Life Connected.

CITY COUNCIL SPECIAL MEETING
CELINA COUNCIL CHAMBERS
112 N. COLORADO ST.
MONDAY, SEPTEMBER 23, 2024
5:00 PM
AGENDA

I. CALL TO ORDER AND ANNOUNCE A QUORUM PRESENT:

II. PLEDGE OF ALLEGIANCE/INVOCATION:

III. EXECUTIVE SESSION:

As authorized by Section 551.071 of the Texas Government Code, the Regular Meeting may be Convened into Closed Executive Session for the Purpose of Seeking Confidential Legal Advice from the City Attorney on any Agenda Item Listed Herein. **(Closed to Public as Provided in the Texas Government Code.)**

Texas Government Code Section 551.071 Consultation with Attorney and Section 551.087 Deliberation of Economic Development Negotiations:

A. Discussion regarding an incentive agreement with a business located at 401 W. Pecan St.

Texas Government Code Section 551.071 Consultation with Attorney and Section 551.072 Deliberation Regarding Real Property:

B. Discussion regarding an easement acquisition from Legacy North LP, for Dallas Parkway waterline.

Reconvene into Open Session to consider and take action, if any, on matters discussed during Executive Session.

IV. OPEN FORUM:

Open Forum is for information only. If you wish to speak, please sign one of the "Speaker Cards" and present to the City Secretary prior to the beginning of the City Council meeting. 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 that are prohibited by law.

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. ACTION ITEM:

A. Consider and act to update the policy for the Downtown Water Tower Lighting Schedule. (Monaco)

B. Consider and act on a Performance Agreement by and between the City of Celina, Celina Economic Development Corporation, and Lowe's Home Centers, LLC. (Satarino)

VI. 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: Thursday, September 19, 2024 at 5:00 p.m. and remained so posted continuously for at least 72 hours prior to the scheduled time of said meeting."

____

Lauren Vaughns, City Secretary

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Marketing
City of Celina, Texas

Memorandum

To:	**Honorable Mayor Tubbs and the Celina City Council**
From:	Joe Monaco, Director of Marketing & Communications
CC:	Robert Ranc, City Manager
Intiated by:	Joe Monaco
Date:	September 23, 2024
Re:	Downtown Water Tower Lighting Policy

Action Requested:
Consider and act to update the policy for the Downtown Water Tower Lighting Schedule. (Monaco)

Background Information:
In 2017, the Celina City Council voted to restore the iconic Downtown Water Tower, a symbol of the City's heritage and resilience. As part of the restoration efforts, programmable LED lights were installed to illuminate the Tower, allowing it to commemorate significant events and holidays that resonate with Celina's community and history.

In 2022, the Water Tower was illuminated on 87 occasions, approximately once every four days, showcasing its role in celebrating milestones within the City. By June 2023, the initial lighting schedule was revised, reducing the number of events to 11 occasions, focusing on federal holidays and other key moments of local importance. However, following additional review, in August 2023, the City of Celina Downtown Water Tower Lighting Policy (Policy) was adopted, allowing for 57 lighting occasions, or approximately once every six days.

The Policy outlines specific criteria for lighting, including:

- Major city, state, national, or international occurrences
- Federal holidays
- City of Celina selected events
- Observances honoring the passing of City of Celina employees, if requested
- Tributes to fallen public servants
- Celebrations of state championships by Celina ISD teams or organizations

- Support for Celina ISD students and staff, as determined by the superintendent
- State or national tragedies where lives are lost or communities are impacted

This structured approach ensures that the Water Tower remains a beacon of civic pride, reflecting Celina's commitment to its community, history, and shared moments of significance. The Policy is attached to this staff memo for review.

At the September 10, 2024 City Council meeting, Council requested staff bring the Policy before Council for the potential inclusion of additional lighting events and/or criteria.

Legal Review:
The City Attorney has reviewed the Policy and provided feedback regarding First Amendment considerations.

Supporting Documents:
1. Staff Presentation
2. Downtown Water Tower Lighting Policy

Financial Consideration:
N/A

Staff Recommendation:
Staff is seeking direction from the City Council regarding potential revisions to the Policy.

Downtown Water Tower Lighting Policy

Joe Monaco
Director of Marketing & Communications
September 23, 2024

BACKGROUND

- In **2017**, the Celina City Council voted to restore the iconic Downtown Water Tower.
- As a part of the renovation, programmable LED lights were installed to illuminate the Tower and celebrate markers and moments that reflect Celina's heritage and holidays celebrated across the City's history.

Previous Requirements for Lighting (per 2022)

- An extraordinary event/occurrence of City, State, National, or International significance
- Non-profit organization requests for recognition of Awareness initiatives
- City of Celina initiatives and selected holidays
- The observance of a passing City of Celina employee, if requested
- The City of Celina will not consider lighting requests for advertisement or commercial promotions, for personal or any one individual's celebration or memorial (other than a Celina employee), or for groups that discriminate against age, disability, race, religion, or sexual orientation.

BACKGROUND

- In **June 2023**, the initial Water Tower Light Schedule would be limited to **11** occasions for Federal Holidays or Special Occasions.

- In **August 2023**, an adopted Water Tower Lighting Schedule would occur on **57** occasions.

Requirements for Lighting (adopted in August 2023)

- An extraordinary event/occurrence of City, State, National, or International significance
- All Federal Holidays
- City of Celina selected events
- The observance of the passing of a City of Celina employee, if requested
- To honor the life of a fallen public servant
- On the evening following a State Championship of any Celina ISD Team or Organization
- To serve as a sign of support for a Celina ISD student/staff member at the discretion of the Celina ISD Superintendent
- For a State or National tragedy where lives are lost or communities are devastated.

WATER TOWER LIGHTING CONSIDERATIONS

Option A

- Include National Childhood Cancer Awareness Day to the established schedule

Option B

- Include Option A & consider a future work session item to consider additional policy revisions

Option C

- No Option A & consider a future work session item to consider additional policy revisions

Option D

- None of the above – Staff would request additional guidance

DIRECTION:
Staff is seeking direction from City Council regarding potential revisions to the Policy.

QUESTIONS?

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City of Celina Downtown Water Tower Lighting Policy

In 2017, the Celina City Council voted to restore the iconic Downtown Water Tower to stand as a beacon above the City and to serve as a tribute to Celina's historical past. As a part of the renovation, programmable LED lights were installed to illuminate the Tower and to celebrate markers and moments that reflect Celina's heritage and holidays that have been celebrated across the City's history.

Since the Water Tower's rebirth, the City has worked to guard the integrity of the Water Tower's purpose—to celebrate Celina, its heritage, our national and state holidays, and very special occasions, such as a national or state tragedy, the death of a public safety servant, or to celebrate a state championship for a Celina ISD competitive team.

As the community continues to grow, more and more requests are received by the City each year for lighting the Tower to acknowledge occurrences outside the scope of the original intent for the Tower. To that end, the following schedule will identify dates that the iconic Celina Downtown Water Tower may be specially illuminated (other than the normal white lights) throughout the year:

- New Year's Day (January 1)
- Birthday of Martin Luther King, Jr. (Third Monday in January)
- Washington's Birthday (Also known as Presidents Day; third Monday in February)
- Texas Independence Day (March 2)
- Easter (date varies)
- Cinco de Mayo (May 5) and/or Cinco de Mayo Celebration (First Saturday in May)
- Celina Cajun Fest (Second Saturday in May)
- Celina High School Graduation (dates varies in May)
- Memorial Day (Last Monday in May)
- Juneteenth (June 19)
- Splash & Blast (Saturday prior to 4th of July holiday)
- Independence Day (July 4)
- Labor Day (First Monday in September)
- Anniversary of 9/11 (September 11)
- Indigenous Peoples' Day (Also known as Columbus Day; Second Monday in October)
- Beware! of the Square (Saturday before Halloween)
- Halloween (October 31)
- Veterans Day (November 11)
- Thanksgiving Day (Fourth Thursday in November)
- Christmas on the Square (November / December)
- Christmas Day (December 25)
- Celina High School Football Games (August – December)

The Water Tower will be lit for all Celina High School football games as part of the commitment made to Celina residents during the restoration process. The dates will change yearly based on the schedule of the Celina High School football team.

In addition to federal holidays and selected City of Celina events, the Tower may choose to illuminate the Water Tower for the following reasons:

- An extraordinary event/occurrence of City, State, National, or International significance;
- The observance of a passing City of Celina employee, if requested;
- To honor the life of a fallen public servant;
- On the evening following a State Championship of any Celina ISD Team or Organization;
- To serve as a sign of support for a Celina ISD student/staff member at the discretion of the Celina ISD Superintendent;
- For a State or National tragedy where lives were lost and/or communities were devastated.

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EDC
City of Celina, Texas

Memorandum

To:	**Honorable Mayor Tubbs and the Celina City Council**
From:	Josh McCarroll
CC:	Robert Ranc, City Manager
Intiated by:	Josh McCarroll
Date:	September 23, 2024
Re:	Performance Agreement with Lowe's Home Centers, LLC.

