE SERVICES IN THIS AGREEMENT.**

Article 11 Conflicts of Interest

- 11.1 CONSULTANT represents that no official or employee of OWNER has any direct or indirect pecuniary interest in this Agreement.

Article 12

Insurance

- 12.1 CONSULTANT shall, during the term hereof, maintain in full force and effect the following insurance: (1) a policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to the CONSULTANT's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000 Dollars per occurrence for injury to persons (including death), and for property damage; (2) a policy of automobile liability insurance covering any vehicles owned and/or operated by CONSULTANT, its officers and employees, and used in the performance of this Agreement; (3) statutory Worker's Compensation Insurance covering all of CONSULTANT's employees involved in the provision of services under this Agreement; and (4) Professional Liability Insurance covering damages arising out of the negligent acts, errors or omissions.
- 12.2 All insurance and certificate(s) of insurance shall contain the following provisions: (1) name OWNER, its officers and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability Insurance; (2) provide for at least thirty (30) days prior written notice to the OWNER for cancellation or non-renewal of the insurance; (3) provide for a waiver of subrogation against the OWNER for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.
- 12.3 All insurance companies providing the required insurance shall be authorized to transact business in Texas and be rated at least "A" by AM Best or other equivalent rating service.
- 12.4 A certificate of insurance evidencing the required insurance shall be submitted to the OWNER prior to commencement of services.

Article 13

Assignment

- 13.1 Unless otherwise noted, neither CONSULTANT nor OWNER shall assign this Agreement in whole or in part without the prior written consent of both parties. CONSULTANT shall not subcontract any portion of the work to be performed hereunder, except that CONSULTANT may use the services of persons and entities not in the employ of CONSULTANT when it is appropriate and customary to do so. Such persons and entities include, but are not necessarily limited to, surveyors, specialized consultants, and testing laboratories. CONSULTANT's use of others for additional services shall not be unreasonably restricted by OWNER provided CONSULTANT notifies OWNER in advance.
- 13.2 Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

Article 14 Notices

14.1 Any notice given hereunder shall be deemed served when hand-delivered in writing to an officer or other duly appointed representative of the party to whom the notice is directed or, if sent by commercial courier service, upon delivery to the address specified in the notice or, if sent by registered or certified mail to the business address identified below, upon the deposit of such notice in a properly addressed and postage paid envelope in the United States Mail.

If intended for OWNER:

City of Celina Engineering Department
ATTN: Kimberly Brawner, PE, PTOE
Director of Engineering
142 N Ohio Street
Celina, TX 75009
972-382-2682 x 1081

If intended for CONSULTANT:

EST, Inc.
Kelly Selman
Regional Director
3522 Sam Rayburn Hwy
Melissa Texas 75454
469-907-5515

Article 15 Standard of Care

15.1 The standard of care for all professional consulting services performed or furnished by CONSULTANT under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. CONSULTANT makes no warranties, express or implied, under this Agreement or otherwise, in connection with CONSULTANT's services.

Article 16 Entire Agreement

16.1 The Agreement (including attached schedules) constitutes the sole and entire agreement between CONSULTANT and OWNER. This Agreement replaces and supersedes all prior discussions and agreements between the OWNER and CONSULTANT with respect to the matters contained herein. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument signed by both OWNER and CONSULTANT.

Article 17

Independent Contractor

17.1 It is understood and agreed by and between the parties that CONSULTANT, in satisfying the conditions of this Agreement, is acting independently and that OWNER assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by CONSULTANT pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of OWNER. CONSULTANT shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. There is no intended third-party beneficiary to this agreement.

Article 18 Audits and Records

18.1 CONSULTANT agrees that, during the term hereof, OWNER and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of CONSULTANT's records relating to the services provided pursuant to this Agreement for a period of one (1) year following the date of completion of services as determined by OWNER or date of termination if sooner.

Article 19 Miscellaneous Provisions

- 19.1 All waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- 19.2 Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONSULTANT, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 19.3 OWNER shall not rely in any way on any document unless it is issued in final form, signed or sealed by CONSULTANT or one of its subconsultants.
- 19.4 A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- 19.5 To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

The following Appendices and/or Exhibits are attached to and made a part of this Agreement:

- Exhibit A - Unit Price Schedule

Executed in two (2) counterparts, each of which is deemed to be an original and as of the day and date first written in this Contract.

EXECUTED the ____ day of _____ 2018.

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

OWNER:
City of Celina, Texas

By:
Sean Terry, Mayor

Attest:
City Secretary

APPROVED AS TO FORM:

City Attorney

CONSULTANT:
EST, Inc.

By: 
Kelly Selman/Regional Director

Attest: _____

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

**Exhibit A****Amended 11-29-18**

**CITY OF CELINA
MASTER SERVICES AGREEMENT
RATE SCHEDULE**

Fees for Services Performed under this Master Services Agreement (MSA) will be billed as follows:

All services performed under this Master Services Agreement will be provided through written Work Orders approved by the City of Celina. Fees presented below based on construction values for capital projects are valid only if all work described in an individual Work Order are conducted wholly by Consultant. Should any part of the work be removed from Consultant's scope of services, fees shall be re-negotiated.

For capital projects with construction values over \$300,000 fees will be determined as follows:

Service	Initial \$300,000		Next \$700,000		Next \$4,000,000		All over \$5,000,000
Basic Engineering Services and topographic surveying	13%	plus	12%	plus	10.8%	plus	9%
Procurement	3%	plus	1.5%	plus	1.35%	Plus	1%
Construction Management	8%	plus	6%	plus	5.6%	plus	5%

Fees will be billed prior to construction contract award based on estimated construction contract values established in an approved Work Order. All fees will be adjusted based on actual construction contract values upon execution of construction contracts if construction contracts are awarded within 6 months of completion of design. If construction contracts are not awarded within 6 months of completion of design, engineering and surveying fees will be billed based on final engineering estimates, including contingencies.

Additional services outside the scope of basic engineering and surveying that may be necessary for capital projects such as right of way and easement acquisition support, boundary surveying work, specialty engineering services, services for construction contract change orders, alignment studies, traffic impact studies, design modifications resulting from value engineering, etc., and projects with construction values under \$300,000 and on-call professional services will be billed on a time and materials basis at the rates listed below in Exhibit A or as otherwise approved within individual Work Orders. Fees for services not included in the rate tables below will be defined within individual Work Orders approved by the Owner.

2018 EST Fee Schedule



**CITY OF CELINA
MASTER SERVICES AGREEMENT**

General Engineering Services

Personnel	Unit	Price
Senior Municipal Support Engineer	Per Hour	\$135.00
Junior Engineer	Per Hour	\$110.00
Engineering Assistant	Per Hour	\$85.00
CADD Specialist	Per Hour	\$60.00
Administration	Per Hour	\$68.00
Mileage** Portal to portal	Per Mile	Federal Rate

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

2018 EST Fee Schedule



Engineering Design Services

Personnel	Unit	Price
Senior Municipal Support Engineer	Per Hour	\$135.00
Project Director	Per Hour	\$225.00
Project Manager	Per Hour	\$180.00
Design Engineer II	Per Hour	\$135.00
Design Engineer I	Per Hour	\$104.00
Junior Engineer	Per Hour	\$110.00
Engineering Assistant	Per Hour	\$85.00
Design Specialist II	Per Hour	\$90.00
Design Specialist I	Per Hour	\$77.00
CADD Specialist	Per Hour	\$60.00
Administration	Per Hour	\$68.00
Mileage ** Portal to portal	Per Mile	Federal Rate

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

2018 EST Fee Schedule



Construction Management Services

Personnel	Unit	Price
Senior Municipal Support Engineer	Per Hour	\$135.00
Project Director	Per Hour	\$225.00
Project Manager	Per Hour	\$160.00
Junior Engineer	Per Hour	\$110.00
Engineering Assistant	Per Hour	\$85.00
Construction Inspector III	Per Hour	\$85.00
Construction Inspector II	Per Hour	\$68.00
Construction Inspector I	Per Hour	\$50.00
Auditor	Per Hour	\$85.00
Administration	Per Hour	\$68.00
Mileage ** Portal to portal	Per Mile	Federal Rate

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

2018 EST Fee Schedule

**Materials Testing Services**

Personnel	Unit	Price
Senior Municipal Support Engineer	Per Hour	\$135.00
Project Manager/Engineer	Per Hour	\$160.00
Lab Manager	Per Hour	\$115.00
Lab Specialist	Per Hour	\$68.00
Lab Technician	Per Hour	\$55.00
Field Technician	Per Hour	\$55.00
Administration	Per Hour	\$68.00
Mileage ** Portal to portal	Per Mile	Federal Rate

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

2018 EST Fee Schedule



Environmental Services

Personnel	Unit	Price
Senior Municipal Support Engineer	Per Hour	\$135.00
Project Director	Per Hour	225.00
Project Manager	Per Hour	\$180.00
Environmental Specialist III	Per Hour	\$135.00
Environmental Specialist II	Per Hour	\$110.00
Environmental Specialist I	Per Hour	\$95.00
Administration	Per Hour	\$68.00
Mileage** Portal to portal	Per Mile	Federal Rate
Equipment	Per Day	Project Specific Quote

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)

2018 EST Fee Schedule



Surveying Services

Personnel	Unit	Price
Senior Municipal Support Engineer	Per Hour	\$135.00
Project Director	Per Hour	\$185.00
Professional Land Surveyor	Per Hour	\$135.00
Survey Crew (1-Person) and Equipment	Per Hour	\$150.00
Survey Crew (2-Persons) and Equipment	Per Hour	\$200.00
Survey Crew (3 Persons) and Equipment	Per Hour	\$225.00
Survey Technician	Per Hour	\$85.00
Administration	Per Hour	\$75.00
Mileage** Portal to portal	Per Mile	Federal Rate

Attachment: EST Master Services Agreement Amended (MSA - EST Modification to contract)



Asphalt Testing Cost Breakdown

Method	Asphalt Test	Price
AASHTO T30, TEX 200-F	Sieve Analysis of Extracted Aggregate	\$60
TEX 115	Nuclear Densities – Per Hour -- 2 Hour Minimum	\$55
TEX 207-F, TEX 227-F, TEX 204-F	Lab Molded Density, VMA and Rice Specific Gravity	\$175
	Lab Molded Density, VMA & Rice Specific Gravity Superpave	\$195
Mix Designs	Hveem Mix Design	\$2,500
	Superpave Mix Design	\$4,400
	Stone Matrix Asphalt (SMA) Mix Design	Upon Request
	Marshall Mix Design	\$3,000
AASHTO T283	Modified Lottman Retained Strength	\$450
	Modified Lottman Retained Strength – Superpave	\$475
TEX 236-F	Ignition Oven Calibration Factor	\$350
TEX 246-F	Permeability	\$350
TEX 207-F	Running Density on Roadway Cores (set of 3)	\$50
TEX 207-F	Corelok™ ADD (set of 3)	\$150
AASHTO T168	Cutting Core Samples up to 8” in Depth-Equip only (per core)	\$60
	Additional over 8” per core Sample – Equipment Only (per inch)	\$10
AASHTO T148	Determining Asphalt core thickness only	\$25
	Preparing, cleaning and measuring- 9 point	\$25
	Patching Core Hole, If Required (Per Hole)	\$25
AASHTO T176/ASTMD2419	Sand Equivalent Value of Soils and Fine Aggregate	\$85
TEX 236-F	AC – Content	\$105
TEX 207-F	Asphalt Rolling Pattern – Nuclear Density (Per Hour)	\$60
	Report and Review (Per Test)	\$20



Concrete Testing Cost Breakdown

Method	Concrete Test	Price
ASTM C31/AASHTO T23	Making and Curing Concrete Test Specimens in the Field. Includes Air, Slump, Temperature (Set of 4 Cylinders)	\$80
ASTM C31/AASHTO T23	Making and Curing Concrete Test Specimens in the field. Includes Air, Slump, Temperature (set of 3 Cylinders)	\$60
ASTM C39/AASHTO T22	Compressive Strength of Cylindrical Concrete Specimens, Curing and Disposing (Per Cylinder)	\$20
AASHTO T23	Making and curing Concrete Test Specimens Beams in the Field (per Beam)	\$35
ASTM C78/AASHTO T97	Test for Flexural Strength of Concrete Using Simple Beam w/Third Point Loading – Includes Curing and Disposal (per Beam)	\$35
ASTM C138/AASHTO T121	Test for Unit Weight, Yield, and Air Content (Gravimetric) of Concrete	\$40
ASTM C174	Measured Length of Drilled Concrete Cores – 9 Point Method (Per Core)	\$50
ASTM C192	Concrete Mix Design including Trial Batching (Set of 6 Cylinders)	\$800
AASHTO T24	Cutting Core Samples up to 8” in Depth – (Per Core)	\$60
	Additional Depth over 8” per Core Sample – (Per Inch)	\$10
AASHTO T231	Capping Cylindrical Concrete Specimens – Sulphur (Per Cylinder)	\$20
AASHTO T152	Air Content Only	\$40
AASHTO T119	Slump Only	\$25
ASTM C10129	Sampling and Testing Grout (Set of 4)	\$160
ASTM C109	Compressive Strength of Mortar Cubes (set of 3)	\$102
ASTM C1567	Alkali-Silica Reactivity of Combinations of Cementous Materials and Aggregates (ASR)	\$1480
ASTM C1260	Potential Alkali Reactivity of Aggregates (Mortar Bar Method)	\$ Upon Request
ASTM C579	Compressive Strength of Chemical-Resistant Mortars, Grouts, Monolithic Surfacing, and Polymer Concretes (Set of 3)	\$153
ASTM C531	Linear Shrinkage and Coefficient of Thermal Expansion of Chemical-Resistant Mortars, Grouts, Monolithic Surfacing, and Polymer Concretes (set of 4 Bars)	\$1300
ACI Field Technician	Certified Technician Time – Testing and Sampling Concrete (Per Hour)	\$75
	Report and Review (Per Test)	\$20



Soil Testing Cost Breakdown

Method	Soil Test	Price
ASTM D698/AASHTO T99	Standard Proctor Soils	\$150
ASTM D2922/AASHTO T310	Density of Soil and Soil Aggregates by Nuclear Method Per Hour (2 hour min)	\$55
ASTM D1557/AASHTO T180	Modified Proctor of Soils	\$165
ASTM C977	Quicklime and Hydrated Lime for Soil Stabilization pH Testing	\$160
ASTM D6276	Using pH to Estimate the Soil-Lime Proportion Requirement for Soil Stabilization	\$160
ASTM 1883	California Bearing Ratio – including Reports (per Point)	\$205
AASHTO T193	California Bearing Ratio – includes Proctor, CBR Compaction and Report	\$345
ASTM D4318	Atterberg Limits – Determine Liquid, Plastic Limits, and Plasticity Index	\$65
ASTM D4609	Unconfined Compressive Strengths of Soils using a Harvard Miniature Compactor (Per Percentage of Modified or Unmodified Soils)	\$420
ASTM D422	Particle Analysis – Sieve Test of Soils (Excluding Hydrometer)	\$70
	Hydrometer Analysis	\$265
ASTM D4829	Expansion Index with Atterberg Limits and -#200	\$245
UBC 18-2	Expansion Index	\$195
ASTM D1556	Density of Soil (In-Place by the Sand-Cone Method)	\$75
TEX 145E	Determining Soluble Sulfate Content in Soil	\$75
	Review and Report (Per Test)	\$20



Aggregate Testing Cost Breakdown

Method	Aggregate Test	Price
ASTM D698/AASHTO T99	Standard Proctor Soils – Aggregate Base	\$165
ASTM C136/AASHTO T27	Sieve Analysis of Fine and Course Aggregates	\$80
ASTM C566	Total Evaporable Moisture Content of Aggregates by Drying	\$21
ASTM D4791	Test Method for Flat or Elongated Particles in Coarse Aggregate	\$60
ASTM C131/AASHTO T96	Resistance to Degradation by LA abrasion	\$195
ASTM D3744/AASHTO T210	Durability Index – Does not Include Sieve Analysis	\$135
ASTM C128/AASHTO T84/TEX 403	Specific Gravity and Absorption of Fine Aggregate	\$50
ASTM C127/AASHTO T85	Specific Gravity and Absorption of Course Aggregate	\$50
ASTM C88/AASHTO T104	Sodium or Magnesium Sulfate Soundness of Aggregates, Course or Fine – 5 Cycles (Per Size Fraction Greater than 5%)	\$355
ASTM C29/AASHTO T19	Unit Weight Dry Rodded	\$50
AASHTO T180	Proctor – Modified Effort 10- lb. Rammer 18 in Drop for Aggregate Base	\$184
AASHTO T99	Proctor – Standard Effort 5.5 lb. Rammer 12 in. Drop for Aggregate Base	\$142
ASTM C142	Clay Lumps and Friable Particles in Aggregate	\$80
ASTM D2419/AASHTO T176	Sand Equivalent Value of Soils and Fine Aggregate	\$60
ASTM C40	Organic Impurities in Fine Aggregate (Per Sample)	\$50
TEX 116-E	Wet Ball	\$225
TEX 612-J	Acid Insolubility	\$250
ASTM C142	Clay Lumps and Friable Particles (Per Sample)	\$80
ASTM C123	Lightweight Particles in Aggregate	Varies – Call for Pricing
	Report and Review (Per Test)	\$20



Geotechnical Services

Test	Method	Price
Geotechnical Drilling (Soil and Rock)	Soil Per Foot (0-50 feet, continuous 1-10' intermittent thereafter)	\$12
	Soft Shale and Rock Per Foot	\$18
	Soft Shale, Per Foot	\$33
	Hard Rock Per Foot	\$35
	In Place Shoulder Sampling Per Foot	\$26
	Pedological Sampling	\$46
Standard Penetration Test	Each Test	\$20
Dynamic Cone Penetration Test	Texas Cone Penetrometer	\$35
Dynamic Cone Penetrometer	Each Test	\$20
Thin Walled Tube Sampling	Each Sample	\$25
Mechanical and Electrical Friction Cone and Piezocone, Penetration Testing of Soils	Per Foot	\$12
	Dissipation, Per Hour	\$200
Monitoring Well	Per Foot	\$60
Hole Abandonment	Per Foot	\$7
Traffic Control	Per Day	Project Specific Quote
Mobilization of Equipment	Per Mile	\$6
Engineering (Per Hour)	Slope Stability Analysis	\$150
	Settlement Analysis	\$150
	Retaining Wall Analysis	\$150
	Bearing Capacity Analysis	\$150
	End Bearing and Friction Pile Analysis	\$150
	End Bearing and Friction Drilled Shaft Analysis	\$150
	Seismic Analysis	\$150
	Report Preparation	\$150
Percent Swell and Swell Pressure Test	Miscellaneous Analysis	\$150
		\$270



Geotechnical Breakdown

Method		Price
Soil Classification (Gradation and PI)		\$120
Moisture Content		\$10
ASTM D854	Specific Gravity	\$65
AASHTO T100	Specific Gravity	\$60
Chunk Density		\$75
pH Test		\$60
Hydrometer		\$150
Double Hydrometer		\$300
Pinhole Test		\$200
Electrical Resistivity Per Test		\$60
Resistivity Per Test		\$60
Soluble Sulfate Testing		\$60
Unconfined Compression Test	Soil and Rock	\$70
	Rock with Strain Measurement	\$230
Point Load Test		\$75
Moisture Density Test – AASHTO T99	Method A	\$145
	Method B	\$160
	Method C	\$160
	Method D	\$160
Moisture Density Test – AASHTO T180	Method A	\$175
	Method B	
	Method C	
	Method D	
Moisture Density Test – ASTM D698	Method A	\$145
	Method B	\$160
	Method C	\$160
Moisture Density Test - ASTM D1557	Method A	\$149
	Method B	\$156
	Method C	\$176
One-Dimensional Consolidation Test		\$350
Drained Direct Shear Cohesionless Soil	3 Points Minimum	\$450 per point
Triaxial Shear Test	Unconsolidated undrained	\$500
	Consolidated Undrained-Pore Pressure Measurement (multi-stage)	\$1350
Resilient Modulus	Per Sample	\$650
Percent Swell and Pressure Test		\$350



Administration
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Paul DeBuff, Assistant to the City Manager
CC: Jason Laumer, City Manager
Date: December 11, 2018
Re: Wastewater Pipeline Easement G Bar 7-c - G Bar - Old Celina

Action Requested:

Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina and G Bar 7, Ltd. and 7G Management, LLC for a 0.124 acre wastewater transmission pipeline easement. (Laumer)

Background Information:

This agreement conveys a .124 acre easement from G Bar 7, Ltd. to the City of Celina, for the purposes of constructing a wastewater pipeline.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this agreement.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

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

**WASTEWATER TRANSMISSION PIPELINE EASEMENT
(With Temporary Construction Easement)**

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

THAT, G Bar 7, Ltd., a Texas limited partnership, hereinafter referred to as "Grantor," for and in consideration of the sum of Ten Dollars (\$10.00) cash and other good and valuable consideration to Grantor in hand paid by Old Celina, Ltd., a Texas limited partnership, hereinafter referred to as "Grantee," the receipt and sufficiency of which is hereby acknowledged, has this day Granted and Conveyed, and by these presents does Grant and Convey, unto Grantee an easement to construct, reconstruct and perpetually maintain and operate a wastewater transmission pipeline and all related appurtenances in, upon and across the subsurface only of the following described land, hereinafter the "Property," to-wit:

All that certain tract, piece or parcel of land, lying and being situated in the County of Collin, State of Texas, described in **EXHIBIT "A"** and depicted on **EXHIBIT "B"** attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said Property;

TO HAVE AND TO HOLD the same perpetually to Grantee, together with the right and privilege at any and all times to enter said Property, for the purpose of constructing, maintaining, and operating said wastewater transmission pipeline and all related appurtenances, and making connections therewith; all upon the condition that Grantee will at all times, after doing any work in connection with the construction, repair, or operation of said wastewater transmission pipeline and all related appurtenances, restore said Property, to the extent reasonably possible, to the condition in which same was found before such work was undertaken. Such easement shall not be used by any entity either in whole or in part, except as provided below. Grantee shall have the right to enter said Property at any time, in addition to the purposes stated above, for the purposes of removing and keeping removed any improvements, trees, vegetation, or other obstructions or possible obstructions as reasonably deemed necessary by Grantee to protect the integrity of the wastewater transmission pipeline and all related appurtenances.

Reserving, however, to Grantor and Grantor's heirs, successors and assigns the right to use said Property for purposes of growing crops or other agricultural uses, landscaping, irrigation, signage, access, paved parking lots and driveways, recreational uses, co-location of utilities in compliance with engineering and safety standards, or other uses, provided that Grantor and Grantor's heirs, successors and assigns shall not make any use of the Property which unreasonably limits or causes Grantee to need to relocate any lines on the Property, obstructs or impairs Grantee's use of this easement as permitted hereunder. This easement shall not prevent the crossing of the Property by

either public right-of-way, public utility easement or public drainage easement so long as such crossing does not unreasonably limit, obstruct or impair Grantee's use of said Property.

THIS EASEMENT IS CONVEYED "AS IS," "WHERE IS," AND WITH ALL FAULTS, WHETHER LATENT OR PATENT, INCLUDING ANY AND ALL LIABILITY AND DAMAGES INCURRED DUE TO ENVIRONMENTAL LAWS OR OTHER LAWS.

Grantor also hereby grants a temporary construction easement as depicted on **EXHIBIT "B"** for the purposes of constructing with reasonable promptness the wastewater transmission pipeline and all related appurtenances. Said temporary easement shall commence fifteen (15) days after the earlier to occur of (1) notice by Grantor of its intent to commence construction of the pipeline is delivered to Grantor or (2) notice by Grantor of its intent to commence development of its tract that includes the Property is delivered to Grantee, and automatically terminate six (6) months after such notice or the completion of the pipeline, whichever occurs first. Said temporary easement shall be used, should Grantee find it necessary, for construction personnel and equipment access and the storage and maneuvering of equipment, pipe, supplies, dirt and fill material, and other related construction resources. The property covered by this temporary easement may be cleared of trees, brush or other vegetation and obstructions to allow for the reasonable construction of the pipeline. Upon conclusion of the use of the temporary easement area, Grantee will restore said property, to the extent reasonably possible, to the condition in which same were found before such work was undertaken with the exception of planting trees and brush.

EXECUTED this ____ day of _____, 2018.

BY: G BAR 7, LTD.
a Texas limited partnership

BY: 7G MANAGEMENT, LLC
a Texas limited liability company,
its general partner

By: _____
Rex Glendenning, President

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF §

This instrument was acknowledged before me on the ____ day of _____, 2018 by Rex Glendenning, President of 7G Management, LLC, general partner of G BAR 7, LTD., a Texas limited partnership.

Notary Public, State of Texas



EXHIBIT "A"
20' SANITARY SEWER EASEMENT
SITUATED IN THE F.D. GARY SURVEY, ABSTRACT NO. 360 AND
THE I.C. WILLIAMSON SURVEY, ABSTRACT NO. 943
CITY OF CELINA, COLLIN COUNTY, TEXAS

BEING A 0.1240 ACRE (5,402 SQUARE FEET) TRACT OF LAND SITUATED IN THE F.D. GARY SURVEY, ABSTRACT NUMBER 360 AND THE I.C. WILLIAMSON SURVEY, ABSTRACT NUMBER 943, CITY OF CELINA, COLLIN COUNTY, TEXAS, AND BEING A PORTION OF A CALLED 45.65 ACRE TRACT OF LAND DESCRIBED AS "TRACT V" IN A SPECIAL WARRANTY DEED TO G BAR 7, LTD., RECORDED IN INSTRUMENT NUMBER 20050207000156840, OFFICIAL PUBLIC RECORDS OF COLLIN COUNTY, TEXAS (O.P.R.C.C.T.) AND BEING A PORTION OF A CALLED 41.184 ACRE TRACT OF LAND DESCRIBED IN A SPECIAL WARRANTY DEED TO OLD CELINA, LTD., RECORDED IN DOCUMENT NUMBER 2005-76679, OFFICIAL PUBLIC RECORDS OF DENTON COUNTY, TEXAS (O.P.R.D.C.T.); SAID 0.1240 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2-INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID G BAR 7, LTD. TRACT OF LAND, SAME BEING IN THE APPROXIMATE CENTERLINE OF COUNTY ROAD NO. 51, (DIRT SURFACED, UNDEFINED WIDTH PUBLIC RIGHT-OF-WAY), SAME BEING THE MOST NORTHERLY NORTHWEST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO TOLLWAY/OUTER LOOP, L.P., BY SPECIAL WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 20140827000927470, OFFICIAL PUBLIC RECORDS OF COLLIN COUNTY, TEXAS (O.P.R.C.C.T.), SAME BEING IN THE EAST LINE OF THAT CERTAIN TRACT OF LAND CONVEYED TO JOHN DAVID MONSCHKE, AS INDEPENDENT EXECUTOR FOR THE ESTATE OF MATTIE RUTH PRESTON MONSCHKE, BY DEED RECORDED UNDER INSTRUMENT NUMBER 19940411000349420, OFFICIAL PUBLIC RECORDS OF COLLIN COUNTY, TEXAS (O.P.R.C.C.T.);

THENCE (L1) NORTH 00°12'20" WEST, ALONG THE APPROXIMATE CENTERLINE OF COUNTY ROAD NO. 51, SAME BEING THE COMMON LINE OF SAID G BAR 7, LTD. TRACT OF LAND AND SAID JOHN DAVID MONSCHKE TRACT OF LAND, A DISTANCE OF 45.17 FEET TO A POINT FOR CORNER, SAID POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID JOHN DAVID MONSCHKE TRACT OF LAND AND BEING THE SOUTHEAST CORNER OF SAID OLD CELINA, LTD. TRACT OF LAND;

THENCE (L2) NORTH 89°42'46" WEST, DEPARTING THE APPROXIMATE CENTERLINE OF COUNTY ROAD NO. 51, ALONG THE COMMON LINE OF SAID G BAR 7, LTD. TRACT OF LAND AND SAID JOHN DAVID MONSCHKE TRACT OF LAND, A DISTANCE OF 80.17 FEET TO A POINT FOR CORNER;

THENCE (L3) NORTH 00°17'34" EAST, DEPARTING THE COMMON LINE OF SAID G BAR 7, LTD. TRACT OF LAND AND SAID JOHN DAVID MONSCHKE TRACT OF LAND, OVER AND ACROSS SAID G BAR 7, LTD. TRACT OF LAND, A DISTANCE OF 20.00 FEET TO A POINT FOR CORNER;

THENCE (L4) SOUTH 89°42'26" EAST, OVER AND ACROSS SAID OLD CELINA, LTD. TRACT OF LAND, PASSING THE APPROXIMATE CENTERLINE OF SAID COUNTY ROAD NO. 51, SAME BEING THE COMMON LINE OF SAID OLD CELINA, LTD. TRACT OF LAND AND SAID G BAR 7, LTD. TRACT OF LAND, OVER AND ACROSS SAID G BAR 7, LTD. TRACT OF LAND, A DISTANCE OF 100.00 FEET TO A POINT FOR CORNER;

THENCE OVER AND ACROSS SAID G BAR 7, LTD. TRACT OF LAND THE FOLLOWING CALLS:

(L5) SOUTH 00°12'01" EAST, A DISTANCE OF 44.94 FEET TO A POINT FOR CORNER;

(L6) NORTH 89°38'12" EAST, A DISTANCE OF 124.94 FEET TO A POINT FOR CORNER, SAME BEING THE NORTHWEST CORNER OF A PROPOSED 20 FEET BY 20 FEET (20'X20') SANITARY SEWER EASEMENT;

(L7) SOUTH 00°45'41" EAST, ALONG THE WESTERN LINE OF SAID PROPOSED SANITARY SEWER EASEMENT, A DISTANCE OF 20.00 FEET TO A POINT FOR CORNER IN THE COMMON LINE OF SAID G BAR 7, LTD. TRACT OF LAND AND SAID TOLLWAY/OUTER LOOP, L.P. TRACT OF LAND, FROM WHICH A 1/2-INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID G BAR 7, LTD. TRACT OF LAND, SAME BEING THE MOST NORTHERLY NORTHEAST CORNER OF SAID



EXHIBIT "A"
20' SANITARY SEWER EASEMENT
SITUATED IN THE F.D. GARY SURVEY, ABSTRACT NO. 360 AND
THE I.C. WILLIAMSON SURVEY, ABSTRACT NO. 943
CITY OF CELINA, COLLIN COUNTY, TEXAS

TOLLWAY/OUTER LOOP, L.P. TRACT OF LAND, SAME BEING IN THE WEST LINE OF THAT CERTAIN TRACT OF LAND CONVEYED TO STILES FAMILY LIMITED PARTNERSHIP, BY WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 19970206000098380, (O.P.R.C.C.T.), BEARS NORTH 89°38'12" EAST, A DISTANCE OF 883.15 FEET;

THENCE (L8) SOUTH 89°38'12" WEST, ALONG THE COMMON LINE OF SAID G BAR 7, LTD. TRACT OF LAND AND SAID TOLLWAY/OUTER LOOP, LP. TRACT OF LAND, A DISTANCE OF 145.00 FEET TO THE POINT OF BEGINNING CONTAINING A COMPUTED AREA OF 0.1240 ACRES OR 5402 SQUARE FEET OF LAND.

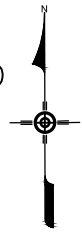
NOTES:

A SKETCH WAS PREPARED ON EVEN DATE TO ACCOMPANY THIS DESCRIPTION.

THE BEARINGS CALLED FOR HEREIN ARE REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM (NORTH CENTRAL ZONE, NAD 83) BASED ON LEICA GEOSYSTEMS NORTH TEXAS SMARTNET NETWORK.

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N 00°12'20" W	45.17'
L2	N 89°42'46" W	80.17'
L3	N 00°17'34" E	20.00'
L4	S 89°42'26" E	100.00'
L5	S 00°12'01" E	44.94'
L6	N 89°38'12" E	124.94'
L7	S 00°45'41" E	20.00'
L8	S 89°38'12" W	145.00'

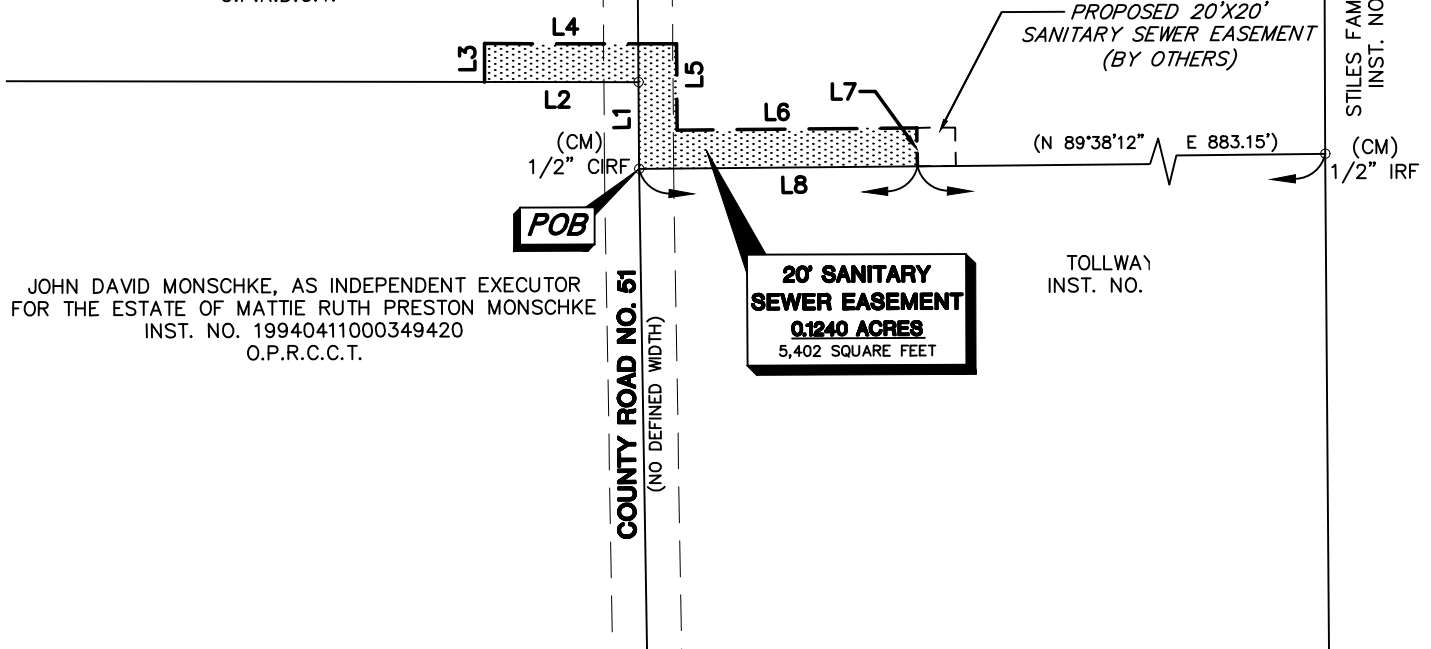
0 50 100
1" = 100'



"TRACT V"
G BAR 7, LTD.
INST. NO. 20050207000156840
O.P.R.C.C.T.

OLD CELINA, LTD.
DOC. NO. 2005-76679
O.P.R.D.C.T.

STILES FAMILY LIMITED PARTNERSHIP
INST. NO. 19970206000098380
O.P.R.C.C.T.



NOTES:

A FIELD NOTE DESCRIPTION WAS PREPARED ON EVEN DATE TO ACCOMPANY THIS SKETCH.

BEARINGS SHOWN HEREON ARE REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM (NORTH CENTRAL ZONE, NAD 83) BASED ON LEICA GEOSYSTEMS NORTH TEXAS SMARTNET NETWORK.

LEGEND

IRF	IRON ROD FOUND	INST. NO.	INSTRUMENT NUMBER
CIRF	IRON ROD WITH YELLOW PLASTIC CAP FOUND	(CM)	CONTROLLING MONUMENT
O.P.R.C.C.T.	OFFICIAL PUBLIC RECORDS OF COLLIN COUNTY, TEXAS	POB	POINT OF BEGINNING
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS OF DENTON COUNTY, TEXAS		



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Dallas, Texas 75251
Tel. (972) 991-0011
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EXHIBIT "A"
20' SANITARY SEWER EASEMENT
SITUATED IN THE F.D. GARY SURVEY, ABSTRACT NO. 360 AND THE
I.C. WILLIAMSON SURVEY, ABSTRACT NO. 943
CITY OF CELINA, COLLIN COUNTY, TEXAS

Preliminary
This document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document

For Review Purposes Only

David J. De Weirtdt, R.P.L.S.
Registration No. 5066
December 4, 2018

DAVID J. DE WEIRDT
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 5066

DATE: 12/4/2018

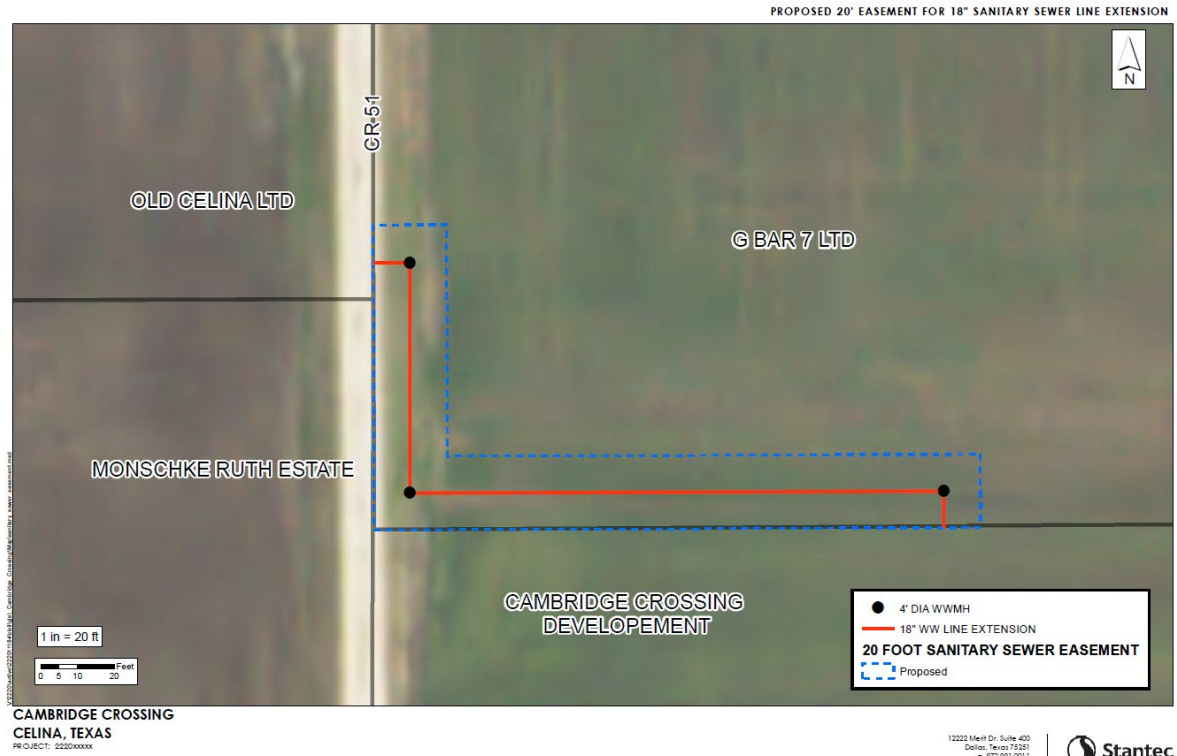
SCALE: 1" = 100'

DRAWN BY: MMN

PROJECT NO.: 222011184

SHEET NO. 3 OF 3

EXHIBIT "B"





Administration
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Paul DeBuff, Assistant to the City Manager
CC: Jason Laumer, City Manager
Date: December 11, 2018
Re: Water Pipeline Easement G Bar 7 to City

Action Requested:

Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina and G Bar 7, Ltd. and 7G Management, LLC for a 0.663 acre water transmission pipeline easement. (Laumer)

Background Information:

This agreement conveys a .663 acre easement from G Bar 7, Ltd. to the City of Celina, for the purposes of constructing a water pipeline.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this agreement.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

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

**CITY OF CELINA
WATER TRANSMISSION PIPELINE EASEMENT
(With Temporary Construction Easement)**

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COLLIN §

THAT G Bar 7, LTD., hereinafter referred to as Grantor(s), whether one or more, for and in consideration of the sum of Ten Dollars (\$10.00) cash and other good and valuable consideration to Grantor(s) in hand paid by the City of Celina, hereinafter referred to as Grantee, the receipt and sufficiency of which is hereby acknowledged, have this day Granted and Conveyed, and by these presents do Grant and Convey, unto the Grantee, a municipal corporation situated in Collin County, Texas and Denton County, Texas, an exclusive easement to construct, reconstruct and perpetually maintain and operate a water transmission pipeline and all related appurtenances in, upon and across the subsurface only of the following described land, hereinafter the "Property", to-wit:

All that certain tract, piece or parcel of land, lying and being situated in the County of Collin, State of Texas, described in **EXHIBIT "A"** and depicted on **EXHIBIT "B"** attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said "Property";

TO HAVE AND TO HOLD the same perpetually to the Grantee, together with the right and privilege at any and all times to enter said "Property", for the purpose of constructing, maintaining, and operating said water transmission pipeline and all related appurtenances, and making connections therewith; all upon the condition that the Grantee will at all times, after doing any work in connection with the construction, repair, or operation of said water transmission pipeline and all appurtenances, restore said "Property", to the extent reasonably possible, to the condition in which same were found before such work was undertaken. Such easement shall not be used by any entity either in whole or in part, except as provided below. Grantee shall have the right to enter said "Property" at any time, in addition to the purposes stated above, for the purposes of removing and keeping removed any improvements, trees, vegetation, or other obstructions or possible obstructions as reasonably deemed necessary by the City Manager, City of Celina to protect the integrity of the water transmission pipeline and all related appurtenances.

Reserving, however to Grantor and Grantor's heirs, successors and assigns the right to use said "Property" for purposes of growing crops or other agricultural uses, landscaping, irrigation, signage, access, paved parking lots and driveways, recreational uses, co-location of utilities in compliance with engineering and safety standards or other uses, provided that Grantor and Grantor's heirs, successors and assigns shall not make any use of the "Property" which

unreasonably limits or causes Grantee to need to relocate any lines on the "Property", obstructs or impairs Grantee's use of this easement as permitted hereunder. This easement shall not prevent the crossing of the "Property" by either public right-of-way, public utility easement or public drainage easement so long as such crossing does not unreasonably limit, obstruct or impair Grantee's permitted use of said "Property".

This easement is conveyed "as is", "where is", and with all faults, whether latent or patent, including any and all liability and damages incurred due to environmental laws or other laws.

Grantor also hereby grants a temporary construction easement as depicted on **EXHIBIT "B"** for the purposes of constructing, with reasonable promptness, the water transmission pipeline and all related appurtenances. Said temporary easement shall commence fifteen (15) days after notice of intent is delivered to Grantor and shall automatically terminate twenty-four (24) months after construction has begun, or the completion of the project, whichever occurs first. Said temporary easement shall be used, should the Grantee find it necessary, for construction personnel and equipment access and the storage and maneuvering of equipment, pipe, supplies, dirt and fill material, and other related construction resources. The property covered by this temporary easement may be cleared of trees, brush or other vegetation and obstructions to allow for the most efficient construction of the pipeline. Upon conclusion of the use of the temporary easement area, Grantee will restore said property, to the extent reasonably possible, to the condition in which same were found before such work was undertaken with the exception of planting trees and brush.

EXECUTED this ____ day of November, 2018.

G BAR 7, LTD
a Texas Limited Partnership

7G MANAGEMENT, LLC
a Texas Limited Liability Company
its General Partner

Rex Glendenning, President

ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of November, 2018 by Rex Glendenning, President of 7G Management, LLC, general partner of G BAR 7, LTD., a Texas limited partnership.

Notary Public, State of Texas

EXHIBIT "A"**LEGAL DESCRIPTION
15' WATERLINE EASEMENT**

BEING a tract of land situated in the I.C. WILLIAMSON SURVEY, ABSTRACT NO. 943, Collin County, Texas, and being part of that tract of land described as Tract V as conveyed in Deed to G Bar 7, LTD., according to the document filed of record in Document Number 2005-0015684, Deed Records, Collin County, Texas, and being more particularly described as follows:

BEGINNING at a point in the south line of said G Bar 7, LTD. tract, same being common with the north line of that tract of land conveyed in Deed to Tollway/Outer Loop, L.P., according to the document filed of record in Document Number 20140827000927470, Official Public Records, Collin County, Texas, from which a 1/2 inch iron rod found for the southeast corner of said G Bar 7, LTD. tract, same being common with the northeast corner of said Tollway/Outer Loop, L.P. tract, bears N 89° 38' 12" E, 29.00 feet;

THENCE S 89° 38' 12" W, with said common line, a distance of 15.00 feet;

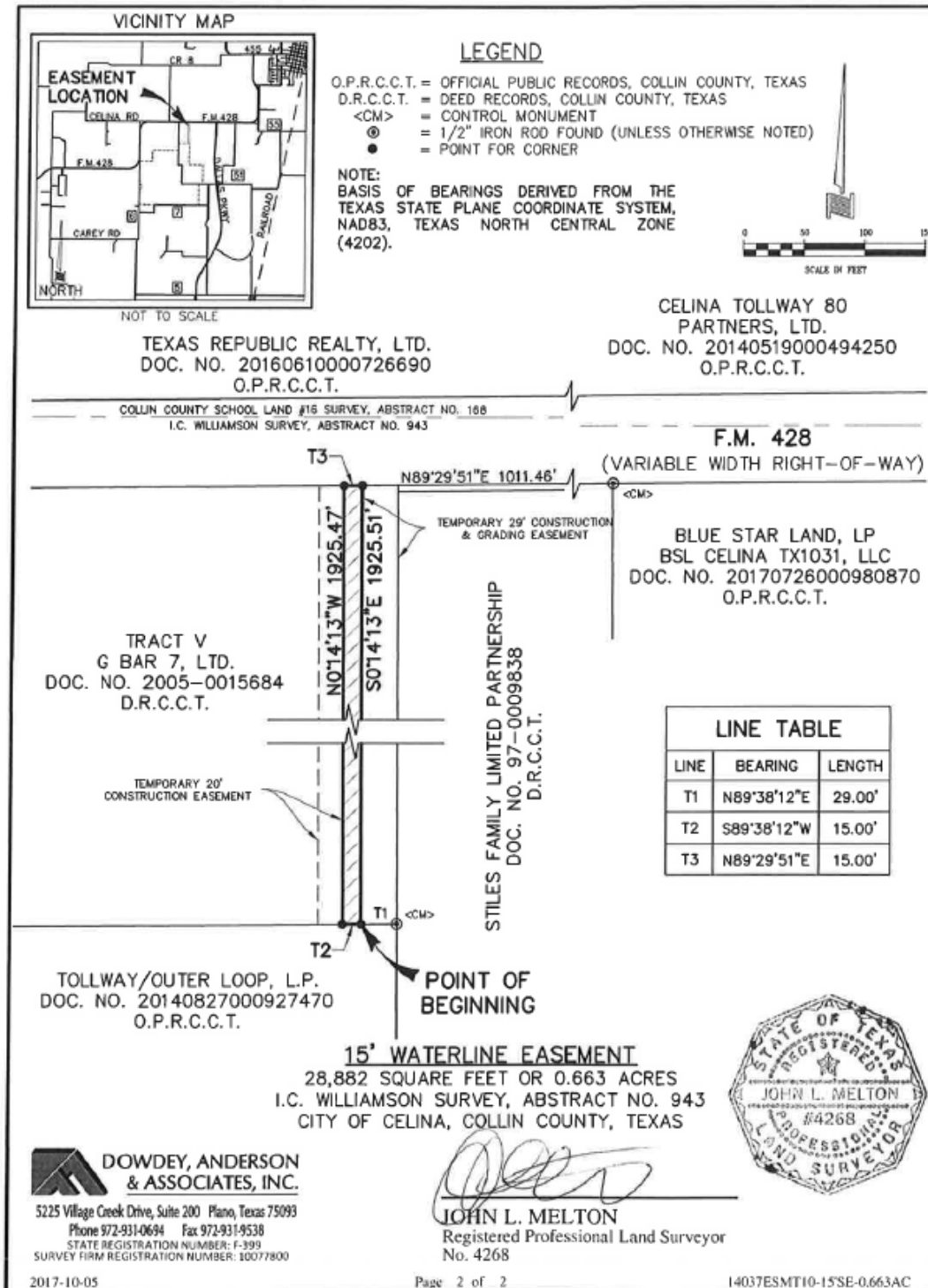
THENCE N 00° 14' 13" W, leaving said common line, over and across said G Bar 7, LTD. tract, a distance of 1,925.47 feet to a point in the north line of said G Bar 7, LTD. tract;

THENCE N 89° 29' 51" E, with said north line, a distance of 15.00 feet to a point from which a 1/2 inch iron rod found for the northeast corner of that tract of land conveyed in Deed to Stiles Family Limited Partnership, according to the document filed of record in Document Number 97-0009838, Deed Records, Collin County, Texas, same being common with the northwest corner of that tract of land conveyed in Deed to Blue Star Land, LP and BSL Celina TX031, LLC, according to the document filed of record in Document Number 20170726000980870, Official Public Records, Collin County, Texas, bears N 89° 29' 51" E, 1,011.46 feet;

THENCE S 00° 14' 13" E, leaving said north line and over and across said G Bar 7, LTD. tract, a distance of 1,925.51 feet to the **POINT OF BEGINNING**, and containing 28,882 square feet, or 0.663 acres of land, more or less.

EXHIBIT "B"

S:\PROJECTS C3D\14037.dwg\14037ESMT10-15' WE-0.663AC.dwg, 10/10/2017 2:01:10 PM, clunt, Dowdey, Anderson & Associates, Inc., CL



Attachment: Water Transmission Pipeline Easement - Final for execution - G Bar to Ci... .663 acres (Water Pipeline Easement G Bar 7 to City)



Administration
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
From: Paul DeBuff, Assistant to the City Manager
CC: Jason Laumer, City Manager
Date: December 11, 2018
Re: Wastewater Pipeline Easement G Bar 7 to City

Action Requested:

Consider and act to authorize the City Manager to execute an agreement by and among the City of Celina and G Bar 7, Ltd. and 7G Management, LLC for a 0.009 acre wastewater transmission pipeline easement. (Laumer)

Background Information:

This agreement conveys a .009 acre easement from G Bar 7, Ltd. to the City of Celina, for the purposes of constructing a wastewater pipeline.

Board Review/Citizen Input:

N/A

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed this agreement.

Supporting Documents:

- Proposed agreement

Staff Recommendation:

Staff recommends approval.

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

**WASTEWATER TRANSMISSION PIPELINE EASEMENT
(With Temporary Construction Easement)**

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

THAT, G Bar 7, Ltd., a Texas limited partnership, hereinafter referred to as "Grantor," for and in consideration of the sum of Ten Dollars (\$10.00) cash and other good and valuable consideration to Grantor(s) in hand paid by the City of Celina, hereinafter referred to as Grantee, the receipt and sufficiency of which is hereby acknowledged, has this day Granted and Conveyed, and by these presents does Grant and Convey, unto Grantee, a municipal corporation situated in Collin County, Texas and Denton County, Texas, an easement to construct, reconstruct and perpetually maintain and operate a wastewater transmission pipeline and all related appurtenances in, upon and across the subsurface only of the following described land, hereinafter the "Property," to-wit:

All that certain tract, piece or parcel of land, lying and being situated in the County of Collin, State of Texas, described in **EXHIBIT "A"** and depicted on **EXHIBIT "B"** attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said "Property";

TO HAVE AND TO HOLD the same perpetually to Grantee, together with the right and privilege at any and all times to enter said Property, for the purpose of constructing, maintaining, and operating said wastewater transmission pipeline and all related appurtenances, and making connections therewith; all upon the condition that Grantee will at all times, after doing any work in connection with the construction, repair, or operation of said wastewater transmission pipeline and all related appurtenances, restore said Property, to the extent reasonably possible, to the condition in which same was found before such work was undertaken. Such easement shall not be used by any entity either in whole or in part, except as provided below. Grantee shall have the right to enter said Property at any time, in addition to the purposes stated above, for the purposes of removing and keeping removed any improvements, trees, vegetation, or other obstructions or possible obstructions as reasonably deemed necessary by the City Manager, City of Celina to protect the integrity of the wastewater transmission pipeline and all related appurtenances.

Reserving, however, to Grantor and Grantor's heirs, successors and assigns the right to use said Property for purposes of growing crops or other agricultural uses, landscaping, irrigation, signage, access, paved parking lots and driveways, recreational uses, co-location of utilities in compliance with engineering and safety standards, or other uses, provided that Grantor and Grantor's heirs, successors and assigns shall not make any use of the Property which unreasonably limits or causes Grantee to need to relocate any lines on the Property, obstructs or impairs Grantee's use of this easement as permitted hereunder. This easement shall not prevent

the crossing of the Property by either public right-of-way, public utility easement or public drainage easement so long as such crossing does not unreasonably limit, obstruct or impair Grantee's use of said Property.

THIS EASEMENT IS CONVEYED "AS IS," "WHERE IS," AND WITH ALL FAULTS, WHETHER LATENT OR PATENT, INCLUDING ANY AND ALL LIABILITY AND DAMAGES INCURRED DUE TO ENVIRONMENTAL LAWS OR OTHER LAWS.

Grantor also hereby grants a temporary construction easement as depicted on **EXHIBIT "B"** for the purposes of constructing with reasonable promptness the wastewater transmission pipeline and all related appurtenances. Said temporary easement shall commence fifteen (15) days after notice of intent is delivered to Owner and automatically terminate twenty-four (24) months after construction has begun or the completion of the project, whichever occurs first. Said temporary easement shall be used, should the Grantee find it necessary, for construction personnel and equipment across and the storage and maneuvering of equipment, pipe, supplies, dirt and fill material, and other related construction resources. The property covered by this temporary easement may be cleared of any trees, brush or other vegetation and obstructions to allow for the most efficient construction of the pipeline. Upon conclusion of the use of the temporary easement area, Grantee will restore said property, to the extent reasonably possible, to the condition in which same were found before such work was undertaken with the exception of planting trees and brush.

EXECUTED this ____ day of November, 2018.

BY: G BAR 7, LTD.
a Texas limited partnership

BY: 7G MANAGEMENT, LLC
a Texas limited liability company,
its general partner

By: _____
Rex Glendenning, President

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF §

This instrument was acknowledged before me on the ____ day of ____, 2018 by Rex Glendenning, President of 7G Management, LLC, general partner of G BAR 7, LTD., a Texas limited partnership.

Notary Public, State of Texas

EXHIBIT "A"**LEGAL DESCRIPTION
20'X20' SANITARY SEWER EASEMENT**

BEING a tract of land situated in the I.C. Williamson Survey, Abstract No. 943, Collin County, Texas, and being part of that tract of land described as Tract V and conveyed in Deed to G Bar 7, LTD., according to the document filed of record in Document Number 2005-0015684, Official Public Records, Collin County, Texas, and being more particularly described as follows:

BEGINNING at the southwest corner of herein described tract and being on the south line of said G Bar 7, LTD. tract, same being common with the north line of that tract of land conveyed in Deed to Tollway/Outer Loop, L.P., according to the document filed of record in Document Number 20140827000927470, Official Public Records, Collin County, Texas, from whence a 1/2 inch rod with yellow cap found for the southwest corner of said G Bar 7, LTD. tract, same being the northwest corner of said Tollway/Outer Loop, L.P. tract, also being in the east line of that tract of land conveyed in Deed to John David Monschke, as Independent Executor for the Estate of Mattie Ruth Preston Monschke, according to the document filed of record in Document Number 94-0034942, Official Public Records, Collin County, Texas, bears S 89° 38' 12" W, a distance of 145.00 feet;

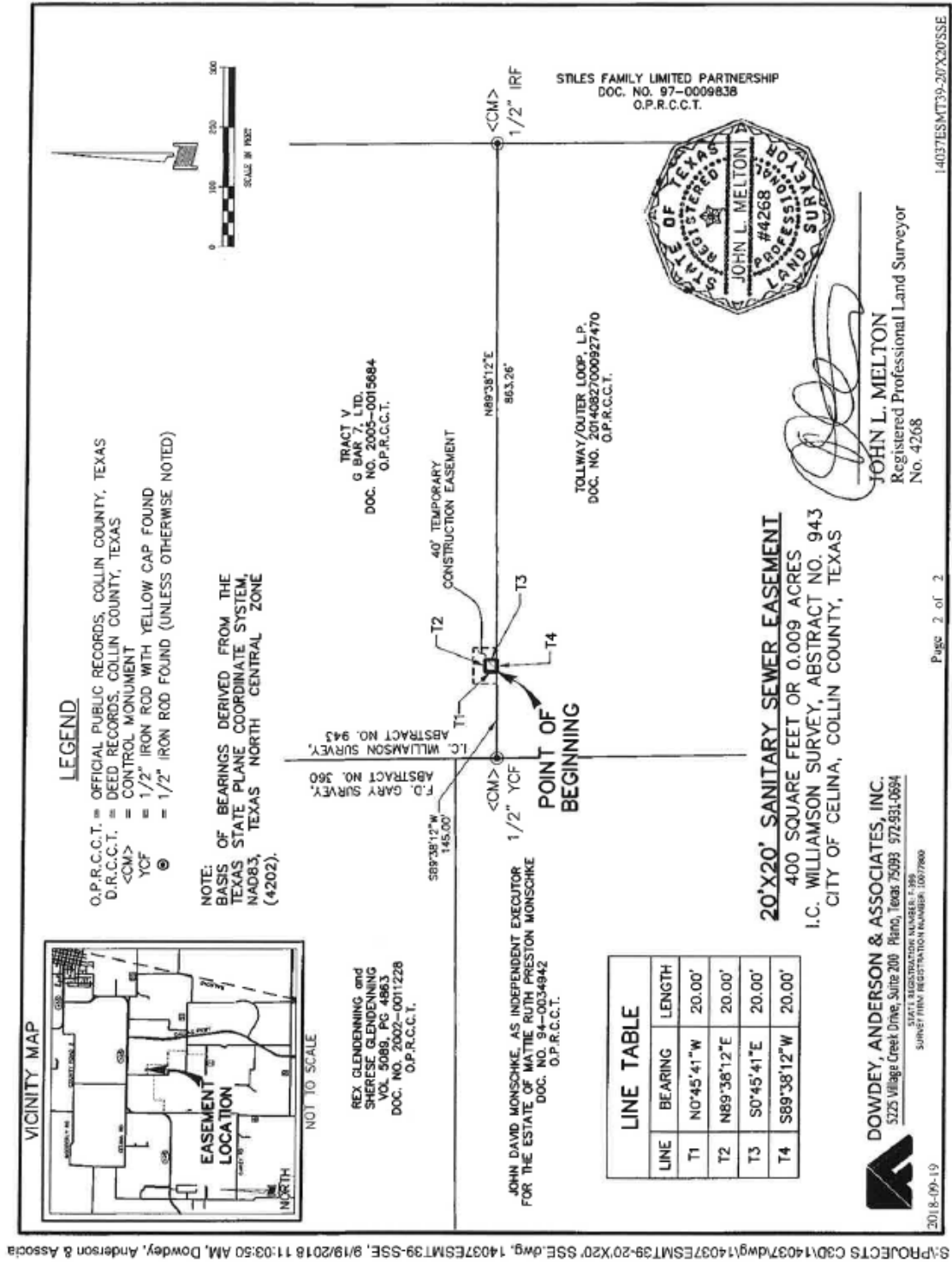
THENCE N 00° 45' 41" W, over and across said G Bar 7, LTD. tract, a distance of 20.00 feet;

THENCE N 89° 38' 12" E, continuing over and across said G Bar 7, LTD. tract, a distance of 20.00 feet;

THENCE S 00° 45' 41" E, continuing over and across said G Bar 7, LTD. tract, a distance of 20.00 feet to the south line of said G Bar 7, LTD. tract, same being the north line of said Tollway/Outer Loop, L.P. tract, from whence a 1/2 inch rod found for the southeast corner of said G Bar 7, LTD. tract, same being the northeast corner of said Tollway/Outer Loop, L.P. tract, also being in the west line of that tract of land conveyed in Deed to Stiles Family Limited Partnership, according to the document filed of record in Document Number 97-0009838, Official Public Records, Collin County, Texas, bears N 89° 38' 12" E, a distance of 863.26 feet;

THENCE S 89° 38' 12" W, with the south line of said G Bar 7, LTD. tract, same being the north line of said Tollway/Outer Loop, L.P. tract, a distance of 20.00 feet to the **POINT OF BEGINNING**, and containing 400 square feet, or 0.009 acres of land, more or less.

EXHIBIT "B"





Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Brooks Wilson, Planning Consultant
 CC: Jason Laumer, City Manager
 Date: December 11, 2018
 Re: Brazos Electric Substation PD Amendment

Action Requested:

The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance amending Ordinance No. 2006-57, as heretofore amended, the same being the Comprehensive Zoning Ordinance, and amending the official zoning map of the City by amending an approximately 12.854 acre tract of land zoned Planned Development No. 34, which has an underlying zoning designation of C-1, Retail, and is situated in the Jonathan Westover Survey, Abstract No. 1030, Collin County, Texas, by adding a new land use to the allowed uses. The property is generally located on the northwest corner of Frontier Parkway and Coit Road, within the City of Celina. (Brazos Electric) (McAfee)

Owner:

Brazos Electric
 PO Box 2585
 Waco, TX 76702-2595

Background Information:

The 12.854 acre Brazos Electric tract in question was zoned as Planned Development No. 34 (PD-34) on February 11, 2008 (Ordinance No. 2008-05). The PD had the base zoning designation of C-1, Retail zoning district. The land has remained vacant since then. Currently, Brazos Electric is expanding its electrical grid and must locate a substation in Celina. This PD amendment is to add Electric Substation land use to the list of allowed uses. The subject property is adjacent to large-lot single-family homes to the west and north, Lilyana commercial tract to the east, and the Town of Prosper to the south.

The applicant proposes to split the tract into roughly two equal lots - the northern lot being the location for the substation and the southern lot (at the hard corner of Coit Road and Frontier Parkway) reserved for future commercial development. The applicant will provide a thirty (30) foot landscape buffer between the substation and the single-family homes as well as an eight (8) foot tall masonry screening wall surrounding the substation itself. Between the future commercial lot and the existing single-family residences will be an eight (8) foot tall masonry screening wall. Along Coit Road and Frontier Parkway, a forty (40) foot wide landscape buffer shall be provided along with a twelve (12) foot wide trail that may meander from the right-of-way parkway into the private landscape buffer.

The Public Utility Commission restricts cities' ability to meaningfully regulate the location of substations within the city limits. Location of a substation is effectively allowed in any circumstance where the substation is

proposed to be located under existing electrical lines, and sites are scientifically chosen by the power company based on projected demands on the overall system.

Board Review/Citizen Input:

At the Planning and Zoning Commission meeting held on November 20, 2018, the Commission voted unanimously to recommend approval of the PD Amendment.

A notice of the City Council public hearing was published in *The Celina Record* on November 2, 2018. Notices of the public hearing were sent to all owners of property residing within the city limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property.

The public input at the Planning & Zoning Commission meeting was generally negative. Concerns were voiced about the height of the tower, the health effects, loss of property value, and loss of enjoyment of their residential properties.

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed the ordinance and deemed it acceptable for form.