Action Requested:
Consider and act on a Performance Agreement by and between the City of Celina, Celina Economic Development Corporation, and Lowe's Home Centers, LLC. (Satarino)

Background Information:
Both the City of Celina (City) and Celina Economic Development Corporation (CEDC) have worked to negotiate a Chapter 380 Economic Development and Performance Agreement (Agreement) by and between the City, the CEDC, and Lowe's Home Centers, LLC (Developer). The property is located on 13.93 acres of Crossing at Moore Farms at the southeast corner of Preston Road and Ownsby Parkway.

The performance-based Agreement includes a 50 percent sales tax reimbursement to the Developer from the City and CEDC for 10 years in an amount not to exceed $1,200,000 from the City and $600,000 from the CEDC, respectively, for a total amount not to exceed $1,800,000. The agreement includes a 50 percent reimbursement to developer of sales tax received and actually collected from construction materials through the "Separated Materials Tax Grant".

Developer Covenants and agrees to close on the property by February 28, 2025. The developer agrees to construct a facility and invest a minimum amount of $25,000,000 with $1,800,000 in qualified expenditures for infrastructure. The Certificate of Occupancy must be obtained by March 31, 2027. Developer agrees to employ 120 FTE positions on March 31, 2027.

Impact fees are waived per the Trinity Celina, LLC, master agreement for the SWC and SEC of Preston Rd and Ownsby Pkwy.

Legal Review:
City and CEDC legal have reviewed the performance agreement.

Supporting Documents:

1. Staff Presentation
2. City and EDC - Chapter 380 Economic Development Agreement - Lowe's Home Centers, LLC -Final_09192024

Financial Consideration:
The performance agreement includes a 50% sales tax reimbursement to the developer from the City and CEDC for 10 years in an amount not to exceed $1,200,000. and $600,000 respectively for a total amount not to exceed $1,800,000. The agreement includes a 50% reimbursement to developer of sales tax received and actually collected from construction materials through the "Seperated Materials Tax Grant".

Staff Recommendation:
Staff recommends approval of this agreement.

Economic Development Agreement

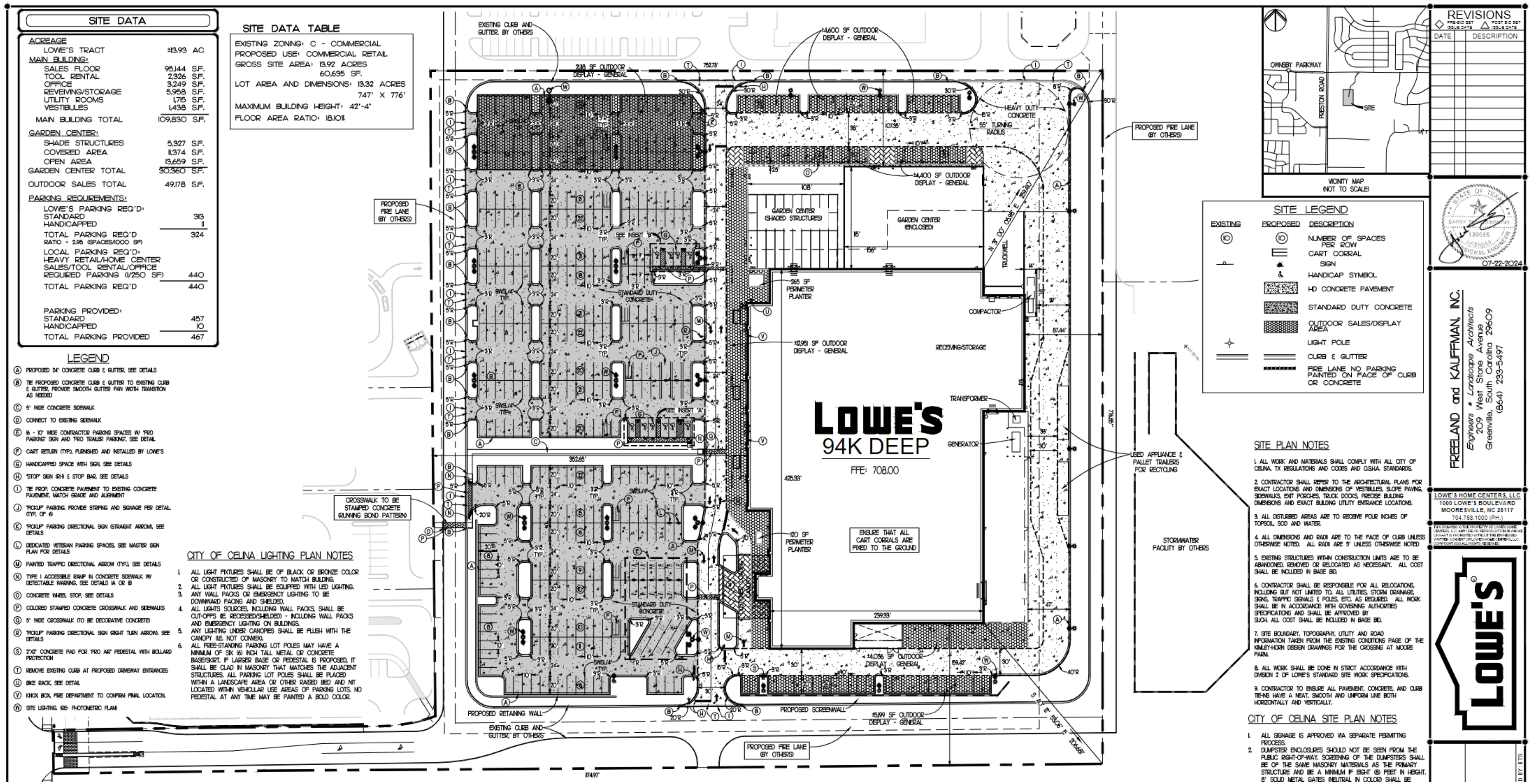
Lowe's Home Centers, LLC.

Anthony Satarino
Executive Director of Economic Development
September 23, 2024

PROJECT OVERVIEW

- 13.93 acres as part of the Crossing at Moore Farms
- Big-box home improvement store totaling 94,000 square feet
- Property within the master agreement, Trinity Celina
- Trinity Celina agreement governs developer and City/CEDC infrastructure improvements, such as Ownsby Parkway construction and signalization
- Proposed agreement ensures speed-to-market construction

SITE PLAN



DEVELOPER COVENANTS

- Developer shall close on the property by **February 28th, 2025**
- Developer will construct the facility and invest a minimum amount of **$25M**
- Qualified expenditures for infrastructure construction must total **$1.8M.**
- Developer will obtain Certificate of Occupancy by **March 31, 2027**.
- Developer agrees to employ **120 FTE** positions.
- Projected **46M** in sales in Year 1; **55M** in Year 8 – 85% of which is taxable

CITY AND CEDC COVENANTS

- City and CEDC will reimburse developer **50% of sales tax** for **10 years**
- City contribution not to exceed **$1.2M** and CEDC contribution not to exceed **$600k**
- City and CEDC will reimburse developer **50% of sales tax** generated from taxable construction materials (“Separated Materials Tax Grant”)
- **Impact fees waived** per Trinity Celina master agreement
- City 10-year sales tax ROI = 156%, CEDC 10-year sales tax ROI = 156%
- City 20-year sales tax ROI = 546%, CEDC 20-year sales tax ROI = 546%

CITY SALES TAX ROI 10 YEAR

City - Return on Investment - 10 YEAR
Sales Tax

Year	Projected Sales	Taxable Sales	Tax Rate	Taxes Assessed	Sales Tax Rebate	380 Agreement City Proposed
		85%				$ 1,200,000.00
1	$ 46,000,000	$ 39,100,000	1%	$ 391,000	50%	**$ 195,500**
2	$ 46,000,000	$ 39,100,000	1%	$ 391,000	50%	**$ 195,500**
3	$ 46,000,000	$ 39,100,000	1%	$ 391,000	50%	**$ 195,500**
4	$ 51,000,000	$ 43,350,000	1%	$ 433,500	50%	**$ 216,750**
5	$ 51,000,000	$ 43,350,000	1%	$ 433,500	50%	**$ 216,750**
6	$ 51,000,000	$ 43,350,000	1%	$ 433,500	50%	**$ 216,750**
7	$ 51,000,000	$ 43,350,000	1%	$ 433,500	50%	$ 433,500
8	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50%	$ 467,500
9	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50%	$ 467,500
10	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50%	$ 467,500
City Revenue (Total)				**$ 4,309,500**	**50%**	**$ 3,072,750**
ROI						**156%**