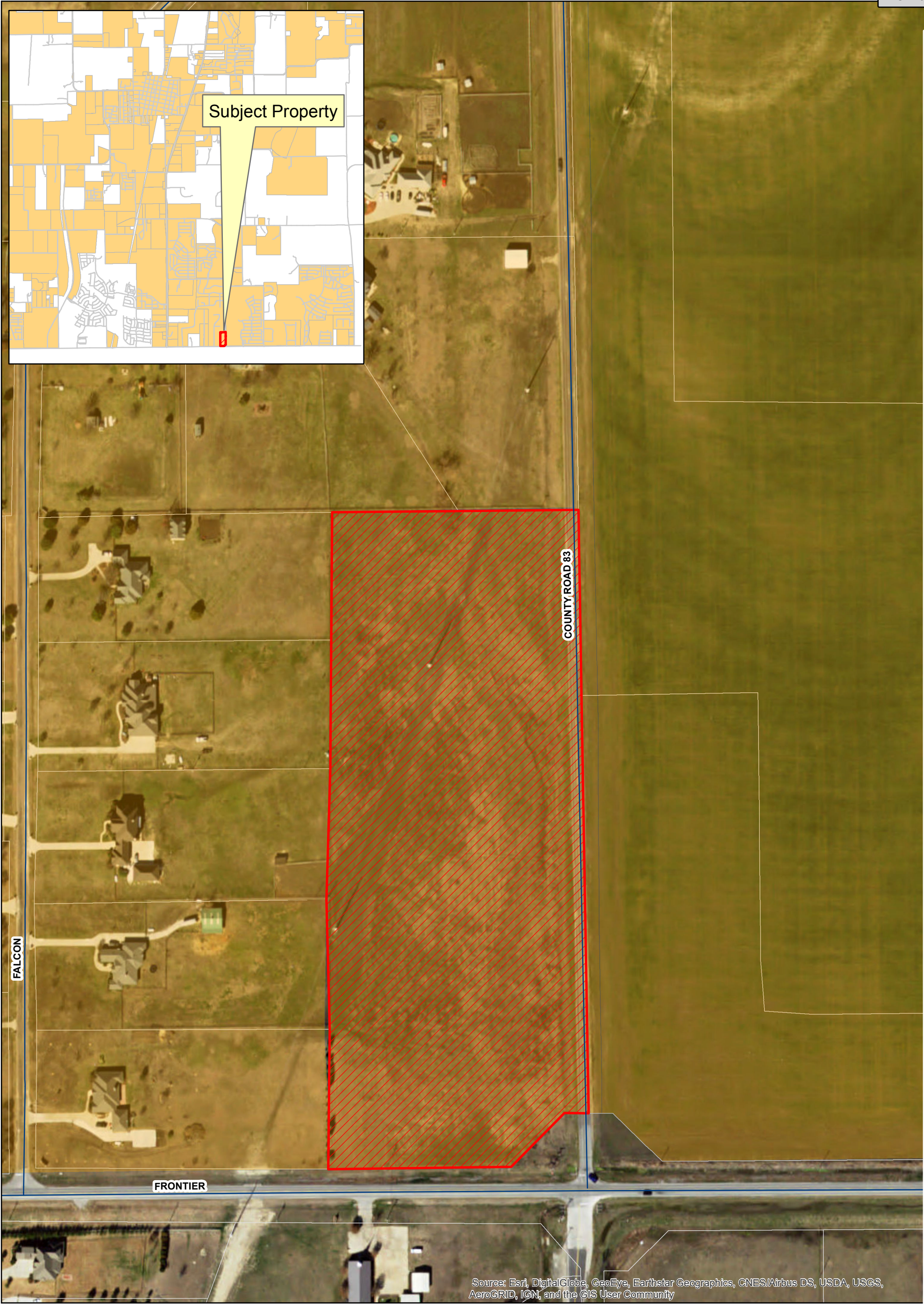
Supporting Documents:

Location Map

Proposed Ordinance

Staff Recommendation:

Staff recommends approval.



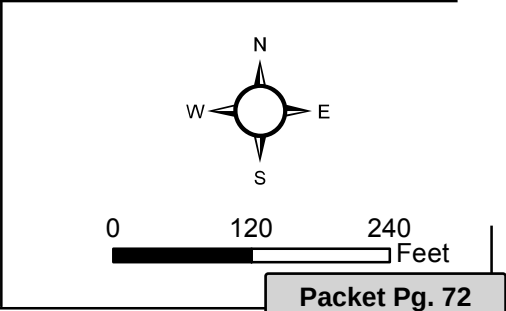
Attachment: Brazos Substation Location Map (Brazos Electric Substation PD Amendment)



Brazos Substation Location Map

Date: 10/22/2018

- Legend**
- Roads
 - BrazosSubstation
 - Parcels
 - City Limits



CITY OF CELINA, TEXAS

ORDINANCE 2018-____

BRAZOS SUBSTATION SITE – PD-34

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, AMENDING ORDINANCE NO. 2006-57, AS HERETOFORE AMENDED, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY DESIGNATING THE ZONING OF LAND THAT IS AN APPROXIMATELY 12.854 ACRE TRACT OF LAND SITUATED IN THE JONATHAN WESTOVER SURVEY, ABSTRACT NO. 1030, COLLIN COUNTY, TEXAS, AND GENERALLY LOCATED AT THE NORTHWEST CORNER OF FRONTIER PARKWAY (FM 1461) AND COIT ROAD (CR 83), COLLIN COUNTY, TEXAS; AS DESCRIBED IN EXHIBIT “A” AND DEPICTED IN EXHIBIT “B” ATTACHED HERETO AND INCORPORATED HEREIN TO AMEND “PD” PLANNED DEVELOPMENT DISTRICT NO. 34; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AMENDMENT OF PLANNED DEVELOPMENT NO. 34; PROVIDING FOR REVISION OF ZONING MAP; PROVIDING FOR COMPLIANCE; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000.00 AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES AND INCLUDING PROVISIONS FOR THE AUTHORIZATION TO SEEK INJUNCTIVE RELIEF TO ENJOIN VIOLATIONS WHICH CONSTITUTE AN IMMINENT HAZARD OR DANGER TO PUBLIC HEALTH AND SAFETY; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Celina is a home rule municipality located in Collin and Denton County, Texas created in accordance with the provisions of the Texas Local Government Code, The Texas Constitution and operating pursuant to the enabling legislation of the state of Texas; and

WHEREAS, the City Council of the City of Celina, Texas is empowered under Local Government Code 54.001 to do all acts and make all regulations which may be necessary or expedient for the promotion of the public health, safety and general welfare; and

WHEREAS, Title 7 Chapter 211.003 of the Texas Local Government Code, empowers a municipality to, among other things, establish and amend zoning districts, classifications of land use, adopt a comprehensive plan to regulate the use of land and open spaces, adopt and amend zoning regulations, regulate population density, and regulate the use and location of buildings; and

WHEREAS, the property more particularly described in Exhibit “A” attached hereto and incorporated herein currently has the zoning designation of Planned Development No. 34; and **WHEREAS**, the property has been depicted in detail in Exhibit “B” attached hereto and incorporated herein; and

WHEREAS, the concept plan and development regulations set forth in Exhibit “C” and Exhibit “D” attached hereto and incorporated herein define the base zoning districts and provide for certain modifications to such district regulations, and to the existing planned development; and

WHEREAS, the City Council has considered, among other things, the character of the property and its suitability for particular uses, with a view of encouraging the most appropriate use of land in the City, and is in the interest of public health, safety, and welfare, and does hereby find that the requested zoning accomplishes such objectives and is consistent with the provisions of the 2030 Comprehensive Plan of the City of Celina; and

WHEREAS, the Planning and Zoning Commission of the City of Celina and the City Council of the City of Celina, in compliance with the laws of the State of Texas and the ordinances of the City of Celina, have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the affected area and in the vicinity thereof; and

WHEREAS, the City Council, in the exercise of its legislative discretion has concluded that the modifications to the existing Planned Development No. 34 which are set forth herein should be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS

SECTION 1 **INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2 **FINDINGS**

After due deliberations the City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Celina, Texas and of the public health, safety and welfare.

SECTION 3 **AMENDMENT OF PLANNED DEVELOPMENT NO. 34**

That Planned Development No. 34 is hereby amended to incorporate the concept plan attached hereto as Exhibit “C” and the development standards attached hereto as Exhibit “D”.

SECTION 4 **REVISION OF ZONING MAP**

That the City Manager for the City of Celina is hereby directed to mark and indicate on the official Zoning District Map of the City the amendment herein made.

SECTION 5 **COMPLIANCE REQUIRED**

That the property depicted on Exhibit “A” hereto shall be used and developed only in the manner and for the purposes provided for in this ordinance, including all Exhibits hereto, and the Comprehensive Zoning Ordinance of the City of Celina as amended save and except minor revisions

necessitated by final, detailed civil engineering, architectural or landscape design which are subject to the approval of the City Manager or his designee.

SECTION 6 **PENALTY**

7.01 Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Celina, and upon conviction shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

7.02 If the governing body of the City of Celina determines that a violation of this Ordinance has occurred, the City of Celina may bring suit in district court to enjoin the person, firm, partnership, corporation, or association from engaging in the prohibited activity.

SECTION 7 **CUMULATIVE REPEALER CLAUSE**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 8 **SAVINGS CLAUSE**

All rights and remedies of the City of Celina, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting zoning regulation which have secured at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

SECTION 9 **SEVERABILITY**

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

SECTION 10 **PUBLICATION CLAUSE**

The City Secretary of the City of Celina is hereby directed to publish in the Official Newspaper of the City of Celina the Caption, and Effective Date of this Ordinance as required by Section 52.013 of the Local Government Code.

SECTION 11
ENGROSSMENT AND ENROLLMENT

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the descriptive Caption in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

SECTION 12
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage and publication as required by law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas this 11th day of December, 2018.

Sean Terry, Mayor
City of Celina, Texas

ATTEST:

Vicki Faulkner, City Secretary
City of Celina, Texas

[SEAL]

APPROVED AS TO FORM:

City Attorney
City of Celina, Texas

Attachment: Brazos Substation Ordinance (Brazos Electric Substation PD Amendment)

Exhibit A Legal Description

BEING a tract of land situated in the Jonathan Westover Survey, Abstract No. 1030, City of Celina, Collin County, Texas and being all of a 12.853 acre tract of land described in Special Warranty Deed to Brazos Electric Power Cooperative, Inc., recorded in Instrument No. 20160129000111830, Official Public Records, Collin County, Texas, and being part of County Road No. 83 and part of Frontier Parkway (Farm to Market Road 1461 - a variable width right-of-way), and being more particularly described as follows:

BEGINNING at the intersection of the centerline of said Frontier Parkway, with the centerline of said County Road No. 83;

THENCE with said centerline of Frontier Parkway, South 89°46'10" West, a distance of 476.98 feet to the intersection of said centerline of Frontier Parkway, with the projected west line of said 12.853 acre tract;

THENCE leaving said centerline of Frontier Parkway, North 0°00'23" East, with the west line of said 12.853 acre tract part of the way a distance of 1265.60 feet to a point for the northwest corner of said 12.853 acre tract;

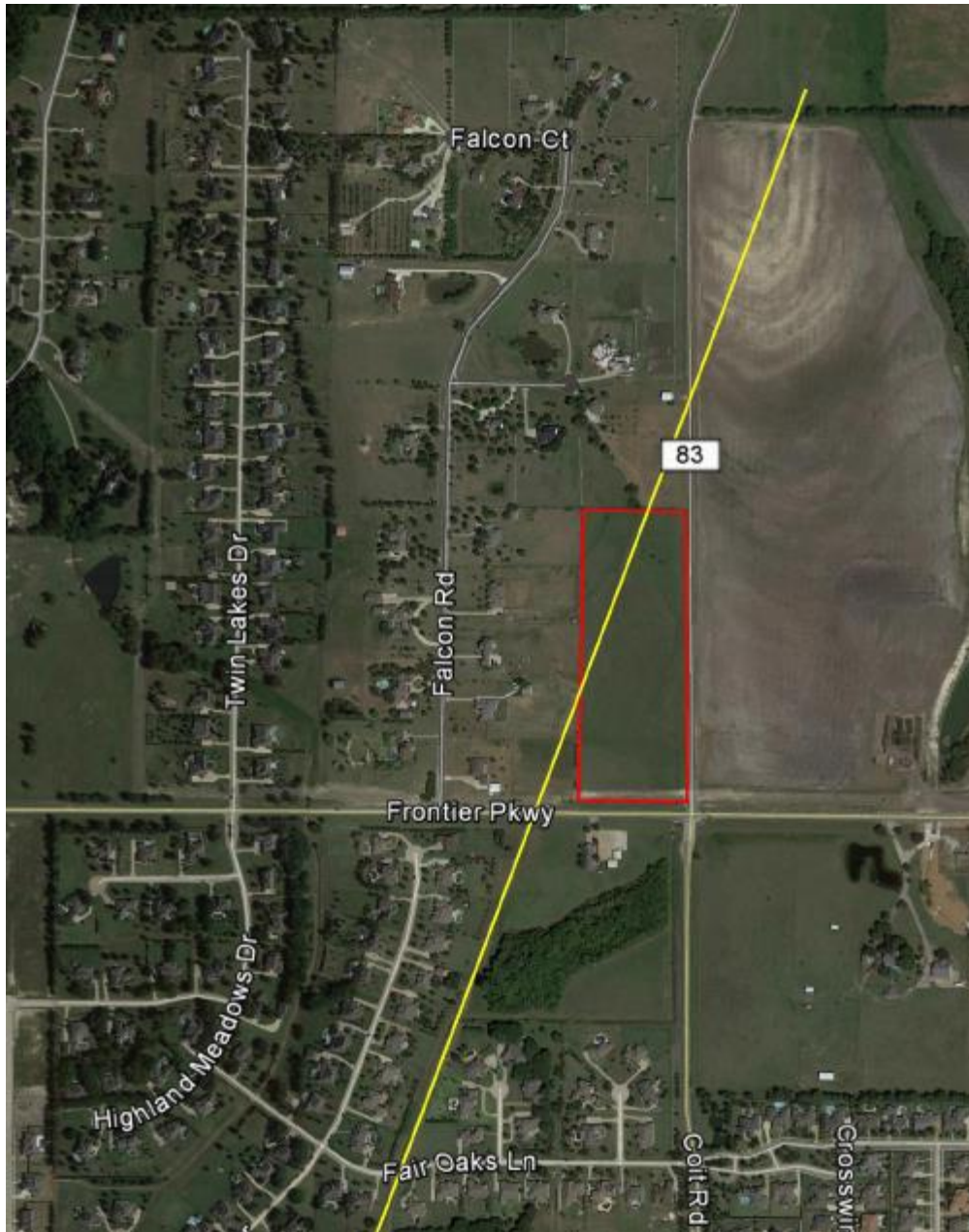
THENCE with the north line of said 12.853 acre tract, North 89°12'00" East, a distance of 455.83 feet to a point for the northeast corner of said 12.853 acre tract and in the centerline of said County Road No. 83;

THENCE with the east line of said 12.853 acre tract and centerline of said County Road No. 83, South 0°56'58" East, passing at a distance of 1125.21 feet the southeast corner of said 12.853 acre tract, continuing with said centerline of County Road No. 83 in all a total distance of 1270.22 feet to the **POINT OF BEGINNING** and containing 13.58 acres of land.

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

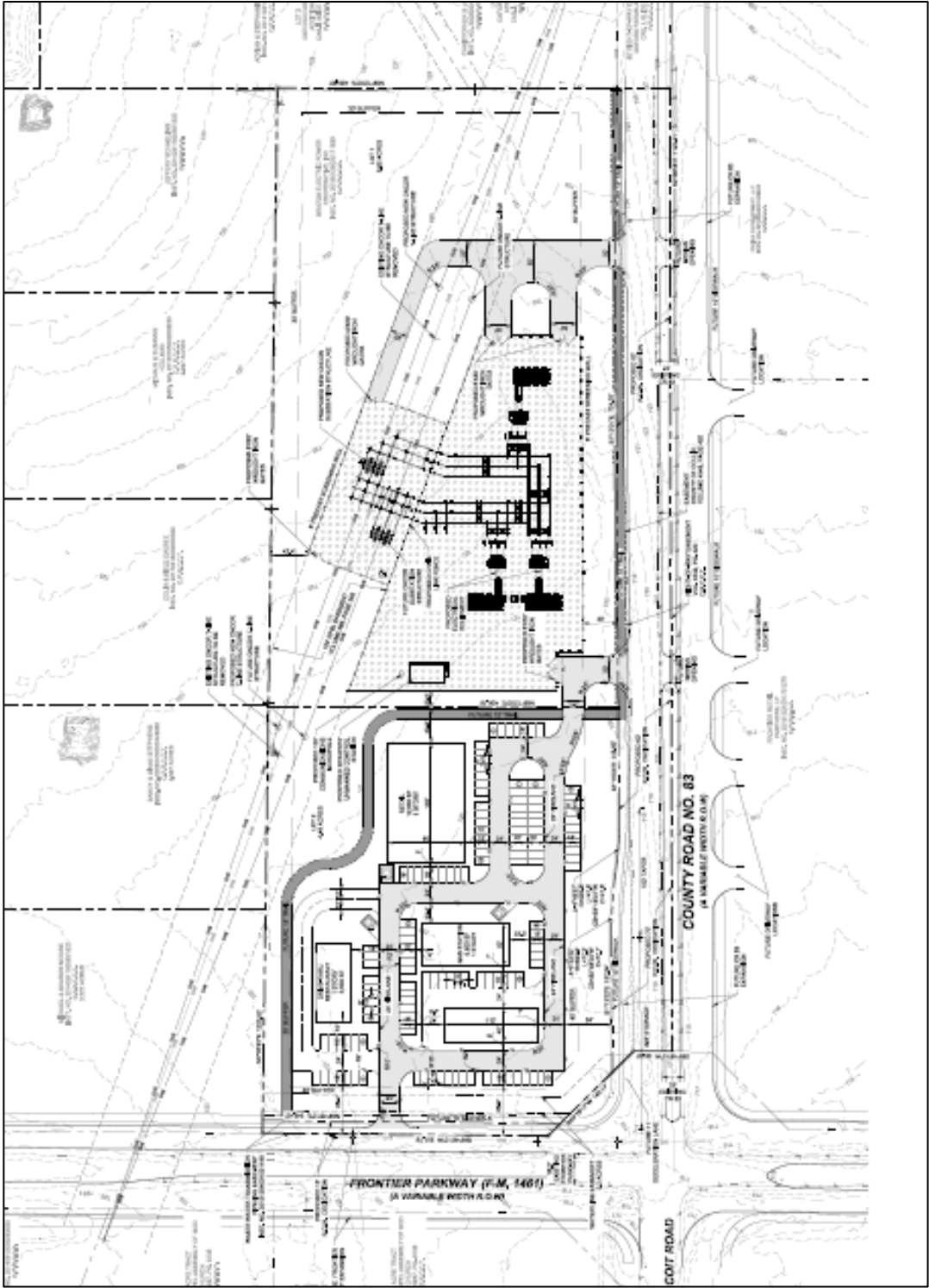
This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

**Exhibit B
Zoning Exhibit**



Attachment: Brazos Substation Ordinance (Brazos Electric Substation PD Amendment)

Exhibit C
Concept Plan



Attachment: Brazos Substation Ordinance (Brazos Electric Substation PD Amendment)

Exhibit D Development Regulations

1.0 PROJECT OVERVIEW

This zoning submittal addresses the approximately 12.8 gross acres of land in the City of Celina, for which the base zoning district of C-1 Retail District is proposed. It is the intent of this amendment to Planned Development No. 34 (PD-34) is to provide increased buffering along the western and northern boundaries of the tract for the benefit of adjoining existing residential uses and to add electrical substations as an allowable use. The subject property is comprised of 12.8 acres in the Jonathan Westover Survey, Abstract Number 1030, City of Celina, Collin County, Texas as more fully described on Exhibit A attached hereto and incorporated herein for all purposes.

2.0 PROJECT LOCATION

As shown in Exhibit B, the existing PD is located at the northwest corner of the intersection of FM 1461 (Frontier Parkway) and CR 83 (Coit Road). A legal description and boundary exhibit for the land are provided in this document.

There are existing single family residential uses to the north and west, the Town of Prosper is to the south, and PD-58, Lilyana's commercial corner to the east. The property is currently zoned PD-34 and is currently undeveloped.

3.0 DEFINITIONS

Except as otherwise defined in this Agreement, terms used herein shall be the same as those found in Section 14.01.007 of the Zoning Ordinance for the City of Celina, Texas, in effect on the effective date of this Agreement (the "Zoning Ordinance").

4.0 HOMEOWNERS/PROPERTY OWNERS ASSOCIATION

A Property Owners Association shall be established and shall be responsible for the ownership and maintenance of all common areas, including all private open space areas shown on the Concept Plan.

5.0 PROPOSED THOROUGHFARES/ACCESS/CROSS SECTIONS

The property is currently accessed by FM 1461/ Frontier Parkway to the South and CR 83/Coit Road to the east. The Celina Master Thoroughfare Plan has designated each as a major arterial with a maximum of 140-foot of right-of-way with the ultimate design as six-lane, divided thoroughfares.

6.0 LAND USES

The site is not appropriate for single family due to its location at the intersection of two major arterial thoroughfares. Therefore, the proposed land uses are those which conform to the permitted and conditional uses set forth under the C-1 Retail District of the City of Celina Zoning Ordinance No. 2006-57, as amended, except as set forth herein.

6.1 Retail Tract

The requirements regulating the minimum lot size, minimum yard sizes, maximum building height, and maximum percent of lot coverage by buildings as pertains to this tract shall conform to the provisions of Section 3.17: C-1, Retail District of the City of Celina Zoning

Ordinance No 2006-57, as it exists or may be amended. Commercial uses shall conform to all development standards in effect at the time of permitting.

6.2 Substation Tract

The requirements regulating the Retail Tract will be maintained. However, the following additional regulations apply to the Substation Tract, as follows:

- Use of Electrical Substation is allowed.
- A monopole of up to 100 feet in height is allowed.
- The monopole will be designed to be stealth with no visible or exterior racks, antennas, or guy wires exposed. Minor deviations may be allowed at time of permitting.
- An 8 foot high masonry wall is required for screening around the substation compound. Evergreen trees shall be planted around the wall's perimeter. Gated access into the compound is allowed so long as it is decorative black metal or solid metal.
- Gravel pavement is only allowed within the substation screening wall limits. Concrete access must be provided to the substation compound walls.
- Layout, drive cuts, and cross access shall generally be provided per the attached concept plan. Staff reserves final approval authority for all site layouts.

7.0 CONCEPT PLAN

The concept plan calls for two commercial lots. A plat will be required to create these two lots.

8.0 FIRE

The Fire Department has reviewed the plans and has no comments on the proposed zoning change.

9.0 DEVELOPMENT REGULATIONS

It is the intent of this Ordinance that all uses within this Planned Development conform to applicable City of Celina development regulations in effect at the time of development, unless otherwise modified by this Ordinance.

10.0 DESIGN GUIDELINES

It is the intent of this Ordinance that all uses within this Planned Development conform to applicable City of Celina development regulations in effect at the time of development, unless otherwise modified by this Ordinance.

11.0 OPEN SPACE & TRAILS

1. A ten (10) foot wide sidewalk is required along both Coit Road and Frontier Parkway.
2. A twelve (12) foot wide trail shall be provided through the subject property so that it connects with the trail to be constructed by Hillwood on the property to the north of the subject property and also connects with the future trail planned in the Town of Prosper to the southwest. The trail, if located along the ROWs instead of down the power-line easement, may count as both sidewalk and trail so long as it is a minimum 12 feet wide and can reasonably serve both trail and sidewalk purposes.
3. Screening walls, trails, and associated landscaping may be installed as each phase develops, as determined by the platted lot. Lotting patterns shall not be unreasonably designed.
4. Irrigation is required in all landscaped areas.

12.0 PERIMETER SCREENING & LANDSCAPE BUFFERS

1. A 40 foot wide landscape buffer shall be provided along both Coit Road and Frontier Parkway. Within this landscape buffer, a double row of large canopy trees shall be provided each 50 linear feet. The two (2) rows shall be staggered so that a large canopy tree is provided each 25 feet.
2. A 30 foot wide landscape buffer shall be provided along the entire western and northern boundaries. Evergreen large canopy trees shall be planted each 30 linear feet within this landscape buffer.
3. The Substation Tract shall install an eight (8) foot high masonry wall around the extents of the Substation facility, as shown in Exhibit C, in lieu of a perimeter screening wall within the perimeter landscape buffer.
4. With staff review and approval, trees may be planted to avoid underground and overhead conflicts at time of permitting.
5. No landscape buffer, wall, nor fencing is required between the substation tract and the retail tract.
6. Screening walls, trails, and associated landscaping may be installed as each phase develops, as determined by the platted lot. Lotting patterns shall not be unreasonably designed.
7. Irrigation is required in all landscaped areas.

13.0 DEVELOPMENT AMENITIES

1. An 8 foot high masonry wall is required for screening around the substation compound. Evergreen trees shall be planted around the wall's perimeter. Gated access into the compound is allowed so long as it is decorative black metal or solid metal.
2. A 40 foot wide landscape buffer shall be provided along both Coit Road and Frontier Parkway. Within this landscape buffer, a double row of large canopy trees shall be provided each 50 linear feet. The two (2) rows shall be staggered so that a large canopy tree is provided each 25 feet.
3. A 30 foot wide landscape buffer shall be provided along the entire western and northern boundaries. Evergreen large canopy trees shall be planted each 30 linear feet within this landscape buffer.
4. The Substation Tract shall install an eight (8) foot high masonry wall around the extents of the Substation facility, as shown in Exhibit C, in lieu of a perimeter screening wall within the perimeter landscape buffer.



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Dusty McAfee, Director of Development Services
 CC: Jason Laumer, City Manager
 Date: December 11, 2018
 Re: Celina 15 Self Storage Zoning with CUP

Action Requested:

The Celina City Council will conduct a public hearing to consider testimony and act upon an ordinance amending Ordinance No. 2006-57, as heretofore amended, the same being the Comprehensive Zoning Ordinance, and amending the official zoning map of the City by amending an approximately 6.268 acre tract of land zoned C-2, General Commercial, situated in the Collin County School Land Survey #14, Abstract No. 167, Collin County, Texas, to grant a Conditional Use Permit (CUP) allowing a self-storage land use. The property is generally located on the north side of Frontier Parkway, approximately 750 feet west of Preston Road, and east of BNSF Railroad, within the City of Celina. (Celina 15 Self-Storage) (McAfee)

Owner:

John Feizy
 13800 Diplomat Drive
 Dallas, Texas, 75234

Background Information:

This property is located east of Light Farms, and was annexed into city limits in 2004 (Ordinance No. 2004-91). The applicant voluntarily annexed the parent 15.28 acre tract in order to develop an office-warehouse concept and receive City water and sewer utilities. Following the annexation, the property was rezoned from AG, Agricultural zoning district to C-2, General Commercial zoning district on December 14, 2004 (Ordinance No. 2004-86).

The applicant is requesting a Conditional Use Permit to construct a self-storage facility which is allowed in the C-2 zoning district with the approval of a CUP.

The self-storage facility will be built on a 6.268 acre lot, situated in the western portion of the original 15.28 acre lot. The eastern portion of the original lot is located in the Preston Road Overlay, which prohibits storage facilities. A plat will be required to legally create these two lots.

Conformance with the Comprehensive Plan:

The City's Comprehensive Plan shows this property to be within the Suburban Moderate-High Residential or "Suburban Mix." This includes residential developments and the services and businesses that support the citizens. This future land use accounts for sixty-four percent (64%) of the land area in Celina. The rezoning request conforms with the Comprehensive Plan in that self-storage facilities are an important component of services in Celina.

Board Review/Citizen Input:

At the Regular Meeting held on November 20, 2018, the Planning & Zoning Commission voted unanimously to recommend approval of the CUP, as presented by staff.

A notice of the public hearing was published in *The Celina Record* on November 2, 2018. Notices of the public hearing have been sent to all owners of property residing within the city limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property. As of the time of packet preparation, staff had received no comments either for or against the proposal.

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

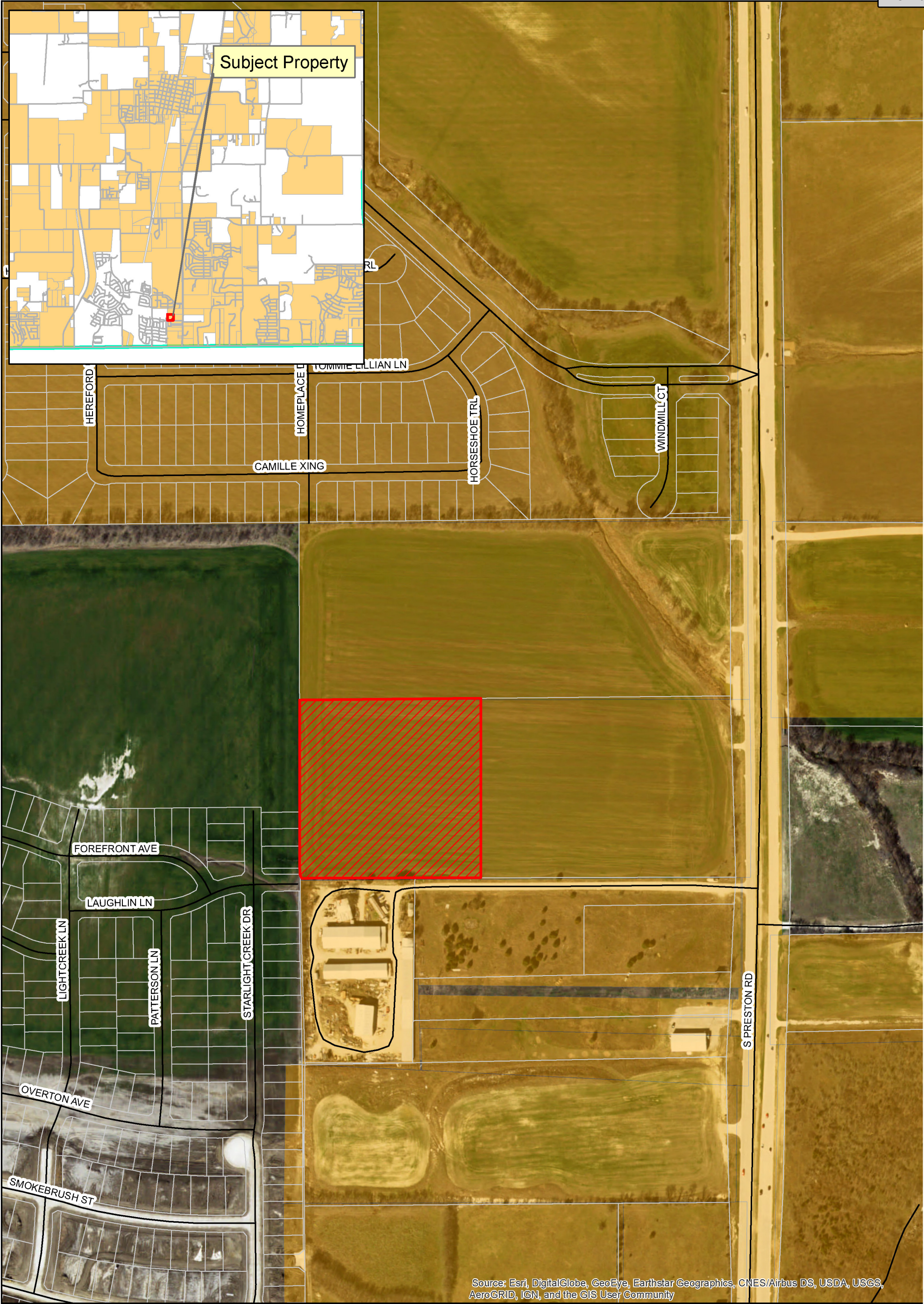
N/A

Supporting Documents:

- Location Map
- Ordinance

Staff Recommendation:

Staff recommends approval.



Attachment: Location Map (Celina 15 Self-Storage Zoning with Conditional Use Permit (CUP))



Celina 15 Self Storage Location Map

Date: 10/22/2018

Legend

- Roads
- Celina 15 Self Storage
- Parcels
- City Limits

0 195 390 Feet

Packet Pg. 85

**CITY OF CELINA, TEXAS
ORDINANCE 2018-____
CELINA 15 SELF-STORAGE CUP**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, AMENDING ORDINANCE NO. 2006-57, AS HERETOFORE AMENDED, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY BY DESIGNATING THE ZONING OF LAND THAT IS APPROXIMATELY 6.268 ACRE TRACT OF LAND SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY #14, ABSTRACT NO. 167, COLLIN COUNTY, TEXAS, AND GENERALLY LOCATED APPROXIMATELY 750 FEET WEST OF PRESTON ROAD AND APPROXIMATELY 2,250 FEET NORTH OF FRONTIER PARKWAY, COLLIN COUNTY, TEXAS; AS DESCRIBED IN EXHIBIT “A” AND DEPICTED IN EXHIBIT “B” ATTACHED HERETO AND INCORPORATED HEREIN TO BE DESIGNATED AS “C-2/CUP, GENERAL COMMERCIAL ZONING DISTRICT WITH A CONDITIONAL USE PERMIT FOR SELF-STORAGE USES; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR A CONDITIONAL USE PERMIT FOR CELINA 15 SELF-STORAGE; PROVIDING FOR COMPLIANCE; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000.00 AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES AND INCLUDING PROVISIONS FOR THE AUTHORIZATION TO SEEK INJUNCTIVE RELIEF TO ENJOIN VIOLATIONS WHICH CONSTITUTE AN IMMINENT HAZARD OR DANGER TO PUBLIC HEALTH AND SAFETY; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Celina is a Home Rule Municipality located in Collin, and Denton County, Texas created in accordance with the provisions of the Texas Local Government Code, The Texas Constitution and operating pursuant to the enabling legislation of the state of Texas; and

WHEREAS, the City Council of the City of Celina, Texas is empowered under Local Government Code 54.001 to do all acts and make all regulations which may be necessary or expedient for the promotion of the public health, safety and general welfare; and

WHEREAS, Title 7 Chapter 211.003 of the Texas Local Government Code, empowers a municipality to, among other things, establish and amend zoning districts, classifications of land use, adopt a comprehensive plan to regulate the use of land and open spaces, adopt and amend zoning regulations, regulate population density, and regulate the use and location of buildings; and

WHEREAS, a conditional use permit for a Celina 15 Self-Storage has been requested for the property located at approximately 750 feet west of Preston Road and approximately 2,250 feet north of Frontier Parkway, Celina, Texas; and

WHEREAS, the establishment of a conditional use permit has been requested for the property more specifically described in Exhibit “A” attached hereto and incorporated herein; and

WHEREAS, the property has been depicted in detail in Exhibit “B” attached hereto; and incorporated herein; and

WHEREAS, the application is consistent with those standards set forth in section 14.03.076 of the Code of Ordinances; and

WHEREAS, the City Council has considered, among other things, the character of the property and its suitability for particular uses, with a view of encouraging the most appropriate use of land in the City, and is in the interest of public health, safety, and welfare, and does hereby find that the requested conditional use permit accomplishes such objectives and is consistent with the provisions of the 2030 Comprehensive Plan of the City of Celina; and

WHEREAS, the Planning and Zoning Commission of the City of Celina and the City Council of the City of Celina, in compliance with the laws of the State of Texas and the ordinances of the City of Celina, have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the affected area and in the vicinity thereof; and

WHEREAS, the City Council, in the exercise of its legislative discretion has concluded that the conditional use permit should be granted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS

SECTION 1 **INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2 **FINDINGS**

After due deliberations the City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Celina, Texas and of the public health, safety and welfare.

SECTION 3 **CONDITIONAL USE PERMIT**

A conditional use permit is hereby granted to authorize Celina 15 Self-Storage, located approximately 750 feet west of Preston Road and approximately 2,250 feet north of Frontier Parkway, Celina, Texas. Such use shall be consistent and in compliance with the underlying base zoning district. Development of the property shall be subject to the City Regulations and the adopted engineering design standards, as amended, except to the extent that the Development Standards, attached as "Exhibit C," may vary from those, then the Development Standards included herein shall control.

SECTION 4 **ZONING DESIGNATION AND DEVELOPMENT STANDARDS**

That Ordinance No. 2006-57 of the City of Celina, Texas, as heretofore amended, the same being the City's Comprehensive Zoning Ordinance, is hereby amended by designating the zoning located approximately 750 feet west of Preston Road and approximately 2,250 feet north of Frontier Parkway, Celina, Texas, as C-2/CUP, general commercial zoning district with a CUP for self-storage.

SECTION 5 **REVISION OF ZONING MAP**

That the City Manager for the City of Celina is hereby directed to mark and indicate on the official Zoning District Map of the City the zoning change herein made.

SECTION 6 **COMPLIANCE REQUIRED**

That the property located approximately 750 feet west of Preston Road and approximately 2,250 feet north of Frontier Parkway, Celina, Texas, shall be used only in the manner and for the purposes provided for in this ordinance and the Comprehensive Zoning Ordinance, of the City of Celina, as amended.

SECTION 7
PENALTY

7.01 Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Celina, and upon conviction shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

7.02 If the governing body of the City of Celina determines that a violation of this Ordinance has occurred, the City of Celina may bring suit in district court to enjoin the person, firm, partnership, corporation, or association from engaging in the prohibited activity.

SECTION 8
CUMULATIVE REPEALER CLAUSE

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 9
SAVINGS CLAUSE

All rights and remedies of the City of Celina, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting zoning regulation which have secured at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

SECTION 10
SEVERABILITY

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

SECTION 11
PUBLICATION CLAUSE

The City Secretary of the City of Celina is hereby directed to publish in the Official Newspaper of the City of Celina the Caption, and Effective Date of this Ordinance as required by Section 52.013 of the Local Government Code.

SECTION 12
ENGROSSMENT AND ENROLLMENT

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the descriptive Caption in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

SECTION 13
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage and publication as required by law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas this 11th day of December, 2018.

 Sean Terry, Mayor
 City of Celina, Texas

ATTEST:

 Vicki Faulkner, City Secretary
 City of Celina, Texas

[SEAL]

APPROVED AS TO FORM:

 City Attorney
 City of Celina, Texas

Attachment: Ordinance (Celina 15 Self-Storage Zoning with Conditional Use Permit (CUP))

EXHIBIT A
Legal Description

BEING a tract of land situated in the Collin County School Land Survey #14, Abstract No. 167, City of Celina, Collin County, Texas, being a portion of the tract described by the deed to John Feizy, recorded under County Clerk's File No. (CCFN) 93-0056727, Official Public Records, Collin County, Texas (OPRCCT), the subject tract being more particularly described as follows (Bearings for this description are based on the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983):

COMMENCING at a 1/2 inch rebar found at the southeast corner of said Feizy tract, lying on the west right-of-way of State Highway No. 289 (Preston Road);

THENCE SOUTH 89 degrees 24 minutes 26 seconds WEST, with the south line of said Feizy tract, a distance of 750.17 feet to the POINT OF BEGINNING and southeast corner of the herein described tract;

THENCE with the perimeter and to the corners of said Feizy tract, the following courses and distances:

THENCE SOUTH 89 degrees 24 minutes 26 seconds WEST, a distance of 525.13 feet to a 1/2 inch rebar with red plastic cap stamped "WINDROSE" found at the southwest corner of said Feizy tract;

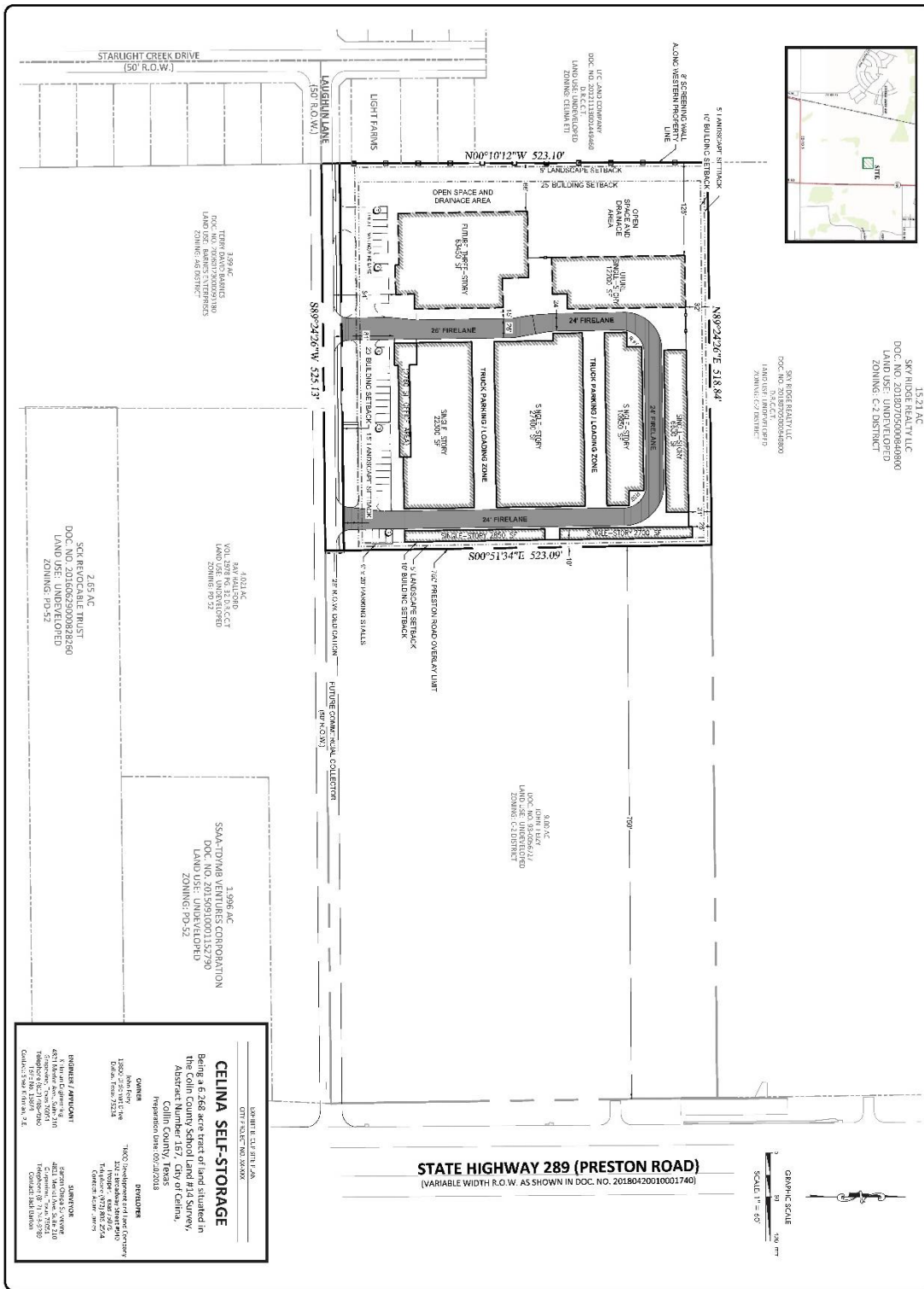
THENCE NORTH 00 degrees 10 minutes 12 seconds WEST, a distance of 523.10 feet to the northwest corner of said Feizy tract, from which a disturbed 1/2 inch rebar found bears SOUTH 76 degrees 40 minutes EAST, 0.52 feet;

THENCE NORTH 89 degrees 24 minutes 26 seconds EAST, a distance of 518.84 feet to a point;

THENCE SOUTH 00 degrees 51 minutes 34 seconds EAST, through the interior of said Feizy tract, a distance of 523.09 feet, returning to the POINT OF BEGINNING and enclosing 6.268 acres (273,044 square feet) of land, more or less.

EXHIBIT B

Zoning Exhibit



Attachment: Ordinance (Celina 15 Sel-Storage Zoning with Conditional Use Permit (CUP))

EXHIBIT C

Development Standards

1.0 PROJECT OVERVIEW

The purpose of this Conditional Use Permit (CUP) is to allow a well-designed self-storage in an existing C-2 zoning district. According to the zoning use chart, a self-storage is allowed with the approval of a CUP.

2.0 PROJECT LOCATION

The project is located approximately 2,250 feet north of Frontier Parkway and on the 750 feet west side of Preston Road. For a 6.268-acre tract of land out of the Collin County School Land Survey #14, Abstract No. 167 in the City of Celina and Collin County, Texas as described in Exhibit A, Legal Description and as depicted graphically in Exhibit C-1, Concept Plan.

3.0 PROPERTY OWNERS ASSOCIATION

A property owners association shall be established and shall be responsible for the ownership and maintenance of all common areas, including all private open space areas shown on the Concept Plan.

4.0 LAND USES

The following uses are permitted by right except as otherwise noted:

1. Self-Storage as shown on the Concept Plan
2. Office
3. Temporary construction offices and storage yards associated with development of the Property
4. Public works related facilities necessary to serve the development.

The following uses are NOT permitted by right except as otherwise noted:

1. Vehicle/truck/boat leasing
2. Outdoor storage

5.0 CONCEPT PLAN

1. The concept plan calls for two types of buildings:
 - a. Five One-story Building(Four Building in Phase One)
 - b. One Three-story building

6.0 FIRE

1. A 24 foot fire lane is required to access one-story building as shown in the concept plan
2. A 26 foot fire lane is required to access three-story building as shown in the concept plan

7.0 COMMERCIAL DESIGN GUIDELINES

1. The single story buildings shall be 100% brick and stone (with a minimum 20% stone) for all outward facing facades. Interior facing one-story facades may use a stucco-like application for masonry.
2. The proposed 3 story building (maximum 45' high) shall be 70% brick/stone (with a minimum 20% stone) on all facades with split-face CMU or stucco allowed on the remaining 30%. Articulation and window treatments shall apply per the City's approved architectural standards, and as may be amended.
3. Building height shall be per the Concept Plan, with one 3-story building allowed no closer than 65' to the western property line.
4. All roofing shall be either parapet, tile, or standing seam metal.
5. No building or structure shall incorporate bold colors or branding other than allowed signage.

6. All site lighting shall be LED and shielded.

8.0 PERIMETER SCREENING & LANDSCAPE BUFFERS

7. A minimum 25' wide landscape buffer (and building setback, which may contain detention facilities) shall be provided along the northern property line. Within this landscape buffer evergreen large canopy trees shall be planted every 30' on center if Eastern Red Cedars and 40' on center if Live Oaks.
8. A minimum 10' wide landscape buffer (and building setback) shall be provided along the eastern property lines. Within this landscape buffer evergreen large canopy trees shall be planted every 30' on center if Eastern Red Cedars and 40' on center if Live Oaks.
9. An 8' high masonry screening wall is required along the western property line, in addition to a 65' wide landscape buffer (and building setback) that may contain detention facilities. Within this landscape buffer evergreen large canopy trees shall be planted every 30' on center if Eastern Red Cedars and 40' on center if Live Oaks.
10. Along the perimeters of the building, where gaps exist in between one-story buildings, an 8' masonry wall shall be provided to close the gap in between buildings.
11. A 15' wide landscape buffer shall be provided along the collector street. Large canopy trees shall be planted every 30' on center along the ROW. Evergreen shrubs shall be provided along the ROW as well.



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Dusty McAfee, Director of Development Services
 CC: Jason Laumer, City Manager
 Date: December 11, 2018
 Re: Celina 40 Pre-Annexation Development Agreement

Action Requested:

The Celina City Council will conduct a public hearing to consider testimony and act upon a Pre-annexation Development Agreement by and between the City of Celina, Texas and G&N Estates, LLC. The property is an approximately 40.279 acre tract of land situated in the Coleman Watson Survey, Abstract No. 495, Collin County, Texas, and generally located on the north side of Choate Parkway, approximately 1,600 feet west of Custer Road, and is located within the City of Celina's ETJ. (Celina 40) (McAfee)

Owner:

Allen Gandy
 G&N Estates, LLC
 5967 Shy Drive
 Frisco, Texas, 75034

Applicant:

Kirkman Engineering
 4821 Merlot Avenue, Suite 201
 Grapevine, Texas 76051

Background Information:

The proposed development agreement establishes the responsibilities and obligations of both the developer and City. In addition, the agreement determines the level of city participation on various aspects of the development. In this case, the applicant is proposing to annex approximately 40.279 acres into the City to facilitate the construction of a commercial development which will adhere to the regulations of C-1, Commercial zoning district. No unique development standards are requested. The property is located on north side of Choate parkway, approximately 1,600 feet west of Custer Road. The property will be developed to the standards of the Zoning Ordinance C-1, Retail District regulations with additional land use restrictions. Following uses are prohibited:

1. Sexually Oriented Businesses,
2. Outdoor Storage/Display,
3. Alternative Financial Services,
4. Body Art Facility,
5. Smoke Shop,

6. Vice Paraphernalia,
7. Gaming or Slot Machines (excluding arcades),
8. Lewd Merchandise Sales,
9. Liquor Store and Pawn Shop.

The Applicant is requesting to add Hotel uses as an allowed use for this property.

Board Review/Citizen Input:

At the regular meeting held on November 20, 2018, the Planning & Zoning Commission voted unanimously to recommend approval of the CUP, as presented by staff.

A notice of the public hearing was published in *The Celina Record* on November 2, 2018. Notices of the public hearing have been sent to all owners of property residing within the city limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property. As of the time of packet preparation, staff had received no comments either for or against the proposal.

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

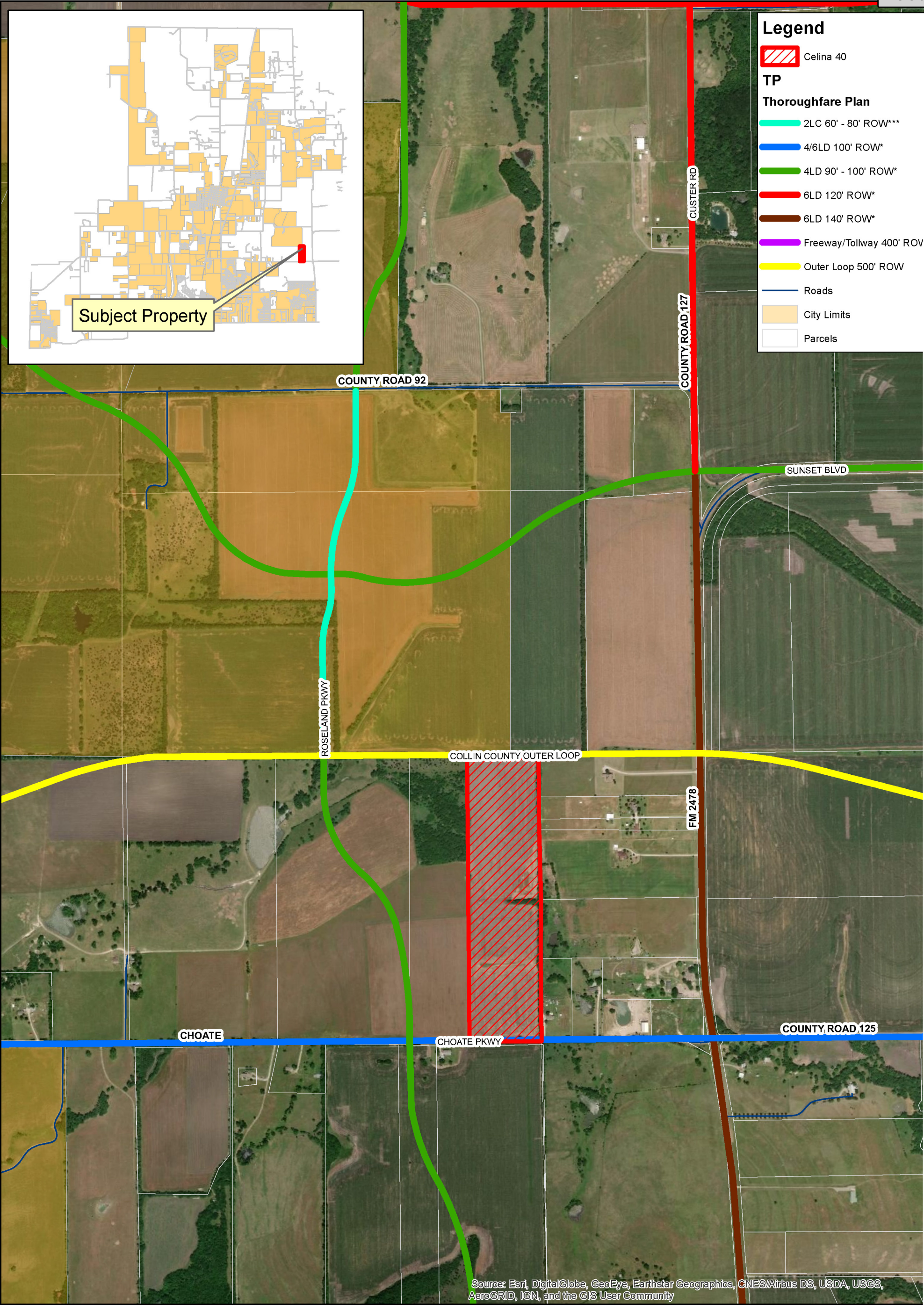
N/A

Supporting Documents:

- Location Map
- Development Agreement

Staff Recommendation:

Staff recommends approval.

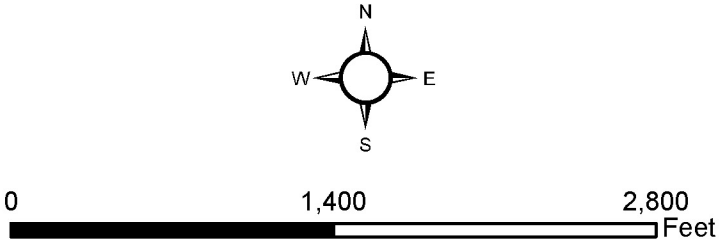


Attachment: Location Map (Celina 40 Pre-Annexation Development Agreement)



Celina 40 Location Map

Date: 11/21/2018



CELINA 40 DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into by and between **G & N Estates LLC**, (collectively the “Owner”) and the **City of Celina** (the “City”), to be effective on the date upon which the last of all of the Parties has approved and duly executed this Agreement (“Effective Date”).

ARTICLE I RECITALS

WHEREAS, certain terms used herein are defined in Article II; and

WHEREAS, the City is a home-rule municipality of the State of Texas located within Denton County and Collin County; and

WHEREAS, the Developer and the City (which are sometimes individually referred to as a “Party” and collectively as the “Parties”) desire to enter into this Agreement; and

WHEREAS, G & N Estates LLC (collectively, the “Property Owner”) owns an approximately 40.279 acre tract of land (the “Property”); and

WHEREAS, the Property is located wholly within the extraterritorial jurisdiction (the “ETJ”) of the City and described by metes and bounds in **Exhibit A** and depicted on **Exhibit B**; and

WHEREAS, the Developer intends to purchase and develop the Property as a C-1 Retail Zoning District; and

WHEREAS, the Parties intend for this Agreement to establish certain restrictions and impose certain commitments in connection with the development of the Property; and

WHEREAS, the City holds the certificates of convenience and necessity (the “CCNs”) to provide retail water and wastewater service to the Property and the Parties intend for the City to provide water and wastewater service to the Property; and

WHEREAS, as the Property is within the City’s extraterritorial jurisdiction, the Parties have the authority to enter into this Agreement pursuant to Section 212.171 *et seq* of the Texas Local Government Code; and

WHEREAS, the Parties intend that this Agreement is a development agreement as provided for by state law in Section 212.171 *et seq* of the Texas Local Government Code; and

WHEREAS, this Agreement shall constitute a “permit” under Chapter 245 of the Texas Local Government Code and as allowed pursuant to Section 212.172(g) of the Texas Local Government Code.

NOW, THEREFORE, for and in consideration of the mutual covenants of the Parties set forth in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree as follows:

ARTICLE II

GENERAL TERMS AND DEFINITIONS

The recitals to this Agreement are incorporated herein for all purposes. Unless the context requires otherwise, the following terms shall have the meanings hereinafter set forth:

City Council means the City Council of the City.

City Regulation(s) means any ordinance, rule, regulation, standard, policy, order, guideline or other City-adopted or City-enforced requirement.

Impact Fees means as defined in Chapter 395 of the Texas Local Government Code.

Property means the real property described by metes and bounds in **Exhibit A** and depicted on **Exhibit B**.

Public Infrastructure means water, wastewater, drainage, roadway, and other public infrastructure necessary to serve the full development of the Property.

ARTICLE III

PUBLIC INFRASTRUCTURE

3.1 Public Infrastructure. Except as otherwise expressly provided for in this Agreement, all Public Infrastructure shall be designed, constructed and installed by Developer in compliance with the City Regulations in effect on the Effective Date and the City's uniform engineering design standards in effect on the Effective Date. Construction and/or installation of Public Infrastructure shall not begin until complete and accurate plans and specifications have been approved by the City. Each of such contracts shall require a two-year maintenance bond following completion, which bond shall run in favor of the Party responsible for maintenance of the completed Public Infrastructure. The Public Infrastructure will be installed within the public right-of-way or in easements granted to the City. The City agrees that perimeter roadway improvements are not required in association with this Development.

3.2 Inspections, Acceptance of Public Infrastructure.

(a) Roadway and Storm Infrastructure. The City shall have the right to inspect, at any time, the construction of all roadway and storm water Public Infrastructure, and any related Public Infrastructure necessary to support the proposed development within the Property, which shall be inspected, designed and constructed in compliance with all statutory and regulatory requirements, including design and construction criteria, and the City Regulations in effect on the Effective Date.

(b) Water and Wastewater Infrastructure. The City shall have the right to inspect the construction of all water and wastewater Public Infrastructure at any time, which water and wastewater shall be inspected, designed and constructed in compliance with all statutory and

regulatory requirements, including design and construction criteria, and the City Regulations in effect on the Effective Date.

(c) The City's inspections shall not release the Developer from its responsibility to construct, or ensure the construction of, adequate Public Infrastructure in accordance with approved engineering plans, construction plans, and other approved plans related to development of the Property.

(d) From and after the inspection and acceptance by the City of the Public Infrastructure and any other dedications required under this Agreement, such improvements and dedications shall be owned by the City.

(e) Approval of Plats/Plans. Approval by the City, the City's engineer or other City employee or representative, of any plans, designs or specifications submitted by the Developer pursuant to this Agreement or pursuant to City Regulations shall not constitute or be deemed to be a release of the responsibility and liability of the Developer, his engineer, employees, officers or agents for the accuracy and competency of their design and specifications. Further, any such approvals shall not be deemed to be an assumption of such responsibility and liability by the City for any defect in the design and specifications prepared by the Developer or the Developer's engineer, or engineer's officers, agents, servants or employees, it being the intent of the parties that approval by the City's engineer signifies the City's approval on only the general design concept of the improvements to be constructed. All plats and plans of the Developer related to the Property shall meet the requirements of the City Regulations in effect on the Effective Date.

3.3 Eminent Domain. The Developer agrees to use commercially reasonable efforts to obtain all third-party rights-of-way, consents, or easements, if any, required for the Public Infrastructure. If, however, the Developer is unable to obtain such third-party rights-of-way, consents, or easements within ninety (90) days of commencing efforts to obtain the needed easements and right of way, the City agrees to take reasonable steps to secure same (subject to City Council authorization after a finding of public necessity) through the use of the City's power of eminent domain. The Developer shall be responsible for funding all reasonable and necessary legal proceeding/litigation costs, attorney's fees and related expenses, and appraiser and expert witness fees (collectively, "Eminent Domain Fees") paid or incurred by the City in the exercise of its eminent domain powers and shall escrow with a mutually agreed upon escrow agent the City's reasonably estimated Eminent Domain Fees both in advance of the initiations of each eminent domain proceeding and as funds are needed by the City. Provided that the escrow fund remains appropriately funded in accordance with this Agreement, the City will use all reasonable efforts to expedite such condemnation procedures so that the Public Infrastructure can be constructed as soon as reasonably practicable. If the City's Eminent Domain Fees exceed the amount of funds escrowed in accordance with this paragraph, the Developer shall deposit additional funds as requested by the City into the escrow account within ten (10) days after written notice from the City. City is not required to continue pursuing the eminent domain unless and until the Developer deposits addition Eminent Domain Fees with the City. Any unused escrow funds will be refunded to the Developer with thirty (30) days after any condemnation award or settlement becomes final and non-appealable. Nothing in this subsection is intended to constitute a delegation of the police powers or governmental authority of the City, and the City reserves the right, at all times, to control its proceedings in eminent domain.

3.4 Operation and Maintenance.

(a) Upon inspection, approval, and acceptance of the water and wastewater Public Infrastructure or any portion thereof, the City shall maintain and operate the accepted water and wastewater infrastructure or any accepted portion thereof and provide water and wastewater service to the Property.

(b) Upon inspection, approval, and acceptance of the roadway and storm water Public Infrastructure or any portion thereof, the City shall maintain and operate the roadways and storm water infrastructure or any accepted portion thereof.

ARTICLE IV **DEVELOPMENT REGULATIONS**

4.1 Full Compliance with City Standards.

(a) Development of the Property shall be subject to the City Regulations and uniform engineering design standards, as amended, except to the extent that the Development Standards, attached as **Exhibit C**, may vary from those terms, then the Development Standards shall control.

4.2 Development Standard Revisions. The City Manager of the City may administratively approve the following “minor revisions” to the Development Standards: (a) an increase in the height of any structure by five percent (5%) or less; (b) a setback reduction of ten percent (10%) or less; (c) an increase in lot coverage of five percent (5%) or less; and (d) a reduction in off-street parking of five percent (5%) or less. The City Council may permit exceptions to strict compliance with the Development Standards when the Developer demonstrates, to the reasonable satisfaction of the City Council, that the requested exception: (a) is not contrary to the public interest; (b) does not cause injury to adjacent property; and (c) does not materially adversely affect the quality of the development.

4.3 Replat. The Developer may submit a replat for all or any portion of the Property.

4.4 Vested Rights. This Agreement shall constitute a “permit” under Chapter 245 of the Texas Local Government Code that is deemed filed with the City on the Effective Date. The Developer does not, by entering into this Agreement, waive any rights or obligations arising under Chapter 245 of the Texas Local Government Code.

4.5 Conflicts. In the event of any conflict between this Agreement and any City Regulation, this Agreement, including any exhibit or attachment, shall control.

ARTICLE V **DEVELOPMENT PROCESS AND CHARGES**

5.1 Development, Review and Inspection Fees. Except for any fees related to zoning of the Property as provided in Section 6.2, development of any portion of the Property shall be subject to payment to the City of the applicable fees according to the City Regulations, including without limitation fees relating to platting and any other charges and fees not expressly exempted or altered by the terms of this Agreement.

5.2 Development Agreement Fees. The Parties agree the Developer shall pay at the time of request for each development agreement application related to the Property a \$2,500.00 fee, plus the cost of fees for professional review, including but not limited to legal, engineering, land planning, and financial analysis, development analysis, and engineering consultant review.

5.3 ROW Dedication. The Developer shall, either by plat or by deed as requested by the City, dedicate the right-of-way area for roads reflected on the Master Thoroughfare Plan.

5.4 INDEMNIFICATION AND HOLD HARMLESS. THE DEVELOPER AND ITS SUCCESSORS AND ASSIGNS SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES AND AGENTS (EACH AN "INDEMNIFIED PARTY"), FROM AND AGAINST ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECTED OR PUT: (I) BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE DEVELOPER; (II) THE NEGLIGENT DESIGN, ENGINEERING AND/OR CONSTRUCTION BY THE DEVELOPER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY THE DEVELOPER OF ANY OF THE PUBLIC IMPROVEMENTS ACQUIRED FROM THE DEVELOPER HEREUNDER; (III) THE DEVELOPER'S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS IN THE PROVISION AND/OR CONSTRUCTION OF THE PUBLIC IMPROVEMENTS; (IV) ANY CLAIMS OF PERSONS EMPLOYED BY THE DEVELOPER OR ITS AGENTS TO CONSTRUCT THE PUBLIC INFRASTRUCTURE; OR (V) ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER'S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES, AND/OR TRUSTEES, REGARDING OR RELATED TO THE PUBLIC IMPROVEMENTS OR ANY AGREEMENT OR RESPONSIBILITY REGARDING THE PUBLIC INFRASTRUCTURE, INCLUDING CLAIMS AND CAUSES OF ACTION WHICH MAY ARISE OUT OF THE PARTIAL NEGLIGENCE OF AN INDEMNIFIED PARTY (THE "CLAIMS"). NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY. DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS, AND CITY IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE.

IN ITS REASONABLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER IN FULFILLING ITS OBLIGATIONS HEREUNDER TO DEFEND AND INDEMNIFY THE INDEMNIFIED PARTIES, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. THE INDEMNIFIED PARTIES RESERVE THE RIGHT TO PROVIDE A PORTION OR ALL OF THEIR/ITS OWN DEFENSE, AT THEIR/ITS SOLE COST; HOWEVER, INDEMNIFIED PARTIES ARE UNDER NO OBLIGATION TO DO SO.

ANY SUCH ACTION BY AN INDEMNIFIED PARTY IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND INDEMNIFIED PARTIES OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY INDEMNIFIED PARTIES PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN BUSINESS DAYS OF WRITTEN NOTICE FROM AN INDEMNIFIED PARTY THAT IT IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, INDEMNIFIED PARTIES SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON THEIR OWN BEHALF, AND DEVELOPER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL REASONABLE COSTS INCURRED BY INDEMNIFIED PARTIES.

THIS SECTION 5.7 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

THE PARTIES AGREE AND STIPULATE THAT THIS INDEMNIFICATION COMPLIES WITH THE CONSPICUOUSNESS REQUIREMENT AND THE EXPRESS NEGLIGENCE TEST, AND IS VALID AND ENFORCEABLE AGAINST THE DEVELOPER.

5.5 DEVELOPER'S ACKNOWLEDGEMENT OF THE CITY'S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/DEVELOPERS' WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.