EDC SALES TAX ROI 10 YEAR

EDC - Return on Investment - 10 YEAR

Sales Tax

Year	Projected Sales	Taxable Sales	Tax Rate	Taxes Assessed	Sales Tax Rebate	380 Agreement EDC Proposed
		85%				$ 600,000
1	$ 46,000,000	$ 39,100,000	0.5%	$ 195,500	50%	**$ 97,750**
2	$ 46,000,000	$ 39,100,000	0.5%	$ 195,500	50%	**$ 97,750**
3	$ 46,000,000	$ 39,100,000	0.5%	$ 195,500	50%	**$ 97,750**
4	$ 51,000,000	$ 43,350,000	0.5%	$ 216,750	50%	**$ 108,375**
5	$ 51,000,000	$ 43,350,000	0.5%	$ 216,750	50%	**$ 108,375**
6	$ 51,000,000	$ 43,350,000	0.5%	$ 216,750	50%	**$ 108,375**
7	$ 51,000,000	$ 43,350,000	0.5%	$ 216,750	50%	$ 216,750
8	$ 55,000,000	$ 46,750,000	0.5%	$ 233,750	50%	$ 233,750
9	$ 55,000,000	$ 46,750,000	0.5%	$ 233,750	50%	$ 233,750
10	$ 55,000,000	$ 46,750,000	0.5%	$ 233,750	50%	$ 233,750
City Revenue (Total)				**$ 2,154,750**	**50%**	**$ 1,536,375**
ROI						**156%**

CITY SALES TAX ROI 20 YEAR

City - Return on Investment - 20 YEAR Sales Tax						
Year	Projected Sales	Taxable Sales	Tax Rate	Taxes Assessed	Sales Tax Rebate	380 Agreement City Proposed
		85%				$ 1,200,000
1	$ 46,000,000	$ 39,100,000	1%	$ 391,000	50.0%	$ **195,500**
2	$ 46,000,000	$ 39,100,000	1%	$ 391,000	50.0%	$ **195,500**
3	$ 46,000,000	$ 39,100,000	1%	$ 391,000	50.0%	$ **195,500**
4	$ 51,000,000	$ 43,350,000	1%	$ 433,500	50.0%	$ **216,750**
5	$ 51,000,000	$ 43,350,000	1%	$ 433,500	50.0%	$ **216,750**
6	$ 51,000,000	$ 43,350,000	1%	$ 433,500	50.0%	$ **216,750**
7	$ 51,000,000	$ 43,350,000	1%	$ 433,500	50.0%	$ 433,500
8	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
9	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
10	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
11	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
12	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
13	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
14	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
15	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
16	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
17	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
18	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
19	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
20	$ 55,000,000	$ 46,750,000	1%	$ 467,500	50.0%	$ 467,500
	City Revenue (Total)			$ **8,984,500**	**50%**	$ **7,747,750**
	ROI					**546%**

EDC SALES TAX ROI 20 YEAR

EDC - Return on Investment - 20 YEAR										
Sales Tax										
Year		Projected Sales		Taxable Sales	Tax Rate		Taxes Assessed	Sales Tax Rebate		380 Agreement EDC Proposed
				85%					$	600,000
1	$	46,000,000	$	39,100,000	0.5%	$	195,500	50%	$	**97,750**
2	$	46,000,000	$	39,100,000	0.5%	$	195,500	50%	$	**97,750**
3	$	46,000,000	$	39,100,000	0.5%	$	195,500	50%	$	**97,750**
4	$	51,000,000	$	43,350,000	0.5%	$	216,750	50%	$	**108,375**
5	$	51,000,000	$	43,350,000	0.5%	$	216,750	50%	$	**108,375**
6	$	51,000,000	$	43,350,000	0.5%	$	216,750	50%	$	**108,375**
7	$	51,000,000	$	43,350,000	0.5%	$	216,750	50%	$	216,750
8	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
9	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
10	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
11	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
12	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
13	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
14	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
15	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
16	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
17	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
18	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
19	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
20	$	55,000,000	$	46,750,000	0.5%	$	233,750	50%	$	233,750
				City Revenue (Total)		$	**4,492,250**	**50%**	**$**	**3,873,875**
				ROI						**546%**

QUESTIONS?

**CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT
AND PERFORMANCE AGREEMENT**

This **CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT AND PERFORMANCE AGREEMENT** by and between the ***CITY OF CELINA, TEXAS***, a Texas home-rule municipality; the ***CELINA ECONOMIC DEVELOPMENT CORPORATION***, a Texas non-profit corporation, and Lowe's Home Centers, LLC**,** a North Carolina limited liability company, is made and executed on the following recitals, terms and conditions.

WHEREAS, certain capitalized terms used herein are defined in Section 3, below; and

WHEREAS, the City desires to provide, pursuant to Chapter 380 of the Texas Local Government Code an incentive to Developer to develop the Property as defined below; and

WHEREAS, the City possesses the legal and statutory authority under Chapter 380 of the Texas Local Government Code to make loans or grants of public funds for the purposes of promoting local economic development and stimulating business and commercial activity within the City of Celina, Texas; and

WHEREAS, the City has determined that a grant of funds to the Developer will serve the public purpose of promoting local economic development, with the development and diversification of the economy of the State and City, will eliminate unemployment and underemployment in the State and City, and will enhance business and commercial activity within the City of Celina, Texas; and

WHEREAS, the City has concluded and hereby finds that this Agreement clearly promotes economic development in the City of Celina, Texas, and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code, and further, is in the best interests of the City and the Developer; and

WHEREAS, the City has concluded and hereby finds that this Agreement clearly promotes economic development in the City of Celina, Texas, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution by assisting in the development and diversification of the economy of the State, by eliminating unemployment or underemployment in the State, and by the development or expansion of commerce within the State; and

WHEREAS, the Celina Economic Development Corporation is a Type A economic development corporation, created pursuant to Chapter 504 of the Texas Local Government Code, as amended; and

WHEREAS, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term "project" to mean "expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . .”; and

WHEREAS, Section 501.158 of the Texas Local Government Code prohibits the provision of a direct incentive unless CEDC enters into an Agreement with Developer providing at a minimum a schedule of additional payroll or jobs to be created or retained by CEDC’s investment; a schedule of capital investments to be made as consideration for any direct incentives provided by CEDC to Developer; and a provision specifying the terms and conditions upon which repayment must be made should Developer fail to meet the agreed to performance requirements specified in this Agreement; and

WHEREAS, Developer has applied to the City and CEDC for financial assistance necessary to construct a home improvement retail facility containing at least 94,000 gross square feet to be generally located on approximately 13.93 acres of land situated at the southeast corner of the Preston Road and Ownsby Parkway, City of Celina, Collin County, Texas; and

WHEREAS, the CEDC’s Board of Directors have determined the financial assistance to be provided to Developer pursuant to this Agreement is consistent and meets the definition of “project” as that term is defined in Section 501.103 of the Texas Local Government Code; and the definition of “cost” as that term is defined by Section 501.152 of the Texas Local Government Code; and

WHEREAS, Developer agrees and understands that Section 501.073(a) of the Texas Local Government Code requires the City Council of the City of Celina, Texas, to approve all programs and expenditures of the CEDC, and accordingly this Agreement is not effective until City Council has approved this project at a City Council meeting called and held for that purpose.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, CEDC, and Developer agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. TERM.

(a) This Agreement shall be effective as of the Effective Date, as defined herein, and shall continue thereafter until the sooner of the following: (1) the aggregate total payments to Developer pursuant to Section 5(a) and 6(a) of this Agreement equals One Million Eight Hundred Thousand and No/Dollars ($1,800,000)**;** or (2) December 31, 2036, unless terminated sooner under the provisions hereof. Any payment due to Developer for the year 2036 shall survive the Term of this Agreement.

(b) Notwithstanding anything to the contrary set forth in this Agreement, if either (i) Developer has not closed on the acquisition of the Property by the Acquisition Deadline, or (ii) a building permit for the Facility is not obtained by the Developer before July 1, 2025, this agreement shall automatically terminate, be void *ab initio*, and be of no further force or effect as of such date and the parties shall have no further rights or obligations hereunder.

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

(a) **Acquisition Deadline.** The words "Acquisition Deadline" shall mean February 28, 2025.

(b) **Act.** The word "Act" means Chapters 501 to 504 of the Texas Local Government Code, as amended.

(c) **Agreement**. The word "Agreement" means this Chapter 380 Economic Development Agreement and Performance Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any.

(d) **Annual Compliance Verification**. The words "Annual Compliance Verification" mean a written verification signed by a duly authorized representative of Developer that shall certify the number of Full-Time Equivalent Employment Positions, and shall disclose and certify the average wage for all Full-Time Equivalent Employment Positions using the form attached hereto as ***Exhibit E***.

(e) **CEDC.** The term "CEDC" means the Celina Economic Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is 302 W. Walnut Street, Celina Texas 75009.

(f) **CEDC Program Grant Payment**. The words "CEDC Program Grant Payment" are defined in Section 6(a)(1).

(g) **City.** The word "City" means the City of Celina, Texas, a Texas home rule municipality, whose corporate address for the purposes of this Agreement is 142 N. Ohio Street, Celina Texas 75009.

(h) **City Program Grant Payment**. The words "City Program Grant Payment" are defined in Section 5(a)(1).

(i) **City Regulation**. The word "City Regulation" means any ordinance, rule, regulation, standard, policy, order, guideline, master plans, or other City-adopted or City-enforced requirement, as amended and adopted by the City for uniform application throughout the corporate limits, and as are applicable to the Property and development of the Facility.

(j) **Claim.** The word "Claim" is defined in Section 10(b).