(A) THE DEVELOPER ACKNOWLEDGES AND AGREES THAT:

(I) THE PUBLIC INFRASTRUCTURE TO BE CONSTRUCTED UNDER THIS AGREEMENT, AND THE FEES TO BE IMPOSED BY THE CITY PURSUANT TO THIS AGREEMENT, REGARDING THE PROPERTY, IN WHOLE OR IN PART, DO NOT CONSTITUTE A:

- (a) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;**
- (b) VIOLATION OF THE TEXAS LOCAL GOVERNMENT CODE, AS IT EXISTS OR MAY BE AMENDED; AND/OR**
- (c) NUISANCE.**

(II) ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE AMOUNT OF THE DEVELOPER'S FINANCIAL AND INFRASTRUCTURE CONTRIBUTION FOR THE PUBLIC INFRASTRUCTURE IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT THE DEVELOPER'S ANTICIPATED IMPROVEMENTS AND DEVELOPER'S DEVELOPMENT PLACES ON THE CITY'S INFRASTRUCTURE.

(III) ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE DEVELOPER HEREBY AGREES AND ACKNOWLEDGES, WITHOUT WAIVING CLAIMS RELATED SOLELY TO EXACTIONS NOT CONTEMPLATED BY THIS AGREEMENT, THAT: (A) ANY PROPERTY

WHICH IT CONVEYS TO THE CITY OR ACQUIRES FOR THE CITY PURSUANT TO THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE BENEFIT RECEIVED BY THE DEVELOPER FOR SUCH LAND, AND THE DEVELOPER HEREBY WAIVES ANY CLAIM THEREFOR THAT IT MAY HAVE; AND (B) ALL PREREQUISITES TO SUCH DETERMINATION OF ROUGH PROPORTIONALITY HAVE BEEN MET, AND ANY VALUE RECEIVED BY THE CITY RELATIVE TO SAID CONVEYANCE IS RELATED BOTH IN NATURE AND EXTENT TO THE IMPACT OF THE DEVELOPMENT OF THE PROPERTY ON THE CITY'S INFRASTRUCTURE. ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE DEVELOPER FURTHER AGREES TO WAIVE AND RELEASE ALL CLAIMS IT MAY HAVE AGAINST THE CITY UNDER THIS AGREEMENT RELATED TO ANY AND ALL: (A) CLAIMS OR CAUSES OF ACTION BASED ON ILLEGAL OR EXCESSIVE EXACTIONS; AND (B) ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY THE UNITED STATES SUPREME COURT IN *DOLAN V. CITY OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE PUBLIC INFRASTRUCTURE.

(B) THIS SECTION 5.8 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE VI **TERM**

The term of this Agreement shall be for a period of fifteen (15) years after the Effective Date. The Parties may extend the term of this Agreement if they execute an agreement in writing. Notwithstanding anything to the contrary in this Agreement, this Agreement shall automatically terminate, be *void ab initio* and shall be of no further force or effect if the Developer does not sign an annexation petition presented by the City or submit a petition for annexation within 14 days of being requested to do so by the City.

ARTICLE VII **ANNEXATION AND POST-ANNEXATION MATTERS**

7.1 Annexation. Following Developer's acquisition of the Property, and within ten (10) days of being requested to do so by the City which shall not be longer than one (1) year after Developer's acquisition/closing, Developer agrees to (a) submit a voluntary annexation petition for the Property, or (b) if requested by the City, sign a petition for annexation presented to Developer by the City that may contain additional acres (together all acreage the "Petition Property"). Developer agrees to execute and supply any and all instruments and/or other documentation necessary for the City to annex the Petition Property, into the City's corporate limits. The annexation service plan for the Property shall be consistent with the terms of this Agreement. If the City is unable to complete the annexation of the Petition Property for any reason, including but not limited to procedural error or legal challenge, Developer shall execute another voluntary annexation petition for the Petition Property, within ten (10) days of being requested to do so. Prior to annexation of the Petition Property, the City shall have considered this Agreement, shall have submitted to

Developer, and Developer shall review and approve, an annexation service plan which service plan shall be considered a binding, and mutually agreed upon, contractual obligation between the City and Developer. Developer acknowledges and agrees that this Section 7.1 was a material inducement for the City to enter into this Agreement with Developer.

7.2 Zoning of Property. While the Parties expressly acknowledge that the Property will be voluntarily annexed in accordance with Section 7.1 of this Agreement, the Parties agree that the the Development Standards, and the applicable provisions of this Agreement memorialize the plan for development of the Property as provided for in Section 212.172 of the Texas Local Government Code. The City shall consider zoning the Property consistent with the Development Standards, and applicable provisions of this Agreement contemporaneously with annexation of the Property. Through this Agreement, the Developer expressly consents and agrees to the zoning of the Property consistent with and as contemplated by this Section.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES

8.1 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given in writing (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the alleged failure, but in no event more than 30 days after written notice of the alleged failure has been given). Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured and within such 30-day period gives written notice to the non-defaulting Party of the details of why the cure will take longer than 30 days with a statement of how many days are needed to cure.

8.2 Remedies. If a Party is in default, the aggrieved Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, or actions for specific performance, mandamus, or injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL ENTITLE THE AGGRIEVED PARTY TO TERMINATE THIS AGREEMENT OR LIMIT THE TERM OF THIS AGREEMENT.

ARTICLE IX

ASSIGNMENT AND ENCUMBRANCE

9.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. The obligations, requirements, or covenants to develop the Property in this Agreement shall be able to be assigned to any affiliate or related entity of the Developer, or any lien holder on the Property, without the prior written consent of the City. The obligations, requirements or covenants to the development of the Property shall not be assigned by Developer to a non-affiliate or non-related entity of the Developer without the prior written consent of the City Manager, which consent shall not be unreasonably withheld if the assignee demonstrates financial ability to perform. An assignee shall be considered a "Party" for the purposes of this Agreement. Each assignment shall be in writing executed by Developer and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this

Agreement applies or relates to the obligations, rights, title, or interests being assigned, and shall contain a representation by the assignee acknowledged by a notary public that the assignee has the financial ability to timely perform the assigned obligations. A copy of each fully executed assignment to an assignee shall be provided to all Parties within 15 days after execution. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the City approves the release in writing. Developer shall maintain written records of all assignments made by Developer to assignees, including a copy of each executed assignment and, upon written request from any Party or assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party's sale, assignment, transfer, or other conveyance of any interest in this Agreement or the Property.

9.2 Encumbrance by City. The City shall not collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of its rights, title, or interest under this Agreement, except for the fees and charges to be collected under Article IV, without the Developer's prior written consent, which consent shall not be unreasonably withheld.

9.3 Assignees as Parties. An assignee authorized in accordance with this Agreement and for which notice of assignment has been provided in accordance with this Agreement shall be considered a "Party" for the purposes of this Agreement. With the exception of the End-Buyer (as defined in Section 10.1 below) of a lot within the Property, any person or entity upon becoming an owner of land or upon obtaining an ownership interest in any part of the Property shall be deemed to be a "Developer" and have all of the obligations of the Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.

9.4 No Third-Party Beneficiaries. This Agreement only inures to the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

9.5 Notice of Assignment. In addition to the other requirements in this Agreement, the following requirements shall apply in the event that the Developer sells, assigns, transfers, or otherwise conveys the Property or any part thereof and/or any of its rights or benefits under this Agreement:

- (a) within 30 days after the effective date of any such sale, assignment, transfer, or other conveyance, the Developer must provide written notice of same to the City;
- (b) the notice must describe the extent to which any rights or benefits under this Agreement have been sold, assigned, transferred, or otherwise conveyed;
- (c) the notice must state the name, mailing address, and telephone contact information of the person(s) acquiring any rights or benefits as a result of any such sale, assignment, transfer, or other conveyance; and
- (d) the notice must be signed by a duly authorized person representing the Developer.

ARTICLE X

RECORDATION AND ESTOPPEL CERTIFICATES

10.1 Binding Obligations. This Agreement and all amendments hereto (including amendments to the Concept Plan as allowed in this Agreement) and assignments hereof shall be recorded in the deed records of Collin County. This Agreement binds and constitutes a covenant running with the

Property. Upon the Effective Date, this Agreement shall be binding upon the Parties and their successors and assigns permitted by this Agreement and forms a part of any other requirements for development within the Property. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns as permitted by this Agreement and upon the Property; however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer/homebuyer of a fully developed and improved lot (“an End-Buyer”) and shall not negate the End-Buyer’s obligation to comply with the City's Regulations, including but not limited to zoning ordinances, as they currently exist or may be amended.

10.2 Estoppel Certificates. From time to time upon written request of the Developer, if needed to facilitate a sale of all or a portion of the Property or a loan secured by all or a portion of the Property, the City will execute to its reasonable knowledge and belief, a written estoppel certificate in a form and substance satisfactory to the City identifying any obligations of the Developer under this Agreement that are in default. The Developer shall pay the City \$1,000 at the time of the Developer’s requests for an estoppel certificate for each request in excess of one per calendar year.

ARTICLE XI

ADDITIONAL PROVISIONS

11.1 Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the City Council of the City; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

11.2 Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when personally delivered or transmitted by telecopy or facsimile transmission (which shall be immediately confirmed by telephone and shall be followed by mailing an original of the same within 24 hours after such transmission) or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the City:

Attn: City Manager
City of Celina
142 North Ohio
Celina, TX 75009
Email: jlaumer@celina-tx.gov

With a copy to: Attn: Julie Fort
 Messer, Rockefeller & Fort, PLLC
 6371 Preston Road, Suite 200
 Frisco, Texas 75034
 Email: julie@txmunicipallaw.com

With a copy to: Attn: Lance Vanzant
 Hayes, Berry, White & Vanzant, LLP
 6371 Preston Road, Suite 200
 Frisco, Texas 75034
 Email: lvanzant@hbwvllaw.com

To the Owner: Allen Gandy
 G&N Estates, LLC
 5967 Shy Drive
 Prosper, Texas 75034
 Email: allengandy@yahoo.com

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

11.3 Interpretation. The Parties acknowledge that each has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.

11.4 Time. In this Agreement, time is of the essence and compliance with the times for performance herein is required.

11.5 Authority and Enforceability. The City represents and warrants that this Agreement has been approved by official action by the City Council of the City in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the City has been duly authorized to do so. The Developer represents and warrants that this Agreement has been approved by appropriate action of the Developer, and that the individual executing this Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.

11.6 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this

Agreement. This Agreement shall not be modified or amended except in writing signed by the Parties.

11.7 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

11.8 Applicable Law; Venue. This Agreement is entered into pursuant to, and is to be construed and enforced in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Collin County. Exclusive venue for any action to enforce or construe this Agreement shall be in the Collin County District Court.

11.9 Non-Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

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

11.11 Further Documents. The Parties agree that at any time after execution of this Agreement, they will, upon request of another Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Agreement. This provision shall not be construed as limiting or otherwise hindering the legislative discretion of the City Council seated at the time that this Agreement is executed or any future City Council.

11.12 Exhibits. The following exhibits are attached to this Agreement and are incorporated herein for all purposes:

- | | |
|-----------|-------------------------------|
| Exhibit A | Legal Description of Property |
| Exhibit B | Survey of Property |
| Exhibit C | Development Standards |

11.13 Governmental Powers; Waivers of Immunity. By its execution of this Agreement, the City does not waive or surrender any of its respective governmental powers, immunities, or rights except as provided in this section. The Parties acknowledge that the City waives its sovereign immunity as to suit solely for the purpose of adjudicating a claim under this Agreement. This is an agreement for the provision of goods or services to the City under Section 271.151 et seq. of the Texas Local Government Code.

11.14 Force Majeure. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance, shall give notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term “force majeure” shall include events or circumstances that are not within the reasonable control of Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of good faith, due diligence and reasonable care.

11.15 Amendments. This Agreement cannot be modified, amended, or otherwise varied, except in writing signed by the City and Developer expressly amending the terms of this Agreement.

11.16 Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

[signatures on following pages]

EXECUTED by the City and Developer on the respective dates stated below.

Date: _____

CITY OF CELINA

By: _____

Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

APPROVED AS TO FORM

Julie Fort, Attorney for City

STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on the __ day of _____, 2018 by Sean Terry, the Mayor of the City of Celina, Texas on behalf of said City.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires: _____

Attachment: Celina 40 DA Clean Copy 12-07-18 (Celina 40 Pre-Annexation Development Agreement)

Owner:

G&N Estates, LLC
a Texas limited liability company

By:_____

Name: Allen Gandy
Title: Owner

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the __ day of _____, 2018 by _____,
a Owner of **G&N Estates, LLC**, a Texas limited liability company on behalf of said limited
liability company.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires:_____

Attachment: Celina 40 DA Clean Copy 12-07-18 (Celina 40 Pre-Annexation Development Agreement)

EXHIBIT A
Legal Description

BEING a tract or parcel of land lying and being situated in the Coleman Watson Survey, Abstract Number 945, Collin County, Texas, being all of a called tract one described in the deed to Jack Walker Moss recorded in Volume 4985, Page 3068 of the Real Property Records of Collin County, Texas, and being more particularly described as follows:

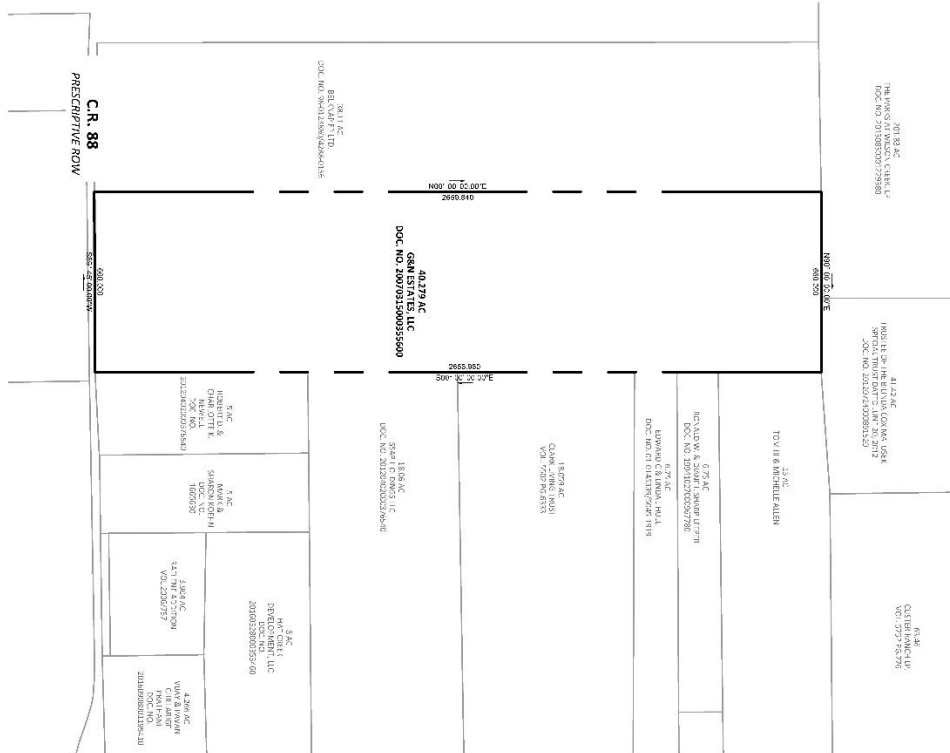
BEGINNING at the northeast corner of said Moss tract and the northwest corner of a tract described in a deed to Tom Allen III, et ux, recorded in volume 2749, page 501 of the real property records of Collin county, Texas and the south line of a tract described in a deed to Billie Leon Cox recorded in Volume 1102, Page 767 of the real property records of Collin County, Texas;

THENCE South with the East line of said Moss tract a distance of 2,656.96 feet to a found 5/8" iron pin at the southeast corner of said Moss tract and the southwest corner of a tract described in a deed to Jamie A. Radebaugh recorded in Volume 6009, Page 4179, Real Property Records, Collin County, Texas, on the north line of a tract described in a deed to Glenn Frank O'Brien, Hazel O'Brien Damstrom, Faye O'Brien Copeland, June O'Brien Lair, and Ermyne O'Brien Messina recorded in volume 2886, Page 967 of the Real Property Records of Collin County, Texas;

THENCE South 89 degrees 45 minutes 00 seconds West with the south line of said Moss tract and the north line of said O'Brien tract a distance of 660.00 feet to a set 1/2" iron pin at the southwest corner of said Moss tract and the southeast corner of a tract described in a deed to Belknap FP LTD recorded in Volume 4288, Page 156 of the Real Property Records of Collin County, Texas;

THENCE North with the West line of said Moss tract and the east line of said Belknap tract a distance of 2,659.84 feet to a set 1/2" iron pin at the northwest corner of said Moss tract and the northeast corner of said Belknap tract and the south line of a tract described in a deed to Bennie G Cox recorded in Volume 1102, Page 747 of the Real Property Records of Collin County, Texas;

THENCE West with the North line of said Moss tract, passing en route the southeast corner of said Bennie G. Cox tract and the southwest corner of said Billie Leon Cox tract, and continuing a distance of 660.00 feet to the point of beginning and containing 40.279 acres of land.



Tom Allen III, et al. recorded in volume 2745, page 501, of the real property records of Collin County, Texas are the south 1/2 of a tract described in a deed to Billie Jean Cox recorded in Volume 110, page 767 of the real property records of Collin County, Texas;

There was a view from said V-09 that a distance of 2,655.96 feet to a found 5/8" iron pin at the southeast corner of said mass tract; and the southwest corner of a tract described as a close to, and A. Caldwell apt. section, in Williamsburg, Page 1175, and "Equity Records, Civil County, Texas, in reference thereto of a tract described in deed to John F. O'Neil, here C.F. Davis et al., Page Official Copyrighted, June 2, 1907, and also in deed to John F. O'Neil, here C.F. Davis et al., Page 2886, of the Real Property Records of Civil County, Texas;

There is an 89 degree 45 minutes 50 seconds west from the south line of said Mass tract and the north line of said 17.7 acre tract, a distance of 666.03 feet to a well 1/2" iron pin at the south-west corner of said Mass tract and the south-west corner of a tract described in a deed to Beltrami AP 17D recorded in Volume 4388, Page 35 of the filed Property Records of Collin County, Texas.

There is north with the west line of said Mass tract and the east line of said Belknap tract a distance of 2,559.88 feet to a 50:50° North pl. in the northwest corner of said Mass tract and the north east corner of said Belknap tract and the south line of a Mass tract called in a deed to the same is (as recorded in Volume 1100, Page 177 of the New Hampshire Records of Coln County, Texas:

It therefore went with the north line of said Mass. road, meeting at the southeast corner of said the lot 6. From that corner the southeast corner of said Littleton Cox road, are separating a distance of 660.00 feet to the point of beginning and containing 40.279 acres of land.

CELESTINE 40

Being a 20/20 survey of hard-earned in the
Caldwell Watson Survey, Abstract No. 495, Collins
Proposed in June, 10/12/2018

CORPORATE

OWNER

6225 S. 20th Ave.,
Suite 200
Tulsa, OK 74106
Tel: (918) 438-1100
Contact: John Gandy

ENGINEERING FIRM

By: Tulsa Engineering,
4401 N. 2nd Ave., Suite 310
Tulsa, OK 74103
Tel: (918) 251-1100
Fax: (918) 251-1102
Contact: Thomas W. Hinkle, P.E.

LABORER

2201 N. 2nd Ave., Suite 200
Tulsa, OK 74103
Tel: (918) 251-1100
Fax: (918) 251-1102
Contact: Thomas W. Hinkle, P.E.

CELESTINE 40

5507 Broadway, LLC
P.O. Box 1000
Tulsa, Oklahoma 74103
Tel: (918) 251-2722/3300
Contact: Mike Currey

EXHIBIT C

Development Standards

LAND USES

The subject property shall be zoned C-1, Retail District and shall abide by the uses listed in the City's approved use chart within the zoning ordinance, and as may be amended in the future. The land use of a hotel is an additional allowed use on the subject property, and the following land uses are further prohibited on the subject property:

- Sexually Oriented Bussinesses (SOBs)
- Outdoor storage/display (exempting home improvement centers)
- Alternative financial services
- Body art facility
- Vice paraphernalia
- Gaming or slot machines (excluding arcades)
- Lewd merchandise sales
- Liquor store
- Pawn shop



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Brooks Wilson, Planning Consultant
 CC: Jason Laumer, City Manager
 Date: December 11, 2018
 Re: The Cottages Development Agreement

Action Requested:

The Celina City Council will conduct a public hearing to consider testimony and act upon a Pre-Annexation Development Agreement by and between the City of Celina, Texas and Trico Development and Land Company. The property is an approximately 50.363 acre tract of land situated within the Ousley and Ford Survey, Abstract No. 490, Collin County, Texas, and is located within the extraterritorial jurisdiction of the City of Celina, generally west of N. Louisiana Street and south of CR 994. (The Cottages) (McAfee)

Owners:

Richard and Janet Smith
 3532 Twin Lakes Drive
 Prosper, TX 75078

Applicant:

Kirkman Engineering
 4821 Merlot Avenue, Suite 201
 Grapevine, TX 76051

Developer:

Trico Development and Land Company
 102 E. Broadway Street, Suite 940
 Prosper, TX 75078

Background Information:

A development agreement establishes the responsibilities and obligations of both the developer and City. In addition, the agreement determines the level of city participation on various monetary aspects of the development. The applicant is proposing to annex approximately 50.363 acres into the City following the approval of the Pre-annexation Development Agreement. The applicant intends to develop a single-family residential community located west of Business 289 (N. Louisiana Street) on the south side of CR 944. A maximum of 320 single-family homes are planned.

The development, called "The Cottages," will include two types of lot sizes: thirty-five (35) feet in width with access provided via alleys and forty-five (45) feet in width with front facing garages using a shared

driveway system (see Driveway Detail). A divided entry feature is shown off CR 994 (future O'Brien Drive). Two other entries to the property will be provided off CR 994. Additional entries will be provided off future J. Fred Smith Parkway with future phases of the development. Amenities and open space is centered in the project with a round-about for ease of traffic movement north and south through the residential community.

This property is located in Celina's extraterritorial jurisdiction (ETJ). Located approximately one-half mile north of the Old-Town Residential District, the size and architecture of the homes are intended to blend with the downtown residential character which consists of smaller lot sizes along with smaller homes. The residential properties located on the north side of CR 994 are acreage lots - ranging from 10 acres to 20 acres in size - and also located within the ETJ. The properties to the west, south, and east are vacant and likely being held for future development. Between the subject property and N. Louisiana Street are Frisco Construction Services and GBT Celina 10, both industrial uses, with the Construction Services 7.5 acre tract being in the ETJ and Celina 10 being within the city limits. As the downtown area moves northward, demand for homes and other services will naturally encroach into the ETJ with potential conflict with existing land uses.

Board Review/Citizen Input:

At the Planning and Zoning Commission meeting held on November 20, 2018, the Commission recommended approval by a vote of 5 to 1.

A notice of the City Council public hearing was published in *The Celina Record* on November 2, 2018. Notices of the public hearing have been sent to all owners of property residing within the city limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property.

The public input given at the Planning & Zoning Commission was generally negative toward the small lot, dense development standards being proposed. The residents of the acreage lots expressed a potential loss of their "rural way of life."

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed the ordinance and deemed it acceptable for form.

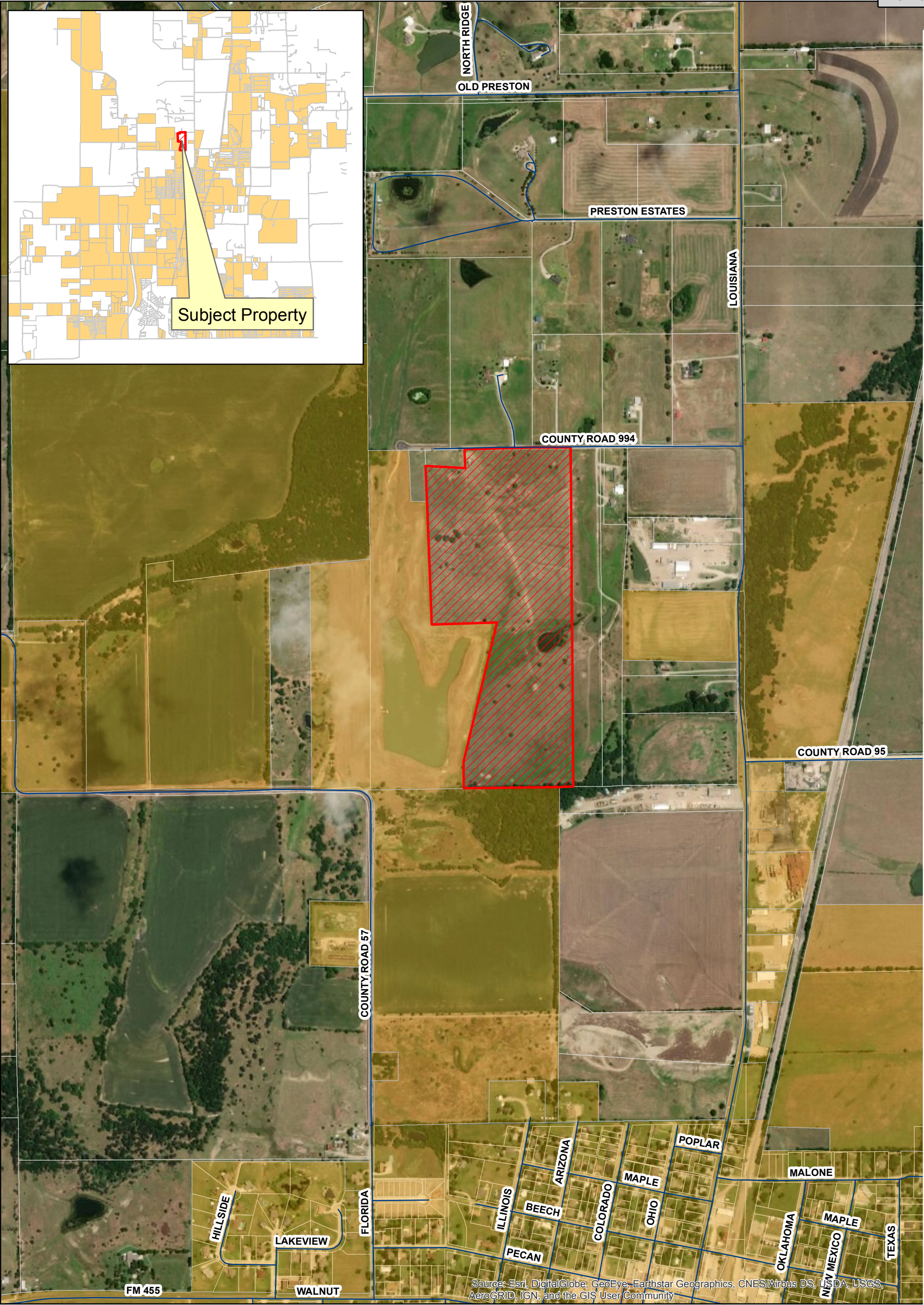
Supporting Documents:

Location Map

Proposed Agreement

Staff Recommendation:

Staff recommends approval.



Attachment: The Cottages Location Map (The Cottages Development Agreement)

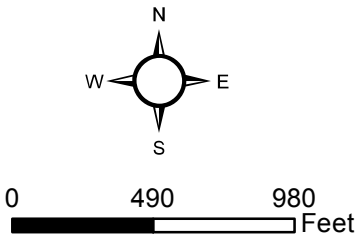


The Cottages Location Map

Date: 10/22/2018

Legend

- Roads
- The Cottages
- Parcels
- City Limits



THE COTTAGES DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into by and between **Trico Development and Land Company**, (the “Developer”) and the **City of Celina** (the “City”), to be effective on the date upon which the last of all of the Parties has approved and duly executed this Agreement (“Effective Date”).

ARTICLE I RECITALS

WHEREAS, certain terms used herein are defined in Article II; and

WHEREAS, the City is a home-rule municipality of the State of Texas located within Denton County and Collin County; and

WHEREAS, the Developer and the City (which are sometimes individually referred to as a “Party” and collectively as the “Parties”) desire to enter into this Agreement; and

WHEREAS, Richard C. Smith and Janet L. Smith (“Property Owners”) own an approximately 50.363 acre tract of land (the “Property”); and

WHEREAS, the Property is located wholly within the extraterritorial jurisdiction (the “ETJ”) of the City and described by metes and bounds in **Exhibit A** and depicted on **Exhibit B**; and

WHEREAS, the Developer intends to purchase and develop the Property as a master planned residential development, which consists of approximately 322 single-family homes; and

WHEREAS, the Parties intend for this Agreement to establish certain restrictions and impose certain commitments in connection with the development of the Property; and

WHEREAS, the Parties intend that the Property will be developed in accordance with the agreed concept plan (the “Concept Plan”), attached hereto as **Exhibit C-1**, and the development standards set forth in certain proposed development zoning standards (the “Development Standards”), which Development Standards are attached hereto as **Exhibit D**; and

WHEREAS, the Developer intends to construct and/or make financial contributions to certain on-site and/or off-site public improvements to serve the development of the Property (the “Public Infrastructure”); and

WHEREAS, in consideration of the Developer’s agreements contained herein to develop the Property as envisioned by the Parties, including dedication of open space to be owned and maintained by a homeowners’ association, as contemplated by **Exhibit D**, and to provide economic incentives for the development of the Property, the City intends to (a) set roadway capital recovery fees not to exceed \$2,000.00 per single-family residential lot, (b) set water capital recovery fees not to exceed \$2,500.00 per single-family residential lot, (c) set wastewater capital recovery fees

not to exceed \$2,500.00 per single-family residential lot, and (d) waive the requirement for payment of any Impact Fees; and

WHEREAS, the Parties agree upon a fixed payment for the Technology Fees, to be collected upon the issuance of a single-family residential lot's building permit, not to exceed \$500.00 per lot; and

WHEREAS, the Parties agree upon a fixed payment for Park Fees, which includes recreation and open space, to be collected upon the issuance of a single-family residential lot's building permit, not to exceed \$1,500.00 per lot, in lieu of any dedications of land; and

WHEREAS, the City holds the certificates of convenience and necessity (the "CCNs") to provide retail water and wastewater service to the Property and the Parties intend for the City to provide water and wastewater service to the Property; and

WHEREAS, as the Property is within the City's extraterritorial jurisdiction, the Parties have the authority to enter into this Agreement pursuant to Section 212.171 *et seq* of the Texas Local Government Code; and

WHEREAS, the Parties intend that this Agreement is a development agreement as provided for by state law in Section 212.171 *et seq* of the Texas Local Government Code; and

WHEREAS, this Agreement shall constitute a "permit" under Chapter 245 of the Texas Local Government Code and as allowed pursuant to Section 212.172(g) of the Texas Local Government Code.

NOW, THEREFORE, for and in consideration of the mutual covenants of the Parties set forth in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree as follows:

ARTICLE II **GENERAL TERMS AND DEFINITIONS**

The recitals to this Agreement are incorporated herein for all purposes. Unless the context requires otherwise, the following terms shall have the meanings hereinafter set forth:

City Council means the City Council of the City of Celina.

City Regulation(s) means any ordinance, rule, regulation, standard, policy, order, guideline or other City-adopted or City-enforced requirement.

Concept Plan means the concept plan as shown in **Exhibit C-1**.

Developer means **Trico Development and Land Company**, a Texas Limited Liability Company.

Impact Fees means as defined in Chapter 395 of the Texas Local Government Code.

Park Fees means the fees paid in lieu of a donation of property to be used as a park.

Property means the real property described by metes and bounds in **Exhibit A** and depicted on **Exhibit B**.

Public Infrastructure means water, wastewater, drainage, roadway, and other public infrastructure necessary to serve the full development of the Property.

Technology Fees means the fees charged for telephone, cable, internet, or similar utility connections in accordance with Section 5.3.

ARTICLE III **PUBLIC INFRASTRUCTURE**

3.1 Public Infrastructure. Except as otherwise expressly provided for in this Agreement, all Public Infrastructure shall be designed, constructed and installed by Developer in compliance with the City Regulations in effect on the Effective Date and the City's uniform engineering design standards in effect on the Effective Date. Construction and/or installation of Public Infrastructure shall not begin until complete and accurate plans and specifications have been approved by the City. Each of such contracts shall require a two-year maintenance bond following completion, which bond shall run in favor of the Party responsible for maintenance of the completed Public Infrastructure. The Public Infrastructure will be installed within the public right-of-way or in easements granted to the City. The following offsite improvements will be required as part of this development:

Phase 1 (up to 125 lots):

- Construct approximately 650 feet of a 15 inch sewer line from J. Fred Smith Parkway to the point of connection with the existing 21 inch sewer line located south of J. Fred Smith Parkway.
- Construct approximately 1,300 feet of O'Brien Drive (CR 994) from N. Louisiana Drive (Business 289) to the eastern edge of the proposed development as an asphalt roadway.

Phase 2 (over 125 lots):

- Construct the 12 inch water line to create a looped system.

Phase 3 (southern half – south of floodplain):

- Construct approximately 700 feet of J Fred Smith Parkway as a 28 feet wide concrete roadway from the western edge of the proposed development to N Florida Drive (CR 57) to serve as a second point of connection.