(k) **Developer.** The word "Developer" means Lowe's Homes Center, LLC**,** a North Carolina limited liability company, and any of its related entities that may operate at the Property, its successors and assigns, whose address for the purposes of this Agreement is 1000 Lowe's Boulevard, Mooresville, NC 28117.

(l) **Effective Date.** The words "Effective Date" mean September 23, 2024

(m) **Event of Default**. The words "Event of Default" mean and include any of the Events of Default set forth below in the section entitled "Events of Default."

(n) **Facility.** The word "Facility" means the Lowe's-branded home improvement retail facility on the Property containing at least 94,000 gross square feet, as generally depicted in ***Exhibit A*** of this Agreement, which is attached hereto and is incorporated herein for all purposes.

(o) **Force Majeure**. The words "Force Majeure" means a delay in Developer's performance of any act required hereunder by reason of: Acts of God or severe and/or inclement weather; strikes; lockouts; pandemic; labor troubles; inability to procure materials; failure of power or other unavailability of any utility service; governmental laws, regulations, requirements, conditions, procedures, resource constraints, or administrative delays; riots or insurrections; the act, failure to act, or default of another party; war, or other reason beyond such party's control (individually "Force Majeure"); where applicable herein, the performance of such act delayed by an event of Force Majeure will be excused for the period of the delay, and the period of the performance of any such act shall be extended for a period equivalent to the period of such delay.

(p) **Full-Time Equivalent Employment Position.** The words "Full-Time Equivalent Employment Position" or "Full-Time Equivalent Employment Positions" mean and include a job requiring a minimum of One Thousand Nine Hundred Twenty (1,920) hours of work averaged over a twelve (12) month period.

(q) **Notice.** The word "notice" is defined in Section 11(g).

(r) **Payment Request.** The words "Payment Request" means a complete written request from the Developer to the City and the CEDC, in a form reasonably acceptable to the City and the CEDC, stating the amount of Separated Materials Tax Grant owed to Developer and accompanied by all bills paid affidavits for any infrastructure being dedicated to the City, certifying that (i) construction of the Facility and related infrastructure are completed; (ii) a certificate of occupancy has been issued for the Facility; (iii) the Facility is open and operating as a retail store; (iv) a summary of the separated costs as described in Section 4(f)(4); and (v) net retail sales and use tax from the Separated Materials Contracts has been paid to the State Comptroller.

(s) **Property.** The word "Property" means the approximately 13.93 acres of land situated at the southeast corner of the Preston Road and Ownsby Parkway, City of Celina, Collin

County, Texas, as generally depicted in ***Exhibit B*** of this Agreement, which is attached hereto and is incorporated herein for all purposes.

(t) **Qualified Expenditures.** The words "Qualified Expenditures" mean those costs associated with the construction of the Facility located on the Property as well as those expenditures required or suitable for infrastructure necessary to promote or develop, and which meet the definition of "project" as that term is defined in Section 501.103 of the Act, and meet the definition of "cost" as that term is defined in Section 501.152 of the Act.

(u) **Sales and Use Tax.** The words "Sales and Use Tax" or "Sales and Use Taxes" mean the City's municipal sales and use tax, at the current rate of one percent (1.0%), pursuant to section 321.103(a) of the Texas Tax Code, as amended, or a lower rate if the rate is reduced in the future.

(v) **Sales Tax Report.** The words "Sales Tax Report" mean Sales Tax Report as defined in Section 4(e).

(w) **Separated Materials Tax Grant.** The words "Separated Materials Tax Grant" are defined in Section 4(f).

(x) **Significant Contracts.** The contracts for the construction of improvements with Qualified Expenditures in the amount of One Hundred Thousand and No/100 Dollars ($100,000.00) or more .

(y) **State Comptroller.** The words "State Comptroller" mean the Office of the Texas Comptroller of Public Accounts, or any successor agency.

(z) **Term.** The word "Term" means the term of this Agreement as specified in Section 2 of this Agreement.

(aa) **Type A Sales and Use Tax Revenue.** The words "Type A Sales and Use Tax Revenue" mean the economic development sales and use tax revenue, at the current rate of one-half of one percent (0.50%), generated for use by the CEDC, or a lower rate if the rate is reduced in the future.

SECTION 4. AFFIRMATIVE COVENANTS OF DEVELOPER.

Developer covenants and agrees with the City and CEDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

(a) **Facility and Qualified Expenditures.** Developer covenants and agrees to submit to the City and CEDC contracts, invoices, receipts, all bills paid affidavits, and other documentation in a form acceptable to the City and CEDC related to the construction of the Facility and includes Qualified Expenditures in a minimum amount of **Twenty-Five Million and No/100 Dollars ($25,000,000.00)** by **March 31, 2027**, with the Qualified

Expenditures for the construction of infrastructure to serve the Property equaling a minimum amount of **One Million Eight Hundred Thousand No/100 Dollars ($1,800,000)**. If such invoices, receipts, or other documentation are incomplete or insufficient for City and/or CEDC to verify the Facility and Qualified Expenditures, City and/or CEDC shall notify Developer, and Developer shall promptly supply any missing or necessary additional information necessary to verify the Facility and Qualified Expenditures.

(b) **Certificate of Occupancy.** Developer covenants and agrees to, after complying with all City Regulations, obtain or cause to be obtained by **March 31, 2027,** a certificate of occupancy from the City of Celina, Texas, for the Facility located on the Property.

(c) **Development**. The Facility shall be constructed and operated in accordance with the plans provided in ***Exhibit A***, and any site plan, building elevations, or landscape plans approved by the City. Developer agrees that materials and finish-out used for the Facility shall be substantially similar to such plans. Developer agrees that construction shall be in conformance with the most recently adopted City Regulations, including but not limited to the building codes of the City, and that building permit applications will be reviewed under such codes. The Property shall be subject to those fees and charges due and payable to the City in connection with the development of the Property that are charged pursuant to City Regulations to other developments located within the corporate limits of the City. The Developer shall construct the Facility consistent with and comparable to the attached renderings and also shall abide by the City's architectural standards, especially in regard to building materials, color regulations, and signage, subject to review and approval by City staff at time of permitting. Throughout the Term of this Agreement and beyond, the Developer shall ensure that the façade of the Facility adheres strictly to the architectural elevations depicted in ***Exhibit A***. Notwithstanding any termination or expiration of this Agreement, Developer hereby covenants and agrees that it shall continue to maintain and adhere to the architectural elevations depicted in ***Exhibit A*** for the façade of the Facility. Any alterations or modifications to the façade, whether during the Term of this Agreement or thereafter, shall only be undertaken with the prior written consent of the City. The development and use of the Property shall comply with all applicable City Regulations, including but not limited to the Celina Comprehensive Zoning and Subdivision Ordinances, as amended.

(d) **Operate Facility.** Subject to Force Majeure, casualty and condemnation events as more specifically set forth below, Developer agrees to commence operations as a retail store open to the public by **April 30, 2027** and to maintain and operate the Facility located on the Property during the Term of this Agreement. Further, upon a receipt of a certificate of occupancy from the City of Celina, Texas, Developer covenants and agrees to keep Facility open as a retail store during normal operating hours during the Term of this Agreement, subject, however, to cessation of operations resulting from the following: (i) events of Force Majeure, (ii) condemnation of all or a portion of the Property which materially interferes with Facility operations, or (iii) casualty events that result in a destruction of all or a material portion of the Facility. Notwithstanding the foregoing or anything contained herein to the contrary, in the event Developer permanently ceases operations (subject to tolling for an event of Force Majeure, condemnation or casualty as set forth above) at the Facility prior to the expiration of the Term, Developer will no longer be entitled to receive any future Program Grant Payments due under this Agreement from and after the date Developer ceases such operations.

(e) **Reporting of Sales and Use Tax and Type A Sales and Use Tax Revenue**. Developer covenants and agrees to provide to the City and CEDC, on an annual basis, a copy of the sales and use tax reports that were submitted to the State Comptroller relating to the remission of all local sales and use taxes collected by the Facility as a result of the operation of the Facility and the total annual sales occurring at the Property ("Sales Tax Report"). The sales and use taxes to be included within said Sales Tax Report include the Sales and Use Tax and the Type A Sales and Use Tax Revenue remitted by the State Comptroller to the City. Additionally, Developer covenants and agrees to obtain any third party's consent for the State Comptroller's office to release the annual reported figures along with any State audit adjustments to the City and CEDC. A form of "Waiver of Sales Tax Confidentiality" is attached as ***Exhibit C***. The City and CEDC hereby agree to keep this information "Confidential" consistent with Section 321.3022(f) of the Texas Tax Code, and to the extent allowed by law. The first Sales Tax Report from the Developer shall be due by the end of the first calendar year after the Facility commences operations, and annually thereafter.

(f) **Sales Tax Situs Agreement and Separated Materials**. The City and the CEDC will reimburse Developer 50% of sales and use tax generated and actually collected by the City and CEDC from taxable construction materials associated with the construction of the Facility through a grant ("Separated Materials Tax Grant") subjected to the following conditions:

(1) Developer shall cause all Significant Contracts to contain the following ("Separated Materials Contracts"):

i. separate identification of labor and material components for purposes of determining sales and use tax pursuant to Section 151.056(b) of the Texas Tax Code resulting in the value of the materials being separately identified from other costs; and

ii. to the extent reasonably possible, state that the situs of any sales and use tax paid and related thereto will be the City of Celina, Texas.

(2) Within thirty (30) days after the last of the following to occur, Developer shall submit a Payment Request to the City and CEDC evidencing the amount of the Separated Materials Tax Grant to be paid: (a) construction of the Facility and related infrastructure are completed; (b) a certificate of occupancy is issued for the Facility; (c) the Facility is open and operating as a retail store; and (d) net retail sales and use tax from the Separated Materials Contracts has been paid to

the State Comptroller.

(3) The Developer, at Developer's sole expense, is required to use a consultant, as determined by the City, (the "Consultant") to assist the Developer in the drafting, implementation, and management of the separated materials and labor construction contracts. The Developer must meet with the City and the Consultant prior to the execution of any construction contracts for Qualified Expenditures related to the Facility or the commencement of any construction.

(4) Developer shall cause its general contractor and subcontractors involved in the construction of the Facility and shall contractually require any builder or developer involved in a Significant Contract, to use Separated Materials Contracts in a manner that allows the situs of any sales taxes paid on the building materials for those projects to be in the City and conforms to the reporting procedures set forth herein and the laws of the State of Texas. Within each Significant Contract, Developer shall require the contractor to maintain a current summary of separated costs in each of the three categories: taxable materials, tax, nontaxable categories (including overhead & profit) and shall submit a total value for each of these categories upon request by the City or CEDC.

(5) The City and the CEDC shall verify the Payment Request within sixty (60) calendar days after receipt thereof, and if a Payment Request is incomplete or if other information is necessary to approve the Payment Request, the City and/or CEDC shall notify Developer, and Developer shall promptly supply any missing or necessary additional information necessary to verify and approve the Payment Request. Within thirty (30) days of the last of the following to occur, the City and the CEDC shall pay the Separated Materials Sales Tax Grant to the Developer: (a) verification of the Payment Request, and (b) the retail sales and use tax from the Separated Materials Contracts paid to the State Comptroller.

(g) **Job Creation and Retention.** Developer covenants and agrees by **March 31, 2027**, and during the Term of this Agreement, to employ and maintain a minimum of **one hundred twenty (120)** Full-Time Equivalent Employment Positions working at the Property; the foregoing requirement is subject, however, to cessation of operations resulting from the following: (i) events of Force Majeure, (ii) condemnation of all or a portion of the Property which materially interferes with Facility operations, and (iii) casualty events that result in a destruction of all or a material portion of the Facility. Developer covenants and agrees beginning on **April 30, 2028,** and during the Term of this Agreement, Developer shall deliver to the City and CEDC Annual Compliance Verification. The Developer covenants and agrees beginning on **April 30, 2028,** and annually for **Ten (10)** years during the Term of this Agreement, Developer shall submit to the City and CEDC an Annual Compliance Verification covering the Full-Time Equivalent Employment Positions created and maintained during the Term of this Agreement. All Annual Compliance Verifications shall include quarterly IRS 941 returns or Texas Workforce Commission Employer Quarterly Reports. Notwithstanding the foregoing or anything contained herein to the contrary, in the event Developer ceases operations (subject to tolling for an event of Force Majeure, condemnation or casualty as set forth above)) at the Facility prior to the expiration of the Term or fails to maintain a minimum of **one hundred twenty (120)** Full-Time Equivalent Employment Positions working at the Property (subject to tolling for an event of Force Majeure, condemnation or casualty as set forth above), Developer will no longer be entitled to receive any future Program Grant Payments due under this Agreement from and after the date Developer ceases such operations or fails to maintain a minimum of **one hundred twenty (120)** Full-Time Equivalent Employment Positions working at the Property.

(h) **Performance**. Developer agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements between Developer, City, and CEDC.

(i) **Prohibited Uses**: Developer covenants and agrees during the Term of this Agreement that unless otherwise approved by the City and the CEDC, and only in the event that the zoning on the Property allows such uses, that the following uses shall not be allowed in any portion of the Facility: alternative financial services (although Developer may allow for its customary check cashing and money transfers as services provided within its store), sexually oriented business, body art facilities, smoke shops, drug or vice paraphernalia, gaming or slot machines (excluding arcades), lewd merchandise sales, pawn shops, and outdoor storage/display within the parking lot provided the Property is otherwise in conformance with the City's zoning ordinances; notwithstanding anything contained in the foregoing to the contrary, Developer may store and display goods and merchandise in the areas of the Property designated on the site plan attached as Exhibit F ("Site Plan") as "Outdoor Storage and Display", the parties acknowledging that Developer has received governmental approval for the outdoor storage and display of goods and merchandise in the areas so designated on the Site Plan.

(j) **Groundbreaking and Opening Ceremonies**. Developer agrees to provide for participation of the governing bodies of the City and CEDC in the ceremonial groundbreaking and opening (e.g., ribbon-cutting) of the Facility, and to allow City and CEDC to market such ceremonies.

(k) **Celina Chamber of Commerce**. Developer shall be a member of the Celina Chamber of Commerce during the Term of this Agreement. The City and the CEDC shall have the right to market the Facility as part of its updates to the community regarding economic development of the City.

SECTION 5. AFFIRMATIVE COVENANTS OF THE CITY.

City covenants and agrees with the Developer that, while this Agreement is in effect, it shall comply with the following terms and conditions:

(a) **Program Grant Payments.**

(1) Sales and Use Tax. The City covenants and agrees to pay Developer program grant payments as provided in the table below based upon the Sales and Use Tax reported in the Sales Tax Report provided by Developer to the City pursuant to Section 4(e) of this Agreement (hereinafter the "City Program Grant Payment"). Such City Program Grant Payments shall be made annually upon reviewing the Sales Tax Report described in Section 4(e) of this Agreement, and confirming its accuracy with the State Comptroller, including any audit adjustments and the funds are actually received by the City from the State Comptroller's office less the State Comptroller's administrative fee. The City Program Grant Payments shall be based upon the following percentages:

Calendar Year	**Percentage of Sales and Use Tax Revenue Reimbursed**
2027	**50%**
2028	**50%**
2029	**50%**
2030	**50%**
2031	**50%**
2032	**50%**
2033	**50%**
2034	**50%**
2035	**50%**
2036	**50%**

The City covenants and agrees to make the annual City Program Grant Payment, subject to any adjustments provided herein, to Developer within thirty (30) days following the receipt of the latter of: (1) the Sales Tax Report specified in Section 4(e) of this Agreement for the applicable year; and (2) the Sales and Use Tax revenue from the State Comptroller's office for the applicable year. Nothing in this Agreement shall require the City to make any City Program Grant Payment from revenue sources other than from the Sales and Use Tax revenue. The aggregate total of City Program Grant Payments provided to Developer by the City pursuant to this Agreement shall not exceed **One Million Two Hundred Thousand and No/Dollars ($1,200,000).** In addition, in no event shall the City Program Grant Payments provided to Developer by City exceed the invoices, receipts, or other documentation provided by Developer to City pursuant to Section 4(a) of this Agreement.

(b) **Ownsby Parkway.** The City agrees that (i) it will coordinate and construct all improvements required to cause Ownsby Parkway to be open for public use from Preston Road to Coit Road as shown in **Exhibit D** attached hereto and (ii) construct a traffic signal at the intersection of Ownsby Parkway and Preston Road on or before August 5, 2025.

(c) **Performance**. City agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement.

SECTION 6. AFFIRMATIVE COVENANTS OF CEDC.

CEDC covenants and agrees with the City and Developer that, while this Agreement is in effect, it shall comply with the following terms and conditions:

(a) **Program Grant Payments.**

(1) Type A Sales and Use Tax Revenue. The CEDC covenants and agrees to pay Developer program grant payments as provided in the table below based upon the Type A Sales and Use Tax Revenue reported in the Sales Tax Report provided by Developer to the CEDC pursuant to Section 4(e) of this Agreement (hereinafter the "CEDC Program Grant Payment"). Such CEDC Program Grant Payment shall be made annually upon reviewing the Sales Tax Report described in Section 4(e) of this Agreement, and confirming its accuracy with the State Comptroller, including any audit adjustments and the funds are actually received by the CEDC from the State Comptroller's office less the State Comptroller's administrative fee. The CEDC Program Grant Payments shall be based upon the following percentages:

Calendar Year	Percentage of Type A Sales and Use Tax Revenue Reimbursed
2027	**50%**
2028	**50%**
2029	**50%**
2030	**50%**
2031	**50%**
2032	**50%**
2033	**50%**
2034	**50%**
2035	**50%**
2036	**50%**

The CEDC covenants and agrees to make the annual CEDC Program Grant Payment, subject to any adjustments provided herein, to Developer within thirty (30) days following the receipt of the latter of: (1) the Sales Tax Report specified in Section 4(e) of this Agreement for the applicable year; and (2) the Type A Sales and Use Tax Revenue from the State Comptroller's office for the applicable year. Nothing in this Agreement shall require the CEDC to make any CEDC Program Grant Payment from revenue sources other than from the Type A Sales and Use Tax Revenue. The aggregate total of CEDC Program Grant Payments provided to Developer by CEDC pursuant to this Agreement shall not exceed **Six Hundred Thousand and No/Dollars ($600,000).** In addition, in no event shall the CEDC Program Grant Payments provided to Developer by CEDC exceed the invoices, receipts, or other documentation provided by Developer to CEDC pursuant to Section 4(a) of this Agreement.