3.2 Inspections, Acceptance of Public Infrastructure.

(a) Roadway and Storm Infrastructure. The City shall have the right to inspect, at any time, the construction of all roadway and storm water Public Infrastructure, and any related Public Infrastructure necessary to support the proposed development within the Property, which shall be

inspected, designed and constructed in compliance with all statutory and regulatory requirements, including design and construction criteria, and the City Regulations in effect on the Effective Date.

(b) Water and Wastewater Infrastructure. The City shall have the right to inspect the construction of all water and wastewater Public Infrastructure at any time, which water and wastewater shall be inspected, designed and constructed in compliance with all statutory and regulatory requirements, including design and construction criteria, and the City Regulations in effect on the Effective Date.

(c) The City's inspections shall not release the Developer from its responsibility to construct, or ensure the construction of, adequate Public Infrastructure in accordance with approved engineering plans, construction plans, and other approved plans related to development of the Property.

(d) From and after the inspection and acceptance by the City of the Public Infrastructure and any other dedications required under this Agreement, such improvements and dedications shall be owned by the City.

(e) Approval of Plats/Plans. Approval by the City, the City's engineer or other City employee or representative, of any plans, designs or specifications submitted by the Developer pursuant to this Agreement or pursuant to City Regulations shall not constitute or be deemed to be a release of the responsibility and liability of the Developer, his engineer, employees, officers or agents for the accuracy and competency of their design and specifications. Further, any such approvals shall not be deemed to be an assumption of such responsibility and liability by the City for any defect in the design and specifications prepared by the Developer or the Developer's engineer, or engineer's officers, agents, servants or employees, it being the intent of the parties that approval by the City's engineer signifies the City's approval on only the general design concept of the improvements to be constructed. All plats and plans of the Developer related to the Property shall meet the requirements of the City Regulations in effect on the Effective Date.

3.3 Eminent Domain. The Developer agrees to use commercially reasonable efforts to obtain all third-party rights-of-way, consents, or easements, if any, required for the Public Infrastructure. If, however, the Developer is unable to obtain such third-party rights-of-way, consents, or easements within ninety (90) days of commencing efforts to obtain the needed easements and right of way, the City agrees to take reasonable steps to secure same (subject to City Council authorization after a finding of public necessity) through the use of the City's power of eminent domain. The Developer shall be responsible for funding all reasonable and necessary legal proceeding/litigation costs, attorney's fees and related expenses, and appraiser and expert witness fees (collectively, "Eminent Domain Fees") paid or incurred by the City in the exercise of its eminent domain powers and shall escrow with a mutually agreed upon escrow agent the City's reasonably estimated Eminent Domain Fees both in advance of the initiations of each eminent domain proceeding and as funds are needed by the City. Provided that the escrow fund remains appropriately funded in accordance with this Agreement, the City will use all reasonable efforts to expedite such condemnation procedures so that the Public Infrastructure can be constructed as soon as reasonably practicable. If the City's Eminent Domain Fees exceed the amount of funds escrowed in accordance with this paragraph, the Developer shall deposit additional funds as requested by the City into the escrow account within ten (10) days after written notice from the

City. City is not required to continue pursuing the eminent domain unless and until the Developer deposits addition Eminent Domain Fees with the City. Any unused escrow funds will be refunded to the Developer with thirty (30) days after any condemnation award or settlement becomes final and non-appealable. Nothing in this subsection is intended to constitute a delegation of the police powers or governmental authority of the City, and the City reserves the right, at all times, to control its proceedings in eminent domain.

3.4 Operation and Maintenance.

(a) Upon inspection, approval, and acceptance of the water and wastewater Public Infrastructure or any portion thereof, the City shall maintain and operate the accepted water and wastewater infrastructure or any accepted portion thereof and provide water and wastewater service to the Property.

(b) Upon inspection, approval, and acceptance of the roadway and storm water Public Infrastructure or any portion thereof, the City shall maintain and operate the roadways and storm water infrastructure or any accepted portion thereof.

(c) A homeowner's association shall be established, it shall maintain and operate the open spaces, including but not limited to trails, common areas, right-of-way irrigation systems, right-of-way landscaping, screening walls, and any other common improvements or appurtenances. Said improvements shall not be maintained and operated by the City unless the Parties agree in writing to the terms and conditions of maintenance and operation by the City.

ARTICLE IV **DEVELOPMENT REGULATIONS**

4.1 Full Compliance with City Standards.

(a) Development of the Property shall be subject to the City Regulations and uniform engineering design standards, as amended, except to the extent that the Concept Plan, attached as **Exhibit C** and the Development Standards, attached as **Exhibit D**, may vary from those terms, then the Concept plan and the Development Standards shall control.

(b) The Parties agree the Concept Plan was created by the Developer for illustrating the boundary, lot mix, and general layout of the project. Any amendment to the Concept Plan shall be considered an amendment to this Agreement and shall replace the attached Concept Plan and become a part of this Agreement.

4.2 Development Standard Revisions. The City Manager of the City may administratively approve the following "minor revisions" to the Development Standards: (a) an increase in the height of any structure by five percent (5%) or less; (b) a setback reduction of ten percent (10%) or less; (c) an increase in lot coverage of five percent (5%) or less; and (d) a reduction in off-street parking of five percent (5%) or less. The City Council may permit exceptions to strict compliance with the Development Standards when the Developer demonstrates, to the reasonable satisfaction of the City Council, that the requested exception: (a) is not contrary to the public interest; (b) does not cause injury to adjacent property; and (c) does not materially adversely affect the quality of the development.

4.3 Replat. The Developer may submit a replat for all or any portion of the Property. Any

replat shall be in general conformance with the Concept Plan, including any amendments.

4.4 Vested Rights. This Agreement shall constitute a “permit” under Chapter 245 of the Texas Local Government Code that is deemed filed with the City on the Effective Date. The Developer does not, by entering into this Agreement, waive any rights or obligations arising under Chapter 245 of the Texas Local Government Code.

4.5 Conflicts. In the event of any conflict between this Agreement and any City Regulation, this Agreement, including any exhibit or attachment, shall control.

ARTICLE V DEVELOPMENT PROCESS AND CHARGES

5.1 Development, Review and Inspection Fees. Except for any fees related to zoning of the Property as provided in Section 7.2, development of any portion of the Property shall be subject to payment to the City of the applicable fees according to the City Regulations, including without limitation fees relating to platting and any other charges and fees not expressly exempted or altered by the terms of this Agreement.

5.2 Capital Recovery Fees. The Developer is responsible for the construction of all on-site and off-site Public Infrastructure, to the extent such Public Infrastructure is necessitated by and attributable to the development of the Property. The Parties agree that such improvements will include all of the capital improvements and facility expansions necessitated by and attributable to the Property; therefore, pursuant to Section 395.001(4) of the Texas Local Government Code, **no Impact Fees levied by the City will apply to the Property**. Instead, the Developer agrees to pay and City agrees to set (a) roadway capital recovery fees not to exceed \$2,000.00 per single-family residential lot, (b) water capital recovery fees not to exceed \$2,500.00 per single-family residential lot, (c) wastewater capital recovery fees not to exceed \$2,500.00 per single-family residential lot, and (d) waive the requirement for payment of any Impact Fees. All capital recovery fees applicable to individual lots will be due and payable by the Developer at the time building permits are issued for each single-family residential lot.

5.3 Technology Fees. The Parties agree upon a fixed payment for the Technology Fees, to be collected upon the issuance of a single-family residential lot’s building permit, not to exceed \$500.00 per lot.

5.4 Park Fees. The Parties agree upon a fixed payment for the Park Fees, which includes recreation and open space, in lieu of a dedication of land, to be collected upon the issuance of a single-family residential lot’s building permit, not to exceed \$1,500.00 per lot.

5.5 Development Agreement Fees. The Parties agree the Developer shall pay at the time of request for each development agreement application related to the Property (a) a \$2,500.00 fee, plus the cost of fees for professional review, including but not limited to legal, engineering, land planning, and financial analysis, development analysis, and engineering consultant review.

5.6 Required Turn Lanes and ROW Dedication. The Developer shall, either by plat or by deed as requested by the City, dedicate the right-of-way area for roads reflected on the Master Thoroughfare Plan generally being approximately one-half of the total right-of-way. Developer

will be required to construct a right and left turn lanes on J. Fred Smith Parkway to the current engineering design standards. In lieu of construction, Developer shall escrow funds necessary for the City to construct a left and right turn lane from J. Fred Smith Parkway at the entrance to the Property, in the amounts and at the time determined by the City Manager under the City Regulations.

5.7 INDEMNIFICATION AND HOLD HARMLESS. THE DEVELOPER AND ITS SUCCESSORS AND ASSIGNS SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES AND AGENTS (EACH AN “INDEMNIFIED PARTY”), FROM AND AGAINST ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECTED OR PUT: (I) BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE DEVELOPER; (II) THE NEGLIGENT DESIGN, ENGINEERING AND/OR CONSTRUCTION BY THE DEVELOPER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY THE DEVELOPER OF ANY OF THE PUBLIC IMPROVEMENTS ACQUIRED FROM THE DEVELOPER HEREUNDER; (III) THE DEVELOPER’S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUB-CONTRACTORS AND SUPPLIERS IN THE PROVISION AND/OR CONSTRUCTION OF THE PUBLIC IMPROVEMENTS; (IV) ANY CLAIMS OF PERSONS EMPLOYED BY THE DEVELOPER OR ITS AGENTS TO CONSTRUCT THE PUBLIC INFRASTRUCTURE; OR (V) ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER’S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES, AND/OR TRUSTEES, REGARDING OR RELATED TO THE PUBLIC IMPROVEMENTS OR ANY AGREEMENT OR RESPONSIBILITY REGARDING THE PUBLIC INFRASTRUCTURE, INCLUDING CLAIMS AND CAUSES OF ACTION WHICH MAY ARISE OUT OF THE PARTIAL NEGLIGENCE OF AN INDEMNIFIED PARTY (THE “CLAIMS”). NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY. DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS, AND CITY IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE.

IN ITS REASONABLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER IN FULFILLING ITS OBLIGATIONS HEREUNDER TO DEFEND AND INDEMNIFY THE INDEMNIFIED PARTIES, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. THE INDEMNIFIED PARTIES RESERVE THE RIGHT TO PROVIDE A PORTION OR ALL OF THEIR/ITS OWN DEFENSE, AT THEIR/ITS SOLE COST; HOWEVER, INDEMNIFIED PARTIES ARE UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY AN INDEMNIFIED PARTY IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER’S OBLIGATION TO DEFEND INDEMNIFIED PARTIES

OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY INDEMNIFIED PARTIES PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN BUSINESS DAYS OF WRITTEN NOTICE FROM AN INDEMNIFIED PARTY THAT IT IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, INDEMNIFIED PARTIES SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON THEIR OWN BEHALF, AND DEVELOPER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL REASONABLE COSTS INCURRED BY INDEMNIFIED PARTIES.

THIS SECTION 5.7 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

THE PARTIES AGREE AND STIPULATE THAT THIS INDEMNIFICATION COMPLIES WITH THE CONSPICUOUSNESS REQUIREMENT AND THE EXPRESS NEGLIGENCE TEST, AND IS VALID AND ENFORCEABLE AGAINST THE DEVELOPER.

5.8 DEVELOPER'S ACKNOWLEDGEMENT OF THE CITY'S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/DEVELOPERS' WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.

(A) THE DEVELOPER ACKNOWLEDGES AND AGREES THAT:

(I) THE PUBLIC INFRASTRUCTURE TO BE CONSTRUCTED UNDER THIS AGREEMENT, AND THE FEES TO BE IMPOSED BY THE CITY PURSUANT TO THIS AGREEMENT, REGARDING THE PROPERTY, IN WHOLE OR IN PART, DO NOT CONSTITUTE A:

- (a) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;
- (b) VIOLATION OF THE TEXAS LOCAL GOVERNMENT CODE, AS IT EXISTS OR MAY BE AMENDED; AND/OR
- (c) NUISANCE.

(II) ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE AMOUNT OF THE DEVELOPER'S FINANCIAL AND INFRASTRUCTURE CONTRIBUTION FOR THE PUBLIC INFRASTRUCTURE IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT THE DEVELOPER'S ANTICIPATED IMPROVEMENTS AND DEVELOPER'S DEVELOPMENT PLACES ON THE CITY'S INFRASTRUCTURE.

(III) ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE DEVELOPER HEREBY AGREES AND ACKNOWLEDGES, WITHOUT WAIVING CLAIMS RELATED SOLELY TO EXACTIONS NOT CONTEMPLATED BY THIS AGREEMENT, THAT: (A) ANY PROPERTY WHICH IT CONVEYS TO THE CITY OR ACQUIRES FOR THE CITY PURSUANT TO THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE

BENEFIT RECEIVED BY THE DEVELOPER FOR SUCH LAND, AND THE DEVELOPER HEREBY WAIVES ANY CLAIM THEREFOR THAT IT MAY HAVE; AND (B) ALL PREREQUISITES TO SUCH DETERMINATION OF ROUGH PROPORTIONALITY HAVE BEEN MET, AND ANY VALUE RECEIVED BY THE CITY RELATIVE TO SAID CONVEYANCE IS RELATED BOTH IN NATURE AND EXTENT TO THE IMPACT OF THE DEVELOPMENT OF THE PROPERTY ON THE CITY'S INFRASTRUCTURE. ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE DEVELOPER FURTHER AGREES TO WAIVE AND RELEASE ALL CLAIMS IT MAY HAVE AGAINST THE CITY UNDER THIS AGREEMENT RELATED TO ANY AND ALL: (A) CLAIMS OR CAUSES OF ACTION BASED ON ILLEGAL OR EXCESSIVE EXACTIONS; AND (B) ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY THE UNITED STATES SUPREME COURT IN *DOLAN V. CITY OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE PUBLIC INFRASTRUCTURE.

(B) THIS SECTION 5.8 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE VI **TERM**

The term of this Agreement shall be for a period of fifteen (15) years after the Effective Date. The Parties may extend the term of this Agreement if they execute an agreement in writing. Notwithstanding anything to the contrary in this Agreement, this Agreement shall automatically terminate, be *void ab initio* and shall be of no further force or effect if the Developer does not purchase the Property by May 31, 2019.

ARTICLE VII **ANNEXATION AND POST-ANNEXATION MATTERS**

7.1 Annexation. Following Developer's acquisition of the Property, and within ten (10) days of being requested to do so by the City which shall not be longer than one (1) year after Developer's acquisition/closing, Developer agrees to (a) submit a voluntary annexation petition for the Property, or (b) if requested by the City, sign a petition for annexation presented to Developer by the City that may contain additional acres (together all acreage the "Petition Property"). Developer agrees to execute and supply any and all instruments and/or other documentation necessary for the City to annex the Petition Property, into the City's corporate limits. The annexation service plan for the Property shall be consistent with the terms of this Agreement. If the City is unable to complete the annexation of the Petition Property for any reason, including but not limited to procedural error or legal challenge, Developer shall execute another voluntary annexation petition for the Petition Property, within ten (10) days of being requested to do so. Prior to annexation of the Petition Property, the City shall have considered this Agreement, shall have submitted to Developer, and Developer shall review and approve, an annexation service plan which service plan shall be considered a binding, and mutually agreed upon, contractual obligation between the City and Developer. Developer acknowledges and agrees that this Section 7.1 was a material inducement for the City to enter into this Agreement with Developer.

7.2 Zoning of Property. While the Parties expressly acknowledge that the Property will be voluntarily annexed in accordance with Section 7.1 of this Agreement, the Parties agree that the Concept Plan, the Development Standards, and the applicable provisions of this Agreement memorialize the plan for development of the Property as provided for in Section 212.172 of the Texas Local Government Code. The City shall consider zoning the Property consistent with the Development Standards, Concept Plan, and applicable provisions of this Agreement contemporaneously with annexation of the Property. Through this Agreement, the Developer expressly consents and agrees to the zoning of the Property consistent with and as contemplated by this Section.

7.3 Platting. The attached Concept Plan exhibit shall function and serve as an approved preliminary plat for the development, allowing for final plats and civil construction plans to be submitted without a preliminary plat.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES

8.1 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given in writing (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the alleged failure, but in no event more than 30 days after written notice of the alleged failure has been given). Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured and within such 30-day period gives written notice to the non-defaulting Party of the details of why the cure will take longer than 30 days with a statement of how many days are needed to cure.

8.2 Remedies. If a Party is in default, the aggrieved Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, or actions for specific performance, mandamus, or injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL ENTITLE THE AGGRIEVED PARTY TO TERMINATE THIS AGREEMENT OR LIMIT THE TERM OF THIS AGREEMENT.

ARTICLE IX

ASSIGNMENT AND ENCUMBRANCE

9.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. The obligations, requirements, or covenants to develop the Property in this Agreement shall be able to be assigned to any affiliate or related entity of the Developer, or any lien holder on the Property, without the prior written consent of the City. The obligations, requirements or covenants to the development of the Property shall not be assigned by Developer to a non-affiliate or non-related entity of the Developer without the prior written consent of the City Manager, which consent shall not be unreasonably withheld if the assignee demonstrates financial ability to perform. An assignee shall be considered a "Party" for the purposes of this Agreement. Each assignment shall be in writing executed by Developer and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this

Agreement applies or relates to the obligations, rights, title, or interests being assigned, and shall contain a representation by the assignee acknowledged by a notary public that the assignee has the financial ability to timely perform the assigned obligations. A copy of each fully executed assignment to an assignee shall be provided to all Parties within 15 days after execution. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the City approves the release in writing. Developer shall maintain written records of all assignments made by Developer to assignees, including a copy of each executed assignment and, upon written request from any Party or assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party's sale, assignment, transfer, or other conveyance of any interest in this Agreement or the Property.

9.2 Encumbrance by City. The City shall not collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of its rights, title, or interest under this Agreement, except for the fees and charges to be collected under Article IV, without the Developer's prior written consent, which consent shall not be unreasonably withheld.

9.3 Assignees as Parties. An assignee authorized in accordance with this Agreement and for which notice of assignment has been provided in accordance with this Agreement shall be considered a "Party" for the purposes of this Agreement. With the exception of the End-Buyer (as defined in Section 10.1 below) of a lot within the Property, any person or entity upon becoming an owner of land or upon obtaining an ownership interest in any part of the Property shall be deemed to be a "Developer" and have all of the obligations of the Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.

9.4 No Third-Party Beneficiaries. This Agreement only inures to the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

9.5 Notice of Assignment. In addition to the other requirements in this Agreement, the following requirements shall apply in the event that the Developer sells, assigns, transfers, or otherwise conveys the Property or any part thereof and/or any of its rights or benefits under this Agreement:

- (a) within 30 days after the effective date of any such sale, assignment, transfer, or other conveyance, the Developer must provide written notice of same to the City;
- (b) the notice must describe the extent to which any rights or benefits under this Agreement have been sold, assigned, transferred, or otherwise conveyed;
- (c) the notice must state the name, mailing address, and telephone contact information of the person(s) acquiring any rights or benefits as a result of any such sale, assignment, transfer, or other conveyance; and
- (d) the notice must be signed by a duly authorized person representing the Developer.

ARTICLE X

RECORDATION AND ESTOPPEL CERTIFICATES

10.1 Binding Obligations. This Agreement and all amendments hereto (including amendments to the Concept Plan as allowed in this Agreement) and assignments hereof shall be recorded in the deed records of Collin County. This Agreement binds and constitutes a covenant running with the

Property. Upon the Effective Date, this Agreement shall be binding upon the Parties and their successors and assigns permitted by this Agreement and forms a part of any other requirements for development within the Property. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns as permitted by this Agreement and upon the Property; however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer/homebuyer of a fully developed and improved lot (“an End-Buyer”) and shall not negate the End-Buyer’s obligation to comply with the City's Regulations, including but not limited to zoning ordinances, as they currently exist or may be amended.

10.2 Estoppel Certificates. From time to time upon written request of the Developer, if needed to facilitate a sale of all or a portion of the Property or a loan secured by all or a portion of the Property, the City will execute to its reasonable knowledge and belief, a written estoppel certificate in a form and substance satisfactory to the City identifying any obligations of the Developer under this Agreement that are in default. The Developer shall pay the City \$1,000 at the time of the Developer’s requests for an estoppel certificate for each request in excess of one per calendar year.

ARTICLE XI

ADDITIONAL PROVISIONS

11.1 Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the City Council of the City; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

11.2 Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when personally delivered or transmitted by telecopy or facsimile transmission (which shall be immediately confirmed by telephone and shall be followed by mailing an original of the same within 24 hours after such transmission) or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the City:

Attn: City Manager
City of Celina
142 North Ohio
Celina, TX 75009
Email: jlaumer@celina-tx.gov

With a copy to:

Attn: Julie Fort
Messer, Rockefeller & Fort, PLLC
6371 Preston Road, Suite 200
Frisco, Texas 75034
Email: julie@txmunicipallaw.com

With a copy to: Attn: Lance Vanzant
Hayes, Berry, White & Vanzant, LLP
6371 Preston Road, Suite 200
Frisco, Texas 75034
Email: lvanzant@hbwvllaw.com

To the Developer: Adam James
Trico Development and Land Company
102 E. Broadway Street, Suite 940
Prosper, Texas 75078
Email: adam@tricolandco.com

With a copy to: Richard and Janet Smith
3532 Twin Lakes Drive
Prosper, Texas 75078

With a copy to: Steve Rumsey
4336 Marsh Ridge Road
Carrollton, Texas 75010
Email: srumsey@crossdevelopment.net

With a copy to: Attn: James S. Campbell
Byrd Campbell, PA
180 Park Avenue North, Suite 2A
Winter Park, Florida 32890
Email: jcampbell@byrdcampbell.com

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

11.3 Interpretation. The Parties acknowledge that each has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.

11.4 Time. In this Agreement, time is of the essence and compliance with the times for performance herein is required.

11.5 Authority and Enforceability. The City represents and warrants that this Agreement has been approved by official action by the City Council of the City in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the City has been

duly authorized to do so. The Developer represents and warrants that this Agreement has been approved by appropriate action of the Developer, and that the individual executing this Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.

11.6 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by the Parties.

11.7 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

11.8 Applicable Law; Venue. This Agreement is entered into pursuant to, and is to be construed and enforced in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Collin County. Exclusive venue for any action to enforce or construe this Agreement shall be in the Collin County District Court.

11.9 Non-Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

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

11.11 Further Documents. The Parties agree that at any time after execution of this Agreement, they will, upon request of another Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Agreement. This provision shall not be construed as limiting or otherwise hindering the legislative discretion of the City Council seated at the time that this Agreement is executed or any future City Council.

11.12 Exhibits. The following exhibits are attached to this Agreement and are incorporated herein for all purposes:

- Exhibit A Legal Description of Property
- Exhibit B Survey of Property
- Exhibit C-1 Concept Plan

Exhibit C-2 Shared Driveway Detail
 Exhibit D Development Standards

11.13 Governmental Powers; Waivers of Immunity. By its execution of this Agreement, the City does not waive or surrender any of its respective governmental powers, immunities, or rights except as provided in this section. The Parties acknowledge that the City waives its sovereign immunity as to suit solely for the purpose of adjudicating a claim under this Agreement. This is an agreement for the provision of goods or services to the City under Section 271.151 et seq. of the Texas Local Government Code.

11.14 Force Majeure. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance, shall give notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term “force majeure” shall include events or circumstances that are not within the reasonable control of Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of good faith, due diligence and reasonable care.

11.15 Amendments. This Agreement cannot be modified, amended, or otherwise varied, except in writing signed by the City and Developer expressly amending the terms of this Agreement.

11.16 Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

[signatures on following pages]

EXECUTED by the City and Developer on the respective dates stated below.

Date: _____

CITY OF CELINA

By: _____

Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

APPROVED AS TO FORM

Julie Fort, Attorney for City

STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on the __ day of _____, 2018 by Sean Terry, the Mayor of the City of Celina, Texas on behalf of said City.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires: _____

Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

DEVELOPER:

Trico Development and Land Company
a Texas limited liability company

By:_____

Name: Adam James
Title: Partner

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the __ day of _____, 2018 by _____, a Partner of **Trico Development and Land Company**, a Texas limited liability company on behalf of said limited liability company.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires:_____

Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

EXHIBIT A

Legal Description

BEING a tract of land situated in the Ousley and Floyd Survey, Abstract No. 490, Collin County, Texas, being the same tract of land described to Richard C. Smith and Wife, Janet L. Smith by deed recorded in Volume 4412, Page 78 of the Deed Records of Collin County, Texas (D.R.C.C.T.), and being more particularly described by the metes and bounds as follows (Bearings and distances are based on the State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD 83)(US Foot) with a combined scale factor of 1.000152710):

BEGINNING at a 3/8 inch rebar found for the Southwest corner of said Smith tract, same being the Southeast corner of a tract of land described to Old Celina LTD., recorded in Document No. 20060815001168150 of the Official Public Records of Collin County, Texas, and lying on the North line of a tract of land described to G BAR 7, LTD., recorded in Volume 5850, Page 990, (D.R.C.C.T.);

THENCE North 02 Degrees 31 Minutes 13 Seconds East, departing the North line of said G BAR 7, LTD. tract, with the East line of said Old Celina LTD. tract, a distance of 213.74 feet to a 3/8 inch rebar found for corner;

THENCE North 13 Degrees 43 minutes 20 Seconds East, with the East line of said Old Celina LTD. tract, a distance of 1056.81 feet to a 3/8 inch rebar found for the easternmost Northeast corner of said Old Celina LTD. tract, same being an interior ell corner of said Smith tract;

THENCE South 88 Degrees 08 Minutes 58 Seconds West, with the Northeast line of said Old Celina LTD. tract, a distance of 483.98 feet to a point for corner for the westernmost Southwest corner of said Smith Tract, from which a fence post found for reference bears North 12 Degrees 43 Minutes 17 Seconds East, a distance of 0.97 feet;

THENCE North 02 Degrees 17 Minutes 31 Seconds West, with the East Line of said Old Celina LTD., tract, and with the East line of a tract of land conveyed to Community Cemetery Association recorded in Volume 1979, Page 407, (D.R.C.C.T.), in all, a total distance of 1174.51 feet to a point for corner for the westernmost Northwest corner of said Smith tract, same being the Southwest corner of a tract of land conveyed to Community Cemetery Association recorded in Volume 537, Page 346, (D.R.C.C.T.), from which a fence post found for reference bears South 06 Degrees 40 minutes 14 Seconds East, a distance of 1.5 feet;

THENCE South 87 Degrees 58 Minutes 28 Seconds East, departing the East line of the first mentioned Community Cemetery Association tract, with the South line of the second mentioned Community Cemetery Association tract, a distance of 293.70 feet to a 3/8 inch rebar found for the Southeast corner of the second mentioned Community Cemetery Association tract, same being an interior ell corner of said Smith tract;

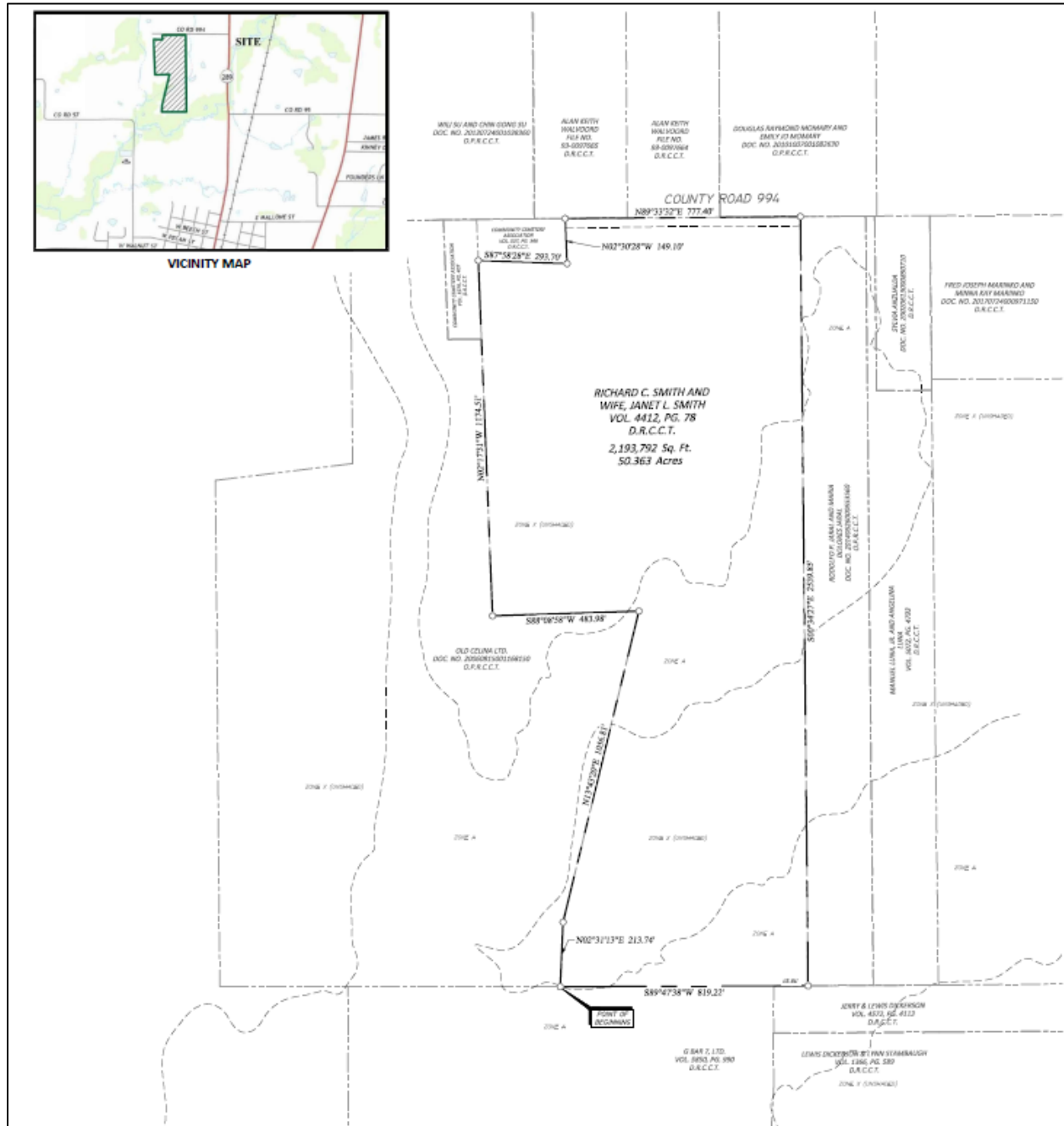
THENCE North 02 Degrees 30 Minutes 28 Seconds West, with the East line of the second mentioned Community Cemetery Association tract, a distance of 149.10 feet to a PK nail set for the northernmost Northwest corner of said Smith tract, same being the Northeast corner of the second mentioned Community Cemetery Association tract, and lying on the South line of a tract of land described to Alan Keith Walvoord by deed recorded in File No. 93-0097665, (D.R.C.C.T.), and on the approximate centerline of County Road 994;

THENCE North 89 Degrees 33 Minutes 32 Seconds East, with the South line said Alan Keith Walvoord tract, the South line of a tract of land described to Alan Keith Walvoord by deed recorded in File No. 93-0097664, (D.R.C.C.T.), the South line of a tract of land described to Douglas Raymond Momary and Emily Jo Momary by deed in Document No. 20101007001082630 of the Official Public Records of Collin County, Texas, and with the approximate centerline of said County Road 994, in all a distance of 777.40 feet to a PK nail set for the Northeast corner of said Smith tract, same being the Northwest corner of a tract of land described to Randolph P. Jaral and Maria Dolores Jaral by deed recorded in Document No. 20140626000653560 of the Official Public Records of Collin County, Texas;

THENCE South 00 Degrees 34 Minutes 27 Seconds East, departing the South line of said Momary tract, with the West line of said Jaral tract, a distance of 2539.85 feet to a point for the Southeast corner of said Smith tract, same being the Southwest corner of said Jaral tract, and lying on the North line of a tract of land described to Jerry & Lewis Dickerson by deed recorded in Volume 4572, Page 4113, (D.R.C.C.T.), from which a wood post found for reference bears North 55 Degrees 41 Minutes 57 Seconds West a distance of 2.26 feet;

THENCE South 89 Degrees 47 Minutes 38 Seconds West, with the North line of said Dickerson tract, and with the North line of said G Bar 7, LTD., tract, a distance of 819.22 feet to the POINT OF BEGINNING and containing 2,193,792 square feet or 50.363 acres of land, more or less.