(b) **Performance**. CEDC agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between the Developer, City, and CEDC.

SECTION 7. CESSATION OF ADVANCES AND AUDITS.

(a) **Cessation of Advances.** If the City or CEDC has made any commitment to provide any financial assistance to Developer, whether under this Agreement or under any other agreement, the City or CEDC shall have no obligation to advance or disburse the financial assistance if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default occurs.

(b) **Amended Returns and Audits.** In the event (i) additional Sales and Use Tax or Tax A Sales and Use Tax Revenue is due and owing, as a result of an audit conducted by the State of Texas that increases the Sales and Use Tax for a previous period covered within the Term of this Agreement, the Program Grant Payment for the period immediately following such State approved amendment shall be adjusted accordingly, provided the City must have received the Sales and Use Tax and the CEDC must have received the Type A Sales and Use Tax Revenue attributed to such adjustment. As a condition precedent to payment of such adjustment, Developer shall provide City with a copy of such amended Sales Tax Report, tax return or audit adjustment, and the approval thereof by the State of Texas.

(c) **Refunds.** In the event (i) a sales and use tax report that provided the basis for the amount of the Separated Materials Tax Grant is filed by any person or entity, (ii) the Developer files an amended Sales Tax Report, or (iii) the State of Texas determines that the City and/or CEDC erroneously received Sales and Use Tax and/or Type A Sales and Use Tax Revenue, or that the amount of use tax paid to the City and/or CEDC exceeds the correct amount of Sales and Use Tax and/or Type A Sales and Use Tax Revenue for a previous Separated Materials Tax Grant and/or Program Grant Payment paid to the Developer, then the Developer shall, within thirty (30) days after receipt of notification thereof from the City or CEDC specifying the amount by which such Separated Materials Tax Grant and/or Program Grant Payment exceeded the amount to which the Developer was entitled pursuant to such State of Texas determination, pay such amount to the City and/or CEDC, respectively. The City and/or CEDC may each, at their option, adjust future Program Grant Payments immediately following such State of Texas determination to deduct therefrom the amount of the overpayment.

SECTION 8. EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default under this Agreement:

(a) **General Event of Default.** Failure of Developer, City or CEDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement is an Event of Default.

(b) **False Statements.** Any warranty, representation, or statement made or furnished to the City and/or CEDC by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.

(c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.

(d) **Ad Valorem Taxes and Impositions.** Developer allows its ad valorem taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, or other charges owed to the City or the State of Texas for any property or business owned by Developer, to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such imposition and to cure such failure within thirty (30) days after written notice thereof from the City or CEDC and/or Collin County Central Appraisal District is an Event of Default.

(e) **Building Permit Revoked.** If any applicable building permits required for the Facility and issued by the City are revoked or expire, and Developer fails to make reasonable efforts to obtain new permits, as determined by the City or CEDC, and such default is not cured by Developer within thirty (30) days after written notice thereof.

SECTION 9. EFFECT OF AN EVENT OF DEFAULT.

In the event of default under Section 8 of this Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure said default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement, enforce specific performance as appropriate or maintain a cause of action for damages caused by the event(s) of default. In the event, Developer defaults and is unable or unwilling to cure said default within the prescribed time period, no further amounts will be due from the City or CEDC to Developer.

SECTION 10. INDEMNIFICATION.

(a) **TO THE EXTENT ALLOWED BY LAW, DEVELOPER AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY AND CEDC (AND THEIR OFFICERS, OFFICIALS, REPRESENTATIVES, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMAND, SUITS, JUDGMENTS**

AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND DO NOT CREATE ANY OBLIGATIONS FROM OR GRANT ANY CONTRACTUAL OR OTHER RIGHTS TO ANY OTHER PERSON OR ENTITY, OTHER THAN OBLIGATIONS, IF ANY, THAT ARISE FROM DEVELOPER TO THE CITY TO PERFORM OBLIGATIONS CREATED BY THIS PARAGRAPH.

(b) **IT IS THE INTENTION OF THE PARTIES THAT THE DEVELOPER SHALL BE RESPONSIBLE FOR THE REPAYMENT OF ANY GRANT PAYMENTS MADE TO THE DEVELOPER HEREIN BY THE CITY THAT INCLUDES SALES AND USE TAX RECEIPTS AND/OR TYPE A SALES AND USE TAX REVENUES THAT THE STATE OF TEXAS HAS DETERMINED WERE ERRONEOUSLY PAID, COLLECTED, DISTRIBUTED, OR ALLOCATED TO THE CITY, PROVIDED THE FOREGOING SHALL NOT APPLY TO ANY LIABILITY RESULTING SOLELY FROM THE ERRORS OR OMISSIONS OF THE CITY. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND DO NOT CREATE ANY OBLIGATIONS FROM OR GRANT ANY CONTRACTUAL OR OTHER RIGHTS TO ANY OTHER PERSON OR ENTITY, OTHER THAN OBLIGATIONS, IF ANY, THAT ARISE FROM DEVELOPER TO THE CITY TO PERFORM OBLIGATIONS CREATED BY THIS PARAGRAPH.**

(c) Except for the City and CEDC's obligations to provide the financial assistance as set forth in this Agreement, the City and CEDC, and its past, present, and future officers, employees, contractors, and agents assume no responsibilities or liabilities to Developer, or any third parties in connection with the Facility and/or the Property and Developer hereby waives any and all claims against the City and CEDC for any injury to persons or damage to property in connection therewith, unless caused by the gross negligence or intentional actions of the City or CEDC. Developer acknowledges and agrees that there shall be no personal recourse to the directors, officers, employees, or agents of the City or CEDC, who shall incur or assume no liability in respect of any claims based upon or relating to this Agreement. It is understood and agreed between the parties that Developer, in satisfying the conditions of this Agreement, has acted independently, and the City and CEDC assume no responsibilities or liabilities to third parties in connection with these actions.

SECTION 11. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

(a) **Amendments**. This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

(b) **Applicable Law and Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Collin County, Texas.

(c) **Assignment.** This Agreement may not be assigned without the express written consent of the other parties.

(d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Developer warrants and represents that the individual or individuals executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. City warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same. CEDC warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.

(e) **Caption Headings**. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.

(f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

(g) **Notices**. Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

If to City:	City of Celina, Texas 142 N. Ohio Street Celina Texas 75009 Attn: City Manager Telephone: (972) 382-2682
if to CEDC:	Celina Economic Development Corporation 302 W. Walnut Street Celina Texas 75009 Attn: Executive Director

Telephone: (972) 382-3455

If to Lowe's:	Lowe's Home Centers, LLC 1000 Lowe's Blvd. Mooresville, NC 28117 Attn: Eric Pattison, Real Estate Manager E-mail: eric.pattison@lowes.com
With a copy to:	Lowe's Home Centers, LLC 1000 Lowe's Blvd. Mooresville, NC 28117 Attn: Legal Real Estate (LGL) E-mail: legalrealestate@lowes.com

(h) **Revenue Sharing Agreement**. The Parties designate this Agreement as a revenue sharing agreement, thereby entitling the City and CEDC to request Sales and Use Tax information and Type A Sales and Use Tax Revenue information from the State Comptroller, pursuant to section 321.3022 of the Texas Tax Code, as amended.

(i) **Severability**. If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

(j) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

(k) **Undocumented Workers.** Developer certifies that the Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of six percent (6%), not later than the 120th day after the date the City and/or CEDC notifies Developer of the violation.

(l) **Form 1295 Certificate.** The Developer agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, the Developer agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the City, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.

(m) **Non-Boycott of Israel Provision.** In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2271 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the contract has a value of less than One Hundred Thousand Dollars ($100,000.00). Unless Developer is not subject to Chapter 2271 of the Texas Government Code for the reasons stated herein, the signatory executing this Agreement on behalf of Developer verifies that Developer does not boycott Israel and will not boycott Israel during the Term of this Agreement.

(n) **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

(o) **Report Agreement to Comptroller's Office.** City covenants and agrees to report this Agreement to the State Comptroller's office within fourteen (14) days of the Effective Date of this Agreement, in accordance with Section 380.004 of the Texas Government Code, as added by Texas House Bill 2404, 87th Tex. Reg. Session (2021) (effective September 1, 2021).

(p) **Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least $100,000 that is paid wholly or partly from public funds of the City, the Developer represents that: (1) the Developer does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Developer will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.

(q) **Verification Against Discrimination Developer Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 13, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least $100,000 that is paid wholly or partly from public funds of the City, the Developer represents that: (1) the Developer does not boycott energy companies; and (2) the Developer will not boycott energy companies during the Term of this Agreement.

(r) **Limitation on Grants**. Under no circumstances shall the obligations of City or CEDC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, the City and the CEDC shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by the Developer. None of the obligations of City or CEDC under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

[The Remainder of this Page Intentionally Left Blank]

DEVELOPER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND DEVELOPER AGREES TO ITS TERMS. THIS AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS IS PROVIDED HEREIN.

CITY:

CITY OF CELINA, TEXAS,
A Texas home-rule municipality

____
Ryan Tubbs, Mayor
Date Signed: ______________________

ATTEST:

____
Lauren Vaughns, City Secretary

CEDC:

CELINA ECONOMIC DEVELOPMENT CORPORATION,
a Texas non-profit corporation

By: ______________________________
Clint Bissett, President
Date Signed: ______________________

DEVELOPER:

LOWES HOME CENTERS, LLC,
a North Carolina limited liability company

By: ______________________________

Date Signed: ______________________

Exhibit A

Depiction of the Facility

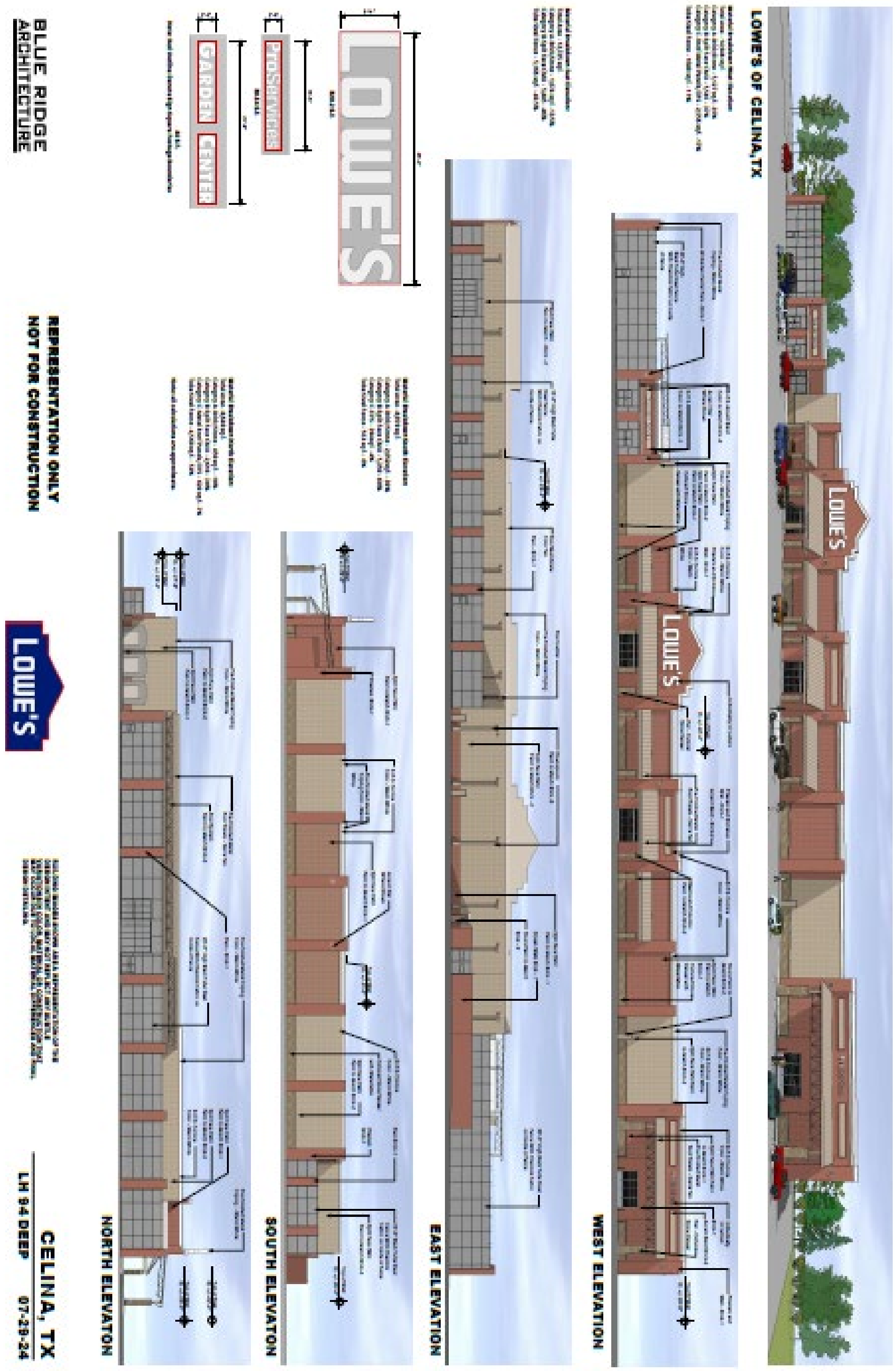


Exhibit B

[Property Description]

13.926 Acres

BEING a tract of land situated in the Lindsey Lewis Survey, Abstract No. 532, City of Celina, Collin County, Texas, and being a part of a called 58.813 acre tract of land described in a Special Warranty Deed to Celina East R–MF, LLC, recorded in Document No. 2022000178606 in the Official Public Records of Collin County, Texas, and a part of a called 5.788 acre tract of land described in a Special Warranty Deed to Celina East R–MF, LLC, recorded in Document No. 2023000007448 in said Official Public Records, and being more particularly described by metes and bounds as follows:

***BEGINNING** at a 5/8–inch iron rod with plastic cap stamped "KHA" found for the southwest corner of said 5.788 acre tract, same being the southernmost northeast corner of a called 76.69 acre tract of land, described in a deed to Collin County Investments, as recorded in Volume 5419, Page 2466 (Document No. 2003–0091153) in said Official Public Records, same being in the east right of way line of Preston Road (State Highway No. 289);*

***THENCE** North 01 deg. 11 min. 05 sec. West with the west line of said 5.788 acre tract and the east right of way line of said Preston Road, a distance of 48.97 feet to a 5/8–inch iron rod with plastic cap stamped "KHA" found for corner;*

***THENCE** across said 5.788 acre tract as follows:*

- *North 89 deg. 11 min. 54 sec. East a distance of 234.35 feet to a 5/8–inch iron rod with plastic cap stamped "KHA" found for corner;*
- *North 89 deg. 38 min. 27 sec. East, a distance of 129.44 feet to a 5/8–inch iron rod with plastic cap stamped "KHA" found at the beginning of a curve to the left and;*
- *Along said curve to the left, having a Delta of 19 deg. 17 min, 14 sec., a radius of 194.00 feet, a chord which bears North 79 deg. 59 min. 50 sec. East, 65.00 feet and an Arc distance of 65.31 feet to a 5/8–inch iron rod with plastic cap stamped "KHA" found for corner at the end of said curve same being in the east line of said 5.788 acre tract and the west line of said 58.813 acre tract;*

***THENCE** North 00 deg. 32 min. 08 sec. West with the east line of said 5.788 acre tract and the west line of said 58.813 acre tract, a distance of 539.42 feet to a 1/2 inch iron rod with plastic cap stamped "WESTWOOD" found for the northeast corner of said 5.788 acre tract, same being the southeast corner of a called 2.112 acre tract of land described in a Warranty Deed to Emerald Center, LLC, recorded in Document No. 20180315000318440 in said Official Public Records;*

***THENCE** North 00 deg. 08 min. 35 sec. West continuing with the west line of said 58.813 acre tract and with the east line of said 2.112 acre tract, a distance of 184.05 feet to a 5/8–inch iron rod with plastic cap stamped "KHA" found for corner in same;*

***THENCE** across said 58.813 acre tract as follows:*

- *South 89 deg. 59 min. 53 sec. East a distance of 752.89 feet to a 5/8–inch iron rod with plastic cap stamped "KHA" found for corner and,*
- *South 00 deg. 00 min. 07 sec. West, a distance of 776.86 feet to a 5/8–inch iron rod with plastic cap stamped "KHA" found for corner in the south line of said 58.813 acre tract, same being on a north line of said 76.69 acre tract;*

***THENCE** with the south line of said 58.813 acre tract and a north line of said 76.69 acre as follows:*

- *South 89 deg. 28 min. 03 sec. West a distance of 505.26 feet to a 3/8 inch iron rod found for corner,*
- *South 89 deg. 35 min. 30 sec. West a distance of 241.57 feet to a 5/8–inch iron rod with plastic cap stamped "KHA" found for corner,*
- *South 89 deg. 38 min. 27 sec. West a distance of 193.59 feet to a 5/8–inch iron rod with plastic cap stamped "KHA" found for corner and;*
- *South 89 deg. 11 min. 54 sec. West a distance of 233.75 feet to the **PLACE OF BEGINNING** and containing 13.926 acres (606,632 sq. ft.) of land.*

Exhibit B

[Property Description Continued]

BASED ON COMMITMENT FOR TITLE INSURANCE GF No. SAT-41-4000412301003-CV, EFFECTIVE DATE MAY 22, 2024, ISSUED JUNE 4, 2024 SUPPLIED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY, THE EASEMENT DOCUMENTS LISTED IN SCHEDULE "B" THEREIN AFFECTING THE SUBJECT PROPERTY ARE SHOWN BELOW:

THE FOLLOWING INSTRUMENTS DO AFFECT THE SUBJECT PROPERTY

10g) DOC. No. 20191226001646160 – WATER & WASTEWATER EASEMENT TO CITY OF CELINA
10h) DOC. No. 2024000011677 – RECIPROCAL EASEMENTS & OPERATION AGREEMENT

THE FOLLOWING INSTRUMENTS DO NOT AFFECT THE SUBJECT PROPERTY

10e) VOL. 4541 PG. 1695 EASEMENT TO COLLIN COUNTY
10f) DOC. No. 20171108014935530 – POND REMOVAL AND ACCESS EASEMENT

To: Lowe's Home Centers, LLC and Fidelity National Title Insurance Company

I Joe W. Clark, a Registered Professional Land Surveyor in the State of Texas, hereby certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS. The field work was completed on 06/03/2024.