EXHIBIT B Survey of Property



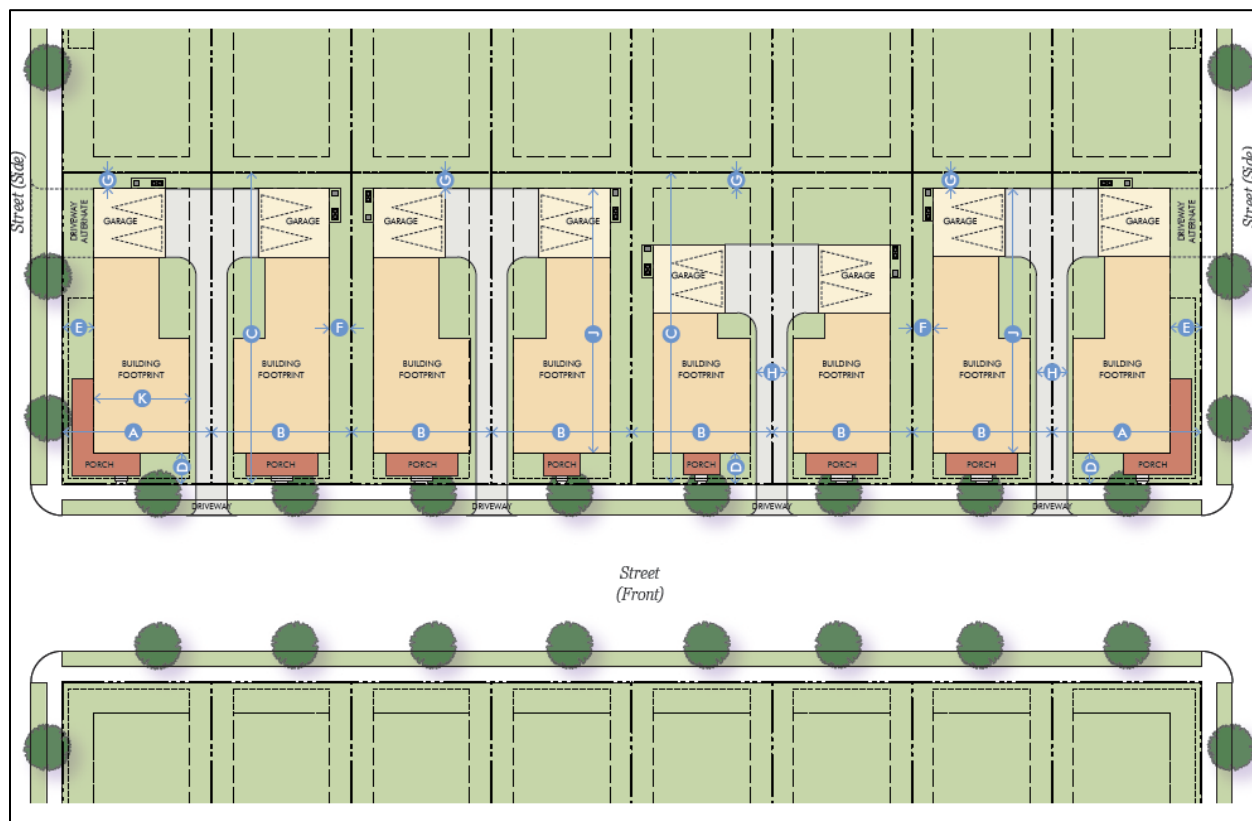
Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

EXHIBIT C-1
Concept Plan



Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

EXHIBIT C-2
Shared Driveway Detail



Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

EXHIBIT D

Development Standards

1.0 PROJECT OVERVIEW

The purpose of these Development Regulations is to create a well-designed, environmentally sensitive community that creates open spaces and trails that link the various areas of the development to encourage and promote outdoor activity among the residents. The open space areas shown on the Concept Plan shall consist of existing corridors, and proposed usable open space dedication (dedicated to, and owned and maintained by the HOA), trails, ornamental trees and shade trees. This development will promote a sense of community, environmental stewardship and a healthy and robust relationship with one's neighbors.

2.0 PROJECT LOCATION

The project is located on the south side of CR 994, approximately 850 feet west of Business 289 (N. Louisiana Street). For a 50.363-acre tract of land out of the Ousley and Floyd Survey, Abstract No. 490 in the City of Celina ETJ and Collin County, Texas as described in Exhibit A, Legal Description and as depicted graphically in Exhibit C-1, Concept Plan.

3.0 DEFINITIONS

Except as otherwise defined in this Agreement, terms used herein shall be the same as those found in Section 14.01.007 of the Zoning Ordinance for the City of Celina, Texas, in effect on the effective date of this Agreement (the "Zoning Ordinance").

4.0 HOMEOWNERS/PROPERTY OWNERS ASSOCIATION

A homeowners association shall be established and shall be responsible for the ownership and maintenance of all common areas, including all private open space areas shown on the Concept Plan.

5.0 PROPOSED THOROUGHFARES/ACCESS/CROSS SECTIONS

CR 994 is designated on the Thoroughfare Plan as a future two-lane collector to be called "O'Brien Drive." Future J. Fred Smith Parkway, shown on the Thoroughfare Plan as a six-lane divided major arterial, is planned to be generally adjacent to the southern property line. These roadways will provide the access to the property. Roadways within the property are planned to be standard residential sections of 29 feet of paving within a 50 feet right-of-way.

6.0 LAND USES

The following uses are permitted by right except as otherwise noted:

1. Single-family detached
2. Temporary marketing and sales centers associated with the development of the Property
3. Temporary construction offices and storage yards associated with development of the Property
4. Public works related facilities necessary to serve the development.
5. Parks, playgrounds, trails, swimming pools, and other forms of improved and unimproved open space
6. Recreation/Amenity centers, pools, cabana buildings and/or locker/changing rooms

7. All other SF-R single family residential district uses listed in the Zoning Ordinance, as it exists or may be amended

7.0 CONCEPT PLAN

The concept plan calls for three types of lots: street-facing lots with shared front driveways, street-facing lots with alley-loaded garages, and mews-facing lots with alley-loaded garages. The first type lot will be located on the periphery of the subject property and the remaining two lot types will be on the interior of the site. The amenity center and open space/detention areas will be located near the center of the property where the floodplain transverses the tract.

8.0 FIRE

For Fire Code purposes, the requirement for a 2nd point of access beyond the 30th home is granted an exception and supported by the Fire Department due to dwelling units (beyond the first 30 dwelling units) being fire sprinklered. Once a 2nd point of access is provided, in compliance with the adopted Fire Code, fire sprinklered homes are not required thereafter. In all cases, all lots facing a mews shall be fire sprinklered.

9.0 DEVELOPMENT REGULATIONS

Development shall meet the standards as required in the Subdivision Regulations except as follows:

1. Block length - The maximum internal block length shall be 750 feet (measured from intersections such as elbows, tees and cross intersections) and shall contain no more than twenty (20) lots on each side of the street. Other exceptions to this block length requirement may be granted for special circumstances or conditions affecting the property in question; exceptions shall be applied for as a subdivision ordinance variance and presented to the Planning & Zoning Commission and City Council at the time of Construction/Preliminary Plat consideration for approval. Pecuniary interests standing alone shall not be justification for the granting of a variance.
2. Cul-de-Sac Length and Diameter - The maximum cul-de-sac length is 250 feet.
3. Temporary Dead-End Streets - temporary dead end streets, which are less than or equal to 150 feet in length, are not required to have a temporary turnaround at the end of the street, even if the dead end street has lots facing it.
4. Extensions - Unless construction has commenced, plats expire two (2) years.

10.0 RESIDENTIAL DESIGN GUIDELINES

10.1 Area Regulations. General Area regulations for residential uses are set forth in the table and notes below that contains the exclusive lot size, setback, height, dwelling size, and lot coverage requirements for the Property.

	Lot Type A	Lot Type B
Minimum Lot Size	3,150 SF	4,050 SF
Maximum Building Height	45 feet	45 feet
Minimum Front Yard Setback	10 feet	10 feet
Minimum Side Yard Setback (Interior Side)	3 feet (10 feet between adjacent residential lots)	3 feet (10 feet between adjacent residential lots)
Minimum Side Yard Setback	10 feet	10 feet

(Corner Side)		
Minimum Rear Setback	5 feet	5 feet
Minimum Lot Width	35 feet	45 feet
Minimum Lot Depth	90 feet	90 feet
Minimum Dwelling Unit Size	900 square feet	900 square feet
Maximum Lot Coverage	No Maximum	No Maximum

1. The lot widths shall be measured along the arc of the front building line.
2. Lot coverage is defined as the footprint of the primary residential structure, excluding without limitation patios (covered or uncovered), pools, driveways, sidewalks and other improvements which are not part of an enclosed building.
3. For street corner lots with a side touching and adjacent to the front yard of a lot behind it, the side yard on the street side of the lot shall be the same width as the adjacent lot front yard.
4. Alleys other than those serving mews-facing homes shall be fifteen (15) feet in width with 12 feet of pavement.

10.2 Design Standards in General. Exterior building facades for residential structures shall abide by the governing architectural design standards of the zoning ordinance.

1. Cottage/Craftsman style architecture is allowed within the development. This will specifically allow a deviation from the masonry requirements of the Zoning Ordinance and allow the use of cementitious wood planking (such as Hardiboard) or treated, engineered wood planking too achieve the historic aesthetic of the development. Other architectural features will be required to augment and enhance the chosen architectural style.
2. Up to thirty percent (30%) of the total number of homes may be constructed with a single enclosed parking space. The remainder of the homes must include a two-car enclosed parking space.
3. Shared driveways shall be constructed per Exhibit C-1, Concept Plan and Exhibit C-2, Driveway Detail. When platted, a mutual access easement for the property owners on either side of the shared driveway shall be provided.
4. Front facing garage doors with access from the street shall be allowed provided the garage doors are located at or behind the front building line. Front facades shall be defined as the front of a building, or any face of a building given special architectural treatment. In order for a front porch to be treated as the front of the building, it must extend the entire portion of the facade not encompassed by a garage and must be covered.
5. The primary roof pitch for residential building types shall not be less than 4:12. The minimum pitches do not apply to porches, specialty roofs, awnings, dormers, or other similar architectural features.
6. No building shall exceed a height of more than forty-five (45) feet, measured at the mid-point between the top plate and the dominate roof ridge.

10.3 Design Standards for Mews Lots

1. Cottage/Craftsman style architecture is allowed within the development. This will specifically allow a deviation from the masonry requirements of the Zoning Ordinance and allow the use of cementitious wood planking (such as Hardiboard) or treated, engineered wood planking too achieve the historic aesthetic of the development. Other architectural features will be required to augment and enhance the chosen architectural style.

2. Up to thirty percent (30%) of the total number of homes may be constructed with a single enclosed parking space. The remainder of the homes must include a two-car enclosed parking space.
3. Alleys that serve the mews-facing homes must be either twenty-four (24) feet in width or the home along the mews must be equipped with automatic fire sprinklers. If the homes are fire sprinklered, the alley width serving mews-facing homes may be reduced to twenty (20) feet in width.
4. The alleys serving the mews-facing lots shall be dedicated as a fire lane easement on any future plat and striped as such to prevent vehicle parking within the fire lane.
5. The rear-entry garages along the alleys that serve the mews-facing lots shall have a setback from the property line of either three (3) feet or twenty (20) feet with no other setback allowed.
6. A trash-collection pad shall be provided wholly outside the fire lane/alley location.
7. Mews widths must be a minimum of forty (40) feet with either two five-foot wide sidewalks on both sides of the mews or one six-foot wide sidewalk through the center of the mews.
8. Notwithstanding the above sidewalk provisions, pedestrian connectivity within the development and stub-outs to future developments must be provided. Generally, a six foot wide sidewalk is required down the middle of a mews, or if sidewalks down each side of the mews is preferred, the sidewalks may be five foot in width.
9. Wayfinding signs with street addresses must be provided at the terminus of every mews.
10. Side yards of mews-facing lots may not be paved.
11. Maximum block length for mews lots is 500 feet.

11.0 OPEN SPACE & TRAILS

This section shall satisfy the requirements in 14.03.008 SF-R, single-family residential district for open space dedication, amenities and improvements for the Property.

1. Open space areas within The Cottages containing trails shall be open to the public. Amenity centers, common areas, mews, multi-use fields, playground equipment, or other amenities shall be privately owned, maintained, and used by the The Cottages Homeowners Association and residences only.
2. The amenity center and pool shall be constructed prior to the issuance of the 100th home permit within Phase 1.
3. Any retention pond shall be amenitized with a fountain for aeration.
4. A minimum of five (5) acres (approximately ten percent (10%) of the total planned development acreage), shall be retained as open space. Such open space may be located anywhere on the Property. For the purposes of this Exhibit D, the term "open space" means natural areas, floodplain, areas used for drainage and detention, perimeter landscape buffers, common areas and parkway and landscape easements. Open space shall be privately owned. Open space shall not consist of any area platted for residential dwellings or road right-of-way.
5. Trails, a minimum of 10 feet in width, shall be provided through the open space located at the center of the development and shall provide future connections to developments that may be located to the east or west in the future.
6. All open space areas shall be owned and maintained by the HOA.

12.0 PERIMETER SCREENING & LANDSCAPE BUFFERS

1. A variable width landscape buffer, with an average width of twenty (20) feet and a minimum width of ten (10) feet, shall be provided along CR 994 (O'Brien Drive).
2. A combination of decorative metal fencing (i.e. wrought iron) with evergreen screening and solid masonry screening wall shall be provided along CR 994 (O'Brien Drive).
3. A forty (40) foot landscape buffer shall be provided along J. Fred Smith Parkway.
4. A six-foot tall solid masonry screening wall shall be required for screening along J. Fred Smith Parkway.
5. Where adjacent to large open space areas, wrought iron or decorative metal fencing with appropriate landscaping shall be provided.

13.0 DEVELOPMENT AMENITIES

1. A divided entry with landscaping on both sides of the main entrance from CR 994 is planned, as shown on the Concept Plan.
2. An amenity center with swimming pool will be constructed with Phase 1 of the development. Amenitized open space/detention areas will be located adjacent to both the amenity center and the traffic round-about located generally in the center of the development.
3. The mews areas will be amenitized with benches, paths, gazebos, outdoor grill pits, children's play equipment, and the like.



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Brooks Wilson, Planning Consultant
 CC: Jason Laumer, City Manager
 Date: December 11, 2018
 Re: Crosswood Creek Development Agreement

Action Requested:

The Celina City Council will conduct a public hearing to consider testimony and act upon a Pre-annexation Development Agreement by and between the City of Celina, Texas and Trico Development and Land Company. The property is an approximately 25.436 acre tract of land situated in the Hugh C. Routh Survey, Abstract No. 765, the J.K. Rice Survey, Abstract No. 767, and the Collin County Land Survey, Abstract No. 170, Collin County, Texas, located within the extraterritorial jurisdiction of the City of Celina, and generally located on the north side of FM 455, approximately 2,600 feet east of Preston Road. (Crosswood Creek) (McAfee)

Owner:

Brooks Thompson
 8500 Edgewood Court
 Frisco, Texas 75033

Applicant:

Kirkman Engineering
 4821 Merlot Avenue, Suite 201
 Grapevine, Texas 76051

Developer:

Trico Development and Land Company
 102 E. Broadway Street, Suite 940
 Prosper, TX 75078

Background Information:

The proposed development agreement establishes the responsibilities and obligations of both the developer and City. In addition, the agreement determines the level of city participation on various aspects of the development. The applicant is proposing to annex approximately 25.436 acres into the City following the approval of the Pre-annexation Development Agreement. The applicant intends to develop a single-family estate residential community located on the north side of FM 455, approximately 2,600 feet east of Preston Road. Twenty (20) estate-lot single-family homes are planned with one common area/HOA lot. The development, called Crosswood Creek, will include lot sizes of approximately one acre each.

Board Review/Citizen Input:

At the Planning and Zoning Commission meeting held on November 20, 2018, the Commission unanimously recommended approval.

A notice of the public hearing was published in *The Celina Record* on November 2, 2018. Notices of the public hearing have been sent to all owners of property residing within the city limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property. As of the time of packet preparation, staff had received no comments either for or against the proposal.

Alternatives:

N/A

Financial Considerations:

N/A

Legal Review:

The City Attorney has reviewed the ordinance and deemed it acceptable for form.

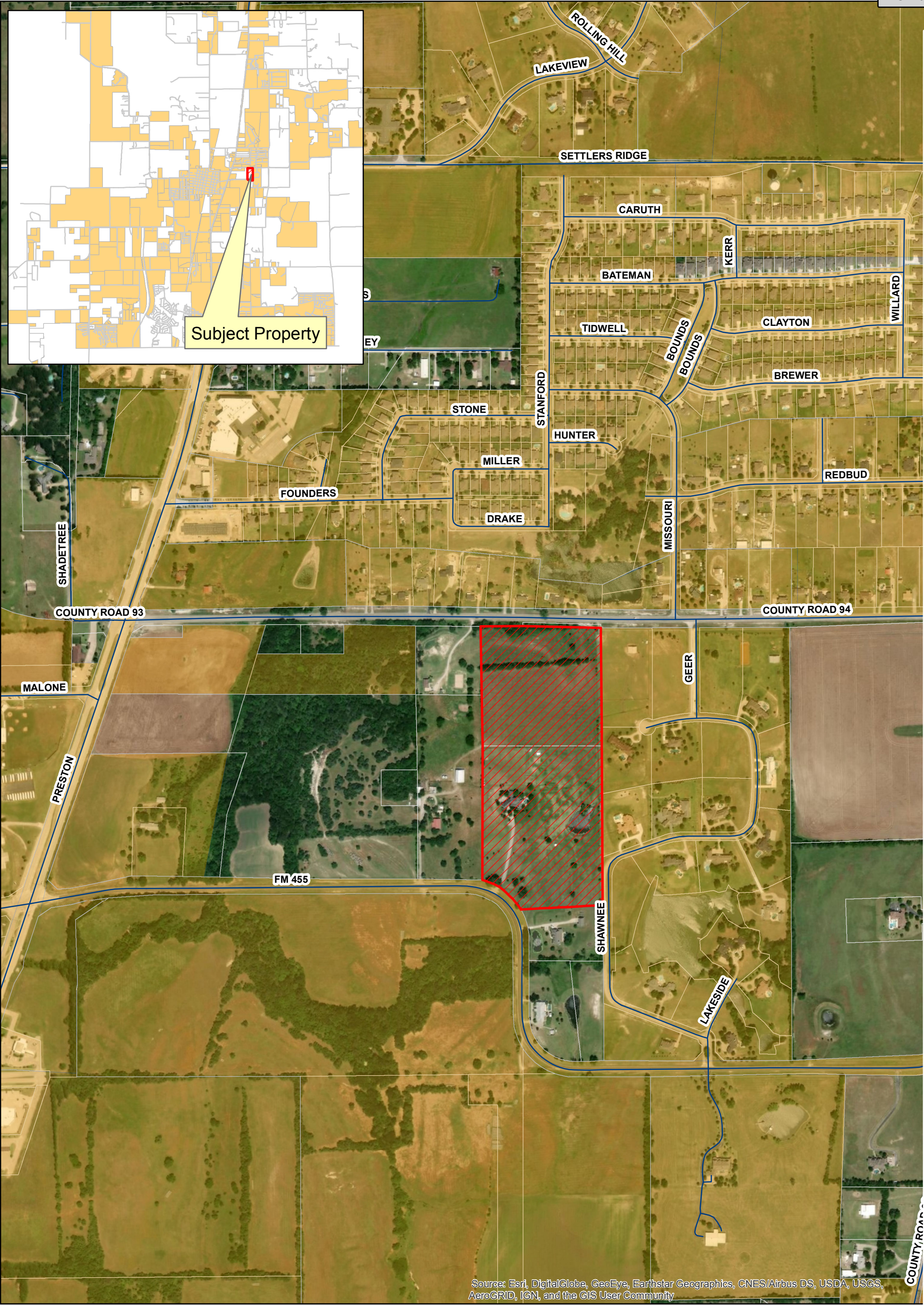
Supporting Documents:

Location Map

Proposed Agreement

Staff Recommendation:

Staff recommends approval.



Attachment: Crosswood CreekLocation Map (Crosswood Creek Development Agreement)



Crosswood Creek Location Map

Date: 10/24/2018

Legend

- Roads
- Crosswood Creek
- City Limits
- Parcels

0 387.5 775 Feet

Packet Pg. 147

CROSSWOOD CREEK DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into by and between **Brooks Thompson and Judi Thompson**, (collectively the “Owner”) and the **City of Celina** (the “City”), to be effective on the date upon which the last of all of the Parties has approved and duly executed this Agreement (“Effective Date”).

ARTICLE I RECITALS

WHEREAS, certain terms used herein are defined in Article II; and

WHEREAS, the City is a home-rule municipality of the State of Texas located within Denton County and Collin County; and

WHEREAS, the Developer and the City (which are sometimes individually referred to as a “Party” and collectively as the “Parties”) desire to enter into this Agreement; and

WHEREAS, Brooks Thompson and Judi Thompson (collectively, the “Property Owner”) owns an approximately 25.436 acre tract of land (the “Property”); and

WHEREAS, the Property is located wholly within the extraterritorial jurisdiction (the “ETJ”) of the City and described by metes and bounds in **Exhibit A-1** and **A-2** and depicted on **Exhibit B**; and

WHEREAS, the Developer intends to purchase and develop the Property as a master planned residential development, which consists of approximately 20 single-family homes; and

WHEREAS, the Parties intend for this Agreement to establish certain restrictions and impose certain commitments in connection with the development of the Property; and

WHEREAS, the Parties intend that the Property will be developed in accordance with the agreed concept plan (the “Concept Plan”), attached hereto as **Exhibit C**, and the development standards set forth in certain proposed development zoning standards (the “Development Standards”), which Development Standards are attached hereto as **Exhibit D**; and

WHEREAS, the Developer intends to construct and/or make financial contributions to certain on-site and/or off-site public improvements to serve the development of the Property (the “Public Infrastructure”); and

WHEREAS, in consideration of the Developer’s agreements contained herein to develop the Property as envisioned by the Parties, including dedication of open space to be owned and maintained by a homeowners’ association, as contemplated by **Exhibit D**, and to provide economic incentives for the development of the Property, the City intends to (a) set roadway capital recovery fees not to exceed \$2,000.00 per single-family residential lot, (b) set water capital recovery fees not to exceed \$2,500.00 per single-family residential lot, (c) set wastewater capital recovery fees

not to exceed \$2,500.00 per single-family residential lot, and (d) waive the requirement for payment of any Impact Fees; and

WHEREAS, the Parties agree upon a fixed payment for the Technology Fees, to be collected upon the issuance of a single-family residential lot's building permit, not to exceed \$500.00 per lot; and

WHEREAS, the Parties agree upon a fixed payment for Park Fees, which includes recreation and open space, to be collected upon the issuance of a single-family residential lot's building permit, not to exceed \$1,500.00 per lot, in lieu of any dedications of land; and

WHEREAS, the City holds the certificates of convenience and necessity (the "CCNs") to provide retail water and wastewater service to the Property and the Parties intend for the City to provide water and wastewater service to the Property; and

WHEREAS, as the Property is within the City's extraterritorial jurisdiction, the Parties have the authority to enter into this Agreement pursuant to Section 212.171 *et seq* of the Texas Local Government Code; and

WHEREAS, the Parties intend that this Agreement is a development agreement as provided for by state law in Section 212.171 *et seq* of the Texas Local Government Code; and

WHEREAS, this Agreement shall constitute a "permit" under Chapter 245 of the Texas Local Government Code and as allowed pursuant to Section 212.172(g) of the Texas Local Government Code.

NOW, THEREFORE, for and in consideration of the mutual covenants of the Parties set forth in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree as follows:

ARTICLE II **GENERAL TERMS AND DEFINITIONS**

The recitals to this Agreement are incorporated herein for all purposes. Unless the context requires otherwise, the following terms shall have the meanings hereinafter set forth:

City Council means the City Council of the City.

City Regulation(s) means any ordinance, rule, regulation, standard, policy, order, guideline or other City-adopted or City-enforced requirement.

Concept Plan means the concept plan as shown in **Exhibit C**.

Developer means **Trico Development and Land Company**, a Texas Limited Liability Company.

Impact Fees means as defined in Chapter 395 of the Texas Local Government Code.

Park Fees means the fees paid in lieu of a donation of property to be used as a park.

Property means the real property described by metes and bounds in **Exhibit A-1** and **A-2** and depicted on **Exhibit B**.

Public Infrastructure means water, wastewater, drainage, roadway, and other public infrastructure necessary to serve the full development of the Property.

Technology Fees means the fees charged for telephone, cable, internet, or similar utility connections in accordance with Section 5.3.

ARTICLE III **PUBLIC INFRASTRUCTURE**

3.1 Public Infrastructure. Except as otherwise expressly provided for in this Agreement, all Public Infrastructure shall be designed, constructed and installed by Developer in compliance with the City Regulations in effect on the Effective Date and the City's uniform engineering design standards in effect on the Effective Date. Construction and/or installation of Public Infrastructure shall not begin until complete and accurate plans and specifications have been approved by the City. Each of such contracts shall require a two-year maintenance bond following completion, which bond shall run in favor of the Party responsible for maintenance of the completed Public Infrastructure. The Public Infrastructure will be installed within the public right-of-way or in easements granted to the City. The City agrees that perimeter roadway improvements are not required in association with this Development.

3.2 Inspections, Acceptance of Public Infrastructure.

(a) Roadway and Storm Infrastructure. The City shall have the right to inspect, at any time, the construction of all roadway and storm water Public Infrastructure, and any related Public Infrastructure necessary to support the proposed development within the Property, which shall be inspected, designed and constructed in compliance with all statutory and regulatory requirements, including design and construction criteria, and the City Regulations in effect on the Effective Date.

(b) Water and Wastewater Infrastructure. The City shall have the right to inspect the construction of all water and wastewater Public Infrastructure at any time, which water and wastewater shall be inspected, designed and constructed in compliance with all statutory and regulatory requirements, including design and construction criteria, and the City Regulations in effect on the Effective Date.

(c) The City's inspections shall not release the Developer from its responsibility to construct, or ensure the construction of, adequate Public Infrastructure in accordance with approved engineering plans, construction plans, and other approved plans related to development of the Property.

(d) From and after the inspection and acceptance by the City of the Public Infrastructure and any other dedications required under this Agreement, such improvements and dedications shall be owned by the City.

(e) Approval of Plats/Plans. Approval by the City, the City's engineer or other City employee or representative, of any plans, designs or specifications submitted by the Developer pursuant to this Agreement or pursuant to City Regulations shall not constitute or be deemed to be a release of the responsibility and liability of the Developer, his engineer, employees, officers or agents for the accuracy and competency of their design and specifications. Further, any such approvals shall not be deemed to be an assumption of such responsibility and liability by the City for any defect in the design and specifications prepared by the Developer or the Developer's engineer, or engineer's officers, agents, servants or employees, it being the intent of the parties that approval by the City's engineer signifies the City's approval on only the general design concept of the improvements to be constructed. All plats and plans of the Developer related to the Property shall meet the requirements of the City Regulations in effect on the Effective Date.

3.3 Eminent Domain. The Developer agrees to use commercially reasonable efforts to obtain all third-party rights-of-way, consents, or easements, if any, required for the Public Infrastructure. If, however, the Developer is unable to obtain such third-party rights-of-way, consents, or easements within ninety (90) days of commencing efforts to obtain the needed easements and right of way, the City agrees to take reasonable steps to secure same (subject to City Council authorization after a finding of public necessity) through the use of the City's power of eminent domain. The Developer shall be responsible for funding all reasonable and necessary legal proceeding/litigation costs, attorney's fees and related expenses, and appraiser and expert witness fees (collectively, "Eminent Domain Fees") paid or incurred by the City in the exercise of its eminent domain powers and shall escrow with a mutually agreed upon escrow agent the City's reasonably estimated Eminent Domain Fees both in advance of the initiations of each eminent domain proceeding and as funds are needed by the City. Provided that the escrow fund remains appropriately funded in accordance with this Agreement, the City will use all reasonable efforts to expedite such condemnation procedures so that the Public Infrastructure can be constructed as soon as reasonably practicable. If the City's Eminent Domain Fees exceed the amount of funds escrowed in accordance with this paragraph, the Developer shall deposit additional funds as requested by the City into the escrow account within ten (10) days after written notice from the City. City is not required to continue pursuing the eminent domain unless and until the Developer deposits addition Eminent Domain Fees with the City. Any unused escrow funds will be refunded to the Developer with thirty (30) days after any condemnation award or settlement becomes final and non-appealable. Nothing in this subsection is intended to constitute a delegation of the police powers or governmental authority of the City, and the City reserves the right, at all times, to control its proceedings in eminent domain.

3.4 Operation and Maintenance.

(a) Upon inspection, approval, and acceptance of the water and wastewater Public Infrastructure or any portion thereof, the City shall maintain and operate the accepted water and wastewater infrastructure or any accepted portion thereof and provide water and wastewater service to the Property.

(b) Upon inspection, approval, and acceptance of the roadway and storm water Public Infrastructure or any portion thereof, the City shall maintain and operate the roadways and storm water infrastructure or any accepted portion thereof.

(c) A homeowner's association shall be established, it shall maintain and operate the open spaces, including but not limited to those shown on **Exhibit C**, trails, common areas, right-of-way irrigation systems, right-of-way landscaping, screening walls, and any other common improvements or appurtenances. Said improvements shall not be maintained and operated by the City unless the Parties agree in writing to the terms and conditions of maintenance and operation by the City.

ARTICLE IV **DEVELOPMENT REGULATIONS**

4.1 Full Compliance with City Standards.

(a) Development of the Property shall be subject to the City Regulations and uniform engineering design standards, as amended, except to the extent that the Concept Plan, attached as **Exhibit C** and the Development Standards, attached as **Exhibit D**, may vary from those terms, then the Concept plan and the Development Standards shall control.

(b) The Parties agree the Concept Plan was created by the Developer for illustrating the boundary, lot mix, and general layout of the project. Any amendment to the Concept Plan shall be considered an amendment to this Agreement and shall replace the attached Concept Plan and become a part of this Agreement.

4.2 Development Standard Revisions. The City Manager of the City may administratively approve the following "minor revisions" to the Development Standards: (a) an increase in the height of any structure by five percent (5%) or less; (b) a setback reduction of ten percent (10%) or less; (c) an increase in lot coverage of five percent (5%) or less; and (d) a reduction in off-street parking of five percent (5%) or less. The City Council may permit exceptions to strict compliance with the Development Standards when the Developer demonstrates, to the reasonable satisfaction of the City Council, that the requested exception: (a) is not contrary to the public interest; (b) does not cause injury to adjacent property; and (c) does not materially adversely affect the quality of the development.

4.3 Replat. The Developer may submit a replat for all or any portion of the Property. Any replat shall be in general conformance with the Concept Plan, including any amendments.

4.4 Vested Rights. This Agreement shall constitute a "permit" under Chapter 245 of the Texas Local Government Code that is deemed filed with the City on the Effective Date. The Developer does not, by entering into this Agreement, waive any rights or obligations arising under Chapter 245 of the Texas Local Government Code.

4.5 Conflicts. In the event of any conflict between this Agreement and any City Regulation, this Agreement, including any exhibit or attachment, shall control.

ARTICLE V **DEVELOPMENT PROCESS AND CHARGES**

5.1 Development, Review and Inspection Fees. Except for any fees related to zoning of the Property as provided in Section 6.2, development of any portion of the Property shall be subject to payment to the City of the applicable fees according to the City Regulations, including without

limitation fees relating to platting and any other charges and fees not expressly exempted or altered by the terms of this Agreement.

5.2 Capital Recovery Fees. The Developer is responsible for the construction of all on-site and off-site Public Infrastructure, to the extent such Public Infrastructure is necessitated by and attributable to the development of the Property. The Parties agree that such improvements will include all of the capital improvements and facility expansions necessitated by and attributable to the Property; therefore, pursuant to Section 395.001(4) of the Texas Local Government Code, **no Impact Fees levied by the City will apply to the Property.** Instead, the Developer agrees to pay and City agrees to set (a) roadway capital recovery fees not to exceed \$2,000.00 per single-family residential lot, (b) water capital recovery fees not to exceed \$2,500.00 per single-family residential lot, (c) wastewater capital recovery fees not to exceed \$2,500.00 per single-family residential lot, and (d) waive the requirement for payment of any Impact Fees. All capital recovery fees applicable to individual lots will be due and payable by the Developer at the time building permits are issued for each single-family residential lot.