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 UNLESS SIGNED AND SEALED BY THE SURVEYOR.

____

Joe W. Clark
Registered Professional Land Surveyor No. 4366

Exhibit C

Waiver of Sales Tax Confidentiality

Date: ________________

I authorized the Comptroller of Public Accounts to release sales tax information pertaining to the tax payer indicated below to the City of Celina, Texas. I understand that this waiver applies only to our retail store located at ______________________, Celina, Texas _______.

Please print or type the following information as shown on your Texas Sales and Use Tax permit:

____

Name of Taxpayer Listed on Texas Sales Tax Permit

____

Name Under Which Taxpayer is Doing Business (d/b/a or Outlet Name)

____

Taxpayer Mailing Address

____

Physical Location of Business Permitted for Sales Tax in Celina, Texas

____

Texas Taxpayer ID Number

____

Tax Outlet Number
(As Shown on Texas Sales Tax Permit)

____

Authorized Signature **

____

Print Name of Authorized Signature

____

Position of Authorized Signature

____

Phone Number of Authorized Signature

** The Authorized Signature must be an owner, officer, director, partner, or agent authorized to sign a Texas Sales Tax Return. If you have any questions concerning this waiver of confidentiality, please contact the Texas Comptroller of Public Accounts at (800) 531-5441.

EXHIBIT D
OWNSBY PARKWAY

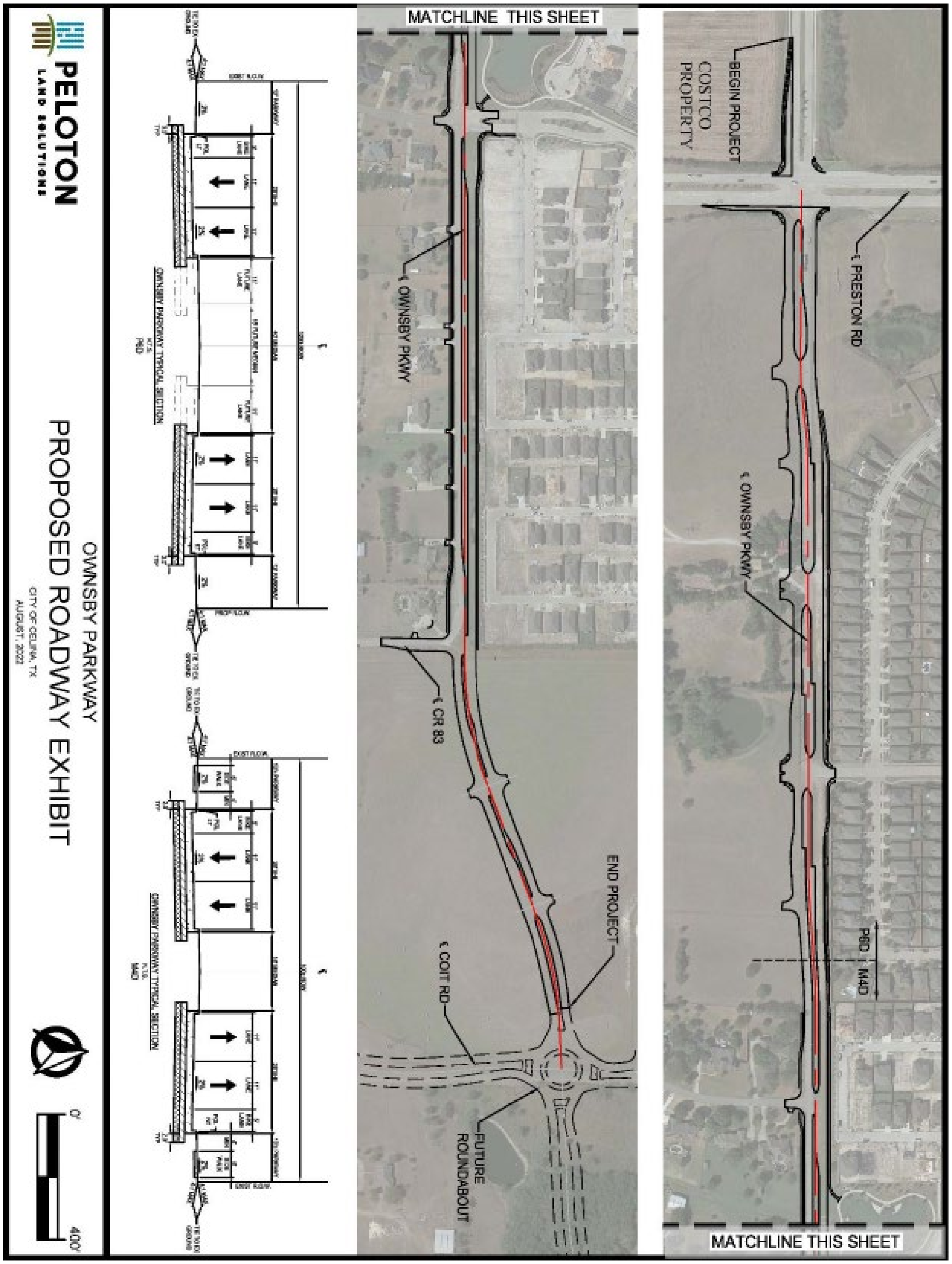


EXHIBIT E

COMPLIANCE VERIFICATION FORM

See following 2 pages

Annual Certification Report
Reporting Period: April 1 to March 31, 20__(the "Year")

The Annual Certification Report for the Chapter 380 Economic Development and Performance Agreement (the "Agreement") between the City of Celina, TX, the Celina Economic Development Corporation and Lowe's Homes Center LLC ("Company") is due on April 30, 20___.

I. PROJECT INFORMATION

Company's legal name:

"Facility" address subject to incentive: ____________________________, Celina, Texas

Primary contact: ____________________________, Title: _______________________

Phone number: ________________________, E-mail address: _______________________

II. REPORTING INFORMATION

Employment and Wage Information:

Has the Company employed undocumented workers? ☐ Yes ☐ No

Total number of Full-Time Equivalent Employees located at the Facility during the Year? __________

Total Annual Payroll for the Full-Time Equivalent Employees located at the Facility during the Year? _______________

Total average wage for all Full-Time Equivalent Employees: __________________________

Attachments to include: Quarterly IRS 941 returns or Texas Workforce Commission Employer Quarterly Report.

Narrative:

Please attach a brief narrative explaining the current year's activities and/or comments relating to any potential defaults.

III. ADDITIONAL INFORMATION (VOLUNTARY)

Employment:

Number of new Full-Time Equivalent Employees added in past year: __________

Total number of employers located at the Facility: __________

Total annual payroll for all employees at the Facility exclusive of benefits: __________

Total annual payroll for all employees at the Facility inclusive of benefits __________

Are you interested in being contacted about workforce training opportunities? ☐ Yes ☐ No

I certify that, to the best of my knowledge and belief, the information and attachments provided herein are true and accurate and in compliance with the terms of the Agreement.

I further certify that the representations and warranties contained within the Agreement remain true and correct as of the date of this Certification, and Company remakes those representations and warranties as of the date hereof.

I further certify that the employment and wage information provided is true and accurate to the best of my knowledge and I can provide documentation from the Texas Workforce Commission to support my claim if so requested.

I understand that this Certificate is being relied upon by the City of Celina and the Celina Economic Development Corporation in connection with the expenditure of public funds.

I have the legal and express authority to sign this Certificate on behalf of Company.

___________________________________	___________________________________
Name of Certifying Officer	Certifying Officer's Title
___________________________________	___________________________________
Phone Number	E-Mail Address
___________________________________	___________________________________
Signature of Certifying Officer	Date

STATE OF ____________________ X
COUNTY OF __________________ X

This information was acknowledged before me on this ______ day of ________________, ______ by ________________, ________ for Lowe's Homes Center LLC, a North Carolina limited liability company, on behalf of said limited liability company.

____
Notary Public, State of ____________

____
Notary's typed or printed name

____
My commission expires

EXHIBIT F
OUTDOOR STORAGE AND DISPLAY