5.3 Technology Fees. The Parties agree upon a fixed payment for the Technology Fees, to be collected upon the issuance of a single-family residential lot's building permit, not to exceed \$500.00 per lot.

5.4 Park Fees. The Parties agree upon a fixed payment for the Park Fees, which includes recreation and open space, in lieu of a dedication of land, to be collected upon the issuance of a single-family residential lot's building permit, not to exceed \$1,500.00 per lot.

5.5 Development Agreement Fees. The Parties agree the Developer shall pay at the time of request for each development agreement application related to the Property (a) a \$2,500.00 fee, plus the cost of fees for professional review, including but not limited to legal, engineering, land planning, and financial analysis, development analysis, and engineering consultant review.

5.6 ROW Dedication. The Developer shall, either by plat or by deed as requested by the City, dedicate the right-of-way area for roads reflected on the Master Thoroughfare Plan.

5.7 INDEMNIFICATION AND HOLD HARMLESS. **THE DEVELOPER AND ITS SUCCESSORS AND ASSIGNS SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES AND AGENTS (EACH AN "INDEMNIFIED PARTY"), FROM AND AGAINST ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECTED OR PUT: (I) BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE DEVELOPER; (II) THE NEGLIGENT DESIGN, ENGINEERING AND/OR CONSTRUCTION BY THE DEVELOPER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY THE DEVELOPER OF ANY OF THE PUBLIC IMPROVEMENTS ACQUIRED FROM THE DEVELOPER HEREUNDER; (III) THE DEVELOPER'S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUB-CONTRACTORS AND SUPPLIERS IN THE PROVISION AND/OR CONSTRUCTION OF THE PUBLIC IMPROVEMENTS; (IV) ANY CLAIMS OF PERSONS EMPLOYED**

BY THE DEVELOPER OR ITS AGENTS TO CONSTRUCT THE PUBLIC INFRASTRUCTURE; OR (V) ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER'S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES, AND/OR TRUSTEES, REGARDING OR RELATED TO THE PUBLIC IMPROVEMENTS OR ANY AGREEMENT OR RESPONSIBILITY REGARDING THE PUBLIC INFRASTRUCTURE, INCLUDING CLAIMS AND CAUSES OF ACTION WHICH MAY ARISE OUT OF THE PARTIAL NEGLIGENCE OF AN INDEMNIFIED PARTY (THE "CLAIMS"). NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY. DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS, AND CITY IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE.

IN ITS REASONABLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER IN FULFILLING ITS OBLIGATIONS HEREUNDER TO DEFEND AND INDEMNIFY THE INDEMNIFIED PARTIES, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. THE INDEMNIFIED PARTIES RESERVE THE RIGHT TO PROVIDE A PORTION OR ALL OF THEIR/ITS OWN DEFENSE, AT THEIR/ITS SOLE COST; HOWEVER, INDEMNIFIED PARTIES ARE UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY AN INDEMNIFIED PARTY IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND INDEMNIFIED PARTIES OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY INDEMNIFIED PARTIES PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN BUSINESS DAYS OF WRITTEN NOTICE FROM AN INDEMNIFIED PARTY THAT IT IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, INDEMNIFIED PARTIES SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON THEIR OWN BEHALF, AND DEVELOPER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL REASONABLE COSTS INCURRED BY INDEMNIFIED PARTIES.

THIS SECTION 5.7 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

THE PARTIES AGREE AND STIPULATE THAT THIS INDEMNIFICATION COMPLIES WITH THE CONSPICUOUSNESS REQUIREMENT AND THE EXPRESS NEGLIGENCE TEST, AND IS VALID AND ENFORCEABLE AGAINST THE DEVELOPER.

5.8 DEVELOPER'S ACKNOWLEDGEMENT OF THE CITY'S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/

DEVELOPERS' WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.

(A) THE DEVELOPER ACKNOWLEDGES AND AGREES THAT:

(I) THE PUBLIC INFRASTRUCTURE TO BE CONSTRUCTED UNDER THIS AGREEMENT, AND THE FEES TO BE IMPOSED BY THE CITY PURSUANT TO THIS AGREEMENT, REGARDING THE PROPERTY, IN WHOLE OR IN PART, DO NOT CONSTITUTE A:

- (a) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;**
- (b) VIOLATION OF THE TEXAS LOCAL GOVERNMENT CODE, AS IT EXISTS OR MAY BE AMENDED; AND/OR**
- (c) NUISANCE.**

(II) ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE AMOUNT OF THE DEVELOPER'S FINANCIAL AND INFRASTRUCTURE CONTRIBUTION FOR THE PUBLIC INFRASTRUCTURE IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT THE DEVELOPER'S ANTICIPATED IMPROVEMENTS AND DEVELOPER'S DEVELOPMENT PLACES ON THE CITY'S INFRASTRUCTURE.

(III) ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE DEVELOPER HEREBY AGREES AND ACKNOWLEDGES, WITHOUT WAIVING CLAIMS RELATED SOLELY TO EXACTIONS NOT CONTEMPLATED BY THIS AGREEMENT, THAT: (A) ANY PROPERTY WHICH IT CONVEYS TO THE CITY OR ACQUIRES FOR THE CITY PURSUANT TO THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE BENEFIT RECEIVED BY THE DEVELOPER FOR SUCH LAND, AND THE DEVELOPER HEREBY WAIVES ANY CLAIM THEREFOR THAT IT MAY HAVE; AND (B) ALL PREREQUISITES TO SUCH DETERMINATION OF ROUGH PROPORTIONALITY HAVE BEEN MET, AND ANY VALUE RECEIVED BY THE CITY RELATIVE TO SAID CONVEYANCE IS RELATED BOTH IN NATURE AND EXTENT TO THE IMPACT OF THE DEVELOPMENT OF THE PROPERTY ON THE CITY'S INFRASTRUCTURE. ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE DEVELOPER FURTHER AGREES TO WAIVE AND RELEASE ALL CLAIMS IT MAY HAVE AGAINST THE CITY UNDER THIS AGREEMENT RELATED TO ANY AND ALL: (A) CLAIMS OR CAUSES OF ACTION BASED ON ILLEGAL OR EXCESSIVE EXACTIONS; AND (B) ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY THE UNITED STATES SUPREME COURT IN *DOLAN V. CITY OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE PUBLIC INFRASTRUCTURE.

(B) THIS SECTION 5.8 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE VI

TERM

The term of this Agreement shall be for a period of fifteen (15) years after the Effective Date. The Parties may extend the term of this Agreement if they execute an agreement in writing. Notwithstanding anything to the contrary in this Agreement, this Agreement shall automatically terminate, be *void ab initio* and shall be of no further force or effect if the Developer does not purchase the Property by May 31, 2019.

ARTICLE VII

ANNEXATION AND POST-ANNEXATION MATTERS

7.1 Annexation. Following Developer's acquisition of the Property, and within ten (10) days of being requested to do so by the City which shall not be longer than one (1) year after Developer's acquisition/closing, Developer agrees to (a) submit a voluntary annexation petition for the Property, or (b) if requested by the City, sign a petition for annexation presented to Developer by the City that may contain additional acres (together all acreage the "Petition Property"). Developer agrees to execute and supply any and all instruments and/or other documentation necessary for the City to annex the Petition Property, into the City's corporate limits. The annexation service plan for the Property shall be consistent with the terms of this Agreement. If the City is unable to complete the annexation of the Petition Property for any reason, including but not limited to procedural error or legal challenge, Developer shall execute another voluntary annexation petition for the Petition Property, within ten (10) days of being requested to do so. Prior to annexation of the Petition Property, the City shall have considered this Agreement, shall have submitted to Developer, and Developer shall review and approve, an annexation service plan which service plan shall be considered a binding, and mutually agreed upon, contractual obligation between the City and Developer. Developer acknowledges and agrees that this Section 7.1 was a material inducement for the City to enter into this Agreement with Developer.

7.2 Zoning of Property. While the Parties expressly acknowledge that the Property will be voluntarily annexed in accordance with Section 7.1 of this Agreement, the Parties agree that the Concept Plan, the Development Standards, and the applicable provisions of this Agreement memorialize the plan for development of the Property as provided for in Section 212.172 of the Texas Local Government Code. The City shall consider zoning the Property consistent with the Development Standards, Concept Plan, and applicable provisions of this Agreement contemporaneously with annexation of the Property. Through this Agreement, the Developer expressly consents and agrees to the zoning of the Property consistent with and as contemplated by this Section.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES

8.1 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given in writing (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the alleged failure, but in no event more than 30 days after written notice of the alleged failure has been given). Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured

and within such 30-day period gives written notice to the non-defaulting Party of the details of why the cure will take longer than 30 days with a statement of how many days are needed to cure.

8.2 Remedies. If a Party is in default, the aggrieved Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, or actions for specific performance, mandamus, or injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL ENTITLE THE AGGRIEVED PARTY TO TERMINATE THIS AGREEMENT OR LIMIT THE TERM OF THIS AGREEMENT.

ARTICLE IX

ASSIGNMENT AND ENCUMBRANCE

9.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. The obligations, requirements, or covenants to develop the Property in this Agreement shall be able to be assigned to any affiliate or related entity of the Developer, or any lien holder on the Property, without the prior written consent of the City. The obligations, requirements or covenants to the development of the Property shall not be assigned by Developer to a non-affiliate or non-related entity of the Developer without the prior written consent of the City Manager, which consent shall not be unreasonably withheld if the assignee demonstrates financial ability to perform. An assignee shall be considered a “Party” for the purposes of this Agreement. Each assignment shall be in writing executed by Developer and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned, and shall contain a representation by the assignee acknowledged by a notary public that the assignee has the financial ability to timely perform the assigned obligations. A copy of each fully executed assignment to an assignee shall be provided to all Parties within 15 days after execution. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the City approves the release in writing. Developer shall maintain written records of all assignments made by Developer to assignees, including a copy of each executed assignment and, upon written request from any Party or assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party’s sale, assignment, transfer, or other conveyance of any interest in this Agreement or the Property.

9.2 Encumbrance by City. The City shall not collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of its rights, title, or interest under this Agreement, except for the fees and charges to be collected under Article IV, without the Developer’s prior written consent, which consent shall not be unreasonably withheld.

9.3 Assignees as Parties. An assignee authorized in accordance with this Agreement and for which notice of assignment has been provided in accordance with this Agreement shall be considered a “Party” for the purposes of this Agreement. With the exception of the End-Buyer (as defined in Section 10.1 below) of a lot within the Property, any person or entity upon becoming an owner of land or upon obtaining an ownership interest in any part of the Property shall be deemed to be a “Developer” and have all of the obligations of the Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.

9.4 No Third-Party Beneficiaries. This Agreement only inures to the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

9.5 Notice of Assignment. In addition to the other requirements in this Agreement, the following requirements shall apply in the event that the Developer sells, assigns, transfers, or otherwise conveys the Property or any part thereof and/or any of its rights or benefits under this Agreement:

- (a) within 30 days after the effective date of any such sale, assignment, transfer, or other conveyance, the Developer must provide written notice of same to the City;
- (b) the notice must describe the extent to which any rights or benefits under this Agreement have been sold, assigned, transferred, or otherwise conveyed;
- (c) the notice must state the name, mailing address, and telephone contact information of the person(s) acquiring any rights or benefits as a result of any such sale, assignment, transfer, or other conveyance; and
- (d) the notice must be signed by a duly authorized person representing the Developer.

ARTICLE X

RECORDATION AND ESTOPPEL CERTIFICATES

10.1 Binding Obligations. This Agreement and all amendments hereto (including amendments to the Concept Plan as allowed in this Agreement) and assignments hereof shall be recorded in the deed records of Collin County. This Agreement binds and constitutes a covenant running with the Property. Upon the Effective Date, this Agreement shall be binding upon the Parties and their successors and assigns permitted by this Agreement and forms a part of any other requirements for development within the Property. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns as permitted by this Agreement and upon the Property; however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer/homebuyer of a fully developed and improved lot (“an End-Buyer”) and shall not negate the End-Buyer’s obligation to comply with the City’s Regulations, including but not limited to zoning ordinances, as they currently exist or may be amended.

10.2 Estoppel Certificates. From time to time upon written request of the Developer, if needed to facilitate a sale of all or a portion of the Property or a loan secured by all or a portion of the Property, the City will execute to its reasonable knowledge and belief, a written estoppel certificate in a form and substance satisfactory to the City identifying any obligations of the Developer under this Agreement that are in default. The Developer shall pay the City \$1,000 at the time of the Developer’s requests for an estoppel certificate for each request in excess of one per calendar year.

ARTICLE XI

ADDITIONAL PROVISIONS

11.1 Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the City Council of the City; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect.

The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

11.2 Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when personally delivered or transmitted by telecopy or facsimile transmission (which shall be immediately confirmed by telephone and shall be followed by mailing an original of the same within 24 hours after such transmission) or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the City:	Attn: Jason Laumer, City Manager City of Celina 142 North Ohio Celina, TX 75009 Email: jlaumer@celina-tx.gov
With a copy to:	Attn: Julie Fort Messer, Rockefeller & Fort, PLLC 6371 Preston Road, Suite 200 Frisco, Texas 75034 Email: julie@txmunicipallaw.com
With a copy to:	Attn: Lance Vanzant Hayes, Berry, White & Vanzant, LLP 6371 Preston Road, Suite 200 Frisco, Texas 75034 Email: lvanzant@hbwvlaw.com
To the Developer:	Adam James Trico Development and Land Company 102 E. Broadway Street, Suite 940 Prosper, Texas 75078 Email: adam@tricolandco.com
With a copy to:	Brooks and Judi Thompson 8500 Edgewood Court Frisco, Texas 75033
With a copy to:	Steve Rumsey 4336 Marsh Ridge Road Carrollton, Texas 75010 Email: srumsey@crossdevelopment.net
With a copy to:	Attn: James S. Campbell Byrd Campbell, PA

180 Park Avenue North, Suite 2A
 Winter Park, Florida 32890
 Email: jcampbell@byrdcampbell.com

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

11.3 Interpretation. The Parties acknowledge that each has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.

11.4 Time. In this Agreement, time is of the essence and compliance with the times for performance herein is required.

11.5 Authority and Enforceability. The City represents and warrants that this Agreement has been approved by official action by the City Council of the City in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the City has been duly authorized to do so. The Developer represents and warrants that this Agreement has been approved by appropriate action of the Developer, and that the individual executing this Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.

11.6 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by the Parties.

11.7 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

11.8 Applicable Law; Venue. This Agreement is entered into pursuant to, and is to be construed and enforced in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Collin County. Exclusive venue for any action to enforce or construe this Agreement shall be in the Collin County District Court.

11.9 Non-Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of

this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

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

11.11 Further Documents. The Parties agree that at any time after execution of this Agreement, they will, upon request of another Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Agreement. This provision shall not be construed as limiting or otherwise hindering the legislative discretion of the City Council seated at the time that this Agreement is executed or any future City Council.

11.12 Exhibits. The following exhibits are attached to this Agreement and are incorporated herein for all purposes:

- Exhibit A-1 Legal Description of Property Tract 1
- Exhibit A-2 Legal Description of Property Tract 2
- Exhibit B Survey of Property
- Exhibit C Concept Plan
- Exhibit D Development Standards

11.13 Governmental Powers; Waivers of Immunity. By its execution of this Agreement, the City does not waive or surrender any of its respective governmental powers, immunities, or rights except as provided in this section. The Parties acknowledge that the City waives its sovereign immunity as to suit solely for the purpose of adjudicating a claim under this Agreement. This is an agreement for the provision of goods or services to the City under Section 271.151 et seq. of the Texas Local Government Code.

11.14 Force Majeure. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance, shall give notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term “force majeure” shall include events or circumstances that are not within the reasonable control of Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of good faith, due diligence and reasonable care.

11.15 Amendments. This Agreement cannot be modified, amended, or otherwise varied, except in writing signed by the City and Developer expressly amending the terms of this Agreement.

11.16 Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

[signatures on following pages]

EXECUTED by the City and Developer on the respective dates stated below.

Date: _____

CITY OF CELINA

By: _____
Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

APPROVED AS TO FORM

Julie Fort, Attorney for City

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the __ day of _____, 2018 by Sean Terry, the Mayor of the City of Celina, Texas on behalf of said City.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires:_____

Attachment: Crosswood Creek Development Agreement (Crosswood Creek Development Agreement)

DEVELOPER:

Trico Development and Land Company
a Texas limited liability company

By:_____

Name: Adam James
Title: Partner

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the __ day of _____, 2018 by _____, a Partner of **Trico Development and Land Company**, a Texas limited liability company on behalf of said limited liability company.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires:_____

Attachment: Crosswood Creek Development Agreement (Crosswood Creek Development Agreement)

EXHIBIT A-1
Legal Description Tract 1

Situated in Collin County, Texas, in the Hugh C. Routh Survey, Abstract No. 765, in the J.K. Rice Survey, Abstract No. 767 and in the Collin County School Land Survey, Abstract No. 170, being a resurvey of a part of the 12.463 acre Lot 5 of Preston Branch Subdivision as recorded in Volume M, Page 613 of the Map and Plat Records of Collin County, a part of the 12 acres of land described in a deed from Venita E. Clements, et al to Rex Crosswhite and wife, Ruby Crosswhite dated September 28, 1979 recorded in Volume 1205, Page 114, Map and deed of the Collin County Land Records, being described by metes and bound as follows:

BEGINNING at an iron pin found at the northeast corner of said Lot 5 of said PRESTON BRANCH, the northwest corner of Lot 7 of PRESTON 455 ADDITION, Ref. V "J", P. 974 and in the south R.O.W. line of County Road No. 94;

Thence south $0^{\circ}17'42''$ west, 684.37 feet with the common line between said Preston Branch and Preston 455, with the east line of said Lot 5 and with a fence to an iron pin found in said line and fence at the northeast corner of the Craig James 14.500 acres. Ref. V. 5024, P. 590;

Thence north $89^{\circ}42'18''$ west, with a fence and the north line of said 14.500 acre tract passing an iron pin set in said north line and in the west line of said Lot 5 and the east line of said 12 acre tract at 464.05 feet and continuing in all 686.90 feet to an iron pin found at the northwest corner of said 14.500 acre tract;

Thence north $1^{\circ}12'33''$ east, 310.31 feet to an iron pin found at the southwest corner of the Vernon Fleet 3.5 acres, Ref. Doc. No. 96-0033399 and an east line of said 12 acre tract;

Thence north, with the east line of said 3.5 acre tract, with a fence passing an iron pin found at 30 feet at the west, southwest corner of said Lot 5 and continuing with said east line and with the west line of said Lot 5 and with said fence in all 399.8 feet to an iron pin found at the northwest corner of said Lot 5, the northeast corner of said 3.5 acre tract and in said south R.O.W. line of County Road No. 94, same being a curve to the right from which the radius center lies South $2^{\circ}09'05''$ west, 22858.0 feet;

Thence easterly with the north line of said Lot 5 and with said south R.O.W. line as follows:

With said curve to the right, an arc of 290.56 feet around a central angle of $0^{\circ}43'42''$ and a chord of 290.56 feet which bears South $87^{\circ}29'04''$ East to an iron pin set at the P.T. of said curve; South $87^{\circ}07'13''$ East, 2.36 feet to an iron pin set at the P.C. of a curve to the left, from which the radius lies North $2^{\circ}52'47''$ East, 22978 feet;

With said curve to the left, an arc of 391.57 feet around a central angle of $0^{\circ}58'35''$ with a chord of 391.57 feet which bears South

$87^{\circ}36'31''$ East to the PLACE OF BEGINNING and containing 10.936 acres of land.

EXHIBIT A-2
Legal Description Tract 2

SITUATED in Collin County, Texas, in the Hugh C. Routh Survey, Abstract No. 765 and in the J.K. Rice Survey, Abstract No. 767, being a resurvey of the 7.0306 acre Lot 4, a part of the 12.463 acre Lot 5 of Preston Branch subdivision as recorded in Volume M, Page 613 of the Map and Plat Records of Collin County, a part of the 12 acres of land described in a deed from Venita E. Clements, et al to Rex Crosswhite and wife, Ruby Crosswhite dated Sept. 28, 1979 recorded in Volume 1205, Page 114 and a part of the .1903 acre of land described in a deed from Oma Waller Church and Mary Church to Rex Crosswhite dated July 24, 2001, recorded in Volume 4725, Page 887 (2001-0084401), all deeds of the Collin County Land Records, being described by metes and bounds as follows:

BEGINNING at an iron pin found at the southeast corner of said Lot 4 of said (Preston Branch), the northeast corner of Lot 3 and in the west line of Preston 455 Addition, Ref. V. J, P. 974;

THENCE South 88°27'58" West, 481.05 feet with the south line of said Lot 4 and the north line of said Lot 3 to an iron pin found at the southwest corner of said Lot 4 and the northwest corner of said Lot 3 and in the east R.O.W. line, curved to the left, of Farm Road No. 455, from which the radius center lies South 60°46'44" West, 363.31 feet;

Thence northwesterly with said curve to the left , an arc of 283.10 feet, around a central angle of 44°38'50" on a radius of 363.31 feet, with a chord of 275.99 feet which bears North 51°32'41" West, to an iron pin set in the north R.O.W. line in said curve and in the south line of said 12 acre tract;

Thence North 1°05'48" East, 779.83 feet to an iron pin set for a corner;

Thence South 89°42'18" East, 686.90 feet to an iron pin set in the west line of said PRESTON 455, the east line of PRESTON BRANCH in the east line of said 12.463 acre lot 5;

Thence South 0°17'42" West, coming to the north R.O.W. line of Shawnee Trail at 654.93 feet, a 50' R.O.W. Street in said PRESTON 455 ADDITION, in all 934.93 feet with the common line between said PRESTON BRANCH and PRESTON 455 and with the east line of said Lot 5 and Lot 4 to the PLACE OF BEGINNING and containing 14.500 acres of land, more or less, said Lot 4 and part of lot 5 being replatted in Volume N, Page 63, Map and Plat Records, Collin County, Texas.

EXHIBIT B

Survey of Property

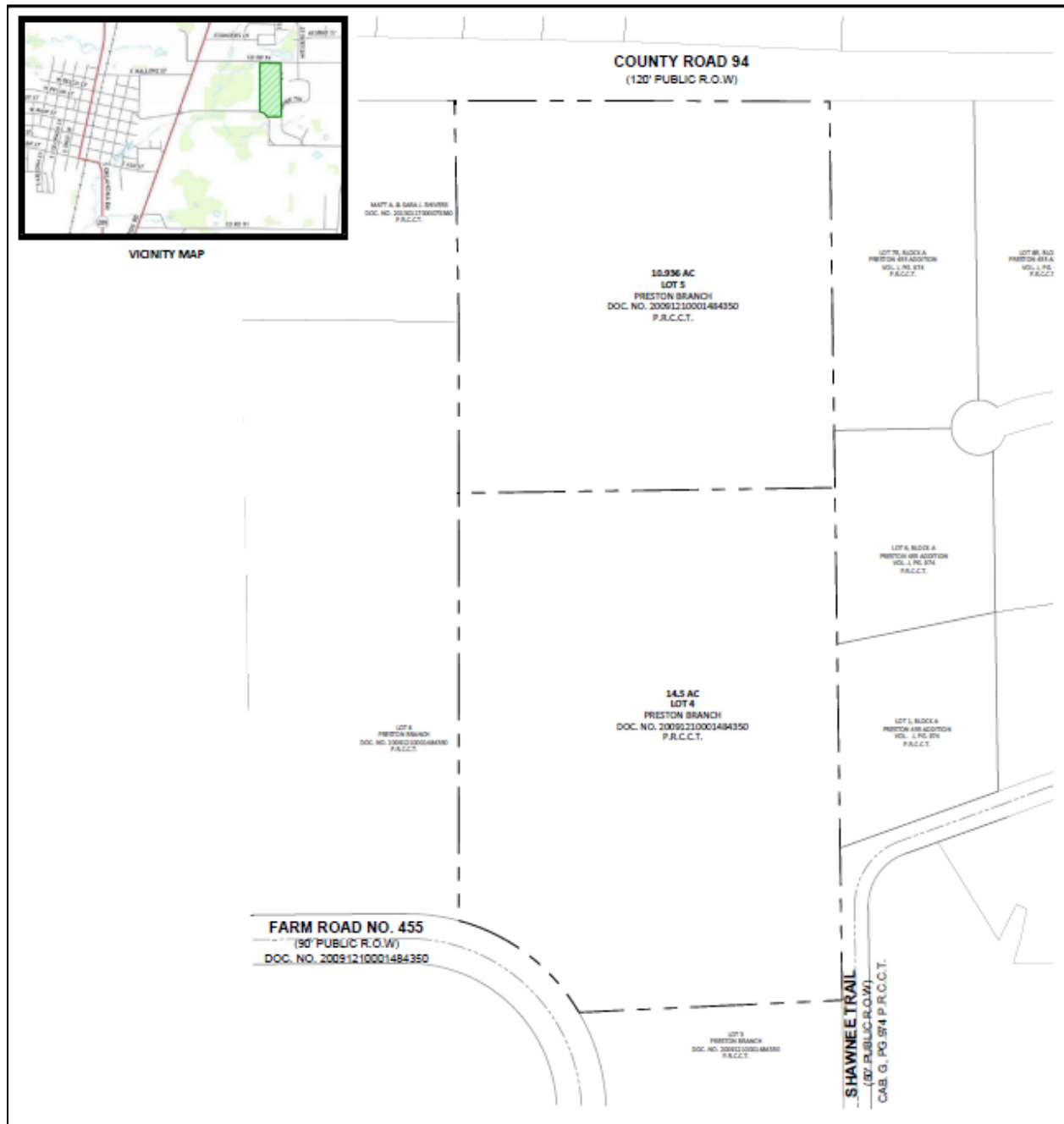


EXHIBIT C Concept Plan



Attachment: Crosswood Creek Development Agreement (Crosswood Creek Development Agreement)

EXHIBIT D

Development Standards

1.0 PROJECT OVERVIEW

The purpose of these Development Regulations is to create a well-designed, environmentally sensitive community that creates open spaces and trails that link the various areas of the development to encourage and promote outdoor activity among the residents. The open space areas shown on the Concept Plan shall consist of existing corridors, and proposed usable open space dedication (dedicated to the HOA), trails, ornamental trees and shade trees. This development will promote a sense of community, environmental stewardship and a healthy and robust relationship with one's neighbors.

2.0 PROJECT LOCATION

The project is located on the north side of FM 455, approximately 2,600 feet east of Preston Road and abuts CR 94, future Lynn Stambaugh Parkway. The 25.44-acre property is comprised of the 10.936-acre Thompson Property and the 14.5-acre James Property and is situated in the J.K. Rice Survey, Abstract No. 767 in the City of Celina ETJ and Collin County, Texas as described in Exhibit A, Legal Description and as depicted graphically in Exhibit C, Concept Plan.

3.0 DEFINITIONS

Except as otherwise defined in this Agreement, terms used herein shall be the same as those found in Section 14.01.007 of the Zoning Ordinance for the City of Celina, Texas, in effect on the effective date of this Agreement (the "Zoning Ordinance").

4.0 HOMEOWNERS/PROPERTY OWNERS ASSOCIATION

A homeowners association shall be established and shall be responsible for the ownership and maintenance of all common areas, including all private open space areas shown on the Concept Plan.

5.0 PROPOSED THOROUGHFARES/ACCESS/CROSS SECTIONS

FM 455 is not designated on the Thoroughfare Plan and will remain a two-lane country road. CR 94 (future Lynn Stambaugh Parkway) is shown on the Thoroughfare Plan as a four-lane divided minor arterial, is planned to be generally adjacent to the northern property line with associated right-of-way dedication. No access is proposed to CR 94. The one access point to the residential subdivision will be off FM 455.

Roadway development shall meet the standards as required in the Subdivision Regulations except as follows:

1. Access Point: there shall be one primary access point located on the south boundary line of the Property providing access from FM 455.
2. Cul-de-Sac Length - No Minimum.
3. Rural Cross Section Roadways: roads and streets constructed within the Property may be constructed to drain into bar ditches constructed alongside and adjacent to the roads and streets. Concrete streets shall be constructed with a minimum width of 26 feet and shall not be required to be bound by curbing.

6.0 LAND USES

The following uses are permitted by right except as otherwise noted:

1. Single-family detached - The layout for this planned development is shown on the Concept Plan, Exhibit C.
2. Temporary marketing and sales centers associated with the development of the property.
3. Temporary construction offices and storage yards associated with development of the property.
4. Public works related facilities necessary to serve the development.
5. Parks, playgrounds, trails, swimming pools, and other forms of improved and unimproved open space.
6. Recreation/Amenity centers, pools, cabana buildings and/or locker/ changing rooms.
7. All other SF-E single family residential district uses as listed in the Zoning Ordinance, as it exists or may be amended.

7.0 CONCEPT PLAN

The concept plan calls for 20 one-acre lots and 1 one-acre Pond Lot. The amenity center lot will feature an aerated retention pond and trail.

8.0 FIRE

The Fire Department has approved the location of the single entrance to the subject property as there are fewer than twenty-nine lots, which is the threshold for the two point of access requirement.

9.0 DEVELOPMENT REGULATIONS

- 9.1 General Area regulations for residential uses are set forth in the table and notes below in this Section 5.0 which contain the exclusive lot size, setback, height, dwelling size, and lot coverage requirements for the Property.

Minimum Lot Size	43,560 SF
Maximum Building Height	45 feet
Minimum Front Yard Setback	20 feet
Minimum Dwelling Unit Size	4,800 SF
Maximum Lot Coverage (see Note 2)	30%

1. The lot widths shall be measured along the arc of the front building line.
 2. Lot coverage is defined as the footprint of the primary residential structure, excluding without limitation patios (covered or uncovered), pools, driveways, sidewalks and other improvements which are not part of an enclosed building.
- 9.2 Subdivision Regulations. Development shall meet the standards as required in the Subdivision Regulations except as follows:
1. Access Point: there shall be one primary access point located on the south boundary line of the Property providing access from FM 455. A second access point providing access to and from CR 94 for emergency vehicles and personnel is not required so long as the total lot number remains below 30 lots.

2. Right-of-way dedication for CR 94 is required at time of platting.
3. Cul-de-Sac Length - No Minimum.
4. Roadways: A rural cross section is allowed and shall provide a minimum 50 foot wide right-of-way, with 26 feet of concrete, and may include bar ditches in lieu of curb and gutter.
5. A divided entry with a signature entry feature or other accentuated focal point to provide a sense of arrival and branding shall be provided at the FM 455 entrance and along FM 455 frontage.
6. No septic is allowed, as the subdivision shall connect to the City's sewer system.
7. Plat Extensions - Unless construction has commenced, plats expire two (2) years after approval, and construction plans expire one (1) year after approval.

10.0 RESIDENTIAL DESIGN GUIDELINES

1. Exterior building facades for residential structures shall abide by the governing architectural design standards of the City.
2. Every detached single-family residence shall have at least two enclosed parking spaces and two surface parking spaces.
3. Garage doors shall be placed according to the Zoning Ordinance, as it exists or may be amended.
4. No building shall exceed a height of more than 45 feet, measured at the mid-point between the top plate and the dominate roof ridge.
5. A minimum four large canopy trees is required per lot prior to issuance of a Certificate of Occupancy for a home.

11.0 OPEN SPACE & TRAILS

Open space and amenities shall be provided per the following:

1. All open space areas shall be owned and maintained by the HOA.
2. The Development shall provide a minimum 1 acre open space lot (Pond Lot), generally located per the Concept Plan with the existing pond, that is owned and maintained by the HOA.
3. The Pond Lot shall include a minimum eight foot wide pedestrian access trail to activate the pond area, the pond shall be aerated with a fountain, a minimum eight large canopy trees shall be planted on the Pond Lot, and additional large evergreen canopy trees shall be planted along the eastern property line of the Pond Lot spaced 40 feet on center.

12.0 PERIMETER SCREENING & LANDSCAPE BUFFERS

Landscape Buffer:

1. No landscape buffer shall be required adjacent to FM 455.
2. A minimum 30 foot wide landscape easement, to be installed and maintained by the HOA, that shall not be encroached upon by any improvements (e.g. pools, accessory structures, fences, etc.) shall be provided along CR 94. This landscape easement shall include four-foot tall earthen berms (maximum 4:1 slope) with large canopy trees generally spaced 30 feet on center along CR 94.

12.2 Screening:

1. Fencing within the planned development may include split-rail fencing.
2. No other screening fence requirements shall apply in order to promote the visual of rural, estate residential development.

13.0 DEVELOPMENT AMENITIES

1. A divided entry with landscaping and decorative fencing on both sides of the main entrance along FM 455 is planned.
2. An open space with trails and an amenitized, aerated retention area will be within the development.